UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS

SECOND SESSION

VOLUME 134—PART 17

SEPTEMBER 15, 1988 TO SEPTEMBER 23, 1988

(PAGES 23883 TO 25279)

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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

SENATE—*Thursday, September 15, 1988*

(*Legislative day of Wednesday, September 7, 1988*)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. SANFORD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

May we spend a moment in silence, in memory of Sgt. Joseph Louviere, veteran Capitol Police officer, who died early this week.

(The Senate observed a moment of silence.)

Beloved, let us love one another: for love is of God * * *.—1 John 4:7.

Eternal God of infinite love, we thank Thee for the unforgettable experience of last night, as the Senators and their lovely ladies broke bread together. Thank Thee for the exquisite beauty of the setting overlooking the Mall and the buildings silhouetted against a golden sunset. Thank Thee for all who made it possible in preparing and serving the food and providing security, and in entertaining with music and fireworks. Thank Thee for our host and hostess, beloved leader Senator BYRD and his gracious lady.

Help us, Lord, never to allow diversity to divide us or fragmentize us. Bind us together in demonstration of the fundamental fact of our national legacy—"Out of many, one."

We pray in the name of Jesus, Prince of Peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

A TIME OF TOGETHERNESS

Mr. BYRD. Mr. President, I thank the Chaplain for his prayer, and I thank all who attended the meeting last night.

It showed a truly patriotic and bipartisan and friendly camaraderie—Republicans and Democrats, including guests from the House leadership.

I especially thank BOB DOLE for his timely and cogent and very appropriate and gracious remarks last evening. I thank him for bringing his lovely lady, Elizabeth.

I also thank the Speaker and other Members of the House leadershp for attending—Mr. WHITTEN, Mr. FOLEY, Mr. COELHO, and LINDY BOGGS.

I thank the Good Lord for the ideal weather that prevailed. So many things could have gone wrong but did not.

It is these moments, Mr. President, that humanize us, bring us down to terra firma, and remind us that there is something more important than partisan politics.

As I have said to our Republican leader, whom I greatly admire, and as I have said before, President Reagan is fortunate that he has BOB DOLE as the Republican leader—a leader who can be partisan but, more important, who knows when to be partisan and when not to be partisan. That is something a lot of people in this town have not learned yet. A lot of people in politics have not learned it.

It was a great evening. Erma and I are grateful for the presence of all who were there with us.

SENATE SCHEDULE

Mr. BYRD. Mr. President, the Senate will not be in session on Wednesday of next week, Yom Kippur.

We will go to the minimum wage today—in accordance with the order—in the late afternoon and we will be on that tomorrow.

On Monday, we will put aside the minimum wage measure, and take up the United States-Canada Trade Agreement. We will vote on that agreement on Monday, in the early evening. Then we will go back to the minimum wage measure.

It is presently my plan to go to parental leave legislation following the minimum wage bill.

I have had a lot of inquiries about the tax technical amendments bill. I am not now in a position to configure our future schedule to the point that we can say what day or when that measure will be brought up. I will talk with my colleagues and with the Republican leader.

There are some other important measures that will be brought up and which will be competing for time and place in the schedule.

Mr. President, I have nothing further to say. I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

A TIME OF TOGETHERNESS

Mr. DOLE. Mr. President, I will take a moment to concur with the distinguished majority leader.

Last night was one of those memorable evenings, perfect in every way. It was an opportunity for all of us and important members of our staff and others to get together.

I want to thank Joe Stewart. He must feel a lot better this morning, knowing that is over. He did an outstanding job. It was a great evening.

As I indicated last night, we are fortunate to have the leadership of Senator ROBERT BYRD. As I said in the Cloakroom a few moments ago, I hope we can put all this together and put it in the RECORD. I think it would be something that not only those who were there but others as well would like to have. It was an evening I would like to remember, and I could mail it to some of my friends in my home State.

So I again thank the distinguished majority leader and his wife, Erma, for a beautiful evening, one that was enjoyed by everyone.

It was capped by a brilliant fireworks display, the likes of which I had not seen before, and I have been around here for some time. It was a perfect evening in every way. It will be hard to top.

As I said last night, in the year 2089,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

they will be looking through BYRD's history when they look back on the 200th Congress.

I thank our House friends for being there. It added a special touch. I thought Speaker WRIGHT's message was interesting. That is another reason why I would like to see all this put together.

Of course, the majority leader's statement on famous Senators who have passed through this Chamber and the history of the Senate, in my view, is something we would all like to have. So I hope we can assemble all that and place it in the RECORD.

I thank Reverend Halverson for the weather, all others who are responsible for that department.

Mr. President, I reserve the remainder of my time, and I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The Senator from Wisconsin.

A MORE PEACEFUL WORLD PROMISES A BETTER LIFE FOR AMERICANS

Mr. PROXMIRE. Mr. President, this is the third in a series of speeches this Senator is delivering on why, regardless of economic and political developments in this country, the future for Americans is going to be better, much better, than the past. Regardless of which party wins the Presidential and congressional elections in November, there is every reason to expect a better life for Americans not only because of onrushing improvements in American education and technology, not only because of steadily improving American health, but as I will document today because peace is literally breaking out all over.

Experts tell us that there were more wars going on throughout the world in 1987 than in any year in world history. There was of course no major war like World War I or World War II, but there were 25 armed conflicts in the world last year. Since the end of World War II, more than 17 million people—mostly civilians have been killed in these wars. But this year the worst of those wars have been winding down. Consider the record of three longest and most devastating wars. Far and away the bloodiest ongoing war has been the 8-year war between Iran and Iraq. Now the United Nations has negotiated a cease-fire that began on August 20. In Angola a 13-year war including tens of thousands of troops from Cuba and South Africa and billions of dollars of Soviet military equipment also resulted in a cease-fire in August. Negotiations are underway to withdraw 35,000 Cuban troops and tens of thousands of South African troops from that war-ravaged country. And in Afghanistan, after 8 years of occupation by Soviet troops, the Soviets have begun their withdrawal of troops. The Soviets removed half their troops by last August 15. The remainder are scheduled to come out by next February 15, 1989.

Some may say, "Wait a minute, Senator." This may be good news for mankind. It may make us feel better, but what difference does it make to me in Milwaukee or Washington, DC, if the Iranians and Iraqis stop killing each other or if war stops in far off southern Africa or in remote Afghanistan? How does that mean a better life for my family, my children and grandchildren?

First, human life everywhere and anywhere is precious, equally precious. The end of the killing and the terrible impoverishment of war is a great moral purpose. But get selfish and practical. There is also a hard economic element involved here. Iran and Iraq are both critically important sources of oil and energy for the free world. The proven oil reserves of those two countries are literally eight times the size of American oil reserves. Free Europe and Japan particularly depend on this life blood of their economies. Angola, too, is a major international oil producer. The end of the war will free oil reserves from that source. And of course the immense consumption of weapons and materials of war both in Iran-Iraq, and in Angola, including substantial weaponry from this country will now end. This will help relieve the inflationary pressure on American economic resources of manpower and materials.

But the real plus for this country will come from the end of the Afghanistan war. The retreat of the Soviet Union from this martial adventure has enormous potential significance for United States-Soviet arms reduction. Obviously the Soviets withdrew from their "Vietnam," not because they suffered an attack of mercy and kindness, but because they recognized that their struggling economy was buckling under the pressure of too much military spending. Here's an economy in the Soviet Union that produces barely half of what the United States produces. The Soviet economy slipped again last year. There's no way it can maintain the numerical advantage over the United States and NATO in tanks, planes, artillery, and military personnel deployed in the field, while pouring more and more economic and scientific resources into its nuclear missile arsenal. A Soviet Union that would retreat from neighboring Afghanistan is a Soviet Union that is ripe for a negotiated agreement for a mutual and verifiable reduction of conventional arms with this country and NATO.

What a gift such an agreement would be for the economic future of this country. If we can ease our present enormous $300 billion annual drain on the American economy and do it with a corresponding reduction in Soviet and Warsaw Pact troops, think what we can win. We can enhance the military security on both sides. This is specially true if we insist, as we should, on two elements: First, the Soviets and its Pact allies must reduce tanks, planes, artillery, and troop personnel to numerical parity with NATO. Second, the Soviets must pull back as NATO forces have pulled back from frontline, on-the-border deployment of troops.

We have concentrated on arms control agreements with the Soviet Union with respect to nuclear weapons. That's fine. I enthusiastically support those agreements. But if we are to save money, if we are to benefit the American taxpayer and worker, we need to work out mutual Pact-NATO conventional arms control reductions on a major scale.

Mr. President, I have only touched on part of the good news of peace "breaking out all over." Soviet and Israeli negotiators are proceeding to discuss the restoration of official diplomatic ties. China and India are engaged in discussions that seek to improve relations between the two most populous nations on Earth, nations that include half of all the people living on this planet. Vietnam has agreed to withdraw troops from Cambodia. Even Libya has eased off its terrorist activities. It has stopped its attacks on Sudan and Chad. And in this hemisphere Central America is more peaceful. The violence in Nicaragua has sharply diminished.

Regardless of which party wins the Presidency, regardless of the economic woes that may lie ahead for Americans, a peaceful world will mean a better life for our children and their children.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

A NIGHT TO REMEMBER

Mr. STAFFORD. Mr. President, I note the majority leader has left the floor, but I wish to say that the memory of last night and the dinner that he hosted for the Senate and the Congress will be one of the most pleasant memories that I will take away when I go back to the Green Mountains at the end of this Congress. It was a magic night in my judgment.

ATMOSPHERIC CONTAMINATION—IV

Mr. STAFFORD. Mr. President, as light speeds from the Sun toward Earth, it travels 93 million miles without undergoing any significant change.

The instant it touches the Earth's surface, however, the light changes form.

The impact of the light on the soil or water is enough to generate heat. Much of this heat is reflected back toward space as infrared radiation, including the heat that is trapped by the gases that form our atmosphere.

This circumstance has been called the greenhouse effect because the glass panels in hothouses work very much the same way, trapping solar heat before it has a chance to escape.

The amount of heat that is trapped can vary because of different circumstances. The temperature on Earth fluctuates over thousands of years and even daily. But it does so very slowly over the long run.

At one time, ice covered the United States almost as far south as Florida. At another time, oceans covered Wyoming, leaving behind rich deposits of oil, gas, and coal. Those changes in climate were slow enough to allow plants and animals to move with them and adapt.

The gradual temperature fluctuations are the result of natural swings in the Earth's orbit around the Sun. As the Earth moves farther away from the Sun, the planet cools, bringing on an ice age. As it once again moves nearer to the Sun, the ice age ends with a period of warming.

Scientists tell us this runs in cycles of 10,000 to 12,000 years each and that in the last 1 million years, 900,000 years have been cold and 100,000 years have been warm. It appears life on Earth may be better adapted to cold than heat.

Today, scientists are convinced global temperature is at or near its high point in a million years. Further, some scientists feel temperatures will soon approach levels higher than at any previous time.

The reason for this is air pollution.

The pollutants we are producing are trapping more and more heat in the Earth's atmosphere. These pollutants are carbon dioxide, chlorofluorocarbons or [CFC's], better known to us as freons, nitrous oxide, methane and ground level ozone—we know as smog.

Unless action is taken to halt the rising tide of these pollutants, scientists warn that the planet's temperature will continue to rise to the point where it will be the same as if the Earth had moved 1 million miles closer to the Sun.

The signs are all about us. The Earth's temperature has risen 1 degree in the last century and sea levels have risen as well. The years 1980, 1981, 1983, and 1987 are the hottest 4 in recorded history, and 1988 promises to be hotter still.

Forest fires in our West have been the worst in history; glaciers have retreated in Alaska; red spruce are growing faster than before without explanation, and warm water is believed to have killed coral in the Caribbean Sea.

Carbon dioxide is the air pollutant that traps most of the heat. Concentrations of carbon dioxide have been rising steadily from a natural level of about 275 parts per million to the current level of over 345 parts per million.

Less than half the carbon dioxide emitted remains in the air. Plants consume some. About 55 percent of it disappears into the oceans in some mysterious way. We do know, however, that as the air warms, so do the soils and the waters. And warm water cannot hold as much carbon dioxide as cold water. Also, as the soil warms, greater volumes of methane—natural gas—are released. It, too, is a greenhouse gas, and this will accelerate the warming trend.

The family of industrial chemicals known as chlorofluocarbons [CFC's] is a major greenhouse pollutant. CFC's account for about one-fifth of the warming, mainly because CFC's last for as long as 150 years in the upper atmosphere.

Another major greenhouse pollutant is ground level ozone, which we often call smog. Smog is formed when hydrocarbons, like unburned gasoline and oxides of nitrogen react in the presence of sunlight. With the high temperatures of the 1980's have come the highest smog levels in the country since the 1970's.

We cannot allow these circumstances to continue.

Mr. President, I ask unanimous consent that some tables and other materials that I offer be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STAFFORD. Mr. President, I will continue these discussions tomorrow morning.

I yield the floor.

EXHIBIT 1

CARBON DIOXIDE IN THE ATMOSPHERE, 1958–85

	Average annual concentrations of carbon dioxide (Parts per million, volume basis)							
	Barrow, Alaska (71°N)		Mauna Loa, Hawaii (20°N)		American Samoa (14°S)		South Pole (90°S)	
	Concentration	Annual increase	Concentration	Annual increase	Concentration	Annual increase	Concentration	Annual increase
1958	X	X	X	X	X	X	315.4	X
1959	X	X	316.1	X	X	X	315.4	0.9
1960	X	X	317.0	0.9	X	X	316.7	1.3
1961	X	X	317.7	.7	X	X	317.5	.8
1962	X	X	318.6	.9	X	X	318.0	.5
1963	X	X	319.1	.5	X	X	318.2	.2
1964	X	X	319.6	.5	X	X	318.3	.1
1965	X	X	320.4	.8	X	X	319.3	1.0
1966	X	X	321.1	.7	X	X	320.6	1.3
1967	X	X	321.8	.7	X	X	321.2	.6
1968	X	X	322.8	1.0	X	X	321.8	.6
1969	X	X	324.2	1.4	X	X	322.5	.7
1970	X	X	325.5	1.3	X	X	324.2	1.6
1971	X	X	326.5	1.0	X	X	325.0	.8
1972	X	X	327.7	1.3	X	X	325.8	.8
1973	X	X	329.7	2.0	X	X	327.4	1.7
1974	332.6	X	330.4	.7	X	X	328.3	.9
1975	333.4	0.8	331.0	.6	X	X	329.3	1.0
1976	333.7	.3	332.1	1.1	331.2	X	330.4	1.1
1977	334.6	.9	333.6	1.5	332.6	1.4	331.9	1.4
1978	336.7	2.1	335.2	1.6	X	X	333.5	1.6
1979	337.9	1.2	336.6	1.4	336.1	X	334.9	1.3
1980	339.9	2.0	338.4	1.7	338.0	1.9	336.8	1.9
1981	341.7	1.8	339.5	1.1	339.2	1.2	338.1	1.3
1982	342.8	1.1	340.7	1.3	340.2	1.0	339.2	1.1
1983	343.8	1.0	342.7	2.0	341.4	1.2	341.0	1.8
1984	346.0	2.2	344.4	1.7	343.0	1.6	342.4	1.4
1985	X	X	345.6	1.3	X	X	X	X

X = Not available.

Sources: Scripps Institution of Oceanograpy; U.S. National Oceanic and Atmospheric Administration.

GLOBAL CARBON DIOXIDE EMISSIONS FROM ANTHROPOGENIC SOURCES, 1950–84

	Carbon emissions (million metric tons of carbon)						
	Total	Fossil fuel combustion				Other industrial sources	
		Total	Solid fuels	Liquid fuels	Natural gas	Gas flaring	Cement production
1950	1,639	1,598	1,078	423	97	23	18
1951	1,776	1,731	1,137	479	115	24	21
1952	1,803	1,755	1,127	504	124	26	22
1953	1,848	1,797	1,133	533	131	27	24
1954	1,872	1,818	1,123	557	138	27	27
1955	2,050	1,990	1,215	625	150	30	30
1956	2,185	2,121	1,281	679	161	32	32
1957	2,278	2,209	1,317	714	178	35	34
1958	2,339	2,268	1,344	732	192	35	36
1959	2,470	2,394	1,390	790	214	36	40
1960	2,586	2,504	1,419	850	235	39	43
1961	2,602	2,515	1,356	905	254	41	46
1962	2,709	2,616	1,358	981	277	44	49
1963	2,855	2,756	1,403	1,053	300	47	52
1964	3,016	2,908	1,442	1,138	328	51	57
1965	3,154	3,040	1,467	1,221	352	55	59
1966	3,313	3,190	1,485	1,325	380	60	63
1967	3,420	3,288	1,454	1,424	410	66	66
1968	3,595	3,452	1,455	1,552	445	73	70
1969	3,808	3,654	1,493	1,674	487	80	74
1970	4,116	3,950	1,595	1,839	516	88	78
1971	4,267	4,093	1,594	1,946	553	90	84
1972	4,435	4,250	1,612	2,056	582	95	90
1973	4,678	4,470	1,622	2,240	608	102	96
1974	4,684	4,481	1,620	2,245	616	107	96
1975	4,660	4,468	1,715	2,132	621	96	96
1976	4,924	4,712	1,754	2,313	645	110	102
1977	5,065	4,848	1,812	2,390	646	108	109
1978	5,108	4,885	1,828	2,384	673	106	117
1979	5,345	5,152	1,899	2,538	715	74	119
1980	5,255	5,056	1,924	2,408	724	78	121
1981	5,115	4,935	1,928	2,274	733	58	122
1982	5,079	4,901	1,983	2,184	734	56	122
1983	5,054	4,880	1,985	2,164	731	52	122
1984 [1]	5,330	5,155	2,103	2,268	784	47	129

[1] Preliminary.

Source: Institute for Energy Analysis Oak Ridge Associated Universities.

CARBON DIOXIDE EMISSIONS, BY COUNTRY AND REGION, 1950, 1965, AND 1983

	Carbon emissions from fossil fuel consumption														
	1950 (million metric tons of carbon)					1965 (million metric tons of carbon)					1983 (million metric tons of carbon)				
	Solid	Liquid	Gas	Total	Percentage of world total	Solid	Liquid	Gas	Total	Percentage of world total	Solid	Liquid	Gas	Total	Percentage of world total
World	1,072	385	96	1,553	100.0	1,464	1,118	347	2,929	100.0	2,017	2,028	738	4,783	100.0
North America	376	259	88	723	46.6	318	447	238	1,003	34.2	432	553	260	1,245	26.0
United States	347	245	87	679	43.7	301	406	228	935	31.9	405	500	233	1,138	23.8
Canada	29	14	1	44	2.8	17	41	10	68	2.3	27	53	27	107	2.2
Western Europe	336	40	1	377	24.3	358	274	11	643	22.0	272	369	112	753	15.7
United Kingdom	125	11	X	136	8.8	117	52	<1	169	5.8	68	45	28	141	2.9
France	46	9	<1	55	3.5	49	42	3	94	3.2	30	59	14	103	2.2
Germany, Federal Republic	91	2	X	93	6.0	115	56	1	172	5.9	86	68	25	179	3.7
Italy	7	4	<1	11	.7	8	37	4	49	1.7	12	65	14	91	1.9
Other	66	15	<1	81	5.2	68	87	2	157	5.4	75	131	32	238	5.0
Eastern Europe	250	36	5	291	18.7	495	174	79	748	25.5	609	405	265	1,279	26.7
U.S.S.R.	149	33	3	185	11.9	290	151	68	509	17.4	355	335	221	911	19.0
Poland	30	<1	<1	30	1.9	61	4	1	66	2.3	97	11	5	113	2.4
German Democratic Republic	43	X	X	43	2.8	79	3	X	82	2.8	64	13	5	82	1.7
Other	28	3	2	33	2.1	66	16	10	92	3.1	93	45	34	172	3.6
Pacific	40	5	X	45	2.9	66	71	1	138	4.7	92	173	22	287	6.0
Japan	26	1	X	27	1.7	45	55	1	101	3.4	61	148	15	224	4.7
Other	14	4	X	18	1.2	21	16	X	37	1.3	31	25	7	63	1.3
Centrally planned Asia	22	<1	X	22	1.4	134	11	1	146	5.0	403	73	6	482	10.1
China	21	X	X	21	1.4	120	10	1	131	4.5	365	69	6	440	9.2
Other	<1	X	X	X	X	14	2	X	16	.5	38	4	X	42	0.9
Developing world	48	45	2	95	6.1	93	141	17	251	8.6	209	456	73	738	15.4
Latin America	6	29	1	36	2.3	8	68	11	87	3.0	18	171	35	224	4.7
Africa	19	7	X	26	1.7	34	20	1	55	1.9	66	67	10	143	3.0
Middle East	2	2	X	4	.3	4	23	2	29	1.0	11	89	16	116	2.4
South and Southeast Asia	20	7	<1	27	1.7	47	29	3	79	2.7	114	129	11	254	5.3

X=Not available.

Source: Institute for Energy Analysis, Oak Ridge Associated Universities.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

THE GREENHOUSE EFFECT IS ALREADY HERE

Mr. REID. Mr. President, "The year is 2035. In New York, palm trees line the Hudson River from 125th Street to the Midtown exit.

"Phoenix is in its third week of temperatures over 130 degrees, and the project to cover the city with air-conditioned domes is still unfinished.

"Holland is under water. Bangladesh has ceased to exist. Torrential rains and rising seas there have killed several million people and forced the remaining population into makeshift refugee camps on higher ground in Pakistan and India.

"In central Europe and the American Midwest, decades of drought have turned once fertile agricultural lands into parched deserts. Tens of millions of people continue to trek northward—the greatest mass migration in recorded history.

"Canada's population swells from 20 million to 200 million in less than four decades. Forest fires rage out of control over millions of acres in the Pacific Northwest, while the Mississippi River, closed to commercial traffic earlier in the century, becomes a vast earthen plain, allowing people to cross over by foot for the first time in human memory. Welcome to the

Greenhouse World of the 21st Century."

This account of life on Earth in the next century, presented by Jeremy Rifkin in the Reno Gazette Journal, should make us all wary of the implications of global climate change which are now taking place. Rifkin's story takes place only a few decades into the future.

Mr. President, it is indeed critical that Congress pursue a solution to the phenomenon known as the greenhouse effect, as so aptly described by my friend and colleague, the senior Senator from Vermont. Factories and other sources of pollution emit carbon dioxide and other gases that surround the planet and trap solar radiation in the Earth's atmosphere, warming the Earth as if it were a greenhouse.

Some believe that under current conditions the globe could be subjected to a temperature increase of between 4 and 15 degrees Fahrenheit in just half a century. According to Irving Mintzer of the World Resources Institute, a rise of 9 degrees would exceed any temperature change on the planet during the last several million years! And, I do not need to outline for my colleagues the costly consequences for this planet should this warming trend continue unabated.

There are two key elements in fighting the problems caused by the greenhouse effect—education and research. First, we must educate people on the dangers inherent in the continued warming of the globe; that is the only way to gain broad cooperation internationally in efforts to reduce carbon dioxide and other greenhouse gases emissions into the atmosphere. Second, we must start now with aggressive research into ways to reduce these dangerous emissions without destroying the quality of living resulting from industrial development.

Mr. President, yesterday the Environment and Public Works Committee held hearings on this and other effects, such as the ozone being destroyed. These hearings clearly showed us that the greenhouse effect is already here. It is upon us. The question then, really, is, what are we going to do and when are we going to do it? That is the question before the Congress this day.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

CURTAILING TAX BREAKS FOR ABORTION CLINICS

Mr. HUMPHREY. Mr. President, when the Senate takes up the tax corrections bill, which I presume will be sometime in the next few weeks, along with Senators ARMSTRONG, HELMS, PROXMIRE, and others, I intend to offer an amendment to curtail the tax break currently enjoyed by about half of the Nation's abortion clinics.

With certain important differences, which I will address in a moment, the language of the amendment will be drawn from a freestanding bill, S. 264, introduced earlier in the Congress by Senators ARMSTRONG, DANFORTH, DURENBERGER, GRAMM, HECHT, HELMS, HUMPHREY, MCCLURE, and PROXMIRE.

I also note that S. 264 enjoys the support of the administration as conveyed by a letter dated May 15, 1987.

I ask unanimous consent, Mr. President, that the White House letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUMPHREY. The amendment would apply to tax-exempt organizations who perform abortion or provide facilities for the performance of abortion. It would not apply to organizations that merely counsel or refer for abortion, nor would it apply to organizations that provide funds for abortion, insurance plans, for example.

The amendment applies only to tax-exempt organizations which perform abortion or which provide facilities for the performance of abortion.

It would not apply to organizations which are not tax exempt, obviously. In other words, it would not apply to Government-owned facilities since the Federal Government does not pay taxes to itself and since State and local governments do not pay taxes to the Federal Government. So it would not apply to organizations which are not tax exempt. It would not, therefore, apply to for-profit organizations since for-profit organizations are not exempt. It would apply only to organizations which are tax exempt, and the effect would be to deny such tax exemptions in future years.

According to the Alan Guttmacher Institute, the research arm of Planned Parenthood, there were 1,588,550 abortions performed in the United States in 1986. According to the same source, in 1985 there were about 2,700 facilities in this country performing abortions. Approximately 60 percent of such abortions are performed in abortion clinics. About 23 percent are performed in other medical clinics, that is to say, other medical clinics which perform procedures in addition to abortion, and 13 percent are done in hospitals, with the balance performed in physicians' offices.

Mr. President, Senators might recall a similar amendment offered 2 years ago. At that time a number of Senators, who ordinarily support Hyde amendment restrictions to the Federal funding of abortion, felt the amendment was too broadly drawn. A number of Senators who have supported Hyde amendment language because they feel there should be no Federal subsidies to abortion, except where the life of the mother is in danger, nevertheless felt that the amendment offered in 1986 to cut off tax breaks for abortion was too broadly drawn, and therefore we have redrawn the amendment much more narrowly, and not only more narrowly than the language of 1986 but indeed, even more narrowly than the freestanding bill which we introduced at the beginning of this Congress, S. 264.

The new language would not apply to those who simply provide funds for the performance of abortion—insurance plans, for example. It would not apply to any known hospital, according to our consultations with the American Hospital Association. In fact, where the American Hospital Association actively opposed the 1986 language, that organization is not opposing the new language. I do not mean to suggest that they are endorsing it either, but the point is where they actively opposed the 1986 language they are not opposing the 1988 language.

To recap then, Mr. President, the amendment will withdrew the tax-exempt status from these abortion clinics which presently are tax exempt, which is to say about 30 to 50 percent of all of the abortion clinics, the rest being for-profit institutions or institutions operated by Government. It will withdraw the tax-exempt status from those organizations which provide facilities for the performance of abortion and which are now tax exempt.

Government-operated clinics will not be affected. For-profit clinics will not be affected. Only currently tax-exempt abortion clinics will be affected. We have eliminated the old language that would have affected organizations which provide funds for the performance of abortions such as insurers. Such organizations are in no way touched by the new language. We eliminated the old language which would have applied to many of those hospitals which perform abortions. According to the American Hospital Association, we know of no hospital that would be touched by this new language. So the new language is obviously much narrower, and I trust that it will allay the concerns of many of my colleagues who felt that the 1986 language was too broad and who opposed it even though ordinarily they support the elimination of subsidies for the performance of abortion.

In fact, the language is even narrower than that which I have described because we have also incorporated a threshold test which will exclude from the coverage of the amendment those facilities which derive 1 percent or less of their gross receipts in any taxable year from performing abortions. In other words, organizations which perform abortion and which are presently tax exempt would be affected by the amendment only if their income from abortion exceeds 1 percent of their annual gross receipts.

In other words, tax-exempt clinics which perform other medical procedures and where the performance of abortion is only a small part of their overall operation would not be affected by this amendment. And, of course, those revenues derived from performing abortions where the life of the mother is threatened would not count against the threshold.

What about the constitutional grounds for withdrawing tax-exempt status from abortion providers? The grounds are very sound, indeed, for these reasons. The elimination of a tax subsidy does not infringe on the exercise of a constitutional right. That is a very basic finding which has been upheld a number of times in a number of contexts by the Supreme Court, a very basic fundamental finding, and it bears repeating. "Elimination of a tax subsidy does not infringe on the exercise of a constitutional right," as the Court stated in Cammarano versus the United States. Elimination of tax exemption for abortion clinics does not interfere with the so-called abortion liberty.

The extension and withdrawal of tax exemptions is clearly a matter of discretion by the Congress. As the court noted in Commissioner versus Sullivan, "Deductions are a matter of grace and Congress can, of course, disallow them as it chooses." The same, of course, applies to exemptions.

Mr. President, I want to anticipate and rebut a couple of criticisms of the amendment. Criticism: The amendment would oppress a specific class of persons, namely women seeking abortions.

The rebuttal is this: The amendment would eliminate a subsidy, a matter well within the prerogatives of Congress. The amendment would not interfere with the rights of any person. It would not diminish any rights or infringe on any rights. As the Supreme Court said in Maher versus Roe, referring to the Roe versus Wade decision, "Roe did not declare an unqualified" constitutional right to an abortion, as the district court seemed to think. Rather, the right protects the woman from unduly burdensome interference with her freedom to decide whether to terminate her pregnancy. It implies no limitation on the authority of the State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds."

A value judgment favoring childbirth over abortion, that I believe is the basis on which the Congress and the Senate have repeatedly enacted Hyde amendment language that bars the use of Federal funds to pay for abortion, to subsidize abortion except where the life of the mother is at stake.

We have in doing so, in enacting the Hyde amendment over and over to a number of bills, made a value judgment favoring childbirth over abortion. We should not be subsidizing abortion. That is why we eliminate such subsidies, such cash subsidies through the enactment of Hyde language. We have eliminated the cash subsidies except where the life of the mother is at stake. Now what we propose is to eliminate that other very real concrete subsidy which exists in the Tax Code and it is logical and consistent for us to do so, and it is principled for the same ethical reasons, that is it is principled to cut off tax subsidies for the performance of abortion. We make a value judgment favoring childbirth over abortion.

Another criticism might be that the amendment would create a penalty on a constitutionally protected right; namely, the abortion choice.

I would rebut that in this way. The Supreme Court in a number of decisions has held that the refusal by Congress to subsidize inactivity does not create a penalty on a constitutional right. For example, in Taxation with Representation versus Regan, the Supreme Court stated, "A legislature's decision not to subsidize the exercise of a fundamental right does not infringe that right."

From the same decision:

> Both tax exemptions and tax-deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income.

Mr. President, the amendment which we propose to offer would not penalize the exercise of a right. It would merely withdraw a subsidy, a subsidy which even according to the court in TWR versus Regan is a subsidy that has much the same effect as a cash grant. But we have eliminated the cash grants except in the most compelling situation, namely, where the life of the mother is at stake. For the same ethical reason, for the same public policy choice favoring childbirth over abortion, we should now eliminate the tax breaks which are enjoyed by many who perform abortions, and who provide facilities for the performance of abortion.

Mr. President, I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, May 15, 1987.

Hon. GORDON J. HUMPHREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUMPHREY: This is to respond to your letters regarding S. 264, a bill to eliminate the tax-exempt status of organizations which perform, finance, or provide facilities for abortions. I understand this legislation is currently pending before the Senate Finance Committee.

As the President told you last fall, he fully supports your legislation. Accordingly, the Administration seeks passage of your bill and may well undertake some or all of the activities you mention in your letter, at the most advantageous time. We will consult with you regularly to this end.

The President's agenda for the remainder of his term is robust. It will be difficult to do everything possible to accomplish all that we yet hope to attain. Your list of suggestions is excellent, and we will try to meet its standard as we work to fulfill the President's legislation goals for the 100th Congress.

With best wishes,
Sincerely,

WILLIAM L. BALL III,
Assistant to the President.

The PRESIDING OFFICER (Mr. DODD). The Senator from Arkansas.

REPORT TO THE CONGRESS ON THE IMPLICATIONS OF CERTAIN ARMS CONTROL POSITIONS

Mr. BUMPERS. Mr. President, last year the Senate accepted an amendment I offered on the fiscal years 1988-89 Department of Defense authorization bill concerning the implications of U.S. positions in the START talks in Geneva for U.S. strategic forces and their modernization. I was pleased that the Senate approved my amendment, and that it was retained in conference.

This report was due on June 30, 1988, and it was delivered on August 18, which is not too bad in comparison to some reports that have been requested in the past. I congratulate the Defense Department for responding to my amendment, and for providing a good bit of useful information on the START talks and on U.S. strategic modernization plans. I ask unanimous consent that this report be reprinted in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. Unfortunately, the report did not address one of my key concerns, and that is the consistency between our START position and our modernization plans, especially with regard to our Trident submarine program.

A key question that the Pentagon should answer is "how many Trident submarines should we have?" I am a strong supporter of the Trident program, both the submarine and the missiles. Unfortunately, the report sent to us by the administration does not answer this question.

The problem is how many warheads we want to have in each leg of our triad under a START agreement. Under terms already agreed to in the START talks in Geneva, each side would be permitted a total of 6,000 warheads, of which no more than 4,900 could be ballistic missile warheads. The remainder would be air-launched cruise missiles and bombers, where non-ALCM bombers count as one warhead.

We have already authorized 16 Trident submarines, including one in this year's defense authorization bill. With 192 warheads each, that makes for a total of 3,972 warheads. If we procure a total of 20 Tridents, with 3,840 warheads, that would leave room for just 1,060 ICBM warheads, less than half our current total. And given that we may well deploy more than 1,100 ALCM's and bombers, this number could be even smaller.

We have often heard that we need to have strategic weapons in production to give us leverage in the arms talks with the Soviets in Geneva. If there is any truth to that, then we ought to think about stretching out our Trident submarine production. Even if we keep within the 1,100 warhead ceiling on bomber weapons, we will very shortly be facing a "crowding problem" between continued Trident production at current rates and ICBM warhead force levels.

There are several ways to deal with this "crowding" problem. One would be to buy our remaining Tridents at the current rate of one per year and then just shut down the production line. The problem with this approach is that if our total Trident buy turns out to be just 18 boats, we may be finished with Trident production before we complete a START agreement, and we will lose the leverage that continued Trident production would give us.

Another approach would be to continue to produce Tridents at current rates until we reach a START agreement. However, this runs the risk that we may build too many and be forced either to scrap fairly new Tridents to squeeze under the START limits, or else modify the proportion of warheads we would allocate between the Navy and Air Force.

A third approach and one that seems to really make more sense to me, is to stretch Trident production to, say, one every other year. This would raise unit costs but lower annual costs for the system and preserve a warm production base for negotiating leverage purposes.

Each of these approaches has its pluses and minuses. But before intelligent decisions can be made, we need to know what the Pentagon's force level plans are for Trident. Above all, we need to make force posture decisions with our eyes open. I intend to pursue this issue in the months to come and hope that the Navy will be forthcoming in telling Congress and the American people.

THE SECRETARY OF DEFENSE,
WASHINGTON, DC,
August 18, 1988.

Hon. JOHN C. STENNIS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached study—"Report to the Congress on the Implications of Certain Arms Control Positions"—is provided in accordance with section 906 of the fiscal year 1988 Defense authorization bill.

Sincerely,
FRANK CARLUCCI.

EXHIBIT 1

REPORT TO THE CONGRESS ON THE IMPLICATIONS OF CERTAIN ARMS CONTROL POSITIONS

In compliance with Section 906 of the FY 88 Defense Authorization Act, the Department of Defense submits this report to the Congress on the specified arms control and force structure questions. Part I of this report responds to Section 906(1) and assesses the implications of current US arms control proposals for the Strategic Modernization Program. Part II of this report responds to Section 906(2) and describes "the advantages and drawbacks of following the recommendations made in 1983 in the report of the President's Commission on Strategic Forces with regard to research on smaller ballistic missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force." Finally, Part III of this report responds to Section 906(3) and provides the recommendations of the Secretary of Defense on US force modernization policy and arms control policy. Since no classified information was used in our response to this legislation, the report was prepared only in an unclassified form.

PART I: ARMS CONTROL AND THE STRATEGIC MODERNIZATION PROGRAM

Current Status of the START Negotiations

Significant progress has been made in the START negotiations with agreement being reached on certain basic principles. Many important issues, however, still remain to be resolved. In this section, a status report is provided which outlines the key areas of agreement and disagreement between the US and the Soviet Union that have implications for US strategic force structure.

[Agreed Provisions]

General Approach: Major reductions in strategic offensive nuclear arms will be carried out over a seven year period.

Delivery Systems: 1600 ceiling on the number of strategic offensive delivery systems.

Warheads: 6000 accountable warhead ceiling, for warheads on deployed ICBMs, deployed SLBMs, and heavy bombers.

Warhead Sublimits: Sublimit of 4900 warheads on deployed ICBMs and deployed SLBMs.

Heavy Bombers: As agreed at Reykjavik, and confirmed at the Moscow Summit, each nuclear-armed heavy bomber counts as one strategic nuclear delivery vehicle. Each non-ALCM heavy bomber equipped for nuclear-armed gravity bombs and SRAMs counts as one warhead in the 6000 limit.

Non-Deployed Ballistic Missiles: Both sides have agreed in principle to some form of non-deployed missile restriction.

[Unresolved Issues]

Mobile ICBMs: The US proposes to ban them, but would reconsider should effective verification measures be identified and agreed; Soviet position permits them.

Ballistic Missile Unit of Account: The US would count deployed ICBMs and SLBMs. The Soviets would count ICBM and SLBM launchers.

ICBM Warhead Sub-Limit: The Soviets will not accept the US proposal to limit ICBM warheads to no more than 3300 of the 6000 warhead limit unless the US agrees to apply the 3300 sublimit to SLBM warheads as well.

Heavy Ballistic Missiles: Both sides have agreed to a limit of 1540 warheads on 154 heavy ballistic missiles. The Soviets have proposed to permit modernization of their SS-18s, but would ban a comparable US missile. The Soviets have not accepted the concept of equal rights for the two sides' forces.

Heavy ICBM Modernization: The Soviets have rejected the US proposal to ban heavy ICBM modernization.

ALCM Rules: The US position attributes 10 ALCMs (i.e., nuclear-armed long-range air-to-surface cruise missiles with a range of over 1500 km) to each ALCM-carrying heavy bomber and maintains that conventionally-armed ALCMs should not be covered by START. The Soviets want to limit ALCMs with a range in excess of 600 km while counting ALCM-carrying heavy bombers at the maximum number of ALCMs for which each bomber has been equipped.

SLCM: The US has been unable to identify any effective verification approach for SLCMs and has proposed as a solution a non-binding unilateral declaration by each side of its plans for nuclear-armed SLCMs. The Soviets would limit nuclear-armed SLCMs to 400 and conventionally-armed SLCMs to 600, but have failed to identify effective verification measures.

Implications for US Strategic Force Modernization

It is neither possible nor prudent at this juncture in the strategic arms control negotiations to provide a definitive assessment of a single US strategic force structure under a prospective START treaty. Although certain broad ceilings have been established for warheads and delivery vehicles, major issues still need to be resolved which could heavily influence the contours of the US strategic Triad under a START treaty. Further, the timeframe in which a START agreement becomes effective, the verification regime, and the drawdown schedule for reduction of forces which is negotiated will be critical since these factors can in part influence our options for force restructuring under START.

The current START warhead limits and sublimits will accommodate many different allocations of warheads among the three components of the Triad. The general objectives being used by the Services, the Joint Staff, and the Office of the Secretary of Defense to guide their analyses of prospective US strategic force structure under START are:

The US will continue to maintain an effective Triad of strategic bombers, ICBMs, and SLBMs.

Strategic force modernization is essential.

The United States must maintain the capability to hold at risk the full spectrum of Soviet targets in order to deny Soviet war aims.

The United States must continue to have a secure nuclear reserve force.

Discussion: US deterrence policy has been based on denying Soviet war aims. To accomplish this, our strategy is designed to deny Soviet goals at every level of conflict. Our policy must be to continue to make the Soviets doubtful of their war-fighting capabilities.

An essential element of our deterrent policy has been flexible response—which includes the capability to control the escalation of a nuclear to provide the foundation of strategic escalation control.

US strategic nuclear forces in a post-START world must, in the aggregate, continue to meet the following requirements: flexibility, survivability, a capability to strike a wide variety of targets, and robust connectivity.

It is essential that our strategic forces be flexible, fully-modernized, and have the ability to change target assignments in a short period of time. The need to counter mobile/relocatable targets is critical.

The second major requirement that must be met is that of survivability. The overall force mix must provide adequate retaliatory capabilities.

The mix of selected forces must have the capability to destroy a wide variety of targets, ranging from superhard targets to soft industrial/economic complexes. In this regard, we must have the capability to effect the required damage while minimizing collateral damage.

Command and Control of our forces must be robust and enduring to ensure strategic communications under all attack conditions. The upgrade of our strategic communications capabilities, begun in the early 1980s, must be continued. Without effective strategic communications capabilities, any strategic force structure posture would be incapable of providing an adequate basis for deterrence.

PART II: RESEARCH ON SMALLER BALLISTIC MISSILE SUBMARINES

This part of the report provides a "description of the advantages and drawbacks of following the recommendations made in 1983 in the report of the President's Commission on Strategic Forces with regard to research on smaller ballistic missile carrying submarines, each carrying fewer missiles than Trident, as a potential follow-on to the Trident submarine force." In its report dated 6 April 1988, the President's Commission on Strategic Forces included a subsection on research in support of sea-based missile programs which states:

"The Commission notes that, although it believes that the ballistic missile submarine force will have a high degree of survivability for a long time, a submarine force ultimately consisting solely of a relatively few large submarines at sea, each carrying on the order of 200 warheads, presents a small number of valuable targets to the Soviets. Vigorous pursuit of the longstanding program to avoid technological surprise by the Soviets in anti-submarine warfare is thus of vital important.

"Consistent with the long-term program recommended for the ICBM force, below, to reduce the value of individual targets, the Commission recommends that research begin now on small ballistic missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force. The objective of such research should be to design a submarine and missile system that would, as much as possible, reduce the value of each platform and also present radically different problems to a Soviet attacker than does the Trident submarine force. This work should proceed in such a way that a decision to construct and deploy such a submarine force could be rapidly implemented should Soviet progress in anti-submarine warfare so dictate."

The Trident SSBN: Staying Ahead of the Threat

Before evaluating the merits of a "small SSBN" design, it is important to recognize that the Trident SSBN and weapon system possess significant potential to adapt to emerging threats. The attributes of the "small SSBN" described in the Commission's Report are centered around decreasing the relative value of each platform and presenting radically different problems to a Soviet attacker. Pursuit of these attributes does not necessarily confine the alternatives to the design, development and production of a new SSBN. Modifications to the characteristics of the existing Trident II SSBN, the Trident II weapon system, and the Trident II (D-5) missile can achieve these objectives without the cost and schedule constraints of a new SSBN. For example, the number of missiles could be reduced on Trident submarines or fewer warheads could be deployed on each missile, thereby permitting a greater number of SSBNs. The D-5 missile can accommodate a wide variety of improved payloads while also providing increased submarine operating range and area thereby reducing potential ASW threats. Ongoing research will provide the basis for achieving weapons system improvements through the most timely and cost efficient means by considering both the Trident SSBN and a new SSBN.

Ongoing research will provide a sustained and balanced capability to allow hedges against and/or responses to a wide variety of developments. These developments might include changes in our overall national strategic posture, the threat to the submarine survivability (including both acoustic and non-acoustic technologies), the threat to the effectiveness of the missile or payload, or the target base such as mobile ICBMs and deeply buried targets. Our research will also consider the full range of emerging technologies which might contribute to extended SSBN endurance or sustainability, improved reliability and accuracy, higher availability, lessened demand for specialized manning and lower cost.

After Trident: A New, Smaller SSBN?

In 2010, the first Trident SSBN, the OHIO, will reach the end of its planned thirty year service life. To compensate for the eventual retirement of the Trident SSBN force, a new class of SSBNs may be needed. It is difficult to anticipate what the Soviet ASW threat will be some twenty years from now. To enhance the survivability of our next generation of SSBNs after Trident, the optimal choice may be to deploy a larger fleet of "small SSBNs." The key consideration for "smallness" would not be the actual size of the submarine itself, rather, the reduced concentration of nuclear warheads in each submarine. In short, ASW considerations may someday lead us to spread our sea-based nuclear warheads over a larger fleet of SSBNs with each representing but a small portion of our overall sea-based nuclear capability. The principal drawback of such an approach would likely be cost. Submarines with fewer nuclear warheads each cost about the same as those with greater nuclear complements and more would be required. In addition, a larger SSBN force would entail increased personnel, operations and maintenance costs and, potentially, increased base construction requirements.

Ongoing research programs will provide the basis for confident transition to full-scale development consistent with events and emerging technologies. The latest principle in limiting detection are now being incorporated into the newest Tridents and in the design of the SSN-21.

Conclusions

Ongoing submarine design, submarine security, and submarine missile research is of vital importance in preserving our strategic deterrent posture. Specifically,

Ongoing research will provide the basis for a follow-on submarine to replace the Trident submarines as they begin to reach the end of their service life in 2010.

Against certain potential threats, there are advantages to a larger number of "smaller" submarines (i.e., with fewer warheads) to ensure security.

Operating costs are almost entirely determined by the quantity of submarines. "Smaller" SSBNs with fewer missiles/warheads will cost at least the same in adjusted dollars as current Trident submarines to acquire and operate.

We will continue to focus on maintaining the survivability of the SSBN force while examining options for a new SSBN (potentially "smaller" than Trident) as a follow-on system.

PART III: FORCE MODERNIZATION AND ARMS CONTROL RECOMMENDATIONS

The Secretary of Defense believes that the President's Strategic Modernization Program remains critical regardless of the outcome of the ongoing START negotiations. Deployment of the Trident SSBN, D-5 SLBM, Peacekeeper missile, B-1B, B-2, ACM, and SRAM II must continue. These modernized forces are essential to our security with or without a START agreement. In this regard, if our negotiations can produce provisions for the effective verification of mobile ICBMs and the U.S. agrees to permit mobile ICBMs under START, a rail-mobile Peacekeeper would provide increased survivability, flexibility and cost-effectiveness to our strategic forces. Indeed the rail-mobile Peacekeeper is absolutely essential if there is no START treaty or if, as the Soviet Union proposes, mobile ICBMs are permitted under START. Under either of those circumstances, most other concepts under consideration for increasing the mobility of the ICBM force, such as a mobile small ICBM, are unaffordable at current budget levels.

It would be premature now to set out a recommended force structure mix based on an as yet incomplete START agreement; the optimal U.S. strategic force structure under START is best finalized once a treaty is at hand. In this regard, it is important to recognize that force structure requirements will remain dynamic throughout the life of a START treaty based on the evolving threat, the verification regime, fiscal realities, and technological developments.

With regard to arms control recommendations, our objectives have not changed and should not change, since they characterize the fundamental agreement within the United States as to the proper function of arms control. As the President has stated, "Arms control is not an end in itself, but only one of several tools to enhance the security of the United States and that of our allies." If the security of the United States and our allies is not enhanced, the fundamental purpose of an arms control agreement becomes questionable. Within this context, our objective in the current

START negotiations is an agreement that achieves reductions that are stabilizing, equitable, and effectively verifiable.

CLEANUP OF BUSH CAMPAIGN

Mr. LEVIN. Mr. President, 1 week ago today, on September 8, the "Bush for President" campaign announced that it had asked for and received the resignation of Jerome Brentar, cochairman of BUSH's American Nationalities Committee after the press revealed that Brentar was active in groups that denied the Holocaust took place.

It was also revealed that Brentar was a leading backer of John Demjanuk who was found guilty of operating gas chambers at the Treblinka death camp.

However, last night on the CNN show "Crossfire," Brentar said that, as far as he is concerned, he is still with the BUSH campaign.

I want to ask GEORGE BUSH just what is going on here. Is Brentar still with the campaign or not? Did he resign a week ago, as BUSH spokesman Mark Goodin said, or did he not?

It is an important question. I saw a tape of Jerome Brentar's appearance on CNN last night. He refused to acknowledge that the Holocaust took place, ascribing the deaths of 6 million Jews to overall war conditions. He also said that he had helped bring former Nazi officials into the United States after the war.

And yet this is a man who GEORGE BUSH appointed to a post in his Presidential campaign. And this is also a man GEORGE BUSH seems not to know how to get rid of.

Unfortunately, the Brentar case is not an isolated one. In addition to Brentar, five other members of BUSH's ethnic committee with alleged ties to anti-Semitic or pro-Nazi organizations have reportedly resigned. But, then, BUSH's organization also said that Brentar is out. Apparently he is not.

It is just not good enough. GEORGE BUSH should get on with the cleanup of his campaign organization. That cleanup is highly appropriated.

SENATOR ROBERT C. BYRD

Mr. RIEGLE. Mr. President, and colleagues, I have thought about this for some time. I want to express today some of the personal thoughts and observations that I have about our very esteemed colleague, Senator ROBERT BYRD from West Virginia, who we have all had the opportunity to serve with here in the Senate. In my case, it has been my privilege to serve with Senator BYRD now 12 years in the same body. And to have come to know him on an intimate, personal basis is one of the most valuable and important parts of my Senate experience. So when I rise today to make some observations about him, I do so with great feeling.

We are about to witness a changing of the guard, if you will, with the majority leader, Senator BYRD, relinquishing voluntarily those duties at the end of this the 100th Congress and, typical for him, picking up new responsibilities as the prospective chairman of the Senate Appropriations Committee, an enormous task itself. But there is no greater job, in terms of difficulty or requirements or the confidence that it represents of his colleagues, than the job he now holds, namely that of majority leader.

I want to make some observations about him if I may, because I think he is truly an extraordinary leader.

He is one of a handful of Americans who has come out of our society from what I think of as the natural aristocracy, from very modest early circumstances in his life, to rise to a position of enormous public responsibility. And more than the nature of that personal story of success and accomplishment is the fact that he epitomizes, I think, so strongly what our democracy is about and how it is that from among the midst of our citizenry, people can rise to the highest offices in our land.

Over the last several years I think his duties and his achievements rank certainly with those of anybody else that has been in elective office over those same period of years.

I know we tend to think about Presidents as being our chief leaders in our country, and certainly they carry awesome responsibilities when they assume the Presidency. But so does the majority leader of the Senate. With all of the issues that come down the track that have to be dealt with day in and day out, all hours of the day and night, 7 days a week, 365 days a year, this is a profoundly important job that has been carried out for our people. And it has been done, in my view, by Senator BYRD in a magnificent way.

I am not sure that people can really judge the quality of the work or the man from a distance, because so much of what we hear and read is filtered through the eyes and opinions of others. But those of us that serve here in the Senate in this Chamber come to know each other in a different way. And I feel that I have come to know the Senator from West Virginia in a very personal way.

Consider these facts. His mother, sadly, passed away when he was about 1 year old, and from that kind of a difficult beginning was raised by foster parents and by any way we describe it, had a tough, hard climb coming forward in his life from those very earliest years.

He served in a number of capacities, working his way forward. He pumped gas at a filling station, like many other Americans. He worked as a produce salesman. He became a meatcutter at one point. He worked in the shipyards in Baltimore at another point. And then he began a career in public service of extraordinary success, serving in the house of delegates in West Virginia, serving in the West Virginia State senate, coming and serving three terms in the U.S. House of Representatives and then coming to the U.S. Senate.

And in his period of service in the U.S. Senate, I say to my colleague from Georgia, he may or may not know this, but Senator BYRD attended law school at night for 10 years as a U.S. Senator in order to complete his work and to earn this degree as a lawyer.

Stories abound of trips home to West Virginia, the winding road and the hills, where he would go back to his district, which he is so diligent about serving, and actually wedge a law book right in the steering wheel and when he would get a long enough stretch of straight road, try to read a few of the pages or paragraphs in the law books as he was trying, as he always did, to do several things at once. That is to get through that period of schooling himself in the law—and I would say today he is one of the finest lawyers we have in this body. But imagine earning that law degree at night as a sitting U.S. Senator over a period of 10 years.

How many of us have the determination and the stick-to-itiveness to take on an assignment like that and do it in that fashion? Very few, I think. He, unique among us in that respect.

I want to comment briefly on his years in the leadership. I think it takes great talent to be an extraordinary majority leader. That is never easy. I think it is even a tougher task to be an extraordinary minority leader. And I have seen ROBERT BYRD in both capacities and I would say that in the period from 1980 to 1986, I think I saw some of his finest hours, if I may say so in one person's observation; some of his finest hours of leadership were during that period when we were in the minority around here, what I think of as our years in the desert, the other side was in control running all the committees, we could not call a hearing, we could not bring a bill forward. We were very limited in that respect when control changed hands.

And because of the shock of the loss of the majority control in 1980, it was a time for a lot of reflection and a lot of hard adjustment. Psychologically, in terms of the mechanics of the place, in terms of our ability to play a constructive role here on this side of the aisle.

I think ROBERT BYRD, more so than any other individual, helped guide and lead our party through that difficult time of taking stock, of trying to figure out how we could get ourselves reestablished, how we could take a case and a message and a record back out to the people of the country, could attempt to win back control of the U.S. Senate based on who we were, what we stood for, what we proposed to do for the country.

It took us 6 years to do that. But I remember so many of the meetings we had, the task forces that were set up on different issues, the meetings that we had as we would go away for weekends, all of the Democratic Senators with our families to try to think through some of the issues.

I remember the occasion he gave me, for example, the opportunity to structure a special meeting on American competitiveness. And we got in the people who had been the principal players in the Presidential Commission on Competitiveness, and we spent the better part of a day as a party in distant setting, talking about those issues, thinking through the trade dynamics, all of the groundwork that eventually led, finally, to our not only going back into the majority but this year to being able to develop and pass and now see signed into law a significant change in the trade laws of this country that will stop the trade cheating, that will help restore American competitiveness, would get us back on track, will help save and create good jobs in this country.

But it was his willingness to enfranchise not just a few of us on this side of the aisle, he asked everyone to participate, and he gave everyone a change to participate; not just with the ordinary responsibilities that we carry but by offering extra assignments, asking people to participate in other group efforts to try to come up with new answers to new problems.

I remember Scoop Jackson, when he was alive, leading the effort on housing. What could we do in the housing area to try to move the country ahead? And so forth, across the board.

He has never been a selfish leader. I think it is very easy, sometimes, for a leader to become selfish. I have not seen that in ROBERT BYRD. I have seen ROBERT BYRD, instead, give others an opportunity to do things. I have seen that on important foreign policy assignments, and not just senior Members, as a matter of fact more junior Members.

I remember again the case of my own example, where in the 1982 elections we were coming down the home stretch in a very important national election and someone from our party was going to give the national response to President Reagan, as he gave his final thoughts to the country shortly before the election, and ROBERT BYRD asked that I do that assignment. I was very proud and honored to take it on, and very nervous about it, I must say.

But it is typical. I do not mean to just cite personal examples but I have seen the personal examples and I have seen it in so many other cases where what he chose to do is enfranchise others, to bring others forward, to show the broad range of talent and thinking and capacity in our Democratic Party. It takes a big leader to do that.

Lots of other leaders I have seen, I do not say here but in other situations, think exactly the reverse. So that has been a very important part of his leadership.

I want to say, as well, something else in a very personal vein, because these jobs demand a lot and the leadershp jobs demand the most and if you are responsible for running the ship and here you have to be in here first thing in the morning and are usually the last one to leave at night. The hours that are required are phenomenal. And the family sacrifices that go with it are self-evident.

His wife, Erma, of 51 years, is a saint in terms of being willing, as all our spouses are who live these lives with us and are partners with us, to deal with all of those hours away from home, the inability to schedule things, to know when the dinner hour is going to come or even if there will be a dinner hour because of the lateness of the sessions and so forth.

I know sometimes it is easy for those of us not in the leadership to say: well, why is it not run differently? Or, why do we not have a nice, orderly schedule that we can follow?

Well, it would be great if we could have that. The problem is that the leader has something to do with that, but so do the other 99 of us. When you are trying to accommodate a body of 99 others in addition to yourself, you cannot always just mandate things the way you would like.

We all, at different times, ask for accommodations in terms of scheduling votes either early or later or what have you, or amendments that we want to bring up, and I think it is easier to imagine how a perfect job would be if somebody else is doing it than if we were called upon to do it ourselves.

So I find no fault in that area. This is a tough place to manage and there is just no two ways about it. My hat is off to anybody that is willing to take the job, put the time in, take it out of his hide, out of his family life, to do it and do it right. And I think also, in that vein, very positively about the leadership we have seen out of the present minority leader, former majority leader ROBERT DOLE as well, because I think he has also shown that kind of extraordinary commitment to the institution.

But given all of that, I just want to touch on two or three more different things. ROBERT BYRD, a few years ago, and during the time we were in the minority and struggling with adjustments we had to make, suffered a very profound personal tragedy and that is that he lost in a terrible automobile accident a grandson that he loved very dearly.

It was such a powerful shock to those of us who knew the leader and were watching the leader to see that it broke his heart. When your heart is broken, it takes time. Only time can really start to heal that kind of a wound.

His grandson was a magnificent young man. What I have read about him and heard about him and have been told about him confirms that in every way.

And so there was a period of time—weeks, months—where I think the leader was under a particularly heavy load of not just the work here but of the heartache and the sadness that he was feeling. I admire that. These jobs sometimes harden you to the point where you almost wonder if there is time to care about things that happen that ought to be our first priority.

I saw the impact on this man during that period of time. I saw him continue to carry his responsibilities, discharge his duties to the Senate despite the tremendous impact that tragedy had upon him at that time. It shows something of his strength that he was able to deal with all of that at the same time.

I have mentioned before the long hours on this job. None of us know when we are going to adjourn on any given day or when the votes will come or whether we can be home with our families. The person who usually shuts the light out here at night is the leader of the body.

We can only have one leader, and we vote in an open ballot situation as to who that leader is. It is an open competition. Anyone who wants to seek it can. We can find fault with the leaders who we pick, but we always pick the best we can find. We do not pick the second-best or the third-best. We try to find and identify and select the person we think is the best we have among us to carry that set of responsibilities.

We have elected ROBERT BYRD several times off this side of the aisle because, in our collective judgment, he was the best we had to offer. It was the right choice, and he has borne that out by his performance over all the time he has carried these assignments.

I will just finish by saying this. I feel I know a lot more about West Virginia because of what I have seen and learned and observed in ROBERT BYRD. I would also have to say two of his colleagues I served with, Jennings Randolph and, of course, Jay Rockefeller, also helped provide the definition of what is truly a remarkable State. It has to be a remarkable State to send us leaders of that quality, all three men I just named.

But Robert Byrd has risen to the point where he, as the sole Senator from a State from among 50 States, was selected to be the eminent leader in this body. That says something about him and about West Virginia, because West Virginia found him, brought him along, sent him here, has kept him here. So, in a sense, he to me embodies and typifies the best of West Virginia. And it is very fine, indeed.

I think West Virginia has a right to feel enormous pride as to the contribution they have made to the country in sending a leader like Bob Byrd and the others I have mentioned.

Our system provides the opportunity for what I think of as the national aristocracy of this country. Not the landed gentry, not the people who necessarily are favored by growing up in circumstances of great affluence or great influence with numerous advantages. The uniqueness of America is that we have a system where if we keep the opportunities open, people with talent and determination and drive can come right up out of the grassroots of this country and go all the way to the top in any field—politics, science, medicine, the arts, sports, you name it.

It is very important that that continue to be true in politics and in self-government and in our democracy. To me, if I had to pick a single example in my personal experience of someone who validates the principle of the national aristocracy at work in terms of talent, being able to rise from the most modest circumstances in our country and rise on the sheer strength of ability and commitment and determination to the highest levels of responsibility in our country, I would have to pick Robert Byrd as that example.

He, in a sense, embodies and expresses, I think, what our country is about. He has been a great leader, and he has been a great friend. I am sorry to see him lay down these responsibilities as majority leader, but I am happy that he will be moving, I hope, if we retain control of the majority and I think we will, into the Appropriations Committee chairmanship where he will continue his distinguished work. He is an outstanding person, and I only wish that everyone inside this Chamber and out would have the chance to know him the way I think I do. I thank the Chair.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. Reid). The Senator from Michigan.

Mr. LEVIN. Mr. President, I just happened to be in the Chamber while my good friend and colleague from Michigan was speaking about Robert Byrd. I know the sentiments which he expressed so eloquently are the sentiments of every Member of this body. I congratulate him for it and thank him for them because I know that all of us feel that way.

SOUTH DAKOTA AIR SERVICE

Mr. PRESSLER. Mr. President, 8 months ago, I sat down with the mayor of Aberdeen, SD, while I was in his city to discuss his idea of providing connecting air service to the major cities in South Dakota.

Mayor Tim Rich's idea was intriguing and I offered him my complete cooperation and any assistance I could provide. Our work has led to the maiden voyage of an aircraft similar to the type that would provide air service between Aberdeen, Pierre, Sioux Falls, Rapid City, Mitchell, and Brookings. The communities of Yankton and Huron also have been invited to participate.

This air service would not compete with Essential Air Service carriers because a connection would not be made with a major hub like Minneapolis or Denver.

Innovative and daring approaches like this can lead to a reconnection between rural America and the rest of our country.

Mr. President, I ask unanimous consent that an editorial on this air service proposal from the Yankton Press and Dakotan be printed at this point in the Record.

I agree with the editorial that there are many questions on this proposal left to be answered, but the project deserves a close look.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Yankton Press and Dakotan, Sept. 13, 1988]

PRIVATE AIRLINE PLAN DESERVES A CLOSE LOOK

Deregulation of airlines has resulted in more than just an inconvenience to rural states like South Dakota.

Some smaller cities, such as Yankton, have a commuter service, but that service is extremely limited. Mid-Continent, the commuter airline serving Yankton, flies to Norfolk, Columbus and Omaha, where it hooks up with its parent company, Braniff.

Travelers seeking other destinations are forced to drive to Sioux Falls or Sioux City in order to board an airplane.

Airline service today in Yankton, as well as in Mitchell, Brookings, Watertown and Aberdeen, is a grim reminder of what sparsely populated areas are up against.

It can be argued that small cities like Yankton do not need airline service similar to the pre-deregulation days. Subsidizing that kind of service was expensive and, to many, not justified.

But the impact goes beyond the inconvenience for private air travelers. Air transportation is a key element that companies look for before they decide to locate in a community.

Put another way, those communities that have superior air service have a distinct advantage when it comes to recruiting new industries.

Which brings us to the plan now being discussed in Yankton. Renown Aviation of Santa Maria, Calif., brought a 50-passenger Convair 580 airplane to Yankton on Friday. The purpose of the visit was to introduce the plane, and company officials, to Yankton officials.

The plane was impressive. Here was a plane offering passengers plenty of head and leg room, and of a size that promised the air stability that travelers value.

But is the plan viable? We can't say for sure. What we know today is that Yankton, if it is interested, probably could be included on a flight schedule that connects Aberdeen to the state's other major cities. Travelers could fly to Pierre, Sioux Falls, Rapid City, Mitchell, and Brookings. Watertown Mayor Herb Jensen says his city is not interested, and Huron, as well as Yankton, was not included in the original plan.

Owners of Renown Aviation say their plan can work. Four flights a day are planned to these cities, and the average airfare would be $49 per flight. Trips to a city more than one stop away would cost $72.

This service would not be free to participating cities. Unlike those airlines still receiving a federal subsidy, this instate service would likely be underwritten primarily by local and state funds. Officials said the cost to Yankton, for example, could be $80,000 per year. As volume increased, the subsidy would decrease, officials said.

What Yankton officials must decide is whether there would be enough demand to make the service viable here. For those not using Mid-Continent, the only option is to drive to Sioux Falls or Sioux City. How many of those customers would use the new service? What would the use be by businesses, including state and federal employees? Would the subsidy cost be offset by the advantages of having expanded air service?

It is an interesting plan, with many unanswered questions at this point. But at least someone has placed a proposal on the table. It deserves a close look.

SENATOR ALAN BIBLE: IN MEMORIAM

Mr. HOLLINGS. Mr. President, veteran members of this body were saddened this week to learn of the death of former Senator Alan Bible at the age of 78.

For two decades, from 1954 to 1974, Senator Bible represented Nevada in the Senate with great dedication and distinction. He was the classic workhorse Senator, preferring the low profile and the nitty-gritty of committee work and legislating. As chairman of the Select Committee on Small Business, he was a tireless champion of entrepreneurs and a strong advocate of boosting the Small Business Administration's loan and investment fund.

Senator Bible will be best remembered, however, for his achievements as chairman of the Interior Committee's Subcommittee on Parks and Recreation. In that role, he was instrumental in the creation of 86 national parks, historic sites, and national monuments, including the Gateway National Recreation Area along the New Jersey-New York shoreline, the Point Reyes National Park in California, and the Cape Cod National Shoreline in Massachusetts. I cannot imagine a more magnificent living reminder of a man and his work than these national parks.

Mr. President, we remember Alan Bible with great fondness and affection. We extend our condolences to his wife, Loucile, and to his four children.

MILITARY CONSTRUCTION APPROPRIATIONS FOR FISCAL YEAR 1989—CONFERENCE REPORT

Mr. CHAFEE. Mr. President, I am delighted with the Senate's approval yesterday of the conference agreement on military construction appropriations for fiscal year 1989.

I am especially pleased that the conferees have seen fit to include $2,060,000 for new construction on the Navy Justice School Legal Training Building in Newport, RI.

The Naval Justice School is the Navy's only legal training institution. Since it was founded in 1946, the school has trained thousands of Department of Defense personnel in military, civil, and administrative law and procedure, in 14 different courses of study.

In 1987 alone, 1,672 students received training at the Naval Justice School.

Despite this essential role, its commanding officer states that its physical plant is "inadequate to meet current mission requirements." The existing facility cannot accommodate necessary curriculum expansion and specialized training programs, many of which are congressionally mandated.

Because of the lack of classroom space, a number of important courses and seminars this year have been held away from the Naval Justice School facility in inconvenient and inadequate spaces.

The need for improvements became even more acute in late July when the Navy announced that the Naval Investigative Service [NIS] Northeast Regional Office was slated to relocate to Newport to a building adjacent to the Naval Justice School. Although the two commands are separate entities, the counterintelligence mission of NIS clearly complements the educational role of the Naval Justice School. Now that the two will be neighbors, I anticipate the Navy will exploit this partnership and that programs at the Naval Justice School will be enhanced and expanded as a result.

I commend my colleagues for the foresight and understanding of the Naval Justice School's role they have demonstrated in retaining this important funding.

PATRICK KENNEDY'S ELECTION TO STATE HOUSE OF REPRESENTATIVES IN RHODE ISLAND

Mr. BREAUX. Mr. President, in the fall of 1982, John Fitzgerald was elected to the State Senate in the Commonwealth of Massachusetts and became one of the youngest senators on Beacon Hill. He was 29 years old.

When he took his oath of office in the beautiful capitol building in Boston, he also planted in America the political seedling that would produce mighty oaks and whose name would become known and respected in every corner of the globe—in palaces and mansions and in huts and tents in lands some think God has forgotten.

We know, of course, Mr. President, that three of John Fitzgerald's grandchildren followed his later trek to Washington and became Members of the Congress. One grandson went to the House of Representatives like Mr. Fitzgerald himself did and then became a Member of this august Chamber and, of course, rose to receive the greatest gift in the people's treasury, the Presidency of the United States. Two other grandsons of John Fitzgerald came to the U.S. Senate and one today serves with unexcelled distinction as the senior senator of the Commonwealth of Massachusetts.

One of John Fitzgerald's great-grandchildren now serves in the U.S. Congress from the Eighth Congressional District of Massachusetts.

So, Mr. President, we well know that the Fitzgerald legacy to public service in and for the Commonwealth of Massachusetts has been and is ably guarded and carried on by his progeny in that great State.

But, Mr. President, I wish to call special attention that something historic occurred yesterday that even further extends that legacy to another one of the colonial states of the American union.

Yesterday, Mr. President, Mr. Patrick Kennedy, age 21, was elected to the State House of Representatives of Rhode Island for the Ninth District.

Patrick, 8 years younger than his great grandfather was when he was elected to his first office, the State legislature, goes to his new home State's legislature as a junior at Providence College.

While the complete record is not available to me, Mr. President, concerning the political lives of the Fitzgeralds and the Kennedys during their years in the Emerald Isle, I believe that I can say with complete accuracy that he is the first of that distinguished family to be elected from a jurisdiction other than the Commonwealth of Massachusetts or the State of New York.

While I cannot predict the future, Mr. President, I believe that I can say with absolute certainty that Mr. Patrick Kennedy will have a great and rewarding political career in the Ocean State where I trust he will serve long years and acquit himself in the tradition of that most esteemed family from whence he springs.

Mr. President, I send warmest congratulations and best wishes to Mr. Patrick Kennedy on his election yesterday as Rhode Island's newest member of the legislature and I also congratulate his father, our colleague, Senator TED KENNEDY.

AT LAST, SOME ACCURACY ABOUT THE ECONOMY AND JOBS

Mr. DOMENICI. Mr. President, a column by Robert J. Samuelson in yesterday's Washington Post addresses "the fictitious issue of the 'jobs gap.'"

I commend this article to my colleagues because, frankly, it says what I have been saying for a long time: That our economy is in good shape, and the millions and millions of new jobs created by the American economy in the decade of the 1980's are good jobs.

"Most (of these jobs) are said to be low paying. Middle-class living standards are said to be stagnating. All this is largely untrue, despite the political rhetoric," Mr. Samuelson writes.

He goes on to note that "average hourly pay has risen 8 percent since 1980," and that "living standards for most Americans haven't stagnated." In fact, they are improving and continue to improve.

A key point in the article is a chart showing the "increasing incomes" of this decade. For example, the chart shows that median family income—after inflation—rose a mere $116 during the entire decade of the 1970's, while it has increased a dramatic $857 during the first 7 years of the 1980's.

The article also notes a decline among those in the $20,000 to $50,000 income, a decline that some contend is a sign we are slipping into poverty. Nonsense. Just the opposite is true. The reason that fewer families have incomes in the $20,000-to-$50,000 category is that more and more American families are earning more than $50,000 a year, again after inflation is discounted.

In fact, the number of families in this high-income category has risen 31 percent since 1980. How is that possible if all we are producing are pizza-delivery jobs?

The article goes on to discuss the annual productivity gains of the 1980's. While these gains are below those in the period immediately after World War II, productivity is up 1.2 percent a year in the 1980's. "The good news is that this is about double the rate of the late 1970's," Mr. Samuelson writes. How does that fit in with the myth we're hearing from certain experts?

Mr. Samuelson also evaluates shifts in the economy, citing such figures as the drop in steel-industry employment of 290,000 since 1979.

"But these changes don't create stagnation. Far from it. Job losses often have been greatest in uncompetitive industries. Massive layoffs have enabled the steel industry to increase the amount of steel produced per worker by more than 100 percent since 1979." In fact, I am told, American steel is now the most competitively priced steel produced anywhere in the world.

Finally, Mr. President, I want to quote Mr. Samuelson's concluding paragraph, because I believe it is particularly relevant today. Mr. Samuelson writes:

"The job gap is fictitious. The trouble with inventing such issues is that, once they're recognized as baseless, they deepen public cynicism about Government and politicians. That's a bad foundation for anyone's Presidency."

Mr. President, I ask unanimous consent that this important article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 14, 1988]

THE FICTITIOUS ISSUE OF THE "JOBS GAP"—AND THE DAMAGE IT CAN CAUSE

(By Robert J. Samuelson)

Every election has its fraudulent issues. In 1960 it was the missile gap. This year it's the jobs gap. We're told by Democrats that the economic expansion of the 1980s is a mirage. Lots of jobs were created (nearly 16 million since 1980), but most are said to be low paying. Middle-class living standards are said to be stagnating. All this is largely untrue, despite the political rhetoric.

At the Democratic convention, Texas Treasurer Ann Richards read from a letter of a working mother. "We buy clothes at budget stores and we have them fray," she wrote. "We . . . try to figure out how we're going to pay for college, and braces and tennis shoes. We don't take vacations and don't go out to eat." It sounds as if the family is struggling with an income of say, $27,000. Reporters located the family, whose income is about $50,000.

No one doubts the woman's sincerity. But it's important to separate facts from feelings. The picture is neither as glorious as Republicans boast nor as wretched as Democrats contend. From these statistics and other studies, I draw three main conclusions:

Living standards for most Americans haven't stagnated. If the middle class is taken roughly to include families earning between $20,000 and $50,000, it has shrunk—because the share of families with incomes exceeding $50,000 has risen steadily since 1970.

But the rise of living standards has slowed down. Living standards reflect productivity—the amount of foods or services turned out in an hour—and productivity growth is sluggish. Between 1947 and 1973, nonfarm productivity rose 2.5 percent a year; in this period, median family income roughly doubled. In the 1980s productivity is growing only about 1.2 percent a year. The good news is that this is about double the rate of the late 1970s.

The poor haven't shared in the improvement. The proportion of Americans with $20,000 or less of income hasn't dropped since 1970. Neither has the poverty rate—the share of Americans below the poverty line ($11,611 for a family of four in 1987).

Exaggerated theories of economic stagnation are attractive to Democrats (and some media commentators) because they seem plausible. Gains that occur slowly seem almost invisible and nonexistent. It's also true that economic insecurity has increased in the 1980s. Younger members of the baby-boom generation—because there are so many of them competing against each other—have had their wages depressed compared to those of older workers. In addition, many workers have lost high-paying industrial jobs. Since 1979 steel-industry employment has dropped by 290,000.

But these changes don't create stagnation. Far from it. Job losses often have been greatest in uncompetitive industries. Massive layoffs have enabled the steel industry to increase the amount of steel produced per worker by more than 100 percent since 1979. The idea that higher incomes reflect only families with two jobs is based on a statistical illusion: the appearance that average pay hasn't risen.

It's true that average hourly earnings—a statistic that's widely reported—haven't kept up with inflation. But the statistic is flawed. It covers less than two thirds of all jobs. Excluded are many fast-growing and well-paid professional and technical jobs. Fringe benefits are also excluded. Finally, the inflation adjustment is (for technical reasons) slightly overstated. Eliminating these defects, average hourly pay has risen 8 percent since 1980, estimates William Cox of the Congressional Research Service. The message: gains in living standards are modest, but genuine.

The reality is that neither party can quickly influence trends in poverty and living standards. No one really knows why productivity growth—the key to higher living standards—has slowed. Government can't change the number of workers in the baby-boom generation. It's also tough to treat entrenched poverty. Low-wage jobs aren't a major cause. In 1986 only 16 percent of the poorest fifth of families had at least one full-time, year-round worker. This is why raising the minimum wage won't reduce poverty much. Stubborn poverty has two major causes, and both defy easy solutions.

The first is the explosion of single-parent families with children. They represent nearly two fifths of those in poverty, up from a about a fifth in 1960. The second is the growth of Hispanics. There are now 3.3 million more Americans below the poverty line than in 1980—the result mainly of a bigger population, not a higher poverty rate. Nearly 2 million are Hispanic. The number of Hispanics is increasing five times faster than the total population; half the gain comes from migration. The high poverty rate partially reflects a new wave of poor immigrants.

The job gap is fictitious. The trouble with inventing such issues is that, once they're recognized as baseless, they deepen public cynicism about government and politicians. That's a bad foundation for anyone's presidency.

INCREASING INCOMES

Living standards for most families have risen slowly since 1970. But poverty hasn't declined.

FAMILY INCOME

[In 1987 dollars]

	Percent of families		
	1970	1980	1987
Under $10,000	11.1	11.9	11.7
$10,000–$20,000	19.0	20.0	18.6
$20,000–$35,000	33.3	30.2	26.7
$35,000–$50,000	21.2	20.5	20.2
$50,000+	15.4	17.5	22.9
Median income [1]	$28,880	$28,996	$30,853
Poverty rate [2]	12.6	13.0	13.5

[1] Half the families are above, half below the median.

[2] Share of population below official poverty line.

Source: U.S. Bureau of the Census.

LEAVE OF ABSENCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that, pursuant to paragraph 2, rule 6 of the Standing Rules of the Senate, I be relieved from attending the sessions of the Senate during this week.

I make this request because I have been asked to travel to Seoul, Korea, as a member of the President's delegation to the summer Olympic games.

In addition to my responsibilities as a member of President Reagan's delegation, I will be heading the State of Alaska's delegation to Seoul, where the official presentation will be made on Alaska's bid to host the 1994 winter Olympic games.

My fellow Alaskans and I are in Seoul because Anchorage, AK is America's candidate city for the 1994 winter games. The Alaska city is the only non-European city in the running—the others include Sofia, Bulgaria; Ostersund, Sweden; and Lillehammer, Norway.

The 91 IOC members, representing 76 different countries, will announce their decision for the 1994 winter games late this week in Seoul.

I agreed to go to Seoul and be absent from the Senate for a week only after being assured that my absence will not be crucial to any business that the Senate is expected to address this week, particularly issues vital to Alaskans such as the Tongass Timber Harvest Program.

I am confident that my colleagues and the people of Alaska appreciate the importance of my going to Korea at this time. The decision in Seoul this week is an extremely important one to Alaska. Hosting the Olympics will produce nearly a half-billion dollars for our economy, create thousands of new jobs, bring many thousands of new visitors to our State, and put Alaska on the map as the premiere winter training site for American athletes.

I am optimistic about Alaska's chances to host a winter Olympic

games. Anchorage is a city at the air crossroads of the world, with an ideal climate, modern facilities and a firm commitment to the success of the games. A recent referendum vote on hosting the games passed by a 2-to-1 margin and confirms the fact that Alaskans are behind this effort.

I thank the chair for this opportunity to say a few words about this proud and exciting time in Alaska's history.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 1154) to remedy injury to the U.S. textile and apparel industries caused by increased imports.

The Senate resumed consideration of the bill.

Pending:

Hollings amendment No. 2945, in the nature of a substitute.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAREWELL TO A GOOD FRIEND, AND GREAT AMERICAN, BILL PROXMIRE

Mr. BYRD. Mr. President, the senior Senator from Wisconsin, WILLIAM PROXMIRE, has been called a "maverick", a "loner", a "gadfly", an "eccentric." I think of him as a friend and an outstanding Senator.

Everyone knows that the senior Senator from Wisconsin does not always vote with the majority of his colleagues on this side of the aisle. And everyone knows that I would be less than honest if I said that, as the Senate Democratic leader, this has never concerned me. It has. And I have been disappointed at times. BILL knows that. But I can just as candidly and honestly say that I understand that Senators in the final analysis have to vote their consciences. And they have constituents to whom they are answerable.

I am truly sorry to see this good Senator and good friend from Wisconsin leave us at the end of the 100th Congress.

This dedicated public servant has never hesitated to put principle above politics, to put a humanitarian cause above personal interests or convenience to make this a better Nation and to make our Government more responsive to the will of "we the people."

Senator PROXMIRE has been a challenging and demanding Senator. He has constantly challenged this great Chamber to meet the demands of the national need, and he has demanded that we meet that challenge.

He has challenged as well as demanded that the Senate leadership be responsive to the Members of this Chamber as well as to the people of the United States. In 1959, less than 2 years after coming to the Senate, he boldly challenged the Senate leadership and demanded that the majority leader "tell him what programs are to be proposed, when they are to be considered, and why."

That was at a time when the Senate was under the leadership of Lyndon Johnson. Everyone knows that a Senator, especially a freshman Senator, did not impose or make demands on Majority Leader Johnson and expect a peaceful, lasting relationship afterward.

Senator PROXMIRE made that speech on Washington's Birthday following the reading of Washington's Farewell Address. And everyone was soon calling it "PROXMIRE's farewell address." But if anyone could challenge Majority Leader Johnson and survive, BILL PROXMIRE could and did.

Senator PROXMIRE survived to become the Chamber's third highest ranking Member in point of seniority, and chairman of the Joint Economic Committee, and of the Senate Banking, Housing, and Urban Affairs Committee.

He leaves behind a rich legacy of legislative accomplishments including the Competitive Banking Equality Act, the Truth-in Lending Act, and the foreign bribery law. The American banker correctly noted that Senator PROXMIRE has been "a central figure in banking legislation for two decades."

As I have said before: "The tenacity and dedication that Senator PROXMIRE has applied to the causes in which he believes has made him somewhat of an institution within this institution." His pursuit of issues ranging from Government waste to arms control and human rights has often bordered on fanaticism but he has always been a fanatic with a cause; a real cause.

He leaves behind a legacy of traditions, traditions that have become legendary in the annals of American politics, and a permanent part of Senate history. His political frugality and honesty have already become political folklore.

He has taught all of us the virtues and the rewards of persistence and patience. At prep school in Pottstown, PA, BILL PROXMIRE was voted the class "grind" for his relentless study habits. He applied that same tenacity and dedication to his job here in the Senate. Foremost, there is his unparalleled—and it will very likely remain unparalleled—voting record, more than 21 years without missing a rollcall vote, the first and only Senator in the 200 years of this Senate's history who has achieved that feat. As of September 9, 1988, he had cast 10,207 consecutive rollcall votes.

The Senator with the second highest number of consecutive rollcall votes was Senator Margaret Chase Smith, our former colleague, with nearly 3,000 votes. Simply calling attention to this event far surpasses any superlative that I could attach to it. "Voting is the single most important function of a Senator," Senator PROXMIRE has said.

That reminds me of another BILL PROXMIRE virtue. He practices what he preaches. On January 11, 1967 Senator PROXMIRE announced that he would speak every day that the Senate was in session urging this Chamber to ratify the Genocide Treaty. Nineteen years and 3,000 speeches later, on February 19, 1986, his quest became a reality and morning business has never been the same since.

For 8 years he pushed and fought for passage of the truth-in-lending bill. In 1986, this quest became reality. He did not make it to the White House ceremony during which President Johnson signed the measure into law in front of the photographers and all the television cameras. Senator PROXMIRE had remained in his Senate seat because there was a forthcoming Senate vote and he did not want to miss it. Another BILL PROXMIRE virtue? It sure is. He constantly reminded us that we are not here for personal fame, fortune or glamor, but to serve the people of our States and this great Nation.

There is no way to discuss Senator PROXMIRE and what he has meant to the U.S. Senate without mentioning the "Golden Fleece" Award. As I have said before, this periodic award to an organization or individual who exemplifies waste of taxpayers' money has become almost as much a part of the Senate as are the quorum calls. Senator PROXMIRE has used these occasions to point out how taxpayers' money was being used to discover whether drunken fish are more aggressive than sober fish and to point out that the U.S. Army spent thousands of taxpayers' dollars to ascertain the best way to buy Worcestershire sauce.

I am sure that Senator PROXMIRE has had other frustrations while serving in the Senate, especially with its procedures. But you would never know it. In a speech just last year, the senior Senator from Wisconsin called his job as a U.S. Senator "the best job anywhere." A Senator, he explained, has "an opportunity * * * to help make this world a better place" and it is a job "that offers the greatest prospect for fulfilling life."

There were nice words from one of the most interesting Senators to ever hold the job and to grace this Chamber.

Senator PROXMIRE has said that he does not plan to retire, and you can bet on that. He plans to deliver lectures and write books. I cannot wait for my new reading materials—I have always been fascinated by what the Senator has to say. His morning business lectures have not only been as regular as have the Chaplain's prayers, they have also been demanding and challenging and thought provoking.

As the Senate profited so much from his presence, it will lose much with his retirement. I will miss BILL PROXMIRE. He is always there in the mornings when I come into the Chamber as I look around and he is there. He is here at this desk standing in for me if for reasons I have to go elsewhere or attend a meeting before coming here. I will miss his friendship, his counsel, and his guidance. All of us will miss his humanity. It has been an honor and a privilege to have worked with BILL PROXMIRE, a remarkable man.

I am reminded of one of Senator PROXMIRE's favorite quotes, a quote from William the Silent who said: "It is not necessary to hope in order to undertake, or to succeed in order to persevere." Mr. President, to his credit, Senator PROXMIRE undertook, yet hoped, persevered, yet succeeded.

I thank the people of Wisconsin for their wisdom in selecting Senator PROXMIRE to represent their State in the U.S. Senate. He already holds an important place in the history of the U.S. Senate and in the history of the United States.

I will not waste time or effort in wishing him success in his future endeavors, because I know he will succeed.

My wife Erma and I wish him and his gracious wife Ellen health and happiness and God's blessings always.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there are certain conferences going on, and I expect some conference reports to be ready to act upon, perhaps within the next little while and, of course, there will be the votes that have been ordered for later in the day.

For the moment, I think I shall recess the Senate and give the doorkeepers and the Presiding Officer and other officers of the Senate and the people at the desk and the pages a little time to walk out and get a breath of fresh air and sunshine—and a glass of cool, clear water if there is any West Virginia water around.

RECESS UNTIL 1:30 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:30 p.m.

There being no objection, the Senate, at 12:55 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Ms. MIKULSKI).

THE CALENDAR

Mr. BYRD. Madam President, I ask the distinguished acting Republican leader if Calendar Orders Nos. 925, 926, and 927 have been cleared on his side of the aisle?

Mr. CHAFEE. I inform the majority leader that they have.

Mr. BYRD. I thank my friend.

Madam President, I ask unanimous consent that the Senate proceed to consideration of Calendar Orders Nos. 925, 926, and 927 en bloc; that they be considered en bloc and agreed to en bloc, and the motion to reconsider en bloc be laid on the table; that the amendment to 927 be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF GILLIAN LESLEY SACKLER

The bill (S. 2637) for the relief of Gillian Lesley Sackler, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Gillian Lesley Sackler shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

RELIEF OF THOMAS WILSON

The bill (H.R. 439) for the relief of Thomas Wilson, was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF JEAN DEYOUNG

The Senate proceeded to consider the bill (H.R. 1490) for the relief of Jean DeYoung, which had been reported from the Committee on the Judiciary, with an amendment:

On page 1, line 6, strike "$2,932.02", and insert in lieu thereof "$2,725.48".

So as to make the bill read:

H.R. 1490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF FROM LIABILITY; REIMBURSEMENT.

(a) AMOUNT OF RELIEF.—Jean DeYoung of Clarendon Hills, Illinois, is relieved of liability to the United States in the amount of $2,725.48, representing overpayment by the United States to Jean DeYoung resulting from administrative error by the Administrative Office of the United States Court.

(b) REIMBURSEMENT.—The Secretary of the Treasury shall pay to Jean DeYoung, out of any money in the Treasury not otherwise appropriated, any sum paid by her to, or withheld from her by, the United States with respect to the indebtedness referred to in subsection (a).

SEC. 2. AUDIT AND SETTLEMENT; ATTORNEY'S FEES.

(a) AUDIT AND SETTLEMENT.—In the audit and settlement of the account of any certifying or disbursing officer of the United States, full credit shall be given for the amount of liability relieved by section 1(a).

(b) ATTORNEY'S FEES.—Not more than 10 percent of the amount specified in section 1(a) may be transferred, directly or indirectly, to any attorney or other agent as consideration for services rendered to Jean DeYoung in connection with the relief from liability granted in section 1(a) and the reimbursement permitted under section 1(b). Any person violating this subsection shall be fined not more than $1,000.

The amendment was agreed to

The amendment was ordered to be engrossed, the bill was read the third time, and passed.

INTELLIGENCE AUTHORIZATION ACT—CONFERENCE REPORT

Mr. BYRD. Madam President, I submit a report of the committee of conference on H.R. 4387 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 10, 1989.)

The **PRESIDING OFFICER**. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. **BYRD**. Madam President, I move to reconsider the vote by which the conference report was agreed to.

Mr. **CHAFEE**. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COAST GUARD AUTHORIZATION ACT—CONFERENCE REPORT

Mr. **BYRD**. Madam President, I submit a report of the committee of conference on H.R. 2342 and ask for its immediate consideration.

The **PRESIDING OFFICER**. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill to the amendment of the Senate (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 9, 1988.)

Mr. **HOLLINGS**. Madam President, I rise today to urge Senate adoption of the conference report on H.R. 2342, the Coast Guard Authorization Act of 1988.

This bill initially passed the House of Representatives on July 8 of last year. On October 13, 1987, we substituted the language of S. 1459 for the text of H.R. 2342 and passed the legislation. Then in the final days of the last session, the House amended that legislation and once again passed the bill. On May 23, the Senate requested a conference with the House of Representatives on the legislation.

The conference report that we are considering today provides the core authorizations for the Coast Guard for fiscal years 1988 and 1989. The operating expense authorizations are $1,950 million for fiscal year 1988 and $2,100 million for fiscal year 1989. These funding levels, while not as large as some might want, will allow the Coast Guard to carry out its varied missions without serious reduction. H.R. 2342 takes a similarly conservative approach to capital funding. The bill, as amended, authorizes $278 million for fiscal year 1988 and $348 million for fiscal year 1989 to maintain and modernize vessels, aircraft, equipment, and shore facilities. The levels proposed for both the operating and capital accounts are consistent with the President's budget.

Other funding authorizations in the bill cover research and development, retired pay, and alteration of bridges obstructing navigable waters. In addition, authorizations are provided for end-of-year strengths of 39,121 military personnel for fiscal years 1988 and 1989.

One section of the bill the House passed on December 18 has been dropped because of its objective was achieved in other legislation. The intent of section 27, which revises manning requirements for vessels, was accomplished in the commercial fishing vessel antireflagging legislation. As a result, this provision was removed from the bill before us today.

This legislation also calls for the establishment of a search and rescue helicopter base in Charleston, SC. The South Carolina coast currently has limited access to helicopter assistance, despite a rapidly growing coastal population and Charleston's importance as one of the top five strategic ports in the Nation. At present, helicopters must be summoned from distant locations to provide assistance for lifesaving purposes or in connection with port security, drug interdiction, and coastal defense activities. This base will ensure that a helicopter is available around the clock in order to improve the Coast Guard's ability to carry out its many duties along the South Carolina coast.

This legislation also reauthorizes and enhances the Wallop-Breaux Aquatic Resources Trust Fund. This fund, which was established in 1984, is supported entirely by user fees paid by the millions of recreational boaters and sport fishermen. The money collected is automatically appropriated to the States for use in protecting natural resources and increasing recreational opportunities. In fact, when we look at what we are getting for the money, this program may be the best thing that has ever happened to the Nation's boaters and fishermen. In South Carolina, the funds distributed through this program are being used to support a variety of projects, ranging from the enhancement of boating access to the creation of new artificial reefs. In reauthorizing this program, we have worked closely with our colleagues on the Finance Committee and the Environment and Public Works Committee, who share jurisdiction. I would like to thank them for their assistance in developing these provisions.

The Coast Guard is an invaluable national resource, ready to respond to any demands that arise off our shores. I reiterate my support for prompt adoption of this legislation.

Mr. **BREAUX**. Madam President, I rise today in support of the conference report on H.R. 2342, the Coast Guard authorization bill. In particular, I would like to address my comments to section 6 of the bill, which reauthorizes and modifies certain boating safety and sport fish restoration programs which are funded through the Aquatic Resources Trust Fund, popularly known as the Wallop-Breaux Fund. This fund, established in 1984, is supported entirely by user fees paid by the millions of sport fishing enthusiasts and recreational boaters in the United States. I am proud to say that I believe the Wallop-Breaux program has been a significant success during its relatively short history, bringing millions of badly needed dollars to the States to improve State boating safety programs, provide additional funding support to the U.S. Coast Guard, and enhance sport fishing and boating opportunities.

Earlier this year, my friend and colleague from Wyoming, Senator WALLOP, joined me in introducing legislation to reauthorize the Wallop-Breaux program. Section 6 of this bill reflects a solid package of amendments to accomplish this purpose.

The amendments contained in section 6 of this bill make several significant changes to the Wallop-Breaux program. The boating safety account within the Aquatic Resources Trust Fund has an authorized ceiling of $60 million for the current fiscal year. Under this bill, the current level of support would be continued for fiscal years 1989 and 1990, and would increase to $70 million for fiscal years 1991 through 1993. These funding levels reflect a consensus among leaders in the boating and sport fishing communities as to an equitable allocation of Wallop-Breaux funding between boating safety and sport fish enhancement programs. Of the boating safety account funds, up to one-half could be made available for expenditure for Coast Guard services, but in no event would expenditures for the Coast Guard under this program exceed expenditures for State boating safety programs in any fiscal year.

A second significant change embodied in section 6 is an adjustment in allocation of sport fish restoration funds between marine and freshwater fish projects for coastal States. This adjustment will ensure that marine fish enhancement projects receive a more equitable allocation of Wallop-Breaux dollars within the coastal States. I emphasize for my colleagues from inland States that this does not in any way diminish or modify the funding to which those States are entitled. Rather, the amendment only addresses the proportion of funds within a coastal State, such as my own

State of Louisiana, that are allocated to marine projects.

A final significant change that I would like to point out is the requirement that the Departments of Transportation and the Interior jointly conduct a study of the number, size, and uses of recreational boats in the United States, and the amount and types of fuels used by those vessels. This study is to be presented to the Senate and the House of Representatives no later than November 15, 1992. The study will be funded from moneys provided for administrative expenses under the Wallop-Breaux program. This review will provide important information for the Congress that will be useful during its deliberations on the merits of subsequent reauthorization of the Wallop-Breaux program.

Madam President, reauthorization of this important program would not have been possible without the support and assistance of the chairman of the Commerce, Science, and Transportation Committee, Senator HOLLINGS. He and his capable staff have been most helpful in bringing this measure before us today, and I certainly wish to thank him for his assistance and to commend him for his strong support of recreational fishing and boating. In addition, the cooperation and assistance of the chairman of the Finance Committee, Senator BENTSEN, and the chairman of the Environment and Public Works Committee, Senator BURDICK, have been instrumental in moving this legislation forward. Their efforts are greatly appreciated by me and by the estimated 75 million men and women who boat and fish in the United States.

Mr. BURDICK. Madam President, nearly 60 million Americans—1 in 4 of us—will go fishing this year.

There are more than twice as many anglers today as there were in 1950. This increase in the number of anglers has resulted in increased fishing pressure on our sport fisheries and increased demand for high quality fishing opportunities.

Over the past decades sport fishing men and women and fishing tackle manufacturers have worked together to restore and maintian our sport fisheries and to provide access to anglers to enjoy these resources.

In 1950 they supported enactment by Congress of the Dingell-Johnson Federal Aid in Sport Fish Restoration Act, which placed a 10-percent Federal excise tax on rods, reels and lures.

These excise tax revenues are distributed to the States to support programs to rebuild and enhance sport fisheries and sport fishing opportunities. Between 1952 and 1985, over $430 million was allocated to the States from the excise taxes paid by anglers.

In 1984, anglers and recreational boaters joined forces to support enactment of the Wallop-Breaux Aquatic Resources Trust Fund to improve State programs for boating safety and sport fisheries management. This fund built upon the existing excise taxes by adding excise taxes on additional fishing equipment and on gasoline used in motorboats.

For fiscal year 1988 alone, approximately $155 million will be appropriated for distribution to the States from this newly created Aquatic Resources Trust Fund. The State of North Dakota is expected to receive nearly $1.7 million this year to manage, study and produce sport fish and to provide access to waters for anglers.

The Dingell-Johnson and Wallop-Breaux programs have proven to be a remarkably successful combination of support by anglers, fishing tackle manufacturers and State and Federal agencies.

For that reason, earlier this year I joined Senators WALLOP and BREAUX in sponsoring legislation to improve the Aquatic Resources Trust Fund Program and to ensure that it will continue to benefit sport fisheries and anglers for years to come.

Section 6 of the conference report on H.R. 2342 builds upon this legislation to make a number of important improvements in the Wallop-Breaux Aquatic Resources Trust Fund for State boat safety and sport fish restoration programs.

The House Coast Guard authorization bill had a provision that increased the amount of gas tax revenues authorized to be appropriated for boating safety. The Senate bill had no comparable provision. The Senate receded to the House provision with an amendment to that provision.

Many of the changes thus adopted in conference modify or affect the Federal Aid in Sport Fish Restoration Program of the U.S. Fish and Wildlife Service and, therefore, fall within the jurisdiction of the Committee on Environment and Public Works.

Subsection (c) of section 6 falls solely within the committee's jurisdiction because it amends the Dingell-Johnson Federal Aid in Sport Fish Restoration Act to allocate funding to coastal States equitably between marine fish projects and freshwater fish projects. Subsection (c) also amends the Dingell-Johnson Act to allow States to use inkind resources to match their allocation of Federal excise tax revenues.

Subsections (a) and (d) of section 6 fall partially within the Committee's jurisdiction. The former provision may affect funding of the Sport Fish Restoration Program in order to allow an increase amount of the revenues in the Aquatic Resources Trust Fund to the Committee on Commerce, Science, and Transportation.

The latter provision allows administrative funds available to the Secretary of the Interior under the Federal Aid in Sport Fish Restoration Act to be used to conduct a survey of fuel use by recreational vessels.

Senators MITCHELL, STAFFORD, and I have worked on these provisions under the committee's jurisdiction with Senators HOLLINGS and DANFORTH of the Committee on Commerce, Science, and Transportation and the leadership of the House Committee on Merchant Marine and Fisheries.

We support fully the provisions in the legislation I have discussed that modify and affect the U.S. Fish and Wildlife Service's Federal Aid in Sport Fish Restoration Program. We appreciate the cooperation and efforts of our House and Senate colleagues in bringing these improvements before us today to ensure their prompt enactment into law.

Mr. STAFFORD. I concur with the remarks of the distinguished chairman of our committee. The Dingell-Johnson and Wallop-Breaux programs are among the most important programs within our committee's jurisdiction concerning the management of sport fisheries.

It is anticipated that the State of Vermont will receive more than $1.5 million this year to restore, protect, and enhance its sport fisheries and to provide access for its anglers and recreational boaters.

I congratulate Senators HOLLINGS and DANFORTH and the leadership of the House Merchant Marine and Fisheries Committee for including improvements to the Wallop-Breaux Aquatic Resources Trust Fund in the legislation before us today.

I appreciate their willingness to recognize the jurisdiction of the Environment and Public Works Committee over a number of the provisions in section 6 of the bill and I appreciate their cooperation in working with us in the development of these provisions.

Mr. HOLLINGS. Madam President, I am pleased to have been able to work with the distinguished chairman and ranking minority member of the Committee on Environment and Public Works, Senators BURDICK and STAFFORD, and also Senators MITCHELL and CHAFEE in development of those provisions in section 6 of the legislation that modify or affect the U.S. Fish and Wildlife Service's Federal Aid in Sport Fish Restoration Program.

Those provisions, as described by Senator BURDICK, properly fall within the jurisdiction of the Environment and Public Works Committee, and I appreciate their cooperation in allowing us to proceed expeditiously with consideration of these improvements to the Aquatic Resources Trust Fund.

Mr. DANFORTH. Madam President, I agree with Senator HOLLINGS and join him in thanking the leadership of the Environment and Public Works Committee for their contributions.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Madam President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CHAFEE. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STAFFORD STUDENT LOAN DEFAULT PREVENTION AND MANAGEMENT ACT

Mr. BYRD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 909, S. 2647.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2647) to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that act, and for other purposes, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stafford Student Loan Default Prevention and Management Act of 1988".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DEFAULT MANAGEMENT

Sec. 101. Default management plans required.

TITLE II—IMPROVED STAFFORD STUDENT LOAN COLLECTION PROVISIONS

Sec. 201. Provision of financial aid transcripts.
Sec. 202. Repayment notice to borrower.
Sec. 203. Notice by lender of sale of loan.
Sec. 204. Guaranty agency prohibition on the sale of certain Stafford student loan lists.
Sec. 205. Guaranty agency use of State licensing board information.
Sec. 206. Special limitation on the deferment of payment of principal and interest on PLUS loans.
Sec. 207. Credit checks and cosigners for PLUS loans.
Sec. 208. Administrative fee for SLS loans and for PLUS loans.
Sec. 209. Loan consolidation limitation.
Sec. 210. Additional requirements with respect to disbursement and endorsement of Stafford student loans.
Sec. 211. Extended collection demonstration program.
Sec. 212. Notice to credit bureaus of delinquency.
Sec. 213. Eligible lender notice on delinquent loans required.
Sec. 214. Additional borrower information required.
Sec. 215. Ability to benefit.
Sec. 216. Exit interview information.
Sec. 217. Disclosure of State licensing requirements.
Sec. 218. Withholding of transcripts from defaulting borrowers.
Sec. 219. Restrictions on institutional promotional activities.
Sec. 220. Academic year definition.
Sec. 221. Limitation, suspension, and termination on account of contractors.
Sec. 222. Study of discharge of Stafford student loans in bankruptcy.

TITLE III—FEDERAL RESPONSIBILITIES

Sec. 301. Administrative provisions relating to the reduction of default.
Sec. 302. Regulations for institutional disclosure of borrower records.
Sec. 303. Effect of loss of accreditation.
Sec. 304. Special accreditation rules.
Sec. 305. Eligible institution accreditation rule.
Sec. 306. Toll-free consumer hotline.
Sec. 307. National student loan data system.
Sec. 308. Tuition refunds.

TITLE IV—AMENDMENTS TO THE NEEDS ANALYSIS PROVISIONS

Sec. 401. Definition of independent student.
Sec. 402. Modification to computation of contributions.
Sec. 403. Student contribution modification.
Sec. 404. Prevention of double counting of income in asset computations.
Sec. 405. Needs analysis financial aid administrator adjustments.
Sec. 406. Treatment of veterans benefits.
Sec. 407. Treatment of nonliquid assets.

TITLE V—OTHER HIGHER EDUCATION AMENDMENTS

Sec. 501. Pell grant program amendment.
Sec. 502. Subsidized employment modification under work-study.
Sec. 503. Student loan internship deferments.
Sec. 504. Student loan marketing association amendments.
Sec. 505. Forms and regulations.
Sec. 506. Special grants to consortia for the benefit of historically Black colleges.
Sec. 507. Audit provision.

TITLE VI—EFFECTIVE DATES

Sec. 601. Effective date rule.

TITLE I—DEFAULT MANAGEMENT

SEC. 101. DEFAULT MANAGEMENT PLANS REQUIRED.

(a) DEFAULT MANAGEMENT PLAN.—Part B of title IV of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended by inserting after section 430A the following new section:

"DEFAULT MANAGEMENT PLAN

"SEC. 430B. (a) GUARANTY AGENCY DEFAULT MANAGEMENT PLAN REQUIRED.—(1)(A) The Secretary shall determine the default rate in accordance with the provisions of subsection (e) for each guaranty agency. Each guaranty agency which the Secretary determines has a default rate in excess of 25 percent shall develop and carry out a default management plan in accordance with the provisions of this section.

"(B) Each guaranty agency which is in the highest 5 percent by volume of defaulted student loans measured by dollar value, as published by the Secretary in accordance with section 432A(a)(2)(B), shall be subject to a program review conducted by the Secretary. If the Secretary determines that the default management practices of the guaranty agency substantially contribute to the high dollar value default of student loans, the Secretary shall develop and implement a default management plan for such guaranty agency.

"(2)(A) The Secretary may, in any default management plan required by paragraph (1) of this subsection, require the guaranty agency to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the Secretary.

"(B) The default management provisions to which subparagraph (A) relate are—

"(i) mandatory preclaims assistance;

"(ii) mandatory supplemental preclaims assistance for default prevention;

"(iii) development and distribution of default management materials;

"(iv) additional training in the administration of the programs under part B of this title;

"(v) training of school personnel on default prevention;

"(vi) training of lender personnel on default prevention;

"(vii) waiver of program review regulations so that the guaranty agency can focus on eligible institutions and lenders with excessive default rates; and

"(viii) collection of additional information from borrowers.

"(C) The Secretary, with the agreement of the guaranty agency, may require other measures designed to increase the collection of Stafford student loans, particularly measures appropriate to the communities served by the guaranty agency subject to the default management plan.

"(b) ELIGIBLE LENDER AND ELIGIBLE INSTITUTION DEFAULT MANAGEMENT PLAN REQUIRED.—(1)(A) The Secretary shall determine the default rate, in accordance with subsection (e), for each eligible lender and for each eligible institution. Each eligible lender and each eligible institution which has a default rate in excess of 25 percent calculated in accordance with subsection (e) shall develop and implement a default management plan with the designated State guaranty agency for the State in which such lender or institution is located.

"(B) Each eligible institution which has a high default rate measured by dollar value, as determined by the Secretary, and which is in the highest 5 percent by dollar value of defaulted student loans, as published by the Secretary in accordance with section 432A(a)(2)(B), shall be subject to an evaluation of operations conducted by the designated State guaranty agency for the State in which such lender or institution is located. If such guaranty agency determines that the default management practices of the lender or institution substantially contribute to the high dollar value default of student loans, the guaranty agency shall develop and implement a default management plan for such lender or institution.

"(C) No eligible lender and no eligible institution is subject to subparagraph (A) unless the lender or institution has at least 25 loans that are in default in the fiscal year for which the determination is made.

"(D) The Secretary shall require the designated guaranty agency for each State to require each eligible lender and each eligible institution located within the State described in subparagraph (A) to develop and implement a default management plan.

"(E) Each designated guaranty agency for a State may transfer the responsibilities for carrying out this section to another guaranty agency whenever the other guaranty

agency guarantees a significant portion of loans for the eligible lender or eligible institution which is the subject of the default management plan. Whenever there is significant multi-State activity by any lender, the Secretary shall determine each party which will carry out the responsibilities of this section, except that, in the case of the Student Loan Marketing Association, the Secretary shall carry out the responsibilities of the guaranty agency under this section.

"(2)(A) The Secretary shall require the designated guaranty agency for a State to require each eligible lender subject to a default management plan to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the guaranty agency.

"(B) The default management provisions to which subparagraph (A) applies are—

"(i) additional training in the administration of the programs under part B of this title;

"(ii) development of personal financial planning materials to be used in counseling borrowers on planning for repayment of Stafford Loans;

"(iii) establishment of a loan repayment lenders hot line under which borrowers may receive information relating to the repayment status of the student loan, deferments, forbearances, and other rights and responsibilities under the Stafford Loan program;

"(iv) development of information readily understood by the average student relating to forbearance, deferments, and consolidation opportunities;

"(v) provision of additional services, including collection and skip-tracing activities, relating to loans held by the lender in any case in which the borrower cannot be found;

"(vi) provisions for the eligible lender to collect additional information from borrowers, but which may not be required to be a part of the loan application;

"(vii) additional program reviews or audits relating to the performance of responsibilities under the Stafford student loan program;

"(viii) provisions requiring loans to be multiply disbursed regardless of program length; and

"(ix) provisions for technical assistance to be furnished by the State guaranty agency or its designee.

"(C) The designated guaranty agency, with the agreement of the lender, may require other measures designed to increase the collection of student loans, particularly measures which are appropriate to the eligible lender subject to the default management plan.

"(3)(A) The Secretary shall require each designated guaranty agency for a State to require each eligible institution to which a default management plan applies to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the guaranty agency.

"(B) The default management provisions to which subparagraph (A) applies are—

"(i) additional training in the administration of the programs under part B of this title;

"(ii) provisions requiring that an eligible institution take necessary action, including reporting information on new addresses of student borrowers, for students who are delinquent or in default within 45 days of the notification of delinquency or default;

"(iii) provisions for technical assistance in the operation of Stafford student loan programs to be provided by the guaranty agency or its designee;

"(iv) provisions for entrance interviews for student borrowers to be conducted by the eligible institution;

"(v) provisions for enhanced information sharing with the guaranty agency;

"(vi) provisions for an independent audit of the operation of the student financial aid programs under part B of this title of the eligible institution;

"(vii) provisions requiring that the eligible institutional verification required by section 484(f) of this Act on student loan eligibility data be increased up to 100 percent of such verification;

"(viii) provisions requiring that the eligible institution collect additional information from borrowers;

"(ix) periodic reporting on the status of students receiving aid under part B of this title at the eligible institution;

"(x) provisions for an eligible institution to furnish the guaranty agency with information on student admissions procedures, withdrawals, and placement rates; and

"(xi) provisions to prevent loan defaults by altering student aid packaging policies at the institution.

"(C) The designated guaranty agency, with the agreement of the institution, may require other measures designed to increase the collection of student loans, particularly measures which are appropriate for the eligible institution subject to the default management plan.

"(c) PROCEDURAL REQUIREMENTS.—(1) Each default management plan required by this section shall be developed not later than 120 days after the Secretary or the guaranty agency, as the case may be, determines that such a plan is required pursuant to subsection (a) or subsection (b), as the case may be. Each such default plan shall be for a period of 3 years.

"(2) Each default management plan which is developed during the first fiscal year after the date of enactment of the Stafford Student Loan Default Prevention and Management Act of 1988 shall be based upon an initial determination of the default rate in accordance with subsection (e)(5)(B).

"(3) Whenever a guaranty agency, an eligible lender, or an eligible institution notifies the Secretary that—

"(A) the action of the Secretary, or of a guaranty agency, in requiring a default management plan under this section is arbitrary, or

"(B) in carrying out the enforcement provisions of this section and the determination of eligibility under sections 435(j), 435(d), and 435(a) of this Act with respect to a default management plan, the action of the Secretary or a guaranty agency is arbitrary,

the Secretary shall afford the guaranty agency, the eligible lender, or the eligible institution, as the case may be, notice and opportunity for a hearing.

"(d) ENFORCEMENT PROCEDURES.—(1) If any eligible institution or eligible lender fails to substantially comply with the default management plan to which such institution or lender is subject—

"(A) the Secretary shall initiate a limitation, suspension, or termination proceeding under section 487(c)(1)(D) with respect to an eligible institution's eligibility to participate in the program under part B of this title, or

"(B) the Secretary, through the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 428(b)(1)(U) with respect to an eligible lender's eligibility to participate in the program under part B of this title.

"(2) If any eligible institution or eligible lender fails to reduce the default rate below 25 percent within 3 years after entering into a default management plan under this section—

"(A) the Secretary, upon the recommendation of the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 487(c)(1)(D) with respect to an eligible institution's eligibility to participate in the program under part B of this title, or

"(B) the Secretary, upon the recommendation of the appropriate guaranty agency, through the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 428(b)(1)(U) with respect to an eligible lender's eligibility to participate in the program under part B of this title.

"(3) If any eligible institution or eligible lender fails to drop the default rate below 25 percent within 3 years after entering into a default management plan under this section, and is not subject to subparagraph (A) or (B) of paragraph (2), such an eligible institution or eligible lender shall enter into a new default management plan in accordance with the provisions of this section.

"(4) Each guaranty agency, in considering the recommendation authorized under paragraph (2)(A), shall take into account—

"(A) the progress made by the institution in reducing the number or dollar value of defaulted loans in each of the 3 years covered by the default management plan;

"(B) the employment status of the borrower at the time the defaults occurred;

"(C) the socio-economic status of the students served by the institution as indicated by the Pell Grant eligibility index of those student borrowers in default;

"(D) the presence of significant numbers of ability-to-benefit students among the borrowers in default and a demonstrated institutional record of successfully educating or training such students; and

"(E) the economic health and general state of employment in the region.

"(e) CALCULATION OF DEFAULT RATE.—(1) For the purpose of this section, the Secretary shall prescribe the method of calculating the default rate in accordance with paragraphs (2) through (7).

"(2) The default rate shall be expressed as a percentage for the subject fiscal year, determined by dividing—

"(A) the total principal outstanding on loans which entered repayment in the fiscal year for which the determination is made and on which reinsurance claims are filed in the fiscal year for which the determination is made plus the 2 succeeding fiscal years; by

"(B) the total principal outstanding on loans in repayment which entered repayment in the fiscal year for which the determination is made.

"(3) The default rate for a subject fiscal year calculated under paragraph (2) shall be further modified by averaging the default rate calculated for the fiscal year, the default rate calculated for the fiscal year preceding the fiscal year for which the determination is made, and the default rate for the

second preceding fiscal year for which the determination is made.

"(4) The Secretary shall calculate the default rate for guaranty agencies, for eligible lenders, and for eligible institutions.

"(5)(A) The Secretary shall calculate the default rate for fiscal year 1986, and for each succeeding fiscal year.

"(B) For the first year after the date of enactment of this section, the Secretary shall calculate the default rate in accordance with paragraphs (2) and (3) with such modifications as the Secretary determines may be necessary. In carrying out the provisions of this subparagraph, the Secretary may average 2 fiscal years for the default rate for such first year calculation.

"(6) In calculating the default rate in accordance with this subsection, the Secretary shall—

"(A) delete from the calculation described in paragraph (2)(A)(i) the amount of loans in default that return to repayment status; and

"(B) with respect to the default rate for an eligible institution, include only loans attributable to the institution which the student attended when the loan was made.

"(7) The Secretary shall, whenever data is unavailable, make necessary estimates consistent with the provisions of this subsection to carry out the provisions of this subsection.

"(f) Definition.—For the purpose of this section, the term 'eligible lender' includes the holder of the loan.".

(b) Conforming Amendments.—(1) Section 435(j) of the Act is amended—

(A) by inserting "(1) In general.—" before "The"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Disqualification for failure to develop default management plan.—The term 'guaranty agency' does not include any such agency which fails or refuses to develop a default management plan in accordance with section 430B.".

(2) Section 435(d) of the Act is amended by inserting after paragraph (5) the following new paragraph:

"(6) Disqualification for failure to develop default management plan.—The term 'eligible lender' does not include any such lender which fails or refuses to develop a default management plan in accordance with section 430B.".

(3) Section 435(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) Disqualification for failure to develop default management plan.—The term 'eligible institution' does not include any such institution which fails or refuses to develop a default management plan in accordance with section 430B.".

TITLE II—IMPROVED STAFFORD STUDENT LOAN COLLECTION PROVISIONS

SEC. 201. PROVISION OF FINANCIAL AID TRANSCRIPTS.

Section 428(a)(2) of the Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) In order to facilitate the efficient carrying out of subparagraphs (A) and (B) of this section, each eligible institution shall transmit, upon request of another eligible institution, the financial aid transcripts necessary for making the statement evidencing a determination of need for a loan under such subparagraphs, within 30 days of receiving such request.".

SEC. 202. REPAYMENT NOTICE TO BORROWER.

(a) FISL Program.—Section 427(a)(2)(B)(ii) of the Act is amended by inserting before the semicolon a comma and the following: "and the Secretary may require the lender (or the holder of the loan) to notify the borrower not later than 180 days after the lender is notified that the borrower has left the eligible institution of the month in which the repayment period begins".

(b) Stafford Program.—Section 428(b)(2)(E) of the Act is amended—

(1) by inserting "(i)" after the subparagraph designation;

(2) by striking out the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new clause:

"(ii) provides that the lender (or the holder of the loan) shall notify the borrower not later than 180 days after the lender is notified that the borrower has left the eligible institution of the month in which the repayment period begins;".

SEC. 203. NOTICE BY LENDER OF SALE OF LOAN.

Section 428(b)(2) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after subparagraph (E) the following:

"(F) provide that the lender will be required to notify the guaranty agency of any sale or other transfer of the loan to another holder and the address and phone number through which to contact such other holder concerning repayment of the loan not later than 60 days after such sale or other transfer, and to notify the borrower, or upon request, any eligible institution, of any such sale or transfer, together with such address and phone number, if the sale or transfer requires the borrower to pay the loan at a new address not later than 60 days after such sale or transfer.".

SEC. 204. GUARANTY AGENCY PROHIBITION ON THE SALE OF CERTAIN STAFFORD STUDENT LOAN LISTS.

Section 428(b)(3) of the Act is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(D) sell lists of student borrowers who have loans made, insured, or guaranteed under this part.".

SEC. 205. GUARANTY AGENCY USE OF STATE LICENSING BOARD INFORMATION.

Section 428(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(7) State guaranty agency information request of state licensing boards.—Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.".

SEC. 206. SPECIAL LIMITATION ON THE DEFERMENT OF PAYMENT OF PRINCIPAL AND INTEREST ON PLUS LOANS.

Section 428B(c) of the Act is amended—

(1) by striking out "(A)"; and

(2) by striking out "; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under the section and who meets the conditions required for a deferral under clause (1) of either such section".

SEC. 207. CREDIT CHECKS AND COSIGNERS FOR PLUS LOANS.

(a) In General.—Section 428B of the Act is amended by adding at the end thereof the following new subsection:

"(e) Creditworthiness Required.—An eligible lender shall obtain a credit report on any applicant for a loan under this section from at least one national credit bureau organization. The eligible lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report. An applicant who, the eligible lender determines has a negative credit history shall be denied a loan unless the applicant obtains a creditworthy cosigner in order to obtain the loan, except that for purpose of this subsection, an insufficient or nonexistent credit history may not be considered to be a negative credit history.".

(b) Conforming Amendment.—Section 428B(a) of the Act is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsections (c), (d), and (e)".

SEC. 208. ADMINISTRATIVE FEE FOR SLS LOANS AND FOR PLUS LOANS.

(a) Administrative Fee for SLS Loans.—Section 428A of the Act is amended by adding at the end thereof the following new subsection:

"(e) Administrative Fee Required.—(1) An eligible lender is authorized to charge the borrower an administrative fee in an amount not to exceed 5 percent of the principal amount of the loan to be paid by the eligible lender to the Secretary in accordance with the provisions of this subsection.

"(2) The Secretary shall enter into agreements with eligible lenders under which the administrative fee which the eligible lender is authorized to charge pursuant to paragraph (1) of this subsection is paid to the Secretary.

"(3) No loan made under this section may be guaranteed under this part unless the eligible lender enters into an agreement with the Secretary under paragraph (2).".

(b) Administrative Fee for PLUS Loans.—Section 428B of the Act (as amended by section 206 of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) Administrative Fee Required.—(1) An eligible lender is authorized to charge the borrower an administrative fee in an amount not to exceed 5 percent of the principal amount of the loan to be paid by the eligible lender to the Secretary in accordance with the provisions of this subsection.

"(2) The Secretary shall enter into agreements with eligible lenders under which the administrative fee which the eligible lender is authorized to charge pursuant to paragraph (1) of this subsection is paid to the Secretary.

"(3) No loan made under this section may be guaranteed under this part unless the eligible lender enters into an agreement with the Secretary under paragraph (2).".

SEC. 209. LOAN CONSOLIDATION LIMITATION.

Section 428C(a)(4) of the Act is amended—

(1) by striking out "For" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), for";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The term 'eligible student loan' does not include any loan which is obtained for a course of study of 12 months or less, unless

the amount to be consolidated is greater than $7,500.".

SEC. 210. ADDITIONAL REQUIREMENTS WITH RESPECT TO DISBURSEMENT AND ENDORSEMENT OF STAFFORD STUDENT LOANS.

(a) General Rule.—Part B of title IV of the Act is amended by inserting after section 428F the following new section:

"REQUIREMENTS FOR DISBURSEMENT AND ENDORSEMENT OF STUDENT LOANS

"Sec. 428G. (a) Multiple Disbursement Required.—

"(1) Two disbursements required.—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment that ends 180 days (or 6 months) or more after the first day of the period of enrollment, and that is for an amount of $1,000 or more, shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

"(2) Minimum interval required.—The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(b) Initial Disbursement and Endorsement Requirements.—

"(1) First year students.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of postsecondary education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be endorsed by the eligible institution until 30 days after the borrower begins a course of study but may be delivered to the eligible institution prior to the end of the 30-day period.

"(2) Other students.—The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of the enrollment for which the loan is made.

"(c) Method of Multiple Disbursement.—Disbursements under subsections (a) and (b)—

"(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(III)) that complies with the requirements of this section; and

"(2) may be made directly by the lender or, in the case of a loan under section 428, may be disbursed pursuant to the escrow provisions of subsection (i) of such section.

"(d) Withholding of Second Disbursement.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled on at least a half-time basis before the disbursement of the second or any succeeding installment shall withhold such disbursement.

"(e) Aggregation of Multiple Loans.—All loans made, insured, or guaranteed under this part other than loans made under section 428A issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section. All loans made pursuant to section 428A of the Act issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section.

"(f) Exclusion of PLUS, Consolidation, and Foreign Study Loans.—The provisions of this section shall not apply in the case of a loan made under section 428B or 428C or made to a student to cover the cost of attendance at an eligible institution outside the United States.".

(b) Conforming Amendments.—

(1) Transmittal of institution schedules to lenders.—Section 428(a)(2)(A)(i) of the Act is amended—

(A) by striking "and" at the end of clause (I); and

(B) by inserting after clause (II) the following:

"(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and".

(2) Federally insured loans.—Section 427(a)(4) of the Act is amended to read as follows:

"(4) the funds borrowed by a student are disbursed in accordance with section 428G.".

(3) Stafford loans.—Section 428(b)(1)(O) of the Act is amended to read as follows:

"(O) provide that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;".

SEC. 211. EXTENDED COLLECTION DEMONSTRATION PROGRAM.

Part B of title IV of the Act (as amended by section 210 of this Act) is further amended by inserting after section 428G the following new section:

"EXTENDED COLLECTION AND DEMONSTRATION PROGRAM

"Sec. 428H. (a) Agreements for Demonstration Program.—(1) The Secretary shall, in accordance with the provisions of this section, enter into agreements with guaranty agencies for the establishment of not to exceed 3 demonstration programs for extended efforts on delinquent student loans originally guaranteed by the guaranty agency designed to reduce defaults under this part.

"(2) For the purpose of paragraph (1), the term 'guaranty agency' means a guaranty agency described in section 435(j) and section 435(d)(1)(D).

"(b) Selection of Participants.—(1) Each guaranty agency desiring to participate in the program authorized by this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(2) The Secretary shall select participants to establish extended collection programs under this section on the basis of—

"(A) the applicant's experience and success in working with borrowers and eligible lenders to prevent defaults, including the use of forbearance;

"(B) the applicant's experience and success in the use of preclaims assistance, and, if applicable, supplemental preclaims assistance to reduce defaults;

"(C) evidence that the applicant will use the program authorized by this section for borrowers who attended traditional 4-year institutions, community colleges, and vocational technical schools, which substantially reflect the overall portfolio of the lenders;

"(D) the novel and innovative approaches that the applicant proposes to use in the extended collection demonstration program; and

"(E) the commitment of the applicant to the program, as documented in the application.

"(3) Each such application shall include—

"(A) the modified eligible lender agreement the guaranty agency has adopted for use by eligible lenders participating in the program;

"(B) a description of the novel and innovative approaches that the applicant will use in the extended collection demonstration program; and

"(C) such additional information as the Secretary may reasonably require to evaluate applications.

"(4) In selecting participants under this section, the Secretary shall give priority to applications submitted by guaranty agencies having extensive experience in the administration and collection of student loans, either directly or through use of contract loan servicers.

"(c) Program Agreement.—Each agreement entered into under this section shall include—

"(1) the provision of individualized or flexible repayment plans, including plans designed to meet the needs of borrowers participating in the program who face financial difficulty in repaying their loan;

"(2) the performance of due diligence efforts consisting of not less than one telephone attempt and one letter to the borrowers every 2 weeks; and

"(3) the provision requiring the eligible lenders to furnish to the guaranty agency records of collection efforts and techniques, as specified by the guaranty agency or the Secretary, or both.

"(d) Eligibility of Loans for Inclusion in the Program.—Loans made under this part shall be eligible for extended collection pursuant to this section, if—

"(1) the location of the borrower is known;

"(2) the borrower has made no payments or missed at least 2 consecutive payments;

"(3) the loan is at least 120 but less than 180 days delinquent and all due diligence required to the point of sale has been performed;

"(4) the loan entered repayment in fiscal year 1987 or later;

"(5) the participating guarantor has provided preclaims assistance pursuant to a request by the eligible lender at 60 to 90 days of delinquency; and

"(6) the eligible lender providing extended collection efforts is not in possession of information that the loan may be uncollectible.

"(e) Lender Eligibility to Participate.—An eligible lender may participate in the program authorized by this section pursuant to an agreement entered into under subsection (a), if—

"(1) the eligible lender has an agreement with the guaranty agency with which the application is being filed for the guaranty of consolidation loans under section 428C;

"(2) the eligible lender is not subject to a limitation, suspension, or termination agreement or default management plan under this part; and

"(3) the eligible lender meets such other criteria as the guaranty agency and the Secretary may reasonably require.

"(f) Extended Collection Period.—Notwithstanding any other provision of law, loans held pursuant to this part and included in the program authorized by this section may be held by the eligible lender for—

"(1) 540 days after the loan becomes delinquent with respect to any installment;

"(2) not more than 30 days after the eligible lender participating under this section determines, in accordance with guidelines promulgated by the guaranty agency, that no further collection effort on the loan is likely to result in repayment by the borrower; or

"(3) a period that is within 30 days after notification from the guaranty agency, but no earlier than the 270th day of delinquency,

whichever comes first.

"(g) Reports to the Secretary and to the Congress.—(1) Each participant with an agreement with the Secretary to offer an extended collection program shall submit a report once a year to the Secretary describing—

"(A) the effectiveness of the program, including statistics on the number of accounts brought into repayment between the 180th day and the submission of the claim;

"(B) a statistical summary of the basis for cures of delinquent loans brought current through the program, including specific summaries of the numbers of loans brought into repayment through forbearances, payments, and loan consolidation;

"(C) information on strategies used by eligible lenders in the program to effectuate the initiation of repayment; and

"(D) evidence of efforts to use the program authorized by this section for borrowers who attended traditional 4-year institutions, community colleges, and vocational technical schools, which substantially reflect the overall portfolio of the lenders.

"(2) The Secretary shall, not later than September 30, 1991, prepare and submit an interim report and not later than September 30, 1993, prepare and submit a final report on the demonstration project authorized by this section. The reports required by this section shall evaluate the results of the demonstration conducted under this section, assess the cost and benefits of this demonstration, and include such recommendations as the Secretary may prescribe, including expansion of the demonstration program.

"(h) Regulations.—The Secretary shall, within 120 days of the enactment of this section, prescribe regulations providing for the administration of this section.

"(i) Applicability of Other Terms, Conditions, and Benefits.—A loan subject to the provisions of this section shall be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part, except as otherwise specifically provided for in this section.

"(j) Termination.—The demonstration program shall terminate on September 30, 1993.".

SEC. 212. NOTICE TO CREDIT BUREAUS OF DELINQUENCY.

(a) Notice of Delinquency.—Section 430A(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

"(3) with respect to any payment on a loan that has been delinquent for 90 days, information concerning the date the delinquency began and the repayment status of the loan; and".

(b) Notice to Borrower.—Section 430A(c) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) with respect to notices of delinquency under subsection (a)(3), the borrower is informed that credit bureau organizations will be notified of any payment that is delinquent for 90 days or more.".

SEC. 213. ELIGIBLE LENDER NOTICE ON DELINQUENT LOANS REQUIRED.

Section 435(d) of the Act (as amended by section 101(b)(2)) is further amended by adding at the end thereof the following new paragraph:

"(7) Information on delinquent loans.—To be an eligible lender under this part, each eligible lender shall notify the appropriate guaranty agency of the delinquency of a borrower within 120 days of the date on which the loan was made, insured, or guaranteed under this part is delinquent and the guaranty agency shall upon request provide such information to an eligible institution.".

SEC. 214. ADDITIONAL BORROWER INFORMATION REQUIRED.

Section 484(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) In order to be eligible to receive any loan under this title, a student shall provide to the lender at the time of applying for the loan the driver's license number of the student borrower, if applicable, and the name and address of the next of kin of the student borrower.".

SEC. 215. ABILITY TO BENEFIT.

Section 484(d) of the Act is amended by adding at the end thereof the following new sentence: "No student who qualifies under paragraph (2)(A) or (2)(B) shall be eligible to receive a grant, loan, or work assistance under this Act, if that student is enrolled or accepted for enrollment in a course of study of less than 1 year in preparation for an occupation for which the student must be certified by an agency, other than the eligible institution or institution of higher education in order to begin practice or service, and a high school diploma or its recognized equivalent is a requirement for that certification.".

SEC. 216. EXIT INTERVIEW INFORMATION.

Section 485(b) of the Act is amended by inserting before the last sentence thereof the following new sentence: "Each eligible institution shall require that the borrower, at the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution, submit to the institution, the address of the borrower, the address of the next of kin of the borrower, and the driver's license number, if applicable, of the borrower during the interview required by this subsection.".

SEC. 217. DISCLOSURE OF STATE LICENSING REQUIREMENTS.

Section 487(a)(8) of the Act is amended—

(1) by inserting before "(A)" before "the most recent"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (B) relevant State licensing requirements for any job for which the course of instruction is designed for such prospective students".

SEC. 218. WITHHOLDING OF TRANSCRIPTS FROM DEFAULTING BORROWERS.

Section 487(a) of the Act is amended by adding at the end thereof the following:

"(11) The institution will withhold the academic transcripts of any student borrower who is in default on any loan made under this title unless the institution determines that withholding such transcripts will prevent the borrower from obtaining employment and repaying the loan.".

SEC. 219. RESTRICTIONS ON INSTITUTIONAL PROMOTIONAL ACTIVITIES.

Section 487(a) of the Act (as amended by section 214) is further amended by adding at the end thereof the following new paragraph:

"(12) The institution does not—

"(A) use any contractor or any person other than a salaried employee of the institution or a volunteer to conduct any activities related to recruiting or admitting students; or

"(B) pay any commission, bonus, or other incentive payment to any person engaged in any activity related to recruiting or admitting students.".

SEC. 220. ACADEMIC YEAR DEFINITION.

Section 487(a) of the Act (as amended by sections 214 and 215) is further amended by adding at the end thereof the following new paragraph:

"(13) The institution will use the same definition of 'academic year' for all programs authorized by this title.".

SEC. 221. LIMITATION, SUSPENSION, AND TERMINATION ON ACCOUNT OF CONTRACTORS.

Section 487(c)(1) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end thereof the following:

"(E) the limitation, suspension, or termination of the eligibility of an otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary determines, after reasonable notice and opportunity for a hearing on the record, that an individual or organization having a contract with such institution to administer any aspect of the institution's student assistance program under this title, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation and that the eligible institution failed to terminate the contract, except that no period of suspension under this subparagraph shall exceed 60 days unless the institution and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary within that period of time.".

SEC. 222. STUDY OF DISCHARGE OF STAFFORD STUDENT LOANS IN BANKRUPTCY.

(a) Stafford Student Loan Discharge Study.—The Comptroller General shall conduct a study relating to the discharge of student loan indebtedness in proceedings in bankruptcy. Such study shall include—

(1) an evaluation of the treatment of student loan debtors under chapter 13 of title 11, United States Code, including—

(A) the frequency of attempts to discharge or the discharging of such loans compared to such attempts to discharge or the discharging of other consumer loans by such students; and

(B) the number and amount of such loans discharged;

(2) an evaluation of the effect of students who attempt to or do discharge such loans relative to the costs of the Stafford Student Loan Program and the institutional costs of the Perkins Loan Program; and

(3) an evaluation of the behavior of student loan debtors who discharge such loans as compared to other debtors who discharge debts in bankruptcy by evaluating such factors as—

(A) the average age of the debtors in each group;

(B) the amounts and types of debts sought to be discharged by each group; and

(C) the percentage of discharge of other types of consumer debts by each group.

(b) Stafford Student Loan Discharge Report.—The Comptroller General shall prepare a report of the study required by this *section and shall submit the study to the Congress within 3 years after the date of enactment of this Act.*

TITLE III—FEDERAL RESPONSIBILITIES

SEC. 301. ADMINISTRATIVE PROVISIONS RELATING TO REDUCTION OF DEFAULT.

Part B of title IV of the Act is further amended by inserting after section 432 the following new section:

"ADMINISTRATIVE PROVISIONS RELATING TO THE REDUCTION OF DEFAULT

"Sec. 432A. (a) General Authority.—(1) The Secretary shall develop and publish an annual default report to the Congress beginning on December 31, 1988, which shall include the annual default rate for the Stafford student loan program under this part.

"(2)(A) The report required by this section shall include a summary of the default rates determined under section 101(e). The report shall also include the net dollar value in default for each guaranty agency, each eligible lender, and each eligible institution.

"(B) The Secretary shall prepare a list of guaranty agencies and a list of eligible institutions in the order of the dollar value of Stafford student loans in default for each such agency and institution. The Secretary shall identify the highest 5 percent of guaranty agencies and eligible institutions on the lists required by this subparagraph.

"(b) Program Review of Eligible Institutions and Eligible Lenders.—The Secretary shall develop a plan for the conduct of program reviews of all eligible institutions, all guaranty agencies, and all eligible lenders. The plan shall be published in the Federal Register for public comment. The Secretary shall report to the Congress annually on the results of the reviews required by this subsection.

"(c) Priority for Program Review.—In carrying out the provisions of subsection (b), the Secretary shall give priority to the conduct of program reviews of guaranty agencies and eligible institutions which have the highest rates of default on such loans, and which have the highest dollar value of loans made, insured, or guaranteed under part B which are in default.

"(d) Review and Dissemination of Model and Constructive Default Prevention Procedures.—The Secretary shall collect, analyze, and disseminate information on novel and model default prevention procedures.".

SEC. 302. REGULATIONS FOR INSTITUTIONAL DISCLOSURE OF BORROWER RECORDS.

The Secretary shall promulgate regulations specifying the legal restrictions and the requirements of eligible institutions relating to loan counseling and reporting requirements including but not limited to disclosure of borrower records to third parties, the Fair Debt Collection Practices Act, and any other applicable Federal law.

SEC. 303. EFFECT OF LOSS OF ACCREDITATION.

(a) Status as Eligible Institution for Stafford Student Loan Program.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (a)(1), by striking out "The term" and inserting "Subject to subsection (m), the term"; and

(2) by adding at the end thereof the following:

"(m) Impact of Loss of Accreditation.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) has withdrawn from institutional accreditation voluntarily under the show cause order or suspension order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

(b) Status as Eligible Institution for Other Title IV Programs.—Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1), by striking out "For the purpose" and inserting "Subject to subsection (e), for the purpose"; and

(2) by adding at the end thereof the following:

"(e) Impact of Loss of Accreditation.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) has withdrawn from institutional accreditation voluntarily under the show cause order or suspension order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

SEC. 304. SPECIAL ACCREDITATION RULES.

Section 487(c) of the Act is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by adding after paragraph (2) the following new paragraphs:

"(3) The Secretary is authorized to carry out the provisions of paragraph (1)(D), relating to limitation, suspension, or termination of an eligible institution whenever the institution withdraws from a nationally recognized accrediting agency or association during a show cause or suspension proceeding brought against that institution.

"(4)(A) Whenever a nationally recognized accrediting agency or association reports pursuant to subparagraph (B) that an eligible institution was denied institutional accreditation, the Secretary is authorized to carry out the provisions of paragraph (1)(D) relating to limitation, suspension, or termination of an eligible institution.

"(B) The Secretary is authorized to enter into such arrangements with accrediting agencies and associations as may be necessary to assure notice of the denial of institutional accreditation in order to carry out subparagraph (A).".

SEC. 305. ELIGIBLE INSTITUTION ACCREDITATION RULE.

Section 481(a) of the Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) Whenever the Secretary determines accreditation for the purpose of paragraph (1), the Secretary shall not approve the accreditation of any eligible institution of higher education under this section if the eligible institution of higher education is in the process of receiving new institutional accreditation by a national or regional accreditation agency unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including the reasons, if applicable, for changing the accrediting agency or association.".

SEC. 306. TOLL-FREE CONSUMER HOTLINE.

Section 485 of the Act is amended by adding at the end thereof the following new paragraph:

"(e) Toll-Free Consumer Hotline.—(1) In addition to the toll-free telephone information provided for in section 483, the Secretary shall contract for, or establish, and publicize a toll-free telephone number for use by the public, in order to permit students who allege fraud or unfair practices by eligible institutions to inform the Department of such fraud or unfair practices.

"(2) The Secretary shall, directly or by way of contract or other arrangement, make the toll-free telephone number, and the availability of the consumer hotline established by this subsection, generally available to students receiving financial assistance under this title.".

SEC. 307. NATIONAL STUDENT LOAN DATA SYSTEM.

(a) Data System Required.—(1) Section 485B(a) of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

(2) Section 485B(a) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall assure that the computerized student loan data system required by this subsection is operational not later than October 1, 1989.".

(b) Improved Information.—Section 485B of the Act is amended—

(1) by redesignating subsection (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) Improved Information.—(1) Each guaranty agency shall furnish the Department of Education with information on the amount of each loan made, insured, or guaranteed under this part for which the agency provides a guarantee and other relevant data with respect to such loan. The information furnished under this paragraph shall be used in the National Student Loan Data System established under this section.

"(2) Each guaranty agency shall expand and standardize the confirmation reports required to be submitted on the date of enactment of the Stafford Student Loan Default Prevention and Management Act of 1988 in order to assure that such information is provided at least quarterly on student loan delinquencies, defaults, and the change in the status of a borrower whose loan is delinquent or in default.

"(3) Each guaranty agency shall provide the Secretary with complete and accurate data on a quarterly basis in order to facilitate the usefulness of the National Student Loan Data System under this section.".

SEC. 308. TUITION REFUNDS.

(a) Refund Rule.—Section 487(c)(2)(B)(i) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may require such eligible institutions to make refunds in accordance with division (iii).".

(b) Refund Procedures.—Section 487(c)(2)(B) of the Act is amended by adding the following new division after division (ii):

"(iii) When the Secretary determines there has been a violation, failure, or misrepresentation pursuant to division (i), the Secretary may require the institution to refund the student's tuition and fees. The Secretary

shall establish procedures for refunding the tuition and fees. Such procedures shall—

"(I) first require the payment by the institution to the United States Government of any portion of the tuition and fees paid with Federal funds received under this title (other than funds under subpart 3 of part A and part B of this title); and

"(II) then require payment by the institution to the lender of that portion of the tuition and fees attributable to a loan made, issued, or guaranteed under part B of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of enactment of this Act.

TITLE IV—AMENDMENTS TO THE NEEDS ANALYSIS PROVISIONS

SEC. 401. DEFINITION OF INDEPENDENT STUDENT.

Section 480(d) of the Act is amended to read as follows:

"(d) INDEPENDENT STUDENT.—The term 'independent', when used with respect to a student, means any individual who—

"(1) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(2) is an orphan or is or has been a ward of the court;

"(3) is a veteran of the Armed Forces of the United States;

"(4) is a graduate or professional student and will not be claimed by his or her parents (or guardian) for income tax purposes for the award year;

"(5) is married or has legal dependents;

"(6) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the first calendar year of the award year, and who either was awarded assistance under this title as an independent student in the prior year, or demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000; or

"(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.".

SEC. 402. MODIFICATION TO COMPUTATION OF CONTRIBUTIONS.

(a) PELL GRANT NEEDS ANALYSIS.—(1) Section 411B(b)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meets the requirements of section 484(a)(1)".

(2) Section 411C(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

(b) GENERAL NEEDS ANALYSIS.—(1) Section 475(b)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meets the requirements of section 484(a)(1)".

(2) Section 477(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

SEC. 403. STUDENT CONTRIBUTION MODIFICATION.

Section 475(g)(1)(C) of the Act is amended by striking out "70 percent" and inserting in lieu thereof "not less than 50 percent".

SEC. 404. PREVENTION OF DOUBLE COUNTING OF INCOME IN ASSET COMPUTATIONS.

(a) PELL GRANT PROGRAM.—Section 411F(2) of the Higher Education Act of 1965 is amended by adding at the end thereof the following: "No cash on hand or other property (or interest therein) of a dependent student shall be treated as an asset of the student (or spouse) for purposes of section 411B(l) except to the extent that such cash or property exceeds the amount the student is required to contribute from discretionary income under section 411B(f).".

(b) OTHER STUDENT ASSISTANCE PROGRAMS.—Section 480(g) of such Act is amended by adding at the end thereof the following: "No cash on hand or other property (or interest therein) of a dependent shall be treated as an asset of the student (or spouse) for purposes of section 475(h) except to the extent that such cash or property exceeds the amount the student is required to contribute from available income under section 475(g).".

SEC. 405. NEEDS ANALYSIS FINANCIAL AID ADMINISTRATOR ADJUSTMENTS.

(a) IN GENERAL.—(1) Section 479A(a) of the Act is amended to read as follows:

"SEC. 479A. (a) IN GENERAL.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.".

(2) The provision of the second proviso under the heading "Student Financial Assistance" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1989, is repealed.

(b) SPECIAL RULE.—Section 479A of the Act is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) SPECIAL ADJUSTMENTS.—

"(1) ADJUSTMENTS FOR INDEPENDENT STUDENTS WITH DEPENDENTS.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if the administrator determines that the cost of attendance in section 472 should include costs of food and shelter for dependent care when the total income for independent students with dependents is less than the Standard Maintenance Allowance under section 477(b)(4).

"(2) ADJUSTMENT FOR DISLOCATED WORKER.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, in the case of dislocated workers—

"(A) the administrator uses the income for the year in which the determination is made (the award year) rather than the income reported in the preceding tax year; and

"(B) the administrator excludes the net value of investments and real estate, including the primary residence in the calculation of the family contribution for the Pell Grant Program and the expected family contribution under part F.

"(3) ADJUSTMENT FOR DISPLACED HOMEMAKER.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, for displaced homemakers, the administrator excludes the net value of investments and real estate, including the primary residence, from the calculation of the Pell Grant family contribution and from the expected family contribution under part F.".

(c) CONFORMING AMENDMENTS.—(1) Section 479A(d) of the Act (as amended by subsection (a)) is amended by striking out "subsection (b) is an example" and inserting in lieu thereof "subsections (b) and (c) are examples".

(2)(A) Section 411B(g)(1) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(B) Section 411B(l) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(C) Section 411C(f)(1) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(D) Section 411D(f)(3) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(E)(i) Section 411F(1)(G) of the Act is repealed.

(ii) Section 411F(9)(E) of the Act is repealed.

(F) Section 475(d)(2)(B) of the Act is amended by striking out "except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(G) Section 475(h) of the Act is amended by striking out ", except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(H) Section 476(c)(2)(B) of the Act is amended by striking out "except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(I) Section 477(c)(2)(B) of the Act is amended by striking out "except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

SEC. 406. TREATMENT OF VETERANS BENEFITS.

(a) PELL GRANT NEEDS ANALYSIS.—(1) Section 411B(d)(1)(C) of the Act is amended by striking out "one-half of the student's total

veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(2) Section 411C(c)(1)(C) of the Act is amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(3)(A) Section 411D(c)(1)(D) of the Act (as amended by section 403 of this Act) is further amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(B) Section 411D(d)(1)(C) of the Act (as amended by section 403 of this Act) is further amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(b) General Needs Analysis.—(1) Section 475(a) of the Act is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code.".

(2) Section 476(b)(1)(D) of the Act is amended by striking out "plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28, United States Code" and inserting in lieu thereof "and any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code".

(3) Section 477(a) of the Act is amended—

(A) by inserting "and" at the end of subparagraph (A) of paragraph (1);

(B) by striking out "and" at the end of subparagraph (B) of paragraph (1);

(C) by striking out subparagraph (C) of paragraph (1);

(D) by striking out "and" at the end of paragraph (2);

(E) by adding at the end of paragraph (3) the word "and"; and

(F) by adding at the end thereof the following new paragraph:

"(4) adding any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code;".

(c) Conforming Amendment.—Section 428(a)(2)(C)(i) of the Act is amended by striking out "and any amount paid to the student under chapters 32, 34, and 35 of title 38, United States Code" and inserting in lieu thereof "any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code".

SEC. 407. TREATMENT OF NONLIQUID ASSETS.

(a) Pell Grant Needs Analysis.—Section 411F(2) of the Act is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1990-1991 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $30,000, the net value of—

"(i) the family's principal place of residence;

"(ii) a family farm (as that term is defined in regulations prescribed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act) on which the family resides; or

"(iii) a small business (as that term is defined in regulations prescribed by the Administrator of the Small Business Administration pursuant to Small Business Act) substantially owned and managed by a member or members of the family.

The Secretary shall, by regulation, provide criteria for determining whether a small business is substantially owned and managed by a member or members of the family.".

(b) General Need Analysis.—Section 480(g) of the Act is amended—

(1) by inserting "(1)" after "Assets.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1990-1991 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $30,000, the net value of—

"(A) the family's principal place of residence;

"(B) a family farm (as that term is defined in regulations prescribed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act) on which the family resides; or

"(C) a small business (as that term is defined in regulations prescribed by the Administrator of the Small Business Administration pursuant to Small Business Act) substantially owned and managed by a member or members of the family.

The Secretary shall, by regulation, provide criteria for determining whether a small business is substantially owned and managed by a member or members of the family.".

(c) Secretary To Recommend Adjustments.—Within 60 days after the date of enactment of this Act, the Secretary of Education shall submit to the Congress such recommendations for changes to parts A and F of title IV of the Higher Education Act of 1965 as may be necessary to achieve an equitable assessment of income and assets after exclusion of the assets described in the amendments made by subsections (a) and (b) of this section. Such changes may include changes in the assets protection allowances, asset conversion rates, and other factors used in the determination of expected family contribution.

TITLE V—OTHER HIGHER EDUCATION AMENDMENTS

SEC. 501. PELL GRANT PROGRAM AMENDMENT.

Section 411(c)(1)(A) of the Act (20 U.S.C. 1070a(c)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) the number of academic years (or portion of an academic year) that the undergraduate degree or certificate program normally requires, plus one academic year; or

"(ii) 6 academic years in the case of a undergraduate degree or certificate program normally requiring more than 4 academic years;".

SEC. 502. SUBSIDIZED EMPLOYMENT MODIFICATION UNDER WORK-STUDY.

Section 443(b)(4) of the Act is amended to read as follows:

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;".

SEC. 503. STUDENT LOAN INTERNSHIP DEFERMENTS.

(a) FISL Program.—Section 427(a)(2)(C)(vii) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility, except that no borrower shall be eligible for a deferment under clause (i)(I) or (i)(II) while serving in a health profession internship or residency program;".

(b) Stafford Loan Program.—Section 428(b)(1)(M)(vii) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility, provided that no borrower shall be eligible for a deferment under clause (i)(I) or (i)(II) while serving in a health profession internship or residency program;".

(c) Direct Student Loan Program.—Section 464(c)(2)(A)(vi) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility, provided that no borrower shall be eligible for a deferment under clause (i) while serving in a health profession internship or residency program;".

SEC. 504. STUDENT LOAN MARKETING ASSOCIATION AMENDMENTS.

(a) Directors.—Section 439(c) of the Act is amended to read as follows:

"(c) Board of Directors.—

"(1) Composition of board; chairman.—The Association shall have a Board of Directors which shall consist of 19 persons, 4 of whom shall be appointed by the President of the United States. The remaining 15 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1989—

"(A) 5 of the elected directors shall be affiliated with an eligible institution,

"(B) 5 of the elected directors shall be affiliated with an eligible lender, and

"(C) 5 of the elected directors shall not be affiliated with an eligible lender or eligible institution but shall have substantial experience in the management of private sector

corporations the shares of which are listed on a national securities exchange.

The Board of Directors shall elect one of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with an eligible institution' or a director 'affiliated with an eligible lender' means an individual who is, or within 5 years of election to the Board of Directors has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender, as the case may be;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders, as the case may be; or

"(C) a State agency, authority, instrumentality, commission or similar institution the primary purpose of which relates to educational matters or banking matters, as the case may be.

"(4) MEETINGS AND FUNCTIONS OF BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.".

(b) STOCK.—Section 439(f) of the Act is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all election of Directors.";

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by adding after paragraph (4) (as redesignated by this subsection) the following new paragraph:

"(5) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Student Loan Marketing Association Amendments of 1988, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.".

(c) SHORT TITLE.—This section may be cited as the "Student Loan Marketing Association Amendments of 1988".

SEC. 505. FORMS AND REGULATIONS.

(a) COMMON FINANCIAL REPORTING FORM.—(1) Section 483(a)(1) of the Act is amended by inserting after the first sentence the following new sentences: "The common form shall contain the minimum data elements the Secretary determines is necessary to determine the financial need of students. Other data may be collected and used by approved processors in other parts of the form developed by such processors.".

(2)(A) The second sentence of section 483(a)(2) of the Act is amended to read as follows: "The Secretary shall select such qualified processors pursuant to competitive bidding processes.".

(B) Section 483(a)(2) of the Act is further amended—

(i) by inserting "(A)" after the paragraph designation; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) In establishing the minimum participation criteria for the competitive bidding process the Secretary shall establish participation requirements that are fair and equitable, and that foster competition in bidding in order to obtain maximum savings for students and for the Department. Such participation requirements shall include but not be limited to—

"(i) evidence that the contractor has processed at least 100,000 student aid records, or

"(ii) evidence the contractor has processed at least 100,000 of the contractor's own undergraduate student financial aid forms in the academic year immediately preceding the year for which the contract is to be awarded.

In verifying the numbers of the contractor the Secretary shall make the determination from data provided by the central processor. No processors shall be denied eligibility to compete for a contract because the processor is not a State student financial aid agency or does not service at least two State financial aid agencies.".

(3) Section 483(a)(3) of the Act is amended by striking out "predetermined rate" and inserting in lieu thereof "negotiated rate".

(4) Section 483(a)(3) of the Act is further amended by adding at the end thereof the following new sentence: "No contractor may be reimbursed for the development costs of an alternative form.".

(b) NOTICE OF FEDERAL STUDENT AID.—Section 483(f) of the Act is amended to read as follows:

"(f) NOTICE OF FEDERAL STUDENT AID RECEIPT.—Each eligible institution shall provide to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) a statement listing the estimated student assistance received by the recipient, and specifying the estimated amount and type of assistance awarded under this title and specifically indicating that such aid is federally supported assistance.".

SEC. 506. SPECIAL GRANTS TO CONSORTIA FOR THE BENEFIT OF HISTORICALLY BLACK COLLEGES.

(a) PROGRAM AUTHORIZED.—Part B of title IX of the Act is amended by adding at the end thereof the following new section:

"SPECIAL GRANTS TO CONSORTIA FOR THE BENEFIT OF HISTORICALLY BLACK COLLEGES

"SEC. 924. (a) GRANTS AUTHORIZED.—The Secretary may make grants to consortia of institutions of higher education which include historically Black colleges to pay the Federal share of the costs of programs designed to enable such institutions to provide supplemental need based financial aid to students and faculty from historically Black colleges who are pursuing doctoral studies.

"(b) PROGRAM REQUIREMENTS.—(1) The provisions of this part, unless otherwise inconsistent with the provisions of this section, shall apply to grants made under this section.

"(2) The Federal share for each fiscal year shall be 66⅔ percent.".

(b) AUTHORIZATIONS OF APPROPRIATIONS.—Section 971(b) of the Act is amended—

(1) by inserting "(1)" before "There";

(2) by inserting "(other than section 924)" after "part B"; and

(3) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated to carry out section 924 of part B such sums as may be necessary for the fiscal year 1989 and for the 2 succeeding fiscal years.".

SEC. 507. AUDIT PROVISION.

Section 460 of the General Education Provisions Act is amended by striking out "programs authorized by the Higher Education Act of 1965 and".

TITLE VI—EFFECTIVE DATES

SEC. 601. EFFECTIVE DATE RULE.

(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act shall be effective with respect to any determination of need made under title IV of the Higher Education Act of 1965 for any period of enrollment beginning 60 days after the date of enactment of this Act.

(b) SPECIAL RULE.—(1) The amendments made by title I and sections 405, 504 and 505 shall take effect on the date of enactment of this Act.

(2) The amendments made by title IV (other than section 405) and sections 501 and 502 shall take effect for award year 1990-1991 and thereafter.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PELL. Madam President, I rise to urge my colleagues to join me in supporting immediate passage of S. 2647, the Stafford Student Loan Default Prevention and Management Act of 1988.

This is critically important legislation, designed to bring the very serious problem of loan defaults under control. It was unanimously reported by the full Labor and Human Resources Committee on August 11, 1988.

To my mind, we would be remiss if we did not pass S. 2647 before we adjourned this year. The reason is clear: The cost of defaults to the Federal Government is intolerably high, and will, I fear, become even more unacceptable if left unattended. Estimates indicate that the cost of defaults to the American taxpayer could well reach $1.6 billion next year. This is a situation that must be remedied, for if untouched, the default problem could well threaten the viability of our entire Federal student aid effort.

The Stafford Student Loan Default Prevention and Management Act of 1988 takes action on several fronts in order to deal with the default problem.

It provides in law, for instance, language specifying the way in which a default rate is to be calculated. Today, we do not have a common base of information. As a result, we do not know the breadth and depth of the problem we face. This change will rectify that situation.

For any institution of higher education, for any lender, and for any guaranty agency that has a default rate in excess of 25 percent, S. 2647 requires the development and implementation of a default management plan. The plan includes the steps an agency, school or lending institution may be required to take to deal more effectively with loan defaults.

Among those steps are the following: More comprehensive counseling of students on loan obligations; improved collection procedures; additional training of personnel to administer loan programs; and better program audits and reviews. Failure to implement and operate the plan in good faith would result in the removal of eligibility to participate in all Federal student aid programs.

In addition, a guaranty agency would have the authority to recommend to the Secretary of Education the initiation of limitation, suspension, and termination proceedings if an institution or a lender does not achieve a default rate of less than 25 percent after 3 years of operating a default management plan.

The fact that our legislation deals with guaranty agencies, lenders, institutions of higher education, and borrowers is significant. Each plays a vital role in the program and each benefits from its provisions.

For instance, institutions must wait until first time students have been enrolled for 30 days before cashing loan checks. Thus, if a student dropped out during this period, the uncashed check would be returned to the lender and the Federal Government would no longer be at risk. Among the new provisions asked of lenders would be the requirement that the lender determine the creditworthiness of the borrower before a PLUS loan is made. If the lender determines that the borrower has a negative credit history, the lender can either deny the loan or require the borrower to find a creditworthy cosigner. Students, when applying for a loan, would be required to submit a driver's license number and the name and address of next of kin.

Further, the legislation requires that credit bureaus be notified when a student is 90 days delinquent in loan payments; current law does not specify a period of time when this notification is to take place. Academic transcripts would be withheld from defaulters, except in cases where such action would prevent the borrower from obtaining employment and being able to repay the loan. If an institution loses its accreditation, it cannot again become eligible for Federal student aid program participation for at least 2 years, thus preventing a school from seeking approval from another accrediting agency in order to remain eligible for Federal student aid funds.

S. 2647 also gives the Secretary of Education the authority to require refunds in cases where an institution has misrepresented its educational program to students. Under this authority the Federal Government would first be reimbursed for whatever Federal education funds went for tuition and fees. Reimbursement of any additional funds would then go to help students repay their guaranteed loans.

There are also some important changes in needs analysis for both the Pell grant and the Stafford Loan Program. For families with incomes of less than $30,000, we would eliminate the consideration of home, farm, and small business equity.

This is very important to alleviate the situation where escalating home values make students ineligible for grant and loan assistance, even though their parents do not have sufficient income to borrow against the value of the home and also repay a private loan. This is a particular problem in my home State of Rhode Island where vastly increased home values have driven otherwise deserving students out of grant and loan program eligibility.

This provision is equally important for hard-pressed farm families. Because of the depressed farm economy, farmers often find themselves unable to borrow against the value of their land and then be able to repay the loan.

The bill also reduces from 70 to 50 percent the amount of income dependent students would be expected to use for their education. We have found that the 70 percent is simply too rigid a requirement, and one which throws otherwise deserving, eligible students out of loan eligibility. It even discourages students from working to help finance a part of their college education.

Finally, the bill contains changes in the Board of the Student Loan Marketing Association, changes that would have the effect of expanding public stockholder participation in the affairs of Sallie Mae. Changes are also made in the law regarding the multiple data entry processors for the Pell Grant Program. These changes are designed to open competition in the system and to produce economies that will save money.

Madam President, this is an important piece of legislation, and I would urge its immediate passage.

Mr. CHILES. Madam President, I wonder if the Senator from Rhode Island, the chairman of the Subcommittee on Education, Arts, and Humanities, would yield for the purpose of a colloquy?

Mr. PELL. I would be happy to yield.

Mr. CHILES. As the chairman of the subcommittee is aware, the Senate approved the conference report to the Labor, HHS, Education appropriations bill on September 12 and 13 and sent the bill to the President for his signature. The conference report, as well as the original Senate bill, included an important provision regarding the Pell Grant Program. Section 405 of the bill before us, if enacted, will repeal this provision.

This provision was included in the appropriations bill so that the Congress will not be making a false promise to millions of needy students that will be receiving Pell grants to attend college in 1989. The Education Department has informed my subcommittee that if section 405 becomes law, there will result an additional Pell Grant Program cost of $166 million. The total funding shortfall would then total approximately $320 million. Given this situation, the Secretary of Education will have no choice but to follow the provisions in the basic law and impose a linear reduction of awards. The results will be devastating.

The Education Department currently estimates that a shortfall in the $300 million range will result in the complete elimination of more than a quarter of a million students from the program and an additional 1 million students will have their awards reduced by an average of $400. Also, 138,000 part-time students that were slated to become eligible in 1989 will not be served. I should mention that even if section 405 does not become law, the Education Department currently anticipates that at the funding level provided for 1989, there will be a shortfall of $154 million. This by itself will result in 85,000 students being eliminated from the program and an additional 1 million students having their award reduced by an average of $75. While these figures will be reestimated prior to the 1989 award year, the Education Department does not expect any adjustments that will be of a magnitude to avoid the negative consequences that are currently anticipated.

There have been a number of years in the past when the Pell Grant Program has encountered a shortfall. However, the solution during most of those years has been supplemental appropriations. All members are aware that the budget summit agreement forbids supplementals except in cases of dire emergencies. I can not speak for the Members that will succeed me in the 101st Congress as chairman of the Budget Committee and the Appropriations Subcommittee, but since we have already provided an increase of more than $225 million to the Pell Grant Program above the 1988 level, I do not see how any Member will be able to argue that a supplemental appropriation for this important program will be a dire emergency. Moreover, the recent OMB snapshot has revealed that we are already perilously close to a sequester for 1989.

I think it is important that I provide some background to the situation that we find ourselves in. At the beginning of this year, the administration sent us a budget for 1989 requesting an increase in the maximum Pell grant from $2,200 to $2,300. The administration simultaneously requested an increase in Pell grant funding of more than $750 million and proposed a large expansion in benefits for higher income recipients. Since the authorizing committee did not act on the proposed expansion of Pell grant benefits for 1989, both the House and Senate accepted the President's request for a $2,300 maximum award but were able to provide considerably less in increased funding.

As in past years, the Appropriations Committees faced a dilemma centering around how much money is needed to fully fund the program. As usual, we received differing estimates from the administration and CBO. The Department of Education informed my Appropriations Subcommittee as we approached markup that a total of $4.8 billion would be needed to fully fund the Pell Grant Program in 1989, an increase of $540 million above the 1988 level. Frankly, we did not have the money.

Members will recall that the Appropriations Committee struggled through a lengthy 302(b) process this year that resulted in the Labor, HHS, Education Subcommittee receiving an allocation that was $900 million below the level called for in the conference report to the budget resolution. The subcommitte was faced with many difficult choices.

When it came to Pell grants, the committee wanted to follow the lead of the President and the House in providing an increase in the maximum Pell grant for our neediest students but we were required to do so in an affordable and responsible matter. The committee, therefore, altered a legislative provision which allows student financial aid administrators to adjust a student's grant award at the campus level. The provision was changed back to previous law under which such adjustments are allowed only in the instance of certain unique circumstances as defined by the Secretary.

The committee felt that the special exceptions that were granted under previous law are adequate to protect students. In addition, aid administrators will continue to have complete discretion over awards under the Supplemental Grant Program, college work study, national direct student loans and guaranteed student loans to make up for any cases of extreme hardship where additional aid is needed. This change was made all the more necessary during conference on the appropriations bill because the conferees were forced to impose a 1.2-percent across-the-board cut on all accounts in the bill in order to conform with our subcommittee ceiling. As a result, the overall increase for Pell grants was lowered from $305 million in the Senate bill to $224 million in the final conference report—a reduction of 26 percent.

So in summary, I rise today to call to the attention of the subcommittee chairman and all other members that the effect of section 405 of this bill may well result in some very serious and harmful circumstances for many of our students. The Appropriations Committee sought to meet the needs of our Pell grant recipients in a responsible and an affordable way. But the effect of section 405 of the bill before us may well result in some very harsh medicine for both students, parents, and their congressional representatives. I hope the chairman of the Education Subcommittee and the other conferees on this bill will take these realities to heart as they work out the final version of this legislation.

Mr. PELL. I thank my friend from Florida for bringing his views to our attention. I am sure that we will take his views into consideration as we go to conference on this bill.

Mr. BUMPERS. Madam President, the student loan default legislation introduced today by Senator PELL contains a very important provision to encourage students to perform a year or more of low-paid community service upon graduation.

I very much appreciate the willingness of Chairman PELL to include this provision, which arises from legislation I introduced on March 17, 1987, S. 759. That bill would require the Department of Education to notify students that under current law they may obtain a deferment on repayment of their student loans when they perform a year or more of low-paid community service with a tax-exempt organization.

Very few students are aware that this deferment is available. The deferment was authorized in the High Education Act Amendments of 1980, but the Department of Education has been quite remise in not bringing it to the attention of students who might be willing to perform such service.

The current deferment is available for repayment of GSL loans, Perkins loans, and PLUS loans. There is no limit on the amount of the loans which qualify for the deferment. The deferment may last for up to 3 years. To qualify for the deferment the student must serve full-time for at least 1 year in a low-paid position with a tax-exempt organization performing community service.

This provision has been included in this legislation to require that the Department begin to fully implement the current deferment. The provision does not modify the terms of the current deferment in any way.

DESCRIPTION OF THE PROVISION

This provision would require the Department to ensure that students are specifically informed that the deferment for community service is available.

This information would have to be provided when the student initially agrees to the terms of the loan and when the student graduates.

In addition, the Department would be required to provide students and participating institutions with detailed information on the specific terms and conditions under which students may qualify for the deferment, including information on the maximum compensation and allowances which the student may receive from a tax-exempt organization to qualify for the deferment, stated in terms of the Federal minimum wage.

The Department would be obligated explicitely to state in any information regarding the deferment—either oral or written—that the deferment is available when the student serves as a paid employee of a tax-exempt organization.

Finally, the Department would be obligated to begin collecting information on the utilization of each of the various deferments, not just aggregate date on utilization of deferments generally.

NEED FOR THE PROVISION

There would be no need for this provision if the department had faithfully implemented the 1980 Higher Education Act Amendments, which authorizes this deferment.

Over the past 18 months I have written five letters to Secretary William Bennett requesting that the Department take specific steps to bring the current deferment to the attention of students and to clarify the terms of the deferment.

On September 1, 1988, the Department finally began to provide the information I have been seeking. It has begun to tell us exactly when and how a student may claim the deferment.

The Department has yet to answer one basic question about the deferment, specifically how much a student can earn and still qualify for the deferment, but Secretary Bennett has indicated that the Department will be providing this information shortly. I have submitted my views on this view to the Department and recommended that the maximum compensation be set at the Federal minimum wage, a level which is comparable to the compensation and allowances received by Peace Corps and VISTA volunteers.

The Department has been unwilling to take any specific steps to inform students about the existence of the deferment.

I remain skeptical that the Department will, in fact, begin to implement this deferment, so I have requested that this provision be included in this location to ensure that it does.

IMPORTANCE OF THE DEFERMENT

Many students might be willing to perform a year or more of community service if only they were not obligated to begin immediately to repay their student loans.

The loan indebtedness of students has been rising. Students rightfully are very concerned about these debts and they do not consider it possible to perform community service upon graduation. They are responding to economic reality.

The deferment delays the obligation to immediately repay the loans.

As I have said, the deferment is available only when the service is performed at a low rate of pay. This is not a "yuppie" program. It requires the student to make a significant financial sacrifice in performing the service.

The deferment will encourage some students to perform community service. The entire Nation will benefit and the cost to the Government of the deferment is miniscule.

I cannot understand why the Department is so unwilling to notify students about the deferment. The deferment encourages voluntary service in the private sector. It does not require service under some Federal Government bureaucracy. I would think that the deferment encourages precisely the kind of service this administration might think is appropriate.

RELATIONSHIP TO DEFAULT LEGISLATION

This provision relates to this student loan default legislation in several ways.

First, no student can claim this deferment if he or she is in default. The deferment does not provide an "out" for a student in default.

However, students may claim the deferment and this will defer their obligation to repay their loans during their period of service. Thus, a student can always avoid going into default if they are willing to service their community.

Finally, there may well be some students who currently qualify for the deferment who have not claimed it. Some of these students may have gone into default when they could have legitimately claimed the deferment.

The more students know about their rights and obligations under the student financial aid programs, the less they are likely to go into default. This provision ensures that all students will fully understand the current deferment for community service.

PARTIAL LOAN CANCELLATION

Implementing the current deferment will help, but for many students this will not be enough. The requirement that the student receive a low rate of pay requires substantial sacrifices.

I have introduced a second bill, S. 760, which would supplement the current deferment by partially canceling the Perkins loans of the students who perform this community service. This additional incentive will encourage even more young persons to serve their community.

I will be seeking action on this second proposal when the Congress reauthorizes the Higher Education Act. It is not appropriate to include this provision in this legislation because it would raise budget issues. But, partial cancellation is a reasonable proposal and I look forward to working with Chairman PELL on this issue. Senator PELL has a strong interest in promoting public and community service and has introduced his own legislation on this subject.

In the meantime we are working together to secure full implementation of the current deferment.

This is the lease we should be doing to encourage community service by young persons in this country.

Mr. DODD. Madam President, today we are considering final passage of the Stafford Student Loan Default Prevention and Management Act of 1988, S. 2647. When it was first introduced on July 14, by Senators PELL and STAFFORD, I joined as a principal cosponsor. Since then, the bill has undergone some changes, but the changes have perfected the default prevention and management provisions.

I cannot emphasize enough the need for S. 2647. The future of the Stafford Student Loan Program is jeopardized by an increase in the volume of defaulted loans. In 1988 alone, default costs to the Federal Government are expected to reach $1.6 billion. Simultaneously, low-income families are struggling to afford the high cost of college tuitions for their children.

S. 2647 attempts to tackle the serious problem of loan defaults while ensuring students, most in need of financial assistance, continued access to the guaranteed loans. The bill offers the most comprehensive and fair approach to default prevention and management.

In my July 14 statement, I outlined the need for the legislation and the details of its provisions. Today, I confirm my strong support for S. 2647 and thank the Education Subcommittee staff for their work on its content.

Mr. METZENBAUM. Madam President, I rise in support of S. 2647, the Stafford Student Loan Default Prevention and Management Act of 1988. This legislation is urgently needed to protect the future of our vital student aid programs.

Over the past several years, the costs of defaults in the Stafford Student Loan Program have increased dramatically. It is estimated that defaults will cost the Federal Government over $1.6 billion in fiscal year 1988. As a strong supporter of the Student Loan Program, I believe it is essential that we take action immediately to curb defaults and bring this situation under control. We must protect the continued stability of this vital program and the futures of the students who depend upon it to finance their college educations.

S. 2647 addresses this problem in several important ways. It will require all participants in the Student Loan Program—the Department of Education, State agencies, lenders, schools and borrowers—to work together and take additional responsibility to bring the default problem under control. Schools, lenders, and agencies with default rates over 25 percent would be required to develop default management plans. These plans would include such steps as the development and distribution of default management materials, training of school personnel on default prevention, loan counseling for students, and better program audits and reviews.

The legislation also makes some important changes in the needs analysis provisions of the Pell grant and Stafford student loan programs which will expand the availability of these important programs to needy and deserving students.

I am very pleased that this measure will also help to alleviate some serious problems which have been occurring in certain Ohio schools, and I want to thank the chairman of the Education Subcommittee for his cooperation and willingness to accommodate my concerns in this area.

Earlier this year, I had printed in the RECORD a series of articles by the Cleveland Plain Dealer which exposed a number of abusive practices in certain Ohio proprietary schools. According to this investigation, some of these schools have been exploiting the poor and unemployed by using commissioned recruiters to sign up unqualified students for courses and take out federally guaranteed student loans to pay for them. When these students, some of them illiterate or mentally handicapped, find that they cannot complete the work, or that the courses are not as represented, they drop out, and still unemployed, default on their student loans, increasing costs to the taxpayer. As I have pointed out before, fortunately these practices are not typical of most proprietary schools. The majority of these schools are well run and do a responsible job of training their students to obtain employment. However, we clearly must take action to prevent unscrupulous schools from exploiting the system and taking advantage of vulnerable students.

During committee consideration of S. 2647, I offered several proposals to address this serious problem which have been incorporated into the legislation we are considering today.

First, the Secretary of Education is required to establish and publicize a toll-free consumer hotline for use by the public. Students who believe they have been victims of fraud or unfair practices by participating institutions may use this number to bring such practices to the attention of the Department of Education for appropriate action.

Second, the bill provides additional protections for students and the Federal Treasury by giving the Secretary authority to require schools to make refunds to students in cases where a school has engaged in fraudulent practices or has seriously misrepresented its educational program, its financial charges or the employability of its graduates. Under this authority, institutions would first reimburse the Federal Government for the portion of the tuition and fees paid for with Federal funds. Additional refunds would be applied to the repayment of federally guaranteed student loans and to reimbursement of the student.

A third provision would require schools which advertise job placement rates as a means of attracting students to disclose to applying students any State licensing requirement relevant to the job for which the student will be preparing in his or her course of study. This will prevent students from paying for courses only to find that they do not meet licensing requirements in the field.

S. 2647 also includes a number of other provisions which I have strongly supported to close loopholes which have permitted abuses and to improve oversight and enforcement of the law by the Federal Government.

For example, accrediting rules are tightened to prevent schools which have been disqualified by one accrediting body from simply moving to another, and restrictions are placed on the use of commissioned sales people in admissions.

A major factor in allowing these abusive practices to go unchecked has been a lack of proper oversight by the Department of Education. Under the Reagan administration, there has been a serious decline in efforts by the Department to enforce the law and police these schools. The number of program reviews conducted by the Department has dropped from over 1,000 in 1981 to less than 400 in 1987. S. 2647 would enhance enforcement by requiring the Secretary to develop and publish a plan for conducting program review of all eligible institutions and to report to Congress annually on the results of these reviews.

Madam President, this legislation provides the Department of Education with the weapons it needs to prevent the kinds of abuses which have been victimizing Ohio students. The Department should seize this opportunity and move aggressively to ensure that this deplorable situation is corrected.

Mr. SIMON. Mr. President, I rise in support of S. 2647, the Stafford Student Loan Default Preventation and Management Act. This legislation will help to curtail and control the rising level of student loan defaults and the increasing obligation of the Federal Government to pay for the cost of those defaults. This bill also has special personal meaning for those of us who know BOB STAFFORD. As many of you know, the senior Senator from Vermont—who has served his State as its attorney general, Governor, Representative in the House and U.S. Senator and who has served this body as chairman of the Senate's Committee on Environment and Public Works and its Subcommittee on Education, Arts and Humanities—is retiring at the end of the 100th Congress. It has been my pleasure to serve with him in the other body and here in the Senate. We have no finer, nobler, more dedicated public servant in the Senate than BOB STAFFORD. I will miss his example of leadership and his contribution to the education of America's children.

In December 1987, shortly after the Secretary of Education released default statistics, I introduced S. 1931, the Student Loan Default Prevention and Debt Collection Act. At the time, we faced default payments of $1.6 billion in fiscal year 1987, $1.7 billion in fiscal year 1988 and a projected default payment of $2 billion in fiscal year 1989. These amounts exceed what the Congress appropriates for the Head Start programs and makes student loan default expenditures the fourth largest Federal expenditure in the education budget. Clearly, the Congress would have to act—spurred on by the gravity of the problem and the increasing size of the default payments in the Guaranteed Student Loan [GSL] Program. Many of the provisions in my bill, including delayed disbursement of GSL's; strengthened institutional responsibility for monitoring student debt levels, including increased involvement in loan collections; a uniform method of calculating loan defaults; and improved data collection through the national student loan data system have been incorporated in S. 2647. S. 2647, however adds an improvement feature designed to hold institutions more accountable for default reductions through the implementation of "default management plans" for those postsecondary institutions with default rates above 25 percent or the highest 5 percent by dollar value of defaulted loans. The bill applies similar default standards to loan guaranty agencies and to lenders because Congress recognizes that student loan defaults are not an institutional responsibility. In fact, they are a shared responsibility among all participants and beneficiaries of the GSL Program.

It would be irresponsible, in my view, to ignore, as we try to get a grip on the loan default problem, the systemic nature of the problem and Congress' role in creating the current situation. First, the responsibility for paying for a college education—especially among middle-income families—has increasingly become a student rather than a parental responsibility. In addition, as that shift has occurred, so has the increasing reliance of students on loan programs, rather than grant or work assistance, to pay for the rising cost of a college education. More than half of all Federal student aid is now in loan form, rather than grants. Second, college costs have risen faster than the rate of inflation since 1980. The College Board, for example, recently reported another 7 percent rise in tuition costs—the seventh consecutive year in which college costs have risen a minimum of 6 percent. Third, the Congress' expansion of the availability of guaranteed student loans through the Middle Income Student Assistance Act in 1978 caused loan volume to triple in 3 years and outstanding balances, loans in repayment, to increase dramatically. As Dr. Dallas Martin told the subcommittee during his December 1987 testimony:

> As the program expanded, the volume of outstanding loans increased on both a yearly and cumulative basis. Cumulative loan volume for the program was $9.9 billion in 1976, $21.3 billion in 1989, and $67.6 in 1986. The chart contained as Appendix A graphically demonstrates the rapid growth of the program. Yet while the program expanded greatly, the rate at which loans have gone into default has actually declined since 1980, as illustrated by the following data contained in the Department of Education's Program Summary Book for 1985-86, page 69:

Guaranteed Student Loan Program net default rate

Fiscal year:	*Rate*
1978	10.0
1979	10.0
1980	10.1
1981	9.7

1982	8.7
1983	8.4
1984	8.4
1985	8.9

As this data shows, the dollar volume of defaulted student loan has grown every year, but the percentage of loan volume that is in default each year has not changed greatly. In addition, several reports note that over half of the defaulted loan dollars paid out have been or likely will be repaid.

Finally, rising GSL costs have significantly constrained growth in the Pell Grant and supplemental Grant Programs—forcing many low-income students to have increased loan obligations included in their student aid packages. Since Federal policy has consistently encouraged colleges and universities to provide "Access" to low-income and minority students, and Federal budget and student aid policy now encourage borrowing by all students, there is an increasing tension between our stated objective and the policy being implemented. That tension is particularly strong when we adopt "automatic triggers" which exclude institutions from eligibility because they enroll larger numbers of low-income students who, by definition, will have lower earnings potential. These students are more likely to default—not because they are "deadbeats," but because they have more difficulty finding employment, usually accept lower paying jobs, and earn less over their work lifetimes. For example, comparing Brown and Barber Scotia or Rutgers and Roxbury Community College when examining their default rates makes little sense. Ignoring the fact that postsecondary institutions with larger enrollments of lower income students also tend to have a higher incidence of default would be turning one's head on reality.

The legislation being considered by the Senate is a measured step, consistent with the breadth and depth of the problem, not a meat cleaver where a scalpel will do. The Secretary has called the Nation's attention to this problem by making many public pronouncements on the subject, but he has used very few of the tools already made available to him to reduce loan defaults. One of the most glaring shortcomings is his failure to effectively monitor those schools which he had reason to be believe were problems. Although he tries to blame Congress for reducing departmental staff—his complaint about lack of staff support to monitor high defaults or schools with poor management practices is typically "too little and too late." He has not asked the Congress to provide more staff for this purpose during his 4 year tenure.

I want to commend Chairman PELL and Senator STAFFORD, as well as all of my colleagues on the subcommittee, for the cooperation demonstrated in producing this bill. I especially want to commend our dedicated staff, who consistently sacrifice their time and display their talents in fashioning legislation that attracts not only bipartisan consensus on the Labor and Human Resources Committee, but also bipartisan support of the Senate.

Mr. STAFFORD. Madam President, I rise today in support of S. 2647, the Stafford Student Loan Default Prevention and Management Act of 1988. This bipartisan legislation is the result of months of hard work by members of the Committee on Labor and Human Resources. My friend and colleague, CLAIBORNE PELL, chairman of the Subcommittee on Education, Arts and Humanities deserves particular praise for the tireless leadership he provided in guiding this vital legislation to the Senate floor today. Furthermore, I am grateful to the higher education community for their assistance in crafting this bill and providing technical assistance. Legislation only receives bipartisan support and moves easily through this body if hard work has been completed behind the scenes.

The need for improved management of the Stafford Student Loan Program to increase the debt repayment rate among student borrowers is well documented. During the 99th Congress, when the Higher Education Act was reauthorized, numerous provisions to address the growing volume of student loans in default, were included in that legislation. Those changes have had a positive effect. We did not, however, go far enough. S. 2647 makes necessary modifications in the administration of the Student Loan Program by guarantee agencies, lenders, institutions, and the Department of Education. This legislation will establish in law a threshold which, if reached, signals the need for cooperating entities to develop default management plans. This approach is not punitive. Our stated goal in enacting S. 2647 is the prevention of defaults through improved management of the program.

Since its inception, the Stafford Student Loan Program has leveraged over $80 billion in private capital to help deserving students attend institutions of their choice. It has been far more successful than the originators ever imagined. The cost of defaults each year—approaching $2 billion in fiscal year 1988—now threatens the future viability of the program. It would indeed be a travesty for the Congress to allow this to occur. The provisions included in S. 2647 will provide the necessary tools for the guaranty agencies, lenders, and institutions which participate in this program, to make it work more effectively for the students whom it was designed to serve. We know who defaults in this program. It is students who are inexperienced with debt, who come from very low-income families, who did not complete the programs they borrowed money to attend, and who lack the income to meet their loan obligations. There are steps that institutions, lenders, and guaranty agencies can take to lower the default rate in the program and increase the likelihood of repayment by all student borrowers.

S. 2647 was written by Members who support Federal student aid programs and who believe that the Government must do everything it can to keep the doors to educational opportunity open to all our citizens.

The public is right to expect that students given financial aid to pursue education respect that privilege and pay back their debts. The cost of defaults as the third largest item in the Federal education budget is intolerable. We must not forget, however, that close to 90 percent of student borrowers do meet this obligation. Our intent in passing S. 2647 is to prevent the mismanagement of the program by a small percentage of lenders and schools, or the irresponsibility of a small percentage of borrowers, to close the doors to educational opportunity for everyone.

S. 2647 is a reasoned response to the very serious problem of escalating default volume in the Federal Student Loan Program. I urge my colleagues to vote in favor of the Stafford Student Loan Default Prevention and Management Act of 1988. It is a vote to preserve access to quality education programs for students deserving such assistance. The American system of higher education is the envy of the world. The diversity of institutions, courses of study, and students who participate in postsecondary training in the United States is unparalleled. The availability of Federal financial aid has been the key to this success.

Mr. HATCH. Mr. President, I am pleased to be a cosponsor of S. 2647, the "Stafford Student Loan Default Prevention and Management Act of 1988". I commend particularly Senators PELL and STAFFORD as well as the other members of the Senate Education Subcommittee for constructing a package of effective, coordinated measures to make the federally guaranteed student loan program more cost-effective. Reducing default costs and, especially, prevention of some defaults will help to ensure the continued availability of both student loan and other financial aid programs to future generations seeking higher education.

I have long been a supporter of these Federal student financial aid programs, including the Guaranteed Student Loan Program. Guaranteed student loans are now named Stafford Student Loans, in honor of our colleague, the distinguished Senator from Vermont, who will retire at the end of this Congress.

Stafford Student Loans provide many students across the country—over 20,000 in my home State of Utah last year alone—with access to educational opportunities otherwise unavailable to them. If they make good use of that opportunity, these students—young and not-so-young—will have far wider horizons. They will have an enhanced ability to take advantage of all that our society has to offer. To keep this program available in the future, however, we must ensure that every one of the taxpayers' dollars it expends is well spent. Yet, the cost of defaults in the student loan program has risen dramatically. It has become, I am told, the third largest "program" in the Department of Education's budget. This year, default costs will total approximately $1.6 billion; next year, they may rise to near $2 billion. Excessive spending to cover defaults is not acceptable. I believe eliminating wasteful spending is the purpose of this bill.

Although it sometimes appears very simple, its technical operations make the student loan program a very complex program to understand and to fine-tune. The student borrows and, we expect, eventually repays his or her loan. The Federal Government guarantees the loan and pays certain servicing and in-school interest costs. A variety of lending institutions, guaranty agencies which insure and service these loans, and, to some extent, the postsecondary education institutions which borrowers attend are all part of the total student loan picture. To ensure that the Federal moneys in this program are efficiently spent in any deficit-reduction initiative, we must deal with all these Stafford Student Loan Program participants.

Our bill does this. New responsibilities are imposed on student borrowers. Guaranty agencies, lenders, and institutions which have unacceptably high default rates are required to enter into a "default management plan" as a condition of continued eligibility for participation in the Federal Student Loan Program. We have tried to ensure that the default management plan for each entity will be tailored to meet the factors which cause it to have the high default rate. Our bill provides the option of removing the eligibility of institutions which, after 3 years in a default management plan, fail to lower their default rate sufficiently as a result of improper management of the student loan program. However, an entity which does not lower its rate sufficiently to be removed from a default management plan may continue to be eligible to participate in the student loan program if, for example, the student population served, and not institutional mismanagement, is the cause of the continued high default rate. I think these elements of flexibility are wise and in keeping with the beneficient purpose of the Federal student financial aid programs.

Even with this flexibility, I believe that there are "teeth" in the variety of measures we propose in this bill, teeth which will prevent defaults and lower their cost. S. 2647 contains an appropriate mix of firmness and flexibility, indicated by the fact that some believe its provisions are too severe while others complain that they may not be sufficiently strong.

I am also in favor of the other changes S. 2647 makes in provisions of the Higher Education Act of 1965. Particularly significant is the removal, for families with adjusted gross income under $30,000, of consideration of the value of equity in the home, farm, or small business when calculating a student's need for financial aid. Many families in Utah, especially those with many children, have been disadvantaged by this provision. Economic factors have inflated the value of their homes, farms, or businesses beyond the ability of their incomes to obtain or afford to repay equity loans based on those values. Other changes in "needs analysis" recommended by financial aid officers and professionals in Utah and across the country also have been adopted. I am extremely pleased that the estimated savings in reduced student loan default costs and additional measures have allowed us now to implement several of these suggested revisions.

Speaking of cost, I note the estimates of the projected savings of this bill. In fiscal 1988, there is no cost to the bill; in fiscal 1989, the bill is estimated to save $70 million in outlays and, in fiscal 1990, $103 million in outlays. I commend all of my colleagues for their efforts not only to keep this bill "cost neutral" but to have gone even further—to have saved money.

Again, we have made considerable progress, I believe, in reducing the costs to the taxpayer of student loan defaults and, thus, of retaining the viability of student financial aid programs. These programs benefit many needy and worthy students across this country. We must do all that we can to ensure their continuation. Thus, I intend to work with my colleagues to ensure the enactment of this bill before the end of this Congress.

Mr. PRESSLER. Madam President, defaults on Stafford student loans are costing the United States a fortune. By 1990, defaults could cost our Nation $2 billion. I am concerned that if we do not gain control over the default problem, we could jeopardize the entire program. I commend Senators Pell and Stafford and their staffs for their hard work in bringing the Stafford Student Loan Default Prevention and Management Act to the floor. While our main concern is to get the default problem under control, I am pleased the committee recognized that changes in the needs analysis were necessary in order to make the student financial aid formulas more equitable.

I am especially grateful that the committee agreed to accept my amendment regarding excess Supplemental Educational Opportunity Grants [SEOG] funds. Under my proposal, extra grants could be available to students attending institutions in areas where a natural disaster strikes. Through the SEOG Program, institutions receive a set amount of funds for student grants. Last year, after the SEOG allocation process, $2.8 million remained in the program's fund. Currently, it is the Secretary's discretion to reallocate these extra funds.

My proposal would provide the Secretary with a guideline for the reallocation of extra funds. Specifically, the Secretary would be required to give special consideration to institutions whose students were financially harmed by a natural disaster, such as this year's drought. Thus, there could be more grants available to students financially harmed by the drought. With the limited funds available for student financial aid, it is imperative that any extra funds go to those most in need.

When a natural disaster strikes, entire communities are affected. I am most aware of this after my recent visits to South Dakota. Anticipated incomes have been devastated. Many farm families are so far in debt they cannot shoulder the additional burden of borrowing more. Students from families who do not farm, but rely heavily on the farming community for income, also need assistance. When doling out extra dollars, these students should be at the top of the list.

This act also would make several important changes in the process for determining financial aid awards. For a number of years, I have been working on fair treatment of farm family incomes in financial aid formulas. Of great importance to me is the provision to completely eliminate farm equity from the needs analysis test for students from families with adjusted gross incomes of less than $30,000. Farm families have a unique financial situation. They tend to appear to be "asset rich," but many have cash flow problems. Heavy land and equipment holdings in some cases can keep farm children from being eligible for student aid. So the change included in this legislation comes at a time when many farm families across America are struggling to make ends meet.

I wholeheartedly support the provision reinstating administrative authority for financial aid officers. Financial aid officers in my State have contacted me to protest the elimination of this authority. These individuals care deeply about their students and realize that without this authority, financially deserving students may go without aid. They often encounter cases where a student's financial status looks good on paper when in reality he or she truly is in need of assistance. This provision gives financial aid officers the necessary discretion to adjust awards to clearly reflect a student's financial need.

Students should be responsible for contributing to their own education. However, it is unrealistic to expect students to contribute 70 percent of their earnings toward their education. Unfortunately, this provision is a disincentive for students to work. I am pleased that this act addresses this concern by lowering the required contribution rate to 50 percent.

Approximately 80 percent of college students in South Dakota rely on some form of financial aid. The Higher Education Amendments of 1986 made significant changes in the student financial aid formulas. Over the last year, I have received hundreds of letters from students who found themselves receiving smaller financial aid awards or none at all. This legislation recognizes that adjustments need to be made. It contains important changes to make the student financial aid formulas more equitable to farm families as well as working students. I urge its adoption.

(At the request of Mr. STAFFORD, the following statement was ordered to be printed in the RECORD:)

● Mr. QUAYLE. Mr. President, I rise in support of S. 2647, the Stafford Student Loan Default Prevention and Management Act of 1988. This bill would make a number of important changes to the Stafford Student Loan [SSL] Program to prevent defaults and to strengthen the administration of the program.

I have long been active in seeking ways to reduce defaults in the student loan program and am very pleased that this legislation is before the Senate. I introduced legislation last November, S. 1879, to provide for measures for schools and colleges to reduce their default rates.

If the cost of defaults continues to increase, we will be placing the health of the SSL Program in jeopardy. Already, defaults cost the Government $1.6 billion, and that cost is expected to increase to $2 billion in 1990. The SSL Program has helped millions of students obtain a postsecondary education, and this bill will help to ensure that the SSL Program continues to be available for many years to come.

S. 2647 is a consensus package, thanks to the hard work of the chairman and ranking member of the Education Subcommittee. Senator PELL and Senator STAFFORD have, as always, worked with the other members of the Education Subcommittee to write a bill that is well-thought-out, designed to achieve results, and supported by the entire committee.

As this bill is probably the last bill to emerge from the Education Subcommittee under the leadership of Senator STAFFORD, as past chairman, and current ranking Republican, I want to tell my colleagues what a fine job BOB STAFFORD has done on education, and how well he has worked with the other Republicans, the Democrats, and most especially, the chairman, Senator PELL. The firm of Pell and Stafford, Stafford and Pell is known for its fine, bipartisan education bills, and this is no exception. I am sorry that BOB STAFFORD is retiring, for he has made a substantial contribution to education in our Nation.

S. 2647 is a very strong piece of legislation, which will result in a reduction of student loan defaults, and strong prevention activities by schools, lenders, and State agencies. This bill involves all the participants in the SSL Program to work for reduced defaults, and that is one of the keys to successfully bringing default rates down. We don't seek to place blame on any one party in the student loan system, but we acknowledge that everyone is, and should be, responsible for the well-being of this important Federal program.

This bill would require schools, lenders, and States that have default rates in excess of 25 percent to enter into a default management plan for 3 years. If, at the end of the 3 years, the school, lender, or State has not made significant progress or reduced the default rate below 25 percent, the school, lender, or State can be terminated from the SSL Program.

We have talked about accountability in many Federal programs. It is now time to make the participants in the SSL Program accountable for their actions, and S. 2647 does so.

I hope my colleagues will support this legislation, so that we can move ahead to strengthen the SSL Program, reduce defaults, and continue to provide loans to the millions of students who need them every year.

I support S. 2647 to reduce defaults in the Stafford Student Loan Program and urge my colleagues to support this measure also.●

Mr. COHEN. Mr. President, I rise today to cosponsor S. 2647, the Stafford Student Loan Default Prevention and Management Act of 1988. This bill represents an important and necessary step in our effort to combat the significant and debilitating effects of loan defaults on the Stafford Student Loan Program.

It is a well known, indeed belabored, fact that students will fail to repay an estimated $1.6 billion in federally guaranteed loans this year. Yet this straggering figure, which makes payments on defaulted loans the third most expensive program currently funded by the Education Department, deserves continued amplification. Such dismal statistics, and the programs they reveal, are the motivation behind this bill and illustrate well the extent to which the pending legislation is essential to insuring continued public support for this important program and continued assistance to the vast majority of students who need and deserve the financial assistance embodied in the Stafford Student Loan Program.

Notwithstanding the importance of the default prevention and management provisions that comprise the major thrust of S. 2647, I would like to direct my comments to a second set of provisions in this legislation that are of special significance to me and to my constituents in the State of Maine. In short, S. 2647 contains provisions that would, under certain circumstances, discontinue use of the "asset" contingent formula currently used in determining a student's eligibility for federally provided grants and loans.

As many of my colleagues know, a series of changes in student needs analysis were implemented this year as a result of alterations in the financial aid formulas that were made during consideration of the Higher Education Act Amendments of 1986. That particular bill mandated a uniform methodology for expected family contributions applicable to all title IV financial assistance programs. In turn, the methodology included the current requirements regarding nonliquid assets.

There is no doubt that the present "asset" contingent formula—which includes as accountable in the award process such nonliquid assets as the family home, small business, or farm—creates a more stringent needs test than that known in previous years. Of course, at the time of its 4 implementation, this change was well-intentioned. It amounted to a recognition that the amount of funds available to administer our aid programs had not kept pace with increases in college costs, and that we had to make every effort to insure that the existing sums were targeted to those students with the most compelling and obvious need.

Yet, in retrospect, it has become clear that these changes overcompensated for past mistakes, and, in doing so, prevented a number of otherwise eligible students from receiving the financial aid necessary to pursue a college degree.

Specifically, the pending bill would discontinue the use of the "asset" contingent formula for student from families whith annual incomes of less than $30,000.

This provision—applicable to both loan and grant programs—would insure that developments like escalating home values do not deprive needy students of necessary funds. In doing so, it would also greatly relieve the current burden on earners in the $15,000 to $30,000 range.

This change will be quite welcome in States such as Maine where the current formula's effect on the eligibility of students whose family incomes are quite modest is both troubling and often inequitable. In truth, as the income ceiling of this provision illustrates, this change will benefit people who in these days of rapidly rising higher education costs are truly in need and deserving of inclusion in both Federal loan and grant programs. Indeed, it has been estimated that this change would make 98,000 additional students eligible for Pell grants and open up the Guaranteed Student Loan Program to 65,000 new borrowers as well as providing increased loans for 150,000 current borrowers.

I believe that this change conforms admirably with the goals of this legislation; it is, after all, an attempt to confront the growing volume of student loan defaults and thereby insure that their debilitating effects on both the loan program itself and on public support for that program are addressed and, at least in large measure, solved.

S. 2647 does several things that will, over time, alleviate those effects and it does so with a commendable degree of equity. First, it requires any school, lender or guarantee agency with a default rate in excess of 25 percent to develop a 3 year "default management plan," with a variety of alternatives available if that plan proves ineffective. Moreover, it grants special consideration in this process to schools that serve a high number of low-income students. Other important provisions of the bill delay the initial payment for first-year students for 30 days after classes begin to make sure students are properly enrolled and require that student borrowers provide lenders with additional information necessary to help the lender track the student. These are practical and, I believe, ultimately effective ways to confront this problem.

In closing, I would like to stress that this change will go a long way toward correcting the inadequacies of the existing award process. It must be noted, however, that this process has evolved as a result of a whole series of very difficult public policy decisions made within a context of scarce resources and often conflicting, although almost uniformly worthy, goals. I therefore commend my colleagues, and especially those who serve on the Labor and Human Resources Committee, on what amounts to an important and desirable refinement of this process.

I believe that passage of this legislation will restore public confidence in the viability and promise of the Stafford Student Loan Program. Importantly, it will also insure that a greater number of deserving young Americans can receive the financial assistance they need to continue their education. The American people have long supported the idea of equal educational opportunity. This bill, by confronting the loan default situation that has become a significant threat to that idea justifies that support. I urge my colleagues to support this important measure.

AMENDMENT NO. 3038

(Purpose: To strengthen the bill, to make technical corrections in the bill, and for other purposes)

Mr. BYRD. Madam President, I send to the desk an amendment on behalf of Senators PELL and STAFFORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. PELL (for himself and Mr. STAFFORD), proposes an amendment numbered 3038.

Mr. BYRD. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 80, line 5, strike out "principal outstanding on" and insert in lieu thereof "original principal amount of".

On page 81, line 11, strike out "(i)".

On page 85, line 4, insert a comma after "address".

On page 86, line 9, insert "(1)" after "section 428B(c)".

On page 86, line 15, strike out "clause (1)" and insert in lieu thereof "clause (i)".

On page 92, line 1, after "CONSOLIDATION," in the heading insert the following: "COMBINED PAYMENT PLAN,".

On page 92, line 4, strike out "or 428C" and insert in lieu thereof ", 428C, or 485A".

On page 101, line 12, strike out "paragraph (2)(A) or (2)(B)" and insert in lieu thereof "paragraph (3)(A) or (3)(B)".

On page 102, line 7, strike out "before" the first time it appears.

On page 103, strike out lines 6 through 14 and insert in lieu thereof the following:

"(12) The institution does not—

"(A) use any independent contractor or any person other than salaried employees of the institution to conduct any canvassing, surveying, recruiting, or similar activities;

"(B) use any contractor or any person other than salaried employees of the institution to make final determinations that an individual meets the institution's admissions requirements or the criteria of eligibility for financial aid; or

"(C) pay any commission, bonus, or other incentive payment to any person making such final determination.

This paragraph (i) shall not prohibit a volunteer, independent contractor, or person other than a salaried employee from being reimbursed for actual expenses related to activities described in subparagraph (A), and (ii) shall not apply to an independent contractor who works exclusively with foreign students who are not eligible to apply for title IV assistance because of each such student's nationality.".

On page 109, beginning with "the" on line 2, strike out through "order" on line 3 and insert in lieu thereof the following: "a show cause order, suspension order, or other similar order".

On page 110, beginning with "the" on line 2, strike out through "order" on line 3 and insert in lieu thereof the following: "a show cause order, suspension order, or other similar order".

On page 116, between lines 16 and 17, insert the following new paragraph:

(3) Section 411D(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

On page 130, line 16, after the word "of" insert the following: "an institution of higher education or of".

On page 133, line 24, beginning with "financial", strike out through "students." in line 25 and insert in lieu thereof the following: "need and eligibility of the student for financial assistance. There shall be no charge to a student for completing and processing the common form.".

On page 134, between lines 2 and 3, insert the following:

(2)(A) The first sentence of section 483(a)(2) of the Act is amended by striking ", to the extent practicable,".

On page 134, line 3, strike out "(2)(A)" and insert in lieu thereof "(B)".

On page 134, line 7, strike out "(B)" and insert in lieu thereof "(C)".

On page 134, line 16, beginning with "Such", strike out through the period in line 3 on page 135.

On page 135, lines 8 and 9, strike out "negotiated rate" and insert in lieu thereof "competitively determined rate".

On page 135, after line 23, add the following new sections:

SEC. 506. REALLOCATION OF RETURNED SEOG FUNDS TO INSTITUTIONS LOCATED IN NATURAL DISASTER AREAS.

Section 413D(e) of the Act is amended by adding at the end thereof the following: "In making such reallocations, the Secretary shall give special consideration to institutions located in areas which are designated to receive assistance because of the occurrence of a major natural disaster.".

SEC. 507. LENDER OF LAST RESORT.

Section 428(j) of the Act is amended by adding at the end thereof the following: "Each State guaranty agency shall ensure that there is a lender of last resort in its State. The lender of last resort shall process loan applications of students enrolled in an eligible institution within 30 days after such application has been filed. The lender of last resort shall make loans to any eligible applicant attending an eligible institution.".

SEC. 508. PERKINS LOAN PROGRAM AMENDMENT.

Section 462(c)(3) of the Act is amended—

(1) by redesignating clause (B) and (C) as clause (C) and (D); and

(2) by inserting after clause (A) the following new clause:

"(B) 75 percent of the cash on hand at the institution under the program authorized by this part for the second year preceding the beginning of the award period;".

SEC. 509. PEACE CORPS, VISTA, AND TAX-EXEMPT ORGANIZATION SERVICE ENCOURAGED.

(a) INFORMATION FOR STUDENTS.—Section 485(a)(1) of the Act is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon; and

(3) by inserting at the end thereof the following new subparagraphs:

"(L) the terms and conditions under which the student may defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act or for comparable full-time service as a volunteer for a tax-exempt organization; and

"(M) the terms and conditions under which the student may obtain partial cancellation of the student loan for service under the Peace Corps Act and Domestic volunteer Service Act.".

(b) EXIT COUNSELING FOR BORROWERS.—Section 485(b) of the Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (2):

"(3) the terms and conditions under which the student may defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act or for comparable full-time service as a volunteer for a tax-exempt organization.".

(c) DEPARTMENT INFORMATION ON DEFERMENTS AND CANCELLATIONS.—Section 485(d) of the Act is amended by inserting the following before the last full sentence: "The Secretary shall provide information on the specific terms and conditions under which students may defer repayment of loans for service under the Peace Corps Act and Domestic Volunteer Service Act or for comparable full-time service as a volunteer with a tax-exempt organization, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances which a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such deferments when they serve as a paid employee of a tax-exempt organization.".

SEC. 510. DATA ON DEFERMENTS AND CANCELLATIONS.

Section 485B(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (4):

"(5) the exact amount of loans in deferment for service under the Peace Corps Act, for service under the Domestic Volunteer Service Act, and for comparable full-time service as a volunteer for a tax-exempt organization.".

On page 136, line 1, strike out "sec. 506." and insert in lieu thereof "sec. 511.".

On page 137, line 4, strike out "sec. 507." and insert in lieu thereof "sec. 512.".

On page 137, lines 18 and 19, strike out "section 405" and insert in lieu thereof "sections 405 and 406".

On page 137, after line 20, insert the following:

(3) The amendments made by section 406 shall take effect for award year 1991-1992 and thereafter.

On page 67, in the table of contents, redesignate items "Sec. 506." and "Sec. 507." as items "Sec. 511." and "Sec. 512.", respectively, and insert after item "Sec. 505." the following new items:

"Sec. 506. Reallocation of returned SEOG funds to institutions located in natural disaster areas.
"Sec. 507. Lender of last resort.
"Sec. 508. Perkins loan program amendment.
"Sec. 509. Peace Corps, Vista, and tax-exempt organization service encouraged.
"Sec. 510. Data on deferments and cancellations.".

The PRESIDING OFFICER. Is there further debate or discussion on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3038) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stafford Student Loan Default Prevention and Management Act of 1988".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DEFAULT MANAGEMENT

Sec. 101. Default management plans required.

TITLE II—IMPROVED STAFFORD STUDENT LOAN COLLECTION PROVISIONS

Sec. 201. Provision of financial aid transcripts.
Sec. 202. Repayment notice to borrower.
Sec. 203. Notice by lender of sale of loan.
Sec. 204. Guaranty agency prohibition on the sale of certain Stafford student loan lists.
Sec. 205. Guaranty agency use of State licensing board information.
Sec. 206. Special limitation on the deferment of payment of principal and interest on PLUS loans.
Sec. 207. Credit checks and cosigners for PLUS loans.
Sec. 208. Administrative fee for SLS loans and for PLUS loans.
Sec. 209. Loan consolidation limitation.
Sec. 210. Additional requirements with respect to disbursement and endorsement of Stafford student loans.
Sec. 211. Extended collection demonstration program.
Sec. 212. Notice to credit bureaus of delinquency.
Sec. 213. Eligible lender notice on delinquent loans required.
Sec. 214. Additional borrower information required.
Sec. 215. Ability to benefit.
Sec. 216. Exit interview information.
Sec. 217. Disclosure of State licensing requirements.
Sec. 218. Withholding of transcripts from defaulting borrowers.
Sec. 219. Restrictions on institutional promotional activities.
Sec. 220. Academic year definition.
Sec. 221. Limitation, suspension, and termination on account of contractors.
Sec. 222. Study of discharge of Stafford student loans in bankruptcy.

TITLE III—FEDERAL RESPONSIBILITIES

Sec. 301. Administrative provisions relating to the reduction of default.
Sec. 302. Regulations for institutional disclosure of borrower records.
Sec. 303. Effect of loss of accreditation.
Sec. 304. Special accreditation rules.
Sec. 305. Eligible institution accreditation rule.
Sec. 306. Toll-free consumer hotline.
Sec. 307. National student loan data system.
Sec. 308. Tuition refunds.

TITLE IV—AMENDMENTS TO THE NEEDS ANALYSIS PROVISIONS

Sec. 401. Definition of independent student.
Sec. 402. Modification to computation of contributions.
Sec. 403. Student contribution modification.
Sec. 404. Prevention of double counting of income in asset computations.
Sec. 405. Needs analysis financial aid administrator adjustments.
Sec. 406. Treatment of veterans benefits.
Sec. 407. Treatment of nonliquid assets.

TITLE V—OTHER HIGHER EDUCATION AMENDMENTS

Sec. 501. Pell grant program amendment.
Sec. 502. Subsidized employment modification under work-study.
Sec. 503. Student loan internship deferments.
Sec. 504. Student loan marketing association amendments.
Sec. 505. Forms and regulations.
Sec. 506. Reallocation of returned SEOG funds to institutions located in natural disaster areas.
Sec. 507. Lender of last resort.
Sec. 508. Perkins loan program amendment.
Sec. 509. Peace Corps, Vista, and tax-exempt organization service encouraged.
Sec. 510. Data on deferments and cancellations.
Sec. 511. Special grants to consortia for the benefit of historically Black colleges.
Sec. 512. Audit provision.

TITLE VI—EFFECTIVE DATES

Sec. 601. Effective date rule.

TITLE I—DEFAULT MANAGEMENT

SEC. 101. DEFAULT MANAGEMENT PLANS REQUIRED.

(a) DEFAULT MANAGEMENT PLAN.—Part B of title IV of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended by inserting after section 430A the following new section:

"DEFAULT MANAGEMENT PLAN

"SEC. 430B. (a) GUARANTY AGENCY DEFAULT MANAGEMENT PLAN REQUIRED.—(1)(A) The Secretary shall determine the default rate in accordance with the provisions of subsection (e) for each guaranty agency. Each

guaranty agency which the Secretary determines has a default rate in excess of 25 percent shall develop and carry out a default management plan in accordance with the provisions of this section.

"(B) Each guaranty agency which is in the highest 5 percent by volume of defaulted student loans measured by dollar value, as published by the Secretary in accordance with section 432A(a)(2)(B), shall be subject to a program review conducted by the Secretary. If the Secretary determines that the default management practices of the guaranty agency substantially contribute to the high dollar value default of student loans, the Secretary shall develop and implement a default management plan for such guaranty agency.

"(2)(A) The Secretary may, in any default management plan required by paragraph (1) of this subsection, require the guaranty agency to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the Secretary.

"(B) The default management provisions to which subparagraph (A) relate are—

"(i) mandatory preclaims assistance;

"(ii) mandatory supplemental preclaims assistance for default prevention;

"(iii) development and distribution of default management materials;

"(iv) additional training in the administration of the programs under part B of this title;

"(v) training of school personnel on default prevention;

"(vi) training of lender personnel on default prevention;

"(vii) waiver of program review regulations so that the guaranty agency can focus on eligible institutions and lenders with excessive default rates; and

"(viii) collection of additional information from borrowers.

"(C) The Secretary, with the agreement of the guaranty agency, may require other measures designed to increase the collection of Stafford student loans, particularly measures appropriate to the communities served by the guaranty agency subject to the default management plan.

"(b) Eligible Lender and Eligible Institution Default Management Plan Required.—(1)(A) The Secretary shall determine the default rate, in accordance with subsection (e), for each eligible lender and for each eligible institution. Each eligible lender and each eligible institution which has a default rate in excess of 25 percent calculated in accordance with subsection (e) shall develop and implement a default management plan with the designated State guaranty agency for the State in which such lender or institution is located.

"(B) Each eligible institution which has a high default rate measured by dollar value, as determined by the Secretary, and which is in the highest 5 percent by dollar value of defaulted student loans, as published by the Secretary in accordance with section 432A(a)(2)(B), shall be subject to an evaluation of operations conducted by the designated State guaranty agency for the State in which such lender or institution is located. If such guaranty agency determines that the default management practices of the lender or institution substantially contribute to the high dollar value default of student loans, the guaranty agency shall develop and implement a default management plan for such lender or institution.

"(C) No eligible lender and no eligible institution is subject to subparagraph (A) unless the lender or institution has at least 25 loans that are in default in the fiscal year for which the determination is made.

"(D) The Secretary shall require the designated guaranty agency for each State to require each eligible lender and each eligible institution located within the State described in subparagraph (A) to develop and implement a default management plan.

"(E) Each designated guaranty agency for a State may transfer the responsibilities for carrying out this section to another guaranty agency whenever the other guaranty agency guarantees a significant portion of loans for the eligible lender or eligible institution which is the subject of the default management plan. Whenever there is significant multi-State activity by any lender, the Secretary shall determine each party which will carry out the responsibilities of this section, except that, in the case of the Student Loan Marketing Association, the Secretary shall carry out the responsibilities of the guaranty agency under this section.

"(2)(A) The Secretary shall require the designated guaranty agency for a State to require each eligible lender subject to a default management plan to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the guaranty agency.

"(B) The default management provisions to which subparagraph (A) applies are—

"(i) additional training in the administration of the programs under part B of this title;

"(ii) development of personal financial planning materials to be used in counseling borrowers on planning for repayment of Stafford Loans;

"(iii) establishment of a loan repayment lenders hot line under which borrowers may receive information relating to the repayment status of the student loan, deferments, forbearances, and other rights and responsibilities under the Stafford Loan program;

"(iv) development of information readily understood by the average student relating to forbearance, deferments, and consolidation opportunities;

"(v) provision of additional services, including collection and skip-tracing activities, relating to loans held by the lender in any case in which the borrower cannot be found;

"(vi) provisions for the eligible lender to collect additional information from borrowers, but which may not be required to be a part of the loan application;

"(vii) additional program reviews or audits relating to the performance of responsibilities under the Stafford student loan program;

"(viii) provisions requiring loans to be multiply disbursed regardless of program length; and

"(ix) provisions for technical assistance to be furnished by the State guaranty agency or its designee.

"(C) The designated guaranty agency, with the agreement of the lender, may require other measures designed to increase the collection of student loans, particularly measures which are appropriate to the eligible lender subject to the default management plan.

"(3)(A) The Secretary shall require each designated guaranty agency for a State to require each eligible institution to which a default management plan applies to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the guaranty agency.

"(B) The default management provisions to which subparagraph (A) applies are—

"(i) additional training in the administration of the programs under part B of this title;

"(ii) provisions requiring that an eligible institution take necessary action, including reporting information on new addresses of student borrowers, for students who are delinquent or in default within 45 days of the notification of delinquency or default;

"(iii) provisions for technical assistance in the operation of Stafford student loan programs to be provided by the guaranty agency or its designee;

"(iv) provisions for entrance interviews for student borrowers to be conducted by the eligible institution;

"(v) provisions for enhanced information sharing with the guaranty agency;

"(vi) provisions for an independent audit of the operation of the student financial aid programs under part B of this title of the eligible institution;

"(vii) provisions requiring that the eligible institutional verification required by section 484(f) of this Act on student loan eligibility data be increased up to 100 percent of such verification;

"(viii) provisions requiring that the eligible institution collect additional information from borrowers;

"(ix) periodic reporting on the status of students receiving aid under part B of this title at the eligible institution;

"(x) provisions for an eligible institution to furnish the guaranty agency with information on student admissions procedures, withdrawals, and placement rates; and

"(xi) provisions to prevent loan defaults by altering student aid packaging policies at the institution.

"(C) The designated guaranty agency, with the agreement of the institution, may require other measures designed to increase the collection of student loans, particularly measures which are appropriate for the eligible institution subject to the default management plan.

"(c) Procedural Requirements.—(1) Each default management plan required by this section shall be developed not later than 120 days after the Secretary or the guaranty agency, as the case may be, determines that such a plan is required pursuant to subsection (a) or subsection (b), as the case may be. Each such default plan shall be for a period of 3 years.

"(2) Each default management plan which is developed during the first fiscal year after the date of enactment of the Stafford Student Loan Default Prevention and Management Act of 1988 shall be based upon an initial determination of the default rate in accordance with subsection (e)(5)(B).

"(3) Whenever a guaranty agency, an eligible lender, or an eligible institution notifies the Secretary that—

"(A) the action of the Secretary, or of a guaranty agency, in requiring a default management plan under this section is arbitrary, or

"(B) in carrying out the enforcement provisions of this section and the determination of eligibility under sections 435(j), 435(d), and 435(a) of this Act with respect to

a default management plan, the action of the Secretary or a guaranty agency is arbitrary,

the Secretary shall afford the guaranty agency, the eligible lender, or the eligible institution, as the case may be, notice and opportunity for a hearing.

"(d) ENFORCEMENT PROCEDURES.—(1) If any eligible institution or eligible lender fails to substantially comply with the default management plan to which such institution or lender is subject—

"(A) the Secretary shall initiate a limitation, suspension, or termination proceeding under section 487(c)(1)(D) with respect to an eligible institution's eligibility to participate in the program under part B of this title, or

"(B) the Secretary, through the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 428(b)(1)(U) with respect to an eligible lender's eligibility to participate in the program under part B of this title.

"(2) If any eligible institution or eligible lender fails to reduce the default rate below 25 percent within 3 years after entering into a default management plan under this section—

"(A) the Secretary, upon the recommendation of the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 487(c)(1)(D) with respect to an eligible institution's eligibility to participate in the program under part B of this title, or

"(B) the Secretary, upon the recommendation of the appropriate guaranty agency, through the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 428(b)(1)(U) with respect to an eligible lender's eligibility to participate in the program under part B of this title.

"(3) If any eligible institution or eligible lender fails to drop the default rate below 25 percent within 3 years after entering into a default management plan under this section, and is not subject to subparagraph (A) or (B) of paragraph (2), such an eligible institution or eligible lender shall enter into a new default management plan in accordance with the provisions of this section.

"(4) Each guaranty agency, in considering the recommendation authorized under paragraph (2)(A), shall take into account—

"(A) the progress made by the institution in reducing the number or dollar value of defaulted loans in each of the 3 years covered by the default management plan;

"(B) the employment status of the borrower at the time the defaults occurred;

"(C) the socio-economic status of the students served by the institution as indicated by the Pell Grant eligibility index of those student borrowers in default;

"(D) the presence of significant numbers of ability-to-benefit students among the borrowers in default and a demonstrated institutional record of successfully educating or training such students; and

"(E) the economic health and general state of employment in the region.

"(e) CALCULATION OF DEFAULT RATE.—(1) For the purpose of this section, the Secretary shall prescribe the method of calculating the default rate in accordance with paragraphs (2) through (7).

"(2) The default rate shall be expressed as a percentage for the subject fiscal year, determined by dividing—

"(A) the total original principal amount of loans which entered repayment in the fiscal year for which the determination is made and on which reinsurance claims are filed in the fiscal year for which the determination is made plus the 2 succeeding fiscal years; by

"(B) the total principal outstanding on loans in repayment which entered repayment in the fiscal year for which the determination is made.

"(3) The default rate for a subject fiscal year calculated under paragraph (2) shall be further modified by averaging the default rate calculated for the fiscal year, the default rate calculated for the fiscal year preceding the fiscal year for which the determination is made, and the default rate for the second preceding fiscal year for which the determination is made.

"(4) The Secretary shall calculate the default rate for guaranty agencies, for eligible lenders, and for eligible institutions.

"(5)(A) The Secretary shall calculate the default rate for fiscal year 1986, and for each succeeding fiscal year.

"(B) For the first year after the date of enactment of this section, the Secretary shall calculate the default rate in accordance with paragraphs (2) and (3) with such modifications as the Secretary determines may be necessary. In carrying out the provisions of this subparagraph, the Secretary may average 2 fiscal years for the default rate for such first year calculation.

"(6) In calculating the default rate in accordance with this subsection, the Secretary shall—

"(A) delete from the calculation described in paragraph (2)(A) the amount of loans in default that return to repayment status; and

"(B) with respect to the default rate for an eligible institution, include only loans attributable to the institution which the student attended when the loan was made.

"(7) The Secretary shall, whenever data is unavailable, make necessary estimates consistent with the provisions of this subsection to carry out the provisions of this subsection.

"(f) DEFINITION.—For the purpose of this section, the term 'eligible lender' includes the holder of the loan.".

(b) CONFORMING AMENDMENTS.—(1) Section 435(j) of the Act is amended—

(A) by inserting "(1) IN GENERAL.—" before "The"; and

(B) by adding at the end thereof the following new paragraph:

"(2) DISQUALIFICATION FOR FAILURE TO DEVELOP DEFAULT MANAGEMENT PLAN.—The term 'guaranty agency' does not include any such agency which fails or refuses to develop a default management plan in accordance with section 430B.".

(2) Section 435(d) of the Act is amended by inserting after paragraph (5) the following new paragraph:

"(6) DISQUALIFICATION FOR FAILURE TO DEVELOP DEFAULT MANAGEMENT PLAN.—The term 'eligible lender' does not include any such lender which fails or refuses to develop a default management plan in accordance with section 430B.".

(3) Section 435(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) DISQUALIFICATION FOR FAILURE TO DEVELOP DEFAULT MANAGEMENT PLAN.—The term 'eligible institution' does not include any such institution which fails or refuses to develop a default management plan in accordance with section 430B.".

TITLE II—IMPROVED STAFFORD STUDENT LOAN COLLECTION PROVISIONS

SEC. 201. PROVISION OF FINANCIAL AID TRANSCRIPTS.

Section 428(a)(2) of the Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) In order to facilitate the efficient carrying out of subparagraphs (A) and (B) of this section, each eligible institution shall transmit, upon request of another eligible institution, the financial aid transcripts necessary for making the statement evidencing a determination of need for a loan under such subparagraphs, within 30 days of receiving such request.".

SEC. 202. REPAYMENT NOTICE TO BORROWER.

(a) FISL PROGRAM.—Section 427(a)(2)(B)(ii) of the Act is amended by inserting before the semicolon a comma and the following: "and the Secretary may require the lender (or the holder of the loan) to notify the borrower not later than 180 days after the lender is notified that the borrower has left the eligible institution of the month in which the repayment period begins".

(b) STAFFORD PROGRAM.—Section 428(b)(2)(E) of the Act is amended—

(1) by inserting "(i)" after the subparagraph designation;

(2) by striking out the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new clause:

"(ii) provides that the lender (or the holder of the loan) shall notify the borrower not later than 180 days after the lender is notified that the borrower has left the eligible institution of the month in which the repayment period begins;".

SEC. 203. NOTICE BY LENDER OF SALE OF LOAN.

Section 428(b)(2) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after subparagraph (E) the following:

"(F) provide that the lender will be required to notify the guaranty agency of any sale or other transfer of the loan to another holder and the address and phone number through which to contact such other holder concerning repayment of the loan not later than 60 days after such sale or other transfer, and to notify the borrower, or upon request, any eligible institution, of any such sale or transfer, together with such address and phone number, if the sale or transfer requires the borrower to pay the loan at a new address, not later than 60 days after such sale or transfer.".

SEC. 204. GUARANTY AGENCY PROHIBITION ON THE SALE OF CERTAIN STAFFORD STUDENT LOAN LISTS.

Section 428(b)(3) of the Act is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(D) sell lists of student borrowers who have loans made, insured, or guaranteed under this part.".

SEC. 205. GUARANTY AGENCY USE OF STATE LICENSING BOARD INFORMATION.

Section 428(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(7) STATE GUARANTY AGENCY INFORMATION REQUEST OF STATE LICENSING BOARDS.—Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.".

SEC. 206. SPECIAL LIMITATION ON THE DEFERMENT OF PAYMENT OF PRINCIPAL AND INTEREST ON PLUS LOANS.

Section 428B(c)(1) of the Act is amended—

(1) by striking out "(A)"; and

(2) by striking out "; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under the section and who meets the conditions required for a deferral under clause (i) of either such section".

SEC. 207. CREDIT CHECKS AND COSIGNERS FOR PLUS LOANS.

(a) IN GENERAL.—Section 428B of the Act is amended by adding at the end thereof the following new subsection:

"(e) CREDITWORTHINESS REQUIRED.—An eligible lender shall obtain a credit report on any applicant for a loan under this section from at least one national credit bureau organization. The eligible lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report. An applicant who, the eligible lender determines has a negative credit history shall be denied a loan unless the applicant obtains a creditworthy cosigner in order to obtain the loan, except that for purpose of this subsection, an insufficient or nonexistent credit history may not be considered to be a negative credit history.".

(b) CONFORMING AMENDMENT.—Section 428B(a) of the Act is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsections (c), (d), and (e)".

SEC. 208. ADMINISTRATIVE FEE FOR SLS LOANS AND FOR PLUS LOANS.

(a) ADMINISTRATIVE FEE FOR SLS LOANS.—Section 428A of the Act is amended by adding at the end thereof the following new subsection:

"(e) ADMINISTRATIVE FEE REQUIRED.—(1) An eligible lender is authorized to charge the borrower an administrative fee in an amount not to exceed 5 percent of the principal amount of the loan to be paid by the eligible lender to the Secretary in accordance with the provisions of this subsection.

"(2) The Secretary shall enter into agreements with eligible lenders under which the administrative fee which the eligible lender is authorized to charge pursuant to paragraph (1) of this subsection is paid to the Secretary.

"(3) No loan made under this section may be guaranteed under this part unless the eligible lender enters into an agreement with the Secretary under paragraph (2).".

(b) ADMINISTRATIVE FEE FOR PLUS LOANS.—Section 428B of the Act (as amended by section 206 of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) ADMINISTRATIVE FEE REQUIRED.—(1) An eligible lender is authorized to charge the borrower an administrative fee in an amount not to exceed 5 percent of the principal amount of the loan to be paid by the eligible lender to the Secretary in accordance with the provisions of this subsection.

"(2) The Secretary shall enter into agreements with eligible lenders under which the administrative fee which the eligible lender is authorized to charge pursuant to paragraph (1) of this subsection is paid to the Secretary.

"(3) No loan made under this section may be guaranteed under this part unless the eligible lender enters into an agreement with the Secretary under paragraph (2).".

SEC. 209. LOAN CONSOLIDATION LIMITATION.

Section 428C(a)(4) of the Act is amended—

(1) by striking out "For" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), for";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The term 'eligible student loan' does not include any loan which is obtained for a course of study of 12 months or less, unless the amount to be consolidated is greater than $7,500.".

SEC. 210. ADDITIONAL REQUIREMENTS WITH RESPECT TO DISBURSEMENT AND ENDORSEMENT OF STAFFORD STUDENT LOANS.

(a) GENERAL RULE.—Part B of title IV of the Act is amended by inserting after section 428F the following new section:

"REQUIREMENTS FOR DISBURSEMENT AND ENDORSEMENT OF STUDENT LOANS

"SEC. 428G. (a) MULTIPLE DISBURSEMENT REQUIRED.—

"(1) TWO DISBURSEMENTS REQUIRED.—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment that ends 180 days (or 6 months) or more after the first day of the period of enrollment, and that is for an amount of $1,000 or more, shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

"(2) MINIMUM INTERVAL REQUIRED.—The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(b) INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.—

"(1) FIRST YEAR STUDENTS.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of postsecondary education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be endorsed by the eligible institution until 30 days after the borrower begins a course of study but may be delivered to the eligible institution prior to the end of the 30-day period.

"(2) OTHER STUDENTS.—The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of the enrollment for which the loan is made.

"(c) METHOD OF MULTIPLE DISBURSEMENT.—Disbursements under subsections (a) and (b)—

"(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(III)) that complies with the requirements of this section; and

"(2) may be made directly by the lender or, in the case of a loan under section 428, may be disbursed pursuant to the escrow provisions of subsection (i) of such section.

"(d) WITHHOLDING OF SECOND DISBURSEMENT.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled on at least a half-time basis before the disbursement of the second or any succeeding installment shall withhold such disbursement.

"(e) AGGREGATION OF MULTIPLE LOANS.—All loans made, insured, or guaranteed under this part other than loans made under section 428A issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section. All loans made pursuant to section 428A of the Act issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section.

"(f) EXCLUSION OF PLUS, CONSOLIDATION, COMBINED PAYMENT PLAN, AND FOREIGN STUDY LOANS.—The provisions of this section shall not apply in the case of a loan made under section 428B, 428C, or 485A or made to a student to cover the cost of attendance at an eligible institution outside the United States.".

(b) CONFORMING AMENDMENTS.—

(1) TRANSMITTAL OF INSTITUTION SCHEDULES TO LENDERS.—Section 428(a)(2)(A)(i) of the Act is amended—

(A) by striking "and" at the end of clause (I); and

(B) by inserting after clause (II) the following:

"(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and".

(2) FEDERALLY INSURED LOANS.—Section 427(a)(4) of the Act is amended to read as follows:

"(4) the funds borrowed by a student are disbursed in accordance with section 428G.".

(3) STAFFORD LOANS.—Section 428(b)(1)(O) of the Act is amended to read as follows:

"(O) provide that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;".

SEC. 211. EXTENDED COLLECTION DEMONSTRATION PROGRAM.

Part B of title IV of the Act (as amended by section 210 of this Act) is further amended by inserting after section 428G the following new section:

"EXTENDED COLLECTION AND DEMONSTRATION PROGRAM

"SEC. 428H. (a) AGREEMENTS FOR DEMONSTRATION PROGRAM.—(1) The Secretary shall, in accordance with the provisions of this section, enter into agreements with guaranty agencies for the establishment of not to exceed 3 demonstration programs for extended efforts on delinquent student loans originally guaranteed by the guaranty agency designed to reduce defaults under this part.

"(2) For the purpose of paragraph (1), the term 'guaranty agency' means a guaranty agency described in section 435(j) and section 435(d)(1)(D).

"(b) SELECTION OF PARTICIPANTS.—(1) Each guaranty agency desiring to participate in the program authorized by this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(2) The Secretary shall select participants to establish extended collection programs under this section on the basis of—

"(A) the applicant's experience and success in working with borrowers and eligible lenders to prevent defaults, including the use of forbearance;

"(B) the applicant's experience and success in the use of preclaims assistance, and, if applicable, supplemental preclaims assistance to reduce defaults;

"(C) evidence that the applicant will use the program authorized by this section for borrowers who attended traditional 4-year institutions, community colleges, and vocational technical schools, which substantially reflect the overall portfolio of the lenders;

"(D) the novel and innovative approaches that the applicant proposes to use in the extended collection demonstration program; and

"(E) the commitment of the applicant to the program, as documented in the application.

"(3) Each such application shall include—

"(A) the modified eligible lender agreement the guaranty agency has adopted for use by eligible lenders participating in the program;

"(B) a description of the novel and innovative approaches that the applicant will use in the extended collection demonstration program; and

"(C) such additional information as the Secretary may reasonably require to evaluate applications.

"(4) In selecting participants under this section, the Secretary shall give priority to applications submitted by guaranty agencies having extensive experience in the administration and collection of student loans, either directly or through use of contract loan servicers.

"(c) PROGRAM AGREEMENT.—Each agreement entered into under this section shall include—

"(1) the provision of individualized or flexible repayment plans, including plans designed to meet the needs of borrowers participating in the program who face financial difficulty in repaying their loan;

"(2) the performance of due diligence efforts consisting of not less than one telephone attempt and one letter to the borrowers every 2 weeks; and

"(3) the provision requiring the eligible lenders to furnish to the guaranty agency records of collection efforts and techniques, as specified by the guaranty agency or the Secretary, or both.

"(d) ELIGIBILITY OF LOANS FOR INCLUSION IN THE PROGRAM.—Loans made under this part shall be eligible for extended collection pursuant to this section, if—

"(1) the location of the borrower is known;

"(2) the borrower has made no payments or missed at least 2 consecutive payments;

"(3) the loan is at least 120 but less than 180 days delinquent and all due diligence required to the point of sale has been performed;

"(4) the loan entered repayment in fiscal year 1987 or later;

"(5) the participating guarantor has provided preclaims assistance pursuant to a request by the eligible lender at 60 to 90 days of delinquency; and

"(6) the eligible lender providing extended collection efforts is not in possession of information that the loan may be uncollectible.

"(e) LENDER ELIGIBILITY TO PARTICIPATE.—An eligible lender may participate in the program authorized by this section pursuant to an agreement entered into under subsection (a), if—

"(1) the eligible lender has an agreement with the guaranty agency with which the application is being filed for the guaranty of consolidation loans under section 428C;

"(2) the eligible lender is not subject to a limitation, suspension, or termination agreement or default management plan under this part; and

"(3) the eligible lender meets such other criteria as the guaranty agency and the Secretary may reasonably require.

"(f) EXTENDED COLLECTION PERIOD.—Notwithstanding any other provision of law, loans held pursuant to this part and included in the program authorized by this section may be held by the eligible lender for—

"(1) 540 days after the loan becomes delinquent with respect to any installment;

"(2) not more than 30 days after the eligible lender participating under this section determines, in accordance with guidelines promulgated by the guaranty agency, that no further collection effort on the loan is likely to result in repayment by the borrower; or

"(3) a period that is within 30 days after notification from the guaranty agency, but no earlier than the 270th day of delinquency,

whichever comes first.

"(g) REPORTS TO THE SECRETARY AND TO THE CONGRESS.—(1) Each participant with an agreement with the Secretary to offer an extended collection program shall submit a report once a year to the Secretary describing—

"(A) the effectiveness of the program, including statistics on the number of accounts brought into repayment between the 180th day and the submission of the claim;

"(B) a statistical summary of the basis for cures of delinquent loans brought current through the program, including specific summaries of the numbers of loans brought into repayment through forbearances, payments, and loan consolidation;

"(C) information on strategies used by eligible lenders in the program to effectuate the initiation of repayment; and

"(D) evidence of efforts to use the program authorized by this section for borrowers who attended traditional 4-year institutions, community colleges, and vocational technical schools, which substantially reflect the overall portfolio of the lenders.

"(2) The Secretary shall, not later than September 30, 1991, prepare and submit an interim report and not later than September 30, 1993, prepare and submit a final report on the demonstration project authorized by this section. The reports required by this section shall evaluate the results of the demonstration conducted under this section, assess the cost and benefits of this demonstration, and include such recommendations as the Secretary may prescribe, including expansion of the demonstration program.

"(h) REGULATIONS.—The Secretary shall, within 120 days of the enactment of this section, prescribe regulations providing for the administration of this section.

"(i) APPLICABILITY OF OTHER TERMS, CONDITIONS, AND BENEFITS.—A loan subject to the provisions of this section shall be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part, except as otherwise specifically provided for in this section.

"(j) TERMINATION.—The demonstration program shall terminate on September 30, 1993.".

SEC. 212. NOTICE TO CREDIT BUREAUS OF DELINQUENCY.

(a) NOTICE OF DELINQUENCY.—Section 430A(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

"(3) with respect to any payment on a loan that has been delinquent for 90 days, information concerning the date the delinquency began and the repayment status of the loan; and".

(b) NOTICE TO BORROWER.—Section 430A(c) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) with respect to notices of delinquency under subsection (a)(3), the borrower is informed that credit bureau organizations will be notified of any payment that is delinquent for 90 days or more.".

SEC. 213. ELIGIBLE LENDER NOTICE ON DELINQUENT LOANS REQUIRED.

Section 435(d) of the Act (as amended by section 101(b)(2)) is further amended by adding at the end thereof the following new paragraph:

"(7) INFORMATION ON DELINQUENT LOANS.—To be an eligible lender under this part, each eligible lender shall notify the appropriate guaranty agency of the delinquency of a borrower within 120 days of the date on which the loan made, insured, or guaranteed under this part is delinquent and the guaranty agency shall upon request provide such information to an eligible institution.".

SEC. 214. ADDITIONAL BORROWER INFORMATION REQUIRED.

Section 484(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) In order to be eligible to receive any loan under this title, a student shall provide to the lender at the time of applying for the loan the driver's license number of the student borrower, if applicable, and the name and address of the next of kin of the student borrower.".

SEC. 215. ABILITY TO BENEFIT.

Section 484(d) of the Act is amended by adding at the end thereof the following new sentence: "No student who qualifies under paragraph (3)(A) or (3)(B) shall be eligible to receive a grant, loan, or work assistance under this Act, if that student is enrolled or accepted for enrollment in a course of study of less than 1 year in preparation for an occupation for which the student must be certified by an agency, other than the eligible institution or institution of higher education in order to begin practice or service, and a high school diploma or its recognized equivalent is a requirement for that certification.".

SEC. 216. EXIT INTERVIEW INFORMATION.

Section 485(b) of the Act is amended by inserting before the last sentence thereof the following new sentence: "Each eligible institution shall require that the borrower, at the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution, submit to the institution, the address of the borrower, the address of the next of kin of the borrower, and the drivers license number, if applicable, of the borrower during the interview required by this subsection.".

SEC. 217. DISCLOSURE OF STATE LICENSING REQUIREMENTS.

Section 487(a)(8) of the Act is amended—

(1) by inserting "(A)" before "the most recent"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (B) relevant State licensing requirements for any job for which the course of in-

struction is designed for such prospective students".

SEC. 218. WITHHOLDING OF TRANSCRIPTS FROM DEFAULTING BORROWERS.

Section 487(a) of the Act is amended by adding at the end thereof the following:

"(11) The institution will withhold the academic transcripts of any student borrower who is in default on any loan made under this title unless the institution determines that withholding such transcripts will prevent the borrower from obtaining employment and repaying the loan.".

SEC. 219. RESTRICTIONS ON INSTITUTIONAL PROMOTIONAL ACTIVITIES.

Section 487(a) of the Act (as amended by section 214) is further amended by adding at the end thereof the following new paragraph:

"(12) The institution does not—

"(A) use any independent contractor or any person other than salaried employees of the institution to conduct any canvassing, surveying, recruiting, or similar activities;

"(B) use any contractor or any person other than salaried employees of the institution to make final determinations that an individual meets the institution's admissions requirements or the criteria of eligibility for financial aid; or

"(C) pay any commission, bonus, or other incentive payment to any person making such final determination.

This paragraph (i) shall not prohibit a volunteer, independent contractor, or person other than a salaried employee from being reimbursed for actual expenses related to activities described in subparagraph (A), and (ii) shall not apply to an independent contractor who works exclusively with foreign students who are not eligible to apply for title IV assistance because of each such student's nationality.".

SEC. 220. ACADEMIC YEAR DEFINITION.

Section 487(a) of the Act (as amended by sections 214 and 215) is further amended by adding at the end thereof the following new paragraph:

"(13) The institution will use the same definition of 'academic year' for all programs authorized by this title.".

SEC. 221. LIMITATION, SUSPENSION, AND TERMINATION ON ACCOUNT OF CONTRACTORS.

Section 487(c)(1) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end thereof the following:

"(E) the limitation, suspension, or termination of the eligibility of an otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary determines, after reasonable notice and opportunity for a hearing on the record, that an individual or organization having a contract with such institution to administer any aspect of the institution's student assistance program under this title, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation and that the eligible institution failed to terminate the contract, except that no period of suspension under this subparagraph shall exceed 60 days unless the institution and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary within that period of time.".

SEC. 222. STUDY OF DISCHARGE OF STAFFORD STUDENT LOANS IN BANKRUPTCY.

(a) STAFFORD STUDENT LOAN DISCHARGE STUDY.—The Comptroller General shall conduct a study relating to the discharge of student loan indebtedness in proceedings in bankruptcy. Such study shall include—

(1) an evaluation of the treatment of student loan debtors under chapter 13 of title 11, United States Code, including—

(A) the frequency of attempts to discharge or the discharging of such loans compared to such attempts to discharge or the discharging of other consumer loans by such students; and

(B) the number and amount of such loans discharged;

(2) an evaluation of the effect of students who attempt to or do discharge such loans relative to the costs of the Stafford Student Loan Program and the institutional costs of the Perkins Loan Program; and

(3) an evaluation of the behavior of student loan debtors who discharge such loans as compared to other debtors who discharge debts in bankruptcy by evaluating such factors as—

(A) the average age of the debtors in each group;

(B) the amounts and types of debts sought to be discharged by each group; and

(C) the percentage of discharge of other types of consumer debts by each group.

(b) STAFFORD STUDENT LOAN DISCHARGE REPORT.—The Comptroller General shall prepare a report of the study required by this section and shall submit the study to the Congress within 3 years after the date of enactment of this Act.

TITLE III—FEDERAL RESPONSIBILITIES

SEC. 301. ADMINISTRATIVE PROVISIONS RELATING TO REDUCTION OF DEFAULT.

Part B of title IV of the Act is further amended by inserting after section 432 the following new section:

"ADMINISTRATIVE PROVISIONS RELATING TO THE REDUCTION OF DEFAULT

"SEC. 432A. (a) GENERAL AUTHORITY.—(1) The Secretary shall develop and publish an annual default report to the Congress beginning on December 31, 1988, which shall include the annual default rate for the Stafford Student Loan Program under this part.

"(2)(A) The report required by this section shall include a summary of the default rates determined under section 101(e). The report shall also include the net dollar value in default for each guaranty agency, each eligible lender, and each eligible institution.

"(B) The Secretary shall prepare a list of guaranty agencies and a list of eligible institutions in the order of the dollar value of Stafford student loans in default for each such agency and institution. The Secretary shall identify the highest 5 percent of guaranty agencies and eligible institutions on the lists required by this subparagraph.

"(b) PROGRAM REVIEW OF ELIGIBLE INSTITUTIONS AND ELIGIBLE LENDERS.—The Secretary shall develop a plan for the conduct of program reviews of all eligible institutions, all guaranty agencies, and all eligible lenders. The plan shall be published in the Federal Register for public comment. The Secretary shall report to the Congress annually on the results of the reviews required by this subsection.

"(c) PRIORITY FOR PROGRAM REVIEW.—In carrying out the provisions of subsection (b), the Secretary shall give priority to the conduct of program reviews of guaranty agencies and eligible institutions which have the highest rates of default on such loans, and which have the highest dollar value of loans made, insured, or guaranteed under part B which are in default.

"(d) REVIEW AND DISSEMINATION OF MODEL AND CONSTRUCTIVE DEFAULT PREVENTION PROCEDURES.—The Secretary shall collect, analyze, and disseminate information on novel and model default prevention procedures.".

SEC. 302. REGULATIONS FOR INSTITUTIONAL DISCLOSURE OF BORROWER RECORDS.

The Secretary shall promulgate regulations specifying the legal restrictions and the requirements of eligible institutions relating to loan counseling and reporting requirements including but not limited to disclosure of borrower records to third parties, the Fair Debt Collection Practices Act, and any other applicable Federal law.

SEC. 303. EFFECT OF LOSS OF ACCREDITATION.

(a) STATUS AS ELIGIBLE INSTITUTION FOR STAFFORD STUDENT LOAN PROGRAM.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (a)(1), by striking out "The term" and inserting "Subject to subsection (m), the term"; and

(2) by adding at the end thereof the following:

"(m) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) has withdrawn from institutional accreditation voluntarily under a show cause order, suspension order, or other similar order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

(b) STATUS AS ELIGIBLE INSTITUTION FOR OTHER TITLE IV PROGRAMS.—Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1), by striking out "For the purpose" and inserting "Subject to subsection (e), for the purpose"; and

(2) by adding at the end thereof the following:

"(e) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) has withdrawn from institutional accreditation voluntarily under a show cause order, suspension order, or other similar order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

SEC. 304. SPECIAL ACCREDITATION RULES.

Section 487(c) of the Act is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by adding after paragraph (2) the following new paragraphs:

"(3) The Secretary is authorized to carry out the provisions of paragraph (1)(D), relating to limitation, suspension, or termination of an eligible institution whenever the institution withdraws from a nationally recognized accrediting agency or association during a show cause or suspension proceeding brought against that institution.

"(4)(A) Whenever a nationally recognized accrediting agency or association reports pursuant to subparagraph (B) that an eligible institution was denied institutional accreditation, the Secretary is authorized to carry out the provisions of paragraph (1)(D) relating to limitation, suspension, or termination of an eligible institution.

"(B) The Secretary is authorized to enter into such arrangements with accrediting agencies and associations as may be necessary to assure notice of the denial of institutional accreditation in order to carry out subparagraph (A).".

SEC. 305. ELIGIBLE INSTITUTION ACCREDITATION RULE.

Section 481(a) of the Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) Whenever the Secretary determines accreditation for the purpose of paragraph (1), the Secretary shall not approve the accreditation of any eligible institution of higher education under this section if the eligible institution of higher education is in the process of receiving new institutional accreditation by a national or regional accreditation agency unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including the reasons, if applicable, for changing the accrediting agency or association.".

SEC. 306. TOLL-FREE CONSUMER HOTLINE.

Section 485 of the Act is amended by adding at the end thereof the following new paragraph:

"(e) Toll-Free Consumer Hotline.—(1) In addition to the toll-free telephone information provided for in section 483, the Secretary shall contract for, or establish, and publicize a toll-free telephone number for use by the public, in order to permit students who allege fraud or unfair practices by eligible institutions to inform the Department of such fraud or unfair practices.

"(2) The Secretary shall, directly or by way of contract or other arrangement, make the toll-free telephone number, and the availability of the consumer hotline established by this subsection, generally available to students receiving financial assistance under this title.".

SEC. 307. NATIONAL STUDENT LOAN DATA SYSTEM.

(a) Data System Required.—(1) Section 485B(a) of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

(2) Section 485B(a) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall assure that the computerized student loan data system required by this subsection is operational not later than October 1, 1989.".

(b) Improved Information.—Section 485B of the Act is amended—

(1) by redesignating subsection (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) Improved Information.—(1) Each guaranty agency shall furnish the Department of Education with information on the amount of each loan made, insured, or guaranteed under this part for which the agency provides a guarantee and other relevant data with respect to such loan. The information furnished under this paragraph shall be used in the National Student Loan Data System established under this section.

"(2) Each guaranty agency shall expand and standardize the confirmation reports required to be submitted on the date of enactment of the Stafford Student Loan Default Prevention and Management Act of 1988 in order to assure that such information is provided at least quarterly on student loan delinquencies, defaults, and the change in the status of a borrower whose loan is delinquent or in default.

"(3) Each guaranty agency shall provide the Secretary with complete and accurate data on a quarterly basis in order to facilitate the usefulness of the National Student Loan Data System under this section.".

SEC. 308. TUITION REFUNDS.

(a) Refund Rule.—Section 487(c)(2)(B)(i) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may require such eligible institutions to make refunds in accordance with division (iii).".

(b) Refund Procedures.—Section 487(c)(2)(B) of the Act is amended by adding the following new division after division (ii):

"(iii) When the Secretary determines there has been a violation, failure, or misrepresentation pursuant to division (i), the Secretary may require the institution to refund the student's tuition and fees. The Secretary shall establish procedures for refunding the tuition and fees. Such procedures shall—

"(I) first require the payment by the institution to the United States Government of any portion of the tuition and fees paid with Federal funds received under this title (other than funds under subpart 3 of part A and part B of this title); and

"(II) then require payment by the institution to the lender of that portion of the tuition and fees attributable to a loan made, issued, or guaranteed under part B of this title.".

(c) Effective Date.—The amendments made by this section shall take effect 60 days after the date of enactment of this Act.

TITLE IV—AMENDMENTS TO THE NEEDS ANALYSIS PROVISIONS

SEC. 401. DEFINITION OF INDEPENDENT STUDENT.

Section 480(d) of the Act is amended to read as follows:

"(d) Independent Student.—The term 'independent', when used with respect to a student, means any individual who—

"(1) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(2) is an orphan or is or has been a ward of the court;

"(3) is a veteran of the Armed Forces of the United States;

"(4) is a graduate or professional student and will not be claimed by his or her parents (or guardian) for income tax purposes for the award year;

"(5) is married or has legal dependents;

"(6) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the first calendar year of the award year, and who either was awarded assistance under this title as an independent student in the prior year, or demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000; or

"(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.".

SEC. 402. MODIFICATION TO COMPUTATION OF CONTRIBUTIONS.

(a) Pell Grant Needs Analysis.—(1) Section 411B(b)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meets the requirements of section 484(a)(1)".

(2) Section 411C(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

(3) Section 411D(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

(b) General Needs Analysis.—(1) Section 475(b)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meets the requirements of section 484(a)(1)".

(2) Section 477(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

SEC. 403. STUDENT CONTRIBUTION MODIFICATION.

Section 475(g)(1)(C) of the Act is amended by striking out "70 percent" and inserting in lieu thereof "not less than 50 percent".

SEC. 404. PREVENTION OF DOUBLE COUNTING OF INCOME IN ASSET COMPUTATIONS.

(a) Pell Grant Program.—Section 411F(2) of the Higher Education Act of 1965 is amended by adding at the end thereof the following: "No cash on hand or other property (or interest therein) of a dependent student shall be treated as an asset of the student (or spouse) for purposes of section 411B(l) except to the extent that such cash or property exceeds the amount the student is required to contribute from discretionary income under section 411B(f).".

(b) Other Student Assistance Programs.—Section 480(g) of such Act is amended by adding at the end thereof the following: "No cash on hand or other property (or interest therein) of a dependent shall be treated as an asset of the student (or spouse) for purposes of section 475(h) except to the extent that such cash or property exceeds the amount the student is required to contribute from available income under section 475(g).".

SEC. 405. NEEDS ANALYSIS FINANCIAL AID ADMINISTRATOR ADJUSTMENTS.

(a) In General.—(1) Section 479A(a) of the Act is amended to read as follows:

"Sec. 479A. (a) In General.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants

in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.".

(2) The provision of the second proviso under the heading "Student Financial Assistance" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1989, is repealed.

(b) Special Rule.—Section 479A of the Act is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) Special Adjustments.—

"(1) Adjustments for independent students with dependents.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if the administrator determines that the cost of attendance in section 472 should include costs of food and shelter for dependent care when the total income for independent students with dependents is less than the Standard Maintenance Allowance under section 477(b)(4).

"(2) Adjustment for dislocated worker.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, in the case of dislocated workers—

"(A) the administrator uses the income for the year in which the determination is made (the award year) rather than the income reported in the preceding tax year; and

"(B) the administrator excludes the net value of investments and real estate, including the primary residence in the calculation of the family contribution for the Pell Grant Program and the expected family contribution under part F.

"(3) Adjustment for displaced homemaker.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, for displaced homemakers, the administrator excludes the net value of investments and real estate, including the primary residence, from the calculation of the Pell Grant family contribution and from the expected family contribution under part F.".

(c) Conforming Amendments.—(1) Section 479A(d) of the Act (as amended by subsection (a)) is amended by striking out "subsection (b) is an example" and inserting in lieu thereof "subsections (b) and (c) are examples".

(2)(A) Section 411B(g)(1) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(B) Section 411B(l) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(C) Section 411C(f)(1) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(D) Section 411D(f)(3) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(E)(i) Section 411F(1)(G) of the Act is repealed.

(ii) Section 411F(9)(E) of the Act is repealed.

(F) Section 475(d)(2)(B) of the Act is amended by striking out "except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(G) Section 475(h) of the Act is amended by striking out ", except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(H) Section 476(c)(2)(B) of the Act is amended by striking out "except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(I) Section 477(c)(2)(B) of the Act is amended by striking out "except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

SEC. 406. TREATMENT OF VETERANS BENEFITS.

(a) Pell Grant Needs Analysis.—(1) Section 411B(d)(1)(C) of the Act is amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(2) Section 411C(c)(1)(C) of the Act is amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(3)(A) Section 411D(c)(1)(D) of the Act (as amended by section 403 of this Act) is further amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(B) Section 411D(d)(1)(C) of the Act (as amended by section 403 of this Act) is further amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(b) General Needs Analysis.—(1) Section 475(a) of the Act is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) any veterans' educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code.".

(2) Section 476(b)(1)(D) of the Act is amended by striking out "plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28, United States Code" and inserting in lieu thereof "and any veterans' educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code".

(3) Section 477(a) of the Act is amended—

(A) by inserting "and" at the end of subparagraph (A) of paragraph (1);

(B) by striking out "and" at the end of subparagraph (B) of paragraph (1);

(C) by striking out subparagraph (C) of paragraph (1);

(D) by striking out "and" at the end of paragraph (2);

(E) by adding at the end of paragraph (3) the word "and"; and

(F) by adding at the end thereof the following new paragraph:

"(4) adding any veterans' educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code;".

(c) Conforming Amendment.—Section 428(a)(2)(C)(i) of the Act is amended by striking out "and any amount paid to the student under chapters 32, 34, and 35 of title 38, United States Code" and inserting in lieu thereof "any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code".

SEC. 407. TREATMENT OF NONLIQUID ASSETS.

(a) Pell Grant Needs Analysis.—Section 411F(2) of the Act is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1990-1991 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $30,000, the net value of—

"(i) the family's principal place of residence;

"(ii) a family farm (as that term is defined in regulations prescribed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act) on which the family resides; or

"(iii) a small business (as that term is defined in regulations prescribed by the Administrator of the Small Business Administration pursuant to Small Business Act) substantially owned and managed by a member or members of the family.

The Secretary shall, by regulation, provide criteria for determining whether a small business is substantially owned and managed by a member or members of the family.".

(b) General Need Analysis.—Section 480(g) of the Act is amended—

(1) by inserting "(1)" after "Assets.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1990-1991 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $30,000, the net value of—

"(A) the family's principal place of residence;

"(B) a family farm (as that term is defined in regulations prescribed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act) on which the family resides; or

"(C) a small business (as that term is defined in regulations prescribed by the Administrator of the Small Business Administration pursuant to Small Business Act) substantially owned and managed by a member or members of the family.

The Secretary shall, by regulation, provide criteria for determining whether a small business is substantially owned and managed by a member or members of the family.".

(c) SECRETARY TO RECOMMEND ADJUSTMENTS.—Within 60 days after the date of enactment of this Act, the Secretary of Education shall submit to the Congress such recommendations for changes to parts A and F of title IV of the Higher Education Act of 1965 as may be necessary to achieve an equitable assessment of income and assets after exclusion of the assets described in the amendments made by subsections (a) and (b) of this section. Such changes may include changes in the assets protection allowances, asset conversion rates, and other factors used in the determination of expected family contribution.

TITLE V—OTHER HIGHER EDUCATION AMENDMENTS

SEC. 501. PELL GRANT PROGRAM AMENDMENT.

Section 411(c)(1)(A) of the Act (20 U.S.C. 1070a(c)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) the number of academic years (or portion of an academic year) that the undergraduate degree or certificate program normally requires, plus one academic year; or

"(ii) 6 academic years in the case of a undergraduate degree or certificate program normally requiring more than 4 academic years;".

SEC. 502. SUBSIDIZED EMPLOYMENT MODIFICATION UNDER WORK-STUDY.

Section 443(b)(4) of the Act is amended to read as follows:

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;".

SEC. 503. STUDENT LOAN INTERNSHIP DEFERMENTS.

(a) FISL PROGRAM.—Section 427(a)(2)(C)(vii) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility, except that no borrower shall be eligible for a deferment under clause (i)(I) or (i)(II) while serving in a health profession internship or residency program;".

(b) STAFFORD LOAN PROGRAM.—Section 428(b)(1)(M)(vii) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility, provided that no borrower shall be eligible for a deferment under clause (i)(I) or (i)(II) while serving in a health profession internship or residency program;".

(c) DIRECT STUDENT LOAN PROGRAM.—Section 464(c)(2)(A)(vi) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility, provided that no borrower shall be eligible for a deferment under clause (i) while serving in a health profession internship or residency program;".

SEC. 504. STUDENT LOAN MARKETING ASSOCIATION AMENDMENTS.

(a) DIRECTORS.—Section 439(c) of the Act is amended to read as follows:

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Association shall have a Board of Directors which shall consist of 19 persons, 4 of whom shall be appointed by the President of the United States. The remaining 15 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1989—

"(A) 5 of the elected directors shall be affiliated with an eligible institution,

"(B) 5 of the elected directors shall be affiliated with an eligible lender, and

"(C) 5 of the elected directors shall not be affiliated with an eligible lender or eligible institution but shall have substantial experience in the management of an institution of higher education or of private sector corporations the shares of which are listed on a national securities exchange.

The Board of Directors shall elect one of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with an eligible institution' or a director 'affiliated with an eligible lender' means an individual who is, or within 5 years of election to the Board of Directors has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender, as the case may be;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders, as the case may be; or

"(C) a State agency, authority, instrumentality, commission or similar institution the primary purpose of which relates to educational matters or banking matters, as the case may be.

"(4) MEETINGS AND FUNCTIONS OF BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.".

(b) STOCK.—Section 439(f) of the Act is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all election of Directors.";

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by adding after paragraph (4) (as redesignated by this subsection) the following new paragraph:

"(5) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Student Loan Marketing Association Amendments of 1988, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.".

(c) SHORT TITLE.—This section may be cited as the "Student Loan Marketing Association Amendments of 1988".

SEC. 505. FORMS AND REGULATIONS.

(a) COMMON FINANCIAL REPORTING FORM.—(1) Section 483(a)(1) of the Act is amended by inserting after the first sentence the following new sentences: "The common form shall contain the minimum data elements the Secretary determines is necessary to determine the need and eligibility of the student for financial assistance. There shall be no charge to a student for completing and processing the common form. Other data may be collected and used by approved processors in other parts of the form developed by such processors.".

(2)(A) The first sentence of section 483(a)(2) of the Act is amended by striking ", to the extent practicable,".

(B) The second sentence of section 483(a)(2) of the Act is amended to read as follows: "The Secretary shall select such qualified processors pursuant to competitive bidding processes.".

(C) Section 483(a)(2) of the Act is further amended—

(i) by inserting "(A)" after the paragraph designation; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) In establishing the minimum participation criteria for the competitive bidding process the Secretary shall establish participation requirements that are fair and equi-

table, and that foster competition in bidding in order to obtain maximum savings for students and for the Department. No processors shall be denied eligibility to compete for a contract because the processor is not a State student financial aid agency or does not service at least two State financial aid agencies.".

(3) Section 483(a)(3) of the Act is amended by striking out "predetermined rate" and inserting in lieu thereof "competitively determined rate".

(4) Section 483(a)(3) of the Act is further amended by adding at the end thereof the following new sentence: "No contractor may be reimbursed for the development costs of an alternative form.".

(b) Notice of Federal Student Aid.—Section 483(f) of the Act is amended to read as follows:

"(f) Notice of Federal Student Aid Receipt.—Each eligible institution shall provide to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) a statement listing the estimated student assistance received by the recipient, and specifying the estimated amount and type of assistance awarded under this title and specifically indicating that such aid is federally supported assistance.".

SEC. 506. REALLOCATION OF RETURNED SEOG FUNDS TO INSTITUTIONS LOCATED IN NATURAL DISASTER AREAS.

Section 413D(e) of the Act is amended by adding at the end thereof the following: "In making such reallocation, the Secretary shall give special consideration to institutions located in areas which are designated to receive assistance because of the occurrence of a major natural disaster.".

SEC. 507. LENDER OF LAST RESORT.

Section 428(j) of the Act is amended by adding at the end thereof the following: "Each State guaranty agency shall ensure that there is a lender of last resort in its State. The lender of last resort shall process loan applications of students enrolled in an eligible institution within 30 days after such application has been filed. The lender of last resort shall make loans to any eligible applicant attending an eligible institution.".

SEC. 508. PERKINS LOAN PROGRAM AMENDMENT.

Section 462(c)(3) of the Act is amended—

(1) by redesignating clause (B) and (C) as clause (C) and (D); and

(2) by inserting after clause (A) the following new clause:

"(B) 75 percent of the cash on hand at the institution under the program authorized by this part for the second year proceeding the beginning of the award period;".

SEC. 509. PEACE CORPS, VISTA, AND TAX-EXEMPT ORGANIZATION SERVICE ENCOURAGED.

(a) Information for Students.—Section 485(a)(1) of the Act is amended

(1) by striking "and" at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon; and

(3) by inserting at the end the following new subparagraphs:

"(L) the terms and conditions under which the student may defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act or for comparable full-time service as a volunteer for a tax-exempt organization; and

"(M) the terms and conditions under which the student may obtain partial cancellation of the student loan for service under the Peace Corps Act and Domestic volunteer Service Act.".

(b) Exist Counseling for Borrowers.—Section 485(b) of the Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (2):

"(3) the terms and conditions under which the student may defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act or for comparable full-time service as a volunteer for a tax-exempt organization.".

(c) Department Information on Deferments and Cancellations.—Section 485(d) of the Act is amended by inserting the following before the last full sentence: "The Secretary shall provide information on the specific terms and conditions under which students may defer repayment of loans for service under the Peace Corps Act and Domestic Volunteer Service Act or for comparable full-time service as a volunteer with a tax-exempt organization, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances which a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such deferments when they serve as a paid employee of a tax-exempt organization.".

SEC. 510. DATA ON DEFERMENTS AND CANCELLATIONS.

Section 485B(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (4):

"(5) the exact amount of loans in deferment for service under the Peace Corps Act, for service under the Domestic Volunteer Service Act, and for comparable full-time service as a volunteer for a tax-exempt organization.".

SEC. 511. SPECIAL GRANTS TO CONSORTIA FOR THE BENEFIT OF HISTORICALLY BLACK COLLEGES.

(a) Program Authorized.—Part B of title IX of the Act is amended by adding at the end thereof the following new section:

"SPECIAL GRANTS TO CONSORTIA FOR THE BENEFIT OF HISTORICALLY BLACK COLLEGES

"Sec. 924. (a) Grants Authorized.—The Secretary may make grants to consortia of institutions of higher education which include historically Black colleges to pay the Federal share of the cost of programs designed to enable such institutions to provide supplemental need based financial aid to students and faculty from historically Black colleges who are pursuing doctoral studies.

"(b) Program Requirements.—(1) The provisions of this part, unless, otherwise inconsistent with the provisions of this section, shall apply to grants made under this section.

"(2) The Federal share of each fiscal year shall be 66⅔ percent.".

(b) Authorizations of Appropriations.—Section 971(b) of the Act is amended—

(1) by inserting "(1)" before "There";

(2) by inserting "(other than section 924)" after "part B"; and

(3) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated to carry out section 924 of part B such sums as may be necessary for the fiscal year 1989 and for the 2 succeeding fiscal years."

SEC. 512. AUDIT PROVISION.

Section 460 of the General Education Provisions Act is amended by striking out "programs authorized by the Higher Education Act of 1965 and".

TITLE VI—EFFECTIVE DATES

SEC. 601. EFFECTIVE DATE RULE.

(a) General Rule.—Except as otherwise provided, the amendments made by the Act shall be effective with respect to any determination of need made under title IV of the Higher Education Act of 1965 for any period of enrollment beginning 60 days after the date of enactment of this Act.

(b) Special Rule.—(1) The amendments made by title I and sections 405, 504, and 505 shall take effect on the date of enactment of this Act.

(2) The amendments made by title IV (other than sections 405 and 406) and sections 501 and 502 shall take effect for award year 1990-1991 and thereafter.

(3) The amendments made by section 406 shall take effect for award year 1991-1992 and thereafter.

Mr. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENDANGERED SPECIES ACT AMENDMENTS—CONFERENCE REPORT

Mr. BYRD. Madam President, I submit a report of the committee of conference on H.R. 1467 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. MITCHELL. Madam President, today I bring before the Senate the conference report on legislation to renew and refine the Endangered Species Act for the first time in 6 years.

This agreement makes only minor changes in the legislation passed overwhelmingly by the Senate at the end of July.

It also includes important new provisions, which the House had approved in a separate bill, to improve the conservation of the threatened African elephant.

The conference report effectively addresses many of the most serious challenges that we face in fulfulling our commitment to protect plant and animal species that are on the brink of extinction.

Of the more than 400 U.S. species that have been listed as threatened or endangered to date, just 4 have rebuilt their numbers sufficiently to be removed from the lists. Only another 16, or about 4 percent of all listed U.S. species, are thought to be recovering.

This agreement will speed the restoration and delisting of more species.

From fiscal year 1982 through fiscal year 1986, 5 percent of the listed U.S. species, mostly birds and mammals, received about 45 percent of the available funding for recovery.

Little or no money was expended for recovery of listed insects, mollusks, crustaceans and plants.

This agreement will ensure that we allocate our resources on the basis of biological information, with priority given to those species that are most likely to benefit from such support and that may be in greatest conflict with development activities.

The amount of Federal matching grants to States for recovery efforts under the act is roughly the same as it was in 1977. Yet, there are four times as many cooperative Federal-State agreements eligible for support today as there were in 1977 and twice as many species in need of assistance.

The current Federal contribution to cooperative recovery projects with the States is so small that fully two-thirds of all U.S. species protected under the act receive not a cent of benefit from it.

This agreement will make it possible to provide States with the kind of adequate, long-term support needed to recover the increasing number of threatened and endangered species.

Existing penalties and fines under the act have not been changed since 1973 despite an increase in the cost of living over that period of approximately 150 percent.

This agreement will improve protection and recovery of imperiled species by increasing the maximum fines and penalties for violations of the act and by allowing some of these proceeds to be used for Federal-State restoration efforts.

The continued existence of many endangered plants is at risk from vandals and unscrupulous collectors because little protection is provided to these species on Federal holdings and none is afforded to them on other lands.

This agreement increases protection of endangered plants by prohibiting malicious damage of these species on Federal lands and by barring collection or destruction of plants on other lands if it is a knowing violation of State law or if it is done in the course of any violation of a State criminal trespass law.

There are approximately 950 species that currently are not protected under the act but that are in danger of becoming extinct.

At the present level of resources it may take approximately 20 years to preserve these candidate species by formally including them on the Endangered Species Act lists.

In the past 3 years several candidate species have gone extinct before listing was completed; others have undergone substantial declines before they were protected.

This agreement will prevent such risk to species awaiting listing by requiring creation of an effective system to monitor their status and emergency action to ensure their well-being.

The number of species protected under the act and, consequently, the number of required consultations and recovery activities is increasing by about 10 percent per year. Yet the amount of funds appropriated to meet these increased responsibilities will have increased a total of only 4 percent since fiscal year 1981.

This agreement will ensure that we maintain our efforts to protect endangered species by authorizing increased spending through fiscal year 1992 to offset the debilitating effects of inflation since 1982 and the expected rise in the cost of living in the years ahead.

Senators will want to know that the conference report also contains, with only minor changes, the amendments adopted by the Senate concerning:

The EPA program to prevent harm to endangered or threatened species from pesticides;

The delay of regulations requiring shrimp fishermen to protect endangered and threatened sea turtles by using turtle excluder devices and the related National Academy of Sciences study; and

Public review and comment on recovery plans and accounting of Federal and State endangered species expenditures.

Finally, the conference agreement adds an important new title, which was passed by the House as separate legislation, to improve international conservation of the threatened African elephant.

These provisions authorize funding of elephant conservation projects; require the Secretary of the Interior to review the efficacy of efforts by African nations to manage and conserve elephants; and require the Secretary to place a moratorium on the importation of ivory from any nation that does not have an effective program and from any country that imports from such an African nation.

David Attenborough, the noted British zoologist and host of the PBS series "The Living Planet" testified before Congress that:

> What the United States, the world leader of conservation does, is carefully watched and duplicated by many other nations as best they can.

The plight of the African elephant is a compelling call for the leadership that will be provided by this agreement.

The conference report's improvements in programs for endangered wildlife and plants continue more than 20 years of commitment to the protection of these species and their habitat by the Congress and the American public.

Our dedication to this task is more important today than ever before.

Extinctions of species are going forward at an accelerating pace. Estimates are that by the end of the century, a million species will have been permanently eliminated.

Extinction is irrevocable. Nothing we can do, no computer, no mechanical ingenuity can ever duplicate even a single one of the lowest forms of life that are being wiped from the face of the Earth. We are losing forever the priceless genetic heritage of our world.

Prof. Edmund Wilson, of Harvard, says that the one truly catastrophic event of these decades is the loss of genetic and species diversity. "This," he testified, "is the folly our descendants are least likely to forgive us."

He is right.

It is not merely folly, it is an unforgivable dereliction of our duty to the Earth's inhabitants and to our descendants. "It is worth remembering that a butterfly is far more complicated than any machine ever constructed by man," the professor said. And he was right.

Extinction is irreversible. Once diminished by the loss of a natural species, our Earth shrinks. Its future is narrowed. And humanity itself is diminished.

Many practical persons, who believe that our moral duty is only to our own species, question the wisdom of our commitment to the goals of the Endangered Species Act.

They insist that human needs, human comfort and human development can and should take precedence over esoteric plants with unpronounceable names that few people have ever seen or heard of.

To those practical persons, I can only answer that mankind is part of the natural order of the world.

The chemicals contained in plants heal the bodily ailments of human beings.

It is estimated that the active ingredients of fully 40 percent of all medical prescriptions written in our Nation are derived from plants.

A small plant from Madagascar is now known to produce one of the best cancer treatments we have.

A wildflower yields chemicals to lubricate jet engines.

The common and indispensable aspirin itself owes its active ingredient to the willow.

And the miracle drug of the Second World War, that saved so many lives then and ever since, penicillin, is derived from a mold, a lowly member of the plant kingdom.

Who can measure the human pain eased and the human benefits gained from these plant derivatives? And who can predict, today, which of the obscure plants and insects being decimated yearly may hold the genetic key to the next medical miracle?

Each of us is on this Earth for a relatively short time. In that time, we are stewards, holding the Earth's natural resources in trust for future generations.

For that reason, I hope that Congress will act quickly to adopt the conference report, and I trust that the President will not delay in signing the measure into law.

Before closing, I want to make sure that I take this opportunity to thank the chairman of the Environment and Public Works Committee, Senator BURDICK. Without his efforts, the achievements of this agreement would not have been possible.

As always, Senators STAFFORD and CHAFEE were instrumental in developing the conference report and bringing it to fruition, and I thank them, especially my distinguished colleague from Rhode Island, Senator CHAFEE, who, as always, has taken the lead on this and other important environmental issues.

Additionally, I want to thank Senator BENTSEN, the chairman of the Finance Committee, for the valuable role he played in agreeing to inclusion of the African elephant conservation provisions in the report. And Senator HEFLIN for his very constructive role in resolving the problem of the conflict between shrimp fishing and turtle preservation.

And finally, I express my sincere appreciation to Representative JONES, the chairman of the conference, and to Representatives STUDDS, DAVIS and YOUNG for their cooperation in reaching the agreement before us today.

Mr. CHAFEE. Madam President, I thank the chairman of our subcommittee of the Environment and Public Works Committee, Senator MITCHELL, for the splendid leadership that he gave on this matter and of course a host of other matters that he deals with as chairman of the Environmental Protection Subcommittee of the Environment Committee.

Senator MITCHELL is a giant in all of these areas, and I think not only those of us here in the Senate but across the Nation owe Senator MITCHELL a deep debt of gratitude for the terrific job he does in all of these environmental concerns.

Madam President, as Senator MITCHELL mentioned, this bill that we bring to you today on the conference report is basically the bill that we passed in the Senate in July with one major exception. And that major exception is the addition of the House-passed title on elephants.

So since we discussed the other provisions of the legislation in July, and Senator MITCHELL has touched on them here today, I thought I would briefly discuss what we have done in connection with the protection of the elephants. But before doing that, I would mention that this overall endangered species legislation is really extraordinary. And it started in the early seventies, and thank goodness we have it on our books today. It is not perfect. But each year or each authorization, and as the distinguished chairman, the manager of the bill, mentioned we have not reauthorized this now for some 6 years. But we have brought out a bill that is stronger than the previous legislation. So each year we are able to move forward.

What have we done here? Well, we have added a new requirement for the monitoring of the species that are awaiting listing as either threatened or endangered. We increase the laws protection of plants by making it a crime to destroy or to remove endangered plants from Federal or private property.

Third, we impose civil and criminal penalties for violators of the act. These are increased. A new program is added to monitor species that have recovered and have been removed from the list of endangered or threatened species.

Let me just briefly talk about the African elephant conservation portions of this bill. In Africa, 10 years ago there were 1.5 million elephants. Now, 10 years later, there are not a million and a half elephants. There are 750,000. Seven hundred fifty thousand is still a lot of elephants. But when you think that this herd has been cut from a million and a half to 750,000 exactly by 50 percent, and unless something is done, that drastic decline is going to continue.

This bill came from the House. We would have passed it here but because of procedural reasons it originated in the House, and we adopted their version.

I would like to pay tribute to Congressman TONY BEILENSON who has been a champion of the elephant cause, and Congressman GERRY STUDDS who led the effort in getting this approved on August 8.

That bill—that is, the elephant portion—was unanimously supported by a bipartisan group of environmentalists, wildlife conservations, and hunters. Hunters sometimes are unfairly tarnished. But it is the hunters who were deeply concerned about many conservation activities and particularly with the preservation of the African elephant.

All of them believe that there is an essential step which may be our only chance to preserve that magnificent species, the African elephant.

So their interest in this area laid the groundwork for action by the Endangered Species Act conferees, and I am proud to present this bill for Senate approval today.

The thesis is that all of us all over the world—but we are talking about the United States where, of course, we have no elephants—have to join in Africa's efforts to save the elephant.

Why is this decline occurring? Is it habitat? No. They are being shot and destroyed because of the ivory. Hunting elephants for ivory is a centuries-old business.

In recent years, however, the slaughter of the elephant has accelerated. It can be traced directly to the price of ivory which now stands at approximately $150 a pound. In countries where the annual per capita income is sometimes in the neighborhood of $200, $300, or $400 a year, you can understand why in rural Africa so many natives have flocked to the profitable and illegal poaching of elephants.

As a major importer of ivory the United States must take a lead in developing a solution to this decline in the African elephant. Our Fish and Wildlife Service in the United States has already pledged its support for a national effort that will raise up to $4 million in this Nation for African elephant conservation. But more needs to be done.

As a federally designated threatened species—we in this country have designated the African elephant as a threatened species, and it is so listed under the United Nations Convention on International Trade in Endangered Species, the so-called CITES agreement—African elephants and their products, namely the ivory, can lawfully be traded under certain conditions. Additional controls are needed.

The African land mass is so great that it is impossible to police the area and directly protect the threatened elephant population. We just do not have the manpower to cover all of Africa to protect these elephants from the poaching. But we can deal with the laws of supply and demand, namely the demand.

As a substitute, we must monitor trade in elephant products more closely. The protection of African elephants is not just an African concern. It is a global concern. So this act was crafted to prohibit the importation into the United States of ivory that originates from the so-called elephant-poaching nations.

There are certain nations over there in Africa that are doing a good job. There are certain nations that are not. I am talking in connection with the preservation of the elephant, and policing the prohibitions against poaching.

The legislation would ban the importation of ivory from countries that do not have adequate programs as determined by our Secretary of the Interior. In addition, the conservation act that we are addressing takes care of one of the most serious cases of elephant decline by banning the importation of ivory from intermediate area countries unless those countries can certify that the ivory was derived from legal sources.

What happens is ivory comes in from countries that do not have any elephants at all. And what we have done is set up a tracking system, and if they cannot certify that the ivory came from a country where it is legal to trade in it, and it is approved, then the importation is illegal in this Nation.

It calls for the establishment of an African elephant conservation fund which will authorize financial support for African countries to assist them in managing their elephant populations, and eliminating poaching.

This legislation represents a balanced approach to the elephant decline. The focus is not on sanctions. It is on incentives. It in no way prohibits the continued importation of ivory from nations that are effectively protecting their elephant populations. Rather, the legislation underscores the problems of the herd decline, and establishes a program for African-American cooperation which is really the way to do it. We do not want to be big brother telling them what to do incurring their resentment. We want to be helpful to them in what they have set out to do.

So there it is, Madam President. I think it is a magnificent step forward. We will monitor this as we go along in the years to come, and see how it works. Maybe we should take stiffer measures. But this is an excellent step forward.

Mr. BURDICK. Madam President, the conference report on amendments to the Endangered Species Act will improve the way the act works and authorize appropriations to carry it out through 1992.

The agreement makes only minor changes to the Senate bill and retains the Senate provision concerning the EPA program to protect endangered species by restricting pesticide use in 910 U.S. counties.

The conference report also includes important provisions passed by the House in separate legislation to improve conservation of the threatened African elephant.

The agreement continues our efforts over the past two decades to conserve endangered and threatened species and to be flexible in our approach to protecting these animals and plants.

Our efforts to require consideration of alternative ways to protect species have prevented harm to plants and animals near extinction without interfering with other important activities.

The conference agreement continues this successful approach by requiring the EPA to look at ways of protecting endangered species without interfering with agricultural food and fiber commodity production.

The report recognizes that protection of endangered species is important but also that agriculture is a major part of our economy and provides sustenance for our population and exports for abroad.

The agreement requires the EPA Administrator to work jointly with the Interior and Agriculture Secretaries to administer the Endangered Species Act with sensitivity to the needs of American agriculture.

The conference report requires these agencies to conduct an educational program and provide the public with adequate notice and opportunity for comment on any proposed program to restrict pesticide use.

The EPA and the Agriculture and Interior Departments also are directed to conduct a study to identify alternatives that would protect endangered species and minimize any adverse effects to agriculture.

It is the responsibility of the EPA, prior to any action limiting the use of pesticides in a given area, to demonstrate a negative relationship between their use and their effect on endangered species.

The study should examine the best methods of developing any maps, consider alternatives to mapping, and consider alternative pesticides and application methods and agricultural practices.

The study also should generate data to identify the routes by which threatened and endangered species may be exposed to pesticides under consideration for restrictions.

The conferees recognized that in several States the State agricultural departments have begun to develop State-initiated plans to respond to the impact of pesticides on endangered species.

The conferees commended the initiatives of these States and expect the EPA to keep working with State-initiated coalitions, such as the one that exists in Florida.

Finally, I want to thank Senator MITCHELL for his leadership in developing and, more importantly, completing one of the most important pieces of environmental legislation in this Congress.

I also want to acknowledge the contributions of the committee's ranking member, Senator STAFFORD, and his counterpart on the Environment Protection Subcommittee, Senator CHAFEE.

I extend my thanks as well to Representatives JONES, STUDDS, DAVIS, and YOUNG for their cooperation in reaching this agreement, and I urge support for its important improvements in the Endangered Species Act.

Mr. HEFLIN. Madam President, for many months now I have been working with my colleagues to resolve the controversy over sea turtle protection and shrimp fishing. I have endeavored to find a solution which is in the best interest of the turtle's long-term protection and in the best interest of those fishermen being asked to bear the responsibility for protecting the turtles. I believe that the provision of the endangered species reauthorization legislation regarding this issue will help us resolve this controversy.

The centerpiece of this provision is the request for an independent review of some of the most controversial issues surrounding proposed protection measures for the Kemp's ridley sea turtle. Before the Government imposes the burden of turtle excluder devices [TED's] on the shrimp fishermen of our country, I believe that this study must be conducted to see, among other things, if the Kemp's ridley sea turtle is indeed endangered and if these regulations are more or less stringent than is necessary or advisable to provide for turtle conservation. To allow time for this study to be completed by the National Academy of Sciences, this legislation will postpone the mandatory implementation of TED's until May 1, 1990, in the case of inshore waters, and until May 1, 1989, in the case of offshore waters. If the study is not completed, the Secretary of Commerce has the authority to modify the regulations promulgated on June 29, 1987, in whole or in part as he deems advisable. Thus, he has the authority under the language of the bill to modify the regulations to the extent of further postponement.

As I mentioned before, the independent review of scientific information pertaining to the conservation of sea turtles will be conducted by the National Academy of Sciences. The bill stipulates that employees of the Federal Government be prohibited from participating in the study; however, the participation of State government employees will be permitted. This distinction between Federal and State government employees is noted only for the purpose of permitting employees of State universities to take part in the study. This provision is not intended to allow employees of the

State government, other than employees of State universities, to involve themselves in this study.

The information gained from this study will be vitally important to the future protection of threatened and endangered sea turtles, particularly the Kemp's ridley sea turtle. Unfortunately, our scientific knowledge of sea turtles, particularly the Kemp's ridley sea turtle, is very limited. In fact, there has been no real tabulation of the total worldwide population of the Kemp's ridley and our knowledge of this turtle's peculiar breeding and migratory habits remain minimal. This study is intended to gather information on the status, size, age structure and, where possible, sex structure of each of the relevant species of sea turtles. By gathering these statistics, we will be able to determine, among other things, if these sea turtles are in fact threatened or endangered. If the Secretary determines that one or more of the relevant species of sea turtles is not endangered, then he should so rule and should modify the TED regulations accordingly. Nothing in this legislation prohibits the Secretary from taking such action.

This legislation specifies that information regarding the distribution and concentration of sea turtles should be gathered in terms of U.S. geographic zones. Madam President, the area affected by the TED regulations, the South Atlantic and the U.S. Gulf of Mexico, is a large one. It may well be that the imposition of one set of regulations throughout this entire area is not necessary. In fact, I have been informed by many shrimp fishermen that TED's work better where the ocean floor is level such as on the Atlantic coast while they fail to function properly where the ocean floor contains hills and valleys such as in the Gulf of Mexico. In such a case, it may be that different types of TED's are needed in different areas of water and under this legislation, the Secretary would have the authority to modify the TED regulations accordingly. Or if, for example, the study should find that turtle deaths do not occur from the north Florida coast to the Louisiana coast, then the Secretary would have the authority to exempt this area from the TED regulations. For a variety of reasons such as those explained above, the gathering of information in terms of U.S. geographical zones will be helpful in protecting the turtle in an efficient and equitable manner.

Another primary feature of this study is to further our knowledge of activities which have an adverse effect on sea turtle populations. In particular, this study will examine activities which occur in the waters and on the shores of Mexico and other nations. This provision is particularly important because the rapid depletion of some species of sea turtles, such as the Kemp's ridley, is due to the exploitation of turtle eggs by people outside of the United States. In the case of the Kemp's ridley sea turtle, the Mexicans have been largely responsible for the turtle population depletion. In 1947, an estimated 42,000 Kemp's ridley females came ashore on the beaches near Rancho Nuevo to nest. Unfortunately, the Kemp's ridley nesting beach near Rancho Nuevo was discovered by the scientific world long after the Mexicans began to gather and sell the eggs which are considered a delicacy in Mexico. By 1963, the number of nesting females had declined to a mere 5,000. As a result, the commercial trade of turtle eggs was prohibited in that year and in 1966, Mexico began to patrol their beaches during the nesting season. However, it was not until 1977 that Mexico allowed the United States to assist in the effort to reverse the turtle population decline.

Activities of this type which are intentionally destructive to the sea turtle population must be identified in order that we can try to control them in a more effective manner. Therefore, this legislation instructs the National Academy of Sciences to identify the distribution and concentration of each of the relevant species of sea turtles in Mexico and other nations during the developmental, migratory and reproductive phases of their lives. The study will also contain a description of the measures taken by Mexico and other nations to conserve each of the relevant species of sea turtles in their waters and on their shores, along with a description of the efforts to enforce these measures and an assessment of the success of these measures.

While I recognize and appreciate the leading role which the United States has historically taken in protecting endangered species and while I do not suggest that we abandon this role. I do believe that the U.S. Government has a responsibility to ensure that other countries are doing everything in their power to protect the endangered species of the world. This study will assist us in evaluating the efforts of other countries with respect to endangered species protection.

The scientists conducting the study are also asked to identify all major causes of mortality, in the waters and on the shores of the United States, Mexico and other nations and to estimate the magnitude and significance of each of the identified causes of turtle mortality. Madam President, according to estimates by the National Marine Fisheries Service, 767 Kemp's ridley sea turtles die each year as a result of shrimp trawling in the South Atlantic and the U.S. Gulf of Mexico. Personally, after meeting with hundreds of shrimp fishermen who have never caught, much less killed, a sea turtle in their nets, I doubt if these figures are correct. But even if they are, you must consider that an estimated 70,000 to 90,000 Kemp's ridley sea turtles are hatched each year in Rancho Nuevo, Mexico. In other words, even if shrimpers are responsible for 767 turtle deaths, that only amounts to about 1 percent of the turtles born each year. The determination of the relative impact of major causes of turtle mortality is a basic, yet important, piece of information which must be obtained in order to preserve the turtle population in a manner which is not unnecessarily restrictive to other interests.

The fact that the shrimpers account for only 1 percent of the deaths of the Kemp's ridley sea turtle should certainly be taken into account when fashioning remedies. Certainly the Secretary has the discretion to use a variety of remedial actions to prevent an industry such as the shrimping industry from suffering devastating financial losses.

As you can see, we need to gather a great deal of information on the Kemp's ridley turtle. This legislation states that the National Academy of Sciences shall give first priority to the completion of the study as it pertains to the Kemp's ridley sea turtle and shall then continue the study as expeditiously as possible with respect to the other relevant species of sea turtles.

The study also requires that the Secretary review the status of each of the relevant species of sea turtles after the receipt of any portion of the independent review from the panel. Once the Secretary has received any portion of the panel's report, he shall submit the same, along with his recommendations, to the Senate Committee on Environment and Public Works and to the House Committee on Merchant Marine and Fisheries. Before making his recommendations, the Secretary is instructed to take into account, among other things, any written views and information submitted by interested parties. This provision ensures that shrimp fishermen, as well as sea turtle experts not participating in the National Academy of Sciences study, will have an opportunity to submit relevant material to the Secretary. The Secretary is also instructed to take into account the relationship of any more or less stringent measures to reduce the drowning of each of the relevant species of sea turtles in shrimp nets to the overall conservation plan for each such species before making any recommendations.

If the Secretary finds that these regulations are too stringent, he retains the authority to modify them. In the event that TED's or any other devices are imposed upon shrimp fishermen, this legislation requires the Secretary to undertake an educational effort among such fishermen to instruct them in the usage of such devices. This educational effort can be carried out either directly by the Department of Commerce or by contract with competent persons or entities.

The provision requiring the Secretary to make recommendations to congressional committees is not intended to restrict or circumvent the Secretary's current authority and responsibility in matters of sea turtle protection and shrimp fishing. Rather, it is intended that any recommendations made by the Secretary will pertain to actions which he cannot take himself but which he believes should be taken by other agencies or departments or through additional needed legislation. For example, the Secretary might recommend that the Secretary of State pursue treaties or agreements with other countries in order to protect sea turtles. Given the scope of the turtle protection problem, the submission of these recommendations to the congressional committees will play an important role in any effective, long-term turtle protection plan.

Another important feature of this legislation is the language designed to improve coordination among the Federal agencies which share responsibility for protecting endangered sea turtles. This legislation requires that the National Marine Fisheries Service designate a sea turtle coordinator to establish and carry out an effective, long-term sea turtle recovery program.

Madam President, I am convinced that this legislation will provide us with the necessary information to protect threatened and endangered sea turtles in a responsible and effective manner. I believe that this is a good compromise, one which is good for the turtles and one which is good for the shrimpers. I would like to thank all of my colleagues who have helped us to reach this compromise. In particular, I would like to thank my colleague from Maine, Senator MITCHELL, for his untiring efforts to resolve this issue. I would also like to thank Bob Davison of Senator MITCHELL's staff and Elizabeth Gardner of my staff for their superb work as well as for the long hours that they spent working on this issue.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. I move the adoption of the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report? If there is no further debate on the conference report, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Madam President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Madam President, I thank our staffs who have worked on this matter. I know that the distinguished Senator from Maine is going to do this, but I would like to mention Steve Shinberg and the others who have helped on our side, and there are many others.

Mr. MITCHELL. Mr. President, it is traditional to thank staff, and in this case it is genuine and sincere for me to say that this legislation could not have progressed to this point without the skill and dedication of the members of the staff—Steve Shinberg on the minority side and Bob Davison on the majority side. Bob Davison handled this with great skill. I also thank the staff of Senator HEFLIN and the House staff members who contributed significantly to this legislation.

Madam President, if there is no further comment on this matter, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

REMEDIES FOR THE U.S. TEXTILE AND APPAREL INDUSTRIES

The Senate continued with the consideration of the bill.

Mr. ADAMS. Mr. President, during the last few months in this Congress we have made some tremendous strides in the area of trade. We have enacted an omnibus trade bill into law. We even had to go through a veto, change the bill, override a veto, enact an omnibus trade bill into law. That bill will set this country on a path toward a planned strategy for enforcing fair trade and opening markets abroad for U.S. trade.

We have enacted into law a plant-closing bill which will help facilitate and adjust to the realities of international market for our workers. It gives our communities advance notice when their plants are closing.

This one bill can undo much of our work. By congressional fiat it will grant an industry trade relief when that industry has not met the test under our trade laws. It will once again put Congress in the business of implementing an ad hoc trade policy based on special interest concerns, instead of a coordinated one based on economic judgment. It will imperil the new GATT round of negotiations and force retaliation from our trading partners.

I do not reach these conclusions lightly. I have spent a good deal of my life standing up for the workers from America—standing for fairness and compassion when it comes to economic justice. However, the plain truth about this bill is that it is not about those valued ideals. Let's look at the provisions of this bill one by one.

I. MAKES CONGRESS FIND INJURY

We do not have to go much further than the findings and determinations of the bill to identify a serious problem. That section makes a congressional determination that increased imports of textiles, apparel and footwear are causing serious injury to U.S. industry. But the, congressional judgment is not based on a careful, objective review of the facts about this industry, but rather in response to the powerful political lobbying of the U.S. textile and apparel industry.

The truth is that the textile and apparel industries are doing well. They can't support finding of injury. While it is true that the number of jobs has declined in the textile and apparel industry since its peak of 1973, most of this job loss has been due to rising labor productivity rather than imports. In fact, the textile and apparel industry are highly profitable. In a recent New York Times article, 1986 and 1987 are identified as "absolutely the 2 best years in memory in terms of industry profitability and volume." According to International Trade Administration data, 1986 profits for textiles were higher than for all manufacturing—4 percent versus 3.7 percent of net sales and 14.5 percent versus 9.6 percent of equity. Total profits in the textile industry increased from $800 million in 1976 to over $2 billion in 1987. Due to the decline in the value of the dollar and an improved competitive position of the U.S. textile and apparel industry, according to the Bureau of Labor Statistics, employment has actually increased since 1985 in textiles and apparel. Overall unemployment rates have declined in both textiles and apparel since 1982. Plant capacity utilization in the textile industry is currently over 90 percent. Imports of textiles declined by 8.2 percent in the first 5 months of 1988. Imports in apparel declined by 10.5 percent in the first 5 months of this year. So the trend line in imports is down—not up—as this bill would lead us to believe.

If we are going to pass this bill, we should agree to pass a bill for every other manufacturing sector that comes to us with their hat in hand. However, that is no way to implement a trade strategy for this Nation.

II. GLOBAL QUOTA FOR TEXTILE AND APPAREL AND RUBBER FOOTWEAR

The second provision of this bill places a global quota of 1 percent growth per year in textile and apparel imports and a global quota for nonrubber footwear which freezes imports at the 1986 levels. No country is exempt from these quotas in the bill and the quotas are permanent.

These quotas violate several important international trade agreements which will trigger severe retaliation from our trading partners.

The quotas in the bill violate the Multi-Fiber Agreement. Although it is not apparent from the legislation before us, the textile and apparel industries are the most highly protected sectors in the world today. Multinational coordination of this protection dates back to the early 1960's for cotton textile products. In 1971, protection was extended to other products under the Multi-Fiber Arrangement [MFA]. The MFA was renewed and tightened in 1977, 1981, and 1986. The MFA is implemented through a series of bilateral agreements. This bill will cause a collapse of the MFA and of all of those bilateral agreements. Such a violation of these trade agreements will surely result in trade wars against the United States in other areas.

This bill also violates the Canadian Free Trade Agreement. Before the ink is dry on that agreement, the United States will be exhibiting bad faith and inviting the Canadians to do the same. Presently, developed countries such as the United States, Canada, and the European Community have agreed not to impose restrictions on their textile and apparel trade with each other. The Canadian Free Trade Agreement says that no new quotas can be imposed on Canadian exports to the United States unless they are the result of a section 201 petition where there has been a finding by the International Trade Commission that imports from Canada are causing injury. Violating the Canadian agreement is not in our country's interest.

This bill also violates the Israeli Free Trade Agreement. In that agreement, the United States agreed not to place new restrictions on Israeli products unless those restrictions were authorized by the Israeli Agreement or by the GATT. This bill is authorized by neither.

Finally, this bill violates article XIX of the GATT, which deals with emergency action to restrict imports. Article XIX states that before imposing a quota such as the one contained in this bill, we should afford affected exporting countries an opportunity to consult with respect to the proposed action. If we pass this bill, we will violate the GATT at the same time we are trying to negotiate with our trading partners regarding its future.

How then can we justify passage of this bill?

III. QUOTAS TO BE GIVEN TO AGRICULTURAL IMPORTING COUNTRIES

The next provision in this bill would allocate portions of the 1-percent quota increase each year to countries which purchase additional amounts of U.S. agricultural products in that year.

This is a totally unworkable amendment administratively, and counterproductive in application. Even agricultural groups recognize that it has the potential to do them more harm than good. Let me quote from the National Association of Wheat Growers letter dated August 4, 1988:

> S. 2662 could reduce agricultural exports by depriving developing countries of the foreign exchange needed to purchase grain, and in some cases by encouraging trade retaliation of the kind that has occurred as recently as 1983.

I sympathize with the plight of the American farmer. My own State is an agricultural State and we do a lot of agricultural exporting. This provision will not help my agricultural community in Washington State and it will not help farmers anywhere in our country.

V. COMPENSATION FOR TEXT AND APPAREL PROTECTION

The next provision in this bill provides the President authority to enter into trade agreements with foreign countries to grant trade concessions as compensation for the trade protection provided to the textile and apparel industries in this bill. What this means is that we are going to handicap our manufacturing and agriculture sectors in their efforts to compete internationally to justify protection for the textile and apparel industry. Does this really make sense? It does vividly point out that the trade protection in this bill has high costs in terms of U.S. competitiveness in other sectors of our economy.

VI. QUOTA AUCTIONS AS BUDGETARY QUICK FIX

The final provision in this bill which provides for the U.S. Government auction of textile and apparel import licenses to U.S. businesses. This provision demands our careful scrutiny. It is a dangerous and damaging provision which should not be sanctioned by Congress.

Last week, I sought to offer an amendment to delete this section from the Hollings bill. Unfortunately, debate and a Senate vote on the merits of this provision was prevented when a point of order made by Senator HOLLINGS was sustained by the Chair. The fact that we are unable to debate the merits of this quota-auctioning provision is a significant problem with this bill. Let me tell you why.

The only reason quota auctions were added to his bill by its sponsors was because the Congressional Budget Office has found that the quota in the bill is a revenue loser to the tune of $346 million in the first, $451 million in the second, $694 million in the third, $966 million in the fourth, and $1.3 billion in the fifth.

The 1-year provision for quota auctioning contained in this bill is in fact a tax to offset the revenue lost in the first year by this quota. What's worse—even if you support quota auctioning in this context—there is no provision for a continuation of quota auctioning on a permanent basis. This fact in itself will create tremendous uncertainty for many businesses and workers in my State and around the country. There is no sensitivity built into this provision to the U.S. businesses and workers that it will most dramatically affect in the importing, manufacturing, and retailing sector. It's merely designed to get this bill over the problem of this year's budget resolution. Furthermore, it does nothing to deal with the revenue loss in out years.

To deal with that, we are going to have to make a decision to continue a quota auctioning program which makes little sense, or we are going to have to make room in the Federal budget next year and every year after that for the growing revenue loss that will result from the trade protection contained in this bill.

This quota auctioning program will destroy many retail businesses and cost us many U.S. jobs. It will invite panic bidding, profiteering, predatory practices, and speculation. Panic overbidding for auctions by firms trying to stay in business will force consumer prices even higher than the quota levels will in this bill. The larger wealthy firms will expand market share by aggressive auction bidding strategies, driving their competitors out of business. High concentration of retail market shares will be inevitable, thus hurting consumers more over the long run.

Implementing a radical change in the conduct of international textile and apparel trade like auction quotas is not something the U.S. Senate should do unilaterally without careful thought and debate just to avoid a budgetary point of order on the Senate floor. This quota auctioning provision was not in the bill reported "without recommendation" by the Finance Committee. It is not included in the House-passed textile and apparel bill. It is a bureaucratic nightmare to administer. Its costs would substantially outweigh its purported gains. It would violate our international obligations. How can we approve such a provision just to get us by our own budgetary requirement?

VII. CONCLUSION

In this statement, I have tried to outline the reasons I must strongly oppose this bill. I have examined the bill carefully because of the importance passage of this bill has taken on by my good friend from South Carolina, Mr. HOLLINGS, and others. I have not stood in the way of a fair debate on this bill. But, in my judgment this is a bad bill which if enacted could very well cost us U.S. jobs instead of save them, increase costs for low-income consumers, create chaos in the importing and retailing business, increase government bureaucracy, and do serious damage to our international trading system. In summary, passage of this bill will undo the progress we have made this year on trade and point out to the world that the United States is not capable of preserving its economic leadership of the free world.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, the final hour for debate on the textile bill begins running at 3:30 p.m., does it not?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I thank the Chair.

The vote occurs at 4:30?

The PRESIDING OFFICER. That is true.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3:30 p.m. today.

There being no objection, the Senate, at 3:01 p.m., recessed until 3:30 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WIRTH).

REMEDIES FOR THE UNITED STATES TEXTILE AND APPAREL INDUSTRIES

The Senate continued consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the time between now and 4:30 is evenly divided.

Who yields time?

Mr. HOLLINGS. Mr. President, once again I am obliged to counter my distinguished colleague from Oregon's lectures on free enterprise. That old doctrine of comparative advantage, which used to mean climate and location and natural resources, today means Government. The name of the game is Government-supported and Government-orchestrated trade. It would be nice to ignore this new reality but we cannot.

We indulge in reveries about free enterprise and free markets, and keeping Government out of the market, and then we turn around and take up bills with respect to minimum wage and with respect to parental leave. Add those on top of unemployment insurance, Social Security, clean air, clean water, safe workplace, plant closings notification, and on down the list. We are proud in this country—Republicans and Democrats—of our high standard of living. But, please, my gracious, do not holler "protectionism; protectionism" when we try to protect the standard of living that Congress has legislated.

And, of course, the issue boils down here to the continuation of a vital industry. I never heard of a Senator coming and guaranteeing to foreign importers the majority of our market. Yet we guarantee under this measure—there are no rollbacks—we guarantee to importers the majority of the U.S. textile business and furthermore say, "Look, as domestic consumption increases, your share will increase automatically." You cannot be more generous than that.

But I have to say in the same breath that it is not generosity. It is necessity. It is a last resort. If we do not do this, we go the way of a long list of other U.S. industries that have been totally destroyed by imports.

I told the story of how I brought Elgin Watch to South Carolina. We brought them from Elgin, IL, and renamed the town in South Carolina from Blainey to Elgin, SC. But today they are gone; gone overseas. They do not make Elgin watches in America anymore.

And I could cite instance after instance of industry migrating from New England to the South to Asia. And there is not any miracle up in Massachusetts, I hate to report. Those Massachusetts industries are now leapfrogging the South and going right straight into Mexico under the maquiladora system. Why? Because the Mexican Government is on their side.

Now, there is a big political cry around here today of "Let's get Government off our backs." I agree with that. Let us get Government on our side. Let us talk about that with respect to trade, because our competitors have government on their side. Government provides the capital. Government gives the incentives to save. It is not a matter of morality. In Japan, it costs you if you do not save. In this country, it costs you if you do save. This is the credit-card economy that seeped its way from Government into the private sector. And we are going to wake up someday. I am trying to wake people up with respect to the textile industry.

In Asia, the Government allocates the capital. It protects. It protect the domestic market. It insists on buying at home, whether it be the government in Korea or the government in Taiwan or the government in Thailand or the government in Indonesia. It is governmental policy. Japan would not let Mazda go broke when it overproduced. The Japanese Government came in and bailed Mazda out. They would be embarrassed to do otherwise.

I can tell you right now it is strictly a business matter, and we better sober up. And since it is a business matter, I will have to give that formula one more time, because most of my colleagues just cannot read a balance sheet: If you double your market share, you reduce the cost of production 20 to 30 percent. So the name of the game to conquer market share, whateven the cost. If you have the Government behind you financing, protecting, licensing, subsidizing, and bailing you out if you overextend, then there is no risk. The Government removes that risk.

And what happens is, for instance, if corporation A has 50 percent of the market and its share is increasing 10 percent each year, that sounds good. If you are going to invest in that stock on Wall Street, they say, "Man, it's got half the market and their share is 10 percent more each year."

However, if corporation B, which has only 20 percent of that market, is doubling, if it is getting 40 percent growth, then I can tell you that if the market is growing at, let us say, 30 percent, corporation A is headed for bankruptcy. Corporation B will soon dominate because it will reduce its cost, it will reduce its overhead, it will put its rivals out business.

Incidentally, I was told in the debate earlier that the Japanese have gotten out of textiles. Wrong. They are into textiles with their capital. They take that money and invest it in Indonesia and right across Asia. The United States is the market for 50 percent of Pacific Rim production. They dump it right into the United States. In Indonesia, the Japanese do all the financing and own the mills, but they take less than 2 percent of Indonesian textiles into Japan. Japan still protects that domestic market. They use their financial leverage and move on to take over another country. They know where they are headed. They are calculating. They are moving ahead and this is a competition.

And so this is not a case of some southern Senators coming bellyaching on account of the textile industry. Look at the national nature of this great issue. All segments, North, South, East, West, the cotton farmer, the woolen farmer, now the wheat farmer in Nebraska, the corn farmer, industries in the urban areas, industry and labor, everyone is now joined together to back this bill.

We saw what happened with the footwear industry. They went from 50 percent imports in 1982 to 84 percent today. They won two injury cases before the ITC, but politically with that free market nonsense, they were overruled at the White House and as a result, 84 percent of the shoes on this floor are imported. U.S. producers have only 16 percent of the market left and they soon will have less than that.

The London Economist says U.S. textiles are on the same road. I do not control the London Economist, the biggest free trade publication I know. But their intelligence report a couple of months ago focused on textiles and said they are headed toward extinction in the United States because it will not pay to invest. The issue is market share, and Asians continue to take it over. U.S. producers have invested some $18.6 billion since 1980, they have increased their productivity each year by a ratio of 4.6 percent versus the national average of all industry of only 2.7 percent. The most productive industry in the world still lost 31,000 jobs this year. Profits are down 12 percent. Unemployment is rising. We can see the trend.

I plead with my colleagues to wake up to the nature of the competition. Our competitors have government on their side. We have, in the United States, Government on our backs. I am trying to get Government off our backs and on our side.

The best approach is the EEC approach. The Europeans saw what was happening to them with the Pacific rim onslaught. They globalized their textile quotas and reduced the textile trade deficit from $5 billion in 1981 down to $1 billion in 1986. Ours has gone from $4.7 billion in 1980 to almost $25 billion last year. So we can see how the Europeans have stabilized. All I ask for is some predictability so we can continue to get the investment, continue to be able to compete.

It is all market share. It is not an issue of free enterprise and "let the market operate" because the market is an international one. The comparative advantage of Ricardo now is not water, heat, climate, and so on. The productivity of the industrial worker of the United States, not just in textiles but all around, is the highest in the world.

Consider the the gross domestic product per employed person in the top 10 nations. The United States ranks No. 1. Japan is No. 9. So the productivity and competitiveness of the individual worker of America is unquestioned. What is not competing and not producing is this Government right here in Washington.

I yield. I retain the balance of my time.

The PRESIDING OFFICER Who yields time? The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield myself such time as I may take.

Mr. President, my good friend from South Carolina says he wants Government on the side of business, especially the textile business. The Government has been on the side of the textile business since 1789. In 1789, one of the first acts of Congress, July 4, 1789, established tariffs on imports of raw cotton, hemp, yarn, tanned leather, and whatnot. You go right on through, 1827, Representative Mallery, what does he say about the textile industry:

> Now it is certain that they must surrender, unless the Government will afford its aid. Already a part has relinquished. It cannot go on. Sacrifices have been made already. They have been endured, in the hope, in the confidence, that this session would not pass by without an effort on their behalf. If this hope is abandoned, the manufacturer abandons his business. . . .

In 1828 we passed the so-called tariff of abominations that probably helped lead us to the depression of the 1880's.

Go all the way down, 1830's, 1840's, 1850's, 1860's in the 1900's. Come to 1956, Senator Payne, of Maine, is urging Government support for the textile industry and he says:

> The textile industry does not seek favors, but does ask, Mr. President, that the additional burden of ever-increasing imports not be added to its other troubles. The industry seeks a chance to adjust, to work out its problems, so that once again it can stand strong against all competition from whatever source.

We gave them what they wanted in 1956. In 1968, Congressman Dorn from South Carolina has said the industry just barely has its head above water.

In 1985 when this textile bill was first introduced, the Textile and Apparel Trade Enforcement Act of 1985, the trade association supporting this bill for the textile industry puts out this statement:

> If we do not act now to curb imports, in 5 years, our entire industry and 4 million jobs that depend on it will simply cease to exist.

Well, Mr. President, it just is not true. The textile industry is the Chicken Little of business in this country. The sky has been falling since this country has been founded. And today, this industry is more profitable, on average, than the average of manufacturers in this country. Its employment has actually gone up rather than down in the last year. It is operating at a high level of capacity measured annually. It is very productive. It is competing successfully in the world markets. Its exports are going up.

But just in case there was a problem, we offered some amendments on the floor as follows:

First, an amendment that said the textile industry would not get this protection if it was more profitable than the average of U.S. manufacturing industries. They would not get it if they are doing better than industries like the auto industry, the steel industry or the agriculture industry. They would not get any protection if they were above the average level of profits. That amendment was defeated.

We offered an amendment that the textile protection would not apply if the cost increases would disproportionately burden the poor. That amendment was defeated.

We offered an amendment that said the bill would not apply to countries that actually buy more textiles from us than we buy from them. That amendment was defeated.

We offered an amendment that said the bill will not apply to countries that have a more open market generally than we do. Hong Kong is an example. Hong Kong has no tariffs. You can sell anything in Hong Kong; you can bring anything into Hong Kong. It is a worldwide free port. We can sell anything we want in Hong Kong. This bill applies to them, too.

There is no limit to what the textile industry wants; and what they want is mercantilism, protectionism, call it what you want. They want the Government to be a partner, and my good friend from South Carolina says we want the Government on our side.

If you have such all-fired faith in Government I suppose the most difficult competitors for us in the world ought to be the Communist countries. That is the most classic example of government on your side. The government is the industry. The government puts up the capital. Costs are not relevant. Pay whatever wages you have to that the government prescribes. There is government determining industrial policy.

Communist countries are not serious competitors to us in the textile industry. As a matter of fact, Communist bloc countries, centralized countries that have no market economy, no free enterprise system, no competitive system, are not serious competitors with the rest of the world in anything. Their economies are declining. This is the ultimate in government involvement.

Now you look at what has happened in this country in the last 6 years; 17.5 to 18 million new jobs. Ninety percent of them are full-time jobs. Over half of them, over half of the jobs are in the upper quarter of payment, of the payment scale. This is not low-wage, so-called hamburger flipping McDonald's jobs. They are better jobs than we have been losing. Average income by constant dollars—assuming no inflation—average income in this country is up, not down. People are making proportionately more money than they were making 6 years ago.

Then the argument the one textile industry uses is unemployment. Well, Mr. President, in every major textile State in this country, every major textile State, unemployment is below the national average. I would have liked to have offered an amendment to trade the situation of my State of Oregon straight across for South Carolina in terms of unemployment. They are well below us as is Georgia, as is North

Carolina, as are all the major textile States.

Now, have jobs gone down in the textile industry? Jobs, yes. They have gone down in the lumber industry, too. The lumber industry is the biggest industry in my State of Oregon. Last year in the lumber industry we produced more lumber than we have ever produced in our history. We produced it with about 65 percent of the number of employees that we had 10 years ago. We have become a more productive industry. We are learning to turn out more goods, in this case lumber, with fewer people, as we have learned in the automobile industry, the steel industry, textile industry, and agriculture—being the prime example. I do not have the figures in front of me, but at the turn of the century, I would wager we had 30 to 40 million farmers. We were lucky if a farmer could produce enough food for his family and a couple other families.

Agriculture has become more and more productive. Today we have almost 5 million people involved in farming. They are infinitely more productive than 50 or 60 years ago. They can easily produce food for more families. We cite that as an example of productivity. We think it is good there are fewer farmers than there were 50 years ago, and those 5 million farmers cannot only feed the United States, but they can probably feed half the world if they had to. And we say, "Isn't that progress?"

As I have indicated before this if all we want to do is preserve jobs at any costs; it is easy enough to do. First, we say you can have no imports, period. Just none. That would produce more jobs apparently in this country. The mills would have to gear up to produce more. And that is the point of this debate; the mills would have to gear up. If we want more jobs, we prohibit them from investing in more equipment so they become more productive. That will guarantee more jobs. We will use old-fashioned machinery. It will take 110 people to put out 100 square yards of cloth instead of 10 people, and we can see the textile industry go up year after year in jobs.

What you will get is shoddier clothing because other countries around the world are investing capital in better machines. What we ought to want for this country is the best equipment we can buy, the best products we can find, regardless of where they are made. We will take our chances with the rest of the world on a level playing field that we can compete, and we can.

For all of the alleged protection in Europe, for example, their unemployment is infinitely higher than ours. They are not growing as fast as we are. Thirty years ago what are now the common market countries in Europe had 106 million employees. Thirty years later, they still have 106 million employees. In that same 30 years, we have created almost 45 million new jobs and we started from roughly the same population base.

What is going to be the effect of these quotas? One, the price of clothing will go up. The best analogy you can use is automobiles, In 1981, we imposed upon the Japanese what we call the voluntary restraint agreement, the VRA's. We limited the amount of cars that they could bring into this country.

I want my colleagues to think back to what the cost of those Japanese cars were when they could bring in as many as they wanted in 1979 and 1980 and you found lots of $6,000, $7,000 or even some $5,500 cars. But when we put a limit on the amount of cars the Japanese could bring in, they understandably then thought, "We'll send in the ones upon which we can make the greatest money." You can make more money selling a high-priced car than a low-priced car. So they cut out their low-end cars.

Now, when you go to shop for a Japanese car, you do not find any $8,000 or $9,000, or $10,000 car, or very few. You might have hoped that the American automobile industry would say, "Aha, here at last is a chance to grab a share of the market, expand our market." My good friend from South Carolina talked about market share. Unfortunately, they did not do that. They just raised the price of our cars along with the Japanese cars.

Now, of all the ironies, Hyundais from Korea are coming into this country in great quantity. As a matter of fact, my own port of Portland announced today we will be the principal port of entry for Hyundais into the United States and they plan to be in the neighborhood of 250,000 to 300,000 cars in the next couple of years.

Korea is not under any restraints. The Hyundais come in and sell for $6,000 or $7,000. There is a market for cars like that. But no American manufacturer chose to take advantage of that, to fill in that market when the Japanese pulled out.

What you are going to get if these textile quotas are enacted and fully enforced is overseas textile manufacturers, apparel manufacturers and shoe manufacturers are going to say, "OK, if that is the situation, then we are going to send in the higher priced goods. If we can only send in 1,000 yards of cloth, we are going to send in expensive 1,000 yards of cloth, not inexpensive 1,000 yards of cloth."

There have been a variety of studies done on the costs of this textile problem. The studies range from a low of $285 per year per family increase in cost to studies I have seen that are $500 or $600 in cost.

Let us take the conservative estimate, roughly $300 a family increase in cost per year for clothing and shoes. The average family does not know it, they are unaware these quotas are going to increase the cost. They are not writing saying, "Please stop this rip-off."

If, instead of the quotas, we were to pass a $300 tax on every family in America and say, "We are going to take $300 from you and we are going to give it to the textile companies," we would be laughed out of this Senate Chamber. We could not achieve that. So we are going to try to do indirectly what we do not have the courage or the votes to do directly. We are going to sock it to the consumer all right; the poor, old consumer just will not know it, and the bill is going to pass. There is no question about that. The President is going to veto it, fortunately, and I hope we have the votes to sustain the veto.

America cannot turn its back on the world. For better or for worse, we are part of it. The future is going to go on with or without us, and I would rather participate in it. We are going to have to compete with steel from Brazil and shoes from Italy and diesel engines from Germany. But, conversely, the world is going to have to learn to compete with us in chemicals and electronics where we still do quite well in this world. IBM is still without question the dominant electronics company in this world with immense employment in the United States.

So what the textile industry is asking once again, Mr. President, is "Once again, America, just give us some temporary relief until we can adjust to worldwide competition."

They are not going to do it, Mr. President. If they get temporary relief, that will not allow them to adjust. What it will give them is a chance to raise their prices as foreign textile prices go up. They will become even more profitable than they are now, and the American consumer will bear the cost.

So for all those reasons, Mr. President, I hope that we will defeat this bill today. That we are not going to do. I hope we will have an overwhelmingly large enough vote, although not a majority, to indicate that this bill will be vetoed and the veto will be sustained. I thank the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield 10 minutes to my distinguished colleague.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 10 minutes.

Mr. THURMOND. Mr. President, the textile and apparel industry is vital to the U.S. economy. I just want to remind the Senate that this industry has more employees than the steel and automobile industries combined and that it is the largest manufacturing employer of women and minorities. It is responsible for the employment of an additional 2 million workers, beside the 2 million engaged in textiles. It is composed of 5,000 textile companies, 20,000 apparel companies, 120,000 world growing and sharing operations, as well as 41,000 cotton firms and allied businesses. The textile and apparel industry contributes $46 billion to the U.S. gross national product. Mr. President, an industry that touches that many people and touches that much of the economy deserves our careful consideration.

I want to say that only the day before yesterday the Greenwood Mills, which is located in my State, announced the closing of their finishing division. The head of that company, Mr. Self, said this bill will mean the loss of approximately 600 jobs at the liner finishing plant in Orangebury, SC.

Mr. President, this is the kind of noise that has been coming out of here year after year for the last 8 years. Greenwood now employs 8,000 people in South Carolina, Georgia, and Tennessee. What is going to happen if this continues?

I want to remind the Senate again that this industry gives a lot of jobs to the people of this country—350,000 jobs are in the apparel and textile industry in the United States. Ten thousand employees lost their jobs last year. I hope the Senators realize that. Ten thousand people lost their jobs last year in textiles and apparel.

Mr. President, during the last 5 years imports have increased an average of 20 percent a year. Textile imports totalled over $29 billion in 1987, a 17-percent increase over 1986. Seven hundred thousand employment opportunities have been lost. Measured in square yards, textile and apparel imports reached a record level in 1987 of over 13 billion—not million, 13 billion—square yards. More than one-half of all the textile and apparel goods sold in the United States today are made abroad. Fifty-five percent of the apparel in America comes from abroad.

Now, this bill is designed to promote an orderly nondisruptive growth of world trade in fibers, textiles, and apparel products. It ensures strict enforcement of existing trade laws and agreements. It structures a fairer trading system for textile and apparel products worldwide. It allows a 1-percent growth in imports over 1987's record levels. This bill also requires the administration to give a preference to foreign countries which increase the purchase of U.S. agricultural products.

In other words, if they will buy more U.S. agricultural products, then they will have the priority to bring textiles into this country. That is going to help the farmers. People who want to help the farmers should listen to that.

Mr. President, no industry is more important to our national defense than the textile industry. Textiles are a vital element in over 300 combat essential items, such as: bandages, blankets, parachutes, helicopter blades, tires, helmets, and aircraft brake systems. All of these are made from textiles. What are we going to do when it reaches a point where we do not manufacture any textiles? Suppose we have a war. What are we going to do then?

The safety, comfort, and morale of the ultimate fighting force, our soldier, depends upon textile products. A recent Department of Defense study shows that acquisition of essential military clothing depends upon domestic production capability.

Mr. President, unless this bill becomes law, our domestic textile industry will continue to grow weaker while our adversaries become stronger through exports to our country. This could ultimately threaten the security of our Nation. I hope Senators will consider that.

Several days ago I brought out the fact that the Office of Technology and Assessment, known as OTA, issued a report. This report is entitled "The U.S. Textile and Apparel Industry: A Revolution in Progress."

What did its conclusions hold? They are most disturbing, in that the report concludes that despite the optimism made possible by technical progress, U.S. textile and apparel firms are in danger. In spite of remarkable advances, the industry is gravely threatened.

Mr. President, that is a Government report. That is not a textile report. That is not a private report. That is not a report made by consultants hired to concoct something to help the textile industry. That is a Government report. That is an official report. I repeat what it says: "In spite of remarkable advances, the industry is gravely threatened." This OTA report draws the following conclusion: "If penetration of United States apparel markets were to continue at the pace of the past decade, domestic sales of U.S. apparel firms would approach zero by the year 2000, while two-thirds of the U.S. textile market would be served by foreign imports."

Think of that, Mr. President. If sales keep on like they are going, by the year 2000 U.S. sales will approach zero, while two-thirds of the U.S. textile market will be served by foreign imports—now 55 percent—just think by the year 2000, two-thirds of our Nation's market could be served by foreign imports.

Mr. President, we are losing an opportunity to give jobs to Americans. We are losing an opportunity to ensure our national security through the production of textiles, which rank second only to steel in the matter of national defense. We are losing jobs for the American people. One thousand two hundred and fifty textile and apparel plants have been closed in the last 8 years. In addition, 800 domestic footwear plants have been closed. Sixteen thousand textile and apparel jobs have been lost in the last 6 months, Mr. President, I repeat, 16,000; also 750,000 job opportunities have been lost.

In closing, Mr. President, I hope the Senate will carefully consider this matter and vote in favor of this bill. This is a vital bill. It means a lot to the economy of this country. It means a lot to the people of this Nation.

The PRESIDING OFFICER (Mr. KERRY). Who yields time?

Mr. PACKWOOD. Mr. President, do I have 15 minutes remaining?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. PACKWOOD. I yield 8 minutes to the Senator from Texas. The Senator from Washington wants some time. If he does not appear, I will yield more.

Mr. GRAMM. Mr. President, I thank our distinguished colleague for yielding.

Mr. President, over 200 years ago the issue that we are debating today was intellectually debated, and in the last 200 years there has not been one credible intellectual argument made for protectionism anywhere in the world. It is an astounding thing that old, bad ideas never die. They are always dredged up when somebody wants to use the power of the Government to pick somebody else's pocket.

Mr. President, we have discussed this bill in such great detail that I am not going to try to hit all the points in the remaining 8 minutes, but I do wish to stress several points.

First of all, take my State and the political problem you have in a debate like this. The problem is that all the beneficiaries of protectionism know who they are. There is a myth in this great land of ours, and that myth is that organized labor and business are in a contest with each other and represent offsetting political powers.

The truth is, Mr. President, that more often than not they are in conspiracy against the public interest. That is what we face with this bill.

I was just looking at the situation in my State and asking myself why had I not been covered up with letters urging me to vote against this bill. Looking at the votes on this bill, since this bill is going to pass, though it is never going to become the law of our great land, my guess is the same is true with everybody else. Let us take our six largest textile-producing trading partners in the world which, because this bill is GATT illegal, will have the right of offset and compensation. That means that for whatever protectionism we impose against them they can come back and impose similar restrictions against American goods. Every one of the top six has chemicals as their largest import from the United States. My State is the largest chemical producer in the Union. In fact, about 20 percent of the employment base in Texas manufacturing is directly related to chemicals. But, Mr. President, I have not been covered up with letters from people in the chemical industry saying, "Do not vote for that bill, Phil, because it will create protectionist retaliation against chemicals that is going to put people in Texas out of work."

Mr. President, they have not written me because they do not even know this bill is being debated. They do not understand that they are going to be affected.

Moms and pops all over the country who are out this week shopping for clothes for their children, who are going back to school, are going to have their cost of paying for textiles driven beyond the premium they already pay because of existing protectionism, a cost that already reaches $700 per family of four.

But they are not writing any letters. Sarah and Joe are too busy. They are out trying to earn a living to pay for those tennis shoes that we want to raise in price, to pay for those textiles that we are getting ready to impose a new premium on. They have too many other things on their mind to write letters. Who do we hear from? We hear from the people who want us to take action to benefit them at the public's expense.

Mr. President, there is no doubt, there is no intellectual debate, about the fact that America loses from this bill. The general level of income and wealth in America will fall if this bill becomes law. We will have fewer jobs if this bill becomes law. Our growth rate will be lower, and the opportunities for our people will be lower.

Yet, this bill is going to pass here by almost a 2-to-1 margin. Why? Mr. President, it will pass because of the power of special interests. In fact, it is not an overstatement to say that in America almost any organized special-interest group can steal from the general taxpayer by becoming involved politically. It is a great indictment of our system, but until the American public understands issues, and until both sides of the debate are fully focused with information, these kinds of travesties are going to occur. It is the duty of those of us who understand this robbery and to stand up and speak out against it.

Mr. President, in case our colleague comes and wants his other 7 minutes, let me just sum up. First of all, any protection that is granted to the textile industry will be offset by retaliation against other industries, and guess which countries we are provoking here.

I was shocked to hear one of my colleagues call these countries our adversaries. Can you imagine talking about countries, countries that trade and grow and prosper with America, as adversaries, people that are producing goods and services that are vital to us, that buy our goods and services, who help keep Ivan back from the gate, who help keep the world free—somehow they are supposed to be adversaries.

You know, Mr. President, by the logic of this bill, I am destroying jobs for my children by going to the grocery store. I could have my children out hoeing in the back yard trying to grow food. The grocery store has totally unfair trade with me. They do not buy anything that I produce. I have no exports to them at all—just imports. Why do I keep going to the grocery store? I keep going to it because I do not like to starve. I could be self-sufficient, I guess, in food. But the price I would pay would be poverty. And that in essence, though I know our dear colleague thinks differently, is the cold reality, which is the policy proposed by our distinguished colleague from South Carolina—a policy of poverty. It is a look back to an old tried and rejected philosophy that did not work very well when it was in force, and that was displaced by a system of economic freedom that has produced the greatest explosion of prosperity in the history of mankind.

Mr. President, this industry does not deserve more protection. It already has 1,500 quotas. We already face today a situation where every time a family buys textiles they are paying an average tax of 18 percent. To come in and impose more costs on the American consumer for an industry that has seen its manufacturing output since 1985 grow twice as fast as manufacturing as a whole has seen its profitability on equity expand over twice as fast as all manufacturing, where employment last year actually rose is outrageous. If there ever was an argument for the bill—and I would argue there never was and could never be—but if there ever was, the grounds for it past away 4 or 5 years ago. The truth is that the textile industry is stronger today, more competitive today—not because they wanted to be, but because they had to be. They would have never become competitive had we protected them more. Let us not do it now.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. PACKWOOD. Mr. President, how much time do I have left?.

The PRESIDING OFFICER. The Senator from Oregon has 6 minutes and 40 seconds.

Mr. PACKWOOD. I yield the remainder of my time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. EVANS. Mr. President, thank you. It is hard to think of anything new to say with the debate which has gone on on this bill over the last couple of weeks for each of us have had a chance to speak, and speak at some length. But let me just try to summarize, and summarize very briefly.

First, the textile and apparel industry in this Nation is already among the most protected industries in the country. There is an 18-percent average tariff rate, at a time when we are trying to get tariffs down in this country and abroad. There are nearly 2,000 separate quotas on the import of various textiles and apparel elements.

This is just the end result of 200 years of protection. It started in 1789 shortly after our Constitution went into effect, and continues on to this day.

We ought not to look at this as a single industry. It is rather a mix of industries; part textile, part apparel, and the various elements of both the textile and apparel industry.

Many elements of this conglomeration of industries are doing rather well, not poorly as the proponents would suggest. It is especially true in the case of textiles. Profitability was high in 1987. There were job increases, not job decreases during that year. There has been a restructuring of the industry which is now more efficient, and in fact has become rather a favorite of Wall Street as an industry in which to invest. Imports simply are not the problem. The problems are in other areas. The problems are in meeting consumer demand, the problems are in competition, and effectively meeting competition.

The overall demand for clothing in the first and second quarters of this year is down somewhat, especially in women's clothing. We have to be a little careful that we are not just dealing with the import problem, but rather the market problems, the market here domestically, and how we meet that market. We need to provide quick response for manufacturers so they can meet retailers' needs. That is one of the areas where American manufacturers have simply not kept up with their counterparts overseas, the counterparts overseas who are able to respond more quickly to smaller runs of fabrics or smaller groups of apparel, and of course that makes them more competitive, and drives American distributors and retailers to overseas markets.

Imports penetration rates are not the 50, 60, and 70 percent that the proponents of this bill suggest. The accurate figures for this last year put out by the Department of Commerce are 34 percent for apparel; and in the textile industry, the arena in which so much of the opposition lies, for household and industrial textiles, 14 percent; broad-woven and knit fabrics, 12 percent; yarns, 5 percent. That is hardly a huge import penetration.

There has been a dislocation of jobs in the industry since 1981. It is a function of productivity; it is a function of becoming more efficient. Now we should be sensitive to those problems because in some communities, and in some rural areas dependent on these mills and dependent on mills as they once were, not as they are now, there is a dilemma.

Mr. President, I have the same dilemma in my own State. The various sawmills and timber mills of our small communities have either closed or restructured. We today are producing more timber in our State than we have in recent years with fewer employees. Yet, overall employment has gone up in our State, and overall unemployment has gone down. Sure, there are dislocations but these are dislocations that we can and must handle in each of our States if we are to move to more modern industries, move to more modern factories, and move to broader opportunities. If we forever hold on to the past and cannot look toward the future, we are never going to be competitive in this Nation.

With all of that, with all the dislocation, in 1987 there were not 10,000 losses in the textile industry as some suggest, but the Department of Commerce says that the job gain in the textile and apparel industry was 32,000. There is a total of almost 2 million workers in these industries. In North Carolina there were 8,000 new jobs; South Carolina, 3,000; Georgia, 4,300.

In those States which wring their hands so much about the bad effects unless this bill is passed, unemployment rates are low. I wish the unemployment rates in my State were as low as the 3.5 percent in North Carolina and the 4.7 percent in South Carolina.

Exports are increasing. The industry worries so much about imports on the one hand; yet, exports in this industry are increasing. We are becoming more competitive in many areas of the world textile market. Currency changes have made the dollar cheaper, have made our exports more competitive, and our industry has modernized.

We actually have a surplus of textile and apparel trade with 52 countries. Total exports last year were $3.6 billion and they are continuing in the first 7 months of this year.

Legislative quotas simply are not the right way to go. Franklin Roosevelt did not believe in legislative quotas, Dwight Eisenhower did not believe in legislative quotas, John Kennedy and Lyndon Johnson did not believe in legislative quotas, Richard Nixon did not believe in legislative quotas, Jimmy Carter did not believe in legislative quotas, and certainly President Reagan does not.

The PRESIDING OFFICER. All time of the Senator from Washington has expired.

Mr. EVANS. I ask unanimous consent that I may have 30 more seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. Mr. President, we are not a colony. We are a diversifying, growing economy. Look at the new industries, the new jobs, the new businesses, in region after region across this country, including the Southeast textile region.

This bill, unfortunately, pits region against region, worker against worker, and ends up with a heavy tax to pay on millions of American consumers.

This is a bill, if passed, which reflects an inward-looking, fearful view of America. It is not a forward-looking, confident America which I believe we can and should be. This is an unnecessary bill for an already overprotected industry.

The PRESIDING OFFICER. All time of the Senator from Oregon has expired.

Who yields time?

Mr. HOLLINGS. Mr. President, first, I acknowledge the frustration of my senior colleague. He came to the Senate in 1954. Senator THURMOND joined the textile fight then and has been fighting ever since. He led the way for our 1985 bill.

My opponents say the U.S. economy of 200 years ago was very different. Less than 1 percent of our GNP was represented in international trade. That picture has changed now. As to tariffs, my opponents get a real thrill out of finding 2,000 barriers to imports into the United States. I will cite 5,000 different restrictions, foreign regulations blocking the export of U.S. textiles.

Under our globalization, we hope to hold the line. Competition will be there. We say to the foreign competition: "Take the majority. Take the majority of our market. We give it to you. Take all the increase in the production and consumption. You get it all."

My opponents talk about the Government picking the consumer's pocket. Senator THURMOND has to listen to that, and I have to listen to it, and I begin to wonder where in the world we will ever get through to these gentlemen.

Hong Kong is not a country; it is a free port. We do not have an ambassador; we have a Consul General. I was there less than a month ago, and I was interested in the briefing we had for the entire party. He said: "Now we are positive that the majority of the products produced for Hong Kong are by workers outside of Hong Kong." Those are exactly his words. Well, it was not anything new.

I was in China a couple of years ago and came through Canton. I was briefed on the selling operations. I listened to several Ambassadors tell me: "Senator, you're so right about this protectionism thing. We sit on the airplane with a fellow with a big suitcase with samples—ties, shoes, whatever—and they shop around in the Philippines, Hong Kong, the People's Republic of China, asking How much would you make so many dozen for?"

Look at the morning news. In Korea, they are masters of duplication, and they will copy and produce a product and be back on the market in a matter of days. And it will cost less—at 25-cents-an-hour labor.

When the gentleman talks about Hong Kong, it is not applicable at all. Hong Kong is a free market. It is a free market proposition. They ship out $38 billion and ship in $38 billion. It is one big financial center. Everybody knows that. The best argument they have is that we should follow Hong Kong.

The Senator from Oregon says if you put that wall up, it will create more jobs but cost you more. The other intellectual, the Senator from Texas, said, "You're going to get fewer jobs." It is like Mr. Inside and Mr. Outside. They hit you high, they hit you low. I cannot answer one argument without agreeing with the other fellow. All I know is the result.

When I started with the Senator from Massachusetts, Jack Kennedy, back in 1960, 28 years ago—and I put his letter in the RECORD yesterday—the Senator from Massachusetts recited in his response to me how we had lost 400,000 jobs in the previous 10 years. He understood that problem.

After World War II, we had some 4 million textile jobs, and we are now down to 1,870,000, and we are still going out of business.

They equate protectionism with the power of Government to pick the pocket. Why, heavens above, whose pocket is being picked?

The system we are talking about is entirely different from the days of Ricardo. We have a wholly different international market, producing anything, anywhere. We have a wholly different international competition with foreign governments in control, from subsidies to licensing, to inspections, to bailouts, to targeting markets and fighting for market share. And they have won that market share. The new philosophy of the Pacific rim countries with their MITI's, their Ministries of International Trade and Industry, is working.

How can we work against them when we continue legislatively to raise the U.S. standard of living, yet we are not willing to sensibly give protection, like Eisenhower gave oil and oil quotas to Texas. They did not object to that protection. Like Franklin Roosevelt did to the farmers with the protective farm quotas. Protectionist FDR, and protectionists Hamilton, Jefferson, and Madison, who passed the first bill.

We were celebrating the bicentennial of the First Congress last night. The first bill, July 4, 1789 was a tariff bill.

Yes, we have changed from then. All we are saying is "Mr. Government, for Heaven's sake hold the line to make it worthwhile for U.S. textiles to continue to invest, to continue to improve their productivity, so that we can maintain a U.S. basic industry."

Mr. President, I thank the colleagues for their attention.

I urge the passage of this important bill.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the Hollings substitute amendment.

The amendment (No. 2945) was agreed to.

Mr. DOMENICI. Mr. President, I totally support any measure to enhance America's competitiveness and to level the international playing field in trade. That is why I voted for the Omnibus Trade Act of 1988, though I had some misgivings about its possible impact on our Federal budget.

Now, as I look at this bill, there are parts which will affect the budget in fiscal year 1989, and that concerns me greatly. Not only because I have been intimately involved in the fashioning of the budget, but because the health of our economy depends on reducing the deficits.

Two provisions definitely have repercussions on the budget. The provisions restricting imports which will result in a loss of customs revenues, and the provisions authorizing the auction of import quotas which will raise revenues.

Based on an analysis done about a year ago, CBO has concluded that the two provisions offset each other and that the bill is budget neutral.

OMB has done its own analysis of the bill, and concluded that the revenue lost due to import restrictions is likely to be larger than revenue gained from auctioning import quotas.

The administration projects that the bill will increase the deficit by $123 million in fiscal year 1989. This is $123 million which OMB will score against the Gramm-Rudman-Hollings deficit estimate for fiscal year 1989.

We are perilously close to the $146 billion deficit ceiling now. If this bill is passed we risk a sequester at this point. Even the minimum sequester of $10 billion would result in a 4.6-percent reduction in defense accounts, and a 3-percent reduction in nondefense accounts.

OMB estimates that this bill will further increase the deficit by $245 million in fiscal year 1990, $518 million in fiscal year 1991, and $893 million in fiscal year 1992. That's a 4-year deficit increase of $1.8 billion.

This bill could end up costing the Federal Government a lot more than a few hundred million dollars. Under the GATT, if a foreign country is hurt by textile import restrictions that are not based on countervailing duties or dumping claims, it may have the right to request compensation from the offending country.

This happened a few years back when we imposed a small tax on imported oil to fund the superfund tax. Foreign countries appealed under the GATT for compensation. The President came to Congress, asked for and received the authority to grant compensation.

The President may have to do this again if the textile bill before us becomes law. This could have such wide ranging effects that the United States would have to compensate other countries as much as $6 billion in fiscal year 1989 according to some estimates.

And if this happens, the United States would have to compensate by allowing expanded imports of other manufactured goods by further reducing tariffs, quotas, or other restrictions. As I understand it, textile and apparel now are protected with an average import duty of 18 to 20 percent compared to 3 to 5 percent for other manufactures.

If we are forced to compensate by lowering tariffs and quotas on other products, how will we determine which industry will be affected? In other words, out of whose hide will we exact compensation to protect textiles?

Before closing let me point out one other problem that has not been emphasized besides the possible violation of our trade agreements and the ensuing retaliation by trading partners.

The countries that this legislation is supposed to curb will be the least affected. Under this legislation their imports would be restricted to 1-percent growth. But the figures show that their imports have dropped dramatically in the last year. For example, imports from China have declined approximately 22.5 percent, from Hong Kong 17.7 percent, from Korea 20.1 percent, and Japan down by 34.9 percent. So they won't be affected. Who will?

The answer is the least developed countries, our allies, who can least afford a curb on their exports at a time of huge external deficits. For example, countries like the Philippines with whom we are trying to renegotiate a new base rights treaty would lose a 15 percent of existing exports to the United States. Countries like Thailand, our ASEAN ally, would drop 19 percent. Turkey, our key southern flank NATO ally, bordering on the Soviet Union would lose 21 percent. Egypt, one of the lynchpins to peace in the Middle East, and facing severe internal economic problems, would lose 22 percent. Israel, the other Western bulwark against anti-American forces in the Middle East would lose 33 percent. And Pakistan, whom this body just recently sent condolences over the death of its President, and a key supporter of the Afghan freedom fighters, would lose 29 percent.

Mr. President, can we risk increasing the deficit by $6 billion next year? Can we tell other industries which have had to already make adjustments and cutbacks, that they will have to pay the consequences? Can we send billions of dollars of aid to our poorer allies, and with the other hand prevent their export growth? Can we go to the consumers, the ultimate tax payer, and tell them that they will have to pay more?

Mr. President, this bill may have many merits, but because I must answer in the negative to the questions I just posed, I also must cast a negative vote on this bill.

Mr. HARKIN. Mr. President, I rise in support of S. 2662, the Textile, Apparel and Footwear Trade Act. Two years ago, when the Senators from South Carolina, Mr. HOLLINGS and Mr. THURMOND, offered S. 680, the Textile and Apparel Trade Enforcement Act of 1985, I voted against that bill.

I opposed S. 680 at the time because I feared that the imposition of textile quotas could provoke a trade war, causing textile exporting countries to retalitate by reducing their purchases of our largest export commodity, agricultural products.

The original Senate bill offered this session, S. 549, suffered from the same problem. S. 549 modified its predecessor by establishing a global quota to be allocated by the Secretary of Commerce rather than singling out the 12 major textile exporting countries. This global quota, according to S. 549, will be the annual amount of texitile, apparel and manmade fabrics imported during the previous year, plus an additional 1 percent for annual growth.

The modification incorporated into the textile bill now before us, which was originally proposed by the Senator from South Dakota [Mr. DASCHLE], would direct the Secretary of Commerce to give priority in the quota allocation to countries that within the previous year have increased their commercial purchases of U.S. agricultural products. According to this provision, countries that continue to increase their purchases of U.S. agricultural products would be guaranteed the previous year's quota plus a priority share of an allocated quota.

The Daschle provision will check against a future trade war by major textile exporting countries in response to passage of the textile bill. In fact, by offering an incentive for increasing quotas, this new textile bill will actually encourage additional agricultural trade between the United States and our trading partners.

This provision recognizes the important role of trade between the United States and the Pacific Rim countries. Japan, Korea, and Taiwan, all in the top five of textile producers, purchased, respectively, $5.7 billion, $1.8 billion, and $1.3 billion of U.S. agricultural products. In fact, as much as 60 percent of U.S. agricultural trade, amounting to more than $15 billion in recent years, has been purchased by textile-exporting countries.

The modified textile bill answers the concerns of those of my colleagues who want to provide fair treatment for the American textile industry and its workers, and the interests of farm State Senators, who seek insurance that our Nation's farmers, who are vitally dependent on agricultural exports, are not harmed by textile quotas. In short, this bill represents a compromise that will ensure that the interests of our farmers and our textile workers are protected.

Both our textile and agricultural sectors have suffered at the hands of foreign competitors. Imports now control 55 percent of the U.S. apparel and apparel fabric market, and since 1980, nearly 300,000 textile and apparel jobs have been lost. This decade has been equally devastating for American farmers. Since 1980, 600,000 farmers have lost their farms. U.S. agricultural exports suffered a $12-billion loss from 1984 to 1986.

In our zeal to defend the ideal of free trade, we must not forget the reality of the domestic jobs lost and the personal suffering incurred as a result of increased international competition. Platitudes of free trade and an unfettered marketplace offer little solace to the 300,000 textile workers who have lost their jobs and the 600,000 farmers who have lost their farms in the past decade. They have felt the brunt of America's decline in the world marketplace, and thousands more will as well unless we help cushion the impact of foreign competition before the American economy gets back on its feet and regains its competitive edge in the global marketplace.

A growing number of agricultural groups have recognized this fact as well as the common interests between our Nation's farmers and textile workers. The textile bill enjoys the endorsements of the National Corn Growers Association, the National Farmers Union, the American Agricultural Movement, and countless other farm organizations. I urge my colleagues from the Midwest to join me in supporting S. 2662.

Mr. WARNER. Mr. President, I rise in support of the Textile and Apparel Trade Act of 1988, H.R. 1154. I believe it sends a strong signal to our trading partners that we will not tolerate the complete eradication of the textile, apparel or shoe industries in the United States.

We have heard a lot on the floor these last few days about the amazing number of jobs our economy has generated over the last several years, in contrast to job growth in other developed countries. There is no question that this is one of the greatest achievements of our economy.

However, these jobs have not sprouted up uniformly across the Nation. In Virginia, the labor situation is uneven. The Commonwealth's overall unemployment average remains consistently better than the national rate. While we are undergoing a labor shortage in some counties close to the Washington Metropolitan area, some areas of Virginia continue to experience a chronically high level of joblessness. In many of these areas the biggest employer has been and remains a textile mill, an apparel operation, or a shoe factory. Working for these companies has not just been a job, but a way of life. There are few or no high-technology computer or biotechnology firms springing up in these communities to replace the jobs being lost in the textile industry to unequal foreign competition.

The last 10 years has seen a continual decline in the number of jobs available in these industries, but not because the workers in those mills aren't working hard enough. They're losing jobs because according to the opponents of this bill they are being paid too much. Paid too much. You bet they are being paid too much compared to Asian workers making $1.35 a day, working 6 days a week. Korea, Thailand, Singapore, and Taiwan are only a few of the countries to which the jobs are going. All we are trying to do in Virginia with the few textile and apparel jobs remaining is to give people a fair and decent living wage in a secure job.

Recently, I received a bundle of letters from workers at a J.P. Stevens plant in Drakes Branch, VA. These were not your typical machine-processed, quick-signed letters, but handwritten letters from the heart. Andell Barksdale of nearby Charlotte Court House writes: "* * * I don't care how efficient my industry gets, it simply can't compete with 30-cent-an-hour wages." Commenting on the legislation, Stanley Shannon also of Court House points out, "* * * I am not asking you to stop all imports, and—this textile legislation—doesn't do that. In fact, our bill allows imports to grow in the U.S. market—but its reasonable growth, not the explosion we've seen over the past 7 years." And finally, Myrtle Murray of Saxe, VA implores, "We need your help badly, we all have families to take care of." These are not the words of people casually concerned about the changing nature of our economy, but people who see their very livelihood threatened and are doing all they can to survive.

These hard-working Virginians are looking to the Congress to exercise leadership in how we want to define the state of our Nation's economy. Why should we just cave in to these low-cost foreign producers and hand over the last few remaining textile jobs in the United States? This bill allows for an orderly growth in textile imports—growth that we can plan for and compete with on a fair and equitable basis.

Mr. President, I hope my colleagues will work to see that this bill after it is approved by both the House and the Senate is presented to the President for his signature on a timely basis. If instead the President opts to veto this bill as his aides have indicated is his intention then it is my hope that the congressional leadership will work hard to schedule an early override vote to get this modest provision enacted into law.

Jobs such as those in Drakes Branch are worth saving. Saving not just for the people of those surrounding communities whose livelihood so completely depends on them, but for all Americans concerned about the direction our country is taking in the world economy.

Yes, change is inevitable, but we in Congress can and must be able to make sure that economic changes do not leave American families destitute in its wake.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The question is on the passage of the bill, as amended.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. Baucus] and the Senator from Texas [Mr. Bentsen] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. Murkowski], the Senator from Oklahoma [Mr. Nickles], and the Senator from Indiana [Mr. Quayle] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 36, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—59

Biden
Bond
Boren
Breaux
Bumpers
Burdick
Byrd
Cochran
Cohen
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Exon
Ford
Fowler
Gore
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Thurmond
Trible
Warner
Weicker

NAYS—36

Adams
Armstrong
Bingaman
Boschwitz
Bradley
Chafee
Chiles
Conrad
Cranston
Danforth
Domenici
Durenberger
Evans
Garn
Glenn
Graham
Gramm
Grassley
Hatfield
Hecht
Humphrey
Karnes
Kassebaum
Lugar
Matsunaga
McCain
McClure
Packwood
Pressler
Simpson
Stafford
Stevens
Symms
Wallop
Wilson
Wirth

NOT VOTING—5

Baucus
Bentsen
Murkowski
Nickles
Quayle

So the bill (H.R. 1154), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats. The Senate will be in order.

The Senate will come to order. Senators, clear the well.

Mr. HOLLINGS. Mr. President, once again——

The PRESIDING OFFICER. The Senator from South Carolina cannot be heard.

Mr. BYRD. Mr. President, there will be another rollcall vote immediately. I move that the—I did not mean to shut off the distinguished Senator from South Carolina, Mr. Hollings. Let me yield for him for 1 minute or 2 and then I want to move to proceed to take up the minimum wage bill. There will be a rollcall vote.

Mr. HOLLINGS. Mr. President, I will not detain Senators. I just want to thank all Senators for their support and my distinguished counterparts on the other side of the aisle for their wonderful arguments. I think we had a meaningful debate. I appreciate the support of the staffs, the colleagues and all that worked with us and particularly my senior colleague.

The PRESIDING OFFICER. The senior Senator from South Carolina.

The Senate will be in order so Senators can be heard.

Mr. THURMOND. Mr. President, I want to express my deep appreciation to the Senate for passing this bill. It is very vital to the economy of this Nation and we greatly appreciate your consideration, the consideration you gave to it, because it means so much to the economy of this Nation. It means so much to defense. And it means so many jobs to be preserved in America.

I wish to extend my commendation to Senator Hollings for his fine leadership in this bill and the staff members that work with us on both sides. I also wish to thank the leadership for their cooperation in connection with this bill.

Mr. BYRD. Mr. President, I move the Senate proceed to the consideration of S. 837.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. Baucus], the Senator from Texas [Mr. Bentsen], and the Senator from West Virginia [Mr. Rockefeller] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. Murkowski], the Senator from Oklahoma [Mr. Nickles], and the Senator from Indiana [Mr. Quayle] are necessarily absent.

The PRESIDING OFFICER (Mr. Fowler). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—87

Adams
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—7

Armstrong
Exon
Garn
Gramm
Helms
Humphrey
Symms

NOT VOTING—6

Baucus
Bentsen
Murkowski
Nickles
Quayle
Rockefeller

So the motion to proceed to consider the bill (S. 837) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, there will be no more rollcall votes today, and perhaps even more important, the son of the distinguished Senator from Massachusetts, who is the manager of this bill that we are on, won election in Rhode Island and he is going to be in the State legislature. That is where I got my start. I probably have not gone as far as his son will go. I want to congratulate Patrick and his illustrious father.

Mr. KENNEDY. If the Senator will yield, I appreciate very much the kind words of the majority leader. I think all of us know there was a very splendid tribute to the leader last evening that took place in which our colleagues feted the very well-deserved distinguished record of the Senator from West Virginia, our leader. Only the ballots up there in the Ninth Representative District of Rhode Island would take me away from that very distinguished occasion, but I appreciate the kind words that have been stated by the majority leader, and I will communicate them to our Democratic candidate.

MINIMUM WAGE RESTORATION ACT

The **PRESIDING OFFICER.** The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

"(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

"(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

The **PRESIDING OFFICER.** The Senator from Massachusetts.

Mr. **KENNEDY.** Before proceeding with a brief opening statement, and then I will make a more extensive one as we begin the debate tomorrow, I certainly hope that we will have the opportunity to get into this legislation during the time that will be available tomorrow. We are quite prepared to move ahead with amendments. We are cognizant of the schedule this evening where the President of the United States in a very generous offer is bringing together the Members of the Congress for what will be the last occasion for his annual get-together.

But I would hope that Senators who do have amendments would give us a chance to debate and dispose of them tomorrow. I think we are pretty well aware of what those amendments are. These issues have been around for a long time. I am hopeful we will not spend a great deal of time unnecessarily in consideration of those matters. We will be at our post first thing in the morning at the time designated by the majority leader, and we will be quite prepared then to deal with various amendments. I would be more than willing to agree to time limitations on the amendments which have been considered both in our committee and also which have been included as a part of the RECORD.

Mr. President, I know we have a premium on time this evening. I intend to make a brief statement. I know there are others of my colleagues who want to speak, if not on this issue, on other important matters and hopefully we will begin serious debate and discussion tomorrow morning.

The minimum wage was last adjusted by Congress in 1977, with the current $3.35 an hour taking effect on January 1, 1981. In the ensuing 7½ years, the purchasing power of the minimum wage has declined almost 30 percent. The $3.35 an hour in effect in 1981 is only worth $2.60 an hour in today's dollars. The minimum wage today represents 36 percent of the average hourly earnings, a decline from 46.2 percent in 1981, and from 55.4 percent in 1968. The original 25 cents an hour passed in 1938 represented a greater percentage of average hourly earnings than does $3.35 today.

In over one-half of the States, basic welfare benefits provide greater cash income than does full-time work at the current minimum wage.

Opponents of the minimum wage point out that many minimum wage workers are not poor. The sad reality is that many of the poor cannot afford to work at the current minimum wage when not working can better enable these families to survive.

According to recent current population survey data provided to the committee by the Department of Labor, in 1987 there were over 15 million hourly workers earning less than $4.55 an hour. While women make up about 45 percent of the labor force, they constitute over 63 percent of those earning less than $4.55 an hour. Blacks and Hispanics also constitute significantly higher percentages of these low-wage workers than they do of the work force in general.

Contrary to the assertions that most of these workers are just teens, only 26 percent of those earning less than $4.55 are teenagers. Of hourly workers 65 years of age and older, 39.5 percent earn less than $4.55 an hour.

Over 6.5 million of these low-wage workers are full time. Over 3.8 million are heads of households, and over 2.1 million of these are working full-time heads of households. Of hourly workers within all families earning below the poverty level for a family of three, over 2.6 million earn less than $4.55 an hour, or 63 percent of all hourly workers in this category. Of hourly wage earners from families of three below the poverty line, over 70 percent earn less than $4.55 an hour.

Raising the minimum wage to $4.55 will provide a cash infusion to these millions of workers without expanding Federal outlays. It will restore the minimum wage, badly eroded over the last 7 years, much closer to the levels maintained over the last 50 years. By increasing the minimum to this level, work in many States will be a more attractive alternative than welfare benefits.

For the working poor, this adjustment to the minimum wage is long overdue and will prove to be an enormous benefit. For those nonpoverty workers laboring at the minimum wage, the increase will also prove to be a significant benefit. For example, teens and young adults attempting to meet college expenses have witnessed a 73-percent increase in private college tuition and a 61-percent increase in public college tuition since the minimum was last adjusted in 1981. Seventy percent of middle-income students depend on their earnings for college expenses, and since 1981, students have had to increase their borrowing by over 40 percent.

Despite the assertion by President Reagan that "the minimum wage has caused more misery and unemployment than anything since the Great Depression," the historic data contradicts such notions. Restoration of the minimum wage by enactment of S. 837 will, in fact, increase the earnings and reduce the misery of millions of American workers, with no discernible adverse impact on our economy.

Mr. President, tomorrow I will review with the Senate what has happened historically with the increases in the minimum wage and what the impact has been on the employment situation for teenagers as well as others. We will review for the Senate what the economic impact has been in terms of our economy.

We will hear during the course of this debate a good deal of discussion about what the impact is going to be on employment, particularly teenage employment. We have heard that argument time in and time out since there were increases in the minimum wage. You can just about replicate the speeches in 1938 when we were going to adopt the minimum wage. We will hear those speeches. We will also hear the statement on what the impact will be on the state of the company. What you probably will not hear from those who are going to oppose the proposal is the positive impact on the Federal budget deficit because, if you raise the minimum wage of some 16 million Americans, those individuals will move out of the entitlement programs and the savings in terms of the Federal budget will be hundreds of millions, billions of dollars, Mr. President, over the period of these next few years.

Mr. President, this is an opportunity to take action. This should not be a partisan issue. On three occasions when the minimum wage was increased it was increased with a Republican President, President Eisenhower. We have seen the increase take place during Republican and Democratic administrations. As a matter of fact, during the 1960's and 1970's, the minimum wage was basically the poverty wage, very slightly above, and it gradually kept pace during that period of time of the 1960's and 1970's when we had Democratic and Republican Presidents.

And so we are attempting in 1988 with this increase of 40 cents, 40 cents, and 40 cents to provide a cost-of-living relief to the poorest of the poor who are working in the United States of America. Most everyone else has had a cost-of-living increase. Our seniors have had a cost-of-living increase with the COLA's. Members of the military have had a cost-of-living increase. Federal workers have had a cost-of-living increase. Members of Congress have a cost-of-living increase. The President had a cost-of-living increase.

The thing that is amazing to me, Mr. President, is that we hear discussions about prosperity in America, but there is reluctance in this body to ensure that those 16 million Americans who are responsible for a great deal of the productivity of our country should not be able to at least be held even—held even, that is all this legislation would do—to what the purchasing power was in 1981. It is a matter of simple decency. It is a matter of simple equity. It is a matter of simple fairness.

Mr. President, I will take the time to get into the various issues which I know will be coming up about what actions we took in our committee, and to have a discussion about the different amendments that I anticipate on tomorrow, and then hopefully move very rapidly into the debate on this issue.

This issue should not take a long time. People know what this is really all about. We debate many complex, involved, intricate issues on the floor of the U.S. Senate. This one is one which every Member of this body understands and understands completely. And most importantly, the American people understand. Those who are working out there trying to provide for their families understand.

What we are basically saying is that the minimum wage out to be a livable wage, not a sublivable wage, and that the millions of Americans who are working today and trying to provide for their family, if they are prepared to do the work, should not be condemned to a continued condition of living in poverty, and we should not condemn the children of those individuals to that type of situation as well.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah, Mr. Hatch, is recognized.

Mr. HATCH. Mr. President, I have listened with interest to the remarks of my distinguished colleague from Massachusetts. The Fair Labor Standards Act, which established the fair minimum wage, was enacted 50 years ago this past June 25. The Fair Labor Standards Act was passed as a Depression-era protection for workers whose wages, because of the tremendous surplus of labor, had fallen below 25 cents an hour.

There is no question that at that time this was landmark legislation, but there is a question today about the wisdom of raising the minimum wage.

While adjustments to the statutory minimum wage have been made over the past 50 years, the purpose of the minimum wage has markedly changed since 1938. Then it was simply a wage floor. Today it is touted as a means of helping the poor.

Mr. President, the minimum wage cannot achieve this new goal, and in fact we will make that case that the unskilled, inexperienced workers in our society are ill-served by an increase in the minimum wage, particularly of the size requested and proposed in S. 837.

There are several reasons why our Senators in the U.S. Senate ought to oppose this bill.

No. 1, it will cost jobs. Every economist admits that, although there are some who project such low numbers that it makes you wonder if they are serious.

No. 2, it will result in wage inflation, not justified by economic growth. In other words, it will start the wage inflationary spiral once more. And we will find that all of those on fixed incomes throughout this country will be seriously damaged by this push up at the bottom under the guise that they are helping the working poor.

No. 3, its adverse impact is not borne equally by all States and regions of the country. You will find, especially in certain regions of this country, that the minimum wage is a disaster, and especially to young minority people.

No. 4, it will hurt but not help the working poor.

No. 5, it provides absolutely no recognition of the difficulties faced by the unskilled, the untrained, the unlettered, the unfortunate in entering the labor market.

And No. 6, it will result in price increases for almost all products and services in our society, again a push upward toward inflation.

I, for one, do not want to return to the Carter years of 21½-percent interest rates. I do not want to return to the Carter years of 13-percent inflation rates on an annualized basis.

Mr. President, I would like to expand just a little bit on each of these points that I have listed.

No. 1, the opinion among the American economists is nearly unanimous that the increase in the minimum wage will cause a disemployment effect; that is, job losses not only of those jobs which already exist but of those jobs which will not be created in the future because of this type of legislation.

There is no question that the estimates of job losses vary widely. But no economist of whom I am aware has argued that such losses will not occur. Robert R. Nathan and Associates, usually tapped by those who sponsor this bill to provide economic estimations for them, has estimated that 882,000 jobs will be lost over 3 years given an increase of 39 percent in the minimum wage. That is almost 1 million jobs that will be lost in our society after all of this work to put people to work, 155 million now, and 17 million new jobs in this society since the Reagan administration took over. And, it was not hobbled by increases in the minimum wage during those last 8 years.

Dr. Gerard Adams, professor at the Wharton School, one of the most prestigious schools in this country, who testified before the Labor and Human Resources Committee, estimated a disemployment effect of 200,000 jobs. There is no question whose side he is on, but he said that there will be at least 200,000 jobs lost.

The Congressional Budget Office itself estimates the losses of between 175,000 and 350,000 given the 36-percent increase called for in the committee-reported version of this bill.

The Labor Department in this chart—this is their chart—shows lost employment opportunities estimated; that is, alternative minimum wage increases. If you go to $4 an hour, the estimates by our Labor Department are between 200,000 to 400,000 jobs lost; if you go to $4.35 an hour, the estimate of lost jobs is 300,000 to 600,000. That, by anybody's viewpoint, would have to be considered conservative. If you go to $4.65 an hour, which is what this bill calls for, the estimates are 400,000 to 800,000 lost jobs in our society.

So Robert Nathan, with almost 1 million jobs lost, who normally would be tapped by the proponents of the minimum wage to do their economic analysis but of course is not because he happens to make the case pretty well for our side, is pretty close to being accurate.

We are talking about 1 million lost jobs in our society. This is fiction that we are going to help people by causing everything to start going up again in our society, especially inflation. How does that help the aged? How does that help those who are on fixed incomes? They may get an increase in the minimum wage, but the cost of goods and services is going to go up for everybody. Well, let us go a little bit further.

The Institute for Research on the Economics of Taxation estimated a loss of 300,000 to 750,000 jobs with an increase of 39 percent that we are talking about here. I suppose we could talk about a whole raft of other estimates but everybody admits there will be a significant, in the hundreds of thousands, loss of jobs. That is except one person whose report I think is totally incredible.

I think we could commission a few dozen more studies but I do not think the message is going to be any different. Even novice economists, even people like myself who have been untrained in economics except through the expert witnesses that I have called through the years, know that if the price of a product or service goes up we are inclined to buy less of it.

The minimum wage hike will automatically increase the price of labor to employers without a corresponding increase in productivity, and it stands to reason that they will try to use less labor in the production or delivery of goods and services, and that costs jobs. Congress had better realize that fact before it legislates away not only many of today's jobs but for our jobs in the future.

Let us go to the second point.

Job losses caused by a minimum wage increase are of course exacerbated by the "ripple effect." The ripple effect is caused when workers who are more experienced or have greater skills than minimum wage workers require higher wages in order to maintain pay differentials that existed before the statutory minimum wage increase. For example, employees earning $3.75 an hour today would have to have raises if workers earning $3.35 an hour were raised to $3.75 an hour by virtue of this legislation. Workers earning $4 an hour right now would need raises because they are senior to or have more skills or more experience in seniority to workers who are earning $3.75 an hour. So it goes right on up the pay ladder until at the top of that spectrum you will find that there are demands to go up in every aspect of pay.

This is from the Ronald Krumm study—the effects of the proposed increases in the minimum wage on wages. If the wage in the absence of the minimum wage increase is $4, if you take the minimum wage of $3.85, by 1989 this wage has to go to $4.41. That is what will happen. If the minimum wage goes to $4.25 in 1990, you have $4.76 that the wage will have to go to. If the wage is $4.65, which this bill calls for in 1991, then this person has to be paid $5.15 an hour. That means that everything in society has to inflate.

If you make $11 an hour, it may not change; but in every one of these across the board every one has to go up. Even the $11 an hour has to go up.

This is a very interesting thing. It stands to reason. It does not take any great economic insight to understand that that is going to be the result if we approach it this way.

A recent study by Prof. Ronald Krumm of the University of Chicago and his doctoral student, Li-Wei Chao, finds that the ripple effect could result in a cumulative hike in U.S. Labor costs of 2.1 percent, or over $48 billion. I find it incongruous that Congress, which has been so concerned with America's ability to compete worldwide, would legislate $48 billion in additional labor costs. How can this possibly help America's international market position or our balance of trade problems we have today?

But even more important, the study also concludes that the real damage caused by the ripple effect is to compound the disemployment which will result from a minimum wage increase.

Let me quote from the Krumm study:

> These ripple-induced wage increases are by no means benign. Quite the contrary, since they are unaccompanied by any offsetting increase in productivity that creates the profits necessary to pay the higher wages, they can only result in employment losses in job classifications traditionally compensated at rates higher than the minimum.

The study also shows that the adverse impact falls disproportionately on those whose current wages are closest to the new minimum; that is, those on the bottom of the wage scale. So, what the minimum wage increase really does is provide economically unjustified wage increases for more highly paid skilled labor at the expense of those who are struggling. When those wages go up, everything else in society goes up. Frankly, Mr. President, this is not only bad economic policy, it is morally shameful.

No. 3, there are inequities in the regional impact of this legislation. Several recent studies have found that an increase in the Federal minimum wage will have a disproportionate impact on States and regions which have lower average wages. The South and Midwest, in particular, will suffer significant job losses.

Sure, the Northeast is going to be great. Michael Dukakis and Senator KENNEDY are going to be very happy with this, but the rest of the country suffers. Even they will not be happy, because their costs will go up, too, and they will find that it is even more difficult to meet the balanced budgets in the State of Massachusetts. It is social legislation without thought.

The bill's proponents have argued that the impact of the minimum wage increase is dependent on the gap between the current statutory minimum and the average wage. If, for example, the average wage is $12 per hour, the negative impact will be less than if the average wage is $10 per hour. The argument goes that because the current minimum wage is only 36 percent of the national average wage, the increase will simply fill in the gap and lead only to negligible job losses and costs due to the ripple effect.

The flip side to this argument, however, is that not all States are "average." Many States have lower than average wages; in other words, the gap between the minimum and the average wage is much narrower. Other States have pockets of higher than average unemployment. This puts additional pressure on that.

A study conducted by Prof. Richard McKenzie and Curtis Simon of Clemson University for the National Chamber Foundation estimated that job losses under the original proposal to be 1.9 million by 1995. Southern States would absorb a full one-third of these losses, or about 635,000 jobs. Job losses in the Midwest are projected at 446,000 jobs, or about 23 percent of the total.

These findings are consistent with a new study done by Prof. Ronald Krumm of the University of Chicago. He found that, overall, areas in and bordering the Deep South would be most negatively affected by a minimum wage increase.

Senator KENNEDY's own efforts to help the people of Puerto Rico by providing a mechanism in the Fair Labor Standards Act for them to set a minimum wage lower than that of the mainland show the validity of this concern.

I commend Senator KENNEDY for his efforts in committee to help the people of Puerto Rico. I supported him on the Puerto Rico amendment because there are real regional differences. There are parts of this country, particularly the South and Midwest and my State, which are badly affected by this type of social legislation. Everybody on fixed incomes will be drastically hurt as time goes on, as will everybody in the country if inflation starts the ugly spiral up again.

It is precisely this type of legislation that started it in the Carter years. I do not blame Jimmy Carter. I blame us. We do this because interest groups want it.

I supported Senator KENNEDY's amendment in committee which would permit the Minimum Wage Board of Puerto Rico to petition the Secretary of Labor for the appointment of a special industry committee. This committee would recommend the minimum wage or rates of wages which would apply in Puerto Rico.

Puerto Rico struggles with double digit unemployment, and the average hourly manufacturing wage is $5.38. Clearly, the jump to a $4.55 minimum wage would spell disaster for Puerto Rican workers, and the flexibility granted to Puerto Rico in the Kennedy amendment provides necessary relief.

The assertions of the bill's proponents concerning Puerto Rico as well as the assertions of these new studies raise this question: Why, when the Fair Labor Standards Act permits States to set a minimum wage higher than the Federal minimum, should the Congress step in and legislate minimum wage increases that will apply to all States regardless of their individual economic conditions. Shouldn't the States have something to say about how many jobs they are willing to risk in order to have a higher minimum wage? Perhaps States trying to attract new industry and create new jobs would prefer to maintain competitive labor markets by not ratcheting up wages artificially.

Mr. President, if we can acknowledge the particular economic situation in Puerto Rico and allow the Secretary of Labor to set the minimum wage there by special industry committee, why can't we allow Utah, or Texas, or Alabama, or North Dakota, or any other State, the same consideration?

Let me go to the fourth point. The fourth point is the most important reason to oppose S. 837, even in the slightly amended form reported by the Labor and Human Resources Committee—that it will not help the working poor.

This is obvious if we stop the rhetoric long enough to think about it. Let me take a minute to work through it.

Out of a work force of over 115 million, only 4.7 million, or just 4 percent, earn the minimum wage. This number happens to include many workers who also earn tip income; but let us say all 4.7 million earn the minimum wage. Of the 4.7 million minimum wage earners, only 658,000 are heads of household with dependents. That is only 14 percent of all minimum wage earners, but that is the group which is most in need and which we all want to help.

This bill will increase the minimum wage across-the-board even though 80 percent of the intended beneficiaries are not poor. Moreover, depending on which job loss estimate you want to accept, this legislation will price a substantial percentage of the target group out of the job market altogether because they are the workers most likely to be unskilled and unable to compete for jobs at the higher legislated wage level.

Who are the minimum wage earners? Eighty-two percent of all minimum wage earners are members of families with family incomes above the poverty level; 70 percent were in families with incomes of 150 percent of poverty or higher. Nearly 60 percent are under the age of 25. Teenagers account for over 36 percent of all minimum wage earners, 65 percent of whom report that school is their major activity. Sixty percent of all minimum wage workers have never been married, and 66 percent work part time.

Those facts belie the need to do what they want to do here.

It is also important to remember that 80 percent of all part-time employees prefer part-time work and that 90 percent of all the new jobs created during the current economic expansion, which history books will refer to as the Great Recovery, were full-time jobs.

Clearly, the minimum wage, which was created in 1938 only to provide a wage floor, was never intended as an antipoverty tool. The evidence is mounting that the minimum wage is not only ineffective as such a tool but also that it is detrimental to the very group of people we want to help.

But you need not take my word exclusively for this. Let me quote from a couple of the studies conducted for the Minimum Wage Study Commission. As Senators know, this Commission, chaired by former Congressman James O'Hara, was established by the 1977 Fair Labor Standards Act amendments. Its report was issued in 1981.

This is from the study entitled "The Short- and Long-Run Effects of Minimum Wages on the Distribution of Income," by Behrman, Taubman, and Sickles:

> Both the minimum wage rate and the Fair Labor Standards Act coverage reduce the mean earnings for those with low education and [presumably] low skill levels. * * * There is practically no evidence that minimum wage provisions increase the earnings [or improve] the poverty position of the least educated. * * * Moreover, there is some evidence that these provisions increase unemployment and nonparticipation. * * * Thus the minimum wage policy appears to be a poor policy with effects that often have been misunderstood or misrepresented.

This comment is from a paper submitted for the Commission report entitled "Minimum Wages and the Distribution of Income," by Johnson and Browning:

> The additions to household income produced by increasing the minimum wage are spread quite evenly across the distribution of household income. Households in the lower half of the distribution receive only about one half of the total "benefits" [sic] of this policy. In terms of the share of total benefits accruing to low-income households, the minimum wage compares unfavorably

> with government transfer programs. * * * Increasing the minimum wage redistributes income within income classes as well as across income classes. More than 80 percent of low-income households are harmed by the minimum wage.

And, I cite also from Datcher and Loury's paper, "The Effect of Minimum Wage Legislation on the Distribution of Family Earnings Among Blacks and Whites":

> [Increases in the minimum wage] have had a positive effect on the earnings of older white men, a significant negative impact on teenage black and white women and little or no effect on other workers as a whole * * * Overall, high income families tend to benefit relatively more than low income families.

There is more, but I am going to save some of that for later and not read it. Suffice it to say that if the U.S. Congress votes to increase the minimum wage because we say we are concerned about helping the working poor, we have perpetrated a real fraud on the American people. We should know better. And I think the American people are starting to realize that this is a fraud, that it is used as a huge subterfuge a coverup for so many of these from special-interest groups that have ulterior motives that could care less about the poor.

Let us go to the fifth point.

No. 5, one better way to help the inexperienced and unskilled in our society is to remove some of the barriers which prevent them from getting into the job market. This legislation provides absolutely no employment or learning opportunities.

The sponsors of this bill have argued that the demographic changes in our work force will solve the disemployment problem. They argue that we need not worry that jobs for teenagers will be lost since there will be fewer teenagers to fill them anyway.

This apparent willingness to sacrifice hundreds of thousands of entry-level jobs for unskilled workers is a little hard for me to understand. The sponsors seem to assume that all teenagers would be qualified to work at the higher mandated wage level. Employers will not pay high wages to workers whose skills are insufficient to perform the job or whose work habits are untested.

So how do the kids get a chance? This bill will stop their chances.

While it is certainly true that many employers today are offering $4, $5, and $6 per hour to attract teenage workers, we have to point out that not all teenagers will be eligible for those jobs.

And what about the immigrant father who lacks English language skills, or the single mother who never finished high school? Will they find jobs at higher wage levels?

Maybe some will but an awful lot of them will not, and this bill will see that they will not.

Today our economy is creating good jobs at good wages. Over 12 million of the new jobs created between 1983 and 1987 have paid wages of $10 an hour or more.

This chart shows the net employment change by wage between 1983 and 1987. Those earning $6 or less actually have decreased. Those who earn between $6 and $10 have increased, and those who have earned $10 or better have increased to 12 million people.

What has been working really works. Why do we want to throw a lead wrench into it and stop it from working and cause an inflationary spiral again, and take jobs away from young blacks, Hispanics, and women? For the life of me, I do not understand it.

To just give you an illustration, these are editorials against the minimum wage. Sure they are editorials in favor but this was unheard of 6 or 7 or 8 years ago. Look at the editorials. I do not want to take time to put them all in the RECORD because it would be very expensive. But, my gosh, all of these thousands of editorials against the minimum wage and the harm it will do to our society.

While we have all supported the——

Mr. KENNEDY. Does the Senator want to yield on that point?

Mr. HATCH. I would rather finish my speech, but I would be happy if the Senator wants me to.

Mr. KENNEDY. The Senator just brought up a couple of books that are 7 inches of editorials against the minimum wage. But I think you can take a one-page piece of paper and make the case for it, and 80 percent of the American people favor that increase as well.

I know that the working poor do not have all the access to the chamber of commerce mimeograph machines. But I hope no one would be dissuaded by the point of 7 inches of editorials that are basically put out by the chamber of commerce.

Mr. HATCH. Let me just say this in response. I think it is quite cynical to think that the newspapers of America are going to be writing editorials because the chamber of commerce wants them to. In fact, they are probably the least persuasive with the editorial writers in this country of any group, in many respects.

I have not seen many editorial writers in this country write many free enterprise editorials that would please the chamber of commerce.

These are editorials by the free press of this country. My point is this has never happened before.

The only reason that a good percentage of Americans favor increases in the minimum wage is because they really have not focused, they are starting to focus, and that is one reason it has taken over 2 years to get this minimum wage bill to the floor. And, it is only during a political year, at the height of a political season, at the end of a political Congress, doing pure politics on the floor that they have the audacity to bring it up now, hoping they can slip it through.

Mr. KENNEDY. Does the Senator want to yield on that point?

Mr. HATCH. Sure.

Mr. KENNEDY. I notice that the Vice President or the Presidential candidate for the Republicans has just announced that he is for some increase in the minimum wage, and I am sure that the Senator is not suggesting that that had any political motivation when we have the repeated record of this administration over the period of the last 7 years—I will take the time to put it in the RECORD—unalterably opposed to it.

I am wondering if the Senator would object to my including in the RECORD, after the inclusion of the 7 inches of editorials, 2 pages of the most recent Gallup poll that indicate what the position of the American people is.

Mr. HATCH. I am not including the editorials in the RECORD, but I would be happy to have that go in at the end of my remarks, or at the end of the remarks of the Senator from Massachusetts would be better.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Kennedy exhibit 1.)

EXHIBIT 1

PROPOSAL TO BOOST MINIMUM WAGE HAS OVERWHELMING PUBLIC SUPPORT

(By George Gallup, Jr. and Alec Gallup)

PRINCETON, NJ.—A proposal to raise the national minimum wage by 50% over the next four years has overwhelming public support.

In the latest Gallup Poll, 76% favor and 20% oppose provisions of a bill approved by the House Labor Committee in March that would gradually increase the minimum wage from the present $3.35 an hour to $5.05 in 1992.

Large majorities in all population groups favor the proposal with approval outweighing disapproval by better than 4-to-1 among Democrats, blacks, women, young adults, those who did not attend college, and Easterners.

The proposed legislation would boost the hourly minimum in four annual increments, to $3.85 next year, $4.25 in 1990, $4.65 in 1991 and $5.05 in 1992. Thereafter, the minimum wage would be adjusted yearly in line with the average national wage.

EARLY SUPPORT FOR MINIMUM WAGE

A 1937 Gallup Poll found 3-to-2 support for a national minimum wage law, which was enacted the following year. Polls conducted periodically since then also found heavy public backing for increasing the minimum.

The 1938 statute set the minimum wage for most adult non-farm workers at 25 cents an hour. The minimum rose to 40 cents in 1945, 75 cents in 1950, and $1.00 in 1956. Subsequent increases brought it to $2.00 in 1974 and to its present level of $3.35 in 1981.

ARGUMENTS PRO AND CON

Proponents of raising the minimum wage point out that the present $3.35 minimum has lost one-fourth of its purchasing power since 1981 through inflation. If the present minimum wage had been adjusted to keep pace with the cost of living, it now would be $4.50 an hour. A full-time worker paid $3.35 an hour earns less than $7,000 a year, above the individual poverty level but inadequate to support a family.

Opponents argue that increasing the cost of labor would be counterproductive, forcing many employers to lay off workers, especially teenagers and the elderly, reduce the hours they work, or turn to the sub-minimum underground labor market. And because higher production costs would be reflected in higher consumer prices, critics say, raising the minimum wage would be inflationary.

At present, the legislation is being held up by a coalition of Republicans and moderate and conservative Democrats who fear it would hurt more than help workers it is designed to benefit.

The question and key findings:

As you may know, Congress is now considering legislation that would gradually raise the minimum wage from the present $3.35 per hour to $5.05 per hour over the next four years. Those in favor point out that the minimum wage has not been increased since 1981, while consumer prices have gone up by about 25 percent. Those opposed say that increasing the cost of labor would lead to fewer jobs, higher unemployment, and higher inflation.

All things considered, do you favor or oppose increasing the minimum wage to $5.05 per hour over the next four years?

RAISING THE MINIMUM WAGE

[In percent]

	Favor	Oppose	No opinion
National	76	20	4
Democrats	85	13	2
Republicans	67	30	3
Independents	74	22	4
Men	71	27	2
Women	81	14	5
Whites	74	22	4
Blacks	89	10	1
18 to 29 years	80	17	3
30 to 49 years	77	20	3
50 and older	72	23	5
College graduates	70	27	3
College inc	74	24	2
High school grads	80	17	3
Not High School grads	78	16	6
East	80	16	4
Midwest	75	21	4
South	75	21	4
West	74	24	2

The findings are based on telephone interviews with 1,011 adults, 18 and older, conducted in scientifically selected localities across the nation May 2–8. For results based on samples of this size, one can say with 95% confidence that the error attributable to sampling and other random effects should not exceed 4 percentage points in either direction.

In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of opinion polls. This report conforms to the standards of disclosure of the National Council on Public Polls.

Mr. HATCH. Mr. President, let us not distort what the Vice President has said. He has said he may be for an increase in the minimum wage if there is a legitimate training wage. If there is a legitimate and not fuzzed-up training wage, which is likely to occur here, then he may be for an increase in the minimum wage.

Mr. KENNEDY. Does he say at what level?

Mr. HATCH. No, he did not say at what level. But I have to presume that he understands these economics as well as I do.

Mr. KENNEDY. That is reassuring.

Mr. HATCH. Well, we will do our best to educate both sides on this issue. It is more difficult to educate those who have long since just bought off on the fact that people may be for getting more income without considering the inflationary spiral and all of the other aspects of it.

Mr. KENNEDY. I will not interrupt the Senator again. I see my good friend from Hawaii here who wanted to make an important statement. I am glad to accommodate the Senator from Utah, but could the Senator just indicate when he might be prepared to yield the floor? I see also the Senator from New Mexico and the Senator from Washington is on the floor.

Mr. HATCH. I should not be too much longer and then I will be happy to yield the floor.

Mr. KENNEDY. I thank the Senator.

Mr. HATCH. Let me just finish my opening remark. I will have much more to say later, but I want to go through these various points.

While we have all supported Federal programs to provide training and educational opportunities—and I plan to continue my support for programs like the JTPA, the Job Training Partnership Act, which was a bipartisan effort and which has worked; and the Carl Perkins Vocational Education Act, which of course both the distinguished Senator from Massachusetts and I have had an impact on; as well as for new ideas like Senator KENNEDY's JEDI proposal—we must recognize that an increase in the minimum wage will also raise the height of that first hurdle into the jobs market. I just do not believe we can write off the hundreds of thousands of jobs that are stepping stones for unskilled, inexperienced, and undereducated workers, especially young blacks, young Hispanics, and women.

It is an important fact that the number of minimum wage workers has declined by 3 million, or 40 percent, since the last increase in 1981 under the Carter administration. This is proof that individuals are not stuck in minimum wage jobs. Rather, they earn while they learn. They get raises. They get promoted. They become employable in other occupations and industries.

I worked my way through school as a janitor. Some may feel I would still be a better janitor than I am a Senator, but the fact of the matter is I was glad to have that kind of work in order to make my way through college. And, I am proud that I was able to do it. It helped me to get where I wanted to go, which back then was law school. I would venture most of us in this body have had similar job experiences.

I have worked at minimum wage and I know it was the only way I could get a chance. I will be honest with you. Had they increased it like they are dramatically increasing it now, I would not have had that job. And I was much more fortunate, perhaps, in some ways than some of these young blacks and young Hispanics and women in our society today who are really having a tough time. These jobs were then and they are now a means for self-improvement.

Mr. President, I do not think we can simply agree to eliminate hundreds of thousands of jobs—jobs for those who cannot yet compete at the higher wage level—without mitigating the adverse impact with a meaningful, workable training wage.

Number six. This is the sixth point I was making. The list of objections to this bill would not be complete without mentioning the inevitable impact of an arbitrary increase of labor costs on inflation. While the precise impact of the minimum wage on inflation is still being calculated, there is general agreement that the effect is positive. Dr. Gerald Adams testified that the impact was "moderate," up to two-tenths of a percent annually. Dr. Beryl Sprinkel, Chairman of the Council of Economic Advisers, has projected that a minimum wage of $4.65 an hour would result in price increases to consumers of $13 billion.

But there is also going to be a big surprise for Congress when the bill comes due for increased costs of Federal programs such as Medicaid and Medicare. Labor costs, for example, comprise 60 percent of all nursing home expenses. Since nursing homes cannot often do with fewer employees and still maintain adequate patient care, these increased labor costs will be passed on to patients, families of patients, and to the Federal Government. Currently, Medicare and Medicaid pick up 68 percent of nursing home costs. The appropriations required to meet these additional costs could easily be into the billions of dollars depending on the ripple effect.

Now, let us ask ourselves another question. Who in our society is least able to afford price increases? The working poor, that is who. A few cents rise in the price of gasoline or groceries matters more to the person earning $5 an hour than it does to the person earning $20. So, Mr. President, if Jane Smith is fortunate enough to keep a job at the higher wage level, her raise will be eaten up rather quickly with this congressionally inducted inflation.

The sponsors of this bill argue that the buying power of the minimum wage has eroded significantly since 1981. That is true. But, does it make sense to anyone here to raise the minimum wage—promising recipients that they will have more change in their pockets—when the very act of passing this legislation reduces the value of the increase? Is Jane Smith really better off with the minimum wage? It is doubtful.

Let me conclude by saying, Mr. President, that the proposal to increase the minimum wage is absolutely counterproductive to helping the working poor The evidence is overwhelming. If Congress passes this legislation, rhetoric will once again have triumphed over substance. It is time we stopped legislating by platitude and stood up to the facts about this measure.

The proponents say this bill is necessary to guarantee a living wage for all workers. I submit to my colleagues that if a living wage is our goal, we ought to pass a minimum wage of $10, $15, or $20 an hour.

Why not do it? Of course, there would be no jobs at all if we did that. But I think that makes my point, and the higher minimum wage would not do a thing. It would not mean a thing except the total loss of jobs.

The proponents say we must raise the minimum wage to compensate for its lost buying power. Mr. President, a higher wage is no compensation for someone who does not have a job, and that is what this bill is going to lead to.

I urge Senators to look carefully at the negative impact this bill will have on our national economy in terms of the deficit and trade, on the economies of their States and local areas, and especially on those people in our country who are looking for opportunities. There are better policies for us to pursue, and we will be discussing some of those as we continue in the course of this debate.

AMENDMENT NO. 3040

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah, Mr. HATCH, proposes an amendment numbered 3040.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . NEW HIRE WAGE.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) is a wage of 80% of the wage prescribed by section 6, but at least $3.35 an hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not be exceed 90 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3041

(Purpose: To modify the minimum wage provisions governing employment of students)

Mr. KENNEDY. Mr. President, I sent a perfecting amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts, Mr. KENNEDY, proposes an amendment numbered 3041 to amendment 3040.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "SEC." in the pending amendment, and insert the following:

MINIMUM WAGE FOR STUDENTS.

(a) NUMBER OF STUDENTS LIMITATION.—Section 14(b)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(b)(4)) is amended by striking out "six" each place it appears in subparagraphs (B) and (D) and inserting in lieu thereof "12".

(b) ESTABLISHMENT HOURS LIMITATION.—Subparagraph (B) of section 14(b)(1) of such Act is amended to read as follows:

"(B) Except as provided in paragraph (4)(B), during any month in which full-time students are to be employed in any retail or service establishment under a certificate issued under this subsection, the proportion of student hours of employment to the total hours of employment of all employees in such establishment may not exceed the higher of—

"(i) one-tenth;

"(ii) a proportion established by the Secretary under a previous certificate issued for such establishment under this subsection; or

"(iii) a proportion established by the Secretary as part of the action taken by the Secretary on an application for a certificate for such establishment under this subsection.".

(c) APPLICATION PROCEDURE.—Section 14(b)(4) of such Act is amended by adding at the end thereof the following new subparagraph:

"(E)(i) Temporary authorization to employ full-time students at subminimum wages under the conditions set forth in this subsection shall be effective from the date the application is forwarded to the Secretary in accordance with this subsection.

"(ii) The authorization referred to in paragraph (1) shall continue in effect for 1 year from the date of forwarding of the application unless, within 30 days after receipt of the application, the Secretary denies the application, issues a certificate with modified terms and conditions, or expressly extends the 30-day period of review.".

(d) OBSOLETE REFERENCES.—Section 14(b) of such Act is amended—

(1) in paragraph (1) (as amended by subsection (b) of this section), by striking out "or not less than $1.60 an hour, whichever is the higher";

(2) in paragraph (2), by striking out "or not less than $1.30 an hour, whichever is the higher"; and

(3) in paragraph (3), by striking out "or not less than $1.60 an hour, whichever is the higher".

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business, not to extend beyond 10 minutes, and that Senators may speak therein for not to exceed 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON AGRICULTURAL TRADE PROSPECTS—MESSAGE FROM THE PRESIDENT—PM 156

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

I hereby transmit the report on Agricultural Trade Prospects in Selected Countries prepared by my Special Assistant for Agricultural Trade and Food Assistance pursuant to the requirements of Section 1113 of the Food Security Act of 1985 (Public Law 99-198 of December 23, 1985).

RONALD REAGAN.

THE WHITE HOUSE, *September 15, 1988.*

ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 157

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with Section 7104(e) of Title 5, United States Code, I hereby transmit the Ninth Annual Report of the Federal Labor Relations Authority, which covers Fiscal Year 1987.

RONALD REAGAN.

THE WHITE HOUSE, *September 15, 1988.*

REGULATORY PROGRAM OF THE U.S. GOVERNMENT—MESSAGE FROM THE PRESIDENT—PM 158

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

When I took office I set in motion a plan to improve and rationalize the regulatory activity of Federal agencies. The program was designed to ensure full analysis of possible regulatory impacts, to bring about greater coordination within the government, and to increase public information about and participation in the process. To enhance presidential oversight, I issued Executive orders directing regulatory agencies to justify their exercise of regulatory discretion, demonstrate the likely benefits and costs of individual regulations, and better inform the public of their plans and activities. To provide leadership for these efforts to improve the regulatory process, I established the Presidential Task Force on Regulatory Relief, chaired by Vice President George Bush. I believe these steps have served the American people well and assured greater constitutional accountability.

Experience over the past 2 decades suggests the need for the President to establish publicly the overall direction for regulatory agencies by announcing the general, government-wide principles, both economic and social, to which regulatory agencies should adhere as they implement their statutory responsibilities. Our Administration has established a process in which the Office of Management and Budget issues an annual *Regulatory Program of the United States Government* setting forth the regulatory proposals of my Administration for the coming year. The *Regulatory Program* improves agency regulatory management by requiring agencies to observe the President's regulatory priorities and coordinate with OMB and one another. In addition, these reports provide the Congress and the American people—before the publication of any proposed regulation—with a comprehensive outline of how the Administration intends to exercise the discretion the Congress has provided.

The President must also provide for day-to-day oversight of agency regulatory developments. This oversight process, carried out through the Executive Office of the President, includes monitoring agency activity, coordinating government-wide issues, identifying issues of concern, and, with appropriate interagency discussion, ensuring that any remaining issues are resolved.

This Administration understands that American life is burdened by too much regulation and that true regulatory reform must involve regulatory reduction. Today, more than 100 Federal agencies maintain thousands of regulations that have an enormous impact on how we live and what we do. Regulations tell us what is safe and what we can buy. Government regulates how we make, price, sell, transport, use, and discard the products of everyday American life.

This pervasive government power can be used for good or ill. And as regulation grew over the past 5 decades, government "red tape" became a burden on our free enterprise system. Over the last 7½ years, we have substantially reduced that burden, cutting red tape and slowing the pace of new regulation.

When I became President in 1981, I directed that Federal agencies, within the scope afforded by law, should reduce the excess burden of government regulation that is borne by every worker, consumer, business, and State and local government in this Nation. Under the guidance of the Presidential Task Force on Regulatory Relief, Federal agencies have eliminated unnecessary regulatory costs ranging in the tens of billions of dollars. Federal reporting requirements have been eased wherever possible, and we have worked hard to ensure that the paperwork burden imposed on the American people does not get out of control. As we have weeded out and eliminated wasteful, unnecessary, and intrusive regulatory standards, we have also encouraged the development of useful regulations that will increase benefits to society as a whole.

The steady but enormous progress the Vice President and I have made over the past 7½ years to improve the way government regulates has been one of our Administration's proudest achievements. However, much more remains to be done. Managing the Federal regulatory machinery will continue of necessity to be a high priority for Presidents in the years ahead. For this reason, I am certain the new Chief Executive will want to continue this endeavor to serve the public interest by insisting that regulatory activity be productive.

RONALD REAGAN.

THE WHITE HOUSE, *September 15, 1988.*

MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2343) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

For consideration of all Senate amendments, except Senate amendment numbered 276, and modifications thereto committed to conference: Mr. CHAPPELL, Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. AUCOIN, Mr. SABO, Mr. WHITTEN, Mr. MCDADE, Mr. YOUNG of Florida, Mr. MILLER of Ohio, Mr. LIVINGSTON, and Mr. CONTE.

Appointed as exclusive conferees, only for consideration of Senate amendment numbered 276 and modifications thereto committed to conference: Mr. OBEY, Mr. WILSON, Mr. WHITTEN, Mr. EDWARDS of Oklahoma, and Mr. CONTE.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4782) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. SMITH of Iowa, Mr. ALEXANDER, Mr. EARLY, Mr. DWYER of New Jersey, Mr. CARR, Mr. MOLLOHAN, Mr. WHITTEN, Mr. ROGERS, Mr. REGULA, Mr. KOLBE, and Mr. CONTE as managers of the conference on the part of the House.

At 3:30 p.m., a message form the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2215. An act to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional four years, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3408. An act to increase the amounts authorized for the Colorado River Storage Project;

H.R. 4213. An act to amend title 38, United States Code, with respect to the Montgomery GI Bill:

H.R. 5133. An act to improve the procedures and remedies for the prevention of insider trading, and for other purposes;

H.R. 5150. An act to amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories, and for other purposes; and

H.R. 5261. An act to authorize and amend the Indian Health Care Improvement Act, and for other purposes.

At 5:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3680. An act to revoke certain public land orders, transfer certain public lands, and for other purposes;

H.R. 4102. An act to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, and for other purposes;

H.R. 4807. An act to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes;

H.R. 4818. An act to establish the National Park of Samoa; and

H.R. 5104. An act to improve the efficiency and effectiveness of the management and disposal of Federal real and personal property.

MATTERS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3680. An act to revoke certain public land orders, transfer certain public lands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4102. An act to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 4213. An act to amend title 38, United States Code, with respect to the Montgomery GI bill; to the Committee on Veterans' Affairs.

H.R. 4818. An act to establish the National Park of Samoa; to the Committee on Energy and Natural Resources.

H.R. 5104. An act to improve the efficiency and effectiveness of the management and disposal of Federal real and personal property; to the Committee on Government Affairs.

MEASURES PLACED ON THE CALENDAR

Under the authority of the order of the Senate of September 14, 1988, the following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5150. An act to amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5261. An act to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

The following bills were ordered placed on the calendar:

H.R. 4064. An act to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges.

H.R. 5133. An act to improve the procedures and remedies for the prevention of insider trading, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3855. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, notification of the funding sources prior to any transfer of funds in support of the Nicaraguan Democratic Resistance; to the Committee on Appropriations.

EC-3856. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a proposed letter to offer to Venezuela for defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3857. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a study on coverting the commissary shelf stocking/custodial/warehouse function at Patrick Air Force Base to performance by contract; to the Committee on Armed Services.

EC-3858. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting, pursuant to law, a draft of proposed legislation to amend the title 5, United States Code, to provide a remote maintenance allowance to certain officers and employees of the United States assigned to Johnston Island; to the Committee on Armed Services.

EC-3859. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operations of the Exchange Stabilization Fund for the fiscal year 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-3860. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a proposed contract with the Central Arizona Irrigation and Drainage District, Central Arizona Project, Arizona; to the Committee on Energy and Natural Resources.

EC-3861. A communication from the Secretary of Energy, transmitting, pursuant to law, a draft of proposed legislation cited as the "Oil Pipeline Regulatory Reform Act of 1988"; to the Committee on Energy and Natural Resources.

EC-3862. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a proposed contract with the Maricopa-Standfield Irrigation and Drainage District, Central Arizona Project, Arizona; to the Committee on Energy and Natural Resources.

EC-3863. A communication from the Secretary of Interior, transmitting, pursuant to law, a draft of proposed legislation to provide for distribution of interest paid in connection with late payment of royalties under Federal oil and gas and other mineral leases; to the Committee on Energy and Natural Resources.

EC-3864. A communication from the Director (Civilian Radioactive Waste Management), Department of Energy, transmitting, pursuant to law, the fifth annual report on the activities and expenditures of the Office of Civilian Radioactive Waste Management; referred jointly to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works.

EC-3865. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, copies of a Report of Building Project Surveys for Upper Manhattan/Harlem and Lower Manhattan, New York, New York; to the Committee on Environment and Public Works.

EC-3866. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, copies of proposed lease prospectuses; to the Committee on Environment and Public Works.

EC-3867. A communication from the Acting Secretary of State, transmitting, pursuant to law, President Reagan's determination that the Board of the International Fund broadly represents the interests of the communities in Ireland and Northern Ireland; to the Committee on Foreign Relations.

EC-3868. A communication from the Director of the United States Trade and Development Program, International Development Cooperation Agency, transmitting, pursuant to law, a notification that the Program's intent is to have limited competition for a procurement; to the Committee on Foreign Relations.

EC-3869. A communication from the Executive Director of the National Mediation Board, transmitting, pursuant to law, the Board's report for the period January 1, 1987 through December 31, 1987; to the Committee on Governmental Affairs.

EC-3870. A communication from the Assistant Attorney General (Administration), Department of Justice, transmitting, pursuant to law, copies of two new systems of records under the Privacy Act; to the Committee on Governmental Affairs.

EC-3871. A communication from the Chairman of the National Advisory Council on Indian Education, transmitting, pursuant to law, the fourteenth annual report of the Council; to the Select Committee on Indian Affairs.

EC-3872. A communication from the National Treasurer of the American Gold Star Mothers, transmitting, pursuant to law, annual report and financial statements of the American Gold Star Mothers for the fiscal year 1987; to the Committee on the Judiciary.

EC-3873. A communication from the Designated Federal Official and Deputy Director, Office of Bilingual Education and Minority Affairs, National Advisory Council on Bilingual Education, and transmitting, pursuant to law, a report on the condition of bilingual education in the nation and on the administration and operation of programs for persons of limited English proficiency; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-617. A resolution adopted by the Commission of the city of Miami, FL, expressing support for the American Heritage Trust Act; to the Committee on Energy and Natural Resources.

POM-618. A resolution adopted by the House of Representatives of the State of Mississippi; to the Select Committee on Indian Affairs.

"House Resolution No. 2

"Whereas, the Mississippi House of Representatives has previously adopted a resolution supporting the development of an Indian oriented tourism facility in Neshoba County, Mississippi; and

"Whereas, the Mississippi Band of Choctaw Indians with Phillip Martin as Tribal Chief are continuing the development of a multimillion dollar regionally oriented All-Season Outdoor Recreational Complex and Tourist Attraction in Neshoba County, Mississippi; and

"Whereas, such tourist attraction will provide jobs, tourist dollars and other direct economic benefits for the people of Neshoba County and surrounding counties as well as sales tax and gas tax revenues and other collateral benefits for the State of Mississippi as a whole; and

"Whereas, the capability of Chief Martin and other tribal leaders for accomplishing their objectives is evidenced by the employment opportunities already made available for the people of Neshoba and surrounding counties including members of the tribe who live on the Pearl River Reservation and other reservations located in the surrounding counties: Now, therefore be it

"Resolved by the House of Representatives of the State of Mississippi, That we continue to encourage and support the Mississippi Band of Choctaw Indians and Chief Phillip Martin in the development, completion and operation of the Choctaw All-Season Outdoor Recreational Complex and Tourist Attraction and the 10,000-acre recreational impoundment associated therein; and be it further

"Resolved, That we recognize the successful efforts in removing people in Neshoba County and the surrounding areas from the welfare rolls by providing job opportunities and encouraging them to enter the work force in accord with President Reagan's policy of removing welfare recipients from welfare rolls and encouraging them to enter the work force; and be it further

"Resolved, That copies of this resolution be furnished to the Mississippi Band of Choctaw Indians, the President of the United States, the President of the United States Senate, the Speaker of the House of the United States House of Representatives, members of Mississippi's Congressional Delegation, the Boards of Supervisors of Neshoba, Leake, Kemper, Newton and Winston Counties, and to the Capitol Press Corps."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

H.R. 5090. A bill to implement the United States-Canada Free Trade Agreement (Rept. No. 100-509).

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. Res. 473. An original resolution to provide additional funding for the Select Committee on Indian Affairs Special Committee on Investigations (Rept. No. 100-510); referred to the Committee on Rules and Administration.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 59. A bill entitled the "National Forests and Public Lands of Nevada Enhancement Act of 1987" (Rept. No. 100-511).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2165. A bill to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes (Rept. No. 100-512).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 4028. A bill to authorize the Secretary of Agriculture to exchange certain national forest system lands in the Targhee National Forest (Rept. No. 100-513).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 702. A bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred (Rept. No. 100-514).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 454. Resolution increasing the limitation on expenditures by the Committee on Environment and Public Works for the procurement of consultants with funds transferred from administrative expenses at no additional increase to authorized budget.

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 1883) to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes (Rept. No. 100-515).

By Mr. GLENN, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 496) to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish data integrity boards within Federal agencies, and for other purposes (Rept. No. 100-516).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Lauro F. Cavazos, of Texas, to be Secretary of Education;

Joy Cherian, of Maryland, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1993;

Charles L. Hosler, Jr., of Pennsylvania, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1994;

Roland W. Schmitt, of New York, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1994;

Hillel Fradkin, of Wisconsin, to be a Member of the National Council on the Humanities for a term expiring January 26, 1994; and

Donald Kagan, of Connecticut, to be a Member of the National Council on the Humanities, for a term expiring January 26, 1994.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIEGLE (for himself, Mr. Rockefeller, Mr. Bradley, Mr. Matsunaga, Mr. Simon, Mr. Daschle, and Mr. Pryor):

S. 2792. A bill to amend title V of the Social Security Act to provide for supplemental resources to enhance the delivery of health services to pregnant women and infants; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. McConnell, Mr. Metzenbaum, Mr. Simon, Mr. Thurmond, and Mr. DeConcini):

S. 2793. A bill to amend title 18 of the United States Code to punish corruption; to the Committee on the Judiciary.

By Mr. HECHT:

S. 2794. A bill entitled the "Stillwater Wildlife Management Area Restoration and Enhancement Act of 1988"; to the Committee on Environment and Public Works.

By Mr. BENTSEN:

S. 2795. A bill to direct the Secretary of State to construct, operate, and maintain an extension of the American Canal at El Paso, TX; to the Committee on Environment and Public Works.

By Mr. NUNN (for himself, Mr. Fowler, Mr. Kennedy, Mr. Weicker, Mr. Inouye, Mr. Simon, Mr. Specter, Mr. Levin, Mr. Lautenberg, Mr. Kerry, Mr. Shelby, Mr. Cranston, Mr. Hollings, Mr. Bentsen, Mr. Dodd, Mr. Metzenbaum, Ms. Mikulski, Mr. Graham, and Mr. Matsunaga):

S. 2796. A bill to authorize funding for the Martin Luther King, Jr., Federal Holiday Commission; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. Evans, Mr. Daschle, Mr. DeConcini, Mr. McCain, Mr. Murkowski, Mr. Domenici and Mr. Matsunaga):

S.J. Res. 379. A joint resolution to establish as the policy of the United States the preservation, protection, and promotion of the rights of indigenous Americans to use, practice and develop Native American languages, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. HELMS:

S.J. Res. 380. A joint resolution to insure financial and management reform in the United Nations; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE, from the Select Committee on Indian Affairs:

S. Res. 473. An original resolution to provide additional funding for the Select Committee on Indian Affairs Special Committee on Investigations; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself, Mr. Rockefeller, Mr. Bradley, Mr. Matsunaga, Mr. Simon, Mr. Daschle, and Mr. Pryor):

S. 2792. A bill to amend title V of the Social Security Act to provide for supplemental resources to enhance the delivery of health services to pregnant women and infants; referred to the Committee on Finance.

TITLE V INFANT MORTALITY REDUCTION ACT

● Mr. RIEGLE. Mr. President, today I am introducing with Senators Rockefeller, Bradley, Matsunaga, Simon, Daschle, and Pryor, a bill to amend title V of the Social Security Act, the Maternal and Child Health Services Block Grant Program. S. 2792, the "Title V Infant Mortality Reduction Act," provides supplemental funds to the block grant and improves planning and accountability in the program.

After 25 years of progress, U.S. efforts to reduce infant mortality have slowed. In fact, the United States ties for the worst infant mortality rate among industrialized countries. Overall, the United States has far to go but some regions face even greater problems. Michigan has an infant mortality rate of 11.4 per 1,000 live births compared to 10.6 for the Nation, but Detroit has a rate of 19.9, close to two times the rate of the Nation. Similarly, Massachusetts has an infant mortality rate of 9.1, with Boston having a rate of 15.6.

Furthermore, racial disparaties within regions persist. The infant mortality rate for blacks in Detroit is 22.3, while the rate for whites is 7.1. Clearly, funds are needed for States to target these areas of great need.

The maternal and child health [MCH] block grant provides funds to States "to promote the health of mothers and children." Among other purposes, funds are used to directly provide services or for program coordination, technical assistance and program development including support for physical facilities and staff. Funds can also be targeted to specific health problems or geographic needs.

As is typical under a block grant program, the MCH block grant does not specify or require minimum services, eligibility or other measures of accountaiblity with the funds. States must submit an annual report to the Department of Health and Human Services on their activities under the block grant, but the Department has not required the collection of data. These two facts combined have often inhibited planning and evaluation for improved maternity services because of the limited information on who receives services under the block grant and what types of services are delivered.

Mr. President, my proposal provides for more structured planning for maternity and infant care programs, yet still allows flexibility for States in designing their MCH programs. The proposal would enhance the ability of States to identify and serve areas of greatest need for pregnant women and infants. This is particularly important for States like Michigan that still have pocket areas of high infant mortality which we need to address.

The bill increases Title V—MCH Services Block Grant authorization by $100 million to provide for funds to supplement existing maternal and infant health care programs. To receive the supplemental funds, States must identify areas of unmet need in prenatal care and prevention of low birthweight and infant mortality, and develop a plan of action to address the needs. In addition, improved reporting requirements, similar to those as in existing law, are specified so as to monitor how well the objectives of the program are being met.

This proposal has the support of key national organizations representing women, infants, and children including the Children's Defense Fund, American Academy of Pediatrics, March of Dimes Birth Defect Foundation, Epilepsy Foundation of America, Association of Maternal and Child Health Programs, Association of State and Territorial Health Officers and the American Association of University Affiliated Programs for the Developmentally Disabled. The proposal also has the support of the Michigan Council for Maternal and Child Health, a statewide network of individuals and organizations concerned with maternal and child health issues.

Recent changes in Medicaid coverage for pregnant women and infants can finance care only where providers are available. The State MCH block grant programs are essential providers of maternity and infant care.

I hope my colleagues will join us in support of this crucial improvement of the Title V—MCH Services Block Grant. Until we address the problem of providing comprehensive health insurance for all Americans, efforts that focus on improving the current delivery of maternity and infant care in the United States are critical.

Mr. President, I ask unanimous consent that a short summary and the text of the bill be included in the Record following my statement.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AUTHORIZATION FOR SUPPLEMENTAL RESOURCES TO ENHANCE THE DELIVERY OF HEALTH SERVICES TO PREGNANT WOMEN AND INFANTS.

(a) In General.—Paragraph (4) of section 501(a) of the Social Security Act (42 U.S.C. 701(a)(4)) is amended by striking "$561,000,000" and inserting in lieu thereof "$661,000,000".

(b) Allocation and Requirements Related to Use of Funds Under New Program.—

(1) Section 502 of such Act (42 U.S.C. 702) is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Of the amounts appropriated for a fiscal year in excess of $561,000,000, the Secretary shall—

"(A) retain an amount equal to 15 percent of such amounts in the same manner as the amounts retained in subsection (a); and

"(B) allot an amount equal to 85 percent of such amounts in the same manner and for the same purposes as the amounts allotted under subsection (b).

"(2) The amount retained by the Secretary under paragraph (1)(A) shall be used for carrying out (through grants, contracts, or otherwise) the purpose of section 501(a)(4).

"(3) As a condition of receipt of the amount allotted under paragraph (1)(B), a State shall provide in such State's description of intended expenditures and statement of assurances under section 505—.

"(A) a statewide needs assessment (as described in section 505(a)(F)) on maternity and infant care;

"(B) a plan for meeting the needs identified by the assessment;

"(C) a description of how the funds received will be utilized for the coordination and direct provision of services under the plan; and.

"(D) an assurance that amounts expended pursuant to this paragraph shall be in addition to any amounts that would have been expended from State funds for programs (including programs under this title) as in effect on the day before the date of enactment of this Act.".

"(3) Section 505)1) of such Act (42 U.S.C. 705(1)) is amended—

"(A) by striking "and (D)" and inserting in lieu thereof "(D)"; and.

(B) by striking "such payments" and inserting in lieu thereof "such payment, and (E) a statewide needs assessment as described in section 502(2)(3) identifying unmet maternity and infant care needs including prenatal care and prevention of low birthweight and infant mortality".

(c) Annual Reports.—Section 506(a)(1) of such Act (42 U.S.C. 706(a)(1)) is amended by inserting before the last sentence the following new sentence: "States must submit annual reports describing the extent to which funds met the objectives of the plan provided for under 502(d)(3), such reports shall fully describe the services provided, including the number of individuals served under this title and the characteristics of such individuals served, as well as statewide statistics related to the percentage of pregnant women who by the third trimester have been provided prenatal care and statistics related to the birthweight distribution and health status of infants.".

(d) Conforming Amendment.—Paragraphs (1), (2)(A), and (3) of section 502(c) of such Act (42 U.S.C. 702(c)) are amended by striking "$478,000,000" each place it appears and inserting in lieu thereof "$478,000,000, but not in excess of $561,000,000".

(e) Effective Date.—The amendments made by this section shall become effective with respect to services delivered six months after the date of enactment of this Act.

Summary of S. 2792, the Title V Infant Mortality Reduction Act

1. PURPOSE OF THE INITIATIVE

To provide states with supplemental resources to enhance the delivery of health services to pregnant women and infants.

2. AVAILABILITY OF SUPPLEMENTAL FUNDS

The Title V authorization would be increased by $100 million from $561 to $661 million to provide for funds to supplement existing maternal and infant health care programs. As under the general block grant, 85% of funds would go directly to State Health Agencies and 15% of the funds would be retained by the Secretary as provided for under 501(a)(4). States will receive funds according to the current MCH Block Grant allocation formula and will be expected to comply with the existing Federal-State matching rate.

3. STATEWIDE MATERNITY AND INFANT CARE NEEDS ASSESSMENT

As condition for receipt of supplemental funds, States must submit a special section of their Report of Intended Expenditures which primarily includes:

A statewide needs assessment on maternity and infant care which identifies unmet needs with emphasis on prenatal care and prevention of low birthweight and infant mortality; and

A plan for meeting the needs identified by the assessment.

The funds are to be used in implementing the plan, for the coordination or direct provision of services. The funds are not intended to supplant funds for already existing Title V and non-Title V maternal and child health programs.

4. IMPROVED REPORTING REQUIREMENTS

In addition to the Report of Intended Expenditures, states must also submit annual reports describing the extent to which funds met the objectives of the plan. These reports must include at least a description of the services provided, the number of individuals served, and the characteristics of the population served as well as statewide statistics related to the percentage of pregnant women by the trimester they initiated prenatal care and the birthweight distribution and health outcomes of the infants.●

By Mr. BIDEN (for himself, Mr. McConnell, Mr. Metzenbaum, Mr. Simon, Mr. Thurmond, and Mr. DeConcini):

S. 2793. A bill to amend title 18 of the United States Code to punish corruption; to the Committee on the Judiciary.

ANTI-CORRUPTION ACT

Mr. BIDEN. Mr. President, I am pleased today to join with my colleagues in introducing the Anti-Corruption Act of 1988. This bill is a response to a decision of the Supreme Court in June 1987 that has severely limited efforts to rid all levels of government of corrupt public officials.

The Court's decision in McNally versus United States held that the Federal mail and wire fraud statutes apply only to schemes to defraud another of property. Until this decision, these statutes had been interpreted to also protect intangible rights, such as the right of the public to honest and faithful service of public officials and the right of employers to the loyal and faithful services of their employees. Since the McNally decision, lower courts have been compelled to reverse the criminal convictions of a number of officials, and the Department of Justice estimates that 100 pending investigations are threatened. This is an intolerable situation.

This bill will make it possible, once again, to prosecute and send to prison those public officials who corrupt their offices and betray the trust placed in them. It reverses the McNally case by creating a new public corruption statute that will be used to bring charges against anyone who attempts to deprive the citizens of the United States or of any State of the honest services of a public official, or against anyone who attempts to corrupt the election process. It also amends the existing mail and wire fraud statutes to make clear that notwithstanding the holding in McNally, it is a crime to deprive any organization—such as a corporation or a labor union—of the loyal services of its employees. This will restore the power of prosecutors to attack white-collar crime involving bribes and kickbacks.

This bill is the product of a bipartisan group of Senators who have worked with representatives of the Department of Justice to arrive at this consensus bill. While the Department of Justice has been very helpful in the latter stages of the development of this bill, and while I welcome the support of the new Attorney General, Richard Thornburgh, I must say that I am dismayed that it has taken so long to reach agreement with the Department about how to solve this serious issue.

The Supreme Court decision that created the problem this bill addresses was decided more than a year ago. In October of last year, I wrote to Attorney General Meese requesting the Justice Department's assistance in trying to solve this problem with legislation. I never received a response, and the Department did not propose any legislation until last spring. Moreover, that belated proposal only sought to correct half of the problem; it failed entirely to deal with the problem of white-collar crime in private businesses.

The bill I am introducing today is a credit to those Senators who continued to work on this issue while the Justice Department was sitting on its hands. In particular, I want to commend Senator Simon, who raised this issue at the Department of Justice authorization hearings early this year, and Senator Metzenbaum, who has contributed a number of key provisions in this legislation.

There is nothing more essential to the ability of a government to function effectively than the belief on the part of the governed that decisions affecting their lives are being made by honest men and women acting in the best interests of the people. When this public trust is violated, the punishment must be swift and sure. This legislation will give back to the Federal Government the tool it needs to guarantee the public trust through the sanction of criminal prosecution. I hope my colleagues will support it.

Finally, Mr. President, I ask unanimous consent that a statement explaining provisions of the bill in greater detail and the text of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Corruption Act of 1988".

SEC. 2. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 225. Public Corruption

"(a) Whoever, in a circumstance described in subsection (c), deprives of defrauds, or attempts to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State or subdivision, shall be fined under this title, or imprisoned for not more than 10 years (or, if the defendant intended that the scheme or artifice promote conduct constituting an offense under the laws of the United States or a State for which the maximum term of imprisonment is greater than 10 years, shall be imprisoned as required or authorized by the law punishing such offense or for not more than 20 years, whichever is less), or both.

"(b) Whoever, in a circumstance described in subsection (c), deprives or defrauds, or attempts to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election, through the procurement, casting, or tabulation of ballots or voter registration forms which are false, fictitious, fraudulent, or illegal under the laws of the State in which the election is held, or through the filing of and false, fictitious or fraudulent report required to be filed under State law regarding an election campaign, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the actor—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter of thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induce any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses any facility of interstate or foreign commerce; or

"(2) the scheme or artifice affects in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce.

"(d) Whoever deprives or defrauds, or attempts to deprive or defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years (or, if the defendant intended that the scheme or artifice promote conduct constituting an offense under the laws of the United States or a State for which the maximum term of imprisonment is greater than 10 years, shall be imprisoned as required or authorized by the law punishing such offense, or for not more than 20 years, whichever is less), or both.

"(e) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee of official of the United States or any State or political subdivision of such State, or attempts to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(f)(1) Any employee of official of the United States or any State or political subdivision of such State who is discharged, demoted, suspeded, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or other in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(g) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other territory of possession of the United States;

"(2) the term 'agency' means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a coorporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(3) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'official', 'public official', and 'person who has been selected to be a public official' shall also include any person acting under color of official authority;

"(4) the term 'official' includes a person who has been nominated or appointed to be an official or who has been officially informed that he or she will be so nominated or appointed, and includes any official of an Indian tribal government."

SEC. 3. WHITE COLLAR CRIME.

Chapter 63 of Title 18 of the United States Code is amended by adding a new section as follows:

"SECTION 1346. SCHEME OR ARTIFICE TO DEFRAUD.

"For the purposes of this chapter, the term 'scheme or artifice to defraud' includes a scheme or artifice to deprive an organization of the intangible right of honest services in which the defendant received or attempted to receive, for the defendant or another person, anything of value or in which the defendant intended or contemplated loss or harm to the organization."

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Table of Sections.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item: "225. Public Corruption.".

(b) Table of Sections.—The table of sections for chapter 63 of title 18, United States Code, is amended by adding at the end thereof the following item:

"1346. Scheme Or Artifice To Defraud.".

(c) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(d) Interruption of Communications.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 5. INTERSTATE COMMERCE.

(a) In General.—Section 1343 of title 18, United States Code, is amended by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce".

(b) Conforming Amendments.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce".

Explanation of the Anti-Corruption Act of 1988

The purpose of this bill is to overturn the Supreme Court's decision in *McNally* v. *United States*, 107 S. Ct. 2875 (1987). In that case, the Court held that the mail and wire fraud statutes, 18 U.S.C. 1341 and 1343, apply only to schemes to defraud another of property. Previously, every federal appellate court had held that those statutes also protected intangible rights, such as the right of the public to the honest and faithful services of public officials and others reponsible for the conduct of public affairs, *United States* v. *Mandel*, 591 F.2d 1347, 1358-64 (4th Cir. 1979), *United States* v. *Margiotta*, 688 F.2d 3208, 121-22 (2nd Cir. 1982); the right of members of organizations to the honest and faithful services of their leaders, *United States* v. *Boffa*, 588 F.2d 919, 927 (3rd Cir. 1982), *United States* v. *Curry*, 681 F.2d 406, 411 (5th Cir. 1982); and the right of employers to the loyal and faithful services of their employees, *United States* v. *George*, 477 F.2d 508, 512 (7th Cir. 1973), *United States* v. *Barta*, 635 F.2d 999, 1006-07 (2nd Cir. 1980). Under this bill, the holdings of these cases will once again be part of the Federal criminal law.

The bill accomplishes this purpose in two ways. Section 2 creates a new statute specifically directed at public corruption that will be used to prosecute those who corrupt public officials at all levels of government, as well as those who would corrupt the electoral processes of those governments. It includes within the definition of "public official" those who exercise power over public affairs and are therefore de facto officials even if they hold no formal office. Before McNally, such persons were routinely prosecuted under the mail and wire fraud statutes. See Margiotta, supra; *United States* v. *Clapps*, 732 F.2d 1148 (3rd Cir. 1984); *United States* v. *Gray*, 790 F.2d 1290, 1294-96 (6th Cir. 1986), reversed sub nom. *United States* v. *McNally*, U.S. (1987). The new statute is intended to cover the persons and conduct involved in those cases.

Secondly, Section 3 defines the term "scheme or artifice to defraud" for the purposes of the mail and wire fraud statutes to include intangible rights. The intent is to restore the "intangible rights doctrine" by reinstating the pre-McNally caselaw, and to render unnecessary the metaphysical debate that followed McNally over whether or not a given case involved "property". See, *United States* v. *Runnels*, 833 F.2d 1183 (6th Cir. 1987); *United States* v. *Richerson*, 833 F.2d 1147 (5th Cir. 1987); *United States* v. *Ochs*, F.2d (1st Cir. 1988); *United States* v. *Holzer*, F.2d (7th Cir. 1988).

Under the definition in this bill, the issue would be whether there was fraud, not whether the subject of the fraud was property.

The bill recognizes, however, that before the McNally decision, many commentators had criticized the intangible rights doctrine as having the potential to include within the ambit of the criminal law, every breach of duty owed by one person to another, whether or not any harm was contemplated or possibly could have resulted from the scheme. See *United States* v. *Weiss*, 752 F.2d 777, 791 (2nd Cir. 1985) (Newman, J., dissenting); Coffee, "From Tort to Crime: Some Reflections on the Criminalization of Fiduciary Breaches and the Problematic Line Between Law and Ethics", 19 Am. Crim. L. Rev. 117 (1981). Indeed, before McNally a number of courts had begun to move toward an approach that required a showing of some forseeable harm to the person to whom the duty was owed. See *United States* v. *Siegel*, 717 F.2d 9, 14 (2nd Cir. 1983); *United States* v. *Lemire*, 720 F.2d 1327, 1335-37 (D.C. Cir. 1983).

In keeping with the view that not every breach of fiduciary duty should automatically, without more, give rise to a criminal offense, the new statute provides that the deprivation of an intangible right constitutes a crime only in circumstances where the defendant received or intended to receive a thing of value, or where the defendant intended or contemplated some harm or loss to an organization to which the duty of honest services was owed. As under pre-McNally law, of course, it would not be necessary under either theory to prove an actual loss to the organization.

Finally, Section 4 amends the wire fraud statute, 18 U.S.C. 1343, to take into account advances in interstate communication facilities since the statute was enacted in the 1950s. The present statute bases federal jurisdiction on the use of wire, radio or television communications in interstate commerce. The amendment would replace this with the phrase "any facility in interstate or foreign commerce" so as to encompass the use of new technologies and commercial express mail carriers.

Mr. THURMOND. Mr. President, I rise today in support of the Anti-Corruption Act of 1988 and I am pleased to be an original cosponsor of this bipartisan measure.

Corruption, especially corruption of public officials, is a problem which affects the entire nation, and is an issue which deeply concerns me.

Until last year, corruption schemes involving public officials were prosecuted under the mail fraud statute. However, the Supreme Court in McNally versus United States ruled that the mail fraud statute could only be used to prosecute corruption schemes in which economic loss could be shown. Consequently, schemes in which there is no economic loss can not be prosecuted. This decision severely limits the ability of prosecutors to effectively attack public corruption cases based on the loss of the honest services of a public official.

In response to this decision, I joined with Senator McConnell, on June 17, 1988, in introducing S. 2531, the Anti-Public Corruption Act of 1988, which was developed in close consultation with the Department of Justice. Generally, this bill creates a public corruption statute under which corrupt schemes involving the loss of the honest services of a State or Federal public official could be prosecuted. This bill would also allow prosecution of certain corrupt schemes to influence the election process.

The bipartisan measure that is being introduced today builds upon S. 2531. The major difference between these bills is that this bill expands the scope of the mail fraud statute to cover schemes involving the loss of the honest services of an employee by a private organization. I believe that this change serves to strengthen the bill.

In closing, breach of the public trust is a serious offense that should not go unprosecuted. I am confident that the citizens of this country demand that public corruption be zealously investigated and prosecuted. The bill is strongly supported by the Department of Justice and is urgently needed by the U.S. attorneys. I hope that the Senate will act in an expeditious manner to fill this gap in current law.

Mr. SIMON. Mr. President, today I join with my colleagues Senators Biden, McConnell, Metzenbaum, DeConcini, and Thurmond in introducing legislation to help prosecutors fight both private and public corruption. The bill responds to a recent U.S. Supreme Court case, *McNally* v. *United States* 107 S.Ct.2878 (1987). In McNally, the Court held that most cases of public or private corruption could not be prosecuted under the Federal mail fraud statute because the statute covered only cases in which there was a loss of property or money. Prior to the McNally decision, prosecutors routinely relied on the mail fraud statute to prosecute public officials for depriving the citizens of the honest services of the Government, known as intangible rights. Under the intangible rights doctrine, if a public official accepted a bribe or otherwise acted corruptly, but did not take any property or money, he was subject to prosecution for mail fraud.

The mail fraud statute pre-McNally was particularly useful to the Illinois U.S. attorney in prosecuting individuals involved in the Greylord investigations. Since the McNally decision, it is far more difficult to prosecute those who have acted dishonestly in carrying out the work of the State, like those in Greylord. In addition, many public officials who have already been convicted have been successful in overturning their convictions. For example, Judge Holzer of Illinois, who was convicted of extracting a series of bribes from lawyers with cases pending before him, had his conviction overturned after the McNally decision.

In addition to making it more difficult to prosecute corrupt public officials, the McNally case also makes it more difficult to prosecute private individuals who accept bribes or otherwise act corruptly while carrying out their employment responsibilities.

The legislation being introduced today restores the law to much the way it was prior to McNally and gives the prosecutors the tools they need to prosecute corruption. Specifically, the legislation creates a new section in the criminal code for the prosecution of public officials who deprive their citizens of their honest services or who participate in some form of election fraud. The bill also modifies the mail fraud statute so that private corruption as well as public corruption cases will be included under the mail fraud statutes. Finally, it includes a provision which penalizes a defendant who dismisses, intimidates, or coerces any public employee in order to advance or conceal a corrupt scheme, and it provides a criminal remedy for those who are dismissed or discriminated against for reporting fraud or assisting prosecutors.

In closing I wish to thank my colleagues for working together to craft a much needed bipartisan resolution to the pressing problem of public and private corruption. While no single piece of legislation can eliminate acts of corruption or dishonesty, certainly restoring the threat of a criminal conviction should help in this fight. Corrupt officials and private individuals alike must know that Congress will not tolerate dishonest behavior. I hope that given the urgency of this problem and the U.S. attorney's plea for prompt action, we can work quickly to enact this legislation.

Mr. McCONNELL. Mr. President, I am pleased to join my colleagues, Senators Biden, Thurmond, Metzenbaum, Simon, and DeConcini, in introducing today the Anti-Corruption Act of 1988.

This bill represents a three-prong offensive against corruption at all levels of our society: By expanding Federal jurisdiction and increasing penalties in election fraud cases; restoring the authority of the Federal Government to investigate and prosecute corrupt local officials; and restoring the Federal Government's law enforcement role against white-collar crime and other private fraud.

Let me take a moment to discuss how this bill came about, as a way of explaining why this bill is so vitally important. Last fall the Louisville Courier-Journal did an extensive study of election fraud in Kentucky, finding rampant abuse: Vote-buying, intimidation at the polls, contributions-for-contracts deals, and multiple voting practices. This report also found that many of these offenses were committed with the assistance of officials who were supposed to keep the process clean.

Since that exposé, new cases of vote fraud have been rolling in at an alarming rate. Last month, one woman was found to have voted three times; and although she cast a vote for her dead husband, she never even bothered to vote in her own name. In a recent roundup of corrupt officials, a local grand jury handed down indictments of 3 election officers and 3 vote-buyers on 53 counts of election fraud.

I should point out that these offenses were committed after Kentucky enacted the most sweeping antielection fraud measures in its history—indicating the degree of public cynicism about local law enforcement efforts against these kinds of abuses.

In fact, the law enforcement record against such cases in our State has been shameful. In all of Kentucky's experience with election fraud over the last several years, only one person has gone to jail, for a 1-day sentence. The fact is that many of the worst offenders are the local officials themselves, or the neighbors down the street; and no one sitting on any local jury is going to send these people to jail.

That is why I have said the only way to clean up election fraud is to have the Federal Government come in, allow it to supervise elections with Federal officers, and give it authority to prosecute offenders under Federal law, in Federal court. That is what Congress did in 1965, in enacting the Voting Rights Act. It used the Federal Government's power to protect people's voting rights from entrenched local discrimination.

Ironically, the Government never had to prosecute too many violations of the Voting Rights Act; simply the declaration of the Federal Government, that it would no longer tolerate this kind of abuse, brought discrimination at the polls to an abrupt end. But first we had to arm the Federal Government with the power to uncover and punish these abuses.

That is what I sought to do when I introduced the Election Fraud Prevention Act last year. This bill would punish election fraud offenses as Federal felonies; expand the power of the Federal Government to investigate fraud and corruption; and allow Federal law enforcement officials to supervise local elections.

Since I introduced that bill, I learned that the efforts of law enforcement against corruption are not limited to vote fraud. Moreover, I learned that the Federal Government's entire anticorruption enforcement effort has been placed at risk by one recent Supreme Court decision, originating in Kentucky, McNally versus United States.

This case held that Federal prosecutors could not use the Federal mail fraud law to go after public and private corruption, despite the fact that fraud for many years has been a vital tool in prosecuting corrupt officials. Essentially, the Supreme Court said that corruption isn't "fraud" unless someone takes tangible property away from someone else.

Mr. President, there may have been some good legal arguments for this decision. But there are at least 185 Federal corruption convictions on the books right now which are based on mail fraud. They all are at risk now as a result of the McNally decision.

Last November, a Federal court threw out the 10-year-old mail fraud conviction of former Maryland Gov. Marvin Mandel—not because the court found Mandel innocent, however. Instead, the court reversed because it no longer had a Federal law on which to convict Mandel.

When the Mandel reversal came down, I voiced my concerns about this decision on the Senate floor, and followed up with a guest editorial in the Washington Post. I wrote then, and still believe, that Mandel is just the beginning of an avalanche of anticorruption reversals. Just as troubling, McNally and Mandel have tied the hands of the Justice Department in over 100 pending corruption cases.

So that brings us to the legislation we are introducing today, the Anti-Corruption Act of 1988.

This bill is based on another measure I introduced with my good friend the Senator from South Carolina, Senator THURMOND, in June this year. That bill, the Anti-Public Corruption Act, specifically addressed the problem of prosecuting Government corruption after McNally. That bill was put together with the invaluable assistance of the Justice Department, which also has played an important role in shaping this new, broader approach.

The new measure we introduce today, the Anti-Corruption Act, is the product of long negotiations with the key members of the Senate Judiciary Committee—negotiations that were conducted in the spirit of true bipartisan cooperation. In these discussions, we refined and expanded the administration bill, to develop a comprehensive law enforcement response to corruption.

The bill we introduce today will restore—and to some extent enlarge—the Federal Government's authority to investigate and punish corruption at every level. It will make it a felony to deprive citizens of the honest services of any public official or employee. It also will be a felony to deprive any private organization of the honest services of an employee. And finally, it will be a felony to deprive citizens of a fair and impartial election process—through vote buying, intimidation at the polls, or executing fraudulent election forms.

Let me say in conclusion, Mr. President, that we cannot wait another year in the fight against corruption in this country. We need this bill—urgently. Kentucky needs this bill; citizens who are trying to fight an entrenched Tammany Hall in their home town need this bill; prosecutors trying to weed out white-collar crime need this bill; and voters who don't want to be afraid when they go to the polls, and who want honest elections in their precincts need this bill.

I am committed—as I know my colleagues who have worked with me are as well—to getting this bill passed this year. There is strong bipartisan support for this measure; and I am very pleased to join my colleagues, Senator BIDEN, Senator THURMOND, Senator METZENBAUM, Senator SIMON, and Senator DECONCINI, in offering this bill today. The administration is fully behind this bill, and the momentum is out there in Kentucky and in the rest of the Nation—to keep up the fight against corruption.

Therefore, I urge my colleagues to join me and my friends on the Senate Judiciary Committee, in supporting passage of this vitally needed legislation this year.

Mr. President, I yield the floor.

Mr. DECONCINI. Mr. President, today I join with my distinguished colleagues, Senators BIDEN, MCCONNELL, SIMON, METZENBAUM, and THURMOND in introducing the Anti-Corruption Act of 1988. The introduction of this legislation has been necessitated by the Supreme Court ruling in McNally versus United States which overruled 15 years of case law permitting Federal prosecutors to use the mail and wire fraud statutes to prosecute public corruption and other breaches of fiduciary responsibility in Federal court under the "intangible rights" doctrine. Since the McNally decision, RICO/mail fraud convictions have been challenged throughout the country, and in a number of cases the convictions have been overturned. In addition, prosecutors have been hesitant to prosecute public corruption cases for fear that the courts, relying on the McNally decision, would rule against the public's interest in honest government.

In his dissenting opinion in McNally, Justice Stevens questioned the courts' interpretation of the mail fraud statute:

> Can it be that Congress sought to purge the mails of schemes to defraud citizens of money but was willing to tolerate schemes to defraud citizens of their right to an honest government, or to unbiased public officials?

Mr. President, by introducing the Anti-Corruption Act today we are saying to the public that their right to good, honest government deserves protection, and that those who choose to infringe upon that right will have to suffer the criminal penalties established by this bill.

Too often the American public is lead to believe that corruption is running rampant in all levels of government. Reports shouting the downfall of elected officials grace the television screens and newspaper headlines almost on a daily basis. Public confidence in government is eroded as those who bilk the public of the right to good government remain free from prosecution. By introducing this legislation today we are sending a message to the public. We are telling them that public officials are not above the law, that they too must answer for their actions. And that the public's right to good, honest representation by officials is indeed a protected right.

The Anti-Corruption Act enjoys a wide base of support. I am pleased to be able to join the distinguished Senator from Delaware, Senator BIDEN, as he introduces this bill today. I would also like to take this opportunity to welcome my dear friend back to the Senate Chamber and wish him well. We on the Judiciary Committee have missed the chairman's leadership and look forward to working with Senator BIDEN once again. The chairman is also joined by the ranking minority member of the Judiciary Committee, Senator THURMOND, in introducing today's legislation. Additionally, Senator MCCONNELL, a leader in this area of legislation, and Senators SIMON and METZENBAUM lend their valuable support. Complementing these advocates is the support of Attorney General Thornburgh, the Department of Justice, and the U.S. attorneys, all who are most experienced in prosecuting these types of corruption cases.

Mr. President, this legislation provides Congress with the opportunity to clarify an area of criminal law which has recently come under scrutiny from the Supreme Court. This allows Congress to remove any doubt that government, honest and of good quality, is a protected right of the public. I urge my colleagues to join in supporting this bill and in seeking early consideration of the measure.

By Mr. HECHT:

S. 2794. A bill entitled the "Stillwater Wildlife Management Area Restoration and Enhancement Act of 1988"; to the Committee on Environment and Public Works.

STILLWATER WILDLIFE MANAGEMENT AREA RESTORATION AND ENHANCEMENT ACT OF 1988

• Mr. HECHT. Mr. President, today I am introducing a bill that will result in some long overdue and badly needed help for some of the most important wildlife habitat along the Pacific Flyway, Nevada's Lahontan Valley wetlands, and, in particular, Stillwater Wildlife Management Area.

In the last few weeks the Congress has taken final action on two amendments which I authored which were designed to help these wetlands. The first, attached to the appropriations bill for the Department of Housing and Urban Development and independent agencies, requires a study by the Environmental Protection Agency of the feasibility of using treated effluent waters from communities within the Carson River Basin in Nevada to enhance the Lahontan Valley wetlands. The amendment would also require EPA to work with interested local governments and the Fish and Wildlife Service on this project.

My second amendment, which is on the Interior appropriations bill, reallocates $1.2 million for acquisition of water rights from willing sellers, pursuant to the procedural and statutory requirements of the laws of the State of Nevada, for the benefit of Stillwater Wildlife Management Area. That amendment also recognizes Stillwater as a high priority wetland, thereby making it eligible for a share of the $10 million allowed by the conference committee for high priority wetlands. The amendment also writes Stillwater into the North American Waterfowl Management Plan, a program designed to make major improvements in the status of our Nation's wildlife resources.

The bill I am introducing today does three things. First, it directs the Interior Department to perform a Fish and Wildlife Coordination Act report on changes it is making to the water management regime of the Newlands Reclamation Project, which is just upstream of Stillwater Wildlife Management Area. These changes will have disatrous consequences for the wetlands, and Interior ought to comply with the Fish and Wildlife Coordination Act and do the report so the consequences of its actions can be fully analyzed and mitigated.

Second, the bill requires the Interior Department to work closely with all the Nevada-based organizations that are keenly interested in the future of the Lahontan Valley wetlands. The bill calls for the development of a long-term recovery plan for the Lahontan Valley wetlands, with considerable public involvement in and comment on the plan. The goal of the plan is to maintain approximately 43,000 acreas of prime fish and wildlife wetlands habitat in the Lahontan Valley. This acreage reflects the amount of habitat that has historically been available in the past, but is many times more than will be available in the future if present regulatory trends are allowed to continue unabated.

Finally, the bill addresses the fact that the Federal Government has multiple and conflicting responsibilities in the Carson and Truckee River Basis. In the past, the Federal Government has all but completely ignored its responsibilities to preserve and protect the Lahontan Valley wetlands. My bill prevents any party from using Federal funds to fight any activities already mandated by Congress to assist the wetlands, and also prevents any party from using Federal funds to interfere with implementation of the long-term plan required by this legislation.

Mr. President, this legislation is necessary if we are to achieve the goal of preserving some of the most important fish and wildlife habitat in North America. I urge my colleagues to support the bill, and I encourage the Senate to give it the fullest consideration possible.

Mr. President, I ask unanimous consent that the text of my bill, the Stillwater Wildlife Management Area Restoration and Enhancement Act of 1988 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be known as the "Stillwater Wildlife Management Area Restoration and Enhancement Act of 1988."

SEC. 2. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) The Stillwater Wildlife Management Area, and the Lahontan Valley wetlands generally, are an important national fish and wildlife resource, providing countless migratory waterfowl and shorebirds with important wildlife habitat along the Pacific Flyway;

(2) The imposition of permanent operating criteria and procedures for the Newlands Reclamation Project, Nevada, will significantly reduce the amount and quality of water available for habitat maintenance; and

(3) Conflicting federal laws, regulations, treaty responsibilities, executive orders and court decisions have been obstacles to providing the necessary quantity and quality of water, water for the Lahontan Valley wetland, and Stillwater Wildlife Management Area in particular.

(b) The purposes of this Act are to—

(1) Direct the federal government to completely and thoroughly assess the consequences of its actions at the Newlands Reclamation Project on the fish and wildlife resources of the Lahontan Valley wetlands and Stillwater Wildlife Management Area in particular;

(2) Encourage all interested parties to work together to restore and enhance the fish and wildlife habitat of the Lahontan Valley wetlands and Stillwater Wildlife Management Area in particular; and

(3) To prevent the federal government from expending funds in a manner which is inconsistent with Congressional direction to restore and enhance the Lahontan Valley wetlands and Stillwater Wildlife Management Area in particular.

SEC. 3. FISH AND WILDLIFE COORDINATION.

Within thirty days of the date of enactment of this Act the Secretary of the Interior shall initiate consultation with the Nevada Department of Wildlife in order to prepare a Fish and Wildlife Coordination Act report on the impact of the permanent operating criteria and procedures for the Newlands Reclamation projects, Nevada, on the Stillwater Wildlife Management Area and other wetlands in the Lahontan Valley, Nevada, in compliance with the provisions of 16 U.S.C. 662. A copy of the completed report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the House of Representatives within 180 days of the date of enactment of this Act.

SEC. 4. FISH AND WILDLIFE COOPERATION.

(a) Within 180 days of the date of enactment of this Act the Secretary of the Interior shall initiate a dialogue with the Truckee-Carson Irrigation District, the Fallon Paiute-Shoshone Indian Tribe, the State of Nevada, interested local governments within the Carson and Truckee River basins, and the Lahontan Valley Wetlands Coalition for the purpose of developing a draft longterm plan to maintain an average of 43,000 acres of high quality wetland habitat in the Lahontan Valley, and for the purpose of enhancing the wildlife habitat comprising the Stillwater component of the Western Hemisphere Shorebird Reserve Network.

(b) Within one year of the date of enactment of this Act the Secretary shall conduct public meetings in the cities of Reno, Fallon, and Carson City, Nevada to seek comment on the draft plan required by this section. Within 90 days of the last of such public meetings the Secretary shall publish a final plan, and shall make recommendations to the Congress on any new authority or appropriations that may be necessary to fully implement the plan.

(c) In identifying funding mechanisms to implement the plan, the Secretary shall consider possible cost-sharing arrangements involving a mix of federal, state, and private funds.

SEC. 5. CONSISTENCY.

(a) As of the date of enactment of this Act, no federal funds may be expended by any party to prevent or impede in any manner, whether through legal or administrative actions, the orderly transfer of water rights from willing sellers pursuant to the statutory and procedural requirements of the laws of the State of Nevada, to the Stillwater Wildlife Management Area or to the Nevada Department of Wildlife or the Lahontan Valley Wetlands Coalition for the benefit of Stillwater Wildlife Management Area.

(b) Once the plan described in this Act is submitted to the Congress, no federal funds may be expended by any party to prevent or impede in any manner, whether through legal or administrative actions, the orderly implementation of the plan.●

By Mr. NUNN (for himself, Mr. FOWLER, Mr. KENNEDY, Mr. WEICKER, Mr. INOUYE, Mr. SIMON, Mr. SPECTER, Mr. LEVIN, Mr. LAUTENBERG, Mr. KERRY, Mr. SHELBY, Mr. CRANSTON, Mr. HOLLINGS, Mr. BENTSEN, Mr. DODD, Mr. METZENBAUM, Ms. MIKULSKI, Mr. GRAHAM, and Mr. MATSUNAGA):

S. 2796. A bill to authorize funding for the Martin Luther King, Jr. Federal Holiday Commission; to the Committee on the Judiciary.

FUNDING FOR MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION

● Mr. NUNN. Mr. President, I am introducing legislation today to reauthorize and to provide Federal funds for the Martin Luther King, Jr. Federal Holiday Commission. The Commission was established in 1984 to encourage appropriate ceremonies and activities throughout the United States relating to the first observance of the Federal legal holiday honoring Martin Luther King, Jr. It was also directed to provide advice and assistance to Federal, State, and local governments and to private organizations with respect to the observance of the holiday.

The Commission was first reauthorized in 1986 and is due to expire in April 1989. The bill I am introducing today would extend the Commission for 5 years.

The Commission has been successful in carrying out its mandate as set forth by Congress. However, it is now in a critical state of its development and needs Federal financial support that would help it complete its important work. Federal assistance would also help in establishing a solid base for financial support from the private sector. This bill would authorize an annual appropriation of $300,000 for 5 years that would enable the Commission and its committees to devote their time to the promotion of the holiday and the dream of Dr. King.

Representative CONYERS has introduced the companion measure to this bill. We both hope the Congress can enact this legislation prior to adjournment.●

By Mr. INOUYE (for himself, Mr. EVANS, Mr. DASCHLE, Mr. DECONCINI, Mr. MCCAIN, Mr. MURKOWSKI, Mr. DOMENICI, and Mr. MATSUNAGA):

S.J. Res. 379. Joint resolution to establish as the policy of the United States the preservation, protection, and promotion of the rights of indigenous Americans to use, practice and develop native American languages, and for other purposes; to the Select Committee on Indian Affairs.

PRESERVATION AND PROTECTION OF NATIVE AMERICAN LANGUAGES

● Mr. INOUYE. Mr. President, today I am introducing a joint resolution making it the policy of the United States to preserve, protect and promote the right and freedom to use, practice, and develop native American languages.

The constant threat of termination of indigenous cultures due to perpetual and concerted interference with their ability to practice their traditions and beliefs is a problem that has plagued the native peoples of this country from the moment of European contact to this day.

Integral to the ability of any culture to preserve and practice its customs and beliefs is the utilization of its own traditional language. An understanding of one's past is essential to one's understanding of oneself, and languages form the ties to the past and passageways to the future for those of indigenous heritages, regardless of whether they choose to live traditional lifestyles or compete in mainstream America. Language forms the names of sacred sites and events, and holds the powers of life that breathe through the knowledge and wisdom of each culture from one generation to the next.

It was once the unwritten policy of the U.S. Government to reprimand children for speaking their own languages in school. They were made to feel like foreigners in the classroom and, worse, in their own homelands. Children were thus rendered incapable of forging a connection between the two worlds which were already so different from one another, yet which would have to be reconciled as it came time to choose future paths. Sadly, this kind of alienation still occurs today.

A clear statement of Federal policy is mandatory to help prevent the silencing of native languages and ultimately, the destruction of the original cultures of this great country. Not only do languages hold the keys to the oldest history of this land, but also to the most current and everyday events of our own lives. Many of our mountains, lakes, forests, rivers, cities, and towns inherit their names from the words of America's first inhabitants.

This resolution represents an acknowledgement that indigenous Americans have a right to practice their cultures and choose their own lifestyles. If native cultures are to survive, then the United States must do all it can to protect and encourage cultural practices. This joint resolution is one small step toward that goal.●

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. CRANSTON, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 10, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 473

At the request of Mrs. KASSEBAUM, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 473, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 555

At the request of Mr. INOUYE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 555, a bill to regulate gaming on Indian lands.

S. 1774

At the request of Mr. PRYOR, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of

S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

S. 2229

At the request of Mr. KENNEDY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2229, a bill to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such act, and for other purposes.

S. 2317

At the request of Mr. SYMMS, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2317, a bill to repeal certain provisions of law requiring the installation of transponders in all aircraft.

S. 2345

At the request of Mr. WEICKER, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2345, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of handicap.

S. 2644

At the request of Mr. BAUCUS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2644, a bill to amend title XVIII of the Social Security Act to make certain payment reforms in the Medicare Program to ensure the adequate provision of health care in rural areas, and for other purposes.

S. 2647

At the request of Mr. PELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2647, a bill to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that act, and for other purposes.

S. 2666

At the request of Mr. STAFFORD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2666, a bill entitled the "Global Environmental Protection Act of 1988."

S. 2675

At the request of Mr. DASCHLE, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from North Dakota [Mr. CONRAD], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2675, a bill to amend title 38, United States Code, to provide certain service-connected presumptions in the case of veterans who performed active service in Vietnam during Vietnam era; to make improvements in the composition of the advisory committee on special studies relating to the possible long-term health effects on phenoxy herbicides and contaminants and the procedures used by such advisory committee, and for other purposes.

S. 2707

At the request of Mr. SYMMS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2707, a bill to provide for the transfer of certain monkeys to the animal sanctuary known as "Primarily Primates, Inc."

S. 2759

At the request of Mr. SYMMS, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 2759, a bill to amend title XVIII of the Social Security Act to eliminate the reimbursement differential between hospitals in different areas.

S. 2775

At the request of Mr. COCHRAN, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2775, a bill to create a Commission on the American Family and Employment.

SENATE JOINT RESOLUTION 149

At the request of Mr. HELMS, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 149, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 280

At the request of Mr. HATCH, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from New York [Mr. D'AMATO], the Senator from Maine [Mr. MITCHELL], the Senator from Utah [Mr. GARN], the Senator from Missouri [Mr. DANFORTH], the Senator from Louisiana [Mr. BREAUX], the Senator from California [Mr. CRANSTON], the Senator from Maine [Mr. COHEN], the Senator from Montana [Mr. BAUCUS], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week."

SENATE JOINT RESOLUTION 314

At the request of Mr. BOSCHWITZ, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 314, a joint resolution designating October 1988 as "Pregnancy and Infant Loss Awareness Month."

SENATE JOINT RESOLUTION 346

At the request of Mr. LAUTENBERG, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Florida [Mr. GRAHAM], the Senator from Florida [Mr. CHILES], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Joint Resolution 346, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 355

At the request of Mr. HEFLIN, the names of the Senator from Utah [Mr. HATCH], the Senator from Washington [Mr. ADAMS], the Senator from Arkansas [Mr. PRYOR], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from California [Mr. WILSON], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Montana [Mr. MELCHER], the Senator from Arkansas [Mr. BUMPERS], the Senator from Illinois [Mr. DIXON], the Senator from Ohio [Mr. GLENN], the Senator from Virginia [Mr. TRIBLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from South Dakota [Mr. PRESSLER], the Senator from Oklahoma [Mr. NICKLES], the Senator from Nevada [Mr. HECHT], the Senator from Wisconsin [Mr. KASTEN], the Senator from Washington [Mr. EVANS], the Senator from Kansas [Mr. KASSEBAUM], the Senator from Idaho [Mr. MCCLURE], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Colorado [Mr. ARMSTRONG] were added as cosponsors of Senate Joint Resolution 355, a joint resolution designating October 7, 1988, as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 361

At the request of Mr. PELL, the names of the Senator from Nevada [Mr. HECHT], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Joint Resolution 361, a joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

SENATE JOINT RESOLUTION 363

At the request of Mr. SARBANES, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 363, a joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. HELMS, the names of the Senator from Kentucky [Mr. FORD], and the Senator from Nebraska [Mr. KARNES] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

SENATE JOINT RESOLUTION 372

At the request of Mr. HATCH, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Utah [Mr. GARN], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 372, a joint resolution to designate the week beginning November 21, 1988, through November 27, 1988, as "National Adoption Week."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

SENATE RESOLUTION 473—ORIGINAL RESOLUTION REPORTED TO PROVIDE ADDITIONAL FUNDING FOR THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE, from the Select Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 473

Resolved, That S. Res. 381, 100th Congress (agreed to February 26, 1988), is amended:

(a) in section 2(a), by striking out "$47,856,813" and inserting in lieu thereof "$47,964,813"; and

(b) in section 21(b), by striking out "$1,770,746" and inserting in lieu thereof "$1,878,746".

AMENDMENTS SUBMITTED

HIGHER EDUCATION ACT AMENDMENTS

PELL (AND STAFFORD) AMENDMENT NO. 3038

Mr. BYRD (for Mr. PELL, for himself and Mr. STAFFORD) proposed an amendment to the bill (S. 2647) to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that act, and for other purposes; as follows:

On page 80, line 5, strike out "principal outstanding on" and insert in lieu thereof "original principal amount of".

On page 81, line 11, strike out "(i)".

On page 85, line 4, insert a comma after "address".

On page 86, line 9, insert "(1)" after "section 428B(c)".

On page 86, line 15, strike out "clause (1)" and insert in lieu thereof "clause (i)".

On page 92, line 1, after "CONSOLIDATION," in the heading insert the following: "COMBINED PAYMENT PLAN,".

On page 92, line 4, strike out "or 428C" and insert in lieu thereof ", 428C, or 485A".

On page 101, line 12, strike out "paragraph (2)(A) or (2)(B)" and insert in lieu thereof "paragraph (3)(A) or (3)(B)".

On page 102, line 7, strike out "before" the first time it appears.

On page 103, strike out lines 6 through 14 and insert in lieu thereof the following:

"(12) The institution does not—

"(A) use any independent contractor or any person other than salaried employees of the institution to conduct any canvassing, surveying, recruiting, or similar activities;

"(B) use any contractor or any person other than salaried employees of the institution to make final determinations that an individual meets the institution's admissions requirements or the criteria of eligibility for financial aid; or

"(C) pay any commission, bonus, or other incentive payment to any person making such final determination.

This paragraph (i) shall not prohibit a volunteer, independent contractor, or person other than a salaried employee from being reimbursed for actual expenses related to activities described in subparagraph (A), and (ii) shall not apply to an independent contractor who works exclusively with foreign students who are not eligible to apply for title IV assistance because of each such student's nationality.".

On page 109, beginning with "the" on line 2, strike out through "order" on line 3 and insert in lieu thereof the following: "a show cause order, suspension order, or other similar order".

On page 110, beginning with "the" on line 2, strike out through "order" on line 3 and insert in lieu thereof the following: "a show cause order, suspension order, or other similar order".

On page 116, between lines 16 and 17, insert the following new paragraph:

(3) Section 411D(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

On page 130, line 16, after the word "of" insert the following: "an institution of higher education or of".

On page 133, line 24, beginning with "financial", strike out through "students." in line 25 and insert in lieu thereof the following: "need and eligibility of the student for financial assistance. There shall be no charge to a student for completing and processing the common form.".

On page 134, between lines 2 and 3, insert the following:

(2)(A) The first sentence of section 483(a)(2) of the Act is amended by striking ", to the extent practicable,".

On page 134, line 3, strike out "(2)(A)" and insert in lieu thereof "(B)".

On page 134, line 7, strike out "(B)" and insert in lieu thereof "(C)".

On page 134, line 16, beginning with "Such", strike out through the period in line 3 on page 135.

On page 135, lines 8 and 9, strike out "negotiated rate" and insert in lieu thereof "competitively determined rate".

On page 135, after line 23, add the following new sections:

SEC. 506. REALLOCATION OF RETURNED SEOG FUNDS TO INSTITUTIONS LOCATED IN NATURAL DISASTER AREAS.

Section 413D(e) of the Act is amended by adding at the end thereof the following: "In making such reallocations, the Secretary shall give special consideration to institutions located in areas which are designated to receive assistance because of the occurrence of a major natural disaster."

SEC. 507. LENDER OF LAST RESORT.

Section 428(j) of the Act is amended by adding at the end thereof the following: "Each State guaranty agency shall ensure that there is a lender of last resort in its State. The lender of last resort shall process loan applications of students enrolled in an eligible institution within 30 days after such application has been filed. The lender of last resort shall make loans to any eligible applicant attending an eligible institution.".

SEC. 508. PERKINS LOAN PROGRAM AMENDMENT.

Section 462(c)(3) of the Act is amended—

(1) by redesignating clause (B) and (C) as clause (C) and (D); and

(2) by inserting after clause (A) the following new clause:

"(B) 75 percent of the cash on hand at the institution under the program authorized by this part for the second year preceding the beginning of the award period;".

SEC. 509. PEACE CORPS, VISTA, AND TAX-EXEMPT ORGANIZATION SERVICE ENCOURAGED.

(a) INFORMATION FOR STUDENTS.—Section 485(a)(1) of the Act is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon; and

(3) by inserting at the end thereof the following new subparagraphs:

"(L) the terms and conditions under which the student may defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act or for comparable full-time service as a volunteer for a tax-exempt organization; and

"(M) the terms and conditions under which the student may obtain partial cancellation of the student loan for service under the Peace Corps Act and Domestic volunteer Service Act.".

(b) EXIT COUNSELING FOR BORROWERS.—Section 485(b) of the Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (2):

"(3) the terms and conditions under which the student may defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act or for comparable full-time service as a volunteer for a tax-exempt organization.".

(c) DEPARTMENT INFORMATION ON DEFERMENTS AND CANCELLATIONS.—Section 485(d) of the Act is amended by inserting the following before the last full sentence: "The Secretary shall provide information on the specific terms and conditions under which students may defer repayment of loans for service under the Peace Corps Act and Domestic Volunteer Service Act or for comparable full-time service as a volunteer with a tax-exempt organization, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances which a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such deferments when they serve as a paid employee of a tax-exempt organization.".

SEC. 510. DATA ON DEFERMENTS AND CANCELLATIONS.

Section 485B(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (4):

"(5) the exact amount of loans in deferment for service under the Peace Corps Act, for service under the Domestic Volunteer Service Act, and for comparable full-time service as a volunteer for a tax-exempt organization.".

On page 136, line 1, strike out "sec. 506." and insert in lieu thereof "sec. 511.".

On page 137, line 4, strike out "sec. 507." and insert in lieu thereof "sec. 512.".

On page 137, lines 18 and 19, strike out "section 405" and insert in lieu thereof "sections 405 and 406".

On page 137, after line 20, insert the following:

(3) The amendments made by section 406 shall take effect for award year 1991-1992 and thereafter.

On page 67, in the table of contents, redesignate items "Sec. 506." and "Sec. 507." as items "Sec. 511." and "Sec. 512.", respectively, and insert after item "Sec. 505." the following new items:

"Sec. 506. Reallocation of returned SEOG funds to institutions located in natural disaster areas.
"Sec. 507. Lender of last resort.
"Sec. 508. Perkins loan program amendment.
"Sec. 509. Peace Corps, Vista, and tax-exempt organization service encouraged.
"Sec. 510. Data on deferments and cancellations.".

REGULATION OF GAMING ON INDIAN LANDS

INOUYE AMENDMENT NO. 3039

Mr. INOUYE proposed an amendment to the bill (S. 555) to regulate gaming on Indian lands; as follows:

On page 44, delete lines 12 through 15, and renumber the subsequent definitions accordingly;

On page 45, line 12, after "including" insert "(if played in the same location)";

On page 56, line 9, delete "of the Indian tribe" and insert in lieu thereof "within the tribe's jurisdiction";

On page 57, line 13, after "(F)" insert the words "there is";

On page 78, line 21, delete the word "adopted" and insert in lieu thereof "prescribed";

On page 80, line 19, delete "is consistent" and insert in lieu thereof "is not inconsistent";

On page 81, line 16, delete "injury" and insert in lieu thereof "inquiry";

On page 85, lines 18 and 19, delete "the first fiscal year after the enactment of this Act" and insert in lieu thereof "each of the fiscal years beginning October 1, 1988, and October 1, 1989";

On page 87, line 9, delete "of an" and insert in lieu thereof "for an";

On page 90, line 2, delete "Except as provided in subsection (c)," and insert in lieu thereof "Subject to subsection (c), for purposes of Federal law,";

On page 91, on lines 12 and 19, and on page 92, lines 4 and 13, before the word "licensed", insert "operated by or for or";

On page 89, beginning on line 16, delete all of section 23 and renumber the subsequent sections accordingly.

On page 44, line 22, delete the word "games" and insert the word "game".

On page 44, line 23, delete the word "lotto".

On page 45, line 1, delete the word "are" and insert in lieu thereof the word "is".

On page 45, line 12, after the word "pull-tabs", insert the word "lotto".

On page 65, line 20, delete the word "Nothing" and insert in lieu thereof the following: "Except for any assessments that may be agreed to under paragraph (3)(C)(iii) of this subsection , nothing".

On page 47, line 17 delete the term "five" and insert in lieu thereof the term "three".

On page 47, line 22, delete the term "four" and insert in lieu thereof "two".

On page 48, line 6, delete the term "three" and insert in lieu thereof "two".

On page 48, line 7, delete the term "three" and insert in lieu thereof "two".

On page 48, line 14, delete the term "three" and insert in lieu thereof "two".

On page 48, line 16, delete the term "two" and insert in lieu thereof "one".

On page 49, line 14, delete the term "three" and insert in lieu thereof "two".

On page 81, line 2, delete the term "three" and insert in lieu thereof "two".

On page 57, delete lines 1 through 3 and insert in lieu thereof:

"(C) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, will be provided by the Indian tribe to the Commission;"

On page 61, line 13, after the "." insert new paragraphs 3 through 5 as follows:

"(3) Any Indian tribe which operates a Class II gaming activity and which—

(A) has continuously conducted such activity for a period of not less than three years, including at least one year after the date of the enactment of this Act; and

(B) has otherwise complied with the provisions of this section

may petition the Commission for a certificate of self-regulation.

(4) The Commission shall issue a certificate of self-regulation if it determines from available information, and after a hearing if requested by the tribe, that the tribe has—

(A) conducted its gaming activity in a manner which—

(i) has resulted in an effective and honest accounting of all revenues;

(ii) has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) has been generally free of evidence of criminal or dishonest activity;

(B) adopted and is implementing adequate systems for—

(i) accounting for all revenues from the activity;

(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

(iii) investigation, enforcement and prosecution of violations of its gaming ordinance and regulations; and

(C) conducted the operation on a fiscally and economically sound basis.

(5) During any year in which a tribe has a certificate for self-regulation—

(A) the tribe shall not be subject to the provisions of paragraphs 1, 2, 3, and 4 of section 7(b);

(B) the tribe shall continue to submit an annual independent audit as required by section 11(b)(2)(C) and shall submit to the Commission a complete resumé on all employees hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

(C) the Commission may not assess a fee on such activity pursuant to section 18 in excess of one quarter of 1 per centum of the gross revenue.

(6) The Commission may, for just cause and after an opportunity for a hearing, remove a certificate of self-regulation by a majority vote of its members."

MINIMUM WAGE LEGISLATION

HATCH AMENDMENT NO. 3040

Mr. HATCH proposed an amendment to the bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; as follows:

SEC. NEW HIRE WAGE

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) is a wage of 80% of the wage prescribed by Section 6, but at least $3.35 an hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the employee began employment with the employer.".

(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employement (benefits) as a result of an employer paying the rate described in this subsection.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

KENNEDY AMENDMENT NO. 3041

Mr. KENNEDY proposed an amendment to amendment No. 3840 proposed by Mr. HATCH to the bill S. 837, supra; as follows:

Strike all after the word "sec." in the pending amendment, and insert the following:

MINIMUM WAGE FOR STUDENTS.

(a) NUMBER OF STUDENTS LIMITATION.—Section 14(b)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(b)(4)) is amended by striking out "six" each place it appears in subparagraphs (B) and (D) and inserting in lieu thereof "12".

(b) ESTABLISHMNENT HOURS LIMITATION.—Subparagraph (B) of section 14(b)(1) of such Act is amended to read as follows:

"(B) Except as provided in paragraph (4)(B), during any month in which full-time students are to be employed in any retail or service establishment under a certificate issued under this subsection, the proportion of student hours of employment to the total hours of employment of all employees in such establishment may not exceed the higher of—

"(i) one-tenth;

"(ii) a proportion established by the Secretary under a previous certificate issued for such establishment under this subsection; or

"(iii) a proportion established by the Secretary as part of the action taken by the Secretary on an application for a certificate for such establishment under this subsection.".

(c) APPLICATION PROCEDURE.—Section 14(b)(4) of such Act is amended by adding at the end thereof the following new subparagraph:

"(E)(i) Temporary authorization to employ full-time students at submission wages under the conditions set forth in this subsection shall be effective from the date the application is forwarded to the Secretary in accordance with this subsection.

"(ii) The authorization referred to in paragraph (1) shall continue in effect for 1 year from the date of forwarding of the application unless, within 30 days after receipt of the application, the Secretary denies the application, issues a certificate with modified terms and conditions, or expressly extends the 30-day period of review.".

(d) OBSOLETE REFERENCES.—Section 14(b) of such Act is amended—

(1) in paragraph (1) (as amended by subsection (b) of this section), by striking out "or not less than $1.60 an hour, whichever is the higher";

(2) in paragraph (2), by striking out "or not less than $1.30 an hour, whichever is the higher"; and

(3) in paragraph (3), by striking out "or not less than $1.60 an hour, whichever is the higher".

DEFENSE SAVINGS ACT

NUNN (AND WARNER) AMENDMENT NO. 3042

Mr. BYRD (for Mr. NUNN, for himself and Mr. WARNER) proposed an amendment to the bill (H.R. 4481) to provide for the closing and realigning of certain military installations during a certain period; as follows:

Strike out all after the enacting clause and insert the text of S. 2749, as passed by the Senate:

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1989".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is divided into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Other National Defense Authorizations.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Army as follows:

(1) For aircraft, $2,794,900,000.

(2) For missiles, $2,541,800,000.

(3) For weapons and tracked combat vehicles, $2,959,200,000.

(4) For ammunition, $2,035,536,000.

(5) For other procurement, $4,781,154,000 of which $23,549,000 shall be available for procurement of Tactical Army Combat Service Support Computer System (TACCS).

SEC. 102. NAVY AND MARINE CORPS

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Navy as follows:

(1) For aircraft, $9,076,200,000.

(2) For weapons (including missiles and torpedoes), $6,193,100,000.

(3) For shipbuilding and conversion, $9,056,100,000, of which—

(A) $1,368,100,000 is for the Trident submarine program;

(B) $1,493,600,000 is for the SSN-688 nuclear attack submarine program;

(C) $1,488,000,000 is for the SSN-21 nuclear attack submarine program;

(D) $135,400,000 is for the aircraft carrier service life extension program (SLEP);

(E) $2,207,300,000 is for the DDG-51 guided missile destroyer program;

(F) $737,500,000 is for the LHD-1 amphibious assault ship program;

(G) $197,200,000 is for the MHC coastal minehunter program;

(H) $284,900,000 is for the TAO-187 fleet oiler program;

(I) $84,900,000 is for the AO (Jumbo) conversion program;

(J) $159,600,000 is for the TAGOS ocean surveillance ship program;

(K) $363,900,000 is for the AOE fast combat support ship program;

(L) $192,600,000 is for the landing craft, air cushion (LCAC) program; and

(M) $343,100,000 is for outfitting and post delivery.

(4) For other procurement, $4,836,200,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Marine Corps in the amount of $1,167,270,000.

SEC. 103. AIR FORCE

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Air Force as follows:

(1) For aircraft, $16,256,100,000.

(2) For missiles, $8,011,400,000.

(3) For other procurement, $8,318,023,000.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement by the Defense Agencies in the amount of $1,207,920,000.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) in the amount of $174,500,000, of which—

(1) $44,300,000 is for procurement;

(2) $17,900,000 is for research, development, test, and evaluation; and

(3) $112,300,000 is for operation and maintenance.

SEC. 106. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $180,000,000.

For the Air National Guard, $183,000,000.

For the Army Reserve, $30,000,000.

For the Naval Reserve, $30,000,000.

For the Air Force Reserve, $10,000,000.

For the Marine Corps Reserve, $10,000,000.

SEC. 107. AUTHORIZED MULTIYEAR CONTRACTS

(a) ARMY.—Subject to subsection (d), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) CH-47D Helicopter Modernization.

(2) Multiple Launch Rocket System (MLRS).

(3) H-60 Series Competitive Engine.

(4) M1 Abrams tank.

(5) AH-64 Apache helicopter.

(b) NAVY.—Subject to subsections (d) and (e), the Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the AV-8B aircraft.

(c) AIR FORCE.—Subject to subsection (d), the Secretary of the Air Force may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) Defense Meteorological Satellite System.

(2) F-16 Aircraft.

(d) CONDITIONS.—A multiyear contract authorized by subsection (a), (b), or (c) may not be entered into unless the anticipated cost over the period of the contract is no more than 90 percent of the anticipated cost of carrying out the same program through annual contracts.

(e) LIMITATIONS ON PROCUREMENT OF THE AV-8B AIRCRAFT.—Of the funds made available to the Navy for fiscal year 1989 for advance procurement of the AV-8B aircraft for fiscal year 1990, $91,481,000 may not be obligated or expended unless the Secretary of the Navy enters into a multiyear contract for the procurement of 24 such aircraft during each of the fiscal years 1989 through 1991. In the event the multiyear contract is not entered into, such funds shall be available only for procurement for the Marine Corps.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 111. ARMY PROGRAM

(a) FINDINGS REGARDING 155 MILLIMETER AMMUNITION.—The Congress is concerned that the schedule of the Army for propellant production and load assemble pack of 155-millimeter M864 ammunition base bleed burn assemblies may not make it economic to carry out such production at two sources concurrently.

(b) LIMITATION ON CONTRACTING FOR SECOND SOURCE.—The Secretary of the Army may not select a second source for production of the program referred to in subsection (a) until the program enters full-rate production and the Secretary reports to the Committees on Armed Services of the Senate and House of Representatives the acquisition plan of the Secretary for the establishment of a second source for the program.

SEC. 111A. NAVY PROGRAMS

(a) TRIDENT II MISSILE PROGRAM.—(1) Of the amounts appropriated pursuant to section 102 for the Navy for the procurement of missiles for fiscal year 1989, $1,865,609,000 may be obligated only for the Trident II missile program.

(2) In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(b) DDG-51 Destroyer Program.—(1)(A) Notwithstanding the matter relating to the DDG-51 destroyer program in the undesignated paragraph under the heading "Shipbuilding and Conversion, Navy" in title III of the Department of Defense Appropriations Act, 1988, as contained in section 101(b) of Public Law 100-202 (101 Stat. 1329-54), the Secretary of the Navy may not limit competition for the shipbuilding portion of the DDG-51 destroyer program in fiscal year 1989 to the two shipyard contractors to which the competition is limited on the date of the enactment of this Act unless the Secretary certifies to Congress that the limitation of such competition to such contractors—

(i) will result in a lower total cost to the United States for the program than would result from including other shipyard contractors in the competition; or

(ii) is necessary to meet the cost, schedule, performance, or other requirements of the Navy determined by the Secretary.

(B) If the Secretary submits a certification to Congress under subparagraph (A), the Secretary shall transmit to the Comptroller General of the United States, at the same time as he submits such certification to Congress, a copy of such certification and a discussion of the criteria applied by the Secretary in making the determinations necessary for such certification.

(2) If the Secretary submits a certification to Congress under paragraph (1)(A), the Comptroller General of the United States shall review the certification and the criteria applied by the Secretary in making the determinations necessary for such certification. Not later than 30 days after the date on which the Secretary submits such certification to Congress, the Comptroller General shall submit to Congress the Comptroller General's assessment of the validity of such criteria.

(3) If the Secretary limits the competition for the shipbuilding portion of the DDG-51 destroyer program in fiscal year 1989 to the two shipyard contractors referred to in paragraph (1)(A), the Secretary may not award any contract for the shipbuilding portion of such program until the expiration of a period of 30 days immediately following the date on which Congress receives the assessment required by paragraph (2).

(c) 5-Inch Semi-Active Laser Guided Projectile Program.—Of the funds appropriated or otherwise made available for other procurement for the Navy for fiscal year 1989, the Secretary of the Navy shall make available such amount as may be necessary for the 5-inch semi-active laser guided projectile program in order to complete production qualifications of 150 such projectiles, with 50 such projectiles to be procured from each of the three established competitive sources.

(d) AH-1W Ground Support Equipment.—Of the amount appropriated pursuant to section 102 for the Navy for procurement, $55,000,000 may be obligated only for the procurement of AH-1W ground support equipment.

(e) AN/SQR-17A Acoustic Processors.—Funds appropriated to or for the use of the Navy by this or any other Act may not be used for the procurement of AN/SQR-17A acoustic processors.

(f) Use of Prior Year Funds for DDG-51 Destroyer Program.—Up to $730,000,000 of funds appropriated in prior years that remain available for obligation may be transferred from any such appropriation to and merged with Shipbuilding and Conversion, Navy for the procurement of one DDG-51 class destroyer: *Provided*, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this or any other Act.

SEC. 112. AIR FORCE PROGRAM

Funds appropriated or otherwise made available to the Air Force for fiscal year 1989 may not be obligated or expended in connection with the launch facility at Vandenberg Air Force Base, California (designed for the launch of Titan IV expendable launch vehicles), identified as the SLC-7 Launch Facility.

SEC. 113. ELECTRONIC WARFARE EQUIPMENT

Of the funds appropriated pursuant to section 102(a)(4), $54,000,000 shall be available for procurement of SIDEKICK electronic warfare equipment.

PART C—MISCELLANEOUS PROVISIONS

SEC. 121. REPORT ON NAVY AIRCRAFT

Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a detailed report on the current and projected requirements of the Navy for aircraft. The Secretary shall include in such report the following information:

(1) The plans of the Department of Defense to alleviate existing shortfalls of Navy aircraft.

(2) The plans of the Department of Defense to maintain or reduce the current average age of Navy combat aircraft.

(3) The plans of the Department of Defense to modify Navy aircraft to make such aircraft effective against current and projected threats.

(4) The level of funding required to carry out the plans referred to in paragraphs (1), (2), and (3) during fiscal years 1990 through 1994.

SEC. 122. EXTENSION OF DEADLINE FOR COMPLETION OF CHEMICAL DEMILITARIZATION PROGRAM

(a) Extension of Deadline.—Section 1412(b) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)) is amended—

(1) by striking out "September 30, 1994" in paragraphs (1) and (3)(A) and inserting in lieu thereof "April 30, 1997";

(2) in paragraph (3)(B), by striking out "within 30 days" and all that follows and inserting in lieu thereof "not later than the earlier of (i) 30 days after the date on which the decision to defer is made, or (ii) 30 days before the date for completing the destruction of the stockpile specified in paragraph (1)."; and

(3) by adding at the end the following new paragraph:

"(4) If the Secretary determines at any time that there will be a delay in meeting the deadline for completing the destruction of the stockpile specified in paragraph (1), the Secretary shall immediately notify the Committees on Armed Services of the Senate and House of Representatives of that projected delay.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—FUNDING AUTHORIZATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $5,008,400,000.

For the Navy (including the Marine Corps), $9,274,600,000.

For the Air Force, $14,721,709,000.

For the Defense Agencies, $8,990,541,000, of which—

(1) $150,900,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation;

(2) $133,400,000 is authorized for the Director of Operational Test and Evaluation; and

(3) $120,000,000 is authorized for the University Research Initiative Program.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. ARMY PROGRAMS

(a) Anti-Armor Weapon Systems-Medium.—Section 202(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is repealed.

(b) Limitation on Certain Anti-Armor Weapon Systems.—Funds appropriated pursuant to this or any other Act may not be used for procurement or for research, development, test, or evaluation in connection with the MILAN II system or the Bofors BILL medium anti-tank system.

SEC. 212. NAVY PROGRAMS

(a) Trident II Missile.—Of the amounts appropriated pursuant to section 201 for the Navy for research, development, test, and evaluation, $580,889,000 may be obligated only for the Trident II missile program.

(b) Undistributed Reduction.—In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(c) Prohibition on Testing Electromagnetic Pulse in Chesapeake Bay.—During fiscal year 1989, the Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for ships (EMPRESS).

SEC. 213. AIR FORCE PROGRAMS

(a) National Center for Manufacturing Sciences.—Of the amounts appropriated pursuant to section 201 for the Air Force Manufacturing Technology (MANTECH) program, $5,000,000 shall be available only for the purpose of making a grant to the National Center for Manufacturing Sciences in connection with a program of research relating to manufacturing technology.

(b) ICBM Modernization.—(1)(A) The Secretary of Defense shall conduct a study to determine the feasibility of developing a common launch control system for the MX rail-garrison program and the Small Intercontinental Ballistic Missile program.

(B) If, on the basis of such study, the Secretary determines that a common launch control system for such programs is both feasible and cost effective, the Secretary shall proceed with the development of such a system.

(2) The Secretary of Defense, through the Under Secretary of Defense for Acquisition, shall conduct a review of the Small Intercontinental Ballistic Missile program. On the basis of such review, the Secretary shall—

(A) estimate the date for the initial operational capability of the program assuming the program is adequately funded beginning in fiscal year 1990; and

(B) estimate the life-cycle cost and the investment cost of such program in both current and constant 1989 fiscal year dollars.

(3)(A) The Secretary of Defense shall conduct a study of the potential vulnerability of a small intercontinental ballistic missile system to special operations forces of a potential enemy or to domestic saboteurs and other persons opposed to such system.

(B) In carrying out such study, the Secretary shall—

(i) consult with appropriate elements of the intelligence community, including the Federal Bureau of Investigation; and

(ii) devote special attention to potential threats that could restrict the mobility of small ICBM transporters based at Minuteman launch facilities by use of covertly emplaced smart munitions.

(4) The Secretary shall submit the results of the studies provided for in paragraphs (1)(A) and (3)(A) and the review provided for in paragraph (2) to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives, together with such comments and recommendations as the Secretary considers appropriate, not later than March 1, 1989.

(5)(A) Of the amounts appropriated for the Intercontinental Ballistic Missile Modernization program for fiscal year 1989, not more than $10,000,000 shall be available for the studies and review required by this subsection.

(B) Of the amounts appropriated for the Intercontinental Ballistic Missile Modernization program for fiscal year 1989, not more than $50,000,000 shall be available for the Small Intercontinental Ballistic Missile program and not more than $700,000,000 shall be available for the MX rail-garrison program.

SEC. 214. DEFENSE AGENCY PROGRAMS

(a) Optoelectronics Materials Center.—Of the amounts appropriated pursuant to section 201 for Defense Agencies, $14,500,000 shall be available only for the establishment of an Optoelectronics Materials Center at a university in the United States and for the acquisition of associated facilities.

(b) Consolidated DOD Software Initiatives Program.—Of the amounts appropriated pursuant to section 201 for the Defense Agencies, $45,120,000 shall be available only to the Defense Advanced Research Projects Agency for the Consolidated Department of Defense Software Initiatives program.

(c) Extended Air Defense.—Of the funds appropriated pursuant to section 201 for the Defense Agencies, $50,000,000 may be obligated only upon approval of the Director of Defense Research and Engineering for the purpose of research and development in connection with anti-tactical missile systems. In the event any such funds are made available to firms in allied countries, such funds shall be available for obligation only after the Secretary of Defense has entered into a cooperative program with such allied countries for that purpose.

SEC. 215. BALANCED TECHNOLOGY INITIATIVE

(a) Purpose.—It is the purpose of this section to authorize funds for the Balanced Technology Initiative program.

(b) Program Focus.—The focus of the Balanced Technology Initiative program shall be on the development of innovative concepts and methods of enhancing conventional defense capabilities, including the development of concepts and methods to take full advantage of the technological superiority of the United States and its allies as a means of increasing the rate of obsolescence of equipment, doctrine, and tactics of the Soviet Union and other Warsaw Pact countries. Such development shall give particular emphasis to the following:

(1) Armor/anti-armor initiatives.

(2) Defenses against armed helicopters.

(3) Hypervelocity missiles for ground combat use.

(4) Defense against anti-ship missiles, including those with "stealth" characteristics.

(5) "Smart" mines for both land and ocean warfare.

(6) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(7) Improved conventional anti-submarine warfare munitions.

(8) "Smart" standoff munitions and submunitions for delivery outside of lethal air defense ranges.

(c) Amounts Authorized.—Of the amounts appropriated pursuant to section 201 for research, development, test, and evaluation—

(1) not less than $288,000,000 shall be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) or section 215 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1050); and

(2) not less than $50,000,000 shall be obligated only for research and development under the Balanced Technology Initiative and shall be used only for new and innovative programs, projects, and activities that have not been designated for funding under a provision of law referred to in clause (1).

(d) Determination of Source of Funds.—The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in subsection (c)) for the Balanced Technology Initiative. The Director shall make such determination on the merits of the programs, projects, and activities referred to in subsection (b) that are carried out by the Army, Navy, Air Force, and Defense Agencies, taking into consideration ongoing technology research and exploitation opportunities.

(e) Relationship to Conventional Defense Initiative.—The Conventional Defense Initiative provided for in section 221 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) is not an element of the Balanced Technology Initiative. Funds made available for the purpose of this subsection may not be obligated for any program, project, or activity of the Conventional Defense Initiative.

(f) Prohibition Regarding Undistributed Reductions.—No portion of any undistributed reduction may be applied against the funds allocated under subsection (c) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (c).

(g) Prohibition on Use of Funds.—None of the funds allocated under subsection (c) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(h) Report.—Not later than 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Such report shall include—

(1) the amount allocated under subsection (c) for each program, project, or activity and the identification of the source of such amount;

(2) identification of other ongoing research and development projects not provided for under this section that should be included in the Balanced Technology Initiative in order to improve conventional defense capabilities; and

(3) for each program, project, or activity for which funds have been allocated under subsection (c) or which is identified under clause (2), a 5-year funding plan that is sufficient to maintain significant progress in research and development under such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving such milestones.

(i) Restriction on Obligation Authority.—None of the funds allocated pursuant to subsection (c) may be obligated until—

(1) the report required by subsection (h) has been received by the committees referred to in such subsection; and

(2) a period of 30 days has elapsed following the date on which the report is received by the committees.

SEC. 216. ADVANCED TACTICAL AIRCRAFT AND ADVANCED TACTICAL FIGHTER

(a) Advanced Tactical Aircraft, Navy.—Of the amounts made available to the Department of Defense pursuant to section 201 for the Advanced Tactical Aircraft, not more than 50 percent of such amounts may be obligated or expended unless the Secretary of Defense certifies to Congress that the Navy has budgeted sufficient funds in the Fiscal Year 1990 Five-Year Defense Program to participate in the demonstration and validation program (including source selection) for the Advanced Tactical Fighter of the Air Force.

(b) Advanced Tactical Fighter, Air Force.—Of the amounts appropriated pursuant to section 201, not more than $350,000,000 may be obligated or expended for the Advanced Tactical Fighter unless the Secretary of Defense certifies to Congress that the Air Force has budgeted sufficient funds in the Fiscal Year 1990 Five-Year Defense Program to participate in the full-scale development of the Advanced Tactical Aircraft of the Navy.

SEC. 217. MARK XV IDENTIFICATION FRIEND OR FOE SYSTEM

Of the amounts appropriated pursuant to section 201, not more than $90,000,000 may be obligated or expended for combat identification systems unless the Secretary of Defense certifies to Congress—

(1) that sufficient funds have been included in the Fiscal Year 1990 Five-Year Defense Program and Extended Planning Annex to install not later than the end of fiscal year 1998 Mark XV interrogator and transponder units in each of the following weapon systems deployed in operational units:

(A) The Patriot, Hawk, Pedestal Mounted Stinger, and Forward Area Air Defense Line-of-Sight Forward-Heavy Air Defense systems (in all configurations) for the Army;

(B) The F-14, F-18, A-6, A-7, A-12, and S-3 combat aircraft (in all configurations) for the Navy; and

(C) The Advanced Tactical Fighter, F-15, F-16, A-7, B-1, and B-2 combat aircraft (in all configurations) for the Air Force; or

(2) that—

(A) the Mark XV program has been terminated and the United States has entered into an agreement to develop positive hostile identification systems through the North Atlantic Treaty Organization Cooperative Research and Development Program; and

(B) sufficient resources have been included in the Fiscal Year 1990 Five-Year Defense Program and Extended Planning Annex to install such systems on the aircraft and air defense systems specified in paragraph (1).

SEC. 218. AIR-TO-AIR MISSILE PROJECT OFFICE

Of the amounts appropriated pursuant to section 201—

(1) not more than $20,000,000 may be obligated for the Advanced Air-to-Air Missile (AAAM) program; and

(2) not more than $15,000,000 may be obligated for the Advanced Medium Range Air-to-Air Missile (AMRAAM) program,

unless the Secretary of the Navy and the Secretary of the Air Force establish joint program offices, under the guidance of the Office of the Secretary of Defense, for co-development of the Advanced Air-to-Air Missile and product improved Advanced Medium Range Air-to-Air Missile.

SEC. 219. UNDISTRIBUTED REDUCTIONS

(a) LIMITATION ON AUTHORIZATIONS FOR CERTAIN PROGRAMS.—(1) Notwithstanding section 201, the total amount authorized to be appropriated for the programs specified in paragraph (2) is $218,789,000.

(2) The limitation provided in paragraph (1) shall apply to the following programs:

(A) The Defense Support Program (DSP).

(B) The Defense Meteorological Satellite Program (DMSP).

(C) The Global Positioning System (GPSNavstar).

(D) The Defense Satellite Communications System (DSCS).

(b) REQUIREMENT FOR PROGRAM REDUCTION.—The Secretary of Defense shall reduce the amounts authorized for the programs specified in subsection (a) by such amounts as the Secretary determines necessary to achieve a total reduction of $10,000,000.

SEC. 220. TRAINING IN ADVANCED MANUFACTURING TECHNOLOGIES

(a) FUNDS FOR PURCHASE AND INSTALLATION OF EQUIPMENT.—Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1989, may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, machine tool operators in skills critical to the defense technology base to build, operate, and maintain such equipment.

(b) REQUIREMENTS.—Funds may not be obligated for the purpose described in subsection (a) until—

(1) the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education enter into a memorandum of understanding concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility;

(2) the Secretary of Defense approves the obligation of such funds for such purpose; and

(3) a period of 60 days elapses after the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a report that sets forth a detailed explanation of proposed Federal expenditures, a description of the cost-sharing arrangements between the Government agencies concerned and the private sector, and a description of how the proposed program furthers the industrial and technological goals of the Department of Defense.

SEC. 220A. BIGEYE BOMB

Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1989 or any subsequent fiscal year may not be obligated or expended for procurement of the BIGEYE binary chemical bomb, for any component of such bomb, or for the assembly of such bomb unless and until the Comptroller General of the United States determines and certifies to Congress that—

(1) the operational and developmental tests conducted in connection with such bomb after the date of enactment of this Act were realistic and adequate;

(2) the test plan and objectives established for such bomb were clear, well defined, and properly quantifiable;

(3) the design of such test supports a valid statistical analysis of data;

(4) the criteria for a no-test were adequately defined in the test plan for such bomb;

(5) such bomb met or exceeded the test standards established for the bomb; and

(6) such bomb is ready for full-scale production.

SEC. 220B. PRODUCT EVALUATION ACTIVITY

Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1989, $17,500,000 shall be available only for the product evaluation activity provided for under section 2369 of title 10, United States Code, as added by section 816 of this Act.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FISCAL YEAR 1989 LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, testing, and evaluation for fiscal year 1989, not more than $4,271,000,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIED ACTIVITIES.—Of the amounts available for the Strategic Defense Initiative program under subsection (a)—

(1) $200,000,000 shall be available only for the Advanced Launch System (ALS);

(2) $175,000,000 shall be available only for the Boost Surveillance and Tracking System (BSTS);

(3) $202,000,000 shall be available only for the Exoatmospheric Reentry-vehicle Interceptor System (ERIS);

(4) $150,000,000 shall be available only for the High Endoatmospheric Defense Interceptor (HEDI) system; and

(5) $17,000,000 shall be available only for research on gallium arsenide (Ga As) integrated circuit technology.

(c) DEFENSE-WIDE MISSION SUPPORT.—Of the amount made available pursuant to subsection (a), $21,000,000 may be used for defense-wide mission support of the Strategic Defense Initiative.

(d) RESTRICTION ON USE OF FUNDS.—Funds appropriated to or for the use of the Department of Defense may not be used to establish a Strategic Defense System Operational Test and Evaluation activity.

SEC. 222. REPORT ON ALLOCATION OF SDI FUNDING FOR FISCAL YEAR 1989

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated or otherwise made available for the Strategic Defense Initiative for fiscal year 1989. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1989.

SEC. 223. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1989, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1989 or for any fiscal year before 1989, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the March 1988 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the March 1988 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1989 if the transfer is made in accordance with section 901 of this Act.

(b) DEFINITION.—As used in this section, the term "March 1988 SDIO Report" means the report entitled, "Report to Congress on the Strategic Defense Initiative", dated March 23, 1988, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 10 U.S.C. 2431 note).

PART D—MISCELLANEOUS PROVISIONS

SEC. 231. LONG-RANGE CONVENTIONAL CRUISE MISSILE

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than December 31, 1988, a report on the plans and projected expenditures for the Long-Range Conventional Cruise Missile program of the Department of Defense.

(b) CONTENT OF REPORT.—The Secretary shall include in such report the following:

(1) The 5-year funding plan for the program.

(2) A discussion of how the program might be carried out under a joint entity of the military services.

(3) A discussion of the military missions that a long-range conventional cruise missile would be designed to fulfill.

(4) A list of the validated military requirements prescribed for a long-range conventional cruise missile.

(5) An estimate of when a long-range conventional cruise missile system incorporating the most recent advances in guidance, propulsion, mission planning, and munitions technologies would be ready for full-scale engineering development and testing of initial operating capability.

SEC. 232. SENSE OF THE SENATE ON STRATEGIC MISSILE MODERNIZATION

(a) FINDINGS.—The Senate makes the following findings:

(1) It is essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces.

(2) The capabilities of the conventional forces of the United States and its allies will become more important if the Intermediate-range Nuclear Forces (INF) treaty between the United States and the Soviet Union is ratified and implemented.

(3) It is both desirable and possible to reduce the reliance of the North Atlantic Treaty Organization on the threat of an early resort to nuclear weapons for the defense of all members of the alliance if the member nations of the alliance assert the political will to reduce such reliance and establish sound defense priorities, including the elimination of critical conventional force deficiencies.

(4) The United States is currently procuring and deploying one land-based intercontinental ballistic missile (ICBM) system (the MX system in fixed silos) at significant cost while developing two additional ICBM systems (the mobile Small ICBM or so-called Midgetman system and the mobile rail-garrison MX system) at significant additional cost.

(5) Efforts to reduce the Federal budget deficit, which are imperative for the economic well-being of the United States, will continue for the foreseeable future to require limits on all discretionary Federal spending, including defense spending.

(b) SENSE OF THE SENATE.—In light of the findings in subsection (a), it is the sense of the Senate that the authorization of funds in this Act for research and development for both the Small ICBM and the rail-garrison MX does not constitute a commitment or express an intent by the Senate to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

SEC. 233. AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM FOREIGN COUNTRIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES

(a) IN GENERAL.—Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2368. Loan of materials, supplies, and equipment for research and development purposes

"(a) IN GENERAL.—(1) Except as provided in subsection (b), the Secretary of a military department may loan to a foreign government materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary of a military department may also accept as a loan or a gift from a foreign government materials, supplies, or equipment for such purpose.

"(2) A program of testing or evaluation for which the Secretary of a military department may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the foreign government to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

"(3) The materials, supplies, or equipment loaned to a foreign government under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursing the United States if the Secretary concerned—

"(A) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the foreign government; and

"(B) approves of the expenditure or consumption of such materials, supplies, or equipment.

"(b) EXCEPTION.—The Secretary of a military department may not loan to a foreign government any material if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2368. Loan of materials, supplies, and equipment for research and development purposes.".

SEC. 234. MODIFICATION OF REPORT REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES

Section 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3966) is amended by inserting "to be added or deleted from the existing designation of countries" in clause (1) after "countries".

SEC. 235. UNIVERSITY RESEARCH INITIATIVE PROGRAM

Funds made available to the Department of Defense pursuant to this or any other Act for the University Research Initiative Program may be obligated or expended in any State without regard to any limitation on the amount that may be expended under such program in any one State.

SEC. 236. SPACE CONTROL CAPABILITIES

(a) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on space control capabilities of the Armed Forces of the United States.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have been validated by the Joint Chiefs of Staff and transmitted to the Commander-in-Chief of the United States Space Command.

(2) A net assessment of United States and Soviet space control capabilities.

(3) An assessment of current United States space control deficiencies and recommendations for overcoming those deficiencies.

(4) A five-year plan for improving ground and space-based surveillance systems and their associated command, control, and communications systems, and the cost and schedule for implementing the plan.

SEC. 237. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the funds appropriated pursuant to this title, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $22,142,400,000.
For the Navy, $24,879,700,000.
For the Marine Corps, $1,792,000,000.
For the Air Force, $21,898,700,000.
For the Defense Agencies, $7,636,880,000.
For the Army Reserve, $794,900,000.
For the Naval Reserve, $979,200,000.
For the Marine Corps Reserve, $77,500,000.
For the Air Force Reserve, $1,028,500,000.
For the Army National Guard, $1,805,300,000.
For the Air National Guard, $1,965,400,000.
For the National Board for the Promotion of Rifle Practice, $4,300,000.
For the Court of Military Appeals, $3,500,000.
For Environmental Restoration, Defense, $500,000,000.
For Humanitarian Assistance, $13,000,000.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated for fiscal year 1989, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $291,900,000.
For the Navy Stock Fund, $184,700,000.
For the Air Force Stock Fund, $186,900,000.
For the Defense Stock Fund, $30,000,000.

SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—The amount authorized in section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriations Act.

(f) REPORTS.—The Secretary of Defense shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives not later than 60 days after the date of the enactment of this Act and not later than June 1, 1989, and not later than June 1 each subsequent year until the funds are expended. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under the provisions of this section, the amendments made by section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856), and section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1078).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under the provisions referred to in paragraph (1).

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 304. PERFORMANCE OF FIREFIGHTING AND SECURITY GUARD FUNCTIONS AT AMCHITKA, ALASKA

(a) AUTHORITY TO CONTRACT.—The Secretary of the Navy may contract for the performance of firefighting and security guard functions required by the Navy at the over-the-horizon radar site at Amchitka, Alaska.

(b) INAPPLICABILITY OF LIMITATION ON USE OF FUNDS.—Section 2693 of title 10, United States Code, shall not apply with respect to the authority provided in subsection (a).

SEC. 305. TRIPLER ARMY MEDICAL CENTER

The Department shall, from within the funds authorized, establish a video teleconferencing center for the Tripler Army Medical Center.

PART B—LIMITATIONS

SEC. 311. PROHIBITION ON FINANCING CERTAIN ACTIVITIES BY DIRECT APPROPRIATIONS

(a) PROHIBITION.—During fiscal year 1989, the Secretary of the Navy may not take any steps for the purpose of planning or converting the operation of an activity specified in subsection (b) from operation as an activity financed by the Naval Industrial Fund (as authorized by section 2208 of title 10, United States Code) to operation as an activity financed by direct appropriations.

(b) ACTIVITIES COVERED.—An activity referred to in subsection (a) is any of the following:

(1) Naval Avionics Center, Indianapolis, Indiana.

(2) Naval Civil Engineering Laboratory, Port Hueneme, California.

(3) Naval Air Engineering Center, Lakehurst, New Jersey.

PART C—PERMANENT LAW CHANGES

SEC. 321. LIMITATION ON PRIVATE OPERATION OF COMMISSARY STORES

Section 2482 of title 10, United States Code, is amended by adding at the end the following new sentences: "A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.".

PART D—DEFENSE SUPPLIES SECURITY AND CONTROL

SEC. 331. DEFENSE SUPPLY MANAGEMENT STUDIES AND MODERNIZATION PLAN

(a) DEFENSE INVENTORY SECURITY AND CONTROL ENHANCEMENT STUDY.—(1) The Secretary of Defense shall carry out a study to determine the effectiveness of Department of Defense procedures for ensuring security and control of supplies at Department of Defense depots.

(2)(A) Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study. The Secretary may submit the report in both classified and unclassified forms if the Secretary considers it necessary to do so in the interest of national security.

(B) The Secretary of Defense, at the same time as the Secretary submits the report to Congress under subparagraph (A), shall transmit a copy of the report to the Comptroller General of the United States.

(3) The Comptroller General shall—

(A) review the report transmitted by the Secretary of Defense under paragraph (2)(B); and

(B) submit to the Committees on Armed Services of the Senate and the House of Representatives, within 90 days after the date on which the Comptroller General receives such report, any findings and recommendations on procedures for ensuring the security and control of supplies at Department of Defense depots that the Comptroller General considers appropriate.

(b) ANALYSIS OF SALES OF SURPLUS MUNITIONS.—The Secretary of Defense shall—

(1) conduct a cost-benefit analysis of the practice of selling surplus Department of Defense munitions to the public; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than 180 days after the date of the enactment of this Act, a report containing a description and discussion of each such practice.

(c) SUPPLY TRACEABILITY ENHANCEMENT.—The Secretary of Defense shall—

(1) develop improved methods for the identification of and accounting for individual items of ammunition, explosives, and other Department of Defense supplies that are susceptible to pilferage; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than one year after the date of the enactment of this Act, a report containing a description and discussion of each such method.

(d) SUPPLY SYSTEM MODERNIZATION PLAN.—The Secretary of Defense shall—

(1) prepare a plan for the modernization of the supply facilities and supply distribution procedures of each of the military departments and Defense Agencies of the Department of Defense; and

(2) not later than one year after the date of the enactment of this Act, transmit a copy of such plan to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 332. SUPPLY SECURITY AND CONTROL IMPROVEMENTS

(a) SECURITY AND CONTROL OF SUPPLIES: REPORTS, FUNDING, PROCEDURES.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 170 (as added by section 804(b)) the following new chapter:

"CHAPTER 171—SECURITY AND CONTROL OF SUPPLIES

"Sec.

"2891. Report on security and control of supplies.

"2892. Miscellaneous security and control procedures.

"§ 2891. Report on security and control of supplies

"(a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1 of each year, a report on security and control of Department of Defense supplies for each of the three fiscal years following the fiscal year in which this section is enacted.

"(b) Each report shall include the following:

"(1) A summary of each of the physical inventory program plans of the Department of Defense, the Defense Logistics Agency, and the military departments for the fiscal year in which the report is submitted.

"(2) A discussion of the deficiencies, if any, in the security and control of Department of Defense supplies in the fiscal year preceding the year in which the report is submitted and a discussion of the extent to which such deficiencies have been corrected.

"(3) A discussion of—

"(A) research and development projects carried out by the Department of Defense in such preceding fiscal year for the improvement of the inventory and recordkeeping capabilities of the Department;

"(B) any proposals for expeditious application of any new technology resulting from such projects; and

"(C) the budget needs for research and development for such purpose in the fiscal year in which the report is submitted and any subsequent fiscal year for which the budget needs have been determined.

"(4) The budget authority made available to the Department of Defense for inventory control functions in the fiscal year in which the report is submitted and in each of the five fiscal years preceding such fiscal year.

"(5) The budget authority proposed for such purpose in the budget submitted to Congress under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(6) The budget authority needed for such purpose in each of the five fiscal years following the fiscal year for which such budget is submitted.

"(7) An evaluation of the effectiveness of supply inventory control in the fiscal year preceding the fiscal year in which the report is submitted, the criteria used by the Secretary to make such evaluation, and the information considered by the Department in making the evaluation, including the value of supplies lost or stolen or for which accountability has otherwise been lost.

"(8) The aggregate statistics for all incidents of theft, fraud, or breach of security involving Department of Defense supplies that were investigated by military or civilian law enforcement agencies during the fiscal year preceding the fiscal year in which the report is submitted (including incidents involving munitions), a summary description of all such incidents (including the circumstances under which the incidents occurred), and the lessons learned by the Department of Defense from such incidents.

"§ 2892. Miscellaneous security and control procedures

"(a) The Secretary of Defense shall require an investigation of each discrepancy in an accounting for supplies of the Department of Defense involving an amount exceeding the amount determined under procedures prescribed by the Secretary. The Secretary shall prescribe procedures that provide for random investigation of physical inventory discrepancies, regardless of the value of the property involved in the discrepancy.

"(b) The Secretary of Defense shall, to the extent feasible, require that the job function of supply ordering and the job function of supply receiving be performed by different offices and individuals.

"(c) The Secretary shall ensure—

"(1) that the employees of the Department of Defense and members of the armed forces assigned to manage Department of Defense supplies are skilled in the management of such supplies; and

"(2) that no employee of the Department of Defense and no member of the armed forces is assigned to perform such function for disciplinary reason.".

(2) The table of chapters at the beginning of such part and such subtitle are each amended by inserting after the item relating to chapter 170 (as added by section 804(b)) the following new item:

"171. Security and control of supplies ...... 2891".

(b) REPORT EXCEPTION.—The Secretary of Defense may omit in the report for any fiscal year under section 2891 of title 10, United States Code, as added by subsection (a), the information relating to any of fiscal years 1983 through 1988, described in subsection (b)(4) of such section for which there are inadequate records, as determined by the Secretary.

SEC. 333. INVENTORY INVESTIGATIONS

(a) UNDERCOVER INVESTIGATIONS.—(1) Congress finds that the use of undercover investigative techniques by the Department of Defense enhances the ability of the Department of Defense to detect and investigate theft of Government property (including munitions) from the Department of Defense supply system.

(2) The Secretary of Defense is urged to continue to conduct undercover investigations to detect and investigate thefts referred to in paragraph (1).

(b) INVENTORY SECURITY INCIDENT REPOSITORY.—The Secretary of Defense shall establish and maintain a centralized computer system for recording and organizing information on theft, fraud, and breach of security, and incidents involving the loss of Department of Defense supplies (including munitions).

SEC. 334. REPORTS OF MUNITIONS LOSSES TO THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

(a) IN GENERAL.—Chapter 161 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2722. Theft or loss of ammunition, destructive devices, and explosives: report

"(a) IN GENERAL.—The Secretary of Defense shall report the theft or other loss of any ammunition, destructive device, or explosive material from the stocks of the Department of Defense to the Secretary of the Treasury within 24 hours, if possible, after the discovery of such theft or loss.

"(b) DEFINITIONS.—In this section:

"(1) The term 'explosive materials' means explosives, blasting agents, and detonators.

"(2) The terms 'destructive device' and 'ammunition' have the same meanings as provided in paragraphs (4) and (17), respectively, of section 921 of title 18.".

(b) TECHNICAL AMENDMENTS.—(1) Chapter 161 of such title is further amended—

(A) by striking out the chapter heading at the beginning and inserting in lieu thereof the following:

"CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY"; and

(B) by adding at the end of the table of sections at the beginning of such chapter the following new item:

"2722. Theft or loss of ammunition, destructive devices, and explosives: report.".

(2) The tables of chapters at the beginning of part A and at the beginning of part IV of part A of such title are each amended by striking out the item relating to chapter 161 and inserting in lieu thereof the following:

"161. Property Records and Report of Theft or Loss of Certain Property...... 2722".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to thefts and losses discovered more than 180 days after the date of the enactment of this Act.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized end strengths for active duty personnel as of September 30, 1989, as follows:

(1) FOR THE ARMY:

Officers, 106,927.

Enlisted members, 660,423.

Cadets (Military Academy), 4,450.

(2) FOR THE NAVY:

Officers, 72,610.

Enlisted members, 515,815.

Midshipmen (Naval Academy), 4,775.

(3) FOR THE MARINE CORPS:

Officers, 20,120.

Enlisted members, 177,080.

(4) FOR THE AIR FORCE:

Officers, 105,038.

Enlisted members, 465,645.

Cadets (Air Force Academy), 4,417.

SEC. 402. REDUCTIONS IN STRENGTH OF ACTIVE-DUTY OFFICER CORPS

Notwithstanding section 403(a) of the Department of Defense Authorization Act, 1987 (10 U.S.C. 521 note), and section 402(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 521 note), the total number of officers serving on active duty in the Army, Navy, Air Force, and Marine Corps—

(1) as of September 30, 1989, may not exceed the total of the numbers authorized for such officers in section 401 of this Act; and

(2) as of September 30, 1990, may not exceed the total of such numbers reduced by 6,176.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

Notwithstanding section 523 of title 10, United States Code, the number of officers otherwise authorized to be serving on active duty in the Air Force in fiscal year 1989 in the grade of colonel is reduced by 125, and the number of such officers otherwise authorized to be serving on active duty in fiscal year 1990 is reduced by 250.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) AUTHORIZATION.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1989, as follows:

(1) The Army National Guard of the United States, 457,300.

(2) The Army Reserve, 320,600.

(3) The Naval Reserve, 152,600.

(4) The Marine Corps Reserve, 43,600.

(5) The Air National Guard of the United States, 115,200.

(6) The Air Force Reserve, 83,600.

(7) The Coast Guard Reserve, 13,000.

(b) CONFORMING AMENDMENTS.—(1) Section 411(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1082) is amended by striking out "or subsection (b)" and inserting in lieu thereof "or section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

(2) Section 411(d) of such Act is amended by striking out "subsections and (b)" and inserting in lieu thereof "subsection (a) and by section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1989, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.

(2) The Army Reserve, 13,329.

(3) The Naval Reserve, 21,991.

(4) The Marine Corps Reserve, 1,945.

(5) The Air National Guard of the United States, 7,948.

(6) The Air Force Reserve, 657.

SEC. 413. NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	529	180	150	13
E-8	2,350	400	425	74".

(b) OFFICERS.—The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,600	875	575	110
Lieutenant Colonel or Commander	1,250	520	322	75
Colonel or Navy Captain	348	185	190	25".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1988.

PART C—MILITARY TRAINING

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1989, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 80,281.

(2) The Navy, 65,925.

(3) The Marine Corps, 18,064.

(4) The Air Force, 36,857.

(5) The Army National Guard of the United States, 19,561.

(6) The Army Reserve, 17,190.

(7) The Naval Reserve, 3,136.

(8) The Marine Corps Reserve, 3,459.

(9) The Air National Guard of the United States, 2,868.

(10) The Air Force Reserve, 1,827.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

PART D—CIVILIAN PERSONNEL

SEC. 431. AUTHORIZATION OF END STRENGTHS

(a) IN GENERAL.—The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1989, as follows:

Department of the Army	400,092.
Department of the Navy	339,551.
Department of the Air Force	263,756.
Defense agencies	98,841.

(b) COUNTING OF PERSONNEL.—(1) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding personnel in special employment categories for students and disadvantaged youth (such as the stay-in-school campaign, the temporary summer aid programs, and the Federal junior fellowship program) and personnel participating in the worker-trainee opportunity program.

(2) Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Personnel employed in an overseas area on a part-time basis under a nonpermanent local-hire appointment who are dependents accompanying a Federal civilian employee or a member of a uniformed service on official assignment or tour of duty shall also be counted as prescribed by section 3404 of that title.

(3) Whenever a function, power or duty, or activity is transferred or assigned to a military department or an agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another military department or agency within the Department of Defense, the civilian personnel end-strength authorized for each such military department or agency of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

TITLE V—MILITARY PERSONNEL POLICY

SEC. 501. SELECTION BOARDS

(a) INFORMATION FURNISHED TO BOARDS.—Section 615 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clause (4) and inserting in lieu thereof the following:

"(4) information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a competitive category;"; and

(2) by adding at the end thereof the following new subsection:

"(c) Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits the report to the Secretary of the military department concerned pursuant to section 617(a) of this title, except that, in the case of a report returned to a board pursuant to section 618(a)(2) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in such section.".

(b) RECOMMENDATIONS FOR PROMOTION.—Section 616(a) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "particular skills".

(c) REPORTS OF SELECTION BOARD.—Section 617(a)(2) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "concerned".

(d) ACTION ON REPORTS.—Section 618 of such title is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) Upon receipt of a report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned shall review such report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 615(a) of this title. Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), he shall submit the report as required by subsection (b) or (c), as appropriate.

"(2) If, on the basis of a review of the report under paragraph (1), the Secretary of the military department concerned determines that the board acted contrary to law, regulation, or guidelines furnished the board under section 615(a) of this title, the Secretary shall return the report together with a written explanation of the basis for such determination to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title."; and

(2) in subsection (c)(1)—

(A) by striking out ", modification,"; and

(B) by adding at the end the following: "If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of enactment of this Act and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after such effective date.

SEC. 502. EXPANSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note) is amended by striking out "above grade GS-1 (or its equivalent)" and inserting in lieu thereof "in grade GS-1 (or its equivalent) or above".

SEC. 503. MANPOWER COST ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Section 2434 of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking out "90 days" and inserting in lieu thereof "30 days";

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection (b):

"(b) EXCEPTIONS.—(1) Subsection (a)(2) shall not apply during time of war or during a national emergency declared by Congress or the President.

"(2) The 30-day period described in subsection (a)(2) shall be reduced to 10 days in the case of a major defense acquisition program if the manpower estimate submitted to the Secretary of Defense under subsection (a)(2) with respect to such program indicates that no manpower increase in military or civilian end strength will be required."; and

(4) in paragraph (3)(A) of subsection (c), as redesignated by clause (2), by striking out

"both in total personnel and" and inserting in lieu thereof "in total personnel or in".

SEC. 504. REMOVAL FROM PROMOTION LIST

(a) Authority To Remove.—Section 5905(a) of title 10, United States Code, is amended to read as follows:

"(a) The President may remove the name of any reserve officer from a promotion list established under this chapter. Such action may be taken at any time before the promotion of the officer.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to removal actions taken by the President on or after the date of the enactment of this Act.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Part A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1989

(a) Waiver of Section 1009 Adjustments.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(b) Increase in Basic Pay, BAQ, and BAS.—(1) Subject to paragraph (2), the rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 4.3 percent effective on January 1, 1989.

(2) If the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in basic allowance for quarters specified in paragraph (1) among such pay grade and dependency categories as he considers appropriate. Any such allocation may be made on a percentage basis other than an equal percentage basis.

(c) Increase in Cadet and Midshipman Pay.—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out "$504.30" and inserting in lieu thereof "$525.90".

SEC. 602. ALLOWANCE FOR TRANSPORTATION OF HOUSEHOLD GOODS

(a) Allowance.—Section 406(b)(1) of title 37, United States Code, is amended—

(1) by striking out "within such weight allowances prescribed by the Secretaries concerned," in subparagraph (A) and inserting in lieu thereof "within the weight allowances listed in subparagraph (C)"; and

(2) by adding at the end the following new subparagraph:

"(C) Under regulations prescribed by the Secretary of Defense, the weight allowance to which a member is entitled under subparagraph (A) is the number of pounds listed in the first column (in the case of a member without dependents) or in the second column (in the case of a member with dependents) across from the member's pay grade in the following table:

"Pay Grade	Without Dependents	With Dependents
O-10 to O-6	18,000	18,000
O-5	16,000	17,500
O-4	14,000	17,000
O-3	13,000	14,500
O-2	12,500	13,500
O-1	10,000	12,000
W-4	14,000	17,000
W-3	13,000	14,500
W-2	12,500	13,500
W-1	10,000	12,000
E-9	12,000	14,500
E-8	11,000	13,500
E-7	10,500	12,500
E-6	8,000	11,000
E-5	7,000	9,000
E-4 [1]	7,000	8,000
E-4 [2]	3,500	7,000
E-3	2,000	5,000
E-2	1,500	5,000
E-1	1,500	5,000

"[1] Member with more than two years of service computed under section 205 of this title.

"[2] Member with less than two years of service computed under section 205 of this title.".

(b) Effective Date.—The weight allowances in section 406(b)(1)(C) of title 37, United States Code (as added by subsection (a)), shall apply with respect to transportation of baggage and household effects commencing after June 30, 1989.

Part B—Other Personnel Benefits

SEC. 611. AVIATOR CONTINUATION BONUS

(a) In General.—(1) An aviation officer described in subsection (b) who executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the written agreement by the Secretary concerned, be paid a continuation bonus as provided in this section.

(2) The amount of such a continuation bonus shall be not more than $12,000 for each year covered by the agreement. The agreement may be for a number of years not more than eight, except that no agreement may be entered into for a partial year.

(3) The agreement length and payment amount may be prorated as long as an agreement under this section does not extend beyond the date on which the officer would complete 14 years of commissioned service.

(4) Upon the officer's acceptance of the agreement the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

(b) Applicability.—This section applies to an officer of a uniformed service who—

(1) is entitled to aviation career incentive pay under section 301a of title 37, United States Code;

(2) is in a pay grade below pay grade O-6;

(3) is qualified to perform operational flying duty (as defined in paragraph (6) of section 301a(a) of title 37, United States Code);

(4) has completed at least six but less than 13 years of active duty;

(5) has completed any active duty service commitment incurred for undergraduate aviator training; and

(6) is in or is projected to be in an area designated by the Secretary concerned, and approved by the Secretary of Defense, as retention sensitive.

(c) A continuation bonus under this section is in addition to any other pay and allowances to which an officer is entitled.

(d) Refunds.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(2) Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the agreed-upon period of active duty in aviation service under this section shall not obligate the President to accept a resignation submitted by a regular officer.

(3) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(4) A discharge in bankruptcy under title 11, United States Code, that is entered less than 10 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under such title after October 1, 1988.

(e) Termination of Program.—No new agreement may be entered into under section 301b of title 37, United States Code, on or after the date of the enactment of this Act.

(f) Limitations on Obligations.—The total amount of payments that may be made by the Secretary of the Air Force during fiscal year 1989 as the result of agreements entered into under this section may not exceed $30,000,000.

(g) Regulations.—This section shall be administered under regulations prescribed by the Secretaries concerned and approved by the Secretary of Defense or the Secretary of Transportation, as appropriate.

(h) Definitions.—In this section:

(1) The term "aviation officer" means an officer of the Army, Navy, Air Force, Marine Corps, or Coast Guard who performs aviation service.

(2) The term "aviation service" means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).

(3) The term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(i) Expiration of Authority.—The authority for the Secretary of a military department or the Secretary of Transportation to enter into an agreement under this section shall expire on September 30, 1989.

(j) Reporting Requirements.—Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the retention of aviators in the Armed Forces. The report shall include as a minimum:

(1) An analysis of aviator requirements and inventories (current and projected) of the Armed Forces by grade and years of service.

(2) An analysis of current and projected aviator retention rates in the Armed Forces and the current and projected retention rates actually needed to meet the requirements of the Armed Forces.

(3) Such recommendations as the Secretary considers appropriate regarding—

(A) the initial active-duty service commitment of aviators;

(B) the integration of the aviator career incentive pay and continuation bonus into a structure that more efficiently supports the retention requirements for aviators in the Armed Forces; and

(C) changes in the aviator management policies of the Armed Forces that would eliminate the disincentives cited by aviators as retention detractors.

(4) Specific proposals for such legislation as the Secretary considers necessary to

retain on active duty the aviators required to meet the needs of the Armed Forces.

SEC. 612. ENHANCEMENT OF SPECIAL PAYS FOR CERTAIN MEDICAL OFFICERS

(a) Variable Special Pay.—An officer described in section 302(a)(1) of title 37, United States Code, who is serving in a pay grade below pay grade O-7, and who has at least eight years creditable service, may be paid variable special pay at the following rates rather than at the rates set forth in section 302(a)(2) of title 37, United States Code:

(1) Not more than $14,060 per year, if the officer has at least eight but less than ten years of creditable service.

(2) Not more than $13,320 per year, if the officer has at least ten but less than twelve years of creditable service.

(3) Not more than $11,840 per year, if the officer has at least twelve but less than fourteen years of creditable service.

(4) Not more than $10,360 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

(5) Not more than $8,880 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

(6) Not more than $7,400 per year, if the officer has twenty-two or more years of creditable service.

(b) Additional Special Pay.—(1) An officer who has at least eight years of creditable service may be paid an amount of additional special pay under this subsection, not in excess of $4,320, for any twelve-month period that the officer is entitled to additional special pay under section 302(a)(4)(A) of title 37, United States Code. Additional pay under this subsection shall be in addition to any special pay under section 302(a)(4)(A) of such title.

(2) An officer may be paid an amount of additional special pay under this subsection not to exceed $4,800 for any twelve-month period during which the officer is entitled to additional special pay under section 302(a)(4)(B) of title 37, United States Code. Such additional pay shall be in addition to special pay under such section 302(a)(4)(B).

(3) An officer described in section 302(a)(5) of title 37, United States Code, who has at least eight years of creditable service may be paid additional special pay at the following rates rather than at the rates set forth in such section 302(a)(5):

(A) Not more than $2,960 per year, if the officer has at least eight but not more than ten years of creditable service.

(B) Not more than $3,700 per year, if the officer has at least ten but less than twelve years of creditable service.

(C) Not more than $4,440 per year, if the officer has at least twelve but less than fourteen years of creditable service.

(D) Not more than $5,920 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

(E) Not more than $7,400 per year, if the officer has eighteen or more years of creditable service.

(c) Administration and Implementation.—The provisions of subsections (a) and (b) of section 303a of title 37, United States Code, shall apply to the administration of this section as if a reference to this section were included in the list of sections referred to in such subsections.

(d) Limitation on Total Compensation.—The Secretary of Defense shall ensure that no officer receives pay under subsections (a) and (b) which, when added to all other pay and allowances such officer receives pursuant to titles 10 and 37, United States Code, results in such officer receiving total compensation in an amount that exceeds the total compensation paid to comparable physicians (considering age, education, experience, certification, training, and other appropriate criteria), as determined by the Secretary, who are physicians employed in private practice. The Secretary shall target payments under this section to officers with training and experience levels in which the most severe shortages exist in the Department of Defense.

(e) Reports.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in subsections (a) and (b) is to be used. The report shall include a description of the relative level of payments between officers with various amounts of creditable service and specialty training.

(2)(A) Not later than December 1, 1988, the Secretary of Defense shall also submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(i) such recommendations for legislation as the Secretary considers necessary to attract and retain on active duty the health care professionals needed to meet the needs of the Armed Forces; and

(ii) the Secretary's assessment of the adequacy of the existing compensation system for such health care professionals.

(B) The Secretary shall include in his report a draft of legislation which, if enacted, would establish either—

(i) an alternative compensation system which provides total compensation that is comparable to the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in private practice; or

(ii) a single military health care professional incentive compensation program which provides incentive compensation in sufficient amounts to ensure that the total amount of such compensation to which such health care professionals are entitled under the provisions of titles 10 and 37, United States Code (other than chapter 5 of such title 37) is comparable to the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in private practice.

(f) Limitations on Obligations.—The total amount of the payments that may be made during fiscal year 1989 under this section may not exceed a total of $30,000,000.

(g) Effective Date.—The authority to make payments under subsections (a) and (b) shall become effective with respect to pay periods beginning after December 31, 1988.

(h) Termination of Authority.—If the report and the legislative proposal required by subsection (e)(2) are not received by the Committees on Armed Services of the Senate and the House of Representatives before December 1, 1988, the authority to make payments under subsections (a) and (b) shall terminate effective with respect to pay periods beginning after September 30, 1989.

SEC. 613. SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE

(a) In General.—(1) An officer of a reserve component of the Armed Forces described in paragraph (2) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

(2) An officer referred to in paragraph (1) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

(3) Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

(b) Refund Requirement.—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

(c) Inapplicability of Discharge in Bankruptcy.—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the person receiving such special pay from the debt arising under the agreement.

(d) Termination of Agreement Authority.—No agreement under this section may be entered into after September 30, 1990.

(e) Purpose of Program.—The authority provided under this section shall be used only for the purpose of establishing and conducting a pilot test program to determine the effect that the program provided for in this section has on the retention of officers who are qualified in specialties designated by regulation as critically short wartime specialties.

(f) Regulations.—(1) This section shall be administered under regulations prescribed by the Secretary concerned and approved by the Secretary of Defense.

(2) As used in paragraph (1), the term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(g) Limitations on Obligations.—The total amount of payments that may be made during fiscal year 1989 as the result of agreements entered into under this section may not exceed $4,000,000.

(h) Report.—Not later than September 1, 1988, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of the manner in which the pilot test program described in subsection (e) is to be structured, including the minimum periods of service to be required for various levels of special pay under this section.

(i) Effective Date.—The authority to enter into agreements under this section shall be effective 30 days after the date on which the committees referred to in subsection (h) receive the report required by such subsection.

SEC. 614. RETIRED PAY INVERSIONS RESULTING FROM COURT-MARTIAL PUNISHMENT

(a) In General.—Section 1401a(f) of title 10, United States Code, is amended by inserting after the second sentence the following: "However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member was retired.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the first month that begins after the date of the enactment of this Act and shall apply to the computation of the retired or retainer pay of members of the Armed Forces who initially become entitled to such pay on or after such effective date.

SEC. 615. SPECIAL ANNUITY FOR CERTAIN SURVIVING SPOUSES

(a) IN GENERAL.—(1) The Secretary concerned shall pay a $165 monthly annuity to any unremarried surviving spouse of a member of the uniformed services who—

(A) died before November 1, 1953; and

(B) was entitled to retired or retainer pay on the date of death.

(2) The annuity paid to any unremarried surviving spouse under this section shall be reduced by—

(A) the amount of compensation to which such surviving spouse is entitled under section 411(a) of title 38, United States Code; and

(B) any amount such surviving spouse is entitled to receive as an annuity under subchapter I or II of chapter 73 of title 10, United States Code.

(3) The annuity paid to any unremarried surviving spouse under this section shall be in addition to any pension to which such surviving spouse is entitled under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 521 note), and any payment made under the provisions of section 4 of Public Law 92-425 (10 U.S.C. 1448 note). An annuity paid under this section shall not be considered as income for the purposes of eligibility to any such pension.

(b) COST-OF-LIVING INCREASES.—Whenever retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on the monthly annuity payable before any reduction under this section.

(c) DEFINITIONS.—In this section:

(1) The term "uniformed services" has the same meaning as provided in section 101(3) of title 37, United States Code.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in paragraphs (3) and (4), respectively, of section 1447 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning given such term in section 101(8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

(d) EFFECTIVE DATE.—The provisions of this section shall become effective on the date of enactment of this Act, except that no benefit shall accrue to any person before the first day of the second month following the month in which the Secretary receives an application from such person for such annuity.

SEC. 616. TRAVEL AND TRANSPORTATION ALLOWANCES FOR EMERGENCY TRAVEL

Section 411e(a) of title 37, United States Code, is amended by striking out "incident to the serious illness or injury or the death of a dependent of the member" and inserting in lieu thereof "incident to a personal emergency of the member".

SEC. 617. DEPENDENT STATUS OF CERTAIN CHILDREN

Section 401(2) of title 37, United States Code, is amended by striking out "member)" and inserting in lieu thereof "member, or any other child for whom care and support is provided by the member pursuant to an order of custody issued by a court of competent jurisdiction)".

SEC. 618. CIVILIAN CLOTHING ALLOWANCE

Section 419 of title 37, United States Code, is amended—

(1) by striking out "member" each place it appears and inserting in lieu thereof "officer";

(2) by striking out "is entitled" and inserting in lieu thereof "may be paid"; and

(3) by striking out "member's" and inserting in lieu thereof "officer's".

SEC. 619. TRAVEL AND TRANSPORTATION ALLOWANCES INCIDENT TO VOLUNTARY EXTENSION OF OVERSEAS TOURS OF DUTY

(a) CHANGE FROM MANDATORY TO PERMISSIVE.—Section 411g(a) of title 37, United States Code, is amended by striking out "is entitled" and inserting in lieu thereof "may be paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act.

SEC. 620. COMMISSARY STORES PRIVILEGES

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1055. Commissary store privileges for custodial parents

"The unremarried former spouse of a member or retired member of the Armed Forces may use commissary stores for the benefit of a dependent child (as described in section 1072(2)(D) of this title) of such member during any period when all of the following conditions apply:

"(1) such former spouse has legal custody of such a child;

"(2) such a member or retired member is authorized to use commissary stores;

"(3) such dependent child is unable to use commissary stores because of administrative restrictions on the use of commissary stores by dependent children.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1055. Commissary store privileges for custodial parents.".

SEC. 620A. INJURY, DISABILITY, AND DEATH COMPENSATION COVERAGE FOR ROTC CADETS DURING MILITARY TRAINING ACTIVITIES

(a) AUTHORITY TO PRESCRIBE TRAINING.—Section 2109 of title 10, United States Code, is amended—

(1) by striking out the catchline and inserting in lieu thereof the following:

"§ 2109. Practical military training";

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) For the further practical instruction of members of, and designated applicants for membership in, the program, the Secretary of the military department concerned may prescribe and conduct practical military training, in addition to field training and practice cruises prescribed under section 2104(b)(6) of this title. The Secretary concerned may require that some or all training prescribed under this subsection must be completed by members before they are commissioned."; and

(3) in subsection (b)—

(A) by inserting after "Secretary of the military department concerned may" the phrase ", with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title"; and

(B) by striking out "field training or practice cruises", "training or cruise", "field training and practice cruises" and "training or practice cruises" each place such phrases appear and inserting in lieu thereof "such training".

(b) COVERAGE FOR INJURY, DISABILITY, AND DEATH.—Section 8140 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "disability or death from an injury" and inserting in lieu thereof "an injury, disability, or death"; and

(B) by striking out "field training or a practice cruise" and inserting in lieu thereof "training prescribed";

(2) in subsection (f), by striking out "while attending field training or a practice cruise under chapter 103 of title 10" and inserting in lieu thereof "by a military department"; and

(3) by adding at the end thereof the following new subsection:

"(g) For purposes of this section, the term 'applicant for membership' includes a student enrolled, during a semester or other enrollment term, in a course which is part of Reserve Officers' Training Corps instruction at an educational institution.".

(c) TRAINING INCLUDED WITHIN CERTAIN DEFINITIONS.—Section 101 of title 38, United States Code, is amended—

(1) in paragraph (22) by inserting "for not less than four weeks duration and which must be completed before commissioning" after "title 10" in clause (D) thereof; and

(2) in paragraph (23)—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting "; and" in lieu thereof; and

(C) by inserting immediately after clause (B) the following new clause:

"(C) training (other than active duty for training) by a member, or applicant for membership (as defined in section 8140(g) of title 5) of the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.".

(d) PAY STATUS WHILE IN CERTAIN TRAINING.—Section 209(c) of title 37, United States Code, is amended by striking out "field training or practice cruises under section 2109 of title 10" and inserting in lieu thereof "training prescribed under section 2109 of title 10 if such training is of at least four weeks duration and must be completed before commissioning".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply only to training performed and injuries, disabilities, or death occurring during training performed, after September 30, 1988.

PART C—HEALTH CARE PROVISIONS

SEC. 621. EXTENSION OF USE OF PUBLIC HEALTH SERVICE HOSPITALS BY THE UNIFORMED SERVICES

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C.

248d(e)), is amended by striking out "December 31, 1988" in the first sentence and inserting in lieu thereof "December 31, 1991".

SEC. 622. REPEAL OF AUTHORITY TO ALLOCATE SPECIFIED PORTION OF NAVY OFFICER ACCESSIONS AND GROWTH IN END STRENGTHS TO HEALTH PROFESSIONS

Section 723 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1116) is repealed.

SEC. 623. MODIFICATION OF DEFINITION OF DEPENDENT

(a) Amendment to Section 1072(2) of Title 10.—Section 1072 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (F);

(2) by striking out the period at the end of clause (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(H) the grandchild of a member or former member if the grandchild is in fact dependent on the member or former member for over one-half of the grandchild's support and if a parent of the grandchild qualifies as a dependent of the member or former member under clause (D).".

(b) Non-Retroactive Benefits.—No health care benefits shall be payable to or on behalf of any person as a result of the amendment made by this Act for any health care furnished to any person for any period prior to the date of the enactment of this Act.

TITLE VII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 701. JOINT OFFICER MANAGEMENT POLICIES

(a) Selection of Officers for the Joint Specialty.—The last sentence of subparagraph (D) of section 661(c)(3) of title 10, United States Code, is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(b) Critical Joint Duty Assignments.—The last sentence of paragraph (2) of section 661(d) of such title is amended to read as follows: "Not less than 80 percent of the positions so designated by the Secretary shall be held at all times by officers who have the joint specialty.".

(c) Promotion Policy Objectives.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) Length of Joint Duty Assignments.—Section 664 of such title is amended—

(1) in subsection (a)—

(A) by striking out "three" in paragraph (1) and inserting in lieu thereof "two";

(B) by striking out "three and one-half" in paragraph (2) and inserting in lieu thereof "three";

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Exception for Assignment of Officers With Critical Occupational Specialties.—The Secretary may prescribe the length of a joint duty assignment to be less than the length prescribed in subsection (a) (without the requirement of a waiver under subsection (b)) in the case of an officer who has a military occupational specialty designated as a critical occupational specialty under section 661(c)(2) of this title. In no case may the Secretary prescribe the length of a joint duty assignment to be less than two years.";

(3) in subsection (e)(2), by striking out the comma after "subsection (c)" in subparagraph (A) and all that follows through the end of the subparagraph and inserting in lieu thereof a period;

(4) in subsection (f)—

(A) by striking out "or" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new paragraphs:

"(4) a joint duty assignment outside the 48 contiguous States or in Alaska or Hawaii for which the normal accompanied-by-dependents tour of duty is prescribed by regulation to be at least two years in length, if the officer serves in the assignment for a period equivalent to the accompanied-by-dependents tour length; or

"(5) a joint duty assignment during which the officer is selected for promotion to the grade of brigadier general or rear admiral (lower half), if the officer served at least two years in such assignment.";

(5) in subsection (g)—

(A) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1) Cumulative service for purposes of subsection (f)(3) is service in joint duty assignments which totals in length not less than the applicable standard prescribed in subsection (a).

"(2) In computing the cumulative service of an officer in joint duty assignments for purposes of paragraph (1), a tour of duty of the officer in a joint duty assignment may not be counted—

"(A) unless the officer served at least 10 months in that assignment; or

"(B) in the case of an assignment other than an assignment that—

"(i) was performed outside the United States or in Alaska or Hawaii; or

"(ii) was terminated because of a qualifying reassignment,

unless the officer served at least two years in that assignment.

"(3) The prohibition in paragraph (2)(B) does not apply to a joint duty assignment which follows a reassignment described in paragraph (4)(B)."; and

(B) by striking out "paragraph (1)(B)" in paragraph (4) in the matter preceding clause (A) and inserting in lieu thereof "paragraph (2)(B)(ii)"; and

(6) by adding at the end the following new subsection:

"(h) Constructive Credit.—The Secretary of Defense may accord constructive credit in the case of an officer who, for reasons of military necessity, is reassigned from a joint duty assignment within 60 days of meeting the tour length criteria prescribed in subsection (a), (c), (f), or (g) (or in section 406(b) of Public Law 99-433). The amount of constructive service that may be credited to such officer shall be an amount sufficient for the completion of the applicable tour of duty requirement, but in no case more than 60 days. This subsection shall not apply in the case of an officer who serves less than 10 months in the joint duty assignment.".

(e) Modification of Definition of Joint Duty Assignment.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 250 assignments which the Secretary, after consultation with the Chairman of the Joint Chiefs of Staff, designates as assignments that provide significant experience in joint matters.".

(f) Joint Duty Assignment as Prerequisite for Promotion to General or Flag Officer Grade.—Section 619(e) of such title is amended—

(1) in paragraph (1), by striking out the second sentence and inserting in lieu thereof the following: "An officer of the Navy designated as a qualified nuclear propulsion officer may be appointed to the grade of rear admiral (lower half) without regard to the preceding sentence.";

(2) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) in the case of an officer who served in a joint duty assignment begun before January 1, 1987, if the officer served in such assignment for a period of sufficient duration (not less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect at the time the assignment began or, in the case of any other joint duty assignment, if the officer served in such assignment for not less than two years; and"; and

(3) in paragraph (3)(C), by striking "or (2)(D)" and inserting in lieu thereof "(2)(D), or (2)(E)".

(g) Transition.—Section 406 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 661 note) is amended—

(1) in subsection (a)(1), by striking out "two" and inserting in lieu thereof "three";

(2) in subsection (b)(1)(B), by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) waive the requirement for the length of a joint duty tour assignment in the case of a joint duty assignment begun by an officer before January 1, 1987, if the officer has served in such assignment for a period of sufficient duration (not less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect at the time the assignment began or, in the case of any other joint duty assignment, if the officer has served in such an assignment for not less than two years; and"; and

(C) in subsection (b)(3), by striking out "two" and inserting in lieu thereof "three".

(h) Report.—(1) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall submit a report on joint officer management policies to the Committees on Armed Services of the Senate and House of Representatives.

(2) The report required by paragraph (1) shall comprehensively address the following:

(A) The principles that should guide joint officer management policies.

(B) The goals that should be established for joint officer management policies.

(C) The detailed concepts that support these principles and goals.

(D) The extent to which the joint officer personnel policies provided for in title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 have been implemented.

(E) Changes in the laws relating to the joint officer management policies that would make those policies more consistent with the principles of subparagraph (A), would achieve the goals of subparagraph (B) more effectively, and would simplify procedures for joint officer management.

(3) The report required by paragraph (1) shall be submitted not later than February 1, 1990.

SEC. 702. DEFERRED RETIREMENT DATE FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Notwithstanding the limitation contained in the first sentence of subsection (b) of section 1251 of title 10, United States Code, the President may defer until October 1, 1989, the retirement of the officer serving as Chairman of the Joint Chiefs of Staff for the term beginning October 1, 1987.

SEC. 703. ASSIGNMENT OF COMBATANT FORCES

Section 162(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or to United States elements of binational or multinational military commands" in the first sentence after "combatant commands";

(2) in paragraph (2), by inserting "or other commands" after "combatant commands"; and

(3) in paragraph (3), by inserting "or to the United States element of a binational or multinational military command" after "combatant command".

SEC. 704. RESPONSIBILITY AND AUTHORITY OF COMMANDER OF SPECIAL OPERATIONS COMMAND

Section 167(e) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "of such command" in the matter preceding subparagraph (A);

(B) by redesignating subparagraphs (B) through (J) as subparagraphs (C) through (K), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces.";

(D) by inserting "of assigned forces" after "readiness" in subparagraph (G), as redesignated by subclause (B);

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(L) Monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions."; and

(3) by redesignating paragraph (3) as paragraph (2), and by striking out "paragraph (1)(G)" in such paragraph and inserting in lieu thereof "paragraph (1)(H)".

SEC. 705. PROHIBITION ON USE OF FUNDS FOR AN OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

Funds made available to the Department of Defense for fiscal year 1989 may not be used for the purpose of—

(1) establishing or operating an Office of the Assistant Secretary of Defense for Intelligence; or

(2) paying the salary of an Assistant Secretary of Defense for Intelligence.

SEC. 706. GENERAL COUNSELS OF MILITARY DEPARTMENTS

(a) Requirement for Advice and Consent of Senate.—Sections 3019, 5019, and 8019 of title 10, United States Code, are each amended by inserting ", by and with the advice and consent of the Senate" after "President".

(b) Applicability.—The amendments made by this section shall apply to appointments made under sections 3019, 5019, and 8019, respectively, of title 10, United States Code, on and after the date of the enactment of this Act.

SEC. 707. ANNUAL NET ASSESSMENTS

Section 113(j) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking out the second sentence; and

(3) by adding at the end the following:

"(2) Each such report shall—

"(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies and the armed forces of potential adversaries of the United States and allies of the United States;

"(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during the five years covered by the five-year defense program submitted to Congress in such year pursuant to section 114(g) of this title;

"(C) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

"(D) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

"(3) The Secretary of Defense shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in such year. Such report shall be transmitted in both classified and unclassified form.".

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

SEC. 801. INTEGRATED FINANCING POLICY

(a) In General.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2330. Integrated contract finance, investment, and risk-sharing plan

"(a) In General.—(1) The Secretary of Defense shall develop each year, in conjunction with the five-year defense program submitted to Congress under section 114(g) of this title in such year, a plan that ensures that Department of Defense policies referred to in subsection (b) are structured to meet the long-term needs of the Department of Defense for industrial resources and technology innovation. In developing each such plan, the Secretary shall take into consideration the five-year defense program and Department of Defense mobilization plans.

"(2) In developing each plan required under paragraph (1), the Secretary shall take into account the different characteristics of separate segments and tiers of private industry.

"(b) Applicability.—Subsection (a) applies to the following policies applicable to Department of Defense contractors:

"(1) Policies relating to progress payments or other financing of contractors by the Department of Defense.

"(2) Policies relating to the return on contractor investment under Department of Defense contracts.

"(3) Policies relating to the division of contract risk between the Department of Defense and a contractor.

"(c) Explanation of Plan.—The Secretary of Defense shall submit to Congress each year a report which contains the plan required by subsection (a) and an explanation of the manner in which the policies referred to in subsection (b), as reflected in the budget for the fiscal year following the fiscal year in which such report is submitted, enhance the ability of the Department of Defense to obtain industrial resources and encourage technology innovation. Such report shall be submitted each year at the same time that the five-year defense program is submitted to Congress in such year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2330. Integrated contract finance, investment, and risk-sharing plan.".

(b) Transition Dates for Submission of the First Three Plans.—The first plan required by section 2330 of title 10, United States Code (as added by subsection (a)), shall be submitted to Congress in 1989. Notwithstanding subsection (c) of such section, the plans required to be submitted in 1989, 1990, and 1991 shall each be submitted not later than March 1 of such year.

SEC. 802. GUIDANCE ON USE OF FIXED PRICE DEVELOPMENT CONTRACTS

(a) In General.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe guidelines that provide that a fixed-price contract should be awarded in the case of a development progam conducted by the Department of Defense only when—

(A) the level of program risk permits realistic pricing; and

(B) the use of a fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

(2)(A) The Secretary of a military department and the head of a Defense Agency may not award a firm fixed-price contract in excess of $10,000,000 for the development of a major system or a subsystem of a major system unless the Under Secretary of Defense for Acquisition determines and states in writing that the award of such contract is consistent with the criteria specified in clauses (A) and (B) of paragraph (1) and the guidelines prescribed under such paragraph.

(B) The Under Secretary of Defense for Acquisition may delegate his authority under subparagraph (A) only to a person who holds a position in the Office of the Secretary of Defense at or above the level of Assistant Secretary of Defense.

(b) Definitions.—In this section:

(1) The term "Defense Agency" has the same meaning as is provided in section 101(44) of title 10, United States Code.

(2) The term "major system" has the same meaning as is provided in section 2302(5) of title 10, United States Code.

(c) EXPIRATION.—Paragraph (2) of subsection (a) shall cease to be effective two years after the date of the enactment of this Act.

SEC. 803. INCENTIVES FOR INNOVATION

Section 2305(d) of title 10, United States Code, is amended by adding at the end the following:

"(4)(A) Whenever the head of an agency requires that proposals described in paragraph (1)(B) or (2)(B) be submitted by an offeror in its offer, the offeror shall not be required to provide for future competition between identical items for an item developed exclusively at private expense by a contractor or subcontractor unless the head of the agency determines that—

"(i) the original supplier of such item will be unable to satisfy program schedule or delivery requirements; or

"(ii) the price of such item provided in economic order quantities to the Government will not be fair or reasonable based on an analysis of cost and performance comparisons with competing substitutes.

"(B) The restrictions in subparagraph (A) shall not preclude the head of an agency from requiring proposals from the developer of an item developed exclusively at private expense to provide for the mobilization needs of the agency for such item.

"(C) In the event that the proposals described in paragraph (1)(B) or (2)(B) are required, the head of an agency shall adjust the consideration of such proposal in the evaluation of the offeror's price or the consideration under paragraph (3) of negotiating objectives to accommodate subparagraphs (A) and (B).".

SEC. 804. MAINTENANCE AND IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

(a) FINDINGS.—The Congress finds that—

(1) a strong defense industrial base in the United States is essential to the national security and significantly enhances the capability of United States manufacturers and producers—

(A) to develop technologically superior defense material rapidly and to produce such material efficiently in cost-effective quantities during peacetime; and

(B) to expand productive capacity to meet the demands of a national emergency;

(2) a strong and responsive defense industrial base is a basic deterrent to aggression and, thus, helps to preserve peace;

(3) a series of studies conducted over a 10-year period by Congress, the General Accounting Office, the Department of Defense, and others have consistently shown a steady, unchecked erosion of the defense industrial base in the United States;

(4) despite the uniformly adverse findings contained in the reports on such studies, the United States still lacks a coherent industrial base policy that is directly linked to national security strategy;

(5) reliable methods for assessing the weaknesses and strengths of the defense industrial base have not been utilized;

(6) the development and implementation of an effective program for the restoration and maintenance of the defense industrial base is unlikely to occur without improved centralized policy direction and management;

(7) existing programs and authorities designed to restore and maintain the defense industrial base have received inconsistent and, frequently, inadequate allocations of resources and management attention from the military departments and the Defense Agencies because the Office of the Secretary of Defense has not exercised strong leadership in defense industrial base management;

(8) procurement policies, regulations, and practices of the Department of Defense do not sufficiently encourage—

(A) investment in advanced manufacturing technology and modernization of manufacturing facilities and equipment;

(B) the entry of efficient producers from the commercial sectors of the economy into the defense procurement market; and

(C) continued participation of efficient producers in the defense procurement competitions; and

(9) several foreign governments, including allies of the United States, have established defense industrial base policies and defense trade policies that promote national economic interests rather than the achievement of maximum defense capability from limited resources.

(b) AMENDMENTS TO TITLE 10.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 169 the following new chapter:

"CHAPTER 170—DEFENSE INDUSTRIAL BASE MANAGEMENT AND SUPPORT PROGRAMS

"Sec.
"2871. Centralized guidance, analysis, and planning for programs affecting the defense industrial base.
"2872. Analysis of the capability of the defense industrial base to support certain defense acquisition programs.
"2873. Increased reliance on commercial manufacturing processes and commercial items.

"§ 2871. Centralized guidance, analysis, and planning for programs affecting the defense industrial base

"The Under Secretary of Defense for Acquisition shall, subject to the authority, direction, and control of the Secretary of Defense—

"(1) provide overall policy guidance and direction to the military departments and the Defense Agencies on matters relating to the maintenance, expansion, and readiness of the defense industrial base of the United States;

"(2) analyze the capabilities of the defense industrial base of the United States to fulfill the requirements of the national defense strategy in time of peace and the expanded requirements of the national defense strategy in time of war or national emergency;

"(3) develop and direct the implementation of plans and programs that promote the ability of the defense industrial base to meet the requirements referred to in clause (2); and

"(4) identify and plan for the procurement of items of supply that—

"(A) are suitable substitutes for military standard items of supply, or suitable substitutes for subsystems or components of military standard items of supply, that are anticipated to be unavailable from existing sources in quantities that are sufficient to meet planned requirements in time of war or national emergency; and

"(B) are commercially available from domestic sources.

"§ 2872. Analysis of the capability of the defense industrial base to support certain defense acquisition programs

"(a)(1) The Under Secretary of Defense for Acquisition may require that each defense acquisition program designated by the Under Secretary for the purposes of this section include a requirement for an analysis of the capability of the defense industrial base to develop, produce, maintain, and support the system to be acquired under such program.

"(2) In the conduct of any analysis required under paragraph (1), the following factors, as appropriate, may be considered:

"(A) The availability of essential raw materials, special alloys, and composite materials.

"(B) The availability of components or subsystems essential for—

"(i) the production of a system that is fully capable of performing its purpose;

"(ii) the maintenance and repair of such system; and

"(iii) the operation of such system.

"(C) The production capacity of the prime contractor, subcontractors, and component suppliers to maintain adequate production rates.

"(D) The availability of required production test equipment to assure quality.

"(E) The identification of components or subsystems that are available solely from sources outside the United States.

"(F) Planned alternatives, if appropriate, for meeting requirements that during peacetime are supplied by sources outside the United States.

"(3) In the conduct of the analysis required under paragraph (1), the Under Secretary shall minimize the paperwork burden on the contractor, its subcontractors, and suppliers.

"(b) The Under Secretary of Defense for Acquisition shall be responsible for compiling and analyzing the data obtained under subsection (a) in order to insure that, in the case of each program referred to in such subsection—

"(1) the capabilities of the defense industrial base of the United States to meet program requirements has been assessed by the military department or Defense Agency carrying out such program; and

"(2) the capabilities of the defense industrial base of the United States to meet the aggregate requirements for all such programs has been assessed in the Office of the Secretary of Defense.

"§ 2873. Increased reliance on commercial manufacturing processes and commercial items

"The Under Secretary of Defense for Acquisition shall establish and implement to the maximum extent practicable acquisition policies which provide for—

"(1) expanded use of commercial manufacturing processes rather than military standard requirements;

"(2) elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under defense contracts; and

"(3) encouragement of the military departments and the Defense Agencies to identify commercial items that are suitable substitutes for military standard items incorporated into weapon systems or other items of equipment.".

(2) The tables of chapters at the beginning of such part and such subtitle are each amended by inserting after the item relating to chapter 169 the following:

"170. Defense Industrial Base Management and Support Programs .... 2871".

(c) DEFENSE PRODUCTION INNOVATION CENTER.—The Under Secretary of Defense for Acquisition may establish within the Office of the Under Secretary of Defense for Acquisition a defense production innovation center to be the principal office in the Department of Defense for the development of policies and plans regarding the conduct of programs for the improvement of the defense industrial base of the United States. The head of any center established under this subsection shall be the Defense Production Base Director. The Defense Production Base Director shall—

(1) develop and propose plans and programs for the maintenance and fostering of defense industrial readiness in the United States;

(2) encourage the utilization of advanced manufacturing technology and processes by the defense industries of the United States;

(3) encourage Department of Defense contractor investment in improved productivity;

(4) propose, consistent with existing law, the repeal or amendment of such Defense Acquisition Regulations and other regulations and policies as may be necessary to eliminate any adverse effect that the regulations and policies may have on investment in improved productivity;

(5) as authorized by the Under Secretary, evaluate and provide direction for testing (through demonstrations or otherwise) innovative ideas for improving defense industrial readiness in the United States, including ideas for improving—

(A) manufacturing processes; and

(B) the acquisition procedures of the Department of Defense; and

(6) perform such other functions as may be assigned by the Under Secretary.

(d) Analysis of Defense Industrial Base Capability.—(1) During fiscal year 1989, the Under Secretary of Defense for Acquisition shall require each military department to initiate at least one analysis of the type described in section 2872 of title 10, United States Code (as added by subsection (b)) of the capability of the defense industrial base of the United States to develop, produce, maintain, and support the system or systems to be acquired under one or more acquisition programs carried out by such department.

(2) A program may not be selected for an analysis under this subsection if production of the system to be acquired under such program has begun.

(3) All analyses required under this subsection shall be completed not later than September 30, 1990.

(4) Not later than February 1, 1991, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the analyses required under this subsection.

SEC. 805. DEFENSE MEMORANDA OF UNDERSTANDING

(a) In General.—The Secretary of Defense shall consult with the Secretary of Commerce in the negotiation and renegotiation of memoranda of understanding between the Department of Defense and one or more foreign countries (or any instrumentality of a foreign country) relating to defense trade, cooperation on defense research, or production of defense equipment.

(b) Reports.—Not later than 30 days after a memorandum of understanding described in subsection (a) is entered into, the Secretary of Defense, in consultation with the Secretary of Commerce, shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives containing a description of the anticipated effects of the implementation of such memorandum on the defense industrial base of the United States.

(c) Waiver.—The President may waive the requirements of subsections (a) and (b) in the event of war or of a national emergency declared by the President.

(d) Implementation of Memoranda.—In implementing memoranda of understanding described in subsection (a), the Secretary of Defense shall fully utilize such resources of the Department of Commerce as the Secretary of Commerce may make available to the Department of Defense pursuant to an agreement entered into by the Secretary of Defense and the Secretary of Commerce for the purpose of this subsection.

SEC. 806. DEPARTMENT OF DEFENSE OFFSET POLICY

(a) Findings.—Congress makes the following findings:

(1) Many contracts entered into by United States firms for the supply of weapon systems to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", distort international trade and may contribute to a decline in United States defense industry opportunities in domestic and foreign markets.

(2) United States subcontractors are adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the foreign trade policies of the countries of such firms frequently give foreign firms a competitive advantage against United States firms in world markets for products utilizing such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement is likely to increase the cost of the defense equipment to the purchasing country and, in the case of a country with limited resources, reduce the defense capability of that country.

(6) A substantial increase in the exporting of defense equipment produced in the United States is critical in order to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) Amendment to Title 10.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Offset policy; notification

"(a) Establishment of Offset Policy.—The Secretary of Defense, through the Under Secretary of Defense for Acquisition and in coordination with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements, including policy on the following matters:

"(1) Transfer of technology in connection with offset arrangements.

"(2) Limitations on the application of offset arrangements in cases in which United States funds are used in financing the purchase by a foreign government.

"(3) Means for measuring the effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

"(b) Technology Transfer.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

"(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Under Secretary of Defense for Acquisition, in consultation with the Secretary of Commerce, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

"(c) Notification Regarding Offsets.—If at any time a United States firm enters into a contract for the sale of a weapon system to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

"(d) Definitions.—In this section:

"(1) The term 'foreign firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities outside the United States.

"(2) The term 'United States firm' means a business entity other than a foreign firm.".

(2) The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

"2410. Offset policy; notification.".

(c) Negotiations.—(1) The Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The Secretary shall conduct such negotiations with a view to achieving an agreement with the countries concerned (A) that would limit the adverse effects that such arrangements have on the defense industrial base of each such country, and (B) that would prohibit such arrangements between the United States and the countries concerned after a specified date.

(2) The Secretary of Defense shall make every effort to achieve, within two years after the date of the enactment of this Act—

(A) an initial agreement that would limit the adverse effects (described in subsection (a)) that offset arrangements have on the industrial bases of the countries concerned; and

(B) within 4 years after the date of the enactment of this Act, a final agreement that would prohibit such arrangements after a specified date.

(3) The Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in paragraph (2). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(d) REPORTS.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems to foreign countries or foreign firms. Such report shall include the following:

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2)(A).

(2)(A) Not later than March 15, 1989, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country) when that country or firm requires an offset arrangement in favor of such country. The report shall include a discussion of the following possible actions:

(i) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(ii) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(iii) A reduction in assistance furnished such foreign country by the United States.

(iv) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in clause (i) to be effective.

(B) In this paragraph, the terms "foreign firm" and "United States firm" have the same meanings as are provided in section 2410(e) of title 10, United States Code, as added by subsection (b).

SEC. 807. EXPORT OF UNITED STATES DEFENSE PRODUCTS

(a) IN GENERAL.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The regulations shall provide that foreign selling costs, including costs incurred at domestic and international exhibits to promote the export of products of the United States defense industry, shall be allowable to the extent that such costs are—

"(A) allocable, reasonable, and not otherwise unallowable; and

"(B) within dollar ceilings established in advance agreements that—

"(i) are negotiated between the Secretary of Defense and the contractor or subcontractor before or during the fiscal year covered by such agreements; and

"(ii) are entered into after the Secretary determines that cost advantages for the United States will result from allowing such foreign selling costs under such agreements.

Each of the budget requests submitted to Congress by the Secretary after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1989 shall reflect such cost advantages.".

(b) IMPLEMENTATION.—The Secretary of Defense shall issue final regulations required by paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are issued.

SEC. 808. APPROVAL OF CONTRACTS

Section 2304(f)(1)(B)(iii) of title 10, United States Code is amended by inserting "or, in the case of an element of the Department of Defense for which the Under Secretary of Defense for Acquisition would be the sole designated senior procurement executive, the senior level official designated for that element by the Under Secretary of Defense for Acquisition," after "(41 U.S.C. 414(3))".

SEC. 809. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) PURPOSE OF PROGRAM.—Section 2412 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause (3):

"(3) to encourage eligible entities to furnish to business entities, especially small businesses, procurement technical assistance that facilitates the exporting of defense-related products and services by such business entities.".

(b) LIMITATION.—Section 2414 of title 10, United States Code, is amended to read as follows:

"§ 2414. Limitation

"(a) IN GENERAL.—The value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed—

"(1) in the case of a program operating on a State-wide basis, $300,000; or

"(2) in the case of a program operating on less than a State-wide basis, $150,000.

"(b) DETERMINATIONS ON SCOPE OF OPERATIONS.—A determination of whether a procurement technical assistance program is operating on a State-wide basis or on less than a State-wide basis shall be made in accordance with regulations prescribed by the Secretary of Defense.".

(c) PROCUREMENT TECHNICAL ASSISTANCE FOR INDIAN TRIBAL ORGANIZATIONS.—Section 807(a)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1128) is amended by striking out "amount provided under paragraph (1) for fiscal year 1988, $500,000 shall be available" and inserting in lieu thereof "amounts provided under paragraph (1) for each of fiscal years 1988 and 1989, $500,000 shall be available for each such fiscal year".

SEC. 810. REGULATORY SIMPLIFICATION AND STREAMLINING OF OVERSIGHT ACTIVITIES

(a) REPORT.—(1) Not later than December 1, 1988, the Under Secretary of Defense for Acquisition shall submit to Congress a report on the current programs of the Under Secretary regarding simplification of procedures governing the acquisition process of the Department of Defense and an assessment of the results of those programs.

(2) The report shall include the following:

(A) A schedule or timetable to effectuate regulation reform measures based upon the lessons learned from the conduct of such programs.

(B) In the case of any programs described in paragraph (1) which have not been completed—

(i) a methodology for evaluating such programs; and

(ii) a schedule or timetable for completing an assessment of the results of such programs.

(C) A comprehensive analysis of the effects that existing procurement laws, regulations, and guidelines have on the capability of the Department of Defense efficiently and effectively to meet the national defense needs of the United States, including any recommendations for legislation that the Under Secretary considers appropriate to improve that capability.

(D) A description of the results of the studies undertaken by the Under Secretary in conjunction with the Inspector General of the Department of Defense and the Comptroller of the Department of Defense regarding the responsibilities of the Under Secretary under section 133(d) of title 10, United States Code, to prescribe policies for the prevention of duplication by different elements of the Department of Defense.

(E) A discussion of the feasibility and desirability of—

(i) tailoring the degree of audit and oversight conducted by the Department of Defense to the degree of risk assumed by a contractor in the types of contracts entered into with the Department of Defense;

(ii) granting authority to a senior official of the Department of Defense to receive and promptly resolve complaints of acquisition officials and contractors of the Department of Defense regarding allegations of duplicative oversight activities;

(iii) establishing a formal independent means within the Department of Defense to ensure quality, integrity, and professionalism in the performance of audit and oversight activities; and

(iv) establishing and implementing a policy that no oversight organization within the Department of Defense may conduct an audit or review of an activity in the Department of Defense if any other oversight organization of the Department of Defense has conducted an audit or review of such activity within a fixed period of time preceding the proposed audit or review, if the audit or review proposed to be conducted is not substantially different in type and scope from such prior audit or review, and if there is no compelling reason not to rely on the prior audit or review.

(b) Amendment to Section 133(d) of Title 10.—Section 133(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "Such policies shall provide for coordination of the annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.".

SEC. 811. DEPARTMENT OF DEFENSE ADVISORY PANEL ON GOVERNMENT-INDUSTRY RELATIONS

(a) Establishment of Advisory Panel.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory panel to study and make recommendations to the Secretary on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including—

(1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense;

(2) the role of self-governing oversight programs established by defense contractors;

(3) expanded use of alternative dispute resolution procedures; and

(4) the desirability of establishing a permanent advisory panel on government-industry relations.

(b) Membership of Advisory Panel.—The Secretary of Defense shall appoint persons to the advisory panel who are especially qualified to serve on such panel by virtue of their education, training, and experience in defense acquisition matters. The Secretary shall include on the membership of such panel an appropriate balance of persons from government, private industry, and academia.

(c) Report Deadline.—(1) The Secretary shall require the advisory panel to submit its findings and recommendations to him not later than 180 days after the date on which the panel is appointed.

(2) The Secretary shall transmit a copy of the report of the advisory panel to Congress, together with such comments and recommendations thereon as the Secretary determines appropriate, within 30 days after the date on which the report is submitted to the Secretary.

SEC. 812. EVALUATION OF CONTRACT PROPOSALS FOR PROFESSIONAL AND TECHNICAL SERVICES

It is the sense of Congress that the evaluation by the Department of Defense of professional and technical services contract proposals should be made on the basis of a 40-hour work week standard.

SEC. 813. ACQUISITION MANAGEMENT AND GOVERNMENT CONTRACTING EDUCATION

(a) In General.—Not later than April 1, 1989, the Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the extent to which institutions of higher education offer and conduct educational programs and courses on Government contracting and acquisition management.

(b) Content of Report.—The report shall include—

(1) a description of graduate-level programs and courses on Government acquisition that are currently offered in the fields of public administration, business, and law;

(2) an assessment of the extent to which such programs meet the needs of the Department of Defense and defense industries for highly qualified, entry-level specialists in Government contract administration, Government contract financing, and Government contract law; and

(3) a plan for determining and prescribing appropriate education and training qualifications for applicants for Government contracting and acquisition management positions.

SEC. 814. SCIENCE AND ENGINEERING WORKFORCE STUDY

The Secretary of Defense shall complete the study that was initiated by the Department of Defense in 1985 for the purpose of determining and testing the factors that increase the supply of minority and women scientists, engineers, and technologists needed by defense industries and the Department of Defense to fulfill the national defense mission.

SEC. 815. AUTHORITY AND RESPONSIBILITIES OF DEPARTMENT OF DEFENSE ACQUISITION OFFICERS

(a) In General.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2303 the following new section:

"§ 2303a. Authority and responsibilities of program managers and contracting officers

"The Secretary of Defense shall prescribe by regulation the authority and responsibilities of Department of Defense acquisition program managers and contracting officers. The Secretary shall ensure that such regulations provide acquisition program managers and contracting officers with decision-making authority that is commensurate with their responsibilities.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2303 the following new item:

"2303a. Authority and responsibilities of program managers and contracting officers.".

(b) Implementation.—The Secretary of Defense shall prescribe the regulations required by section 2303a of title 10, United States Code (as added by subsection (a)), not later than 180 days after the date of the enactment of this Act.

SEC. 816. PRODUCT EVALUATION

(a) In General.—Chapter 139 of title 10, United States Code (as amended by section 233), is further amended by adding at the end the following new section:

"§ 2369. Product evaluation activity

"(a) Establishment.—There is established within the Department of Defense an office for the supervision and coordination of product evaluation activities within the Department of Defense. The Under Secretary of Defense for Acquisition shall be the head of such office.

"(b) Conduct of Product Evaluation.—(1) The Secretary of each military department and the head of each Defense Agency may, subject to supervision and coordination by the Under Secretary of Defense for Acquisition, establish and conduct a product evaluation activity.

"(2) The purpose of each product evaluation activity established under paragraph (1) is to evaluate products developed by private industry independent of any contract or other arrangement with the United States in order to determine the utility of such products to the Department of Defense.

"(c) Cost Sharing.—As a condition to conducting an evaluation of any product under this section, the producer of the product shall be required to pay one half of the cost of conducting such evaluation.".

(b) Technical Amendment.—The table of sections at the beginning of such chapter (as amended by section 233) is further amended by adding at the end the following new item:

"2369. Product evaluation activity.".

SEC. 817. CRITICAL TECHNOLOGIES PLAN

(a) In General.—(1) Chapter 139 of title 10, United States Code (as amended by sections 233 and 816(a)), is further amended by adding at the end the following new section:

"§ 2370. Critical technologies plan

"(a) Annual Plan.—(1) Not later than March 15 of each year, the Under Secretary of Defense for Acquisition, in consultation with the Assistant Secretary of Energy for Defense Programs, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the 20 technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most essential to develop in order to ensure the long-term qualitative superiority of United States weapon systems.

"(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies.

"(3) Such plan shall be submitted in both classified and unclassified form.

"(b) Content of Plan.—Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

"(1) The reasons for selecting such technology.

"(2) The milestone goals for the development of such technology.

"(3) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for the fiscal year in which the plan is submitted.

"(4) A comparison of the relative positions of the United States and the Soviet Union in the development of such technology.

"(5) The potential contributions that the allies of the United States can make to meet the needs of the alliance for such technology.

"(6) The extent to which the United States should depend on its allies for the development of such technology.

"(7) The potential contributions that the private sector can be expected to make from its own resources in connection with development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter (as amended by sections 233 and 816(a)) is further amended by adding at the end the following new item:

"2370. Critical technologies plan.".

(b) First Report.—The first report under section 2370 of title 10, United States Code (as added by subsection (a)), shall be submitted in 1989.

SEC. 818. UNDEFINITIZED CONTRACTUAL ACTIONS

(a) Inspector General Audits.—Section 2326 of title 10, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Inspector General Audits.—The Inspector General of the Department of Defense shall—

"(1) conduct periodic audits of contractual actions by the Defense Agencies, the Department of Defense field activities, and the military departments; and

"(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each head of an agency, including the percentage of all contractual actions of such agency that are undefinitized contractual actions.".

(b) Repeal of Redundant Report Requirement.—Section 908(a)(4) of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3919; 10 U.S.C. 2326 note) is amended by striking out subparagraphs (C), (D), and (E).

SEC. 819. COMPETITIVE PROTOTYPE STRATEGIES

Section 2365 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "(or a subsystem of such system)";

(2) in subsection (b)—

(A) by striking out "or subsystem" in clause (1);

(B) by striking out "or subsystems" in the matter before subclause (A) in clause (2);

(C) by striking out "or subsystem" in clause (2)(B); and

(D) by striking out "or subsystem" in clause (3);

(3) in subsection (c)—

(A) by striking out "(or subsystem of such system)" in the matter before clause (1);

(B) by striking out "or subsystem" in clause (1)(A); and

(C) by striking out subclause (B) of clause (1) and inserting in lieu thereof the following:

"(B) a report that fully explains why the use of such a strategy is not practicable; and"; and

(4) in subsection (d)—

(A) by striking out "major" the second place it appears in paragraph (1); and

(B) by striking out paragraph (3).

SEC. 820. NEGOTIATION OF SUBCONTRACTING PLANS

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following new paragraph:

"(12) A subcontracting plan negotiated by a Federal agency and a contractor for purposes of paragraph (4) or (5) shall apply to the contractor or, if the plan so provides, only to the organizational component or components of the contractor that perform the contract.".

SEC. 821. SMALL BUSINESS ADMINISTRATION CERTIFICATE OF COMPETENCY

Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C)) is amended by striking the last sentence and inserting in lieu thereof the following: "In the case of a small purchase contract (within the meaning of section 2304(g)(2) of title 10, United States Code, with respect to contracts awarded pursuant to chapter 137 of such title, or within the meaning of section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) with respect to contracts awarded pursuant to title III of such Act), a contracting officer shall not be required to refer a determination of nonresponsibility to the Administration unless the small business concern applies to the Administration for a determination of its responsibility and requests the issuance of a certificate. Nothing in this paragraph requires the processing of an application for certification if the small business concern to which any referral pertains declines to have the application processed.".

SEC. 822. PROCUREMENT OF CRITICAL SPARE OR REPAIR PARTS FOR AIRCRAFT

(a) In General.—The Secretary of a military department procuring a spare or repair part that is critical to the operation of an aircraft shall require the contractor to supply a part that meets applicable qualification and quality requirements.

(b) Applicable Requirements.—The qualification and quality requirements applicable to a spare or repair part referred to in subsection (a) for an aircraft shall be at least as stringent as (1) those qualification and quality requirements that applied to the original part included in the aircraft at the time the aircraft was procured, or (2) if the original part has been redesigned for use in such aircraft, those qualification and quality requirements that applied to the redesigned part.

(c) Construction.—Nothing in this section limits the application of section 2319 of title 10, United States Code, to the procurement of spare or repair parts described in subsection (a).

(d) Effective Date.—This section shall apply with respect to solicitations for contracts (for the supply of parts) that are issued on or after the date of the enactment of this Act.

TITLE IX—GENERAL PROVISIONS

Part A—Financial and Budget Matters

SEC. 901. TRANSFER AUTHORITY

(a) Authority To Transfer Authorizations.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) Notice to Congress.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 902. FISCAL YEAR 1988 DEFENSE FUNDS TRANSFER AUTHORITY

(a) Enhanced Transfer Authority.—Section 1201(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153) is amended—

(1) by inserting "of this Act or any prior defense authorization Act" in paragraph (1) before "for any fiscal year"; and

(2) by striking out "$2,000,000,000" in paragraph (2) and inserting in lieu thereof "$4,000,000,000".

(b) Specified Purposes.—In determining the purposes for which amounts of authorizations transferred pursuant to section 1201(a) of the Act referred to in subsection (a) will be used, the Secretary of Defense—

(1) shall ensure that an appropriate portion of that authority is used to transfer to operation and maintenance accounts of the Department of Defense for fiscal year 1988 (A) funds for depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur, and (B) funds for pay of civilian personnel in amounts sufficient to prevent furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to insufficient funding for civilian personnel of the Department of Defense for fiscal year 1988;

(2) shall give special consideration and priority to civilian employees of the Department of Defense, readiness, and more efficient acquisition processes; and

(3) shall provide funds for other high priority readiness items.

SEC. 903. RESTRICTION ON OBLIGATION OF FUNDS APPROPRIATED IN THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1988

(a) The following programs and amounts provided in the Department of Defense Appropriations Act, 1988, may not be obligated or expended:

(1) Maxicube Cargo System under research, development, test, and evaluation for the Army, $10,000,000;

(2) Coastal Defense Augmentation, $20,000,000;

(3) AN/SQR-17 Acoustic Processors for the Mobile In-Shore Undersea Warfare group under procurement of National Guard and Reserve Equipment, $10,000,000;

(4) P-3C aircraft under procurement of National Guard and Reserve Equipment, $193,800,000.

(b)(1) Funds appropriated or otherwise made available for the Army for procurement may not be obligated or expended for the procurement of any air defense system submitted to the Army for evaluation in response to any Army request for proposal for the Forward Area Air Defense Line-of-Sight-Forward-Heavy (LOS-F-H) system unless the Secretary of Defense certifies to Congress that the system has met or exceeded full system requirements.

(2) For purposes of this paragraph, the term "full system requirements" means the most stringent system requirements specified by any request for proposal for accuracy, range (detection, tracking, and engage-

ment), reaction time, and operation in the presence of electronic countermeasures.

(c) None of the funds appropriated for the procurement of aircraft for the Navy for fiscal year 1988 or 1989 may be obligated or expended for procurement of any A-6 aircraft configured in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition Report submitted to Congress for the quarter ending December 31, 1986).

(d) Funds appropriated for procurement of weapons and tracked combat vehicles for the Army for modification of M60 tanks in the amount of $90,000,000 may be used only for procurement or modification of M1 tanks.

(e) For purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153), $233,800,000 (the sum of the amounts described in subsection (a) of this section) shall be deemed to have been authorized by such Act in equal amounts to the Army, Navy, and Air Force for operation and maintenance for the exclusive purpose of preventing the furlough and separation of civilian employees and for the purpose of funding other high priority readiness programs.

Part B—Miscellaneous Matters

SEC. 911. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

(a) Findings.—Congress makes the following findings:

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe.

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

(b) Sense of Congress.—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

SEC. 912. ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a) Amendment to Public Law 99-145.—Section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended by adding at the end the following: "The President shall specifically include in such report the following:

"(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

"(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

"(3) A net assessment of the aggregate military significance of all such violations.

"(4) A statement of the compliance policy of the United States with respect to Soviet violations with such agreements.

"(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under arms control agreements with the United States.

"(6) If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.".

(b) Effective Date.—The amendment made by subsection (a) shall be effective beginning with the report to be submitted by the President pursuant to section 1002 of the Department of Defense Authorization Act, 1986, in 1990.

SEC. 913. ANNUAL REPORT ON ARMS CONTROL STRATEGY

(a) In General.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

(1) The nature and sequence of the future arms control efforts of the United States.

(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

(4) A net assessment of the impact that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the impact that such proposed agreements would have on the risks and costs to the United States.

(5) An assessment of the impact that proposed treaty sub-ceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

(6) A statement of the strategy the United States and NATO will use to verify and ensure compliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

(b) Explanation of Methodology.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

(c) Form of Report.—The President shall submit such report in both classified and unclassified form.

SEC. 914. ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES

Section 2347(a)(1) of title 10, United States Code, is amended by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000".

SEC. 915. AUTHORITY TO WAIVE SURCHARGE ON CERTAIN SALES TO NATO

(a) In General.—Chapter 3 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 130a. Waiver authority for certain charges in connection with certain sales to NATO

"(a) The Secretary of Defense may waive, in connection with any sale made by the Department of Defense to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of weapon system partnership agreements and NATO/SHAPE projects, the charges that would otherwise be applicable to such sale under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A)).

"(b) Funds available to the Department of Defense may be used by the Secretary of Defense to reimburse the fund established to carry out section 43(b) of the Arms Export Control Act (22 U.S.C. 2792(b)) in the amount of the charges waived under subsection (a).

"(c) Definitions.—In this section:

"(1) The term 'weapon system partnership agreement' means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

"(A) is entered into pursuant to the terms of the charter of that organization; and

"(B) is for the common logistic support of a specific weapon system common to the participating countries.

"(2) The term 'NATO/SHAPE project' means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.".

(b) Technical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"130a. Waiver authority for certain charges in connection with certain sales to NATO.".

SEC. 916. ADVANCE PAYMENT OF ADMINISTRATIVE CLAIMS

(a) INCREASE IN MAXIMUM PAYMENT.—Subsection (a) of section 2736 of title 10, United States Code, is amended to read as follows:

"(a)(1) Under such regulations as the Secretary of a military department may prescribe, the Secretary or the Judge Advocate General of an armed force may make a payment of an amount not in excess of $100,000 in advance of the submission of a claim or before the final settlement of a claim to or for any person, or the legal representatives of any person, who was injured or killed, or whose property was damaged or lost, under circumstances for which allowance of a claim is authorized by law.

"(2) The Secretary of a military department may delegate to an officer or employee under the jurisdiction of the Secretary the authority to make a payment under paragraph (1) in an amount not to exceed $25,000.

"(3) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on the date of the enactment of this Act.

SEC. 917. COURT OF MILITARY APPEALS RETIREMENT REVISIONS

(a) CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.—Subchapter III of chapter 83 of title 5, United States Code, is amended—

(1) in section 8336(l), by striking out the second sentence;

(2) in section 8338—

(A) by striking out subsection (c); and

(B) by redesignating subsection (d) as subsection (c);

(3) in section 8339(d)(6)—

(A) by striking out "(6) The" and inserting in lieu thereof "(6)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) If an employee referred to in subparagraph (A) of this paragraph has completed the term of service for which the employee was appointed as a judge of the United States Court of Military Appeals, then the annuity of such employee is the greater of—

"(i) the amount computed as provided in subparagraph (A) of this paragraph; or

"(ii) the amount equal to 80 percent of the rate of pay established for a judge in active service on such court as in effect on the date of such employee's retirement under this subchapter.

"(C) The amount of the annuity under of this paragraph is the amount initially payable to the employee at the time of the retirement of the employee and is subject to adjustment under section 8340 of this title."; and

(4) in section 8339(h)—

(A) by inserting "(d)(6)," after "(d)(5)," in the first sentence; and

(B) by striking out the third sentence and inserting in lieu thereof the following: "Notwithstanding the first sentence of this subsection, the annuity of an employee who is a judge or a former judge of the United States Court of Military Appeals and who has completed the term of service for which he was appointed as a judge of such court shall not be reduced.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Chapter 84 of title 5, United States Code, is amended—

(1) in section 8412, by adding at the end the following new subsection:

"(i) An employee who is a judge of the United States Court of Military Appeals, or a former judge of such court, and who is separated from the service after completing the term of service for which he was appointed as a judge of such court is entitled to an annuity."; and

(2) in section 8415, by adding at the end the following new subsection:

"(h)(1) The annuity of an employee who is a judge of the United States Court of Military Appeals, or a former judge of such court, who is retiring under section 8412(i) of this title is the greater of—

"(A) the amount computed under paragraph (2) of this subsection; or

"(B) the amount equal to 54 percent of the rate of pay established for a judge in active service on such court as in effect on the date of the retirement.

"(2) The annuity computed in the case of a judge of the United States Court of Military Appeals, or a former judge of such court, for purposes of paragraph (1)(A) is the annuity computed under subsection (a) of this section, except that, with respect to his service as a judge of such court, his service as a Member, his congressional employee service, and his military service (not exceeding 5 years) creditable under section 8411 of this title, his annuity is computed by multiplying $1\frac{7}{10}$ percent of his average pay by the number of years of such service that does not exceed 20 years.

"(3) The amount of the annuity under paragraph (1) is the amount initially payable to an employee referred to in paragraph (1) and is subject to adjustment under section 8462 of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to judges of the United States Court of Military Appeals whose term of service on such court ends on or after the date of the enactment of this Act.

SEC. 918. VOLUNTARY LEGAL ASSISTANCE

(a) ACCEPTANCE OF VOLUNTARY SERVICES.—Section 1044 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) Notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person voluntary attorney, paralegal, clerical, or related services for the provision of legal assistance under this section. Such services shall be performed under the direction and control of the judge advocate or chief legal officer of the command for which the legal assistance services are performed.".

(b) DEFENSE OF SUITS.—Section 1054(a) of title 10, United States Code, is amended by striking out "title 32)" and inserting in lieu thereof "title 32 and persons furnishing voluntary services that are accepted under section 1044(b) of this title)".

SEC. 919. LEASE OF AIRCRAFT FOR FLEET ELECTRONIC WARFARE SUPPORT GROUP ACTIVITIES

The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of such a lease is less than the cost of operating and maintaining the same number of existing aircraft of the Navy for that purpose.

SEC. 920. SPECIAL OPERATIONS AIRLIFT

(a) FINDINGS.—Congress makes the following findings:

(1) Adequate airlift for special operations forces of the Armed Forces is essential for the successful performance of many of the missions of such forces.

(2) Inadequate airlift capacity impairs the capability of such forces to carry out such missions.

(3) In June 1987, the Secretary of Defense submitted to Congress a plan to meet the immediate airlift requirements of the special operations forces.

(4) The plan specified that, except for 49 CV-22A aircraft, the remainder of the special operations forces airlift aircraft are scheduled to be procured or modified not later than fiscal year 1992.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the plan submitted to Congress in June of 1987 by the Secretary of Defense is a sound proposal to redress the serious deficiency in airlift capability for special operations forces;

(2) the Secretary of Defense should formulate a five-year defense program for fiscal years 1990 through 1994 that, at a minimum, includes sufficient funds for the procurement or modification, not later than the end of fiscal year 1992, of all the airlift aircraft specified in the plan referred to in paragraph (1); and

(3) the President should submit budgets to Congress for fiscal years 1990, 1991, and 1992 that, at a minimum, include sufficient funds for the procurement or modification, by the end of fiscal year 1992, of all the airlift aircraft specified in the plan referred to in paragraph (1).

SEC. 921. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

(a) IN GENERAL.—The Secretary of Defense shall—

(1) close all military installations recommended for closure by the Commission on Base Realignment and Closure in the report transmitted to the Secretary pursuant to the charter establishing such Commission;

(2) realign all military installations recommended for realignment by such Commission in such report; and

(3) initiate all such closures and realignments no later than September 30, 1991, and complete all such closures and realignments no later than September 30, 1995.

(b) CONDITIONS.—(1) The Secretary may not carry out the closure or realignment of any military installation under this section unless—

(A) within 15 calendar days after the date on which the Commission transmits the report described in subsection (a)(1) to the Secretary, the Secretary transmits to the appropriate committees of Congress a report containing a statement that the Secretary has approved and proposes to implement all of the military installation closures and realignments recommended by the Commission in the report described in subsection (a)(1);

(B) the Commission has recommended, in the report described in subsection (a)(1), the closure or realignment, as the case may be, of the installation; and

(C) the Secretary of Defense completes the study required by subsection (f)(2) and submits the certification required by subsection (c)(3)(B).

(2) The authority of the Secretary to carry out any closure or realignment under this section shall terminate on October 1, 1995.

(c) The Commission.—(1) The Commission shall consist of 15 members appointed by the Secretary of Defense. In addition to the members appointed by the Secretary of Defense on May 3, 1988, the Secretary shall appoint 6 additional members (and fill any subsequent vacancies on the Commission) after consultation with (A) the Chairman and ranking minority members of the appropriate committees of Congress and the military construction subcommittees thereof and (B) national associations of State and local officials. The members shall be chosen on the basis of knowledge and experience in matters related to Federal property or national security affairs, or economic planning, and shall reflect a reasonable geographic balance.

(2) The Secretary of Defense shall provide the Commission with an objective, independent staff, which shall be selected by the Commission. The senior staff shall consist of government employees and consultants who have not been employed by the Department of Defense during calendar year 1988.

(3) The Commission shall—

(A) transmit the report described in subsection (a)(1) to the Secretary no later than December 31, 1988; and

(B) on the same date on which the Commission transmits such report to the Secretary, transmit to the appropriate committees of Congress—

(i) a copy of such report; and

(ii) a statement certifying that the Commission has identified any military installations to be closed or realigned after reviewing all military installations inside the United States, including all military installations under construction and all military installations planned for construction, and that no installation identified to be closed or realigned is of a higher priority to the national defense than any installation (domestic or foreign) that has not been identified by the Commission or the Secretary of Defense for closure or realignment.

(d) Implementation.—(1) In closing or realigning a military installation under this section, the Secretary—

(A) subject to the availability of funds authorized and appropriated to the Department of Defense for planning and design, minor construction, and operation and maintenance, and the availability of funds in the Account established under subsection (g)(1), may take all actions necessary to implement such closure or realignment, including acquiring land, constructing replacement facilities, relocating activities, and conducting advance planning and design;

(B) subject to the availability of funds authorized and appropriated to the Department of Defense for economic adjustment assistance and community planning assistance and the availability of funds in the Account, shall provide—

(i) economic adjustment assistance to any community located near a military installation being closed or realigned; and

(ii) community planning assistance to any community located near a military installation to which functions are to be transferred as a result of such closure or realignment;

if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate;

(C) subject to the availability of funds authorized and appropriated to the Department of Defense for environmental restoration and the availability of funds in the Account, may carry out activities for the purpose of environmental restoration, including reducing, removing, and recycling hazardous wastes and removing unsafe buildings and debris;

(D) except as provided in paragraph (2), may sell or exchange, at not less than fair market value, any real property or facility under the jurisdiction of the Department of Defense and located at such an installation; and

(E) shall deposit any amount received from such sale or exchange, and from any transfer or exchange made under paragraph (2), into the Account.

(2)(A) Before any sale or exchange or other conveyance of any real property or facility is made under this section, the Secretary shall inform other instrumentalities of the Federal Government of the availability of such property or facility and, in response to an offer submitted by such an instrumentality within a reasonable period specified by the Secretary, shall transfer such property or facility for fair market value to such instrumentality if such instrumentality agrees to reimburse the Secretary for such transfer in an amount equal to the fair market value of the property or facility and such instrumentality has the necessary funds available (within a reasonable period specified by the Secretary) for such purpose.

(B) After carrying out subparagraph (A) with respect to any real property or facility under the jurisdiction of the Department of Defense and located at an installation scheduled for closure or realignment under this section, the Secretary—

(i) may transfer such property or facility to any other instrumentality of the Federal Government at less than fair market value or without reimbursement; or

(ii) subject to subparagraph (C) and in any case in which savings will be realized by the Department of Defense from a conveyance of a property or facility, may—

(I) sell or exchange such real property or facility at less than fair market value if it is to be used for a commercial or industrial purpose in accordance with a reuse plan formulated by the community involved; or

(II) convey such property or facility without reimbursement to a State or local government if such property or facility is to be used by such government for airport, education, or health purposes in accordance with such a reuse plan.

(C)(i) Any property or facility conveyed under subparagraph (B)(ii) may be conveyed only as part of economic adjustment assistance made available to a community located near an installation scheduled for closure or realignment.

(ii) The Secretary shall provide that all right, title, and interest in and to any real property or facility conveyed under subparagraph (B)(ii) shall revert to the United States, which shall have right of immediate entry thereon, if such property or facility is used for any purpose other than the one for which it was conveyed under such clause.

(e) Waiver.—The Secretary may carry out the authority provided in subsection (d) without regard to—

(1) any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) restricting the Secretary of Defense from disposing of real property and facilities;

(2) any provision of law restricting the use of funds for closing or realigning military installations included in appropriation or authorization Acts, other than this Act;

(3) the procedures set forth in sections 2662 and 2687 of title 10, United States Code; and

(4) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) Reports.—(1) As part of each annual request for authorization of appropriations, the Secretary shall transmit to the appropriate committees of Congress—

(A) a schedule of the closure and realignment actions proposed to be carried out under this section in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which the savings are to be achieved in each case, together with the Secretary's assessment of the environmental consequences of such actions; and

(B) a description of the military installations, including military installations under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental consequences of such transfers.

(2)(A) The Secretary shall conduct a study of the military installations of the United States outside the United States to determine if efficiencies can be realized through closure or realignment of the overseas base structure of the United States. Not later than September 15, 1988, the Secretary shall transmit a report of the findings and conclusions of such study to the Commission and to the appropriate committees of Congress. The Commission shall consider the impact of the Secretary's study in developing its recommendations.

(B) Upon request of the Commission, the Secretary shall provide the Commission with such information about overseas bases as may be helpful to the Commission in its deliberations.

(C) The Commission, based on its analysis of military installations in the United States and its review of the Secretary's study of the overseas base structure, may provide the Secretary with such comments and suggestions as it deems appropriate regarding the Secretary's study of the overseas base structure.

(3) When a decision is made to carry out a construction project under subsection (d)(1) and the cost of the project will be greater than the maximum amount for a minor construction project, the Secretary shall notify in writing the appropriate committees of Congress of the nature of and justification for the project and the amount proposed to be expended for such project.

(g) Account.—(1) There is hereby established on the books of the Department of the Treasury the Department of Defense Base Closure Account which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress; and

(C) any amount described in subsection (d)(1)(E) and any other funds received by the Secretary in connection with any closure or realignment of a military installation under this section.

(3) There is authorized to be appropriated to the Account for any fiscal year after fiscal year 1989 the sum of $300,000,000.

(4) The Secretary may use the funds in the Account only for the purposes described in subsection (d).

(5) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit a report to the appropriate committees of Congress of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount of expenditures made pursuant to subparagraphs (A) through (C) of subsection (d)(1).

(6) Unobligated funds which remain in the Account after the termination of the authority of the Secretary under this section shall be held in the Account until transferred by an appropriation Act enacted after the appropriate committees of Congress receive the report transmitted under paragraph (7).

(7) No later than 60 days after the termination of the authority of the Secretary to carry out an alignment or closure under this section, the Secretary shall transmit to the appropriate committees of Congress a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or expended under subparagraphs (A), (B), and (C) of subsection (d)(1); and

(B) any amount remaining in the account.

(h) CONGRESSIONAL DISAPPROVAL PROCEDURES.—(1) Notwithstanding any other provision of this section, the Secretary of Defense may not take any action with regard to the report of the Commission on Base Realignment and Closure if, within 45 session days after the date on which Congress receives the report of the Secretary described in subsection (b)(1)(A), Congress enacts a joint resolution disapproving the plan of the Commission.

(2) For the purpose of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the report of the Secretary referred to in subsection (b)(1)(A) is received by Congress the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Commission on Base Realignment and Closure established by the Secretary of Defense as submitted to the Secretary of Defense on ________." (the blank space being appropriately filled in).

(3) A resolution described in paragraph (2) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in paragraph (2) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(4) If the committee to which is referred a resolution described in paragraph (2) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (2), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (2), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (2) shall be decided without debate.

(6) If, before the passage by one House of a resolution of that House described in paragraph (2), that House receives from the other House a resolution described in paragraph (2), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (2) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(7) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (2), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(i) DEFINITIONS.—In this section:

(1) The term "Account" means the Department of Defense Base Closure Account established by subsection (g)(1).

(2) The term "appropriate committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The terms "Commission on Base Realignment and Closure" and "Commission" mean the commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988.

(4) The term "charter establishing such Commission" means the charter referred to in paragraph (3).

(5) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ships or other activity under the jurisdiction of the Secretary of a military department.

(6) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions.

(7) The term "Secretary" means the Secretary of Defense.

(8) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

SEC. 922. MODERNIZATION OF NATO'S THEATER NUCLEAR CAPABILITIES

(a) FINDINGS.—

(1) Notwithstanding the critical need for conventional force improvements, the security of the NATO Alliance will rely on modern and credible nuclear weapons, with a goal of raising the nuclear threshold.

(2) The modernization of NATO's theater nuclear capabilities is a continuing process, stemming from NATO's 1983 Montebello decision to reduce the European nuclear stockpile while taking steps to insure that the remaining nuclear weapons are responsive, survivable and effective.

(3) Theater nuclear modernization programs, which enjoyed a high priority for NATO before the INF Treaty, are no less important for the post-INF period.

(4) NATO Ministers, meeting most recently at the Nuclear Planning Group (NPG), reaffirmed their endorsement of United States development of a Follow-on to Lance (FOTL) with a view toward an eventual decision on deployment.

(b) Therefore it is the Sense of the Senate that—

(1) Modernization of NATO's theater nuclear capabilities following ratification of the INF Treaty is essential to the deterrence strategy of the Alliance.

(2) Continued United States modernization of its theater nuclear capabilities should be undertaken in close consultation with our NATO Allies.

(3) The United States should proceed with ongoing activities for satisfying the identified Alliance requirement for a Follow-on to Lance.

SEC. 923. AIR TRAVEL EXPENSES OF DEFENSE CONTRACTOR PERSONNEL

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4118. Air travel expenses of contractor personnel

"(a) Negotiated Air Fare Discounts.—The Administrator of General Services shall enter into negotiations with commercial air carriers with a view to achieving agreements that permit personnel of contractors traveling solely in the performance of contracts awarded by the Department of Defense to be transported by such carriers at the same discount air passenger transportation rates as such carriers charge for travel by Federal Government employees traveling at Government expense.

"(b) Requirement To Use Discount Fares.—Each contract awarded by the Department of Defense shall include a clause that requires contractor personnel, when traveling by commercial air carrier solely in the performance of one or more contracts awarded by the Department of Defense (including such contract), to travel under conditions that qualify such personnel for a discount rate available under an agreement entered into under subsection (a). Travel under such conditions shall not be required under such clause if it is determined, under regulations prescribed by the Secretary of Defense, that travel under other conditions is necessary for performance of one or more of such contracts.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4118. Air travel expenses of contractor personnel.".

(c) Effective Date.—Subsection (b) of section 4118 of title 10, United States Code (as added by subsection (a)), shall apply with respect to contract solicitations issued on or after the date on which the first agreement between the Administrator of General Services and a commercial air carrier is entered into under subsection (a) of such section 4118.

SEC. 924. STUDY AND REPORT ON SOVIET ANTIBALLISTIC MISSILE CAPABILITY AND ACTIVITIES

(a) Study Required.—(1) The President shall conduct a study regarding the antiballistic missile capability and activities of the Union of Soviet Socialist Republics. As a part of such study, the Secretary shall assess—

(A) the military capabilities and significance of the Soviet extensive network of large-phased array radars;

(B) whether the Soviet Government is illegally developing or producing mobile or transportable engagement radars;

(C) the Soviet ability to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars;

(D) the ability of Soviet air defense interceptors missiles now and in the future to successfully destroy ballistic missile warheads;

(E) whether Soviet silos or hardened facilities outside of the antiballistic missile site permitted near Moscow are or could be associated with illegal antiballistic missile defenses;

(F) whether the Soviet Government is developing terminal antiballistic missile defenses;

(G) whether the antiballistic missile site permitted near Moscow conceals or could conceal development, testing, or deployment of a widespread Soviet antiballistic missile system;

(H) Soviet activities regarding sea, land or air-based boost-phase intercepts of ballistic missiles;

(I) the status of Soviet laser, particle beam, and other advanced technology programs comparable to programs conducted by the United States under the Strategic Defense Initiative; and

(J) the consequences for the United States of a successful Soviet effort to acquire an effective nationwide or limited antiballistic missile system and the ability of the United States to respond to such effort.

(2) The assessment provided for in paragraph (1) shall include, but not be limited to, discussion of the ability of the United States to modify its existing strategic offensive forces, including the use of penetration AIDS, and its strategic doctrine and tactics to effectively counter such a Soviet ABM system over the same period of time that the Soviets required to deploy it.

(b) Preparation of Report.—The President shall prepare a report, in both a classified and an unclassified version—

(1) specifying the results of the study required by subsection (a); and

(2) containing such recommendations as the Secretary considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States given the antiballistic missile capability and activities of the Union of Soviet Socialist Republics.

(c) Submission of Report.—The President shall submit to the Speaker of the House of Representatives, and the President pro tempore of the Senate the report required by subsection (b) not later than October 1, 1989.

SEC. 925. ENERGY EFFICIENCY INCENTIVE

(a) The services of the Department of Defense shall be authorized to establish a program of incentives for the purpose of conserving, and otherwise making more efficient use of energy by the services.

(b) In carrying out this program, the head of each service shall, by no later than 120 days from the enactment of this Act, implement procedures for the identification, verification, accrual, and use of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act as amended in 1986.

(c) The portion of the funds appropriated for payment of a service's energy expenses that is equal to the Government's share of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act as amended in 1986, shall be treated as an unobligated balance and shall be available to the service in the fiscal year after the fiscal year in which the savings occur to be used in equal amounts, until expended, for the purposes of:

(1) additional energy efficiency projects by the service, and

(2) appropriated morale, welfare and recreation purposes and minor construction projects that enhance the quality of life at the installation at which the savings are realized.

(d) For the purposes of this section, "energy cost savings" means the present dollar value of the Government's share of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act, as amended.

SEC. 926. HUMAN RIGHTS VIOLATIONS BY THE POLISH REGIME

(a) The Senate finds—

(1) that the regime of General Wojciech Jaruzelski has again violated the most fundamental rights of the people of Poland, including the right to peaceably assemble, the right to strike, the right to freely associate, the right to speak freely, and the right to due process;

(2) that the Jaruzelski regime has retaliated against the justified, peaceful protests of workers at Nowa Huta through the use of violent force;

(3) that the Jaruzelski regime has sentenced human rights activist Bogdan Lis to three months imprisonment for his activities on behalf of the rights and freedoms of Polish workers, and has in addition sentenced Janusz Onyszkiewicz, Czeslaw Nowak, Tadeusz Pikurski, Halina Lopek, Stefan Malecki, Janusz Dura, Adam Jedrasiak, Stanislaw Strzepek, Edward Banaszkiewicz, Julian Gasior, Bogdan Kowalewski, Lech Matiaszkiewicz, and Robert Pawlik to terms of imprisonment ranging from one month to three months in duration;

(4) that a number of other persons have been prosecuted and imprisoned for politically related offenses;

(5) that several hundred workers have been temporarily detained;

(6) that the Jaruzelski regime refuses to take steps, which would guarantee the Polish peoples' right to participation in the management of the country's economy, and would accept the principle of pluralism in the country's national life.

(b) It is therefore the sense of the Senate that:

(1) it condemns the actions of the Jaruzelski regime to violate the fundamental rights of the people of Poland; and

(2) any improvement in relations between the United States and Poland must be predicated on a fundamental improvement in human rights in Poland, including the release of political prisoners, the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

SEC. 927. ADVANCE TACTICAL RECONNAISSANCE SYSTEM DEVELOPMENT COMPETITION

Not later than 90 days after enactment of this Act, the Secretary of the Air Force shall submit a report to the Congress outlining his plans for establishing, to the maximum extent practicable, competition in the development and production of components for the Advance Tactical Reconnaissance System.

SEC. 928. NATO DEFENSE PROGRAM REPORT

Not later than January 15, 1989, the Secretary of Defense shall submit to Congress a report detailing the programs to be included in the NATO Defense Program. This report shall include—

(1) an identification of each program by program element; and

(2) a description and the level of funding that the President will be requesting for each of these programs for fiscal year 1990.

SEC. 929. GLOBAL POSITIONING SYSTEM

(a) Of the funds authorized to be appropriated in this Act for Missile Procurement, Air Force, not less than $75,600,000 is authorized to be appropriated for the Global Positioning System, and not more than $366,200,000 is authorized to be appropriated for Space Boosters.

(b) Of the funds authorized to be appropriated in this Act for RDT&E, Air Force, not more than $48,200,000 is authorized to be appropriated for the Global Positioning System.

SEC. 930. PHILIPPINE BASES

(a) Congressional Findings.—The Congress finds that—

(1) the United States has maintained military bases in the Philippines for more than ninety years;

(2) Clark Air Force Base, Subic Bay Naval Station, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines;

(3) leaders of the states of the Association of South East Asian Nations have emphasized the importance of such bases to the development of democratic institutions and economic progress in South East Asia;

(4) the United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos, and make a substantial contribution to the Philippine economy;

(5) the Base Rights Agreement between the United States and the Republic of the Philippines by which the United States maintains its military installations and stations military personnel in the Philippines expires in 1991;

(6) the United States and the Republic of the Philippines are currently engaged in a review of the Base Rights Agreement;

(7) in connection with the current Base Rights Agreement, the President has undertaken a "best efforts" pledge to obtain security assistance for the Philippines;

(8) officials of the Philippine government have demanded that the United States significantly increase the consideration for the use of military bases in the Philippines; and

(9) the President of the Republic of the Philippines has stated that consideration of the Base Rights Agreement should be separate from any consideration of security assistance to the Philippines.

(b) Study of Costs and Benefits.—(1) Not later than ninety days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall prepare and transmit to the Congress, in classified and unclassified versions, a study of—

(A) the costs and benefits of maintaining United States military bases in the Republic of the Philippines;

(B) the costs and benefits of relocating such bases to potential alternative host countries; and

(C) any alternative means of funding payments to the host country of such bases.

(2) The study required by paragraph (1) shall include, but not be limited to:

(A) an analysis of—

(i) the strategic value to the United States;

(ii) the operation, maintenance and other costs to the United States; and

(iii) the economic, social and other benefits to the Philippines;

of maintaining United States military bases in the Philippines;

(B) an identification of potential alternative host countries for the United States' military bases currently located in the Philippines;

(C) an analysis of—

(i) the strategic value to the United States;

(ii) the operation, maintenance and other costs to the United States; and

(iii) the economic, social and other benefits to potential alternative host countries;

of establishing and maintaining United States military bases in such potential alternative host countries;

(D) an analysis of—

(i) the cost to the United States; and

(ii) the economic, social and other costs to the Philippines;

of relocating the United States military bases from the Philippines to potential alternative host countries;

(E) an analysis of the availability of skilled indigenous personnel and the cost of training such personnel in the potential alternative host countries; and

(F) a comparative analysis of the benefits to the United States from the use of the various methods which are now employed for compensating host nations around the world for the use of bases on their soil as applied to compensating either the Philippines or the host nations of alternative locations.

SEC. 931. EXCLUSIVE ECONOMIC ZONE

Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall prepare and transmit to the Congress a review of current and planned Defense assets that might be utilized to reduce and prevent unlawful foreign fishing in the United States Exclusive Economic Zone. Such review shall include, but not be limited to, an analysis of:

(1) the feasibility of using over-the-horizon backscatter radar devices to locate and identify fishing vessels in and beyond the Exclusive Economic Zone, both as a discrete system and in conjunction with other monitoring systems and devices;

(2) the use of Defense assets routinely deployed in areas where unlawful fishing may occur to monitor and report potential violations of United States fisheries laws and regulations; and

(3) the application of information gathered by intelligence collection assets which are deployed in such a way as to detect illegal fishing activities as a byproduct of other data collection missions.

SEC. 932. RESTRICTION ON SALE OF ARMS TO SAUDI ARABIA AND CERTAIN OTHER NATIONS

Notwithstanding any other provision of law, no sale of arms may be made by the United States to Saudi Arabia or to any other nation in the Middle East which has procured CSS-2 Chinese-made missiles unless the President has first certified to Congress that Saudi Arabia or such other nation, as the case may be, does not have chemical, biological, or nuclear warheads for such missiles. A separate certification is required in the case of each proposed sale of arms and may not be made more than 90 days before the proposed sale is to be concluded.

SEC. 933. REPORT ON, AND DISCUSSIONS REGARDING, JAPANESE CONTRIBUTIONS TO GLOBAL STABILITY AND THE INDIVISIBLE SECURITY OF THE LEADING INDUSTRIALIZED DEMOCRACIES

(a) Findings.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of the Western countries is indivisible and must be approached on a global basis", the government of Japan continues to fulfill the pledge of Prime Minister Suzuki to defend the territory, airspace and sealanes of Japan to a distance of 1,000 miles by 1990, has increased its foreign assistance in fiscal year 1988 by 6.5 percent, and is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines, actions welcomed by the United States.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the indivisible security of the Western nations by increasing its Official Development Assistance to a level consistent with the provisions of section 1012 of Public Law 100-180.

(4) However, continued unwillingness by Japan to bear its fair share of the burden of maintaining the indivisible security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

(b)(1) Study.—The Secretary of Defense shall, in coordination with the Department of State and the Agency for International Development, incorporate within the report required by section 1003 of Public Law 98-525, a report on Japan's Overseas Development Assistance.

(2) Report.—The report shall contain a description of the amount and nature of Japanese Overseas Development Assistance by recipient, including distinguishing between grant aid, loans and credits.

(c) Policy.—It is the sense of Congress that—

(1) the President should enter into discussions with Japan for the purpose of reaching a more equitable distribution of the burden of financial support for the indivisible security of the leading industrialized democracies;

(2) the objective of such discussions with Japan should be to establish a schedule of increases in Japan's Overseas Development Assistance and its defense budget so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products);

(3) the President should report to Congress, within 180 days after the date of the enactment of this Act, on the progress of such discussions; and

(4) if, in the judgment of Congress, the President's report does not reflect substantial progress toward a more equitable distribution of the burden of maintaining the indivisible security of the leading industrialized democracies, the Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and consider whether additional legislation is appropriate.

SEC. 934. MISSILE TECHNOLOGY, PERSONNEL DEFICIENCIES

(a)(1) The number of countries that have acquired ballistic missiles or have actually used them in combat has increased significantly in the past six months.

(2) The Secretary of Defense has expressed concern about missile proliferation.

(3) Congress directed that the Department of Defense provide a report specifying personnel requirements to implement the Missile Technology Control Regime Policy that was concluded by the United States and six other countries in April 1987 to control the proliferation of missiles capable of delivering nuclear weapons.

(4) The Department of Defense report was due February 1, 1988 and has not yet been received: Now, therefore

(b) it is the sense of the Senate that—

(1) the Secretary of Defense should file the requested report as soon as possible but not later than July 30, 1988 and

(2) Department of Defense personnel deficiencies which prevent effective performance of missile technology control responsibilities be rectified as soon as possible; using temporary duty assignments if deemed necessary.

SEC. 935. MILITARY BASE CLOSING COMMISSION

The Congress urges the President to ensure that any military base closing commission established by this or any other legislation—

(1) takes into account the total economic cost to the country as a whole, and not just to the Department of Defense or to the Federal Government, in making decisions concerning the closing or functional realignment of any military installations; and

(2) is appropriately briefed on the basing requirements and basing implications of compartmented programs, popularly known as "black" programs, within the executive branch before issuing any report recommending the closing or functional realignment of any military installations.

SEC. 936. REGULATIONS FOR DELIVERY OF MILITARY PERSONNEL TO CIVIL AUTHORITIES WHEN CHARGED WITH CERTAIN OFFENSES

(a) Not later that 90 days after the date of enactment of this Act, the Secretary of Defense shall ensure that the Secretaries of the military departments have issued uniform regulations pursuant to section 814 of title 10, United States Code, to provide for the delivery of members of the Armed Forces to civilian authority when such members have been accused of offenses against civil authority. Such regulations shall specifically provide for the delivery of such members to civilian authority, in appropriate cases, when such members are accused of parental kidnapping and other similar offenses, including criminal contempt arising from such offenses and from child custody matters, and shall specifically address the special needs for the exercise of the authority contained in section 814 of title 10, United States Code, when members of the Armed Forces assigned overseas are accused of offenses by civilian authorities.

(b) Not later that 120 days after the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a copy of all regulations promulgated under section 814 of title 10, United States Code, as a result of this section and any recommendations that the Secretary may have concerning the need for additional legislation related to the amenability of members of the Armed Forces to civil authority.

SEC. 937. CONDITIONS FOR SALE OR OTHER TRANSFER OF F-15 AIRCRAFT TO SAUDI ARABIA

Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies the Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is totally removed from the inventory of Saudi Arabia.

SEC. 938. ENFORCEMENT OF THE FINAL ACT OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (ALSO KNOWN AS "THE HELSINKI FINAL ACT")

(a) No country signatory to the Final Act of the Conference on Security and Cooperation in Europe (also known as "the Helsinki Final Act") which as of May 1, 1988, did not enjoy Most Favored Nation (MFN) trade status with the United States shall be extended such status unless the President first certifies in writing to the Chairman of the Committee on Foreign Relations of the Senate and to the Chairman of the Committee on Foreign Affairs of the House of Representatives that such signatory country is in complete compliance or in substantially complete compliance with such Final Act, particularly the human rights and humanitarian affairs provisions.

(b) For the purposes of the foregoing subsection, "substantially complete compliance" is defined as—

(1) A pattern of compliance with the requirements of the Helsinki Final Act in a manner comparable to that displayed by democratic signatory countries, with any violations clearly the rare and exceptional act of local authorities contrary to established policy and generally observed practice in such country;

(2) The existence, in theory and in practice, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress that facilitate and encourage, rather than frustrate, the exercise of basic rights as specified in the Helsinki Final Act by the citizens and inhabitants of such country; and

(3) The ability of citizens of such country and citizens of other signatory countries, in theory and in practice, freely to monitor the performance of the governmental authorities of such country with regard to the requirements of the Helsinki Final Act throughout the territory of such country, and to publicize their findings, both in such country and abroad.

SEC. 939. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Union of Soviet Socialist Republics are engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a Treaty requiring deep reductions in the strategic forces of the United States.

(3) The Senate must advise and consent to the ratification of any such Strategic Arms Reduction Treaty (START).

(4) Any START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) The Congress must authorize and appropriate the funds to procure such permitted forces as are required to insure the stability of the force balance under any arms reduction agreement.

(6) The Congress faces critical resource choices for fiscal year 1989 and beyond which could substantially influence the strategic force posture of the United States in a post-START era.

(b) PRESIDENTIAL REPORT.—The President shall provide to the Congress prior to the conclusion of any Strategic Arms Reduction Treaty or agreement between the United States and the Union of Soviet Socialist Republics, but in any event not later than September 15, 1988, a comprehensive report, in classified and unclassified form, on the implications such an accord might have for future strategic force postures of the United States in the 1990s. This analysis shall include the following:

(1) Alternative force postures for the United States permitted under an arms reduction agreement, including the Administration's recommended posture.

(2) The costs associated with acquiring each alternative force posture, assessed over at least a seven-year period.

(3) The damage limitation capability, survivability and retaliatory potential of each force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union and the first-strike potential of such Soviet force postures.

(4) The likely effect of Soviet breakout from START on the survivability and effectiveness of the United States force posture.

SEC. 940. DRUG ENFORCEMENT ASSISTANCE

(a) FINDINGS.—The Congress finds that—

(1) the transport of weapons, drugs, and other contraband, as well as terrorists, across the borders of the United States constitutes a threat to the national security;

(2) a mission of the Armed Forces of the United States will be to assist Federal law enforcement agencies responsible for the interdiction of illicit drugs entering the United States by an aircraft or vessel;

(3) the additional resources and funds necessary to carry out this section should be made available to the Department of Defense; and

(4) activities under this section by members of the Armed Forces should be carried out to the maximum extent practicable in consultation and cooperation with appropriate law enforcement agencies.

(b) GUIDELINES TO THE MILITARY DEPARTMENTS.—Section 113 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) The Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the Commanders of the Combatant Commands written guidelines to direct the effective detection and monitoring by the Army, Navy, Air Force, and Marine Corps of all potential aerial and maritime threats to the national security of the United States. Such guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which such guidelines are to be effective.".

(c) LEAD AGENCY FOR DETECTION.—(1) Not later than 30 days after the date of enactment of this Act, the President shall designate a single lead agency for detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) It is the sense of the Congress that the Department of Defense has unique capabilities, experience, equipment, and trained personnel and has contributed to the detection and monitoring of aerial and maritime transit of illegal drugs into the United States, and the President shall give priority consideration to these factors in making the designation required by paragraph (1).

(d)(1) Command, Control, Communications, and Intelligence Network.—Not later than 90 days after the date of enactment of this Act, the President shall report to Congress his plan for integration by the Department of Defense of command, control, communications, and intelligence assets of the United States dedicated to the interdiction of illegal drugs.

(2) Not later than 120 days after submission of the report required by paragraph (1), the President shall report to Congress his plan for assignment of the responsibility for operating the command, control, communications, and intelligence network described in paragraph (1).

(e) Airborne Radar Coverage.—As soon as practicable after the date of enactment of this Act, the President shall deploy radar surveillance aircraft in sufficient numbers to provide an appropriate increase in the flying hours dedicated to drug interdiction. An appropriate increase of flying hours shall be dedicated to assistance to civilian agencies responsible for drug interdiction. An appropriate increase of flying hours shall be dedicated to such assistance along the Southwest border of the United States until such time as the aerostat radar surveillance systems that, as of the date of enactment of this Act, are planned for installation along such borders, are fully operational.

(f) Loan of Pursuit Aircraft.—The Department of Defense shall make available to the Coast Guard and Customs Service rotor wing and fixed wing aircraft of the Armed Forces to be used by such agencies in the pursuit of aircraft or vessels involved in illegal drug operations.

(g) Drug Interdiction Assistance.—(1) Section 374(c)(2) of title 10, United States Code, is amended by inserting at the end thereof the following new subparagraph:

"(C) equipment operated by or with the assistance of personnel of the Department of Defense for the purpose of monitoring and communicating the movement of air and sea traffic (including equipment operated by or with the assistance of personnel assigned under subsection (a)) may be used to intercept vessels and aircraft for the purpose of identifying and communicating with such vessels and aircraft and directing such vessels and aircraft to a location designated by appropriate civilian drug enforcement officials.".

(2) Section 374(c)(1) of title 10, United States Code, is amended by—

(1) striking out "In an emergency circumstance, equipment" and inserting in lieu thereof "Equipment"; and

(2) striking out "determine an emergency circumstance exists" and inserting in lieu thereof "approve such assistance".

(3) Section 379 of title 10, United States Code, is amended by inserting the following new subsections at the end thereof:

"(e) Under regulations jointly prescribed by the Secretary of Defense and the Secretary of Transportation in consultation with the Attorney General, members of the armed forces who—

"(1) are assigned to duty on vessels of the Navy to which a member of the Coast Guard has been assigned under this section,

"(2) have been provided with appropriate training in the law enforcement functions of the Coast Guard, and

"(3) have been designated by an authorized member of the Coast Guard to perform the law enforcement functions of the Coast Guard

may, outside the United States, assist or perform any of the law enforcement functions of the Coast Guard under section 89 of title 14, United States Code.

"(f) Upon motion by the Attorney General or his designee, any civil action, claim, or proceeding brought against any member of the armed forces arising from such member's performance of duties under this chapter shall be deemed an action exclusively against the United States and the United States shall be substituted as a party defendant. The United States shall be entitled to all defenses otherwise available to an employee of the United States under State or Federal law as well as defenses to which the United States is independently entitled.".

(h) Enhanced Drug Interdiction and Enforcement Role for the National Guard.—

(1) Preamble.—Congress having made a finding that "the transport of weapons, drugs, and other contraband, as well as terrorists, across the borders of the United States constitutes a threat to the national security," the Secretary of Defense is directed to urge the Governors of the several States to provide plans for participation by the National Guard in performing the objectives of this law.

(2) In general.—(A) The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under paragraph (B) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used for the purpose of drug interdiction and enforcement operations and for the operation and maintenance of the equipment and facilities of the National Guard of such State used for such purposes.

(B) The Secretary may provide funds under paragraph (A) to the Governor of a State who submits a plan to the Secretary specifying how personnel of the National Guard of such State are to be used in drug enforcement and interdiction operation by a National Guard of a State unless—

(i) such operations are conducted at a time when personnel of the National Guard of the State are not in Federal service; and

(ii) participation by a National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(C) Before funds are provided to the Governor of any State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(3) Source of funds.—(A) Of the amounts appropriated pursuant to section 301(a), up to $30,000,000 shall be available for the purposes specified in paragraph (1).

(B) Of the amounts appropriated for National Guard Personnel, Army, and National Guard Personnel, Air Force, for fiscal year up to $30,000,000 shall be available for the purposes specified in paragraph (1).

(4) Report.—(A) Not later than 90 days after the date of enactment of this Act, the President shall submit to Congress a report on the potential effectiveness of using members of the National Guard and the Reserves for drug interdiction efforts, consistent with applicable law, along the borders and at the ports of entry of the United States.

(B) The report described in paragraph (A) shall include consideration of the potential for the long-term use of National Guard units of Arizona, Texas, California, Oklahoma, New Mexico, Tennessee, South Carolina, Florida, Virginia, New York, Georgia, and other States as appropriate, to perform drug interdiction operations, consistent with applicable law, coordinated by the Chief, National Guard Bureau, the Director of Operation Alliance Joint Command Group, and the Command, Communications, Control, and Intelligence Centers at March Air Force Base, California and Richmond Heights, Florida.

(i) Rule of Construction.—Nothing in this section or in the amendments made by this section shall be construed to limit the authority of the executive branch in the use of Department of Defense personnel or equipment for law enforcement purposes otherwise authorized by law.

(j) Report by the President.—Not later than September 1, 1988, the President shall submit a report to Congress containing legislative proposals, including budgetary requests, to enhance the capability of the Department of Defense to perform the functions described in this section.

SEC. 941. DRUG RELATED INDICTMENTS AGAINST NORIEGA

(a) Findings.—The Congress finds—

(1) Panamanian strongman Manuel Noriega has been accused of serious violations of American law involving trafficking in illegal drugs, providing protection and support to drug traffickers, and laundering drug related money;

(2) Federal indictments have been handed down against Noriega in the State of Florida on a number of these drug-related charges;

(3) there are media and other reports that negotiations with Noriega may have occurred, on arrangements under which he would give up political power and leave Panama, in exchange for the dropping of the Federal drug-related indictments against him.

(b) It is the sense of the Congress of the United States that—

(1) no negotiations should be conducted, nor arrangements made by the United States Government, with Noriega, which would involve the dropping of the drug-related indictments against him.

(2) any such negotiations, or arrangements, would send the wrong signal about the priority which the United States attaches to the war on drugs; would not further the prospects of restoring noncorrupt, democratic government to Panama; and would not serve the overall national security interests of the United States.

SEC. 942. STRATEGIC AIR DEFENSE ALERT MISSION

(a) Limitation.—Except as provided in subsection (b)(2), the Secretary of the Air Force may not make any change in the alert status of any Air National Guard unit in the strategic air defense mission in the northern portion of the United States, or in the deployment of units assigned to that mission, from that status and deployment as in effect on April 10, 1988.

(b) Report.—(1) After the North Warning System and the Over-the-Horizon Backscatter Radar System are deployed and in operation as replacements for the Distant Early Warning (DEW line) system, the Secretary of the Air Force shall submit to Congress a report on those systems. The report shall—

(A) describe the implementation of those systems and their operational capability and effectiveness as demonstrated up to the time of the report;

(B) describe plans, in light of those new systems, for the forward deployment of the interceptor aircraft from United States bases during periods of heightened international tension; and

(C) clarify the alert status in the strategic air defense mission, under those new systems, of elements of the Air Force (including elements of the reserve components) at Air Force bases in the northern portions of the United States.

(2) The limitation in subsection (a) shall cease to be effective 180 days after the date on which Congress receives the report required by paragraph (1).

SEC. 943. SENSE OF THE SENATE ON THE NEED TO PROTECT NON-NUCLEAR CRUISE MISSILES IN START

(a) Findings.—

(1) The Senate supports the President's efforts in the Strategic Arms Reduction Talks (START) to make deep and verifiable cuts in strategic nuclear weapons.

(2) Conclusion of a START Treaty between the United States and the Soviet Union will increase the relative importance of each nation's non-nuclear weapons capabilities.

(3) Advanced, long-range, non-nuclear cruise missiles are among the most promising technologies for reducing the current reliance of the United States and its allies upon the threat of an early resort to nuclear weapons to deter a conventional attack by the Soviet Union.

(4) The United States has taken a position in START that we will not agree to any limitations on non-nuclear cruise missiles.

(b) Sense of the Senate.—In light of the findings in subsection (a), it is the sense of the Senate that it should be the position of the United States that in START no restrictions shall be established on current or future non-nuclear cruise missiles.

SEC. 944. STUDY AND REPORT ON THE USE OF NON-BIODEGRADABLE PLASTIC

(a) Study.—The Secretary of Defense shall conduct a study in order to identify the types of disposable plastic items that are used by the Department of Defense in fiscal year 1989, to determine the approximate quantity used annually and to determine which such items are biodegradable and which such items are not biodegradable.

(b) Report.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Forces of the Senate and of the House of Representatives a report on the results of the study required by subsection (a) and the feasibility of substituting agricultural commodity based biodegradable plastic items for nonbiodegradable plastic items identified in the study that are needed by the Department of Defense. The report shall include the following matters:

(1) The availability of agricultural commodity based biodegradable plastic items that are suitable substitutes for the nonbiodegradable plastic items.

(2) Any additional cost that would result from conversion to the use of such substitutes over the cost of continued use of the nonbiodegradable plastic items.

SEC. 945. REPORT ON SMALL PATROL BOATS OF NAVY

(a) Findings.—Congress finds that—

(1) on April 23, 1988, officials of the Department of Defense announced that consideration was being given to the deployment of United States Coast Guard vessels to the Persian Gulf for duty in conjunction with the Navy; and

(2) according to public reports based on statements from officials of the Department of Defense, the Navy has a significantly inadequate number of small patrol boats in the Navy fleet of ships.

(b) Report.—The Secretary of the Navy shall submit a report to Congress within 60 days after the date of the enactment of this Act regarding the capability of the Navy to carry out missions requiring the use of small patrol boats. The Secretary shall include in such report—

(1) an evaluation of the ability of the Navy to carry out missions requiring the use of small patrol boats that are less than 150 feet in length;

(2) a discussion of the contingencies that would necessitate the use of small patrol boats (of less than 150 feet in length) rather than larger warships;

(3) a discussion of any plans the Navy has for eliminating the Navy's shortage of such boats; and

(4) such recommendations as the Secretary considers appropriate to strengthen the capabilities of the Navy to carry out effectively missions which would require the use of such boats.

SEC. 946. CONFLICT OF INTEREST REGULATIONS

(a) In General.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue regulations that prohibit a contracting officer—

(1) from knowingly receiving any offer in connection with a contract to be awarded by the Department of Defense from an officer or employee of the Federal Government or from any business concern or other organization owned or substantially owned or controlled by one or more such officers and employees; and

(2) from knowingly awarding such a contract to—

(A) any person who, on either the date of the award of the contract or the date on which the Department of Defense received an offer from such person in connection with such contract, is an officer or employee of the Federal Government; and

(B) any business concern or other organization that, on either the date of the award of the contract or the date on which the Department of Defense received an offer from such business concern or organization in connection with such contract, is owned or substantially owned or controlled by one or more such officers and employees.

(b) Exceptions.—The Secretary of Defense may include in the regulations issued under subsection (a) such exceptions as he determines to be necessary in the interest of national security.

SEC. 947. APPLICABILITY OF CONTRACT GOAL FOR MINORITIES TO PRINTING-RELATED SERVICES

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) Notwithstanding sections 501 and 502 of title 44, United States Code, and section 309 of the Legislative Branch Appropriations Act, 1988 (as contained in section 101(i) of Public Law 100-202 (101 Stat. 1329-310)), printing, binding, and related services needed by the Department of Defense may be procured from entities referred to in subsection (a) in order to meet the objectives set out in such subsection. The procurement of printing, binding, and related services from such entities shall be conducted for the Department of Defense by the Public Printer as directed by the Secretary of Defense. Printing, binding, and related services needed by the Department of Defense and not procured from such entities shall be procured from the Government Printing Office.".

SEC. 948. SENSE OF THE CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

(a) Findings.—

(1) The Senate finds that the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter the "ABM Treaty" or the "Treaty") in its Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.".

(2) The Senate further finds that such Treaty entered into force on October 3, 1972, and that the third five-year anniversary date specified by Article XIV, Paragraph 2, for the conduct of the review contemplated therein was October 3, 1987.

(3) The Senate further finds that, as a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore that the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Senate finally finds that the Parties to the Treaty have not met as required by Article XIV, Paragraph 2, because the United States of America refused to meet on the date required: to wit, October 3, 1987, and that the United States, seven months later, still refuses to propose a date for this meeting.

(b) Sense of Congress.—Taking account of the findings of this section, it is the sense of the Congress that the President should without any further delay propose an early date to conduct the overdue five-year review of the ABM Treaty and immediately thereafter inform the Congress of the results of that review.

SEC. 949. ECONOMIC SANCTIONS AGAINST COMMUNIST REGIME IN ETHIOPIA

(a) Congress.—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (via direct representations to the Government of Ethiopia, certain rebel groups, and via sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in the north,

to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Union of Soviet Socialist Republics in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high Soviet priority and that the approach of the Union of Soviet Socialist Republics is consistent with that of the West.

(b) SANCTIONS.—

(1) SANCTIONS URGED UNDER CERTAIN CONDITIONS.—The President is strongly urged, and is hereby authorized (notwithstanding any other provision of law), to impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to subparagraphs (2) and (3) of this subsection) if, at any time after the date of enactment of this section, the Government of Ethiopia engages in any of the following outrages:

(i) Forced resettlement.

(ii) Forced confinement in any resettlement camp.

(iii) Diversion of international relief to the military.

(iv) Denial of international relief to any persons at risk because of famine.

(v) Seizure of international relief assets provided by the United States.

(vi) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) SANCTIONS TO BE INCLUDED.—Sanctions imposed pursuant to subparagraph (1) shall include sanctions which substantially affect the major exports of Ethiopia.

(3) EXPORT SANCTIONS.—If a sanction imposed pursuant to subparagraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(4) REPORTS TO CONGRESS.—Not later than the end of the 15-day period beginning on the date of the enactment of this section and at the end of each 60-day period thereafter, the President shall submit to the Congress a report on whether, during that period, the Government of Ethiopia engaged in any conduct described in paragraph (1) of this subsection. Each such report shall describe the response of the United States to such conduct.

(5) REGULATION AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanctions imposed under this subsection.

SEC. 950. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

(a) Not later than June 30, 1989, the President shall submit a report to the Congress which includes a review of the relationship of the arms control objectives of the United States with the responsiveness of research and development of monitoring systems for weapons verification. Such review shall include but not be limited to the participation of the Departments of Defense, State and Energy, the Director of Central Intelligence, and the Arms Control and Disarmament Agency.

(b) At a minimum, the report shall include the findings of the President, and such recommendations for improvement as the President shall deem appropriate, with respect to the following—

(1) the status of coordination in the formulation of United States arms control treaty verification policy;

(2) the status of efforts to ensure that the arms control treaty verification policy is formulated in a manner which takes into account available technology for monitoring systems; and

(3) the status of efforts to insure that research and development on monitoring systems technology evolves in step with arms control treaty verification policy.

SEC. 951. COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

(a) Within 30 days after the enactment of this legislation, the President shall establish a Commission on Alternative Utilization of Military Facilities. The Commission shall be made up of representatives from the Department of Defense, the Bureau of Prisons of the Department of Justice, the National Institute on Drug Abuse of the Department of Health and Human Services and the General Services Administration.

(b) On a biannual basis, the Commission shall—

(1) prepare a report listing active and nonactive military facilities that the Department of Defense has identified as fit for closure, underutilized in whole or part, or on the surplus property list;

(2) identify those facilities, or parts thereof, that could be utilized or renovated as minimum security facilities to hold nonviolent prisoners;

(3) identify those facilities or parts thereof, that could be utilized or renovated to house nonviolent persons for drug treatment purposes; and

(4) present this list to the President and to the Congress.

(c) The first report required by subsection (b) shall be submitted to the President and to the Congress no later than September 1, 1988. Further reports shall be issued not later than September 1 every 2 years thereafter through fiscal year 1996.

SEC. 952. ASSISTANCE TO PANAMANIAN DEFENSE FORCE

(a) None of the funds authorized or appropriated by this or any other Act shall be obligated or expended for assistance to the Panamanian Defense Force unless and until the President has certified to Congress that no armed forces of the Union of Soviet Socialist Republics, Cuba, or Nicaragua are present in the Republic of Panama and that General Manuel Noriega has been removed as Commander of the Panamanian Defense Force, barred from all offices and authority, and prohibited from designating or appointing his successor.

(b) Provided further that nothing in this section shall prohibit the President from obligating or expending any funds necessary for the defense of the Panama Canal or for the maintenance of United States Armed Forces or interests in Panama.

(c) Ten days after the enactment of this section, the President shall provide a detailed report to Congress, in both classified and unclassified form, regarding (1) whether Soviet, Cuban, or Nicaraguan military, paramilitary, or intelligence personnel are present in Panama and (2) whether the Panamanian Defense Force has coordinated with, cooperated with, supported, or received support from, such personnel.

SEC. 953. TECHNICAL AMENDMENTS

(a) AMENDMENT TO TITLE 10.—Section 2343(b) of title 10, United States Code, is amended by striking out "section" before "2306a".

(b) AMENDMENT TO TITLE 37.—Section 101(5) of title 37, United States Code, is amended by striking out "secretary" and inserting in lieu thereof "Secretary".

(c) AMENDMENTS TO PUBLIC LAW 100-180.—(1) Paragraph (1) of section 802(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1123) is amended by inserting end quotation marks and a period after "section." at the end of such paragraph.

(2) Section 803(a) of such Act (101 Stat. 1125) is amended by inserting "the first time it appears" after "paragraph (1),".

SEC. 954. SENSE OF CONGRESS RELATING TO PERSONNEL STRENGTHS FOR ON-SITE INSPECTION PURPOSES

In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities and support of such activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $6,000,000.
Fort McClellan, $7,900,000.
Redstone Arsenal, $14,800,000.
Fort Rucker, $2,110,000.

ALASKA

Fort Wainwright, $35,490,000.
Fort Richardson, $6,250,000.

ARIZONA

Fort Huachuca, $6,600,000.

ARKANSAS

Pine Bluff Arsenal, $7,500,000.

CALIFORNIA

Fort Ord, $13,050,000.
Sierra Army Depot, $380,000.

COLORADO

Pueblo Depot, $3,200,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $1,600,000.

GEORGIA

Fort Benning, $24,350,000.

HAWAII

Fort Shafter, $7,200,000.
Schofield Barracks, $8,500,000.

ILLINOIS

Rock Island Arsenal, $10,980,000.
Savanna Army Depot, $470,000.
Fort Sheridan, $3,280,000.

KENTUCKY

Fort Campbell, $20,500,000.
Lexington-Bluegrass Depot, $770,000.

MARYLAND

Aberdeen Proving Ground, $8,400,000.
Fort Detrick, $6,500,000.
Fort Ritchie, $9,100,000.

NEW JERSEY

Fort Dix, $6,200,000.

NEW YORK

United States Military Academy, West Point, $19,750,000.

NORTH CAROLINA

Fort Bragg, $36,602,000.

OKLAHOMA

Fort Sill, $3,700,000.

OREGON

Umatilla Army Depot, $3,600,000.

PENNSYLVANIA

Letterkenny Army Depot, $1,900,000.

TEXAS

Corpus Christi Army Depot, $7,400,000.
Fort Hood, $15,900,000.
Red River Army Depot, $88,400,000.
Fort Sam Houston, $3,250,000.

UTAH

Dugway Proving Ground, $12,800,000.
Tooele Army Depot, $92,300,000.

VIRGINIA

Fort A.P. Hill, $9,900,000.
Fort Eustis, $2,500,000.
Fort Pickett, $4,000,000.
Vint Hill Farms Station, $800,000.

WASHINGTON

Fort Lewis, $9,800,000.

WISCONSIN

Fort McCoy, $2,100,000.

VARIOUS LOCATIONS

Classified Locations, $3,600,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Ansbach, $15,000,000.
Friedberg, $1,300,000.
Giessen, $6,300,000.
Grafenwoehr Training Area, $7,000,000.
Hohenfels Training Area, $36,960,000.
Karlsruhe, $2,550,000.
Mainz, $19,550,000.
Mannheim, $14,400,000.
Rheinberg, $12,400,000.
Schweinfurt, $9,700,000.
Stuttgart, $3,350,000.
Vilseck, $44,600,000.
Wiesbaden, $13,900,000.
Worms, $1,300,000.
Wuerzburg, $33,650,000.
Various Locations, $18,000,000.

ITALY

Various Locations, $1,250,000.

JAPAN

Various Locations, $7,900,000.
Various Locations, $5,300,000.

KOREA

Camp Casey, $3,700,000.
Camp Gary Owen, $1,150,000.
Camp Greaves, $1,540,000.
Camp Hovey, $3,200,000.
Camp Kittyhawk, $1,350,000.
Camp Libby, $1,150,000.
Camp Page, $670,000.
Camp Sears, $1,100,000.
Camp Stanley, $1,200,000.
Camp Stanton, $1,400,000.
K-16 Army Airfield, $670,000.
Taegu, $990,000.
Yongsan, $1,400,000.
Various Locations, $6,200,000.
Various Locations, $9,200,000.

KWAJALEIN

Kwajalein, $15,490,000.

VARIOUS LOCATIONS

Various Locations, $27,250,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Wainwright, Alaska, one hundred and fifty units, $27,000,000.

Fort Irwin, California, two hundred and sixty-three units, $24,000,000.

Helemano, Hawaii, one hundred units, $11,400,000.

Schofield Barracks, Hawaii, forty units, $4,450,000.

Fort Leavenworth, Kansas, two hundred and seventy-two units, $20,000,000.

Fort Drum, New York, one hundred units, $10,000,000.

Augsburg, Germany, thirty-four units, as described in section 2103(b).

Hohenfels, Germany, eighty-eight units, $8,400,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $10,628,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), improve existing military family housing units in an amount not to exceed $72,300,000.

(b) WAIVER OF MAXIMUM PER COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown for each installation:

Pearl Harbor, Hawaii, eight units, $550,000.

Augsburg, Germany, convert unused attic space and upgrade fourteen units into forty-eight adequate units, as authorized in section 2102(a), $3,360,000.

Taegu, Korea, ninety-six units, $4,450,000.

SEC. 2104. DEFENSE ACCESS ROADS

The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(4), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Belvoir, Virginia, and other locations, in the amount of $1,000,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,419,301,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $451,432,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $332,070,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $1,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $93,328,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $188,178,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,335,093,000, of which not more than $52,190,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $183,600,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000, to remain in effect until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $78,400,000 (the balance of the amount authorized for the construction of the Central Distribution Center, Red River Army Depot, Texas).

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661) and section 2105(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act as extended by section 2105(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 99-180), shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(2) Modified record fire range in the amount of $2,850,000 at Nuremberg, Germany.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(4) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(5) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(6) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(7) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Child development center/religious education facility in the amount of $820,000 at Yuma Proving Ground, Arizona.

(2) Primary water supply connection in the amount of $2,150,000 at Fort Riley, Kansas.

(3) Material test facility in the amount of $9,700,000,000 at Dugway Proving Ground, Utah.

(4) Barracks modernization in the amount of $3,700,000 at foreign various location 276.

(5) Dining facility in the amount of $2,100,000 at Giessen, Germany.

(6) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(7) Contingency facility in the amount of $4,300,000 at Palmerola Air Base, Honduras.

(8) Seventy manufactured home spaces in the amount of $1,100,000 at Aberdeen Proving Ground, Maryland.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Naval Station, Mobile, $19,700,000.

ALASKA

David Taylor Research Center Detachment, Ketchikan, $12,000,000.

Naval Air Station, Adak, $29,000,000.

ARIZONA

Marine Corps Air Station, Yuma, $11,770,000.

CALIFORNIA

Marine Corps Air-Ground Combat Center, Twentynine Palms, $26,630,000.

Marine Corps Air Station, Camp Pendleton, $9,450,000.

Marine Corps Air Station, El Toro, $3,970,000.

Marine Corps Air Station, Tustin, $10,990,000.

Marine Corps Base, Camp Pendleton, $64,460,000.

Marine Corps Logistics Base, Barstow, $1,190,000.

Mountain Warfare Training Center, Bridgeport, $3,200,000.

Naval Air Station, Moffett Field, $650,000.

Naval Air Station, North Island, $6,150,000.

Naval Amphibious Base, Coronado, $870,000.

Naval Amphibious School, San Diego, $10,100,000.

Naval Aviation Depot, North Island, $2,110,000.

Naval Construction Battalion Center, Port Hueneme, $10,900,000.

Naval Construction Training Center, Port Hueneme, $10,080,000.

Naval Hospital, Lemoore, $2,160,000.

Naval Ocean Systems Center, San Diego, $8,660,000.

Naval Post Graduate School, Monterey, $3,140,000.

Naval Civil Engineer Corps Officers School, Port Hueneme, $7,420,000.

Naval Security Group Detachment, San Diego, $1,950,000.

Naval Shipyard, Mare Island, $3,950,000.

Naval Space Surveillance Field Station, San Diego, $3,760,000.

Naval Station, Treasure Island, San Francisco, $5,000,000.

Naval Submarine Base, San Diego, $3,150,000.

Naval Supply Center, San Diego Annex, North Island, $1,695,000.

Naval Training Center, San Diego, $7,980,000.

Naval Weapons Center, China Lake, $12,260,000.

Naval Weapons Station, Seal Beach, $13,890,000.

Navy Public Works Center, San Diego, $500,000.

Navy Public Works Center, San Francisco, $15,810,000.

Pacific Missile Test Center, Point Mugu, $20,470,000.

Personnel Support Activity, San Diego, $1,180,000.

Shore Intermediate Maintenance Activity, San Diego, $10,720,000.

Submarine Training Facility, San Diego, $10,301,000.

CONNECTICUT

Naval Security Group Activity, Groton, $1,170,000.

Naval Submarine Base, New London, $6,660,000.

DISTRICT OF COLUMBIA

Commandant, Naval District, Washington, $28,100,000.

Naval Research Laboratory, Washington, $19,800,000.

FLORIDA

Naval Air Station, Cecil Field, $340,000.

Naval Air Station, Jacksonville, $8,810,000.

Naval Air Station, Key West, $850,000.

Naval Air Station, Pensacola, $25,600,000.

Naval Hospital, Pensacola, $2,250,000.

Naval Legal Service Office, Mayport, $1,450,000.

Naval Station, Mayport, $3,060,000.

Naval Supply Center, Pensacola, $2,640,000.

Naval Technical Training Center, Pensacola, $2,840,000.

Naval Training Center, Orlando, $23,810,000.

GEORGIA

Marine Corps Logistics Base, Albany, $5,740,000.

Naval Submarine Base, Kings Bay, $56,330,000.

HAWAII

Marine Corps Air Station, Kaneohe Bay, $24,270,000.

Naval Legal Service Office, Pearl Harbor, $2,380,000.

Naval Station, Pearl Harbor, $8,370,000.

Naval Submarine Base, Pearl Harbor, $11,250,000.

Naval Submarine Training Center, Pacific, Pearl Harbor, $1,780,000.

Naval Supply Center, Pearl Harbor, $8,350,000.

Navy Public Works Center, Pearl Harbor, $3,760,000.

ILLINOIS

Naval Training Center, Great Lakes, $3,440,000.

Naval Public Works Center, Great Lakes, $1,930,000.

KENTUCKY

Naval Ordnance Station, Louisville, $19,000,000.

LOUISIANA

Naval Station, Lake Charles, $5,000,000.

MAINE

Naval Air Station, Brunswick, $530,000.

MARYLAND

David Taylor Naval Ship Research Development Center, Annapolis, $1,860,000.

Naval Academy, Annapolis, $540,000.

Naval Air Test Center, Patuxent River, $1,250,000.

Naval Explosive Ordnance Disposal Technology Center, Indian Head, $7,380,000.

Naval Intelligence Command Headquarters, Suitland, $114,000,000.

Naval Medical Data Services Center, Bethesda, $5,930,000.

Naval Ordnance Station, Indian Head, $1,270,000.

Naval Surface Warfare Center Detachment, White Oak, $2,540,000.

MISSISSIPPI

Naval Construction Training Center, Gulfport, $4,070,000.

Naval Station, Pascagoula, $25,700,000.

Supervisor of Shipbuilding, Pascagoula, $6,000,000.

NEVADA

Naval Air Station, Fallon, $9,470,000.

NEW JERSEY

Naval Weapons Station, Earle, $30,400,000.

NEW MEXICO

Naval Ordnance Missile Test Station, White Sands, $8,090,000.

NEW YORK

Naval Station, New York, $33,395,000.

NORTH CAROLINA

Marine Corps Air Station, Cherry Point, $32,380,000.

Marine Corps Air Station, New River, $8,400,000.

Marine Corps Base, Camp Lejeune, $23,450,000.

OKLAHOMA

Naval Air Detachment, Tinker Air Force Base, $38,080,000.

PENNSYLVANIA

Naval Air Development Center, Warminster, $1,270,000.

Naval Shipyard, Philadelphia, $8,200,000.

Navy Aviation Supply Office, Philadelphia, $1,400,000.

Navy Ships Parts Control Center, Mechanicsburg, $2,050,000.

RHODE ISLAND

Naval Education and Training Center, Newport, $11,560,000.

Naval Justice School, Newport, $2,060,000.

Surface Warfare Officers School Command, Newport, $4,750,000.

SOUTH CAROLINA

Naval Hospital, Beaufort, $2,260,000.

Naval Shipyard, Charleston, $640,000.

Naval Supply Center, Charleston, $1,090,000.

Naval Weapons Station, Charleston, $22,250,000.

TENNESSEE

Naval Air Station, Memphis, $10,090,000.

TEXAS

Naval Station, Galveston, $14,500,000.

Naval Station, Ingleside, $31,850,000.

VIRGINIA

Atlantic Fleet Headquarters Support Activity, Norfolk, $1,700,000.

Fleet Combat Training Center, Atlantic, Dam Neck, $4,700,000.

Marine Corps Combat Development Command, Quantico, $14,290,000.

Marine Corps Detachment, Camp Elmore, $1,690,000.

Marine Environmental Systems Facility, Dam Neck, $5,000,000.

Naval Air Station, Oceana, $2,690,000.

Naval Amphibious Base, Little Creek, $8,270,000.

Naval Amphibious School, Little Creek, $640,000.

Naval Aviation Depot, Norfolk, $8,950,000.

Naval Guided Missile School, Dam Neck, $4,450,000.

Naval Legal Service Office, Norfolk, $1,080,000.

Naval Medical Clinic, Norfolk, $2,470,000.

Naval Ophthalmic Support and Training Activity, Yorktown, $1,970,000.

Naval Security Group Activity, Northwest, Chesapeake, $5,400,000.

Naval Supply Center, Norfolk, $6,660,000.

Naval Supply Center, Williamsburg, $3,300,000.

Naval Surface Warfare Center, Dahlgren, $25,442,000.

Naval Weapons Station, Yorktown, $12,360,000.

Navy Public Works Center, Norfolk, $4,410,000.

WASHINGTON

Naval Air Station, Whidbey Island, $11,010,000.

Naval Supply Center, Bremerton, $5,740,000.

Strategic Weapons Facility, Pacific, Silverdale, $15,060,000.

Trident Refit Facility, Bangor, $990,000.

VARIOUS LOCATIONS

Land Acquisition, $36,895,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Naval Support Facility, $6,470,000.

GUAM

Fleet Surveillance Support Group, $26,280,000.

Naval Security Group Detachment, $400,000.

Naval Supply Depot, $7,660,000.

Navy Public Works Center, $6,720,000.

ICELAND

Naval Air Station, Keflavik, $12,000,000.

ITALY

Naval Air Station, Sigonella, $7,950,000.

Naval Support Activity, Naples, $4,750,000.

JAPAN

Marine Corps Air Station, Futenma, Okinawa, $3,280,000.

Marine Corps Base, Camp Butler, Okinawa, $2,840,000.

PANAMA

Naval Station, $7,140,000.

PHILIPPINES

Navy Public Works Center, Subic Bay, $28,340,000.

SPAIN

Naval Communication Station, Rota, $400,000.

VARIOUS LOCATIONS

Classified Location, $4,990,000.

Host Nation Infrastructure Support, $500,000.

SEC. 2202. PORTSMOUTH NAVAL SHIPYARD MODERNIZATION

Of the funds appropriated to the Navy pursuant to section 2207 for design of military construction projects, $2,000,000 may be obligated only for design of the first and second increments of the initial projects for the modernization of Dry Dock Number 2 at the Portsmouth Naval Shipyard, Portsmouth, New Hampshire, including—

(1) design of a permanent weather protection enclosure for the dry dock;

(2) design for the upgrade of existing utilities at such shipyard; and

(3) design of a permanent installation for temporary services and project team and field shop space.

SEC. 2203. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2207(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units shown, and in the amount shown, for each installation:

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $9,470,000.

Marine Corps Air Station, El Toro, California, one hundred units and sixty mobile home spaces, $10,120,000.

Marine Corps Base, Camp Pendleton, California, three hundred and thirty-two units and access roads, $28,510,000.

Naval Station, Long Beach, California, three hundred units, $26,110,000.

Navy Public Works Center, San Diego, California, three hundred and fifty-six units, $31,830,000.

Navy Public Works Center, San Francisco, California, three hundred units, $35,736,000.

Naval District Washington, District of Columbia, two units at 2,100 square feet each, $330,000.

Naval Submarine Base, Kings Bay, Georgia, two hundred and fifty units, $19,860,000.

Naval Air Station, Glenview, Illinois, two hundred and sixty units, $23,000,000.

Naval Station, New York, New York, one hundred and fifty units, $14,900,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2207(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $2,315,000.

SEC. 2204. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2207(a)(6)(A), improve existing military family housing units in an amount not to exceed $58,589,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Pensacola, Florida, one unit, $34,900.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $17,214,000.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $6,181,200.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $5,415,500.

Naval Air Station, Whidbey Island, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

SEC. 2205. ACQUISITION OF WHERRY HOUSING AT NAVAL AIR STATION, GLENVIEW, ILLINOIS

(a) AUTHORITY TO ACQUIRE.—(1) The Secretary of the Navy may acquire all right, title, and interest in and to 264 family housing units situated on the Naval Air Station at Glenview, Illinois, and constructed in 1956 with financing provided under title VIII of the National Housing Act. The Secretary may also acquire the leasehold interest in such housing units held in private ownership.

(2) The housing units and leasehold interest referred to in paragraph (1) may be acquired with funds derived from any savings realized in carrying out military construction projects of the Navy authorized for construction before fiscal year 1990. The amount paid by the Secretary for such units and the leasehold interest may not exceed an amount equal to the fair market value of such units and interest.

(3) The authority to acquire the housing units referred to in paragraph (1) shall include the authority to acquire other real property improvements related to such units.

(b) OCCUPANCY CHARGES.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), a charge may be made against the basic allowances for quarters of any member of the Armed Forces to whom a housing unit referred to in subsection (a) is leased after the acquisition of the privately held leasehold interest in such unit by the Secretary. However, such a charge may not exceed an amount equal to 75 percent of the amount of the basic allowances for quarters to which the member is entitled.

(2) A member of the Armed Forces who, on the date on which the privately held leasehold interest referred to in subsection (a) is acquired by the Secretary, has in effect an unexpired lease on one of the housing units described in subsection (a) shall be charged rent on such unit (after such acquisition) in accordance with the terms of the lease until the lease expires.

(c) EXPIRATION OF ACQUISITION AUTHORITY.—The authority under this section for the Secretary to acquire the leasehold interest referred to in subsection (a) shall expire on October 1, 1994.

SEC. 2206. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using amounts appropriated pursuant to section 2207(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Marine Corps Air Ground Center, Twentynine Palms, California, $2,900,000.

Navy Public Works Center, San Diego, California, $719,000.

Navy Public Works Center, San Francisco, California, $800,000.

Naval Station, Everett, Washington, $4,400,000.

Naval Submarine Base, Kings Bay, Georgia, $3,000,000.

SEC. 2207. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,336,093,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,233,220,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $119,720,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $138,276,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $11,819,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $263,770,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $544,188,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $55,048,000 (the balance of the amount authorized for the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Suitland, Maryland).

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $8,150,000.
Maxwell Air Force Base, $17,800,000.

ALASKA

Eielson Air Force Base, $15,250,000.
Elmendorf Air Force Base, $20,540,000.
King Salmon Airport, $2,850,000.
Shemya Air Force Base, $14,860,000.

ARIZONA

Davis-Monthan Air Force Base, $980,000.
Luke Air Force Base, $4,550,000.
Williams Air Force Base, $11,130,000.

ARKANSAS

Little Rock Air Force Base, $3,850,000.

CALIFORNIA

Beale Air Force Base, $8,900,000.
Castle Air Force Base, $10,800,000.
Edwards Air Force Base, $5,200,000.
George Air Force Base, $23,550,000.
March Air Force Base, $4,900,000.
Mather Air Force Base, $440,000.
McClellan Air Force Base, $3,080,000.
Onizuka Air Force Base, $4,300,000.
Travis Air Force Base, $10,400,000.
Vandenberg Air Force Base, $8,550,000.

COLORADO

Buckley Air National Guard Base, $25,800,000.
Cheyenne Mountain Complex, $6,500,000.
Lowry Air Force Base, $12,000,000.
Peterson Air Force Base, $13,300,000.
United States Air Force Academy, $10,240,000.

DELAWARE

Dover Air Force Base, $1,000,000.

FLORIDA

Avon Park, $3,700,000.
Cape Canaveral Air Force Station, $26,980,000.
Eglin Air Force Base, $11,020,000.
Eglin Air Force Base, Auxiliary Field 9, $20,100,000.
Homestead Air Force Base, $6,200,000.
MacDill Air Force Base, $4,580,000.
Patrick Air Force Base, $1,126,000.
Tyndall Air Force Base, $6,000,000.

GEORGIA

Moody Air Force Base, $800,000.
Robins Air Force Base, $31,500,000.

HAWAII

Hickam Air Force Base, $4,250,000.

IDAHO

Mountain Home Air Force Base, $1,400,000.

ILLINOIS

Chanute Air Force Base, $6,500,000.
Scott Air Force Base, $14,500,000.

LOUISIANA

Barksdale Air Force Base, $7,300,000.
England Air Force Base, $3,100,000.

MAINE

Loring Air Force Base, $3,000,000.

MARYLAND

Andrews Air Force Base, $2,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $12,400,000.

MICHIGAN

Wurtsmith Air Force Base, $10,690,000.

MISSISSIPPI

Columbus Air Force Base, $2,950,000.
Keesler Air Force Base, $4,550,000.

MISSOURI

Whiteman Air Force Base, $34,300,000.

MONTANA

Malmstrom Air Force Base, $19,470,000.

NEBRASKA

Offutt Air Force Base, $2,450,000.

NEVADA

Indian Springs, $3,150,000.
Nellis Air Force Base, $6,700,000.

NEW HAMPSHIRE

New Boston Air Force Station, $4,500,000.
Pease Air Force Base, $11,450,000.

NEW JERSEY

McGuire Air Force Base, $3,550,000.

NEW MEXICO

Cannon Air Force Base, $4,100,000.
Holloman Air Force Base, $2,900,000.
Kirtland Air Force Base, $13,000,000.

NEW YORK

Griffiss Air Force Base, $700,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $3,050,000.

NORTH DAKOTA

Grand Forks Air Force Base, $13,290,000.
Minot Air Force Base, $6,250,000.

OHIO

Wright-Patterson Air Force Base, $11,455,000.

OKLAHOMA

Altus Air Force Base, $2,300,000.
Tinker Air Force Base, $12,650,000.

SOUTH CAROLINA

Charleston Air Force Base, $5,000,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $8,650,000.

TENNESSEE

Arnold Engineering Development Center, $213,800,000.

TEXAS

Bergstrom Air Force Base, $2,800,000.
Carswell Air Force Base, $3,500,000.
Dyess Air Force Base, $3,470,000.
Goodfellow Air Force Base, $2,350,000.
Kelly Air Force Base, $29,300,000.
Lackland Air Force Base, $14,039,000.
Laughlin Air Force Base, $1,910,000.
Randolph Air Force Base, $6,150,000.
Reese Air Force Base, $990,000.
Sheppard Air Force Base, $10,700,000.

UTAH

Hill Air Force Base, $10,740,000.

WASHINGTON

Fairchild Air Force Base, $9,480,000.
McChord Air Force Base, $13,100,000.

WYOMING

F.E. Warren Air Force Base, $37,200,000.

VARIOUS LOCATIONS

Base 80, $987,000.

Base 81, $2,800,000.
Classified, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

BELGIUM

Kleine Brogel, $1,900,000.

CANADA

Forward Operation Locations, $600,000.

GERMANY

Bitburg Air Base, $1,060,000.
Einsiedlerhof Air Base, $1,500,000.
Hahn Air Base, $16,650,000.
Hessich-Oldendorf Air Station, $740,000.
Norvenich Air Base, $2,300,000.
Pruem Air Station, $620,000.
Ramstein Air Base, $10,800,000.
Rhein-Main Air Base, $5,000,000.
Sembach Air Base, $3,550,000.
Spangdahlem Air Base, $10,270,000.
Wenigerath Air Base, $1,700,000.
Zweibrucken Air Base, $1,300,000.

GREENLAND

Sondrestrom Air Base, $5,950,000.
Thule Air Base, $1,830,000.

GUAM

Anderson Air Force Base, $900,000.

ICELAND

Naval Air Station, Keflavik, $1,100,000.

ITALY

Aviano Air Base, $7,600,000.

JAPAN

Kadena Air Base, $1,850,000.
Misawa Air Base, $4,550,000.
Yokota Air Base, $500,000.

KOREA

Camp Humphreys, $3,350,000.
Kunsan Air Base, $17,330,000.
Osan Air Base, $10,750,000.

THE NETHERLANDS

Camp New Amsterdam, $10,300,000.
Volkel Air Base, $2,300,000.

OMAN

Masirah Air Base, $2,800,000.
Seeb Air Base, $7,100,000.

PANAMA

Howard Air Force Base, $2,600,000.

PHILIPPINES

Clark Air Base, $28,940,000.

PORTUGAL

Lajes Field, $4,850,000.

TURKEY

Incirlik Air Base, $9,590,000.
Pirinclik Air Station, $1,500,000.

UNITED KINGDOM

RAF Alconbury, $2,650,000.
RAF Bentwaters, $5,430,000.
RAF Feltwell, $500,000.
RAF Lakenheath, $10,170,000.
RAF Mildenhall, $7,150,000.
RAF Upper Heyford, $3,830,000.
RAF Welford, $3,720,000.

VARIOUS LOCATIONS

Base 30, $3,850,000.
Base 79, $1,900,000.
Base 82, $2,800,000.
Classified Locations, $16,473,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), construct or acquire two hundred sixty family housing units (including land acquisition) at Clark Air Base, Philippines, in the amount of $19,920,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $153,765,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown for each installation:

Gunter Air Force Station, Alabama, twenty-three units, $1,136,000.

Maxwell Air Force Base, Alabama, fifty units, $2,722,000.

Eielson Air Force Base, Alaska, ninety-six units, $7,943,000.

Elmendorf Air Force Base, Alaska, forty-eight units, $3,818,000.

Davis-Monthan Air Force Base, Arizona, one unit, $60,000.

Luke Air Force Base, Arizona, one hundred fifty-two units, $5,975,000.

McClellan Air Force Base, California, thirty units, $3,207,000.

Peterson Air Force Base, Colorado, one unit, $74,000; eighty units, $3,527,000.

Bolling Air Force Base, District of Columbia, one hundred and ten units, $4,018,000.

Eglin Air Force Base, Florida, fifty units, $2,138,000.

MacDill Air Force Base, Florida, four units, $279,000.

Robins Air Force Base, Georgia, one hundred and sixty units, $6,861,000.

Scott Air Force Base, Illinois, four units, $184,000.

Grissom Air Force Base, Indiana, one hundred and eighty-six units, $6,788,000.

Barksdale Air Force Base, Louisiana, two units, $185,000; one hundred and fourteen units, $6,200,000.

England Air Force Base, Louisiana, one hundred and six units, $5,830,000.

Andrews Air Force Base, Maryland, five units, $338,000.

Pease Air Force Base, New Hampshire, one unit, $121,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,921,000.

Kirtland Air Force Base, New Mexico, four units, $240,000; one hundred and fifteen units, $4,894,000.

Plattsburgh Air Force Base, New York, one hundred and seventy-four units, $10,600,000.

Minot Air Force Base, North Dakota, one unit, $65,000.

Shaw Air Force Base, South Carolina, one hundred and thirty units, $4,703,000.

Carswell Air Force Base, Texas, one hundred and eighty-one units, $7,869,000; sixteen units, $600,000.

Dyess Air Force Base, Texas, one unit, $64,000.

Kelly Air Force Base, Texas, one hundred and one units, $3,381,000.

Randolph Air Force Base, Texas, two units, $199,000.

Reese Air Force Base, Texas, one hundred and eighty-eight units, $6,816,000.

Ramstein Air Base, Germany, two hundred and forty units, $16,000,000; eight units, $706,000; nine units, $1,039,000.

Andersen Air Force Base, Guam, one unit, $167,000; one hundred and twenty units, $8,000,000.

Misawa Air Base, Japan, one hundred and eighty units, $8,707,000.

Yokota Air Base, Japan, eighty-one units, $5,629,000.

Osan Air Base, Korea, ten units, $447,000.

Clark Air Base, Philippines, eighty-two units, $4,203,000.

RAF Alconbury, United Kingdom, twenty-five units, $1,119,000.

RAF Greenham Common, United Kingdom, one hundred and nineteen units, $5,588,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,135,251,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $837,347,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $242,153,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $119,800,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $180,685,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $738,766,000 of which not more than $16,612,500 may be obligated or expended for leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $74,268,500 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $133,000,000 (the balance of the amount authorized for the construction of the J-6 facility, Arnold Engineering Development Center, Tennessee).

SEC. 2305. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2301(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2301 and 2302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $890,000 at Minot Air Force Base, North Dakota.

(2) Add to and alter Avionics Maintenance Shop, in the amount of $1,150,000 at Pease Air Force Base, New Hampshire.

(3) KC-135 CPT Simulator facilities in the amount of $660,000 at Robins Air Force Base, Georgia.

(4) Land acquisition in the amount of $230,000 at the United States Air Force Academy, Colorado Springs, Colorado.

(5) Land acquisition Auxiliary Field in the amount of $3,700,000, at Laughlin Air Force Base, Texas.

(6) KC-135 CPT Simulator facility in the amount of $3,500,000, at Beale Air Force Base, California.

(7) KC-135 CPT Simulator facility in the amount of $3,000,000 at Plattsburgh Air Force Base, New York.

(8) Bitburg, Germany, three hundred and thirty-two units of family housing, $26,414,000.

(9) La Junta, Colorado, forty units of family housing, $4,000,000.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States.

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $742,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Adak, Alaska, $19,000,000.

Defense Depot, Tracy, California, $590,000.

Defense Fuel Support, Pearl City, Hawaii, $1,900,000.

Defense Reutilization and Marketing Office, Fort Campbell, Kentucky, $1,600,000.

Defense Reutilization and Marketing Office, Offutt Air Force Base, Nebraska, $430,000.

Defense Depot, Mechanicsburg, Pennsylvania, $460,000.

Defense Reutilization and Marketing Office, Carswell Air Force Base, Texas, $350,000.

Defense Depot, Ogden, Utah, $6,000,000.

Cheatham Annex, Virginia, $450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, $5,209,000.

DEFENSE MEDICAL FACILITIES OFFICE

Hunters Point Annex, Naval Station, Treasure Island, California, $5,000,000.

Marine Corps Base, Camp Pendleton, California, $5,000,000.

March Air Force Base, California, $3,000,000.

Naval Station, North Island, California, $7,200,000.

Naval Station, Treasure Island, California, $11,000,000.

Tyndall Air Force Base, Florida, $800,000.

Fort Benning, Georgia, $700,000.

Robins Air Force Base, Georgia, $3,600,000.

Fort Leonard Wood, Missouri, $1,450,000.

Kirtland Air Force Base, New Mexico, $2,550,000.

Seymour Johnson Air Force Base, North Carolina, $3,700,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $4,100,000.

Corpus Christi, Texas, $6,100,000.

Dyess Air Force Base, Texas, $950,000.

Fort Sill, Oklahoma, $54,000,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $28,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $2,230,000.

OFFICE OF THE SECRETARY OF DEFENSE

Fort Belvoir, Virginia, $3,000,000.

Classified Location, $4,200,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $72,500,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Yokota Air Base, Japan, $785,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Bitburg, Germany, $800,000.

Defense Reutilization and Marketing Office, Kaiserslautern, Germany, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Downs Barracks, Germany, $4,200,000.

Geilenkirchen Air Base, Germany, $450,000.

Hahn Air Base, Germany, $18,500,000.

Patch Barracks, Germany, $4,700,000.

Rhein-Main Air Base, Germany, $14,200,000.

Smith Barracks, Germany, $5,100,000.

Spangdahlem Air Base, Germany, $1,250,000.

Wildflecken, Germany, $4,800,000.

Camp Howze, 2nd Infantry Division, Korea, $780,000.

Seoul, Korea, $55,000,000.

Taegu Air Base, Korea, $4,400,000.

Royal Air Force, High Wycombe, United Kingdom, $720,000.

Royal Air Force, Lakenheath, United Kingdom, $41,000,000.

Base 54, $12,800,000.

Classified Locations, $19,500,000.

DEFENSE NUCLEAR AGENCY

Headquarters, Field Command, Johnston Island, $2,644,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Aschaffenburg, Germany, $8,151,000.

Bad Kissingen, Germany, $1,620,000.

Baumholder, Germany, $1,940,000.

Erlangen, Germany, $3,890,000.

Gelnhausen, Germany, $1,482,000.

Giessen, Germany, $7,627,000.

Wildflecken, Germany, $2,752,000.

Keflavik, Iceland, $5,434,000.

Aviano, Italy, $9,450,000.

Pusan, Korea, $1,980,000.

Seoul, Korea, $7,332,000.

Brunssum, the Netherlands, $8,863,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $9,110,000.

NATIONAL SECURITY AGENCY

Classified Locations, $11,250,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Pacific Missile Range, Kwajalein, $16,000,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may, using amounts appropriated pursuant to section 2408(a)(10)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2408(a)(10)(A), improve existing military family housing units in an amount not to exceed $113,000.

SEC. 2404. AFCENT SCHOOL

The Secretary of Defense may, using amounts appropriated pursuant to section 2408(a)(2), contribute funds in the amount of $8,863,000 to the Government of the Netherlands (in its capacity as construction agent) for the United States' share of the cost of the International Elementary and High School project in Brunssum, the Netherlands.

SEC. 2405. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, not more than $5,000,000 appropriated for fiscal year 1988, and not more than $9,300,000 appropriated for fiscal year 1989, carry out military construction projects not otherwise authorized by law for the construction of conforming storage facilities."

SEC. 2406. DEFENSE ACCESS ROADS

The Secretary of Defense may, using amounts appropriated pursuant to section 2408(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Meade, Maryland, in the amount of $12,000,000.

SEC. 2407. RESITING OF OVERSEAS CONTINGENCY MEDICAL FACILITY

Section 2141(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1201) is amended by striking out "RAF Wethersfield, United Kingdom, $740,000." under the heading "Defense Medical Facilities Office" and inserting in lieu thereof "Boscombe Downs, United Kingdom, $740,000.".

SEC. 2408. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $704,050,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $228,811,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $262,010,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, as amended, $23,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,000,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $12,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $62,229,000.

(9) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, as amended, $9,300,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $513,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $20,187,000, of which not more than $17,179,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(11) For military construction project at Reynolds Army Community Hospital, Fort Sill, Oklahoma authorized by section 2401(a), $27,000,000.

(12) For military construction project at Seoul Army Community Hospital, Seoul, Korea, authorized by section 2401(a), $28,000,000.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following project authorized in section 2401 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

DECCO Computer Center and Administrative Facility in the amount of $7,600,000 at Scott Air Force Base, Illinois.

SEC. 2410. REYNOLDS ARMY COMMUNITY HOSPITAL, FORT SILL, OKLAHOMA AND SEOUL ARMY COMMUNITY HOSPITAL, SEOUL, KOREA

AUTHORIZATION TO CONTRACT IN ADVANCE OF APPROPRIATIONS.—Subject to paragraph 2401(a), the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefor, for the construction of the military construction projects authorized by section 2401(a) to be accomplished at Reynolds Army Community Hospital, Fort Sill, Oklahoma and the Seoul Army Community Hospital, Seoul, Korea, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contracts to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 2501, in the amount of $492,000,000.

TITLE XXVI—GUARD AND RESERVE FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $185,227,000, and

(B) for the Army Reserve, $84,156,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $65,100,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $151,788,000, and

(B) for the Air Force Reserve, $63,600,000.

SEC. 2602. AIRCRAFT PARKING RAMP/HOLDING PAD AT YEAGER AIRPORT, CHARLESTON, WEST VIRGINIA

There is authorized to be constructed an aircraft parking ramp/holding pad for the Air National Guard of the United States at Yeager Airport at Charleston, West Virginia, in the amount of $3,300,000. Such project may be constructed only with funds realized as the result of savings on construction projects of the Air National Guard of the United States for which funds were appropriated for fiscal year 1987.

SEC. 2603. ARMY RESERVE CENTER, GORDO, ALABAMA

Construction of a new Army Reserve Center building at the Army Reserve Center, Gordo, Alabama, is hereby authorized in the amount of $1,547,000. Payment for such center may be made only from amounts authorized for appropriations for the Army Reserve pursuant to section 2601.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS; EFFECTIVE DATE

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of an Act authorizing military construction projects for fiscal year 1991, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of an Act authorizing military construction projects for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATE

This title shall take effect on October 1, 1988, or the date of enactment of this Act, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

PART A—MISCELLANEOUS

SEC. 2801. PLANNING ASSISTANCE FOR IMPACTED COMMUNITIES

(a) MODIFICATION OF AUTHORITY.—Paragraph (1) of section 2391(b) of title 10, United States Code, is amended to read as follows:

"(1) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments in planning community adjustments and economic diversification required (A) by the proposed or actual establishment, realignment, or closure of a military installation, (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, (C) by a publicly-announced planned major reduction in Department of Defense spending that would directly and adversely affect a community, or (D) by the encroachment of a civilian community on a military installation, if the Secretary determines that an action described in clause (A), (B), or (C) is likely to have a direct and significantly adverse consequence on the affected community or, in the case of an action described in clause (D), if the Secretary determines that the encroachment of the civilian community is likely to impair the continued operational utility of the military installation.".

(b) CONDITION ON ASSISTANCE.—Section 2391(b) of such title is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(4) In the case of a publicly-announced planned major reduction in Department of Defense spending that will directly and adversely affect a community, assistance may be made under paragraph (1) only if the publicly-announced planned major reduction will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a five-year period in the locality of the affected community.".

SEC. 2802. COMMUNITY PLANNING ASSISTANCE

(a) Additional Authority.—In addition to the authority under any other provision of law, the Secretary of Defense may provide community planning assistance under section 2391(b) of title 10, United States Code, in the following amounts:

(A) Not to exceed $600,000 for communities located near newly established light infantry division posts.

(B) Not to exceed $2,100,000 for communities located near newly established Navy strategic dispersal program homeports.

(b) Expiration of Authority.—The authority to provide community planning assistance under subsection (a) expires on September 30, 1991.

SEC. 2803. RENTAL GUARANTEE PROGRAM

Section 802(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in clause (11) by striking out "shall" and inserting in lieu thereof "may";

(2) by striking out "and" at the end of clause (11);

(3) by striking out the period at the end of clause (12) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new clause:

"(13) in cases in which the housing is located on land owned by the United States and with respect to which housing the occupancy is guaranteed—

"(A) may require that the United States provide utilities, trash collection, snow removal, and entomological services at no cost to the occupant to the same extent that such services are provided to occupants of Government-owned housing; and

"(B) may provide for rent collection and for operation and maintenance in connection with the housing under a separate contract or may use Government personnel to provide such services.".

SEC. 2804. LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(3) of title 10, United States Code, is amended by striking out "20 years" and inserting in lieu thereof "32 years".

SEC. 2805. INCREASE IN FOREIGN HOUSING LEASING AUTHORITY

Section 2828(e)(2) of title 10, United States Code, is amended by striking out "36,000" and inserting in lieu thereof "38,000".

SEC. 2806. COST VARIATIONS

Section 2853 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(1)" after "(a)";

(B) by striking out "appropriated" in the first sentence and inserting in lieu thereof "authorized"; and

(C) by striking out paragraph (2);

(2) by striking out subsection (b);

(3) by redesignating subsection (c) as subsection (b) and by striking out "subsection (d)" in the second sentence of such subsection and inserting in lieu thereof "subsection (c)";

(4) by striking out subsection (d) and inserting in lieu thereof the following:

"(c) The limitation on cost increase in subsection (a) does not apply if—

"(1) the increase in cost is approved by the Secretary concerned;

"(2) a written notification of the facts relating to the increase in cost (including a statement of the reasons for the increase) is submitted by the Secretary concerned to the appropriate committees of Congress; and

"(3) either 21 days have elapsed from the date of the submission of the notification under clause (2) or each of the appropriate committees of Congress has approved the increased cost.";

(5) by striking out subsection (e); and

(6) by redesignating subsection (f) as subsection (d).

SEC. 2807. REPORTS ON REAL PROPERTY TRANSACTIONS

Subsections (a), (b), and (e) of section 2662 of title 10, United States Code, are amended by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000".

SEC. 2808. NOTIFICATION REQUIREMENT RELATING TO ACQUISITION OF INTEREST IN LAND

Section 2672 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Subject to subsection (b), the" and inserting in lieu thereof "The";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 2809. SOLICITATION FOR PROPOSALS FOR OFFICE SPACE FOR NAVY

(a) In General.—The Secretary of the Navy, in coordination with the Administrator of General Services, shall issue solicitations for proposals for the acquisition of such office and related space within the National Capital Region as the Secretary determines necessary to meet the needs of the Navy within such region.

(b) Report.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding the proposals received in response to the solicitations issued pursuant to subsection (a). The Secretary shall include in such report a cost analysis of meeting the office and related space needs of the Navy within the National Capital Region by means of lease, lease-buy, and military construction, respectively. The Secretary shall also include in such report his recommendations for meeting the current and long-term office and related space needs of the Navy within the National Capital Region.

(c) Deadline for Report.—The report required by subsection (b) shall be submitted not later than 90 days after the date on which the Secretary receives responses to the solicitations for proposals issued pursuant to subsection (a).

SEC. 2810. BROOKE ARMY MEDICAL CENTER

(a) Increase in Project Authority.—(1) Section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), is amended by striking out "$241,000,000" in the item relating to Fort Sam Houston, Texas, under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$275,000,000".

(2) The limitation on the total cost of projects carried out under section 2401 of such Act is hereby increased by $34,000,000.

(b) Conforming Amendment.—Section 2403(a)(2) of such Act is amended by striking out ", but the" and all that follows through "beds".

SEC. 2811. THIRD INFANTRY DIVISION MEMORIAL

(a) In General.—The Society of the Third Infantry Division is authorized to erect, on public grounds in Arlington National Cemetery selected pursuant to subsection (b)(1), a memorial in honor and in commemoration of the men of the "Rock of the Marne" of the Third Infantry Division, United States Army, who have served their country in World War I, World War II, and Korea.

(b) Administrative Provisions.—(1) The Secretary of the Army is authorized to select a suitable site on public grounds in Arlington National Cemetery upon which may be erected the memorial authorized in subsection (a).

(2) The design and plans for such memorial shall be subject to the approval of the Secretary of the Army, the American Battle Monuments Commission, the National Capital Planning Commission, and the National Commission of Fine Arts.

(3) The United States shall not be liable for any expense in connection with the erection of the memorial authorized by subsection (a).

(4) The maintenance and care of the memorial erected under this section shall be the responsibility of the Secretary of the Army.

(c) Expiration of Authority.—The authority provided in this section shall expire at the end of the 5-year period beginning on the date of the enactment of this Act unless (1) the erection of the memorial authorized in subsection (a) is commenced within such period, and (2) prior to commencement of the erection of the memorial funds are certified available in an amount sufficient, in the judgment of the Secretary of the Army, to ensure completion of the memorial.

SEC. 2812. AIR FORCE PLANT AT COLUMBUS, OHIO

(a) Lease or Sale of Property.—(1) Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other provision of law, the Secretary of the Air Force may sell or lease Air Force Plant No. 85 located in Columbus, Ohio.

(2) In connection with any sale or lease of Air Force Plant No. 85, the Secretary shall execute a warranty ensuring that all remedial action necessary to protect human health and the environment with respect to any known environmental contamination on the property of such plant has been or will be taken by the Secretary as soon as practicable consistent with applicable law.

(b) Preparation of Property for Lease or Sale.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of the Air Force shall begin negotiating for the environmental cleanup of the property described in subsection (a) and shall initiate such other actions preparatory to the sale or lease of such property as may be appropriate, including provision for apprisals and a title search.

(c) Deduction of Expense From Proceeds of Sale or Lease.—The Secretary may deduct from the proceeds of any sale or lease of the property described in subsection (a) all expenses incurred by the Secretary in connection with the sale or lease, including necessary repairs, environmental cleanup operations, surveys, and apprisals. The remaining proceeds of the sale or lease shall be credited to the general fund of the Treasury.

(d) Additional Terms.—The Secretary may require such additional terms and conditions in connection with any sale or lease entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

Part B—Real Property Transactions

SEC. 2901. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) Exchange Authorized.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the San Diego Unified Port District of San Diego, California, such real property under the jurisdiction of the Navy in the City of San Diego, California, as the Secretary determines appropriate in exchange for one or more parcels of land, together with improvements thereon and consisting of approximately 32 acres, located adjacent to the San Diego Naval Station, San Diego, California, and owned by the San Diego Unified Port District.

(b) Limitation on Value of Property Exchanged.—The fair market value of the real property conveyed by the Secretary under subsection (a) may not exceed the fair market value of the real property received by the Secretary under such subsection, as determined by the Secretary.

(c) Notice to Committees.—The Secretary may not enter into an exchange under this section until the Secretary has notified the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives of the details of the proposed exchange and a period of 21 days have elapsed following the day on which the committees receive the notification.

(d) Legal Description of Property.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by San Diego Unified Port District.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2902. LAND EASEMENT, ORANGE COUNTY, CALIFORNIA

(a) In General.—Subject to subsections (b) through (e), the Secretary of the Navy may grant an easement to Orange County, California, for the construction and maintenance of flood control improvements (hereafter in this section referred to as "county improvements") on a tract of land owned by the United States, consisting of approximately 32 acres, located at the northern boundary of the Marine Corps Air Station, El Toro, California, and may grant such temporary rights to Orange County as the Secretary determines necessary for the construction of such improvements.

(b) Consideration.—(1) In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States a parcel of real property consisting of approximately 1½ acres located adjacent to the Marine Corps Air Station, Tustin, California. The United States shall also be entitled to such flood control improvements at the Marine Corps Air Station, El Toro, California, as the Secretary and Orange County shall agree upon.

(2) The county improvements and additional flood control improvements shall be constructed at no cost to the United States.

(c) Payment of Excess Into Treasury.—If the fair market value of the easement described in subsection (a) exceeds the fair market value of the real property conveyed to the United States under subsection (b), Orange County shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) Legal Description of Property.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2903. TRANSFER OF LAND, SUITLAND FEDERAL CENTER, MARYLAND

The Administrator of General Services shall transfer, without consideration, to the Secretary of the Navy such parcel of vacant land located at the Suitland Federal Center, Suitland, Maryland, as the Administrator, after consultation with the Secretary, determines—

(1) to be excess to the present and anticipated future needs of the General Services Administration at the Suitland Federal Center; and

(2) adequate to accommodate the needs of the Navy for the construction and operation of a facility to serve as the Naval Intelligence Command Headquarters authorized by section 2201.

SEC. 2904. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

(a) Authority To Sell.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land, consisting of a total of approximately 14.06 acres, that comprises a portion of Fort Jackson, South Carolina and is excess to the needs of the Army.

(b) Competitive Bid Requirement; Minimum Sale Price.—(1) The Secretary shall use competitive procedures for the sale of land referred to in subsection (a).

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value.

(c) Use of Proceeds of Sale.—(1) The Secretary may use the proceeds from the sale of the land referred to in subsection (a) for the construction of a consolidated maintenance facility at Fort Jackson, South Carolina.

(2) Any proceeds of the sale not used for such purpose shall be covered into the Treasury as miscellaneous receipts.

(d) Legal Description of Lands.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

(f) Fiscal Year 1990 Budget Request.—The Secretary of the Army shall include in the military construction budget request submitted to Congress for fiscal year 1990 a sufficient amount for completion of construction of the consolidated maintenance facility referred to in subsection (c).

SEC. 2905. LAND CONVEYANCE, LOMPOC, CALIFORNIA

(a) In General.—Subject to subsections (b) through (d), the Secretary of the Army may convey, without reimbursement, to the City of Lompoc, California, all right, title, and interest of the United States in and to a tract of real property (including improvements thereon) of approximately 100 acres located adjacent to the real property conveyed to the City pursuant to section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1526).

(b) Use of Property.—(1) The conveyance authorized by subsection (a) shall be subject to the condition that the real property conveyed shall be used for educational purposes only, and/or the purposes provided in section 834 of Public Law 98-407; (98 Stat. 1526).

(2) If the property conveyed pursuant to subsection (a) is not used for the purposes described in paragraph (1), all right, title, and interest in and to such property shall revert to the United States, which shall have the right of immediate entry thereon.

(c) Legal Description and Surveys.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(d) Other Terms and Conditions.—The Secretary may require such other terms and conditions with respect to the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Part A—National Security Programs Authorizations

SEC. 3101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,607,925,000, to be allocated as follows:

(A) For research and development, $1,069,546,000.

(B) For weapons testing, $524,238,000.

(C) For production and surveillance, $1,909,445,000.

(D) For nuclear directed energy weapons research, development, and testing, $246,254,000.

(E) For the defense inertial confinement fusion program, $155,530,000.

(F) For program direction, $104,696,000.

(2) For defense nuclear materials production, $1,551,272,000, to be allocated as follows:

(A) For uranium enrichment for naval reactors, $169,000,000.

(B) For production reactor operations, $582,476,000.

(C) For processing of defense nuclear materials, including naval reactors fuel, $511,717,000, of which $72,300,000 shall be used for special isotope separation.

(D) For supporting services, $259,679.

(E) For program direction, $28,400,000.

(3) For environmental restoration and management of defense waste and transportation, $739,624,000, to be allocated as follows:

(A) For environmental restoration, $170,925,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $532,042,000.

(C) For waste research and development, $58,460,000.

(D) For hazardous waste process planning, $8,377,000.

(E) For transportation management, $9,720,000.

(F) For program direction, $3,100,000.

(4) For verification and control technology, $146,200,000.

(5) For nuclear materials safeguards and security technology development program, $75,400,000.

(6) For security investigations, $40,000,000.

(7) For naval reactors development, $555,400,000.

SEC. 3102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 89-D-101, general plant projects, various locations, $26,500,000.

Project 89-D-121, general plant projects, various locations, $29,194,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $2,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $800,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,600,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $5,400,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,300,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $22,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $72,352,000.

Project 88-D-122, facilities capability assurance program, various locations, $79,341,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $7,500,000.

Project 88-D-124, fire protection upgrade, various locations, $6,500,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $13,000,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $5,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $8,500,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $26,000,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $3,237,000.

Project 86-D-123, environmental hazards elimination, various locations, $5,203,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $31,800,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $6,800,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $12,200,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $1,281,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $4,775,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $2,775,000.

(2) For materials production:

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $5,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $3,600,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $1,000,000.

Project 89-D-146, general plant projects, various locations, $35,260,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $2,000,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $5,700,000.

Project 88-D-154, new production reactor, design only, site to be determined, $35,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, $2,224,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, and III, Feed Materials Production Center, Fernald, Ohio, $50,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $28,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, and IV, various locations, $72,140,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $6,000,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $12,800,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $65,000,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $11,584,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $5,879,000.

(3) For defense waste and environmental restoration:

Project 89-D-170, general plant projects, waste operations and projects, and waste research and development, various locations, $28,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $4,000,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $12,000,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $1,800,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $3,520,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $3,500,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $22,500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $1,944,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $911,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $2,068,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,371,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, $2,084,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $13,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $92,462,000.

(4) For naval reactors development:

Project 89-N-101, general plant projects, various locations, $7,000,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,800,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $1,600,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $600,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $5,900,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,700,000.

Project 88-N-104, prototype availability facilities, Knolls Atomic Power Laboratory, Kesselring Site, West Milton, New York, $6,000,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $272,254,000, including $8,240,000 for the defense inertial confinement fusion program.

(B) For materials production, $102,500,000.

(C) For defense waste and environmental restoration, $52,716,000.

(D) For verification and control technology, $8,400,000.

(E) For nuclear safeguards and security, $4,800,000.

(F) For naval reactors development, $48,000,000.

SEC. 3103. FUNDING LIMITATIONS AND RESTRICTIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than $279,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than $163,770,000 may be obligated or expended for the defense inertial confinement fusion program. Not less than $16,800,000 of such amount shall be used only for the purposes of entering into a contract with KMS Fusion, Incorporated, for the performance of a portion of the inertial confinement fusion program.

(c) SRAM II.—Funds appropriated to the Department of Energy for fiscal year 1989 for facilities for production of the warhead for the short-range attack missile II (SRAM II) (project 87-D-122) may be obligated only—

(1) for facilities which are suitable for production of a warhead compatible with both the SRAM-A and the SRAM II; and

(2) after the Nuclear Weapons Council certifies that the design of the warhead is compatible with both the SRAM-A and the SRAM II.

(d) Cooling Tower at Savannah River Plant.—Funds appropriated to the Department of Energy for fiscal year 1989 for construction of a cooling tower for the K reactor (Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River Plant, South Carolina) may be obligated or expended only for the purpose of thermal mitigation in connection with the existing K reactor and thermal mitigation in connection with a new production reactor.

(e) Use of Remaining Unobligated Balances.—Of the funds previously authorized and appropriated for fiscal year 1988 for the projects listed in paragraph (1), the remaining unobligated balances are authorized to be transferred and made available, to the extent provided in an appropriation Act, for the Defense Waste and Environmental Restoration activities at Richland, Washington, listed in subsection (2).

(1) Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-150, Radioactive Effluent Treatment Facility, Richland, Washington, $5,000,000.

Project 87-D-149, Reduced Chemical Discharge, Richland, Washington, $1,700,000.

Project 86-D-149, Productivity Retention Program, Richland, Washington only, $10,000,000.

Project 85-D-136, Components Protection System, Richland, Washington, $4,000,000.

Project 82-D-124, Restoration of Production Capabilities, Richland, Washington only, $1,200,000.

(2)(A) For operating expenses:

(1) for environmental restoration, $30,000,000.

(2) for waste operations and projects,

$1,250,000 for Grout

$2,000,000 for B-Plant

$2,000,000 for Vitrification

(B) For construction:

$2,000,000 for B-Plant and $500,000 for Grout, Project 89-D-170, general plant projects.

$5,000,000 for High Waste Vitrification Plant, Project 88-D-173, Richland, Washington.

(C) For capital equipment:

$1,000,000 for B-Plant and $500,000 for Grout at Richland, Washington.

(3) The amounts authorized to be transferred in paragraph (2) are in addition to the amounts authorized in sections 3101 and 3102.

(f) Special Isotope Separation Project.—(1) Funds appropriated or otherwise made available to the Department of Energy for the special isotope separation project, Idaho Falls, Idaho, may not be obligated or expended for site preparation for such project before March 1, 1989.

Part B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) Notice to Congress.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Limitation on Amount Obligated.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) In General.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) Report to Congress.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) In General.—(1) Except as provided in paragraph (3), construction on a construction project referred to in paragraph (2) may not be started or additional obligations incurred in connection with the project above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 3102 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Exception.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) In General.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) Specific Transfer.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1989 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 3103(a).

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) In General.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) Specific Authority Required.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN.

In addition to the advance planning and construction design authorized by section 3102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES.

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 3131. REVIEW OF THE INERTIAL CONFINEMENT FUSION PROGRAM.

(a) IN GENERAL.—The Secretary of Energy shall request the National Academy of Sciences to conduct a review of the inertial confinement fusion program of the Department of Energy and to submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of that review. The National Academy of Sciences is requested to include in such report the following:

(1) An assessment of the accomplishments, management, and goals of the defense inertial confinement fusion program, including an assessment of the most promising technology for continuation of the program.

(2) An assessment of the potential benefits, for both the civilian and military sectors, of the defense inertial confinement fusion program, including potential benefits that may be applicable to alternative nuclear weapons testing regimes (under an agreement with the Soviet Union) that would limit underground nuclear tests to each of the following levels:

(A) 10 kilotons.

(B) 5 kilotons.

(C) 1 kiloton.

(3) An assessment of the budgetary priority of the inertial confinement fusion program of the Department of Energy relative to the core defense research and development programs of such department in meeting the defense missions of the Department of Energy under current and anticipated budget restraints.

(4) Such comments and recommendations as it considers pertinent to the study.

(b) DEADLINE FOR REPORTS.—The National Academy of Sciences is requested to submit to the Committees on Armed Services of the Senate and the House of Representatives and the Secretary of Energy an interim report on the study referred to in subsection (a) not later than January 15, 1990, and a final report on such study not later than September 15, 1990.

(c) REVIEW AND COMMENT BY THE SECRETARY.—(1) The Secretary of Energy shall review both the interim and final reports of the National Academy of Sciences and submit to the Committees on Armed Services of the Senate and the House of Representatives such comments regarding such reports as the Secretary considers appropriate.

(2) The Secretary shall submit his comments in the case of each report referred to in subsection (b) not later than 30 days after receiving such report.

SEC. 3132. NEW PRODUCTION REACTOR.

(a) RECOMMENDATIONS REGARDING NEW PRODUCTION REACTOR.—Not later than July 31, 1988, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Secretary's recommendation for the site for construction of a new production reactor and the Secretary's recommendation for the preferred technology for a new production reactor.

(b) REPORT CONTAINING INFORMATION PERTAINING TO NEW PRODUCTION REACTOR.—At the same time the budget for fiscal year 1990 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) a discussion of the administrative and legislative changes that would be necessary to shorten the time period necessary to attain the initial operational date of a new production reactor, and (2) any recommendations for such additional action that the Secretary considers appropriate.

SEC. 3133. INDEPENDENT SCIENTIFIC REVIEW GROUP FOR THE WASTE ISOLATION PILOT PLANT IN NEW MEXICO

(a) ESTABLISHMENT.—The scientific evaluation group for the Waste Isolation Pilot Plant in New Mexico, established under a contract entered into by the Secretary of Energy and the State of New Mexico in 1978 (subject to the "July 1, 1981, Agreement for Consultation and Cooperation", as amended by the November 30, 1984, "First Modification" and the August 4, 1987, "Second Modification"), shall be known on and after the date of the enactment of this Act as the "Environmental Evaluation Group".

(b) AGREEMENT.—The Secretary of Energy shall enter into negotiations with appropriate officials of the New Mexico Institute of Mining and Technology (hereafter in this section referred to as the "Institute") with a view to entering into an agreement with the Institute to provide funds for the work of the Environmental Evaluation Group for a term of 5 years. Such agreement may be renewed for an additional term of 5 years. The agreement shall take effect upon the expiration of the contract referred to in subsection (a) (March 31, 1989).

(c) CONTENT OF AGREEMENT.—An agreement entered into under subsection (b) shall require the following:

(1) The Environmental Evaluation Group shall consist of senior scientists representing scientific and engineering disciplines needed for a thorough review of the Waste Isolation Pilot Plant Project in New Mexico (hereafter in this section referred to as the "WIPP"), including such disciplines as geology, hydrology, health physics, environmental engineering, probability risk analysis, mining engineering, and radiation chemistry. The membership of such group shall change during the period of the agreement as may be necessary to meet changed needs of the group for expertise in any certain scientific or engineering discipline. Scientists appointed to the Environmental Evaluation Group shall have qualifications and experience equivalent to the qualifications and experience required for scientists employed by the Federal Government in grades GS-13 through GS-16.

(2) The Environmental Evaluation Group shall have an appropriate support staff, including a Director and a Deputy Director.

(3) The Director shall be appointed by and shall report directly to the President of the Institute. The Director of the Environmental Evaluation Group shall be a scientist of national eminence in the field of nuclear waste disposal, shall be free from any biases related to the activities of the WIPP, and shall be widely known for his integrity and scientific expertise.

(4) The Director shall appoint the rest of the staff. The professional staff shall consist of scientists and engineers of recognized integrity and scientific expertise.

(5) The Director and the Deputy Director shall be appointed for a term of 5 years, subject to reappointment for an additional term of 5 years. The professional staff shall be appointed for such terms as the Director considers appropriate.

(6) The rates of pay of the professional staff and the procedures for increasing the rates of pay of the professional staff shall be equivalent to those rates and procedures provided for the General Schedule pay system under chapter 53 of title 5, United States Code. The fringe benefits available to the professional staff of the Institute shall also be available to the staff of the Environmental Evaluation Group.

(7) To the maximum extent practicable, preference in the hiring of staff for the Environmental Evaluation Group shall be given to persons involved in the scientific evaluation group for WIPP immediately before the date of the enactment of this Act.

(8) The employment of the Director, the Deputy Director, and any member of the professional staff may be terminated for misconduct or incompetence.

(d) ADMINISTRATIVE PROVISIONS.—(1) The Environmental Evaluation Group shall be exclusively administered under the direction of the President of the Institute.

(2) The Environmental Evaluation Group shall have an office in Carlsbad, New Mexico, and in Albuquerque, New Mexico. The Director shall designate one of the offices as the administrative headquarters of the Environmental Evaluation Group.

(e) FUNCTIONS.—(1) The Environmental Evaluation Group shall be responsible for evaluating technical information on WIPP on behalf of the State of New Mexico. The evaluations of the Environmental Evaluation Group shall be made available equally to all branches of the Federal Government and the government of the State of New Mexico. The members of the Environmental Evaluation Group, the Director, the Deputy Director, and the professional staff of the Environmental Evaluation Group shall furnish information, by testimony or otherwise, to the Task Force on WIPP established by the Governor of New Mexico, the legislature of the State of New Mexico, Congress, the Attorney General of the State of New Mexico, and all other duly constituted agencies, committees, and boards of the Federal Government and of the State of New Mexico.

(2) The Environmental Evaluation Group shall disseminate its findings and analyses through publication of reports, articles in reference journals, presentations to learned scientific society meetings, and pamphlets and brochures for the lay public. No approvals from any source outside the Environmental Evaluation Group shall be required before publication of the findings of the Environmental Evaluation Group.

(3) The Environmental Evaluation Group shall evaluate the scientific and technical status of the WIPP project in an objective manner, independent of outside influences, for the primary purpose of protecting the long-term health, safety, and environmental interests of the residents of the State of New Mexico.

(f) FUNDING.—The agreement entered into under subsection (b) shall provide for funding of the Environmental Evaluation Group for at least 5 years. The amount of funding provided for the Environmental Evaluation Group shall be at least equal to the amount of the funding provided for the scientific evaluation group established under the contract referred to in subsection (a) before the enactment of this Act unless the Secretary of Energy, the President of the Institute, and the Environmental Evaluation Group agree that a lesser amount is justified. The agreement shall include provisions for increasing the amount of the funding in order to offset inflation.

(g) CONSTRUCTION.—Nothing in this section shall be construed as affecting actions undertaken before the date of the enactment of this Act in furtherance of the actions required by this section.

SEC. 3134. SETTLEMENT OF ATOMIC ENERGY COMMUNITY ASSISTANCE OBLIGATIONS, LOS ALAMOS COUNTY, NEW MEXICO

(a) PURPOSE.—The purpose of this section is to provide for the final settlement of all obligations of the United States to make community assistance payments to the County of Los Alamos, New Mexico (hereafter in this section referred to as the "County") under section 91 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391).

(b) FINAL SETTLEMENT.—(1) To the extent provided for in appropriations Acts, the Secretary of Energy may pay to the County such amount as the Secretary and the County may mutually agree upon for the purpose of carrying out an agreement to terminate all financial assistance to the County under section 91 of the Atomic Energy Community Assistance Act of 1955, including all financial assistance under Department of Energy Contract Number DE-FG32-87AL43-130.

(2) Payment by the United States of the total amount agreed upon under paragraph (1) shall terminate all obligations of the United States to the County under section 91 of the Atomic Energy Community Assistance Act of 1955 and the contract referred to in paragraph (1).

(c) LIMITATION.—The total amount paid to the County under subsection (b) may not exceed $26,000,000.

(d) TERMS AND CONDITIONS.—The Secretary of Energy may include in the agreement such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(e) AUTHORIZATION OF APPROPRIATION.—The sum of $26,000,000 is authorized to be appropriated for fiscal year 1989 for payments under subsection (b).

SEC. 3135. CLOSURE OF N-REACTOR, HANFORD, WASHINGTON

The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments and regional organizations composed of State and local governments, in planning and supporting community adjustments required by the closure of N-Reactor, Hanford, Washington: *Provided further,* That the Department of Energy is authorized to provide funds for such activities.

SEC. 3136. SITE RECOMMENDED REPORT

Section 114(a)(1) of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding the phrase "and in subparagraph (I)" at the end of the fourth sentence thereof;

(2) striking the word "and" at the end of subparagraph (G);

(3) striking the period after subparagraph (H) and inserting in lieu thereof "; and"; and

(4) adding a new subparagraph (I) as follows:

"(I) a report by the Secretary of Defense, with regard to any site recommended under this section, as to whether and how the construction and operation of a repository at such site would jeopardize the national security by reason of interference with national defense activities, if any, occurring nearby.".

PART D—INDEPENDENT NUCLEAR SAFETY BOARD OVERSIGHT OVER DEPARTMENT OF ENERGY NUCLEAR FACILITIES

SEC. 3141. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress makes the following findings:

(1) There is a need for independent oversight of safety operations at nuclear facilities controlled by the Department of Energy.

(2) Continual review and assessment by expert outside authorities would be of assistance in identifying actual or potential safety problems, research requirements, and needed standards at these nuclear facilities.

(3) There will continue to be a requirement for an assured source of critical nuclear materials as long as the United States continues to rely on nuclear weapons for national security.

(b) PURPOSE.—The purpose of this part is to establish a Defense Nuclear Safety Board that will help to ensure the protection of public health and safety in activities at Department of Energy nuclear facilities by—

(1) reviewing and evaluating the implementation of health and safety standards, as well as applicable Department of Energy Orders at each nuclear facility;

(2) conducting independent investigations of the safety of operations at Department of Energy nuclear facilities;

(3) recommending to the Department of Energy improvements in its nuclear facilities, operations, and health and safety standards, including suggestions for areas of needed research; and

(4) informing Congress of its findings and recommendations.

SEC. 3142. ESTABLISHMENT OF DEFENSE NUCLEAR SAFETY BOARD

(a) IN GENERAL.—(1) The Atomic Energy Act of 1954 (68 Stat. 919; 42 U.S.C. 2011 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 21. NUCLEAR SAFETY BOARD

"SEC. 311. ESTABLISHMENT.—(a) There is established as an independent establishment in the executive branch a Defense Nuclear Safety Board (hereafter in this chapter referred to as the 'Board').

"(b)(1) The Board shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, from among respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than 3 members of the Board shall be of the same political party. Not later than 90 days after the date of the enactment of this section, the President shall submit such nominations for appointment to the Board.

"(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) No member of the Board may have any significant financial relationship with the Department of Energy or with any firm, company, corporation, or other entity engaged in activities under contract with the Department of Energy.

"(c)(1) The Chairman and Vice Chairman of the Board shall be designated by the President. The Chairman and Vice Chairman and other Board members may be reappointed to such offices.

"(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

"(A) the appointment and supervision of employees of the Board;

"(B) the organization of any administrative units established by the Board; and

"(C) the use and expenditure of funds.

The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

"(3) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d)(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of 6 years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

"(A) one shall be appointed for a term of 2 years;

"(B) two shall be appointed for a term of 4 years; and

"(C) two shall be appointed for a term of 6 years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(4) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(e) Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"(f) The Board may, for the purpose of performing its responsibilities under this chapter—

"(1) employ such personnel as it considers necessary to perform administrative, clerical, technical, and other duties, but not more than the equivalent of 100 full-time employees;

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable; and

"(3) prescribe regulations to carry out the responsibilities of the Board under this chapter.

"SEC. 312. FUNCTIONS AND POWERS OF THE BOARD; RESPONSIBILITIES OF THE SECRETARY OF ENERGY.—(a) The Board shall have the following functions and powers:

"(1) The Board shall review and evaluate the implementation of the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at each Department of Energy nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected at Department of Energy nuclear facilities. The Board shall recommend necessary changes in the content and implementation of such Orders, and recommend matters on which research or additional research is needed.

"(2)(A) The Board shall investigate actual or potential nuclear incidents, if any, at a Department of Energy nuclear facility.

"(B) The purposes of any Board investigation under subparagraph (A) shall be—

"(i) to determine whether the Secretary of Energy is adequately implementing the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at Department of Energy nuclear facilities;

"(ii) to ascertain information concerning the circumstances of any actual or potential nuclear incident, and its implications for public health and safety;

"(iii) to determine whether such actual or potential nuclear incident is related to other actual or potential nuclear incidents at other Department of Energy nuclear facilities; and

"(iv) to provide to the Secretary of Energy such recommendations for changes in Department of Energy Orders and safety regulations and requirements, and such recommendations relating to research needs, as may be prudent or necessary.

"(3) The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy nuclear facility.

"(4) The Board may conduct special studies pertaining to safety at any Department of Energy nuclear facility.

"(5) The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

"(A) actual or potential nuclear incidents at any Department of Energy nuclear facility; or

"(B) suggestions for specific measures to improve health and safety standards, the implementation of health and safety standards, or research relating to health and safety standards at Department of Energy nuclear facilities.

"(6)(A) The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to reduce substantially the likelihood that actual or potential nuclear incidents which would adversely affect public health or safety will occur at any Department of Energy nuclear facility. In making its recommendations pursuant to this section the Board shall consider the technical and economic feasibility of implementing the recommended measures.

"(B) If the Secretary of Energy determines that any action recommended by the Board or any action proposed to be taken by the Secretary in response to the Board's recommendation might affect the ability of the Department of Energy to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall inform the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and House of Representatives of such recommendation and his determination and shall consult with the Secretary of Defense on such action.

"(7)(A) The Board may establish reporting requirements which shall be binding upon the Secretary of Energy.

"(B) The information which the Board may require to be reported under this paragraph may include any materials designated as classified material pursuant to any other provision of this Act, or any materials designated as safeguards information and protected from disclosure under section 147 or 148 of this Act.

"(C) The Board may, for the purpose of carrying out its responsibilities under this chapter use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such department or agency and, in the case of a contractor, with the consent of the contractor.

"(D) The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this chapter. Each contractor operating a Department of Energy nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this chapter.

"(E) The Secretary of Energy may deny access to information provided to the Board to any person who—

"(i) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

"(ii) does not need such access in connection with the duties of such person.

"(8) Before beginning construction of a new Department of Energy nuclear facility the Secretary of Energy shall give the Board the opportunity to review the design of such facility and to recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Secretary shall give the Board the opportunity periodically to review and monitor the construction and to submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety.

"(b)(1) The Board or, on the authorization of the Board, any member thereof, may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(2) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman or any member. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(3) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(4) Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this subsection shall be fined not more than $500, or imprisoned for not more than 6 months, or both. Upon certification by the Chairman of the Board of the facts concerning any willful disobedience by any person to the United States Attorney for any judicial district in which the person resides or is found, the United States Attorney may proceed by information for the prosecution of the person for the offense.

"SEC. 313. BOARD RECOMMENDATIONS.—(a) Subject to subsection (h), the Board shall make all recommendations submitted to the Secretary of Energy by the Board under this chapter available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a request for the submission of public comments on such recommendations to the Board. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(b)(1) The Secretary of Energy shall transmit to the Board, in writing, a statement as to whether he accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under this section, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

"(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h), shall publish such response, together with a request for public comment on his response, in the Federal Register.

"(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

"(c) The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b).

"(d) If the Secretary of Energy, in a response under subsection (b)(1), rejects any recommendation made by the Board under section 312(a)(6)(A), the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision whether to implement all or part of the Board's recommendations. Subject to subsection (h), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report, in writing, containing that decision and reasoning.

"(e) The Secretary of Energy shall prepare a plan for the implementation of each recommendation submitted by the Board under section 312(a)(6)(A) that is accepted by the Secretary. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Board may extend, by not more than 45 days, the time for the Secretary to transmit the plan. The Secretary may implement any such recommendation before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.

"(f) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 312(a)(6)(A) relates to an imminent or severe threat to public health and safety the Board, in addition to taking the actions required by subsection (a), shall transmit that recommendation to the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives at the same time that the Board transmits the recommendation to the Secretary of Energy. If the Secretary of Energy rejects the recommendation after considering the Board's action on the recommendation under subsection (d), then, notwithstanding that subsection, the Secretary shall submit the recommendation to the President. The President shall review the Secretary of Energy's response to the recommendation, the Board's action on such response, and the Secretary's determination under subsection (d) and shall make the final decision concerning acceptance or rejection of the recommendation.

"(g)(1) Subject to paragraphs (2) and (3), not later than one year after the date on which the Secretary of Energy receives a recommendation from the Board under section 312(a)(6)(A), the Secretary shall implement that recommendation if accepted by the Secretary.

"(2) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) is impracticable because of budgetary considerations, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President shall determine whether to request Congress to appropriate funds for the implementation of the recommendation. If the President does not provide for the implementation of such recommendation in the next budget submitted to Congress under section 1105(a) of title 31, United States Code, after the date on which the President receives the report from the Secretary and, before the date of the submission of such budget to Congress, has not submitted a request to Congress for the appropriation of funds for the implementation of such recommendation for any fiscal year ending before the fiscal year for which such budget is submitted, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the budgetary consequences, safety consequences, national security consequences, and other implications of implementing or not implementing the recommendation.

"(3) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President, in consultation with the Secretaries of Defense and of Energy, shall review the determination of the Secretary of Energy. If the President determines that, for reasons of national security, the recommendation should not be implemented, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the reasons for his determination.

"(h) Notwithstanding any other provision of this section, the requirements to make information available to the public under this section shall be subject to the orders and regulations issued by the Secretary of Energy under sections 147 and 148 of this Act to prohibit dissemination of certain information.

"SEC. 314. REPORTS.—(a)(1) The Board shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning its activities under this chapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities.

"(2) The annual report under paragraph (1) shall include an assessment of—

"(A) the improvements in the safety of the Department of Energy nuclear facilities during the period covered by the report;

"(B) the improvements in the safety of the Department of Energy nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

"(C) the outstanding safety problems, if any, within or in the operation of the Department of Energy's nuclear facilities.

"(b) The Secretary of Energy shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning the activities of the Department of Energy under this chapter during the year preceding the year in which the report is submitted.

"SEC. 315. ASSISTANCE FROM CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT.—(a) With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

"(b) The Director of the Naval Nuclear Propulsion Program may provide to the Board assistance and advice on matters relating to the Board's responsibilities.

"SEC. 316. ASSISTANCE FROM ORGANIZATIONS OUTSIDE THE FEDERAL GOVERNMENT.—The Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to evaluate and interpret the differences between Nuclear Regulatory Commission regulations and Department of Energy Orders governing nuclear facilities, including the implications of such differences for public health and safety. The agreement should provide for the council, group, or organization to transmit to the Board any recommendation for issuance of a new safety standard by the Department of Energy or for amendment of a Department of Energy safety standard as such council, group, or organization considers appropriate.

"SEC. 317. JUDICIAL REVIEW.—Chapter 7 of title 5, United States Code, shall apply to activities of the Board under this chapter.

"SEC. 318. DEFINITION.—As used in this chapter, the term 'Department of Energy nuclear facility' means—

"(1) a production facility or utilization facility under the control or jurisdiction of the Secretary of Energy, but does not include any facility or activity covered by Executive Order numbered 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program, or facilities or activities involved with the testing or transportation of nuclear explosives or nuclear material; and

"(2) a nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (96 Stat. 2201; 42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

"SEC. 319. TERMINATION.—(a) The Board shall terminate upon the expiration of the 6-year period beginning on the date of the enactment of this section.

"(b) This chapter shall not be effective after the date on which the Board terminates under subsection (a).".

(2) The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"CHAPTER 21—DEFENSE NUCLEAR SAFETY BOARD

"Sec. 311. Establishment.
"Sec. 312. Functions and powers of the Board; responsibilities of the Secretary of Energy.
"Sec. 313. Board recommendations.
"Sec. 314. Reports.
"Sec. 315. Assistance from certain agencies of the Federal Government.
"Sec. 316. Assistance from organizations outside the Federal Government.
"Sec. 317. Judicial review.
"Sec. 318. Definition.
"Sec. 319. Termination.".

(b) REQUIREMENTS FOR FIFTH ANNUAL REPORT.—The fifth annual report submitted by the Defense Nuclear Safety Board to the Committees on Armed Services of the Senate and House of Representatives under section 314 of the Atomic Energy Act of 1954 (as added by subsection (a)) shall include—

(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of the Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) recommendations for appropriate transition requirements in the event that modifications are recommended.

SEC. 3143. SALARY LEVEL FOR BOARD MEMBERS

Section 5314 of title 5, United States Code, is amended by inserting after "Members, Nuclear Regulatory Commission." the following:

"Members, Defense Nuclear Safety Board.".

SEC. 3144. TRANSFER

The Secretary of Energy shall transfer to the Nuclear Safety Board established by section 311 of the Atomic Energy Act of 1954 (as added by section 3142 of this Act) $7,000,000 to be derived from funds appropriated or otherwise available to the Department of Energy for fiscal year 1989. The amount transferred under this section shall be available to such board to carry out its responsibilities under chapter 21 of the Atomic Energy Act of 1954 (as added by section 3142 of this Act) and shall remain available until expended.

TITLE XXXII—NATIONAL DEFENSE STOCKPILE

SEC. 3201. AUTHORIZATION OF ACQUISITIONS

The President shall obligate $90,000,000 during fiscal year 1989 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the following purposes:

(1) The acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)).

(2) Transportation, storage, and other incidental expenses related to such acquisition.

(3) For the upgrading of stockpile materials under section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) and evaluations, tests, and other incidental expenses related to such upgrades.

SEC. 3202. AUTHORIZED DISPOSALS

Notwithstanding section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)(2)), effective October 1, 1988, the President is authorized to dispose of the following quantities of materials that are currently held in the National Defense Stockpile (established by section 3 of such Act) and that are hereby determined to be excess to the current requirements of the stockpile:

Material	Quantities
Asbestos, chrysotile	2,103 short tons
Asbestos, crocidolite	36 short tons
Celestite	13,415 short dry tons
Iodine	772,016 pounds
Kyanite	1,187 short dry tons
Manganese dioxide, battery grade, natural ore	65,000 short dry tons
Mercury	15,000 flasks
Mica, muscovite block (S&L)	181,374 pounds
Mica, muscovite splittings	750,000 pounds
Mica, phlogopite splittings	588,929 pounds
Quartz	1,248,655 pounds
Silicon carbide	43,950 short tons
Talc, block & lump	990 short tons
Talc, ground	1,089 short tons
Thorium nitrate	6,521,812 pounds
Tin	5,000 metric tons
Tungsten ores & concentrate	3,000,000 pounds
Vegetable tannin chestnut	3,516 long tons
Vegetable tannin quebracho	77,000 long tons

SEC. 3203. TECHNICAL AND CLARIFYING AMENDMENTS

Section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-2(b)) is amended—

(1) in the first sentence, by striking out "such fiscal year" and inserting in lieu thereof "the next fiscal year";

(2) in the second sentence, by striking out "planned" and all that follows down through "critical materials" and inserting in lieu thereof "all planned expenditures from the National Defense Stockpile Transaction Fund"; and

(3) by adding at the end the following new sentence: "Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2), that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2), as appropriate.".

TITLE XXXIII—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATION

There is hereby authorized to be appropriated $135,393,000 for fiscal year 1989 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

NOTICE OF HEARING

SUBCOMMITTEE ON RURAL ECONOMY AND FAMILY FARMING

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee's Subcommittee on Rural Economy and Family Farming will hold a field hearing in Bozeman, MT, on Saturday, September 24, 1988. The purpose of the hearing is to receive testimony on the impact of the recent forest fires in Yellowstone National Park and the surrounding forests on small business, and to provide victims with information on Federal disaster programs available to them. The hearing will be held at the City Center Motor Inn, at 507 West Main Street in Bozeman. The hearing will commence at 9 a.m. Senator MAX BAUCUS will chair the hearing. For further information please call Tamara McCann, of Senator BAUCUS' staff at 224-2651.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the full Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 15, 1988, to hold a hearing on the nomination of Thomas C. Griscom, of Tennessee, to be a member of the Board of Directors of the Communications Satellite Corporation.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on September 15, 1988, for a business meeting to consider S. 1120, agenda item No. 10, H.R. 4526, agenda item No. 41, and any other items ready for action.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, September 15, 1988, to conduct an executive session to consider pending nominations.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 15, 1988, to conduct a hearing on S. 2657, legislation to amend the provisions of the Communications Act concerning the purchase of broadcast time by political candidates.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law of the Committee on the Judiciary, be authorized to meet during the session of the Senate on September 15, 1988, to hold a hearing on high-technology terrorism.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on September 15, 1988 to hold a markup on S. 1482, Judicial Branch Improvement Act of 1987, H.R. 441, a bill for the relief of the heirs of M. Sgt. Nathanial Scott, U.S. Army, retired, deceased; H.R. 712, a bill for the relief of Lawrence K. Lunt; H.R. 945, a bill for the relief of Allen N. Platnick; H.R. 1275, a bill for the relief of Joyce McFarland; H.R. 1388, a bill for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vicent Maloney, Austin Mortensen, Kurt Olofson, and John Jenks; H.R. 1385, a bill for the relief of Travis Jackson; S. 1754, a bill for the relief of Fleurette Seidman; S. 1878, a bill for the relief of Thomas Flanagan; Senate Resolution 73, a bill to refer S. 329, for the relief of Dynamic Technology International, Inc.; Lew Malnak Associates, Star Design, Inc.; Riverside Precision Machines, and certain other individuals to the chief judge of the U.S. Claims Court for a report thereon, Senate Resolution 346, to refer S. 1959, for the relief of the Menominee Indian Tribe of Wisconsin to the chief judge of the U.S. Claims Court for a report thereon, and Senate Resolution 187, a bill to refer S. 966 for the relief of Frederick Paul of Seattle, WA, to the chief judge for a report thereon.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON WAR POWERS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Special Subcommittee on War Powers of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 15, to hold a hearing on the War Powers Resolution. The witness will be former President Gerald Ford.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

CHRYSLER'S GAIN

● Mr. RIEGLE. Mr. President, after spending 2 years of work on key trade legislation, Lisa Learner will be leaving my staff to join the Washington office of Chrysler Corp. Chrysler's gain is our loss.

In a sense, Lisa has always been a Chrysler person. Her father is a Chrysler dealer in Rock Island, IL, Lisa's hero is Lee Iacocca, and she drives a Chrysler convertible.

Her 2 years of work on trade legislation is certainly well appreciated. She helped in the drafting of "super 301" language in the trade bill, she worked hard on the plant closing notification bill and was instrumental in obtaining meaningful language in the United States-Canada Free Trade Agreement. In all of this work, she has had the interests of American working people and companies foremost in mind.

Lisa is best known for her hard work and forthright comments. She is not known as a person who pulls punches. Her dedication to issues and determination to never give up are valuable attributes that should bring her success in any future endeavor.●

COMMENDING SHELDON COHEN, RABBI JONATHAN MILLER, AND STEVE SALTZMAN

● Mr. WILSON. Mr. President, Senator CRANSTON and I share the privilege today of commending three fellow Californians, Sheldon Cohen, Rabbi Jonathan Miller, and Steve Saltzman who were instrumental in obtaining the right of emigration from Russia to Israel for the Pavel Abramovich family.

Through their leadership of the Pavel Abramovich Family Freedom Campaign Committee of Stephen S. Wise Temple in Los Angeles for the past 5 years, these three members of our California Jewish community forged a remarkable triumph for human rights on behalf of the Abramovich family. The success of their endeavor will be celebrated on October 2, 1988, at the Stephen S. Wise Temple when the congregation welcomes the Abramovich family to California and pays tribute to the exemplary efforts of these three individuals.

Messrs. Cohen and Saltzman and Rabbi Miller planned, organized, conducted, and led a wide range of activities over some 60 months including numerous community forums and Shabbat services, several press conferences and many more public speeches, obtained over 10,000 signatures and lobbied from Los Angeles to our Nation's Capital in support of the Abramovich family's struggle for freedom.

Together, they coordinated the involvement of some 23 elected officials from the U.S. Senate and House of Representatives, the California State Legislature, the county board of supervisors, and the mayor and city council of Los Angeles in a concerted and effective letter writing campaign, as well as mobilizing hundreds of members of Stephen S. Wise Temple and thousands more throughout Los Angeles and southern California.

Rabbi Miller and Steve Saltzman traveled in the winter of 1985 to the Soviet Union in order to meet with some 50 refusenik leaders and activists during a dozen meetings over 10 days in Leningrad, Moscow, and Riga. The highlight of their visit was sharing the first night of Hanukkah with their adopted family in their Moscow apartment.

On the eve of the Freedom Campaign's planned 3-day hunger strike to have occurred in December 1987 during the Reagan-Gorbachev Washington summit, and after nearly 18 years in refusal, the Abramovichs were finally granted permission to emigrate from the Soviet Union to their homeland in Israel. When the Abramovich family emigrated on March 13, 1988, from the Soviet Union via Bucharest to Eretz Y'Israel, they were accompanied by Rabbi Miller and Steve Saltzman.

We commend Rabbi Miller, Steve Saltzman, and Sheldon Cohen for their dedicated efforts in championing the causes of Soviet Jewry and human rights and for their inspired work which has contributed immeasurably to securing freedom for Pasha, Marta, and Felix Abramovich. We express our appreciation for the many contributions these individuals have made to Jewish community life and in support of a strong and secure State of Israel.●

THE 100TH ANNIVERSARY OF THE HEBREW YOUNG MEN'S ASSOCIATION

● Ms. MIKULSKI. Mr. President, I rise today to honor and commend the Hebrew Young Men's Association on its centennial celebration. October 16, 1988, marks the association's 100th year of dedication and unyielding service to the Baltimore community.

This fine organization is the oldest independent Jewish fraternal organization in Baltimore. It was founded by three young immigrants at a time when thousands of newcomers were reaching the Port of Baltimore in pursuit of the American dream.

From its inception, the association has come to the aid of all who needed it. It has assisted widows and orphans, the sick and the needy. It has done so without questions of membership in the association. No one has been turned aside.

To this day, the association's strong commitment to the Baltimore community remains intact. It continues its long tradition of medical assistance, disaster aid, and charitable contributions. I congratulate this distinctive organization for its 100 years of continuous service and extend my best wishes to all its members on this momentous occasion.●

THE 125TH ANNIVERSARY OF TRINITY LUTHERAN CHURCH

● Mr. D'AMATO. Mr. President, in today's sometimes chaotic world, where drugs and violence swirl maddeningly about us, the solace of the neighborhood church as a peaceful haven for support and moral direction is a blessed reassurance. A shared sanctuary of traditional and spiritual values founded in faith is key to fostering a cohesive community. To maintain and strengthen the necessary bonds among men and women, the church must actively and meaningfully become immersed in the betterment of the community at large. Trinity Lutheran Church of Middle Village has provided just such guidance and leadership for 125 years.

Trinity Lutheran was founded in 1857 by German immigrant farmers seeking a house of worship. As farmers settled and the population grew, so too the church expanded to meet the needs of its community. As the main building was the property of the neighboring Lutheran Cemetery, the church was incorporated in 1863 under the formal name "Evangelical Lutheran Congregation of the Luther Chapel."

Through the years, Trinity Lutheran continued to serve its community, by providing necessary services such as elementary education.

By the 1930's, local economic development focused on a nearby area of Middle Village. The parishioners, hoping to remain a central institution of the town realized the need to relocate. Thus, in 1935, the church's activities became concentrated in the midst of a vibrant and growing community. A new church was built adjacent to the Parish Center in 1979 and serves as the present home to a tightly knit and loving congregation.

Trinity Lutheran Church is dedicated to supporting the continual improvement of the surrounding areas. Its commitment to hard work and loyalty among the residents of the community brings the parishioners of Trinity Lutheran Church together through a shared and sincere concern for their fellow men and women. Their energetic activities have inspired countless others to follow their example.

I am proud to join in the celebration of the Trinity Lutheran Church. I wish its parishioners many more years of worship in the future.●

AMERICAN BANKS' COMPETITIVE OPPORTUNITIES IN JAPAN NEEDS REVIEW

● Mr. DIXON. Mr. President, according to survey data that I am sure all Senators have seen, the world's 10 largest banks, ranked by deposits, are now all Japanese. Seventeen of the twenty-five largest are Japanese, and the United States has no banks in the top 25. Indeed, the largest U.S. bank, Citibank, ranks 28th. The next largest U.S. banks are the Bank of America, No. 45, and the Chase Manhattan Bank, No. 51. Only 10 years ago, those same three U.S. banks were among the world's five largest banks.

Part of this reversal can be attributable to the decline of the dollar against the Japanese yen, but only part. Japanese banks increased their deposits over 20 percent last year, not including exchange rate-caused deposit growth.

This loss of competitive standing for American banks is an important development, and since it has occurred during a period when the United States is increasingly becoming a service economy, I find it somewhat disturbing.

In California, our fastest growing State economy, 5 of the 10 largest banks are owned or controlled by Japanese. Clearly, we have succeeded in opening our banking market to foreign competition. I wonder, however, what a comparable survey of the ownership of banks in Japan would show. I wonder whether there is any significant foreign ownership of Japanese banks, or indeed any foreign ownership at all.

I am not concerned about the presence of foreign, and in particular, Japanese, banks in this country, provided that United States banks have equal access to and competitive opportunity in the Japanese and other foreign markets.

Ten years ago, Mr. President, we passed the International Banking Act. That legislation was intended to establish a level playing field in this country for all banks, foreign and domestic, with the hope that it would encourage other governments to do likewise. Based on the survey result I noted earlier, there seems to be some question as to whether it has been sufficiently effective in doing so. I hope and expect that the Senate Banking Committee, of which I am a member, will examine this legislation early in the next Congress, with particular focus on major foreign banking markets, such as Japan.●

LINDA WOOD, ASSOCIATION OF CHILDREN OF NEW JERSEY

● Mr. BRADLEY. Mr. President, Linda Wood from the Association of Children of New Jersey, recently wrote an exceptional article on the plight of young persons who "age out" of child welfare services programs aimed at youth in foster care. She points out that some of these young people need support even past their 18th birthday.

I urge my colleagues to read her article. Federal, State, and local officials need to figure out ways to stop these young people from falling through the cracks. Linda Wood's insights will help us in this endeavor.

NOWHERE TO GO: THE PLIGHT OF AGING-OUT YOUTH IN NEW JERSEY

(By Linda J. Wood)

John (not his real name) is eighteen years old. He lives in an attractive, furnished apartment where he is supervised daily by social services staff who reside in the building. He does his own cleaning and shopping and takes great pride in his cooking ability. John has recently started a full-time job in a local drug store, where he appears to be doing well. He took his GED exam several weeks ago and hopes to attend college part-time in the fall.

John has the opportunity for a successful, satisfying life after many difficult years. Between the ages of ten and thirteen, he lived on the street or with a succession of friends after his father, his only living parent, abandoned him and his younger brother. He was referred to the Division of Youth and Family Services (DYFS), which placed him in a variety of foster homes. He and his brother were separated for a number of years but were reunited when they were both admitted to the Transitional Opportunities Program (TOP) of the Association for the Advancement of the Mentally Handicapped (AAMH) in Elizabeth. Through its contract with DYFS, this program provides apartment-based living and a range of support services to youths aged seventeen to twenty-one. John and his brother are now in the process of getting to know each other again.

Unfortunately, John's case is not typical. Most young persons are not given the chance to make a successful transition to adulthood.

Each year, approximately 2,000 young persons between the ages of eighteen and twenty-one lose eligibility for DYFS services because they are legally deemed to be adults. Under federal and state laws and policies, youths who are eighteen or nineteen, if they are still in school, do not qualify for further assistance from the state child welfare agency, except in rare instances. Technically, services are available from other agencies within the Department of Human Services, but in reality, only a small proportion of youths qualify. To be eligible for long-term maintenance and services from either the Division of Developmental Disabilities (DDD) or the Division of Mental Health and Hospitals (DMH&H), the youth must have a severe and specified handicap. Even if youngsters qualify, appropriate programs may not be available.

FALLING THROUGH THE CRACKS

"Young persons often have a combination of problems, no one of which is, in itself, intensive enough to warrant help," states Cathy Noblick, Director of TOP. William Waldman, Director of DYFS, agrees. "Some kids fall through the cracks because they have conduct disorders, but not a psychiatric diagnosis that gives them a priority rating for mental health services. Still, they are unable to function independently. Other individuals have borderline intellectual functioning that doesn't quite meet the DDD criteria, yet they are performing below normal.

"We are beginning to work with DDD and DMH&H to enhance services and develop a unified approach on this issue," Waldman said.

Most of the young people at risk of losing eligibility for DYFS services have more subtle "disabilities" which seriously affect their ability to cope on their own. A majority of them have been victims of parental neglect, indifference or hostility. They bear the scars of low self-esteem and may have difficulty in harnessing their anger and hostility. Others may bury their feelings—turning to drugs and alcohol to escape the pain. Few have families they can rely on for any substantial help . . . although most want to maintain some type of connection. Many have been deprived of the nurturing of a secure, caring home—they have lived episodic lives with frequent separations. It is difficult for these young persons to trust anyone.

Many young people who are forced into instant independence have done poorly in school—because of behavior problems, retardation or development or physical disabilities. By the time they are eighteen, only a few will have graduated or earned their

GED, and fewer still will have gone on to college. Their employability in a complex technological society is doubtful. Not surprisingly, most of these young persons have only worked in transient, part-time jobs and lack specialized job skills.

Minority youth, particularly those from poor backgrounds, face even greater obstacles. They must battle the effects of discrimination while they try to cope.

It is clear that few young people in our society are ready to be independent at the age of eighteen or nineteen, even under the best of circumstances. Most individuals require financial and emotional help until the age of twenty-one, and many remain financially dependent through their mid-20's. In a sophisticated society such as ours, which requires a highly skilled labor force, it takes many years to acquire the education and training needed for success. The high cost of housing also hampers the ability of young people to live on their own until they are earning a substantial income.

IMPACT OF THE CURRENT APPROACH

What happens to these troubled young persons who are suddenly "emancipated" without family support and without the services to which they have grown accustomed—or dependent? No one knows the whole picture. However, several individuals in agencies working with this population expressed concerns about the future of these young people.

Sidney Blanchard, Executive Director, AAMH: We keep pushing young people into safety net programs that encourage continued dependency, such as welfare, psychiatric facilities and correctional programs. In this way, we perpetuate childhood and dependency needs rather than fostering self-sufficiency.

Larry J. Lockhart, Deputy Chief of Staff, Dept. of Human Services: If you don't have a place to stay, all the counseling in the world won't help. The rules for this age group are—when you don't have a place to stay, do something wrong. The state must be a catalyst for programs to assist these youth.

Sue DonDiego, Former President, New Jersey Foster Parent Association: We need to invest the time to get the kids out of the system. Otherwise, foster parents have to assume responsibility for their care, medical bills and car insurance, while they have no legal right to have the kids. Youths without the help end up on the streets, in trouble or in jail.

Jeffrey Fleischer, Director/Vice President, New Jersey Youth Advocate Program: Eighteen is an arbitrary cutoff age that doesn't correlate with the youth's needs. We are setting kids up to enter the correctional systems, welfare and mental institutions. A lot of them will end up homeless—in fact, many of the new homeless are youth.

The future for most of these young people is indeed grim. We do know that some join the homeless population. Some are arrested and put in jails or other adult correctional facilities. Some use or sell drugs—or both. Some, mostly teenage mothers, receive county welfare. Some become parents and may be referred to DYFS because they are inadequate parents. Some attempt suicide and some make it.

Others are on the edge. They cope, perhaps with the assistance of friends or family. When a crisis hits, even a minor one, they stand a good chance of being dependent on some form of public aid.

ON HIS OWN

Insight into the troubled and lonely lives of those young persons who are trying to make it on their own can be found in the story of one young man.

"Christmas is like any other day when you are living by yourself," says Carl Brown, wistfully. Carl is twenty-one and recently lost eligiblility for further services from DYFS and Transitional Opportunities Program (TOP) because of his age. Applications to Division of Developmental Disabilities (DDD) and Division of Mental Health and Hospitals (DMH&H) were not successful. Carl is very appreciative of the help he has received from DYFS and the services he has received from TOP. He has learned how to cook, do his laundry and budget his money. Staff from TOP have also helped him obtain supplemental security benefits. He was working full-time until a few days ago, when there was a layoff at the firm where he worked. He expects to return to work with a former employer soon.

Relatively speaking, Carl is well off. He has acquired many of the daily living skills he needs for self-sufficiency, but the lack of a caring family leaves a big gap in his life. Carl, his brother and their twin sisters were placed in a foster home because his mother could not care for them.

"I never had three meals a day, showers or clean clothes until I went to live with my foster mother," Carl comments. "Her house seemed like a castle to me." Initially, two of Carl's siblings lived with him in the foster home but they were later separated. Carl has seen only his brother since that time, and their initial meeting was by chance.

"I was sitting on a bus and said to myself, 'that kid looks familiar.' I found out he was my brother and that he lived in the same town." Carl visits his mother infrequently because of conflicts with his stepfather. "I still love her, no matter what she did," he says with a sad look in his eyes. Carl's efforts at self-sufficiency are also hampered by his inability to read and write. "I went to school every day even though the kids called me 'dummy' and 'stupid.' I graduated when I was twenty, but I still can't read and write."

Carl is a very determined young man who urges other kids like him, "Don't give up on yourself." In many respects, he has achieved a high degree of success, but the TOP staff wonder how long he can manage without counseling and the other services he was receiving until recently.

Carl's story amply illustrates the need to move toward developing a service system geared to the needs of the youngsters, rather than trying to make the youths fit the system. It also dramatizes the lasting effects of parental abuse and neglect and the long-term impact of losing one's family.

PROFILE: YOUTH IN TRANSITION

Recent research examining the case records of a 5% sample of the DYFS caseload of over 7,000 youths between the ages of sixteen and twenty-one, provides a thumbnail sketch of this population.

The data clearly show that many persons between the ages of 16 and 21 have serious behavioral, emotional, developmental and family problems that hamper their ability to learn, function and achieve independence. Here are some of the key findings:

Age:

Over 60% of the youth studied were seventeen or younger.

Slightly over 10% were nineteen or older.

Sex:

Slightly over one-half of the group was male.

Race:

More than 60% of the sample youth were Black or Hispanic. In urban counties, two-thirds or more of the population were from racial minorities—the proportions were reversed in suburban and rural counties.

Family Mistreatment:

Over 80% of the youngsters had some indication of abuse or neglect by parents or other family caretakers.

Educational Classification:

Nearly one-half of the sample youth has been classified by Child Study Teams in the schools as needing special education classes. Of these, nearly one-half had been classified as emotionally disturbed; one-fifth as having multiple handicaps; 16% as neurologically or perceptually impaired; and eight percent as mentally retarded.

Placement History:[1]

One-quarter of the youth who were studied had a history of being hospitalized in a psychiatric inpatient program.

Over 40% had been in at least four different placements, and 8% had been in ten or more placements out of their own homes.

Forty percent of the youths studied had been in out-of-home placement between five and twelve years, and over one-quarter had spent more than half of their lives in some form of placement.

Behavior:

One-half of the study group were judged to have low self esteem, poor self image or feelings of worthlessness during the past two years.

Forty-four percent had been described as physically aggressive, assaultive or destructive during the prior two years.

Over one-third showed signs of depression, apathy or hopelessness.

Over 40% had been truant from school or day programs, and the same proportion had run away from home or agencies during the two-year period.

Family Problems:

Almost one-third of the parents had an identified problem with drugs or alcohol

Emotional problems or mental illness was found in almost one-quarter of the families.

Inadequate income and unemployment were identified problems for more than one-quarter of the study families.

The profile data clearly show that the DYFS teen population which was studied contains a substantial proportion of youth who will need services past the age of eighteen in order to move toward self-sufficiency.

AVAILABILITY OF SERVICES

In eight county meetings conducted in early 1987 by the AAMH in Elizabeth, more than 175 individuals met to discuss the service needs of youths in transition to adult status. Participants represented a broad range of organizations, including schools, human services organizations, correctional programs and court-related agencies.

Despite the diversity of the organizations and their geographical locations, consensus on the critical service needs of youth in transition was very broad. Three critical service needs were identified as a high priority in all of the counties:

1. Housing for youths and their families.
2. Quality employment and vocational training programs.

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[1] Two-thirds of the sample were in placement at the time of the study. The remaining third lived at home.

3. Coordination and case management of existing services.

Representatives in all but one county named educational services and family support services as one of their top priorities. Substance abuse programs and transportation were seen as critical needs by participants in three-quarters of those counties. Certain youth were deemed to be in particular need of service:

1. Youths with delinquent behavior.
2. Young persons with multiple diagnoses problems.
3. Developmentally disabled youths.
4. Older adolescents with educational deficiencies.
5. Young adults with behavioral problems—arsonists, sex offenders and those with conduct disorders.

IDENTIFIED SERVICE NEEDS

Administrators and other staff working in agencies responsible for youths in transition echoed many of the concerns raised in the county meetings.

"There is a need for a broad spectrum of services for youths past the age of eighteen," states William Waldman, DYFS Director. Outpatient counseling, case management services, individual case of planning and residential programs ranging from secure facilities to apartment-based living were cited by Waldman as some of the transitional programs which need to be developed or expanded.

"More generic services which are not divided along divisional lines are needed," according to Cathy Noblick, Director of TOP. "A variety of services exist, but eligibility criteria are so restrictive that the services are not available to this population." She called for more supervised and supportive living programs, particularly for youths with multiple problems and diagnoses, and supportive vocational programs. "Many youths are not adequately prepared for careers, and jobs requiring few skills are increasingly rare." she commented.

"Foster parents need to be trained to help youths learn basis living skills in their homes starting at the age of twelve," according to Gloria Dowdy, Executive Director of the New Jersey Foster Parents Association. Supervised apartment living programs, which provide life skills training, work experience and job training were also identified by Dowdy as of particular importance, especially for children who are "slow learners."

Sue DonDiego, former president and one of the founders of the New Jersey Foster Parents Association, called for establishing a support system with a time-limited contract between adolescents and their foster parents. "Funding should be provided to foster families for Medicaid, liability insurance and the costs of maintaining a car. Also the youths should be given living allowances," she commented.

"We need to do something different with the services we have," stated Jeffrey Fleischer of the New Jersey Youth Advocate Program. "We need to broaden our services to include families. We talk about family and the importance of unity but we don't provide for it. We don't work with the family when the youth is in foster care or institutions. When the youngster is out at eighteen, nineteen, twenty, he had a need to reunite and resolve the family issues."

Fleischer contends that emphasis should be placed on providing this group of youths with vocational training and places to live, both independent living and structured group situations in the community.

EFFORTS TO ADDRESS THE PROBLEM

In August, 1985, the state legislature enacted a supplemental appropriation of $1.8 million to provide services to "aging out youth" under the jurisdiction of the Department of Human Services. This funding has been reauthorized each year and is now part of the line item budget. These monies have been used to develop and expand several programs across the state and to fund the continuation of programming for developmentally disabled young adults past the age of eighteen.

New Jersey has also received nearly $1.5 million from the federal government under the provisions of Title IV-I. L. of the Social Security Act for Fiscal Year 1987, according to Chad Consuegra, DYFS Administrative Analyst. However, these funds can only be used for low-income youths between the ages of sixteen and eighteen.

The Department of Human Services set up an interdepartmental committee to examine this issue in early 1985, and three divisions—Division of Developmental Disabilities (DDD), Division of Mental Health and Hospitals (DMH&H) and DYFS—have funded needs assessments on the "aging out" issue. Family Services of Burlington County conducted the needs assessment of the mental health population for DMH&H; York Associates implemented as a study of developmentally disabled young persons for DDD; and Association for the Advancement of the Mentally Handicapped (AAMH) of Elizabeth engaged in an assessment of the needs of DYFS young persons. All three of the assessment projects concluded that there was a need for better coordination among agencies, development of case management systems which ensure that appropriate planning and linkages occur, and greater accountability in the service delivery system.

The Legislative and Policy Committee of the Statewide Human Services Advisory Committee has prepared policy papers on this issue which call for coordinating and planning services for this population.

New Jersey is one of a handful of states across the country that has begun to address the problem of serving youths over the age of eighteen. Some steps have been taken to improve the coordination of services, and several programs have been developed to provide transitional services. However, much more needs to be done.

"Federal leadership is needed," states Waldman, Director of DYFS, "The federal government needs to establish a policy framework, provide a modest funding stream and stimulate designation of a lead social service agency.

"Current federal child welfare statutes which restrict funding and eligibility for youths aged eighteen and over obviously impact negatively on New Jersey's efforts to help this population. Any major expansion of services would probably require a large outlay of state aid," Waldman continued.

"The costs are high—but they need to be compared to the invisible costs of our current approach. It is reasonable to assume that many of the young persons who leave the DYFS system will end up relying on publicly-funded programs for extended periods of time unless they can acquire the skills and support necessary to cope in our complex society. The costs to the taxpayer can't be measured, but they are likely to be substantial. The loss in human potential could affect our society for generations to come."

CHANGING THE SYSTEM

What changes must be made in order to develop a more responsive service delivery system? Key individuals in organizations working with older adolescents throughout the state offer their ideas.

Jefferey Fleischer, Director/Vice President, New Jersey Youth Advocate Program: The current system needs to be unified. There are twelve state agencies dealing with this population. These organizations are fragmented, have different missions and often don't work together or talk to each other.

We need a unified case management system which doesn't end when the youth turns eighteen.

Meanwhile, funding for institutional care should be redirected into other programs, including small family-like programs in the community.

William Waldman, Director, DYFS: Better coordination of services between the Department of Human Services and other departments, including Education and Health, would certainly begin to alleviate the problem.

However, in order to bring about changes in the service delivery system, there has to be a constituency advocating for that change.

Sidney Blanchard, Director, AAMH: There needs to be a plan for preparing young people, starting at fourteen or fifteen for the transition to adulthood. In addition, DYFS services and adult services should be coordinated more carefully, so that we eliminate the gaps.

Larry J. Lockhart, Deputy Chief of Staff, DHS: We need more comprehensive delivery of services.

Sue DonDiego, Former President, New Jersey Foster Parents Association: Foster parents who take in older adolescents need and deserve more support. For example, there should be a mandated, ongoing training program to assist them in coping with adolescents, and teaching them life skills.

Respite care for those foster parents should be provided, since older adolescents have more emotional and physical problems—including AIDS. Also, foster parents working with older adolescents need increased reimbursement. At present, they cannot afford to take them in.

ACNJ RECOMMENDATIONS

Obviously, concern has been growing for some time both in the public and private sectors that today's children in transition will become tomorrow's problematic adults. An ACNJ-sponsored child welfare survey showed that a major impediment to moving young people through the system was a lack of services for the aging out population. ACNJ was asked to address this issue in some formalized fashion; therefore, at its Annual Conference in October, 1987, ACNJ staff organized a workshop entitled "Ready or Not, Here We Come: Aging Out of the System."

The workshop, moderated by Mary Wells, Executive Director of Family Services of Burlington County and ACNJ Board member, was enthusiastically received by an audience of service staff, parents and administrators. Panelists included Larry J. Lockhart, Deputy Chief of Staff for DHS, Peter Oliphant, Policy Analyst for DHS: Catherine B. Phillips, Family Services Specialist for DYFS; and Linda Wood, writer/consultant. Not only did the workshop bring together an outstanding group of experts in a public forum, it produced a dedicated, informed core of citizen advocates who have agreed to become actively involved in the issue of youth in transition.

Among the results of the workshop was a list of recommendations developed by the participants on ways to improve services to youths 16 and over at risk of "aging-out." The top administrative priority the workshop identified was the development of a comprehensive, coordinated services system with two main components: a mechanism for transferring cases among divisions and departments of state and local governments; and a community-based central intake system to screen youths, beginning at age fourteen, and identify appropriate service agencies.

In addition, broader and more varied services must be made available to these youths. Specifically, they should be trained in basic survival and independent living skills, such as human relations and sexual awareness and education, as well as health care and hygiene, travel training, food awareness and preparation, and money management.

More assistance must be given to the people in this age group in exploring social and recreational opportunities and in finding employment and housing. Greater emphasis should be placed on job skill development, vocational guidance, job placement and on-the-job services. Housing options must be made more available and accessible to young people and their families and other support groups—options such as apartments or single rooms, residential treatment centers, hospitals, group homes, and halfway houses for youths with substance abuse problems or those leaving the correctional system.

As they "phaseout" of standard programs for children, these youth also need advocacy programs to assist them in obtaining or keeping their entitlements—Supplemental Security Income. Social Security, food stamps, Medicaid and welfare.

Families of these older adolescents—whether biological, adoptive of foster families—need additional services as well to maintain family ties whenever possible. Such services would include individual and group counseling, parenting education and homemaker services.

Finally, governmental agencies themselves need to reevaluate and update their services. The first step is to conduct a survey of these young people and their families to learn their perception of services needed. An ongoing data base should be established which provides information on the characteristics and needs of youths in transition. Also, laws must be enacted to clarify the responsibilities of the state to youths aged eighteen and older. Special services should be geared toward targeted segments of this age group—developmentally disabled youths with emotional problems; chemically dependent youths with histories of emotional problems and/or court involvement; and aggressive youths.

Funding for these services must be expanded on a planned basis. These additional monies should be phased in over a period of time, and evaluation of youths receiving these services should be conducted to determine "ultimate" savings vis-a-vis other publicly funded programs.

NEXT STEPS

A high level of agreement exists among professionals across the state on the types of changes that need to be made in order to help youths in transition to adult status. The real issue is how to translate these recommendations into reality. Waldman aptly summed up the next step: "In order to bring about changes . . . there has to be a constituency advocating for change." That constituency has begun to form. As a result of the efforts of several organizations, a legislative hearing was held on March 24, 1988 which included testimony on "aging-out." It is important that individuals and organizations around the state join the effort and publicize the need for services to policymakers and administrators at the county and state level.

As the Association has proven over the years, it does not take huge numbers of people or large amounts of money to bring about legislative and policy changes. It takes a few leaders with a nucleus of committed individuals who are willing to speak out on behalf of the children and youth of the state.●

DRUG FREE AMERICA BY 1995

● Mr. BOSCHWITZ. Mr. President, few problems in our society cause as much concern to me and the people I represent as the widespread use of drugs. Ten percent of the population uses drugs at least once a month, and 37,000 people a year suffer drug-related deaths.

Earlier this year, I worked with a number of Senators to develop a comprehensive drug policy statement. We endorsed an approach that would work to limit both supply and demand. It would build on our past successes and learn from our past failures in the war on drugs. It would set as its ultimate goal the achievement of a drug-free America.

This statement is comprehensive, offering a variety of ways to curtail drug use. As the Senate prepares to debate major drug legislation, I especially want to draw my colleagues' attention to the approach embodied in those proposals. It makes clear that recreational drug use will no longer have tacit approval. It works to deprive the seller of the user, and it includes a notification period to make clear that a new program is going into effect.

I believe this approach is one that offers real hope in the war on drugs, and I commend it to my colleagues attention.

I ask that a statement entitled "Achieving a Drug Free America" be printed in the RECORD.

The statement follows:

ACHIEVING A DRUG-FREE AMERICA BY 1995

America is losing its battle against drugs. Drug arrests, drug seizures and prison sentences for drug dealers are all up. But the price of drugs is falling, and availability is increasing. The police know we are losing the drug war. Pushers know it. Parents know it. Even school children—perhaps especially school children—know it.

In the process of losing the drug war, we are creating huge profits for organized crime, complicating relations with our allies, creating incentives to corrupt our police and enlist our young people in crime and—perhaps most importantly—we are demonstrating America's ability to fail.

Our current efforts fall far short of what is needed to win. Despite the impressive rise in law enforcement efforts, the supply of illegal drugs has increased in recent years. The demand for drugs creates and sustains the illegal drug trade. To win the war against drugs, we must deprive the drug seller of the drug buyer, the user, and thereby take the profits out of the drug trade. That goal can only be accomplished by dramatically reducing the demand for illegal drugs. Thus, winning the drug war not only requires that we do more to limit supply, but that we refocus our efforts to reduce demand.

We must decide, as a nation, whether we really want to win our fight against drugs, or just put up a good show. We believe we must win; we believe we can; and we believe we know how.

Our goal is to make America drug free by 1995. Any lesser goal is neither acceptable nor worthy of the American people.

THE COSTS OF FAILURE

The costs of drug use in the United States are large and growing. More than 23 million Americans use drugs at least monthly, including more than six million who use cocaine. The best available evidence is that half of all high school seniors have used illegal drugs at least once, and over twenty-five percent use drugs at least monthly.

Drug use extends throughout our society. Rural areas are nearly as heavily impacted as big cities; college-bound students nearly as likely to use drugs as non-college-bound. Forty percent of doctors in our nation's hospitals are thought to use illicit drugs. Substantial proportions of young people who apply to join local police forces show signs of cocaine use.

Those who argue for legalizing drugs ignore the tremendous cost of drugs on society as well as on those who use them. For example:

Over 30,000 people were admitted to emergency rooms in 1986 with drug-related health problems, including nearly 10,000 for cocaine alone.

Ten to 15 percent of all highway fatalities involve drug use.

It is estimated that one of every ten Americans who went to work this morning had their productivity impaired by substance abuse.

Drug users are three times as likely to be involved in on-the-job accidents, are absent from work twice as often, and incur three times the average level of sickness costs as non-users.

Virtually all experts agree there is a strong link between teenage suicide and use of illegal drugs.

The connection between drugs and crime is also well-proven. Eight of ten men arrested for serious crimes in New York City test positive for cocaine use.

Drug use in the workplace costs our nation as much as $100 billion annually in lost productivity.

Eliminating these direct effects of drug use requires that we eliminate drugs from society.

ASSESSMENT OF CURRENT EFFORTS

Substantial increases in funding and resources have been made available in recent years to combat the drug problem, with spending for interdiction, law enforcement and prevention up by 100 to 400 percent. And these programs are producing results: Seizures of cocaine are up from 1.7 tons in 1981 to 27.2 tons in 1986; Drug Enforcement Administration drug convictions doubled between 1982 and 1986; and, the average sentence for Federal cocaine convictions rose by 35 percent during this same period. Federal funding has permitted programs, such as the "DARE" Program in Los Angeles, to bring drug education into thousands of classrooms. Thus, recent funding increases have not been wasted.

However, these efforts have not reduced the overall availability of drugs in America, nor produced significant reductions in drug use. The Department of Health and Human Services reports that drugs are cheaper and more available than ever, and evidence on drug use shows—at best—only modest declines. Use of the most dangerous drugs, such as inhalants and LSD, is up compared with levels in the early 1980s.

The overwhelming evidence, based both on scientific models like those used in the recent Rand Corporation study and on America's experience over the last decade, is that drug interdiction programs by themselves cannot raise the market price of most illegal drugs enough to reduce drug use substantially. As the Rand study pointed out, the value of cocaine is multiplied 208 times as it moves from the farm to Main Street, USA, and there are enough different growing areas and smuggling routes to guarantee that interdiction alone cannot produce victory in the war against drugs.

Similarly, while education is clearly an avenue that must be pursued, the existing evidence provides little basis for believing that education programs that simply provide information about drugs significantly reduce drug use by young people. In fact, levels of drug use appear to be very high among the best educated and most sophisticated social groups, and one comprehensive review of the available studies concluded that "by far the largest number of studies have found no effects of drug education on use."

A STRATEGY FOR MAKING AMERICA DRUG FREE

All of the evidence we have available today suggests that efforts to attack the supply of drugs will not succeed unless they are accompanied by efforts to attack the demand. As long as strong demand is present, high potential profits will attract a supply to meet that demand.

A serious attack on the demand side will require a substantial commitment from the American public. Most of the 23 million Americans who now use drugs are not part of the "underclass" or "counterculture." Many drug users work, pay taxes and vote. Their use of drugs could not occur if it were not condoned by the rest of society. A serious attack on the demand side means telling these 23 million people to change their behavior. If we are not willing to do that, we cannot and will not win the war on drugs.

One key to success is to catch and prosecute more drug users. Given the current level of resources, drug users correctly perceive that their chances of detection are virtually nil. Moreover, they recognize that police, prosecutors and judges are reluctant to prosecute them in a system which offers few appropriate sentencing alternatives.

Penalties for drug users must be based on the principle of "measured response," with the primary goal being deterrence. Revocation of drivers licenses, suspension of eligibility for government programs, supervised probation/rehabilitation and asset forfeiture are appropriate alternatives to prison sentences for first-time drug users. The key is to ensure that these penalties are actually imposed on all convicted drug users, without exception.

Our approach to the drug problem must be tempered with compassion for drug addicts. But our compassion must extend as well to the victims of drug-related crime and to the millions of potential drug users who will suffer if we are not successful in winning this fight. Thus, while rehabilitation and treatment programs are an important component of an effective program, they should be conducted in conjunction with, not in place of, tough law enforcement.

Drug testing is clearly an effective tool for reducing use. Over 50 percent of America's Fortune 500 corporations have instituted drug testing programs, and available data indicate that these programs have resulted in dramatic reductions in usage. For example, the Southern Pacific Railroad, which has had a drug testing program since 1984, reports that drug use has been cut by 75 percent. And the Department of the Navy reports that its comprehensive testing program reduced drug use from 33 percent in 1980 to 10 percent in 1985.

Finally, winning requires a continuation and expansion of the "zero tolerance" approach. Zero tolerance is a way of stating society's commitment to succeed in the fight against drugs. Zero tolerance means that we are determined to absolutely eliminate drugs from our schools, our highways, our workplaces and ultimately from our culture.

1995: PROGRAM FOR A DRUG FREE AMERICA

Our goal is to make America drug free by 1995. The steps described below can achieve that goal.

A. Further Efforts to Limit Supply: First, we believe that further efforts to limit the supply of drugs are an essential part of any comprehensive drug policy. We propose a number of steps to increase both enforcement resources and penalties for drug suppliers, including:

A death penalty for drug kingpins and drug-related murders.

A "three-time-loser" for dealers, with mandatory life sentences for third-time drug trafficking offenses.

Increased interdiction efforts, including improved border patrol detection capabilities.

Expanded efforts at international eradication through bilateral and/or multilateral cooperative efforts.

Increased domestic eradication efforts to reduce domestic production of marijuana and other drugs.

Tighter controls on precursor chemicals used to make illegal drugs.

A "Bounty Hunter" statute providing rewards for those who provide information leading to the capture of drug dealers.

Efforts to limit recidivism, including a lifetime requirement for detailed financial reporting by convicted drug dealers and required drug testing of parollees.

Further toughening penalties for selling to minors or for using minors to sell drugs, including a mandatory ten year sentence for the first offense and life without parole for the second offense.

Increase penalties for use of weapons in conjunction with drug trafficking to a minimum sentence of five years, and a minimum of ten years for offenses involving an automatic weapon.

Halting drug dealing by juveniles by increasing juvenile penalties and holding parents to a higher level responsibility.

Protecting the integrity of law enforcement by requiring state and local governments to implement random testing of law enforcement officers.

B. A Full-Scale Assault on the Demand for Drugs: As indicated above, we do not believe that supply reduction efforts alone will ever be sufficient to win the war on drugs. We propose a full-scale assault on drug demand, based on the principles of zero tolerance and measured response. Continued emphasis on education, prevention and rehabilitation, and additional research into promising techniques in all these areas, is important. However, we also support increasing the level of law enforcement. However, we also support increasing the level of law enforcement resources targeted at drug users, and we believe special efforts should be made to make schools, transportation, workplaces and prisons competely drug free.

1. *Target Users:* Drug users must face a higher probability of apprehension and face innovative penalties in order to deter usage and dry up demand. Innovative punishments must be developed to provide a "measured response" to drug use. Specifically:

Increased law enforcement resources will be targeted at those who violate the law by using illegal drugs. Additional law enforcement officers, prosecutors and judges would be added specifically to apprehend and prosecute drug users.

Fines and asset forfeiture laws will be strengthened to impose stiff fines on users and make seized assets more readily available to local authorities to fund additional enforcement activities.

Drivers licenses and other governmental privileges will be revoked for drug users. Specifically, those convicted of drug use will lose eligibility for programs such as student loans, FHA loans, etc. Repeat offenders could lose eligibility for all Federal aid.

Rehabilitation and probation will also be expanded as alternative sentences for drug users. Convicted drug users routinely would be required to participate in drug rehabilitation programs, including drug testing, as the only alternative to incarceration. Those with sufficient resources would be required to finance the rehabilitation programs from their own funds.

Additional funding for research will be provided to develop a better understanding of the adverse health consequences of drug use, to find improved techniques for rehabilitating drug addicts and preventing use, etc.

A nationwide awareness campaign will be conducted for the six months prior to the implementation of these new penalties to inform drug users that they can no longer expect to use drugs with impunity, and to explain the system of penalties to which drug users will be subject. The message will be that people who possess and use drugs will be punished.

2. *Makes Schools Drug Free:* The Secretary of Education has reported that strong enforcement, parental and law enforcement involvement, and tough penalties are needed to get drugs out of the schools. To encourage adoption of these policies, the Federal government will:

Restrict funding under the Drug Free Schools and Communities Act to schools with zero tolerance programs, including parental notification and automatic suspension/expulsion.

Authorize drug testing as an optional component of zero tolerance programs in schools.

Withhold funds from colleges that fail to implement the provisions of the 1986 Higher Education Act requiring drug-free campuses.

3. *Make Transportation Drug-Free:* The Department of Transportation has taken

the lead in fighting drug use. To assist its efforts, the Congress will:

Require random testing for common carrier operators.

Authorize UMTA to withhold funds from any mass transit system not implementing comprehensive detection, compliance, treatment and enforcement programs.

Withhold highway funding from states that fail to: (1) Administer drug tests to all drivers arrested for drunk driving; (2) automatically revoke drivers licenses for those testing positive on urine tests as well as for anyone convicted of drug possession; and, (3) require successful completion of a drug rehabilitation program as a condition of reapplication for a drivers license.

4. *Make Workplaces Drug Free:* The strong evidence of a relationship between workplace accidents and drug use calls for an all-out attack on drug use in the workplace. Specifically, Congress will:

Authorize drug testing by employers, subject to appropriate safeguards, and eliminate legal hurdles to disciplining employees who fail drug tests.

Create an Office of Drug Free Workplace Compliance within the Occupational Safety and Health Administration (OSHA).

Require OSHA to find and investigate workplaces that have histories of safety problems that could be drug-related.

Require OSHA to mandate compliance programs, including drug testing, in workplaces found to have a history of drug-related safety problems.

Withhold Federal contracts from companies found not to provide drug free workplaces.

Authorize drug testing for Members of Congress and Congressional staff and encourage members to implement random testing programs.

5. *Make Prisons Drug Free:* If there is to be any hope of rehabilitating inmates, especially those incarcerated for drug offenses, we must eliminate drugs entirely from inside the nation's prisons. To achieve this goal we must:

Provide tougher penalties for anyone bringing drugs into Federal prisons, with a mandatory ten-year sentence for anyone smuggling drugs into a Federal prison.

Implement drug testing inside prisons.

Punish prisoners who use drugs with minimum sentence extensions of one year for the first instance of drug use and ten years for the second.●

BUDGET IMPACT OF FSLIC NOTES

● Mr. CHILES. Mr. President, recently there has been a great deal of attention paid to the savings and loan crisis. Managerial incompetence and poor regional economic conditions have driven the industry into a financial disaster. Estimates of the resources necessary to shore up insolvent thrifts are as high as $80 billion, which is far in excess of FSLIC reserves and projected income. Last year, Congress acted to resolve the thrift crisis. The Competitive Equality Banking Act of 1987 authorized a recapitalization plan for the industry which infused $10.8 billion into FSLIC. I expressed grave concerns about this recapitalization plan. Not only was the spending artfully designed to be off budget; it simply didn't provide enough resources to clean up the problem. I am further concerned that there has been no subsequent congressional action since the 1987 act while the thrift crisis continues to grow by an estimated $1 billion a month.

The Federal Home Loan Bank Board has been confronting the problem on a case-by-case basis, merging or liquidating insolvent institutions. FSLIC had projected handling 259 cases in 1988 and 1989. So far in 1988, 102 restructurings and liquidations have been announced with FSLIC assistance totaling more than $20 billion. Almost half of these have occurred in the last month alone. This high caseload and concentrated activity in the past month raises serious questions about the manner in which FSLIC is resolving these cases given the fact that the FSLIC reserves are so greatly depleted.

Because the recapitalization plan didn't provide sufficient cash to handle this caseload, FSLIC has been heavily leveraging its insufficient reserves. FSLIC has been issuing a large number of promissory notes backed by the fund's future resources. As of August 31, 1988, the FSLIC had issued a total of approximately $10.2 billion of these notes. This leveraging is of concern for two reasons. First, such heavy use of notes tends to obscure the immediate problem and merely provides a stopgap solution. Second, these notes pledge future income, which encumbers resources many years in advance and severely limits FSLIC's ability to deal with future contingencies.

The more immediate concern I wish to discuss today, however, deals with how these notes are counted in calculating the Federal deficit. Recently there have been some curious statements reported in the press regarding the timing of case resolution actions of the FSLIC. Specifically, these statements have intimated that the recent rash of bailouts have been driven by a pending October 1 change in the way in which these notes are scored against the Federal deficit.

As chairman of the Budget Committee, I would like to clarify the scorekeeping process for FSLIC notes. The Federal budget now includes the entire amount of these notes as budget authority and outlays when they are issued, even though the cash payments for principal may be spread over as many as 15 years. CBO and OMB started using this scorekeeping in fiscal year 1988, and the 1987 totals for Federal spending were adjusted to reflect this change. So as it stands, it makes no difference whether these notes are issued on September 30 or October 1, 1988. They cost exactly the same amount on either date and still add to the Federal deficit.

Furthermore, the chairman of the Federal Home Loan Bank Board has, until recently, been pushing for Congress to back FSLIC notes with the full faith and credit of the Government. While this may be a symbolic gesture necessary to maintain full investor confidence in FSLIC issues, such an action would have absolutely no impact on the Federal deficit for scorekeeping purposes. In fact, the change in the manner in which these notes are treated in the budget in large part was triggered by the fact that these notes are already effectively federally backed.

I read in the Wall Street Journal yesterday that Chairman Wall has withdrawn his request for congressional action and instead will ask the Attorney General for a legal opinion that such notes already carry the full faith and credit of the Federal Government. Clearly, from a budgetary perspective, such an opinion is unnecessary. These notes are already recognized and recorded as a Federal obligation. I would add, however, that unconstrained issuance of these notes presents a very serious budget concern. The lack of any restriction on the volume of these notes means that FSLIC has free draw on the Treasury unconstrained by the Congress or the executive branch.

Now clearly we have a serious problem here, which is going to be very costly to resolve. Decisive action cannot be postponed while the crisis is escalating at an estimated rate of $1 billion per month. Actions which have taken place so far have seemingly been more concerned with masking the true extent of the problem rather than facing up to the cost. Case resolutions thus far have been a patchwork job, merging insolvents together and recapitalizing the new entity with highly leveraged finances. And all the while, we keep building up billions of dollars more of federally backed obligations which will eventually have to be repaid.

Much of the public discussion has focused on the impact of FSLIC assistance on a possible sequestration under Gramm-Rudman. We have passed August 15, the date by which OMB must lock in technical assumptions about FSLIC spending. As a result, all subsequent spending by FSLIC for 1988 and 1989 that is not a result of new legislation will not trigger a sequestration. But, the fact is that all of FSLIC's obligations are clearly Federal obligations and they add to the Federal deficit. It's time we stop playing budget games with FSLIC and start facing this problem in an honest and straightforward fashion. Budget scorekeeping should not be used to deflect attention from FSLIC's sorry financial condition and the immediate need for further congressional action.●

CATHOLIC HUMAN DEVELOPMENT OFFICE

● Mr. LEVIN. Mr. President, I rise today to pay tribute to the Catholic Human Development Office of the Grand Rapids Diocese which is now celebrating its 20th year as an organization dedicated to the cause of social justice. Twenty years ago, in the summer of 1968, this office was established as a local response to the social and political upheaval of the times. 1968 was also the year that we lost Dr. Martin Luther King, Jr., and Senator Robert F. Kennedy, a year of lost hopes and dreams.

The Catholic Human Development Office was established to keep the legacies of those slain leaders alive. Its mission, as stated in 1968, was to "develop innovative programs to break down racial discrimination and alleviate poverty." The office serves the 11 county area of western lower Michigan which makes up the Roman Catholic Diocese of Grand Rapids.

It has received the strong support of the diocese and from both public and private sources. It owes much to the vision of Bishop Allan J. Babcock and to the commitment of the current bishop, Joseph M. Breitenbeck, and to the tireless work of its three directors: Calvin Jeter, Charles Calati, and Dennis Sturtevant. Its mission has also been advanced by the tireless efforts of its volunteers, staff, and administration.

But it is not only these dedicated individuals who are in my thoughts on this 20th anniversary. I also think about the people who have been served by the Catholic Human Development Office. I think about the poor, the disenfranchised, the "least of the children" who have turned to this office and whose lives have been affected by it. On this anniversary, we honor the Catholic Human Development Office as it rededicates itself to justice and a decent life for all those it serves.●

AGREEMENTS WITH FOREIGN FIRE ORGANIZATIONS

● Mr. ADAMS. Mr. President, I rise today to voice my support for Public Law 100-428. This law grants immediate authority to the Secretary of Agriculture to enter into agreements with foreign fire organizations to assist in our efforts to control wildfires. We are all aware of the fires which are destroying major parts of Yellowstone and Glacier National Parks. The men and women fighting these fires are doing an outstanding job. However, these fires have burned beyond control and are taxing our Nation's fire control capabilities. We must take every action to stop the devastation occurring as a result of these fires.

Public Law 100-428 will be an effective means of stemming the spread of these fires. It authorizes the Government to bring in Canadian forces to strengthen our firefighting efforts. The emergency authorization is temporary, as this legislation expires on December 31. However, we expect these fires to be under control much earlier. The bill also gives us an opportunity to return the assistance if Canada is confronted with similar threatening wildfire problems.

Washington State has been hit hard by fire this summer. To date, more than 85,000 acres of land have been destroyed. Several major areas continue to burn, while new fires have ignited in the western part of the State during the past few days. In Chelan County, the extent of the damage may impel the President to declare it an official disaster area. I cannot overemphasize the damage these fires are causing to my State. Washington State is proud of its forests. Their beauty cannot be measured in dollars; they are part of our culture, our history, a part of our soul as a State.

The catastrophe caused by these fires presents us with a unique problem. How should we handle naturally caused forest fires? In answering this question, we need to review the "let burn" policy employed by the Park Service over the past 16 years. This policy is based upon the principle that fire is a natural means of revitalizing the forest. Although this principle is a sound one, its application must be tempered by weather and environmental considerations. One hundred years of fighting nature has left us with forests which are ready to explode during a summer as dry as this past one. We do not have the capabilities to fight these raging fires and we cannot risk similar catastrophes next summer. When all the fires are under control and the facts are gathered, we must take a close look at the "let burn" policy and reevaluate this policy to include possible modifications when the climate requires. Until that time, we should refrain from forming judgments or changing policies.

This law is a significant and necessary step in ending the destruction of the national parks and forests in our country. For this reason, I salute my colleagues for their quick action in passing the bill and President Reagan for signing it into law.●

IRS REGULATIONS ON CHARITABLE DONATIONS TO FOOD BANKS

● Mr. SASSER. Mr. President, I rise today to focus attention on a situation that threatens the future of our national food bank system. I am referring to proposed Internal Revenue Service regulations that would require all corporate charitable donations of food to be appraised before such contributions could be claimed as a tax deduction.

This proposal would be laughable were its consequences not so severe. The proposed IRS regulations on charitable deductions would jeopardize the security of the corporate donor system by requiring an independent appraisal of all food donations in order to qualify for a tax deduction. The intent of these regulations is clearly to cut down on abuses in estimating the values of charitable donations for tax deductions.

This type of blanket proposal not only lacks foresight, it neglects the unique needs and operations of a wide range of charitable services. While the IRS has cited abuses in cases involving the donation of items such as computers and artwork to institutions, there is no record of abuse within the food bank donation system. There simply is no demonstrated need for such draconian regulations on estimating the cost of food donations. Nevertheless, the food bank system will fall under this blanket provision and the requirements will be practically impossible to meet.

In addition to failing to establish a need for this change, no system of food appraisal currently exists. The cost of creating and implementing such a system, and training workers in these skills is certain to be substantial. When these costs are stacked up against the deduction that can be taken by donors, which has been estimated at no more than 15 percent of the aggregate cost basis of the products that have been donated, the sheer foolishness of these food appraisals is revealed. No business can be expected to pay to give away its products.

Clearly, the appraisal requirements strongly discourage supermarkets and other donors from donating their excess food for the use of the needy and supporting the food bank network. This policy runs counter to any congressional intent to encourage private sector support of our charitable institutions.

This situation is exacerbated by the additional paperwork and time that would be involved in obtaining an independent appraisal to make a donation. Supermarket food donors frequently contribute perishable goods that must be made available for distribution immediately, and food processing plants often operate with limited storage space and cannot afford the delays that are certain to ensue from appraisal requirements. Due to the nature of the commodities being donated to food banks, such cost appraisals would have to be obtained on a daily basis. Few businesses could afford the time or cost demands that would be required to comply with the appraisal requirements.

Our food bank system serves as an excellent example of what can be accomplished through cooperative efforts by the private sector and charitable institutions. Over the past 5 years, the national food bank network has distributed 1,262,925,829 pounds of food to individuals and families in need of help. This food is donated from hundreds of corporate donors and then passed on through local food banks to over 38,000 charities that reach people who are otherwise without resources.

Indeed, a recent survey by the Food Marketing Institute found that 62.8 percent of all U.S. supermarkets now make donations to local food banks. In turn, the food bank system is able to distribute this food for the cost of $1 for every $157 worth of food.

With the alarming rise in the number of homeless and hungry in recent years, we must promote private sector giving. The food bank system has proven itself to be an effective and cost-efficient system of food distribution to the needy and we must not allow the future success of this system be threatened by excessive and unnecessary bureaucracy.

The IRS has scheduled hearings to be held on September 23, 1988, in order to consider the full impact of the proposed charitable deduction rule changes on the cooperative corporate donor-food bank system. I have contacted Commissioner Gibbs to urge him to take action to exempt corporate food donors from the onerous appraisal requirements, and I encourage my colleagues to do the same. We have a good system that works in our national food bank network—let us not allow this short-sighted policy undermine this progress. ●

CORRECTION AMENDMENT NO. 3037

● Mr. RUDMAN. Mr. President, yesterday I submitted amendment No. 3037 to S. 430 on behalf of Senator Wilson and myself. This amendment can be found on page S12492 of yesterday's Congressional Record.

Unfortunately, an error was made someplace in the recording or printing process. As a result, only the first page of the amendment was printed and Senator Wilson was omitted as an original sponsor.

I ask that the full text of the amendment be printed in the Record at this point and that the permanent Record be corrected.

The amendment is as follows:

Strike all beginning on page 3, line 10 through page 4, line 24, and insert in lieu thereof the following:

"Sec. 2. Findings.—

"(a) Consumer welfare is greatly enhanced by an ability to purchase goods and services at lower prices as a result of vigorous price competition;

"(b) vertical price restraints generally have an adverse impact on competition that results in higher consumer prices;

"(c) recent court decisons have so narrowly construed the laws against vertical price restraints that consumer welfare has been put in jeopardy; and

"(d) it is necessary to enact legislation that protects the interests of consumers in vigorous price competition while recognizing the needs of manufacturers and others to maintain reasonable service, quality, and safety standards.

"Sec. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

" 'Sec. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change, or maintain prices, if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

" '(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents sufficient evidence that such person—

" '(i) received from a competitor of the claimant an express or implied request or demand, including a threat to discontinue an existing business arrangement, that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

" '(ii) because of such request, demand, or threat terminated the claimant as buyer of such good or service for resale or refused to supply to the claimant some or all of such goods or services requested by the claimant: Provided, that a termination or refusal to supply is made 'because of such request, demand, or threat' only if such request, demand, or threat is the major contributing cause of such termination or refusal to supply.

" '(2) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

" '(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change, or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change, or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section except that this section shall not apply when the agreement to set, change, or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as as dealer or to refuse to supply such other purchaser because of that purchaser's pricing policies shall constitute a violation of this section, whether or not a specific price or price level is agreed upon.'.

"Sec. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

"Sec. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust law.".●

NATIONAL HOME CARE WEEK

● Mr. D'AMATO. Mr. President, I rise today in support of Senate Joint Resolution 280, introduced by my distinguished colleague, Senator Hatch, to designate the week of November 27 through December 3, 1988, as National Home Care Week. I commend my colleague from Utah for leading this effort to highlight the benefits of home care services and to honor those who provide these services.

Home health care permits those who are disabled, chronically ill, or recovering from illness to receive treatment and assistance in the home environment. Many of those who choose home care services, do so because of financial considerations; however, they also clearly benefit from the increased dignity and independence that home care provides.

The situations and conditions for which home care is appropriate are continually expanding. Advances in medical technology are enabling more and more people to leave institutions or never even to enter them. Illnesses that at one time were manageable only in a hospital or institution can now be treated expertly and efficiently in the home.

Long-term care is widely recognized by the American public as a crucial health priority. Polls by such organizations as R.L. Associates, Harris, Forecasting International, and Gallup show that the public prefers home care over institutionalization as the primary element in our Nation's long-term care program by a margin of at least 90 percent.

National Home Care Week will emphasize the availability and appropriateness of home care as a viable, cost effective health care option. I hope that this resolution will enhance public awareness of home care, while also recognizing the fine work being done by over 5,000 Medicare-certified home health agencies and thousands of other home care agencies that care for the elderly, sick, and infirm.●

WAITING TO GET IN

● Mr. BOSCHWITZ. Mr. President, I want to call to my colleagues' attention to an article by Ken Adelman that recently appeared in the Washington Times. The column, titled "Waiting to get in—a Shortsighted Policy on Refugees," really hits the nail on the head regarding U.S. refugee policy.

The article personalizes the plight of millions of refugees through the story of one man's imprisonment in Vietnam for 12½ years. Ngo Khac Tinh now awaits entry into the United States to rejoin his family. The article also recounts the horrors of African refugees and "boat people" fleeing the oppression of Communist governments in Southeast Asia.

I strongly believe we have a humanitarian duty to these people. Beyond that, it is important for people to recognize that refugees, and all immigrants for that matter, have been vital to the U.S. welfare and prosperity. We are, after all, a nation of refugees and immigrants, and together we have helped make America great. Refugees are not a drag on our economy as some claim. In fact, throughout our history, the times of highest immigration have also been the times of greatest economic growth.

Today our worldwide refugee program is threatened by a possible lack of adequate funding. As Adelman's article points out, Jonathan Moore, head of the State Department's Bureau of Refugee Affairs, has been a forceful advocate for the increased funding that will allow our country to live up to both our humanitarian duty and our noble heritage.

Next week, conferees will debate the funding levels of our international refugee programs. I urge my colleagues to read Ken Adelman's article and press for the highest funding possible for these programs. We have it in our power to save the lives of innocent people—and that is truly a big responsibility and great opportunity.

The article follows:

WAITING TO GET IN—A SHORTSIGHTED POLICY ON REFUGEES

"A year spent in prison is equal to a thousand years as a free man." This ancient Asian adage was quoted by one man who should know.

Ngo Khac Tinh packed his wife and children on the last Air Vietnam flight from Saigon in 1975. He chose to stay behind to care for his aging parents.

He expected prison, having served as South Vietnam's education minister. "I thought maybe things would last two or three months." Jail lasted 12½ years, without his being charged, tried or sentenced for any crime. Recently released, he can hardly wait to be reunited with his wife and three daughters in San Jose, Calif.

Ngo Khac Tinh is the latest symbol of an ongoing tragedy. The triumph of the northern Vietnamese "liberators" over the southern "reactionaries" has resulted in roughly a million and a half boat people, some half a million perishing at sea.

Blood-curdling stories recently told of starvation and cannibalism by desperate boat people on a 37-day voyage. Their rickety vessel was passed by eight ships daily, none of which stopped to rescue the starved and scorched families. Two U.S. Navy vessels gave them some food and water. Of the 109 people setting out, 58 died en route, many after plunging into the sea to swim toward a passing ship.

Ngo Khac Tinh also symbolizes a slice of humanity dear to the American heart—the world's 12 million refugees. We know Vietnamese refugees best, because of our involvement in their native land and their awesome achievements in their new country.

What we relegated as a past problem—massive outflows from Vietnam—is back as a present problem. Three times as many Vietnamese fled their homeland this year as last, reaching the heights of 1975 and 1976. The United States has taken more than half of the 1.5 million refugees resettled from that region since the war.

Yet we should do more.

Refugee work is God's work. It's the one aspect of international relations which clearly and closely connects to real people. And the refugee flow is the ultimate tribute to free societies.

British Prime Minister Margaret Thatcher said, "When people are free to choose, they choose to be free." Given the "gates test," when the gates are raised, folks flock to freedom. No one heads for Vietnam, or China, or Russia; that's where they flee from.

By the criteria of the ancient Talmud—"He who saves a single life, it is as though he has saved the entire world"—Jonathan Moore is saving the "entire world" almost daily.

He's the one responsible for the refugee account in the State Department. But his account is drying up. Not enough funds are allocated to bring in all the refugees allowed under the law. People like Ngo Khac Tinh may be left in squalor rather than brought to these shores for sheer lack of refugee funds.

This is shamefully shortsighted. Imagine how much today's award-winning Asian students will contribute to America's wealth tomorrow. We should eagerly embrace more than the scheduled 36,000 Vietnamese refugees this year.

Funds are likewise lacking to feed, clothe and shelter refugees before they find a permanent home. The U.N. High Commissioner for Refugees, the International Committee for the Red Cross and others cope as best they can.

But since they are scrounging nowadays, their beneficiaries scrounge. In southern Ethiopia, 176,000 refugees from Sudan lack milk and cooking oil. Refugees from Mozambique flock to Malawi with empty bellies and clad in rags, only to share one hospital bed with two or three others. Two-thirds of refugee children around the world attend no school.

Mr. Moore beats the drum for his forgotten flock as part of "humanitarian advocacy." This is needed, since Vietnam's neighbors are hardly acting neighborly toward the new refugees. Some states still cope with the first *tranche*; Thailand hosts a quarter-million Cambodians in its border camps.

Still, their behavior is shameful. Indonesia and Thailand have adopted measures which allow the use of force to prevent refugee boats from landing at their ports. Other countries are less severe, yet still stingy.

The United States spends more money than any other nation for refugee assistance and admissions, some $340 million this year.

Yet we, too, are being stingy. This year's assistance levels are 10 percent lower than last year's, while the world's problems are greater. As Mr. Moore said, "In the face of these truly desperate needs, we must find a way to give higher priority to this mission to which we have long provided such proud leadership."

We should take our inspiration today from the Statue of Liberty and welcome these huddled masses yearning to breathe free. That's what America is all about.●

GEN. LAURIS NORSTAD

● Mr. DURENBERGER. Mr. President, I rise today to honor the memory of a distinguished Minnesotan: Gen. Lauris Norstad.

Lauris Norstad died this week at the age of 81 after a heart attack in Arizona. While my State has provided many national leaders this century, few reached as high in their chosen profession as Lauris Norstad. Even a partial list of his accomplishments illustrates that few stood taller than Lauris Norstad: the youngest four-star general in American history, former Supreme Commander of the North Atlantic Treaty Organization, pioneer in creating the Air Force as a separate service, and successful businessman.

Lauris Norstad was born in Minneapolis on March 27, 1904 the son of an immigrant Lutheran preacher from Norway. He moved to Red Wing, MN, as a child and graduated from West Point in 1930. Though commissioned as a cavalry lieutenant, Lauris took flight training immediately and joined the Army Air Corps in 1931. A major when the Second World War broke out, Norstad was summoned by General "Hap" Arnold, commander of the Army Air Corps, and told, "I need someone to help me do my thinking."

Norstad rose rapidly during the war and became one of the youngest brigadier generals in the Army. While planning air operations in North Africa, he served under Dwight D. Eisenhower who later wrote of Norstad that he was "so impressed with his alertness, grasp of problems, and personality that I determined never to lose sight of him."

In the waning months of the war, Norstad planned the strategic bombing campaign that helped lead to the surrender of Japan. After the war he played a major role in planning for a new armed service: the U.S. Air Force.

In 1952, he became the youngest full general in U.S. history and was appointed to command NATO in 1956—a position he held until 1963.

As NATO commander, Norstad weathered some of the most dangerous crises of the Cold War: Berlin in 1961 and Cuba in 1962. He had the skills of a diplomat while serving as the Free World's top soldier on the front line of the East-West confrontation. He had to balance conflicting interests on a continuous basis: concerns over German rearmament, France's war with Algeria, the evolving role of nuclear weapons in the defense of Europe, and many others. General Norstad performed with grace and ability that will be long remembered.

Upon retirement from the military, Lauris Norstad did not, contrary to the aphorism about old soldiers, fade away. He joined Owens-Corning Fiberglass and rose to become CEO. Sales more than doubled under his leadership. He also served as a director of a number of other large companies. After a lifetime of leading in military and security affairs, General Norstad went on to become a force in private enterprise.

Mr. President, a truly great American has passed away. I am sure my colleagues join me in expressing condolences to Lauris Norstad's family. Our Nation—and the world—will miss Gen. Lauris Norstad.●

REGULATING OF GAMING ON INDIAN LANDS

Mr. INOUYE. Mr. President, pursuant to authority granted by the majority leader, I ask unanimous consent for the immediate consideration of S. 555, Calendar Order No. 862.

The PRESIDING OFFICER. Under the previous order, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 555) to regulate gaming on Indian lands.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Indian Gaming Regulatory Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) numerous Indian tribes have become engaged in or have licensed gaming activities on Indian lands as a means of generating tribal governmental revenue;

(2) Federal courts have held that section 2103 of the Revised Statutes (25 U.S.C. 81) requires Secretarial review of management contracts dealing with Indian gaming, but does not provide standards for approval of such contracts;

(3) existing Federal law does not provide clear standards or regulations for the conduct of gaming on Indian lands;

(4) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government; and

(5) Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.

DECLARATION OF POLICY

SEC. 3. The purpose of this Act is—

(1) to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

(2) to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players; and

(3) to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue.

DEFINITIONS

SEC. 4. For purposes of this Act—

(1) The term "Attorney General" means the Attorney General of the United States.

(2) The term "Chairman" means the Chairman of the National Indian Gaming Commission.

(3) The term "Commission" means the National Indian Gaming Commission established pursuant to section 5 of this Act.

(4) The term "Indian lands" means—

(A) all lands within the limits of any Indian reservation; and

(B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which—

(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians, and

(B) is recognized as possessing powers of self-government.

(6) The term "gaming" means to deal, operate, carry on, conduct, or maintain for play any banking or percentage game of chance played for money, property, credit, or any representative value.

(7) The term "class I gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

(8)(A) The term "class II gaming" means—

(i) the games of chance commonly known as bingo or lotto (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

(I) which are played for prizes, including monetary prizes, with cards bearing numbers or other designations,

(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards,

including pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo, and

(ii) card games that—

(I) are explicitly authorized by the laws of the State, or

(II) are not explicitly prohibited by the laws of the State and are played at any location in the State,

but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(B) The term "class II gaming" does not include—

(i) any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(C) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Washington, that were actually operated in such State by an Indian tribe on or before May 1, 1988, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Chairman.

(D) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes, during the 1-year period beginning on the date of enactment of this Act, any gaming described in subparagraph (B)(ii) that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated requests the State, by no later than the date that is 30 days after the date of enactment of this Act, to negotiate a Tribal-State compact under section 11(d)(3).

(9) The term "class III gaming" means all forms of gaming that are not class I gaming or class II gaming.

(10) The term "net revenues" means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

(11) The term "Secretary" means the Secretary of the Interior.

NATIONAL INDIAN GAMING COMMISSION

SEC. 5. (a) There is established within the Department of the Interior a Commission to be known as the National Indian Gaming Commission.

(b)(1) The Commission shall be composed of five full-time members who shall be appointed as follows:

(A) a Chairman, who shall be appointed by the President with the advice and consent of the Senate; and

(B) four associate members who shall be appointed by the Secretary of the Interior.

(2)(A) The Attorney General shall conduct a background investigation on any person considered for appointment to the Commission.

(B) The Secretary shall publish in the Federal Register the name and other information the Secretary deems pertinent regarding a nominee for membership on the Commission and shall allow a period of not less than thirty days for receipt of public comment.

(3) Not more than three members of the Commission shall be of the same political party. At least three members of the Commission shall be enrolled members of any Indian tribe.

(4)(A) Except as provided in subparagraph (B), the term of office of the members of the Commission shall be three years.

(B) Of the initial members of the Commission—

(i) three members, including the Chairman, shall have a term of office of three years; and

(ii) two members shall have a term of office of two years.

(5) No individual shall be eligible for any appointment to, or to continue service on, the Commission, who—

(A) has been convicted of a felony or gaming offense;

(B) has any financial interest in, or management responsibility for, any gaming activity; or

(C) has a financial interest in, or management responsibility for, any management contract approved pursuant to section 12 of this Act.

(6) A Commissioner may only be removed from office before the expiration of the term of office of the member by the President (or, in the case of associate member, by the Secretary) for neglect of duty, or malfeasance in office, or for other good cause shown.

(c) Vacancies occurring on the Commission shall be filled in the same manner as the original appointment. A member may serve after the expiration of his term of office until his successor has been appointed, unless the member has been removed for cause under subsection (b)(6).

(d) Three members of the Commission, at least one of which is the Chairman or Vice Chairman, shall constitute a quorum.

(e) The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman. The Vice Chairman shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

(f) The Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every 4 months.

(g)(1) The Chairman of the Commission shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) The associate members of the Commission shall each be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

POWERS OF THE CHAIRMAN

SEC. 6. (a) The Chairman, on behalf of the Commission, shall have power, subject to an appeal to the Commission, to—

(1) issue orders of temporary closure of gaming activities as provided in section 14(b);

(2) levy and collect civil fines as provided in section 14(a);

(3) approve tribal ordinances or resolutions regulating class II gaming and class III gaming as provided in section 11; and

(4) approve management contracts for class II gaming and class III gaming as provided in sections 11(d)(9) and 12.

(b) The Chairman shall have such other powers as may be delegated by the Commission.

POWERS OF THE COMMISSION

SEC. 7. (a) The Commission shall have the power, not subject to delegation—

(1) upon the recommendation of the Chairman, to approve the annual budget of the Commission as provided in section 18;

(2) to adopt regulations for the assessment and collection of civil fines as provided in section 14(a);

(3) by an affirmative vote of not less than 3 members, to establish the rate of fees as provided in section 18;

(4) by an affirmative vote of not less than 3 members, to authorize the Chairman to issue subpoenas as provided in section 16; and

(5) by an affirmative vote of not less than 3 members and after a full hearing, to make permanent a temporary order of the Chairman closing a gaming activity as provided in section 14(b)(2).

(b) The Commission—

(1) shall monitor class II gaming conducted on Indian lands on a continuing basis;

(2) shall inspect and examine all premises located on Indian lands on which class II gaming is conducted;

(3) shall conduct or cause to be conducted such background investigations as may be necessary;

(4) may demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

(5) may use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

(6) may procure supplies, services, and property by contract in accordance with applicable Federal laws and regulations;

(7) may enter into contracts with Federal, State, tribal and private entities for activities necessary to the discharge of the duties of the Commission and, to the extent feasible, contract the enforcement of the Commission's regulations with the Indian tribes;

(8) may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate;

(9) may administer oaths or affirmations to witnesses appearing before the Commission; and

(10) shall promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act.

(c) The Commission shall submit a report with minority views, if any, to the Congress on December 31, 1989, and every two years thereafter. The report shall include information on—

(1) whether the associate commissioners should continue as full or part-time officials;

(2) funding, including income and expenses, of the Commission;

(3) recommendations for amendments to the Act; and

(4) any other matter considered appropriate by the Commission.

COMMISSION STAFFING

SEC. 8. (a) The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of that title.

(c) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Service.

(d) Upon the request of the Chairman, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law.

(e) The Secretary or Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

COMMISSION—ACCESS TO INFORMATION

SEC. 9. The Commission may secure from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law.

INTERIM AUTHORITY TO REGULATE GAMING

SEC. 10. Notwithstanding any other provision of this Act, the Secretary shall continue to exercise those authorities vested in the Secretary on the day before the date of enactment of this Act relating to supervision of Indian gaming until such time as the Commission is organized and prescribes regulations. The Secretary shall provide staff and support assistance to facilitate an orderly transition to regulation of Indian gaming by the Commission.

TRIBAL GAMING ORDINANCES

SEC. 11. (a)(1) Class I gaming on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

(2) Any class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

(b)(1) An Indian tribe may engage in, or license and regulate, class II gaming on Indian lands within such tribe's jurisdiction, if—

(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law), and

(B) the governing body of the Indian tribe adopts an ordinance or resolution which is approved by the Chairman.

A separate license issued by the Indian tribe shall be required for each place, facility, or location on Indian lands at which class II gaming is conducted.

(2) The Chairman shall approve any tribal ordinance or resolution concerning the conduct, or regulation of class II gaming on the Indian lands of the Indian tribe if such ordinance or resolution provides that—

(A) except as provided in paragraph (4), the Indian tribe will have the sole proprietary interest and responsibility for the conduct of any gaming activity;

(B) net revenues from any tribal gaming are not to be used for purposes other than—

(i) to fund tribal government operations or programs;

(ii) to provide for the general welfare of the Indian tribe and its members;

(iii) to promote tribal economic development;

(iv) to donate to charitable organizations; or

(v) to help fund operations of local government agencies;

(C) annual outside independent audits of the gaming will be obtained by the Indian tribe and made available to the Commission;

(D) all contracts for supplies, services, or concessions for a contract amount in excess of $25,000 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits;

(E) the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety; and

(F) an adequate system which—

(i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an ongoing basis; and

(ii) includes—

(I) tribal licenses for primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses;

(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment; and

(III) notification by the Indian tribe to the Commission of the results of such background check before the issuance of any of such licenses.

(3) Net revenues from any class II gaming activities conducted or licensed by any Indian tribe may be used to make per capita payments to members of the Indian tribe only if—

(A) the Indian tribe has prepared a plan to allocate revenues to uses authorized by paragraph (2)(B);

(B) the plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of paragraph (2)(B);

(C) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare, of the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

(D) the per capita payments are subject to Federal taxation and tribes notify members of such tax liability when payments are made.

(4)(A) A tribal ordinance or resolution may provide for the licensing or regulation of class II gaming activities owned by any person or entity other than the Indian tribe and conducted on Indian lands, only if the tribal licensing requirements include the requirements described in the subclauses of subparagraph (B)(i) and are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located. No person or entity, other than the Indian tribe, shall be eligible to receive a tribal license to own a class II gaming activity conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

(B)(i) The provisions of subparagraph (A) of this paragraph and the provisions of subparagraphs (A) and (B) of paragraph (2) shall not bar the continued operation of an individually owned class II gaming operation that was operating on September 1, 1986, if—

(I) such gaming operation is licensed and regulated by an Indian tribe pursuant to an ordinance reviewed and approved by the Commission in accordance with section 13 of the Act,

(II) income to the Indian tribe from such gaming is used only for the purposes described in paragraph (2)(B) of this subsection,

(III) not less than 60 percent of the net revenues is income to the Indian tribe, and

(IV) the owner of such gaming operation pays an appropriate assessment to the National Indian Gaming Commission under section 18(a)(1) for regulation of such gaming.

(ii) The exemption from the application of this subsection provided under this subparagraph may not be transferred to any person or entity and shall remain in effect only so long as the gaming activity remains within the same nature and scope as operated on the date of enactment of this Act.

(iii) Within sixty days of the date of enactment of this Act, the Secretary shall prepare a list of each individually owned gaming operation to which clause (i) applies and shall publish such list in the Federal Register.

(c)(1) The Commission may consult with appropriate law enforcement officials concerning gaming licenses issued by an Indian tribe and shall have thirty days to notify the Indian tribe of any objections to issuance of such license.

(2) If, after the issuance of a gaming license by an Indian tribe, reliable information is received from the Commission indicating that a primary management official or key employee does not meet the standard established under subsection (b)(2)(F)(ii)(II), the Indian tribe shall suspend such license and, after notice and hearing, may revoke such license.

(d)(1) Class III gaming activities shall be lawful on Indian lands only if such activities are—

(A) authorized by an ordinance or resolution that—

(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

(ii) meets the requirements of subsection (b), and

(iii) is approved by the Chairman,

(B) located in a State that permits such gaming for any purpose by any person, organization, or entity, and

(C) conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect.

(2)(A) If any Indian tribe proposes to engage in, or to authorize any person or entity to engage in, a class III gaming activity on Indian lands of the Indian tribe, the governing body of the Indian tribe shall adopt and submit to the Chairman an ordinance or resolution that meets the requirements of subsection (b).

(B) The Chairman shall approve any ordinance or resolution described in subparagraph (A), unless the Chairman specifically determines that—

(i) the ordinance or resolution was not adopted in compliance with the governing documents of the Indian tribe, or

(ii) the tribal governing body was significantly and unduly influenced in the adoption of such ordinance or resolution by any person identified in section 12(e)(1)(D).

Upon the approval of such an ordinance or resolution, the Chairman shall publish in the Federal Register such ordinance or resolution and the order of approval.

(C) Effective with the publication under subparagraph (B) of an ordinance or resolution adopted by the governing body of an Indian tribe that has been approved by the Chairman under subparagraph (B), class III gaming activity on the Indian lands of the Indian tribe shall be fully subject to the terms and conditions of the Tribal-State compact entered into under paragraph (3) by the Indian tribe that is in effect.

(D)(i) The governing body of an Indian tribe, in its sole discretion and without the approval of the Chairman, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

(ii) The Indian tribe shall submit any revocation ordinance or resolution described in clause (i) to the Chairman. The Chairman shall publish such ordinance or resolution in the Federal Register and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

(iii) Notwithstanding any other provision of this subsection—

(I) any person or entity operating a class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in clause (i) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation ordinance or resolution is published under clause (ii), continue to operate such activity in conformance with the Tribal-State compact entered into under paragraph (3) that is in effect, and

(II) any civil action that arises before, and any crime that is committed before, the close *of such 1-year period shall not be affected by such revocation ordinance or resolution.*

(3)(A) Any Indian tribe having jurisdiction over the Indian lands upon which a class III gaming activity is being conducted, or is to be conducted, shall request the State in which such lands are located to enter into negotiations for the purpose of entering into a Tribal-State compact governing the conduct of gaming activities. Upon receiving such a request, the State shall negotiate with the Indian tribe in good faith to enter into such a compact.

(B) Any State and any Indian tribe may enter into a Tribal-State compact governing gaming activities on the Indian lands of the Indian tribe, but such compact shall take effect only when notice of approval by the Secretary of such compact has been published by the Secretary in the Federal Register.

(C) Any Tribal-State compact negotiated under subparagraph (A) may include provisions relating to—

(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

(v) remedies for breach of contract;

(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

(vii) any other subjects that are directly related to the operation of gaming activities.

(4) Nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3)(A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.

(5) Nothing in this subsection shall impair the right of an Indian tribe to regulate class III gaming on its Indian lands concurrently with the State, except to the extent that such regulation is inconsistent with, or less stringent than, the State laws and regulations made applicable by any Tribal-State compact entered into by the Indian tribe under paragraph (3) that is in effect.

(6) The provisions of section 5 of the Act of January 2, 1951 (64 Stat. 1135) shall not apply to any gaming conducted under a Tribal-State compact that—

(A) is entered into under paragraph (3) by a State in which gambling devices are legal, and

(B) is in effect.

(7)(A) The United States district courts shall have jurisdiction over—

(i) any cause of action initiated by an Indian tribe arising from the failure of a State to enter into negotiations with the Indian tribe for the purpose of entering into a Tribal-State compact under paragraph (3) or to conduct such negotiations in good faith,

(ii) any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any Tribal-State compact entered into under paragraph (3) that is in effect, and

(iii) any cause of action initiated by the Secretary to enforce the procedures prescribed under subparagraph (B)(vii).

(B)(i) An Indian tribe may initiate a cause of action described in subparagraph (A)(i) only after the close of the 180-day period beginning on the date on which the Indian tribe requested the State to enter into negotiations under paragraph (3)(A).

(ii) In any action described in subparagraph (A)(i), upon the introduction of evidence by an Indian tribe that—

(I) a Tribal-State compact has not been entered into under paragraph (3), and

(II) the State did not respond to the request of the Indian tribe to negotiate such a compact or did not respond to such request in good faith,

the burden of proof shall be upon the State to prove that the State has negotiated with the Indian tribe in good faith to conclude a Tribal-State compact governing the conduct of gaming activities.

(iii) If, in any action described in subparagraph (A)(i), the court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a Tribal-State compact governing the conduct of gaming activities, the court shall order the State and the Indian Tribe to conclude such a compact within a 60-day period. In determining in such an action whether a State has negotiated in good faith, the court—

(I) may take into account the public interest, public safety, criminality, financial integrity, and adverse economic impacts on existing gaming activities, and

(II) shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian lands as evidence that the State has not negotiated in good faith.

(iv) If a State and an Indian tribe fail to conclude a Tribal-State compact governing the conduct of gaming activities on the Indian lands subject to the jurisdiction of such Indian tribe within the 60-day period provided in the order of a court issued under clause (iii), the Indian tribe and the State shall each submit to a mediator appointed by the court a proposed compact that represents their last best offer for a compact. The mediator shall select from the two proposed compacts the one which best comports with the terms of this Act and any other applicable Federal law and with the findings and order of the court.

(v) The mediator appointed by the court under clause (iv) shall submit to the State and the Indian tribe the compact selected by the mediator under clause (iv).

(vi) If a State consents to a proposed compact during the 60-day period beginning on the date on which the proposed compact is submitted by the mediator to the State under clause (v), the proposed compact shall be treated as a Tribal-State compact entered into under paragraph (3).

(vii) If the State does not consent during the 60-day period described in clause (vi) to a proposed compact submitted by a mediator under clause (v), the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Indian tribe, procedures—

(I) which are consistent with the proposed compact selected by the mediator under clause (iv), the provisions of this Act, and the relevant provisions of the laws of the State, and

(II) under which class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction.

(8)(A) The Secretary is authorized to approve any Tribal-State compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

(B) The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

(i) any provision of this Act,

(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or

(iii) the trust obligations of the United States to Indians.

(C) If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act.

(D) The Secretary shall publish in the Federal Register notice of any Tribal-State compact that is approved, or considered to have been approved, under this paragraph.

(9) An Indian tribe may enter into a management contract for the operation of a class III gaming activity if such contract has been submitted to, and approved by, the Chairman. The Chairman's review and approval of such contract shall be governed by the provisions of subsections (b), (c), (d), (f), (g), and (h) of section 12.

(e) For purposes of this section, by not later than the date that is 90 days after the date on which any tribal gaming ordinance or resolution is submitted to the Chairman, the Chairman shall approve such ordinance or resolution if it meets the requirements of this section. Any such ordinance or resolution not acted upon at the end of that 90-day period shall be considered to have been approved by the Chairman, but only to the extent such ordinance or resolution is consistent with the provisions of this Act.

MANAGEMENT CONTRACTS

SEC. 12. (a)(1) Subject to the approval of the Chairman, an Indian tribe may enter into a management contract for the operation and management of a class II gaming activity that the Indian tribe may engage in under section 11(b)(1), but, before approving such contract, the Chairman shall require and obtain the following information:

(A) the name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock;

(B) a description of any previous experience that each person listed pursuant to subparagraph (A) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and

(C) a complete financial statement of each person listed pursuant to subparagraph (A).

(2) Any person listed pursuant to paragraph (1)(A) shall be required to respond to such written or oral questions that the Chairman may propound in accordance with his responsibilities under this section.

(3) For purposes of this Act, any reference to the management contract described in paragraph (1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(b) The Chairman may approve any management contract entered into pursuant to this section only if he determines that it provides at least—

(1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the tribal governing body on a monthly basis;

(2) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

(3) for a minimum guaranteed payment to the Indian tribe that has preference over the retirement of development and construction costs;

(4) for an agreed ceiling for the repayment of development and construction costs;

(5) for a contract term not to exceed five years, except that, upon the request of an Indian tribe, the Chairman may authorize a contract term that exceeds five years but does not exceed seven years if the Chairman is satisfied that the capital investment required, and the income projections, for the particular gaming activity require the additional time; and

(6) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

(c)(1) The Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity if the Chairman determines that such percentage fee is reasonable in light of surrounding circumstances. Except as otherwise provided in this subsection, such fee shall not exceed 30 percent of the net revenues.

(2) Upon the request of an Indian tribe, the Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity that exceeds 30 percent but not 40 percent of the net revenues if the Chairman is satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee requested by the Indian tribe.

(d) By no later than the date that is 180 days after the date on which a management contract is submitted to the Chairman for approval, the Chairman shall approve or disapprove such contract on its merits. The Chairman may extend the 180-day period by not more than 90 days if the Chairman notifies the Indian tribe in writing of the reason for the extension. The Indian tribe may bring an action in a United States district court to compel action by the Chairman if a contract has not been approved or disapproved within the period required by this subsection.

(e) The Chairman shall not approve any contract if the Chairman determines that—

(1) any person listed pursuant to subsection (a)(1)(A) of this section—

(A) is an elected member of the governing body of the Indian tribe which is the party to the management contract;

(B) has been or subsequently is convicted of any felony or gaming offense;

(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded pursuant to subsection (a)(2); or

(D) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

(2) the management contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

(3) the management contractor has deliberately or substantially failed to comply with the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this Act; or

(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(f) The Chairman, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if he subsequently determines that any of the provisions of this section have been violated.

(g) No management contract for the operation and management of a gaming activity regulated by this Act shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and unless clearly specified in writing in said contract.

(h) The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), relating to management contracts regulated pursuant to this Act, is hereby transferred to the Commission.

(i) The Commission shall require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in subsection (e) of this section.

REVIEW OF EXISTING ORDINANCES AND CONTRACTS

SEC. 13. (a) As soon as practicable after the organization of the Commission, the Chairman shall notify each Indian tribe or management contractor who, prior to the enactment of this Act, adopted an ordinance or resolution authorizing class II gaming or class III gaming or entered into a management contract, that such ordinance, resolution, or contract, including all collateral agreements relating to the gaming activity, must be submitted for his review within sixty days of such notification. Any activity conducted under such ordinance, resolution, contract, or agreement shall be valid under this Act, or any amendment made by this Act, unless disapproved under this section.

(b)(1) By no later than the date that is 90 days after the date on which an ordinance or resolution authorizing class II gaming or class III gaming is submitted to the Chairman pursuant to subsection (a), the Chairman shall review such ordinance or resolution to determine if it conforms to the requirements of section 11(b) of this Act.

(2) If the Chairman determines that an ordinance or resolution submitted under subsection (a) conforms to the requirements of section 11(b), the Chairman shall approve it.

(3) If the Chairman determines that an ordinance or resolution submitted under subsection (a) does not conform to the requirements of section 11(b), the Chairman shall provide written notification of necessary modifications to the Indian tribe which shall have not more than 120 days to bring such ordinance or resolution into compliance.

(c)(1) Within 180 days after the submission of a management contract, including all collateral agreements, pursuant to subsection (a), the Chairman shall subject such contract to the requirements and process of section 12.

(2) If the Chairman determines that a management contract submitted under subsection (a), and the management contractor under such contract, meet the requirements of section 12, the Chairman shall approve the management contract.

(3) If the Chairman determines that a contract submitted under subsection (a), or the management contractor under a contract submitted under subsection (a), does not meet the requirements of section 12, the Chairman shall provide written notification to the parties to such contract of necessary modifications and the parties shall have not more than 120 days to come into compliance. If a management contract has been approved by the Secretary prior to the date of enactment of this Act, the parties shall have not more than 180 days after notification of necessary modifications to come into compliance.

CIVIL PENALTIES

SEC. 14. (a)(1) Subject to such regulations as may be adopted by the Commission, the Chairman shall have authority to levy and collect appropriate civil fines, not to exceed $25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for any violation of any provision of this Act, any regulation prescribed by the Commission pursuant to this Act, or tribal regulations, ordinances, or resolutions approved under section 11 or 13.

(2) The Commission shall, by regulation, provide an opportunity for an appeal and hearing before the Commission on fines levied and collected by the Chairman.

(3) Whenever the Commission has reason to believe that the tribal operator of an Indian game or a management contractor is engaged in activities regulated by this Act, by regulations prescribed under this Act, or by tribal regulations, ordinances, or resolutions, approved under section 11 or 13, that may result in the imposition of a fine under subsection (a)(1), the permanent closure of such game, or the modification or termination of any management contract, the Commission shall provide such tribal operator or management contractor with a written complaint stating the acts or omissions which form the basis for such belief and the action or choice of action being considered by the Commission. The allegation shall be set forth in common and concise language and must specify the statutory or regulatory provisions alleged to have been violated, but may not consist merely of allegations stated in statutory or regulatory language.

(b)(1) The Chairman shall have power to order temporary closure of an Indian game for substantial violation of the provisions of this Act, of regulations prescribed by the Commission pursuant to this Act, or of tribal regulations, ordinances, or resolutions approved under section 11 or 13 of this Act.

(2) Not later than thirty days after the issuance by the Chairman of an order of temporary closure, the Indian tribe or management contractor involved shall have a right to a hearing before the Commission to determine whether such order should be made permanent or dissolved. Not later than sixty days following such hearing, the Commission shall, by a vote of not less than three of its members, decided whether to order a permanent closure of the gaming operation.

(c) A decision of the Commission to give final approval of a fine levied by the Chairman or to order a permanent closure pursuant to this section shall be appealable to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

(d) Nothing in this Act precludes an Indian tribe from exercising regulatory authority provided under tribal law over a gaming establishment within the Indian tribe's jurisdiction if such regulation is consistent with this Act or with any rules or regulations adopted by the Commission.

JUDICIAL REVIEW

SEC. 15. Decisions made by the Commission pursuant to sections 11, 12, 13, and 14 shall be final agency decisions for purposes of appeal to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

SUBPOENA AND DEPOSITION AUTHORITY

SEC. 16. (a) By a vote of not less than three members, the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Commission may request the Secretary to request the Attorney General to bring an action to enforce any subpoena under this section.

(c) Any court of the United States within the jurisdiction of which an injury is carried on may, in case of contumacy or refusal to obey a subpoena for any reason, issue an order requiring such person to appear before the Commission (and produce books, papers, or documents as so ordered) and give evidence concerning the matter in question and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) A Commissioner may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Reasonable notice must first be given to the Commission in writing by the party or his attorney proposing to take such deposition, and, in cases in which a Commissioner proposes to take a deposition, reasonable notice must be given. The notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission, as hereinbefore provided.

(e) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify to the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Commission.

(f) Witnesses whose depositions are taken as authorized in this section, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

INVESTIGATIVE POWERS

SEC. 17. (a) Except as provided in subsection (b), the Commission shall preserve any and all information received pursuant to this Act as confidential pursuant to the provisions of paragraphs (4) and (7) of section 552(b) of title 5, United States Code.

(b) The Commission shall, when such information indicates a violation of Federal, State, or tribal statutes, ordinances, or resolutions, provide such information to the appropriate law enforcement officials.

(c) The Attorney General shall investigate activities associated with gaming authorized by this Act which may be a violation of Federal law.

COMMISSION FUNDING

SEC. 18. (a)(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each class II gaming activity that is regulated by this Act.

(2)(A) The rate of the fees imposed under the schedule established under paragraph (1) shall be—

(i) no less than 0.5 percent nor more than 2.5 percent of the first $1,500,000, and

(ii) no more than 5 percent of amounts in excess of the first $1,500,000,

of the gross revenues from each activity regulated by this Act.

(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed $1,500,000.

(3) The Commission, by a vote of not less than three of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on a quarterly basis.

(4) Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to the regulations of the Commission, be grounds for revocation of the approval of the Chairman of any license, ordinance, or resolution required under this Act for the operation of gaming.

(5) To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity on a pro rata basis against such fees imposed for the succeeding year.

(6) For purposes of this section, gross revenues shall constitute the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures.

(b)(1) The Commission, in coordination with the Secretary and in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

(2) The budget of the Commission may include a request for appropriations, as authorized by section 19, in an amount equal the amount of funds derived from assessments authorized by subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made.

(3) The request for appropriations pursuant to paragraph (2) shall be subject to the approval of the Secretary and shall be included as a part of the budget request of the Department of the Interior.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. (a) Subject to the provisions of section 18, there are hereby authorized to be appropriated such sums as may be necessary for the operation of the Commission.

(b) Notwithstanding the provisions of section 18, there are hereby authorized to be appropriated not to exceed $2,000,000 to fund the operation of the Commission for the first fiscal year after the date of enactment of this Act.

GAMING ON LANDS ACQUIRED AFTER ENACTMENT OF THIS ACT

SEC. 20. (a) Except as provided in subsection (b), gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act unless—

(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act; or

(2) the Indian tribe has no reservation on the date of enactment of this Act and—

(A) such lands are located in Oklahoma and—

(i) are within the boundaries of the Indian tribe's former reservation, as defined by the Secretary, or

(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in Oklahoma; or

(B) such lands are located in a State other than Oklahoma and are within the Indian tribe's last recognized reservation within the State or States within which such Indian tribe is presently located.

(b)(1) Subsection (a) will not apply when—

(A) the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination; or

(B) lands are taken into trust as part of—

(i) a settlement of a land claim,

(ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or

(iii) the restoration of lands of an Indian tribe that is restored to Federal recognition.

(2) Subsection (a) shall not apply to—

(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin that is the subject of the action filed in the United States District Court for the District of Columbia entitled St. Croix Chippewa Indians of Wisconsin v. United States, Civ. No. 86-2278, or

(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within one mile of the intersection of State Road Numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

(3) Upon request of the governing body of the Miccosukee Tribe of Indians of Florida,

the Secretary shall, notwithstanding any other provision of law, accept the transfer by such Tribe to the Secretary of the interests of such Tribe in the lands described in paragraph (2)(B) and the Secretary shall declare that such interests are held in trust by the Secretary for the benefit of such Tribe and that such interests are part of the reservation of such Tribe under sections 5 and 7 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465, 467), subject to any encumbrances and rights that are held at the time of such transfer by any person or entity other than such Tribe. The Secretary shall publish in the Federal Register the legal description of any lands that are declared held in trust by the Secretary under this paragraph.

(c) Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

(d)(1) The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and 6050I, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act, or under a Tribal-State compact entered into under section 11(d)(3) that is in effect, in the same manner as such provisions apply to State gaming and wagering operations.

(2) The provisions of this subsection shall apply notwithstanding any other provision of law enacted before, on, or after the date of enactment of this Act unless such other provision of law specifically cites this subsection.

DISSEMINATION OF INFORMATION

SEC. 21. Consistent with the requirements of this Act, sections 1301, 1302, 1303 and 1304 of title 18, United States Code, shall not apply to any gaming conducted by an Indian tribe pursuant to this Act.

SEVERABILITY

SEC. 22. In the event that any section or provision of this Act, or amendment made by this Act, is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and amendments made by this Act, shall continue in full force and effect.

NARRAGANSETT INDIAN TRIBE

SEC. 23. Nothing in this Act may be construed as permitting gaming activities, except to the extent permitted under the laws of the State of Rhode Island, on lands acquired by the Narragansett Indian Tribe under the Rhode Island Indian Claims Settlement Act or on any lands held by, or on behalf of, such Tribe.

CRIMINAL PENALTIES

SEC. 24. Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1166. Gambling in Indian country

"(a) Except as provided in subsection (c), all State laws pertaining to the licensing, regulation, or prohibition of gambling, including but not limited to criminal sanctions applicable thereto, shall apply in Indian country in the same manner and to the same extent as such laws apply elsewhere in the State.

"(b) Whoever in Indian country is guilty of any act or omission involving gambling, whether or not conducted or sanctioned by an Indian tribe, which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State in which the act or omission occurred, under the laws governing the licensing, regulation, or prohibition of gambling in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

"(c) For the purpose of this section, the term 'gambling' does not include—

"(1) class I gaming or class II gaming regulated by the Indian Gaming Regulatory Act, or

"(2) class III gaming conducted under a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act that is in effect.

"(d) The United States shall have exclusive jurisdiction over criminal prosecutions of violations of State gambling laws that are made applicable under this section to Indian country, unless an Indian tribe pursuant to a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act, or under any other provision of Federal law, has consented to the transfer to the State of criminal jurisdiction with respect to gambling on the lands of the Indian tribe.

"§ 1167. Theft from gaming establishments on Indian lands

"(a) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value of $1,000 or less belonging to an establishment licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined not more than $100,000 or be imprisoned for not more than one year, or both.

"(b) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value in excess of $1,000 belonging to a gaming establishment licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined not more than $250,000, or imprisoned for not more than ten years, or both.

"§ 1168. Theft by officers or employees of gaming establishments on Indian lands

"(a) Whoever, being an officer, employee, or individual licensee of a gaming establishment licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value of $1,000 or less shall be fined not more than $250,000 and be imprisoned for not more than five years, or both;

"(b) Whoever, being an officer, employee, or individual licensee of a gaming establishment licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value in excess of $1,000 shall be fined not more than $100,000,000 or imprisoned for not more than twenty years, or both.".

CONFORMING AMENDMENT

SEC. 25. The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following:

"1166. Gambling in Indian country.

"1167. Theft from gaming establishments on Indian lands.

"1168. Theft by officers or employees of gaming establishments on Indian lands.".

Mr. INOUYE. Mr. President, the regulation of gaming activities on Indian lands has been the subject of much controversy. Representatives of States with experience in regulating some forms of gaming activities, such as Nevada and California, have expressed much concern over the potential for the infiltration of organized crime or criminal elements in Indian gaming activities. The criminal division of the U.S. Department of Justice has expressed similar concerns, although as stated in Senator MCCAIN's additional views to the committee's report on S. 555, in 15 years of gaming activity on Indian reservations, there has never been one clearly proven case of organized criminal activity.

Recognizing that the extension of State jurisdiction on Indian lands has traditionally been inimical to Indian interests, some have suggested the creation of a Federal regulatory agency to regulate class II and class III gaming activities on Indian lands. Justice Department officials were opposed to this approach, arguing that the expertise to regulate gaming activities and to enforce laws related to gaming could be found in State agencies, and thus that there was no need to duplicate those mechanisms on a Federal level.

It is a long- and well-established principle of Federal-Indian law as expressed in the United States Constitution, reflected in Federal statutes, and articulated in decisions of the Supreme Court, that unless authorized by an Act of Congress, the jurisdiction of State governments and the application of State laws do not extend to Indian lands. In modern times, even when Congress has enacted laws to allow a limited application of State law on Indian lands, the Congress has required the consent of tribal governments before State jurisdiction can be extended to tribal lands.

In determining what patterns of jurisdiction and regulation should govern the conduct of gaming activities on Indian lands, the committee has sought to preserve the principles which have guided the evolution of Federal-Indian law for over 150 years. In so doing, the committee has attempted to balance the need for sound enforcement of gaming laws and regulations, with the strong Federal interest in preserving the sovereign rights of tribal governments to regulate activities and enforce laws on Indian lands. The committee recognizes and affirms the principle that by virtue of their original tribal sovereignty, tribes reserved certain rights when entering into treaties with the United States, and that today, tribal governments retain all rights that were not expressly relinquished.

Consistent with these principles, the committee has developed a framework for the regulation of gaming activities on Indian lands which provides that in the exercise of its sovereign rights, unless a tribe affirmatively elects to have State laws—

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. BINGAMAN). The Senate will be in order. The Senator from Hawaii.

Mr. INOUYE. And State jurisdiction extend to tribal lands, the Congress will not unilaterally impose or allow State jurisdiction on Indian lands for the regulation of Indian gaming activities.

The mechanism for facilitating the unusual relationship in which a tribe might affirmatively seek the extension of State jurisdiction and the application of State laws to activities conducted on Indian land is a tribal-State compact. In no instance, does S. 555 contemplate the extension of State jurisdiction or the application of State laws for any other purpose. Further, it is the commttee's intention that to the extent tribal governments elect to relinquish rights in a tribal-State compact that they might have otherwise reserved, the relinquishment of such rights shall be specific to the tribe so making the election, and shall not be construed to extend to other tribes, or as a general abrogation of other reserved rights or of tribal sovereignty.

It is also true that S. 555 does not contemplate and does not provide for the conduct of class III gaming activities on Indian lands in the absence of a tribal-State compact. In adopting this position, the committee has carefully considered the law enforcement concerns of tribal and State governments, as well as those of the Federal Government, and the need to fashion a means by which differing public policies of these respective governmental entities can be accommodated and reconciled. This legislation is intended to provide a means by which tribal and State governments can realize their unique and individual governmental objectives, while at the same time, work together to develop a regulatory and jurisdictional pattern that will foster a consistency and uniformity in the manner in which laws regulating the conduct of gaming activities are applied. S. 555 is intended to expressly preempt the field in the governance of gaming activities on Indian lands and accordingly I urge my colleagues to adopt this important legislation, so that we may bring a final resolution to the much-debated issue of the regulation of the conduct of gaming activities on Indian lands.

Mr. PELL. Mr. President, I would like to thank the managers of S. 555, the Indian Gaming Regulatory Act, and particularly the chairman of the Select Committee on Indian Affairs [Mr. INOUYE], for their hard work and patience in achieving a consensus on this important measure.

In the interests of clarity, I have asked that language specifically citing the protections of the Rhode Island Indian Claims Settlement Act (Public Law 95-395) be stricken from S. 555. I understand that these protections clearly will remain in effect.

Mr. INOUYE. I thank my colleague, the senior Senator from Rhode Island [Mr. PELL], and assure him that the protections of the Rhode Island Indian Claims Settlement Act (P.L. 95-395), will remain in effect and that the Narragansett Indian Tribe clearly will remain subject to the civil, criminal, and regulatory laws of the State of Rhode Island.

Mr. CHAFEE. Mr. President, I too would like to thank the chairman [Mr. INOUYE] and members of the Select Committee on Indian Affairs for their cooperation and assistance. The chairman's statement makes it clear that any high stakes gaming, including bingo, in Rhode Island will remain subject to the civil, criminal, and regulatory laws of our State.

Mr. DOMENICI. Mr. Chairman, I want to thank you for including an amendment to clarify that lotto games are played only at the same location as bingo games which are class II games under the bill. I believe there are other Senators who have questioned whether lotto and lotteries are interchangeable terms. This amendment makes it clear that they are not and that traditional type lottery games are indeed class III. As such, lotteries may only be conducted by a tribe if such games are otherwise legal in the State and if the tribe and the State have reached a compact to regulate such games.

I also appreciate the clarifying amendment relating to the prohibition on direct taxation by a State on Indian lands. The bill clearly prohibits any direct tax on Indian lands by any State but does not permit tribes and States to negotiate assessments that may be paid by a tribe to a State to cover the costs of any regulation and enforcement that is necessary to carry out the purposes of the compact.

Tribes in my State are very concerned about the precedent of allowing States to have jurisdiction over Indian lands. I share those concerns and would like to ask about other precedents for State jurisdiction over Indian lands.

Mr. INOUYE. Thank you for your concern about this issue that goes to the heart of Indian country. First, let me say that under S. 555, there is no blanket transfer to any State of any jurisdiction over Indian lands. Indian tribes are sovereign governments and exercise rights of self-government over their lands and members. This bill does not seek to invade or diminish that sovereignty. The issue has been how to resolve the clash between States and tribes with respect to sophisticated forms of gaming such as casinos and parimutuel gaming.

States that allow such gaming have regulatory systems in place and are adamantly opposed to tribes operating such games unless they do so in accordance with State law. The States interests in protecting all citizens, including tribal members, from unscrupulous persons is a concern shared by lawmakers everywhere, including tribal officials. However, it is simply not realistic for any but a very few tribes to set up regulatory systems. Nor did the Select Committee on Indian Affairs view as meritorious any suggestions for the establishment of a Federal regulatory mechanism to duplicate what already exists at the State level.

Therefore, for those tribes wishing to engage in such gaming, the most realistic option appeared to be State regulation. However, the committee was fully cognizant of the strenuous objections that would be raised by tribes to any outright transfer of State jurisdiction, even for the limited purpose of regulating class III gaming. Thus, the best option available is the approach taken by the committee on S. 555 and that is the tribal-state compact approach.

Under this provision, tribes that choose to engage in gaming may only do so if they work out a tribal-state compact with the State. Tribes that do not want any State jurisdiction on their lands are precluded from operation of what the bill refers to as class III gaming.

This is not the best of all possible worlds but the committee believes that tribes and States can sit down at the negotiating table as equal sovereigns, each with contributions to offer and to receive. There is and will be no transfer of jurisdiction without the full consent and request of the affected tribe and that will be governed by the terms of the agreement that such tribe is able to negotiate.

There is the additional issue of assimilative crimes. In many cases of criminal conduct in Indian country, the Federal courts use or borrow State law to punish such conduct. This bill provides that, as a matter of Federal law, State criminal laws on gambling will be used by the U.S. Government to prosecute, in Federal court, violations of such crimes when committed in Indian country.

This is consistent with current practice under the Assimilative Crimes Act (18 U.S.C. 13), enacted in 1909. In addition to the incorporation of State criminal codes beginning in 1909, there are other statutes such as the Indian

Child Welfare Act and the Indian Education Act that require the adoption of the higher of either Federal or State health and safety standards in Indian country. Thus, this bill is clearly not the first to incorporate State laws into Federal statute for Indian country. I hope that this explanation is helpful to my distinguished colleague, Mr. DOMENICI.

Mr. DOMENICI. Thank you for your remarks.

Mr. REID. Mr. President, I would like to pose a question to the chairman of the committee concerning the effect of S. 555 on the Johnson Act, a Federal statute codified at 15 U.S.C. 1171 which, among other things, prohibits the use of gambling devices on Federal lands and Indian lands. As the chairman is well aware, this statute was enacted by Congress in 1950 and amended in 1962 as part of an effort to control organized crime and other criminal activity associated with gambling devices. The circmustances which led Congress to adopt the Johnson Act are no less compelling today than they were in 1950 or in 1962.

One of the significant provisions of the bill we are considering today is that it would waive the application of the Johnson Act for tribes who have negotiated compacts with a State for the operation of gaming devices as part of class III gaming operations. Would the chairman please confirm this Senator's understanding that the limited waiver is the only respect in which S. 555 would modify the scope and effect of the Johnson Act?

Mr. INOUYE. Yes, the Senator is correct. The bill as reported by the committee would not alter the effect of the Johnson Act except to provide for a waiver of its application in the case of gambling devices operated pursuant to a compact with the State in which the tribe is located. The bill is not intended to amend or otherwise alter the Johnson Act in any way.

Mr. REID. Mr. President, I would like to engage the chairman in a colloquy regarding the meaning of the "grandfather clause" provided in the bill which permits the continued operation of certain "banking" card games in operation as of May 1, 1988. Specifically, this provision would permit the continued operation, as class II gaming activities, of certain games played in the States of Washington, North Dakota, South Dakota, and Michigan which ordinarily would fall within the definition of class III gaming.

It has been this Senator's understanding that this provision was adopted to protect tribes with existing investments in such games from hardships associated with changes in the law brought about by this legislation. This Senator also understands that the committee intended that the grandfather clause should not serve as the basis for expansion of existing gaming operations to new locations not in operation as of May 1, 1988. Would the chairman confirm that this provision does not provide authority for the establishment of new banking card game operations or the institution of new games in existing operations?

Mr. INOUYE. The Senator is correct. The grandfather clause is intended merely to protect tribes with existing operations from hardship due to this change in the law. While the bill may permit the expansion of particular operations which were in existence as of May 1, 1988, for example, by the addition of gaming tables or seats in an existing establishment, it does not authorize the expansion of such operations to new locations, the establishment of new operations, or the institution of new games at existing operations. In other words, both the gambling operation and the particular games played in that operation must have been in place on or before May 1, 1988, in order to have the benefit of this provision.

Mr. EVANS. Mr. President, there are several points concerning the Indian Gaming Regulatory Act that should be highlighted.

As we are all aware, many Indian tribes are opposing S. 555 at least in part because of the potential of extending State jurisdiction over Indian lands for certain gaming activities. I wish to make it very clear that the committee has only provided for a mechanism to permit the transfer of limited State jurisdiction over Indian lands where an Indian tribe requests such a transfer as part of a tribal-State gaming compact for class III gaming. We intend that the two sovereigns—the tribes and the States—will sit down together in negotiations on equal terms and come up with a recommended methodology for regulating class III gaming on Indian lands. Permitting the States even this limited say in matters that are usually in the exclusive domain of tribal government has been permitted only with extreme reluctance. As discussed in the committee report, gambling is a unique situation and our limited intrusion on the right of tribal self-governance in this area has no implications for any other area of tribal self-governance or State-tribal relations.

I wish to also make clear that when a tribe and a State negotiate a compact, there need be no imposition of State jurisdiction whatsoever. Language in the report, such as "the extension of State jurisdiction and the application of State laws" and "relinquishment of rights" must be read in their full context of a compact where a tribe requests and consents to such extension or relinquishment. We are aware that the Fort Mohave Tribe and the State of Nevada have negotiated a potential compact where the tribe has chosen to be subject to Nevada's extensive regulatory system in the Nevada portion of its reservation for its proposed casino operation. This compact is probably unique to its own set of facts and should not be viewed as a prototype. As the report makes clear compacts should not be used as subterfuge for the imposition of State jurisdiction on tribes.

As noted earlier a compact should be a negotiation between two sovereigns. It is entirely conceivable that a particular State will have no interest in operating any part of the regulatory system needed for a class III Indian gaming activity, and there will be no jurisdictional transfer recommended by the particular tribe and State. Each compact will need to consider, among other items, the experience and expertise of the particular tribe and State with gaming, and the existence of regulatory mechanisms within each government. Congress should expect a reasoned and rational approach to these compacts, and not simply a demand that tribes come under a State system.

Mr. INOUYE. The compacts are not intended to impose de facto State regulation. Rather, the idea is to create a consensual agreement between the two sovereign governments and it is up to those entities to determine what provisions will be in the compacts. Page 65 of the bill references the types of provisions that may go into compacts. These provisions are not requirements. Some tribes can assume more responsibility than others and it is entirely conceivable that a State may want to defer to a tribal regulatory authority and maintain only an oversight role.

I do want to publicly state that I hope the States will be fair and respectful of the authority of the tribes in negotiating these compacts and not take unnecessary advantage of the requirement for a compact.

Mr. EVANS. On the question of precedent, am I correct that the use of compacting methods in this bill are meant to be limited to tribal-State gaming compacts and that the use of compacts for this purpose is not to be construed to signal any new congressional policy encouraging the subjugation of tribal governments to State authority.

Mr. INOUYE. The vice chairman is correct. No subjugation is intended. The bill contemplates that the two sovereigns address their respective concerns in the most equitable fashion. There is no intent on the part of Congress that the compacting methodology be used in such areas such as taxation, water rights, environmental regulation, and land use. On the contrary, the tribal power to regulate such activities, recognized by the U.S.

Supreme Court in cases such as United States versus Montana and Kerr-McGee versus Navajo Tribe, remain fully intact. The exigencies caused by the rapid growth of gaming in Indian country and the threat of corruption and infiltration by criminal elements in class III gaming warranted the utilization of existing State regulatory capabilities in this one narrow area. No precedent is meant to be set as to other areas.

Mr. EVANS. Another concern that has been raised involves the grandfathering of certain cards games that would otherwise be class III activities as class II activities in the definitional section of the bill. All such games are still subject to the licensing and jurisdictional requirements of section 11. Section 11 establishes Federal standards for the Commission and the courts to follow in determining which gaming may be within the jurisdiction of particular Indian tribes. I should point out that our definition section in the reported bill is different than either S. 555 or S. 1303 as introduced. In the introduced bills all card games were class II activities for Indian tribes. The bills as introduced reflected a viable reading of the current state of the law. It was only fair therefore to allow these activities to continue as class II.

Mr. INOUYE. The Senator is correct concerning the operation of the grandfather clause and the rationale for including the provision.

Mr. EVANS. A collateral question has arisen concerning one card game in my State that had operated prior to the cutoff date. That is the game of the Lummi Indian Tribe and it is referred to in the committee report. The Lummi Tribe and the U.S. attorney, after a challenge to the tribe's card operation and a preliminary judicial determination, have had a voluntary settlement agreement providing for the indefinite closure of the Lummi card room. My understanding is that under that settlement agreement in order to reopen the card room, the Lummi Tribe must obtain the approval of the Federal court for the Western District of Washington. Under the grandfather provision of S. 555 the Lummi Tribe would still be required to obtain such approval. It, of course, would also need to obtain a license under section 11 from the Commission, and as noted above, I would expect both decisions to turn on the analysis of State law post cabazon utilizing the standards contained in section 11(b)(1)(A).

Mr. INOUYE. The Senator is correct, that is the standard that governs the determination of whether any specific gaming is within the jurisdiction of an Indian tribe in a particular State.

Mr. EVANS. Another concern I have relative to subject areas that may be included in a class III compact is the provision allowing for State assessments to defray the costs of jointly regulating such activities. It is my understanding that this section does not contemplate the tribes bearing the entire costs of setting up State regulatory infrastructures where none have previously existed and that those assessments should strictly be directly and exclusively related to the costs of the States involvement in cooperatively regulating at a specific reservation.

Mr. INOUYE. The Senator's interpretation is accurate. These assessment provisions may also be used to provide an avenue by which the tribes may contract with the State for its regulatory services and reimburse the State for its expenses.

Mr. EVANS. Mr. President, on page 90 of the bill there is language proposing to amend chapter 53 of title 18 of the United States Code. It is my understanding that this language would, for the purposes of Federal law, make applicable to Indian country all State laws pertaining to licensing, regulation, or prohibition of gambling except class I and II gambling which would be regulated by a tribe or class III gambling which will be regulated by a tribal-State compact. Am I correct that this section is not intended to permit State jurisdiction over reservation gambling in the absence of tribal regulation or a tribal-State compact for class III gaming?

Mr. INOUYE. The vice chairman of the committee is correct. This section is to be read consistently with the compacting language on pages 60 and 61 of the bill which makes class III gambling on Indian lands illegal if conducted in the absence of a tribal-State compact. Such a compact would be applicable to all lands within the reservation.

Mr. EVANS. It is my understanding that the references in the bill to "Indian lands," "Indian lands of the Indian tribe," "Indian lands over which the tribe has jurisdiction," and "lands owned by the Indian tribes" are meant to be interpreted the same way to apply to all lands within reservation boundaries and trust lands outside the reservations. Is my understanding correct?

Mr. INOUYE. The Senator from Washington is correct. These references throughout the bill must be looked upon with reference to the definition of "Indian lands" on pages 43 and 44 of the bill which includes all lands within the limits of any reservation and those trust or restricted lands outside the reservations.

Mr. EVANS. It is my understanding that the bill leaves undisturbed the tribe's right to totally prohibit certain forms of gambling within an Indian reservation or upon trust lands outside the reservation should the tribe so choose.

Mr. INOUYE. That is correct, the bill is intended to leave intact the tribe's regulatory authority over all lands within the reservation boundaries and upon trust or restricted lands outside the boundaries. The provisions of section 11(d)(2)(D) authorize a tribe to completely prohibit all or certain forms of gaming if they so desire.

AMENDMENT NO. 3039

Mr. INOUYE. Mr. President, I call up the committee amendments as set forth in the unanimous consent and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes amendments numbered 3039.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 44, delete lines 12 through 15, and renumber the subsequent definitions accordingly;

On page 45, line 12, after "including" insert "(if played in the same location)";

On page 56, line 9, delete "of the Indian tribe" and insert in lieu thereof "within the tribe's jurisdiction";

On page 57, line 13, after "(F)" insert the words "there is";

On page 78, line 21, delete the word "adopted" and insert in lieu thereof "prescribed";

On page 80, line 19, delete "is consistent" and insert in lieu thereof "is not inconsistent";

On page 81, line 16, delete "injury" and insert in lieu thereof "inquiry";

On page 85, lines 18 and 19, delete "the first fiscal year after the enactment of this Act" and insert in lieu thereof "each of the fiscal years beginning October 1, 1988, and October 1, 1989";

On page 87, line 9, delete "of an" and insert in lieu thereof "for an";

On page 90, line 2, delete "Except as provided in subsection (c)," and insert in lieu thereof "Subject to subsection (c), for purposes of Federal law,";

On page 91, on lines 12 and 19, and on page 92, lines 4 and 13, before the word "licensed", insert "operated by or for or";

On page 89, beginning on line 16, delete all of section 23 and renumber the subsequent sections accordingly.

On page 44, line 22, delete the word "games" and insert the word "game".

On page 44, line 23, delete the word "lotto".

On page 45, line 1, delete the word "are" and insert in lieu thereof the word "is".

On page 45, line 12, after the word "pull-tabs", insert the word "lotto".

On page 65, line 20, delete the word "Nothing" and insert in lieu thereof the following: "Except for any assessments that may be agreed to under paragraph (3)(C)(iii) of this subsection , nothing".

On page 47, line 17 delete the term "five" and insert in lieu thereof the term "three".

On page 47, line 22, delete the term "four" and insert in lieu thereof "two".

On page 48, line 6, delete the term "three" and insert in lieu thereof "two".

On page 48, line 7, delete the term "three" and insert in lieu thereof "two".

On page 48, line 14, delete the term "three" and insert in lieu thereof "two".

On page 48, line 16, delete the term "two" and insert in lieu thereof "one".

On page 49, line 14, delete the term "three" and insert in lieu thereof "two".

On page 81, line 2, delete the term "three" and insert in lieu thereof "two".

On page 57, delete lines 1 through 3 and insert in lieu thereof:

"(C) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, will be provided by the Indian tribe to the Commission;"

On page 61, line 13, after the "." insert new paragraphs 3 through 5 as follows:

"(3) Any Indian tribe which operates a Class II gaming activity and which—

(A) has continuously conducted such activity for a period of not less than three years, including at least one year after the date of the enactment of this Act; and

(B) has otherwise complied with the provisions of this section

may petition the Commission for a certificate of self-regulation.

(4) The Commission shall issue a certificate of self-regulation if it determines from available information, and after a hearing if requested by the tribe, that the tribe has—

(A) conducted its gaming activity in a manner which—

(i) has resulted in an effective and honest accounting of all revenues;

(ii) has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) has been generally free of evidence of criminal or dishonest activity;

(B) adopted and is implementing adequate systems for—

(i) accounting for all revenues from the activity;

(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

(iii) investigation, enforcement and prosecution of violations of its gaming ordinance and regulations; and

(C) conducted the operation on a fiscally and economically sound basis.

(5) During any year in which a tribe has a certificate for self-regulation—

(A) the tribe shall not be subject to the provisions of paragraphs 1, 2, 3, and 4 of section 7(b);

(B) the tribe shall continue to submit an annual independent audit as required by section 11(b)(2)(C) and shall submit to the Commission a complete resumé on all employees hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

(C) the Commission may not assess a fee on such activity pursuant to section 18 in excess of one quarter of 1 per centum of the gross revenue.

(6) The Commission may, for just cause and after an opportunity for a hearing, remove a certificate of self-regulation by a majority vote of its members."

Mr. INOUYE. Mr. President, these amendments are technical in nature and they have been studied by all parties interested and they constitute for the most part technical amendments recommended by the distinguished Senator from Arizona, Mr. McCAIN.

The PRESIDING OFFICER. Is there further debate?

The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I rise to speak on amendments. I know my distinguished friend from Washington is waiting to speak, as well as my friend from New Mexico.

First, Mr. President, I would like to thank the chairman of the Indian Affairs Committee, my distinguished friend and colleague from the State of Hawaii. Before I address the subject of the amendments, I would like to say a few words about his role in this legislation.

As you may know, a few days ago a number of Indian leaders held a press conference here in Washington to express their strong opposition to the bill now under consideration. I respect their right to hold such a forum. Indeed, I appreciate their involvement in this very important piece of legislation which affects Indian economies throughout the Southwest, indeed the country.

Mr. President, unfortunately a few of the Indian leaders who spoke could not confine their remarks in opposition to the bill but had to engage in a personal attack on Senator INOUYE by making the suggestion that his efforts on this bill were done for personal gain.

That charge is absolutely false. As this body knows, there is no man of higher integrity in this body than Senator INOUYE. He has worked long and hard on a number of issues that are of deep concern to many native Americans. He has visited my State. He has visited every State in America that has significant native American populations. And as his friend and admirer, I deeply resent those allegations that were made to inpugn the integrity of a truly great American.

Without having this body draw any judgment about any previous chairman of the Indian Affairs Committee, I think it is clear that Senator INOUYE has provided the degree of leadership, degree of dedication, and the degree of commitment that has not been seen in that committee before. And I am sad, indeed obviously somewhat angry, that a few Indian leaders would choose to ignore that fact.

However, I am also aware of the far greater number of Indian people who would join me in thanking Senator INOUYE for all his efforts, not on this piece of legislation alone, on which he has labored now for 2 years, but on all the other issues that affect Indian people from museums to Indian health to Indian education to preservation of Indian self-determination, to trying to right the wrongs that have been done to that persecuted minority of Americans in this country.

Mr. President, I do not want to belabor the subject. I just strongly recommend to my Indian friends throughout the country that it is not helpful in any way to attack the integrity of one of the most respected men in America. And it makes it difficult, very frankly, for people on both sides of the aisle to work in a cooperative and trusting fashion.

Now, Mr. President, let me address the amendment, if I may. I point out, also, that as we have wrestled with this issue for the last 4 years, Congressman UDALL and I have sought to reach a compromise, which would be agreeable to all parties concerned. Unfortunately we did not receive any support in those efforts at compromise, and I, of course, like most other Members of the committee, have serious concerns about the legislation before us, and I personally would have rather seen a different class III provision than the tribal-State compacts as called for. But for the reasons I have stated, my additional views on the committee report, namely, frustration for lack of support from tribes for any particular legislative solution, I am willing to give this approach a test. If after a period of time the compact approach proves unfair to Indian tribes in their ability to establish and operate class III gaming activities, then the Congress may have to revisit this class III provision.

Mr. President, the Indian community must understand that no gambling activity can take place anywhere without supervision and regulation. I could cite example after example of Indian communities where gaming has been established and unsavory and unwanted and indeed, in some cases, criminal elements have entered into that gaming enterprise and the Indians have suffered rather than gained from those gambling enterprises.

Mr. President, I can also tell you that I oppose personally gambling in my State. I oppose gambling on Indian reservations, but when Indian communities are faced with only one option for economic development, and that is to set up gambling on their reservations, then I cannot disapprove of those gambling operations.

Mr. President, I could go on. The hour is late. I have other Members who are waiting to speak, including my distinguished colleague and ranking member of the committee, Senator EVANS, as well as my friend from New Mexico. The committee amendment I am cosponsoring with Senator INOUYE would make technical corrections to the bill as reported by the committee. In addition to the technical changes, the committee amendment incorporates three of my amendments which will affect class II games only. The first change would be to reduce the size of the National Indian Gaming Commission from five to three full-time Commissioners. The rationale for this change is to reduce the costs, borne in large part by gaming tribes, since the Commission would only be responsible for class II games. The amendment would also allow tribes that have excellent records in operating class II games to be subject to less onerous and less expensive Federal oversight of their gaming activities.

Finally, Mr. President, I would like to thank my good friends from the State of Nevada, Senator HECHT and Senator REID, for their effort in behalf of this legislation. I think it is appropriate to be passed. I also would like to serve notice that I, Senator INOUYE, Senator EVANS and other Members of the Select Committee on Indian Affairs will be watching very carefully what happens in Indian country. If the States take advantage of this relationship, the so-called compacts, then I would be one of the first to appear before my colleagues and seek to repeal this legislation because we must ensure that the Indians are given a level playing field in order to install gaming operations that are the same as the States in which they reside and will not be prevented from doing so because of the self-interest of the States in which they reside. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I just wish to thank my distinguished friend from Arizona for his very generous comments and to tell him I, too, will be watching the implementaton of this bill very carefully. If it does not work, we will be visiting this again.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, the distinguished chairman of the Subcommittee on Indian Affairs, Senator INOUYE from Hawaii, and I have filed what I consider to be an important colloquy, one which in detail goes into the elements of this bill and tries to assure that its provisions do not act as a precedent for other nonrelated relationships between Indian tribes and the United States or State governments.

Mr. President, the legislation before us, the Indian Gaming Regulatory Act, represents one of the very rare instances in the recent history of our relationship with Indian tribes when we have felt compelled to address public concern over the internal affairs of tribes. I appreciate the time allotted me to clarify our intentions in introducing and moving this legislation through the Senate.

I first wish to commend the chairman of the Select Committee on Indian Affairs. The Senator from Hawaii has been a stalwart in moving on important legislation during this Congress. The committee has been as active and as productive, I believe, in this Congress as in the previous several Congresses combined. He has introduced this bill and proceeded to bring it to the full Senate for consideration.

Throughout the difficult process of developing this legislation Senator INOUYE has worked diligently to accommodate the concerns of certain States and the non-Indian gaming industry while jealously guarding the self-governing rights of the tribes, and this is critically important in this legislation. With this in mind Mr. President, I want to emphasize our intended scope of the application and enforcement of this law.

The Indian Gaming Regulatory Act does exactly that—regulates Indian gaming. By no means is any provision of this act intended to extend beyond this field of gaming in Indian country. Furthermore, this bill was drafted with the full understanding of the principles of law which guide our relationship with the Indian tribes.

The inherent sovereign rights of the Indian tribes were reserved by the tribes for the fullest and unencumbered benefit of the Indian people. These rights have been recognized time and time again by the highest courts of our Nation, and they continue in existence except in rare instances where the Congress has exercised its power to restrict them. When this body has chosen to restrict the reserved sovereign rights of tribes, the courts have ruled that such abrogations of tribal rights must have been done expressly and unambiguously.

Many long hours were devoted to this legislation to iron out any possible ambiguities, and we hope to have achieved a bill both clear and concise in this regard. Therefore, if tribal rights are not explicitly abrogated in the language of this bill, no such restrictions should be construed. This act should not be construed as a departure from established principles of the legal relationship between the tribes and the United States. Instead, this law should be considered within the line of developed case law extending over a century and a half by the Supreme Court, including the basic principles set forth in the Cabazon decision.

The portion of this bill most troubling to the tribes is that which provides for a cooperative mechanism through which the tribes and the States can agree on the extent of Indian gaming that would prove beneficial to both the tribes and the States. The Tribal/State compact language intends that two sovereigns will sit down together in a negotiation on equal terms and at equal strength and come up with a method of regulating Indian gaming.

The provisions for Tribal/State compacting are not meant to favor either party, and are certainly not meant to propagate the extension of criminal or civil jurisdiction over Indian gaming, but rather are meant to provide an avenue for cooperative negotiations between the tribes and the States for regulating gaming in a manner beneficial to both parties.

I do hope, Mr. President, that the States will see the wisdom in dealing fairly and respectfully with the tribes, and will recognize the mutual benefit of a strong tribal economy and of integrating tribal economies into the general economy of the State.

I will not pretend to imply that I believe this act will conclude our dealings with gaming in Indian country, but I want to leave my colleagues with a message to share with their respective constituencies as the public becomes more and more educated on our unique relationship and responsibilities to the Indian tribes.

The first inhabitants of this continent played an integral part in the birth of this Nation and have been a source of great wealth, both spiritual and physical, in America's rise to prominence. Sadly, at times, in our textbooks and in our homes, we have sometimes been delinquent in giving credit and being gracious to the first American. We have sometimes failed to share our opportunities with the Indian while recognizing the Indians' right to live by their own values, to govern themselves, and to determine their own future for themselves, their children, and their cultures.

I firmly believe that we now stand at a crossroads, at a point where we may seize the opportunity to acknowledge the Indians' unequivocal right to self-determination and to invite the Indian tribes into the American mainstream. I am not advocating a return to the failed assimilationist policies of the past, but rather the possibility that the tribes can fully participate in our economic prosperity while they retain and while we respect their rights to decide to what extent and in what manner they choose to participate.

A new understanding of our economic relationship with the tribes would require, in the economic field even more so than in others, that we treat the Indian not as a race but as a political and legal entity as the courts have so ruled. With this understanding in the future we may avoid such legislation as this before us which has had such dangerous potential for infringing on tribal rights.

In the market for gaming as with other markets, the Indian tribes must accumulate wealth, develop track records, and make financial and market connections to succeed in our economic system. When any non-Indian entity or region succeeds in these endeavors we proclaim it to be a booming economic sector ripe for productivity, employment, and financial opportunity. Unfortunately, when

Indian tribes and reservations succeed in these endeavors, the surrounding communities often shrink into a shroud of protectionism and isolationism accusing Indians of gathering the benefits which rightfully belong to the non-Indian community.

We should be candid about the interests surrounding this particular piece of legislation. The issue has never really been one of crime control, morality, or economic fairness. Lotteries and other forms of gambling abound in many States, charities, and church organizations nationwide. At issue is economics. At present Indian tribes may have a competitive economic advantage because, rightly or wrongly, many States have chosen not to allow the same types of gaming in which tribes are empowered to engage. Ironically, the strongest opponents of tribal authority over gaming on Indian lands are from States whose liberal gaming policies would allow them to compete on an equal basis with the tribes.

I am no more fond of gambling than any other Member of this body—probably less—and no less aware of the potential dangers of organized criminal infiltration of Indian gaming. In 15 years of commercial gaming on Indian reservations, however, tribes have proven more capable of controlling this potential problem than have some States in which high stakes gambling is played. Given this fact, the Indian gaming regulatory act should not be construed, either inside or outside the field of gaming, as a derogation of the tribes' right to govern themselves and to attain economic self-sufficiency.

Mr. President, the U.S. Constitution declares the U.S. Congress to be our Government's representative in its dealing with the Indian tribes. In my opinion it is incumbent upon us to deal fairly and respectfully with the tribes. We must not impose greater moral restraints on Indians than we do on the rest of our citizenry. We must guard against being overly responsive to the political and economic interests of our constituents to the detriment of the less politically powerful Indian people, as some proponents who seek regulation of Indian gaming would have us do. We must acknowledge that the manner in which our Nation deals with its indigenous peoples is a human concern of importance to all of us on a national scale. Finally we must participate in educating our constituents of the rights and responsibilities which the Indian tribes and the United States have with regard to each other.

With that set of important caveats and warnings, Mr. President, I believe the act which we have before us has come as close as we can to providing appropriate regulation while at the same time not stepping over that very important boundary and derogating rights of Indian people any more than the rights they gave up 150 years ago in the signing of our treaties.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I wonder if the distinguished chairman will yield 3 minutes to the Senator from New Mexico.

Mr. INOUYE. Before I yield, I wish to thank my vice chairman for his very generous comments and to simply say I wish to associate myself with his remarks.

I will be very happy to yield whatever time the Senator needs.

Mr. DOMENICI. Three minutes.

Mr. INOUYE. Three minutes. Fine.

Mr. DOMENICI. Mr. President, first, let me thank the distinguished chairman of the Senate Select Committee on Indian Affairs, Senator INOUYE, for the colloquy in which he has engaged with the Senator from New Mexico. It was helpful to me, and I believe it will be helpful to our Indian people because it does, indeed, clarify again in a yet different way the issue of Indian sovereignty and makes it unequivocal that there is no intention to denigrate Indian sovereignty. We are talking specifically about the mutual responsibility between the Indian people and the State in which they reside. The class of gambling beyond bingo will require entering into an agreement where both sovereigns, the State and the Indian people, attempt to arrive at a regulatory scheme which will adequately protect the Indian people and the non-Indian people.

I wish to associate myself with the remarks of the distinguished junior Senator from Arizona with reference to the chairman of this committee and his efforts in behalf of this bill. Not for a minute does the Senator from New Mexico believe that the distinguished Senator from Hawaii had any ideas, any notions, or any reason to be involved in this bill other than he is concerned about the Indian people. He is also concerned about the evolution of gambling going on unattended in light of certain decisions of the U.S. Supreme Court.

While we do not all agree that this bill is perfect, and hardly any legislation is—and perhaps the Senator from New Mexico might even do it differently—I have checked around with the members of the committee, with many Members of the Senate, and I have reached the following conclusion. The committee has worked diligently in one of the most difficult areas of activity in years and has come up with this approach after hours and hours of difficult debate. Most Senators who have an interest in this issue because they are concerned about the Indian people or gambling or the combination thereof have concluded that this is the best we are going to do and we ought to get on with doing it.

It is for that reason I am here tonight saying, after a few amendments that were included in the chairman's technical amendments and the colloquy that he entered into with me, let us get on with sending this bill to the House.

Let me also say a few words about Indian economic opportunity, jobs for the Indian people. I hope that we really do not look back 10 years from now and say that most of the jobs and economic prosperity is coming from gambling. I hope in 10 years we could look back and say we had to do this because our Indian people had such difficulty in getting economic opportunity to their people that they had to look to gambling. I hope we will be able to look back in 10 years and say this was just part of a whole series of economic opportunities for our Indian people. They do not currently have that opportunity.

I think we ought to work with them, the States ought to work with them, and the business community in the United States ought to work with them, corporations ought to work with them to give them an oportunity to share in job opportunities. They need it desperately. If they have to resort to gambling, we have provided the right framework to do it in a fair and appropriate manner.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. Mr. President, while I voted in committee to report the bill S. 555, a bill to regulate gambling on Indian country, the final bill has met with great opposition by tribes in my State of North Dakota.

In light of opposition both from the North Dakota Indian tribes who believe the bill goes too far to imposing State jurisdiction, and from Nicholas Spaeth, North Dakota attorney general who believes the bill does not go far enough to protect State interests, I am compelled to voice my opposition.

I realize that the chairman of the Select Committee on Indian Affairs has worked long and hard to reach a viable compromise and compromise always means that no one interest will predominate over another. In particular I am pleased to note that the issue of whether tribes can operate statewide lotteries without a tribal/state compact has been resolved in the committee amendments. This was a particular concern that I voiced and I appreciate the chairman's assistance in this matter. I commend the chairman in his efforts but regret that I cannot support the bill.

I ask unanimous consent that a statement from Nicholas Spaeth, North Dakota attorney general be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ATTORNEY GENERAL,
STATE OF NORTH DAKOTA,
Bismarck, ND, September 8, 1988.

Hon. QUENTIN BURDICK,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BURDICK: I received a copy of S. 555 as reported out of the Senate Committee. While I support the need for comprehensive federal legislation in the area of Indian gaming, I find it impossible to support S. 555 in its present form. I feel the citizens of North Dakota would be better off without congressional legislation than with this bill as it came out of committee.

Currently, Indian gambling is proliferating rapidly. An Indian tribe in the State of Minnesota is currently planning to erect a $4 to $5 million bingo facility and arrange for bus transportation from North Dakota to the tribal land and back. North Dakota tribes are advertising extensively in various media in an effort to solicit players to come on the reservations and play at their facilities. Almost 100 percent of the players participating in gaming on Indian lands are non-Indians. On at least one of the reservations in North Dakota, plans are underway to develop casino gambling with unlimited stakes. The other reservations can be expected to follow shortly.

The scope of regulating gambling is one that requires an in-depth understanding of the game and a great deal of experience with regulation. The gaming industry is particularly vulnerable to the cunning and technically sophisticated defrauder. It is also one that lends itself to embezzlement, skimming, and other examples of "white collar crime" which are hard to detect and prove. Consider the innumerable problems that Atlantic City and the state of Nevada now experience with the type of regulation and experience that they possess.

To allow the same type of gaming on Indian lands to be regulated by individuals with little or no experience, interest in regulation, or resources will subject the tribes to the highly probable threat of embezzlement and loss. It will also subject the citizens of the state of North Dakota to additional criminal elements, law enforement problems, injury to their currently healthy charitable gaming industry, and pose social and economic problems in the future that the state, with its limited resources, will be hard pressed to cure.

I would like to point out specific problems I have with S. 555 as it is not proposed. There are many areas which I do not believe are in the best interests of the citizens of North Dakota. Those areas are as follows:

In the section on definitions, the bill provides as follows: Section (4)(a) defines Indian land to mean all lands within the limits of an Indian reservation. Three of the North Dakota reservations has considered fee lands within the exterior boundaries of the reservation. Allowing tribal gaming and regulation on non-tribal lands with create considerable hostility and resentment among the substantial number of non-Indians in these areas.

In another section the following provision occurs: Section (8)(A)(i) defines class II gaming to include lotto. This would permit a tribally operated lottery. The citizens of North Dakota have voted down a state lottery by overwhelming numbers twice in the last 2½ years. Thus, the tribes in numerous states, including North Dakota tribes, could band together to bring a game into the state which the majority of our citizens have clearly indicated they do not want. Lottos are typically multi-million dollar gaming operations controlled by a few large companies who are the greatest beneficiaries of the game. Lotto is regressive in nature and preys on the lower social economic groups who can least afford to expend money in its pursuit. These are some of the reasons why North Dakotans have rejected lotteries twice in the recent past. We cannot allow lotteries to come into the state via Indian gaming.

Part (ii) of that same section discusses class II card games. While the bill limits class II card games to only those games allowed by law in the state and only if they follow state law as to limits, hours, etc., North Dakota is one of the states exempt from this. The tribes in North Dakota may play the games operated before May 1, 1988. They may play these games up to the nature and scope in which they were operated before that date. This effectively removes all bet limits from tribal card games allowing unlimited stakes in poker and blackjack on North Dakota reservations.

Currently, several of the reservations are running high-stakes or unlimited bet card games. Under S. 555, this could continue as a permanent feature. Instead, all card games should follow state rules and laws. The citizens of North Dakota intentionally placed betting limits on gaming to avoid high-stake casino gaming and its accompaning problems. Our citizens are greatly concerned about unregulated gaming on Indian lands. Complaints to my office voice resentment at the availability of high-stakes or unregulated gaming on Indian lands.

Section (8)(D) provides for a state-tribe compact dealing with class II gaming to be created within one year. This compact must address the legalization of electronic and video poker, blackjack, bingo, and other similar games. Currently, those games are illegal in North Dakota. However, this bill requires the state to negotiate in "good faith" with the tribes to legalize such games. It imposes a limit of one year in which to establish these compacts. If within that one year the state is not acting in "good faith" in enacting such a compact, then court redress is the option. This places the total burden upon the State of North Dakota. This section will certainly result in litigation which will be costly and time consuming. North Dakotans should decide whether or not to allow such games in their State. If they do so decide, then and only then should Indian reservations be allowed to conduct such games.

Section 5 establishes a national Indian gaming commission. As previously discussed, the regulation of gaming is a highly specialized endeavor. It requires a serious commitment, high integrity, a willingness to enforce complex laws fairly and equally to all, and a highly trained professional staff. Even with all of these, the New Jersey and Nevada experiences, as well as our personal experiences in North Dakota, indicate that regulation is extremely difficult. In addition, it is only fair to the citizens of North Dakota, to charities that depend on gaming funds, and to minimize law enforcement problems that regulation be fair, knowledgeable, and consistent throughout the state. The experience with tribal regulation of gaming has shown that none of the above exist.

The creation of an understaffed, inexperienced commission which has inadequate authority and which is dependent upon the gaming organizations for the majority of its funding will not remedy the problems related to gaming enforcement. I am especially troubled that class II gaming on reservations will be dependent upon a commission which has an inherent conflict of interest. That conflict is that its budget will be, to a large degree, dependent upon the organizations that it will regulate. This can have no other effect but to cloud its objectivity and to weaken its enforcement stance. It will also encourage the committee allow competitive advantages to tribal organizations and, thus, enhance its funding.

Section 11(4)(A) allows the tribes to license non-Indian gaming operations without subjecting the non-Indians to state regulation. The tribe is required to enforce state laws and rules upon non-Indian gaming. However, their track record in North Dakota has not been good. Illegal gaming has been tolerated and the tribes have not regulated the legal gaming contained within their borders. Non-Indian gaming in North Dakota should and needs to be regulated by the state of North Dakota. It is contrary to all sense of fairness that non-Indians who may be located on the fee land within "Indian lands" should be treated differently than non-Indians located on fee land anywhere else in the state of North Dakota.

I feel that it is a basic principle of justice that regulation must be fair and equal for all. As long as tribal governments and Indian gaming organizations are required to abide by the same rules as state organizations, thus not providing the tribe with a competitive advantage or ineffective regulation, then justice is being served.

Section (D)(3)(A) provides that tribes may request states to enter into compacts governing class III gaming activities (casino). The burden is on the state to negotiate in good faith. Once the tribe makes such a request, the state must negotiate with them. Thus, North Dakota could be held hostage to whatever tribe in the United States negotiates the most liberal contract anywhere in the United States. If a state with a small Indian population and no understanding of the problems encountered in regulating gaming agreed to a liberal, unworkable compact, all other states would be hard pressed not to agree to that same compact or risk being found to be not acting in "good faith." This is not arm's length negotiations, but a forcing of the states to allow very liberal gaming activities within their borders.

As it relates to class III gaming, S. 555 biggest weakness is that it does not impose a moratorium. In the past, all bills involving Indian gaming regulation contained a three to five year moratorium on class III gaming. This gives states, tribes, and the federal government a chance to develop a "track record" before casinos are authorized and developed in the various tribal areas. S. 555 allows casinos as soon as a compact can be worked out or mandated by the courts.

As stated in (11)(3)(A), "the state shall negotiate with the Indian tribes in good faith to enter into a compact." North Dakota will be forced to leap before it knows how to walk. Without a chance to see if the tribes will regulate gaming and to what extent they will regulate that gaming, the state must enter into negotiations to allow casinos within its borders. North Dakota's experience with high-stake casinos is minimal. Yet now, the state must negotiate within a short period of time (no more than one year) to allow casinos within its borders. Failing to negotiate in good faith on this issue may cause a mediator or the courts to impose a compact. A moratorium must be put back into the bill.

For all of the above reasons, North Dakota would be better off with no congressional legislation than with S. 555 as it presently exists. If the problems addressed herein, i.e., deletion of the federal commission, a moratorium on class III gaming, the treatment of all card games the same, etc., are corrected, then such a bill would greatly benefit North Dakota and its citizens.

Sincerely,

NICHOLAS J. SPAETH.

Mr. INOUYE. Mr. President, I yield 3 minutes to the distinguished Senator from Nevada.

Mr. HECHT. Thank you, Mr. President.

I wish to thank the distinguished Senator from Hawaii, Senator INOUYE, for his outstanding leadership on this bill and all who have worked with him.

The resort business and gaming is our main industry for Nevada. I have been in Nevada for over 40 years. And the regulation of gambling is very important not only to Nevada, but to the rest of the country. Mr. President, this is a good bill that we are acting on today. And on a personal note I would like to state that I have been in the resort business, and hold a gaming license with hotel stock that is in a blind trust. I represent Nevada in the U.S. Senate, and the resort business is our main economy.

Again, my thanks to the distinguished Senator from Hawaii, Senator INOUYE, for his leadership on this very outstanding legislation.

Mr. INOUYE. Mr. President, I thank my friend from Nevada.

Mr. ADAMS. Mr. President, I think it is quite clear that this bill is going to pass today in its present form, and I do not propose to take up the Senate's time attempting to postpone the inevitable. I would, however, like to briefly express my concerns about this legislation.

This bill represents a sincere effort by the Senate Select Committee on Indian Affairs to craft a mechanism for regulation of gaming on Indian reservations that is consistent with accepted principles of tribal sovereignty. The most difficult issue to resolve has been how to best regulate on Indian reservations gaming activities such as casino gaming and dog and horse racing which are regulated in different ways by different States, are potentially high profit enterprises, and in the past at the State level have experienced problems with attempted infiltration by organized crime.

These types of gaming operations are classified in the bill as class III games, and tribes can run class III games only in accordance with compacts negotiated with State governments. I appreciate that the State-tribal compact concept incorporated in government negotiation between States and Indian tribes. It is not clear to me that the current bill language achieves this goal, but I certainly hope to be proved wrong, and understand the reasons why the committee wishes to facilitate Indian/State discussions in this context. If there are future efforts, however, to extend this type of compact to other types of regulation of Indian activities, I will probably oppose such efforts, because this might well result in significant State intrusions into regulation of tribal activities.

Mr. DASCHLE. Mr. President, as a member of the Select Committee on Indian Affairs and as an original cosponsor of S. 555, I regrettably object to the final version of this bill. I will cast my vote accordingly.

My reason for opposing the bill is that those Indian tribes from South Dakota whom I represent have informed me that this bill is unacceptable. The tribes strongly object to any form of direct or indirect State jurisdiction over tribal matters. They believe the provisions calling for a tribal-State compact are in derogation of the status of Indian tribes as domestic sovereign nations. The direct or indirect application of State law in Indian country, they believe, is a dangerous and unwarranted precedent for further inroads upon tribal sovereignty. They further believe that opponents to Indian self-determination and strong tribal government will use this unwarranted precedent as a justification for State taxation, zoning, water regulation and further jurisdiction over tribal economic activities.

Tribes have traditionally opposed any State jurisdiction interfering with their sovereign powers to regulate internal affairs on tribal lands. This bill would establish Federal guidelines for the regulation of gaming and would be within the context of the tribal-Federal government-to-government relationship. State jurisdiction, however, is outside that relationship.

As the Friends Committee on National Legislation has pointed out, S. 555 represents the first time a State would have jurisdiction over tribal affairs rather than over individuals. This organization maintains that S. 555 would have a more intrusive effect on tribal sovereignty than Public Law 280, even in States which rejected Public Law 280 when it was possible to take on jurisdiction without the consent of tribes. Furthermore, S. 555 would erode the intent of the "Indian Civil Rights Act of 1968" which forbids States to take civil or criminal jurisdiction over Indians without tribal consent.

Even though the selection committee has made a serious effort to address these concerns in the report language accompanying the bill, the tribes I represent remain skeptical. I cannot, therefore, in good faith continue to support the bill.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Hawaii? If not, the question is on agreeing to the amendment of the Senator from Hawaii [Mr. INOUYE].

The amendment (No. 3039) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EVANS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask for final passage.

The PRESIDING OFFICER. Does the Senator from Washington yield back the remainder of his time?

Mr. EVANS. I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Gaming Regulatory Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) numerous Indian tribes have become engaged in or have licensed gaming activities on Indian lands as a means of generating tribal governmental revenue;

(2) Federal courts have held that section 2103 of the Revised Statutes (25 U.S.C. 81) requires Secretarial review of management contracts dealing with Indian gaming, but does not provide standards for approval of such contracts;

(3) existing Federal law does not provide clear standards or regulations for the conduct of gaming on Indian lands;

(4) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self- sufficiency, and strong tribal government; and

(5) Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.

DECLARATION OF POLICY

SEC. 3. The purpose of this Act is—

(1) to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

(2) to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players; and

(3) to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue.

DEFINITIONS

SEC. 4. For purposes of this Act—

(1) The term "Attorney General" means the Attorney General of the United States.

(2) The term "Chairman" means the Chairman of the National Indian Gaming Commission.

(3) The term "Commission" means the National Indian Gaming Commission established pursuant to section 5 of this Act.

(4) The term "Indian lands" means—

(A) all lands within the limits of any Indian reservation; and

(B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which—

(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians, and

(B) is recognized as possessing powers of self-government.

(6) The term "class I gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

(7)(A) The term "class II gaming" means—

(i) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

(I) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards,

including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and

(ii) card games that—

(I) are explicitly authorized by the laws of the State, or

(II) are not explicitly prohibited by the laws of the State and are played at any location in the State,

but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(B) The term "class II gaming" does not include—

(i) any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(C) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Washington, that were actually operated in such State by an Indian tribe on or before May 1, 1988, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Chairman.

(D) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes, during the 1-year period beginning on the date of enactment of this Act, any gaming described in subparagraph (B)(ii) that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated requests the State, by no later than the date that is 30 days after the date of enactment of this Act, to negotiate a Tribal-State compact under section 11(d)(3).

(8) The term "class III gaming" means all forms of gaming that are not class I gaming or class II gaming.

(9) The term "net revenues" means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

(10) The term "Secretary" means the Secretary of the Interior.

NATIONAL INDIAN GAMING COMMISSION

SEC. 5. (a) There is established within the Department of the Interior a Commission to be known as the National Indian Gaming Commission.

(b)(1) The Commission shall be composed of three full-time members who shall be appointed as follows:

(A) a Chairman, who shall be appointed by the President with the advice and consent of the Senate; and

(B) two associate members who shall be appointed by the Secretary of the Interior.

(2)(A) The Attorney General shall conduct a background investigation on any person considered for appointment to the Commission.

(B) The Secretary shall publish in the Federal Register the name and other information the Secretary deems pertinent regarding a nominee for membership on the Commission and shall allow a period of not less than thirty days for receipt of public comment.

(3) Not more than two members of the Commission shall be of the same political party. At least two members of the Commission shall be enrolled members of any Indian tribe.

(4)(A) Except as provided in subparagraph (B), the term of office of the members of the Commission shall be three years.

(B) Of the initial members of the Commission—

(i) two members, including the Chairman, shall have a term of office of three years; and

(ii) two members shall have a term of office of one year.

(5) No individual shall be eligible for any appointment to, or to continue service on, the Commission, who—

(A) has been convicted of a felony or gaming offense;

(B) has any financial interest in, or management responsibility for, any gaming activity; or

(C) has a financial interest in, or management responsibility for, any management contract approved pursuant to section 12 of this Act.

(6) A Commissioner may only be removed from office before the expiration of the term of office of the member by the President (or, in the case of associate member, by the Secretary) for neglect of duty, or malfeasance in office, or for other good cause shown.

(c) Vacancies occurring on the Commission shall be filled in the same manner as the original appointment. A member may serve after the expiration of his term of office until his successor has been appointed, unless the member has been removed for cause under subsection (b)(6).

(d) Two members of the Commission, at least one of which is the Chairman or Vice Chairman, shall constitute a quorum.

(e) The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman. The Vice Chairman shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

(f) The Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every 4 months.

(g)(1) The Chairman of the Commission shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) The associate members of the Commission shall each be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

POWERS OF THE CHAIRMAN

SEC. 6. (a) The Chairman, on behalf of the Commission, shall have power, subject to an appeal to the Commission, to—

(1) issue orders of temporary closure of gaming activities as provided in section 14(b);

(2) levy and collect civil fines as provided in section 14(a);

(3) approve tribal ordinances or resolutions regulating class II gaming and class III gaming as provided in section 11; and

(4) approve management contracts for class II gaming and class III gaming as provided in sections 11(d)(9) and 12.

(b) The Chairman shall have such other powers as may be delegated by the Commission.

POWERS OF THE COMMISSION

SEC. 7. (a) The Commission shall have the power, not subject to delegation—

(1) upon the recommendation of the Chairman, to approve the annual budget of the Commission as provided in section 18;

(2) to adopt regulations for the assessment and collection of civil fines as provided in section 14(a);

(3) by an affirmative vote of not less than 3 members, to establish the rate of fees as provided in section 18;

(4) by an affirmative vote of not less than 3 members, to authorize the Chairman to issue subpoenas as provided in section 16; and

(5) by an affirmative vote of not less than 3 members and after a full hearing, to make permanent a temporary order of the Chairman closing a gaming activity as provided in section 14(b)(2).

(b) The Commission—

(1) shall monitor class II gaming conducted on Indian lands on a continuing basis;

(2) shall inspect and examine all premises located on Indian lands on which class II gaming is conducted;

(3) shall conduct or cause to be conducted such background investigations as may be necessary;

(4) may demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

(5) may use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

(6) may procure supplies, services, and property by contract in accordance with applicable Federal laws and regulations;

(7) may enter into contracts with Federal, State, tribal and private entities for activities necessary to the discharge of the duties of the Commission and, to the extent feasible, contract the enforcement of the Commission's regulations with the Indian tribes;

(8) may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate;

(9) may administer oaths or affirmations to witnesses appearing before the Commission; and

(10) shall promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act.

(c) The Commission shall submit a report with minority views, if any, to the Congress on December 31, 1989, and every two years thereafter. The report shall include information on—

(1) whether the associate commissioners should continue as full or part-time officials;

(2) funding, including income and expenses, of the Commission;

(3) recommendations for amendments to the Act; and

(4) any other matter considered appropriate by the Commission.

COMMISSION STAFFING

SEC. 8. (a) The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of that title.

(c) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Service.

(d) Upon the request of the Chairman, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law.

(e) The Secretary or Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

COMMISSION—ACCESS TO INFORMATION

SEC. 9. The Commission may secure from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law.

INTERIM AUTHORITY TO REGULATE GAMING

SEC. 10. Notwithstanding any other provision of this Act, the Secretary shall continue to exercise those authorities vested in the Secretary on the day before the date of enactment of this Act relating to supervision of Indian gaming until such time as the Commission is organized and prescribes regulations. The Secretary shall provide staff and support assistance to facilitate an orderly transition to regulation of Indian gaming by the Commission.

TRIBAL GAMING ORDINANCES

SEC. 11. (a)(1) Class I gaming on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

(2) Any class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

(b)(1) An Indian tribe may engage in, or license and regulate, class II gaming on Indian lands within such tribe's jurisdiction, if—

(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law), and

(B) the governing body of the Indian tribe adopts an ordinance or resolution which is approved by the Chairman.

A separate license issued by the Indian tribe shall be required for each place, facility, or location on Indian lands at which class II gaming is conducted.

(2) The Chairman shall approve any tribal ordinance or resolution concerning the conduct, or regulation of class II gaming on the Indian lands within the tribes jurisdiction if such ordinance or resolution provides that—

(A) except as provided in paragraph (4), the Indian tribe will have the sole proprietary interest and responsibility for the conduct of any gaming activity;

(B) net revenues from any tribal gaming are not to be used for purposes other than—

(i) to fund tribal government operations or programs;

(ii) to provide for the general welfare of the Indian tribe and its members;

(iii) to promote tribal economic development;

(iv) to donate to charitable organizations; or

(v) to help fund operations of local government agencies;

(C) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, will be provided by the Indian tribe to the Commission;

(D) all contracts for supplies, services, or concessions for a contract amount in excess of $25,000 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits;

(E) the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety; and

(F) there is an adequate system which—

(i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an ongoing basis; and

(ii) includes—

(I) tribal licenses for primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses;

(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment; and

(III) notification by the Indian tribe to the Commission of the results of such background check before the issuance of any of such licenses.

(3) Net revenues from any class II gaming activities conducted or licensed by any Indian tribe may be used to make per capita payments to members of the Indian tribe only if—

(A) the Indian tribe has prepared a plan to allocate revenues to uses authorized by paragraph (2)(B);

(B) the plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of paragraph (2)(B);

(C) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare, of the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

(D) the per capita payments are subject to Federal taxation and tribes notify members of such tax liability when payments are made.

(4)(A) A tribal ordinance or resolution may provide for the licensing or regulation of class II gaming activities owned by any person or entity other than the Indian tribe and conducted on Indian lands, only if the tribal licensing requirements include the requirements described in the subclauses of subparagraph (B)(i) and are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located. No person or entity, other than the Indian tribe, shall be eligible to receive a tribal license to own a class II gaming activity conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

(B)(i) The provisions of subparagraph (A) of this paragraph and the provisions of subparagraphs (A) and (B) of paragraph (2) shall not bar the continued operation of an individually owned class II gaming operation that was operating on September 1, 1986, if—

(I) such gaming operation is licensed and regulated by an Indian tribe pursuant to an ordinance reviewed and approved by the Commission in accordance with section 13 of the Act,

(II) income to the Indian tribe from such gaming is used only for the purposes described in paragraph (2)(B) of this subsection,

(III) not less than 60 percent of the net revenues is income to the Indian tribe, and

(IV) the owner of such gaming operation pays an appropriate assessment to the National Indian Gaming Commission under section 18(a)(1) for regulation of such gaming.

(ii) The exemption from the application of this subsection provided under this subparagraph may not be transferred to any person or entity and shall remain in effect only so long as the gaming activity remains within the same nature and scope as operated on the date of enactment of this Act.

(iii) Within sixty days of the date of enactment of this Act, the Secretary shall prepare a list of each individually owned gaming operation to which clause (i) applies and shall publish such list in the Federal Register.

(c)(1) The Commission may consult with appropriate law enforcement officials concerning gaming licenses issued by an Indian tribe and shall have thirty days to notify the Indian tribe of any objections to issuance of such license.

(2) If, after the issuance of a gaming license by an Indian tribe, reliable information is received from the Commission indicating that a primary management official or key employee does not meet the standard established under subsection (b)(2)(F)(ii)(II), the Indian tribe shall suspend such license and, after notice and hearing, may revoke such license.

(3) Any Indian tribe which operates a Class II gaming activity and which—

(A) has continuously conducted such activity for a period of not less than three years, including at least one year after the date of the enactment of this Act; and

(B) has otherwise complied with the provisions of this section

may petition the Commission for a certificate of self-regulation.

(4) The Commission shall issue a certificate of self-regulation if it determines from available information, and after a hearing if requested by the tribe, that the tribe has—

(A) conducted its gaming activity in a manner which—

(i) has resulted in an effective and honest accounting of all revenues;

(ii) has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) has been generally free of evidence of criminal or dishonest activity;

(B) adopted and is implementing adequate systems for—

(i) accounting for all revenues from the activity;

(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

(iii) investigation, enforcement and prosecution of violations of its gaming ordinance and regulations; and

(C) conducted the operation on a fiscally and economically sound basis.

(5) During any year in which a tribe has a certificate for self-regulation—

(A) the tribe shall not be subject to the provisions of paragraphs 1, 2, 3, and 4 of section 7(b);

(B) the tribe shall continue to submit an annual independent audit as required by section 11(b)(2)(C) and shall submit to the Commission a complete résumé on all employees hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

(C) the Commission may not assess a fee on such activity pursuant to section 18 in excess of one quarter of 1 per centum of the gross revenue.

(6) The Commission may, for just cause and after an opportunity for a hearing, remove a certificate of self-regulation by majority vote of its members.

(d)(1) Class III gaming activities shall be lawful on Indian lands only if such activities are—

(A) authorized by an ordinance or resolution that—

(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

(ii) meets the requirements of subsection (b), and

(iii) is approved by the Chairman,

(B) located in a State that permits such gaming for any purpose by any person, organization, or entity, and

(C) conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect.

(2)(A) If any Indian tribe proposes to engage in, or to authorize any person or entity to engage in, a class III gaming activity on Indian lands of the Indian tribe, the governing body of the Indian tribe shall adopt and submit to the Chairman an ordinance or resolution that meets the requirements of subsection (b).

(B) The Chairman shall approve any ordinance or resolution described in subparagraph (A), unless the Chairman specifically determines that—

(i) the ordinance or resolution was not adopted in compliance with the governing documents of the Indian tribe, or

(ii) the tribal governing body was significantly and unduly influenced in the adoption of such ordinance or resolution by any person identified in section 12(e)(1)(D).

Upon the approval of such an ordinance or resolution, the Chairman shall publish in the Federal Register such ordinance or resolution and the order of approval.

(C) Effective with the publication under subparagraph (B) of an ordinance or resolution adopted by the governing body of an Indian tribe that has been approved by the Chairman under subparagraph (B), class III gaming activity on the Indian lands of the Indian tribe shall be fully subject to the terms and conditions of the Tribal-State compact entered into under paragraph (3) by the Indian tribe that is in effect.

(D)(i) The governing body of an Indian tribe, in its sole discretion and without the approval of the Chairman, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

(ii) The Indian tribe shall submit any revocation ordinance or resolution described in clause (i) to the Chairman. The Chairman shall publish such ordinance or resolution in the Federal Register and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

(iii) Notwithstanding any other provision of this subsection—

(I) any person or entity operating a class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in clause (i) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation ordinance or resolution is published under clause (ii), continue to operate such activity in conformance with the Tribal-State compact entered into under paragraph (3) that is in effect, and

(II) any civil action that arises before, and any crime that is committed before, the close of such 1-year period shall not be affected by such revocation ordinance or resolution.

(3)(A) Any Indian tribe having jurisdiction over the Indian lands upon which a class III gaming activity is being conducted, or is to be conducted, shall request the State in which such lands are located to enter into negotiations for the purpose of entering into a Tribal-State compact governing the conduct of gaming activities. Upon receiving such a request, the State shall negotiate with the Indian tribe in good faith to enter into such a compact.

(B) Any State and any Indian tribe may enter into a Tribal-State compact governing gaming activities on the Indian lands of the Indian tribe, but such compact shall take effect only when notice of approval by the Secretary of such compact has been published by the Secretary in the Federal Register.

(C) Any Tribal-State compact negotiated under subparagraph (A) may include provisions relating to—

(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

(v) remedies for breach of contract;

(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

(vii) any other subjects that are directly related to the operation of gaming activities.

(4) Except for any assessments that may be agreed to under paragraph (3)(C)(iii) of this subsection, nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3)(A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.

(5) Nothing in this subsection shall impair the right of an Indian tribe to regulate class III gaming on its Indian lands concurrently with the State, except to the extent that such regulation is inconsistent with, or less stringent than, the State laws and regulations made applicable by any Tribal-State compact entered into by the Indian tribe under paragraph (3) that is in effect.

(6) The provisions of section 5 of the Act of January 2, 1951 (64 Stat. 1135) shall not apply to any gaming conducted under a Tribal-State compact that—

(A) is entered into under paragraph (3) by a State in which gambling devices are legal, and

(B) is in effect.

(7)(A) The United States district courts shall have jurisdiction over—

(i) any cause of action initiated by an Indian tribe arising from the failure of a State to enter into negotiations with the Indian tribe for the purpose of entering into a Tribal-State compact under paragraph (3) or to conduct such negotiations in good faith,

(ii) any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any Tribal-State compact entered into under paragraph (3) that is in effect, and

(iii) any cause of action initiated by the Secretary to enforce the procedures prescribed under subparagraph (B)(vii).

(B)(i) An Indian tribe may initiate a cause of action described in subparagraph (A)(i) only after the close of the 180-day period beginning on the date on which the Indian tribe requested the State to enter into negotiations under paragraph (3)(A).

(ii) In any action described in subparagraph (A)(i), upon the introduction of evidence by an Indian tribe that—

(I) a Tribal-State compact has not been entered into under paragraph (3), and

(II) the State did not respond to the request of the Indian tribe to negotiate such a compact or did not respond to such request in good faith, the burden of proof shall be upon the State to prove that the State has negotiated with the Indian tribe in good faith to conclude a Tribal-State compact governing the conduct of gaming activities.

(iii) If, in any action described in subparagraph (A)(i), the court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a Tribal-State compact governing the conduct of gaming activities, the court shall order the State and the Indian Tribe to conclude such a compact within a 60-day period. In determining in such an action whether a State has negotiated in good faith, the court—

(I) may take into account the public interest, public safety, criminality, financial integrity, and adverse economic impacts on existing gaming activities, and

(II) shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian lands as evidence that the State has not negotiated in good faith.

(iv) If a State and an Indian tribe fail to conclude a Tribal-State compact governing the conduct of gaming activities on the Indian lands subject to the jurisdiction of such Indian tribe within the 60-day period provided in the order of a court issued under clause (iii), the Indian tribe and the State shall each submit to a mediator appointed by the court a proposed compact that represents their last best offer for a compact. The mediator shall select from the two proposed compacts the one which best comports with the terms of this Act and any other applicable Federal law and with the findings and order of the court.

(v) The mediator appointed by the court under clause (iv) shall submit to the State and the Indian tribe the compact selected by the mediator under clause (iv).

(vi) If a State consents to a proposed compact during the 60-day period beginning on the date on which the proposed compact is submitted by the mediator to the State under clause (v), the proposed compact shall be treated as a Tribal-State compact entered into under paragraph (3).

(vii) If the State does not consent during the 60-day period described in clause (vi) to a proposed compact submitted by a mediator under clause (v), the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Indian tribe, procedures—

(I) which are consistent with the proposed compact selected by the mediator under clause (iv), the provisions of this Act, and the relevant provisions of the laws of the State, and

(II) under which class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction.

(8)(A) The Secretary is authorized to approve any Tribal-State compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

(B) The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

(i) any provision of this Act,

(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or

(iii) the trust obligations of the United States to Indians.

(C) If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act.

(D) The Secretary shall publish in the Federal Register notice of any Tribal-State compact that is approved, or considered to have been approved, under this paragraph.

(9) An Indian tribe may enter into a management contract for the operation of a class III gaming activity if such contract has been submitted to, and approved by, the Chairman. The Chairman's review and approval of such contract shall be governed by the provisions of subsections (b), (c), (d), (f), (g), and (h) of section 12.

(e) For purposes of this section, by not later than the date that is 90 days after the date on which any tribal gaming ordinance or resolution is submitted to the Chairman, the Chairman shall approve such ordinance or resolution if it meets the requirements of this section. Any such ordinance or resolution not acted upon at the end of that 90-day period shall be considered to have been approved by the Chairman, but only to the extent such ordinance or resolution is consistent with the provisions of this Act.

MANAGEMENT CONTRACTS

SEC. 12. (a)(1) Subject to the approval of the Chairman, an Indian tribe may enter into a management contract for the operation and management of a class II gaming activity that the Indian tribe may engage in under section 11(b)(1), but, before approving such contract, the Chairman shall require and obtain the following information:

(A) the name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock;

(B) a description of any previous experience that each person listed pursuant to subparagraph (A) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and

(C) a complete financial statement of each person listed pursuant to subparagraph (A).

(2) Any person listed pursuant to paragraph (1)(A) shall be required to respond to such written or oral questions that the Chairman may propound in accordance with his responsibilities under this section.

(3) For purposes of this Act, any reference to the management contract described in paragraph (1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(b) The Chairman may approve any management contract entered into pursuant to this section only if he determines that it provides at least—

(1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the tribal governing body on a monthly basis;

(2) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

(3) for a minimum guaranteed payment to the Indian tribe that has preference over the retirement of development and construction costs;

(4) for an agreed ceiling for the repayment of development and construction costs;

(5) for a contract term not to exceed five years, except that, upon the request of an Indian tribe, the Chairman may authorize a contract term that exceeds five years but does not exceed seven years if the Chairman is satisfied that the capital investment required, and the income projections, for the particular gaming activity require the additional time; and

(6) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

(c)(1) The Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity if the Chairman determines that such percentage fee is reasonable in light of surrounding circumstances. Except as otherwise provided in this subsection, such fee shall not exceed 30 percent of the net revenues.

(2) Upon the request of an Indian tribe, the Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity that exceeds 30 percent but not 40 percent of the net revenues if the Chairman is satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee requested by the Indian tribe.

(d) By no later than the date that is 180 days after the date on which a management contract is submitted to the Chairman for approval, the Chairman shall approve or disapprove such contract on its merits. The Chairman may extend the 180-day period by not more than 90 days if the Chairman notifies the Indian tribe in writing of the reason for the extension. The Indian tribe may bring an action in a United States district court to compel action by the Chairman if a contract has not been approved or disapproved within the period required by this subsection.

(e) The Chairman shall not approve any contract if the Chairman determines that—

(1) any person listed pursuant to subsection (a)(1)(A) of this section—

(A) is an elected member of the governing body of the Indian tribe which is the party to the management contract;

(B) has been or subsequently is convicted of any felony or gaming offense;

(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded pursuant to subsection (a)(2); or

(D) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

(2) the management contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

(3) the management contractor has deliberately or substantially failed to comply with the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this Act; or

(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(f) The Chairman, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if he subsequently determines that any of the provisions of this section have been violated.

(g) No management contract for the operation and management of a gaming activity regulated by this Act shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and unless clearly specified in writing in said contract.

(h) The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), relating to management contracts regulated pursuant to this Act, is hereby transferred to the Commission.

(i) The Commission shall require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in subsection (e) of this section.

REVIEW OF EXISTING ORDINANCES AND CONTRACTS

SEC. 13. (a) As soon as practicable after the organization of the Commission, the Chairman shall notify each Indian tribe or management contractor who, prior to the enactment of this Act, adopted an ordinance or resolution authorizing class II gaming or class III gaming or entered into a management contract, that such ordinance, resolution, or contract, including all collateral agreements relating to the gaming activity, must be submitted for his review within sixty days of such notification. Any activity conducted under such ordinance, resolution, contract, or agreement shall be valid under this Act, or any amendment made by this Act, unless disapproved under this section.

(b)(1) By no later than the date that is 90 days after the date on which an ordinance or resolution authorizing class II gaming or class III gaming is submitted to the Chairman pursuant to subsection (a), the Chairman shall review such ordinance or resolution to determine if it conforms to the requirements of section 11(b) of this Act.

(2) If the Chairman determines that an ordinance or resolution submitted under subsection (a) conforms to the requirements of section 11(b), the Chairman shall approve it.

(3) If the Chairman determines that an ordinance or resolution submitted under subsection (a) does not conform to the requirements of section 11(b), the Chairman shall provide written notification of necessary modifications to the Indian tribe which shall have not more than 120 days to bring such ordinance or resolution into compliance.

(c)(1) Within 180 days after the submission of a management contract, including all collateral agreements, pursuant to subsection (a), the Chairman shall subject such contract to the requirements and process of section 12.

(2) If the Chairman determines that a management contract submitted under subsection (a), and the management contractor under such contract, meet the requirements of section 12, the Chairman shall approve the management contract.

(3) If the Chairman determines that a contract submitted under subsection (a), or the management contractor under a contract submitted under subsection (a), does not meet the requirements of section 12, the Chairman shall provide written notification to the parties to such contract of necessary modifications and the parties shall have not more than 120 days to come into compliance. If a management contract has been approved by the Secretary prior to the date of enactment of this Act, the parties shall have not more than 180 days after notification of necessary modifications to come into compliance.

CIVIL PENALTIES

SEC. 14. (a)(1) Subject to such regulations as may be prescribed by the Commission, the Chairman shall have authority to levy and collect appropriate civil fines, not to exceed $25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for any violation of any provision of this Act, any regulation prescribed by the Commission pursuant to this Act, or tribal regulations, ordinances, or resolutions approved under section 11 or 13.

(2) The Commission shall, by regulation, provide an opportunity for an appeal and hearing before the Commission on fines levied and collected by the Chairman.

(3) Whenever the Commission has reason to believe that the tribal operator of an Indian game or a management contractor is engaged in activities regulated by this Act, by regulations prescribed under this Act, or by tribal regulations, ordinances, or resolutions, approved under section 11 or 13, that may result in the imposition of a fine under subsection (a)(1), the permanent closure of such game, or the modification or termination of any management contract, the Commission shall provide such tribal operator or management contractor with a written complaint stating the acts or omissions which form the basis for such belief and the action or choice of action being considered by the Commission. The allegation shall be set forth in common and concise language and must specify the statutory or regulatory provisions alleged to have been violated, but may not consist merely of allegations stated in statutory or regulatory language.

(b)(1) The Chairman shall have power to order temporary closure of an Indian game for substantial violation of the provisions of this Act, of regulations prescribed by the Commission pursuant to this Act, or of tribal regulations, ordinances, or resolutions approved under section 11 or 13 of this Act.

(2) Not later than thirty days after the issuance by the Chairman of an order of temporary closure, the Indian tribe or management contractor involved shall have a right to a hearing before the Commission to determine whether such order should be made permanent or dissolved. Not later than sixty days following such hearing, the Commission shall, by a vote of not less than three of its members, decided whether to order a permanent closure of the gaming operation.

(c) A decision of the Commission to give final approval of a fine levied by the Chairman or to order a permanent closure pursuant to this section shall be appealable to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

(d) Nothing in this Act precludes an Indian tribe from exercising regulatory authority provided under tribal law over a gaming establishment within the Indian tribe's jurisdiction if such regulation is not inconsistent with this Act or with any rules or regulations adopted by the Commission.

JUDICIAL REVIEW

SEC. 15. Decisions made by the Commission pursuant to sections 11, 12, 13, and 14 shall be final agency decisions for purposes of appeal to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

SUBPOENA AND DEPOSITION AUTHORITY

SEC. 16. (a) By a vote of not less than two members, the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Commission may request the Secretary to request the Attorney General to bring an action to enforce any subpoena under this section.

(c) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena for any reason, issue an order requiring such person to appear before the Commission (and produce books, papers, or documents as so ordered) and give evidence concerning the matter in question and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) A Commissioner may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Reasonable notice must first be given to the Commission in writing by the party or his attorney proposing to take such deposition, and, in cases in which a Commissioner proposes to take a deposition, reasonable notice must be given. The notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission, as hereinbefore provided.

(e) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify to the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Commission.

(f) Witnesses whose depositions are taken as authorized in this section, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

INVESTIGATIVE POWERS

SEC. 17. (a) Except as provided in subsection (b), the Commission shall preserve any and all information received pursuant to this Act as confidential pursuant to the provisions of paragraphs (4) and (7) of section 552(b) of title 5, United States Code.

(b) The Commission shall, when such information indicates a violation of Federal, State, or tribal statutes, ordinances, or resolutions, provide such information to the appropriate law enforcement officials.

(c) The Attorney General shall investigate activities associated with gaming authorized by this Act which may be a violation of Federal law.

COMMISSION FUNDING

SEC. 18. (a)(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each class II gaming activity that is regulated by this Act.

(2)(A) The rate of the fees imposed under the schedule established under paragraph (1) shall be—

(i) no less than 0.5 percent nor more than 2.5 percent of the first $1,500,000, and

(ii) no more than 5 percent of amounts in excess of the first $1,500,000,

of the gross revenues from each activity regulated by this Act.

(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed $1,500,000.

(3) The Commission, by a vote of not less than three of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on a quarterly basis.

(4) Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to the regulations of the Commission, be grounds for revocation of the approval of the Chairman of any license, ordinance, or resolution required under this Act for the operation of gaming.

(5) To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity on a pro rata basis against such fees imposed for the succeeding year.

(6) For purposes of this section, gross revenues shall constitute the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures.

(b)(1) The Commission, in coordination with the Secretary and in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

(2) The budget of the Commission may include a request for appropriations, as authorized by section 19, in an amount equal the amount of funds derived from assessments authorized by subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made.

(3) The request for appropriations pursuant to paragraph (2) shall be subject to the approval of the Secretary and shall be included as a part of the budget request of the Department of the Interior.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. (a) Subject to the provisions of section 18, there are hereby authorized to be appropriated such sums as may be necessary for the operation of the Commission.

(b) Notwithstanding the provisions of section 18, there are hereby authorized to be appropriated not to exceed $2,000,000 to fund the operation of the Commission for each of the fiscal years beginning October 1, 1988, and October 1, 1989.

GAMING ON LANDS ACQUIRED AFTER ENACTMENT OF THIS ACT

SEC. 20. (a) Except as provided in subsection (b), gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act unless—

(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act; or

(2) the Indian tribe has no reservation on the date of enactment of this Act and—

(A) such lands are located in Oklahoma and—

(i) are within the boundaries of the Indian tribe's former reservation, as defined by the Secretary, or

(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in Oklahoma; or

(B) such lands are located in a State other than Oklahoma and are within the Indian tribe's last recognized reservation within the State or States within which such Indian tribe is presently located.

(b)(1) Subsection (a) will not apply when—

(A) the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination; or

(B) lands are taken into trust as part of—

(i) a settlement of a land claim,

(ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or

(iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

(2) Subsection (a) shall not apply to—

(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin that is the subject of the action filed in the United States District Court for the District of Columbia entitled *St. Croix Chippewa Indians of Wisconsin* v. *United States*, Civ. No. 86-2278, or

(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within one mile of the intersection of State Road Numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

(3) Upon request of the governing body of the Miccosukee Tribe of Indians of Florida, the Secretary shall, notwithstanding any other provision of law, accept the transfer by such Tribe to the Secretary of the interests of such Tribe in the lands described in paragraph (2)(B) and the Secretary shall declare that such interests are held in trust by the Secretary for the benefit of such Tribe and that such interests are part of the reservation of such Tribe under sections 5 and 7 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465, 467), subject to any encumbrances and rights that are held at the time of such transfer by any person or entity other than such Tribe. The Secretary shall publish in the Federal Register the legal description of any lands that are declared held in trust by the Secretary under this paragraph.

(c) Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

(d)(1) The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and 6050I, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act, or under a Tribal-State compact entered into under section 11(d)(3) that is in effect, in the same manner as such provisions apply to State gaming and wagering operations.

(2) The provisions of this subsection shall apply notwithstanding any other provision of law enacted before, on, or after the date of enactment of this Act unless such other provision of law specifically cites this subsection.

DISSEMINATION OF INFORMATION

SEC. 21. Consistent with the requirements of this Act, sections 1301, 1302, 1303 and 1304 of title 18, United States Code, shall not apply to any gaming conducted by an Indian tribe pursuant to this Act.

SEVERABILITY

SEC. 22. In the event that any section or provision of this Act, or amendment made by this Act, is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and amendments made by this Act, shall continue in full force and effect.

CRIMINAL PENALTIES

SEC. 23. Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1166. Gambling in Indian country

"(a) Subject to subsection (c), for purposes of Federal law, all State laws pertaining to the licensing, regulation, or prohibition of gambling, including but not limited to criminal sanctions applicable thereto, shall apply in Indian country in the same manner and to the same extent as such laws apply elsewhere in the State.

"(b) Whoever in Indian country is guilty of any act or omission involving gambling, whether or not conducted or sanctioned by an Indian tribe, which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State in which the act or omission occurred, under the laws governing the licensing, regulation, or prohibition of gambling in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

"(c) For the purpose of this section, the term 'gambling' does not include—

"(1) class I gaming or class II gaming regulated by the Indian Gaming Regulatory Act, or

"(2) class III gaming conducted under a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act that is in effect.

"(d) The United States shall have exclusive jurisdiction over criminal prosecutions of violations of State gambling laws that are made applicable under this section to Indian country, unless an Indian tribe pursuant to a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act, or under any other provision of Federal law, has consented to the transfer to the State of criminal jurisdiction with respect to gambling on the lands of the Indian tribe.

"§ 1167. Theft from gaming establishments on Indian lands

"(a) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value of $1,000 or less belonging to an establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined not more than $100,000 or be imprisoned for not more than one year, or both.

"(b) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value in excess of $1,000 belonging to a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined not more than $250,000, or imprisoned for not more than ten years, or both.

"§ 1168. Theft by officers or employers of gaming establishments on Indian lands

"(a) Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value of $1,000 or less shall be fined not more than $250,000 and be imprisoned for not more than five years, or both;

"(b) Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value in excess of $1,000 shall be fined not more than $100,000,000 or imprisoned for not more than twenty years, or both.".

CONFORMING AMENDMENT

SEC. 24. The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following:

"1166. Gambling in Indian country.
"1167. Theft from gaming establishments on Indian lands.
"1168. Theft by officers or employees of gaming establishments on Indian lands.".

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. EVANS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I ask the distinguished Republican leader whether or not the following calendar orders on the Executive Calendar have been cleared on his side: under International Banks on page 3, Calendar Order No. 843, and then the nomination on page 4, all the nominations on page 5, and the nomination on page 6.

Mr. DOLE. Yes, each of those nominations have been cleared on this side.

Mr. BYRD. Mr. President, I thank my friend.

I ask unanimous consent that the Senate go into executive session to consider the nominations under new reports on page 3 under International Banks, going through pages 4, 5 and 6, and that the nominations be considered en bloc, agreed to en bloc, the motion to reconsider en bloc be laid on the table, Senators' statements, if there be such, be included in the RECORD at the appropriate places as though read, and that the President be immediately notified of the confirmation of the nominees, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

INTERNATIONAL BANKS

W. Allen Wallis, of New York, to be United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; and United States Alternate Governor of the Inter-American Development Bank for a term of five years. (Reappointments).

UNITED NATIONS

Vernon A. Walters, of Florida, to be a Representative of the United States of America to the Forty-third Session of the General Assembly of the United Nations.

The following-named person to be a Representative of the United States of America to the Forty-third Session of the General Assembly of the United Nations: Pearl Bailey, of Arizona.

The following-named person to be an Alternative Representative of the United States of America to the Forty-third Session of the General Assembly of the United Nations: Noel Gross, of New Jersey.

The following-named person to be an Alternative Representative of the United States of America to the Forty-third Session of the General Assembly of the United Nations: Lester B. Korn, of California.

The following-named person to be an Alternative Representative of the United States of America to the Forty-third Session of the General Assembly of the United Nations: Hugh Montgomery, of Virginia.

Patricia Mary Byrne, of Ohio, to be an Alternative Representative of the United States of America to the Forty-third Session of the General Assembly of the United Nations.

The following-named persons to be Representatives and an Alternative Representative of the United States of America to the Forty-third Session of the General Assembly of the United Nations:

Representatives:

Rudy Boschwitz, United States Senator from the State of Minnesota.

Christopher J. Dodd, United States Senator from the State of Connecticut.

Alternate Representative: Arthur Schneier, of New York.

INTERNATIONAL ATOMIC ENERGY AGENCY

Joseph F. Salgado, of California, to be the Representative of the United States of America to the Thirty-second Session of the General Conference of the International Atomic Energy Agency.

Lando W. Zech, of Virginia, to be an Alternative Representative of the United States of America to the Thirty-second Session of the General Conference of the International Atomic Energy Agency.

The following-named person to be an Alternative Representative of the United States of America to the Thirty-second Session of the General Conference of the International Atomic Energy Agency: Bruce K. Chapman, of Washington.

The following-named person to be an Alternative Representative of the United States of America to the Thirty-second Session of the General Conference of the International Atomic Energy Agency: Richard T. Kennedy, of the District of Columbia.

INTERNATIONAL BANKS

Nicholas F. Brady, of New Jersey, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; and United States Governor of the African Development Fund.

NOMINATION—JOINT REFERRAL

Mr. **BYRD.** Mr. President, as in executive session, I ask unanimous consent that the nomination, transmitted to the Senate on September 13, 1988, by the President, of Becky Norton Dunlop, of Virginia, to be Assistant Secretary for Fish and Wildlife, the Department of the Interior, vice William P. Horn, resigned, be jointly referred to the Committees on Energy and Natural Resources and Environment and Public Works.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 4064

Mr. **BYRD.** Mr. President, I ask unanimous consent that H.R. 4064, a bill to authorize the appointment of additional bankruptcy judges, be placed on the calendar.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 1518

Mr. **BYRD.** Mr. President, I ask unanimous consent that in the consideration of the conference report to accompany S. 1518, an act for the promotion of methanol and alternative fuels, time for debate be limited to 2 hours overall, equally divided between Mr. ROCKEFELLER and Mr. DANFORTH.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS

Mr. **BYRD.** Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1223.

The **PRESIDING OFFICER** laid before the Senate the following message.

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1223) entitled "Indian Self-Determination Amendments of 1987", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

TITLE I—ADMINISTRATIVE PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Indian Self-Determination and Education Assistance Act Amendments of 1988".

TABLE OF CONTENTS

TITLE I—ADMINISTRATIVE PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.
Sec. 104. Reporting and audit requirements.
Sec. 105. Carryover funding.

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

Sec. 201. Self-determination contracts.
Sec. 202. Technical assistance and grants to tribal organizations.
Sec. 203. Personnel.
Sec. 204. Administrative provisions.
Sec. 205. Contract funding and indirect costs.
Sec. 206. Contract appeals.
Sec. 207. Promulgation of rules and regulations.
Sec. 208. Reports.
Sec. 209. Tribal self-governance demonstration project.
Sec. 210. Savings provisions.
Sec. 211. Severability.

SEC. 102. DECLARATION OF POLICY.

Section 3 of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203, 25 U.S.C. 450 et seq.) is amended by striking subsection (b) and inserting the following new subsection in lieu thereof:

"(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with, and responsibility to, individual Indian tribes and to the Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the Federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. In accordance with this policy, the United States is committed to supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities.".

SEC. 103. DEFINITIONS.

Section 4 of the Indian Self-Determination and Education Assistance Act is amended to read as follows—

"SEC. 4. For purposes of this Act, the term—

"(a) 'construction programs' means programs for the planning, design, construction, repair, improvement, and expansion of buildings or facilities, including, but not limited to, housing, law enforcement and detention facilities, sanitation and water systems, roads, schools, administration and health facilities, irrigation and agricultural work, and water conservation, flood control, or port facilities;

"(b) 'contract funding base' means the base level from which contract funding needs are determined, including all contract costs;

"(c) 'direct program costs' means costs that can be identified specifically with a particular contract objective;

"(d) 'Indian' means a person who is a member of an Indian tribe;

"(e) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(f) 'indirect costs' means costs incurred for a common or joint purpose benefiting more than one contract objective, or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved;

"(g) 'indirect costs rate' means the rate arrived at through negotiation between an Indian tribe or tribal organization and the appropriate Federal agency;

"(h) 'mature contract' means a self-determination contract that has been continuously operated by tribal organization for three or more years, and for which there are no significant and material audit exceptions in the annual financial audit of the tribal organization: Provided, That upon the request of a tribal organization or tribal governing body, a contract of the tribal organization in existence on the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988 which meets this definition shall be considered to be a mature contract;

"(i) 'Secretary', unless otherwise designated, means either the Secretary of Health and Human Services or the Secretary of the Interior or both;

"(j) 'self-determination contract' means a contract entered into pursuant to this Act between a tribal organization and the appropriate Secretary the planning, conduct and administration of programs or services which are otherwise provided to Indian tribes and their members pursuant to Federal law: Provided, That no contract entered into pursuant to this Act shall be construed to be a procurement contract;

"(k) 'State education agency' means the State board of education or other agency or officer primarily responsible for supervision by the State of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

"(l) 'tribal organization' means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.".

SEC. 104. REPORTING AND AUDIT REQUIREMENTS.

(a) Subsection (a) of section 5 of the Indian Self-Determination and Education Assistance Act is amended to read as follows:

"(a)(1) Each recipient of Federal financial assistance under this Act shall keep such records as the appropriate Secretary shall prescribe by regulation promulgated under sections 552 and 553 of title 5, United States Code, including records which fully disclose—

"(A) the amount and disposition by such recipient of the proceeds of such assistance,

"(B) the cost of the project or undertaking in connection with which such assistance is given or used,

"(C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and

"(D) such other information as will facilitate an effective audit.

"(2) For the purposes of this subsection, such records for a mature contract shall consist of quarterly financial statements for the purpose of accounting for Federal funds, the annual single-agency audit required by the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.), and a brief annual program report.".

(b) Section 5 of the Indian Self-Determination and Education Assistance Act is further amended by adding the following new subsection:

"(e) The Secretary shall report annually in writing to tribes regarding projected and actual staffing levels, funding obligations, and expenditures for programs operated directly by the Secretary serving that tribe.".

SEC. 105. CARRYOVER FUNDING.

Section 8 of the Indian Self-Determination and Education Assistance Act is amended to read as follows:

"CARRYOVER FUNDING

"SEC. 8. Notwithstanding any other provision of law, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), for any fiscal year which are not obligated or expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation or expenditures during such succeeding fiscal year. In the case of amounts made available to a tribal organization under a self-determination contract, if the funds are to be expended in the succeeding fiscal year for the purpose for which they were originally appropriated, contracted or granted, or for which they are authorized to be used pursuant to the provisions of section 106(a)(3), no additional justification or documentation of such purposes need be provided by the tribal organization to the Secretary as a condition of receiving or expending such funds.".

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

SEC. 201. SELF-DETERMINATION CONTRACTS.

(a) Section 102 of the Indian Self-Determination Act is amended to read as follows:

"SEC. 102. (a)(1) The Secretary is directed, upon the request of any Indian tribe by tribal resolution, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs or portions thereof, including construction programs—

"(A) provided for in the Act of April 16, 1934 (48 Stat. 596), as amended;

"(B) which the Secretary is authorized to administer for the benefit of Indians under the Act of November 2, 1921 (42 Stat. 208), and any Act subsequent thereto;

"(C) provided by the Secretary of Health and Human Services under the Act of August 5, 1954 (68 Stat. 674), as amended;

"(D) administered by the Secretary for the benefit of Indians for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior; and

"(E) for the benefit of Indians because of their status as Indians without regard to the agency or office of the Department of Health and Human Services or the Department of the Interior within which it is performed.

"(2) If so authorized by an Indian tribe under paragraph (1) of this subsection, a tribal organization may submit a proposal for a self-determination contract to the Secretary for review. The Secretary shall, within ninety days after receipt of the proposal, approve the proposal unless, within sixty days of receipt of the proposal, a specific finding is made that—

"(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted will not be satisfactory;

"(B) adequate protection of trust resources is not assured; or

"(C) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract.

"(3) Upon the request of a tribal organization that operates two or more mature self-determination contracts, those contracts may be consolidated into one single contract.

"(b) Whenever the Secretary declines to enter into a self-determination contract or contracts pursuant to subsection (a) of this section, the Secretary shall—

"(1) state any objections in writing to the tribal organization,

"(2) provide assistance to the tribal organization to overcome the stated objections, and

"(3) provide the tribal organization with a hearing on the record and the opportunity for appeal on the objections raised, under such rules and regulations as the Secretary may promulgate.

"(c)(1) Beginning in 1990, the Secretary shall be responsible for obtaining or providing liability insurance or equivalent coverage, on the most cost-effective basis, for Indian tribes, tribal organizations, and tribal contractors carrying out contracts, grant agreements and cooperative agreements pursuant to this Act. In obtaining or providing such coverage, the Secretary shall take into consideration the extent to which liability under such contracts or agreements are covered by the Federal Tort Claims Act.

"(2) In obtaining or providing such coverage, the Secretary shall, to the greatest extent practicable, give a preference to coverage underwritten by Indian-owned economic enterprises as defined in section 1425, title 25, United States Code, except that, for the purposes of this subsection, such enterprises may include non-profit corporations.

"(3)(A) Any policy of insurance obtained or provided by the Secretary pursuant to this subsection shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of an Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage or limits of the policy of insurance.

"(B) No waiver of the sovereign immunity of an Indian tribe pursuant to this paragraph shall include a waiver to the extent of any potential liability for interest prior to judgment or for punitive damages or for any other limitation on liability imposed by the law of the State in which the alleged injury occurs.".

(b)(1) Subsections (a) and (b) and the first sentence of subsection (c) of section 103 of the Indian Self-Determination Act are hereby repealed. Subsection (c) of section 103 of the Indian Self-Determination Act is redesignated as subsection (d) of section 102 of that Act and is amended by striking out "103 and 104(b)" and inserting, in lieu thereof, "102 or 103".

(2) Any reference to section 103(c) contained in an Act making appropriations for the Department of the Interior and Related Agencies for fiscal year 1989 shall be deemed to apply to section 102(d) of such Act as amended by this Act.

SEC. 202. TECHNICAL ASSISTANCE AND GRANTS TO TRIBAL ORGANIZATIONS.

Section 104 of the Indian Self-Determination Act is amended—

(a) by redesignating such section as section 103;

(b) by inserting the word "or" at the end of paragraph (2) of subsection (a) of such section, striking the semicolon and the word "or" at the end of paragraph (3) of such subsection and inserting, in lieu thereof, a period, and by striking all of paragraph (4);

(c) by striking the phrase "Health, Education, and Welfare" in subsection (b) of such section and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(d) by adding the following new subsections (d) and (e) at the end thereof:

"(d) The Secretary is directed, upon the request of any tribal organization and subject to the availability of appropriations, to provide technical assistance on a nonreimbursable basis to such tribal organization—

"(1) to develop any new self-determination contract authorized pursuant to this Act;

"(2) to provide for the assumption by such tribal organization of any program, or portion thereof, provided for in section 102(a)(1) of this Act; or

"(3) to develop modifications to any proposal for a self-determination contract which the Secretary has declined to approve pursuant to section 102 of the Act.

"(e) The Secretary is authorized, upon the request of an Indian tribe, to make a grant to any tribal organization for—

"(1) obtaining technical assistance from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management, and the development of cost allocation plans for indirect cost rates; and

"(2) the planning, designing, monitoring, and evaluating of Federal programs serving the tribe, including Federal administrative functions.".

SEC. 203. PERSONNEL.

Section 105 of the Indian Self-Determination Act is amended by—

(a) redesignating such section as section 104;

(b) striking the phrase "section 4(c)" in subsection (a) of such section, amending section 3371(2) of title 5, United States Code, and inserting, in lieu thereof, the phrase "section 4(m)";

(c) striking the phrase "sections 102, 103, and 104" in subsection (b) of such section, amending section 8 of the Act of August 5, 1954 (68 Stat. 674), and inserting, in lieu thereof, the phrase "sections 102 and 103";

(d) deleting the words "on or before December 31, 1988" in subsection (e) of such section;

(e) in paragraph (2) of subsection (e) of such section—

(1) inserting "or chapter 84 ('Federal Employees Retirement System')" after "chapter 83 ('Retirement')" and before "of title 5"; and

(2) striking out "Notwithstanding any other law," and inserting in lieu thereof "Notwithstanding the provisions of sections 8347(o), 8713, and 8914 of title 5, United States Code,"; and

(f) by adding the following new subsections (k), (l), and (m).

"(k) Section 3372(a) of title 5, United States Code, is further amended to add the following to the end thereof: 'If the assigned employee fails to complete the period of assignment and there is another employee willing and available to do so, the Secretary may assign the employee to complete the period of assignment and may execute an agreement with the tribal organization with respect to the replacement employee. That agreement may provide for a different period of assignment as may be agreed to by the Secretary and the tribal organization.'.

"(l) Section 3372 of title 5, United States Code, is further amended by adding a new subsection (d) as follows:

'(d) Where the employee is assigned to a tribal organization, the employee shall be eligible for promotions, periodic step-increases, additional step-increases, merit pay, and cash awards, as defined in chapters 53 and 54 of this title, on the same basis as other Federal employees.'.

"(m) The status of an Indian appointed to the Federal service under an excepted appointment under the authority of section 12 of the Act of June 18, 1934 (25 U.S.C. 472), or any other provision of law granting a preference to Indians in personnel actions, shall be converted to a career appointment in the competitive service after three years of continuous service and satisfactory performance. The conversion shall not alter the Indian's eligibility for preference in personnel actions.".

SEC. 204. ADMINISTRATIVE PROVISIONS.

Section 106 of the Indian Self-Determination Act is amended—

(a) by redesignating such section as section 105;

(b) by striking the phrase "sections 102 and 103" in subsection (a) of such section and inserting, in lieu thereof, the phrase "section 102";

(c) by changing the period at the end of subsection (a) of such section to a colon and adding the following new proviso at the end thereof: "Provided further, That, except for construction contracts (or sub-contracts in such cases where the tribal contractor has sub-contracted the activity), the Office of Federal Procurement Policy Act (88 Stat. 796; 41 U.S.C. 401 et seq.) and Federal acquisition regulations promulgated thereunder shall not apply to self-determination contracts.";

(d) by striking the phrase "sections 102, 103, and 104" in subsection (b) of such section and inserting, in lieu thereof, the phrase "sections 102 and 103";

(e) by striking subsections (c), (d), and (e) of such section and inserting, in lieu thereof, the following:

"(c)(1) A self-determination contract shall be—

"(A) for a term not to exceed three years in the case of other than a mature contract, unless the appropriate Secretary and the tribe agree that a longer term would be advisable, and

"(B) for an indefinite term in the case of a mature contract.

The amounts of such contracts shall be subject to the availability of appropriations.

"(2) The amounts of such contracts may be renegotiated annually to reflect changed circumstances and factors, including, but not limited to, cost increases beyond the control of the tribal organization.

"(d)(1) No later than fiscal year 1990, the Secretary shall begin using the calendar year as the basis for contracts and agreements under this Act except for instances where the Secretary and the Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall submit a report to the Congress within ninety days of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988 on the amounts of any additional obligational authority needed to implement this subsection in fiscal year 1989.

"(e) Whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective one year from the date of the request by the Indian tribe or at such date as may be mutually agreed by the Secretary and the Indian tribe.

"(f) In connection with any self-determination contract or grant made pursuant to section 102 or 103 of this Act, the appropriate Secretary may—

"(1) permit an Indian tribe or tribal organization in carrying out such contract or grant, to utilize existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance;

"(2) donate to an Indian tribe or tribal organization the title to any personal property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, including property and equipment purchased with funds under any self-determination contract or grant agreement; and

"(3) acquire excess or surplus Government personal property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this Act.";

(f) by redesignating subsection (f) of such section as subsection (g) and by striking the phrase "sections 102 and 103 of this Act and grants pursuant to section 104 of this Act" in such subsection and by inserting, in lieu thereof, the phrase "section 102 of this Act and grants pursuant to section 103 of this Act";

(g) by redesignating subsection (g) of such section as subsection (h); by striking the phrase "sections 102, 103, and 104" in such subsection and inserting, in lieu thereof, the phrase "sections 102 and 103"; and by striking the phrase "Health, Education, and Welfare" and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(h) by striking all of the existing subsection (h) of such section.

SEC. 205. CONTRACT FUNDING AND INDIRECT COSTS.

Title I of the Indian Self-Determination and Education Assistance Act is further amended by adding the following new section 106:

"SEC. 106. (a)(1) The amount of funds provided under the terms of self-determination contracts entered into pursuant to this Act shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract.

"(2) There shall be added to the amount required by paragraph (1) contract support costs which shall consist of the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract and prudent management, but which—

"(A) normally are not carried on by the respective Secretary in his direct operation of the program; or

"(B) are provided by the Secretary in support of the contracted program from resources other than those under contract.

"(3) Any savings in operation under a self-determination contract shall be utilized to provide additional services or benefits under the contract or be expended in the succeeding fiscal year as provided in section 8 of this Act.

"(b) The amount of funds required by subsection (a)—

"(1) shall not be reduced to make funding available for contract monitoring or administration by the Secretary;

"(2) shall not be reduced by the Secretary in subsequent years except pursuant to—

"(A) a reduction in appropriations from the previous fiscal year for the program or function to be contracted;

"(B) a directive in the statement of the managers accompanying a conference report on an appropriation bill or continuing resolution;

"(C) a tribal authorization;

"(D) a change in the amount of pass-through funds needed under a contract; or

"(E) completion of a contracted project, activity, or program;

"(3) shall not be reduced by the Secretary to pay for Federal functions, including, but not limited to, Federal pay costs, Federal employee retirement benefits, automated data processing, contract technical assistance or contract monitoring;

"(4) shall not be reduced by the Secretary to pay for the costs of Federal personnel displaced by a self-determination contract; and

"(5) may, at the request of the tribal organization, be increased by the Secretary if necessary to carry out this Act or as provided in section 105(c).

Notwithstanding any other provision in this Act, the provision of funds under this Act is subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe to make funds available to another tribe or tribal organization under this Act.

"(c) The Secretary shall provide an annual report in writing on or before March 15 of each year to the Congress on the implementation of this Act. Such report shall include—

"(1) an accounting of the total amounts of funds provided for each program and budget activity for direct program costs and indirect costs of tribal organizations under self-determination contracts during the previous fiscal year;

"(2) an accounting of any deficiency of funds needed to provide required indirect costs to all contractors for the current fiscal year;

"(3) the indirect costs rate and type of rate for each tribal organization negotiated with the appropriate Secretary;

"(4) the direct cost base and type of base from which the indirect cost rate is determined for each tribal organization; and

"(5) the indirect cost pool amounts and the types of costs included in the indirect cost pools.

"(d)(1) Where a tribal organization's allowable indirect cost recoveries are below the level of indirect costs that the tribal organizations should have received for any given year pursuant to its approved indirect cost rate, and such shortfall is the result of lack of full indirect cost funding by any Federal, State, or other agency, such shortfall in recoveries shall not form the basis for any theoretical over-recovery or other adverse adjustment to any future years' indirect cost rate or amount for such tribal organization, nor shall any agency seek to collect such shortfall from the tribal organization.

"(2) Nothing in this subsection shall be construed to authorize the Secretary to fund less than the full amount of need for indirect costs associated with a self-determination contract.

"(e) Indian tribes and tribal organizations shall not be held liable for amounts of indebtedness attributable to theoretical or actual under-recoveries or theoretical over-recoveries of indirect costs, as defined in Office of Management and Budget Circular A-87, incurred for fiscal years prior to fiscal year 1988.

"(f) Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or, for any period covered by law or regulation in force prior to enactment of the Single Agency Audit Act of 1984 (chapter 75 of title 31, United States Code), any other required final audit report. Such notice shall set forth the right of appeal and hearing to the board of contract appeals pursuant to section 110. Nothing in this subsection shall be deemed to enlarge the rights of the Secretary with respect to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476).

"(g) Upon the approval of a self-determination contract and at the request of an Indian tribe or tribal organization, the Secretary shall add the indirect cost funding amount awarded for a self-determination contract to the amount awarded for direct program funding for the first year and, subject to adjustments in the amount of direct program costs for the contract, for each subsequent year that the program remains continuously under contract.

"(h) In calculating the indirect costs associated with a self-determination contract for a construction program, the Secretary shall take into consideration only those costs associated with the administration of the contract and shall not take into consideration those moneys actually passed on by the tribal organization to construction contractors and subcontractors.

"(i) Within one month after enactment of this section, the Secretary is mandated to establish a team in each area of the Bureau of Indian Affairs which consists of agency personnel and tribal representatives for the purpose of analyzing the 'Indian Priority System' and other aspects of the budgeting and funding allocation process of the Bureau of Indian Affairs for the purpose of making a report to Congress with appropriate recommendations for changes and legislative actions to achieve greater tribal decision-making authority over the use of funds appropriated for the benefit of the tribes and their members. The report along with the analysis, findings and recommendations of the area teams shall be submitted to Congress within six months of enactment of this provision. The Secretary may submit to Congress separate comments on the information and recommendations on the report.".

SEC. 206. CONTRACT APPEALS.

Title I of the Indian Self-Determination and Education Assistance Act is further amended—

(a) by adding the following new section 110:

"SEC. 110. (a) The United States district courts shall have original jurisdiction over any civil action or claim against the appropriate Secretary arising under this Act and, subject to the provisions of subsection (d) of this section and concurrent with the United States Court of Claims, over civil action or claim against the Secretary for money damages arising under contracts authorized by this Act. In an action brought under this paragraph, the district courts may order appropriate relief including money damages, injunctive relief against any action by an officer of the United States or any agency thereof contrary to this Act or regulations promulgated thereunder, or mandamus to compel an officer or employee of the United States, or any agency thereof, to perform a duty provided under this Act or regulations promulgated hereunder.

"(b) Unless otherwise agreed to by the resolution of an Indian tribe, the Secretary shall not revise or amend a self-determination contract with such tribe.

"(c) The Equal Access to Justice Act (Public Law 96-481, Act of October 1, 1980; 94 Stat. 2325, as amended) shall apply to administrative appeals by tribal organizations regarding self-determination contracts.

"(d) The Contract Disputes Act (Public Law 95-563, Act of November 1, 1978; 92 Stat. 2383, as amended) shall apply to self-determination contracts.

"(e) Subsection (d) of this section shall apply to any case pending or commenced on or after March 17, 1986, before the Boards of Contract Appeals of the Department of the Interior or the Department of Health and Human Services except that in any such cases finally disposed of before the date of enactment of these amendments, the thirty-day period referred to in section 504(a)(2) of title 5, United States Code, shall be deemed to commence on the date of enactment of this subsection."; and

(b) by redesignating existing section 110 as section 111.

SEC. 207. PROMULGATION OF RULES AND REGULATIONS.

(a) Section 107(a) of the Indian Self-Determination Act is amended by—

(1) striking the phrase "Health, Education, and Welfare" and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(2) striking the period at the end thereof and inserting, in lieu thereof, a colon and the following: "Provided, however, That all Federal requirements for self-determination contracts and grants under this Act shall be promulgated as regulations in conformity with sections 552 and 553 of title 5, United States Code.".

(b) Section 107(b) of the Indian Self-Determination Act is amended to read as follows:

"(b)(1) Within three months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall consider and formulate appropriate regulations to implement the provisions of this Act, with the participation of Indian tribes. Such proposed regulations shall contain all Federal requirements applicable to self-determination contracts and grants under this Act.

"(2) Within six months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall present the proposed regulations to the Select Committee on Indian Affairs of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(3) Within seven months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall publish proposed regulations in the Federal Register for the purpose of receiving comments from tribes and other interested parties.

"(4) Within ten months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall promulgate regulations to implement the provisions of such Act.".

SEC. 208. REPORTS.

Section 108 of the Indian Self-Determination Act is redesignated as subsection 5(f) of the Indian Self-Determination and Education Assistance Act and is amended by deleting the period at the end and inserting, in lieu thereof, the following: "through regulations promulgated under sections 552 and 553 of title 5, United States Code.".

SEC. 209. TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT.

The Indian Self-Determination and Education Assistance Act is further amended by adding a new title III, as follows:

"TITLE III—TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

"SEC. 301. The Secretary of the Interior shall, for a period not to exceed five years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance Project according to the provisions of this title.

"SEC. 302. (a) The Secretary shall select twenty tribes to participate in the demonstration project, as follows:

"(1) a tribe that successfully completes a Self-Governance Planning Grant, authorized by Conference Report 100-498 to accompany H.J. Res. 395, One Hundredth Congress, first session shall be selected to participate in the demonstration project; and

"(2) the Secretary shall select, in such a manner as to achieve geographic representation, the remaining tribal participants from the pool of qualified applicants. In order to be in the pool of qualified applicants—

"(A) the governing body of the tribe shall request participation in the demonstration project;

"(B) such tribe shall have operated two or more mature contracts; and

"(C) such tribe shall have demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by such tribe having no significant and material audit exceptions in the required annual audit of such tribe's self-determination contracts.

"SEC. 303. (a) The Secretary is directed to negotiate, and to enter into, an annual writ-

ten funding agreement with the governing body of a participating tribal government which—

"(1) shall authorize the tribe to plan, conduct, consolidate, and administer programs, services and functions authorized under the Act of April 16, 1934 (48 Stat. 596), as amended, and the Act of November 2, 1921 (42 Stat. 208);

"(2) subject to the terms of the written agreement authorized by this title, shall authorize the tribe to redesign programs, activities, functions or services and to reallocate funds for such programs, activities, functions or services;

"(3) shall not include funds provided pursuant to the Tribally Controlled Community College Assistance Act (Public Law 95-471), for elementary and secondary schools under the Indian School Equalization Formula pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561, as amended), or for either the Flathead Agency Irrigation Division or the Flathead Agency Power Division: Provided, That nothing in this section shall affect the contractability of such divisions under section 102 of this Act;

"(4) shall specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to this agreement;

"(5) shall specify the authority of the tribe and the Secretary, and the procedures to be used, to reallocate funds or modify budget allocations within any project year;

"(6) shall, except as provided in paragraphs (1) and (2), provide for payment by the Secretary to the tribe of funds from one or more programs, services, functions, or activities in an amount equal to that which the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds which are specifically related to the provision by the Secretary of services and benefits to the tribe and its members: Provided, however, That funds for trust services to individual Indians are available under this written agreement only to the extent that the same services which would have been provided by the Secretary are provided to individual Indians by the tribe;

"(7) shall not allow the Secretary to waive, modify or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians which exists under treaties, Executive orders, and Acts of Congress;

"(8) shall allow for retrocession of programs or portions thereof pursuant to section 105(e) of this Act; and

"(9) shall be submitted by the Secretary ninety days in advance of the proposed effective date of the agreement to each tribe which is served by the agency which is serving the tribe which is a party to the funding agreement and to the Congress for review by the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

"(b) For the year for which, and to the extent to which, funding is provided to a tribe pursuant to this title, such tribe—

"(1) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(2) shall be responsible for the administration of programs, services and activities pursuant to agreements under this title.

"(c) At the request of the governing body of the tribe and under the terms of an agreement pursuant to subsection (a), the Secretary shall provide funding to such tribe to implement the agreement.

"(d) For the purpose of section 110 of this Act the term 'contract' shall also include agreements authorized by this title.

"(e) To the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will facilitate the agreements authorized by this title.

"SEC. 304. The Secretary shall identify, in the President's annual budget request to the Congress, any funds proposed to be included in the Tribal Self-Governance Project. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations Acts.

"SEC. 305. The Secretary shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and participating tribes, and shall separately include the views of the tribes.

"SEC. 306. Nothing in this title shall be construed to limit or reduce in any way the services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law and the provisions of section 110 of this Act shall be available to any tribe or Indian organization which alleges that a funding agreement is in violation of this section.".

SEC. 210. SAVINGS PROVISIONS.

Nothing in this Act shall be construed as—

(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or

(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indian people.

SEC. 211. SEVERABILITY.

If any provision of this Act or the application thereof to any Indian tribe, entity, person or circumstance is held invalid, neither the remainder of this Act, nor the application of any provisions herein to other Indian tribes, entities, persons, or circumstances, shall be affected thereby.

Mr. INOUYE. I am pleased to move for Senate approval of H.R. 1223, the Indian Self Determination Act Amendments of 1988. As I have noted on a number of occasions, this bill is an Indian developed response on how to cure many of the problems that have become evident in the 12 years of tribal experience with self-determination programs. I believe it reflects how our committee best works—in close consultation with Indian people.

When this bill was previously before the Senate on May 27 of this year, our esteemed vice chairman and I sponsored the amendment which added title III, thus mandating a tribal self-governance demonstration project. The amendment was also the result of extensive consultation with Indian tribes. Its purpose is to enhance the ability of tribal governments to plan and deliver services appropriate to the needs of its members, and enhance the effectiveness and long-term financial stability of tribal governments; this process should produce a reduction in the Federal-Indian bureaucracy. I would like to inquire of our esteemed vice chairman how he sees various aspects of the project working.

Mr. EVANS. I would be pleased to enter into a dialog with my friend and chairman, Senator INOUYE. The self-governance project is an important experiment, hopefully leading the way to the next era in Federal-Indian relations.

Participation in the demonstration project will be limited to 20 tribes who have requested participation, and have operated two or more mature self-determination contracts for a 3-year period as a demonstration of both financial stability and management capacity. The 10 tribes that have received self-governance planning grants, pursuant to the continuing resolution for fiscal 1988 and the conference report thereto, will be selected for participation in the project if they meet the general criteria and successfully fulfill the terms of their grants. The remaining 10 or more slots will be randomly allocated to tribes who meet the general criteria.

Mr. INOUYE. I believe this approach is a good one. The Federal Government has expended $1 million to underwrite the self-governance planning grants and Congress is entitled to expect that the results of this planning will be implemented through the negotiated agreements provided for in the demonstration project.

Mr. EVANS. I believe that it is critical that the Department of the Interior provide adequate data to the planning grant tribes so that real planning can take place. Our committee will need to maintain a close oversight on the Department to assure that it provides the necessary data.

Mr. INOUYE. I understand that the Department has agreed as part of its grant agreement with the tribes to provide such data. Oversight, however, as past experience has shown, will be necessary. Tribes at a minimum should be entitled to at least all financial and program data relating to the provision of services and benefits to each participating tribe, including direct program accounts, indirect accounts, all budgets and functions of the BIA at all levels in any way related to the provision of or administration of services and benefits to such tribes.

Mr. EVANS. This data should be made available for at least 3 fiscal years. This data is important because it is our intent to make available the fullest level funding possible for tribally determined and operated budgets. Our amendment had provided in section 303(a)(4) for:

> * * * payment by the Secretary to the tribe of funds from one or more programs, services, functions, or activities in an amount equal to that which the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs, indirect costs, and for any funds which are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members.
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> * * *

We used the terminology "specifically or functionally related" in title III as guidance for determining eligibility for any potential additional funding. The House bill before us deletes the phrase "or functionally". It is my understanding that this change is semantic only and does not negate our intent of providing the fullest level of funding available. This provision is to be interpreted broadly to achieve the intent of the title. For example, the programs, service, functions, or activities operated at the agency level of the BIA are within the scope of this provision. Whether any particular agency level program service, function, or activity can be incorporated into a self-governance agreement without conflicting with the title III obligation that services to other tribes are not to be diminished, can only be determined when both the planning grant analysis and the negotiations process are completed.

Mr. INOUYE. You are correct Senator, it is the committee's intent to provide for the broadest inclusion of services and benefits as is possible. We, however, have been very careful to make clear that nothing in title III waives, diminishes, or otherwise modifies the trust responsibility that the United States has to Indian people. That trust responsibility is derived from treaties, statutes, executive orders, the Federal common law and the course of dealings of the United States with Indian people.

Mr. EVANS. It is a responsibility that our committee takes very seriously and views as part of our charter to Indian people. Although we utilize the trust obligation as a basis for legislation in a range of social services, when "trust services" to individual Indians are referred to in title III, that phrase is limited to its normal usage which pertains to land and financial management connected to individually held allotments. In this context, the Department of the Interior should not, however, overreach and use the trust responsibility as an excuse for impeding tribal administration of programs in accord with tribal priorities, budgets, and criteria.

Mr. INOUYE. As you are aware earlier versions of title III contained a section which allowed Federal laws and regulations in conflict with the self-governance project to be waived for purposes of the demonstration project. Because of the concern that such a waiver might inadvertently repeal an express directive of Congress, we replaced that section with section 303 which requires the Secretary of the Interior whenever feasible to interpret Federal laws and regulations to avoid a conflict with the demonstration project.

The concern that we addressed is a significant one. The experience in self-determination contracting has shown that a barrage of regulatory and statutory provisions were thrown up by the bureaucracy to impede Congress' directive to move programs and services to the tribal level. In Indian affairs many of the authorizing statues, such as the Synder Act, are very general in their terms. The details, often times crippling details, are contained in agency regulations or even internal unpublished policies. It is our purpose to have such general language, and all regulations and policies not directly authorized, to apply to title III in manner that would not impede the clear directive of title III—to permit Indian tribes to establish and operate their own budgets, programs and services.

Mr. EVANS. I would expect that the authority of the Secretary the Interior to waive his own regulations, consistent, of course, with statutory law, could put to good use in the demonstration project.

Mr. INOUYE. A question has been raised as to whether title III authorizes the payment of funds to tribes in lump sums and whether section 106(b) of the Self-Determination Act is superseded. Such is not the case. I expect payments to be scheduled consistent with applicable Treasury regulations.

Mr. EVANS. I concur, existing law relative to conditions for payments to tribes and disbursements by tribes are applicable. Another area that has been the focus of some concern is accountability of tribes under the demonstration project.

Mr. INOUYE. Title III contains adequate safeguards. Tribes must on a annual basis specify the services to be provided, as well as the functions, activities and responsibilities to be performed. Protections are provided for the trust services for individual Indians, and for non-Indians who have contract rights to services from the Department of the Interior.

Mr. EVANS. These provisions would protect non-Indians in activities, such as BIA irrigation projects.

Mr. INOUYE. That is correct. In addition the project provides for significant congressional oversight, including identification of project funds in the President's annual budget.

Mr. EVANS. I am optimistic that this 5-year demonstration project will be the springboard to a new and positive era in Federal Indian affairs. I thank my friend and esteemed colleague for his efforts on behalf of Indian tribes and for helping me clarify the import of title III to S. 1703.

Mr. INOUYE. I thank the Senator from Washington. I am also optimistic that title III will be a positive step in the furtherance of the Federal Indian relations.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON THE CALENDAR—H.R. 5133

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 5133, just received from the House, be placed on the calendar. This is a bill to improve the procedures and remedies for the prevention of insider trading.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE SAVINGS ACT OF 1988

Mr. BYRD. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H.R. 4481, to provide for the closing of certain military bases, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4481) to provide for the closing and realigning of certain military installations during a certain period.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3042

Mr. BYRD. Mr. President, on behalf of Senators NUNN and WARNER, I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. NUNN (for himself and Mr. WARNER) proposes an amendment numbered 3042.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted")

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3042) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4481) was passed.

The title was amended so as to read:

An Act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Mr. BYRD. Mr. President, I ask unanimous consent that the two aforegoing votes be reconsidered en bloc and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. NUNN, Mr. STENNIS, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. WARNER, Mr. THURMOND, Mr. HUMPHREY, Mr. COHEN, Mr. QUAYLE, Mr. WILSON, Mr. GRAMM, Mr. SYMMS, and Mr. MCCAIN conferees on the part of the Senate.

Mr. BYRD. Mr. President, does the distinguished Republican leader have anything further he would like to say or any business he would like to transact?

Mr. DOLE. If I could have just about 2 minutes.

DEAN BURRIDGE: THANKS AND GOOD LUCK

Mr. DOLE. Mr. President, one of the best-known and most valuable members of my staff is moving on to the private sector after 5 years of good work. He is Dean Burridge, and I doubt there is not a Member of this body who does not know him. Ever since 1982, he has served as my special assistant, although he has been oftentimes identified as my shadow.

Whatever the case, Dean Burridge has given the leader's office 5 years of long hours, long weeks, and long miles on the road, and I wanted to thank him.

He will be tough to replace. After 7 years as a Capitol Hill Police officer and 5 more as a Hill staffer, he knows enough about the Capitol and its history to give a world class guided tour—and he does.

He knows every nook and cranny; every tunnel, every exit; and, most importantly, he is on a first-name basis with every person who works in this magnificent building.

Although we will miss Dean's good humor, his dedication and his loyalty, I know my colleagues join me in wishing him the best of luck in his new challenge.

BICENTENNIAL MINUTE

JANUARY 21, 1971: RICHARD RUSSELL DIES

Mr. DOLE. Mr. President, 11 years ago, Senator Richard B. Russell died. Today, to some people he may be just a name on a brass plate identifying the Russell Senate Office Building, but those who served with him remember him as the preeminently influential Senator of his era.

When Lyndon Johnson served as majority leader he used to divide the Senate into "minnows" and "whales," and to label Richard Russell as "the principal whale." The chief attributes that made Russell "the principal whale" were his seniority and committee chairmanships, his mastering of the Senate rules, and his unwavering assurance of exactly where he stood on the issues. Russell embodies the struggle of States' rights against civil rights. He was the south's chief legislative strategist from the 1940s through the 1960s, the last general of the "lost cause."

But Richard Russell was more than this. In the critical post-World War II era in American history, he was the Senate's leading authority on military matters, the chief advocate of the strongest possible national defense. From his dual positions on the Armed Services and Appropriations committees, he controlled the Pentagon's pursestrings as did no other Member of Congress. For many years, he was among the few Members on Capitol Hill to receive regular briefings from the Central Intelligence Agency. Although Russell often expressed misgivings about American foreign policy, particulary in Vietnam, he steadfastly supported his Commander in Chief, whether a Democrat or a Republican.

Henry Jackson spoke of his admiration for Russell's "genius for cutting through confusion to get the facts and the truth." Milton Young credited him with always using "good judgment when we have faced difficult problems. Others simply called Richard Russell "the Senator's Senator," for that he was.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

RESUME CONSIDERATION OF PENDING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, there be a period for morning business until 10 a.m.; that during that period for morning business, Senators may speak for not to exceed 5 minutes each; that at the hour of 10 o'clock a.m., the Senate resume the consideration of the minimum wage bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order entered that the Senate stand in recess until the hour of 9:30 tomorrow morning.

Thereupon, at 7:01 p.m., the Senate recessed until tomorrow, Friday, September 16, 1988, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 15, 1988:

INTERNATIONAL BANKS

W. ALLEN WALLIS, OF NEW YORK, TO BE U.S. ALTERNATE GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF 5 YEARS; AND U.S. ALTERNATE GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS.

UNITED NATIONS

VERNON A. WALTERS, OF FLORIDA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

THE FOLLOWING-NAMED PERSON TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

PEARL BAILEY, OF ARIZONA.

THE FOLLOWING-NAMED PERSON TO BE AN ALTERNATIVE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

NOEL GROSS, OF NEW JERSEY.

THE FOLLOWING-NAMED PERSON TO BE AN ALTERNATIVE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

LESTER B. KORN, OF CALIFORNIA.

THE FOLLOWING-NAMED PERSON TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

HUGH MONTGOMERY, OF VIRGINIA.

PATRICIA MARY BYRNE, OF OHIO, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

THE FOLLOWING-NAMED PERSONS TO BE REPRESENTATIVES AND AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

REPRESENTATIVES:

RUDY BOSCHWITZ, U.S. SENATOR FROM THE STATE OF MINNESOTA.

CHRISTOPHER J. DODD, U.S. SENATOR FROM THE STATE OF CONNECTICUT.

ALTERNATE REPRESENTATIVE:

ARTHUR SCHNEIER, OF NEW YORK.

INTERNATIONAL ATOMIC ENERGY AGENCY

JOSEPH F. SALGADO, OF CALIFORNIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 32ND SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

LANDO W. ZECH, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 32ND SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

THE FOLLOWING-NAMED PERSON TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 32ND SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY:

BRUCE K. CHAPMAN, OF WASHINGTON.

THE FOLLOWING-NAMED PERSON TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 32ND SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY:

RICHARD T. KENNEDY, OF THE DISTRICT OF COLUMBIA.

INTERNATIONAL BANKS

NICHOLAS F. BRADY, OF NEW JERSEY, TO BE U.S. GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE ASIAN DEVELOPMENT BANK; AND U.S. GOVERNOR OF THE AFRICAN DEVELOPMENT FUND.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, September 15, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us, O loving God, of the ideas and values that unite us and bring us into understanding with each other. We are thankful that our Nation has a diverse tradition which contributes to our shared experience of community. Teach us always to respect others and to take the time to hear the truth, to be honest with our motivations, and not act for hidden gain. May we seek no selfish advantage or profit over other people, but always learn reconciliation and peace and so fulfill the law of love. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H.J. Res. 600. Joint resolution to commemorate the fiftieth anniversary of the passage of the Federal Food, Drug, and Cosmetic Act.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 900. An act to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes; and

H.R. 1315. An act to authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1988 and 1989, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1315) "An act to authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1988 and 1989, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BURDICK, Mr. BREAUX, Mr. REID, Mr. STAFFORD, and Mr. SIMPSON;

Only for the purposes of the provisions of title I: Mr. GLENN and Mr. ROTH;

Only for the purposes of the provisions of section 112 of title I, relating to the construction authorization for the nuclear waste repository: Mr. JOHNSTON and Mr. MCCLURE; and

Only for the purposes of the provisions of title IV concerning the Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1988: Mr. JOHNSTON, Mr. FORD, Mr. BINGAMAN, Mr. MCCLURE, and Mr. DOMENICI be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4586) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1, 4, 7, 8, 22, 24, 25, 27, 34, 35, 37, 38, 40, and 45, to the above-entitled bill.

The message also announced that the Senate recedes from its amendment numbered 41 to the above-entitled bill.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentlewoman from Tennessee [Mrs. LLOYD] will kindly come forward and lead the House in the Pledge of Allegiance to the flag.

Mrs. LLOYD. Thank you for this great honor, Mr. Speaker. It is certainly appropriate we pay tribute to our flag, a testament to our devotion to our God and our country.

Mr. Speaker, at this time I would like to honor and recognize our esteemed colleague, PETER RODINO, who worked for the passage to include "under God" in our Pledge of Allegiance; certainly this is a great tribute to Chairman RODINO.

I do ask my colleagues at this time to place their hands over their hearts and join me in the Pledge of Allegiance.

Mrs. LLOYD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. HANSEN. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. HANSEN moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. PANETTA. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. PANETTA] to lay on the table the motion offered by the gentleman from Utah [Mr. HANSEN].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HANSEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 235, nays 168, not voting 28, as follows:

[Roll No. 316]

YEAS—235

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Conyers
Cooper
Costello
Coyne
Crockett
Darden
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rowland (GA)
Roybal
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—168

Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—28

Badham
Barnard
Clay
Collins
de la Garza
Dellums
Dymally
Flake
Ford (TN)
Garcia
Gray (PA)
Kemp
Konnyu
Leach (IA)
Lujan
Mfume
Mica
Ortiz
Owens (NY)
Parris
Rangel
Rostenkowski
Savage
Stark
Towns
Traxler
Williams
Wortley

□ 1226

Mr. DAVIS of Michigan and Miss SCHNEIDER changed their vote from "yea" to "nay."

Mr. WATKINS, Mrs. SCHROEDER, Mr. BROWN of California, Mrs. BOXER, and Mr. OBERSTAR changed their vote from "nay" to "yea."

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO OFFER PEPPER AMENDMENT OUT OF ORDER DURING CONSIDERATION OF H.R. 5210, OMNIBUS DRUG INITIATIVE ACT OF 1988

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that during further consideration of the bill, H.R. 5210, pursuant to House Resolution 521 I may be permitted to offer the Pepper amendment printed in part 2 of House Report 100-861 out of the specified order.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. HUGHES. Mr. Speaker, reserving the right to object, I will not object. I have talked with our distinguished colleague and chairman of the Committee on Rules, the gentleman from Florida [Mr. Pepper] and his request is abundantly fair. He has to be at an inter-Parliamentary Union meeting later and cannot be present to offer the amendment.

Mr. Speaker, I have no objection, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PEPPER. Mr. Speaker, I ask unanimous consent to include extraneous material in the Record, a letter from the Governor of Florida supporting my amendment and also a letter from the Governor's Council on Drugs supporting my amendment, and I am profoundly grateful to my distinguished friends for giving me this opportunity.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION TO OFFER AMENDMENT TO PEPPER AMENDMENT TO H.R. 5210, OMNIBUS DRUG INITIATIVE ACT OF 1988

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that I be allowed to introduce an amendment to the amendment that will be offered by the gentleman from Florida [Mr. Pepper] and on which agreement was just reached unanimously that it be offered out of order.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

ONMIBUS DRUG INITIATIVE ACT OF 1988

The SPEAKER. Pursuant to House Resolution 521 and rule XXII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5210.

□ 1230

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, with Mr. Carr in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 14, 1988, the amendment offered by the gentleman from Florida [Mr. Shaw] had been disposed of. The next amendment in order is the amendment offered by the gentleman from Florida [Mr. Pepper].

AMENDMENT OFFERED BY MR. PEPPER

Mr. PEPPER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Pepper: Page 205, immediately before line 5, insert the following:

Subtitle M—Anti-Narcotics Model Community Assistance Demonstration Grants

SEC. 6801. SHORT TITLE.

This subtitle may be cited as the "Anti-Narcotics Model Community Assistance Demonstration Grant Act of 1988".

SEC. 6802. PURPOSES.

The purposes of this subtitle are to demonstrate effective methods—

(1) to enforce State and local laws establishing offenses similar to the offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.),

(2) to treat individuals who unlawfully use controlled substances and controlled substance analogues, as defined in such Act, and

(3) to prevent individuals from unlawfully using controlled substances and controlled substance analogues.

SEC. 6803. FUNCTION OF THE DIRECTOR.

The Director of the Bureau of Justice Assistance (hereinafter in this subtitle referred to as the "Director") shall provide funds to eligible entities in accordance with this subtitle.

SEC. 6804. DESCRIPTION OF DRUG LAW ENFORCEMENT DEMONSTRATION PROGRAM.

(a) Grants to Certain Police Departments in Florida.—The Director may make grants to the police department of Dade County, Florida, to the police department of the city of Miami, Florida, and to the police department of the city of Miami Beach, Florida, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.) and—

(1) to provide additional personnel, equipment, facilities, personnel training, and supplies for more widespread apprehension of persons who violate State and local laws relating to the production, possession, and transfer of controlled substances and controlled substance analogues, and to pay operating expenses (including the purchase of evidence and information) incurred as a result of apprehending such persons,

(2) to provide additional personnel, equipment, facilities (including upgraded and additional law enforcement crime laboratories), personnel training, and supplies for more widespread prosecution of persons accused of violating such State and local laws and to pay operating expenses in connection with such prosecution,

(3) to provide additional personal (including judges), equipment, personnel training, and supplies for more widespread adjudication of cases involving persons accused of violating such State and local laws, to pay operating expenses in connection with such adjudication, and to provide quickly temporary facilities in which to conduct adjudications of such cases,

(4) to provide additional public correctional resources for the detention of persons convicted of violating such State and local laws, and to establish and improve treatment and rehabilitative counseling provided to drug dependent persons convicted of violating such State and local laws,

(5) to conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted, and

(6) to conduct demonstration programs, in conjunction with other local law enforcement officials, in areas in which there is a high incidence of drug abuse and drug trafficking, to expedite the prosecution of major drug offenders by providing additional resources, such as investigators and prosecutors, to identify major drug offenders and move these offenders expeditiously through the judicial system.

(b) Grants to Dade County, Florida.—

(1) Treatment of drug dependent offenders.—The Director may make grants to the government of Dade County, Florida, to provide programs that identify and meet the treatment needs of drug-dependent offenders.

(2) Prevention of unlawful drug use.—The Director may make grants to the government of Dade County, Florida, to provide programs to prevent individuals from committing offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.).

SEC. 6805. APPLICATIONS TO RECEIVE GRANTS.

To request a grant under section 6804, the head of a police department referred to in such section or the chief executive officer of Dade County, Florida, shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include all of the following:

(1) A strategy—

(A) to enforce State and local laws relating to the production, possession and transfer of controlled substances and controlled substance analogues, if such application is for a grant under section 6804(a), or

(B) if such application is for a grant under section 6804(b)—

(i) to treat drug-dependent offenders, or

(ii) to prevent the commission of offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.).

Such strategy shall include an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Director a performance report concerning the activities carried out under section 6804.

(2) A certification that Federal funds made available under section 6803 will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for activities to enforce the laws described in paragraph (1)(A), to treat drug-dependent offenders, and to prevent the commission of such offenses.

(3) An assurance that the application, and any amendment thereto, were made public before submission to the Director and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

SEC. 6806. REVIEW OF APPLICATIONS.

(a) Content of Application.—The Director shall provide financial assistance under section 6803 to each applicant under section 6804 to carry out the projects submitted by such applicant upon determining that the application is consistent with the requirements of this subtitle. Each application made and submitted for approval under section 6804 shall be deemed to be approved, in whole or in part, by the Director not later than 60 days after first received unless the Director informs the applicant of specific reasons for disapproval.

(b) Limitation on Use of Funds.—Federal funds made available under section 6803 shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

(c) Reconsideration.—The Director shall not disapprove any application submitted to the Director under section 6804 without first affording the applicant reasonable notice of the Director's intention to disapprove such application and an opportunity to persuade the Director to reconsider whether such application should be disapproved.

SEC. 6807. REPORTS.

(a) Reports by Recipients.—Each applicant that receives a grant under section 6803 shall submit to the Director, for each year in which any part of such grant is expended a report that contains—

(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the strategy submitted under section 6805; and

(2) such other information as the Director may require.

Such report shall be submitted in such form and by such time as the Director may require by rule.

(b) Reports by the Director.—Not later than 90 days after the end of each fiscal year for which grants are made under section 6803, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes, with respect to each grant recipient—

(1) the aggregate amount of grants made under section 6803 to such recipient for such fiscal year;

(2) the amount of such grants expended by grant recipients for each of the purposes specified in section 6804; and

(3) a summary of the information provided by grant recipients in compliance with subsection (a).

SEC. 6808. ADMINISTRATIVE COSTS; RECORDS.

(a) Administrative Costs.—Not more than 10 percent of a grant made under section 6803 may be used to pay costs incurred to administer such grant.

(b) Records.—Each recipient of a grant under section 6803 shall keep such records as the Director may require by rule to facilitate an effective audit.

(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of such recipients if in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

SEC. 6809. AUTHORIZATION OF APPROPRIATIONS.

(a) Grants to Certain Police Departments.—There are authorized to be appropriated to carry out section 6804(a)—

(1) with respect to the police department of Dade County, Florida, $3,000,000,

(2) with respect to the police department of the city of Miami, Florida, $2,000,000, and

(3) with respect to the police department of the city of Miami Beach, Florida, $1,000,000.

(b) Grants to Dade County, Florida.—(1) To carry out section 6804(b)(1), there is authorized to be appropriated $3,500,000.

(2) To carry out section 6804(b)(2), there is authorized to be appropriated $1,500,000.

The CHAIRMAN. The gentleman from Florida [Mr. Pepper] will be recognized for 5 minutes in support of his amendment.

Mr. PEPPER. Mr. Chairman, the distinguished chairman of the Subcommittee on Crime of the Committee on the Judiciary who is so ably handling this drug bill here today was kind enough some time ago to go with some of us to Miami and have a hearing on the seriousness of the drug problem that we have in that area.

Mr. Chairman, I have just offered for the Record the statement of the Governor of Florida that Dade County is the worst area afflicted in the State by the drug traffic. It was brought out by the authorities there, Federal, State, and local, that 80 to 90 percent of the crime in that high-crime area is attributable to the drug traffic.

Mr. Chairman, this would allow an additional appropriation of $11 million to go divided among Dade County, where a lot of the money will go for prevention, and the police of Miami and the police of Miami Beach, and it will also be of some assistance, I hope, for Hialeah.

Mr. Chairman, since it is a critical problem for our people, I am very grateful if my colleagues will give us an opportunity to put this additional emphasis upon trying to rid our area, as far as we can, of the curse of this drug traffic.

□ 1230

I am so grateful to my friend, who is knowledgeable about our problem and our peculiar situation, for his kindly reference and his kindly support of my amendment.

So, Mr. Chairman, I ask my colleagues if they will give us this help to try to diminish the seriousness of this problem in our critical area.

Letters referred to follow:

STATE OF FLORIDA,
OFFICE OF THE GOVERNOR,
September 14, 1988.

Hon. CLAUDE PEPPER,
Eighteenth Florida District, Rayburn House Office Building, Washington, DC.

DEAR SENATOR: Thank you for your amendment to House Bill 5210 that will provide special funding to Dade County. I was formally the director of the Office of Substance Abuse Control in Miami and am now the Governor's Counsel on Drugs in Tallahassee. Both positions have contributed to my belief that your recommendation by special appropriation is important for Dade, Florida, and our country. Thank you for your vision and support.

Please advise if we can offer support for this special initiative.

Sincerely,
Maj. DOUGLAS W. HUGHES,
Governor's Counsel on Drugs.

STATE OF FLORIDA,
OFFICE OF THE GOVERNOR,
September 14, 1988.

Hon. CLAUDE PEPPER,
Eighteenth Florida District, Rayburn House Office Building, Washington, DC.

DEAR SENATOR: Florida supports your amendment to House Bill 5210, special appropriations for Dade County under Anti-Narcotic Model Community Assistance Demonstration Grant Act of 1988. Dade County is the major location experiencing drug trafficking in Florida. Special assistance is warranted, and we support your initiative in bringing additional appropriations to support Dade County in Florida's anti-drug efforts. This assistance is not only of value to Florida but also to our nation because of the level of trafficking activity we are experiencing.

Thank you for your leadership in Washington and your tireless efforts on behalf of the citizens of our State.

Sincerely,
BOB MARTINEZ,
Governor.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA TO THE AMENDMENT OFFERED BY MR. PEPPER

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida to the amendment offered by Mr. PEPPER: In section 6804(a) of the amendment, strike "and to the police department of the city of Miami Beach, Florida," and insert the following: "to the police department of the city of Miami Beach, Florida, to the sheriff's department of Palm Beach County, Florida, to the sheriff's department of Broward County, Florida, and to the sheriff's department of St. Lucie County, Florida,".

At the end of section 6809(a)(2) of the amendment, strike "and".

At the end of section 6809(a)(3) of the amendment, strike the period and insert a comma.

At the end of section 6809(a), add the following:

(4) with respect to the sheriff's department of Palm Beach County, Florida, $1,000,000,

(5) with respect to the sheriff's department of Broward County, Florida, $1,000,000, and

(6) with respect to the sheriff's department of St. Lucie County, Florida, $500,000.

Mr. SMITH of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] will be recognized for 3 minutes.

Mr. SMITH of Florida. Mr. Chairman, this amendment is offered on behalf of myself, the gentleman from Palm Beach, FL [Mr. LEWIS], and the gentleman from Fort Lauderdale, FL [Mr. SHAW], and many others who are in fact vitally interested and concerned in the problems in their own areas of drugs.

This is a problem shared by many other parts of the country, there is no doubt; however, one of the major linchpins of the whole effort at the Federal level has been to engage the local, State, and community law enforcement agencies, in the fight against drugs.

The problem is that in certain communities because of the magnitude of the problem, it has been a net drain on the assets of that community. There has been, unfortunately, the cooperation resulting in a loss of dollars to the local law enforcement agencies.

We held hearings. The gentleman from New Jersey [Mr. HUGHES] was kind enough to hold hearings with the Crime Subcommittee. We discovered that in California almost 75 percent of all the money seized or gotten as the result of a sale of contraband seizure and sale, all those assets, most of them were being given to the State and local law enforcement agencies in California, thereby causing a loss to the Federal Government, but in Florida, it is just the opposite, less than 25 percent, creating a new gain to the Federal Government and a net loss to the State and local law enforcement communities.

What this amendment does is merely supplement for those counties who have very cooperative, but in fact have been losing money because they have been cooperating, to give them a little bit more incentive by giving them a small amount of money to create a pool out of which they can then cooperate with the Federal Government.

Mr. Chairman, I urge the adoption of this in connection with the Pepper amendment. I think it makes it much stronger, much better, and gives us in an area where drugs are a severe problem, south Florida, more capability to go to fund the Federal arena to the local and State people and say, "Help us with this particular operation, help us with this law enforcement problem." They will want to cooperate better.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS], a cosponsor of the amendments.

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from Florida [Mr. PEPPER] for offering his amendment, the gentleman from New Jersey [Mr. HUGHES] for the fine display of looking at what has to be done in order to fight this war on drugs in the streets, and I appreciate that very much.

Mr. SMITH of Florida. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Chairman, we in south Florida have a most unique problem, which the gentleman from Florida [Mr. PEPPER] has recognized, and this goes beyond Dade County and spills over into Broward County, Palm Beach, and St. Lucie Counties.

This is a very important amendment. Our problems reflect and spread to the rest of the country, so I would urge the House to pass this amendment.

Mr. PEPPER. Mr. Chairman, I yield myself such time as I may consume.

May I just add that I have no objection to the amendment. I think it is appropriate. This is a part of Florida that is most seriously affected. I think this is a good idea to extend it to this additional area.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH] to the amendment offered by the gentleman from Florida [Mr. PEPPER].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. PEPPER], as amended.

The amendment, as amended, was agreed to

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY: Page 205, after the matter following line 4, insert the following:

Subtitle M—Drug Czar

SEC. 6801. Amendment to the National Narcotics Act of 1984.

Section 1303 of the National Narcotics Act of 1984 (21 U.S.C. 1202) is amended by striking out the second sentence and inserting in lieu thereof the following: "There shall be at the head of the Board a chairman who shall be selected by the President and who after being selected by the President shall occupy a cabinet level position within the executive branch."

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] will be recognized for 15 minutes and a Member in opposition will be recognized for 15 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the Oxley amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this committee has done a superb job in making a good bill even better by adopting amendments to the bill, including the death penalty, including the user accountability section, that was put forth by the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from New Jersey [Mr. HUGHES], the exclusionary rule exemption sponsored by the gentleman from California [Mr. LUNGREN] and the civil funds section propounded by our friend, the gentleman from Florida [Mr. SHAW].

This amendment that I seek to offer is the so-called drug czar amendment: that is the creation of a Cabinet-level individual appointed by the President, responsible and reporting to the President on the entire area of drugs, both on the supply side and the demand side.

This amendment would remove the existing requirement that the Attorney General be the chairman of the National Drug Enforcement Policy Board. That would be eliminated and the President would be given the flexibility to choose the best person to direct the war on drugs.

This would allow the President to appoint a full-time drug czar, someone who has nothing else on his plate but enforcing the drug laws and making certain that the other side of the equation, the demand side, is also addressed.

The drug czar would be a Cabinet-level official.

The National Drug Policy Board assumed the responsibilities of the National Drug Enforcement Policy Board in March 1987, and while they admittedly had a slow start, they have now produced, I think, an effective strategy to combat the drug problem. This Board needs time to work.

Another drug czar amendment is going to be offered later that would tear down a structure that is now already existing.

I think my amendment speaks more directly to the opportunity to have, first, a Cabinet-level drug czar; second, reporting directly to the President; and third, one who has nothing else in his responsibilities except fighting the war on drugs.

Indeed, Mr. Chairman, if we are in a war on drugs, if we really are serious about fighting a war on drugs, the real question is do we want to have a general directing that war on drugs or do we want to have a corporal?

I suggest that my amendment is the only amendment available that would indeed create that general and create the kind of person to deal with the entire drug problem.

Our committee, the Select Committee on Narcotics, has talked long and hard about creating a drug czar, and while the Attorney General is an appropriate individual, it seems to me that he has other responsibilities in his job. He has to enforce the civil rights laws. He has to enforce the antitrust laws and many, many others.

We want someone who is directly responsible so that when our committee goes to whatever administration succeeds the Reagan administration, we can say to that individual, "here are our concerns," and know that he is speaking for and about the drug issue and the drug issue alone.

I do not think it is time, Mr. Chairman, for this House, and indeed this Congress, to micromanage the way that the executive branch deals with enforcing the law. After all, the executive branch enforces the laws. We write the laws, and I think we have to give him every opportunity to enforce them. The President certainly needs the kind of flexibility to choose the best person to coordinate strategy against drug abuse.

I think this amendment offers us that chance.

Mr. Chairman, as I indicated before, we have made much progress on this bill. We have adopted some amendments that make this a much more effective drug fighting tool. This amendment would be another piece of that puzzle to get at the war on drugs, and for that I ask your support.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I am glad to yield to my friend, the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentlemen from Ohio [Mr. OXLEY] for yielding to me, and I want to commend him for his efforts in doing battle in our war against narcotics.

Mr. Chairman, I am pleased to rise in support of the Oxley amendment to the omnibus drug bill which would amend the National Narcotics Act of 1984 to permit the President to select the Chairman of the National Narcotics Enforcement Policy Board, which under current law, must be the Attorney General. The President's selectee would occupy a Cabinet-level position within the executive branch.

This amendment would create a real drug czar who would be in charge of our antidrug effort on both the supply and demand sides. It is essential that there be one person with the mission of leading our war on drugs. The narcotics issue is an extremely complex one, with jurisdiction spread over many agencies and departments. The only way to ensure effective coordination and a comprehensive national antidrug strategy is to have one highly visible, well respected, Cabinet-level person, who would report directly to the President and who would be responsible for all aspects of the war against drugs.

I urge my colleagues to support the Oxley amendment. It provides the best mechanism to guarantee that our struggle against drugs is appropriately led by an individual of the President's choosing.

□ 1245

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. It is very seldom that I differ with my colleague, the gentleman from Ohio [Mr. OXLEY] for whom I have a great deal of respect. We both have extensive backgrounds in law enforcement and, of course, I have enjoyed working with my colleague, the gentleman from New York [Mr. GILMAN] who does yeoman work on the Select Committee on Narcotics on which I am privileged to serve, in addition to being chairman of the Subcommittee on Crime. We work on a lot of matters together.

Mr. Chairman, I oppose the amendment for a lot of reasons. We do need a single authority to lead our multifaceted war on drugs. This person must have the authority and mandate to look beyond the individual concerns of the numerous departments and agencies involved and to provide overall direction and leadership. We do need somebody in charge. I think we all agree with that.

Mr. Chairman, the major shortcoming of the present National Drug Enforcement Policy Board is, as the name indicates its function is as a board of directors and not as a director. Sitting on the Board are the Cabinet heads and other chief executives of the departments and agencies whose turf concerns and turf battles, which are frequent, are the stumbling blocks to a unified, coordinated, single national strategy to combat drug trafficking and drug use.

The tendency of the Board approach has been to accommodate the turf concerns of the individual departments represented by the powerful Cabinet heads sitting on the Board rather than to confront those turf concerns in the interests of a unified national drug strategy, the same problem we used to have with the Pentagon. The Joint Chiefs in the past, basically, have resolved the battle among the admirals and the generals by giving them all a little bit of everything, and that is precisely what we have done in the drug area.

The Oxley amendment proposes a single change in the present policy Board approach to drug policy direction and coordination. The only change Oxley makes is that rather than have the Attorney General of the United States as the ex officio chairman of the Board, Oxley would have the chairman selected by the President. The Attorney General is, of course, also selected by the President.

Since the amendment does not exclude anyone from eligibility for being selected by the President, the Attorney General could be selected, thus producing no change at all from the present system, as I read the amendment.

In fact, the amendment could result in a downgrading of the office of the chairman of the National Drug Enforcement Policy Board, and I will tell the Members why. The present chairman of the board, the Attorney General, must be appointed by the President of the United States and confirmed by the U.S. Senate. Under the Oxley amendment, Senate confirmation is not required for the proposed chairman in that the amendment provides that after being selected by the President, the chairman shall occupy a cabinet level position, whatever that means.

Mr. Chairman, we need to elevate the position of drug director not downgrade it. We do a side shuffle which appears to be the case of the Oxley amendment.

I urge a no vote on the amendment, because frankly it just maintains the status quo, and I think most of us can agree that it is not working. Those of the Members who work with law enforcement know it is not working, and basically this amendment could result in a downgrading of what we have. I cannot imagine that the Congress which wants to be tough on drug traffickers and so something serious about substance abuse could support the Oxley amendment.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I commend my colleague, the distinguished chairman of the subcommittee, the gentleman from New Jersey [Mr. HUGHES], the gentleman in the well, for taking this position. All of us have worked diligently, seriously and with much concern to establish a position with the proper power and authority to oversee these agencies of Government that are now entrusted with this responsibility of fighting the war on drugs.

This is not new. Some time ago we developed an idea of a drug czar, but a drug czar who would really be a drug czar with the authority to establish a policy and not be interfered with, because we feel that this is an important battle to fight. As the gentleman in the well has pointed out, merely saying that this is Cabinet level, I am sorry to say to the gentleman from Ohio [Mr. OXLEY], that while I know his intentions are fine and that he does want to establish a position which would deal successfully with this problem—nonetheless, just a Cabinet-level position without Senate confirmation, without the kind of authority that is necessary, I think, is misleading.

For that reason, I cannot support this amendment, although I am one of those who way back saw the need for a person who would bring together these various agencies of Government, in order to fight this war on drugs.

Mr. HUGHES. Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Chairman, I rise in strong support of the Oxley amendment.

The Oxley amendment will provide what the Drug Policy Board lacks: A full-time, Cabinet-level Chairman.

Under current law, the Attorney General chairs the Drug Policy Board. But because of his other responsibilities, he can devote only a fraction of his time to the Board.

Winning the war on drugs, however, is a full-time job. Undivided attention is required. The American people deserve no less.

The Government Operations Committee has conducted ongoing oversight of the Drug Policy Board. It has not always operated smoothly. There has been a learning curve. But the Board has learned quickly and has had successes. This amendment builds on those successes. Now is not the time to create upheaval by reorganization. A 1988 GAO report indicated that the Policy Board's efforts to facilitate coordination have been worthwhile and responsive to the requirements of the law that established it.

We have the mechanism in place to wage a vigorous war on drugs—the Drug Policy Board. What we need is leadership. Strong, full-time leadership. The Oxley amendment will provide that. It will allow the President to appoint a high-level official—a Cabinet official—to lead the war on drugs.

I urge my colleagues to vote for the Oxley amendment.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oklahoma [Mr. ENGLISH], who has done yeoman work in this whole area of substance abuse.

Mr. ENGLISH. Mr. Chairman, I would submit to the Members that the difficulty that we are facing is not with regard to who is chairman of the Drug Policy Board but, instead, with the Drug Policy Board itself.

In June 1987, the subcommittee that I am privileged to chair in the Committee on Government Operations issued a report, "Failure in the War on Drug." That report was adopted unanimously and found that the Drug Policy Board itself had failed in each one of its legislative requirements.

Some of the things that we found were that the Drug Policy Board simply refused to make decisions. In fact, the testimony that we received from the representatives of the Drug Policy Board was the fact that the Drug Policy Board did not take an issue up unless everyone was in agreement. It has to be totally unanimous or the issue was never brought before the Drug Policy Board.

Let me assure the Members that the war on drugs is plagued with many problems within the agencies, the bureaucracies, within the management and operation of the war on drugs itself, very difficult problems that deal with turf, deal with financing, deal with overall effort and deal quite frankly with who is going to get the credit. That has been the difficulty that we have faced far too often. Many times those problems have proved to be far more difficult than of drug smugglers and drug peddlers themselves, just trying to get through the bureaucratic morass, and the Drug Policy Board was sent there to deal with those problems. It has not done it.

Mr. Chairman, it does not matter who the chairman of the Drug Policy Board is. The real quesiton is: Will the chairman of the Drug Policy Board be charged with the responsibilities of dealing with the problems of the war on drugs? Quite frankly, in this administration, they have not; they have not. The importance seems to be the question of preserving turf. "We certainly do not want to offend one Cabinet Secretary over another. We certainly do not want him to be upset." That is what we found.

We have in the war on drugs these days in far too many parts of the country, cowboys who are running the show, local people who make the decisions. They are not required to coordinate. They are not required to cooperate. In many cases, their sister agencies do not even know what is taking place. That is the reality of what we face.

The Drug Policy Board has done absolutely nothing to deal with that particular problem. That comes down to an issue of responsibility, and the bottom line is the Drug Policy Board has not been charged with that responsibility by the President.

The Congress provided them with that responsibility, but the administration has not.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. McCandless].

Mr. McCANDLESS. Mr. Chairman, I rise to support the Oxley amendment.

I serve as the ranking minority member on the Government Operations Subcommittee that has conducted extensive oversight of the Drug Policy Board. I've spent countless hours in hearing rooms with the subcommittee. Each Member has definite thoughts on how the Board should be constituted and the direction it should take.

First, both in theory and in practice, the National Drug Policy Board does make sense. Get all the relevant agencies together to focus and coordinate an integrated war on drugs. It's a war on two fronts: supply side, meaning law enforcement, and demand reduction. Each has a role. Ultimate victory over drug abuse will not come by keeping drugs out of the country. So long as a market exists, someone will figure a way to make money on it. Victory will only occur when we get users off drugs. And victory won't be complete until we keep our youth from getting addicted in the first place. So having both supply side and demand reduction under one roof makes sense.

The second point I'd like to make is that heading the war on drugs is a full-time job. It's just too big to do part time. Congressman Horton made that point eloquently.

In addition to being full-time, the Board's Chairman must be strong and vigorous. Because the Board is comprised of Cabinet-level personalities, the effective chairman must be a facilitator. The Board's Chairman must resolve differences among agencies filled with dedicated, "gung-ho" individuals. Some term these differences: "feuding." But these differences are a matter of strong, competitive personalities—people who believe in themselves and in their approach. These are honest differences of opinion. The Board's Chairman must mediate and settle these differences. Because the Oxley amendment allows the President to appoint a nonaligned Cabinet official, the Chairman's ability to reach common ground will be enhanced.

To summarize, the Oxley amendment advances the war on drugs in three ways. First, both law enforcement and demand reduction remain under the same roof. Second, the Board Chairman leads on a full-time basis. And third, the President can appoint a new, nonaligned Cabinet official, thereby enhancing the authority of the Board's Chairman.

For these reasons, I urge my colleagues to vote in favor of the Oxley amendment.

□ 1300

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. Brooks], chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Chairman, I oppose the amendment of the gentleman from Ohio. It would amend the National Narcotics Act of 1984 to allow the President to select a Chairman of the National Drug Policy Board. Currently, the act designates the Attorney General as Chairman of the Board. The amendment under consideration would supposedly elevate the position of Drug Policy Board Chairman somewhat. That's not a bad idea, but it's no big deal.

However, Mr. Chairman, in a way this amendment points out what has been wrong with the administration's efforts to fashion a tough and effective antidrug structure at the highest level of Government. While it is clear that such an effective structure is desperately needed, what we've been doing is tinkering around the edges—rearranging the deck chairs on the *Titanic.*

Mr. Chairman, I will shortly offer an amendment that will make meaningful changes in the Federal Government's structure for waging the war against drugs. My amendment will create a director of drug enforcement coordination within the Executive Office of the President. It will give him adequate resources to carry out this coordination role, and it will establish tight reporting requirements to Congress, so that we can be sure that the coordinator is doing the job we intend that person to do.

To conclude, Mr. Chairman, I oppose the amendment, but I hope that those Members who do vote for it will also support my amendment when it comes up next.

Mr. OXLEY. Mr. Chairman, may I inquire of the Chair if the gentleman from New Jersey has other speakers.

Mr. HUGHES. Mr. Chairman, I am just going to close the debate on our side.

Mr. OXLEY. Mr. Chairman, would the gentleman from New Jersey consider allowing me to close debate on my amendment?

Mr. HUGHES. Mr. Chairman, I believe under the rules, I am privileged to close debate, am I not?

The CHAIRMAN. The Chair would state that under the rules the manager for the committee of jurisdiction has the right to close debate, and the gentleman from New Jersey [Mr. Hughes] has the right to close debate.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. Oxley].

Mr. HUGHES. Mr. Chairman, I am happy to yield the gentleman an additional minute if he needs it.

Mr. OXLEY. No, Mr. Chairman, but I thank the gentleman.

The CHAIRMAN. The gentleman from Ohio [Mr. Oxley] is recognized for 2 minutes.

Mr. OXLEY. Mr. Chairman, the real question between my amendment and that offered by the gentleman from Texas is whether we are going to try to reinvent the wheel, whether we are going to throw out the existing Drug Policy Board or not. I suspect that we do not want to start all over again every time we try to fight the war on drugs and start from ground zero. The real question is whether we want a drug czar full-time, Cabinet-level, whether we want a drug czar or a drug wimp. Do we want somebody at a sub-Cabinet level making all of the policy for the Federal Government and those cowboys out there that the gentleman from Oklahoma referred to, or do we want somebody at the Cabinet-level reporting directly to the President of the United States. I think the answer is pretty clear.

What kind of a message does the amendment of the gentleman from Texas send out to the rest of the world about our seriousness on the war on drugs? We are going to say we are going to really go after them on this war on drugs, but we are going to appoint a corporal instead of a general. That is not the kind of message we want to send to the world. I think if we are really serious about fighting this war on drugs we will support the Oxley amendment providing a Cabinet-level and full-time drug czar.

If Members support the other amendment, it seems to me they have forfeited this high ground of arguing about a real drug czar, because the fact is no matter how we cut it, he is still sub-Cabinet, and he is not a czar.

Mr. HUGHES. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, we are going to have an opportunity very shortly to vote on the Brooks amendment. The Brooks amendment basically changes the status quo.

I do not think there is any question but that Members understand that a vote for Oxley is essentially a vote for the status quo. If Members believe that the present National Drug Enforcement Policy Board is effective, then vote for Oxley. If they do not think it has worked, then vote against Oxley and vote for Brooks.

That is what I am going to do because, frankly, I do not think the National Drug Policy Board, with its Board of Directors, has worked.

Do Members really believe that Oxley advances the direction of drug enforcement by permitting the President to appoint an official who is not going to be confirmed by the Senate? It seems to me that this is not an advance forward. The Attorney General could be appointed under the Oxley amendment, as could the Vice President.

It has been argued that in fact we need a full-time Director, and I could not agree with my colleague more. But the President could appoint the Attorney General under the Oxley amendment. The Attorney General presently is the Chairman of the Board by statute. Frankly, I do not think that is a very good idea. I think it is a worse idea to suggest that we are going to permit the President to appoint somebody to such an important office who is not even subject to confirmation by the U.S. Senate.

Mr. McCANDLESS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, one of the problems our subcommittee has experienced in our extensive hearings that we have held is that the law that originally created the Policy Board did not give the chairman any authority beyond that of presiding over the Policy Board itself. As a result, he did not have anything in the way of authority to carry out what might have been a policy that he as chairman saw as necessary and in the best interests of the Policy Board in recommending.

Mr. HUGHES. I will reclaim my time because this amendment does not do anything about that. This amendment maintains the status quo insofar as the present makeup of the National Policy Board.

It is rather clear if Members read Oxley that it is a simple amendment. Very simply it says there shall be at the head of the Board a chairman who shall be selected by the President and who after being selected by the President shall occupy a Cabinet-level position within the executive branch. It does not say he must be confirmed by the U.S. Senate. The one assurance that we are going to have that a President will select somebody with credibility and clout is that the U.S. Senate is going to have some say in that selection. At least under existing law we require that the Attorney General, who is a Cabinet officer subject to Senate confirmation, be the Chairman. As I indicated, I do not think that is a very good idea because this effort needs a full-time Director. Under Oxley we maintain one part of the structure that it seems to me has worked against us. That is, we have a board of directors consisting of all of the people who have turf battles day in and day out about whose jurisdiction it is, or who is going to get the credit. Frankly, the director of the Board, whether he be the Attorney General or anyone else under Oxley or under the present structure is not going to be able to deal with the turf problem.

That is the problem we are trying to correct with the Brooks amendment. So I urge my colleagues, if they really want to change the status quo, if they want more than a blank coming out of the end of the gun, reject Oxley and support the Brooks amendment when it is offered on the floor.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield briefly to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I agree with everything the gentleman said except for this one point: I believe that the drug czar, whatever we are going to call him, the drug coordinator, should be charged with that responsibility, and his efforts should be aimed strictly at coordinating the efforts of the Federal Government, period, and I agree.

Mr. HUGHES. We agree on that.

Mr. SHAW. I believe also he should be at the Cabinet level.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OXLEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their name:

[Roll No. 317]

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy

Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Roth

Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers

Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1329

The CHAIRMAN. Three hundred ninety-eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio [Mr. OXLEY] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair wishes to remind the Members that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 305, noes 95, not voting 31, as follows:

[Roll No. 318]

AYES—305

Anderson
Andrews
Annunzio
Applegate
Archer
Armey
Aspin
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis

Bliley
Boehlert
Bonior
Borski
Boucher
Boulter
Boxer
Brennan
Broomfield
Bruce
Bryant
Buechner
Bunning
Burton
Callahan
Cardin
Carper
Chandler
Chapman
Clarke

Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Costello
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)

DeFazio
DeLay
DeWine
Dickinson
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Eckart
Edwards (OK)
Emerson
Erdreich
Espy
Evans
Fawell
Feighan
Fields
Fish
Flippo
Florio
Ford (MI)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gilman
Gingrich
Goodling
Gordon
Gradison
Grandy
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu

Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Olin
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Payne
Penny
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo

Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Saxton
Schaefer
Scheuer
Schneider
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stokes
Stratton
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Vento
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—95

Ackerman
Akaka
Alexander
Anthony
Atkins
Beilenson
Berman
Boggs
Boland
Bonker

Bosco
Brooks
Brown (CA)
Brown (CO)
Bustamante
Byron
Campbell
Carr
Chappell
Cheney

Coyne
Derrick
Dicks
Dingell
Dorgan (ND)
Dyson
Early
Edwards (CA)
English
Fascell

Fazio
Foglietta
Foley
Ford (TN)
Frank
Gephardt
Gibbons
Glickman
Gonzalez
Grant
Hall (OH)
Hawkins
Hayes (IL)
Hopkins
Hoyer
Huckaby
Hughes
Jacobs
Jones (TN)
Jontz
Kastenmeier
Kennedy

Kyl
Leath (TX)
Leland
Levin (MI)
Lewis (GA)
Livingston
Lowry (WA)
Manton
McCurdy
McHugh
Mica
Mineta
Moakley
Morrison (CT)
Nowak
Oberstar
Obey
Panetta
Pease
Pelosi
Pickle
Rodino

Roe
Rose
Roybal
Savage
Sawyer
Schroeder
Sensenbrenner
Shumway
Skelton
Slattery
Smith (FL)
Smith (IA)
Solarz
Stenholm
Studds
Stump
Synar
Udall
Visclosky
Volkmer
Waxman

NOT VOTING—31

Badham
Barnard
Coelho
Collins
Conyers
Crockett
de la Garza
Dellums
Dymally
Flake
Garcia

Kemp
Lent
Lujan
MacKay
Mfume
Miller (CA)
Molinari
Mollohan
Nagle
Ortiz
Owens (NY)

Pepper
Rostenkowski
Stark
Swift
Towns
Traxler
Williams
Wilson
Wortley

□ 1337

Mr. GUARINI charged his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOKS: Page 205, after the quoted matter following line 4, insert the following new subtitle:

Subtitle M—Drug Enforcement Policy

SEC. 6801. SHORT TITLE.

This subtitle may be cited as the "Drug Enforcement Policy Act of 1988".

SEC. 6802. NATIONAL POLICY.

The Congress declares that it is the policy of the United States and the purpose of this Act to focus the comprehensive resources of the Federal Government and bring them to bear against all aspects of illicit drug production and trafficking and to develop and assure the implementation of a comprehensive, coordinated, long-term Federal strategy to combat all aspects of such drug production and trafficking. To reach these goals, the Congress further declares that it is the policy of the United States and the purpose of this Act to meet the problems of illicit drug production and trafficking through—

(1) coordination of drug enforcement efforts of all Federal law enforcement agencies and agencies with resources, capabilities, and responsibilities that can complement or assist law enforcement agencies;

(2) cooperation with and sharing of drug enforcement intelligence with State and local law enforcement agencies;

(3) coordination of all international, multinational, and bilateral efforts to suppress drug trafficking, to control cultivation of crops that are, or are the raw materials for, controlled substances, and to control precur-

sor chemicals and other chemicals essential for the manufacture and processing of controlled substances; and

(4) increased cooperation among nations in carrying out international efforts to control the trafficking and abuse of controlled substances.

SEC. 6803. DEFINITIONS.

For the purposes of this Act:

(1) The term "drug enforcement" means—

(A) any of the following law enforcement activities:

(i) the investigation and prosecution of drug offenses and other investigations and prosecutions of individuals involved in drug offenses,

(ii) programs or activities involving international narcotics control,

(iii) the detection and suppression of illicit drug production and trafficking;

(B) the interdiction of the illicit commerce in controlled substances wherever it may occur;

(C) the suppression and eradication of the cultivation of crops that are, or are the raw materials for, controlled substances; and

(D) any activity or program by any Federal agency which can complement or assist any of the law enforcement activities described in subparagraphs (A), (B), and (C).

(2) The term "drug" means a controlled substance as that term is defined by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

SEC. 6804. OFFICE OF DRUG ENFORCEMENT POLICY.

(a)(1) There is established in the Executive Office of the President the Office of Drug Enforcement Coordination which shall be headed by a Director appointed by the President with the advice and consent of the Senate.

(2) The Director shall be compensated at the rate of pay in effect for level II of the Executive Schedule.

(3) The Director shall serve at the pleasure of the President. No person may serve as Director for a period of more than 4 years, unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. No person shall serve as Director while serving in any other position in the Federal Government.

(b) In carrying out section 6805, the Director may—

(1) employ and prescribe the functions of such officers and employees as are necessary to perform the functions vested in him by such section;

(2) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of personnel within the Federal Government on a reimbursable basis; and

(3) monitor policy implementation, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

(c) The location of the Office in the Executive Office of the President shall not be construed to limit in any manner access by the Congress or committees of either House (1) to information, documents, and studies in the possession of, or conducted by or at the direction of the Director, or (2) to Office personnel.

SEC. 6805. DUTIES OF THE DIRECTOR.

(a) The Director shall—

(1) establish policies, objectives, and priorities for Federal drug enforcement;

(2) annually promulgate a strategy, in accordance with section 6806, for coordinated Federal drug enforcement;

(3) coordinate and oversee the performance of drug enforcement functions by Federal departments and agencies to insure the implementation of the policies, objectives, and priorities established under paragraph (1) and the fulfillment of their responsibilies under the strategy promulgated under paragraph (2);

(4) make such recommendations to the President respecting—

(A) changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement; and

(B) the allocation of personnel to and within such departments and agencies;

as the Director determines are appropriate to implement the policies, priorities, and objectives established under paragraph (1) and the strategy promulgated under paragraph (2);

(5) consult with and assist State and local governments respecting their relations with Federal departments and agencies in the performance of drug enforcement, including the review of State and local drug control strategies; and

(6) submit to Congress a report, no later than 180 days after the first Director is confirmed by the Senate, and in each fiscal year thereafter, which shall specify the objectives, nature, and results of the drug enforcement activities undertaken by the Director in the preceding fiscal year, include the current strategy required under paragraph (2), and account for the funds expended under this Act.

(b) To carry out subsection (a), the Director shall—

(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug enforcement;

(2) conduct, or provide for, evaluations of (A) the performance of drug enforcement by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such enforcement;

(3) review the annual budgets submitted to the Office of Management and Budget for the Federal departments and agencies engaged in drug enforcement and make recommendations to the President respecting such budgets before they are submitted to the Congress; and

(4) review the allocation of personnel to and by such departments and agencies.

(c) Federal departments and agencies engaged in drug enforcement shall submit to the Director such information and reports as may be required to carry out this section.

SEC. 6806. STRATEGY.

(a) The strategy promulgated under section 6805(a)(2) shall—

(1) be a comprehensive, long-range plan for the Nation to follow in reducing drug abuse in the United States;

(2) include a complete list of goals, policies, programs, and objectives in—

(A) drug investigations;

(B) drug prosecutions and incarceration;

(C) drug interdiction;

(D) international drug enforcement efforts;

(E) drug law enforcement intelligence; and

(F) any other drug law enforcement efforts deemed necessary by the Director;

(3) include a complete list of resources required to implement the strategy for each category of drug law enforcement efforts included in paragraph (2), for the following 5 fiscal years;

(4) include a complete list of milestones and target dates for each category of drug law enforcement efforts included in paragraph (2) to assess the progress of the strategy;

(5) include recommendations of any legislative or regulatory changes which may be needed to implement the strategy; and

(6) include an analysis and evaluation of the major programs conducted, expenditures made, results achieved, plans developed, and problems encountered in the operation and coordination of the various Federal drug enforcement functions.

(b) To facilitate the preparation of the strategy under section 6805(a)(2), the Director shall—

(1) engage in the planning necessary to develop the objectives for a comprehensive, coordinated long-term strategy, including examination of the overall Federal investment to combat illicit drug production and trafficking;

(2) require departments and agencies engaged in Federal drug enforcement to submit such information and reports and to conduct such studies, audits, and surveys as are necessary to carry out the purposes of this Act, and the departments and agencies shall submit to the Director the information, reports, studies, and surveys so required; and

(3) evaluate the performance and results achieved by Federal drug enforcement and the prospective performance and results that might be achieved by programs and activities in addition to or in lieu of those currently being administered.

SEC. 6807. TERMINATION OF THE NATIONAL DRUG ENFORCEMENT POLICY BOARD AND THE NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM.

(a)(1) The National Drug Enforcement Policy Board is terminated 90 days after the date on which the first Director appointed under this Act is confirmed by the Senate. Upon such termination, all records and property of the National Drug Enforcement Policy Board shall be transferred to the Director.

(2) No later than 30 days after the first Director appointed under this Act is confirmed by the Senate, the Director shall determine which audits, studies, reviews, or other efforts in progress on behalf of the National Drug Enforcement Policy Board shall be continued and completed for the use of the Director. Any National Drug Enforcement Policy Board staff personnel required to complete those efforts may be retained for that purpose by the Director on a reimbursable basis.

(3) The National Narcotics Act of 1984 (21 U.S.C. 1201 et seq.) is repealed effective 90 days after the date on which the first Director appointed under this Act is confirmed by the Senate.

(b) Within 90 days after the date on which the first Director is confirmed by the Senate, the Director shall submit to Congress a recommendation on whether to terminate the National Narcotics Border Interdiction System.

SEC. 6808. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this Act, there are authorized to be appropriated $2,500,000 for fiscal year 1989 and such sums as may be necessary for each fiscal year thereafter.

SEC. 6809. EFFECTIVE DATE.

This Act shall be effective on January 21, 1989.

Mr. OXLEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 15 minutes and the gentleman from Ohio [Mr. OXLEY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is obvious that we need a more effective structure at the highest level of government to coordinate the Federal antidrug effort. That is what my amendment will do. It will place within the Executive Office of the President an office of drug enforcement coordination. The office will be headed by a full-time director with responsibility for determining the objectives and priorities of all Federal narcotics law enforcement efforts and setting the policy for those efforts. The director is charged with responsibility for ensuring that Federal agencies' antidrug efforts are carried out in a coordinated manner, along with responsibility for oversight of those programs.

Mr. Chairman, for all too long, too many Federal agencies have acted like the "drug war" was nothing more than a bureaucratic family feud to be fought with turf battles, and barrages of petty interagency memos. At the very time that our Nation desperately needed a unified, coordinated Federal effort, the agencies that should have carried out that effort were spending their time fighting each other.

The National Drug Enforcement Policy Board, which was created by Congress in 1984, was supposed to resolve these interagency battles. The board was directed to "review, evaluate and develop U.S. policy, strategy and resources with respect to illegal drug law enforcement efforts."

But, as a report from the Committee on Government Operations pointed out last year, the policy board has fallen down on the job. An investigation by our Government Information, Justice and Agriculture Subcommittee, chaired by my friend GLENN ENGLISH, found that the board has failed to stop interagency feuds and to establish priorities and set policies we need to wage this war.

My amendment will correct this situation by abolishing the National Drug Enforcement Policy Board and transferring its responsibilities to the Director of Drug Enforcement Coordination—a full time, official located in the Executive Office of the President. Under my amendment, the role of the Director will be one of management and coordination. He does not have unbridled authority. He is not empowered to relocate the personnel and resources of other agencies without the concurrence of the heads of those agencies: we already have a Secretary of Defense to decide on troop deployment and a Secretary of State to handle our relations with foreign governments. Under my amendment, this official cannot unilaterally direct the operations of the FBI, the Drug Enforcement Administration, the Border Patrol, the Coast Guard, the Customs Service, or other Federal agencies. His job is to make sure that those agencies do their jobs, and that they work together. That's a big enough task by itself.

Mr. Chairman, we need a full-time Director of Drug Enforcement Coordination whose only role is to act as principal drug advisor to the President, to set the narcotics law enforcement policy of the Federal Government, and to establish objectives and priorities to implement that policy. Establishing the structure in my amendment is the key to success in the Federal war against drugs.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Brooks amendment for several reasons, some of which were stated in support of my own amendment. I will make it very clear.

First of all, if my colleagues supported the Oxley amendment, they voted to have a drug czar at the Cabinet level, not in the Cabinet, but at the Cabinet level reporting directly to the President, having the same status at the same pay level of all of the Cabinet members, not a sub-Cabinet person who would serve under the Brooks amendment. That is the basic difference.

Mr. Chairman, the Oxley amendment passed by a 3-to-1 margin, and I think that is a very strong statement on behalf of this House that after all of the talk about having a drug czar this is not only going to handle the demand or supply side of the issue, but the demand side as well. That is the way to go.

Mr. Chairman, the Brooks amendment basically speaks to one side of the equation. There is a lot more involved in this terrible drug epidemic than just the supply side.

□ 1345

The demand side has to be spoken to as well, and that is why we need somebody who is wearing that one hat, that general, if you will, that five-star general who is going to call the shots and report directly to the President.

This amendment, the Brooks amendment, is really a step backward. It is taking away the existing policy board, destroys it, starts from the ground up to rebuild and you are going to appoint as the so-called czar under the Brooks amendment a sub-Cabinet-level faceless bureaucrat and we are going to tell the rest of the world that we are going to fight the war on drugs in this country with a faceless bureaucrat.

I cannot believe that we would make that policy change.

Let us also remember that the Executive under the Constitution is charged with enforcing the law. We write the laws, but he has to enforce them. Does it not make good sense to give the President, whoever he may be, the authority to appoint whoever he wants at that Cabinet level, a very sensitive, difficult Cabinet level? That is the same person at that Cabinet level who is going to be sitting across the table from the Secretary of State, in some cases with the Director of the FBI and the Attorney General. He simply has to have the clout and the ability to know that he can walk in and talk to the President at that level, providing the kind of information and direction the President so desperately needs in this war on drugs.

So there is a classic difference here between my amendment and that of the gentleman from Texas.

I am particularly pleased that the gentleman from New Jersey [Mr. HUGHES] will not be offering his amendment. The Brooks amendment, by comparsion, is somewhat better, but still not the kind of strong antidrug message that we want to send out to the rest of the world.

So let us not reinvent the wheel. Let us not start all over. Let us support my amendment, as we did 3 to 1, and defeat the Brooks amendment and get on with the rest of this very important legislation.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the chairman of the subcommittee [Mr. ENGLISH], the gentleman from Oklahoma, who has done a lot of work on this.

Mr. ENGLISH. Mr. Chairman, the amendment offered by the chairman of the Committee on Government Operations includes some important provisions that go beyond the organization of Federal antidrug abuse efforts. It requires the administration to provide a detailed, comprehensive law enforcement strategy to the Congress on an annual basis.

Let me explain why providing a detailed strategy to Congress and to the American public is essential to the war on drugs.

A real narcotics law enforcement strategy that is useful to both the legislative and the executive branch, must offer goals and objectives and set priorities. It must estimate the resources or other changes needed to reach those goals. It must be prepared by the experts in those agencies with narcotics law enforcement responsibilities. It must be specific to investigations, interdiction, and other areas of the war on drugs.

A real strategy must provide at least a 5-year outlook. It must include milestones and targets so that Federal efforts can be measured. Finally, a real strategy must be reassessed every year to adapt to the changing nature of drug trafficking.

The Congress did not have the luxury of a detailed strategy when considering this legislation. We did not have, officially the best guesses of the experts in the administration of what is needed to win this war. In fact, we have never had such a plan.

This amendment, besides creating a drug enforcement coordinator, also requires that such a strategy be prepared and delivered to Congress annually. By requiring specific goals and milestones, it demands accountability from those officials charged with leading the war.

Without the strategies, we have no way to assess our progress in these efforts. We must simply take the administration's word for it that we are winning. We have been hearing that for years, yet no one would seriously say that we are near victory.

With a indepth strategy, we can see where we are heading. We can assess our progress. We can determine if we have met our interdiction goals, our investigation goals, and our goals of international efforts.

I urge my colleagues to support this amendment not only for the order and commitment it establishes for Federal antidrug abuse efforts. It should be adopted also for the accountability it commands for the success or failure of those efforts.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, we have just considered a very fine amendment, the Oxley amendment, and we also have before us another amendment, which certainly has its strong points, but let us examine them side by side and see which one we really want to support.

What we have just done by the passage of the Oxley amendment is put into law that the drug coordinator had to be at the Cabinet level. By the passage of the Brooks amendment, we will demote him down to a Department below the President himself and the Cabinet. Now, what is wrong with that?

In sitting with the subcommittee of the gentleman from Oklahoma about 4 or 5 years ago, when we first got the military involved, we had an admiral who was testifying before that committee who said he was not going to get involved in the war on drugs.

At that time I read a statement to him from the Vice President, and I asked him after that whether he was going to get involved, and his answer was, and I remember it specifically, "If the Vice President says we are going to get involved, we are going to get involved."

And what has happened in the last 8 years? We have not made sufficient headway, and in the area of interdiction, we have coordinated the different agencies in Government. We could not have done that except for the clout of the Vice President.

Now to take the drug coordinator off Cabinet level and reduce it down to a subposition, we are going to be actually losing ground. We cannot afford to do that.

There are things about the Oxley amendment that I would have changed. I would have provided, as some people have suggested on the Democrat side, that this man or woman not be an existing Cabinet official, and I agree with that. He should not be. The drug coordinator should have nothing to worry about except coordinating the agencies, but you cannot give him that responsibility to coordinate agencies and then say that the only people he is going to negotiate with are above him. You cannot do that, nor can you say that he is going to be having the clout of the President behind him, because the President also is going to have other things on his mind.

We need a Cabinet official with the title of drug coordinator for this country.

Because of this, and only because of this, I would urge my colleagues, do not downgrade what we have just voted. Vote against the Brooks amendment and retain what you have just approved by 2 to 1, the Oxley amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Make no mistake about it, my colleagues, the Oxley amendment is a step backward. Oxley maintains the present structure, like a Board of Directors, of the National Drug Policy Board. It is a step backward, because the Oxley amendment does not even require Senate confirmation. Present law does, so it is a step backward.

I am for a strong coordinator. In fact, I would like to make it stronger than Brooks, although I am not going to offer my amendment, because I do not think the votes are there for it. The Brooks amendment is a true drug czar. Oxley is a blank.

Now, if you think that the present National Drug Policy Board has worked, then you vote against Brooks and you stay with Oxley. I do not think it works. I have to work day in and day out with the National Drug Policy Board, and I can tell you from my own experience, it has not worked. We need a full-time director in charge.

Under Brooks, we have a single director. They suggest he is going to be a wimp, going to be a nothing, a faceless bureaucrat. Is the Chief of Staff of the White House a wimp, a faceless bureaucrat? Is the Director of OMB a wimp? I submit that is a facetious argument, because frankly, it is going to require an appointment by the President, consent by the Senate, which gives a sub-Cabinet rank. That individual who is director is going to have the authority to set policy. We do not have that now. He is going to be able to establish a comprehensive long-range strategy for drug enforcement in this country. We do not have that now. He is going to identify the resources that are needed and provide them for law enforcement. We do not have that right now. He is going to review the gadgets of all the drug agencies and he is going to try to deal with the turf battles that happen day in and day out as to who is going to get the credit for arrests. We do not have that now.

The Brooks amendment is a good amendment. I urge its support.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, we are dealing here with a decision on what type of drugs do we want to have. We are not dealing with the question of whether we have one or we do not. We just passed the amendment of the gentleman from Ohio [Mr. OXLEY] setting up a Cabinet level drug czar position in the administration after this bill is enacted, with the power to deal with all the drug issues, to deal with the enforcement side, to deal with the supply side.

I think this is a very fine amendment that we just passed. We do not have a designee any longer, as we do now in the Attorney General, to head that policy board. We have somebody whose entire time is to be devoted exclusively to this function and he is to coordinate all the activities in the whole drug area in the war on drugs at the White House level, with the kind of power that is necessary to do it.

I have a great deal of respect for the gentleman from Texas, whose amendment is up, and I have, of course, a lot of respect for the gentleman from New Jersey who is supporting it, but I will tell you the most significant difference is the differences that the amendment that the gentleman from Texas is offering does not provide for anything but the enforcement side of the ledger in his drug czar. He does not provide for the drug czar to have power over the supply side, over education and the rehabilitation and the user deterrence, the user accountability that we passed here. We need a full czar who can handle education, rehabilitation, user accountability and interdiction and eradication. That is what the Oxley amendment gave us. Let us not overlook it and throw it out. Let us keep it. I urge you to vote against the Brooks amendment, keep the Oxley amendment, have a true drug czar over everything on both the supply side and the side of education, rehabilitation and user accountability on the supply side.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to second the remarks made by the gentleman from New Jersey [Mr. HUGHES], the chairman of the Crime Subcommittee, which has been working on this matter for quite some time.

There is no question in my mind, having worked directly with the National Drug Policy Board, with the Drug Enforcement Board, that they have had no policy and they have had no enforcement.

The answer to the question of the gentleman from Florida [Mr. SHAW], what happened in 8 years, is actually nothing, zilch, zero, zip. In 8 years there has not been a policy established. We had to struggle to get any kind of document out of the office. All we got were platitudes when it came to having the Attorney General answer us as to why foreign governments and foreign officials were not cooperating, what our drug strategy was inside the United States, what our drug strategy was outside the United States, and how we were going to coordinate all our efforts.

What the amendment of the gentleman from Texas [Mr. BROOKS] seeks to do, what the gentleman from New Jersey [Mr. HUGHES] has sought to do, what many of us have sought to do on both sides has been to get someone who could coordinate all the various facets of the drug fighting and enforcement positions in the United States. We still do not have it with the Drug Enforcement Policy Board, and the amendment of the gentleman from Ohio [Mr. OXLEY] will not guarantee it, either.

□ 1400

The reality is whether it is a Cabinent-level or sub-Cabinet level, somebody in authority, either the President or the Vice President, is going to have to ride herd, but at least if we establish what the gentleman from Texas [Mr. BROOKS] seeks to establish by way of his amendment, that is a person who will be in charge totally of coordination who will have a significant level position and who will then take direction from the President or the Vice President. We will have in place, better than now, a real administrative, a real technical capability to coordinate drug strategy to move assets from left to right, from one agency to another, and to tell people plainly not only, "We are going to help," but we are here to do it and we have the capability.

Mr. Chairman, that is not being done. That is why this Congress has had to respond over and over again.

I urge the Members to adopt the Brooks amendment. This is the first one in a series that will be a real asset to the fight.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, it is kind of strange that we would have the Brooks amendment before us, because it reminds me of the designer drug ecstasy. One takes it; it makes one feel good, but it does not do a thing for the person except somewhat distort his or her perception.

Mr. Chairman, if anybody thinks we are going to solve the drug problem by creating a drug czar with sub-Cabinet status, they are wrong. We have had that in the past. We have had sub-Cabinet levels dealing with the President in the past. That is not going to solve the problem. We need to grant whomever the new President is going to be maximum flexibility to lead the drug war. That is what we have done with the Oxley amendment. It allows the new President to decide.

We are here again with a derivative of one of the oldest lies in the world: "We are from the Congress, and we are here to help you." In essence we are saying, "We know better than the President knows as to what he ought to do."

We have already voted overwhelmingly to have a Cabinet-level status for a drug czar in whatever framework the new President wishes to have. Does not that make sense?

Sometimes it might be good for Congress to practice a little humility.

We are not the ones running for President of the United States. The people are going to decide between Michael Dukakis and GEORGE BUSH. Maybe they are trying to give us a clue that the new President is the one we want to make that decision, that the new President, should be allowed to organize his Cabinet the way he sees fit, he doesn't need to have the Congress coming in and saying that he ought to have a sub-Cabinet-level czar who is going to orchestrate this effort despite the fact that these are Cabinet-level people not wanting to run it in that way.

If anybody truly believes the solution to the problems of drugs in the country is a fancy new drug czar, I would ask them to look at where we are right now. We particularly need to make sure that whoever is involved deals with the demand side as well as the supply side. If we forget that in this amendment and other amendments, we have lost the real knowledge, and we are really tasking ourselves and others in the wrong way.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to tell the Members that I have the highest regard for the gentleman from Ohio [Mr. OXLEY], and I think he means well, but I want to point out that the amendment he is talking about now, we have heard these Members talk about what it is going to do. I want to read to the Members the amendment. What the amendment would do is, and that is all it is going to do; it says that, "There shall be at the head of the board a chairman who shall be selected by the President shall occupy a Cabinet level position within the executive branch." That is all. That does not make him confirmed by the Senate. It does not really make him a member of the Cabinet. It gives him no particular authority whatsoever. It does not give him a dime to work. It is just a facade.

Mr. Chairman, if we want to keep doing nothing about drugs, stay with that amendment, but if we want to do something about it, adopt the Brooks amendment which follows in that report on pages 17, 18, 19, 20 and the first part of 21, and it does something. It adds $2.5 million for 1989, and such sums as may be necessary for each fiscal year thereafter to do something.

Mr. Chairman, it appoints a person, an individual with responsibility to do something. If that is what we want to do, vote for my amendment. If we want to just have a two-line amendment that says the President can appoint somebody that is going to do something, and you do not know what, vote for the Oxley amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will concede to my good friend, the gentleman from Texas [Mr. BROOKS] that his amendment is longer than mine.

Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

We all recognize what is needed in our antidrug programs is a comprehensive, coordinated attack on the narcotics problem. The proposal of the distinguished chairman of the Committee on Government Operations, the gentleman from Texas [Mr. BROOKS] tears down the existing structure and creates a new sub-Cabinet bureau in the executive branch rather than raising that position to the highest level of authority, someone who would have direct access to the President by way of a Cabinet position.

Mr. Chairman, we have had sub-Cabinet narcotics administrations in the past, and they just have not fulfilled the kind of responsibility that we have sought for that office. I say what we need now is a general on the battlefield, and let us bestow upon that director the highest level of authority and enable that individual to bring about the kind of coordination that is needed in our war against the narcotic peddlers.

Moreover, we need someone who will combine both enforcement with demand restriction, being able to attack both supply and demand at the same time. Let us decimate the authority and responsibility of this office.

Accordingly, I urge a "no" vote on the Brooks amendment.

Mr. **OXLEY**. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have heard a lot of debate over the last hour on my amendment, and from the gentleman from Texas. I think it is clear that the gentleman from Texas made an interesting remark when he quoted from his amendment, that is, the cost. The cost of his, fiscal year 1989, is $2.5 million, and then sums as may be necessary in subsequent years.

The Oxley amendment basically is the equivalent of the salary of a Cabinet-level Secretary, quite a difference in terms of fiscal responsibility, it seems to me.

Mr. Chairman, what I want, and I think most Members in this body want, is to see somebody who is visible, somebody who has knowledge of the drug problem on both the demand and the supply side. We want a general in there who is going to know what he is doing and has the clout, has the clout to talk to the President directly about this issue.

Mr. Chairman, this is either a national emergency and we are fighting that war as an emergency, or we are not, and if we are going to send the bureaucrat of the gentleman from Texas [Mr. BROOKS] into the war on drugs, then I think we make a serious mistake, with all due respect to my good friend, the gentleman from Texas.

I want a stud in there. I want somebody standing up and saying, "I am against drugs, and we are going to fight it on every avenue we can, on the demand side and the supply side as well," and I want that person to go on television, I want him to be in the media, and I want the people understanding that we have made a commitment to fighting the war on drugs, not sending some bureaucrat out there to mimic some words written by some press secretary. That is the ultimate difference between the Oxley amendment and the Brooks amendment.

Mr. Chairman, I ask the Members to defeat the Brooks amendment. This is king-of-the-hill procedure. We have got to defeat the Brooks amendment to keep the Oxley amendment standing, and I remind the Members one more time that the Oxley amendment passed 3 to 1.

Mr. **BROOKS**. Mr. Chairman, I yield myself my remaining 3 minutes.

Mr. Chairman, I want to say to my beloved friend that my bureaucrat is going to be just the same as the FBI Director, of the same rate, same salary, same prestige as the FBI Director, as the Director of the CIA, and Chairman of the Federal Reserve, he will have a distinct salary. He will be appointed by the President of the United States. He will be confirmed by the U.S. Senate. He will have a long list of authority and responsibility to coordinate drug policies and to do something about it. He will have in that little amendment $2.5 million to start functioning with, and such funds as he needs later in fiscal years. He will have the President of the United States supporting him.

Mr. Chairman, if the Members want to do something, that is the way to do it. The gentleman from Ohio [Mr. OXLEY], my good friend, says that his man is not going to cost much money. He is not going to do anything either. He has no authority. What do they pay him anything for? He is going to be just a little nice somebody that they appoint with no basic authority or responsibility. That is not the way to do something about drugs.

Mr. Chairman, I do not take drugs, so I do not really mind, but if we want to do nothing, stay with the Oxley amendment, and if we want to have an organization that tries to get something done about it, vote for the Brooks amendment.

The **CHAIRMAN**. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. **OXLEY**. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by an electronic device, and there were—ayes 216, noes 193, not voting 22, as follows:

[Roll No. 319]

AYES—216

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Carper
Carr
Chapman
Chappell
Clay
Coelho
Cooper
Coyne
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Durbin
Dwyer
Dyson
Early
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Frank
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Rodino
Roe
Rose
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Yates

NOES—193

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brennan
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Cardin
Chandler
Clarke
Clement
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Costello
Coughlin
Courter
Craig
Crane
Crockett
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Downey
Dreier
Eckart
Edwards (OK)
Emerson
Fawell
Fields
Fish
Florio
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Johnson (SD)
Kasich
Kennelly
Kolbe

Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Murphy
Myers
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—22

Badham
Barnard
Cheney
Coleman (TX)
Collins
Conyers
de la Garza
Dymally
Ford (TN)
Frost
Garcia
Hawkins
Kemp
Lujan
Mica
Nagle
Ortiz
Rostenkowski
Stark
Towns
Williams
Wortley

☐ 1429

Mrs. MEYERS of Kansas changed her vote from "aye" to "no."

Mr. FOGLIETTA and Mr. GUARINI changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1430

AMENDMENT IN ORDER

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. Hughes] is recognized. Does the Chair understand that the gentleman from New Jersey is not going to offer his amendment.

Mr. HUGHES. Mr. Chairman, I do not intend to offer my amendment. While I support a stronger drug czar, the Brooks amendment, I believe, is the best we can acquire in the present environment. I withdraw my amendment.

The CHAIRMAN. Under the rule, the next amendment is the amendment by the gentleman from Illinois [Mr. Davis].

AMENDMENT OFFERED BY MR. DAVIS OF ILLINOIS

Mr. DAVIS of Illinois. Mr. Chairman, I offer an amendment.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Davis of Illinois: Page 179, after line 4, insert the following new subsection:

(c) United States Attorneys.—In addition to any sums otherwise authorized to be appropriated, there are authorized to be appropriated for fiscal years 1989, 1990, and 1991, for the Department of Justice for the offices of United States attorneys, $30,000,000.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. Davis] will be recognized for 5 minutes in support of his amendment.

Mr. HUGHES. Mr. Chairman, I ask that I be permitted to take the 5 minutes in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Davis].

Mr. DAVIS of Illinois. I thank the chairman.

Mr. Chairman, this money is desperately needed in the offices of our U.S. attorneys across the country.

They are an essential element in fighting the war on drugs. The number of narcotics and dangerous drug cases filed in U.S. attorneys' offices rose 31 percent in 1987 alone.

At the same time, the U.S. attorneys' offices have seen no growth for 3 years and may see negative growth this year—this is a crime.

Unless we give them some relief, the U.S. attorneys will have to continue turning new drug cases away, they will be forced to plea bargain rather than become involved in lengthy trials and will only be able to fully prosecute top level traffickers.

The best studies show that in order to have an effective judicial system the Federal investigator to Federal prosecutor ratio should be 4.5 to 1. The current ratio is 19 to 1 and that does not take into account that most investigations are coordinated Federal, State, and local efforts. If that is taken into consideration the ratio is more than 28 to 1.

The U.S. attorneys' offices are now the "choke point" in criminal prosecutions, especially those involving drugs.

The gross imbalance in the ratio of investigators to prosecutors was not caused by the administration's budget request, but rather by Congress reprioritizing the budget.

Congress must wake up to the fact that it does not help our communities to have so many investigators if the offenders that are uncovered cannot be indicted, prosecuted, and punished.

I would like to take a minute to cite some real life cases from the Department of Justice. The specifics are vague because the Department does not want to advertise its inability to enforce the drug laws to drug traffickers, and understandably so since the situation is so bad.

In one south central district the attorneys are already so overworked with 75 percent of their cases being drug-related that the U.S. attorney has had to let three major investigations, one involving a sophisticated and violent street gang that controls drug trafficking in a large part of the city, flounder for lack of attorney personnel to direct and develop them.

The U.S. attorney's drug task force in a smaller district in that same region regularly obtains information from which quality cases involving large scale drug trafficking organizations could be developed if the U.S. attorney had additional prosecutors.

In my home State of Illinois, I know of two pending cases in which 1 of the U.S. attorney's office could indict an additional 100 drug offenders if they had more prosecutors.

Indeed, the outstanding U.S. attorney for northern Illinois was in my office yesterday to lobby for this amendment and told me he was seizing five apartment buildings in Chicago and could seize more assets if he could prosecute them. He is virtually restricted to international and interstate traffickers and cannot help local agencies and police without more help.

Can you imagine anything more frustrating than being an enforcer of our judicial system and knowing that drug dealers and users are loose on our streets because your office does not have the resources to indict and prosecute them.

My amendment gives some relief to the U.S. attorneys for fiscal years 1989, 1990, and 1991. Right now they are requesting $402 million to maintain current services in fiscal year 1989 but are looking at receiving anywhere from $10.8 to $21.7 less than that from Congress.

Once the current services level of $402 million is reached, the $30 million from my amendment would provide approximately 137 additional attorneys and 137 additional support staff positions to be allocated among the 93 U.S. attorneys.

The Senate has a couple of similar proposals for their version of the omnibus drug bill. One that would add $55 million to the offices of the U.S. attorneys and one that would add $34.2 million. This illustrates our Senate colleagues' support of the additional moneys.

I urge you to support the Davis amendment to take a small, but crucial step to fix our back-logged judicial system and put more drug offenders into jail.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, my question is: The gentleman adds $30 million to what amount?

Mr. DAVIS of Illinois. We are adding $30 million to the $391 million that is currently considered authorized for that line item.

Mr. SMITH of Iowa. Actually, there is no authorization at the present time.

Mr. DAVIS of Illinois. The figure that they are talking about is $391 million at this point.

Mr. SMITH of Iowa. I see. Last year they had $380 million.

Mr. DAVIS of Illinois. Yes, sir.

Mr. SMITH of Iowa. They need $391 million-plus just to get to the same level.

Mr. DAVIS of Illinois. Just to keep even.

Mr. SMITH of Iowa. What they had last year.

Mr. DAVIS of Illinois. Just to keep even.

Mr. SMITH of Iowa. And certainly $30 million would not be enough in my estimation if they really have a war on drugs. But the point the gentleman is intending then is he is talking about $421 million, is that what the gentleman is talking about?

Mr. DAVIS of Illinois. Yes, sir.

Mr. SMITH of Iowa. They requested $424 million this year.

Mr. DAVIS of Illinois. I am very much aware of that.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. DAVIS] has expired.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Illinois.

Mr. DAVIS of Illinois. I thank the gentleman. Mr. HUGHES and I have discussed it. We probably should have amended this and added $100 million more. We think the House-Senate joint conference committee will address the issue as long as we endorse additional money to what is already being considered. The Senate will do the same. Obviously, the funding—my U.S. attorney told me at $450 million they would be in pretty good shape. But I did not take it upon myself.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman continue to yield?

Mr. DAVIS of Illinois. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. The point is I hope the gentleman does not think that they ought to be limited under all conditions to $420 million.

Mr. DAVIS of Illinois. Absolutely not, no sir.

Mr. SMITH of Iowa. Because we do not know what is going to happen 6 months from now. They may have a lot of people to prosecute, more than is anticipated.

Mr. DAVIS of Illinois. I thank the gentleman, he is absolutely correct. I do not think—if you are going to do what we have done in this bill, if you are going to have rehabilitation and education, you have to look at the prosecution line, the punishment line and hopefully interdiction which is not in here, ultimately, and you have to commit the money necessary to complete the system, complete the loop. I certainly thank the gentleman and I thank the gentleman from New Jersey for yielding.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume. I will be very brief.

First, I want to congratulate the gentleman from Illinois for offering this amendment because one of the problems we have experienced in the criminal justice process is that we have not been funding that process at every stage of the proceedings. Our committee, for instance, passed the forefeiture bill and we have performed oversight functions on that legislation.

Forfeiture has been successful. Last year the DEA seized more than their entire budget, almost $500 million. The problem is that we do not have enough U.S. attorneys to process those forfeiture cases in places like Florida.

We have a fleet of seized boats in Florida that looks like the Spanish Armada, and we cannot reach them because we do not have sufficient numbers of U.S. attorneys.

The chief assistant U.S. attorney for southern Florida was in before our committee in June and he told us that they are in the process of cutting back their force of U.S. assistant attorneys by about 15 percent because they don't have sufficient funding. At a time when they are up to their eyeballs in contraband, and need to undertake more investigations, we are cutting back. So the gentleman's amendment is a major step in the right direction.

Mr. Chairman, I will be offering an amendment along with BILL MCCOLLUM that would do something additional to this. We are going to take up to $150 million of the forfeited assets and use them against the traffickers. And one of the areas to be funded, as the gentleman may know, is U.S. attorneys.

In addition to U.S. attorneys, the money will be available for the DEA foreign cooperative investigative program, which is a program that we use overseas to develop better intelligence, to work with our counterparts in other countries. Third, to provide more money for DEA's Diversion Control Program, for chemicals and diversion of prescription drugs. Fourth, for Federal prison construction and, fifth, for the Organized Crime Drug Enforcement Task Forces.

I want to say that the next time we have a Justice appropriation bill on the floor and an amendment is offered to cut across the board, just remember that when we do that we take more money away from Justice programs and one of the reasons we do not have sufficient resources for the U.S. attorneys and other functions is because we, the Congress, have cut that budget.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I want to point out that I am for the amendment of the gentleman on the $150 million, but it also must contain the language that is necessary so that does not count against a ceiling for the Justice Department, because if it does, it does not do anything.

Mr. HUGHES. I could not agree with the gentleman more.

Mr. SMITH of Iowa. The CBO has, under their current rulings, reduced whatever Justice Department had by whatever we put in from the Drug Forfeiture Program.

Mr. HUGHES. I could not agree with the gentleman more.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Wisconsin, the chairman of the subcommittee.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Chairman, I would rise in support of the amendment of the gentleman from Illinois. I think it is a good amendment. As representing the authorizing committee for U.S. attorneys as the gentleman does for the Judiciary Committee on Crime and the gentleman from Iowa [Mr. SMITH] does with respect to Appropriations; in our previous discussions we have referred to the fact that the whole criminal justice system has to be upgraded in terms of support whether it is the marshal service, prisons and so forth.

I would just like to add the sobering comment that regrettably yesterday the House declined to support by a two-thirds majority authorizing the borrowing of money by prison industries, UNICOR, in the Federal system. We have now almost double the inmates, U.S. inmate prison population and we will increase it substantially more. So we must look at the whole system. And by refusing to lend money to UNICOR, so they can expand prison industries, which they must do under certain guidelines—we have imposed certain guidelines—I think we have failed as we hopefully will not fail here with respect to U.S. attorneys in providing the necessary authorization.

Mr. HUGHES. Mr. Chairman, the gentleman is right. I support the gentleman's amendment.

Mr. LEVINE of California. Mr. Chairman, I rise in support of this amendment, and urge my colleagues to vote for it.

This amendment would authorize an additional $30 million over the next 3 years for the U.S. attorney's offices. This additional funding is desperately needed. Funding freezes in previous years have prevented the U.S. attorney's offices from being able to recruit new assistant attorneys to fill vacancies and new positions as they became open.

The Central California U.S. Attorney's Office, which includes my district, covers one of the largest and fastest growing areas in the country. However, it has one of the smallest staffs of assistant attorneys per caseload of any office in the country. Turnover and hiring freezes have further reduced the number of attorneys available to prosecute drug-related arrests.

Testimony from the Central District U.S. Attorney's Office before a recent Select Committee on Narcotics hearing in Los Angeles which I chaired, demonstrates the dire situation in southern California. Although the U.S. attorney's office is prosecuting drug cases, it is already severely limited in the number of important cases it can accept.

The attorney's office further testified regarding a recently formed gangdrug task force which will involve State, local, and Federal law enforcement in southern California. Although this task force is desperately needed to control drug flow into and through L.A., the U.S. attorney's office must have additional support to be able to prosecute new cases which will result. In fact, during the select committee hearing, the representative of the U.S. attorney's office testified that "a sizable increase in the number of assistant U.S. attorneys is essential if the task force is to be successful."

Increasing the staffing of the California Central District U.S. Attorney's Office is one of the most important steps Congress can take to win the war on drugs on the west coast. I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. Davis].

The amendment was agreed to.

Mr. HENRY. Mr. Chairman, I ask unanimous consent to proceed for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HENRY. Mr. Chairman, I take this time in order to have a colloquy with the gentleman from Ohio [Mr. Feighan].

Mr. Chairman, there has been some confusion about the impact of the Brady amendment on various State laws, and I had raised that same concern with some earlier waiting period proposals. Subsection (c) of the Brady amendment addresses this concern, and I want to clarify the intent of this language with the sponsor of the amendment, if I may:

The State law of Michigan, like that of other States, requires that a purchaser of a handgun first obtain a permit to purchase that particular handgun from the local police department, which gives the local police an opportunity to verify that the individual is not disqualified from owning a handgun due to prior criminal convictions, et cetera, and that the information on the application is accurate. Is the intent of the Brady amendment, and particularly subsection (c), that if the State has such a requirement, the Brady amendment will require no additional time beyond what is currently required by State law?

Mr. FEIGHAN. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Ohio.

Mr. FEIGHAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Michigan is correct, that is the intent of the amendment and of subsection (c). That subsection provides that if a State's law already provides for either a waiting period of at least 7 days or a legitimate prepurchase police check of the transferee of a handgun, the Brady amendment is satisfied and no additional time is required.

□ 1445

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM. Page 185, strike out line 15 and all that follows through line 2, page 190, and insert in lieu thereof the following new sections:

SEC. 6503. SYSTEM TO IDENTIFY FELONS PURCHASING HANDGUNS.

(a) In General.—The Attorney General shall develop a system for immediate and accurate identification of felons who attempt to purchase firearms. The system shall be accessible by dealers. The Attorney General also shall establish a plan (including a cost analysis of the proposed system) for the implementation of the system to begin immediately following the report to Congress as provided in subsection (b).

(b) Report to Congress.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall report to Congress a description of the system referred to in subsection (a) and a plan (including a cost analysis of the proposed system) for implementation of the system.

(c) Definitions.—As used in this section, the terms "firearm" and "dealer" have the meanings given those terms in section 921 of title 18, United States Code.

SEC. 6504. REVOCATION OF PROBATION.

Section 3565 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) Mandatory Revocation for Possession of a Firearm.—If the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the terms of probation, the court shall, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, revoke the sentence of probation and impose any other sentence that was available under subchapter A at the time of the initial sentencing."

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCollum] is recognized for 30 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the McCollum amendment.

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. Hughes] will be recognized for 30 minutes in opposition to the amendment.

Mr. HUGHES. Mr. Chairman, I ask unanimous consent that both the proponent and the opponent of the McCollum amendment be granted 10 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. McCOLLUM. Mr. Chairman, reserving the right to object, I do not intend to object. I just want to join with the gentleman from New Jersey [Mr. Hughes] in urging the adoption of this provision. We have had a lot of requests for time on this subject. This is a minimal request for more time at the beginning of the consideration so we do not have to ask for it later. I hope the request is adopted.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] will be recognized for 40 minutes in support of the amendment and the gentleman from New Jersey [Mr. Hughes] will be recognized for 40 minutes in opposition to the amendment.

Mr. McCOLLUM. Mr. Chairman, I ask unanimous consent that my 40 minutes' time be divided equally so that the gentleman from West Virginia [Mr. Staggers] may control one-half of the time, 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this bill contains a 7-day waiting period. That means it is a 7-day waiting period for anybody in the country, if this becomes law, who wants to purchase a handgun. There is a 7-day waiting period before they can actually acquire that handgun. That is a national waiting period superseding all State laws.

There is a process through which one has to go during that time, by providing their name, their address, their date of birth through the police systems that are supposed to come up with a check to find out if the would-be purchaser is a felon or has some other disability that would not make him eligible to purchase a handgun.

My amendment in opposition to this by a substitute, and I wish to offer the substitute because I do not think that the proposition will work. The fact is all of us agree we want to keep handguns out of the hands of felons. The issue is how do we do it. The amendment that I am offering today to substitute for this waiting period requires the Attorney General to develop a system for immediate and accurate identification of felons who attempt to purchase firearms.

It requires the system to be accessible by gun dealers and requires the implementation of the system beginning no later than 180 days after the enactment of the bill and provides a mandatory revocation of probation of any Federal probationer who possesses a firearm during probation.

The bottom line is that the waiting period will not work. We do not have a national system today that will identify a felon who goes in to purchase a handgun. The simplest bottom line is what felon will produce his correct name when he goes to purchase a handgun? We need a fingerprint system or something like it which can instantaneously go back to the national bureau, to the Federal Bureau of Investigation file to find if he is a felon. It it comes back to the gun dealer that this is truly who he is and he is a felon, he should not be allowed to purchase the handgun.

Whether it is a 7-day waiting period, 20-day waiting period, it will not work because there is no Federal system today in place to provide this identification accurately at the source point when it is being purchased, whether it is 7 days later, 20 days later or 30 days.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise in strong support of the Brady amendment and in opposition to the McCollum amendment.

Mr. Chairman, in this election year, we hear a lot of talk about "getting tough on crime." Today, we have a chance to vote for one of the most effective, clear-cut boosts to law enforcement offered this year in Congress: The 7-day waiting period for handgun purchases. It is an incredible irony that some of the most vociferous proponents of crime control are actually asking us to vote against this straightforward measure.

The 7-day waiting period simply gives our Nation's law officers time to carry out existing laws. It allows them time to make sure that those people aready prohibited from owning firearms are not obtaining firearms. With the increasing gun-running and violent crime involved in the drug war, the waiting period is especially vital for protecting innocent citizens from the threat of criminal or deranged firearm use. With this law, criminals and mentally deranged individuals would no longer be able to walk into a gun shop or up to the pawnshop counter and spontaneously purchase a gun.

Unlike some of the drug bill amendments adopted in the last few days which make unconstitutional changes to the law, the 7-day waiting period, offers an intelligent, legal means of cracking down on crime. Mr. Chairman, I urge the retention of this essential component of the Omnibus Drug Initiative Act and the defeat of the McCollum amendment.

Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Ohio [Mr. FEIGHAN], the author of the amendment and a very valued member of the Subcommittee on Crime.

Mr. FEIGHAN. Mr. Chairman, I rise in opposition to the McCollum amendment.

Right now, we all know that the gun trade is absolutely booming in this country. According to testimony that we have received in the Judiciary Committee, drug gangs are buying weapons in one State and transporting them to other States, and using them in drug-related crimes.

For example, FBI agents in Texas have told us that that State supplied much of the gun power for a massive heroin ring in New York; agents have found Virginia-bought guns in the hands of Washington, DC, drug dealers, where gun sales have been banned since 1977; in my own State of Ohio, we have uncovered an organized crime conspiracy involving crack distribution and gun running.

Congress can confront this drug-gun control head on, or it can avoid the issue. A vote for the McCollum amendment is going to unquestionably take away a police weapon for catching criminals before they commit crimes with handguns.

The waiting period amendment that is already in the bill, in the antidrug bill, represents a reasonable, effective and straightforward plan of attack. It would simply require that any person who wants to purchase a handgun over the counter wait 7 days so that local authorities have the opportunity to check that applicant's background. The wait would also provide a cooling-off period for those who are consumed by some violent passion or a drug-induced rage. Waiting periods importantly have a proven track record at the State and municipal level. California screened out more than 1,500 ineligible gun applicants in 1986, and New Jersey stops an average of more than 500 felons each year from purchasing guns under its review system. But State waiting periods alone are not going to be enough. Unless we have a national waiting period, determined drug pushers will still be able to buy handguns as easily as they can cross State lines.

The McCollum amendment additionally failed to address at all the growing drug-gun connection. It would only apply to felons, so it would not help gun dealers identify other persons barred from gun ownership by Federal law, including drug addicts, illegal aliens, and those adjudicated mentally incompetent. It would require fingerprinting which would make the cost absolutely prohibitive, estimated in the morning's Washington Post, and responsibly, I think, somewhere between $250 and $500 million. It would not be binding and would have to introduce whatever recommendation the Attorney General comes forward with.

The biggest problem with the McCollum amendment, we do not need more studies on this issue, which is what the McCollum amendment is trying to substitute. According to members of the law enforcement community, the implementation of the McCollum amendment is not only just years away, but light years away, which is why I believe it lost on a vote of 22 to 12 in the Committee on the Judiciary.

The widespread support for the language in the bill underscores its modest nature. The provision has been championed by every major police organization in the country. The President has endorsed a waiting period. The Attorney General has gone further, supporting the concept of a waiting period and a background check at the national level. Even the NRA has supported this, the National Rifle Association, has supported a waiting period. This is the NRA's own document of a few years ago where they say "A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illnesses from acquiring guns." That is the position of the NRA and was the position of the NRA until a few years ago.

Mr. Chairman, the provision is based on a single premise that we cannot win the war on crime and drugs unless we begin to disarm drug traffickers. By keeping the waiting period in the antidrug legislation we will act to end senseless drug violence. We will also help to save lives.

I would urge defeat of the McCollum amendment.

Mr. STAGGERS. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I think that we agree we want to get tough on criminals, and I believe that the McCollum amendment actually is an improvement, unless there is a mistake in what the language does say, and that is the Attorney General shall—and that does mandate that he will—develop a system for immediate and accurate identification of felons who attempt to purchase firearms. So as the bill stands now, we are trying to sell to the American people that this will keep guns out of the hands of criminals. I do not think that is true.

The National Institute of Justice had a study that says criminals actually avoid going through the legal channels, but if the criminals do go through the legal channels and do go through a handgun purchase through a dealer, our amendment would require that the Attorney General does come back with a system within 6 months for that immediate and accurate identification.

For those who would say that is not possible or the technology is not there, I know that when I go to a department store with a credit card to make a purchase with this system, there is technology there that can identify whether I have the credit to buy something, so I would say that the Attorney General should be able to come up with something.

In addition, we get tough if the criminals are caught. As it exists now, there is no penalty but to have revocation of probation and reinstatement of the sentence.

For those arguing that if you do get tough with the criminals, what about the mentally ill, I know there are emotional arguments and we are concerned about the Hinckley example, but most psychiatrists' records are not public records. In fact, Mr. Hinckley was never institutionalized under a court order, and it is unlikely if there had been a court order that it would have been made public.

There would be further delays beyond the 7 days, and we should consider that just recently in this House, this Congress, when we were considering the housing bill, and we considered the stereotype of mentally ill being more violent and we rejected that idea. Statistics show that as a whole, that they are probably less violent than the general populace, almost all material says that.

What I say is we have an improvement here, not just a study, we are mandating the Attorney General come back with something. This is a good amendment, and I congratulate my colleague for moving this forward, and I ask my colleagues to bear with us and pass this and make it a better bill and get tough on the criminals.

Mr. Chairman, I yield 1 minute to my colleague, the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Chairman, this is something we seem to deal with in some form or another frequently. When I first came to Congress it was about every 2 years, and then it got down to once every year, and now we have to deal with it about every 6 months.

I have a great deal of sympathy for what the Brady amendment is trying to do, but it is simply not workable. It does not keep convicted felons and others who will do unlawful acts from getting firearms. Most criminals purchase their firearms outside of the law, so the Brady amendment does not deal with that.

It would put into effect a nationwide gun registration, which then Congress has historically time and time again been against. So I am opposed to that, and I would ask that you support the McCollum amendment. I think it would be consistent with what we have done over the years.

The 7-day registration business does not worry me in itself that much, but it is kind of like putting the nose of the camel under the tent. The next time it will be a year, and the next time 2 years, and the next time no gun ownership at all in this country.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in strong support of the McCollum amendment for six reasons.

First, I believe that the committee provision will not touch criminals. They will not register or wait or submit to government investigations. Only law-abiding citizens will be strapped with this new redtape, while I think you will see a lot of criminals roaming free.

Second, the provision creates a colossal bureaucracy that will cost taxpayers millions to billions of dollars, and there will be no concurrent reduction in crime.

Third, it will drain police manpower investigating honest citizens while police in many areas presently lack the resources to investigate burglars.

Fourth, it forces law-abiding Americans to request government permission to buy a firearm.

The bill provides for no appeal. If an individual is turned down, there is nothing they can do. There is no appeal.

Fifth, it constitutes nationwide backdoor gun registration foisted upon American firearm owners. And next will be the sports firearms and rifles.

Sixth, it violates the amendment rights of nearly 70 million Americans who possess firearms.

What is one supposed to do in that 7-day waiting period? See a psychiatrist?

Mr. Chairman, the McCollum amendment is superior because it requires:

Automatic revocation of probation for felons found in possession of firearms; and

Justice Department to implement instantaneous felon identification system at time and place of firearms purchase.

It does not: Infringe on the rights of law-abiding gun owners; and conflict with existing State waiting period laws.

It is supported by rank-and-file police and sportsmen's organizations across the Nation.

Let us support the McCollum amendment and defeat the Metzenbaum-Feighan provision.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. RODINO], chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding me these 3 minutes.

Mr. Chairman, I strongly oppose the amendment offered by the gentleman from Florida [Mr. MCCOLLUM]. I think that his amendment, while well-intentioned, as I am sure everything is that he does, nonetheless only provides for more delay in doing what is necessary to be done, and that is, to provide law enforcement authorities the opportunity to check those people who may be mentally incompetent or have criminal records but are able to get handguns now in those States where it is easy to get handguns.

Law enforcement officials who deal with gun traffickers and drug traffickers have come here to Capitol Hill and made a plea, a very strong plea, for the Brady amendment. The police have said time and time again that they know that immediate access to handguns is a vital part of the drug trafficking business.

Our police officers don't need another study. They don't want this long, long delay for the Justice Department to develop some sort of felon-identification system. They don't want to wait for some now unknown system to be put into operation—if it is ever put into operation.

Our law-enforcement people don't want and don't need this delay. What they want and what they need—and need now—is the waiting period, the 7-day waiting period, provided in this legislation. They have made their views clear to all of us.

This legislation is not gun licensing. It is not gun registration. It is not a ban on gunmaking. It will simply make it harder for the criminal and the unbalanced to get guns; it is a sensible step that will help make the stress-filled job of our police officers a little less perilous. There is no doubt their job is dangerous. Seventy-two officers were murdered last year. Fifty of those murders involved handguns.

Now, no one claims that the Brady amendment will keep all criminals from getting guns. But the McCollum amendment will keep no criminals from getting guns. The Brady amendment provides a waiting period for police to check on the backgrounds of potential handgun purchasers. The McCollum amendment provides nothing but a stall, an excuse for inaction. In the meantime, the gun traffic will go on helping drug dealers adding to the number of killings with handguns.

Waiting periods work. In my own State of New Jersey, the State police have caught 10,000 convicted felons trying to buy handguns in the years it has had a waiting period.

This legislation has the widespread endorsement of police. As they have asserted, time and again, "Cops know waiting periods work." President Reagan has indicated his support for a waiting period. The Justice Department, which is supposed to develop this identification system, supports the concept of a waiting period.

The Brady amendment is reasonable and workable. It can save lives. It is a valuable weapon in the battle against crime. We have that on the authority of those who know, our police officers.

Police know that immediate access to handguns is a vital part of drug trafficking and pushing. And we also know from experience that a waiting period can curtail access by drug dealers to lethal weapons which they have been using promiscuously to snuff out the lives of ordinary citizens and police officers. Our message on Capitol Hill was "Cops Know: 7 Days Can Save a Life." We also know that 7 Days Can Help Stop Drug Deaths.

So please don't cop-out on the cops.

The McCollum amendment promises nothing but endless delay in our efforts to keep handguns out of the hands of those who should not have them.

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Mr. Chairman, the Brady amendment clearly and sensibly says, "Give law enforcement authorities 7 days within which to be able to check out those who should not have guns, who commit crime, who kill people."

Consider, my colleagues, those cops who are putting their lives on the line every day and who have been coming here to appeal to us.

And Mrs. Brady, God bless her for the great work she has been doing after suffering such a great tragedy in her family. She knows firsthand what it means to have someone have a gun who has not been checked out.

Mr. Speaker, I believe, and this is probably past history, but, if Mr. Hinckley had not been able to get access to a gun as easily as he did, maybe the President might not have been the target of the assassination, and maybe Jim Brady might have been a whole person today.

So, for the sake of those people who have come here, who have dealt with this issue firsthand and who say, "Let's save lives," let us assure them that we can hand the police this tool, this weapon in the war against crime and drugs.

Let us defeat the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Mississippi [Mr. Lott].

Mr. LOTT. Mr. Chairman, I rise in support of the McCollum amendment and am opposed to the language in the bill. I think that this language really does not even belong in this bill in the first place.

This is a drug bill after all. It is not a gun related piece of legislation. If we are going to have language in the bill that will try to identify felons who attempt to purchase firearms, the approach that we should use is the one, the very logical one, that the gentleman from Florida [Mr. McCollum] has come up with.

So, Mr. Chairman, I would urge my colleagues to support the McCollum amendment. Surely this is an issue that really should be left to the States and the localities.

In Mississippi or in Texas we clearly might have a different view than would be had in New Jersey, or New York, or Massachusetts, but even in those States or other cities that have handgun limitations things have not gone so well.

In the District of Columbia, for instance, so far this year it is a city where honest citizens are denied owning firearms for self-protection. The murder rate is the highest in the country for a city of its size. There have been over 226 murders so far this year.

New York City is another city where honest citizens are routinely denied the opportunity to own firearms. Criminals roam unchecked, and New York City alone accounts for one-sixth of the Nation's armed robberies.

So let us leave this up to the cities and the States that have a different view. The language in the bill is gun control legislation, and it should not be mistaken.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Fish], the ranking member on the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, during the 7-day waiting period in this legislation the dealer must send within 24 hours certain information about the purchase to the chief local law enforcement official. If the official does not object to the transfer period prior to the expiration of the 7 days, the transfer will be complete. That is all that is required. The chief law enforcement officer may make only a check, if he wishes, of local records.

A check of the criminal justice records of his State may be accomplished within 7 days, but this raises serious problems of accuracy and misidentification. Many people will have the same name. Also we have the problem of false names being used with the resulting harassment in both cases. But in approximately half of the 50 States the criminal justice records of felons born before 1956 are not even automated.

Mr. Chairman, where the local law enforcement officials really have a problem is in seeking a national background check. I believe such identification must be highly accurate, reliable and expeditious, but the current record keeping system maintained by the FBI was not designed to serve as a source of information for investigations of this nature. The National Criminal Information Center and the identification division are incapable of properly responding to the desired information.

Mr. Chairman, the McCollum substitute directs the Attorney General to develop an identification system that will allow immediate anud accurate background checks on all convicted felons. My colleagues may not think it goes far enough, but here there will be no delay. The Attorney General must report back to the Congress within 180 days with a specific plan for developing this system.

Mr. Chairman, the measure in the bill before us seems to me has very limited use. This is little more than a cooling-off period. Over ninety six of felons obtain handguns through friends or theft. I urge a vote for the McCollum substitute.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment. The subcommittee I chair has been studying the FBI's arrest record files for many years. What this amendment proposes would be impossible to achieve anytime in the near future and if it ever became possible, it would violate longstanding principles regarding the privacy of FBI arrest records.

The amendment calls for a system of "immediate and accurate identification of felons." There is only one way to ensure the accurate identification of felons, and that is by fingerprint. Anything else will result in mistaken ID's: without fingerprint identification, felons will get guns and nonfelons will be denied them. But there is currently no way the Attorney General can make "immediate" identification by fingerprint. The FBI is years away from the electronic transmission of fingerprints.

Even if there were immediate access, the information the dealer got would be potentially misleading. FBI records are sometimes inaccurate. They are even more likely to be incomplete. What is a gun dealer to do with a record that shows an arrest but no disposition? Nearly 50 percent of the FBI records show a charge but no disposition. Does the gun dealer assume it was an acquittal or does he assume it was a conviction?

The most troubling aspect of this amendment is that it contemplates putting some kind of computer terminal in every gun shop. The FBI has never made its arrest records available directly to private citizens. Access is carefully limited to police and other governmental officials. Putting this information in private hands, and allowing private access to the system as this amendment provides, would be an invitation to abuse. What would stop a gun dealer from running arrest record checks on everybody, even people not buying guns?

Vote against the McCollum amendment and support the Brady amendment.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, although I will have an amendment made in order by the rule to strike the provision for the 7-day waiting period because I see no good in it all, I rise in support of the McCollum amendment because I do believe that the McCollum amendment offers some positive things that the 7-day waiting period does not. Therefore, I hope the Members will vote for the McCollum amendment.

Mr. Chairman, I note the provision in the bill for the waiting period preempts our State laws, and we are telling our States that they do not know what is good for their own people, that we in Washington, DC know a lot better what is good for the people in the State of Wyoming, or in the State of Missouri, or South Carolina, or Maryland or anyplace else. We are saying that the people in the State of Virginia do not know what is good for them, that their legislation is no good, that we in the National Government know what is better for them than they know themselves.

Mr. Chairman, that is what the provision in the drug bill provides for, the so-called 7-day waiting period law and background check. Many States have rejected this similar provision. State legislatures have rejected it out of hand on the basis that it does not work, and now why are we imposing it on them? I think that it is going a little too far for the Federal Government to believe that we in Washington, DC, have all the answers and the State legislative bodies who are close to the people, are there all the time, that they do not know what they are doing.

As has been said before and I think needs to be said again, this is not going to stop crime. If this provision for a waiting period and background check becomes law, it is not going to stop the felons from getting guns.

As a former prosecuting attorney I can assure my colleagues that all of the persons I prosecuted for robbery and other offenses with guns, not one of those guns was ever purchased legally from a dealer. They acquired them from the black market, from taverns and other places without any registration, and that is going to continue.

If my colleagues were to go down to the State of Florida right now, those Uzi machineguns that the drug dealers use down there, they did not get those legally, and they do not intend to, and they are never going to. This 7-day waiting period is not going to stop any of these drug pushers from getting guns.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I admire the gentleman from Missouri. He is extremely ardent on this point and very knowledgeable.

I ask this very simple question: If that is the case, if the position of the gentleman is correct, why would it be that virtually across the board that law enforcement officers in this Nation, including my hometown, are very much devoted to the idea of a 7-day waiting period? Why would they do that? Those are people, men and women, who understand handguns and use them for their personal pleasure as well as for their professional safety. Why would they be for this?

Mr. VOLKMER. Mr. Chairman, they are not. Some of the gentleman's are; mine are not.

And I met with 115 of them up here in Washington, DC, from 27 States just a week or so ago that were not for this at all, were vehemently opposed to this provision.

Mr. MAZZOLI. The FOP and the National—

Mr. VOLKMER. Yes, and I talked to these leaders, and, believe it or not, some of these leaders do not even want the death penalty either.

Mr. MAZZOLI. Well, we may argue about who is for what, but is not that the case that across the board virtually speaking the leadership of these organizations and the rank and file are devoted to the idea that there ought to be some kind of a sanction on at least the timing of the—

Mr. VOLKMER. Mr. Chairman, I disagree with the gentleman from Kentucky [Mr. MAZZOLI] that the rank and file have that position, at least in my district and my State. I disagree with that completely.

Mr. MAZZOLI. I appreciate that.

Mr. VOLKMER. They do not. They oppose it. My colleagues know there have been those who say, and I believe I heard it said earlier, that, if this provision had been law, that maybe Hinckley would not have been able to acquire the firearm that he used back in 1981—maybe, maybe not. Because, as I understand it, Mr. Hinckley did not have a felony record, Mr. Hinckley had not been adjudged mentally ill, and, therefore, under these provisions would not have been denied the right to purchase a firearm. I think that we have to recognize that.

Another thing is just the mechanics of this amendment. I do not know how many of my colleagues have looked at the mechanics of it. Let us look at my State.

Last spring I acquired a handgun out in my hometown, and what do we have to do in the State of Missouri? We have to acquire, obtain, a permit from our local sheriff. Well, the sheriff knows me. We are pretty good friends, and he does not really think that I need to have my background checked. Maybe some of my colleagues do.

Anyway, I inquired of the sheriff, and I finally got the gun I wanted, and I gave him the information, went up there and in a few minutes got my permit, went back to the dealer and turned it over to him. He made out the registration and I acquired my gun. It is that simple.

What must be done under this? Well, not only can the dealer not do what he can now do in Missouri, but that dealer is going to have to fill out all the information, take it down to the post office. Because you have got to send it by certified or registered mail. Where is the post office in Hannibal, MO? Right across the street from the courthouse where the sheriff has his office. But he has got to go down there and send it by registered mail over to the courthouse, or maybe he is supposed to send it to the police chief. Well, where is the police chief located? He is right next door to the post office.

What sense does it make to make them go through all those machinations, and does anybody here that has drafted this thing realize what rural areas of this country look like? What goes on in those rural areas? Do my colleagues really think that Philadelphia, MO, is the same as Philadelphia, PA?

□ 1515

I assure you that it is not in any way, and the same idea that by enacting this law you are going to make it safer for people out here on the streets is so absurd that it is not even funny. You are trying to fool the people, because you are not going to make it any safer. Crooks are still going to get their guns. They are still going to use their guns. They are not going to stop using them because of this.

So I urge you to support the McCollum amendment. It is the only sensible thing to do. Let us let each State decide what they want to do as far as gun control legislation is concerned.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to that notorious liberal, the gentleman from Illinois, Mr. Henry Hyde.

I understand it is just liberals who are opposing the McCollum amendment and I just wanted the record to show that it enjoys bipartisan support and support across ideological lines.

Mr. HYDE. Whatever that means, Mr. Chairman.

I just am going to explain my own feelings on this. As far as States rights, I certainly support States rights, but we have a society that is extremely mobile and getting more so all the time. These guns are ambulatory. They go across State lines in a matter of hours.

I think this is a national problem that really demands national consideration.

Second, I agree totally and completely that every American ought to be able to own a gun, a handgun.

I agree with the famous Senator from out West who once said, "There are three boxes that guarantee our freedom, the jury box, the ballot box, and if those fail, you have the cartridge box." I do not disagree with that.

I think in Poland if there were more handguns in Poland, I do not think Solidarity would be as oppressed as it is.

So I just want you to know, I am not against handguns, but I think a 7-day waiting period is eminently reasonable, because there are a lot of emotionally disturbed people out there, some of them angry. Just look at the Capitol Building or the White House and look at how we all hide behind concrete emplacements in anticipation of terrorists.

There are ex-convicts, criminals, and if you can make it a little more difficult for someone who is so angry he wants to kill somebody, but has to take 7 days to cool off, maybe you will save some lives.

The question is, is this Brady bill reasonable? I think it is constitutional and I think it is eminently reasonable.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. Mazzoli], a distinguished member of the Subcommittee on Crime.

Mr. MAZZOLI. Mr. Chairman, let me first say I rise in opposition to the McCollum amendment and in support of the committee bill, which includes the language that we call the Brady amendment.

Let me just for the Record, and I will ask when we go back into the House permission to place in the Record material which indicates that the Law Enforcement Steering Committee which came to Washington just last week, as we know, represents these law enforcement groups, which as corporate and institutional bodies are in favor of the current existing committee language:

The Federal Law Enforcement Officers Association.

The Fraternal Order of Police, and I would parenthetically mention that Ralph Orms of the Louisville Division of Police is a national officer and very active in this work.

The International Association of Chiefs of Police.

The International Brotherhood of Police Officers.

The major cities chief administrators.

The National Association of Police Organizations.

The National Organization of Black Law Enforcement Executives.

The National Trooper Coalition.

The Police Executive Research Forum.

The Police Foundation, and the Police Management Association.

I have letters from some of these groups which again I will put in the Record when we go into the House.

I would like to take a moment to commend my friend, the gentleman from New Jersey, and my friend, the gentleman from Ohio [Mr. Feighan], who waged a diligent effort here.

I certainly salute my friend, the gentleman from Florida [Mr. McCollum]. Most of the time we agree. This time we do not.

This is an eminently reasonable position.

This does not confiscate guns. This does not prohibit people from owning guns. It does not say to target marksmen. It does not tell hunters that they can no longer pursue their hobbies. It simply says that with respect to only handguns, and then only dealer transactions, there will be a 7-day waiting period during which not mandatorily, but discretionarily, the police can examine the records which have been filed, which is the name, address, where you are, and given a certain amount of time, 7 days to verify it.

I want to simply say, Mr. Chairman, that the provisions are reasonable. The intent is valid and I think in this day and age in urban America, it is very important to put a little bit of delay in there to let us find out who wants the guns, and in the event that the wrong people are asking, to prohibit them having that opportunity.

I believe it will be ultimately for the safety of America and I think make this Nation a better place in which to live.

Mr. Chairman, I rise today in support of the 7-day waiting period provision in H.R. 5210 and in opposition to the McCollum amendment. The provision requires a 7-day waiting period to elapse before a handgun could be purchased or transferred.

The provision was adopted by the Judiciary Committee on June 30 and was named the "Brady amendment" in tribute to James Brady—the President's Press Secretary who was shot and permanently injured in the 1981 assassination attempt on President Reagan—and his wife Sarah. It has been in large part through the hard work of Sarah Brady and members of the law enforcement community—including Sgt. Ralph Orms, of the Louisville Division of Police, who holds a national office with the Fraternal Order of Police—that the waiting period is included in the omnibus antidrug bill before the House today.

Sarah Brady was my honored guest in Louisville this past March, where we discussed the waiting period bill with local law enforcement, community leaders, and other interested groups. She exhibited during her day with us, wit, charm—and real stamina—as she answered friendly and not-so-friendly questions about the 7-day bill.

The Brady amendment would allow—but not mandate—law enforcement officers the chance to run a background check and verify sworn information provided by potential handgun purchasers. Such a check might have stopped Jim Brady's assailant who had lied about his address when he purchased the handgun in Texas he used to shoot President Reagan and Jim.

There are between 15,000 and 20,000 handgun-related deaths in America each year. The Brady amendment won't stop all of those. But, it has the potential to stop some of them.

Many opponents of the Brady amendment argue that we should be getting tougher on criminals who use handguns to ply their terrible trade instead of controlling access to handguns.

I agree wholeheartedly that those who use guns wrongfully should be remorselessly prosecuted. In the 98th Congress I supported and voted for the omnibus anticrime bill, which took a hard line against criminals, particularly those who use handguns in the commission of a crime. I also feel we should take a hard line against drug traffickers, and for this reason last week supported an amendment to this same bill calling for the death penalty for drug kingpins convicted of murder while furthering their dirty trade.

However, measures like the Brady amendment are necessary also. The Brady amendment can help keep handguns out of the hands of drug addicts, mentally ill persons, and convicted felons. It would also help us to prevent "heat of passion" crimes committed with handguns.

The Brady amendment would cover only dealer transactions, would not regulate long guns—shotguns or rifles—which are usually used by sportsmen, and would not prevent any responsible, law-abiding citizen from owning a handgun for personal protection, target practice, or any other lawful reason. The amendment includes a special waiver from the waiting period for law-abiding citizens in emergency situations who have a legitimate and immediate need for a handgun.

The old adage about an ounce of prevention holds true here. These days the "pound of cure" for violent crime is getting more and more expensive. Overcrowded prisons. Astronomical medical and rehabilitative costs for the victims. Not to mention the emotional costs to families and friends of the victims of violent crime. The need for that "ounce of prevention," such as the Brady amendment offers, is greater today than ever before.

The Brady amendment is a moderate and reasonable approach. It is supported by all the major law enforcement groups across the Nation. It is not the cure-all for our gun-related criminal activity. But it is a straightforward, logical and common-sensical approach that can help save human lives. I urge my colleagues to support the Brady language now in the bill and oppose all attempts to strike or weaken its provisions.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairmn, I rise in strong support of the 7-day waiting period included in the bill and in strong opposition to the amendment offered by the gentleman from Florida [Mr. MCCOLLUM], if this amendment is defeated, which I hope it is, I intend to oppose the amendment by the gentleman from Missouri, Mr. VOLKMER.

Most of us have recently been visited by representatives of the law enforcement community. As brought to the floor, H.R. 5210 is over 400 pages long. Yet, out of this 400-plus page bill, the one provision they really want to talk about is their strong support for the 7-day waiting period.

I think my colleagues should pay every close attention to what our police, those who are on the front line in the war on drugs, are telling us. They consider this section of the bill to be of great importance. The 7-day waiting period will give them a tool they can really use to reduce drug-related crimes in our neighborhoods.

My own State of Maryland has a 7-day waiting period law. Our experience has been that the law does exactly what we hoped it would do. The commander of the Maryland State Police firearms license section reports that in 1986, Maryland's law led to the detection of 732 prohibited handgun buyers trying to purchase handguns from legitimate gun dealers.

Yet any one of those 732 prohibited buyers could easily travel to a nearby State and purchase a handgun. And that is why a national waiting period is so necessary. Ask your local police officers. They will tell you about drug dealers who are involved in transporting guns they purchase in States without waiting periods to States like Maryland. Clearly, we must take steps to halt the drug trade. But it makes absolutely no sense to strike a provision which allows us get at the guns which protect that trade.

Finally Mr. Chairman, the 7-day waiting period is a reasonable measure. Any honest, law-abiding citizen, who wants to purchase a handgun, and who has every right to, will not have a problem waiting 7 days. But, for an individual who is buying a gun in a fit of anger or depression, a 7-day waiting period may literally mean the difference between life or death.

Mr. Chairman, I strongly urge my colleagues to reject this amendment and, if offered, the amendment by Mr. VOLKMER. A 7-day waiting period is a key element of the drug bill and deserves to be retained. Perhaps the International Union of Police Associations put it best, "this is a vote which can save lives."

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY], a former special agent of the FBI.

Mr. OXLEY. Mr. Chairman, I rise in opposition to the McCollum amendment, basically because it will not work. If you talk to people in the FBI that understand how the NCIC, the National Crime Information Center works, they do not want, for good reason, private individuals, non-law-enforcement personnel, to get into the NCIC computer. The opportunity for that kind of mischief is almost unbelievable.

So while I respect and generally agree with my friend, the gentleman from Florida, he is just plain wrong, frankly, on this one. We simply cannot even think about the possibility to allow gun dealers to tap into that kind of information that has been the providence of law enforcement, local law enforcement agencies.

Basically, what we are doing here is balancing the equities. The equities are pretty simple, it seems to me, and that is the relatively minor inconvenience of a maximum of 7-days' waiting period, it may even be shorter than that, but a maximum of a 7-day waiting period for the purchase of a handgun, against the public safety, and even more importantly, against the safety of the police officers who put their lives on the line everyday of the week for us and our constituents.

I think that is a fairly easy choice. As the gentleman from Illinois said, this is reasonable.

I would ask that the amendment be rejected, because basically if you believe in the Brady amendment and the concept of a waiting period, you have to vote against McCollum.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the 7-day waiting period for handgun purchases, known as the Brady amendment.

This amendment, supported by every major law enforcement group in the country, is opposed by the National Rifle Association [NRA]. Letters from the NRA, some almost hysterical, have been sent to the NRA membership in many congressional districts around the country.

I have always and will continue to oppose gun registration and laws restricting gun ownership. However, the NRA is off target on this legislation.

Mr. Chairman, I come from a State with a large percentage of gun owners, many of whom are NRA members. These people are decent, law-abiding family people who take seriously their constitutional right to own firearms. Most love the outdoors and frequently hunt as a family unit. Wisconsinites have a deep appreciation for our environment and are patriotic. These are hardworking Americans who do not ask for much but are quick to sacrifice for their country. And, like so many other Americans across the country, they are concerned about terrorism, crime rates, and the devastation of drugs. I have had the opportunity to listen to and share ideas with my constituents. While some expressed concern about this amendment, many acknowledged that certain protective measures must be taken and sacrifices made in order for this Nation to get a handle on the drug problem and crimes associated with illegal drug distribution. Many are also anxious to come to the aid and support of police authorities.

To clear up any misunderstanding, the Brady amendment would not establish a national handgun registration system, would not extend to private handgun sales, would not allow authorities to arbitrarily deny handgun purchases, and would not result in direct increased costs to the taxpayer. The NRA recognized several years ago that a waiting period would be effective in reducing crimes of passion and prevent people with criminal records and dangerous mental disorders easy access to handguns.

I supported a waiting period in 1975 when I was in the Wisconsin Legislature. I believed it was fair and responsible. So did the NRA. That remains my position today.

Mr. Chairman, if the NRA wishes to defeat Congress' singular effort this year to put an end to drug trafficking, that's a record with which they will have to live—not the gun owners, collectors, dealers and sportsmen. I'm not a blank proxy for the NRA—never have been, never will be.

I urge my colleagues to support the 7-day waiting period.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, why are we here today in the midst of debating a drug control measure talking about drugs? Because we are all very concerned that those who deal in drugs and commit crimes in our country use a weapon known as a gun in the carrying out of that crime; so we included in this bill today a provision which we thought would get at the criminal element of this country, so we are asking the criminal element of this country to now fill out an application and go through the legal process of getting a gun.

Well, I think as a sheriff in Florida said a few weeks ago, "That is the dumbest darn thing I have heard in a long time, because criminals in the very definition of their person don't play by the rules."

So what we are trying to devise in the McCollum-Staggers amendment is a process that will not take away the constitutional rights of we noncriminals, but will in effect devise a quick informational system that is not a tapping into of NCIC, but a wholly new system in itself, because I would agree with my colleague, the gentleman from Ohio, we do not want to give gun dealers that opportunity, but we want them to be able to quick check and we want to give to the law enforcement community of this country now today, a very effective measure which says that a felon on probation who is acquiring a firearm or attempting to or who is found with one will have his probation pulled and will go straight back to prison.

Now, that is effective crime control in this country and that is what we are asking for.

I think the law enforcement community of this country, if they could look clearly at the McCollum amendment, would say as some have told me, this gives them immediate access to tools to bring down the criminals of our country.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, like most of us, I support the rights of sane, law-abiding citizens, to own guns. I oppose Federal gun registeration. I voted for the Volkmer-McClure law, which made more sense out of the existing gun law, but I have come to the conclusion that the Brady amendment is a reasonable and sensible measure, not inconsistent with my philosophy or the constitutionally protected right to bear arms.

The Congress years ago passed Federal laws prohibiting certain classes of people who could not own firearms, criminals, people adjudicated mentally incompetent, illegal aliens and minors, from purchasing handguns. Nobody disagrees with those restrictions, but in most States there is no system to enforce them.

□ 1530

Simply put, there is no system to ensure the person who buys the handgun is not a convicted felon, is not a person judged mentally incompetent, is not an illegal alien and is not a minor.

Mr. Chairman, if we believe the bumper sticker claim that "people, not guns, are responsible for handgun deaths", how can we allow a person who everyone concedes has no business owning a handgun to buy one so easily? In this case, this amendment would prohibit people like John Hinckley from going to Texas, lying on his application, coming back to the District of Columbia and shooting the President of the United States and Jim Brady. It is not an unrestrictive provision. It is one that the overwhelming majority of Americans agree with.

The Brady amendment is not gun control. It is felon control. It will give law enforcement the opportunity to stop a sale before a gun gets into the wrong hands.

Wichita Police Chief Richard LaMunyon, one of the hundreds of law enforcement officers from and around the country who came here, told us that the Brady amendment is a badly needed tool in police efforts to combat drug trafficking, and it is not Federal gun registration.

Mr. Chairman, the Brady amendment, not the McCollum amendment, will save lives, helps our police officers who so desperately need it, and in the judgment of the common sense of over 80 percent of the American people in this country, they believe it, too. That is, the politics of this vote are in favor of a reasonable waiting period.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, I would like to engage the author of section 6503 of the Drug Omnibus Act of 1988, Mr. FEIGHAN of Ohio, in a brief colloquy.

As the gentleman knows, I have had some reservations concerning the 7-day waiting period language as it currently exists in the Drug Omnibus Act of 1988. Last month we came to an agreement that a de facto registration period was not intended by the 7-day waiting period language the Judiciary Committee included in this legislative package.

Mr. FEIGHAN. Mr. Chairman, if the gentleman will yield, the gentleman from Arizona is correct. The intent of the language is simply to create a minimum Federal standard of a 7-day waiting period.

Mr. RHODES. To reaffirm my own understanding and to provide clarification for my colleagues, is it the intent of the legislation for the law enforcement official to destroy not only the copy, but also any record containing information derived from such copy within 60 days?

Mr. FEIGHAN. Mr. Chairman, if the gentleman will yield once more, once again the gentleman is correct. The law enforcement officer should not simply destroy the copy sent to the law enforcement officer by the gun dealer, but also destroy any copies of the information he may take from the copy.

Mr. RHODES. I thank the gentleman for his courtesy and cooperation in this attempt for further clarification.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I am not necessarily opposed to the concept of the McCollum amendment except insofar as it would strike the 7-day waiting period provision contained in H.R. 5210.

So there will be no misunderstanding; I fully support a law-abiding citizen's constitutional right to bear arms and I would adamantly oppose any effort to repeal that prerogative. However, under current law, certain individuals have either forfeited that privilege or otherwise are not entitled to it. As you know, Mr. Chairman, current law prohibits convicted felons, those with a history of mental problems, drug abusers, illegal aliens and minors from purchasing a firearm. Unfortunately, our present system of justice is inadequate when it comes to identifying such individuals if they attempt to purchase a handgun. All these people have to do is sign an affidavit certifying that they do not fall into one of these categories and they can immediately buy the gun. Clearly, this loophole in the law must be plugged, and enactment of a reasonable waiting period to allow the authorities to check these individuals out is completely appropriate and necessary.

Nearly two dozen States are out front of the Federal Government on this issue and have enacted some form of waiting period laws. I commend those States for their leadership, but State and local waiting period statutes only offer a piecemeal solution to a problem that does not respect jurisdictional boundaries. A Federal waiting period requirement is needed because a criminal, or temporarily distressed individual, in a waiting period State can still buy a gun from a neighboring State that does not have a waiting period law on its books.

I would like to take a minute to address the campaign being waged against the waiting period by the National Rifle Association. Let me begin by saying that I have a number of friends and constituents who are members of the NRA and I have often looked to that organization for guidance on gun issues. In fact, I am voting no because I have long favored the concept of a waiting period, in part, because of the NRA's previous statement on the subject in their pamphlet entitled "On Firearms Control" and I don't think there is an inconsistency. According to that brochure, the NRA said, and I quote:

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring guns.

Now, a few years later, I am surprised to note that my NRA friends have changed their position and I am hearing them say such things as a waiting period "won't impact crime." Frankly, I think the NRA's earlier position on a waiting period is the correct one and is as valid today as it was when they previously supported it. I believe that a national waiting period can help reduce crime, and statistics that I have seen from the Justice Department and law enforcement organizations, many of which have already been cited here today, bear me out on this. For example, a 1985 Justice Department study found that 21 percent of felons in Florida obtained their handguns through gun dealers. The national president of the Fraternal Order Police, Dewey Stokes, who happens to be one of my constituents, advises me that police have apprehended thousands of felons attempting to purchase handguns from dealers in jurisdictions with waiting periods.

Approximately 21,000 people in the United States died from handguns in 1987. About 7,000 were homicides and 14,000 suicides. How many of those lives might have been spared if a national waiting period law was in place? Common sense and the experience of those States with waiting period laws tell us that a waiting period can curtail crime and it provides essential "cooling off" time for those in an unstable emotional state.

A few weeks ago I sent out a questionnaire to every postal patron in my congressional district. One of the questions I asked my constituents was if they would support a 7-day waiting period before a handgun could be purchased. An overwhelming 83 percent of those responding said they favor a waiting period. This admittedly unscientific survey is corroborated by a 1981 Gallup poll indicating that 91 percent of respondents favored a 21-day waiting period. Other more recent national samplings reflect a continued support for stricter laws governing the sale of handguns. I don't know how others in the House feel, but I support the language in this bill. These figures are a pretty clear indication to me about how the public stands on this issue.

Mr. Chairman, the President has spoken out in support of a waiting period, every major police organization in the Nation supports a waiting period, the people want a waiting period, and even the NRA is on record discussing the benefits of a waiting period. So isn't it time for us as members of the Federal legislature to be responsive and responsible to the public and enact this provision to protect our citizens. Passing a national handgun waiting period is just the sort of action that we are duty-bound to take, and I strongly urge my colleagues to support the language of H.R. 5210 named in honor of two courageous people, Jim and Sara Brady.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to a valued member of the Subcommittee on Crime, the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, as someone here said a little bit earlier, the bumper strip says it all: "Guns do not kill people, people do." This, in my view, is a tremendous argument against gun registration.

At the same time, it goes to the core of the argument we have here today, an argument whether we need or do not need a waiting period. Guns do not kill people. People do. The point here simply is that some people in our society simply should not have guns. Nobody suggests that convicts ought to have guns, ex-convicts ought to have guns, those people who are encumbered by drug use ought to have guns, other people with mental deficiencies ought to have guns. We all agree on that.

Mr. Chairman, we have determined in the past crime legislation that felons should not have guns.

In my 10 years in the Congress, I have fought against gun registration and banning of handguns. At the same time, I used to always fall back on the position first presented to me by the NRA that a waiting period was a reasonable alternative. In fact, as has been mentioned, their handout they used to give 10 years ago or so when I first came to Congress suggested that a waiting period was the appropriate response to the problem, and I used to say I was uncertain whether I supported a waiting period. I guess I had to wrestle in my own mind with my own inconsistency or consistency; if I was against banning handguns, if I was against national registration, but I said that certain people ought not to have them, how do I bring those arguments together and, frankly, I found the only way I could bring those arguments together, and that if I really believed that guns do not kill people but that people with guns do kill people, then I thought that a waiting period made sense.

Remember, this does not create a national waiting period. It says that there ought to be a 7-day waiting period, but that will be implemented and executed on the local government level. If the local government wants to say, "We want our Sheriff to do nothing with that information," they can do that. It is 7 days. The person can pick that gun up, and I do not think that they ought to, but they have the option to do that.

The other thing I would say to my colleagues as they have heard a lot from all sides on this, and they have had some outrageous letters sent to them, a waiting period is in the mainstream of public opinion.

I asked the CRS to find out when the last national poll was taken on this issue. They informed me that it was on July 12, 1981, by the Gallup organization. Let me just read you what the Gallup organization said at that time:

> Nine in 10 favor 21-day waiting period before gun purchase. The American people continue to hold sharply divergent views on banning the possession of handguns, but on one issue they are in nearly total agreement, requiring a 21-day waiting period before a gun can be purchased.

Mr. Chairman, I do not like opposing my friend, the gentleman from Florida [Mr. McCOLLUM], and I think I have probably only done it less than a handful of times since I have been in the Congress.

I have to search my own conscience and see where my consistency is, and what we ought to do.

I would ask the Members to please vote down the McCollum amendment and support the Brady amendment.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, let me emphasize that a vast majority of gun owners support law enforcement officers. However, when Marion Barry's troops march on the Capitol; when New Jersey antigun corps support and promote antiownership efforts then the armed citizens of this Nation are aroused and angered.

As I noted during debate on the rule, there are many of us who will have to vote against this much-needed drug interdiction bill because it contains a 7-day waiting period for the purchase of handguns.

It is indeed unfortunate that this bill has been burdened with this controversy. It indicates the desparation of the gun control advocates. I'm sure most of us would vote for the bill were it not for this section.

And let me add that I don't think there is anyone in this body who disagrees with the goal of stopping criminals from getting guns. But this language in this bill just won't get the job done.

Let's face it, when two-thirds of the States don't have a waiting period, Congress shouldn't be telling the States they must have a law and the costs involved that they have already decided they don't want.

Why is it that in the last 4 years no State has enacted a waiting period law, and over 30 States have passed so-called preemption laws which have removed literally dozens of local waiting period laws off the books.

Some cite the example of New Jersey as a model for how a waiting period has worked well. There are several problems with that example:

New Jersey doesn't just have a waiting period. Buyers must also have a permit to purchase. The permit requires local law enforcement authorities to conduct a thorough background investigation including sending fingerprints to the FBI for a report and doing a name search of State crime records. Some investigations include interviewing references and even requiring those references to come down to the police station.

So when waiting period supporters point to the number of felons caught trying to buy guns in New Jersey, they are talking about much more than a 7-day waiting period. They are talking about a process that takes anywhere from a few days to as long as 9 months. The length of time taken for the permit to purchase depends almost totally on the local sheriff or chief of police.

Col. Clinton Pagano of the New Jersey State Police told the State legislature that it is currently taking an average of 4 to 6 weeks to conduct the permit to purchase investigation, despite the fact that State law requires it to be done within 30 days.

The simple fact of the matter is that a 7-day waiting period won't stop criminals from getting guns. The New Jersey law catches a few, but only with a thorough background check that normally takes over a month to complete.

However, the McCollum amendment provides a workable alternative to the 7-day waiting period contained in this bill:

It addresses the problem of criminals getting all firearms, not just handguns;

It allows gun dealers to conduct their business knowing they have followed a federally prescribed procedure for identifying criminals—there would be no time lag for the dealer to send off the paper work to the buyer's hometown law enforcement officer;

And it removes the decision from those police chiefs who don't believe any citizen should own a gun and would use a waiting period to enforce that bias against the right of citizens to protect themselves.

There is an issue that I have not yet heard addressed. What happens if a local police chief, in a State that does not have a waiting period, decides that he doesn't want private citizens to own a gun, or, more importantly, if fearful of his liability in approving a purchase?

Instead of just doing a name check of his records, he routinely sends a letter to the dealer within the 7 days stating that he cannot be certain that the prospective buyer is not a felon, an illegal alien, dishonorably discharged from the military, or mentally incompetent.

What will a licensed gun dealer do if he received such a notification? I can tell you what most of the dealers I know would do, they wouldn't sell the gun for fear that they would end up in court if the buyer turned out to be ineligible to purchase a firearm.

There are some who will claim that this argument is just a smoke screen, so let me give you an example of what I'm talking about.

During testimony before the House Law and Public Safety Committee of the New Jersey Legislature, New Jersey resident Cathy Gormley revealed the following:

She wanted to purchase a handgun because she is a member of a shooting club. After applying for a permit to purchase, her request was denied by her local police chief.

Not only was she denied a permit to purchase, but the chief of police refused to take her phone calls and refused to give a written denial. After 6 months of phone calls and letters, she and her husband finally got to see the police chief.

The chief of police said that since the FBI had not completed the paperwork for their background check, he would only give a permit to purchase to someone he personally knows.

She finally went to court to get her permit to purchase, and the judge ruled that applicants should not be denied a permit to purchase just because the FBI couldn't get the job done in a timely fashion.

Others who wanted to join the shooting club told Mrs. Gormley that they couldn't because the police chief in their town had a policy of not issuing a permit to purchase.

The bottom line, Mr. Chairman, is that Cathy Gormley had the money to go to court and demand her rights. Others don't have that luxury, and therefore lose their rights. I urge my colleagues to support the McCollum amendment.

Don't vote for legislation that forces over 30 out of the 50 States to accept a waiting period law they have already rejected.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, in the peak 7 years of the Vietnam war, over 40,000 United States troops were killed. In that same timeframe, 50,000 Americans were murdered involving handguns.

As a former sheriff today, I rise to lay the blame right where it belongs: On Congress. We have done nothing.

America has become the graveyard of the world and Congress is nothing more than the coroner certifying dead bodies around here.

I appeal to all Members with any common sense who are not afraid of political opposition from powerful sources to start changing that today.

A 7-day waiting period is not really enough, but it is a start. I oppose the McCollum amendment, and I hope everybody in this body overwhelmingly does, because that is the signal that has to be sent to this country.

Mr. STAGGERS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I have listened to the argument. I heard that the McCollum amendment will not work, but the technology is there; there has been mentioned the credit card.

I have also heard that we need a cooling-off period, but there are other ways to commit murder. There are other ways to kill people.

I have heard that there is buying of guns in other States, and so we have to prohibit that.

Under the bill, the States do not have to do anything. We have heard that this will stop criminals, and as I mentioned earlier, 80 percent of the criminals get their weapons outside the system.

The McCollum amendment actually will do something. Right now the police do not have the tools to check. The McCollum amendment now will give them the tools to check.

Mr. Chairman, I would say that really what we need to do now is let the States handle their own problem. West Virginia, the State I am from, has the lowest crime rate, but it has one of the most liberal gun laws. If we want to do something, we should pass the McCollum amendment.

Mr. Chairman, if we want to pass gun control, if that is our purpose here, we should at least take notice of the second amendment. It is the least litigated amendment of the Constitution, but of the cases where it has been litigated, the court has spoken and said that this amendment restricts Congress from litigating on this question.

We should at least take passing notice of the second amendment, and the Supreme Court cases.

The McCollum amendment will give us the tools. The McCollum amendment will actually do something, not just do some sort of symbol to do it. We need the McCollum amendment if we are ever going to get tough on criminals.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, on October 13, 1981, John Hinckley strolled into a Dallas pawnshop and 10 minutes later walked out with the .22 caliber pistol that he used to shoot the President.

On May 20, 1988, Laurie Dann walked into Hubbard Woods Elementary School in Winnetka, IL, with a .357 magnum and opened fire on a classroom full of 8-year-olds. She wounded five children and one of those children, Nicholas Corwin, later died from his wounds.

George Fisher, the father of one of the children who was seriously wounded, is with us today to see whether Congress has the courage to adopt the Brady amendment and do something to stop this kind of violence to all the American people.

These are just two examples of misuse of handguns in the United States by mentally ill persons who should not have access to deadly weapons in the first place. Unfortunately, this same kind of scenario is repeated almost daily in our country.

Fortunately, we have at least a partial solution: require individuals to wait 7 days before taking possession of a handgun, and during that time conduct a check to see that mentally ill persons and convicted criminals cannot get one.

The McCollum amendment effectively knocks the waiting period out of the drug bill. It is nothing more than a red herring; a transparent subterfuge to replace real, effective legislation with an approach that cannot work.

I strongly urge Members to oppose the McCollum amendment. Stand with the Nation's police. Stand with Jim and Sara Brady. Have the courage to do something to stop the handgun carnage in America.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Chairman, today we are considering an extremely important provision of the omnibus drug initiative—a provision establishing a nationwide 7-day waiting period before purchasing a handgun, referred to as the Brady bill.

So many misconceptions about this matter have been manufactured that I fear we have lost sight of the real issue we are dealing with. As lawmakers it is our duty—our responsibility—to protect our Nation's citizens from harm. We should not be hung up on the issue of whether an individual has to wait a week before purchasing a handgun. Rather, we should be focusing on the fact that this 1 week will provide a "cooling off" period to prevent impulse purchases and shootings. We as a society should not be promoting random purchasing of handguns with no oversight. Instead we should be protecting others from unnecessary pain and suffering by attempting to keep handguns out of of the wrong hands.

According to the superintendent of the New Jersey State Police, in the 19 years that New Jersey has required a background check for handgun purchases, 10,000 convicted felons have been caught trying to buy handguns.

Police in Palm Beach, FL, credit an ordinance enacted in 1984 requiring a 7- to 14-day waiting period for handgun purchases with reducing homicides by 60 percent in the first quarter of 1985.

In the first 6 months after enactment of a 10-day waiting period in Broward County, FL, 37 applicants who were found to have past felony convictions, arrests and outstanding warrants were rejected.

In South Carolina, where there is no waiting period, police estimate that 300 to 350 guns each year are sold to people convicted of serious crimes, those who have been treated for mental disorders, or those who are otherwise proscribed from handgun ownership.

Most importantly, perhaps the best example of how a waiting period and background check would reduce crime and violence is the case of John Hinckley. Hinckley lied on the Federal form by using a fake address when he purchased his handgun—he was not a Texas resident. Had police been given the opportunity to discover his lie—a felony offense—Hinckley might well have been in jail instead of on his way to Washington to attempt to assassinate the President of the United States.

While State regulation is necessary and effective, we can no longer afford to rely on State regulations that are inconsistent from State to State. The Brady bill, overwhelmingly supported by every national police organization, will provide the needed uniform requirement.

Opponents of this provision claim their second amendment rights are being violated. Not true. The Brady bill, applying to licensed dealers only, would not allow law enforcement discretion to deny handgun purchases. The provision states that unless the sale would violate Federal, State, or local law, the sale can be completed after 7 days. If the sale is denied on the grounds that it is prohibited under existing Federal law, an appeal may be filed as currently provided in the 1986 Gun Control Act. This provision would not establish a national gun registration policy. Gun dealers are required to send a form to local law enforcement officials including the purchaser's name, address, and date of birth. However, the law requires that form to be destroyed within 60 days. Hence, police legally retain permanent records of handgun purchasers as a result of this measure.

I urge my colleagues to support the Brady bill, providing for a national 7-day waiting period before purchasing a handgun, language included in this drug bill, and to reject any amendments that would weaken its effectiveness.

□ 1545

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Ohio [Mr. FEIGHAN].

As the gentleman from Ohio knows, Tennessee law currently provides for a 15-day waiting period after a purchaser has filed an application before a handgun purchase can be finalized. During that time period, if the chief of police of the municipality or the sheriff of the county determines that the purchaser should be excluded by law from purchasing a handgun, they can stop the sale.

What is the effect of the 7-day waiting period called for in the Brady amendment on current Tennessee law (Tennessee Code annotated section 39-6-1704(c)) which already provides for a longer waiting period than the gentleman's amendment?

Mr. FEIGHAN. Mr. Chairman, if the gentleman will yield, the legislative history and the language of the Brady amendment clearly indicate that the Brady amendment will not alter or preempt the 15-day Tennessee waiting period law. It does not affect the waiting period in any way, period.

Mr. CLEMENT. Does that mean even if the Brady amendment passes and becomes law, folks in Tennessee will still be able to buy handguns and take possession of them in the same manner they do now? Would any further registration or paperwork be required? Would dealers be required to plug into some national network of gun registration under the gentleman's amendment?

Mr. FEIGHAN. Tennesseans would still be able to purchase handguns the way they do now. There would be no further registration requirements. A sworn statement would still have to be sent to local law enforcement under the Brady amendment. But, I have no objection to eliminating this extra paperwork through amendment or unanimous consent.

Mr. CLEMENT. What effect would the Brady amendment have on a clean transfer of a handgun in less than 7 days in Tennessee?

Mr. FEIGHAN. All Tennesseans would have to do is obey Tennessee law. If a background check is conducted and law enforcement determines a purchaser is eligible under law, then a purchaser could take possession in less than 7 days.

Mr. CLEMENT. I thank the gentleman for clarifying these points. With the assurance that Tennesseans would not be troubled with additional paperwork and delay in the purchase of handguns, I am happy to be able to support the Brady amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. Durbin].

Mr. DURBIN. Mr. Chairman, it is hard to believe that this is the same Chamber that has been debating a drug bill over the last several weeks, because the walls of this Chamber have been ringing with speeches by Members from both sides of the aisle consistently supporting the heroic efforts of our police to fight the narcotics network.

The police departments have come to us today and begged us to help them keep handguns out of the hands of felons, the mentally disturbed and the criminal elements, but because the NRA has whipped its membership into a frenzy, many Members who call themselves otherwise law and order candidates are willing to turn their backs at this moment on the police and vote against the Brady amendment.

My sportsmen and hunters in central Illinois are decent, law-abiding American citizens. They have been sold a bill of goods by the NRA. Waiting 7 days for a handgun is little or no inconvenience to the average American citizen or sportsman. But a 7-day waiting period may keep a gun out of a criminal's hand. It may save a life, and it may prevent a needless tragedy.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. Clinger].

Mr. CLINGER. Mr. Chairman, over the past months I have heard from about 400 or 500 of my constituents, I represent a very rural district in northwestern Pennsylvania, many of whom are hunters, target shooters, et cetera. They have not whipped me into a frenzy, but they have made some very persuasive points to me as to why the Brady amendment is not a good amendment. That is, the message has always been the same, the Government should punish criminals, not law-abiding citizens.

The Brady amendment actually punishes honest Americans who obey the law by allowing some nameless, faceless bureaucrats, or worse yet, computer to investigate people who are legally entitled to own firearms. And it intrudes into an area best left to the States.

In my State of Pennsylvania there is a 3-day waiting period. Here comes the Federal Government saying arbitrarily that is not enough, it should be 7 days. The McCollum amendment, on the other hand, would add some muscle to current law prohibiting convicted felons from owning firearms and give the general public an added measure of protection against those out of prison, on parole, or on probation who violate our trust and the law by possessing firearms.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. Morella].

Mrs. MORELLA. Mr. Chairman, last week I read that a man who killed himself with a pistol he bought a few days before he wrote in a suicide note that it is "scary" how easy it is to obtain a handgun. This handgun provision, known as the Brady bill, may or may not have prevented his suicide, but this modest waiting period has shown success in keeping guns out of the wrong hands. My own State of Maryland has had a waiting period for the purchase of a handgun for almost 20 years, and Maryland State Police report that they prevented 732 problem purchases in 1986 alone. Twenty-two States have a mandated waiting period for a handgun purchase, but it is easy to cross State lines to avoid a background check. Therefore, I rise in strong support of this federally mandated waiting period for the purchase of a handgun.

There is already a Federal law that prohibits criminals and the mentally ill from buying a handgun, but there is no time to check out the potential purchaser. This Brady bill is a necessary adjunct to an already existing law. Many Americans have no idea how easy it is to buy a handgun. Currently, in States without waiting periods or background checks, prohibited handgun buyers are able to walk into gun stores and instantly walk out with handguns.

Mandating a waiting period for the purchase of a handgun may substantially alter some of the upsetting statistics recently quoted by former Supreme Court Justice Lewis Powell that approximately 60 percent of murders in the United States are committed with firearms, while only 8 percent of homicides in England and Wales in 1986 were committed with guns. Justice Powell stated,

> "With respect to handgun. * * * it is not easy to understand why the second amendment should be viewed as creating a right to own and carry a weapon that contributes so directly to the shocking number of murders in the United States."

Mr. Chairman, I urge my colleagues to vote for public safety and law enforcement and support the waiting period for a handgun purchase. The "right to bear arms" was never meant to help drug gangsters or promote a lucrative gun-running trade. In 20th-century America, our lax gun laws often help the wrong people. Let us support a measure that virtually every major law enforcement organization supports. I urge my colleagues to support the Brady amendment.

Mr. STAGGERS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. DeWine].

Mr. DeWINE. Mr. Chairman, this has been a tough issue for me. As a former prosecuting attorney though, I think the issue boils down to this: How can we effectively come up with a system that really works? Is it the McCollum amendment or is it the bill as currently written?

I have thought about it, and it is my conclusion that the McCollum amendment gives us the best chance to do this. There has been a lot of rhetoric, a lot of heat, particularly outside this Chamber about the bill, maybe not so much light, but there are certain facts I think we all can agree on.

What are those facts? Yes, the bill as written will do certain things. We are going to get some felons, there is no doubt about it. Some are going to be stupid enough to go in and to try and buy a gun even under this bill, no doubt about it. We are going to get some.

And it is a cooling-off period. If Members like cooling-off periods, it is in the bill.

Finally, there is going to be a fringe benefit that we are going to find some guns that have been stolen.

But what are some of the other basic facts? We have to look at what we are doing. This is an identification system.

Last week when I was home I spent a whole day talking to different law enforcement officials. I went into one of my local chiefs of police and I was describing the bill to him. He said, "Well, what information goes into the computer?" I said the name, date of birth and current address. He said, "Well, Mike, what about other addresses, former addresses," he said. "That's very important," he said.

"No, no, that doesn't go in." He said, "Well, Mike, what about Social Security numbers? Does that go in then?" I said, "No, the bill doesn't require that."

He threw up his hands and he said, "This bill is virtually useless."

We talked for another 45 minutes, and the final conclusion he has was, "You will get some, you will catch some, but it's not a very good bill. It's not a very good system."

Frankly, it is like Swiss cheese, there are more holes than there is cheese in it.

What are some of the other problems, where do some of the other holes come from?

There is no requirement, for example, that the local police agency do anything with the information. They have 7 days, and they can throw it in the wastepaper basket.

And then what about the NCI system? We talk about this as a national system. Folks, it is not a national system. Twenty States are not really in it. They are in it by index. What does that mean? It means that when we send out the information, the teletype goes to Washington, they then run it on the index, and you may have a hit or you may not have a hit in one of those 20 States, depending upon the competency of the information going in. But even if you get a hit, you cannot get the information directly. Then it relies on the relationship between that local law enforcement agency in that State and the other State, and it may be good, it may be bad, they may get the information, they may not. Even if they get the information in these 20 States, guess what? If you were born before 1956, you have a free ride because they do not index it before 1956. And they go by the date.

What goes in is your name, address, date of birth.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. DeWine] has expired.

Mr. McCOLLUM. Mr. Chairman, I yield the gentleman from Ohio 1 minute.

Mr. DeWINE. What goes in is your name, address, date of birth, Richard Michael DeWine, January 5, 1947. Probably there are not too many Richard Michael DeWines in 1947, at least I am not aware of any. So it might be OK with me. But what if you have a more common name and what if you move around a lot?

There are a lot of holes in this and a lot of serious problems. I think the best chance is to go with the McCollum amendment. Kick the FBI a little bit and say FBI, you come back with a system. You are good enough to come back with a system, and if you cannot do it, come back here and tell us. They will come back with a system, and they will tell us what it will cost, and then we will have the information to make a rational decision about this. We do not have the information on the floor today.

This is illusory. It looks good, sounds good, feels good, and we can then all walk out of here and pat ourselves on the back and tell everybody we have done something good. And I do not question anybody's motives. This is a tough call. But let us do something real instead of doing something illusory.

Vote for the McCollum amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. Miller].

Mr. MILLER of Washington. Mr. Chairman, I rise in opposition to the McCollum amendment and in support of the 7-day waiting period contained in the omnibus drug bill.

Mr. Chairman, we are not talking about a national system of registration. We are not talking about taking weapons away from law abiding citizens. And, we are not talking about gutting the second amendment to the Constitution.

This is a simple provision which, after careful consideration, was included in this bill with the support of almost every major law enforcement organization in the Nation.

We are talking about a provision that could have prevented an attempted assassination of the President of the United States. This provision could have prevented the crippling of James Brady, the President's press secretary.

We are talking about a provision that according to police officers, will make their jobs a little safer.

Some of its critics say this measure violates the second amendment to the Constitution. Well, Mr. Chairman, in Washington State, we have a similar law on the books. Our State law requires citizens without a concealed weapons permit, to wait 5 days before completing the purchase of a handgun. This law has stood the test of constitutionality.

The 7-day waiting period is mandatory, the background check is discretionary. So, for a State like Washington, which has its own procedures in place, this bill will give law enforcement 2 additional days to conduct the check they are already making.

Mr. Chairman, in the name of zero tolerance, this House has passed some pretty silly legislation over the last few months—legislation of dubious constitutionality and even shakier efficacy. Today let's approve something that actually works. Let's pass the Brady amendment that will actually help law enforcement agencies fight the tide of drug-related violence sweeping through every major American city.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. Nichols].

Mr. NICHOLS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Brady amendment which has the support of the House Judiciary Committee and a sizable segment of law enforcement agencies throughout America.

First, let me say, Mr. Chairman, that I have been an avid sports hunter now for better than one-half century having grown up on a sling shot shooting sparrows, blue jays, graduating to a 22 rifle and currently owning some 10 or 12 firearms. As a matter of fact, I expect that no one in the Congress spends more time in the fall in the field or in a goose blind on the Eastern Shore enjoying my favorite sport.

I am, likewise a strong supporter of the fine service provided to the hunters throughout my State of Alabama and the Nation by the National Rifle Association. I look forward to their magazine each month and I have worked with them on other occasions supporting the provisions of the second amendment to the U.S. Constitution. But on this Brady amendment, Mr. Chairman, they are wrong.

The Brady amendment does nothing to prevent a legitimate hunter from owning a firearm. It does, however, permit law enforcement officials to examine the record of each individual applying through a licensed dealer. Now you tell me what is wrong with this? The police in this country think there is a heck of a lot of right to it and so do I. I am certainly not so naive to believe that the enactment of the Brady amendment is going to assure that no convicted felon, hard drug addict or mentally incompetent individuals from obtaining a firearm. But the Brady amendment should, in my judgment, be helpful to our law enforcement officers in perhaps screening out some of these individuals who would use that handgun not for target practice or for plinking a small game or for protecting one's property, but for malice to innocent victims.

Mr. McCOLLUM. Mr. Chairman, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. Ridge].

Mr. RIDGE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, clearly there is no dispute that the objective of this waiting period is a worthy one. There are certainly people to whom no one would want to sell a handgun under any circumstances, and we all seek ways to reduce drug-related crime or drug use. So clearly there is no dispute with regard to the objective of a waiting period.

But I respectfully suggest to my colleagues that this waiting period as designed in and of itself does not accomplish any of these goals. It is not the waiting period that is important. Let me say that again. It is not the waiting period that is important. It is the accessibility and the reliability of information about the kinds of people to whom we do not want to sell the handguns that is important.

That is the intent, the desire, the focus of the McCollum amendment. The waiting period does not serve the public or the law enforcement community unless the information about convicted felons is accurate, unless the information about mental incompetence or those individuals suffering from some kind of mental illness or disability is accurate, unless the information about someone's residency, or citizenship is accessible and accurate. There is nothing in this waiting period, these 7 days, that really gets to the heart of the issue. The McCollum amendment seeks to remedy this problem by providing access to reliable information so that we can ensure that if and when a waiting period is utilized and adopted the information needed to make the waiting period effective would be available. I think if we knew our law enforcement community had immediate access to this kind of information, the need there would probably be even broader bipartisan support, but remember we need accessibility and reliability.

Mr. Chairman, think about it for a moment. You can go in and make a purchase with a credit card and they will tell you whether or not your credit card is legitimate or stolen, they will tell you whether or not you have exceeded your credit limit. Hundreds of millions of these transactions occur annually throughout this country. Our colleague from Florida seeks a similar system where we can identify with reliable information the kinds of people to whom none of us would sell these handguns.

I encourage my colleagues to support the McCollum amendment.

□ 1600

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in support of the Brady amendment but more importantly I rise in support of common sense. Within the past hour in preparation for this very important vote, I have talked with sheriffs, with district attorneys, with county judges, people who have the responsibility to be in the frontlines in the fight against crime. All of them have asked me to support the Brady amendment because it makes sense. And in defense of the much-maligned New York, I would like to point out that we have one of the toughest laws in the country. In New York State if you wish to purchase a handgun, there is an FBI fingerprint check, there is a check of the State police records, there is a check on mental hygiene, and there are four references that have to be filed, written references and they too are checked.

New York is not the problem, the law in New York is not the problem; the problem is in those other areas of the United States where people can walk in off the street and buy a gun just like that and go out and kill.

Mr. Chairman, I urge support of the Brady amendment.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. SMITH], a very valuable member of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the Committee on the Judiciary for having had the foresight to vote out this bill with the Brady amendment in it.

Let us be very clear on this: The McCollum amendment seeks to strike a provision of the existing bill that many Members have had a hand in crafting already.

Let me point out something that has not entered this debate yet at all: children, yes, children.

In my area alone in south Florida, 40 children have died in the last year from gunshot wounds inflicted either by themselves because they were playing with guns or inflicted by others, mostly children.

This bill does not address the ownership of handguns, but it does bring into focus what is important. One of the gentlemen on the other side brought it up: People die from being shot by guns; kids die and old people die.

I was in the Florida legislature for a number of years and we worked hard trying to craft a good, important way to control the distribution of handguns through waiting periods. We left it to the individual localities. And they installed waiting periods.

Dade County had one. The first time I ever saw the value of a national waiting period, at least a statewide waiting period was when an elderly man from Dade County who was obviously mentally upset could not get a handgun in Dade County, went across the line to my own county, Broward, which had no waiting period, walked into a shop, bought a gun, walked into a parking lot next door to my office and blew his brains out. It is that simple.

No one knows whether or not he would have not done it had there been a waiting period of 7 days so he could not have gone anywhere and gotten that gun immediately.

But I will tell you something. If he was my father or my wife's father, I would have wanted a 7-day waiting period everywhere in this country so that he did not have a choice.

I have a letter that I got—and I represent the 16th District of south Florida—a letter from a couple in Texas, from Granbury, TX. Their son was shot to death by a man who was on probation that walked into a sporting goods store, filled out a form, did not even sign it, plunked down $675 in a bad check, walked out with a semiautomatic Uzi, which are open for sale in many States, including mine—God forgive—100 rounds of 9-millimeter ammunition and in 2 days shot their kids through a window. Is that what you want for this country? Support the Brady amendment.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, as a member of the National Rifle Association, I rise in strong support of the McCollum amendment.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, we have just heard that a waiting period will save children from killing themsleves with handguns they should never have been allowed to get their hands on. I do not understand the logic of that and I do not think we should be asked to try to make that a logical statement.

We have also been told that if a 7-day waiting period had been in place, Hinckley would never have had or been able to fire upon Jim Brady. Mr. Hinckley had his gun for 6 months before he used it on that terrible day. Mr. Hinckley had no recorded mental record.

That young lady that walked into the classrooms of Illinois, we have just been told that if we had a 7-day waiting period that would not have happened. That is wrong, that statement was wrong, should not have been made on this floor in relation to this bill, because she had no recorded mental record.

No background check would ever have caught her in her effort to buy a firearm.

Now those are the facts, folks. We ought not be pushed to judgment here. We ought to ask the simple question: Are we out to clearly identify the criminal element in this country and restrict that criminal element from owning or having access to a handgun while making, as my colleague from West Virginia said a few minutes ago, making sure in the process that we do not trample upon the rights of those free citizens like all of us here and almost all of our constituents who have a constitutional right not to be required by this Government to have a law enforcement agent suggest through a certain mechanism that they may or may not have the right to own a gun.

Mr. STAGGERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have heard about courage. I would say if we want to show our courage we would pass McCollum.

I would remind my colleagues of the language which McCollum says, which says that we shall, which mandates, develop a system for immediate and accurate identification of felons. If police officers have contacted individual Members and they want to do something, they should go back to their States by all means and do what they can to have gun control in their States, but not in States that have chosen not to.

In reference to the NRA, I would say to my colleagues that Bill McCollum drafted his amendment before the NRA contacted anyone. If we want to do something about criminals, if we want to get tough and revoke probations and paroles, we should pass McCollum, we should give the police in States that choose to, the tools that right now they do not have and with McCollum we would give them those tools. We should pass McCollum, we should get tough on criminals.

The CHAIRMAN. All time of the gentleman from West Virginia [Mr. Staggers] has expired.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. Cooper].

Mr. COOPER. I thank the gentleman for yielding. I would like to insert at this point in the Record two letters that I have received from the principal sponsors of the Brady amendment, Mr. Metzenbaum and Mr. Feighan. These letters are part of the legislative history of the Brady amendment and indicate that the amendment would not apply to Tennessee.

My colleague, Bob Clement had a colloquy with Mr. Feighan earlier in the debate, and these letters support the substance of that colloquy.

The letters follow:

House of Representatives,
Washington, DC, September 8, 1988.
Hon. Jim Cooper,
Cannon House Office Building,
Washington, DC.

Dear Jim: I understand you have raised concerns that the Brady Amendment in its current form could require that the citizens of Tennessee comply with the paperwork requirements of both the Brady Amendments and the Tennessee 15-day waiting period law.

It has always been my intent that the Brady Amendment not apply to any state which has a waiting period of 7 days or longer, or which requires a legitimate background check. When the provision was drafted, House Legislative Council recommended that we accomplish this through the pre-emption provisions currently in the Brady Amendment.

We now believe this can be more clearly established by changing the pre-emption provision in the Brady Amendment to read as follows:

"This subsection does not apply with respect to any transfer of a handgun which occurs in a state that—

"(A) imposes a waiting period of at least 7 days before the transfer of a handgun; or

"(B) requires that, before a handgun transfer is completed, a law enforcement officer shall determine that the transferee is qualified under law to receive a handgun."

Accordingly, I will work—either through a technical correction or in Conference—to include this pre-emption language in the Brady Amendment. I also understand that Senator Metzenbaum, the sponsor of the companion measure in the Senate, has promised to include this language when he offers the Brady Amendment to the Senate's anti-drug initiative.

Let me assure you that I do not want to require Tennesseans to encounter any additional delay or paperwork as a result of the Brady Amendment. Since Tennessee already has a maximum 15-day waiting period and a law enforcement officer must make a determination of eligibility prior to the sale, we intend to ensure that Tennessee is exempted from the provisions of the Brady Amendment.

Please let me know if I can be of any additional help.

Sincerely,

Edward F. Feighan,
Member of Congress.

U.S. Senate,
Committee on the Judiciary,
Washington, DC, September 8, 1988.
Hon. Jim Cooper,
Cannon House Office Building,
Washington, DC.

Dear Jim: I understand that you have raised concerns that the Brady Amendment in its current form could require that the citizens of Tennessee comply with both the Brady Amendment and with the existing Tennessee 15 day waiting period law, Section 39-6-1704.

It has always been my intent that the Brady Amendment not apply to any state which has a waiting period of 7 days or longer. When the legislation was drafted, Senate legislative counsel recommended that we accomplish this by amending the pre-emption provisions of Section 927 of Title 18.

We now believe this can be more clearly established by instead inserting a provision that will read as follows:

"This subsection does not apply with respect to any transfer of a handgun which occurs in a state that—

"(A) imposes a waiting period of at least 7 days before the transfer of a handgun; or

(B) requires that, before a handgun transfer is completed, a law enforcement officer shall determine that the transferee is qualified under law to receive a handgun."

Accordingly, when I offer the Brady Amendment in the Senate, this language will be included.

I can assure you that neither I nor the other supporters of this legislation want to require any Tennessean to encounter any additional delay or paper work as a result of the Brady Amendment. Since Tennessee already has a maximum 15 day waiting period and a law enforcement officer must make a determination prior to the sale, we intend to exempt Tennessee from the Brady Amendment.

Please let me know if I can be of any additional assistance on this matter.

Sincerely,

Howard M. Metzenbaum,
U.S. Senator.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Downey].

Mr. DOWNEY of New York. Mr. Chairman, this amendment will save lives. I rise in strong support.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Mrazek].

Mr. MRAZEK. Mr. Chairman, I also rise in support of the Brady amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Chairman, 6 years ago this winter a woman from my home town, Pittsfield, MA, walked into a local gunshop and bought a handgun.

She left the shop, bundled up her 9-year-old son and her 5-year-old daughter in the car, drove to the Pittsfield Cemetery, and shot both her children and herself. The police found their frozen bodies a few days later.

Melinda Daniels never should have been able to leave that shop with a handgun. A few weeks before she had been in the psychiatric ward at the Berkshire Medical Center. Her husband and friends knew she was suicidal.

If the Brady amendment had been in effect then, she never would have walked out of the gunshop with a handgun.

Mr. Chairman, the 7-day waiting period does not deny a citizen the right to own a handgun.

It is a modest restraint against the injudicious sale of a handgun to someone, maybe a drug-dealing criminal or an emotionally disturbed person, who is either not fit to handle a handgun, or is going to use it for criminal acts.

No one who uses handguns responsibly wants to see those people with handguns. I certainly don't. My sportsmen friends don't. One friend of mine just wrote to me and said, "Sil, I've been a member of the NRA for almost 40 years, but NRA or no NRA, we need a nationwide waiting period for handgun purchases. The frontier days have been over for a long time."

Seven days is not a long time to wait, but it may be time enough to keep someone from impulsively buying and using a handgun. Seven days might have saved the lives of Melinda Daniels and her children. Seven days can help to avoid a future tragedy.

I'm going to vote to keep the Brady amendment part of the drug bill, and I ask my friends to support it as well.

Mr. McCOLLUM. Mr. Chairman, may I inquire as to the time remaining?

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] has 5½ minutes remaining and the gentleman from New Jersey [Mr. Hughes] has 5 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 30 seconds to the gentleman from Idaho [Mr. Stallings].

Mr. STALLINGS. Mr. Chairman, I rise today as a strong supporter of the drug bill. There is no question that we must declare an all-out war on drug abuse in our Nation.

This antidrug bill is well crafted and has strong bipartisan support. It would provide us with the weapons we need to combat the drug war.

But Mr. Chairman, it is important not to weaken this effort by including this gun control amendment.

In plain and simple terms, I oppose the Brady amendment. The fact is the majority of State legislatures have considered and rejected waiting periods for handgun purchases and the Brady amendment represents an unacceptable Federal intrusion into an area which should be left up to the individual States—what is good for New York and Florida is not necessarily good for Idaho.

The McCollum amendment is a stronger and more effective tool. It would ultimately allow for the immediate identification of felons, drug abusers, illegal aliens, or mentally incompetent individuals attempting to purchase any firearm—not just handguns. And equally important, it would not infringe upon the rights of law-abiding citizens.

Study after study reveals that an overwhelming percentage of criminals obtain handguns in ways that would be unaffected by waiting periods. Criminals get their guns from friends, the street, fences, the black market, and their drug dealers, not through legitimate business channels.

And the McCollum amendment would require the immediate revokation of parole and probation of criminals who are caught in possession of a firearm.

I strongly support the efforts to strike this handgun control provision. I would hope that we are not left with the intolerable choice of either surrendering our constitutional rights or surrendering to the war on drugs.

Mr. FORD of Michigan. Mr. Chairman, I am a hunter and an owner of several guns and rifles. And I rise today in strong support of the Brady amendment, section 6503 of the Omnibus Drug Initiative Act of 1988. This provision provides for a 7-day waiting period before the purchase of a handgun from a dealer, during which time the name and address of the handgun buyer would be sent to local police. The police would then have the opportunity to confirm the handgun purchaser's, residency information and check whether the buyer has a criminal history or a record of violent mental illness. The Brady amendment would make no change in the way handguns are bought and sold in Michigan, since the amendment specifically excludes Michigan and other States with licensing statutes from its application.

The NRA has claimed, incorrectly, that this is national gun registration and violates a citizen's second amendment right to bear arms. The Brady provision requires that records of the background check be destroyed 60 days after the check is completed, which prevents the establishment of gun registration. It is only the criminal whose right to purchase a handgun will be denied, not the law-abiding citizen.

In my State of Michigan, a license to purchase must be obtained by each and every individual before the purchase of a pistol or revolver is made. No license is granted to any individual unless he is at least 18 years of age and a citizen of the United States, and has resided in Michigan for at least 6 months. In addition, a license is never issued to an individual who has been convicted of a felony, has served a jail sentence during the 8-year period immediately preceding the date of application, or has been declared insane. The Brady provision would not preempt Michigan's law.

The NRA also claims, incorrectly, that this provision is an invasion of privacy. Waiting 7 days to take possession of a deadly firearm is not an invasion of privacy. Yet, the amendment they support, known as the McCollum amendment, does intrude on an individual's privacy rights. The McCollum amendment calls for a study of a national automated system for screening felons who apply for handguns. Over 275,000 licensed gun dealers would be required to obtain an FBI clearance for anyone wanting to buy a gun and would have access to police information on every gun purchaser.

Not only does the McCollum amendment pose a privacy problem, it also has a cost problem. It is estimated that it will cost between $250 and $500 million to implement this type of system. The Congressional Budget Office [CBO] provided the Judiciary Committee with an official estimate of the costs of a 7-day waiting period. They concluded that the resources for this purpose would probably total $5 to $10 million a year. In addition, CBO stated that because the effects would be spread over a large number of local jurisdictions, the impact on any given jurisdiction is likely to be small. In the case of Michigan there would be no cost at all.

Some have suggested that the waiting period would not be effective because criminals do not acquire firearms by legitimate means. In New Jersey, police have prevented 10,000 convicted felons from purchasing handguns during the 19 years that the State has required a background check. In 1986 the State of Maryland denied 750 applicants from purchasing a handgun because the background check performed on them showed that they were felons. That is 750 fewer guns in circulation that would have been used to commit crimes against innocent victims. We can only guess how many lives were saved because of these denials. The State of New York has a waiting period requirement, but several neighboring States do not. A Federal study shows that more than 90 percent of the handguns used in crime in New York City were bought in States without waiting periods. When it is this easy to purchase a gun, criminals do not need to risk stealing or buying one on the black market. The 7-day waiting period is necessary because it is currently too simple for a criminal to go to a State—like Ohio—and purchase a gun without a background check or a waiting period, and then transport the gun to a State—like Michigan—with strict purchaser screening laws.

This point cannot be given too much emphasis. I was recently visited by Richard Ringer, the president of the Police Officers Association of the city of Westland. He told me of two recent, bloody crimes committed in Westland with guns purchased in Ohio. Mr. Ringer was accompanied by Laura Dubiel, also of Westland, the widow of a police officer who was murdered last year in Inkster, Michigan while in the line of duty. Their arguments carried great weight with me.

The Law Enforcement Steering Committee, consisting of 11 policing organizations, and the International Union of Police Associations support this legislation; in fact, in the past the NRA itself has endorsed a waiting period which is "clearly specified, fixed, and reasonable in time, after which the firearm should be delivered unless the purchaser is disqualified by the police." The Brady provision is exactly what the NRA has supported in the past.

It is time for the States uniformly to tell criminals that they are not permitted the right to purchase a handgun—which would only be used to deny innocent victims their lives and property. The Brady provision provides an opportunity to decrease the number of handguns that get into the hands of criminals.

Mr. FRENZEL. Mr. Chairman, this amendment puzzles me because it is based on a system which doesn't exist. The amendment assumes the Attorney General will invent a scheme that up until now has eluded everyone who has worked on this problem. It is not a secret that the amendment is mostly designed to kill the Brady amendment which is, at least to me, just as flawed as the McCollum amendment.

The problem with the Brady amendment is the registration provision which requires the serial number of the firearm and a description of it. The description and number serve no purpose to the described intent of the Brady amendment, but do make gun owners nervous even if they are destroyed after 60 days.

The net of this section of the bill is that neither alternative is acceptable to me. The Brady amendment, if it can be sanitized by removal of the serial number and description, as seems possible in the Senate, would be acceptable. It would then be in about the same form as Minnesota's current 7-day waiting law.

I regret that the rule under which the bill is being handled did not permit unrestricted amendments. As it is, I am obliged to oppose all the alternatives that are now available.

Mr. DORGAN of North Dakota. Mr. Chairman, the question before us today is how do we identify and prevent felons from buying a handgun. Some argue that a national 7-day waiting period is the most effective approach. Others argue that the 7-day waiting period will be ineffective because the current information available is not complete enough to detect the felons who would attempt to buy a handgun.

My own feeling is that the determination of whether a waiting period is appropriate should be up to the individual States. They know whether it is necessary in their area and whether it will be effective in their area.

The McCollum amendment seems to me to be the right step in trying to develop a system of preventing felons from buying handguns.

It seems to me that there must be some way of having a data base that would contain the names of convicted felons so that a handgun dealer could key in a name and determine whether a potential handgun purchaser is on that list.

Every day in millions of stores in America, they dial in a credit card number to determine from a base of data information whether the card is valid, stolen, or delinquent. Why can't that same type of system be available for a number of different uses in the law enforcement area? I think it can be available if we require its development.

Judges, parole boards, probation officers, and others need and should have available to them this information anyway. It seems to me that the same type of information should be available to prevent the sale of handguns to felons.

The McCollum amendment will force the development of this system and I think it is a step in the right direction for a number of different objectives.

Mr. COYNE. Mr. Chairman, in the last few days, some of the finest and most dedicated law enforcement officers in the country—men and women who are on the front lines in the fight against violent crime—have come to Washington with a very important message: "Seven Days Can Save a Life."

What they are telling us is that to fight crime more effectively and help make our country a safer place to live, it is time that we have a national 7-day waiting period to allow local law enforcement to conduct background checks on handgun purchasers. We have before us the Brady amendment, which would establish that waiting period.

It is important for us to keep in mind what the Brady amendment would not do. It would not keep guns out of the hands of anyone who is entitled to own them now. The Brady amendment would not affect private sales or transfers of handguns. The Brady amendment would not create a permanent record for law-abiding handgun purchasers, since all records of their purchases would have to be destroyed within 60 days.

What the Brady amendment would do is to provide law enforcement agencies with a tool to help ensure that the people who are already forbidden to purchase handguns will not be able to evade the law as easily as they can now.

This would put a brake on the violence of the drug gangs and convicted felons. They routinely use handguns to terrorize communities, and they have murdered literally thousands of people—including law enforcement officials—over the last 5 years. Yet it often does not take much longer for a convicted criminal to buy a handgun from a dealer than it takes to buy a roast-beef sandwich down the street at a fast-food restaurant.

Can a 7-day waiting period actually work? Our law enforcement officials know it can. They have the evidence. Ask the commander of the Maryland State Police Firearms License Section. He reports that in 1986 alone, the authorities caught 732 people forbidden to purchase handguns when they tried to purchase the guns from dealers.

Or ask the California Department of Justice. According to their figures, more than 1,500 prohibited handgun buyers were caught because of the 15-day waiting period in that State.

Unfortunately, there are too many States and localities that have no such waiting periods in effect. This means that a 10-minute car ride to a different State or city is often all it takes to evade a waiting period. State and local legislation is not enough. We in Washington need to act.

If the Brady amendment becomes law, we will never know how many lives are saved as a result. If we vote for the 7-day waiting period, the best GAO investigators will never be able to calculate how many gang battles do not take place, how many police officers are not wounded, how many innocent citizens can walk the streets just a little more freely.

The law enforcement officers who are here to support the Brady amendment, and those of us who support them, are not promising that this bill will somehow rid the Nation of all violent crime. But it is true that 7 days could save a life. That is enough to make this legislation well worth passing, and I urge my colleagues to join me in voting for it.

Mr. BRENNAN. Mr. Chairman, in my years of public service, I have consistently supported the rights of law-abiding gunowners. Today is no exception as we close debate on a proposal to implement a national waiting period on the purchase of handguns.

For weeks I have discussed this issue with the people of my district. In the final analysis I fail to see how this proposal will make our Nation—and particularly my State of Maine—a safer place.

My primary concern is that this waiting period attempts to addess a problem on a national level that not all States are experiencing. Over the past 15 years, many States have considered a waiting period after assessing their individual crime statistics and have rejected it as unnecessary. Maine is one of those States.

But even in the absence of this overriding concern, I seriously question the effectiveness of this particular proposal in achieving its goal of preventing handgun crime. First, the bill only gives local law enforcement officers the option of conducting a background check on would-be purchasers. If they choose not to do so, it is entirely within their discretion.

Second, even though it permits a background check, the bill fails to provide funding to carry out the procedure. Third, no studies I have found have shown a correlation between gun laws and drug-related crime.

For these reasons, I believe a waiting period is better left to individual States to implement as they see fit.

Mrs. KENNELLY. Mr. Chairman, I rise in opposition to the McCollum/Volkmer amendment. As a representative from a State which already requires a 2-week waiting period and a cosponsor of the so-called Brady amendment, I think the time has come for a national standard because most States have no waiting period at all.

Now I realize this bill will be inconvenient for some Connecticut residents—namely, those who have already obtained a State or local gun permit and are thus exempted from the 2-week State waiting period—they will be required to wait 7 days. However, I believe the inconvenience is justified if it saves just one life.

My hometown of Hartford, CT, has had seven recent "drive by" drug related murders. If we are ever going to get serious about fighting the war on drugs, we must reduce the ability of drug dealers to terrorize and intimidate our citizens; limiting their access to handguns is an absolutely essential part of this effort.

There is mounting evidence that gun smuggling has become an increasingly violent sideline for drug dealers, with drug traffickers transporting huge numbers of weapons across State lines to stock their arsenals. Now, I know some would suggest that a waiting period won't be effective because criminals will get their guns illegally. Well I don't think we should give in that easily to violent criminals and convicted felons. The very least we can do is attempt to stop them from making on-the-spot handgun purchases. I would urge my colleagues to oppose the McCollum/Volkmer amendment.

Mr. BOSCO. Mr. Chairman, I rise in support of the Brady amendment to the omnibus drug bill, and in opposition to the weakening amendments offered by the gentleman from Florida [Mr. McCOLLUM] and the gentleman from Missouri [Mr. VOLKMER].

Most of my colleagues are aware of the many distortions which have interfered with a reasoned debate of this issue. One complaint which I commonly hear from my constituents is that the Brady amendment somehow imposes new restrictions on the ability of individuals to acquire handguns. This couldn't be further from the truth—Federal law has prohibited felons and other suspect individuals from acquiring handguns for over 20 years, but innocent people have the absolute right to purchase such weapons. The amendment does not change this.

What we are attempting to change with the Brady provision is the standard of proof involved when criminals attempt to acquire handguns. As the law stands now, Congress simply trusts felons to decline to purchase handguns. A sample affidavit is taken as proof of a persons record. Should we really continue to take convicted criminals at their word?

Mr. Chairman, I understand the concerns raised by Brady amendment opponents who point out that since the Brady amendment does not require fingerprinting, felons may still be able to get around the law by using fictitious personal data. These are thoughtful concerns, but statistics from my home State point to the overwhelming crime-stopping potential of a waiting period. Over 1,500 prohibited handgun buyers were foiled by California's 15-day waiting period in 1986.

Opponents of the Brady amendment seem to believe that all gun purchasers in America should be considered innocent until they prove themselves guilty. I believe that the burden of proof must be applied by law enforcement agencies before the purchase, so that it is never applied by criminals in the streets after the purchase.

Mr. Chairman, I've heard from many law enforcement officials in my district who favor a national 7-day waiting period, and I join with them in supporting the Brady amendment.

Ms. PELOSI. Mr. Chairman, I rise today in strong support of the Brady provision of H.R. 5210, the Omnibus Drug Initiative Act of 1988. This provision would make the purchase of firearms by those involved in drug-related activity more difficult by establishing a 7-day waiting period before anyone buying a handgun could take possession.

It is vital to our law enforcement efforts to adopt this type of safeguard as a means of preventing those involved in drug related activity from ready access to handguns. Currently, authorities are faced with the reality that many drug traffickers are just as well, and in some cases better, armed than our own police forces. Throughout the country we have seen the tragic results of law enforcement officials who have been ambushed by heavily armed drug dealers. In the past 2 years, 128 law enforcement officials have been killed in the line of duty by firearms. This violence has been found to be in direct correlation with the rising drug trade, and will continue to increase as long as high profits can be reaped from the sale of illegal narcotics.

The 7-day waiting period between purchase and possession will enable law enforcement officials to run the most basic checks on the background of the individual buying the weapon. Analysis of police records show that 42 percent of defendants in firearm investigation had a prior felony conviction, 23 percent had a history of violent activity, and over 40 percent were involved in drug trafficking. It is absurd to allow these people ready and immediate access to handguns.

Heavily armed drug dealers have taken over neighborhoods, creating an atmosphere of fear where residents are afraid to leave their homes after dark. We must take action to reclaim our streets by prohibiting any further proliferation of weapons to those people involved in violent activity.

The Brady provision is an important step in our efforts to beat the growing drug epidemic in this country. I urge my colleagues to extend this modest safeguard to our law enforcement personnel and our communities by supporting the Brady provision and opposing any attempt to weaken this important language. Thank you.

Mr. LEVIN of Michigan. Mr. Chairman, I rise in opposition to the McCollum amendment and urge my colleagues to support the 7-day waiting period for handgun purchases provided for in the bill.

My office has received a large amount of correspondence on both sides of this issue. Some of the letters suggest that Congress is trying to prohibit law-abiding citizens from purchasing firearms. Nothing could be further from the truth. The Brady amendment in the drug bill merely provides for a short 7-day waiting period for handgun purchases. The delay gives local police time to certify that the buyer is not a convicted felon or a drug dealer.

A 7-day waiting period is at most a minor inconvenience for law-abiding citizens. It is certainly a small price to pay in a national effort to keep handguns out of the hands of criminals and others restricted by law from handgun ownership. We need to recognize once and for all that firearms and the drug trade go hand-in-hand. Anyone who reads the morning paper or watches the evening news knows this. If we are serious about fighting the war on drugs and reducing drug-related violence, we must deny drug dealers the handguns which are the tools of their trade.

The amount of distortion on this issue is mind-boggling. In its TV ads and newspaper spots, the leadership of the NRA makes the claim that, next to his partner, the best friend a police officer has is the NRA. Why, then, does the NRA oppose this sensible 7-day waiting period when just about every law enforcement organization in the country supports a waiting period for handgun purchases?

The 7-day waiting period is a critical and long-overdue contribution to the fight to protect the safety of citizens and law enforcement personnel. The McCollum amendment seeks only to study the problem. I don't think we need more studies on this issue. We know what the problem is, and we know from experience that waiting periods have worked in the States which have adopted them. It is time for action.

I urge my colleagues to support the bill and vote against the McCollum amendment.

Mr. KLECZKA. Mr. Chairman, we are now considering legislation which would require a 7-day waiting period before the purchase of a handgun. All the evidence demonstrates that such a waiting period can reduce crime and help protect law enforcement officers.

A waiting period can reduce crime by stopping many criminals from acquiring handguns. Of course some sophisticated criminals will always be able to acquire handguns. However, this legislation can prevent many common criminals from acquiring handguns. For instance, the superintendent of the New Jersey State Police reports that in the 19 years that New Jersey has required a background check for handgun purchases, 10,000 convicted felons have been caught trying to buy handguns.

A waiting period can also help to reduce the use of handguns in personal disputes. The Department of Justice reports that 57 percent of all murders committed with handguns involve acquaintances or family members. By establishing a 7-day waiting period before the purchase of a handgun, this law will allow individuals' anger to subside, thereby lessening the likelihood of resorting to violence to settle a dispute.

The issue here is the safety of all Americans and the safety of the law enforcement officers who are dedicated to protecting us. Americans realize this, and they overwhelmingly favor a mandatory national waiting period. The only comprehensive poll done on this subject, conducted by the Gallup organization, revealed that 91 percent of Americans favor a national waiting period.

The constituents of my congressional district in Wisconsin also overwhelmingly favor a mandatory waiting period. A private poll of my constituents in the Milwaukee area showed that 87 percent favor a waiting period while only 11 perecent oppose it.

This legislation is strongly supported by the American people, the law enforcement community, and can clearly save the lives of many Americans. All reasonable individuals who are presented with the facts of the issue—and not just inflammatory rhetoric—will support a waiting period.

Mr. BEREUTER. Mr. Chairman, in considering the McCollum amendment to H.R. 5210 this Member would note that the primary objective for requiring a waiting period before a handgun can be purchased from a dealer is said to be the prevention of the purchase of such weapons from dealers by felons and the mentally unstable. After a careful review of arguments presented on both sides of this issue, I have decided to oppose the Feighan language which has been incorporated into the omnibus drug initiative bill. In order to avoid handguns being sold to convicted felons or those with records of mental instability, I instead favor a Federal law requiring a nationwide, mandatory records check through law enforcement channels before a dealer can sell a handgun. Indeed, I supported the McCollum amendment which would direct the Attorney General to develop a system for the immediate and accurate identification of felons who would attempt to purchase firearms from a gun dealer. Recommendations to Congress on the establishment of such a system, perhaps enlarged to cover those with a record of mental instability, could, I believe, permit Congress to establish one which will place minimal restrictions on law-abiding gun purchasers and dealers. Also, it could be designed to avoid or minimize the administrative and investigative requirements of the Feighan/Metzenbaum approach which are the cause of objections by some local law enforcement agencies.

Anyone who uses a national credit card today recognizes that a credit check on an account balance can be run almost instantaneously by a telephone/computer system. In short, we can easily use available technology to implement this kind of a record search for the purchase of handguns.

Under the Feighan language, local law enforcement officials could arbitrarily decide whether or not to check criminal records. This is, therefore, both an incomplete or haphazard and administratively burdensome system of checking against the sale of handguns to felons which can be handled much easier and surely through as telephone/computer records check. Also, while the bill requires that investigative records generated in the 7-day waiting period be destroyed after 60 days, there is no prohibition against the duplication of the information by local law enforcement officials for their files. Finally, safeguards against unreasonable investigations of would-be purchasers of handguns are not assured.

These are some of the more obvious and serious flaws in the Feighan language. My colleague, Congressman JOHN RHODES of Arizona tried to offer amendments to correct the first two of these flaws. He was denied that opportunity by the Rules Committee.

Without a doubt, even the best record check system will not prevent all felons from acquiring handguns, but experience in States with record checks before the purchase of handguns shows that they do apprehend a large number of felons each year who are attempting to purchase handguns from dealers. Therefore, if the Omnibus Drug Initiative Act of 1988 can be amended to help us develop a near-instantaneous and effective computerized information system accessible through law enforcement officials aimed at keeping handguns out of the hands of felons and the mentally unstable, I will support its implementation.

Mr. BORSKI. Mr. Chairman, I rise in strong support of the Brady amendment to establish a waiting period for handgun purchases. A national 7-day waiting period will reduce crime and save lives. Every major law enforcement organization in the country and a majority of law-abiding Americans favor a waiting period law. Today, we have an opportunity to respond to their concerns.

Unfortunately, the National Rifle Association has mounted a multi-million dollar campaign of distortion against the Brady amendment. Despite NRA claims, the waiting period is not a national gun registration system and it will not take weapons away from law-abiding citizens. In fact, there is nothing in this proposal that law-abiding citizens should object to. Convicted felons, drug dealers and others involved in criminal activity are the only people who should be concerned about a 7-day waiting period.

The NRA has tried to convince its members that a waiting period will not prevent criminals from obtaining handguns. Nothing could be further from the truth. In the 22 States that currently have mandatory waiting periods, thousands of criminals have been caught trying to buy guns. The waiting period clearly works.

In the absence of a national waiting period, thousands of additional criminals go unapprehended every year because they can simply cross State lines to evade the background check.

That is why there is a need for a national waiting period. Every major law enforcement organization in the country supports the Brady amendment. I do too. I do not believe that a 7-day waiting period places an unreasonable burden on law-abiding citizens. I have no doubt that every responsible American citizen agrees.

While it may be true that the Brady amendment would not prevent every criminal from obtaining a gun, it will surely stop some. And even if only one innocent life were saved, that should be enought for all of us to support the Brady amendment.

Mr. Chairman, I strongly support the Brady amendment and I urge the support of all my colleagues.

Mr. ROTH. Mr. Chairman, I rise to defend the rights given to us in the second amendmet of our Constitution. Our Founding Fathers specifically provided for the right to keep and bear arms and this right must be preserved. The provision currently in H.R. 5210 is a direct threat to the law-abiding citizens of our country. It is a right, not a privilege, to own a gun. This right should be defended and backed by the Federal Government, not undermined by it.

Included in the Anti-Drug Amendments Act, is a requirement for a 7-day waiting period on the purchase of all handguns. This is supposed to deter criminals from buying handguns. In reality, criminals will not be affected by this bill at all. Criminals steal guns or buy them on the black market; they do not buy them legally. Thus, the weight of this bill will not fall on the criminals, but on the backs of honest Americans who have a right to buy and own guns.

Further, those areas that have restrictive gun control laws have not shown any decrease in violent crimes. New York City, for instance, has the strictest gun control law in the country, but still has more homicides than 22 other States combined. Drug pushers and drug kingpins simply are not affected by such laws.

This requirement would be redundant for States like Wisconsin, which already has a 48-hour waiting period on the purchase of handguns. The rule was established in 1983 and has proven to be adequate. Nearly 20 States have already addressed the issue of the waiting period. I think that the people in each State should continue to decide what gun control laws would best suit their particular State.

The people of this country should not pay $30 to $40 million a year for another national program that will not be effective. What we need is legislation that specifically attacks the problem of drugs and violent crime; not legislation that attacks our constitutional rights under the guise of controlling drug smuggling. I urge my colleagues to support these amendments which will remove these provisions from H.R. 5210 and protect our rights.

Mr. MFUME. Mr. Chairman, I rise in strong opposition of the McCollum amendment to strike the provision establishing a national 7-day waiting period for handgun purchasers from the drug bill now before the House. The measure in the bill would simply require a potential handgun buyer to wait 7 days prior to purchasing and delivery of a handgun to give local police authorities time to check the customer's background. These 7 days may very well save a life.

This provision would help to keep handguns out of the hands of drug dealers, convicted felons, and others who are restricted by law from owning a handgun. Crack a deadly derivitive of cocaine and other illicit drugs remain a virulent problem in our neighborhoods and drug dealers are increasingly turning toward violence. I am absolutely amazed when drug peddlers who've been arrested once can return to the streets and purchase a weapon, which will likely be used in a drug-related crime shortly afterwards, in less than 10 minutes. In my State of Maryland, State police prevented 732 handguns from falling into the wrong hands simply by having background checks.

In other areas, California police prevented more than 1,500 illegal purchases, and an astounding 10,000 convicted felons were caught trying to purchase guns in New Jersey over the 19 years it has had a background check, and we cannot even begin to estimate how many deaths may have been prevented by simply checking into their background.

Mr. Chairman, a life is worth 7 days. If my colleagues supporting this amendment do not think so, I ask you to call the mother of the 9-year-old boy who was gunned down last week in Baltimore as he walked home from school and say that those 7 days would not have made a difference. I ask you to call the relatives of the 227 people who were killed in the District of Columbia and say that those 7 days would not have made a difference. My friends, these 7 days will make a difference.

In hindsight, they could have made a difference in 1968 when Senator Robert Kennedy was shot and killed. They would have made a difference in 1981 when Press Secretary James Brady was shot as he left the Washington Hilton; and they may make a difference tomorrow. A life is indeed worth 7 days.

I urge my colleagues to vote against the McCollum amendment and vote for 7 days and possibly a life.

Mr. LEVINE of California. Mr. Chairman, I rise in opposition to the McCollum amendment which would strike the so-called Brady amendment requiring a 7-day waiting period for handgun purchases.

Firearms play a key role in drug trafficking. Narcotics-related gun seizures have increased in Los Angeles in tandem with increases in seizures of illegal drugs. In 1987, the LAPD seized 2,298 guns in conjunction with drug arrests. Through June of this year, the number of guns seized in the course of drug arrests totaled 1,349. Mr. Chairman, these gun owners were drug traffickers, not sportsmen. These weapons are not used for hunting or target practice, they're used for drug murders and terrorism. Providing a 7-day waiting period for handun purchases is an important step in our efforts to reduce drug violence.

A 7-day waiting period will not imperil the rights of legitimate gun owners. The California Police Chiefs Association, which supports the Brady amendment, addresses this point in a recent letter to members of the California delegation. The police chiefs write in part that, "California, for many years, has had a 15-day waiting period. We have found that the waiting does not inhibit anyone who can legally own a concealed firearm from purchasing it." They continue, and I want to emphasize, "For the law abiding citizens of this State, it provides a protection against those who legally cannot own a concealable firearm and those who in a period of anger or despair, may purchase a concealable firearm to kill or maim themselves or other persons."

Congress has a responsibility to protect law abiding citizens of every State. Every year thousands of senseless deaths result from handgun violence. Many of these tragedies could be prevented by a waiting period. I urge my colleagues to defeat these amendments, and support the language of the bill.

Mr. SWIFT. Mr. Chairman, I don't support gun control legislation. I have never voted for a gun control bill. Among the reasons is a major one: While I understand the sincere concerns of many who support these bills, I believe that they simply will not work.

Having said that, I want to say that I am voting for the committee position on the provision of the drug bill that calls for a 7-day cooling off period on sales of handguns. There is no registration connected with this provision. There are no added restrictions for gun owners or for the purchase of long guns.

There are a number of very good grounds for supporting this provision.

During the month of August, I traveled throughout the district talking to a great many people. This amendment was brought up several times. The first person to mention it said, "I sure hope you vote against that Brady amendment". He then added, "You know, something like a waiting period of 5 days or a week on hand guns might make sense, but we shouldn't go hog wild".

I was struck by his remarks because all the amendment does is establish a 1-week waiting period on the purchase of handguns. This good man, with whom I discuss gun legislation frequently, had obviously been given some very incorrect information about the amendment. We already have a 5-day waiting period in our State. Many other States have waiting periods of 5 days to a week. The amendment was entirely consistent with that.

I wondered how widespread this misinformation was. So, as others brought up their opposition to the Brady amendment, I asked each one what they thought of a simple 7-day waiting period on the purchase of handguns only, without registration or other additions. Everyone of these constituents indicated that would be OK with them. Clearly, they had no opposition to helping the police identify people we all agree should not have guns—felons, the mentally disturbed, and so forth.

Virtually everyone I talked with who opposed the amendment in name, told me they supported what it would accomplish in fact. Somehow they had been badly misinformed and were opposing something quite different than what was before the House for a vote. Further, they supported what was before the House.

I was also struck by appeals heard from police officers in my own district. One Snohomish County officer, who identified himself as a member of the National Rifle Association, wrote, "I am concerned about having gone to five funerals of police officers over the last few years—all killed with handguns". He believed a waiting period for the sale of handguns would save lives.

The head of a law enforcement union told a colleague of mine, "The opponents say that this provision would only cut down 20 percent of the problem." In my State last year, that alone would mean that 70 more of my Members would have gone home to their families on foot instead of in a box. He believed a waiting period for the sale of a handgun would save lives.

The fact is that such waiting periods have proven effective in States where they exist. In New Jersey, 10,000 convicted felons have been caught trying to buy guns in the 19 years that State has had a waiting period. In 1986 alone, State police in Maryland prevented 732 excriminals and former institutionalized mental patients from purchasing handguns; in California that same year, police stopped 1,515 illegal handgun purchases, because of a waiting period.

Furthermore, I talked with other police from my own district who pointed out that much of the crime they face is essentially amateur crime of drug addicts trying to raise the money to feed their habit. These people do not have the connections with organized crime that the dealers and the pushers have. So they are much more likely to try to acquire weapons through legitimate sources. A waiting period would especially help curb this activity.

Frankly, you have to give weight to the arguments of the people who face Saturday Night Specials on the streets as they work to keep our communities safe. In short, our law enforcement people say a simple waiting period would help them enormously to deal with a large part of the problem of violent crime in our towns. And it can be done without interfering at all in the activities of law abiding gunowners.

I remain very skeptical of so-called gun control legislation. I expect to vote against gun registration and other such similar ideas if and when they come up in the future.

But this is not a gun control amendment regardless of the misinformation that has been spread about it. It will help save lives and I am going to vote for it.

Mrs. ROUKEMA. Mr. Chairman, I want to echo the concerns of my colleague from New Jersey regarding the changes in the distribution formula for funds under the Alcohol, Drug Abuse, and Mental Health Block Grant.

The language as contained in H.R. 3187, the Alcohol, Drug Abuse and Mental Health Block Grant, and now included within the omnibus drug bill splits the block grant into two separate block grant authorities, for community mental health services and for substance abuse services.

While I applaud the spirit of the bill—to target the underserved, high need areas and severely mentally disabled—the formula changes nonetheless cut desperately needed mental health funds from my State of New Jersey.

The proposed new formula would penalize States with a high per capita income and small populations and result in a significant loss of valuable Federal dollars. The rule as proposed in the legislation includes a phase-in period and the ability for States to request a waiver of the Department of Health and Human Services for use of new service dollars to fund existing programs.

Although these two provisions lessen the impact of the proposed reauthorization, the prospect of losing money under the new formula is frightening. Any decrease will disrupt New Jersey's ability to deliver appropriate care and may force the system into greater crisis. Over 100,000 children and adults have serious mental illness in New Jersey. Many of them are dependent upon programs funded with the $10.7 million currently allocated for mental health programs through the existing Alcohol, Drug Abuse and Mental Health Block Grant formula.

I hope that the conference committee will review the impact of the formula changes.

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes.

Mr. FIELDS. Mr. Chairman, I rise in strong support of the McCollum amendment and in opposition to the Brady language in H.R. 5210, the Omnibus Drug Initiative Act of 1988.

The McCollum amendment directs the Attorney General to develop an identification system that will allow immediate and accurate background checks on all felons attempting to purchase handguns. This language is a vast improvement over the proposed language in the bill otherwise known as the Brady amendment which would mandate a 7-day waiting period.

Mr. Chairman, we are wrong when we tell the American people that the Brady amendment will keep guns out of the hands of convicted felons. Studies reveal an overwhelming percentage of felons obtain handguns illegally.

Those favoring firearms registration often make the argument that if you get the guns off the street, there would be less crime. I fully sympathize with those who would like to see crime reduced. However, we need to be reasonable and practical when we assess the causes of crime, not emotional.

In my opinion, the focus of firearms enforcement should be on the criminal use of firearms, not the weekend hunter who uses his gun for sport. The imposition of unnecessary and cumbersome gun ownership controls will do nothing to facilitate the battle against the criminal element, but rather would result in onerous consequences for law-abiding citizens.

There is no demonstrable evidence that the implementation of a national waiting period would decrease violent crimes. Instead of restricting the ownership of firearms, a far greater factor in crime control is the deterrent effect of swift and certain consequences: swift arrest, prompt trial, certain penalty, and at some point, finality of judgement. This country will never achieve justice and domestic order until the penalty for criminal conduct becomes commensurate with the evil it has caused.

I think we all agree how important it is to keep firearms out of the hands of criminals. In doing so, we must not erode the guaranteed constitutional rights of the citizens of this Nation. I feel strongly that the McCollum amendment is a far more effective approach in prohibiting felons from obtaining handguns without interfering with the activities of law-abiding citizens.

Mr. HUGHES. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Without objection, a call of the committee is ordered.

There was no objection.

The CHAIRMAN. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their name:

[Roll No. 320]

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Combest
Conte
Cooper
Costello
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer

Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1631

The CHAIRMAN. Three hundred ninety-three Members have answered to their name, a quorum is present, and the Committee will resume its business.

The CHAIRMAN. The Chair will announce that 5 minutes remain on each side.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, everybody wants to do the same thing. We all want to keep handguns and other weapons out of the hands of those who are convicted felons. Unfortunately whatever we do today, we are not going to make a very big dent in felons and other criminals getting access to guns and crime in this country.

Mr. Chairman, the fact of the matter is that whatever we do today is not going to be enough. We need to have certainty and swiftness in punishment. We need to have carrying out of our sentences. We need to have more judges, more prosecutors, more jail space, a lot of things besides what we are doing.

The question is: What can we do today? With a 7-day waiting period on the purchase of a handgun—what will a 7-day waiting period for all Americans nationally on the purchase of a handgun do? We know that about 80 percent of all convicted felons get handguns, get their weapons, somewhere else. They do not go to a gun store to buy it. The 7-day waiting period only applies to gun stores. What do we do about the 20 percent? And that is what the 7-day waiting period is supposed to cure.

If indeed the 7-day waiting period were to do what it is purported to do and stop those 20 percent of felons from being able to purchase handguns, I would vote for it.

The sad fact is that a 7-day national waiting period will be nothing more than a 7-day cooling-off period, and I think that cooling off periods for 24 hours or whatever they may be, 48 hours or whatever, ought to be left to the States and local communities to decide, as they are doing in my home State and around the country on those decisions.

Mr. Chairman, we do not need a national cooling-off period for 7 days. What we need is a system to identify accurately the felons who are going in to purchase handguns in stores. And, if we can get a system that will work nationally to identify those felons and have it so that, when someone does go into a gundealer store that he can be identified as a felon, then we have stopped at least some of those who would purchase handguns. And, if there is a nationwide system to do this, there is some justification in order to have whatever waiting period is needed. I do not know what that might be.

Mr. Chairman, my amendment is very simple. Since the current system does not have the kind of identification in it, the NCI system does not work for this purpose, no felon in his right mind is going to give more than his name and not going to produce the correct ID when he goes in in the first place to buy the gun. What we need is to have the FBI and the Justice Department develop that system.

My amendment would substitute for the waiting requirement that the Attorney General develop a system. It would require him to develop a system, an accurate system, of identification of felons who attempt to purchase firearms. It would require him to make that identification accessible to handgun dealers and other gun dealers. It would require that that system begin to be implemented within 180 days of enactment. It is just as simple as that, and it makes a whole lot more sense than passing something that will not do the trick, which is the 7-day waiting period in the bill today.

Mr. BARTON of Texas. Mr. Chairman, will be gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman from Florida for yielding.

Mr. Chairman, I would like to clarify the intent of the amendment, if we could enter into a colloquy. I want to read the first sentence. It says, "The Attorney General shall develop a system for immediate and accurate identification of felons who attempt to purchase firearms."

Mr. Chairman, could the gentleman define "shall"?

Mr. McCOLLUM. "Shall" means exactly what it says. The Attorney General is required to develop this system, no ifs, ands or buts.

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman.

The second sentence says, "The system shall be accessible by dealers."

Does this mean that dealers at the point of purchase shall have access to this system?

Mr. McCOLLUM. Mr. Chairman, they shall not have access to the NCI system or all the data. What they will have access to is whether the person who comes in and puts his fingerprints down on the table and gets, hopefully gets, the immediate wire to Washington, they will have access to whether that person is a felon or not. It is a yes or no answer.

Mr. BARTON of Texas. It is a yes or no answer?

Mr. McCOLLUM. Absolutely.

Mr. BARTON of Texas. Not complete access?

Mr. McCOLLUM. That is the access, all of the access.

Mr. BARTON of Texas. All right.

Mr. Chairman, the last sentence says, "The Attorney General also shall establish a plan including a cost analysis of the proposed system for the implementation of the system to begin immediately following the report to Congress as provided in subsection B."

Now we should talk about this report. What happens when Congress gets this report?

My question is, Congressman McCollum, what happens when Congress receives this report?

Mr. McCOLLUM. Well, Congress can choose to act or modify or not, but this is a requirement. It is not a study that we are having here. If Congress does nothing, the Attorney General proceeds with the plan that he is ordered to do by this amendment of mine. He must implement a system for accurate and immediate identification and go do it. Congress might decide to modify it, but that would be an optional choice.

Mr. BARTON of Texas. Mr. Chairman, if I understand the gentleman's amendment, then the Attorney General has to develop a system—

Mr. McCOLLUM. Absolutely.

Mr. BARTON of Texas. Dealers must have access to it——

Mr. McCOLLUM. Absolutely.

Mr. BARTON of Texas. Yes or no answer, approved or disapproved, a plan has to be developed and is reported to the Congress, but, if the Congress does not act, the plan goes into effect.

Mr. McCOLLUM. The gentleman from Texas is correct.

Mr. BARTON of Texas. Based on that, and based on the fact that all of us want to keep handguns out of the hands of criminals, I would support the McCollum amendment and urge my colleagues to likewise do so.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. McCOLLUM. I urge my colleagues to vote for the McCollum amendment. It is appropriate, and it is fair.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the debate is almost over, and it is an important amendment, so, if my colleagues will just bear with us for just a few more minutes. I wish that all of my colleagues could have been here during the debate. Many of them, I am sure, watched the floor to listen to many of our colleagues and to some of the things that they said in support of the Brady amendment and in opposition to McCollum.

My colleague, the gentleman from Alabama [Mr. Nichols], for example, who has been hunting for 50 years, supports the Brady amendment. Like him, I have been a sportsman all my life. I own weapons, long guns and short guns. I am a member of a sportsman's club, and I will take a back seat to no one when it comes to trying to protect the privilege of owning weapons in this country.

But the gentleman from Florida [Mr. McCollum] is dead wrong. We do not often disagree on matters, but he is wrong. Let me just, if I might, tell you where it is.

Mr. Chairman, I am for the Brady amendment and the police of this country, and I am against the NRA and the gun lobby. It is as simple as that.

The McCollum amendment is just an effort to derail the 7-day waiting period, and I hope my colleagues will not kid themselves. If they think they are voting for anything else, then they are just fooling themselves, and I am sure they will not do that.

When the FBI first saw the McCollum amendment, let me just tell my colleagues what the reaction was. They were horrified because it is impossible to implement. And even if we had the technology to turn around records that fast, we would be doing that in our court system, to be turning around records when people are being arraigned for bail so we can make better decisions there. We do not have that ability. So, it is impossible.

Second, the FBI are very concerned for another reason. They do not want the gun dealers of this country rummaging around in their NCIC system.

Now the gentleman from Ohio [Mr. Oxley] said it. He was a former FBI agent. I wish all of my colleagues could have been here for that. He said, "In addition to being impractical, it would be mischievous."

Can my colleagues imagine if gun dealers, the hundreds of thousands around this country, had access to the Nation's criminal information files, the kind of mischief that that would create? That is what the gentleman from Florida [Mr. McCollum] would suggest he would do.

Now McCollum was made in order, and so was Volkmer—if McCollum does not carry—because basically McCollum was carved out as a way to derail Brady.

It has been said often that waiting periods do not work. Let me just say to my colleagues that waiting periods do work.

Mr. Chairman, I have spent about 25 years in law enforcement in one way or another as a prosecutor and working in the criminal justice system, and look at the figures in California. In 1986 alone 1,515 prohibited persons were prevented from buying guns, handguns.

□ 1645

In Maryland, they have a 7-day waiting period and in 1986 over 700 felons were prevented from buying handguns. The chief of police, listen to this, in Columbus, GA, says that the 3-day waiting period in Columbus, GA, catches two felons per week trying to buy handguns. In my State of New Jersey, 10,000 felons in 19 years have been prevented from buying guns.

A substantial portion of the applicants for guns lied. Because there is no record check, they lie. Hinckley perhaps might have been prevented from shooting the President because Hinckley lied on his application about his residence. That is the first place we would check to check his address, to see whether or not he was in fact telling the truth. We perhaps would have picked up Hinckley.

Now, this House has been tough in this drug bill. In fact, I do not think we could develop anything that would be any tougher than this to vote on. I mean, we have been tougher than this to vote on. I mean, we have been tough in the last week. Now I want to see how tough we are when it comes to bucking the NRA and the gun lobby. Are we tough enough to stand up to an outfit that has a single-minded purpose, does not care about anything except guns? They do not want to hear about waiting periods. They did not want to hear about armor-piercing ammunition. They did not want to hear about plastic weapons. They reluctantly came on board eventually.

And frankly, why do you think the police of this country make this their No. 1 priority? I will tell you why, because it is the police officer in the front lines stopping cars and facing those weapons and they want you to vote against McCollum. Each year, 65 to 75 percent of the policemen who are killed in the line of duty are killed with handguns—overwhelmingly in the hands of criminals. Vote against McCollum and support Brady.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCollum].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 182, not voting 21, as follows:

[Roll No. 321]

AYES—228

Alexander
Andrews
Applegate
Archer
Armey
AuCoin
Baker
Ballenger
Bartlett
Barton
Bentley
Bereuter
Bevill
Bilbray
Bliley

Boucher
Boulter
Brennan
Brooks
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carr
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Combest
Costello
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dingell
Dorgan (ND)
Dornan (CA)
Dowdy
Dreier
Dyson
Edwards (OK)
Emerson
English
Erdreich
Espy
Fields
Fish
Flippo
Foley
Gaydos
Gekas
Gilman
Gingrich
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kemp
Kolbe
Kolter
Kyl
Lancaster
Latta
Leach (IA)
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lukens, Donald
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nielson
Oberstar
Obey
Olin
Owens (UT)
Packard
Parris
Pashayan
Patterson
Payne
Penny
Perkins
Petri
Pickett
Pickle
Price
Quillen
Rahall
Ravenel
Ray
Rhodes
Richardson
Ridge
Ritter
Roberts
Robinson
Rogers
Rose
Roth
Rowland (GA)
Schaefer
Schuette
Schulze
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Whittaker
Whitten
Wilson
Wise
Wyden
Yatron
Young (AK)

NOES—182

Ackerman
Akaka
Anderson
Annunzio
Anthony
Aspin
Atkins
Bateman
Bates
Beilenson
Bennett
Berman
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Broomfield
Bryant
Cardin
Carper
Chandler
Clay
Clement
Coleman (MO)
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Dellums
Dicks
DioGuardi
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gradison
Gray (PA)
Green
Guarini
Hall (OH)
Hawkins
Hayes (IL)
Henry
Hertel
Hochbrueckner
Hoyer
Hughes
Hyde
Jacobs
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lagomarsino
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lungren
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Moody
Morella
Morrison (CT)
Mrazek
Nelson
Nichols
Nowak
Oakar
Owens (NY)
Oxley
Panetta
Pease
Pelosi
Porter
Pursell
Rangel
Regula
Rinaldo
Rodino
Roe
Roukema
Rowland (CT)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schneider
Schroeder
Schumer
Sensenbrenner
Shays
Skaggs
Slaughter (NY)
Smith (FL)
Smith (NJ)
Solarz
St Germain
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Torres
Torricelli
Traficant
Udall
Vento
Visclosky
Walgren
Weiss
Weldon
Wheat
Wolf
Wolpe
Wylie
Yates
Young (FL)

NOT VOTING—21

Badham
Barnard
Brown (CA)
Coleman (TX)
Collins
de la Garza
Frost
Garcia
Konnyu
Lujan
Mack
Mica
Ortiz
Pepper
Rostenkowski
Scheuer
Stark
Towns
Waxman
Williams
Wortley

□ 1703

The Clerk announced the following pairs:

On this vote:

Mr. Barnard for, with Mr. Pepper against.

Mr. Williams for, with Mr. Frost against.

Mr. Coleman of Texas for, with Mr. Waxman against.

Mr. Ortiz for, with Mr. Rostenkowski against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Shaw: Page 212, strike out line 1 and all that follows through line 8 (and redesignate accordingly).

Page 157, strike out line 20 and all that follows through line 10, page 158 (and redesignate accordingly).

Page 160, strike out line 7 and all that follows through the quoted matter after line 2, page 163, and insert in lieu thereof the following new section:

SEC. 6159. EXPEDITED PETITION PROCEDURE FOR CERTAIN SEIZED CONVEYANCES.

(a) In General.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 511 the following new section:

"EXPEDITED PETITION PROCEDURE FOR CERTAIN SEIZED CONVEYANCES

"Sec. 511A. (a) The owner of a conveyance (other than a conveyance that is owned or operated by a common carrier) may petition the Attorney General for an expedited decision as to remission or mitigation with respect to the conveyance, if—

"(1) the conveyance is seized for a drug related offense;

"(2) the owner has filed the requisite claim and cost bond in the manner provided in section 608 of the Tariff Act of 1930;

"(3) the controlled substance on which the seizure is based is listed in section 401(b)(1)(B); and

"(4) the weight of such controlled substance is less than 0.1 percent of the amount specified in such section.

"(b) Except for good cause shown, the Attorney General shall make all determination on petitions under this section expeditiously. If the Attorney General does not grant or deny a petition under this section, within 20 days after the date on which the petition is filed, the conveyance shall be returned to the owner.

"(c) With respect to a petition under this section, the Attorney General may—

"(1) deny the petition and retain possession of the conveyance;

"(2) grant the petition, move to dismiss the forfeiture action, and promptly release the conveyance to the owner; or

"(3) advise the petitioner that there is not adequate information available to determine the petition and promptly release the conveyance to the owner.

"(d) Release of a conveyance under subsection (b) or (c) does not affect any forfeiture action with respect to the conveyance.

"(e)(1) The Attorney General shall prescribe regulations to carry out this section. Such regulations shall, to the greatest extent practicable, include the practices and procedures applicable under regulations prescribed pursuant to section 618 of the Tariff Act of 1930.

"(2) At the time of seizure, the officer making the seizure shall furnish to any person in possession of the conveyance a written notice containing a statement of the procedures under this section. At the earliest practicable opportunity after determining ownership of the seized conveyance, the head of the department or agency that seizes the conveyance shall furnish the written notice to the owner and other interested parties (including lienholders).".

(b) Clerical Amendment.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 511 the following new item:

"511A. Expedited petition procedure for certain seized conveyances.".

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. Shaw] will be recognized for 10 minutes and the gentleman from New Jersey [Mr. Hughes] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. Shaw].

Mr. SHAW. Mr. Chairman, I yield 2 minutes and 20 seconds to the chairman of the Subcommittee on Coast Guard of the Committee on Merchant

Marine and Fisheries, the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I thank the gentleman for yielding time and I rise in support of the Shaw amendment.

When the Government first implemented its zero tolerance policy, it was handled poorly and there were a number of widely publicized seizures of vessels because of very small "personal use" amounts of drugs. The Coast Guard Subcommittee I chair conducted a hearing on the new policy. In particular, we were concerned about the adverse impact on innocent fishermen or pleasure boat owners if one crewmember or guest brought illegal drugs onboard their boat.

As a result of our hearing, adjustments were made in enforcement of the policy, and I would like to note that my subcommittee is no longer receiving complaints about unwarranted seizures.

No matter how well-meaning the intent of the "innocent owner" provisions in the bill, the main point we should consider today is their adverse effect on law enforcement. The agencies who are on the front line in the drug war—the Coast Guard, Customs Service, and DEA—strongly oppose the "innocent owner" language in the bill. For an independent opinion, I also requested an analysis of the current language by the American Law Division of the Library of Congress. It states that the exemption will apply—and I quote—"regardless of the amount of illegal drugs involved, whether a trace or a ton."

Current regulations and a Supreme Court decision already provide protection for truly innocent owners. They also require accountability through a reasonable effort on the part of owners to prevent illegal use of their property.

Let's not throw the baby out with the bath water. When we are attempting to step up the war on drugs, it would be ironic for this Congress to approve language that would send the wrong message to the American public. We must not encourage an attitude of "looking the other way" when illegal drugs are being used. But that is what we will do unless the Shaw amendment is approved. If we truly want to rid our Nation of this dreadful plague of illegal drugs, every Member of this body should vote for the Shaw amendment.

Mr. HUGHES. Mr. Chairman, I yield myself 3 minutes.

Mr. HUGHES. Mr. Chairman, I rise in strong opposition to the gentleman's amendment, and I do so on two grounds—one on substance and the other on procedural grounds.

SUBSTANTIVE

Essentially this amendment will strike what is called the "innocent owner" defense to a civil forfeiture action for conveyances. H.R. 5210 now states, in part, that any innocent owner of a seized car, truck, boat or airplane has a right to go to court and prove that he is innocent of wrongdoing. Now, I'll repeat that statement because, to those of you who know the judicial process, that statement will sound a little strange.

H.R. 5210, for the first time, provides a procedure where an innocent owner of a seized conveyance can go to court and prove he is innocent of any complicity in an illegal act and thus should have his conveyance returned to him.

This procedure is needed because at the present time, an innocent owner of a seized conveyance which for whatever reason is involved in drugs has no legal right to prove his innocence in the transaction unless the conveyance was stolen or the conveyance is a common carrier.

H.R. 5210 still requires that the innocent owner must prove he is innocent by a preponderance of the evidence which is a complete switch from normal civil procedures where the Government must prove its case by a preponderance of the evidence, but it at least gives our citizens a day in court. Essentially, this bill codifies what has been the executive branch's practice in the past but instead of going hat in hand to the bureaucracy, the innocent owner could have his day in court.

I must also note that this "innocent owner" defense, and in fact, the specific language used in the bill was recommended to the chairman of the Judiciary Committee by Attorney General Meese in a letter dated August 4, 1988. He states:

> [We] strongly urge that the proposed 21 U.S.C. 881(a)(4)(C) be revised to read, "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner."

It also is identical to the "innocent owner defense" outlined in existing law for transactions involving real estate (21 U.S.C. 881(A)(7)), a provision introduced by former Congressman Sawyer in the Subcommittee on Crime in 1984 and supported by the author of today's amendment.

I think most of you know that I will not take a back seat to anyone in my determination to curtail drug trafficking and drug use. I have spent the better part of the last 8 years as chairman of the Subcommittee on Crime developing legislation to curb this growing cancer on our society. This is, however, as John Adams said, "a government of laws and not of men." I cannot see any rational argument why our innocent American citizens should not have an opportunity to at least prove their innocence in the courts rather than to the bureaucracy and that is what H.R. 5210 does now and what this amendment would take away.

PROCESS

At this point, I must also point out another reason why you should not agree to this amendment.

The provisions in H.R. 5210 which this amendment would delete are not the language of the Committee on Judiciary's passed bill but instead is the product of extended bipartisan negotiations since that time of many individuals in this Congress and one in which the staff of the author of this amendment participated in. In the complicated process needed to develop H.R. 5210, numerous normal legislative procedures have been bypassed, procedural and otherwise, but at least I was under the impression that when a bipartisan agreement was reached we could leave this small but important problem behind us. I have attempted to make a number of amendments in order on other very serious matters in this bill and from conversation with other of my colleagues I know that they had similar experiences. I, like many others, was unsuccessful in a number of these attempts but in no case did I try to rehash issues where a compromise solution has been reached.

In conclusion, I oppose this amendment because it would delete an "innocent owner defense" in the civil forfeiture process, and I object to the fact that we are revisiting a subject matter that I thought was settled.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I rise in support of the Shaw amendment. It is a good amendment.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the ranking member on the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Chairman, I appreciate being given this time to speak in strong support of the Shaw innocent owner amendment to H.R. 5210. We have all heard the stories where inocent owners have suffered hardship when their conveyances—cars, trucks, boats, or planes— have been seized for small personal use amounts of drugs. Fishermen, for example, whose annual income is made during a short fishing season, deserve some relief.

But, the so-called innocent owners provisions in H.R. 5210 are not the answer. The provisions are of great concern to the Committee on Ways and Means, and were disapproved by a vote of a bipartisan majority of our

Members. The Shaw amendment is necessary because it corrects serious problems that remain in the current bill language.

First, the legal defense provisions in the bill would lead to a "look-the-other-way" defense, and would abolish over 200 years of legal precedent placing responsibility for the conduct of conveyances squarely with their owners. The provisions are more severe then necessary, and would seriously undermine Federal antidrug efforts. The Shaw amendment would eliminate this defective legal defense.

Second, the current bill language allowing for quick review of all forfeiture cases creates a loophole—cases involving a ton of marijuana would still be eligible for innocent owner protection. The Shaw amendment helps truly innocent owners get their cars, boats, or planes back more quickly—through fair and timely reviews of their cases. But it limits help to cases involving very small amounts of drugs. Common sense says that a conveyance seized with a ton of drugs aboard should not receive preferential treatment.

The Shaw amendment ensures that protection for innocent owners is not open to abuse by drug trafficking operations. It is supported by Customs, Coast Guard and the Justice Department, and by local law enforcement groups such as the National Sheriff's Association. A vote for the Shaw amendment is a vote to preserve law enforcement and owner responsibility. I strongly urge all my colleagues to vote "aye."

□ 1715

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, unfortunately I rise in opposition to this amendment. I have the greatest respect for the gentleman from Florida [Mr. Shaw], but the reason that I reluctantly rise in opposition, and I think the amendment he offers does not have terribly objectionable parts to it, but there was a scenario that we went through to develop the law that is in our proposed law in this bill right now that took a lot of compromise and a lot of effort and a lot of careful scrutiny. I happened to have been a party to that. We got the Justice Department involved in it, we got various components of the administration involved. We met with everybody concerned that we were aware of at the time, and shortly before our recess we came up with the language that is in the bill at the present time.

I think this is good language. I think it is a balanced compromise of the interests of Government and the interests of individuals.

We do not want to do away with the kinds of restrictions that are intended by those who want to have the searches. I think those are needed. I think we need to be able to have people given a proper opportunity to get their possessions back when items are forfeited.

But we do not want to go overboard, and I think this is a compromise position that has to be reached, and I have to urge my colleagues to defeat the Shaw amendment reluctantly.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. Gibbons].

Mr. GIBBONS. Mr. Chairman, the problem with the committee position is one, it dilutes the current law on forfeitures. Forfeitures are one of the best means of law enforcement that we have in this field. It has been most effective. For over 2 years we have had these forfeiture laws. They work very effectively.

If my colleagues adopt the committee position, they will weaken that law. There is no sense in doing that at a time when we are having so much trouble with drugs.

The Shaw amendment offers an alternative to the current law by giving or offering an expedited hearing for the innocent owner.

The trouble with the committee position if it is adopted, owners will be encouraged to look the other way, to know as little about their property as possible in order to establish the presumption of no innocence, and that will severely weaken law enforcement in the United States.

So if Members want to toughen law enforcement, or if they do not want to be accused of weakening law enforcement, then vote for the Shaw provision.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. Davis].

Mr. DAVIS of Michigan. Mr. Chairman, during the consideration of this bill we have passed many good amendments. I voted for the amendments that were tough with drugpushers, smugglers, and users. And if the Shaw amendment were tough with those people, I would favor it, too. But the Shaw amendment doesn't hurt drug users or drugpushers. The only people the Shaw amendment hurts are innocent, law abiding owners of conveyances seized by the Government.

The innocent owner defense in the Judiciary and Merchant Marine and Fisheries Committee titles is simple. It gives an owner of a conveyance seized because drugs are found in it the right to prove that he is not to blame and get his conveyance back. And that's all it does. In fact, the defense does not change the Government's authority to seize conveyances carrying drugs in any way.

The innocent owner defense in the bill represents a bipartisan agreement among those of us who do not want to hamper the Government's ability to enforce the drug laws, but to protect conveyance owners who have absolutely nothing to do with drugs. The language in the innocent owner defense is modeled after the defense used by the Department of Justice in their regulations governing forfeitures of conveyances. In fact, the Department of Justice, our primary law enforcement department, is on record as not objecting to this defense being in the law.

Despite the fact that the language of this defense was developed with Department of Justice officials in response to their needs, the opponents of this defense have brought up certain technical problems with the language. You may hear that this provision will allow drug smugglers to look the other way, and manipulate the system to get their vessels back. But the innocent owner defense doesn't work to the benefit of drug smugglers, because drug pushers and smugglers don't admit ownership of a conveyance seized for carrying drugs. They walk away, because the last thing they want is to be linked to a drug operation. The people who benefit from the innocent owner defense know they are innocent and have nothing to hide. An innocent owner is a law abiding citizen who doesn't have anything to do with drugs, but is a victim of someone who leaves drugs in this car or boat. An innocent owner is a businessman, like a commercial fisherman, who is a victim of a crewmember who has drugs aboard his vessel. An innocent owner is a charter boat operator, who is a victim of a person who leases his boat and has drugs aboard. An innocent owner doesn't encourage drug use and he doesn't look the other way.

The forfeiture procedures in the Judiciary title were also developed with the Department of Justice, and modeled after the procedures they use today. They are quick and efficient, without hampering the Government's ability to forfeit vessels. They do not overly burden the Department of Justice with new hearing responsibilities. There is nothing in these procedures to benefit drug smugglers. Under the procedures, vessels of drug smugglers will be forfeited to the Government, and vessels of innocent owners will be returned to them.

In this vote, do not fall victim to drugsmanship, and vote to strip the innocent owner defense from this bill because you want to look tough on drugs. The Shaw amendment is overkill. It doesn't do anything to help drug enforcement and penalizes the very people who support vigorous law enforcement in this country. Oppose the Shaw amendment. Be tough, but fair.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding to me. I want to correct the Record and indicate that I misunderstood the gentleman's amendment, and actually oppose the amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. Jones], the chairman of the Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida. I understand that the gentleman is concerned that the innocent owner provisions contained in the Merchant Marine and Fisheries, and Judiciary titles will have an adverse effect on Federal drug interdiction efforts. However, I would like to assure the gentleman, and any other Members who may have similar concerns, that this is simply not true.

The innocent owner provisions contained in the bill provide a legal defense for innocent people to utilize during civil forfeiture proceedings. Under current law, if an innocent person has his property seized he has no legal right to get it back. Instead he must rely on the good graces of Government. I don't believe that this is fair. Innocent people should have a legal right to get their property back.

With regard to the claim that these provisions will undermine drug interdiction efforts, since when is this Nation's interdiction efforts based on the Government's ability to take innocent people's property? All of our criminal laws are based on the concept that innocent people have a legal right not be detained. Why should there be a different set of rules in civil cases? The answer is: There should not.

I strongly support the innocent owner provisions contained in the drug bill and I urge all Members to vote against the Shaw amendment.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. Edwards].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of the Shaw amendment.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. Clement].

Mr. CLEMENT. Mr. Chairman, I rise in support of the Shaw amendment to H.R. 5210.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Chairman, I rise in very strong opposition to the amendment of the gentleman from Florida [Mr. Shaw].

Let me ask Members for one moment just to contemplate—we are not talking about illicit drug traffickers, which have been the subject of most of the debate for the past few days. We are talking about people who are innocent of drug trafficking.

I ask Members would it make sense if one-eighth of a gram of an illicit drug were found in the luggage of a passenger on the *Queen Elizabeth* to seize that vessel? Of course it would not. And do my colleagues know what? There is an exemption in the law for a common carrier precisely because it does not make any sense.

Would it make sense to seize the apartment building in which one-eighth of a gram of an illegal substance were discovered? Of course it would not. And do my colleagues know what? For that very reason, there is an exemption in the law.

Would it make sense to seize a commercial fishing vessel on the personal effects of one member of the crew whereby one-eighth of a gram of an illicit substance had been found? Of course it would not.

But it will be the case, and it is the case right now, and if this amendment is adopted dozens of fishing vessels around this country will continue to be seized and held indefinitely, and American citizens who are utterly innocent of any wrongdoing will be deprived of their livelihood by their Government for no reason on Earth. And under existing law they have no right, the owner of that vessel who is utterly innocent, to reclaim it, and his crew members have no livelihood.

One of the preeminent oceanographic research vessels of this Nation which discovered the *Titanic* is currently under seizure because a fraction of an ounce of something was found on one crew member. The rest of that vessel and the Oceanographic Institute to which it belongs are utterly innocent.

What this amendment has zero tolerance for, I submit to my colleagues, is common sense.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding and I rise in strong opposition to the Shaw amendment.

Mr. Chairman, I rise today in strong opposition to the amendment offered by Mr. Shaw of Florida. This amendment would eliminate the innocent owner defense for any conveyance which is subject to forfeiture. Let me give you an example of why I oppose this amendment: If unbeknownst to the owner, master, or other crew of an Alaskan fishing boat, a crewmember was found to be in possession of fifty-one one-hundreths of a gram of cocaine, the vessel would immediately be seized and subject to forfeiture. Under Mr. Shaw's amendment, regardless of the efforts of the boat owner, or the rest of the crew, to keep drugs off their vessel, the boat would be subject to forfeiture by the Government and 8 to 10 people would be out of work. Mr. Shaw's amendment is asking the wives and children of innocent boatowners and crewmembers to pay for the irresponsible and criminal actions of another person. I ask you, is this right? Is this just? Is this the type of action that this House wants to be associated with?

Having lost relatives to drugs I have seen firsthand the horror that drugs bring on this Nation. No one feels stronger than I do that we need to stop this flow of poison into our Nation. But we cannot begin to punish innocents for the crimes of others. That is just not what this country is all about.

When the President first announced the Zero Tolerance Program I was very supportive of the announced intent. The intent of the zero tolerance policy was to hold users accountable for their own actions. That is a perfectly sensible proper policy. Unfortunately in the majority of the vessels seizures in my State, the crewmember who was found with the narcotics went scot-free while the owner and crew were deprived of their livelihood. In my home State of Alaska in the first 2 months of the Zero Tolerance Program 13 fishing boats were seized costing the men and women who work these boats several hundred thousand dollars per boat in lost wages. Unfortunately only seven criminal charges were ever filed in these cases and only two or three people were ever convicted. However, the result of an inadequate innocent owner defense, has meant the loss of income to many families for the entire year.

The proponents of this amendment will tell you that there is no need for an innocent owner defense because "the Customs Service will be fair." In a perfect world, Mr. Chairman, the proponents may be right, but we do not live in a perfect world. We cannot count on the generosity of an agency that threatens innocent boatowners with forfeiture if the owner has the audacity to contact his Congressman for help. We cannot count on the benevolence of an agency that in one case seized a vessel allowed personal property to be stolen from it, crashes it into a dock, then refused for over 6 weeks to inform the owner of its whereabouts.

Mr. Chairman, procedural safeguards are important, that is why Mr. Studds and I included them in our original amendment which was adopted by the Merchant Marine and Fisheries Committee, and why Mr. Hughes and the rest of the Judiciary Committee included them in their sections of this bill. But unfortunately, Mr. Chairman, the safeguards which are contained in the Shaw amendment require the owner of a boat or a car to put up the value of that boat or car in cash in order to even be eligible for these safeguards. How many individuals can come up with a half a million dollars in cash simply to have the option of not having your livelihood permanently taken from you regardless of your guilt or innocence?

Mr. Chairman, the Foley/Michel substitute represents major concessions from the original text which was passed by both the Merchant Marine and Fisheries Committee and the Judiciary Committee but it does at least provide some minimum safeguards which protect all Americans. The text of H.R. 5210 is a far cry from what I would have preferred to see in this bill but it does represent a compromise of interests which should not be disturbed. I urge the defeat of the Shaw amendment.

Mr. STUDDS. Mr. Chairman, I thank the gentleman for his support and I urge Members to see that this is essentially an issue of common sense and rationality.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I find myself in a position in this particular instance of not agreeing with a good friend of mine with whom I agree on many issues.

For the life of me, I cannot understand why this is necessary in any event. First of all, I support zero tolerance. I have defended the right of the Government to make seizures.

What has happened over the past few months is that the people making those seizures have, frankly, not been responsible. They have been outrageously unreasonable.

But zero tolerance is a policy that if effectively operated, with some common sense and logic, can work.

This looks like it would preclude the courts from doing what they need to do, and if the Attorney General were to dismiss a petition for expedited procedure, who knows what binding effect it would have on the courts and people who are innocent because a crew member on a 60-foot boat that they had out for pleasure may have had less than an eighth of an ounce, maybe a stem or a stick or a seed and winds up having their boat held.

That is what has been the problem with the policy, and this would compound that problem, it would not make it better.

I think the gentleman has the right idea, but this is definitely the wrong vehicle.

Mr. SHAW. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I think we must look at exactly what is being done here and what is being done to our law, and what a dramatic change this is going to be from the law that existed in this country from back in colonial times.

What this bill does, without the extraction by my amendment, is provide that no vessel, vehicle, or aircraft be forfeited under this section to the extent of an interest of an owner for a drug related offense established by that owner to have been committed, or committed without the knowledge or consent of the owner.

How in the world are we going to ever have any forfeiture when the owner is not aboard, he claims he knew nothing about it, and the connection cannot be made beyond a reasonable doubt? Mr. Chairman, this is precisely why I have offered this amendment.

I have offered it at the request of the Justice Department. I have offered it at the request of the Coast Guard. I have offered it at the request of the Customs, of the National Sheriffs Association, and it is also the position of the Ways and Means Committee.

Mr. Chairman, for this amendment to fail would really strike a lethal blow at what we are trying to do.

The gentleman from Massachusetts made reference to a seizure of *Atlantis II*. I would like to read my colleagues what the owner of the *Atlantis II* said in a letter to Commissioner Van Robb dated May 19, 1988, after the seizure.

□ 1730

He said, "I am in full agreement with both the spirit and the letter of your efforts."

Now what more of a ringing endorsement can he have? The system is working. We are here gathered trying to work in a bipartisan manner to strengthen our drug laws, and to not pass this amendment would be the worst thing that you could possibly do to our efforts, particularly on the seas.

Mr. Chairman, I urge passage of the Shaw amendment. In my opinion to retain something close to existing law is the most important thing that we can possibly do. The procedures safeguarding the innocent owner when a vessel is being caught for small amounts is being expedited under my amendment which retains much of the language that was put forth by the Committee on the Judiciary. But not to pass this amendment would be absolutely devastating. The owner of a vessel must be responsible.

If you lend your car out tonight to somebody and he gets drunk and kills a passenger, they cannot only take your car, but they can take everything you own. When someone has a vessel it carries along with it the responsibility as to who is operating those vessels. And to change a law that has existed as the law of the land since colonial times in this country without extensive hearings and without more than 20 minutes' debate would be very damaging to our whole narcotics efforts.

I urge a "yes" vote on the Shaw amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I do not believe some of the things I heard in this Chamber. I am very proud of the fact that I was the prime sponsor of the forfeiture bill. I point to that with great pride, because I think it has been a dynamic new method to attack the profits of drug traffickers. This process does not have anything to do with that kind of forfeiture. It puts in place a process for innocent owners to be able to establish that they had nothing to do with that drug-related offense. It does not do anything more nor anything less than that. It put in place a process for an innocent owner to establish that he too has been wronged. Now, if we want to throw the constitutional process out the window, vote for Shaw. It is as simple as that.

I urge my colleagues to reject the Shaw amendment.

It is said that the language in the amendment came from the Department of Justice. I am amazed to learn that they now have turned 180 degrees on us and I cannot imagine the Justice Department walking away from due process. That is the bottom line.

Mr. BOSCO. Mr. Chairman, I rise in opposition to the Shaw amendment and in favor of the Studds amendment to H.R. 5210, the omnibus drug bill. Retaining the innocent owner provisions that are currently in the bill and adding the Studds amendment will insure that the Coast Guard carries out its drug interdiction missions effectively and without causing gratuitous harm to innocent third parties.

I have heard countless horror stories about the Coast Guard's so-called zero tolerance confiscation policies, through my service on the House Merchant Marine and Fisheries Committee and from many of my constituents who depend upon the sea for their livelihood. Like many of my colleagues, my tolerance for these confiscations is at an all-time low.

Yesterday this body voted to approve Coast Guard budgets of $2.6 billion for fiscal year 1988 and $2.9 billion for fiscal year 1989. A substantial part of these funds will be properly expended in this Nation's war against drugs, but, in the words of a constitutent of mine who was unfairly victimized by the zero tolerance policy, "they're shooting the civilians and losing the drug war."

Under the bill as currently drafted, conveyances are not automatically forfeited as a result of a drug violation if the particular violation has occurred without the owner's knowledge or consent. The Justice Department is required by the bill to file a complaint seeking forfeiture within 30 days after the owner files a claim and posts bond.

Mr. SHAW's amendment would strike the innocent owner sections of the bill and substantially modify the expedited procedures provisions. The Studds amendment establishes an innocent owner defense for seizures and forfeitures under the Customs Act.

Mr. Chairman, we wouldn't propose confiscating a business such as a 7-Eleven simply because drugs were found in the pocket of the person operating the cash register. Yet many individuals whose ships represent the entirety of their business are currently forced to surrender their livelihood as a result of crimes in which they are not even indirectly involved.

Mr. Chairman, I urge my colleagues to keep this bill fair by retaining the innocent owner and expedited procedure provisions.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 229, not voting 33, as follows:

[Roll No. 322]

AYES—169

Anthony
Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bevill
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Bruce
Burton
Callahan
Campbell
Carr
Chandler
Cheney
Clarke
Clement
Coats
Coble
Combest
Coughlin
Courter
Crane
Dannemeyer
Darden
Daub
Davis (IL)
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dowdy
Dreier
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gradison
Grandy
Green
Hall (TX)
Hansen
Harris
Hastert
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Kanjorski
Kasich
Kolbe
Kyl
Lagomarsino
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Martin (IL)
McCandless
McDade
McEwen
Meyers
Michel
Miller (OH)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murphy
Nelson
Nichols
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Patterson
Payne
Penny
Petri
Porter
Quillen
Rahall
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Schaefer
Schuette
Shaw
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauzin
Thomas (CA)
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Whittaker
Wolf
Wylie
Yatron
Young (FL)

NOES—229

Ackerman
Akaka
Andrews
Annunzio
Aspin
Atkins
AuCoin
Bates
Beilenson
Bentley
Bereuter
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bryant
Buechner
Bunning
Bustamante
Byron
Cardin
Carper
Chapman
Chappell
Clinger
Coelho
Coleman (MO)
Conte
Conyers
Cooper
Costello
Coyne
Craig
Crockett
Davis (MI)
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Gaydos
Gejdenson
Gephardt
Gonzalez
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Lewis (GA)
Lipinski
Lowry (WA)
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Owens (UT)
Panetta
Pease
Pelosi
Perkins
Pickett
Pickle
Price
Pursell
Rangel
Ravenel
Richardson
Robinson
Rodino
Roe
Rose
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schneider
Schroeder
Schumer
Sensenbrenner
Sharp
Shays
Shumway
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
St Germain
Stokes
Studds
Swift
Synar
Tallon
Tauke
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Walgren
Weldon
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—33

Alexander
Anderson
Badham
Barnard
Brown (CA)
Clay
Coleman (TX)
Collins
de la Garza
Frost
Garcia
Gordon
Gregg
Hawkins
Kemp
Konnyu
Levine (CA)
Lujan
Mack
MacKay
Mica
Ortiz
Owens (NY)
Pepper
Rostenkowski
Scheuer
Schulze
Stark
Towns
Waxman
Weiss
Williams
Wortley

□ 1752

Mr. TRAFICANT changed his vote from "aye" to "no."

Messrs. HORTON, LENT, GLICKMAN, RAHALL, and NELSON of Florida changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DARDEN) having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, had come to no resolution thereon.

PERMISSION TO OFFER OXLEY AMENDMENT TO H.R. 5210, OMNIBUS DRUG INITIATIVE ACT OF 1988, NEXT WEEK OUT OF ORDER

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that when the omnibus drug bill is taken up tomorrow, the amendment that I have pending, which will be the next order of business, as I understand it, under the rule, be passed over. I will be unavoidably absent tomorrow, and I ask unanimous consent that that amendment be passed over temporarily and taken up out of order when the Committee reconvenes sometime next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. HUGHES. Mr. Speaker, reserving the right to object, and I will not object, as I understand it, the gentleman will be away on official business tomorrow and just wants to pass at this point so that his amendment can be noticed and taken up upon our return hopefully next week? Is that the gentleman's request?

Mr. OXLEY. Mr. Speaker, if the gentleman will yield, that is correct. It is specifically the so-called money-laundering amendment which I will be offering.

Mr. HUGHES. Mr. Speaker, I know that the gentleman has worked very hard on this, and that it is important for him to offer this amendment. I have no objection to the request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPRINTING OF DEBATE ON APPOINTMENT OF CONFEREES AND MOTION TO INSTRUCT ON H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

Mr. McDADE. Mr. Speaker, I ask unanimous consent that the debate on the appointment of conferees on H.R. 4781, the Department of Defense Appropriations Act, 1989, and the motion to instruct be reprinted in the RECORD at this point.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The material to be reprinted is as follows:

APPOINTMENT OF CONFEREES ON H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

Mr. CHAPPELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. MC DADE

Mr. McDADE. Mr. Speaker, I offer a motion to instruct.

The **SPEAKER** pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. McDADE moves that the managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill H.R. 4781 be instructed to provide adequate funding for a pay raise for all members of the uniformed services effective on January 1, 1989, which would increase the rates of pay by 4.1 percent for basic pay and for basic allowance for subsistence and by 7.0 percent for basic allowance for quarters.

The **SPEAKER** pro tempore. The gentleman from Pennsylvania [Mr. McDADE] is recognized for 1 hour.

Mr. McDADE. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Florida [Mr. CHAPPELL] and, pending that, I yield myself such time as I may consume.

Mr. Speaker, the motion which the Clerk just read sounds pretty complicated, but it is actually very straightforward. It suggests that we, as the House, go on record by instructing our conferees to implement the Federal pay raise for our personnel in the armed services.

Mr. Speaker, as we all know, there has been a controversy over the authorization bill, and the authorization bill that left the House was lower than that requested by the President.

Mr. Speaker, what this instruction will do is it will add $156 million to the bill and benefit the 2.1 million active-duty personnel and their 2.9 million military dependents, and go toward supporting the 1.1 million members of the National Guard and Reserves and their 1.2 million dependents.

The motion essentially just sends a signal to the sergeant in Korea or the ensign in the gulf who are out there protecting our freedom but who are also concerned about their future and their families that we support them.

Mr. Speaker, as we are dealing with the Defense appropriations bill I must make some personal remarks. This Nation has lost a great public servant and I have lost a dear friend. Last month, very suddenly, Mr. George Allen passed away, and we are all a great deal less for it.

George Allen spent nearly 20 years working on the Hill; 17 of those years as an Appropriations Committee staff member and, more specifically, on the Defense Subcommittee on Appropriations.

He was born in 1927 and in World War II joined the Marines as a 17-year-old serving in the Pacific theatre. The next 20 years of his life he worked as a journalist, primarily in the Daytona Beach area, and come to Congress first in 1969 when he joined the staff of Representative BILL CHAPPELL. He joined the staff of the House Appropriations Committee in 1971 and for the first time in the history of the Nation he served as the first minority staff assistant who worked exclusively on defense and military construction appropriations in the House.

He moved on last year to become the Deputy Assistant Secretary of the Department of Defense for House Legislative Affairs. He died in the line of duty, flying aboard a C-5 en route to Frankfurt, Germany. George would have wanted it that way.

He was a quiet, modest man. He didn't seek the limelight, but he was well known to all who really knew about defense issues in this country. Over the years I couldn't begin to describe the number of people he helped become educated about the complex world of defense issues and, to be sure, the equally complex world of the Congress and the appropriations process.

He served this country well on defense issues, as well as any person I have ever known, and while he could recite the nuances of the MX missile or the stealth bomber, he always prided himself on his work with legislation affecting less glamorous issues which are the real background of a strong military—the quality of life of our troops and the effort to give them what they need so they can defend our Nation and the quality of life we hold so dear.

And so, as we instruct the conferees on the legislation on pay and allowances for the military, we most properly honor George Allen.

With a personal note of thanks to Sammy Fain amd Irving Cahal—George, old friend, I'll be seeing you in all the old familiar places that this heart of mine embraces all day through. In that small cafe, the park across the way, the children's carousel, the chestnut tree, the wishing well.

We'll be seeing you in everything that's light and gay, we'll always think of you that way.

George, we thank you for your many contributions to the Nation. We extend sympathy to family and friends.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I want to commend the gentleman for the statement he made. I agree with every word of it.

I will not belabor the subject. I just agree with everything that he said. I knew George Allen for many years. He was absolutely a first-class staff member when he was here on the hill, a first-class member of the administration when he had an administrative job. He was just a first-class person.

It is a great loss to the country.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I am happy to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I had the privilege of working with George Allen on the Defense Appropriations Committee, and I can tell the Members that if anybody was knowledgeable without having to go back to a journal or a manual, if anybody was knowledgeable without having to do that, it was George Allen. He really understood the situation with our own defense capability. He also understood the real threat that is out there in the world.

Mr. Speaker, I first met George Allen a quarter of a century ago, when I was the only Republican Senator in the whole State of Florida and George Allen was a newspaper reporter covering the Florida Legislature. He made a strong effort to seek me out and to find out who I was and what I was, because he had never seen many Republicans before, and certainly he had never seen a Republican Senator before.

I would tell the members that he was very inquisitive. Back then, I think he found out more about me than I knew myself, and about Republicans as well, but we still became good friends. We became good working colleagues, and I have to tell the Members that I really miss George Allen.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I am happy to yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding, and I thank him for his comments about a great friend of mine.

A few years ago as a young Member of Congress, I did not know George Allen at all. In fact, whenever I heard his name, I thought people were talking about the coach of the Redskins.

I was assigned to the Defense Subcommittee on Appropriations a few years ago, and I got to know George Allen, the great American who served as an adviser and counselor to so many Members, both Republican and Democrat, on that subcommittee. I got to know him as a friend, but I also got to know him as an expert on the matters of defense of this Nation. He guided me in those issues; he taught me well; and as the gentleman from Pennsylvania has pointed out, I was one of those people who was taken in tow by George Allen.

We traveled together. We got to know one another, and I came to respect and admire him more than perhaps most of the people that I have met since coming to Capitol Hill. George was truly dedicated to his job, and he was so with great humility and great modesty. He never took the road of high visibility. He always just went about his business quietly, and he made sure that things were done; things were accomplished for and by all the Members he worked with, without demands of his own for notoriety. But he always made sure that the men in uniform were taken care of.

George Allen was a great American, and he was a great friend. He will be missed by all who knew him.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I am happy to yield to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I want to echo the remarks of the ranking minority member with respect to George Allen. I know how closely they worked together to provide for our national security. We have lost an irreplaceable asset from our national security establishment.

George Allen was a close and dear friend to the Appropriations Committee on both sides of the isle. He was such an important figure to all of us that I suppose we thought he would always be around. Now the people with whom he served are literally stunned. It is a deep personal loss.

But, I think beyond how we personally feel, we should also pause and reflect on his importance to the Nation. There is no one here today who has more knowledge, experience, or concern for this Nation's security than George had. He was an expert in military construction matters, he was a master of the political requirements to appropriate for our defense, and he was without equal in providing analysis to the staff and Members on the big picture with respect to foreign policy, arms control, and defense-related matters.

He cared about the welfare of our military forces. He cared about traditions in the military. And he cared about improving our Defense Establishment.

He cared about all of us on this committee. He cared about the institution of Congress. And, he cared about the professionalism necessary for all of us to do our jobs right.

His contribution to our performance does not go unsung and we should continue to sing his praises in our memory.

George Allen cannot be replaced and he will be sorely missed.

□ 1415

Mr. McDADE. Mr. Speaker, I thank my friend, the gentleman from Massachusetts, and I yield such time as he may consume to the gentleman from California [Mr. LOWERY].

Mr. LOWERY of California. Mr. Speaker, I join my colleagues in paying tribute to our fallen comrade and friend. I first worked closely with George when I joined the Appropriations Committee 4 years ago on the Military Construction Subcommittee, and I learned very quickly of his great knowledge.

This soft-spoken gentleman, born in Atlanta, brought his southern manners to the Hill 20 years before. When I think of George I think most of a friend, because he brought with him a sense of loyalty and a sense of humor, and a warm and engaging personality. I also think of him as a teacher, because he was, in a very low key fashion, so knowledgeable and instructive and patient with this new Members of the Appropriations Committee.

All I can say is he will be sorely, deeply missed, and I extend my respects and condolences to George's family.

Mr. McDADE. Mr. Speaker, I thank my colleague, the gentleman from California, and I reserve the balance of my time.

Mr. CHAPPELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great sorrow that I join my colleagues today in remembrance of my dear friend and coworker, George F. Allen. I had the privilege of working with George for over 20 years and he served as my administrative assistant when he first moved to the Washington area in 1969. He joined the Appropriations Committee as a professional staff member in 1977 and served in various positions dealing with defense matters on this great committee until 1987.

George served in the Marine Corps during the latter part of World War II. He was very proud to have been part of the Corps.

George was a man of great industry and dedication and he put in many long hours working on defense appropriation issues. He was one of the most knowledgeable men in Washington in military matters and had a special talent for dissecting budget requests and ferreting out the critical questions in a wide variety of complex defense programs. His integrity was legend throughout the appropriations and defense communities.

George was an exceptional public servant and served this country well and proud.

I have lost a true friend and this country has lost a devoted public servant. His family can take comfort in the knowledge that his many years of service to this National left its mark and he will be greatly missed.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. DICKS].

Mr. DICK. Mr. Speaker, I am pleased to join my colleagues on the Defense Appropriations Subcommittee in remembering George Allen. I think George fit the mold of being one of those truly outstanding public servants who served us here in the U.S. Congress, and of course at the Department of Defense.

As someone who has had staff experience, I can understand and appreciate I believe how important that contribution is, and I just want to say that I thought George was the kind of adviser who never took partisan politics into account. It was always what was in the security interest of the country. He had a true bipartisan approach to our committee. He worked with Members on both sides of the aisle. He did an outstanding job during the years that I have served on that subcommittee.

He was also a catalyst for promoting cooperation, and when he took over the Assistant Secretary's job, I think all of us here in the Congress felt that we had someone who we could work with, who we could trust, who we could call on and get good advice in terms of cooperation with the Defense Department.

All of us will miss George's wry humor and his dedication to duty. I just want to say my own words of sympathy to his family. I know it was a very tragic and sudden loss, but George did a great job for this country, and we all appreciate and respect his contribution.

Mr. MILLER of Ohio. Mr. Speaker, I would also like to take a brief moment to pay my respects to George Allen. As many of us know, George served this country with great distinction on the staff ot the Appropriations Committee. His sudden death was a tragedy.

George was one of the most conscientious people I've known. His expertise on issues relating to the overall defense posture of this Nation was exceptional, and I was consistently impressed by his diligence and devotion to the principles we all share in this House.

The delicate issues associated with the defense of this country demanded a working understanding of some of America's most fundamental values and traditions. George never lost sight of that fact. He never placed partisan considerations above the priorities of our Nation's welfare and well being. He was a gentleman and an astute observer of the legislative process.

We will miss him. We will miss his role in making us wiser and more aware of the importance of our Armed Forces and their place in a free society. His family can justifiably point with pride to his contributions as an honorable citizen and a true American.

Mr. CHAPPELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McDADE. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. VOLKMER). The question is on the motion offered by the gentleman from Pennsylvania [Mr. McDADE].

The motion was agreed to.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 4781 WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CHAPPELL moves, pursuant to rule XXVIII, clause 6(a) of the House rules, that the conference committee meetings between the House and the Senate on H.R. 4781, the Department of Defense appropriations bill for the fiscal year ending September 30, 1989, and for other purposes, be closed to the public at such time as classified national security information is under consideration, *Provided however*, That any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

On this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 18, as follows:

[Roll No. 311]

YEAS—413

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—18

Badham
Barnard
Buechner
Cheney
Emerson
Ford (MI)
Garcia
Hall (OH)
Johnson (CT)
Mack
MacKay
Mica
Roe
Smith (FL)
Stark
Towns
Waxman
Williams

□ 1439

Mr. COUGHLIN and Mr. OXLEY changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. VOLKMER). The appointment of conferees will be deferred until the Speaker returns and resumes the chair.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr Kalbaugh, one of his secretaries.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of the its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1154. An Act to remedy injury to the U.S. textile and apparel industries caused by increased imports.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3822, INTELLIGENCE OVERSIGHT ACT OF 1988

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-923) on the resolution (H. Res. 534) providing for the consideration of the bill (H.R. 3822) to strength the system of congressional oversight of the intelligence activities of the United States, which was referred to the House Calendar and ordered to be printed.

REPORT OF RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5247, PROVIDING FOR CONSERVATION OF WATER AND RELATED RESOURCES AND AUTHORIZING THE U.S. ARMY CORPS OF ENGINEERS TO CONSTRUCT VARIOUS PROJECTS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-924) on the resolution (H. Res. 535) providing for the consideration of the bill (H.R. 5247) to provide for the conservation and development of water and related resources to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, which referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3133, TRAUMA CARE SYSTEMS PLANNING AND DEVELOPMENT ACT OF 1988

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-925) on the resolution (H. Res. 536) providing for the consideration of the bill (H.R. 3133) to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 387, PROMOTING EQUITABLE PAY PRACTICES AND ELIMINATING DISCRIMINATION WITHIN THE FEDERAL CIVIL SERVICE

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-926) providing for the consideration of the bill (H.R. 387) to promote equitable pay practices and to eliminate discrimination within the Federal civil service, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. PACKARD. Mr. Speaker, due to previous family commitments, I missed several votes last week. If I had been present I would have voted in the following manner:

Rollcall vote No. 291, "nay."
Rollcall vote No. 292, "yea."
Rollcall vote No. 293, "nay."
Rollcall vote No. 294, "nay."
Rollcall vote No. 295, "yea."
Rollcall vote No. 296, "yea."
Rollcall vote No. 297, "yea."
Rollcall vote No. 298, "yea."
Rollcall vote No. 299, "nay."
Rollcall vote No. 300, "yea."
Rollcall vote No. 301, "yea."
Rollcall vote No. 302, "nay."
Rollcall vote No. 303, "nay."
Rollcall vote No. 304, "nay."
Rollcall vote No. 305, "yea."
Rollcall vote No. 306, "yea."
Rollcall vote No. 307, "yea."

EXPRESSING THE SENSE OF CONGRESS CONCERNING THE 1988 SEOUL OLYMPICS

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 348) expressing the sense of the Congress concerning the 1988 Seoul Olympic games, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, and I will not object, I yield to the chairman of the committee, the gentleman from Florida [Mr. FASCELL] to explain the concurrent resolution.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, I rise in support of House Concurrent Resolution 348, as amended, which expresses the sense of Congress concerning the 1988 Seoul Olympics.

This resolution commends the outstanding work of the Korean Government and the Seoul Olympic Organizing Committee in organizing the games of the 24th Olympiad which will have a record number of teams participating. We further commend the work of the Korean Government and the Olympic Organizing Committee for the attention which they have paid to safety and security precautions and for the measures they have taken to provide maximum security for the athletes, officials, and visitors to these games.

Finally, this resolution pays tribute to the close friendship between the people of the Republic of Korea and the people of the United States and our mutually beneficial relationship. Mr. Speaker, this resolution enjoys full bipartisan support and was ordered reported unanimously from the Committee on Foreign Affairs.

We wish the Korean people well and congratulate them on their efforts in hosting what we all hope will be the most successful Olympiad to date. I would also like to commend our colleague from New York, Mr. HORTON, for introducing House Concurrent Resolution 348, and appreciate his cooperation in working with the Committee on Foreign Affairs to bring this resolution to the floor for approval by the entire House.

I urge the adoption of the resolution.

□ 1800

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I yield to the sponsor of this timely and important legislation, the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I thank the gentleman from New York for yielding.

Mr. Speaker, I would like to express my support for House Concurrent Resolution 348, which commends the Korean people for hosting the XXIVth Olympiad in Seoul. I would also like to thank the chairman and ranking minority member of the Foreign Affairs Committee DANTE FASCELL and BILL BROOMFIELD, and the chairman and ranking member of the Asia Subcommittee, STEVE SOLARZ and JIM LEACH, for moving my resolution through the full committee and the subcommittee so expeditiously.

As the opening ceremony of the 1988 summer Olympics draws near, world attention is being focused on the host city: Seoul, capital of the Republic of Korea. The sports festival will open on September 17 and will continue on October 2. More than 160 nations, a record number, have accepted invitations to compete in the 1988 Olympics and will send approximately 12,000 athletes to Korea, making the Seoul games the largest ever held. Awaiting them is a spectacular array of sports facilities which have been readied over the last few years and are considered to be some of the finest in the world. All indications are that this year's Olympics will be an exciting, world-class event.

The Korean people have worked hard to ensure that this year's games will be a grand success. Of great significance is that the organizers have sought to build the Seoul Olympics upon an appropriate philosophical foundation. Thus, they chose for the games the official motto of "Harmony and Progress" and emphasized the concepts central to the Olympic spirit, including international understanding and cultural exchange. For the record, Mr. Speaker, I would like to submit an article written by Seoul Olympic Organizing Committee President Park Seh-Jik at the end of my statement. He explains the themes which are embodied in the 1988 Seoul games.

In keeping with this year's theme of "Harmony and Progress," the 1988 Olympics will include participation of athletes from the major nations of both the Western and Eastern blocs, marking the first time in 12 years that the Olympics have not been marred by an organized political boycott. Thus, the Seoul games will represent an important turning point by overcoming the political differences which have dogged the past few games and, in doing so, revitalize the Olympic movement.

I would also like to point out, Mr. Speaker, that the Seoul Olympics will serve to remind all Americans of the important United States interests that converge on the Korean peninsula. In recent years, economic, political, and defense cooperation between the United States and Korea have come to represent one of America's most valuable alliances. United States-Korean defense cooperation has become a linchpin for stability in all of Northeast Asia, and therefore it is vital to U.S. national security. Furthermore, Korea's rapid economic growth over the last three decades represents a significant United States foreign assistance success story and Korea has become America's seventh largest trading partner.

Having already established itself as an economic model for the developing world, Korea over the past year also has made progress in political development commensurate with its well-known achievements in social and economic development. Koreans rightly take pride in their country's growing democracy and image as an "economic miracle" and showcase for free market capitalism.

Mr. Speaker, because the 1988 Seoul Olympics is a watershed event, not only for Korea but also for all the members of the Olympic movement, I introduced my resolution expressing the sense of the Congress concerning the games. The measure commends the fine preparation, which has set the stage for a spectacular sporting celebration and also pays tribute to the close friendship and cooperation between the people of Korea and the United States. I know all my colleagues will want to join me in congratulating our Korean friends and wishing them all the best for the grand festival, which is about to begin.

SEOUL'S OLYMPIC QUINTESSENCE A CLUE TO WORLD PEACE

(By Seh-Jik Park, President of the Seoul Olympic Organizing Committee)

Today, flapping in the breeze outside the headquarters building of the Seoul Olympics are the flags of the 161 National Olympic Committees which have accepted the International Olympic Committee's invitation to participate in the Games of the XXIVth Olympiad. As the flags were raised in unison last January, it suddenly felt as though the world community was standing guard at the door of the Olympic Center to ensure that our planning and preparations succeed in bringing the world one step closer to international harmony and progress.

In Seoul, we have never shied away from our responsibility as an Olympic host. Our preparations are all on or ahead of schedule and our facilities are nearly all competition-tested. This allows us the privilege to be concerned with the larger issues of the Olympics and to step back and see the forest of opportunity before us.

To the thousands of visitors who have come to our headquarters, I have described the Korean Olympics as a fantastic journey of a nation that has brought us and the world to an historic crossroads. On this journey we are guided by the five themes we call the Quintessence of the Seoul Olympics and which can easily be remembered by using the acronym CLUE.

Under "C," our first wish is that these will be the *Games of Total Culture* in which the body, mind and spirit are united to bring sports, scholastics and art to full and equal membership in the Olympic Movement.

Sports have long been very popular in Korea and we have developed a "Sports for All" policy that has raised the sporting awareness level in our country greatly. In our role as the Olympic host committee, we at the Seoul Olympic Organizing Committee (SLOOC) have overseen the development of a total sporting network that will welcome the world this September. In addition, our sports management systems set for the Olympics will go a long way in keeping sport a national priority and a means toward improving the living standards of all our people.

In terms of art, we have designated the 50 days from August 17th through October 5th this year as the Seoul Olympic Arts Festival. This program will include an International Theater Festival, the International Dance Festival, the Seoul International Music Festival, the Seoul International Folklore Festival, Korean Film Week, and other events.

Already, our cultural diplomacy has taken root in a three part program we have called the Olympiad of Art. The first two parts of this program were held last summer and this spring in Seoul and produced 35 sculptures of stone, concrete, and metal by some 35 international artists. These works will remain on permanent display in our Olympic Park sculpture garden.

This August, sculptural works donated from around the world, including some by late masters, will be displayed in the Olympic Park's World Invitational Sculpture Exhibition. In all, there will be some 200 pieces on exhibit during the Games.

The third segment of our Olympiad is the International Contemporary Painting Exhibition which will be staged at the National Museum of Contemporary Art in Seoul. It will feature works by 110 artists.

On the scholastic side, the Seoul Olympic Scientific Organizing Committee will host the 1988 Olympic Scientific Conference this September.

Also under "C" is our wish that these be the *Olympics of Compassion.* While the Olympics spotlight the abilities of able-bodied athletes, we have also kept in mind those of the disabled. Just after the 1988 Olympiad, Seoul will host the VIIIth Paralympics. Beginning on October 15th, more than 4,000 disabled athletes from 50 nations will compete in 17 sports, making Seoul's Paralympics the largest ever.

It is notable that, for the first time in history, an Olympic Organizing Committee and a Paralympics Organizing Committee are working on a fully integrated and coordinated effort as we attempt to show the world that the Olympic Family includes all who share its spirit.

Next, "L" symbolizes our desire that this be the *Olympics of a Future Legacy.* We in Seoul realize that the torch bearers of the Olympic Movement's future are the youngsters of today—those who are too young to be involved in the cause but too important to be left out of its future. That is why we will host approximately 1,000 young people at our youth camp in Seoul from September 13th through October 2nd.

Under "U" is our most cherished theme: that these Games will be the *Games of Unity.* In 1988, President Samaranch told a group of young Olympic scholars who had gathered at the International Olympic Academy in Olympia that, "Olympic principles and ideals, coming as they do from a long line of tradition, have taken on universal value and importance. Olympism strives to be the bridge, the meeting point uniting very different worlds." President Samaranch's lesson for these young members of the Movement is the same lesson that we as Koreans are learning in our role as Olympic hosts—that by reaching out in the spirit of the Olympic Movement we can create Bonds and Bridges among all peoples and help us bring the maximum number of National Olympic Committees to Seoul.

Our Olympic Park in Seoul has been developed with this spirit of Unity in mind. At the center of our Park will be a monument dedicated to the Olympic Movement. Its foundation will be constructed from the thousands of stones brought to Seoul in the Stone Festival we are sponsoring. With representatives from the five pillars which make up the Olympic family (the IOC, the NOCs, SLOOC, the International Federations and the media) bringing a piece of their homeland here as part of the foundation, it is certain to stand as a symbol of the unity of purpose we enjoy. Additionally, at the entrance of the Park will stand a gate designated the World Peace Gate.

Finally, "E" represents the *Olympics of a New Era.* We would like to show the world the new Korea and the role the Olympics has played in its transformation. Today's Korea is energetic and bustling. Our economic growth rate, for instance, is one of the world's highest. We look forward to showing the world that the national objectives of growth and development go hand-in-hand with the goals of the Olympic Movement.

As World War II came to an end over 40 years ago, the two previous Olympiads had been cancelled and the Olympic Movement lay in ruin amid the great destruction that had plagued all our peoples.

Out of those ashes came a man of vision and eternal optimism who was wise enough to seize the moment. Sigfrid Edstrom of Sweden was the IOC President from 1946 to 1952. He, like Olympic leaders today, knew that the world's fate rested in the hands and hearts of the young and that, in order to revive the Olympic Movement, a commitment to its ideals must be developed among tomorrow's leaders. As the 1948 London Olympics came to a close, Edstrom said, "The Olympic Games are not able to force peace, a supreme gift to which all aspire, but in the youth of the entire world being brought together there is the opportunity to find that all men of the earth are brothers."

The five themes of the 1988 Seoul Olympics are designed to convey this message to all who will witness this summer's sports festival and to our future generations as well.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection and thanking the gentleman from New York for the resolution and for his statements, I yield to the gentleman from Iowa [Mr. LEACH] who is the ranking member of the Subcommittee on Asian and Pacific Affairs of our Committee on Foreign Affairs.

Mr. LEACH of Iowa. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding, and I rise to commend the gentleman from New York for bringing this resolution to our attention and, most of all, to commend the people of South Korea for a most remarkable job in hosting these Olympic games.

Mr. Speaker, I rise in support of House Concurrent Resolution 348, as amended, which expresses the support of the Congress for the Republic of Korea as it hosts the upcoming 1988 summer Olympic games.

I want to commend the gentleman from New York [Mr. HORTON] for authoring this resolution and for his leadership in getting Congress on official record in recognizing the outstanding work of our friends in Korea as the Olympics begin September 17, 1988.

With nearly 14,000 athletes attending from 160 countries—the highest number of nations participating ever—the people of the Republic of Korea are justifiably proud to host the XXIV Olympiad. They can be proud not only of the facilities and arrangements for these international games, but also of their impressive democratic and economic successes which will equally be evident for all the world—East and West—to see and experience.

In spite of the efforts of the International Olympic Committee, supported by the Seoul Olympic Organizing Committee, the North Koreans have refused to participate in the Olympic games. Yet, the games will include major East and West bloc nations who find, in spite of ideological and other differences, common interest in peaceful athletic competition. The Americans will be there; so will the Soviets and the Chinese. The XXIV Olympiad promises to fulfill its motto of "Harmony and Progress."

On this, the eve of the convening of yet another Olympiad in the finest of ancient traditions of international understanding and competition, this resolution salutes our friends in Seoul for a job well done. I am sure my colleagues will want to join in unanimous support of the resolution and to take this opportunity to express to our young and talented athletes the best wishes and hopes of the American people as they enter this competition.

I urge the adoption of House Concurrent Resolution 348.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection and thanking the gentleman for his statement, let me just say briefly that I strongly support the resolution.

It is entirely fitting for this committee on this occasion to salute the people of the Republic of Korea on the eve of this momentous event.

Mr. Speaker, the forthcoming Olympics in Seoul represent more than just an athletic spectacle. These games will also signify a nation having come of age. And Americans can take justifiable pride in seeing a nation we have helped to rebuild take on the responsibility of hosting the greatest international festival in the modern world. I might add that these games will also mark the first time that the Olympics have been held on the mainland of Asia, and the first time that the Olympics have been held in a nation that became independent in the years since the end of World war II.

I appreciate the fact, Mr. Speaker, that this resolution commends President Roh Tae Woo for his efforts to reduce tensions on the Korean Peninsula. And, of course, the resolution also mentions Mr. Park Seh-Jik and the splendid job he has done along with the Seoul Olympic Organizing Committee.

It is interesting to note that President Roh has been actively involved in the Olympics from the very outset. Indeed, he was the first president of the Olympic Organization Committee back in the early 1980's. Many of the initial preparations for these games, including the construction of several stadiums and arenas, took place under his supervision. And now, as the democratically elected President of his country, he will have the pleasure of seeing this grand event come to fruition. This is something for all Koreans, all Americans, and all peoples of the world to enjoy.

Mr. BLAZ. Mr. Speaker, I rise today in support of the sense-of-Congress resolution congratulating and saluting South Korea for hosting the 1988 summer Olympics. During the debate on the resolution in the Foreign Affairs Committee where I am a member, members lauded abundant praise on that country for what many of us consider as a miraculous feat—providing for the Olympics such exquisite accommodations and facilities and doing so 1 year ahead of schedule.

From a personal standpoint, having served in Korea during the Korean war, it was a stunning experience to behold the majesty and magnitude of the Olympic site rising as it does, like the legendary Phoenix, from the ashes of war.

I am also especially honored and privileged to call attention to the fact that my district, the Territory of Guam, is fielding an Olympic team for the first time in its history. This development is full of ironies, among which are:

First. It is one of America's smallest and least populated districts;

Second. It is America's only district in the Asian region where the Olympics are being held for the first time ever; and

Third. Guam is fielding a team as though it were a country, even though it is a territory of the United States.

Mr. Speaker, there are few honors in life as meaningful to athletes, or for that matter to citizens, than to compete in the most notable, prestigious, and memorable event in the world—the Olympics. It is, therefore, with a great deal of pride and humility that I place in the RECORD the names of Guam's first Olympic athletes as a salute and as a token of our appreciation for their herculean accomplishments:

1988 GUAM OLYMPIC TEAM, SEOUL, KOREA, SEPTEMBER 17–OCTOBER 2, 1988

Gov. Joseph F. Ada—head of delegation.

ATHLETICS

John Halloran—coach.
Rick Taitano.
Fred Schumann.
Jim Walker.
Lou Klitzkle.
Julie Ogborn.
Mariana Ysrael.

BOXING

Ted Dela Pena.

JUDO

Ed Alseika—coach.
Rick Blas.
Derrick Anderson.
Mariano Aquino.

SWIMMING

Frank Whitman—coach.
Jonathan Sakovich.
Patrick Sagisi.
Veronica Cummings.
Barbara Gayle.

WEIGHTLIFTING

Milan Cukovic—coach.
Pete Fejeran.

WRESTLING

Ruben Tucker.

YACHTING

Linda Yeomans—coach.
Jon Iriarte.
Victor Torres.
Dan Millar.
Gary Griffen.

MEDICAL TEAM

Dr. Pat Sagisi.
Dr. Lex Rathbun.
Dr. Tom Rozychki.
Tony Blas.
Joe Taitano.

OFFICIALS

Michael Reidy—president.
Geofrey Burke—secretary-general.
Hank Parker—chief de mission.
Ray Topasna—chief de mission assistant.
Jill Nesset—administrative director.
James Ji—attache.
Monica Okada—press attache.
Judge B.J. Cruz—weightlifting.
Ginger Porter—yachting.
Gordon Chu—bowing.
Steve Ogborn—athletics.

MEDIA

Tom Blaz.
Edwin Dela Pena.
Tony Diaz.
Dave Ecret.
Nestor Licanto.
Carlos Nivera.
Joe Tighe.

Mr. BROOMFIELD. Mr. Speaker, I support the resolution before us concerning the upcoming Seoul Olympic games. By any measure, South Korea has come a long way since the early 1950's. By any standard, South Korea has made remarkable progress and truly is an "economic miracle." All of this progress was made in spite of the fact that the Republic of Korea's neighbor, North Korea, has used military operations, threats, and terrorist actions against the people of South Korea.

Last year's destruction of a Korean airliner is a case in point. The Government of South Korea is to be commended for its restrained response to that blatant act of terrorism. Seoul continues to hope that North Korea will participate in the Olympic Games. These recent decisions are the mark of a mature and responsible government.

Throughout the years, relations between South Korea and the United States have strengthened. Given the history of the Korean peninsula and the ongoing tensions between the two Koreas, our Government has maintained a military presence and a close security relationship with South Korea. The United States commitment to South Korea has kept that country and its people free. That commitment should continue.

I praise the Republic of Korea for its accomplishments over the years and wish to South Korean people good luck and success in the upcoming Olympic games.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore (Mr. DARDEN). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 348

Whereas recent decades have seen the development of close friendship and cooperation between the people of the United States and the people of the Republic of Korea;

Whereas economic, political, and security relations between the United States and the Republic of Korea have come to represent one of the most valuable alliances of the United States;

Whereas Seoul, the capital of the Republic of Korea, will host the XXIV Summer Olympiad to be held from September 17, 1988, through October 2, 1988;

Whereas the people of the Republic of Korea are greatly enthusiastic about and justifiably proud to have the opportunity to be host to the athletes that will participate in the 1988 Seoul Olympic Games;

Whereas the Seoul Olympic Organizing Committee has effectively directed the preparations for the 1988 Seoul Olympic Games, which will feature 237 events representing 23 different sports;

Whereas most of the 31 venues and other Olympic facilities have been constructed during the last several years especially for the 1988 Seoul Olympic Games and are considered to be some of the finest sports facilities in the world;

Whereas in keeping with the official motto of the 1988 Seoul Olympic Games of "Harmony and Progress", the Seoul Olympic Organizing Committee has steadfastly promoted the Olympic ideals of athletic competition, international understanding, and cultural exchange and has strived to overcome ethnic and ideological differences among the nations that will participate in the 1988 Seoul Olympic Games;

Whereas more than 160 nations, a record number, have officially accepted invitations to compete in the 1988 Seoul Olympic Games and will send approximately 12,000 athletes to Seoul, making the 1988 Seoul Olympic Games the largest ever held;

Whereas the 1988 Seoul Olympic Games will include participation of athletes of the major nations of both the Western and Eastern blocs, marking the first time in 12 years that the Summer Olympic Games will not be marred by an organized political boycott;

Whereas the Seoul Olympic officials have taken appropriate security precautions to ensure maximum safety for the athletes and officials of, and visitors to, the 1988 Seoul Olympic Games;

Whereas the Seoul Olympic Organizing Committee, under the auspices of the governing International Olympic Committee, has made every effort to allow for the participation of Democratic People's Republic of Korea;

Whereas the Government of the Republic of Korea continues to show flexibility in its dealings with the Democratic People's Republic of Korea;

Whereas on July 7, 1988, President Roh Tae Woo of the Republic of Korea announced a historic new initiative aimed at improving relations between the Government of the Republic of Korea and the Government of the Democratic People's Republic of Korea; and

Whereas a successful XXIV Summer Olympiad, which would include the participation of not only the major Eastern bloc nations but also the Democratic People's Republic of Korea, would serve world interests by reducing tensions on the Korean peninsula and by improving relations between the nations of the Eastern and Western Blocs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) pays tribute to the close friendship between the people of the Republic of Korea and the people of the United States and the mutually beneficial cooperation between our nations;

(2) wholeheartedly supports the choice of Seoul as host city for the 1988 Summer Olympic Games;

(3) commends the fine work of the Seoul Olympic Committee and the able leadership of Committee President Park Seh-Jik;

(4) commends the members of the Seoul Olympic Organizing Committee for the serious attention they have paid to safety and security precautions;

(5) has complete trust in the ability of the Seoul Olympic Organizing Committee to offer maximum security to the participants, officials, and visitors of the 1988 Seoul Olympic Games;

(6) urges all member nations of the Olympic movement to participate in the 1988 Seoul Olympic Games;

(7) commends the communist nations which have announced their intention to attend the 1988 Seoul Olympic Games, particularly the Soviet Union and the People's Republic of China;

(8) commends President Roh Tae Woo of the Republic of Korea for his July 7, 1988, policy initiative aimed at improving relations between his government and the Government of the Democratic People's Republic of Korea and coaxing the Democratic People's Republic of Korea out of its international isolation;

(9) urges the Democratic People's Republic of Korea to participate in the 1988 Seoul Olympic Games; and

(10) would consider participation of the Democratic People's Republic of Korea in the 1988 Seoul Olympic Games as an important gesture and a significant indication of a reduction of tensions on the Korean peninsula and of enhancement of stability in all of Northeast Asia.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FASCELL: Strike out all after the resolving clause of House Congressional Resolution 348 and insert in lieu thereof the following:

That the Congress—

(1) pays tribute to the close friendship between the people of the Republic of Korea and the people of the United States and the mutually beneficial cooperation between our nations;

(2) wholeheartedly supports the choice of Seoul as host city for the 1988 Summer Olympic Games;

(3) commends the fine work of the Seoul Olympic Organizing Committee and the able leadership of Committee President Park Seh-Jik;

(4) commends the members of the Seoul Olympic Organizing Committee for the serious attention they have paid to safety and security precautions;

(5) expresses appreciation for the measures the Seoul Olympic Organizing Committee has taken to offer maximum security for the athletes and officials of, and the visitors to, the 1988 Seoul Olympic Games;

(6) urges all member nations of the Olympic movement to participate in the 1988 Seoul Olympic Games; and

(7) commends all the nations, including the Soviet Union and the People's Republic of China, which have announced their intention to participate in the 1988 Seoul Olympic Games.

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The **SPEAKER** pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. FASCELL].

The amendment in the nature of a substitute was agreed to.

The **SPEAKER** pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. Fascell:

Amend the preamble of H. Con. Res. 348 to read as follows:

Whereas recent decades have seen the development of close friendship and cooperation between the people of the United States and the people of the Republic of Korea;

Whereas economic, political, and security relations between the United States and the Republic of Korea have come to represent one of the most valuable alliances of the United States;

Whereas Seoul, the capital of the Republic of Korea, will host the XXIV Summer Olympiad to be held from September 17, 1988, through October 2, 1988;

Whereas the people of the Republic of Korea are greatly enthusiastic about and justifiably proud to have the opportunity to be host to the athletes that will participate in the 1988 Seoul Olympic Games;

Whereas the Seoul Olympic Organizing Committee has effectively directed the preparations for the 1988 Seoul Olympic Games, which will feature 237 events representing 23 different sports;

Whereas most of the 31 venues and other Olympic facilities have been constructed during the last several years especially for the 1988 Seoul Olympic Games and are considered to be some of the finest sports facilities in the world;

Whereas in keeping with the official motto of the 1988 Seoul Olympic Games of "Harmony and Progress", the Seoul Olympic Organizing Committee has steadfastly promoted the Olympic ideals of athletic competition, international understanding, and cultural exchange and has strived to overcome ethnic and ideological differences among the nations that will participate in the 1988 Seoul Olympic Games;

Whereas 161 nations, a record number, have officially accepted invitations to compete in the 1988 Seoul Olympic Games and will send approximately 12,000 athletes to Seoul, making the 1988 Seoul Olympic Games the largest ever held;

Whereas the 1988 Seoul Olympic Games will include participation of athletes of the major nations of both the Western and Eastern blocs;

Whereas the Seoul Olympic Organizing Committee has taken extraordinary security precautions to ensure maximum safety for the athletes and officials of, and visitors to, the 1988 Seoul Olympic Games;

Whereas the International Olympic Committee, with the support of the Seoul Olympic Organizing Committee, has made every effort to allow for the participation of North Korea; and

Whereas on July 7, 1988, President Roh Tae Woo of the Republic of Korea announced a historic new initiative aimed at improving relations between the Government of the Republic of Korea and the Government of North Korea: Now, therefore, be it

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Florida [Mr. FASCELL].

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

THE FIRE IN YELLOWSTONE NATIONAL PARK

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OWENS of Utah. Mr. Speaker, I rise this afternoon as a member of the Parks and Recreation Subcommittee of the House, and a frequent visitor to Yellowstone National Park, to offer support for those who've directed our response to those extraordinary fires. Science, not politics, should determine the management decisions in our national parks.

Park Service Director Mott and Yellowstone Superintendent Barbee have acted responsibly, and wisely, in handling of the fires, in my opinion, and I commend them and those thousands of brave firefighters. I'm grateful there have been no serious injuries.

To those who are looking for scapegoats, calling for heads to roll, or for a change in policies which are based on scientific premises, I say: Wait for the perspective that a little time will bring before rushing to judgment.

Some have been quick to assert that we have witnessed disaster and devastation in Yellowstone National Park; that the Park Service's "let burn" fire policy was in error.

I do not agree.

More importantly, the ecological scientific community also does not agree. Almost unanimously, they tell us that Yellowstone was not destroyed, and that the ecology of Yellowstone will not, over the long term, be adversely affected by the fires.

I regret the personal distress and economic losses caused to some by the fires, and the expense to the U.S. Treasury. But, seemingly devastating fires are often nature's way of assuring healthy wildlife populations, new and diverse natural vistas, and vital new lifecycles for enjoyment by visitors for centuries to come.

Yellowstone Park has been changed by the fires, yes, but within a few short years, it will be even more green, more lush, and richer with wildlife, and, some will say, more beautiful than ever.

I insert three excellent editorials on this subject: two from the Salt Lake Tribune, and one from the Deseret News.

[From the Salt Lake Tribune, Sept. 10, 1988]

SENATOR WALLOP FINDS SCAPEGOAT FOR TRAGIC YELLOWSTONE FIRE

Wyoming's congressional delegation is understandably upset about the fires raging out of control in and around Yellowstone National Park. They have blackened more than one million acres, threatened private property and devastated the Cowboy State's lucrative tourism industry.

But Wyoming Sen. Malcolm Wallop is mistaken in blaming the National Park Service for the natural process under way in the aging lodgepole pine forests of his state, and he's dead wrong in calling for the resignation of William Penn Mott, Park Service director.

Blaming Director Mott for the Yellowstone fires is like blaming former Gov. Scott M. Matheson for the floods and landslides that devastated northern Utah during his term in office. Natural forces sometimes conspire to create problems that, quite simply, are beyond the control of man.

"I called for the resignation of Director Mott for the simple reason that he continues to find some reason to celebrate this event [the fires] while all the rest of us are suffering," said Sen. Wallop in a television interview. He argued that Park Service firefighters are not doing "everything they can" to control the fires that have burned since June.

The senator is probably right about Director Mott's attitude toward the fires. Park Service naturalists are excited about the long-term consequences of the fire and its ability to "renew" the vegetation and wildlife in Yellowstone. Fire is a natural process necessary for a healthy ecosystem in the park.

Despite this favorable attitude toward fire, the National Park Service recognized in July that a combination of dying forests and an unprecedented drought had resulted in the most dangerous fire conditions ever encountered in Yellowstone. The Park Service responded with an aggressive fire-control effort that has resulted in more than 9,000 people deployed on fire lines and bulldozers clearing vegetation within Yellowstone National Park.

These facts refute Sen. Wallop's claim that the Park Service is holding back and allowing the fires to burn.

Unfortunately, the crews in Yellowstone have been unable to control the fires. They're burning too hot, spreading too quickly, and cover too much land. Director Mott said this week the fires have charred more than 25 percent of the 2.2 million-acre park, and "we may actually end up by having at least half of Yellowstone Park attacked by fire. . . . We cannot control the situation until we get some moisture.

Forcing Director Mott to resign won't make it rain any sooner at Yellowstone, and it won't put the fires out. It won't alter the fact that fire is a vital part of the ecosystem, and it won't prevent a repeat of this natural cycle of forest renewal.

It would have an impact, however. It might get politician Wallop some attention from people who find themselves helplessly anguishing over the Yellowstone tragedy. Most definitely it would leave America's national parks without the effective, balanced leadership Director Mott has provided during the last several years.

[From the Deseret News, Sept. 11, 1988]

LEARN FROM YELLOWSTONE, DON'T HUNT FOR SCAPEGOATS

The "let-burn" policy of the National Park Service may be responsible for a new wildfire—this one in Washington, DC.

Three western senators are calling for the firing of National Park Service Director William Penn Mott, Jr., whom they hold responsible for letting wildfires in Wyoming and Montana rage out of control, turning much of Yellowstone National Park to ashes.

The requested firing would do little to resolve the problems that led to the Yellowstone disaster.

The imposition of the "let-burn" policy is a good example of federal adherence to rigid bureaucratic polices without regard to special circumstances. Too often, critical decisions are made at locations far removed from the site impacted by those decisions. This was the case in Yellowstone.

The "let-burn" policy basically is a good one. Limited forest fires can clean out overgrown areas and start new growth—nature's own way of tidying up. In the past 16 years the policy has been in effect, the average loss from fires in Yellowstone has been only 250 acres.

But there are times where exceptions must be made to almost any policy. That's when the local man-on-the scene ought to be able to make a decision without going all the way to Washington to argue for an exception. The way the Washington bureaucracy moves, that could take too long in any emergency.

Searing drought conditions and an accumulation of dead wood and foliage combined to make Yellowstone a powder keg. Thirteen fires were spawned in a relatively short time. Five of those were lightning-caused which invoked the "let-burn" policy, requiring naturally occurring fires be allowed to burn themselves out.

The stage was set for disaster and disaster resulted. To compound it by firing someone in Washington will only set the stage for future disasters.

If something good is to come from the ashes of Yellowstone, let it be a realization in Washington of the need for local involvement in decisionmaking processes. Giving needed leeway to regional federal officials to work with state and local officials when exceptional conditions exist is only prudent.

There is no question that rigid guidelines are needed to provide general guidance to federal agencies and to protect programs from abuse. And, there is no question that those guidelines should be conscientiously followed where possible.

What is questionable is a policy that provides no leeway, makes no provision for the exceptional circumstances.

Even granted this needed leeway, local officials will find themselves subjected to the "glass house" syndrome of 20-20 hindsight that has accompanied the Yellowstone disaster. Mistakes will be made, human beings are not perfect. But learn from the mistakes, don't pin them on a convenient scapegoat.

[From the Salt Lake Tribune, Sept. 14, 1988]

FIRE POLICY REVIEW, ALTERATION MUST CONSIDER "WHY" OF PARKS

Donald Hodel, the Secretary of Interior, seems a man confused and his confusion quite probably results from the building political pressures to abolish the National Park Service's so-called "let burn" forest fire policy.

After a tour of portions of fire-wracked Yellowstone National Park, the secretary told a press conference in West Yellowstone, Mont., "All the fire that we saw . . . was fire that was fought from the beginning, and in spite of the best efforts that we could put on that fire, we were unable to bring it under control."

But 24 hours later, after a tour of the Boise Interagency Fire Center and about 250 miles distant, he said: "The old policy has to be reviewed and altered."

The 16-year-old policy allows fires ignited naturally to burn within wilderness areas and national parks unless they endanger people or property.

Why, if "All the fire that we saw, . . . was fought from the beginning . . . must the policy be "reviewed and altered."

If the fires were "fought from the beginning," it would seem calling the Park Service fire management philosophy a "let burn" policy is something of a misnomer; if the phrase is taken literally.

What has happened in Yellowstone Park is best summarized when the secretary says ". . . in spite of the best efforts that we could put on that fire, we were unable to bring it under control."

The conditions that defied firefighters "best efforts" in Yellowstone had been building for a long time, due in large part to a management philosophy inherent in the reason that national parks are established to preserve outstanding areas in their natural state.

In Yellowstone's case this meant that vast stands of shallow rooted lodgepole pine became old, died and toppled over under the weight of winter snows and the force of heavy winds. This "jack straw" pile of dead wood, the result of natural forces, was never disturbed by Park Service personnel.

Instead, in compliance with congressional and administrative mandates that a "natural state" be maintained, the fallen pines became a conflagration waiting to ignite, becoming more tinder-like during the past two years of drought and above normal temperatures.

In short, what has happened in Yellowstone this past summer can not be accurately attributed to anything as narrowly simple as a "let burn" policy. Instead, the disaster that has ravaged about 1 million acres of the nation's oldest national park is the result, in many ways, of some commendable but far broader based good intentions, the desire to preserve some unique wonders of nature as they were created and to permit only those changes that natural forces produced.

Now those natural forces have demonstrated their violent and destructive face. This in turn has triggered a mammoth amount of political finger pointing: motivated in large measure because of the losses suffered by those who have profitted handsomely when Nature's mood was more sanguine.

Sen. Malcolm Wallop, R-Wyo., demanded the resignation of NPS Director William Penn Mott and, now, presidential-appointee Hodel suggests it is time that the Park Service's fire policy be "reviewed and altered."

Such review, along with any consequential alteration, cannot be logically limited to wildlife management policy. It must include total review of this nation's national park philosophy, seeking to determine how far and hard the forces of nature—unfettered by the works of man—will be allowed to impact on those parks. After all, fire is only one natural force of work there. Its impacts must be assessed along with those of water, weather, etc.

Secretary Hodel's desire to review and alter the national park fire policy is not without merit, but it must be integrated with an assessment of why Americans have established and maintained these parks, to preserve outstanding natural places untrammelled for the benefit and pleasure of everyone.

RANDOM DRUG TESTING

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, in the omnibus drug abuse legislation that the House is considering this week, we are taking many important steps forward in the fight against the use and distribution of illegal drugs in the Nation. But I am concerned because in the next few days we will be voting on an amendment by my colleague from Virginia, Mr. BLILEY, which would represent, in my judgment, a step backward.

The conduct of random drug tests clearly threatens the reputations and careers of many individuals in Federal Government service as well as in the private sector. If the implementation of these tests is upheld when reviewed by the courts, it will be absolutely critical to assure the integrity of the process in conducting these tests.

In the legislation that the committee has reported to the House, clear standards are established. It would extend to all urine drug testing programs the comprehensive laboratory certification system now being instituted by the Department of Health and Human Services for Federal work place testing. It would adopt by statute guidelines now being used by HHS to certify labs in the Federal program and strengthens the quality control provisions of those guidelines. It also provides important civil remedies to compensate victims of incompetence as well as criminal sanctions to deter fraud and abuse.

The Bliley amendment, on the other hand, would eliminate all sanctions, and would simply allow the Secretary to deem that the HHS guidelines were met because they had accreditation from a private organization. This is a classic example of the fox guarding the chicken coop.

Assured and enforceable quality protections must be a nonnegotiable part of Congress' oversight of any random drug testing process. We cannot stand for sloppy testing procedures. I fear that the amendment by the gentleman from Virginia would not only allow for such sloppy procedures to occur, but it would actually invite employers to use the cheapest labs possible, since there would be no sanctions whatsoever for inaccurate results.

Mr. Speaker, I am personally uncomfortable with the concept of random drug testing, but if it must occur for reasons of public safety and security, we simply must assure that innocent workers are not devastated by inaccurate results. We cannot tear up the Constitution in the process, and I am afraid that's precisely what the Bliley amendment would do.

REPORT ON AGRICULTURAL TRADE PROSPECTS IN SELECTED COUNTRIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Agriculture and the Committee on Foreign Affairs.

(For message, see proceedings of the Senate of today, Thursday, September 15, 1988.)

ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service:

(For message, see proceedings of the Senate of today, Thursday, September 15, 1988.)

REGULATORY PROGRAM OF THE U.S. GOVERNMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations.

(For message, see proceedings of the Senate of today, Thursday, September 15, 1988.)

□ 1815

JUSTICE ON FURLOUGH

The **SPEAKER** pro tempore (Mr. PRICE of North Carolina). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I rise once again this evening to urge all my colleagues to get a copy of the videotape "Justice on Furlough," to look at the documentary study of the impact on Massachusetts and the impact on Maryland of Governor Dukakis' furlough program for murderers, to see this 25-minute production which is available on videotape which explains and interviews the families of victims of those who have been murdered, interviews the couple in Maryland, the Barnes, who were tortured and raped by William Horton after he had been furloughed by Governor Dukakis' program.

"Justice on Furlough" is a very powerful film. The gentleman from California [Mr. LUNGREN] has introduced a bill which would prevent Federal aid from going to State prison systems that do as Governor Dukakis' prison system did in allowing a furlough program for murderers who are convicted to a lifetime without parole. I think it is very important that we pass the bill of the gentleman from California [Mr. LUNGREN] in order to send a signal that we are opposed to any State allowing murderers who are sentenced to lifetime without parole out on the weekends.

As everyone knows, Governor Dukakis had one murderer who had been out on 33 furloughs, had met someone and gotten married while out on furlough from his conviction as a murderer.

I also think it is important to recognize that there is a legitimate congressional interest in "Justice on Furlough" because Governor Dukakis' furlough program in Massachusetts released murderers who in fact went across State lines and endangered citizens in other States. With the weekend furlough program in the age of the modern jet airplane, it is very conceivable that a murderer released in Massachusetts by Dukakis could show up anywhere in America during the weekend to harm, threaten, or injure people.

So I would encourage my colleagues to get the videotape "Justice on Furlough." They can do so simply by calling (618) 465-1166, and I will repeat that any minute because I want all my colleagues to have a chance to get a copy of "Justice on Furlough."

In addition, I wish that the Democrats here in the House would allow us to put the film "Justice on Furlough" on the House television system. I think this is one of the most powerful and moving documentaries that I have seen. I think it would be very, very effective for Members of the House to be able to see the kind of dangers you get with Governor Dukakis' attitude toward people who are murderers, and in some cases drug dealers and other cases sex offenders, as was pointed out yesterday in a report on the kind of people that Governor Dukakis had furloughed under his program.

So "Justice on Furlough" can be gotten by any Member of the House simply by calling area code 618 and then 465-1166.

I would certainly encourage all my colleagues to get a copy of "Justice on Furlough" and look at what Governor Dukakis' furlough program did in releasing murderers like Willie Horton.

IN MEMORIAM: ART ROONEY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, on August 25 at Pittsburgh's Mercy Hospital, Dr. Theodore Gelet made an announcement: "At 7:45 a.m., the Chief passed away in his sleep with his family at his bedside." All of us in Pittsburgh knew who the Chief was, and it was like a death in the family.

The Chief was Art Rooney. We Pittsburghers knew the Chief as businessman, philanthropist, family man, and one of the most loved and respected figures in our community. We and the rest of the country also knew him as a sports legend—the owner and guiding spirit of the Pittsburgh Steelers.

The story of Art Rooney and the Steelers is extraordinary. In 1933, he bought the team, known then as the Pirates, for $2,500. Unfortunately, the team's record in the early days was not exactly the best: they won only 22 games during their first seven seasons.

It hurt Art when his team lost. "We had a standing rule in my house. Nobody was allowed to mention the Steelers for 2 days after we lost," he once said. "That's how much it bothered me."

But the Chief never gave up. He was loyal to the Steelers through thick and thin. It was typical of Art that he was rarely in the locker room after a winning game, because he wanted the players to get all the attention and credit after they won. But whenever they lost, he was down there to let them know that he still had faith in them.

After four decades, it all paid off. The Steelers finally won the Super Bowl in 1975, 1976, 1979, and 1980. Every man, woman, and child in Pittsburgh was as proud of their hometown team as could be, but the Chief never let it go to his head. "He was a very humble person. Losing or winning, he was no different," according to Terry Bradshaw, the quarterback of the Steelers' four championshp teams.

Art was a first-rate businessman. He built his $2,500 investment in the Steelers into a multi-million-dollar property. At one time or another, his holdings included the Yonkers Raceway in New York, a Florida dog track, and race tracks in Pennsylvania and Vermont.

He was also a very generous philanthropist. Art would not make a big spectacle of his philanthropy, but Pittsburgh is full of stories of the Chief's generosity. Msgr. Charles O. Rice remembered, "I got to know Art Rooney a long time ago because he was one of a small band of staunch Catholic laymen whom Father Tom Lappan rallied to support that place for the down and out that I had to keep afloat." Mary Regan, the Chief's secretary, probably said it best: "There weren't big people and little people to Mr. Rooney. There were just people, and he wanted to help everyone. I never saw him say no to anyone in need."

I want to extend my condolences to Art's family. He was a very special man, and we all share their loss. Pittsburgh is not quite the same without him.

TRIBUTE TO ART ROONEY—A GIANT OF HIS TIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. **Boland**] is recognized for 5 minutes.

Mr. BOLAND. Mr. Speaker, I would like to thank my colleague **Bill Coyne** for calling this special order as a tribute to the inimitable Art Rooney. I know this expression of our fondness for Art will mean a great deal to his family and I commend the gentleman for his efforts.

The reality of our remembrance today is that we will be unsuccessful in attempting to size up Art Rooney's life, his personality and his accomplishments. Since his death 3 weeks ago today, many news and sports publications have attempted to immortalize Art in some way. Some have managed to capture a part of him, but the originality and ingenuity that he brought to the sports world, the business community and the people with whom he came in contact will never be properly translated on paper.

Art, as we all know, was one of the original creators of the NFL. He formed the Pittsburgh Steelers in 1933 on a $2,500 investment—a sizable one at that time—and maintained the top post in that organization until his death late last month. It is easy to love a team that is successful, and the Steelers have certainly had their share of success. The remarkable thing about Art, however, was his devotion to a team that was a perennial cellar-dweller for its first 40 years. How many present-day professional football team owners would stick by a team like that? I dare say none. Art was truly the last of a breed whose love for his team, and for the sport in general, was unconditional.

My first contact with Art came at the St. Patrick's Day Parade in Holyoke, MA in 1980. Art was chosen as the 23d recipient of the John F. Kennedy Memorial Award, given annually to an Irish descendant who has made a significant impact on American society. Art was gracious enough to receive the award in person, exuding the warmth and consideration which were his calling cards. As Mary Regan, Art's long-time secretary said, "There weren't big people and little people to Mr. Rooney. There were just people, and he wanted to help everyone."

I would like to extend my sympathies to Art's five sons, Daniel, Arthur, Jr., Patrick, Timothy, and John; his family which includes 29 granchildren and 13 great-grandchildren; and to the people of Pittsburgh whom he adopted as his extended family. They all will miss him and remember him as a legend.

AMENDMENTS TO THE FARMLAND PROTECTION POLICY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. **Panetta**] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, the California Department of Agriculture brought to my attention that the Department of Defense condemned 239 acres of prime farmland on the Oxnard Plain in Ventura County, CA, for the relocation of an Air National Guard facility, even though alternative sites were available. The farmland in this area has a unique coastal climate that allows year-round production of fruits and vegetable crops. It is some of California's—and America's—best agricultural land. But this particular land will never again grow food.

Estimates are that nearly 44,000 acres of California's farmland are lost each year. State and local governments in California have made every effort to conserve this kind of land, not to pave it over, where there are feasible alternatives for development. This has also been the policy of the United States since 1981, when Congress passed and the President signed the Farmland Protection Policy Act.

This law pledges that the Federal Government will respect State and local programs and policies aimed at conserving prime farmland, and commits all Federal agencies to a consideration of alternatives before they condemn land or cover it with concrete. The law stops short, however, of halting Federal projects once due consideration has been given to alternatives.

Yet, a loophole in this Federal law apparently permitted the unnecessary loss of our unique Ventura farmland. The Department of Defense did not have to consider alternative sites for its National Guard facility because all national defense activities are exempt from the act, and State and local officials were powerless to do anything about it. In fact, the California Department of Food and Agriculture says that they were never given the opportunity to review the project or comment on the Air National Guard's draft environmental impact statement. I ask unanimous consent to make a copy of the agency's comments a part this **Record**.

The 239-acre site in Ventura County was actually part of an agricultural preserve established under California's land conservation act—Williamson Act, prior to the Defense Department's action. Under the California Act, landowners receive favorable property tax treatment in return for agreeing to maintain land in agricultural or other compatible uses of a 10-year period.

There is no reason why the Pentagon should not have to follow the same land acquisition procedures as all other Federal agencies, except in the case of a defense emergency. The Defense Department now owns or controls more than 28 million acres of land in the United States and has the ability to have a profound impact on other valuable lands in this Nation.

Accordingly, I am introducing legislation to amend the Farmland Protection Policy Act to bring Pentagon land acquisitions—with the exception of those related to defense emergencies—under the review provisions of the law, and to authorize mayors and county executives, as well as State Governors, to take action to enforce this law where necessary.

The letter from the Department of Agriculture of California and the text of the bill follows:

State of California, Department
of Food and Agriculture,
Sacramento, CA, April 25, 1988.

Hon. **Leon E. Panetta**,
Member of Congress, Monterey, CA.

Dear Congressman Panetta: I recently received your letter of March 18, 1988 regarding the condemnation of 239 acres of prime agricultural land in Ventura County for the relocation of the 146th Tactical Airlift Wing of the California Air National Guard. I have reviewed Ms. Honeycutt's comments and am including information on the efforts of the State of California to preserve agricultural land.

The purpose of the Farmland Protection Policy Act, Subtitle I of Title XV of the Agriculture and Food Act of 1981, Public Law 97-98, is to minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to non-agricultural use. Section 1547 (b) states, "None of the provisions or other requirements of this subtitle shall apply to the acquisition or use of farmland for national defense purposes."

The relocation of the Air National Guard to the Oxnard Plains area in Ventura County resulted in the condemnation of 239 acres of highly productive agricultural land. However, since national defense is exempt from the Farmland Protection Policy Act, the issue of prime farmland conversion was overridden. Revision of the law to stipulate that prime agricultural land can only be used if no other suitable land is available would avoid similar actions in the future.

The California Department of Food and Agriculture (CDFA) is concerned about the conversion of California farmland, especially prime land, to non-agricultural land uses. The American Farmland Trust estimates that 44,000 acres of California's agricultural land is converted to urban use each year. Much of this conversion has been in the coastal counties which are experiencing rapid urban growth pressures. Coastal agricultural land is extremely valuable due to the close proximity of urban markets and the unique micro-climate which allows year-round agricultural production of high value crops. The CDFA is opposed to locating projects on prime agricultural land when other non-prime sites exist.

The State Clearinghouse usually submits Draft Environmental Impact Reports or Statements (DEIR or DEIS) to our agency for comment. We, however, have no record of receiving or commenting on the Air National Guard DEIS two years ago. Both the State Clearinghouse and the Department of Conservation have record of receiving a Notice of Intent (NOI) for the project. However, neither agency recalls or has a record of receiving the DEIS. We contacted Ventura County to see if any State agency comments were recorded in the Final Document; however, they were only able to locate local agency comments. From this information, it appears that there was no opportunity for State agencies to review this project. Our agency certainly would have opposed the Air National Guard Relocation to prime agricultural land, especially when other sites were available. However, whether State agencies reviewed the project or not, the above discussed law remains capable of overriding prime farmland concerns.

The State of California is working to preserve agricultural land. The California Department of Conservation, Division of Land Conservation administers the Williamson Act, California's statewide agricultural land conservation policy. The Williamson Act, passed in 1965, is a voluntary program of restrictive use contracts between landowners and local governments. The contracted land is, for tax purposes, valued according to the income it is capable of generating from agricultural and other compatible uses, rather than its fair market value. The ten-year contracts are automatically renewed each year. Non-renewal of a contract results in expiration nine years later.

In addition, the Land Conservation Unit administers the Farmland Mapping Program. The program monitors the conversion of the State's farmland to and from agricultural use through the annually revised Important Farmland Series Maps.

I hope these comments are helpful in understanding how the condemnation of prime agricultural land occurred and what California is doing to preserve agricultural land. Should you require additional assistance or have any further questions, please do not hesitate to contact Martha Neuman of the Agricultural Resources Branch at (916) 322-5227.

Sincerely,

Jack C. Parnell,
Director.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION.

The proviso in section 1548 of the Farmland Protection Policy Act (7 U.S.C. 4209) is amended—

(1) by striking out "Governor" and by inserting in lieu thereof "chief executive official"; and

(2) by striking out "where a State" and by inserting in lieu thereof "or locality where a State or local".

SEC. 2. STATEMENT OF LIMITATION.

Section 1547(b)—of the Farmland Protection Policy Act (7 U.S.C. 4208(b)) is amended by striking out "for national defense purposes" and by inserting in lieu thereof "by the Department of Defense for purposes related to war or a national emergency declared by Congress or the President.".

A REVIEW OF THE LEADERSHIP OF VICE PRESIDENT BUSH

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. Bonior] is recognized for 60 minutes.

Mr. **BONIOR**. Mr. Speaker, I thank the Speaker for recognizing me.

Mr. Speaker, I rise this evening to discuss an issue which I think is vitally important to this Presidential election campaign, and that is to review the leadership ability of the Vice President of the United States and candidate of the Republican Party, George Bush, to review his actions with regard to a foreign policy issue that we have been struggling with here in these United States and in this Congress, particularly, for the last 10 years, and that is our relationship with the Government of Iran.

Both candidates have expressed their view that leadership is important and may in fact be the most important ingredient in this Presidential election.

The candidate of the Republican Party has emphasized his experience and his ability to deal with foreign policy issues.

Well, in November of 1986, the American people learned for the very first time about one of the greatest foreign policy disasters of the 1980's, and I speak of the Iran-Contra affair.

They learned that in spite of the rhetoric of hanging tough against terrorism, Ronald Reagan and George Bush traded arms for hostages with the Ayatollah Khomeini.

They learned that profits for the arms for hostages deal went to further the Contra cause in Central America at a time when this Congress, speaking for the American people, denied such requests and such help.

They learned in essence that a secret government was established within a government, set up and run out of the basement of the White House to supply the Contras.

They learned that in this historic Congress, a Congress which has celebrated the anniversary of the Constitution, the longest living Constitution, I might add, in a democracy, they learned that that Constitution was stomped on, was set aside and was in fact repudiated by people at the highest levels of our Government.

I do not think anyone can deny that the Iran-Contra episode in American history was indeed a fiasco. It not only was a fiasco because it did what it did to the Constitution and it slapped in the face the works of the elected officials that are represented in this body and the Senate, it was a fiasco because it indeed paralyzed this Government.

We have learned today in an article by Jack Nelson who writes for the Los Angeles Times, printed in the Washington Post, and those of you who follow the doings of the press know how unusual it would be for them to print an article from a major competitive paper of theirs, we learned that the President of the United States was so paralyzed by this event that he was rendered—I hate to use the word comatose, but he was in fact not doing the chores for which he was responsible as President of the United States.

I would like to read if I could from the article by Mr. Nelson:

Aide's 1987 Memo Raised Question of Removing Reagan From Office

(By Jack Nelson)

Most high-level White House aides believed that President Reagan was so depressed, inept and inattentive early last year in the wake of disclosures in November 1986 about the Iran-contra scandal that the possibility of invoking the 25th Amendment to remove him from office was raised in a memo to Howard H. Baker Jr., who was just taking office as Reagan's chief of staff.

Former Baker aide James Cannon, confirming facts reported in a newly published book, said in an interview yesterday that he wrote a March 1, 1987, memorandum based on the aides' concern and raising the possibility of applying the amendment.

Baker took the recommendation seriously and, with Cannon and two of his own aides, spent part of a day observing Reagan's behavior before concluding that the President was sufficiently competent to perform his duties, according to the book.

However, Baker later said that even though he accepted Cannon's concerns as legitimate, he never seriously considered invoking the 25th Amendment.

"I didn't take Cannon's memo lightly," Baker said in an interview yesterday, "but from the first time I saw him [Reagan], he was fully in control and I never had any question about his mental competence."

The White House declined direct comment.

The existence of Cannon's memo and facts leading up to it are reported in "Landslide: The Unmaking of the President, 1984-88," by Jane Mayer, a Wall Street Journal reporter who covered the Reagan White House, and Doyle McManus, a Los Angeles Times reporter who has covered the Iran-contra scandal.

The book gives a detailed behind-the-scenes look at the presidency during Reagan's gravest political crisis.

"Landslide" reports that Baker, on the weekend before becoming chief of staff on Feb. 27, 1987, sent longtime aides Cannon and Thomas Griscom into the White House to look into reports of internal disorder in the wake of the Iran-contra scandal. Cannon assisted Baker in the first weeks after Baker became chief of staff but for health reasons declined a permanent White House post.

Cannon and Griscom were shocked by what they found. "Chaos," Cannon reported in his memo to Baker. "There was no order in the place. The staff system had just broken down. It had just evaporated."

Even more chilling, Cannon told Mayer and McManus, was the portrait that White House aides drew of Reagan: "They told stories about how inattentive and inept the president was. He was lazy; he wasn't interested in the job. They said he wouldn't read the papers they gave him—even short position papers and documents. They said he wouldn't come over to work—all he wanted to do was to watch movies and television at the residence."

□ 1830

The piece goes on, but I will not read the rest of it. Those who are interested can read it in today's Washington Post.

My concern about this piece and about the impact that this scandal and fiasco had on the country stems basically from the oath that I took before this Congress, and that was to uphold the Constitution of the United States. Anyone who I think objectively looks at what happened during this fiasco in our Government can only come to the conclusion that we were, indeed, on very perilous times. Trading arms with the Ayatollah Khomeini was especially horrendous in light of taking the hostages from the U.S. Embassy in 1979, and because of Iran's state support of terrorism itself.

The American people want their leaders to stand strong against terrorism and not to knuckle under to the ayatollah.

The question, I think, voters might want to ask themselves is: Where was

GEORGE BUSH when all of this was going on? The answer is that he was in the middle of it. GEORGE BUSH supported trading arms for hostages with the ayatollah. He was in on the meetings where it was discussed. He heard the arguments against it, and as he himself admitted, he supported the decision.

People should remember that GEORGE BUSH headed the antiterrorism task force whose principle recommendation was that America should never make concessions to terrorists by supporting the arms-for-hostages deal. GEORGE BUSH did exactly what his own commission said he should never do. GEORGE BUSH knuckled under to the ayatollah.

How can the American people trust a man as President who traded arms for hostages with the ayatollah? The Vice President claims he was out of the loop, that he was off at the Army-Navy football game when the trading for arms with the Ayatollah Khomeini was discussed.

I am sorry, Mr. Vice President, that just does not make it. The Iran-Contra report puts BUSH at one of the first meetings of the arms sale on August 6, 1985. George Shultz, our Secretary of State, Caspar Weinberger, our Secretary of Defense were both at the meeting, and they both argued against the plan. Shultz, in fact, said he argued that, and I quote, "We are just falling into the arms-for-hostages business, and we should not do it."

On January 7, 1986, BUSH again was present at a meeting in which Shultz and Weinberger were arguing against the sale of arms to the Ayatollah Khomeini. A February 1, 1986, memo from Admiral Poindexter states clearly, "President and VP are solid in the position that we have to try."

Only when presented with this irrefutable evidence, did GEORGE BUSH finally stand up and publicly acknowledge that he has supported the arms-for-hostages deal from the very outset.

Mr. Speaker, that is not leadership. That is not taking responsibility for decisions even when one has made a mistake. GEORGE BUSH has said, and I quote:

> If I had sat there and heard Shultz and Cap expressing it, meaning their opposition, expressing it strongly, maybe I would have had a stronger view.

Maybe GEORGE BUSH does not remember, but he was there when their objections were heard.

In fact, their opposition was vigorous, and as I have stated, it was quite clear.

When the story broke in November of 1986, BUSH ran for political cover. BUSH claimed he did not realize the Iran initiative was arms-for-hostages until December 1986 following a briefing by Senator DAVID DURENBERGER, then chairman of the Senate Intelligence Committee. He refused to divulge what advice, if any, he had given to the President by citing the confidentiality of the relationship. Yet, BUSH's chief of staff, Craig Fuller, testified before the Iran-Contra Committee that he realized there was a link between delivery of U.S. arms and release of American hostages after he and BUSH met with an Israeli counterterrorism official in July of 1986. This was 6 months before GEORGE BUSH said he figured it out.

In a test of his leadership as a key adviser to the President, he failed to make the right decision. In the test of his leadership, when the bad decision became public, he failed to take responsibility for it and, instead, ran for political cover. In a test of his leadership, GEORGE BUSH has ignored his own antiterrorism task force principal recommendation and made concession to terrorists.

If BUSH did not know what was going on in the Iran-Contra affair, what does that say about his effectiveness as a Vice President? If he did know, and he did know from the facts that I have just recited, what does that say about his highly vaunted foreign policy experience? Where was GEORGE BUSH? GEORGE BUSH was there, and he knuckled under to the ayatollah. He has failed the test of leadership, and for that I think it is important that the American people hold him accountable.

How can the American people trust the man as President, who traded arms for hostages with the Ayatollah Khomeini? I do not think they can, and I think it incumbent upon those of us who want foreign policy as an integral ingredient in this debate this election year to raise this issue time and time again so we get a better understanding if this will be the future policy of GEORGE BUSH.

Is this the type of activity he brings from the CIA? Can we expect this type of CIA activity if he is elected President?

There are other issues we want to examine with respect to GEORGE BUSH's foreign policy experience. I am very much interested in his involvement as the head of the task force on drugs in these United States, and I want to know what specifically he did or did not do in relation to the drug problem as it relates to, for instance, the President, not the President, General Noriega, would-be-President, of Panama. That is something we will visit time and again before this election is over.

For tonight, it is important to understand that in one of the most crucial decision of the Reagan Presidency, a decision that a recent book, and article, indicates brought the President, to a standstill in his own White House, made him so distant from what was happening that he virtually gave up his chores completely during the Iran-Contra scandal.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I am happy to yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I want to thank the gentleman for taking this time to raise this issue, because I think this use is very fundamental to the questions that voters are going to be asked to decide about GEORGE BUSH, his claims to experience, his claims of ability to discharge the Office of the Vice President of the United States, and that should allow him to be vaulted forward into the office of the Presidency of the United States.

As the gentleman has said now several times and as has been reported time and again throughout the Iran-Contra crises and, on people reflecting upon the Reagan term in office, this was the most serious crisis that this President of the United States faced. I think it is a valid question for the American public to ask: "What was the advice you gave to the President?"

It is not enough for GEORGE BUSH to say, "If I erred, I erred on the side of the hostages." That is not the issue. The issue is: "What did you say in the council to the President of the United States? Did you advise the President of the United States to make a deal with the Ayatollah Khomeini to sell arms to terrorists, to sell arms to people who declared open war on the United States of America, who have moved aggressively against American citizens, who have undermined our efforts around the world? Did you advise the President to do that or did you not?" To say that somehow that that is a privileged conversation when one is seeking the confidence of the American people to be the President of the United States for the next 4 years is to avoid the issue, and I think it is also terribly important that this question be answered at a time when I understand that today, in response to a high school student's question, Vice President BUSH, when asked whether or not he was going to pardon Ollie North, said that he would not rule it out.

Perhaps we have just had Vice President BUSH install the first beneficiary of his own furlough program. God knows there are enough people who are under indictment and investigation and conviction from the administration that he could run it at full blast and not furlough all of them, but it raises the fundamental issue of was he involved to such an extent with the Iran-Contra thing that he is now covering up his trail, dangling the pardon out there for a person who will someday have to go into court and tell what he knew or he did not know. I think it undermines the system of justice, but it also fails to meet the test during this campaign as to whether or not this man should be the leader of this country, because nobody wants to repeat the foreign affairs fiasco and the embarrassment that this country received as a result of dealing arms with Iran.

I think it would also be interesting to know in this same circumstance about when did Vice President BUSH participate in the decision to shift to Iraq? When did he make that decision? Was he aware that they were going to use poison gas? Is Iraq still our ally? Are we still putting our thumb on that side of that conflict in the Middle East?

I think it is very, very important that we understand that, and I think the point that the gentleman is raising tonight that in this critical decision that apparently we have now been told in the last 24 hours may have paralyzed this White House, may have paralyzed this President, brought Mr. Baker to the consideration, or to brink of the consideration of the use of the 25th amendment for the removal of one of the most popular Presidents in the history of this country, where was GEORGE BUSH? Where was GEORGE BUSH in this decisionmaking process? He cannot have it both ways. Either he is so important and so necessary and such a valued counsellor to this President that he was there when the decisions were being made, or apparently he went to the little boy's room when the crucial decisions were being made. Which is it?

One cannot take credit for all of the good and run away from the responsibility for the tragedies and the mistakes. I think it just raises a very, very fundamental issue.

Finally, let me just say on this point that there is some evidence now starting to appear in the press that suggests that this just did not start after GEORGE BUSH was Vice President of the United States, that perhaps, in fact, this administration, maybe under the leadership and/or the participation of GEORGE BUSH, was involved not only with the ayatollah, not only with people in Iran, but negotiating with the PLO on the date and the time for the release of the hostages prior to the election of Ronald Reagan, and in 1980 that, in fact, maybe GEORGE BUSH had sent emissaries or, in fact, maybe GEORGE BUSH went himself to Europe to meet with representatives of the ayatollah about future promises for arms and spare parts that we know Iran needed so desperately, that in fact, he may have participated or knew of or sent emissaries to those meetings to discuss what the future relationships with the ayatollah and this administration would be. Maybe this was even set in motion before then and further back in time when all of the denunciations, the campaign promises, the condemnation of the Carter administration, the assurances to the American people that we would never deal with terrorists, that we would never succumb to blackmail, that in fact maybe GEORGE BUSH was the emissary to setting all of that in motion.

Mr. Speaker, I want to thank the gentleman. I think he raises a fundamental question that must be answered for the American people. Otherwise, I am afraid we may be buying a pig in a poke, because we will not have on the public record how GEORGE BUSH goes through this decisionmaking process on whether or not to deal with terrorists, and what it suggests to every terrorist organization in the Nation is, "At least you have got the potential if you grab an American hostage of doing business with GEORGE BUSH." They may not have the potential to deal with Ronald Reagan, but if GEORGE BUSH is there, he will err on the side of doing business. That is what this says.

He hung out the cloth once. He cried uncle once. He made a decision with one of the more extreme terrorist operations in the world, and maybe he will do it again, and maybe that is what we are buying, and if we ever get ourselves in that predicament again, and God willing we will not, where American hostages are grabbed, what will the American people's confidence be in GEORGE BUSH?

□ 1845

What will our allies say when he says he will not deal with them, and we have condemned our allies who have publicly said they were not going to deal with terrorists. And then we found them double-dealing on the other side, paying ransoms, letting people out of prison. Are we going to join that group? Is that going to be our position in the world, that publicly we will say we do not deal with terrorists, but privately we will do whatever is necessary?

I do not think that is what the American people want.

But what we do not know is where was GEORGE BUSH and how does he make these decisions, and what was the advice that we gave to the President of the United States, an advice that apparently wrenched the White House to such an extent that it immobilized the President for some period of time.

I think the gentleman from Michigan is quite correct in raising this issue. I think GEORGE BUSH raised it today in his discussion of whether or not he would consider a pardon for Ollie North for crimes committed against this Government and against the people of the United States.

Mr. BONIOR. I thank my friend for his comments, and they are directly on the money.

The decision process by which GEORGE BUSH reaches a decision is something that needs to be examined and looked at very, very carefully.

The American people are aware of three important decisions and decision areas in which the Vice President has been responsible other than going to funerals for the last 8 years. We have talked about one this evening, head of the antiterrorism task force. We know when confronted to choose sides between Admiral Poindexter and Colonel North on the one hand, who were running a secret government within a government out of the basement of the White House, and Secretary Shultz and Cap Weinberger, people steeped in experience and working with this government, he sided with Admiral Poindexter and Colonel North to go around the law and to deal with terrorists and to trade with terrorists and to work with or try to work with the Ayatollah Khomeini.

The other two interesting areas in which the American people know GEORGE BUSH, and I think we will save for another time are one, his role as head of the drug enforcement task force. We have seen by the discussions, quite frankly, that we have had on this House floor for the last 2 weeks on the drug bill, what a failure that policy has been for this country. People want to know if indeed GEORGE BUSH knew of General Noriega's dealing in drugs. After all, GEORGE BUSH was the head of the CIA. That question needs to be looked at seriously, the decisions that GEORGE BUSH obviously did make and did not make with respect to drug enforcement.

Finally, the third thing that the American people know about the decisionmaking process of GEORGE BUSH is his first major decision as the standard-bearer for his party, and that of course has turned out to be, and I think even the most partisan of my colleagues would agree, a fiasco, which was the nomination of J. DANFORTH QUAYLE as his running mate.

These are not trivial, isolated decisions. They are decisions that affect the heartthrob of this Nation in our fight against terrorism, in our fight against drugs, and in our fight to appoint decent, honest people who will help us make decent and honest decisions.

I think we have to look at the record over the past 8 years of the standard-bearer of the Republican Party to see if he measures up to what America needs in terms of a Chief Executive.

I thank my colleagues for participating with me this evening to discuss these matters, and I yield back the balance of my time.

THE AIDS EPIDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, yesterday this Member from California took a special order that was joined in by my colleague, the gentleman from California [Mr. DORNAN], and we discussed the policy of this government as exercised through its public health officials dealing with the AIDS epidemic. Among other things that were discussed in that special order yesterday was mention of a speech by Dr. David Pence from a Grand Rapids address on November 4, 1987. The time we were allotted yesterday expired before this address was completed, and I think the comments of Dr. Pence are important for the Members of the House and for insertion in the CONGRESSIONAL RECORD so that the American people have an opportunity of reading these comments of Dr. Pence as well.

I would like at this time to conclude with the address that was left unread in my special order yesterday. Bear in mind that Dr. Pence is a physician practicing medicine in the State of Minnesota. As I indicated to my colleagues yesterday, this Member from California, as a senior member of the Health and the Environment Subcommittee, the subcommittee that has jurisdiction over the health care bill that will be taken up by the House tomorrow, at least that is the schedule. We are scheduled to take the rule tomorrow, and it has been on and off the agenda for better than a week now. But we are scheduled to take up the rule tomorrow, a modified, closed rule that this Member intends to contest on the grounds that there have been anywhere from 20 to 25 amendments that were not made in order by other Members of the House, both members of the Committee and Subcommitee on Health and the Environment as well as other Members of the House, and then I have been advised that we are scheduled to take up the AIDS bill itself on a date next week. The precise date at this time is uncertain, but we will begin the process tomorrow.

□ 1900

So I would like at this time to conclude with the address of Dr. Pence so that my colleagues will have the benefit of his thinking. The reason I have selected this address by Dr. Pence is, as I mentioned yesterday, this Member has studied a great deal on this issue in the last 3 years. I have written some materials, but this speech by Dr. Pence I believe summarizes in a very succinct manner what we should be doing and are not doing today to control this epidemic in America.

The naive acceptance of the gay ideology by the medical profession and public health officials is probably best explained by a well meaning attempt not to discriminate. Most individuals who were not involved in the civil rights movement against racism tend to lump the traditional civil rights movement with the later feminist and gay liberation campaigns. This hijacking of the freedom train by middle class careerists and sexual adolescents has virtually destroyed the real civil rights movement. As Karl Marx said, "History the first time is tragedy, the second time it is farce." Once again, we have lost our historical memory of the real meaning and work of the early civil rights workers. We have forgotten that the call of Martin Luther King was not for a world in which morality was separated from politics—quite the contrary. He said, "I dream of a day when men will be judged not by the color of their skin, but by the content of their character." The early civil rights movement did not try to build identity on skin color but affirmed the common humanity, the common Creator and the common citizenship of each of us. The civil rights movement was built by black Southern Baptist ministers. Certainly today they must be shaking their wise old heads in heaven as they see (in the words of Kipling) "the truth they've spoken twisted by the knaves to make a trap for fools." It is certainly the best kept secret in America that the great majority of black leaders consider homosexual rights to be not an extension of the civil rights movement but its betrayal. We must be intellectually discerning enough to see the radical difference between the claims of the traditional civil rights movement and the gay lobby. It is closer to the truth to understand the lobby as a middle class special interest group which has squandered the moral authority of the old civil rights movement and captured many of the government jobs in human rights agencies formerly held by racial minorities. This same group is now quite successfully building up a multimillion dollar cottage industry under the banner of "AIDS education." The medical profession would never contemplate involving smokers or agents of the tobacco industry to lead an educational effort against lung cancer. The fact that state after state has given public funds to men who not only engage in the behavior which spreads the disease but base their personal and social identities on this activity must cause any reasonable individual a considerable amount of reflective uneasiness. The road to Selma did not lead to the right to sodomy. The road to containing the AIDS epidemic must not be detoured by an idealogy which has elevated a style of life above life itself.

AN ASSIGNMENT OF TASKS

What then is to be done?

We should first understand that any successful public health program depends on applying resources and programs in a differential manner depending on risk and carrier status. By its very nature, a containment program must demand different duties of individuals dependent on risk status, and in some instances, place of residence. We begin our discussion by admitting that we are indeed at war with a virus quite capable of destroying our civilizaion. As in wartime, we must enumerate the duties which are to be fulfilled if we are to survive.

Individuals at risk:

Individuals who have participated in male homosexual activity, IV drug use or had a sexual partner who has done the same. Hemophiliacs who received untreated blood transfusions from 1980-85. Their duties must be clearly stated in all educational programs.

1. They must be tested for the HIV.
2. Regarless of their test results, they must refrain from any organ or blood donations.

These duties should not be left to an individual's discretion. This is the group for whom we should legislate mandatory testing. Mandatory testing should not be required of the general population.

Individuals who test positive for HIV:

They must:

1. Forgo all penetrating sexual activity or IV drug use.
2. Disclose all sexual contacts to their local public health department.

Those carriers who cannot or will not refrain from the activity which spreads the disease must be isolated as recalcitrant carriers. Understand again the distinction—only recalcitrant carriers should be isolated. Failure to disclose contacts should be considered compelling evidence arguing for quarantine. All quarantine programs must be done through the legal system with provisions for review and release.

State and local public health officials:

By legislation or departmental rules, public health officials should classify AIDS and the HIV carrier status in those categories which will mandate reportability, contact tracing and the isolation of recalcitrant carriers. This entails an end to all anonymous testing which is driving HIV positive carriers underground by keeping their names and access to their contacts out of the public health reporting system. It will mean that public health departments must shift personnel from other departments and hire new employees to begin active contact tracing. It means that health departments will have to establish mechanisms similar to mental health commitment procedures and determine if HIV positive carriers will transmit the disease. Finally, there must be practical plans made for facilities to house those individuals who cannot or will not cease the activities which spread the disease.

Remember clearly the order of events. All high risk people should be required to be tested. Only HIV positive carriers who cannot or will not cease the activity which spreads the disease should be isolated.

The medical profession:

It is our duty to care for the sick. No physician or nurse has any right to refuse to care for any patient because he is infected with HIV or is in a high risk group. Physicians, dentists, nurses, nursing home workers, and paramedics all have a right to know if they are working with an infected individual. The general principle in testing for the AIDS virus should be the same as in all other blood tests. Testing a patient's blood is part of the implied consent which a patient grants his caregiver.

A hospital or a clinic is a biological broth (fauna) and part of the natural covenant between physician and patient allows the physician tremendous latitude in testing for infectious agents. The notion that HIV testing should be treated differently than every other laboratory test in medical practice is another indication of how our present policies have deviated from common sense and standard medical practice. The argument here is not for universal hospital testing—hospital testing should be based on the prevalence of the disease, age and sex of the patient, and nature of the hospitalization. The key principle, however, is that HIV testing has no special legal or moral status.

The AIDS virus does not belong to a protected class. If it makes its way into a hospital, only a routine doctor's order is required to expose it.

THE RATIONALE OF TESTING

I should attempt to clarify again several essential points about HIV testing. The first principle is that decisions about public health policy and personal behavior demand that we know specifically who is carrying the virus. Individuals who are at risk have a moral and should have a legal obligation to be tested. Physicians as guardians of the public health have a duty to test for the virus to better serve our individual patients and to protect the community. The discussion of testing has been entirely too skewed in establishing barriers, doubts and even notions of culpability in the minds of physicians. One consequence of legislation mandating testing of high risk groups would be to buttress the physician in his role of finding the disease even in those who may not wish that the disease be found.

The rationale of testing usually falls under one of three broad categories. Testing for diagnosis when an individual patient is evidencing a constellation of symptoms suggesting HIV infection. Testing for case finding so transmission of the virus can be interrupted. Testing to protect special situations in which infection may occur. The first kind of testing engenders little debate. The second kind, for case finding, should always be targeted at high risk individuals and will vary by locale and population. The third kind of testing does not aim at high risk individuals, but is meant to safeguard certain activities. Arguments against this third kind of testing (e.g., screening plasma donors, surgical patients, marriage applicants) which are based on low yields of testing are not entirely honest in differentiating the purposes of testing. Testing female donors at plasma centers has an extremely low yield of positives, but the goal of protecting the blood supply predominates the discussion. Protecting operating rooms and the marriage covenant deserve similar consideration. Even in these cases, there is a certain minimum of disease which must be present to justify testing. I am not sure North Dakota should employ marriage testing. I have no doubt that New York and California should. I suspect Minnesota and Michigan would be well served by a policy of testing all male applicants.

ENLISTING RESOURCES

We have looked at the duties of high risk individuals, the medical profession and public health agencies. Let me now simply address three or four groups who must play a pivotal role in stopping the AIDS epidemic, but who have been strangely absent from task forces addressing the issue.

First, the NAACP, the Urban League, the SCLC, and rights civil rights organizations should apply for and be granted funds to lead the educational effort against the promiscuity and IV drug use which are destroying our urban communities and spreading the AIDS virus. These groups largely led and organized by the black leaders should once again become the moral teachers of our nation. They should emphasize not color but character. They are the groups which can successfully educate all of our children in the civic virtues of chastity, abstinence and sobriety. These leaders can expose the "civil rights" argument which is paralyzing public policy. They can put an end to the vicious unspoken lie that our teenagers are incapable of fighting successfully the temptations of drug use and sexual promiscuity. They will also insure that AIDS education is centered again on simple direct messages which portray our youth as capable of acts of character and self discipline. How fitting for the freedom train which has been so slowed by the baggage cars of the sexual revolution to provide the moral impetus needed for successful AIDS education.

Second, local protective agencies of police and firemen must be employed in the battle against AIDS. As first responders to medical emergencies, they have the right of every hospital and medical worker to be informed of the HIV status of anyone to whose blood they have been exposed. They should also be informed when possible if they are responding to an address of an HIV infected individual. Again, this is not so they can choose to help or not. They have a duty to serve. They have a right to know, however, if they are being placed in an exposure situation.

Policemen should once again be supported in arresting drug users and prostitutes. Obvious centers of anonymous homosexual activities should be closed. Vice squads cannot do this work alone. They need the support of the local medical profession and public health officials. Physicians must reach out to the physical protectors of our community and understand the many similarities of our respective vocations. We must overcome what I call "the Hawkeye Complex" after television's MASH surgeon who manifests a snickering arrogant disdain for military and political officials. The medical profession cannot succumb to this adolescent posturing toward the policing and military institutions of our society and the intellectual and moral tradition upon which they are based.

This "Hawkeye Complex" is nowhere more obvious than in our response to the AIDS epidemic. We cannot deny that a great majority of acts which continue the transmission of the AIDS virus are criminal activities. Yet, voices from the criminal justice system are conspicuously absent from AIDS task forces. This has led to a utopian notion of education as "the only cure for AIDS." Enforcement is not only as important as education—it is a kind of education which is worth hundreds of TV ads and hundreds of thousands of safe sex pamphlets. Active police work with the support of the medical profession and public health community can significantly reduce the acts which we dare never again call "victimless crimes."

Another institution which has been treated as a virtual pariah in the AIDS debate has been the insurance industry. They must strongly resist the unprecedented government policies of disallowing questions or tests regarding applicant's HIV status. The fraud cases which will soon emerge from these regulations will be another indictment of the unidemensional morality which has so misguided our present policies.

Finally, school principals and nurses must be informed by public health officials or attending physicians of any HIV infected child attending their schools. This is not to isolate children from classroom contact, but to protect them from the other exchanges which go on among children. This may be the cuts, bruises or blood-brother exchanges of grade schools or the sexual activity of some of our high school youth. Risk must be assessed on an individual basis and it must incorporate local school authorities who can assess the children and their peer interaction best.

Please consider these proposals as they are offered, not as an exhaustive program but as a beginning strategy. Each community and each state will formulate its own program. It will be in the middle incidence states where leadership will emerge to formulate the comprehensive programs needed to stop this epidemic. The low incidence states are too sanguine and the high incidence states have, quite frankly, gone too far down the wrong road to devise the program needed. Once programs are in place in the middle incidence states, they will serve as templates which the high incidence states can follow.

OUR WAR

Let me close with two petitions. First to my fellow physicians, I ask that we once again assert ourselves as a profession in facing this epidemic. We are not simply businessmen and our patients are not simply consumers. We have not so squandered our legitimate authority that we cannot distinguish what is healthy and what is sickness. As a profession, we owe duties to our patients, to one another and to our community. We owe our patients the truth as we diagnose it and the best care which we can give them. We must never succumb to the marketplace notion that the customer is always right. A profession must profess a certain ideal—in law it is justice, in religion it is sanctity, and in medicine it is health. Promiscuity is like smoking—it is not healthy. We fail as a profession if we do not teach this essential truth.

To each other we owe the safeguarding of our tradition from those who in the name of patient autonomy and nonjudgmental medicine are literally divorcing us from the patrimony of our profession.

To our community we owe an abiding stewardship over the public health. We know the natural history of this disease and we can understand the consequences of this terrible infection. The length of the asymptomatic infection state and the improbability of a medical cure demand that resources be devoted to a rational plan to prevent transmission of the virus. We must serve as the community memory in defending the legitimate exercise of governmental force and action now to prevent a cataclysm of reaction and violence later. We must serve as the community memory in defending the public health tools of surveillance and containment which have been developed over the last century to better equip us in the war between the species which has been waged since the dawn of time.

Finally, let me speak as a man of the Vietnam generation. The AIDS epidemic is our war. We know how to lose a war. Fight without a definable strategy or objective. Talk about winning hearts and minds, and education, rather than establishing territorial dominance. Discourage individuals from exercising leadership by assigning every problem to a committee representing every viewpoint and then charged with developing a consensus. Succumb to those who protest the goals of your policy by compromising the tactics needed to attain them. Ask of your young men for their lives, but demand nothing from the general population. Personally, I have seen enough young men die because authorities could not decide if they should try to win a war or pack up and leave. We cannot leave this war—so let us fight it to win.

Now a few words about the author, Dr. Pence:

Dr. David Pence is a unique commentator on the AIDS epidemic. He was trained in the classics and physiology before attaining his medical degree from the University of Minnesota. He served one year as a general practitioner in an urban community. He worked with IV drug users, homosexuals and low income patients. It was there he began his campaign to convince physicians and governmental officials to employ traditional public health measures against the AIDS epidemic. He is presently at the University of Minnesota completing a fellowship in radiation oncology (the treatment of cancer with radiation). Before he entered medical school at the age of thirty-four, he had worked as a community organizer in a black community for one year. He then worked in Minneapolis for eight years as a full-time civil rights and antiwar organizer and spokesman. He spent a year in Sandstone Federal Prison for draft resistance during the Vietnam War. He is Roman Catholic and the father of four.

Dr. Pence combines a classical conception of political philosophy, a practical knowledge of protest tactics and the medical experience of caring for both carriers and end stage AIDS patients. His analysis is as unique as his proposals for action are traditional. This is an address he gave to 1,100 physicians and community leaders in Grand Rapids, Michigan, on November 4, 1987. When the history of the AIDS epidemic is written, this address will be remembered as the pivotal document which led to the institution of traditional public health measures in controlling the disease.

These comments, as I have indicated, to my colleagues, comprise what I believe is some of the most succinct and illuminating in this whole AIDS epidemic in America.

The tragedy, one of the tragedies of this epidemic that we Americans are facing is the fact that these words were not uttered by the Surgeon General of the United States, Dr. Koop; they were not uttered by Dr. Windom, Assistant Secretary of Health in HHS for the Public Health Service of the country; they were not uttered by Dr. James Mason, head of the CDC in Atlanta, GA. They were not uttered by the health officer of the State of New York, Dr. Axelrod.

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They were not uttered by the health officer of the State of California, Dr. Ken Kizer; they were not uttered by the health officers of the cities of Los Angeles or San Francisco or New York. The tragedy is that those health officials in America should have uttered those remarks that Dr. Pence has uttered and that should be heard by all Americans, because truly what Dr. Pence has said points the way to what we should be doing to control the AIDS epidemic in this country.

One of the ironies of this whole political debate over the AIDS epidemic is what Dr. Pence has been advocating we do and what this Member from California has been advocating we do and what the vast majority of the members of the Committee on Energy and Commerce, the committee that has the subject of health and environment, will be arguing next week when we take up the AIDS bill on the floor of the House is the implementation of the policies Dr. Pence has been advocating in this speech that we should pursue.

I will say it again because I think it needs repeating time and time again. Notwithstanding the political flak that this Member from California has received for recommending, from a policy standpoint, what we should be doing to control the AIDS epidemic, these recommendations that this Member from California has mentioned and will be considered by the House next week are nothing more than what routinely has been pursued historically to control communicable disease in America.

That we have seen public health officials, that I mentioned previously, treat this as a civil rights issue rather than a public health issue is a tragedy for all of us to observe. What is even more tragic is that we have distinguished members of the media, of the public health profession, the insurance industry, in this country who are today attempting to argue and defend the rationality of exempting persons who are HIV-positive from any accountability to the public health care system at all.

I have no idea how much longer this country can continue such a course if it has an intention to survive as a citadel of freedom and peace and prosperity in this world. The citizens of the world are witnessing the virtual annihilation of certain countries in Africa today because the incidence of the virus is creeping up to 20 or 30 or 40 percent of the populations of some of these countries. If we do not take steps in this country to control the transferability of this virus to other persons, we Americans risk a similar fate in our society.

A researcher in Montana recently told us that we Americans are witnessing about 2,000 Americans a day getting the virus. That is a tragic growth of the virus among our people and Dr. Salsburg, in making this recommendation, bases his statement on the same computer input data that CDC used by extrapolating the data through the year 1991. Members will recall the CDC gave the Nation estimates of the total of those dead and dying up until 1991. They have not made projections beyond 1991. Dr. Salsburg took the same CDC data that went into the computer and extrapolated the projections beyond 1991 and through 1995 and up to the year 2000. The totals are absolutely staggering.

We can diminish those totals, diminish the number of people who are acquiring the virus and will go on to fully develop AIDS and die, if we implement the policies that Dr. Pence is talking about in his address, the cornerstone of which is reportability in confidence to public health authorities, and the conducting of contact tracing. This reportability is fundamental to the functioning of our public health care system, and we are not going to get a handle on this epidemic in this country until we begin pursuing such a policy.

The SPEAKER pro tempore (Mr. PRICE of North Carolina). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

RADON—A RESPONSIBLE APPROACH TO A SERIOUS PROBLEM

(Mr. BOLAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BOLAND. Mr. Speaker, I want to call attention to the competent and responsible manner in which the Environmental Protection Agency has handled the problem of radon in homes. Radon is a naturally occurring gas released from uranium in the Earth's crust, which can build up to dangerous levels in indoor environments.

The EPA and the Surgeon General have rightfully called public attention to this widespread and potentially serious environmental health problem with recommendations that most dwellings in the country be tested for radon. An initial screening test can be conducted quickly with a kit costing as little as $10. And if elevated levels of radon are found, the problem can be corrected in most homes for $500 to $1,000.

I am also happy to say that the Congress has played an important role in encouraging and supporting EPA's work on radon over the past several years. The House Appropriations Committee has urged EPA to place greater emphasis on radon based on the comparative risk relative to other environmental health problems. In addition, for the past 4 years, the Appropriations Committees have increased funding dedicated specifically to radon substantially above the levels requested in the President's budget.

The add-ons provided by Congress, which total $7,000,000 and almost 50 staff positions, have made it possible for EPA to aggressively attack the radon problem. In addition to the State surveys which have documented the scope of this problem, EPA has used the resources added by the Congress to develop reliable and cost effective mitigation techniques to show homeowners how to respond to problems once they are found. Most recently, for fiscal year 1990, Congress has added $1,400,000 and 10 staff positions for EPA to develop training materials and programs to assure that contractors understand and use the most cost-effective abatement methods.

I also commend to you highly, two technical manuals developed by EPA: "A Citizen's Guide to Radon" and "Radon Reduction Techniques: A Homeowner's Guide" which provide practical advice and guidelines. These can be obtained through EPA's regional offices. Radon is an environmental health problem which deserves serious attention. And I think we can be proud of the responsible approach taken by the Congress and the Environmental Protection Agency in addressing radon in homes.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Ortiz (at the request of Mr. Foley), for today and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dannemeyer) to revise and extend their remarks and include extraneous material:)

Mr. Walker, for 60 minutes, on September 22.

Mr. Konnyu, for 5 minutes, on September 20, 21, 23, 27, 28, and October 4.

Mr. Burton of Indiana, for 60 minutes, today.

Mr. Dornan of California, for 5 minutes, today.

Mr. Gingrich, for 5 minutes, today.

Mr. McEwen, for 5 minutes, today.

(The following Members (at the request of Mr. Darden) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bereuter, immediately preceding the vote on the McCollum amendment to H.R. 5210 in the Committee of the Whole today.

(The following Members (at the request of Mr. Dannemeyer) and to include extraneous material:)

Mr. Broomfield in three instances.
Mr. Smith of New Jersey.
Mr. Green.
Mrs. Saiki.
Mr. Lent.
Mr. Kolbe.
Mr. Boehlert.
Mr. Gilman.
Mr. Porter.
Mr. Dannemeyer.
Mr. Kemp.
Mr. Oxley.
Mr. Fish.
Mr. Madigan.
Mr. Boehlert.
Mr. Marlenee.
Mr. Hunter.
Mr. Petri.
Mr. Buechner.
Mr. Gilman.
Mr. Goodling.

(The following Members (at the request of Mr. Darden) and to include extraneous material:)

Mr. Fuster in two instances.
Mrs. Boxer.
Mrs. Kennelly.
Mr. Darden.
Mr. Ackerman in four instances.
Mr. Markey.
Mr. Dellums.
Mr. Roe.
Mr. Brown of California.
Mr. McMillen of Maryland.
Mr. Matsui.
Ms. Pelosi.
Mr. Cooper in two instances.
Mr. Dorgan of North Dakota.
Mr. Levine of California.
Mr. Guarini in three instances.
Mr. Kleczka.
Mr. Ford of Michigan.

ADJOURNMENT

Mr. DANNEMEYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Friday, September 16, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4328. A letter from the Director, Administration and Management, Office of the Secretary of Defense, transmitting notification of the Department of the Navy's decision to exercise the provision for exclusion of the clause concerning examination of records by the Comptroller General from a proposed contract with the Government of Turkey; Navy's determination and findings No. 88-15, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

4329. A letter from the Secretary of Education, transmitting a copy of final amendments for the Vocational Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4330. A letter from the Secretary of Health and Human Services, transmitting a report of departmental and State activities and amounts provided for the planning and development of dependent care development grant programs, pursuant to 42 U.S.C. 9876; to the Committee on Education and Labor.

4331. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting a copy of the President's determination regarding U.N. consensus decisionmaking procedures, limitations on seconded employees, and reductions in U.N. Secretariat staff before outstanding fiscal year 1988 funds for the U.S. contribution to the United Nations can be released (Presidential Determination No. 88-23), pursuant to 22 U.S.C. 287e note (99 Stat. 405); to the Committee on Foreign Affairs.

4332. A letter from the Assistant Secretary—Land and Minerals Management, U.S. Department of the Interior, transmitting a draft of proposed legislation to provide for distribution of interest paid in connection with late payment of royalties under Federal oil and gas and other mineral leases, and for other purposes; to the Committee on Interior and Insular Affairs.

4333. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the agency's waiver of minimum funding and staffing requirements for technology transfers; a statement of reasons; alternative plans for conducting technology transfer functions, pursuant to 15 U.S.C. 3710(b); to the Committee on Science, Space, and Technology.

4334. A letter from the Administrator, Federal Aviation Administration, transmitting the agency's initial report on its progress in developing and certifying the traffic alert and collision avoidance system [TCAS], covering the months of January through May 1988, pursuant to Public Law 100-223, section 203(b) (101 Stat. 1518): jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3105. A bill to revise, consolidate, and enact certain laws related to maritime commercial instruments and liens and public vessels and goods as chapters 313 and 315 of title 46, United States Code, "Shipping"; with amendments (Rept. 100-918). Referred to the Committee of the Whole House on the State of the Union.

Mr. DYMALLY: Committee on Post Office and Civil Service. H.R. 4443. A bill to make permanent the Martin Luther King, Jr., Federal Holiday Commission; with an amendment (Rept. 100-919). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. House Concurrent Resolution 290. Concurrent resolution supporting the International Decade for Natural Disaster Reduction by endorsing the establishment of a United States Decade for Natural Disaster Reduction (Rept. 100-920). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5066. A bill to modify a portion of the south boundary of the Salt

River Pima-Maricopa Indian Reservation in Arizona, and for other purposes; with amendments (Rept. 100-921). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 5263. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, and to make supplemental authorizations of appropriations for the Board of International Broadcasting. (Rept. 100-922). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 534. Resolution providing for the consideration of H.R. 3822, a bill to strengthen the system of congressional oversight of the intelligence activities of the United States (Rept. 100-923). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 535. Resolution providing for the consideration of H.R. 5247, a bill to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes. (Rept. 100-924). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 536. Resolution providing for the consideration of H.R. 3133, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes (Rept. 100-925). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 537. Resolution providing for the consideration of H.R. 387, a bill to promote equitable pay practices and to eliminate discrimination within the Federal civil service (Rept. 100-926). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

[The following action occurred on September 14, 1988]

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Appropriations discharged from further consideration of H.R. 4758. H.R. 4758 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CHANDLER (for himself, Mr. FLIPPO, Mr. ARCHER, Mr. DONNELLY, Mr. FRENZEL, Mr. ANTHONY, Mr. GRADISON, and Mr. GUARINI):

H.R. 5309. A bill to amend the Internal Revenue Code of 1986 to expand the postretirement health care and long-term care benefits which may be provided by pension plans, to require certain employers to offer their employees simplified employee pensions funded by salary reduction arrangements, and for other purposes; to the Committee on Ways and Means.

By Mr. DYMALLY:

H.R. 5310. A bill to require commercial lessors of automobiles to make full disclosures of charges in advertising and to rental customers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FLORIO:

H.R. 5311. A bill to amend the Toxic Substances Control Act to strengthen the requirements relating to asbestos in schools and to expand coverage of such requirements to include public and commercial buildings; to the Committee on Energy and Commerce.

By Mr. GARCIA:

H.R. 5312. A bill to amend the Lanham Act to prevent the admission into the United States of articles of imported merchandise that are labeled with the name of a foreign country in contravention of the law of the country; to the Committee on the Judiciary.

H.R. 5313. A bill to amend the Lanham Act to limit the defense against trademark infringement relating to geographic origin; to the Committee on the Judiciary.

By Mr. MADIGAN:

H.R. 5314. A bill to restore income averaging for farmers actively engaged in the trade or business of farming; to the Committee on Ways and Means.

By Mr. OWENS of New York:

H.R. 5315. A bill to amend the Congressional Award Act to extend the Congressional Award Program; to the Committee on Education and Labor.

By Mr. PANETTA:

H.R. 5316. A bill to revise the program under the Farmland Protection Policy Act with respect to the conversion of farmland to nonagricultural uses; to the Committee on Agriculture.

By Mr. RANGEL:

H.R. 5317. A bill to authorize international disaster assistance for Jamaica to assist in alleviating the human suffering caused by Hurricane Gilbert; to the Committee on Foreign Affairs.

By Mr. STENHOLM (for himself, Mr. DE LA GARZA, Mr. HATCHER, Mr. ROSE, Mr. JONTZ, Mr. HUCKABY, Mr. PENNY, Mr. TALLON, Mr. JONES of North Carolina, Mr. ESPY, and Mr. NAGLE):

H.R. 5318. A bill to amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds; to the Committee on Agriculture.

By Mr. HUTTO:

H.J. Res. 655. Joint resolution designating the week of September 25, 1988, through October 1, 1988, as "Iron Overload Diseases Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. SHUMWAY:

H.J. Res. 656. Joint resolution proposing an amendment to the Constitution of the United States establishing English as the official language of the United States; to the Committee on the Judiciary.

By Mr. DORGAN of North Dakota (for himself, Mr. JOHNSON of South Dakota, Mr. PENNY, Mr. MARLENEE, Mr. LAGOMARSINO, Mr. DURBIN, Mr. LEWIS of Florida, Mr. CRAIG, Mr. OLIN, Mr. ROBERT F. SMITH, Mr. MCEWEN, Mrs. SMITH of Nebraska, and Mr. COELHO):

H. Con. Res. 365. Concurrent resolution expressing the sense of Congress that the Republic of Korea should engage in rules of fair international trade competition and permanently lift its virtual ban on beef imports; to the Committee on Ways and Means.

By Mrs. PATTERSON (for herself, Mr. JONTZ, Mr. HOCHBRUECKNER, Mrs. LLOYD, Mr. GRANT, Mr. PRICE of North Carolina, Mr. JOHNSON of South Dakota, Mr. ERDREICH, Mr. HARRIS, Mr. PAYNE, Mr. STALLINGS, Mr. MANTON, Mr. PICKETT, Mr. BEVILL, Mr. HUBBARD, Mr. DYSON, Mrs. BYRON, Mr. LANCASTER, Mr. JONES of Tennessee, Mr. HEFNER, Mr. ANTHONY, Mr. STENHOLM, Mr. TAUZIN, Mr. SISISKY, Mr. OWENS of Utah, and Mr. MONTGOMERY):

H. Res. 538. Resolution requiring that the Pledge of Allegiance to the United States flag be rendered in the Hall of the House at the start of each legislative day; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 341: Mr. SWEENEY AND Mr. YOUNG of Alaska.

H.R. 458: Mrs. SAIKI, Mrs. PATTERSON, and Mr. BEREUTER.

H.R. 1028: Mr. MOORHEAD, Mr. HUGHES, and Mr. LEVIN of Michigan.

H.R. 1443: Mr. OBERSTAR.

H.R. 1770: Mr. FLAKE.

H.R. 3076: Mr. FISH.

H.R. 3403: Mrs. MORELLA and Mr. LANTOS.

H.R. 3515: Ms. KAPTUR.

H.R. 3565: Mr. GLICKMAN.

H.R. 3639: Mr. MCEWEN.

H.R. 3788: Mr. THOMAS A. LUKEN, Mr. CLARKE, Mr. WALGREN, Mr. DOWDY of Mississippi, and Mr. TRAFICANT.

H.R. 4277: Mr. STALLINGS.

H.R. 4302: Mr. LOWERY of California, Mr. THOMAS of California, Mr. QUILLEN, Mr. KYL, Mr. RITTER, Mr. BROOMFIELD, Mr. BARTON of Texas, Mr. MARTIN of New York, Mr. MCCOLLUM, Mr. BEREUTER, and Mr. DEWINE.

H.R. 4494: Mr. WEISS.

H.R. 4575: Mr. CROCKETT, Mr. LEWIS of California, Mr. SWIFT, Mr. TORRICELLI, Mr. RUSSO, Mr. STOKES, and Mr. FISH.

H.R. 4680: Mr. ROWLAND of Connecticut, Mrs. JOHNSON of Connecticut, Mr. DERRICK, Mr. BEREUTER, and Mr. MCCRERY.

H.R. 4708: Mrs. MARTIN of Illinois and Mr. BUECHNER.

H.R. 4870: Mr. MADIGAN, Mr. LOWRY of Washington, Mr. FLORIO, Mr. LIPINSKI, and Mr. HUGHES.

H.R. 4987: Ms. PELOSI.

H.R. 4991: Mr. RICHARDSON.

H.R. 5001: Mr. DWYER of New Jersey.

H.R. 5003: Mr. DONNELLY.

H.R. 5023: Mr. ATKINS.

H.R. 5036: Mr. MORRISON of Connecticut, Mr. FAZIO, and Mr. RANGEL.

H.R. 5086: Mr. TRAXLER, Mr. PENNY, Mr. ERDREICH, and Mr. KOLTER.

H.R. 5105: Mr. COLEMAN of Texas and Mr. ECKART.

H.R. 5117: Mr. SIKORSKI.

H.R. 5144: Mrs. COLLINS and Mr. MARTINEZ.

H.R. 5193: Mr. JONTZ, Mrs. SAIKI, Mr. GEJDENSON, Mr. OWENS of New York, Mr. SENSENBRENNER, Mr. HAWKINS, Mr. MARTINEZ, and Mr. KENNEDY.

H.R. 5208: Mrs. BOXER, Mr. OWENS of New York, Mr. FAUNTROY, Mr. HAWKINS, Mr. GONZALEZ, Mr. TORRES, Mr. ATKINS, Mr. BERMAN, and Mr. VENTO.

H.R. 5231: Mr. DAVIS of Michigan, Mr. HUGHES, and Miss SCHNEIDER.

H.R. 5271: Mr. BUSTAMANTE, Mr. HORTON, Ms. PELOSI, and Mr. SMITH of Florida.

H.R. 5279: Mr. OLIN.

H.J. Res. 330: Mr. BOUCHER, Mr. SMITH of Florida, and Mr. BRUCE.

H.J. Res. 477: Mr. SCHAEFER, Mr. WEISS, Mr. PRICE of North Carolina, and Mr. RITTER.

H.J. Res. 520: Mrs. MEYERS of Kansas.

H.J. Res. 528 Mr. CALLAHAN and Mr. DONNELLY.

H.J. Res. 537: Mr. UDALL, Mr. SOLARZ, Mr. ROSE, Mr. NOWAK, Mrs. MORELLA, Mr. MCHUGH, Mr. NELSON of Florida, Mr. WAXMAN, Mr. HASTERT, Mr. CRAIG, Mr. JONTZ, Mr. TORRES, Mr. ROYBAL, and Mr. MINETA.

H.J. Res. 540: Mr. GINGRICH and Mr. ECKART.

H.J. Res. 564: Mr. GALLEGLY, Mr. CHAPMAN, Mr. CLEMENT, Mr. HUTTO, Mr. CRAIG, and Mr. WEISS.

H.J. Res. 576: Mr. BENNETT, Mr. COUGHLIN, Mr. DICKS, Mr. GINGRICH, Mr. HOYER, Mr. JONTZ, Mr. MURPHY, Mr. UPTON, and Mr. LEVINE of California.

H.J. Res. 582: Mr. SCHUMER, Mr. PACKARD, Mr. BARNARD, Mr. PICKETT, Mr. HALL of Texas, and Mr. CLINGER.

H.J. Res. 598: Mr. DEWINE.

H.J. Res. 645: Mr. FAZIO amd Mr. HALL of Ohio.

H. Con. Res. 28: Mr. BUSTAMANTE and Mr. DANNEMEYER.

H. Con. Res. 258: Mr. MARTINEZ and Mr. RICHARDSON.

H. Con. Res. 286: Mr. MARTINEZ.

H. Con. Res. 343: Mr. TORRICELLI, Mr. COURTER, Ms. OAKAR, Mr. BLAZ, Mr. LEHMAN of California, Mrs. PATTERSON, Mr. PASHAYAN, Mr. MATSUI, Mrs. MORELLA, Mr. FIELDS, Mr. LUNGREN, Mr. PRICE of North Carolina, Mr. SWINDALL, Mr. PANETTA, Mr. MCCOLLUM, Mr. LEWIS of California, Mr. DREIER of California, Mr. DONALD E. LUKENS, and Ms. PELOSI.

H. Con. Res. 348: Mr. FASCELL, Mr. YATRON, Mr. SOLARZ, Mr. BONKER, Mr. WOLPE, Mr. GEJDENSON, Mr. LANTOS, Mr. KOSTMAYER, Mr. SMITH of Florida, Mr. CLARKE, Mr. BILBRAY, Mr. OWENS of Utah, Mr. BROOMFIELD, Mr. LEACH of Iowa, Mr. HYDE, Mr. SOLOMON, Mr. DORNAN of California, Mr. MACK, Mr. DEWINE, Mr. DONALD E. LUKENS, Mr. FUSTER, Mr. UDALL, Mr. HAMILTON, Mr. TORRICELLI, Mr. BEREUTER, and Mr. DYMALLY.

H. Con. Res. 364: Ms. PELOSI, Mr. JEFFORDS, Mr. HALL of Ohio, Mr. GARCIA, Mr. HERGER, Mr. BOUCHER, Mr. MCDADE, Mr. HOYER, Mr. BUSTAMANTE, Mr. HORTON, Mr. SWINDALL, Mr. SABO, Mr. RODINO, Mr. GREEN, and Mr. MACKAY.

H. Res. 439: Mr. BARTLETT and Mr. LAGOMARSINO.

H. Res. 483: Mr. DE LUGO, Mr. DIOGUARDI, Mr. GOODLING, Mr. DANNEMEYER, Mr. DORNAN of California, Mr. MATSUI, Mr. ARMEY, Mr. DYSON, Mr. HENRY, Mr. LEVIN of Michigan, Mr. CHAPMAN, Mr. WEISS, Mr. LOWRY of Washington, and Mr. DONNELLY.

H. Res. 516: Mr. HORTON and Mr. MOLLOHAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4986

By Mr. PENNY:

—Page 7, after line 21, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 6. REALLOCATION OF RETURNED SEOG FUNDS TO INSTITUTIONS LOCATED IN NATURAL DISASTER AREAS.

Section 413D(e) of the Act (20 U.S.C. 107b-3(e)) is amended by adding at the end thereof the following: "In making such reallocations, the Secretary shall give priority to institutions located in areas which are designated to receive assistance because of the occurrence of a major natural disaster.".

EXTENSIONS OF REMARKS

PROTECTING THE ENVIRONMENT: A BIPARTISAN IMPERATIVE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BROOMFIELD. Mr. Speaker, despite heated Democratic campaign rhetoric to the contrary, the strong and steady commitment of Vice President GEORGE BUSH to environmental protection comes as no surprise to anyone familiar with his record. As the standard bearer of the party of Theodore Roosevelt—the father of America's conservation movement—the Vice President has made clear his personal dedication to managing our use of the environment in a responsible manner.

Unfortunately, all too often today's so-called environmentalists seem to stray from their stated and noble purpose. A recent op-ed in the Washington Post by Douglas P. Wheeler, vice president of the Conservation Foundation, describes the disturbing partisan trend of several of the major environmental groups. Wheeler cites a "political one-sidedness" that unfairly favors Democratic candidates at the expense of worthy Republican candidates, regardless of their positions on the issues.

Rather than continuing to engage in sometimes acrimonious and often inaccurate and inappropriate attacks against Republicans, so-called environmental groups should fairly judge the positions of all candidates on issues relating to the environment. A candidate's political affiliation should not be a litmus test for any group that is genuinely concerned about protecting the environment. The op-ed follows.

[From the Washington Post, Sept. 11, 1988]

WHY AMERICA FELL ASLEEP OVER THE ENVIRONMENT

(By Douglas P. Wheeler)

The environment is back in the headlines. Why has it been away so long?

The Midwest is drying up, garbage is washing ashore on the East Coast, and the ozone layer that moderates global temperatures is thinning at a fearful rate. The two candidates in this fall's presidential election have even begun to suggest that ecological concerns will make it on to their priority issues agendas. But the problems now making headlines have been building for a long time. Why did the nation tune out the environmental issue for the better part of a decade?

As a veteran of the environmental wars—with some prominent battle scars to show for it—I think that much of the answer can be found in the environmental movement's own mistakes. To make sure that environmental issues don't fade off the scope of public concerns again, the environmental community will have to mend its ways. Specifically, it needs to: 1) eschew alarmist rhetoric; 2) enlist support from progressive politicians regardless of party; 3) narrow its agenda to manageable proportions; and 4) lend its help to the development of partial solutions even if its final objectives cannot be immediately attained.

Of course, another big part of the explanation for the pallid tone of environmental oratory in the presidential campaigns of the '80s is that, especially in national elections, voters cast their ballots for candidates whose positions on a broad range of issues most nearly resemble an "ideal mix." Thus, millions of voters who would otherwise describe themselves to pollsters as conservationists or environmentalists have voted faithfully for Ronald Reagan, presumably because they preferred his positions on other issues.

Once elected, President Reagan could hardly have been expected to embrace the agenda of the Sierra Club, which in 1984 endorsed his opponent. The president did not disappoint. Whether because he believed a conservation program to be somehow inconsistent with the tenets of his conservative philosophy, or because he misunderstood the breadth of the proenvironmental consensus, the president set out to eviscerate the hardwon gains of the 1970s. It did not matter, either, that many of these, like creation of the Environmental Protection Agency and passage of the National Environmental Policy Act, bore the imprimatur of earlier Republican administrations.

By appointing administrators who were insensitive to environmental goals, or incompetent, or both; by seeking to relax enforcement of existing regulations; and by attempting to weaken on-going programs, the president sent a very clear signal. The Sierra Club and other national organizations sounded the direct-mail alarm, and membership in the club more than doubled. In fact, it can be said of the Reagan administration that its obstinence on environmental issues is more responsible than any other single factor for the organized environmental movement's current strength.

But having successfully fought the administration to a standstill over its plans to dismantle the environmental infrastructure, however, the environmental community must be held at least partially responsible for the stagnation that now prevails. A more effective Clean Air Act has been the first priority of environmental advocates throughout the Reagan years, but no bill has yet reached the president's desk. Nor has there been substantial progress in reducing indoor air pollution, protecting increasingly vulnerable groundwater supplies, curtailing the threat of pesticide misuse, cleaning up toxic waste dumps, preventing degradation of wildlife refuges and national parks, curtailing soil erosion, protecting dwindling wetlands, safety disposing of toxic and nuclear wastes, or tempering the adverse effects of urban sprawl.

To be sure, environmentalists cannot have been expected to make headway on each of these increasingly complex issues in the face of strong opposition from the Reagan administration on nearly every front. But even leaders of the environmental movement suggest that progress is not what it might have been. Mike McCloskey of the Sierra Club acknowledges that "in the late 1980s, the environmental movement is under attack for having delivered lots of laws and words but not enough results when it comes to improving the physical environment." McCloskey may be right to lay part of the blame with "failing bureaucracies" in government, but there is also considerable evidence that the environmental community has failed to make optimal use of its own substantial resources.

Shortly after joining the staff of the Sierra Club as executive director, I received a call from one of its members, a Republican state legislator who in 1984 had lost a race for the U.S. Senate. He complained about not getting even a chance to seek the club's endorsement. Although procedures of the club's political action committee require that all candidates be interviewed as part of the endorsement process, there is all too often an assumption that interviews with Republicans serve only to affirm the weakness of their environmental records and are a waste of time. As it happens, the man who called me possessed a record that was certainly worthy of consideration.

Another example of this political one-sidedness is that Sen. Alan Cranston of California received the club's endorsement for reelection in 1986 before his Republican opponent had even been nominated. Cranston, a truly effective environmentalist, might well have received the endorsement over his eventual opponent, Rep. Ed Zschau, but he was also the beneficiary of a prevailing assumption that no Republican could possibly possess a record worth waiting for.

This year, the club once again finds itself in difficult straits concerning a California Senate race. The incumbent Republican, Pete Wilson, has built a credible record on environmental issues and has letters of thanks from the Sierra Club to prove that his support was appreciated. When Wilson made use of these testimonials in campaign advertising, the club insisted that they be withdrawn, and argued in a letter to Wilson that his record left much to be desired, even in areas where he had earlier won its praise.

Such actions undermine environmentalists' efforts to build bipartisan support for legislative initiatives. It was my unhappy duty on one occasion to confront a group of moderate House Republicans whose support was needed on acid rain and Superfund legislation. Each could point to the club's recent endorsement of a Democratic opponent notwithstanding the Republicans' proven fealty. Although there are a few exceptions, there is at present little real incentive for Republican support of environmental legislation. In its recent update of candidates' positions, the League of Conservation Voters ignored a 13-page environmental position paper from the Bush campaign, claiming incorrectly that the vice president had refused to complete the group's questionnaire.

The Sierra Club's view may be represented by Dan Weiss, who said upon completion of the "Vote Environment Debate" that the differences among democratic presidential

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

candidates on environmental issues "can be measured in mircometers, while the difference between Democrats and Republicans can be measured in canyons." Still, the Republicans included a surprisingly strong environmental plank in their platform.

Like other institutions, the environmental lobby has learned the craft of contemporary communications. The same techniques that can be persuasive in winning congressional support for a favored bill are deployed to recruit and retain a growing membership. Direct mail consultants stress the need for a simple, appealing message, and for identification of a monstrous adversary whose allegedly superior resources are arrayed in opposition to the public interest.

In fact, direct mail test results suggest the need for escalating hyperbole to offset public ennui. But continued exaggeration neither helps to inform the public about the true nature of environmental threats nor contributes to their solution. Business firms are particularly wary of negotiation with an adversary who has flooded the mails with invective about "profiteerifg" at the expense of the environment, and are even less appreciative of simultaneous requests for financial support.

Because it is driven by an instinct for institutional self-perpetuation and by the need to fulfill the promises of its rhetoric, there is also a strofg temptation for each group to adopt an ever-widening agenda, afd thus to forgo the advantages of specialization. The largest organizatigns—including the National Audubon Society and the Sierra Club—are especially profe to this temptatign, as they must satisfy hundreds of thgusands gf members, each of whom could conceivably have a different—and arguably legitimate—personal agenda.

This proliferation of interests is partly the result of more sophisticated recruitment techniques tailored to prospects' perceived interests. The Sierra Club polls its leadership annually for guidance on current campaigns, and develops a work plan which reflects members' collective priorities. Not surprisingly, this list may include issues, such as nuclear disarmament, gay rights, and qualifications of Supreme Court justices, which bear little relationship to founder John Muri's original credo.

There are always more issues than available resources. If environmental advocates were more disciplined in identifying priorities and more specialized, they would probably be more effective in covering the full range. More intensive involvement with fewer issues would also allow groups to devote their substantial talent to developing constructive solutions, as opposed to alarmist rhetoric. The Sierra Club, for instance, was an active participant in the coalition of conservation and agricultural organizations that introduced innovative soil conservation measures into the 1985 farm bill—despite administration objections.

No amount of direct-mail hand-wringing could have ever done so much for soil conservation. As McCloskey points out, Washington-based activists also have paid too little attention to the regulatory function of the executive branch, whose influence persists long after the legislative battles have been fought. Opportunities for pioneering state and local initiatives also are often overlooked, largely because they fall outside the spotlight which is routinely trained on Capitol Hill.

There are encouraging signs of change and a possibility, if only that, of election-year dialogue. A coalition of environmental organizations is at work on "Project Blueprint," intended as a practical guide to programs and policies for use by an incoming administration of either party. In addition, environmental organizations have individually offered policy briefings to candidates of both parties.

Though there is still no sign of the national debate that environmental issues—and the American people—deserve, both candidates have recently made far stronger statements than any that surfaced during the primaries. Just last week, Vice President Bush made appearances in Michigan and Massachusetts to stress his commitment to a strengthened environmental program, attempting to distinguish his aspirations from the record of the Reagan administration. Gov. Dukakis responded that Bush is a recent convert to the cause and claimed that his is the stronger program. True to form, the Sierra Club entered the fray asserting that Bush had "yet to take the kind of strong, specific positions in favor of environmental protection that would qualify him to use the word environmentalist.

HONORING EVELYN BERKOWITZ FOR 50 YEARS OF TEACHING HIGH SCHOOL IN NEW YORK CITY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. ACKERMAN. Mr. Speaker, today I rise to give special recognition to an outstanding woman, Mrs. Evelyn Berkowtiz, and to commemorate her 50th anniversary of teaching at Parsons Junior High School in Flushing, NY.

Quality education depends on well written textbooks, on a school roof that does not leak, on having enough chalk, and in these days even having computers. But more than anything else, quality education still depends on outstanding people who are willing to make sacrifices in the interest of young people. For 50 years, no person has exemplified this standard of educational excellence more clearly than Evelyn Berkowitz.

As a former teacher myself, I know all too well that the profession is not easy. The pay can never match the responsibilities, and demands that are placed on teachers increase each year. We ask our students to be taught not only the facts, but how to think, how to make decisions, and how to reach their potential. Mr. Speaker, this is where Evelyn Berkowitz excelled.

Listening to her colleagues and former students, one realizes that this remarkable woman understands the great power of teaching. She understands that young minds are our future, and through the training of those minds, she and other teachers change lives and communities and the world.

Evelyn Berkowitz has given students the kind of careful, time-consuming attention that they need today more than ever, and she has set a standard not only for her fellow teachers at Parsons, but also for all those gifted young people in this Nation who think they might want to become teachers.

Mr. Speaker. I would like to take this opportunity to commend Mrs. Berkowitz for all that she is doing for the students of Parsons Junior High School and for the rest of the Queens community as well. These students are lucky to have as talented and dedicated a teacher as Evelyn Berkowitz, and I would like to extend my deepest appreciation to her for her efforts to nurture our most precious resource—our children.

On this day, Members of Congress should join educators and parents from all across the country in saying, "Thank you, Evelyn Berkowitz. You have made a difference."

THE NORTHEAST-MIDWEST ECONOMIC DEVELOPMENT GUIDE

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BOEHLERT. Mr. Speaker, the number of Federal programs to stimulate economic development has fallen sharply since 1981. Fortunately, many States have implemented innovative programs of their own in order to spur economic vitality and development.

The Northeast-Midwest Congressional Coalition has documented many of these successful programs in the 1988 edition of "The Guide to State and Federal Resources for Economic Development," which was released on September 7. This valuable guide contains outlines of remaining Federal programs as well as a useful anthology of 460 brief case studies—drawn from every State in the Nation—that illustrate the strong initiative taken at the State level.

This scholarly work will help Federal, State, and local policymakers meet the challenge of a rapidly changing economy. I strongly recommend "The Guide to State and Federal Resources for Economic Development" to all of my colleagues in the coalition. This guide contains a wealth of information that will be useful in promoting the continued economic revitalization of the Northeast-Midwest region.

At this time, Mr. Speaker, I would like to enter one of these brief studies from my home State of New York into the RECORD.

New York Regional Economic Development Partnership Program

OBJECTIVE

The Regional Economic Development Partnership Program (REDPP) was set up to provide financial assistance to New York business projects that generate substantial employment or that are run by minorities or women.

DESCRIPTION

In 1985 the New York legislature approved REDPP to promote economic growth and vitality at the regional level within the state. Administered by the state's Urban Development Corporation (UDC) and working through the ten regional offices of the state Department of Commerce, the program finances three types of projects: business development, business infrastructure, and economic development support services. To receive funding, officials in each region first must develop a regional strategy for economic development, which must be approved by the state's budget director. Projects submitted for funding must show a contribution to the overall goals and direction of its region's strategic plan. According to program officials, this system increases accurate response to regional problems and builds regional leadership. The legislature appropriated $10 million for REDPP in 1986-87.

REDPP business development and business infrastructure projects support manufacturing, commercial, industrial, agricultural, tourism, research and development, high technology, and service companies. Qualified projects are eligible for both loans and grants. REDPP provides business-development project aid directly to private companies and channels business infrastructure aid to development corporations and local governments.

Business development loans are available for up to $500,000 or one-third of the total cost of a project, whichever is less. These loans must be used for working capital, construction of facilities, or purchase of equipment and machinery. Interest rates on all REDPP loans are set by UDC from analysis of the projects' cash-flow projections.

Grants also are available for business development projects; however, program regulations limit grant use to interest subsidies or feasibility studies. The highest feasibility study grant is $40,000. REDPP may provide an interest subsidy only when a project could not continue without its financial support. Grants for this purpose are limited to $250,000 or one-third of project cost, whichever is less. No more than 20 percent of program monies allocated to business development projects may be issued as grants.

Business infrastructure help is available for projects essential to the development of a specific business endeavor. Eligible activities include sewer systems, access roads, wharves, and water supply systems. The highest allowable infrastructure amount per project is $750,000. REDPP will fund up to 49 percent of total project costs. It provides both loans and grants, but limits grant support of any project to 20 percent of requested funding.

To qualify for business development or business infrastucture assistance, a project must: help create or retain substantial, permanent, private-sector jobs; exhaust all other sources of financing on reasonable terms through other public and private sources; have sufficient private or public commitments to finance the portion not supported by REDPP; and fit into the regional economic development plan.

In addition, a project must be located in a distressed county or municipality, or address certain targeted needs of the region. To be designated distressed, a county or municipality must meet specified criteria of poverty, unemployment, population decline, job lag, or per-capita income lag. According to program regulations, targeted needs are: business development by women, minorities, or unemployed persons; modernization and productivity improvements to industrial firms; diversification of the economic bases of communities dependent on single industries; creation of substantial, permanent, private-sector jobs for dislocated workers, public assistance recipients, disadvantaged youth, or long-term unemployed persons; and prevention of loss of primary employers, thus avoiding major adverse impacts on the economic conditions of communities.

Economic development support assistance is available as grants in three categories: strategic planning, targeted development, and employment training. Strategic planning aid goes to regional development offices for marketing, training, and other needs related to preparation of the regional strategic plan. These grants may not exceed 5 percent of the total annual REDPP appropriation. Targeted development monies may be used for analysis of industrial sectors, productivity assistance to mature industries, export assistance, management training for minority and woman-owned businesses, and regional marketing. Employment training help may go directly to companies and must be matched by other public or private funding for the development of new jobs. These grants may be used for retraining, upgrading the skills of employees, and productivity enhancement.

PROGRAM IN PRACTICE

The program operated for three years. A lack of clarity in program requirements and selection criteria the first year caused difficulties in expediting applications and allocating funds. By the following year, however, the program had defined specific guidelines, published an information bulletin, and established standard application, review, and approval procedures. These adjustments in the operations eliminated many of the problems, according to state officials.

With the $10 million allocated in 1985-86, REDPP funded 45 projects. In 1986-87, REDPP used $8.7 million of the $10 million appropriation to help 56 projects. The remaining $1.3 million was carried over to the next year's budget. REDPP funds helped leverage over $200 million from other funding sources. REDPP officials estimate some 17,000 jobs were created or retained as a result of the program's operations. As much as $8 million of each year's $10 million appropriation may be devoted either to business development or business infrastructure projects, and as much as $2 million may go to economic development projects. However, no minimum allocation has been set for any of the three categories.

UNITED STATES URGED TO HELP JAMAICA AFTER HURRICANE

HON. JAIME B. FUSTER

OF PUERTO RICO

Thursday, September 15, 1988

Mr. FUSTER. Mr. Speaker, the eyes of the Nation and the world have been focused this week on that most fiercest of hurricanes, named Gilbert, that inflicted so much damage and loss of life in the Caribbean, before it moved on to the Mexican and Texas coastlines.

Metorologists termed Hurricane Gilbert the mightiest storm to hit the Western Hemisphere in this century, and while I am thankful that my home island of Puerto Rico was largely spared the awesome effects of the hurricane, such was not the case on one of our Caribbean neighbors, Jamaica. Prime Minister Edward P.G. Seaga has estimated that 500,000 Jamaicans had been left homeless by Hurricane Gilbert and that at least 25 persons were killed. Property damage was estimated at over $500 million.

Mr. Speaker, this is devastating news. Jamaica is a loyal ally of the United States and a particular friend of Puerto Rico, especially in the economic sphere, in which we in the Commonwealth have promoted complementary, or "twin-plant," factories in Jamaica. This operation, part of Puerto Rico's efforts to promote the Caribbean Basin Initiative, benefits the economies of both Jamaica and Puerto Rico.

But because of the devastation of Hurricane Gilbert, Jamaica clearly needs help from the United States. Mr. Speaker, I urge the leadership of the Congress and of the executive branch to move expeditiously to mobilize the resources of this great Nation to go the aid of one of our best allies in the Caribbean.

Some of that help has already been sent to Jamaica by the United States, but much more needs to be done for the infrastructure, the private property, and the people of that island nation. Jamaica is part of the centerpiece of Caribbean democratic development. Now, Mr. Speaker, Jamaica needs our help because of circumstances over which it had no control, and as the only Member of Congress from Puerto Rico and as the new chairman of the Congressional Hispanic Caucus, I urge our leadership to waste no time in mobilizing resources to help our neighbors in need.

HUDSON COUNTY COURTHOUSE TO BE NAMED HONORING SUPREME COURT JUSTICE WILLIAM J. BRENNAN, JR.

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. GUARINI. Mr. Speaker, a very important ceremony will be held in Hudson County, NJ, on Friday, September 16, when the Hudson County Courthouse will be dedicated honoring U.S. Supreme Court Associate Justice William J. Brennan, Jr., of New Jersey.

A beautiful structure of granite and marble, this house of justice is a fitting tribute to Justice Brennan, who served as Justice of the Supreme Court for over 30 years.

Justice Brennan, a resident of Rumson, NJ, was originally nominated to the Supreme Court by President Eisenhower and sworn in on October 16, 1956. His illustrious career began with his graduation from the Wharton School of Business at the University of Pennsylvania in 1928, followed by his graduation from Harvard Law School in 1931. His varied legal career has included a judgeship in the New Jersey Superior Court as well as a partnership in the law firm of Pitney, Hardin, Ward & Brennan. He achieved the rank of colonel in the U.S. Army, and was honored with the Legion of Merit award.

The son of William J. and Agnes (McDermott) Bennan, Justice Brennan married Marjorie Leonard on May 5, 1928—deceased in 1982. Their children are William J., Hugh Leonard, and Nancy. He married Nancy Fowler in 1983.

The courthouse we are dedicating to Justice Brennan, Hudson County's loveliest seat of government, illustrates in a most magnificent manner our heritage of beauty.

Situated on a key-shaped plot of ground facing Newark, Baldwin, and Pavonia Avenues, the structure is constructed of granite taken from the quarries of Hallowell, ME. Its exterior is simple yet elegant, accenting the impression of dignity and grace it was meant to produce. The interior is marked by a pearl gray marble floor and a high rotunda supported by massive columns.

The architect was Hugh Roberts, who headed the New Jersey State Board of Architects for a number of years.

The beautiful interior decorative work was developed under the supervision of the famous artist F.D. Millet, who associated himself with several artists who provided works of art for the courthouse interior. These artists included Howard Pyle, E.C. Blashfield, Kenyon Cox, and C.P.V. Turner.

Construction on the courthouse first began in 1906. The opening came 4 years later, in 1910. Almost 50 years later, after having served the community as a symbol of truth and justice, the courthouse fell into a state of disuse, almost leading to its demolition in the early 1960's.

Fortunately, a group of dedicated citizens inspired by New Jersey Superior Court Judge John Drewen formed the Citizens Committee of Hudson County in 1966 to preserve the courthouse. It was my pleasure as a New Jersey State senator to work closely with Theodore Conrad, Jack Drago, Carl Feltz, Dr. Ethel Lawner, Morris Pesin, Audrey Zapp, Thomas Carugan, Rabbi Samuel Berman, John Quigley, Marjorie Westling, and others to conduct a "save the courthouse" campaign.

The position of the Hudson County governing body at that time was to offer the building to Jersey City for $1 as a possible site for a new city hall. The offer was turned down by city officials because they considered the renovation costs too costly.

In 1966, the imposing beaux arts edifice was shut, leaving it at the mercy of looters and the elements. In 1970, with a wrecker's ball days away, citizens groups, with the help of former U.S. Senator Clifford P. Case, succeeded in having the building placed on the National Register of Historic Places. This move saved it from demolition.

Federal funds were obtained to begin the restoration process under the supervision of Ernest Grabich, supervisor of restoration, and Lawrence Campagna, county planning director. Charles Barone, who maintains a stained glass studio in Jersey City, worked with Luis Guzman and Angela Sinisi to restore the dome ceiling.

In the fall of 1985 the third floor of the facility was rented to the State of New Jersey with New Jersey Supreme Court Associate Justice Marie L. Garibaldi and Appellate Judges Geoffrey Gaulkin and Lawrence Bilder holding court.

The Hudson County Bar Association is also making use of the facility and since January of this year, County Executive Robert Janiszewski has taken steps to expand its use.

City, State, county, and Federal officials and members of Justice Brennan's family have been invited to come to the September 16 ceremony at 4:30 p.m. A plaque honoring Justice Brennan is already on display inside the building.

On Friday evening a dinner honoring the occasion will be conducted at the Liberty State Park train station facility in Jersey City, where several hundred of Justice Brennan's close friends, officials, and community leaders will be in attendance.

It is my understanding that proceeds from the dinner dance will be donated to the American Cancer Society by the Hudson County Bar Association.

I am certain that my colleagues in the House of Representatives are pleased to join me in extending best wishes to Justice Brennan, who has served our Nation so well.

This magnificent courthouse, restored to its original grandeur and splendor, functioning as a fully operational courthouse, will be a reminder for generations to come of Justice Brennan's contributions to the greatness of our Nation.

ARMY MAINTENANCE PROBLEMS IN EUROPE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Ms. PELOSI. Mr. Speaker, Vice President Bush portrays himself as the logical heir to this administration's 8-year military buildup. However, despite the billions that the President has sunk into new weaponry, there are continuing problems with basic maintenance of the Army's M1 tanks and M2/3 infantry and cavalry fighting vehicles. The problems stem from a lack of training of maintenance personnel and have resulted in a significant increase in downtime for these vehicles in Germany.

Two recent studies, one by the General Accounting Office and one by the logistics staff of U.S. Army Europe have centered on the maintenance problem and the inadequate diagnostic training of Army mechanics assigned to our forces in Europe. Although the Army has begun to take the necessary measures to improve the training of mechanics, I find this a telling example of the misplaced priorities of the Reagan/Bush defense policy.

On November 8, the American people are going to have to decide whether or not we can afford 4 more years of mismanagement of our military and the misguided use of Federal funds for hardware that cannot be maintained. Our troops need and deserve adequate training.

Mr. Speaker, I urge my colleagues to read the following article from the Army Times, which I am inserting into the Record:

[From the Army Times, Sept. 12, 1988]

RUMBLE OF TOO MANY TANKS STILLED IN EUROPE BY POOR MECHANIC SKILLS

(By Kim Tice)

Washington.—Unit mechanics in Germany seriously lack the basic skills to keep the Army's Abrams tanks and Bradley fighting vehicles in working order, according to a study recently conducted for the logistics staff of U.S. Army Europe.

The maintenance problems are made worse, the report contends, because "a significant number" of the mechanics' supervisors do not know how to use the high-tech diagnostic equipment employed in the motor pool.

The situation is so serious that U.S. Army Europe, the Army's largest overseas command, will establish a special training course early next year for first-line maintenance supervisors.

Maj. Gen. Jackson E. Rozier Jr., the command's logistics chief, said in a recent bulletin for commanders that the Ordnance School study, "disclosed a significant problem with M1 [Abrams tank] and M2/3 [Bradley infantry and cavalry fighting vehicle] maintenance in the area of diagnostic troubleshooting.

"This is demonstrated," said Rozier, "by the high no-evidence-of-failure rate on components diagnosed by unit mechanics, excessive downtime to diagnose faults, and the overwhelming amount of swing maintenance being performed in units."

Approximately 2,900 Abrams and 1,200 Bradley vehicles are currently in Europe, according to Army officials, and this is not the first study to conclude that maintenance training for the Bradley and Abrams is below standard.

Last year the General Accounting Office, the investigative arm of Congress, drew the same conclusion in a report titled, "Army Maintenance: Continuing Problems in Performing Maintenance at the User Level."

The accounting office, using data collected on units in Europe and the United States, said vehicle operators and unit mechanics are apprehensive about using diagnostics equipment because they do not receive adequate training on the systems during maintenance courses at Army service schools.

The problem is further aggravated, according to the agency, because supervisors have not been trained on the diagnostic equipment, and they do not require their mechanics to use the devices.

To help ease the training problem, the Ordnance School at Aberdeen Proving Ground, Md., recently added diagnostic troubleshooting classes to its basic and advanced noncommissioned officer courses.

However, sources say that it will be a few years before these trained specialists "saturate the field," to provide first-line maintenance support to tank and mechanized infantry units.

Rozier, in an effort to make up for the shortage of trained troubleshooters, has approved an Ordnance School recommendation to establish, on an interim basis, an Abrams/Bradley supervisor's course at the Seventh Army Combined Arms Training Center, Vilseck, Germany.

The special training is designed for maintenance NCOs and warrant officers. The classes, to run three and a half weeks, begin in January.

"I understand the difficulty in releasing personnel for nearly a month of training, but this Ordnance School developed program of instruction offers current, hands-on, supervised training along the lines of the old master diagnostician program," Rozier said in the commanders bulletin.

Students will receive instruction in basic electronics, schematics and turret and hull troubleshooting before specializing on the Abrams of Bradley. Training will be closely supervised with at least one instructor per four students.

DON'T KILL THE REVOLUTIONARY: A NEW ROLE FOR LEADERSHIP

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mrs. BOXER. Mr. Speaker, one of my constituents, Proctor Jones of San Francisco, has written to me, providing a thoughtful perspective on the global search for world peace. I am pleased to present his comments, which follow:

DON'T KILL THE REVOLUTIONARY: A NEW ROLE FOR LEADERSHIP

(By Proctor Jones)

In view of the fact that time-tested political and diplomatic remedies have not lessened global tensions, nor reduced the indebtedness of peoples, nor provided for the public tranquility and security, is it naive to suggest that there may be a better way?

Does the pattern of the past so control us in our association with the rest of the world that we are stuck with that ancient machinery to try to stave off starvation, physical and intellectual?

Does the existence of a strong program of deterrents measure the extent of our will to live?

Global leaders should be trying to understand and eradicate the social and economic dissatisfaction of all nations. But instead, so much discussion time has been devoted to the problems of arms control that arms control has become the central theme of policy-making for survival.

Tinkering with the volume of weaponry is no answer to the question.

Arms control discussion seems to be undertaken because leadership is unwilling to go further than meaningless treaties. Is this because it is felt that leadership cannot cope with the economic effects of an atmosphere of peaceful understanding on a virtual wartime economy?

The real seeds of dissatisfaction between nations is relegated to a back burner so that we may continue to have an enemy against whom we must protect ourselves and which will provide the reasons for a continuing defense economy contributing to the false health of the nation.

For nations to stand across a table accepting balanced fire-power as a civilized control instrument is at best giving civilization a few more moments of life. It is a measure of the paucity of our political foresight and what shreds are left of our pioneer spirit.

Meanwhile, as each mighty power taxes and borrows money from propagandized populations to get "more bang for the buck," we are, like the moth with the flame, deflected from any other thought. The effort to remain civilized is put further and further into the shadow.

For us, the casualty will be the loss of economic freedom and free enterprise. No nation bent on borrowing itself into oblivion to manufacture non-productive obsolescence can remain free. It should be obvious that bankrupt governments cannot properly feed, educate, or care for their people.

It seems to me that it is more in society's interest to spend resources trying to unravel the need for a wartime economy by locating the universal breeding places of the troubles which beset all of us.

The problem is not communism or capitalism. It is the hunger of disenfranchised people and an unbalanced trading system. This unbalance that besets us today is an embarrassing admission that we, thus far advanced, cannot bring intelligence to the problem, and thus we doom ourselves to a death watch.

What must be done?

1. We must all learn that we are all part of a universal dynamism which, when it is unbalanced, gives rise to aggressive national behavior.

2. We must encourage leadership to become part of an interdependent effort to correlate and understand what universal dynamism requires of public policy to maintain its equilibrium.

3. We must value interdependence in the fact of threatened thermonuclear destruction.

4. Sovereign ownership of the world's raw material resources must be respected and that ownership must be brought into the global economy, not as a prisoner but as a benefited participant.

5. As the reasons for the present war economy evaporate, our Federal Government must develop a program to assist present defense industries and their employees to absorb the shock of cutbacks in defense spending because these businesses expanded to satisfy Government policy.

While there are these life-giving ideas which need investigation and definition, why should we spend so much of our money and our productive energy in the development of obsolete weaponry, the main purpose of which is to terrorize into submission, leading us away from freedom and the very being of our civilization?

Must we try to stay alive with policy that is an admission that we don't know enough to take advantage of civilization's lessons, or can leadership and people alike take conscious steps to expand themselves and our civilization to render life secure with something more than out-of-date rhetoric and dynamite?

TAIWAN TO MARK NATIONAL DAY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. KLECZKA. Mr. Speaker, Taiwan will be celebrating the 10th of October—their National Day—this year in grand style, and they should, because there's evidence the policies of democratization are working well.

Initiated under President Chiang Ching-Kuo, democratic reforms are proceeding full speed ahead; and, indeed, it might be said that Taiwan today is a bastion of democracy, where every citizen, young or old, has a chance to speak his mind without fear, or take his money and travel wherever he or she wishes, including to mainland China. In short, we are witnessing a young country fully on its way to a constitutional democracy.

Much of the credit belongs to the departed President Chiang, who foresaw the urgency of implementing democratic reforms in a country too much accustomed to autocratic rule. Equal credit is due President Lee Teng-Hui, who has faithfully adhered to Chiang's policies without deviance. Lee, a Cornell-educated statesman, fully understands the undesirability of economic growth without comparable gains in democratic reforms.

As Taiwan prepares to celebrate its national day, I extend my personal greetings to President Lee, his Cabinet, and the 20 million good people of Taiwan, and my congratulations on your accomplishments in the cause of democracy.

WE CAN SAVE THE WORLD

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. DARDEN. Mr. Speaker, every day we see evidence that Americans of all political and philosophical persuasions are coming together in their recognition of the dangers posed to our environment, and in their resolve to halt and even reverse the damage which mankind has inflicted on the land, air, and water with which we are blessed.

The media play a major role in this growing awareness of our environment's fragile nature. Newspapers, television, and radio are doing an excellent job of educating the public about the dangers of pollution and overdevelopment. The media also provide a forum for the public policy debates about environment issues.

I would like to call the attention of my colleagues to a recent column by Nancy Ryle of the Marietta Daily Journal, my hometown newspaper. Ms. Ryle makes some excellent points about the dangers we have created for ourselves—and for future generations—through our mistreatment of the environment. I would urge all Members of this House to consider the points Ms. Ryle makes.

WE CAN SAVE THE WORLD

NATURE SHOULD BE RESPECTED

This is my third column in a series on the environment. After this I'll get off my soapbox.

People are the most important creatures on planet Earth. More important than whales, whooping cranes, bald eagles, sea turtles, songbirds and butterflies. People's needs have priority.

But people won't have a desirable environment in which to live—not to mention enough air and water to survive—if we don't learn to respect nature, treat her with tender loving care, live in harmony with her as partners, not enemies. And care a lot about whales whooping cranes, bald eagles, sea turtles, songbirds and butterflies . . . and the land, air and water that nourish us all. Besides, who wants to live in a world without them?

The good news is that finally, in the last part of this 20th century, Americans are learning what the American Indians understood. What Cicero in the first century B.C. intuitively knew when he wrote, "Who cannot wonder at this harmony of things, this symphony of nature which seems to will the well-being of the world?" Nature has miraculous powers of healing, of replenishment through her cycles and her ecosystems . . . but only if we stop abusing them in pursuit of excessive economic greed, comfort and pleasure.

Some good signs: Polls show most Americans strongly support environmental protection. Both Bush and Dukakis have made the environment a part of their campaigns.

Locally, Dr. Bob Taylor at the Chattachoochee Nature Center is encouraged. "More trees and natural areas are left alone when new subdivisions are built. It makes it harder for the builders to work around them but the public demands it. We do a booming business selling bird feeders and houses at CNC—there's tremendous interest in nature."

Dr. Taylor believes individual people can make a difference. I need to hear that. When I think about the ozone layer, acid rain, hazardous waste dumps, dwindling tropical forests and fossil fuels—I wonder what I can possible do?

I heard a report on WABE (National Public Radio) Thursday night while cooking dinner. And I wanted to cry. A University of North Carolina expert said on the east and west faces of Mount Mitchell, 90-98 percent of the trees are dead on many trails. Balsam firs and spruce—killed by air pollution (which weakens them until they're mortally ill—like AIDS for trees.)

He said, "It's like walking through a graveyard." I closed my eyes, remembering once long ago when I hiked Mount Mitchell, through an incredible fairyland of ferns, mossy earth, and towering evergreens in the mist.

Okay. I still use aerosol sprays like Pam, Yard Guard. If I quit it wouldn't reduce the ozone much. But if everyone in Cobb County quit it would by 400,000 times.

We can help in many ways—you know them already but here's a reminder:

Stop littering. Stop wasting. Recycle. Don't use dangerous pesticides. Make your yard into a natural habitat—leave some undergrowth (Hey, less grass to cut!) and put up bird feeders.

Let Cobb officials know you oppose rampant, uncontrolled, nonstop development and want a wise land use plan adopted—now. (Begin by stopping a new road from crossing Mount Bethel school's nature center.)

Let senators and congressmen know you want tough laws, want them enforced, and international efforts for global concerns.

Join a conservancy group.

Most of all, just care. Hug a tree. Plant a flower. Feed a bird. Save a whale. It's our world—let's keep it safe and beautiful.

THE WHITE HOUSE AND THE WAR ON DRUGS: THE FACTS SPEAK FOR THEMSELVES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues some convincing facts about the administration's deep commitment to the war on drugs. The White House recently released a detailed report entitled "The Reagan Record on the Crusade for a Drug-Free America" which presents an array of impressive facts concerning the accomplishments of the administration during the past 7 years in its battle against illegal substances, both domestically and internationally.

While more must be done if America is to emerge victorious in the war on drugs, I believe that the administration has done far more than past administrations in committing significant resources to antidrug programs as well as calling the attention of the American people to the drug menace in our society. While critics of the administration have debunked our President's drug programs, the basic statistics reveal that the White House has fought a valiant war on drugs in America. While the rhetorical guns of the Democrats are blazing, our Chief Executive is interested in a sound drug policy, not drug politics. We owe President Reagan our sincere thanks for his brave efforts in this important crusade.

He has truly "run up the battle flag" in this war which America cannot afford to lose.

I have extracted some of the highlights and the more important segments of this report for my colleagues in the Congress.

THE REAGAN RECORD ON THE NATIONAL CRUSADE FOR A DRUG-FREE AMERICA

SUMMARY STATEMENT

Illegal drug use is beginning to decline; no-nonsense judges are enforcing stricter penalties for drug dealers; and record amounts of illegal drugs are being seized. Most importantly, the American people are changing the way they think about illegal drugs and drug use. Today, public opposition to illegal drugs is growing stronger. America is increasingly less tolerant of illegal drugs and drug users. These are the keys to a drug-free America.

HIGHLIGHTS

Drug Use Declines.—As knowledge about drugs has increased, popular attitudes about illegal drug use are beginning to change and drug use has started to decline during the 1980s. For example, current use of cocaine among high school seniors dropped by one-third in 1987 to the lowest level since 1978. Daily use of marijuana among these students dropped from one in nine high school seniors in 1979 to one in 30 in 1987.

Enforcement Increases.—The number of Federal drug investigators more than doubled and the number of Federal drug prosecutors increased four-fold between 1980 and 1988. By FY 1987, arrests by the Drug Enforcement Agency of the most serious drug offenders had increased 175 percent over 1983.

Sentences Get Tougher.—The average sentence for those convicted of drug law violations increased from 51 months in 1979 to 73 months in 1987.

The Budget Triples.—Total outlays for Federal drug programs have tripled since President Reagan took office. In FY 1988, the total Federal anti-drug budget was $3.3 billion, up from $1.1 billion in FY 1981. The President's FY 1989 budget called for a 15 percent increase in Federal outlays to support the overall drug effort.

More Drugs Interdicted and Seized.—As a result of Federal enforcement efforts, 140,000 pounds of cocaine were seized in FY 1987. Some 2.2 million pounds of marijuana and 1,400 pounds of heroin were also taken into Federal custody.

The Military Enlists.—This Administration was the first to declare illegal drugs a threat to national security and the first to implement a change in the law allowing the Department of Defense (DOD) to support other Federal drug-law enforcement efforts. By 1987, DOD forces spent more than 16,000 hours in the air and provided 2,512 ship days searching for drug smugglers.

Federal Coordination Enhanced.—This Administration has greatly enhanced the coordination among Federal, state, and local compaigns against illicit drugs; has stepped up the use of our intelligence agencies against drugs; and is the first to use the Federal Bureau of Investigation (FBI) against drug dealers.

More Funds for Drug Abuse Prevention.—Federal outlays for drug abuse prevention increased four-fold between FY 1981 and FY 1988, from $117 million to $454 million. The President has requested $574 million for drug abuse prevention in FY 1989, an additional 15 percent increase.

Prevention Education.—To help parents, teachers and others in the community, the Federal Government collects information on drug and alcohol use and promotes programs that effectively combat illicit drug use. One example: The Education Department has distributed 1.9 million copies of a handbook offering a 12-point plan to achieve schools free of illegal drugs.

Treatment.—In FY 1988, the Federal Government provided the states $283 million in grants for drug abuse treatment and spent $370 million overall in this important area. The Federal Government is also working closely with state and local governments to develop effective treatment approaches to reduce the demand for illicit drugs as well as the transmission of AIDS by IV drug users.

Drug-Free Military.—The Armed Forces have been testing for drugs since 1971. Reported drug use in the military has declined 67 percent since 1980.

THE RECORD

The President's Leadership in Stopping Illegal Drugs

For seven years, the Reagan Administration has pursued a comprehensive anti-drug strategy that is more extensive, better funded, and more effectively coordinated than any Federal anti-drug or anti-crime initiative in our nation's history.

The Administration's strategy emphasizes international cooperation, interdiction, criminal investigations and other enforcement programs, treatment and prevention efforts and research. Today, virtually all Americans acknowledge that such a comprehensive strategy is the best approach.

In 1986, the President selected these additional goals as the steps toward a drug-free America:

1. Drug-free workplaces for all Americans.
2. Drug-free schools, from elementary to university.
3. Expanded treatment for drug users.
4. Improved international cooperation to cut off the production and transportation of illegal drugs.
5. Strengthened drug law enforcement, using all of our available resources to stop drug traffickers.
6. Increased public awareness and prevention.

The Reagan Administration has vigorously pursued these goals, marking many "firsts" in the history of the national crusade against drug use. For example, the Reagan Administration was the first in history to:

Acknowledge and declare illegal drugs a threat to national security;

Implement a change in Federal law that allows the DOD to support Federal drug laws;

Send troops and equipment abroad to destroy drug production facilities in another country;

Mandate U.S. intelligence agencies to support the anti-drug battle;

Call upon the FBI to investigate drug law violations;

Create an effective, coordinated Federal, state and local campaign against illicit drugs; and

Use Federal asset forfeiture law to take the profit out of illegal drug trafficking.

The President has engaged the entire executive branch in this effort. According to the Office of Management and Budget, 32 Federal agencies are involved in the President's anti-drug activities—with a budget three times what it was in FY 1981.

Total Federal outlays for the major drug programs tripled between FY 1981 and FY 1988, from $1.1 billion to $3.3 billion. For FY 1989, the President requested over $400 million more in outlays than Congress appropriated in FY 1988—a 15 percent increase.

In April 1988, the New York Times reported: "No President has spoken out more against drugs than President Reagan. No Administration has signed more anti-drug treaties or spent more money to stem the flow of drugs into this country."

In May 1988, President Reagan called on Congress to join representatives of the Administration in a bipartisan executive-legislative task force to agree on a range of topics including how to block supplies; curtail demand; promote treatment, education, and prosecution as well as interdiction, confiscation and stepped up eradication. The task force was to report to the President in July.

The President also asked Defense Secretary Carlucci to determine how to make better use of military resources and technologies to detect drugs and support the enforcement of civilian drug laws. The President also said consideration should be given to allowing state governors greater use of the National Guard in drug control efforts.

The First Lady

As the President has acknowledged on many occasions, including his 1988 State of the Union Address, First Lady Nancy Reagan has been a leader in the Crusade for a Drug-Free America.

Long before drugs were front-page news, Mrs. Reagan became a national and international leader in the crusade against illicit drug use. Since becoming America's First Lady more than seven years ago, Mrs. Reagan has traveled over 170,000 miles to 64 cities in 33 states and 8 foreign countries in her drug abuse awareness campaign.

In 1985, Mrs. Reagan hosted two international conferences on drug abuse, one at the United Nations and the other jointly held in Washington and Atlanta.

The Campaign to prevent drug use is perhaps best symbolized by three words of guidance which the First Lady offered our children—"Just Say No." Mrs. Reagan has been instrumental in the establishment of thousands of parent and youth groups, including 12,000 Just Say No Clubs, which provide drug education as well as activities for young people that help them say "No" to drugs.

Mrs. Reagan's anti-drug campaign may prove to be one of the most significant investments ever made in the future of this nation.

The Vice President

The Vice President participated in the successful effort to have international drug trafficking declared a threat to national security, and to make increased use of our military forces in stopping drugs from reaching our shores.

In January 1982, Vice President Bush, at the request of President Reagan formed the South Florida Task Force to improve interdiction of drugs.

In late 1981, Miami was under siege by drug smugglers with machine guns who were murdering each other—and innocent citizens—in broad daylight.

On January 28, 1982, President Reagan responded to Miami's pleas for help by creating the South Florida Task Force (SFTF) and asking Vice President Bush to shape the task force and lead it.

Within weeks, hundreds of Federal law enforcement officers were detailed to South Florida. Extra prosecutors and judges were assigned to meet an increasing need. Additional Coast Guard cutters began patrolling Caribbean waters. The Department of Defense lent substantial support, and the State Department increased diplomatic efforts to expand cooperative anti-drug efforts.

The Task Force seized record amounts of drugs, caused an immediate decrease in drug smuggling to Florida, deterred traffickers, or forced them to shift to longer and more difficult routes.

Violent crime in South Florida dropped substantially in the first six months of task force operations. The murder rate fell by 15 percent in Dade County, and by 25 percent in Broward County. The South Florida Task Force is a continuing operation.

In March 1983, the President asked the Vice President to apply the successes of the South Florida Task Force to the national drug abuse problem by leading the National Narcotics Border Interdiction System (NNBIS).

NNBIS improves the coordination of drug interdiction efforts of Federal, state and local agencies that enforce drug laws. In addition to increasing cooperation between the Drug Enforcement Administration (DEA), Customs, Coast Guard, FBI and the U.S. Border Patrol and other agencies, NNBIS has increased support from DOD and the intelligence community, and won cooperation from foreign countries.

Under the Vice President's leadership, NNBIS has steadily increased the role of DOD and of intelligence agencies in interdiction. NNBIS also promotes international anti-drug efforts.

Like its Florida prototype, NNBIS has been successful in large part because of unprecedented cooperation from state and local law enforcment agencies.

Through his leadership of the South Florida Task Force and NNBIS, and his other contributions to the Reagan Administration's anti-drug efforts, Vice President Bush has helped establish an effective, coordinated Federal, state, and local campaign against drug smugglers. As President Reagan has said:

"And let me say, if you want to see effective leadership, take a look at Vice President Bush's role in this. While others talked about leading the military into the fray against drugs, the Vice President has led."—President Reagan, April 13, 1988.

National Drug Policy Board

On March 26, 1987, President Reagan established the National Drug Policy Board (NDPB) by executive order.

Chaired by the Attorney General, with the Secretary of Health and Human Services as vice chairman, the cabinet-level NDPB develops Federal drug control program policy, strategy and resources; oversees interagency cooperation and resolves interagency differences; and coordinates collection and evaluation of information.

On May 22, 1987, NDPB designated lead agencies in nine areas: intelligence, international cooperation, interdiction, investigation, prosecution, prevention education, high risk youth, mainstream adults, and treatment. Strategies were developed and implemented.

Changing Knowledge, Attitudes and Behavior

Within the first two months of his Administration, President Reagan set the tone for his anti-drug strategy. "[T]he answer to the drug problem," he said, "comes through winning over the users to the point that we take the customers away from the drugs. . . ."

Since 1981, the Reagan Administration has supported and encouraged a nationwide effort to reduce the demand for drugs by increasing Americans' knowledge and changing their attitudes and behavior.

Knowledge.—Drug education messages have been spread by schools, community organizations, the media, and Federal, state and local governments. Television shows have focused on deglamorizing drug use.

The National Media Advertising Partnership for a Drug-Free America is coordinating a national effort involving donations totaling over $1.5 billion in television and newspaper advertising to spread the drug prevention message.

Attitudes.—A steadily increasing percentage of the nation's young people now recognize the risk in the illegal use of drugs, according to a University of Michigan survey of high school students and young adults taken each year since 1975.

Our young people are less tolerant of marijuana use:

In 1980, half of high school seniors surveyed thought smoking marijuana regularly posed a "great risk." In 1987, 73.5 percent saw regular marijuana use as a great risk.

A Weekly Reader survey found peer pressure to try marijuana declined between 1983 and 1987. In 1983, 31 percent of the fourth graders felt peer pressure to try marijuana, but by 1987 only 25 percent felt such pressure.

Increasingly, young Americans fear cocaine and disapprove of its use:

In 1980, 31 percent of high school seniors surveyed thought trying cocaine posed a great risk. In 1987, nearly half (47.9 percent) felt that way.

Fully 97 percent of seniors surveyed in 1987 disapproved of regular use of cocaine, and 87 percent disapproved of even trying the drug.

Behavior.—The evidence is clear: Overall drug use is beginning to decline in America. The Michigan research team reported:

". . . [W]e have found continuing declines in 1987 in the use of marijuana, stimulants, sedatives, and methaqualone specifically, in all three populations—high school seniors, college students, and young adults generally. Most importantly, we have seen the first substantial decline in cocaine use in these populations."

Current use of cocaine among high school seniors dropped by one-third last year, from 6.2 percent in 1986 to 4.3 percent in 1987—the lowest level since 1978. The number of students reporting they used cocaine at least once in the past year fell by nearly one-fifth, from 12.7 percent in 1986 to 10.3 percent in 1987.

One in 30 seniors used marijuana on a daily basis in 1987, compared to one in nine in 1978. This is the lowest level of use since the University of Michigan began its survey of drug use in 1975. The Temple University household survey of those age 12 and over reported current use of marijuana decreased from 11 percent of the population in 1982 to 10 percent in 1985.

While progress has been made in changing behavior, 23 million Americans age 12 and over surveyed by Temple University in 1985 said they used illicit drugs. The survey will be repeated in late 1988.

The Temple survey suggested that while the percentage of Americans aged 18 to 20 who use drugs was stable or had declined over the past three to seven years, the percentage of Americans age 26 and over who use drugs might actually be increasing.

This is in part explained by the fact that individuals who began using drugs in the 1960s and 1970s are now getting older. Nevertheless, it is a statistic that demonstrates the need for a continuing program to combat illicit drug use.

Federal Spending

Under this Administration, the total Federal anti-drug budget has tripled—from $1.1 billion in FY 1981 to $3.3 billion in FY 1988.

For FY 1989, the President requested $482 million more than Congress appropriated in FY 1988, a 15 percent increase in just one year that would take total Federal outlays for all drug abuse programs to $3.8 billion. Budget authority would total $3.9 billion in FY 1989.

This Administration has spent more money on drug abuse in every area:

Federal outlays for drug enforcement programs alone more than tripled between FY 1981 and FY 1988, from $806 million to $2.5 billion. In FY 1989, the President wants to spend $2.8 billion on drug enforcement.

Federal outlays for drug abuse prevention increased nearly four-fold between FY 1981 and FY 1988, from $117 million to $454.2 million. The President's FY 1989 budget request for drug abuse prevention is $573.7 million.

Federal spending for drug abuse treatment nearly doubled between FY 1981 and FY 1988, from $205.8 million to $370.2 million. For FY 1989, the President is asking Congress for $427.6 million for drug abuse treatment.

To put Federal outlays for drug problems in perspective, consider that:

Total Federal outlays for the entire Government increased 56 percent between FY 1981 and FY 1988.

Outlays for national defense increased 81 percent.

But drug program outlays increased 193 percent during that same period.

FEDERAL OUTLAYS FOR DRUG ENFORCEMENT, PREVENTION AND TREATMENT

[By fiscal year in millions of current dollars]

	Enforcement	Prevention	Treatment	Total
1981	806.0	117.0	205.8	1,128.8
1982	981.5	123.5	161.7	1,266.7
1983	1,184.5	136.9	183.2	1,504.6
1984	1,415.8	151.4	183.9	1,751.1
1985	1,672.2	174.8	191.1	2,038.0
1986	1,757.6	186.4	190.2	2,134.2
1987	2,288.3	317.5	369.2	2,975.0
1988	2,492.5	454.2	370.2	3,316.9
1989 [1]	2,797.7	573.7	427.6	3,799.0

[1] requested.

International Cooperation

With the cooperation of other countries, the United States is trying to reduce the supply of cocaine, heroin and marijuana in our country and around the world.

We assist foreign governments in eradicating illegal drug crops; interdicting drugs; arresting and prosecuting major traffickers; identifying alternative sources of income for farmers who abandon drug production; and in reducing the demand for illegal drugs through education.

In June 1987, the Attorney General led the U.S. delegation to the International Conference on Drug Abuse and Illicit Drug Trafficking in Vienna in which 138 nations participated.

In 1987, 23 nations joined the U.S. in eradicating illegal drug production, up from only 2 countries in 1981.

About 283 metric tons of opium, 5,046 metric tons of coca and 17,585 tons of cannabis were destroyed worldwide through eradication campaigns.

These figures represent four times the amount of opium that reaches the U.S. as heroin, three times the marijuana consumed in the U.S., and one-seventh of the coca leaves required to make the cocaine consumed by Americans.

In Colombia, Peru, Bolivia, Ecuador, Brazil, and Venezuela, U.S. enforcement agencies assist local efforts to eliminate cocaine laboratories, control chemical shipments, and make it more difficult for traffickers to use land and river routes to transport their drugs. Recently:

A three-year FBI investigation of *Colombian* drug-trafficking organizations brought indictments of 114 conspirators and the seizure of 2,100 pounds of cocaine, 22,000 pounds of marijuana and $22.5 million in cash.

Brazil seized nearly a ton of cocaine and destroyed 82 million marijuana plants, 18 tons of packaged marijuana and 2,650 tons of coca leaf.

Ecuador successfully destroyed much of its domestic coca cultivation and is no longer considered a major source of cocaine.

In the Bahamas, U.S. and Bahamian interdiction teams seized 147 tons of marijuana and 25,000 pounds of cocaine in 1987.

In Belize, a U.S.-assisted eradication campaign destroyed 80 percent of the marijuana crop.

Jamaican net production of marijuana fell by more than 80 percent between 1986 and 1987 because of eradication.

The Reagan Administration has successfully sought funding for a range of international anti-drug programs. From FY 1981 to FY 1988, Federal outlays for international drug operations grew 232 percent.

Interdiction

The nation's interdiction strategy is designed to reduce the quantity of illegal drugs and deter criminals from attempting to smuggle illegal drugs into the U.S.

Interdiction focuses on detecting, sorting, intercepting, tracking and apprehending shipments of illegal drugs as they move into the U.S. by air, land and sea.

The task is difficult because ours is an open society with open borders. Nonetheless, Federal drug law enforcement agencies seized and interdicted millions of pounds of illegal drugs in FY 1987. Here are the drugs and the amounts taken into Federal custody:

Heroin—1,400 pounds.

Cocaine—140,000 pounds.

Marijuana—2.2 million pounds.

To improve our ability to detect drug smugglers, Federal outlays for interdiction jumped more than three-fold, from $350 million in FY 1981 to a proposed $1.13 billion in FY 1989.

With this interdiction budget:

New radar sites have been completed in Arizona and the Bahamas to operate with existing sites in Florida to detect smuggling by air. Additional sites are planned for California, New Mexico and Texas. And the Coast Guard will increase the number of radar units deployed along key smuggling routes.

The U.S. Customs Service has expanded its capabilities to interdict drugs during the last seven years by adding 1,923 new investigators, 195 boats and 24 interceptor aircraft. Customs also established an interdiction base with the Bahamas using interceptor boats crewed jointly by Americans and Bahamians. The Customs Service may acquire aircraft able to detect targets more than 1,000 miles from their base.

The Coast Guard is to get additional aircraft and is using its resources to build 37 new 110-foot patrol boats and upgrade certain planes with sophisticated electronic surveillance equipment.

Three new Command, Control, and Communications centers are being developed. Centers in Florida and California will be operational this year.

The Department of Defense supplies substantial support for drug law enforcement agencies in interdiction.

DOD forces flew 16,000 flight hours in FY 1987 in support of law enforcement agencies.

The Navy provided 2,512 ship days in support of Coast Guard law enforcement units in FY 1987, twice as much as in the previous year.

Some $300 million in military aircraft and equipment was on loan to drug agencies in 1987.

National Guard units provided 31,121 aerial surveillance flight hours and 9,000 man-days in support of drug eradiction.

These resources have enhanced the effectiveness of our international operations. Here are examples of operations that have been completed:

Operation Blast Furnace.—The U.S. sent DOD equipment and personnel to Bolivia to assist the Bolivian anti-drug police. Twenty-one clandestine cocaine labs were destroyed. This operation reduced production of Bolivian cocaine for four months.

Operation Hat Trick II.—Nearly 1.7 million pounds of marijuana and 22,000 pounds of cocaine were seized and 1,300 people arrested.

Operation Blue Lightning.—85 vessels, 30 aircraft and six radar facilities disrupted the flow of drugs through the Bahamas. Over 5,500 pounds of cocaine, 36,000 pounds of marijuana, and 26 vessels were seized.

Here are examples of operations that are continuing and whose results are not classified.

Operation Alliance.—A long-term, multiagency interdiction initiative covering the entire Southwest border from Brownsville, Texas, to San Diego, California, and the adjacent Gulf and Pacific areas. The quantity of drug seizures along the border increased significantly. Marijuana seizures increased by 125 percent; cocaine by 371 percent; and heroin by 105 percent.

Operation B.A.T.—"OpBAT" focuses on the Bahamas and the Turks and Caicos Islands to disrupt the flow of marijuana and cocaine. Efforts continue to close those islands to smugglers as refueling stops, storage sites, and staging points. Major smuggling organizations were identified. OpBAT resulted in 146 arrests and the seizure of 17,729 pounds of cocaine and 259,000 pounds of marijuana, as well as five vehicles, 22 vessels and 26 aircraft.

CONGRATULATIONS TO THE HILLSIDE GIANTS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. ACKERMAN. Mr. Speaker, I rise today to give evidence that Leo Durocher's old adage, "nice guys finish last," is not always correct.

Congratulations are in order for the Hillside Giants and their unprecedented championship baseball season in the Hollis-Bellerose-Queens Village-Bellaire Little League. Praise goes to the whole team, but especially to Mr. Eugene "Randy" Randolph, who, as team sponsor for the past 10 years, has given inspiration to many young men in the Queens area.

Randy has shown exemplary dedication to helping young men learn not only the game of baseball but also the game of life. He stressed to his players, as coach as well as team sponsor, that if they try hard enough they could accomplish any goal. Randy is well aware of that philosophy. An abandoned child who grew up in various foster homes, Mr. Randolph now is a successful employee at Long Island Jewish Medical Center. But his true love has always been working with young men and the game of baseball.

For the first 4 years of his sponsorship, Randy served as both team sponsor and manager. After those years of dual responsibility, Carl Morro took over the manager's reins. Together these gentlemen formed a successful tandem, each stressing the importance of character building.

Ten years after Randy formed the Hillside Giants, they won the major boys' division with a spectacular 19–0 season. An undefeated championship season has always been a dream of Mr. Randolph. By following his own words of advice, Randy proved its truth: that by working hard toward a goal, it can become a reality.

Of course, this dream season could not have occurred if not for the grand effort put forth by 12 outstanding athletes. The team boasts of pitchers Joey Reznick and Derek Adair; third baseman Ryan Kohler; second baseman Kevin Morro; catcher Sol Sconiers; centerfielder Chevin Young; and infielder Jason Tedesco. The rest of the outstanding squad includes David and Chris Franklin, Peter Rodrigues, Cullen Stanley, and Richard Lopkin. Further commendation goes toward the team's dedicated coaches, Mark Marro and Fred Kohler.

Mr. Speaker, all too often, we hear that Little League diamonds are the breeding grounds for temper tantrums and poor sportsmanship. For that reason it is very refreshing to hear of a coaching staff that emphasizes sportsmanship, integrity and athletic achievement instead of a win at all cost attitude. The world of baseball needs more people like Eugene Randolph. When it comes to Little League, nice guys should finish first.

LOCAL FIREFIGHTERS LEND A HAND

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, now that the fires in Yellowstone National Park have cooled down, it seems appropriate to recognize some of the men and women who sacrificed much to preserve this important national resource. I would like to recognize two forest rangers from Maryland's Fourth District who spent about a month in the West fighting the wildfires.

Nancy Green of Glen Burnie, MD, and Laura Bausum of Davidsonville joined a 20-member crew from my State that was part of the thousands of firefighters working extremely hard over the last month. Rangers Green and Bausum usually spent 12 to 16 hours a day cutting down trees, shoveling dirt, and toiled at the other arduous tasks necessary to contain these fires. On more than one occasion these rangers worked 24 hours straight to do what they could to minimize the damage.

I know many of my colleagues join me in expressing a hearty thanks to these and other firefighters who've struggled from day to day to protect valuable timberland in our Western States. It is the hard work and dedication of individuals like Rangers Green and Bausum that has helped protect homes, save woodlands, and reduce the damage to one of our great natural resources, Yellowstone National Park.

TRIBUTE TO MR. FREDERICK L. RATH

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BOEHLERT. Mr. Speaker, today I would like to pay tribute to a strong conservationist in my district. On September 13, 1988, Mr. Frederick L. Rath of Cooperstown, NY was awarded the Conservation Service Award by the Secretary of the Interior at the 52nd annual Departmental Honor Awards Convocation.

This award is the highest honor that the Secretary can bestow upon a private citizen for direct service to the Department of Interior. I'm proud to claim Mr. Rath as a constituent and fellow conservationist. In his honor, I'd like to read in to the CONGRESSIONAL RECORD these words, spoken by Interior Secretary Hodel, describing Mr. Rath's achievements:

> In recognition of his strong support to the historical preservation and interpretation programs conducted and aided by the National Park Service.
>
> For the past 40 years, Mr. Rath has given strong support to the historic preservation and interpretation programs conducted and aided by the National Park Service. In 1948, he became Executive Secretary of the newly-established National Council for Historic Sites and Buildings, progenitor of the National Trust for Historic Preservation which he helped form the next year. As first Executive Director of the National Trust until 1956, he worked closely with the Park Service and enlisted private sector support in behalf of their common cause. He was largely responsible for effecting the purpose of this organization that was created to supplement the work of the Park Service in the preservation field, thereby furthering the national policy set by the Historic Sites Act. After serving from 1956 to 1972 as Vice Director for the New York State Historical Association at Cooperstown, he became Deputy Commissioner for historic preservation in the New York State Office of Parks and Recreation between 1972 and 1978. In that capacity, he exercised leadership in developing the voluntary role of the states, exemplified in such a large and influential state, in carrying out responsibilities given by statute to the Department of the Interior. In that role of cooperation with the Park Service, he effectively furthered the Federal-State partnership authorized by the National Historic Preservation Act. In 1947–48, Mr. Rath was among the original Directors of the Eastern National Park and Monument Association, formed to assist National Park Service interpretive programs. He returned to its board in the 1970's, became its chairman, and from 1979 to 1987 served as its Chief Executive Officer. Under his leadership, the Association greatly increased its services to the public and financial support for the parks. A result of such extraordinary dedication has been an authoritative depth of research and accuracy of interpretation that would not otherwise have been possible. For his long and effective cooperation with the National Park Service in preserving and aiding public enjoyment of America's historic places, Frederick L. Rath, Jr., is granted the Conservation Service Award of the Department of the Interior.

My congratulations go out to Mr. Rath. The people of the 25th District of New York and of the State of New York, and the Department of the Interior should be grateful for his contributions.

RANGEL: GENERAL IN THE WAR ON DRUGS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. GUARINI. Mr. Speaker, I believe that I speak for all Members of this great body when I say that no one has worked harder, and is more committed to the elimination of illegal drugs in America than our able colleague from the State of New York, Representative CHARLES B. RANGEL. When the history books for this period are written, they will, no doubt, record that Representative RANGEL, or CHARLIE as he is affectionately known by all, was America's general in the war on drugs.

Having been a Member of Congress for 18 years, CHARLIE, as the chairman of the House Select Committee on Narcotics Abuse and Control, has earned worldwide recognition as an expert on drug abuse. Always friendly and persuasive in trying to win one over to his side of an issue, CHARLIE has the unique ability to reach a compromise with almost anyone on any issue. However, what I admire most about this particular legislator is his ability and willingness to listen to an opposing point of view. This is evident in the current debate on the legalization of drugs in this country. Although personally opposed to this concept, those proponents of legalization will have the opportunity to present their views to CHARLIE and his committee at the end of this month. Although I am certain that the testimony presented will in no way sway CHARLIE in his views toward legalization, one thing that proponents of legalization can be certain of a fair hearing. Earl Caldwell, a writer for the New York Daily News has written a piece, titled "Rangel Wants to Start a Real War on Drugs." In his article, Caldwell makes the point that CHARLIE has but one goal: To force a real war on drugs. It is a noble and courageous one—one that deserves the support of all of the Members in this Chamber.

At this time, I would like Mr. Caldwell's piece to be entered into the CONGRESSIONAL RECORD.

RANGEL WANTS TO START A REAL WAR ON DRUGS

For 18 years, Rep. Charles Rangel has held a seat in the U.S. Congress. He gets identified as being "the congressman from Harlem." But in fact, his district in New York includes part of the upper West Side and almost all of the upper reaches of Manhattan.

The Harlem tag gets pinned on Rangel for a reason. Rangel not only holds the seat once occupied by the late Adam Clayton Powell Jr., but he also had to beat the legendary Harlem minister to get to Washington.

So from the start, Rangel was a congressman who got noticed. A part of that figured. In 1971, he was one of just a handful of blacks sitting in the House. But also there were the questions: Would he be another Adam? Just how would he use the seat? What would he do? What record would he make?

Powell had been as controversial as any member of the House of Representatives. But aside from the flair and the attention he got, Adam did build a record of legislative achievement that was virtually unmatched. Powell had more than 20 years in Congress. In the House, it takes seniority to get legislation passed. Powell was author of the primary bills that became the nation's war on poverty. As chairman of the House labor committee, he saw a whole box full of legislation he wrote passed into law.

Now it is Rangel's time. He has achieved the seniority it takes to have clout in Congress. So Rangel now is answering the questions: What can a congressman do? What impact can he have?

In 1988, Rangel has brought to the front in the country the problem and the question that loom above all others. The problem has to do with drugs and the question asks: What do we do?

On the drug issue, Rangel has emerged the peeminent spokeman. He heads the House Select Committee on Narcotics Abuse and Control. He has taken his committee and made it the strongest voice in defining the scope of the drug problem. He has exposed in stunning ways the deficiencies of the Reagan administration's so-called war on drugs. And now, now he gives the nation the debate the moment demands: Do we legalize? Do we decriminalize? Or do we take the wraps off and fight the way a country does when its future depends on it?

Members of Congress are among the most sensitive of elected officials. That's because, in order to survive, they have to get elected every two years. So any little slight or embarrassment not only hurts, it angers. In the fall of 1986 the men around the President embarrassed and angered Rangel. Congress was looking at legislation to deal with the mounting drug problem. A meeting was called at the White House. Rangel arrived, only to find his way barred. The most knowledgeable member of the House on the issue was told he could not get in. Rangel protested. The word came back that no chair was available, so he could not come in.

Rangel did not pout, nor did he walk away. But he took that blunder and made it a turning point. In the last two years, nobody has outpitched Rangel on the drug issue. He has been so much in the forefront that his are the hands chosen to guide the omnibus drug bill through the Congress. This now has become Rangel's finest hour.

In two weeks, he begins hearings on the issue of legalization. Although they will get attention, he says the hearings are not important. "I just want people to see how stupid legalization would be," he says.

Rangel has but one goal: To force a real war on drugs. As he points out, the U.S. has only 2,800 drug agents worldwide and not a single federal drug rehabilitation center. With his leadership on the drug issue, Rangel has begun to write a textbook answer to the question: What impact can a congressman have?

HISPANIC CAUCUS CHAIRMAN OUTLINES HIS AGENDA

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. FUSTER. Mr. Speaker, my colleagues are aware, I'm sure, that this is Hispanic Heritage Week. Next year, it will become Hispanic Heritage Month, and legislation which we passed earlier this year to that effect was signed into law by President Reagan in the Rose Garden of the White House on Tuesday.

I am proud of that recognition, not just as the only Member of Congress from Puerto Rico but also as the new chairman of the Congressional Hispanic Caucus. I assumed that position Tuesday night at the annual banquet put on by the Hispanic Caucus Institute at the Washington Hilton Hotel.

Gov. Michael Dukakis spoke to the large gathering, as did, among others, Congressman JACK KEMP; representing Vice President BUSH. Thus, as you can see, it was a bipartisan affair. We also honored Juan "Chi Chi" Rodriguez, the world-class golfer from Puerto Rico, plus Jaime Escalante, who was (and is) the inspirational calculus teacher in the famous movie, "Stand and Deliver."

Having said all that, I would now like to share with my colleagues the speech which I prepared for delivery at the Hispanic Caucus banquet Tuesday night.

REMARKS OF JAIME B. FUSTER AT CONGRESSIONAL BANQUET, SEPTEMBER 13, 1988

Members of the Hispanic Caucus, distinguished guests, friends:

It is a pleasure to stand before you tonight and to accept, very moved and full of joy, the chairmanship of the Congressional Hispanic Caucus. I am also filled with a feeling of awe. I have a great challenge ahead of me. And it is a hard act to follow: we all know the remarkable job just completed by my dear friend and colleague, Al Bustamante, and before him by Esteban Torres, Marty Martinez, Bill Richardson and all other chairmen. They have all set a high standard for the chairmanship, and we all owe Busty and the other former chairmen a rousing "muchas gracias" for a job well done.

It is with a deep sense of honor and commitment that I accept the chairmanship. In so doing, I become the first Member of Congress representing Puerto Rico to be so elected. It is an indication that we Mexican-Americans, Cuban-Americans, Puerto Ricans and others—we are all, first and foremost, Hispanic brothers and sisters with a common heritage, with common problems and with common challenges. Far more binds us together than separates us.

Indeed, that is part of what makes us so unique as a community, and as a novel and pathfinding caucus within the Congress itself. We are a vivid example of how one will, one mind, one overriding effort can be successfully forged out of the diversity of the many.

Tonight, my dear friends, we can proudly rejoice in the achievements and accomplishments of our Hispanic community, as we celebrate Hispanic Heritage Week.

As Time Magazine said in its July 11, 1988 issue devoted entirely to the dramatic impact that Hispanic culture has had upon America, especially in recent years, "Nowadays, the mainstream is receiving a rich new current. More and more, American film, theater, music, design, dance and art are taking on a Hispanic color and spirit."

But, as Time Magazine pointed out, the Hispanic influence in America is even more pervasive, more institutionalized. Our influence, as Time perceptively observed, brings about "the developments that are harder to pin down, the Latin flavors and inflections conveyed through all the intricate paths of daily life . . . the American mind is adding a new wing."

Well said. We have arrived in America, and America is a bigger and better place because of us, and we have every right to be proud of that, to celebrate our heritage.

We may know the numbers but it's worth restating them. We now account for more than 8 percent of the nation's population, or around 20 million people of Hispanic origin. That figure is expected to exceed 30 million by the year 2000, or about 15 percent of the population of America. To demographers, that's a significant and portentous development, with considerable implications for the ever-evolving social fabric of the nation. In short, we Hispanics will play an increasingly important—and, I am sure, positive—role in the social, economic, political and artistic life of the nation. And there will be no turning back the clock in the process. Very few ethnic groups in the history of America have had such opportunities—and challenges.

Because of those numbers, we Hispanics can obviously play a major political role. To that end, we must continue to have as one of our major goals the increased participation of Hispanic voters in the political process of America. Right now, we do not vote in proportion to our percentage of the population. To some Hispanics who want to vote, language and cultural differences are real or perceived problems. We can and must overcome those. Indeed, we owe nothing less than that to the memory of that great Hispanic-American, Willie Velasquez, who died this year at too early an age. To many of us, Willie Velasquez symbolized the sure path that must be followed to reach our goal of true equality. This positive and dynamic example was in the best tradition of American participatory democracy, and it behooves us to keep it alive by expanding and deepening his work.

In Congress itself, we will have major opportunities facing us. The 101st Congress, which convenes next January, could well be one sympathetic to our agenda. A new President will also be inaugurated next January. Whether the new President is Democratic or Republican, we have to move emphatically to ensure that the new Administration is responsive to the needs of the Hispanic community. The Hispanic Caucus itself is called upon to exert its leadership, and together with other Hispanic organizations, to launch a comprehensive, nationwide effort to advance the Hispanic agenda, particularly as it regards our needs for high quality education, affordable housing and equal employment opportunities. A substantially increased standard of living for all Hispanics would be the centerpiece of our efforts and our call to action.

In additon to increased political participation, we must all be devoted to the task of creating among ourselves and within the larger national community an increased awareness about our contributions to society. Not until Hispanics and non-Hispanics alike have a better understanding—of our accomplishments and our potential—can we really move forward and reach new levels of progress.

We need more institutional means and infrastructure to become better aware of our feats, and to make them better known. We must methodically study our past and present in an organized, systematic, even scholarly manner and likewise divulge that new knowledge of ourselves.

In this regard, we should consider the path followed by other ethnic and racial groups that have encouraged the establishment, for example, of Black Studies Departments or Jewish Studies curricula at mainland universities.. We too must follow with expanded Hispanic Studies components.

Such an undertaking need not be xenophobic, nor parochial in its approach. Indeed, there is much to celebrate in Hispanic culture, embodying as we do traditions inherited from Spain, from the Mayans and the Aztecs, and from descendants of slaves in the Caribbean. But our contributions to the rich mosaic of the larger American culture need to be systematically researched, elaborated and presented objectively in such a manner so as to not only make ourselves more aware of our own background but also to demonstrate to our fellow American citizens that we rightfully claim our share of the pie and that the nation is a better place because of our presence.

We have to reach out and bring together the best minds in the Hispanic community—and incorporate them in this effort of deepening our self-understanding and increasing national awareness about who we are and what we have contributed to America. But we must also challenge non-Hispanics in academia. We must plug into the obvious talent of the academic community to enlarge and broaden our strategies for development.

For example, we must challenge and convince historians, writers, museums and repositories of knowledge to take us into account in their work. We must find ways to guarantee that Hispanic contributions to society will not remain anonymous nor buried industy, unsystematic, archival limbo. We must not be invisible. We must pursue a deliberate agenda for self-affirmation, calling upon the best resources that society has, Hispanics and non-Hispanics alike.

That is one reason why we celebrate "Hispanic Heritage Week" in the first place. Indeed, various Presidents of the United States, beginning with Lyndon B. Johnson, have recognized our emerging reality and have been proclaiming "Hispanic Heritage Week"—next year to become "Hispanic Heritage Month."

Dear hermanos y hermanas hispanas, these brief notions alone clearly show that we have our work cut out for us. The calling of Hispanics in the United States as we approach the end of an extraordinary century is to draw upon the strength of our heritage so that we can become more central actors in the search for a way of life that will be more just, more peaceful, more respectful of human dignity.

We Hispanics have contributed enormously to the cultural pluralism, the diversity and the vibrancy of the United States. We are a culture of achievers—you only have to look around you in any field of endeavor. Jaime Escalante and Chi Chi Rodriquez are examples of hundreds of Hispanics who have achieved unique success as teachers, athletes, scholars, scientists, soldiers, clergymen and businessmen in every walk of life.

We Hispanics have even greater potential as agents of social change, as catalysts that will help complete the revolution of understanding and compassion to which this nation dedicated itself upon proclaiming as its founding goal that of "liberty and justice for all." We Hispanics are peoples of all colors and all hues. This centuries-old, multi-ethnic experience has been instrumental in developing in the Hispanic consciousness a cross-cultural awareness about the human race.

It has led to a vision of humanity that centers on universal values—one that gives special recognition to a basic dignity in human beings that transcends any particular community or any given era or any specific group. This central tradition of Hispanics will, I believe, help the United States move along in its historic journey towards fair play and full egalitarianism.

And because of the emerging role to be played by Latin America in international affairs, the future of the world may depend to a considerable extent on the types of relationships that the United States develops not so much with its European allies as with its Asian partners and its southern neighbors. Here again, Hispanics in this country will be in a position to play an important role.

Thus, we Hispanics must become more aware of our "specialness" in the larger mosaic of American life. I have outlined some paths we could take in this respect, paths which I hope to follow in my time as chairman of the Congressional Hispanic Caucus, with the support and assistance of my colleagues.

Thank you for your trust in electing me as Chairman, and I look forward to the challenges we face as we keep moving on in the development of our destiny as a distinct community within the nation.

PRENATAL ADDICTION DILEMMA

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. HUNTER. Mr. Speaker, as we near the completion of our work on the omnibus drug bill, I would like to make all of my colleagues aware of a very important perspective on individual accountability. The Brenda Vaughn case has received a great deal of media attention, generally focusing on the primacy of the mother's rights over those of a fetus.

However, the fundamental core of this case is the protection of the fetus from the chemical dependency of its mother. Stephen Green raises some very important questions that cannot be simply swept away by the standard arguments of the civil libertarians. I urge my colleagues to spend a few moments to read this article:

[From the Washington Times, Sept. 9, 1988]

PRENATAL ADDICTION DILEMMA

(By Stephen Green)

Brenda Vaughn had committed a crime, but she has every reason to expect leniency when she appeared before a local judge to receive her punishment for passing a bad check.

The jails are overcrowded and the prosecution had recommended a sentence of probation for Vaughn, a first offender convicted of second-degree theft.

District of Columbia Superior Court Judge Peter H. Wolf, however, had other plans for Vaughn and they did not include freedom.

He sentenced her to jail because she is pregnant and a cocaine abuser. Judge Wolf said he wanted to protect the fetus in Vaughn's womb from her destructive habit.

Jailings to protect yet unborn children may now be rare. But lower trial court judges such as Judge Wolf frequently are on the cutting edge of societal change. What occurred in Judge Wolf's courtroom earlier this summer has outraged the American Civil Liberties Union. Nonetheless, it may be the inevitable forerunner of thing to come.

Locking up pregnant women may not be the best way to protect babies in the wombs of their mothers from exposure to dangerous drugs. But shocking new data suggests that something must be done.

A recent study has found that 11 percent of women in hospitals surveyed had used cocaine or other illegal drugs during their pregnancies. The experts' interpretation of the statistics is frightening. They say the figures suggest that 375,000 infants a year face the possibility of health damage at birth due to their mother's drug habits.

Contrary to popular perceptions, the problem is not confined to minorities or to the inner cities. Hospitals surveyed by the National Association for Perinatal Addiction Research and Education are located in both urban and suburban areas. They serve patients from all socio-economic groups.

If anything, the survey may have understated the problem. It is said to be all too rare for a physician to question a private obstetrical patient about drug use or to test her urine for drugs, Furthermore, the survey did not take into account the dangers to fetuses of alcohol abuse by pregnant women.

"We are producing a new generation of innocent addicts," is the sobering warning from Dr. Elaine M. Johnson, director of the Federal Office of Substance Abuse Prevention.

Addiction is woeful enough, but there are worries about other adverse effects. Babies of drug-addicted mothers are serious candidates for prenatal strokes and irreversible brain damage. Furthermore, they are faced with the prospect of retardation and physical abnormalities.

If only in the interest of their children, pregnant women ought to have sufficient sense to stop taking drugs. But those who can't break the habit on their own often have difficulty in obtaining assistance. Addiction treatment centers are reported to be worried about liability and therefore, turn pregnant women away.

Strong measures may be needed to stop fetus abuse, but civil libertarians reject incarceration. Among their concerns is that jailing amounts to a philosophical victory for the right-to-lifers who equate fetus protection with prohibiting abortions.

Such reasoning is fallacious. When a woman elects to bear a child, rather than abort, society can require that the fetus be treated properly. Any woman who decides to become a mother ought to care for herself out of concern for the health of the newborn.

Judge Wolf readily admits that he did not jail Vaughn for the purpose of retribution for her crime, deterrence or rehabilitation. He says he jailed Vaughn for the protection of society—in this case the unborn child—from her cocaine addiction. All the evidence indicates that Vaughn had been unable to break the habit herself.

The courts have not yet been empowered to incarcerate pregnant women for abusing fetuses. Perhaps, considering the serious nature of the drug epidemic, the law ought to authorize such drastic steps in certain cases. At the very least, there ought to be some serious debate about such measures.

In the meantime, judges would be remiss if they did not consider locking up any convicted pregnant woman who puts her drug habit ahead of the welfare of her unborn child.

WHAT'S BEHIND REAGAN'S TEST BAN VERIFICATION POLICY?

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. MARKEY. Mr. Speaker, advocates of a comprehensive ban on nuclear testing have long suspected that the Reagan administration's call for new verification provisions for the Threshold Test Ban Treaty was merely a ploy aimed at stalling further progress toward a test ban. A recent article by a former Reagan administration official now confirms these suspicions.

The article, by former Deputy Assistant Secretary of Defense for Nuclear Forces and Arms Controls Policy Frank Gaffney, states that the administration has rejected seismic verification techniques as inadequate and called for use of an alternate technique called CORRTEX in order to avoid having to negotiate a comprehensive test ban. Mr. Gaffney trots out many familiar arguments about the supposed unverifiability of a test ban, but they are the same arguments that have now been discredited by experts at the Livermore Lab, the Defense Department, the intelligence community, and the Office of Technology Assessment. What is interesting about this article is that Mr. Gaffney makes it very clear that political objections to further testing limits were behind the administration's policy on CORRTEX. As Mr. Gaffney explains:

> The inherent limitations of CORRTEX are regarded as virtues by those in the U.S. government who hope to slow the rush toward additional constraints on—or the complete banning of—nuclear testing. The thinking goes like this: The more time wasted on discussions and experimentation of monitoring techniques irrelevant to the verification of an environment in which there are no legal tests, the easier it will be to stave off demands for the more constraining comprehensive test ban.

Mr. Gaffney's sudden candor about the cynical motivations underlying the Reagan-Bush administration's position on CORRTEX is very interesting, and I suggest my colleagues review this article carefully.

The article follows:

[From Defense News, Sept. 5, 1988]

TEST BAN WOULD BE REAL TREMOR TO U.S. SECURITY

(By Frank Gaffney, Jr.)

Shock tremors recently raced through the Nevada desert. The cause was an underground explosion of a U.S. nuclear device. This was no ordinary test, however. It was the first of two so-called Joint Verification Experiments (JVEs) and was monitored at the site by Soviet and U.S. scientists and officials.

The shock waves of this blast were extraordinary in a figurative sense, as well. Unless the U.S. government acts responsibly and swiftly, they have the potential to fracture—and, possibly destroy—the foundation upon which the United States' vital nuclear deterrent posture is built.

In principle, these experiments are simply supposed to address an exceedingly esoteric issue: Which of two technologies is preferable for monitoring compliance with the requirement contained in the 1974 Threshold Test Ban Treaty (TTBT) that no nuclear test have a yield in excess of 150 kilotons?

The two sides have agreed that addressing the existing shortcomings of that treaty from the standpoint of verification is the first order of business in the nuclear testing arms control arena.

In practice, however, the joint Verification Experiment will be quite irrelevant for that purpose. After all, there really is no dispute that the measurement technique advocated by the United States for this purpose—a hydrodynamic method called CORRTEX—is more accurate than the approach preferred by the Soviet Union, namely calculations derived from seismic monitoring. Moreover, even if there were a real dispute, two such tests would be wholly inadequate to establish a statistically significant source of data upon which relative performance could be judged.

But that is not the issue anyway. The real bone of contention is whether the United States and the Soviet Union will continue nuclear testing. The Soviet-proposed JVEs are, after all, simply the latest gambit in the U.S.S.R.'s continuing effort to impede U.S. nuclear testing.

The Soviet Union appreciates how vital such testing is to the reliability and effectiveness of the sophisticated nuclear forces upon which U.S. and allied security ultimately depends. Accordingly, constraining—or, from the Soviets' view, better yet, halting—nuclear testing has been a standing objective of Soviet policy for decades.

Thanks to its ability to rely upon overwhelming conventional superiority and the relatively simple designs of its nuclear weaponry, the Soviet Union knows that such limitations would have far more deleterious effects on Western security than on its own. In addition, the Soviet Union can always preserve the option for rapidly breaking out of a test ban arrangement—as they abruptly did in ending an informal moratorium on testing in 1961.

For its part, the Reagan administration has, by and large, been quite clear that a Comprehensive Test Ban is unacceptable under present circumstances. In fact, the U.S. government's insistence on CORRTEX as the TTBT monitoring tool is a function of more than a simple concern about accurate readings of treaty-limited Soviet explosions.

CORRTEX requires extensive and rather costly advance preparations for its use. For example, parallel shafts must be dug near the site of a nuclear test, and monitoring cables, vans of scientific equipment and technicians must be deployed beforehand. Naturally, the acquiescence of the host country is required to conduct these preparations. As a result, the hydrodynamic technique is only appropriate to monitoring an ongoing, legal test program.

CORRTEX works best in monitoring tests with higher yield levels. Consequently, it would not be particularly useful for verifying compliance with a new set of limitations aimed at lowering the allowed threshold for such tests.

The inherent limitations of CORRTEX are regarded as virtues by those in the U.S. government who hope to slow the rush toward additional constraints on—or the complete banning of—nuclear testing. The thinking goes like this: The more time wasted on discussions and experimentation of monitoring techniques irrelevant to the verification of an environment in which there are no legal tests, the easier it will be to stave off demands for the more constraining comprehensive test ban.

Conversely, it is in the Soviets' interest in promoting a comprehensive test ban that motivates their championing of seismic techniques. In addition to seismic monitoring being less accurate and substantially less intrusive—which appeals to the Soviets' abiding penchant for secrecy—it is the only verification game in town for those who fancy a comprehensive test ban.

Of course, the Soviet Union also is well aware that such monitoring is not foolproof. Seismic devices can be spoofed, foiled or circumvented by tests not conducted underground. For example, the Soviet Union could easily test nuclear weapons in space—albeit in violation of the Limited Test Ban Treaty—with negligible risk that the United States would even detect it.

The very nature of the Joint Verification Experiments, however, is such that they will probably give new impetus to the campaign for a comprehensive test ban. The nuances of inconclusive scientific debates over monitoring technologies will be lost on the public. What will stick, however, will be the perception that yet another vestige of Cold

War secrecy has given way to brave new arms control collaboration.

The result will be redoubled pressure on the U.S. government from not only the Soviets but also Congress, the public, the allies and the press to negotiate more ambitious restrictions on nuclear testing. Interestingly, the newspaper has anticipated just such a result and reacted predictably. On July 4, Defense News editorialized, "The administration should drop its insistence on using CORRTEX. . . . Then this administration and the next can go about the business of reducing the power of underground nuclear tests and promoting a comprehensive test ban."

The Reagan administration knows that it cannot responsibly follow this prescription—even though its own rhetorical policy commits the United States to do so in due course. Not only would such additional restrictions be problematic in terms of verification, they also will continue to be incompatible with U.S. retention of a credible nuclear deterrent.

Lest its participation in these experiments have this dangerous result, the Reagan administration must come clean: Whatever else their outcome may be, the JVEs will not affect the reality that U.S. security today requires nuclear deterrence and will continue to do so for the foreseeable future. Similarly, they will not change the inextricable relationship between the nuclear forces that provide that deterrent and the modest, but flexible, American underground testing program that guarantees the reliability, safety, effectiveness and the credibility of those forces.

Unless the continuing need for nuclear testing is made express in the aftermath of these experiments, the JVEs will put the United States well on its way toward an unsustainble, incredible deterrent posture.

THE ASBESTOS HAZARD EMERGENCY RESPONSE AMENDMENTS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. FLORIO. Mr. Speaker, I am today introducing legislation to carry forward our efforts to eliminate the health threat of exposure to asbestos in the buildings where we live and work. This legislation, the "Asbestos Hazard Emergency Response Amendments," builds on the model Congress enacted in 1986 for cleaning up asbestos in our Nation's schools.

Asbestos is one of the most dangerous substances known to science. Medical researchers have linked inhalation of microscopic asbestos fibers to cancer and to a chronic respiratory disability called asbestosis.

An estimated 10,000 people will die each year for the rest of this century from asbestos-related diseases due to exposures which have already occurred; 60,000 claims for asbestos-related diseases are now on file in courts across the country.

Studies indicate that even very slight exposures to asbestos can be life threatening. Not only do asbestos workers have a significantly higher than average incidence of cancer and asbestosis. Their families do also—even children born after their parents have ceased working with asbestos. Some of the experts most familiar with asbestos-related disease say there may be no safe level of exposure.

Unfortunately, because its fire-resistant characteristics were known before its dangers to human health were fully understood, it was used extensively in insulating schools and other buildings, where tens of millions of Americans are now subject to exposure to it on a daily basis. The Environmental Protection Agency estimates that asbestos is present in 30 percent of our Nation's 110,000 schools and in 20 percent of all commercial and Federal Government buildings.

As we have learned of the dangers of asbestos, it has become increasingly clear that we must deal with the asbestos that is in buildings across the country. Schools have been the first focus of concern because children are especially sensitive to exposure and because, due to their youth, disease has more time to develop.

But the same dangers are also present in Federal, State, and local government buildings, and in commercial buildings. Based on a 1984 national survey, the Environmental Protection Agency estimates that friable asbestos-containing materials—materials which are brittle and in danger of releasing asbestos dust—are present in 20 percent of the Nation's 3.6 million Government and commercial buildings. This estimate includes 39 percent of the 14,000 Federal Buildings, 59 percent of the 350,000 apartments of 10 or more units, and 16 percent of the 3.2 million private nonresidential buildings. One-half of a million of these buildings are estimated to contain asbestos that is already damaged.

The Environmental Protection Agency has recommended against taking any action at this time to require cleanup of asbestos in public or commercial buildings, although it has recommended applying certain AHERA standards to cleanup work now taking place, such as requiring that the work be performed by accredited personnel.

EPA's reluctance to go further is all too familiar. Since 1981, when one of the agency's first acts was to shelve a pending school cleanup proposal, EPA has recommended inaction. The Congress has had to require action.

Before AHERA, Federal law required only that schools survey their premises for asbestos and post notices if they found it. When parents, teachers, and school employees became justifiably concerned, schools were left to fend for themselves. The work was often performed by people who did not understand the dangers of asbestos or the proper manner of handling it.

The result was increased threat of asbestos exposure. A 1985 EPA survey estimated that as much as 75 percent of all school cleanup work was being done improperly, dangerously releasing asbestos into the air. I was particularly alarmed by a photograph showing teenage boys in cutoff jeans ripping asbestos off walls and pipes in a New Jersey school, releasing clouds of asbestos dust with nothing to protect them from breathing it or keep it from contaminating the entire building.

The 1986 law—AHERA—was a direct response to these concerns, setting a timetable for schools to inspect for asbestos and remove any asbestos found or prevent exposure, and requiring that people performing inspections or cleanup and prevention actions be State-certified after EPA-approved training. AHERA is our best hope to see that the threat of asbestos in our Nation's schools is removed with the maximum efficiency, speed, and safety and the minimum confusion and cost. Still, more remains to be done to assure that schools are informed as to the options for dealing with asbestos and to assure that workers are properly trained to handle it.

Meanwhile, exposure to asbestos poses the same threat in public and commercial buildings. Cleanup is already underway in many commercial buildings, driven not by Government prompting but by market forces which are sharply devaluing properties known to contain asbestos. This cleanup is proceeding with virtually no guidance. Many States have no requirement that workers be accredited, that a cleanup plan be developed in advance, or that asbestos be safely removed and disposed of. And States which do have such requirements vary widely in the standards they impose.

There are reports of untrained workers ripping out asbestos from buildings with primitive tools and improper ventilation, and of bags of removed asbestos being hauled away in the workers' automobiles to who-knows-where. The homeless have apparently been hired off the street to perform some of this work. Bags containing asbestos waste have been discovered abandoned in warehouses. Without some guidance and discipline, this activity will become a health and environmental nightmare.

The legislation I am introducing today will strengthen AHERA and extend its requirements to apply Government and commercial buildings as well as to schools. In addition, the bill establishes a scientific commission to bring our country's best scientific minds to the task of determining the safety and effectiveness of the various asbestos abatement methods.

The bill requires that AHERA's accreditation standards for inspectors, laboratories, management plan consultants, and abatement contractors and workers be strengthened as necessary to insure that all those accredited have a high level of competence. This includes standards relating to prior academic training and work experience both for those who teach accreditation courses and their students; to student-teacher ratios; to classroom and hands-on instruction; to the standardization accreditation exam; to post-course supervised work experience; and to continuing education and annual work experience. With the exception of the new continuing education and annual work experience requirements, none of these changes in accreditation requirements will affect people who are already accredited under AHERA; but they will assure that the qualifications of those accredited continue to improve.

EPA would have to establish standards and procedures for termination accreditation in cases of incompetence, gross negligence, and international violations. And EPA would have to promptly audit each course to which it has given interim accreditation and notify all students and graduates in the event the course does not receive final accreditation, so that these individuals can receive proper instruction elsewhere.

The bill strengthens AHERA in a number of other respects. It requires that a contractor who inspects or develops a management plan have no financial relationship to a contractor who implements the plan, to eliminate the potential conflict of interest. It requires that the transmission electron microscope [TEM] be used for all air monitoring, as the superior technology. It requires that all contractors and abatement workers take steps to assure their financial responsibility for liabilities which may arise in the future from their work. It requires that EPA conduct random on-site inspections of abatement projects to assure they are being carried out properly. It requires that abatement and maintenance workers be given the legal right to insist on proper safety equipment and procedures. And it requires that EPA and the Occupational Safety and Health Administration [OSHA] clarify their division of responsibility for worker safety under AHERA.

The bill also requires EPA to study and report to Congress on the feasibility of a more secure system of tracking transportation and disposal of asbestos waste, in order to assure that it is safely and properly disposed of.

The bill establishes a program for dealing with asbestos in Government buildings and commercial buildings, adopting the standards and requirements of AHERA. Government buildings—those owned or controlled by a Government agency or in which the agency is the predominant tenant—would be placed on an inspection and cleanup schedule, as schools are currently. Federal buildings would have to be inspected by January 1990, with management plans prepared by July 1990 and implemented by January 1991. Other Government buildings would follow on a schedule 6 months behind at each step.

Commercial buildings would not be placed on a schedule. But any commercial building owner who desired to take action with respect to asbestos in the building would have to comply with the standards and requirements of AHERA, including the requirement that an inspection be conducted and a management plan prepared prior to taking any response action and the requirement that all work be performed by accredited personnel.

The bill would establish an Asbestos Abatement Scientific Commission, to examine the work underway in implementing AHERA in the schools and the available scientific and medical literature in order to assess the relative effectiveness and appropriate use of the various response action methods. EPA noted in its February 1988 report that it lacked such information. The Commissioners, selected by Congress and the President on the basis of special scientific education, training and experience, would issue a preliminary report in 6 months and a final report 6 months thereafter.

Cleaning up the asbestos in our Nation's buildings will be a major undertaking, and an expensive one. But an increase of asbestos-related disease because of inaction or incompetent cleanup now will mean greater suffering and higher costs in the future. We must once again take the lead to see that the cleanup proceeds promptly and properly.

SPECTACLE OF THE DEMOCRATIC PRESIDENTIAL CANDIDATE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BROOMFIELD. Mr. Speaker, for the past several days, we have been treated to the spectacle of the Democratic Presidential candidate acting as though he were running for the Joint Chiefs of Staff. On Tuesday, he visited my State of Michigan and posed for newsmen as a heavily armed warrior on an M-1 tank.

In yesterday's New York Times, William Safire looks beyond the macho images and the "tough-tough-tough" sounding speeches, and asks some penetrating questions about the Dukakis world view.

Safire suspects the Dukakis "mindset is far to the left of the speeches he has been handed." When Governor Dukakis says "We want to challenge the Soviet leaders, test their intentions," Safire responds that this "could be a tough-sounding way of saying we should trust them until they double-cross us."

If reporters are looking for some thoughtful questions to ask Dukakis in the upcoming debates, they will find them in yesterday's Safire column.

Governor Dukakis can bluster all he wants for the television cameras, but if he continues to retreat from his responsibility to articulate clear, specific policies on America's defense, he will be rightly seen as just another paper tiger.

TRIBUTE TO DAVID PATON, M.D.

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. ACKERMAN. Mr. Speaker, I rise in order to pay special tribute to Dr. David Paton, chairman of the Department of Ophthalmology at the Catholic Medical Center of Brooklyn and Queens. On Thursday, September 15, the Board of Trustees of Catholic Medical Center and the Most Reverend Francis J. Mugavero, Bishop of the Brooklyn Diocese, will present Dr. Paton with the Legion d'Honneur. This prestigious honor will be presented by Ambassador Claude DeKemoularia, Former Chief Permanent Delegate of France to the United Nations.

Dr. Paton has been a leader in the field of ophthalmology for many years. His work has helped thousands of people throughout the United States and the entire world. Dr. Paton was graduated with honors from Princeton University in 1952. He then entered Johns Hopkins Medical School from which he was graduated in 1956. He interned at Cornell University Medical College and also conducted ophthalmology research at the National Institutes of Health.

Dr. Paton served his residency at the prestigious Wilmer Institute at Johns Hopkins School of Medicine and later joined the Wilmer Institute as a full-time faculty member. From 1967 to 1972, he was the Markle Scholar in Academic Medicine at the Wilmer Institute. In 1971 he began serving as the chairman of the Department of Ophthalmology at the Baylor College of Medicine. While in Texas, he was the director of the Cullen Eye Institute from 1975 to 1982.

In 1983 Dr. Paton traveled to Riyadh, Saudi Arabia, to spend a year as Medical Director at the King Khaled Eye Special Hospital. After his stint in Saudi Arabia, he returned to the United States to become chief medical officer for OcuSystems, Inc., a corporate effort to establish replicated eye care centers across the country.

Currently, Dr. Paton serves as chairman for the Department of Ophthalmology at Catholic Medical Center. He also is a professor of clinical ophthalmology at Cornell University College of Medicine, and director of the International Eye Care Referral Center.

Mr. Speaker, this remarkable person also was a past chairman of the American Board of Ophthalmology and past first vice president and past secretary of Continuing Education at the American Academy of Ophthalmology. He was the founder and Medical Director of Project ORBIS, a flying eye clinic that teaches ambulatory eye surgery in the United States and abroad. Furthermore, Dr. Paton has written several books, chapters and over 140 scientific publications. He has received honorary degrees from the University of Bridgeport and Princeton University. His most recent honor, the Presidential Citizen's Medal, was presented to him in 1987.

Mr. Speaker, it is evident that Dr. Paton is truly an outstanding leader in the world of medicine. He has taught at medical schools and directed hospitals across this country. People like Dr. Paton deserve to be recognized and encouraged to keep up the good work. I ask all my colleagues in the House of Representatives to join me now in honoring Dr. David Paton, and commending him for his most exceptional career.

THE CASE OF JOSEPH PATRICK THOMAS DOHERTY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. GUARINI. Mr. Speaker, I rise today to protest the decision of former Attorney General Edwin Meese III to extradite Joseph Patrick Thomas Doherty to Great Britain.

Mr. Doherty, who was convicted in 1981 of killing a British Army captain, escaped from a Northern Ireland prison and fled to the United States. He was arrested in New York City in 1983 and has been incarcerated since that time. A 1985 Federal judge ruled that his crime was a political offense and therefore, he could not be extradited. In 1986, the Federal Board of Immigration Appeals overturned the 1985 decision and ruled that Mr. Doherty should be deported to Ireland under the immigration law of the United States.

Despite this decision, the Justice Department has not carried out the order for deportation, has sought to have the decision overruled, and has left Mr. Doherty in prison pending a resolution of this conflict.

Mr. Speaker, I strongly protest the Justice Department's attempts to extradite Mr. Doherty to Great Britain and to deny him fair treatment under the law of the United States.

At this point in the RECORD, I wish to insert a resolution of the city of Jersey City, NJ, which urges the U.S. Attorney General to extend political asylum to Joseph Patrick Doherty:

Whereas, Jersey City on numerous occasions has voiced its support for and urged action upon matters of equal treatment and justice in upholding basic principles upon which this nation was founded; and

Whereas, the case of Joseph Patrick Doherty clearly fits this principle in that execution of justice is being denied; and

Whereas, in December, 1984 the United States District Court in the Southern District of New York, after a full hearing, denied a British request to extradite Mr. Doherty to Northern Ireland to spend the rest of his life in prison, finding that Mr. Doherty was a political offender in the classic sense and not a common criminal; and

Whereas, on September 19, 1986, after a complete and thorough judicial review, an order of deportation of Mr. Doherty was issued for him to be deported to the Republic of Ireland; and

Whereas, Mr. Doherty requested said order of deportation be issued as a humanitarian gesture to put an end to four years of litigation, during which time he has remained incarcerated in a United States jail charged with committing no crime in this country; and

Whereas, the Attorney General of the United States has not carried out the order, leaving Mr. Doherty in a prison; and

Whereas, Cardinal John O'Connor and several Irish-American oganizations have protested this unfair situation in which Mr. Doherty remains in prison and in which a federal court order is not being complied with; and

Whereas, the issue in this matter is not one involving the conflict in Northern Ireland nor the status of Mr. Doherty in such conflict but, rather is strictly and issue of the United State government carrying out an order of the court.

Now, therefore, be it resolved that the Municipal Council of the City of Jersey City strongly urges the United States Attorney General to immediately grant political asylum to Joseph Patrick Doherty * * *.

It is my hope that justice will prevail in this matter, that the decisions of our courts will be followed to the letter, and that the Justice Department will not trifle with the legal system it is meant to uphold.

ACID RAIN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. GREEN. Mr. Speaker, acid rain, caused by sulfur dioxide and oxides of nitrogen, is wreaking havoc on our environment. In short, it is threatening the very existence of lakes and forests as we know them today. A recent report even suggests that acid rain is also degrading the marine environment of Atlantic coastal waters. Jon R. Luoma, in an article for the New York Times, tells of how scientists are intentionally acidifying Canadian lakes to study the damage caused by acid rain. Luoma's account of these researchers' work is fascinating, as is the work of the researchers.

The article, which appeared in the September 13 edition of the New York Times, follows:

BOLD EXPERIMENT IN LAKES TRACKS THE RELENTLESS TOLL OF ACID RAIN

(By Jon R. Luoma)

VERMILLION BAY, ONTARIO.—Despite its utilitarian name, Lake 302, ringed by bedrock outcrops, by jack pine and spruce, is as beautiful as any of thousands of lakes that dot western Ontario. But no one is flying a floatplane in to fish here or buying waterfront property for a cottage. The lake's water is acidic and its ecosystem is in rapid decline.

Acid rain is not the problem here, for the rain in northwestern Ontario is relatively pure. Instead, the lake has been systematically acidified by government technicians trickling sulfuric and nitric acids into the propeller wash of a research boat.

In some of the boldest experiments into lake ecology ever conducted, scientists have turned Lake 302 and others nearby into the equivalent of huge, real-world test tubes. Since the 1960's the lakes have been intentionally filled with pollutants so that scientists can observe and chronicle the progress of chemical and biological damage.

The sacrifice of the lakes has produced "the best science every conducted" on lake acidification, said Eville Gorham, an ecologist at the University of Minnesota who in the 1950's in England was a pioneer researcher on the topic. The studies have virtually undone the position, voiced by some industry experts and others, that damage observed in acidifying natural ecosystems could not be conclusively linked to acids in the rain.

The isolated Experimental Lakes Area, operated by Canada's Department of Fisheries and Oceans, has provided a rare opportunity for scientists to experiment with real food chains and real ecosystems, said Dr. David Schindler, a freshwater biologist who has led much of the research here for 20 years.

In the case of acids, the approach has allowed researchers to monitor the intricate patterns of ecological change that occur as a lake becomes more and more acidic. By manipulating the ecosystem in controlled experiments, scientists can establish cause and effect far more convincingly than before.

Among the key findings of the studies are these:

Biological destruction can occur in a lake even in the very early stages of acidification. Such subtle change would have been impossible to prove at already-acidified lakes because of natural lake-to-lake variations in the types and numbers of species.

The disapearance of adult fish from a lake is not an accurate gauge of damage to fish populations. Reproductive failure and loss of prey species occurs earlier.

Lakes can at least partially recover soon after acid input ceases, but it might take dozens or hundreds of years before the original ecosystem fully re-establishes itself.

Wetlands can serve as filters for acid-forming compounds and thus help to protect lakes.

Acidification causes a dramatic shift in the kinds and number of species that can survive in a lake, although it might not reduce the biomass, or total amount of cell matter, of the organisms in the lake.

Dr. Schindler first conducted "whole lake" experiments here in the late 1960's, studying not acid rain but more conventional pollutants. A scientific and political debate was then raging about whether controlling phosphorus in detergent and sewage effluents would control lake eutrophication, the "rapid aging" process that turns a clear lake murky and chokes it with algae.

The detergent industry contended that some other nutrient in waste water, such as carbon or nitrogen, was the chief factor in the explosive growth of undesirable algae. Traditional laboratory experiments were inconclusive.

The newly established Experimental Lakes Area, made up of 46 isolated, pristine lakes five hours by road from Winnipeg, provided an ideal laboratory for testing the various hypotheses. In the most striking of a series of experiments, Dr. Schindler and colleagues segmented the two basins of an hourglass-shaped lake with an impermeable curtain.

Both basins received equal amounts of carbon and nitrogen, but one also received doses of phosphorus. Within months, the basin with phosphorus turned into a pea soup of algae while the other remained clear. That and a series of related experiments showed that a lake could obtain carbon and nitrogen, but not much phosphorus, from the atmosphere, and that phosphorus was usually the nutrient that triggered premature lake eutrophication. The research disproved arguments that phosphorus control would not help Lake Erie and other polluted waterways.

'AS REMOTE AS YOU CAN GET'

Today, the Experimental Lakes Area has become an established, if out-of-ordinary, research center. The headquarters is a rugged hour away from the trans-Canada Highway down a treacherous dirt logging road. At road's end is a ramshackle village of cabins, house trailers, radio towers and laboratories, as well as toys, dogs, and playing children. In the summer, as many as 50 scientists, graduate students and their families live and work here.

Dr. Schindler said the region offered what may be the best setting in North America for whole-ecosystem studies on lakes. The air is relatively unpolluted, and the ecosystems in the small lakes are very similar.

"It's about as remote as you can get," he said. Acidification experiments began on Lake 223 in 1976, just as concerns in Canada over possible acid damage to its lakes and streams were beginnning to amount.

Even sensitive lakes have some capacity to neutralize acid. Thus in the first two years of the experiment, there was little obvious change, although chemical analysis showed a steady decrease in acid-neutralizing compounds. Researchers also were surprised to discover that bacteria in the lake provided additional buffering by consuming or converting some of the acids.

But by the third year, with the neutralizing capacity used up, acidity increased from the lake's normal pH level of 6.5 to a very mildly acidic 6.1. (On the pH scale, a reading of 7 is neutral; progressively lower numbers indicate increasing acidity. A pH reading of 5 is 10 times more acidic than pH 6.)

THE DAMAGE MOUNTS

In the fourth through the seventh year, acidity increased steadily, and so did damage to the ecosystem. Freshwater shrimp, an important food source for trout, declined. Later, fathead minnow reproduction failed. However, in the absence of competition, the pearl dace, another minnow species that is more resistant to acid, temporarily flourished, providing continuing food for the trout. The shells of crayfish began to harden more slowly.

Trout reproduction eventually failed. Then, as the pearl dace also began to decline with increasing acidity, the trout began to show signs of starvation. By the seventh year, when the pH reached 5.0, white suckers, the most acid-hardy of the lake's fish, were no longer able to reproduce. Crayfish numbers declined sharply and, again, reproduction ceased.

By the autumn of the eighth year, with the pH still at 5.0, all fish reproduction had stopped, and crayfish, leeches and mayflies had vanished. Adult trout began to look almost like eels.

Contrary to earlier speculation by many scientists, the actual biomass of organisms in the lakes did not decline at these acidity levels. Instead, there was a striking shift in the diversity of species. For example, in Lake 223, the number of aquatic insect species, originally about 70, was cut in half, even though the number of individual insects appeared to remain about the same.

Peering through a glass-bottom bucket into Lake 302, one can see where much of the biomass there is now concentrated. A form of dark, sticky, filamentous algae floats just off the lake floor in grotesque clumps the size of beach balls. Dr. Schindler said the algae began to appear in clumps at about pH 5.6, and at higher acidity levels it began to dominate, even as a diverse range of other forms of algae began to vanish.

IMPACT OF WETLANDS

At Lake 302 this year, acidity has been increased to about pH 4.5, a level found in some of the most acidified lakes in Scandinavia and eastern North America. Dr. Schindler said preliminary data suggested that the total biomass finally begins to decrease at such extreme levels. Indeed, he added, the lake may be in the early stages of dying.

Across another lake, Dr. Suzanne Bayley has set up a complex of irrigation pipes and spray heads on an eight-acre peat bog. The system regularly irrigates the bog with artificial rainwater containing sulfuric and nitric acid. Because the bog lies above impermeable bedrock, Dr. Bayley can monitor chemicals in outflowing water.

Her work suggests that such wetlands can act like filters, reducing the sulfuric acid to sulfur and water, and converting the nitric acid into a nutrient form of nitrogen that bog plants use as a fertilizer.

One of the research team's most significant findings is that lakes will indeed recover some biological diversity if acidification slows or stops. Beginning in 1984, Dr. Schindler's team decreased acid injections into Lake 223, allowing the pH to recover gradually to about 5.6. As a result, two fish species, the white sucker and the pearl dace, have begun to spawn in the lake and adults lake trout have regained lost body weight.

SOME SPECIES HAVEN'T RETURNED

The diversity of plant plankton in the lake has again increased and the amount of the algal balls has declined. However, several of the small fish and invertebrates, including crayfish, fathead minnows and freshwater shrimp, still have not returned. There are now sketchy indications that lake trout eggs are hatching but that the young trout are dying.

"The good news is that there can be a substantial recovery in acidifed lakes if acid deposition slows," Dr. Schindler said, adding that it may be possible, in time, to restock some species in lakes that have adequately recovered. "The bad news is that even if we could turn the tap completely, it could be hundreds of years before we would see a full recovery in an acid-damaged lake."

Lake 302 is now divided in half by a curtain so that sulfuric acid can be added to one basin and nitric acid to the other; both are components of acid rain. Some scientists have said that nitric acid's effects are far less severe than sulfuric acid because lake organisms can take up nitrogen from the compound, effectively neutralizing it.

But preliminary results here suggest that although the nitric acid is only about 80 percent as potent, it does indeed cause lake acidification. If the work bears out, nitrogen oxide pollution may have to be controlled more vigorously than earlier thought to prevent lake damage, Dr. Schindler said.

THE EGG RESEARCH AND CONSUMER INFORMATON AMENDMENTS ACT OF 1988

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. STENHOLM. Mr. Speaker, I am very pleased to be joined by the distinguished chairman of the House Committee on Agriculture, E (KIKA) DE LA GARZA from Texas, in introducing the Egg Research and Consumer Information Amendments Act of 1988. This bill limits the total costs that may be incurred in collecting producer refunds, and delays the conducting of any referendum by egg producers on the elimination of such refunds for 2 years.

The egg industry is in the midst of a severe economic crisis. Demand for eggs and egg products have plummeted due to a variety of factors, including changing lifestyles and eating habits, cholesterol concerns, and most recently, salmonella outbreaks. Regretfully, during the past 18 months, a staggering number of egg producers have gone out of business as a results of low demand and low prices.

However, the egg industry has authority under the Egg Research and Consumer Information Act to address many of the challenges it faces. The American Egg Board was created by the act in 1975 to carry "an effective and coordinated program of research, consumer and producer education, advertising and promotion designed to strengthen the egg industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for eggs, egg products, spent fowl, and products of spent fowl of the United States."

A poll was conducted of all commercial egg producers and the ballots were counted by USDA. The results clearly indicated a consensus in the industry to modify the refund provision: 69 percent of the industry, representing 79 percent of the total U.S. production, voted in favor of eliminating the refund provision.

Borrowing from the success of similar programs for beef, dairy, and pork, the egg industry is in strong support of an industry-funded program of egg promotion, research, and consumer and producer education. The hallmark of such a program is its fairness. All commercial egg producers contribute their fair share.

Mr. Speaker, this legislation will provide an opportunity to build a program that brings out the facts and promotes eggs in a positive way. Therefore, I urge my colleagues to support this important legislation which will effectively serve both the egg industry and the American consumer.

Mr. Speaker, I include the bill in the RECORD at this point:

H.R.—

A bill to amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1988".

SEC. 2. LIMITING CERTAIN COSTS INCURRED BY THE EGG BOARD.

Section 8 of the Egg Research and Consumer Information Act (7 U.S.C. 2707) is amended by adding at the end the following:

"(j) Providing that the total costs incurred by the Egg Board for a fiscal year in collecting producer assessments and having an administrative staff shall not exceed such amount of the projected total assessments to be collected by the Board for such fiscal year as the Secretary determines to be reasonable."

SEC. 3. ELIMINATION OF EGG PRODUCER REFUNDS.

(a) AMENDMENT OF THE EGG RESEARCH AND CONSUMER INFORMATION ACT.—The Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) is amended by striking section 13.

(b) ELIMINATION OF EGG PRODUCER REFUND PROVISIONS IN ORDERS ISSUED BY THE SECRETARY OF AGRICULTURE.—With regard to each order issued under the Egg Research and Consumer Information Act which provides for a producer refund, the Secretary of Agriculture shall amend such order to eliminate such refund.

SEC. 4. DELAY OF EGG PRODUCER REFERENDUM.

Notwithstanding sections 9 and 11 of the Egg Research and Consumer Information Act, an amendment made by the Secretary of Agriculture pursuant to section 3(b) of this Act—

(1) shall take effect on the date that the Secretary issues the amendment; and

(2) shall not be subject to a referendum under section 9 or 10(c) of such Act until the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 5. CONFORMING AMENDMENTS.

The Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) is amended—

(1) in section 5 by striking "16" and inserting "15";

(2) in section 8(a) by striking "16" and inserting "15";

(3) by striking the heading to section 13;

(4) in section 14(b) by striking "15(a)" and inserting "14(a)"; and

(5) by redesignating section 14, 15, 16, 17, 18, 19, 20, and 21 as sections 13, 14, 15, 16, 17, 18, 19, and 20 respectively.

SALUTE TO OUR LADY OF CONSOLATION PARISH ON ITS 25TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. ROE. Mr. Speaker, it is with great pride that I rise today to salute a great house of worship in my Eighth Congressional District of New Jersey which, for a quarter of a century, has not only served as a beacon of faith to countless numbers of our people in the greater northern New Jersey area, but also as a pillar of service to the community.

I am speaking of Our Lady of Consolation in Wayne, NJ, which will be marking a truly historic occasion on Sunday, September 25. On that day, Mr. Speaker, a silver anniversary mass will be held with the Most Reverend Frank J. Rodimer, bishop of Paterson, as principal celebrant and with Msgr. Carl J. Wolsin, founder/pastor of the parish. The Reverend John Catoir, executive director of the Christophers, will deliver the homily.

Mr. Speaker, the fine people whose lives have been touched and strengthened by Our Lady of Consolation will further celebrate this great occasion with a gala dinner-dance on Friday, October 7, at the Wayne Manor. I know that along with celebrating Our Lady of Consolation's 25th anniversary, this event will also be a tribute to Msgr. Carl J. Wolsin for the quality of his leadership and commitment to the service of the church.

Mr. Speaker, it is only fitting that this event pay special homage to Monsignor Wolsin who has been the guiding force for Our Lady of Consolation during its entire existence. It is his dedication and devotion which has brought the parish to this great moment in its history.

I would also like to commend the hard working members of the steering committee who have helped to organize these anniversary events. They include the general chairman, Robert Pringle, as well as subcommittee chairpersons, Pat Chappell, liturgy; Donald Pavlak, dinner-dance; Nancy McCorry, ad journal; Maureen Haddad, hospitality; and Shirley Boardman, publicity. Other committee members include Patti Basile, Gene Biancheri, Madeline Christopher, Cathy Hecht, Richard Kamenitzer, Terry Pregler, Jim Scazzaro, and Gail Simone.

As this historic anniversary approaches, for the benefit of my colleagues, I would like to cite some of the achievements of Our Lady of Consolation by quoting from their official history:

> It was autumn 1963 when word came from The Most Rev. Bishop James J. Navaugh, bishop of the Paterson diocese, declaring another Catholic parish in Wayne. The new congregation of worshippers was dedicated to the Mother of Jesus, under the title, Our Lady of Consolation. Bishop Navaugh, in the same announcement, named the Rev. Carl J. Wolsin founding pastor.
>
> The population in the township had been growing—records show 35,000 residents in 1963, up from 20,000 in 1955. Many Catholics in the northwest section of Wayne were attending St. Mary's parish in Pompton Lakes. This group, 610 families, was to form the nucleus of the new parish.
>
> As parish committees worked in Wayne, under Fr. Wolsin's guidance, to design and implement plans for worshipping together, Catholic bishops from around the world were meeting in Rome, completing the second year of the Second Vatican Ecumenical Council, better known as Vatican II.
>
> For four years, home base for the congregation was to be the Schuyler Colfax Junior High School auditorium, where parishioners attended weekend masses. The rectory, on Surrey Drive, was where parish groups were formed, and often met.
>
> As it turned out, The Vatican Council released a document, Constitution on the Sacred Liturgy, within months of the founding of Our Lady of Consolation. This document recommended among other things, forms of liturgical services designed "to meet the changing needs of the people of God in the modern world." It also offered guidelines regarding church architecture, as well as internal design.
>
> An artist himself, Fr. Wolsin recommended and initiated much of the internal design of the church, while following the guidelines set out by the Vatican. Our Lady of Consolation was, in fact, the first church in the diocese to implement and enjoy the artistic expressions allowed by the Vatican Council.
>
> But before that goal was reached, much work had to be done. Fund raisers, in the form of raffles, dinner dances, rummage sales and back yard parties, contributed to the building fund. Two years after the parish was established, in the fall of 1965, Fr. Wolsin announced plans for a $1.5 million complex including a church building, a rectory, a convent, and an elementary school. Ground was broken in December of that year on a sloping, 11-acre tract on Hamburg Turnpike and Colfax Avenue. Less than a year and a half later. May 1967, with the rectory and the church completed, the first mass was celebrated in the new church building.
>
> The church has a much lower profile than the usual Gothic-style, pre-Vatican II churches. The simple, unadorned altar is the focus of the nave, the pews in a semi-circular pattern, surrounding the altar on three sides. The altar's table-like design symbolizes the Eucharistic banquet, the essence of the Catholic mass. Of particular interest is the altar background, a curved, neutral concrete wall, with a figure of the Risen Christ is bas relief. This is an original, signed piece of art that Fr. Wolsin says he feels is appropriate, expressing not only religious significance, but the feeling that for centuries the Church has been mother to the arts. All of the artistic expressions in the new church building were, of course, in accord with Vatican II recommendations.
>
> But if Our Lady of Consolation parish reflected a new, world view, it also was a mirror of township growth and development. Young families were arriving weekly. The first baptism in the parish was performed less than a month after the parish was started, and within a year, records show 125 families with children a year or younger. The first ten years of the parish saw 850 baptisms. Classes of first communicants, ordinarily seven- and eight-year-olds, averaged 130 in size. Likewise confirmation classes, reflecting 13- and 14-year-olds in the parish, average 210 in number. In 1967, when it opened, Our Lady of Consolation School had nearly 40 students per grade, and more than 260 students in public school were enrolled in religious education classes. These numbers were to peak in 1977 and then taper, reflecting a population in Wayne with a slightly older "center."
>
> Appropriately then, the parish, in 1988, has reached a kind of maturity at 25 years. Today, Our Lady of Consolation is, for many of its congregants, a place to maintain a tie with their religious heritage, a center in the community to worship God both thoughtfully and joyfully. Social and religious groups still satisfy the hearts and souls of the 1,600 families now affiliated with the parish. And so it should be.
>
> But Our Lady of Consolation has extended itself into the community as well, meeting needs and serving people, with no thought to their parish—or religious—affiliation.
>
> With Fr. Wolsin's encouragement, parishioners were urged to partake both in person, and prayerfully, with the Civil Rights movement of the 1960s. For the past ten years, Good Friday for Consolation parishioners has meant more than meatless dinners; it is, in addition, a day when hundreds of units of blood have been donated by church members to the North Jersey Blood Center. Each Christmas for nearly 20 years, the congregation has provided new toys for needy children. This past Christmas, more than 900 toys were delivered to children of all faiths at St. Joseph's School in Paterson. The youth group in the parish frequently works—and plays—with residents of Marathon House, a residence in Wayne for mentally retarded adults. And many area nursing home patients are visited weekly by individuals and groups from the parish.
>
> Msgr. Wolsin, elevated to that rank and given that title in 1981, and still leading the parish after 25 years, regularly reminds his congregation to care for their own spiritual and temporal needs, as well. Parishioners have been invited to join Smokenders classes and attend Alanon meetings that were sponsored by the parish. In the 1960s, when polio was still the scourge of summer, church members were urged to get Sabin vaccine for themselves and their families, and summer and winter holiday celebrants have been reminded to drive cautiously and charitably. Always, parishioners are exhorted to vote on Election Day.
>
> The Church has changed significantly over the past 25 years, as have many of those first parishioners at Our Lady of Consolation. But if the shape of the church and forms of the liturgy have been altered, their goals, then and now, of serving God and neighbor have not. The theme for this Silver Anniversary year, a year marked with religious, social and cultural events, is "Twenty-five Years of Meeting the Christian Challenge." It is with this ongoing promise—and prospect—that Our Lady of Consolation parish anticipates its second quarter century.

Mr. Speaker, I appreciate this opportunity to present a portion of the history of this distinguished parish that has remained dedicated to helping others and guiding them spiritually. As Our Lady of Consolation celebrates its 25th anniversary, I know that you and all of our colleagues here in Congress will want to join me in extending our warmest greetings and felicitations for both the service and guidance it has provided for its community, State, and Nation.

HANDGUNS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. MARLENEE. Mr. Speaker, when Congress passed the pro-gun Volkmer/McClure bill in 1985 by a margin of 292 to 130, it should have been a strong signal to those who would restrict the rights of firearms owners that the American people don't want or need more restrictive gun laws.

But now bills have been introduced by two Ohio Democrats, Senator METZENBAUM and Congressman FEIGHAN, requiring a national waiting period for all handgun purchases.

To make matters worse, the House Judiciary Committee added a modified version of the Feighan bill to the Anti-Drug Abuse Amendments Act, which would make every handgun sale by a "licensed dealer" subject to a 7-day waiting period.

This antigun amendment in the drug bill will rekindle the days when the Bureau of Alcohol, Tobacco and Firearms [BATF] raided gun shows and dealers' shops to catch otherwise law-abiding people in ridiculous technical violations of the regulations created by the 1968 Gun Control Act. That was a major reason the House passed the Volkmer-McClure bill in 1985 by a 292 to 130 margin—to get BATF off the backs of legitimate firearms owners, dealers, and collectors.

Many hobbyists who collected, sold, and traded firearms obtained a Federal firearms license [FFL] just to make sure they avoided BATF entanglements. But because only licensees are covered in the drug bill, it penalizes those who put in the extra effort to obtain an FFL.

I have offered an amendment to totally strike the waiting period section from the drug bill. I also sent two letters to each of my House colleagues explaining my objections to the waiting period section of the bill, and urging the adoption of the McCollum amendment. I would ask that the text of those two letters be entered in the RECORD at this point.

The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 4, 1988.

DEAR COLLEAGUE: As you may know, the House Judiciary Committee attached a modified version of HR 975 (the so-called "Brady" bill) to the Anti-Drug Abuse Amendments Act, HR 4916.

The drug bill amendment basically says that every sale of a handgun by a "licensed dealer" is subject to a seven-day waiting period. Backers of the amendment hope that law enforcement authorities will use the waiting period to conduct a background check, but the bill does not require it.

I have to admit that this sounds innocent. Who could oppose a simple seven-day waiting period? Well, millions of decent, law-abiding gun owners and nearly a majority of your colleagues. Let me tell you why.

WHY A NATIONAL WAITING PERIOD ISN'T NEEDED

Only law-abiding citizens will be filling out forms and waiting to receive their guns because criminals already get their firearms illegally by stealing them or via the black market. Those criminals who do buy their handguns "legally" will do so with phony, illegal ID's which a background check will not catch.

Study after study show no relationship between waiting periods and violent crime.

Background checks on handgun purchases take law enforcement officers away from solving crimes, and could potentially waste $40 million of the taxpayers' money to investigate innocent citizens.

Practically speaking, background check means "name check". But a name check can't determine whether a person is eligible to possess a gun because of the use of phony IDs which would cover up a criminal history, and because federal law makes it illegal for hospitals to release information regarding the mental health of a prospective purchaser.

Contrary to arguments of proponents, a waiting period would not have caught John Hinkley because he had a valid driver's license and no record at the time of his gun purchase.

A national waiting period would rekindle the days when the Bureau of Alcohol, Tobacco and Firearms (BATF) raided gun shows and dealers' shops to catch otherwise law-abiding people in technical violations of the complicated 1968 Gun Control Act regulations. That was one of the major reasons Congress passed the Volkmer-McClure bill in 1985 by a 292-130 margin—to get BATF off the backs of legitimate firearms dealers.

Many people who collected, sold and traded firearms as a hobby have obtained a federal firearms license (FFL) just to make sure they avoided BATF entanglements. This amendment will now penalize those who put in the extra effort to obtain an FFL because it covers only those who are licensed.

While the bill requires law enforcement agencies to destroy the forms submitted to them, there is nothing prohibiting them from copying that information. Further, contrary to what some police organizations are saying, there are no penalties for not destroying the form.

Since the bill provides no administrative appeal for someone who is improperly denied the right to purchase a firearm, the only alternative is going to court! Supporters suggest Title 18 provides for such appeals, but the federal government can't prescribe administrative procedures for county and city governments.

Two-thirds of the states don't have a waiting period and many have already rejected such a scheme. In fact, in the last 4 years no state has enacted a waiting period law, and over 30 states have passed pre-emption laws which have taken dozens of local waiting period laws off the books!

Finally, this is a state issue, not a federal issue. With so many states having already rejected a waiting period or reducing it (such as Florida), Congress should not be shoving a national waiting period down their throats.

Sincerely,

RON.

HOUSE OF REPRESENTATIVES
Washington, DC, September 14, 1988.

DEAR COLLEAGUE: Recently you received a "Dear Colleague" letter in opposition to the McCollum/Staggers substitute amendment, which will be offered during consideration of H.R. 5210. That "Dear Colleague" raises a number of points that must be addressed.

First, opponents of McCollum/Staggers state that "we don't need more studies on this issue." This allegation misrepresents the substitute. McCollum/Staggers directs the Attorney General to report back to Congress within 180 days with a specific plan of action for implementing a computer system to identify criminals and others who are prohibited from owning a firearm. This is clearly not a "study."

Within that initial point, opponents of McCollum/Staggers also misrepresent the most comprehensive study done on the criminal acquisition of firearms. In claiming that a study funded by the Department of Justice "found that 21 percent of criminals get their guns over the counter," our colleagues have included firearms stolen from firearms dealers. We may not need "more studies," but we certainly need to understand and accurately represent those that have been done.

Second, opponents of McCollum/Staggers argue that the plan developed by the Justice Department "would not be binding" and "would have to be submitted to Congress as free-standing legislation." It is difficult to see the relevance of this point, since proponents of the Brady amendment have forcefully argued that it requires no action by local law enforcement.

Once in place, however, the system envisioned by McCollum/Staggers would actually be stronger than the Brady amendment. Gun dealers would be able to readily identify those who are prohibited from owning any firearm—not just handguns—without cost to local law enforcement and without the discretion to screen currently contained in the Brady amendment.

Third, opponents of McCollum/Staggers point out that the language of the substitute refers only to "felons." The contemplated system could be used, however, to screen drug abusers, illegal aliens, or mental incompetents. Keep in mind that the records to be accessed under McCollum/Staggers are contained in the F.B.I.'s National Crime Information Center (NCIC).

The NCIC contains records of illegal aliens when the F.B.I. has been notified of such records by the Immigration and Naturalization Service. Similarly, drug charges and mental commitments can be found on rap sheets contained in the NCIC.

Fourth, opponents of McCollum/Staggers allege that the contemplated system would be "too expensive" because it would "presumably require fingerprints of all the applicants." No fingerprints are proposed or contemplated under McCollum/Staggers.

The McCollum/Staggers substitute is a reasoned and responsible approach reflective of evolving technology in the information age. We urge its adoption.

Sincerely,

RON.

The McCollum amendment is a commonsense approach that will actually do something about making sure that criminals don't get their guns over the counter. Here is how McCollum works:

First, strikes the waiting period provisions.

Second, directs the Justice Department to develop a system, accessible to gun dealers, that would permit the identification of felons who attempt to purchase firearms. Dealers would not be required to use the system.

Third, Justice required to report back to Congress within 180 days with a description of the system, cost analysis, and an implementation plan.

Fourth, mandates the immediate revocation of probation for prior felons in possession of a firearm.

The liberals say it's too easy to get a handgun and that the wrong people can acquire them. The McCollum amendment meets the arguments made by liberals and provides a system whereby gun dealers can be sure they aren't violating the law by selling a gun to a felon. The McCollum amendment not only does that, but is better than a waiting period because:

First, there would be no timelag for the dealer to send off the paper work to the buyer's hometown law enforcement officer.

Second, removes the decision from those police chiefs who don't believe any citizen should own a gun.

Third, meets the criteria of the liberals: that is, identifying criminals who attempt to purchase not only handguns, but long guns, too.

Fourth, gun dealers, who are legally responsible if they knowingly sell a firearm to a felon, could conduct their business knowing that they had followed a federally prescribed procedure for identifying criminals.

Mr. Speaker, I urge my colleagues to adopt this sensible approach which makes sure guns don't get into the wrong hands, while at the same time protecting the rights of law-abiding American citizens.

IN HONOR OF THE 50TH ANNIVERSARY OF OUR LADY QUEEN OF MARTYRS CHURCH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. ACKERMAN. Mr. Speaker, I rise to honor Our Lady Queen of Martyrs Church in Queens County as it celebrates the 50th anniversary of the construction of its magnificent building.

For over 75 years, the Parish of Our Lady Queen of Martyrs has been a significant part of the Forest Hills community. As an instutition with thousands of faithful members, the church has contributed immeasurably to the development of its community over the years and has given stability, permanence and a sense of tradition to this entire vicinity.

This church is more than just an edifice of stone and granite. It represents the generations of devoted people who have played an invaluable role in the life of the neighborhood.

To celebrate the anniversary of this fine church many activities, including concerts and special masses, have taken place. The parish is also planning a dinner dance to be held on October 28.

This outstanding parish has contributed to improving the Forest Hills community through many educational and social programs such as: Adult Education, Caregivers, Community Police Program, high school equivalency classes, Leisure Programs for the elderly, and Nar-anon Drug Programs and other support groups. The Parish also participates in Catholic charities organization, and has a thriving choir.

Many people deserve credit for the magnificant work that takes place at the Parish of Our Lady Queen of Martyrs. I commend some of the important people who play vital roles in keeping the parish at the forefront of the Forest Hills area. These include pastor emeritus Rev. Joseph P. Denning; Rev. Msgr. Thomas J. Gradilone; associate pastors Rev. Eugene Milmoe and Rev. James Massa. Other important leaders include: Resident Rev. Barnabus Wang, resident Rev. Louis Resch, and resident Msgr. Michael J. Dempsy; and the deacons, Rev. John Z. Rogan and Rev. Thomas R. McCarthy. The excellent choir is led by a fine organist, Richard Pretzer.

I am sure my colleagues join me in congratulating the members of Our Lady Queen of Martyrs Parish on this historic occasion, thanking them for their essential contributions to the community, and wishing them all the best in the future.

BOW GROUP TRANSATLANTIC CONFERENCE

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. PETRI. Mr. Speaker, during the July recess, I attended a Transatlantic Conference in London. Sir Geoffrey Howe, the British Secretary of State for Foreign and Commonwealth Affairs, addressed the conference. I thought that his cogent remarks about the state of the Western alliance would be of interest to my colleagues in the House. I include them at this point in the RECORD.

BOW GROUP TRANSATLANTIC CONFERENCE: JULY 21, 1988

First, a promise. No readings from Paul Kennedy's "The Rise and Fall of the Great Powers"!

Instead, another book suggested a theme for me tonight. "The Audit of War" by Correlli Barnett.

That book contains a lucid analysis of the long-term causes of economic decline in Britain. It constitutes a powerful stimulus to those of us who have believed that a radical restructuring of the British economy has been long overdue.

In particular, it shows how—literally—Britain was indebted to the United States in the last war. The audit of that war was devastating. By March 1941, with Britain fighting alone in Europe, our financial reserves "were utterly at an end". But that very month Congress passed the Lend-Lease Act, thus releasing assistance to Britain in food, raw materials and equipment worth $27 billion by 1945. We were given the tools: we finished the job.

Since then, in peacetime, American assistance to Britain and Europe has been unstinting. With the Marshall plan and the creation of NATO, American and European destinies have been inseparable.

If we were to draw up the audit of peace, we could chalk up as a massive credit the success of US policy in helping keep the peace in Europe. In countering the expansionism of Stalin, in rebuilding the wrecked European economy, in letting Europe have the chance to prove the superiority of the Western free market system, its wisdom has been amply vindicated.

The proof today is that, around the world, the flame of democracy is burning brighter than ever. Totalitarianism has a rapidly receding future. Socialist ideology is in retreat. Instead, we in Europe have seen that freedom is the future—and that it works.

And we draw strength from the example of America's own proud tradition of individualism, responsibility and enterprise.

That is a tradition which goes back to the foundation of the United States. It has its roots in Europe.

Those qualities are alive and well in Europe today—epitomised by the economic policies of the European Community countries which place a premium on enterprise and incentive, not regulation and centralized control, which are directed towards achieving a single market by 1992, where the watchword will be competition, not protection.

They are epitomised by the united Alliance strategy which has created the most promising environment for arms control since the second world war.

These are major achievements. But none of us can rest on our laurels. New challenges face us, some of them springing from the West's own success.

Most notable are the changes now occurring in the Soviet Union. As President Reagan rightly said when he came to London after his historic visit to Moscow, there are momentous events afoot. Not conclusive. But momentous.

Mr. Gorbachev—and the Soviet people—have come to face the failure of the centrally-planned socialist system. They have realised that their economic system needs fundamental reform. And that economic reform requires greater openness. The Moscow Party Conference has now shown that the reform process is to bite into the Soviet political system itself. But reforming the economy is the most urgent—and perhaps the most intractable—task. Mr. Gorbachev told the Moscow Conference:

"We do not need simply millions of tonnes of steel, millions of tonnes of cement, millions of tonnes of coal, but also specific end results. Till when shall we go round in a vicious circle of hopelessly obsolete ideas and formulas? Production for the sake of production, and the plan for the sake of the plan."

And, he might well have added, armaments for the sake of armaments. Because—and this is my point—we in the West are still on the receiving end of a Warsaw Pact machine busily outproducing us in battle tanks, submarines, artillery and tactical aircraft—finding plenty of uses for all those millions of tonnes of steel.

One of the greatest problems facing Mr. Gorbachev is to turn the juggernaut of the Soviet economy around from destructive to constructive ends. The God of Mammon may yet prove mightier than the God of War. Eventually, even the Soviet audit of war will have to be computed, the reckoning made and the logical consequences drawn.

And although it is posed in a particularly acute form in the Soviet Union, the problem of the relationship between defense and the rest of the economy is one that we can all find familiar. The budgetary costs of defence pose different questions for democracies in the West: democracies who must argue for their own defence policies regularly at the polls, and convince the electorate—not just the military—of their worth.

So far so good. The nerve of the democratic West has held. And indeed, under Peter Carrington, NATO has gone from strength to strength. The trial by fire of the deployment of Cruise missiles and then the INF Treaty—leading to asymmetrical cuts in superpower arsenals—has tempered, not weakened, the Alliance.

But as Manfred Woerner takes on the torch from Peter Carrington we also must look ahead. Two immediate challenges can be discerned:

the first, is to continue to maintain Western cohesion in the face of a Soviet Union that might look more benevolent—and an Eastern Europe that might be more volatile.

the second, is to contine to mange Western contributions to our common defense so as to keep it effective—and the contributions equitable.

These questions are fundamental to our security—on both sides of the Atlantic. My firm belief is that we can manage both sets of problems, with goodwill, patience and sensitive handling of public opinion. And more: we can do so in a way which develops, not undermines, our better relations with the Soviet Union.

We must work on two fronts. On the one hand we shall need to keep up the level of security we currently enjoy in the face of a continuing high rate of Soviet arms production. And on the other we shall need to continue to share military, political and economic responsibilities so that they are commensurate with our ability to pay.

"Burden sharing" has become one tern for this. But it could be "responsibility sharing". Or even "the division of labour". Because the point is that we all put in: and we all take out.

This is not a new issue. On the contrary, the costs and benefits of our defence are in a permanent and natural state of flux. Think of the number of variables. An Alliance of 16 democracies. Elections happening all the time—inevitably out of step with one another. Defence budgets that are highly complex, interconnected, and dependent upon other economic factors: and sometimes nationalistic and protectionist. Adjustments and improvements have to take place continuously.

One example. In Britain we are finding that where competition is brought into our defence procurement that should enable us to cut equipment costs by 10 percent.

So it is true that the management of this state of flux is back on the Western agenda. But this is a management problem not a crisis in the Alliance.

And helping to manage that problem is where Britain plays a key part. As a European power with global interests, as an economy which has undergone the radical restructuring necessary to halt its long term decline, as a member of the leading group of industrialised nations and, not least, as a warm friend of the United States, we believe that we stand well placed to help move the Alliance forward.

There is another factor. For the next year—a year spanning the change of Administration in Washington—Britain holds the Presidency of the Western European Union, where building up the European contribution to the Alliance is our top priority.

Britain already makes a considerable contribution to the sharing of our burdens and responsibilities. Among all the WEU members, we devote the highest proportion of our national wealth to our common defence. We maintain over 70 out of area military training programmes. We act as a force for stability round the globe—from Brunei to Belize: from Botswana to the Bahamas.

And, thanks to the economic policies we have pursued since 1979, we can do all this, revive our own tradition of enterprise and cut our taxes. And we can still balance our budget!

The economic ideas we have thus proposed are now being emulated around the world. In that sense, we have boosted our invisible—not to say "intellectual"—exports, and boosted the ideals of sound money and free markets everywhere. In the United States too the quest is on for prudent finance and mastery of the budget deficit. With that should come greater stability in the world trade and payments systems. That is essential if we are to bring greater stability into the world trading system.

That is the missing piece in American policy today. The correction of these fiscal and trade imbalances will provide a firmer foundation for the development of transatlantic relations in the years to come, as well as the America's relationship across the Pacific with Japan.

To manage our Atlantic relations to the best advantage, we need to maximise our resource in a way which strengthens, not weakens, the Alliance. To do this, I believe we should envisage action on a number of counts.

First, defence contributions. Both Americans and Europeans can help. The United States can help most by managing its defence budget with a close eye on the effect on Europe.

The mood of confidence which we have created in the West must be built on, not dissipated. Never forget that if Europeans appear overly anxious about the minutiae of Washington politics it is because we live next door to our mutual unfriendly neighbourhood superpower. And never forget that the defence frontier of the United States itself runs across Europe. We in Europe are the "frontline states" of freedom.

We Europeans can also contribute more. We can do so:—

By making our own defence programmes more effective. One way is by cutting out overlap and duplication. More open markets, less nationalistic procurement. Less protectionism in the protection business.

We can do so by improving our cooperation together for the common defence. The moves that France has made towards greater practical cooperation are to be welcomed. As will be Spain's willingness, along with Portugal, to accept the commitments of WEU membership.

We can do so by further joint action to help deal with issues outside the NATO area. In our Presidency of the Western European Union we want to build on our successful cooperation in the Gulf, where the European presence has helped that of the United States. The Armilla Patrol of the Royal Navy—now working in partnership with vessels of the Belgian and Netherlands navies—has already been sailing those waters for the last eight years. And the Royal Navy at present is accompanying no less than 80 vessels a month through the Straits of Hormuz. That is more than all the other Western navies put together.

We welcome Iranian acceptance of SCR 598, and we want to see full and early implementation of all its elements. Our forces will remain while there is a job to be done.

And we Europeans can help too by increasing defence expenditure where it is below a satisfactory level. This needs to be kept at the forefront of our agenda.

None of this increasing European defence cooperation is anti-American. Absolutely not. It is of the very essence that such cooperation should reinforce United States efforts in the defence of the West: as the United States has reinforced our defence in Europe for many a long year.

And at the level of the Alliance—in other words the Americans and Europeans together—we should act to address what is really the heart of the matter so far as Europe's security is concerned. That is the imbalance of conventional forces in favour of the Warsaw Pact.

It is encouraging that the Soviet Union at last appears ready to accept the case that the West has long argued for asymmetrical cuts. As the Warsaw Pact has 51,000 tanks in Europe, to NATO's 21,000, it makes sense for them to cut down to our level. On the basis of that logic, we hope that new talks on conventional forces in Europe can open in the autumn, and that a stable and secure balance of forces at lower levels will result. This will be good for the Alliance. Good for the United States. And—if it helps the process of internal reform—good for Mr. Gorbachev as well.

In my view, however, burden-sharing—or responsibility-sharing—is something that goes beyond just the defence relationship. I think it is about time that we though more about what Europe can do to share political burdens with the United States too. To take up the theme of this Conference, it is precisely because Europe is not a superpower—in the sense that the US is—that I think we can help.

A fragmented Europe has drawn in the past on American assets and goodwill. But a united Europe can act as a force for democracy, for openness, for the market system, in many parts of the world—sometimes in parts where the United States cannot. It does not matter if the tag is "European" or "American'. Democracy is indivisible. We can and should work together, each in our own way.

In dealing with the new threats to international stability—threats like terrorism and drugs—Europe and the United States must work together.

Europe can help too in building a common "front for freedom" in the world's international institutions.

It is easy to be skeptical about the role of international organizations. Too easy. We are now, I hope, seeing the benefits of our effective cooperation in the United Nations in the willingness of Iran to accept a cease-fire.

Europe is helping in the management of the world's economy. As two highly developed markets, Europe and the United States can both contribute to the smooth functioning of an open world economic system from which both derive such strength.

We have been working together in the OECD, in GATT, in the Economic Summit to manage the international economy; to strengthen and extend the liberal trading system, to put market forces back into the management of international trade in agriculture by moving away from subsidies and protectionism.

The management of the relationship between the Europen Community and the United States is vital to our mutual interest in an open trading system. The trading relationship should be competitive, not combative.

We have a mutual interest in building up relations with Japan and drawing her nearer to the West. We have a mutual interest in developing our relations with the developing world—with which the European Community has a unique aid and trade relationship. The European Community is the single largest source of aid funds in the world. At the Toronto Summit, following a British initiative, we were all able to agree on a major plan for international debt relief of the poorest countries.

Americans and Europeans share the same philosophies, the same visions, the same aspirations.

How we turn those ideals into reality and how we apportion our task and responsibilities is what the "audit of peace" is all about. The days are long gone when the United States invented Lend-Lease and we built the Spitfires. Or when it was said, as under the Marshall Plan, that the United States provided the money and the Europeans provided the know-how. Today the Atlantic really is a two-way street.

In the defence, the political and the economic spheres, the transatlantic relationship has gone from strength to strength. It has developed, of course, as the world has changed. We each have to contribute in the most effective way possible to our joint well-being.

Europe will never forget what the United States did to put us back on our feet after the War. We have been able to stand on our feet a long time now. Today we are standing shoulder to shoulder with US. Our partnership is transatlantic. Its impact is global.

Let us together be seen to make the most of our opportunities.

CLEAN COAL WOULD BE CHEAPER THAN ACID RAIN FIX

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. OXLEY. Mr. Speaker, I rise today to point the attention of my colleagues to a recent article that appeared on July 25, 1988, in the Cleveland Plain Dealer, Ohio's largest newspaper. The article, entitled "Clean Coal Would Be Cheaper Than Acid Rain Fix," was written by Richard E. Disbrow, president and chief operating officer of American Electric Power and president of the Clean Coal Technology Coalition, a diverse national organization dedicated to encouraging better ways to use coal—our Nation's most plentiful energy resource.

The article succinctly points out both the progress made to date in reducing emissions and the commitment of both industry and States like Ohio in developing clean coal technologies to control further emissions from coal-burning power plants. I commend this excellent article (printed below) to my colleagues' attention. Thank you, Mr. Speaker.

CLEAN COAL WOULD BE CHEAPER THAN ACID RAIN FIX

(By Richard E. Disbrow)

The current clean air debate is ironic.

We are in the early stages of developing new ways to burn coal cleanly. At the same time the scientific evidence is showing lakes and streams are not rapidly deteriorating, so from the standpoint of the environment we have the time to develop clean coal technology. Yet our political leaders are rushing toward passing new laws that would slow clean coal development dramatically while raising everyone's electric bill.

And now Ohio Gov. Richard Celeste and New York Gov. Mario Cuomo have leapt onto the accelerating freight train of old technology and higher bills. Let's look where we are going.

Rather than buy an expensive muffler for our old family car and still have an old car, I would rather buy a new car or at least a new engine that doesn't pollute. Especially if the new complicated muffler will cost as much as the original car did, and a new car would give me another 100,000 miles of driving, get better mileage and not pollute the air either.

That is what we are talking about when we talk about adding expensive scrubbers to existing power generating plants in this country, compared to spending our limited money on new clean coal technology.

The various clean air proposals pending in Congress generally would require, among other things, that electric utilities sharply reduce sulfur dioxide emissions from burning coal in the 1990s. In that same decade we in this country can, and I believe should, spend our limited funds developing clean coal technology.

The development of new methods of burning coal cleanly will be impeded or discouraged if acid rain legislation pending in Congress is enacted. The utility industry simply cannot afford to do both.

American Electric Power Co. (AEP) would have to spend $500 million to $630 million each year from 1993 to 2002 to comply with the Cuomo-Celeste proposal. Other acid rain bills have similar price tags.

Today's electric rates would have to go up about 13% on the average, and some large industrial customers would pay as much as 21% more. Meeting nitrogen oxides requirements would add another 2% to all bills. Such cost increases may mean they couldn't sell their products in today's world marketplace, and that would mean shutdowns and layoffs.

It would be different if the Clean Air Act on the books wasn't working. But it is.

Emissions of sulfur dioxide have been trending downward since the current clean air requirements became law in 1977. For example, from 1973 to 1986, total sulfur emissions from all industry dropped 27%. Emissions from electric power plants were down 18% while utility coal use went up 76%.

Meanwhile, scientific evidence has shown that our lakes and streams are not rapidly deteriorating. The largest scientific study ever undertaken, commissioned by Congress itself in 1981, costing $300 million so far, said in an interim assessment in 1987 that "acid rain is not an environmental problem of crisis proportions" requiring immediate legislation. The study is in the eighth year of a 10-year research schedule.

We must spend our time and money developing new and more efficient ways to burn our nation's plentiful coal to produce electricity at competitive prices, thereby enabling our industries to compete in a world marketplace, now and in the future. That is how we provide jobs for our citizens and maintain our quality of life.

The utility industry long ago recognized that new means of power generation and environmental control technology are necessary if we are to maintain and increase the use of coal. AEP began development of pressurized, fluidized bed combustion (PFBC) technology in 1976, long before the current federal Clean Coal Technology program was initiated, with AEP's own funds and before additional air emission control requirements became an issue.

In 1986 at the urging of Sen. Robert Byrd of West Virginia, Congress created a Clean Coal Technology Program with $400 million.

After more than $40 million has been spent on research, AEP through its Ohio Power Co. subsidiary offered to build a demonstration PFBC plant at its old Tidd power plant near Brilliant, Ohio. The sulfur in the coal combines chemically with limestone and is largely removed in the ash and as particulates rather than going up the stack.

Of equal importance to the consumer is the fact that with PFBC, electricity is produced more efficiently (10% gain) while scrubbers reduce a plant's efficiency.

The federal government agreed to provide $60 million and Ohio taxpayers are providing another $10 million to go with AEP's $108 million to build the PFBC plant. We broke ground in April.

There seems to be another inconsistency here. Ohio, the only state in the country to set aside $100 million for coal development, is now a national leader. Yet our governor's proposal would effectively shut down clean coal technological progress by forcing us to spend our money on today's scrubber (the expensive muffler).

Even so, on May 20, AEP offered to "go commercial" by building the world's largest PVBC plant, replacing two conventional boiler units at our Philip Sporn plant in West Virginia, costing $579 million. AEP will pay about $394 million if the federal government provides $185 million in clean coal funding. By October, we hope to hear the government will take us up.

If forced to bring older existing plants into compliance with new emission reduction requirements in yet another federal law, utilities will have to do so by using the only technology available, scrubbers. We ought to be spending our money accelerating the commercial availability of new technology so such clean coal technology will be a cost-effective choice for the new plants of the future.

Our present industry, our jobs and indeed our quality of life depend on it. We live in a competitive world economy. Just ask your neighbor.

I vote for the new car, not an expensive muffler.

THE BEAST GOES ON

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BURTON of Indiana. Mr. Speaker, I wish to insert the following editorial from the Indianapolis Star, dated September 12, 1988, into the RECORD. I think it is no coincidence that the most repressive regimes in the world today are Communist. There are indeed other forms of repression, tragically enough for the people who must suffer. But it is a question of degree. The greatest force of repression and misery in the world today is communism. That is not Red-baiting, Mr. Speaker, it is a fact. I commend this sobering reading to all my colleagues:

THE BEAST GOES ON

In Rumania, Burma, Ethiopia and many other nations the beast of force, oppression, pain and extermination goes on.

In Rumania, where the dictator Nicolai Ceausescu and the rest of the ruling elite are exempt from spreading hunger, disorder and security police terror, the regime is proceeding with plans to reshape the country.

For five years it has been demolishing central Budapest, destroying historic monuments, churches and homes and removing more than 40,000 residents. Huge, cold new structures fit for a dictatorship are taking their place. The same is happening in other cities.

In the countryside, where nearly half the population lives, plans call for tearing down as many as 8,000 of Rumania's 13,000 villages, evicting their residents, and erecting 500 concrete block "agro-industrial centers" during the next 12 years.

This "reshaping" would root up most of Rumania's colorful, ancient fold culture, the weave of familiarity, tradition, music, poetry and legend that has comforted the people for centuries and enriched the world for decades.

Like Stalin and Mao, the new dictators say the changes will bring "efficiency."

In Burma, where 26 years of totalitarianism have sunk a once-highly-productive society and economy known as "the rice bowl of Asia" into poverty and hopelessness, chaos and violence are spreading as hundreds of thousands of Burmese join in a general strike and mass protests aimed at ousting their oppressors. Foreign governments are rushing to evacuate their people.

In Ethiopia, where man-made famine, forced relocations and government brutality took 1 million lives in 1984-85 and threaten 3 million more at present, the communist regime of Lt. Col. Mengistu Haile Mariam is being bolstered by an estimated $800 million worth of Soviet military equipment. An estimated total of $5.8 billion Soviet arms have been sent to Ethiopia since 1977.

The regime is using a substantial share of the armaments in attacks on civilians, famine relief centers and food convoys sent by friendly Western nations.

The dictatorship has forcibly relocated more than 5 million people who are taken from their native villages and marched to grim government collectives. The French humanitarian medical organization, Doctors Without Frontiers, estimates 100,000 have died of cholera and other diseases.

Mengistu is "reshaping society."

What the people of Rumania, Burma and Ethiopia want is freedom, an end to governmental force, violence and oppression, an end to secret police and brutal soldiers, an end to hunger, pain and sorrow inflicted by cold-blooded, murderous schemers who are trying to "reshape society."

What they want is to be let alone. What they want is to live their own lives. The greatest fight that other nations could give them would be the means to gain freedom. But the machinery of international relations has not yet evolved to a level of capability, understanding, will and decency to make that possible.

And the beast goes on.

POW/MIA RECOGNITION DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. GILMAN. Mr. Speaker, tomorrow, September 16, is the date set aside by Congress and by the President to call to the attention of all American citizens our remembrance of the 2,394 American heroes whose fates in the Vietnam war are still unknown.

National POW/MIA Recognition Day—September 16, 1988—is a date which we in Congress solemnly established. Our sincerity is matched by our earnest hope that we will never again have to proclaim such a remembrance day. We are hopeful that during 1989 we will have acquired a full accounting of all of our missing Americans.

Recently, President Reagan told the National League of Families:

> A decade ago, we were told that after so much time had passed there was little chance any remains could be recovered. And there have always been those rushing to say that it was time to forget. To those in a hurry to forget, your love for your fathers, brothers, husbands, and sons stands in the way. Those who want to close the door on the true history of the Vietnam War, to escape accountability and leave important questions unanswered, they would close the book on those Americans still missing. This is more than a betrayal of the men. It is more than a breach of faith with their families and loved ones. It is a denial of the truth. To them I say: America cannot move forward by leaving her missing sons behind.

Many of us in Congress, in concert with outstanding organizations such as the National League of Families of the Missing in Action, the V.F.W., the American Legion, and many others, have not lost faith and have no intention of turning our backs on our missing. We in this Chamber, Mr. Speaker, know that we cannot in good conscience face our fellow Americans if we have not done all within our power to assure that all of our American heroes are accounted for.

In recent years, hundreds of sets of remains of Americans have been repatriated by the Hanoi government. These actions have ended years of uncertainty and doubt on the part of loved ones. However, the return of remains is, needless to say, not as desirable as the return of living Americans, but it does demonstrate that the only progress we can hope to make is the progress we have achieved from hard-nosed government-to-government negotiations.

The Communists of Southeast Asia are striving now to divide all Americans, just as they divided us in the 1960's. Some well-meaning Americans are convinced that there is no sense whatsoever in pursuing the POW/MIA issue. Other well-meaning Americans believe that our Americans can best be returned by an idealistic paramilitary "Rambo"-style incursion, or by paying ransom to the Communists.

In fact, the events of the past 8 years have proven that eyeball-to-eyeball negotiating at the bargaining table between our governments is the only realistic way a full accounting of our missing can be achieved. As the governments of Southeast Asia become more and more desperate to bring their stone age economies into the 20th century, our hand at the bargaining table is steadily strengthened.

This, Mr. Speaker, is the importance of National POW/MIA Recognition Day. It is a day that we can remind all Americans that we must remain unified in our efforts to obtain a full accounting. It is the day that we can let the Communists of Southeast Asia know that we Americans remember our heroes, and that we are united in our impatient efforts to bring them all home.

SOUTH KOREAN PROTECTIONISM

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, today I and 11 of my colleagues are introducing a concurrent resolution asking the South Koreans, in the spirit of Olympic fair play, to follow the rules of fair international trade and end their severe import restrictions on beef.

The 1988 summer Olympics are about to open in Seoul. In the days ahead our athletes will engage in one of the finest displays of competition in the world. Their competition will be subject to a set of rules that ensures each athlete a fair chance at winning a gold medal.

As we watch our athletes compete for the gold, we should be aware that their host nation thinks nothing of breaking the rules that govern international trade competition. Last year South Korea was the world's fastest growing economy at 12.2 percent. In a stunning performance in 1987 auto exports soared by 94 percent; footwear shipments by 35 percent; and electronics by 50 percent. The United States absorbed 35 percent of South Korea's exports, and our trade deficit with the South Koreans stood at $10 billion. But, in its dash for an export-led economy, South Korea broke the rules.

The South Koreans are using various forms of protectionism to restrict imports, such as beef. In 1985 the South Koreans, through their import licensing system, placed a virtual ban on beef imports. Before the ban, Korea was the fourth largest export market for United States high quality beef. Prior to this Korea represented an expanding market with great potential. In response to these unfair trade restrictions, the American meat industry filed a section 301 petition for relief earlier this year which is pending.

Several weeks ago South Korea announced that a small quota of beef would be allowed into the country this year. This 14,500 metric ton limit is a paltry amount that does nothing to alleviate the trade problems between our countries. It's projected that the United States might fill about 3,000 metric tons of this with high-quality beef. South Koreans will never see or taste our beef, because this supply will go to the hotel industry. Foreigners visiting South Korea might dine on American steak, but the average South Korean will never get a bite.

This year we will import 300,000 Hyundais and 127,000 other South Korean-made autos. Nearly two-thirds of the South Korean auto output is aimed toward the North American market. This is an amazing figure when one considers that in 1985, the South Koreans were exporting no cars to the United States. With this aggressive export policy, we are heading for a confrontation.

The Olympics provides the perfect backdrop for a major reevaluation of trade policy by the South Koreans. The eyes of the world will be on South Korea in the weeks ahead. I urge South Korea to follow the rules of fair competition in trade just as our athletes do on the playing field. I urge the Government of South Korea to end immediately the ban on beef imports and provide meaningful evidence of other liberalizations in its import market. I would ask my colleagues to send a strong message to South Korea by supporting my resolution for an end to the ban on beef imports.

SUPPORT PARTNERSHIPS IN EDUCATION

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BRENNAN. Mr. Speaker, I rise today to bring attention to House Joint Resolution 489 "Partnerships in Education Month" of which I am an original cosponsor as it was introduced by Representative MIKE DEWINE.

"Partnerships in Education Month" brings attention to the need for a more aggressive, career-oriented education where students can gain work experience before graduation to prepare them for the rigors of the competitive job market after graduation. "Partnerships in Education" offers students a more comprehensive and enriching education through a hands-on work experience that only business can offer.

In my own State of Maine, only 47 percent of high school students go on to some form of higher education, compared to 58 percent nationwide. A full 22 percent of Maine's students never finish high school.

The recently completed report of the Economic Development Strategy Task Force singled out improvements in educational quality as the highest priority for strengthening Maine's economy over the next ten years.

I would like to commend the Maine Development Foundation which funds the Maine Aspiration Compact for encouraging the young people of Maine, the future of our beautiful state, to set higher goals for themselves, and in turn to reach those goals by offering them the chance to grow, to learn, and to stay in Maine as vital working members of the community. These opportunities will be available to students as a result of cooperation between businesses and schools.

I urge my colleagues to show their support for this measure which will help not only the students of my State but all students around the country.

THE NORTHEAST-MIDWEST ECONOMIC DEVELOPMENT GUIDE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mrs. KENNELLY. Mr. Speaker, on September 7 the Northeast-Midwest Congressional Coalition released to its members the 1988 edition of "The Guide to State and Federal Resources for Economic Development." This massive volume will help Federal, State, and local policymakers meet the challenge of a rapidly changing economy.

Since 1981, Federal efforts to encourage economic development have fallen sharply, but numerous innovative programs have sprung up at the State level in an attempt to fill the void. In addition to outlining remaining Federal programs, this valuable guide contains 460 brief case studies—drawn from every State in the Nation—that document this tremendous increase in activity at the State level.

There is much to learn from these case studies that will be useful in promoting the continued economic revitalization of the Northeast-Midwest region. I strongly recommend this guide to my colleagues in the coalition.

Mr. Speaker, at this time I would like to enter into the RECORD one of those brief case studies from my own State of Connecticut.

CONNECTICUT PRODUCT DEVELOPMENT CORPORATION

OBJECTIVE

The Connecticut Product Development Corporation (CPDC) helps companies diversify by providing risk capital to develop new products and processes plus low-cost working-capital loans to produce and market them.

DESCRIPTION

CPDC is a quasi-public nonprofit agency chartered by the state legislature in 1972. A seven-member board, experienced in business and technology and appointed by the state's governor, guides the corporation. A seven-member staff, including three engineering and two finance specialists, handles CPDC's day-to-day operations. Originally funded by the proceeds from a $6-million state general obligation bond issue, the corporation currently covers its administrative expenses out of the royalty income on its past projects, CPDC funds new ideas on a project-by-project basis through general obligation bonds approved by the state legislature and issued by the state's bonding commission. The corporation is now capitalized at $23 million, including projects funded as well as funds available for investment.

CPDC offers two programs: risk capital financing and innovation development loans. The risk capital financing program is the corporation's older and more active component; the innovation development loan program is limited in scope and accounts for only a small portion of the corporation's investments.

Risk capital financing covers up to 60 percent of the cost of developing a new product or process from initial concept to prototype production. Although the board has not set a maximum amount for this assistance, according to program officials the effective maximum is $700,000. Average assistance is $500,000 per project.

CPDC receives about 400 inquiries a year, most of them regarding risk capital assistance. Program specialists screen out 30 to 40 percent, often referring callers to more appropriate public or private programs. When an inquirer describes a project that has the potential for CPDC assistance, a program specialist makes a site visit to observe operations and discuss the proposed project in person. Projects are evaluated in terms of product feasibility, company ability to develop products successfully, market availability, and potential for job creation within the state.

Program officials have divided Connecticut geographically, so that the specialist who visits a company is familiar with business, labor, and market conditions as well as financing opportunities in the area. The company must have a tentative business plan for the project when it approaches CPDC, but the specialist may help in refining the plan. Because specialists have first-hand experience in running a business, they can understand their clients' problems and concerns and relate to them as colleagues.

CPDC funds about eight projects (or two percent of all inquiries) on the average, each year. Assistance provided under the program is neither a loan nor an equity investment; program officials consider it an 'advance' against future royalties. Under the terms of the agreement, if the product succeeds CPDC seeks royalty payments, usually 5 percent of product sales.

If royalties realized by the end of five years are at least 2.5 times CPDC's original investment, CPDC reduces the royalty amount to 1 percent of sales for the next five years. If the company fails to reach the 2.5 figure in five years, CPDC continues the 5 percent royalty through the seventh year of the time of investment. If royalties realized by then are at least 3.5 times the original investment, CPDC lowers the royalty amount to .75 percent for the next seven years. If the company does not reach the 3.5 times figure after seven years, CPDC continues the 5 percent royalty until it has received five times its investment, then asks 0.5 percent of sales for the period equal to the number of years the company has taken to reach the five times figure.

In almost all cases, the company continues to pay a small residual royalty after it has met these obligations. This complicated system encourages companies to begin paying back the advance as quickly as possible. Companies whose products or processes do not reach the marketplace are not obligated to repay CPDC; however, CPDC then has the rights to the development work, i.e., patents, blueprints, copyrights, prototypes, etc.

To be eligible for risk capital financing, a firm must show that it is dependent upon the new product or process for diversification that will allow it to stay in business. It also must show that developing the new product will add permanent jobs to its work force and that it could not accomplish the project with its own funds or through commercially available financing. According to program officials, a few new companies also have received CPDC risk capital assistance. In all cases, products must be innovative, but do not have to incorporate high technology.

CPDC began its innovation development loan program in 1984. This revolving loan program offers direct loans at below-market interest rates for working capital to help companies produce and market new products and processes. CPDC assistance may help develop the product, but this is not a requirement. The program was funded originally by a $1-million grant from the U.S. Economic Development Administration (EDA), matched by $1 million from the state. Only companies in federally designated long-term disadvantaged areas were eligible for loans from that $2-million pool, however, so the state allocated an additional $3 million to be loaned to businesses in all areas of Connecticut. The EDA revolving loan rural capitalization grant and its match were depleted in 1986; as repayments of the EDA-assisted loans replenish the fund, they will be reinvested in disadvantaged areas.

For every dollar it borrows from the innovation development loan program, a company must secure $1 from its own resources or from some other lender, such as a bank or investment company. Loans may be offered for as little as $40,000 or as much as $200,000. Program officials evaluate the applicant firm's demonstrated manufacturing and sales capability, the potential commercial success of the project, matching support, and potential job creation before approving the loan. They also consider the quality of security provided for each loan, such as a personal guarantee or collateral pledge.

PROGRAM IN PRACTICE

Between its inception and mid-1987, CPDC's risk capital financing program provided $18 million in assistance to 74 projects. Companies repaid $2.8 million in royalties during that period. CPDC received $375,000 in royalties in fiscal 1987, though the usual royalty return in recent years has been approximately $500,000. Program officials estimate that the risk capital program helped create or retain more than 1,000 jobs during its first 15 years of operation, and projects currently in development could create or retain three times that many.

The most successful product developed with CPDC help is an electronic touch-tone telephone especially for small business. The product enabled its company to increase its work force from a handful of employees to 102 people involved in product development, manufacturing, and office support. The company repaid CPDC three times its investment within five years. Other successful projects have developed computer software, a breathing apparatus, and a dental curing light.

According to program officials, the most common reasons CPDC declines to assist a company include: inability to develop a sound business plan, failure to arrange for the company's 40 percent share of project financing, and inability to find a market for the product. While officials acknowledge that some funded projects have failed to produce viable products, the program has achieved a substantial enough return on its investments to be able to cover all administrative costs out of royalties since 1980.

A SACRED TRUST

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BURTON of Indiana. Mr. Speaker, lately there has been a marked increase in political rhetoric in keeping with the official start of the Presidential campaign. Yes, we have heard much about the environment, the pledge of allegiance, prison furloughs, and the economy. None of these issues is unimportant, and all will be dealt with in the coming 2 months. Nevertheless, we must keep in mind that the most important issue we face as a nation is the preservation and promotion of our national security.

The foremost responsibility of Government in a democracy such as our own is the defense of its citizens. We have created a society here which is unique in the annals of human history. We are indeed, as Lincoln so eloquently noted "the last, best hope of (mankind on) Earth." We are a shining light, a beacon to the rest of the world, a sparkling example of what free men and women can achieve. Not because we are better than anyone else. We are no better and no worse. But we have the right idea: That citizens really do control their own lives and destinies. Mr. Speaker, that is worth protecting. The preservation of freedom and liberty needs to be at the top of our national agenda. The nominee of my party understands this responsibility best. It is a sacred trust and one we need to take seriously. We owe as much to our children and to our posterity.

JAMAICA NEEDS OUR HELP

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. KEMP. Mr. Speaker, the people of Jamaica face an enormous task in rebuilding after their island bore the full brunt of hurricane Gilbert, the most powerful hurricane ever recorded. The damage is staggering: four out of five homes have been damaged, more than 300,000 Jamaicans are homeless, and the island's staple industries have been wiped out. Jamaica's Prime Minister, Edward Seaga, is seeking $400 million in emergency assistance to take care of the storm's victims and to begin rebuilding what Jamaica lost.

I know that my colleagues, and the American people, join me in extending our sympathy and prayers to the Jamaican people as they struggle to rebuild. I feel very strongly that the United States should provide emergency aid to one of our closest allies in a strategic region. Jamaica is a good friend and ally of the United States and certainly deserves our immediate assistance. Under Prime Minister Seaga, Jamaica has moved toward democratic capitalism, recognizing that a dynamic, growing economy promises greater wealth and prosperity for all its people.

The people of Jamaica have suffered a terrible tragedy. We must not allow this disaster to erase the new hope, prosperity, and freedoms enjoyed by these courageous people.

I want to share with my colleagues several articles which appeared in today's Washington Post and New York Times describing the tremendous destruction caused by the hurricane. I hope my colleagues on both sides of the aisle can move with dispatch to lend a helping hand to a good and true friend in Jamaica.

JAMAICA WRINGS OUT AFTER FURIES OF GILBERT

(By Julia Preston)

KINGSTON, JAMAICA, September 14.—As stunned Jamaicans began today to dig out from the devastation of Hurricane Gilbert, government officials were overwhelmed with new reports of damage and loss from all over the island in what the prime minister called "the worst disaster . . . in our modern history."

At a midday press conference, Prime Minister Edward Seaga said 100,000 homes were destroyed and another 400,000 damaged. He said 300,000 Jamaicans remain homeless and another 100,000 are in makeshift shelters after the most ferocious hurricane ever measured by the U.S. Weather Service raged across Jamaica Monday.

The government announced nine confirmed deaths, while Jamaica Broadcasting Corp. reported 19. Communications from other parts of the island were still limited today to radios.

Seaga said he is seeking $400 million in emergency foreign aid to feed and clothe the storms victims and begin to rebuild Jamaica's battered economy. He estimated it would take as much as $7 billion—the equivalent of two years of Jamaica's overall annual product—to restore what was lost in the winds and rains.

Kingston's international airport, normally teeming with tourists cheerfully disembarking on sunfilled holidays, was a rain-sodden ghost town today. Tin roofs wrenched off hangars lay crumpled on the runway.

The terminal's concourses were inches deep in water and littered with glass and loose wires. Ceiling tiles thudded to the floor from time to time and water still dripped, although the day was clear. A few passengers arriving on emergency flights wasted no time at customs, since the agents never showed up.

One of the first airplanes to be seen at the airport was a twin-engine craft hanging upside down in a pine tree, flung there by the gale.

"We had seven minutes of living hell. Everything was spinning and spinning," said Kingston resident Dennis Mowatt. Many Kingston streets were blocked, with electric power poles lifted out of their cement settings, snapped in two and flung into the street by the winds. Power remains out throughout the island.

The storm peeled the tin roof off one church, leaving its altar cross jutting into the sky. A metal house roof was wrapped like a bow around a light pole in the middle of a street, where it still hung two days later.

Running water has not been restored in Kingston and there are still no telephone communications to the outside world. Much of Kingston's glorious tropical flora is piled up along main avenues in a jungle-like tangle. Cars were hurled from parking lots and a big banana boat in the harbor was dumped on the shore like a rowboat.

Long car lines stretched out of gas stations this afternoon as residents feared they might be stranded without fuel.

Windows were blown out of a row of American and Jamaican banks in the central financial district.

There were reports of extensive destruction of the sugar and banana crops. "Our crops—our lifeblood—are almost gone. I cried last night. I don't cry easily," said Air Jamaica Chairman Tony Hart.

Before the disaster, Manley was running ahead of Seaga in polls prior to elections expected before the end of the year. After Hurricane Gilbert, the timing of the elections has been thrown into doubt. But Manley said, "I'm not bothering to think about that now. This just isn't the time."

Reporters who flew over the island today saw extensive areas of the central part immersed in brown flood waters. At Montego Bay, a renowned tourist site on the north coast, the airport's control tower was ripped to pieces and small aircraft lay scattered about. All the windows were blown out of the Wyndham Hotel, one of Montego Bay's most famous.

Along the north beaches, many stretches of road remained under water. Across the island, humble homes yawned open, their roofs cast up into the hills.

About 200 people were still lodged here this evening in the national sports arena, which was partially flooded. "The wind and the water took away everything. It washed over my house and now it's all gone. There's nothing there but the land," said Gloria Leslie, 47, a Kingston mother.

Leslie said she was not happy at the emergency shelter because there was neither food nor blankets, and the storm victims were sleeping on a concrete floor. "It isn't lovely at all," Leslie said of the foul-smelling, dank arena.

A 7 p.m. curfew remains in effect for the second night, to curb looting.

Reuter reported from Kingston that three looters were shot to death. A security guard shot two looters breaking into a bedding factory Wednesday, while police shot another as he broke into a store on Tuesday night.

As the government was able to restore communications to outlying provinces, it received new accounts of Jamaicans stranded and wounded. One man bled to death in the town of Woodruff when he cut himself trying to dig one of his children from under a fallen house.

A report by Radio JBC said as many as 30 persons were believed to have been killed or wounded when a flood shelter's roof collapsed in Montego Bay. "The wind blew everything away. The only clothes I have are the ones on my back," said Mary Smith, a grandmother, wandering through Kingston's streets looking for help.

JAMAICA COUNTS THE HURRICANE TOLL: 25 DEAD AND 4 OUT OF 5 HOMES ROOFLESS

(By Joseph B. Treaster)

KINGSTON, JAMAICA, September 14.—Reconnaissance flights over remote parts of Jamaica brought back reports today indicating that a hurricane left widespread devastation throughout the country and that four out of five homes on the island had lost their roofs.

As the known death toll rose to 25 today, Prime Minister Edward P.G. Seaga made the reports of widespread damage public in an interview, saying that the hurricane, designated Gilbert, had struck a far more devastating blow than initial estimates had indicated. He said that the poultry and banana industries had been wiped out and that total losses would probably exceed $500 million.

Officials said the death count could go higher as isolated parts of the country were brought back into communication with the capital.

SKIES BEGIN TO CLEAR

As Mr. Seaga spoke this morning in his offices in the whitewashed mansion called Jamaica House, the skies began to clear for the first time in three days. Streets that had looked like rivers Tuesday were drying and filling with motorists.

Electricity and telephones were still not working across most of the island of about 2.5 million people. But some grocery stores and pharmacies opened and were mobbed by people who had been unable to get such basics as bread and milk since Saturday.

Dozens of looters have been arrested in the capital and on Tuesday night Errol Anderson, the Minister of National Security, imposed an overnight curfew starting at 10 P.M. Mr. Anderson said the curfew would go into effect tonight.

In an address to the nation Tuesday night, Mr. Seaga said "wholesale looting of warehouses" had "seriously disrupted the supply of food" to distressed areas.

MANY HOMES BEYOND REPAIR

In the interview this morning, Mr. Seaga said it now appeared that the hurricane, which struck Jamaica with winds of up to 130 miles an hour on Monday, had damaged 80 percent of the 500,000 homes on the island, including 100,000 that were beyond repair.

On Tuesday, after surveying damage in Kingston, the capital, Mr. Seaga estimated that more than 30 percent of the island's houses had been damaged and he put losses at about $300 million.

"Kingston is far less damaged than the rest of the country," Mr. Seaga said today.

He said he believed that his estimate Tuesday of 500,000 homeless remained valid today. Nevertheless, the Prime Minister said that most of the hurricane's victims had been able to fashion some kind of shelter out of the wreckage of their homes.

The first relief supplies started arriving today, aboard United States Air Force transports and three planes of the national airline, Air Jamaica. But Government officials said that because of damage to the control tower at the international airport here normal commercial flights would probably not resume before Friday.

Mr. Seaga said the Air Jamaica planes planned to continue on to Montego Bay on the north coast, the heart of Jamaica's tourist industry, and would provide transportation home for some of the thousands of vacationers, most of them Americans, who were stranded by the storm.

United States officials said there had been no reports of deaths or serious injuries among Americans on the island.

Drenching rains finally halted early this morning as most of the island's rivers were reaching capacity and some were already spilling over their banks. "In the last couple of hours we've had some fall in the river levels," Brasco Lee, the Jamaican Minister of Works, said late this morning, "and I think the danger of flooding is now past, certainly in the middle and eastern sections of the island."

Dr. Kenneth Baugh, the Minister of Health, said no serious health problems had developed.

Shermaine Robotham, a spokeswoman for Jamaica's Office of Disaster Preparedness, said most of the 25 deaths reported by Kingston radio stations had been caused by drowning. At least one man was killed by a falling tree, another official said, and one woman died when her house collapsed.

HIGHER TOLL FEARED

Ms. Robotham said she thought it was likely that the death toll would continue to rise as relief workers reached the most remote parts of the island.

Mr. Seaga revised his damage estimates upward after receiving reports from two aerial reconnaissance flights over the eastern and western parts of Jamaica. "Four out of every five roofs are off and 20 percent of the houses are write-offs," he said.

Levonne Harrell, an official of the United States Department of State's Office of Foreign Disaster Assistance, was aboard the plane that flew low over the eastern part of Jamaica.

"It's pretty devastated down there," Mr. Harrell said. "Quite a number of houses are completely destroyed."

Mr. Harrell and five others from the Office of Foreign Disaster Assistance are helping assess the disaster and coordinate the delivery of relief supplies.

TEAM FROM FLORIDA ARRIVES

Four members of the disaster response team from the Dade County, Fla., Fire Department arrived with the Federal emergency workers Tuesday night and set up a portable telephone system that gave United States officials here their first voice contact with Washington since the hurricane struck Jamaica Monday morning.

At midday, Mr. Seaga and the United States Ambassador here, Michael Sotrirhos, flew aboard another reconnaissance flight through the center of the island and around Montego Bay.

The aircraft, a United States Air Force plane based in Panama, left tents, chain saws, water containers and plastic sheeting for temporary roofing in Kingston and took some of the same supplies to the north coast city.

FLOOD IN BANGLADESH

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. PORTER. Mr. Speaker, we have heard much in the past few days about the devastation that the recent flood in Bangladesh has caused. The level of human suffering is incalculable, and the amount of monetary damage to the country will be in the billions. This is especially devastating in a desperately poor nation that struggles merely to produce daily subsistence.

Even more troubling, however, is knowing that the severity of future flooding is likely to increase due to a lack of regional cooperation on flood control measures and the large scale deforestation of the mountains surrounding Bangladesh.

Mr. Speaker, I commend the Bangladesh citizens for their bravery and perseverance in the face of annual natural disasters. I compliment the Government for addressing the crisis in a remarkably effective and efficient manner despite the scale of the tragedy and its limited resources. I also applaud the generous relief provided by the international community. However, if development efforts in Bangladesh are to bear fruit rather than be swept away each year, we must first address Bangladesh's environmental problems.

To begin with, deforestation of the Himalayan Mountains of Nepal and India, for which Bangladesh serves as a watershed, has caused run-off of water to increase. The forests once retained a significant amount of the rains that fell in the mountains. Now, however, this water rushes directly into Bangladesh carrying large amounts of silt with it.

With at least 1.2 billion tons of silt flowing into Bangladesh each year, the deltaic system has become clogged. Thirty years ago there were between 2,000–2,500 miles of navigable waterways in Bangladesh, but today this number has declined to an estimated 500 miles. Consequently, more water now flows into a river system less able to accommodate it.

Second, flood control measures in the region are uncoordinated. Dams and embankments are not numerous enough nor are they strategically placed. An effective flood control program cannot be implemented in the delta alone, but requires construction of dams in the surrounding hills. In India, for example, the few dams that exist are not used to control flood waters. Instead, they are closed during the dry season to conserve water and opened as the waters, rise, allowing torrents to sweep into Bangladesh. To be effective, flood control must be practiced further upstream.

Finally, many of the dikes and embankments that have been constructed in Bangladesh over the years only compound flood damage. They hinder natural drainage and create new flooding patterns. Fields which once drained easily are often waterlogged now.

The environmental aspects of the flooding in Bangladesh have deep economic and demographic roots. As elsewhere in the world, the rate of deforestation increased along with population pressures and the need to increase production. These forces are more complex and pose a larger challenge than even the huge task of flood relief. Nevertheless, these problems must be solved if development and reconstruction efforts are not to be washed away next year, or the one after that.

Mr. Speaker, unless solutions can be found, the plight of the Bangladesh people is likely to worsen in the years ahead. I urge my colleagues to join me to encourage regional food control measures in Bangladesh, Nepal, and India, as well as supporting reforestation efforts for Bangladesh.

FOURTH ANNUAL "SPIRIT '88" GOLDEN OSPREY AWARDS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. SMITH of New Jersey. Mr. Speaker, I take great pleasure in recognizing the winners of the Wall Area Chamber of Commerce's Golden Osprey Awards. These awards have been given to four exceptional business people in my congressional district. According to Vicki Yawnick, executive director of the Wall Area Chamber of Commerce, these people were chosen for their "exuberance and outstanding spirit in their chosen profession; for sincere energetic involvement in their workplace or with their employees; and for enthusiastic participation in the business community and/or the community at large."

This year's winners are: Joe Amiel, Joel Goldblatt, Jennie J. Nicol, and Robert Jenkins.

Joe Amiel is the owner and operator of the Old Mill Inn, located in Spring Lake Heights, NJ. Mr. Amiel is not only recognized for his business accomplishments, but his community service. As former president of the Big Brothers and Big Sisters of Monmouth County, as a director of the Boy Scouts of Monmouth County, and a longtime member of the American Cancer Society, Joe Amiel has dedicated his time to worthy causes.

Joel Goldblatt, managing general partner of Monmouth Cablevision Associates, is not only active in the other local cable television companies, but is vice president of Cable Communications Consultants in Washington, DC. His community service accomplishments are equally impressive. Mr. Goldblatt will match 10 percent of his employees' contributions to the United Way, the Muscular Dystrophy Association, and Toys for Tots.

Jennie J. Nicol is the owner and manager of Wall Stadium. When not promoting auto racing at the stadium, Mrs. Nicol finds time to work at her two other businesses, an asphalt company and an engineering firm. Additionally, her community activities include service on the board of the National Council on Alcoholism, the Monmouth County Sexual Abuse Board, and the Neptune Township Juvenile Conference Committee.

Robert Jenkins is currently the publisher of both Health Resources Publishing and American Business Publishing. Aside from his business success, Mr. Jenkins has served his community as an elected official. He has been chosen as a member of the Wall Township Committee and served two terms as mayor of Wall, NY. He holds positions on several State and local associations and is active in support of the Medical Center of Ocean County and St. Rose Grammar School.

Once again, I would like to congratulate these spirited business leaders and thank the Wall Area Chamber of Commerce for honoring these individuals for their distinguished contributions to their neighbors.

A TRIBUTE TO JOHN R.B. COOK

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. LENT. Mr. Speaker, I rise today to pay tribute to a great American and a good friend, John "Jack" R.B. Cook. On September 24, Jack will celebrate his 70th birthday. To mark this memorable occasion, Jack's family and friends will honor him with a surprise party. In recognition of this special day, I'd like to say a few words in tribute to Jack Cook.

I was first introduced to Jack Cook, and his lively wife, Jackie, years ago by my mother, Pat Lent. I'm proud to count Jack and Jackie among my good friends and loyal supporters of my work in Congress.

From 1953 until his retirement in 1986, Jack owned McCluskey's Steak House located on Sunrise Highway in Bellmore, NY. Under Jack's management, McCluskey's earned a reputation as a fine eating establishment where friends loved to gather and spend an evening together. McCluskey's is still one of the most popular restaurants in the area.

But Jack wasn't satisfied with being a successful businessman. He wanted to give something back to his neighbors and the community he loved so much, so he became actively involved with the "Hope for Youth" organization. As past president, Jack directed the establishment of group homes for troubled teens, a way station, if you will, that offers security and supervision, to keep young people off the streets when they're having serious problems at home. He still contributes a substantial amount of his time to "Hope for Youth" in addition to being a licensed real estate agent.

In closing, I'd like to extend my warmest, personal congratulations to Jack on his 70th birthday, and offer best wishes for many more years of happiness together to Jack, his wife, Jackie, their three lovely daughters, Christi, Candi, and Carrie, and three beautiful grandchildren.

COMMEMORATING ROBERT CLEVELAND

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. McEWEN. Mr. Speaker, I would like to take this opportunity to tell you about a man who has devoted his life to rural electrification. Mr. Robert Cleveland will retire in January 1989 from a career he began at age 21. His history of appointments and the wide variety of positions in which he has served should be an inspiration to all who understand and pursue the goal of bringing the benefits of electricty to our rural areas.

Mr. Cleveland's 11-year tenure as president of Ohio Rural Electric Cooperatives, Inc., and its generation and transmission cooperative, Buckeye Power, Inc., marks him as a leader to be envied and certainly to be emulated in the future. Even more significant is his recognition across the Nation as a preeminent "thinker and doer" in the utility industry.

Bob Cleveland is frequently singled out by the National Rural Electric Coooperative Association as a keynoter or panelist for many of its important meetings and seminars. His expertise, particularly in the areas of planning, legislation, finance, marketing, and power generation, is frequently tapped as a resource for younger executives to build their careers on. While serving as president of the National G&T Managers Association in 1975-76 he was appointed to the select policy advisory committee to work with Bob Bergland and his staff in developing solid approaches to solving the financial problems of many of the Nation's G&T's. Through the years he has served on many other such committees. He also has given frequent testimony on Capitol Hill and in State legislatures on behalf of rural electrification.

From 1975 to 1976 Bob was president of the Rural Electric Statewide Managers Association.

Mr. Speaker, Bob Cleveland's conviction that research holds the key to the Nation's strength and status in the world energy market has also inspired him to leadership in the Electric Power Research Institute. In early 1988 he was elected to a second 1-year term as vice chairman of EPRI and is a member of its executive committee. EPRI, one of the Nation's largest private research organizations, is supported through voluntary contributions from 600 member utilities that provide two-thirds of the Nation's electricity. Its 1988 budget is $365 million and cumulative investments exceed $2.6 billion. Bob Cleveland has worked untiringly to recruit new memberships in EPRI.

Buckeye Power, Inc., itself contributes more than $1 million annually to the NRECA/EPRI Research and Development fund. It is one of only a half-dozen G&T's so committed. In addition, under the guidance of Mr. Cleveland, his staff and the board of trustees, some $50,000 is budgeted annually to in-State energy research.

Robert Cleveland and his Columbus, OH-based associations have reason to be proud of their stature among the Nation's rural electrics. Ohio Rural Electric Cooperatives, Inc., is composed of 28 distribution systems, serving 245,000 member-consumers. It operates from one headquarters building and shares some of its staff with Buckeye Power, Inc. The G&T utilizes 1,230 megawatts of its own coal-fired generation at the Cardinal Generating Station at Steubenville to serve all of its Ohio consumers. Buckeye ranks among the 10 largest G&T's in the Nation, selling in excess of 4.5 billion KWH per year. Wholesale power is priced at about the fifth lowest among the more than 50 G&T's in the U.S. Cardinal Plant capacity is expected to be extended well beyond the year 2000.

Contributing greatly to the stable cost of power in Ohio are marketing programs spearheaded by Bob Cleveland and his staff. For example: A computerized load management system, now in its 16th year, involving radio controls on 65,000 electric water heaters; 1,600 dual fuel installments incorporating the addition of electric heat pumps to fossil fuel furnaces; and formation of the statewide distributorship of a major ground-source heat pump in 1988 which in 4 months counted 40 HVAC dealers.

During his tenure in Ohio, Bob Cleveland also has worked unceasingly to promote sales of off-peak power and energy to an association of municipal electrics and to expand area development efforts to entice new industry to co-op territory.

Bob frequently advises his fellow workers to read and reread the venerable Rochdale Principles, set forth by the first cooperative in England in 1844. One of the precepts he has followed notably well through the years is the No. 5:—"Continuing education, recognizing that cooperative owners will not value and support something they do not understand." Accordingly, Mr. Cleveland has started weekly newsletters in each State that he has served as statewide manager, all of which are still being continued, and enhanced member publications wherever his career took him. His monthly opinion columns in Ohio's statewide RE magazine, Country Living, and contributions to NRECA publications are never ghost-written. They come from the heart. Many times other statewide publications request permission to reprint his editorials in their own newsletters.

Robert Cleveland's fervor for rural electrification, like that of Clyde Ellis, arose from the clay soils of southern farms. Both knew intimately the hardships and deprivation of life on a farm without electricity. And both fought hard to overcome them. Soon after high school, with a father in the war effort and a brother in the service, Bob soon found himself responsible for 800 acres of family farms. When he was only 21 years old he became a director of Shelby Rural Electric Cooperative Corporation and served for 15 years. He also was a director of the Kentucky statewide organization for 10 years and became its president.

His interest in agriculture led to a 4-year stint with the Kentucky Department of Conservation and manager and part owner of a fertilizer manufacturing company briefly.

Then came one of the most intensive training periods in his life—as director of Administrative Services from 1961 to 1969 under general manager J.K. Smith of the Kentucky Rural Electric Cooperative Corp. This responsibility encompassed all legislative work, coordinating annual meetings, training programs, youth activities, industrial development, and work with water districts, and various farm and consumer councils.

In 1969, Mr. Cleveland moved to Colorado as general manager of the Colorado Rural Electric Association. The next 4 years saw a virtual flurry of new activity in the areas of: Legislation, public relations, formation of Colorado Country magazine, a material supply program, member services, and so forth. Staff grew from 2 to 20 and new life was breathed into the association.

Then followed a move back east where Bob became executive vice president and general manager of North Carolina Electric Membership Corp., serving 28 co-ops. And again, many changes were implemented: Purchase of their first office building, simplifying committee structures, formation of a material supply service, reorganization of staff and sizable expansion of the statewide magazine. He also served as the coordinator of their power supply activities and was instrumental in starting negotiations with Duke Power Co. on the purchase of a nuclear powerplant. This was completed after he left to go to Ohio.

With the retirement of Ohio Rural Electric Cooperatives, Inc's., statewide manager in 1977, Robert Cleveland took up the challenge and moved to Columbus. The pattern of Cleveland-shepherded activity continued: Passage of a territorial integrity act, defeat of legislation to place cooperatives under the State utilities commission, completion and startup of a new 600 MW generating unit, implementation of the aforementioned marketing programs, computerized records and typesetting, renovation and expansion of the headquarters building and warehouse.

Mr. Speaker, as you can see, Mr. Cleveland's efforts have contributed vastly to rural electrification. While his retirement will lessen the role he plays in this cause, his achievements will remain as a tribute to both him and to the people he has aided in the more remote areas of our country. I join his many friends in wishing him a long and prosperous retirement. Those of us who value his counsel and friendship will miss his active leadership very much.

A TRIBUTE TO ALDEN B. DOW
1904-83

HON. BILL SCHUETTE
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. SCHUETTE. Mr. Speaker, it is with a great pleasure that I pay tribute to Alden B. Dow, architect laureate of Michigan on the occasion of the opening of the National Conference and Exhibition entitled "Composed Order: The Architecture of Alden B. Dow" at the Alden B. Dow Creativity Center on the campus of Northwood Institute in Midland, MI. I hope that all Members here today will join me in recognizing the important contributions of Mr. Dow.

"All human being are unique and in the process of living, nature demands that this uniqueness be expressed." Alden B. Dow.

Born in Midland, MI on April 10, 1904, Alden B. Dow inherited from his father, who founded the Dow Chemical Co., a pioneer spirit. From both his parents came the love of beauty, as expressed in flowers, nature, and landscaping, the desire to innovate and search for the interreactions which led to the development of ideas of quality, and the qualities of leadership which were to be an inspiration to so many whose lives he would influence.

Early in his life, Alden Dow developed an interest in design and in the motion and rhythm of the world around him. Floor plans, model trains, recording his world through his movie camera—all captivated and held his interest.

After leaving the Midland Public Schools, Alden Dow enrolled at the University of Michigan to study engineering. But he found his interests lay in a different direction and after 3 years Mr. Dow became a student of architecture at Columbia University graduating in 1931.

During the summer of 1933, Mr. Dow studied and worked with Frank Lloyd Wright at Taliesin in Wisconsin. In Wright, he found a kindred spirit. Their sharing of interests strengthened Mr. Dow's work and philosophy.

Fortunately for Midland, Dow chose to return to his hometown, where he opened architectural offices in a studio home of his own design. This edifice, described by Architectural Digest as "one of the two most beautiful homes in the United States," is considered his masterpiece. It is an outstanding example of his blending architecture with nature, use of his distinctive block construction, and his design for living. At the 1937 Paris International Exposition, he was awarded the "Diplome de Grand Prix" for residential architecture in the United States.

In addition to over 60 homes in Midland, MI, Alden Dow has designed many residences in other parts of the United States. In 1941, he designed his first religious building working in cooperation with the local building committee. In the following years, he has designed churches and their furnishings for a variety of faiths. Believing that churchs should provide an atmosphere for the uplift, growth, and involvement of the members, he transformed church architecture by combining the best of tradition with a new freshness in the extravagant use of light, color and natural plantings. His First Methodist Church of Midland was the only religious building to receive an award of merit at the Eighth Annual National Honor Awards of the American Institute of Architecture in 1958.

His first educational building was the Northeast Intermediate School, built in Midland in 1948. His special interest in landscape and his distinctive concern for nature is manifest in his educational complexes. Outstanding examples include Muskegon Community College, where buildings span an existing stream, the campus at Interlochen Arts Academy located in the forested hills of northern Michigan and the Botanical Gardens, designed for the University of Michigan.

His architecture encompasses a wide variety of other building uses and settings. A few of the more important examples of his public and civic buildings are: The Midland Hospital, built in 1943 around a courtyard garden; the Ann Arbor City Hall, Library and Community Center; the Phoenix Civic Center and Art Museum in Arizona, the Henry McMorran Auditorium and Sports Arena in Port Huron, MI and the Kalamazoo Nature Center In Kalamazoo, MI. Outstanding among his business and professional buildings are: The original Dow Chemical Co., administrative building—1937—and the Dow Center complex; the University Microfilms building in Ann Arbor, and the Chemical Bank and Trust Co.

Alden B. Dow lived a lifetime of unprecedented creativity. His selection in 1982 as the first recipient of the Frank Lloyd Wright Creativity Award reflects this enduring commitment to his trade. The award was fittingly inscribed: "* * * for a life whose creative achievements have changed the world, and whose concerned efforts have helped others to better realize their creative potential."

ONTARIO, CA, LEADS CELEBRATION OF U.S. CONSTITUTION ANNIVERSARY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BROWN of California. Mr. Speaker, I rise today in honor of the second year of our 4-year bicentennial celebration of the ratification of the U.S. Constitution and the Bill of Rights, and to draw special attention to the ongoing celebration of the bicentennial in the city of Ontario, in the 36th Congressional District of California which I represent.

This growing community last year established its own Bicentennial Commission, chaired by long-time resident and activist June Wallin, to better focus and coordinate bicentennial activities for Ontario's 110,000 citizens. Ontario is indeed fortunate to have an active commission that is dedicated to making the 4-year bicentennial a time for celebration and reflection.

Last year, the city and the commission on September 17 hosted an evening of concerts, proclamations, displays, and other entertainment at the Ontario City Hall. The commission also sponsored several events throughout the following year, including a U.S. Presidential portrait display at city hall, and poster and essay contests for the youth of Ontario. This year, the commission on September 17 will educate as well as celebrate, by focusing its activities on the ratification process of the Constitution. The commission will host both a family picnic with music and live entertainment on the grounds of city hall, and a community forum centered on the powers and the limitations of the Constitution.

I would like to take this time to recognize the members of the Ontario City Council and the commission, for their tireless work in organizing the city's on-going celebration of the Constitution and Bill of Rights. The members of the Ontario City Council are Mayor Howard Snider; Jim Bowman, bicentennial commission liaison; Faye Myers Dastrup; Beecher Medlin; and Verne K. Perryman. The members of the Ontario Commission on the Bicentennial are Chairwoman June Wallin; Vice Chairwoman B. J. Dolly; Douglas Clark, treasurer; Judy Evans, historian; Loyal Nixon, public relations; Ginny Dadaian, minutes secretary; Arthur S. Bachtel; Barry Beard; Janice Becker; William D. Clark; Brent E. Heath; Phil Kligman; Catherine McConnell; Les Sawyer; Gus Skropos; and Patrick Snyder.

I ask my colleagues to join me in wholeheartedly supporting the good works of Ontario's City Council and Bicentennial Commission, for their inspiring efforts to promote greater community awareness and understanding of our Nation's most fundamental documents, which established a government by and for the people. Through these documents, we have become the inspiration for freedom and democracy around the world.

DEMINE AFGHANISTAN

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. FISH. Mr. Speaker, like many others, I applauded the April 14 Geneva accords which calls for the withdrawal of Soviet troops from Afghanistan. Under these accords, the Soviet Union withdrew half of its 115,000 troops from Afghanistan by August 14, 1988. The remaining troops are to be withdrawn by February 15, 1989.

With the withdrawal of troops, Afghans who have left the country during the conflict can now begin to go home. There are more than 3 million Afghan refugees in Pakistan and 2 million in Iran eligible to return home. However, the return has been seriously jeopardized by the estimated 10 to 30 million mines that have been laid in Afghanistan by the Soviets. Many Afghans have already been killed or maimed by these mines and will continue to be killed upon their return to Afghanistan if something isn't done to help.

Although international law obligates the Soviet Union to provide accurate maps of "legal" minefields, so far the United Nations has yet to insist upon them or the Soviets provide for such maps. In addition, the Soviet Union has refused to provide any assistance whatsoever in the clearing of those mines.

Under international humanitarian law, land mines are lawful if restricted to military targets. But they become illegal if the state fails to distinguish between combatants and noncombatants by deliberately placing mines in civilian areas.

It is imperative that efforts be made to demine Afghanistan if this country is to return to normally and the repatriation of its refugee population made possible. Whatever successful methods are used requires international cooperation and encouragement of the Soviets to provide necessary information to seek as many mines out as possible.

Without such cooperation the large return of Afghan refugees is unlikely and the withdrawal of Soviet troops becomes an empty gesture if Afghans are prevented from returning home to rebuild their country.

THE BRADY BILL

HON. PATRICIA F. SAIKI

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mrs. SAIKI. Mr. Speaker, today the House will be considering legislation mandating a 7-day waiting period for handgun purchases, more commonly known as the Brady bill.

I strongly endorse this legislation and am pleased to be a part of the effort to make it the law of the land. The Brady language puts some common sense in our Nation's gun control laws, by requiring that purchasers of handguns wait 7 days until they can take possession of a handgun. The 7-day waiting period is a reasonable requirement which will allow law enforcement officials to make sure that convicted felons, drug addicts, minors, and illegal aliens are not able to purchase handguns.

Contrary to some of the information which has been spread about this legislation, the Brady language does not restrict the rights of law-abiding citizens to own firearms, and it does not establish a new, intrusive Federal bureaucracy to regulate firearms.

In Hawaii, we already have a 10-day waiting period for handgun purchases, and this approach has worked rather well. I feel that a national waiting period should also be a workable means to address the growing problem of crimes committed with handguns, and I am pleased to lend my support for this legislation.

PERSONAL EXPLANATION

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BUECHNER. Mr. Speaker, I regret that I was not present to vote yesterday afternoon due to important business in my district. Had I been present I would have voted "aye" on Rollcall No. 311, "nay" on Rollcall No. 312, "nay" on Rollcall No. 313, "aye" on Rollcall No. 314, and "aye" on Rollcall No. 315.

THE THIRTY-FIRST STEUBEN PARADE

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. DIOGUARDI. Mr. Speaker, on September 17, 1988, the thirty-first Steuben Parade will be held in New York City to honor German-Americans and their contribution to the development of the United States. I am proud to rise today to pay tribute to the many millions of Americans of German ancestry, who are so deserving of this recognition.

There were Germans in the colonies from the earliest times, in settlements such as Jamestown and New Netherlands. German-Americans were instrumental in the development of these colonies, starting the fur trade and introducing the first saw mills, glass-blowing shops and vineyards.

Many German-Americans fought during the American Revolution. Among those who served were Molly Pitcher, who brought water to the rebel soldiers in the field, and Gen. Friedrich Willhelm Baron von Steuben, for whom the parade is named and who trained an American army, instilling in it the confidence and competence which helped General Washington's army to achieve its ultimate victory over the British.

German-American contributions have continued through United States' history, including fields such as literature, agriculture, engineering, technology, education, music and art. These achievements have greatly influenced the American people as a whole and have had far-reaching effects on the lives of all Americans.

The parade will have 20,000 German-American marchers, representatives from many different social and cultural groups, sports clubs, political organizations, fraternal and religious orders. There will also be many floats in the parade recreating German-American historical figures such as General von Steuben, Peter Minuit, who purchased Manhattan Island from the Indians, and men of science such as Mergenthaler, Einstein and von Braun.

I commend the German-American people on their contributions to America's history, and I share in their pride on such an important occasion. They deserve recognition for their many contributions to the advancement of the United States.

I also want to give special recognition to parade general chairman Walter Haussmann and vice chairman Bill Leili for their unstinting efforts on behalf of the German-American community in our great country.

EXPLANATION OF VOTE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. GOODLING. Mr. Speaker, last Friday I had to leave early for my congressional district and missed rollcall vote No. 307. This vote was on whether or not to accept the Senate amendment to the Labor, HHS, and Education appropriations bill, permitting federally funded abortions in instances of rape and incest.

Had I been present, I would have voted, "aye," against the Senate amendment and to retain the current Hyde language, permitting federally funded abortions in instances where the life of the mother was in danger.

A TRIBUTE TO U.S. SENATOR ALAN BIBLE

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to say a special word in tribute to my late friend and fellow Nevadan, Senator Alan Bible.

Few figures in Nevada history have been held in higher esteem than Senator Bible. He was a man of compassion and warmth, of moral decency, and an individual that genuinely cared about people. His compassion was as deep a character trait as a man can have. Senator Bible was genuinely interested in people, and those who met him quickly realized that.

He once said of his years in public service: "I got the greatest pleasure out of trying to help people. There can be no greater reward in life." His ambition, which was great, never superseded his concern for his fellow citizens.

Senator Bible was born in Lovelock, NV, which is located in the northern part of the State. He received a B.A. degree from the University of Nevada, Reno, and then proceeded to graduate from Georgetown University Law School. After a successful career practicing law, he won the attorney general's post at the age of 32, making him, at the time, the youngest attorney general in the country. He was elected to the U.S. Senate in 1954, finishing the late Pat McCarran's term and going on to recapture the seat in succeeding years. He retired for health reasons in 1974.

Among his many duties in the Senate, Senator Bible chaired the District of Columbia Committee and, as such, was de facto mayor of Washington, DC, during a crucial stage in the history of our Nation's Capital. He took part in developing much of Washington, DC, as we know it today.

Senator Bible did an immeasureable service to his State when he secured for the southern wedge of Nevada a plentiful water supply from the Colorado River, allowing modern Las Vegas to rise from the desert valley. He was also instrumental in initiating the expansion of two key Nevada military installations—Nellis Air Force Base and the Naval Ammunition Depot at Hawthorne.

No person—age, color or creed—was not deserving of his attention and legislative assistance. He fully supported legislation to help America's senior citizens. He was an advocate of improving the quality of life of native Americans long before it became popular to take such stands. And then there was what he considered the "little guy"—the small taxpayer. He fought for tax reform early and sponsored taxpayer assistance legislation as chairman of the Select Committee on Small Business.

Mr. Speaker, Senator Alan Bible was one of the giants of Nevada, and his legacy will long survive him.

IN HONOR OF MIKE GLICKMAN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to ask my colleagues in the U.S. House of Representatives to join me in saluting a fine young man, who has a deep commitment to his community. This commitment to give back to the community is even more impressive when one realizes that Mike Glickman is only 28 years old and the youngest person ever to be honored as recipient of the San Fernando Valley Child Guidance Clinic's Humanitarian Award.

The award will be presented to him at a gala dinner dance in the grand ballroom of the Beverly Hilton Hotel on Saturday, September 24, 1988. The dinner is expected to attract over 500 friends and supporters of both the honoree and the clinic.

When Mike Glickman sees a need in the community for help, he acts swiftly and decisively. When it became clear that many local schools needed financial assistance, he responded. He has ensured needed funds for supplemental educational extras through his generous support of major fund raising activities at many parochial, elementary, and secondary schools.

At a time of crisis, Mike Glickman is ready to assist area residents. He sponsored a gas give away during a fuel crisis and organized neighborhood trash collections for the community during a trash collectors' strike. Also, he is a major sponsor of several neighborhood protection projects, reflecting his strong concern for the community.

Mike Glickman is also unique in the business world, where he has built one of the Nation's largest real estate businesses, Mike Glickman Realty, Inc. At 15 years old, he started a distributing service for real estate agents, at 18 he started his own real estate firm.

Throughout all his endeavors, Mike Glickman has enjoyed the enthusiasm and support of his loving parents, Harriet and David.

It is a pleasure to bring Mike Glickman's record of accomplishments to my colleagues. I ask that they join me in congratulating him on a job well done.

THE SUPERCONDUCTING SUPER COLLIDER

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. KOLBE. Mr. Speaker, several of my colleagues have risen to speak on the various technological advantages to be reaped by the

United States upon completion of the superconducting super collider. The many areas which will benefit from the SSC project include fusion energy research, biotechnology research, cryogenics, computer chip technology, and ceramic conductivity, to name just a few. But in addition to securing our position as the world leader in cutting-edge techology, I would like to point out that the super collider will be an exceptional catalyst for improving scientific education in the United States.

Mr. Speaker, our universities today are awarding twice as many Ph.D.'s in physics to foreign students as were awarded in the seventies, while the number of American students obtaining post-graduate physics degrees has declined noticeably. The construction in the United States of the largest scientific instrument in the world will generate interest in physics much the same way that the Apollo program generated interest in aerospace technology. It will also assure us that our students who do receive physics degrees will stay in the United States, rather than going to work on a super collider built overseas. If we are to establish and maintain an interest in physical science among our young people, we need a project like the SSC to act as a spearhead for academic enthusiasm.

The State of Arizona will provide a superb academic backdrop for the team of scientists that will be employed at the SSC Maricopa site. Not only is Arizona the best ecologically and geologically suited site, our State is home to two of the finest institutions of higher learning in the country, the University of Arizona and Arizona State University.

The University of Arizona is listed by the Carnegie Commission on Higher Education as a research university I, generating advances in research of the highest level. The university has earned distinction in widely diverse research areas including arid lands studies, optical physics, hydrology, experimental economics, astronomy and gerontology. The physics department is headed by Dr. Peter Carruthers, a world-renowned physicist, who has been charged with expanding and upgrading the research faculty. The university is committed to obtaining 16 new faculty positions to be filled within the next 5 years, many of which will be devoted to high-energy physics.

Dr. Carruthers, as head of the department, brings with him all the knowledge of one of the foremost authorities on particle physics in the United States. From 1973–81, he was responsible for the theoretical research division at Los Alamos Nuclear Laboratory, transforming it into a now world-renowned center of particle physics theory. Dr. Carruthers was also the first scientist to propose the existence of quark matter, a discovery which changed the entire field of subatomic physics. His invaluable expertise will assure that the SSC physicists have exemplary support from the University of Arizona.

Another leading academic resource in Arizona is Arizona State University, the sixth largest university in the United States. The ASU physics department, headed by Dr. Richard Jacob, currently has 35 distinguished faculty members pursuing research in electron microscopy, condensed-matter physics, medium energy nuclear physics and astronomy. ASU is committed to an expansion of eight faculty positions for high-energy physics contingent upon the SSC being sited in Arizona. Another advantage is the Arizona State University Research Park, a 320-acre site currently under development, designed to bring ASU to the forefront of high-technology research and development by attracting private technological and social resarch firms to the center.

Mr. Speaker, as Dr. Jacob has stated, both the University of Arizona and Arizona State University "have demonstrated many times over the ability to field world-class research programs in the physical sciences: for example, the National High Resolution Electron Microscopy Facility and the Center for Solid State Science at ASU; and the Optical Science Center, Steward Observatory, and the mirror lab at the University of Arizona where efforts are underway to construct the world's largest telescope mirrors. The university's radiocarbon dating laboratory has been chosen as the National Science Foundation's national facility for carbon dating. The Shroud of Turin, which some believe to be the burial wrapping of Jesus, will be dated using the University of Arizona's advanced technology later this year.

Mr. Speaker, the potential value of the SSC to scientific research is inestimable. In fact, Harvard physicist Dr. Roy Schwitters calls it "essential that the United States build the collider if this country is to retain world leadership in scientific research." By enabling scientists to investigate the basic building blocks of matter and the forces guiding their subatomic interactions, the SSC will allow discoveries of far-reaching magnitude. The State of Arizona has committed itself to enhancing major high-energy physics groups at both universities well before the super collider begins operation.

FURTHER FUEL FOR THE AIDS DEBATE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent article entitled "AIDS: An Alternative Scenario," authored by Dr. Steven Jonas, professor in the Department of Community and Preventative Medicine, School of Medicine, State University of New York at Stony Brook. With House consideration of the AIDS Federal Policy Act this week, Dr. Jonas provides a timely analysis which makes significant contributions to the difficult AIDS debate.

Dr. Jonas presents a countervailing view to the conventional wisdom regarding the potential prevalence of AIDS in society. Without deprecating the extent and severity of exposure to the AIDS antibody, Dr. Jonas develops an effective hypothesis to refute the claim that the necessary end product of HIV exposure is the exponential expansion of AIDS disease. Instead, Dr. Jonas argues that, given HIV exposure, there may be a variation in susceptibility to full-fledged AIDS infection. Dr. Jonas points out that this hypothesis may obviate the need for broad-scale random testing and calls for further research and investigation to fill the gaps in our current understanding of the AIDS crisis.

While some of my colleagues and experts in the field may not necessarily agree with the conclusions of "AIDS: An Alternative Scenario," this informative article, which presents a hopeful vision for a natural resolution of the AIDS emergency, will certainly provide food for thought. I commend the article to my colleagues attention, and I request that the full text be inserted at this point in the RECORD:

AIDS: AN ALTERNATIVE SCENARIO

(By Steven Jonas, M.D., M.P.H.)

INTRODUCTION

By the end of 1987, almost 50,000 cases of Acquired Immune Deficiency Syndrome A(DS) had been reported to the Centers for Disease Control (CDC) in the United States (1). The CDC estimated that between 945,000 and 1.4 million persons had a positive serum test (were *seropositive*) for human immunodeficiency virus (HIV) antibody (2, 3). These data have lead many authorities to view the future of AIDS with alarm (4,5). In 1987, the Louis Harris organization published the results of a survey of 227 leading AIDS researchers (6). The group jointly predicted that by the year 2000 about one million Americans will have developed AIDS. For the interim, the CDC is projecting a cumulative total of 270,000 AIDS cases by 1991 (7).

There are two suppositions underlying this prediction (8). First, exposure to the virus beyond some certain (but unknown) minimum quantity and by the necessary (but not certain) route(s) will lead to infection among many of those so exposed. Second, infection will almost invariably lead to disease. A supplementary supposition is ascribed to by some in support of such predictions: AIDS will invariably become a heterosexually spread disease in this country, as it is in Africa (5, 9). Dr. Harold W. Jaffee of the CDC has stated: "You have to assume that tertiary spread will occur," [tertiary transmission of HIV is that which goes beyond the known high-risk groups and their regular sexual partners into the general population], even though, as he points out, "the evidence right now says that the extent to which it has occurred is remarkably small." (10)

If these predictions are correct, many U.S. citizens will suffer severely. The U.S. health care delivery system will be put under a severe strain. The national commitments to civil liberties and ethical behavior will be put to a severe test. The U.S. health services financing mechanisms will be severely burdened. If the predictions are correct, there are important policy decisions that must be made, now (11, 12, 13). However, before these decisions are made, there are questions about the conventional AIDS wisdom which should be raised and considered. There are important gaps in our epidemiological data base which should be filled.

SOME REASONS TO PAUSE FOR REFLECTION

The predictions of 500,000 AIDS deaths and cases in the U.S. by 1992 (13), of one million AIDS cases in the U.S. by the year 2000 (6), and of the inevitability of heterosexual spread into the general population have a common weakness. They are based on an incomplete understanding of the epidemiology, virology, pathophysiology, and natural history of this dreadful disease. Robert M. May and Roy M. Anderson have pointed out that (14): "For public health planning, the dominant unknown is . . . the fraction infected who will eventually develop AIDS. Estimates of this parameter have been increasing in recent years, but on present evidence the possibility cannot be ruled out that it is as low as 20% or as high as virtually 100%."

There are other important gaps in our knowledge of the means of spread of this killer. For example, we know little about the infectiousness of any person for others at any given time. Our knowledge of the true state of health of individuals who test positive for HIV is also limited. We can determine if an individual has been exposed to HIV to the level that his/her immune system has been induced to manufacture the necessary antibody. However, we do not have a cheap, fast, and convenient way to diagnose present, live, HIV infection. Therefore, we do now know whether HIV antibody-positively means that the person has live virus in their system at the time of the test or has managed to fight off the infection with the antibody they have manufactured and is virus-free.

Virtually all of the print and visual media equate a positive test for antibody to HIV (seropositivity) with active HIV infection. Some medical and public health authorities do this as well (15). Such an unqualified equation may be misleading, however. To date, it has been shown that many seropositive persons are infected with the virus at the time of testing. However, virology studies have demonstrated that this is not always the case (16, 17). And such studies have been limited. Among HIV-antibody positive persons, we certainly do not know just how many no longer have the virus in their system. In the absence of certain knowledge to the contrary, discussion of data on seropositivity ought to assume that seropositivity does not *necessarily* mean present infection. It also does not *necessarily* mean present infectiousness. But this kind of reporting does not often occur.

Certain available data appear to be ignored in discussions of the future course of AIDS. Perhaps it will sweep through the population without retreat. But then again, it may not. As the CDC's Curran *et al* point out (1, p. 613): "HIV data from prospectively followed cohorts of homosexual men consistently show lower HIV incidence rates for 1985 to 1987 than in the early 1980's."

The CDC's reported national HIV seropositivity numbers were stable from 1986 to 1987 (3). As of December, 1987, AIDS incidence reported in New York State was stable at 300 per month (7). HIV seropositivity incidence among homosexual males in San Francisco has plummeted. In one group of 350, 21 percent became seropositive in 1982. There was one new finding of seropositivity each in 1986 and 1987 (7). During the first two years of HIV antibody testing among applicants for military service, the seropositivity level has remained constant (1, 18).

The changes in the HIV seropositivity and AIDS incidence patterns among male homosexuals could be due to changed sexual practices, as many claim. It could also be due simply to a decline in the number of suseptibles. Curran, *et al* have put it this way (1, p. 613): "Some of the decline may be related to the early infection of highest risk persons in a closed group or to a 'study effect,' but the results are consistent with reports of substantial behavior changes in homosexual men . . . ."

Presently, seropositivity is spreading rapidly among intervenous drug users. This spread could continue exponentially, as some predict. Alternatively, it could follow the pattern observed among male homosexuals in San Francisco, a pattern for which there is currently no complete explanation.

On the one hand, then, we have an incomplete, inadequate, knowledge base. On the other hand, there are existing data which are not given adequate consideration. Nevertheless, perilous predictions and momentous decisions are being made. I suggest that it is time to pause and take stock. Are there any plausible alternative scenarios for the future of AIDS? Can the data and knowledge gaps be filled? Ought they to be filled before further policy decisions are made? Should certain existing data be given more credence, subjected to more analysis? I think that the correct answer to each of these questions is "yes."

HISTORICAL EVIDENCE

There have been other human plagues which were considered at first to be unstoppable, and then proved not to be. The Black Death killed one-third of the population of Europe in the 14th Century. A remarkable occurrence. At the same time, some thought that it was sweeping all life before it. Yet there was another remarkable occurrence. In the face of the mighty onslaught of rats, lice, and bacteria, two-thirds of Europe's population survived. This took place well before anyone knew anything about the epidemiology, biology, pathophysiology, laboratory diagnosis, or effective treatment of the disease. There must have been a range of susceptibility.

Leprosy, cholera, syphilis, yellow fever and tuberculosis: all appeared, became epidemic, and then disappeared or became endemic but limited. And all demonstrated a range of susceptibility. In tuberculosis, for example, it is well-known that infection with the tubercle bacillus does not automatically mean that tuberculosis will follow. In fact these days, conversion is rarely followed by disease. If HIV turns out to infect everyone who receives the necessary exposure and if in every infected person exposure leads to disease, the HIV will be a very unusual infectious agent indeed.

EVIDENCE ON THE DEVELOPMENT OF AIDS

A very important finding of a study by Grant, *et al* was that only a fraction of those exposed to the HIV do become infected (19). There is considerable variation in the rate of speed that an infected person becomes ill (8, 20). It is still not certain that every person infected with HIV will indeed come down with AIDS. In studies carried out by the San Francisco, CA, Department of Health of "6700 homosexual and bisexual men . . . enrolled in studies of hepatitis B virus infection between 1978 and 1980 [who] have been followed for AIDS since late 1983," it was found that (21): "As of 30 September 1987, 804 cases of AIDS had been reported and 75% of all cohort members had HIV infection [presumably this means HIV seropositivity]; approximately 16% of infected men have developed AIDS. After 88 months of infection, 36% of the men had progressed to AIDS, while more than 40% had other signs or symptoms of infection; only 20% had remained completely asymptomatic."

That is a quite remarkable finding. This study group was at very high risk for HIV infection. Many of its members were not only homo- or bisexual. Many also had or had been exposed to hepatitis B virus infection. Some had chronic, recurrent non-HIV sexually transmitted disease. Yet, after over seven years, only one-third had come down with AIDS, one-fifth of the seropositive men had no signs of it, and one-quarter of the original group was not even seropositive.

In one New York City study, 13 men infected with the HIV at least since 1978 had not developed AIDS by 1987 (22). In another study, conducted by the New York Blood Center, only one of 87 people known to have HIV infection since 1981 had developed AIDS by 1987 (22).

In the United States, many of the studies of seropositivity and AIDS development have been done in populations which first came to the attention of health authorities through their attendance at clinics for (STD) other than AIDS (23) or because they had or had been exposed to hepatitis B. Most of the other studies have been done among intravenous drug users. STD is found much more frequently among promiscuous gay men than it is among non-promiscuous gay men. In the former, there is also a high incidence of parasitic gastrointestinal infection.

AIDS is a disease of the *immune* system. It happens that most of the data on it come from populations which have immune systems compromised by chronic recurrent STD or hepatitis B or intravenous drug abuse. Generalizations to the whole population have been made from these data. Curran *et al* state (1, p. 612): "The data probably overestimate the true prevalence of HIV infection in most homosexual men since most surveys are conducted of persons seeking medical attention for STDs or because of concern that their past or present sexual behavior has placed them at risk."

How true. But Dr. Curran and his colleagues fail to recognize the implications of their statement for our understanding of the true nature of AIDS and its potential for spread or lack thereof in the general population. Epidemiological study of the role of previous compromise of the immune system in the development of AIDS certainly seems to be indicated.

There are some other elementary epidemiological questions which should be asked and answered before further major policy decisions are made. For example, there appear to be few if any studies in the literature on the relationship between conventional risk factors and HIV seropositivity/AIDS (1, 24). Perhaps there are personal or environmental risk factors which are important such as cigarette smoking, drug and alcohol use, overweight, unbalanced nutrition, lack of exercise, abnormal blood chemistries, other diseases, exposure to toxic wastes.

Weight is a particularly interesting variable that might be profitably investigated. Persons with AIDS are invariably thin. But, *pre-existing* obesity seems to be virtually non-existent among AIDS patients in the U.S. Is that a characteristic of the promiscuous homosexual population and infected IV drug users? Or is there something that excess body fat is good for other than protecting long-distance swimmers in cold water? A number of details of the epidemiology of AIDS in the United States are missing. They do not appear to be on the current AIDS epidemiological research agenda, either (24).

HIV INFECTION AND AIDS IN AFRICA

A population survey in Central Africa concluded that one factor accounting for the high frequency of heterosexual AIDS spread there is the commonality of heterosexual anal intercourse. The latter is frequent, it was said, among never-married women having sexual intercourse but not wanting to experience rupture of the hymen (10, 25). However, after reviewing much data, Piot and his colleagues from the World Health Organization have concluded that heterosexual anal intercourse is not a significant factor in HIV transmission in Africa (26).

The CDC has postulated that another cause of heterosexual HIV infection spread in certain parts of Africa is the widespread practice of clitoral amputation (10). This procedure often leaves the operative site subject to chronic infection and bleeding. Piot and his colleagues also cite genital ulcers, Chlamydia trachomatis, lack of circumcision in males, and the presence of chronic viral or tropical parasitic disease as important factors in the transmission of HIV in Africa. None of these are common risk factors in the U.S.

In a remote province of Zaire, HIV seropositivity was found to be endemic. However, over a ten-year period the prevalence was less than 1% (27). During the ten years, three of the five persons in a 1976 sample died of illnesses that suggested AIDS. This population can hardly have a high level of natural resistance to disease in general. It is subject to endemic, major, chronic infectious diseases such as malaria, tubeculosis, and parasitic gastrointestinal infection. The HIV may have been present in the population for quite some time. But for at least ten years, neither HIV nor AIDS has been rampant.

In contrast, among female prostitutes in towns along the Zaire river and in the capital, Kinshasa, where the virus has been introduced relatively recently, the seropositivity rates range from 10 to 27%. One must wonder if it will eventually reach the same endemic rate as presently found in the hinterlands. In Africa as a whole, in 1988 the incidence of HIV infection was reported to be levelling off, even in the hardest hit areas of Central Africa (28).

AIDS AT PRESENT

AIDS is a dreadful disease. In persons with AIDS death is an almost certain outcome. Even there, we cannot be sure, however. There may be a few people who have contracted the disease and then spontaneously recovered (22). Further, AIDS has much stigma and social and economic risk attached to it. It is possible that not everyone who has been stricken has sought medical attention. Perhaps then, there have been some spontaneous remissions that have not yet come to light. If that is the case, it would be very helpful to identify those cases. They should be thoroughly evaluated to determine, if possible, why they did not end in death.

The social stigma attached to AIDS itself has been accompanied by possible penalties for testing HIV-seropositive alone. These include ostracism, loss of employment, exclusion from school, and physical isolation. Confidentiality in testing is not guaranteed in every jurisdiction. The President's Commission made a major point of this fact (13, Chap. 6). This situation may well have produced a skewed testing and data pattern in the population. It may be that the persons who are most likely to become infected if exposed, and most likely to become diseased if infected, are differentially represented among those tested. Thus the data from the haphazard testing done to date could be misleading.

The standard AIDS scenario is: exposure means infection, infection means disease, disease means certain death, and AIDS will spread widely in the U.S. population. However, the findings from the literature that I have cited here must at least raise questions about the conventional wisdom. These findings indicate that additional data are needed before any final conclusions about the AIDS epidemic and its spread are drawn. Even without the needed additional data, it is possible to draw interim conclusions about HIV and AIDS that differ from those of the conventional wisdom.

In my view, the time has come to pause for a moment. We should look at our knowledge base. We should step back and decide if we are really seeing the whole picture that it is presenting to us. We should make a determined effort to fill the gaps in our knowledge base before making further policy decisions.

AN ALTERNATIVE SCENARIO FOR THE OUTCOME OF HIV INFECTION

For virtually every other infectious disease that we are familiar with, there is a range of susceptibility in the population. Historically, infectious disease "wipeouts" have occured only in populations that had absolutely no previous exposure to the new infectious agent. This occured, for example, when Native Americans and Pacific Islanders encountered measles for the first time. But we already know (1, 7) that at least in certain areas the spread of HIV infection and AIDS is abating among male homosexuals in the U.S. No significant tertiary heterosexual spread has occured (1, 10).

It is certainly possible that this virus is infecting only the highly susceptible members of the population and then going on to kill only the most highly susceptible ones. This concept is only an hypothesis at present. But if it is true, the likely future scenario of AIDS would be rather different from the current conventional one.

The alternative future scenario uses existing data, much of which has been cited above. It also makes some educated guesses about what additional research might show, based on our knowledge of the behavior of other infectious diseases.

There is variation in susceptibility to HIV infection given exposure.

The presence of antibody without infection means that the person is immune.

There is variation in the liability to develop the disease given HIV infection.

In many seropositive persons without clinical diseases, seropositivity means that they have successfully overcome the HIV infection and are virus-free.

There are thus not just one, but at least four different possible responses to exposure to HIV (in the manner and amount that will produce infection in the least-susceptible person; both factors presently unknown): no infection; but no diseases; infection, with a variety of disease states other than AIDS, but no subsequent progression to AIDS; AIDS.

Many of the exposed susceptibles who will contract AIDS have already done so or will do so in the relatively near future. Most of them, but not all, will die.

As the pool of susceptibles dies, the disease prevalence will decline, both because the supply of virus and the number of point sources for it will decline. (Thus for this apparently obligatory human parasite, herd immunity will develop.)

In the United States, heterosexual spread, other than among susceptible IV drug users, will be limited.

The disease will not become epidemic in the general population. It will remain endemic among potentially susceptible persons, as they reach the age at which they may engage in the sexual practices and/or contaminated intravenous needle use (and develop other co-risk factors presently known to be associated with HIV transmission and infection).

IN SUPPORT OF THE SCENARIO

Further research is needed to confirm or refute this hypothesis and scenario. It should be done, if for no reason than to confirm the present majority view that AIDS is virtually unstoppable without a vaccine or an effective anti-viral agent (29). (Public health education (30) is treated by many as a palliative or stop-gap for the epidemic.) However, even without further research, existing information raises enough questions about the present majority view to demonstrate that for now it too can be considered only an hypothesis.

To prove my hypothesis, first it would have to be shown that exposure to HIV does not necessarily lead to infection, and that infection with HIV does not necessarily lead to AIDS. Some of the necessary natural history studies are already underway (22). Second, it would have to be found that HIV seropositivity without active infection does occur. (To do this a cheap, quick, and accurate test for the virus needs to be developed. It is required both to correctly understand the natural history of the disease and how it is spread, and to deal appropriately with political and public hysteria.) Research along these lines is presently underway. Third, it would have to be shown that persons with previously compromised immune systems and other risk factors which have yet to be evaluated are more likely than the general population to become infected, (not just turn seropositive), and get the disease.

IMPLICATIONS FOR PUBLIC POLICY

What would a confirmation of the alternative scenario mean for public policy? The cost of caring for AID patients, already a significant figure even if the incidence and prevalence begin to fall, is only one of the major questions (31). If my hypothesis were to prove correct, there certainly would be a call in certain quarters to let the disease run its course and die out, in both individuals and the population. However, that would be counter-productive, as well as immoral. There will always be new susceptibles coming of age. Virulence of the agent and susceptibility of the potential host can change over time. We could let the disease go now, thinking that it would just die out. But something might happen in the future to truly make it become the virtually unstoppable plague that many think it already is.

Those who have the disease certainly do not deserve to be abandoned to their fate. The United States is a wealthy country. We are supposed to be concerned about what happens to our fellow men and women. Thus we certainly should continue to search for effective treatments and a vaccine.

New research would not only show which scenario is the correct one. It might well identify currently unknown personal risk factors other than the broad categories of "homo- or bisexual male" or "intravenous drug user" for HIV infection given exposure and for AIDS given infection. This would be of great assistance in the control of disease spread. Hearst and Hulley suggest that the single best recommendation for preventing the spread of AIDS is to "avoid choosing a sexual partner who may be at high risk of carrying HIV" (32). Helpful in using that advice would be full knowledge of what the risk factors are.

Testing for HIV seropositivity is controversial (13, Chap. 6; 33; 34). If my alternative scenario is correct, any consideration of mandatory, broad-scale testing could be rationally abandoned as not only immoral and unconstitutionally intrusive, but also cost-ineffective. Testing would be indicated only among persons known to be at high risk. It should be done on a highly confidential basis, as recommended by the President's Commission. In this way, it would be focused on the control of spread and the understanding of the epidemiology of AIDS, rather than on potential punishment of the victim.

Naturally the question is isolation would arise. (Note that in the current debate, the term "quarantine" is often used when "isolation" is correct in context.) Some would say that I should not be setting out this hypothesis, just because certain quarters would turn automatically to isolation of high-risk persons as a solution to the problem, should the hypothesis prove to be correct. But if the science is correct, the questions about morality and civil liberties have to be dealt with on their own merits. As with tuberculosis, in terms of the public's health it would be necessary to isolate only those infectious individuals (knowing of course with certainty who they are), who prove themselves incapable of responsible health behaviors.

CONCLUSION

AIDS is a terrible disease. Nevertheless, before extremely ominous predictions of its future course are made, all, not just some, of the existing data should be examined carefully. Further, every effort should be made to fill critical gaps in our knowledge of the epidemiology, the virology and the natural history of HIV infection and AIDS. These steps should be taken before scientists as well as the prejudiced and ignorant among us (35) become agents of fear. We should not make policy and spending decisions that we need not and ought not to make.

What might further research show? It might show for example that chronic recurrent sexually transmitted disease (CRSTD) is a major risk factor for HIV infection and AIDS, that it is not the "promiscuous homosexual lifestyle" but what it can produce in the way of CRSTD that is primary. If that were true, then one approach to controlling the spread of AIDS would be a national campaign to eradicate STD, something that has been often discussed but never implemented (36, 37).

Perhaps it is Hepatitis B that is the culprit. Or perhaps it is several different chronic diseases or conditions, each of which compromises the immune system in a way that allows the HIV to gain a foothold. After all, the Acquired *Immuno*-Deficiency Syndrome affects the *immune* system. It allows other diseases to establish themselves in the body. People don't die of the direct effects of the virus, but rather of the intercurrent infections and unusual malignancies that follow the establishment of the Syndrome, the severe damaging of the immune system.

Isn't it logical that we should be paying close attention to the role that previous compromise of the immune system plays in the establishment of HIV infection and AIDS? Isn't it logical that we should stand back and question the real meaning of our epidemiological data on AIDS itself, not HIV seropositivity, so much of which comes from populations that have either CRSTD or hepatitis B, chronic lower bowel infection or chronic intravenous drug abuse? This would not be the first time in history that we have stared a culprit in the face and failed to recognize him. Nevertheless, a recent review of "Needs and Priorities for Epidemiologic Research" which has a long list of recommended studies fails to mention what appears to be a central question (24).

To be added to the list of research priorities in my view are:

1. Epidemiology

a. The role of the compromised immune system in the development of HIV infection and AIDS.

b. The role of "conventional" risk factors, e.g. cigarette smoking, alcohol abuse, nutrition, weight, environmental toxins, in the development of HIV infection and AIDS.

2. Virology

a. Development of a quick, simple, and cheap test for the presence of active HIV infection in the body.

3. Natural History

a. Investigation of possible spontaneous recoveries from AIDS and in persons with HIV seropositivity or infection who do not come down with AIDS, investigation of the factors which might account for that outcome.

FINAL THOUGHTS

It *is* possible that the AIDS epidemic will prove to be self-limited. It *is* possible that there is a range of susceptibility in the population, possibly mediated by the state of the immune system itself. It *is* possible that the Human Immunodeficiency Virus does not produce disease in all who are infected with it. It *is* possible that the HIV does not produce infection in all who are exposed. It *is* possible that the immune systems of many people are able to cope with the HIV. It *is* possible that general heterosexual spread will be minimal in the U.S. population (and that of the other industrialized countries), because of the generally healthy state of the immune systems in that population.

Let us learn more. Let us focus better. Let us look at what we know from the history of other great infectious plaques. In regard of this new affliction, nature may be doing something for us as well as against us. If so, let us work with her, and use what tools she may give us. If we look, we can find them.

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INCOME AVERAGING FOR FARMERS

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. MADIGAN. Mr. Speaker, I have this date introduced a bill to allow income averaging for qualified farmers. A "qualified farmer" is defined in the bill as a person who first, is actively engaged in the trade or business of farming; and second, is so involved in such trade or business on a regular, continuous, and substantial basis. The bill would, if enacted into law, provide for the repeal of a provision in the Internal Revenue Code of 1986, denying income averaging for farmers, and would become effective in the taxable years ending after the date of enactment.

Earlier in this Congress I have cosponsored similar bills with the hope that action would be taken on that legislation in this Congress. I take this opportunity to reinforce my earlier evidenced interest in moving this legislation. The drought this year in my own State of Illinois highlights the fact that farmer's income is very volatile from year-to-year and is highly dependent on, among other factors, good weather.

TRIBUTE TO MAJ. GEN. LEE V. GREER

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a most distinguished member of the Sacramento community, Maj. Gen. Lee V. Greer. It is indeed an honor to be able to salute this man who has done so much for this city and the entire country.

General Greer ends his tenure as commander of the Sacramento Air Logistics Center at McClellan Air Force Base. As commander of one of the five logistics centers, General Greer was responsible for worldwide support of aircraft, space and missile equipment and communications-electronics and meterological systems.

General Greer's career spans over 30 years. After entering active duty in 1957, the general was posted to Spence Air Force Base where he received extensive flying training. He also attended all weather interceptor training at Moody Air Force Base and then became an instructor pilot in F-86's and F-102's. In June, 1964, General Greer began A-1E training at Hurlburt Field, FL and was subsequently assigned to service in Vietnam. While there, he served with the 1st Air Commando Squadron and the 602d Air Commando Squadron. General Greer flew over 200 missions in Vietnam. Upon his arrival back in the States, the general served various command posts including chief of the Operations Analysis at Tyndall Air Force Base, chief of the Live Exercise Branch at the 22d North American Air Defense Command Region, and also as commander of the 405 Field Maintenance Squadron at Clark Air Force Base in the Philippines. Finally, in 1985, General Greer was posted at McClellan Air Force Base as commander of the Air Logistics Center.

Mr. Speaker, I could go on and continue to list the remarkable achievements of this man but it would not adequately convey the respect and gratitude I have for General Greer. He is an officer who every airman, cadet, and officer should look to as an example. His dedication to the Air Force, his men and most importantly, to his country is without question. The entire city of Sacramento is losing a great man and a fine American. It has been an honor and a pleasure to work with General Greer and I want to wish him the very best of luck in all his future endeavors and I thank him for his exemplary work on behalf of this city and our country.

WEST ORANGE ELEMENTARY SCHOOL HONORED

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. DANNEMEYER. Mr. Speaker, I am privileged to announce that the U.S. Office of Education [USOE] has chosen West Orange Elementary School in Orange, CA, as an exemplary school.

Secretary Bennett created this recognition program to promote excellence in our schools. "These outstanding schools share many common attributes—a commitment to learning, to high standards, and to excellence, said Bennett. "They give their students a strong core of skills, knowledge, values, and attitudes that help them embrace education with enthusiasm." There are 287 elementary schools to be honored nationwide.

President Reagan and Education Secretary Bennett will present the award to the Orange Unified School District administration on September 14, 1988.

Congratulations West Orange Elementary.

A TRIBUTE TO CLARENCE L. DAVIS, JR.

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1988

Mr. DELLUMS. Mr. Speaker, September 15, 1988, marks the occasion of a testimonial dinner honoring Clarence L. Davis, Jr., a longtime bay area resident who is deservedly being commended for his many community and political achievements.

Born on a farm in the poverty of rural Mississippi, Clarence Davis worked in the Oakland area as a construction laborer for 20 years while matriculating at the LaSalle School of Law. Clarence is also a distinguished veteran of World War II, having received five campaign stars for his service in the European theater.

As a practicing attorney, Clarence Davis has not forgotten his long involvement with the bay area trade union movement. He is founding member of the Negro American Labor Council, organized by A. Phillip Randolph. Over the years, Clarence has remained very active in the union reform movement.

Clarence has also worked to increase the involvement of minorities and women in politics, and to make the Democratic Party more people oriented. He served with distinction as a member of the California State and Alameda County Democratic Central Committees. His 1972 candidacy for the Eighth California Congressional District exemplified the politics of inclusion so often referred to by today's national leaders. His work in encouraging open, local choice of Presidential delegates presaged current efforts to reform the rules of both parties in this direction.

One cannot overlook Clarence Davis, Jr.'s significant contribution to our community. In addition to his service as a member of the Alameda County Day Care Commission, and his involvement with the Oakland Citizens Committee for Urban Renewal, Clarence is a member of the Oakland and Alameda County Branches of the NAACP, and a member of Mount Calvary Missionary Baptist Church.

In every respect, Clarence L. Davis, Jr., has been a positive force in all levels of community and national political and social action. It gives me great honor to pay tribute to him today.

SENATE—*Friday, September 16, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 9:30 a.m., and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Out of the depths have I cried unto thee, O Lord.

Lord, hear my voice: let thine ears be attentive to the voice of my supplications.—Psalm 131:1-2.

Merciful Father, with heavy hearts we hear the news of suffering people in the path of Hurricane Gilbert, in Bangladesh, as well as multitudes of others who suffer oppression, homelessness, hunger, disease. As we enjoy the comfort of beautiful weather, pleasant surroundings, the blessing of work and friends, more than enough to eat, hear our prayers for those who are hurting in ways we find impossible to comprehend. Give us thankful hearts, sensitivity to those who hurt, and the grace to respond to human need when we are aware of it and the opportunity is available.

Deliver us from selfishness, indifference and ingratitude, we pray in His name who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 16, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

RESERVATION OF LEADER TIME

Mr. BYRD. Mr. President, I thank the Chair. I ask unanimous consent that the time of the two leaders be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

ARMS CONTROL WILL BRING A BETTER LIFE FOR AMERICANS

Mr. PROXMIRE. Mr. President, this is the fourth in a series of speeches this Senator is delivering on why the future will be better for Americans even if the country suffers severe recessions or even depression. Today I will discuss the safer future for our country because of progress in arms control—both nuclear and conventional. The bright side of nuclear weapons is that they have built a massive roadblock in the way of another world war. A major all out war involving the superpowers would obviously bring the total destruction of both countries. Such a war would spell swift and certain death to most persons residing in the United States and the Soviet Union. Neither nation could win. There would be only losers. Freedom would be among the first casualties. We know that. The Soviets also know it. This and this alone is what has kept the peace in Europe for more than 40 years—the longest period of European peace in more than four centuries. The great good news is that the terrible and certain destruction of nuclear war is likely to keep the peace for generations to come. Unless, unless, unless the nuclear technology achieves a breakout that persuades one side or the other that it can attack with such assured precision that it can totally eliminate the nuclear capability of the adversary.

At this moment the technology arms race that would bring on weapons that could strike over oceans and continents at the speed of light—186,000 miles per second—races on. As the technology of nuclear weapons proceeds mostly in the guise of developing defenses against the adversary nuclear weapons, both sides advance weapons that are more complex, more hair trigger, more susceptible to human error, and that could bring on a nuclear holocaust.

Into this dangerous situation comes arms control. Arms control can and should slow and then stop the onrushing technological race to world destruction. Here is how: First and above all the superpowers need an agreement to stop the quintessential heart of the technological nuclear arms race, nuclear weapons testing. Right now the United States and the Soviet Union are progressing but slowly. The superpowers are conducting a joint verification experiment. In the December 1987 summit agreement in Moscow, the two nations agreed on conducting nuclear tests on the territory of each, which tests are observed with monitoring devices by experts from both countries. The United States and the Soviet Union have differed on which method of detection and monitoring is preferable. The tests may settle that difference. If they do then the threshold tests ban treaty that was signed but not ratified back in 1974 and the Peaceful Nuclear Explosions Treaty of 1976 may at long last win ratification. Is this progress? Not much. But it just may begin to erode the argument that we must not sign an agreement with the Soviet Union to stop nuclear weapons testing because the Soviets would cheat and we could not detect their cheating. An agreement to end nuclear weapons testing is the prime prerequisite to making any reduction in the number of nuclear arms mean something. Why is it so necessary to stop technological progress in nuclear weapons? Because without a halt in nuclear weapons technology a 50-percent or even a 90-percent reduction in nuclear warheads or megatonnage could be overcome by the improvement testing could help bring to the accuracy, penetration ability, and the invulnerability of a far smaller nuclear weapon arsenal. The bad news is that we have been progressing much too slowly. But the good news, and it is very good news, is that we are talking and making progress—however slow.

The spread or proliferation of nuclear weapons has been the nightmare that has concerned thoughtful fighters for peace ever since Hiroshima. So far we have been far more successful

● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

than was thought possible 25 years ago. Lately there has been further progress on a few fronts. For example, Saudi Arabia, following criticism of its purchase of ballistic missiles from China has now told the United States it could sign the Nonproliferation Treaty. Also, South Africa, long a holdout against agreeing to comply with the Nonproliferation Treaty, has now agreed to sign it. Keep in mind that the Nonproliferation Treaty requires signatories to permit unannounced international inspection to assure that plutonium and uranium is not being processed into the essential weapons grade basis for nuclear weapons. The overwhelming majority of nonnuclear nations that have the economic and scientific capacity to produce nuclear weapons have now signed the treaty.

And arms control is reaching out beyond nuclear weapons. There has been progress toward a chemical weapons treaty. The Soviet Union and the United States have both provided detailed information about their chemical stockpiles and storage locations. They have also allowed international teams of inspectors to tour a chemical facility. Of course, the big enchilada for opening the economic future to a better life for Americans is an agreement with the Soviet Union to mutually and verifiably reduce conventional forces. Now both sides have agreed on the first step toward conventional force reductions. This is an exchange of accurate data on troop strengths in Europe and especially the use of onsite inspections to resolve discrepancies between estimates.

What all of this adds up to is that while arms control has moved ahead slowly and cautiously the international community led by the super-powers are making progress toward a world in which the major power peace of the past 43 years will continue for decades, perhaps centuries to come. This would permit a better world for Americans regardless of the economic trauma of recession or depression that may ensue in coming years. So we can look forward not just to smile through our tears, but to Americans living out their lives in peace, without the anguish of war.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

ATMOSPHERIC CONTAMINATION—V

Mr. STAFFORD. Mr. President, few chemicals have enjoyed the success and popularity of chlorofluorocarbons, better known to most of the world as freons. And, for good reason.

Chlorofluorocarbons—CFC's for short—seem to be a miracle chemical. They are stable, nontoxic substances that can be put to thousands of different uses without fear that they will burn, explode, or poison anyone or anything.

In fact, they seem to have only one shortcoming—they destroy the ozone layer in the stratosphere that shields life on Earth from the deadly radiation of the Sun.

The ozone layer is often referred to as a shield, but it is in reality a zone about 35 kilometers thick in which ozone molecules are thinly spread. There are so few of these molecules of ozone that if they were compressed, the layer would be only as thick as a plastic trash bag—about 3 mils.

As thin as this layer may be, it is all that stands between life on Earth and the searing radiation of the Sun, which is mainly ultraviolet light. An unprotected cell exposed to ultraviolet light can be literally exploded on contact. Even filtered by the ozone shield, ultraviolet light is still potent enough to blister skin, disrupt plants, and destroy small marine organisms.

The Environmental Protection Agency [EPA] estimates that a 10-percent depletion of the ozone layer would cause nearly 1.9 million new cases of skin cancer a year, including 65,000 cases of melanoma, which is frequently fatal.

Scientists are also concerned that ultraviolet light might cause damaging changes to our biological ecosystems that sustain all life on Earth.

The ozone depletion theory was first advanced in 1974 by two California scientists, Drs. F. Sherwood Roland and Mario Molina, who concluded that CFC's released into the atmosphere cause the depletion.

That's bad news, because the ozone in the stratosphere screens out more than half of the ultraviolet radiation that would otherwise reach the surface of the Earth.

Roland and Molina found that CFC's survive all of the destruction processes found at lower levels, but are shattered by the ultraviolet light when they reach the stratosphere. The chlorine atoms that are freed by the destruction of the CFC's then go to work destroying ozone molecules.

Since CFC's have a life of up to 150 years, which means that, even if we had heeded the 1974 warning of Roland and Molina, we would still face more than a century of ozone depletion.

But, we would not have been prepared for the surprise that astounded even our best scientists.

Even those most perceptive scientists who agreed with the ozone depletion findings of Roland and Molina anticipated a slow reaction rate in gas phase chemistry of the atmosphere.

But, the extreme cold of the Antarctic—the coldest place on our planet—froze the water vapor in the air and formed clouds of ice particles in the stratosphere. These are known as polar stratospheric clouds and their ice particles provided a solid medium that vastly increased the speed of the reaction between the chlorine and ozone.

Thus, the clouds made possible the runaway reaction that created the huge hole in the ozone layer over the Antarctic. Once again, we have been reminded that nature does not always behave as mankind would like it to.

Although there were early doubters of the Roland and Molina findings, there is now virtually no doubt that CFC's do destroy the ozone layer and that a runaway reaction happened over the Antarctic because of the extreme cold. A question that remains is whether such runaway reactions may occur elsewhere.

I will describe evidence in future talks that this may, indeed, be taking place at this instant—not thousands of miles away in the Antarctic, but in my home State of Vermont and throughout the rest of the Appalachian chain of mountains and the States in which they are situated.

Mr. President, I ask unanimous consent a chart showing production and release of chlorofluorocarbons from 1931 to 1984 be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

PRODUCTION AND RELEASE OF CHLOROFLUOROCARBONS, 1931–84

[In thousand metric tons]

	CFC–11		CFC–12	
	Production	Release	Production	Release
1931	0	0	0.5	0.1
1936	.1	0	1.7	.5
1941	.3	.1	6.3	3.0
1946	.7	.6	16.6	13.9
1951	9.1	7.6	36.2	32.4
1956	32.5	28.7	68.7	56.1
1960	49.7	40.5	99.4	89.1
1961	60.5	52.1	108.5	99.7
1962	78.1	65.4	128.1	114.5
1963	93.3	80.0	146.4	133.9
1964	111.1	95.0	170.1	155.5
1965	122.8	108.3	190.1	175.4
1966	141.0	121.3	216.2	195.0
1967	159.8	137.6	242.8	219.9
1968	183.1	156.8	267.5	246.5
1969	217.3	181.9	297.3	274.3
1970	238.1	206.6	321.1	299.9
1971	263.2	226.9	341.6	321.8
1972	306.9	255.8	379.9	349.9
1973	349.1	292.4	423.3	387.3
1974	369.7	321.4	442.8	418.6
1975	314.1	310.9	381.0	404.1
1976	339.8	316.7	410.7	390.4
1977	320.5	303.9	382.8	371.2
1978	308.9	283.6	372.1	341.3
1979	289.5	263.7	357.2	337.5
1980	289.6	250.8	350.2	332.5
1981	286.9	248.2	351.3	340.7
1982	271.4	239.5	328.0	337.4
1983	291.7	252.8	355.3	343.3
1984	312.4	271.1	382.1	359.4

0 = zero, or less than 90 metric tons.

Note: For additional information, see Sources and Technical Notes.

Source: Chemical Manufacturers Association.

Mr. STAFFORD. I thank the Chair. I will continue these discussions.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

COMMENDING ROBERT T. STAFFORD

Mr. LEAHY. Mr. President, I wish to commend the distinguished senior Senator from Vermont for the series of speeches he has been giving on the environment. I will speak further about this at a later time, but it is typical of my distinguished senior colleague that he has set out very carefully, seriously, and methodically and with great expertise his concerns about the environment.

I would commend all Senators to read or listen to what Senator Stafford has been saying. He gives a warning about the dangers to our environment that all of us would do well to heed. They are warnings based not on casual observance, but on a lifetime of experience and his experience here especially in the Senate where he has certainly been one of the leading environmentalists of this century.

So I commend the distinguished senior Senator from Vermont for doing this as he finishes a distinguished career in the Congress. He leaves us, with these statements, just one more part of the legacy that Senator Stafford has given on behalf of his native State of Vermont, a legacy that we can all share on both sides of the aisle.

Mr. STAFFORD. Mr. President, if the Senator will yield only briefly, I will just say how much I appreciate his very kind words this morning, the words of my very dear friend, as well as colleague, from Vermont. I am very grateful for them. I thank him.

BUSH ON DUKAKIS' FARM POLICY

Mr. LEAHY. Mr. President, I notice that as we vote here in the Senate, or as we come into the Senate for different things, most Senators will take a moment to stop by the wire service reports and check the AP and UPI wires. You can imagine what kind of a reaction there might have been if they had picked up a wire service report and read a story that started with this lead: "George Steinbrenner charges that Tip O'Neill is anti-Red Sox."

No one would take that kind of a statement seriously. Maybe it is obviously wrong. We would probably check the date to see if it had an April 1 date on it. But it would be more than wrong. Such a statement would actually stand the truth on its head.

I am afraid the permanent Presiding Officer of this body has made a similar statement. Vice President George Bush has recently made just such an erroneous Alice-in-Wonderland statement about Michael Dukakis' farm policy.

Vice President Bush recently implied Governor Dukakis might support a grain embargo. He based this statement on a news story that claimed a Dukakis aide said the Governor might reexamine the use of an export subsidy program in selling grain to the Russians.

George Bush is dead wrong on this. Michael Dukakis has told me face to face that he is opposed to grain embargoes. As chairman of the Senate Agriculture Committee, I was quite interested in what his position might be. I went up to Massachusetts, sat down with him and asked him. He was most emphatic, as he has been throughout his campaign, that he opposes grain embargoes. This is something George Bush knows and his campaign knows. But George Bush was more than dead wrong about Mike Dukakis' position on embargoes.

In fact, his own administration, the Reagan-Bush administration, fought the enactment of and, even after it became law, refused to use the very farm export program that George Bush mistakenly claimed Michael Dukakis opposed. So everybody understands what the program is, it is called the Export Enhancement Program.

It was Vice President Bush's administration, not Mike Dukakis, which called the Export Enhancement Program "totally counterproductive."

It was Vice President Bush's administration, not Mike Dukakis, which called the Export Enhancement Program "highly objectionable."

It was Vice President Bush's administration, not Mike Dukakis, which said the Export Enhancement Program may be contrary to the national security interests of the United States.

Even after the Congress established the Export Enhancement Program over this administration's strong objection, Vice President Bush's administration refused for months to use the program to promote grain sales to the Soviet Union.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. LEAHY. I ask unanimous consent to proceed for 4 more minutes.

Mr. McCONNELL. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. McCONNELL. Let me just say to my friend from Vermont, the reason for my objection, it is the understanding of the Senator from Kentucky the way of handling morning business was on the basis of arrival.

My friend from Vermont either intentionally or unintentionally jumped in front of the Senator from Kentucky, who has been sitting here for some time. I will be happy to withdraw my objection provided that I get my 5 minutes.

I ask unanimous consent that the Senator from Kentucky be allowed to proceed for 5 minutes at the completion of the remarks of the Senator from Vermont.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HARKIN. I object. Might I inquire of the Presiding Officer how long morning business goes today?

The ACTING PRESIDENT pro tempore. Morning business is scheduled to be completed at 10 a.m.

Mr. HARKIN. Might I also inquire further of the Senator from Kentucky how long he wants to speak?

Mr. McCONNELL. Five minutes, I just asked in the UC.

Mr. HARKIN. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Vermont will proceed for an additional 4 minutes to be followed by the Senator from Kentucky for 5 minutes.

Mr. LEAHY. I will try to be brief, Mr. President. I note to the Senator from Kentucky it has been my experience we have gone back and forth across the aisle during morning business. First the one Republican and then one Democrat, one Republican. That is why I assumed we were doing it the way we always had.

While the administration refused for months to use the program to promote grain sales to the Soviet Union, we saw the United States share of Soviet wheat import go from 21 percent to 1 percent. That is the Reagan-Bush position on trade embargoes. It was, in effect, a de facto trade embargo.

When this decision was reviewed in a contentious meeting in the Oval Office, according to the Washington Post, the Secretaries of State, Treasury, Agriculture, and Defense were there; the head of the CIA, OMB, and the U.S. Trade Representative were there. George Bush was not.

I do not know personally whether he was there or not. I think it is only fair to ask, if you were there, what position, Mr. Vice President, did you take? If you were not there, where were you when your own administration was making its toughest foreign policy agriculture decision?

As I have been watching this Presidential campaign in recent weeks, I have been outraged and, at times, saddened. I have been outraged to see the patriotism of an outstanding American attacked because he believes that a democratic nation should respect the religious convictions of its citizens.

I have been saddened to watch the most negative Presidential campaign that I can remember in my lifetime.

Political debate is the lifeblood of a democracy. When political debate is poisoned by error, half-truth, and innuendo, the whole body politic suffers.

I ask Mr. Bush to check his facts next time before he speaks.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

THE ANTICORRUPTION ACT OF 1988

Mr. McCONNELL. Mr. President, yesterday I joined my colleagues, Senators Biden, Thurmond, Metzenbaum, Simon, and DeConcini in introducing S. 2793, the Anticorruption Act of 1988. Mr. President, the Biden-McConnell bill represents a three-pronged offensive against corruption at all levels of our society—by expanding Federal jurisdiction and increasing penalties in election fraud cases, by restoring the authority of the Federal Government to investigate and prosecute corrupt local officials, and by restoring the Federal Government's law enforcement role against white-collar crime and other private fraud.

Let me just take a minute to discuss how this bill came about as a way of explaining why it is so vitally important.

Mr. President, we sometimes think of election fraud as a bygone thing in this country but it is not. Unfortunately, in my State it has been a longstanding tradition, one that we do not talk about with any great pride. Last fall, the Louisville Courier Journal, one of our two statewide newspapers, did an extensive study on election fraud in Kentucky. It found rampant abuse, something we all suspected anyway. We have seen it over the years—vote-buying, intimidation at the polls, contributions for contract deals, and multiple voting practices. It also found that many of these offenses were committed with the assistance of officials who were supposed to keep the process clean, that is, the local election supervisors.

Now, since that exposé, new cases of vote fraud have been rolling in at an alarming rate. Obviously, the exposé did not stop anybody. Last month, one woman was found to have voted three times and although she cast a vote for her dead husband, she never even bothered to vote in her own name. In a recent roundup of corrupt officials, a local grand jury handed down indictments on three election officers and three vote buyers on 53 counts of election fraud. These offenses were committed after Kentucky's General Assembly enacted the most sweeping antielection fraud measures in its history, earlier this year.

Mr. President, I ask unanimous consent that three recent articles on election fraud in Kentucky appear at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Times (Cumberland Falls) Tribune]

Six Indicted in Clay Co. on 53 Counts of Vote Fraud

Manchester, Ky.—Three election officers and three alleged vote-buyers have been indicted by a Clay County grand jury on 53 counts of vote fraud, a prosecutor said.

The sealed indictments returned Friday stem from a single precinct in last May's primary election, Assistant Attorney General Andrew T. Coiner said, but he would not name the precinct.

Clay is the second county to issue major vote-fraud indictments involving the May primary amid heightened concern about Kentucky election practices.

The Clay County charges included bribing voters, unlawful voter assistance, aiding the impersonation of voters and allowing people to vote more than once, Coiner said.

"We had one lady who voted three times and never once in her own name," Coiner said, adding that one of the names she used was her dead husband's.

"It's unbelievable," he said.

In Knox County, County Clerk Troy Hampton, former Judge-Executive Don I. Bingham, Assistant County Attorney Paul Baker and County Treasurer Jack Ketcham were among more than 20 people indicted in June and July. The charges grew out of accusations in the 86th District state House race among Bingham, incumbent Caroline White, who won the election and Paul F. Lewis.

Friday's indictments grew out of the same House race, as well as allegations in the 21st District state Senate race between incumbent Gene Huff and state Rep. Albert Robinson, Coiner said.

Robinson, who lost the election, filed suit in Clay Circuit Court in June, alleging voting improprieties in six precincts and seeking to have himself declared the winner. He dropped the suit in July after Huff filed counter-allegations.

The 86th District includes seven precincts in Clay County: Manchester, East Manchester, Whites Branch, Harts Branch, Horse Creek, Garrard and Pigeon Roost.

Coiner said investigators have been told of other alleged improprieties in about six other precincts. Additional indictments are expected, he said.

The indictments were sealed to avoid compromising the continuing investigation and revealing the identities of the approximately 50 witnesses who have testified before the grand jury, Coiner said. In addition, he said he hopes those indicted will cooperate and help lead "to the money suppliers or people on up the ladder."

Coiner said he hopes to conclude the investigation by the end of October.

Clay Circuit Judge Clay M. Bishop issued an order Friday designating the grand jury a special grand jury for election matters only and authorizing it to continue meeting until the current investigation is over.

Clay Commonwealth's Attorney B. Robert Stivers, whose office is assisting the investigation, requested the attorney general's office be called in. Stivers declined to comment on the indictments.

Coiner said two voters who were arrested last month for allegedly disobeying a subpoena and failing to appear to testify before the grand jury have since testified after spending five days in the Clay County Jail. However, contempt-of-court charges remain pending against Leon North, 55, and Irene Smith, 37, both of Bluehole, who were released from jail under $500 cash bond each.

Clay Grand Jury Indicts 6 in Vote-Fraud Case

(By William Keesler)

Manchester, Ky.—A Clay County grand jury yesterday indicted six people on vote-fraud charges stemming from last May's primary election.

The indictments were sealed, but Assistant Attorney General Andrew T. Coiner said they contained a total of 53 counts and named three election officers and three alleged vote-buyers from a single precinct.

The charges included bribing voters, unlawful voter assistance, aiding the impersonation of voters and allowing people to vote more than once, he said.

"We had one lady who voted three times and never once in her own name," Coiner said, adding that one of the names she used was her dead husband's.

"It's unbelievable," he said.

Clay is the second county to issue major vote-fraud indictments this year amid heightened concern about Kentucky election practices.

More than 20 people were indicted in June and July on charges related to vote fraud during the May primary in Knox County. They included County Clerk Troy Hampton, former Judge-Executive Don I. Bingham, Assistant County Attorney Paul Baker and County Treasurer Jack Ketcham. The charges grew out of accusations in the 86th District state House race among Bingham, incumbent Rep. Caroline White and Paul F. Lewis.

Coiner said yesterday that the Clay County indictments grew out of the same House race, as well as allegations in the 21st District state Senate race between incumbent Gene Huff and state Rep. Albert Robinson. Robinson, who lost the election, filed suit in Clay Circuit Court in June, alleging voting improprieties in six precincts and seeking to have himself declared the winner. But Robinson dropped the suit in July after Huff filed allegations of his own.

Coiner would not name the precinct involved in yesterday's indictments. The 86th District includes seven precincts in Clay County—Manchester, East Manchester, Whites Branch, Harts Branch, Horse Creek, Garrard and Pigeon Roost.

All seven had lopsided results. White, who won the election, beat Bingham 235-4 in Manchester, 153-6 in East Manchester, 41-5 in Whites Branch, 90-4 in Harts Branch, 59-1 in Horse Creek and 62-5 in Pigeon Roost, according to results listed by the Clay County Election Commission. However, Bingham defeated White 114-21 in Garrard.

Huff beat Robinson 387-24 in Garrard, 215-22 in Horse Creek and 87-15 in Whites Branch, but lost Manchester 105-40 and Pigeon Roost 173-104.

Coiner said investigators have been told of other alleged improprieties in about six other precincts. Additional indictments are expected, he said.

He said yesterday's indictments were sealed to avoid compromising the continuing investigation and revealing the identities of the approximately 50 witnesses who have testified before the grand jury. In addition, he said he hopes those indicted will cooperate and help lead "to the money suppliers or people on up the ladder."

The attorney general's office was called in at the request of Clay Commonwealth's Attorney B. Robert Stivers, whose office is assisting the investigation. Slivers declined to comment on the indictments. Coiner said he hopes to conclude the investigation by the end of October.

Also yesterday, Clay Circuit Judge Clay M. Bishop issued an order designating the grand jury a special grand jury for election matters only and authorizing it to continue meeting until the current investigation is over. The grand jury, empaneled in May to investigate all crimes in the county, had been scheduled to disband next month.

Coiner said witnesses have presented a vivid picture of corrupt practices. He said the precinct involved in yesterday's indictments had a system that allowed voters to present themselves at the polling place and ask for a particular election officer. An election officer routinely went into the voting booth with voters, even though the law allows an officer to assist only voters who cannot read or write or who are physically handicapped.

Although voters are required to sign a voter-assistance form if they need help, "no voter-assistance forms were filled out in this precinct," Coiner said.

He said testimony showed that the election officer would pull all the levers for the voter. When the two emerged from the booth, the officer would motion to campaign workers outside the polling place that the person had voted the right way. The campaign workers would then pay the voter $10.

Some witnesses said as much as $5,000 may have been spent in that precinct the day of the primary. Coiner said. He said many voters interviewed by investigators were almost totally ignorant of what was on the ballot.

"They don't know the names of candidates," he said. "They don't know whether they're voting for president or dog catcher. I asked one man . . . who was on the ballot that day and he said Wilkinson and Bush."

Gov. Wallace Wilkinson was on the ballot in May and November of 1987, but not this year. Republican presidential nominee George Bush was on the ballot March 8 during the Super Tuesday primary, but not on May 24.

Coiner said two voters who were arrested last month for allegedly disobeying a subpoena and failing to appear to testify before the grand jury have since testified after spending five days in the Clay County Jail. However, contempt-of-court charges remain pending against Leon North, 55, and Irene Smith, 37, both of Bluehole, who were released from jail under $500 cash bond each.

[From the State Journal, Aug. 30, 1988]

VOTE FRAUD ROUNDUP

"It's unbelievable," said Assistant Attorney General Andrew Coiner of a Clay County woman who voted three times, but not once in her own name, in last May's primary. The woman even voted in the name of her dead husband.

However extraordinary the circumstances of the latest round of vote fraud indictments, this time in Clay County, the charges really are not all that unbelievable. They only confirm what news stories and official inquiries have pointed out previously: Elections in some counties and individual precincts in Kentucky are about as honest as elections held in the Soviet Union. They're rigged from the outset and the victor in those counties and precincts is the candidate who is able to buy the most votes.

So far, grand juries in Knox and Clay counties have handed down multiple indictments against county and election officials, vote buyers and sellers, and there is every indication many more similar indictments will be forthcoming.

The pattern is all-too familiar. Absentee ballots are applied for wholesale using often fictitious names. Election officers at precincts routinely enter voting booths with voters to make certain the "right" levers are pulled so the buyer of the vote gets his money's worth. Cash changes hands openly at voting places and, like the Clay County lady, some voters cast ballots here, there and everywhere. Local prosecutors and the Attorney General's Office are hoping soon to begin focusing on those higher up the vote fraud ladder who supply the money and influence to subvert the election process.

Public attention was drawn to widespread vote fraud by a series of stories last year in the Louisville Courier-Journal and by the findings of special commissions set up by the Legislative Research Commission and Attorney General Fred Cowan. Some longtime observers, in Eastern Kentucky particularly, scoffed that vote fraud was so ingrained in certain counties that no amount of tough new laws and changes in voting procedures would have much impact. The blatant way in which election results were manipulated in last May's primary in Knox and Clay counties despite the much publicized stiffening of election laws by the General Assembly would seem to confirm that cynical attitude.

However, in the coming months, as dozens of people in those counties—some of them very important people—are brought before the bar of justice to account for themselves, their example cannot be ignored by others who may have committed vote fraud in the past and are tempted to do so again. In the long run, that may do more to clean up elections in Kentucky than anything yet tried.

Mr. McCONNELL. That indicates the degree of public cynicism about local law enforcement efforts against these kinds of abuses. In fact, the law enforcement record against such cases in our State has been shameful. In all of Kentucky's experience of election fraud over the last several years, only one person has gone to jail, for a 1-day sentence. The fact is that many of the worst offenders are the local officials themselves or the neighbors down the street, and no one sitting on any local jury is going to send these people to jail.

That is why I have said that the only way to clean up the election fraud problem is to have the Federal Government come in, supervise elections with Federal officers, and prosecute offenders under Federal law in Federal Court. That is what Congress did in 1965 when it passed the Voting Rights Act, to protect people's rights to vote even in local elections regardless of race. Ironically, the Government never had to prosecute too many violations of the Voting Rights Act. Simply the declaration that the Federal Government was then involved stopped a lot of those practices. But first, we had to arm the Federal Government with the power to uncover and punish these abuses.

That is what I sought to do when I introduced the Election Fraud Prevention Act last year, to punish all election offenses as Federal felonies, expand the Federal Government's power to investigate fraud and corruption, and authorize Federal law enforcement authorities to supervise State and local elections.

Now, the Biden-McConnell bill, Mr. President, which was introduced yesterday, incorporates that concept but also adds a number of provisions in which the administration is interested. We have before us a bill supported by Attorney General Thornburgh, supported by the chairman of the Judiciary Committee, supported by both conservative Republicans and liberal Democrats. This is, indeed, a bipartisan bill. It ought to pass and it ought to pass soon.

The election fraud area is only one portion of what this public corruption bill seeks to improve. But election fraud is still a serious problem in America, not just in Kentucky but in some of the big cities of the Midwest and the North and in some of the poorer, rural, one-party areas of the section of the country represented by the occupant of the Chair and myself. So it is an ongoing problem and in my judgment it is not going to stop until the Federal Government has some way of becoming involved in the enforcement in antielection fraud laws.

Since I introduced my first election fraud bill, I found that the law enforcement fight against corruption is not limited to vote fraud, but the Federal Government's entire anticorruption enforcement effort has been placed at risk by one recent Supreme Court decision, originating in Kentucky, McNally versus United States. This case held that Federal prosecutors could not use the Federal mail fraud laws to go after public and private corruption, despite the fact that mail fraud for many years has been a vital tool in prosecuting corrupt officials. Essentially, the Supreme Court said that corruption isn't "fraud" unless someone takes tangible property away from someone else.

Mr. President, there may have been some good legal arguments for this decision, but there are 185 Federal corruption convictions on the books right now which are based on mail fraud—all at risk now as a result of the McNally decision. Last November, a Federal court threw out the 10-year-old mail fraud conviction of former Maryland Governor Marvin Mandel—not because the court found Mandel innocent; instead, the court reversed because it no longer had a Federal law on which to convict Mandel. When the Mandel reversal came down, I voiced my concerns about this decision on the Senate floor, and followed up with a guest editorial in the Washington Post.

Mr. President, I ask unanimous consent that my floor statement on that occasion and a copy of my editorial appear in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMENTS ON MANDEL CONVICTION REVERSAL

Mr. McCONNELL. Mr. President, I would like to call my colleagues' attention to a set of articles which appeared on the front page of the Washington Post today. The news here ought to concern every Member of this body, and I bring it up because I believe we can remedy the situation quickly, through legislation which I introduced only last Tuesday: S. 1837, the Election Fraud Prevention Act of 1987.

First there is the news, which must come as a shock to most of us familiar with the case, that the 10-year-old mail fraud and racketeering conviction of former Maryland Gov. Marvin Mandel was reversed yesterday. As many of us know, Mandel was convicted in what seemed to be an airtight case: Vast amounts of evidence and testimony indicated that Mandel had helped a racetrack get special treatment, in exchange for cash, jewelry, vacations, and other benefits from the track's secret owners.

More shocking than the news of this reversal, however, is the court's reason for granting reversal: It wasn't that Mandel was found innocent of the charges raised against him; in fact, the court basically accepted the evidence of Mandel's racetrack scheme. Instead, the court was compelled to reverse because it could find no Federal law on which to convict Mandel.

Even though there was clear evidence of government corruption, perpetuated through the mails, the court couldn't find any violation of Federal mail fraud statutes—despite the fact that the statute has been used for years to prosecute this kind of corruption, especially against entrenched politicians who can insulate themselves from local investigation.

This denial of justice has its roots in a recent Supreme Court case originating in my home State. In McNally versus United States, the High Court reversed the mail fraud conviction of a high-ranking Kentucky official who had set up a scheme to funnel kickbacks on State contracts to a Shell Co. controlled by the official.

In that decision, the Supreme Court held that Government fraud wasn't really "fraud," because it didn't take tangible property away from anyone. The Court rejected arguments that citizens had a proprietary right to honest Government, saying that Congress' intent in enacting fraud statutes was limited only to ownership rights, not democratic rights. Therefore, if you take someone's money through a fraudulent mail scheme, that's illegal; but if you put the whole Government up for sale, that's not punishable under any Federal law.

Mr. President, not only is this decision outrageous, but it also bodes great harm for the future. It could overturn more than 185 earlier convictions of corrupt public officials that were based on mail fraud. Many predict that the Mandel case is only the beginning of an avalanche of reversals. Further, the McNally and Mandel decisions have tied the hands of the Justice Department in at least 100 Government corruption cases now under investigation.

Last, these cases send a clear message to every Government official and citizen in the land: That if an official can get entrenched, and insulate himself from local investigation, then he can put his position on the auction block without fear of the Federal Government putting him behind bars.

Mr. President, this situation is closely related to another set of circumstances I described last week: The practices of vote buying and voter intimidation that go unchecked and unpunished in State and local elections. Last week, I introduced the Election Fraud Prevention Act of 1987, to clamp down on these ignored crimes against the democratic system.

But this bill also would go a long way toward correcting the McNally problem, by expanding the definition of "fraud" to include violations of Federal and State election laws. I hope that we can schedule hearings on my bill as soon as possible, and hope to work with the Rules Committee to strengthen the McNally provision of S. 1837.

I believe the Federal Government has a compelling interest in weeding out corruption at all levels of government, wherever Federal funds flow. We owe it to our taxpayers, if not to all American citizens, to ensure that government officials do not abuse the democratic process which put them in power.

Therefore, I urge my colleagues to take a careful second look at the Election Fraud Prevention Act of 1987, and work with me to let the courts and the people know that we are serious about stopping corruption in government.

Mr. President, I ask unanimous consent to insert into the RECORD at this time an editorial which appeared in the Paducah Sun yesterday, arguing the need for my bill, S. 1837, and urging quick action to address the very real election problems I have spoken on. So far, the response from my home State has been very positive, and I expect interest in the bill to increase once the repercussions of McNally begin to cause real damage, as they have already with the Mandel conviction.

Mr. President, I also ask unanimous consent to submit for the RECORD the series of articles which appeared in the Washington Post today, on the reversal of Mandel's mail fraud conviction, and on the dim prospects for other convictions of this type.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Paducah Sun, Nov. 12, 1987]

McCONNELL'S BILL IS WORTH A TRY

Not long ago, a candidate for statewide office met with our editorial board. A couple of weeks earlier, the Louisville Courier-Journal published an eye-opening exposé on election fraud in Kentucky. We asked the candidate, who had survived a hotly contested primary race, if such tales were so.

He told me a story about a county in eastern Kentucky. It seems a top county official invited the candidate to come by for a talk one day during the primary. After conversing with the candidate for awhile, the official said he thought they could get along, and boasted that he could deliver 80 percent of that county's vote to the candidate. The candidate left, obviously pleased.

Then, shortly before the election, the candidate was approached by a person he believed to be an emissary of his new-found supporter. He told the candidate it was time to come up with the money. The candidate asked what he meant. The response was that it was tradition, in return for the support of the county political machine, that money be provided to pay some 100 or so people to "assist" the election effort. The candidate refused to pay. He said he finished last in that county, although he fared pretty well in some surrounding counties and won the statewide race.

To us, that was a rather sobering account. Although the Courier-Journal investigation indicated that the bulk of election fraud and vote buying takes place in eastern Kentucky counties, it is nevertheless a practice that can disenfranchise voters in other parts of the state by swinging close statewide races in favor of the highest bidder. It offends the very concept of democracy.

We know we have at least one person who agrees with us on this: U.S. Sen. Mitch McConnell, R-Ky. Sen. McConnell has told us up front that part of his concern stems from his belief that Republican candidates in particular have been frequent victims of election fraud in Kentucky, and cites examples from his personal experiences as evidence. But that personal motivation aside, we agree with Sen. McConnell's view that the time has come to take some serious steps to do something about the problem, which is by no means limited to rural areas of Kentucky.

That is why we support new legislation Sen. McConnell has introduced that would toughen the penalties for fraud and voter intimidation, and provide an opportunity for federal supervision of polling places.

We emphasize the word opportunity, because voting fraud seems to be limited to a few select regions of the country, and any proposal for nationwide federal supervision of the polls would be unspeakably expensive and offensive to the concept of free elections.

Sen. McConnell's bill would provide that any candidate who is concerned about potential fraud at specific polling places could request that a federal observer be sent to oversee voting activities there. Only in the precincts where such requests are made would there be federal supervision. Sen. McConnell believes such a system would deter voter intimidation and tampering with ballots and vote counts.

Of course, it would not necessarily stop vote buying. To address that problem, Sen. McConnell's bill would amend existing federal anti-fraud laws to make any type of vote buying, selling, or trading of votes for jobs, felonies. It would raise existing penalties ($1,000 fines and up to 5 years in jail for such activity) to $25,000 and up to 10 years in jail.

Because the bill would apply to elections to any government body receiving at least $1,000 in federal money, its provisions would not just apply to statewide races. Elections to city governments and school boards would also be covered.

Sen. McConnell says the mechanics of his bill are inspired by provisions of civil rights laws created to protect the rights of minority voters in the South. As he put it: "We always have worried about civil rights for the minorities. This is a bill that provides civil rights for the majority. . . . this bill will give people the right to cast an unintimidated ballot and let the winner truly be the winner."

We don't see Sen. McConnell's bill as a total cure for the problem, and neither does he, but we agree that it is a step in the right direction.

As we told Sen. McConnell, we will favor almost any reform measure that will serve to make elections more honest and fair, so long as the reforms are not unduly expensive and do not give the incumbent an unfair advantage. From what we know so far about Sen. McConnell's bill, it would seem to pass those tests.—JIM PAXTON.

CONVICTIONS OVERTURNED IN MANDEL RACEWAY CASE

(By Paul W. Valentine)

BALTIMORE, Nov. 12.—A federal judge today overturned the 10-year-old mail fraud and racketeering convictions of former Maryland governor Marvin Mandel and five associates in a reversal that stunned prosecutors and brought at least temporary vindication to the once-powerful Mandel.

U.S. District Judge Frederic N. Smalkin, basing his ruling on a June Supreme Court decision, said that Mandel and the others were convicted in an overly broad use of the federal mail fraud statute and all counts against them therefore must fall. That Supreme Court decision prompted Mandel to seek a new review of his case.

The ruling, if upheld on appeal, could lead eventually to Mandel's criminal record being expunged, restoration of his right to practice law and the return of thousands of dollars in fines levied against four of his associates.

Maryland U.S. Attorney Breckinridge L. Willcox said he would appeal.

"Vindication is all that I've ever been seeking, and the judge has provided that," a smiling Mandel, 67, said at a news conference just hours after the ruling. He said he will not seek financial compensation for his time in prison.

"I never did anything to hurt the people of the State of Maryland or deprive them of anything," he said. "And the judge has just said the same thing."

Barnet D. Skolnik, the zealous federal prosecutor who spearheaded the Mandel prosecution, said yesterday that Smalkin's decision doesn't change anything.

"Nothing will ever change what Mr. Mandel did," Skolnik said. "He sold his office . . . He sold out the people of Maryland and that's never going to change."

Speaking in the office of his Baltimore attorney, Arnold Weiner, Mandel said he has no plans to reenter politics, but left the possibility open by adding "at this time." He said his wife Jeanne, who sat by him at the news conference, does not want him to run for office again.

What kind of political position might be open to Mandel is unclear. Since his release from prison nearly six years ago, he has acquired growing influence behind the scenes in state politics and Maryland Gov. William Donald Schaefer has said he is one of Mandel's fans. Mandel has said that he has turned down offers to lobby for various groups.

Schaefer, who as mayor of Baltimore offered Mandel a work-release job at City Hall when Mandel had completed his prison time in 1981, said yesterday, "I am not surprised by the ruling. I have known Marvin Mandel and Irv Kovens [one of the codefendants] for years and never knew them to do anything illegal."

Today's decision was the latest in one of the longest-running and most dramatic political sagas in Maryland's history. As governor—a post he first won by legislative appointment when Gov. Spiro T. Agnew became vice president—Mandel was considered a master of politics and legislative strategy. In the early 1970s, he shocked Marylanders by leaving his wife Barbara for another woman.

By the mid-1970s, he was caught up in the scandals that swept Maryland, such as taking a $50,000 loan from a Catholic fundraising order called the Pallottine Fathers to help finance his divorce from Barabara Mandel.

The case involving the Marlboro Race Track unfolded with indictments of Mandel and his codefendants in 1975 and a mistrial in 1976 because of publicity concerning jury-tampering allegations. After his conviction in a second trial the following year, Mandel appealed the case through the federal appellate courts and was ultimately turned down by the Supreme Court.

Prosecutor Willcox expressed disappointment at today's ruling but added, "I can't say I'm totally surprised" in light of the Supreme Court decision on which Smalkin based his ruling.

In that decision, made in June, the high court held that mail fraud prosecutions against state officials can be made only when the fraud involves economic loss rather than intangible losses, such as the loss of good governance by public officials, as charged in the Mandel case.

Mandel and five other defendants were convicted in 1977 of 15 counts each of mail fraud and one count of racketeering in an alleged scheme to increase the value of Prince George's County's Marlboro Race Track in 1972 and 1973. The horse racing track, now defunct, was secretly owned at the time by the five codefendants, W. Dale Hess, Harry W. Rodgers III, William A. Rodgers, Irvin Kovens and Ernest N. Cory.

As governor, Mandel helped the track obtain extra racing days, which are controlled by the state and worth millions of dollars in profits for track owners.

In exchange, according to prosecutors, the tracks' secret owners heaped money, jewelry and vacations on Mandel, as well as financial assistance in his divorce and remarriage.

Mandel served 19 months in prison and was disbarred. Hess, Kovens and the two Rodgers were fined $40,000 each and imprisoned for terms of one to three years. Cory received a suspended sentence.

Mandel, who was released from prison in late 1981 and has worked as a building contracting consultant and sometime radio talk show host, had sought repeatedly to get his conviction overturned, ironically on much the same grounds as Judge Smalkin provided for him today.

In various appeals, Mandel had contended that both the indictment against him and the trial judge's charge to the jury in 1977 referred primarily to defrauding the citizens of Maryland of their right to "conscientious, loyal [and] faithful . . . services" of the governor, all intangible values, rather than concrete economic worth, as required by the federal mail fraud statute.

Smalkin agreed. Under the *McNally* ruling of the Supreme Court in June, he said, the mail fraud statute "has been limited from its inception to the protection of money and property (rather than nonmonetary, i.e., "honest and faithful government") rights."

The legislative history and intent of the statute show that its reach "has logically been as narrow as *McNally's* interpretation since the day of its enactment," Smalkin said.

The jury, he said, was incorrectly instructed to allow a "conviction if the jurors simply became convinced that the defendants had subverted the process of honest government in Maryland. The evidence of concealment of ownership of Marlboro shares and of Mandel's secret financial arrangements certainly showed that something fishy, and perhaps dishonest, involving Maryland's governor and some of those personally and politically closest to him was going on."

"Mandel might well have been bribed," the judge said. "His codefendants might well have bribed him. But however strong the evidence of dishonesty or bribery, the jury was told it could convict for something that did not amount to a federal crime."

Smalkin, a former U.S. magistrate and a federal judge here for little over a year with a reputation for painstaking scholarly research, added in an unusual passage that his ruling today "has nothing to do with [Mandel and his codefendants'] guilt or innocence, in any moral sense."

He said: "The people of Maryland, as a matter of natural law, have and have always had an inalienable right to good government. A jury of 12 citizens found beyond a reasonable doubt that the [defendants] had deprived all the citizens of Maryland of that right. This conduct, however, for reasons amply set forth . . . cannot sustain a judgment that the defendants were guilty of federal crimes. A final answer to the question of [the defendants'] guilt or innocence, in any broader sense than that, must await the judgment of history."

Willcox argued in court papers this fall that bribery—the taking of tangible goods for illegal purposes—underlay the mail fraud and racketeering charges.

The case involved a "sordid tale of corruption, bribery and deceit at the innermost sanctum of state government," Willcox said.

But Smalkin ruled that while the word bribery appears in the Mandel indictment, its main thrust nevertheless was the loss of intangible "good government" rights, and both the racketeering charges and the underlying fraud counts thus must be set aside.

"We had hoped to persuade [Smalkin] that this was a bribery case, an economic deprivation case, unlike McNally," said Willcox today. "But we failed."

HIGH COURT OPINION COULD JEOPARDIZE OTHER FRAUD CASES

(By Ruth Marcus)

The Supreme Court decision that led to the reversal of the decade-old conviction of former Maryland governor Marvin Mandel has also jeopardized scores of other prosecutions and convictions of corrupt public officials and private citizens.

The high court's ruling in June could affect at least 185 convictions and 100 more cases under investigation, and that estimate is conservative, said Gerald E. McDowell, chief of the Justice Department's Public Integrity Section.

The decision severely restricted the reach of the federal mail fraud law, enacted by Congress in 1872 "to prevent the frauds which are mostly gotten up in the large cities . . . by thieves, forgers, and rapscallions generally, for the purpose of deceiving and fleecing the innocent people in the country."

In recent years, the law, which prevents the use of the mails in any "scheme or artifice to defraud," has been a favorite tool of federal prosecutors. They have used mail fraud and its modern-day companion, wire fraud, as a means of punishing conduct that looks wrong yet may not be explicitly prohibited under other federal statutes.

The theory—accepted by all the lower courts to consider it, including the appeals court in the Mandel case—had been that, in the case of public officials who abused their trust, citizens have been defrauded of their "intangible rights" to honest and impartial government. Likewise, private individuals have been convicted of mail or wire fraud for violating their fiduciary duty to their employers or unions.

The rule among prosecutors has been, "When in doubt, charge mail fraud," said Columbia University law professor John C. Coffee Jr. "If it didn't fit into the clear pigeonholes of other statutes, you charged mail fraud and charged generally a scheme to defraud the public of the faithful and honest services of public officials."

The Supreme Court's 7-to-2 ruling in *McNally* v. *U.S.* ended all that.

In an opinion by Justice Byron R. White, the court held that federal prosecutors must show that the fraud caused actual economic injury, not just intangible harm.

The ruling came in the case of James E. Gray, cabinet secretary to then-Gov. Julian M. Carroll of Kentucky, and Charles J. McNally, a Kentucky businessman, who participated in a scheme to funnel commissions on state insurance business to an agency nominally owned by McNally but in fact controlled by Gray and another Kentucky politician.

"Rather than construe the statute in a manner that leaves its outer boundaries ambiguous and involves the federal government in setting standards of disclosure and good government for local and state officials, we read [the mail fraud law] as limited in scope to property rights," White wrote.

The opinion prompted an outraged dissent by Justice John Paul Stevens. "Can it be that Congress sought to purge the mails of schemes to defraud citizens of money but was willing to tolerate schemes to defraud citizens of their right to an honest government, or to unbiased public officials?" Stevens asked in an opinion joined by Justice Sandra Day O'Connor.

McNally's lawyer, Carter Phillips, termed the ruling "about as good news as defense lawyers have had in 10, 15 years."

Assistant Attorney General William F. Weld, head of the Justice Department's criminal division, called *McNally* "a real kick in the teeth" and said he had heard "yelps from all over" the country as U.S. attorneys assessed the damage to convictions and pending prosecutions.

In the aftermath of the decision, the effect of which is considered retroactive:

The Supreme Court last month vacated the conviction of former Cook County, Ill., circuit judge Reginald Holzer, sentenced to 18 years for mail fraud, extortion and racketeering in the Operation Greylord scandal. The high court returned the case to a federal appeals court in Chicago for reconsideration in light of the *McNally* decision, which could also imperil nine other Greylord convictions.

Prosecutors in New York dropped several fraud counts against Rep. Mario Biaggi (D-N.Y.) and three others in a case involving charges that the Wedtech Corp. bribed public officials to help obtain military contracts.

Lawyers for former Wall Street Journal reporter R. Foster Winans and two others convicted in an insider trading scheme to profit through advance tips about contents of the Journal's Heard on the Street column argued in the Supreme Court last month that—under the reasoning in *McNally*—their fraud involved only intangible harm and that therefore their convictions should be overturned.

Solicitor General Charles Fried contended that *McNally* did not apply because "property was misappropriated here" in the form of information belonging to the Wall Street Journal.

A federal judge in New York dismissed 46 of 54 mail and wire fraud counts in a major Iran arms-smuggling case against 10 international businessmen accused to conspiring to ship more than $2 billion in arms to Iran.

"The kinds of cases that are going to go down the tubes I would call abuse of power cases, where people like Gov. Mandel sold his power," said G. Robert Blakey, a law professor at Notre Dame. Mandel "didn't cheat on a particular contract. Nobody lost anything. The state gained the revenue. Who lost in the old-fashioned tangible sense? The answer is nobody. But the government was for sale."

Not all convictions challenged on the basis of *McNally* have been overturned. In Philadelphia, a federal judge last month rebuffed an attempt by former city commissioner Maurice Osser, found guilty in 1972 of a scheme to take kickbacks from a printing contractor, to win a new trial. The judge said Osser failed to raise the issue earlier and that giving him a new trial "at such a late date . . . would create a manifest injustice to the city of Philadelphia and its citizens."

Rep. John Conyers Jr. (D-Mich.), chairman of a House Judiciary subcommittee on criminal justice, has introduced legislation to undo the McNally decision. The Justice Department, meanwhile, is embroiled in an internal dispute over what, if any, legislation to propose. While a number of federal prosecutors and others are arguing for legislation that would directly overrule the case, some top department officials cite principles of federalism and question the advisability of that approach, department sources said.

In the meantime, said Associate Attorney General Stephen S. Trott, "it's a severe blow." The law "has been used successfully and effectively by federal prosecutors against corrupt politicians," he said. Without any hint of trouble from the Supreme Court, "we thundered ahead in lots and lots of cases."

Now, he said, "We really have a lot of repair work that has to be done."

CLOSING THE "MANDEL LOOPHOLE"

(By Mitch McConnell)

The Post was most appropriately ambivalent in its Nov. 15 editorial surveying the aftermath of the recent Mandel decision. The overturning of the 10-year-old mail fraud conviction of former Maryland governor Marvin Mandel was the legally correct thing to do, but it hardly was a vindication of justice—even for Mandel himself, who had long since completed his sentence for use of the mails in connection with a kickback scheme. Further, the judge who threw out the conviction hardly disputed the prior allegations against Mandel's dealings, which the judge himself characterized as "fishy and perhaps dishonest."

Instead, Mandel's conviction was overturned because there no longer was any law to prosecute him under. Four months earlier, in *McNally* v. *United States*, the Supreme Court had declared that federal fraud statutes were inapplicable to government corruption and that the laws didn't protect citizens' intangible property right to good government. This ruling was a tremendous blow to federal prosecutors, who for years have successfully used federal fraud statutes to battle corruption in state and local government.

When people are denied fair and honest representation because of discriminatory voting practices, election fraud, corruption or other abuses of power, redress rarely is available at the local level. That is why Congress stepped into the states in 1965 with the Voting Rights Act, to eradicate a tradition of discrimination against minority voters. For the same reason, federal fraud prosecutions have been one of the few truly effective remedies against entrenched, corrupt local politicians.

The Supreme Court eliminated that remedy, however, undermining nearly 200 past corruption convictions based on fraud—starting with Mandel's—and bringing to an abrupt halt at least a hundred current investigations. It's anyone's guess whether these investigations will be completed in good faith by state officials.

Nevertheless, The Post correctly noted that the Supreme Court's reasoning was "right," even if the result seems disastrous. Criminal statutes ought to be applied narrowly and not used as blunt weapons against every kind of offensive practice, however egregious. The problem really is in the law itself, which unduly restricts the federal government's role in setting high standards of democracy, through fair elections and honest government.

I have introduced legislation, the "Election Fraud Prevention Act of 1987" (S. 1837), to broaden that role where federal involvement is warranted. It would elevate most election offenses—such as vote buying and voter harassment—from misdemeanors to federal felonies, deterring a form of corruption that state officials often ignore or tolerate. The bill would strengthen federal laws against trading government benefits for campaign contributions, improving prosecutors' resources in fighting corruption. And it would allow candidates to obtain federal supervision of election activity at polling places where wrongdoing is anticipated.

S. 1837 is not designed to completely overturn *McNally* or *Mandel*, since both rulings clearly are on solid legal ground. Instead, the bill repairs some of the damage these decisions have caused and attempts to focus Congress' attention on the need for a better defined and perhaps more active federal role in the law-enforcement war against government corruption and election fraud.

Yet some believe that it's not the federal government's business at all to stop election and government abuses at the state level. That was the argument used against the Voting Rights Act of 1965: simply put, it is the states' right to be as corrupt as they can get away with. Fortunately, however, Congress at that time recognized that it had an obligation to protect the right of all Americans to vote, without restrictions or harassment. It could have left the problem for the states to solve, but instead it acted with conviction and wiped out voting discrimination within just a few years. It's anyone's guess whether those entrenched practices still would be around had Congress not taken the lead.

Mr. McCONNELL. I wrote then, and still believe, that the Mandel case is just the beginning of an avalanche of anticorruption reversals. Further, McNally and Mandel have tied the hands of the Justice Department in over 100 pending corruption cases.

So that brings us to the legislation we introduced yesterday, the Biden-McConnell Anti-Corruption Act. That bill is based on another measure I introduced with my good friend the Senator from South Carolina, Senator THURMOND, in June on this year. The earlier bill, called the Anti-Public Corruption Act, specifically met the problem of fighting Government corruption after McNally. That bill was put together with the invaluable assistance of the Justice Department, which also has played an important role in shaping this new, broader approach.

The new measure we introduced yesterday, S. 2793, is the product of long negotiations with key members of the Senate Judiciary Committee, negotiations that were conducted in the spirit of true bipartisan cooperation, in which we refined and expanded the administration bill to develop a comprehensive law enforcement response to public and private corruption.

This bill will restore—and to some extent enlarge—the Federal Government's authority to investigate and punish corruption at every level by making it a Federal offense to deprive citizens of the honest services of any public official or employee; by making it a felony to deprive any private organization of the honest services of an employee; and by making it a felony to deprive citizens of a fair and impartial election process—through vote buying, voter coercion, or executing fraudulent election forms. Finally, this bill imposes new penalties against corruption and election fraud, to send a signal that the Federal Government is no longer going to tolerate these abuses at any level of society.

Let me say in conclusion, Mr. President, that we cannot wait another year in the fight against corruption in this country. We need this bill—urgently: Kentucky needs this bill; citizens who are trying to fight an entrenched Tammany hall in their home town need this bill; prosecutors who are trying to weed out white-collar crime need this bill; voters who don't want to be afraid when they go to the polls, and who want honest elections in their precincts need this bill.

I am committed, as I know my colleagues who have worked with me are as well, to getting this bill passed this year. There is strong bipartisan support for this measure. The administration is fully behind this bill, and I ask, Mr. President, that a letter from Attorney General Richard Thornburgh in support of this bill appear in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 15, 1988.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to express the strong support of the Department of Justice for your bill, the Anti-Public Corruption Act of 1988. This bill, which builds upon the proposal in this area sent to Congress by the Administration last May, would greatly strengthen and improve federal laws relating to public corruption. We are grateful to you and the bipartisan group of Senators (i.e. Senators Thurmond, McConnell, DeConcini, Simon, and Metzenbaum) joining you in sponsoring this measure and hope that it can be enacted before the end of the Session.

The core of the bill is a proposed new section 225 in title 18, United States Code, that would punish schemes to deprive or defraud the inhabitants of the United States or a State of the honest services of their public officials and employees, both elected and appointed. This section, which is very similar to the legislative remedy suggested by the Department, would restore federal coverage of public corruption schemes that was lost last year as a result of the decision of the Supreme Court in *McNally* v. *United States,* 107 S.Ct. 316 (1987), which overruled a long line of lower court precedents and adopted a narrow construction of the mail fraud statute under which only schemes to obtain money or property could be prosecuted, not schemes to deprive the citizenry of the intangible right to the honest services of their public officials. Moreover, section 225 contains substantial improvements over the pre-*McNally* mail and wire fraud statutes. The new section would increase the penalties for public corruption schemes (from a former maximum of five to a maximum of twenty years' imprisonment), and would extend federal jurisdiction over corruption schemes that affect interstate or foreign commerce or that use any facility of such commerce, not merely schemes in which the mails or an interstate wire communication is used. The broader jurisdiction provided in the proposed legislation will enable the government to prosecute a wider range of corrupt conduct and thus better protect the public.

In addition, the bill would restore much of the ground lost under *McNally* with respect to the ability to prosecute private sector schemes seeking to subvert the honesty and loyalty of officers and employees of an organization such as a partnership or corporation. With respect to public corruption schemes, the bill would also create new criminal and civil sanctions to protect employees who bring such schemes to the attention of law enforcement authorities and cooperate in the investigation. While not as important, in our view, as the core provision in section 225, we do not object to these additional proposals, which are clearly designed to further strengthen the bill.

Our vigorous support for the bill is, however, primarily founded upon the positive impact that the legislation, in our judgment, would have on the Federal Government's ability to prosecute public corruption schemes. We believe the citizens of this country are entitled to honest government, and that the United States, consistent with sound principles of federalism, must play a major role in insuring that most basic of intangible rights. Prosecution of public corruption cases has been one of the Department's largest priorities since the mid-1970s and if anything has increased in recent years, in part because of the proven link between public corruption and large scale drug trafficking. As a result of the Supreme Court's unexpected *McNally* interpretation last year, a sizable gap currently exists in the federal statutory arsenal that can be employed against corrupt public officials in all States throughout this nation. Prompt enactment of your bill, such as through an amendment to the omnibus anti-drug legislation that will shortly be considered by the Senate, would close this gap and would represent a major bipartisan accomplishment of the 100th Congress. The Department of Justice, and the Administration, stand ready to do whatever is necessary and appropriate to help achieve that goal.

Sincerely,

DICK THORNBURGH.

The momentum is out there in Kentucky and in the rest of the Nation to keep up the fight against corruption. Thus, I urge my colleagues to join me and my friends on the Senate Judiciary Committee, in supporting this vital legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Iowa.

Mr. HARKIN. I thank the Chair.

A SAD AGRICULTURE RECORD

Mr. HARKIN. Mr. President, GEORGE BUSH the other day made some weak attempts to address farm policy when he was in the Middle West. Typically, he misstated what we Democrats stand for in the way of farm policy, rural policy, and he also again typically ignored the Reagan-Bush administration's sad record on agriculture and rural America.

I have been in Congress now 14 years, Mr. President. I have devoted a great deal of my time and effort to legislation to preserve our family farm and ranch system of agriculture and our small towns and communities. So I would like to bring out a few facts this morning to set the record straight on who stands where for our farmers, ranchers, and rural America.

As President Reagan said, facts are, indeed, stubborn things, so let us look at some of those. GEROGE BUSH likes to brag about the administration's agriculture policy. Well, I do not want to hear any more bragging from him. What I would like to see him do is go out and get a representative sample of farmers, and ranchers, I do not care from where, and ask them one simple question that President Reagan asked the American people a few years ago: Are you better off today than you were before the Reagan-Bush administration came into office? I challenge him to ask any group of farmers or ranchers that simple question. In fact, I would go even further. Have him bring together some people from our small towns and communities and ask them if their small towns and communities are better off today than they were when this administration came into office.

I do not need to hear the answer, Mr. President. I know you do not either. But Vice President BUSH obviously needs to hear that answer. Maybe then he will understand what the Reagan-Bush administration has done to our farmers and ranchers.

According to their own Department of Agriculture figures, the United States now has 275,000 fewer farms and ranches than it had in 1980, but that figure is not entirely correct. Those are their figures. They do not include the thousands and thousands of farm and ranch families who have lost virtually all of their operations but have managed to hang on to just enough to qualify as a farm under the Department of Agriculture's definition.

Precise figures are difficult to obtain, but I am convinced that an accurate figure would show that around 600,000 or more family farms and ranchs have gone out of business during the Reagan and Bush years.

Look at farmland values. Farmland values in my State are still less than half of what they were in 1980. A recent Iowa farm survey conducted before the drought showed 21 percent of Iowa farmers were in marginal or stressed financial condition. One out of every five.

Well, this administration likes to say that farmers are a little bit better off than they were a few years ago. That is true in part. But I always point out that one is infinitely more than zero. The Reagan-Bush administration let farmers get beat down so far, then they give them a little bit of money, and said, "Well, you are better off now than you were a couple of years ago." But our farmers are not nearly where they were at the beginning of this administration.

We do not need a lot of statistics, though, Mr. President, to see what has happened in rural America during the Reagan-Bush years. Just drive down any rural road in the Midwest and count the vacant houses, the farm buildings that have fallen into disuse, the abandoned orchards, gardens, and groves; drive through our small towns; count the number of businesses that have closed up, the people who have moved away. We all have read, seen, and heard about the financial crises and human tragedy that have occurred in rural America in the past few years.

What was the Reagan-Bush administration doing during this catastrophe? Well, first of all, it was in Federal court foreclosing on family farms and ranches, arguing that it had no obligation to follow laws specifically designed by Congress to help family farmers and ranchers keep their land. It came to Congress arguing that less money was needed to provide help to financially distressed farm and ranch families and rural communities. In the midst of the farm crisis, it argued that the solution to the problem was lower commodity prices for our farmers. For a long time the administration even denied there was a problem.

While farmers were going out of business at alarming rates, spending on farm programs went up and up. In fiscal year 1980, outlays for Government price support and related payments were $2.8 billion. In fiscal year 1986 the figure had risen to an astounding $25.8 billion. The administration claims that they have had a successful farm policy. Well, under policies set by this administration, the Federal Government will have spent over $128 billion over 8 years in price and income supports, and yet 600,000 farms have already gone out of business.

If that is success, we cannot stand much more of that kind of success. But where has the money gone? It goes to a few—just like the rest of the Reagan-Bush administration's policies, their tax policies and everything else. A few get a lot, and the rest get little. Well, it is now expected that in this year alone we will be spending somewhere in the neighborhood of about $11 billion-plus drought relief, and more farmers will go out of business again this year.

GEORGE BUSH says he wants to expand agricultural exports. We all do. But again look at the Reagan-Bush record. In fiscal year 1981, the value of U.S. agricultural exports was $43.8 billion. By 1986 it had fallen to $26 billion. USDA has estimated that maybe for fiscal year 1988 it will be $34 billion, still below what the figure was for 1981. Again, these figures have not even been adjusted for inflation.

Well, here is another interesting point, Mr. President. I see the President in the chair now is from the great State of North Dakota. I know the distinguished President sitting in the chair has a great deal of interest in agriculture, knows his State well, and was actively involved. I know also in opposing the Soviet grain embargo that the Reagan administration always likes to talk about—the grain embargo under the Carter administration that we all opposed. But, lo and behold, who has GEORGE BUSH put on his foreign policy advisory panel? He is the architect of the 1980 grain embargo—Zbigniew Brzezinski. This is the guy who devised the grain embargo. Now he is advising GEORGE BUSH.

I think the farmers, the ranchers of North Dakota, Iowa, and the rest of the country ought to know who is going to be calling the shots in the GEORGE BUSH administration, the same guy who called the shots on the grain embargo.

Mr. President, the other day GEORGE BUSH said Democrats want to "control farmers' lives"—want to get in there, control them all, and all of that. I have a little news for them. On Monday of this week I spent a workday in the county ASCS office in Clarke County, IA. I am just amazed at the burdensome amount of paperwork our farmers and our ASCS personnel have to go through today compared to what they did before the Reagan-Bush administration. I mean form after form; it almost seems that for a farmer to do anything now the farmer has to come into the ASCS office, get approval, sign something, fill out a form, and go back before the farmer can do it. I might just point out again, Mr. President, that I know you will be interested in this. From 1985 to 1987 the number of ASCS employees in Iowa went from some 1,100 to more than 1,900—more bureaucrats and fewer farmers. Lord knows we have lost a lot of farmers in Iowa. But the number of bureaucrats hired to serve those left have gone up, and yet it is GEORGE BUSH who is saying we Democrats are the ones who want to control the farmers' lives. As Al Smith said, "Look at the record," and the record is just the opposite.

This administration promised to get the Government out of farming but it has intruded in every aspect of farmers' operations—conservation plans; PIK payment; PIK certificates countersigned; a set-aside, come in and verify it; a ground cover, come in and verify it; the feed programs, come in and verify; everything requiring mountains of paperwork.

In fact, I do not know—I say to the President sitting in the Chair—what the State of North Dakota is doing right now, but I can tell you in Iowa ASCS offices close at noon 3 days of every week. They are open from 8 until noon. Then they close their doors. Why? So they can get the paperwork done in the afternoon. Mr. President, that is a sad state of affairs. We increase the number of employees, cut down the number of farmers, and close the doors at noon so they can get the paperwork done, and yet GEORGE BUSH says it is we Democrats who want to "control farmers' lives"—nonsense.

It is we Democrats who want to make sure the farmer gets income from the marketplace, and not from a government paycheck. People are saying in Iowa now that what the farmer is farming is a small strip between his back door and the mailbox. That's the path used to go out and get that government check. Let us put the farmers back to farming their fields, and make sure farmers get their income from the market, and not from a government paycheck, because we have seen what happens when you get it from the government paycheck. You get the paperwork, and you get all of this burdensome intrusion into farmers' daily lives.

I want to take this time to set the record straight. It looks like we are going to have to keep setting the record straight for the next 50-some days until the election as long as Vice President BUSH and Senator QUAYLE are out there misrepresenting what this administration has done to farmers and ranchers and rural communities in the last 8 years.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS OF WOMEN

Mr. BYRD. Mr. President, last Friday, the President criticized the Senate for holding up the nominations of 40 women for various positions in the Federal Government.

Up to this date in time, the Senate has confirmed 228 women for full-time positions in the administration. A review of the number of women awaiting Senate confirmation for full-time positions shows that, as of last Friday, only 18 of these nominations had not completed the confirmation process. That is the same day that the President criticized the Senate for holding up the nominations of 40 women. The old math and the new math come out the same. No matter which way you look at it, the President was wrong.

Let me say again: A review of the number of women awaiting Senate confirmation for full-time positions—I am not talking about part-time positions on boards where they may meet once a year or once every 2 years, or whatever; I am talking about full-time positions—shows that as of last Friday, the same day the President made his statement, only 18 of these nominations had not completed the confirmation process. This week, two more nominations were received for full-time positions. Out of the 20 positions pending in the Senate, 15 of these nominations have been sumitted to the Senate since June 20 of this year.

Any reading of these numbers does not justify any charge or implication that the Senate is failing to act on the nominations of women for high-level Federal positions.

While the President deserves credit for the nomination of the first woman to sit on the Supreme Court, Sandra Day O'Connor, his record of nominations of women for the Federal Bench over the past 7½ years is not a stellar one.

This administration has had two terms in which to nominate women for Federal courts. However, out of 409 total nominations, only 35 have been women. During a 4-year administration, President Carter nominated a total of 258 persons for article III courts, and out of that number 40 were women. That was in 4 years, as against more than 7½ years under this administration.

Thus, as compared to the Carter administration, the present administration has not only nominated fewer women to positions on the Federal bench during twice the number of years, but also, their percentage of women nominated out of the total number of nominations is only 8.6 percent as opposed to the 15.5 percent achieved by the Carter administration.

During my service in the Senate, I have promoted women to many positions of responsibility, and I will continue to be willing to carefully consider the merits of all nominations, including the 20 women nominees presently pending before the Senate. I repeat: Confirming 228 out of 248 nominations of women for high-level, full-time Federal positions is hardly one of going slow on nominations of women.

SOUTH CAROLINA PROCLAMATION TO SUPPORT SEPTEMBER 16, 1988, AS "POW/MIA RECOGNITION DAY"

Mr. THURMOND. Mr. President, I rise to commend the State of South Carolina and Gov. Carroll Campbell for issuing a proclamation to support the Congress of the United States and the President in proclaiming Friday, September 16, 1988, as "National POW/MIA Recognition Day." The sacrifices of American prisoners of war and missing in action and their families are deserving of national recognition.

Our Nation must continue to be relentless in seeking a full accounting of the 2,400 Americans still missing in Southeast Asia. President Reagan has continuously proclaimed his total commitment to a full accounting. Recognition day is to remind all Americans that we must maintain our vigilance until this tragedy is resolved. It is encouraging that progress has been made with Hanoi in seeking a full accounting, as a result of negotiations between Gen. John W. Vessey, Jr., and Hanoi officials last year.

Mr. President, our great and patriotic State of South Carolina stands firmly behind the President and the Congress in joining all Americans on this special recognition day to focus our efforts on a full accounting of POW's and MIA's. I ask unanimous consent for the South Carolina proclamation to be printed in the CONGRESSIONAL RECORD following these remarks.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION BY GOV. CARROLL A. CAMPBELL, JR., ON NATIONAL POW/MIA RECOGNITION DAY

Whereas, the United States has fought in many wars; and

Whereas, thousands of Americans who served in such wars were captured by the enemy or are missing in action; and

Whereas, many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many prisoners of war died from such treatment; and

Whereas, the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition.

Now, Therefore, I, Carroll A. Campbell, Jr., Governor of the State of South Carolina, do hereby proclaim Friday, September 16, 1988, as: "National POW/MIA Recognition Day" in South Carolina and urge all South Carolinians to observe such day with appropriate ceremonies and activities.

THE SUPREME COURT'S ROLE IN PROMOTING WOMEN'S RIGHTS

Mr. PACKWOOD. Mr. President, I rise today on the matter of the Supreme Court and the role it has played in the fight for women's rights. Gains in the battle for women's rights have been slow and incremental. In fact, all of us committed to women's rights are still fighting for such basics as the equal rights amendment. And as late as 1961, the Supreme Court found it constitutional to exclude women from serving on jury duty unless they volunteered because it would interfere with their homemaking responsibilities.

In 1971, for the first time, the Supreme Court held that government policies and laws that discriminated on the basis of sex must be subjected to a stricter standard of scrutiny under the equal protection clause of the 14th amendment. Under this new standard, the Court struck down statutes that gave preference to men over women.

The Supreme Court's 1973 decision in Roe versus Wade to legalize abortion was a necessary step in the political process to enfranchise women. The Court recognized that women cannot take their equal place in society unless they are able to control their fertility. Justice Blackmun, in writing for the majority in that case, stated that there is a fundamental right to personal privacy that is broad enough to encompass a woman's decision whether or not to terminate her pregnancy.

At the time of the Roe decision, only four States permitted a women to consult with her physician to make her own decision to terminate her pregnancy. Many States sought to discourage abortions by establishing severe criminal penalties. While these laws were in place, enforcement was difficult, if not impossible, because there was little incentive to report the abortion to law enforcement authorities. Family members who may have known of an abortion were naturally not eager to have the woman condemned as a criminal. Indeed, I think there are few among us today, even those who oppose the Supreme Court's decision, who would argue that women who choose abortion should be prosecuted as criminals.

As a supporter of a woman's right to choose an abortion even before the Supreme Court's historic decision, I am deeply disturbed by Justice Blackmun's recent remarks that there is a very real possibility that the Supreme Court may overturn the Roe versus Wade decision in the Court's next term. Justice Blackmun, in an address to a group of law students several days ago, spoke in broad terms about the possibility that the Court may reverse itself on this issue due to the addition of several new members on the Court since the decision was handed down. Of these three new appointees, one is decidedly against the Court's judgment in Roe. The other two may be deciding factors in any case involving this precedent. As Justice Blackmun said, a key factor in the Court's review of a case involving the right of abortion might hinge on how these newer justices view the principle of stare decisis, or settled law.

In addition to the Supreme Court, women's rights advocates should also be concerned about the judicial appointments to lower courts. These appointments are significant because the majority of cases are decided at this level and are never brought before the Supreme Court.

The Roe decision signaled the beginning of truly national controversy on the issue. The 15th anniversary of the decision took place in January of this year, yet the issue is as politically and emotionally charged as ever. One has only to look at the evening news to see the placards of antichoice and prochoice voters at every campaign event held by candidates running for President.

Many of us in this body know only too well that the abortion issue is the single most important issue to a large number of voters. And I am only too aware that the largest number of single issue voters on the abortion issue are those opposed to the Court's 1973 decision. The abortion issue has become one of the most discussed and voted upon by the Congress. Opponents of the Supreme Court's decision do not pass up too many opportunities to attach an abortion rider to bills not even remotely related to women's rights or health. Antichoice legislators have found that an effective way to delay action on bills is to use the threat of an abortion amendment to hold the legislation hostage.

Over the last 7 years, Congress has had numerous chances to review the basic premise of the Court's decision on abortion, but the Congress has barely been able to hold the line on maintaining a woman's right to abortion. One important exception is the Senate's recent vote to expand the availability of Medicaid funded abortions to victims of rape and incest. However, the House of Representatives refused to go along with the Senate position. In addition, the President threatened to veto the entire appropriations bill solely because of this Medicaid funding provision for abortions. Prochoice Senators were narrowly defeated on this issue when they attempted to stand firm on their position that a woman's right to abortion should not depend on her income.

We are now faced with the fact that the current Supreme Court is by no means assured of sustaining the decision in *Roe* versus *Wade* and with the almost certain possibility that there will be at least one vacancy on the Court that the next President will fill. This makes it critical for the Congress to redouble its efforts to maintain the gains that women have won in the area of abortion rights and continue to push for gains in other areas such as child care, parental leave and the equal rights amendment. I pledge that this Senator will do what he can to ensure that the battle for women's rights will continue until all women are able to take their equal place in society.

DEATH OF WILLIAM A. EDWARDS

Mr. SHELBY. Mr. President, I would like to note for my fellow Senators that a gentleman who was a friend to many of us, William A. Edwards, passed away on August 25. Bill will be remembered by his friends and acquaintances as an aggressive, but fair-minded, lobbyist on many of the important energy issues of the past decade.

Bill lost a tough battle with lung cancer, but not before establishing himself on Capitol Hill as an effective spokesman and representative for the electric utility industry, particularly on nuclear issues. Bill never was one to shy away from a tough fight, and his efforts on behalf of both the Seabrook and Shoreham nuclear plants were important in keeping those plants headed down the path to final licensing.

Bill Edwards was also a man who truly loved people. Beginning with his wife Linda, and their two children, Jim and Chris, Bill's circle of friends spread far and wide. From his days as a newspaper editor and political activist on Long Island, to the years he spent here in Washington, Bill was always on the lookout for ways to help others. Whether it was advice on an issue, help on a project or a tip on a job, Bill Edwards always had an idea he was willing to share.

As a Vietnam combat veteran, Bill also possessed a deep love for his country and a strong commitment to its Government. He loved working in the political arena because he believed in it, and he was fortunate enough to have talents that allowed him to be a true contributor and leader. His leadership on such legislation as the Nuclear Waste Policy Act of 1982 and the Electric Consumer Protection Act of 1986 was key in helping those bills reach the President's desk and become law.

Bill Edwards will be missed on Capitol Hill, and he will be missed by all those who knew him and worked with him. Bill's family should be proud of the contributions he made to his friends and his country, and he will be remembered as a good man who worked hard for that in which he believed.

SYRIA STRIKES AGAINST LEBANESE DEMOCRACY

Mr. HELMS. Mr. President, Syrian intervention in the current Lebanese Presidential election is a calculated effort to destroy the constitutional system of Lebanon. President Amine Gemayel's term of office under the Lebanese Constitution ends September 23. To date, Syrian dictator Hafez Assad has systematically prevented the election of a legitimate successor to President Gemayel, further proof that Assad is a threat to peace in the Middle East.

According to the Constitution, the Lebanese Parliament elects the President who must by tradition be selected from the Christian community. The Prime Minister and the Speaker of Parliament by tradition are selected from the Muslim community.

Assad first tried this August to impose his puppet, former President Suleiman Franjieh, as the sole candidate. The majority of Christian and Muslim deputies living in East Beirut in protest boycotted the Syrian-orchestrated election on August 18. The Syrian Franjieh candidacy was in direct contravention of United States diplomatic efforts in support of a free election in which a consensus candidate could be selected to maintain Lebanon's sovereign independence and democratic character.

Assad then moved to make a free and fair election process impossible by attempting to force the Lebanese Parliament to come over to Syrian controlled West Beirut to conduct the election process. Setting the election date for September 22, Assad, using the formidable resources of intimidation at his command, pressured Speaker Hussein Husseini to designate the old Parliament building in West Beirut as the election site. Obviously, Christian and moderate Moslem deputies would be de facto hostages of Syria should they cross into West Beirut rather than hold the election along the neutral green line area at the Mansour Palace, the current seat of Parliament.

Assad's newest move pushes the election date to September 22 which is just 1 day before President Gemayel's term is over. Since this date makes it next to impossible for the election to take place, Assad plans to force President Gemayel into appointing the old cabinet of Acting Prime Minister Salim El Hoss—which resigned on June 1, 1987—instead of a transition cabinet which would assume full executive powers until the election could be held.

The President, under the terms of the constitution, may appoint a transition cabinet within 10 days of the end of his term. In this circumstance, the President could appoint anyone of his choice, including a Christian, as Prime Minister. Last week, however, the Syrians had El Hoss request the reinstatement of his old cabinet.

Through these maneuvers, Assad apparently seeks to impose the acting Prime Minister—Assad's pawn—as head of an acting cabinet. Syria would then rule Lebanon through its puppet El Hoss.

Mr. President, this is an intolerable state of affairs. Assad's intervention into the Presidential election process, not to mention his brutual occupation in Lebanon, is an affront to civilized norms of international behavior. Of course, Assad seems to care little for standards of decency; he has not hesitated to massacre his own people when it suited his purpose. The world will not forget Assad's calculated and cold-blooded murder in 1980 of some 30,000 men, women, and children in the Syrian vilage of Hama. With such a genocidal record at home, what can be expected of Syrian forces in Lebanon?

ASSAD'S ISOLATION AND DECLINE IN THE ARAB WORLD

Assad's unprecedented intervention into the sovereign affairs of Lebanon is an attempt to salvage what remains of his prestige in the Arab world. Syrian intervention in Lebanon is an attempt to dominate the political process. His intervention has been one of Assad's principal cards in Arab politics.

Assad's frenzied activity in Lebanon is calculated to mask the fact that he has become increasingly isolated within the Arab world. There are a number of reasons, religious and political, for his isolation.

First, his religious affiliation sets him apart from the Muslim mainstream. Assad is a member of a tiny minority sect—the Alawite Sect—which is considered heretical by the vast majority of Muslims. His Alawite status alone is enough to prevent him from reaching a credible leadership position within the Arab world. Assad knows this very well and has tried to compensate by playing in a complex and deadly bid for power and leadership.

Second, as a result of the capitulation of Iran in the Iran-Iraq War, the prestige and leadership of Iraq and Saddam Hussein as a defender of "Arab interests" has risen to new heights. Iraq has emerged with a powerful battle-hardened military whose prestige is high.

Assad is, therefore, deeply concerned because he knows that Saddam Hussein's star in Iraq is rising and that Baghdad's weight in the Arab world is increasing. The consequence is a decrease of the influence of Assad and Damascus. Furthermore, the political competition between the Syrian branch of the Baath Party with the Iraqi branch of the Baath Party for primacy and the more ancient traditional rivalry between Baghdad and Damascus for dominance in the Mesopotamian basin further complicate the situation for Assad.

KING HUSSEIN CREATES NEW SITUATION

King Hussein of Jordan, by removing Jordanian involvement in the West Bank and Palestinian issue in his declaration of July 31, of this year, has created a new situation in the Middle East.

Jordan has been involved in the West Bank area since 1948. The November 1947 U.N. partition resolution recommended the partition of Palestine into Jewish and Arab States. This was, however, a nonbinding recommendation of the General Assembly. The following year, Britain unilaterally withdrew from its mandate thereby abdicating its responsibilities and obligations of trusteeship. On May 14, 1948, Israel declared independence.

At this point, the Arab Legion under the orders of Jordan's King Abdullah—the grandfather of today's King Hussein—invaded the West Bank and later annexed it to Jordan. The Arab Legion, under British officers, was composed of nomadic Bedouins who were loyal to King Abdullah. Through the influence of the British Foreign Office, King Abdullah had been created Emir of the Trans-Jordan in 1921 by the British Crown. His family was originally from the Hejaz region which is today part of Saudi Arabia. The Trans-Jordan territory was separated from the Palestine mandate area in 1922. Except for Great Britain, no nation has ever recognized Jordan's illegal seizure of the West Bank in 1948.

Today, King Hussein has created the conditions for a diplomatic and political revolution in the region. The Jordanian withdrawal from the West Bank has placed the present status of the West Bank back to its status in 1947-48, prior to the invasion of the Arab Legion.

While the King's decision was inevitable, the timing was opportune as it followed the radicalization of Palestinian opinion on the West Bank over the last several months. Of course, the option remains for King Hussein to reassert his influence over the West Bank unless Israel precludes this by annexing the West Bank.

By washing his hands of the West Bank and Palestinian issue at this time, King Hussein has adroitly separated himself from repeated United States State Department requests and pressures to negotiate with Israel on behalf of the Palestinians. It is not surprising that the King has also chosen to shift his military purchases to Great Britain to further distance himself from Washington. The King calculated that his rule should not be impaired by the State Department's diplomatic fantasies.

King Hussein's action has led to increased isolation of Hafez Assad and to his decline in importance as a factor in Arab politics. The reason for his decline is simple. King Hussein has left the Palestinians on their own to negotiate with Israel. Israel, to date, has refrained from directly annexing the West Bank. The Palestinians must now propose a legitimate body which can negotiate directly with Israel. This task is complex considering the tortured pathways of intra-Palestinian politics and factional struggle.

Assad—who has harbored in Syria the most virulent terrorist groups such as Abu Nidal, Al Saiga, and the Habbash organization—has posed as the patron of the most militant rejectionist front in order to posture himself at the forefront of the "Arab struggle" against Israel. Assad, of course, has never wanted to directly confront Israel militarily for fear of another defeat by Israel. Now that the Palestinians have been left to themselves, at least for the time being, to choose their own competent authority to negotiate, Assad's role as a protector of the militant rejectionists is irrelevant.

Simply put, Assad can no longer pose as the primary spokesman for and protector of Palestinians. With Jordan out of the picture, the Palestinians must now fend for themselves. Most experts believe that Assad is terrified by the prospect of a Palestinian body emerging to negotiate directly with Israel. He does not want peace to be made excluding Syria while Israel occupies the Golan Heights. With such a peace, Assad will not only further lose face in the Arab world but also will find his internal political situation more tenuous owing to internal Syrian irredentist emotional pressures for the return of the Golan Heights.

I believe that Assad is also afraid that a competent Palestinian body could emerge as the sole representative of the Palestinian people, an entity which could negotiate for the establishment of a Palestinian state. If such a state were to emerge, there are of course many forms it could assume—it could be demilitarized, it could be linked to Israel in some type of confederation with Jerusalem as a joint capital—but this is a matter for Palestinians and Israelis, not Assad nor anyone else, for that matter, to work out.

ASSAD THREATENS LEBANESE DEMOCRACY

Mr. President, Assad's transparent claim that he "confronted Israel" bears little comparison to Sadam Hussein's 8-year record of war against Iran. Because the Palestinians are currently free to act for themselves, Syria's dictator is desperate to play for high stakes in Lebanon.

Mr. President, we must never forget that Assad's rule in Syria is based upon a Soviet-supported minority Alawite dictatorship over the majority Sunni population. In fact, Assad's Alawites make up only 10 percent of the population of Syria. Such a disproportionate situation cannot last forever and Assad is the first one to recognize this fact. For this reason, Assad promotes the doctrine of Greater Syria—a program for hegemonic expansion in the region.

The first target of this program is the destruction of Lebanese democracy. Assad has created a brutal dictatorship; he does not want the example of a flourishing democracy in Lebanon for the simple reason that Syrians themselves would be moved by that example to increase their demands for democracy at home.

Mr. President, Assad's intervention in Lebanese politics can never lead to democracy or to peace in Lebanon. Assad's strategy is transparent; he wants to keep Lebanon in turmoil and to install a puppet President in Lebanon. With a puppet Lebanese President, Assad could not only have his occupation legitimized—in the fashion of Najibullah in Afghanistan—but he could also spread his troops throughout the entire country to assume total control over Lebanon. This would set the stage for an outright Syrian annexation of Lebanon.

Mr. President, the United States should make it perfectly clear to Assad that he must stop undermining the self-determination of the Lebanese, the Israelis, and the Palestinians of the West Bank and Gaza.

The situation that the Lebanese nation faces today is grave indeed. The Lebanese nation has every right to sovereignty and independence. The Lebanese nation has every right to decide upon its next President without interference from any foreign power. The Lebanese people have every right to be free from the brutal occupation of Assad's Syrian dictatorship so that they can work together to determine their own future for themselves.

TRANSITION IN CHILE

Mr. BOND. Mr. President, today an important conference is being held on Capitol Hill. The conference—sponsored by the Heritage Foundation, the Adolfo Ibanez Foundation, and the Sociedad de Famento Fabril—is entitled "The Unknown Revolution: Chile's Transition to Democracy." Members of Congress, academics, and other experts both from the United States and Chile, gathered to look at the events that are now taking place in Chile as that country prepares for its October 5 plebiscite. I had the pleasure of addressing the participants of that conference this morning and I would like to share my remarks with my colleagues because I think it is important that we all be aware of what is taking place in Chile. I ask unanimous consent that my remarks be entered in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

CHILE IN TRANSITION

It is a pleasure to be here today to open this important meeting. I would like to commend our hosts—The Heritage Foundation; the Adolfo Ibanez Foundation; y La Sociedad de Famento Fabril of Chile—for sponsoring today's conference; and I would like to thank you for inviting me to speak.

Events in Chile are moving at a rapid pace. On an almost daily basis we are hearing reports of significant developments in Chile as the people of that country prepare for the October Fifth Plebiscite.

Forums such as this one, in which scholars, government officials and other experts sit down to examine, we trust with cool heads and open minds, the events that are taking place in Chile will—I hope—play an important role in the development of future U.S. policy toward Chile. I look forward to the opportunity to hear your thoughts and ideas, and share them with my colleagues in future debates regarding Chile and Latin America.

Chile has made tremendous progress in the years since the end of the communist rule of Salvador Allende:

Its economy is one of the strongest in Latin America. Under the leadership of the "Chicago Boys", Chileans have seen the reversal of Allende's nationalization of major industries. Moreover, they have seen their economy grow at a healthy rate—more than 5 percent annually in recent years.

One of the most important factors in Chile's economic success has been the concentration on exports. Copper, of course, has always been an important export, but in recent years the Chileans have diversified into lumber and paper products, and fruits and vegetables—and the nation's salmon industry is a tremendous export success story. Developing nations throughout the world can learn much by studying Chile's recent experiences.

Paying off its external debt has been a priority in Chile. An innovative foreign investment law has played a major role in this effort. That law, when combined with success in exporting, and pro-growth economic policies has put Chile in the unique position of being able to service and, we can hope, someday pay off its foreign debt. When you consider Chile's Latin American neighbors as well as other third world countries—it is clear that Chileans can be proud of their economic accomplishments.

In recent years, Chile also has made progress in addressing social problems—housing, education and health.

According to government figures, more than half of the government's annual budget goes to special programs. For example, the government has begun an ambitious low-income housing program under which more than 900,000 units have been constructed.

In addition, daycare is available for low-income families. The centers, staffed by unemployed persons and volunteers, not only provide care, but also nutritious meals and, in some cases, shoes and clothing to children who would not otherwise have them.

In one of the programs that I personally find impressive, Chile recently instituted a program of private social security under which workers establish a personal account into which he and his employer make contributions and over which he has some control. I hope that leaders in this country will study this program for ideas that could be instituted here.

These are great successes for a country such as Chile; and I have no doubt that other nations will seek to duplicate them. Of course, the government in Santiago must continue to build on these programs in the continuing effort to deal with poverty. The progress that has already been made, however, is heartening.

In the area of civil liberties, the government continues to make progress. Unlike many nations throughout the world, Chileans have the right freely to practice their religion and to read the opposition press. The government has allowed exiles to return home and has lifted the emergency laws which were in existence. Certainly the government can make further progress in this area as it continues to follow through on its commitment to democracy, however, we must not ignore the steps that already have been taken.

Finally, there is the event which makes this meeting so timely—the October Fifth plebiscite. Next month, for the first time in 15 years, Chileans will have some say in who will lead their country. I know that there is no one here today who would not prefer to see open elections held next month, and who does not hope such elections will be held in the future. We in the United States treasure democracy, and we want to see all people throughout the world share in its benefits.

It would be a mistake, however, to let our desire for a faster timetable for the move to total democracy, or our disagreement with specific government tempt us to leaders, push Chile to the point where it becomes destabilized and thus vulnerable to Soviet subterfuge and communist terrorist violence.

It is our duty to speak out when we see wrong, and we should continue to do so. But we must do so in a positive way.

Chile has a long democratic tradition. The people of Chile, like the people of the United States, love freedom and oppose tyranny. As Chile enters this important phase in her transition back to democracy, we in the United States must find ways to be supportive and to provide advice and criticism in a constructive manner. Today's discussions are an important step in this process. I hope they will lead to a more balanced and reasoned debate in this country. I commend the sponsors for convening them, and I will end my remarks here so that we can get underway.

BICENTENNIAL MINUTE

SEPTEMBER 17, 1976: MIKE MANSFIELD SETS A RECORD

Mr. DOLE. Mr. President, 12 years ago tomorrow, on September 17, 1976, Senate Majority Leader Mike Mansfield requested the Senate's permission to be absent for the few remaining days of the 94th Congress. In taking his leave, Mike Mansfield concluded 16 years as Senate majority leader—the longest tenure in that position in the Senate's history. Earlier that year, Senator Mansfield had announced he would not seek reelection, concluding: "There is a time to stay and a time to go. Thirty-four years is not a long time but it is time enough."

Mike Mansfield was born in New York City on March 16, 1903. When his mother died, he was sent west to live with relatives. Growing up in Montana, young Mike suffered from wanderlust. Dropping out of school, he ran off to join the Navy during the First World War. After the Navy he joined the Army, and after the Army he joined the Marines, seeing service in the North Atlantic, the Philippines, and China. He returned to Montana and with the aid of his wife, Maureen, he went back to school, eventually becoming a professor of Asian history at Montana State University.

In 1942, he was elected to the U.S. House of Representatives, and in 1952 to the U.S. Senate. Lean, lanky, and laconic, Mike Mansfield earned the trust and respect of his colleagues on both sides of the aisle. Perhaps his closest friendship in the Senate was with Vermont Republican Senator George Aiken, with whom he had breakfast every morning that the Senate was in session.

When Lyndon Johnson became Vice President in 1961, Mike Mansfield was elected majority leader. He held that post through the Kennedy, Johnson, Nixon, and Ford administrations, through the avalanche of Great Society legislation, the turmoil of the Vietnam war, and the trauma of Watergate. Later President Carter appointed him Ambassador to Japan, and President Reagan has kept him there as well, another measure of the bipartisan respect and admiration with which we hold him.

CONGRATULATIONS TO THE WINNING CREW OF THE "STARS AND STRIPES"

Mr. DODD. Mr. President, I would like to take this opportunity to say a few words of congratulations to the people who were involved in the successful defense of the most prestigious of boating titles, the America's Cup. We have witnessed two of the most spectacular races in the history of the cup, and it was only through the cooperation of a large number of brave and talented individuals that victories of such magnitude could be attained.

Our heartiest praise is due to Dennis Conner, skipper of the *Stars and Stripes*. This year marks the third time Mr. Conner has led an American team to triumph in this long-running challenge. His skillful leadership of the crew helped them sail to winning margins of more than 18 minutes in the first race, and more than 21 minutes in the second.

This year's challenge was marked by the introduction of a form of boating technology new to the America's Cup. The innovative catamaran design with its solid wing-sail allowed the *Stars and Stripes* to reach speeds of more than 20 knots in the course of the race.

I am proud to say that many of those who had roles in the victory of the *Stars and Stripes* come from the State of Connecticut.

Anthony DiMauro can safely be called the grandfather of wing-sail technology. Twenty years ago Tony, a native of the city of Norwalk, realized that solid sails could enhance the performance of the basic catamaran design. He has worked tirelessly to perfect this design, and last week he saw the fruits of his labor.

Teaming with Tony over the years of development of the wing-sailed catamaran was David Hubbard of Stamford. Hubbard later joined with Duncan MacLane of Shelton, Brittain Chance of Essex, and Bernard Nivelt of Mystic to design the *Stars and Stripes*. Overseeing construction of the solid sails used in the final design were Terry Richards and Pieter den Hartog, both Norwalk residents.

Five engineers from Sikorsky Aircraft of Stratford worked as consultants for Sail America. George Schneider of Stratford, Alan Dobyns of Milford, Dennis McCarthy of Hamden, Wiliam Beck of Milford and William Dickerson of Branford spent 3 months testing and fine-tuning the hull and mast design of four preliminary models.

Richard McCurdy, a resident of Darien and vice president of Ockham Instruments of Stratford, designed the computers for *Stars and Stripes*, as he has for every U.S. boat in America's Cup competitions since 1964.

Several Connecticut natives served on the crew of the *Stars and Stripes* as well. Peter Isler, who was raised in Norwalk, was navigator on the boat, and Thomas Whidden of Essex was the boat's tactician. These two men served with Dennis Conner when the cup was wrested away from Australia. They were joined by Duncan MacLane and by Louis "Skip" Banks of Norwalk, who, together with Pieter den Hartog, had sailed to triumph in the preliminary trials to select the American entrant. Their experience with solid wing-sailed catamarans made them invaluable to Conner's team.

From the *Turtle*, a submarine designed by David Bushnell in 1776, to the great wooden whaling vessels of the 19th century, to the *Nautilus* which sailed under the North Pole in 1958, tremendous advances in maritime design have sprung from the creativity of Connecticut residents. The fact that the America's Cup has remained in the possession of American teams for virtually all of its 137-year history testifies that our entire Nation continues to maintain a distinguished maritime tradition.

Mr. President, I am proud to see that so many of those responsible for our Nation's latest sailing triumph come from Connecticut, and I am proud today to be able to honor them, and indeed to honor everyone involved in the magnificent victory of the *Stars and Stripes*.

CONGRESSIONAL PAY ACCOUNTABILITY AMENDMENT

Mr. PRESSLER. Mr. President, it is my intention to offer to S. 837, the Minimum Wage bill, an amendment to prohibit back-door congressional pay raises. This amendment provides that, before Members of Congress may receive a pay raise, Congress must pass, by recorded vote, a joint resolution of approval. The joint resolution shall relate only to the issue of a congressional pay raise.

The way the system works now, it is easier for Members of Congress to receive a pay raise than to reject one. However, to increase the Federal minimum wage, legislation must be passed and signed into law. We need reform. I find it ironic that Congress requires a vote to raise low-income workers' pay by 40 cents per hour when Members of Congress can give themselves a $12,000 increase without a vote.

The working people of America deserve accountability. This is not an argument over the amount of congressional pay raises, but on the manner in which we allow them to be passed. Let's apply the same rules to ourselves that apply to other Americans. If a vote is required to increase the Federal minimum wage, it also should be required to increase our salaries.

Personally, I always have opposed every pay raise offered. But, if others think a congressional pay raise is needed, then the question should stand alone. We should be ashamed of the manner in which we've allowed congressional pay raises to be passed. This double standard has to stop. No vote, no raise. It is as simple as that.

Mr. President, I ask unanimous consent that a copy of my amendment and "Dear Colleague" letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

At the end of the bill, add the following new section:

SEC. 5. PAY OF MEMBERS OF CONGRESS.

(a) SHORT TITLE.—This section may be cited as the "Congressional Pay Accountability Act of 1988".

(b) CONGRESSIONAL VOTE ON PRESIDENTIAL RECOMMENDATIONS TO INCREASE CONGRESSIONAL RATES OF PAY.—Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF PRESIDENTIAL RECOMMENDATIONS; CONGRESSIONAL VOTE ON INCREASES IN CONGRESSIONAL RATES OF PAY.—(1)(A) Except for the recommendations relating to Members of Congress (which shall be subject to the provisions of paragraph (2)), the recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in subparagraph (B) of this paragraph, unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date on which such recommendations are transmitted to the Congress.

"(B) The effective date of the rate or rates of pay which take effect for an office or position under subparagraph (A) of this paragraph shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in such paragraph.

"(2)(A) The recommendations of the President relating to the rates of pay of Members of Congress which are transmitted to the Congress under subsection (h) of this section shall become effective only after the enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of such recommendation to increase the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) For purposes of this paragraph the term "Members of Congress" includes all positions described under section 225(f)(A), except for the Vice President of the United States.".

(c) CONGRESSIONAL VOTE TO INCREASE CONGRESSIONAL RATES OF PAY WITH INCREASES IN THE GENERAL SCHEDULE.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Any increase in the rates of pay of Members of Congress which corresponds to an increase in the rates of pay in the General Schedule under section 5305 of title 5, United States Code, in any fiscal year shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of the increase in the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) If a joint resolution is enacted as provided under subparagraphs (A) and (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which such joint resolution is enacted, each annual rate of pay of Members of Congress shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under section 5305) of the adjustment in the rates of pay under the General Schedule.".

(d) CONGRESSIONAL VOTE ON ANY INCREASE IN THE RATES OF PAY OF MEMBERS OF CONGRESS.—(1) Notwithstanding any other provision of law, any increase in the rates of pay of Members of Congress shall become effective only after the enactment of a joint resolution as provided in subsection (b).

(2) The joint resolution described under subsection (a) shall—

(A) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(B) be recorded to reflect the vote of each Member of Congress thereon.

U.S. SENATE,
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION,
Washington, DC, September 15, 1988.

DEAR COLLEAGUE: On August 4, 1988, I introduced the Congressional Pay Accountability Act (S. 2682). This Act would prohibit back-door pay raises for Members of Congress. I plan to offer this bill as an amendment to S. 837, the Minimum Wage Restoration Act. Enclosed is a copy of my amendment.

The way the system works now, it is easier for Members of Congress to receive a pay raise than to reject one. I find it ironic that Congress requires a vote to raise some low-income workers' pay by forty cents when Members of Congress can give themselves a $12,000 increase without a vote. We need reform.

My amendment is very simple. It provides that before Members of Congress may receive a pay raise, Congress must pass, by recorded vote, a joint resolution of approval. The joint resolution shall relate only to the issue of a congressional pay raise.

The working people of America deserve accountability. This is not an argument over the amount of congressional pay raises, but on the manner in which we allow them to be passed. Let's apply the same rules to ourselves that we apply to other Americans. If a vote is required to increase the Federal minimum wage, it also should be required to increase our salaries. If you have any questions or are interested in cosponsoring the Congressional Pay Accountablity Amendment, please have your staff call Shelly Haahr at 4-5842.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** Morning business is closed.

MINIMUM WAGE RESTORATION ACT

The **PRESIDING OFFICER.** Under the previous order, the Senate will now resume consideration of the pending business, S. 837, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Hatch Amendment No. 3040, to provide for a new hire wage.

(2) Kennedy Amendment No. 3041 (to Amendment No. 3040), of a perfecting nature.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the qourum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

AMENDMENT NO. 3041 TO AMENDMENT NO. 3040

Mr. KENNEDY. Mr. President, the working poor of this country have been waiting 8 years for a cost-of-living increase. It is appropriate that on this, the 50th anniversary of the Fair Labor Standards Act, Congress is moving forward to restore the vitality of the minimum wage.

For 50 years, we have had a national policy that the minimum wage should be a living wage. Six times Congress has revisited the issue, and six times Congress has reaffirmed this important public policy of decent minimum pay standards for America's workers.

The current minimum wage has fallen to the lowest real value in this 50-year period. Today's minimum of $3.35 represents only 36 percent of the average hourly earnings. Historically, the minimum has been maintained at a figure of one-half the hourly earnings, and congressional action to restore the minimum wage is long overdue.

Our committee bill, S. 837, will raise the minimum wage by 40 cent increments each of the next 3 years. This will increase the minimum to $3.75 in 1989, $4.15 in 1990, and $4.55 in 1991, a 35.8 percent increase. It also adjusts the retail small business threshold test from the current $362,000 to $500,000 in annual gross volume of sales, a 37.9 percent increase.

The minimum wage was last raised in January 1981. The intervening years since then represent the longest spell without an increase since the wage floor was established in 1938. By any measure of its value, the current minimum provides less protection, less food, less clothing, less fuel for the minimum wage earner than it has in decades. It is a sad statement that a person who works full time year-round at the minimum wage will only bring a family of three to less than 80 percent of the poverty line. The current minimum wage is a poverty wage.

If an individual works a 40-hour week at the minimum wage, he will receive $134 before taxes and social security are deducted. No one who works 8 hours a day, 5 days a week should be condemned to a lifetime of poverty. How many of us in this Chamber think we could live on $134 a week?

In 1986 more than 5 million workers paid by the hour earned the minimum wage or less. Another 1.7 million salaried workers earned less than the minimum. An additional 11.5 million hourly and salaried workers earned between $3.35 and $4.50. Some 15 million Americans will benefit directly from this bill.

A minimum wage increase to $4.55 will have a wide range of beneficial consequences. It will provide a cash infusion to millions of workers without expanding Federal outlays. It will represent a statement by our society that compensation for work done should meet a certain basic living standard. The minimum wage floor was created in 1938 to provide minimally acceptable living conditions, but it has deteriorated to a point where it no longer serves its purpose. Those workers with no political clout, no union, no bargaining position are reliant upon Congress and society to provide them with a decent and livable wage.

The increased minimum wage can also provide incentives and the wherewithal for workers to accept jobs they might otherwise have to turn down because the job-related costs of transportation, day care, and taxes outweigh earnings of a current minimum wage job. A livable wage will also make work a more attractive option for those who might choose welfare assistance over employment out of necessity.

Raising the minimum wage to a sufficient level will lift many individuals out of poverty and diminish its severity for many others. It will help workers who are near-poor. It will enable earners in families just above the poverty line to provide more than just the bare necessities. In 1986 there were almost 9 million working poor in the United States, 2 million of whom worked full time year round.

Nonpoverty workers at the minimum wage will also benefit. For example, teens and young adults attempting to meet college expenses have witnessed a 73-percent increase in private college tuition and a 61-percent increase in public college tuition since the minimum was last adjusted in 1981. Seventy percent of middle-income students depend on their earnings for college expenses, and since 1981, students have had to increase their borrowing by over 40 percent.

I was pleased to hear recently that Vice President BUSH is now in favor of an increase in the minimum wage. I only wish that he had spoken up sooner. Perhaps, if he had, we would already have passed this bill. I must say that his silence has been deafening during the debate on this bill.

Shortly after his election in 1980, President Reagan said that the minimum wage "has caused more misery and unemployment than anything since the Great Depression." But the Vice President was silent.

In March 1987, when the President's Economic Policy Council unanimously voted to oppose any increase in the current minimum wage, the Vice President was silent.

When then Secretary of Labor Brock testified before the Labor Committee and said, "Make no mistake: This administration believes that an increase in the minimum wage is bad policy and we oppose it," the Vice President was silent.

In May of this year when the Chairman of the White House Council of Economic Advisers declared that "the best policy remains no increase" in the minimum wage, the Vice President was again silent.

Now, in an obvious election year concession, the Vice President and the Secretary of Labor support a "modest" increase in the wage. I think that the 15 million Americans who have been waiting for nearly a decade for a simple cost-of-living increase have every right to ask where GEORGE has been while his administration has fought tooth and claw to keep their wages down.

But we are still waiting to hear what kind of an increase they will propose. Senator QUAYLE filed an amendment during committee consideration to increase the wage to $4 over 2 years. That is not a serious proposal. If we are to take action to amend the wage, we must make it a livable wage. Let us be crystal clear about the difference between a $4 minimum and what we propose. The difference is about 50 cents an hour; $4 a day. That $4 a day is the difference between a subpoverty wage and a wage that will pull a family of three out of poverty, $4 a day for the working poor so that they do not have to be poor.

It is one thing to be silent for 8 years on the working poor; but I think it is outrageous that at this late date when the Vice President has finally chosen to speak up, he comes out in favor of a subpoverty wage.

GEORGE BUSH and DAN QUAYLE say that they favor an increase in the minimum wage, but $4 an hour is only $3.07 an hour in 1981 dollars—so here is the Vice President's proposal: His proposal would be a cut in the minimum wage of 10 percent from where it was when he took office. And from that miserly floor, he proposes a further cut for all new hires. This is the strangest election year promise I have ever seen. The promise to raise the wage has already been broken because the proposed increase is in fact two cuts. There are surely overpaid lobbyists all over town giggling in the recesses of their offices about the Trojan horse that the Republicans have dispatched to the homes of America's working poor. Well, it will not work—in the course of this debate, we are going to smoke the wolves out and show them for what they are—or else we are going to get a reasonable agreement to restore the minimum wage.

The sponsors of the Minimum Wage Restoration Act, myself included, have already made substantial concessions. To go any lower would fall too far short of our original intent to restore the purchasing power of the working poor to where it was in 1981. We dropped the indexing provision in committee, but we have settled on a phased increase that will at least bring the minimum wage to 45.9 percent of the average hourly earnings by 1991.

To be credible, an increase in the minimum wage must be a substantial increase, not a token increase. In fact, a recent Gallup poll shows that 67 percent of Republicans favor an increase to $5.05 an hour, even after being informed of the traditional arguments against an increase—67 percent.

Our committee considered this issue exhaustively during three comprehensive hearings. Witnesses from the administration were vehemently opposed to any increase. We heard from groups and economists opposed to an increase and groups and economists strongly in favor of an increase. Our committee was deluged with statistical data, numbers, graphs, studies, and computer printouts. But the most telling testimony came from witnesses who work at the minimum wage.

We heard from Shirley and John Slagle, of Kittaning, PA. They support themselves and their young asthmatic son by each working 40 hours a week at the minimum wage. They earn $672 a month and after they pay their bills they are left with $82.

We heard from Rena Blankenship, of Newcastle, VA, who was trying to raise her three children by holding down a minimum wage manufacturing job. It became too much for her and she turned to welfare and food stamps. It was a heart wrenching story told by a proud woman who struggles every day to hold her head high. She would rather work than live on welfare, and we owe her that chance. We must be able to look past the charts and figures and see the people—millions of individual Americans who perform the Nation's most thankless tasks, for the most thankless pay. We have ignored their plight for 8 years—and now it is time to make amends.

Now I ask that the Members and all those listening turn their attention to the pending amendments. Senator

HATCH's amendment is pending in the first degree, and my amendment is in the second degree.

Mr. President, we have before us an odd animal not traveling under its real name. The first degree amendment before us has been called by its sponsors the "training wage." They call it that because they say that it will lead employers to hire people and train them for 90 days and then hire them on at the full wage. I am going to examine that theory and see if it works.

The first thing I notice about this training wage is that it does not require employers to do any training of employees. A training wage without training. Already the label that the amendment's proponents have put on this package is beginning to slip off of the box.

The second thing that becomes apparent when we look at this proposal is even worse—not only does the amendment not require any training, the jobs that are covered by the amendment do not require any training either. The top 10 minimum wage jobs, which account for 74 percent of all minimum wage jobs, include food service, retail sales, clericals, janitors, personal service, material handlers, and laborers. Food service jobs alone account for 28 percent of the jobs paying the minimum wage. A study by Arthur D. Little for the National Restaurant Association found that the vast majority of food service workers do not require any training at all. The same study found that in the following occupations 75 percent of the workers require not even a day of training: Household cleaners and workers; service station workers; sales counter clerks; farm workers, and others.

Now I want to know: Who in this body honestly believes that it takes 90 days to train somebody to flip a hamburger? Who in this body honestly believes that it takes 3 months for someone to learn to mop a floor or change the sheets on a bed? No one honestly believes that. Senator HATCH, before he became a Senator, worked for a time as a janitor—does anyone really think that it took Senator HATCH 3 months to learn to sweep the floor? Of course not, and that is why this amendment should be rejected now that it has come to the floor of the U.S. Senate.

These jobs require at most a couple days of training, but the proposal to cut the wage of these workers chisels their wages for 90 days.

The amendment cannot be called a training wage because neither the amendment nor the jobs it covers require any serious training. The amendment will not cause any training to happen, so in searching for a name for this proposal, let us ask what it will do.

The first thing it will do is save millions of dollars for low-wage employers with high employee turnover. There are hundreds of low wage employers with 400 percent turnover rates. That means that on average these employers already get rid of their employees every 90 days. So this amendment is a pure and simple wage cut for those employers. This amendment is not a training wage for those employers—it is a windfall wage. They will get to pay lower wages for doing exactly what they do now.

But that is not the only surprise hidden in this proposal. The real surprise will come when other employers will see to it that their employees leave after the training period expires. The advocates of the amendment say that their plan will give employers an incentive to hire these workers because they can pay them less—but the incentive to keep paying less does not go away at the end of 90 days. When trainees come to the 90-day cliff, employers will have a powerful economic incentive to push that batch of trainees off and start in with a new batch of trainees. Working people all over this country will get the Bush-push into the unemployment lines once every 90 days if the Republican plan is adopted.

What a gift. What an outstanding act of generosity from the Republican alternative. Can this be what GEORGE BUSH means when he talks about a kinder, gentler America? I think we have come to the point where the false labels have come off of the Republican package, and now that we see what is really inside that box we can name it—this is the "hire 'em and fire 'em" wage. Maybe we can call it the "churn 'em and burn 'em" wage—I will let the amendment's sponsors choose. But it is a fraud on the working people of this country to call this a training wage.

The effects of the turnover that this wage will encourage and subsidize will be felt all across this country. Consider the effect it will have in nursing homes. Already, nurse aides in California have a 100 percent turnover rate which has reduced the quality of care that the elderly receive. This amendment would richly reward employers for making this even worse.

And consider the effect on workers. Already, millions of minimum wage workers are struggling to make ends meet working full-time, year long at their jobs. If this amendment became law, employers would be rewarded for throwing the working poor out of their jobs every 90 days.

I am talking about parents with children to feed and rent to pay. It is offensive enough that this proposal would cut the pay of all of these workers. It would be an outrage to adopt a plan that actually paid employers to throw working families out on the street once every 90 days. The working poor would become the wandering poor as well, struggling from job to job, as they received a Bush-push out of their jobs every 3 months. The Bush-push will turn America's working people into vagabonds and gypsies, thrown from job to job every three months. This Bush proposal adds new meaning to the term seasonal unemployment—now people lose their jobs every time the seasons change.

In addition to making gypsies out of those working at the minimum wage, the Republican alternative will create a strong incentive for employers to pay students to drop out by offering them money for leaving school. The amendment's sponsors say that this proposal is designed to create jobs that do not now exist for kids who do not now have them. But where are those kids now? Most of them are in school, and that is where they belong. There are kids all over this country who are completing their educations because the best offer they have comes from finishing school. Every student who drops out of school because of the Republican plan will lose hundreds of thousands of dollars in a lifetime just so we can save employers a few dimes an hour. That tradeoff is totally unacceptable. Every class of high school dropouts costs this Nation hundreds of billions of dollars. Every class of high school dropouts costs the Treasury tens of billions of dollars in lost revenue. At a time like this, when this Nation is already desperately short of the trained workers, we need to compete with the world, a plan that by design and effect will pay people to drop out of school should be overwhelmingly rejected.

This question has already been debated. Senator HATCH had the opportunity to debate the last great mayor of Chicago, Harold Washington, on this very issue. The mayor also served the city of Chicago as a Member of Congress and knew quite a bit about the workings of the inner city.

When Senator HATCH explained that a wage differential would create jobs for ghetto youth and enable them to become productive members of society Mayor Washington replied:

> It is criminal to hold out to unemployed youth across this country—particularly in the inner cities where jobs are wanted so drastically—to hold out that there is a possibility through some technical contrivance such as this that jobs will be created . . . I know of no cogent credible study which indicates that by a subminimum wage you will create jobs.

There we have our debate and its resolution. The "hire 'em and fire 'em" wage will cause unemployment for the working poor; it will cause lower wages for working people; it will cause students to drop out of school. It is not often that we see such a highly touted idea that is such an utter failure as a matter of policy. It is even less frequent that we see a proposal with as misleading a label as this one had when it began. It just goes to show that you cannot judge a Bush by its cover.

Mr. President, I have spoken at some length and in detail on the variety of reasons why an across-the-board subminimum wage would be subminimum public policy. Let me now describe my proposal. It is the pending second degree amendment to the "hire 'em and fire 'em" wage.

Current law already contains a youth differential for full time students. If the concern is really for our youth, then let us not create an incentive for employers to entice kids out of school with the promise of a job at subminimum wage learning subminimum skills and preparing them for a subminimum life.

If this body wants to do something to help the earning prospects of our Nation's youth, we have to encourage them to stay in school—not to drop out.

Current law has such a subminimum program already in place. Section 14(b) of the FLSA provides that employers may hire students at 85 percent of $3.35—$2.85 an hour—by filling out a simple form and mailing it to the Department of Labor. The bill before the Senate does not alter that program, so employers could continue to hire full-time students at 85 percent of $3.75 in the first year ($3.19); 85 percent of $4.15 in the second year ($3.52); and 85 percent of $4.55 in the third year ($3.87).

But the program requires the youth remain in school as full-time students, and limits their hours per week to 20.

Why restrict this program to those remaining in school?

Because it is only by staying in school, and graduating from high school, will our youth gain the education and skills they need to compete in the work force in the 21st century and to make America competitive in the coming century. A male who graduates from high school will earn over $260,000 more than if he drops out, in 1981 dollars, according to a 1983 Census Bureau study. In today's dollars that would be $325,000.

The cost of dropouts to our society is staggering. James Catterall of UCLA estimated the total earnings loss to society for a single year's class of dropouts was $228 billion, with a loss of tax revenue of $68.4 billion. Per year.

The Committee for Economic Development found in a 1986 study on "Children in Need: Investment Strategies for the Educationally Disadvantaged" concluded the cost was over $240 billion in lost wages and tax revenue alone.

Why limit the hours of work permitted to 20 hours a week, except of course for vacations?

Because study after study has demonstrated that when high school students work more than 20 hours a week, their grades suffer significantly. In a recent study at George Washington University entitled "Intense Employment While in High School," the authors concluded that even among collegebound students, "Mean grade point average was found to be significantly lower among those who were employed more than 20 hours per week compared to those working fewer hours."

So what do we do to best equip our youth for the work force and careers of tomorrow? One thing we do not do is to give employers a wage incentive to lure them from school to flip burgers, or an incentive to work cheaper wage youth long hours to the detriment of their real job—completing their education.

That is what the across-the-board subminimum would accomplish. I call it the Republican dropout wage.

If this body is convinced something needs to be done, then let us expand the existing subminimum program for full-time students and make it easier for employers to participate, yet protecting our youth at the same time.

My amendment will expand, simplify, and streamline this viable program in three significant ways:

The current law limits the program to six students per employer, and has a complicated hours-of-work limitation formula.

What I propose we do is:

First, double the number of students an employer can hire from 6 to 12;

Second, eliminate the confusing limitation on hours formula which confuses many employers and only require they not fill more than 10 percent of working hours with student workers. Teenagers are 9 percent of the work force: This provision gives them their fair share of the work; and

Third, make clear in the statute that an employer does not have to wait for DOL approval before hiring at the lower wage in accordance with the statute.

All an employer would have to do would be to send to DOL a listing of the name, address, and type of business, the date he began business, and a statement that the hiring of the full-time students will not reduce the full-time employment of other employees. Once the employer drops that in the mailbox, he or she can begin hiring at the lower rate.

This will simplify and expand a program which in the past, employers have utilized extensively. In 1978, over 500,000 full-time students were employed under this program.

But our youth can only participate in this program if they stay in school, and work no more than 20 hours a week.

Keeping our youth in school, and to the extent feasible ensuring that their full time job is finishing, is a far sounder approach to youth employment policy than creating a subminimum dropout wage.

I hope my colleagues see the wisdom of the Democratic stay-in-school wage as a much more acceptable policy than the Republican dropout wage. The last thing this country needs as we head into the next century of global competition is to give our students a Bush-push out of school.

Mr. President, I yield the floor.

The **PRESIDING OFFICER.** The Senator from South Carolina.

Mr. **THURMOND.** Mr. President, S. 837, the Minimum Wage Restoration Act of 1987, would amend the Fair Labor Standards Act of 1938 to increase to unreasonable levels the minimum wage paid to persons working under hourly pay scales. The supporters of this measure assert that its purpose is to help our country's working poor support their families. However, the evidence simply does not support the allegation that a sizable increase in the minimum wage rate would significantly benefit the most disadvantaged workers in our Nation.

In practice, this legislation will not enable a large population of working poor to support their families, because there is not a large segment of our citizenry that is composed of minimum wage earners who are heads of households. According to the U.S. Department of Labor, just 1 percent of all American workers earning minimum wage are below the poverty threshold. Seventy percent of workers earning the minimum wage reside in a family in which the income is at least 150 percent above the poverty threshold. Furthermore, nearly half of the heads of impoverished households in the United States are not in the labor force.

Historically, studies have shown that increasing the minimum wage rate has had no impact on poverty and has only slightly increased or even decreased the equality of income distribution. In analyzing over 20 studies conducted by economists since 1983, the General Accounting Office has noted that these surveys reveal that employment is less than it would be if there were not a minimum wage in existence.

Who then really stands to benefit most from a higher minimum wage, Mr. President? Rhetoric cloaked in terms of fairness for disadvantaged workers does not obscure the view of the real beneficiaries of an increased minimum wage, "big labor." Minimum wage legislation has always been promoted by labor unions and other special interest groups for their purely self-serving political considerations. The labor unions in our country are looking to this measure as a means of securing their positions and turning around a decline in membership that they have experienced in recent years.

Mr. President, the Congressional Budget Office has predicted that raising the minimum wage to $4.65 per hour, as originally proposed, could cause the loss of 250,000 to 500,000 jobs in the United States, as well as add approximately 0.2 to 0.3 percentage points to our Nation's annual inflation rate. The South, an area that is already struggling with unemployment problems, would be heavily impacted by such a move. A recent study, conducted by the University of Chicago projected that raising the minimum wage rate to $4.65 per hour would cause South Carolina to loose 10,354 jobs by 1990. A Clemson University survey estimated that such an increase would result in the loss of 1.9 million jobs nationally, and 15,193 positions in South Carolina by 1995.

In simplistic terms, when a higher minimum wage rate is imposed on the business community, it is faced with the dilemma of how to meet the new labor costs. If business cannot pass along increased costs, it must absorb them. In order to absorb these costs, employers must restructure their work force by implementing such measures as: eliminating those workers considered to be the least productive; limiting the amount of hours that employees are permitted to work; leaving vacant positions unfilled; consolidating jobs through automation; and reducing production.

Unfortunately, America's teenagers stand to suffer the most from the adaptations that business and industry must make in order to comply with an increase in the minimum wage. These young workers generally have limited experience and have not developed skills; therefore, they are considered to be the least productive employees. Thus, legislation creating a high minimum wage in effect excludes the least employable by pricing them out of the job market.

An increased minimum wage adversely impacts teenagers in two significant ways. First, these young people who lose their jobs experience an immediate loss of income. Second, because they are removed from the workplace, teenagers are prevented from acquiring valuable experience and skills that are necessary to allow them to progress into higher wage level positions in the future.

The Bureau of Labor Statistics has determined that the present unemployment rate for all teenagers actively seeking work is 16.5 percent. The unemployment rate for black teenagers currently seeking employment is, at 36.9 percent, more than double the overall average for teenagers in the United States.

According to the report of the Minimum Wage Study Commission in 1981, the last increase in the minimum wage floor, which was enacted in 1977, resulted in the loss of 644,000 jobs among teenagers alone between 1977 and 1981. A recently released study by economists at Clemson University, estimated that an increase in the minimum wage to $4.65 an hour would result in 1.3 million teenagers being out of work by 1995.

It is clear that teenagers and persons seeking entry-level positions would be the primary victims, through loss of employment, of a significant increase in the minimum wage rate. Certainly, Congress should not deny the very persons who represent our Nation's future the opportunity to participate in the labor force, by rendering them unemployable.

Mr. President, alternatives to significantly increasing the minimum wage floor exist to assist our Nation's young people in entering the work force. A youth wage differential, such as a training wage, would provide an equitable means of correcting the disparity in skills of teenagers who are seeking entry level positions.

Also, expansion of the earned income tax credit would permit low-wage-earner families to receive a refundable tax credit on earned income. This refundable credit could be applied throughout the year as a regular supplement to the worker's paycheck.

These proposals merit our careful consideration. Simply raising the minimum wage floor is not the answer.

Mr. President, I am opposed to a significant increase in the minimum wage rate because: it is inflationary; it reduces entry-level and part-time jobs for teenagers and unskilled workers; as well as decreases services to consumers. I urge my colleagues to join me in opposing this measure.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I was interested in the comments about the support for the earned tax credit. If I could have the attention of the Senator from South Carolina, in terms of the tax credit, is he supporting the tax credit program for the workers as an alternative to the increase?

Mr. THURMOND. I think it is worth exploring, and I am going to look at it.

Mr. KENNEDY. The interesting projections are that it would cost about $4 billion in 3 years and about $6 billion in 5 years. I think there are some features of that program which have been built in now which I could support. However, I am really quite surprised that the Senator from South Carolina would support that type of a program which would cost about $6 billion more in terms of the deficit; why he would support a tax program which has the effect of making the Federal Treasury pay for the substitute. It ought to be a legitimate responsibility of employers to pay decent wages.

That is an incredible reversal to have the Federal Government bailing out the employers who pay low wages.

Mr. THURMOND. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield on this. I do admit it has an attractive feature and that it takes into consideration the size of individual farmers, but given the size of the budget deficit at the present time, I was really quite interested in the view of the Senator from South Carolina.

Mr. THURMOND. Mr. President, I explained to the Senator from Massachusetts that I think that it is a proposal worth exploring. I wish to study it carefully before making any final decision.

Mr. KENNEDY. Fine. If I could just ask the Senator, does the Senator remember the last time that we had a minimum wage vote here in the U.S. Senate?

Mr. THURMOND. 1977, I believe was the last time.

Mr. KENNEDY. Does the Senator remember whether he voted in favor or was opposed to that measure?

Mr. THURMOND. Yes, I voted in favor of that measure.

Mr. KENNEDY. Oh, the Senator voted in favor.

Mr. THURMOND. Are you not disappointed?

Mr. KENNEDY. No, I just wish we had that enlightened judgment on this particular measure.

Mr. THURMOND. That is your opinion about what is enlightened. I do not see it the way you do.

Mr. KENNEDY. The same arguments were used at that time. What were the real matters that brought the Senator to support it at that time? Does the Senator remember why he supported it at that time?

Mr. THURMOND. At that time, the minimum wage was low and the amount that it was proposed to be raised to was reasonable, so I voted for it. It was raised by only 25 cents an hour at that time.

Mr. KENNEDY. The fact is that in terms of the percentage of hourly wages, it was higher than it is now. So in terms of the purchasing power, it is actually lower at the present time.

In any event, I appreciate the responses of the Senator from South Carolina. I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I want to speak in general on the minimum wage, and a little later on I will be proposing an amendment to take care of what I think is a major defect in this bill.

This bill, as it is now introduced, does not apply to Puerto Rico. Puerto Rico is now covered by the minimum wage.

I think it is a great mistake to create two tiers of Americans—all those in the 50 States who are covered by the minimum wage and then to create second class citizens in Puerto Rico. But I will speak on that a little later.

My friend and colleague from South Carolina, the distinguished Senator, STROM THURMOND, mentioned some studies that showed that there will be some inflation, some loss of jobs. The best study I have seen at this point is the Wharton School study which suggests that there could be as much as 100,000 jobs lost and the maximum inflation impact would be two-tenths of 1 percent over a 3-year period.

I think on balance when you weigh that against the good that can be done through the minimum wage, it is very clear the good outweighs any possible defect in the minimum wage.

It is also true that there are mixed studies on what a minimum wage does in terms of youth unemployment. There is some evidence that it does encourage youth unemployment. The question is whether we use the approach suggested by my colleague, Senator HATCH, or whether we use the approach offered by Senator KENNEDY. The Kennedy approach increases the number of students who could be exempt from 6 to 12, which seems to me to be the proper answer because it urges young people to stay in school. But I think the most basic question we face with the minimum wage is the question, Whom will we serve? It is true that the people who are paid the low wages are not contributors to our campaigns, but those are the people we ought to be thinking about when we sit in the Senate. Do we serve the wishes of the influential, the powerful, the wealthy, or do we serve the interests of the people who really need help in our society? That is the fundamental question.

I remember when I was in the State legislature I introduced a bill—we had no minimum wage in Illinois—to have a 75-cent-an-hour minimum wage. We had a witness, a woman whose husband left her. She was trying to support two children on 57 cents an hour—tragic. I wish we could right here on the floor of the Senate bring in some people who are trying to maintain families. I heard my distinguished friend from South Carolina talk about teenagers, and a lot of people, when they think of the minimum wage, think of teenagers. Twenty-six percent of the people who receive the minimum wage are heads of households, people who desperately need a lift. We ought to be giving them that lift.

You talk about the differential between men and women, which is gradually being closed in our society but it is still substantial. A woman working full time today in our society makes 66 cents compared to a man making $1. Sixty-two percent of those who earn the minimum wage today are women.

I think we clearly ought to be moving in this direction. We ought to be helping people who really need help, lift people who are working and working hard who want to do better, and this is the opportunity to do it.

The minimum wage that is being asked here is not as great as the increase in the cost of living when $3.35 was imposed. It is not unreasonable. I think we ought to move ahead. I hope we will move ahead and do it with a resounding vote. I gather that we may even have bipartisan support when it gets down to the final vote. I hope we do. It should not be a partisan issue.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SIMON. I will be pleased to yield.

Mr. KENNEDY. The Senator is quite right that it should not be a partisan issue. The minimum wage was increased three times during the Eisenhower administration and during the 1960's and 1970's was maintained when we had Republican Presidents and Democratic Congresses. It was basically maintained at the poverty level. It has really only been in the last 7 years that it has had this significant decline. That is really what has brought about this concern.

Mr. SIMON. If I may ask my colleague—I do not know the answer to this. I do not recall any period where we went this long without raising the minimum wage—has there been a period this long?

Mr. KENNEDY. The Senator is correct. We had phased in past legislation over a period triggered in terms of future years. But the Senator is quite correct.

I wish to raise just a few points. I thought we would have the opportunity to have some debate on this matter.

Mr. SIMON. I will yield the floor to the Senator from Massachusetts. I have concluded my remarks.

THE PRESIDING OFFICER (Mr. FORD). The Senator from Massachusetts is recognized.

Mr. KENNEDY. When we come to the point in evaluating what the historic pattern has been with the raise in the minimum wage and what the implication has been in terms of employment, teenage unemployment, and general economic conditions, it is very instructive. The arguments that we have heard even in the brief debate of last night and this morning about the cost of jobs, the impact in terms of inflation, what it is going to mean in the overall economic condition, have been made the last six times we have debated this issue. Virtually the same arguments, and we will put in the RECORD what the effect of the minimum wage has been. It has been actually to the contrary. We find unemployment has gone down even in the teenage category. The general economic conditions have been unrelated to those alterations and changes.

For those who are not in attendance but are listening, I will ensure that those are made a part of the RECORD. I think it is important to put this into some historic perspective because we hear virtually the same arguments made—loss of jobs, loss of teenage jobs, increasing unemployment, and adverse economic conditions. That really has not been the case.

I have that here, but I see our colleague from Utah, and we will come back to that later in the debate.

Mr. SIMON. If my colleague will yield very briefly, I concur; you can find studies on both sides, but I think the ultimate result of any sound study is that there is no measurable impact on employment. I would add, if I may, a word for an amendment I am going to be offering a little later. The same is true for Puerto Rico. When the minimum wage was put in for Puerto Rico against the advice of a great many people, actually employment in Puerto Rico went up instead of down.

Mr. KENNEDY. I look forward to what will be, I am sure, a joyous and beneficial exchange.

Mr. SIMON. I am sure I will be able to convince the Senator from Massachusetts that Puerto Rico ought to be included.

Mr. KENNEDY. I will be persuaded and hope the Senator will have a similarly open mind.

Mr. President, I will take a few moments to go through this because I do think, as the Senate is focusing on this issue, these points need to be understood.

1949 AMENDMENTS

Congress raised the minimum wage from 40 cents to 75 cents an hour in 1949, an 87.5-percent increase. During the deliberation of the amendments, business organizations consistently warned of significant increases in unemployment and inflation as a result of the legislation.

Yet overall unemployement decreased from 5.9 percent in 1949 to 5.3 percent in 1950, youth unemployment fell from 13.4 to 12.2 percent, and total employment rose more than the prior year when there was no increase in the wage.

1955 AMENDMENTS

Congress raised the wage to $1 an hour, a 33-percent increase. Again Congress heard stern predictions from business groups of the certain unemployment and inflation which would follow as a consequence of the increase. The U.S. Chamber of Commerce warned in testimony to the committee: "Low paid workers who are covered by the law will have been barred from jobs by Members of Congress."

Yet overall unemployment fell from 4.4 to 4.1 percent, youth unemployment slightly increased from 11 to 11.1 percent, and total employment increased more in 1956 than in the prior 2 years in which there had been no increase.

1961 AMENDMENTS

Congress increased the minimum wage to $1.15, and to $1.25 in 1963, and expanded coverage to retail and service establishments. Again, during consideration of the legislation, business opponents predicted significant impact on unemployment and inflation. In testimony before this committee, the U.S. Chamber of Commerce stated: "Many retail and service employers have already predicted layoffs * * * if brought under coverage of the $1.25 law." The Chamber went on to assert: "Whatever good might result from minimum wage legislation would be far outweighed by the unemployment and inflation the legislation would provoke."

Yet retail and service employment, which had increased 1.2 percent between 1960 and 1961 when not covered by the FLSA, jumped 3.3 percent between 1961 and 1962. Overall unemployment fell from 6.7 to 5.5 percent, youth unemployment fell from 16.8 to 14.7 percent, and overall employment increased six times as much as in the prior year when there had been no increase. Inflation increased at a lower rate in the year after the increase in the minimum wage took effect than in the year prior to the increase.

1966 AMENDMENTS

Congress increased the minimum wage from $1.25 to $1.40 in 1967, to $1.60 in 1968, and expanded the coverage of the FLSA. Once again this committee received testimony from a variety of business organizations predicting significant adverse employment and inflationary impact. Yet unemployment fell from 3.8 percent in 1966 to 3.6 percent in 1968, youth unemployment fell from 12.8 to 12.7 percent for the same time period, employment increased by over 3 million workers, and labor market participation rates hit a postwar high in 1969.

The increase which took effect in 1968 raised the minimum wage to 55.4 percent of the average hourly earnings, the highest relative level of the minimum wage. Yet careful study of its impact on employment led Secretary of Labor George Shultz to report to Congress in 1970:

> There was continued economic growth during the period governing the third phase of the minimum wage and maximum hours standards established by the FLSA Amendments of 1966. Total employment on nonagricultural payrolls (seasonally adjusted) rose in 28 out of 32 consecutive months between January 1967 and September 1969. In the most recent 12-month period, employment climbed 3.2 percent * * * between September 1968 and September 1969. Employment rose in all major nonagricultural industry divisions during the 12 month period between September 1968 and September 1969. In retail, services and state and local government sector—where the minimum wage had its greatest impact in 1969, since only the newly covered workers were slated for Federal minimum wage increases—employment rose substantially.

The report to Congress of Secretary of Labor Hodgson the following year confirmed Secretary Shultz's analysis:

> In view of the overall economic trends, it is doubtful whether changes in the minimum had any substantial impact on wage, price, or employment trends. Of much greater significance, however, is the fact that the 15 cent boost did help two million workers recover some of the purchasing power eroded by the steady upward movement of prices which had started even before the enactment of the 1966 amendments.

1974 AMENDMENTS

Congress increased the minimum to $2 in May 1974, $2.10 in 1975, and $2.30 in 1976. In hearings before this committee prior to passage of the increase, again businesses testified to the adverse employment impact of the proposal. One witness for the American Retail Federation testified that they would be forced to implement "alternatives," including:

> Obviously to reduce the number of employees. The first ones to go would have to be marginal employees we in many cases are carrying now. We would also have to suggest retirement to employees who are no longer productive but who we are currently carrying.

Yet even during the 1975 recession during which unemployment rose from 5.5 in 1974 to 7.6 percent in 1976 and youth unemployment increased from 16 to 19 percent, retail employment increased by 655,000 jobs, a 5.2-percent increase.

1977 AMENDMENTS

Congress increased the minimum wage in four steps, to $2.65 in 1978, $2.90 in 1979, $3.10 in 1980, and to the the current $3.35 in 1981. This committee again received testimony from business organizations predicting significant job loss stemming from passage of the amendments. The U.S. Chamber of Commerce testified that the proposed minimum wage increase would result in about 2 million lost jobs. They offered as evidence a study providing a State-by-State breakdown of the lost jobs totaling 1,977,000 by 1980, if the minimum wage reached $3.15 an hour—the bill which passed reached $3.10 by 1980. The chamber witness stated:

> Rather than help a person who is now making $2.30 by raising the minimum wage to $2.65 or $3.00, you are hurting him because you put him out of work. So the minimum wage may be $3.00, but his wage is zero unless he can collect welfare, because his job is eliminated.

The chamber testimony also calculated a first year job loss of 400,000, 387,000 of which would be teenage jobs. Minority teenage unemployment would increase almost 6 percent to 45 percent with a $2.65 minimum the first year.

One retailer testified that 5,800 of 29,000 convenience stores would have to close if the minimum wage increase became law. He concluded:

> The minimum wage increases contemplated by S. 1871 could sound the death knell for a large number of convenience food stores. It could force mass layoffs and could cause some companies to completely go out of business.

Yet the following table demonstrates what the actual employment impact was:

Year	Impact minimum wage	Percent increase	Unemployment percent	Youth unemployment percent	Total employment (thousands) [1]
1977	$2.30	0	7.1	17.8	88,734
1978	2.65	15.0	6.1	16.4	92,661
1979	2.90	9.4	5.8	16.1	95,477
1980	3.10	6.9	7.1	17.8	95,938
1981	3.35	8.1	7.6	19.6	97,030
1982	3.35	0	9.7	23.2	96,125

[1] Civilian, nonagricultural industries.

As the table indicates, total employment increased 8,296,000 1977–81. The only decline in employment occurred in 1982, a year in which there was no increase in the minimum wage. Employment increased 3,313,000 in 1977, also a year in which there was no increase, and it increased 3,927,000 in 1978, the year a 15 percent increase of the minimum wage went into effect. Teen employment increased 382,000 in 1978, as compared to an increase of 352,000 in 1977 when there was no increase in the minimum wage. Minority teen unemployment declined 1.8 percent in 1978 when the minimum wage reached $2.65, instead of the almost 6 percent increase projected by the U.S. Chamber of Commerce testimony in 1977.

Contrary to the testimony projecting 5,800 of the 29,000 convenience stores closing if the minimum wage were increased, the number of convenience stores increased by 4,100 between 1977 and 1978, as compared to an increase of 2,000 between 1976 and 1977, when there was no increase in the minimum wage.

Retail employment also increased by 1,381,000 in 1977–81. The only decline in retail employment was in 1982, a year in which there was no increase in the minimum wage. Retail employment increased in 1977 by 599,000, when there was no increase in the minimum wage, and by 765,000 in 1978, the year a 15-percent increase was in effect.

The 1977 amendments also created the Miniumum Wage Study Commission to examine the impact of the

FLSA. In the May 24, 1981, letter to the President and Congress accompanying the Commission's recommendations, the Commission Chairman termed the research "the most exhaustive inquiry ever undertaken into the issues surrounding the act since its inception."

The Chairman of the Minimum Wage Study Commission concluded in the seven volume report:

> The evidence suggests that recent changes in the Fair Labor Standards Act have had relatively little impact on national unemployment levels and that the achievement of substantial decreases in unemployment (if they are achievable at all through amendment of the Fair Labor Standards Act) could be obtained only at the cost of a very large subsidy of employers in the fast food, retail and other low-wage industries by low-wage workers, or tax payers, or both * * *.
>
> The purpose of the Fair Labor Standards Act was and is to establish a floor below which wages will not fall, a floor which is adequate to support life and a measure of human dignity. It is a laudable legislative effort to ensure a just wage in return for a day's labor * * *.
>
> That the minimum wage has not brought us to the Earthly Paradise may be a disappointment, but it should not be a surprise. That it has provided a working floor below which wages would have gone in its absence and have not gone because of it, suggests that it has done what it was intended to do. May that be said of each of us.

1987 TESTIMONY

The committee again received testimony and accompanying studies projecting significant adverse employment impact under S. 837. One study submitted by the U.S. Chamber of Commerce calculated 1.9 million jobs would be lost by 1995 under S. 837 as originally introduced. This study concluded that through the first 3 years ($4.65) there would be a 550,000 decline in employment, 113,000 to 339,300 of which would be teen jobs, and a 0.4 percent increase in the unemployment rate.

Another chamber of commerce study received by the Labor Committee concluded that through the same 3 years of the bill ($4.65) total job loss would exceed 750,00, 420,000 of which would be teen jobs.

Another witness presented the conclusions of a study commissioned by the Retail Industry Task Force, which calculated that at a minimum wage of $4.65 "882,000 people would lose their jobs, 364,000 from the retail industry."

CONCLUSION

These projections of job loss are consistent with the previous projections by business organizations and economists in opposition to previous amendments to the Fair Labor Standards Act. Yet it is apparent from the employment and unemployment data following previous adjustment to the FLSA rate that the adverse employment consequences projected by these and other economic studies have never come to pass.

It is not surprising that the historic data on employment and unemployment do not support conclusions by economists plugging data into a model or a formula. Wage markets do not behave the same as commodity markets vis-a-vis the economists' stock in trade, supply, and demand curves. As Dr. Adams testified before the Labor Committee:

> We visualize the labor market as one that is highly fragmented, not like the market for wheat and corn and potatoes, but rather, it is an individual relationship between workers with very specific qualifications and their employer. And in such a fragmented labor market, certain workers fall behind, lack bargaining power, lack information and are unable to achieve a market wage.

Similarly, it would not surprise the original drafters of the FLSA that wage markets behave differently than commodities markets. The fundamental premise of those who authored the FLSA was that labor is not a commodity, and as a matter of public policy, should not be treated as such.

The differences between economic and business projections of adverse consequences and the subsequent actual employment data may have been best explained by Dr. Walter Galenson, in his testimony before this committee in 1977:

> Economists are prone to make strong policy statements on the minimum wage, and one would have supposed that by this time, they would have had a firm supporting factual foundation. This is unfortunately not the case. * * * One of the difficulties with most of these studies is that they are based upon macroeconomic data, and that heroic assumptions are necessary in order to distill out the effects of economic developments that are occurring simultaneously. * * * The problem with arguments on both sides of the issue is that the major forces that determine the level of employment swamp any and probably minor effects that might be attributed solely to a change in the minimum.

Dr. Galenson's observations were supported in the hearings this Congress by Dr. Gerard Adams, who testified:

> I conclude by saying that our econometric estimates suggest that at worst, adjustment of the minimum wage to $4.65 an hour and indexing thereafter will have small effects on the GNP and employment and only moderate effects, up to .2% annually, on inflation. These are tiny imperceptable differences, and they will be overwhelmed by small changes in any number of more important variables that affect our economy. * * *
>
> A ten cent increase in the price of gasoline will give you two-tenths of one percent on the inflation rate if you carry it through the model.
>
> A $10 billion change or reduction in government spending—$10 billion is not a large number—would give you approximately the same impact on unemployment as we get here.

Mr. President, over the course of this debate when we hear about increasing unemployment, loss of jobs, I think it is relevant to go back over what the history has been. Has history sustained the arguments of those who have been opposed to the increases with a loss of jobs, with a loss of opportunity in the home, with a stifling of the economy, or has it been the opposite way? Look at the history, Mr. President. Every indication from those past increases sustains the view that those of us who support an increase have maintained.

I see on the floor my good friend from Utah. Last evening he made reference to 7 inches of editorials that opposed the increase in the minimum wage. I told my good friend from Utah that I was going to have a good evening of reading last night. I made some reference to that as being the power of the chamber of commerce to which the Senator from Utah took some umbrage, and said it was really a reflection of the free press. If I do not state it correctly, I hope I will be corrected. I am sure I will.

So I opened up the one column here, and I looked under my State, Massachusetts. I read the editorials of the Boston Herald, which sustained the position of the Senator from Utah. That is not controlled—although some people think it might be, but I do not believe it is controlled by the chamber of commerce. I turned to the second page. I see the Pittsburgh Sentinel Enterprise guest editorial. So I thought well, that might be interesting. Mr. Richard Lesher is the president of the chamber of commerce. That was up in Pittsburgh.

Then we went to the New American Belmont that had opposition. Then I turned to the third page. I see the Baltimore Sun in my Massachusetts section, but I looked over in side and they indicated that same editorial was in The Holyoke Transcript. Then I went over to the next page, and it has a Waterbury, CT, Republican. That article was written by Robert Martin, who is the director of the chamber. The similar article, identical, is in another Massachusetts paper by Mr. Martin. That is in the Barnstable Patriot. So we are now batting 85 percent with the chamber. Then I go to the next page to the Ansonia, CT, Sentinel. Guess who wrote that article? It was Robert Martin again, of the chamber. That same editorial appeared in the North Adams Transcript.

So the chamber in terms of the Massachusetts press, we are batting about 75 percent. I wanted to draw that to the attention of my good friend and colleague. I am delighted to see him back here on the floor, and look forward to hearing his arguments in support of his amendment.

The **PRESIDING OFFICER**. Does the Senator from Massachusetts wish to have some items in the RECORD?

Mr. **KENNEDY**. Mr. President, I think we can reference those matters. I will not bother putting them in the RECORD. Thank you.

Mr. **HATCH** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Utah.

Mr. **HATCH**. Mr. President, I call the Senator's attention to the editorial on the front of this, just one of the volumes of editorials against the minimum wage. It is an interesting editorial not written by the chamber at all. As a matter of fact, it is written by the New York Times. It is astounding. Ten years ago I do not think the New York Times would have been against the minimum wage increases. But be that as it may, they may not be now. I have seen the New York Times change its position before, which they have a right to do.

But if you look at these editorials you will find that for the first time in history newspapers and print media all over this country are alarmed and concerned about the actual facts brought up by an overwhelming number of economist, in fact virtually every main line economist, that the minimum wage is detrimental to the very people that they claim they are trying to help. And frankly, it is very detrimental to the country.

It does not take much in the way of intelligence to understand if you push up the minimum wage everything else goes up as well. If somebody is at $3.35 an hour and you put it up to $3.75, which this bill will do next year, all of a sudden those who are making $3.75 have to go up. It just makes sense. Of course, maybe that is what the distinguished Senator from Massachusetts wants. Those at $4 or $5.50 have to go up, all the way up the tree. Who pays for all of that? Why, every consumer in America. I might add they pay for it because all of the costs of goods and services go up. Not only that, but the people who are hurt the most are really the elderly on fixed incomes, and Social Security because they have to pay even though they are limited in their income. They do not have any real way of going out and making more income.

Of course, nobody is going to give any consideration to this bill to the low-wage workers because they pay more and the very people who get this so-called wonderful benefit of an increase in the minimum wage are paying more. So the 40 cents you give them is basically taken away. But it costs everybody. It does not take any brains to figure that out. It was not even difficult for a lot of these newspapers.

It is no secret that the chamber of commerce is against increases in the minimum wage, as is virtually every business organization in the country. Is it just because they are a bunch of greedy people who want to make higher profits? I think we have to say there is nothing wrong with making profits. But I think it is also a little bit callous to accuse all business people of being greedy or even to say that all workers are poor since we know that about 14 percent really are working poor under the minimum wage today. But why increase the minimum wage for everybody when we could take care of the working poor with something like an unearned income refundable tax credit which would really work, and which would not cause an inflationary spiral.

Mr. **KENNEDY**. Will the Senator yield?

Mr. **HATCH**. If I could finish, but I will be happy to debate as time goes on.

Let me just say this: The distinguished Senator, I understand in my absence, was talking about when I worked as a janitor at BYU to put myself through college, that probably it did not take very long for me to learn that. It did not take me 3 months of a training wage to learn that job. I think he denigrates all custodians in this country.

Let me tell you something: There is a little bit of skill, if not a great deal of skill, in being a really good custodian. I happened to have worked to become a good one. I know that the distinguished Senator thinks that is where I should still be. [Laughter.]

On the other hand, I have had the experience of working for the minimum wage, which he has never had nor ever will. I know what it is like to do it, and I know what it is like to get an entrance job. I wondered whether I could get that 60-cents-an-hour job, or whatever it was at the time. I do not believe it was more than 60 cents an hour. I worried sick about it, because I was not sure there would be one for me. If I had not had that job, I could not have made it through undergraduate school.

If I had not worked pretty close to the minimum wage—I cannot remember the exact wage—as an all-night desk attendant in the girls' dormitory at the University of Pittsburgh, Elaine and our three children and I would not have made it through law school.

I understand this problem, and I understand the desire—and I think it an altruistic desire—on the part of my distinguished colleague to have everybody make a better wage. I like that myself. But the laws of economics say that if you price some of these poor people out of the marketplace, those jobs go, too, and that is unfortunate.

I saw a letter yesterday from one group touting the minimum wage and saying that we should all vote for it, saying youth employment has gone down. It sure has, under this administration, because the economic policies of this administration have been beneficial, even though they have not been perfect, and we have had 69 months of continued economic expansion since the last minimum wage was raised in the early 1980's. I think it is time for people to stop and think maybe that is why.

If we have 14 percent working poor—or, let us give the benefit of the doubt, a little bit more than 14 percent—let us attack that problem directly. I will join the Senator for an earned income tax credit refundable to those people, to bring them to a point where they can get by. I believe in that. But why do we have to push up the cost for everybody in society?

One of the fastest growing areas in small business is single proprietorships by women, and you will find that it is very difficult for them to keep up if this minimum wage goes up, or they will have less employment. They will have less service and even less quality commodities in our society.

This is a pretty important issue here. For the first time—and my point should not be lost by the distinguished Senator from Massachusetts nor by anybody else—for the first time in the history of my discussions of the minimum wage, and it has always been an uphill battle for those of us trying to point out these economic facts, newspapers all over this land have been writing editorials backing up our position. That has not happened before. True, prodded by business people in part, prodded by economists, prodded by academicians, prodded by politicians who are concerned about this issue; true, prodded by anybody who thinks about the losses that occur as we do these things.

I am sure there are editorials that the Senator can criticize in the thousands of editorials we have shown, and probably some I can criticize. The fact is that for the first time that I know, the country is starting to awaken to the fact that the minimum wage may not be the greatest panacea it has continually been painted to be over these last several years.

We have been talking about editorials and about the earned income tax credit. I understand that the distinguished Senator from Massachusetts has criticized the cost of that. I wish he would look at the cost of increasing the minimum wage across the board.

Let me take a few minutes to discuss the training wage amendment of the distinguished Senator from Massachusetts. We knew they were going to file a training wage which would be so miniscule that it would not benefit anybody, of any consequence, that it would be so limited that it really would not be much good.

A substantive training wage amendment, in my opinion, is absolutely necessary if Congress wants to enact an increase in the statutory minimum wage.

The sponsors of the bill have argued that unemployment is not affected by increases in the minimum wage, and they have brought out year-to-year statistics which show that the rate of unemployment does not necessarily increase when the minimum wage is raised. But things are not always as they seem, and statistics are not always the same when you look at them through different eyes. Let us look at these statistics.

One reason the sponsors can claim little impact on employment is that jobs are being filled by higher skill and wage levels.

I will show my colleagues in a few minutes a chart on this particular issue.

Between 1983 and 1987, the United States created over 16 million new jobs. I think that is one reason why we do not hear about Reaganomics anymore. I remember what a term of derision it was in the first 2 years of the Reagan administration.

Think about it. The new administration that comes in generally inherits the budget, at least for the first year, of the prior administration. So the new administration should not be taking credit for all the good things of the prior administration. It takes about a year or a year and a half for the new administration to implement its policies.

A good illustration would be Massachusetts. When Governor Dukakis took over, there was a miracle in effect. Robert Rice, the famed liberal Democrat Harvard economist, said it would have been a miracle if Massachusetts had not had a miracle because the former Governor King had just cut all the taxes and Reagan had started an increase in military spending and, of course, Massachusetts took off. In 1986 there was a $1 billion surplus in Massachusetts, $1 billion. This year it was a $450 million deficit. After spending that $1 billion and all the increased revenues that came from that Massachusetts miracle, they wound up with a $450 million deficit. Maybe that occurred for a variety of reasons, but it bothers me.

Between 1983 and 1987 the United States created over 16 million new jobs. That is exemplified by this bar chart going up. Of these new jobs, 12 million were at wages of $10 an hour or more, 12 million of the 16 million were for high wages. Think about that. More than 3 million paid wages between $6 and $10 an hour, more than 3 million. Fifteen million of the 16 million were for more than $6 an hour. Twelve million of them were for more than $10 an hour. These were new jobs created by Reaganomics, if you will.

What about this?

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. HATCH. Sure.

Mr. KENNEDY. What is the objection to raising the minimum wage? If you have all these jobs paying a good deal more, what is the threat to it? You have a certain percent of American families who are not in that. You say all of these jobs, 15 million of the 16 million are above $6 an hour. What is the objection? Why not look out for those few millions of families that are dependent upon that?

Mr. HATCH. I think the answer to that is a very clear one. You lose all or at least a good percentage of the entry level jobs that help people to get in these two categories. They are stuck here because they cannot get a job because those jobs do happen to dry up.

The reason the 16 million jobs have been created has not been because of the minimum wage. It has been because there has not been an increase in the minimum wage, in part. It has been because of Reaganomics. It has been because of an adequate economic structure and system right now, and it has been basically because we had economic prosperity for 69 straight months, part of which is because inflation has been kept down because we have not had a continually increasing minimum wage pushing up the wage floor for everyody, and the cost of goods and consumer products for everybody, and hurting everybody who is on fixed income in our society.

This particular chart is very revealing because of the 16 million new jobs created under this administration's watch, 12 million or more were $10 an hour or more. In other words, it is a myth to say that they are all minimum-wage, food service jobs. Frankly, McDonald's for example, pays more than the minimum wage. It is difficult to get people to do that type of work and keep them.

The vast majority of all jobs created over the last 7 years have been over $10 an hour—$12, maybe. Another almost 4 million have been over $6 an hour, between $6 and $10 an hour. So 16 million of the 17 million jobs created have been more than $6 an hour.

Now, this bottom figure is that jobs of $6 an hour or less have diminished. The reason that is so is because there is so much opportunity on this end because we have not saddled the Nation with fictions like the minimum wage which drive everything up while benefiting no one. It is a myth to think that if you give somebody from $3.35 to $3.75, everything else does not go up, too, or virtually everything else. And when everything else goes up including the costs of that corn at the store, that poor guy who has made that extra 40-cent jump is finding that he is spending 50 cents more for food so he or she is not getting any benefits.

They might initially receive some temporary benefit but not very much. If we raise the minimum wage, thus eliminating hundreds of thousands of jobs—and I would say more of these entry-level jobs—how do we ever expect the unskilled or the inexperienced citizens of our society to break into the labor market? The distinguished Senator from Texas made a very profound point there.

Second, if we narrow the scope of these statistics, we will see that teenagers and other inexperienced workers are the ones who are hurt by the arbitrary increases in base wages. Take a look at this next chart.

Now, this is from Labor Department data, percentage of 16- to 17-year-olds with jobs. Look at what has happened.

There were minimum wage hikes in 1979, 1980, and 1981. Note the sinking line. In 1979, it started down; 1980 started down; 1981. It had bottomed in 1982. The fact is it does not start back up again until 1982. Youth in this society were seriously hurt by increases in the minimum wage.

Now, we can break this down a little more. Just look at this chart again. The labor force participation rate for young black men, particularly for those in the 16 to 17 age groups, shows that young minorities are seriously affected by minimum wage increases. The periodic increases in the minimum wage, together with the 1961 and 1974 Fair Labor Standards Act Amendments which increased not only the rates but the coverage, resulted in diminished labor force activity by young blacks, one of the groups that they claim they are targeting with this type of legislation.

I ask unanimous consent to include in the Record a table taken from an article written by Dr. Walter Williams, professor of economics at George Mason University, and statistics from the Department of Labor.

There being no objection, the chart was ordered to be printed in the Record, as follows:

MALE CIVILIAN LABOR FORCE PARTICIPATION RATIO BY RACE, AGE

Minimum wage and year	Black/white males			
	16 to 17	18 to 19	20 to 24	16 plus
1954	0.99	1.11	1.05	1.00
1955	1.00	1.01	1.05	1.00
$1/per hour:				
1956	.96	1.06	1.01	.99
1957	.95	1.01	1.03	.99
1958	.96	1.03	1.02	1.00
1959	.92	1.02	1.04	1.00
1960	.99	1.03	1.03	1.00
$1.15/per hour:				
1961	.96	1.06	1.02	.99
1962	.93	1.04	1.03	.98
$1.25/per hour:				
1963	.87	1.02	1.04	.99
1965	.88	1.01	1.05	.99
1966	.87	.97	1.06	.98
$1.40/per hour: 1967	.86	.95	1.04	.97
$1.60/per hour:				
1968	.79	.96	1.03	.97
1969	.77	.95	1.02	.96
1970	.71	.92	1.00	.96
1971	.65	.87	.98	.94

MALE CIVILIAN LABOR FORCE PARTICIPATION RATIO BY RACE, AGE—Continued

Minimum wage and year	Black/white males			
	16 to 17	18 to 19	20 to 24	16 plus
1972	.68	.85	.97	.93
1973	.63	.85	.95	.93
$2.00/per hour: 1974	.65	.85	.95	.92
$2.10/per hour: 1975	.57	.79	.92	.91
$2.30/per hour: 1976	.57	.77	.91	.90
1977	.56	.77	.91	.89
$2.65 per hour: 1978	.57	.79	.90	.90
$2.90 per hour: 1979	.55	.77	.92	.90
$3.10 per hour: 1980	.57	.76	.91	.89
$3.35 per hour: 1981	.56	.74	.91	.89
1982	.49	.78	.91	.90
1983	.52	.77	.92	.91
1984	.57	.79	.91	.91
1985	.61	.84	.91	.91
1986	.61	.82	.91	.92
1987	.64	.81	.89	.92

Mr. HATCH. These findings were corroborated by Prof. Finis Welch of UCLA who testified that the adverse impact of a minimum wage increase would fall disproportionately on black teenagers. He pointed that today a black teenager was only half as likely as a white to be employed despite overall gains in minority employment during the last 6 years.

And, Mr. President, we will be sadly mistaken if we think that these teenagers will automatically get jobs when they turn older. I am reminded of the testimony presented to the Labor and Human Resources Committee back in 1985 when we were considering another proposal for a youth opportunity wage. Mayor Marion Barry, then president of the National Conference of Black Mayors, stated his dismay over the joblessness of many young people. Let me quote from his testimony.

> * * * if we are not careful here, we are producing a generation of young people who have never held a job. And I think that is a dangerous situation for us to be in, where you have people at 23, 24, and 25 years of age who have never held a job.

During the same hearing, Mr. Angel Lopez, then national chairman of SER-Jobs for Progress, a national organization dedicated to expanding opportunities for Hispanics, commented on his own experience:

> I come from a poor family, my parents were migrant farmworkers. We barely made enough money to live on. In the summer months, I would help with the family income by working in the fields at considerably less than the minimum wage of the time. I would venture to say that the poor in our country are no different today than they were when I was growing up. Given the option of no job versus a job that paid less than the minimum wage, there is no question in my mind as to what I would have done. I am equally certain that if my first employer had been required to pay the prevailing minimum wage, I would not have been employed.

The National Conference of Black Mayors, SER, and other national organizations which endorsed the President's training wage proposal in the last Congress, were not against the minimum wage. Many of these same groups may be supporting S. 837 today. But they also recognized the impact the statutory wage floor has on the unskilled and the inexperienced. Obviously, a higher minimum wage means a higher hurdle for them to jump over. That is what it means. Nobody can refute that.

We simply cannot pass a minimum wage increase without taking the tremendous loss of entry-level jobs into account. But the Federal Government cannot afford the billions of dollars it would take to provide such jobs directly. A tax credit approach has some merit, but it is costly. But I would be for that because we could then help those who really do need the help who are of the working poor.

And, as we have had demonstrated with the Targeted Jobs Tax Credit—a program I have traditionally supported—a tax approach would serve as an incentive only to those businesses which have a tax liability, excluding many small businesses.

Senator KENNEDY's amendment proposes a small expansion of the student learner wage already provided in the Fair Labor Standards Act to allow 12 full-time students instead of 6 to be hired under the certificate. This student learner wage has always been insufficient for three main reasons: First, many employers are turned off by the paperwork and restrictions involved; it is a bureaucratic mess, a bureaucratic nightmare, and typical of what is offered generally in the Congress; second, even large employers are limited to the specified number of students. In this case it would go from 6 to 12. That is ridiculous and employers are employing thousands of people. It really does not help anybody. The workers, in addition to that—this is most important—three, perhaps the most important point of all, the workers must be full-time students. There is no opportunity for dropouts or recent graduates who are unemployed and want a job.

So, this proposal by the Senator which is the pending amendment is a sham. It is a sham to say that they are for a training wage when they in fact really are not. It really does not apply and it will be used for people who really do not need the help, where a real training wage will help those who do need the help.

The amendment I propose will provide substantive, meaningful assistance to those who need a boost getting into the labor force. My amendment, however, is modest—especially when compared to the proposal endorsed by the National Conference of Black Mayors, SER, the Boys Clubs of America, and other civic and business groups.

The amendment I have introduced would permit an employer to pay 80 percent of the statutory minimum wage—but no less than $3.35 an hour—for 90 days to individuals who have no previous employment with the employer.

So, it opens the door to them. That is all it does. You give up 3 months, you open the door to them, then they have to be paid the minimum wage or better afterward. Once that door is open they will generally make more than the minimum wage.

The old proposal was a 75-percent differential for 5 months during the summer. If we are going to pass a minimum wage increase at all, we ought to at least try to mitigate the negative impact it is guaranteed to have on those who want to work but have no skills, no experience, and no references.

This amendment is not a new idea, and I am sad to say it is not my idea. I wish I had thought of it. I think the idea may have originated with Senator Javits or Senator Schweiker during the 1977 FLSA amendments. But, whoever it came up with it was absolutely right to suggest that this kind of incentive to create training opportunities was needed.

We need entry-level jobs which offer the individuals the opportunity to acquire skills, and work experience, and the training wage seems to me is the best way. But the training wage amendment of the distinguished Senator from Massachusetts is nothing more than a sham, a mock training wage, something that is basically bureaucratically ensnarled. It is going to be very difficult to have any meaning whatsoever.

Let me give you a little more detailed description of it. It applies only to full-time students. The full-time student program allows employers to hire full-time students currently, under present law, with 85 percent of the minimum wage with some limitations. During fiscal year 1987, 12,391 establishments were authorized to employ an estimated 108,000 students at the 85-percent level.

It must be noted that "authorized" does not necessarily mean actual use of this exemption.

The peak utilization year for this exemption was 1978 when almost 32,000 employers were authorized to hire an estimated 515,000 students. This exemption applies only to full-time students that can be employed only on a part-time basis, and not in excess of 20 years in any workweek except during vacation periods. Employment has to be in retail or service establishments.

So it is limited to that—agriculture or institutions of higher education. Those are the ones—retail or service establishments, agriculture or institutions of higher education. The number of full-time students that can be employed by an employer at a training wage is limited to six per day under present law. All the Kennedy amendment would do is expand that to 12 per day per certificate. Basically, a very modest, meaningless expansion.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. HATCH. Let me make the last two points.

Every year employers must apply and receive Department of Labor approval, every year. All of those 32,000 employers at the hike—or was it a little bit higher than that?—would have to apply every year to get Department of Labor approval prior to using the program.

I have to admit that the Department of Labor approval is generally automatic unless an employer has violated the restrictions on the number of students in a previous year.

So Senator KENNEDY wants to put in a provision that would allow employers to get temporary authority to do this, but they have to move to 12 per certificate. It is a bureaucratic way of doing things and is not really very effective.

The fact is, if you look at it, employers are turned off by the paper work burden and the restrictions involved, the constant seeking of Government help. Even large employers who might employ a lot more people who never worked before, would be limited to only 12 per certificate, 6 more than current law allows.

Perhaps more important, the workers have to be full-time students. So the purpose of the training wage is not to help full-time students. These are people ostensibly who have the ability to get jobs anyway, and most of them can get the minimum wage. The purpose of the training wage is to open the door to help those who really have nothing, who are underprivileged, who are undereducated, who are underserved, who have no skills—to get the door open.

A number of years ago, I had a young black kid come to me, and he said: "Senator, I'm willing to work for free if somebody will just give me a job. I'll work for free, because I know that if I can get a job and they will take the time to train me, it won't take me long to prove my worth, and I'll make more than the minimum wage."

That kid, with that attitude, I am sure, went on to become a success anyway. But what about the kids who do not have that? He just wanted a break. He just wanted an opportunity. He just wanted the door opened. I have had countless stories like that since.

Small businessmen cannot afford to do it if you force them out of the marketplace. They cannot afford to train people, and they will not do it. You can hardly blame them.

If you look at the Kennedy proposal, it is restricted to 12 full-time students. I will grant that allowing 12 students to participate is better than 6, but what do we tell students who only attend school part-time? Do we say: "You're out; you don't have a chance to get a job"? What do we tell the dropout who is trying to get a job?

This amendment provides nothing for people who are among the most difficult in this society, and there are 2.4 million people like this. They do not have a chance because this training wage does not embrace them, does not help them.

No. 2, the Kennedy proposal requires a certification process many employers would rather not be bothered with.

My amendment is simple: Any new hire may be paid 80 percent of the going minimum wage for 90 days, and that is all. Employers do not need to fill out applications, and the Department of Labor does not need to review them.

No. 3, the Kennedy amendment is limited to service and retail establishments, for the most part. That restriction alone eliminates potential jobs in millions of American businesses. That means any manufacturing company cannot employ students. That means the Ford Motor Co. could not use this program to provide jobs for students in Detroit.

No. 4, it limits students' hours to one-tenth of the total hours of the firm. Obviously, this implies additional bookkeeping by the employer; but, more important, it restricts the students.

If a small graphic arts firm in Ogden, UT, has two full-time employees working 40-hour weeks, that means a student couldn't work more than 8 hours a week unless the Secretary authorized more hours in the certificate. If this same company employed one student helper for each of its full-time employees, that means each student could only work 4 hours, unless the Secretary authorizes more hours. It is ridiculous, but that is the way it reads. It is an eyewash amendment that people can vote for and say they voted for a training wage, when it does not do much more than we have today, and what we have today does not do very much, and it will do less as the bureaucratic ensnarlments continue.

I think that if we examine the differences between the training wage amendment of my colleague from Massachusetts and the one we filed, the underlying amendment, ours, will work; it will help young people all over this country; and, frankly, it will be something that will be a tremendous benefit to the economy and the country, including the employers, and especially the small business employers who want to do something in this area.

So I hope all our colleagues will vote against the Kennedy amendment and vote for the underlying amendment, and I think we will be doing a favor for these young people.

(Mr. WIRTH assumed the chair.)

Mr. FORD. Mr. President, will the Senator from Utah yield me 15 seconds to answer that?

Mr. HATCH. I am glad to.

Mr. FORD. In the words of the distinguished Senator from Arkansas, Mr. BUMPERS, if you have allowed us to write $200 billion of cold checks every year, you would have 69 months of prosperity.

Mr. HATCH. You are the one, along with all the rest of us in the Congress, who permitted that to occur.

Mr. FORD. I have not voted for an increase in the debt, and if you will go look at my record, you will find that.

Mr. HATCH. Neither have I.

Mr. FORD. Probably those are the only two times in Congress we voted the same way.

Mr. HATCH. I am not speaking about the Senator from Kentucky directly. What I am saying is that the President can propose budgets, the Congress disposes of them.

The Congress has been controlled, at least the House of Representatives, where all money bills originate and have to originate under the Constitution, has been controlled by one party for 53 of the last 56 years.

Mr. FORD addressed the Chair.

Mr. HATCH. If I could finish, and I will be happy to yield, the fact of the matter is that I think there is no President who can turn this around solely by himself or herself. We have to have a better Congress. Now we have to get better Republicans and better Democrats to stand up and do what needs to be done.

But to blame this administration, which has created 69 months of economic prosperity for the spending practices of Congress, I think is a little bit of an oversimplification.

Mr. FORD. Will the Senator yield for a question?

Mr. HATCH. I am glad to again yield.

Mr. FORD. It is the Senator's party that controlled the Senate for 6 of the 8 years when all of the deficit was going down, and name one budget that the President of the Senator's party that he is giving full credit to, and I think he is a fine gentleman, but he has never submitted a balanced budget to this Congress in 8 years.

Now, when you begin to talk about all of these things and how much this administration has done to reduce the debt we talk about the third largest line item in the Federal budget which is interest on the debt that is now $3 trillion. So the 200 billion dollars' worth of cold checks every year is that something you can brag about? But I think on October 9 when we had Black Monday and this administration decided that it was time they started working with Congress they sent Howard Baker and Jim Baker to the Hill to confer with us. In 3 weeks we had a budget; in 3 weeks we passed it, the first time in this administration's history of 8 years that they sent them up here, and we set then the cap for the next year which gives us emphasis to a 2-year budget which the administration has approved.

Finally, in the closing days, we are beginning to see something happen.

But stand here with all of these visual aids, all of these charts that somebody is trying to say we had 69 months of continuous prosperity, when we have gone $2 trillion deeper in debt and those people down on the lower end of the rung keep getting pushed down and pushed down and the Senator stands up there with his blue charts and tries to tell us everything is good.

Now, I do not know where the Senator has been all these last few years, but I have been down with my people trying to figure out how I could help them, and one of the most important things is education, and this bill keeps kids in school. I have not found anybody that is opposed to trying to help these students, and by helping the students and giving them a livable wage and encourage them to stay in school. What is wrong with that?

Mr. HATCH. I do not know where the Senator has been, but I have been——

Mr. FORD. I have been right here.

Mr. HATCH. Let me finish.

Mr. FORD. All right.

Mr. HATCH. I have been on the Senate Labor and Human Resources Committee working on every education bill that has come through here that has kept those kinds in school, too, and has also increased a lot of the spending which I voted for in that regard.

But let me tell the Senator something. This administration passed the Gramm-Rudman-Hollings bill without which we would not even be as good off as we are.

Mr. FORD. I thought that originated here, not down on Pennsylvania Avenue.

Mr. HATCH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. Then I ask I be allowed to express myself since I have the floor.

It does not negate the chart.

The chart shows, under this administration 16 million jobs have been created. Twelve million of them have been created at $10 an hour or more, which I know that many people in Kentucky, the State of the distinguished Senator from Kentucky, would consider a pretty reasonable wage. We would all like to make more, but nevertheless it is a reasonable wage in this society today.

Another three, better than three, almost 4 million have been created at over $6 an hour. There is no use kidding about it. That is what this chart shows.

Our economy actually lost 4 million jobs paying less than $4 per hour, which many economists have said may have a correlation to the fact that the minimum wage has not been increasing since 1981.

Now, all I can say is this: I do not know that anybody has all the facts or all the answers on these problems, but that is pretty important stuff to not ignore.

I also have to say that with regard to the minimum wage, how can anybody deny that it is an inflationary push? I hate to say this. I believe that the distinguished Senator from Kentucky, like myself and many others, did not like 21.5 percent interest rates in the late seventies and early eighties. I did not like it. I know he did not like it. I know he did not like double-digit inflation. If I recall correctly, the distinguished Senator spoke out against that. I spoke out against it.

We have basically cured both of those problems. Now the distinguished Senator would choose to blame that on the high deficits and say that the President is responsible for all those deficits? Come on. Let us be fair.

I think he is responsible for some. I think he could have put tougher budgets up here. The fact is he knew that they would never pass this Congress or any Congress, and the reason they would not is because of the makeup of Congress and especially the House of Representatives, where all money bills have to originate under the Constitution.

Mr. FORD. Mr. President, will the Senator allow me just 1 minute and then I will stop interrupting?

Mr. HATCH. Sure.

Mr. FORD. But it indicates to me what the Senator is saying is that he thinks he should have sent a balanced budget up here, but he knew it would not go. What is wrong in doing what is right? If he had sent a balanced budget up here, and that was the issue in the campaign, we would be out of debt in 1983 and now it is 1989 and we are still going deeper and deeper in debt. What is right is right and what is wrong is wrong.

If he wanted to send a balanced budget up here he could very well have done it.

I do not see my educational people out in my State and I doubt in the Senator's that are receiving a lot more money in education. The problem today is education and the problem today is because we are not being an honest partner with our States in trying to improve education for our children.

Mr. HATCH. Let me say this: again, the Senator may not be seeing more money but if he is not he is not looking because the good Congress in its infinite wisdom has increased the cost of Federal aid to education almost 40 percent in the last 7 years and there is no use kidding about it. A 40-percent upgrade in education has been very costly, but I have supported it because I think it is that important in our society. In most respects, but I have also tried to keep down extra spending programs which were not efficient and were not good educational programs.

Mr. BOSCHWITZ. Mr. President, will the Senator from Utah yield for a comment?

Mr. HATCH. I will be delighted to yield.

Mr. BOSCHWITZ. A comment of a couple minutes on this subject of the budget?

Mr. HATCH. Yes, I am glad to yield.

Mr. BOSCHWITZ. I would say that my recollection on the budget is somewhat different than the Senator from Kentucky.

The President has indeed sent budgets up here that over a period of years would be in balance. Whenever the President sends up the tough budgets, they are declared dead on arrival by the people on the other side of the aisle and, indeed, from some on this side of the aisle, as well.

Certainly, no one would maintain that the budget can be balanced in a single year, and I do not think the President has ever maintained that. However, he has sent budgets up here that, over a period of years, would indeed knock out the deficit. And I have supported those kinds of efforts. Eventually, they were incorporated, to a large degree, in the Gramm-Rudman approach, which has shown some fiscal discipline.

Now, the distinguished Senator from Tennessee says that the events of October 1987 changed something in that.

Mr. FORD. Mr. President, I prefer to be called the Senator from Kentucky and not Tennessee.

Mr. BOSCHWITZ. Mr. President, regular order, please.

The PRESIDING OFFICER. Regular order is that the Senator from Utah has the floor.

Mr. BOSCHWITZ. Mr. President, the President has indeed sent up budgets, as I have indicated, that would have been balanced over a period of years.

The Senator from Kentucky said that, finally, after the events of October 1987, after the market crash, the administration came up here for the first time. Well, I have talked to members of the administration any number of times here on the Hill about the budget in both bipartisan and partisan meetings.

It is interesting to note that in the fiscal year that ended on September 30, 1987, we made remarkable progress in balancing the budget. In 1986, the deficit was $221 billion. In fiscal year 1987, which ended before the Black Monday of the stock market, the budget deficit went down by a third. The budget deficit in 1987 was $148 billion, down by $73 billion in the period of 1 year. That is pretty good progress, Mr. President.

The reason that it occurred is that we disciplined spending outlays that year. Outlays in the Federal budget in fiscal year 1987 went up by just 1.4 percent, while revenues went up by nearly 8 percent. If you can discipline the outlays in that way, you indeed will be able to come to a balance rather quickly. And I think that is what the President has been saying over a period of years, albeit unsuccessfully.

Frankly, I think that the American public may have an inaccurate view of the President's role in the budget. The President, indeed, presents the budget in January of each year. In January of each year, he sends that budget to the Congress.

But the budget is unlike a bill that we pass. The budget is not something that the President signs. The budget is not something that the President can veto. The result is that after the President sends it up here to the Hill, and after it is declared dead on arrival, as it so often is because Members of Congress do not like the way the budget might attack a particular program that they have an interest in, the President's participation largely ends.

The Congress then passes the budget. The budget is enacted without a signature by the President. The President cannot say, "Well, I don't like that budget; I am going to veto it," as he can a bill. As a result, the part that he plays in the budget is often overstated.

I agree with the Senator from Utah that much of the problem lies here in the Senate and the House of Representatives. Indeed, we controlled the Senate, the Republicans, for 6 of the 8 years of this Presidency, and we bear part of the blame. I have tried on many occasions to slow the growth of spending in the Federal Government, without success. Very frankly, that lack of success has been because of votes, yes, on our side, but mostly from the other side of the aisle.

This is certainly not a clear-cut matter where fingers can be pointed. But it should be understood that the President's role in the process of creating the budget is not as great as is sometimes written about in the press. And while these deficits are allegedly the deficits of this President, I would contest that viewpoint. As I have said, the President's role has largely ended after he submits the budget; the budget, unlike a bill, is not signed. As a result, the budget cannot be vetoed.

To blame the budget or the deficits on the President really is incorrect. We pass those bills and spend the money. Some of the blame must rest on this side of the aisle, some on the other side of the aisle, and some on the other House, as the Senator has indicated.

Mr. HATCH. Let me just thank the distinguished Senator for his cogent remarks. He is a member of the Budget Committee and he does understand this, I think, better than most Members of Congress.

There is no question about it. I personally would have preferred the President submit balanced budgets up here, but he would have been laughed right out of this town, not only by the editorial writers and everybody in the media, but by our friends on the other side, and even some of us.

Mr. BOSCHWITZ. I know that the Senator was engaged in conversation. I pointed out that, whenever the President sends up a tough budget here—and he has sent up budgets that, over a period of years, came to a balance—but whenever he sends a tough budget up here, it is declared dead on arrival. Because some Members of Congress on both sides of the aisle, not liking some of the provisions where some of their favorite programs were perhaps reduced or in some way affected—decided the budget was dead on arrival. And then we blame the President. I would agree with the Senator from Utah that we cannot do that.

Mr. HATCH. I am going to ask my distinguished colleague from Minnesota a question or two.

But let me just say this. I think the best way that I know of to see whether or not Members of Congress are for balanced budgets is to look how they voted in 1982 and, I believe, in 1986, when we brought the balanced budget constitutional amendment to the floor.

In 1982, there were 69 votes for the balanced budget amendment in the Senate. I think the people ought to check that and see just how sincere these people are who are talking about balancing the budget. Because they had the one chance in their lives to see that the President and the Congress and everybody else had to balance the budget. Thirty-one of them voted against that amendment. I think you will find an amazing correlation: Every one of those, I believe without exception, except those who are no longer here, would be for the minimum wage, because they love these programs. They can pretend that they are helping the weak and poor when, in fact, all they are doing is basically sending inflation through the roof, along with the cost of consumer goods and everything else and hurting everybody on fixed income.

I would like to ask the distinguished Senator a question. I will talk more about the training wage in a few minutes. I would like to ask the distinguished Senator from Minnesota a question.

He heard the remarks of the distinguished Senator from Massachusetts with regard to the earned income tax credit. I know the Senator from Minnesota is very concerned about that issue and may even have an amendment on that. So I would like to ask him: Did he agree with the distinguished Senator from Massachusetts on that, or what would you have to say?

I certainly did not agree. I think he is 100 percent wrong. And it is typical. We just throw these blanket programs out and say "We are taking care of everybody," when, in fact, there is only a certain segment of people who really do need the help. And we ought to help them, but the way to do it is directly help them. And the earned income tax credit is a way.

I would like to yield the floor at this time to the Senator from Minnesota and maybe I can get the floor back later to finish my remarks on the training wage. But I think it is important that he answer his comments.

Mr. BOSCHWITZ. Mr. President, I would say to my friend from Utah, I did not hear the remarks of the Senator from Massachusetts. I just came to the floor, and I understand that he did make a series of remarks about the earned income tax credit: That he opposes it and that there was a very large cost related to such an earned income tax credit. I believe he said that the cost of it would be $6 billion. I believe the Joint Tax Committee said the cost would be $2.1 billion. The earned income tax credit is very well targeted, in Pennsylvania and Minnesota and even in Colorado, unlike the minimum wage, which is very poorly targeted. Raising the minimum wage hits very few of the poor and would not really achieve what we want to achieve by raising the minimum wage. I think the minimum wage might be raised moderately, but if it could be combined with the earned income tax credit, it would really get at the people who are most in need.

The earned income tax credit applies only to families. The earned income tax credit varies with family size. In the event a family has four children, an earned income tax credit of $2,500 could be obtained. In the event somebody works 40 hours a week, that would be the equivalent of $1.25 an hour—not bad.

The way the earned income tax credit is structured in the amendment, the credit could be added to a person's check every week, so that a person would not have to file his income tax and then receive the tax refund at a later date. The earned income tax credit is a refundable credit. That means that it is refundable, even in the event that the taxpayer does not have taxes to pay. A family with four children, for instance, would have so many exemptions and such a large standard deduction that they would not have taxes to pay. In that case, the earned income tax credit would be a refundable tax credit, giving a very significant increase per hour to a low-income worker.

The earned income tax credit is something that goes only to people who are below a certain income level, and it gradually phases out. At an income level of $18,000, the entirety of the earned income tax credit is phased out. It has very many positive aspects to it.

First, it is not inflationary. As I understand it, the CBO has said that the increase in the minimum wage called for in this bill would have a 0.6-percent inflation increase, and I could well understand how that would happen. Prior to coming to the U.S. Senate I was an employer, and I sat with time cards on many occasions reviewing the wages of my employees. From my experience, I know that if you raise the minimum wage by $1.20 the entire wage structure would go up.

If you have somebody who is at $4.50 and you have had to raise somebody who is at $3.60 up to $4.55, the person at $4.50 is going to have to go to $5.25, and the guy who was at $4.90 is going to have to go to about $6. The whole wage structure is moved up. With that comes inflation. I think the CBO's estimate of 0.6 is probably a conservative estimate, very frankly.

The impact of that 0.6 percent on the budget would be very meaningful. The cost of all Federal programs would rise. All of the entitlement programs that are indexed would automatically go up. And the cost to the Federal Government would be very, very great.

However, that is not scored, as they say here in the Senate. That is not counted as an outlay by the CBO. The OMB will not score that as an outlay either, although the inflation caused by this bill is going to cause the cost of the Government to rise.

The earned income tax credit would not cause such an increase in inflation that would hurt every American. It does not have that very unfortunate side effect. In addition, it is targeted exactly at the people we are seeking to help with the actions of the Congress here.

Mr. President, I will offer a longer statement on the earned income tax credit at a later date. It certainly does not have a cost of $6 billion, as the Senator from Massachusetts stated. The Joint Tax Committee had said it has a cost of $2 billion, and those $2 billion are all targeted exactly where they should be targeted: to poor families. It will encourage people to go back to work. It is an automatic raise for low-income workers. It is a fair and decent approach to this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in opposition to the bill before us. The bill before us is antigrowth, antijob, antipoor, and antiminority and if adopted will hurt America. But it will hurt most people that the proponents of the bill claim they are going to help.

First of all, Mr. President, I would like to point out this bill is an absurdity on its face. If we could pass a law and make wages what we want them to be—which the proponents of this bill, in essence claim—why are we debating a measly $4.55 an hour? I think we ought to have a million dollars an hour. We will just pass a law that says everybody that works gets $1 million an hour, we will all be rich.

The problem with it there is a quirk in arithmetic that we all learned in the third grade and that quirk is a terrible thing but unfortunately it operates in the real world, outside the U.S. Congress. And that quirk is that anything times zero is zero. A million dollars an hour times zero hours equals zero income.

Now, Mr. President, I do not think the proponents of this bill would argue that American business is not out trying to earn a profit. People hire people up to the point that the wage they are paying them is equal to the value of what they are producing for the company or business for which they are working. So if people can hire somebody at $4 an hour and they produce $4.05 worth of goods and services, they hire them. If, on the other hand, we pass a law that says it is illegal for anybody to work for $4.55 an hour or less, then a company cannot hire anybody for less and so if somebody cannot produce $4.55 per hour worth of goods and services, this bill says they will not work in the United States of America. In essence, what this bill does, Mr. President, is, in the most cruel form it cuts the bottom rung off the economic ladder.

I doubt there are many Members of this body, though I suspect there are a few, who have not worked at the minimum wage. I have worked at the minimum wage and acquired great skills in doing so. I once worked for a peanut company sanding display cases that went into filling stations. And I learned something very important in that job and that is I did not want to do that the rest of my life. It had a profound impact on me. And had the minimum wage been $4.55 I would have never learned that lesson because I would have never been employed.

Now, being an economist and a schoolteacher, I could stand up here and rattle off statistics until early morning. However, I can give you the lesson of minimum wages in an example that is more powerful than all the statistics economists have generated indicating this bill will cost America 750,000 jobs a year by 1990 and no doubt that number or something close to it, or even above it, is true.

The other day I had some florists come to see me. I was glad to see them because they brought me flowers and I gave them out to all the people in the office. And one of them said to me: "Senator, what do you think about this minimum wage?" And I of course told him that I would be for a million dollars an hour if we could make people hire people and pay the wage.

So he said: "Here is my experience with minimum wage," and I want to share this with my colleagues. He said: "I normally have about three or four people who work for me at the minimum wage. They do not work for me for long. They come in, they learn a few skills, somebody comes along and hires them or they move up in my organization."

He said: "Six years ago, I hired a fellow at the minimum wage. He moved up in my little shop and he learned all of my skills and he learned how to do the books of the company. Then he quit and went across the street and opened up his own flower shop. Now he has 10 people working for him at the minimum wage."

He basically said if the minimum wage had been $4.55 an hour, that he probably would be a rich man today because the fellow who was in business across the street competing business away from him would be on welfare somewhere rather than hiring twice as many people as he would hire.

The truth is, Mr. President, that minimum wage jobs are weigh stations on the way to opportunity and prosperity in America. On-the-job training is the most powerful training vehicle we have in America. The training programs run by the Federal Government are irrelevant, for all practical purposes, in the operating of the American economy. As proud as we are of the ones we pass, the truth is the American free enterprise system is the greatest training system in history.

America will still survive, America will still prosper if we pass this bill, but there are literally hundreds of thousands, maybe a few million people who will never get their foot on the first rung of the ladder. We will end up squandering their talents because they will not get that job at that flower shop; they will not learn those skills. They will not go out and open their own business and make a lot of money and probably will not vote for me. But America will lose from it. We will squander the talents of hundreds of thousands of people because of this law.

Mr. President, the history of minimum wage law has had nothing whatsoever to do with poor people. Minimum wage laws have always hurt the poor. They have always hurt minorities. They eliminate the ultimate justice of America. The ultimate justice in America is: I walk into a person's place of business and I say: "Now, look, I know you listen to me talk and you think I am ignorant, you think I can't do something, but I can, and I will work for less. You hire me, I will work for less." What this bill says, is that is illegal.

Mr. President, I long for the day when every American will make $10 an hour or $20 an hour, but that day is not going to come by passing laws relating to minimum wage. That day is going to come by controlling Government spending, lowering interest rates, cutting taxes, and providing incentive for investment. It is a great paradox that even with education, as our economy has become more complex, the American people do not understand their economy as well.

I would like to see our colleague from Massachusetts go back 150 years when there were little farms out in Massachusetts and go out on the farm and meet the little farmer and say: "Listen, I am getting ready to pass a law that is going to raise your wages out here on this 40-acre farm."

The farmer would say: "That would be a good thing. How would you do it?"

He would say: "Well, we will have the Government pass a law, and it will say you are going to get a certain amount of money for the number of hours you work out here behind this mule."

The farmer would immediately say: "Now, wait a minute. How is that law going to help me grow more corn? How is that law going to make people willing to buy more corn?" Immediately he would write off the fellow who was trying to sell this snake oil as being just another political fellow coming down the road. And you could do it in Texas, Massachusetts, or Utah.

Mr. President, today when most people do not sell what they produce, when your economy is so much more complex, people come to believe that Government has all those mystical powers, that we can pass a law and suddenly we can made wages higher. We can pass laws and make wages higher, but we cannot pass laws to make people hire people at those higher wages, and that is the fallacy of this provision.

Finally, even if all the claims that are made for this bill by the proponents were true, one would have a hard time arguing that this was a bill that was aimed at poor people. I just wrote down on my way over four points that I think are relevant to that debate.

First of all, even if noboby was laid off, denied a job or laid off, by raising the minimum wage to $4.55 an hour, the best I can figure, only 11 percent of those gains would go to people who are living in proverty. If nobody was denied a job or laid off, if people just raised wages because they did not make any difference anyway, only 11 percent of the gains would go to people in poverty.

In fact, only 2.3 percent of minumum wage earners are full-time, year-round workers in families below the Federal proverty line. In fact, 63 percent of the heads of households in poverty families in America do not work at all.

Finally, if you were going to try to get people out of poverty by raising the minimum wage, you are going to be trying a long time. In fact, if you raise the minimum wage for a bread earner for a family of four next year to $3.75 an hour, that family of four would still be $4,758 below the provety line.

Mr. President, we ought to be working to try to get people to hire more people. On-the-job training is the path to progress and prosperity in America. Anything we do that makes it harder for young, unskilled people to get on-the-job training hurts America.

How many people have served with distinction in this great body who never would have been here had they not gotten a job in the past at some low wage to either learn some skill or learn that they did not want to do something the rest of their life? How many people have gone on to become the very captains of industry who never would have had a job had they not taken a low-paying job?

What is missing here is some people look at these jobs and they say: "Those are jobs that people are stuck in all their lives." They do not see that entry-level job as being the job that opens up opportunity for Americans. I see it that way. I want to have as many of those jobs as we can create. America cannot afford to squander talent, and that is why I adamantly oppose this bill.

I am not for any compromises on this bill. This bill is a bad idea. It may be good politics, but it is very poor economics. We can minimize the impact on it by having a learning wage, and I hope we adopt it. If we are foolish enough to pass this bill, we can try to make it less damaging by having youth exemption. I would support it, and we will make it less harmful if we can have that. But, Mr. President, this bill is bad for America; it is bad for the very people who we claim to be concerned about.

I hope my colleagues will look at the cold reality of the situation and decide to vote no on this bill. I yield the floor.

Mr. FORD addressed the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. The Senator from Utah used my name a few moments ago about a balanced budget, I understand, or about a vote in 1982.

Mr. HATCH. No, I did not raise that.

Mr. FORD. Maybe it was the Senator from Minnesota.

Mr. HATCH. I did raise the issue of a balanced budget. I said that to me the only way we can tell, in my opinion, who is serious about trying to get Federal spending under control is to look at the two votes we have had in the 1980's. I do not know exactly how anybody voted on it.

Mr. FORD. Since the inference was made, Mr. President, I would like to straighten out my voting as part of the Record. I offered an amendment to that resolution requiring the President to submit a balanced budget, because that budget amendment required only Congress to do it and not the President. So my amendment lost 45 to 53, and you can imagine who voted against my amendment asking the President to submit a balanced budget. And then I offered another amendment to say that if the President submitted a budget that was not in balance, he would in that budget cover why he could not submit the budget as a balanced budget. Both of those amendments were defeated and both of them by 53 votes against and 45 votes for. So that indicates that it was a divided Senate that voted on it, and I suspect those from the other side of the aisle voted in opposition to the President having to do that.

But then in June of 1987, the amendment submitted by the Senator from Texas [Mr. Gramm] required that the President submit a balanced budget by 9 to 15, the Congress had to then pass a balanced budget. I supported that amendment, and so for the Record I am not a Johnny-come-lately as it relates to balancing the budget.

I might add that in the vote on the last budget, 60 percent of the Republicans in this Chamber voted against the President's budget. So I want this to be balanced. I think the Senator from Minnesota always couched his remarks that Members on both sides of the aisle have been opposed. But since we voted on the two balanced budget amendments in the eighties, Mr. President, I have constantly said that the executive should be an equal part with the legislative in trying to bring our expenditures into balance, and so then in 1982 and again in 1987, I think my position has been very clear. And my vote in June of 1987 on the trade bill, the amendment by the Senator from Texas—and I do not think anybody in this Chamber has any doubt about how conservative the Senator from Texas is—supporting that amendment

I think indicated my desire for a balanced budget.

I thank both managers of the bill for giving me an opportunity to express my position as it relates to a balanced budget.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I think my point is still well taken. I think one of the best ways to determine who is for balanced budgets and who is not is who voted for the ultimate balanced budget resolution. Frankly, 69 of us in 1982 did in both parties. There were 31 who did not. In 1987 there were 66 of us who voted for it. There were 34 who did not. I think you would find if you correlated the votes of those who did not, for the most part you would find that they are among those who voted consistently for more and more Federal spending, regardless of who is President.

So that is my point. Sincerity is a wonderful thing, but I also think that votes are wonderful things, too, and people ought to be aware of those two very crucial votes. I certainly was not trying to impugne the distinguished Senator from Kentucky, but I would say this, that even on those two amendments that he supported were defeated until the 1987 vote. And then I think the issue is who voted for the balanced budget then. Only 66. We lost by 1 vote then. We passed it in this body in 1982 by 69 votes, a two-thirds vote plus 2, 67 plus 2, went to the House and won with 60 percent of the vote but, of course, we did not have the requisite constitutionally-required two-thirds vote and so it failed. Had that passed in 1982—it would have been fully implemented 3 years later—I believe we would be well on our way to a balanced budget today because one thing every Member of Congress, to my knowledge, reveres is the Constitution of the United States.

When Michael Dukakis had a $40 million deficit this year, it was not because he was such a great balanced budget man or that he supported it, because he does not. It was because his Constitution requires him to balance the budget as Governor of that State. So he had no choice.

Now, neither would any subsequent President if we had passed that amendment. So again I call on our citizens all over the country, look at those 2 votes. They will tell you a lot about who is for a balance budget and who is not for a balanced budget.

Nevertheless, I would like to go back to this training wage because I think it is important, and I will start with this chart again because I think it is very important.

Mr. KENNEDY. Mr. President, I will just respond briefly to some of the points that have been made here over the past couple of hours.

One of the points that was made by the Senator from Utah and the Senator from Texas was the fact that if we provide any increase in the minimum wage, it is going to filter through the economy, it will have some impact through inflation.

We put in the RECORD what the Wharton School testified would be the impact. It was two-tenths of 1 percent; the second year, three-tenths of 1 percent—if we went to $5.05. We are not there. So it will be considerably less.

The economic impact would be like a 10-cent increase in the cost of gasoline, a $10 or $15 billion expenditure in the budget—$10 or $15 billion out of a budget of $200 trillion. That is the magnitude of the economic impact on it.

There are those who say we should not give the increase because it will be the cost of doing business. Slavery was a pretty efficient way of doing business, too. But we recognized that that was completely immoral, and we recognized that we were going to have to have some sense of decency in treating the American people. This issue was debated and accepted 50 years ago.

A number of our Republican colleagues supported that increase in 1976. As I mentioned earlier, a Republican President of the United States, Dwight Eisenhower, presided over three increases in the minimum wage.

Even Vice President BUSH now says he is for an increase. Which way do you want it—the way it is described by the Senator from Texas and the Senator from Utah or the way the Vice President, GEORGE BUSH, describes it? You cannot have it both ways.

The best test is what has been historic background. When you look at the historic background, these kinds of observations about increasing unemployment and inflation and the adverse impact on the economy are not borne out. We put that case in the RECORD.

Mr. President, why is it all right for the Senator from Utah and the Senator from Texas and the Senator from Massachusetts to get the sizable increase in our pay over the last 8 years, from $60,100-odd to $89,000? Evidently, that was not going to impact our economy so much.

We provided an increase in the cost of living for those in the Armed Forces. The President, a few months ago, signed an increase in the cost of living for Federal employees because the economy is doing so well. Why is it all right there but not all right for those doing the most difficult and most menial tasks in our society? They do not get it. The 16 million workers, the poorest workers, who want to work and not go on welfare, there is no way we are going to continue the great prosperity—alleged—on the backs of those individuals.

Now, we heard all about prosperity. You know the figures and the statistics. Seventy-six percent of the wealth in the country in the last 7 years goes to two-fifths of the American population. The bottom two-fifths have received only about 10 or 8 percent. There is that disparity and we want to say "No" to them now, "We are not even going to give you a cost-of-living increase." We are not talking about a pay increase. We are talking about a cost-of-living increase.

Shame on them, Mr. President. Shame on those that make that argument.

Our good friend from Texas talks about what about 150 years ago if we went up to those Massachusetts farmers and talked to them, do they want a minimum wage out there? Well, my goodness, we have seen what the Massachusetts taxpayers have been paying and I have supported them. I have supported agricultural products because I believe we are one country in one history, and I supported that last program and in the last 25 years, I daresay, there is not anyone coming from an industrialized State that has supported agriculture more than the Senator from Massachusetts. Those subsidies have gone from $5 to approximately $25 billion. I am glad the subsidies have increased. They are facing drought and they are facing difficulty and if we are going to see those farmers go underground, not only do we lose those farm families, we are going to see costs go up in the Massachusetts supermarkets. We understand that.

We are glad to reach out a helping hand.

But why do you make that point and say, "Oh, no; not these other individual Americans; no way. We are not going to provide an increase because it is going to cost something."

Those are arguments that have been made on each and every occasion when we have had the opportunity to debate this question, and as I say, the best evidence is not what we say here, but what the history has been.

I know the majority leader wants the attention of the Senate.

Let me just say we have made adjustments and changes in our training rates. The Senator from Utah boohoos the fact we increase by 100 percent the number of students hired. What he did not read was the other provisions of the amendment that permit the employer to petition for additional students if he wants it. The only test would be in displacing the full-time workers. That is the name of the game.

If the Senator from Utah differs with that, we differ.

But there is sufficient opportunity for the expansion beyond 12 students. We have put that in there. That will be the test. Are you going to displace full-time workers? If not, hire as many as you want to.

That is the test, and we have simplified dramatically the existing program to make it easier. What we will not accept is the displacing of workers, many of them who are providing for their families with part-time employment. And that is the basic, fundamental issue.

Mr. President, I will be glad to go into some of these other issues, but I see our good friend and colleague, the majority leader, who wants to address the Senate, and I will withhold the comments until after he is recognized.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 474

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, Senator WALLOP is going to submit a resolution on behalf of himself, Mr. DOLE, myself, Mr. NUNN and other Senators, and it is agreeable I believe with Mr. WALLOP and Mr. DOLE that the debate begin at 15 minutes of 1 today with a vote on the resolution to occur at 1 o'clock p.m. today.

Mr. WALLOP. Mr. President, that is fine by me if I might have or at least control half the time.

Mr. BYRD. Yes.

Mr. WALLOP. I appreciate the majority leader being part of the cosponsorship.

Mr. BYRD. Mr. WALLOP will be in control of half the time and I will be in control of the other half.

I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that no amendments to the resolution be in order, no motion to recommit or commit with or without instructions be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. After we submit it, it would be my hope and preference that we have a rollcall vote on it.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the resolution at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. KENNEDY. As I understand, we will go back to the current unfinished business after the conclusion of that resolution.

Mr. BYRD. Yes.

Mr. KENNEDY. I was wondering if we could have the attention of the Senator from Utah to try to find out if there is going to be some opportunity or some possibility of moving to some vote on this measure. We have the amendment in the second degree. I am quite prepared to move toward a vote. I have had a number of inquiries from my colleagues about whether we will or will not.

As far as I am concerned, we are prepared to, after the disposition of the resolution, anytime move to a vote and get on with these other amendments.

I wanted to let the leader know that, and perhaps we may inquire of the Senator from Utah as to his disposition, so that we might know where we are.

Mr. BYRD. Mr. President, the order that was entered begins now, does it not?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I have 7½ minutes under my control on that resolution. I will be happy to yield 4 minutes under the control of my time once the resolution has been adopted.

The PRESIDING OFFICER. The time will run from the time the resolution is introduced.

Mr. BYRD. Will the Senator submit the resolution and then let me yield 4 minutes of my time equally divided between Mr. HATCH and Mr. KENNEDY so that Mr. KENNEDY may have his question addressed?

SOVIET ABM TREATY VIOLATIONS

Mr. WALLOP. Mr. President, I send a resolution to the desk and ask that it be stated.

It is on behalf of myself, Mr. DOLE, Mr. BYRD, Mr. LUGAR, Mr. NUNN, Mr. WARNER, Mr. BOREN, Mr. WILSON, Mr. HELMS, Mr. SYMMS, Mr. MCCLURE, Mr. KASTEN, Mr. MCCAIN, and Mr. SIMPSON.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 474) in support of the President's policy regarding Soviet ABM Treaty violations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WALLOP. Mr. President, I yield to the majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator, Mr. WALLOP.

I yield 2 minutes to Mr. KENNEDY and 2 minutes to Mr. HATCH.

Mr. HATCH. Mr. President, let me respond to the distinguished Senator from Massachusetts. As far as I can see, it does not appear that we are going to reach a vote today, although I would like to go to a vote on this at the earliest possible convenience.

I know that we have some other people who have expressed a desire to speak on this issue. I have a lot more to say on it.

I question whether we can get to a vote today.

But I have no problems with getting to a vote next week, and perhaps we can work that out. I do not know.

I will have to speak with both the majority leader and the minority leader and see what can be worked out.

Mr. KENNEDY. Mr. President, we have had, I think, a useful debate on this. If I could have the attention of the Senator from Utah, I would not be opposed to setting this aside and dealing with one of the other amendments. We have the amendment of the Senator from Illinois, Senator SIMON. We have an amendment of the Senator from Iowa, Mr. HARKIN. Both have indicated to me that they are prepared to go ahead, and I wanted to indicate to the leader if the Senator from Utah was satisfied we could set this temporarily aside and move ahead and try and get a vote on those if that would be a more agreeable way to proceed.

I am wondering if the Senator from Utah would tell us whether that could be?

Mr. HATCH. I would be inclinded to do that except for one thing. I do not see an awful lot more of debate time today and I want to cover some more points on this matter and I know that I have been asked by a few others to do so as well.

Whether they are here on Friday or not I do not know.

I would like just to have the opportunity of seeing how many are here.

I have to be gone during the pendency of this matter and for quite a time afterward because of former Senators and others who are visiting me in my office. But I will be back here. I think I can make it back here by 2:30 and we will begin the debate again and go from there.

Mr. BYRD. I join with the distinguished Senator from Massachusetts in expressing the hope that this amendment could be temporarily set aside to allow one or two of the other amendments that are around to be called up, debated, and perhaps disposed of without prejudice, of course, to this one. It would simply be set aside, if the Senator could allow us to set the amendment temporarily aside after this rollcall vote.

Mr. HATCH. If I could make a point, if the Simon amendment came up, it would have to be amended also because there are those on our side who would like to amend the Simon amendment. So we would not reach a vote today, in any event.

Why should we not get rid of this one problem so that we are pretty well into next Tuesday, or whenever it is, and have a vote on this problem and handle it straight up that way, and I will be happy to move ahead to any of the other amendments at that time.

Mr. BYRD. Of course, an objection would not allow us to set this amendment aside.

I was just simply asking the distinguished Senator if we could in the interest of saving some time on this and not going out at an early hour today when there is plenty of work to be done on this bill, to be able at least call up another amendment. If an amendment in the second degree is offered to that that is well and good. There could be some debate on that. That would be that much done, even though we may not dispose of such.

Mr. HATCH. I do not believe there will be a vote today anyway.

Why do we not see if we can get pretty well to the end of the debate on this amendment? In the meantime, I will consult with the minority leader to see if he would like to move ahead.

If those who have similar amendments to Senator SIMON would like to move ahead, I would have no objection at that time to moving ahead, but I cannot be back myself until 2:30.

Mr. KENNEDY. Mr. President, I know we are running out of time. I want to indicate that if we have a good idea what amendments are there. We are prepared to deal with them and debate them. We have been petitioned by the Senator from Illinois and the Senator from Iowa who have an interest in moving ahead and resolving their particular amendments.

I will follow the disposition of the leadership on it, but I want to give the assurance that we are prepared to deal with any of those and to continue on through the afternoon and hopefully dispose of them.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, I believe almost all of my time has expired. I would suggest, following the rollcall vote, that we see if it would be agreeable to the minority to temporarily set aside the pending amendments and go to another amendment. We will explore that at that time.

Mr. President, I ask unanimous consent that Senators may introduce statements into the RECORD as though read on the subject matter of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the majority leader. Before he leaves the floor, I thank him particularly for the cooperation of his staff in trying to make this a truly bipartisan resolution.

Mr. President, the resolution before the Senate is both timely and critical in its importance. The Director of the Arms Control and Disarmament Agency, General Burns, has just returned from heading a high-level United States delegation to Geneva for the third review conference of the ABM Treaty. That conference is mandated by the ABM Treaty itself.

Mr. President, the resolution before us is nothing more than a continuation of the strong, bipartisan statements this Senate has made with respect to Soviet compliance to the ABM Treaty, and in particular, the Krasnoyarsk radar violation. In February 1987, by a vote of 93 to 2, the Senate declared that the Krasnoyarsk radar is an "important obstacle to the achievement of acceptable arms control agreements" and we called on the Soviet Union to "dismantle the newly-constructed radar at Krasnoyarsk."

Mr. President, I spoke of the conference from which General Burns has just returned. I might say that General Burns was scheduled to meet today with Soviet arms negotiator Viktor Karpov on this very issue.

Mr. President, at the ABM Treaty Review Conference in Geneva, the United States raised again United States concerns about Soviet compliance with the ABM Treaty. These concerns range from ambiguous activities that are probable or likely violations, such as rapid reloading of ABM launchers, to full-fledged, unequivocal violations, such as the Krasnoyarsk and Gomel radars. I regret that United States concerns, many of which have been under discussion for years, were not satisfactorily redressed by the Soviet Union. Let me quote from the unilateral U.S. statement that ACDA issued after the completion of the review:

> Throughout the review conference, the Soviet Union gave no indication that it was prepared to correct the violations without linking their agreement to do so to unacceptable demands.

Mr. President, many Senators were present at the briefing by General Burns on the review conference that occurred on Monday of this week. I am certain those Senators are well aware of the conditions that the Soviet Union is placing on the resolution of these violations. I also am aware that Senators on both sides of the aisle are in strong agreement that a Soviet violation cannot be corrected by the United States meeting some Soviet demand or giving some concession at the bargaining table. A violation is a violation and we should not have to bargain to get it corrected. Such an action would not promote good arms control. It would further erode the integrity of that process as it has eroded U.S. confidence in existing agreements.

Mr. President, the problems associated with Soviet violations of the ABM Treaty are not new to this Senate. The President first raised this issue in 1984 in his yearly compliance report. At that time the United States had not yet classified Krasnoyarsk as a violation, although there was interagency agreement that it constituted such a violation. The United States raised this issue, along with other Soviet ABM activities, in the Standing Consultative Commission [SCC]. By February 1985, a new compliance report charged the Soviet Union with a violation of the ABM Treaty. Throughout this entire period, from 1984 to present, the United States repeatedly raised this issue with the Soviet Union in the SCC and at high-level meetings. The Soviet Union has not responded to these strong United States efforts.

Mr. President, to demonstrate the seriousness of this matter, the United States chose General Burns, director of ACDA, to head a special high-level delegation for the review conference. There was a raging debate within the administration whether it was time to charge the Soviet Union with a material breach of the ABM Treaty because of the Krasnoyarsk violation. I know there is some disagreement in the Senate on this issue, but I wish to point out that no one in the administration disputes whether this violation constitutes such a material breach. Not the lawyers, not the State Department or ACDA, no one. The only question is whether the time is right to charge the Soviet Union with such a breach.

For my part, I along with 19 other Senators from both sides of the aisle, sent a letter to the President urging him to classify Krasnoyarsk a material breach of the treaty. The United States demonstrated remarkable restraint in not so classifying this violation a material breach after some 5 years of Soviet noncompliance. In my judgment, too much restraint. But the United States clearly informed the Soviet Union in Geneva that without the dismantling of the Kransnoyarsk radar, the "United States will have to consider declaring this continuing violation a material breach."

Mr. President, in September 1987, despite the fact that the ABM Treaty interpretation dispute was in full swing, the Senate voted 89 to 0 that the Krasnoyarsk radar is "an unequivocal violation of the Anti-Ballistic Missile Treaty" and that the Senate judges the Soviet Union to be in violation of its legal obligations under that treaty.

Mr. President, this resolution effectively has the support of the administration and both candidates for President. The administration has made clear to me that they support the resolution, and General Burns reaffirmed at a meeting on Monday that it would be extremely helpful for this resolution to be passed before the upcoming ministerial between Soviet Foreign Minister Schevardnadze and Secretary of State Shultz.

Vice-President Bush has on numerous occasions affirmed that the Krasnoyarsk radar must be dismantled before any future agreements on strategic arms can be concluded. I understand that Governor Dukakis stated recently, and I quote, "no new strategic arms agreements will be signed until the Soviet Union agrees to dismantle the Krasnoyarsk radar." Additionally, a recent letter signed by over 42 Senators affirmed this policy.

Mr. President, at the time of the signing of the INF treaty, the President announced in his 1987 compliance report that a new violation of the ABM Treaty had been discovered at Gomel. It was at that time that I, together with other Senators on both sides of the aisle, began working on legislation that would provide for some possible responses to Soviet violations. That legislation was offered to the INF treaty, and I regret it was defeated.

I believe it was defeated more because of the political atmosphere at the time than because a majority in this body does not support the need to take appropriate or proportionate responses to unequivocal Soviet violations of arms control agreements.

Mr. President, this resolution does not replace that legislation, but it is a step in the right direction. It urges the President to work with Congress to develop possible response options to Soviet ABM Treaty violations, and expresses the Senate's willingness to consider such responses that might require legislative action. Why must we prepare responses to Soviet violations? There are two reasons.

First, if treaties provide any real benefit to U.S. security, it follows that violations of those treaties deny us at least some of those benefits and thereby endanger U.S. security. Prudent, measured responses should be designed to bring the Soviet Union back into compliance, but also should compensate for the increased risk to United States national security.

Second, the Soviet Union must realize that the entire United States Government is serious about the Soviet Union's unwillingness to comply with its international obligations. We may have new arms control agreements coming before the Senate in the next few years on strategic and conventional arms. Let me suggest that as part of a comprehensive arms control strategy we need not just new agreements, but also a compliance policy that places a premium on full and unconditional compliance with existing agreements.

Without such a policy, Mr. President, there is little incentive for the Soviet Union to take the protestations of United States officials seriously. It is my hope that this resolution will send a strong message to the Soviet leadership, and give our negotiators the ability to speak for the entire Government on this matter. The ministerial starts on Thursday of next week. It is also my genuine hope that the administration, and future administrations, no matter who or which party occupies the White House, will work with the Congress to develop a comprehensive compliance policy to deal effectively with future Soviet noncompliance, restoring the integrity of the arms control process, and reducing the risk to United States security that Soviet violations pose.

Mr. President, I ask unanimous consent that two letters on the ABM Treaty issue, along with two essays on the subject of the ABM Treaty review conference written by William F. Buckley, Jr. and Frank J. Gaffney, Jr., and the U.S. unilateral statement after the review conference, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 6, 1988]

SPACE SURRENDER

(By William F. Buckley, Jr.)

The U.S. negotiating team has said to the Soviet negotiating team: Unless you get rid of Krasnoyarsk, we won't play START with you. Krasnoyarsk is that huge radar station in Siberia whose existence at that location violates the ABM Treaty. The ABM Treaty is that misbegotten satellite of SALT I, signed back in 1972. SALT I was the first of our treaties designed to reduce the deadlines of our joint inventory of nuclear weapons. A measure of how successful SALT I turned out to be in limiting strategic nuclear arms is this figure: 80 percent of existing Soviet nuclear missiles have been developed and constructed since SALT I. It might as well have been designated not as a treaty to "limit" strategic arms but as a treaty to "increase" strategic arms.

But now watch what is likely to happen. The Krasnoyarsk station is forbidden because its function is to manage a defense against nuclear missiles that, with one or two exceptions, is not permitted by the ABM treaty. You are allowed, under ABM, all the radar outposts you want to alert you to a surprise strike, but these must be within a specified number of miles of your coastline. If we wished to alert ourselves against a surprise Soviet nuclear attack by posting radar stations in Alaska, their function there would be very different from posting radar stations—of the kind called "phased array"—in the Midwest. Those stationed there would have a clear function of relating defensive, battle-management instructions to batteries of protective missiles around American cities, flashing instructions to ground-based and in due course to space-based missiles.

Now, we have known about Krasnoyarsk for about three or four years. Senior diplomats and military men publicly inveigh against it. The Soviet Union has been able to count on only one thing: namely, that the forward momentum of the arms control movement was not going to be deterred by Krasnoyarsk, any more than it was going to suffer from the Helsinki Accords, any more than it would suffer from violations of SALT I and ABM and the antichemical and antibacteriological accords.

So . . . in due course, while still protesting their violation of antecedent treaties, we made another treaty, the INF Treaty, which everyone is supposed to applaud, and most politicians feel they need to applaud.

But now that we are sounding serious about Krasnoyarsk, what if the Soviet Union agrees to dismantle it (if not actually destroy it)? Here is the analysis as given recently by Mr. Frank Gaffney, former assistant secretary of defense for international security policy:

"The dismantling of the Krasnoyarsk radar alone would hardly eliminate the strategic significance of accumulated Soviet investments in defenses. Still in place will be numerous deeply buried facilities for the protection of the leadership, tens of thousands of air defense radars and missiles, extensive civil and passive defense measures, to say nothing of the entirety of the residual Soviet ABM program. In short, the Krasnoyarsk radar's destruction would no more restore the integrity of the ABM treaty than a rapist's castration would restore the virginity of his victim."

The stark facts of the astonishing disintegration of our space program under the Reagan administration are suggested by another simple figure. The Soviets have developed a launch capability 10 times larger than the West's for placing many satellites in space. We are entitled to wonder how this can be of the country that only 20 years ago landed a man on the moon.

It is easiest to blame the politicians, and correct to do so, inasmuch as they have been tight-fisted and cranky about the space program, coming close to immobilizing it after the Challenger tragedy of 1986. But we have also to blame—and to say this makes one feel like a soldier shooting his lieutenant in the back during combat—the Joint Chiefs of Staff. There is an increasing consensus among experts in aerospace that we are in the coils of the same kind of asphyxiation we have seen over and over again, generation after generation, when a service resents the passage of money to another service but especially to an innovative branch.

Gen. Billy Mitchell is this century's most conspicuous martyr of that kind of military atavism. Nobody is better qualified to tell us than the Joint Chiefs of Staff how deteriorated our strategic position is. And yet they might as well be the three blind mice in respect of the utter, suicidal folly of the ABM Treaty's being kept alive in 1988.

[From the San Diego Union, Aug. 28, 1988]

ABM TREATY REVIEW COULD INCREASE RISKS FOR AMERICA

(By Frank J. Gaffney, Jr.)

If politics makes for strange bedfellows, arms control makes for positively bizarre sleeping arrangements. A case in point is the quintennial review of the 1972 U.S.-Soviet Anti-Ballistic Missile Treaty, which began last week in Geneva.

The posturing of the two governments during the run-up to this meeting has revealed the makings of a remarkable convergence of interests between the American Joint Chiefs of Staff and the leadership of the Soviet Union. While there is no suggestion of active collusion between the two, it is striking to note the appearance of a common purpose: Both the U.S.S.R. and the JCS seem bent on ensuring that the United States remains undefended against ballistic missile attack.

Ever since Ronald Reagan announced in 1983 that he intended to explore a Strategic Defense Initiative (SDI) whose success would render ballistic missile-delivered nuclear weapons "impotent and obsolete." The Soviets have sought to block this program. In so doing, the U.S.S.R. has employed numerous devices: public relations campaigns, threats of military responses, and arms control initiatives, to name but a few.

Throughout, the Soviets have laid great stress on the ABM treaty. Indeed, they have sought to contrast the highly publicized American program—the stated objective of which is wholly uncompatible with the treaty's prohibition on territorial defenses against ballistic missiles—with their own declared fealty to this agreement. yet such rhetoric rings hollow when contrasted with the mounting evidence of the Soviet Union's own abiding commitment to strategic defenses.

Even though the IBM treaty seemingly committed the two parties to a state of mutual vulneraiblity to nuclear attack, the Soviets have continued unabated their massive investments in arrays of air, civil and leadership defenses. The cumulative effect of these defenses could be to enhance substantially the effectiveness of even relatively modest ABM systems.

Moreover, the Soviet Union has maintained a considerable effort in the field of anti-ballistic missile defenses itself. The U.S.S.R. today has the world's only deployed ABM capability, situated for the defense of Moscow. Drawing upon and adapting the technologies developed for this purpose, the Soviets have produced a multitude of near-term systems with ABM potential, such as mobile radars and interceptor missiles. They are also pursuing advanced technologies like lasers and particle beam weapons that will provide the U.S.S.R. with additional ABM options down the road.

Obviously, if the Soviets' opposition to the SDI is to be regarded as credible in the West, knowledge of the magnitude and significance of its defensive programs has to be kept to a minimum. Accordingly, the U.S.S.R. has sought with considerable success to keep the wraps on this part of its arsenal—notwithstanding the highly touted "new openness" of Soviet *glasnost.*

In order to obtain in the near future the capability to defend itself against ballistic missile attack, however, the Soviet Union has had to take a step which cannot be concealed. This involves the introduction of a nationwide complex of extremely powerful, large, phased-array radars (LPARs). These radars, each with faces the size of several football fields, take years to construct and are essential to the detection and tracking functions necessary for interception of attacking ballistic missiles.

Since they cannot be hidden, the Soviet Union has chosen instead to build nearly all of its LPARs in a manner nominally consistent with the ABM treaty. Indeed, with a single exception, every one of these radars can be squeezed through loopholes in the treaty—despite the fact that they are much larger and vastly more powerful than needed for the single early warning function intended by that accord.

The exception, of course, is the notorious LPAR located near Krasnoyarsk in Siberia. This radar, by virtue of its siting, orientation and performance characteristics unmistakably violates the ABM treaty. The willingness of the U.S.S.R. to invest in such a system—even though it would inevitably be detected and identified as a breach of the Soviet Union's arms control commitments—offers a troubling insight into the Soviet view of the sanctity of such commitments. The Krasnoyarsk radar also indicates that its gerrymandered sister radars are motivated by a similar agenda—the illegal defense of the Soviet Union against ballistic missile attack.

Interestingly, the blatant manner in which the LPAR at Krasnoyarsk violates the ABM treaty has complicated Soviet efforts to portray that accord as sacrosanct and the U.S.S.R. as its tireless defender. It also has made life more difficult for those in the West who extol the virtues of the ABM treaty and who for various reasons, would rather concentrate on "restoring the integrity" of the agreement than on active pursuit of comparable U.S. strategic defenses.

On the face of it, it seems difficult to believe the United States' Joint Chiefs of Staff would be among the latter group. After all, one would expect that the nation's senior military authorities are among the strongest proponents of U.S. strategic defense.

In fact, the Joint Chiefs in recent years have become serious impediments to the President's SDI program. The reasons have more to do with parochial efforts to preserve pet programs competing for increasingly scarce defense resources; than with any dissenting view of strategic doctrine or policy. Simply put the chiefs—as senior representatives of the armed services—accord SDI lower priority than a host of other weapon systems, particularly conventional ones like tanks, fighter planes and ships.

As the twilight of the Reagan administration dims the value of the Strategic Defense Initiatives most important political asset—the President's personal support—the JCS have successfully insisted that the expensive activities critical to the SDI's progressive vigorous experimentation and active preparation for deployment be scaled back.

In so doing, the chiefs have imposed on the program a deadly Catch-22. Uncertainties about the technical feasibility and availability of U.S. strategic defenses are cited persuasively to support a slower, less expensive SDI research and development program. Yet the only way to eliminate such uncertainties is to conduct a more aggressive more costly effort. As a successful SDI program will require still greater resources to produce a deployable system, the chiefs see all the more reason to stretch out and undermine its exploratory phase, ensuring that any results are slow in coming and inconclusive.

The Joint Chiefs' tepidness toward a U.S. strategic defense program contrasts sharply with their growing unease about the emerging Soviet capability in this area. The chiefs understand that widespread Soviet deployments of the ABM systems now being introduced could have considerable strategic significance. Moreover, they appreciate that the cumulative effect of the U.S.S.R.'s years of investment in strategic defenses is to offer the Soviet Union the option to deploy such systems far faster than could the United States.

This preoccupation with the reality of near-term Soviet break-out potential has prompted the Joint Chiefs of Staff to become among the most vehement advocates of the ABM treaty within the United States government. Their theory apparently is that continued U.S. compliance with the treaty and muted American diplomatic efforts to get the Soviets to take down the Krasnoyarsk radar will preclude this strategic nightmare.

Of course, there are two fundamental problems with this position. First, the Soviet break-out capabilities the Chiefs find so worrisome have all been put into place notwithstanding the ABM treaty. Hot production lines for modern anti-ballistic missile interceptors have been put into place, surface-to-air missile systems tested against ballistic missiles, LPAR's constructed, mobile ABM radars developed. All of these actions have been undertaken in a manner technically conforming to the treaty's limits—or in spite of them.

Second, the dismantling of the Krasnoyarsk radar alone would hardly eliminate the strategic significance of accumulated Soviet investments in defenses. Still in place will be numerous deeply buried facilities for the protection of the leadership; tens of thousands of air defense radars and missiles; extensive civil and passive defense measures, to say nothing of the entirety of the residual Soviet ABM program. In short, the Krasnoyarsk radar's destruction would no more restore the integrity of the ABM treaty than a rapist's castration would restore the virginity of his victim.

In light of the untenability of these positions, a cynic might be tempted to conclude that the Joint Chiefs of Staff's real agenda in flacking for the ABM treaty is their hope that by doing so they can fend off pressure for meaningful work on the SDI program. However marginal its value in constraining Soviet strategic defense activities, the treaty has proven enormously powerful in limiting the extent and the utility of work on their modest U.S. counterpart. In addition, this oblique opposition to a vigorous SDI permits the JCS to curry favor with those in Congress who are fetishists about the ABM treaty, many of whom profess to support reallocation of defense resources from strategic forces to conventional arms.

If such an assessment is correct, the lowest common denominator between the Soviet and JCS agendas may be realized in the ABM treaty review:

The Soviets will agree to abandon the Krasnoyarsk radar—probably going so far as to offer verifiably to render it incapable of operating, though perhaps stopping short of razing it. For its part, the United States will refrain from labeling this LPAR a "material breach" of the ABM treaty (a step which could establish under international law the U.S. right to reciprocate, for example, by testing or deploying the SDI in ways not permitted by the treaty). On this basis, the United States will declare itself satisfied that the integrity of the treaty is restored and, possibly, that it will not withdraw from that accord for roughly ten years.

Should this, in fact, prove to be the outcome of the ABM treaty review conference, it will mean that any realistic prospect of defending the United States against ballistic missile attack will be precluded for the foreseeable future. Unfortunately, the same cannot be said about Soviet defenses.

An early test of leadership may therefore be presented to Vice President Bush, a candidate campaigning for the presidency on a platform calling for deployment of the SDI as soon as it is ready and on whose watch—if he is elected—the Soviet ABM break-out might well occur. The nation needs to know whether the ABM treaty review conference will be conducted, at his insistence, in accordance with his stated goals for the SDI—or along the lines sought by the Soviet Union and the Joint Chiefs of Staff.

U.S. SENATE,
Washington, DC, June 28, 1988.
The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you know, the Senate voted overwhelmingly and the House voted unanimously last year to support your 1984 finding that the Soviet Krasnoyarsk radar was a clear violation of the SALT I ABM Treaty. Your 1985 report to Congress on Soviet SALT violations stated that the Krasnoyarsk radar violates the key provision of the ABM Treaty.

The Krasnoyarsk radar itself will have about ten times the power of each of the 12 U.S. Safeguard ABM radars only planned in 1969 for a U.S. nationwide ABM defense. Moveover, the siting of the Krasnoyarsk radar deep in the interior of the Soviet Union near many key ICBM complexes sacrificed at least 6 minutes of warning time. The high power, interior siting near strategic targets, and sacrifice of warning time all strongly suggest that Krasnoyarsk is intended for ABM battle management. This is contrary to the heart of the ABM Treaty.

As you said in your 1985 compliance report, "Militarily, the Krasnoyarsk radar violation goes to the heart of the ABM Treaty." The almost unanimous Congressional votes agreeing that Krasnoyarsk is a clear violation indicate that there will be strong support for your declaration that it is a "material breach" of the Treaty. We urge you to maintain this policy and to declare Krasnoyarsk a "material breach" at the forthcoming third five year review of the ABM Treaty. The credibility of American foreign policy will be severely damaged if your longstanding policy is changed.

Respectfully,

MALCOLM WALLOP
(With 15 cosigners).

U.S. SENATE,
Washington, DC, August 11, 1988.
President RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you approach the third five-year review of the 1972 Anti-Ballistic Missile (ABM) Treaty, we want to reaffirm our support for efforts to strengthen the treaty and ensure its continued contribution to our national security. In this regard, we are encouraged by your recent decision not to move at this time toward suspension or termination of U.S. obligations under the ABM treaty by declaring Soviet construction of the Krasnoyarsk radar a material breach of the treaty.

We strongly believe that Soviet violations of arms agreements can neither be excused nor ignored. As you know, the Senate went on record in February and in September 1987 declaring the Krasnoyarsk radar an unequivocal violation of the ABM Treaty and calling for the Soviet Union to dismantle it. We also are fully supportive of your position that no START agreement can be completed until the Krasnoyarsk radar issue is resolved to U.S. satisfaction.

However, it would be premature and counterproductive to move toward suspending or terminating U.S. adherence to the ABM Treaty in response to the Krasnoyarsk radar. The radar, although a serious violation, remains years from completion and thus poses no immediate threat to the United States. Moreover, the moratorium on construction of the radar that Soviet General Secretary Gorbachev announced last October suggests a Soviet willingness to discuss the radar's dismantlement. The recent statements by Soviet arms control official Viktor Karpov also appear to contain some encouraging signs on the Krasnoyarsk radar. We urge you to pursue these apparent openings at the ABM Treaty review this month in a manner that strengthens the treaty and reaffirms the obligations of both parties to abide by its terms.

We firmly believe that the ABM Treaty continues to contribute significantly to U.S. and NATO security by limiting Soviet strategic defenses. We understand that this view of the treaty's value to our national security is shared by the Joint Chiefs of Staff.

We urge you to continue to reject any course of action that could lead to suspension or termination of the treaty provisions. In the short run, such a course of action could cause us to miss an opportunity to settle the Krasnoyarsk radar problem through negotiation. In the longer run, it could undermine the treaty itself. As the first missiles are being destroyed under the recently ratified INF Treaty and the START negotiations are making steady progress, this is not the time to reverse course on arms control by stepping back from U.S. obligations under the ABM Treaty.

We look forward to working with you to resolve the question of the Krasnoyarsk radar in a practical and effective manner that reinforces the ABM Treaty regime and contibutes to further progress in arms control.

Sincerely,

Edward M. Kennedy, Dale Bumpers, J. Bennett Johnston, Jeff Bingaman, George J. Mitchell, John H. Chafee, Robert T. Stafford, Claiborne Pell, Alan Cranston, Daniel K. Inouye, Albert Gore, Jr., Terry Sanford, Timothy E. Wirth, Spark M. Matsunaga, Donald W. Riegle, Jr., Mark Hatfield, Frank R. Lautenberg, Christopher Dodd, John D. Rockefeller, IV, Patrick J. Leahy, Brock Adams, John F. Kerry, William Proxmire, Paul Simon, Daniel J. Evans, Jim Sasser, Tom Harkin, Quentin Burdick, Paul Sarbanes, Daniel P. Moynihan, Lawton Chiles, Dave Durenberger, Barbara A. Mikulski, John Melcher, Thomas Daschle, Carl Levin, Wyche Fowler, Jr., David Pryor, Howard M. Metzenbaum, John Glenn, Max Baucus, Wendell Ford.

U.S. UNILATERAL STATEMENT FOLLOWING ABM TREATY REVIEW

The United States and the Soviet Union conducted the third Review of the ABM Treaty as required at five-year intervals by the provisions of that Treaty. The Review was conducted from August 24, 1988 to August 31, 1988. The U.S. Delegation was led by William F. Burns, Director of the Arms Control and Disarmament Agency.

During the Review, the United States emphasized the importance of Soviet violations of the ABM Treaty, which are a threat to the viability of the Treaty. Throughout the Review Conference, the Soviet Union gave no indication that it was prepared to correct the violations without linking their agreement to do so to unacceptable demands.

Specifically, the United States discussed with the Soviets its serious concern that the Soviet Union's deployment of a large phased-array radar near Krasnoyarsk constitutes a significant violation of a central element of the ABM Treaty. Such radars take years to build and are a key to providing a nation-wide defense—which is prohibited by the Treaty. The Treaty's restrictions on the location, orientation, and functions of such radars are, thus, essential provisions of the Treaty. Hence, the Krasnoyarsk violation is very serious, particularly when it is recognized that the radar constitutes one of a network of such radars that have the inherent potential for attack assessment in support of ballistic missile defense.

In order for the Soviet Union to correct this violation, the Krasnoyarsk radar must be dismantled. The United States has been urging the Soviet Union for more than five years, both in the Standing Consultative Commission established by the Treaty and in other diplomatic channels, to correct this clear violation by dismantling the radar. During the Review, the U.S. outlined the specific Soviet actions necessary to correct this violation in a verifiable manner. The United States has also made clear that the continuing existence of the Krasnoyarsk radar makes it impossible to conclude any future arms agreements in the START or Defense and Space areas. The United States has observed a slowdown in construction, but this slowdown, or even a full construction freeze, would not be sufficient either to correct the Treaty violation or to meet U.S. concerns about the significant impact of the violation.

The United States cannot continue indefinitely to tolerate this clear and serious Treaty violation. The violation must be corrected. Until the Krasnoyarsk radar is dismantled, it will continue to raise the issue of material breach and proportionate responses. Nothing that occurred during the Review Conference or its completion should be interpreted as derogating in any way from right the U.S. has under international law with regard to any Soviet violation of the Treaty. Since the Soviet Union was not prepared to satisfy U.S. concerns with respect to the Krasnoyarsk radar violation at the Review Conference, the United States will have to consider declaring this continuing violation a material breach of the Treaty. In this connection, the United States reserves all its rights, consistent with international law, to take appropriate and proportionate responses in the future.

During the ABM Treaty Review, the United States also discussed the violation of the ABM Treaty involving the illegally deployed radars at Gomel. The U.S. also reserves its rights to respond to this violation in an appropriate and proportionate manner. The United States also discussed with the Soviet Union a number of ABM-related compliance concerns, the totality of which suggests that the Soviet Union may be preparing a prohibited ABM territorial defense. This is a particularly serious concern. As the President has noted, such a development would have profound implications for the vital East-West balance. A unilateral Soviet territorial ABM capability acquired in violation of the ABM Treaty could erode our deterrent and leave doubts about its capability.

The U.S. continues to have deep, continuing concerns about the implications of the pattern of Soviet non-compliance with the ABM Treaty. As President Reagan observed in December 1987: "No violations of a treaty can be considered to be a minor matter, nor can there be confidence in agreements if a country can pick and choose which provisions of an agreement it will comply with * * *. Correcting their violations will be a true test of Soviet willingness to enter a more constructive relationship and broaden the basis for cooperation between our two countries on security matters."

The U.S. will not accept Soviet violations or a double standard of Treaty compliance, and reserves the right to take appropriate and proportionate responses in the future.

TERRY B. SHROEDER,
Spokesman, U.S. Delegation.

Mr. WALLOP. Mr. President, I ask unanimous consent that Senator KARNES be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, debates here in the U.S. Senate—whether on agriculture, arms control or tax reform—tend to concentrate on that which divides us. We don't usually touch on areas of consensus.

When we turn to foreign policy, foreign observers should not be misled. Underlying our sometimes loud debates is a great amount of consensus. Every now and then we have to pause, and take a moment to remind the world of this consensus which backs most American foreign policy.

I think all of my colleagues agree that arms control agreements, once ratified, must be abided by. Violations sour relations, cast existing treaties into doubt, and impede progress toward new ones.

Right now, Soviet violations of the ABM Treaty, as best illustrated by the large phased-array radar at Krasnoyarsk—an unequivocal violation of the ABM Treaty—are having precisely this effect.

We in the Senate have taken this position by margins of 89 to 0 and 93 to 2. Unfortunately, the Soviets have not yet understood our message.

The required 5-year review of the ABM Treaty was completed 2 weeks ago. At that review, ACDA Director William Burns reiterated our position. As in the past, the Soviets linked their compliance with the ABM Treaty to other demands.

Mr. Burns told them firmly that we cannot get into the business of rewarding the Soviet Union for compliance with its obligations. The United States issued a statement at the review's close, and I ask unanimous consent the the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

UNITED STATES UNILATERAL STATEMENT FOLLOWING ABM TREATY REVIEW

The United States and the Soviet Union conducted the third Review of the ABM Treaty as required at five-year intervals by the provisions of that Treaty. The Review was conducted from August 24, 1988 to August 31, 1988. The U.S. Delegation was led by William F. Burns, Director of the Arms Control and Disarmament Agency.

During the Review, the United States emphasized the importance of Soviet violations of the ABM Treaty, which are a threat to the viability of the Treaty. Throughout the Review Conference, the Soviet Union gave no indication that it was prepared to correct the violations without linking their agreement to do so to unacceptable demands.

Specifically, the United States discussed with the Soviets its serious concern that the Soviet Union's deployment of a large phased-array radar near Krasnoyarsk constitutes a significant violation of a central element of the ABM Treaty. Such radars take years to build and are a key to providing a nation-wide defense—which is prohibited by the Treaty. The Treaty's restrictions on the location, orientation, and functions of such radars are, thus, essential provisions of the Treaty. Hence, the Krasnoyarsk violation is very serious, particularly when it is recognized that the radar constitutes one of a network of such radars that have the inherent potential for attack assessment in support of ballistic missile defense.

In order for the Soviet Union to correct this violation, the Krasnoyarsk radar must be dismantled. The United States has been urging the Soviet Union for more than five years, both in the Standing Consultative Commission established by the Treaty and in other diplomatic channels, to correct this clear violation by dismantling the radar. During the Review, the U.S. outlined the specific Soviet actions necessary to correct this violation in a verifiable manner. The United States has also made clear that the continuing existence of the Krasnoyarsk radar makes it impossible to conclude any future arms agreements in the START or Defense and Space areas. The United States has observed a slowdown in construction, but his slowdown, or even a full construction freeze, would not be sufficent either to correct the Treaty violation or to meet U.S. concerns about the significant impact of the violation.

The United States cannot continue indefinitely to tolerate this clear and serious Treaty violation. The violation must be corrected. Until the Krasnoyarsk radar is dismantled, it will continue to raise the issue of material breach and proportionate responses. Nothing that occurred during the Review Conference or its completion should be interpreted as derogating in any way from rights the U.S. has under international law with regard to any Soviet violation of the Treaty. Since the Soviet Union was not prepared to satisfy U.S. concerns with respect to the Krasnoyarsk radar violation at the Review Conference, the United States will have to consider declaring this continuing violation a material breach of the Treaty. In this connection, the United States reserves all its rights, consistent with international law, to take appropriate and proportionate responses in the future.

During the ABM Treaty Review, the United States also discussed the violation of the ABM Treaty involving the illegally deployed radars at Gomel. The U.S. also reserves its rights to respond to this violation in an appropriate and proportionate manner. The United States also discussed with the Soviet Union a number of ABM-related compliance concerns, the totality of which suggests that the Soviet Union may be preparing a prohibited ABM territorial defense. This is a particularly serious concern. As the President has noted, such a development "would have profound implications for the vital East-West balance. A unilateral Soviet territorial ABM capability acquired in violation of the ABM Treaty could erode our deterrent and leave doubts about its capability."

The U.S. continues to have deep, continuing concerns about the implications of the pattern of Soviet non-compliance with the ABM Treaty. As President Regan observed in December 1987: No violations of a treaty can be considered to be a minor matter, nor can there be confidence in agreements if a country can pick and choose which provisions of an agreement it will comply with. . . . Correcting their violations will be a true test of Soviet willingness to enter a more constructive relationship and broaden the basis for cooperation between our two countries on security matters.

The U.S. will not accept Soviet violations or a double standard of Treaty compliance, and reserves the right to take appropriate and proportionate responses in the future.

TERRY B. SCHROEDER,
Spokesman, United States Delegation.

Mr. DOLE. Mr. President, I spoke with ACDA Director Burns on Monday, and he told me that the only hope we have of bringing the Soviet Union into compliance is to stand united and firm. He told me that this Senate resolution—following our two earlier ones—is just what we need today.

The resolution reiterates our earlier positions, and points out that Krasnoyarsk stands between us and the good START Agreement we all hope to see.

The resolution avoids issues about which there is disagreement, and simply invites the President to work with Congress to develop responses to Soviet violations.

Let me be clear: I hope that complete Soviet compliance with the treaty will cancel our need to consider responses. But for now, we must remind the Soviets that we cannot tolerate violations and remain idle forever.

This language has been carefully worked on both sides of the aisle, and with the administration. As I said, Director Burns says this is just the right touch.

We are all indebted to the Senator from Wyoming [Mr. WALLOP] for authoring this resolution, and for working so hard with other Senators to produce a document we all agree on.

I would also like to thank the Senator from Indiana [Mr. LUGAR] for all the work he has done.

As always, I thank the majority leader for standing together with me when our country needs to speak in a truly bipartisan fashion. His cosponsorship sends a clear message to Moscow, as will the unanimous backing I am sure this resolution will have.

Mr. HELMS. Mr. President, the key national security issue before the American people in the 1988 campaign is whether the ABM Treaty should continue to hamstring our best proportionate response to the multiple confirmed Soviet violations of existing arms control treaties—an accelerated and expanded SDI Program and deployment of strategic defenses now. At the same time, the viability of the ABM Treaty is the single most crucial issue in United States-Soviet relations.

In 1987, both Houses of Congress voted unanimously to support President Reagan's 1984 finding that the Soviet Krasnoyarsk radar was an "unequivocal violation" of the ABM Treaty. The House voted 410 to 0 and the Senate voted 89 to 0 in declaring that the Soviet Krasnoyarsk radar is an unequivocal and clear violation of the ABM Treaty.

But, Mr. President, despite this clear unanimity between the executive and the legislative branches, the United States has tolerated Krasnoyarsk for 5 years, with no deterrent response. The United States has tolerated Krasnoyarsk ever since the United States first detected it in July 1983, after it had reportedly been under construction for over 3 years. Thus logistical planning specifically for Krasnoyarsk was underway at the highest level of the Soviet leadership in early 1979, precisely when the SALT II Treaty was signed. Indeed, the illegal Krasnoyarsk radar itself clearly was planned by Soviet leader Brezhnev in May 1972, precisely when the SALT I ABM Treaty was signed. Thus the origins of the illegal Soviet Krasnoyarsk radar can be traced back to the very beginning of United States-Soviet strategic arms limitation treaties in 1972.

This plain fact, derived from physical evidence in program analysis, speaks volumes about Soviet intentions to negotiate deceptively in the 1972 SALT I Agreements and the 1979 SALT II Treaty, and to sign these three agreements fully intending from the very outset to violate their very core provisions.

Indeed, there is also dramatic, previously highly classified, direct evidence of Soviet leadership intentions to negotiate deceptively and to violate the SALT I interim agreement regarding the deployment of the Soviet SS-19 illegal heavy ICBM.

I therefore strongly agree with the U.S. unilateral statement of August 31, 1988, following the third "ABM Treaty Five-Year Review," which said:

> The United States cannot continue indefinitely to tolerate this clear and serious treaty violation. The violation must be corrected. Until the Krasnoyarsk radar is dismantled, it will continue to raise the issue of material breach and proportionate response. Since the Soviet Union was not prepared to satisfy U.S. concerns with respect to the Krasnoyarsk radar violation at the Review Conference, the United States will have to consider declaring this continuing violation a material breach of the Treaty. In this connection, the United States reserves all its rights, consistent with international law, to take appropriate and proportionate responses in the future.

Mr. President, I reemphasize the direct, hard evidence that the Soviets signed the 1972 SALT I interim agreement and the SALT I ABM Treaty fully intending to violate both agreements from the very outset. The late Soviet leader Brezhnev clearly was planning the internetted, integrated 10 LPAR ABM Battle Management Radar network, including the illegal Krasnoyarsk radar, at the very time he signed the ABM Treaty on May 26, 1972. Moreover, Brezhenv was clearly planning to deploy the illegal heavy SS-19 ICBM in violation of the SALT I interim agreement precisely when he signed that agreement also on May 26, 1972. Moreover, President Reagan has reported that the logistical planning specifically for the illegal Krasnoyarsk radar was underway on June 18, 1979, precisely when Brezhnev also signed the SALT II Treaty. And we now also know that Brezhnev signed SALT II, intending to violate it from the outset, with the SS-24, SS-25, and SS-26 ICBM's.

In October 1987, the new Soviet leader Gorbachev unilaterally declared a Soviet 1-year moratorium on the construction of their illegal Krasnoyarsk radar, as a gesture of good faith. But recently there have been press reports that the Soviets have nevertheless continued to construct the illegal Krasnoyarsk radar for the past year, even despite the new Soviet leader Gorbachev's duplicitous pledge to suspend all such construction.

Mr. President, the construction of the elaborate military personnel housing facilities for the radar's operational technicians, including even schools and playgrounds for the children, has reportedly been completed, and these huge facilities are being occupied. This indicates clearly that the Soviets intend to make the Krasnoyarsk radar operational.

More significantly, extensive tracks in the snow last winter around the Krasnoyarsk radar were reportedly detected, confirming that installation of the internal electronics inside the externally completed radar facility was underway.

Thus there was no moratorium on Krasnoyarsk's construction, as Gorbachev falsely declared. Brezhnev repeatedly lied, and now Gorbachev is following suit. Should America continue to be deceived by the duplicity of Soviet leaders? How should we deal with the Soviet Krasnoyarsk radar violation in the 1988 political campaign?

Both Presidential candidates agree that the Krasnoyarsk radar is a clear violation of the ABM Treaty, but the Republican platform states that if the radar is not dismantled, it would constitute a material breach of the treaty.

In contrast, Governor Dukakis has stated that the ABM Treaty has made a vital contribution to our security and should be preserved. But in contradiction of his hopes of preserving the ABM Treaty, Governor Dukakis has also in fact conceded that Krasnoyarsk is a clear violation of the ABM Treaty, in agreement with President Reagan and the entire Congress.

Mr. President, American voters are entitled to ask Governor Dukakis some tough questions about his contradictory position on the Krasnoyarsk violation. If Krasnoyarsk is a serious and clear violation of the ABM Treaty, how does the treaty serve American national security interests, and why should America preserve a treaty that the Soviets have been violating from the outset? I repeat: Why should we preserve a treaty that the Soviets have been violating from the outset? Would this be unilateral disarmament and appeasement?

The unilateral disarmament lobby in the Congress is even trying to legislate its own narrow, unilateral interpretation of the ABM Treaty, as well as funding cuts crippling the SDI Program, precisely when long-continuing Soviet violations have forced President Reagan to be faced with declaring a Soviet material breach of the treaty. But the best proportionate response to Krasnoyarsk that President Reagan is considering involves accelerating and expanding the SDI Program, and deploying strategic defenses now. For these reasons, President Reagan wisely vetoed the fiscal year 1989 defense authorization bill.

Mr. President, the unilateral disarmament lobby in Congress is continuing its efforts to hamstring U.S. strategic defenses in the fiscal year 1989 defense appropriations bill, and even in a continuing resolution if there is one. I will support President Reagan's declared intention to veto both bills if they contain harmful arms control provisions.

The Soviet Krasnoyarsk violation has been discussed endlessly in diplomatic, Standing Consultative Commission, Ministerial, and even Presidential channels at four summits for 5 years. While the Soviets have continuously refused to correct this violation, President Reagan has reported to Congress that: Militarily, the Krasnoyarsk radar violation goes to the heart of the ABM Treaty. Thus diplomatic and even Summit negotiations have been futile.

The entire credibility of American foreign policy as at stake if the United States fails to do something about Krasnoyarsk in terms of deterrent programs.

I therefore urge President Reagan to declare the Soviets to be in material breach of the ABM Treaty, and to announce some United States proportionate response, in the forthcoming September 23, 1988, United States-Soviet Foreign Ministers meetings at the United Nations. The unanimous congressional votes on the Krasnoyarsk violation indicate that President Reagan already has strong support for these actions. As one Senator, I will certainly continue to strongly support President Reagan in these actions.

I urge my colleagues to vote for this amendment I am cosponsoring. I repeat that at this crucial time in United States-Soviet relations, the entire credibility of American foreign policy is at stake. Five years is enough. We cannot tolerate Soviet material breaches of arms treaties any longer without taking some programmatic action.

Moreover, given the desire of the congressional unilateral disarmament lobby to preserve the ABM Treaty, even in the face of the clear Soviet violations which they acknowledge, the 1988 campaign should be a referendum on the viability of the ABM Treaty and the necessity of immediate deployment of an accelerated and expanded SDI.

Should the United States appese the Soviets by unilaterally complying with a narrow interpretation of the ABM Treaty explicitly rejected by the Soviets in the original 1969-72 ABM Treaty negotiations, crippling our vital SDI Program, in the face of longstanding Soviet material breaches of the treaty?

Should the United States unilaterally disarm itself, in the face of longstanding, confirmed Soviet violations of all existing arms control treaties?

Or should the United States take a proportionate response to Krasnoyarsk, accelerate and expand SDI, deploy strategic defenses now, stop scrapping operational Poseidon submarines, fully modernize our ICBM and bomber forces, continue the testing of our deterrent nuclear weapons, and test and deploy an ASAT system?

I believe that the American voters will reject appeasement and unilateral American disarmament in the face of the confirmed Soviet material breaches of SALT I and SALT II.

Mr. WALLOP. Mr. President, let me just conclude by saying that this is no run-of-the-mill Senate resolution. It is necessary that we send a strong bipartisan message to the Soviet Union on behalf of our negotiator, General Burns, at this ministerial conference. These violations are a threat to the security and the safety of the people of the United States. They must not be traded. They must be addressed and redressed by the Soviet Union.

Mr. President, I believe I have used up all of my time and I believe the majority leader may have a minute on this.

I thank him again for the cordial response of his staff and himself.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, the Senate has gone on record before in the 100th Congress declaring that the Soviet radar at Krasnoyarsk is a clear violation of the ABM Treaty. We passed Senate Resolution 94, which I offered, along with the distinguished Republican leader in January 1987, declaring this radar a "clear violation" of the ABM Treaty.

This violation must be corrected. Until it is corrected, successful conclusion of further arms limitation agreements will be virtually impossible. This position has broad, bipartisan support in the Senate.

At the recently concluded ABM review conference, very little progress was made on this issue. The Soviets have not yet agreed to correct the problem created by the radar at Krasnoyarsk. News reports today indicate there may be some grounds for hope that this issue will be resolved, but hope is not sufficient. There must be clear and concrete measures which correct this problem.

In adopting the resolution before us today, the Senate reaffirms its longstanding position that the radar is a violation of the ABM Treaty, that it must be corrected, and that failure to correct the violation could impede further progress in United States-Soviet attempts to reach further agreements. I am hopeful that Mr. Gorbachev will hear this bipartisan message, and that he will remove this obstacle and correct this violation.

Mr. McCAIN. Mr. President, any violation of a treaty is important, regardless of the severity of that violation. The entire history of diplomacy tells us that treaties are only meaningful or safe to the extent that all parties concerned strictly obey them. The moment that minor violations are tolerated, major violations follow, and treaties turn from a source of trust to a source of distrust and conflict.

The Soviet breach of the ABM Treaty at Krasnoyarsk is of unique importance because it is a symbol of the future status of our relations with the U.S.S.R., our future ability to make arms control work, and our own courage in enforcing arms control treaties that really do reduce the risk and cost of war.

The large phased-array radar at Krasnoyarsk does not directly threaten the United States, and it is possible to find a host of excuses for the Soviet action. It is a relatively small violation in terms of its immediate military impact, although no violation that involves a 30-story radar and an 18-story transmitter, can be called small in any other sense.

THE SOVIET VIOLATION AT KRASNOYARSK AND ITS IMPACT ON START

The fact remains, however, that we are now seriously discussing massive reductions in strategic forces. No matter how we structure the verification of these reductions, we will still be faced with the fact that verification is meaningless without enforcement. Further, any Soviet violation of START or any other critical arms treaty will start with small steps like Krasnoyarsk.

Arms control can never enhance our security without strict adherence to arms control treaties. This is particularly true when we talk about 50 percent reductions in our online delivery strength.

No matter how we structure a START agreement, we will create a postreduction nuclear balance where the U.S.S.R. will have a major incentive to cheat or develop a breakout capability.

We have so many online strategic weapons today that it is almost inconceivable that the U.S.S.R. could covertly alter the balance to the extent it would have any incentive for nuclear conflict or nuclear blackmail. This situation will change immediately when each side has only 6,000 weapons online and will change radically if we go on to reductions to 3,000 weapons online.

We must make it firmly clear to the U.S.S.R. that the price of a treaty is 100-percent compliance, and that the United States will react firmly and decisively to any violation of a treaty. If we are to forge a national consensus around START, we must also operate on the principle that no administration will ever ignore a violation for temporary political advantage, and that no Congress will ever divide on political and ideological grounds in a way that will allow the U.S.S.R. to exploit a violation.

This does not mean we should not talk to the Soviet Union or try to negotiate. We should not overreact, or risk taking action on the basis of a misunderstanding. But, we should never underreact. We should not let years and years elapse in which we fail to seek to enforce the terms of a treaty. We also should not become trapped in technical niceties, or negotiating substitutes for compliance that legitimize a violation.

The time has come to firmly declare that Krasnoyarsk is a material breach of the ABM Treaty. We need to make it unambiguously clear to the U.S.S.R. that no further progress can take place on other arms control negotiations, and no additional arms control treaty can hope to win approval of ratification by the Senate, until this situation is dealt with and the Soviet Union ceases its violation.

THE IMPACT OF KRASNOYARSK ON STRATEGIC DEFENSE AND SDI

Further, we need to recognize that Krasnoyarsk is symbolic of the fact that the Soviet rhetoric about glasnost has in no way affected the fact the U.S.S.R. is still spending far more on strategic defense than we are.

Recent reports by the Secretary of Defense and Joint Chiefs of Staff have made it clear that:

In 1987, the Soviet Union was still spending nearly $5 billion a year on procuring new strategic missile defense weapons, command and control systems, and sensors, and the United States was spending roughly half a billion dollars. In short, the U.S.S.R. was spending roughly 10 times as much as the United States.

During the period from 1965 to 1987, the U.S.S.R. built up a lead in the procurement of these strategic defense systems that was worth $90 billion if costed in U.S. prices. Further, the United States paid virtually nothing to procure strategic defenses between 1976 and 1984.

While the current level of Soviet spending on those research and development programs which are directly equivalent to our SDI Program is classified, if the Soviet effort is costed at United States prices, it was far greater than that of the United States during the decade between 1973 and 1983, and it will still significantly larger than that of the United States if the Congress fully funds President Reagan's fiscal year 1989 Defense budget request.

In 1987, the Soviet Union was still spending an additional $16 billion annually on procuring new strategic air defenses and the United States was spending roughly $8 billion. The U.S.S.R. was spending roughly twice as much as the United States.

During the period from 1965 to 1987, the U.S.S.R. built up a lead in the procurement of strategic air defenses that was worth $240 billion, if costed in U.S. prices. Further, the United States paid less than $3 billion a year between 1976 and 1984, versus $15 to $17 billion for the U.S.S.R.

While we phased out all our Safeguard strategic missile defenses in 1976, and did not resume a serious research effort until SDI began in 1983, the Soviet ABM system around Moscow has been operational since 1968. The U.S.S.R. will also complete the deployment of a radically improved two-layer ABM system in 1989-90, with 100 launch sites with new Galosh and Gazelle endo- and exo-atmospheric interceptors, a massive new multifunction phased array radar at Pushkino, nine new large phased-array radars or LPAR's, and a new early warning, acquisition, and tracking radar network.

We are studying ways to an improved Patriot and other mobile, ballistic missile defenses. The U.S.S.R. is actually depoloying the SA-10 missile, and will soon deploy the SA-X-12B Giant missile, which both have limited ballistic missile defense capability. It may be preparing to deploy new sensors and command and control systems to use these missiles in a ballistic defense role. It has definitely deployed a flat twin ABM radar and Pawn Shop an outside an ABM deployment area or test range to conduct experiments which violate the ABM Treaty.

We have a token Civil Defense Program. The U.S.S.R. has a strong one. The U.S.S.R. has a massive Deep Shelter Program which can survive most of our nuclear strikes. We do not have a single survivable shelter.

We phased out all strategic surface-to-air defenses in 1975. The U.S.S.R. still has 8,560 strategic surface-to-air missile launchers.

We have only about 300 strategic air defense interceptors, and 100 radars. The U.S.S.R. has 2,250 interceptors and 10,000 radars.

We have only the most limited ASAT Program. The U.S.S.R. has a coorbital ASAT interceptor operational, and has the potential to use its existing ABM's and ground based lasers in this role.

We have no current evidence that the U.S.S.R. is seeking a break out capability in strategic defense, or the ability to use such defenses to enhance its capacity for nuclear blackmail or somehow win a nuclear exchange.

We do, however, have absolute evidence that the Soviet version of SDI has been going on much longer, and is much closer to deployment than our own. Quite aside from its impact on START, the Soviet violation at Krasnoyarsk is a symbol of the fact that the Soviet Union may yet try to exploit its Strategic Defense Progam and technology to win a decisive advantage.

FIRMNESS AND RESOLUTION ARE THE PRICE OF PEACE

The day may yet come when we can sharply reduce or eliminate our strategic competition with the U.S.S.R. That day, however, is far away at best. In the interim, we must not falter. We cannot afford to ignore Krasnoyarsk any more than we can afford to cut our own SDI Program as if the Soviet effort did not exist. There is no meaningful road to arms control that follows a path of weakness. There is no way to prevent war by making it more desirable to our most dangerous enemy.

Mr. BUMPERS. Mr. President, I am please to be a cosponsor of this resolution concerning the Krasnoyarsk radar. This is one ABM issue where there is a bipartisan consensus in the Senate, as the vote on this resolution will show. There is no doubt that the Krasnoyarsk radar is a violation of the ABM Treaty. The question all along has been, what is the best way to deal with this?

The approach the Reagan administration has followed since the radar was discovered 5 years ago has been the proper one: Keep the pressure on, but do not take steps that would be counterproductive. This is why the President's recent decision not to declare the Krasnoyarsk radar a material breach at the present time was the correct one, and from news reports it sounds like this strategy is about to pay off. There appears to be movement afoot to resolve this issue, which certainly would pose a major obstacle to a new START agreement if it were not resolved.

I would note that both the Joint Chiefs of Staff and the State Department were urging the President not to declare Krasnoyarsk a material breach, our top national security professionals. I also note that on short notice, 42 Senators signed a letter also urging this course of action on the President. I am pleased with the President's decision, and I am pleased that the Senate is continuing to express its bipartisan support for the successful resolution of the Krasnoyarsk issue.

I ask unanimous consent that a copy of the August 11 letter to the President on this issue signed by 42 Senators be placed in the RECORD at the conclusion of my remarks, along with a copy of the New York Times article from July 15 entitled "Split Is Reported Over ABM Accord," which reports the positions of the Joint Chiefs of Staff and the State Department.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 11, 1988.

President RONALD REAGAN,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you approach the third five-year review of the 1972 Anti-Ballistic Missile (ABM) Treaty, we want to reaffirm our support for efforts to strengthen the treaty and ensure its continued contribution to our national security. In this regard, we are encouraged by your recent decision not to move at this time toward suspension or termination of U.S. obligations under the ABM treaty by declaring Soviet construction of the Krasnoyarsk radar a material breach of the treaty.

We strongly believe that Soviet violations of arms agreements can neither be excused nor ignored. As you know, the Senate went on record in February and in September 1987 declaring the Krasnoyarsk radar an unequivocal violation of the ABM Treaty and calling for the Soviet Union to dismantle it. We also are fully supportive of your position that no START agreement can be completed until the Krasnoyarsk radar issue is resolved to U.S. satisfaction.

However, it would be premature and counterproductive to move toward suspending or terminating U.S. adherence to the ABM Treaty in response to the Krasnoyarsk radar. The radar, although a serious violation, remains years from completion and thus poses no immediate threat to the United States. Moreover, the moratorium on construction of the radar that Soviet General Secretary Gorbachev announced last October suggests a Soviet willingness to discuss the radar's dismantlement. The recent statements by Soviet arms control official Viktor Karpov also appear to contain some encouraging signs on the Krasnoyarsk radar. We urge you to pursue these apparent openings at the ABM Treaty review this month in a manner that strengthens the treaty and reaffirms the obligations of both parties to abide by its terms.

We firmly believe that the ABM Treaty continues to contribute significantly to U.S. and NATO security by limiting Soviet strategic defenses. We understand that this view of the treaty's value to our national security is shared by the Joint Chiefs of Staff.

We urge you to continue to reject any course of action that could lead to suspension or termination of the treaty provisions. In the short run, such a course of action could cause us to miss an opportunity to settle the Krasnoyarsk radar problem through negotiation. In the longer run, it could undermine the treaty itself. As the first missiles are being destroyed under this recently ratified INF Treaty and the START negotiations are making steady progress, this is not the time to reverse course on arms control by stepping back from U.S. obligations under the ABM Treaty.

We look forward to working with you to resolve the question of the Krasnoyarsk radar in a practical and effective manner that reinforces the ABM Treaty regime and contributes to further progress in arms control.

Sincerely,

Edward M. Kennedy, Dale Bumpers, J. Bennett Johnston, Jeff Bingaman, George J. Mitchell, John H. Chafee, Robert T. Stafford, Claiborne Pell, Alan Cranston, Daniel K. Inouye.

Albert Gore, Jr., Terry Sanford, Timothy E. Wirth, Spark M. Matsunaga, Donald W. Riegle, Jr., Mark Hatfield, Frank R. Lautenberg, Christopher Dodd, John D. Rockefeller IV.

Patrick J. Leahy, Brock Adams, John F. Kerry, William Proxmire, Paul Simon, Daniel J. Evans, Jim Sasser, Tom Harkin, Quentin Burdick.

Paul Sarbanes, Daniel P. Moynihan, Lawton Chiles, Dave Durenberger, Barbara A. Mikulski, John Melcher, Thomas Daschle.

Carl Levin, Wyche Fowler, Jr., David Pryor, Howard M. Metzenbaum, John Glenn, Max Baucus, Wendell Ford.

[From the New York Times, July 15, 1988]

SPLIT IS REPORTED OVER ABM ACCORD—JOINT CHIEFS ARE SAID TO RESIST A MOVE THAT WOULD EASE TREATY OBLIGATIONS

(By Michael R. Gordon)

WASHINGTON, July 14.—Disagreeing with the civilian leadership of the Pentagon, the Joint Chiefs of Staff are resisting a move that would allow the United States to suspend some of its obligations under the 1972 Antiballistic Missile Treaty, Administration officials say.

The position of the Joint Chiefs is consistent with their strong concern that the Soviet Union would be in a better position to move ahead over the short run with the development of antimissile defensive systems if treaty restraints are loosened, according to Administration officials.

The Reagan Administration has been deeply divided over whether to step up its charges of Soviet cheating by declaring that Moscow has committed a "material breach" of the 1972 Antiballistic Missile Treaty by building an early warning radar system in central Siberia. Such a move would allow the United States to suspend some of its ABM treaty obligations.

It is not clear what steps, if any, the United States would actually take if the Administration asserted the right to suspend some treaty obligations. Senior officials say the Administration is not considering abrogation of the entire treaty.

Some senior officials see a declaration of "material breach" as a way to demonstrate American resolve over the violation. But opponents fear that the move is also being urged by some hard-liners as part of a long-term strategy of dropping adherence to the ABM treaty.

VIGOROUS DISCUSSION ON THIS

"The President has heard vigorous discussion on this," the White House spokesman, Marlin Fitzwater, said Monday, alluding to an unannounced meeting that President Reagan held with his top advisers on July 6. Mr. Fitzwater said Mr. Reagan had not made a decision.

Opposing the move are the State Department and the Joint Chiefs of Staff. On the other side are civilian Defense Department officials, hard-line arms control advisers and some Cabinet officials, such as Attorney General Edwin Meese 3d and Treasury Secretary James A Baker 3d.

The issue has come to the fore because the Administration has told the Soviets that it would like to hold the periodic five-year review of the ABM treaty sometime between today and July 22. The Soviet Union has not officially said whether these dates are acceptable. Under the treaty terms, the review is to be held before early October.

The United States has already charged that the Soviet early radar system at Krasnoyarsk violates the ABM treaty because it is not situated on the periphery of the Soviet Union and oriented outward as the treaty requires. It has demanded that the radar be dismantled.

LINKED TO STRATEGIC ACCORD

Moscow has denied the charge of violation but has also announced a temporary moratorium on further construction.

State Department officials say the United States has already put the Soviets on notice that it will not conclude a new strategic arms treaty until the dispute over the Krasnoyarsk radar is resolved.

And the Soviets are reported to have hinted that they may take some corrective action if an agreement can be worked out on anti-missile systems at the Geneva arms talks.

One question that has been raised is whether a charge of material breach would prompt the Soviets to take new corrective action or deprive them of a face-saving way out.

Another issue that pits the State Department officials against Administration hard-liners is whether the violation is so severe that it warrants a charge of "material breach."

MEETING OF TOP OFFICIALS

When President Reagan met with top officials on July 6, Defense Secretary Frank C. Carlucci is said to have supported the charge of a "material breach," officials say. So did Edward L. Rowny, a conservative arms control adviser to President Reagan; Attorney General Meese, and William Graham, the science adviser to President Reagan. Some officials say Treasury Secretary Baker also endorsed this view.

John C. Whitehead, the Deputy Secretary of State, who represented the State Department at the meeting, argued against a charge of "material breach," espousing the views of Paul H. Nitze, the arms control adviser to Secretary of State George Schultz and Max M. Kampelman, the chief United States arms negotiator, who also attended the meeting.

Gen. Robert T. Herres, the vice chairman of the Joint Chiefs of Staff, is also said to have opposed the idea of charging a material breach.

"The Chiefs understand where the S.D.I. program is really at right now and they do not believe it is in our interest to undercut the ABM treaty at this time," a senior Administration official said, referring to the Strategic Defense Initiative, or "Stars Wars."

William F. Burns, the director of the Arms Control and Disarmament Agency, positioned himself somewhere in the middle, though he reportedly leaned toward the hard-line view. He is said to have advocated that Soviet officials be warned at the review meeting that the radar would be declared a "material breach" unless Moscow took some type of corrective action soon.

Mr. Burns is said to take the view that the Administration should not lodge a charge of "material breach" unless it has a clear idea of what action it would take in response.

Mr. KENNEDY. Mr. President, I rise to support this resolution urging the President to continue his efforts to seek the dismantlement of the Soviet radar at Krasnoyarsk. That radar is an unequivocal violation of the 1972 ABM Treaty and must be corrected.

The President, however, should seek to resolve the Krasnoyarsk violation in a manner that reinforces the ABM Treaty regime and contributes to further progress in arms control. In particular, he should avoid steps that would move toward suspending or terminating U.S. adherence to the treaty. As the Joint Chiefs of Staff have recently advised, the treaty continues to contribute significantly to our security by limiting Soviet strategic defenses.

These points have been elaborated upon in a recent letter that 42 Senators including myself sent to the President on the subject of the ABM Treaty. I ask that this letter be included as part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 11, 1988.

President RONALD REAGAN,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you approach the third five-year review of the 1972 Anti-Ballistic Missile (ABM) Treaty, we want to reaffirm our support for efforts to strengthen the treaty and ensure its continued contribution to our national security. In this regard, we are encouraged by your recent decision not to move at this time toward suspension or termination of U.S. obligations under the ABM treaty by declaring Soviet construction of the Krasnoyarsk radar a material breach of the treaty.

We strongly believe that Soviet violations of arms agreements can neither be excused nor ignored. As you know, the Senate went on record in February and in September 1987 declaring the Krasnoyarsk radar an unequivocal violation of the ABM Treaty and calling for the Soviet Union to dismantle it. We also are fully supportive of your position that no START agreement can be completed until the Krasnoyarsk radar issue is resolved to U.S. satisfaction.

However, it would be premature and counterproductive to move toward suspending or terminating U.S. adherence to the ABM Treaty in response to the Krasnoyarsk radar. The radar, although a serious violation, remains years from completion and thus poses no immediate threat to the United States. Moreover, the moratorium on construction of the radar that Soviet General Secretary Gorbachev announced last October suggests a Soviet willingness to discuss the radar's dismantlement. The recent statements by Soviet arms control official Viktor Karpov also appear to contain some encouraging signs on the Krasnoyarsk radar. We urge you to pursue these apparent openings at the ABM Treaty review this month in a manner that strengthens the treaty and reaffirms the obligations of both parties to abide by its terms.

We firmly believe that the ABM Treaty continues to contribute significantly to U.S. and NATO security by limiting Soviet strategic defenses. We understand that this view of the treaty's value to our national security is shared by the Joint Chiefs of Staff.

We urge you to continue to reject any course of action that could lead to suspension or termination of the treaty provisions. In the short run, such a course of action could cause us to miss an opportunity to settle the Krasnoyarsk radar problem through negotiation. In the longer run, it could undermine the treaty itself. As the first missiles are being destroyed under the recently ratified INF Treaty and the START negotiations are making steady progress, this is not the time to reverse course on arms control by stepping back from U.S. obligations under the ABM Treaty.

We look forward to working with you to resolve the question of the Krasnoyarsk radar in a practical and effective manner that reinforces the ABM Treaty regime and contributes to further progress in arms control.

Sincerely,

Edward M. Kennedy, John H. Chafee, Dale Bumpers, Robert T. Stafford, J. Bennett Johnston, Claiborne Pell, Jeff Bingaman, Alan Cranston, George J. Mitchell, Daniel K. Inouye, Albert Gore, Jr., Patrick J. Leahy, Terry Sanford, Brock Adams.

Timothy E. Wirth, John F. Kerry, Spark M. Matsunaga, William Proxmire, Donald W. Riegle, Jr., Paul Simon, Mark Hatfield, Daniel J. Evans, Frank R. Lautenberg, Jim Sasser, Christopher Dodd, Tom Harkin, John D. Rockefeller IV, Quentin Burdick.

Paul Sarbanes, Carl Levin, Daniel P. Moynihan, Wyche Fowler, Jr., Lawton Chiles, David Pryor, Dave Durenberger, Howard M. Metzenbaum, Barbara A. Mikulski, John Glenn, John Melcher, Max Baucus, Thomas Daschle, Wendell Ford.

Mr. LUGAR. Mr. President, I am a cosponsor and strong supporter of this resolution, and I want to commend the Senator from Wyoming for the constructive way in which he has negotiated the language of this resolution.

He has negotiated with the executive branch on this language in a most constructive fashion. He has negotiated the language of the resolution with his colleagues in the Senate and has displayed great willingness to take any concerns into account.

Mr. President, with all of the emphasis on the specific language of the resolution, let us not lose sight of the basic purpose of the resolution. It is to add the Senate's voice to that of the administration in saying to the Soviet Union that the Krasnoyarsk radar is an "unequivocal violation" of the ABM Treaty, that it is an obstacle to any future arms control argreements, and that the Soviet Union would be naive to believe that agreements in the START and defense space areas were possible without correction of its violation of the ABM Treaty.

Moreover, Mr. President, I want to call Members' attention to the second provision of the resolution wherein the Senate calls upon the President to work with it in developing appropriate and proportionate response options to Soviet violation of the ABM Treaty which, if not corrected, deny us the essential benefits of the ABM Treaty. Mr. President, we have debated the whole compliance question on many occasions in the Senate, and indeed, some of our colleagues have even tried to legislate appropriate and proportionate responses to Soviet violations. This current resolution urges the President to consult with and involve the Senate in the formulation of any such response options.

Last, Mr. President, let me remind my colleagues where we stand on this issue. The President decided not to declare the Krasnoyarsk radar a "material breach" of the ABM Treaty prior to the ABM Treaty Review Conference. While the Soviet Union gave no assurance at the Review Conference that it was prepared fully and without condition to correct its violation of the ABM Treaty, its delegates to the conference did indicate informally a willingness to look for means to resolve the impasse.

Several of us met with General Burns, the Director of ACDA, last Monday to discuss the outcome of the ABM Review Conference. General Burns then left to brief our NATO allies. The Soviet Foreign Minister will be meeting with Secretary Shultz next week. It seems safe to say that the ABM Treaty will be on their agenda. The Senate can play a most constructive role prior to those meetings by adding its voice to that of the administration in saying: "Soviet violation of the ABM Treaty must be corrected."

Mr. President, this resolution does not ask the Senate to take a position on the material breach issue. It does not call on anyone to scrap the ABM Treaty. It simply says to the Soviet Union: "Let us disabuse you of the notion that you can have your cake and eat it too."

I would urge overwhelming Senate support for this resolution.

Mr. LEVIN. Mr. President, the Senate has already made quite clear our concern about the Soviet Union's violation of the ABM Treaty through its construction of the Krasnoyarsk radar. This resolution seeks to take that concern one step further, and to insist that the radar be dismantled before any future strategic arms control agreement is concluded. I think it is clear without the Senate having to pass this resolution that without an end to the Krasnoyarsk violation, it would seem impossible for the United States to reach final agreement on other arms control issues. I think it is also important to point out that not only has the Reagan-Bush administration already made this linkage, but also Gov. Michael Dukakis has stated his determination to bring about dismantlement of this radar as a necessary precursor to finalizing any new agreements on strategic arms.

Furthermore, the situation is not so bleak as some might have us believe. Contrary to the resolution's implication that the Soviet Union is completely stonewalling United States efforts to resolve this issue, I would note that the Soviets have made a number of suggestions about steps they might take on the Krasnoyarsk question. These steps have included the possibility of dismantlement, although they have thus far refused to consider this action without some simultaneous actions by the United States which we have been unwilling to take. As the majority leader himself noted, the Soviets also broached another proposal as recently as this week. I hope these signs indicate that a resolution of this dispute is not impossible.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the resolution.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator form Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Florida [Mr. CHILES], the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY], and the Senator from Nevada [Mr. REID] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE], would vote "yea."

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Nevada [Mr. HECHT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. KARNES], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Indiana [Mr. QUAYLE], the Senator from Delaware [Mr. ROTH], the Senator from New Hampshire [Mr. RUDMAN], the Senator from

Alaska [Mr. STEVENS], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska [Mr. KARNES] would vote "yea."

The PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 0, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—81

Armstrong
Baucus
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NAYS—0

NOT VOTING—19

Adams
Bentsen
Chiles
Cohen
Cranston
Gore
Gramm
Hatfield
Hecht
Humphrey
Karnes
Leahy
Murkowski
Quayle
Reid
Roth
Rudman
Stevens
Weicker

So the resolution (S. Res. 474) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. RES. 474

Whereas the Representatives of the United States and the Union of Soviet Socialist Republics met in Geneva, Switzerland from August 24 to August 31 to conduct the third five-year review of the ABM Treaty as required by the provisions of that agreement;

Whereas the United States raised again its concerns about Soviet activities in actual or possible violation of the terms of the ABM Treaty, including but not limited to, the radar violations located at Krasnoyarsk and Gomel;

Whereas violations of arms control agreements damage the relations between the parties and undermine the integrity of the arms control process;

Whereas the Senate unanimously supported by a vote of 89-0 in Sec. 902 of the FY1988/89 Department of Defense Authorization bill the President's position that the Krasnoyarsk radar is an "unequivocal violation" of the ABM Treaty and declared in S. Res. 94 by a vote of 93-2 that it represents an "important obstacle" to any future arms control agreements;

Whereas the Soviet Union gave no assurance at the Review Conference that it was prepared fully and without condition to correct its violations of the ABM Treaty, including the Krasnoyarsk radar;

Whereas the United States has made clear, in its unilateral statement of August 31, 1988 at the end of the ABM Treaty Review Conference, that "until the Krasnoyarsk radar is dismantled, it will continue to raise the issue of material breach and proportionate responses;"

Whereas, in that statement, the United States also made clear that "the continuing existence of the Krasnoyarsk radar makes it impossible to conclude any future arms agreements in the START or Defense and Space areas.": Now, therefore, be it

Resolved, That it is the sense of the Senate that the Senate:

(1) Strongly supports the continuation of settled national policy, reiterated in the August 31 unilateral statement, that unequivocal Soviet violations of the ABM Treaty, as exemplified by the radar at Krasnoyarsk, must be corrected before the conclusion of any future agreements on strategic arms.

(2) Urges the President to work with the Congress to develop appropriate, proportionate response options to the Krasnoyarsk radar and any other unequivocal ABM Treaty violations that would, if not corrected, deny us the essential benefits of the treaty and be detrimental to U.S. security.

(3) Expresses its willingness to consider as soon as possible any such responses that might require legislative action.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINIMUM WAGE RESTORATION ACT

The Senate continued with consideration of the bill.

Mr. KENNEDY. Mr. President, just for the benefit of the membership, we have the Hatch amendment. I have a perfecting amendment. We are all prepared to move ahead and vote on that.

The Senator from Iowa has an amendment, and the Senator from Illinois has an amendment. We are prepared to deal with those forthwith and to move on. I think there are one or two other areas that have been indicated to us.

That is our position. Unless there is going to be some other disposition by those who are opposed to the minimum wage, we are quite prepared to move ahead.

I will yield the floor now. I know the Senator from New Mexico has been wanting to speak in support of this proposal.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I rise to support the legislation to require an increase in the Federal minimum wage. Raising the minimum wage is important to thousands of American workers attempting to provide for themselves and their families. The minimum wage is now $3.35, a rate which was set in 1981. Today at this level, the minimum wage has lost one-fourth of its purchasing power due to inflation since 1981.

While the minimum wage's purchasing power has fluctuated considerably over time, it is less today than at any time since the mid-1950's. A full-time worker paid $3.35 an hour earns less than $7,000 a year, well below the $11,611 poverty line for a family of four.

A decline in the real purchasing power of the minimum wage has created a disturbing paradox. At today's level, in over half the States, someone working full time at minimum wage would earn less than if they had gone on welfare. If we truly want to create incentives to get people off welfare, then we must provide them with good jobs at a livable wage.

As well as falling behind in purchasing power, the minimum wage also has fallen as a share of wages. After hovering around 50 percent of average hourly earnings in private nonagricultural industries during the 1950's and 1960's, the minimum wage averaged just over 45 percent in the 1970's. By 1985, it had declined to about 39 percent of average wages in this country.

This bill restores fairness and effectiveness to our minimum wage policy by increasing the Federal minimum wage in a gradual way from $3.35 per hour to $3.75 per hour in 1989 and to $4.15 per hour in 1990. After January 1, 1991, the minimum wage would be set at not less than $4.55 per hour.

This incremental increase should not impose an undue hardship on employers. The benefits of increasing the minimum wage far outweigh the disadvantages, in my opinion. The increase will help a great number of working men and women in New Mexico and elsewhere. According to New Mexico's Department of Labor, there are an estimated 108,000 New Mexico citizens who will benefit from this legislation.

A substantial sector of New Mexico's economy is service oriented and, as you know, this is the area where a great many positions pay the minimum wage. Additionally, this increase in minimum wage will positively benefit the farm workers in New Mexico.

There is concern that a minimum wage increase would lay an inequitable burden on business, but history has proven otherwise. An increase in the minimum wage is not an entirely new phenomenon for American business. The minimum wage was raised in 1949, 1955, 1963, 1967, 1974, and then stepwise between 1977 and 1981. Each time numerous business organizations and economists strongly opposed the move, yet it is apparent from the employment data that the adverse consequences which were predicted each time never came to pass.

Critics of the legislation claim that an increase in the minimum wage will hurt youth employment and do little to help the working poor. In my view that is incorrect. In the United States it is estimated that 69 percent of workers earning less than the 4.55 per hour are adults over 20 years of age, while only about 31 percent are youth.

Further, about 63 percent are female and only 37 percent male.

Clearly it is the working poor, especially working mothers, who are earning the minimum wage, not the stereotypical middle-class teenager with a summer or an after-school job.

Mr. President, the problem of the working poor is a serious one in our country. Many people hold the mistaken view that all the poor are on welfare and not working. That is incorrect. In New Mexico alone, 20,000 of the 47,000 families below the poverty level can be classified as working poor with at least the head of household employed. Nationally, almost half of the households below the poverty line are working poor.

Almost 5.5 million households where one, two, three, four, or even more members of the household are wage earners, cannot break out above the poverty line. In fact, there are almost 1.3 million households in this country where two people work simply to attain the mean income of about $6,300 per year.

I challenge any of my colleagues to live on $6,300 per year, let alone be forced to need two wage earners in the family just to have a $6,300 a year income.

There are over 7 million American workers today living below the poverty level, people who are working hard but are finding the difficulty to make ends meet.

The plight of the working poor is also acute in my home State of New Mexico. Over 225,000 New Mexicans who are either employed or looking for a job are living at or below the poverty level today. That is almost a third of the State's civilian work force that is living close to or below the poverty line.

Based on these statistics, it is imperative that we understand the connection between the increase in the minimum wage and the need to protect the working poor. The minimum wage is the bulwark of protection for the working poor, especially for working single mothers.

Mr. President, fairness and equity dictate that we protect our workers from laboring for poverty wages and this legislation helps ensure that protection. I am very pleased to support it. I urge my colleagues to do so as well.

I yield the floor.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, earlier during the day in the general discussion on the minimum wage there were a number of references about what impact the increase was going to have on the condition of low-wage earners in our society. I would like to just take a few moments this afternoon to present to the Senate some description of what our hearings have revealed, of what the various studies have shown.

We have tried, over the course of the debate on this issue, to address the questions of unemployment, also the questions of inflation. We will comment in later debate about the impact on the general economic condition, although we have had reference to that. And, as I have stated previously, I think rather than taking what are the representations of those of us who favor an increase in the minimum wage and those who are opposed, it is best really to look at the record of what has happened the last six times we have raised the minimum wage, both on employment, youth unemployment, total employment, and what has been the impact in terms of inflation.

I think, as I pointed out earlier during the debate, that those warnings, those conclusions which have been made by those who have been opposed to an increase in the minimum wage from the time that we first passed it some 50 years ago, those arguments have not been proven to be historically accurate on the questions of the amounts of unemployment increases and the inflation increase.

But, today, earlier during the course of the discussion, by statements made by the Senators of Utah and Texas, they talked about the impact of the minimum wage on poverty and I would like to just address that issue for a brief time here this afternoon.

I know a number of our colleagues will be, hopefully, reviewing the RECORD on those different elements and when we come, hopefully, to a final resolution on this issue in the early part of next week, we will have addressed the points that have been raised by those who oppose the minimum wage.

I noticed earlier today that Vice President BUSH was asked once again about his position. He had indicated that he is for an increase in the minimum wage, although when he was asked what the increase would be, he was unwilling to indicate what he would actually support. I find that somewhat interesting since this is an issue that has been discussed and debated; we all know what the implications are of the various increases. And not to be willing to at least indicate what kind of increase he would support, I think, certainly must be troublesome—it should be to those who have been left out and left behind by the failure of Congress to act in increasing the minimum wage.

Some have suggested that he would go up to some $4 an hour. I have addressed that proposal where that actually would be a reduction in the purchasing power of the minimum wage over what it was at the time when this administration took office. But I am sure we will have a chance to come back and debate that particular issue. Now for the issue of the minimum wage and poverty.

A vote to increase the minimum wage is really a vote against poverty. Make no mistake: this bill will improve the lives of 70 percent of the hourly workers from families of three who are caught in the desperation and indignity of poverty. We are talking about 2.6 million workers, from families earning less than the poverty level for a family of three who will receive a badly needed raise if this bill is passed.

Over the course of the debate, we heard from our friend from Utah and others about the fact that some 15 or 16 million new jobs have been created and how they are paying $10, $6 an hour. Actually, what we are talking about is only a few percentage points that are actually in the minimum wage.

Those represent 2.6 million workers; 2.6 million of our fellow citizens; 2.6 million mothers and fathers—they have children—who are working and who want to work. That can be dismissed as a small percentage in terms of the total work force, but no one who hears from any of those families and who looks into the eyes of any of those witnesses who testified before our committee, proud Americans who want to be a part of the whole American dream and are trying to provide for themselves and for their children, can dismiss the fact that there are the 2.6 million workers from families earning less than the poverty level for a family of three who will receive a badly needed wage increase if this bill is passed.

Mr. President, 2.6 million low-income workers, Americans who are out there trying to avoid the plague of welfare recipiency, Americans who deserve more for their backbreaking work than poverty and depivation.

A staggering number, 2.6 million. To hear the administration and the opponents of this bill tell it, you would think 2.6 million is statistically irrelevant. But 2.6 million is only the tip of the iceberg.

The 2.3 million more workers who hover near poverty would also be assisted by this bill. Almost 5 million very-low-income workers will get a raise when this bill is passed. The opposition says that this bill does nothing for people in poverty.

Let us be clear, life at or even near that poverty level is no picnic. In fact, it is close to impossible. The poverty level for a family of three is currently $9,300 a year. I hope the opponents of this bill are listening closely—$9,300 a year. That is $179 a week for food, shelter, clothing, medical care, and education. I do not know how one person survives on that salary, let alone two adults and a child. But the fact is that 2.6 million low-wage workers and their families are living below that level. Three million five hundred thousand workers and their families who will be affected by this bill earn less than $11,000 a year, less than the Federal poverty level for a family of four. Four million nine hundred thousand American workers and their families who live on less than $15,000 a year will get some relief under the proposed legislation. Will any Senator in the Chamber rise to tell me it is easy to raise a family on $15,000 a year? I do not think so.

The raise offered in this bill could mean being able to serve meat at dinner more often. It could mean being able to afford to buy a dictionary so the children can do their homework. It could mean being able to afford a visit to the dentist.

How can the opponents of this bill deny these basic necessities to families fighting to stay off of welfare? The answer is that the opponents of this bill do not care about the poor families and their children. All they care about are the larger profits and the bigger businesses. I say, enough. It is time that we put the interests of the most vulnerable American first.

And let us talk for a minute about welfare dependency. Lately we have considered some important acts in the Senate aimed at reducing welfare dependency through job training. These bills are essential, but they are not enough. The overwhelming majority of welfare recipients would rather work. But when working means subpoverty wages; when working means life without health insurance; when working means leaving young children home unsupervised; when working means all of these things, responsible American parents cannot choose work, even though they want to. Increasing the minimum wage is the first step toward reforming welfare with work. Many more Americans will choose to work if working means a living wage—not living in jeopardy.

To hear those opposing this bill tell it, you would think that the overwhelming majority of minimum wage earners are rich teenagers working in the summer or after school to be able to afford a new bike. It is time to look at the facts and to get to the bottom of the disinformation campaign that has been waged against this bill:

First, the majority of workers who will be affected by this bill are not teenagers. Seventy-four percent of those workers who will be affected are 20 years of age or above. Almost 50 percent are older than 25.

Some 15 percent of workers in this low wage work force are black, 8 percent are Hispanic. Both of these subpopulations are represented in the low wage work force in numbers far exceeding their representation in the overall work force; 63 percent of these low wage workers are women, many of them working to support or help to support their children.

These low wage workers are not teenagers in summer jobs—almost half of all low wage workers work full time, many more would prefer to work full-time but child care duties and the availability of full time positions restrict their options.

Finally, I have a question for the Senate: 26 percent of these low wage earners are teens. Is that a reason to oppose the minimum wage? No. Even the question is ridiculous. Many of these teenagers are poor and are working to help support their families or maybe they are supporting families of their own.

Some of these teenagers are not poor, but they may be middle income high school students working to earn money for college. All of us know that the costs of college are now astronomical—private college tuition costs have increased by 71 percent, public college costs by 63 percent and the rate of borrowing for higher education has increased by 40 percent. Are we going to begrudge the enterprising teenagers and youth who are working for tuition money a little boost in their quest for higher education?

Mr. President, I am simply tired of the opponents of this bill twisting the facts to keep hard working men and women from getting a raise. I say that it is time that the Senate do something for those Americans who have not benefited from the economic recovery. It is time to share the prosperity of the 1980's with the hard working men and women who made it happen, and haven't felt its effect.

We have heard a good deal about the prosperity that has taken place in our society over the period of these recent years. No one questions that for the top third income Americans have done very well and particularly if they have been on the east coast or the west coast. But to those who have been the working poor, those whose lives will be affected by this legislation, they have no cost-of-living increase as other groups in our society have. We find they have by and large been left out and left behind.

The other third, middle America, are barely able to hold on by their fingernails in affording their mortgage payments, in educating their children, in paying the increasing health care costs—many of the jobs that the newer members of the families have acquired are those without any kind of health coverage at all—increasing payments in terms of day care.

Mr. President, they are barely able to hold on in our society. They are proud Americans and we respect them.

I just wonder why this body is so reluctant—I do not believe it is, but there are Members in this body who are so reluctant to ensure that those who do the most menial jobs in our society and continue to work rather than be on public assistance, why those 16 million Americans should not be entitled to the cost-of-living adjustment. That is what we are talking about. Not a pay increase, but a cost-of-living adjustment. That is the issue, and those, as I have described, who are living in poverty, the working poor, are the ones who need this relief. I hope that we would move to ensure that they will receive some.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Montana.

Mr. MELCHER. Mr. President, this is the third time since I have been a Member of Congress that we have approached this problem of restoring some purchasing power to the lowest paid people in America. The minimum wage is about 50 years old. It was first enacted in 1938, so it has been around for a long time. The idea in 1938 was to establish a Federal minimum wage that was roughly half of the average hourly wage of Americans. From time to time since then it has had to be increased. The last time we did it was in 1981, when it reached the $3.35 per hour figure. We are measuring in 1988 that that is about 36 percent of the average hourly wage in America. It is statistically said that somewhere between 15 million and 16 million Americans who are working are paid at the minimum wage. So for those 15 million or 16 million Americans, there is not any question that since 1981, when they reached $3.35 per hour, their purchasing power has been considerably down.

It is true, as the Senator from Massachusetts has just said, the central issue is should there be a cost-of-living adjustment for the people who are at the minimum wage. I think the answer is yes, it is time to do that.

This bill will not restore what is the historic goal of the minimum wage, to reach 50 percent of the average hourly wage of all American workers, but it will start to catch up. That is the important point. We should start to catch up in purchasing power.

Let us take a look at it. We are at 36 percent now. In the first year under the terms of this bill, in 1989, we will be at roughly 40 percent of the hourly wage, the second year 43 percent. That will be 1990. It will be at 43 percent of what is projected to be 50 percent of the average wage of all Americans. And in the third year 46 percent. So what we are doing for 15 million or 16 million American workers at the lowest pay is to provide a cost-of-living increase so they can regain purchasing power, so they can after the third year get close to 50 percent of what is the hourly wage for all American workers.

Is this the right thing to do? I think, yes, it certainly is the right thing to do.

Well, then, what about the arguments in opposition? I believe there are two key arguments. One argument made by those who oppose the bill is that employment is likely to drop; if you increase the minimum wage, there will be higher unemployment. Well, let us look at the record.

Now, the first enactment was in 1938, as I previously said, and the first time after 1983 that it was increased by Congress was in 1949. It was increased substantially at that time, but unemployment did not go down. Employment went up. So every year that the minimum wage has been increased, in 1949, 1955 during the Eisenhower years, 1961, 1966, 1974, and 1977, in each of those 6 years after the minimum wage was raised by actions taken in Congress, employment did not go down; employment went up—unemployment went down. So I do not believe that is a very valid argument against raising the wage now.

There is a second pertinent argument that is raised against increasing the minimum wage and that is that it will have an inflationary impact.

The Congressional Budget Office has summarized the Minimum Wage Study Commission report and Dr. F. Gerald Adams' contribution thereto. The argument is that an inflationary impact will result, and for those who make that argument they generally assume that there will be a two-tenths of 1 percent or three-tenths of 1 percent increase in inflation due to increasing the minimum wage. The Congressional Budget Office in summarizing the Minimum Wage Study Commission report has stated that they simply do not agree. They think that a two-tenths or three-tenths of 1 percent inflationary factor per year because of raising the minimum wage is simply too high an estimate. Why? Because the proportion of minimum wage workers is declining, and therefore they refute this rather small inflationary factor that is assumed by the opponents of this bill.

When it all boils down, we generally like to know what the people think before we vote. What do the people of this country think? It is interesting to me that Dr. Gallup conducted a poll on this very question in 1937: What did the public think of a minimum wage? Should Congress establish a minimum wage? 1937 was the year before Congress enacted the first minimum wage. But Americans in 1937 said on the basis of 3 to 2 that they supported a national minimum wage law. Congress enacted it the following year.

Dr. Gallup, in polling Americans this year, again asked the question. He said, "As you may know, Congress is now considering legislation which would gradually raise the minimum wage over the next 3 to 4 years." He cited what it is now, $3.35 per hour, to go up to $5 per hour over the next 4 years. And what were the results? In this national Gallup poll, 76 percent of Americans favored raising it, 20 percent opposed it, and 4 percent were undecided, had no opinion. Seventy-six to twenty, almost a 4-to-1 ratio of Americans said raise it.

What about political parties? Of these typical Americans in this national poll who said yes or no, what were their party affiliations?

Well, of those who said yes, 85 percent of the Democrats that were polled said yes. Maybe people expect that. What about Republicans? Of those polled that were Republicans, 67 percent said yes, 30 percent said no; substantially over 2 to 1 in the party that might be assumed by some to be in opposition of raising the minimum wage. Sixty-seven percent of the Republicans polled said yes, 30 percent said no; independents, 74 percent said yes, 22 percent said no.

What about the age span? Well, in all age categories overwhelmingly ranging from 77 to 78 percent, or 80 percent, said yes.

What was their educational level? From college graduate to not having a high school education, but having a grade school and perhaps some high school, the range was 70 to 78 percent. Eighty percent were on the top end, and those were high school graduates. What about the parts of the country? Well, it did not vary much from east to west; 80 to 74 percent in all parts of the country said yes.

Mr. President, it is an outstanding poll in that overwhelmingly Americans have thought about the question, should the minimum wage be raised, and they have come down overwhelmingly saying yes.

I think that is a tribute to the fairness, the compassion, and the concern of the American people for those American workers who are at the bottom level of the money they receive for their labor, for their efforts, and for their work.

I think that is good guidance to us here in the U.S. Senate and that we, too, should say overwhelmingly in this Senate on this question: "Should the minimum wage be increased to recoup purchasing power for the 15 million to 16 million Americans receiving the lowest amount per hour?"—I think we should say yes overwhelmingly, and I trust that we will.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **HATCH.** Mr. President, I ask that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **HATCH.** Mr. President, my amendment will authorize the youth training a wage, a real training wage, and really an opportunity wage. It has the potential to create hundreds of thousands of new jobs for those who are really the hardest to employ. That potential alone is just occasion for action by Congress, and I am convinced that a meaningful training wage can be a strong weapon in the war against unemployment, and especially unemployment of our unskilled in our society.

Mr. President, youth unemployment is still one of the most serious problems facing America today. Yes, this administration has made headway on youth unemployment. It has come down dramatically but it is still too high. It seems to me if they would take my training wage amendment it would really make a big difference with regard to the young people in this country who are really underskilled, undereducated, and undertrained to take these jobs.

Even though the rate has improved from a situation of several years ago I might add that the unemployment rate is still unacceptable, and should inspire all Members of Congress to embrace my amendment. These percentages however, tell only half the story. They do not explain that people who are unable to find work lose out on valuable experience, on the chance to learn job skills, to obtain job references for the future, and earn self respect as well as income.

The unemployment figures do not point out that when many youth become discouraged, they turn to drugs, alcohol, or juvenile crime. It is a sad thing to see the ambition and talent of our young people in this country wasted, and it is also a sad thing if Congress fails to try to come up with a new solution. My colleague from Massachusetts is just saying the same old thing that we have had in the past.

Last year the Labor Subcommittee held hearings on youth unemployment at which several young people were invited to tell their personal stories. Their testimony moved every one of us on the committee because we knew they were telling us the truth about life on the streets, life with parents who were substance abusers, and life in jail.

These teenagers were not reciting lines from a Hollywood script. One young man in particular seemed desperate to turn his life around. He knew his own weaknesses and limitations. But he was determined to overcome them. All he needed was a chance. He told the committee he would work for $2 an hour if somebody would just plain give him the opportunity. Clearly his self respect was more important to him than the wage.

This is the purpose of the training wage amendment. That is to provide for people who will not get their chance any other way, to provide them with the opportunity to prove themselves, not just to an employer and to society, but to themselves as well. Those who take these opportunities will not be earning low wages for long. In times, they will own the company as many of them have done.

Let me explain the amendment. My amendment is not a complex amendment. First, my amendment would allow any employer to pay 90 percent of the statutory minimum wage for 90 days just by giving the people a chance to work.

Second, the bill contains stiff penalties for any employer who abuses the intent of this legislation by displacing adult workers or youth already employed. These sanctions are an explicit commitment of the Congress, if we enact this amendment, and the administration to ensure compliance with both the letter and spirit of the Fair Labor Standards Act. We have tried many other programs. We have spent billions of dollars on the public sector work programs, yet youth unemployment rates remain unacceptably high.

We have held out these Federal programs to our unemployed youth as though they were money from Heaven, and I do support Federal training programs, although I think there are good training programs and bad training programs. I have been a leading supporter of both the Job Training Partnership Act and the Job Corps, and of course, the CARL PERKINS' vocational education bill. I have faith that these programs have great potential to help both youth and adults who are suffering from structural unemployment.

The record is clear. After years of Federal effort and billions of dollars, the problem of youth unemployment remains critical and acute. Unfortunately, Congress has to figure out how to stretch public dollars for training and employment programs. Our public investment is such programs cannot possibly extend as far as the need.

If our young people are unable to participate in these Federal programs or they cannot find a job paying at least the minimum wage, they are plain out of luck, and they will be on welfare the rest of their lives, and it will probably cost $1 million per person in welfare to the taxpayers.

We know that the minimum wage has a severe, adverse effect on the employment of teenagers. I do not know of any economist worth his salt or any wage analyst or any labor analyst who would not agree with that. It has a devastating effect on teenage unemployment. There is no question about it.

We know that the effect of the minimum wage is to eliminate many jobs which typically provide people with their work experiences.

The pending bill will increase the minimum wage approximately 36 percent over the next 3 years. S. 837 will only compound this national problem as it pushes up the costs, inflation, cost of goods and services, for everybody else. So when they get the minimum wage, we take back in the cost to society as a whole.

When a youth opportunity wage was produced as a bill in 1985 and 1986, it had the enthusiastic support of many diverse groups, including the National Council of Black Mayors, the Boys Clubs of America, the American G.I. Forum, Fraternal Order of Police, and the Chamber of Commerce, to name just a few. That is when the youth opportunity wage was offered, not the minimum wage. These organizations are concerned with creating opportunities for youth. These organizations were frustrated that little was being accomplished and were willing to support a 3-year test of the youth opportunity wage concept, and I agree with them.

If we fail to even test the concept, we will be guilty of failing those young people who would otherwise have had a chance at employment. The economic evidence suggests a training wage is a valid response to this national problem.

I realize that not everyone shares my faith in the market's response to this wage flexibility which others have shown. I say we should find out.

If this measure creates even one new job for an unemployed teenager, giving that young citizen a break in life, it will be worth the effort to enact. What is wrong with trying? Why do we not believe that a youth wage will work? Or, I should say, that some do not believe, because I know it will work, and those who really look at it know it will work. Let us find out. Let us try.

If we take the approach of the Senator from Massachusetts, it really is not much of a change from the present law. It applies only to full-time college students. Frankly, they are people who can get jobs at the minimum wage.

What about the kids born on the wrong side of the tracks, in Ogden, UT, or the ghettos of New York or Boston, Massachusetts, or Pittsburgh, or wherever? Are we just writing them off? The approach of the Senator from Massachusetts does nothing for them, in my opinion, or in the opinion of anybody who looks at it.

The fact is that it does very little to improve upon present law, because all it does is require that they have a certificate, they have to apply for it and go through the bureaucratic rigmarole to get one, and that discourages businesses right there.

No self-respecting businessman really wants to go through the bureaucratic maze in Washington. If they happen to choose to go through that system and they happen to get a certificate, they can get six people now on what is called an opportunity wage. But it is really not an opportunity wage; it is a lesser wage. That would be a true subminimum wage, because the full-time students literally could go out and get the minimum wage if they really wanted to.

The fact is that what we need is a training wage for those who cannot get a chance any other way.

So he would multiply it from 6 persons under a certificate to 12. That is after going through the bureaucratic maze in Washington and go through it every year.

We are suggesting, why not just give this opportunity to anybody who has not worked before? Let them get that original job. Let them have the opportunity to get into a business or into a job.

Mr. KENNEDY. Mr. President, will the Senator yield for a question on that point?

Mr. HATCH. I yield.

Mr. KENNEDY. I have heard the Senator describe his amendment as only being available to people who never worked before, but that is not what the amendment says. It says, "If such employee had not had previous employment by such employer."

So, as I read the amendment, the discription the Senator has just given applies only to a particular employer. An individual who had worked for Burger King could not go down and work for Dunkin' Donut.

I know that our colleagues are making an important judgment about which way to proceed, and I have heard the Senator describe his amendment; but the way I read it it says, under section (a), "If such employee had not been previously employed by such employer," which would refer only to that employer, rather to a worker who had not had any kind of work experience. Am I correct?

Mr. HATCH. The Senator is correct. However, we should point out that what the amendment does is to cover all those situations, such as a young person like myself, when I was in college. I worked for a minimum wage, or less, as a custodian. I developed those custodian skills and did that honorably and with a great deal of pride that I was working my way through college.

Then, if I wanted to become a diamond salesman or a student in a jewelry store or wanted to become a fast-food trainee, I really could not get that job at that time. I had to almost beg to get the custodian job at the particular time.

There are a lot of young kids doing that today. Maybe they can get an initial job somewhere, but it does not have them trained for the next job.

However, it is really quibbling to worry about that language; because, if a young person gets a job almost anywhere in our society and works for the 3 months, during which he or she would be at 80 percent of the minimum wage, I submit that very few of those people at that age would have to go to another employer and work for 80 percent of the minimum wage, because they will have had the discipline and experience that comes from working; they will have shown that they can work. Frankly, they will do better.

Let us assume that, even so, the only way they can get the second job, because it is a different business and a different form of work—the only way they can get that second job is at 80 percent of the minimum wage. The fact is that it may be the only job they can get; and if that is the case, it is better for them to work than not to have that opportunity.

I would be happy to consider amending that, but I do not think it is wrong to have it the way it is written. Once they have worked for the minimum wage for a period of time which cannot exceed 3 months, I do not think they will ever go back to the training wage. They will have established that they know how to work, what work is all about, and that they have the discipline for working. I do not see a major problem.

Mr. KENNEDY. I was just trying to get a correct interpretation of the Senator's amendment.

It was described earlier as being available only to employers who are going to employ for the first time. The way the amendment reads now, it says, "If such employee had not been previously employed by such employer." It is a small point.

Mr. HATCH. It is not a big point.

(Mr. BREAUX assumed the chair.)

Mr. KENNEDY. For the reasons that I spoke to earlier in the debate in terms of my own serious reservations abut the approach that has been taken by the Senator from Utah, but that does clarify it.

In effect, it will be available to any employer and any employee as long as that is not the same employee for the same employer.

Mr. HATCH. That is correct.

Mr. KENNEDY. I think that is a distinction not enormously significant, but just in terms of description, I wanted our colleagues to know.

Mr. HATCH. I wanted our colleague to point that out.

To make a long story short, it is not a very significant point because the key here and purpose of real training wage is not to get more full-time college students jobs. They are going to get them anyway. They have the capacity to do it. It is to help these kids that cannot get jobs. It is not just kids. It would be anybody who cannot get a job.

If you cannot get a job because you are underskilled or undereducated or otherwise unfortunate, and there are 2.4 million dropouts alone in this society, then this training wage gives them a chance, and it gives an incentive to small business in this country which provides 50 percent of the jobs of this country. It gives them incentive to give them a chance.

All the approach the Senator from Massachusetts does is give full-time students a chance and that only under very narrow prescribed circumstances. That is already happening. It is not really an improvement on current law except it would move from 6 to 12 those without a certificate. It would certainly not do the job and it certainly does not do it for the group that needs it.

I am sure there are many college students who are happy they have a job anywhere. That proves my point even more.

If full-time college students who have the grade point average and the SAT scores to get into college are willing to work for a training wage percentage of the minimum wage, then how much more willing to work would be those kids who do not have any chance in society?

If the distinguished Senator from Massachusetts is so concerned and compassionate that he will do it for the full-time college students, why is he not doing it for those who cannot help themsleves? Where is the logic in his position? How can anybody in the U.S. Senate vote for this mock training wage except insofar as to get at six more people per certificate.

If it is that important to do it for them, how much more important must it be to do it for those who cannot get a job, those who are not in college, those who do not have the SAT scores, those who are dropouts from high school, those who are being written off by our society, and those who are continuously losing their positions and rights in society because of some of these societal ills.

If it is for full-time college students and we recognize that, why would it not be more important for those who cannot afford it at all, those who cannot get a job at all.

I fail to see the logic on the part of the distinguished Senator from Massachusetts.

I might also say that to make our amendment even more clear, ours is not limited to teenagers. We would provide a training wage for anybody who cannot get a job, anybody. We have 20-year-old dropouts. We have 25-year-old drug addicts. Why should we not be interested in giving them jobs if we can, if this would work? The only argument we use against this is we do not think it will work. Who knows?

The fact is we believe it will work and we believe it is worth the effort.

But if the distinguished Senator from Massachusetts and others, believe that full-time college students ought to have this kind of aid and assistance that they can work for a youth training wage, then, my goodness, why can we not do it for those who cannot get a job? If the argument is, well, we are trying to help the universities, OK, that is a fair argument. Then why do we not try to help small business people all over this country? Is that not more fair?

Why do we pick on them. We recognize the colleges and universities where it cost $15,000, $16,000, $17,000 a year for tuition?

I want to help the full-time college students. I do not see anything wrong with that. The current law does. I think it is a great thing that the distinguished Senator is willing to move it from 6 to 12 people per certificate. But, my gosh, where is the compassion for those who do not have anything, who do not have a chance, who cannot get a chance?

Let us go beyond them. Where is the compassion to small business people in this country who cannot get enough people to work for them and cannot afford to hire them because they are unskilled? They do not want to go to this market because they are unskilled and if they paid a minimum wage or higher they are never going to hire them. They will just do without or they will go out of business, which many of them have.

It is precisely this kind of legislation supported by those on this other side that really causes small business to go out of business.

To me I will never understand the logic of giving it to the full-time college students but not to those who never have a chance, to those who never will have a chance.

What about the taxpayers of the country? Talking about inflation, what this bill does to inflation? How many of you do want to go back—remember three times the minimum wage changed in the late seventies and we wound up with inflation in double digits. I am not saying just the minimum wage. There were a lot of other things that was done by the prior administration that shot up inflation in double digits, and I might add the prior administration to that, a lot of things.

But the minimum wage was one of those things that pushed it up, and it was changed three times during that period of time. It went upward like that and so did inflation every time and the bottom fell out on youth employment. That went down, especially minority youth employment and especially employment for women, some of the hardest-hit in our society.

For the life of me I will never understand how we can take care of full-time college students and cannot take care of those who, if they stay on welfare all of their lives, it will cost the taxpayer $1 million per person. To me it is a small price to pay to have a real training wage that gives them a break, that gets them into the system, that helps them along the line, that gives them the helping hand instead of a handout that seems to be the philosophy around this great body, getting a handout, rather, a helping hand. I would rather give them a helping hand.

This would do it. You are not only helping those deprived and those undereducated, underskilled and underserved. You are helping the small business people who will be willing to take some chances to hire them. To me it makes so much sense, it makes so much sense.

Senator KENNEDY made the point that under his approach, if they apply for this exemption and this certificate and the Department of Labor decides to give it to them, they can move up from 6 to 12, and, if they can apply for more, maybe they will do more. But the problem is what he does not tell is they have to prove that they do not discriminate against any other employees, and that is an impossible thing to do, so you are limited to between 6 and 12 employees that you might be able to pay a youth training wage for, and they are limited to full-time students.

I do not see why we cannot try this approach, I don't see why we have to stick to the same old, tired solutions. This is an idea that deserves to be tried, I hope my colleagues will join me in opposing Senator KENNEDY's second degree amendment and support a meaningful, substantive training wage that will provide real opportunities.

Mr. D'AMATO. Mr. President, I wonder if my colleague from Utah will yield for a question?

Mr. HATCH. I am delighted to yield.

Mr. D'AMATO. I have been somewhat reluctant to take a position on the minimum wage legislation because there are so many nuances.

Mr. HATCH. That is very well said.

Mr. D'AMATO. I would hope that we could attempt to focus on the facts as opposed to a lot of the rhetoric that goes on—you know, the chest beating about fairness and taking care of those who are most in need. I think we are all concerned with employment and employment opportunity. But maybe for this Senator's edification the Senator might address himself to specifically how long this training would be—it is a training wage—if I were to run a business. I have a constituent who called me today. His name is Mr. Tumminillo. He said he hires mostly students and housewives on a part-time basis. He said generally after they work out, after 3 or 4 weeks, he moves them up and gives them a higher wage.

Now, in your legislation, how would this affect Mr. Tumminillo if there were a $3.75 an hour minimum? I would imagine in the first year, in the bill as proposed now that you seek to amend, it would require raising the minimum from $3.35 to $3.75. What would be the situation with Mr. Tumminillo?

Mr. HATCH. Well, if somebody was first hired in his business, he could hire them at 80 percent of the then prevailing minimum wage. If it was $3.75, it would be 80 percent of that, so long as the base wage he pays is not below $3.35 an hour, the present minimum wage. He would be able to pay them that for 3 months, during which time he would train them.

Mr. D'AMATO. So, in other words, the present minimum would be the minimum?

Mr. HATCH. Not necessarily. You cannot go below the present minimum. Normally, it would be 80 percent of the prevailing minimum wage, as long as it does not go below the present minimum wage.

Mr. D'AMATO. But in no case below the present minimum wage?

Mr. HATCH. That is right. So he would be paying at least the present minimum wage or 80 percent, whichever is higher.

Mr. D'AMATO. And for how long? Would they have to take this as long as he wanted to pay them that?

Mr. HATCH. No, only for 3 months. Then I doubt seriously that many employers would keep them on it for 3 months. Some would, some would not. But they would have a 3-month training wage, and thereafter, they would have to pay the minimum wage.

Mr. D'AMATO. So your amendment would say that at the end of 3 months——

Mr. HATCH. They would have to be paid the then prevailing minimum wage.

Mr. D'AMATO. They would then go up to $3.75.

Mr. HATCH. Sure, whatever it is.

Mr. D'AMATO. Now, I have received many letters and telegrams. I hope to begin placing these in the RECORD this Monday, because I think we should hear from the small business entrepreneurs of America; people who love this country every bit as much as those of us on this floor; and people who are out there in the real work force who understand the realities of what is taking place. They have indicated that, in many cases, they feel that simply to put them in a situation that would require this kind of increase without providing a training wage, would not allow them to hire nearly as many people.

Has the Senator had any experiences or has he received any communications from people in the business community and others who are concerned about giving employment opportunities to young people?

Mr. HATCH. Thousands of them. In fact, I have met with groups all over the country that said if we could just have a training wage, we could do an awful lot of good.

Mr. D'AMATO. But, again, in 90 days—I just want to go over this again—in 90 days, Mr. Tumminillo, or anybody else, would be required then to pay the minimum wage, whatever it is?

Mr. HATCH. No question; whatever it is. Whatever it is, that is right.

In other words, it is not a prolonged thing. It would be required. Once that young person, or older person under our amendment—anybody who has not worked before for that business—once that person has been there 3 months, I think that person will merit the minimum wage and probably be paid more. Certainly they will go up to the minimum wage and I think will go on from there because they will have had the experience of working. They will have had the opportunity to work.

Mr. D'AMATO. I refer to another businessman who called us. He said that without the training wage for new workers, he would have to find ways to hire fewer people, given the increased costs. Now, we are talking about a fast-food place. He said he would find ways to install french fry machines to replace kitchen help. He would install self-service machines for sodas instead of hiring counter helpers. Overall, he makes an estimate that he would reduce his kitchen staff from 25 people to 15 people.

Now, I am concerned about those 10 people who would lose employment opportunities and where they will go if this takes place.

Mr. HATCH. Well, so am I. If the minimum wage goes up, you can count on that happening and happening all over America. Because small business people who operate on very thin margins, in most cases, they are just going to find ways to reduce the labor costs and they will either automate or try to get people to work harder and work harder themselves and do a lot of the work that they would normally pay people for, or they will go out of business.

Now, if those 10 people who are reduced from his restaurant business, from 25 to 15, if those people will go on welfare, guess who pays for that, too? Now, how can anybody think that this is not an inflationary push upward? Because that falls back on all of the taxpayers of America. And you can count on $10 million being spend over the average lifetime of those 10 people—a $10 million cost to the taxpayers that they would not have to pay if those people were working and paying taxes themselves. Although, at minimum wage levels, probably not very much in taxes, but at least paying their way.

Mr. D'AMATO. I have to say to the Senator from Utah that I believe that the minimum wage should be increased.

The Senator from Utah is not opposed to that, is he?

Mr. HATCH. I will put it this way: I really do not believe that minimum wage increases benefit anybody. I believe employers are going to be so hard-pressed to get quality employees in the future that the minimum wage is a fiction that nobody is going to pay any attention to. Already a lot of the fast-food chains, in order to just get employees, are paying much more than the minimum wage.

Mr. D'AMATO. As matter of fact, in some of the regions in my State, people are paying well above the minimum wage.

Mr. HATCH. Well above it, and almost everywhere else.

Mr. D'AMATO. $5, $6, even $7 an hour.

Mr. HATCH. That is right; and almost everywhere else.

Mr. D'AMATO. So is the Senator concerned about that first-time employee that youngster with no training, with no educational skills, with no hope of a job opportunity, with no hope even to get that $7 or $6 or $5 or $4 an hour. Yet if he or she gets that opportunity for 30 days or 60 days or, at the most, 90 days, this youngster may begin to acquire some job skills that they might not get if employers have to pay them this higher wage?

Mr. HATCH. That is what the whole battle is about.

The minimum wage is a fiction today. The laboring force is going down, as far as numbers. Women are going to have to come into the laboring force. The fact of the matter is it is going to be very difficult to get quality employees.

Today, many of our young people—we have 2.4 million dropouts in our society, many of whom will never work again unless we find some way of getting them into the system. Most small business people are not going to hire them at $3.75 minimum wage. They are just not going to do it.

Mr. D'AMATO. Particularly those who have limited language skills, limited education and who need that opportunity, that first start.

The Senator is concerned about higher wage levels limiting them from even entering a job market?

Mr. HATCH. Absolutely; no question. They will not even get a chance to get a job because the employers, as you say in the examples you gave of your constituents, are going to be lowering the total number of employees and they are not going to take the chance to give some of these people an opportunity who do not have the skills or lack language skills or for any reason, that are basically undereducated people. You are talking about blacks in particular, Hispanics, Puerto Ricans; you are talking about a lot of people in your State, a lot of people in New York City who probably will never have a chance. And what do these kids do? What do they do? Do they just vegetate?

Mr. D'AMATO. Would my colleague find it outside of logic to say that one can be supportive of increasing the minimum wage and yet, by the same token, say: Let's give to the small business entrepreneur a very limited period of time, up to 90 days, in which he can bring in those unskilled workers that he might not otherwise take the chance to bring in, to challenge them, to see if they cannot fit into that system." And if they do, most of them, we would hope will succeed and productive members of society. Employers will hire these workers, instead of turning to automatic vending machines and other devices. Entrepreneurs, small business people, in particular, will be enhanced, and the lives of those young people made more productive. Then, they will be slated into higher salaries, and certainly we hope there will be the day when they will rise well above that level as a result of the skill levels and the job experience they have acquired.

I do not see how it is inconsistent. You see, I support that training opportunity. It seems to me that—if we pass legislation that raises that minimum wage level, we may arbitrarily be cutting off hundreds of thousands, if not millions, of young people who might be afforded a job under your training concept.

Mr. HATCH. You are right, Senator. You have described it about as well as it can be described. There are two amendments on the floor right now. There is my amendment which would give a right to small business or any business to pay a training wage for the first 3 months for any brandnew employee who has never worked at the company before who does not displace a regular employee.

Mr. D'AMATO. They cannot displace another employee?

Mr. HATCH. In fact there are severe penalities if they do displace another employee.

Mr. D'AMATO. So, where there might be those who are unscrupulous and who might take an opportunity to bring in young people, and just displace someone who has been there at a higher wage——

Mr. HATCH. That is right.

Mr. D'AMATO. We build in sanctions against that in your amendment?

Mr. HATCH. That is right. Now, let me contrast that. That amendment will open the door to millions of young people, at least 2.4 million dropouts, who probably will never have a job and will wind up on welfare at a tremendous cost to society.

Mr. D'AMATO. Let me get this again. The Senator says it rather quickly. We are used to hearing these numbers. A million unemployed people, 2 million displaced workers. The Senator is saying to me that there are 2.4 million dropouts?

Mr. HATCH. We are talking just dropouts. Not talking about anybody else.

Mr. D'AMATO. Is that each year?

Mr. HATCH. That is the total in society today, 2.4 million dropouts.

Mr. D'AMATO. I have read, and I wonder if we might be able to develop some backup for this, some rather startling indications that in some of our high schools in our large urban areas, the dropout rate is as high as 50 percent annually.

Mr. HATCH. Let me ask the Senator, this 2.4 million dropouts, ages 16 to 21 in 1986; 1.2 million of this total were unemployed.

Mr. D'AMATO. In 1 year alone you are talking about almost 2.5 million youngsters who dropped out of school?

Mr. HATCH. That is right. It says none of these individuals most in need of skills and training would be eligible for the Student Learner Program that the Senator from Massachusetts is talking about. See the contrast between what we would like to do, which is a real training wage for anybody who has not worked before, of any age, any nationality, any sex, and so forth, we would open that door to all of them for this training wage and allow small business the extra incentives to hire them. Contrast that with the argument of the distinguished Senator from Massachusetts, which basically is only for full-time students.

Mr. D'AMATO. Full-time students are not the problem, are they?

Mr. HATCH. It does not cover all full-time students. It only covers those full-time students who can get a job from an employer who wants to go through the bureaucratic maze of applying to the Department of Labor, getting the Department of Labor to give them a certificate on an annual basis. Every year they have to do this. Then they can have six people they can hire. That is the current law. It will increase to 12 under the proposal of the Senator from Massachusetts. That is about the only benefit you get out of the new proposal that he is proposing.

It is for full-time students and I submit that most of those, if they had to, could get out and find a real minimum wage job or better. We are talking about kids who cannot.

Mr. D'AMATO. It seems to me, as well intentioned as that might be, having two youngsters who fall within that age category, it is pretty tough to get them even to post a letter, when they are in need of financial aid from home. Usually we get a phone call reversing the charges.

I am wondering how realistic it is to think that we are going to get students to go into this certification process. We must also consider the incredible cost to the taxpayer; and the bookkeeping this requires of the employer. It would seem to me that we should be looking at the 1.2 million unemployed young people out of the 2.4 million dropouts and seeking ways to get them into not only job training but also more education. In so many respects that employment opportunity becomes very real and meaningful education to these young people.

Because I believe we are developing within this country a tremendous underclass that is growing in every dimension: As it relates to education, as it relates to employment and employment opportunity, as it relates to the development of job skills. I would hope that, notwithstanding the desire to see to it that those who need the most as it relates to protection, to see to it that unscrupulous people will not take advantage of them, that in so passing a piece of legislation designed to do that, we not disenfranchise millions of young people who are most in need of that very first-time job opportunity that might make the difference.

I could not help but compare some aspects of the life of my distinguished friend and colleague from Utah as it related to employment. My first employment opportunity was at a minimum wage job. I worked a hot dog and hamburger stand in the little community that I live in today for 75¢ an hour.

Then, after holding many intervening jobs, I was paid a very princely sum of $1.65 an hour, at a job that gave me the opportunity to complete my law school education. I worked as a custodian. I heard you refer to it as a janitor. I held a position for some 2 years and worked my way through law school.

Mr. HATCH. We are going to have to have the Senator form a janitors' caucus in the U.S. Senate.

Mr. D'AMATO. I thought that was very interesting when I heard the Senator talk about his experiences. I can share with you the fact that I saw many young people, and some older people who were desperately in need of that work opportunity and I, as a young man, certainly was.

I want you to know that, were there to have been a wage differential that may have precluded the university from being as generous as it was in providing opportunities for many, this Senator would not have had that chance to get a law school education.

I would hope that we would have an opportunity to further discuss some of the ramifications that may not be so readily put forth—I intend to support the basic proposition of increasing the minimum wage, lest there be any doubt—and the conception put forth that in so doing it, we may be killing jobs and opportunities for growth and enhancement. I certainly think that your provision is most modest in attempting to ensure that in so doing it, we do not destroy the very thing which we are attempting to preserve.

I think it is too easy to get up and rail that we have got to raise wages of the American workers who are being taken advantage of. One need only take a survey in his or her community to find that, in more cases than not, there are substantial wages, well above the minimum, that are being advertised. It is the job skills that we have to address. And simply raising the level of the minimum wage does not address that.

Indeed, it may be unintentionally—and I certainly say unintentionally—harming the very hopes and the aspirations and the job training that is so important and something that I believe that my friend from Utah and the senior Senator from Massachusetts seek to increase.

I would hope that we could pursue this in further debate because I am most interested in seeing to it that we increase employment opportunity and not decrease it.

Mr. HATCH. I appreciate the remarks of the distinguished Senator from New York and I agree with most of his remarks. I have to say, you know, under the guise of helping the working poor, they want to increase the minimum wage to $3.75 an hour and then up as high as $4.55 an hour under this bill. The problem is that $4.55 an hour is not enough for a head of household to run a household.

So, it is apparent the minimum wage should not be a vehicle to get people out of poverty. Every time you increase it, you increase everything else, too. We have had that experience now for years. When are we going to catch on? When you increase the minimum wage, you increase everything else; so it is taken away anyway in the end. There are not many people who literally get minimum wage increase and wind up getting very much more, no matter how much you go up on minimum wage because everything else starts up—goods and services.

Mr. D'AMATO. I am concerned, too, about the tens, tens—hundreds of thousands, not tens of thousands—hundreds of thousands of men and women in some of the service areas—waitresses and others—who would be, I think adversely affected.

I think of the small restaurants in the community where I live along the seashore. I have not taken the opportunity, but I assure the Senator over this weekend that I am going to go back and speak to the owners of these small establishments.

I am thinking about one in particular—Peter's Clam Bar in Island Park. They employ real people. They have real roots. They employ a good number of young college students but over the years it has been a tradition to employ many of the women of our community. They come from 30 or 40 families, and that is a lot when you are talking about a community of less than 5,000 people. They have worked there for many, many years. I am going to ask them: what will the consequences of raising these wages be as it relates to their labor pool? Will there be those one, two, or three job openings—and there is a natural attrition over a 20-year period of time—that they may not choose to fill as a result of these costs? Will we be doing a disservice to the people of that little community of Island Park where I have lived for many years, and will it result in a diminution in the opportunities of some of the young men and women who find summer employment?

Let me assure the Senator it is not just the minimum wage that draws those young people and women to that community because, obviously, there are substantial tips, and so forth, that are added on top of that.

So, I would hope we do not inadvertently, as a result of all the good intentions, destroy those opportunities for job employment. I imagine you could multiply that story throughout the length and breadth of this Nation. Indeed, it is something I think we have to be mindful of, and I hope we would have the opportunity to more fully discuss these matters.

I am not a member of the Labor Committee. I passed that opportunity up. But I would have to say I am looking forward to, possibly in the next session, serving on that committee. Because I think that there is a lot of work that has to be done. All too often we get these bills out on the floor without the body, as you know, having had the opportunity to put in the kind of study so necessary as it relates to the formulation of policy. Then it becomes rather a matter of perception that somehow those who may raise questions are against the poor when, indeed, someone who lives in a community such as mine where 54 percent of my constituents, as of the 1980 census, were judged to be in the low and moderate income category.

I daresay I do not think that is a statistic we should be proud of, yet it is one I am cognizant of, and it is a community that I love and a community of hard working, decent people.

So, I say to those who talk and trumpet about the problems of the poor, this is someone who lives there, who understands the hopes and aspirations of those who seek through the dignity of hard work to achieve the American dream of home ownership, of economic opportunity, of providing their sons and daughters with the chance they did not have to get a good education. I hope that we would not be adding further to the burden of those families because it is not easy. It is not easy for one to continue to survive and to maintain his dignity.

I also suggest that the maintenance of a person's dignity is probably the most important thing to consider. I would suggest that would be the case, whether we are talking about the most humble of our citizens or the most lofty, even those within this institution.

I thank my good friend and colleague from Utah.

Mr. HATCH. I thank my good friend from New York.

Finally, let me just say this. I think the distinguished Senator from New York has been very correct in many of his observations today. There are only 14 percent of the total minimum wage earners who are working poor who are heads of households, if that. Frankly, I think we ought to do some things to help them so that they are not in poverty.

To saddle the whole country with this fix, it seems to me, pushes up inflation, the costs of goods and services and the loss of small business and the loss of jobs for teenagers, blacks, Hispanics, and women I think is really a catastrophe in many ways. It would be better to approach this with more intelligent approaches than what we have done in the past. Just because this has been the theoretic role of the past does not mean we have to be always linked to the past.

I get such a big kick out of always being called people who are enamored with the past. If there is any enamorment with the past, it is the people who think this bill does a lot of good, but then you add on top of that the little that the amendment that the distinguished Senator from Massachusetts has offered, and it is pathetic. I am not against helping full-time students, but if we really want training wage to work, you have to help those who need training wage. His amendment, unfortunately, does nothing for those people.

With that, we will have much more to say about that next Tuesday. I hope we can get to a vote next Tuesday on some of these matters, get to a number of votes, and I will be working to see if we can do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I had hoped perhaps those who have been listening to this debate over the past couple of hours have a chance to examine the earlier statements where these issues were addressed in some detail during the earlier part of the debate and discussion, but let me just reference, just make a couple of responses to the arguments that have been made by the Senator from New York and the Senator from Utah.

First of all, with regard to small business, we raise the basic exemption from 362,000 to 500,000. Any small businessman or woman in America, those small shops talked about by the Senator from New York that are less than 500,000, those who are in the southern part of our country, those mom and pop stores are out. We understand the particular needs and they are out. They are not included. As a matter of fact, the percentage increase is greater in terms of exempting those small shops than the increase in terms of the individuals.

So, we have been sensitive to the problems of the small business. Thirty-seven percent increase in the size of the exemption for gross receipts; only 35-percent increase in minimum wage in the total bill. Point No. 1.

If there ever was an award for eliminating paperwork, it ought to be for our perfecting amendment in terms of the employment of full-time students. What is the requirement? The name of the student, the address of the company, the type of business, the assurance that not more than 10 percent of the employees are going to be students, because that is 10 percent of the Nation's population, and a mailing address. Sign it, mail it, and it is deemed approved.

Give me one other example in the Federal Government, any other certification, any other application, any other paperwork which is as simple as that? We simplified it dramatically, Mr. President.

Mr. HATCH. Can I give you one example?

Mr. KENNEDY. Not just yet. We have simplified it dramatically, Mr. President, and that is it.

To the more basic and the more fundamental issues, and that is about those who are students and those who are not students. Our perfecting amendment is wise for those who are not students as well as for those who are students.

We focused on those who are students, high school students. We hear a great deal about, well, what is going to happen to high school students. High school students are included in our amendment. College students are included. Part-time students, vocational education students are all included under our amendment to be able to get 85 percent of the minimum wage. We do not cover these young Americans who are not students. Why? Because we want them to become students. If you accept the premise of the Senator from Utah, you can just stay outside; you do not go back to school. I thought part of the concept was to try to get people back in school, to try to continue their education. This is an incentive to drop out of school. You can go on. You have a little trouble with your grades, you might not have been promoted last year. OK, we can get you a job down there, effectively a dead end job, albeit. Maybe you learn a few working skills but no training, because there is no training feature of this. You can learn that training; as we found out earlier in the debate, 75 percent of it probably takes 2 hours to flip a burger. This is how we are talking, make a bet on it. No one is degrading these important jobs. This country could not get along without those types of jobs which are the most difficult jobs in which some Americans have to involve themselves and still we have millions of Americans doing it to provide for their families. No one is demeaning those jobs. You demean them more by saying that no way can this Nation assure that the purchasing power of that minimum wage of 7 years ago is going to be the same today.

Oh, no, we have had prosperity. We give cost of living to the military, to the Congress, to the President of the United States, to senior citizens, but not to you. No way. This country is prosperous, as the President of the United States said just a few weeks ago, so we can afford a cost of living for all Federal employees but not for you, 16 million Americans, no way. So you have children; so you have been working; so you have not had a pay increase for 6 years. No way, we cannot afford it. You are going to provide some potential unemployment in the future, even though, as the Senator from Utah says, 15 million of those 16 million jobs are $6 an hour or more. There is only a small percentage of people getting the minimum wage. So be it. Those are millions of families and those are parents who have to feed and clothe their kids, they have to educate them. But no way. No way. Somehow it is going to be inflated. Some way it is going to have some adverse impact in employment in spite of the fact—and I am not going to restate it, at least today—when we reviewed all of the previous records, when we have increased the minimum wage, all these dire predictions in terms of unemployment, in terms of increasing inflation just have not borne out. Those few Members, very few, who are listening to this debate I hope would get a chance to examine the RECORD of earlier today.

Mr. President, I look forward to reaching a decision. We believe we have fashioned this amendment so that it will provide for students in school, limited by hours, 20 hours. That is basically our judgment, those of us supporting this, as a judgment in terms of the educational component. Your get more than 20 hours, you have an adverse impact in terms of the educational experience. We try to encourage people to remain in school, not to drop out of school, encourage those who have dropped out to go back to school. We believe that that is the appropriate way to try to shape a program for those individuals who will be making the subminimum.

I think we have addressed the issue of what our amendment does, the paperwork issue, the basic concept of why we approach this amendment in this particular way. I hope over the course of the weekend our colleagues will have a chance to examine the excellent record that has been made by my good friend and colleague from Utah and the few words I have had the opportunity to present to the Senate and then when the bell is rung and the roll called they would overwhelmingly support my amendment.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator yields the floor. The Senator from Utah.

Mr. HATCH. I am not going to keep us much longer. I enjoy all of the rhetoric, but if it is important to give people a living wage, then maybe it ought to be $6 an hour, $7 or $10 or a million, to use Senator GRAMM's analogy. The reason you do not do that is because you know that it just pushes everything up. It stands to reason. If you push $3.35 up to $3.75, then up to $4.55, everybody else has to go up, too. You have to. And I might add the distinguished Senator from Massachusetts is the first to come in and say we have got to help everybody. Well, he is noted for that. In fact, his programs are so broad and large that they never pass.

Mr. KENNEDY. Unless they are cosponsored by the Senator.

Mr. HATCH. Unless they are cosponsored by some of the rest of us. The fact is we can come up with wonderful ideas all day long but somebody has to pay for them, and for this minimum wage idea of the distinguished Senator from Massachusetts to take care of 4.7 million people—not 16 million, 4.7 million people—who are paid the minimum wage, everybody in society has to take it on the nose. To have the audacity of saying he is for the poor when all he helps are full-time students and not those who cannot get a job, and says that is compassion, well, I cannot sit here and let it go by without rebuttal.

The reason I held up the editorials was because since we have been debating this issue it has taken years to get the American people to start looking at it and to realize it is more significant and more important than just the cliche that we want everybody to have a livable wage. This increase in the minimum wage will not give people a livable raise. It will be far better to attack this problem in a reasonable way. Why put up with this fiction any more?

Frankly, for the first time in history, newspapers all over this country are writing why increases in the minimum wage are not good, and they are not good for the poor. Most of all, they are not good for blacks and Hispanics and other minorities. Above all, they are not good for women. The fastest growth of single ownership of small businesses in this country happens to be women-owned businesses. This amendment, it seems to me, takes none of that into consideration and just goes along with the past because it has been a good cliche, it has been a good political slogan but continues to saddle us with past ideas that have long since been outdated. Let us approach these things more intelligently.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I support raising the minimum wage. Historically, the minimum wage has been pegged at about 50 percent of hourly earnings. By that measure the minimum wage today should be $4.45 an hour.

It has been 6 years since the minimum wage was last increased to its present level of $3.35 an hour. In that time, we have seen a rise in the number of women entering the workforce and we have seen a rise in the number of women and children in poverty.

A full time worker earning minimum wage makes less than $7,000 a year. This is not a subsistence wage. It does not allow full time workers to provide bare necessities for their families. Nor does it support the 1980's version of a family of three—a teenage mother who lives with her mother.

In fact this minimum wage has contributed to the emergence of a new phenomenon: The working poor. These are real people, who live in Baltimore and other American cities. I have seen them. They want to work, do work, and are still chosing between feeding their kids and housing their kids.

If this situation continues, taxpayers will always have to make up the difference, through welfare and other programs, between what that hospital orderly earns and what it costs her to live in her apartment on Fulton Ave. in Baltimore and feed her kids.

Mr. President, the Senate has passed the Family Security Act of 1988, the welfare reform bill. The emphasis in that bill is upon giving people the resources to help themselves. The minimum wage is the least workers should earn in our society. Workers should be able to help themselves get the American dreams we all expect, such as home ownership, schooling for their children.

THE EXPORT ENHANCEMENT PROGRAM

Mr. BOSCHWITZ. Mr. President, I understand that earlier today there was a colloquy or dicussion on the floor about the Export Enhancement Program and severe criticism of the Reagan administration's handling of the Export Enhancement Program. I would like to talk a little bit about it.

Apparently the criticism was that the Reagan administration fought it; that it was slow in implementing it; that only because it was mandated did they implement it at all.

I would point out that the Export Enhancement Program was created administratively by the Reagan-Bush administration in May 1985, and that it was implemented by the administration long before there was legislative authority to do so; that it was something that was permissible within the general legislation applying to the Agriculture Department; that the Reagan administration took the bull by the horns, so to speak.

There were enormous surpluses. The result was that they saw that the Europeans and others of the world were using export enhancement techniques. So they decided, as much as they disliked it, as much as any reasonable person dislikes subsidizing exports, they decided that it had to be done and they did it.

They did it independently of the Congress. As a matter of fact, the Congress did not specifically create the statutory authority for the program until the passage of the 1985 farm bill, 2 days before Christmas in 1985. And then the farm bill became law.

I understand that some of this talk about all of this came up because apparently an aide to Governor Dukakis, in pointing out ways in which one could make savings in the budget, pointed to the farm aspects of the budget and specifically said, yes, this is the EEP, the Export Enahncement Program. That is one that we could do away with.

Well, it is one that the Congress probably is not going to let any administration, whether it be a Bush administration or Dukakis administration, do away with. Perhaps that is a signal that the Dukakis administration would not use the authority with any aggression or they would not use it very aggressively or very creatively. And I think this administration has done just that.

Congress placed a $1.5 billion cap on the EEP, on the Export Enhancement Program, and the Reagan-Bush administration surpassed that level and had to announce on July 30, 1987, that it would continue to operate the Export Enhancement Program, even though it lacked the congressional mandate to do so and even though the funds for it had all been used up.

So, indeed, the Reagan-Bush administration was quite aggressive in pursuing the Export Enhancement Program to help out farmers. We have a very, very large surplus, particularly in the area of wheat. The Europeans were being extraordinarily aggressive, going into markets that had historically been American markets in flour and for wheat. Sometimes the export enhancement subsidy exceeded the value of the goods. And it really was an aggressively utilized program, and I would take exception to someone who said that it was not utilized aggressively and point out, again, that the Reagan-Bush administration utilized it even before the Congress acted.

As a matter of fact, the Congress, when it was controlled in both Houses—if one were to become partisan about the matter, when it was controlled in both Houses by the other party, by the Democratic Party—voted to restrict the moneys that were necessary for running the program and, in fact, did not give enough money to the program to run it on the same scope that the Reagan-Bush administration was seeking to do.

So that we feel it is a good program. Whether or not it has to be utilized right now, when surpluses, for instance in the case of wheat, are disappearing very rapidly, that is another question. I think it has to be used, and should be used, perhaps more sparingly at the moment when there is not the huge production to support the use of it as there has been in the past. Not the huge surpluses.

As a matter of fact, if one looks at the stockpiles of wheat or corn or other commodities—in the case of soybeans there are no surpluses, there are no stockpiles. And in the case of corn the stockpile will probably go down by approximately 70 percent by the middle of next year, and wheat as well will become a very small stockpile indeed.

This does not mean that we should give up the cause and absolutely allow what has happened before to happen, and that is that the Europeans again most particularly should steal the historic American customers. But it is less and less likely that these kind of subsidies will be used, not only by ourselves but throughout the world, as there is a general tightening of stocks. And as market prices rise, obviously the necessity of using such subsidies will not be as great as at a time when prices are very low, when you are out there fighting for every order, and when you have enormous stockpiles behind the sale that is being made.

So I believe that the Reagan-Bush administration, which has been accused of having an insensitivity to farmers, has been very sensitive indeed. If one measures by way of dollars what has been expended on the agricultural sector, certainly this administration must be deemed to be extraordinarily sensitive. The expenditurers went up to $25 or $26 billion—a record number. Regretfully, that had to be done in order to support the agricultural sector of our county. And I fully believe that if the moneys had not been spent there would have been a general collapse, not only in agriculture but in all of rural America, that would have cost the taxpayers in the United States far more dearly than the cost of the agricultural programs.

So, I think these things have to be kept in balance. I think that the Export Enhancement Program continues to be a sound one. I am sure that the administration will continue to aggressively utilize it, as it has done in the past, and I believe that those who would say that the Reagan-Bush administration fought the EE Program, that they were slow in implementing the program, that they only did so when it was mandated, forget the history of the program. And that history, of course, is that the program was created administratively by the Reagan-Bush administration, utilized administratively, and that the Congress was well over half a year behind in exercising its authority and making the authority statutory.

So, we hope that markets will be stronger. We hope that markets do not require subsidies in international trade. They are very, very disorienting to all of international trade. Hopefully trade bills that are protectionist will not come along, either here or abroad, that will bring about the necessity of these things. And in the process I think farmers will be well served.

I yield the floor.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill.

H.R. 2342. An act to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. GRAHAM).

At 1:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2789. An act to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 348. Concurrent resolution expressing the sense of the Congress concerning the 1988 Seoul Olympic games.

MEASURES HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 3408. An act to increase the amounts authorized for the Colorado River storage project.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3874. A communication from the Chairman of the National Advisory Council on Women's Educational Programs, transmitting, pursuant to law, the Council's thirteenth and final report; to the Committee on Labor and Human Resources.

EC-3875. A communication from the Presiding Officer of the Advisory Council on Education Statistics, Department of Education, transmitting, pursuant to law, the thirteenth annual report of the Council; to the Committee on Labor and Human Resources.

EC-3876. A communication from the Designated Federal Official, National Board, Fund for the Improvement of Postsecondary Education, Department of Education, transmitting, pursuant to law, the annual report of the Board for fiscal year 1987; to the Committee on Labor and Human Resources.

EC-3877. A communication from the Chairman of the Department of Education, transmitting, pursuant to law, the annual report of the National Advisory Board for International Education Programs for fiscal year 1987; to the Committee on Labor and Human Resources.

EC-3878. A communication from the Chairman of the Intergovernmental Advisory Council on Education, transmitting, pursuant to law, the Council's biennial report for fiscal years 1986 and 1987; to the Committee on Labor and Human Resources.

EC-3879. A communication from the Chairman of the National Council on Vocational Education, transmitting, pursuant to law, the 1987 report on Council membership, activities and preliminary recommendations; to the Committee on Labor and Human Resources.

EC-3880. A communication from the Executive Director of the National Advisory Council on Educational Research and Improvement, transmitting, pursuant to law, the twelfth annual report of the Council; to the Committee on Labor and Human Resources.

EC-3881. A communication from the Chairman of the National Advisory Committee on Accreditation and Institutional Eligibility, transmitting, pursuant to law, the annual report of the Committee for fiscal year 1987; to the Commitee on Labor and Human Resources.

EC-3882. A communication from the Secretary of Education, transmitting, pursuant to law, copies of the fiscal year 1987 reports of the Department of Education's advisory committee; to the Committee on Labor and Human Resources.

EC-3883. A communication from the Chairman of the National Advisory Council on Adult Education, transmitting, pursuant to law, the fiscal year 1987 annual report of the Council; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2800: An original bill to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission (Rept. No. 100-517).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2748: A bill to extend the authorization in Public Law 96-309 to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado (Rept. No. 100-518).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUMPHREY (for himself and Mr. Simon):

S. 2797. A bill to amend title II of the Social Security Act to remove the dependency test applicable to certain children adopted by Social Security beneficiaries and to make improvements in the administration of the Social Security Program; to the Committee on Finance.

By Mr. BENTSEN:

S. 2798. A bill to designate the building which will house the U.S. District Court for the Eastern District of Texas in Lufkin, TX as the "Ward R. Burke United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. GRAHAM:

S. 2799. A bill to designate the Federal building to be constructed in Lakeland, FL, as the "Lawton Chiles, Jr., Federal Building"; to the Committee on Environment and Public Works.

By Mr. JOHNSTON from the Committee on Energy and Natural Resources:

S. 2800. An original bill to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission; placed on the calendar.

By Mr. MELCHER:

S. 2801. A bill to amend the Older Americans Act of 1965 to hold harmless area agencies affected by the elimination of the prohibition against tribal organizations receiving both title III and title VI services made by Older Americans Act Amendments of 1987; to the Select Committee on Indian Affairs.

By Mr. LAUTENBERG (for himself and Mr. Bradley):

S. 2802. A bill to suspend for a 3-year period the duty on (1) 3-quinolinecarboxylic acid, 1-ethyl-6-fluoro-1,4-dihydro-4-oxo-7-(1-piperazinyl), also known as norfloxacin; to the Committee on Finance.

By Mr. D'AMATO:

S. 2803. A bill for the relief of Joan Daronco; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. 2804. A bill to amend the Judicial Survivors' Annuity Act to eliminate the requirement that a Federal justice or judge, who is assassinated, must serve a specified period of time before his or her survivors become eligible for benefits under the act; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. McCain, Mr. Inouye, Mr. Burdick, Mr. Domenici, and Mr. Hollings):

S. 2805. A bill to amend title VII of the Social Security Act to authorize appropriations for the Office of Rural Health Policy and to establish a National Advisory Committee on Rural Health, and for other purposes; to the Committee on Finance.

By Mr. HATFIELD:

S. 2806. A bill to require the transfer of the decommissioned Coast Guard cutter *"Glacier"* to the State of Oregon for use as a maritime museum and display; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAMM:

S. 2807. A bill to permit the Federal Communications Commission to utilize value based assignments in awarding licenses for the use of the electromagnetic spectrum; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WALLOP (for himself, Mr. Dole, Mr. Byrd, Mr. Lugar, Mr. Nunn, Mr. Warner, Mr. Boren, Mr. Wilson, Mr. Helms, Mr. Symms, Mr. McClure, Mr. Kasten, Mr. McCain, Mr. Simpson, Mr. Karnes, Mr. Nickles, Mr. Bumpers, and Mr. DeConcini):

S. Res. 474. A resolution in support of the President's policy regarding Soviet ABM Treaty violations; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY (for himself and Mr. Simon):

S. 2797. A bill to amend title II of the Social Security Act to remove the dependency test applicable to certain children adopted by Social Security beneficiaries and to make improvements in the administration of the Social Security Program; to the Committee on Finance.

REMOVAL OF SOCIAL SECURITY DEPENDENCY REQUIREMENTS TO CERTAIN ADOPTED CHILDREN OF BENEFICIARIES

● Mr. HUMPHREY. Mr. President, on behalf on the junior Senator from Illinois and on my own behalf, I am introducing a bill to eliminate discrimination against adopted children under the Social Security System.

Under current law, children adopted after a worker has qualified for Social Security benefits may only receive benefits if the child was living with the worker in the United States and receiving at least one-half of his or her support from the worker for the full year before the worker became eligible for benefits.

The logic behind current law is flawed. The notion that one would adopt a child solely to receive additional benefits is unfounded. With the costs of adoption averaging between $6,000 and $15,000, on top of the time and expense of rearing a child, it is unlikely that one would adopt a child just to receive a few more dollars a month.

A loving couple is going to adopt a child regardless of whether or not they are eligible for the Social Security disability benefits. Their willingness to give of themselves and to love their child is the paramount reason they adopt.

This legislation would amend section 202(d)(8)(D) of the Social Security Act to eliminate the special dependency test applicable to children adopted after a worker's onset of disability or entitlment to retirement benefits.

Mr. President, the bill will eliminate discrimination against adopted children, and remove a possible financial disincentive for Social Security beneficiaries to adopt children. It will also simplify program administration by eliminating a time-consuming, labor-intensive element of child benefit applications.

Additionally, elimination of the dependency test will not result in abuse by beneficiaries outside the United States because current law already contains a requirement that a child's adoption be decreed by a court of competent jurisdiction within the United States.

This bill has the support of the administration and the leading child welfare and adoption organizations in the country. I urge my colleagues to support this modest proposal.●

● Mr. SIMON. Mr. President, today I join Senator HUMPHREY in introducing a bill which eliminates a unique form of discrimination against adopted children. Under current Social Security law, an adopted child is not entitled to benefits payable to a dependent of a disabled worker if the child was not adopted prior to 1 year before the disability occurred. Conversely, a natural child is automatically entitled, regardless of timing of his or her birth. I do not believe this is fair.

The current law exists because of a flawed though well intended desire to protect the system. There is the belief that a couple would adopt a child, after a disability occurs with one of the partners, in order to receive the benefit payments that accompany an adopted child. While the possibility exists, the probability is low. If a couple wished to adopt a child to obtain the benefits, they would be quickly deterred by today's average cost of adoption. Adoption experts estimate fees charged to adoptive parents range from zero to $9,000 with reports of some adoptions reaching highs of $30,000. The average cost is $6,000. These costs coupled with the cost of raising a child today makes profitability a highly suspect theory.

The system must provide for the prevention of abuse, but to presuppose abuse while discriminating against a certain type of adopted child is morally wrong. The bill being introduced today would amend title II of the Social Security to provide that the legally adopted child shall be treated the same as a natural child regardless of the time the adoption occurred. I believe this is only fair. I urge my colleagues to join in correcting this inequity.●

By Mr. GRAHAM:

S. 2799. A bill to designate the Federal Building to be constructed in Lakeland, FL, as the "Lawton Chiles, Jr., Federal Building;" to the Committee on Environment and Public Works.

LAWTON CHILES, JR., FEDERAL BUILDING

● Mr. GRAHAM. Mr. President, as we prepare to bid farewell to one of our most distinguished colleagues, Senator LAWTON CHILES, we take comfort in knowing that the legacy of leadership and responsible legislation Senator CHILES leaves us will remind us of his hard work again and again.

It is fitting, therefore, that we commemorate the permanence of his contribution by naming the new Federal Building in his birthplace and hometown, Lakeland, FL, the "Lawton Chiles, Jr., Federal Building".

The Federal Building will house various Government services and make them more accessible to the residents of Polk County. It will promote Government efficiency and direct assistance to those who use Federal services and participate in Federal programs. That efficiency and accessibility accurately reflect the credo of Government service my colleague and friend has lived by in his 18 years in this U.S. Senate and in his respected career as a State legislator in Florida.

The naming of a building is a small acknowledgement of the great debt the people of Florida and the people of this Nation owe to LAWTON CHILES. But the Lawton Chiles, Jr., Federal Building will serve as a daily reminder of what public service can and should be.

I know Senator CHILES seeks no recognition for his service—his joy has been in the serving—but all of us are grateful for the chance to salute him and I urge my colleagues to dedicate this new Federal Building to him.●

By Mr. MELCHER:

S. 2801. A bill to amend the Older Americans Act of 1965 to hold harmless areas agencies affected by the elimination of the prohibition against tribal organizations receiving both title III and title VI services made by the Older Americans Act Amendments of 1987; to the Select Committee on Indian Affairs.

OLDER AMERICANS ACT AMENDMENTS

● Mr. MELCHER. Mr. President, prior to the Older Americans Act (OAA) Amendments of 1987, there was a stipulation in the act that individuals to be served by tribal organizations under title VI would not receive services under title III. This applied even if title III funds were used to provide a different array of services. The intent of that provision was to prevent duplication of services but eventually it had an adverse effect, leaving many Indian elders unserved altogether.

Testimony at hearings held by the Senate Special Committee on Aging in 1986 and by the Aging Subcommittee of the Committee on Labor and Human Resources in 1987, called for greater coordination between titles III and VI since the restriction excluded many Indian elders from any services.

Mr. President, the 1987 OAA amendments eliminated the prohibition on individuals or tribal organizations receiving services or funds under title VI from also benefiting from the title III program. As amended, the law now allows older Indians to receive assistance under both the title VI and title III programs. The congressional purpose with this change, as it appears in the committee reports, was to correct the unintended effect of the prior law which had resulted in making ineligible for title III services older Indians who could be served by a title VI grant but were not, or in making older Indians who receive only one type of service under title VI ineligible for any other services under title III.

I believe that this change in the law reflects congressional concern that older Indians receive and have access to needed services under the Older Americans Act to the same extent as all other older Americans.

The change, however, was not intended to harm existing grantees under title III of the act. Mr. President, the unanticipated consequence of the change in the act has resulted in a decrease of title III funds to some area agencies on aging. This means that services previously provided by projects through area agencies on aging will be cut back or eliminated. How do we explain to an elderly recipient of services under the act why he or she cannot get a meal or why a nurse is not visiting?

To clarify congressional intent, I am introducing legislation today to correct this unintended result. In addition, I will make every effort to ensure that there are sufficient funds appropriated under the act to properly implement the change. We must guarantee that no one suffers from the Older Americans Act amendments that Congress passed last year.●

By Mr. LAUTENBERG:

S. 2802. A bill to suspend for a 3-year period the duty on (1)3-Quinolinecarboxylic Acid, 1-ethyl-6-Flouro-1, 4-dihydro-4-oxo-7-(1-Piperazinyl)-, also known as Norfloxacin; to the Committee on Finance.

SUSPENSION OF DUTY

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation to suspend for a 3-year period the duty on norfloxacin. Norfloxacin is a patented product which is licensed to the U.S. pharmaceutical manufacturer, Merck & Co., Inc. It is the key ingredient in the manufacture of NOROXIN®, an oral antibiotic used in the treatment of urinary tract infections. NOROXIN® is an important part of the armament for the physician treating urinary tract infections because it demonstrates activity against certain organisms resistant to other classes of antibacterial agents, such as aminoglycocides, penicillins, cephalosporins and tetracyclines.

Duty suspension is warranted because norfloxacin, as a patented product, is unique and it is not manufactured in the United States. It must be imported from Japan. There are no direct substitutes currently in the U.S. market. Suspension of the duty of norfloxacin will enable the importer, Merck & Co. Inc., to be more competitive in foreign and domestic markets. Merck exports have grown to approximately $500 million annually while importing one-seventh of that value to the United States

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

(1)3-Quinolinecarboxylic acid, 1-ethyl-6-fluoro-1, 4-dihhydro-4-oxo-7-(1-piperazinyl)-, also known as Norfloxacin (provided for in item 411.9600, part 2D, 1C schedule 4).	No change	On or before the close of the 3-year period beginning on the date of the enactment of this item.

Sec. 2. The amendment made by the first section of this Act shall apply with respect to article entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of the Act.

By Mr. D'AMATO:

S. 2803. A bill for the relief of Joan Daronco; to the Committee on the Judiciary.

S. 2804. A bill to amend the Judicial Survivors' Annuity Act to eliminate the requirement that a Federal justice or judge, who is assassinated, must serve a specific period of time before his or her survivors become eligible for benefits under the act; to the Committee on the Judiciary.

RELIEF OF JOAN DARONCO AND AMENDMENTS TO JUDICIAL SURVIVORS ANNUITY ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce two bills: a bill for the relief of Mrs. Joan Daronco, widow of recently slain Federal district court judge, Richard J. Daronco, and a related bill to correct the flaw in the Judicial Survivors' Annuity Act which necessitates that relief. By a twist of fate, Mrs. Daronco faces denial of benefits payable under the Judicial Survivors' Annuity Fund for the sudden, tragic death of her husband. The private bill will allow her to receive benefits even though the requisite 18-month vesting period had not run.

As my colleagues may recall, on May 21, 1988, Judge Richard Daronco was accosted by a gun brandishing assailant while mowing his lawn. He was pursued and gunned down in cold blood. Thereafter, the assailant turned the 38-caliber Smith & Wesson revolver on himself.

The gunman, Charles Koster, was a retired police officer whose senseless acts were motivated by revenge for an adverse ruling disposing of his daughter's sexual discrimination suit against a bank. It is ironic that a man sworn to uphold the law ended his life through a violent violation of that law.

Judge Daronco was a friend. I was privileged to recommend him to President Reagan for appointment to the bench. He was a wise and accomplished jurist who was a fine addition to the District Court for the Southern District of New York. Unfortunately, after less than 1 year of service, to the shock of us all, he was cut down.

The judge left his wife, Joan, and five children. These survivors, however, could be denied death benefits unless the private measure is adopted because Judge Daronco was snatched from the bench by his killer's bullet before his benefits vested. It is appropriate that Congress direct that benefits be justly paid.

To obviate the need for private relief in the future, I am also introducing a bill to amend current law to eliminate the 18-month vesting period where, as in this case, the judge was the victim of assassination.

It would be perversely unjust to allow murder to thwart the purpose of the Judicial Officer's Annuity Fund. It is equally unjust not to correct the law now to avoid a recurrence of this circumstance in the future.

I urge my colleagues to support these measures.●

By Mr. GRASSLEY (for himself, Mr. McCain, Mr. Inouye, Mr. Burdick, Mr. Domenici, and Mr. Hollings):

S. 2805. A bill to amend title VII of the Social Security Act to authorize appropriations for the Office of Rural Health Policy and to establish a Natinal Advisory Committee on Rural Health, and for other purposes; to the Committee on Finance.

RURAL HEALTH

● Mr. GRASSLEY. Mr. President, today I am introducing a bill, on behalf of myself and Senators McCain, Inouye, Burdick, Dominici, Durenberger and Hollings, which, if it becomes law, will enhance the importance and viability of the recently created Office of Rural Health, and the recently commenced Rural Health Research Centers Program. The bill would not break new ground, in that the activities it authorizes are already underway. But the bill would provide greater certainty or viability for these activities, and it would indicate that the Congress is truly serious about addressing the problems involved in providing health care in rural communities.

This bill would do three things: First, it would authorize $3 million for the operating expenses of the Office of Rural Health (the office was authorized but funds for it were not). Second, it would authorize $3.0 million for the Rural Health Research Centers Program ($1.5 million has been appropriated, but not authorized, for this program). Third, this bill would establish by statute the national advisory committee on rural health and require it to report periodically to the Congress (the committee was administratively established by the Secretary of Health and Human Services).

In the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203), Congress authorized creation of an Office of Rural Health, but did not authorize funds for it, and no funds were appropriated specifically for its operating costs. Congress apparently assumed that the parent Department of Health and Human Services would divert sufficient funds for the office from within the resources Congress made available to the Department. As a practical matter, this has meant that staff, and such funds as have been necessary to run the office, have come from the Health Resources and Services Administration.

Unfortunately, HRSA is on a very tight budget, and has had difficulty in providing adequate funds to the office. In fact, HRSA has taken some funds, for support of the administrative overhead the agency incurs in providing an administrative home for the office, from the very minimally funded rural health research centers program which the office of rural health is responsible for managing.

In addition to managing the Rural Health Research Centers Program, the office must also provide staffing for the national advisory comimttee. As I noted earlier, this committee was created administratively by the Secretary of Health and Human Services. This is a body to which the Congress is looking for guidance and advice on the very difficult health care problems facing our rural communities.

In short, Congress has created an Office of Rural Health to spearhead Federal efforts to come to grips with the serious problems faced by our rural communities as they try to provide adequate health care for their citizens, but it hasn't authorized funds for this office, nor has it shown enough interest in the national advisory committee to require that its reports be sent routinely to the Congress. If Congress is serious about dealing with these problems, and is serious in creating an Office of Rural Health, it should be willing to authorize adequate funds for the operating costs of the Office of Rural Health, and not leave the office to eke out minimal support from its parent agency.

Therefore, the bill I am introducing today would authorize $3 million for the operating costs of the office. If enacted, this authority should make it easier for the Appropriations Committees to provide funds directly to the office. This, in turn, should enhance the clout of the office within HRSA, and vis-a-vis the Health Care Financing Administration, making it easier for it to achieve the mission Congress wishes it to achieve.

With respect to the Rural Health Research Centers Program, the Appropriations Committees provided $1.5 million for it for fiscal year 1988, and have included a like amount in he appropriation bills for the coming fiscal year. It seems to me that, if Congress is serious about creating a Rural Health Research Centers Program, it should do more than fund it on an annual ad hoc basis through the appropriations process. The program administrators and the center directors need to have some guarantee that support will be available for the period of time needed to mount a research effort and carry it to fruition. Insofar as HRSA leadership will be called on to provide administrative and logistical support for the Office of Rural Health, they, too, need to know that the Congress places a high priority on the work of this office.

Furthermore, it is obvious that $1.5 million is not a large amount of money with which to run a research program from which the Congress wishes to generate knowledge which will help it make health policy. As I noted earlier, HRSA has taken some funds, around $250,000 in fiscal year 1988, to meet overhead costs, from the Research Centers Program to meet overhead costs, reducing the amount available to invest in the research centers to $1.3 million. I understand that HRSA plans to take $300,000 in fiscal year 1989 for overhead. With the fiscal year 1988 money, the office will support 5 research centers. On average, the centers will receive about $220,000 each. Welcome as this new program is, and as helpful as the research it sponsors will be, even modestly greater funds would help this program have the impact Congress wishes it to have.

For these reasons, the bill I am introducing authorizes $3 million for each of the next 3 years for the Research Centers Program.

Finally, the bill would authorize the National Advisory Committee on Rural Health for 3 years, specify its general composition, stipulate that its functions include advising the Congress concerning the provision and financing of health care services in rural areas, specify that it hold at least 3 meetings per year, require that it produce an annual report, and require that it provides its reports to Congress. These criteria parallel very closely the criteria established by the charter provided for the committee by the Department. Such sums as are necessary are authorized for the operating expenses of the committee.

Providing legislative authority for the national advisory committee will enhance its importance within the department, make it less vulnerable to shifting administrative priorities or to the comng change-over in national administrations. The problems our rural communities face in providing health care to their citizens are surely going to be with us for some time, and we need to make sure that this advisory committee is able to help the Congress deal with these problems over the long haul.●

● Mr. DOMENICI. Mr. President, I am pleased to cosponsor S. 2805. This bill should lead to improved research into rural health care and the problems confronting rural health care. It should foster more effective policies and programs.

I remain concerned about rural America. One key concern is the stability and viability of rural health care. I have worked diligently, with my colleagues in the Senate, to improve Federal health programs and meet the health care needs or rural Americans.

A recent effort I supported was the Omnibus Reconciliation Act of 1987 provision establishing the Office of Rural Health Policy in the Department of Health and Human Services. Many of us in Congress felt it was crucial to have a focal point for rural health issues and activities—an officer dedicated to examining and addressing the broad issues and problems facing rural health care systems.

Over the past year, I have been encouraged by this office's start. The office has developed a cooperative relationship with the Health Care Financing Administration for coordinating rural health care policy issues. In addition, the office is administrating a Rural Research Center Grant Program and is assisting with the Secretary's recently appointed Rural Health Advisory Committee.

I believe such efforts are necessary to tackle rural health care issues. I want the efforts to continue. I support highlighting the efforts. S. 2805 builds upon past congressional actions and serves to reaffirm our commitment ot understanding and improving the stability of rural health care—a vital concern for rural Americans.

Once again, as a member of the Senate Rural Health Caucus, I am pleased to join my colleagues in supporting Senator GRASSLEY's bill.●

● Mr. McCAIN. Mr. President, today I and my distinguished colleagues—Senators BURDICK, INOUYE, and DOMENICI—join Senator GRASSLEY in introducing a small but important piece of rural health legislation.

If adopted, the legislation will do three things. First, it would provide authorization for funding the activities of the Office of Rural Health within the Department of Health and Human Services. Second, it would require the Director of the Office of Rural Health to establish and support rural health research centers across the country. And, third, it would mandate the creation of a National Advisory Committee on Rural Health.

As we in this body are aware, health care delivery in the rural areas of our individual States is in the midst of a crisis.

While the health care delivery system in all of America is facing change, some areas of our country are faced with enormous pressures. There is perhaps no region of our country—or area of our States—whose health care delivery system is being threatened as much as the rural delivery system. Rural communities are experiencing a severe shortage of caregivers—many even going without essential services, such as the delivery of babies. And, many rural hospitals are being faced with the very real possibility of having to close their doors to a lack of reimbursement and an environment riddled with many changes, including the move from an emphasis on inpatient care to an emphasis on outpatient care.

While, indeed, part of the current scenario is unavoidable—that's not the case for the bulk of the current scenario.

Congress has been paying a great deal of attention to the problems facing rural health care over the past couple of years. Both Houses of Congress have established very active Rural Health Caucuses. The Budget Reconciliation Act of 1987 contained an unprecedented number of provisions related to rural health—a fact which I attribute largely to the increased congressional attention on the problems facing the rural health care delivery system.

Among the rural health items in the reconciliation bill was a provision calling on the Secretary of Health and Human Services to create an Office of Rural Health. In response, the Office was opened earlier this year.

In providing authority for the creation of the Office of Rural Health, however, Congress failed to fund the activities of the Office. As a result, HHS has had to take money from other areas in its budget to meet the Office's operating expenses. In order to meet the expenses—the bulk of the funding coming from the limited pool of funds Congress appropriated for the Rural Research Centers Grant Program. This legislation, which my colleagues and I are offering today, would resolve the funding problem for the Office by authorizing the allocation of $3 million toward its operational costs.

As we in Congress have grappled with the serious problems facing our Nation's rural health care delivery system, we have been frustrated with the lack of up-to-date centrally located information concerning the problems specifically facing our Nation's rural health care delivery system. Thoughtful policymaking and wise decisionmaking by those in the health care industry requires accurate, up-to-date information. It is out of a desire to make such information available that the idea of establishing a rural research grant program emerged.

In last year's appropriations bill a provision was included to provide $1.5 million for the funding of a Rural Research Centers Grant Program. While the importance of this initiative should not be minimized, we believe this program is important to approach in such an ad-hoc manner. The legislation we are introducing today will authorize $3 million for the funding of the Rural Research Center's Program. It will provide some sense of stability for the program, as well as to assure that money set aside for the program is not used for other purposes—such as the operating budget for the Rural Research itself.

The last component of the legislation regards the creation of a National Advisory Committee on Rural Health. Under administrative authority, the Secretary of HHS recently created a National Commission on Rural Health within HHS. In the effort to get a handle on how we might work to resolve those problems facing the rural health care delivery system which are truly resolvable, we must rely on the experts. Having a National Advisory Committee on Rural Health, composed of rural health experts from across the country to advise us on matters pertaining to rural health, will go a long way in assisting us in our efforts to develop sound policy approaches to resolving the problems facing the rural health care delivery system.

Mr. President, I applaud my distinguished colleague from Iowa, Senator GRASSLEY, for taking the initiative in developing this proposal. I am pleased to join with him as an original cosponsor. I hope that we will be able to move this small, but significant piece of rural health legislation before the end of the session. As such, I urge the rest of my colleagues to take a close look at this bill.●

By Mr. HATFIELD:

S. 2806. A bill to require the transfer of the decommissioned Coast Guard cutter *Glacier* to the State of Oregon for use as a maritime museum and display; to the Committee on Commerce, Science, and Transportation.

TRANSFER OF DECOMMISSIONED COAST GUARD CUTTER

● Mr. HATFIELD. Mr. President, today I am introducing legislation to provide for the transfer of ownership of the decommissioned cutter, *Glacier*, from the Coast Guard to the State of Oregon.

The *Glacier* has been decommissioned by the Coast Guard and remains in storage pending disposal. If the transfer is made, the State will move the 310-foot ice breaker to the city of Reedsport, located along the coast of Oregon. The city intends to moor the 1953 cutter at its port and convert the ship into a floating maritime museum as part of the city's long-term economic development strategy.

This legislation has been endorsed by the Coast Guard. Yesterday, the companion bill in the House of Representatives, introduced by Congressman PETER DEFAZIO, was favorably referred out of the House Committee on Merchant Marine and Fisheries. The city of Reedsport has assured me that funds are in place to begin the conversion and maintain the ship thereafter. This bill does not require an appropriation, but is necessary to address a technical detail and make the transfer legal.

Mr. President, I ask unanimous consent that a copy of the bill appear immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transfer to the State of Oregon the decommissioned Coast Guard cutter "Glacier", in such condition and along with such equipment as the Secretary considers to be appropriate, for use as a maritime museum and display consistent with the long military service and history of such cutter.●

ADDITIONAL COSPONSORS

S. 1538

At the request of Mr. KASTEN, the names of the Senator from California [Mr. CRANSTON] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1538, a bill to protect the world's remaining tropical forests.

S. 1738

At the request of Mr. WILSON, the names of the Senator from Oregon [Mr. HATFIELD] the Senator from Connecticut [Mr. DODD] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2572

At the request of Mr. BENTSEN, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2572, a bill to amend title XVIII of the Soviet Security Act to recognize as an allowable cost under the Medicare Program the reasonable costs incurred by a provider in conducting, by contract with an educational institution, certain approved educational activities under a Post Graduate Nursing Program, and for other purposes.

S. 2598

At the request of Mr. KASTEN, the names of the Senator from Indiana [Mr. QUAYLE] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2598, a bill to ensure that waste exported from the United States to foreign countries is managed in a manner so as to protect human health and the environment.

S. 2647

At the request of Mr. PELL, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2647, a bill to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that act, and for other purposes.

S. 2724

At the request of Mr. RIEGLE, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 2724, a bill to amend the Export Administration Act of 1979.

S. 2759

At the request of Mr. SYMMS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2759, a bill to amend title XVIII of the Social Security Act to eliminate the reimbursement differential between hospitals in different areas.

SENATE JOINT RESOLUTION 343

At the request of Mr. ADAMS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 343, a joint resolution to designate the period commencing November 13, 1988, and ending on November 19, 1988, as "Filipino American National History Week."

SENATE JOINT RESOLUTION 348

At the request of Mr. REID, the names of the Senator from Rhode Island [Mr. Pell], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 348, a joint resolution to designate the week of February 5, 1989, through February 11, 1989, as "National Burn Awareness Week."

SENATE JOINT RESOLUTION 369

At the request of Mr. KERRY, the names of the Senator from Ohio [Mr. GLENN], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Mr. SIMON], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 369, a joint resolution to designate the period of September 17 through October 10, 1988, as "Coastweeks '88."

SENATE JOINT RESOLUTION 373

At the request of Mr. BYRD, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 373, a joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week."

SENATE CONCURRENT RESOLUTION 142

At the request of Mr. BOSCHWITZ, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of Senate Concurrent Resolution 142, a concurrent resolution congratulating Israel and Egypt on the 10th anniversary of the Camp David accords.

SENATE RESOLUTION 474—RELATIVE TO SOVIET ABM TREATY VIOLATIONS

Mr. WALLOP (for himself, Mr. DOLE, Mr. BYRD, Mr. LUGAR, Mr. NUNN, Mr. WARNER, Mr. BOREN, Mr. WILSON, Mr. HELMS, Mr. SYMMS, Mr. MCCLURE, Mr. KASTEN, Mr. MCCAIN, Mr. SIMPSON, Mr. KARNES, Mr. NICKLES, Mr. BUMPERS, and Mr. DECONCINI) submitted the following resolution; which was considered and agreed to:

S. RES. 474

Whereas the Representatives of the United States and the Union of Soviet Socialist Republics met in Geneva, Switzerland from August 24 to August 31 to conduct the third five-year review of the ABM Treaty as required by the provisions of that agreement.

Whereas the United States raised again its concerns about Soviet activities in actual or possible violation of the terms of the ABM Treaty, including but not limited to, the radar violations located at Krasnoyarsk and Gomel;

Whereas violations of arms control agreements damage the relations between the parties and undermine the integrity of the arms control process;

Whereas the Senate unanimously supported by a vote of 89-0 in Sec. 902 of the FY 1988/89 Department of Defense Authorization bill the President's position that the Krasnoyarsk radar is an "unequivocal violation" of the ABM Treaty and declared in S. Res. 94 by a vote of 93-2 that it represents an "important obstacle" to any future arms control agreements;

Whereas the Soviet Union gave no assurance at the Review Conference that it was prepared fully and without condition to correct its violations of the ABM Treaty, including the Krasnoyarsk radar;

Whereas the United States has made clear, in its unilateral statement of August 31, 1988 at the end of the ABM Treaty Review Conference, that "until the Krasnoyarsk radar is dismantled, it will continue to raise the issue of material breach and proportionate responses;"

Whereas, in that statement, the United States also made clear that "the continuing existence of the Krasnoyarsk radar makes it impossible to conclude any future arms agreements in the START or Defense and Space areas." Be it therefore

Resolved, That it is the sense of the Senate that the Senate:

(1) Strongly supports the continuation of settled national policy, reiterated in the August 31 unilateral statement, that unequivocal Soviet violations of the ABM Treaty, as exemplified by the radar at Krasnoyarsk, must be corrected before the conclusion of any future agreements on strategic arms.

(2) Urges the President to work with the Congress to develop appropriate, proportionate response options to the Krasnoyarsk radar and any other unequivocal ABM Treaty violations that would, if not corrected, deny us the essential benefits of the treaty and be detrimental to the U.S. security.

(3) Expresses its willingness to consider as soon as possible any such responses that might require legislative action.

AMENDMENTS SUBMITTED

MINIMUM WAGE RESTORATION ACT

KENNEDY AMENDMENT NO. 3043

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to proposed by him to the bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; as follows:

At the end of the bill add the following new section:

SEC.☐. Removal of exemption from maximum hour requirements for employee of independent wholesale or bulk distributors of petroleum products.

Section 7(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(b)) is amended by striking out paragraph (3).

TECHNICAL CORRECTIONS TO THE TAX ACT

BAUCUS (AND PACKWOOD) AMENDMENT NO. 3044

(Ordered to lie on the table.)

Mr. BAUCUS (for himself and Mr. PACKWOOD) submitted an amendment intended to be proposed by them to the bill (S. 2238) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes; as follows:

On page 758, strike lines 9 through 15.

On page 758, line 16, strike "(B)" the first place it appears and insert "(A)".

On page 758, line 19, strike "(C)" the first place it appears and insert "(B)".

On page 758, line 24, strike "(D)" the first place it appears and insert "(C)".

On page 759, line 1, strike "(E)" and insert "(D)".

On page 780, line 16, strike "Paragraph (2) of section" and insert "Section".

On page 780, line 18, strike "sentence" and insert "paragraph".

On page 780, line 19, insert "(3)" before "In".

On page 780, lines 19 and 20, strike "the corporation referred to in the preceding sentence" and insert "a qualified corporation".

On page 857, strike lines 17 through 19, and insert:

(13) Subparagraph (D) of section 621(f)(2) of the Reform Act is amended—

(A) by striking out "or reorganization", and

(B) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in applying section 382 (as so in effect), warrants shall not be treated as stock.".

On page 865, line 7, insert "(A)" after "(5)".

On page 865, line 9, strike "(A)" and insert "(i)".

On page 865, line 13, strike "(B)" and insert "(ii)".

On page 865, between lines 16 and 17, insert:

(B) The amendment made by subparagraph (A)(ii) shall not apply to any reorganization if before June 10, 1987—

(i) the board of directors of a party to the reorganization adopted a resolution to solicit shareholder approval for the transaction, or

(ii) the shareholders or the board of directors of a party to the reorganization approved the transaction.

On page 868, line 25, strike "June 11, 1987" and insert "June 22, 1988, except that such amendment shall not apply to any exchange pursuant to any reorganization for which a plan of reorganization was adopted before June 22, 1988".

On page 909, line 13, strike the end quotation marks.

On page 909, between lines 13 and 14, insert:

"(iii) Regulations.—Under regulations, payments to the real estate investment trust under an agreement described in clause (ii) which relates to indebtedness incurred to acquire or carry real estate assets may be treated as income which qualifies under paragraph (2) and as security for purposes of paragraph (4)(A).".

On page 945, lines 14 and 15, strike "(in a taxable year beginning after December 31, 1986)".

On page 945, line 24, strike "October 16, 1987" and insert "December 31, 1987".

On page 974, strike lines 4 through 7, and insert:

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 806 of the Reform Act, except that section 806(e)(1) shall be applied by substituting "December 31, 1987" for "December 31, 1986". For purposes of section 806(e)(2) of the Reform Act—

On page 986, strike lines 14 through 19, and insert:

"(C) Election made by each member.—In the case of a parent-subsidiary controlled group, any election under this section shall be made separately by each member of such group."

On page 1013, between lines 7 and 8, insert:

(9) Section 831(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) Limitation on use of net operating losses.—For purposes of this part, except as provided in section 844, a net operating loss (as defined in section 172) shall not be carried—

"(A) to or from any taxable year for which the insurance company is not subject to the tax imposed by subsection (a), or

"(B) to any taxable year if, between the taxable year from which such loss is being carried and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by subsection (a)."

On page 1070, between lines 16 and 17, insert:

(16) Sections 406(c) and 407(c) of the 1986 Code are each amended—

(A) by striking out "subsections (a)(2) and (e) of section 402, and section 403(a)(2)" and inserting in lieu thereof "section 402(e)", and

(B) by striking out "of Capital Gain Provisions and" in the headings thereof.

On page 1097, line 11, strike "Section 6652(l)(2)(B)" and insert "Section 6652(k)(2)(B)".

On page 1107, beginning with line 12, strike all through page 1108, line 9, and insert:

(34) Section 89(l)(2) of the 1986 Code is amended by striking out "6652(l)" and inserting in lieu thereof "6652(k)".

On page 1138, line 13, strike "the" and insert "the receipt of any distribution in liquidation in".

On page 1138, line 21, strike "liquidation occurs" and insert "distribution is received".

On page 1201, after line 24, insert:

(37)(A) Paragraph (2) of section 1295(b) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, such an election may be made later than as required by the preceding sentence in cases where the company failed to make a timely election because it reasonably believed it was not a passive foreign investment company."

(B) The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of enactment of this Act.

On page 1209, between lines 6 and 7, insert:

(15) Section 861(a)(2)(C) of the 1986 Code is amended by striking out "section 243(d)" and inserting in lieu thereof "section 243(e)".

On page 1279, strike lines 3 through 8.

On page 1279, line 9, strike "(D)" and insert "(C)".

On page 1324, between lines 7 and 8, insert:

(21) Section 2652 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) Executor.—For purposes of this chapter, the term 'executor' has the meaning given such term by section 2203."

On page 1339, between lines 10 and 11, insert the following new subsections:

(s) Notice of Lien on Personal Property.—

(1) Subsection (f) of section 6323 of the 1986 Code is amended—

(A) by inserting ", except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State" after "situated" in paragraph (1)(A)(ii), and

(B) by adding at the end thereof the following new paragraph:

"(5) National filing systems.—The filing of a notice of lien shall be governed solely by this title and shall not be subject to any other Federal law establishing a place or places for the filing of liens or encumbrances under a national filing system."

(2) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(t) Effect of Honoring Levy.—

(1) Subsection (d) of section 6332 of the 1986 Code is amended by inserting "and any other person" after "delinquent taxpayer".

(2) The amendment made by this subsection shall apply to levies issued after the date of the enactment of this Act.

(u) Collection After Commencement of Judicial Proceedings.—

(1) The last sentence of section 6502(a) of the 1986 Code is amended to read as follows: "If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes enforceable."

(2) The amendment made by this subsection shall apply to levies issued after the date of the enactment of this Act.

On page 1352, between lines 11 and 12, insert:

(3) Section 1278(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) Basis adjustment.—The basis of any bond in the hands of the taxpayer shall be increased by the amount included in gross income pursuant to this subsection."

On page 1375, strike lines 1 through 11.

On page 1393, strike lines 11 through 13.

On page 1393, line 14, strike "(53)" and insert "(52)".

On page 1396, strike lines 16 through 23.

On page 1426, line 23, strike "distributees" and insert "corporations".

On page 1427, line 1, insert "which included the distributees" after "group".

On page 1427, lines 9 and 10, strike the commas.

On page 1431, strike lines 11 through 16, and insert:

"(3) Shorter period where corporations not in existence for 5 years.—If either of the corporations referred to in paragraph (1) was not in existence throughout the 5-year period referred to in paragraph (1), the period during which such corporation was in existence (or if both, the shorter of such periods) shall be substituted for such 5-year period."

On page 1436, between lines 18 and 19, insert the following new subsection:

(s) Amendments Related to Section 10502 of the Act.—

(1) Section 4093 of the 1986 Code is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Certain Aviation Fuel Sales.—Under regulations prescribed by the Secretary, the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3))."

(2) Subparagraph (B) of section 6427(l)(3) of the 1986 Code (relating to no refund of Leaking Underground Storage Tank Trust Fund financing tax) is amended by inserting "(except as supplies for vessels or aircraft within the meaning of section 4221(d)(3))" after "aircraft".

On page 1441, strike lines 1 through 3 and insert:

"(I) the amount determined under section 412(c)(7)(A)(i) with respect to the plan, over

On page 1441, beginning with line 20, strike out through page 1442, line 12, and insert:

"(D) Certain spun-off plans not taken into account.—

"(i) In general.—A plan involved in a spin-off which is described in clause (ii), (iii), or (iv) shall not be taken into account for purposes of this paragraph, except that the amount determined under subparagraph (C)(ii) shall be increased by the amount of assets allocated to such plan.

"(ii) Plans transferred out of controlled groups.—A plan is described in this clause if, after such spin-off, such plan is maintained by an employer who is not a member of the same controlled group as the employer maintaining the original plan.

"(iii) Plans transferred out of multiple employer plans.—A plan as described in this clause if, after the spin-off, any employer maintaining such plan (and any member of the same controlled group as such employer) does not maintain any other plan remaining after the spin-off which is also maintained by another employer (or member of the same controlled group as such other employer) which maintain the plan in existence before the spin-off.

"(iv) TERMINATED PLANS.—A plan is described in this clause if, pursuant to the transaction involving the spin-off, the plan is terminated.

"(v) CONTROLLED GROUP.—For purposes of this subparagraph, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

On page 1443, between lines 15 and 16, insert:

(3)(A) Subparagraph (C) of section 412(l)(3) of the 1986 Code is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(B) Subparagraph (B) of section 302(d)(3) of the Employee Retirement Income Security Act of 1974 is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

On page 1444, beginning with line 17, strike out all through page 1484, line 3.

On page 1493, beginning with line 14, strike through page 1494, line 5, and redesignate subtitles B, C, and D as subtitles A, B, and C, respectively.

On page 1536, line 17, strike "shall" and insert "may".

On page 1540, line 5, strike "(11)" and insert "(12)".

On page 1543, line 11, insert "(or if later the effective date of such rules)" after "plans".

On page 1546, line 23, insert "and to take into account any right of recovery (whether or not exercised) under section 2207B" after "applied".

On page 1551, strike lines 12 through 14 and insert:

"(II) has a fixed maturity date,".

On page 1551, line 24, insert "except in a case where such indebtedness is in default as to interest or principal," before "such indebtedness".

On page 1552, lines 1, 2, and 3, strike "(other than in a case where the indebtedness is in default as to interest or principal)".

On page 1555, line 16, insert "(or a revocable trust)" after "will".

On page 1556, line 9, strike the end quotation marks.

On page 1556, between lines 9 and 10, insert:

"(e) NO RIGHT OF RECOVERY AGAINST CHARITABLE REMAINDER TRUSTS.—No person shall be entitled to recover any amount by reason of this section from a trust to which section 664 applies (determined without regard to this section).".

On page 1556, between lines 13 and 14, insert:

(e) TREATMENT OF CONSIDERATION.—

(1) IN GENERAL.—Section 2036(c)(5) of the 1986 Code is amended to read as follows:

"(5) COORDINATION WITH SECTION 2043.—Rules similar to the rules under section 2043 shall apply for purposes of determining the adjustment for any consideration received."

(2) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study as to the appropriate adjustment for consideration to be taken into account under section 2036(c)(5) of the 1986 Code. The Secretary shall report the results of such study not later than January 1, 1990, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

On page 1556, line 14, strike "(e)" and insert "(f)".

On page 1557, between lines 4 and 5, insert:

(4) CORRECTION PERIOD.—If section 2036(c)(1) of the 1986 Code would (but for this paragraph) apply to any interest arising from a transaction entered into during the period beginning after December 17, 1987, and ending before January 1, 1990, such section shall not apply to such interest if during such period actions are taken as are necessary to have such transaction (and any such interest) included in the exceptions under section 2036(c)(6) of the 1986 Code (as added by subsection (b)).

On page 1622, after line 16, add the following new titles:

TITLE VII—ADDITIONAL CORRECTIONS AND MODIFICATIONS

Subtitle A—Provisions That Close Loopholes

SEC. 700. AMOUNT OF CORPORATE ESTIMATED TAX INSTALLMENT REDUCTION RECAPTURE INCREASED.

(a) IN GENERAL.—Section 6655(e)(1) of the 1986 Code (relating to lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)) is amended by striking out "90 percent" and inserting in lieu thereof "100 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to installments required to be made after September 30, 1988.

SEC. 701. TREATMENT OF MODIFIED ENDOWMENT CONTRACTS.

(a) DISTRIBUTION RULES.—

(1) IN GENERAL.—Subsection (e) of section 72 of the 1986 Code (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF MODIFIED ENDOWMENT CONTRACTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (5)(C), in the case of any modified endowment contract (as defined in section 7702A)—

"(i) paragraphs (2)(B) and (4)(A) shall apply, and

"(ii) in applying paragraph (4)(A), 'any person' shall be substituted for 'an individual'.

"(B) TREATMENT OF CERTAIN BURIAL CONTRACTS.—Notwithstanding subparagraph (A), paragraph (4)(A) shall not apply to any assignment (or pledge) of a modified endowment contract if such assignment (or pledge) is solely to cover the payment of expenses referred to in section 7702(e)(2)(C)(iii).

"(C) TREATMENT OF AMOUNTS RETAINED BY INSURER UNDER THE CONTRACT.—Any amount payable or borrowed under a modified endowment contract shall not be included in gross income under paragraph (2)(B)(i) to the extent such amount is retained by the insurer as a premium or other consideration paid for the contract or as principal or interest paid on a loan under the contract."

(2) TECHNICAL AMENDMENT.—Subparagraph (C) of section 72(e)(5) is amended by striking out "Except to the extent" and inserting in lieu thereof "Except as provided in paragraph (10) and except to the extent".

(b) ADDITIONAL TAX.—

(1) IN GENERAL.—Section 72 of the 1986 Code (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (v) as subsection (w) and by inserting after subsection (u) the following new subsection:

"(v) 10-PERCENT ADDITIONAL TAX FOR TAXABLE DISTRIBUTIONS FROM MODIFIED ENDOWMENT CONTRACTS.—

"(1) IMPOSITION OF ADDITIONAL TAX.—If any taxpayer receives any amount under a modified endowment contract (as defined in section 7702A), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—Paragraph (1) shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) which is attributable to the taxpayer's becoming disabled (within the meaning of subsection (m)(7)), or

"(C) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of such taxpayer and his beneficiary."

(2) TECHNICAL AMENDMENT.—Subparagraph (C) of section 26(b)(2) of the 1986 Code is amended by striking out "or (q)" and inserting in lieu thereof "(q), or (v)".

(c) MODIFIED ENDOWMENT CONTRACT DEFINED.—

(1) IN GENERAL.—Chapter 79 of the 1986 Code is amended by inserting after section 7702 the following new section:

"SEC. 7702A. MODIFIED ENDOWMENT CONTRACT DEFINED.

"(a) GENERAL RULE.—For purposes of section 72, the term 'modified endowment contract' means any contract meeting the requirements of section 7702—

"(1) which—

"(A) is entered into on or after June 21, 1988, and

"(B) fails to meet the 7-pay test of subsection (b), or

"(2) which is received in exchange for a contract described in paragraph (1).

"(b) 7-PAY TEST.—For purposes of subsection (a), a contract fails to meet the 7-pay test of this subsection if the accumulated amount paid under the contract at any time during the 1st 7 contract years exceeds the sum of the net level premiums which would have been paid on or before such time if the contract provided for paid-up future benefits after the payment of 7 level annual premiums.

"(c) COMPUTATIONAL RULES.—

"(1) IN GENERAL.—Except as provided in this subsection, the determination under subsection (b) of the 7 level annual premiums shall be made—

"(A) as of the time the contract is issued, and

"(B) by applying the rules of section 7702(b)(2) and of section 7702(e) (other than paragraph (2)(C) thereof), except that—

"(i) the death benefit provided for the 1st contract year shall be deemed to be provided until the maturity date without regard to any scheduled reduction after the 1st 7 contract years, and

"(ii) except as otherwise provided by the Secretary, the mortality charges used in such determination shall be the mortality charges specified in the prevailing commissioners' standard tables (as defined in section 807(d)(5)) as of the time the contract is issued or materially changed.

"(2) REDUCTION IN BENEFITS DURING 1ST 7 YEARS.—

"(A) IN GENERAL.—If there is a reduction in benefits under the contract within the 1st 7 contract years, this section shall be applied as if the contract had originally been issued at the reduced benefit level.

"(B) REDUCTIONS ATTRIBUTABLE TO NONPAYMENT OF PREMIUMS.—Any reduction in benefits attributable to the nonpayment of premiums due under the contract shall not be taken into account under subparagraph (A) if the benefits are reinstated within 180 days after the reduction in such benefits.

"(3) TREATMENT OF MATERIAL CHANGES.—

"(A) IN GENERAL.—If there is a material change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination under this section, for purposes of this section—

"(i) such contract shall be treated as a new contract entered into on the day on which such material change takes effect, and

"(ii) appropriate adjustments shall be made in determining whether such contract meets the 7-pay test of subsection (b) to take into account the cash surrender value under the contract.

"(B) TREATMENT OF CERTAIN INCREASES IN FUTURE BENEFITS.—For purposes of subparagraph (A), the term 'material change' includes any increase in future benefits under the contract. The preceding sentence shall not apply in the case of any increase—

"(i) which is attributable to the payment of premiums necessary to fund the lowest level of future benefits payable in the 1st 7 contract years or to crediting of interest or other earnings (including policyholder dividends) in respect of such premiums, or

"(ii) which the Secretary provides in regulations is a de minimis increase which is not to be taken into account as a material change.

"(4) SPECIAL RULE FOR CONTRACTS WITH DEATH BENEFITS UNDER $10,000.—In the case of a contract—

"(A) which provides an initial death benefit of $10,000 or less, and

"(B) which requires at least 20 nondecreasing annual premium payments,

each of the 7 level annual premiums determined under subsection (b) (without regard to this paragraph) shall be increased by $75. For purposes of this paragraph, all contracts issued by the same insurer shall be treated as one contract.

"(d) DISTRIBUTIONS AFFECTED.—If a contract fails to meet the 7-pay test of subsection (b), such contract shall be treated as failing to meet such requirements only in the case of—

"(1) distributions during the contract year in which the failure takes effect and during any subsequent contract year, and

"(2) under regulations prescribed by the Secretary, distributions (not described in paragraph (1)) in anticipation of such failure.

For purposes of the preceding sentence, any distribution which is made within 2 years before the failure to meet the 7-pay test shall be treated as made in anticipation of such failure.

"(e) DEFINITIONS.—For purposes of this section—

"(1) AMOUNT PAID.—

"(A) IN GENERAL.—The term 'amount paid' means—

"(i) the premiums paid under the contract, reduced by

"(ii) amounts to which section 72(e) applies (other than amounts includible in gross income).

"(B) TREATMENT OF CERTAIN PREMIUMS RETURNED.—If, in order to comply with the requirements of subsection (b), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of such contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such contract year.

"(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

"(2) CONTRACT YEAR.—The term 'contract year' means the 12-month period beginning with the 1st month for which the contract is in effect, and each 12-month period beginning with the corresponding month in subsequent calendar years.

"(3) OTHER TERMS.—Except as otherwise provided in this section, terms used in this section shall have the same meaning as when used in section 7702."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 79 of the 1986 Code is amended by inserting after the item relating to section 7702 the following new item:

"Sec. 7702A. Modified endowment contract defined."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to contracts entered into on or after June 21, 1988.

(2) CERTAIN MATERIAL CHANGES TAKEN INTO ACCOUNT.—A contract entered into before June 21, 1988, shall be treated as entered into after such date if—

(A) on or after June 21, 1988, 1 or more of the future benefits under the contract are increased (or a qualified additional benefit is increased or added) and before June 21, 1988, the owner of the contract did not have a unilateral right under the contract to obtain such increase or addition without providing additional evidence of insurability, or

(B) the contract is converted after June 20, 1988, from a term life insurance contract to a life insurance contract providing coverage other than term life insurance coverage without regard to any right of the owner of the contract to such conversion.

(3) CERTAIN EXCHANGES PERMITTED.—In the case of a modified endowment contract which—

(A) is entered into after June 20, 1988, and before the date of the enactment of this Act, and

(B) is exchanged within 3 months after such date of enactment for a life insurance contract which meets the requirements of section 7702A(b),

the contract which is received in exchange for such contract shall not be treated as a modified endowment contract if gain (if any) is recognized on such exchange.

SEC. 702. REPEAL OF RULES PERMITTING LOSS TRANSFERS BY ALASKA NATIVE CORPORATIONS.

(a) GENERAL RULE.—Nothing in section 60(b)(5) of the Tax Reform Act of 1984 (as amended by section 1804(e)(4) of the Tax Reform Act of 1986)—

(1) shall allow any loss (or credit) of any corporation which arises after April 26, 1988, to be used to offset the income (or tax) of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended, or

(2) shall allow any loss (or credit) of any corporation which arises on or before such date to be used to offset disqualified income (or tax attributable to such income) of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended.

(b) EXCEPTION FOR NATIVE CORPORATIONS NOT TRANSFERRING LOSSES (OR CREDITS) BEFORE APRIL 26, 1988.—

(1) IN GENERAL.—Subsection (a) shall not apply to any loss (or credit) of any qualified corporation which arises before January 1, 1989, and which is used to offset income assigned (or attributable to property contributed) after April 26, 1988, and before January 1, 1989.

(2) $5,000,000 LIMITATION.—The aggregate amount of losses (and the deduction equivalent of credits as determined in the same manner as under section 469(j)(5)) to which paragraph (1) applies with respect to any qualified corporation shall not exceed $5,000,000. For purposes of this paragraph, a Native Corporation and all other corporations all of the stock of which is owned directly by such corporation shall be treated as 1 qualified corporation.

(3) QUALIFIED CORPORATION.—For purposes of this subsection, the term "qualified corporation" means any Native Corporation which was in existence on April 26, 1988, and any other corporation all the stock of which is owned directly by such Native Corporation if, on or before April 26, 1988, neither—

(A) the Native Corporation, nor

(B) any other corporation with respect to which the Native Corporation at any time owned directly all of the stock of such other corporation,

has engaged in any transaction which would allow any loss or credit (whether arising before, on, or after April 26, 1988) to be used in the manner described in subsection (a)(1).

(c) DISQUALIFIED INCOME DEFINED.—For purposes of subsection (a), the term "disqualified income" means any income assigned (or attributable to property contributed) after April 26, 1988, by a person who is not a Native Corporation or a corporation all the stock of which is owned directly by a Native Corporation.

SEC. 703. MODIFICATION OF DISTILLED SPIRITS TAX CREDIT FOR FLAVORS CONTENT.

(a) IN GENERAL.—Subparagraph (B) of section 5010(c)(2) of the 1986 Code (defining flavors content) is amended by striking out the "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) alcohol derived from flavors distilled at a distilled spirits plant, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to distilled spirits withdrawn from bond after the date of the enactment of this Act.

SEC. 704. DENIAL OF DEDUCTION FOR CERTAIN RESIDENTIAL TELEPHONE SERVICE.

(a) GENERAL RULE.—Section 262 of the 1986 Code (relating to personal, living, and family expenses) is amended to read as follows:

"SEC. 262. PERSONAL, LIVING, AND FAMILY EXPENSES.

"(a) GENERAL RULE.—Except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living, or family expenses.

"(b) TREATMENT OF CERTAIN PHONE EXPENSES.—For purposes of subsection (a), in the case of an individual, any charge (including taxes thereon) for basic local telephone service with respect to the 1st telephone line provided to any residence of the taxpayer shall be treated as a personal expense."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 705. VALUATION TABLES.

(a) GENERAL RULE.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. VALUATION TABLES.

"(a) GENERAL RULE.—For purposes of this title, the value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest shall be determined—

"(1) under tables prescribed by the Secretary, and

"(2) by using an interest rate (rounded to the nearest 2/10ths of 1 percent) equal to 120 percent of the Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls.

The taxpayer may elect to use such rate for either of the 2 months preceding the month in which the valuation date falls. In the case of transfers of more than 1 interest in the same property with respect to which such taxpayer is permitted to use the same rate under this subsection, such taxpayer shall use the same rate with respect to each interest.

"(b) TABLES.—

"(1) IN GENERAL.—The tables prescribed by the Secretary for purposes of subsection (a) shall contain valuation factors for a series of interest rate categories.

"(2) INITIAL TABLE.—Not later than the day 3 months after the date of the enactment of this section, the Secretary shall prescribe initial tables for purposes of subsection (a). Such tables may be based on the same mortality experience as used for purposes of section 2031 on the date of the enactment of this section.

"(3) REVISION FOR RECENT MORTALITY CHARGES.—Not later than December 31, 1989, the Secretary shall revise the initial tables prescribed for purposes of subsection (a) to take into account the most recent mortality experience available as of the time of such revision. Such tables shall be revised not less frequently than once each 10 years thereafter to take into account the most recent mortality experience available as of the time of the revision.

"(c) VALUATION DATE.—For purposes of this section, the term 'valuation date' means the date as of which the valuation is made.

"(d) TABLES TO INCLUDE FORMULAS.—For purposes of this section, the term 'tables' includes formulas."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7520. Valuation tables.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the valuation date on or after the 1st day of the 6th calendar month beginning after the date of the enactment of this Act.

Subtitle B—Substantive Provisions

PART I—CORRECTIONS AFFECTING AGRICULTURE

SEC. 706. TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A.

(a) GENERAL RULE.—Subparagraph (A) of section 2032A(b)(5) of the 1986 Code (relating to special rules for surviving spouse) is amended by adding at the end thereof the following new sentence: "For purposes of subsection (c), such surviving spouse shall not be treated as failing to use such property in a qualified use solely because such spouse rents such property to a member of such spouse's family on a net cash basis."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

SEC. 707. CERTAIN DISCHARGES OF INDEBTEDNESS NOT TREATED AS INCOME FOR PURPOSES OF SECTION 501(c)(12).

(a) IN GENERAL.—Section 501(c)(12) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) Subparagraph (A) shall be applied without taking into account any income received or accrued from the sale of notes or other obligations held in the Rural Development Insurance fund pursuant to section 1001 of the Omnibus Budget Reconciliation Act of 1986 (as in effect on January 1, 1987)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales before, on, or after the date of the enactment of this Act.

SEC. 708. ONE-YEAR DEFERRAL OF PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) IN GENERAL.—Paragraph (1) of section 451(e) of the 1986 Code (relating to special rule for proceeds from livestock sold on account of drought) is amended by striking out "(other than livestock described in section 1231(b)(3))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges occurring after December 31, 1987.

SEC. 709. CERTAIN CASH WAGES PAID TO SEASONAL AGRICULTURAL LABORERS EXCLUDED FROM OASDI COVERAGE.

(a) SOCIAL SECURITY ACT AMENDMENT.—Paragraph (2) of section 209(h) of the Social Security Act is amended to read as follows:

"(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

"(A) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

"(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that subparagraph (B) shall not apply with respect to any expenditures for agricultural labor performed by any employee described in section 13(a)(6)(C) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(C));".

(b) FICA AMENDMENT.—Subparagraph (B) of section 3121(a)(8) of the 1986 Code (relating to wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

"(i) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

"(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that clause (ii) shall not apply with respect to any expenditures for agricultural labor performed by any employee described in section 13(a)(6)(C) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(C));".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 9002 of the Omnibus Budget Reconciliation Act of 1987.

PART II—PENSION AND EMPLOYEE BENEFIT PROVISIONS

SEC. 710. PROVISIONS RELATING TO BENEFITS UNDER DISCRIMINATORY PLANS.

(a) PROVISIONS NOT TO APPLY TO CHURCH PLANS.—Section 89(i) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) CHURCH PLANS.—The term 'statutory employee benefit plan' shall not include a plan maintained by a church for church employees. For purposes of this paragraph, the term 'church' has the meaning given such term by section 3121(w)(3)(A), including a qualified church controlled organization (as defined in section 3121(w)(3)(B))."

(b) CAFETERIA PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Section 125(c)(2)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In applying section 89 to a plan described in this subparagraph, contributions under the plan shall be tested as of the time the contributions were made."

SEC. 711. MODIFICATIONS OF DISCRIMINATION RULES APPLICABLE TO CERTAIN ANNUITY CONTRACTS.

(a) EXCLUDED EMPLOYEES.—The last sentence of section 403(b)(12)(A) of the 1986 Code is amended to read as follows: "Subject to the conditions applicable under section 410(b)(4), there may be excluded for purposes of this subparagraph employees who are students performing services described in section 3121(b)(10) and employees who normally work less than 20 hours per week."

(b) SAMPLING.—In the case of plan years beginning in 1989, 1990, or 1991, determinations as to whether a plan meets the requirements of section 403(b)(12) of the 1986 Code may be made on the basis of a statistically valid random sample. The preceding sentence shall apply only if—

(1) the sampling is conducted by an independent person in a manner not inconsistent with regulations prescribed by the Secretary, and

(2) the statistical method and sample size result in a 95 percent probability that the results will have a margin of error not greater than 3 percent.

SEC. 712. MINIMUM PARTICIPATION STANDARDS.

Section 401(a)(26) of the 1986 Code, as amended by this Act, is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) Special rule for certain police or firefighters.—

"(i) In general.—An employer may elect to have this paragraph applied separately with respect to qualified public safety employees who are—

"(I) policemen, or

"(II) firemen.

"(ii) Qualified public safety employee.—For purposes of this subparagraph, the term 'qualified public safety employee' means any full-time employee of any police department or fire department organized and operated by a State or political subdivision if the employee provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision."

SEC. 713. CLARIFICATION OF TREATMENT OF JOINT AND SURVIVOR ANNUITIES UNDER QTIP RULES.

(a) Estate Tax.—Paragraph (7) of section 2056(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Treatment of survivor annuities.—In the case of an annuity where only the surviving spouse has the right to receive payments before the death of such surviving spouse—

"(i) the interest of such surviving spouse shall be treated as a qualifying income interest for life, and

"(ii) the executor shall be treated as having made an election under this subsection with respect to such annuity unless the executor otherwise elects on the return of tax imposed by section 2001.

An election under clause (ii), once made, shall be irrevocable."

(b) Gift Tax.—Subsection (f) of section 2523 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) Treatment of joint and survivor annuities.—In the case of a joint and survivor annuity where only the donor spouse and donee spouse have the right to receive payments before the death of the last spouse to die—

"(A) the donee spouse's interest shall be treated as a qualifying income interest for life,

"(B) the donor spouse shall be treated as having made an election under this subsection with respect to such annuity unless the donor spouse otherwise elects on or before the date specified in paragraph (4)(A),

"(C) paragraph (5) and section 2519 shall not apply to the donor spouse's interest in the annuity, and

"(D) if the donee spouse dies before the donor spouse, no amount shall be includible in the gross estate of the donee spouse under section 2044 with respect to such annuity.

An election under subparagraph (B), once made, shall be irrevocable."

(c) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection—

(A) the amendment made by subsection (a) shall apply with respect to decedents dying after December 31, 1981, and

(B) the amendment made by subsection (b) shall apply to transfers after December 31, 1981.

(2) Not to apply to extent inconsistent with prior return.—In the case of any estate or gift tax return filed before the date of the enactment of this Act, the amendments made by this section shall not apply to the extent such amendments would be inconsistent with the treatment of the annuity on such return unless the executor or donor (as the case may be) otherwise elects under this paragraph before the day 2 years after the date of the enactment of this Act.

(3) Extension of time for election out.—The time for making an election under section 2056(b)(7)(C)(ii) or 2523(f)(6)(B) of the 1986 Code (as added by this subsection) shall not expire before the day 2 years after the date of the enactment of this Act (and, if such election is made within the time permitted under this paragraph, the requirement of such section 2056(b)(7)(C)(ii) that it be made on the return shall not apply).

SEC. 714. RURAL TELEPHONE COOPERATIVES PERMITTED TO HAVE QUALIFIED CASH OR DEFERRED ARRANGEMENTS.

(a) In General.—Paragraphs (1) and (2) of section 401(k) of the 1986 Code (relating to cash or deferred arrangements) are each amended by striking out "or a rural electric cooperative plan" and inserting in lieu thereof "or a rural cooperative plan".

(b) Rural Cooperative Plan Defined.—

(1) Paragraph (7) of section 401(k) of the 1986 Code (as amended by title I) is amended to read as follows:

"(7) Rural cooperative plan.—For purposes of this subsection—

"(A) In general.—The term 'rural cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural cooperative.

"(B) Rural cooperative defined.—For purposes of subparagraph (A), the term 'rural cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i),

"(iii) a cooperative telephone company described in section 501(c)(12), and

"(iv) an organization which is a national association of organizations described in clause (i), (ii), or (iii)."

(2) Subparagraph (B) of section 401(k)(4) of the 1986 Code (as amended by title I) is amended by striking out "rural electric cooperative plan" and inserting in lieu thereof "rural cooperative plan".

(c) Amendments to Section 457.—Section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by striking out "rural electric cooperative plan" in subsection (c)(2) and inserting in lieu thereof "rural cooperative plan".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 715. EMPLOYEE LEASING.

Section 414(n)(6) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) De minimis rule.—

"(i) In general.—In the case of a recipient—

"(I) which has no top-heavy plans (within the meaning of section 416(g)), and

"(II) which uses the services of persons other than employees for less than 10 percent of such recipient's total workload, any leased employee described in clause (ii) shall not be treated as an employee of such recipient.

"(ii) Leased employees to whom subparagraph applies.—A leased employee is described in this clause if—

"(I) the leased employee did not perform 3,000 or more hours of service for the recipient in any 2-consecutive plan year period beginning after 1986, and

"(II) did not perform services for the recipient within the same geographic area at any time during the plan year preceding any period referred to in subclause (I)."

SEC. 716. SECTION 415 LIMITATION FOR STATE AND LOCAL PLANS.

(a) Modified Limitations.—Section 415(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) Special rule for state and local government plans.—

"(A) Limitation to equal accrued benefit.—In the case of a plan maintained for its employees by any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, the limitation with respect to a qualified participant under this subsection shall not be less than the accrued benefit of the participant under the plan (determined without regard to any amendment of the plan made after October 14, 1987).

"(B) Qualified participant.—For purposes of this paragraph, the term 'qualified participant' means a participant who first became a participant in the plan maintained by the employer before January 1, 1990.

"(C) Election.—This paragraph shall not apply to any plan unless each employer maintaining the plan elects before the close of the first plan year beginning after December 31, 1989, to have this subsection (other than paragraph (2)(G)) applied without regard to paragraph (2)(F)."

(b) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendment made by this subsection apply to years beginning after December 31, 1982.

(2) Election.—Section 415(b)(10)(C) of the 1986 Code (as added by paragraph 1) shall not apply to any year beginning before January 1, 1990.

SEC. 717. CHURCH SELF-FUNDED DEATH BENEFIT PLANS TREATED AS LIFE INSURANCE.

(a) In General.—Section 7702 of the 1986 Code (defining life insurance contract) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Certain Church Self-Funded Death Benefit Plans Treated as Life Insurance.—

"(1) In general.—In determining whether any plan or arrangement described in paragraph (2) is a life insurance contract, the requirement of subsection (a) that the contract be a life insurance contract under applicable law shall not apply.

"(2) Description.—For purposes of this subsection, a plan or arrangement is described in this paragraph if—

"(A) such plan or arrangement provides for the payment of benefits by reason of the death of the individual covered under such plan or arrangement, and

"(B) such plan or arrangement is provided by a church for the benefit of its employees and their beneficiaries, directly or through an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii).

"(3) Definitions.—For purposes of this subsection—

"(A) Church.—The term 'church' means a church or a convention or association of churches.

"(B) Employee.—The term 'employee' includes an employee described in section 414(e)(3)(B)."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 221(a) of the Tax Reform Act of 1984.

SEC. 718. STUDY OF EFFECT OF MINIMUM PARTICIPATION RULE ON EMPLOYERS REQUIRED TO PROVIDE CERTAIN RETIREMENT BENEFITS.

(a) Study.—The Secretary of the Treasury or his delegate shall conduct a study on the application of section 401(a)(26) of the Internal Revenue Code of 1986 to Government contractors who—

(1) are required by Federal law to provide certain employees specified retirement benefits, and

(2) establish a separate plan for such employees while maintaining a separate plan for employees who are not entitled to such benefits.

Such study shall consider the Federal requirements with respect to employee benefits for employees of Government contractors, whether a special minimum participation rule should apply to such employees, and methods by which plans may be modified to satisfy minimum participation requirements.

(b) Report.—The Secretary of the Treasury or his delegate shall report the results of the study under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than September 1, 1989.

SEC. 719. PROHIBITION ON COLLECTIBLES NOT TO INCLUDE STATE COINS.

(a) In General.—Paragraph (3) of section 408(m) of the 1986 Code is amended to read as follows:

"(3) Exception for certain coins.—In the case of an individual retirement account, paragraph (2) shall not apply to—

"(A) any gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31,

"(B) any silver coin described in section 5112(e) of title 31, or

"(C) any coin issued under the laws of any State."

(b) Effective Date.—The amendments made by subsection (a) shall apply to acquisitions after the date of the enactment of this Act.

SEC. 720. 1-YEAR DELAY IN DISTRIBUTION REQUIREMENT FOR GOVERNMENT AND TAX-EXEMPT PLANS.

In the case of a plan maintained by—

(1) a governmental plan (within the meaning of section 414(d) of the 1986 Code), or

(2) an organization described in section 501(c)(3) of the 1986 Code which is exempt from tax under section 501(a) of such Code,

the requirement of section 401(a)(9)(C) of such Code (as in effect after the amendment made by section 1121(b) of the Reform Act) or any provision determined by reference to such section shall not apply to any year beginning before January 1, 1990.

SEC. 721. APPLICATION OF FUNDING RULES TO MULTIPLE EMPLOYER PLANS.

(a) In General.—Paragraph (4) of section 413(c) of the 1986 Code is amended to read as follows:

"(4) Funding.—

"(A) In general.—In the case of a plan established after December 31, 1988, each employer shall be treated as maintaining a separate plan.

"(B) Other plans.—In the case of a plan not described in subparagraph (A), the requirements of section 412 shall be determined as if all participants in the plan were employed by a single employer unless the plan administrator elects not later than the close of the first plan year of the plan beginning after the date of enactment of the Technical Corrections Act of 1988 to have the provisions of subparagraph (A) apply. An election under the preceding sentence shall take effect for the plan year in which made and, once made, may be revoked only with the consent of the Secretary."

(b) Deduction Limitations.—Paragraph (6) of section 413(c) of the 1986 Code is amended to read as follows:

"(6) Deduction limitations.—

"(A) In the case of a plan established after December 31, 1988, each applicable limitation provided by section 404(a) shall be determined as if each employer were maintaining a separate plan.

"(B) Other plans.—

"(i) In general.—In the case of a plan not described in subparagraph (A), each applicable limitation provided by section 404(a) shall be determined as if all participants in the plan were employed by a single employer, except that if an election is made under paragraph (4)(B), subparagraph (A) shall apply to such plan.

"(ii) Special rule.—If this subparagraph applies, the amounts contributed to or under the plan by each employer who maintains the plan (for the portion of the taxable year included within a plan year) shall be considered not to exceed any such limitation if the anticipated employer contributions for such plan year (determined in a reasonable manner not inconsistent with regulations prescribed by the Secretary) do not exceed such limitation. If such anticipated contributions exceed such a limitation, the portion of each such employer's contributions which is not deductible under section 404 shall be determined in accordance with regulations prescribed by the Secretary."

(c) Conforming Amendment.—Section 413(c) of the 1986 Code is amended by striking out the last sentence and by inserting after paragraph (6) the following new paragraph:

"(7) Allocations.—

"(A) In general.—Except as provided in subparagraph (B), allocations of amounts under paragraphs (4), (5), and (6) among the employers maintaining the plan shall not be inconsistent with regulations prescribed for this purpose by the Secretary.

"(B) Asset and liabilities of plan.—For purposes of applying paragraphs (4)(A) and (6)(A), the assets and liabilities of each plan shall be treated as the assets and liabilities which would be allocated to a plan maintained by the employer if the employer withdrew from the multiple employer plan."

(d) Effective Date.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 722. WITHDRAWAL LIABILITY OF MULTIEMPLOYER PLANS.

(a) Study.—

(1) In general.—The Pension Benefit Guaranty Corporation shall complete the study required by section 412(a)(1)(B) of the Multiemployer Pension Plan Amendments Act of 1980 (relating to union-mandated withdrawal from multiemployer pension plans) and shall report the results of such study to Congress not later than March 1, 1989.

(2) Factors considered.—The study under paragraph (1) shall include an analysis of—

(A) the effect of union-mandated withdrawals on employer withdrawal liability, and

(B) whether employer liability should be initiated by an illegal strike or illegal bargaining by an employee representative.

(b) Payment of Withdrawal Liability.—Notwithstanding any other provision of law, in the case of any employer withdrawal liability under title IV of the Employee Retirement Income Security Act of 1974 which is related directly or indirectly to striking or picketing in violation of the National Labor Relations Act (as determined by the National Labor Relations Board) and which—

(1) has not been paid before September 8, 1988, or

(2) arises on or after such date and before January 1, 1990,

shall not be payable before January 1, 1990.

SEC. 723. STUDY OF TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

The Secretary of the Treasury or his delegate shall conduct a study of the treatment provided by section 1706 of the Reform Act (relating to treatment of certain technical personnel). The report of such study shall be submitted not later than September 1, 1989, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART III—EXEMPT ORGANIZATIONS

SEC. 724. CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

Section 1834 of the Reform Act is amended by adding at the end thereof the following new sentence: "The amendment made by this section shall apply to games of chance conducted after October 22, 1986, in taxable years ending after such date".

SEC. 725. PURCHASE OF INSURANCE BY COOPERATIVE HOSPITAL SERVICE ORGANIZATIONS.

(a) In General.—Subparagraph (A) of section 501(e)(1) of the 1986 Code is amended by inserting "(including the purchasing of insurance on a group basis)" after "purchasing".

(b) Effective Date.—The amendment made by subsection (a) shall apply to purchases before, on, or after the date of the enactment of this Act.

SEC. 726. DONATED CARGO EXEMPT FROM HARBOR MAINTENANCE TAX.

(a) General Rule.—Section 4462 of the 1986 Code (relating to definitions and special rules) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Exemption for Humanitarian and Development Assistance Cargos.—No tax shall be imposed under this subchapter on any nonprofit organization or cooperative for cargo which is owned or financed by such nonprofit organization or cooperative and which is certified by the United States Customs Service as intended for use in humanitarian or development assistance overseas."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on April 1, 1987.

SEC. 727. CERTAIN EDUCATIONAL INSTITUTIONS EXEMPT FROM USER FEES ON PERMITS FOR INDUSTRIAL USE OF SPECIALLY DENATURED DISTILLED SPIRITS.

(a) In General.—Section 5276 of the 1986 Code (relating to occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) Exemption for Certain Educational Institutions.—Subsection (a) shall not apply with respect to any scientific university, college of learning, or institution of scientific research which—

"(1) is issued a permit under section 5271(a)(2), and

"(2) with respect to any calendar year during which such permit is in effect, procures less than 25 gallons of specially denatured distilled spirits for experimental or research use but not for consumption (other than organoleptic tests) or sale."

(b) Conforming Amendment.—Section 5276(a) of the 1986 Code is amended by striking out "A permit" and inserting in lieu thereof "Except as provided in subsection (c), a permit".

(c) Effective Date.—The amendments made by this section shall take effect on July 1, 1989.

SEC. 728. TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF AN INSTITUTION OF HIGHER EDUCATION.

(a) In General.—Section 170 of the 1986 Code is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Treatment of Certain Amounts Paid to or for the Benefit of Institutions of Higher Education.—

"(1) In general.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

"(2) Amount described.—For purposes of paragraph (1), an amount is described in this paragraph if—

"(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

"(i) which is described in subsection (b)(1)(A)(ii), and

"(ii) which is an institution of higher education (as defined in section 3304(f)), and

"(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection."

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

(2) Waiver of statute of limitations.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of section 170(m) of the 1986 Code (as added by subsection (a)) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 729. CLARIFICATION OF MEANING OF MANUFACTURE UNDER TRUCK EXCISE TAX.

(a) In General.—Paragraph (1) of section 4052(a) of the 1986 Code (defining first retail sale) is amended by striking out "manufacture, production" and inserting in lieu thereof "production, manufacture".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1988.

SEC. 730. AUTHORITY TO PRESCRIBE TOLERANCES FOR THE VOLUME OF WINE IN BOTTLES FOR PURPOSES OF THE EXCISE TAX ON WINE.

(a) In General.—Section 5041 of the 1986 Code (relating to imposition and rate of tax on wine) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Tolerances.—Where the Secretary finds that the revenue will not be endangered thereby, he may by regulation prescribe tolerances (but not greater than ½ of 1 percent) for bottles and other containers, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a bottle or other container are within the limit of the applicable tolerance prescribed."

(b) Effective Date.—The amendment made by subsection (a) shall apply to wine removed after December 31, 1988.

SEC. 731. WHOLESALE DISTRIBUTORS TO ADMINISTER CLAIMS FOR REFUND OF GASOLINE TAX.

(a) In General.—Subsection (a) of section 6416 of the 1986 Code (relating to certain taxes and services) is amended by adding at the end thereof the following new paragraph:

"(4) Wholesale distributors to administer credits and refunds of gasoline tax.—

"(A) In general.—For purposes of this subsection, a wholesale distributor who purchases any product on which tax imposed by section 4081 has been paid and who sells the product to its ultimate purchaser shall be treated as the person (and the only person) who paid such tax.

"(B) Wholesale distributor.—For purposes of subparagraph (A), the term 'wholesale distributor' has the meaning given such term by section 4092(b)(2) (determined by substituting 'any product taxable under section 4081' for 'a taxable fuel' therein)."

(b) Effective Date.—The amendment made by this section shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988.

SEC. 732. ELECTION TO BE TREATED AS QUALIFIED ELECTING FUND TO BE MADE BY TAXPAYER.

(a) General Rule.—Section 1295 of the 1986 Code (defining qualified electing fund) is amended to read as follows:

"SEC. 1295. QUALIFIED ELECTING FUND.

"(a) General Rule.—For purposes of this part, any passive foreign investment company shall be treated as a qualified electing fund with respect to the taxpayer if—

"(1) an election by the taxpayer under subsection (b) applies to such company for the taxable year, and

"(2) such company complies with such requirements as the Secretary may prescribe for purposes of—

"(A) determining the ordinary earnings and net capital gain of such company, and

"(B) otherwise carrying out the purposes of this subpart.

"(b) Election.—

"(1) In general.—A taxpayer may make an election under this subsection with respect to any passive foreign investment company for any taxable year of the taxpayer. Such an election, once made with respect to any company, shall apply to all subsequent taxable years of the taxpayer with respect to such company unless revoked by the taxpayer with the consent of the Secretary.

"(2) When made.—An election under this subsection may be made for any taxable year at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believed that the company was not a passive foreign investment company."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code (as amended by title I) is amended by striking out "for each" in the material preceding subparagraph (A) and inserting in lieu thereof "with respect to the taxpayer for each".

(2) Subparagraphs (A)(i) and (B)(i) of section 1291(d)(2) of the 1986 Code (as amended by title I) are each amended by striking out "for a taxable year" and inserting in lieu thereof "with respect to the taxpayer for a taxable year".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall take effect as if included in the amendments made by section 1235 of the Reform Act.

(2) Time for making election.—The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of the enactment of this Act.

SEC. 733. ELECTION TO CLAIM CERTAIN UNEARNED INCOME OF CHILD ON PARENT'S RETURN.

(a) In General.—Section 6012 of the 1986 Code (relating to persons required to make returns of income) is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

"(e) Election To Claim Certain Unearned Income of Child on Parent's Return.—

"(1) In general.—Any child who—

"(A) has only qualified unearned income for the taxable year,

"(B) such unearned income is more than $500 and less than $5,000, and

"(C) the parent of such child (as determined under section 1(i)(5)) elects to claim such income on his return,

shall not be required to file a return under this section.

"(2) No election if estimated taxes paid in child's name.—Paragraph (1) shall not apply in any taxable year in which estimated tax payments for such year are made in the name and TIN of the child.

"(3) Qualified unearned income.—For purposes of this section, the term 'qualified unearned income' means—

"(A) interest payments,

"(B) dividend payments, and

"(C) Alaska Permanent Fund dividends.

"(4) INCOME INCLUDED IN PARENT'S GROSS INCOME.—In the case of any parent making an election under this subsection, any qualified unearned income of the child for the taxable year shall be included in such parent's gross income for such year (and not in such child's gross income) in an amount equal to the excess (if any) of—

"(A) such qualified unearned income, over

"(B) the lesser of—

"(i) $500, or

"(ii) the taxable portion of such qualified unearned income.

"(5) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 734. REPORT ON THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

Subsection (a) of section 6 of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638, note) is amended by striking out "December 31, 1988" and inserting in lieu thereof "July 1, 1989".

SEC. 735. EXCHANGE OF INFORMATION.

Clause (i) of section 6103(b)(5)(B) of the 1986 Code (defining State) is amended by striking out "2,000,000" and inserting in lieu thereof "250,000".

SEC. 736. STUDY ON HEALTH CARE COSTS RESULTING FROM SMOKING.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall, in consultation with the Surgeon General of the Public Health Service, conduct an ongoing study of—

(1) the public and private health care costs incurred (with respect to smokers, their spouses, and others) as a result of cigarette smoking in the United States,

(2) the incidence of cigarette smoking in the United States by adults and by teenage and younger children, and

(3) the impact of the rate of the excise tax imposed by section 5701 of the Internal Revenue Code of 1986 on cigarette smoking by adults and by teenage and younger children.

(b) REPORTS.—Reports of the study required by subsection (a) shall be submitted every 2 years, with the 1st such report to be submitted by January 1, 1989. Each such report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART V—TAX-EXEMPT BONDS

SEC. 737. AMENDMENT TO MORTGAGE BOND PURCHASE PRICE REGULATIONS.

The Secretary of the Treasury or his delegate shall amend the regulations relating to mortgage bond purchase price requirements, with respect to any lease with a remaining term of at least 35 years and a specified ground rent for at least the first 10 years of such term but not for the entire term, to provide for a capitalized value of such lease equal to the present value of the current ground rent projected over the remaining term of the lease and discounted at 3 percent or such other discount rate as the Secretary establishes. If such amendment is not made before the date of the enactment of this Act, such regulations shall be considered to include such amendment with respect to bonds issued after such date.

SEC. 738. APPLICATION OF SECURITY INTEREST TEST TO BOND FINANCING OF HAZARDOUS WASTE CLEAN-UP ACTIVITIES.

Before January 1, 1989, the Secretary of the Treasury or his delegate shall issue guidance concerning the application of the private security or payment test under section 141(b)(2) of the Internal Revenue Code of 1986 to tax-exempt bond financing by State and local governments of hazardous waste clean-up activities conducted by such governments where some of the activities occur on privately owned land.

SEC. 739. CALCULATION OF INCOME LIMITS FOR QUALIFIED MORTGAGE BOND FINANCED HOMES IN HIGH HOUSING COST AREAS.

(a) IN GENERAL.—Section 143(f) of the 1986 Code (relating to income requirements) is amended by adding at the end thereof the following new paragraph:

"(5) ADJUSTMENT OF INCOME REQUIREMENT BASED ON RELATION OF HIGH HOUSING COSTS TO INCOME.—

"(A) IN GENERAL.—If the residence (for which financing is provided under the issue) is located in a high housing cost area, the percentage described in this paragraph shall be determined under subparagraph (B) and without regard to paragraph (4)(B).

"(B) INCOME REQUIREMENTS FOR RESIDENCES IN HIGH HOUSING COST AREA.—The percentage determined under this subparagraph for a residence located in a high housing cost area is the percentage (not greater than 140 percent) equal to the product of—

"(I) 115 percent, and

"(II) the amount by which the housing cost/income ratio for such area exceeds 0.2.

"(C) HIGH HOUSING COST AREAS.—For purposes of this paragraph, the term 'high housing cost area' means any statistical area for which the housing cost/income ratio is greater than 1.2.

"(D) HOUSING COST/INCOME RATIO.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'housing cost/income ratio' means, with respect to any statistical area, the number determined by dividing—

"(I) the applicable housing price ratio for such area, by

"(II) the ratio which the area median gross income for such area bears to the median gross income for the United States.

"(ii) APPLICABLE HOUSING PRICE RATIO.—For purposes of clause (i), the applicable housing price ratio for any area is the new housing price ratio or the existing housing price ratio, whichever results in the housing cost/income ratio being closer to 1.

"(iii) NEW HOUSING PRICE RATIO.—The new housing price ratio for any area is the ratio which—

"(I) the average area purchase price (as defined in subsection (e)(2)) for residences described in subsection (e)(3)(A) which are located in such area bears to

"(II) the average purchase price (determined in accordance with the principles of subsection (e)(2)) for residences so described which are located in the United States.

"(iv) EXISTING HOUSING PRICE RATIO.—The existing housing price ratio for any area is the ratio determined in accordance with clause (iii) but with respect to residences described in subsection (e)(3)(B)."

(b) CONFORMING AMENDMENT.—Section 143(f)(1) of the 1986 Code is amended by striking out "whose family income is 115 percent or less of the applicable median family income" and inserting in lieu thereof "whose family income is the greater of—

"(A) 115 percent or less of the applicable median family income, or

"(B) the percentage described in paragraph (5)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued, and nonissued bond amounts elected, after December 31, 1988.

(2) SPECIAL RULES RELATING TO CERTAIN REQUIREMENTS AND REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before January 1, 1989, the amendments made by this section shall apply to financing provided after the date of issuance of the refunding issue.

SEC. 740. TAX-EXEMPT FINANCING FOR CERTAIN RAIL FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 of the 1986 Code (relating to exempt facility bonds) is amended—

(1) by striking out "or" at the end of paragraph (9),

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new paragraph:

"(11) high-speed intercity rail facilities."

(b) DEFINITION AND SPECIAL RULES FOR HIGH-SPEED INTERCITY RAIL FACILITIES.—

(1) IN GENERAL.—Section 142 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(i) HIGH-SPEED INTERCITY RAIL FACILITIES.—

"(1) For purposes of subsection (a)(11), the term 'high-speed intercity rail facilities' means any facility (not including rolling stock) for the fixed guideway rail transportation of passengers and their baggage between metropolitan statistical areas (within the meaning of section 143(k)(2)(B)) using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops, but only if such facility will be made available to members of the general public as passengers.

"(2) ELECTION BY NONGOVERNMENTAL OWNERS.—A facility shall be treated as described in subsection (a)(11) only if any owner of such facility which is not a governmental unit irrevocably elects not to claim—

"(A) any deduction under section 167 or 168, and

"(B) any credit under this subtitle,

with respect to the property to be financed by the net proceeds of the issue.

"(3) USE OF PROCEEDS.—A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond unless any proceeds not used within a 3-year period of the date of the issuance of such bond are used (not later than 6 months after the close of such period) to redeem bonds which are part of such issue."

(2) USE OF FACILITIES.—Subsection (c) of section 142 of the 1986 Code (relating to special rules for airport, docks and wharves, and mass commuting facilities) is amended—

(A) by striking out "paragraph (1), (2), or (3) of subsection (a)" each place it appears in paragraphs (1) and (2) thereof and inserting in lieu thereof "paragraph (1), (2), (3) or (11) of subsection (a)", and

(B) by striking out "AND MASS COMMUTING FACILITIES" in the heading thereof and inserting in lieu thereof "MASS COMMUTING

Facilities and High-Speed Intercity Rail Facilities".

(3) Partial exclusion from volume cap.—Paragraph (3) of section 146(g) of the 1986 Code (relating to an exception for certain bonds) is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and

(C) by adding at the end thereof the following new paragraph:

"(3) 75 percent of any exempt facility bond issued as part of an issue described in paragraph (11) of section 142(a) (relating to high-speed intercity rail facilities."

(4) Limitation removed on use of bond proceeds for land acquisition.—Paragraph (3) of section 147(c) of the 1986 Code (relating to limitation on use for land acquisition) is amended by inserting "high-speed intercity rail facility" after "mass commuting facility" each place it appears.

(5) Special rule for public approval.—Paragraph (3) of section 147(f) of the 1986 Code (relating to public approval required for private activity bonds) is amended—

(A) by inserting "or high-speed intercity rail facilities" after "airport" each place it appears, and

(B) by inserting "or high-speed intercity rail facilities" after "airports" in the heading thereof.

(c) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SEC. 741. RULES RELATING TO REBATE ON EARNINGS ON BONA FIDE DEBT SERVICE FUND.

(a) No Rebate Where Earnings Do Not Exceed $100,000.—Clause (ii) of section 148(f)(4)(A) of the 1986 Code is amended by striking "unless the issuer otherwise elects,".

(b) $100,000 Limit Not To Apply To Certain Issues.—Subparagraph (A) of section 148(f)(4) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of an issue no bond of which is a private activity bond, clause (ii) shall be applied without regard to the dollar limitation therein if the average maturity of the issue (determined in accordance with section 147(b)(2)(A)) is at least 5 years and the rates of interest on bonds which are part of the issue do not vary during the term of the issue."

(c) Effective Date; Special Rules.—

(1) In general.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

(2) Election for outstanding bonds.—Any issue of bonds other than private activity bonds outstanding as of the date of the enactment of this Act shall be allowed a 1-time election to apply the amendments made by subsection (b) to amounts deposited after such date in bona fide debt service funds of such bonds.

(3) Definition of private activity bond.—For purposes of this section and the last sentence of section 148(f)(4)(A) of the 1986 Code (as added by subsection (b)), the term 'private activity bond' shall include any qualified 501(c)(3) bond (as defined under section 145 of the 1986 Code).

PART VI—MISCELLANEOUS PROVISIONS

SEC. 741. APPLICATION OF NET OPERATING LOSS LIMITATIONS TO BANKRUPTCY REORGANIZATIONS.

(a) Time for Determining Whether Ownership Change Occurs.—Section 621(f)(5) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: "The determination as to whether an ownership change has occurred during the period beginning January 1, 1987, and ending on the final settlement of any reorganization or proceeding described in the preceding sentence shall be redetermined as of the time of such final settlement."

(b) Election to Have New Rules Apply.—Section 621(f)(5) of the Tax Reform Act of 1986 is amended by striking out "In" and inserting in lieu thereof "Unless the taxpayer elects not to have the provisions of this paragraph apply, in".

(c) Effective Date.—The amendments made by this section shall take effect as if included in section 621(f)(5) of the Tax Reform Act of 1986.

SEC. 742. DEFINITION OF LARGE BANK.

(a) In General.—Paragraph (2) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If all the stock of a member of a parent-subsidiary controlled group is held by such group, is sold to one or more unrelated persons, the taxable years for which such member was treated as a large bank under subparagraph (B) by reason of membership in such group shall not be taken into account under this paragraph for taxable years beginning after such sale."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 901(a)(2) of the Reform Act.

SEC. 743. INTEREST EARNED BY BROKERS OR DEALERS NOT TAKEN INTO ACCOUNT AS PERSONAL HOLDING COMPANY INCOME.

(a) In General.—Paragraph (1) of section 543(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and" and by adding at the end thereof the following new subparagraph:

"(D) interest received by a broker or dealer (within the meaning of section 3(a)(4) or (5) of the Securities and Exchange Act of 1934) in connection with—

"(i) any securities or money market instruments held as property described in section 1221(1),

"(ii) margin accounts, or

"(iii) any financing for a customer secured by securities or money market instruments."

(b) Effective Date.—The amendments made by this section shall apply to interest received after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 744. TREATMENT OF CERTAIN INSTRUMENTS UNDER FOREIGN CURRENCY RULES.

(a) General Rule.—Clause (iii) of section 988(c)(1)(B) of the 1986 Code (as amended by title I) is amended by striking out "unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year".

(b) Technical Amendments.—

(1) Paragraph (1) of section 988(a) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) Application of subparagraph (B) in the case of certain traders.—In the case of any instrument—

"(i) which would be marked to market under section 1256 if held on the last day of the taxable year, and

"(ii) which was entered into or acquired by the taxpayer in the active conduct of the trade or business of trading such instruments,

to the extent provided in regulations, subparagraph (B) shall be applied without regard to the requirement that the instrument not be part of a straddle and without regard to the identification requirement contained therein."

(2) Paragraph (1) of section 988(d) of the 1986 Code is amended by striking out the second sentence and inserting in lieu thereof the following: "For purposes of the preceding sentence, the term 'section 988 transaction' shall not include any transaction with respect to which an election is made under subsection (a)(1)(B)."

(c) Effective Date.—The amendments made by this section shall apply with respect to forward contracts, future contracts, options, and similar financial instruments entered into or acquired after September 8, 1988.

SEC. 745. DUAL RESIDENT COMPANIES.

(a) General Rule.—In the case of a transaction which—

(1) involves the transfer after the date of the enactment of this Act by a domestic corporation, with respect to which there is a qualified excess loss account, of its assets and liabilities to a foreign corporation in exchange for all of the stock of such foreign corporation, followed by the complete liquidation of the domestic corporation into the common parent, and

(2) qualifies, pursuant to Revenue Ruling 87-27, as a reorganization which is described in section 368(a)(1)(F) of the 1986 Code,

then, solely for purposes of applying Treasury Regulation section 1.1502-19 to such qualified excess loss account, such foreign corporation shall be treated as a domestic corporation in determining whether such foreign corporation is a member of the affiliated group of the common parent.

(b) Treatment of Income of New Foreign Corporation.—

(1) In general.—In any case to which subsection (a) applies, for purposes of the 1986 Code—

(A) the source and character of any item of income of the foreign corporation referred to in subsection (a) shall be determined as if such foreign corporation were a domestic corporation,

(B) the net amount of any such income shall be treated as subpart F income (without regard to section 952(c) of the 1986 Code), and

(C) the amount in the qualified excess loss account referred to in subsection (a) shall—

(i) be reduced by the net amount of any such income, and

(ii) be increased by the amount of any such income distributed directly or indirectly to the common parent described in subsection (a).

(2) Limitation.—Paragraph (1) shall apply to any item of income only to the extent that the net amount of such income does not exceed the amount in the qualified excess loss account after being reduced under paragraph (1)(C) for prior income.

(3) Basis adjustments not applicable.—To the extent paragraph (1) applies to any item of income, there shall be no increase in

basis under section 961(a) of such Code on account of such income (and there shall be no reduction in basis under section 961(b) of such Code on account of an exclusion attributable to the inclusion of such income).

(4) Recognition of gain.—For purposes of paragraph (1), if the foreign corporation referred to in subsection (a) transfers any property acquired by such foreign corporation in the transaction referred to in subsection (a) (or transfers any other property the basis of which is determined in whole or in part by reference to the basis of property so acquired) and (but for this paragraph) there is not full recognition of gain on such transfer, the excess (if any) of—

(A) the fair market value of the property transferred, over

(B) its adjusted basis,

shall be treated as gain from the sale or exchange of such property and shall be recognized notwithstanding any other provision of law. Proper adjustment shall be made to the basis of any such property for gain recognized under the preceding sentence.

(c) Definitions.—For purposes of this section—

(1) Common parent.—The term "common parent" means the common parent of the affiliated group which included the domestic corporation referred to in subsection (a)(1).

(2) Qualified excess loss account.—The term "qualified excess loss account" means any excess loss account (within the meaning of the consolidated return regulations) to the extent such account is attributable—

(A) to taxable years beginning before January 1, 1988, and

(B) to periods during which the domestic corporation was subject to an income tax of a foreign country on its income on a residence basis or without regard to whether such income is from sources in or outside of such foreign country.

The amount of such account shall be determined as of immediately after the transaction referred to in subsection (a) and without, except as provided in subsection (b), diminution for any future adjustment.

(3) Net amount.—The net amount of any item of income is the amount of such income reduced by allocable deductions as determined under the rules of section 954(b)(5) of the 1986 Code.

(4) Second same country corporation may be treated as domestic corporation in certain cases.—If—

(A) another foreign corporation acquires from the common parent stock of the foreign corporation referred to in subsection (a) after the transaction referred to in subsection (a),

(B) both of such foreign corporations are subject to the income tax of the same foreign country on a residence basis, and

(C) such common parent complies with such reporting requirements as the Secretary of the Treasury or his delegate may prescribe for purposes of this paragraph,

such other foreign corporation shall be treated as a domestic corporation in determining whether the foreign corporation referred to in subsection (a) is a member of the affiliated group referred to in subsection (a) (and the rules of subsection (b) shall apply (i) to any gain of such other foreign corporation on any disposition of such stock, and (ii) to any other income of such other foreign corporation except to the extent it establishes to the satisfaction of the Secretary of the Treasury or his delegate that such income is not attributable to property acquired from the foreign corporation referred to in subsection (a)).

SEC. 746. TREATMENT OF INSURANCE COMPANIES UNDER CHAIN DEFICIT RULE.

(a) In General.—Subparagraph (B) of section 952(c)(1) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(vii) Special rules for insurance income.—

"(I) In general.—An election may be made under this clause to have section 953(a) applied for purposes of this title without regard to the same country exception under paragraph (1)(A) thereof. Such election, once made, may be revoked only with the consent of the Secretary.

"(II) Special rules for affiliated groups.—In the case of an affiliated group of corporations (within the meaning of section 1504 but without regard to section 1504(b)(3) and by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears), no election may be made under subclause (I) for any controlled foreign corporation unless such election is made for all other controlled foreign corporations who are members of such group and who were created or organized under the laws of the same country as such controlled foreign corporation. For purposes of clause (v), in determining whether any controlled corporation described in the preceding sentence is a qualified insurance company, all such corporations shall be treated as 1 corporation."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 1221(f) of the Reform Act.

SEC. 747. INVESTMENT IN QUALIFIED CARIBBEAN BASIN COUNTRIES.

(a) In General.—Subparagraph (B) of section 936(d)(4) of the 1986 Code is amended by inserting "and the Virgin Islands" after "section 274(h)(6)(A)".

(b) Effective Date.—The amendment made by this section shall apply to investments made after the date of the enactment of this Act.

SEC. 748. TREATMENT OF CERTAIN INSURANCE BRANCHES OF FOREIGN CORPORATIONS.

(a) General Rule.—Section 964 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) Treatment of Certain Branches.—

"(1) In general.—For purposes of this chapter, section 6038, section 6046, and such other provisions as may be specified in regulations—

"(A) a qualified insurance branch of a controlled foreign corporation shall be treated as a separate foreign corporation created under the laws of the foreign country with respect to which such branch qualifies under paragraph (2), and

"(B) except as provided in regulations, any amount directly or indirectly transferred or credited from such branch to one or more other accounts of such controlled foreign corporation shall be treated as a dividend paid to such controlled foreign corporation.

"(2) Qualified insurance branch.—For purposes of paragraph (1), the term 'qualified insurance branch' means any branch of a controlled foreign corporation which is licensed and predominantly engaged on a permanent basis in the active conduct of an insurance business in a foreign country if—

"(A) separate books and accounts are maintained for such branch,

"(B) the principal place of business of such branch is in such foreign country,

"(C) such branch would be taxable under subchapter L if it were a separate domestic corporation, and

"(D) an election under this paragraph applies to such branch.

An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(3) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1988.

SEC. 749. TREATMENT OF CERTAIN UNITED STATES OBLIGATIONS HELD BY POSSESSION BANKS.

(a) In General.—Subsection (e) of section 882 of the 1986 Code is amended—

(1) by inserting "which is not portfolio interest (as defined in section 881(c)(2))" before "shall", and

(2) by striking out the last sentence thereof.

(b) Exclusion From Branch Profits Tax.—Paragraph (2) of section 884(d) of the 1986 Code is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or" and by inserting after subparagraph (D) the following new subparagraph:

"(E) income treated as effectively connected with the conduct of a trade or business within the United States under section 882(e)."

(c) Effective Date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1988.

SEC. 750. NONCONVENTIONAL FUELS CREDIT.

(a) In General.—Section 53(d)(1)(B) of the 1986 Code (relating to credit not allowed for exclusion preferences) is amended by adding at the end thereof the following new clause:

"(iii) Special rule.—The adjusted net minimum tax for the taxable year shall be increased by the amount of the credit not allowed under section 29 (relating to credit for producing fuel from a nonconventional source) solely by reason of the application of section 29(b)(5)(B)."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 701 of the Tax Reform Act of 1986.

SEC. 751. ONE-YEAR EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Clauses (i) and (ii) of section 29(f)(1)(A) of the 1986 Code (relating to application of section) are each amended by striking out "January 1, 1990" and inserting in lieu thereof "January 1, 1991".

SEC. 752. SMALL PRODUCERS EXEMPT FROM OCCUPATIONAL TAX ON DISTILLED SPIRITS PLANTS.

(a) In General.—Section 5081 of the 1986 Code (relating to imposition and rate of occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) Exemption for Small Producers.—Subsection (a) shall not apply with respect to any taxpayer who is a proprietor of an eligible distilled spirits plant (as defined in section 5181(c)(4)."

(b) Conforming Amendment.—Paragraph (1) of section 5081(b) of the 1986 Code (relating to reduced rates for small proprietors) is amended by inserting "not described in subsection (c)" after "taxpayer".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1989.

SEC. 753. CERTAIN REPLEDGES PERMITTED.

(a) GENERAL RULE.—For purposes of section 453A(d) of the 1986 Code (relating to pledges, etc., of installment obligations), the refinancing of any indebtedness which was outstanding on December 17, 1987, and which was secured on that date and all times thereafter before such refinancing by a pledge of an installment obligation shall be treated as a continuation of the refinanced indebtedness if—

(1) the taxpayer is required by the creditor of the indebtedness to be refinanced to refinance such indebtedness, and

(2) the refinancing is not with such creditor or a person related to such creditor.

(b) LIMITATION ON PRINCIPAL AMOUNT.—Subsection (a) shall not apply to the extent that the principal amount of the indebtedness resulting from the refinancing exceeds the principal amount of the refinanced indebtedness immediately before the refinancing.

(c) LIMITATION ON EXTENSION OF TERM OF REFINANCING.—Notwithstanding subsection (a), if the term of the indebtedness resulting from the refinancing exceeds the term of the refinanced indebtedness, upon the expiration of the term of the refinanced indebtedness as in effect before the refinancing, the outstanding balance of the indebtedness resulting from the refinancing shall be treated as a payment received on any installment obligation which secures such indebtedness.

(d) EFFECTIVE DATE.—This section shall apply as if included in the provisions of section 10202 of the Revenue Act of 1987.

SEC. 754. TREATMENT OF INDIRECT HOLDINGS THROUGH TRUSTS UNDER SECTION 448 OF THE 1986 CODE.

(a) GENERAL RULE.—Paragraph (2) of section 448(d) of the 1986 Code (defining qualified personal service corporation) is amended by adding at the end thereof the following new sentence:

"To the extent provided in regulations which shall be prescribed by the Secretary, indirect holdings through a trust shall be taken into account under subparagraph (B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 755. JURY DUTY PAY REMITTED TO AN INDIVIDUAL'S EMPLOYER ALLOWED AS A DEDUCTION IN COMPUTING GROSS INCOME.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the 1986 Code (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. JURY DUTY PAY REMITTED TO EMPLOYER.

"If—

"(1) an individual receives payment for the discharge of jury duty, and

"(2) the employer of such individual requires the individual to remit any portion of such payment to the employer in exchange for payment by the employer of compensation for the period the individual was performing jury duty,

then there shall be allowed as a deduction the amount so remitted.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of the 1986 Code (defining adjusted gross income) is amended by inserting after paragraph (12) the following new paragraph:

"(13) JURY DUTY PAY REMITTED TO EMPLOYER.—The deduction allowed by section 220.".

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the 1986 Code is amended by striking out the item relating to section 220 and inserting in lieu thereof the following new items:

"Sec. 220. Jury duty pay remitted to employer.

"Sec. 221. Cross references.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the amendments made by section 132 of the Tax Reform Act of 1986.

SEC. 756. EXCLUDE STRUCTURED SETTLEMENT ARRANGEMENTS FROM MINIMUM TAX.

(a) IN GENERAL.—The last sentence of section 56(g)(4)(B)(iii) of the 1986 Code (as amended by title I) is amended to read as follows: "The preceding sentence shall not apply to any annuity contract which is held under a plan described in section 403(a) or which is described in section 72(u)(3)(C)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701 of the Reform Act.

SEC. 757. CERTAIN CREDITOR RIGHTS PERMITTED UNDER STRUCTURED SETTLEMENT RULES.

(a) IN GENERAL.—Subsection (c) of section 130 of the 1986 Code (relating to certain personal injury liability assignments) is amended—

(1) by striking out subparagraph (C) of paragraph (2) and redesignating subparagraphs (D) and (E) of paragraph (2) as subparagraphs (C) and (D), respectively, and

(2) by adding at the end thereof the following new sentence:

"The determination for purposes of this chapter of when the recipient is treated as having received any payment with respect to which there has been a qualified assignment shall be made without regard to any provision of such assignment which grants the recipient rights as a creditor greater than those of a general creditor."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to assignments after the date of the enactment of this Act.

SEC. 758. NONPROFIT HOSPITAL INSURERS.

(a) IN GENERAL.—In the case of taxable years beginning after December 31, 1986, and before January 1, 1989, for purposes of determining the amount of the deduction under section 832(b)(5)(A)(ii) of the 1986 Code of any qualified nonprofit hospital insurer who elects the application of this section, the amount of discounted unpaid losses shall be increased by an amount equal to 20 percent (10 percent in the case of a taxable year beginning in 1988) of the excess (if any) of—

(1) the undiscounted unpaid losses determined under section 846(b) of the 1986 Code for such taxable year, over

(2) the discounted unpaid losses determined under section 846(a) of the 1986 Code for such taxable year.

(b) QUALIFIED NONPROFIT HOSPITAL INSURER.—For purposes of this section, the term "qualified nonprofit hospital insurer" means any domestic insurance company (other than a life insurance company) if for the taxable year to which the election under subsection (a) applies—

(1) 75 percent or more of the value and the voting rights of such company are owned, or considered as owned under section 267(c) of the 1986 Code, by nonprofit health care facilities or by a trade association of such facilities,

(2) a majority of the insurance or reinsurance provided by such company covers risk of nonprofit health care facilities, and

(3) at least 75 percent of the insurance business of such company is medical malpractice or general liability insurance.

For purposes of this subsection, the term "voting rights" includes voting rights exercisable by policyholders of a mutual or reciprocal insurer or reinsurer.

(c) ELECTION.—An election under this section shall be made on the return of income tax for the taxpayer's first taxable year beginning after December 31, 1986.

(d) FRESH START PROVISIONS.—If an election is made under this section by an insurer, paragraphs (2) and (3) of section 1023(e) of the Tax Reform Act of 1986 shall be applied with respect to the 1st 3 taxable years of such insurer beginning after December 31, 1986.

SEC. 759. APPLICATION OF SECTION 912 TO JUDICIAL EMPLOYEES.

(a) IN GENERAL.—Section 912(2) of the 1986 Code is amended by inserting "(or in the case of judicial officers or employees of the United States, in accordance with rules similar to such regulations)" after "President".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to allowances received after October 12, 1987, in taxable years ending after such date.

SEC. 760. BUSINESS USE OF AUTOMOBILES BY RURAL MAIL CARRIERS.

(a) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route, such employee shall be permitted to compute the amount allowable as a deduction under chapter 1 of the Internal Revenue Code of 1986 for the use of an automobile in performing such services by using a standard mileage rate for all miles of such use equal to 150 percent of the basic standard rate.

(b) SUBSECTION (a) NOT TO APPLY IF EMPLOYEE CLAIMS DEPRECIATION DEDUCTIONS FOR AUTOMOBILE.—Subsection (a) shall not apply with respect to any automobile if, for any taxable year beginning after December 31, 1987, the taxpayer claimed depreciation deductions for such automobile.

(c) BASIC STANDARD RATE.—For purposes of this section, the term "basic standard rate" means the standard mileage rate which is prescribed by the Secretary of the Treasury or his delegate for computing the amount of the deduction for the business use of an automobile and which—

(1) is in effect at the time of the use referred to in subsection (a),

(2) applies to an automobile which is not fully depreciated, and

(3) applies to the first 15,000 miles (or such other number as the Secretary of the Treasury or his delegate may hereafter prescribe) of business use during the taxable year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1987.

SEC. 761. ETHYL ALCOHOL AND MIXTURES FOR FUEL USE.

Section 1910 of the Omnibus Trade and Competitiveness Act of 1988 is amended by adding at the end thereof the following new subsection:

"(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to ethyl alcohol, and mixtures of ethyl alcohol, entered—

"(1) during the period beginning on August 23, 1988, and ending on the date of enactment of the Technical Corrections Act of 1988, and

"(2) after the date, if any, on which the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Treasury, acting jointly, submit to the Congress, and publish in the Federal Register, a written statement certifying that the domestic ethyl alcohol production industry is not fully meeting demand for ethyl alcohol in the United States and that the quantity of ethyl alcohol, and mixtures of ethyl alcohol, that would be imported into the customs territory of the United States free of duty by reason of the amendments made by this section is necessary to maintain adequate supplies of ethyl alcohol for consumers in the United States.".

SEC. 762. CERTAIN EMPLOYER PENSION CONTRIBUTIONS NOT INCLUDED IN FICA WAGE BASE.

Any State or political subdivision thereof which—

(1) has relied in good faith on any letter ruling of the Internal Revenue Service issued after December 31, 1983, maintaining that any amount treated as an employer contribution under section 414(h)(2) of the Internal Revenue Code of 1986 is excluded from the definition of "wages" for purposes of tax liability under section 3121(v)(1)(B) of such Code, and

(2) has not paid such tax based on such reliance,

shall be relieved of any such liability arising from a finding that such contribution was in fact under a salary reduction agreement for the period ending with the earlier of the date of the enactment of this Act or receipt of a notice of revocation of the letter ruling by the Internal Revenue Service.

Subtitle C—Extension of Expiring Provisions and Other Substantive Provisions

PART I—TAXPAYER BILL OF RIGHTS

SEC. 763. SHORT TITLE.

This part may be cited as the "Omnibus Taxpayer Bill of Rights".

Subpart A—Taxpayer Rights

SEC. 764. DISCLOSURE OF RIGHTS OF TAXPAYERS.

(a) IN GENERAL.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, prepare a statement which sets forth in simple and nontechnical terms—

(1) the rights of a taxpayer and the obligations of the Internal Revenue Service (hereinafter in this section referred to as the "Service") during an audit;

(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary of the Treasury shall transmit drafts of the statement required under subsection (a) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day. Any draft (or any revision of a draft) of the statement may not be distributed under subsection (c) until 90 days after the date it was transmitted to such committees.

(c) DISTRIBUTION.—The statement prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to all taxpayers the Secretary contacts with respect to the determination or collection of any tax (other than by providing tax forms). The Secretary shall take such actions as the Secretary deems necessary to ensure that such distribution does not result in multiple statements being sent to any one taxpayer.

SEC. 765. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) IN GENERAL.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

"(a) RECORDING OF INTERVIEWS.—

"(1) RECORDING BY TAXPAYER.—Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

"(2) RECORDING BY IRS OFFICER OR EMPLOYEE.—An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee—

"(A) informs the taxpayer of such recording prior to the interview, and

"(B) upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

"(b) SAFEGUARDS.—

"(1) EXPLANATIONS OF PROCESSES.—An officer or employee of the Internal Revenue Service shall before or at an initial interview provide to the taxpayer—

"(A) in the case of an audit interview, an explanation of the audit process and the taxpayer's rights under such process, or

"(B) in the case of a collection interview, an explanation of the collection process and the taxpayer's rights under such process.

Such officer or employee shall notify the taxpayer at such interview if the case has been referred to the Criminal Investigation Division of the Internal Revenue Service.

"(2) RIGHT OF CONSULTATION.—If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

"(c) REPRESENTATIVES HOLDING POWER OF ATTORNEY.—Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer may be authorized by such taxpayer to represent the taxpayer in any interview described in subsection (a). An officer or employee of the Internal Revenue Service may not require a taxpayer to accompany the representative in the absence of an administrative summons issued to the taxpayer under subchapter A of chapter 78. Such an officer or employee, with the consent of the immediate supervisor of such officer or employee, may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.

"(d) SECTION NOT TO APPLY TO CERTAIN INVESTIGATIONS.—This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Internal Revenue Service."

(b) REGULATIONS WITH RESPECT TO TIME AND PLACE OF EXAMINATION.—The Secretary of the Treasury or the Secretary's delegate shall issue regulations to implement subsection (a) of section 7605 of the 1986 Code (relating to time and place of examination) within 1 year after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7520. Procedures involving taxpayer interviews."

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall apply to interviews conducted on or after the date which is 30 days after the date of the enactment of this Act.

SEC. 766. TAXPAYERS MAY RELY ON WRITTEN ADVICE OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6404 of the 1986 Code (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(f) ABATEMENT OF ANY PENALTY OR ADDITION TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE.—

"(1) IN GENERAL.—The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

"(2) LIMITATIONS.—Paragraph (1) shall apply only if—

"(A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and

"(B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to advice requested on or after the date of the enactment of this Act.

SEC. 767. TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Subchapter A of chapter 80 of the 1986 Code (relating to general rules for application of the internal revenue laws) is amended by adding at the end thereof the following new section:

"SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

"(a) AUTHORITY TO ISSUE.—Upon application filed by a taxpayer with the Office of Ombudsman (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Ombudsman may issue a Taxpayer Assistance Order if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary.

"(b) TERMS OF A TAXPAYER ASSISTANCE ORDER.—The terms of a Taxpayer Assistance Order may require the Secretary—

"(1) to release property of the taxpayer levied upon, or

"(2) to cease any action, or refrain from taking any action, with respect to the taxpayer under—

"(A) chapter 64 (relating to collection),

"(B) subchapter B of chapter 70 (relating to bankruptcy and receiverships),

"(C) chapter 78 (relating to discovery of liability and enforcement of title), or

"(D) any other provision of law which is specifically described by the Ombudsman in such order.

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Ombudsman under this section may be modified or rescinded only by the Ombudsman, a district director, or superiors of such director.

"(d) SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.—The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

"(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the Ombudsman's decision with respect to such application, and

"(2) any period specified by the Ombudsman in a Taxpayer Assistance Order.

"(e) INDEPENDENT ACTION OF OMBUDSMAN.—Nothing in this section shall prevent the Ombudsman from taking any action in the absence of an application under subsection (a).

"(f) OMBUDSMAN.—For purposes of this section, the term 'Ombudsman' includes any designee of the Ombudsman."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7811. Taxpayer Assistance Orders."

(c) ISSUANCE OF REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall issue such regulations as the Secretary deems necessary within 90 days of the date of the enactment of this Act in order to carry out the purposes of section 7811 of the 1986 Code (as added by this section) and to ensure taxpayers uniform access to administrative procedures.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 768. OFFICE OF INSPECTOR GENERAL.

(a) IN GENERAL.—Paragraph (1) of section 2 of the Inspector General Act of 1978 (5 U.S.C. App. 3) (relating to the purpose and establishment of offices of inspector general and the departments and agencies involved) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) ADDITION OF DEPARTMENT OF THE TREASURY TO LIST OF COVERED ESTABLISHMENTS.—Section 11 of such Act (relating to definitions) is amended—

(1) by striking out "or Transportation" in paragraphs (1) and (2) and inserting in lieu thereof "Transportation, or the Treasury",

(2) by inserting "or the Commissioner of Internal Revenue" before "as the case may be", and

(3) by inserting "Internal Revenue Service" before "as the case may be".

(c) TRANSFER OF EXISTING AUDIT AND INVESTIGATION UNITS.—Paragraph (1) of section 9(a) of such Act (relating to transfer of functions) is amended—

(1) by redesignating subparagraphs (I), (J), (K), (L), (M), and (N) as subparagraphs (K), (L), (M), (N), (O), and (P), respectively, and

(2) by inserting after subparagraph (H) the following new subparagraphs:

"(I) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States Customs Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;

"(J) of the Department of the Treasury, in the Internal Revenue Service of such department, the office of that service referred to as the 'Office of Assistant Commissioner (Inspection), Internal Revenue Service';".

(d) SPECIAL PROVISIONS RELATING TO DEPARTMENT OF THE TREASURY.—The Inspector General Act of 1978 is amended by inserting after section 8A the following new section:

"SPECIAL PROVISIONS REGARDING THE DEPARTMENT OF THE TREASURY

"SEC. 8B. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service. The head of each such office shall report to the Inspector General the significant investigative activities being carried out by such office.

"(b) Notwithstanding subsection (a), the Inspector General of the Department of the Treasury may conduct an investigation of any officer or employee of such Department (other than the Internal Revenue Service) if—

"(1) the Secretary of the Treasury or the Deputy Secretary of the Treasury requests the Inspector General to conduct an investigation;

"(2) the investigation concerns senior officers or employees of the Department of the Treasury, including officers appointed by the President, members of the Senior Executive Service, and individuals in positions classified at grade GS-15 of the General Schedule or above or classified at a grade equivalent to such grade or above such equivalent grade; or

"(3) the investigation involves alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.

"(c) If the Inspector General of the Department of the Treasury initiates an investigation under subsection (b), and the officer or employee of the Department of the Treasury subject to investigation is employed by or attached to a bureau or service referred to in subsection (a), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (a) with written notice that the Inspector General has initiated such an investigation. If the Inspector General issues a notice under the preceding sentence, no other investigation shall be initiated into the matter under investigation by the Inspector General and any other investigation of such matter shall cease.

"(d)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury and the Inspector General of the Internal Revenue Service shall be under the authority, direction, and control of the Secretary of the Treasury and the Commissioner of Internal Revenue, respectively, with respect to audits or investigations, or the issuance of subpenas, which require access to information concerning—

"(A) ongoing criminal investigations or proceedings;

"(B) sensitive undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

"(E) intelligence or counterintelligence matters; or

"(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 8, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94-524).

"(2) With respect to the information described in paragraph (1), the Secretary of the Treasury or the Commissioner of Internal Revenue may prohibit the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service, respectively, from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Secretary or the Commissioner determines that such prohibition is necessary to preserve the confidentiality of or prevent the disclosure of any information described in paragraph (1).

"(3)(A) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing of such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Joint Committee on Taxation, together with any comments the Inspector General deems appropriate.

"(B) If the Commissioner of Internal Revenue exercises any power under paragraph (1) or (2), the Commissioner shall notify the Inspector General of the Internal Revenue Service in writing of such exercise. Within 30 days after receipt of such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs and the Committee on Finance of the Senate and to the Committee on Government Operations and the Committee on Ways and Means of the House of Representatives.

"(e) In addition to the standards prescribed by the first sentence of section 3(a), the Inspector General of the Internal Revenue Service shall at the time of appointment be in a career reserved position in the Senior Executive Service in the Internal Revenue Service as defined under section 3132(a)(8) of title 5, United States Code, with demonstrated ability in investigative techniques or internal audit functions with respect to the programs and operations of the Internal Revenue Service.

"(f)(1) In addition to the duties and responsibilities specified in this Act, the Inspector General of the Internal Revenue Service shall perform such duties and exercise such powers as may be prescribed by the Commissioner of Internal Revenue, to the extent such duties and powers are not inconsistent with the purposes of this Act.

"(2) No audit or investigation conducted by the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service shall affect a final decision of the Secretary of the Treasury or his designee made pursuant to section 6201 of the Internal Revenue Code of 1986 or described in section 6406 of such Code."

(e) Disclosure of Tax Returns and Return Information.—Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

(f) Conforming Amendment.—Section 5315 of title 5, United States Code (relating to positions of level IV) is amended by adding at the end thereof the following new items:

"Inspector General, Department of the Treasury.

"Inspector General, Internal Revenue Service."

(g) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 769. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) In General.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate enforcement officers, appeals officers, or reviewers, or

(2) to impose or suggest production quotas or goals.

(b) Application of IRS Policy Statement.—The Internal Revenue Service shall not be treated as failing to meet the requirements of subsection (a) if the Service follows the policy statement of the Service regarding employee evaluation (as in effect on the date of the enactment of this Act) in a manner which does not violate subsection (a).

(c) Certification.—Each district director shall certify quarterly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(c) Effective Date.—The provisions of this section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 770. PROCEDURES RELATING TO INTERNAL REVENUE SERVICE REGULATIONS.

(a) In General.—Section 7805 of the 1986 Code (relating to rules and regulations) is amended by adding at the end thereof the following new subsections:

"(e) Temporary Regulations.—

"(1) Issuance.—Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

"(2) 2-year duration.—Any temporary regulation shall expire within 2 years after the date of issuance of such regulation.

"(f) Impact of Regulations on Small Business Reviewed.—After the publication of any proposed regulation or before the promulgation of any final regulation by the Secretary, the Secretary shall submit such regulation to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business. The Administrator shall have 4 weeks from the date of submission to respond."

(b) Effective Date.—The provisions of this section shall apply to any regulation issued after the date of the enactment of this Act.

SEC. 771. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

(a) In General.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions), as amended by section 765(a), is further amended by adding at the end thereof the following new section:

"SEC. 7521. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

"Any tax due notice or deficiency notice, including notices described in sections 6155, 6212, and 6303, shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. An inadequate description under the preceding sentence shall not invalidate such notice."

(b) Clerical Amendment.—The table of sections for chapter 77 of the 1986 Code, as amended by section 765(c), is further amended by adding at the end thereof the following new item:

"Sec. 7521. Content of tax due and deficiency notices."

(c) Effective Date.—The amendment made by subsection (a) shall apply to mailings made after the date which is 180 days after the date of enactment of this Act.

SEC. 772. INSTALLMENT PAYMENT OF TAX LIABILITY.

(a) In General.—Subchapter A of chapter 62 of the 1986 Code (relating to place and due date for payment of tax) is amended by adding at the end thereof the following new section:

"SEC. 6159. AGREEMENTS FOR PAYMENT OF TAX LIABILITY IN INSTALLMENTS.

"(a) Authorization of Agreements.—The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to satisfy liability for payment of any tax in installment payments if the Secretary determines that such agreement will facilitate collection of such liability.

"(b) Extent To Which Agreements Remain in Effect.—

"(1) In general.—Except as otherwise provided in this subsection, any agreement entered into by the Secretary under subsection (a) shall remain in effect for the term of the agreement.

"(2) Inadequate information or jeopardy.—The Secretary may terminate any agreement entered into by the Secretary under subsection (a) if—

"(A) information which the taxpayer provided (upon request of the Secretary) to the Secretary prior to the date such agreement was entered into was inaccurate or incomplete, or

"(B) the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

"(3) Subsequent change in financial conditions.—

"(A) In general.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

"(B) Notice.—Action may be taken by the Secretary under subparagraph (A) only if—

"(i) notice of such determination is provided to the taxpayer no later than 30 days prior to the date of such action, and

"(ii) such notice includes the reasons why the Secretary believes a significant change in the financial condition of the taxpayer has occurred.

"(4) Failure to pay an installment or any other tax liability when due or to provide requested financial information.—The Secretary may alter, modify, or terminate an agreement entered into by the Secretary under subsection (a) in the case of the failure of the taxpayer—

"(A) to pay any installment at the time such installment payment is due under such agreement,

"(B) to pay any other tax liability at the time such liability is due, or

"(C) to provide a financial condition update as requested by the Secretary."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 6601(b) of the 1986 Code (relating to last day prescribed for payment) is amended by inserting "or any installment agreement entered into under section 6159" after "time for payment".

(2) The table of sections for subchapter A of chapter 62 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 6159. Agreements for payment of tax liability in installments."

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 773. ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES.

(a) In General.—Section 7802 of the 1986 Code (relating to Commissioner of Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations) is amended by adding at the end thereof the following new subsection:

"(c) Assistant Commissioner (Taxpayer Services).—There is established within the Internal Revenue Service an office to be known as the 'Office for Taxpayers Services' to be under the supervision and direction of an Assistant Commissioner of the Internal Revenue. The Assistant Commissioner shall be responsible for telephone, walk-in, and educational services, and the design and production of tax and informational forms."

(b) Annual Reports to Congress.—The Assistant Commissioner (Taxpayer Services) and the Taxpayer Ombudsman for the Internal Revenue Service shall jointly make an annual report regarding the quality of taxpayer services provided. Such report shall be made to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subpart B—Levy and Lien Provisions

SEC. 774. LEVY AND DISTRAINT.

(a) Notice.—Section 6331(d) of the 1986 Code (relating to levy and distraint) is amended—

(1) by striking out "10 days" in paragraph (2) and inserting in lieu thereof "30 days",

(2) by striking out "10-day requirement" in the heading of paragraph (2) and inserting in lieu thereof "30-day requirement", and

(3) by adding at the end thereof the following new paragraph:

"(4) Information included with notice.—The notice required under paragraph (1)—

"(A) shall cite the sections of this title which relate to levy on property, sale of property, release of lien on property, and redemption of property, and

"(B) shall include a description of—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

"(v) the provisions of this title relating to redemption of property and release of liens on property, and

"(vi) the procedures applicable to the redemption of property and the release of a lien on property under this title."

(b) Effect of Levy on Salary and Wages.—

(1) In general.—Subsection (e) of section 6331 of the 1986 Code (relating to levy and distraint) is amended to read as follows:

"(e) Continuing Levy on Salary and Wages.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343."

(2) Cross reference.—Section 6331(f) of the 1986 Code (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For release and notice of release of levy, see section 6343."

(c) Property Exempt From Levy.—

(1) Fuel, provisions, furniture, personal effects, books, tools, and machinery.—Section 6334 of the 1986 Code (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(e) Adjustments for Inflation for Certain Property.—In the case of calendar years 1989 and 1990, each dollar amount contained in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(1) such dollar amounts, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year.

In the case of any calendar year after 1990, such dollar amounts shall be such dollar amounts in effect in 1990."

(2) Wages, salary, and other income.—

(A) Increase in amount exempt.—Paragraph (1) of section 6334(d) of the 1986 Code (relating to exempt amount of wages, salary, or other income) is amended to read as follows:

"(1) Individuals on weekly basis.—In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount."

(B) Exempt amount defined.—Subsection (d) of section 6334 of the 1986 Code (relating to property exempt from levy) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Exempt amount.—For purposes of paragraph (1), the term 'exempt amount' means an amount equal to—

"(A) the sum of—

"(i) the standard deduction, and

"(ii) the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs, divided by

"(B) 52."

(3) Property exempt in absence of approval or jeopardy.—

(A) In general.—Subsection (a) of section 6334 of the 1986 Code (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(12) Property exempt in absence of certain approval or jeopardy.—Except to the extent provided in subsection (f)—

"(A) the principal residence of the taxpayer (within the meaning of section 1034), and

"(B) any tangible personal property essential in carrying on the trade or business of the taxpayer, but only if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business."

(B) Levy permitted in case of jeopardy or approval by certain officials.—Section 6334 of the 1986 Code, as amended by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) Levy Allowed on Certain Property in Case of Jeopardy or Certain Approval.—Property described in subsection (a)(12) shall not be exempt from levy if—

"(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

"(2) the Secretary finds that the collection of tax is in jeopardy."

(d) Uneconomical Levy; Levy on Appearance Date of Summons.—Section 6331 of the 1986 Code (relating to levy and distraint) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsections:

"(f) Uneconomical Levy.—No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

"(g) Levy on Appearance Date of Summons.—

"(1) In general.—No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

"(2) No application in case of jeopardy.—This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy."

(e) Surrender of Bank Accounts Subject to Levy Only After 21 Days.—

(1) In general.—Section 6332 of the 1986 Code (relating to surrender of property subject to levy) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Special Rule for Banks.—Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy."

(2) Conforming amendments.—

(A) Subsection (a) of section 6332 of the 1986 Code is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)"

(B) Subsection (e) of section 6332 of the 1986 Code, as redesignated by subsection (a), is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)(1)"

(f) Release of Levy.—Subsection (a) of section 6343 of the 1986 Code (relating to release of levy) is amended to read as follows:

"(a) Release of Levy and Notice of Release.—

"(1) In general.—Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

"(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

"(B) release of such levy will facilitate the collection of such liability,

"(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

"(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

"(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

"(2) Subsequent levy.—The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property."

(g) Effective Date.—The amendments made by this section shall apply to levies issued 90 days after the date of the enactment of this Act.

SEC. 775. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES.

(a) IN GENERAL.—Subsection (a)(1) of section 7429 of the 1986 Code (relating to review of jeopardy assessment procedures) is amended—

(1) by inserting "or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a)," after "6862,", and

(2) by inserting "or levy" after "such assessment".

(b) ADMINISTRATIVE DETERMINATIONS.—Paragraph (3) of section 7429(a) of the 1986 Code (relating to redetermination by the Secretary) is amended to read as follows:

"(3) REDETERMINATION BY SECRETARY.—After a request for review is made under paragraph (2), the Secretary shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances."

(c) TAX COURT REVIEW JURISDICTION.—Subsection (b) of section 7429 of the 1986 Code is amended to read as follows:

"(b) JUDICIAL REVIEW.—

"(1) PROCEEDINGS PERMITTED.—Within 90 days after the earlier of—

"(A) the day the Secretary notifies the taxpayer of the Secretary's determination described in subsection (a)(3), or

"(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States for a determination under this subsection in the court with jurisdiction determined under paragraph (2).

"(2) JURISDICTION FOR DETERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the district courts of the United States shall have exclusive jurisdiction over any civil action for a determination under this subsection.

"(B) TAX COURT.—If a petition for a redetermination of a deficiency under section 6213(a) has been timely filed with the Tax Court before the making of an assessment or levy that is subject to the review procedures of this section, and 1 or more of the taxes and taxable periods before the Tax Court because of such petition is also included in the written statement that is provided to the taxpayer under subsection (a), then the Tax Court also shall have jurisdiction over any civil action for a determination under this subsection with respect to all the taxes and taxable periods included in such written statement.

"(3) DETERMINATION BY COURT.—Within 20 days after a proceeding is commenced under paragraph (1), the court shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.

If the court determines that proper service was not made on the United States or on the Secretary, as may be appropriate, within 5 days after the date of the commencement of the proceeding, then the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States or on the Secretary, as may be appropriate.

"(4) ORDER OF COURT.—If the court determines that the making of such levy is unreasonable, that the making of such assessment is unreasonable, or that the amount assessed or demanded is inappropriate, then the court may order the Secretary to release such levy, to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate."

(d) VENUE.—Section 7429(e) of the 1986 Code (relating to venue) is amended to read as follows:

"(e) VENUE.—

"(1) DISTRICT COURT.—A civil action in a district court under subsection (b) shall be commenced only in the judicial district described in section 1402(a) (1) or (2) of title 28, United States Code.

"(2) TRANSFER OF ACTIONS.—If a civil action is filed under subsection (b) with the Tax Court and such court finds that there is want of jurisdiction because of the jurisdiction provisions of subsection (b)(2), then the Tax Court shall, if such court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed. Any civil action so transferred shall proceed as if such action had been filed in the district court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred."

(e) CONFORMING AMENDMENTS.—

(1) Section 7429(c) of the 1986 Code (relating to extension of 20-day period where taxpayer so requests) and section 7429(f) (relating to finality of determination) are amended by striking out "district" each place it appears.

(2) Section 7429(g) of the 1986 Code (relating to burden of proof) is amended—

(A) by inserting "the making of a levy described in subsection (a)(1) or" after "whether" in paragraph (1),

(B) by striking out "TERMINATION" in the heading of paragraph (1) and inserting in lieu thereof "LEVY, TERMINATION,", and

(C) by striking out "an action" and inserting in lieu thereof "a proceeding" in paragraphs (1) and (2).

(3) The heading of section 7429 of the 1986 Code is amended by inserting "levy or" after "jeopardy".

(4) The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by inserting "levy or" after "jeopardy" in the item relating to section 7429.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to jeopardy levies issued and assessments made after the date of the enactment of this Act.

SEC. 776. ADMINISTRATIVE APPEAL OF LIENS.

(a) ESTABLISHMENT OF ADMINISTRATIVE APPEAL FOR DISPUTED LIENS.—Subchapter C of chapter 64 of the 1986 Code (relating to lien for taxes) is amended by redesignating section 6326 as section 6327 and inserting after section 6325 the following new section:

"SEC. 6326. ADMINISTRATIVE APPEAL OF LIENS.

"(a) IN GENERAL.—In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien."

"(b) CERTIFICATE OF RELEASE.—If the Secretary determines that the filing of the notice of any lien was erroneous, the Secretary shall immediately issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous."

(b) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe the regulations necessary to implement the administrative appeal provided for in the amendment made by subsection (a) within 180 days after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 64 of the 1986 Code is amended by striking out the item relating to section 6326 and inserting in lieu thereof the following:

"Sec. 6326. Administrative appeal of liens.

"Sec. 6327. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subpart C—Proceedings by Taxpayers

SEC. 777. AWARDING OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

(a) IN GENERAL.—Section 7430 of the 1986 Code is amended to read as follows:

"SEC. 7430. AWARDING OF COSTS AND CERTAIN FEES.

"(a) IN GENERAL.—In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, the prevailing party may be awarded a judgment or a settlement for—

"(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

"(2) reasonable litigation costs incurred in connection with such court proceeding.

"(b) LIMITATIONS.—

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) in any court proceeding unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service.

"(2) ONLY COSTS ALLOCABLE TO THE UNITED STATES.—An award under subsection (a) shall be made only for reasonable litigation and administrative costs which are allocable to the United States and not to any other party.

"(3) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

"(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) EXCEPTION FOR SECTION 501(c)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

"(4) COSTS DENIED WHERE PARTY PREVAILING PROTRACTS PROCEEDINGS.—No award for reasonable litigation and administrative costs may be made under subsection (a) with respect to any portion of the administrative or court proceeding during which the prevailing party has unreasonably protracted such proceeding.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REASONABLE LITIGATION COSTS.—The term 'reasonable litigation costs' includes—

"(A) reasonable court costs, and

"(B) based upon prevailing market rates for the kind or quality of services furnished—

"(i) the reasonable expenses of expert witnesses in connection with a court proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

"(ii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding, except that such fees shall not be in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for such proceeding, justifies a higher rate.

"(2) REASONABLE ADMINISTRATIVE COSTS.—The term 'reasonable administrative costs' means—

"(A) any administrative fees or similar charges imposed by the Internal Revenue Service, and

"(B) expenses, costs, and fees described in paragraph (1)(B), except that any determination made by the court under clause (ii) or (iii) thereof shall be made by the Internal Revenue Service in cases where the determination under paragraph (4)(B) of the awarding of reasonable administrative costs is made by the Internal Revenue Service.

Such term shall only include costs incurred on or after the earlier of (i) the date of the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals, or (ii) the date of the notice of deficiency.

"(3) ATTORNEY'S FEES.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

"(4) PREVAILING PARTY.—

"(A) IN GENERAL.—The term 'prevailing party' means any party in any proceeding to which subsection (a) applies (other than the United States or any creditor of the taxpayer involved)—

"(i) with respect to which the United States fails to establish that the position of the United States was substantially justified,

"(ii) which—

"(I) has substantially prevailed with respect to the amount in controversy, or

"(II) has substantially prevailed with respect to the most significant issue or set of issues presented, and

"(iii) which meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect).

"(B) DETERMINATION AS TO PREVAILING PARTY.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made by agreement of the parties or—

"(i) in the case where the final determination with respect to the tax, interest, or penalty is made at the administrative level, by the Internal Revenue Service, or

"(ii) in the case where such final determination is made by a court, the court.

"(5) ADMINISTRATIVE PROCEEDINGS.—The term 'administrative proceeding' means any procedure or other action before the Internal Revenue Service.

"(6) COURT PROCEEDINGS.—The term 'court proceeding' means any civil action brought in a court of the United States (including the Tax Court and the United States Claims Court).

"(7) POSITION OF UNITED STATES.—The term 'position of the United States' means the position taken by the United States in the proceeding to which subsection (a) applies as of the later of—

"(A) the date of the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals (or if earlier, the date of the notice of deficiency), or

"(B) the date by which the taxpayer has presented the relevant evidence within the control of the taxpayer and legal arguments with respect to such proceeding to examination or service center personnel of the Internal Revenue Service.

"(d) SPECIAL RULES FOR PAYMENT OF COSTS.—

"(1) REASONABLE ADMINISTRATIVE COSTS.—An award for reasonable administrative costs shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(2) REASONABLE LITIGATION COSTS.—An award for reasonable litigation costs shall be payable in the case of the Tax Court in the same manner as such an award by a district court.

"(e) MULTIPLE ACTIONS.—For purposes of this section, in the case of —

"(1) multiple actions which could have been joined or consolidated, or

"(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single court proceeding in the same court,

such actions or cases shall be treated as 1 court proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated.

"(f) RIGHT OF APPEAL.—

"(1) COURT PROCEEDINGS.—An order granting or denying (in whole or in part) an award for reasonable litigation or administrative costs under subsection (a) in a court proceeding, shall be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

"(2) ADMINISTRATIVE PROCEEDINGS.—A decision granting or denying (in whole or in part) an award for reasonable administrative costs under subsection (a) by the Internal Revenue Service shall be subject to appeal to the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute)."

(b) CONFORMING AMENDMENT.—Section 504 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) No award may be made under this section for costs, fees, or other expenses which may be awarded under section 7430 of the Internal Revenue Code of 1986."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by striking out "court" in the item relating to section 7430.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 778. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO FAILURE TO RELEASE LIEN.

(a) IN GENERAL.—Subchapter B of chapter 76 of the 1986 Code (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7432 as section 7433 and by inserting after section 7431 the following new section:

"SEC. 7432. CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN.

"(a) IN GENERAL.—If any officer or employee of the Internal Revenue Service knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) actual, direct economic damages sustained by the plaintiff which, but for the actions of the defendant, would not have been sustained, or

"(B) $100 per day for each day occurring after the date which is 10 days after the taxpayer has notified the Secretary in writing (in such form and manner as the Secretary may provide) of such failure after the end of the period described in section 6325, and

"(2) the costs of the action.

"(c) TAX COURT JURISDICTION.—The Tax Court shall have jurisdiction of any action brought under subsection (a) in the same manner as a claim for refund.

"(d) SETTLEMENT AND PAYMENT AUTHORITY.—The Secretary may settle any claims that could have been filed under this section. Such claims shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(e) LIMITATIONS.—

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) MITIGATION OF DAMAGES.—The amount of damages awarded under subsection (b)(1)(A) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(3) LIMITATION ON PER DIEM DAMAGES.—No award for damages described in subsection (b)(1)(B) shall exceed $1,000.

"(4) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the failure to release a lien under section 6325 by the defendant."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by striking out the item relating to section 7432 and inserting in lieu thereof the following new items:

"Sec. 7432. Civil damages for failure to release lien.

"Sec. 7433. Cross references."

(c) Effective Date.—The amendments made by this section shall apply to notices provided by the taxpayer under section 7432(b)(1)(B) of the 1986 Code, as added by this section, and damages arising after the date of the enactment of this Act.

SEC. 779. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO UNREASONABLE ACTIONS BY INTERNAL REVENUE SERVICE.

(a) In General.—Subchapter B of chapter 76 of the 1986 Code (relating to proceedings by taxpayers and third parties), as amended by section 778(a), is further amended by redesignating section 7433 as section 7434 and by inserting after section 7432 the following new section:

"SEC. 7433. CIVIL DAMAGES FOR UNREASONABLE ACTIONS.

"(a) In General.—If, in connection with any determination or collection of Federal tax, any officer or employee of the Internal Revenue Service carelessly, recklessly, or intentionally disregards any provision of Federal law, or any regulation promulgated under this title, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) Damages.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the determination or collection actions of the defendant, and

"(2) the costs of the action.

"(c) Tax Court Jurisdiction.—The Tax Court shall have jurisdiction of any action brought under subsection (a) in the same manner as a claim for refund.

"(d) Settlement and Payment Authority.—The Secretary may settle any claims that could be filed under this section. Such claims shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(e) Limitations.—

"(1) Requirement that administrative remedies be exhausted.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) Damages denied where plaintiff is contributorily negligent.—No award for damages may be made under subsection (b) if the plaintiff is found to have been contributorily negligent.

"(3) Mitigation of damages.—The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(4) Period for bringing action.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the actions."

(b) Damages for Frivolous or Groundless Claims.—

(1) In general.—Section 6673 of the 1986 Code (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended by inserting "(a) In General.—" before "Whenever" and by adding at the end thereof the following new subsection:

"(b) Claims Under Section 7433.—Whenever it appears to the court that the taxpayer's position in proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, damages in an amount not in excess of $10,000 shall be awarded to the United States by the court in the court's decision. Damages so awarded shall be assessed at the same time as the deficiency, if any, and shall be paid upon notice and demand from the Secretary and shall be collected as a part of the tax."

(2) Clerical amendment.—The heading for section 6673 of the 1986 Code is amended by striking out "tax".

(c) Clerical Amendment.—The table of sections for subchapter B of chapter 76 of the 1986 Code, as amended by section 778(b), is further amended by striking out the item relating to section 7433 and inserting in lieu thereof the following new items:

"Sec. 7433. Civil damages for unreasonable actions.

"Sec. 7434. Cross references."

(d) Effective Date.—The amendments made by this section shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

Subpart D—Tax Court Jurisdiction

SEC. 780. JURISDICTION TO RESTRAIN CERTAIN PREMATURE ASSESSMENTS.

(a) In General.—Section 6213(a) of the 1986 Code (relating to time for filing petition and restriction on assessment) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof ", including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition."

(b) Appeal of Order Restraining Assessment, Etc.—Section 7482(a) of the 1986 Code (relating to jurisdiction on appeal) is amended by adding at the end thereof the following new paragraph:

"(3) Certain orders entered under section 6213(a).—An order of the Tax Court which is entered under authority of section 6213(a) and which resolves a proceeding to restrain assessment or collection shall be treated as a decision of the Tax Court for purposes of this section and shall be subject to the same review by the United States Court of Appeals as a similar order of a district court."

(c) Effective Date.—The amendments made by this section shall apply to orders entered after the date of the enactment of this Act.

SEC. 781. JURISDICTION TO ENFORCE OVERPAYMENT DETERMINATIONS.

(a) In General.—Section 6512(b) of the 1986 Code (relating to overpayment determined by the Tax Court) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)" in paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting the following new paragraph after paragraph (1):

"(2) Jurisdiction to enforce.—

"(A) In general.—If, after 120 days after a decision of the Tax Court has become final, the Secretary has failed to refund the overpayment determined by the Tax Court, together with the interest thereon as provided in subchapter B of chapter 67, then the Tax Court, upon motion by the taxpayer, shall have jurisdiction to order the refund of such overpayment and interest.

"(B) Sanctions if failure to refund not substantially justified.—

"(i) Burden of proof.—In any proceeding under this paragraph, the burden of proof shall be on the Secretary to establish that the Secretary's failure to credit, offset, or refund the overpayment and interest to the taxpayer was substantially justified. The Secretary's failure to refund the overpayment and interest shall be conclusively presumed to be substantially justified to the extent of any credit or offset made pursuant to section 6402.

"(ii) No jurisdiction over credits and offsets.—In deciding whether the Secretary's failure to refund an overpayment and interest was substantially justified, and for that purpose only, the Tax Court shall have no jurisdiction over the validity or merits of any credits or offsets that the Secretary is authorized to make under section 6402 and that the Secretary claims as credits or offsets to the overpayment and interest.

"(iii) Sanctions.—If the Secretary does not establish that the Secretary's failure to refund the overpayment and interest was substantially justified, then the taxpayer shall be entitled to interest at a rate of 120 percent of the overpayment rate provided by section 6621(a)(1), such interest to begin on the later of—

"(I) the date the Tax Court determines under this paragraph that the Secretary's failure to refund the overpayment was not substantially justified, or

"(II) the 121st day after the decision of the Tax Court determining the overpayment under paragraph (1) becomes final.

"(iv) Reviewability.—Any order of the Tax Court disposing of a motion by the taxpayer under this paragraph shall be subject to review, but only with respect to the matters determined in such order."

(b) Amendments Adding Cross References.—

(1) Section 6214(e) of the 1986 Code is amended by striking out "Reference.—" and inserting in lieu thereof "References.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding at the end thereof the following new paragraph:

"(2) For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(2) Section 6512(c) of the 1986 Code is amended by striking out "Reference.—" and inserting in lieu thereof "References.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding at the end thereof the following new paragraph:

"(2) For provision giving the Tax Court jurisdiction to award reasonable litigation costs in proceedings to enforce an overpayment determined by such court, see section 7430."

(c) Effective Date.—The amendments made by this section shall apply to overpayments determined by the Tax Court which have not yet been refunded by the 90th day after the date of the enactment of this Act.

SEC. 782. JURISDICTION TO REVIEW CERTAIN SALES OF SEIZED PROPERTY.

(a) Jurisdiction to Review Certain Sales of Property.—Section 6863(b)(3) of the 1986 Code (relating to stay of sale of seized property pending Tax Court decision) is amended by adding at the end thereof the following new subparagraph:

"(C) Review by tax court.—If, but for the application of subparagraph (B), a sale would be prohibited by subparagraph (A)(iii), then the Tax Court shall have jurisdiction to review the Secretary's determination under subparagraph (B) that the property may be sold. Such review may be commenced upon motion by either the Secretary or the taxpayer. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court."

(b) Effective Date.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 783. JURISDICTION TO REDETERMINE INTEREST ON DEFICIENCIES.

(a) In General.—Section 7481 of the 1986 Code (relating to date when Tax Court decision becomes final) is amended by adding at the end thereof the following new subsection:

"(c) Jurisdiction Over Interest Determinations.—Notwithstanding subsection (a), if—

"(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

"(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer files a petition in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court."

(b) Conforming Amendments.—

(1) Section 6512(a) of the 1986 Code (relating to effect of petition to Tax Court) is amended by inserting after "section 6213(a)" the following: "(or 7481(c) with respect to a determination of statutory interest)".

(2) Subsection (a) of section 7481 of the 1986 Code is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)".

(c) Effective Date.—The amendments made by this section shall apply to assessments of deficiencies redetermined by the Tax Court made after the date of the enactment of this Act.

SEC. 784. JURISDICTION TO MODIFY DECISIONS IN CERTAIN ESTATE TAX CASES.

(a) In General.—Section 7481 of the 1986 Code (relating to date when Tax Court decision becomes final), as amended by section 783(a), is further amended by adding at the end thereof the following new subsection:

"(d) Decisions Relating To Estate Tax Extended Under Section 6166.—If with respect to a decedent's estate subject to a decision of the Tax Court—

"(1) the time for payment of an amount of tax imposed by chapter 11 is extended under section 6166, and

"(2) there is treated as an administrative expense under section 2053 either—

"(A) any amount of interest which a decedent's estate pays on any portion of the tax imposed by section 2001 on such estate for which the time of payment is extended under section 6166, or

"(B) interest on any estate, succession, legacy, or inheritance tax imposed by a State on such estate during the period of the extension of time for payment under section 6166,

then, upon a motion by the petitioner in such case in which such time for payment of tax has been extended under section 6166, the Tax Court may reopen the case solely to modify the Court's decision to reflect such estate's entitlement to a deduction for such administration expenses under section 2053 and may hold further trial solely with respect to the claim for such deduction if, within the discretion of the Tax Court, such a hearing is deemed necessary. An order of the Tax Court disposing of a motion under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) Conforming Amendments.—

(1) Section 6512(a) of the 1986 Code (relating to effect of petition to Tax Court), as amended by section , is further amended by striking out "interest)" and inserting in lieu thereof "interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court)".

(2) Subsection (a) of section 7481 of the 1986 Code, as amended by section 783(b)(2), is further amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)".

(c) Effective Date.—The amendments made by this section shall be effective with respect to Tax Court cases for which the decision is not final on the date of the enactment of this Act.

SEC. 785. REFUND JURISDICTION FOR THE UNITED STATES TAX COURT.

(a) In General.—Section 7442 of the 1986 Code (relating to jurisdiction of the Tax Court) is amended to read as follows:

"SEC. 7442. JURISDICTION.

"(a) General Rule.—The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926 (44 Stat. 10-87), or by laws enacted subsequent to February 26, 1926.

"(b) Refund Jurisdiction.—Subject to the provisions of subsection (c), the Tax Court and its divisions shall have original jurisdiction of any civil action against the Secretary for the recovery of any tax, addition to the tax, additional amount, or penalty (including interest thereon) which would be subject to the deficiency procedures of subchapter B of chapter 63 if the Secretary determined a deficiency therein. The jurisdiction shall include any counterclaim, set-off, or equitable recoupment against (or for) the taxpayer.

"(c) Limitations.—No civil action shall be commenced by a taxpayer in the Tax Court under subsection (b) unless—

"(1) there is then pending and awaiting submission in the Tax Court an action commenced by the taxpayer to contest a deficiency determined by the Secretary for a taxable period or type of tax different from the taxable period or type of tax which would be the subject of a civil action under subsection (b), and

"(2)(A) one or more issues in the civil action under subsection (b) is related by subject matter to one or more issues in the pending case, or

"(B) the result in the civil action under subsection (b) would affect the amount in controversy in the pending case, or the result in the pending case would affect the amount in controversy in a civil action under subsection (b).

"(d) Stay of Proceedings Where No Prior Audit.—If—

(1) a civil action is filed in the Tax Court under subsection (b), and

(2) the Secretary shows to the satisfaction of a judge of the Tax Court or a special trial judge of the Court that the Secretary has not examined books and witnesses under section 7602 for the taxable period or periods or type of tax involved in the civil action filed under subsection (b),

all proceedings in the Tax Court in both the pending case and the civil action under subsection (b) shall be stayed for a period of 180 days. The stay of proceedings under this subsection may be extended for an additional period or periods under extraordinary circumstances for good cause shown. During any stay of proceedings in a civil action under subsection (b), the provisions of chapter 78 (relating to discovery of liability and enforcement of title) shall be applied with regard to the tax liabilities in dispute in such civil action as though the civil action had not been brought in the Tax Court.

"(e) Transfer of Actions.—If a civil action is filed under subsection (b) with the Tax Court and such Court finds that there is want of jurisdiction because of the provisions of subsection (c), then the Tax Court shall, if such Court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed or to the United States Claims Court, at the election of the taxpayer. Any civil action so transferred shall proceed as if such action had been filed in the court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred."

(b) Conforming Amendments.—

(1) Amendment of section 6212.—Paragraph (1) of section 6212(c) of the 1986 Code (relating to further deficiency letters restricted) is amended by inserting "or if the taxpayer has commenced a proceeding under section 7442(b)," after "section 6213(a),".

(2) Amendment of section 6214.—Subsection (a) of section 6214 of the 1986 Code (relating to determinations by Tax Court) is amended to read as follows:

"(a) Jurisdiction as to Increase of Deficiency, Additional Amounts, or Additions to the Tax.—

"(1) Jurisdiction to determine.—Except as provided by paragraph (2) and by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or any addition to the tax should be assessed, if claim therefor is asserted by the Secretary at or before the hearing or a rehearing.

"(2) Limit on determination.—In the case of any proceeding under section 7442(b), no deficiency shall be determined unless the Tax Court determines as part of the Court's decision that such deficiency was asserted by the Secretary in an appropriate pleading filed with the Tax Court within the period of limitations provided in section 6501."

(3) Amendment of section 6228.—Paragraphs (1)(B) and (2)(A)(i) of section 6228(b) of the 1986 Code (relating to certain requests for administrative adjustment) are each amended by inserting "or 7442(b)" after "section 7422".

(4) Amendment of section 6512.—Paragraph (1) of section 6512(b) of the 1986 Code (relating to overpayment determined by Tax Court) is amended by inserting "if the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes), if the taxpayer files a petition with the Tax Court within the time prescribed by section 6213(a), and" after "section 7463,".

(5) Amendments of section 7422.—

(A) The first sentence of paragraph (1) of section 7422(f) of the 1986 Code (relating to limitation on right of action for refund) is amended by striking out "A suit" and inserting in lieu thereof "Except as provided in section 7442(b), a suit"

(B) Section 7422 of the 1986 Code (relating to civil actions for refund) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Special Rule in Case of Notice of Deficiency.—If the Secretary has sent a notice of deficiency with respect to income tax for a taxable year, gift tax for a calendar year or calendar quarter, estate tax in respect to the taxable estate of a decedent, tax imposed by chapters 41, 42, 43, or 44 with respect to an act (or failure to act), or tax imposed by chapter 45 for a taxable period, no proceeding under section 7442(b) may be commenced in the Tax Court with respect to any such tax for so long as the taxpayer is permitted to file a petition with the Tax Court for a redetermination of such deficiency."

(6) Amendments of section 7423.—

(A) Section 7423 of the 1986 Code (relating to repayments to officers or employees) is amended to read as follows:

"SEC. 7423. RECOVERIES AGAINST OFFICERS OR EMPLOYEES.

"(a) Repayments to Officers or Employees.—The Secretary, subject to regulations prescribed by the Secretary, is authorized to repay—

"(1) Collections recovered.—To any officer or employee of the United States the full amount of such sums of money as may be recovered against such officer or employee in any court, for any internal revenue taxes collected by such officer or employee, with the cost and expense of suit.

"(2) Damages and costs.—All damages and costs recovered against any officer or employee of the United States in any suit brought against such officer or employee by reason of anything done in the due performance of such officer's or employee's official duty under this title.

"(b) No Execution Against Secretary.—Execution shall not issue against the Secretary for a refund on a final decision of the Tax Court in a proceeding under section 7442(b), but any amount payable as a result of such decision shall be payable in the same manner as such an award by a district court."

(B) The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by striking out the item relating to section 7423 and inserting in lieu thereof the following new item:

"Sec. 7423. Recoveries against officers or employees."

(7) Amendments of section 7451.—

(A) Section 7451 of the 1986 Code (relating to fee for filing petition) is amended by striking out "petition" and inserting in lieu thereof "INITIAL PLEADING", and by inserting "or for the recovery of any amount under section 7442(b)" after "section 6228(a)".

(B) The heading of section 7451 of the 1986 Code is amended by striking out "petition" and inserting in lieu thereof "initial pleading".

(C) The table of sections for part II of subchapter C of chapter 76 of the 1986 Code is amended by striking out "petition" in the item relating to section 7451 and inserting in lieu thereof "initial pleading".

(8) Amendment of section 7459.—The first sentence of subsection (c) of section 7459 of the 1986 Code (relating to reports and decisions) is amended by inserting "or overpayment" after "amount of the deficiency".

(9) Amendment of section 7463.—The first sentence of subsection (a) of section 7463 of the 1986 Code (relating to disputes involving $10,000 or less) is amended by striking out "petition" and inserting in lieu thereof "pleading", and by inserting "or for a refund," after "of a deficiency".

(10) Amendments of section 7482.—

(A) Subparagraph (A) of section 7482(b)(1) of the 1986 Code (relating to venue) is amended by inserting "or a refund" after "tax liability".

(B) Subparagraph (B) of section 7482(b)(1) of the 1986 Code is amended by inserting "or a refund" after "tax liability", and by inserting "or refund" after "the liability".

(C) The last sentence of section 7482(b)(1) of the 1986 Code is amended by striking out "petition" the first time it appears and inserting in lieu thereof "initial pleading", and by inserting "or a refund" after "tax liability".

(c) Effective Date.—The amendments made by this section shall apply with respect to proceedings commenced in the United States Tax Court on or after the date which is 6 months after the date of the enactment of this Act.

PART II—EXTENSION OF EXPIRING TAX PROVISIONS

SEC. 786. CARRYOVER OF POST-1987 LOW-INCOME HOUSING CREDIT DOLLAR AMOUNTS PERMITTED.

(a) In General.—Section 42(h)(6) of the 1986 Code (relating to housing credit dollar amount may not be carried over, etc.), as amended by section 102(l)(14)(A), is amended by adding at the end thereof the following new subparagraph:

"(E) Exception where 10 percent of cost incurred in 1st year.—

"(i) In general.—An allocation meets the requirements of this subparagraph if such allocation is made with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which ends the taxable year to which the allocation will 1st apply.

"(ii) Qualified building.—For purposes of clause (i), the term 'qualified building' means a building—

"(I) more than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of which is incurred before the close of the calendar year in which ends the taxable year to which the allocation will 1st apply, and

"(II) which is a new building (or is treated under subsection (e) as a new building) when placed in service."

(b) Conforming Amendment.—Section 42(h)(6)(B) of the 1986 Code, as amended by section 102(l)(14)(A), is amended by striking out "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)".

(c) Effective Date.—The amendments made by this section shall apply to amounts allocated in calendar years after 1987.

SEC. 787. EXTENSION OF AUTHORITY TO ISSUE MORTGAGE REVENUE BONDS AND MORTGAGE CREDIT CERTIFICATES.

(a) Bonds.—

(1) In general.—Subparagraph (B) of section 143(a)(1) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "June 30, 1989".

(2) Special Rule.—The date contained in section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such section 103A(c)(1) applies.

(b) Certificates.—Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages), as amended by section 113(a)(26) of this Act, is amended by striking out "for any calendar year after 1988" and inserting in lieu thereof "after June 30, 1989".

SEC. 788. EXTENSION AND MODIFICATION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) Extension.—Subsection (d) of section 127 of the 1986 Code (relating to educational assistance programs) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1988".

(b) Restrictions Relating to Education at the Graduate Level.—

(1) In general.—Paragraph (1) of section 127(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The term 'educational assistance' also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree."

(2) Exception for teaching and research assistants.—

(A) Paragraph (8) of section 127(c) of the 1986 Code is amended to read as follows:

"(8) Special rules for teaching and research assistants.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, the last sentence of paragraph (1) of this subsection shall not apply."

(B) Subsection (d) of section 117 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES FOR TEACHING AND RESEARCH ASSISTANTS.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, paragraph (2) shall be applied as if it did not contain the phrase '(below the graduate level)'. The preceding sentence shall not apply to taxable years beginning after December 31, 1988."

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 789. EXTENSION AND MODIFICATION OF EXCLUSION OF AMOUNTS RECEIVED UNDER GROUP LEGAL SERVICES PLANS.

(a) EXTENSION.—Section 120(e) of the 1986 Code is amended by striking out "1987" and inserting in lieu thereof "1988".

(b) LIMITATION ON VALUE OF INSURANCE PROTECTION WHICH MAY BE EXCLUDED.—

(1) IN GENERAL.—Section 120(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "No exclusion shall be allowed under this section with respect to an individual for any taxable year to the extent that the value of insurance (whether through an insurer or self-insurance) against legal costs incurred by the individual (or his spouse or dependents) provided under a qualified group legal services plan exceeds $70."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 125(e)(2) of the 1986 Code is amended by inserting "or any insurance under a qualified group legal services plan the value of which is so includable only because it exceeds the limitation of section 120(a)" after "section 79".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1987.

SEC. 790. EXTENSION OF SPECIAL STUDENT LOAN POOL ARBITRAGE RULES.

Subsections (c)(2)(B) and (f)(4)(D)(iv) of section 148 of the 1986 Code (relating to arbitrage) are each amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

SEC. 791. EXTENSION OF CERTAIN BUSINESS ENERGY CREDITS.

Each of the following provisions in the table under section 46(b)(2)(A) of the 1986 Code are amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989":

(1) The item relating to the 10 percent credit in clause (viii).

(2) The item relating to the 10 percent credit in clause (ix).

(3) Clause (x).

SEC. 792. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 6-MONTH EXTENSION.—Paragraph (4) of section 51(c) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

(b) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "and 1988" and inserting in lieu thereof "1988 and 1989".

(c) REDUCTION IN PERCENTAGE OF CREDIT FOR SUMMER YOUTH EMPLOYEES.—

(1) IN GENERAL.—Subparagraph (B) of section 51(d)(12) of the 1986 Code is amended by striking out clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after December 31, 1988.

SEC. 793. EXTENSION OF RESEARCH CREDIT.

Subsection (h) of section 41 of the 1986 Code (relating to credit for increasing research activities) is amended—

(1) by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "March 31, 1989",

(2) by striking out "January 1, 1989" each place it appears and inserting in lieu thereof "April 1, 1989", and

(3) by adding at the end thereof the following new paragraph:

"(3) COMPUTATION OF RESEARCH EXPENDITURES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), in the case of a taxable year which begins before April 1, 1989, and ends after December 31, 1988, the amount of the qualified research expenditures and basic research payments taken into account under subsection (a) for such taxable year shall be the applicable percentage of the amount of such expenditures and payments made during calendar year 1989.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage determined by dividing the number of months in the taxable year which occur during the period beginning January 1, 1989, and ending March 31, 1989, by 12."

SEC. 794. EXTENSION AND MODIFICATIONS OF PROVISIONS RELATING TO FINANCIAL INSTITUTIONS.

(a) 6-MONTH EXTENSION.—

(1) REORGANIZATIONS.—Paragraph (1) of section 904(c) of the Reform Act is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

(2) FSLIC FINANCIAL ASSISTANCE.—Paragraph (2)(A) of section 904(c) of the Reform Act is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

(3) NET OPERATING LOSS RULES.—The last sentence of section 382(l)(5)(F) of the 1986 Code is amended by striking out "December 31, 1988" and inserting in lieu thereof "June 30, 1989".

(b) APPLICATION OF CERTAIN PROVISIONS TO BANKS.—

(1) SPECIAL RULES FOR REORGANIZATIONS AND NET OPERATING LOSSES.—

(A) Section 368(a)(3)(D) of the 1986 Code (as in effect before the amendment made by section 904(a) of the Reform Act) is amended by adding at the end thereof the following new clause:

"(iv) In the case of a financial institution to which section 585 applies—

"(I) the term 'title 11 or similar case' means only a case in which the applicable authority (which shall be treated as the court in such case) makes the certification described in subclause (II), and

"(II) clause (ii) shall apply to such institution, except that for purposes of clause (ii)(III), the applicable authority must certify that the grounds set forth in such clause (modified in such manner as the Secretary determines necessary because such institution is not an institution to which section 593 applies) exist with respect to such transferor or will exist in the near future in the absence of action by the applicable authority.

For purposes of this clause, the term 'applicable authority' means the Comptroller of the Currency or the Federal Deposit Insurance Corporation, or if neither has the supervisory authority with respect to the transfer, the equivalent State authority."

(B) Subclause (I) of section 382(l)(5)(F)(iii) of the 1986 Code is amended by inserting "(as modified by section 368(a)(D)(iv))" after "section 368(a)(D)(ii)".

(C)(i) The amendment made by subparagraph (A) shall apply to acquisitions after December 31, 1988, and before July 1, 1989.

(ii) The amendment made by subparagraph (B) shall apply to any ownership change occurring after December 31, 1988, and before July 1, 1989.

(2) ASSISTANCE PAYMENTS.—

(A) Section 597(a) of the 1986 Code (as in effect before the amendments made by section 904(b) of the Reform Act) is amended by adding at the end thereof the following new sentence: "Gross income of a bank does not include any amount of money or other property received from the Federal Deposit Insurance Corporation pursuant to section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)), regardless of whether any note or other instrument is issued in exchange therefor."

(B) Section 597(b) of the 1986 Code (as so in effect) is amended by inserting "or bank" after "association".

(C)(i) The heading for section 597 of the 1986 Code (as so in effect) is amended by inserting "or FDIC" after "FSLIC".

(ii) The item relating to section 597 in part II of subchapter H of chapter 1 of the 1986 Code (as so in effect) is amended by inserting "or FDIC" after "FSLIC".

(D) The amendments made by this paragraph shall apply to transfers after December 31, 1988, and before July 1, 1989, except that such amendments shall also apply to transfers after June 30, 1989, pursuant to acquisitions after December 31, 1988, and before July 1, 1989.

(c) CERTAIN TAX ATTRIBUTES REDUCED BY 50 PERCENT OF FINANCIAL ASSISTANCE OF FSLIC AND FDIC.—

(1) IN GENERAL.—Section 597 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) REDUCTION OF TAX ATTRIBUTES BY 50 PERCENT OF AMOUNTS EXCLUDABLE UNDER SUBSECTION (a).—

"(1) IN GENERAL.—50 percent of any amount excludable under subsection (a) for any taxable year shall be applied to reduce the tax attributes of the taxpayer as provided in paragraph (2).

"(2) TAX ATTRIBUTES REDUCED; ORDER OF REDUCTION.—The reduction referred to in paragraph (1) shall be made in the following tax attributes in the following order:

"(A) NOL.—Any pre-assistance net operating loss for the taxable year.

"(B) INTEREST.—The amount of any interest with respect to which a deduction is allowable for the taxable year.

"(C) BUILT-IN PORTFOLIO LOSSES.—Recognized built-in portfolio losses for the taxable year.

"(3) PRE-ASSISTANCE NET OPERATING LOSS.—For purposes of paragraph (2)(A)—

"(A) IN GENERAL.—The pre-assistance net operating loss shall be determined in the same manner as a pre-change loss under section 382(d), except that—

"(i) the applicable financial institution shall be treated as the old loss corporation, and

"(ii) the determination date shall be substituted for the change date.

"(B) ORDERING RULE.—The reduction under paragraph (2)(A) shall be made in the carryovers in the order in which carryovers are taken into account under this chapter for the taxable year.

"(4) RECOGNIZED BUILT-IN PORTFOLIO LOSSES.—For purposes of paragraph (2)(C), recognized built-in portfolio losses shall be determined in the same manner as recognized built-in losses under section 382(h), except that—

"(A) the only assets taken into account shall be the loan portfolio of the applicable financial institution,

"(B) the rules of clauses (i) and (ii) of paragraph (3)(A) shall apply, and

"(C) there shall be no limit on the number of years in the recognition period.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) APPLICABLE FINANCIAL INSTITUTIONS.—The term 'applicable financial institutions' means the domestic building and loan association or bank the financial condition of which was determined by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation to require the financial assistance described in subsection (a).

"(B) DETERMINATION DATE.—The term 'determination date' means the date of the determination under subparagraph (A). Except as provided by the Secretary, any subsequent revision or modification of such determination shall be treated as made on the original determination date.

"(C) TAXABLE ASSET ACQUISITIONS.—In the case of any acquisition of the assets of any applicable financial institution to which section 381 does not apply, paragraph (1) shall not apply to any amount excludable under subsection (a) which are payments made at the time of the acquisition to the person acquiring such assets to make up the difference between the value of such assets and the liabilities assumed.

"(D) CARRYOVERS.—If 50 percent of the amount excludable under subsection (a) for any taxable year exceeds the amount of the tax attributes described in paragraph (2) for such taxable year, then, for purposes of this subsection, the amount excludable under subsection (a) for the succeeding taxable year shall be increased by an amount equal to twice the amount of such excess.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any transfer—

(A) after December 1, 1988, and before July 1, 1989, unless such transfer is pursuant to an acquisition occurring before January 1, 1989, and

(B) after June 30, 1989, if such transfer is pursuant to an acquisition occurring after December 31, 1988, and before July 1, 1989.

PART III—OTHER SUBSTANTIVE PROVISIONS

SEC. 795. AMENDMENTS TO UNIFORM CAPITALIZATION RULES.

(a) TREATMENT OF CERTAIN PRODUCERS OF CREATIVE PROPERTY.—Section 263A of the 1986 Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR FREE LANCE AUTHORS, PHOTOGRAPHERS, AND ARTISTS.—

"(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified creative expense.

"(2) QUALIFIED CREATIVE EXPENSE.—For purposes of this subsection, the term 'qualified creative expense' means any expense—

"(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a writer, photographer, or artist, and

"(B) which, without regard to this section, would be allowable as a deduction for the taxable year.

Such term does not include any expense related to printing, photographic plates, motion picture films, video tapes, or similar items.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) WRITER.—The term 'writer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a literary manuscript, musical composition (including any accompanying words), or dance score.

"(B) PHOTOGRAPHER.—The term 'photographer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a photograph or photographic negative or transparency.

"(C) ARTIST.—

"(i) IN GENERAL.—The term 'artist' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a picture, painting, sculpture, statue, etching, drawing, cartoon, graphic design, or original print edition.

"(ii) CRITERIA.—In determining whether any expense is paid or incurred in the trade or business of being an artist, the following criteria shall be taken into account:

"(I) The originality and uniqueness of the item created (or to be created).

"(II) The predominance of aesthetic value over utilitarian value of the item created (or to be created).

"(D) TREATMENT OF CERTAIN PERSONAL SERVICE CORPORATIONS.—

"(i) IN GENERAL.—In the case of a personal service corporation, this subsection shall apply to any expense of such corporation which directly relates to the activities of the qualified employee-owner in the same manner as if such expense were incurred by such employee-owner.

"(ii) QUALIFIED EMPLOYEE-OWNER.—The term 'qualified employee-owner' means any individual who is an employee-owner of the personal service corporation and who is a writer, photographer, or artist, but only if substantially all of the stock of such corporation is owned by such individual and members of his family (as defined in section 267(c)(4)).

"(iii) PERSONAL SERVICE CORPORATION.—For purposes of this subparagraph, the term 'personal service corporation' means any personal service corporation (as defined in section 269A(b))."

(b) TREATMENT OF ANIMALS PRODUCED IN FARMING BUSINESS.—

(1) IN GENERAL.—Subparagraph (A) of section 263A(d)(1) of the 1986 Code (relating to exception for farming businesses) is amended to read as follows:

"(A) IN GENERAL.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a preproductive period of 2 years or less."

(2) CONFORMING AMENDMENTS.—

(A) The heading of paragraph (1) of section 263A(d) of the 1986 Code is amended to read as follows:

"(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—".

(B) Subsections (d)(3) and (e) of section 263A of the 1986 Code are each amended by striking out "or animal" each place it appears.

(c) TREATMENT OF SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.—

(1) IN GENERAL.—Paragraph (3) of section 168(e) of the 1986 Code (relating to classification of property) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraphs:

"(D) 10.5-YEAR PROPERTY.—The term '10.5-year property' means any single purpose agricultural or horticultural structure (within the meaning of section 48(p))."

(2) TECHNICAL AMENDMENTS.—

(A) The table contained in paragraph (1) of section 168(c) of the 1986 Code (as amended by title I) is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

"10-year property..........	10 years
10.5-year property.........	10.5 years".

(B) Subparagraph (C) of section 168(e)(3) of the 1986 Code is amended by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(C) The table contained in subparagraph (B) of section 168(g)(3) of the 1986 Code is amended by striking out all that follows the item relating to subparagraph (C)(i) and inserting in lieu thereof the following new items:

"(D)	10.5
(E)(i).............................	24
(E)(ii)............................	24
(F)................................	50."

(D) The table contained in subparagraph (A) of section 467(e)(3) of the 1986 Code is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

"10-year property..........	10 years
10.5-year property.........	10.5 years".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to property placed in service after December 31, 1988.

(B) EXCEPTION.—The amendments made by this subsection shall not apply to any property if such property is placed in service before January 1, 1990, and if such property—

(i) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(ii) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

(d) TREATMENT OF PROPERTY USED IN A FARMING BUSINESS.—

(1) IN GENERAL.—Paragraph (2) of section 168(b) of the 1986 Code (as amended by title I) is amended by striking out "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) any property used in a farming business (within the meaning of section 263A(e)(4)), or".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(B) Exception.—The amendments made by this section shall not apply to any property if such property is placed in service before July 1, 1989, and if such property—

(i) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(ii) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

(e) Effective Dates.—

(1) In general.—Except as otherwise provided in subsections (c) or (d) or this paragraph, the amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

(2) Subsection (b).—

(A) In general.—The amendments made by subsection (b) shall apply to costs incurred after December 31, 1988, in taxable years ending after such date.

(B) Revocation of election.—If the taxpayer made an election under section 263A(d)(3) of the 1986 Code for a taxable year beginning before January 1, 1989, such taxpayer may, without the consent of the Secretary of the Treasury or his delegate, revoke such election effective for the taxpayer's 1st taxable year beginning after December 31, 1988.

SEC. 796. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) General Rule.—For purposes of sections 861(b), 862(b), and 863(b) of the 1986 Code, qualified research and experimental expenditures shall be allocated and apportioned as follows:

(1) Any qualified research and experimental expenditures expended solely to meet legal requirements imposed by a political entity with respect to the improvement or marketing of specific products or processes for purposes not reasonably expected to generate gross income (beyond de minimis amounts) outside the jurisdiction of the political entity shall be allocated only to gross income from sources within such jurisdiction.

(2) In the case of any qualified research and experimental expenditures (not allocated under paragraph (1)) to the extent—

(A) that such expenditures are attributable to activities conducted in the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(B) that such expenditures are attributable to activities conducted outside the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources outside the United States and deducted from such income in determining the amount of taxable income from sources outside the United States.

(3) The remaining portion of qualified research and experimental expenditures (not allocated under paragraphs (1) and (2)) shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income, except that, if the taxpayer elects to apportion on the basis of gross income, the amount apportioned to income from sources outside the United States shall be at least 30 percent of the amount which would be so apportioned on the basis of gross sales.

(b) Qualified Research and Experimental Expenditures.—For purposes of this section, the term "qualified research and experimental expenditures" means amounts which are research and experimental expenditures within the meaning of section 174 of the 1986 Code. For purposes of this subsection, rules similar to the rules of subsection (c) of section 174 of the 1986 Code shall apply.

(c) Special Rules for Expenditures Attributable to Activities Conducted in Space, Etc.—

(1) In general.—Any qualified research and experimental expenditures described in paragraph (2)—

(A) if incurred by a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted in the United States, and

(B) if incurred by a person other than a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted outside the United States.

(2) Description of expenditures.—For purposes of paragraph (1), qualified research and experimental expenditures are described in this paragraph if such expenditures are attributable to activities conducted—

(A) in space,

(B) on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States, or

(C) in Antarctica.

(d) Affiliated Group.—

(1) Except as provided in paragraph (2), the allocation and apportionment required by subsection (a) shall be determined as if all members of the affiliated group (as defined in subsection (e)(5) of section 864 of the 1986 Code) were a single corporation.

(2) For purposes of the allocation and apportionment required by subsection (a)—

(A) sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E) of the 1986 Code); and

(B) dividends from an electing corporation,

shall not be taken into account, except that this paragraph shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) of the 1986 Code is not in effect.

(3) The qualified research and experimental expenditures taken into account for purposes of subsection (a) shall be adjusted to reflect the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I) of the 1986 Code).

(4) The Secretary of the Treasury or his delegate may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by paragraph (3).

(5) Paragraph (6) of section 864(e) of the 1986 Code shall not apply to qualified research and experimental expenditures.

(e) Years to Which Section Applies.—

(1) In general.—Except as provided in this subsection, this section shall apply to the taxpayer's 1st taxable year beginning after August 1, 1987.

(2) Reduction in amounts to which section applies.—Notwithstanding paragraph (1), this section shall only apply to that portion of the qualified research and experimental expenditures for the taxable year referred to in paragraph (1) which bears the same ratio to the total amount of such expenditures as—

(A) the lesser of 4 months or the number of months in the taxable year, bears to

(B) the number of months in the taxable year.

SEC. 797. ELECTION TO BE TREATED AS DOMESTIC CORPORATION.

(a) In General.—Section 953 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) Election by Foreign Insurance Company To Be Treated as Domestic Corporation.—

"(1) In general.—If—

"(A) a foreign corporation is a controlled foreign corporation (as defined in section 957(a) by substituting '25 percent or more' for 'more than 50 percent' and by using the definition of United States shareholder under 953(c)(1)(A)),

"(B) such foreign corporation would qualify under part I or II of subchapter L for the taxable year if it were a domestic corporation,

"(C) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid, and

"(D) such foreign corporation makes an election to have this paragraph apply and waives all benefits to such corporation granted by the United States under any treaty,

for purposes of this title, such corporation shall be treated as a domestic corporation.

"(2) Period during which election is in effect.—

"(A) In general.—Except as provided in subparagraph (B), an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(B) Termination.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraphs (A), (B), and (C), of paragraph (1) for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

"(3) Treatment of losses.—If any corporation treated as a domestic corporation under this subsection is treated as a member of an affiliated group for purposes of chapter 6 (relating to consolidated returns), any loss of such corporation shall be treated as a dual consolidated loss (as defined in section 1503(d)).

"(4) Effect of election.—

"(A) In general.—For purposes of section 367, any foreign corporation making an election under paragraph (1) shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

"(B) Exception for pre-1988 earnings and profit.—

"(i) In general.—Earnings and profits of the foreign corporation accumulated in taxable years beginning before January 1, 1988, shall not be included in the gross income of the persons holding stock in such corporation by reason of subparagraph (A).

"(ii) TREATMENT OF DISTRIBUTIONS.—For purposes of this title, any distribution made by a corporation to which an election under paragraph (1) applies out of earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be treated as a distribution made by a foreign corporation.

"(iii) CERTAIN RULES TO CONTINUE TO APPLY TO PRE-1988 EARNINGS.—The provisions specified in clause (iv) shall be applied without regard to paragraph (1), except that, in the case of a corporation to which an election under paragraph (1) applies, only earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be taken into account.

"(iv) SPECIFIED PROVISIONS.—The provisions specified in this clause are:

"(I) Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

"(II) Subpart F of part III of subchapter N to the extent such subpart relates to earnings invested in United States property or amounts referred to in clause (ii) or (iii) of section 951(a)(1)(A).

"(III) Section 884 to the extent the foreign corporation reinvested 1987 earnings and profits in United States assets.

"(5) EFFECT OF TERMINATION.—For purposes of section 367, if—

"(A) an election is made by a corporation under paragraph (1) for any taxable year, and

"(B) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

"(6) ADDITIONAL TAX ON CORPORATION MAKING ELECTION.—

"(A) IN GENERAL.—If a corporation makes an election under paragraph (1), the amount of tax imposed by this chapter for the 1st taxable year to which such election applies shall be increased by the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax determined under this paragraph shall be equal to the lesser of—

"(i) ¾ of 1 percent of the aggregate amount of capital and accumulated surplus of the corporation as of December 31, 1987, or

"(ii) $1,500,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 798. REPEAL OF SECRETARIAL AUTHORITY TO PRESCRIBE CLASS LIVES.

Paragraph (1) of section 168(i) of the 1986 Code is amended—

(1) by adding at the end of subparagraph (B) the following new sentence: "Nothing in this subparagraph shall authorize the Secretary to prescribe class lives which are longer than the lives determined under subparagraph (A).", and

(2) by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

SEC. 799. REVERSION OF QUALIFIED PENSION PLAN ASSETS.

(a) TEMPORARY INCREASE IN EXCISE TAX ON REVERSION.—

(1) IN GENERAL.—In the case of any employer reversion from a qualified plan received after July 26, 1988, and before May 1, 1989, section 4980(a) of the Internal Revenue Code of 1986 shall be applied by substituting "60 percent" for "10 percent".

(2) CASES WHERE NOTICE GIVEN.—Paragraph (1) shall not apply to any reversion pursuant to a plan termination if—

(A) with respect to plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate required under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before July 27, 1988;

(B) with respect to plans subject to title I of such Act, a notice of intent to reduce future accruals required under section 204(h) of such Act was provided to participants in connection with the termination before July 27, 1988; or

(C) with respect to plans not subject to title I or title IV of such Act, the board of directors of the employer approved the termination or the employer took other binding action before July 27, 1988.

(b) TIME FOR PAYMENT OF TAX.—

(1) IN GENERAL.—Section 4980(c) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(4) TIME FOR PAYMENT OF TAX.—For purposes of subtitle F, the time for payment of the tax imposed by subsection (a) shall be the last day of the month following the month in which the employer reversion occurs."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to reversions received on or after May 1, 1989.

TITLE VIII—MEDICARE AND MEDICAID MINOR AND TECHNICAL AMENDMENTS

SEC. 801. HOSPITAL PAYMENTS FOR CATASTROPHIC ILLNESS.

(a) IN GENERAL.—Section 104(c)(2) of the Medicare Catastrophic Coverage Act of 1988 is amended—

(1) by striking "cost reporting periods beginning on or after October 1, 1988" and inserting "portions of cost reporting periods occurring on or after January 1, 1989"; and

(2) by inserting before the period at the end the following: ", without regard to whether such a hospital is paid on the basis described in subparagraph (A) or (B) of section 1886(b)(1) of such Act".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

SEC. 802. TREATMENT OF CERTAIN HOSPITALS AS RURAL HOSPITALS FOR CERTAIN PURPOSES.

(a) IN GENERAL.—Section 1886(d)(8) of the Social Security Act (42 U.S.C. 1395ww(d)(8)) is amended by adding at the end of subparagraph (C) the following new sentence: "For purposes of computing the wage indices under this section, hospitals to which subparagraph (B) applies shall be treated as rural hospitals.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to discharges occurring on or after October 1, 1989.

SEC. 803. DEMONSTRATION PROJECTS WITH RESPECT TO CHRONIC VENTILATOR-DEPENDENT UNITS IN HOSPITALS.

(a) IN GENERAL.—Section 429(a) of the Medicare Catastrophic Coverage Act of 1988 is amended by striking "up to" each place it appears and inserting in lieu thereof "at least".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

SEC. 804. ELECTION OF PERSONNEL POLICY FOR COMMISSION EMPLOYEES.

(a) IN GENERAL.—With respect to employees of the Prospective Payment Assessment Commission as described in section 1886(e)(2) of the Social Security Act (42 U.S.C. 1395ww(e)(2)) hired before December 22, 1987, such employees shall have the option to elect within 60 days of the date of enactment of this Act to be covered under either the personnel policy in effect with respect to such employees before December 22, 1987 or under the employees coverage provided under section 1886(e)(6)(D) of the Social Security Act.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of enactment of this Act.

SEC. 805. INCREASE IN AUTHORIZATION FOR THE PATIENT OUTCOME ASSESSMENT RESEARCH PROGRAM.

(a) IN GENERAL.—Section 1875(c)(3) of the Social Security Act (42 U.S.C. 1395ll(c)(3)) is amended to read as follows:

"(3)(A) For purposes of carrying out the research program, there are authorized to be appropriated—

"(i) from the Federal Hospital Insurance Trust Fund two-thirds of the amount specified in subparagraph (B), and

"(ii) from the Federal Supplementary Medical Insurance Trust Fund one-third of the amount specified in subparagraph (B).

"(B) The amount specified in this subparagraph is—

"(i) $7,500,000 for fiscal year 1988,

"(ii) $10,000,000 for fiscal year 1989,

"(iii) $20,000,000 for fiscal year 1990, and

"(iv) $30,000,000 for fiscal year 1991.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 806. PAYMENT ADJUSTMENT TO ORGANIZATIONS WITH RISK-SHARING CONTRACTS.

(a) IN GENERAL.—Any organization having a risk-sharing contract in effect under section 1876(g) of the Social Security Act on or after January 1, 1988, and before December 31, 1988, may submit to the Secretary of Health and Human Services a revised adjusted community rate for calendar year 1988, reflecting any increase in such rate resulting from the Secretary's manual transmittal clarifying eligibility guidelines for extended care services. If the Secretary approves such revised rate, the Secretary shall make additional payment to such eligible organization equal to the increase in such rate for such year. The Secretary shall make a determination with respect to such revised rate within 90 days after the revised rate is submitted by the eligible organization.

(b) EFFECTIVE DATE.—Subsection (a) shall become effective with respect to risk-sharing contracts in effect on or after January 1, 1988.

SEC. 807. FEE SCHEDULE FOR PAYMENTS TO CERTIFIED REGISTERED ANESTHETISTS.

(a) IN GENERAL.—Section 1833(l)(3)(B) of the Social Security Act (42 U.S.C. 1395(l)(3)(B)) is amended by inserting "plus applicable coinsurance" after "would have been paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective as if included in the amendments made by section 9320 of the Omnibus Budget Reconciliation Act of 1986.

SEC. 808. CLARIFICATION OF COVERED CERTIFIED NURSE-MIDWIFE SERVICES.

(a) IN GENERAL.—Section 1861(gg)(1) of the Social Security Act (42 U.S.C.

1395x(gg)(1)) is amended by adding at the end thereof ", whether or not such services are provided during the maternity cycle".

(b) Effective Date.—The amendment made by subsection (a) shall become effective as if included in the amendments made by section 4073 of the Omnibus Budget Reconciliation Act of 1987.

SEC. 809. COVERAGE OF PSYCHOLOGIST SERVICES WHEN PROVIDED ON-SITE AT A COMMUNITY HEALTH CENTER OR OFF-SITE AS PART OF A TREATMENT PLAN.

(a) In General.—Subsection (ii) of section 1861 of the Social Security Act (42 U.S.C. 1395x(ii)) is amended by striking "(as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act)" and inserting in lieu thereof "(as defined by the Secretary) on-site at a community mental health center (as such term is used in the Public Health Service Act), and such services necessarily furnished off-site (other than at an off-site office of such psychologist) as part of a treatment plan".

(b) Effective Date.—The amendment made by subsection (a) shall become effective as if included in the amendments made by section 4077(b) of the Omnibus Budget Reconciliation Act of 1987.

SEC. 810. TRIP FEES FOR CLINICAL LABORATORIES.

(a) In General.—Section 1833(h)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "In establishing a fee to cover the transportation and personnel expenses for trained personnel to travel to the location of an individual to collect a sample, the Secretary shall allow a laboratory to bill for such expenses on the basis of either (i) a flat fee per sample collection or (ii) the number of miles traveled and the personnel costs associated with the collection of each individual sample.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1989.

(c) Budget Neutrality.—The Secretary shall instruct carriers to modify fees in accordance with the amendment made by subsection (a) in such a manner that the total cost of such fees is the same as would have been the case without such amendment.

SEC. 811. REQUIREMENT OF PHYSICIAN CARE AND PLAN WITH RESPECT TO OUTPATIENT PHYSICAL THERAPY SERVICES LIMITED TO THE PROVISION OF SUCH SERVICES TO MEDICARE RECIPIENTS.

(a) In General.—Section 1861(p) of the Social Security Act (42 U.S.C. 1395x(p)) is amended by adding at the end thereof the following new sentence: "The requirements of this subsection that an individual be under the care of a physician, and that the services be provided pursuant to a plan that is established and reviewed by a physician, shall apply only to individuals with respect to whom payment may be made under this title.

(b) Effective Date.—The amendment made by subsection (a) shall become effective with respect to services provided after December 31, 1988.

SEC. 812. DELAY IN ISSUANCE OF FINAL REGULATIONS CONCERNING THE USE OF VOLUNTARY CONTRIBUTIONS OR PROVIDER-PAID TAXES BY STATES TO RECEIVE FEDERAL MATCHING FUNDS.

The Secretary of Health and Human Services shall not issue any final regulation prior to February 15, 1989, changing the treatment of voluntary contributions or provider-paid taxes utilized by States to receive Federal matching funds under title XIX of the Social Security Act.

SEC. 813. FORMULA MODIFICATION FOR DETERMINING STATE EXPENDITURES UNDER THE MEDICAID LONG-TERM CARE WAIVER PROGRAM.

(a) In General.—Section 1915(d)(5)(B) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by adding a new paragraph (6) as follows:

"(6) The Secretary shall adjust the projected amount determined under paragraph (5)(B) with respect to the State's expenditure for medical assistance under this title for skilled nursing facility services, intermediate care facility services, and home and community-based services for individuals who have attained the age of 65 for the base year to reflect the enactment of any amendment to this title which results in increased costs of providing such services, or requires additional long-term care services, under this title subsequent to the end of such base year.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective with respect to the determination of State expenditures beginning in waiver year 1989.

SEC. 814. EXTENSION OF TIME PERIOD FOR CERTAIN INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED TO SUBMIT PLANS OF CORRECTION OR REDUCTION.

(a) In General.—Section 1922 of the Social Security Act (42 U.S.C. 1396r-3) is amended—

(1) in the first sentence by striking "residents" and inserting in lieu thereof "residents (including failure to provide active treatment),";

(2) in subsection (c)(5) by inserting ", and to provide active treatment for," after "safety of"; and

(3) in subsection (f) by striking "within 3 years" and all that follows through the period and by inserting in lieu thereof "by January 25, 1991.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act, and shall apply to any proceeding where there has not yet been a final determination by the Secretary (as defined for purposes of judicial review) as of the date of enactment of this Act.

SEC. 815. NURSING FACILITY DECERTIFICATION HEARING PROCEDURES.

(a) In General.—Paragraph (2) of section 1910(b) of the Social Security Act (42 U.S.C. 1396i(b)) is amended by striking out the first sentence thereof and inserting in lieu thereof:

"Any skilled nursing facility or intermediate care facility which is dissatisfied with a determination by the Secretary that it no longer qualifies as a skilled nursing facility or intermediate care facility for purposes of this title, shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b). At such hearing, the facility may submit to the Secretary evidence of compliance based on Federal or State surveys conducted after the determination under paragraph (1). The Secretary shall take into account such evidence, but such compliance shall not preclude a finding that the facility's eligibility be terminated. The Secretary shall also take into account the facility's record of noncompliance and the extent and likely duration of such compliance. Such facility shall also be entitled to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to any proceeding where there has not yet been a final determination by the Secretary (as defined for purposes of judicial review) as of the date of enactment of this Act.

TITLE IX—MISCELLANEOUS INCOME SECURITY AMENDMENTS

Subtitle A—National Academy of Social Insurance

SEC. 901. CHARTER.

The National Academy of Social Insurance, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

SEC. 902. POWERS.

The National Academy of Social Insurance (in this subtitle referred to as the "Academy") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 903. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes for which the Academy is organized shall be those provided in its articles of incorporation and shall include—

(1) promoting an informed and nonpartisan study of, and education with respect to, social insurance,

(2) bringing together experts with diverse backgrounds to consider social insurance issues in an interdisciplinary way,

(3) assisting in the development of social insurance scholars and administrators,

(4) encouraging research and studies on topics of relevance to social insurance, and

(5) sponsoring seminars and other public meetings.

SEC. 904. SERVICE OF PROCESS.

With respect to service of process, the Academy shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 905. MEMBERSHIP.

Eligibility for membership in the Academy and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 906. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The board of directors of the Academy and the responsibilities thereof shall be as provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States in which it is incorporated.

SEC. 907. OFFICERS OF CORPORATION.

The officers of the Academy, and the election of such officers, shall be as is provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States wherein it is incorporated.

SEC. 908. RESTRICTIONS.

(a) In General.—

(1) No part of the income or assets of the corporation shall inure to any member, officer, or director of the Academy or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers and members of the Academy or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(2) The Academy shall not make any loan to any officer, director, or employee of the corporation.

(3) The Academy and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(4) The Academy shall have no power to issue any shares of stock nor to declare or pay any dividends.

(5) The Academy shall not claim congressional approval or Federal Government authority for any of its activities, other than by mutual agreement.

(b) STATUS.—The Academy shall retain and maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

SEC. 909. LIABILITY.

The Academy shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 910. BOOKS AND RECORDS; INSPECTION.

The Academy shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the Academy involving any of its members, the board of directors, or any committee having authority under the board of directors. The Academy shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 911. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal laws", approved August 30, 1964 (36 U.S.C. 1101), is amended by inserting after paragraph (70) the following:

"(71) National Academy of Social Insurance.".

SEC. 912. ANNUAL REPORT.

The Academy shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 911 of this subtitle. The report shall not be printed as a public document.

SEC. 913. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this subtitle is expressly reserved to the Congress.

SEC. 914. DEFINITION OF "STATE".

For purposes of this subtitle, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 915. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

SEC. 916. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this subtitle the charter granted hereby shall expire.

Subtitle B—Foster Care Independent Living Initiatives

SEC. 921. FOSTER CARE INDEPENDENT LIVING INITIATIVES.

(a) EXTENSION OF INDEPENDENT LIVING PROGRAM.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended—

(1) by striking "1987 and 1988" in subsections (a) and (e)(1) and inserting "1987, 1988, and 1989";

(2) by striking "for fiscal years 1988" and all that follows in subsection (c) and inserting "for the fiscal year 1988 or 1989, such description and assurances must be submitted prior to January 1 of such fiscal year.";

(3) by striking "Not later than March 1, 1988" in subsection (g)(1) and inserting "Not later than the first January 1 following the end of each fiscal year";

(4) by inserting "during such fiscal year" in subsection (g)(1) after "carried out";

(5) by striking "(2) Not later than July 1, 1988," in subsection (g)(2) and inserting the following:

"(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

"(B) Not later than March 1, 1989,"; and

(6) by striking "the fiscal year 1987" in subsection (g)(2) and inserting "fiscal years 1987 and 1988".

(b) PERMISSION TO EXPEND UNOBLIGATED FUNDS APPROPRIATED FOR 1987 IN 1988 AND 1989.—Subsection (f) of section 477 of such Act (42 U.S.C. 677(f)) is amended by inserting after and below paragraph (3) the following:

"Notwithstanding paragraph (3), payments made to a State under this section for fiscal year 1987 and unobligated may be expended by such State in fiscal years 1988 and 1989.".

(c) INCLUSION IN INDEPENDENT LIVING PROGRAM OF NON-AFDC FOSTER CARE CHILDREN.—Subsection (a) of section 477 of such Act (42 U.S.C. 677(a)) is amended—

(1) by inserting "(1)" before "Payments";

(2) by striking "children" and all that follows through "age 16," and inserting "children described in paragraph (2) who have attained age 16"; and

(3) by adding at the end the following new paragraph:

"(2) A program established and carried out under paragraph (1)—

"(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part, and

"(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State.".

(d) INCLUSION IN INDEPENDENT LIVING PROGRAM OF CERTAIN FORMER FOSTER CARE CHILDREN.—Paragraph (2) of section 477(a) of such Act (42 U.S.C. 677(a)(2)) (as added by subsection (c) of this section) is further amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) may at the option of the State also include any child to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16, but such child may not be so included after the end of the 6-month period beginning on the date of discontinuance of such payments or care; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.".

(e) DETERMINATION OF SERVICES NEEDED FOR TRANSITION TO INDEPENDENT LIVING.—Subparagraph (C) of section 475(5) of such Act (42 U.S.C. 675(5)(C)) is amended by inserting "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living" before the semicolon.

(f) LIMITATION ON USE OF FUNDS.—Paragraph (3) of section 477(e) of such Act (42 U.S.C. 677(e)(3)) is amended by adding at the end the following: "Amounts payable under this section may not be used for the provision of room or board".

(g) EFFECTIVE DATE.—(1) The amendments made by subsections (a), (b), and (e) shall become effective on October 1, 1988, but only to the extent that funds therefor are provided in Appropriation Acts.

(2) The amendments made by subsections (c), (d), and (f) shall become effective on the date of the enactment of this Act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the Farmers Home Administration's implementation of the Agricultural Credit Act of 1987 on September 30, 1988, at 9:30 a.m. in room 332, Russell Senate Office Building.

Senator DAVID BOREN will preside. For further information please contact Kellye Eversole of the subcommittee staff at 224-5207.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Wednesday, September 28, 1988, at 9:30 a.m. in SR 332 to receive testimony on current food prices in the United States.

For further information, please contact Bob Young of the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WAR POWERS

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Subcommittee on War Powers of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 16, to hold a hearing on the War Powers Resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, September 16, 1988, for a hearing on the nominations of James H. Atkins, Stephen E. Bell, and John David Davenport, nominees to be a member of the Federal Retirement Thrift Investment Board; and Bert H. Mackie, nominee to be Governor of the U.S. Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances and the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, September 16, to conduct a hearing on the greenhouse effect and policies to mitigate adverse climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 16, 1988, to hold a hearing on the issue of State taxation of interstate transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 16, to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RADON

● Mr. BRADLEY. Mr. President, in the past week, we have heard alarming news from the Environmental Protection Agency about the health dangers radon gas trapped in homes can present. Unfortunately, in New Jersey, this news is not new at all. The State of New Jersey discovered early on the extent of radon contamination in homes.

The indoor radon contamination was first discovered by the EPA in the New Jersey communities of Montclair, Glen Ridge, and West Orange, and was most probably a result of improper disposal of radium years ago. A separate concern is an area where radon has been found to occur naturally. This area in Pennsylvania, northern New Jersey, and southern New York is known as the Reading Prong. Lately, high levels of radon contamination have been detected in some houses located in Warren County but outside the prong.

I would like to draw my colleagues' attention to the following article which appeared in the New York Times on September 15. The example that New Jersey officials have set in Clinton shows that the radon story need not have a disastrous ending. I hope that officials in other States will use New Jersey's success as a model for their own radon remediation efforts.

The article follows:

THE JERSEY VILLAGE THAT FOUGHT RADON WITH FANS AND WON

(By Robert Hanley)

CLINTON, NJ, Sept. 13.—The radon scare is old news in this village 15 miles from the Pennsylvania border. With much of the country just being warned about the radioactive gas and the threat of lung cancer it poses, this square-mile community of 2,000 has met and, by all accounts, conquered the worst residential radon hotspot known in the United States.

"We are the quintessential success story that you can beat radon," said Mayor Robert A. Nulman. "You test your house to see if there's a problem, and if there is, the good news is: there is a way out. You fix it, just like you would a roof leak or termites."

20,000 DEATHS A YEAR

On Monday, Federal officials warned the nation that a new seven-state survey had shown the radon threat is greater than had been recognized and may cause 20,000 lung-cancer deaths a year. They urged that all houses and apartments up to the second floor be tested for the colorless, odorless gas, which seeps out of uranium in the geological formations under the houses.

Clinton's troubles developed in March 1986, with the discovery of a cluster of radon-contaminated homes in Clinton Knolls, a pleasant six-square-block neighborhood of split-level, ranch, and Cape Cod houses built atop an ancient limestone cliff that is laced with uranium.

Radon levels in some homes were so high as to have been unimaginable. Six had readings over 1,000 picocuries of radon per liter of air. The Federal safety standard for homes is 4 picocuries per liter. Exposure to 200 carries the same risk as smoking four packs of cigarettes a day.

Experts from the Federal and state governments, themselves groping for solutions to radon, rushed to the neighborhood. Averting a panic was their first order of business. Then they turned Clinton Knolls into a research, and learning laboratory. The idea was to design, install and refine ventilating systems to suck the radon gas from beneath homes and expel it before it could seep into houses through cellar cracks.

WORST 10 HOMES PICKED

Ten homes with the worst readings ranging from 400 to over 3,000 picocuries—were selected for a pilot project. Scientists and contractors, learning as they went, installed venting systems in them free of charge.

Another 20 homes were analyzed and venting designs were prepared and given to their owners, who in turn hired contractors to install them. Some homeowners, like Larry Kaplan, a chemist, took crash courses on radon remediation and rigged their own vents with Environmental Protection Agency guidance and then pitched in to help neighbors install their own.

In a typical system, four-inch plastic pipes are pierced through the basement floor into the gravel underneath the house, or laid in the gravel parallel to the foundation and run through the basement wall. Connected pipes lead up through the house to a roof fan, which sucks the radon-laden air out of the gravel and blows it out at rooftop-level, where the wind dissipates it.

With scientists having tinkered and reviewed and monitored for months, the 30 homes are now at or near the 4 picocurie level, according to Alfred B. Craig, head of radon research at the E.P.A.'s Air & Energy Engineering Research Laboratory in Research Triangle Park, N.C.

NO HEALTH PROBLEMS YET

In all, 105 Clinton Knolls homes had readings above 4 picocuries in early 1986. Residents now say that most have had vents installed and they are near or below the standard.

No health problems linked to radon levels have yet been found in Clinton, but it may take years for cancers to show up.

The lessons learned here will be applied nationwide now, Mr. Craig said. His staff has relied on those designs to fix homes with readings from 4 to 220 picocuries elsewhere in New Jersey and in New York, Pennsylvania, Maryland, Ohio, Tennessee, Alabama and Florida.

"I don't think there's any house made that can't be fixed," Mr. Craig said. "Most can be remediated in the $500 to $2,000 range."

Mayor Nulman cringes now while recalling TV and newspaper accounts in early 1986 that predicted mass evacuations and Clinton Knolls' reduction to a ghost town.

"Radon hasn't affected our housing market at all," he insisted.

Some people have moved, but those who have stayed insist that the neighborhood's white collar professionals have always been transient and prone leaving for other jobs. Today, Clinton Knolls, which is 60 miles west of Manhattan, is vibrant, bustling with young children and teen-agers.

Mr. Craig and other scientists offer high praise for residents and Mayor Nulman.

"He did an excellent job getting people aware and involved without panicking them," said Dr. Gerald P. Nicholls, head of New Jersey's Bureau of Radiation Protection.

"Clinton is a super, super little town," Mr. Craig said. "An esprit de corps developed that was remarkable to see. And it could easily have gone the other way into a panic situation."●

FHA ASSET SALES

● Mr. D'AMATO. Mr. President, I rise today in support of the McKinney Homeless Act. As ranking Republican of the Housing Subcommittee of the Banking Committee, I am particularly concerned with efforts to house homeless individuals and families of our Nation.

It appears that there is some confusion relating to a provision in title V of the McKinney Act addressing the use of Federal surplus property to house the homeless.

As I recall, this provision was placed in the McKinney Homeless Act by the Government Affairs Committee, which has jurisdiction over the General Services Administration. The General Services Administration administers surplus Federal properties. The committee placed this provision in the bill so that available Federal buildings that were closed down, underutilized, or not in use for some other reason could be used to provide shelter for homeless individuals and families.

I understand that these facilities have not been a major source of housing for the homeless, primarily because Federal agencies have not been particularly energetic in meeting this goal.

Since the passage of the act, only four Federal buildings have been freed for such use. Clearly there are more than four underutilized Federal buildings in the Nation. I am embarrassed as a U.S. Senator that this Government cannot make a more concerted effort to assist the homeless. I hope the Government Affairs Committee will take a serious look at this situation and, perhaps, devise an alternative mechanism for making the best possible use of underutilized Federal properties.

It is puzzling, by the way, that none of these 12 buildings have come from the Department of Housing and Urban Development. It's difficult to believe that HUD cannot find some available properties or, at a minimum, provide guidelines for the use of available properties for the homeless. HUD should address this situation immediately.

Having said all that, I am nevertheless disturbed at the proposal that FHA properties be used for housing the homeless. This proposal would create major budgetary problems for the Housing Subcommittee. Furthermore, to my knowledge the subcommittee never discussed such use of these properties. The intent of the surplus property provision in the McKinney Act clearly stemmed from an interest on the part of the Government Affairs Committee to use surplus properties within the jurisdiction of that committee, not that of any other committee. Were FHA properties meant to be included in this provision, I believe there would be a clear record of recollection of the committees considering the matter.

I hope the conferees will address this issue in a conscientious and responsible manner. I want to make sure that we help the homeless and preserve homeownership opportunities for first-time homebuyers.●

NATIONAL HISPANIC HERITAGE WEEK

● Mr. BINGAMAN. Mr. President, this is "National Hispanic Heritage Week," a week during which we celebrate the many important contributions of Hispanics to our country.

President Lyndon B. Johnson first proclaimed "National Hispanic Heritage Week" in 1968. His proclamation drew attention to the important role Hispanics have played in building our Nation, from the great Hispanic explorers who ventured into the unknown frontiers of the New World to their descendants who settled and developed many cities and towns throughout the South and West. These cities and towns, proudly bearing Spanish names, are a continuing testament to the influence of these Hispanic pioneers. The capitol of my home State of New Mexico, Santa Fe, is just one example.

This week we pause to look back on the discoveries of Christopher Columbus and his Spanish fleet, the great expeditions of Francisco Vasquez de Coronado, and the many other landmark contributions of celebrated Hispanic pioneers. Yet, we also turn our attention to the increasing impact of their modern-day descendants on our society today. The U.S. Census Bureau estimated that there were more than 18 million Hispanics in our country in 1986, a jump of one-third since 1980. In my own State of New Mexico, Hispanics constitute 38 percent of the total population, the largest percentage of any State in the country. Everywhere—in the arts, in entertainment, in our schools, in businesses, in Government, and in all other sectors of our society—we are witnessing an explosion of Hispanic leadership and influence.

The growing presence of Hispanics demands that we not only appreciate their contributions but also their needs. Unfortunately, statistics show that illiteracy and dropout rates among Hispanics are disproportionate to their population. We must find ways to solve these problems. We simply cannot afford to ignore the toll that illiteracy and lack of education take both on individual well-being and on the economic well-being of our country.

We must first make a commitment to helping those Hispanics who are not proficient in English. They simply cannot achieve their full potential in this country without English language skills. Expanding English literacy programs, programs such as those established by legislation I authored and which became law this year, is one step toward that goal. But the success of those programs depends on the commitment of many individuals—educators, parents, Government officials, and communities.

Improving educational opportunities among Hispanics also demands a strong commitment from all of us, and most importantly, from educators. I was awed and inspired by the dedication of one teacher in California, Mr. Jaime Escalante, whose story is told in the recently released film, "Stand and Deliver." This film told the true story of one highly committed high school math teacher who instilled in a group of disenchanted East Los Angeles Hispanic high school students the "ganas," or desire, to learn and to achieve. Thanks to his untiring efforts, all 18 students in this group passed the advanced placement calculus test, a feat so remarkable that it was immediately challenged by the Educational Testing Service. The students were retested months after their final calculus class—they still passed, many with top marks.

We need more Jaime Escalantes in this country. We cannot regard students who may suffer from disadvantageous circumstances as unworthy of our utmost efforts. We must give them the attention they deserve, and when we do, they will give back as much and more. Likewise, when we recognize and respect the needs of the Hispanic community, we open the door to many more positive contributions to our society, contributions that will enrich each of us individually and all of us as a nation.●

DE PAUL HOSPITAL, MILWAUKEE, WI

● Mr. KASTEN. Mr. President, I rise today to honor the 30th anniversary of the De Paul Hospital in Milwaukee. Since 1958, De Paul has provided quality care for countless men and women suffering from alcoholism and other afflictions.

The De Paul Hospital—under the leadership of Mr. A. Bela Marotti—has been a source of pride to the Milwaukee community. Wisconsinites take care of each other, and De Paul is leading the way by example.

I ask that a brief history of the De Paul facility be included in the RECORD.

The information follows:

DE PAUL REHABILITATION HOSPITAL

Founded by A. Bela Maroti in 1958, De Paul Health Corporation originated as a halfway house for homeless men. Within a year the home was legally incorporated as St. Vincent de Paul Men's Home, Inc.

By 1961, De Paul expanded to meet the medical, psychological, spiritual, social and vocational needs of the men at the "home", many of whom were alcoholics.

In August 1963, De Paul received approval from the Wisconsin State Board of Health for operation of a hospital unit to provide the specialized medical care needed by the acute alcoholic. The following year De Paul was approved for membership by the American Hospital Association as a specialty hospital.

Since then, De Paul has continued to grow and expand to meet the needs of all people living in Milwaukee and throughout the State of Wisconsin. This includes the construction and subsequent additions of our parent hospital facility, five outpatient clinics with additional facilities located in Madison, Hartford, and Manitowoc.

Programs offered by De Paul address all levels of alcoholism, chemical dependency and mental health, and are directed towards men and women of all ages.

A. Bela Maroti, a native of Hungary, accepted a challenge in 1958 to create a home for men with no place to go. Since then Mr. Maroti has been the driving force of De Paul. His compassion for people has made De Paul what it is today. Throughout its history, De Paul has grown and matured under the direction of Mr. Maroti, whose experience has lead him to a better understanding of people.

Under Mr. Maroti's leadership, De Paul has established a national and international reputation for its pioneering work in the field of alcoholism and other drug abuse. Mr. Maroti's noteworthy accomplishments in his distinguished career include president of the National Association of Addiction Treatment Programs (NAATP) from 1979-1981, and founding board member and charter fellow in the American College of Addiction Treatment Administrators (ACATA).

While October, 1988 will signal the retirement of Mr. Maroti as president of De Paul Health Corporation, he will remain active as president of the De Paul Foundation, the fund-raising arm of De Paul Health Corporation.

For thirty years, De Paul has been People—its patients, their families, the community and its employees. Without caring, compassionate employees—De Paul would cease to exist.

De Paul is the oldest, largest, most comprehensive facility of its kind in Wisconsin, and does not take this responsibility lightly. Research and proven developments in the AODA field are incorporated into De Paul's programs to meet the needs of the Wisconsin community.

De Paul accepts all. Individuals from all socio-economic levels, all nationalities and all backgrounds are treated equally, with respect and dignity.

This is the De Paul tradition, started by A. Bela Maroti thirty years ago. It remains as true today as then.●

RHODE ISLAND'S BLACK REGIMENT IN THE BATTLE OF RHODE ISLAND

● Mr. PELL. Mr. President, for far too long the role of black Americans in the history of our Nation has been generally neglected, obscured, and frequently unknown to generations of both white and black Americans.

It is only in recent years that the contributions of black Americans to the formation, growth, and development of our Nation has begun to receive the attention it deserves.

One such instance involves the role of the First Rhode Island Regiment, the black regiment, in the Revolutionary War's Battle of Rhode Island on August, 29, 1778.

The black regiment, made up of both black freemen and slaves who gained free status through their service, repelled three attacks by Hessian and British soldiers at Butt's Hill in Portsmouth, and thus permitted an orderly retreat by the forces of Gen. John Sullivan.

Last month I had the pleasure of attending a commemoration of the 210th anniversary of the Battle of Rhode Island, at which a principal speaker was Prof. E. Yvonne Moss of Portsmouth, a member of the department of political science at Southeastern Massachusetts University. In her incisive address, Professor Moss argued persuasively that the neglect of the role of blacks in our Nation's history is a disservice to all Americans, black and white.

Mr. President, as we continue across the Nation our observances of the events that brought independence to our Nation and led to the development of our constitutional democracy, I think it is well to keep in mind the role placed from the earliest days of our Nation by black Americans, and I ask that the text of Professor Moss' address, "Rhode Island's Black Regiment: Authentic American Heroes" be printed at this point in the RECORD.

The remarks follow:

SPEECH GIVEN BY PROF. E. YVONNE MOSS

RHODE ISLAND'S BLACK REGIMENT: AUTHENTIC AMERICAN HEROES

Tomorrow it will be two-hundred and ten years ago to the day that black soldiers in the First Rhode Island Regiment, the black regiment, distinguished themselves in, the Battle of Rhode Island, on August 29, 1778. British and Hessian soldiers attacked the retreating Americans under Gen. John Sullivan on Butt's Hill. Hessian soldiers charged repeatedly down the hill at the positions held by black soldiers. Three times the German soldiers attacked. Three times the black regiment drove them back. Gen. Sullivan would declare that a large share of the day's honors had to to the black soldiers. (Battle 1932, p. 14) "The courage displayed by these black troops before these veteran soldiers of many a European battlefield," wrote an early twentieth-century historian, "was not surpassed by any regiment during the war." (Battle 1932, p. 13) We are told that the fighting had been so fierce that the day after the battle, the Hessian commander sought to change his command to New York. He feared that his men would shoot him if he led them into battle again because they had suffered such losses at the hands of the first regiment. These are the assessments which were made of the valor of the men who served in Rhode Island's Black Regiment. It is to commemorate and celebrate the service and sacrifices of these soldiers, and indeed of all black Americans who have served in the U.S. military, that I'd like to speak of them as authentic American heroes.

In addressing my topic today, I emphasise the word, American: in order to focus our attention on one of the consequences of our Nation's racial dilemma. There are still those who view Afro-American history as separate, apart, and peripheral to the mainstream of our country's past. On the contrary, Afro-American history is an important part of every American's historical legacy regardless of their race, religion, or national origin. An appreciation of Afro-American history allows us to understand ourselves as Americans, in realistic not in fictional terms. It allows us to develop a national pride based not on a narrowly reconstructed political mythology, but on the basis of real human accomplishment. Our political culture socializes us all to accept as fact, political myths which are comforting, but which are sometimes more illusionary than real. As a people who pride ourselves in our technological and scientific achievements, we are often guilty, politically, of not wanting to be confused by the facts. Afro-American history is imporant for every American because it's study can help to correct many of the delusions and distortions of our past.

I discovered how important Afro-American history was, for All Americans, through my experiences teaching American politics in pre-dominately white colleges and universities. Upon learning about the political experiences of black Americans my students reacted with emotions that ranged from denial, to disgust, and included astonishment and anger. Some were stunned by the Dred Scott decision, in which the Chief Justice of the U.S. Supreme Court opinioned that blacks had no rights that whites were bound to respect. They were often shocked to discover that it's only been 34 years since the Supreme Court declared that black Americans were entitled to the equal protection of the law; it's been a mere 25 years since all Americans were guaranteed the right to vote; and it has only been since the 1940's, with some notable exceptions, like the integrations of the First Rhode Island Regiment after 1780, that the American military had been organized on a desegregated basis. Sometimes student responses take an amusing turn. One student demanded to know who this guy "Jim Crow" was. He sure must have been something, she reasoned, since there were so many books written about him in the library. Having never had a course in Afro-American history, she didn't realize that Jim Crow was not a person, but a system of segregation that has existed in this country for almost a hundred years. A study of Afro-American history allows us then, to know more about ourselves as Americans; it also helps us to confront the continuing challenges of, "The American dilemma."

Writer Ralph Ellison describes the American dilemma as a kind of ethical schizophrenia. As Americans we fervently and sincerely believe in freedom, justice, equality, and the promises of a democratic society. At the same time we are guilty of undemocratic, inhumane, and oftentimes oppressive treatment of selected groups within the population. One of the great tensions in our national life has been that derived from the challenges of resolving this dilemma.

This dilemma of American society can also be found in the life and person of one of our most eloquent statesmen of the revolutionary period, Thomas Jefferson. Jefferson articulated the ideology of the American Revolution in magnificent terms. The man who wrote the Declaration of Independence, including the phrase, "we hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights . . .", was himself, a slaveowner. The man who attacked King George III for promoting the international slave trade, struggled himself with whether to free some of the slaves on his Virginia plantation. To confront Jefferson's "American dilemma" is not to diminish in any way the importance of his achievements. As Judge Higgonbotham points out, the historical irony is that although the authors of the Declaration of Independence did not live the values they articulated, ". . . they created a document that put moral demands on all Americans who would ever quote it". (1978, p. 384) ". . . Once the drafters and signers of our Declaration made the decision not to weaken their moral argument for nationhood by attempting to rationalize the lie many of them were living, they made inevitable the irony that the truth they espoused, and not their example, would eventually guide their progency to a society more just then their own." (Higgonbotham 1978, p. 389)

Using the historical experiences of African-American people to expand our awareness of American history allows us to understand that as Americans we are neither monsters nor saints. We are imperfect human beings struggling to create a better world often in the face of tremendous opposition. In our struggles we make choices. We can choose to do great good, as we have done many times. We can choose to do great evil, as we have also done. It is those times, when we have chosen to do great good, to live up to the best in ourselves, and our national character, of which we can be most proud. One of those moments is the Battle of Rhode Island in which the men of the black regiment chose to defend the aspirations for freedom of the newly created United States of America. The choice is especially poignant because the new nation was ambivalent about accepting the help of these Afro-American men, whose forebearers had been in the Americas since before the Mayflower.

Historians tell us that Euro-American colonists were divided over the issue of allowing Afro-Americans, whether slave or free, to enlist in the Continental Army. Although the first American to die in the Revolutionary War was a black man, and many blacks volunteered to serve, General George Washington initially opposed the inclusion of black Americans into the Revolutionary Army. A number of factors would persuade Gen. Washington to change his policy-a change which influenced the formation of the first regiment in Rhode Island. These factors included the practical, military and political situation, that existed in 1778.

By the winter of 1777, the Continental Forces and the Rhode Island State Militia found themselves in dire circumstances. There was a shortage of both soldiers and supplies. The British had occupied Newport since December, 1776, and effectively controlled all of Aquidneck Island. In early 1778, Gen. Washington reversed himself on the use of black troops and recommended to Governor Cooke of Rhode Island that he fill the State's military quota with black soldiers.

About two-hundred black men, both slave and free, joined the first regiment during the February to June enlistment period. Rhode Island's General Assembly voted to offer freedom to any bondsman who enlisted in the Continental Army during this time. Slave owners were paid up to one-hundred dollars by the State, for each enslaved person who enlisted. This was three years after the British had offered, in 1775, freedom to any black American who would fight for the British Crown. Thus, the deteriorating conditions of the American war effort in 1777 and 1778, as well as the threat of British success in recruiting black soldiers with offers of freedom, were two factors which influenced the decision to enlist black soldiers in the Rhode Island Regiment.

From the perspective of black patriots, however, whether slave or free, other incentives were decisive. Historian, Gary Puckrein, tells us that the revolutionary ideology, expressed in the Declaration of Independence, drew many black free men into service in the American Army. "The Revolutionary promises of 'life, liberty, and the pursuit of happiness' raised hopes . . . of a new age when race would not bar an individual from the bounties of equality." (Puckrein 1978, p. 19) At the same time, for enslaved persons, the promise of freedom upon enlistment was not simply an abstract or political goal. Freedom literally meant removing the shackles and chains of slavery from their bodies, and they hoped, from their lives. Patriotism and "the freedom spirit" combined to induce 6,500 Afro-Americans to join the Continental Army or Navy in the American Revolution.

The 200 black men of the first regiment truly earned the "red badge of courage." Not only did they repulse the English assault and cover Gen. Sullivan's evacuation in the Battle of Rhode Island; but, they fought and died for rights of citizenship which the newly freed United States were reluctant to extend to them, or to protect for them. These then are authentic American heroes. They were patriots who choose to fight for freedom, even though the political system would fail to protect the rights for which they had fought.

I like to think that the men of the black regiment intuitively understood in 1778 what Jesse Jackson reminded us of in Atlanta in 1988: That which ever ship our forebearers came to these shores on, we are all in the same boat now. Put simply, their stories are our stories, whether we are young or old, male or female, Afro-American, Euro-American, hispanic, or Asian. It is a story of people willing to defend our land and our communities—to struggle and sometimes to die for the things that we hold dear.

The examples of the men who fought here, like those of black soldiers throughout American history, remind us that in a less than perfect world, we are often called upon to confront challenges which require courage, valor and strength. We are asked to give our best under seemingly impossible or unjust circumstances. The black men of the First Rhode Island Regiment chose to serve. Theirs is a legacy that we can all take pride in and derive hope from: hope for creating a better society; hope for resolving our "American dilemma"; hope that we may reflect in our own lives their courage.

My hope is that you are most aware of two things today; first, that the members of the black regiment are not only Afro-American heroes; they are authentic American heroes. Finally, that the study and commemoration of black history is important for all Americans. It helps us to confront the American dilemma while it helps us to better understand ourselves as a nation.

Derrick Bell (1980) dedicated a poem to the courageous black athletes who mounted a protest against racism in the 1968 olympic games. It's sentiment could be applied to the men of the black regiment. Theirs was an:

. . . extraordinary achievement
performed for a nation which had there
  been a choice
would have chosen others, and
if given a chance
will accept the achievement
and neglect the achievers.
here, with simple gesture, they
symbolize a people whose patience
with exploitation will expire with
the dignity and certainty
with which it has been endured

too long.

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NATIONAL ENERGY POLICY

● Mr. FORD. Mr. President, in the aftermath of the recent Persian Gulf tragedy, the question of what went wrong persists. How could a mistake like this occur? Was there a failure of military technology? Why couldn't our military's state-of-the-art radar distinguish a commercial carrier from a hostile aircraft? Can similar disasters be prevented?

But the real issue here goes much deeper. The real issue is what went wrong with our memories, why the presence of American ships is necessary in the first place, and, like a little child, how many times must we have our fingers burned before we learn?

American ships are stationed in the Persian Gulf to keep the flow of oil from the region interrupted because, should that happen, Europe and Japan will suffer severely. Our ships are there partly because America does not have a national energy policy and, thus, remains dependent on imported energy and unstable and unreliable sources to help accommodate this country's economy.

Memories of the chaos and hardship that resulted from the 1973 Arab oil embargo have faded. It is a subject very few talk about any more. And the rush to put in place a national energy policy that would assure the United States a greater degree of energy self-sufficiency has slowed to a crawl.

The drive toward a national energy policy has all but been abandoned by this administration and this Congress despite repeated warnings that such a course continues to expose this Nation to the ultimate weakness.

Yet despite national slumber, the Commonwealth of Kentucky has persevered pushing forward with research and development into new energy technologies utilizing resources that will lessen our dependence on foreign energy. Under the direction of Kentucky Energy Secretary George Evans, major progress has taken place in advancing clean coal technologies, which are critical to a national energy policy.

These efforts have continued.

In April 1987, energy, government and business leaders from around the country gathered in Lexington, KY, for Coal Summit II. This meeting, initiated by Secretary Evans, produced not just another warning that rising imports of foreign oil could lead to serious energy security problems by as early as 1995; it recommended immediate action to prevent another crisis.

It produced the foundation for a national energy policy. That format has been distributed widely among political and corporate leaders. But too few respond positively.

How many warnings will it take to shake this country to its senses. As our dependence on imported energy soars, we become increasingly vulnerable to another embargo. When it does happen, will we be in any better position to respond than in 1973? Now more than ever we in Washington need to heed these warnings by accelerating efforts toward greater energy self-sufficiency.

It is too late for any meaningful action in this session of Congress, but it must—I repeat must—be one of the top priorities when the next session of Congress convenes in January. It must be a top priority of the next President.

Continued indifference and inaction will mean that the United States will remain a nation at risk to the ultimate threat of economic paralysis. This is a risk we cannot afford to take.●

VOCATIONAL-TECHNICAL EDUCATION WEEK

● Mr. D'AMATO. Mr. President, I rise today in support of Senate Joint Resolution 363, introduced by my colleague, Senator SARBANES, to designate November 28 through December 2, 1988, as "Vocational-Technical Education Week."

In our increasingly complex and technical society, it is clear that vocational education and job training plays an indispensable role in the full development of our work force, and is essential to the growth and competitiveness of our Nation. Vocational-technical education not only provides students with the basic academic and job-related skills necessary to enter the work force, but prepares workers for the majority of occupations targeted for the largest and fastest growth in the next decade.

Enrollment in vocational-technical educational programs is increasing steadily. There are currently over 15.5 million students nationwide participating in secondary and postsecondary public vocational education programs. The fact that graduates of vocational programs spend more time in the labor market and often earn a higher salary than nonvocational graduates of a similar background further illustrates the importance of vocational programs in our educational system.

Vocational-Technical Education Week will provide necessary recognition to an integral part of our Nation's education system. As a well-planned vocational education program is vital to the future economic development of the Nation and to the well being of its citizens, I am pleased to cosponsor this resolution, and I urge its immediate passage.●

LISA LEARNER: A DISTINGUISHED SENATE STAFFER

● Mr. DIXON. Mr. President, I want to take this opportunity to bid farewell to Lisa Learner as she leaves the staff of the U.S. Senate after serving with distinction for 7½ years.

Lisa joined my staff in 1981, when I was first elected to the Senate. She always had ideas. Most were good—some not quite up my alley, but she was always thinking. Lisa helped me in a number of important legislative initiatives, including:

Amendments for additional funds for the Summer Youth Employment Program;

Funding and authorizing legislation to combat hunger and homelessness in this country;

Creation of the Illinois and Michigan canal national heritage corridor; and

Saving the WIN Program in 1982.

Lisa became expert on technically complicated issues such as the unemployment insurance system, and she was of great assistance to me as we worked to ensure passage of the Federal Supplemental Compensation Program, which provided additional weeks of benefits to unemployed workers during the last recession.

In 1985, when Chrysler Corp. announced plans for a joint venture with Mitsubishi Motors, Lisa coordinated efforts between my office, the Governor's office, and the many Illinois communities that wanted the plant, and in 1986, Diamond-Star Motors was launched in Bloomington, IL.

In the 99th Congress, Lisa assisted me on the Senate democratic working group on trade, tackling the many diverse issues associated with international trade. She was also my liaison with organized labor. She was a staunch and effective advocate for workers everywhere.

Although she left my office in 1987 to join the staff of Senator DON RIEGLE, she kept in touch, never forgetting her Illinois roots.

I wish Lisa well in her new position as manager of legislative affairs for Chrysler Corp. Her father, David Learner, has been a Chrysler dealer in Rock Island for many years, so in a sense, Lisa has always had "Chrysler blue" running in her veins.●

AVAILABILITY OF RAILROAD SERVICE

● Mr. KERRY. Mr. President, I rise to address an issue of great importance to the economic development of the smaller and more remote communities of our Nation. That issue is the availability of railroad service.

During the 1800's, all levels of government, Federal, State, and local, granted numerous incentives to a new technology, railroads, to encourage the development of an integrated transportation system. The result was a national rail system unequalled in the world and critical to our development as a vigorous industrialized world power. All of us are familiar with the ensuing history of the relationship between government and the railroad industry: A history marked at times by partnership, at other times by abuses of power and at still other times by overregulation by the various governmental units of our Nation.

We in the Northeast are keenly aware of the importance of a healthy rail system to our economy. We suffered through the demise of the Penn Central and struggled with Conrail and other more entrepreneurial carriers to develop viable rail service for our region, and we know full well how much of the problem was created by the dead hand of the regulators.

The Staggers Rail Act of 1980 marked an important new chapter in the relationship between government and the railroads. The Staggers Act substituted the discipline of the marketplace for government regulation. Contractual arrangements between railroads and shippers have now replaced tariffs set by the ICC, in most cases. The railroads are now free to respond to the marketplace competition provided by trucks and water carriers—and even by railroads moving commodities produced in other regions of the Nation. The Staggers Act has also made it easier for the railroads to rationalize their systems by abandoning those portion of their system that are uneconomic and sap the economic strength of the overall system.

At the same time, the Congress recognized that not all shippers would have effective transportation alternatives; that sometimes railroads might seek to avoid or prevent competition; and that the public convenience and necessity—the overriding public interest—might sometimes require the railroads to maintain less profitable portions of the rail system. Thus, the Congress provided in the Staggers Act certain safeguards for captive shippers; for shippers who might be victimized by anticompetitive conduct; and for local communities in abandonments cases. The Interstate Commerce Commission was given the responsibility for implementing these safeguards.

Mr. President, the Staggers Act has proven sound in concept. Deregulation has worked well where transportation competition exists, and our Nation's railroads have been rejuvenated. The majority of our Nation's shippers and communities have benefited from the new competition for transportation service and from the improved service offered by our revitalized rail industry. It is fair to say that for these shippers and communities, Congress' expectations for the Staggers Act have been comfortably exceeded.

But, Mr. President, the record of the Interstate Commerce Commission in implementing the safeguards for captive shippers and local communities is appalling. The Commonwealth of Massachusetts has had the occasion to test these safeguards in a recent abandonment proceeding involving one of our communities. The results have been disappointing, to say the least.

One of the threshold determinations of any abandonment proceeding is whether the line to be abandoned is economic and what its economic value is to the overall rail system. These are appropriate inquiries. Yet, in making these inquiries, the ICC does not scrutinize the actual cost of operating the line question—although it does consider the actual revenues generated from the line.

Moreover, in judging the economic viability of the line, the ICC does not consider the widely accepted, classic method of rail asset valuation, the method which was endorsed by the courts for use in the massive Penn Central bankruptcy proceedings. That method is original cost less accumulated depreciation, also known as net investment. Instead, the ICC uses a constantly shifting set of assumptions, which, intentionally or not, produce the highest value possible under arcane economic theories. The result is that revenues which might be viewed as a sufficient return under the classic methods are instead grossly inadequate when measured against the inflated valuation.

I know this tale is a familiar one to many of my colleagues who have been pressing for regulatory reforms at the ICC. It is a tale of regulatory sleight of hand, the use of the smoke and mirrors of defense economic theory far removed from everyday experience to return commonsense protections for shippers and communities into a license for the railroads to do what they please.

To the uninitiated, the burden of overcoming these formidable obstacles is compounded by the series of extremely short deadlines that occur in the early stages of an abandonment proceeding. All too often, by the time the various constituencies for the maintenance of profitable rail service have organized themselves, the train has left the station—indeed, the ICC has hung a "Closed" sign on the station. And another American community experiences the isolation and frustration that comes from being cut off from an efficient source of transportation vital to economic well being.

Mr. President, some would examine the mess at the ICC and conclude that it just goes to show how regulation is no substitute for the efficient forces of the marketplace. I draw a somewhat different conclusion. I yield to no one in my admiration for the efficiencies of the marketplace, but it cannot be questioned that there are circumstances where market forces are distorted by monopoly power, or where market forces must sometimes yield to the greater public interest. Some modest measure of regulation is appropriate and workable.

The Staggers Act represented the high water mark of a decade of intense congressional activity to cope with a national rail system in crisis. It is a sound, thoughtful piece of legislation. There is nothing about the modest measure of regulation that Congress left in place in the act that cannot be effectively carried out by a balance, informed Commission. I do not pretend to know all the reasons why congressional intent has been so thoroughly distorted and frustrated at every turn by the ICC, but I do know this: Whatever the reasons may be, the experience of the Commonwealth of Massachusetts has convinced me that we in Congress no longer have a luxury of doing nothing. We must clean up the mess at the ICC.

Next Tuesday, Mr. President, the Commerce Committee will have its final markup meeting of this Congress. I understand that at that time my colleague Senator ROCKEFELLER will, with several other Senators, offer a compromise version of the ICC reform legislation he has sponsored. At my request, that compromise contains provisions that will put a halt to some of the ICC's most outrageous and least defensible actions in the abandonment area. It also contains provisions that will give shippers and communities threatened with the imminent loss of rail service a little more time to come to grips with the complexities of the ICC's procedures. I will support this compromise and I urge my Commerce Committee colleagues to join me.●

CECELIA TARAVELLA

● Mr. McCONNELL. Mr. President, every now and then I run across an article in one of my State's local newspapers that tells an extraordinary tale of accomplishment. I found such a story in Wednesday's Kentucky Post that details how a constituent of mine, Cecelia Taravella, worked hard to overcome difficult odds. I would like to insert that article into the RECORD.

Following her divorce at the age of 55, Mrs. Taravella began looking for a job to support her sons. Because she was short on experience, finding a job was not easy. Mrs. Taravella turned to the senior community service employment project for job training and soon landed a job with Landen Formal Wear as a seamstress. She has been at Landen for 6 months and recently was named the project's employee of the year for northern Kentucky. This week, she received the first "Donald Reilly Older Worker of the Year Award" from the National Council on the Aging.

It is no accident that Mrs. Taravella was selected for this honor. She earned the distinction through hard work and dedication—to her job and her family. Mr. President, I am inserting this article into the RECORD because I believe her outstanding achievement should serve as an inspiration to all of us.

The article follows:

BELLEVUE DIVORCEE WINS NATIONAL AWARD

(By Peggy Kreimer)

A little more than a year ago, Cecelia Taravella felt frightened and frustrated.

She was recently divorced, 55 years old and short on work experience and job prospects.

Tuesday, the Bellevue mother of three boarded a plane for Washington, D.C., to accept the first Donald Reilly Older Worker of the Year Award from the National Council on the Aging.

In between, she turned her life around through the Senior Community Service Employment Project, under the direction of the Northern Kentucky Community Action Commission.

Mrs. Taravella heard about the training program for older people and applied in summer 1987. She was living in Alexandria, caring for her teen-age sons with a dwindling nest egg from the sale of the family house.

"Everywhere I went for a job, I needed experience," Mrs. Taravella said. "Where I didn't need experience, I didn't have a way to get there. I didn't think I would ever find a job."

When she first came to the Senior Community Service Employment Project, she wouldn't talk, said director Syd Terrell.

"She just didn't have the confidence. You could see the fear."

Mrs. Taravella went through training ranging from answering phones and filing to business etiquette and money management. The project also provided on-the-job training at social service agencies—Mrs. Taravella worked 20 hours a week at the Salvation Army in Newport.

She moved in with her sister in Bellevue during the week so she could catch a bus to work. She returned to Alexandria on weekends to care for her sons.

The employment project is designed to prepare older workers for full-time employment in businesses. When the owner of Landen Formal Wear Rentals contacted the Employment Project looking for an older woman to train as a seamstress, Mrs. Taravella decided to give it a try.

She has been there more than six months. She is learning the business from sewing and pressing to measuring and ringing up sales. She moved her family to a new apartment in Bellevue and knows the bus schedule by heart.

Mrs. Taravella was honored last month as employee of the year for the Senior Community Service Employment Project in Northern Kentucky. The win placed her name in nomination for the national award with workers from more than 60 employment projects across the country.

The National Council on the Aging has been funding the program for 20 years and initiated the award this year. The first award, to be presented tonight, also will be the first vacation for Mrs. Taravella.

"I've never been out sight-seeing," she said. "I don't even know what it is. I guess I'll find out."●

NATIONAL POW/MIA RECOGNITION DAY

● Mr. LEVIN. Mr. President, National POW/MIA Recognition Day helps us to honor and remember those who made tremendous sacrifices to defend our country, and especially those who have not returned from war. I am pleased to be a cosponsor of the legislation that recognizes this day and these sacrifices.

Our country cannot rest until we have a full accounting of all POW's and MIA's. Those of us who do not have a loved one missing in action in Southeast Asia cannot fully understand the pain and frustration felt by those who do. The pain of loss is worsened by the pain of not knowing.

This frustration is accentuated by the unwillingness of the Vietnamese Government to cooperate with our Government in determining what has happened to our missing soldiers. As a result of a visit I took to Southeast Asia in 1980, I have recognized the difficulty of getting the Vietnamese Government to cooperate even on such a basic, humanitarian issue. I was not surprised therefore when this past July the Vietnamese Government, after pledging cooperation in joint United States-Vietnamese investigations of certain MIA cases, backed away only a few weeks later. This ended, temporarily we hope, a long period of gradually improving cooperation from that government in the effort to account for American POW's and MIA's.

But this day is also to honor those POW's who have returned, to recognize the sacrifices that they made, and to pledge our continued support for them. Congress has increased the fiscal year 1989 budget for the Veterans' Administration by over $1.1 billion, including a $447-million increase for VA medical care. This represents a $224 million increase over the administration's request, and will hopefully make it possible to continue providing the high level of medical care to which veterans are entitled.

We are not just obligated to restore the physical health of our returned POW's. The problem of posttraumatic stress disorder [PTSD] has only recently begun to gain recognition. At my urging, the VA Great Lakes Medical Region has instituted training seminars and workshops for psychiatrists and other personnel involved in the diagnosis and treatment of PTSD, so we can eliminate the discriminatory way in which our veterans with PTSD are treated from VA region to VA region. Congress has also appropriated $5 million in new funds for the treatment of PTSD.

I am also happy that the VA Medical Center in Ann Arbor has been selected as a site for a new VA Geriatric Research, Education, and Clinical Center. Centers such as this will play an increasingly important role in addressing their needs as our veterans grow older. The research and education conducted at this center should benefit all of Michigan's veterans and could benefit all senior citizens.

America has not forgotten and must not forget those who have made sacrifices for our country which we cannot repay. We should honor and remember those who selflessly lost years in POW camps and those missing who have not returned. We remember through our words, through our hearts, and through our actions.

Today, America remembers.●

U.S.-JAPAN NUCLEAR COOPERATION AGREEMENT

● Mr. GLENN. Mr. President, the Senate voted late last March to permit a new United States Nuclear Cooperation Agreement with Japan to come into force. As one of the 30 Senators who voted against that agreement, I think that it is appropriate for me to bring my colleagues up to date about a new twist that may soon be in store concerning the implementation of that agreement.

This is an agreement, let us recall, that the Foreign Relations Committee, the House Foreign Affairs Committee, the U.S. General Accounting Office, the Nuclear Regulatory Commission, the last Secretary of Defense and two of his key Assistant Secretaries all characterized as contrary to our Nation's commitment to halting nuclear terrorism and proliferation. The GAO said the agreement was illegal.

Some Senators will remember that one of the many arguments against that agreement focused on its scheme to airlift tons of United States-controlled plutonium—a nuclear weapon material—from reprocessing plants in Europe, over the North Pole, through United States and/or Canadian airspace, to undetermined airports in Japan.

Well, the citizens and representatives of Alaska and the State of Washington did not think too highly of this idea, to put it mildly. They gave press conferences, wrote letters, issued petitions, and finally succeeded in getting this administration to promise that it would not agree to air shipments of plutonium through U.S. airspace except in cases of emergency landings—although the administration has ominously refused to permit this promise to be solidified in law. And thanks to the work of my distinguished colleague from Alaska, Senator MURKOWSKI, the casks to be used in transporting this plutonium must be certified to withstand a worst-case air crash.

Although this 30-year agreement is only months old, the administration now appears poised to send the 100th Congress, probably in the next few days, an amendment of these guidelines to allow Japan to receive this material from Europe by means of surface ship. Evidently, the original agreement was not quite as perfect as its proponents had claimed. Mr. President, I will ask to have printed in the RECORD several press accounts of this new plan.

I am concerned about what the administration may have in mind with this proposal, especially in light of a report I received last March from the Defense Department and the Joint Chiefs evaluating various possible ways of transporting ton quantities of plutonium from Europe to Japan. The report concluded that "Surface transportation would have an adverse impact on U.S. military readiness," and that "* * * air shipment via the polar route is preferable to sea shipment."

So that my colleagues and the concerned public can better understand some of the risks stemming from sea shipments of this material, I will ask to submit the full text of the JCS report into the RECORD at the end of my brief statement today.

This report—plus the lack of any serious environmental or nonproliferation analysis of the sea shipment option in the documentation that the administration provided Congress during the debate over the Japan agreement—places a heavy burden of proof on the administration to justify any revision of this controversial agreement, especially any changes in the procedures governing the global shipment of tons of this most deadly material, plutonium.

Regardless of whether or not the administration finally does submit this new proposal—and I cannot understand why the next President and Congress cannot reach their own judgments about it given this late date in our legislative year—I believe that all of us should stay up to date on how this agreement is being implemented. Plutonium transportation raises profound risks to our national security and environment that none of us can afford to ignore.

I ask that the various materials to which I referred be printed in the RECORD.

The material follows:

NEGOTIATIONS ON IMPORTING PLUTONIUM BY SEA

Japan and the United States are negotiating an agreement that would give Japan blanket permission to bring plutonium by sea from Britain and France, a Science and Technology Agency official said Friday.

The official indicated that a program to develop a crash-proof cask to transport the plutonium by air, as permitted under an agreement signed with the U.S. in June, has run into a snag.

Speaking on condition of anonymity, the official said Japan is seeking to broaden its options for transporting the plutonium—for use in its nuclear power plants—recovered in European facilities from Japanese spent nuclear fuel.

He said the sea shipments were being considered in addition to air transport partly because a program to develop a special crash-proof cask for air shipments was behind schedule, and proving to be more costly than expected.

Under the bilateral nuclear energy agreement with the United States, Japan is allowed to make air shipments of plutonium recovered from U.S.-supplied nuclear fuel without prior permission for the next 30 years as long as certain guidelines are maintained.

Sea shipments require approval prior to each voyage, according to the agreement.

The United States and Japan agreed to promote air transport following the first shipment of plutonium from France to Japan in 1984, which took 5 weeks and involved a massive U.S. military escort to protect the cargo from possible terrorist attacks.

The official said the first shipments under the new agreement could be made in 1992 at the earliest. Negotiations on guidelines for sea shipments got under way in June, he said.

The sea transport plan would include an escort by Maritime Safety Agency Patrol ships, he added. According to Japan's Constitution the government may not dispatch Self-Defense Forces overseas, but use of vessels under the jurisdiction of the Maritime Safety Agency are not expected to pose a legal problem.

Calculations by the U.S. Nuclear Control Institute show that a jumbo jet carrying about 230 kilograms of plutonium would have to fly to Japan every 2 weeks by the early 1990s to move the estimated 45 metric tons of plutonium expected to be returned to Japan by the year 2000.

The Science and Technology Agency said it plans to recover 25 to 30 tons of plutonium by the end of the century.

Casks currently approved by the United States Government can hold only 2 kilograms of plutonium, according to the private research group for stopping the proliferation of nuclear weapons.

The group said that a new cask under development would weigh 5,000 pounds and be capable of holding 6 to 7 kilograms of plutonium.

ADMINISTRATION, JAPANESE FACE DEADLINE FOR WINNING OKAY FOR PU SEA SHIPMENTS

The Reagan administration may not have enough time to send to Congress a subsequent arrangement granting long-term approval for sea shipments of plutonium from Europe to Japan. Administration officials are targeting September 15 as the last day they can forward the arrangement to Capitol Hill and be sure that it would lie before Congress for the 15 legislative days called for in the Atomic Energy Act. Congress could adjourn for the year as early as September 30, although some date in early October is considered more likely. "It is fifty-fifty whether we will make it in time," said one U.S. official. Administration officials and the Japanese would like to get programmatic approval for sea shipments this year while President Reagan is still in office.

But before a subsequent arrangement can be sent, U.S. and Japanese negotiators must arrive at satisfactory language for modifying the Pu shipment provisions of Annex 5 of the U.S.-Japan agreement for nuclear cooperation. A round of talks in Tokyo in early August produced no final language. Said to be a sticking point is the U.S. insistence that any ship carrying Pu be escorted by another armed vessel. "We don't want to be in a position of having to retake" the ship carrying Pu if it were captured by terrorists, said a U.S. government official.

JAPAN SEEKS UNITED STATES OKAY TO SHIP PU BY SEA

Japan has asked the U.S. government to authorize sea shipments of plutonium for the 30-year life of the U.S.-Japan nuclear cooperation agreement, which entered into force July 17. The request, say U.S. officials, comes in recognition, here and in Japan, that it may not be possible to design, build, and test an air transport cask by the early 1990s when the next shipment of plutonium from Europe to Japan is expected to occur.

Officials of the U.S. State Department, NRC, and other agencies are meeting to discuss what conditions to attach to programmatic approval of sea shipments, to which the Reagan administration has agreed in principle. But congressional opposition to the plan surfaced quickly. In an August 4 letter to President Reagan, 19 congressmen led by Rep. Howard Wolpe (D-Mich.) and Sen. William Proxmire (D-Wis.) emphasized that they had opposed sea transport of Pu four years ago.

In an August 1984 letter, they wrote, "we warned that '(sea) shipments of nuclear explosive materials would provide tempting targets for attack by terrorists or even certain countries seeking to quickly acquire significant quantities of nuclear weapons materials.' With regard to Japan's first and only sea shipment of plutonium from Europe, pending at that time, we stated: '(T)he U.S. should avoid sea transportation of this plutonium and of all nuclear explosives material generally in favor of air transportation.'"

The congressmen acknowledged that there has also been serious criticism of Pu air transport because "a crash-proof plutonium shipping cask suitable for large-scale commercial air transport has still not been developed and, according to some experts, may never be." But, they added, "continuing congressional concern over the safety of air shipping plutonium should not overshadow our grave concerns over transporting this material by sea."

Both the U.S. and the Japanese agree that any air shipment of Pu must use a polar route or some other route that avoids areas of natural disaster or civil disorder and that the plane cannot land in the U.S. except in the case of an emergency. But even if the flight plan provides only for emergency U.S. landings, the cask used must be certified by NRC.

Under a law passed last year, NRC's certification process must include either actual crashing of a cargo aircraft or other tests that exceed the stresses from a worst-case aviation accident. In a July 27 letter to Sen. Frank Murkowski (R-Alaska), NRC Chairman Lando Zech said that only after such a worst-case accident is defined will NRC work "with appropriate laboratories to determine possible design and testing criteria to meet the statutory requirements for certification."

Although Japan's Power Reactor & Nuclear Fuel Development Corp. (PNC) and its French and American collaborators have been working on an 8- to 12-kilogram cask to meet the criteria specified in NRC's Nureg-0360, the toughest air Pu cask standards in the world, PNC could now have to adapt its ongoing research to as-yet-undetermined NRC requirements for plutonium air shipments.

The Japanese have moved with unusual haste to get the U.S. State Department behind it on the sea shipment approval, sources say, because a "subsequent arrangement" under section 131 of the Atomic Energy Act must be "on the table" for 15 legislative days and time is running out for the current administration. (After 15 days, the arrangement automatically takes effect unless Congress modifies or disapproves it.) From the Japanese point of view, the next U.S. administration may not be as predictable on subsequent arrangements as this one.

It was because of the extraordinary security measures involved in the 1984 shipment of Pu by sea to Japan—measures that included U.S. naval escort for the Japanese ship—that the U.S. insisted on air as the mode for all future Pu shipments. In a March 1988 report, the U.S. Department of Defense said sea shipments should be approved "only if air alternatives are not available." Defense dislikes the cost of the escorts, and satellite-based communications cannot be guaranteed at all times in a sea voyage.—*Eric Lindeman and Michael Knapik, Washington.*

UNITED STATES MAY OK SHIPPING PLUTONIUM BY SEA—JAPAN WOULD GET WEAPONS-GRADE MATERIAL; LAWMAKERS OPPOSED

(By Melissa Healy)

WASHINGTON.—In a shift that has already stirred controversy in Congress, the Reagan Administration is moving to approve regular shipments of U.S.-supplied, weapons-grade plutonium by cargo vessel between Western Europe and Japan by expanding an agreement between Washington and Tokyo that took effect last month.

The Defense Department has blocked such arrangements in the past, arguing that the trips would make the nuclear material more vulnerable to terrorist attack and tie up U.S. warships in escorting the cargo.

In a letter to the President, 19 lawmakers warned that such a change in the U.S.-Japan agreement would face strong congressional opposition.

HIGHLY PREMATURE

"It is highly premature to be discussing individual sea shipments of plutonium, let alone a long-term advance approval to Japan for sea shipment of this bomb-usable material," the lawmakers wrote in an Aug. 4 letter to the White House.

Expanding the nuclear agreement has been a top priority for the Japanese government, which considers the plutonium shipments an important issue in relations between the two countries. Japan obtains plutonium from the United States for its civilian nuclear reactors but must have it reprocessed in Britain and France before it is usable.

According to the agreement covering the procurement of the material, Japan is required to transport the plutonium by air, flying over polar routes and using special rupture-proof caskets that would limit the exposure in the event of a crash. Those provisions were attacked by Congress because of the radioactive substance's highly carcinogenic effects.

CRASH-PROOF CONTAINER

However, in late July, Japan asked the United States to expand the agreement to cover ship transports after its efforts to develop a large crash-proof casket for the plutonium stalled.

The Administration, seeking to accommodate Japan on the sensitive issue, is moving toward endorsing the new transit method.

Administration officials have told Congress they are considering revising the treaty and may provide the required congressional notification soon. Once the formal notification is made, Congress has 15 days to block it or it becomes official.

Congressional critics concerned about possible safety implications are bolstered by an internal Pentagon report that contends that plutonium-bearing ships would be "accessible and vulnerable" to terrorists during their trips particularly when they passed through channels, straits and other restricted waterways.

UNSTABLE REGIONS

The shortest routes between European reprocessing centers and Japan would take the ships through the Panama Canal, the Suez Canal or the Strait of Malacca, waterways in regions that have experienced violence or instability in recent years.

"Even if the most careful precautions are observed, no one could guarantee the safety of the cargo from a security incident, such as an attack on the vessel by small, fast craft," said the report, produced in March.

Only one Japanese shipment of plutonium has been approved by the United States, in 1984, and on that six-week journey the vessel received escorts from American, French and Japanese warships.

"The logistical problems were significant, and there was an adverse impact on military readiness to ensure adequate security protection," the Pentagon report said.

In the current negotiations, the Pentagon wants to attach conditions that would require U.S. approval of the security arrangements of each shipment, or Japanese certification of having met conditions negotiated in advance.

The lawmakers said they would insist at a minimum that any shipment be escorted by a warship and that the United States not pay for the service. The Pentagon estimated the cost of an escort mission at $2.8 million.

[From NuclearFuel, Aug. 8, 1988]

Next Europe-Japan Plutonium Shipment Could be by Sea, Not Air Transport

The next shipment of plutonium from Europe to Japan—expected to occur in the early 1990s—might be by sea, with a French or British military escort, a number of knowledgeable U.S. government sources now suggest.

At press time, however, NuclearFuel learned that a letter signed by 15 members of the House and five members of the Senate was being sent to the Reagan administration opposing sea shipments of plutonium between Japan and Europe. No further details were available.

The new U.S.-Japan agreement for nuclear cooperation, which entered into force July 17, requires the return of all U.S.-controlled Pu to Japan by air shipment. But a growing number of sources believe that air shipments will not occur unless Japan can avoid NRC certification of a new and larger Pu air cask by using a route that is not near any U.S. air space. Both the U.S. and Japan agree that any air shipment must use a polar route or some other route that avoids areas of natural disaster or civil disorder, and that the plane can't land in the U.S. except in the case of an emergency.

But even if the flight plan only provides for an emergency landing in the U.S., the type of cask used in the shipment must be certified by NRC.

NRC Chairman Lando Zech recently clarified an earlier agency position according to which NRC said it did not have "licensing authority" (approval over the type of cask used) if a shipment did not involve planned entry into U.S. airspace (NF, 16 May, 11). "Unplanned entry into U.S. airspace in the event of an emergency would not alter NRC licensing authority," NRC said in late May in a letter to Sen. Frank Murkowski (R-Alaska).

On July 27, however, Zech told Murkowski that NRC would, indeed, have licensing authority if the Japanese filed a flight plan that included flying through U.S. airspace in an emergency. Zech's letter headed off a threatened attempt by Murkowski to clarify NRC's authority by attaching an amendment to a pending appropriations bill.

But sources in the U.S. maintain it will be impossible to design, build, and test a cask by the early 1990s to meet new NRC requirements, which have not yet been developed.

Under legislation passed last year—the so-called Murkowski amendment—NRC's new certification process must include either actual crashing of a cargo aircraft or other tests that exceed the stresses from a worst-case aircraft crash. In his letter, Zech said that preliminary discussions are underway with the Japanese to define worst-case type aviation accidents. He indicated, however, that only after such a worst-case aircraft crash is defined will NRC work "with appropriate laboratories to determine possible design and testing criteria to meet the statutory requirements for certification."

Japan's Power Reactor & Nuclear Fuel Development Corp. (PNC), and its French and American collaborators, have been developing an 8- to 12-kilogram capacity cask to meet the criteria specified in NRC's Nureg-0360, the toughest air Pu cask standards in the world (NF, 8 Feb., 5).

Now, however, PNC may have to adapt its ongoing research program to unknown new criteria, which, some in NRC believe, will require testing a cask to stresses that are two or three times greater than the stresses produced in tests under Nureg-0360.

Some in NRC also find it ironic that new Pu air cask criteria are only needed for shipments of U.S.-controlled Pu by a foreign nation to a foreign nation through U.S. airspace. In a Federal Register notice of June 8, NRC said that Nureg-0360 requirements would apply to casks used in shipments of Pu into, out of, or through the U.S. by NRC-licensed companies.

Since Japan may have difficulty shipping Pu by air, the U.S. State Department is pushing, according to sources, to authorize sea shipments of Pu for the 30-year life of the cooperation agreement. Japan, according to a State Department official, "has asked the U.S. to consider programmatic approval of sea shipments. We have that request under advisement." He said that State and other U.S. agencies, including NRC, are meeting to discuss what conditions to attach to an approval of programmatic sea shipments.

It was because of the extraordinary security measures involved in the 1984 shipment of Pu by sea to Japan—measures that included involvement of the U.S. Navy as an escort for the Japanese ship (the Seishin Maru)—that the U.S. insisted on air as the means for all future Pu shipments (NF 22 Oct. '84, 10).

In a report prepared earlier this year, the Department of Defense said sea shipments of Pu should be pursued "only if air alternatives are not available." DOD said it believes that to adequately deter theft or sabotage of a Pu sea shipment, "it would be necessary to provide a dedicated surface combatant to escort the vessel throughout the trip." Using U.S. ships "would have an adverse impact on U.S. military readiness," DOD said.

An alternative that has certain advantages, DOD said, would be for the French navy, the British navy, or the Japanese Maritime Safety Agency to provide such an escort. Using a British or French frigate, however, would detract from the French or British regional commitment in Europe and perhaps require the U.S. to assume a greater naval responsibility there for the six to 10 weeks required for a Pu shipment from Europe to Japan.

Meanwhile, Sen. Alan Cranston (D-Calif.) said he is "suspending plans" to try to pass legislation that would attach conditions to implementation of the U.S.-Japan agreement. In a July 28 statement, Cranston said he is reasonably pleased with the implementation conditions for the agreement outlined in a State Department letter to Congress in late May (NF, 13 June, 1). Cranston said it is his and his Foreign Affairs Committee colleagues' understanding that the State Department's response "represents a U.S. government oglibation to carry out the policies specified in this letter for the full 30-year term of the agreement."—Michael Knapik, Washington

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Moving Plutonium by Sea Is Assailed

(By John H. Cushman, Jr.)

Washington, Aug. 5—Several members of the House and the Senate wrote to President Reagan today to oppose amending a recently signed treaty that allows plutonium shipments from Europe to Japan. The treaty allows shipments by air, and the changes would permit transportation by sea.

The letter, signed by 15 members of the House and 4 senators, cites "grave concerns" about the risk of a shipment being hijacked during the long voyage, and quotes a recent Pentagon study contending that providing a military escort would be costly and would divert the Navy from other jobs.

Japan and the United States are negotiating changes in a recent agreement between the two countries that permits the plutonium to be shipped only by air. Any change must be reviewed by Congress. Senator William Proxmire, Democrat of Wisconsin, and Representative Howard Wolpe, Democrat of Michigan, are among the lawmakers who oppose the change.

The lawmakers said ocean shipments would be susceptible to attack by terrorists who might try to seize the plutonium, which is suitable for use in nuclear weapons. The plutonium, which has been purified in Europe from wastes generated at Japanese nuclear power plants, is controlled by the United States because the nuclear fuel originated in the United States.

A PENTAGON STUDY

The lawmakers cited a Pentagon study that found in March that shipping plutonium by air was preferable—although that method requires developing crash-proof casks—because of the expense and risk in guarding a ship carrying the fuel. While some lawmakers also have opposed air shipment, they failed earlier this year to block the treaty permitting air shipment under tight safety provisions, including the development of crash-proof containers.

The Pentagon study cited "several basic problems with any sea shipment." Among them were security at ports, the long time needed for a shipment, the dangers of passage through the Panama Canal or Suez Canal, the relative ease of attacking a ship, and the cost of providing naval escorts, estimated at $2.8 million per voyage.

On the only previous occasion when reprocessed plutonium was shipped by sea from Europe to Japan, in 1984, a naval escort was provided by the United States for most of the voyage.

The Japanese press has reported that the two nations plan to amend the new treaty on plutonium shipments to permit sea voyages, and Japanese officials in Washington have confirmed the plan.

[From Anchorage (AK) Times, July 27, 1988]

PLUTONIUM TALKS REVIVED—JAPAN TAKES NEW TACK, HOPES TO SHIP NUCLEAR CARGO BY SEA

(By Bob Ortega)

Talks are under way to modify a new U.S.-Japan agreement that allows plutonium flights near Alaska, a Japanese government official has confirmed.

Japan now wants U.S. permission to ship plutonium by sea, as well.

A Japanese delegation met last week in Washington, D.C., with U.S. State Department officials, for "preliminary talks" on implementing a nuclear cooperation agreement that took effect 10 days ago.

That agreement gives blanket permission for Japan to ship plutonium from Europe to Japan on non-stop polar flights as frequently as twice a month for 30 years, starting in the early 1990s. The flights would be allowed to enter U.S. airspace and land in Alaska in the event of an emergency.

Those flights have faced strong public criticism because of the potential danger of widespread radioactive contamination if there ever were an air accident. Plutonium, which has a half-life of more than 24,000 years, is considered one of the most toxic substances on earth; a microscopic amount can cause death if inhaled or ingested.

In last week's discussions, Japanese officials said they're interested in amending the agreement to allow plutonium shipments by sea, according to Toichi Sakata, first secretary of the Japanese Embassy in Washington, D.C.

The U.S. administration made it clear as a matter of policy that they were ready to discuss that possibility with Japan," Sakata said.

According to Japan's Kyodo News Service, the "working level" talks last week included discussion of possible sea routes.

For years, Japan has sent spent fuel from its nuclear power plants to England and France, where it has been reprocessed into plutonium in breeder reactors to produce electricity.

Several years ago, a single return shipment of plutonium was made by sea, heavily escorted by U.S. warships.

At the time, more than a dozen members of Congress opposed the sea shipment, citing concern over security. It is not clear whether Congress now would approve sea shipments as a regular option.

While far larger quantities of plutonium could be shipped at one time, the trip would take up to six weeks and potentially expose the ship carrying the plutonium to terrorist attack or hijacking, according to Alan Kuperman, issues director for the Nuclear Control Institute.

"I think this is outrageous," said Michigan Rep. Howard Wolpe Wednesday. "I think it would be irresponsible to respond to the Reagan administration's impatience over an adequate cask for air shipment by putting large quantites of the most dangerous substance known to man in a transportation mode that's subject to terrorist attacks or military action."

Wolpe, a member of the House Foreign Affairs Committee, said he flatly opposes sea shipments.

As little as 15 pounds of plutonium can be fashioned into an atomic bomb. Under the pact, Japan can ship at least 153 tons of weapons-grade plutonium over the next 30 years.

Shipments by sea would have to be approved both by Congress and by the Japanese Diet, according to government officials.

The United States has authority over the plutonium, because almost all of it has been produced through the use of U.S. supplied uranium fuel. Under a previous agreement, the U.S. Government considered reprocessing and shipping requests on a case-by-case basis.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, March 7, 1988.

Hon. JOHN GLENN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Enclosed is your copy of the Department of Defense's technical evaluation of alternate routes of transporting large quantities of plutonium from France or the United Kingdom, where it was reprocessed, to Japan. The Office of the Secretary of Defense, Joint Staff and Services have concluded that air shipment via the polar route is preferable to sea shipment in accomplishing this mission. This report is not intended as a final transportation plan which will be worked out in detail between the U.S. and Japanese Governments.

Sincerely,

KARL D. JACKSON,
Deputy Assistant Secretary of Defense (East Asia and Pacific Affairs).

TRANSPORTATION ALTERNATIVES FOR THE SECURE TRANSFER OF PLUTONIUM FROM EUROPE TO JAPAN

EXECUTIVE SUMMARY

1. Introduction. This study is a technical evaluation of alternate modes of transporting large quantities of plutonium from France and the United Kingdom to Japan. Ensuring the security of separated plutonium in transit is of fundamental importance. Although primarily a Japanese concern, U.S. law requires that the Department of Defense be fully consulted to ensure that physical security measures are adequate. Two basic transportation modalities are available to transfer plutonium from Europe to Japan—by air and by sea. The Office of the Secretary of Defense, Joint Staff, and Services have concluded that air shipment via the polar route is preferable to sea shipment in accomplishing this mission. With appropriate security measures, sea shipment can also provide adequate security, although at a higher cost to military readiness.

2. Air Shipment. The first, preferred modality is air shipment. Alternatives for shipment of plutonium by air include: (a) the near-term feasibility of non-stop flights of civilian cargo aircraft; (b) civilian cargo aircraft refueling on the ground; (c) military cargo aircraft refueling on the ground; and (d) military cargo aircraft refueling in the air. Below is a table summarizing the relative strengths and weaknesses of each alternative. (Grades range from the most favorable rating of A to the least favorable rating of E).

AIR TRANSPORTATION ALTERNATIVES

	I. Civilian air nonstop	II. Civilian air ground refuel	III. Military air ground refuel	IV. Military air air refuel
Threat assessment	A	A	A	A
Adequacy of security	A	A	A	A
Impact on U.S. military readiness	A	A	C	D
Time in transit	A	A	A	A
Costs per shipment	B	B	B	C
Frequency of shipments	C	C	C	C

Note.—A=best; E=worst.

3. Sea Shipment. The second modality is sea shipment. Alternatives for shipment of plutonium by sea include: (a) civilian cargo vessel without escort; (b) civilian cargo vessel with US Government escort; (c) civilian cargo vessel with foreign escort; and (d) military cargo vessel without escort. Below is a table summarizing the relative strengths and weaknesses of each alternative. (Grades range from the most favorable rating of A to the least favorable rating of E.)

SEA TRANSPORTATION ALTERNATIVES

	V. Civilian sea w/o escort	VI. Civilian sea U.S. escort	VII. Civilian sea foreign escort	VIII. Military sea w/o escort
Threat assessment	A	B	B	B
Adequacy of security	D	B	B	C
Impact on U.S. military readiness	B	[1] D	B	D
Time in transit	E	E	E	D
Costs per shipment	B	D	D	C
Frequency of shipments	A	A	A	A

[1] Upgraded to B if U.S. Coast Guard escort is used.

Note.—A=best; E=worst.

4. Discussion. The Department of Defense has evaluated each of these transportation alternatives and concluded that Alternatives I and II under the air transport modality are preferable. The following pages discuss both the air and sea modalities and four alternatives under each. Since several of the options would have a significant impact on military readiness, the Joint Staff and the Services have indicated further study may be required. Moreover, this is not a final

transportation plan. The United States and Japan will develop a detailed transportation plan prior to each shipment.

AIR TRANSPORTATION ALTERNATIVES

1. Introduction.—Annex 5 of the pending agreement anticipates that the plutonium will be transported from Europe to Japan "by dedicated cargo aircraft * * * via the polar route or other route selected to avoid areas of natural disaster or civil disorder." The Department of Defense believes that air transport is the preferable transportation modality, and that Alternatives I and II are preferable to all other alternatives. This discussion will focus first on concerns common to all of the air alternatives and then turn to the specifics of each.

2. Possible Routes.—There are several possible air routes. The best polar route (approx. 6600 nautical miles (NM)) is almost entirely over water, and it avoids overflying the United States. It extends directly north from France or Britain across the Norwegian Sea, off the east coast of Greenland, across the North Pole, continuing through the Bering Strait, and then turning south-southwest off the east coast of the USSR to Japan. Air France and Japan Air Lines now have direct flights from Paris to Tokyo which largely follow this route, diverting a bit to the east to refuel in Anchorage, Alaska. The shortest route (approx. 5600 NM) describes a great circle across Scandinavia, continuing across Soviet arctic territory, and on to Japan. A final polar option, although considerably longer (approx. 8300 NM), crosses Greenland and then the island archipelago of northern Canada, stops to refuel at one of the military facilities in Alaska, and continues on to Japan. The only advantage of this route is that the plane would remain on ground radar for much of the way. Either route would require the consent of all the states to be overflown; the Soviet route would force reliance on Soviet cooperation to ensure security.

3. Threat Assessment.—Military, transportation, intelligence, and counter-terrorism experts consider air transport the preferred option from a security perspective. These experts consider airports, especially military airfields, to be the most secure transfer points available. Under the agreement, the planes will take off from and land at the most secure airfields possible. The primary threat to a cargo plane is sabotage. One possible scenario would be an attempt to down the aircraft during takeoff or landing with man-portable anti-aircraft weapons. Once the plane has gained sufficient altitude after takeoff until it approaches landing it would be invulnerable to such missiles. Another threat is that a terrorist might seek to plant an explosive device on the plane. If the security measures listed in the agreement are followed, this could not succeed. The only way an outside agent could actually acquire the plutonium cargo would be to hijack the plane, either through force or with inside assistance. Again, appropriate security measures could avert either threat. Following a polar route would further reduce the chance a hijacking or diversion attempt could succeed. Only a small number of states have the ability to intercept and threaten an aircraft in flight; very few could do it over the arctic regions. The primary disadvantages are the relatively limited payload and the greater number of flights which would be required in comparison to sea shipment.

4. Adequacy of Physicial Security Protection.—The primary reasons air transport is the most secure transportation made are that the materials are in transport only a short time and offer few opportunities for interdiction. Thus, many experts believe future long-distance shipments of plutonium will be only by air on specially chartered aircraft with private or military guards and following strict security guidelines. The agreement itself provides a comprehensive list of security guidelines. To ensure the security of air shipment, the various steps listed in Annex 5 are essential. These include: (a) keeping the time and route of the shipment secret; (b) providing armed escorts; (c) ensuring the reliability of the crew and security personnel; (d) loading and off-loading the cargo at secure airfields; (e) ensuring the crashworthiness of shipment casks and equipping them with individual transponders; (f) equipping the aircraft with reliable and redundant communications equipment; and (g) developing detailed contingency plans to assure adequate and coordinated responses in any emergency, including identifying adequate military response forces. Several US military airfields along the polar route would be available in case of an emergency.

5. Costs and How They Should be Allocated.—The Japanese would bear the direct costs of equipping, manning, and operating the cargo aircraft, whether civilian or military. Costs associated with a routine Commercial shipment will result in little, if any, cost to US forces. If military cargo aircraft (C-5 or C-141) are used, the operating costs would be higher. Added to these would be the costs of tanker operation if in-flight refueling is used. In the event of an emergency involving the cargo plane, a tanker, or both, the United States would respond with costs running $350,000 to $700,000 or more. The Japanese would be expected to pay all the quantifiable costs for the use of US military assets.

6. Impact on US Military Readiness.—Since the duration of the flight would be short (about 12-16 hours) and the likelihood of any problems very low, any adverse impact would be of limited duration and manageable. Only in the unlikely event an emergency occurred during a shipment would there be any adverse impact on the mission readiness of US units for the first two alternatives. For Alternatives III and IV, where military aircraft and refueling resources might be used, there would be an adverse impact on military readiness. Either alternative would divert a major military cargo plane and crew from its primary military mission for several days for each mission. Moreover, Alternative IV would require the availability of an Air Force tanker and crew. US Air Force tanker assets are scarce and play a critical role in US strategic response capabilities. Employing either alternative would have an adverse impact on US military readiness and would require further evaluation within the Department of Defense.

7. Air Transportation Alternatives.—Alternatives for shipment of plutonium by air include: (a) the near-term feasibility of non-stop flights of civilian cargo aircraft; (b) civilian cargo aircraft refueling on the ground; (c) military cargo aircraft refueling on the ground; and (d) military cargo aircraft with in-flight refueling. The particulars of each alternative are discussed below:

a. Alternative I—Civilian Cargo Aircraft (Non-Stop).—Assuming an appropriate cargo aircraft were available, a non-stop flight from Europe to Japan would be an extremely safe and secure alternative for transporting plutonium. While no such aircraft currently exists, contact with Boeing experts indicates a cargo version of the Boeing 747-400 extended-range passenger plane, with a range of well over 7,000 nautical miles, should be available within the near future. Moreover, Boeing Company representatives indicate at least two airlines have ordered the large, long-range cargo variant of the aircraft capable of performing the mission for delivery in March 1989. The purchase price of the Boeing 747-400 will be approx. $125 million, although the Japanese will be able to charter such a plane for much less. There are other options as well, including refurbishing an existing 747 cargo plane with the most modern, fuel-efficient engines and additional fuel capacity.

b. Alternative II—Civilian Cargo Aircraft (Ground Refueling).—The next best transportation mode would also use dedicated commercial cargo planes flying the polar route. The difference is that the plane would be refueled on the ground. (While in-flight refueling of a civilian cargo plane is possible, it is unacceptable to the Department of Defense in view of the safety risks and adverse impact on military readiness.) Assuming current air cargo range capability and to ensure an adequate fuel reserve, the aircraft would have to refuel en route. Any refueling stop complicates somewhat the transportation and physical security problems. To ensure security on the ground, refueling could be done at a military facility in Alaska. These facilities include: (a) Galena AFB; (b) Shemya AFB; (c) Adak NAS; (d) Eielson AFB; and (e) Elmendorf AFB. Although the initial leg would be over 600-800 NM farther than landing at Eielson, Elmendorf, or Galena, refueling at either Shemya or Adak could avoid over flying mainland North America. Moreover, while both Shemya and Adak have outstanding safety records, periodic bad weather conditions would require backup options to refuel on the mainland. Galena AFB, with excellent facilities and consistency good flying weather, is lcoated in north central Alaska, far from any population centers, and would be an ideal refueling airfield.

C. Alternative III—Military Cargo Aircraft (Ground Refueling).—The third alternative mode is to use military cargo planes (C-5 or C-141) to transport the plutonium via the polar route. (French or British cargo planes might also be used.) The operating costs for military cargo aircraft are high; nearly $600,000 for a C-5 and over $225,000 for a C-141. (Opeating costs for French or British planes are probably comparable.) The Japanese would also have to pay to get the plane from its operational base to the point of departure, and back to base after completing the mission. Refueling could be accomplished at military facilities along the route. As with civilian cargo planes, the primary threat to military cargo aircraft would continue to be sabotage, especially from terrorists using anti-air missiles during takeoff and landings. The security protection for military transportation of plutonium would be more than adequate. The miltiary would have to verify security precautions on the ground at the points of origin and delivery, probably insisting upon using military airfields at each end. This alternative could have an adverse impact upon US miltiary readiness by diverting a major military cargo plane and crew from its primary military mission for several days for each mission.

d. Alternative IV—Military Cargo Aircraft (In-Flight Refueling).—The fourth alternative is to use US military cargo planes to transport the plutonium via the polar route. Refueling would be accomplished by in-flight refueling from a KC-135 or KC-10 tanker en route. In addition to the normal operating costs listed in Alternative III, in-flight refueling would add about $40,000 pertrip in tanker costs. In-flight refueling raises the possibility of a mid-air accident. Even with highly trained personnel and fully tested equipment, mid-air refueling operations, although routine, are considered "not safe" and are undertaken only when essential to a military mission. This increased risk is only nominally offset by eliminating the slight risks of accident or terrorist attack during an additional takeoff and landing necessary for a ground refueling operation.

8. Additional Comments.—Civilian air transportation over the polar route is cost-effective, is environmentally sound, provides a high level of safety, and, with proper precautions, ensures adequate security with little adverse impact on miltiary readiness. Before the Department of Defense could provide military assets, however, the Joint Staff and Services would have to study the matter in detail.

SEA TRANSPORTATION ALTERNATIVES

1. Introduction.—Sea transportation is another possible mode. There is precedent for this sea shipment method. In the later half of 1984 the United States approved the shipment of 253 kilograms of plutonium from France to Japan aboard a dedicated, specially prepared cargo vessel. The United States, France, and Japan coordinated escort services to protect the cargo ship for much of the trip. The logistical problems were significant and there was an adverse impact on military readiness to ensure adequate security protection for that shipment. Indeed, following the 1984 experience, the Department of Defense felt that sea shipment was not the preferred permanent solution to the problem. This discussion will focus first on concerns common to all of the sea alternatives and then turn to the specifics of each.

2. Possible Routes.—There are several possible routes for sea shipment. These include: (a) across the Atlantic, through the Panama Canal, and across the North Pacific to Japan (the route used in 1984); (b) across the Mediterranean Sea, through the Suez Canal, across the Indian Ocean, and north to Japan; (c) across the Atlantic, around South America, and on to Japan across the Pacific; and (d) around South Africa, across the Indian Ocean, and on to Japan. The latter two routes, despite their increased distance, have the advantage of avoiding "choke points."

3. Threat Assessment.—There are several basic problems with any sea shipment modality. First, in contrast to the high level of security associated with airports, normal civil port security is notably lax. Of course, every effort would be made to provide the most secure sea transshipment point available, perhaps even utilizing naval bases. Moreover, France or Britain would be responsible for port security until the vessel is well underway and Japan would be responsible once the ship arrived in Japan. Nevertheless, port security could be a significant concern. Under some conditions, it would be difficult to keep the details of the voyage secret and to protect the vessel while in port. Second, sea shipment is slow, with the total transit time between 35 and 75 days. Third, the vessel is accessible and vulnerable throughout the voyage, particularly when the vessel is passing through channels, straits, and other restricted waterways ("choke points"), or when it is near the coast. Special precautions would need to be taken at all vulnerable points. Fourth, a vessel would make a more attractive target than an aircraft flying a polar route to a terrorist group. Armed escorts and other security measures would need to be taken to deter and defeat any terrorist threat. Fifth, since a ship has a larger crew and the time of the voyage is much longer, greater efforts would be required to guarantee crew security Disaffected or disloyal crew members could attempt to sabotage the cargo or ship. Under inducement or coercion such crew members could assist outside terrorists to try to board and hijack the vessel or sabotage the cargo. Moreover, unless adequate response forces were available in the immediate area to deter and defeat such an effort, hijackers might well succeed by transferring the material to another vessel or diverting the ship to a "friendly" port. Properly secured, removal or transfer of the cargo to another vessel while the ship is underway would be quite difficult. However, with enough time and equipment, it could be done.

4. Adequacy of Physical Security Protection.—To enhance the security of surface shipment by civilian cargo vessel, various steps are essential. A reasonable baseline standard is the security package applied to the 1984 shipment. In that case the United States approved the shipment of plutonium from France to Japan aboard a dedicated, specially prepared cargo vessel. France, the United States, and Japan provided a combatant ship escort and other security services for much of the trip. Essential security precautions include: (a) maintaining secrecy of the route, date and time of departure and arrival, and the nature of the cargo; (b) modifying the ship to make removal of the plutonium at sea more difficult; (c) assigning independent and specially trained security personnel; (d) installing weapons and other equipment to defend the craft and cargo against terrorists and other threats; (e) conducting background investigations of all crew and security team members; (f) maintaining real-time, redundant communications to monitor the location and security status of the vessel for the voyage; (g) providing continuous backup support for the vessel by military security assets; and (h) providing sufficient fuel capacity to permit the completion of the voyage with no intermediate stops.

The Department of Defense believes that to adequately "deter" theft or sabotage, it would be necessary to provide a dedicated surface combatant to escort the vessel throughout the trip. While rapid response by long-range military aircraft is possible in some contingencies, the ability to deter or interdict a terrorist act from the air is limited. Whether France or the United Kingdom would be willing to provide naval escort services all the way to Japan, or within 1,000 miles of Japan before turning over escort responsibility to the Japanese, is undetermined. The 1984 experience might provide an acceptable model to divide escort responsibility during the course of the voyage. Finally, even if the most careful precautions are observed, no one could guarantee the safety of the cargo from a security incident, such as an attack on the vessel by small, fast craft, especially if armed with modern anti-ship missiles. Adequate security measures, however, could ensure that nothing short of an effort by a major naval power could divert the ship or acquire the cargo. In any case, the Department of Defense would have to carefully scrutinize any security plans to ensure they are adequate to deter attack and protect the plutonium.

5. Costs and How They Should Be Allocated.—Under the agreement, Japan woud bear all the identifiable security-related costs. These would include extensive modifications to the ship, such as extra fuel capability and self-defense weapons, and other special equipment to meet the requirements discussed above. The costs to the U.S. Government would be to monitor, inspect, and certify security procedures are adequate to the degree of risk. The Japanese would also pay for the normal shipping costs, fuel, other provisions, and crew costs, totaling between $900,000 and $1.4 million per voyage. In addition, the Japanese would be expected to bear all the quantifiable costs of having the U.S. naval forces ready to respond to a crisis involving the ship, such as an attack or a hijacking attempt at sea, as well as the cost of contingency response forces to deter any such attack during a transit of any choke points. Such preparation would be expensive, especially where military assets would have to be prepositioned to ensure rapid response. If a U.S., French, or British Navy or Coast Guard vessel (or any combination of these) provided the escort services, additional costs could exceed $2.8 million for the voyage. Moreover, reimbursement for all U.S. costs would be required for the entire period the escort vessel was diverted from its primary operational area.

6. Impact on U.S. Military Readiness.—Surface transportation would have an adverse impact on U.S. military readiness. Depending on the route, several CINCs, their staffs, and some of their units would have to divert planning resources and emergency response assets from their primary mission responsibilities to ensuring the protection of this ship over a period of 6 to 10 weeks for each voyage. The U.S. military would have to ensure an adequate response capability to cover a wide variety of contingencies. Military units would have to be prepared to respond to any crisis with minimal notice. The expense and the impact upon naval missions if the U.S. Navy were to assign a surface combatant to accompany the cargo ship would be significant, since such an escort ship would be unavailable for other military missions. Finally, if there were any attempt to seize or sabotage the vessel or its cargo, the adverse impact and expense would go up dramatically as the United States took action to protect and, if necessary, recover the crew, vessel, and cargo.

7. Sea Transportation Alternatives.—Alternatives for shipment of plutonium by sea include: (a) civilian cargo vessel without escort; (b) civilian cargo vessel with US Government escort; (c) civilian cargo vessel with foreign escort; and (d) military cargo vessel without escort. The particulars of each alternative are discussed below:

a. Alternative V—Civilian Cargo Vessel (Without Escort).—The first sea transportation alternative is to ship the material by sea on a civilian cargo vessel without escort. To maximize security, the Japanese would be expected to take all of the steps discussed in paragraph 4 above. This would include extensive modifications to the vessel's security and other equipment to meet the special needs. The Japanese would also pay for the normal shipping costs, fuel, provisions, and pay for the crew at a total cost of approx. $1.2 million per trip. The Department of Defense believes these steps might not adequately "deter" a terrorist incident and ensure the security of the shipment. While this would be the least expensive sea transportation alternative, if there was an incident, the costs and impact on military readiness would go up dramatically. More significantly, the security of the plutonium cargo could be in jeopardy, with all the enormous risks which that entails.

b. Alternative VI—Civilian Cargo Vessel (With US Government Escort.—A more secure sea transport alternative is to ship the material by sea on a dedicated civilian cargo vessel with a US Navy or Coast Guard escort. Again, the Japanese would be expected to modify the vessel to comport with the security requirements discussed above. In addition to the costs of operating the civilian cargo vessel, they would bear all the quantifiable costs of having the US Navy or Coast Guard vessel accompany the cargo ship. If a US Navy ship were to escort the civilian vessel, costs would run about $45,000 per day, which would add between $1.8 and $2.8 million for each voyage. A US Coast Guard vessel would cost somewhat less, about $16,200 per day, due to its smaller crew size, for a total of between $650,000 to $1.1 million. Moreover, use of a Coast Guard vessel would impose a far lower impact on military readiness. (Coast Guard vessels, while not part of the peacetime Navy, are important mobilization assets.) Whether the United States can best utilize its limited Coast Guard resources in this manner, however, needs to be evaluated, given the increasing demands being made in the areas of drug interdiction, fishery management, and illegal immigration. Moreover, while the Coast Guard indicates it is willing and able to perform the mission if assigned, the two crucial elements to any Coast Guard participation are availability and complete financial reimbursement.

c. Alternative VII—Civilian Cargo Vessel (Foreign Escort).—Yet another alternative is for the French or British navies, or Japanese Military Safety Agency, to provide some or all of the escort services. This alternative has two advantages: it places primary security responsibility with those countries most directly involved in the shipments; and it provides adequate protection. However, there are several problems. First, the employment of a British or French frigate would detract directly from their regional commitments in Europe, perhaps requiring the United States to assume greater naval responsibilities there. Second, whether France or the United Kingdom would be willing to provide naval escort services all the way to Japan, or to within 1000 miles of Japan before relinquishing escort responsibility to the Japanese, is undetermined. It could have an adverse impact on their military flexibility. Third, there are major logistical problems associated with such a mission. An escort vessel would need to be refueled and replenished in both directions. The total costs for such a naval escort operation could be in excess of $2.8 million or more per mission. Finally, the United States would still need to be ready to respond to any incident which might take place during the voyage, impacting adversely on US military readiness. Pursuit of this alternative would require discussions through diplomatic channels with the British, French, and Japanese.

d. Alternative VIII—Military Cargo Vessel.—The final transportation alternative is using US naval cargo vessels to transport the plutonium from Europe to Japan. (French or British military cargo vessels, if available, might also be used.) With modifications, several different types of ships could carry such a cargo. The only time that the plutonium would be at any real risk of theft or sabotage would be during the port transfer process before it is loaded or after it has been off-loaded. While protesters could obstruct the ship in restricted waters or a terrorist craft could even damage the ship with rocket-propelled grenades or antiship missiles, nothing short of a major naval power could divert the ship or acquire the cargo. The key question is whether security would be adequate at the transshipment ports. The cost of using a naval cargo vessel would be quite high. Japan would have to pay industrial rates for such transportation, recompensing the United States for fuel, wages of the officers and men, consumables, and other expenses. For an ammunition replenishment vessel (AE or AOE), total costs could be over $2.8 million for a 35-day voyage. A dedicated Military Sealift Command (MSC) vessel, because of a much smaller crew, would cost only about $1.4 million. Japan would also have to pay for the ship's return to its area of operations, perhaps doubling the total costs. Costs of other emergency response requirements discussed above would be largely eliminated since such ships could provide their own defense against most threats. The fundamental problem involves diverting military units from their primary missions. Using naval vessels in this manner would have an adverse impact upon US military readiness, diverting a major replenishment ship or logistical support vessel from its primary mission for as much as ten weeks each shipment.

8. Additional Comments.—As in the 1984 sea shipment, security for the voyage could be provided through a combined effort by those nations concerned and the United States. The operational impact of any of these alternatives is such that the Department of Defense would have to study in detail if any sea shipment alternative were contemplated seriously. While sea shipment provides a possible modality, in the opinion of the Department fo Defense, any sea alternatives should be pursued only if air alternatives are not available.●

GENERAL DYNAMICS LIKES NAVAJO PRODUCTIVITY

● Mr. DOMENICI. Mr. President, I am most pleased to bring the attention of my colleagues to an item in this week's Business Week magazine. In a full-page advertisement, General Dynamics, a company with a 20-year history of operations on the Navajo Nation, proudly announces to the public its decision to open a second plant on Navajo land. This new plant will employ 200 more Navajo workers.

The ad is brief but powerful. It features a beautiful photograph of Navajo desert and mesas. The few words in the ad speak volumes about the successful "Navajo Means Business!" program. Chairman Peter MacDonald and the tribal government conceived this important and historic notion for Indian reservations, and the Navajo Nation is now busy implementing its new attitude toward American enterprise.

A little more than a year ago, several of my distinguished colleagues in the Senate, Mr. DeConcini, Mr. Inouye, Mr. McCain, and Mr. Bingaman, joined Chairman MacDonald and me at the Navajo Economic Summit in Tohatchi, NM. This summit brought leaders of government and the private sector together to discuss how the Navajo people could package their natural economic advantages—locations, resources and talented work force—to become one of the most hospitable business climates in the free world.

Mr. President, I think this superb statement by General Dynamics demonstrates once again that the Navajo industrial development effort under Chairman MacDonald's leadership is an early and shining success. Since the summit in Tohatchi, a manufactured housing corporation and an agribusiness enterprise have joined General Dynamics in choosing the Navajo Nation as a location. The willingness of these new Navajo businesses to work with the Navajo leadership to create hundreds of new jobs on our Nation's largest Indian reservation will be rewarded for many years to come.

I ask that the General Dynamics ad be printed in the Record.

The ad follows:

AD—GENERAL DYNAMICS

This is some of the most productive land in the country. It is Dinetah, The Land of The People, the Navajo People. It is wild and beautiful. And harsh.

Growing corn in this land also grows character in The People. They know about husbanding resources carefully, and about hard work. Their skilled hands make beautiful rugs and jewelry.

They also make intricate electronic assemblies.

About 400 Navajo workers and managers in Fort Defiance, Arizona, are building upon a partnership with General Dynamics that stretches back twenty years.

Year after year, our Navajo-made electronics have proven to be first-rate. Our Navajo workers have proven to be able and dedicated. And our Navajo plant has proven to be profitable, for us and for the Navajos.

In 1989 we will open our second plant on Navajo land, employing nearly 200 more Native American workers. The land of the Navajo may look wild and harsh.

But for business, it is some of the most productive land in the country.—General Dynamics, A Strong Company For A Strong Country.●

TIME AGREEMENT ON THE NOMINATION OF LAURO F. CAVAZOS

Mr. BYRD. Mr. President, as in executive session, I inquire of the distinguished Republican leader if he would be in a position to agree to a time limitation for debate on the nomination of Lauro F. Cavazos, of Texas, to be Secretary of Education, 30 minutes equally divided between Mr. Kennedy and Mr. Hatch, to be taken up at 10:30 a.m. on Tuesday next, and a vote at 11 a.m.

Mr. DOLE. If the majority leader will yield, we have cleared that on this side. We appreciate the willingness to bring that up on Tuesday at that time. It is most satisfactory.

Mr. BYRD. Very well. I thank the leader.

UNANIMOUS-CONSENT AGREEMENT REGARDING THE LAURO F. CAVAZOS NOMINATION

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that on next Tuesday the Senate go into executive session at the hour of 10:30 a.m.; that the Senate immediately proceed to the consideration of Calendar Order No. 861 on the Executive Calendar; that there be a time limitation of 30 minutes on the nomination; that that time be equally divided between Mr. Kennedy and Mr. Hatch; that at the hour of 11 a.m. on Tuesday, September 20, the vote occur on the nomination; that it be a 15-minute rollcall vote with the call of the regular order to be automatic; that upon the completion of that vote the motion to reconsider be laid on the table; that the President be immediately notified of the confirmation in the event the nominee is confirmed—of which I have no doubt; and that the Senate return to legislative session without further debate, and resume consideration of the minimum wage bill.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent, as in executive session, that it be in order to order the yeas and nays on the nomination of Lauro F. Cavazos, of Texas, to be Secretary of Education.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 2046

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed to the consideration of Calendar Order No. 934, H.R. 2046, an act to authorize the Secretary of State to conclude agreements with the Mexican Government to correct pollution of the Rio Grande, and that it be considered under a 10-minute time limitation equally divided and controlled between the leaders, or their designees, with no amendments, no motions, and no points of order in order.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

H.R. 3408 HELD AT THE DESK

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3408, just received from the House, be held at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SENSE OF THE CONGRESS CONCERNING THE 1988 SEOUL OLYMPIC GAMES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 348 just received from the House.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 348) expressing the sense of the Congress concerning the 1988 Seoul Olympic Games.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 348) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FINANCE COMMITTEE AMENDMENT TO THE TECHNICAL CORRECTIONS TAX BILL

Mr. BYRD. Mr. President, I ask unanimous consent that the Finance Committee amendment to the technical corrections tax bill (S. 2238) be printed in the Record today, and as an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under Amendments Submitted.)

Mr. BAUCUS. Mr. President, on Thursday, September 8, the Committee on Finance approved a committee amendment to S. 2238, the Technical Corrections Act of 1988. The amendment was included in the Record of September 12—beginning at page S. 12326, as an attachment to my statement. I ask unanimous consent that the committee amendment, as modified to correct clerical and technical drafting errors, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the able Republican leader if the following calendar orders have been cleared on the calendar of business: Calendar Orders Nos. 931, 932, 933, and 935.

Mr. DOLE. Each of those has been cleared on this side.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration seratim of those calendar orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING SUPPORT FOR THE DALAI LAMA AND HIS PROPOSALS FOR TIBET

The concurrent resolution (S. Con. Res. 129) expressing the support of the Congress for the Dalai Lama and his proposal to promote peace, protect the environment, and gain democracy for the people of Tibet, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. Con. Res. 129

Resolved by the Senate (the House of Represenatatives concurring),

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The Congress has previously expressed its concern regarding the policies of the People's Republic of China in Tibet, including the violation of Tibetan human rights, and has called on the Chinese Government to ameliorate the situation.

(2) The Dalai Lama presented a five-point peace plan for the restoration of peace and human rights in Tibet during his visit to the Congress in September 1987. This peace plan has received considerable international support.

(3) The Dalai Lama has now prepared a proposal for a democractic system of government for the people of Tibet founded on law, by agreement of the people of Tibet, for the common good and protection of themselves and their environment.

(4) The proposal of the Dalai Lama recognizes that the primary responsibility for the conduct of the foreign affairs, and the exclusive responsibility for the defense, of Tibet will remain with the Government of the People's Republic of China, in order to fulfill its defense responsibility, will be permitted to maintain a restricted number of military bases in Tibet, but these bases must be located away from population centers.

(5) The proposal of the Dalai Lama contains important measures to ensure and enhance the human rights of the Tibetan people to include the following:

(A) Specific steps will be taken to fulfill the goal of transforming the Tibetan plateau into a peace sanctuary. These steps include convening a regional security conference to determine ways to reduce regional tensions and eventually to demilitarize the Tibetan plateau and bordering regions.

(B) Tibet will be founded on a constitution, or basic law, which will provide for a democratic form of government, with an independent judiciary, and a popularly elected chief executive and legislative assembly. The basic law will contain a bill of rights which will guarantee individual human rights and democratic freedoms as expressed in the Universal Declaration of Human Rights.

(C) The basic law of Tibet will ensure the protection of the natural resources of the plateau by requiring the passage of strict laws to protect wild life and plant life and by effectively converting almost the entire area of Tibet into national park lands or biospheres.

(D) During an interim period, following the signing of an agreement based on the proposal, Tibet will be governed according to a transitional agreement providing for a gradual reorganization of the adminstration of Tibet, the restoration of human rights to Tibetans, and the return of the People's Republic of China of Chinese recently settled through inducement and involuntary placement by the People's Republic of China in Tibet.

(E) In order to create an atmosphere of trust conducive to fruitful discussions, the Government of the People's Republic of China should respect the human rights of the people of Tibet and not engage in a policy of transferring Chinese persons to Tibet.

(F) Before ratification of any agreement, the proposal will be submitted to the Tibetan people in a popular referendum.

(6) The Dalai Lama has asked the Government of the People's Republic of China and other concerned governments to study carefully, and respond constructively to, the substance of the proposal.

SEC. 2. EXPRESSION OF CONGRESSIONAL SUPPORT FOR THE DALAI LAMA AND HIS PROPOSAL FOR TIBETAN DEMOCRACY.

The Congress—

(1) commends the Dalai Lama for his past efforts to resolve the problems of Tibet through negotiation with the People's Republic of China, and for dissuading the Tibetan people from using violence to regain their freedom;

(2) commends the Dalai Lama for his new proposal in his continued quest for peace, and expresses its support for the trust of his proposal;

(3) calls on the leaders and the Government of the People's Republic of China to respond positively to the proposal of the Dalai Lama, and to enter into earnest discussions with the Dalai Lama, or his representatives, to resolve the question of Tibet along the lines proposed by the Dalai Lama; and

(4) calls on the President and the Secretary of State to express the support of the United States Government for the thrust of the proposal of the Dalai Lama, and to use their best efforts to persuade the leaders and the Government of the People's Republic of China to enter into discussions with the Dalai Lama, or his representatives, regarding the proposal of the Dalai Lama and the question of Tibet.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

ANNIVERSARY OF THE CAMP DAVID ACCORDS

The Senate proceeded to consider concurrent resolution (S. Con. Res. 142) congratulating Israel and Egypt on the 10th anniversary of the Camp David accords.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that Senator WEICKER be added as a cosponsor of Senate Concurrent Resolution 142.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I was very pleased to submit this concurrent resolution and was honored to have the distinguished chairman of the Foreign Relations Committee, Senator PELL, and 33 other colleagues join as cosponsors. It is fitting and appropriate for the Senate to note the 10th anniversary of a landmark event by any standard, the signing of the Camp David accords. Signed on September 17, 1978, the accords marked a triumph of will and courage by three leaders of vision: Menachem Begin of Israel, Anwar al-Sadat of Egypt, and Jimmy Carter of the United States.

The Camp David accords have served as the foundation of peace between Israel and Egypt. A decade later, the peace between Israel and Egypt still persists, ending a generation of war between them. The accords stand as a beacon and as clear evidence of what can be accomplished through the diligence and persistence of national leaders committed to the peaceful resolution of conflict. To achieve the peace took acts of great courage. President Sadat journeyed to Jerusalem, breaking a psychological and physical barrier that changed the way people for decades had viewed the Arab-Israeli conflict. Prime Minister Begin reciprocated this act by proposing the return of the entire Sanai Peninsula, an oil-rich area twice the size of Israel. Together, they paved the path to peace.

These two men were then called to Camp David, where for 12 days, President Carter brought them together to negotiate the Camp David accords—a comprehensive plan to bring peace to the region. The accords laid out a blueprint to provide for Israel's security, and to resolve the Palestinian problem "in all its aspects." It called for negotiations by the parties to the conflict, including the Palestinians, that would decide final borders, make security arrangements, and over a 5-year transition period, settle the final status of the West Bank and the Gaza Strip. Through these negotiations, the "legitimate rights of the Palestinian people" would be recognized.

Unfortunately, the other parties to the conflict have yet to see the wisdom that was charted in the Camp David accords. The region remains in turmoil and negotiations remain untested. Had others joined in the peace process, years of violence could have been avoided and the current Palestinian uprising might never have occurred. Even today, Palestinian and other Arab leaders continue to reject the clearest and straightest way to resolve the conflict: recognition of Israel's right to exist, followed by direct negotiations with Israel.

Nevertheless, I am convinced that some day, hopefully soon, such negotiations will occur. And the Camp David accords with provide the example and the direction for the inevitable turn to peace that is essential to all the inhabitants of the region.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 142

Whereas September 17, 1988, marks the tenth anniversary of the Camp David accords between Israel and Egypt;

Whereas those accords provided a framework for peace between Israel and Egypt that stands as a landmark, ending a generation of war and violence;

Whereas the accords have proven to be an enduring achievement, furthering the interests of peace and stability in a volatile region of the world;

Whereas the accords were made possible through the courageous acts of Egyptian President Anwar al-Sadat, in his brave trip to Jerusalem, and of Israeli Prime Minister Menachem Begin, in his willingness to propose the return of the entire Sinai Peninsula, an oil-rich area twice the size of Israel; and through the diligence and persistence of President Jimmy Carter, who brought the two men together at Camp David;

Whereas the Camp David accords are based on United Nations Security Council Resolution 242 and 238, the only internationally recognized and accepted bases for the establishment of peace between Israel and her Arab neighbors;

Whereas the United States Government has proudly supported the participants of this historic agreement, Israel and Egypt, throughout this decade of peace between them;

Whereas direct bilateral negotiations, as conducted in the Camp David accords, are the most effective way to resolve the Arab-Israeli conflict;

Whereas the other parties to the conflict have been unwilling to enter into direct bilateral negotiations but continue to maintain a state of war against Israel; and

Whereas the perpetuation of the conflict has exacted a terrible cost in human lives and human suffering for both Israelis and Arabs: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates Israel and Egypt for a decade of peace based on the Camp David accords; and

(2) calls upon other Arab States and Palestinians to follow the example of Israel and Egypt, to join in the peace process, to renounce the state of war and acts of violence, and to enter into direct negotiations with Israel to achieve a just and lasting peace.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE I move to lay that motion on the table.

USE OF THE CATHEDRAL IN VILNIUS, LITHUANIA, BY THE SOVIET UNION

The resolution (S. Res. 385) expressing the opposition of the Senate to the continued control of the cathedral in Vilnius, Lithuania, by the Union of Soviet Socialist Republics, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. Res. 385

Whereas 1988 is the 600th anniversary of the erection of the cathedral in Vilnius, Lithuania;

Whereas the site on which the Vilnius Cathedral stands was once the location of a pagan temple and has served for centuries as the symbolic center of religious life for the people of Lithuania;

Whereas the founding and erection of the Vilnius Cathedral is closely related to the conversion of Lithuania from paganism to Christianity in 1387, and the Vilnius Cathedral is called the "cradle of Lithuania Christianity";

Whereas the Vilnius Cathedral is both a religious and a national shrine, and the remains of prominent religious and secular rulers of Lithuania have been interred in the cathedral, including the remains of the patron saint of Lithuania, Casimir, and the greatest ruler of Lithuania, Grand Duke Vytautas;

Whereas, despite numerous natural and man-made disasters that caused the partial or complete destruction of the Vilnius Cathedral, the religious faithful in Lithuania always rebuilt it;

Whereas the Soviet Army invaded Lithuania in June 1940, and the Soviet Government incorporated Lithuania into the Union of Soviet Socialist Republics;

Whereas the Soviet Government nationalized church property in Lithuania, seized scores of churches, and converted them to other uses against the wishes of the Roman Catholic community in Lithuania;

Whereas Soviet officials, over the protests of the Roman Catholic Church leadership in Lithuania, announced in 1950 that the Vilnius Cathedral would be transferred to Government control and transformed the cathedral into an art gallery in 1956;

Whereas the seizure and desecration of the Vilnius Cathedral by the Soviet Government violates the provisions on religious liberty contained in the Universal Declarations of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe;

Whereas Roman Catholics in Lithuania have never reconciled themselves to the loss of the Vilnius Cathedral;

Whereas in 1985 the Lithuanian Christianity Jubilee Committee, led by Bishop Juozas Preiksas, applied to the Soviet Government for the return of the Vilnius Cathedral and two other churches as part of the 600th anniversary of the Christianization of Lithuania;

Whereas over the last few years hundreds of priests in Lithuania, including 60 percent of the priests in the Vilnius Arch-diocese, have publicly petitioned for the return of the Vilnius Cathedral; and

Whereas Soviet authorities have met such petitions with either silence or outright refusal: Now, therefore, be it

Resolved, That in observation of the 600th anniversary of the erection of the cathedral in Vilnius, Lithuania, the Senate—

(1) expresses its deepest concern over the refusal of the Government of the Union of Soviet Socialist Republics to return the Vilnius Cathedral to the control of the Roman Catholic Church;

(2) voices its support to the Lithuanian people in their efforts to secure—

(A) the return of the Vilnius Cathedral, and

(B) the right to exercise fundamental religious rights so long denied them;

(3) calls upon the President and the Secretary of State to—

(A) raise the issue of the return of the Vilnius Cathedral in meetings with Soviet officials, and

(B) direct representatives of the United States Government at international human rights forums to speak out forcefully for the return of the Vilnius Cathedral;

(4) strongly encourages Members of Congress who visit the Union of Soviet Socialist Republics to include the return of the Vilnius Cathedral on the agenda in discussions with Soviet officials; and

(5) urges the Soviet Government to—

(A) reverse its policy of denying to Roman Catholics in Lithuania the right to worship in the Vilnius Cathedral, and

(B) return the cathedral to Roman Catholic Church control before the end of 1988.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

RESTORATION OF FREEDOM AND INDEPENDENCE IN CAMBODIA

The Senate proceeded to consider the joint resolution (H.J. Res. 602) in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.

Mr. HATFIELD. Mr. President, I am pleased that the Senate is providing some direction and leadership with respect to United States foreign policy in Southeast Asia as applied to the Khmer Rouge and Cambodia, and I applaud Senators Kennedy and Simpson for the companion Senate measure, Senate Joint Resolution 347, which we introduced several months ago.

Yesterday I had in my office a gentleman whose agency, the U.N. Border Relief Operation [UNBRO], is one of the few, if not the only, organization with access to the Khmer Rouge camps. His account of what is happening in these scattered Khmer Rouge camps sounded reminiscent of the reports which came out of Cambodia during the years 1975-78 when the Khmer Rouge were systematically destroying Cambodia.

For some time I had been receiving reports from voluntary agencies working in and around Cambodia that the Khmer Rouge tactics were growing more and more coercive and dangerous, and that as soon as the sun set in the camps and the international relief teams went home, civilians were being turned into human mine detectors and arms transport teams. I have received August reports that tours of the Khmer Rouge camps by journalists and relief organization personnel are managed so as to preclude contact with civilians, evidencing the Khmer Rouge's culpability in crimes against camp civilians and their desire to cover these human rights violations up in the typical Khmer Rouge way—through intimidation, suppression, and as I have heard from time to time, summary executions.

Mr. President, we have to be frank about this. Ten years ago the Khmer Rouge were all but dead. But because of questionable regional strategies and the self-imposed silence of the American government, the Khmer Rouge beast was nursed back to health by Communist China, and now the resolution strategy for Cambodia has to deal with the fact that the Khmer Rouge are poised to return to their old ways of torturing and terrorizing the people of Cambodia.

Hard information is difficult to come by on what the Khmer Rouge are up to, but I have a translation of a Khmer Rouge document dated December 2, 1986, which was circulated in Khmer Rouge camps by the leadership there.

Let me quote from some of the passages of this document:

> The past eight years have shown more and more clearly the goodness of Democratic Kampuchea . . . we definitely should not worry or have any doubts about our past performance . . . we built socialism in Kampuchea and we are now waging a people's war against Vietnam . . . during the reconstruction of the country we achieved a lot, considering it was only a short period of time . . . Our four year plan (77-88) was moving along nicely.

Mr. President, this kind of revision of their genocidal history bodes very poorly for current Cambodia resolution negotiations, and shames those countries using the Khmer Rouge as a pawn in the struggle to oust the Vietnamese. And let's be clear about this—to denounce the Khmer Rouge is not to support the Vietnamese occupation. Those who link these two wrongs cannot come up with a right for the Khmer Rouge to be prospering and powerful.

Mr. President, the fact is that the Khmer Rouge is unrepentant, and its undisguised desire to return to its murderous ways should wake up the conscience of the free world and unite us in our attempt to dismantle this brutal regime. The international community can do this by putting the squeeze on China to stop arming the Khmer Rouge. And we can do this by giving the civilians in the Khmer Rouge camps an opportunity to relocate to another camp. They are prisoners in concentration camps, pure and simple, and we must liberate them.

So I applaud the thrust of this resolution, and urge the next administration to adopt a foreign policy toward Southest Asia which moves quickly toward an international effort to bring the Khmer Rouge to justice, and to strengthen the non-Communist coalition of Prince Sihanouk and Son Sann.

There will be a discussion soon in the United Nations, perhaps on October 5, on who represents Cambodia. Presently the United Nations recognizes the Khmer Rouge as a legitimate partner in the resistance government, and hopefully international attention will refocus on just what the Khmer Rouge movement seeks to do, and just what it did. I support this resolution and hope it serves as a springboard for future United States initiatives in the region with respect to Cambodia and to the victims of the Cambodia stalemate—the hundreds of thousands of refugees in the camps, and the millions of victimized civilians inside the country.

The joint resolution was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

MR. GORBACHEV'S LATEST ARMS CONTROL PROPOSALS

Mr BYRD. Mr. President, the Soviet leader, Mr. Gorbachev, visited the site of the Soviet Union's major violation of the ABM Treaty, Krasnoyarsk, Siberia, and today made a number of proposals intended at putting the United States on the defensive on arms control.

A total of seven proposals, most of them one-sided and generally frivolous, were unveiled by the Soviet leader today.

He missed the opportunity, unfortunately, to announce that the Soviet Union was now prepared to tear down the giant radar facility located at that site, which has been found by a consensus of both the executive branch and the Congress, and on both sides of the aisle to be a major violation of the ABM Treaty.

As the Senate voted unanimously today on the bipartisan resolution, the future of strategic arms control agreements is clearly jeopardized so long as the Krasnoyarsk radar remains in place.

Instead, Mr. Gorbachev proposed that an international center on the peaceful use of outer space be created at the site of the radar. One could envision a number of sites more convenient to the Western powers, other than Siberia, for such a center. The United Nations is in New York, and is more convenient, in my judgment.

In any event, Mr. Gorbachev is an astute politician, and if his purpose is to be rewarded for removing a major violation of the ABM Treaty, I think he will be disappointed. It is a little like asking for the Nobel Peace Prize for removing his forces from Afghanistan, after engaging in a war of atrocities there for a decade. The Soviet Union ought to just tear down the radar, and we can all go on from there.

The Soviet leader, as I mentioned, has offered a number of other proposals which are intended to be taken as arms control proposals. They are not very impressive, and they lead one to doubt the seriousness of the Soviet leader's intentions as to reaching real accommodations with the United States at this time.

The first item is an invitation for the United States to give up its bases in the Philippines in return for which the Soviet Union will abandon its naval base at Cam Ranh Bay, Vietnam. This is totally one-sided, and frivolous. It should be summarily rejected and I hope it will be. The Soviet Union is a Pacific power—not necessarily a Pacific Ocean but Pacific power—its land mass is littoral to the Western Pacific, and it has a permanent fleet stationed in the Port of Vladivostok. It does not need Cam Ranh Bay to maintain a major naval presence and operate throughout the Pacific.

Vladivostok is the Soviet Union's largest naval complex. It is the headquarters of the Pacific Ocean Fleet and located on the Sea of Japan. It is the home port to more than 80 principal surface combat ships including a *Kiev* class aircraft carrier and 95 submarines. So it does not need Cam Ranh Bay to maintain a major naval presence and operate throughout the Pacific.

Cam Ranh Bay is a recent addition to the Soviet fleet, whereas the American bases in the Philippines are our primary facility in the Western Pacific, other than in Japan, and we are involved in negotiations with the Government of the Philippines at this time for their extension. This ploy is simply a way for the Soviets to stir the pot in what has been a difficult series of negotiations with that Government.

The proposal for making the Indian Ocean a zone of peace is a retreading of an old Soviet proposal designed to minimize United States naval presence in that region, while the Soviet engages in a major attempt to destabilize Pakistan and retain what control they can of Afghanistan. There is nothing new to this.

The remainder of the proposals—to not namely increase the amount of nuclear weapons in the Asia region, to freeze and lower he levels of naval and air forces, and to limit their activity—do not have much substance and are aimed at reducing United States influence as much as possible in a region where the Soviets exercise primary influence as a land-based power, and have very robust naval and air forces as well.

I hope the President will respond to these proposals quickly and challenge the Soviet leader to be more serious and forthcoming on arms control matters now, rather than floating what are quite obviously political gambits. If the Soviet leader wishes to be taken seriously in a quest for world peace, he will bring his country back into conformity with the ABM Treaty, and cease and desist from interfering in the internal affairs of Pakistan by promoting jet fighter attacks of that nation from Afghanistan, in a transparent attempt to destabilize the Pakistani political system at a very delicate time in the wake of President Zia's death.

RECORD TO REMAIN OPEN UNTIL 5 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open today until 5 o'clock p.m. for statements, introduction of legislation, and the reporting of executive and legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, its stand in recess until the hour of 9:30 a.m. on Monday next.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on Monday next, there be a period for morning business to extend until the hour of 10 o'clock a.m. and that Senators may by permitted to speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, an order was entered on September 13, limiting time for debate on the United States-Canada Trade Agreement bill to 7½ hours, 1 hour of which is to be under the control of the Senator from Maine [Mr. MITCHELL], 30 minutes to be under the control of the Senator from Maine [Mr. COHEN], with a vote on final passage to begin at 5:30 p.m. and conclude at 6:30 p.m.

I ask unanimous consent that at the hour of 10 o'clock a.m. on Monday next the Senate proceed to the consideration of the United States-Canada Trade Agreement bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Therefore, Mr. President, with the Senate beginning the debate at 10 o'clock and with 7½ hours of debate, that would be correctly timed for a vote to begin at 5:30 p.m. No amendments are in order and Senators will be confined to simple yes or no vote on the bill.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes, I am happy to yield.

Mr. DOLE. As I have indicated in private discussions with the majority leader, that is the order. I have had one request on this side. I have been unable to reach that Senator in the past few minutes by telephone. If the rollcall vote starts at 5 p.m., that would be a 1½-hour rollcall vote. I understand the majority leader would like to accommodate this particular Senator, but I think others will be coming and going during that 1-hour period and that would extend the rollcall vote to 1½ hours.

Mr. BYRD. Mr. President, the distinguished Republican leader has brought to my attention the request, which comes from one of our colleagues on the other side of the aisle. I would like to accommodate the Senator by starting the vote at 5 o'clock p.m. The problem with that is that if we start it at 5 o'clock p.m. and end it at 6:30 p.m., we will have, for the first time, certainly, in a long, long time, a rollcall vote that extends for an hour and a half.

We occasionally extend the rollcall votes for 1 hour. I am concerned that if we now start extending rollcall votes beyond an hour we will have other requests from other Senators, some on my side of the aisle, as well as on the other, to extend a rollcall vote to 2 hours and more.

So I am constrained to have to decline to extend the vote to an hour and a half. On the other hand, if we started at 5 and concluded at 6, that would be 1 hour.

But, inasmuch as the notice has been printed in the RECORD and the request was gotten 3 days ago, many Senators may be counting on the vote to occur precisely as stated, 5:30 to 6:30, and they may not be planning on getting to the Senate on that particular day, for reasons of their own, before sometime between the hour of 6 o'clock or 6:30 or even the last 5 or 10 minutes of that 1-hour period. And with many Senators getting in on planes that do arrive late in the afternoon on Monday, I would be very hesitant to open up the agreement again.

Mr. DOLE. I thank the majority leader. It just occurred to me that we might be able to revisit it on Monday. The Senator will be here. If we should, say, complete debate at 5 o'clock and there is nothing else to do at 5 o'clock, maybe the Senator could make the request of the majority leader.

Mr. BYRD. Mr. President, that could very well be the case. In that situation, I would be happy to entertain the request that we begin the vote at 5 and close it out at 6. On Monday, we will take a new reading and see if any Senator would be discommoded by the change in the order. If they are not and the 6½ hours of debate could be constricted to 6 hours, I would have no problem with that at all. I would welcome the leader drawing my attention to the matter again on Monday.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank the Republican leader.

PROGRAM

Mr. BYRD. Mr. president, the Senate will recess over until Monday at 9:30 a.m., and following the recognition of the two leaders under the standing order there will be a period for morning business to extend until 10 o'clock a.m. Senators will be permitted to speak during that period for not to exceed 5 minutes each.

At 10 o'clock a.m., the Senate will proceed to the consideration of the United States-Canada Trade Agreement. There are 7½ hours of debate on that treaty, 1 hour of which is to be under the control of Mr. MITCHELL and 1 hour of which is to be under the control of Mr. COHEN. At the hour of 5:30 p.m. on Monday, the Senate will vote on the treaty. No amendments are in order to that agreement.

The vote will be a 1-hour rollcall vote and will close at no later than 6:30 p.m. I say no later because if all Senators who are present in the city have voted prior to the hour of 6:30, naturally there will be no need to continue until 6:30 p.m.

I have said heretofore that that will be the only rollcall vote that day. As far as I can see, that will be the only rollcall vote in the day. I say it that way because I have no intention to do otherwise and barring some unforeseen event, which as I say I cannot see right now but which could happen—for example, a call for the Sergeant at Arms to request the attendance of absent Senators and someone making that become a live quorum, and I do not think that would happen, but barring such an event, there will be only the one rollcall vote that day.

Upon the conclusion of the vote on the agreement, the Senate will resume consideration of the minimum wage bill. I hope that some votes can occur on amendments on Tuesday on the minimum wage bill. There will be a vote on the nomination of the new Secretary of Education on Tuesday at the hour of 11 o'clock a.m.

RECESS FROM 12:45 P.M. TO 2 P.M. TUESDAY

Mr. BYRD. I ask unanimous consent that on Tuesday there be a recess of the Senate to begin at the hour of 12:45 p.m. to extend until the hour of 2 p.m. to accommodate the two party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Following those conferences, hopefully some votes on amendments to the minimum wage bill will occur. I hope we can reach an agreement to limit amendments on that bill and to conclude action on the bill, if not on Tuesday, certainly at some point on Thursday next.

The Senate will be out on Wednesday to accommodate the religious holiday, Yom Kippur. There will be no session that day. I may or may not offer a cloture motion on Monday on the minimum wage bill. I will be discussing such matters with the Republican leader. If a cloture motion should be introduced on Monday on the minimum wage bill, that vote would mature on Thursday under the rule.

RECESS UNTIL MONDAY, SEPTEMBER 19, 1988 AT 9:30 A.M.

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 9:30 on Monday morning next.

The motion was agreed to, and the Senate, at 4:58 p.m., recessed until Monday, September 19, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 16, 1988:

THE JUDICIARY

FERDINAND F. FERNANDEZ, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE WARREN J. FERGUSON, RETIRED.

DEPARTMENT OF STATE

JOHN CONDAYAN, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS, WITH THE RANK OF AMBASSADOR, VICE JAMES EDWARD NOLAN, JR.

IN THE FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

EVERETT ELLIS BRIGGS, OF MAINE

ROBIE MARCUS HOOKER PALMER, OF VERMONT
EDWARD JOSEPH PERKINS, OF OREGON
J. STAPLETON ROY, OF PENNSYLVANIA
ROSCOE S. SUDDARTH, OF MARYLAND

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

DAVID RUSSELL BEALL, OF MICHIGAN
WILLIAM T. BREER, OF CALIFORNIA
GORDON S. BROWN, OF THE DISTRICT OF COLUMBIA
RICHARD C. BROWN, OF NEW MEXICO
JOHN A BURROUGHS, JR., OF CALIFORNIA
JAMES FORD COOPER, OF CALIFORNIA
JEFFREY DAVIDOW, OF MINNESOTA
JOHN S. DAVISON, OF MAINE
CLARK M. DITTMER, OF VIRGINIA
MICHAEL L. DURKEE, OF NEW YORK
WESLEY WILLIAM EGAN, JR., OF NORTH CAROLINA
CLARKE N. ELLIS, OF CALIFORNIA
GEORGE G.B. GRIFFIN, OF MARYLAND
PHILIP J. GRIFFIN, OF THE DISTRICT OF COLUMBIA
SCOTT S. HALLFORD, OF TENNESSEE
ROGER G. HARRISON, OF CALIFORNIA
H. KENNETH HILL, OF CALIFORNIA
JOSEPH S. HULINGS III, OF SOUTH CAROLINA
MARK JOHNSON, OF MONTANA
RALPH R. JOHNSON, OF WASHINGTON
PATRICK FRANCIS KENNEDY, OF ILLINOIS
PATRICIA A. LANGFORD, OF MISSISSIPPI
ALAN P. LARSON, OF IOWA
WAYNE STEPHEN LEININGER, OF FLORIDA
MARK C. LISSFELT, OF PENNSYLVANIA
WALTER A. LUNDY, OF VIRGINIA
JOHN F. MAISTO, OF PENNSYLVANIA
EDWARD M. MALLOY, OF NEW YORK
JIM D. MARK, OF GEORGIA
JAMES A. MATTSON, OF MINNESOTA
DONALD FLOYD MCCONVILLE, OF MINNESOTA
JAMES W. MCGUNNIGLE, OF NEW YORK
JOSEPH H. MELROSE, JR., OF PENNSYLVANIA
MARILYN ANN MEYERS, OF MINNESOTA
ROBERT J. MONTGOMERY, OF TEXAS
RALPH R. MOORE, OF MASSACHUSETTS
E. PARKS OLMON, OF TEXAS
ROBERT STEPHEN PASTORINO, OF CALIFORNIA
CHARLES E. REDMAN, OF INDIANA
H. CLARKE RODGERS, JR., OF GEORGIA
ANDREW D. SENS, OF THE DISTRICT OF COLUMBIA
DANIEL P. SERWER, OF TEXAS
FREDERICK H. SHEPPARD, OF OHIO
DAVID H. SHINN, OF WASHINGTON
DAVID H. SIMPSON, OF OHIO
NORMAN A. SINGER, OF ILLINOIS
JOHN TODD STEWART, OF CALIFORNIA
JAMES TARRANT, OF CALIFORNIA
PATRICK N. THEROS, OF THE DISTRICT OF COLUMBIA
JEROME F. TOLSON, JR., OF PENNSYLVANIA
EMIL VON ARX II, M.D., OF NEW HAMPSHIRE
EDWARD S. WALKER, JR., OF PENNSYLVANIA
JOHN STERN WOLF, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE APPOINTMENTS, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

CHARLES S. AHLGREN, OF WEST VIRGINIA
L. STUART ALLAN, OF MISSISSIPPI
ROBERT D. AUSTIN, JR., OF WASHINGTON
JANICE FRIESEN BAY, OF CALIFORNIA
JOSEPH F. BECELIA, OF NEW YORK
JANE ELLEN BECKER, OF WISCONSIN
RANDOLPH M. BELL, OF ARKANSAS
PAUL H. BLAKEBURN, OF NEW HAMPSHIRE
J. RICHARD BOCK, OF WASHINGTON
MICHAEL A. BOORSTEIN, OF COLORADO
WILLIAM R. BREW, OF NEW JERSEY
DAVID G. BROWN, OF FLORIDA
EDWARD BRYNN, OF CALIFORNIA
ROGER E. BURGESS, JR., OF NEVADA
MARY ANN CASEY, OF COLORADO
JAMES L. CLUNAN, OF MAINE
JAMES K. CONNELL, OF CONNECTICUT
MICHAEL W. COTTER, OF THE DISTRICT OF COLUMBIA
WILLIAM HARRISON COURTNEY, OF WEST VIRGINA
EDWIN P. CUBBISON, OF FLORIDA
WILLIAM H. DAMERON, III, OF MARYLAND
CHARLES L. DARIS, OF CALIFORNIA
DAVID BRYAN DLOUHY, OF TEXAS
CRAIG G. DUNKERLEY, OF MASSACHUSETTS
MORTON R. DWORKEN, JR., OF OHIO
SAMUEL C. FORMOWITZ, OF VIRGINIA
EDWARD F. FUGIT, OF NEW JERSEY
DAVID N. GREENLEE, OF CALIFORNIA
ROBERT E. GRIBBIN, III, OF ALABAMA
WAYNE G. GRIFFITH, OF NEW JERSEY
ANNE M. HACKETT, OF CALIFORNIA
GEORGE H. HAINES, III, OF RHODE ISLAND
JAMES HENRY HALL, OF VIRGINIA
DAVID CRANE HALSTED, OF VERMONT
JAMES H. HOLMES, OF NEW YORK
DAVID TAYLOR JONES, OF PENNSYLVANIA
DOUGLAS HUGH JONES, OF CALIFORNIA
HARRY E. JONES, OF PENNSYLVANIA
M. GORDON JONES, OF CALIFORNIA
THEOFORE H. KATTOUF, OF FLORIDA
DOUGLAS R. KEENE, OF MASSACHUSETTS
ALLEN L. KEISWETTER, OF VIRGINIA
ROBERT H. KNICKMEYER, OF MISSOURI
DONALD B. KURSCH, OF NEW YORK
JOHN P. LEONARD, OF CONNECTICUT
MARK LORE, OF VIRGINIA
DAVID L. LYON, OF MARYLAND
ARTURO S. MACIAS, OF WISCONSIN
THOMAS G. MARTIN, OF ALABAMA
DONALD J. MCCONNELL, OF OHIO
MICHAEL JOHN MCLAUGHLIN, OF NEW YORK
JOHN P. MODDERNO, OF MARYLAND
ROBERT P. MYERS, JR., OF CALIFORNIA
JEREMY NICE, OF THE DISTRICT OF COLUMBIA
JOHN U. NIX, OF FLORIDA
ANNE WOODS PATTERSON, OF ARKANSAS
DONALD J. PLANTY, OF NEW YORK
MARK J. PLATT, OF CONNECTICUT
LAURENCE E. POPE, II, OF MAINE
DAVID P. RAWSON, OF OHIO
ARLENE RENDER, OF OHIO
FRANK E. RHINEHART, OF CALIFORNIA
MAX NEWTON ROBINSON, OF WASHINGTON
RAYMOND GORDON ROBINSON, OF NEW YORK
DENNIS A. SANDBERG, OF MINNESOTA
LOUIS B. WARREN, JR., OF NEW JERSEY
THOMAS M. WIDENHOUSE, OF MONTANA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ROBERT L. CAFFREY, OF CALIFORNIA
WILLIAM D. CLARKE, OF MARYLAND
FREDERICK K. CROSHER, OF CALIFORNIA
PAUL H. GRUNDY, OF WASHINGTON
PHILIP D. GUTENSOHN, OF VIRGINIA
WILLIAM J. HUDSON, OF VIRGINIA
JAMES A. LOVELL II, OF MARYLAND
GEORGE LOWE, OF THE DISTRICT OF COLUMBIA
RUFUS D. PUTNEY, OF WEST VIRGINIA
HAROLD E. RINIER, OF OREGON
DAVID N. SPEES, OF TEXAS
JOSEPH W. TOUSSAINT, OF CALIFORNIA
THOMAS H. VALK, OF VIRGINIA
ALFRED J. VERRIER, JR., OF VIRGINIA
PETER A. WEST, OF WASHINGTON

WITHDRAWAL

Executive message, received September 16, 1988, transmitting the withdrawal of the following nomination from further Senate consideration:

THE JUDICIARY

BERNARD H. SIEGAN, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE WARREN J. FERGUSON, RETIRED, WHICH WAS SENT TO THE SENATE ON FEBRUARY 2, 1987.

HOUSE OF REPRESENTATIVES—*Friday, September 16, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are thankful, gracious God, for the miracles of Your hand in the lives of people, for the way Your spirit gives strength when we are weak, gives health when we are ill, encourages when we are alone. We admit that often we are not able to face the problems and worries of life and yet, O God, we know that Your mighty spirit touches us at the center of life with the promise of a new and better day. May Your blessing be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 439. An act for the relief of Thomas Wilson.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1223) "An act entitled the 'Indian Self-Determination Amendments of 1987'."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (1467) "An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 2342) "An act to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (4387) "An act to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency retirement and disability system, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4481) "An act to provide for the closing and realigning of certain military installations during a certain period," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Nunn, Mr. Stennis, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, Mr. Warner, Mr. Thurmond, Mr. Humphrey, Mr. Cohen, Mr. Quayle, Mr. Wilson, Mr. Gramm, Mr. Symms, and Mr. McCain to be conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1776. An act to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution;

S. 2283. An act to require the Secretary of the Treasury to mint and issue five-dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming;

S. 2382. An act to delay the implementation of a certain rule affecting the provision of health services by the Indian Health Service; and

S. 2789. An act to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentleman from Connecticut [Mr. Rowland] kindly come forward and lead the Members in the Pledge of Allegiance to the Flag.

Mr. ROWLAND of Connecticut. Thank you very much, Mr. Speaker. My colleagues, please join me in the Pledge of Allegiance.

Mr. ROWLAND of Connecticut led the Members in the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

NATIONAL POW/MIA RECOGNITION DAY

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute.)

Ms. SLAUGHTER of New York. Mr. Speaker, today is "National POW/MIA Recognition Day." I ask my colleagues and all Americans to join me in remembering and paying tribute to those who were captured by the enemy or declared missing in action while serving our Nation.

This past year has been particularly difficult for the families and friends of the 2,404 Americans still listed as missing in action in Southeast Asia. Hopes for a complete accounting of our missing were raised by the July announcement of a joint United States-Vietnam comprehensive investigation. Vietnam then reneged on the agreement, but recently agreed to resume cooperation in resolving this issue.

For the POW-MIA families this cycle of hope and disappointment is all too familiar. For more than 15 years they have been deprived of their basic human right to learn the fate of their loved ones. Today, we reemphasize the United States' determination to continue to press the nations of Southeast Asia until we have received the fullest possible accounting of our missing.

Mr. Speaker, I am proud to be a cosponsor of "National POW/MIA Recognition Day." I hope all Americans take time today to recall and recognize the sacrifices of POW/MIA's and their families.

IMPENDING WITHDRAWAL FROM THE PHILIPPINES

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, let us seize the moment. Secretary Gorbachev has offered to withdraw from Cam Ranh Bay, the quid pro quo being that we withdraw from the Philippines, from our naval base. This is an excellent proposal for both the U.S.S.R. and the United States at the time when the Philippines are telling us they do not want us there, at a time when the Philippine officials are here in Washington, DC, holding us up like highway robbers, saying they do not know if they want $500 million or $1 billion or $2 billion. This is preeminently the time for us to leave. It is time for us to

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

pack up, time for us to agree with Gorbachev.

Let us think anew. Let us act anew. Let us seize the moment.

NURSING SHORTAGE AT VA HOSPITALS

(Mr. BRENNAN asked and was given permission to address the House for 1 minute.)

Mr. BRENNAN. Mr. Speaker, as we commemorate "National POW/MIA Day," I would like to take special note of an important bill just approved by Chairman Sonny Montgomery and the Veterans' Affairs Committee.

This legislation would address the serious nursing shortage threatening veterans' hospitals across the country.

Our veterans deserve the best medical care we can provide. But they cannot be cared for without a trained and motivated nursing staff. And our nurses should be given the respect and compensation they deserve.

In my State of Maine, the Togus VA Hospital is facing a serious nursing shortage.

Unless help is on its way to nurses, veterans will not receive the care they need. Wards will have to close. Nurses will be responsible for too many patients on too many shifts. Nurses will burn out, and leave the profession.

Just yesterday, I learned that more nurses have left the VA hospital in Maine in the few weeks since we met.

H.R. 5114 provides, as we do for physicians, incentives to encourage nurses to remain in the VA system by offering improved pay rewards based on qualifications and experience.

I urge my colleagues to join me in supporting the bill when it comes to the House floor.

COASTAL STATES NEED HURRICANE HUNTER PLANES

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, right now the strongest hurricane in recorded history, Hurricane Gilbert, is buffeting the Texas coast.

Our weather forecasters have done a terrific job of predicting this killer storm's movements and providing adequate warning to coastal residents. Nevertheless, the U.S. Air Force wants to scrap one of the most useful and surely the most dependable tools these forecasters have, the hurricane hunter planes.

The Air Force mistakenly believes that satellites alone can predict hurricane movements. Flatly that is just not true!

Today two dozen of my colleagues from coastal States have joined me to introduce a resolution that shows the Air Force that this Congress wants the hurricane hunter planes flying.

If the Air Force Secretary is so sure he's right maybe we ought to move his office to the gulf coast. Until then he better keep those planes flying.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. BATEMAN. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. Bateman moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. FOLEY. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. Foley] to lay on the table the motion offered by the gentleman from Virginia [Mr. Bateman].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BATEMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 211, nays 160, answered "present" 1, not voting 59, as follows:

[Roll No. 323]

YEAS—211

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Collins
Conyers
Cooper
Costello
Coyne
Crockett
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Frank
Frost
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price
Rahall
Ray
Richardson
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stratton
Studds
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—160

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Murphy
Myers
Nielson
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Ford (TN)

NOT VOTING—59

Alexander
Atkins
AuCoin
Badham
Barnard
Bates

Beilenson
Bentley
Bliley
Boucher
Boulter
Brown (CA)
Cheney
Clay
Coleman (TX)
de la Garza
Dowdy
Dyson
Edwards (CA)
Florio
Ford (MI)
Garcia
Gephardt
Grant
Gray (IL)
Gregg
Hatcher
Hefner
Jeffords
Kemp
Konnyu
Latta
Lujan
Mack
MacKay
Mica
Mineta
Neal
Ortiz
Owens (NY)
Oxley
Pepper
Rangel
Rinaldo
Rose
Saiki
Scheuer
Spence
Stallings
Stark
Stenholm
Stokes
Swift
Towns
Waxman
Weldon
Williams
Wilson
Wortley

□ 1031

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Illinois for, with Mr. Oxley against.

Mr. Ortiz for, with Mr. Boulter against.

Mr. GRANDY and Mr. RITTER changed their vote from "yea" to "nay."

Mr. YATES changed his vote from "nay" to "yea."

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DWIGHT DAVID EISENHOWER COMMEMORATIVE COIN ACT OF 1987

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 3654) to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. HILER. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Illinois [Mr. ANNUNZIO] to explain the bill.

Mr. ANNUNZIO. Mr. Speaker, I am delighted that the gentleman from Indiana [Mr. HILER], the ranking Republican on our subcommittee who has worked long and hard on this legislation, has yielded to me.

Mr. Speaker, this legislation would authorize the minting of up to 4 million 90-percent silver dollars in commemoration of the centennial of the birth of Dwight David Eisenhower in 1990. Each coin would be sold at the cost of minting, manufacturing, and marketing the coins, plus a $7 per coin surcharge, which would be used solely to reduce the national debt.

This legislation was introduced by the distinguished gentleman from Pennsylvania [Mr. GOODLING], and is cosponsored by 251 Members of the House. Mr. GOODLING is to be congratulated for his work in drafting this legislation and presenting it to the Coinage Subcommittee. Following hearings on Wednesday, the legislation was unanimously adopted by the subcommittee. Yesterday, the full Banking Committee unanimously passed the legislation. Since the Senate passed identical legislation following the subcommittee hearing on Wednesday, I want to get this legislation to the President as quickly as possible.

It is a good bill and is in keeping with the subcommittee and House policy regarding commemorative coin legislation.

□ 1030

Mr. HILER. Mr. Speaker, further reserving the right to object, I am pleased that the House will take this matter up today, and I want to commend Chairman ANNUNZIO and his staff for moving this legislation in such a timely fashion. Also, I want to especially commend my colleague Mr. GOODLING for his foresight in introducing this bill and his tenacity in soliciting the proper number of cosponsors in order to comply with our subcommittee rules.

I am happy to rise in support of H.R. 3654, a bill to authorize the minting of an Eisenhower dollar. General Eisenhower was one of the truly great historical figures of this century. The general led our forces to victory in World War II, striking a blow for freedom and democracy. He was a fine soldier and a fine leader of men. General Eisenhower then went on to become President and lead this country through two consecutive terms of peace and prosperity. I think it is a fine idea to place the image of President Eisenhower on a dollar coin to commemorate his 100th birthday. His were the values and ideals that Americans should be proud of and commemorative coin is an excellent means to reinforce these values.

I know "I like Ike" and I hope the rest of the House does also. I am quite pleased that we can pass this fine bill under unanimous consent today.

Mr. Speaker, under my reservation, I yield to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I would like to thank the distinguished chairman of the Subcommittee on Consumer Affairs and Coinage, the gentleman from Illinois [Mr. ANNUNZIO], for all of his consideration and efforts on behalf of my bill, H.R. 3654, the Dwight David Eisenhower Coin Act, as well as the gentleman from Indiana [Mr. HILER], the gentleman from Ohio [Mr. WYLIE], and the gentleman from Pennsylvania [Mr. RIDGE], who helped us with this legislation.

I would also like to commend Chairman ANNUNZIO for making the modern commemorative coin program, in existence since 1982, extremely successful. This can be traced to his leadership, expertise and good judgment of numismatic matters, which has allowed for the orderly and straightforward progress of the program.

I also would like to thank the gentleman from Kansas [Mr. ROBERTS], because without his time and energy on behalf of H.R. 3654, we probably would not be taking action today, as well as Senators DOLE and HEINZ for their efforts in the other body.

The Eisenhower silver commemorative coin created by my bill will allow for a fitting tribute to a great national leader on the 100th anniversary of his birth and will help to further enlighten and educate people about his deeds and accomplishments. He, too, is remembered as "a citizen, first in war, first in peace, and first in the hearts of his countrymen."

Mr. Speaker, I rise in strong support of H.R. 3654 and S. 2789, identical bills which authorize the minting of a silver commemorative dollar in 1990, in honor of the 100th anniversary of the birth of President Dwight David Eisenhower.

The tremendous accomplishments, achievements, and popularity of President Eisenhower during his distinguished career in the U.S. Army, as President of Columbia University, Supreme Commander of NATO, and as the 34th President of the United States are well-known. He rose from humble origins, in Kansas to become one of the great military leaders in our Nation's history, and one of the most beloved and popular Presidents in recent memory. Throughout his career, Ike was recognzied for his honesty, integrity, leadership, as well as his ability to get the job done in a direct and straightforward manner. As President, Ike's numerous accomplishments included the establishment of the Interstate Highway System, maintaining a balanced Federal budget, and keeping America at peace during his 8 years in office.

Mr. Speaker, it is clear that collectors and the general public have shown great interest in commemorative coin programs, especially those which include silver coins, that are meaningful, historically significant, well planned, and effectively implemented. I believe that the 1990 Eisenhower commemorative silver dollar will add to the list of successful coins.

As a parent and an educator, I have long recognized the importance of numismatic items in the teaching of our nation's history and heritage to young people. As a young boy, my son collected coins, and many of the pieces he obtained led to further questions and study on his part about the subjects and events depicted on each item. As a teacher, I can remember students coming to me in class with questions about a specific individual or event they had seen on one of the coins in their collection. The modern commemorative coin program has helped to teach youngsters in this way.

The celebration of the centennial of President Eisenhower's birth is only 2 years away. Many events and activities are being planned by a number of different organizations and institutions including: the U.S. Army, the National Archives, NATO, Columbia University, the Eisenhower Library in Abeline, KS, the St. Lawrence Seaway, the Eisenhower World Affairs, Institute, the Eisenhower Society fo Gettysburg, PA, and the Eisenhower Centennial Committee of the U.S. Congress. This worldwide celebration will focus on the life and times of a man truly deserving of such an honor. The Eisenhower commemorative coin will help to add to this tribute and will further enlighten and educate people about his deeds and accomplishments.

When thinking of Ike, I have always kept in mind a quote first used to describe George Washington: "A citizen, first in war, first in peace, and first in the hearts of this countrymen." I believe this statement effectively sums up the feelings of a majority of Americans about this great and honorable individual.

Mr. Speaker, I was pleased to author the legislation mandating the creation of this coin. I applaud the efforts of Chairman ANNUNZIO and all of my colleagues on behalf of H.R. 3654. They have allowed Ike to receive the tribute he deserves in 1990 and ensured that the modern commemorative coin program will continue to be a successful, popular, and profitable enterprise.

Mr. HILER. Mr. Speaker, I yield to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I rise in strong support of H.R. 3654, The Dwight David Eisenhower Commemorative Coin Act. I am pleased to be an original cosonsor of the bill and thank the sponsor, the distinguished gentleman from Pennsylvania introducing the bill and all of his efforts to get the bill to floor.

I would also like to thank Chairman ANNUNZIO of the Consumer Affairs and Coinage Subcommittee for his timely assistance in holding hearings and marking up the bill.

Mr. Speaker, this legislation authorizes the minting of a silver dollar in 1990 to commemorate the 100th anniversary of the birth of Dwight David Eisenhower. Several amendments have been made to improve the legislation by reducing the number of coins to be minted, reducing the surcharge, and providing greater administrative flexibility. I believe that with these amendments, the Eisenhower coin will compete successfully in the numismatic marketplace just as its likeness competed successfully in athletics, in war, in academia, and, of course, in government.

I would like to stress the important role the coin will play in honoring a unique and pivotal figure in our Nation's history. Abilene, KS, Ike's hometown, is in the First Congressional District of Kansas, which I have the honor and privilege to represent. It was in Abilene that Ike grew to adulthood. His experiences in Abilene provided the foundations of the President's values, beliefs, and actions. General Eisenhower returned to his hometown to declare his intention to seek the Presidency. The city is also the home of the Eisenhower Library—the largest federally funding memorial to our 34th President.

The Eisenhower centennial on October 14, 1990, provides an unparalled opportunity to honor this great American and to refamilarize ourselves and our children with his life and legacy. As we look forward to the centenary, it is important that the Congress in particular and the Federal Government in general take a lead role in honoring this central figure of 20th century history. The Eisenhower dollar provides the Congress with an important and appropriate means of honoring the man who led our Nation in war and in peace. There is no cost to the Government as the minting and issuing of the coins and any proceeds from the sale of the coins will be used to reduce the Federal deficit.

Mr. Speaker, the world is literally a different place because the contributions of Dwight Eisenhower. H.R. 3654 represents an opportunity to issue a profitable coin and to honor a great American in his centennial year.

Mr. HILER. Mr. Speaker, I urge the House to pass this bill, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1987".

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than 10,000,000 of the coins referred to in subsection (a).

(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reverse side of such coin.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 1(a).

(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) TERMINATION OF AUTHORITY TO MINT COINS.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, and issuing such coins, including labor, materials, dies, use of machinery, and overhead expenses.

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) SURCHARGES.—The Secretary shall include a surcharge of $9 per coin on all sales of the coins referred to in section 1(a).

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net cost to the Federal Government.

(b) Payment for the Coins.—The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ANNUNZIO

Mr. ANNUNZIO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Annunzio: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1988".

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS.

(a) Authorization.—Subject to subsection (b), the Secretary of the Treasury) hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the one hundredth anniversary of the birth of Dwight David Eisenhower.

(b) Limitation on the Number of Coins.—The Secretary may not mint more than four million of the coins referred to in subsection (a).

(c) Specifications and Design of Coins.—Each coin referred to in subsection (a) shall—

(1) weight 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reverse side of such coin.

(d) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) Legal Tender.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) Uncirculated and Proof Qualities.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) Use of the United States Mint.—The Secretary may not use more than 1 facility of the United States Mint to strike each such quality of the coins referred to in section 1(a).

(c) Commencement of Authority to Sell Coins.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) Termination of Authority to Mint Coins.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) In General.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) Bulk Sales.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) Prepaid Orders.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) Surcharges.—The Secretary shall include a surcharge of $7 per coin on all sales of the coins referred to in section 1(a).

SEC. 6. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net costs to the Federal Government.

(b) Payment for the Coins.—The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the amendment in the nature of a substitute and on the bill.

The previous question was ordered.

The SPEAKER. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. Annunzio].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2789) to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1988".

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS.

(A) Authorization.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the one hundredth anniversary of the birth of Dwight David Eisenhower.

(b) Limitation on the Number of Coins.—The Secretary may not mint more than four million of the coins referred to in subsection (a).

(c) Specifications and Design of Coins.—Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historical Site on the reverse side of such coin.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike each such quality of the coins referred to in section 1(a).

(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) TERMINATION OF AUTHORITY TO MINT COINS.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) SURCHARGES.—The Secretary shall include a surcharge of $7 per coin on all sales of the coins referred to in section 1(a).

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net costs to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3654) was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REAGAN ADMINISTRATION WOMEN APPOINTMENTS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, President Reagan last week announced that "no administration has named more women to top-level policy positions in the Federal Government" than has the Reagan administration. The President cited no figures, but a White House official later said the President had appointed 3,145 women to senior positions since he took office.

As President Reagan reminded the delegates to the Republican National Convention, facts are stubborn things. And, on the question of women appointed to top Government positions, it's no wonder President Reagan didn't mention the facts.

Fact: During his first term, President Reagan made 1,173 appointments to executive branch positions requiring Senate confirmation, like agency heads and their immediate deputies. Of these 1,173 appointments, 105 were women. That figures out to a paltry 9 percent.

Fact: During the second Reagan term, there were 815 such appointments. Only 81 of them were women. So, the percentage went up to 10 percent.

Fact: President Carter appointed 41 women Federal judges in 4 years in office. In 7½ years, President Reagan has appointed only 36.

Fact: The White House has not substantiated its claim of 3,145 top-level women appointees. We could not figure where this number came from. We wrote to the White House and asked for the names of each of these women. So far, there's been no response from the White House.

Well, facts are stubborn things. The fact is that the record of the Reagan administration in the appointment of women is sorry. Nobody should be misled by the White House's substitution of fantasy for fact.

THE GAME OF ACID RAIN

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, this election has treated the American people to a confusing game of political hide and seek. The candidates are looking for each other on the issues, and we've heard the unending questions: Where's George or where's Mike?

Well, on acid rain, we have been playing that game for some time, but now we're close to finding who's left without a position.

The President has agreed to negotiate a treaty with Canada;

The Governors of New York and Illinois have reached an historic compromise on acid rain reduction;

The Senate is moving forward with a bipartisan approach to deal with the damage of acid rain, and

The Vice President has made a strong commitment to acid rain control.

But where is the House on acid rain? Where are the Democrats who control the leadership and the Energy and Commerce Committee. No acid rain bill has ever been reported from that committee, and over the years it has become a political graveyard for acid rain control.

Mr. Speaker, let us end the political hide and seek on acid rain. It is time for the House to come out from hiding and take a stand. Let us vote on acid rain in this 100th Congress.

REAGAN/BUSH BUDGET REQUESTS TOTAL $1.1 TRILLION IN DEFICITS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I recently heard President Reagan express surprise about the Federal deficit.

He said, "The President doesn't spend money, Congress does."

Because of this, I thought it would be useful to review President Reagan's leadership on the Federal deficit issue.

Since President Reagan arrived in Washington, he has submitted eight budgets to the U.S. Congress. Each of those budgets recommended a certain level of spending, a certain level of taxation, and a deficit for each fiscal year.

If you lay all of his budgets around a table and simply add up the bottom line, he has, in the eight budgets he has sent to Congress, requested deficits of $1.1 trillion. The budgets the President sent to Congress requested the following deficits:

Fiscal year:	*Billions*
1982	45.0
1983	91.5
1984	188.8
1985	180.4
1986	182.0
1987	159.3
1988	147.4
1989	129.5
Total	1,123.9

These budgets that have been submitted by the Reagan administration cannot be laid at the feet of Jimmy Carter or Franklin Delano Roosevelt or other forces from the past that the President usually blames America's troubles on. These budgets were prepared and submitted to Congress by Ronald Reagan. They are deficits he asked for. They are his requests.

Yes, Congress has made some mistakes—its biggest mistake was to follow the President's lead. It led, as David Stockman said, to a fiscal catastrophe.

There are three steps in the budget process. First, by law the President is required to submit a budget to Congress. Second, the Congress appropriates money and raises revenue. Third, the President signs or vetoes the legislation that performs these functions.

The President has control of two of the three steps in the process that creates the Federal deficit. And when he puts on his blank face and rolls his eyes and jesters palms upward that he really had nothing to do with the deficit, he is taking a flight from reality.

The fact is, these are his budgets that have requested deficits of $1.1 trillion. They have his name on the cover.

This was described by David Stockman, Director of Management and Budget, whom President Reagan appointed to formulate this administration's fiscal program in the first place.

David Stockman said the White House "had become a dream land. It was holding the American economy hostage to a reckless, unstable fiscal policy based on the politics of high spending and the doctrine of low taxes * * * it bragged that its policies had worked as never before when, in fact, it had produced fiscal exesses that had never before been imagined."

That was not a statement of some partisan critic of President Reagan. It's what his own Director of Management and Budget says about this President's fiscal policies and the dangerous deficits they have created.

These deficits are dangerous for America's future and we are going to have to join hands and walk to safety together. It's going to require bipartisan cooperation and the only reason I point out President Reagan's record today is because his statements disclaiming any responsibility for his reckless fiscal policy are fundamentally dishonest and deceiving. Yes, we in Congress are responsible, too. And, it's time for everyone to sober up, roll up our sleeves, and go to work to put America back on track. We can do it, if we are honest about the causes and realistic about the solutions.

AIR FORCE HURRICANE RECONNAISSANCE MISSIONS

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, I have joined with many of my colleagues who represent coastal areas as an original sponsor of Mr. Lewis' important resolution expressing the sense of Congress that the Air Force should continue their hurricane reconnaissance mission in the Atlantic and Gulf of Mexico.

For the last 2 years, the gentleman from Florida [Mr. Young] and I have worked with our colleagues on the Appropriations Subcommittee on Defense to stop the Air Force from discontinuing this vital reconnaissance mission. We have been able to maintain funding in the annual Defense appropriations bills to keep four Reserve and eight Active Duty Air Force reconnaissance WC-130's available to fly at least 1,600 reconnaissance hours a year. We will continue this funding in this year's bill and well into the future.

Mr. Speaker, this Air Force mission, manned by hurricane experts and incredibly capable and daring pilots, is critical to accurate forecasting of hurricanes. Certainly our satellite technology contributes a great deal to our forecasting and warning capabilities. But only the reconnaissance aircraft can give us an exact fix on the eye of the hurricane and tell us about subtle trends and changes in direction at critical times when a hurricane, particularly a killer like Hurricane Gilbert, begins to approach our coasts.

As we can see from tracking Hurricane Gilbert, just the slightest change in direction could mean the difference of whether and where the full force of this terrible storm would hit the U.S. coastline, or whether a heavily populated area would be threatened by 3- to 4-foot tides or 10- to 20-foot tides, or buffeted by only 50-mph winds contrasted with 100- to 200-mph winds.

As my local newspaper, the New Orleans Times Picayune, said in their July 28 editorial; when it appeared that the Air Force might discontinue these flights:

> It seems ironic that the Air Force, which wouldn't dream of leaving U.S. coastal areas unprotected against a threatening human enemy, would let down its guard against a menacing natural enemy.

It is equally ironic that news reports reflect that the Soviet Union is running its own set of flights into Hurricane Gilbert and is probably going to continue to make hurricane reconnaissance flights in years to come. So should we.

HURRICANE HUNTER PLANES

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, as a Representative from Hurricane Alley along the gulf coast, I strongly object to the Air Force proposal to eliminate the WC-130 weather reconnaissance program. Although I certainly understand the need to reduce Federal spending, the termination of the WC-130 Program will place the lives of our coastal constituents in unnecessary jeopardy. The task of preparing or evacuating for a hurricane is harrowing enough with the proper warning, but without accurate information it would be utter chaos.

You need only to look at the front page of the Washington Post to see the devastation that is left behind in the wake of hurricanes. The Air Force position that the use of satellite readings and landbased weather rader will provide adequate information for tracking and predicting hurricane paths, is simply unwise. The most accurate technology available to track these storms should not only be employed but improved.

Today, as the Air Force considers abandoning the WC-130 Weather Reconnaissance Program, people in low lying areas in Texas and Louisiana have the forewarning to evacuate their homes due to the up-to-the-minute hurricane reports from the U.S. Weather Service aided by the WC-130 hurricane hunter planes. This decision is truly a matter of life and death.

INTRODUCTION OF AMERICAN FAMILY ACT

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, next week I will introduce the first part of the American Family Act. This first part of the American Family Act is comprised of 21 separate pieces of legislation, 4 of which have already been introduced.

I have delayed introduction until next week because I am also looking at possible additional pieces of legislation, particularly in the area of work and family.

In my capacity as the Republican leader on the Select Committee on Children, Youth, and Families, I have witnessed first hand the problems faced by today's families. The Family Act will promote family strengths through requiring a family impact statement on legislation of Congress, aiding the development of family support centers, and promoting family preservation efforts as an alternative to foster care in cases where feasible.

The Family Act will offer parents more choices in education, in child care and in housing. The Family Act will promote character and responsibility through proposals for character education, parent liability for gang-related violence, and tough child support laws.

The American Family Act will be a major step toward strengthening American families. I urge my colleagues to examine this package of legislation, and I welcome your support.

THE EFFECTS OF HURRICANE GILBERT

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, Hurricane Gilbert has left a trail of destruction in the Dominican Republic, Jamaica, and on the Mexican coast, and may hit Texas within the next day. But it has also left its mark in my hometown of Hartford, CT.

Hartford has a West Indian population of about 20,000, and three-fourths of those people are from Jamaica. It has the second largest population of people of Jamaican ancestry in the United States.

Hurricane Gilbert was Jamaica's worst calamity this century, causing loss of life, leaving half a million people homeless, and causing up to billions of dollars of damage.

And those people in Hartford who were unable to reach loved ones for more than 2 days after the hurricane suffered, too, from uncertainty.

Relief aid to Jamaica is being collected and channelled by the Jamaican Hurricane Relief Committee in Hartford, and other organizations in the State. And the United States has already begun assisting areas hit by Hurricane Gilbert, and will be providing almost $400,000 in aid to Jamaica.

Mr. Speaker, many Hartford residents are feeling the effects of winds that damaged a country thousands of miles away, and they are doing what they can. We must do all we can locally and nationally to assist the victims of this natural disaster.

HURRICANE HUNTER PLANES

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I am pleased to join today with our colleague from Florida [Mr. LEWIS] in sponsoring a resolution expressing the sense of the Congress that the Air Force should continue its weather reconnaissance, or Hurricane Hunter Program.

With Hurricane Gilbert bearing down on our gulf coast, it is appropriate to start today in letting the Air Force know that it is not a good idea to eliminate its hurricane hunter planes. Those of us who represent coastal communities understand that the hurricane hunter planes provide critical information to weather specialists and to emergency planners. The Air Force Weather Reconnaissance Program is a vital addition to the National Oceanic and Atmospheric Administration's hurricane tracking program and provides precise information to correct possible errors in satellite reporting.

Mr. Speaker, no degree of hurricane reconnaissance will prevent these storms from hitting our coasts. But accurate information on the storms' paths can and has prevented the loss of life. In 1979, Hurricane Frederic struck the coast of Alabama and its devastation resulted in over $2 billion in property damage. However, the course of the hurricane was accurately established, with the help of the Air Force, and there was only one death. We were prepared because we had good information.

I urge the adoption of this measure to send a strong signal to the Air Force that we cannot tolerate unnecessary loss of life due to incomplete information on killer hurricanes. We must insist that the Air Force continue its reconnaissance flights.

COMPLAINTS ABOUT NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Madam Speaker, let me say that I rise today once again to talk about Mr. James Roosevelt and his national committee to Preserve Social Security.

Madam Speaker, I do not know what upsets me more, and I have heard this from other Members, than to receive mail at home addressed to me, to open it, from a maiden lady in Frederick County, in Frederick City, and find a petition to Congress of the United States and a $10 bill, understanding, from reading the petition, this lady is under the impression that if she sends me, her Member of Congress, $10, I will save her Social Security. We have had this happen time and time again.

I do not know when Mr. Roosevelt and his national committee are going to get their act together and not use the Members of this body and the Senate to further themselves.

IF DRUG BILL FALLS SHORT, INVOLVE MILITARY

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Madam Speaker, I am going to vote for our omnibus drug bill. It is tough, but is it tough enough to win a war which has caused more American deaths than Korea and Vietnam combined?

We call our efforts a "war on drugs." But what kind of a war is one in which only those being invaded are victimized, while the invaders are extended every protection of our Constitution?

If this legislation fails to accomplish its intent, then we should more actively involve our military, having them close our borders to all surface and aircraft, except those following strictly prescribed regulations for entry, using designated corridors.

Subsequently, upon positive identification, which we have the means to ensure, we should begin destroying the drug-carrying planes and vessels in transit, without warning, giving no quarter. Very quickly these firm, sensible, and necessary measures will successfully conclude this tragic conflict.

DRUG BILL WILL GIVE POLICE A FIGHTING CHANCE

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Madam Speaker, during the debate on the drug bill I have heard many good arguments in favor of this bill. But none of them have had the force of two statements I heard a few weeks ago in my district.

While I was in South Carolina, I had a chance to sit down with a group of

16 high school students and talk about the effect of drugs on their lives.

When I asked them the reason for drug use among their friends one student said, "Everybody attacks you for not participating with the rest of them." Another said "Everybody thinks you won't get caught."

Madam Speaker, this is what we have to stop. This is what we have been talking about throughout the debate. Our high schools should not be places where our children feel they have to use drugs to be part of the crowd. Drug dealers and drug users cannot stalk our Nation freely, believing that they will not be punished.

As we finish work on this bill, we are working to give our police a fighting chance, to return our neighborhoods to our families and our schools to our children. Today in addition to saying no, we must say now.

LIBYA, JAPAN, AND THE CONTINUED SPREAD OF CHEMICAL WEAPONS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Madam Speaker, if Iraq's use of chemical weapons against its Kurdish minority was not troubling enough, today's Washington Post reports that Japan is helping Libya construct a metallurgical plant in the same complex that Libya is using to produce its stock of chemical weapons. Japan should know better.

Sadly, this type of Western complicity in the proliferation of toxic weapons is not a new phenomenon. Syria is producing these weapons with chemicals originally from our own country. When we placed an export ban on these chemicals, West Germany quickly stepped in to fill the gap.

At a time when the United States and the Soviet Union are making significant progress in Geneva toward a treaty banning chemical weapons, Western participation in the spread of these weapons is unconscionable. The United States and the West must lead by example, not by aiding volatile Third World countries to obtain and deploy "the poor man's atomic bomb."

H.R. 2880, a bill introduced by myself and IKE SKELTON, would establish a new U.S. chemical and biological weapons nonproliferation regime, and I urge Members to cosponsor it. In the meantime, Japan should know that we view its Libyan complicity with the deepest concern.

A SALUTE TO JOHN C. ROSANO

(Mr. HOCHBRUECKNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOCHBRUECKNER. Madam Speaker, I am pleased that Congress has designated today as "National POW/MIA Recognition Day." This day will serve to honor those who were captured in war and increase public awareness of the many American servicemen still unaccounted for overseas. We must remember the sacrifices made by these American heroes not only on this day of national recognition, but every day. Let us give thanks to those who fought bravely to defend the freedoms that we so often take for granted.

Today I would like to salute John C. Rosano, a World War II veteran and POW from Long Island, NY, to whom I awarded the POW medal on July 30, 1988. I am proud to present this American hero in Congress. Throughout his service in Europe during World War II, Mr. Rosano exhibited true bravery in the face of constant danger and was willing to sacrifice his life to help others.

Mr. Rosano enlisted in the U.S. Army in April 1943. After basic training, he volunteered for the 82d Airborne and completed jump training at Fort Benning, GA. Soon after, he was sent overseas, where he participated in the Sicily campaign and the D-Day invasion of Normandy. When jumping behind enemy lines, as Mr. Rosano did in Normandy, he was completely on his own. There were many days and nights of the traumatic experience of hand-to-hand combat, in which Mr. Rosano had to look into the eyes of the men he was forced to kill.

Mr. Rosano was captured in France by German soldiers on August 9, 1944. They marched him toward Germany, picking up about 1,000 other POW's along the way. He watched his friends being shot before a German firing squad. Subsequently, his life was spared due to a timely allied bombing raid. He was locked in a boxcar with 60 men for 30 days, where there was no ventilation, no room to lay down, and rats which ate the remains of those who died of starvation.

In October 1944, Mr. Rosano and his fellow POW's began a "death march" to Germany. Those who survived the march were forced to work 16 hours a day building barracks and air raid shelters. Stationed 1 mile from a railroad troop station, Mr. Rosano's camp was bombed for at least 6 hours every night. That winter, they were forced to sleep on a cold cement floor with no winter clothing, and were fed only a slice of bread and a small portion of potato soup daily. In 9 months, Mr. Rosano lost 70 pounds. One night, the POW's were so hungry that Mr. Rosano, knowing he would be severely punished if caught, crawled under a barbed wire fence to take Red Cross packages to his men. While this allowed his fellow POW's to eat, Mr. Rosano was caught and placed for 2 weeks in a hole 5 feet long, 3 feet wide, and 4 feet high.

On January 15, 1945, there was an air raid by allied bombers on Mr. Rosano's POW camp. The air raid shelter was shared by both POW's and German civilians. During the raid, a German mother dropped her two children while running to the shelter. Exhibiting great courage and compassion, Mr. Rosano ran back into the bombing and rescued the two children. Just as he returned to the shelter, however, it received a direct hit. Mr. Rosano and four other POW's were buried alive for 5 days. During this incident, Mr. Rosano sustained physical injury that has plagued him ever since.

In May 1945, the POW's were liberated by the 10th Army Division. Mr. Rosano was sent to Lake Placid, NY, and then Fort Lee, VA, to recuperate. Doctors recognized that he had sustained serious and debilitating injury, but were unable to diagnose it. It was only in 1972 that he was diagnosed as having an organic brain syndrome. While Mr. Rosano frequently received medical treatment at the VA Northport Hospital on Long Island, his wife Lucy and his children Linda, Lori, and John have all helped to care for him over the years.

Mr. Rosano received the following honors for his distinguished military service: The European-African-Middle Eastern Campaign Medal, the Good Conduct Medal, the World War II Victory Medal, the Combat Infantry Badge, the Sharp Shooting Medal, the Bronze Star, with six smaller bronze stars for his six jumps behind enemy lines, and the Conspicuous Service Cross. Recently, I had the honor of presenting Mr. Rosano with the POW Medal.

Madam Speaker, let us devote this day to honoring John Rosano and all the POW's and MIA's who have sacrificed so much in the defense of our great Nation.

□ 1100

POW-MIA RECOGNITION DAY

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Madam Speaker, it is very appropriate that today be acknowledged by the Congress and the President as a national day of remembrance for Americans who have been prisoners of war and missing in action.

It is ironic that at the time we do this Vietnam is giving signals throughout the world that they would like to become a part of the civilized world, they would like to have our aid and our assistance, and they would like to have our money. My signal to Vietnam would be that if they want to become a part of the civilized world, act civilized. There are still some 2,500 Americans still listed as missing in action in Vietnam. If they want to be recognized as civilized they should give us a full accounting.

The families, the mothers, the fathers, the children, the brothers, the sisters, the aunts, the uncles, the friends, everyone deserves an accounting for their loved ones who are still missing in action in Vietnam. So I say to that country, if they want to be a part of the civilized world, if they want to be recognized as such, if they want aid and assistance from the rest of the civilized world, then act in a civilized fashion and give us an accounting of our Americans who are still missing in action in Vietnam.

Madam Speaker, the Congress and President Reagan have declared today to be "POW-MIA Recognition Day" to signal our Nation's strong determination to achieve a full accounting of the 2,500 Americans still missing in Southeast Asia.

As one Member of Congress who has been outspoken in demanding a resolution to this situation, I certainly share the frustration of the families of these missing Americans who pray that one day they will know the fate of their loved ones. As a member of the House Appropriations Subcommittee on Defense, I have repeatedly pressured Defense and Intelligence Agency witnesses before our committee about the extent of Vietnam's cooperation or lack of cooperation in this regard.

My firm belief remains that we should not resume diplomatic relations with Vietnam until officials of that country cooperate fully in the accounting of missing Americans. My opposition to diplomatic relations with Vietnam has grown even stronger in the past few months as Vietnam has reneged on agreements to assist American teams in identifying crash sites and in returning American remains.

Because of Vietnam's lack of cooperation over the years with the United States, this House in 1979 approved my amendment to the foreign assistance appropriations bill to prohibit American taxpayers' dollars from going to Vietnam either through direct or indirect foreign assistance payments. At the time, the World Bank planned to give money to Vietnam, but as the ranking member of the Appropriations Subcommittee on Foreign Operations, I reminded my colleagues of the inhumane treatment of our POW's by the Vietnamese and successfully put an end to the World Bank's plans.

We remember our missing Americans every day through our thoughts and prayers. This special day, however, provides us with an opportunity to reaffirm our commitment to the families of these special Americans, and this member can assure each of those family members that he will press forward through every available means to achieve a full accounting of the 2,500 brave individuals who sacrificed so much in the defense of our great Nation.

AIR FORCE CONTRACTS TO FACTORIES IN POLAND

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Madam Speaker, just over 2 years ago, my interest in the full and lawful enforcement of our cargo preference statutes on military supplies purchased abroad brought to my attention an interesting report that I found at the time truly incredulous—the Air Force, yes, the U.S. Air Force, had just awarded a $1 million-plus contract to a factory in Poland to build 20-foot ammunition storage and transport containers, passing over factories in our own country and those of our allies in Israel, Italy, and England.

Now, over 2 years later, the GAO has reported in full to me that the Air Force has not once, but twice, made these contract awards to the factory in Szczecin, Poland, for a total of 2,000 containers at a cost to the United States taxpayers of over $5 million.

If the Congress does not act now and send a message to the Pentagon, we will pick up the morning paper one day soon and read that the Air Force has awarded millions to the University of Moscow's Applied Physics Lab for SDI research.

The time is at hand to stop this unbelievable practice and restore common sense for our taxpayers and the defense of our country.

OPENING ETHICS COMMITTEE INVESTIGATION OF THE SPEAKER TO THE PUBLIC

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Madam Speaker, the House should apply to itself the same rules it applies to others. The Iran-Contra investigation was televised and public. The ethics investigation of the Speaker should be in public.

If we are willing to risk America's secrets and embarrass America's allies, we should be willing to risk politicians' secrets and embarrass politicians' cronies.

By your actions this week when you asked to appear before the Ethics Committee, your use of evidence for a photo opportunity, and your efforts to use the press to focus the story on your terms, you have abused the process of Ethics Committee secrecy.

Your actions prove that the public deserves to know what is going on with an investigation of the second most powerful elected official in America, and the man second in line to be President.

The House must vote to open the investigation to the public and should establish the same rules for news coverage it used in the Iran-Contra investigation.

In the near future, a motion will be made to open the investigation to public scrutiny. I hope my colleagues will support it.

WHO CAUSED THE DEFICITS?

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Madam Speaker, previously a Member from the Democrat side said the deficits are all the problems of Ronald Reagan, the President. The data and the figures are just the opposite.

This Member asked the OMB and the CBO to prepare an analysis that compares the Reagan budget requests from 1982 through 1986 with what Congress appropriated in response to the budget requests. This is what it showed:

In national defense over those 5 years Congress appropriated $72 billion less; in Medicare, $12 billion more; Social Security, $16 billion less; net interest, $20 billion more; and all others, $181 billion more.

If this Congress had appropriated what this President asked to be spent, the total level of spending by the Federal Government each year would be about $100 billion less than what it actually is. Presidents can only spend what Congresses appropriate. The big spenders are right here in this hall.

If the people of America want to change the course of runaway spending, they have to throw the big spenders out.

FUNDING PROVISION IN OMNIBUS DRUG BILL WOULD HANDICAP RURAL LAW ENFORCEMENT OFFICIALS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Speaker, I rise today to call my colleagues' attention to a funding provision in the omnibus drug bill that would severely handicap rural law enforcement officials in their efforts to eradicate clandestine laboratories that manufacture illegal drugs. Many rural counties have established task forces and programs under grants received from funds authorized in the 1986 omnibus drug bill. Drugs sold in our big cities are many times manufactured in the countryside just outside.

In my congressional district such a task force is operating successfully. Nine counties in my district and MARVIN LEATH's district in central north Texas have formed the Agriplex Roadrunners Task Force with funding from the 1986 drug bill. Just as the task force has started showing real progress, its existence is in jeopardy because of a last minute change in the funding mechanism for grants to State and local drug enforcement officials.

The formula is heavily tilted toward awarding large metropolitan areas. The new language in the bill would award grants based on the amount of money a county or city government spent on criminal justice programs in the preceding year. This is markedly different from the formula in the 1986 bill which allowed funds to be distributed based on need, instead of fixed formulas based on population and prior expenditures.

The war on drugs must be fought on all fronts; not just in the large cities. The cities may think they are helping their cause in demanding a larger share of the funds, but in reality they are compounding their problem by virtually eliminating the valuable work being done by rural counties in stopping the growth and manufacturing of illegal drugs.

As we finish consideration of H.R. 5210, I urge my colleagues to join me in urging our colleagues in the other body to leave the funding formula as it was in the 1986 bill so we may continue to build on the success of programs already in place in rural counties across the Nation.

EQUALITY FOR WOMEN ON CAPITOL HILL

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Madam Speaker, this morning we have heard in the usual wars of statistics what administration appoints what women to what spots. I think there is something we can have some agreement on. We hope this President continues to appoint the high quality of people he has appointed, many of whom are women.

It would be nice if this House, instead of always complaining about the executive, actually did something itself first, and that has something to do with the fact that we still have exempted ourselves from any civil rights legislation, that women are notoriously underpaid, that there is no way for any woman to criticize or complain, and we would not allow that in the executive. So may I suggest that especially on the majority side of the aisle they actually do what they demand of others here.

ABUSE OF THE FRANKING PRIVILEGE

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Madam Speaker, there is a cutoff period before the general election of 60 days during which Members are not allowed to send mailings of more than 500 pieces to their constituents.

This year when the fateful date of 60 days before the election arrived, there were 59 million pieces of mail stacked up in the House folding room awaiting delivery. That is a huge increase over the enormously amount of mail usually on hand in even-numbered years.

It is common knowledge that Members try to be the last person into the folding room so that their mail will be delivered even closer to the election.

This has become a national disgrace. It is likely that much of that mail may not be delivered until late October. Our system is being gamed, with the affect that the frank is being used for election purposes.

The other body, which we frequently criticize, has developed a system of personal accountability so that each Member is allotted a certain amount of money for mailing. Each Senator must live within the individual allocation.

The House, on the other hand, shelters its Members. Our huge franking expense is driven by the urges of those of us who mail most heavily. Because we stand nationally disgraced, we need a system of accountability.

SCHROEDER'S "SLEAZE LIST" DUBBED "SLEAZY LIST" BY WALL STREET JOURNAL

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Madam Speaker, a few moments ago the gentlewoman from Colorado came up and recited what she called facts about the Reagan administration. One would be a little more understanding at her questioning of the facts if one had not read her previous reporting of the facts in her so-called sleaze list.

As the Wall Street Journal editorialized just a few days ago, that list could more likely be called the sleazy list, because the fact is of the 242 people she singled out in the Reagan administration, it had a lot of misreporting of the facts. For instance, that list included people who have been found innocent in courts of law. It included Nancy Reagan for wearing designer dresses. It included one official who was guilty of having his dog Barf on official records.

Let us face it, that is not a very good recitation of the facts. Her list stands condemned. When she reports more facts to the American people, they ought to understand that they are facts that are highly suspect.

PROVIDING FOR CONSIDERATION OF H.R. 5142, AIDS FEDERAL POLICY ACT OF 1988

Mr. DERRICK. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 520 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 520

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5142) to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such Act with respect to research programs relating to such syndrome, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution, said amendments may only be offered by the member designated or his designee, and shall be considered as having been read. Each of said amendments shall be debatable for the time specified in the report of the Committee on Rules, equally divided and controlled by the proponent and a Member opposed thereto. Each of said amendments shall not be subject to amendment except as specified in the report of the Committee on Rules, or to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order against said amendments are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After passage of H.R. 5142, it shall be in order to take from the Speaker's table the bill S. 1220 and consider said bill in the House. It shall then be in order to move to strike out all after the enacting clause of said Senate bill and to insert in lieu thereof the provisions of H.R. 5142 as passed by the House. It shall then be in order to move the House insist on its amendment to the bill S. 1220 and request a conference with the Senate thereon.

The **SPEAKER** pro tempore. (Mrs. KENNELLY). The gentleman from South Carolina [Mr. DERRICK] is recognized for one hour.

Mr. DERRICK. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Madam Speaker, House Resolution 520 is a modified open rule providing for the consideration of H.R. 5142, the

AIDS Federal Policy Amendments Act of 1988. The rule provides for 1 hour of general debate, with the time equally divided between the chairman and the ranking minority member of the Committee on Energy and Commerce.

The rule provides that no amendments are in order except for amendments printed in the report of the Committee on Rules accompanying this resolution. The amendments may be offered only by the designated members or their designee, with debate limited to the time specified in the report and divided between the proponent of the amendment and an opponent. The amendments shall be considered as having been read and are not amendable except as specified in the report. All points of order against consideration of the amendments are waived. The amendments made in order are:

First, four amendments to be offered by Mr. DANNEMEYER. These would mandate testing of prison inmates, require routine testing of some hospital patients, require clinics to provide information on AIDS patients to the State public health officer, and strike the title creating a national AIDS commission.

Second, an amendment may be made to the Dannemeyer amendment by Mrs. BYRON to limit testing in prisons to those inmates determined to be high-risk.

Third, two amendments may be offered by Mr. COATS requiring that States provide up-to-date information on the prevention and transmission of AIDS to applicants for marriage licenses and to physicians and dentists.

Fourth, an amendment may be offered by Mr. MADIGAN which would remove the designation of specific numbers of the new personnel authorized for AIDS research.

Fifth, an amendment may be offered by Mr. MCCOLLUM requiring that testing of individuals applying for marriage licenses.

Sixth, two amendments may be offered by Ms. PELOSI which would establish demonstration programs focusing on early monitoring and treatment and providing follow-up mental health counseling services.

Seventh, an amendment may be offered by Mr. WAXMAN which would expand the research use of drugs.

The rule provides one motion to recommit.

Finally, the rule provides that after passage of H.R. 5142, it is in order to consider a motion to take S. 1220 from the Speaker's table, substitute the text of H.R. 5142 for the Senate bill, insist on the House amendment, and request a conference with the Senate. This procedure simply facilitates a conference on the bill.

Madam Speaker, H.R. 5142 is the first comprehensive AIDS authorization bill to come before the House. It is important that we begin to address the growing need for research, counseling, testing and better information for the public. AIDS is a threatening health menace which may strike up to a quarter of a million Americans by the end of the century by some estimates.

The bill made in order under this rule would help States carry out voluntary counseling and testing in a way that protects the confidentiality of individuals. It would accelerate our research efforts and help train key public health workers. It would provide notification procedures for emergency health workers who may be exposed to AIDS, and fund fellowships and training programs to train health professionals to care for AIDS patients.

H.R. 5142 does not address all the complex issues involved in the fight against AIDS, but it does take an important step in making AIDS research and treatment a priority for the Federal Government, and in shaping a coordinated Federal response to this terrible and deadly disease.

Madam Speaker, in view of the importance of this legislation, I urge my colleagues to support the rule and the bill.

□ 1115

Mr. QUILLEN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, although I offered a motion in the Rules Committee for an open rule on this bill, it was defeated. I am not satisfied with a less than open rule for this important bill, and I am going to ask Members to defeat the previous question and this rule.

The rule permits 12 amendments to be offered to H.R. 5142, the AIDS Federal Policy Act of 1988, most of which relate to testing persons for the AIDS virus and to counseling those at risk of contracting the virus.

Madam Speaker, because there is no cure for AIDS, because there is no cure in sight, because it is fatal, and because this infection is spreading rapidly, AIDS is potentially the most grave health risk threatening the people in this country and throughout the world. Informed opinion differs substantially on what steps should be taken to combat this fatal disease and to protect the population from becoming infected with it. There seems little dispute, however, that the Federal Government should devote even more money and effort to fight this disease. This bill is another step in this direction.

H.R. 5142 authorizes $400 million of the next 3 fiscal years in grants to the States and to health care units serving people considered at great risk of contracting AIDS. In order to receive the grants certain reasonable conditions to safeguard the uninfected population are attached.

The bill also authorizes an increase in Federal personnel at six Federal health agencies to work on the AIDS epidemic and establishes a National Commission on Acquired Immune Deficiency Syndrome. The AIDS Commission is directed to carry out national policies on AIDS research, the testing and treatment of AIDS victims, prevention and education and other aspects of our effort to combat this grim disease.

Madam Speaker, this is an important bill to accelerate our national effort against the AIDS epidemic. There is disagreement over some of the parts and a number of controversial amendments will be offered. There seems little dispute, however, that the basic thrust of the bill is needed and is aimed in the right direction. I ask for a "no" vote on the previous question so other beneficial amendments can be offered to improve the bill.

Madam Speaker, I yield 7 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Madam Speaker, I thank the gentleman for yielding me such time.

I rise in an effort to inform my colleagues of some of the history with this particular issue and to urge their consideration for a vote against the previous question. By defeating the previous question, we would be allowed to offer a substitute rule which would include an amendment I proposed to the Rules Committee. I believe this particular amendment deserves debate and deserves a vote on this House floor.

This is a highly controversial bill. There are sharply separate views on both sides of the aisle as to what the bill ought to include. It is also an issue that is difficult for Members to discuss. AIDS is something that we do not want to think about, and hope that it does not become a serious problem for this country. Yet in the back of our minds we all know it is an extremely serious problem. We know that there is currently no cure and we know that the matter is not getting better. It is getting worse.

Today's Washington Post reports that the Nation's AIDS caseload will grow fivefold the next 4 years. The Federal Centers for Disease Control has reported statistics indicating that as of this week, 72,766 cases have been reported to the CDC. We all know that there are many cases out there, many deaths, that are classified as the cause of death being different than AIDS. However, medical researchers, scientists, and doctors know that the probable cause of death in many of these cases is AIDS. Due to concerns this could create in communities, many times AIDS is not listed as a cause of death on a death certificate.

Currently, there are 72,766 reported AIDS cases, and of that number, 41,064 already have died. By the end of 1992 the Centers for Disease Control reports that a total of 365,000 people will have AIDS, and deaths will have reached 263,000 of that number or 72 percent of the total. Many scientists and researchers believe that eventually the number will reach 100 percent because we do not yet know how long it takes, once a person has contracted AIDS, for the patient to die.

It is an issue which we ought to discuss. The AIDS bill before the House next week, is a very partial proposal in dealing with the question. Members know that we will be back on the floor, many times in the future, discussing this question. I offered amendments in committee as well as other Members. A number of those were adopted. Yet Members on both sides of this issue have amendments that they feel are important that will not be offered on the floor, because the amendments were disallowed by the Rules Committee.

One of those amendments involves the issue of spousal notification, the question of whether or not the spouse of an AIDS-infected victim has the right to know that his or her spouse, his or her sexual partner, has AIDS. I believe this is a moral and ethical obligation on the part of the infected person to inform a marital partner that he or she carries the AIDS virus. This person is obviously in a position to transmit that virus and essentially transmit a fatal disease to his or her sexual partner. It is important that the spouse know that, for many reasons, obviously, for their own health's sake, but also to provide protection to children who almost in every instance contract AIDS if the sexual partner carries the virus.

According to researchers and doctors, the earlier a spouse is made aware of the fact that he or she may be carrying AIDS, the better the treatment and the longer his or her life can be prolonged.

Secondly, we know that the spouse can then make an immediate decision regarding childbirth. Knowing the facts in the instances of AIDS transmission to the child and certain death that results, decisions can be made to prevent childbirth from occurring.

Some will raise the objection that this places an obligation on the doctors that they should not have. My response to that is to simply urge Members to look at the amendment. We place no more obligations on the doctors than any doctor would want to have, knowing that his or her patient has AIDS. We simply state that if the doctor has reason to believe or knows that his patient has not contacted the spouse, that the doctor, if he knows the identity and location of the spouse, will make that notification. This is consistent with the American Medical Association's Council on Ethical and Judicial Affairs advisory opinion which recently issued a statement to guide physicians on how to handle these questions. The AMA directed that physicians should first try to persuade the individual to stop sexual relations with their spouse. If the infected person will not inform the spouse, then the doctor should notify public health authorities. If the infected person still takes no action, the physician has an obligation to notify the endangered third party.

We are not even requiring in this amendment notification of public health authorities. We simply say that the spouse has the right to know if his or her partner has AIDS, which will transmit almost certain death to that unsuspecting spouse and/or their child. We think it is a moral and ethical obligation, and we are asking States to set up a procedure whereby doctors can notify the spouse.

I urge Members to join us in defeating the previous question so that we can modify the rule and offer it with this one additional amendment on spousal notification.

I thank the gentleman from Tennessee for this time.

Mr. DERRICK. Madam Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Madam Speaker, I rise to urge the Members strongly to support the previous question and the rule itself.

Madam Speaker, the gentleman from California [Mr. WAXMAN], chairman of the Subcommittee on Health and Environment, on which I serve and which held many hearings on the bill is, I am sorry to say, ill today, but he urges as well that the House strongly support this legislation. The Subcommittee on Health and Environment, under the leadership of the gentleman from California, and the full Committee on Energy and Commerce, under the chairmanship of the gentleman from Michigan [Mr. DINGELL], have considered the issues surrounding AIDS research and AIDS testing extensively. Since the beginning of the epidemic, our subcommittee has held over 20 hearings related to AIDS. Within the past year the subcommittee has held 5 days of hearings on the issue of counseling and testing for AIDS.

The legislation that comes to the House now represents a hard-fought synthesis of proposals made in those hearings. It provides for widespread voluntary counseling and testing in health care settings, for Federal confidentiality provisions of counseling and testing records, for the expediting and expansion of research, and for a national commission to advise us on AIDS issues that will be upcoming.

Madam Speaker, the bill is not perfect, and it is not anyone's first choice. However, it does represent a balanced compromise. It contains confidentiality provisions, but it does not contain nondiscrimination provisions that I and a number of other Members fought hard for. It contains mandatory testing of people convicted of high-risk crimes, but it does not contain mandatory testing of all prisoners. It contains routine testing of patients in VA clinics, but it does not require testing of all hospital patients.

□ 1130

It contains a notification program for emergency workers who may be exposed to AIDS on the job, but at the same time it does not jeopardize the privacy of patients' records.

Madam Speaker, what we would like to emphasize is simply that the counselling and testing policies in this bill focus limited resources on those patients who need them most, and it provides those people with some certainty that their private medical information will remain private.

In the research area the bill will speed up the administrative process of research without undercutting the basic protections of peer review and scientific quality.

Madam Speaker, it also cuts through some of the difficult clearance procedures to get the basic staff and laboratory facilities to perform the terribly needed research to end this disease.

The rule before us today obviously does not close the debate on this legislation. Clearly there are policy issues about which Members have strong feelings and beliefs. The subcommittee believes that it provides for a reasonable length of time and a reasonable number of amendments and allows the major issues of testing policy to be debated and voted on.

Madam Speaker, it is a fair rule for both the supporters and opponents of the bill. The health and medical consensus is clear on most of the proposed amendments.

The one thing that is clear is that we cannot afford to wait to act to end this epidemic in America and in the world.

One last point, Madam Speaker, just very briefly with respect to spousal notification. I want the Members to be very clear that this bill permits spousal notification. There is no ambiguity on this point. The bill permits spousal notification, but with the American Medical Association I and the gentleman from California [Mr. WAXMAN], the chairman of the committee, and others believe that it is a mistake to bring the Federal Government and Federal involvement into this area as a medical policy issue. The American

Medical Association coincides with our position, and I want the Members to be clear that the bill does permit spousal notification.

Mr. QUILLEN. Madam Speaker, I yield 1 minute to the gentleman from Indiana [Mr. Coats].

Mr. COATS. Madam Speaker, I thank the gentleman from Tennessee for yielding.

Just to respond to my colleague, the gentleman from Oregon [Mr. Wyden] what we are attempting to do with this amendment is to state that no State can receive funds under this bill unless it establishes a procedure by which it would require doctors to notify spouses if their patient has AIDS. This is assuming that the doctor knows the location and identity of the spouse and assuming that the infected person is given the prerogative of giving that notification to the spouse before the physician would do so.

Madam Speaker, we are simply saying that if the doctor knows that the patient is going to tell his spouse that is fine. We simply want to establish a procedure through the States that requires the doctor to notify a spouse of an infected person if the physician believes or has to believe that the spouse has not been so notified by his marital partner.

So it is not a heavy hand of the Federal Government coming down, simply conditioning to receive the funds on that procedure.

Madam Speaker, I thank the gentleman from Tennessee [Mr. Quillen] for the additional time.

Mr. QUILLEN. Madam Speaker, I yield 7 minutes to the gentleman from Indiana [Mr. Burton].

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman from Tennessee for yielding this time.

Madam Speaker, I was originally going to use dilatory tactics to try to stop this whole procedure today because I think the rule is so unfair, but, realizing that I would probably raise more animosity among my colleague on a Friday afternoon than solving the problem, I decided against that approach.

Madam Speaker, I rise today in favor of the substitute rule that will allow spousal notification. I cannot imagine anybody opposing that. It makes no sense to me whatsoever for a person who has AIDS to not be required to tell their wife, and anyone who does not tell their wife or husband that they have the AIDS virus is not only irresponsible, but they are inhuman. I cannot imagine this body not requiring that.

Madam Speaker, doctors ought to be, as a matter of principle, as a matter of law, required to tell someone's spouse that they have the AIDS virus, not just to protect the spouse, but to protect the entire household.

I am also up here to talk about the unfairness of this rule, not to Dan Burton, but to the American people. This rule precludes the possibility of proposing amendments that are very important to the population of this Nation. One of those amendments is an amendment that would allow mandatory testing or routine testing of every American regarding the AIDS virus. Now most people pooh-pooh that, and they say, "Why should we test everybody in this country?" Well, I will tell my colleague why.

Madam Speaker, a number of scientists have pointed out through statistical study that we are likely to have millions of people dying in the not too distant future. Dr. Allan Salzberg of Miles City, MT, a scientist, doctor, and computer expert along with two of his colleagues have taken every cohort study available, they put it into a computer and came up with projections on the AIDS virus, the AIDS pandemic, through the year 2005. I have talked about it on this floor many times, and their statistical data parallels what the CDC came up with through the year 1991. So the facts and the figures that CDC came up with through 1991, their study parallels. There is no difference; just a few thousand people different, and so there is no reason to believe that their statistical projections are inaccurate.

Let me tell my colleagues what these statistical projects show. Now listen to this. I hope my colleagues will pay attention to this for just a minute. In 1995 their projections show that there will be 2.1 million cumulative cases of AIDS, people that have the AIDS virus. There will be 1.3 million people in this country dead or dying of the AIDS virus, and there will be 12 million carriers, and we are talking about 6 years away from now. This thing is going to grow in an exponential manner according to their projections.

Madam Speaker, they may be wrong, but I think they are pretty close to correct, but how in the world are we going to know unless we do testing? We have our head in a sack in this country. The CDC, our health agencies, have their heads in a sack, and this epidemic is spreading, and CDC says, "Well, we had 1½ million people with the AIDS virus, infected with it, 2 years ago, and it is doubling every 10 to 14 months." Now today they will tell you we still have 1½ million people or so infected. What happened to their projection of 2 years ago?

Madam Speaker, the fact of the matter is they do not know, and the only way to know if somebody has AIDS, my colleagues, is to test them because this thing can be carried in a healthy person's body without any manifestation of the disease for up to 15 or 20 years. The average they estimate now is 7 years, so, if your daughter or you are dating somebody and they look perfectly healthy, they may have the AIDS virus and can carry it for 7 years without any manifestation of it, and every person they come in contact with sexually, or maybe otherwise, is at risk.

So, Madam Speaker, we need to know who is spreading it, how it is spreading, why it is spreading most rapidly so we can take action to deal with this crisis, and it is a crisis.

But the fact of the matter is that we have a Band-Aid approach, if my colleagues want to even call it that, that the gentleman from California [Mr. Waxman] came up with in his committee. It makes no sense. If Dr. Salzberg is even remotely accurate, we need to have mandatory testing or routine testing across the Nation.

The people that have dealt with routine testing or a mandatory testing program, the only group that has done that is the military of the United States, and I have talked with them at length. They have tested 2 million people, and they do it every single year, and they are able to say that it is not unfeasible to be able to test everybody in this country on a routine annual basis.

Madam Speaker, it is impossible to cover this in the short time that is allotted her for this debate, and that is why I wanted to have a complete debate, a complete hearing, on the amendment that will deal with a mandatory or routine testing program. Let me just say, and I hope everybody in the Congress will listen to this as well as everybody who may be paying attention to this debate, we have a minimum of a million and a half people infected. I think it is more like 4 million people. It is spreading at a very rapid rate. We do not know how fast. The projections through 1991 that CDC has are paralleled by the study I have before me, and this study carries it out to the year 2005, and they are projecting in the year 2005 that there will be 35 million people carrying the virus and 9.7 million people dead or dying.

Madam Speaker, I include the following material for the Record:

[From the Saturday Evening Post]

A Strategy to Prevent the Spread of Aids

(By Col. Donald S. Burke, M.D.)

The Presidential Commission on the HIV Epidemic has heard ample opinion from witnesses on the theoretical adverse effects of HIV screening programs. I would like to directly address, and thereby refute, some of the more common misconceptions and concerns about HIV screening:

Misconception #1: "False-positive test results are common."

Fact: The false-positive error rate in the army HIV screening program has been measured to be only 1 out of every 135,000 persons tested. The fact that false-positive rates are unacceptably high in some private-sector laboratories is a direct consequence of the feeble quality-control programs implemented by civilian public-health authorities. The problem of false-positive test results is eminently correctable; it does not reflect any inherent technical limitations of the testing methods.

Misconception #2: "HIV screening is not cost-effective."

Fact: Laboratory test costs are $4 per person screened in the army program. Among, civilian applicants for military service, the cost per case detected is about $2,500 nationwide. The cost in the New York, Washington, and San Francisco area is about $300 per case detected.

Misconception #3: "The logistical problems of setting up a program for HIV screening are insurmountable."

Fact: On August, 30 1985, Deputy Secretary of Defense Mr. Taft directed that all applicants for military service would be tested. Within six weeks, the program was in full operation with 60,000 persons tested each month.

Misconception #4: "Suicides are commonplace when wide-scale testing is implemented."

Fact: Among the 1.8 million applicants for military service who have been screened during the past 2½ years, there have been 3,000 persons found to be HIV-infected. All have been informed of their infected status. No one has committed suicide as a consequence of learning of the test results.

Misconception #5: "The requirement for pretest counseling renders routine testing programs prohibitively expensive."

Fact: For civilian applicants for military service, "pretest counseling" consists of distribution of a one-page fact sheet. Individualized, one-on-one counseling is provided only as post-test counseling to persons who have tested seropositive.

Misconception #6: "Because there is no cure for HIV, testing is useless,"

Fact: HIV-infected persons are directly benefited by knowledge of their infected status. First, they can be assured of prompt diagnosis and effective therapy of opportunistic infections. Second, HIV-infected persons who know their infected status may be able to slow progression of AIDS by careful attention to diet, physical fitness, and avoidance of other infectious diseases. Third, HIV-infected persons can avoid the guilt and pain of having unwittingly transmitted potentially fatal HIV-infections to their lovers or spouses.

Misconception #7; "Wide-scale screening for HIV will drive the epidemic underground."

Fact: To date only 75,000 HIV-infected persons have been diagnosed as HIV-infected through the alternative-test-site programs. This represents only about 5 percent of all HIV-infected persons in the United States. Restated, 95 percent of HIV-infected Americans remain totally unaware of the fact that they can transmit a fatal communicable disease to their sexual partners. As a direct consequence of a national failure to encourage wide-scale routine testing, the epidemic is *already* underground.

I reject the passive and fatalistic attitude, championed by some, that effective routine HIV testing is beyond the capability of the U.S. public-health machinery. The means are in hand today to establish an accurate diagnosis in each and every case of HIV. We as a society must abandon the "strategy of ignorance." We can no longer systematically deny the rights and benefits of painful but critically important knowledge to the 1.5 million members of our society who carry a fatal infectious disease. We must set, as a clear goal, wide and free availability of high-quality HIV testing.

How do we achieve this goal of accessible, high-quality HIV tests? I suggest that the commission should make the following four fundamental recommendations to the President:

Recommendation I: Rigorous quality control of HIV testing must be implemented immediately throughout the United States. This should include (a) establishment of guidelines for licensure or certification of all laboratories that perform HIV confirmatory tests and (b) creation of a national HIV proficiency test program in which substantial numbers of difficult test serum samples are sent on a regular basis to testing laboratories. Satisfactory performance in this program should be a requirement for continued certification.

Recommendation II: New, "second generation" diagnostic tests for HIV should be put on the fast track for licensure. Regulatory control of confirmatory tests for HIV should be removed from the Division of Blood and Blood Products of the FDA and placed instead in the Division of Medical Devices. This step would speed the availability of highly accurate yet low-cost HIV diagnostic tests, particularly those which are based on molecularly cloned and expressed HIV antigens.

Recommendation III: Clear and compelling legislation should be enacted at a national level to ensure the continued rights of HIV-infected persons to housing and employment. National leaders of high public visibility, such as the President and the Surgeon General, should forcefully denounce acts of irrational discrimination—such as the recent burning of the house of the three hemophiliac boys in Florida—and should frequently praise, in public, acts of compassion and understanding. Strong and sustained leadership is necessary to destigmatize HIV.

Recommendation IV: Public-health policies at the local, state, and national levels should include routine HIV testing as an important strategy for infection control. Infected persons detected in routine screening programs should be the focus of intensive yet compassionate counseling to ensure that they fully understand the fatal and communicable nature of the virus infection they carry.

If these four recommendations are implemented, I believe that the goal of epidemic control through wide-scale HIV testing and counseling of seropositives can be achieved.

SUMMARY

The enclosure is a summary of independent mathematical analysis on the AIDS pandemic done by the authors. None of this work was either authorized or sponsored by any Federal Governmental agency, and it represents the opinions of the authors and not of the Veterans Administration or any other governmental agency.

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MODELING THE AIDS PANDEMIC 1976-2005—ABSTRACT

Developed here is a mathematical model of the AIDS pandemic in the U.S. After determining the appropriate rate constants of the epidemic, we were able to closely recapitulate the history of the pandemic as well as to make future projections. Through 1991 our model is in excellent agreement with the CDC projections which are based on extrapolative curve fitting techniques.

The exceedingly long incubation time of HIV ensures however, that the full impact of the pandemic will not occur until after 1991. This long incubation time, coupled with the relatively short doubling time, ensures that the standard method of estimating a mean incubation time by averaging the known times from infection to AIDS is mathematically invalid and yields erroneous results. AIDS will gradually diffuse into the general population, and the number of victims could exceed 10 million by the year 2000. By 2005, the cumulative economic cost could exceed several trillion 1987 constant dollars. Although education could slow the spread of the virus, the model indicates that control will most likely require mandatory testing of the general population.

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MODELING THE AIDS PANDEMIC—1976-2005

INTRODUCTION

AIDS is a unique threat. First, it is a retrovirus which is incorporated into the genetic material of the cell. Second, it attacks the immune system. Third, it is deceptive in that although it is not transmitted by casual contact and has a very low infectivity per unit time, it has an average asymptomatic period of infectivity which is over 10 years. Furthermore, once infected the victim carries the virus for life. Infected mothers have about a 50% probability of transmitting it to their babies. Currently, once symptoms appear, the mortality is 100%. Consequently this disease is out of the ken of our experience, and quantitative estimates of its lethality are dependent on mathematical analysis. Estimates limited to 1991, as bad as they are, must markedly underestimate the deadliness of this disease.

MODEL

In this paper, we present a cohort model for the spread of HIV-1 through a heterogeneous population comprised of interacting sub populations. A depiction of the states of each subgroup and their interactions follows:

Healthy—> Early infection^{T1}—>
Incubation^{T2}—> Sick^{TD}—> Dead

For each i, j, POP(i) <—> Pop(j)

<—> implies bidirectional transmission

While the mathematics of the model are given in detail in Appendix A, its significance will not be appreciated by those not mathematically sophisticated. Consequently a brief discussion is in order. The processes that govern the transition from early infection to death are treated as sequential series of events each with an exponential decay. This is analogous to a radioactive decay series and can be represented by a series of simple differential equations. The infection process, as modeled, is more complex and is represented by a series of coupled non linear differential equations. The form of these equations is illustrated by the following example. Consider n(1) carriers in sub population (1) and h(2) healthy individuals in sub population (2). Then the number of infections per unit time in population (2) caused by the carriers in (1) is proportional to the product of n(1) and h(2), and the constant of proportionality is inverely related to the infectivity time constants discussed later in the paper. Thus the model, allows both for early exponential growth and later saturation effects. The model also assumes conservatively that individuals with clinical AIDS do not contribute to the spread of the disease, and it does not consider ARC (AIDS related complex) because of the present insufficiency of available data.

In this presentation the gay males and the IV drug abusers are aggregated into one high risk group. The heterosexuals can be treated either as one group or they can be subdivided into heterosexual males and females as indicated. At the present time, there is insufficient data to allow further subdivision.

RATE CONSTANTS

In previous paper (1), we estimated the historical mean values of the time constants T2 and TD as 12 years and 0.7-1.2 years. The incubation periods are assumed to be exponentially distributed. The intrinsic infectivity constants in the high risk groups averaged one transmission per carrier every 8 months in the period 1976-1987, increasing from about 4 months in the early stages to 20 months today. This improvement is most likely due to a combination of education and the previous saturation of the highest risk gays with HIV-1. The mathematical details are given in appendix A; in addition, the observed infectivity rates further decrease with time as the above intrinsic rates are modified by saturation effects on the subpopulations.

The crossover infectivity estimates from the high to low risk (general heterosexual) populations range from 20-40 years/carrier. In the low risk group the infectivity rate approximates one case every 3-4 years and the male to female and female to male rates are not markedly different. These heterosexual transmission rates are in concordance both with the data (using 95% confidence limits) presented in references (1,2,3) and over estimate of a 0.15%-0.30% probability of transmission of HIV per unprotected vaginal intercourse.

HETEROSEXUAL TRANSMISSION CONSTANTS

Reference (2) noted that 11/66 women who did not practice anal intercourse and who were sexual partners of HIV positive males were seropositive. Although the study was cross sectional rather than longitudinal, the data indicates that these women had about 100 sexual contacts with their partners. This translates to a 0.2% (range 0.09%-0.31%) probability of transmission per vaginal intercourse.

Ref (3) reported that 12 of 14 spouses of infected partners who practiced unprotected vaginal intercourse serocoverted after two years. They averaged 2.7 intercourse/week. Lumping together all the couples who continued to have intercourse gave about a 50% probability of conversion (14/28) after two years, and the transmission was bidirectional. Depending on which of the above samples is used, we obtain a 0.25% (range 0.13%-0.6%) transmission per vaginal intercourse. The high end is based on 12/14; whereas, the low end is based on 14/28. By way of contrast, there was no transmission of virus in the ten couples who abstained from sex.

Ref (4) which studied transmission from spouses who were infected by transfusion also showed relatively similar bidirectional transmission. In this study of older individuals, it was found that 12/80 partners seroconverted. This gave a range of 0.08%-0.28% as an estimate for the probability of infection per vaginal intercourse. This could well represent a lower bound as there was an absence of cofactors in this older less sexually active population. By way of comparison, use of the model resulted in an estimate of the monthly heterosexual transmission rate of 0.025/carrier/month (0.02-0.03) for a sexually active population. These values are in excellent agreement with the transmission constants determined from the three studies discussed above.

There have been some statements that in the US that female to male heterosexual transmission is far less than the reverse process. However, even the raw data compiled by CDC belies this since, of the 1160 US AIDS victims who have absolutely no known risk factors, 930 are male (verbal communication CDC AIDS Statistics Office). A quantitative estimate of the relative male to female and female to male infectivity can be derived from this computer model. The dynamics here are:

high risk males <—> females <—> males
<—> low risk females
where —> is direction of infectivity and
<—> implies bidirectional transmission.

In this scheme, using the rate constants discussed elsewhere in this paper, and assuming that male-female infectivity equals 1.20 female/male infectivity, the model predicts 900 "no risk" male victims and 280 "no risk" female victims. Infectivity ratios of greater than 1.5/1 yield estimates incompatable with the CDC data. Thus it is unlikely that the hypothesis of unidirectionality is valid especially when coupled with the bidirectional transmission found in (3,4). Moreover, ref (5) states that up to 50% of the females and 30% of the males at sexual disease clinics in Baltimore found to have HIV infections denied belonging to a risk group.

ESTIMATES OF THE INCUBATION TIMES

In this analysis we used an average incubation time, T2, of 17 years with a range of 12-18 years. T1, the delay time, was set at one year. These numbers were initially chosen because use of them yielded results which are in excellent agreement with what is known. It is this long incubation which drives the epidemic as even heterosexuals could on the average transmit the disease to 4 others before developing clinical AIDS.

Although 17 years appears quite long, it is in good agreement with recent data from California where a 6% annual rate of illness was observed following a one year delay after seroconversion (6). The concept of a two stage response with mean delay time of about one year followed by a 15 year (plus or minus 3) mean incubation time is in excellent concordance with the analysis presented in ref (7) where there were few cases in the first two years. Subsequently 5%-7% of the carriers converted annually. Our estimate of the cumulative probability of developing clinical AIDS as a function of time from infection is depicted in Figure 1. These results also agree well with the Coolfont Report (ref (8)) which states that after 5 years carriers have a 20%-30% of developing AIDS.

Furthermore, as noted in Table 2, this incubation time gives results which very closely reproduce the historical epidemic. The 17 year mean incubation time with an exponential distribution is equivalent to an 11.7 year median time (ln2*mean time). This is about 3 years longer than the 8 year estimate from San Francisco cohorts.

Sensitivity analysis shows that substituting 8 years for 11.7 years changes the projection by less than 20% through 2005, as illustrated in Table 5b. Thus, the basic results are relatively invariant over a range (8-12 years) of median incubation times. However the incubation time, the cumulative number of AIDS cases and the number of carriers are mathematically linked. In particular, a shorter incubation time implies that, for a given number of cases, there will be fewer carriers than would result from a longer incubation period.

A PARADOX

It is essential to note that the standard method of determining an "observed mean incubation time" for a disease which is based on averaging the time from infection to illness for known cases is mathematically incorrect for AIDS and any other epidemic where the mean incubation is significantly greater than the doubling time. Conceptually, this is due to the large number of recent infections who can become ill, compared to those previously infected. Mathematically, the problem arises with the non uniformity of the sample space of carriers who can convert to clinical AIDS. This set is highly skewed toward recent infections. Numerical solutions using the known time dependent doubling times of the AIDS epidemic along with the distribution function discussed in the previous paragraph, yield estimates of the "observed mean incubation time". In the earlier, more rapidly growing phase, the values were 2-3 years. In later years, they increased to 3-5 years. Both estimates were not sensitive to a wide range of change in the true mean incubation time (T2). Interestingly, these numerical solutions are in concordance with early CDC estimates of the incubation time.

RESULTS

We then used the model to compute beginning with day one of the epidemic in 1976 estimates of the AIDS pandemic from 1977 through 2005. The specific constants used are detailed in Table 1.

TABLE 1.—TIME VARYING INFECTIVITY CONSTANTS FOR THE AIDS PANDEMIC

T1=1 year T1=17 years

Time period	High risk	Low risk	High to low
1976–1982	[1] 0.49	3.3	33
1982–1987	1.73	3.3	33
1987	1.75	3.3	33

[1] Years.

The disparity in changes in the infectivity constants, which for the high risk group represents over a 70% reduction in infection rates from the earlier phases of the epidemic, and the general heterosexual population are mirrored by a marked drop in venereal disease rates for gay males, a decrease not matched in the general population. The constant TD, the life span once full blown AIDS develops, is increased from 0.8 years to 1.8 after 1987 due to improved treatment of opportunitistic disease as well as the advent of AZT and new antiretroviral agents which are in the development stage.

With these values the model yields the following results:

TABLE 2.—AIDS PROJECTIONS USA 1983–2005

Year	Cumulative cases (in thousands)—	(2)	Hetero (percent)	Dead [2]	Carriers [2] (millions)
	(1 2)				
1983	4.2	3.4	2.0	1.7	.12
1984	9.9	9.2	2.9	5.3	.21

TABLE 2.—AIDS PROJECTIONS USA 1983–2005—Continued

Year	Cumulative cases (in thousands)— (1 2)	(2)	Hetero (percent)	Dead [2]	Carriers [2] (millions)
1985	20	19	3.9	13	.36
1986	35	35.6	4.7	24	.61
1987	[3] 50 [3] (60)	63	5.6	42	1.1
1989		197	7.1	100	2.6
1991		490	8.7	263	5.5
1993		1,100	10	640	9.0
1995		2,100	14	1,300	12
2000		6,100	28	4,500	20
2005		12,300	50	9,700	35

[1] As reported by CDC.

[2] Projected by model—cases in thousands; carriers in millions.

[3] Presently reported to CDC and extrapolated to year end. CDC is up to 6 months in behind in reporting so 50,000 is a low estimate. When all cases are in, the number could reach 60,000. (CDC Division of Statistics)

As can be seen, there is excellent agreement between the time dependent model and the data actually reported by CDC. There is also excellent agreement between the number of carriers predicted herein and that projected in the slightly less complex model discussed in (1).

Estimates of the dollar costs of the AIDS pandemic are given in Table 3 and are based upon the following assumptions.

1. The annual immediate cost of the disease per patient is the sum of the cost of the medical treatment and the loss of productivity while ill. This is set at $65,000/year.

2. The total cost is the immediate cost plus the discounted loss in productivity due to premature death. This discounted value is conservatively estimated at $300,000.

3. Changes in the above estimates will cause proportional changes in the values presented in Table 3.

TABLE 3.—ECONOMIC CONSEQUENCES OF THE AIDS PANDEMIC

[In billions constant 1987 dollars]

Year	Immediate (cumulative)	Total (cumulative)
1984	0.26	1.9
1985	.6	4.3
1987	2.2	16
1989	9.1	39
1991	29	110
1995	150	550
2000	520	1,800
2005	1,200	4,100

Several points are obvious. First the economic costs of an unchecked AIDS epidemic could threaten the economic viability of the country in the outyears. Second the dominant cost is that due to premature death and not the actual medical costs, as great as they are. Third, our immediate cost projections are in excellent agreement with those of ref(9) for the year 1991 ($11.8 billion vs. $12 billion) while the $Total are somewhat lower. Given both our assumptions and the near term agreement, we feel our outyear projections are relevant.

SENSITIVITY ANALYSIS

Since there is always uncertainty concerning future infection rates, we next examine the effects of markedly reducing the infectivity rates (increasing the time to infection) for the high risk groups well below the recent historical values for the high risk groups. Such results are shown in Table 4a and 4b which also examined both the effect of lowering the heterosexual infection rates, and the effect of varying the mean incubation time.

TABLE 4a.—U.S. AIDS PROJECTIONS WITH LOWERED INFECTIVITY

[Total cases and carriers—In millions]

Months to infection	Year	Total cases	Carriers
24	1991	0.44	4.6
24	1995	1.9	10.5
24D2000	5.3	18.7	
24	2005	11.5	34.1
30	1991	.41	3.5
30	1995	1.5	8.5
30	2000	4.3	16.7
30	2005	10.0	31.7
33 [1]	1991	.38	3.1
33 [1]	1995	1.3	6.6
33 [1]	2000	3.5	11
33 [1]	2005	6.8	15
22 [2]	1991	.48	5.3
22 [2]	1995	2.1	11.0
22 [2]	2000	5.3	14.2
22 [2]	2005	9.6	18

[1] Along with a 40-percent reduction in heterosexual rates.

[2] After 1987 5 percent annual decrease infection rates high risk groups; 2.5 percent decrease low risk groups.

TABLE 4b.—EFFECT OF VARYING THE MEAN INCUBATION TIME ON THE SPREAD OF AIDS [1]

Year	8-year median		11.7-year median	
	Cumulative cases	Carriers	Cumulative cases	Carriers
1987	66	0.85	63	1.1
1991	521	4.5	490	5.5
1995	2,300	10	2,100	12
2000	7,000	16	6,100	20
2005	14,000	28	12,300	35

[1] Infection rates as given table 1. Carriers in millions, cases thousands.

STRATEGIES FOR CONTROL—VOLUNTARY

With these numbers in mind, we next discuss and evaluate strategies for controlling the pandemic. At the present time, education is the only method which is presently being discussed publicly. The results presented in Table 4 shows that while education is valuable, by itself education will probably not be sufficient to control the pandemic.

In order to better understand the effects of serial monogamy on the spread of AIDS, we next studied three idealized populations consisting of about 1000 persons. The analysis assumes serial monogamy of varying periods. The first is for a gay population consisting of 1010 individuals of whom 10 are infected. The results are presented in Table 5.

TABLE 5.—EFFECT OF NUMBER OF PARTNERS PER YEAR ON THE SPREAD OF HIV IN A GAY COMMUNITY [1]

Partners/year [2]	Years out		
	2	4	6
>15	331	984	1,010
4	158	807	1,001
2	75	398	862
1	37	121	338
0.5	21	40	77

[1] 1010 population, initially 10 infected.

[2] Potential monthly infection rate 0.17 transmissions/carrier.

The results are basically what is expected. As the number or partners/year decrease there is a rapid drop off in the spread of the disease. This is due to the fact that homosexual transmission of the disease appears to be efficient enough that the limiting variable for the spread of HIV is the mixing of the population. Control of the epidemic requires that the monogamous period is in excess of 8 years.

Table 5 provides an insight of how cohort infectivity data late in the course of the epidemic can mislead the observer. Consider a hypothetical gay cohort consisting of 600 very high risk individuals and 400 more moderate risk gays (less partners per year). Let us further assume that in 1981 2 percent of the first group and 0.5 percent of the second group carry HIV. The model then yields the following results:

TABLE 6.—HIV SPREAD IN A HYPOTHETICAL COHORT OF GAY MALES [1]

Year	High risk infected	Low risk infected	Percent cohort infected
1981	12	2	1.4
1982	56	4	6.0
1983	210	8	28
1984	451	14	47
1985	569	24	60
1986	595	41	65
1987	599	65	67

[1] High risk population 600 0.15 transmissions/mo/carrier.

[2] Low risk population 400 0.049 transmissions/mo/carrier.

Each year from the end of 1982 through the end of 1985, the virus infected an additional 15–20 percent of the cohort. Afterwards the high risk group was saturated and by 1987, the observed infectivity fell to under 2% without any change in the intrinsic infectivity. This mirrors what has been found in many cohort studies where in the early stages the virus infected 20 percent of the cohort per year and by 1987 the infectivity rate fell to 1–4 percent. Thus the raw data does not allow one a priori to assume marked changes in the basic infectivity rates within subpopulations.

The second scenario involves a population of 1001 heterosexuals interacting only amongst themselves. Initially one individual is infected. The results of this computation are given in Table 7.

TABLE 7.—ESTIMATES OF EFFECTS OF SERIAL MONOGAMY ON AIDS IN A HETEROSEXUAL POPULATION [1, 2]

Partners/Years	Year out			
	0 [1, 2]	6 [3, 4]	12	18
>12	1/0	4.7/.6	21/3.5	87/16
4	0.1	4.3/.6	18/3.1	68/13
2	1/0	3.8/.5	14/2.7	50/10.5
1	1/0	3.1/.5	9.5/2.1	28/7
0.5	1/0	2.4/.4	5.5/1.2	12.5/4
0.25	1/0	1.7/.36	2.8/1.0	4.5/2.1
0.125	1/0	1.2/.3	1.5/.72	1.7/1.3
0.083	1/0	1.2/.3	1.1/.7	1.1/1

[1] (a) Population 1,000, Initially 1 infected.

[2] (b) Minimum mean time for transmission = 3.3 years.

[3] (c) Carriers.

[4] (d) Cumulative AIDS cases.

Albeit there are qualitative similarities in the two cases, they differ quantitatively. First, the disease spreads at a much slower rate in the heterosexual population, and monogamous periods of over four years in an isolated heterosexual population slows the epidemic to a level that is tolerable for the near term. Second, the initial effect of increasing monogamy is less pronounced. This follows from the relatively inefficient transmission in the U.S. of HIV by heterosexual sex so that for monogamous periods of 6 months or less, the spread of the virus is not dominated by the mixing of the population.

The third case is a microcosm of the country. Here we examined interacting subpopulations consisting of 110 high risk individuals of whom 10 are infected, and 1001 heterosexuals of whom 1 is infected. The results are given in Table 8.

TABLE 8.—EFFECTS OF SERIAL MONOGAMY ON THE TRANSMISSION OF AIDS IN A U.S. HETEROSEXUAL POPULATION INTERACTING WITH A HIGH RISK GROUP [1, 2]

Partners/Year	Years out—			
	0 [3]	6	12	18
>12	1/0	18/1.5	106/15	326/74
4	1/0	17/1.4	96/15	291/66
2	1/0	16/1.4	84/13	247/58
1	1/0	14/1.2	62/10	171/42
0.5	1/0	11/1	42/8	100/28
0.5 [4]	1/0	11.1	41/8	96/27
0.5 [5]	1/0	13/1.2	56/10	133/37
0.25 [6]	1/0	9/0.9	29/6	57/19
0.125 [6]	1/0	8/0.8	22.5	35/14

[1] High risk population 110, 10 carriers heterosexual population 1,001, 1 carrier.

[2] Transmission times: Low to Low = 3.3 years; High to High = 1.75 years; High to Low = 33 years

[3] x/y x = number of carriers while y = cumulative number of AIDS cases.

[4] High risk population = 76 decreased from the base value of 110.

[5] High risk population = 135 representing an increase from the base value of 110.

[6] High to low transmission rate 41.7 years, greater than the nominal 33 years used for shorter monogamous periods.

In this case monogamous periods of even four years results in 8% of the low risk population being infected in 18 years. With random dating (or more than one partner/year), the spread of the disease takes on frightening proportions. In this situation the high risk group serves as a nidus of infection for the heterosexual population.

STATEGIES FOR CONTROL-TESTING

As a consequence of these results, we next examine mandatory and cyclic testing of the general population as part of a strategy to control the spread of HIV.

Before proceeding with the results of the model, we first must address the false positive problem. The standard Electronuclear ELISA test has a >99.7% sensitivity and a 99.7% specificity on repetition. Another ELISA test based on other call lines has similar numbers, and only partially cross-reacts with the Electronuclear test. In addition, a confirmatory IFA test has greater than a 99.7% specificity as does the Western Blot. Furthermore the application herein does not require a 100% sensitivity. If our test strategy is to reduce the sensitivity of the ELISA to 99%, we use the following confirmatory strategy.

Elisa—> Elisa—> Elisa*—> IFA—> Western blot

*second cell line ELISA.

It is easy to see that a cumulative specificity achieved by reading positive on all the above tests could be better than one part in a million. Although this is better than is currently reported, the Army has achieved a false positive rate of 1/100,000 without the sequential use of both another cell line ELISA test and an IFA test. A specificity of less than one part in a million translates to less than 100 false positives per one hundred million tests, assuming a 0.1% prevalence of HIV-1 in the general population. The sensitivity would remain exceedingly high, albeit not 100%. Testees who are in a grey zone could be retested in 3-4 months, further enhancing the predictive power of the tests.

Based on Army experience, the actual test program for 150 million individuals (at $6/screening ELISA test) should cost between $900 million and $1.2 billion per year. Although the sequential 5 test proposal seems expensive, it should only add less than $250 million per million unknown carriers, as the sequence stops with a negative result. Clearly, the military will be more efficient in testing its members than would a civilian population. Therefore we estimate the basic yearly cost of the test/intervention program to be $3 billion.

Sexual practices have appeared to have improved among the gay males based on CDC reports of decreased veneral diseases in that group. Thus the baseline infectivity used in this analysis will be 1 case every 20 months which still does not come close to stemming the spread of the virus. The model also allows us to examine the potential gains made by identification of the carriers through a generalized and cyclic testing program coupled with counseling and other possible measures. A nominal 85% test cycle efficacy was assumed by allowing both for early infections before antibody is produced and for missed persons. However, reducing the test efficacy to 60% per cycle has a relatively marginal effect on the results. This shows that a small number of carriers missed by the test in one cycle will have little impact on the spread of the disease. Further reductions below 50 percent do have a profound negative impact, as at this point the rate of infection in the high risk group could exceed the rate of detection. From this analysis, it is unlikely that a purely voluntary approach will suffice. In a targeted high risk population, only 14 percent of the HIV carriers were detected (ref. 10).

The computations assume a 90 percent reduction in the average transmission rates for known carriers. This number is not arbitrary as reductions in infectivity of at least 80% are needed to arrest the pandemic.

The purpose of this analysis is to examine the effects on the HIV pandemic resulting from such a reduction in infection rates. A discussion of the ethics, legality or desirability of the means of achieving it are beyond the scope or the intent of this analysis. Although we hope for voluntary restraint, we are not sanguine about achieving it in this manner. Because of the nature of the HIV epidemic, it is likely that society could significantly impact the infection rates. This control could range from education all the way to positive identification or the judicious use of quarantine. The knowledge gleaned from the test program will allow the design on the least onerous, effective strategy. Thus at least theoretically, the rate reductions proposed are achievable.

TABLE 9.—POTENTIAL EFFECTS OF TESTING IN THE U.S. ON THE AIDS PANDEMIC

Year	Case ratio [1]	Carrier ratio [1]	Ratio [1]	Carrier ratio 2
1990	0.98	0.87	$1.15	1.00
1993	.74	.47	.91	1.00
1996	.54	.35	.67	.92
1999	.44	.25	.54	.64
2002	.37	.18	.44	.40
2005	.29	.12	.35	.25

[1] Ratio between values obtained with test program starting at the beginning of 1990 values with no text program.

[2] Same except testing begins in 1995.

Assumptions: One test cycle/year which finds 85% of the carriers, and the infection rate for known carriers is decreased by 90%: Test/intervention cost $3 billion/year.

The results given in Table 9 are quite interesting as testing/intervention with the hypothesized inputs is highly cost-effective in controlling the pandemic. Also apparent is that the earlier an effective strategy is employed, the more benefit will result. Regrettably, relying on less effective tactics only results in inordinate human and economic costs. Education is synergistic with testing and must also be vigorously pursued.

CONCLUSIONS

The conclusions are sobering. Albeit the infectivity does improve with time, there will be an enormous increase in the prevalence through time especially in the general population.

This will occur even if future infection rates are markedly less than those of 1987. Such an increase will strain all strata of society. An intensive program, probably using mandatory testing/intervention in some optimal combination will be needed to contain the epidemic, and will require, in the absence of a technological breakthrough, increasing the infectivity time constants to a value greater than the mean incubation time of HIV-1 infections.

In addition, the disease will diffuse from the high risk to the general heterosexual population just as it did from the highest risk gays to the lower risk gays. The only difference lies in the timeline of the process. By the turn of the century, the majority of the carriers could well be heterosexuals.

There are no easy answers here or elsewhere. Containment of AIDS will require cooperative action on many fronts and will not be pleasant. Failure to contain the pandemic could well result in socioeconomic costs which could threaten the viability of the U.S. after the turn of the century.

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Chief, Medical Service VAMC, Miles City, MT.
Stanley L. Dolins, Ph.D, NRC.
Richard H. Runser, MD,
VAMC, Miles City, MT.
Yousseff Solomon, MD,
VAMC, Miles City, MT.

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APPENDIX—MATHEMATICAL DERIVATION

The basic model is a cohort model in which members stay in the same cohort throughout the study. Although this is a simplification, it does allow the program to be run on a PC/KT/AT. Furthermore, in the near term, the results are in reasonable agreement with extrapolation techniques, * * *.

There are M subpopulations each of which can be in one of four states:

Sick = 1 Unknown Infected = 2 Uninfected = 3 Known Infected = 4 and dead.

The following rate constants are also defined:

U(I,J,T) = Infection rate from an unknown carrier in subpopulation I to one of J in time dT(I can = J)
K(I,J,T) = Same for known carriers
K_1 = Average lifetime once symptoms appear (years)
K_2 = 1/(Mean Incubation Time)
C_1 = $ cost premature death
C_2 = $ annual cost of AIDS while ill (includes loss of income)

From this the following set of difference equations follow:

Total = Original total population dN(1,T) = K2 * dT M/Sum/K (N(2,K, T-dT) + N(4, K, T-dT)) — K1 * dT * N(1,T-dT)
dN(2,J,T) = (M/SUM/L (U(J,L,T) * N(3,J,T-dT) * N(2,L,T-dT) + K(J,L,T) * N(3,J,T-dT) * N(4,L,T-dT))/N(3,J,0) — K2 * dT * dN(2,J,T-dT)-P(J,T) * dN(2,J,T-dT)
dN(4,J,T) = N(2,J,T-dT) * P(J,T)-K2 * dT * dN(4,J,T)
d(dead(T)) = K1 * dT * N(1,T)
dC2 = (N(1,T-dT) + dN(1,T)) * dT * C2
dC1 = d (dead) (T)) * C1
N(1,T) = N (1,T-dT) + dN1
N (2,K,T) = N(2,K,T-dT) = dN(2,K,T)
N (4,K,T) = N(4,K,T-dT) + dN(4,K,T)
dead (T) = dead (T-dT) + d (dead)
C1(T) = C1(T-dT) + dc1(T)
C2(T) = C2(T-dT) + dC2(T)
Total = dead + Sum (N)
P(J,T) = Probability detection/cycle of J^{th} population at time T.

In the calculations presented herein
Population 1 = High Risk
Population 2 = Low Risk Male
Population 3 = Low Risk Female

Further subdivisions were not done as the requisite data did not exist. The distribution function of incubation was taken, after a delay period with an average of T(delay), as a simple exponential

AMENDMENTS TO H.R. 5142 OFFERED BY MR. BURTON OF INDIANA

Page 13, after line 22, insert the following new section (and redesignate subsequent sections accordingly):

"SEC. 2307. CONTINGENT REQUIREMENT FOR STATE GRANTEES OF MANDATORY TESTING OF ALL STATE RESIDENTS.

"The Secretary may not make a grant under section 2301 to a State unless the State provides assurances satisfactory to the Secretary that, if not less than 1 percent of the population of the State becomes infected with the ethiologic agent for acquired immune deficiency syndrome, the State will require that each individual residing in the State be tested annually for infection with such etiologic agent.

Page 3, line 2, strike "2312" and insert "2313".

Page 5, line 2, strike "2311" and insert "2312".

Page 6, line 7, strike "2310(a)" and insert "2311(a)".

Page 6, line 14, strike "2310(a)" and insert "2311(a)".

Page 7, line 24, strike "2310(a)" and insert "2311(a)".

Page 20, line 8, strike "2310" and insert "2311".

Page 21, line 5, strike "2315(b)(1)" and insert "2316(b)(1)".

Page 21, line 23, strike "2311" and insert "2312".

Page 6, beginning on line 3, strike "declaring" and all that follows through line 6 and insert the following: declaring that the individual has been offered the counseling described in subsection (a) of section 2323 and that—

"(1) the decision of the individual with respect to undergoing such testing is voluntarily made;

"(2) the individual understands that the individual is not required to undergo the counseling described in subsection (a) of such section; and

"(3) the individual understands that the individual is, as a condition of undergoing such testing, requried to undergo the counseling described in subsection (c) of such section.

Page 7, line 1, strike "provide" and insert "offer".

Page 8, line 17, strike "will review" and all that follows and insert the following: will offer to the individual appropriate counseling with respect to such syndrome, including the information described in subsection (a).

Page 9, strike lines 9 through 13 and insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

"(1) the information described in subsection (a), with emphasis on the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome;

Page 7, after line 15, add the following new paragraph (and redesignate subsequent paragraphs accordingly):

(5) the risk of frequenting any public bathhouse used for sexual relations;

Page 64, line 19, strike "not less than 350" and all that follows through line 22 and insert the following: "such additional employees for the Centers for Disease Control as may be necessary, in the determination of the Director of such Centers, to carry out the activities of such Centers with respect to acquired immune deficiency syndrome.

Page 65, line 2, strike "not less than 300" and all that follows through line 5 and insert the following: "such additional employees for the National Institutes of Health as may be necessary, in the determination of the Director of such Institutes, to carry out the activities of such Institutes with respect to acquired immune deficiency syndrome.

Page 65, line 10, strike "not less than 50" and all that follows through line 13 and insert the following: "such additional employees for the Food and Drug Administration as may be necessary, in the determination of the Commissioner of Food and Drugs, to carry out the activities of such Administration with respect to acquired immune deficiency syndrome.

Page 65, line 19, strike "not less than 45" and all that follows through line 22 and insert the following: "such additional employees for the Alcohol, Drug Abuse, and Mental Health Administration as may be necessary, in the determination of the Administrator of such Administration, to carry out the activities of such Administration with respect to acquired immune deficiency syndrome.

Page 66, line 3, strike "not less than 25" and all that follows through line 6 and insert the following: "such additional employees for the Health Resources and Services Administration as may be necessary, in the determination of the Administrator of such Administration, to carry out the activities of such Administration with respect to acquired immune deficiency syndrome.

Page 66, line 11, strike "not less than 10" and all that follows through line 14 and insert the following: "such additional employees for the Office of the Assistant Secretary for Health as may be necessary, in the determination of the Assistant Secretary for Health, to carry out the activities of such Office with respect to acquired immune deficiency syndrome.

Page 66, after line 14, add the following new subsection:

"(g) DEFINITION.—For purposes of this section, the term 'additional employees', means, with respect to the office or agency involved, employees in addition to the number of employees assigned to such office or agency as of December 31, 1987.

Page 82, line 7, strike "and minorities," and insert "heterosexual individuals, and minorities,".

Page 71, strike lines 1 through 7 (and redesignate the preceding paragraph accordingly).

☐ 1145

Now, if they are only 50 percent accurate, we have a major catastrophe facing this Nation and the world. The only way to get a handle on it is to find out who has the virus, tell them they have to change their attitudes and ways, they can no longer communicate or have sexual contact with people outside the AIDS community, and then find a mechanism to enforce it.

Anything short of that is irresponsible, and the committee that is dealing with this issue before this Congress that is bringing this piece of trash before us today, and it is trash because it is not going to deal with the problem, is irresponsible.

I want to put into the RECORD today that at least one Member of Congress thinks the tragedy that is going to befall this Nation will be laid at the feet of those who will not handle it in a responsible manner today. They will not even allow a debate to take place on an amendment which would deal with the mandatory routine testing issue.

Madam Speaker, I have extraneous material that I would like to add for the RECORD, the amendments in question, and I hope that the Chair will allow me to do that.

Mr. DERRICK. Madam Speaker, for purposes of debate only, I yield 4 minutes to the distinguished gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Madam Chairman, I guess emotional issues can force all sorts of emotional reactions from folks equally well intended in trying to effect public policy, but to suggest that the activities of those who support this rule or support this legislation are irresponsible is a borderline reference to the motives and directions of our committees and our leadership here.

We can disagree without certainly being disagreeable, but I do take personal offense to the references of my work product being trash or my activities being irresponsible.

Let me draw the attention of my colleagues to the provisions of this legislation, which is virtually being begged for by professionals in our society. The President's Commission on the HIV epidemic came to the startling conclusion regarding emergency workers. They said:

> Virtually nothing has been done to address the concerns of emergency response workers who must perform life saving functions in the most unaccommodating environments.

This bill helps protect those who every day are asked to protect us. That is not trash. That is a responsible reaction.

This bill requires appropriate identification and notification to those who risk their lives. That is not trash. That is standing up for those who stand up for us.

Our subcommittee considered 26 amendments. Sixteen of those were adopted, six were defeated, three were withdrawn.

Our full committee considered 25 amendments; 14 were adopted, 9 were defeated.

The Rules Committee heard testimony in support of almost 4 dozen amendments and made a number of those in order, a majority of them from my Republican colleagues who share a different view than perhaps the committee; but on balance brought before this House a fair and responsible rule, designed to deal with the problem, not the polemics.

We are interested in responsible solutions, not sophomoric slogans. We want to draft a piece of legislation that reflects the consensus of every major health organization, from the champion conservative himself, Surgeon General Koop to Dr. Mason, the frontline soldier from the Centers for Disease Control, down to physicians battling with these problems and nurses, and yes, paramedics, police officers, and firemen, on the streets this very day.

Our legislation is not going to discover a cure. Our legislation is not going to bring about peace and happiness for those poor children born innocent victims of this disease. What our legislation is going to do, as so carefully crafted by our chair of the subcommittee, is to start this Nation off on the right foot of a proper program designed to address the real threat, to make sure that our blood supplies are safe, to test those who are at high risk, to insure that in the course of that testing we get real answers, and not pursue the kinds of suggestions advanced by some outside of this body that would not bring us true answers, but only more confusion.

Support the rule, support the committee. I urge the adoption of the rule.

Mr. QUILLEN. Madam Speaker, I yield 3 minutes to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Madam Speaker, there is probably no more important issue facing us than AIDS. We have a drug issue that is on the floor, but the two seem to go side by side in the polls of the American people, and rightfully so.

I think at times we do see this issue so emotionally that we do not share the common bond of a desire to accomplish specific tasks. We need to try as much as possible as the people in the Congress, in my judgment, to draw together on these things and do what is absolutely essential to protect the public health of this Nation.

AIDS is deadly. The bottom line is that every physician, every expert I have spoken with, and I have done it with many, will tell you very quickly there is no cure, and probably there never will be a cure for somebody infected.

There is a hope, of course, that we might find a prevention someday.

The problem is that it is not a homosexual disease. It is a disease that is sexually transmitted, very clearly transmitted in the heterosexual population of this country.

The data from the Armed Services Study shows that about 50 percent or better of all the prostitutes in Washington, DC, have the HIV virus that transmits AIDS, and about that same number in New York City. From those studies, it looks like up to about 40 to 50 percent of the times that a women so infected has intercourse, it passes the disease or potentially can pass it; a man similarly the other way.

The fact is that studies projected into the future show that by 1991 we will probably have more people die in this country from AIDS that died in the entire Vietnam war.

Now, that is not to scare people. That is just so we lay a predicate for this debate. It is not something to be taken casually.

I think testing is important and I am saddened by the fact that the Rules Committee did not allow but one of the amendments that I suggested of eight that I put forward to them in the rule; but of all the things that have been proposed by different people, the one glaring absence in the rule is the absence of a provision to require spousal notification. We do not have in this particular rule the opportunity to offer an amendment that would require the physician or require the counselor to tell the spouse, under limited conditions, that the person with whom they are sharing the bed has the disease, the person from whom if they continue to share that bed they will definitely get that disease. We have got to have that if we are going to protect the health of this society.

The only way we can have the opportunity to offer that amendment to make that requirement is to defeat the previous question. I urge my colleagues to vote to defeat the previous question, to vote no on it when the time comes to vote on this rule in a few minutes, to give us a chance to offer an amendment to let the wives and the husbands of those infected in this country know that they are dealing with somebody who has that disease. It is for the sake of the future generations of this country, and it is the only public health commonsense way to do it.

Please vote "no" on the previous question.

Mr. DERRICK. Madam Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Maryland [Mrs. Bryon].

Mrs. BRYON. Madam Speaker, I rise in support of the rule to H.R. 5142, the Federal Aids Policy Act of 1988.

I would like to commend the gentleman from Florida [Mr. Pepper] for bringing this fair rule to the House floor. This rule allows amendments to be offered requiring AIDS testing for hospital patients, prisoners, and persons seeking marriage licenses, and mandatory reporting to State health officials and names of those with the virus.

H.R. 5142 also takes steps to expedite and expand AIDS-related research, sets up a system for notifying paramedics and other emergency workers that they may have been exposed to AIDS, and establishes a National Commission on AIDS.

Allowing this rule to pass today will allow us to consider important grants for AIDS counseling and testing, to establish Federal protection for the confidentiality of AIDS test results, to encourage States to require AIDS testing for persons convicted of certain crimes and to impose civil and criminal penalties for intentional transmission of the AIDS virus.

I urge all my colleagues to support this important rule.

Mr. QUILLEN. Madam Speaker, I yield 5 minutes to the gentleman from California [Mr. Dannemeyer].

Mr. DANNEMEYER. Madam Speaker, what we should do with this rule is defeat it. There are 42 amendments that were filed with the Rules Committee that we made in order, and this rule permits 11. Not all of those 42 are substantive but many of them are.

My colleagues, the gentleman from Indiana [Mr. Coats] and the gentleman from Florida [Mr. McCollum] have put their finger on one issue that needs to be debated in the consideration of this bill, spousal notification. For the life of me, I do not understand why the Rules Committee did not make it in order. They should have.

As I say, we should defeat the rule, because there are other amendments that should be considered in detail. My colleague, the gentleman from Indiana had an important amendment. This House needs to have a debate on testing everybody in this country. This epidemic is pervasive and so threatening to the continued existence of our society, we are not being responsible in the 100th Congress without debating that issue on the floor of the House.

I am saddened that the Rules Committee did not make the amendment of the gentleman from Indiana [Mr. BURTON] in order. As a compromise, this Member is prepared to assist my colleagues, the gentleman from Indiana [Mr. COATS] and the gentleman from Florida [Mr. MCCOLLUM] to ask to defeat the previous question, just for one purpose only. We will take the product of the Rules Committee giving us our 11 amendments, and only 1 more, spousal notification. To do that we have to defeat the previous question. I think that is a rational compromise of what we should be doing.

As I say, I would like to defeat the whole rule, because there are a number of amendments that are not going to be in order for consideration by the House.

This bill, without a doubt, will prove, if not today, at least when we look back 5 years or even 2 years from now, to have been one of the most important bills considered by the 100th Congress, because we are developing a public health response to the AIDS epidemic. I would hope we would do that. We will only be doing it if we include some amendments that this Member from California will be putting into the bill, the cornerstone of which is reportability. That amendment will be offered and was made in order by the Rules Committee.

There are some people in America who believe, "Well, if I'm not in one of the high risk groups, such as an intervenous drug user or a male homosexual"—which together comprise roughly 90 percent of the cases in America today—"I have no concern about AIDS because, well, it is not something I am going to get."

If anybody in this Chamber believes that, please perish that thought.

Masters and Johnson published a very interesting report earlier this year where their cohorts in the promiscuous group, 7 percent of the females were HIV positive—these were heterosexuals—5 percent of the males, again in the promiscuous group, were HIV positive.

The Alameda County health department several years ago tested 2,000 women applying for marriage licenses and visiting SED clinics and found a half percent positive for the virus. The U.S. Army finds that 0.21 percent of active duty personnel today are HIV positive, and so on goes the list.

The point is this epidemic has moved into the heterosexual population of America. Anybody who thinks otherwise is kidding themselves.

One of the tragedies that is unfolding before our eyes is that there are eight States in the Union that mandate reportability for those who are HIV positive, but those eight States contain less than 10 percent of the cases.

This bill will give us an opportunity of establishing a national policy or standard for implementing routine public health steps that historically have been pursued to control communicable diseases that have come down the pike. That cornerstone is the concept of reportability, in confidence to public health authorities.

The bill in the form before us has anonymous reportability. It is absolutely absurd. The absurdity is presented that when a physician in private practice in the United States today finds a patient with a curable venereal disease, that physician is required to report the patient by name, address, and phone number to Public Health, and contact tracing takes place, but if the same doctor finds a patient with a noncurable venereal disease, he is not required to report that patient to the public health authorities. Now, that is not public health policy. That is politics, that we would mandate the reportability of a curable venereal disease, but not do the same with a noncurable venereal disease, is just not sense.

I ask a no vote on the previous question.

Mr. QUILLEN. Madam Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Madam Speaker, I am sorry for the delay. I was on the phone with the Center for Disease Control.

As of this week, Madam Speaker, the death toll from AIDS is so much worse than the death toll in Vietnam that you wonder why there are not 250,000 people demonstrating on the Mall for proper health procedures on this disease that has been so horribly politicized.

Now, I cannot believe the moment of cowardice that strikes the House at this moment on this, the major public health issue of our times. About a dozen people died of Legionnaires disease in Pennsylvania, and it dominated our headlines for years. We already have 657 totally innocent children dead of a disease that was incubated by sodomy. We have 154 children's cases as of about 12 days ago. The death toll from AIDS is now 41,064, and there are 72,766 AIDS cases. The CDC estimates that by 1992 there will be 365,000 cases and 203,000 deaths.

Combat deaths in Vietnam for 10 years were 47,000. Combat deaths in Korea were 33,629. We are already over 41,000 total deaths, and it is easily 10 percent low, because many family doctors over the last 8 years have been understandably saying someone died of pneumonia or heart disease or pulmonary disease, anything rather than saying they shriveled up in a prenatal position, covered with Kaposi sarcoma cancer sores and died of AIDS. Of course some doctors covered it up. Hopefully they are not doing that any more; but even a figure that I believe is 10 percent too low, it is still 72,000.

On the lawn of the White House last night at the White House picnic, President Reagan's last picnic, I bumped into Dr. Ian MacDonald, Under Secretary for Health, and I said, "Doctor, you gave me a figure at the convention as to how many people would die the next time the Democrats and Republicans came together in convention in 1992."

And he said, "Yes, the figure I told you was 62,000 will die in 1992."

And you will not allow an amendment requiring spousal notification? You don't want women to know that their husbands may kill them? It is incredible. This rule should be rejected. This is a moment of unbelievable disgrace in the history of the 100th Congress.

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Mr. McCOLLUM. Madam Speaker, I urge a "no" vote on the previous question, and I yield back the balance of my time.

Mr. DERRICK. Madam Speaker, I urge a positive yes vote on the previous question, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mrs. KENNELLY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCOLLUM. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 198, nays 182, not voting 51, as follows:

[Roll No. 324]

YEAS—198

Ackerman
Akaka
Andrews
Annunzio
Anthony
Atkins
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Brennan

Brooks
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Conyers
Cooper
Costello
Coyne
Crockett
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Glickman
Gonzalez
Gordon
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Hughes
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
Madigan
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Perkins
Pickett
Pickle
Price
Rahall
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schneider
Schroeder
Schumer
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Smith (FL)
Smith (IA)
Spratt
St Germain
Staggers
Stratton
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Weiss
Wheat
Whitten
Wolpe
Wyden
Yates

NAYS—182

Anderson
Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Carper
Chandler
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Goodling
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Johnson (CT)
Kasich
Kemp
Kolbe
Kyl
LaFalce
Lagomarsino
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lukens, Donald
Lungren
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Murphy
Myers
Nelson
Nielson
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Skeen
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—51

Alexander
Aspin
AuCoin
Badham
Barnard
Bates
Bliley
Boucher
Boulter
Boxer
Brown (CA)
Cheney
Clay
Coleman (TX)
Collins
de la Garza
Dixon
Dowdy
Florio
Foley
Garcia
Grant
Gray (IL)
Gregg
Hefner
Jeffords
Konnyu
Latta
Lujan
Mack
MacKay
Mica
Moody
Neal
Ortiz
Oxley
Pepper
Rangel
Saiki
Scheuer
Solarz
Spence
Stallings
Stark
Stenholm
Stokes
Towns
Waxman
Williams
Wise
Wortley

☐ 1219

Mr. GOODLING, Mr. GILMAN, Mrs. BENTLEY, Mr. HOUGHTON, and Mrs. SLAUGHTER of New York changed their vote from "yea" to "nay."

Mr. UDALL changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mrs. KENNELLY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 170, not voting 46, as follows:

[Roll No. 325]

AYES—215

Ackerman
Akaka
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Conte
Conyers
Cooper
Costello
Coyne
Crockett
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hertel
Hochbrueckner
Hoyer
Huckaby
Hughes
Jacobs
Jenkins
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Madigan
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Perkins
Pickett
Pickle
Price
Ray
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Stratton
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Weiss
Wheat
Whitten
Wilson
Wolpe
Wyden
Yates

NOES—170

Anderson
Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Johnson (SD)
Kasich
Kemp
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCrery

McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Mollohan
Moorhead
Morrison (WA)
Myers
Nelson
Nielson
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Staggers
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Traficant
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—46

Alexander
Badham
Barnard
Bates
Bliley
Boucher
Boulter
Boxer
Brown (CA)
Cheney
Clay
Coleman (TX)
Collins
de la Garza
Dowdy
Florio
Garcia
Grant
Gray (IL)
Gray (PA)
Gregg
Hefner
Jeffords
Konnyu
Latta
Lujan
Mack
MacKay
Mica
Neal
Ortiz
Oxley
Pepper
Rangel
Saiki
Scheuer
Spence
Stallings
Stark
Stenholm
Stokes
Towns
Waxman
Williams
Wise
Wortley

□ 1236

The Clerk announced the following pairs:

On this vote:

Mr. Florio for, with Mr. Bliley against.

Mr. Barnard for, with Mr. Boulter against.

Mrs. Boxer for, with Mr. Konnyu against.

Mr. Gray of Illinois for, with Mr. Oxley against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 1720, FAMILY WELFARE REFORM ACT OF 1987

Mr. BROWN of Colorado. Madam Speaker, pursuant to the provisions of rule XXIII, clause 1(b), I offer a privileged motion to instruct conferees on the bill (H.R. 1720) to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives.

The Clerk read as follows:

Mr. BROWN of Colorado moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1720, be instructed—

(1) to assure that no more will be spent in carrying out the bill than the $2.8 billion authorized by the Senate amendment; and

(2) to permit no impediments which would disallow work beyond those contained in the Senate amendment.

The SPEAKER pro tempore (Mrs. KENNELLY). The gentleman from Colorado [Mr. BROWN] is recognized for 1 hour.

Mr. BROWN of Colorado. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we last voted on a motion to instruct the conferees on the welfare bill 70 days ago. That was July 7. The instructions then were very simple.

We want a welfare bill, and the welfare bill ought to be within the dollar expenditures laid out in the Senate measure.

Second, we asked the conferees to not restrict work for able-bodied recipients more than the Senate had done.

Only two very simple guidelines. Thus far, 70 days later we not only do not have a welfare bill, but we do not have proposals that fit within those guidelines.

Madam Speaker, the point I believe is this, we want a welfare bill, this Nation deserves a reform of our welfare system. There is an enormous portion of this material that both parties, both Democrats and Republicans agree on. There is broad-spread agreement on the value of education, of training, of job referral, of enforcement, of child care payments.

There is too much common ground for us to turn our back on welfare reform. We ought to be willing to step forward and say enough is enough. Let us get on with the job. Let us get a welfare bill out of conference. Let us get realistic.

It is one thing to fight fiercely for the things in which you believe sincerely and both sides have done that, but we are at a point in the session where we have got to compromise and work together. That is what this instruction is all about. The instruction simply is exactly the same instruction this Chamber passed 70 days ago. So I would ask my colleagues to move forward with welfare reform, to pass this instruction. I believe it is the fundamental aspect to get a bill this year.

Madam Speaker, I yield 1 minute to the gentleman from New York [Mr. DOWNEY] for the purpose of debate only.

Mr. DOWNEY of New York. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, this is no question in my mind and I suspect probably not in anyone else's mind that one of the hardest things to do is to fashion a compromise on welfare.

The gentleman is right, it has taken too long. In part, there are substantial differences between the House and the Senate. Many of the differences are being worked out and today, as a matter of fact, the gentleman and myself and other Members met with members of the White House. It is my intention sometime later this afternoon to meet with the Senator from my State to work out some of the details.

My hope is we will have a bill within the next 2 weeks to present. Now we do not have much time, because the House will not go into session until Thursday and the Senate still is working on its offer to us. We are awaiting another Senate offer.

But I believe the House will be satisfied with the fact that the amount of money has come down from the $7 billion, which was initially in the House-passed bill to somewhere in the neighborhood between $4 billion and $3.5 billion. So the number is there.

I think that the gentleman would be equally satisfied and others on his side of the issue, with the fact that there will probably be a work requirement in the bill, and there will be substantially less money spent than initially the House voted.

I thank the gentleman for yielding.

Mr. BROWN of Colorado. Madam Speaker, I yield 1 minute to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding.

Madam Speaker, I certainly urge support for the motion to instruct, because apparently the House conferees have not gotten the message. The gentleman from Colorado indicated that on July 7, I believe it was, the House voted for the very same motion by that vote of 227 to 168. Now that is a pretty good solid margin of an expression on the part of this House. Yet when the conferees convened, the conferees were out there calling for substantially more spending than the $2.8 billion which the President has indicated to me, at least, at leadership meetings that that is the figure that he can agree to and which we were supportive of in the House and, frankly, over in the other body.

So the way this whole process has been working appears to be somewhat of a sham, particularly if the conferees are not even meeting. We do need a good, solid welfare reform bill which does not cost the taxpayers an arm and a leg. We have such a measure that the President has indicated he would like to support before the conferees.

So I would urge again that the Members do what they did last time, reaffirm their solid position so that the conferees have a definite standard and yardstick to go by in bringing this thing to final resolution.

Mr. BROWN of Colorado. Madam Speaker, I yield 1 additional minute to the gentleman from New York [Mr. DOWNEY] for the purpose of debate only.

Mr. DOWNEY of New York. I thank the gentleman for yielding further.

Madam Speaker, the fact is that we have had numerous meetings with the Senate. We continue to meet with them all the time. The White House is involved in this process. I anticipate it should be finished before long. I would urge my colleagues to resist the temptation to support this instruction. We supported it last time. We are moving in the direction of the requirement of the House to spend less money and to have work. I do not frankly see the need for this additional vote. But you should be aware that we are very close to having a very good welfare bill, one that I believe all parties could support.

Mr. ROWLAND of Connecticut. Madam Speaker, I rise today because of disturbing events that have taken place recently during the conference committee's deliberation on welfare reform. It is my understanding that the House-appointed conferees, ignoring the wishes of a clear majority of Members, made a $4 billion counteroffer to the Senate conferees yesterday. On July 7, Madam Speaker, you may recall that 227 Members of this body voted to instruct House conferees to keep the cost of the final welfare reform bill to no more than $2.8 billion. While the motion we voted on back in July was nonbinding on the conferees, the $4 billion offer by the conferees can only be seen as a new phase in a growing tradition of trampled rights and privileges in the House.

The real losers in this tragedy, however, are the millions of welfare dependent Americans who are being denied the one chance they may have to break free. How is this so? Well Madam Speaker, the esteemed majority members of the House conference committee also eliminated the work restriction provisions in their offer. Welfare reform is serious business and the House should not be playing fiscal football with this issue.

Mr. BROWN of Colorado. Madam Speaker, we are offering as instructions precisely the same instructions that passed the House overwhelmingly the last time.

Madam Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Colorado [Mr. BROWN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Madam Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 249, nays 130, not voting 52, as follows:

[Roll No. 326]

YEAS—249

Andrews
Anthony
Archer
Armey
AuCoin
Baker
Ballenger
Bartlett
Barton
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Bonker
Bosco
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Carr
Chandler
Chapman
Chappell
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Cooper
Costello
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dornan (CA)
Dreier
Durbin
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fawell
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gekas
Gilman
Gingrich
Glickman
Goodling
Gordon
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kemp
Kolbe
Kostmayer
Kyl
Lagomarsino
Lancaster
Leach (IA)
Leath (TX)
Lehman (FL)
Lent
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Myers
Nagle
Nelson
Nichols
Nielson
Olin
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Penny
Petri
Pickett
Porter
Price
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
Staggers
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—130

Ackerman
Akaka
Anderson
Annunzio
Applegate
Aspin
Atkins
Beilenson
Berman
Boland
Bonior
Borski
Brennan
Cardin
Carper
Clement
Coelho
Collins
Conyers
Coyne
Crockett
Davis (MI)
Dellums
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Early
Eckart
Evans
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Gaydos
Gejdenson
Gephardt
Gibbons
Gonzalez
Gray (IL)
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Jacobs
Jones (NC)
Jontz
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
LaFalce
Lantos
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Manton
Markey
Matsui
Mavroules
McCloskey
McHugh
Mfume
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Natcher
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Pease
Pelosi
Perkins
Pickle
Rahall
Rangel
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Schumer
Sikorski
Slaughter (NY)
Smith (IA)
Solarz
St Germain
Stokes
Stratton
Studds
Swift
Synar
Traxler
Udall
Vento
Visclosky
Walgren
Weiss
Wheat
Whitten
Wilson
Wolpe
Wyden
Yates

NOT VOTING—52

Alexander
Badham
Barnard
Bateman
Bates
Bliley
Boucher
Boulter
Boxer
Brooks
Brown (CA)
Bustamante
Cheney
Clay
Coleman (TX)
de la Garza
Dowdy
Edwards (CA)
Espy
Florio
Garcia
Gradison
Grant
Gray (PA)
Gregg
Hefner
Jeffords
Kleczka
Konnyu
Latta
Lehman (CA)
Lewis (CA)
Lujan
Mack
MacKay
McEwen
Mica
Murphy
Neal
Ortiz
Oxley
Pepper
Saiki
Scheuer
Spence
Stallings
Stark
Stenholm
Towns
Waxman
Williams
Wortley

☐ 1304

The Clerk announced the following pair:

On this vote:

Mr. Oxley for, with Mr. Towns against.

Mr. JONTZ, Ms. OAKAR, Mr. NOWAK, and Mr. STOKES changed their vote from "yea" to "nay."

Mr. HALL of Texas, Mrs. BOGGS, and Mrs. BENTLEY changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OMNIBUS DRUG INITIATIVE ACT OF 1988

The SPEAKER pro tempore (Mrs. KENNELLY). Pursuant to House Resolution 521 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5210.

☐ 1305

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, with Mr. CARR in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, September 15, 1988, the amendment offered by the gentleman from Florida [Mr. SHAW] had been disposed of. The next amendment in order is another amendment offered by the gentleman from Florida [Mr. SHAW].

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHAW: Page 205, after the quoted matter following line 4, insert the following new subtitle:

Subtitle M—Serious Crack Possession Offenses

SEC. 6801. INCREASED PENALTIES FOR CERTAIN SERIOUS CRACK POSSESSION OFFENSES.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting after the second sentence the following new sentence: "Notwithstanding the preceding sentence, a person convicted under this subsection for the possession of a mixture or substance which contains cocaine base shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both, if the conviction is a first conviction under this subsection and the amount of the mixture or substance exceeds 5 grams, if the conviction is after a prior conviction for the possession of such a mixture or substance under this subsection becomes final and the amount of the mixture or substance exceeds 3 grams, or if the conviction is after 2 or more prior convictions for the possession of such a mixture or substance under this subsection become final and the amount of the mixture or substance exceeds 1 gram.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. SHAW] is recognized for 5 minutes in support of his amendment.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge my colleagues to support this amendment which would increase the penalties for the possession of crack by lowering the amount, in grams, for which possession is considered a criminal offense.

In 1986, when we were working on the Anti-Drug Abuse Act, we recognized a national epidemic of new cocaine use because of the appearance of a new, highly addictive form of cocaine called crack. Because of its purity, crack is sold in smaller amounts for as little as $10. Its purity also makes it highly addictive. Crack is usually smoked and gives the user a quick high which is inevitably followed by a craving for more. By its nature, crack is a drug dealer's dream—new customers are easily lured by its affordability and become hooked, allowing drug dealers across our Nation to build an enormous market. The major target market for crack dealers has been our youngsters—make no mistake about it.

We recognized the threat of our Nation's romance with crack in the 1986 drug bill, and toughened penalties for the possession of small amounts of crack. Unfortunately, crack dealers have virtually memorized the 1986 drug penalties. They know if they carry less than 5 grams of crack, they will not be subject to the tough 1986 penalties. Law enforcement officials have informed us that they have observed this trend among crack dealers particularly in our large cities. For example, DEA agents have informed me that in one instance, a crack dealer had hidden large amounts of crack in trash cans in a city alley. This dealer would carry small amounts of crack on his person, sell it on the street and return to the alley to restock his supply.

We must not let the drug dealers outsmart us. As lawmakers, we must devise creative solutions to such changes in drug trafficking patterns. That is the purpose of my amendment. The 1986 law provides tough penalties for 5 or more grams of crack only. My amendment would slap drug dealers with a stiff minimum-mandatory prison sentence of 5 to 20 years for the possession of a minimum of 5 grams on a first offense, for the possession of 3 grams on a second offense, and the possession of 1 gram on a third offense. Obviously, this will not completely solve the crack problem, but it will, at least, reduce the amount of crack on the streets.

Vote for my amendment in order to keep the pressure on the crack dealers victimizing our youngsters. Crack is an extraordinarily dangerous drug so we must take extraordinary steps to combat it. A vote against my amendment will be sending the wrong message to the crack dealers.

I urge my colleagues to vote "yes" on my amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. DIOGUARDI] who has taken a lead with regard to this subject and the amendment which I have proposed.

Mr. DIOGUARDI. Mr. Chairman, I thank the gentleman from Florida [Mr. SHAW] for yielding, and I commend him for his efforts on this.

This amendment, Mr. Chairman, recognizes one simple fact: Drug dealers are not stupid. After talking to prosecutors and law enforcement officials it has become clear that the dealers carry amounts below the possession amount of crack and cocaine which would trigger maximum penalties now on our books.

Mr. Chairman, in my own district, which is just above New York City, which is now considered the capital of crack in the country, we would have to catch someone now with 35 vials of crack. These dealers are not stupid. They are not going to walk around with 35 vials. They will walk around the streets with lower amounts, keep the rest in their apartments and keep going back and forth.

So, Mr. Chairman, it makes creative sense and common sense that on the first occurrence we should have penalties that are strong, but they should get stronger as we apprehend the same person so we do not have this revolving door type justice.

Mr. Chairman, I want to commend the gentleman from Florida [Mr. SHAW] and say that we have got to be as creative as the drug dealers in the penalties that we assess and the way that we enforce the laws that are on our books.

Mr. SHAW. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida reserves 30 seconds.

Mr. RANGEL. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. RANGEL] is recognized for 5 minutes.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I admit that it is consistent with our get-tough or look-tough policy, and I really think this is an ideal type of amendment to vote for just prior to the election, but I know the gentleman believes that we have a get-tough administration with a get-tough Attorney General with a get-tough Justice Department that has really supported everything right down the line that has been presented to us to increase penalties.

But, Mr. Chairman, the gentleman has read the Attorney General's report on this provision, and they clearly indicate that they are in opposition to it, that this would permit some of the traffickers to manipulate the drug statutes so as to minimize the penalties which are imposed in this.

It would seem to me that when we think about the limited resources we have in the Federal Government, when we take a look and find out what our total manpower in the Drug Enforcement Administration is, it is a mere 2,800 men and women covering the entire world, that the burden that the gentleman would be putting on the Federal law enforcement system is not only unrealistic, but it is just not going to work.

The question has to remain that, if we want effective enforcement of the law, if we do not want prosecutors to decline cases, if we do not want judges and juries dismissing cases because they believe that the sanctions are too severe, then we are going to have to answer the question, "Where are you going to find the jail space to put these people if they are arrested and convicted?"

Mr. Chairman, it is great to say, "Arrest them all." We do it in New York. We arrest more people in the city of New York than probably they do in the entire southern district of New York on the Federal level, but what happens is they do not go to jail because there is no space available for them.

Mr. DIOGUARDI. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. Mr. Chairman, I yield to my colleague, the gentleman from New York.

Mr. DIOGUARDI. Mr. Chairman, the New York City police officials and the law enforcement officers in my district are asking for these kinds of penalties. I spoke to the district attorney himself in Westchester County because we have complaints in various jurisdictions. I will not mention the cities in my district or single out anywhere that they keep finding the same people on the same corners, and a DA keeps telling me they are back because they do not apprehend them with amounts that make these maximum penalties stick. It takes 5 grams under the initial—5 grams of crack is 35 vials. This simply says that on the second occurrence that if someone is caught with 3 grams; that is, 21 vials, the penalties will stick, and on the third occurrence, 1 gram; that is 7 vials.

Mr. Chairman, I think this is a commonsense way to deal with this.

□ 1315

Mr. RANGEL. Mr. Chairman, let me retain my time only for the purpose of properly framing my question so that the gentleman can give those eloquent answers to my question, rather than the police in Yonkers.

My question is, Why would you support this if our aggressive Justice Department and the Attorney General's office opposes this?

Mr. DIOGUARDI. Mr. Chairman, if the gentleman will yield further, the gentleman knows that we have to win the war on drugs in all facets. We know that there is a problem with the capacity we have in the jail system right now. That has got to be dealt with as well, but one problem should not exclude the resolution of another problem.

Right now we are not getting the laws we need to apprehend and keep these people off the streets.

Mr. RANGEL. Mr. Chairman, clearly the response of my colleague, the gentleman from New York, says that it does not make any difference whether we have the space to put these people, that his legislation he is supporting from the gentleman from Florida [Mr. SHAW] is to arrest them and to provide sanctions and show that you are getting tough and then at some later date, after the arrest and after the prosecutions, we will provide the money to create the prisons.

Clearly, we know this is not going anywhere. The Attorney General opposes it. The Justice Department opposes it, and I oppose it.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I am concerned for another reason. I think the gentleman makes a very valid point with regard to precious prison resources. We do not have the resources to house the traffickers because we have so many of them coming into the system; but I am concerned for another reason, and I think the Justice Department has put its finger on it, and I will read it to you. We all want to be tough on traffickers. Let me read what the Justice Department says:

> On the other hand, crack traffickers, particularly street level dealers, frequently are arrested for less than 5 grams of crack in their possession. If this title were enacted into law, first offenders would argue that the possession of crack for personal use——

The CHAIRMAN. The time of the gentleman from New York [Mr. RANGEL] has expired.

Mr. HUGHES. Mr. Chairman, I ask unanimous consent that the gentleman from New York may have 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. SHAW. Reserving the right to object, Mr. Chairman, I will not object if 1 full minute is provided to each side.

The CHAIRMAN. The gentleman from New Jersey has made a unanimous-consent request that the gentleman from New York may proceed for 1 additional minute.

Is there objection to the request of the gentleman from New Jersey?

Mr. SHAW. Mr. Chairman, I, then, object.

The CHAIRMAN. Objection is heard.

Mr. SHAW. Mr. Chairman, I ask unanimous consent that each side be given 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. RANGEL. Mr. Chairman, I yield myself my remaining 1 minute.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New Jersey.

Mr. HUGHES. Just to finish my sentence, Mr. Chairman, the Department of Justice fears that if this is enacted, they will not be able to charge those possessing less than 5 grams of crack as a trafficking offense, which they are now doing, so it actually undermines existing criminal statutes that provide the ability to charge traffickers.

For that reason, we are not being tough.

What we are doing is we are taking a step backward under the Shaw amendment.

Mr. RANGEL. Mr. Chairman, I just hope that the gentleman from Florida will not force his colleagues to vote on this once it is defeated by voice vote because what the gentleman would be doing is asking them to support bad law for what sounds like we are getting tough on drug offenses.

The CHAIRMAN. The gentleman from Florida [Mr. SHAW] is recognized for 1 minute and 30 seconds.

Mr. SHAW. Mr. Chairman, I yield one-half of that time to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I support the Shaw amendment and I support the Shaw amendment because there is a relationship between supply and demand, between what we call the supply side in the narcotics war and the demand side. In many places throughout the United States now crack dealers are driving down our main streets and back alleys and dispersing without cost to young people so that they can build a constituency of users and addicts.

The point is that there is so much crack that we in fact are affecting the demand side. We are creating users because the supply is so prevalent.

The Shaw amendment deals with that because it establishes a deterrent.

Mr. Chairman, I recommend support of the Shaw-DioGuardi amendment.

Mr. SHAW. Mr. Chairman, I yield myself the remaining time, and I yield to the gentleman from New York [Mr. DIOGUARDI].

Mr. DIOGUARDI. Mr. Chairman, I just want to respond to the gentleman from New Jersey, who either misstates or overstates his case, or both, that the objective is not to arrest the small users.

When the gentleman says five vials, 1 gram, that is on the third occurrence. This is a sliding scale penalty act, ranging from 5 grams to 1, and 1 gram is seven vials.

Mr. SHAW. Mr. Chairman, we are not at this time talking about drug users. We are talking about drug dealers. The only way we are talking about drug users is if they are also drug dealers, which is very often the case.

We must get to these people with the harshest penalties possible. This is most insidious of all drugs out there on the streets. This is the one that is getting to the youngsters, and we are talking about putting the dealers in jail. Let us do it. Let us get on with it, and let us pass the Shaw amendment.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of Mr. SHAW's amendment to impose mandatory criminal penalties for crack possession. I believe that crack may possibly constitute the single most danger to potential drug abusers because of the nature of its lethal affect upon its users. Coupled with its availability and seemingly low cost this drug has been spreading like the plague.

We must stop this substance from being distributed. This amendment would impose mandatory criminal penalties on a graduated basis. We cannot allow this, one of the most addictive drugs, to continue to be processed. We cannot allow producers of crack to continue to distribute this killer substance and in the process cause further mayhem in our cities and towns across the country.

By imposing these penalties, we deter would be distributors by giving them a very clear indication of just how serious we are in our efforts to stop drug abuse and, in particular, the use of crack. We are saying that we will no longer tolerate our hospitals being filled with victims of this abusive substance. We will no longer allow innocent citizens to fall victim to robbery and perhaps physical violence by a crack user in need of fast cash. We will no longer allow our police to be gunned down in drug-related crimes. Nor will we allow any more of our children to become victim to this deadly drug. Far too many people have already found out just how dangerous and costly this habit can be. Unfortunately, they cannot tell you because the price they paid was their life.

Mr. AuCOIN. Mr. Chairman, I rise in opposition to the Shaw amendment and in support of the "innocent owner" provisions of H.R. 5210, the omnibus drug bill.

The issue at stake, Mr. Chairman, is not how hard we should come down on drug dealers, or how tough we should be with drug abusers who recklessly endanger lives on the high seas. We should throw the book at them. I think everyone in this Chamber agrees with that, and so do my fishing friends who make a living by harvesting the sea.

The issue is not how tough we're going to be. The issue is how fair we are going to be to boat owners who find themselves in a unique position that affects almost no other small business owner in America. Not only can their place of business be searched without warning at any time by Coast Guard or customs agents. They can also lose their livelihood and property because of the actions—of which they have no knowledge—of another person. I believe the provisions in this bill providing for an innocent owner defense for fishing boat owners in this predicament takes a step toward providing basic legal protections which are taken for granted by the rest of us.

Mr. Chairman, I have fought long and hard for adequate funding so the Coast Guard can continue the drug interdiction and search and rescue missions so critical to coastal States. I take a back seat to no one in support of their proper efforts to halt the drug trade.

But I have a concern based on what I have been hearing from fishermen about searches and seizures to which they have been subject in recent months. Simply put, many of these business owners have made tremendous efforts to ensure that their vessels and crews are drug-free and to comply with the zero tolerance drug enforcement policy. In spite of their efforts, they feel that their property and livelihoods are not secure from seizure for actions of an employee of which they are totally unaware, and they believe this is unfair.

Any law enforcement policy depends on public understanding and support for its success. The public must see that agents of the Government apply the law not only vigorously but also fairly and with full regard for the rights of innocent people. Constitutional and legal safeguards of personal rights and property cannot be compromised without undermining the public trust. I believe that the "innocent owner" provisions in the bill will give our war on drugs the chance to more adequately meet this test.

I urge my colleagues to be fair to our fishing fleets and oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DORNAN of California: Page 155, after line 11, insert the following new subtitle (and redesignate accordingly):

Subtitle B—Task Force on Clandestine Drug Laboratories

SEC. 6101. SHORT TITLE.

This subtitle may be cited as the "Joint Federal Task Force on Clandestine Drug Laboratories Establishment Act of 1988".

SEC. 6102. FINDINGS.

Congress finds the following:

(1) The illegal manufacture of drugs has escalated dramatically in recent years.

(2) Law enforcement officials and emergency response personnel require specific training in the safe and environmentally sound handling and disposal of hazardous and toxic waste produced by clandestine drug laboratories to ensure compliance with applicable State laws and regulations.

(3) The Drug Enforcement Administration of the Department of Justice has indicated that the number of clandestine drug laboratories has tripled in recent years.

(4) The precursor chemicals that are combined in clandestine drug laboratories, such as those combined in illegal methamphetamine laboratories, produce extremely hazardous substances.

(5) Illegal drug laboratories have been found in apartments, motel rooms, motor homes, and dwellings in both urban and rural settings.

(6) Cleanup operations undertaken at the site of a seized illegal drug laboratory often neglect residual hazardous wastes which threaten the health of innocent tenants, homeowners, and livestock, as well as water supply of surrounding communities.

(7) Clandestine drug laboratories are hazardous waste producers.

(8) No Federal agency has been granted budgetary authority to provide for the effective disposal and cleanup of hazardous waste produced by clandestine drug laboratories.

(9) The failure to cleanup and dispose of hazardous waste produced by clandestine drug laboratories presents long-term health hazards.

(10) State and local authorities are currently ill-equipped to effectively cleanup and dispose of hazardous waste produced by clandestine drug laboratories.

SEC. 6103. ESTABLISHMENT OF TASK FORCE.

There is established the Joint Federal Task Force on Clandestine Drug Laboratories (hereafter in this subtitle referred to as the "Task Force").

SEC. 6104. MEMBERSHIP OF TASK FORCE.

(a) APPOINTMENT.—The members of the Task Force shall be appointed jointly by the Administrators of the Environmental Protection Agency and the Drug Enforcement Administration of the Department of Justice (hereafter in this subtitle referred to as the "Administrators").

(b) MEMBERSHIP.—The Administrators shall appoint the members of the Task Force from among employees of the Environmental Protection Agency and the Drug Enforcement Administration of the Department of Justice. Such employees shall include Emergency Response Technicians of the Environmental Protection Agency and Special Agents assigned to field divisions of the Drug Enforcement Administration of the Department of Justice.

SEC. 6105. DUTIES OF TASK FORCE.

(a) IN GENERAL.—The Task Force shall formulate, establish, and implement a program for the cleanup and disposal of hazardous waste produced by clandestine drug laboratories.

(b) CONSIDERATION OF FACTORS.—In formulating a program under subsection (a), the Task Force shall consider the following factors:

(1) The volume of hazardous waste produced by clandestine drug laboratories.

(2) The cost of cleaning up and disposing of hazardous waste produced by clandestine drug laboratories.

(3) The effectiveness of the various methods of cleaning up and disposing of hazardous waste produced by clandestine drug laboratories.

(4) The coordination of the efforts of the Environmental Protection Agency and the Drug Enforcement Administration of the Department of Justice in cleaning up and disposing of hazardous waste produced by clandestine drug laboratories.

(c) DEFINITION.—For the purposes of this subtitle, the term "clandestine drug laboratory" means any location, dwelling, or site which contains precursor chemicals intended for use in the illegal manufacture or synthesis of controlled substances.

SEC. 6106. REPORTS.

(a) INITIAL REPORT.—The Task Force shall transmit to the President and to each House of Congress not later than 120 days after the date of the enactment of this Act a report describing the program established by the Task Force under section 6105(a).

(b) PERIODIC REPORTS.—The Task Force shall periodically transmit to the President and to each House of Congress reports describing the implementation of the program established by the Task Force under section 6105(a) and the progress made in the cleanup and disposal of hazardous waste produced by clandestine drug laboratories.

The CHAIRMAN. The gentleman from California [Mr. DORNAN] is recognized for 5 minutes in support of his amendment.

Mr. DORNAN of California. Mr. Chairman, I have a statement that I would like to submit for the RECORD before I yield to the distinguished floor leader on this critically important bill.

The reason my amendment is noncontroversial is because it involves the criminal phenomenon of PCP labs, this animal tranquilizer give amazing strength to people when they are on drugs. It takes five or six police officers to hold somebody down. A person of normal muscular strength and build becomes "The Hulk." And "meth labs," they use so many toxic chemicals in these labs, and we expect there to be three times as many labs grow over the next 3 or 4 years as the labs have tripled in number in the last 3 years.

They expect to bust over 760 labs next year. There were 658 labs across the United States, a horrible concentration of them in my State of California and in the beautiful Pacific Northwest because of the forests, I guess, in Oregon and in the State of Washington area.

When there is one of these law enforcement attacks on one of these labs, they sometimes have to disarm booby traps, and if it does not kill the law enforcement officers trying to destroy the lab, it blows these toxic chemicals all over everybody.

Then the States that are not financially equipped to deal with this myriad of toxic chemicals have this incredible problem.

It is one of those issues that crosses state lines, that involves the expertise of scientists and law enforcement people at the Federal level.

I appreciate the majority side understanding that this is something that we just have to address.

Mr. Chairman, meth labs and PCP labs have tripled in number in the last 3 years, especially in California, Oregon, and Washington. In 1987 the DEA seized 682 clandestime drug labs and this year they project to seize 760 labs. Typically, the precursor chemicals that are combined in these labs produce residual hazardous wastes which threaten the health of the public, not to mention the law enforcement personnel who frequently have to defuse booby-traps in order to seize a laboratory.

Two years ago the Drug Enforcement Agency, the primary agency with the responsibility for controlling the proliferation of these clandestime drug labs, had no procedures for disposal or cleanup of these hazardous chemicals. The funding for DEA's disposal efforts came entirely out of their operating budgets—some $3.5 million in 1987, $5 million in 1988 and is projected to eat up at least $8 million next fiscal year. For their trouble they have been labeled a "generator of hazardous wastes" by the Environmental Peotection Agency.

Clearly, Mr. Chairman, the geometric proliferation of these meth labs is a public hazard which law enforcement officials should not have to deal with alone. For this reason, I proposed a joint Federal task force, combining the respective expertise of both the DEA and the EPA to formulate national standards for disposal and cleanup of the hazardous chemicals associated with these clandestine drug labs. Mr. WYDEN, the gentleman from Oregon, added to my approach by directing the EPA to establish guidelines for disposal and cleanup and funded demonstration projects to make this happen. Today we stand together, merged as one amendment to title X, combining the best of both worlds. For that Mr. Chairman, I thank Mr. WYDEN and the staffs of the Judiciary Committee who worked together with me to make this public policy a reality.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the distinguished gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding to me.

I want to congratulate the gentleman from California.

The subcommittee attempted to deal with what is a real serious problem. There is no question that many of the chemicals in these labs are toxic chemicals that are difficult to deal with.

The Drug Enforcement Administration does not have the expertise to deal with them. It is in the Environmental Protection Agency area of endeavor, and we do need to develop a task force type of operation that the gentleman in fact envisions with his amendment.

I understand that there is some language that has been agreed to with the majority, and frankly I am going to support that language.

Mr. DORNAN of California. Mr. Chairman, before I withdraw my amendment so that it can be offered en bloc, I want to correct one figure.

The DEA seized in 1987 alone 682 clandestine drug labs. I was a couple dozen short, and they expect almost to seize 800 labs next year.

Mr. Chairman, before I withdraw my amendment, I yield 2 minutes to my distinguished friend, the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, this is I think one of the more important amendments we are going to have a chance to act on. If you represent a rural area near a large metropolitan area, like I do, there is currently a nine county task force made up of the nine sheriffs departments just south of Dallas-Fort Worth. In the 1 year that this task force has been in operation, they have busted over 50 of these "speed" laboratories. If they are given more resources and are able to work in an interagency fashion with Federal strike forces, I think we can do an even better job.

I want to commend the gentleman from California [Mr. DORNAN] for offering this amendment, and for the majority working with him.

I am very involved in this effort in Texas. I think that this amendment will go a long way to help our rural areas combat the manufacture of these illegal drugs in their areas, some of which are consumed in the rural areas, but many of which do go into the urban metropolitan areas.

Mr. DORNAN of California. Mr. Chairman, I ask unanimous consent to withdraw my amendment, so that it may be offered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from California [Mr. DORNAN] is withdrawn.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUGHES: Page 178, line 14, strike out "$620,551,000" and all that follows through "equipment" on line 15, and insert in lieu thereof "$619,751,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] is recognized for 10 minutes in support of his amendment.

Mr. HUGHES. Mr. Chairman, I am not going to pursue the amendment. The amendment basically deals with the voice privacy issue, something that is of immense concern to the Federal authorities as well as to State and local authorities.

This actually would add $800,000 to the Drug Enforcement Administration's capability in developing voice privacy communications systems so that they are secure. We find that often in the past our communications systems have been compromised by traffickers who themselves have developed very sophisticated systems, and we are trying to upgrade our own systems.

Unfortunately, State and local authorities, particularly along the border States, have not been as successful as the Federal authorities have in updating their communications systems.

This $800,000 is certainly needed. As I understand the amendent, it is generic in nature. It provides $800,000 to the Drug Enforcement Administration.

I do not intend to pursue the amendment.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from New Jersey [Mr. HUGHES] is withdrawn.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STUDDS: Page 212, strike line 1 and all that follows through line 8, and insert the following:

SEC. 7008. FORFEITURES OF CONVEYANCES.

(a) AMENDMENT TO ACT OF AUGUST 9, 1939.—Section 2 of the Act of August 9, 1939 (chapter 618, 53 Stat. 1291; 49 U.S.C. App. 782), is amended by adding at the end the following: "No vessel, vehicle, or aircraft shall be forfeited under this section to the extent of an interest of an owner for a drug-related offense established by that owner to have been committed or omitted without the knowledge or consent of the owner.".

(b) AMENDMENTS TO TARIFF ACT OF 1930.—Section 594(b) of the Tariff Act of 1930 (19 U.S.C. 1594(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end the following:

"(2) Except as provided in paragraph (1) or subsection (c), no vessel, vehicle, or aircraft is subject to forfeiture to the extent of an interest of an owner for a drug-related offense established by that owner to have been committed or omitted without the knowledge or consent of the owner.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 10 minutes and a Member in opposition will be recognized for 10 minutes.

Mr. SHAW. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. SHAW] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I do not think there is any need for the committee to spend much time on the amendment. It is, given the vote of the House yesterday on the subject of innocent owner defenses in its rejection of the amendment offered by the gentleman from Florida [Mr. SHAW], this now becomes essentially a conforming amendment.

□ 1330

There are three places in the United States Code in which those subjects are treated. The bill before us has amendments to two of them with respect to innocent owner defenses, and the House reaffirmed its support of those provisions in its vote yesterday afternoon.

The third area is under the jurisdiction of the Committee on Ways and Means. That committee had sided yesterday with the gentleman from Florida, but given the vote of the House, however, and the clear feeling of the House on this matter, the chairman of the Committee on Ways and Means has informed me he supports this amendment in order to make uniform and consistent throughout the United States Code the way in which we deal with innocent owner defenses. It becomes essentially a conforming amendment, given the position of the House.

Mr. Chairman, the purpose of my amendment is simple: it is to ensure that there is consistancy throughout the United States Code on the rules governing the forfeiture of vessels and other conveyances involved with drug related offenses.

Current Federal law authorizes the forfeiture of vessels and other conveyance that are seized in connection with a drug-related offense in three separate places of the United States Code. The provisions of the omnibus drug bill propose to insert an innocent owner defense into two of the three sections of the code governing forfeiture, but fail to make the same change for the third section. The sole purpose of my amendment is to insert the innocent owner defense into that third section of the code, thereby ensuring consistency throughout the United States Code on the question of forfeitures. The language of the amendment is identical to the innocent owner defenses now in the bill.

Mr. Chairman, in seeking originally to offer this amendment, I gave my commitment to the Committee on Ways and Means and the Rules Committee that I would only offer it if it was acceptable to the Committee on Ways and Means. I have checked with that committee, and am informed that it has no objection to the offering of this amendment. The amendment is also strongly supported by the bipartisan leadership of the Merchant Marine Committee and is identical to language that was coauthored by the Judiciary Committee. I believe it is a largely technical amendment that is consistent with the decision of the House yesterday to reject the Shaw amendment and retain the innocent owner provisions in the legislation before us, and I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, those of us who have been working hard throughout the years, even though we disagree on some very key issues in the area of narcotics, I would like to recognize the chairman and ranking member of the Select Committee on Narcotics, the chairman and the ranking member of the Crime Subcommittee, and many of the other people throughout the Congress. We have all labored hard throughout the years to get some good drug legislation. Unfortunately the way the rules are set up in this House and because of the lack of interest in much of this type of legislation by the chairmen of the various committees who are in a position to block this type of legislation, we only every 2 years have an opportunity to address drug legislation. That makes it incumbent upon us to load up the cars to the hilt because we know that this is the only chance that we have had, and it may be the only chance that we will have for another 2 years or maybe for our entire career in Congress. By following this process, we do pass a lot of good laws.

Mr. Chairman, I intend to vote upon this drug bill favorably, because there is so much in it that is so good, but I would like to tell my colleagues that we made a tremendous mistake yesterday by eliminating two centuries of law with 20 minutes of debate.

The hearing process that should have gone forward under zero tolerance, the hearings that should have been held with the Coast Guard present and testifying, the hearings that should have been held with Customs present and testifying were passed over. It was passed over.

I am told now by the Coast Guard that if this particular provision of the bill survives the conference process and goes into law that we can forget the confiscation of vessels who are trafficking in drugs simply because the so-called innocent owner can simply say he knew nothing about it; he was not on board; "Give me my boat back," and unless they can prove a case against the so-called innocent owner, they will have to give the boat back. The boat will go right back into the drug traffic.

If we had gone through the committee process that has served us so well for so long here throughout the history of this House, this would not have happened. There is a lot of other legislation in which this same argument has been used which I have supported and which those on the other side of the issue have had some very strong feelings about, and no doubt we are coming down and making great mistakes on both sides of this issue, but that is because the process that we are using here in the House is flawed.

We are going to all support this bill, and I do hope and pray that it will get through the committee process, and that it will be signed into law before this Congress adjourns.

Mr. Chairman, I would say to the Members who are returning next year, please, let us not do this again. Please, let us go forward and keep up with drug traders by having a dialog that is ongoing, to use the committee process, that it is us against them, and that we are going to destroy them and that we are going to put them out of business, that we are not going to just chip away at the problem. We are going to solve the problem.

I would urge all of my colleagues that we can do better. We must do better. We must work together. There is no line down this aisle when we are talking about drug dealers. There is no line down this aisle when we are talking about the future of our country and the future of our children.

I would hope and pray that we will not again pursue this mistaken and flawed process, and that we will work together to get some tough and hard legislation so we can go forward together to combat the drug trade in this country.

Mr. Chairman, I yield back the balance of my time.

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have no intention of prolonging the debate. I would like the record to reflect one thing, given the remarks of the distinguished gentleman from Florida, and that is that one committee of jurisdiction, the Committee on Merchant Marine and Fisheries, did have a lengthy hearing. We heard from the Commandant of the Coast Guard and the Commissioner of Customs, and the testimony was weighed. A broad, strong, bipartisan majority of our committee found it to be wanting.

We at least went through the committee process.

Mr. DAVIS of Michigan. Mr. Chairman, I support the Studds amendment. The Judiciary and Merchant Marine and Fisheries titles of H.R. 5210 contain complementary provisions to give a defense to innocent owners of conveyances in forfeiture cases. The innocent owner defense does not keep the Government from seizing a vessel, but only allows the owner of the conveyance to prove his innocence later in the forfeiture proceeding. The House has voted overwhelmingly to support the innocent owner defense provisions in the bill.

To assure consistency in the law, an additional change needs to be made to the forfeiture laws under title 19, United States Code. This will ensure that our forfeiture laws are consistent and that the innocent owner defense will be available in forfeiture cases regardless of the Federal agency handling the case.

This is a good amendment, that assures that a gap does not exist in the law when H.R. 5210 is enacted. I urge my colleagues to support the amendment.

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong support of the Studds amendment. This amendment will add an "innocent owner" provision to the Tariff Act of 1930, title 19, and is necessary to insure continuity in the laws that are used to enforce zero tolerance.

The authority for the Coast Guard and the Customs Service to seize conveyances under the zero tolerance policy is found in titles 21, 49, and 19. Provisions which add an "innocent owner" defense to titles 21 and 49 are included the omnibus drug bill. Yesterday, the House voted overwhemling to keep those "innocent owner" provisions in the bill when it defeated the Shaw amendment. Mr. STUDDS' amendment will simply insure that the same protections are available to innocent owners regardless which of the three statutes is used.

If you support the rights of the innocent and voted against the Shaw amendment yesterday, should vote for the Studds amendment today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. DAVIS] is recognized to offer an amendment.

Pursuant to the rule, the gentleman for South Dakota [Mr. JOHNSON] is recognized.

AMENDMENT OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. JOHNSON of South Dakota: Page 213, after Line 17, insert the following:

Subtitle A—Federal Aviation Administration Drug Enforcement Assistance

Page 213, line 19, strike "title" and insert "subtitle".

Page 224, line 20, strike "title" and insert "subtitle".

Page 235, line 16, strike "title" and insert "subtitle".

Page 236, line 17, strike "title" and insert "subtitle".

Page 236, line 18, strike "title" and insert "subtitle".

Page 237, line 9, strike "title" and insert "subtitle".

Page 237, line 10, strike "title" and insert "subtitle".

Page 237, line 19, strike "title" and insert "subtitle".

Page 237, line 20, strike "title" and insert "subtitle".

Page 240, line 17, strike "title" and insert "subtitle" each place it appears.

Page 240, after line 20, insert the following:

Subtitle B—Alcohol and Drug Traffic Safety

SEC. 8101. SHORT TITLE.

This subtitle may be cited as the "Alcohol and Drug Traffic Safety Act of 1988".

SEC. 8102. ENFORCEMENT PROGRAMS.

(a) GENERAL RULES.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 410. Drunk driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement drunk driving enforcement programs which include measures described in this section to improve the effectiveness of the enforcement of laws the purpose of which are to discourage individuals from operating motor vehicles while under the influence of alcohol. Such grants may only be used by recipient States to implement such programs.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for drunk driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this section.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the drunk driving enforcement program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF GRANTS.—

"(1) BASIC GRANTS.—Subject to subsection (c) of this section, the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) of this section shall not exceed 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(2) SUPPLEMENTAL GRANTS.—Subject to subsection (c) of this section, the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (f) of this section shall not exceed 20 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

"(e) ELIGIBILITY FOR BASIC GRANTS.—For purposes of this section, a State is eligible for a basic grant if such State provides—

"(1) for an expedited driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe an individual has committed an alcohol-related traffic offense and such individual is determined, on the basis of one or more chemical tests, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer serve such individual with a written notice of suspension or revocation of the driver's license of such indivdual and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of an individual for operating a motor vehicle while under the influence of alcohol and specify any rights of the operator under such procedures;

"(C) the State establish the administrative procedures referred to in subparagraph (B) so as to ensure due process of law;

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately report to the State entity, responsible for administering drivers' licenses all information relevant to the action taken in accordance with this paragraph;

"(E) in the case of an individual who, in a 5-year period beginning after the date of the enactment of this section, is determined on the basis of one or more chemical tests to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering driver's licenses, upon receipt of the report of the law enforcement officer—

"(i) suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and

"(ii) suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and

"(F) The suspension and revocation referred to under subparagraph (D) take effect not later than 15 days after the day on which the individual first received notice of the suspension or revocation in accordance with subparagraph (B).

"(2) for a self-sustaining drunk driving enforcement program under which the fines or surcharges collected from individuals convicted of operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles or such other programs for the prevention of such operations of motor vehicles as the Secretary approves; and

"(3) that any person with a blood alcohol concentration of 0.10 percent or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(f) ELIGIBILITY FOR SUPPLEMENTAL GRANTS.—For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition such State—

"(1) provides for mandatory blood alcohol content testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense;

"(2) provides for an effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals 21 years of age and older; and

"(3) making unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except as allowed in the passenger area by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(g) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1989 and $50,000,000 per fiscal year for each of fiscal years 1990 and 1991. Such sums shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"409. Drunk driving enforcement programs.".

(c) REGULATIONS.—The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 410 of title 23, United States Code, not later than 6 months after the date of the enactment of this section. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 1 year after such date of enactment.

SEC. 8102. ALCOHOL AND DRUG IMPAIRMENT STANDARDS.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct—

(1) a study to determine whether or not the blood alcohol concentration level at or above which an individual when operating a motor vehicle is deemed to be driving while under the influence of alcohol should be reduced below 0.10 percent and if so to what level; and

(2) a study to establish standards for determining whether or not an individual when operating a motor vehicle is impaired by a controlled substance or any other drug.

(b) REPORT.—In entering into any arrangement with the National Academy of Sciences for conducting the study under this section, the Secretary shall request the National Academy of Sciences to submit, not later than 1 year after the date of enactment of this Act, to the Secretary a report on the results of such study. Upon its receipt, the Secretary shall immediately transmit the report to Congress.

(c) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1989.

The CHAIRMAN. Pursuant to the rule, the gentleman from South Dakota [Mr. JOHNSON] will be recognized for 10 minutes.

The Chair recognizes the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I applaud the efforts of the House to deal with the critical issue of drugs that now faces America. I think great progress has been made in the area of interdiction, in the area of punishment enhancement as well as education and treatment.

However, there is one drug which remains unaddressed in the course of debating this bill, Mr. Chairman, and that is the drug which is the most abused drug of all, and that is alcohol, a drug which has perhaps a greater effect on our personal lives, each and every one of us in this Chamber, than any other single drug in this past year.

In the past decade, 250,000 Americans have been killed by drunk drivers; 2 of every 5 Americans, half of virtually every family, will be involved in an alcohol-related automobile accident.

The amendment currently pending is one which is endorsed and supported by Mothers Against Drunk Driving, by the Insurance Institute for Highway Safety, by the National Safety Council.

Mr. Chairman, it approaches the problem in a very positive, constructive manner. Rather than using the stick approach, it addresses the problem from an incentive approach, providing States with incentives, financial assistance, if they come up with an administrative license revocation. Twenty-three States currently have that form of license revocation for those who have been stopped for drunk driving. If they come up with a self-sustaining community drunk-driving program and if they support a .10 blood alcohol presumption, additional financial assistance is provided; if they come up with the mandatory blood alcohol testing when a driver is in a fatal or serious automobile accident, when they come up with an identifiable ID form for those who are under age, and when they outlaw open containers. It is purely optional on the part of the States.

The great majority of our States already comply with these terms, but it would provide an incentive for our States to come up with a more effective, aggressive form of addressing the crisis of drunk driving that we have in the United States.

This amendment has been dealt with on the Senate side, and I think it is very appropriate that we address what may be one of the most critical problems facing America in terms of drug abuse, and that is the issue of drunken driving.

Mr. Chairman, I applaud the efforts of the House to enact legislation dealing with the critical and widespread problems of drug abuse that our country faces today. But I think it would be a drastic mistake for us to enact enforcement measures without significantly addressing the national crisis that has resulted from drunk driving on our Nation's streets and highways. Alcohol is the most widely abused drug in America and has claimed an overwhelming number of innocent lives on our streets. Over the past decade, a quarter of a million people have been killed as the result of the actions of drunk drivers. The problem is so widespread that we literally take our lives in our hands every time we get behind the wheel—it's estimated that two out of every five Americans will be involved in an alcohol-related crash at some point in their lives.

Research has shown that the most effective efforts to reduce drunk driving fatalities have occurred in those States that have adopted administrative license suspension or revocation laws. In fact, the Insurance Institute for Highway Safety recently unveiled a study of drunk-driving countermeasures across the country and found that nighttime fatal crashes could be cut by 9 percent if all States adopted administrative revocation laws. But at this time, less than half the States have adopted these measures.

Our amendment is designed to promote administrative license actions by establishing a new, limited incentive grant program to encourage States to adopt laws providing for the prompt suspension of the driver's license of an individual found to be driving under the influence of alcohol. Seed money would be provided to States to help them set up self-sustaining drunk-driving prevention programs, if a State agreed to meet certain criteria for eligibility. To be eligible, a State would be required to do two things:

First, it would have to adopt laws requiring prompt suspension or revocation of the license of an individual found to be driving under the influence of alcohol.

Second, a State would establish a self-supporting enforcement program, under which fines or surcharges collected from convicted drunk drivers, or other funds, are returned to local communities for enforcement.

States would also be eligible for supplemental funds if they adopt additional measures:

First, States must require the mandatory blood alcohol testing of drivers involved in fatal or serious accidents.

Second, States would establish an effective system for preventing persons younger than 21 from buying alcohol, such as making their drivers' licenses distinguishable from those of older drivers.

Finally, States would make it unlawful to possess an open container of alcohol while driving.

It's important to note that this amendment respects States rights—it does not force them to comply with Federal statutes. It merely gives States the option to participate, with incentives to do so.

This legislation has received extensive committee consideration in the Senate and has been reported from both the Senate Environment and Public Works Committee and the Commerce, Science and Transportation Committee. It is strongly supported by Mothers Against Drunk Driving, the Insurance Institute for Highway Safety, and the National Safety Council.

I wish, for the record, to state my views of due process requirements as they should be implemented to carry out the purpose of this amendment. First, as the Supreme Court has held, a driver whose license is taken must be assured the right to a hearing at a meaningful time and in a meaningful manner. The amendment requires that the license suspension or revocation must take final effect within a period of time in which such a hearing should be granted. It should be held before a neutral and detached decisionmaker. At the hearing, the individual should have the basic right to be represented by counsel, subpoena witnesses, cross examine witnesses, and produce evidence. The civil burden of proof must be on the state. The written notice that the driver receives under this amendment, in providing information on the administrative procedures under which the State may suspend or revoke a license, should contain information on these hearing rights.

This written notice should also include information regarding the potential civil and criminal penalties under the law for refusing to consent to a chemical test. With regard to any confusion about the relation between Miranda warnings and a refusal to submit to a chemical test—in over 40 States, there is no right to counsel concerning the chemical test alone, and the warning that is normally given reflects that. However, other aspects of the case may require a Miranda warning if questions which are testimonial in nature are asked. The State appellate courts have held that there can be confusion if these two warnings are not separated and the evidence gathered separately. Consequently, it is a matter of training the officer to properly gather the evidence, and if the officer does not, this confusion can be a basis for returning a driver's license.

Every 22 minutes in this country, a person is killed in an alcohol-related traffic accident. I urge my colleagues to support this amendment in an effort to significantly reduce this tragic statistic and to help prevent the deadly consequences of this Nation's most widely abused drug.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of the Johnson-Dorgan amendment to H.R. 5210 the Omnibus Drug Initiative Act of 1988. This amendment would establish a new, limited incentive grant program to encourage States to promote stricter, more effective laws to counter drunk driving. It would authorize Federal seen money to States to help establish self-sustaining drunk driving prevention programs if a State agrees to put such a program in place.

To be eligible for this grant money, a State would have to do several things. First, it would have to adopt laws requiring the prompt suspension or revocation of licenses of those apprehended for drunk driving. Under administrative revocation procedures, when a law enforcement officer has probable cause under State law to believe a driver has committed an alcohol-related traffic offense, and the driver is determined, by chemical tests, to exceed the legal blood alcohol concentration [BAC] in that State 0.10, or if the driver refuses to submit to a test, the officer will serve the driver with a written notice of suspension or revocation of the license, and take the license on-the-spot. This notice must provide information on the administrative procedures under which the State may suspend or revoke a license, and will specify the rights of the driver. These procedures must be established to ensure due process.

After notice has been served and the license has been taken, the officer must immediately report to the State entity responsible for administering licenses information relevant to the action taken against the driver. In the case of a driver, who, in a 5-year period—beginning after enactment—is determined by a chemical test to have been driving under the influence, or is determined to have refused to submit to a test, the State entity responsible for administering licenses, upon receiving this report, shall: First suspend the license for not less than 90 days if the driver is a first offender in that 5-year period; second, suspend the license for not less than 1 year, or revoke the license if the driver is a repeat offender; and third, provide a specific period of time in which the driver can appeal the license suspension or revocation.

Administrative revocation of the licenses of those apprehended for drunk driving is the centerpiece of this amendment. Twenty-three States and the District of Columbia now have such administrative systems. Administrative license suspension acts as a tried and true deterrent to drunk driving. Furthermore, studies have shown that in the 23 States that currently practice administrative license revocation, many more drunk driving offenders are receiving a punishment—the denial of the right to drive—than is the case in States without such laws. In addition, the highly respected Insurance Institute for Highway Safety recently unveiled a study of drunk driving countermeasures across the country and found that night time fatal crashes could be cut by 9 percent if all States adopt administrative revocation. We are talking about thousands of lives each year.

Second, a State is eligible for a basic grant if it also establishes a self-sustaining enforcement program, under which finds or surcharges collected from persons convicted of drunk driving, or other non-Federal revenues, are returned to communities for enforcement programs.

States would also be able to secure supplemental funds if they enacted the following measures. First, States must provide for mandatory blood alcohol testing of drivers whenever a law enforcement officer has probable cause under State law to believe that a driver involved in a fatal or serious crash has committed an alcohol-related traffic offense.

The use of BAC testing varies widely nationwide. For instance, in the State of Delaware, the use of BAC testing is 80 percent; while in Mississippi it is less than 10 percent. Our knowledge of alcohol as a factor in highway death and injury is impaired by the lack of testing. Mandatory BAC testing will provide a more accurate data base on which to refine our antidrunk driving countermeasures.

Second, this amendment provides incentives to the State to vigorously enforce the 21-year-old minimum drinking age law passed by the Congress in 1984. The results of that law thus far are impressive. Greater enforcement efforts at the State level, such as requiring color-coded licenses for those below the legal minimum age, will enhance the lifesaving benefits of that law.

Third, States must enact laws banning open containers of alcoholic beverages in motor vehicles. I would like to highlight at this point the open container provision in this amendment, which my bill H.R. 637 contained. Allowing open containers in automobiles is senseless. It may surprise you that in most States in this country you can have open containers of alcohol at your side while you drive. In 15 States you can actually drink while driving without violating the law. In 23 States passengers can drink in the car.

As you know, 24,000 people are losing their lives to drunk driving each year. As the most widely abused drug in America, alcohol continues to kill an average of 65 people per day on our streets and highways, which is why I feel such an urgency about promoting effective countermeasures to deal with the problem.

As a result of congressional action in 1984, every State has now made it illegal for young people under 21 to purchase alcohol. But, if we do nothing about open containers, we are saying to the young people in those States that allow open containers: "You can't drink until you are 21, but once you get there, you can drink in the driver's seat!" This amendment to ban open containers is simply a commonsense extension of our efforts to curb alcohol-related death and injury on our highways.

Finally, this amendment requires the National Academy of Sciences to conduct studies to determine whether or not the blood alcohol concentration level at which a driver is deemed to be driving under the influence should be reduced below 0.10 percent and if so, to what level, and to establish standards for determining whether or not a driver is impaired by a controlled substance or any other drug. The National Academy of Sciences is urged to submit not later than 1 year after enactment a report on the results of the study.

Mr. Chairman, the adoption of this amendment is an opportunity to do something that we know will work about the senseless, antisocial practice of drunk driving.

I would like to add that Mothers Against Drunk Driving, the Insurance Institute for Highway Safety, the National Safety Council, State Farm Insurance, the American Insurance Organization, the National Association of Governors' Highway Safety Representatives, and the National Beer Wholesalers Association all enthusiastically support this amendment.

In closing, I would like to say that sometimes from great tragedy great wisdom can spring. We were all touched by the recent bus tragedy in Kentucky in which so many innocent children were killed due to drunk driving. Sadly, every day twice as many Americans die at the hands of drunk drivers as died in that tragic crash. We can do something about it and we should try. I urge my colleagues to support this amendment to the Omnibus Drug Initiative Act of 1988.

Mr. JOHNSON of South Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Mr. Chairman, I rise today in strong support of the Johnson-Dorgan amendment to H.R. 5210, the omnibus drug abuse bill. As a cosponsor of Congressman JOHNSON's Drunk Driving Prevention Act, I am extremely pleased that this important legislation will be considered as an amendment to H.R. 5210.

Drunk drivers kill and they must be kept off the road. Although each State is responsible for determining its own laws regarding drinking and driving, I feel that more must be done to discourage drunk driving. Because of my strong views in this matter, I have visited classrooms throughout the Fifth District of Connecticut to speak with our young people about the hazards of alcohol and drug use.

The Johnson-Dorgan amendment is a positive step toward encouraging States to take action and promote more strict and effective laws against drunk driving. This amendment establishes a new limited incentive grant program for States that adopt tougher drunk driving laws including the adoption of prompt driver licenses suspension laws for offenders found to be driving under the influence of alcohol. Under this program, fines or surcharges collected from convicted drunk drivers would be returned to local communities. These funds would help establish self-sustaining drunk driving prevention programs.

It is hard to believe that in most States, it is legal to have an open container of alcohol at your side while driving. In at least 14 States you can actually drink while driving. To address this problem, the Johnson-Dorgan amendment establishes supplemental funds for States that prohibit the possession of open containers of alcohol while driving and other tough measures to remove drunk drivers from our roads and highways.

I urge my colleagues to support this amendment. Alcohol claims countless innocent lives each year in traffic related accidents and clearly this amendment takes a positive step to discourage drunk drivers.

Mr. ANDERSON. Mr. Chairman, I rise in support of the Johnson-Dorgan amendment. The amendment would establish an enforcement incentive grant program for States to encourage the adoption and implementation of several procedures which would combat drunk and drugged driving. This amendment recognizes that the Federal Government should continue to play a significant role in combating drunk driving and that additional Federal resources are needed to prevent the erosion of past progress on this issue. Central to this amendment is adminstrative license revocation.

In many States currently, there is no assurance that the license of an offender will in fact ever be suspended or revoked. Due to judicial practices, including continuances, plea bargainings, probation without judgment, delayed prosecution, diversion programs, and other reasons, a large number, and in some cases, a majority of offenders may never lose their licenses.

Procedures to administratively suspend or revoke the licenses of those suspected of drunk or drugged driving have been found by the Insurance Institute for Highway Safety, the Highway Users Federation, and others, to be one of the most effective measures a State can enact to combat drunk driving. Presently, 22 States and the District of Columbia have laws or regulations authorizing administrative license revocation. This process has been shown in these States to be effective in increasing license suspensions and arrests, and in reducing alcohol-related fatalities. An Insurance Institute study found that administrative revocation reduces involvement of drivers in fatal crashes by about 9 percent.

Administrative license revocation is swift, immediate and affects the driver in a way that directly relates to the driving offense. In short, administrative license revocation works.

Mr. JOHNSON of South Dakota. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota [Mr. JOHNSON].

The amendment was agreed to.

Mr. RANGEL. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. RANGEL]?

There was no objection.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I am happy to yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to inquire what the gentleman sees as the agenda for the remainder of the day and perhaps of this bill, when we can complete action, what is left. I have a view, but I would certainly like to hear from the majority side.

Mr. RANGEL. Mr. Chairman, I have discussed this with the gentleman from New Jersey [Mr. HUGHES], and it appears as though the gentleman's amendment which the rule allows for a 30-minute discussion is going to parliamentarily be followed by an amendment from the gentleman from California [Mr. ANDERSON], which will require an additional 30 minutes.

It is my opinion that there would be at least 1 hour on the next two amendments.

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Further, if at this time it is decided that the committee would rise, that would leave these amendments to be handled next week. With the remaining amendments that are there, I think the gentleman from Florida would agree that it would be a total of about 2 hours that is left on the bill which the leadership could decide at what appropriate time they would want to bring it up.

It is my considered opinion that the leadership is anxious to rise at 2:15. Some of the Members have made plans to leave Washington and return to their districts.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield further?

Mr. RANGEL. I yield to the gentleman from Florida.

Mr. McCOLLUM. On that I certainly have no objection to proceeding today, because I know we would be able to complete it before 3 o'clock. But if it is the intent of the leadership to rise about 2:15, then it would not, of course, be possible to do that, as the gentleman stated.

Do we have any assurances when next week, a day certain, that we could complete this bill in the 2 hours that we need to have on it? I think it is extremely important that we do complete the bill and of course we only have 2 working days I believe next week, Thursday and Friday, where we are going to be in session to do that because of the Jewish holidays that are scheduled next week. Is there any indication yet as to when, I might ask the gentleman from New York on his time, we might see the completion of the bill?

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, I do not think there is any question that it is going to take us 1 hour because that is the way the rule is crafted, and I cannot imagine our taking any less time on those two very important amendments.

Just looking over what is left, it seems to me that we have about five amendments left, plus the Foley package of amendments for which there is allotted 1 hour. So I think we can probably conclude the drug bill in about 3 hours when we return on Thursday, and I understand we are going to return to it on Thursday. That is my understanding. At least the last time the leadership had looked over the agenda, it looked like Thursday was the most promising day to bring us back.

So we are going to be able to finish anyway within 3 hours probably when we return to it next week sometime.

Mr. RANGEL. It is my intention at the appropriate time to ask to be recognized and move that the committee rise. But before I do that, I will ask the gentleman from New Jersey would he entertain the idea of bringing up his amendment No. 34 at this time?

Mr. HUGHES. Mr. Chairman, the reason I would hesitate to do that is because we have two Members of Congress who are very interested in the steroid amendment who are not here and who want to speak on it, the gentleman from California, Mr. DAN LUNGREN, and the gentleman from Louisiana, Mr. RICHARD BAKER, who have been very, very instrumental in developing this amendment and who testified before my Subcommittee on Crime on it and who would want to be present and urge Members to adopt that amendment. So I would hesitate to take it out of order.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield further?

Mr. RANGEL. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I just want to express a concern I know both you and the gentleman from New Jersey share about our finishing the bill next week, at the very latest next Thursday, because there is such a short period of time left. I wonder if we cannot together during this brief period on the gentleman's time make some kind of a mutual encouragement of that fact for sure. We know the leadership intends that, but I think we need to embrace the fact that we want to join in that. Otherwise, the time will get to us, and the other body has not acted yet, and this is a very good product we have worked on. I think all of us would like to see it become law.

But there are only 2 or 3 more weeks left for consideration and the other body has not even acted. So I assume from the comments made so far that the gentleman shares my concern, and we can all join forces here to make sure that Thursday that sort of semi-commitment that sounds like it is out there can and will become a reality on this bill.

Mr. RANGEL. I think all of us share that concern.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from California.

Mr. LEWIS of California. I appreciate the gentleman yielding. I must say I would echo the concern being mutually expressed here. Very, very important progress has been made on this drug bill.

But we all know that the reality is that there is work with the other body involved, and there is eventually a conference. A lot of homework needs to be done there before we bring a bill back to us. We could run out of time, and the rhetoric would become a very great disappointment to the American public.

I would urge the leadership on that side of the aisle to push the calendar and if they can, take the bill up on Wednesday, if it is possible, certainly no later than Thursday, and I appreciate my colleagues supporting that view.

Mr. RANGEL. We all are concerned with that, and we are anxious to get this historic legislation to the other body.

Certainly as it relates to the money-laundering provisions, which I am sure the distinguished gentleman from New Jersey [Mr. HUGHES], chairman of the Subcommittee on Crime has a concern about, that provision that should be coming up next week. I yield to the gentleman from New Jersey on that subject.

Mr. HUGHES. Of course, as the gentleman knows, money laundering is probably one of the most dynamic tools we have developed in the last probably 5 years. Next to forfeiture and what forfeiture has done for law enforcement, I think money laundering and the whole area of financial investigations has provided law enforcement brand new tools to put pressure on the folks that handle the money.

As the gentleman well knows, the testimony that he has taken in his Select Committee on Crime and as chairman of that committee, and that I have taken in the Subcommittee on Crime where we developed money-laundering statutes, we are finally putting pressure on the people who have the money, and they are the people generally who are close to the kingpins. If we can trace the money, we will find the top echelon of that trafficking organization.

So the money laundering provisions that are coming up are important. We have to make sure we are strengthening those provisions and not weakening them, so that will be an important area of our endeavors next week.

Mr. RANGEL. Mr. Chairman, I wanted to add to that dialog, as most of my colleagues have gone internationally and talked with foreigners about their attempts to control and for the eradication and pushing for the eradication of drugs, constantly we are reminded about what we are not doing in the United States in terms of reducing demand and in terms of law enforcement or getting people sentences. I think it is clear, as relates to money laundering, while we have talked about the abusers and the sellers, and we should, and we should jail them, that there are so many people involved in the white-collar crimes that do not touch the drugs, that do not touch the actual chemicals, and yet without their banking and financing and money laundering, certainly the bums on the streets would not be able to survive. So I think that that provision is going to be important, and I am glad that we are going to take that up next week, because that is just one of the tools that we hope that we can have in the bill.

Mr. McCOLLUM. Mr. Chairman, I think that is an excellent provision, and I believe I was the first to introduce a money-laundering bill in the last Congress, and the gentleman from New Jersey introduced one, and we finally got a product out in the great big omnibus bill. It did not get the debate attention because it was part of a package that nobody offered major amendments to, but the whole idea of capturing the proceeds, not just the forfeited assets but the actual dollars that go through our financial institutions is an extremely important element in the war on drugs. I understand from those involved in that that they have been able to take advantage rather well of the money-laundering law we passed in 1986, but it does need improvement, and this effort would improve it and enhance it a little bit more. And maybe, just maybe if we can get at those proceeds, we will squeeze those kingpins the gentleman is talking about.

So I am very pleased that the gentleman is engaging in this discussion and is able to bring up some points that are really often overlooked on the importance of fighting this war on drugs.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. McHugh] having assumed the chair, Mr. Carr, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 5231, MEDICAL WASTE SANCTIONS ACT OF 1988

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries have until 6 p.m. today to file its report on H.R. 5231, the Medical Waste Sanctions Act of 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 1467, ENDANGERED SPECIES ACT AMENDMENTS OF 1988

Mr. JONES of North Carolina submitted the following conference report and statement on the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-928)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—ENDANGERED SPECIES ACT AMENDMENTS OF 1988

SEC. 1001. DEFINITIONS.

(a) DEFINITION OF PERSON.—Paragraph (13) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended to read as follows:

"The term person means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.".

(b) DEFINITION OF SECRETARY.—Paragraph (15) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended by inserting "also" before "means the Secretary of Agriculture".

SEC. 1002. LISTING.

(a) CANDIDATE SPECIES.—Subparagraph (C) of section 4(b)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(C)) is amended by adding at the end thereof the following clause:

"(iii) The Secretary shall implement a system to monitor effectively the status of all species with respect to which a finding is made under subparagraph (B)(iii) and shall make prompt use of the authority under paragraph 7 to prevent a significant risk to the well being of any such species.".

(b) SIMILARITY OF APPEARANCE.—Subsection (e) of such section 4 (16 U.S.C. 1533(e)) is amended by striking out "regulation," and inserting in lieu thereof "regulation of commerce or taking,".

SEC. 1003. RECOVERY PLANS.

Section 4(f) of the Endangered Species Act (16 U.S.C. 1533(f)) is amended to read as follows:

"(f)(1) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in development and implementing recovery plans, shall, to the maximum extent practicable—

"(A) give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity;

"(B) incorporate in each plan—

"(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

"(ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and

"(iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

"(2) The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.

"(3) The Secretary shall report every two years to the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on the status of efforts to develop and implement recovery plans for all species listed pursuant to this section and on the status of all species for which such plans have been developed.

"(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

"(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).".

SEC. 1004. MONITORING OF RECOVERED SPECIES.

Section 4 of the Endangered Species Act (16 U.S.C. 1533) is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting the following new subsection:

"(g) Monitoring.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species which have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and which, in accordance with the provisions of this section, have been removed from either of the lists published under subsection (c).

"(2) The Secretary shall make prompt use of the authority under paragraph 7 of subsection (b) of this section to prevent a significant risk to the well being of any such recovered species.".

SEC. 1005. COOPERATION WITH THE STATES.

"(a) Monitoring of Recovered Species.—Paragraph (1) of section 6(d) of the Endangered Species Act (16 U.S.C. 1535(d)(1)) is amended to read as follows:

"(d) Allocation of Funds.—(1) The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species or to assist in monitoring the status of candidate species pursuant to subparagraph (C) of section 4(b)(3) and recovered species pursuant to section 4(g). The Secretary shall allocate each annual appropriation made in accordance with the provisions of subsection (i) of this section to such States based on consideration of—

"(A) the international commitments of the United States to protect endangered species or threatened species;

"(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this Act;

"(C) the number of endangered species and threatened species within a State;

"(D) the potential for restoring endangered species and threatened species within a State;

"(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species;

"(F) the importance of monitoring the status of candidate species within a State to prevent a significant risk to the well being of any such species; and

"(G) the importance of monitoring the status of recovered species within a State to assure that such species do not return to the point at which the measures provided pursuant to this Act are again necessary.

"So much of the annual appropriation made in accordance with provisions of subsection (i) of this section allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.".

"(b) Appropriations.—Section 6 of the Endangered Species Act (16 U.S.C. 1535) is amended by adding the following new subsection:

"(i) Appropriations.—(1) To carry out the provisions of this section for fiscal years after September 30, 1988, there shall be deposited into a special fund known as the cooperative endangered species conservation fund, to be administered by the Secretary, an amount equal to five percent of the combined amounts covered each fiscal year into the Federal aid to wildlife restoration fund under section 3 of the Act of September 2, 1937, and paid, transferred, or otherwise credited each fiscal year to the Sport Fishing Restoration Account established under 1016 of the Act of July 18, 1984.

"(2) Amounts deposited into the special fund are authorized to be appropriated annually and allocated in accordance with subsection (d) of this section.".

SEC. 1006. PROTECTION OF PLANTS.

Section 9(a)(2)(B) of the Endangered Species Act (16 U.S.C. 1538(a)(2)(B)) is amended to read as follows:

"(B) remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any state or in the course of any violation of a state criminal trespass law;".

SEC. 1007. PENALTIES AND ENFORCEMENT.

(a) Civil Penalties.—Paragraph (1) of subsection (a) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$10,000" and inserting in lieu thereof "$25,000", and by striking "$5,000" and inserting in lieu thereof "$12,000".

(b) Criminal Violations.—Paragraph (1) of subsection (b) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$20,000" and inserting in lieu thereof "$50,000", and by striking "$10,000" and inserting in lieu thereof "$25,000".

(c) Rewards.—Subsection (d) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by adding at the end thereof the following sentence; "Whenever the balance of sums received under this section and section 6(d) of the Act of November 16, 1981 (16 U.S.C. 3375(d)) as penalties or fines, or from forfeitures of property, exceed $500,000, the Secretary of the Treasury shall deposit an amount equal to such excess balance in the cooperative endangered species conservation fund established under section 6(i) of this Act.".

SEC. 1008. SEA TURTLE CONSERVATION.

(a) Delay of Regulations.—The Secretary of Commerce shall delay the effective date of regulations promulgated on June 29, 1987, relating to sea turtle conservation, until May 1, 1990, in inshore areas, and until May 1, 1989, in offshore areas, with the exception that regulations already in effect in the Canaveral area of Florida shall remain in effect. The regulations for the inshore area shall go into effect beginning May 1, 1990, unless the Secretary determines that other conservation measures are proving equally effective in reducing sea turtle mortality by shrimp trawling. If the Secretary makes such a determination, the Secretary shall modify the regulations accordingly.

(b) Study.—

(1) In general.—The Secretary of Commerce shall contract for an independent review of scientific information pertaining to the conservation of each of the relevant species of sea turtles to be conducted by the National Academy of Sciences with such individuals not employed by Federal or State government other than employees of State universities and having scientific expertise and special knowledge of sea turtles and activities that may affect adversely sea turtles.

(2) Purposes of review.—The purposes of such independent review are—

(i) to further long-term conservation of each of the relevant species of sea turtles which occur in the waters of the United States;

(ii) to further knowledge of activities performed in the waters and on the shores of the United States, Mexico and other nations which adversely affect each of the relevant species of sea turtles;

(iii) to determine the relative impact which each of the activities found to be having an adverse effect on each of the relevant species of turtles has upon the status of each such species;

(iv) to assist in identifying appropriate conservation and recovery measures to address each of the activities which affect adversely each of the relevant species of sea turtles;

(v) to assist in identifying appropriate reproductive measures which will aid in the conservation of each of the relevant species of sea turtles;

(vi) in particular to assist in determining whether more or less stringent measures to reduce the drowning of sea turtles in shrimp nets are necessary and advisable to provide for the conservation of each of the relevant species of sea turtles and whether such measures should be applicable to inshore and offshore areas as well as to various geographical locations; and

(vii) to furnish information and other forms of assistance to the Secretary for his use in reviewing the status of each of the relevant species of sea turtles and in carrying out other responsibilities contained under this Act and law.

(3) Scope of review.—The terms and outlines of such independent review shall be determined by a panel to be appointed by the President of the National Academy of Sciences, except that such review shall include, at a minimum, the following information:

(i) estimates of the status, size, age structure and, where possible, sex structure of each of the relevant species of sea turtles;

(ii) the distribution and concentration, in terms of United States geographic zones, of each of the relevant species of sea turtles;

(iii) the distribution and concentration of each of the relevant species of sea turtles, in the waters of the United States, Mexico and other nations during the developmental, migratory and reproductive phases of their lives;

(iv) identification of all causes of mortality, in the waters and on the shores of the United States, Mexico and other nations for each of the relevant species of sea turtles;

(v) estimates of the magnitude and significance of each of the identified causes of turtle mortality;

(vi) estimates of the magnitude and significance of present or needed head-start or other programs designed to increase the production and population size of each of the relevant species of sea turtles;

(vii) description of the measures taken by Mexico and other nations to conserve each of the relevant species of sea turtles in their waters and on their shores, along with a description of the efforts to enforce these measures and an assessment of the success of these measures;

(viii) the identification of nesting and/or reproductive locations for each of the relevant species of sea turtles in the waters and on the shores of the United States, Mexico and other nations and measures that should be undertaken at each location as well as a description of worldwide efforts to protect such species of turtles.

(4) Completion and submission of review.—Such independent review shall be completed after an opportunity is provided for individuals with scientific and special knowledge of sea turtles and activities that may affect adversely sea turtles to present relevant information to the panel. It shall then be submitted by the Secretary, together with recommendations by the Secretary in connection therewith, to the Committee on Environment and Public Works of the United States Senate and the Committee on Merchant Marine and Fisheries of the United States House of Representatives on or before April 1, 1989. In the event the independent review cannot be completed by April 1, 1989, then the panel shall give priority to completing the independent review as it applies to the Kemp's ridley sea turtle and submitting the same to the Secretary by that date, or as expeditiously as possible, and thereafter shall complete as expeditiously as possible the remaining work of the independent review.

(5) Review of status.—After receipt of any portion of the independent review from the panel, the Secretary shall review the status of each of the relevant species of sea turtles.

(6) Recommendations of secretary.—The Secretary, after receipt of any portion of the independent review from the panel, shall consider, along with the requirements of existing law, the following before making recommendations.

(i) reports from the panel conducting the independent review;

(ii) written views and information of interested parties;

(iii) the review of the status of each of the relevant species of sea turtles;

(iv) the relationship of any more or less stringent measures to reduce the drowning of each of the relevant species of sea turtles in shrimp nets to the overall conservation plan for each such species;

(v) whether increased reproductive or other efforts in behalf of each of the relevant species of sea turtles would make no longer necessary and advisable present or proposed conservation regulations regarding shrimping nets;

(vi) whether certain geographical areas such as, but not limited to, inshore areas and offshore areas, should have more stringent, less stringent or different measures imposed upon them in order to reduce the drowning of each of the relevant species of sea turtles in shrimp nets;

(vii) other reliable information regarding the relationship between each of the relevant species of sea turtles and shrimp fishing and other activities in the waters of the United States, Mexico and other nations of the world; and

(viii) the need for improved cooperation among departments, agencies and entities of Federal and State government, the need for improved cooperation with other nations and the need for treaties or international agreements on a bilateral or multilateral basis.

(7) Modification of regulations.—For good cause, the Secretary may modify the regulations promulgated on June 29, 1987, relating to sea turtle conservation, in whole or part, as the Secretary deems advisable.

(8) Secretary and educational efforts.—The Secretary shall undertake an educational effort among shrimp fishermen, either directly or by contract with competent persons or entities, to instruct fisherman in the usage of the turtle excluder device or any other device which might be imposed upon such fishermen;

(9) Sea turtle coordination.—In order to coordinate the protection, conservation, reproductive, educational and recovery efforts with respect to each of the relevant species of sea turtles in accordance with existing law, the National Marine Fisheries Service shall designate an individual as Sea Turtle Coordinator to establish and carry out an effective, long-term sea turtle recovery program.

(10) Purpose of this section.—Section 8 is intended to assist the Secretary in making recommendations and in carrying out his duties under law, including the Endangered Species Act (16 U.S.C. 1531 et seq.), and nothing herein affects, modifies or alters the Secretary's powers or responsibilities to review, determine or redetermine, at any time, his obligations under law.

(11) Definitions.—For the purposes of this section, the terms:

(i) "relevant species of sea turtles" means the Kemp's ridley sea turtle, United States breeding populations of the loggerhead, the leatherback, and the green sea turtle, and other significant breeding populations of the loggerhead, the leatherback and the green sea turtle;

(ii) "status" means whether a given species of turtle is endangered, threatened or recovered;

(iii) "size" means the size of a given species of sea turtle; and

(iv) "age and sex structure" shall be considered to mean the distribution of juveniles, subadults and adults within a given species or population of sea turtles, and males and females within a given species or population of sea turtles.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Department of Commerce $1,500,000 through fiscal year 1989 to carry out this section.

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 15. (a) In General.—Except as provided in subsections (b), (c), and (d), there are authorized to be appropriated—

"(1) not to exceed $35,000,000 for fiscal year 1988, $36,500,000 for fiscal year 1989, $38,000,000 for fiscal year 1990, $39,500,000 for fiscal year 1991, and $41,500,000 for fiscal year 1992 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

"(2) not to exceed $5,750,000 for fiscal year 1988, $6,250,000 for each of fiscal years 1989 and 1990, and $6,750,000 for each of fiscal years 1991 and 1992 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $2,200,000 for fiscal year 1998, $2,400,000 for each of fiscal years 1989 and 1990, and $2,600,000 for each of fiscal years 1991 and 1992, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of plants.

"(b) Exemptions From Act.—There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under section 7(e), (g) and (h) not to exceed $600,000 for each for fiscal years 1988, 1989, 1990, 1991, and 1992.

"(c) Convention Implementation.—There are authorized to be appropriate to the Department of the Interior for purposes of carrying out section 8A(e) not to exceed $400,000 for each of fiscal years 1988, 1989, and 1990, and $500,000 for each of fiscal years 1991 and 1992, and such sums shall remain available until expended.".

SEC. 1010. EDUCATION, STUDY AND REPORT.

(a) Education.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act, shall conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any proposed pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act (16 U.S.C. 1531 et seq.). The Administrator also shall provide the public with notice of, and opportunity for comment on, the elements of any such program and requirements based on compliance with the Endangered Species Act, including (but not limited to) an identification of any pesticides affected by the program; an explanation of the restriction or prohibition on the user or applicator of any such pesticide; an identification of those geographic areas affected by any pesticide restriction or prohibition; an identification of the effects of any restricted or prohibited pesticide on endangered or threatened species; and an identification of the endangered or threatened species along with a general description of the geographic areas in which such species are located wherein the application of a pesticide will be restricted, prohibited, or its use otherwise limited, unless the Secretary of the Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

(b) Study.—The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to identify reasonable and prudent means available to the Administrator to implement the endangered species pesticides labeling program which would comply with the Endangered Species Act of 1973, as amended, and which would allow persons to continue production of agricultural food and fiber commodities. Such study shall include investigation by the Administrator of the best available methods to develop maps and the best available alternatives to mapping as means of identifying those circumstances in which use of pesticides may be restricted; identification of alternatives to prohibitions on pesticides use, including, but not limited to, alternative pesticides and application methods and other agricultural practices which can be used in lieu of any pesticides whose use may be restricted by the labeling program; examination of methods to improve coordination among the Environ-

mental Protection Agency, Department of Agriculture, and Department of the Interior in administration of the labeling program; and analysis of the means of implementing the endangered species pesticides labeling program or alternatives to such a program, if any, to promote the conservation of endangered or threatened species and to minimize the impact to persons engaged in agricultural food and fiber commodity production and other affected pesticide users and applicators.

(c) REPORT.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit a report within one year of the date of enactment of this Act, presenting the results of the study conducted pursuant to subsection (b) of this section to the Committee on Merchant Marine and Fisheries and the Committee on Agriculture of the United States House of Representatives, and the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.

SEC. 1011. SCRIMSHAW CERTIFICATES.

(a) Section 10(f)(8)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(A) is amended to read as follows:

"(8)(A)(i) Any valid certificate of exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, shall be deemed to be renewed for a 6-month period beginning on the date of enactment of the Endangered Species Act Amendments of 1988. Any person holding such a certificate may apply to the Secretary for one additional renewal of such certificate for a period not to exceed 5 years beginning on the date of such enactment.".

(b) Section 10(f)(8)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(b)) is amended by striking "original" and inserting "previous".

(c) Section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) is amended by adding at the end thereof the following subparagraph:

"(D) No person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce, any pre-Act finished scrimshaw product unless such person holds a valid certificate of exemption issued by the Secretary under this subsection, and unless such product or the raw material for such product was held by such person on October 13, 1982.".

(d) Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended by striking paragraph (9).

SEC. 1012. FEDERAL COST OF PROTECTING ENDANGERED SPECIES.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end thereof the following new section:

"ANNUAL COST ANALYSIS BY THE FISH AND WILDLIFE SERVICE"

"SEC. 18. On or before January 15, 1990, and each January 15, thereafter, the Secretary of the Interior, acting through the Fish and Wildlife Service, shall submit to the Congress an annual report covering the preceding fiscal year which shall contain—

"(1) an accounting on a species by species basis of all reasonably unidentifiable Federal expenditures made primarily for the conservation of endangered or threatened species pursuant to this Act; and

"(2) an accounting on a species by species basis of all reasonably identifiable expenditures made primarily for the conservation of endangerd or threatened species pursuant to this Act by states receiving grants under section 6.".

SEC. 1013. TECHNICAL AMENDMENTS.

(a) In section 2 of the Endangered Species Act of 1973 (16 U.S.C. 1531), strike "(G) other international agreements." and insert "(G) other international agreements; and".

(b) In section 10(c) of the Endangered Species Act of 1973 (16 U.S.C. 1539), strike "notice," in the second sentence and insert "notice, of".

(c) In section 10(e)(3)(ii) of the Endangered Species Act of 1973 (16 U.S.C. 1539), strike "lacking," and insert "lacing,".

TITLE II—AFRICAN ELEPHANT CONSERVATION

SEC. 2001. SHORT TITLE.

This title may be cited as the "African Elephant Conservation Act".

SEC. 2002. STATEMENT OF PURPOSE.

The purpose of this title is to perpetuate healthy populations of African elephants.

SEC. 2003. FINDINGS.

The Congress finds the following:

(1) Elephant populations in Africa have declined at an alarming rate since the mid-1970's.

(2) The large illegal trade in African elephant ivory is the major cause of this decline and threatens the continued existence of the African elephant.

(3) The African elephant is listed as threatened under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and its continued existence will be further jeopardized if this decline is not reversed.

(4) Because African elephant ivory is indistinguishable from Asian elephant ivory, there is a need to ensure that the trade in African elephant ivory does not further endanger the Asian elephant, which is listed as endangered under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and under Appendix I of CITES.

(5) In response to the significant illegal trade in African elephant ivory, the parties to CITES established the CITES Ivory Control System to curtail the illegal trade and to encourage African countries to manage, conserve, and protect their African elephant populations.

(6) The CITES Ivory Control System entered into force recently and should be allowed to continue in force for a reasonable period of time to assess its effectiveness in curtailing the illegal trade in African elephant ivory.

(7) Although some African countries have effective African elephant conservation programs, many do not have sufficient resources to properly manage, conserve, and protect their elephant populations.

(8) The United States, as a party to CITES and a large market for worked ivory, shares responsibility for supporting and implementing measures to stop the illegal trade in African elephant ivory and to provide for the conservation of the African elephant.

(9) There is no evidence that sport hunting is part of the poaching that contributes to the illegal trade in African elephant ivory, and there is evidence that the proper utilization of well-managed elephant populations provides an important source of funding for African elephant conservation programs.

SEC. 2004. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to assist in the conservation and protection of the African elephant by supporting the conservation programs of African countries and the CITES Secretariat; and

(2) to provide financial resources for those programs.

PART I—AFRICAN ELEPHANT CONSERVATION ASSISTANCE

SEC. 2101. PROVISION OF ASSISTANCE.

(a) IN GENERAL.—The Secretary may provide financial assistance under this part from the African Elephant Conservation Fund for approved projects for research, conservation, management, or protection of African elephants.

(b) PROJECT PROPOSAL.—Any African government agency responsible for African elephant conservation and protection, the CITES Secretariat, and any organization or individual with experience in African elephant conservation may submit to the Secretary a project proposal under this section. Each such proposal shall contain—

(1) the name of the person responsible for conducting the project;

(2) a succinct statement of the need for and purposes of the project;

(3) a description of the qualifications of the individuals who will be conducting the project;

(4) an estimate of the funds and time required to complete the project;

(5) evidence of support of the project by governmental entities of countries within which the project will be conducted, if such support may be important for the success of the project; and

(6) any other information the Secretary considers to be necessary or appropriate for evaluating the eligibility of the project for funding under this title.

(c) PROJECT REVIEW AND APPROVAL.—The Secretary shall review each project proposal to determine if it meets the criteria set forth in subsection (d) and otherwise merits assistance under this title. Not later than 6 months after receiving a project proposal, and subject to the availability of funds, the Secretary shall approve or disapprove the proposal and provide written notification to the person who submitted the proposal and to each country within which the project is proposed to be conducted.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project under this section if the project will enhance programs for African elephant research, conservation, management, or protection by—

(1) developing in a usable form sound scientific information on African elephant habitat condition and carrying capacity, total elephant numbers and population trends, or annual reproduction and mortality; or

(2) assisting efforts—

(A) to ensure that any taking of African elephants in the country is effectively controlled and monitored;

(B) to implement conservation programs to provide for healthy, sustainable African elephant populations; or

(C) to enhance compliance with the CITES Ivory Control System.

(e) PROJECT REPORTING.—Each entity that receives assistance under this section shall provide such periodic reports to the Director of the United States Fish and Wildlife Service as the Director considers relevant and appropriate. Each report shall include all information requested by the Director for evaluating the progress and success of the project.

SEC. 2102. AFRICAN ELEPHANT CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the "African Elephant Conservation Fund", which shall consist of amounts deposited into the Fund by

the Secretary of the Treasury under subsection (b).

(b) Deposits Into Fund.—The Secretary of the Treasury shall deposit into the Fund—

(1) subject to appropriations, all amounts received by the United States in the form of penalties under section 2204 which are not used to pay rewards under section 2205;

(2) amounts received by the Secretary of the Interior in the form of donations under subsection (d); and

(3) other amounts appropriated to the Fund to carry out this part.

(c) Use.—

(1) In general.—Subject to paragraph (2), amounts in the Fund may be used by the Secretary, without further appropriation, to provide assistance under this part.

(2) Administration.—Not more than 3 percent of amounts appropriated to the Fund for a fiscal year may be used by the Secretary to administer the Fund for that fiscal year.

(d) Acceptance and Use of Donations.—The Secretary may accept and use donations of funds to provide assistance under this part. Amounts received by the Secretary in the form of such donations shall be transferred by the Secretary to the Secretary of the Treasury for deposit into the Fund.

SEC. 2103. ANNUAL REPORTS.

The Secretary shall submit an annual report to the Congress not later than January 31 of each year regarding the Fund and the status of the African elephant. Each such report shall include with respect to the year for which the report is submitted a description of—

(1) the total amounts deposited into and expended from the Fund;

(2) the costs associated with the administration of the Fund;

(3) a summary of the projects for which the Secretary has provided assistance under this part and an evaluation of those projects; and

(4) an evaluation of African elephant populations and whether the CITES Ivory Control System is functioning effectively to control the illegal trade in African elephant ivory.

PART II—MORATORIA AND PROHIBITED ACTS

SEC. 2201. REVIEW OF AFRICAN ELEPHANT CONSERVATION PROGRAMS.

(a) In General.—Within one month after the date of the enactment of this title, the Secretary shall issue a call for information on the African elephant conservation program of each ivory producing country by—

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested parties; and

(2) submitting a written request for such information through the Secretary of State to each ivory producing country.

(b) Review and Determination.—

(1) In general.—The Secretary shall review the African elephant conservation program of each ivory producing country and, not later than 1 year after the date of the enactment of this title, shall issue and publish in the Federal Register a determination of whether or not the country meets the following criteria:

(A) The country is a party to CITES and adheres to the CITES Ivory Control System.

(B) The country's elephant conservation program is based on the best available information, and the country is making expeditious progress in compiling information on the elephant habitat condition and carrying capacity, total population and population trends, and the annual reproduction and mortality of the elephant populations within the country.

(C) The taking of elephants in the country is effectively controlled and monitored.

(D) The country's ivory quota is determined on the basis of information referred to in subparagraph (B) and reflects the amount of ivory which is confiscated or consumed domestically by the country.

(E) The country has not authorized or allowed the export of amounts of raw ivory which exceed its ivory quota under the CITES Ivory Control System.

(2) Delay in issuing determination.—If the Secretary finds within one year after the date of the enactment of this title that there is insufficient information upon which to make the determination under paragraph (1), the Secretary may delay issuing the determination until no later than December 31, 1989. The Secretary shall issue and publish in the Federal Register at the time of the finding a statement explaining the reasons for any such delay.

SEC. 2202. MORATORIA.

(a) Ivory Producing Countries.—

(1) In general.—The Secretary shall establish a moratorium on the importation of raw and worked ivory from an ivory producing country immediately upon making a determination that the country does not meet all the criteria set forth in section 2201(b)(1).

(2) Later establishment.—With regard to any ivory producing country for which the Secretary has insufficient information to make a determination pursuant to section 2201(b), the Secretary shall establish a moratorium on the importation of raw and worked ivory from such country not later than January 1, 1990, unless, based on new information, the Secretary concludes before that date that the country meets all of the criteria set forth in section 2201(b)(1).

(b) Intermediary Countries.—The Secretary shall establish a moratorium on the importation of raw and worked ivory from an intermediary country immediately upon making a determination that the country—

(1) is not a party to CITES;

(2) does not adhere to the CITES Ivory Control System;

(3) imports raw ivory from a country that is not an ivory producing country;

(4) imports raw or worked ivory from a country that is not a party to CITES;

(5) imports raw or worked ivory that originates in an ivory producing country in violation of the laws of that ivory producing country;

(6) substantially increases its imports of raw or worked ivory from a country that is subject to a moratorium under this title during the first 3 months of that moratorium; or

(7) imports raw or worked ivory from a country that is subject to a moratorium under this title after the first 3 months of that moratorium, unless the ivory is imported by vessel during the first 6 months of that moratorium and is accompanied by shipping documents which show that it was exported before the establishment of the moratorium.

(c) Suspension of Moratorium.—The Secretary shall suspend a moratorium established under this section if, after notice and public comment, the Secretary determines that the reasons for establishing the moratorium no longer exist.

(d) Petition.—

(1) In general.—Any person may at any time submit a petition in writing requesting that the Secretary establish or suspend a moratorium under this section. Such a petition shall include such substantial information as may be necessary to demonstrate the need for the action requested by the petition.

(2) Consideration and ruling.—The Secretary shall publish a notice of receipt of a petition under this subsection in the Federal Register and shall provide an opportunity for the public to comment on the petition. The Secretary shall rule on such petition not later than 90 days after the close of the public comment period.

(e) Sport Hunted Trophies.—Individuals may import sport-hunted elephant trophies that they have legally taken in an ivory producing country that has submitted an ivory quota. The Secretary shall not establish any moratorium under this section, pursuant to a petition or otherwise, which prohibits the importation into the United States of sport-hunted trophies from elephants that are legally taken by the importer or the importer's principal in an ivory producing country that has submitted an ivory quota.

(f) Confiscated Ivory.—Trade in raw or worked ivory that is confiscated by an ivory producing country or an intermediary country and is disposed of pursuant to the CITES Ivory Control System shall not be the sole cause for the establishment of a moratorium under this part if all proceeds from the disposal of the confiscated ivory are used solely to enhance wildlife conservation programs or conservation purposes of CITES. With respect to any country that was not a party to CITES at the time of such confiscation, this subsection shall not apply until such country develops appropriate measures to assure that persons with a history of illegal dealings in ivory shall not benefit from the disposal of confiscated ivory.

SEC. 2203. PROHIBITED ACTS.

Except as provided in section 2202(e), it is unlawful for any person—

(1) to import raw ivory from any country other than an ivory producing country;

(2) to export raw ivory from the United States;

(3) to import raw or worked ivory that was exported from an ivory producing country in violation of that country's laws or of the CITES Ivory Control System;

(4) to import worked ivory, other than personal effects, from any country unless that country has certified that such ivory was derived from legal sources; or

(5) to import raw or worked ivory from a country for which a moratorium is in effect under section 2202.

SEC. 2204. PENALTIES AND ENFORCEMENT.

(a) Criminal Violations.—Whoever knowingly violates section 2203 shall, upon conviction, be fined under title 18, United States Code, or imprisoned for not more than one year, or both.

(b) Civil Violations.—Whoever violates section 2203 may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation.

(c) Procedures for Assessment of Civil Penalty.—Proceedings for the assessment of a civil penalty under this section shall be conducted in accordance the procedures provided for in section 11(a) of the Endangered Species Act of 1973 (16 U.S.C. 1540(a)).

(d) Use of Penalties.—Subject to appropriations, penalties collected under this section may be used by the Secretary of the Treasury to pay rewards under section 2205 and, to the extent not used to pay such rewards, shall be deposited by the Secretary of the Treasury into the Fund.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this part in the same manner such Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)). Section 11(c) of the Endangered Species Act of 1973 (16 U.S.C. 1540(c)) shall apply to actions arising under this part.

SEC. 2205. REWARDS.

(a) IN GENERAL.—Upon the recommendation of the Secretary, the Secretary of the Treasury may pay a reward to any person who furnishes information which leads to a civil penalty or a criminal conviction under this title.

(b) AMOUNT.—The amount of a reward under this section shall be equal to not more than one-half of any criminal or civil penalty or fine with respect to which the reward is paid, or $25,000, whichever is less.

(c) LIMITATION ON ELIGIBILITY.—An officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his or her official duties shall not be eligible for a reward under this section.

PART III—MISCELLANEOUS

SEC. 2301. PERMISSION TO IMPORT OR EXPORT AFRICAN ELEPHANT IVORY.

Section 9(d) of the Endangered Species Act of 1973 (16 U.S.C. 1538(d)) is amended to read as follows:

"(d) IMPORTS AND EXPORTS.—

"(1) IN GENERAL.—It is unlawful for any person, without first having obtained permission from the Secretary, to engage in business—

"(A) as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (i) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (ii) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes); or

"(B) as an importer or exporter of any amount of raw or worked African elephant ivory.

"(2) REQUIREMENTS.—Any person required to obtain permission under paragraph (1) of this subsection shall—

"(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, plants, or African elephant ivory made by him and the subsequent disposition made by him with respect to such fish, wildlife, plants, or ivory;

"(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his place of business, an opportunity to examine his inventory of imported fish, wildlife, plants, or African elephant ivory and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

"(C) file such reports as the Secretary may require.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

"(4) RESTRICTION ON CONSIDERATION OF VALUE OR AMOUNT OF AFRICAN ELEPHANT IVORY IMPORTED OR EXPORTED.—In granting permission under this subsection for importation or exportation of African elephant ivory, the Secretary shall not vary the requirements for obtaining such permission on the basis of the value or amount of ivory imported or exported under such permission.".

SEC. 2302. RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973.

The authority of the Secretary under this title is in addition to and shall not affect the authority of the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or diminish the Secretary's authority under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

SEC. 2303. CERTIFICATION UNDER PELLY AMENDMENT.

If the Secretary finds in administering this title that a country does not adhere to the CITES Ivory Control System, that country is deemed, for purposes of section 8(a)(2) of the Act of August 27, 1954 (22 U.S.C. 1978), to be diminishing the effectiveness of an international program for endangered or threatened species.

SEC. 2304. EFFECTIVENESS OF CITES.

Within 3 months after the completion of the 8th Conference of the Parties to CITES, the Secretary shall determine whether this title, together with the CITES Ivory Control System, has substantially stopped the importation of illegally harvested ivory into the United States. If the Secretary determines that the importation of illegally harvested ivory has not been substantially stopped, the Secretary shall recommend to the Congress amendments to this title or other actions that may be necessary to achieve the purposes of this title, including the establishment of a complete moratorium on the importation of elephant ivory into the United States.

SEC. 2305. DEFINITIONS.

In this title—

(1) the term "African elephant" means any animal of the species loxodonta africana;

(2) the term "CITES" means the Convention on the International Trade in Endangered Species of Wild Fauna and Flora;

(3) the term "CITES Ivory Control System" means the ivory quota and marking system established by CITES to curtail illegal trade in African elephant ivory;

(4) the term "Fund" means the African Elephant Conservation Fund established by section 2102;

(5) the terms "import" and "importation" have the meanings such terms have in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(6) the term "intermediary country" means a country that exports raw or worked ivory that does not originate in that country;

(7) the term "ivory producing country" means any African country within which is located any part of the range of a population of African elephants;

(8) the term "ivory quota" means a quota submitted by an ivory producing country to the CITES Secretariat in accordance with the CITES Ivory Control System;

(9) the term "personal effects" means articles which are not intended for sale and are part of a shipment of the household effects of a person who is moving their residence to or from the United States, or are included in personal accompanying baggage;

(10) the term "raw ivory" means any African elephant tusk, and any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved;

(11) the term "Secretary" means the Secretary of the Interior;

(12) the term "United States" means the 50 States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(13) the term "worked ivory" means any African elephant tusk, and any piece thereof, which is not raw ivory.

SEC. 2306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund and to the Secretary a total of not to exceed $5,000,000 for each of fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out this title, to remain available until expended.

WALTER B. JONES,
GERRY E. STUDDS,
MIKE LOWRY,
BILLY TAUZIN,
SOLOMON P. ORTIZ,
BOB DAVIS,
DON YOUNG,
JACK FIELDS,
Managers on the Part of the House.

QUENTIN N. BURDICK,
GEORGE J. MITCHELL,
MAX BAUCUS,
JOHN BREAUX,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
ALAN K. SIMPSON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 1467 to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the action agreed upon by the managers and recommended in the accompanying Conference Report.

The Senate amendment struck out all of the House bill after the enacting clause and inserted, as an amendment, the text of the bill S. 675, to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes.

The House recedes from its disagreement to the amendment of the Senate with an agreement which is a modified version of the Senate amendment. To fully inform the House and Senate about the Conference agreement contained in the accompanying Conference Report, the managers will set forth, with the exception of certain technical and conforming changes, an explanation of certain differences and the resolution of these differences, section-by-section.

SECTION-BY-SECTION ANALYSIS

Title I—Endangered Species Act Amendments of 1988

SECTION 1001. DEFINITIONS

The Senate amendment contained a definition of the term "person" which was not included in the House bill. The House recedes to the Senate provision.

SECTION 1002. LISTING

The Senate amendment contained a provision not contained in the House bill that was intended to clarify the Secretary's authority to treat species as endangered or threatened because of their similarity to listed species. The House recedes to the Senate provision. The Conferees agreed that the language is designed to ensure that the U.S. Fish and Wildlife Service need not regulate both trade and taking of species listed as threatened or endangered because of their similarity of appearance to other listed species if regulation of only one of these activities is sufficient to protect the endangered or threatened species.

SECTION 1003. RECOVERY PLANS

The Senate amendment provided additional requirements in the preparation and implementation of recovery plans. The House bill contained no language on recovery plans. The Conferees accepted the Senate provision with the following modification. The Senate amendment required the Secretary to report annually on the status of efforts to develop and implement recovery plans for listed species. This agreement would require that the Secretary report once every two years.

The Conferees agreed that the report should provide general information on the status of each listed species and on the progress in developing and implementing recovery plans for each such species. The Secretary should set up a management tracking system to facilitate the preparation of the report.

The Senate amendment also required the Secretary to provide public notice and an opportunity for public review of proposed recovery plans, and to consider the public comments before approving the plan. The Conferees agreed that the requirement for public notice and review does not necessitate a rulemaking procedure.

The Senate amendment also required each federal agency to consider all information presented on a recovery plan during the public comment period before implementing the recovery plan. The Conferees agree that this amendment merely imposes new procedural requirements. For example, the substantive requirements of section 7(a)(1) of the law are not affected by this amendment. Similarly, the development and the content of recovery plans will continue to be based solely on biological considerations.

SECTION 1004. MONITORING OF RECOVERED SPECIES

The Senate amendment required that the Secretary monitor the conservation of recovered species in cooperation with the States. The House bill contained no language on this subject. The House recedes to the Senate provision.

SECTION 1005. COOPERATION WITH THE STATES

The Senate amendment amended section 6 of the Endangered Species Act by establishing a cooperative endangered species conservation fund from which matching funds would be authorized for appropriation and allocation annually to the States to provide support needed to protect and recover species. The House bill contained no language on this subject. This agreement contains the Senate provision, with an amendment to clarify that it authorizes appropriations for grants to states pursuant to Section 6 of the Endangered Species Act.

The Senate amendment also authorized the Secretary to provide financial assistance to states to monitor the status of recovered species. The Conferees agree that the monitoring of recovered species usually should be accorded lower priority than the conservation of listed species, and that assistance provided to the states should reflect that set of priorities.

SECTION 1006. PROTECTION OF PLANTS

The Senate amendment provided increased protections for endangered or threatened plant species. The House provision (section 3) was identical except for a provision on the taking of plants in violation of state law or criminal trespass law. This agreement provides that any person who removes, cuts, digs up, damages or destroys any listed plant in knowing violation of any state law or regulation or in the course of any violation of a state criminal trespass law is in violation of the Endangered Species Act.

SECTION 1007. PENALTIES AND ENFORCEMENT

The Senate amendment increased the penalties for violations of the Endangered Species Act, and transferred certain funds into the cooperative endangered species conservation fund established under section 6(i) of the Act (as amended by this Act) when the balance of sums received by the Fish and Wildlife Service as penalties or fines, or from forfeitures of property exceeds $300,000. The House provision (section 5 of the House bill) did not contain any language on the transfer of funds. This agreement provides that such funds will be transferred when the balance of sums exceeds $500,000.

SECTION 1008. SEA TURTLE CONSERVATION

The House bill (section 8) directed the Secretary of Commerce to conduct an investigation of sea turtle biology and conservation in inshore areas. It also directed the Secretary to delay until May 1, 1990 the implementation of regulations relating to sea turtle conservation in inshore areas. The House recedes to the Senate provision, described as follows.

Section 8 of the Senate amendment contains two separate subsections regarding the conservation of endangered and threatened sea turtles. Subsection (a) provides for specific delays in the effective date of certain sea turtles conservation regulations published on June 29, 1987. It directs the Secretary of Commerce to delay the effective date of the regulations until May 1, 1990 in inshore areas and until May 1, 1989 in offshore areas. Subsection (b) directs the Secretary of Commerce to initiate through the National Academy of Sciences an independent review of scientific information pertaining to listed sea turtles. The primary purpose of this independent review is to further the long-term conservation of each of the relevant species of sea turtles by reviewing available data to ensure that the Federal government is promoting the conservation of sea turtles in the most effective and comprehensive manner possible.

The independent review required by the Senate amendment entails a comprehensive analysis of the status of sea turtles around the world. Section 8(b)(4) recognizes that it may not be possible for this comprehensive analysis to be completed by April 1, 1989, and directs, accordingly, that first priority be given to completing the independent review of information on all populations of the Kemp's ridley sea turtle by that date, or as expeditiously as possible, and then completing the remaining work of the review as expeditiously as possible. Once the review of information on the Kemp's ridley sea turtle has been completed and submitted to the Secretary, it is the intent of the Conferees that the independent review focus next on all of the other U.S. populations of sea turtles that currently are listed as threatened or endangered under the Endangered Species Act. Upon expeditious completion of this review and its submission to the Secretary, the panel should focus finally on an analysis of other sea turtle populations around the world.

Given the illegal trade in turtle eggs, it is not the intent of the Conferees that the review of information on nesting sites under section 8(b)(3)(viii) result in the publication of any maps or specific descriptions that might jeopardize the confidentiality of the locations of these sites. Rather, this aspect of the review is intended to provide information on the general location and number of nesting sites, the size of each nesting site and the appropriate measures that could be taken to enhance protection of such sites. It is the understanding of the Conferees that appropriate measures may include the conservation of nesting beaches, nest protection from human and natural disturbances, captive breeding and hatcheries, and experimental "head starting".

The Conferees also note that if, as a result of the independent study, the Secretary concludes that additional modifications in sea turtle conservation regulations are necessary and advisable, the Secretary may propose such modifications, consistent with 16 U.S.C. 1533(d) and other provisions of current law.

The Secretary is to carry out section 8 of this Act using any funds appropriated expressly for the purpose of carrying out the independent review or, if no funds are appropriated for this specific purpose, by reprogramming other funds within the Department of Commerce in as equitable a manner as possible.

SECTION 1009. AUTHORIZATION OF APPROPRIATIONS

The House bill (section 6) authorized appropriations for the purposes of the Act. The Senate amendment contained authorizations of appropriations in two sections. Section 5 of the Senate amendment authorizes appropriations for grants to states, and Section 9 of the Senate amendment authorizes appropriations for the remainder of the Endangered Species Act. The House recedes to the Senate language

SECTION 1010. EDUCATION, STUDY AND REPORT

The Senate amendment required the Administrator of the Environmental Protection Agency with the Secretary of Agriculture and the Secretary of the Interior to conduct a program of education and study and to submit an interim and final report to Congress in connection with efforts to protect endangered and threatened species from pesticides. The House bill (section 9) contained a similar provision. The House recedes to the Senate with an amendment deleting the requirement for an interim report.

Agriculture is a major part of the U.S. economy and provides nutritional sustenance for our population and exports for abroad. Protection of endangered and threatened species also is an important national priority. The Conferees, therefore, anticipate that the Administrator of the Environmental Protection Agency shall work closely with the Secretary of Agriculture and the Secretary of the Interior to implement the Endangered Species Act in a way that protects endangered and threatened species while minimizing, where possible, impacts on production of agricultural foods and fiber commodities.

The purpose of the study required by this agreement is to provide information to aid in the development of regulations restricting or prohibiting the use of pesticides, to assist the EPA Administrator in identifying the relationship between the use of pesticides and their effects on threatened or endangered species, and in identifying alternatives to prohibitions on the use of pesticides that would provide the protection of such species required by the Endangered Species Act.

The Conferees note that in a number of states, state agriculture departments have begun the process of developing state-initiated, state specific plans to protect endangered and threatened species and retain all safe uses of pesticides consistent with federal requirements. The Conferees commend the initiatives of these states and encourage the EPA to continue working with state-initiated coalitions.

SECTION 1011. SCRIMSHAW

The Senate amendment authorizes the continued sale of scrimshaw by individuals that held valid licenses on March 31, 1988. The House bill (section 4) contained language to achieve the same end. The House language differed from the Senate language because the former was passed before the licenses had expired. The House recedes to the Senate provision.

SECTION 1012. FEDERAL COST OF PROTECTING ENDANGERED SPECIES

The Senate amendment required the Secretary of the Interior to submit an annual report to Congress accounting for the funds spent, on a species by species basis, on conservation of species under the Endangered Species Act. The House bill contained no language on this subject.

This agreement provides for an annual report to Congress accounting, on a species by species basis, for all reasonably identifiable expenditures made primarily for the conservation of species under the Endangered Species Act by the Federal Government and by states receiving grants under section 6 of the Act. The purpose of this amendment is to provide Congress and the public with better information about the expenditure of funds that are appropriated for conservation of endangered and threatened species. Without such information, it is impossible to assess the validity of claims that the government is devoting a disproportionate effort to conserve a few, highly visible species at the expense of numerous, less well-known species that may have greater biological significance.

The conferees added the phrase "reasonably identifiable" to ensure that this new requirement will not become unduly burdensome and will not result in the diversion of funds from operation of the endangered species program itself. The Secretary is expected to make a good faith effort to develop and obtain data that is reasonably identifiable but is not expected to undertake extensive or extraordinary measures to develop exceptionaly precise statistics. In this regard, generalized dollar estimates will suffice.

This amendment seeks to produce information relating primarily to the development and implementation of recovery plans for listed species. The amendment is not intended to apply to costs associated with monitoring candidate species. Expenditures for other conservation activities, such as listing of species, section 7 consultations, or law enforcement, are covered by the amendment but often will not be "reasonably identifiable." The amendment is not intended to require new, species-specific time sheets for biologists or law enforcement agents. Nevertheless, there will be cases, such as listing proposals that generate considerable controversy and a series of public hearings, formal consultations devoted to a single species, or major sting operations devoted to trade in a specific species, that will generate "reasonably identifiable," species-specific expenditures that should be reported.

Similarly, it may be unreasonable to ascribe the costs of employees' salaries and benefits to specific species. There will be cases, however, where such costs are "reasonably identifiable" and should be reported. The best example of this is an employee who devotes full-time to working on a single species or an employee who can readily identify the time devoted to a specific species. As stated above, this amendment does not require the development or use of species-specific time sheets.

The Secretary's report must include data on expenditures by other federal agencies and by the states. The Secretary is expected to make a good faith effort to obtain such data and, although submission of data to the Secretary by other agencies and the states shall not be a precondition to receiving contracts or grants under the Endangered Species Act, such agencies and the states are expected to comply in a timely manner with the Secretary's request for information that is needed to comply with this section.

SECTION 1013. TECHNICAL AMENDMENTS

The House bill (section 7) contained a series of technical amendments to the Endangered Species Act of 1973. The Senate amendment contained no technical amendments. The Senate recedes to the House provision. The Conference agreement includes section 7 of the House bill as new section 1013.

MISCELLANEOUS

The Conferees also strongly encourage the U.S. Fish and Wildlife Service and the Army Corps of Engineers to closely coordinate flood control activities and endangered migratory bird conservation efforts at the Gavin Point Dam and to improve communications with landowners who are downstream from the Dam.

Title II—African Elephant Conservation

The Conferees agreed to include as a new title II of this Act the text of H.R. 2999, the African Elephant Conservation Act, as passed by the House, with amendments to sections 2202 and 2305 which are described below, as well as a number of technical amendments.

SECTION 2001. SHORT TITLE

Section 2001 names Title II the "African Elephant Conservation Act".

SECTION 2002. STATEMENT OF PURPOSE

Section 2002 states that the purpose of this title is to perpetuate healthy populations of African elephants. A population of African elephants that is biologically sustainable and genetically viable would be considered healthy.

SECTION 2003. FINDINGS

Section 2003 states the Congressional findings that:

African elephant populations have declined significantly in recent years,

The illegal ivory trade threatens the continued existence of those populations,

The African elephant is listed as threatened under the Endangered Species Act of 1973, and its continued existence will be further jeopardized if this decline is not reversed,

An international system has been established to control that trade and should be allowed to continue in effect for a reasonable period of time to assess its effectiveness,

Many African countries do not have sufficient resources to conserve their elephant populations,

The U.S. is a large market for ivory products, and shares the responsibility for supporting measures to stop the illegal trade, and

There is no evidence that sport hunting contributes to the poaching problem.

SECTION 2004. STATEMENT OF POLICY

Section 2004 states that it is the policy of the United States to assist in the conservation of African elephants.

Part I—African Elephant Conservation Assistance

SECTION 2101. PROVISION OF ASSISTANCE

Section 2101 authorizes the Secretary of the Interior to fund elephant conservation projects that provide scientific and biological information on the status of elephant populations or habitat, aid efforts to ensure that taking of elephants is effectively controlled and monitored, enhance compliance with the CITES Ivory Control System, or otherwise implement elephant conservation measures.

It is the sense of the Conferees that the assistance most urgently needed by the African countries under this section is that which would be used for halting the poaching of elephants, and that generally, a high priority should be given to projects that would directly aid such efforts.

SECTION 2102. AFRICAN ELEPHANT CONSERVATION FUND

Section 2102(a) establishes an Elephant Conservation Trust Fund to finance the elephant conservation projects referred to in section 2101.

Section 2102(b) authorizes the Secretary of the Treasury to deposit into the fund private donations, civil and criminal penalties collected pursuant to section 2204 of this title and appropriated for inclusion in the Fund, and other appropriated funds. Revenues accruing from the sale of confiscated ivory forfeited administratively under this title would also be deposited into the Fund.

Section 2102(c) provides that the fund may be used to support elephant conservation projects under this Part. It also places a limit on the amount of appropriated funds that can be used for the administration of the African Elephant Conservation Fund.

Section 2102(d) authorizes the Secretary of the Interior to accept donations and to use them to provide assistance for elephant conservation projects.

SECTION 2103. ANNUAL REPORTS

Section 2103 requires the Secretary of the Interior to report annually to Congress on the status of the African elephant, on the elephant conservation projects funded under this Part, and on the extent to which the international ivory control system is functioning effectively to control the illegal ivory trade.

Part II—Moratoria and Prohibited Acts

SECTION 2201. REVIEW OF AFRICAN ELEPHANT CONSERVATION PROGRAMS

Section 2201(a) required the Secretary of the Interior to solicit information on the elephant conservation programs of all African ivory producing nations.

Section 2201(b) requires the Secretary to review the information submitted pursuant to subsection (a), and within one year determined whether each country has an effective program for the management and protection of elephants. That determination would be based on the five criteria set forth in this section.

The first criteria is that the ivory producing country be a party to CITES, and adhere to the CITES Ivory Control System. An African ivory producing country must submit an annual quota to meet this criteria. It is the intent of the Conferees that occasional technical violations or minor violation of the system would not lead to a determination that this criteria is not met.

The second criteria is that the elephant conservation program of the ivory producing country is based on the best available information, and that the country is making expeditious progress in compiling additional types of information on elephants. That information includes, but is not limited to, population status and trends, habitat conditions (including the rate of destruction of habitat) carrying capacity, birth rates and diseases affecting the population, and land use.

In making a determination on whether a country is making expeditious progress, the Secretary should consider whether the country is:

Undertaking the development of a written comprehensive elephant conservation plan which includes the identification of data or biological information which needs to be developed to provide a full understanding of the ecology of key elephant populations within a given country;

Undertaking the identification of specific projects or activities necessary to obtain such data;

Making a commitment of sufficient resources in terms of personnel and money to begin to undertake those projects or activities in order of priority of importance, and

Making continued progress in undertaking and completing those projects or activities.

The third, fourth, and fifth criteria address the control of the taking of elephants, the determination of the country's ivory quota, and the export of ivory from the country.

Section 2201(b)(2) provides that if the Secretary finds within one year of the date of enactment of this title that there is insufficient information upon which to make the determination of whether or not a country meets the criteria in subsection 2201(b)(1), he may delay issuing the determination, but no later than December 31, 1989. The additional time is provided in anticipation of additional information being made available at the 7th meeting of the Conference of the Parties to CITES which is scheduled for the fall of 1989.

SECTION 2201. MORATORIA

Section 2201(a)(1) requires the Secretary to place a moratorium on the importation of ivory from ivory producing countries that the Secretary determines do not meet the criteria in section 2201(b).

Section 2202(a)(2) requires the Secretary to place a moratorium on the importation of ivory from countries for which the Secretary is unable to make a determination under section 2201(b)(1), within one year after the date of enactment of this title, regarding whether they meet the criteria in section 2201(b)(1). That moratorium is to be established no later than January 1, 1990.

Subsection 2202(b) requires the Secretary to place a moratorium on ivory from an intermediary country that meets one or more of a set of criteria set forth in this subsection.

The first criteria is that the intermediary country is not a party to CITES. The second criteria is that the intermediary country does not adhere to the CITES Ivory Control System. It is the intent of the Conferees that occasional technical violations or minor violations of the system would not lead to a determination that this criteria is met.

The third, fourth, fifth and sixth criteria address the importation of ivory into intermediary countries, and the volume of those imports.

The seventh criteria addresses the amount of time that may transpire between the date a moratorium is placed on an ivory producing country, and the date on which an intermediary country must stop importing ivory from that ivory producing country to avoid being subjected to a moratoria under this Part. The purpose of this section is to allow for the transit time of shipments of ivory between Africa and an intermediary country. That transit time may vary according to the type of transportation used. The intent is to allow for the proverbial "slow boat to China." The acceptance of air shipments that arrive in an intermediary country from an ivory producing country for which a moratorium is in place after the first three months of that moratorium would be grounds for the intermediary country itself to be subject to a moratorium. The additional time would be for shipments by sea.

An African country would be considered an intermediary country under this section if it exports raw or worked ivory that does not originate within its borders. Hence, a country might be both an ivory producing country and an intermediary country.

Section 2202(c) authorizes the Secretary to suspend a moratorium established under this section due to changing circumstances.

Section 2202(d) provides that any person possessing substantial biological or trade data can petition the Secretary of the Interior to place a moratorium or suspend a moratorium which had been placed on the importation of ivory from individual countries, and requires that the Secretary take prompt action on those petitions accompanied by such data.

Section 2202(e) provides an exemption from the moratoria and the prohibitions in section 2203 for sport hunted elephant trophies that are legally taken by a sport hunter or his or her principal in an African country that has submitted an ivory quota.

The Conferees agreed to an amendment adding a new subsection (f). It provides that a moratorium should not be imposed on an ivory producing or intermediary country solely due to its trade in confiscated ivory, provided that two conditions are met. First, the confiscated ivory must be traded in accordance with the CITES Ivory Control System. Second, the proceeds from the sale or disposal of the confiscated ivory must be used solely to enhance wildlife conservation programs, including but not limited to elephant conservation programs, or to enhance the implementation of CITES and its purposes. It is the intent of the Conferees under section 2202(f) that confiscated ivory be disposed of in an open and public manner that includes safeguards to prevent persons responsible for elephant poaching or illegal ivory shipments from acquiring confiscated ivory at auction or receiving any of the proceeds from its sale.

SECTION 2203. PROHIBITED ACTS

Section 2203 set forth a series of acts that are prohibited under this Part. It makes an exception for sport hunted trophies that are legally taken by a sport hunter or his or her prinicipal in an African country that has submitted an ivory quota.

SECTION 2204. PENALTIES AND ENFORCEMENT

Section 2204(a) provides that the criminal penalties for violations of this Part shall be in accordance with title 18 of the United States Code. Pursuant to sections 3559 and 3571 of that title, the effective maximum criminal penalty for an individual would be $100,000, and one year in prison, and the maximum criminal penalty for an organization would be $200,000. For the purposes of this section, each shipment made in violation of this Part is a separate violation of this Part.

Section 2204(b) provides that the maximum civil penalty for a violation of this Part is $5,000.

Section 2204(c) incorporates the civil penalty assessment procedures of section 11(a) of the Endangered Species Act.

Section 2204(d) provides that penalties collected under this section may, subject to appropriations, be used to pay rewards or deposited into the African Elephant Conservation Fund.

Section 2204(e) provides that any enforcement action under this section shall be conducted in accordance with the procedures provided for in section 11 of the Endangered Species Act of 1973.

The Conferees intend that all of the enforcement authorities provided to the Secretary of the Interior under Section 11(e) of the Endangered Species Act of 1973 (ESA) (15 U.S.C. 1540(e)) shall be available to the Secretary for enforcing the provisions of this Part. In particular, the Conferees note that paragraphs (4) and (5) of section 11(e) of the ESA provide for the seizure and administrative forfeiture of any wildlife or plant products involved in the violation of the Act. It is the clear intent of the Conferees that the Secretary, the Secretary of the Treasury and the Secretary of the department in which the Coast Guard is operating exercise identical seizure and administrative forfeiture authorities with regard to the importation of African elephant ivory in violation of the provisions of this Part. The Conferees intend that all illegal ivory shipments shall be seized and forfeited administratively. Such forfeiture shall be in addition to, and not dependent upon the imposition of other criminal or civil penalties imposed under the provisions of this Part. The Conferees are also aware of the United States Fish and Wildlife Service's current policy and regulations (50 C.F.R. Part 12) regarding the disposal of confiscated wildlife products. The Conferees intend that any confiscated and forfeited African elephant ivory seized for violations of this Part be disposed of pursuant to the Fish and Wildlife Service's disposal procedures and that any proceeds generated from the sale of such ivory be deposited, subject to appropriations, into the African Elephant Conservation Fund created under this title.

SECTION 2205. REWARDS

Section 2205 authorizes the Secretary to pay rewards to individuals who furnish information that leads to a civil or criminal penalty or conviction under this Part.

Part III—Miscellaneous

SECTION 2301. PERMISSION TO ENGAGE IN BUSINESS OF IMPORT OR EXPORT OF AFRICAN ELEPHANT IVORY

Section 2301 would require that all commercial importers and exporters of ivory in the U.S. regardless of volume of their business, be licensed by the Secretary of the Interior.

SECTION 2302. RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973

Section 2302 provides that nothing in this title shall limit or amend the authorities of the Secretary of the Interior under the Endangered Species Act. Similarly, nothing in this title diminishes the Secretary's authorities under the Lacey Act.

SECTION 2303. CERTIFICATION UNDER PELLY AMENDMENT

Section 2303 provides that a country that does not adhere to the CITES Ivory Control System shall be deemed to be "diminishing the effectiveness" of an international agreement for the protection of endangered or threatened species. Under the Pelly amendment to the Fishermen's Protection Act, the President has the discretion to embargo the wildlife products from a nation for which such a determination is made.

It is the intent of the Conferees that occasional technical violations or minor violations of the CITES Ivory Control System would not lead to a determination that a country does not adhere to the system, and thus would not warrant certification under the Pelly Act. It is also the intent of the Conferees that a certification under the Pelly Act not occur if an ivory producing country fails to satisfy the criteria set out in section 2201(b)(1)(B) of this title.

SECTION 2304. EFFECTIVENESS OF CITIES

Section 2304 requires the Secretary of the Interior to determine in 1991 whether this title, together with the CITES ivory control system, has substantially stopped the importation of illegal ivory into the U.S. If it has not, the Secretary is to recommend changes to the title or other action, including a total ban on the importation of elephant ivory, if appropriate.

SECTION 2305. DEFINITIONS

Section 2305 contains definitions of terms used in the title.

The term "CITES Ivory Control System", which is defined in this section is referred to in documents submitted to the 6th Conference of the Parties to CITES as the "ivory export quota system" and the "Quota System".

The term "ivory producing country" is defined in this section as "any African country within which is located any part of the range of a population of African elephants". The Conferees understand because of the migratory nature of the species that the range of elephants in Africa may change over time, and that as a result, a country that is not currently an ivory producing country may become one in the future, and vice versa.

The Conferees agreed to amend the definition of the term "raw ivory" to explain that it may be a whole tusk or a piece thereof, and that it may be minimally carved. Certain ivory traders have gone to great lengths to circumvent the CITES Ivory Control System by laundering essentially raw ivory as worked ivory, which is subject to much less stringent control. Among the techniques used have been cutting raw ivory into blocks or even scratching and inking a superficial design into the surface of the tusk or block. These temporary designs are not intended to produce a finished product for sale, but only to get the ivory into commerce as worked ivory; they are easily buffed off later when the real carving process is undertaken in another country. This title's definition of raw ivory is intended to prevent such minimally carved ivory, which is not yet in the form of a finished product, from being entered into trade as worked ivory.

SECTION 2306. AUTHORIZATION OF APPROPRIATIONS

Section 2306 authorizes a total appropriation of $5 million annually for both the Secretary's costs for implementing this title and for providing appropriated funds for the African Elephant Conservation Fund.

Walter B. Jones,
Gerry E. Studds,
Mike Lowry,
Billy Tauzin,
Solomon P. Ortiz,
Bob Davis,
Don Young,
Jack Fields,
Managers on the Part of the House.

Quentin N. Burdick,
George J. Mitchell,
Max Baucus,
John Breaux,
Robert T. Stafford,
John H. Chafee,
Alan K. Simpson,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, the purpose of this request is to inform the Members of the schedule for the week of September 19, 1988.

It is as follows: On Monday, September 19, the House will not be in session.

On Tuesday, September 20, the House will meet at noon to consider the Private Calendar and 27 bills under suspension of the rules.

They are:

H.R. 5114, Veterans' Health-Care Programs Amendments of 1988;

H.R. 4535, to designate the James J. Howard Veterans' Outpatient Clinic;

H.R. 4948, to direct the American Battle Monuments Commission to restore, operate, and maintain the Pacific War Memorial on Corregidor;

H.R. 2524, location of principal offices of executive agencies in the National Capital Region;

S. 1934, Judiciary Office Building Development Act;

S. 659, FIFRA Amendments of 1988;

H.R. 5056, Agriculture Research Act of 1988;

H.R. 5263, OPIC Authorization; and

S. Con. Res. 102, to express the sense of Congress regarding the contributions of John Foster Dulles in International Affairs.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate the gentleman yielding. The list of items for consideration under suspension is extensive, to say the least, very extensive.

I would like to clarify for the membership, if I might, is my presumption correct that today beyond this perfunctory work that our work is done, there will be no more votes today?

Mr. FOLEY. The gentleman is correct. We expect no further votes today.

Mr. LEWIS of California. Mr. Speaker, I wonder if I might inquire of the gentleman, beyond that list of suspensions, if we could just spend a moment in a colloquy regarding informing the Members as to what the schedule is likely to be on Thursday, and specifically I would like to extend with the gentleman the conversation that we were having earlier about the likelihood or the prospect of taking up the drug bill on Thursday and completing it on Thursday.

Mr. FOLEY. Mr. Speaker, if the gentleman does not mind, I will just read through the list of suspensions.

Mr. LEWIS of California. If the gentleman wants to do that, that is fine.

Mr. FOLEY. They are:

S. 2365, to authorize the release of 86 USIA films with respect to the Marshall plan;

S.J. Res. 317, to commemorate the bicentennial of the French Revolution;

H.J. Res. 648, to encourage increased international cooperation to protect biological diversity;

H. Con. Res. 344, to commend the International Boundary and Water Commission;

H.R. 4983, Health Professions Reauthorization Act of 1988;

H.R. 5155, Protection and Advocacy for Mentally Ill Individuals Act;

H.R. 2800, Hazardous Waste Production Act;

H.R. 2837, to amend the Toxic Substances Control Act to assist States in responding to the threat posed by exposure to radon;

H. Con. Res. 290, to support the International Decade for Natural Disaster Reduction;

H.R. 3048, National Superconductivity and Competitiveness Act of 1987;

H. Res. 450, to express the sense of the House regarding aging aircraft;

H.R. 4686, Aviation Research Act of 1988;

H.R. 3779, Controller Performance Research Act;

H.R. 4362, Recreation and Public Purposes Amendment Act of 1988;

S. 1927, to provide for the approval of a desert land entry in the vicinity of the Dinosaur National Monument;

H.R. 4182, to establish the Zuni-Cibola National Historical Park in the State of New Mexico;

H.R. 4039, to disclaim any right, title, or interest of the United States in certain lands in the State of California; and

S. 1165, to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.

□ 1400

And also H.R. 5142, the Federal AIDS Policy Act of 1988, general debate.

On Wednesday, the House will not be in session in observance of Yom Kippur.

On Thursday, September 22 and Friday, September 23, the House will meet and we will have votes on those two days, Thursday and Friday. The House will meet at 10 a.m. and consider the Consent Calendar and recorded votes on suspensions postponed from Tuesday, September 20, which will be taken at the end of the day on Thursday.

We will also consider H.R. 5210, the omnibus drug abuse bill, to complete consideration; H.R. 5142, the AIDS Federal Policy Act of 1988 and H.R. 387, the Federal Equitable Pay Practices, open rule, 1 hour of debate.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Speaker, if we could go back to that extensive list of suspensions scheduled for Tuesday, the gentleman indicated that whatever votes there are would be taken at the end of the day on Thursday, is that correct?

Mr. FOLEY. Yes.

Mr. LEWIS of California. Could the gentleman share with us, is it the intention of the leadership at this point to take up and complete the drug bill on Thursday?

Mr. FOLEY. Yes, it is our intention to do so.

Mr. LEWIS of California. I am sure the entire membership would welcome the opportunity to move on to other things beyond the drug bill.

Mr. FOLEY. I might say the drug bill has been the subject of a very explicit rule which provides for amendments under time limitations. The only reason the bill has taken additional time than that previously expected is that other business has intervened, including the very high priority business of appropriations bills and conference reports and motions to go to conference and motions to instruct.

So although it may seem that the drug bill has been prolonged, it actually is proceeding exactly according to the schedule laid out in the rule.

Mr. LEWIS of California. I would suggest that the progress on the drug bill has been very, very productive. I would not criticize the time that has been used. Under the rule, the rule does provide for a comprehensive amendment at the end of that process in which the majority leader as well as the Republican leader would come together to solve some of the technical problems. I understand that progress is being made regarding that amendment.

Mr. FOLEY. Yes. We have been in discussion with the distinguished Republican leader on that. I assume there will be an amendment offered jointly by us at the end of the bill.

Mr. LEWIS of California. As I am looking at the schedule, if the gentleman would yield further, it appears to me as though if we get through the votes on the suspensions and maybe the 3 hours that has been suggested it might take on the drug bill, that the AIDS bill then could take up a big part of the following week.

Mr. FOLEY. There is a possibility that the AIDS bill may go over to the week following.

Mr. LEWIS of California. I appreciate the gentleman yielding.

Mr. FOLEY. Mr. Speaker, I wonder if I could inquire of the distinguished acting Republican leader or the leader himself who is also on the floor if the minority side has any matters that they intend to bring up which would be useful for the Members to be aware of next week on Thursday or Friday.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, I must confess that I am not aware of it offhand. One of the gentlemen was inquiring whether or not when we would have all those votes on suspensions, whether or not earlier in that day there would be a roll call vote. I guess we cannot guarantee that will not happen. We have had several times on the issue with respect to the defense bill going to conference; I think the gentleman who has been most persistent in making that point may or may not be here. He has not consulted with the leader here. I am not altogether sure.

Mr. FOLEY. I might note on the last occasion when the House was in more or less technical session the gentleman from Pennsylvania forebore offering his amendment to discharge. I think a similar decision would probably be well received on both sides of the aisle.

Aside from that, does the distinguished Republican leader know of any other motions or actions originating on the minority side that might possible draw a roll call vote.

Mr. MICHEL. On Thursday when we come back?

Mr. FOLEY. On Thursday or Friday?

Mr. MICHEL. Not to my knowledge. But if I find upon searching inquiry here that there are some of those things that might come off the wall, the gentleman knows me well enough that I would certainly give him as much advance notice as I possibly can.

Mr. FOLEY. I appreciate the gentleman's courtesy.

ADJOURNMENT FROM TUESDAY, SEPTEMBER 20, 1988, TO THURSDAY, SEPTEMBER 22, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, September 20, 1988, it adjourn to meet at 10 a.m. on Thursday, September 22, 1988.

The SPEAKER pro tempore (Mr. McHUGH). Is there objection to the request of the gentleman from Washington?

There was no objection.

MAKING IN ORDER CALL OF THE CONSENT CALENDAR ON THURSDAY, SEPTEMBER 22, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the call of the Consent Calendar be considered on Thursday, September 22, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO TUESDAY, SEPTEMBER 20, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, September 20, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FEDERAL EMPLOYEES HEALTH BENEFITS AMENDMENTS ACT OF 1988

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5102) to amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I will not object, and I rise in strong support of H.R. 5102, the Federal Employees' Health Benefits Act Amendments of 1988. I applaud the gentleman from New York and chairman of the Subcommittee on Compensation and Employee Benefits for moving this bill so quickly. H.R. 5102 incorporates H.R. 4829, my bill to extend health continuation benefits to Federal employees, as well as the gentleman's important provisions to address fraud and abuse by health care providers in the Federal Employee Health Benefits Program.

H.R. 4829, which has over 50 cosponsors, would allow Federal employees and their families to continue to receive health insurance benefits at the group rate for a limited period of time if they leave or lose their jobs. Employees who participate in the Federal Employee Health Benefits Program would have the option of continued group coverage, but would pay both the employer and the employee share of the costs.

The extended health coverage would also be available to surviving spouses, divorced spouses, and dependent children, who do not currently meet the eligibility standards established for continuous coverage under the Federal Employee Health Benefits Program. The former employees, whether they left voluntarily or were subject to a reduction in force, could continue to receive coverage for up to 18 months; the others could continue to receive coverage for up to 3 years.

This legislation provides the option to continue benefits in a manner consistent with the option provided by law to private sector employees under title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA]. While COBRA covered all state and local governments and private companies with at least 20 employees, it exempted the Federal Government. The Congressional Budget Office has indicated that the bill is cost neutral.

Because beneficiaries must pay both the employee and employer portion of their plan's premium, most Federal employees who move on to a job outside the Government will terminate their FEHBP coverage as soon as possible. However, this benefit will enable parents who leave jobs to care for children to continue their health coverage in the interim. In addition, many companies have waiting periods before their group health plans begin coverage for new employees. Federal employees should be provided with this important benefit which has been available to employees in the private sector since 1986.

H.R. 5102 also includes very important provisions to address fraud and abuse by health care providers in the Federal Employee Health Benefits Program. The bill would provide that a civil monetary penalty of up to $10,000 could be levied against any health care provider who has been convicted of fraud or corruption under Federal or State law, or has been convicted for patient neglect or abuse, or other criminal offenses. A fraudulent provider could also be barred from participating in the Federal Employee Health Benefits Program for such criminal offenses. This bill is desperately needed to maintain the integrity of the FEHBP.

Mr. Speaker, this bill is an important, but noncontroversial measure, and I urge my colleagues to support this bill. I commend the distinguished chairman for his efforts and commitment to the continued improvement of the Federal Employee Health Benefits Program.

Mr. ACKERMAN. Mr. Speaker, will the gentlewoman yield to me?

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. ACKERMAN], the chairman of the subcommittee and the prime sponsor of this bill.

Mr. ACKERMAN. I thank the gentlewoman for yielding and for her excellent statement and for her great leadership in this area and support of this legislation.

Mr. Speaker, this legislation has been cleared with the majority and minority leadership.

H.R. 5102, the Federal Employees Health Benefits Amendments Act of 1988, provides an important step in protecting enrollees in the Federal Employee's Health Benefits Program from unscrupulous health care providers while, at the same time, improving benefits under the program.

Title I of the act identifies a number of actions for which the Director of the Office of Personnel Management may bar certain health care providers from participating in FEHBP. This was designed to create safeguards for FEHBP enrollees so that they will receive health care that meets the highest standards of quality, as well as to ensure that program dollars are not wasted on inadequate, unnecessary, and potentially dangerous medical care. This provision is similar to the exclusion authority which already exists in the Medicare and Medicaid programs.

Title II of the act authorizes the temporary continuation of FEHBP coverage for separated workers, certain unmarried dependent children, and former spouses. This provision was designed to provide temporary protection to certain FEHBP enrollees who lose eligibility to participate in the program. This title is patterned after a bill introduced by Congresswoman MORELLA, and I want to commend her for providing important leadership in this area. This section of the act is similar to the continuation coverage which was afforded to private sector employees in the Consolidated Omnibus Budget Reconciliation Act of 1985.

The Post Office and Civil Service Subcommittee on Compensation and Employee Benefits has worked closely with the Office of Personnel Management in developing this measure. In addition, the Congressional Budget Office has reported that H.R. 5102 will be budget-neutral.

Mr. Speaker, the amendments I will offer are not intended to vitiate the amendments described in the committee report, but rather correct a printing error in the reported version of the bill.

I urge my colleagues to support H.R. 5102.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Health Benefits Amendments Act of 1988".

TITLE I—PROVISIONS RELATING TO HEALTH CARE PROVIDERS

SEC. 101. AUTHORITY TO IMPOSE DEBARMENT AND OTHER SANCTIONS.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 8902 the following:

"§ 8902a. Debarment and other sanctions

"(a)(1) For the purpose of this section—

"(A) the term 'provider of health care services or supplies' or 'provider' means a physician, hospital, or other individual or entity which furnishes health care services or supplies;

"(B) the term 'individual covered under this chapter' or 'covered individual' means an employee, annuitant, family member, or former spouse covered by a health benefits plan described by section 8903 or 8903a; and

"(C) an individual or entity shall be considered to have been 'convicted' of a criminal offense if—

"(i) a judgment of conviction for such offense has been entered against the individual or entity by a Federal, State, or local court;

"(ii) there has been a finding of guilt against the individual or entity by a Federal, State, or local court with respect to such offense;

"(iii) a plea of guilty or nolo contendere by the individual or entity has been accepted by a Federal, State, or local court with respect to such offense; or

"(iv) in the case of an individual, the individual has entered a first offender or other program pursuant to which a judgment of conviction for such offense has been withheld;

without regard to the pendency or outcome of any appeal (other than a judgment of acquittal based on innocence) or request for relief on behalf of the individual or entity.

"(2)(A) Notwithstanding section 8902(j) or any other provision of this chapter, if, under subsection (b) or (c), a provider is barred from participating in the program under this chapter, no payment may be made by a carrier pursuant to any contract under this chapter (either to such provider or by reimbursement) for any service or supply furnished by such provider during the period of the debarment.

"(B) Each contract under this chapter shall contain such provisions as may be necessary to carry out subparagraph (A) and the other provisions of this section.

"(b) The Office of Personnel Management may bar the following providers of health care services or supplies from participating in the program under this chapter:

"(1) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to fraud, corruption, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care service or supply.

"(2) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care service or supply.

"(3) Any provider that has been convicted, under Federal or State law, in connection with the interference with or obstruction of an investigation or prosecution of a criminal offense described in paragraph (1) or (2).

"(4) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

"(5) Any provider—

"(A) whose license to provide health care services or supplies has been revoked, suspended, restricted, or not renewed, by a State licensing authority for reasons relating to the provider's professional competence, professional performance, or financial integrity; or

"(B) that surrendered such a license while a formal disciplinary proceeding was pending before such an authority, if the proceeding concerned the provider's professional competence, professional performance, or financial integrity.

"(c) Whenever the Office determines—

"(1) in connection with a claim presented under this chapter, that a provider of health care services or supplies—

"(A) has charged for health care services or supplies that the provider knows or should have known were not provided as claimed; or

"(B) has charged for health care services or supplies in an amount substantially in excess of such provider's customary charges for such services or supplies, or charged for health care services or supplies which are substantially in excess of the needs of the covered individual or which are of a quality that fails to meet professionally recognized standards for such services or supplies;

"(2) that a provider of health care services or supplies has knowingly made, or caused to be made, any false statement or misrepresentation of a material fact which is reflected in a claim presented under this chapter; or

"(3) that a provider of health care services or supplies has knowingly failed to provide any information required by a carrier or by the Office to determine whether a payment or reimbursement is payable under this chapter or the amount of any such payment or reimbursement;

the Office may, in addition to any other penalties that may be prescribed by law, and after consultation with the Attorney General, impose a civil monetary penalty of not more than $10,000 for any item or service involved. In addition, such a provider shall be subject to an assessment of not more than twice the amount claimed for each such item or service. In addition, the Office may make a determination in the same proceeding to bar such provider from participating in the program under this chapter.

"(d) The Office—

"(1) may not initiate any debarment proceeding against a provider, based on such provider's having been convicted of a criminal offense, later than 6 years after the date on which such provider is so convicted; and

"(2) may not initiate any action relating to a civil penalty, assessment, or debarment under this section, in connection with any claim, later than 6 years after the date the claim is presented, as determined under regulations prescribed by the Office.

"(e) In making a determination relating to the appropriateness of imposing or the period of any debarment under this section, or the appropriateness of imposing or the amount of any civil penalty or assessment under this section, the Office shall take into account—

"(1) the nature of any claims involved and the circumstances under which they were presented;

"(2) the degree of culpability, history of prior offenses or improper conduct of the provider involved; and

"(3) such other matters as justice may require.

"(f)(1) The debarment of a provider under subsection (b) or (c) shall be effective at such time and upon such reasonable notice to such provider, and to carriers and covered individuals, as may be specified in regulations prescribed by the Office.

"(2)(A) Except as provided in subparagraph (B), a debarment shall be effective with respect to any health care services or supplies furnished by a provider on or after the effective date of such provider's debarment.

"(B) A debarment shall not apply with respect to inpatient institutional services furnished to an individual who was admitted to the institution before the date the debarment would otherwise become effective until the passage of 30 days after such date, unless the Office determines that the health or safety of the individual receiving those services warrants that a shorter period, or that no such period, be afforded.

"(3) Any notice referred to in paragraph (1) shall specify the date as of which debarment becomes effective and the minimum period of time for which such debarment is to remain effective.

"(4)(A) A provider barred from participating in the program under this chapter may, after the expiration of the minimum period of debarment referred to in paragraph (3), apply to the Office, in such manner as the Office may by regulation prescribe, for termination of the debarment.

"(B) The Office may—

"(i) terminate the debarment of a provider, pursuant to an application filed by such provider after the end of the minimum debarment period, if the Office determines, based on the conduct of the applicant, that—

"(I) there is no basis under subsection (b) or (c) for continuing the debarment; and

"(II) there are reasonable assurances that the types of actions which formed the basis for the original debarment have not recurred and will not recur; or

"(ii) notwithstanding any provision of subparagraph (A), terminate the debarment of a provider, pursuant to an application filed by such provider before the end of the minimum debarment period, if the Office determines that—

"(I) based on the conduct of the applicant, the requirements of subclauses (I) and (II) of clause (i) have been met; and

"(II) early termination under this clause is warranted based on the fact that the provider is the sole community provider or the sole source of essential specialized services in a community, or other similar circumstances.

"(5) The Office shall—

"(A) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of a provider barred from participation in the program under this chapter of the fact of the debarment, as well as the reasons for such debarment;

"(B) request that appropriate investigations be made and sanctions invoked in accordance with applicable law and policy; and

"(C) request that the State or local agency or authority keep the Office fully and currently informed with respect to any actions taken in response to the request.

"(6) The Office shall, upon written request and payment of a reasonable charge to defray the cost of complying with such request, furnish a current list of any providers barred from participating in the program under this chapter, including the minimum period of time remaining under the terms of each provider's debarment.

"(g)(1) The Office may not make a determination under subsection (b) or (c) adverse to a provider of health care services or supplies until such provider has been given written notice and an opportunity for a hearing on the record. A provider is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the provider in any such hearing.

"(2) Notwithstanding section 8912, any person adversely affected by a final decision under paragraph (1) may obtain review of such decision in the United States Court of Appeals for the Federal Circuit. A written petition requesting that the decision be modified or set aside must be filed within 60 days after the date on which such person is notified of such decision.

"(3) Matters that were raised or that could have been raised in a hearing under paragraph (1) or an appeal under paragraph (2) may not be raised as a defense to a civil action by the United States to collect a penalty or assessment imposed under this section.

"(h) A civil action to recover civil monetary penalties or assessments under subsection (c) shall be brought by the Attorney General in the name of the United States, and may be brought in the United States district court for the district where the claim involved was presented or where the person subject to the penalty resides. Amounts recovered under this section shall be paid to the Office for deposit into the Employees Health Benefits Fund.

"(i) The Office shall prescribe regulations under which, with respect to services or supplies furnished by a debarred provider to a covered individual during the period of such provider's debarment, payment or reimbursement under this chapter may be made, notwithstanding the fact of such debarment, if such individual did not know or could not reasonably be expected to have known of the debarment. In any such instance, the carrier involved shall take appropriate measures to ensure that the individual is informed of the debarment and the minimum period of time remaining under the terms of the debarment.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8902 the following:

"8902a. Debarment and other sanctions.".

SEC. 102. APPLICABILITY; PRIOR CONDUCT.

(a) APPLICABILITY.—The amendments made by this title shall be effective with respect to any calendar year beginning, and contracts entered into or renewed for any calendar year beginning, after the date of the enactment of this Act.

(b) PRIOR CONDUCT NOT TO BE CONSIDERED.—In carrying out section 8902a of title 5, United States Code, as added by this title, no debarment, civil monetary penalty, or assessment may be imposed under such section based on any criminal or other conduct occurring before the beginning of the first calendar year which begins after the date of the enactment of this Act.

TITLE II—PROVISIONS RELATING TO TEMPORARY CONTINUATION OF COVERAGE FOR CERTAIN INDIVIDUALS

SEC. 201. AUTHORITY TO CONTINUE COVERAGE.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by inserting after section 8905 the following:

"§ 8905a. Continued coverage

"(a) Any individual described in paragraph (1) or (2) of subsection (b) may elect to continue coverage under this chapter in accordance with the provisions of this section.

"(b) This section applies with respect to—

"(1) any employee who—

"(A) is separated from service, whether voluntarily or involuntarily, except that if the separation is involuntary, this section shall not apply if the separation is for gross misconduct (as defined under regulations which the Office of Personnel Management shall prescribe); and

"(B) would not otherwise be eligible for any benefits under this chapter (determined without regard to any temporary extension of coverage and without regard to any benefits available under a nongroup contract); and

"(2) any individual who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child under this chapter;

"(B) on the day before so ceasing to meet the requirements referred to in subparagraph (A), was covered under a health benefits plan under this chapter as a member of the family of an employee or annuitant; and

"(C) would not otherwise be eligible for any benefits under this chapter (determined without regard to any temporary extension of coverage and without regard to any benefits available under a nongroup contract).

"(c)(1) The Office shall prescribe regulations and provide for the inclusion of appropriate terms in contracts with carriers to provide that—

"(A) with respect to an employee who becomes (or will become) eligible for continued coverage under this section as a result of separation from service, the separating agency shall, before the end of the 30-day period beginning on the date as of which coverage (including any temporary extensions of coverage) would otherwise end, notify the individual of such individual's rights under this section; and

"(B) with respect to a child of an employee or annuitant who becomes eligible for continued coverage under this section as a result of ceasing to meet the requirements for being considered a member of the employee's or annuitant's family—

"(i) the employee or annuitant may provide written notice of the child's change in status (complete with the child's name, address, and such other information as the Office may by regulation require) to the carrier of such employee's or annuitant's plan; and

"(ii) if the carrier receives the notice referred to in clause (i) within 60 days after the date as of which the child involved first ceases to meet the requirements involved, the carrier must, within 14 days after receiving such notice, notify the child of such child's rights under this section.

"(2) In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Office by regulation prescribes) must be made—

"(A) in the case of an individual seeking continued coverage based on a separation from service, before the end of the 60-day period beginning on the later of—

"(i) the effective date of the separation; or

"(ii) the date the separated individual receives the notice required under paragraph (1)(A); or

"(B) in the case of an individual seeking continued coverage based on a change in circumstances making such individual ineligible for coverage as an unmarried dependent child, before the end of the 60-day period beginning on the later of—

"(i) the date as of which such individual first ceases to meet the requirements for being considered an unmarried dependent child; or

"(ii) the date such individual receives notice under paragraph (1)(B)(ii);

except that if a parent fails to provide the notice required under paragraph (1)(B)(i) in timely fashion, the 60-day period under this subparagraph shall be based on the date under clause (i), irrespective of whether or not any notice under paragraph (1)(B)(ii) is provided.

"(d)(1)(A) An individual receiving continued coverage under this section shall be required to pay currently into the Employees Health Benefits Fund, under arrangements satisfactory to the Office, an amount equal to the sum of—

"(i) the employee and agency contributions which would be required in the case of an employee enrolled in the same health benefits plan and level of benefits; and

"(ii) an amount, determined under regulations prescribed by the Office, necessary for administrative expenses, but not to exceed 2 percent of the total amount under subparagraph (A).

"(B) Payments under this section to the Fund shall—

"(i) in the case of an individual whose continued coverage is based on such individual's separation, be made through the agency which last employed such individual; or

"(ii) in the case of an individual whose continued coverage is based on a change in circumstances referred to in subsection (c)(2)(B), be made through—

"(I) the Office, if, at the time coverage would (but for this section) otherwise have been discontinued, the individual was covered as the child of an annuitant; or

"(II) if, at the time referred to in subclause (I), the individual was covered as the child of an employee, the employee's employing agency as of such time.

"(2) If an individual elects to continue coverage under this section before the end of the applicable period under subsection (c)(2), but after such individual's coverage under this chapter (including any temporary extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(3)(A) An individual making an election under subsection (c)(2)(B) may, at such individual's option, elect coverage either as an individual or, if appropriate, for self and family.

"(B) For the purpose of this paragraph, members of an individual's family shall be determined in the same way as would apply under this chapter in the case of an enrolled employee.

"(C) Nothing in this paragraph shall be considered to limit an individual making an election under subsection (c)(2)(A) to coverage for self alone.

"(e)(1) Continued coverage under this section may not extend beyond—

"(A) in the case of an individual whose continued coverage is based on separation from service, the date which is 18 months after the effective date of the separation; or

"(B) in the case of an individual whose continued coverage is based on ceasing to meet the requirements for being considered an unmarried dependent child, the date which is 36 months after the date on which the individual first ceases to meet those requirements, subject to paragraph (2).

"(2) In the case of an individual who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child;

"(B) as of the day before so ceasing to meet the requirements referred to in subparagraph (A), was covered as the child of a former employee receiving continued coverage under this section based on the former employee's separation from service; and

"(C) so ceases to meet the requirements referred to in subparagraph (A) before the end of the 18-month period beginning on the date of the former employee's separation from service,

extended coverage under this section may not extend beyond the date which is 36 months after the separation date referred to in subparagraph (C).

"(f) The Office shall prescribe regulations under which continued coverage under this section shall be afforded in the case of an individual seeking to continue coverage following coverage under an employee organization plan described by section 8903(3) or section 8903a of this title.

"(g)(1) The Office shall prescribe regulations under which, in addition to any individual otherwise eligible for continued coverage under this section, and to the extent practicable, continued coverage may also, upon appropriate written application, be afforded under this section—

"(A) to any individual who—

"(i) if subparagraphs (A) and (C) of paragraph (10) of section 8901 were disregarded, would be eligible to be considered a former spouse within the meaning of such paragraph; but

"(ii) would not, but for this subsection, be eligible to be so considered; and

"(B) to any individual whose coverage as a family member would otherwise terminate as a result of a legal separation.

"(2) The terms and conditions for coverage under the regulations shall include—

"(A) consistent with subsection (c), any necessary notification provisions, and provisions under which an election period of at least 60 days' duration is afforded;

"(B) terms and conditions identical to those under subsections (d) and (f), except that contributions to the Employees Health Benefits Fund shall be made through such agency as the Office by regulation prescribes;

"(C) provisions relating to the termination of continued coverage, except that continued coverage under this section may not (subject to paragraph (3)) extend beyond the date which is 36 months after the date on which the qualifying event under this subsection (the date of divorce, annulment, or legal separation, as the case may be) occurs; and

"(D) provisions designed to ensure that any coverage pursuant to this subsection does not adversely affect any eligibility for coverage which the individual involved might otherwise have under this chapter (including as a result of any change in personal circumstances) if this subsection had not been enacted.

"(3) In the case of an individual—

"(A) who becomes eligible for continued coverage under this subsection based on a divorce, annulment, or legal separation from a person who, as of the day before the date of the divorce, annulment, or legal separation (as the case may be) was receiving continued coverage under this section for self and family based on such person's separation from service; and

"(B) whose divorce, annulment, or legal separation (as the case may be) occurs before the end of the 18-month period beginning on the date of the separation from service referred to in subparagraph (A),

extended coverage under this section may not extend beyond the date which is 36 months after the date of the separation from service, as referred to in subparagraph (A).".

(2) Table of sections.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8905 the following:

"8905a. Continued coverage.".

(b) Option to Convert to a Nongroup Contract After Continued Coverage Ends.—Section 8902(g) of title 5, United States Code, is amended by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(c) Change of Coverage Based on Change in Family Status.—Section 8905(e) of title 5, United States Code, is amended by striking "or former spouse" and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(d) Open Season.—Section 8905(f) of title 5, United States Code, is amended—

(1) by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title"; and

(2) by adding at the end the following:

"(3)(A) In addition to any informational requirements otherwise applicable under this chapter, the regulations shall include provisions to ensure that each employee eligible to enroll in a health benefits plan under this chapter (whether actually enrolled or not) is notified in writing as to the rights afforded under section 8905a of this title.

"(B) Notification under this paragraph shall be provided by employing agencies at an appropriate point in time before each period under paragraph (1) so that employees may be aware of their rights under section 8905a of this title when making enrollment decisions during such period.".

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Sections 8902(j), 8902(k)(1), and 8909(d) of title 5, United States Code, are amended by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(b) Section 8903(1) of title 5, United States Code, is amended—

(1) by striking "or former spouses," and inserting "former spouses, or persons having continued coverage under section 8905a of this title,"; and

(2) by striking "or former spouse." and inserting "former spouse, or person having continued coverage under section 8905a of this title.".

(c) Section 8905(d) of title 5, United States Code, is amended to read as follows:

"(d) If an employee, annuitant, or other individual eligible to enroll in a health benefits plan under this chapter has a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self and family, or each spouse may enroll as an individual. However, an individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family.".

SEC. 203. APPLICABILITY.

(a) In General.—The amendments made by this title shall apply with respect to—

(1) any calendar year beginning, and contracts entered into or renewed for any calendar year beginning, after the end of the 9-month period beginning on the date of the enactment of this Act; and

(2) any qualifying event occurring on or after the first day of the first calendar year beginning after the end of the 9-month period referred to in paragraph (1).

(b) Definition.—For the purpose of this section, the term "qualifying event" means any of the following events:

(1) A separation from Government service.

(2) A divorce, annulment, or legal separation.

(3) Any change in circumstances which causes an individual to become ineligible to be considered an unmarried dependent child under chapter 89 of such title.

AMENDMENTS OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent to offer en bloc amendments in lieu of the committee amendments printed in the bill, and further, that such amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. Ackerman: Page 14, strike lines 23 and 24 and insert the following:

"lation require)—

"(I) to the employee's employing agency; or

"(II) in the case of an annuitant, to the Office; and".

Page 15, strike lines 1 and 2 and insert the following:

"(ii) if the notice referred to in clause (i) is received within 60 days after the date as of".

Page 15, line 4, strike "carrier" and insert "employing agency or the Office (as the case may be)".

Page 16, line 22, strike "subparagraph (A)." and insert "clause (i).".

Page 19, strike lines 10 through 14.

Page 19, line 15, strike "(g)(1)" and insert "(f)(1)".

Page 20, line 12, strike "subsections (d) and (f)," and insert "subsection (d),".

The SPEAKER pro tempore. The question is on the amendment en bloc by the gentleman from New York [Mr. Ackerman].

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING IN ORDER CALL OF THE PRIVATE CALENDAR ON THURSDAY, SEPTEMBER 22, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be considered on Thursday, September 22, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR DISPLAY OF NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG IN THE CAPITAL ROTUNDA

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 9) to provide for the display of the National League of Families POW/MIA flag in the Capitol rotunda, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentleman from North Carolina for purposes of a description of the bill.

Mr. ROSE. Mr. Speaker, this resolution, Senate Concurrent Resolution 9, is identical to a resolution that was introduced in the House by 66 of our colleagues along with Mr. Solarz. The resolution expresses the sentiment of the Congress that this Nation not forget the sacrifices of our country's servicemen who are missing in action or who have suffered as prisoners of war. House Concurrent Resolution 28 introduced, as I said, by the gentleman from New York [Mr. Solarz], expresses the House's strong support for this resolution.

The families of these Americans have joined together as the National League of Families of Prisoners of War and those missing in action to further the awareness of POW/MIA issues.

The resolution authorizes the National League of Families to display a flag in the Capitol rotunda until there is a satisfactory accounting of all Vietnam POW's and MIA's.

Mr. Speaker, the Nation owes these brave and heroic service men and women no less than a continuing awareness of their fate. The Task Force on POW's and MIA's and Representative LAGOMARSINO continue to examine ways to raise the consciousness of the Nation to this issue and they all deserve great credit for their endeavors.

Mr. Speaker, I appreciate the great interest that the House has shown in this. I think the placing of a flag in the Capitol rotunda today will be a very fitting and proper reminder to all Americans that we in the Congress and we as a Nation have not forgotten the POW's and MIA's and will not forget them as long as they remain missing and unaccounted for.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the minority agrees with the description and is supportive of the bill.

Further reserving the right to object, I yield to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding.

May I first compliment and commend the leadership on the Democratic side for orchestrating the discharging of the committee of this concurrent resolution, particularly today, because there were those of us who were, earlier in the day, very privileged to participate in a ceremony on the west front of the Capitol in honor of the recognition day that we have so designated by this Congress.

In attendance, of course, were representatives of all the military forces, the Navy Band, the distinguished Members of both House and Senate, both political parties, some of whom have served in wars past, obviously, like the gentleman from Illinois, very conscious of the anguish and agony of those families still wanting to have some accounting for those who have been listed as missing in action or prisoners of war in all our wars and, more particularly, Vietnam, where it has been such a tragic occurrence.

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Mr. Speaker, I certainly support the thrust of this resolution to keep us right here in the Nation's Capital, mindful of the fact that we want to never forget, that we want to continue to persevere in getting as good an accounting as we possibly can of every last one of our soldiers, sailors, marines, and airmen who still are listed as missing in action.

Mr. Speaker, I thank the gentleman very much for yielding.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from New York [Mr. SOLARZ] who I understand has chaired a significant task force on this matter.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman very much for yielding.

As the original sponsor of this legislation in the House, I simply want to express my profound appreciation to those on both sides of the aisle, and particularly my good friend, the gentleman from North Carolina [Mr. ROSE], chairman of the subcommittee, the very distinguished minority leader, and my friend, the gentleman from Minnesota [Mr. FRENZEL] and others who have made it possible to bring this legislation up on a timely fashion this afternoon.

With this resolution, we gather to say to those missing men with one voice "you are not forgotten."

By passing this resolution, the unity on this issue, which includes Democrats and Republicans alike, will be on display every day for all to see, because between Democrats and Republicans there is no difference in patriotism and appreciation of those brave men and women who have served so nobly in our Armed Forces.

The display of this flag also honors the courage and unwavering commitment of those families still seeking word of their loved ones. They remind us daily that for some, the war in Vietnam is not over, that until our men are accounted for, the wounds of that conflict will continue to linger.

I think it is entirely fitting that we should fly the POW/MIA flag which has been developed by the National League of Families in the rotunda of the Capitol. It now flies on major Veterans holidays over the White House, over the State Department, over the Pentagon and in over 24 State capitals. It surely belongs in the rotunda of our own Capitol as well.

It is a symbolic reminder that we have not forgotten those men who are still missing in action over a decade after the end of the war in Indochina, and it will enable us to serve notice to the Vietnamese that so long as we have not received a full accounting of the fate of these men it will be difficult to actually formalize our relationship with them.

Congress, by passing this resolution, will be visibly demonstrating our determination and commitment, as representatives of the American people who time and again have expressed their deep concern on this issue, to resolve once and for all this matter of the highest national priority.

In conclusion, while I am encouraged by the recent United States-Vietnamese agreement to conduct joint surveys and excavations of crash sites in the Vietnamese countryside, I urge Hanoi to continue to accelerate progress on this issue, so we can finally put the legacy of this war behind us.

So I express my appreciation to those who have brought this resolution before us, and I urge the Members to vote in favor of the resolution when the appropriate time comes.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from California [Mr. LAGOMARSINO], who also did significant work on the same task force.

Mr. LAGOMARSINO. I thank the gentleman from Minnesota for yielding to me.

I want to congratulate him and the gentleman from North Carolina [Mr. ROSE] and also my good friend, the gentleman from New York [Mr. SOLARZ], the gentleman of the Asian Pacific Subcommittee, for his introduction of the House resolution that is the partner of the one we are considering today, if you will, but also for his interest in this issue over the many years that we have served together in the Congress and specifically for his appointment of me as chairman of the MIA/POW task force. I want to congratulate the gentleman from New York [Mr. GILMAN], who has worked very hard, as well as the gentleman from Illinois, the minority leader [Mr. MICHEL].

Mr. Speaker, I rise in strong support of this concurrent resolution which would place the POW/MIA flag of the National League of Families in the Capitol until the fullest possible accounting of American servicemen missing in Southeast Asia is achieved.

This flag will remind those of us who are in the Capitol every day as well as the tens of thosands of citizens from across the Nation and friends from around the world who visit the Capitol annually that we remain steadfast with the families and will continue our efforts to bring these brave American servicemen home. This flag will symbolize that our POW/MIA's are not forgotten.

As Secretary of Defense Carlucci reminded us earlier today on the Capitol steps during the POW/MIA Recognition Day ceremony which many of my colleagues attended, President Reagan has made the POW/MIA issue a top national priority. As chairman of the House POW/MIA task force, I fully support this priority and will continue to strongly support the worthy, positive efforts undertaken to obtain a fullest possible accounting and end the suffering of the onging POW/MIA families.

It is most fitting that on today, National POW/MIA Recognition Day, we consider this important resolution. As a cosponsor of the similar House measure, I urge my colleagues to support the placing of the POW/MIA flag in the Capitol. I very much hope that the flag's tenure in the Capitol will be a very short one.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from New York [Mr. Gilman], the author of a very similar resolution.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I am pleased to rise in support of the Senate resolution which is similar to our House Concurrent Resolution 28 introduced by the gentleman from New York [Mr. Solarz], along with Mr. Solomon and myself, urging the flag be displayed appropriately over the Capitol.

The POW/MIA flag has been flown throughout our Nation and it certainly is appropriate to fly it over the Capitol, reminding us of our continued resolution of making certain that we have a full and final accounting of the more than 2,400 who are still listed as missing in action and POW's and I want to commend our distinguished leader [Mr. Michel] for his fine remarks today at the ceremony on the Capitol steps, along with Senator Dole and along with Secretary of Defense Carlucci who raised the public's consciousness in this issue in that very beautiful ceremony held this very day, and I hope our entire Nation joins today's recognition of this issue.

We can do no less for those who have given so much for our Nation.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman form California [Mr. Dornan].

Mr. DORNAN of California. I appreciate my colleague's consideration for yielding to me.

I want to rise to thank our leadership on both sides of the aisle, and anybody who has had anything to do with bringing this resolution to the floor. I do not need a reminder about the friends of mine, at least a dozen, who have been missing in action for over 20 years, one of them 22½ years, and he was the first American to be lost in Laos and he was my best friend in the Air Force, and I am the godfather of his oldest daughter as he is of my oldest daughter. The reminder I have is when I put on a POW/MIA bracelet, but that rotunda I think is probably the most beautiful place in this beautiful Capital City with all of the power and glory that surrounds the White House, and we have had only 40 Presidents. The real capital is the building they put on the top of Jenkins Hill and at the center of that is the great rotunda where all of our great leaders lay in state, and where because of freezing cold weather our President was sworn in for his second term almost 4 years ago, and if it is cold again, where the next President, Mr. Dukakis or Mr. Bush, will be sworn in. Tourists, our constituents, people who put us there, when they enter that rotunda, usually you can hear a gasp when they look at all the beautiful paintings in there, the very treasured busts of our great forefathers and heroes, and to see that tragic flag, that black flag with that handsome symbolic face, head bowed because of the tragedy of the issue, not because the spirit of any fighting man that may be alive today is yet broken, the 400 boxes of our heroes' bones in some couple of warehouses somewhere in Hanoi or the outskirts thereof, someday those remains of our heroes will come home. I am losing hope fast, fast, very fast, that we will ever bring home alive an American, and I think it is time to admit it.

Fifteen or sixteen years is a hell of a long time, but I appreciate that this Congress has not forgotten our men and that Mr. Solarz and our colleagues on the task force and those on both sides of the aisle will do the memorial that means so much to the families.

I know the gentleman from California [Mr. Panetta] has a bill to fly flags at every embassy in the world. That may be a bit much, but at least in the Pacific area, I know holidays like Memorial Day and Veterans Day and POW/MIA Recognition Day will fly that flag.

Mr. DREIER of California. Mr. Speaker, I rise today in support of efforts to commemorate the 92,693 American troops still missing in action since World War I. President Reagan has proclaimed September 16, 1988, as "National POW/MIA Recognition Day" in honor of these patriots. On this special day, these members of America's Armed Forces, and their families, will be remembered in services around the country.

Since coming to Congress in 1981, I have been particularly interested in the 2,393 Americans still listed as missing in Southeast Asia. For these families and their loved ones, this is a time of hope and a time of despair. I share their conviction that many of these missing Americans are alive today in Vietnam and in Laos. I also share in their grief over the long years of separation and uncertainty.

Mr. Speaker, I urge all Americans to learn about this important issue and raise their voices in support of efforts to return these brave Americans to their families and country.

Ms. SNOWE. Mr. Speaker, today we honor the Americans still unaccounted for in Southeast Asia. National POW/MIA Recognition Day is a reminder to the world that we, as a Nation, will continue to push for the fullest accounting possible of all those still missing. I am pleased to have been a cosponsor of the House bill calling for this day.

It is imperative that we thoroughly explore all information which may lead to the discovery of surviving Americans or the remains of those who died. In fact, that is the bare minimum we owe them.

While we pause today to pay special tribute to these brave Americans, we must remember them every day. Just as their families and friends have been keeping the vigil for them across the years, so must the country. It is particularly fitting that the House today approved legislation which calls for the POW/MIA flag to be displayed in the rotunda. This visual reminder will help keep them in all our thoughts.

As the sound of "Taps" echoes across the land today, it signals the end of National POW/MIA Recognition Day, but it also signals the beginning of another day in which we must continue to push for the answers that have eluded us for so long.

Mr. UPTON. Mr. Speaker, today September 16, 1988, is National POW/MIA Recognition Day. On this important occasion, I hope all Americans will take a moment to consider the plight of these brave servicemen and their families. For the loved ones of those 2,400 POW/MIA's in Vietnam and the roughly 8,000 in Korea, the pain and suffering is not over. It is a continued pain because their father, son, husband, or brother is still unaccounted for.

For Vietnam, It has been over 15 years since hundreds of Americans were returned during "Operation Homecoming." Needless to say, the ensuing slow progress since then in returning home our loved ones has been disheartening for all Americans.

Some people have said that the POW/MIA issue is a part of our history that should be forgotten. I strongly disagree.

There are few issues that have as much widespread, bipartisan support as the effort to obtain a full accounting of our POW/MIA's. From the highest levels of the administration and the State Department to members of both political parties in Congress, all of us have a common goal: Freedom for any prisoner who may still be held in Southeast Asia and justice for all the families who have worked so long to resolve the fate of our POW's and MIA's in Vietnam.

The U.S. Government has an obligation to these Americans who, after having served our country during one of the most difficult times in our history, remain missing in Indochina and Korea. We should not, we cannot and we will not forget our MIA/POW's.

Mrs. BYRON. Mr. Speaker, as you may know, today is POW/MIA Recognition Day. I would like to commend my colleague, Mr. Solarz for his efforts in introducing House Joint Resolution 453 to establish this day of commemoration, which was signed by the President on September 8, 1988.

I feel strongly that all Americans should pay tribute to those men and women who went to fight for our country and through some cruel twist of fate were taken prisoner or proclaimed missing in action. Currently 2,393 Americans are unaccounted for—lost primarily in Laos, Cambodia, and Vietnam.

We should all support efforts to find those who have not yet returned from Indochina. Over the last several years, we have seen some progress in resolving the POW-MIA issue, but we have to keep trying. Next week a joint excavation, with the U.S. Department of Defense and the Vietnamese Government, will be conducted north of Hanoi.

Hopefully through confined diligence on the part of the Department of Defense Joint Casualty Resolution Center in Hawaii and other parties involved, the United States can continue to recover those Americans lost to their families and homeland while serving our Nation.

Mr. PANETTA. Mr. Speaker, I would like to voice my support for Senate Concurrent Resolution 9, which would allow the display of the National League of Families POW/MIA flag in the Capitol Rotunda until a sufficient accounting of our men is made. Today is POW/MIA Recognition Day. This is the day designated by Congress to honor and remember those American soliders still missing and unaccounted for in Southeast Asia. On this important day I wish to bring to the attention of my colleagues a similar piece of legislation, H.R. 5226, I have introduced which attempts to remind nation's around the world of our tireless effort to locate and recover our missing soldiers. On August 11, 1988, I introduced legislation providing for the display of the National League of Families POW/MIA flag over each U.S. diplomatic or consular post until a sufficient accounting of our missing men in Indochina is made.

Our country is still suffering from the scars of Vietnam. However, for most this suffering is a memory that we tend to forget about when going about our busy lives. The stark memories of Vietnam are brought back to us at certain times, such as, a visit to the popular Vietnam memorial in Washington, DC, by movies and television shows depicting the Vietnam war, and on POW/MIA Recognition Day. However, for one group of Americans the suffering and pain of Vietnam is not just a faded memory. It is a daily pain that they must endure because their father, son, husband, or brother is missing and unaccounted for in Vietnam, Cambodia, or Laos. Over 2,000 Americans are still listed as missing in action. These families live with a constant stream of questions about the location and welfare of their loved ones.

To its credit, the administration has taken a fairly active position on the POW/MIA issue. During the dedication for the Unknown Soldier from the Vietnam War, President Reagan declared "an end to America's involvement in Vietnam cannot come to an end before we've achieved the fullest accounting of those missing in action" and again rededicated this task as a "highest national priority." Since 1982 the administration has held high level negotiations with the Governments of Vietnam and Laos. As a result of these talks, remains of some Americans the Vietnamese listed as "died in captivity" in South Vietnam have been returned. These are the first remains to be returned since the end of the war. Continued efforts are needed until all of the soldiers are accounted for.

H.R. 5226 and Senate Concurrent Resolution 9 are intended to provide a symbol to the world that we have not forgotten those brave individuals who sacrificed for our country. The flying of the National League of Families POW/MIA flag over federal buildings is not unprecedented. In fact today, POW/MIA Recognition Day, the flag flies over the White House, the Departments of State and Defense, and the Veterans' Administration. Military bases are also encouraged to fly the National League of Families POW/MIA flag today and on other appropriate days.

Strong bipartisan support for continued pursuit of the POW-MIA issue has been formed in Congress. To this end, Congress has passed legislation directing the President to secure a full accounting of Americans missing in Southeast Asia. In addition, in order to keep the issue of POW-MIA's current in the minds of the administration and the American people, Congress has passed legislation designating "POW-MIA Recognition Week." I believe that these two measures will add to the past congressional efforts.

While such measures can do little to relieve the pain for American families that have suffered the loss of a love one, I believe they represent an appropriate expression of our unending commitment to answering the MIA question. These measures which will provide a constant reminder that there are still Americans unaccounted for in Indochina and that our commitment to them remains.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I thank the gentleman from North Carolina [Mr. Rose] for his work on this Senate concurrent resolution. I hope the Senate concurrent resolution will be speedily instituted.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore (Mr. Sawyer). Is there objection to the request of the gentleman from North Carolina [Mr. Rose]?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 9

Whereas America can never forget the sacrifices of our brave servicemen who are still missing in action, nor the heroic suffering of our prisoners of war;

Whereas the families of these Americans, having suffered greatly themselves, have joined together as the National League of Families to further the awareness of POW/MIA issues;

Whereas the official National League of Families POW/MIA flag symbolizes the nationwide recognition that is justly deserved by the missing and unaccounted for servicemen of all armed conflicts; and

Whereas the POW/MIA flag is an effective means of further raising public consciousness on this key American issue: Now, therefore, be it.

Resolved by the Senate (the House of Representatives concurring), That the National League of Families POW/MIA flag may be displayed in the Capitol Rotunda until a satisfactory accounting of all Vietnam POW/MIA's has taken place. The POW/MIA flag so displayed shall be in such size and at at such place as the Architect of the Capitol, the Speaker and the Minority Leader of the United States House of Representatives, and the Majority and Minority Leaders of the United States Senate shall designate.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONGRATULATING ISRAEL AND EGYPT ON THE 10TH ANNIVERSARY OF THE CAMP DAVID ACCORDS

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 364) congratulating Israel and Egypt on the 10th anniversary of the Camp David accords, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not intend to object, but I would like to ask the gentleman to explain the resolution.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman from New York for yielding to me, and let me say at this time, Mr. Speaker, that the resolution before us simply commemorates the 10th anniversary of the Camp David accords.

Mr. Speaker, today I am bringing to the floor a resolution to congratulate Israel and Egypt on the 10th anniversary of the Camp David accords. Ten years ago this Saturday, on September 17, 1978, President Anwar Sadat and Prime Minister Menachem Begin signed the framework for peace known as the Camp David accords.

Over 40 of my colleagues from both sides of the aisle have already joined with me as original cosponsors of this resolution, and the congratulatory message conveyed in the bill is truly bipartisan.

Mr. Speaker, I hope that marking the 10th anniversary of Camp David will remind us that even in the Middle East—where war and strife have been so constant, where harmony has been so illusive, and were conserted efforts to begin negotiations have so often failed—that even in the Middle East peace is possible.

As he left the White House for the Camp David meeting on September 4, 1978, President Carter cautioned against both undue optimism and unnecessary despair.

"The greatest single factor which causes me to be encouraged," he said, "is my sure knowledge that Prime Minister Begin and President Sadat genuinely want peace. They are determined to make prgress, and so am I."

Two weeks later, the commitment of President Sadat and Prime Minster Begin produced an accord that surpassed our expectations, and stabilized the Egyptian-Israeli relationship in a way many thought impossible.

At this time of increased tension in the Middle East, it is important to remember that the courage and commitment of leaders like Menachem Begin and Anwar Sadat can overcome deep-seated doubts and even thousands of years of mistrust.

Remembering what has already been accomplished in the face of great odds allows us to have faith in what is still possible, and no questions that there is still a great deal more to do before the people of the Middle East enjoy the true blessings of peace.

Mr. Speaker, Menachem Begin and Anwar Sadat recognized that, "for peace to endure, it must involve all those who have been most deeply affected by the conflict * * * [the Camp David] framework is intended * * * to constitute a basis for peace not only between Egypt and Israel, but also between Israel and each of its other neighbors. * * *"

In keeping with that understanding, this resolution calls upon other Arab States and Palestinians to follow the example of Israel and Egypt, to join in the peace process, to renounce the state of war and acts of violence, and to enter into direct negotiations with Israel to achieve a just and lasting peace.

This resolution honors the accomplishments of Prime Minister Begin and President Sadat, but the greatest honor anyone could bestow upon them would be to continue the work they began with such courage and conviction.

I urge my colleagues to support this resolution so that we as a House can indicate our ongoing support for the Camp David accords, and the search for peace in the Middle East.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I am pleased to rise in support of the resolution now pending, to commemorate the 10th anniversary of the Camp David accords.

The Camp David accords set the stage for the peace which we hope will eventually envelope the entire Middle East Region. Far reaching courageous statesmen such as Anwar Sadat, Menachem Begin and Jimmy Carter knew that bold steps were necessary, and also they understood that only through mutual respect and contact between peoples can long-lasting peace persist. They set up the political and military mechanisms to enable such conditions to come into being.

The people of the Middle East and of the entire world are now enjoying the fruits of the labors of the framers of Camp David. The other parties to the Middle East conflict must come to understand that it is through direct negotiations, not confrontation, that further progress will be made. I hope that this resolution will remind all the leaders of the parties who were not party to the Camp David process to note the progress that has been made, the benefits for the people of the region, and will motivate them to resolve to go down the path of negotiation and away from the path of confrontation.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I want to compliment the gentleman from Pennsylvania and the ranking member for this resolution. I also want to pay tribute to President Carter. I think he rolled up his sleeves, went to Camp David, and I think he was a man of great peace; frankly, I think he deserved to have some international recognition for that work. This is his lasting legacy, I think, as President of the United States, the fact that we do have that accord.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for her remarks. Of course, it has been a bipartisan effort for several administrations, and we welcome the support of one administration after another.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Further reserving the right to object, I am pleased to yield to the gentleman from California.

Mr. DORNAN of California. The Tenth Anniversary, which is precisely tomorrow, was a stunning day in American history. I took the floor of the House to congratulate President Carter then, and 10 years later I would like to join the gentlewoman in saying that it was a stunning diplomatic accomplishment. It certainly is his lasting legacy, and I thought it was a new day in the world history, that if ever there was a difficult task, to bring together these adversaries, to see Mr. Sadat, whose brother had been shot down over the Suez Canal in one of those battles, and he told me later that was the weakest point in his life when he decided never again did he want to send his young men and troops into combat; and of course, Menachem Begin was only begging for one thing and that was recognition of the security that Israel deserved. He gave up an awful lot, the entire Sinai, self-independence on oil, the banks of the Suez Canal itself. He had achieved a stunning military victory when they were almost defeated, and then through the persistence of President Carter, these two adversaries became friends, We had one gunned down in cold blood; the other is in almost reclusive retirement because he is so hurt over Operation Freedom in Galilee. It was a glorious day when we saw that Camp David Accord signed, but the world seems to be ever yet as dangerous now, although with peace breaking out in a few places.

But President Carter taught us all one example. To quote Winston Churchill, from high school or in the darkest days of World War II, he said, "Never, never give in. In all things, never give in, in all things great or small, except in principle," and he did not. And he taught us all the lesson that peace can be achieved over insurmountable odds, and at least Egypt and Israel are still respecting that treaty.

Mr. Speaker, I thank the gentleman for bringing this to our attention.

Mr. GILMAN. Further reserving the right to object, Mr. Speaker, I thank the gentleman for his kind words of support for the resolution and for his continuing efforts in trying to bring about peace in that part of the world.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Further reserving the right to object, I am pleased to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, if the gentleman will yield to me before he relinquishes his reservation of objection, I just want to say that I remember rather distinctly the night—I think it was September 18, 1978—when President Carter came to this Chamber to address a Joint Session of the Congress, and the gentleman from New York and the gentlewoman from Ohio, with whom I was elected in 1976, will recall that Prime Minister Begin and President Sadat were both in the gallery that night. It was a very exciting and very dramatic occasion because President Carter and Prime Minister Begin and President Sadat had made a tremendous breakthrough in this centuries-old struggle in the Middle East.

And President Carter gave a dramatic and a very moving speech, and either at the beginning or at the conclusion of the address; I do not recall precisely when he introduced, pointing to the gallery first, Prime Minister Begin and then President Sadat, each of whom received a thundering, standing ovation from the House and Senate, members of the Supreme Court, the diplomatic corps, a packed Chamber. After the speech; I was then in my second term in the House; I walked out on the steps walking back to my office, and limousines were there carrying all the dignitaries away. And the Capitol itself, the most beautiful building in the country in any event, was bathed in television lights, and it was a very exciting and very dramatic time, and I was very proud to be a Member of Congress and very proud to be here to see these distinguished international leaders make this presentation.

Mr. Speaker, I thank the gentleman for yielding.

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Mr. GILMAN. Further reserving the right to object, Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. KOSTMAYER] for reminding us of that very historical event and the beauty of what was encompassed in that.

Mr. FEIGHAN. Mr. Speaker, this resolution commemorates the 10th anniversary of the Camp David accords, congratulates Israel and Egypt for a decade of peace, and calls upon the other parties in the region to join in the peace process.

The Camp David accords, signed by the leaders of Israel and Egypt, paved the way for the Egyptian-Israeli Peace Treaty. It remains a watershed event in the region and a powerful example of the possibility of peaceful, diplomatic settlement of conflict. Moreover, it remains a viable framework for the elusive peace that we all seek in the region.

The resolution recognizes the accomplishments made possible by the accords, the courage and leadership of President Sadat and Prime Minister Begin, and the U.S. role in supporting these two peace partners.

Beyond that, the resolution is a restatement of some important principles that are relevant to the peace process today:

It states that U.N. Security Council resolutions 242 and 338 remain the only internationally recognized and accepted bases for the establishment of peace between Israel and her neighbors.

It supports direct negotiations which have been the most effective approach to resolving the conflict.

And finally, it recognizes the terrible human cost that this conflict has exacted from both sides and asks that all parties follow the example of Egypt and Israel and join the peace process.

Mr. Speaker, I think that this resolution is an appropriate statement by the Congress in congratulating Israel and Egypt for a decade of peace, underscoring the importance of the Camp David accords in paving the way for that peace, and asking all parties in the region to take steps to continue that process.

Mr. FASCELL. Mr. Speaker, I rise in strong support of the resolution. I want to commend the gentleman from Pennsylvania [Mr. KOSTMAYER], the gentleman from Ohio [Mr. FEIGHAN], and Mr. BROOMFIELD, the ranking member, Mr. GILMAN, and all the other members for their leadership on this issue.

Mr. Speaker, September 17, marks the 10th anniversary of the extraordinary summit held at Camp David between President Carter, President of Egypt Anwar Sadat, and then Israeli Prime Minister Menachem Begin, in which the historic Camp David accords establishing the framework for the Israel-Egypt Peace Treaty. That summit demonstrated remarkable leadership and statesmanship on the part of all three leaders, who made essential compromises that enabled two traditional antagonists to put their fundamental differences aside and establish a remarkable peace which has held together in the volatile Middle East to this day.

The resolution before us recalls that remarkable Camp David agreement on its 10th anniversary. The agreement remains the backbone and best hope for any comprehensive settlement in the region, which has so far eluded us. It is my hope that this commemoration of the Camp David accords will lead up to redouble our efforts to bring about a comprehensive peace in the Middle East, a peace which is the ultimate guarantee of Israel's security and that of her Arab neighbors.

I urge support of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I strongly support the resolution before us today and wish to commend the authors of the resolution for their fine work. The signing of the Camp David accords not only provided a landmark in diplomatic history, but also demonstrated how a lasting peace can be achieved in that troubled area. As an original cosponsor of this resolution, I support the continuation of the spirit of the Camp David accords.

That great event serves as an example of true leadership. President Sadat's decision to fly to Jerusalem was both courageous and wise. It was courageous because Sadat knew that he would be bitterly opposed by critics in the region and critics at home. It was wise because he knew that he could never build up his own nation if he was forced to expend so much energy trying to tear his neighbor down.

Prime Minister Begin's willingness to return the entire Sinai Peninsula to Egypt demonstrates that peace can best be negotiated with Israel not with a raised fist but with an extended hand. Those who believe that Israel will be brought to its knees through violence within its own borders simply underestimate that nation's ability to stand up to any challenge.

The accords point the way to a just and lasting peace in the area. The lesson is that such a peace will come only when Israel's neighbors are willing to sit down at the bargaining table and negotiate directly with Israel.

No nation can deflect Israel from following a course of diplomacy that puts its own continued existence first and last. To believe they can is to misread the character of Israel's leadership and the consistency of America's commitment to Israel's security.

This anniversary is a good time to stress to Israel's neighbors and other nations around the world just how deep and lasting is America's commitment to Israel's existence and to its prosperity.

That commitment is based on a shared culture and long-standing ties of friendship. Forty years ago, Israel declared its independence. Within minutes, the United States extended its formal diplomatic recognition, and more importantly, its friendship.

Our commitment to Israel is also based on a clear-eyed understanding of Israel's strategic importance in the region. Ronald Reagan said it well in 1979. "Israel's strength," he wrote, "derives from the reality that her affinity with the West is not dependent on the survival of an autocratic or capricious ruler. Israel has the democratic will, national cohesion, technological capacity, and military fiber to stand forth as America's trusted ally."

In the last 8 years those sentiments have been written into policy. New arrangements in the political, military, and economic areas have strengthened the fabric of our relationship. Those who believe that events will serve to unravel that fabric simply do not understand how close our two nations have become.

We believe that a consistent policy of support for Israel is the surest path to peace in the Middle East. And we look for a comprehensive peace, one that ensures the security of all states in the area, that satisfies the legitimate rights of the Palestinian people, and that is achieved only through direct negotiations between Israel and the Arab nations.

The stability of the Middle East is important to world peace because of the unique geographical position of the region at the crossroads of Western and Soviet influence. The greater the instability and conflict in the area, the more likely the involvement of the superpowers.

The problems in the region cannot be allowed to fester. Increasing violence and escalating military tensions make it all the more important to solve the area's problems sooner rather than later.

The road to peace in the Middle East has been traveled by two of its greatest leaders: Anwar Sadat and Menachem Begin. Those who would follow the example of their courage, flexibility and wisdom can end the cycles of war and suffering that have plagued the region for so many years.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 364

Whereas September 17, 1988, marks the tenth anniversary of the signing of the Camp David Accords between Israel and Egypt;

Whereas those Accords provided a framework for peace between Israel and Egypt that stands as a landmark, ending a generation of war and violence;

Whereas the Accords have proven to be an enduring achievement, furthering the interests of peace and stability in a volatile region of the world;

Whereas the Accords were made possible through the courage of Egyptian President Anwar al-Sadat, who was willing to travel to Jerusalem; through the flexibility of Israeli Prime Minister Menachem Begin, who was willing to propose the return of the entire Sinai Peninsula, an oil-rich area twice the size of Israel; and through the diligence and persistence of President Jimmy Carter, who brought the two men together at Camp David;

Whereas the Camp David Accords are based on United Nations Security Council Resolutions 242 and 338, the only internationally recognized and accepted bases for the establishment of peace between Israel and its Arab neighbors;

Whereas the United States Government has proudly supported the participants of this historic agreement, Israel and Egypt, throughout this decade of peace between them;

Whereas direct bilateral negotiations, such as those which resulted in the Camp David Accords, have been the most effective approach to resolving the Arab-Israeli conflict;

Whereas the other parties to the conflict have been unwilling to enter into direct bilateral negotiations but continue to maintain a state of war against Israel; and

Whereas the perpetuation of the conflict has exacted a terrible cost in human lives and human suffering for both Israelis and Arabs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates Israel and Egypt for a decade of peace based on the Camp David Accords; and

(2) calls upon the Arab states and Palestinians to follow the example of Israel and Egypt, to join in the peace process, to re-

nounce the state of war and acts of violence, and to enter into direct negotiations with Israel to achieve a just and lasting peace.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ALTERNATIVE MOTOR FUELS ACT OF 1988

Mr. SHARP submitted the following conference report and statement on the Senate bill (S. 1518) to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-929)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House bill (S. 1518) to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alternative Motor Fuels Act of 1988".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(3) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(4) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum-based fuels;

(5) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline and diesel fuel;

(6) the production and use as transportation fuels of ethanol, methanol made from natural gas or biomass, and compressed natural gas have been estimated in some studies to release less carbon dioxide than comparable quantities of petroleum-based fuel;

(7) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum-based fuel;

(8) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

(9) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes; necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from a coal-to-methanol industry.

SEC. 3. PURPOSE.

The purpose of this Act is to encourage—

(1) the development and widespread use of methanol, ethanol, and natural gas as transportation fuels by consumers; and

(2) the production of methanol, ethanol, and natural gas powered motor vehicles.

SEC. 4. AMENDMENT OF ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT.—Title III of the Energy Policy and Conservation Act is amended by adding at the end the following new part:

"PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

"SEC. 400AA. ALTERNATIVE FUEL USE BY LIGHT DUTY FEDERAL VEHICLES.

"(a) DEPARTMENT OF ENERGY PROGRAM.—(1) Beginning in the fiscal year ending September 30, 1990, the Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with other Federal law, that the maximum number practicable of the passenger automobiles and light duty trucks acquired annually for use by the Federal Government shall be alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles.

"(2) In any determination of whether the acquisition of a vehicle is practicable under paragraph (1), the initial cost of such vehicle to the United States shall not be considered as a factor unless the initial cost of such vehicle exceeds the initial cost of a comparable gasoline or diesel fueled vehicle by at least 5 percent.

"(3) The Secretary shall, to the extent practicable and consistent with this part, ensure that the number of dual energy vehicles acquired under this subsection is at least as great as the number of alcohol powered vehicles acquired under this subsection, and that the number of natural gas dual energy vehicles acquired under this subsection is at least as great as the number of natural gas powered vehicles acquired under this subsection. To the extent practicable, both vehicles capable of operating on alcohol and vehicles capable of operating on natural gas shall be acquired in carrying out this subsection, and such vehicles shall be supplied by original equipment manufacturers.

"(b) STUDIES.—(1)(A) The Secretary, in cooperation with the Environmental Protection Agency and the National Highway Traffic Safety Administration, shall conduct a study of the vehicles acquired under subsection (a), which shall at a minimum address—

"(i) the performance of such vehicles, including performance in cold weather and at high altitude;

"(ii) the fuel economy, safety, and emissions of such vehicles; and

"(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger automobiles and light duty trucks.

"(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within one year after the first such vehicles are acquired, and annually thereafter.

"(2)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of vehicles acquired under subsection (a) and any problems of such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge, without compromising studies of the use of such vehicles authorized under this part.

"(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within 12 months after funds are appropriated for carrying out this section.

"(c) AVAILABILITY TO THE PUBLIC.—To the extent practicable, at locations where vehicles acquired under subsection (a) are supplied with alcohol or natural gas, alcohol or natural gas shall be offered for sale to the public. The head of the Federal agency responsible for such a location shall consider whether such sale is practicable, taking into account, among other factors—

"(1) whether alcohol or natural gas is commercially available for vehicles in the vicinity of such location;

"(2) security and safety considerations;

"(3) whether such sale is in accordance with applicable local, State, and Federal law;

"(4) the ease with which the public can access such location; and

"(5) the cost to the United States of such sale.

"(d) FEDERAL AGENCY USE OF DEMONSTRATION VEHICLES.—(1) Upon the request of the head of any agency of the Federal Government, the Secretary shall ensure that such Federal agency be provided with vehicles acquired under subsection (a) to the maximum extent practicable.

"(2)(A) Funds appropriated under this section for the acquisition of vehicles under subsection (a) shall be applicable only to the portion of the cost of vehicles acquired under subsection (a) which exceeds the cost of comparable gasoline or diesel fueled vehicles.

"(B) The Secretary shall ensure that the cost to any Federal agency receiving a vehicle under paragraph (1) shall not exceed the cost to such agency of a comparable gasoline or diesel fueled vehicle.

"(3) Only one-half of the vehicles acquired under this section by an agency of the Feder-

al Government shall be counted against any limitation under law, Executive order, or executive or agency policy on the number of vehicles which may be acquired by such agency.

"(4) Any Federal agency receiving a vehicle under paragraph (1) shall cooperate with studies undertaken by the Secretary under subsection (b).

"(e) DETAIL OF PERSONNEL.—Upon the request of the Secretary, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Department of Energy to assist the Secretary in carrying out the Secretary's duties under this section.

"(f) EXEMPTIONS.—(1) Vehicles acquired under this section shall not be counted in any calculation of the average fuel economy of the fleet of passenger automobiles acquired in a fiscal year by the United States.

"(2) The incremental cost of vehicles acquired under this section over the cost of comparable gasoline or diesel fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

"(g) DEFINITIONS.—For purposes of this part—

"(1) the term 'acquired' means leased for a period of sixty continuous days or more, or purchased;

"(2) the term 'alcohol' means a mixture containing 85 percent or more by volume methanol, ethanol, or other alcohols, in any combination;

"(3) the term 'alcohol powered vehicle' means a vehicle designed to operate exclusively on alcohol;

"(4) the term 'dual energy vehicle' means a vehicle which is capable of operating on alcohol and on gasoline or diesel fuel;

"(5) the term 'natural gas dual energy vehicle' means a vehicle which is capable of operating on natural gas and on gasoline or diesel fuel; and

"(6) the term 'natural gas powered vehicle' means a vehicle designed to operate exclusively on natural gas.

"(i) FUNDING.—(1) For the purposes of this section, there are authorized to be appropriated for the fiscal year ending September 30, 1990, $5,000,000, for the fiscal year ending September 30, 1991, $3,000,000, for the fiscal year ending September 30, 1992, $2,000,000, and for the fiscal year ending September 30, 1993, $2,000,000.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 400BB. ALTERNATIVE FUELS TRUCK COMMERCIAL APPLICATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in cooperation with manufacturers of heavy duty engines and with other Federal agencies, shall establish a commercial application program to study the use of alcohol and natural gas in heavy duty trucks and, if appropriate, other heavy duty applications.

"(b) FUNDING.—(1) There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of $2,000,000 for alcohol powered vehicles and dual energy vehicles, and a total of $2,000,000 for natural gas powered vehicles and natural gas dual energy vehicles, to carry out the purposes of this section.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 400CC. ALTERNATIVE FUELS BUS PROGRAM.

"(a) TESTING.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Administrator of the National Highway Traffic Safety Administration, shall, beginning in the fiscal year ending September 30, 1990, assist State and local government agencies in the testing in urban settings of buses capable of operating on alcohol and buses capable of operating on natural gas for the emissions levels, durability, safety, and fuel economy of such buses, comparing the different types with each other and with diesel powered buses, as such buses will be required to operate under Federal safety and environmental standards applicable to such buses for the model year 1991. To the extent practicable, testing assisted under this section shall apply to both buses capable of operating on alcohol and buses capable of operating on natural gas.

"(b) FUNDING.—There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of $2,000,000 to carry out the purposes of this section.

"(c) DEFINITION.—For purposes of this section, the term 'bus' means a vehicle which is designed to transport 30 individuals or more.

"SEC. 400DD. INTERAGENCY COMMISSION ON ALTERNATIVE MOTOR FUELS.

"(a) ESTABLISHMENT.—There is established a Commission to be known as the Interagency Commission on Alternative Motor Fuels.

"(b) MEMBERSHIP.—The Commission shall be composed of members as follows:

"(1) the Secretary of Energy, or the designee of the Secretary, who shall be the chairperson of the Commission;

"(2) the Secretary of Defense or the designee of such Secretary;

"(3) the Administrator of the Environmental Protection Agency or the designee of such Administrator;

"(4) the Secretary of Transportation or the designee of such Secretary;

"(5) the Postmaster General or the designee of the Postmaster General;

"(6) the Administrator of the General Services Administration or the designee of such Administrator;

"(7) the Administrator of the Occupational Safety and Health Administration or the designee of such Administrator; and

"(8) such other officers and employees of the Federal Government as may be appointed to the Commission by the President.

"(c) OPERATIONS.—(1) The Commission shall meet regularly as necessary to carry out the purposes of this section. Meetings shall be at the call of the chairperson of the Commission. The Commission shall meet to consider any report of the Commission before such report is submitted to the Congress.

"(2) The Secretary shall provide the Commission with such staff and office facilities as the Secretary, following consultation with the Commission, considers necessary to permit the Commission to carry out its functions under this section.

"(3) Subject to applicable law, all expenses of the Commission shall be paid from funds available to the Secretary, except that salaries of Commission members shall be paid by their home agencies.

"(d) FUNCTIONS.—(1) The Commission shall coordinate Federal agency efforts to develop and implement a national alternative motor fuels policy.

"(2) The Commission shall ensure the development of a long-term plan for the commercialization of alcohols, natural gas, and other potential alternative motor fuels.

"(3) The Commission shall ensure communication among representatives of all Federal agencies that are involved in alternative motor fuels projects or that have an interest in such projects.

"(4) The Commission shall provide for the exchange of information among persons working with, or interested in working with, the commercialization of alternative motor fuels.

"(e) UNITED STATES ALTERNATIVE FUELS COUNCIL.—(1) The chairperson of the Commission shall, consistent with the Federal Advisory Committee Act, establish a United States Alternative Fuels Council to report to the Commission about matters related to alternative motor fuels.

"(2) The Council shall be composed of members as follows:

"(A) one Member of the House of Representatives appointed by the Speaker of the House of Representatives;

"(B) one Member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

"(C) one Member of the Senate appointed by the Majority Leader of the Senate;

"(D) one Member of the Senate appointed by the Minority Leader of the Senate; and

"(E) 16 persons from the private sector or from State or local government who are knowledgeable about alternative motor fuels and their possible uses and the production of alternative motor fuels and vehicles powered by such fuels, to be appointed by the chairperson of the Commission.

"(3) The Council shall meet at the call of the chairperson of the Commission.

"(f) DETAIL OF FEDERAL PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

"(g) REPORTS.—(1) The Commission shall, not later than September 30 of each of the years 1990 and 1991, submit an interim report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, setting forth the actions taken by the Commission under this section.

"(2) The Commission shall, not later than September 30, 1992, submit a final report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, setting forth the actions taken by the Commission under this section.

"(h) TERMINATION.—The Commission and the Council shall terminate upon submission of the final report of the Commission under subsection (g)(2).

"(i) DEFINITIONS.—For purposes of this section—

"(1) the term 'Commission' means the Interagency Commission on Alternative Motor Fuels established in subsection (a); and

"(2) the term 'Council' means the United States Alternative Fuels Council established under subsection (e)(1).

"SEC. 400EE. STUDIES AND REPORTS.

"(a) METHANOL STUDY.—(1) The Secretary shall study methanol plants, including the costs and practicability of such plants, that are—

"(A) capable of utilizing current domestic supplies of unutilized natural gas;

"(B) relocatable; or

"(C) suitable for natural gas to methanol conversion by natural gas distribution companies.

"(2) For purposes of this subsection, the term 'unutilized natural gas' means gas that is available in small remote fields and cannot be economically transported to natural gas pipelines, or gas the quality of which is so poor that extensive and uneconomic pretreatment is required prior to its introduction into the natural gas distribution system.

"(3) The Secretary shall submit a report under this subsection to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, no later than September 30, 1990.

"(b) INDEPENDENT ENVIRONMENTAL STUDY.—(1) The Administrator of the Environmental Protection Agency shall submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, in December of 1990, and once every two years thereafter, a report which includes—

"(A) a comprehensive analysis of the air quality, global climate change, and other positive and negative environmental impacts, if any, including fuel displacement effects, associated with the production, storage, distribution, and use of all alternative motor vehicle fuels under the Alternative Motor Fuels Act of 1988, as compared to gasoline and diesel fuels; and

"(B) an extended reasonable forecast of the change, if any, in air quality, global climate change, and other environmental effects of producing, storing, distributing, and using alternative motor vehicle fuels, utilizing such reasonable energy security, policy, economic, and other scenarios as may be appropriate.

"(2) In carrying out the study under this subsection, the Administrator of the Environmental Protection Agency shall consult with the Secretaries of Energy and Transportation. Nothing in this paragraph shall be construed to require such Administrator to obtain the approval of the Secretary of Energy or the Secretary of Transportation for any actions taken under this subsection.

"(3) There are authorized to be appropriated to carry out the purposes of this subsection $500,000.

"(c) PUBLIC PARTICIPATION.—Adequate opportunity shall be provided for public comment on the reports required by this section before they are submitted to the Congress, and a summary of such comments shall be attached to such reports.".

(b) CESSATION OF EFFECT.—This section, and the amendments made by this section, shall cease to be effective after September 30, 1997.

SEC. 5. USE OF NONSTANDARD FUELS.

No guaranty or warranty with respect to any passenger automobile or light-duty truck acquired by the United States after October 1, 1989, shall be voided or reduced in effect by reason of the operation of such vehicle with any fuel for which a currently effective waiver, which includes a limitation regarding Reid vapor pressure with respect to such fuel, has been issued by the Administrator of the Environmental Protection Agency under section 211(f) of the Clean Air Act (42 U.S.C. 7545(f)).

SEC. 6. AMENDMENT OF THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT.

(a) FUEL ECONOMY OF ALTERNATIVE FUEL AUTOMOBILES.—Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end the following new section:

"MANUFACTURING INCENTIVES FOR AUTOMOBILES

"SEC. 513. (a) ALCOHOL POWERED AUTOMOBILE.—If a manufacturer manufactures any model type of alcohol powered automobile, the fuel economy measured for that model type shall be based on the fuel content of the alcohol used to operate such automobile. For purposes of this section, a gallon of alcohol used to operate such automobile shall be considered to contain 15 one-hundredths of a gallon of fuel.

"(b) DUAL ENERGY AUTOMOBILE.—If a manufacturer manufactures any model type of dual energy automobile, the fuel economy measured for that model type shall be measured by the EPA Administrator by dividing 1.0 by the sum of—

"(1) 0.5 divided by the fuel economy as measured under section 503(d) while operating such model type on gasoline or diesel fuel; and

"(2) 0.5 divided by the fuel economy as measured under subsection (a) of this section while operating such model type on alcohol.

"(c) NATURAL GAS POWERED AUTOMOBILE.—If a manufacturer manufactures any model type of natural gas powered automobile, the fuel economy measured for that model type shall be based on the fuel content of the natural gas used to operate such automobile. For purposes of this section, 100 cubic feet of natural gas shall be considered to contain 0.823 gallon equivalent of natural gas, and a gallon equivalent of natural gas shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.

"(d) NATURAL GAS DUAL ENERGY AUTOMOBILE.—If a manufacturer manufactures any model type of natural gas dual energy automobile, the fuel economy measured for that model type shall be measured by the EPA Administrator by dividing 1.0 by the sum of—

"(1) 0.5 divided by the fuel economy as measured under section 503(d) while operating such model type on gasoline or diesel fuel; and

"(2) 0.5 divided by the fuel economy as measured under subsection (c) of this section while operating such model type on natural gas.

"(e) FUEL ECONOMY CALCULATION.—The EPA Administrator shall calculate, subject to the provisions of this section, the manufacturer's average fuel economy under section 503(a) (1) and (2) by including as the denominator of the term for each model type of alcohol powered automobile, dual energy automobile, natural gas powered automobile, or natural gas dual energy automobile, the fuel economy measured pursuant to subsections (a) through (d) of this section.

"(f) APPLICABILITY.—

"(1) Except as otherwise provided in this subsection, subsections (b) and (d) shall apply only to automobiles manufactured in model year 1993 through model year 2004. Subsections (a) and (c) shall apply only to automobiles manufactured after model year 1992.

"(2)(A) Not later than September 30, 2000, the Secretary, in consultation with the Secretary of Energy and the EPA Administrator, shall complete and submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report containing the results of a study of the success of the policy contained in subsections (b) and (d), along with preliminary conclusions as to whether the application of such subsections should be extended for up to four additional model years. Such study and conclusions shall be prepared taking into consideration—

"(i) the availability to the public of alcohol powered automobiles, natural gas powered automobiles, and alternative fuels;

"(ii) energy conservation and security;

"(iii) environmental considerations; and

"(iv) other relevant factors.

"(B) The Secretary shall—

"(i) promulgate a rule to extend the applicability of subsections (b) and (d) for 4 or fewer consecutive model years immediately after model year 2004; or

"(ii) publish a notice explaining the reasons for not promulgating such rule. Such rule or notice shall be promulgated before January 1, 2002.

Any such promulgated rule shall explain the basis on which any such extension has been granted.

"(g) MAXIMUM INCREASE.—

"(1)(A) For each of the model years 1993 through 2004, for each category of automobiles the maximum increase in average fuel economy for a manufacturer attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.2 miles per gallon.

"(B) If the application of subsections (b) and (d) is extended under subsection (f)(2), for each category of automobiles the maximum increase in average fuel economy for a manufacturer for each of the model years 2005 through 2008 attributable to dual energy automobiles and natural gas dual energy automobiles shall be 0.9 mile per gallon.

"(C) For purposes of applying subparagraph (A) or (B), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a) (1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in subparagraph (A) is more than 1.2 miles per gallon, the limitation in subparagraph (A) shall apply, and if the increase attributable to such automobiles for any model year described in subparagraph (B) is more than 0.9 mile per gallon, the limitation in subparagraph (B) shall apply.

"(2)(A) Notwithstanding any other provision of this section, if the Secretary reduces the average fuel economy standard applicable to passenger automobiles for any model year below 27.5 miles per gallon, any increase in average fuel economy for passenger automobiles of more than 0.7 mile per gallon to which a manufacturer of dual energy passenger automobiles or natural gas *dual energy passenger automobiles would otherwise be entitled in that year under this section shall be reduced by an amount equal to the amount of such reduction in the standard, except that such increase shall not be reduced to less than 0.7 mile per gallon.*

"(B) In carrying out section 502 (a)(4) and (f), the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.

"(h) DEFINITIONS.—(1) For purposes of this title—

"(A) the term 'alcohol' means a mixture containing 85 percent or more by volume methanol, ethanol, or other alcohols, in any combination;

"(B) the term 'alcohol powered automobile' means an automobile designed to operate exclusively on alcohol;

"(C) the term 'dual energy automobile' means an automobile—

"(i) which is capable of operating on alcohol and on gasoline or diesel fuel;

"(ii) which provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operating on alcohol as it does while operating on gasoline or diesel fuel;

"(iii) which, for model years 1993 through 1995, and, if the Administrator of the Environmental Protection Agency determines that an extension of this clause is warranted, for an additional period ending not later than the end of the last model year for which section 513 (b) and (d) applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operating on a mixture of alcohol and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as it does while operating on gasoline or diesel fuel; and

"(iv) which, in the case of passenger automobiles, meets or exceeds the minimum driving range established pursuant to paragraph (2);

"(D) the term 'natural gas dual energy automobile' means an automobile—

"(i) which is capable of operating on natural gas and on gasoline or diesel fuel;

"(ii) which provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operating on natural gas as it does while operating on gasoline or diesel fuel; and

"(iii) which, in the case of passenger automobiles, meets or exceeds the minimum driving range established pursuant to paragraph (2); and

"(E) the term 'natural gas powered automobile' means an automobile designed to operate exclusively on natural gas.

"(2)(A) For purposes of the definitions in paragraph (1) (C) and (D), the Secretary shall, within 18 months after the date of enactment of this section, establish by rule of general applicability for all manufacturers a minimum driving range which must be met by dual energy automobiles when operating on alcohol, and by natural gas dual energy automobiles when operating on natural gas, if such automobiles are to be considered dual energy automobiles or natural gas dual energy automobiles under this section. Subject to the provisions of this paragraph, the rule may be amended from time to time. Any determination of whether dual energy automobiles or natural gas dual energy automobiles meet the minimum driving range requirement under this paragraph shall be based on the combined EPA city/highway fuel economy as determined for average fuel economy purposes for such automobiles. The rule issued under this subparagraph shall apply only to dual energy automobiles and natural gas dual energy automobiles that are passenger automobiles.

"(B)(i) The general rule established under subparagraph (A) shall allow the Secretary to determine that a specific model type or types may have a lower range than that established by the general rule, and shall allow a manufacturer to petition for a specific model type or types to have a lower range than that established by the general rule.

"(ii) If, with respect to dual energy automobiles, the Secretary establishes under subparagraph (A) 200 miles as the generally applicable minimum driving range under this paragraph, clause (i) shall not apply to dual energy automobiles.

"(C) Under no circumstances shall the general rule established under subparagraph (A) establish a minimum driving range of less than 200 miles for dual energy automobiles, nor shall the Secretary approve under the procedure referred to in subparagraph (B) a minimum driving range of less than 200 miles for dual energy automobiles.

"(D) In establishing the general rule under subparagraph (A), and in taking any action under the procedure referred to in subparagraph (B), the Secretary shall take into account the purposes of the Alternative Motor Fuels Act of 1988, consumer acceptability, economic practicability, technology, environmental impact, safety, driveability, performance, and any other factors the Secretary considers relevant.".

(b) DEFINITION OF AUTOMOBILE.—Section 501(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(1)) is amended by inserting ", or by alcohol or natural gas," after "fuel" the first time it appears.

(c) CONFORMING AMENDMENT.—Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended by adding at the end the following: "For purposes of this subsection, the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.".

SEC. 7. ELECTRIC VEHICLES.

(a) STUDY.—The Secretary of Transportation, in consultation with the Secretary of Energy, shall conduct a comprehensive study and investigation regarding whether regulations in effect on the date of enactment of this Act should be amended or additional regulations should be promulgated to stimulate the production and introduction of electric vehicles into commerce. The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall include as part of the comprehensive study, information regarding the effect of electric vehicles on air quality. Such study shall also consider the feasibility and desirability of regulations to stimulate the production and introduction of solar powered vehicles into commerce. The Secretary of Transportation shall transmit the results of such study to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than one year after the date of enactment of this Act.

(b) REGULATIONS.—If, as a result of the study conducted under subsection (a), the Secretary of Transportation, the Secretary of Energy, or the Administrator of the Environmental Protection Agency determines that regulations under their respective jurisdictions should be amended, or that additional regulations should be promulgated, such Secretary or Administrator shall, if so authorized, commence a rulemaking proceeding for such purpose.

SEC. 8. AUTOMOBILE LABELING.

(a) AMENDMENTS.—(1) Section 506(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of alcohol powered automobiles or natural gas powered automobiles, the fuel economy of such automobiles for purposes of paragraph (1)(A)(i) shall be the fuel economy for such automobiles when operated on alcohol or natural gas, as the case may be, measured under section 513(a) or (c), multiplied by 0.15.

"(B) In the case of dual energy automobiles or natural gas dual energy automobiles, each label required under paragraph (1) shall—

"(i) indicate the fuel economy of such automobile when operated on gasoline or diesel fuel;

"(ii) clearly identify such automobile as a dual energy automobile or natural gas dual energy automobile, as the case may be;

"(iii) clearly identify the fuels on which such automobile may be operated; and

"(iv) contain a statement informing the consumer that the additional information required by subsection (b)(3) is published and distributed by the Department of Energy.".

(2) Section 506(b) of such Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new paragraph:

"(3)(A) In the case of dual energy automobiles and natural gas dual energy automobiles, additional information shall be contained in the booklet published under paragraph (1) indicating—

"(i) the energy efficiency and cost of operation of such automobiles when operated on gasoline or diesel fuel as compared to such automobiles when operated on alcohol or natural gas, as the case may be; and

"(ii) the driving range of such automobiles when operated on gasoline or diesel fuel as compared to such automobiles when operated on alcohol or natural gas, as the case may be.

"(B) In the case of dual energy automobiles, the booklet published under paragraph (1) shall also contain—

"(i) information regarding the miles per gallon achieved by such automobiles when operated on alcohol; and

"(ii) a statement of explanation of how the information made available pursuant to this paragraph can be expected to change when such automobile is operated on mixtures of alcohol and gasoline or diesel fuel.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply with respect to any model year, as such term is defined in section 501(12) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(12)), before model year 1993.

SEC. 9. STUDY ON RESIDENTIAL ENERGY PRICING.

The Secretary of Energy, in consultation with the Secretary of Transportation, shall *study and report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than December 1, 1989, on whether calculating the average fuel economy of vehicles as provided in this Act and the amendments made by this Act is likely to result in a significant increase in the average price of home heating to residential consumers. Such report shall be updated and submitted to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than December 1, 1994.*

And the House agree to the same.
Amend the title to read as follows:

An Act to encourage the development and use of alternative motor fuels.

John D. Dingell,
Philip R. Sharp,
Terry L. Brace,
Norman F. Lent,
Carlos J. Moorhead,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:

Fritz Hollings,
Albert Gore, Jr.
John D. Rockefeller,
John C. Danforth,
John McCain,

From the Committee on Governmental Affairs:

John Glenn,
Carl Levin,
William V. Roth, Jr.
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1518) to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The objective of both the House and Senate bills is to facilitate the development and use of alternative fuels in the United States for purposes of energy security and air quality improvement, while being mindful of various other economic, safety, energy conservation, and environmental concerns possibly associated with such fuels. The Senate bill sought to achieve that objective by providing manufacturing incentives for cars and trucks through amendments to the fuel economy program under the Motor Vehicle Information and Cost Savings Act. The House amendment established a new program providing for such incentives without amending the Cost Savings Act and provided a new program of commercial application of alternatives under the Energy Policy and Conservation Act. The Conference agreement combines the incentive approach and the commercial application program approach.

SECTION 1—SHORT TITLE

The short title of this Act may be cited as the "Alternative Motor Fuels Act of 1988."

SECTION 2—FINDINGS

The Conference agreement combines, with modification, the findings of the House and Senate, many of which were quite similar. It also includes several Senate findings that discuss potential global environmental impacts.

SECTION 3—PURPOSE

The Conference agreement adopts a modified version of the House and Senate purposes, stating that the purpose of the new law is to encourage the development and widespread use of methanol, ethanol, and natural gas as transportation fuels by consumers and the production of new motor vehicles powered by these three alternative fuels. The Conferees stress that the legislation gives no preference to any of these fuels.

SECTION 4—AMENDMENTS TO ENERGY POLICY AND CONSERVATION ACT

The House bill amended the Energy Policy and Conservation Act to establish commercial demonstrations of alternative fueled cars, trucks, and buses, to establish an Interagency Commission on Alternative Fuels, and to require certain methanol and environmental studies. The Senate had no similar provision.

The Conference agreement adopts the House proposal with a number of modifications.

The new Section 400AA encourages the demonstration and use of alternative fuels by commercially viable light duty federal vehicles. The section authorizes for this purpose not more than $12 million starting in fiscal year 1990. The program would be administered by the Secretary of Energy. The Conferees intend that these funds be used to:

Allow auto manufacturers a consumer test of alternative fuel automobiles prior to their general sale to the public; and

Establish the government's leadership and support for the devleopment of vehicles capable of running on alternative fuels.

The program will be carried out in a manner consistent with Federal procurement statutes. The bill supplements those statutes.

In agreeing to this program, the Conferees stress that the objective is to commercialize existing alternative fuel technology and to improve upon that technology. For that reason, while the normal Federal purchase system will be utilized, it is recognized that some experimentation is warranted, just as was done a few years ago by the Department of Transportation and the General Service Administration in the acquisition of air bag equipped vehicles. A DOE Federal Register notice in regard to alternative fuel vehicles suggested that the criteria in regard to such purchases should be extremely restrictive. Those criteria appear unreasonably limited and could jeopardize the success of the program.

Given the purposes of this program, in planning for the disposal of these automobiles, the need to retain them long enough to obtain sufficient information about their performance should be a primary consideration.

The Conferees intend to encourage wide domestic participation in the production of various models of light duty vehicles capable of operating on alternative fuels and the development of information on such vehicles. Encouraging wide participation by manufacturers in the program will help them gain experience and refine technology.

Section 400BB authorizes a total of $4 million starting in fiscal year 1990 to promote the use of althernative fuels in heavy duty truck applications. The Conferees intend the Department of Energy to use these funds to demonstrate the use of alternative fuels in commercially viable truck engines. The Conferees expect that several engine manufacturers will participate in these demonstrations and that the demonstrations will, to the extent practicable, be conducted under actual commercial operating conditions. Moreover, subject to applicable law including that regarding trade secrets, all results from the project are to be transferred to the public domain. This should help assure that all engine manufacturers and commercial vehicle consumers, whether they participate in the demonstrations or not, will benefit. The Conferees intend this application program to include testing and evaluation of alternative fueled vehicles and to be conducted, at least in part, in commercial fleet applications. The Conferees recognize the need for input of commercial vehicle fleets and operators in evaluating the applicability, performance, costs and benefits, durability and safety of alternative fuels and alternative fueled vehicles in commercial fleet applications.

Section 400CC encourages the use of alternative fuels by urban transit buses. The section authorizes for this purpose a total of $2 million starting in fiscal year 1990. The Department of Energy, in cooperation with the Environmental Protection Agency and the National Highway Traffic Safety Administration, is to use these funds to participate as partners in existing alcohol and natural gas powered bus demonstration programs conducted by state or local government agencies. In addition, the Federal agencies should, to the maximum extent practicable, assure that the results of such programs be recorded in a data base that will allow access to emissions and operating data on alcohol and natural gas powered buses designed to meet 1991 safety and environmental standards. The Conferees intend the data base to be a source for government agencies exploring their options for meeting air quality standards and operating and cost requirements.

Section 400DD established the Interagency Commission on Alternative Motor Fuels. This Commission is to coordinate Federal agency efforts to develop a national alternative motor fuels policy including all federal alternative transportation fuel initiatives. The Conferees intend that, as part of its coordination efforts, the Commission ensure the following issues be studied:

(1) the need for and benefits from the use of alternative motor fuels in the United States;

(2) the economics of significant, near-term alternative motor fuels use, including costs of vehicle production, fuel production, and development of a fuel distribution infrastructure;

(3) environmental consequences of the use of alternative motor fuels;

(4) energy security consequences of the use of alternative motor fuels, including any impact on production and pricing decisions by oil-producing countries;

(5) health and safety consequences of the use of alternative fuels;

(6) benefits to the military from the availability of alternative motor fuels under both peace time and war time conditions;

(7) alternative motor fuels policies in other nations, with special emphasis on the alcohol fuel program in Brazil, and the extent to which those policies may serve as models for a national alternative motor fuels policy in the United States;

(8) existing state and local laws and regulations regarding alternative motor fuels and the extent to which such laws assist or impede the achievement of purposes set forth in this Act;

(9) the feasibility of achieving the purposes set forth in this Act through the action of the private market and the need for governmental action beyond that contained in this Act, including areas where consumer education may be needed; and

(10) the effects of this Act on energy conservation and on the consumption of methanol, ethanol, natural gas, gasoline, and diesel fuel.

The Conferees understand that these are studies that agencies already have authorization to undertake and may have done in part. Therefore this section should not be read to authorize any new studies or funds for such studies. Instead, it directs the Commission to coordinate agencies' efforts to carry out these studies, monitor agencies' progress, and guard against needless duplication.

Section 400DD also creates a United States Alternative Fuels Council to assist the Commission in its coordination efforts. This Council is intended to provide a vital link between the executive branch and others with knowledge about alternative fuels development and use. The Conferees intend that the Council make recommendations to the Commission and others on ways to facilitate the goals of this Act.

Section 400EE requires two studies related to alternative fuels. The Conferees understand that the Secretary of Energy is already authorized to carry out the study in subsection (a) on various types of methanol plants. For this reason, Section 400EE should be read simply to encourage the Secretary to make such a study a priority. The Conferees do not intend the language in subsection (a) to create a new program or authorize new funding for such a program.

The environmental report required by subsection (b) shall analyze and provide a reasonable forecast of possible changes, including improvements, in air quality, global climate change, and other environmental impacts that may occur as a result of this legislation, and shall discuss their importance relative to other causes. The analysis and forecast shall be based on a variety of reasonable scenarios concerning market penetration of the alternative fuels, their likely feedstocks, changes in fuel consumption in the transportation sector, any displacement of fuels in other sections, and changes in technology. The assumptions underlying the alternative scenarios should be clearly stated, should be the subject of sensitivity analysis, and should include: economic growth, energy prices, the country of origin of various feedstocks for ethanol and methanol, various options for minimizing any negative environmental effects of alternative fuels, and for maximizing any positive effects, including possible fuel efficiency improvements, as alternative fuels technologies mature. In preparing this analysis and forecast, the Environmental Protection Agency shall include an assessment of the economic costs and benefits and shall include a discussion of carbon dioxide impacts from the use of alternative fuels in the transportation sector as compared to the use of other fuels in that sector and identify ways to offset any increases that may result.

In carrying out the requirements of subsection (b), EPA will consult with the Secretaries of Energy and Transportation. However, those agencies will have no veto over EPA actions.

There is provision for public comment before the studies in subsections (a) and (b) are finalized. It is not intended that any public hearings will be necessary or that the agencies will be required to respond to the comments, although the agencies would not be precluded from responding at their discretion.

SECTION 5—USE OF NONSTANDARD FUELS

The Conferees recommend the adoption of the House provision related to the use of nonstandard fuels by federal vehicles, with the effective date delayed until October 1, 1989.

SECTION 6—AMENDMENT TO THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

Both the House and Senate bills establish a Corporate Average Fuel Economy (CAFE) incentive program for alternative fuel vehicles and dual energy vehicles. The Senate bill provided a limitation in the amount of incentive available for dual fuel vehicles and on the duration of the incentive program for such vehicles; the House bill had no similar limitation.

The Conference agreement adopts the Senate approach with modification. It amends the Motor Vehicle Information and Cost Savings Act to provide for a Corporate Average Fuel Economy (CAFE) incentive program applicable to cars and light trucks that run on alcohol or natural gas and to dual energy vehicles that can run on alternative fuels and gasoline or diesel fuel. The program begins with vehicles manufactured in model year 1993.

Like the Senate bill, the Conference agreement sunsets the program for dual energy vehicles and places a cap on the incentive for such vehicles. For dual energy vehicles, the program ends after 12 model years, but the Secretary of Transportation may, after a study and rulemaking, extend the dual energy vehicle program for up to 4 additional years beginning in 2005. The maximum incentive increase for dual energy vehicles for each manufacturer for each year is 1.2 miles per gallon for the first 12 years and 0.9 miles per gallon for each year for which the program is extended. The Conference substitute requires the Secretry to establish by rulemaking a minimum driving range for dual energy passenger cars, so that small fuel tanks, combined with the larger volume-to-energy ratios of alcohol fuels, do not create a disincentive for consumers to use the alternative fuel.

The Conferees wish to make clear the meaning of the reference to "categories" in the provisions of the agreement capping the maximum incentive increase. The agreement establishes a limit on the increase in a manufacturer's average fuel economy that is attributable to dual energy automobiles and natural gas dual energy automobiles. Under the CAFE law, the EPA Administrator separates each manufacturer's fleet of passenger automobiles into two categories: domestically manufactured and non-domestically manufactured. The EPA Administrator makes a similar separation for each manufacturer's fleet of non-passenger automobiles (e.g. light trucks). The applicable CAFE standard must then be met separately by each category of a manufacturer's fleet of passenger automobiles and each category of the fleet of non-passenger automobiles—for a possible total of four separate categories for each manufacturer. It is the intention of the Conferees that the limitation on the increase in the manufacturer's average fuel economy attributable to alternative fueled vehicles will be applied for passenger automobiles separately to each category of a manufacturers fleet—domestically manufactured and non-domestically manufactured. Similarly, the limitations will be applied separately for each category of non-passenger automobiles (light trucks). Accordingly, the Conferees intend that the EPA Administrator should calculate the fuel economy increase and apply the limitation separately in each of the four categories in which a manufacturer manufactures vehicles. The four categories are domestically manufactured and non-domestically manufactured passenger automobiles and domestically manufactured and non-domestically manufactured non-passenger automobiles (light trucks).

This legislation is not intended in any way to affect the present provisions of law regarding the establishment or modification of the level of fuel economy standards.

SECTION 7—ELECTRIC VEHICLES

The Conference substitute adopts the Senate provision on electric vehicles with a modification that includes a study of the effect on air quality of such vehicles and that adds the Environmental Protection Agency to the agencies that are to take action based on the results of the study.

SECTION 8—AUTOMOBILE LABELING

The Senate bill amended the Cost of Savings Act to require that the Department of Transportation include on the new car label required by that Act information on the fuel economy of alternative fuel cars. The House had no similar provision.

The Conference agreement adopts the Senate provision with some modifications. Rather than using the artificial miles per gallon rating established in Section 6 to encourage production of alternative fuel cars, the label is to include an actual miles per gallon rating on the label. The Conferees recognize that the higher volume-to-energy ratio of alcohol fuels will result in a relatively low miles per gallon rating, but they expect that potential sellers and purchasers of alternative fuel cars will have sufficient information to make a comparison with gasoline and diesel fuel cars.

In the case of dual fuel cars, those that can be run on both alcohol or compressed natural gas and gasoline or diesel fuel, the Conference agreement requires a label that states the miles per gallon rating of the car when run on gasoline. This will allow consumers to compare the efficiency of these cars with comparable models that run on only gasoline. In addition, the Conference agreement requires that for dual energy vehicles and natural gas dual energy vehicles, information on their fuel efficiency when operating on the alternative fuel, their fuel efficiency when operating on mixtures, and the vehicles' range when operating on either fuel be included in the annual Department of Energy publication listing comparative vehicle fuel economy. Because of the complexity of this information, the Conferees have not required that it be available on the label.

SECTION 9—STUDY ON RESIDENTIAL ENERGY PRICING

The Senate bill empowered the Secretary of Transportation to discontinue the CAFE incentives for natural gas vehicles in the event that the granting of these incentives is likely to result in a significant increase in the average price of natural gas to consumers. The House had no similar provision.

The Conference agreement provides for a study and report to Congress on whether the granting of CAFE incentives under this Act is likely to result in a significant increase in the average price of home heating to residential consumers.

John D. Dingell,
Philip R. Sharp,
Terry L. Bruce,
Norman F. Lent,
Carlos J. Moorhead,
Managers on the Part of the Senate.

From the Committee on Commerce, Science, and Transportation:

Fritz Hollings,
Albert Gore, Jr.,
John D. Rockefeller,
John C. Danforth,
John McCain,

From the Committee on Governmental Affairs:

John Glenn,
Carl Levin,
William V. Roth, Jr.,
Managers on the Part of the House.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 576) designating February 19 through 25, 1989, as "National Visiting Nurse Associations Week," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not intend to object, but I yield to the gentlewoman from Ohio [Ms. Oakar] for an explanation of the legislation.

Ms. OAKAR. Mr. Speaker, I thank the gentleman from New York [Mr. Gilman], the distinguished minority leader, for yielding to me.

Mr. Speaker, I want to thank the chairman and the major sponsor, and I am one of the cosponsors of this bill.

My colleagues know that a lot of people say, "Why do you do these resolutions in which you commemorate various associations or groups for a special week in the year?"

I think it is important in most cases that we do this. I think that we ought to commend organizations for their public service.

Mr. Speaker, visiting nurse associations are very, very special in my opinion. They are nonprofit providers of home health care. They are very often supported by community residents and organizations such as United Way, and they are usually governed by a local board of volunteer directors, and these volunteers try to assist them in giving the care for those who are especially in need.

Mr. Speaker, the professionals who are employed by the visiting nurses associations are very highly skilled individuals committed to providing the best care possible. We have a shortage of nurses these days, as everyone knows, primarily, I think, because it is such an undervalued profession, and hopefully we will pay them fairly in the near future. But the fact is that very often these visiting nurses go into areas in trying to serve the most vulnerable in their homes. That causes some personal risk at times because they go into perhaps high crime areas where sometimes the poor unfortunately have to live, but they are extraordinarily dedicated. They are especially dedicated to the elderly, to the sick, to the poor, and the kinds of services that they perform in my judgment by giving home health care we ought to, in commemorating the visiting nurses, rededicate ourselves to a policy of long-term care that would include comprehensive home health care so that those people who are discharged from hospitals very often too soon, those people who need the kind of quality care that these nurses give in their own homes, can get reimbursed properly.

Mr. Speaker, we have not been progressive in this country in recognizing in my judgment the value of these types of health providers, so I think this is why we call attention to the visiting nurses associations, and, frankly, nurses in particular, and we say, "Thank you. Thank you for being the profession that spends more hours with patients than any other health provider, and thank you for the kind of service that these nurses do in serving people in their own homes and serving the most vulnerable people in their own homes."

So, Mr. Speaker, I want to compliment all who are responsible and pay special tribute to the visiting nurses associations and nurses in particular.

Mr. HEFLEY. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Colorado [Mr. Hefley].

Mr. HEFLEY. Mr. Speaker, I appreciate the gentleman from New York [Mr. Gilman] yielding to me.

Mr. Speaker, I join my colleague, Mrs. Oakar, today in thanking the many Members of this body who are supporting House Joint Resolution 576, establishing February 19-25, 1989, as "National Visiting Nurse Association Week."

This legislation honors the pioneers in home health care, the visiting nurses. For more than 100 years, visiting nurses have provided home health care to everyone, regardless of their ability to pay. Traditionally, VNA's have been the public health delivery system in America.

Although VNA's role in home care has been longstanding, the Federal Government's involvement is relatively recent. When the medicare system was established in 1965, Congress stipulated that only nonprofit, community-based and supported visiting nurse associations could be reimbursement for home care services. Congress modified the law in 1981 to allow any type of organization to provide reimbursable home care, yet today most of the Nation's medicare patient's and the indigent are still cared for by visiting nurse associations.

VNA's remain the primary home health service providers in virtually all major urban and rural areas. There mission—to care for anyone who needs assistance—has remain unchanged for more than a century. For their faithful commitment and service, VNA's deserve our thanks. That is what we do by passing this resolution.

With more and more Americans living longer, well past their seventies even into their nineties, the need for long-term care is rising. A number of our elderly have physical or mental disabilities that require assistance with everyday life, such as eating, bathing, and moving about. Visiting nurses are enabling many of the disabled elderly—as well as their younger counterparts—to remain at home, where care costs are much lower than in a hospital or nursing home, and where they feel more comfortable and can maintain their dignity.

As a nation, we are faced with the question of how to meet our growing health care needs, especially for those who can least afford, and often most require, medical attention. Earlier in this Congress we debated that issue, first as part of the catastrophic health insurance legislation and, later, in connection with the long-term care bill. We found no easy answers to the problem of providing care, but I am sure that the visiting nurses associations will always be a major part of the solution.

Visiting nurse associations annually provide home care and support services to nearly 1 million Americans, from newborns to the very old.

In addition to health care, VNA's offer hospice care to comfort the dying; occupational, physical and speech therapy to restore the injured; and help to the disabled searching for new ways of coping. They offer personal hygiene care, and help to those fighting to overcome temporary or permanent impairment. They offer nutritional counseling and meals on wheels to patients who cannot help themselves.

They provide a less expensive, high quality, and often more compassionate and comfortable alternative to institutionalization. By establishing a national visiting nurse association week, we give much deserved recognition to those dedicated nurses, therapists, counselors and volunteers who comprise the visiting nurse association in each community.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Colorado [Mr. HEFLEY] for his supportive remarks.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 576

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to nearly 1,000,000 men, women, children, and infants;

Whereas such Associations serve 504 urban and rural communities in 47 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support regardless of the individual's ability to pay;

Whereas such Associations are voluntary in nature, independently operated, and community-based;

Whereas such Associations ensure a high quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical and mental handicaps receive the therapeutic benefits of care and support services provided in the home;

Whereas in the absence of such Associations, thousands of patients with mental or physical handicaps or with chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking occupational therapy, physical therapy, speech therapy, friendly visiting services, social services, nutritional counseling, specialized nursing services, and meals on wheels;

Whereas such Associations offer nursing care by registered nurses, homemaking, therapy, and social services by qualified specialists, and friendly visiting services by volunteers;

Whereas in each community served by such an Association, local volunteers support the Association by serving on the board of directors, by raising funds, by visiting patients in their homes, by assisting patients and nurses at wellness clinics, by delivering meals on wheels to patients, by running errands for patients, by working in the Association's office, and by providing tender loving care;

Whereas the need for home health care for young and old alike continues to grow annually; and

Whereas on February 22, 1989, a national meeting of Visiting Nurse Associations from throughout the United States will be held in Ft. Lauderdale, Florida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 19, through 25, 1989, is designated as "National Visiting Nursing Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VOCATIONAL-TECHNICAL EDUCATION WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 572), designating November 28 through December 2, 1988, as "Vocational-Technical Education Week," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, while I will not object, I yield to the gentleman from Maryland [Mr. MFUME] who is the chief sponsor of House Joint Resolution 572 designating November 28 through December 2, 1988, as Vocational-Technical Education Week.

Mr. MFUME. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for yielding, and my thanks also to the gentleman from California [Mr. DYMALLY], the distinguished chairman of the subcommittee.

Mr. Speaker, I am very grateful to the leadership on the subcommittee for discharging this important joint resolution, and I am appreciative to the majority of my colleagues here in the House and in the Senate for cosponsoring this resolution.

House Joint Resolution 572, will designate the week of November 28 through December 2, 1988, as "Vocational-Technical Education Week." I am glad that this Congress has recognized the significane of vocational and technical education, and I am proud to have sponsored this most worthy resolution.

Mr. Speaker, this legislation will help to bring out the significance of vocational programs to many of our communities and young adults. Vocational and technical education serves multiple goals—preparing students not only for jobs, but also to encourage these students to further their education, and providing alternative learning experiences that can reduce the dropout rate in our schools.

According to the Department of Labor, 80 percent of the jobs in our country require the kind of skills usually taught in vocational education programs. Already vocational students make up a large portion of the high school population in many of our districts and, I believe that greater attention needs to be brought to the potential that vocational and technical education programs have to offer. House Joint Resolution 572 is a step in that direction. I urge my colleagues to support House Joint Resolution 572.

Mr. Speaker, I am reminded as I think about this resolution, as I think about the ongoing discussion surrounding vocational and technical ed and purely academic education, of the Atlanta Exposition of 1986 when two great Americans, Booker T. Washington and W.E.B. DuBois, clearly began the discussion of the two, whether or not they ought to coexist, whether one was better than the other, and it was in that Atlanta Exposition where it was Washington who said to us, "Let us cast our buckets down where we are," and let history record that both men were correct. In this Nation vocational education and purely academic education have coexisted and have gone a long way, I believe, in certainly strengthening the fiber of our Nation by providing individuals who have become productive citizens, and so again I want to thank the gentleman from New York [Mr. GILMAN] for yielding, the gentleman from California [Mr. DYMALLY], who chairs the distinguished subcommittee, and my colleagues in the House for supporting this very important resolution.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Maryland [Mr. MFUME] for his supportive remarks, and, further reserving the right to object, I am pleased to yield to the gentleman from California [Mr. DYMALLY], our distinguished subcommittee chairman.

Mr. DYMALLY. Mr. Speaker, just a brief note.

I am very pleased that Mr. MFUME saw fit to include the word "technical" because, when I was a teacher, long before the gentleman from Maryland [Mr. MFUME] was born of course, we used simply "vocational," and that had certain kinds of stereotypical connotations. We are now in an age of technology now, and we have to recognize that we have to shift from vocational and add technical, and I think it is a very significant addition to change in the whole dialogue and the whole thrust of technology and education in this field.

Additionally, Mr. Speaker, the gentleman raised a very significant point about the debate between two great leaders. I believe modern educators now are in agreement that both were correct, that we have to mix both the DuBois philosophy and the Washington philosophy, so I congratulate the gentleman from Maryland [Mr. MFUME] for bringing this very important resolution to the Members of the House.

□ 1445

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 572

Whereas vocational education prepares the Nation's work force by providing students with basic academic and occupational skills;

Whereas vocational education stresses the importance of positive work attitudes and values;

Whereas vocational education builds the leadership skills of students by encouraging them to participate in student organizations;

Whereas vocational education stimulates the growth and vitality of the Nation's businesses and industries by preparing workers for the majority of occupations forecasted to experience the largest and fastest growth in the next decade;

Whereas vocational education encourages entrepreneurship among students through units of study and courses designed to prepare them to start and manage their own businesses;

Whereas a strong vocational education program planned and carried out by trained vocational educators is vital to the future economic development of the Nation and to the well-being of its citizens;

Whereas the Future Business Leaders of America, the Future Homemakers of America and Home Economics Related Occupations, the Future Farmers of America, the Distributive Education Clubs of America, the Vocational Industrial Clubs of America, the American Industrial Arts Student Association, the Health Occupation Students of America, the National Association of State Councils on Vocational Education, and the American Vocational Association have joined efforts to give added definition to vocational education;

Whereas the American Vocational Association, the major professional association for the field of vocational education, will convene its annual convention in St. Louis, Missouri, on December 2, 1988; and

Whereas the planned theme for Vocational-Technical Education Week is "Vocational Education: Building Tomorrow's Leaders": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 28 through December 2, 1988, is designated as "Vocational-Technical Education Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CHESTER F. CARLSON RECOGNITION DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 629) designating October 22, 1988, as "National Chester F. Carlson Recognition Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. HORTON], who is the chief sponsor of House Joint Resolution 629, designating October 22, 1988, as "National Chester F. Carlson Recognition Day."

Mr. HORTON. Mr. Speaker, I rise in support of House Joint Resolution 629, which commemorates Chester Carlson on the 50th anniversary of his invention of xerography. The term xerography is Greek for dry writing. This ingenious process has revolutionized the office environment and communications.

As a matter of fact Xerox is now commonly used to described the process, but it is also used by people in the office when they say, "Get me a couple xeroxes of this paper."

It has been certainly a revolutionary force in the ability of people to communicate.

Chester Carlson worked for an electronics firm, noticed that there never seemed to be enough copies of patent specifications and no easy way of getting more. In his spare time he went about finding a practical method of making photostatic copies.

On October 22 of 1938, he discovered the process of xerograph, using the little known field of photo-conductivity.

This was just the beginning. It took him a number of years before he could find a company that would be willing to risk using his invention.

I was in the city of Rochester at the time. Of course, I was not in Congress at that time. But it was about 10 years after that. There was a company, a very highly respected company in Rochester, by the name of the Haloid Co. The CEO was Joe Wilson, and one of his attorneys was Sol Lenowitz, a good friend of mine who practiced law in the same area where I did.

As the result of Mr. Wilson and Mr. Carlson meeting, the Xerox Co., which was then Haloid, took up the invention of Mr. Carlson and ultimately as a result of making copiers, the company began to grow and many millionaires resulted from that change from Haloid and then later to the Xerox Corp.

Mr. Wilson, who is now deceased, was a great advocate, as was Sol Lenowitz, of this process, and as a result it became an instant success story throughout not only the Rochester and upstate New York area, but throughout the United States and throughout the world. Today it is a multinational company, highly recognized throughout the world. One of my very good friends and a Rochesterian, is the CEO, David Kerns. And that company today is a very successful company.

Mr. Carlson a few years back died, but before he died, he participated in many charitable efforts and gave over a hundred million dollars to charities, many of them in the Rochester area.

On October 22, this will be the 50th anniversary of the day that he invented this process. The Postmaster General just recently announced, and I was there along with the gentlewoman from New York, Mrs. LOUISE SLAUGHTER, who represents the 30th District in New York, which is the district adjoining mine, which is the 29th. We were there with the Postmaster, Anthony Frank, when he announced that there will be a stamp commemorating Mr. Carlson and it will be issued in Rochester on October 21, which is a Friday, because Saturday is on the 22d. There will be a big dinner. There will be great festivities in Rochester on October 21 and on October 22 celebrating this very august event.

I want to take this opportunity to thank the gentleman from California, Mr. DYMALLY, for his leadership in bringing to the floor this resolution to commemorate Chester Carlson; also to thank my friend, the gentleman from New York, Mr. BEN GILMAN, for his work on the committee and for bringing this to the floor today, and particularly to thank the gentlewoman from New York, Mrs. SLAUGHTER, from upstate New York, the 30th District, the one adjoining mine, for her leadership in this particular resolution.

So Mr. Speaker, I bring this to the attention of my colleagues and urge that they recognize in their districts National Chester F. Carlson Recognition Day" on October 22, 1988. It certainly revolutionized the world, xerography and the xerox process.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from New York for his words of support for the resolution.

Mr. Speaker, further reserving the right to object, I am pleased to yield to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for yielding, and I want to express my thanks to the gentleman from California [Mr. DYMALLY] for his help in bringing this resolution to the floor.

Mr. Speaker, I am pleased to have been able to introduced this legislation with my distinguished colleague, the gentleman from New York [Mr. HORTON].

On October 22, those of us in Rochester, NY, will honor Chester Carlson, who 50 years ago invented the process of xerography, a process which has changed the lives of many and the way we do business throughout the world.

It was in the kitchen of his Queens apartment, that his unknown patent attorney named Chester Carlson found a solution to a problem he had been considering for several years. His process for developing clean, dry, and a relatively cheap method of copying was an unbelievable invention, his process also made dramatic breakthroughs in physics and engineering.

The grandson of Swedish immigrants, Chester Carlson became known not only for his genius but also for his philanthropy. Most of the multimillion-dollar fortune he accumulated because of his invention has been donated toward the achievement of world peace and to support the United Nations, the civil rights movement, and many colleges and universities.

Chester Carlson rose from obscurity by perceiving a need and possessing the innovative capacity to create the product which filled it. Today millions of people of all ages benefit from the genius of his invention. I am very pleased that we are able to honor Chester Carlson on the 50th anniversary of his invention of xerography.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for her supportive remarks, and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 629

Whereas Chester F. Carlson invented xerography, a dry process for duplicating that involves no chemical reactions, on October 22, 1938;

Whereas the invention of xerography represented a dramatic breakthrough in the duplicating industry and the fields of photography, engineering, and physics;

Whereas the development of the new technology of xerography was publicly announced in Rochester, New York, on the 10th anniversiary of the invention of xerography by Chester F. Carlson, and the 1st office copier utilizing the process of xerography was offered for sale 2 years later;

Whereas the research and development of xerography has resulted in a multimillion dollar industry that produces billions of copies each year in offices around the world;

Whereas xerography has become an indispensable tool for the dissemination of information and communication, and has increased efficiency and productivity in millions of offices;

Whereas Chester F. Carlson was a 2d generation American who overcame poverty to obtain a degree in physics from the California Institute of Technology and a law degree while conducting experiments with electrophotography in the hope of solving the problem of creating an inexpensive method of making high quality duplicates of documents;

Whereas Chester F. Carlson is renowned not only for his genius as an inventor but also for his philanthropy, donating most of his fortune from royalties for the achievement of world peace and the support of the United Nations, the civil rights movement, and many colleges and universities; and

Whereas October 22, 1988, is the 50th anniversary of the invention of xerography by Chester F. Carlson: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 22, 1988, is designated as "National Chester F. Carlson Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RELIGIOUS FREEDOM WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 518) designating the week of September 25, 1988, as "Religious Freedom Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore. Is there objection of the request of the gentleman from California?

Mr. GILMAN. Reserving the right to object, Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. BENTLEY], the chief sponsor of House Joint Resolution 518, designating the week of September 25, 1988, as "Religious Freedom Week."

Mrs. BENTLEY. Mr. Speaker, I want to thank the gentleman from New York for yielding, and I particularly want to thank the Committee on Post Office and Civil Service for discharging this resolution at this time, and particularly to express my appreciation to the gentleman from California [Mr. DYMALLY] for joining as a dual sponsor of this precious resolution, and in assisting to obtain the 226 other sponsors in the House and 68 in the other body.

Along the way toward discharge of this resolution, I was asked several times about my religious involvement. Why I would be so interested in having this observance acknowledged by the Congress of the United States. And I had to think about why it was so particularly important that we reaffirm our belief in freedom of religion.

I credit a great deal of my interest in looking backward into our history—as I have been doing over this last couple of years—with the celebration of the bicentennial of the Constitution. Like all Americans, I learned all about the Constitution and the Bill of Rights in school. And like many Americans, it was awhile ago. And like most Americans, before I came to Congress, I had no call upon the Constitution in my day-to-day life—though every freedom I enjoyed, every day, rested on its frame.

Of an inquiring mind—remember I was trained as a reporter—when we began to look forward to the bicentennial, I began to refresh my memory as to the details and the facts. And the most astonishing thing—even though I knew it, but it still astounds me—is that the Bill of Rights was added to the Constitution 2 years later. And only because the States in the ratification process were unhappy that individual freedoms were not clearly defined in the Constitution they had to vote on.

And the first amendment guaranteed the freedom of religion. A year before the Bill of Rights was introduced, the new President of the United States, George Washington, had sent a letter to Touro Synagogue, in Newport, RI, asserting "to bigotry no sanction, to persecution no assistance."

Those words, "the promise of Touro," must have moved that congregation to exclaim among themselves, "The President says," "Mr. Washington is promising. * * *" There would have been a stirring as though a freshening wind of freedom was blowing across the new Nation—bringing hope, not only to Touro Synagogue, but to all Americans that there would be no tyranny of a state religion.

□ 1500

It is difficult for us as Americans today to realize how much President Washington's statement must have meant at that time. Few of our history books after the period of Puritan landings in Massachusetts feature the impact that religious persecutions in Europe had to do with the flood of immigration to this country before 1800, and yet many of our colonies were founded by settlers who came to the New World seeking religious freedom.

Rhode Island was founded by Roger Williams, a separatist from the harsh Puritan regime in Massachusetts. His settlement attracted not only the Touro Congregation, who had followed the route of the Puritans through Holland to America, but Baptists, Quakers, and Catholics were also attracted by Williams' promise of freedom of worship. William Penn, the Quaker, founded Pennsylvania and attracted many religious separatists.

Our own State of Maryland was founded by Catholics, but by the late 1700's Catholics were not allowed to hold public worship services. The cornerstone of St. Ignatius Catholic Church in Bel Air in my district was laid in 1791 at the time the First Congress voted for the Bill of Rights. The church was completed in 1792 after the States had ratified the 10 amendments.

The new Americans, among them our own Marylanders, had suffered persecutions or were the children of those who had, and I identify with them. My own religion, eastern Orthodox, is a minority religion in this country. My ancestors in Serbia suffered persecution at the hands of the Ottomans for hundreds of tragic years, and I grew up hearing these stories from my immigrant mother.

Mr. Speaker, yes, we should reaffirm this belief. We cannot be reminded too often of the promise of Touro, "To bigotry no sanction, to persecution no assistance." It must not be a promise of 200 years; it must be a promise for all time.

Mr. Speaker, again, I wish to express my appreciation to the gentleman from California [Mr. DYMALLY] and his committee for discharging this resolution so that we can move it along for a signature by the President before September 25.

Mr. GILMAN. Mr. Speaker, the poignant remarks of the gentlewoman from Maryland are appreciated.

Further reserving the right to object, I yield to the distinguished subcommittee chairman, the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I am pleased to be a participant in the effort to designate the week of September 25, 1988, as "Religious Freedom Week," by adopting House Joint Resolution 518.

More often than not, citizens of this great Nation forget that the right to worship freely, or not to worship at all, is one of the cornerstones of this country's foundation.

Despite incidents which have occurred throughout our history challenging the soundness of this principle, the courts have stood firm on protecting this inalienable right.

House Joint Resolution 518 reminds us and the entire country that we cannot condemn anyone for choosing to worship one way or another, or for choosing not to worship at all.

Certainly, invaluable contributions have been made by religious organizations to the development and stability of this country, particularly in setting our values and ethical beliefs.

House Joint Resolution 518, however recognizes that these beliefs need not be imposed on everyone; it is simply a matter of choice.

That, in essence, is the beauty of this freedom.

Our Government would not be the model of democratic societies had it not been for the guarantees of certain freedoms. House Joint Resolution 518 commemorates one of these freedoms.

Mr. Speaker, I urge all of my colleagues to join me in designating this week to reaffirm our commitment to the tolerance of all faiths and religious liberty for all.

Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. BENTLEY] for bringing this resolution to the floor.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I rise in strong support of the legislation now pending before us, and I would like to commend the gentlelady from Maryland, Congresswoman BENTLEY, for introducing House Joint Resolution 518, which designates the week of September 25, 1988, as "Religious Freedom Week." As a cosponsor of the bill, I urge its adoption.

This commemorative legislation seeks to highlight the 200th anniversary of the proposal of our great Bill of Rights. This Nation was founded on principles of religious and personal freedoms. No document embodies those principles more effectively than the Bill of Rights, from which each American derives his or her personal and religious liberties. We are so proud that our Nation is a diverse and rich assortment of cultures, nationalities and religions, each respecting the others right to worship. The United States is a great Nation because of such a melting pot and it is due to our Bill of Rights that all of this is possible.

House Joint Resolution 518 not only pays homage to a document, the principles of which we abide by on a daily basis, but also serves to remind us of those around the world who are denied the religious freedom which we sometimes take for granted. History has shown how many have lost their lives because of religious intolerance. We should therefore, cherish even more so those rights and freedoms that our founding fathers drafted for us more than two centuries ago. Accordingly, Mr. Speaker, I urge my colleagues to adopt House Joint Resolution 518, establishing September 25 through October 1 of this year as "Religious Freedom Week."

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SAWYER). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 518

Whereas, the principle of religious liberty was an essential part of the founding of our Nation, and must be safeguarded with eternal vigilance by all men and women of good will;

Whereas, religious liberty has been endangered throughout history by bigotry and indifference;

Whereas, the first amendment to the Constitution of the United States guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;

Whereas, throughout our Nation's history, religion has contributed to the welfare of believers and of society generally, and has been a force for maintaining high standards for morality, ethics and justice.

Whereas, religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and

Whereas, religious liberty can be protected only through the efforts of all persons of good will in a united commitment; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 25, 1988, is hereby declared to be "Religious Freedom Week", wherein members of all faiths or of none, may join together in support of religious tolerance and religious liberty for all.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENTS TO THE PREAMBLE OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer amendments to the preamble.

The Clerk read as follows:

Amendments to the preamble offered by Mr. DYMALLY: Pages 1 and 2, in the 1st, 2d, 3d, 5th, and 6th clauses of the preamble, strike the comma after "Whereas".

Page 1, after the 3d clause of the preamble, insert the following:

Whereas the first amendment to the Constitution ensures religious freedom to all of the people of the United States;

Whereas the bicentennial of the ratification of the Constitution occurs in 1988;

Whereas, at Touro Synagogue in 1790, President George Washington issued his famous letter declaring "to bigotry no sanction, to persecution no assistance";

Whereas the Touro Synagogue letter advocating the doctrine of mutual respect and understanding was issued more than a year before the adoption of the Bill of Rights;

Whereas the letter of President Washington and the Touro Synagogue have become symbols of the commitment of the United States to religious freedom;

The SPEAKER pro tempore. The question is on the amendments to the preamble offered by the gentleman from California [Mr. DYMALLY].

The amendments to the preamble were agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DAY OF RECOGNITION FOR MOHANDAS K. GANDHI

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 169) designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, it is an honor for me to rise in support of House Joint Resolution 330, legislation designating October 2, 1988, as "Mohandas K. Gandhi Day."

Mohandas Gandhi was an inspiration to us all. He stood for peace, nonviolence and political action within a strong moral context.

Accordingly, I urge my colleagues to support the resolution.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I thank my friend, the gentleman from New York [Mr. GILMAN], for yielding.

Mr. Speaker, I simply want to note that Mohandas Gandhi had a great deal of influence on the whole civil rights movement in the United States. In fact, the Martin Luther King Center in Atlanta, GA, continues to recognize his work and his philosophy, and I note that under the leadership of the gentlewoman from Ohio [Ms. OAKAR] this House will soon debate a resolution to designate a memorial to Mr. Gandhi.

Mrs. MORELLA. Mr. Speaker, it is an honor for me to testify in favor of Senate Joint Resolution 169 and House Joint Resolution 330, which designates October 2, 1988 as Mohandas K. Gandhi Day.

Mahatma Gandhi, the father of India and a major inspiration in the 20th century, sought peaceful self-determination for nations and civil rights for all people.

Mahatma Gandhi is not unknown to us in this Nation; recently, we have had a revived interest in this most revered of world leaders because of media attention to Indian history. However, many of our citizens are not aware of the Mahatma's intellectual and philosophical interaction with this country.

While Mohandas Gandhi was imprisoned in South Africa, early in this century, he had the opportunity to study the works of Ralph Waldo Emerson and Henry David Thoreau. These American writers were the basis for his philosophy of nonviolence. Martin Luther King, Jr., was inspired by the concept of Satyagraha, civil disobedience and a quiet pursuit of truth. Mahatma Gandhi also developed the protest march which was used by civil rights leaders in this country.

Albert Einstein once wrote of Gandhi, "Generations to come, it may be, will scarce believe that such a one as this ever in flesh and blood walked upon this Earth." This indeed was an individual who believed in the dignity of humankind. Religion, class, race, educational qualifications made no difference to Gandhi. Though Sikhs alike looked to him for guidance. It was Viscount Louis Mountbatten who said, "Mahatma Gandhi will go down in history on a par with Buddha and Jesus Christ." About religion, Gandhi said,"for me, religion is one in its essence, but it has many branches and if I, in the Hindu branch fail in my duty to the parent trunk, I am an unworthy follower of that one invisible and visible religion."

Mahatma Gandhi was instrumental in spearheading independence for the world's largest democracy, though he himself held no political office, nor sought it. His strategy of nonviolence and civil disobedience incorporated the art of compromise but he was uncompromising in his stance for an undivided India; he prayed for Indian unity and despaired because there were those who did not respond to his anguished pleas for peace and brotherhood. His cries for unification, peace, and brotherhood are still current.

Mahatma Gandhi once said, "I do not want my house to be walled on all sides and my windows to be stuffed. I want the cultures of all lands to be blown about my house as freely as possible. But I refuse to be blown off my feet by any."

By designating Mohandas K. Gandhi Day on this remarkable man's 129th birth anniversary will bring to the fore the standards and personal morality of this truly great world citizen. It will also emphasize the commonality and bond between the two greatest democracies in the world.

I commend our colleague, the distinguished gentleman from New York [Mr. SOLARZ] and the Senator from New York for sponsoring this important commemorative. I am proud to be a cosponsor of this resolution and urge its quick passage.

Mr. SOLARZ. Mr. Speaker, I appreciate the opportunity to speak on behalf of House Joint Resolution 330, which I introduced to designate October 2, 1988, as a day to honor Mahatma Gandhi and his commitment to nonviolence. I would also like to thank my good friend and colleague from California, Mr. DYMALLY, for moving this bill to the floor in such an expeditious fashion.

In today's world, too often beset by global tensions, the arms race, tragic outbursts of racial and ethnic violence which defy resolution, and multiple violations of human rights, the life and teachings of Mohandas "Mahatma" Gandhi serve as a shining contrast. They show that one man, dedicated to advancing the cause of human dignity and justice, could use moral and ethical principles dedicated to nonviolence to achieve independence for what is now the world's largest democracy. Such an achievement by an individual, remarkable by any standards, deserve recognition from this legislative body and the American people as a whole, which is why it is appropriate for us to be considering this legislation today.

Mohandas Gandhi was born in 1869 in Probandar, India, and received a legal education in London. He went to South Africa in 1883, where he became deeply involved in the struggle for justice for Indians in that country. His advocacy on behalf of those so unfairly discriminated against led him to be imprisoned in South Africa. There, in jail, he discovered the works of two great Americans, Henry David Thoreau and Ralph Waldo Emerson, and was deeply influenced by their writings, particularly Thoreau's "On Civil Disobedience." It was a turning point in his life—from that time on, he was firmly committed to the principles on nonviolence, and believed that the best methods to advance the cause of justice and human rights were truth and compassion.

Gandhi believed that hatred could have no role in civilized societies. He wrote, "It is the law of love that rules mankind. Had violence; that is, hate, ruled us, we should have become extinct long ago, And yet, the tragedy of it is that the so-called civilized men and nations conduct themselves as if the basis of society was violence."

In 1915, he left South Africa and returned to India, where he dedicated the remaining 33 years of his life to human rights and the cause of Indian independence. To achieve self-rule for India, Gandhi developed and lived by a political philosophy based on nonviolence, respect for human dignity, and the practice of personal integrity and charity toward all.

The impact of his life and teachings on modern history cannot be underestimated. Much as Gandhi was inspired by Thoreau and Emerson, so too was Martin Luther King, Jr., motivated by the beliefs and actions of Gandhi. King's leadership of this country's civil rights movement incorporated and expanded on much of Gandhi's message of nonviolence, peace among nations, and brotherhood of all peoples. Tragically, both men, who had so much to offer mankind, both died in the same mannter, at the hands of a crazed assassin.

However, through this bill and the efforts of the Gandhi Foundation and other organizations committed to the philosophy of nonviolence, Mahatma Gandhi's legacy of compassion and nonviolence will continue to live on. On October 2, the national day of recognition for Gandhi that this bill seeks to establish, the Gandhi Foundation will be announcing its intention to provide, free of charge to all schools with pupils in grades kindergarten through 12th, a 1 day curricula on nonviolence.

The goals of this program will be to convey to our youth the idea that the principles of peaceful conflict resolution are a more socially desirable and effective type of behavior in dealing with day-to-say disputes. Through such teaching, one hopes the principles of nonviolence which formed the core of Mahatmas Gandhi's existence will become more relevant to the lives of children who are the future of this country.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 169

Whereas Mohandas K. Gandhi sought to apply the values of truth and love, which are regarded as most precious moral values in personal life, in the difficult domain of political and social action;

Whereas Gandhi remained a relentless champion of human rights and human dignity for all people, including women and minorities, throughout his lifetime;

Whereas Gandhi was one of the leading figures in the effort to win freedom for his people in India and thereby helped sow the seeds of freedom and liberation in Asia and Africa;

Whereas Gandhi's unmovable faith in the power of nonviolent struggle was a powerful inspiration for Dr. Martin Luther King and the civil rights movement in the United States;

Whereas Gandhi identified himself totally with the oppressed and sought to change their lives through the moral persuasion of the oppressor;

Whereas Gandhi proclaimed that all humans are equal and that life is sacred, and treated that belief with an inviolable trust, thus echoing Abraham Lincoln;

Whereas Gandhi used truth and the moral force it carried to guide both his personal and public life;

Whereas Gandhi drew inspiration from Ralph Waldo Emerson and Henry David Thoreau, two of Americas great thinkers, in formulating his philosophy of civil disobedience, and proclaimed that the right to participate in civil disobedience was an inherent right of all citizens;

Whereas Gandhi believed that the true democrat is one who by purely nonviolent means defends his liberty and therefore, the liberty of his country, and ultimately that of the whole of mankind;

Whereas Gandhi believed that the arms race placed an unbearable burden on all of humanity;

Whereas Gandhi staunchly supported the claim that no society can possibly be built on the denial of individual freedom;

Whereas Gandhi believed that a society that allows double standards for its citizens and its leaders is self-destructive, that political and personal morality must coincide and extend to human beings in all walks of life, and that the purification of politics requires that men and women of courage and integrity remove all taint of double standards; and

Whereas Gandhi was one of those truly rare individuals who combined so admirably in word and deed the highest moral aspirations of mankind: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 2, 1988, is designated as a national day of recognition for Mohandas K. Gandhi, and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HISTORICALLY BLACK COLLEGES WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 290) to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I yield to the distinguished chairman of our subcommittee, the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I simply want to bring to the attention of the Members to the fact that approximately 2 years ago this House, this Congress and, indeed, the President and this Nation recognized the role of the historically black colleges by designating funds for their operation and existence, particularly focusing on the small private colleges.

Right now, at this moment, Mr. Speaker, in the other body a seminar is being conducted on the role of the historically black colleges in science, space, and technology. I think it is appropriate for us to recognize the role of the historically black colleges and universities.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to commend the gentleman from South Carolina [Mr. SPENCE], who recently rejoined us in this body after an extended period of illness for his recognition of the 107 historically black colleges and universities throughout the country and for the kind of quality education that is so essential to our populace and the kind of quality education that they provide to our black community.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 290

Whereas there are 107 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 25, 1988, and ending on October 1, 1988, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ACTORS' FUND OF AMERICA APPRECIATION MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 650) designating April 1989 as "Actors' Fund of America Appreciation Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I would like to commend the gentleman from California [Mr. COELHO], who is the chief sponsor of House Joint Resolution 650, for designating April 1989 as "Actors' Fund of America Appreciation Month."

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 650

Whereas the Actors' Fund of America has given over 100 years of dedicated service to the entire entertainment world;

Whereas the Fund's services are not restricted to actors but are available to any bona fide professional in the entertainment community who works in any capacity in the area of ballet, opera, circus, variety, motion pictures, radio, television, and the legitimate stage;

Whereas the Actors' Fund provides its members with a wide variety of services and benefits, including financial assistance, educational and career guidance, blood banks, funeral and burial assistance, psychological counseling, home nursing care, and the use of the renowned Actors' Fund Home, a retirement residence in Englewood, New Jersey;

Whereas the Fund's new extended facility provides members with the finest possible nursing care;

Whereas the efforts of the officers and board members of the Actors' Fund have been aided by the cooperation and financial support of members of the entertainment community, who support the Fund with bequests, donations, and endowments, and by giving special performances for the benefit of the Fund; and

Whereas since 1882 the Actors' Fund of America has been actively and productively concerned with the dignity and well-being of all members of the entertainment community: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1989 is designated as "Actors' Fund of America Appreciation Month", and the President is authorized and requested to issue a proclamation saluting the accomplishments of the Fund and calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DRUG FREE AMERICA WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 329) to designate October 24 through October 30, 1988, as "Drug Free America Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object I rise in support of House Joint Resolution 582 which would designate the week of October 24, 1988, national "Drug Free America Week." I strongly commend the gentleman from Alaska [Mr. YOUNG] for his work in bringing this measure to the floor of the House. I am proud to be a cosponsor of this legislation symbolizing our Nation's commitment to combating illicit drugs.

The importance of designating a "Drug Free America Week" is that it focuses attention on the destructive nature of drugs. Schools and communities across the country can organize special forums and activities during this week to get this life-saving message out.

There is probably no more important aspect of the war against drugs than the struggle for the hearts and minds of the next generation of Americans. They must learn the dangers of drugs and they must understand that saying "no" to drugs means saying "yes" to hope.

I urge my colleagues on both sides of the aisle to give their full support for this essential measure. Let the call go out from across our Nation that we are going to put the corner drugpushers and billionaire drug kingpins out of business by rejecting their poisonous products and by saying "yes" to a drug free America.

Mr. Speaker, I yield to the distinguished gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I join my friend, the gentleman from New York [Mr. GILMAN], in congratulating the gentleman from Alaska [Mr. YOUNG] for bringing to our attention this House resolution, but I also want to bring to the Member's attention that no one in this House has been as unrelenting in his fight against drug abuse than my friend, the gentleman from New York [Mr. GILMAN].

All over the world, he has pursued the drug pushers and the drug sellers, and in this House he has carved for himself a position as a leader in the fight against drug abuse, not only in America but across the world. I want to just take this opportunity as we come to the close of the omnibus drug bill debate and to the close of the session next month to congratulate him for his work and to encourage him to continue to focus attention on this abuse in America.

□ 1515

I congratulate the gentleman for his work in this area.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his kind words of support and want to commend him too for being shoulder-to-shoulder with us in this long, never-ending battle of pursuing the drug pushers and the drug trafficker.

Mr. RITTER. Mr. Speaker, today we'll be passing the bill proclaming the week of October 24, "Drug Free America Week." Well, something been happen in the Lehigh Valley which fits right in with that.

Mr. Speaker, "Be Smart! Don't Start" is the slogan of the antidrug abuse campaign of the Optimist Club of Western Lehigh in my district. This slogan is now a National Trademark (Reg. No. 1,502,578) as confirmed to me on August 30, 1988, by the U.S. Patent and Trademark Office. Therefore, it is indeed appropriate, as we debate today, H.R. 5210, the Omnibus Drug Abuse Act of 1988, for me to point with pride to the outstanding work of the Western Lehigh Optimists in their battle against this national disease I commend four of their members, Don Pearl, Ed Koepke, George Sampson, and Joe Lake for their leadership and dedicated efforts to spread the word.

Since my first meeting with this group back in 1986, a lot has happened. This slogan was on the first bumper stickers produced by the Western Lehigh Optimists and I had the pleasure of presenting one of their first run to the First Lady, Nancy Reagan. Now, over 70,000 of these are on cars in my district, noticed by everyone. Their T-shirts, one of which I have here along with the bumper sticker, are also very popular. We're going to try and get a T-shirt and a bumper sticker to each Member.

I am pleased to report that as a result of a meeting I had in my office yesterday with Dr. Ian Macdonald, Drug Policy Adviser to President Reagan, Bruce Feldman, Pennsylvania Governor Casey's Drug Policy Adviser and the Western Lehigh Optimists, Dr. Macdonald advised the group that he would make every effort to utilize "Be Smart! Don't Start" in a national campaign. Bruce Feldman announced that Governor Casey would place the bumper stickers on all appropriate State vehicles—what a fine opportunity to carry this message statewide. I am very proud that the Western Lehigh Optimists have generated this enthusiasm at the local, State, and now national level. I urge all of my colleagues to take this message back to their own congressional district—"Be Smart! Don't Start."

Mr. GILMAN. Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER pro tempore (Mr. SAWYER). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 329

Whereas illicit drug and alcohol abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas illegal drug and alcohol use is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas drug and alcohol abuse cost American society nearly $100,000,000,000 a year in lost productivity;

Whereas illegal drug use does not discriminate on the basis of age, gender, or socioeconomic status as evidenced by the following statistics:

(1) twenty-three million Americans age twelve and over currently use illicit drugs,

(2) a nationwide Weekly Reader survey revealed that of the sixty-eight thousand fourth graders polled, 34 per centum reported peer pressure to try wine coolers, 41 per centum to smoke, and 24 per centum to use crack or cocaine,

(3) the fifteen-to-twenty-four-year-old age group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, much of which is related to drug and alcohol abuse;

Whereas the problem is not insurmountable. Americans have begun to lay the foundation; however, we must continue to build on the important strides we have made in our efforts to prevent illegal drug and alcohol use. The most recent national polls reveal that progress has been made—

(1) since 1979, there has been a steady decline in the use of marijuana on a daily basis among high school seniors, and in 1987

marijuana use among this group was at its lowest level in eleven years,

(2) in 1987 there was a significant drop in the use of cocaine, and the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 per centum in 1986 to 48 per centum in 1987, and

(3) illicit use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas the American people indicate that drug abuse is one of the most serious domestic problems facing this Nation according to public opinion polls and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 23 through October 30, 1988, as "National Red Ribbon Week"—a comprehensive public education and fundraising drive, involving thousands of parent groups across the country;

Whereas other outstanding groups such as the American Council for Drug Education, the Just Say No Foundation, the National Parents Resource Institute for Drug Education, TARGET, the National Crime Prevention Council, the Elks, and others have demonstrated leadership, creativity, and determination in achieving a drug-free America;

Whereas we must get the message across that any use of an illegal drug is unacceptable—that there is no safe use of these drugs—and that illegal drug use will not be tolerated;

Whereas drug and alcohol abuse undermines our economy, threatens our national security, affects productivity, and ruins and destroys lives: Now, therefore, be it

Resolved, That the week of October 24 through October 30, 1988, be designated as "Drug Free America Week". The Senate of the United States recognizes and commends the hard work and dedication of concerned parents, educators, business leaders, private sector organizations, and government leaders and urges them to continue their tenacious efforts. The Senate urges these groups to sponsor town meetings, conferences, and fundraising activities that support community drug and alcohol education and to observe "Drug Free America Week" with other appropriate activities, events, and educational campaigns; and be it further

Resolved, That every American is encouraged to wear red during the "Drug Free America Week" to symbolize their commitment to a healthy, drug-free lifestyle.

The Senate joint resolution was ordered to be read a third time, was read the thrd time, and passed, and a motion to reconsider was laid on the table.

NATIONAL JOB SKILLS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 333) to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I would like to note that the gentleman from California [Mr. MARTINEZ] is the chief sponsor of House Joint Resolution 585, designating the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week," and we commend him for his legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 333

Whereas the ability to maintain an internationally competitive and productive economy and a high standard of living depends on the development and utilization of new technologies;

Whereas these technologies require skills that are currently lacking in the national workforce;

Whereas experts in both the public and private sectors predict that a shortage of skilled entry-level workers will exist through the remainder of this century;

Whereas young people in the United States are experiencing higher than normal unemployment rates because many of them lack the skills necessary to perform the entry-level jobs that are currently available;

Whereas these young people will continue to experience higher than normal unemployment rates unless they develop the skills necessary to perform the entry-level jobs that become available;

Whereas American workers facing dislocation due to plant closures and industrial relocation need special training and education to prepare for new jobs and new opportunities; and

Whereas a National Job Skills Week can serve to focus attention on present and future workforce needs, to encourage public and private cooperation in job training and educational efforts, and to highlight the technological changes underway in the workplace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 9, 1988, through October 15, 1988, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD FOOD DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 336) designating October 16, 1988, as "World Food Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I rise in support of House Joint Resolution 563 which would designate October 16, 1988 as "World Food Day."

Since 1979, the National Committee for World Food Day, under the leadership of its chairwoman, Patricia Young, has undertaken hundreds of projects and programs related to the world's hunger problem. Without World Food Day and the organizations involved with its celebration, the groundswell needed that made all the media events possible concerning hunger would never have existed.

Yet, despite the impressive outpouring of support, the problem of world hunger persists. According to recent reports 3 million people are at risk of starving in Angola. UNICEF informs us that every 24 hours, 42,000 children under the age of 5 die as a result of hunger and related diseases.

These grim statistics underscore the critical need for a continued commitment of private and Government funds to ending hunger. But emergency relief aid is not enough. A concerted effort must be made to improve the deteriorating conditions that result in tragedy after tragedy—the same conditions that allow famine and starvation to persist and remain a reality in a world with more than enough resources to feed its population. It is time for us, for our Nation and the world of nations to work to prevent disasters from occurring—to solve the problems.

World Food Day has been an effective way to raise global consciousness concerning this issue.

Accordingly, I urge my colleagues to support the resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 336

Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world, recently manifested by the American response to African famine;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace, and, therefore, to the security of the United States;

Whereas the Congress is particularly concerned with the continuing food problems of Africa and is supportive of the efforts being made there to reform and rationalize agricultural policies to better meet the food needs of their peoples;

Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the Congress is acutely aware of the paradox of enormous surplus production capacity in the United States despite the desperate need for food by people throughout the world;

Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;

Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas private enterprise and the primacy of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United States capable of meeting the food needs of most of the people of the United States;

Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;

Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world and to continue to aid hungry and malnourished people of the world;

Whereas participation by private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 400 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1988, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and by donating food and money for them: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1988, is designated as "World Food Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities, including worship services, fasting, educational endeavors, and the establishment of year-round food and health programs and policies.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

KEEPING THE BASE CLOSING PROVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, because of the different methods by which the House and Senate passed the military base closing provision, and perhaps because of a lack of will to act by some congressional conferees, we are in danger of losing it. It is imperative that any Defense Department authorization bill passed by the Congress this year include the base closing provision. The passage of those base closing provisions will result in savings of between $2 and $5 billion per year. Just as importantly, this measure allows us to make decisions about closing unneeded military installations based on national defense priorities rather than political and local economic considerations.

If we do not pass the base closing provision now, this unique moment in time for taking this necessary action will be lost. This unique opportunity is based on the special characteristics of this political year—the fact that we are about to elect a new President and that two different Secretaries of Defense will be charged with accepting the entire list of recommended base closures and then with implementation of that decision. Further Congress' meddling will be avoided.

No U.S. military installations have been closed in over 10 years. In reality many have been kept in operation simply for parochial political reasons or as economic development generators for localities and States.

As everyone knows, the Federal budget deficits are running at about $150 billion per year. With Defense spending at about $300 billion per year, it is an obvious target for reduction. The $2 to $5 billion per year savings made possible by the base closing measure represents a rational and highly desirable cost reduction that does not have a negative effect on our defense posture.

As the body responsible for the national purse, we would fail with our efforts to support our constituents and the national interest if we do not enact the base closing provisions passed this year by both Houses.

Now, frankly, we know that some of the House conferees don't like the directives they have received from the House on this subject. If they drag their feet in implementing the will of the House they should be required to account to their constituents and their colleagues for that failure. It is this Member's fervent hope that the leadership of this House and the other body will demand that they complete the conference on this legislation and complete it in a fashion that does not thwart the will of the majority of their congressional colleagues, but acts instead in the fashion that the public interest demands.

IMPORTANCE OF THE PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, this wraps up another week. The so-called historic 100th Congress is rapidly coming to a close. Because of religious holidays next week, religious holidays, thank God, and that is a prayer, not an expletive—the ACLU probably hates it when we break around here for religious holidays. That is the American Civil Liberties Union. That is tough. They are in a minority. We break for religious holidays here, and then Thursday and Friday a full day, a week of 5 days so that means 7 days left in September. We are shooting to get out on Friday of the week of October 3. It never will happen. We will be in the next week after that, so that is 10 days next month, 7 days this month, and in 17 days we are history.

So I want to take every opportunity I can to talk about why the Pledge of Allegiance is important in the current Presidential race, and to take personal note of the progress through the life of the first female President of the United States. That is my granddaughter, Erin Mary Griffin, who will be 1 year old tomorrow.

Those who follow the proceedings with our speaker here, will recall that last year she was born on the 200th anniversary of the Constitution, which set up our great Senate, this great people's House, the House of Representatives, the Presidency, and the Supreme Court.

Erin, of course, walked early, at about 10 months. She is running all around the house now.

I have not picked out a law school for her. Her parents have just caved in. They are going to let me guide her right to the White House.

That is why this current race is so important, because we are establishing something in this race.

I did a little research, and I am going to read something I admit I might not have recognized at first blush. I wonder if my colleagues would recognize this or the 450,000 people who follow the proceedings of this great Congress through national technical means or reading the Journal that is supplied to all of our public libraries.

What is this that I am about to read?

> Then conquer we must, when our cause it is just.
> And this be our motto, in God is our trust.
> And the Star Spangled Banner in triumph shall wave
> Oer the land of the free and the home of the brave.

That is our great Francis Scott Key's fourth and final stanza of our beautiful national anthem about our "Star Spangled Banner."

On one of the anniversaries of that night of September 13 and 14 I drove just less than an hour up the road here to Baltimore. Before you even get into the city, you turn off to Fort McHenry, and you can stand on the battlements, and picture Francis Scott Key, a prisoner on a British ship out there on the Chesapeake watching the shelling and the rockets red glare, and the gigantic flag that we can see right down Constitution and it sits just inside the wall of the American History Museum, the very flag that flew over Fort McHenry in that War of 1812, 2 years into that war, 1814 on September 13 and 14. What a tremendous national anthem we have.

Do you know that the American Civil Liberties Union, of which Mr. Dukakis brags that he is "a card-carrying member," and that is not a little, cute phrase, that is his own words, they want these words "In God we trust," out of the "Star Spangled Banner," with no respect for the author. They want those words "In God we Trust" off that wall. The ACLU wants that off this wall here and in the Senate. They want "In God we trust" off these coins in my pocket. They want it off that dollar bill right next to George Washington's face. They do not want it next to Franklin Roosevelt on the dime. They do not want it next to Abraham Lincoln on the penny. They do not want it next to George Washington on the quarter.

They do not want God in American life. They want Jewish, Judeo-Christian symbolism on the walls of city halls, and they want those cribs and those Hanukkah celebrations off the lawns of every little city hall and every town across America.

That is why I do not like the ACLU, and if Mr. Dukakis is going to run from that, as the Governor of 1 of our 13 original colonies, then fine, but he should suffer the consequences. He should stand up tall, as Sam Donaldson said on ABC's excellent "David Brinkley Show" this week. Sam Donaldson said that I am out there on a limb as a liberal, and I am proud of it, and that is good from someone who started the Republican Club in Pennsylvania as a youth, and he does not like twisting out there in the wind as an avowed liberal. He wants Dukakis to stand up and be a proud liberal as he always has been in his life instead of running a stealth campaign.

The Pledge of Allegiance that we now say every morning in this Chamber, and we will for the next 13 to 17 days, depending on when we adjourn, is important to every Member on both sides of the aisle because we are not just pledging to a piece of material. We are pledging to a nation and what it symbolizes and what it stands for. And I wish we would stop that break in between "one Nation under God." That is one phrase, no break, "one Nation under God." And the last line that some liberals object to is an ideal.

This is not a perfect country. No country has ever been perfect. There has only been one perfect person or institution on the face of the Earth, and that would be Jesus Christ. We are a proud Nation, but we aspire to justice and liberty for all, and that is why I am proud to say the pledge, and so will my granddaughter when she becomes President of the United States be proud to say the pledge right after she is sworn in out here on the front steps of the Capitol.

□ 1530

DISCUSSION OF VIDEO TAPE "JUSTICE ON FURLOUGH"

The **SPEAKER** pro tempore (Mr. SAWYER). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, for several days I have been talking about the video tape "Justice on Furlough" and talking about the fact that every Member should look at the human cost of Governor Dukakis' furlough program.

I was shocked just a few minutes ago to be told that Sheriff Randall Johnson of Fayette County, GA, has just arrested a criminal from Massachusetts who is apparently out of the Massachusetts prison system, a man who is identified as Joseph Donald Scesny, 20 years old. He was arrested in Fayette County, GA, in my district, for rape, attempted rape, and burglary. He is wanted in Clayton County, also in my district, for attempted rape. He is wanted in Fulton County, part of which is in my district, for rape which occurred in a church. He claims that he is a burglar who is out of the Massachusetts criminal justice system on parole. Apparently when Sheriff Randall Johnson attempted to confirm with the Massachusetts Corrections Department under the rules of the Massachusetts Corrections Department, just as they did with Willy Horton, they would not confirm for Sheriff Johnson whether Joseph Donald Scesny is in fact, somebody, a criminal from Massachusetts who, as I said, is wanted in three counties in my State of Georgia. In all three counties, he is wanted on rape and in addition he is wanted in one of the counties for attempted rape and burglary.

Let me suggest that every Member of Congress should recognize that in the age of interstate highways and in the age of airliners that people like Joseph Donald Scesny can leave Governor Dukakis' prison system and go out and can endanger citizens everywhere. It is an amazing coincidence that after 3 days of telling my colleagues that they should get a copy of the video tape "Justice on Furlough," they should watch the 25 minutes of interviews of the victims' families, of the couple—the Barnes couple from Maryland who were tortured and raped by one of the murderers released on furlough by Governor Dukakis; they should see the interview with the Maryland Judge who refused to send that criminal, Willie Horton, back to Massachusetts on the ground that Governor Dukakis' State government would simply release him again for weekend furloughs. That "Justice on Furlough" is helpful; it is an amazing coincidence that we learned today that in Fayette County, GA, that one of the criminals from Massachusetts, from Governor Dukakis' prison system has now been captured in Georgia and is being held for crimes he apparently committed in Georgia, while out—whether out on parole, out on furlough, we are not sure because the Massachusetts system will not tell us, but that he is from Governor Dukakis' system.

That is why I think every Member of the Congress should call the phone number that I have given before but I am going to give it again, they should call and order a copy of "Justice on

Furlough" so that they can see for themselves on this video tape the kind of human pain and the kind of human anguish that Governor Dukakis' very liberal, ACLU-kind of leftwing position which is procriminal, it is proprisoner, it is antivictim, it is antiinnocent citizens, if they want to call the number area code 618, 465-1166 and order a copy of "Justice on Furlough," and then next week when we come back in session I think we can look at Congressman DAN LUNGREN's bill, the bill that Congressman DAN LUNGREN has introduced which would cut off any Federal aid for a State prison system that had the kind of furlough program for murderers who were committed to lifetime sentences without parole. So if you want to call the number, which I will give one last time, and you want to get a copy of "Justice on Furlough," I think every Member ought to look at it. In addition, I hope that the Democrats will allow us to put this video tape on the House television system so that all of our staffs can have a chance to look at this tape and to see that kind of very human testimony to the human cost of Governor Dukakis' ACLU positions.

The area code is 618, 465-1166.

I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Does the gentleman mean that during the next 53 days of this Presidential race there are furloughed people—I never stopped to think of such an obvious fact—there are furloughed people from Massachusetts all over the country that may be committing crimes and being apprehended? This is like a time capsule that is being exploded—I mean, a time pill exploding in his face.

Mr. GINGRICH. I would say to my friend from California, I warned about it and talked about it and cited the case in Maryland.

CLARIFICATION OF DEFINITIONS OF "LIBERAL," "CONSERVATIVE," ET CETERA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I had not intended to speak on this subject matter. I did advise, through a signal, my two distinguished colleagues from Georgia and California respectively, to hold on a little because I happened to sit here while certain remarks were made.

Now as much as I have made use of this privilege, and I think it began the first week I came to the Congress about 26½ years ago, I never felt that it was proper to use the forum of this special privilege as a political stump. So I think the record will show that I never did. I do not want to address those remarks, but I did inasmuch as I happen to be proud when I am called a "liberal." Now I have come up from a county that was probably the most rock ribbed—and I do not like to use the word "conservative," because I do not think that is an accurate description—it was what I would consider reactionary. I think there is a difference between what I, with a great deal of sense of honor and respect, call a conservative and a reactionary or a Tory, if you please. The reason I am proud to be a liberal is that I came up under circumstances that at that time meant a breakthrough, as they called it at the time.

But it was not a breakthrough based on what a glib interpretation had it years later as a joinder of ethnic and racial minorities in order to win. As a matter of fact, the first race on a countrywide level in 1956, the poll tax, as a prerequisite for voting, the payment of a poll tax was enforced in Texas and we had about one-fourth the number of people as qualified electors then as what we have now in the county. And of that number, then, of those registered to vote, not even 10 percent were the ethnic minority Mexican Americans and the black which is really a minority, never has been more than 7½ percent in our county. And I was immediately attacked by my opponents as being a liberal identified with unions. And I was falsely accused of having been a union organizer. I was accused of being a liberal, which was tantamount, at that time, as being a Communist or a Red. These were words and phrases used interchangeably. That is the reason I am rising today.

I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I thank the gentleman, because before leaving the floor, I respect a great deal the gentleman's years of service here, I just want to offer the observation, just as the gentleman said correctly, I think for both Congressman DORNAN and myself that there is a real difference between the kind of reactionary who is often for segregation, who is often for oppressing people, who represented a very different kind of world than either of us come out of as conservatives. I also think there is a difference, if I may, between the sort of Franklin Roosevelt/Harry Truman/New Deal liberal who really cared about poor people and really was concerned about making sure that there was economic justice, and what we see emerging. I would like to get the gentleman's reaction to it in just a minute. Between that and the rise of the American Civil Liberties Union sort of leftwinger who is, for example, is willing to let murderers out on a weekend because there is a bias in favor of always finding one more excuse for the criminal. I think there is a difference between the classic Franklin Roosevelt/Harry Truman kind of liberal, which is a great American tradition and which frankly Ronald Reagan came out of. You know, Ronald Reagan campaigned for Harry Truman. People tend to forget that he made commercials for Hubert Humphrey in 1948. That was an economic justice battle cry which I know on the Housing Committee the gentleman from Texas still carries forward. But I think it was different in values from some of the values we see now, with some of the more leftwing kind of views that do not relate so much to economics but on things like drugs and on crime are very different from average Americans.

I would love to hear the gentleman's comments.

Mr. GONZALEZ. I would be delighted to because I see here also what appears to be a conflict in the gentleman's interpretation and labeling an organization such as the American Civil Liberties Union with a broadstroke, blanket-brush type of attack in which it is pictured as a defender of heinous criminals and the like. I think this is where I wanted to make my point of observation, not by way of criticism, because I respect every one of my colleagues' views and always attribute to them nothing but equal and noble motives, as I think I would like to be accused of having.

But I do think there is a dichotomy there in this distinguished gentleman, because he is distinguished—he is a professor-level educator in college—but I cannot quite accept the inability of my friend to accept responsibility for a generalization.

As the gentleman knows, generalizations can be very dangerous things because human existence is of such a nature that there is not one of us but what we cannot generalize without little footnotes and exceptions.

What I am saying is that I think it is unjust, for instance, to blame Governor Dukakis, for instance, or any Governor—for instance, we have in Texas a Republican Governor and Texas has been beset with an abnormal prison population and has been under a Federal court order to do something about clearing out that population. So the Governor has been pushing for the release, preferably on a county jail level, prisoners that some are considered very dangerous. But I would never think of blaming Bill Clements for being very liberal in his release of hardened criminals.

I yield to the gentleman from California.

Mr. DORNAN of California. I appreciate the gentleman in the well yielding to me. He is one of the most forthright Members in this Chamber and one of the rare Members who is never enslaved to a written text. The gentleman wears his thoughts openly and he expresses himself quite often with some eloquence.

Mr. GONZALEZ. Let me interrupt the gentleman to say that coming from him, a paragon of virtue in the way of eloquence, that is really a compliment that I deeply appreciate.

Mr. DORNAN of California. Well, I have many times sat here waiting to do one of my special orders and taken great note, with some interest, that the gentleman, like myself, sometimes finds a fascinating tangent to spend a few moments on, but always ties up his theme, ties up the loose ends and makes his point forcefully at the end.

Let me say what I think the gentleman refers to when he says he is a liberal and I have to accept his analysis apart from his district as being reactionary: These two words that have become more important in some of our House battles than the beautiful words "democracy" as used by the gentleman's party, the Democratic party or the word "Republic," as used by my Republican party; the root word of "conservatism" is to conserve, somebody who is generally laid back, who say, "Let's not throw away tradition here," the kind of person who would have signed a bill quickly to establish Yellowstone National Park, even if some timber people had to lose jobs and move out. That is over 110 years ago—112 years ago. It is the kind of a person who says, "We have established something good here. The country is based on some principles. Let us go slowly." I do not think my personality ever fitted that. My mind is as a young person. I have read Jules Verne, I have read H.G. Wells, I was in the future, I asked to be an astronaut once. I flew jet fighters. So "conservative" does not fit me. Now the word "liberal" as the gentleman interprets it is liberty, to expand liberty. The ACLU started out protecting individual liberty. But let me give you a fascist cause where they lost me.

The gentleman has probably heard me say last week that I was in Poland just 2 weeks ago visiting all six, not concentration camps, but extermination camps: Sobibor, Belzec, Auschwitz, Chelmno, and Treblinka. These were camps designed to slaughter human beings by the hundreds of thousands until they reached millions. And many survivors of that holocaust, that horror, lived in Skokie, IL. The ACLU, dancing on the head of a pin, went to court to give the Nazis a right to march through the neighborhoods of people who had seen the practice and fury of hell. And I thought "what point are they trying to prove now?" And it is that analysis, whether defending murderers, torturers who kill children in front of their parents and then rape and torture the parents to death.

□ 1545

To defend people like that and Nazis who are trying to march through a Jewish neighborhood of survivors from Treblinka. Auschwitz, and Birkenau, they have gotten so lost in their concept of maximizing individual liberty that I repeat what I said on the floor yesterday—and I would like the gentleman's observation—that this Nation in many of its major cities, and even its hamlets and villages, wallows in pornography and child pornography, and I lay that horror at the feet of the American Civil Liberty Union. It has nothing to do with liberty to hide pornographers, the slime of the Earth and rapists and murderers and Nazis behind the beautiful first amendment and the American flag.

That is why I am uptight at the ACLU, and Dukakis is a liberal he should be proud of the "L" word, and if he has a problem with the "L" word, he should spell it out and talk about what he can be proud of.

You are looking at a conservative who marched in this city with Martin Luther King, August 28, 1963, I was there as a conservative in my Air Force's uniform which got me criticism from the Air Force Reserve. They thought I was politicizing the uniform. I know I was, but the cause was so monumental. The Kennedy brothers were hiding in the White House. They did not see Martin Luther King.

A few days after this celebrated anniversary there was the horror of the litte girls that were blown up in an Alabama church, in the basement of a church at Sunday school within days of the Martin Luther King march. I went down to Alabama and walked the precinct and told the people I was a conservative Republican like Abraham Lincoln who freed the slaves, not like Franklin Roosevelt. He was nice, but think about being in both parties.

Here I am, years later, still angry at some liberals, proud of other liberals, but the glory flags of civil liberties have long been lost when we cover up the AIDS epidemic in the name of individual lives and permissiveness, and when we constantly keep pushing Nazis and Ku Klux Klanners out in front of the public and saying they have a right to spew their hatred in front of everybody.

So that is why I am angry at the ACLU and why I am angry at Dukakis.

Mr. GONZALEZ. Well, I thank the gentleman for his summing up and his identification with great causes for the full respect of our Constitution for all Americans. But I would like to remind the gentleman, I am not a member of the ACLU—not because I feel I am superior or anything, but when I had a chance I did not have the fee. You do have to pay a dues.

Mr. DORNAN of California. Have to be a card-carrying member.

Mr. GONZALEZ. But I saw in yesterday's newspaper where the new Attorney General, newly appointed Attorney General, former Governor of Pennsylvania, Mr. Thornburgh, has been a member of the ACLU, and I also remember those grim days of the 1950's which the gentleman recalls in the South, where the ACLU was in the forefront of that fight for civil liberties.

We have to recognize that we still, even with the gentleman's accounting of the specific acts that he objects violently to, and certainly every one of us has doubts about how can you go out and defend a heinous criminal, how can you defend a Ku Klux Klanner, how can you defend a Nazi parading, but remember that we had elections in 1980 in which candidates running as the Nazi Party got nominated in Michigan and in Carolina.

So I think we have to then realize that we have to consider these things in a context of America's unique sociojuridical heritage and that I have nothing, actually, but praise for the gentleman's convictions in these matters, because I am sure they emanate from not only moral but religious fervor, but no matter how fervent, there are certain circumscribed limitations in our heritage as far as either lawmaking or interpretation.

It is not the ACLU that should be blamed, if the blame is going to be apportioned the ACLU must, because they provide the legal talent, keep within the bounds of judicial decisions and the Supreme Court of the United States has decided very fine points of interpretation as to constitutionality. Some of these activities that we tend to denounce are considered.

Mr. DORNAN of California. Mr. Speaker, if the gentleman will yield. I feel guilty because my 5-minute special order has caused you to sacrific some minutes from your 1 hour special.

Mr. GONZALEZ. I did not want to interject myself in your limited time.

Mr. DORNAN of California. If you recall, we went through a whole day without anybody mentioning that today is the 201st anniversary of our first Constitution. The 10 first amendments, actually 12, and we dropped the first 2 later. It was Thomas Jefferson's suggestion, who was far across the Atlantic when it was a sizable transportation problem. He was the Ambassador to France and wrote back and said it was not good enough for the Constitution, but to get it in writing what the Government cannot do to us, and those 12 amendments, after dropping 1 and 2, turned into the first 10 amendments or our Bill of Rights.

I probably would not have remembered tomorrow if it were not now the birthday of the sixth of my grandchildren, the first woman President of the

United States to be, but I will hurry back to my room and as I pack to campaign in the great Commonwealth of Massachusetts for GEORGE BUSH, because they like to see this displaced New York Irish American Catholic, whose parents dragged me off to the Golden State—they like to see me in the pubs up there. I like to go into our great colleague BRIAN DONNELLY's favorite pub up there in Dorchester and talk to the Guardsmen in unifrom. I will pack to go up to Massachusetts, but have your special order on the television, and do not say anything by way of a prologue, and in 6 minutes you can cut loose and I will listen to what you have to say.

Mr. GONZALEZ. I appreciate that, but I want to point out to the gentleman as he hurries back soon after the birth of his grandchild.

Mr. DORNAN of California. The sixth of seven grandchildren. She will be a year old tomorrow.

Mr. GONZALEZ. This gentleman here has 19 grandchildren, so you have catching up to do.

Mr. DORNAN of California. I will match your 19 with HOWARD NIELSON's 24, but I have not talked to him for several days, so I do not know how many grandchildren he has now.

You, sir, are fecund prolific. I love your part of the country because that is where I went to Air Force basic training, and they taught me to be an officer and a gentleman and sent me off to fly. I loved Kelly, I loved Lackland, and I love San Antonio and that great river. God bless you. See you Thursday.

Mr. GONZALEZ. Have a safe trip.

MY ADVICE TO THE PRIVILEGED ORDERS

Mr. Speaker, I rise again in continuation of what I call "Advice to the Special Orders, Privileged Orders." Significantly I borrowed that phrase from the great American patriot, Joel Barlow, who was one the Chaplains, if not the chaplain for George Washington's army during the Revolutionary War, but also a great pamphleteer and a great poet and wrote equally great epic poems. As I have mentioned before on prior occasions such as the "Columbiad," in which he foresaw what turned out to be our Civil War. But in his advice to the privileged orders of Europe, which is the way he entitled his essays, he was in many respects and in my judgment, not only the equal in many respects perhaps of a more sensitive and imaginative nature than even Tom Paine himself. These were great voices at a time when it was not easy. Both were imprisoned. Paine was imprisoned in England and France as well for their advice to the privileged orders. The times are not dissimilar. There is a lot of similarity to our times.

We are on the threshold of great revolutionary events. We now are witnessing the contraction of the globe, contracted and strongly bound by electronic bonds of instant communication and interdealings in commerce and finance of huge volume and magnitude, all in a matter of split seconds that have and will continue to portend great, great, and if we let it be, ominous indications for the future. Certainly the handwriting is on the wall and has been as I said then, since 1966, clearer on the wall than the handwriting at Belshazzar's palace festival when that handwriting, that invisible hand wrote on the wall and it was, "Mena, mena, tekel," and simply put, what it meant was the deal was up, the game was up, and this is handwriting that has been on the wall, and we are complacent, with enjoyment of the highest tide of prosperity recorded in many—not only the 20th century, and as pervasive in nature a state of well-being.

In that period of time that we call the post-war times, although I do not like to refer to it that way because we have had no termination of World War II, because there is no peace treaty. We have over 320,000 of our military in West Germany alone, and throughout the world we have a total of about 550,000 of our military throughout the world. That is over half a million. When we have our discussions or debates on the defense appropriations or the defense budget or authorizations, which are now a little over, or about $315 billion that we tax the American people for in the name of defense, very little if any attention is paid—in fact, I don't say this out of braggadocio but almost say it kind of sadly, and almost apologetically, that other than my voice and for the last 2 years, mine was a sole voice. I was asking since 1974, about what is the proportion of this budget that we are allocating for the so-called defense of Europe. At first I was quite ridiculed, and in fact, angered a couple of the chair and subcommittee chairmen of appropriations. Their answer was the same over the course of years—they did not know exactly. It was scattered throughout the budget from every department, from resource and development to every other byline in a defense budget. When I would answer by saying that I had analyzed the budget and I had figured that it was no less than 55 to 60 percent for what we call "the defense of Europe," and the reply was, after I asked if I was in a ballpark range, they would say I was in the ballpark.

To this day, you still have no positive answer as to the proportion, even though as of this year's discussion on the budget and on an amendment which calls for a gradual assumption of responsibility on the part of our "allies," this had not been mentioned, but in the course of such a discussion this year I did hear somebody mention that it was in the range of 55 percent.

Mr. Speaker, my own analysis reveals that it is closer to 65 percent. Why would I ask that question as far back as 1974? Well, the reason is that in listening to all the discussions, in reading what the committee members said in the committee reports to accompany the bills, and in reading the budget recommendations of the President, it was obvious that their mindset, their perception of the world insofar as Europe was concerned, was a perception of a 1947 Europe, certainly not one later than 1950.

I am old enough that I can recall the issues of that day—the environment and the atmosphere. I remember the smells and the sounds of that day, and yet some cannot quite evoke that day. But I remember that the big issue in 1949 and 1950 was this: Are we going to allow the German finger on the trigger, meaning the bomb? The question was the rearming of Germany.

□ 1600

But that was a question that succeeded the diplomatic impasse and the breakdown among the victorious powers as to what would be done with the conquered countries and lands. And, if we read the history then as written by the diplomats who were involved, we learn of the exclusion by the European and the American diplomats of the Russian in any discussion having to do with a division and responsibility for that division of the occupying countries. As a result Berlin was divided up and had a quadpartite government. The United States ended up with the bulk of the land mass in what has been considered the avenue that an invading army from the East would follow. But England (Great Britain), ended up with the Ruhr. Well, this was a steel-producing and is a steel-producing area, and the British were very practical, as they always have been and continue to be, and they felt that it was absolutely necessary to have control of that so that the British steel production would not be in jeopardy.

The French occupied their old haunts, Alsace-Lorraine and the like, but we ended up with about 320,000 troops that we now call defense, but which in reality is a designation we change from occupation and which in real words is what we are. The French have somewhere around 10,000. The British have about 7,700.

But also in the meanwhile we had the emergence of the resurrected Europe which finally by the Treaty of Rome, 30 years ago this year, and I did not see anybody marking that observation of that date, but we should because that is what gave rise to the so-called European Community and a targeted goal for a United Europe or U.S.E. [United States of Europe], and everything that went into conjunction with that, the formation of the European Parliament. I never hear anybody talking about the European Parliament, much less its deliberations, or findings or conclusions. It is headquartered in Luxembourg, but who knows about it? The board of governors and the like are actually headquartered in Brussels, in Belgium, but we had NATO which was put into place around the 1950 period of time.

The big issue was, are we going to rearm? The Russians responded immediately, and that was the root cause of what has turned out to be the cold war. Looking at it from the standpoint of the world polity and at the experience of, say, the Soviet Government and its people, here was a nation that had been invaded, and in the course of that invasion and also facing hostility for many years on its eastern borders suffering the loss of more than 20 million of its citizens in that invasion. Well, the only way I could imagine that was if we could imagine the unimaginable, and that would be that a country like Guatemala would invade the United States and would destroy every citizen of Texas, Louisiana, Oklahoma, New Mexico, and Arkansas. How would we feel after that? And if after, with the help of some across the seas ally, this ally says, "You know we don't like the way you govern yourselves, and we're thinking of rearming that one-half of Guatemala that we split after we rolled back the invasion"; what would be our reaction?

I often wonder about that and also about our inability to grasp the history, the social economic history, of that middle Europe and later much less that of the Far East. And today, not even that, south of the border in which I have spoken out quite a bit and with great concern.

Today my advice, and I consider ourselves part of the privileged order. The only difference in the appellation of my style of address is that it is my advice to the privileged orders of America, and I consider my colleagues as being fellow privileged members of our society economically. Wage-wise we are in the upper 10 to 12 percent, but we also enjoy the highest privilege that anybody in any country, in any democracy particularly, could possibly enjoy, and that is the expression of full faith and confidence on the part of that sacred segment known as a congressional district in our country that says, "We want you to be our voice and represent us in the deliberations of our national parliament."

I cannot think of a higher honor in any land, but what does that entail? It certainly entails that we would then be entrusted with a dual role, one of responding and being responsive to those needs arising from this particular segment of our districts, but also in the light of having now been in full joinder of a national parliament sharing the national responsibility with our colleagues for an overall national policy.

So here, while some of us have spoken out since the sixties, the middle sixties, the seventies, the so-called 1968 crisis where the Deputy Secretary of the Treasury, Robert Roosa, promoted what was known as the Roosa dollar and the two-tier gold exchange system. The removal from the gold exchange standard or the devaluation of the dollar by President Nixon on August 15, 1971. And some of us then realized that what we had been saying since the middle sixties was beginning to be a terrible reality, and that was that the United States for the first time, especially since 1945, was confronted with a major task of reshaping its relationships, some of them which had been formed in 1946 and 1947. The Bretton Woods arrangement, insofar as international financial exchanges and the evaluation of national currencies was concerned, was at stake. There were those who did not call. In fact, there was no American newspaper that described President Nixon's action as a devaluation of the dollar. But every European country did.

These are all experienced countries. They have been through all of that, and they call a thing for what it is. We prefer to say that the United States, facing an international trade crisis, would prefer to impose a 10-percent surtax on imports and almost had to do away with it the moment it was announced by the sheer weight of reality of the enormity of that task, and possibility and scope of the idea, but above all taking us off the gold exchange standard.

That does not mean because the gold standard was one thing that collapsed back in the twenties, but the gold exchange was something else, and that is such an esoteric, as some people would like for us to believe, that it is something mysterious, magic, that only the high priests of finance can understand.

Well, that is nonsense. The simple fact is that we were beginning to face real tests of our ability to forge policy in the light of an emerging Europe and an emerging Japan. Since then we have had a lot of anguish. We have seen our country just in the last 3½ years emerge as a debtor nation for the first time since 1914.

We went into two world wars as the only creditor nation. It was our credit that the allies really wanted, got, and saved the day. But after each war, after World War I, I remember I was a student in school, and I remember the great moratorium and the payment of war debts, the horrendous and, by its very own injustice, the obvious breakdown in the peace treaty arrangement of 1918 in which Germany was bled to death and which unbelievably and never, never foreseeing, though, anybody wisely looking over from a perspective and detachment of objective reading of mankind's history would have said, "You're going to have to expect this."

And later we had millions dying in the convulsive war known as World War II. And we had all of those arrangments that were so critical in the twenties and then in the thirties and the Depression, all of which collapsed.

We are going through pretty much, as I have brought out on several occasions since 1979; I have been saying that everything was back in place, that all the factors were back in that equation that were present. It is a different equation. It has different factors. It has different constants. It even has different countries. But it is basically the same thing as after World War I.

I remember when some of the so-called conservatives were saying the French and the British have not paid their war debts. They have not even paid their interest. What are we going to do about it? And the British and the French were saying, "You can't squeeze blood out of a turnip. The Germans are not paying us our reparations, so, therefore, we can't pay you your debts. And besides, who are you to complain? We were all brothers and comrades in combat, and we won the war. So it is very, very cruel of you now to compel us."

So they were more or less overlooked. Well, it was not taken into account until the market crash in 1929 in October was that the international private debt was far greater than the public debt between the countries. But in Germany, forced in abject defeat and then imposed and impaled on a cross of absolute inability to pay there was economic chaos. There was the Weimar Republic. There was the mark or the German exchange where they could not print enough because it would take, for instance, several thousand of those marks to even be the equivalent of an American quarter.

□ 1615

Then I remember seeing these pictures in Collier's magazine, which no longer exists, in the Liberty magazine, which no longer exists, and these articles from Germany and in some news magazines and pictures of emaciated German mothers with little children waiting in line for milk handouts. That was the caption, "German mothers waiting for milk."

Another one, a series of men leaning their heads on an iron rail in some railroad station, saying, "German homeless men sleeping in a railway station."

Should we then wonder that a man came and promised to get them out of that? Certainly if we have not learned that, we ought to be learning about it in South America and in Central America and in Mexico, that when people are suffering oppression and social injustice, if the devil himself with pitchfork and horns on his head and tail comes and says, "I will save you," they are going to follow him. So if that devil is in the form of communism or a communist or a Marxist-Leninist, which I would say 99 percent of those peasants do not even know the difference between that and a typewriter, then we are following a mirage when we ascribe, if I may make reference to what was discussed with my colleagues, where a specific organization is given credit for great things, maybe not desirable things, but great accomplishments, we have been giving credit to communists that they are surprised they are being given credit for, because they know in their hearts and in their minds that the only way they have identified with them is because of the absence of interest of anybody else to come in there and right the wrongs, correct the social injustices.

Just as in any place in the world, whether Europe, Asia, or Latin America, we can never bomb an idea or such a thing as communism out of existence. The only way is by social justice. If we are then perceived as being arrayed on the side of those despoiling, oppressing and tyranizing the people, we will not succeed anymore than George the Third succeeded. Had it not been for our help received from the French and even the Spanish in Louisiana along the Mississippi who fought against the British for their own reasons, but it enabled the American revolution to triumph. If the French fleet had not tied up the British out here in the Chesapeake, I doubt seriously that we would have had as victorious a result as our great George Washington did.

We must never forget that in the meanwhile we have the task of providing the leadership in a different context, maybe more difficult because it is very, very complicated today, far more complicated in a way.

I am giving an example of how we have endangered our economic wellbeing, which means our freedom, and tracing as I have in the past, so that when we look at what is the leadership offering, it is easier to say the Russians have got to be vanquished in so far as our contest in armaments is concerned.

But if we do that in our inordinate hatred for that which is symbolized by the so-called Communist way, then we become slaves to their decisions. We then are not acting, we are reacting.

Instead, as we found out recently with the trip of Secretary Shultz down to South America, he was greatly disappointed. For the first time since the trip by Vice President Nixon to Venezuela, we had acts of violence directed against our Secretary of State. A bomb was placed in a car in the proximity of Mrs. Shultz. That had not happened recently.

He tried to get some clucking sounds of sympathy from everyone of the other Central American countries surrounding Nicaragua and South American countries on the upper part of the cone and he could not get it. When he went to Ecuador, he felt insulted because there at the great inauguration of a new President of Ecuador, he sees this mural in which the United States is equated with the sinister Nazi-like CIA.

That surely ought to prove to us the bankruptcy of what has been done in our name, mostly since the advent of this administration.

Frankly, I have been one of the most sustained and probably one of the initial critics, but the reason was not political. I never would want to be President or Vice President. I would not wish that office on my worst enemy.

I have worked with six different Presidents since I have been honored to have been elected to the U.S. House of Representatives. No matter from what party he may be, if I can, I am going to cooperate in every way I know how, but if I do not agree, if I feel that the very delicate balancing of powers, and remember that the U.S. House of Representatives and the Senate and the Congress as a whole is equal, separate and independent. The President is not superior. The President is not inferior. He is equal, separate and independent, but he is in article 2, not article 1 of the Constitution.

Our Judiciary, as I was trying to poorly explain, is also a separate, equal, and independent sector of our Government.

So I will be the first, because I am very jealous of the prerogatives and the privileges in the U.S. Constitution that are ours, where we are protected from arrest for anything said in the course of debate of the proceedings of the Congress, or to freely come and go from a session of the Congress, except for such things as betrayal of the Nation or high crimes or other things, such as treason and felonious breach of the peace.

But who else has that privilege in the Constitution? The reason goes back, and it is steeped in our Parliamentary history, where in England the King would attempt to put down dissident members of Parliament by having them arrested. We go back and hark to those things.

I think the things we have a realize is that here on the eve on celebrating the Constitution of the United States, that we should ponder long at the awesome responsibility given us in our time and our generation to reaffirm the basic principles.

I have gotten up on this floor and have stated that our President has violated those principles. I introduced a resolution of impeachment on March 5 of last year. I had stipulated the reasons. I got up on this floor hour after hour and gave the background and the reason.

I requested hearings before the proper subcommittee, but I was impelled only because I felt it was terrible that we had reached the point where a President could without any kind of consultation with the Congress and with no established military precedence, order the bombing in an attempt to kill a foreign leader, unpopular, hateful character, I agree, but yet since when? Not even the Russian Secretary General has that power.

This is another thing we must realize. When our President sits at what is called a summit and he makes agreements, some of them I am sure subject to the approval of Congress, some not, he is sitting with a counterpart that cannot commit unless he has the Politburo approving.

So wherein is the greater sin? Wherein is the lesser democracy?

We have to ponder these things, because we are going to be asked not less, but more as we go into the end of this year and in 1989 to be willing and have the stamina and have the guts to reaffirm the basic principles involved that we so glibly have taken for granted. We have been the inheritors of privileges. I am very sensitive to that.

I feel that I want to do nothing wrong in exercising these trusts, because on May 1, I completed 35 of public trust in an elective office, beginning with 3 years on the city council, the local legislative body of my city, and 5 years in the great State Senate of Texas. I feel that nothing I do or say will in any way diminish one iota this great heritage that I received to those who will follow me. But rather, what can I do that will enhance and enlarge that ambit of democratic participatory freedom and the chance to serve, no matter what our social and economic position may be.

But it is not that way today. Today we have House races that entail million dollar budgets. In Texas several years ago it took more than a quarter of a million dollars to lose a House race. So I realize my privilege. I would not be able to raise 10 percent of that amount, and yet the people when called upon have been there.

So I say that we have got to recognize that. I see as one of the biggest things that we have to prepare for is the emergency of a single market or single community in 1992, the target date for the completion of a united states of Europe. Already in place, as I have been saying since 1979, is a European Currency Unit, the ECU, and the European Monetary System, the EMS.

What does that mean? It means everything, because the dollar up to now has been the international unit of accounting. It has been the international monetary unit for international transactions, but it is inevitably going to be replaced, because it is now so erratic and unstable.

In the meanwhile, since the credit crunch of 1966, I have been speaking out about the catastrophic consequences of having no control of interest rates. interest rates all through mankind's known history, even 7,000 years before Christ, have been the mechanism by virtue of which wealth is transferred within a society. With the instability, with the extortionate rates of interest that we small businessmen and average Americans have had to pay, and the reason for that has been because of the forces external to our shores over which we no longer have controlling influence are determining that.

□ 1630

The so-called prosperity that we have enjoyed really translates to the prosperity of those of us who happen to be affluent, who have a safe, comfortable home, who have nice clothes to wear, who do not have to worry about a meal, but that can change. That does not morally dispense us from the obligation of trying to help that one-third, particularly in those areas such as our fellow black citizens where the unemployment rate is abnormally high, where the median income is way below and where we have had in 1 year a 2-percent increase in the poverty rate, and there are others.

Even as much as we are concerned about the racial and ethnic minorities, I always remind my colleagues that the so-called dominant group, what we do not consider as the ethnic or racial, has four times more people and, therefore, has four times more poor. We are all in the same boat, and what has happened, as I have said since 1966 and 1979 and all through these years is that we have in effect, maybe not intentionally, maybe so to a certain extent, been sold out. We have been sold down the river. There is no way that a society structure such as ours can continue with what is known as our standard of living with the extortionate or the instability in interest rates. This is the reason that there is such a portent now. Out of this nettle, danger, if we have the wit, we can pluck the flower of success and peace, if we are wise enough to know how to deal with this emerging Europe.

President Eisenhower, in all of his 10 volumes of collected speeches and addresses in the 1950's and 1960's, never once mentioned the European Common Market. So that one of the first votes I had when I was sworn in under President Kennedy was the Kennedy round of GATT, or the General Agreement on Trade and Tariffs. I was the only Texan in the delegation who was 1,000 percent New Frontiersman, and that is how they described me back home, and yet I saw a paragraph in that bill that said, "However, we shall provide for the formation of a commission to study whatever detrimental impact results to industry in America as a result of this General Agreement on Trade and Tariffs."

I could not get a decent answer, so I said that I was going to vote no. One of Mr. Kennedy's liaison men got ahold of me, and he said, "What do you want answered?" He brought Walter Heller himself, the chief economist, and Walter Heller tried to explain. I said, "Mr. Heller, you say this is good. You say this is good for American industry. You say this is going to foment trade for America. Why then do you expect detrimental impact?" He could not answer it. I voted "no," mind you, and Kennedy was the greatest personal friend I ever had in Presidents, and that is the way I have been ever since.

Today, when I say, "Wait awhile," everybody is mad at the Japanese, but the fact is that the British have more than twice the investment in the United States than the Japanese have.

In fact, the Japanese had about one-half billion less from last year, the year before, 1986 to 1987. The British, for example, went from $8.6 billion in 1986 to $11.5 billion.

The thing is so intricate, because these tremendous transnational, multinational financial and manufacturing and industrial giants do not have allegiance to any particular flag, and, yes, we have this tremendous investment that has been the thing that has saved the Reagan administration from catastrophe but which is playing out.

What are we going to do? Last year alone when the private foreign investors would not buy our paper, our notes, the central banks had to come in and pour an infusion, and they bought about everything but $20 billion of our U.S. international deficit. This is why I say no longer does the Federal Reserve Board that has flouted Congresses and Presidents for all of these years, accountable to nobody, no longer can control that, because now it is in the hands of these external forces over which we no longer have control.

If they pull out, then we have to raise interest rates as they were raised last year, and this year, in order to keep that infusion of foreign investment here, because they are not going to invest unless they have that higher yield.

What does that do to us?

COMMUNICATION FROM THE HONORABLE RONALD V. DELLUMS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable RONALD V. DELLUMS, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 14, 1988.

Hon. JIM WRIGHT,
Speaker of the House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I am writing to inform you, pursuant to Rule L of the Rules of the House of Representatives, that one of my employees has been served with a subpoena *duces tecum* issued by the Superior Court of the State of California, County of Alameda.

After consultation with the General Counsel to the Clerk, I will make the determinations required by the Rules of the House.

Sincerely,
RONALD V. DELLUMS,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Mr. FOLEY), for today, on account of personal business.

Mrs. SAIKI (at the request of Mr. MICHEL), for today, on account of official business.

Mr. BLILEY (at the request of Mr. MICHEL), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. DORNAN of California, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes each day, on September 22 and 23.

EXTENSION OF REMARKS

By unanimous consent, permission of revise and extend remarks was granted to:

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. TAUKE in two instances.

Mr. MCDADE.

Mr. DONALD E. "BUZ" LUKENS.

Mr. PORTER.

Mr. Rowland of Connecticut.
Mr. DioGuardi.
Mr. Oxley.
Mr. Fawell.
Mr. Lent.
Mr. Broomfield.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Kanjorski.
Mr. Garcia.
Mr. Wyden.
Mr. Roe in two instances.
Mr. Lehman of California.
Mr. Levin of Michigan.
Mr. Dwyer of New Jersey.
Mr. Hoyer.
Mr. Ackerman.
Mr. Donnelly.
Mr. LaFalce.
Mr. Lantos.
Mr. Torricelli.
Mr. Hutto.
Mr. AuCoin.
Mr. Dorgan of North Dakota in two instances.
Mr. Richardson.
Mr. Rahall.
Mr. Walgren.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1776. An act to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution; to the Committee on Banking, Finance and Urban Affairs.

S. 2283. An act to require the Secretary of the Treasury to mint and issue five-dollar coins in commemoration of the 100th anniversary of the statehoods of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming; to the Committee on Banking, Finance and Urban Affairs.

S. 2382. An act to delay the implementation of a certain rule affecting the provision of health services by the Indian Health Service; to the Committee on Interior and Insular Affairs; Committee on Energy and Commerce.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2342. An act to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

ADJOURNMENT TO TUESDAY, SEPTEMBER 20, 1988

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 36 minutes p.m.), under its previous order, the House adjourned until Tuesday, September 20, 1988, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees and delegations traveling under authorizations from the Speaker concerning the foreign currencies and U.S. dollars utilized by them during the first and second quarters of calendar year 1988 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Representative Charles Hayes	6/12	6/6	Switzerland	902.15	630.00		4,429.00				5,059.00
						130.25	[3] 89.36			89.36	
Carole Stringer	6/10	6/18	Switzerland	2,105.05	1,470.00		2,293.00				3,763.00
						130.25	[3] 89.36				89.36
Dorothy Strunk	6/10	6/17	Switzerland	1,803.35	1,260.00		2,293.00				3,553.00
						130.25	[3] 89.36				89.36
Committee total					3,360.00		9,283.08				12,643.08

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Local transportation.

AUGUSTUS F. HAWKINS, Chairman, July 31, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Thailand, Vietnam, China, and Philippines, April 2–9, 1988:											
Hon. G. V. Montgomery	4/2	4/3	Thailand		147.00						147.00
	4/3	4/4	Vietnam		125.00						125.00
	4/4	4/9	China		769.00						769.00
	4/9	4/9	Philippines								
Military transportation							4,415.00				4,415.00
Hon. William L. Dickinson	4/2	4/3	Thailand		147.00						147.00
	4/3	4/4	Vietnam		125.00						125.00
	4/4	4/9	China		769.00						769.00
	4/9	4/9	Philippines								
Military transportation							4,416.00				4,415.00
Hon. Robert E. Badham	4/2	4/3	Thailand		147.00						147.00
	4/3	4/4	Vietnam		125.00						125.00
	4/4	4/9	China		769.00						769.00
	4/9	4/9	Philippines								
Military transportation							4,030.00				4,030.00
Hon. Ben Blaz	4/2	4/3	Thailand		147.00						147.00
	4/3	4/4	Vietnam		125.00						125.00
	4/4	4/9	China		769.00						769.00
	4/9	4/9	Philippines								
Military transportation							3,004.00				3,004.00
Mr. William T. Fleshman, Jr	4/2	4/3	Thailand		147.00						147.00
	4/3	4/4	Vietnam		125.00						125.00
	4/4	4/9	China		769.00						769.00
	4/9	4/9	Philippines								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Military transportation							4,415.00				4,415.00
Mr. Peter M. Steffes	4/2	4/3	Thailand		147.00						147.00
	4/3	4/4	Vietnam		125.00						125.00
	4/4	4/9	China		769.00						769.00
	4/9	4/9	Philippines								
Military transportation							4,415.00				4,415.00
Ms. Rita D. Argenta	4/2	4/3	Thailand		147.00						147.00
	4/3	4/4	Vietnam		125.00						125.00
	4/4	4/9	China		769.00						769.00
	4/9	4/9	Philippines								
Military transportation							4,415.00				4,415.00
Mr. Stephen K. Conver	4/2	4/3	Thailand		147.00						147.00
	4/3	4/4	Vietnam		125.00						125.00
	4/4	4/9	China		769.00						769.00
	4/9	4/9	Philippines								
Military transportation							4,415.00				4,415.00
Delegation expenses	4/2	4/3	Thailand				99.60		1,447.69		1,547.29
Visit to France, Turkey, and Germany, April 1–9, 1988:											
Hon. Patricia Schroeder	4/1	4/3	France		496.00						496.00
	4/3	4/5	Turkey		312.00						312.00
	4/5	4/7	Germany		290.00						290.00
	4/7	4/9	France		496.00						496.00
Military transportation							6,090.70				6,090.70
Commercial transportation							3,903.00				3,903.00
Ms. Deborah R. Lee	4/1	4/3	France		496.00						496.00
	4/3	4/5	Turkey		312.00						312.00
	4/5	4/7	Germany		290..00						290.00
	4/7	4/9	France		496.00						496.00
Military transportation							6,090.70				6,090.70
Commercial transportation							3.903,00				3,903.00
Ms. Pam Solo	4/1	4/3	France		496.00						496.00
	4/3	4/5	Turkey		312.00						312.00
	4/5	4/7	Germany		290.00						290.00
	4/7	4/9	France		496.00						496.00
Military transportation							6,090.70				6,090.70
Commercial transportation							3,693.60				3,693.60
Visit to Saudi Arabia and Italy, May 20–22, 1988:											
Hon. Beverly B. Byron	5/20	5/22	Saudi Arabia		315.00						315.00
	5/22	5/23	(sea)								
	5/23	5/24	Italy		27.0.0						27.00
Military transportation							2,899.60				2,899.60
Ms. Karen S. Heath	5/20	5/22	Saudi Arabia		315.00						315.00
	5/22	5/23	(sea)								
	5/23	5/24	Italy		27.00						27.00
Military transportation							2,899.60				2,899.60
Visit to Republic of Korea, May 28–June 1, 1988:											
Hon. Thomas M. Foglietta	5/28	6/1	Republic of Korea		776.00						776.00
Commercial transportation							3,606.00				3,606.00
Visit to Bermuda, May 31–June 1, 1988:											
Hon. Les Aspin	5/31	6/1	Bermuda		424.00						424.00
Commercial transportation							277.00				277.00
Visit to Panama, June 5–7, 1988:											
Hon. Dave McCurdy	6/5	6/7	Panama		312.00						312.00
Committee total					15,306.00		73,077.50		1,447.69		89,831.19

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Aug. 10, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Wm. M. Kitzmiller	4/26	5/2	Bermuda		1,750.00						1,750.00
Commercial air fare							336.00				336.00
Gerry Sikorski, M.C	4/4	4/6	England		486.00						486.00
	4/6	4/9	Poland		522.00						522.00
	4/9	4/9	Germany		194.00						194.00
Codel exp. (England)									374.70		374.70
Codel exp. (Germany)									64.51		64.51
Commercial air fare London/Gdansk							93.19				93.19
Military air fare							8,220.10				8,220.10
Wm. M. Kitzmiller	5/21	6/2	Japan		2,900.00						2,900.00
Commercial air fare							2,537.28				2,537.28
Committee total					5,852.00		11,186.57		439.21		17,477.78

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman, Aug. 15, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Patsy S. Fleming	6/10	6/19	Sweden	12,192.70	2,033.98		1,563.00				3,596.98
Chris Cooper	6/20	6/24	Venezuela	5.873	180.00		806.00				986.00
Committee total					2,213.98		2,369.00				4,582.98

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JACK BROOKS, Chairman, Aug. 1, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
E. Clay Shaw, Jr., MC	4/4	4/6	England		486.00				374.70		860.70
	4/6	4/9	Poland		522.00		93.19				615.19
	4/9	4/10	Germany		194.00		43.15		21.36		258.51
Military transportation							8,220.10				8,220.10
Peter W. Rodino, Jr., MC	4/5	4/12	Italy		1,463.00		1,959.95		375.06		3,798.01
Commercial transportation							4,111.00				4,111.00
Arthur P. Endres, Jr., staff	4/5	4/12	Italy		1,463.00		1,959.95		375.06		3,798.01
Commercial transportation							4,349.00				4,349.00
Arthur P. Endres, Jr., staff	5/25	5/28	Switzerland		840.00						840.00
Commercial transportation							3,907.00				3,907.00
Peter Regis, staff	5/25	5/31	Switzerland		1,470.00						1,470.00
Commercial transportation							3,907.00				3,907.00
Committee total					6,438.00		28,550.34		1,146.18		36,134.52

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PETER W. RODINO, JR., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
James McCallum	6/11	6/19	Iceland		1,488.00		[3] 1,043.00				
						780	[4] 17.75				2,548.75
Thomas O. Melius	5/28	6/3	New Zealand		1,250.00		[3] 3,557.00				4,807.00
Jeffrey R. Pike	6/11	6/17	Iceland		1,302.00		[3] 989.00				
						975	[4] 22.30				2,313.30
Gerald Seifert	5/31	6/4	Germany	860	500.00		[3] 1,967.00				2,467.00
Lori Williams	5/29	6/12	New Zealand		1,250.00		[3] 3,481.00				4,731.00
Committee total					5,790.00		11,077.05				16,867.05

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial airfare.
[4] Ground transportation.

WALTER B. JONES, Chairman, Aug. 1, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
George Miller	4/1	4/3	Turkey		462.00						462.00
	4/4	4/6	West Germany	876.15	531.00					876.15	531.00
	4/7	4/10	Italy	1,093.95	884.00		114.91			1,093.95	998.91
	4/11	4/11	Switzerland	289.59	210.00					289.59	210.00
Military transportation							7,114.44				7,114.44
Committee total					2,087.00		7,229.35				9,316.35

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

GEORGE MILLER, Chairman, July 29, 1988.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. KWEISI MFUME, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 4 AND APR. 10, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Kweisi Mfume	4/4	4/5	London		486.00		[3] 3,480.40		[4] 374.70		4,341.10
	4/5	4/9	Poland		522.00						522.00
			Warsaw 4/6				[5] 306.36				306.36
			Gdansk 4/8				93.20				93.20
			Krakow 4/9								
	4/9	4/10	Munich		194.00		[5] 157.42		[4] 64.51		415.93
			United States				4,275.92				4,275.92
Committee total					1,202.00		8,313.30		439.21		9,954.51

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military.

[4] Information not previously available.

[5] Incorrectly recorded on previous report. Should have been 10 and 11 respectively.

KWEISI MFUME, June 23, 1988.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. TAMMY HAWLEY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 29 AND JUNE 4, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Tammy Hawley	5/30	6/3	Cote D'Ivoire	([3])	812.00		2,487.88				3,299.88
Committee total					812.00		2,487.88				3,299.88

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Incorrect figure in initial report.

TAMMY D. HAWLEY, July 13, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. ELVI H. PRIDDLE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 3 AND JAN. 9, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Elvie H. Priddle	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00		24.86		77.48		241.34
Military transportation							3,606.87				3,606.87
Committee total					852.00		3,631.73		77.48		4,561.21

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ELVIE H. PRIDDLE, Feb. 8, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DR. JAMES D. FORD, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 9 AND JAN. 21, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
James D. Ford	1/9	1/13	West Germany		872.00						872.00
	1/13	1/17	Soviet Union		708.00						708.00
	1/17	1/20	Czechoslovakia		442.00						442.00
Commercial transportation BWI to Frankfurt, West Germany and return Prague, CZ, to Frankfurt, West Germany.							656.64				656.64
Military transportation Frankfurt, West Germany to Moscow and Moscow to Prague, CZ.							656.00				656.00
Committee total					2,022.00		1,312.64				3,334.64

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES D. FORD, Mar. 17, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. ROBERT GIBSON, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 11 AND JAN. 23, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Robert Gibson	1/12	1/13	Italy		290.00		15.00		5.00		310.00
	1/14	1/21	Angola		820.00				55.00		875.00
	1/21	1/23	Brazil		270.00		10.00		35.00		315.00
Committee total					1,380.00		25.00		95.00		1,500.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT GIBSON, Feb. 16, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. JANICE JOYNER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 13 AND JAN. 26, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Janice Joyner	1/13	1/14	French Guiana	48,260	158.00					482.60	158.00
	1/14	1/18	Brazil	50,296.40	616.00					50,296.40	616.00
	1/19	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,002	382.25					99,002	382.25
	1/23	1/26	Ecuador		375.00						375.00
Committee total					1,936.25						1,936.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JANICE JOYNER, June 15, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO COSTA RICA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 14 AND JAN. 16, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. David E. Bonior	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Hon. Lee H. Hamilton	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Hon. Matthew F. McHugh	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Hon. Thomas R. Carper	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Hon. Jim Cooper	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Wilson Morris	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Kathleen Gile	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Vic Johnson	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Richard Pena	1/14	1/16	Costa Rica		264.00						264.00
Military transportation							2,806.97				2,806.97
Committee total					2,376.000		25,262.73				27,638.73

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAVID E. BONIOR, Feb. 16, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO KOREA, THAILAND, BURMA, SINGAPORE, AND INDONESIA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 14 AND JAN. 25, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Jonathan Spear	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99
Ben Proctor	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.58		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99
Pat Bradley	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.00
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO KOREA, THAILAND, BURMA, SINGAPORE, AND INDONESIA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 14 AND JAN. 25, 1988—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Committee total					3,672.00		52,386.99		580.17		56,639.16

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JONATHAN B. SPEAR, Apr. 18, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO IRELAND AND NORTHERN IRELAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 16 AND JAN. 25, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Brian J. Donnelly	1/16	1/25	Ireland, Northern Ireland		1,677.02		5,762.45		30.99		7,470.46
Pat Williams	1/16	1/21	Ireland, Northern Ireland		763.96		6,008.45		30.99		6,803.41
Kevin F. Peterson	1/16	1/25	Ireland, Northern Ireland		1,677.02		5,441.46		30.99		7,149.47
Committee total					4,118.00		17,212,36		92.99		21,423.35

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BRIAN J. DONNELLY.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BERMUDA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 5 AND FEB. 7, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Charles Rose	2/5	2/7	Bermuda		366.00		279.00				645.00
Peter Abbruzzese	2/5	2/7	Bermuda		366.00		258.00				624.00
Josephine Weber	2/5	2/7	Bermuda		366.00		258.00				624.00
Committee total					1,098.00		795.00				1,893.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLIE ROSE, Mar. 8, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ITALY, MOROCCO, AND PORTUGAL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 9 AND FEB. 16, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Tony Coelho	2/9	2/11	Italy		206.00				430.79		636.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Hon. John Dingell	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616,75
							[3] 8,087.98				8,087.98
Hon. Marvin Leath	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Hon. Jerry Lewis	2/9	2/11	Italy		206.00				258.79		636.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Hon. Bill Lowery	2/9	2/11	Italy	206.00					258.79		464.79
	2/11	2/13	Morocco	250.00					393.34		643.34
	2/13	2/16	Portugal	495.00					1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Hon. Steny Hoyer	2/9	2/11	Italy	206.00					258.79		464.79
	2/11	2/13	Morocco	250.00					393.34		643.34
	2/13	2/16	Portugal	495.00					1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Hon. Barbara Boxer	2/9	2/11	Italy	206.00					258.79		464.79
	2/11	2/13	Morocco	250.00					393.34		643.34
	2/13	2/16	Portugal	495.00					1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Hon. John Bryant	2/9	2/11	Italy	206.00					258.79		464.79
	2/11	2/13	Morocco	250.00					393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Hon. Albert Bustamante	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ITALY, MOROCCO, AND PORTUGAL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 9 AND FEB. 16, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Bart Gordon	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Hon. John Lewis	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
John Mack	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Keith Jewell	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Bobby Koch	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Tom Nides	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		445.00				1,121.75		1,568.75
							[3] 8,087.98				8,087.98
Christine Clary	2/9	2/11	Italy		206.00				258.79		464.79
	2/11	2/13	Morocco		250.00				393.34		643.34
	2/13	2/16	Portugal		495.00				1,121.75		1,616.75
							[3] 8,087.98				8,087.98
Committee total					15,166		129,407.68		28,554.08		173,127.76

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] U.S. Air Force plane cost derived as follows: Per individual. Total cost of plane/total number in group multiplied by the number in group multiplied by the number of people in the Codel Coelho.

TONY COELHO, Aug. 1, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BELGIUM AND FRANCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 10 AND FEB. 17, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Doug Bereuter	2/10	2/11	Belgium		197.00		2,098.00				2,295.00
Hon. Robert Garcia	2/11	2/13	Belgium		394.00						
	2/13	2/16	France		744.00						
Military transportation							11,791.92				12,929.92
Hon. Tom Lewis	2/11	2/13	Belgium		394.00						
	2/13	2/17	France		992.00						
Commercial transportation							1,940.00				
Military transportation							5,800.66				9,126.66
Hon. Robert Badham	2/11	2/13	Belgium		394.00						
	2/13	2/16	France		744.00						
Commercial transportation							1,790.00				
Military transportation							5,991.26				8,919.26
Hon. Ronald Dellums	2/11	2/13	Belgium		394.00						
	2/13	2/16	France		744.00						
Military transportation							11,791.92				12,929.92
Hon. Bill Richardson	2/10	2/13	Belgium		591.00						
	2/13	2/16	France		744.00						
Commercial transportation							1,793.00				
Military transportation							5,991.26				9,119.26
Peter Abbruzzese	2/10	2/13	Belgium		394.00						
	2/13	2/16	France		744.00						
Commercial transportation							3,654.00				
Military transportation							397.76				5,189.76
Arch Roberts	2/10	2/13	Belgium		591.00						
	2/13	2/17	France		992.00						
Commercial transportation							3,906.91				
Military transportation							397.76				5,887.67
Josephine Weber	2/11	2/13	Belgium		394.00						
	2/13	2/17	France		992.00						
Commercial transportation							3,654.00				
Military transportation							397.76				5,437.76
Ron Lasch	2/10	2/13	Belgium		591.00						
	2/13	2/17	France		992.00						
Commercial transportation							3,654.00				
Military transportation							397.76				5,634.76
Heidi Pender	2/11	2/13	Belgium		394.00						
	2/13	2/16	France		744.00						
Commercial transportation							3,654.00				5,189.76
Military transportation							397.76				
William Danvers	2/11	2/13	Belgium		394.00						
	2/13	2/17	France		992.00						
Commercial transportation							562.99				1,948.99
Administrative, control room and local transportation expenses.									3,868.04		3,868.04
Committee total					14,546.00		70,062.42		3,868.04		88,476.76

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S currency is used, enter amount expended.

ROBERT GARCIA.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO NORTH ATLANTIC ASSEMBLY TO SPAIN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 18 AND MAR. 20, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Dante B. Fascell	3/18	3/20	Spain		382.00		8,104.36				8,486.36
Hon. Jack Brooks	3/18	3/20	Spain		382.00		8,104.36				8,486.36
Hon. Charlie Rose	3/18	3/20	Spain		382.00		8,104.36				8,486.36
Peter Abbruzzese	3/18	3/20	Spain		382.00		8,104.36				8,486.36
Arch Roberts	3/18	3/20	Spain		382.00		8,104.36				8,486.36
Committee total					1,910.00		40,521.80				42,431.80

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DANTE B. FASCELL, Apr. 13, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. WILLIAM P. BINZEL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 18 AND MAR. 24, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
William P. Binzel	3/18	3/24	Venezuela	18,437.50	625.00		812.00				1,437.00
Committee total					625.00		812.00				1,437.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM P. BINZEL, Apr. 18, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. BARRY M. HAGER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 19 AND MAR. 24, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Barry M. Hager	3/19	3/24	Venezuela	22,125	750.00		813.00			22,125	1,563.00
Committee total					750.00		813.00				1,563.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BARRY M. HAGER, Apr. 20, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. KWEISI MFUME, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 4 AND APR. 10, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Kweisi Mfume	4/4	4/5	London		486.00		3,480.40				3,966.40
	4/5	4/9	Poland		522.00						522.00
			Warsaw 4/6				[3] 3,063.60				3,063.60
			Gdansk 4/8			37.000	[4] 93.20				93.20
			Krakow 4/9								
			Munich, Germany 4/9–4/10		194.00		[3] 1,731.60				1,925.60
			United States				[4] 4,275.92				4,275.92
Committee total					1,202.00		12,644.72				13,846.72

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military.
[4] Commercial.

KWEISI MFUME, May 10, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO WEST GERMANY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 8 AND APR. 19, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Lt. Charles L. Shelton	4/8	4/19	West Germany		1,300.00		1,166.38				2,466.38
Sgt. Thomas J. Williams, Jr.	4/8	4/19	West Germany		1,300.00		1,166.38				2,466.38
Committee total					2,600.00		2,332.76				4,932.76

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLES L. SHELTON, May 11, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE NORTH ATLANTIC ASSEMBLY IN MADERIA, PORTUGAL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 27 AND JUNE 1, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Charles Rose	5/27	6/1	Portugal		648.00		2,605.04				3,252.04
Hon. Robert Garcia	5/27	5/28	Portugal		243.00		988.00				1,231.00
Hon. Sherwood Boehlert	5/27	5/30	Portugal		486.00		2,206.00				2,681.00
Peter Abbruzzese	5/27	5/30	Portugal		414.00		2,267.00				2,681.00
R. Spencer Oliver	5/28	5/30	Portugal		324.00		2,471.00				2,795.00
Arch W. Roberts	5/26	5/30	Portugal		624.35		2,288.00				2,912.35
Josephine Weber	5/26	5/31	Portugal		782.00		2,358.00				3,140.00
Ronald Lasch	5/26	5/31	Portugal		810.00		2,358.00				3,168.00
William Inglee	5/26	5/30	Portugal		595.00		2,288.00				2,883.00
Nancy Mims	5/26	5/31	Portugal		785.00		2,358.00				3,143.00
Committee total					5,711.35		22,187.04				27,886.39

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLIE ROSE, June 23, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. WILLIAM P. BINZEL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 29 AND JUNE 3, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
William P. Binzel	5/30	6/3	Ivory Coast	234,262	812.00		2,487.88				3,299.88
Committee total					812.00		2,487.88				3,299.88

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM P. BINZEL, June 29, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. TAMMY HAWLEY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 29 AND JUNE 4, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Tammy Hawley	5/30	6/3	Abidjan, Cote d'Ivoire		612.00		2,487.88				3,099.88

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TAMMY D. HAWLEY, July 5, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. DONNA K. ALEXANDER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 30 AND JUNE 4, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Donna K. Alexander	5/30	6/4	Ivory Coast	234,262	812.00		2,487.88				3,299.88
Committee total					812.00		2,487.88				3,299.88

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONNA K. ALEXANDER, Sept. 2, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. LORI VALENCIA GREENE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 30 AND JUNE 3, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Lori Valencia Greene	5/30	6/3	Ivory Coast		812.00		2,487.88				3,299.00
Committee total					812.00		2,487.88				3,299.00

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LORI VALENCIA GREENE, July 8, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. J. WILLIAM GOOLD, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 13 AND JUNE 18, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
J. William Goold	6/13	6/18	Switzerland	1,503.60	1,050.00	2,555.63	1,784.66	28.90	20.18	4,088.13	2,854.84
Committee total					1,050.00		1,784.66		20.18		2,854.84

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. WILLIAM GOOLD, June 28, 1988.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4335. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 03-88, concerning a proposed memorandum of understanding with the Government of the United Kingdom concerning a joint project for surface ship torpedo defense, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

4336. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance (LOA) to Spain for defense articles and services estimated to cost $30 million (Transmittal No. 88-58), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4337. A letter from the Director, Defense Security Assistance Agency, transmitting a report that on September 13, 1988, a guerrilla force attacked the cuartel of the 4th Brigade Headquarters at El Paraiso in Chalatenango Province in El Salvador, pursuant to 22 U.S.C. 2761(c)(2); to the Committee on Foreign Affairs.

4338. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4339. A letter from the President, U.S. Capitol Historical Society, transmitting the annual report of the Society for the year ending January 31, 1988, pursuant to 36 U.S.C. 1217; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, reports of committees were delivered to the Clerk for printing and reference to the calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4907. A bill to amend the Public Health Service Act to revise and extend the authority of the Administrator of the Achohol, Drug Abuse, and Mental Health Administration, including revising and extending the program of block grants for the provisions of services with respect to mental health and substance abuse; with an amendment (Rept. 100-927). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee of conference. Conference report on H.R. 1467 (Rept. 100-928). Ordered to be printed

Mr. DINGELL: Committee of conference. Conference report on S. 1518 (Rept. 100-929). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs S. 1927, to provide for the consideration by the Secretary of the Interior of a desert land entry in the vicinity of Dinosaur National Monument, and for other purposes; with an amendment (Rept. 100-930). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5232. A bill to grant the consent of the Congress to the Southwestern Low-Level Radioactive Waste Disposal Compact (Rept. 100-931, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2642. A bill to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes; with an amendment (Rept. 100-932). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1165, to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey; with an amendment (Rept. 100-933). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4362. A bill to amend section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes; with an amendment (Rep. 100-934). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4535. A bill to designate the outpatient clinic of the Veterans' Administration to be located on New Jersey State Route 70 in Brick Township, NJ, as the "James J. Howard Veterans' Outpatient Clinic" (Rept. 100-935). Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4948. A bill to direct the American Battle Monuments Commission to restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines; with amendments (Rept. 100-936). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4469. A bill to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes; with an amendment (Rept. 100-938). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5114. A bill to amend title 38, United States Code, to improve programs for the recruitment and retention of health-care personnel of the Veterans' Administration, to extend certain expiring programs of the Veterans' Administration, and for other purposes; with an amendment. Referred to the Committee on Ways and Means for a period ending not later than September 28, 1988, for consideration of such provisions of section 309 of the amendment as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X (Rept. 100-937, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Agriculture discharged from further consideration of H.R. 4123; H.R. 4123 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ACKERMAN (for himself, Mr. MYERS of Indiana, Ms. OAKAR, Mr. LELAND, Mrs. MORELLA, and Mr. PASHAYAN):

H.R. 5319. A bill relating to compensation for members of the U.S. Park Police and members of the U.S. Secret Service Uniformed Division; to the Committee on Post Office and Civil Service.

By Mr. WAXMAN (for himself, Mr. WALGREN, and Mr. MARKEY):

H.R. 5320. A bill to amend title XVIII of the Social Security Act to provide for coverage of long-term community care and long-term nursing facility care under the Medicare Program, to amend title XIX of such act to provide assistance to low-income individuals under the Medicaid Program, and to amend the Public Health Service Act to provide community care to low-income individuals; jointly to the Committees on Ways and Means and Energy and Commerce.

By Mr. ANDERSON (for himself, Mr. Hammerschmidt, Mr. Shuster, Mr. Hoyer, and Mrs. Bentley):

H.R. 5321. A bill to amend the Motor Carrier Safety Act of 1984 to eliminate application of the commercial zone exemption to commercial motor vehicle safety regulations, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DioGUARDI:

H.R. 5322. a bill to amend the Judicial Survivors' Annuity Act to eliminate the requirement that a Federal Justice or judge, who is assassinated, must serve a specific period of time before his or her survivors become eligible for benefits under the act; to the Committee on the Judiciary.

By Mr. FAZIO:

H.R. 5323. A bill to authorize the Rumsey Indian Rancheria to convey certain parcel of land; to the Committee on Interior and Insular Affairs.

By Mr. GEJDENSON (for himself, Mr. Morrison of Connecticut, Mr. Shays, Mr. DioGuardi, and Mr. Mrazek):

H.R. 5324. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize seizures and forfeitures of vessels used to violate title I of such act; to the Committee on Merchant Marine and Fisheries.

By Mr. JONES of Tennessee (for himself, Mr. de la Garza, Mr. Madigan, Mr. Coleman of Missouri, Mr. Brown of California, Mr. Campbell, Mr. Coelho, Mr. Combest, Mr. Emerson, Mr. English, Mr. Espy, Mr. Glickman, Mr. Grandy, Mr. Gunderson, Mr. Harris, Mr. Hatcher, Mr. Herger, Mr. Holloway, Mr. Hopkins, Mr. Huckaby, Mr. Jeffords, Mr. Johnson of South Dakota, Mr. Jones of North Carolina, Mr. Jontz, Mr. Lancaster, Mr. Lewis of Florida, Mr. Morrison of Washington, Mr. Nagle, Mr. Olin, Mr. Panetta, Mr. Penny, Mr. Roberts, Mr. Rose, Mr. Schuette, Mr. Robert F. Smith, Mr. Staggers, Mr. Stallings, Mr. Stangeland, Mr. Stenholm, Mr. Tallon, and Mr. Volkmer):

H.R. 5325. A bill to establish a commission to review and make recommendations for the improvement of the Federal Crop Insurance Program; to the Committee on Agriculture.

By Mr. MILLER of Ohio:

H.R. 5326. A bill to amend title 23, United States Code, to reduce the amount of Federal highway funds to any State which does not have a program of random testing for drug abuse of individuals to whom a driver's license is issued or renewed during the 1-year period following the date of issuance or renewal, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. RICHARDSON:

H.R. 5327. A bill to authorize continued storage of water at Abiquiu Dam in New Mexico; to the Committee on Public Works and Transportation.

By Miss SCHNEIDER:

H.R. 5328. A bill to establish a program of demonstration grants to local educational agencies to promote the implementation of plans to reduce class size; to the Committee on Education and Labor.

By Mr. SCHUMER (for himself, Mr. Rodino, Mr. Morrison of Connecticut, Mr. Hughes, Mr. Guarini, Mr. Gallo, Mrs. Roukema, Mr. Florio, Mr. Green, Mr. McGrath, Mr. Boehlert, Mr. Martin of New York, Mr. Manton, Mr. Gilman, and Mr. Roe):

H.R. 5329. A bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during the 5-year period beginning on April 1, 1989, of nurses as temporary workers; to the Committee on the Judiciary.

By Mr. WALGREN:

H.R. 5330. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate any portion of any overpayment of income tax, and to contribute other amounts, for payment to the National Organ Transplant Trust Fund, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SWINDALL:

H.J. Res. 657. Joint resolution to ensure financial and management reform in the United Nations; to the Committee on Foreign Affairs.

By Mr. INHOFE:

H.J. Res. 658. Joint resolution designating the week of January 15-21, 1989, as "National Jaycee Week"; to the Committee on Post Office and Civil Service.

By Mr. LEWIS of Florida (for himself, Mr. Hutto, Mr. Grant, Mr. Bennett, Mr. MacKay, Mr. Gibbons, Mr. Young of Florida, Mr. Nelson of Florida, Mr. Mack, Mr. Mica, Mr. Shaw, Mr. Smith of Florida, Mr. Lehman of Florida, Mr. Fascell, Mr. Callahan, Mr. Livingston, Mrs. Boggs, Mr. Tauzin, Mr. Baker, Mr. Rose, Mr. Ravenel, Mr. Archer, Mr. Fields, and Mr. Andrews):

H. Con. Res. 366. Concurrent resolution expressing the sense of the Congress that the Air Force should continue to utilize the weather reconnaissance aircraft, WC-130, in coordination with National Oceanic and Atmospheric Administration operated satellite technologies, for tracking hurricanes and collecting research data to enable scientists to predict and understand hurricane behavior; jointly, to the Committees on Armed Services and Science, Space and Technology.

By Mr. DORNAN of California:

H. Res. 539. Resolution amending the Rules of the House to require that any House employee who has a security clearance receive semiannual security briefings; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DioGUARDI introduced a bill (H.R. 5331) for the relief of Joan Daronco; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 338: Mr. Marlenee.

H.R. 633: Mr. Coble.

H.R. 817: Mr. Hunter.

H.R. 2848: Mr. Robinson.

H.R. 2925: Mr. Carper.

H.R. 3978: Mr. Mineta.

H.R. 4141: Mr. Saxton, Mr. Boucher, Mr. Hyde, and Mr. Wortley.

H.R. 4302: Mr. Dannemeyer, Mr. Houghton, Mr. Hyde, Mr. Madigan, Mrs. Saiki, Mr. Walker, Mr. Hansen, Mr. McCrery, Mr. Slaughter of Virginia, Mr. Smith of Texas, Mr. Lott, Mr. Craig, Mr. Kemp, Mr. Young of Florida, Mr. Brown of Colorado, Mr. Denny Smith, and Mr. Blaz.

H.R. 4454: Mrs. Meyers of Kansas.

H.R. 4479: Mr. Chapman, Mr. Eckart, Mr. Neal, and Mrs. Schroeder.

H.R. 4535: Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, and Mr. Richardson.

H.R. 4552: Ms. Pelosi.

H.R. 4570: Ms. Pelosi.

H.R. 4576: Mr. Smith of Texas.

H.R. 4632: Mr. DeFazio, Mr. McCrery, and Mr. Wyden.

H.R. 4649: Mr. Matsui.

H.R. 4657: Mr. Moorhead.

H.R. 4680: Mr. DeFazio, Ms. Pelosi, Mr. Slattery, Mr. Torres, Mr. Jeffords, and Mr. Oberstar.

H.R. 4829: Ms. Kaptur.

H.R. 4948: Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, and Mr. Richardson.

H.R. 4990: Mr. Rahall.

H.R. 4992: Mr. Ireland, Mr. Hawkins, Mr. Boulter, Mr. Coelho, Mrs. Martin of Illinois, Mr. Wortley, Mr. de la Garza, Mr. Crockett, Mr. Stark, Mr. Dyson, Mr. Oxley, Ms. Slaughter of New York, Mrs. Lloyd, Mr. Lehman of Florida, Mr. Berman, Mr. Rahall, Mr. Lipinski, Mr. Jeffords, Mr. Rodino, and Mr. Smith of Florida.

H.R. 5000: Mr. Fish, Mr. Traficant, and Mr. Ackerman.

H.R. 5042: Mr. Hefner and Mr. Quillen.

H.R. 5056: Mrs. Smith of Nebraska.

H.R. 5061: Mr. Frank, Mr. Konnyu, Mr. Houghton, Mr. Stark, Mr. Hiler, Mr. Spence, Mr. Whittaker, Mr. Nielson of Utah, and Mr. Sawyer.

H.R. 5068: Mr. Gonzalez.

H.R. 5081: Mr. Mrazek.

H.R. 5106: Mr. Borski, Mr. Wolpe, Mr. Murphy, and Mr. Gejdenson.

H.R. 5114: Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, and Mr. Richardson.

H.R. 5159: Mrs. Lloyd and Mr. Hubbard.

H.R. 5167: Mrs. Meyers of Kansas, Mr. Hyde, and Mr. Mack.

H.R. 5186: Mr. Nielson of Utah.

H.R. 5199: Mr. Lagomarsino, Mr. Mineta, and Mr. Shumway.

H.R. 5229: Mr. Eckart and Mr. Murphy.

H.R. 5249: Mr. Schuette, Mr. Broomfield, and Mr. Hertel.

H.R. 5276: Mr. Bilbray.

H.R. 5299: Mr. Edwards of California, Mr. Martinez, Mr. Matsui, Mr. Mineta, Mr. Roybal, and Mr. Torres.

H.R. 5303: Mr. Roe, Mr. Lightfoot.

H.J. Res. 380: Mr. Buechner, Mr. Stenholm, and Mr. Leland.

H.J. Res. 446: Mr. Brooks, Mr. Dymally, Mr. Vento, Mr. Nielson of Utah, Mr. Boulter, Mrs. Collins, Mr. Applegate, Mr. Edwards of California, Mr. Rhodes, Mrs. Vucanovich, Mr. Latta, Mr. Leland, Mr. Lightfoot, Mr. Stenholm, Mr. Dorgan of

North Dakota, Mr. Panetta, Mr. Hall of Ohio, Mr. Ireland, Mr. Anthony, Mr. Boland, Mr. Jones of Tennessee, Mr. Torres, Mr. Crane, Mr. Smith of New Hampshire, Mr. Craig, Mr. Gordon, Mr. Quillen, Mr. Russo, Mr. Chandler, Mr. Hyde, Mr. Cardin, Mr. Ballenger, Mr. Davis of Illinois, Mr. Smith of Texas, Mr. Hamilton, Mr. Wylie, Mr. Inhofe, Mr. Carr, Mr. Evans, Mr. Nelson of Florida, Mr. Hastert, Mr. Cheney, Mr. Upton, Mr. Synar, Mr. Burton of Indiana, Mr. DeFazio, Mr. Matsui, Mr. DeWine, Mr. Oxley, Mr. Wheat, Mr. Harris, Mr. Markey, Mr. Conte, Mr. Livingston, and Mr. Kasich.

H.J. Res. 454: Mr. Lagomarsino, Mr. Cheney, Mr. Upton, Mr. Carper, Mr. Berman, Mr. Ritter, Mr. Broomfield, Mr. Rahall, Mr. Jeffords, and Mr. Porter.

H.J. Res. 537: Mr. Davis of Michigan, Ms. Pelosi, Mr. Boehlert, Mr. Coughlin, Mr. Fish, Mr. Edwards of Oklahoma, Mrs. Meyers of Kansas, Mr. Houghton, Mr. Ridge, Mr. Grandy, Mr. Davis of Illinois, Mrs. Martin of Illinois, Mr. Miller of Washington, Mr. Crane, Mr. Solomon, Mr. Panetta, Ms. Snowe, Mr. Evans, and Mr. Hunter.

H.J. Res. 563: Mr. de la Garza, Mr. Applegate, Mr. Atkins, Mr. Clarke, Mr. Hayes of Illinois, Mr. Lipinski, Mrs. Collins, Mr. Smith of Florida, Mr. Rowland of Connecticut, Mrs. Bentley, Mr. Sikorski, Mr. Solomon, Mr. Vento, Mr. Roe, Mr. Horton, Mr. Shays, Ms. Kaptur, Mr. Crockett, Mr. Hatcher, Mr. Lewis of California, Mr. Flake, Mr. Kostmayer, Mr. Brown of California, Mr. Bustamante, Mr. Carr, Mr. Gonzalez, Mr. Neal, Mr. Frost, Mrs. Patterson, Mr. Brennan, Mr. Stark, Mr. Bonker, Mr. Yatron, Mr. Traficant, Mr. Savage, Mr. Hughes, Mr. Lancaster, Mr. McGrath, Mr. McCloskey, Mr. Mazzoli, Mr. Clay, Mr. McCollum, Mr. Quillen, Mr. Manton, Mr. Lehman of Florida, Mr. Torricelli, Mr. Solarz, Mr. Dymally, Mr. Saxton, Mr. Bevill, Mr. Henry, Mr. Moody, Mr. Wortley, Mr. Bereuter, Mr. Blaz, Mr. Fuster, Mr. Valentine, Mr. Levin of Michigan, Mr. Jeffords, Mr. Jacobs, Mr. Hamilton, Mr. Synar, Mr. Lowry of Washington, Mr. Espy, Mr. AuCoin, Mr. Gray of Illinois, Mr. Traxler, Mr. Hefner, Mr. Owens of New York, Mr. Berman, Mr. Walgren, Mr. Daub, Mr. de Lugo, Mr. Guarini, Mr. Fazio, Mr. Wolf, Mr. Ackerman, Mr. McEwen, Mr. Udall, Mrs. Lloyd, Mr. Kleczka, Mr. Ravenel, Mr. Tallon, Mr. Skelton, Mr. Spratt, Mr. Watkins, Mr. Spence, Mr. Garcia, Mr. Moorhead, Mr. Dorgan of North Dakota, Mr. Lantos, Mr. Whittaker, Mr. Sawyer, Mr. Smith of Iowa, Mr. Jones of North Carolina, Mr. Scheuer, Mrs. Morella, Mr. Roybal, Mr. Donnelly, Mr. Shaw, Mr. Gephardt, Mr. Hall of Ohio, Mr. Fauntroy, Mr. Conyers, Mr. Lagomarsino, Mr. Anderson, Mr. Kolbe, Mr. Tauzin, Mr. DeWine, Mr. Russo, Mr. Murphy, Mr. Wilson, Mr. Martin of New York, Mr. Foley, Mr. Volkmer, Mr. Gray of Pennsylvania, Mr. Dornan of California, Mr. Smith of New Jersey, Mr. Molinari, Mr. DeFazio, Mr. Stokes, Mr. Kemp, Mr. Kennedy, Ms. Oakar, Mr. Erdreich, Mr. Studds, Mr. Hochbrueckner, Mr. DioGuardi, Mrs. Boxer, Mr. Panetta, and Mr. Evans.

H.J. Res. 570: Mr. Bruce, Mr. Courter, Mr. Early, Mr. Gallo, Mr. Jontz, Mr. Miller of California, Mr. Pepper, Mr. Roybal, Mr. Schaefer, Mr. Sikorski, Mr. Stark, Mr. Tauzin, Mr. Waxman, and Mr. Wyden.

H.J. Res. 572: Mr. Chandler.

H.J. Res. 584: Mr. LaFalce.

H.J. Res. 591: Mr. Coleman of Texas, Mr. LaFalce, and Mr. Conte.

H.J. Res. 599: Mr. Hunter, Mr. Gunderson, Mr. Fauntroy, Mr. Michel, Mr. Quillen, Mr. Denny Smith, Mr. Stallings, Mr. Vander Jagt, and Mr. Wyden.

H.J. Res. 604: Mr. DeWine.

H.J. Res. 613: Mr. Kennedy, Mr. Lancaster, Mr. McMillen of Maryland, Mr. Bliley, Mr. Frost, Mr. Boulter, Mr. Bryant, Mr. DeFazio, Mr. Fish, Mr. Neal, Mr. Davis of Michigan, Mr. Kanjorski, Mr. Udall, Mr. Lantos, Mr. Kostmayer, and Mr. Ackerman.

H.J. Res. 616: Mr. McMillen of Maryland, Mr. Bliley, Mr. Stratton, Mr. Fuster, Mr. Quillen, Mr. Leland, Mr. Carper, Mr. Darden, Mr. Sabo, Mr. Coyne, Mr. Traxler, Mr. Rodino, Mr. Sawyer, Mr. Bonior of Michigan, Mr. Chapman, Mr. de Lugo, Mr. Levine of California, Mr. Yates, Mr. Lipinski, Mr. Solarz, Mr. Martinez, Mr. Dellums, and Mr. Weiss.

H.J. Res. 636: Mr. Brown of Colorado, Mr. Campbell, Mrs. Collins, Mr. Fazio, Mr. Jontz, Mr. Leland, Mr. Lipinski, Mr. Mrazek, Mr. Rodino, Mr. Roe, Mr. Young of Alaska, and Mrs. Bentley.

H.J. Res. 649: Mr. Kostmayer, Mr. Mack, Mrs. Byron, Mr. Traxler, Mr. Denny Smith, Mr. Gonzalez, Mr. Moody, Mr. Berman, Mr. Harris, Mr. Nowak, Mr. Saxton, Mr. Eckart, Mr. Horton, Mr. Roth, Mr. Miller of Washington, Mr. Clarke, Mr. Russo, Mr. Donald E. Lukens, Mr. Martin of New York, Mr. Lagomarsino, Mr. Mrazek, Mr. Dowdy of Mississippi, Mr. Boucher, Mr. Schuette, Mr. Stenholm, Mr. Rodino, Mr. Davis of Illinois, and Mr. McGrath.

H.J. Res. 650: Mr. Leland, Mr. Levin of Michigan, and Mr. Levine of California.

H. Con. Res. 28: Mrs. Boxer.

H. Con. Res. 362: Mr. Richardson, Mr. Solomon, Mr. Skelton, Mr. Pashayan, Mr. Boehlert, Mr. Baker, Mr. Horton, and Mr. Hyde.

H. Con. Res. 364: Mr. McGrath.

H. Res. 501: Mrs. Meyers of Kansas, Mr. Rowland of Connecticut, Mr. Combest, Mr. Ballenger, Mr. Smith of New Hampshire, Mr. Lightfoot, Mr. Denny Smith, Mr. McCandless, Mr. Applegate, Mr. Herger, Mr. Hastert, Mr. Hunter, Mr. Marlenee, Mr. Gallo, Mr. Dornan of California, Mr. Craig, Mr. Gradison, Mr. Quillen, Mr. Penny, Mr. Young of Florida, Mr. Perkins, Mrs. Martin of Illinois, Mr. Martin of New York, Mr. Sundquist, Mr. Shaw, Mr. Schaefer, Mr. Swindall, Mr. Bilirakis, Mr. Hefley, Mr. Lungren, Mr. Wortley, Mr. Rhodes, Mr. Lipinski, Mr. Gallegly, Mr. Whittaker, Mr. Horton, Mr. Moorhead, Mr. Conte, Mr. Schulze, Mr. Lewis of Florida, Mr. Shays, Mr. Olin, Mr. Davis of Illinois, Mr. Fawell, Mr. Mazzoli, and Mr. Stangeland.

EXTENSIONS OF REMARKS

DEFEAT THE TEXTILE BILL

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. LAFALCE. Mr. Speaker, once again we face the prospect of a Presidential veto of a textile bill and, possibly, a subsequent congressional attempt to override. I believe this legislation ultimately will be, and deserves to be, defeated, as it has been in the past.

Just a few weeks ago, the President signed into law sound bipartisan trade legislation that will improve this Nation's ability to compete in international markets. We are just beginning to make some minimal progress in turning our trade deficit around. If we are to succeed, it can only be through a meaningful program to improve our competitiveness and an aggressive export strategy, not through closing our markets to foreign goods. Approval of protectionist textile legislation will only ensure foreign retaliation that will close foreign markets to U.S. goods, eliminating any possibility of a successful U.S. export strategy.

The Wall Street Journal, the Washington Post, and the Buffalo News respectively have recently published editorials opposing this troubling legislation. I commend them to my colleagues.

[From the Wall Street Journal, Sept. 7, 1988]

TEXTILE WORSHIP

Who was it who said passing the trade bill would kill protectionism as a political issue? We recall it was the same Reagan administration that is this week scrambling to find enough votes in the Senate to derail a new textile-protection bill. Maybe former Treasury Secretary James Baker and trade rep Clayton Yeutter now will agree that the special-interest gods are never satisfied with merely one sacrifice.

Indeed, the textile and apparel industries and their unions demand regular care and feeding. As the most protected U.S. Industries, they already benefit from tariffs averaging close to 18%, not to mention more than 1,500 quotas. Naturally, this government cosseting has been good for business. Factories are running flat out while profits soar—by 8.6% last year, after a 67% leap in 1986. This is what economists call "monopoly profits."

Which means consumers are paying monopoly subsidies. Consumer apparel prices rose at about double the rate of inflation in the first half of 1988, which even Mikhail Gorbachev now understands is what happens when demand exceeds a government-controlled supply.

William Kline of the Institute for International Economics has estimated that textile protection costs the average U.S. household $238 a year for apparel—a total of some $20 billion. The poor get hit the worst, with the poorest one-fifth of U.S. households paying an estimated 3.6% of their income to subsidize fat-cat textile shareholders and unionists. The Reagan administration figures the new bill—which would impose even stiffer quotas—would cost consumers an additional $7 billion a year.

The textile lobby nonetheless wants more, and its doting politicians are only too happy to serve. The House already passed its own protectionist bill 263 to 156 and the Reagan administration frets it may not get 34 veto-sustaining votes when the Senate weighs in as early as today. GOP statesmen such as William Cohen (Maine shoemakers), Jesse Helms (protectionist on principle) and Orrin Hatch (who knows what in Utah) are standing tall behind the bill lest they are considered soft on Sri Lankan seamstresses. If the world trading system, the GATT and U.S. exporters (who will suffer from retaliation) gets creamed as well, that's all right, because Sri Lankans don't vote.

As for the national—as opposed to the special—interest, here's surely an opportunity for the presidential candidates. Michael Dukakis claims he wants a competitive America, and nothing is more uncompetitive than an American rag trade that is so coddled it has no incentive to modernize. Alas, Mr. Dukakis will have to shun the advice of his running mate, Lloyd Bentsen, who keeps saying he's not a protectionist even as he wraps both of his mercantilists arms around this textile bill. No wonder Big Business lobbyists were willing to pay Mr. Bentsen $10,000 for bacon and eggs.

For his part, George Bush could find the textile issue looks a lot like it did in South Carolina in March. That's when he blew away protectionism's Big Mo—and Bob Dole—by opposing the textile interests even in the heart of textile country. He also might find that defending consumers against business interests turns the tables on which candidate is the real economic populist. We suspect Americans voters care much less about making offerings to the textile lobby than do the parochial inhabitants of Congress hunting for PAC money on Capitol Hill.

[From the Washington Post, Sept. 7, 1988]

THE TEXTILE GIVEAWAY

Protectionist trade bills are usually bad news, but the Senate's textile legislation is flagrantly, recklessly, almost comically wrongheaded. Since half the Senate has signed on as cosponsors, it will certainly be passed. Equally certainly, President Reagan will veto it. One question is whether there are enough votes to override a veto. Another is why the Senate is seized with this passion to pass another squalid giveaway to the textile producers.

The bill would allow imports of textiles and clothing to increase 1 percent a year, on grounds that the market is expanding only that fast. No matter how attractive the imports might be, or how competitive, Americans would be forbidden by law to buy more than the current proportion of them. The bill also freezes shoe imports at the present level. The American producers lost most of the market for women's shoes because they didn't keep up with the fashions as deftly as shoemakers in Italy and Brazil did. But in fashion or out, the American producers would be guaranteed their present share of the market under this law. No matter how poorly they performed, they would be protected.

The textile industry is already one of the most heavily protected industries in this country, and has been for more than 30 years. It is profitable and even does some exporting. but it likes having a captive market, and no amount of protection is ever enough.

The purpose of the bill is to preserve jobs. Sen. Ernest F. Hollings, the chief sponsor, says that 350,000 jobs have been lost in textile and clothing production since 1980. True, some were lost to imports. Equally true but not mentioned by the senator, many of those jobs were lost to rising productivity. The same thing is happening throughout American industry.

You can probably think of a good many senators who are urgent and forceful in arguing that the United States must make itself more competitive in world markets. That means pushing steadily for higher productivity. You would be astonished to see that many of those same senators are cosponsors of this bill, the central purpose of which is to take the competitive pressure off this favored industry.

But in the end this bill won't save jobs. Protectionist bills never do. They only shift the impact of change from one industry to another. While legislation can save some jobs in textiles, clothing and shoe production, it will cost jobs in importing and retailing. On balance, the losses to the country will be greater than the gains. If the Senate is trying to make the American economy less efficient and less competitive, this textile bill is the way to go.

[From the Buffalo News, Sept. 14, 1988]

BAD-NEWS TRADE BILL

The Senate has now joined the House in approving an economically shortsighted measure that would clamp sweeping new limits on import levels of apparel, textiles and footwear—thus inviting higher costs for American consumers and triggering foreign retaliation.

Even its chief sponsor, Sen. Ernest Hollings, D-S.C., acknowledges that the bill is "protectionist."

Since the Reagan administration opposes the measure, a presidential veto is possible. But so is an override by a Congress concerned with election-year pressures.

Hollings and other proponents contend that rising imports from foreign manufacturers paying low wages is weakening the domestic textile industry and killing jobs in the United States, expecially in the South.

But while imports may be hurting small, less-efficient domestic producers, U.S. Trade Representative Clayton Yeutter argues that the industry has generally rebounded from earlier difficulties. He cites a 54 percent gain in industry profits over the last two years. And he says textile import levels fell during the early months of this year.

Further, the administration has already negotiated separate quotas for apparel and textiles with 42 nations, including four of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the five largest foreign suppliers—Japan, South Korea, Taiwan and Hong Kong.

The Senate bill would simply brush aside those mutually negotiated agreements, replacing them with broad and less flexible regulations that would not be even reviewed for 10 years.

Such a measure would likely provoke retaliation from aboard, and thus could cause job losses in other American industries.

The United States is a trading nation, and Congress has recently enacted or is considering other legislation designed to promote expanded and fairer trade both worldwide and with Canada, our largest trading partner.

The textile bill moves in the opposite direction of protectionism, a remedy that history shows does more harm than good. One suspects that this measure would not have won as many congressional supporters were this not an election year.

In a statement opposing the legislation, Secretary of State George Shultz and other top administration officials asked: "Does it really make sense to provide further protection—at a time when imports are declining—to an industry that is prospering and already highly protected?"

President Reagan vetoed a similar measure three years ago. It is even less needed now.

CZECHOSLOVAKIA 20 YEARS ON

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. HOYER. Mr. Speaker, 20 years ago the Soviet Union crushed what was and remains the most far-reaching attempt at reform ever undertaken by an East European nation; the Prague spring of 1968. That movement was founded on the hope of a socialist democracy that could guarantee the observance of fundamental human rights. As last month's 10,000 strong demonstration in Prague illustrated, hopes for reform in Czechoslovakia have been rekindled.

It is ironic that the breezes of reform should now be blowing into Prague from the U.S.S.R., the force that 20 years ago put the country on its current bleak path. Nevertheless, one of the greatest hopes for change in Czechoslovakia comes from the Soviet Union, where the pressing urgency for overhaul of the political and economic system has been openly acknowledged by the authorities and reform, spearheaded by General Secretary Gorbachev, has begun.

So far, however, Milos Jakes, who replaced Gustav Husak in December 1987 as the leader of Czechoslovakia's Communist Party, shows no indication of following Gorbachev's lead beyond cautions, probably inadequate, reform of the economy's rigid central planning machinery and the trimming of the bloated bureaucracy.

Yet Jakes has to deal with pressure not only from Moscow, but also from inside Czechoslovakia, Opposition groups like charter 77 have endured despite official harassment. A renewal of activism among Catholic believers and the resultant revived dialogue between the church, party, and the Vatican has pushed the regime to be more flexible in the area of religious rights.

In 1968, the valiant attempt of the Czechoslovak people to gain control of their own destiny was crushed by tanks and soldiers. It is now 1988, and if today the Czechoslovak regime hopes to revive its flagging economy, it must seek and win the trust of the Czechoslovak people.

COMMENDING THE AMERICAN ACADEMY OF MEDICAL ADMINISTRATORS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. LEVIN of Michigan. Mr. Speaker, today I am pleased to commend the American Academy of Medical Administrators on its completion of 30 years of service. This health-care organization, which is headquartered in Southfield, MI, has done much to improve medical service to the public. The President of the American Academy of Medical Administrators, Dr. Thomas R. O'Donovan, has provided the following information on the Academy which I would like to insert in the RECORD at this time:

The Academy was founded in Boston, MA, in 1957 with the goal of establishing a professional society which would recognize the dedicated individuals engaged in the many facets of medical administration and encouraging a scientific approach to the practice of medical administration. The Academy also has a strong role in promoting education in this area.

During the Academy's relatively brief history, many of its goals have been achieved. Formal courses in the fundamentals of hospital administration have been conducted at Boston University; scholarships and grants have been awarded; colloquiums have been conducted in various parts of the United States, and noteworthy topics have been presented in the Academy's publication, AAMA Executive. Placement and referral opportunities have been offered to the AAMA's membership in several specialties.

In addition, 50-State directors have been appointed in order to expand Academy services throughout every State and territory in the United States and Canada.

In addition to serving its 1,700 members, the Academy has directed over 300 national educational conferences through America. Thousands of registrants have benefited from its timely topics and faculty presentations.

Mr. Speaker, I have a very special reason to commend the American Academy of Medical Administrators. For the past 3 years, it has conducted National Conferences on AIDS: A Call to Understanding. These programs have been held in Michigan and seven other States. The thousands of health care professionals who attended these timely and important conferences have gained considerable knowledge about AIDS. I am pleased to report that the AAMA is continuing and intensifying these conferences nationwide.

The National Office of the AAMA is in the Congress Building, 30555 Southfield Road, Suite 150, Southfield, MI 48076, 313-450-4310.

TRIBUTE TO DENMAN AND DAVIS ON ITS 100TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to pay tribute to an outstanding corporate enterprise which has been an integral part of the economy of my eighth Congressional District for decades and which, in 1988, is celebrating 100 years as one of the prime steel specialty and steel distribution firms in the northern New Jersey area.

I am speaking of Denman & Davis of Clifton, NJ, which will mark its centennial with a series of commemorative events on Friday, September 23, to celebrate this grand and historic occasion. These events include company rededication ceremonies, a company family dinner and the dedication of a marvelous sculpture created by George Trivellini, the internationally known sculptor and painter, which will be displayed at the company headquarters in Clifton.

Mr. Speaker, I would like to take this opportunity to salute the officers and the board of directors who have been so instrumental in guiding this exceptional company to this most historic moment: chairman, Richard S. Davis; president, David N. Deinzer; executive vice president, Frederick E. Haeberle, and members of the board of directors, David N. Deinzer, Frederick E. Haeberle, Philip A. Slutz, Ronald H. Frear, Elenore S. Broadhurst, Vernon W. Deinzer, Richard S. Davis, and Waldron Kraemer.

Mr. Speaker, to have an enterprise pass the grueling test of longevity and still be thriving after a century is, in itself, a great accomplishment. But to have achieved such an accomplishment in an industry that has faced such arduous challenges as the steel industry is, indeed, remarkable. For the RECORD, I would like to cite the official history of this outstanding organization:

Denman & Davis was founded in 1888 as a partnership between Abram C. Denman and William E. Davis, Sr. Abram Denman had been Corporate Secretary and William E. Davis had been a Sales Representative for The Crucible Steel Co. Mr. Davis was then 24 years old and Mr. Denman was some years older.

Inventory was small with much of the business done on the brokerage level. Stock shipments from the warehouses and office on John Street, New York City, were made by horse-drawn wagon.

The partnership prospered and on December 31, 1902, the business was incorporated, retaining the partnership name, Denman & Davis, Mr. Denman was the company's first president and Mr. Davis served as vice president and treasurer, Rudolph F. Heiles was corporate secretary and accountant, and Joseph M. Gilbert was second vice president and salesman. The company leased additional storage space soon after incorporation and in 1906 the office and warehouse were moved to Lafayette Street in New York City.

In 1907 Mr. Denman sold his stock to Mr. Davis who then became president. Mr. Denman severed all connection with the company the following year and moved to California.

In 1912 William E. Davis, Jr. joined the company and was an officer from 1916 until his death in 1920. During World War I he was a volunteer in the French Ambulance Corps and, when the United States entered the war, became a member of the U.S. Army Ambulance Corps. An illness attributed to the hardship of his wartime service brought about his premature death.

William E. Davis, Sr. continued as President of Denman & Davis until his death in 1937. Business fluctuated but was largely profitable through 1928. There were losses during the Great Depression and in 1937 Richard S. Davis, Sr., who had been an officer of the company since 1917, took over as president, his father being in poor health.

Richard Davis directed the company during its most difficult times, gradually and steadily building it into a solid business. He continued as president until his death in 1956.

In 1934 the lease expired on the Lafayette Street facility and Mr. Davis used the opportunity to move to much larger warehouse facilities in North Bergen, New Jersey. These were difficult times due to the depression. The company had little inventory or operating capital. Price wars were making business less profitable, when there was business to be had.

By early 1935 Denman & Davis had six employees, not counting William E. Davis, who had retired. Deliveries were made by rented truck owned by a driver who on some days did not even show up.

To compound the business difficulties of the Depression, Richard S. Davis was diagnosed as having cancer of the throat in early 1935 and given two years to live. His son was only a freshman in high school at the time so Mr. Davis asked his nephews, Leonard and Philip Slutz of Cincinnatti to learn the business and manage it until Richard S. Davis, Jr. came of age.

Phillip Slutz began as a shipping clerk and became general manager after a training period. Richard S. Davis, Jr. began full time with the company in 1941 following his graduation from Lehigh University. When the United States entered World War II, Richard S. Davis, Jr. and Phillip Slutz volunteered for commissions in the Naval Reserve and served on active duty until late 1945 when they returned to Denman & Davis.

Happily, Richard S. Davis, Sr. did not succumb to throat cancer as predicted, but lived until 1956. During the post-war years and fifties, business grew steadily and the North Bergen facility became too small. Land was acquired in Clifton, New Jersey. Part of the present building was constructed and the move from North Bergen to Clifton was made early in 1956, just before the senior Mr. Davis' death.

From 1956 to early 1958 Gladys M. Davis was company President. She was succeeded by Richard S. Davis, Jr., who remained in that post until 1980 when he became Chairman of the Board and Chief Executive Officer. At that time David N. Deinzer became President and Chief Operating Officer. Frederick E. Haeberle II remained as Treasurer and Vice-President Finance, posts he had held since 1976.

From 1935 through 1975 the nature of the business changed little. Processing was limited to hack-saw cutting and torch-burning, and stock consisted mostly of standard plates, structurals, hot rolled bars and cold finished bars. Business was profitable in forty of the forty one years and the one year's loss was small.

In 1965 warehouse capacity was doubled by the addition of two bays, and in 1980 a fifth bay was added.

The current management team has greatly expanded the scope of Denman & Davis' activities. In 1975 the company bought out Central Steel Products, Inc., a fabricating concern whose capabilities have been greatly expanded so the company now has the most modern facilities for rolling, forming, drilling, welding, shearing, burning, saw cutting and flame cutting. In 1982 Denman & Davis opened a branch warehouse in Albany and business there has been growing rapidly.

Denman & Davis has come a long way in the first hundred years and is determined that the next hundred will be even better.

Today Denman & Davis employs 110 people at its Clifton headquarters and its Albany, NY, satellite operation. Given its outstanding and prudent leadership, I know this excellent company will continue to prosper and continue to be a vital part of the economy of northern New Jersey.

Mr. Speaker, I invite you to join me in saluting Denman & Davis of Clifton, NJ, on its centennial. Not only is this outstanding firm a lesson to all other aspiring companies, it is also corporate endeavors such as this one which help provide a solid foundation to the communities in which they are located and which make their towns, States, and Nation a better place to live.

HIGHLY DECORATED

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. KOLTER. Mr. Speaker, today I rise to offer a memorial to the late Maj. John Synowsky, who has been honored by the Michael Kosar American Legion Post 778. Major Synowsky was inducted into the Post 778 Military Hall of Fame on March 19, 1988.

Major Synowsky was a loving father and husband, a respected member of his community, a soldier of uncommon valor, and an outstanding American.

Major Synowsky began his Army career in 1936, when he enlisted in the U.S. Army. He served a tour of duty, and reenlisted when World War II began; at which time he went through Officer's Candidate School, where he received a commission to second lieutenant. He was assigned to the 1st Infantry Division, who were the first U.S. combat troops to serve in North Africa.

During World War II, he received numerous medals and awards. He served in the Sicilian campaign, where he was awarded the Bronze Star Medal for valor in 1943. During the Normandy invasion, he was awarded the Distinguished Service Cross on June 7, 1944, and the Silver Star Medal for gallantry in action on June 8, 1944. He also received a Purple Heart for wounds received in Normandy in June 1944. Major Synowsky received his second Purple Heart medal for wounds at Achen, Germany in October 1944. He received his second Bronze Star Medal for valor during the assault upon Eudenbach, Germany, on March 19, 1945. During his faithful service in World War II, he was also awarded the following campaign medals: World War II Victory Medal, American Defense Service Medal, American Campaign Medal, European-African Middle Eastern Campaign Medal, Army of Occupation Medal for Germany, Good Conduct Medal, Armed Forces Reserve Medal, National Defense Service Medal, combat infantry badge and five overseas bars.

Major Synowsky's heroic efforts and devotion contributed materially to the combat efficiency of his organization. He was held in the highest regard by his fellow soldiers.

He also served faithfully in the Korean conflict, where he received the Korean Service Medal, and the United Nations Service Medal.

Major Synowsky was then assigned to the U.S. Army Corps, Presidio of San Francisco, CA; where he served until his retirement in 1961.

Major Synowsky's son, Capt. John Synowsky, who was also a highly decorated soldier, served two tours of duty in Vietnam. His carrying on the military tradition of the family was a great tribute to his father.

Major Synowsky was and remains a source of great pride to the city of Butler. He may be the most decorated soldier in Butler County.

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. GARCIA. Mr. Speaker, I was unable to record my votes on September 14, 1988, due to an unavoidable commitment in the 18th Congressional District.

Had I been able, I would have voted in favor of the conference report on H.R. 4586, the military construction appropriations for fiscal year 1989, and would have agreed to the motions to go conference with the Defense appropriations and the Commerce-State-Justice appropriations. I would also have voted in favor of H.R. 4994, the Federal Prison Industries Reform Act and H.R. 5133, the Insider Trading and Securities Fraud Enforcement Act, and against the Edwards amendment to the Omnibus Drug Initiatives Act of 1988.

HELPING TO PAY FOR AN ORGAN TRANSPLANT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. WALGREN. Mr. Speaker, today I am introducing a bill to create a checkoff on the 1040 tax form for taxpayers to direct any portion of their tax refund or a cash contribution to a National Organ Transplant Trust Fund. The Department of the Treasury would return funds contributed by each State's citizens to the respective States. Each State would establish a program to help needy people pay for transplants. This bill is a companion to S. 2409, introduced by Senator BUMPERS.

A compassionate country, as abundant in resources as ours, should not turn people away at the hospital door to die when they cannot pay for medical help. Patients with life-threatening conditions should not have to beg the public through bake sales and press conferences to raise money to pay for their medical care.

Organ transplants today are terribly expensive and out of the reach of most people. The average liver transplant costs $135,000 to $238,000. The average heart transplant costs $57,000 to $110,000. For a heart-lung transplant, the average cost is $130,000 to $200,000. A kidney transplant costs, on average, $30,000 to $40,000. Coverage of transplants by private insurance policies is increasing, but far from comprehensive. Even if insurance covers 80 percent of the costs, that still leaves 20 percent of a $100,000 transplant or $20,000 for the patient to pay—an amount usually out of the reach of most people. Medicaid coverage for the poor varies widely from State to State with a number of States covering almost nothing in the area of transplants. Medicare, for the elderly, covers some—not all—transplants. After the initial operation, immunosuppressive drugs, needed to make the transplant work, can cost up to $5,000 a year, and very few insurance policies cover outpatient drugs. The result of this patchwork of health insurance coverage is that the bulk of the American people—a broad swath of middle-income Americans—have, as a practical matter, no insurance and no ability to pay for life saving medical treatment.

This situation leaves the hospitals who perform transplants with the options of turning the patient away, or accepting the patient and incurring huge financial losses.

The best and the long-term solution to this dilemma is to improve the coverage of transplants under Medicare, Medicaid, and private insurance. Congress has, in the case of Medicare in which there is a direct Federal responsibility, expanded Medicare's benefits somewhat. But we are not yet to that point.

Organ transplants represent the frontier of medicine that we must support. Like the space program, we all know man's horizons will be expanded, and life enhanced beyond our imagination through the ability to transplant organs to save lives. But this can occur only if we provide some support to allow this ability to be pursued. This proposal would provide critical support to allow us to explore this frontier and, at the same time, respond to those in desperate medical need.

NUKING EMPLOYEE BENEFITS

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. FAWELL. Mr. Speaker, I commend the following Wall Street Journal editorial to my colleagues on the nondiscrimination tests for employee benefit plans as required by the 1986 Tax Reform Act. While the House-passed legislation making technical corrections to this bill proposes to simplify the tests, I feel strongly that the editorial points out just how onerous these requirements will be. Holding employers responsible for the tests when even the IRS cannot get the regulations issued for almost 2½ years to assist the employers is unfair. I urge the House-Senate conference committee on technical corrections to consider this matter very carefully.

[From the Wall Street Journal, Aug. 29, 1988]

NUKING EMPLOYEE BENEFITS

Employers who haven't already studied "Section 89" have a shock coming. This new provision of the Internal Revenue Code was enacted in 1986 but is not yet in effect. Benefit specialist Mercer Meidinger Hansen calls it the "most challenging" welfare benefit legislation ever faced by most companies, on a par with ERISA.

MMH also calls it a case of Congress dropping "an atomic bomb on a suspect anthill—and missing the anthill." That's an apt metaphor. It is another example of the class-warfare legislation that creeps into so much of what Congress produces these days. Its ostensible purpose is to ensure that the Chiefs won't be treated substantially better than the Indians when employee benefits are passed out. But the upshot, by most estimates, will be enormous new administrative costs for employers—including government and non-profit institutions. Many workers face reduced benefits or higher taxes. Incentives to provide new benefits will be reduced.

Section 89 sets complex new requirements for tax exemption of employee benefits. It was designed by bureaucrats at Treasury and slipped into the 1986 reform at the last moment by staff moles of House and Senate tax committees. Treasury's interest was in trying to cadge another $350 million in revenues over three years, a yield that will be pulverized by compliance costs. The moles were just doing what comes naturally, planting a micromanagement time bomb in another massive piece of legislation.

Section 89 is an administrative nightmare. It applies to all employee welfare benefits. Employers, to learn whether their benefits qualify for tax exemption, will have to calculate "values" of such things as cafeteria subsidies, travel accident insurance and employee discounts. Corporations will have to do this company-wide, taking into account the different sets of benefits in different plants, negotiated by different unions. Single employee and family benefits must be treated separately, which means probing each family situation where a plan for one spouse might cover the other. There will be separate calculations for different "lines of business" with much confusion over which employee is in which line. Some large companies will have, in effect, 600 to 700 separate benefit plans to test for qualification.

The point is to determine whether what the law calls "non-highly compensated employees," or "non-HCEs" are getting a share of benefits proportional to those given "highly compensated employees," or "HCEs," under requirements of the act.

Here's how MMH describes the formula: "At least 50 percent of the employees participating in a plan must be nonhighly compensated, unless the percentage of non-HCEs is equal to or greater than the percentage of HCEs participating in the plan. Secondly, 90 percent of non-HCEs must be eligible to participate in a plan with an employer-provided benefit equal to at least 50 percent of the most valuable benefit provided to the HCEs."

Got that? There's a lot more, but it won't be any more decipherable. That may help explain why the IRS still hasn't come up with guidelines, and probably won't until sometime after the new law is due to take effect New Year's Day. Someone, for example, will have to decide who is an HCE and who is a non-HCE and how to determine the "value" of a benefit.

Moreover, whereas most companies extend benefits only to full-time employees, Section 89 says that part-timers who work 17½ hours a week or more will have to be counted for qualification purposes. So what does a company do then? Fire all the part-timers? Extend benefits to them at much extra cost or by diluting benefits to full-timers?

And how does a company know it is in compliance on any given day? Work force composition changes constantly, as do compensation schedules and benefit values. Will an employer, Smith College for example, need a computer dedicated to the task of updating qualification data?

To what purpose is all this? Some 132 million people in the United States receive employer-provided benefits, either as employees or dependents. That's hardly elitism. Treasury's revenues will come from newly disqualified benefits, but they will be piddling. The only explanation is a morbid fear by Congress that employers will compensate their more valuable people more generously than their less valuable people. Section 89 won't prevent that; no law ever has. But there will be new victims of unfairness, particularly among the "non-HCEs."

After all these years and hard-earned lessons, some folks in Washington insist on turning the tax code into social legislation. The fact that it was done largely surreptitiously in this case makes it even less defensible.

THE 114TH ANNIVERSARY OF THE BIRTH OF PRESIDENT HERBERT HOOVER

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. TAUKE. Mr. Speaker, on August 7, 1988, Mr. Richard Norton Smith, director of the Herbert Hoover Presidential Library, gave the following tribute to our 31st President at the Hoover gravesite in West Branch, IA. President Hoover is perhaps one of our most maligned and least understood Chief Executives, and I believe that Mr. Smith's comments on this outstanding humanitarian will be of interest to my colleagues:

REMARKS ON THE 114TH ANNIVERSARY OF THE BIRTH OF HERBERT HOOVER

In the bleak, intemperate spring of 1932, the President of the United States found three children on his doorstep. Their father was an unemployed laborer from Detroit, who enroute home from a job hunting trip out west had been arrested on a charge of auto theft. Soon after, a trio of unhappy youngsters set off for the nation's capital. Believing the man in the White House possessed of unlimited powers, they were determined to lay their case before him.

The President's advisers thought him too busy to hear such an appeal. After all, there was a worldwide depression to combat, a jittery nation to reassure, a political campaign to organize. Herbert Hoover thought otherwise. As he put it, "Three children resourceful enought to manage to get to Washington to see me are going to see me." He directed the Justice Department to investigate the case, before opening his door to two girls and a boy, the eldest no more than thirteen.

"Now Bernice," he said to the group leader," tell me the whole story." As she did so, the muscles of the President's face twitched in an effort to control his emotions. There must be a great deal of good in any man whose children were so devoted, he remarked. He took from his desk a keepsake for each. "I want you to have this to remember me by," he said. "Now run along and go straight home. Dad will be waiting for you".

When presidential secretary Ted Joslin entered the Oval Office a few minutes later, he found the President staring out a window, fighting back tears. "Get that father out of jail immediately," he commanded. Joslin wanted the press informed. Hoover would have none of it. The children might remember his act of kindness. But neither it nor they would be exploited for personal advantage.

And so the incident remained hidden from view, alongside images of a doting grandfather accompanied to work by two skipping youngsters named Peggy and Pete. Or the public servant who donated his salary anonymously to the San Francisco Board of Public Welfare. Or the sympathetic husband who, following the uproar caused by the White House visit of a black congressman's wife, advised the woman he called "my Lou" to ignore the cries for his impeachment from the Texas legislature. One of the advantages of orthodox religion, he assured her, was its promise of a hot Hell for—among others—the legislators of Texas.

As reticent as he was generous, for half a century Herbert Hoover has covered his tracks. Only now are we beginning to unravel the puzzle he left for posterity. Only in recent years have we become well acquainted with the orphan boy who figuratively adopted a billion youngsters, and the sophisticated globetrotter whose favorite place was a rustic village on the fringe of America's vast prairie. Old men often revisit the haunts of their youth. So it came as no surprise when Herbert Hoover went home to celebrate his 74th birthday—home to West Branch, Iowa.

He came forty years ago this week, to rekindle memory and draw a roadmap for generations yet unborn. He recalled picking potato bugs at the "oppressive wage rate" of one cent per hundred. He described an 1880 torchlight parade for James Garfield, boycotted by the town's sole Democrat, who just happened to be the town drunk. He painted a vivid portrait, of a widowed mother supporting herself with knitting needles, and a small boy trapped in the silent space of a Quaker meetinghouse, struggling to see the Inner Light by which his steps might be guided.

In the words of poet Emily Dickinson, "I dwell in possibility." Herbert Hoover never lived anywhere else. But he called his dwelling place by another name. What to others was an address was for him a supreme source of inspiration. Not a country but a cause: this was what Herbert Hoover proclaimed on that hot August afternoon forty years ago. America, he declared, was far more than a continent bounded by two oceans. She was far greater than all the factories or mines, the cities and armies; even the traditions of westward migration which over the years had emptied European neighborhoods devoid of hope.

More than homes and farms, Hoover's America found voice in schoolrooms and church pews. For it was there that the great doctrines of divine creation and human liberty took root. Such ideals made West Branch a way station on the Underground Railroad that led north from slavery to freedom. Freedom, said Hoover, was every American's birth right. Freedom that enabled men to subdue the land. Freedom that encouraged women to work long hours to make life blossom on the harsh prairie. It was freedom that America enshrined in her charters of self-government, freedom that carved this land from a raw continent and shaped it through the hand of a generous God.

All this happened long ago, in that faraway country we call the past. But not to Herbert Hoover. For him the love of country was timeless. So was a warning against those he called "fuzzy minded people" who were prepared to scoff at values older than America herself. "They explain that these qualities were good while there was a continent to conquer, and a nation to build," said Hoover. "They say that time has passed. No doubt the land frontier has passed. But the frontiers of science and better understanding of human welfare are barely opening. This new land with all its promise cannot and will not be conquered except by men and women inspired from these concepts of free spirit and free mind".

Forty years later, we are engaged in one of those quadrennial attempts to define America by debating her needs, options, and opportunities. In all likelihood, neither George Bush nor Michael Dukakis will visit West Branch between now and November. More's the pity. For they could learn much by emulating Mr. Hoover's example in coming home, to this spot, in search of America's worldly purpose and spiritual power.

Dukakis and Bush will talk of peace. They might remember that it was Herbert Hoover who withdrew U.S. Marines from Nicaragua and Haiti. Dukakis and Bush will talk of disarmament. But it was Mr. Hoover who called the London Naval Conference, and negotiated nonaggression pacts with more than fifty nations.

Dukakis and Bush will talk of ethics in government. We remind them of the example of Herbert Hoover, who sixty years ago declared that while dishonesty in business meant the loss of money alone, in the realm of government it tarnished the coin of public confidence in the ability of free people to rule themselves.

Finally, Dukakis and Bush will talk about children, and of Washington's obligation to promote family values. We need only quote the words of Herbert Hoover, spoken at the first White House Conference on Child Health in 1930:

"We approach all problems of childhood with affection. Theirs is the province of joy and good humor. They are the most wholesome part of the race . . . for they are fresher from the hands of God . . . we live a life of apprehension as to what their opinion may be of us; a life of defense against their terrifying energy; we put them to bed with a sense of relief and a lingering of devotion. We envy them the freshness of adventure and discovery of life; we mourn over the disappointments they will meet".

In a lifetime of adventure, Herbert Hoover met more than his share of disappointment on the campaign trail. For a while he went out of fashion, eclipsed by a newer style of governing, obscured by his own stubborn refusal to play a false part demanded by political convention. By the time he returned to greet his old neighbors in the summer of 1948, however, the hero had replaced the scapegoat. The savior of Belgium, the dynamo of Washington, the Great Humanitarian who singlehandedly rescued more people than all the tyrants of this blood-soaked century could put to death: Iowa's favorite son had come home.

In doing so, he made this place forever synonymous, not only with his name, but with the ideals of a classless society and a limitless frontier that define America in the family of nations. Before taking his last bow on the stage of history, Mr. Hoover issued a call that still resounds, and an invitation for us to dwell with him in the land of possibility. We reiterate it today, for presidential candidates and ordinary citizens alike.

If you want to know the meaning of America, come to West Branch, and stand on this hillside where he sleeps beside his beloved Lou Henry. If you want to know the promise of America, come to West Branch, and gaze across the open vista that links the house of his birth with the site of his final homage. If you want to know the glory of America, come to West Branch, and reflect on a life that began in a whitewashed cottage of two rooms, reached its pinnacle according to the stern humanitarianism of a Quaker meeting, and closed triumphantly after ninety years spent giving back to America what she had given to him. Standing on this overlook, it all comes clear: West Branch is America at her best. And Herbert Hoover is the best of America.

A BILL FOR THE RELIEF OF JOAN DARONCO

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. DIOGUARDI. Mr. Speaker, today I am introducing a bill for the relief of Joan Daronco, widow of Judge Richard Daronco, Justice, U.S. district court of the Southern District of New York. Dick Daronco was a true friend and a fellow public servant. On a quiet Saturday in May, he was gunned down in his front yard by a litigant's father.

Judge Daronco was a proud man. He frequently referred to his small, suburban hometown of Pelham, NY as a model of human values. He was a true leader in the community. He served in several municipal offices in Pelham as well as being an active member of St. Catharine's Church, where he was baptized, christened and eulogized. Dick was a dedicated family man who dearly loved his wife, Joan, and their five children.

"I liked the idea of the search for the truth," Judge Daronco said, as he had always aspired to become a judge. Ever since his appointment to the Westchester County Family Court at age 39, he had risen steadily until his appointment to the U.S. district court in January 1987.

Richard Daronco will be remembered as an even-tempered, kind individual and as a talented judge, always seeking equality and justice under the law. My deepest sympathies are extended to his widow and entire family. I lost a good friend when Richard Daronco's life was tragically taken in May.

I would like to share with you a statement in memory of Judge Richard J. Daronco, written by one of his colleagues of the district court, Judge Gerard L. Goettel:

IN MEMORIAM JUDGE RICHARD J. DARONCO

(By Judge Gerard L. Goettel)

On May 21, 1988, a quiet Saturday afternoon, while working in the garden of his home on a tranquil treelined avenue in Pelham, New York, Richard J. Daronco, Judge of the United States District Court for the Southern District of New York, was killed in the line of duty. Although he had been a federal judge for only a year, he had been a distinguished state trial judge for the previous seventeen years, presiding over a number of notorious criminal trials. At first we thought that one of these contacts had led to an act of vengeance. That proved not to be the case.

The father of a disgruntled plaintiff confronted the judge and pursued him into his home, fatally shooting him four times before taking his own life. Two days earlier, in a thorough and well reasoned opinion, Judge Daronco had dismissed the sexual harassment and discrimination case of the murderer's daughter, KOSTER v. CHASE MANHATTAN BANK. She had represented herself at trial, having discharged a series of lawyers in pursuing her grandiose claims. Judge Daronco found, after a ten day bench trial, that the evidence did not support her case. However, the obsessed father, who purportedly had invested all of his savings in its pursuit, sought revenge.

That brutal attack ended the exemplary life of a man who had dedicated himself to public and community service. To that service, he brought special gifts; a quick wit, a gentle nature, a sense of compassion, and a devotion to justice. In court, Dick's mild and low-keyed style provided a calming influence. He was known, respected and loved wherever judges and lawyers gathered.

Born in 1931, Dick Daronco was a life-long resident of Pelham, the son of a skilled tilesetter who had emigrated from Italy to pursue his craft in Westchester County. Dick attended New York Military Academy and received his bachelor's degree from Providence College in 1953. Just a month before his death his alma mater honored him as its alumni of the year. After graduating from Albany Law School in 1956, and serving in the Army for two years, he practiced as a successful trial lawyer in White Plains, New York until 1971, as partner in the distinguished law firm of King, Edwards & O'Connor. He taught as an adjunct professor of law, both at Pace University School of Law and Fordham Law School.

Dick's hometown benefitted greatly from his presence. He was a civic leader in the true sense of the word, serving as elected Trustee for the Village of North Pelham from 1961 to 1966, Town Attorney for the Town of Pelham from 1966 to 1971, and Counsel to the Zoning Board of Appeals for the Village of North Pelham from 1968 to 1971. Not only was he a public leader, he was also a good neighbor. He was a member of Pelham's Volunteer Fire Department, the Knights of Columbus and the Holy Name Society of his parish, St. Catherine's in Pelham. He was often seen mopping the floors after a parish fund-raising social, and playing the trumpet in a Dixieland band as part of the annual evening of fun sponsored by the Westchester County Bar Association—all without losing his dignity as a Judge.

Dick Daronco's service as a judge demonstrated his dedication to serving the community. He was elected in 1971 to the Family Court of Westchester County, where he became its Administrative Judge, and served until 1974. He then became a Judge of the Westchester County Court, serving until 1979, when he was elected as a Justice of the New York Supreme Court, Ninth Judicial District, where he served for eight years. During this time, Dick was Deputy Chief Administrative Judge of Courts outside New York City from 1983 to 1985, and in 1985 he became the Supervising Judge of the Criminal Parts, Ninth Judicial District. Dick was nominated by President Reagan on January 29, 1987, confirmed, and appointed by the President on May 7, 1987, and took his oath of office June 8, 1987.

Although Dick and I grew up in the same small town of Pelham, I was a few years older and I did not really get to know him until he had been nominated for the federal bench. Thereafter, he became one of my closest colleagues. So great was his charm that, although I am neither a religious person nor an early riser, he had me getting up at 6:00 a.m. to attend prayer breakfasts with him. A week before his death, I drove over to Rockland County to a Bar Association meeting where he was the speaker. His remarks to the assemblage, which included a number of his former state court colleagues, was delivered in his usual amusing and self-deprecating style. It was clear that the local bar looked forward with pleasure to the thought that he would soon be sitting at our small federal court in White Plains. It was an expectation that gave me great pleasure as well.

His legal scholarship had a far-reaching impact. For example, his groundbreaking decision in *O'Brien* v. *O'Brien*, 114 Misc. 2d 233 (N.Y. Sup. Ct. 1982), held that a husband's medical license are marital property and the wife, who had supported him in medical school, was an economic partner entitled to an equitable share of the value of the license upon divorce. This was a landmark decision in New York matrimonial law.

While Dick's time with us was tragically cut short, he showed promise to be as outstanding as a federal trial judge as he had been on the state bench. He appeared to be thriving in his new environment, and approached the diverse work of the Court with his natural enthusiasm and dedication. The opinions he wrote dealing with such matters as trademark infringement, employment discrimination, and securities arbitration, show a keen grasp of the complicated issues presented in federal litigation. He had already built a reputation among members of the bar and his fellow judges as a true gentleman and confident jurist, who was always in command of the case and a pleasure to appear before. He won praise from attorneys for his successful efforts in facilitating settlement. As evidence of his dedication and enthusiasm, through close supervision and careful case management, he had reduced his pending civil case backlog from 360 to 262 in less than a year, while the figures for the rest of the Court climbed.

Dick enjoyed his new role, although he admitted to missing some parts of his life as a state court judge. He told his friends and colleagues that as a federal judge he felt more insulated from the bar and missed the closer, more frequent contact with lawyers which goes with judicial service in the state courts in upstate New York. That comment provides insight into the type of judge he was, and the type of person. He was interested in working with people, and dedicated to resolving their problems fairly. It is ironic that it was his efforts to reach a just result in a civil case which cost him his life.

His death brings home to all of us the risks inherent in our daily work as judges, dealing with the hopes, aspirations and disappointments of those who become involved in the litigation process. It also emphasizes the way in which the litigation explosion of recent years may have raised unjustified expectations which can cause dire results when not fulfilled.

An editorial in the Wall Street Journal a few days after his death stated:

"The murder of a federal judge is a mind-numbing tragedy, but may signal more than just another deranged gunman. It is also a cautionary tale against further undermining the legitimacy of judges. An aggressive liberal campaign to free judges from impartial legal principles sends the message that judges base their decisions on their personal preference for who should win cases. To the extent this concept takes hold among the judiciary and public, raging resentment from losing litigants should be no surprise.

"The Kosters are not alone in measuring a judge by who wins in his courtroom regardless of the facts and law of the particular case. This view is called judicial activism * * *."

There are no doubt judges who allow their decisions to be influenced by the personal characteristics of the litigants or the nature of the claims, thereby supporting what they believe to be worthwhile causes. Dick Daronco was not that kind of a judge. He tried to achieve settlements in all cases before him, but when that was not possible, as occurred in the Koster case, he then decided the case on its merits.

Judge Daronco is survived by his wife, Joan O'Rourke Daronco, and five children, Dawn Anne, Richard Joseph Jr., Peter John, Patricia Joan, and Rosemary. He is also survived by his mother, Rose Socini Daronco, and his brothers, Paul and Frank. The Southern District is planning a session of the Court in his honor and memory, at a date to be fixed.

Dick Daronco met his death as he had always lived, by doing his duty as he saw it. Our hearts go out to his surviving family. He will remain in their memory and in ours.

NATIONAL HISPANIC HERITAGE WEEK, SEPTEMBER 11-17, 1988

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. HOYER. Mr. Speaker, I am pleased to join my constituents in the Fifth Congressional District of Maryland celebrating National Hispanic Heritage Week.

In 1968, President Lyndon Johnson signed the first proclamation declaring National Hispanic Heritage Week. However, in 1988, legislation was signed into law to extend Hispanic heritage observation to 1 month. I was proud to be a cosponsor of this legislation which, beginning in 1989, will extend the period of celebration from September 15 to October 15.

Our Nation is a proud one comprised of people from many cultures. However, America would not be America without our Hispanic community. In fact, we are fast approaching the 500th anniversary of the Hispanic presence in the Americas. Hispanics are entwined with every stage of development of our Nation. Furthermore, the contributions of the Hispanic community to the strength, productivity and indeed to the every fiber and spirit of our Nation, are immeasurable. Today, the strength and diversity of the Hispanic people is reflected in the fact that there are Hispanic leaders in almost every aspect of American life, including business, the arts, politics, academia, and science.

By the year 2000, Hispanics are expected to grow from the second largest minority group in America to the largest. Unfortunately, however, many Americans are unaware of the rich history and diverse backgrounds of Hispanics. To share just a few examples with my colleagues: Gen. Bernardo de Galvez was commander of a multinational army which defeated British efforts to resupply the besieged forces of General Cornwallis at Yorktown in 1781. This was a key battle in America's war of Independence. Furthermore, the first admiral of the U.S. Navy was Adm. David G. Farragut, a Hispanic. It was due to his bravery and accomplishments that the rank of admiral was established.

I hope that all Americans will take the opportunity of Hispanic Heritage Week to commit themselves to learning more about the Hispanic-American community. We are a fortunate Nation to be blessed with such a diverse and talented population which provides us with so many of the leaders of today and tomorrow. I am delighted to join in the many observances this week and I look forward to next year in which we will have an entire month to commemorate the enormous contributions of Hispanic-Americans.

CONCERNING THE RETIREMENT OF RAYMOND POUPORE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. LEVIN of Michigan. Mr. Speaker, on Friday, September 23, 1988, there will be held an evening of tribute to Raymond Poupore. It will mark his retirement as business manager of local 324 of the International Union of Operating Engineers. This year also marks the 40th anniversary of Ray's initiation into local 324. He entered after 3 years of serving his country in the Armed Forces.

Those 40 years have been a model for his colleagues in the building trades. He has worked, he has worked hard, and he has worked his way up the ladder of responsibility and authority.

As he has done so, he has never forgotten his roots and his obligations to those he was representing. He has cared deeply about the working conditions and welfare of the membership of local 324. As a result, he has improved the quality of life for thousands who daily work with their hands and minds. He has persevered through times of recession, as well as prosperity in the construction industry.

Indeed, Ray Poupore has been a straight shooter and a person of his word. As a result, he gained the respect of management as well as labor. He has helped them work together to sustain an excellent retirement program.

Ray Poupore's interests have propelled him beyond his daily work with the local union, although that has always been his primary focus. He has cared about his State, the country, and world about him. He has served as commissioner of the Department of Natural Resources, and as trustee of the Michigan Municipal Bond Authority. He has been active in veterans' affairs.

He also has realized that what can be worked out at the bargaining table can be vitally affected by decisions undertaken in government and through the political process. So he has participated, he has spoken out, he has been a leader in political efforts within the building trades.

Like so many others, I have been proud to have Ray Poupore as a friend. As he leaves the position of business manager of local 324, he has every reason to do so with a deep sense of pride. His wife and three children also have every reason to feel a sense of accomplishment, since the pressures on a business manager inevitably fall upon all in a family. Ray's friends know that whatever he shall undertake in the future, it will be done well. That has been the hallmark of his career.

SALUTE TO THE POMPTON LAKES ROTARY CLUB ON ITS 35TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. ROE. Mr. Speaker, the motto of Rotary Clubs the world over has always been "Service Above Self," a motto which exemplifies this great organization's unceasing dedication to improving our world. I know of no better example of the fulfillment of this great tradition than in Pompton Lakes, in my Eighth Congressional District of New Jersey, where the Pompton Lakes Rotary Club this month is celebrating its 35th anniversary.

Mr. Speaker, during its nearly four decades of existence, the Pompton Lakes Rotary Club has been a vital part of its community, serving as a continuing living example of its "Service Above Self" credo. The list of projects, charities, and organizations which have benefited from the club's commitment to help the community is, indeed, a long one.

I would like to take this opportunity to salute the officers of the Pompton Lakes Rotary Club, who have helped to guide this outstanding organization to this historic moment: President, Samuel Citro; president-elect, Frank Swart; executive secretary, Garry Jannarone; secretary, Ralph Mitsch; treasurer, Alfred Lockwood; program chairman, Angelo Faillance; and sergeant at arms, Joseph Giovannone.

For the RECORD, Mr. Speaker, I would like to cite the official history of the Pompton Lakes Rotary Club:

The Prompton Lakes Rotary Club is celebrating its 35th Anniversary this year. The organization began on March 10th, 1953, a Tuesday, when the club was formed as a provisional club of Rotary International at a luncheon meeting held at the Wayne Country Club. The meeting was first presided over by V.J. Grassey, Extension Chairman for the Haledon Rotary Club, the sponsoring organization. The future Pompton Lakes club's new President, Irving Kleinman, then took the reins.

The first officers to serve with President Irving Kleinman were Daniel Salameno, Vice President; Joseph Belmont, Secretary; Jeroma Atkins, Treasurer; and Clayton Winters, Sargeant at Arms. There were four Directors chosen: Nicholas Gentile, Alfred Lockwood, Benjamin Rothstein and Dr. Thomas Kellogg.

The new club's territorial limits were Prompton Lakes, Wanaque and the northwest section of Riverdale. The provisional club's goal was realized on June 23rd when a "Charter Night" was held at the Swiss Chalet in Rochelle Park.

Throughout the past 35 years the Pompton Lakes Rotary Club has been at the forefront of Rotary activity. It has been blessed with an active membership, all freely giving of time and energy. It is justly proud that 5 of the original 23 charter members are still among its most active participants.

Members of the Pompton Lakes Rotary Club have given countless hours to raise funds for the worldwide projects of Rotary International. Among those on going projects is the Rotary Foundation which provides educational grants and awards to young business and professional people so they may have the advantages of study-visits abroad. Contributions have been made to the Rotary Foundation well in excess of the dollar amount necessary to make the Pompton Rotary a 100% Rotary Foundation Club.

PolioPlus is the name of the program by which Rotary International hopes to irradicate polio and five other childhood diseases throughout the world by the end of this century. The Pompton Lakes Rotary Club, as well as many other Rotary Clubs, has oversubscribed its goal. The total dollars raised worldwide for this wonderful cause was $100 million over the original goal of $120 million. Pompton Lakes Rotary members are rightfully proud of their contribution.

A Paul Harris Fellow is an award named after the founder of Rotary International. Members who have contributed, or have had contributed in their name, the amount of one thousand dollars to the Rotary Foundation or PolioPlus, are honored with a plaque and medal as Paul Harris Fellows. The Pompton Lakes Rotary Club is the only club in District 749 of Rotary International whose entire membership is made up entirely of Paul Harris Fellows.

The Pompton Lakes Rotary members have given time and raised funds for a number of worldwide causes through Rotary International but their hearts are in the Pompton Lakes area. The old maxim, "charity begins at home," is behind much of their humanitarian efforts. The following is a list of area projects, charities and organizations which have benefitted from their commitment:

Wanaque Handball Court, Pompton Lakes Handball Court, Pompton Lakes Band Boosters, Pompton Lakes Senior Awards, District 749 Mobile Blood Unit, Vaccines for Children, Pompton Lakes High School Music Department, A.A.U. Junior Olympics, Pompton Lakes Booster Club, Wanaque Coaches Association, The Community Fund, Pompton Lakes Little League, The Flag Program, Books for the Library, Wheel Chairs, Boy's and Girl's State, Art Show, Vietnam Project, Christmas Toy Project, High School Scholarships, Student Loans, Covenant House, Career Day, Rotary Youth Leadership Awards, Blood Mobile, Flood Relief, Senior Citizens, Boat for Pompton Lakes Rescue Squad, Walter Head Foundation College Fund, Student Exchange Program, Area Hospitals, Pompton Lakes Monument Area Restoration, Gift of Life, Auto for the Handicapped, Ambulance to India, Boy and Girl Scouts, Relocation of World War I Cannon, and the Pompton Lakes Street Fair.

Mr. Speaker, this expansive list represents an infinite number of devoted hours given by Pompton Lakes Rotary Club members, and more than $400,000 in funds raised and donated. This is, indeed, a remarkable accomplishment.

Mr. Speaker, I invite you and our colleagues to join me in saluting the Pompton Lakes Rotary Club on its 35th anniversary, and in wishing this outstanding organization many more. Truly, the Pompton Lakes Rotary Club has been a vital part of its community, and through its countless efforts, it has not only made its community, but its State and Nation a better place to live.

FILLING THE LONG-TERM GAP IN MEDICARE COVERAGE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. WALGREN. Mr. Speaker, together with Health Subcommittee Chairman HENRY WAXMAN, I introduce today a bill to fulfill a promise made to the elderly when Medicare was originally established almost 30 years ago: that old age will not bring overwhelming medical bills and abandonment. When President Johnson signed Medicare into law he said:

> There are those fearing the terrible darkness of despairing poverty—despite their long years of labor and expectation—who will now look up to see the light of hope and realization.

Medicare made good on that promise for many hospital and doctor bills but not long-term care. Our bill will offer help to those facing the overwhelming costs of long-term illness in their homes or in nursing homes—a glaring gap in Medicare's current coverage.

The Medicare Program was originally targeted to cover acute care. As Dr. Robert Butler, former head of the National Institute of Aging, has said:

> With Medicare we set up a system for old people that assumed they were all 40 years old. It often has little to do with the disorders old people really suffer.

Providing long-term care will become a more difficult, intransigent, and expensive problem the longer we wait to address it. Several converging forces—the aging of the population, increased employment of women, and inadequacy of private financing—are making it a compelling problem. The time to deal with this problem is now.

THE WAXMAN-WALGREN LONG-TERM CARE BILL

The Waxman-Walgren long-term care bill—the Medicare Long-Term Care Assistance Act of 1988—would add comprehensive home care, adult day health care, and nursing home care benefits to the current Medicare program. Medicare beneficiaries unable to perform two or more activities of daily living without assistance and beneficiaries with a similar level of cognitive impairment—such as Alzheimer's disease—would be eligible for the new home care benefit.

The benefits covered would be scaled according to the degree of impairment and beneficiaries would pay 20 percent of the cost.

All Medicare beneficiaries who have been determined to have a severe level of functional or cognitive impairment would be eligible for the new nursing home benefit.

All nursing home care would be covered, with the beneficiary paying the full cost for the first 2 months, one-third for months 3 to 24, and 10 percent beyond 25 months.

AGING OF THE POPULATION

From 1950 to 1980 the country's elderly population doubled in size, rising from 12.4 million persons to 24.9 million or 11.2 percent of the population. The numbers of elderly are expected to double again by the year 2030 and to account for almost 20 percent of the population. The fastest growing population group at present are those over 85. This age group is the most in need of long-term care and is expected to grow at a rate three to four times that of the general population.

In my own State of Pennsylvania, the number of people over age 65 will increase by 20 percent over the next 10 years. Those between 75 and 84 will increase by 35.6 percent and those over age 85 will increase by 71 percent. In my own district, in Allegheny County, by 1990, one-third of all older people will be over the age of 75—the fastest growing segment of the population. The country at large will not experience Allegheny County's current proportion of older people to the rest of the population until 2020.

NEED FOR LONG-TERM CARE INCREASES WITH AGE

The need for all types of long-term care will increase due to the growth in the elderly population and the fact that the need for long-term care increases with age. The overall percentage of elderly in nursing homes is about 5 percent; however, while 2 percent of those aged 65 to 74 are in nursing homes, 23 percent of those over 85 are institutionalized. In the next several decades, 1 to 2 million new nursing home beds will be needed. The National Center for Health Statistics estimates that the number of nursing home residents will increase by 58 percent between 1978 and 2003—if mortality remains constant.

MOST LONG-TERM CARE IS PROVIDED BY FAMILY AND FRIENDS

Seventy percent of all long-term care today is provided in the home by family and friends. More than 70 percent of those who provide care are women—usually wives, daughters, and daughters-in-law. As the American family disperses, there are fewer and fewer women who are full-time homemakers—45 percent of all preschool children have working mothers—there are fewer women to care for family members. In addition, women are delaying child bearing and finding themselves with a triple workload: young children, elderly parents, and full-time employment.

MEDICAID, PRIVATE SAVINGS, AND INSURANCE NOT SUFFICIENT

There currently is no good way to finance long-term care. The average cost of a year in a nursing home is $25,000 to $35,000, an expense simply beyond what the majority of people can afford. The median income in the country is $27,300. The 40 percent of the elderly who live alone—the group most vulnerable to nursing home placement—had an annual income of less than $10,000 in 1984.

Home health care averages $15,000 per year. In Pennsylvania, the average nursing visit to the home costs $64 per visit. The average home health aide visit costs $40. Thus, a Pennsylvania needing an aide daily, for, for example, dressing changes, bathing, or ambulating, would pay $14,600 a year for daily care.

Medicaid does provide fairly good long-term care coverage—today Medicaid pays about half of the Nation's $35 billion nursing home bill—but Medicaid requires people to spend down or exhaust their life savings and become impoverished to qualitfy. As Judith Feder of the Georgetown University put it: "Medicaid does not protect people against financial catastrophe; it provides care after catastrophe occurs." One study found that 63 percent of elderly without a spouse impoverish themselves after 13 weeks in a nursing home; 83 percent become impoverished within a year. Medicaid was never intended to be a long-term care program for the elderly, though that is where 43 percent of its funds go. It has become a backstop.

The options of private insurance and savings, are of little help. Private insurance pays only about 1 percent of the national nursing home bill. In 1987, only 400,000 private long-term care policies had been sold. Long-term care insurance is expensive—policies range from $400 to $2,000 yearly—and few insurance companies offer them. Because the few people who buy private long-term care insurance are likely to need it, the premiums are high and unlikely to come down much.

Private savings pay almost 50 percent of the national nursing home bill now. Most people cannot save $50,000 to $100,000 for long-term nursing home care. Americans are, notoriously bad savers 39 percent of the work force, or 18 million people, have no savings other than pension plans.

A program like Medicare spreads the risk among all who may need the program and makes the per capita cost lower, and hence more affordable, than a program designed for just a few people.

CONCLUSION

Long-term care is not only a financial issue. It is a moral and deeply personal issue, bound up in the responsibility each of us has for our immediate family. I hope that this bill will offer some comfort and hope to us all that the resources will be there when we need them.

FIVE WHO SERVED

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. KOLTER. Mr. Speaker, today I rise to honor five constituents from the Fourth Congressional District of Pennsylvania. They are five brothers who have served their country honorably and courageously during World War II.

This recognition is long overdue to the Piper family of Ellwood City, PA for it is very unusual during wartime to find five brothers serving in three different branches of the military and all demonstrating conduct worthy of Victory Medals, numerous Bronze Stars and various ribbons in the defense of our country.

T. Sgt. Everett T. Piper served in Company B 27th Infantry. Major campaigns included: Guadalcanal, Central Pacific, Luzon and Northern Solomons. His service was from November 7, 1940 to July 27, 1945.

T. Sgt. Walter D. Piper served in Company A 60th Infantry, 9th Infantry Division. Major campaigns included: Normandy Invasion, Northern France, Rhineland, Central Europe. He was captured and served as a prisoner of war. His service was from December 13, 1943 to December 6, 1945.

Cpl. Joseph P. Piper served in 368th Fighter Squadron. Major campaigns included: Ardennes, Rhineland, Central Europe Air Offensive. He served from December 10, 1941 to November 13, 1945.

Coxswain Francis C. Piper served in U.S. Navy. He served in the Pacific Theater of Operations. His service extended from January 1, 1945 to June 17, 1946.

Sgt. William R. Piper served in U.S. Marine Corps. He served in the Central Pacific area from November 6, 1942 to April 24, 1946.

These brothers, William, Walter, Everett, Francis, and Joseph, served in many capacities and contributed their part in significant victories for the United States, victories that have assured the freedoms that we all experience now.

I am proud to honor these brave men by calling to your attention their valor and commitment to our country in a time of need.

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. GARCIA. Mr. Speaker, due to unavoidable commitments last week, I was unable to cast my votes on several instances. On September 7, 8, and 9, I was unable to vote on the motions to table the motions to discharge the Committee on Armed Services from further consideration of H.R. 4264, the National Defense Authorization Act for Fiscal Year 1989. If I had been able to do so, I would have voted in favor of the motion.

Also, on September 8, I would have voted in favor of the conference report on H.R. 4867, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1989. This appropriation is essential for funding the Interior Department and many pollution control and antiacid rain measures. It is evident that the time has come to go beyond researching pollution control measures. We must take strong measures to combat acid rain, polluted waters, and contaminated lands.

TRIBUTE TO THE 376TH HEAVY BOMB GROUP

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. HUTTO. Mr. Speaker, today, on the occasion of the reunion of crewmembers of the 376th Heavy Bomb Group in Colorado Springs, CO, I pay tribute to the successful heroic efforts of the survivors and their fallen comrades who participated in the August 1, 1943, daring low-level raid on Hitler's oil refineries in Ploesti, Romania.

The operation, identified as "Tidal Wave," included my good friend and bombardier aboard one of the B-24 Liberators, Clarence "Chuck" Tabb, who the crew affectionately called "Tabby." Chuck told me that President Franklin D. Roosevelt and Winston Churchill had personally approved the mission. The sacrificial efforts of 1,763 Americans including "Tabby," a Canadian and an Englishman, who took off from Libya, North Africa, aboard 178 B-24 Liberators that first day of August, resulted in six men being awarded the Medal of Honor. Information from "PLOESTI The Great Ground-Air Battle of 1 August 1943," by James Dugan and Carroll Stewart, stated that "The decision to risk heavy losses by bombing Ploesti was made at the Trident Conference in Washington, May 1943. * * * A small raid had already been staged by 13 Liberators (B-24's) on June 11, 1942, but it did little damage. Indeed, it had the adverse effect of encouraging the Nazis to strengthen Rumania's antiaircraft defenses.

"The 1943 raiders took off from Benghazi for a fifteen-hundred-mile flight across the Mediterranean and the German-occupied Balkans and met successive fighter attacks long before they approached their target. Nevertheless, they fought their way through, and soon the refineries and oil tanks were covered with brilliant orange flame and billowing black smoke. The damage wreaked was substantial, but losses were severe. Four hundred and forty-six of the 1,733 men on the mission were killed, and only 33 of the original 178 planes came through fit to fly again."

"Never has a battle been more thoroughly planned and rehearsed. Rarely has such an unorthodox attack plan been used," than the sacrificial mission "To try to shorten Hitler's war by six months through one grand surprise blow at his vital oil refineries in Romania. * * * The bombers are going to strike at zero altitude after a secret flight of (over) 1,200 miles (without fighter escort). Waiting for them at Ploesti is Alfred Gerstenberg, the air defense genius of the war. He has the heaviest antiaircraft strength of any target in Europe and hundreds of first-line fighters. There will never be another battle like bloody, burning Ploesti." Chuck stated that they came in about 100 feet off the ground, and the flames from the oil refinery explosions went so high and the planes flew so close to the ground, that the fires burned the paint off the top of their planes.

"In thirty minutes, more fire power was exchanged than in two Gettysburgs, * * * The big bombers which came through were blackened by oil smoke. Some even had cornstalks sticking in their bomb-bay doors. The crippled ships were engaged in three major air battles trying to fight their way home to Africa * * * The Ploesti low-level raid was the best-prepared mission in the history of aerial warfare."

During times when we look for the strength of this great Nation of ours, we don't have to look far, for America's strength remains in her "Tabbys" of the Ploesti low-level raid, and service men and women of the past, present, and future. God bless the men of the 376th Heavy Bomb Group, your fallen comrades, and your families. May He also bless the men and women of our armed services who continue to serve our Nation and keep this country of ours the land of the free and the home of the brave.

A TRIBUTE TO BILL EDWARDS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. LENT. Mr. Speaker, I would like to take a few moments today to mention the passing of a man, Bill Edwards, who was a friend to many Members of Congress, as well as a veteran lobbyist on some of the most important energy legislation issues that have come before this body in the past decade.

Bill was many things to many people—a good father and loving husband to his wife, Linda, and their two children, Jim and Chris. He was a dedicated, hard-working employee for the companies he represented, and a kind and considerate friend to those who had the privilege to know him and work with him. Bill spent a lot of time making sure his friends and colleagues were taken care of, and he never let a day slip by without doing something to help someone.

But most of all, Bill Edwards was a patriot in the truest sense of the word. He was a gentleman, a man of honor and integrity, and one who sincerely believed in working for the betterment of all people.

Bill's belief in helping people was directly reflected in his strong and abiding faith that our Government is a good government and that we, the Members of the U.S. Congress, have the ability and foresight to plan, negotiate, and compromise, so that the end result of our efforts are laws and policies that serve the broadest interests on the greatest number of people. He truly believed in our system of government, and in the people of this Nation.

Bill Edward's time in Washington was spent working on electric utility issues, and on those issues he was a true leader. Blessed with a remarkable insight into the nature of politics and people, Bill led the utility industry efforts to pass the Nuclear Waste Policy Act of 1982 and the Electric Consumer Protection Act of 1986. Most recently, Bill spearheaded the successful fight on emergency planning for nuclear powerplants, defeating a proposal that would have given individual States the right to veto the Federal nuclear plant licensing process.

On these issues, and many others, Bill was a key figure, bringing opposing sides together at the bargaining table, maintaining a cool head when things got hot, and diligently working for what he believed was right. Bill loved the give-and-take of politics, and he never lost sight of the fact that on important issues, great minds could agree to disagree. Bill's opinions and beliefs were strongly held, but he just as strongly respected the opinions and beliefs of others as well.

Bill Edwards was only 44 years old when he lost his courageous battle against lung cancer in August, but in those 44 years he gave his best to everything he was involved in—from his family, to his community, to his church, where he often lent his brilliant tenor voice, to his local, State and Federal Government. He believed from his heart in the goodness of people, he believed that goodness could manifest itself in government, and he worked hard to make that happen.

Bill's contributions were important and, though we mourn his passing, we can all be comfortable knowing that the world is a better place for his having been here.

IT'S TIME TO INVESTIGATE GOVERNOR DUKAKIS' ANTI-DRUG EFFORTS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues a revealing article describing the shabby antinarcotics record which Michael Dukakis has maintained during his time in office as Governor of Massachusetts. While he and his Democratic colleagues are firing away at President Reagan's drug program and calling the Chief Executive "soft on drugs," the facts reveal a very different story.

Recent reports reveal that Governor Dukakis pardoned 21 convicted drug dealers between 1983 and 1987, and even erased their crimes from court records. Some of those pardoned were convicted sellers of heroin and cocaine. Massachusetts State records also show that some of those convicted of drug crimes have been furloughed from prison. One of those who was furloughed, Willie Horton, committed a highly publicized rape in Maryland after being freed from a Massachusetts prison.

We all admit that the drug problem is one of the most serious challenges facing America today. This administration has done more than any other administration in history to commit America to the war on drugs. The menace of drugs is so severe that we Americans cannot afford to let our struggle against illegal substances become a partisan battle. We must have bipartisanship on this issue if we are to win the crusade against illegal drugs. Now is clearly the time to craft a bipartisan drug policy. We don't need drug politics.

I commend the following Washington Times article to my colleagues in the Congress.

The article follows:

[From the Washington Times, Sept. 13, 1988]

DUKAKIS PARDONED 21 DRUG DEALERS

(By Michael Hedges)

BOSTON—A Massachusetts research group says Gov. Michael Dukakis, who has criticized Reagan administration anti-drug efforts as encouraging the drug traffic, pardoned 21 convicted drug dealers between 1983 and 1987 and erased their crimes from court records.

The pardoned narcotics sellers included several convicted of selling heroin and cocaine.

Some 51 drug offenders in all, including several charged with possession of narcotics, were pardoned by Mr. Dukakis in the five-year period, the Massachusetts Civic Interest Council (MCIC), a conservative think tank in Canton, said.

State records reveal that others convicted of drug crimes have been furloughed. These include Willie Horton, who committed a highly publicized rape and assault in Maryland after being let out of prison.

Also pardoned by Mr. Dukakis during the same years were 24 persons convicted of armed robbery and six rapists, along with more than 200 others convicted of crimes, the records showed.

Laws on pardons differ from state to state, making direct comparisons difficult, but in several populous states, pardons are far less common—and harder to get—than in Massachusetts.

Mr. Dukakis' Boston office did not respond to several calls seeking comment on the list of convicted drug dealers pardoned by the Democratic presidential nominee as Massachusetts' chief executive.

Mr. Dukakis has made a proposed war on drugs one of the center pieces of his campaign, criticizing administration efforts and White House dealings with Panamanian strongman Manuel Noriega, who was indicted by a Miami federal grand jury on drug dealing charges.

In recent days, Mr. Dukakis has further criticized Sen. Dan Quayle, noting that the Republican vice presidential nominee could be appointed drug czar if Vice President George Bush wins the November election.

"Can't we do better than that?" Mr. Dukakis asked at a Labor Day rally in Detroit.

In Massachusetts, felons who have completed their sentences or are on probation or parole can petition the state board for a pardon.

That board, composed of seven persons appointed by the governor to five-year terms, then makes a recommendation concerning the pardon. The governor is the final authority of approving the pardon or turning it down.

Those pardoned have their court records sealed and can answer no if asked on a job application whether they have been convicted of a crime.

Those pardoned could turn up in jobs where drug use would present a safety hazard, according to researchers. If a pardoned person is arrested again, the new arrest would be treated like a first offense.

MCIC spokesman Fred Laskey said: "If a trucking firm, security agency or pharmacy checked into the background of a potential empoloyee who has been pardoned, his record will appear spotless."

The list of drug dealers pardoned by Mr. Dukakis includes several convicted of more than one offense, and others convicted of firearms charges as well as drug dealing.

Among those pardoned:

Andrew Mendoza, convicted of three counts of possession of codeine and other unspecified drugs with the intent to sell, possession of cocaine, and unlawfully carrying a firearm.

William Finn, imprisoned for two counts of selling heroin, one count of giving someone heroin and other drug charges.

Robert Albino, found guilty of selling heroin, two counts of conspiracy to sell narcotics and other conspiracy and drug possession charges.

Mark O'Coin, convicted of possessing heroin with the intent to sell, possession of LSD and hashish, and four counts of contributing to the deliquency of minors.

In New York, Gov. Mario Cuomo, a Democrat, doesn't have authority to grant pardons. But between 1984 and 1987, he proposed 17 commutations of sentences to the state parole board. The board then makes a decision.

At the end of the year, just before the holidays, Mr. Cuomo "commutes some inmates' minimum sentences to 'time already served,' making the prisoner eligible for parole," according to a spokesman in the governor's office. Mr. Cuomo does this for an average of three or four prisoners a year.

Gov. James R. Thompson of Illinois, a Republican, has granted 90 pardons and 22 commuted sentences since 1984.

"In the state of Illinois, pardons are not given to people who are incarcerated, but to those who are out of prison. The vast majority of pardons are people who were not serving prison sentences at the time," according to a lawyer with the state Prison Review Board.

The lawyer said pardons are usually given to people who have served their time and then later prove to be good citizens. Those people can apply for a pardon to clear their record.

In California, Gov. George Deukmejian, a Republican, can grant a pardon only in cases where 10 years have elapsed after the convicted person has been released. He has granted 203 pardons since 1984. He has authority to commute sentences but has never done so.

"The general rule of thumb is that an individual must have served his term and parole and lived for 10 years as a good citizen before they apply for a pardon," said John Beerman, of the governor's office.

In Florida, Govs. Bob Graham, a Democrat, and Robert Martinez, a Republican, gave 277 pardons and 11 commutations from 1984 through the present.

In Florida, convicts can't apply for a pardon until five years after they have finished serving any part of their sentence, including parole restrictions or probation.

"People involved in large amounts of drugs, trafficking them, it is usually many, many years before they get pardoned," said

Janet Keels of the Florida Office of Executive Clemency.

Commutations can be given to inmates but "illness is about the only reason a commutation is given," she said.

The MCIC report showed that during his first term in office between 1975 and 1978, Mr. Dukakis pardoned 552 persons and commuted the sentences of another 49.

That record was attacked by Edward King during his 1978 Democratic primary campaign against Mr. Dukakis. Mr. King defeated Mr. Dukakis in that primary, but was himself defeated four years later in a bitter rematch.

During his four years as Massachusetts governor, Mr. King pardoned 211 persons and commuted 12 sentences.

Since regaining the governor's office in 1982, Mr. Dukakis has been far more sparing with pardons, issuing 232 between January 1983 and the end of 1987. He commuted only 10 sentences in that time.

But, according to the MCIC report, the crimes of those pardoned ranged from manslaughter and rape to kidnapping and drug dealing.

TRIBUTE TO DR. FREDERICK CHIEN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. TORRICELLI. Mr. Speaker, although Dr. Frederick Chien has already returned to the Republic of China and assumed his new position as Minister of State and Chairman of the Council for Economic Planning and Development, I rise today in tribute to him for his able and successful representation of his country over the last 5 years. I will remember him with warmth and hope to see him again in the near future.

Since 1983 when Dr. Chien came to Washington as Taiwan's chief representative to the United States and I began my service in Congress, Dr. Chien worked hard to make sure that his Government's views were heard in the Halls of Congress and the views of my colleagues and I were heard in Taipei. During his tenure here, the already close ties between the citizens of our two respective countries were strengthened by Taiwan's tremendous economic growth and progress on political liberalization and human rights.

I have been to the Republic of China twice. Although the second time I arrived in Taiwan was less than a year after my first visit, I was surprised to see the visible changes in the landscape of Taipei and its suburbs. The economic growth and prosperity of Taiwan has brought previously unimagined opportunities for its citizens. At the same time, growth has brought greater responsibility for all levels of Government in Taiwan. The National Government and local governments are being called upon to provide better urban planning, control the sources of pollution, extend consumer protection, and provide other services.

Another responsibility of Government made even more important by growing prosperity is expanding the right of the citizens of the Republic of China to fully participate in political institutions that fully reflect the new political era that Taiwan has entered. Like other Asian countries, basic political institutions may need to be revised. Independent judicial authorities should be solidified. Political assembly without violence should be encouraged. Finally, political stability is best ensured through the selection of elected national representatives rather than appointed representatives.

Based on my experience of working with able and thoughtful individuals such as Dr. Chien, I believe the Republic of China is up to the task ahead. In his new position, Dr. Chien will be helping to lead the continuing political and economic development of Taiwan. It has been a privilege to work with him here in Washington. I wish him and his family the best of good health, happiness and success as they meet new challenges.

LARRY W. MARSH, DEPARTMENT OF INTERIOR'S OUTSTANDING HANDICAPPED FEDERAL EMPLOYEE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. RICHARDSON. Mr. Speaker, as you well know, Members of Congress meet and speak with dozens of people each day—we see hundreds of new faces each week. It is the rare occasion when one meeting, when one person has an overwhelming effect on a member. It happened to me Mr. Speaker this week when I met a constituent of mine who has been named the Department of Interior's most outstanding handicapped Federal employee for 1988. Thirty years ago, Larry Marsh was struck by a drunk driver. He lost both of his legs. He has overcome his disability by succeeding in a world set up for the able bodied. Mr. Marsh teaches at an elementary school in Bloomfield, NM. He is an outstanding educator and a tremendous inspiration for those of us fortunate enough to meet him. I would like to insert into the Record a letter written by Interior Secretary Donald Hodel explaining Mr. Marsh's background and accomplishments.

U.S. Department of the Interior,
Office of the Secretary,
Washington, DC.

Interior's Outstanding Handicapped Federal Employee for 1988—Larry W. Marsh, Bureau of Indian Affairs

Larry Marsh, a teacher with the Bureau of Indian Affairs since 1966, is the Department's selection as its Outstanding Handicapped Federal Employee of the Year. In 1958, shortly after graduating from high school, Mr. Marsh was involved in an accident which subsequently resulted in a high thigh double amputation. Determined to overcome his handicap, he learned to walk on artificial legs with the aid of a cane and to drive a car with hand controls. Throughout the years, Mr. Marsh has voluntarily provided support and assistance to numerous accident victims who have lost limbs. He has spent many hours encouraging these people and served as proof that their future was not as bleak as it might appear. Mr. Marsh has never allowed his handicap to interfere with his commitment to teaching and is considered one of the most talented and outstanding educators in the Bureau. He has the rare gift of installing in students the desire and motivation to learn. Many honors and commendations have been bestowed upon him for his superior teaching ability and willingness to assist whenever necessary. In 1981, teachers from 18 schools in the area selected him as "Teacher of the Year," and in 1986, he received the Navajo Nation Handicapped Employee of the Year Award. More recently, he represented the Dzith-na-o-dith-hle School at a White House awards ceremony when the school was chosen as one of 271 schools nationwide as an exemplary school for excellence in education. An evaluation statement by the Department of Education read ". . . One of the reading teachers, Larry Marsh, has developed a carefully planned, sequential and elaborate resource library for reading comprehension skills. He has spent several years collecting and organizing resource materials specifically for Navajo children . . . His room is a "gold mine" of resource materials." For his dedicated service and outstanding professional contributions in the field of education, Larry W. Marsh is selected as the Department of the Interior's Outstanding Handicapped Federal Employee for 1988.

Donald Hodel,
Secretary of the Interior.

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. GARCIA. Mr. Speaker, Due to an unavoidable commitment in the 18th Congressional District, I was unable to be present for the three Omnibus Drug Initiative Act amendments that were offered yesterday, September 15, 1988.

On the Oxley amendment, to make the Cabinet level position of the Attorney General the Chairman of the National Drug Enforcement Policy Board, I would have voted "yes."

On the Brooks amendment, establishing a subcabinet Office of Drug Enforcement Coordination within the Executive Office of the President, I would have voted "yes."

On the McCollum amendment, that called for the striking of the Brady amendment and instead directing the Justice Department to develop an alternate plan, I would have voted "no."

On the Shaw amendment, to delete the bill's provision revising civil forfeiture, I would have voted "no."

TRIBUTE TO DR. VINCENT T. DeVITA, JR.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. CONTE. Mr. Speaker, I rise today to offer my personal regards and best wishes to

Dr. Vincent T. DeVita, Jr. As Director of the National Cancer Institute—the largest of the National Institutes of Health—Dr. DeVita has had the responsibility of leading a research enterprise budgeted at more than $1.6 billion a year. After 7 years of distinguished service as NCI Director, Dr. DeVita has accepted the position of physician-in-chief at the Memorial Sloan-Kettering Cancer Center in New York. As he begins this new position, I want to wish him continued success in the future, and congratulate him on a job well done.

Since 1980, Dr. DeVita has guided this country's fight against cancer. He has brought to the job his considerable skills as an expert biomedical researcher—before he was appointed to head up the Institute, Dr. DeVita worked with his fellow researcher to develop a treatment for Hodgkin's disease, a type of blood cancer that frequently strikes young people. That treatment has increased the cure-rate for patients with advanced Hodgkin's disease from nearly zero to over 50 percent. And Dr. DeVita was awarded the Albert and Mary Lasker Medical Research Award for this contribution to the cure of Hodgkin's disease.

He has also brought to the job the kind of bold approach to managerial and organizational questions that is necessary to make the most of an institute whose budget is rapidly approaching $2 billion. I have high hopes that the internal reviews and reorganizations, which are now underway, will make terrific contributions to our ability to fight, and beat, cancer.

The major breakthroughs in understanding the AIDS virus and developing the drug Retrovir, or AZT, have taken place within the Cancer Institute on Dr. DeVita's watch.

And Dr. DeVita has also worked to establish and strengthen cancer prevention programs, as well as networks for getting the state-of-the-art knowledge about the disease and its treatments out into the hands of our doctors around the country.

I also want to congratulate Dr. DeVita on being the first recipient of the Pezcoller Foundation Award. This foundation was recently established in Italy, and will recognize outstanding contributions of oncologists every 3 years. The foundation could not have made a better first choice. I only wish I could be with my good friend Dr. DeVita when he receives the award this Saturday in Trento, Italy.

With the exception of a 2-year period of advanced training at Yale University Medical School, Dr. DeVita has been with the National Cancer Institute since 1963. He has a very impressive record of service to the Federal Government, and to the American people. I am honored to have had the opportunity to work with him in my role as ranking minority member of the Appropriations Subcommittee on Labor, Health and Human Services, and Education. I have worked hard over the years to strengthen the cancer center's program, and I am delighted that Dr. DeVita's contribution to that program will continue. I think we all owe him a vote of thanks, for the fine work he has done, and will continue to do.

INTRODUCTION OF THE ILLEGAL DUMPING PREVENTION ACT OF 1988

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. GEJDENSON. Mr. Speaker, I rise today to introduce the Illegal Dumping Prevention Act of 1988. This legislation would give the Environmental Protection Agency and the U.S. Attorney General the power to seize boats and other vessels that are caught illegally dumping medical waste, hazardous waste, or municipal solid waste into the oceans in violation of EPA permits.

This legislation would give the enforcement agencies the muscle they need to effectively carry out the ocean dumping laws and would provide a strong economic incentive for waste disposers to comply with the laws that are currently on the books.

It is estimated that over 5,900 tons of medical waste are generated every day. Disposing of this hospital waste is very expensive, costing as much as $2,000 per ton. Under current law, it is almost worth the risk to dump waste illegally because the fines and penalties are small compared to the cost of compliance. The fines for illegally dumping waste into the ocean are a mere $50,000 per violation. This legislation would reduce the temptation to dump. It would give the disposers and the waste transporters a strong incentive to comply with the law. Dumpers will know in advance that when they are caught and found guilty, they will lose their boat.

Although the issue of illegal dumping has caught the public's attention this summer because beaches have been closed and swimmers have been fewer, illegal dumping has economic and environmental effects that go far beyond just closed beaches.

As many of you may remember, from November 1987 through January 1988, more than 21 dead whales washed up on our shores. Many of the pollutants being dumped into the oceans are being eaten by fish, dolphins, and other marine life, spreading diseases that kill other fish, dolphins, and seals. In addition, the dumped waste adds nutrients to the water, overloading the ecosystem and exacerbating existing environmental problems like the low oxygen levels that we have seen in the Long Island Sound.

In addition, our fishermen who depend on the oceans and waterways for their livelihood have been experiencing smaller catches and catching fish with fin rot and other diseases that make them unmarketable. Many areas which were once breeding grounds for oysters and other shellfish are no longer fishable because the catch is contaminated or simply too small to be worth harvesting.

Though vessels would be seized only from those convicted in court of illegal dumping, this bill sends a strong message to illegal dumpers that their actions will not be tolerated. The Illegal Dumping Prevention Act of 1988 will send a signal that we are serious about protecting our oceans and beaches for our children and grandchildren.

It is time that our oceans and waterways stopped being used as a sewer. Illegal dumping in the oceans threaten a vital economic resource on which our entire Nation depends. At this time, I urge my colleagues to cosponsor the Illegal Dumping Prevention Act of 1988 and join me in sending a strong message to potential dumpers that we are serious about protecting our oceans and waterway.

VIVIAN BENNERSON CONTINUES HER BEAUTIFUL CREATIONS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. DE LUGO. Mr. Speaker, another beauty has been added to the countless beauties of the Virgin Islands—a locally designed Rosenthal China plate. Mrs. Vivian Bennerson, of St. Croix, is designing a series of gorgeous Virgin Islands plates that reflect the history, culture, and pride of our people. I am proud to have one of her creations on display in my office for all to admire.

Vivian is perfectly suited to this task, for she has been a painter, community leader, and a friend of our young people for many years. Vivian has given years of her life to counsel our students in the Police Athletic League and Boy Scouts. She has led them in steelpan bands, guided them through their educations and steered them toward productive careers in many fields. She has always taught them to use their God-given talents to the fullest, and to reach for the highest achievements possible.

Vivian has the advantage of 34 years of marriage to "Big Jim" Bennerson, also known as "Brother B" and "Mr. B." Big Jim, a 10th generation Crucian, also has given generously of his talents to help our islands. Big Jim left St. Croix for a period, but he returned in 1963 to go to work in the Virgin Islands Legislature, where he served as executive director for a time. He also went on to direct the volunteer program for the territorial court, and to serve on the boards of the Government Employees Retirement System and Government Employees Service Commission.

Now, Vivian is showing the way for our people to get their products and artwork into the mainstream of our tourist-retail economy. Vivian has branched out to design her plates, arrange the production, and mastermind the distribution. Her first edition is a pair of quadrille dancers. It is a beautiful design and a poignant theme—for the quadrille reflects the historical mixture of European and African elements that make our culture so rich and unique.

Future editions will feature a pink hibiscus and a steelpan players. Steelpan music has only developed since World War II. Once again, Vivian's design displays the West Indian ability to take a Western product, like castoff military equipment left after the war, and turn it into a dynamic and inspiring art form.

The artistic design work is only part of Vivian's task. She has interested Rosenthal China Co. of West Germany, one of the leading china companies in the world, to produce 1,200 of her plates each year. And she signs each one. She also is spreading her distribution network, arranging to sell the item at the United Nations gift shop in New York, in stateside museums, and in many of our leading shops in the Virgin Islands.

Vivian is obviously a talented and dedicated person, who is not daunted by running a one-woman, international operation. She has always been a model for our young people, and now she is using art to show how they can make it in business and preserve our native culture at the same time.

NATIONAL POW/MIA RECOGNITION DAY, A REMEMBRANCE OF SGT. RICHARD FITTS OF ABINGTON, MA

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. DONNELLY. Mr. Speaker, I rise today to pay tribute to the thousands of American service personnel still listed as missing in action in Southeast Asia here on National POW/MIA Recognition Day.

For the past few months, the media has been reporting that relations with Vietnam are improving. I want to commend the efforts of the POW/MIA Task Force and the Foreign Affairs Committee for keeping communications open to some Americans, the on-going stories on the MIA issue are meaningless.

But to the families of those still missing, they provide hope. Not only of the diminishing change that their sons and daughters could still be alive, but hope that they can finally put the horrible nightmare of not knowing—away for good.

This next November 30 will mark a solemn time for one family of a missing soldier. S. Sgt. Richard A. Fitts of Abington, MA. A tough Marine green beret who on November 30, 1968, was listed by the Government as missing in action.

To those people that look at the Vietnam War as a past historical event, Rosella and Walter Fitts, the parents of Sergeant Fitts, are hoping to God that they will see their son again.

To us, 1968 was 20 years ago. To the Fitts Family of Abington, it has been a lifetime of hope and faith—a daily struggle of wondering whether or not their son, who entered the Marine Corps to serve our Nation, could possibly be alive.

FLOOR ACTION FOR MINIMUM WAGE

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. MURPHY. Mr. Speaker, I rise today to remind my colleagues that time is quickly running out on our schedule and we have yet to bring the issue of minimum wage before the House or Senate.

At the beginning of the historic 100th Congress, speeches were made and statements issued indicating that an increase in the minimum wage was long past due. As we approach the end of our tenure, low wage American workers have only those pledges and promises to comfort them as they approach another year at the same inadequate Federal minimum wage of $3.35 an hour.

The American people in survey after survey have indicated they support an increase in the minimum wage. One recent poll indicates that 74 percent of those asked support a reasonable upward adjustment in the wage. Many of the Members of this body, on both sides of the chamber have expressed interest and concern about low-wage workers.

Despite this broad base of support, a bipartisan compromise agreement has thus far eluded us. Somewhere between the dire predictions of economic disaster resulting from any increase and the optimistic expectations of social progress that would flow from a large minimum wage adjustment is the frame work for an agreement. I want to urge all of the members of this body as well as our colleagues in the Senate to reach beyond the rhetorical wall that divides us and act decisively to improve the lives of minimum wage workers before we adjourn.

I am pleased to see renewed interest in this subject following the Vice President's election year conversion to the cause of social justice. The Senate has announced they will take up minimum wage as the next order of business. I would urge this body to bring this important legislation before the House as soon as the Senate completes its work.

If we act now with conviction and compassion, we can ensure the new year will bring with it greater opportunities and renewed self respect for all low wage American workers. These people deserve our support not our sympathy. I encourage my colleagues to work together in a spirit of compromise to fulfill our promise to minimum wage workers. A reasonable increase is long overdue.

A PRESCRIPTION FOR U.S. INDUSTRIAL COMPETITIVENESS: REMOVE UNNECESSARY ANTITRUST BARRIERS FACING COOPERATIVE MANUFACTURING VENTURES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. WYDEN. Mr. Speaker, we have seen a net decline of approximately 700,000 U.S. manufacturing jobs during the first 7 years of the Reagan administration. This is both a tragedy for U.S. workers, and a dangerous signal concerning our ability to compete against foreign suppliers.

The administration's principal response to foreign competition has been to force down the dollar's value. But while the diminishing dollar has boosted some export sales, it is essentially a placebo cure. It fails to attack the core of our industrial illness, encouraging continuation of inefficiencies.

The Subcommittee on Regulation and Business Opportunities, which I chair, examined a more realistic remedy on September 13. It is a European industrial system called flexible manufacturing networks, and it encourages small businesses to act in concert for research and development, manufacturing, technology transfer and marketing.

Witnesses at the hearing said flex networking could put small U.S manufacturers onto economic afterburners. Used in industries as diverse as tooling and machining in Italy, and textiles in Denmark, the system has created a manufacturing renaissance in those countries. And their job gains often has meant our job loss.

Mr. Speaker, our witnesses made a strong case for this competitiveness prescription. Matthew Coffey of the National Tooling and Machining Association said flex networking "addresses significant problems faced by small manufacturing businesses." It gives small manufacturers access to expensive technology, equipment and marketing initiatives.

More broadly, it gives our small firms a chance to react to global market situations by being more competitive at home.

But we have to break down a number of barriers, first. Not the least of them is current antitrust law. Fear of antitrust action has hamstrung what appears to be the most procompetitive scenario. This makes no sense. It hurts both consumers and small manufacturers. It hurts our country in international markets.

Brian Bosworth, president of the Indiana Economic Development Council, testified that "antiturst laws have so deeply—and successfully—permeated the business culture that many businesses are understandably nervous about entering into cooperative efforts of any kind with their competitors."

Robert Friedman, president of the Corporation for Enterprise Development, said that "the truth then is that the Federal Government need not do much—to encourage flex manufacturing networks—if all it wants to see is some experimental efforts: if it simply removes the specter of antitrust prosecution, the experimentation will go forward."

C. Richard Hatch, an urban industrialization analyst at the New Jersey Institute of Technology, said that unless small firms were free to cooperate in networks at home they "hardly will be competitive overseas."

Mr. Speaker, Congress in its wisdom 4 years ago created the Joint Research and Development Act of 1984. This legislation reduced some of the more Byzantine antitrust obstacles to cooperative technology development, and I am proud to say that I participated in its formation. I believe that the next reasonable step should be similar legislation for flexible manufacturing networks. I urge my colleagues to join me in this effort to save U.S manufacturing jobs.

PRESERVING THE AMERICAN DREAM

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. PRICE. Mr. Speaker, it is becoming increasingly apparent that during the 1980's the American dream of home ownership has become more difficult to fulfill for our Nation's citizens. The decline in home ownership among younger households has become particularly acute: a decline of 7.4 percentage points for 25 to 29 years olds (from 43.3 to 35.9 percent) and a decline of 7.9 percentage points for 30 to 34 years olds (from 61.1 to 53.2 percent). These figures demonstrates a dramatic decline in the traditional age groups of first-time home buyers.

A recent National Association of Realtors [NAR] study looked into the obstacles that young households experience in buying their first home. The study concludes that "most households desire home ownership and would like to attain it. While very low income households will have severe difficulties in overcoming the financial barriers to home ownership, it is within reach for many others. The main obstacles that renter households (who have the incomes and other characteristics that truly make them 'potential first-time homebuyers') face is the accumulation of the downpayment and closing costs. Consequently, business or government programs and policies geared to assisting renters in overcoming this obstacle may be quite fruitful for making home ownership attainable." (NAR, Real Estate Outlook, August 1988).

I have introduce legislation to address these problems. My bill would ease the downpayment burden for first-time buyers by permitting the Federal Housing Administration [FHA] to insure 97 percent of a home's value. This change, for example, would lower the downpayment required for a mortgage of $80,000 by 30 percent.

The bill also makes changes in the FHA program which will lower the monthly payment home buyers pay in the early years of the mortgage. And it adjusts the FHA mortgage insurance limit in regions where moderate income families are being priced out of the housing market because the current limits do not allow FHA to insure the average priced house in that area.

I urge my colleagues to join the 45 other House Members who have joined me in this effort. And I would like to include for the record an article, "Down payment often the death of a dream", from the Raleigh News and Observer which, I believe, describes a problem that too many families in our country are currently experiencing.

[From the News and Observer, Aug. 28, 1988]

Down Payment Often the Death of a Dream—Rocketing Rates Make First Step To Buying Home Difficult to Take

(By Michael Hetzer)

Last month, Robert Andrews and his wife Renee realized the primary element of the American Dream: Homeownership.

They paid $52,000 for a small home in the Five Points area of Raleigh. But how the Andrews got here is part of their story.

Although the couple had set their sights low for their first home—an older house in need of some work—they still found themselves locked out by the down-payment obstacle. The Andrews figured they needed to put down $11,000 to keep their monthly payments at a level they could afford. It might as well have been $11 million.

"We were saving but it would have been a while until we had that kind of money," said Mrs. Andrews, 23.

Then, Andrews' father gave the couple the down payment for the home they wanted on 402 Bickett Boulevard. Without the assistance, Ms. Andrews said they probably would still be living in their cramped $275 per month apartment.

Faced with housing prices that have more than doubled since 1975 while real wage growth has remained flat, first-time home buyers—primarily young people—are finding it difficult to come up with the down payment without some financial help.

Realtors and others find this disturbing for several reasons. Some point to a failing thrift ethic among young people, a buy-now-pay-later mentality that has thrown these late baby boomers into unwieldly consumer debt and made savings difficult or impossible.

They see homeowners divided into two groups: those who can climb aboard the homeownership rocket and are launched into the middle class, and those who are locked into renting and left on sinking financial ground.

In his 1987 book "Born To Pay," Philip Longman writes that rising house prices have created a huge "inter-generational transfer" of wealth from young, first-time buyers to older, established homeowners. The gains of established homeowners, Longman says, come directly from the pockets of first-time home buyers.

Higher prices mean higher down payments, which generally range from 5 percent to 20 percent of the price of the home. But they also mean higher monthly payments which, in order to quality for a mortgage, means that buyers must make still larger down payments.

"We're seeing the homeownership rates of young people plummeting," Glenn E. Crellin, an economist for the National Association of Realtors, said in a telephone interview from his office in Washington. "Clearly, the down payment is the biggest problem. If you take a typical renter making $16,000 per year and they can manage to save 5 to 6 percent—which is optimistic—then that's only about $1,000 per year. For a median-priced home they would need about $8,000 in cash. By the time they managed to save the $8,000, they would need $12,000. It's always out of reach. It's a very disturbing trend."

Brent Bowman and his wife Jannie are another young Triangle couple who, like the Andrews, looked to parents for help in buying their first home. As a graduate student at N.C. State University, Mrs. Bowman was able to save the small income she earned teaching, living entirely on her husband's salary. Still, the couple figured they needed a 20 percent down paymet to buy the house and continue living on one income.

"We saved all of my graduate school income," Mrs. Bowman said. "We don't have any credit card debt or car payment and maybe that's unique these days. We had a lot of money saved but we still couldn't afford a house living on my husband's income alone."

So Bowman's father stepped in and gave the couple $10,000 of their inheritance early. Combined with the money they saved, they were able to buy a two-bedroom, one-bath starter home in the Jones Dairy Farms subdivision in Wake Forest. They're scheduled to close next month.

"We thought it would be a long time before we could afford to buy," said Mrs. Bowman. "We're just real excited about finally owning a home."

Crellin said that the Realtors association kept no figures on the number of homes that are purchased with parental assistance, but suggested there was nothing new in the scenario.

"Borrowing from parents is a time honored tradition in real estate," Crellin said. "It's just what with today's high prices it may be a little more important."

Robert A. Warren, manager of the Raleigh office of Shearson Lehman Hutton, which offers financial planning services, said that such parental prefunding of inheritance money was growing in popularity.

"We have seen quite a bit of that," he said. "It's structured many different ways but parents want to help out their kids buying their first home. For some it's a loan, for others it's a flat out gift."

Technically, a buyer is not allowed to borrow the money for a house down payment—not even from a relative. Lenders and mortgage insurance companies often require gift letters from parents stating that the money they have given to their children need not be repaid.

"Gift letters are very common these days," said George Pittman, owner of Ammons Pittman Realtors. "They've become part of the business, especially with young, first-time buyers."

The predominance of the down payment as the greatest obstacle to homeownership is suggested by the number of renters who last year, continued to rent despite 8.5 percent interest rates that brought the monthly payments on par with rent, said Alan B. Segal, a Certified Financial Planner and the owner of Associated Financial Consultants Inc.

"A lot of people could have substituted a mortgage payment for a rent payment then but didn't because they couldn't come up with the cash down payment," Segal said.

There are several proposals being circulated in Congress to increase the availability of lowdown-payment mortages, according to Mary B. Fuscello, real estate finance division vice president for the National Association of Realtors. One proposal calls for approximately halving the down payment requirement of FHA loans.

But for the moment first-time home buyers must wrestle with the down-payment obstacle on their own.

"There are no easy answers about where to get a down payment," said Michael L. Walden, professor of economics and business at NCSU. "For some it's parents. For others it's buckling down and saving."

GULF COAST RESIDENTS DESERVE BEST PROTECTION POSSIBLE WHEN HURRICANES THREATEN

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. FIELDS. Mr. Speaker, as the Representative of the Eighth Congressional District, much of which borders the Houston Ship Channel, Galveston Bay, Cedar Bayou, and other flood-prone waterways, I want to ensure that my constituents receive the most timely and most accurate information possible when a hurricane threatens the Texas gulf coast. That is why I am disturbed at the Air Force's plans to eliminate its so-called hurricane hunter reconnaissance flights at the end of the 1989 hurricane season, and that is why I have cosponsored a resolution, introduced today by my good friend TOM LEWIS, which expresses the sense of the Congress that such flights should continue.

His constituents in Florida, my constituents in Texas, and millions of men and women who live along the gulf coast are all too familiar with the terrible destructive power of hurricanes. Hurricanes cause $1 billion in property damage each year. And that figure does not include injuries and deaths caused by hurricanes and the flooding and tornadoes they produce. Continuing the Air Force's hurricane hunter reconnaissance flights would cost just $25 million a year. The National Weather Service believes that such flights produce more information, more accurate information and more timely information about the strength and projected course of these storms than could be obtained by using satellites exclusively. As a result of these Air Force flights, coastal residents have access to the kind of timely, accurate information they need to protect their property and their lives.

Mr. Speaker, in order to protect the health and well-being of my constituents, other Texans, and all Americans, it would be prudent to postpone any decision on eliminating the use of weather reconnaissance flights until it can be determined beyond any doubt that information obtained from weather satellites alone is as timely and as accurate as that obtained by using both satellite reconnaissance and hurricane hunter flights in combination. I have made my views known to the Secretary of the Air Force, and I have contacted the director of the National Weather Service asking that when the danger of Hurricane Gilbert has passed, the National Weather Service prepare a report for me outlining what information obtained from hurricane hunter flights would not have been obtained had the Government depended solely on weather satellites, and estimating how much sooner such information was available as a result of those flights than if we had depended solely on weather satellites.

Mr. Speaker, I commend my good friend TOM LEWIS for introducing this important measure, and I urge my colleagues to join with me in cosponsoring it.

SUPPORT PARTNERSHIPS IN EDUCATION

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. BRENNAN. Mr. Speaker, I rise today to bring attention to House Joint Resolution 489 "Partnerships in Education Month" of which I am an original cosponsor as it was introduced by Representative MIKE DEWINE.

"Partnerships in Education Month" brings attention to the need for a more aggressive, career-oriented education where students can gain work experience before graduation to prepare them for the rigors of the competitive job market after graduation. Partnerships in Education offers students a more comprehensive and enriching education through a hands-on work experience that only business can offer.

In my own State of Maine, only 47 percent of high school students go on to some form of higher education, compared to 58 percent nationwide. A full 22 percent of Maine's students never finish high school.

The recently completed report of the Economic Development Strategy Task Force singled out improvements in educational quality as the highest priority for strengthening Maine's economy over the next 10 years.

I would like to commend the Maine Development Foundation which funds the Maine aspiration compact for encouraging the young people of Maine, the future of our beautiful State, to set higher goals for themselves, and in turn to reach those goals by offering them the chance to grow, to learn, and to stay in Maine as vital working members of the community. These opportunities will be available to students as a result of cooperation between businesses and schools.

I urge my colleagues to show their support for this measure which will help not only the students of my State but all students around the country.

THE 50TH ANNIVERSARY OF KRISTALLNACHT—THE NIGHT THE HOLOCAUST BEGAN—AMBASSADOR RON LAUDER LEADS COMMEMORATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. LANTOS. Mr. Speaker, November 9 this year will mark the 50th anniversary of one of the most infamous dates in history—Kristallnacht. On the night of November 9, 1938, Adolph Hitler and his Nazi henchmen began in earnest to implement their vicious anti-Semitic acts. Well-organized and heavily-armed storm troopers fanned out all across Germany and Austria and began a coordinated attack against Jews and anything Jewish. Synagogues were burned, windows smashed, shops looted, and homes ransacked. Jews were rounded up, beaten, and killed.

The Nazi's called this vicious pogrom "Kristallnacht"—the night of shattered glass. The magnitude, the organization, the pervasiveness of this night of arson, terror, and murder could leave no question in the mind of any person about the intentions of Hitler and the Nazi regime.

Perhaps the most shocking and disturbing fact of Kristallnacht was that there was no international response to that atrocity. For Jews in Germany and Austria it was clear that they should leave their homes and flee. But there was no place for these people to go. No one cared. Even our great Nation closed its doors, and the Jews were not welcomed by our people here during this greatest hour of need.

Mr. Speaker, I would like to pay tribute today to Ambassador Ronald S. Lauder, the former American envoy in Austria, who is chairman of the Kristallnacht Committee. Under the leadership of Ambassador Lauder, an appropriate commemoration of this tragic anniversary will take place during the week of November 4–10. Two documentary films will be aired during that time. Memorial candles will be distributed in memory of the synagogues that were destroyed, synagogues will be lit throughout the night of November 9, and special services will be held in churches and synagogues throughout the Nation.

Mr. Speaker, I urge my colleagues in the Congress and I invite our fellow Americans throughout this great Nation to join in remembering the tragic horror of this infamous anniversary.

FEDERAL CROP INSURANCE COMMISSION ACT OF 1988

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. JONES of Tennessee. Mr. Speaker, today I am introducing the Federal Crop Insurance Commission Act of 1988 to provide authority for the formation and operation of a Commission for the Improvement of the Federal Crop Insurance Program. I am pleased to be joined by House committee Chairman KIKA DE LA GARZA and my colleague from Illinois, EDWARD MADIGAN, the ranking member of the committee. Altogether, 41 members of the Agriculture Committee are cosponsoring this bill. As you may recall, ED MADIGAN and I were the original sponsors of the legislation that created the current crop insurance program in 1980. At that time we saw the need for a comprehensive and affordable multiple peril crop insurance program to replace the existing inequitable patchwork of disaster relief programs available to farmers.

As chairman of the Agriculture Committee's Subcommittee on Conservation, Credit, and Rural Development which has jurisdiction over the Federal Crop Insurance Corporation, I have taken a particular interest in the growth and development of this program. I am proud to say that today multiple peril crop insurance is available to producers of over 60 different crops as a result of the 1980 act. Producer participation has risen steadily over the years, but not to the level I envisioned when the 1980 act was passed.

The drought we experienced this summer is a good example of the need to improve and increase participation in the Federal Crop Insurance Program. It was a disaster of major proportions and because of an economic and budgetary quirk, Congress was lucky enough to have $4 billion available to help farmers in distress. It can happen again, but will we be able to spend that much money again to fund a disaster program? I sincerely doubt it.

I am retiring at the end of this 100th Congress, but my interest in the Federal Crop Insurance Program won't end then. I want to make sure this program does succeed. To this end, I am proposing to create a commission to study and improve the program. The Commission will encompass all those involved in Federal Crop Insurance. It will include farmers, insurers, insurance agents, Members of Congress and the Federal Crop Insurance Corporation. This Commission will examine the current crop insurance program and make proposals to the Secretary of Agriculture and the Congress to strengthen the program by making changes that will increase participation to levels that will lessen, if not eliminate, the need for additional disaster payments. This is a sound goal and one that must be reached if farmers are to be protected from natural disasters.

I urge my colleagues to support this legislation. This program has worked well but there are still problems to be overcome. With the creation of this Commission, I feel that I will be leaving the Federal Crop Insurance Program in good hands.

I insert a brief summary and the text of the bill immediately following my statement in the RECORD:

BRIEF SUMMARY, FEDERAL CROP INSURANCE COMMISSION ACT OF 1988

In its findings, the bill states that:

Congress established the Federal crop insurance program to provide a comprehensive nationwide system of disaster protection, thus permitting a phaseout of traditional disaster payment programs.

Producer participation in the program so far has not reached the desired level in order to sustain a fully effective disaster protection program.

The purpose of this Act is to ensure a thorough review and analysis of the Federal crop insurance program, and to develop recommendations to improve the program.

Within 30 days of enactment, the Secretary of Agriculture shall appoint members to the "Commission for the Improvement of the Federal Crop Insurance Program."

The Commission shall consist of 21 voting members and 4 nonvoting members. Representation from the insurance and agriculture producer sectors will be given equal weight. The 25-member Commission shall consist of: 10 persons representing the insurance industry; including reinsurance companies, master marketing agencies, and agents' associations; 10 persons representing agriculture producer interests; including major commodity associations, major general farm organizations, and producers of specialty and nonprogram crops; the Manager of the Federal Crop Insurance Corporation (FCIC) serves as the 21st voting member of the Commission; the Chairman and Ranking Minority Members of the House and Senate Agriculture Committees (or their designees) will serve as 4 nonvoting members of the Commission.

In making appointments, the Secretary shall consider nominations received from associations and organizations representing the insurance and producer sectors. The Commission shall elect two cochairmen: one from each of these sectors. The Commission shall begin operating within 60 days of enactment.

The Commission shall study why program participation has not reached a desirable level, and identify the States and commodities where low participation is most serious.

The Commission shall submit findings and recommendations to the Secretary of Agriculture and House and Senate Agriculture Committees on administrative and legislative suggestions to improve the program:

(i) Interim report by April 1, 1989, focusing on improvements in 1990 sales year.

(ii) Report by July 1, 1989, with legislative recommendations (in time for consideration during development of the 1990 Farm Bill).

(iii) After July 1, 1989, continue to monitor and report each month until Commission expires on December 31, 1990.

Commission members shall serve without compensation, but will be reimbursed by FCIC for reasonable expenses.

Commission may hire staff and be furnished personnel, services, and information from other government agencies.

Commission may conduct hearings.

Commission is exempt from various Federal administrative and personnel requirements.

Commission may lease office space in Washington, DC area.

From funds otherwise allocated to FCIC for administrative and operating expenses, $1.5 million shall be available to the Commission.

Commission terminates on December 31, 1990, unless the Secretary of Agriculture chooses to extend it.

H.R. 5325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Crop Insurance Commission Act of 1988".

SEC. 2. FINDINGS, POLICY, AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Federal crop insurance program was established to promote the national welfare by improving the economic stability of agriculture through a sound and comprehensive system of nationwide crop insurance that would allow the phasing out of disaster payments programs as part of farm price support and income protection programs;

(2) despite recent increases in the acreage covered by Federal crop insurance, the level of farmer participation in the Federal crop insurance program in most agricultural areas is below what the Congress anticipated when the Federal Crop Insurance Act of 1980 (P.L. 96-365) was enacted into law; and

(3) low levels of participation in the Federal crop insurance program, from time to time, have contributed to the need to continue disaster payment programs in response to recurring natural disasters that threaten farmers, crop production, and the food supply of the United States.

(b) STATEMENT OF POLICY.—It is hereby declared to be the policy of the Congress, in order to further the improvement of national farm policy, to determine why the Federal crop insurance program has not developed into a fully effective substitute for ad hoc disaster payment programs.

(c) PURPOSE.—The purpose of this Act is to ensure the thorough review of the Federal crop insurance program and the development of recommendations for such changes as are needed to improve the program so as to lessen, if not eliminate, the need for additional disaster payment programs, and thereby reduce the burden such programs impose on the Federal budget while providing to producers of agricultural commodities more equitable, efficient, and predictable protection from natural disasters.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission to be known as the Commission for the Improvement of the Federal Crop Insurance Program (in this Act referred to as the "Commission"), which shall review and make recommendations concerning the authorization and administration of the crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (in this Act referred to as the "program"), as provided in section 5.

SEC. 4. MEMBERSHIP OF COMMISSION.

(a) IN GENERAL.—The Commission shall be composed of 25 members, 21 of whom shall be voting members and 4 of whom shall be nonvoting members.

(b) VOTING MEMBERS.—The 21 voting members of the Commission shall be the Manager of the Federal Crop Insurance Corporation and 20 other members who shall be appointed by the Secretary, as follows:

(1) APPOINTEES.—Within 30 days after the date of the enactment of this Act, the Secretary shall appoint to the Commission—

(A) 4 individuals who will represent the views of the companies (or managing general agencies which write crop insurance through other companies) that—

(i) have a 1989 reinsurance agreement under the Federal Crop Insurance Act; and

(ii) for the 1987 crop year, wrote the greatest dollar volume of federally reinsured crop insurance;

(B) 2 individuals who will represent the views of companies writing lesser dollar volumes of federally reinsured crop insurance, and 1 of whom will represent the views of the companies writing Federal crop insurance whose primary business is the writing of crop insurance for losses due to hail;

(C) 2 individuals who will represent the views of the 2 largest agencies selling nonreinsured Federal crop insurance;

(D) 2 individuals who will represent the views of national organizations of insurance agents;

(E) 1 individual who will represent the views of the largest national association representing wheat producers:

(F) 1 individual who will represent the views of the largest national association representing corn producers;

(G) 1 individual who will represent the views of the largest national association representing cotton producers;

(H) 1 individual who will represent the views of the largest national association representing soybean producers;

(I) 3 individuals who will represent the views of the 3 largest national general farm organizations; and

(J) 3 individuals who will represent the views of the producers of fruits, vegetables, specialty crops, and other crops not specified in subparagraph (E), (F), (G), or (H).

(2) CONSIDERATION OF NOMINATIONS.—

(A) In making appointments under subparagraph (A) of paragraph (1), the Secretary shall consider nominations submitted by the 4 companies described in such subparagraph.

(B) In making appointments under subparagraphs (B), (C), and (D), of paragraph (1), the Secretary shall consider nominations submitted by the organizations and associations representing the insurance companies and agents that participate in the program.

(C) In making appointments under subparagraphs (E), (F), (G), and (H) of paragraph (1), the Secretary shall consider nominations submitted by the 4 associations described in such subparagraphs.

(D) In making appointments under subparagraph (I) of paragraph (1), the Secretary shall consider nominations submitted by the organizations described in such subparagraph.

(E) In making appointments under subparagraph (J) of paragraph (1), the Secretary shall consider nominations submitted by organizations representing producers of the commodities specified in such subparagraph.

(c) Nonvoting Members.—The 4 nonvoting members of the Commission shall be—

(1) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate (or the designee of such Chairman), and the ranking minority member of such Committee (or the designee of such minority member); and

(2) the Chairman of the Committee on Agriculture of the House of Representatives (or the designee of such Chairman), and the ranking minority member of such Committee (or the designee of such minority member).

(d) Election of Cochairmen.—At the first Commission meeting, the Commission shall elect 2 members to be the cochairmen of the Commission, 1 of whom shall be chosen from among members appointed under subparagraph (A), (B), (C), or (D) of subsection (b)(1), and the other of whom shall be chosen from among members appointed under subparagraph (E), (F), (G), (H), (I), or (J) of subsection (b)(1).

(e) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

SEC. 5. DUTIES OF COMMISSION.

(a) Study of Federal Crop Insurance Program.—

(1) In General.—The Commission shall—

(A) study and determine why participation in the program has not reached the levels anticipated when the Federal Crop Insurance Act of 1980 was enacted;

(B) identify the States and commodities with respect to which the lack of participation in the program is most serious; and

(C) prepare findings and recommendations setting forth means by which—

(i) participation in such program, in such States and throughout the United States, and by producers of the commodities identified under subparagraph (B), may be increased; and

(ii) natural disaster protection for producers of agricultural commodities may be improved.

(2) Particular Areas To Be Examined.—In particular, the Commission shall examine—

(A) the reasons why more producers of agricultural commodities do not participate in the program;

(B) the adequacy of the insurance coverage provided by the program;

(C) the adequacy of the development and use by the Federal Crop Insurance Corporation of yield data in the program, including the yields used to establish insurance coverage;

(D) the effects of the crop insurance premiums charged such producers on the level of participation in, and the cost of, the program, and the actuarial soundness of such premiums;

(E) the nature and extent of all government subsidies associated with the program;

(F) whether the sales commission rates and Federal payments for services performed by crop insurance companies and agencies are at the proper levels, taking into consideration, among other things, commission rates and payment levels charged in other property insurance programs in which the Federal Government participates;

(G) the efficiency of sales and claims adjustment services provided to such producers who purchase insurance under the program, and the effectiveness of the educational efforts to inform such producers about the program;

(H) the ways in which the provision of Federal crop insurance information and the procedures for obtaining such insurance may be made simpler, more uniform, and stable;

(I) the adequacy of compliance efforts by insurance companies, agencies, and the Federal Crop Insurance Corporation to ensure program integrity;

(J) the extent to which financial institutions require such producers to purchase crop insurance as a prerequisite to making credit available to such producers;

(K) the effect of the crop insurance requirements imposed under section 207 of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) on participation in the program;

(L) the feasibility of adopting "premium pools" that would set a single, nationwide "group" premium for each agricultural commodity, including the impact of such pools on the premiums paid by such producers and on government subsidies of premiums charged under the program; and

(M) any other aspect of the program that the Commission determines has an impact on participation in, or the effectiveness of, the program.

(b) Interim Report.—Not later than April 1, 1989, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary of Agriculture (in this Act referred to as the "Secretary") an interim report containing findings and recommendations for immediate administrative improvement in the program, aimed at improving the program in the 1990 sales year.

(c) Final Report.—Not later than July 1, 1989, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary a report that shall include—

(1) recommendations for legislation including alternative methods for achieving the desired goals;

(2) a status report on the improvement of program administration by the Secretary based on the recommendations contained in the interim report and subsequent findings; and

(3) the findings and recommendations required to be prepared pursuant to subsection (a)(1)(C).

(d) Continued Monitoring of Program; Monthly Reports.—Beginning July 1, 1989, and ending December 31, 1990, the Commission shall continue to monitor the program and shall report on a monthly basis to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary on—

(1) the extent to which the recommendations of the Commission have been implemented; and

(2) the level of participation in the program by producers of agricultural commodities.

SEC. 6. TERM OF OFFICE.

Appointment to the Commission shall be for the life of the Commission.

SEC. 7. COMPENSATION OF COMMISSION MEMBERS.

Commission members shall not receive pay by reason of their service on the Commission, except that the Commission shall reimburse Commission members for reasonable and necessary travel expenses incurred by such members to carry out the duties and functions of the Commission.

SEC. 8. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such information, as the Commission considers appropriate.

(b) Obtaining Official Information.—Subject to other law, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out the duties and functions of the Commission under this Act. On joint request of the co-chairmen of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Use of Other Federal Personnel and Support Services.—The head of each executive agency and the General Accounting Office shall furnish the Commission such personnel and support services as the head of such agency or Office, as the case may be, and the co-chairmen of the Commission agree are necessary to assist the Commission to carry out the duties and functions of the Commission under this Act. The Commission shall not be required to pay or reimburse such agency or Office for personnel and support services provided under this subsection.

(e) Inapplicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) Experts and Consultants.—Subject to such rules as may be prescribed by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(g) Leasing of Office Space.—The Commission may lease office space in the District of Columbia.

SEC. 9. DIRECTOR AND STAFF OF COMMISSION.

(a) Appointment.—Subject to such rules as may be prescribed by the Commission, the co-chairman of the Commission may jointly appoint a staff director and such additional personnel as such co-chairmen agree are necessary to assist the Commission to carry out the duties and functions of the Commission.

(b) Compensation.—Subject to such rules as may be prescribed by the Commission, the co-chairmen of the Commission may jointly fix the compensation of the staff director at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule, and the compensation of additional personnel at a rate not to exceed the maximum rate of basic pay payable for GS-16 of the General Schedule.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 10. RULES GOVERNING COMMISSION MEETINGS.

(a) QUORUM.—11 Commission members with the right to vote at Commission meetings shall constitute a quorum. Any number of Commission members may hold hearings and receive reports but only if such proceedings are conducted by a co-chairman of the Commission.

(b) INITIAL MEETING.—Within 60 days after the date of the enactment of this Act, the Secretary or the delegate of the Secretary shall conduct the first Commission meeting.

(c) SUBSEQUENT MEETINGS.—After the first Commission meeting, the Commission shall meet at the call of either co-chairman or of a majority of the Commission members.

"(d) PROHIBITION ON PROXY VOTING.—Voting by proxy shall not be allowed."

SEC. 11. TERMINATION.

The Commission shall cease to exist on December 31, 1990, except that the Secretary may, in the discretion of the Secretary, extend the life of the Commission beyond such date.

SEC. 12. FUNDING.

From amounts appropriated to the Federal Crop Insurance Corporation for administrative and operating expenses for fiscal year 1989, the Corporation shall make available to the Commission not to exceed $1,500,000 to carry out this Act. Amounts so made available shall remain available to the Commission until expended.

LETS PLAY HARDBALL WITH ATHLETES WHO USE DRUGS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. PORTER. Mr. Speaker, this week the NFL meted out 30-day suspensions to three players for drug use. While I applaud the NFL's crackdown, I am seriously concerned that these penalties were not strong enough.

Over the last week, there has been a great deal of talk on the floor regarding the need to address the demand for drugs. One of the best ways to decrease this demand is to create a national atmosphere where drug use is simply not acceptable conduct.

Professional athletes are role models for our kids. Our children look up to them and tend to want to emulate them. Athletes have a special responsibility to them and to society. By imposing mere 30-day suspensions on athletes, we are sending a clear message to our children: take drugs and you might have to take a month off.

This is not the message we should be sending.

I urge professional sports organizations to reevaluate and revise their drug policies to provide even stricter penalties for players caught using drugs. The message must be sent to our children: drug use is not a game.

GEOTHERMAL STEAM ACT AMENDMENTS OF 1988

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. RAHALL. Mr. Speaker, the Geothermal Steam Act Amendments of 1988 (S. 1889), which the House took final action last Friday, included a provision requiring the Secretary of the Interior to submit to Congress no later than March 1, 1989, a report on the presence or absence of significant thermal features within Crater Lake National Park.

As the House manager of this legislation, it is my intention that the Secretary's report to Congress on the presence or absence of significant thermal features within Crater Lake National Park include a recommendation as to whether Crater Lake National Park should be retained on the list of National Park System units in section 6 of the legislation. The Secretary's report should also include an analysis by the U.S. Geological Survey of available information regarding the presence or absence of significant thermal features within Crater Lake National Park.

CARL PEDERSEN'S LIFETIME OF ACHIEVEMENT

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. DWYER of New Jersey. Mr. Speaker, it is with a great deal of pride that I bring to the attention of the House today a lifelong record of accomplishment by one of the finest people I have ever had the pleasure of knowing: Carl Pedersen of Edison, NJ.

Carl has been nominated to become a member of the Perth Amboy High School Hall of Fame and it is difficult to think of a more deserving nominee. It is my honor to tell you about some of his many activities today.

Carl served admirably and well during World War II as a pilot in the U.S. Navy, after which he became a pilot for SAS Air Lines and also woked for the Federal Aviation Administration, from which he is now retired.

But, Carl's work history is only a small part of who he is and why he is a credit to his family and his community. He has a list of charitable and volunteer activities that exemplify a commitment to his fellow man from which we can all learn.

Carl is the founder of the New Jersey State Raoul Wallenberg Committee, as well as the past District Master of the VASA Order of America and a member of the Raritan Masonic Lodge No. 61 in Perth Amboy.

He has also been active in a variety of ethnic affairs including the Danish Brotherhood, the Garden State Scandanavian Arts Festival Committee, the New Sweden Project, the Danish Home for the Aged in Edison, the Scandanavian-American Heritage Society and the Govenror's Ethnic Advisory Commission.

Carl Pedersen has given so much of himself over the years to the people of his community that I am sure, Mr. Speaker, you would like to join with me and with the other Members of the House of Representatives in extending our congratulations and our thanks to him today, as well as our best wishes for his continued success in all the endeavors in which he participates.

TEN-YEAR MILESTONE

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. McDADE. Mr. Speaker, I would like to bring to the attention of my colleagues a very special anniversary that will be commemorated in northeastern Pennsylvania on October 4. The St. Francis of Assisi kitchen in Scranton will be celebrating its 10th anniversary on that day.

The kitchen was founded by Msgr. Constatine Siconolfi a decade ago out of a deep concern for people who lacked the means to provide food and sustenance for themselves. With the help of a small group of dedicated people, the kitchen has grown and prospered to the point where it now occupies its modern and beautiful building.

The St. Francis of Assisi kitchen is a wonderful living example of Christian brotherhood and concern. Each and every day the kitchen serves about 200 persons in the Scranton area, and there have been over 700,000 meals served to the hungry poor during the kitchen's first decade. To those cynics who say that America is not a caring Nation, I invite them to come to Scranton and see for themselves the dedicated volunteers and strong spirit of community support that makes the St. Francis of Assisi kitchen a daily reality.

I am pleased to take this opportunity to publicly recognize the success of the kitchen, the tireless efforts of Monsignor Siconolfi and the board of directors, the many contributors who finance the kitchen and the selfless work of the corps of volunteers who daily assist in feeding the hungry who come to the kitchen. Their work is truly commendable and they are to be congratulated for reaching this important 10-year milestone.

COMPENSATING THE SECRET SERVICE AND U.S. PARK POLICE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. ACKERMAN. Mr. Speaker, today I am pleased to introduce a bill, H.R. 5319, to revise the method of compensating members of the Uniformed Division of the Secret Service and the U.S. Park Police.

Mr. Speaker, the Uniformed Division is responsible for guaranteeing the security of the residences of the President and the Vice President as well as the security of visiting dignitaries and diplomatic missions. The Division also provides strategic protection during Presidential trips, both foreign and domestic, including the deployment of an elite countersniper unit and the use of metal detectors at the sites of all Presidential visits. In addition, the Uniformed Division helps protect Presidential candidates and played a major role in guaranteeing security at the recent national political conventions.

The U.S. Park Police patrols and maintains order in national park lands in the Washington area as well as in New York and California. Their duties include providing protection for the President when he travels to Camp David, as well as crowd control and riot prevention in the Nation's Capital, and emergency rescue operations, as in the Air Florida disaster in 1982. The Park Police has concurrent law enforcement authority with the D.C. Metropolitan Police and is particularly active in local efforts to combat drug trafficking.

Despite the importance of their tasks and the dangers they risk in serving our country, the present system of compensating the Uniformed Division and the Park Police allows them to fall far behind the pay and benefits of police in surrounding jurisdictions, leading to serious problems of recruitment and retention.

Mr. Speaker, the bill I am introducing today would require the Secretary of the Treasury and the Secretary of the Interior to conduct annual surveys in order to maintain salaries comparable to other police departments. The bill also increases the allowance for technician pay as well as providing for night and Sunday pay differentials.

I believe it is imperative that the salaries and benefits of these groups be made and kept competitive with other law enforcement divisions. Only then can we attract and keep the best qualified individuals for these vital public services.

THE DRUG PROBLEM

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. GALLO. Mr. Speaker, the extent of the drug problem in the United States is absolutely frightening. A recent study by the General Accounting Office [GAO], the investigative arm of the Congress, concludes that in 1983, the last year for which data is available, illegal drug use cost the Nation $60 billion in lost wages, treatment programs, law enforcement, and other criminal justice expenses.

It is estimated that Americans spent approximately $140 billion last year to purchase 178 tons of cocaine, 12 tons of heroin, and 60,000 tons of marijuana.

The GAO study reports that between 1983 and 1986 the number of cocaine-related emergencies reported by hospitals increased 167 percent and the number of annual cocaine-related deaths jumped by 124 percent. While no figures exist to measure the human costs to society that arise from the emotional and family distress that drugs and drug-related violence produce, here too the damage is appalling.

The GAO report also indicates that the nature and scope of the problem of illegal drug abuse are changing as well.

While the use of marijuana has declined since the 1970's, the potency of the drugs that are available on the street has increased. The percentage of people who had ever used cocaine remained roughly the same from 1982 to 1985, but the number of regular users of the drug increased by about 38 percent.

Further compounding the problem is the fact that while the street level strength of cocaine more than doubled from 1981 to 1986, street prices declined. Cocaine has become more available and, along with its deadly derivative "crack," it is becoming the most abused substance of the 1980's.

With the passage of H.R. 5210, the omnibus drug abuse bill, we set in place a two-pronged attack on drugs. First, we combat the warlords of the drug trade and all those who sell drugs. Second, we educate individuals about the dangers of drugs, provide effective and comprehensive drug-treatment programs, and increase penalties against those who possess drugs.

I join Vice President BUSH, Mrs. Reagan, the Republican leadership, and my colleagues here in Congress in supporting H.R. 5210. It is about time we got tough on drugs.

PRODUCT LIABILITY AND U.S. COMPETITIVENESS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. ROTH. Mr. Speaker, a common sense tells us that our litigious society is having a devastating impact on America's ability to remain globally competitive. The product liability crisis is striking at the heart of America's ability to innovate.

In a recent landmark survey, 4 out of 10 chief executives said that product liability concerns have had a major impact on their businesses. One-third of the companies surveyed have canceled introduction of new products because of liability concerns. And one in every five executives believe they have lost market share to foreign competitors because of product liability costs.

If we are to compete in the next century, we have to find the right balance now. Corporations cannot be found responsible for every accident that happens. Congress must address this issue in a fair and balanced approach and it must become a priority before it's too late.

An article follows:

[From the Washington Times, Aug. 22, 1988]

STRICT LIABILITY CAUSING FIRMS TO GIVE UP ON PROMISING IDEAS

(By Carolyn Lochhead)

Monsanto Co. has developed a phosphate fiber it says is safer and possibly more effective than asbestos. Despite the new fiber's promise, Monsanto decided last year not to sell it or develop it further.

"Based on the litigation climate that existed in the United States," says spokesman Carl Moskowitz, "we were not prepared to accept the potential liability risks in spite of the fact that our research showed it to be a safe product."

Unison Industries Inc. of Rockford, Ill, developed a revolutionary solid-state electronic ignition system for piston-engine aircraft. The company dropped the product after prototype testing. Unison says it has been sued over crashes involving aircraft on which its products were not even installed; getting itself removed from the suits was costly. The company decided the potential liability risk on the new ignition system was too great to warrant further development.

A medical device firm decided to stop making a dental jaw implant a few months ago, says Kevin Quinley, claims manager for Medmarc Insurance Company Risk Retention Group Inc. The company, he says, "had never lost a trial on this product; they've never settled a claim, but the anticipated costs alone from defending the rising tide of claims are more than the profits they hoped to get from the product."

The story repeats itself across a wide range of industries: aerospace, pharmaceuticals, chemicals, food processing, plastics, farm equipment, packaging, machinery, computers, pesticides, even cosmetics. Manufacturers are removing established products from the market and halting research on new ones. Some entire industries are being extinguished—the toll of a profound shift two decades ago in the U.S. product liability system.

A recent survey of more than 500 chief executives by the Conference Board, a business research institution, found that four in 10 believe product liability concerns have had a "major impact" on their businesses, often regardless of whether they have lost suits or even been sued.

One-third of all firms surveyed have canceled introduction of new products because of liability worries. More than half of those reporting a major impact have discontinued product lines. Many have closed plants and laid off workers.

More than one-fifth believe they have lost market share to foreign competitors because of product liability costs.

Some scientists and legal scholars contend that these symptoms indicate something more serious than an insurance crisis, a difficulty obtaining coverage against liability. Rather, they believe the product liability system is striking at the heart of American industry's ability to innovate. And ironically, they say, although product liability aims at making products safer, it is creating a more dangerous world by stifling innovation.

Peter Huber, a senior fellow at the Manhattan Institute for Policy Research who holds a doctorate in engineering from Massachusetts Institute of Technology and a law degree from Harvard University, is the originator and leading proponent of this view, outlined in his book "Liability; The Legal Revolution and Its Consequences," to be published next month.

Mr. Huber argues that technology itself is on trial in today's liability system, and it's losing.

In this view, innovation and the safety improvements that result from it are held hostage by the courts, which have become the ultimate arbiters of whether products are fit for public use. Judges and juries hold a veto power; they can say no to a new drug or a new machine on the grounds that it is unsafe. The problem, Mr. Huber argues, is that the courts have no tandem ability to say yes.

A product is never vindicated by the liability system. If a machine is held not at fault in one injury case, its manufacturer can still be sued in another case, and another, endlessly.

This, combined with other factors, says Mr. Huber, tend to "tilt the liability system against the innovator, against change and more in favor of the status quo, doing things the way they were always done. Here you have a force that is, in matters of technological innovation, more often than not, institutionally reactionary." The courts simply cannot grant a go-ahead on new technology.

This institutional problem sprang from a landmark change in the tort system in 1965 that moved the law away from standards of negligence and toward the concept of strict liability.

Before, an injured plaintiff had to show that a manufacturer was negligent or lax in his efforts to make a safe product. The plaintiff had to prove that a person was at fault.

Under strict liability, a plantiff need not show fault; care and good faith are irrelevant. If the product can be shown to be unsafe, its maker is liable for any injuries that result from its use.

Product manufacturers do not quarrel with their liability for goods that through some production breakdown are dangerous: an exploding soda bottle, for instance. The problem, they contend, is that courts can also hold a product unsafe if it has a "defective design." It is here, says Jim Sell, attorney for the Machinery and Allied Products Institute, that strict liability rules are applied in ways that are "not only unfair but bizarre."

In a design case, the manufacturer is not allowed to explain "why he put this particular widget in the product or kept that widget out," Mr. Sell says. "He is not allowed to bring in the most essential aspect of what's at issue in the case, and that is whether he was careful in making the design decision."

The move to strict liability, says Mr. Huber, meant that the law "would begin hunting for something called the product defect," independent of any negligence by manufacturer or consumer. In this way, strict liability puts technology—the product itself—on trial.

For example, a jury found Piper Aircraft Corp. liable for a design defect because it used a carburetor rather than a fuel injection system in its planes, even though the engine was approved by the Federal Aviation Administration and most planes use carburetors.

Manufacturers can be sued for design defect if they did not use technology that is state of the art at the time of the trial, which might be years after the product was made. Thus, an innovation can render older products "unsafe" even though the maker used the best technology available at the time.

An elevator supplier told the Conference Board, "It is not unusual for manufacturers to be sued for equipment that has been in service for more than 70 years. On our equipment alone we transport more than 60 million people per day in this country. . . . Any further movement toward strict liability would threaten to bankrupt all [domestic] elevator and escalator manufacturing companies because of the sheer number of passengers carried and the inevitable number of alleged minor injuries."

A product may enjoy the approval of federal regulators but still be held defective. And, if it is cleared by one court, it can be faulted by the next.

The drug Bendectin had been used for morning sickness by some 33 million women and approved by the Food and Drug Administration. Dozens of published scientific studies said the drug did not cause birth defects. Despite winning a lawsuit backed by 1,160 plaintiffs, Merrell Dow Pharmaceuticals took Bendectin off the market; more than 350 other lawsuits were still pending, forcing the company to relitigate the issue. Defense costs at one point reached $18 million a year, nearly equaling the drug's sales.

The chairman of one large chemical and plastics firm told the Conference Board that his company's legal department is the "fastest growing group within the firm."

HIGHER QUALITY EDUCATION

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Ms. SCHNEIDER. Mr. Speaker, today I am introducing legislation to help schools provide higher quality education. Improving the quality of education in this country is the key to our Nation's future competitiveness. The awful truth is that one in five Americans is illiterate. Each year 700,000 students drop out of school. We are all uncomfortably aware that United States students place behind their Japanese and European counterparts on virtually every standardized test of mathematics, science and geography. Clearly, our educational system needs to examine innovative approaches to teaching.

This bill will establish demonstration projects to study the effects of class size reduction on student achievement. Education advocates suggest that reducing class size is one way to improve student achievement. Class size reduction has remained out of the reach of most school districts due to the lack of funds. This bill would provide an incentive for school districts to reduce class sizes by providing matching funds for demonstration projects.

Smaller classes mean more attention for each student and an improved atmosphere for both learning and teaching. For a better educated America, our students need more individualized instruction, and more contact with their teachers. For example, if a high school teacher teaches 5 classes of 24 students a day, he or she is directly responsible for 120 students. That teacher would need an additional 20 hours per week just to spend 10 minutes extra with each student. That presents an insurmountable obstacle for many teachers.

The bill I am introducing today will provide incentive grants of 75 million in the first year to school districts that want to reduce class size. Federal funds would be made available to the school district, where they could be used for adding new teachers and new classroom space. These funds would be matched by State and local funds. The class sizes would be 15 pupils per class in grades K-3; and 18 pupils per class for all other grades. Each teacher would be responsible for no more than 80 students. The results of these demonstration projects will be used to examine the effect of class size reduction on student achievement.

Basic education at elementary and secondary level remains the most important place to focus preventive action and attention. Unless a good foundation is laid during the early years in the education system, a college degree becomes impossible. Today, only 22 percent of jobs require college degrees; in 10 years 33 percent will. We cannot afford to shortchange our children's education in an increasingly competitive world. The work force of tomorrow depends on the education of students today.

IN RECOGNITION OF TAIWAN'S 77TH ANNIVERSARY

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. LEHMAN of California. Mr. Speaker, for the relatively small but immensely important island nation of Taiwan, Monday, October 10, 1988, will mark the country's 77th year of independence—truly an amazing historical achievement, one which I would like to commemorate by expressing my warmest regards to the people of Taiwan, to their President, Mr. Lee Teng-hui, and to the Republic's newly appointed representative to the United States, Mr. Ding Mou-shih, the country's former foreign minister.

Mr. Speaker, for all that the Republic of China has accomplished, especially in the last decades—for its example as a faraway nation committed to democratic ideals; for its high standard of living; for its successes in the international marketplace; for its continuing economic growth; and for its outstanding relationship with the United States, we salute this island republic and wish it further decades of peace and prosperity.

KANJORSKI PAYS TRIBUTE TO PENNSYLVANIA ARMY NATIONAL GUARD UNIT

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. KANJORSKI. Mr. Speaker, few National Guard units have a record as meritorious as the 1st Battalion's 109th Field Artillery of the Pennsylvania Army National Guard. Over a span of 212 years, this unit has fought bravely for its country, and has been decorated with several prestigious awards, including 27 battle streamers, the Luxembourg Croix de Guerre, the Presidential Unit Citation, and the Meritorious Unit Citation. Members of this distinguished unit have fought and died in several wars, defending our country and giving their lives to protect the freedoms that we enjoy as American citizens.

During the Revolutionary War, the 109th Field Artillery answered the Continental Congress' call for troops and served with Gen. George Washington, who decorated the unit with seven battle streamers. During the War of 1812, one of the 109th batteries served with Commodore Perry at the Battle of Lake Erie, making the 109th unique among field army units to have served in a naval engagement. This unit also fought bravely at Cerra Cordo and Vera Cruz with General Scott in the Mexican War. During the Civil War, the 109th fought at Chancellorsville, Gettysburg, Wilderness, Cold Harbor, and Petersburg, to name a few of the important military confrontations in that long and bloody war.

During World War I, the men of the 109th earned five battle streamers for their bravery and valor. During World War II, the 109th saw action on the beaches of Normandy, and fought German tanks at the battle of the Bulge, for which the 109th was awarded the Presidential Unit Citation, and the Headquarters Battery was awarded the Meritorious Unit Citation. When the Korean war broke out, the men of the Wyoming Valley were again called to the Colors, but the train they were being transported in was hit by another while heading for the front, killing 33 of the men. The bodies were returned to Wilkes-Barre in a hushed street-lined procession; every September, the battalion remembers these brave men who, like so many others of the 109th, bravely gave their lives in the service of their country.

Mr. Speaker, on September 24, 1988, Secretary of Defense Frank Carlucci, one of the area's native sons, will help celebrate the outstanding achievements of the 1st Battalion's 109th Field Artillery unit. I am proud to associate myself with this unit and I look forward to joining them in celebrating their 212th anniversary.

CONNIE ALLEN SHINES IN OHIO

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, today I would like to congratulate a fine young woman from Mercer County, OH. Her name is Connie Allen and I'm proud to say she's from Ohio's Eighth Congressional District.

Connie Allen and her achievements are to be commended and admired. Over the years, she has excelled in athletics at a local, national, and international level. Recently, she became the first woman to compete in the International Special Olympics Games representing her county, State, and country with honor and distinction.

Through many hours of exemplary participation and competition, Connie has demonstrated the talent, confidence, self-discipline, sportsmanship, and motivation which are the hallmarks of a true champion.

Connie's achievements and leadership—in and out of athletic competition—are commendable. I join her family, coaches, teammates, and community in paying tribute to Connie Allen, a remarkable young woman who is truly an inspiration to us all.

SENATE—*Monday, September 19, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable Alan J. Dixon, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Delight thyself also in the Lord; and he shall give thee the desires of thine heart. Commit thy way unto the Lord; trust also in him; and he shall bring it to pass. And he shall bring forth thy righteousness as the light, and thy judgment as the noonday.—Psalm 37:4-6.

Eternal God, perfect in knowledge and wisdom—Lord of history, who "fixes the times and the seasons"—make real to us the words of the Pslam.

The clock ticks inexorably—its relentless advance the powerful Senate is powerless to control. Stubborn issues, compounded by controversy and inevitable partisanship, confront the Senators. Grant wisdom to prioritize the business—the light of truth—the will to do it and the courage to deny trivialities and avoid expediency. Grant that the 100th Congress will finish its work with a sense of achievement—without painful second guessing and regrets.

We pray in the name of the Lord who finished the work He came to do. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, September 19, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Alan J. Dixon, a Senator from the State of Illinois, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. **DIXON** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. **BYRD.** Mr. President, the distinguished Senator from Wisconsin is here this morning. I shall just take a minute to comment on the Chaplain's prayer. He spoke of the clock, and that it was ticking. He was speaking about the legislative agenda. So I am going to talk about the clock that is ticking in the lives of all of us. And I will be exceedingly brief.

I have always felt that there is a built-in clock that comes with us through the hereditary chain when we are born—this is just my own personal view—and that our days are numbered from the beginning. We can extend those days. We can certainly shorten them. But someone wrote a few lines that seem to me might be well for us to reflect upon.

The clock of life is wound but once, and no man has the power,
To tell just when the hands will stop—at late or early hour;
Now is the only time you own—live, love, work with a will,
Count not on tomorrow, for the clock may then be still.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. **BYRD.** Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is recognized.

INTERNATIONAL SPREAD OF DEMOCRACY MAKES FUTURE BRIGHT FOR AMERICA

Mr. **PROXMIRE.** Mr. President, this is the fifth in my series of talks on the floor on what will bring a better life for Americans in coming years, regardless of who wins the Presidential and congressional elections in November, and whether we suffer recessions or even depressions. Today I will talk about the good news of a sweep toward a democracy throughout the world. Sure we are a long way from a democratic world. But in recent years and even in the past few weeks, there has been an astonishingly widespread move toward democracy in nation after nation. What has this to do with a better life for Americans right here in the U.S.A.? So people in far off countries have an increasing say so in electing their leaders, so what good does that do for Americans? We may be happy for them in their new freedom and their right to choose their government, but from a practical, selfish viewpoint, where is the payoff for us?

There is a double answer. First, democracies are far less likely to go to war. Wars have consistently been driven by monarchs and dictators who control one party states. Where the great majority of people have the decisive voice in choosing government, peaceful policies are far more likely to prevail. Second, democracies are more likely to foster productive and prospering economic policies. Democracies tend to encourage free enterprise. Democracies by their very nature welcome pluralism and the decentralization of economic activities. One of the prime reasons for the recent spread of democracy in the world is the conspicuous, undeniable evidence that democracy brings a much more rapid advance of the standard of living. It is because democracy and economic freedom go hand in hand. It is because people throughout the world have seen the direct, material, economic payoff of free enterprise in democracies that democracy is on the march in the world. It is not simply because the most productive, richest country in the world is this American democracy of ours. It is because every one of the dozen nations with the highest per capita income in the world are without exception democracies. This is especially evident in the consequence when countries are divided. One part is free and democratic. One part is a one party dictatorship. We see what happens with a remarkably prosperous democratic West Germany and a depressed East Germany.

But how do we Americans gain from a more prosperous world? Do we benefit if Central and South America pros-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

per? Are we better off because of the smashing economic success of West Germany and Japan? The answer is absolutely yes. But are not these nations our competitors? Do we not vie with them for world trade? Do they not steal or threaten to steal the leadership from America in such vital areas of employment as autos and computers as well as textiles and even in agricultural production? They do indeed. But a more prosperous world is not only more likely to be a more peaceful world. The fact is that prosperity is contagious and so is recession and depression. Foreign trading competitors are our suppliers and our markets as well as our competitors. The fact is that the economy of free, non-Communist Europe is bigger than the American economy. And our economies are conspicuously interdependent. Most Americans understand how a first class depression in this country or even a recession would precipitate an economic relapse in Europe. And the reverse is certainly also true. In fact even in Communist countries like Russia and China, prosperity is good news and not just in creating a more peaceful world which prosperity does. China could become a supermarket for the United States. With more than four times as many people as the United States, a China with rapidly rising standards of living could mean a great surge of economic growth for the United States.

How about Russia? Does not a surging Russian economy spell at least potential danger for the U.S.A.? And doesn't a combination of these Communist societies, Russia and China together, surging ahead economically spell danger with a capital D for our free enterprise democracy. The answer is an emphatic No. Russia can only progress by dropping its Marxist dictatorship of the proletariat dogma and joining the free enterprise democracies of the world. That will take some time. It may never happen. But if it does not, the Soviet Union will never develop the economic strength to challenge the free world.

Now consider how spectacularly and suddenly the world has moved toward democracy in recent years and even in recent weeks. Burma is a nation with no experience in democracy. It has suffered abysmal poverty. Now a student demonstration has deposed the one party government. At the moment the country is in chaos. But it is now clear that Burma will never be the same again. A small, weak student movement has taken a little, but irreversible step toward democracy for the first time ever.

The Polish people have—as they have so often in the past—revolted against the one party iron military rule. Each time they lose but each time they make more progress. This time General Jaruzelski, while refusing to recognize the Solidarity labor union, has agreed to talks that are more likely than ever before to lead at least to the kind of openness and public criticism that has emerged in Russia in recent months. It is this glasnost that so clearly constitutes the beginning of democracy that is emanating out from the Soviet Union and shaking all of Eastern Europe. Obviously the U.S.S.R. is far from democracy as we know it. But it may be edging along on its way. The voice of more people including those who yearn for peace in the Soviet Union will be more and more audible as time goes on.

In China where more than 1 billion people constitute the most populous nation on Earth, economic policies of an incipient free enterprise—especially in agriculture are spreading with such virulence that the Chinese economy grew far more rapidly than that of any major country in the world over the past 3 years. But does this spell any increase in political power for the great mass of Chinese humanity? It does indeed. The spread of economic power lies at the heart of China's economic success. The Chinese know it. They also will find out that economic power demands and eventually wins political power.

For an advancing lesson on this thesis, consider South Korea. South Korea is still a one party military state. But is also a free enterprise state. And now the free enterprisers are combining with the students to demand democratization and free elections. In countries as far away as Pakistan and the Philippines, democracy, though it may falter, is moving ahead. In Pakistan the tragic death of American's friend, President Zia, may precipitate the end of one party military rule. In the Philippines for all her painful difficulties, President Acquino represents a great advance for democracy over the Marcos regime.

But it is in our own western hemisphere where democracy has made its greatest advances. With the sorry exceptions of Nicaragua and Cuba, democracies govern Central America. And if we listen to the wise advice of Nobel Peace Prize-winning President of Costa Rica, Oscar Arias Sanchez, we can win over Nicaragua to democracy by a bushel of patience and a peck of Peace Corps-type aid.

So here again this time in the recent international spread of democracy, the outlook for Americans for peace and prospering trade in a world of greater abundance is brighter than ever. Regardless of who wins the Presidential election, regardless of recessions or depressions, regardless of the mistakes or the wise actions of the next President and Congress, Americans can look forward to a better life.

GOLDEN FLEECE OF THE MONTH AWARD

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece of the Month Award for September to the Urban Mass Transit Administration for wasting $68,160 of taxpayers' money for the "Goofy" idea of sending mass transit officials to Disney World in Orlando, FL, to learn Disney's secrets of motivating employees.

UMTA apparently hopes that by sending mass transit officials from around the country to Disney World, Minnie Mouse, Goofy, Snow White, and the Seven Dwarfs will help them find out how to make transit employees whistle while they work. Speaking of the "Seven Dwarfs," this is an idea that "Dopey" would have loved. But it is likely to make taxpayers feel like "Grumpy."

With this seminar, UMTA officials prove that you do not have to wish upon a star to go to Disney World as long as taxpayers foot the bill.

Those transit officials who are lucky enough to attend this seminar will pay their own transportation costs to Orlando, but UMTA funds will pay for lodging costs of $110 a night for 3 nights as well as the $795 cost of the program itself.

According to a letter UMTA sent to me, a 3-day seminar which ran September 6-9 under the title "The Disney Approach to People Management" will help transit managers give their employees a "customer first" attitude. UMTA believes that there is much to be learned from Disney World's huge and successful transportation system, especially when the market share for mass transit in the real world has shrunk to all-time lows.

With a Federal investment of about $50 billion in mass transit, $68,000 seems like a Mickey Mouse sum. Still, it has to be galling for average taxpayers to cheerfully sing "Heigh ho, Heigh ho" on their way to work knowing that their tax dollars are going to help pay for special trips for mass transit officials.

Of course, I will not deny that there may be some value in a trip like this. Perhaps the transit officials can learn new ways of collecting fares on Disney World's "Pirates of the Caribbean" ride. Or they could find a new source of mass transit funding by paying a personal visit to Donald Duck's rich uncle Scrooge McDuck and persuading him to take the place of Uncle Sam when it comes to mass transit funding.

Still, instead of a trip to Disney World, maybe transit officials can improve employee morale by wearing Mickey Mouse ears around bus yards. It would cost far less, and it would probably accomplish as much as this wasteful trip.

But while mass transit officials frolic in the Magic Kingdom with Federal dollars, they are putting taxpayers on an express bus to a far less popular destination: "The Poor House."

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FAREWELL TO SENATOR LAWTON M. CHILES

Mr. BYRD. Mr. President, with the final days of the historic 100th Congress dwindling down, I want to take a few minutes to express my profound respect for our colleague, the Senior Senator from Florida, Senator Chiles.

I begin by expressing my deep regret that he is leaving us. In this decade of recordbreaking budget deficits and mounting Federal debt, we will sorely miss his wisdom and experience in attempting to straighten out this Nation's fiscal mess and his effort to restore budgetary sanity to the U.S. Government.

He is a kind and good man as well as an outstanding Senator. It has been a privilege to work with him as a colleague, and a pleasure to have him as a friend. He came to the U.S. Senate after having served as an officer in the Army Artillery Corps in Korea, a college instructor, an attorney, and a Florida State legislator.

His election to the U.S. Senate in 1970 was considered a surprising upset. After all, with little money and only a small political base, Lawton Chiles defeated a former Governor of Florida and an eight-term Congressman.

That election victory may have been an upset, but for those who knew him, it was no surprise. He won that election with the same hard-nosed, aggressive, and effective work habits that have characterized his years in the Senate.

He did it by putting on his leather hiking boots and walking. He wore out that pair of boots as he walked 1,003 miles, from Century, FL, to Key Largo. In so doing, he learned of the hopes and dreams, as well as the concerns and frustrations of the 40,000 people of his beloved State with whom he talked during his protracted hike. He also won their respect and approval as they made him a U.S. Senator.

This adventure earned Senator Chiles the nickname of "Walkin' Lawton"—the first of many nicknames he has earned while running for and serving in the U.S. Senate.

He has been labeled "Mr. Sunshine" for his role in securing approval of a Federal sunshine law requiring regulatory commissions and other Government agencies, and eventually, Senate committees, to conduct more of their business in the open.

He has been called "Mr. Clean" for his emphasis on clean elections and clean government. In his reelection campaigns, Senator Chiles refused to accept large campaign contributions or contributions from out-of-State contributors. As chairman of the Senate Governmental Subcommittee, he led investigations into scandals involving the General Services Administration and Small Business Administration scandals.

The National Journal—November 15, 1986—called Senator Chiles a "deficit 'hawk'" because he is a "budget leader who believes fervently in the need to straighten out the Nation's finances" and for his attempts to grapple "with the Reagan-era budget deficits."

I think the appellation "Mr. Budget" might be a good nickname, if one were looking for such. It is a fitting name for the man who has been the Senate Democratic budget leader since 1982, the man who has undertaken long, hard struggles and considerable political and personal risks in trying to get a grip on Reagan-era deficits. Senator Chiles is a Senator who has exercised considerable influence on Federal spending, not only in his position on the Budget Committee but also in his position on the Senate Appropriations Committee, where he chairs the Subcommittee on Labor, Health, and Human Services, and on the Governmental Affairs Committee, where he chairs the Subcommittee on Federal Spending, Budget, and Accounting.

I am pleased and proud to point out that when my party was in the minority, Senator Chiles readily cooperated in a bipartisan effort to straighten out this Nation's financial mess.

Only rarely, during his ordeals and tribulations, did anyone hear a complaint or an unkind word from the senior Senator from Florida. He is a Senator who has relied on persuasion more than confrontation to accomplish so many great things for this Nation. And he is a Senator whose patience and low-key style have won him admirers and friends.

The one blemish on his otherwise glorious senatorial career was his bid for the Senate Democratic leadership in December 1984. He lost that election, but he was certainly a worthy and honorable candidate. In fact, I would have voted for him had I not been supporting the other fellow in that contest. Nevertheless, I want to take this opportunity to point out that his challenge was a good, clean, and decent one, which is like Lawton Chiles, himself. He is a good, clean, and decent person.

It was the type of election that helps to keep Senate Democrats alert and aware of issues. I had always had a high regard for Senator Chiles, but I came from that challenge holding him in even higher esteem.

Now he leaves us.

The Senate loses a lot of knowledge, experience, and legislative and budgetary skills. But he leaves knowing that he has served the U.S. Senate, the people of Florida, and the people of the United States with honor and distinction. And he leaves behind a legacy of improved public policy.

Mr. President, Senator Lawton Chiles has been a leader. He has been an outstanding Senator. Most important, he is a good man.

My wife, Erma, and I wish Lawton and his nice wife, Rhea, happiness and success in whatever they undertake after he leaves. There is life after the U.S. Senate, and I know that Senator Lawton Chiles will make the most of it—and enjoy it.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. BYRD. Mr. President, in the brief moments that remain, prior to going to the United States-Canada Trade Agreement, let me state succinctly that Saturday sessions from here on out are a possibility. I am sorry to have to raise that possibility. Perhaps I should call it a specter, but it is a very real possibility. And there may be some late sessions.

There still remains a great deal of work to be done, including seven appropriations conference reports, one of which is the defense appropriations authorization bill, and it is not known what the President will do on that one.

There are also potential filibusters that can occur in the Senate. There is no way of knowing what bills the President may veto. There are some very important bills to be done yet.

Minimum wage, of course, is before the Senate. I will offer a cloture motion before the end of the day on that bill. This is not to say it is being filibustered. But the Senate will not be in on Wednesday because of the Jewish holiday, Yom Kippur. Consequently, I cannot wait until tomorrow to offer a cloture motion because that would make a cloture vote then occur on Friday and a cloture vote, if it were successful, would certainly rule out nongermane amendments. I hope that some agreements can be reached tomorrow during the conferences which will pave the way for action on the minimum wage bill, final action, before the week is out. And, of course, behind it are several bills, amongst which are parental leave, the drug bill, and Post Office off-budget.

There are several very important measures still in conference—welfare reform. So these are just a few of the measures that still await us. I have not mentioned them all.

But I do want to emphasize the stark possibility that there will be some late sessions and that there can be some Saturday sessions.

I take the floor now to say all bets are off as far as Saturday sessions are concerned. And I am talking about a mid-October sine die adjournment date, October 15, give or take a little. So we have 4 weeks. If we go to October 15, we have 4 weeks. It may seem like a lot of time, but time will pass quickly, as we shall see. And with the bills that still remain to be acted upon—I have not mentioned tax technical amendments or others—but with the measures that remain to be acted upon, it is easily conceivable that those 4 weeks will be needed and, who knows, perhaps an extra day or two beyond depending on the progress that we make in the meantime.

Mr. President, I yield the floor.

MICHAEL STONE HOOPER

Mr. KENNEDY. Mr. President, events in Haiti over the weekend remind me of the great loss to our Nation, as well as to the people of Haiti, with the passing of Michael Hooper. Mike died of cancer on September 8 at the age of 41.

As executive director of the National Coalition for Haitian Refugees since 1982, and in his previous position as director of Research for the Lawyers Committee for Human Rights, Mike for many years was an articulate and compassionate spokesman for the long oppressed people of Haiti. And prior to his work on Haitian human rights, Mike worked as a labor organizer for the United Farmworkers union.

Mike's many visits to Haiti over the past several years, and the trust rewarded him by the Haitian populace, enabled him to write extensively and persuasively about the struggles of the Haitian people under years of brutal dictatorship. He possessed a rare combination of unbounded energy, intellectual honesty, and true concern for the human rights of all Haitians, and he will be sorely missed.

I know I speak for many in Congress in saying that he served us well. Sometimes his words were harsh and critical, but always challenging, and he served as a conscience for us all. But we also knew that Mike was right—that the Haitian people deserved more than oppressive dictatorships, that they yearned for the sunshine of democracy. I found in Mike a refreshing vision of hope amid the constant chaos of events in beleaguered Haiti.

Mr. President, I know the Haitian people are mourning the loss of Mike Hooper. But I want to assure them that the support of the American people in their struggle for freedom does not end with Mike's passing. He will be impossible to replace. But the coalition of concern and compassion which he leaves behind in America lives on. People of Haiti will not be forgotten because Mike's work endures.

We all embrace Mike's family in sympathy—his wife, Rayna, and little daughter, Mira, as well as his parents and brother—as they face this tragic loss. Words are so inadequate for times such as these. But Mike's family should know he has left an indelible mark. The world is a better place because of Michael Stone Hooper.

GROWTH DOESN'T CAUSE INFLATION

Mr. KASTEN. Mr. President, there are over 115 million Americans working—more than ever before in our history. The total number of new jobs created since the expansion began in 1982 is 17.83 million. In July, the civilian unemployment rate hit a 14-year low of 5.4 percent. Over the past year, 56 percent of new jobs created were in occupations with median earnings of over $28,000. Another 28 percent of the new jobs paid over $18,000.

But to many economists, Wall Street investors and some Federal Reserve Board officials, "good news" is "bad news." They believe that putting more Americans to work will spark a resurgence of inflation—and that the Federal Reserve should "cool things off" by raising interest rates.

Mr. President, this false notion threatens to derail the longest peacetime economic expansion in history—and bring us back to the days of high inflation and high unemployment. It also shows that its hard to teach an old dog new tricks. Many economists still believe in the "Philips curve" relationship which postulates an inexorable trade off between inflation and unemployment. Specifically, the idea is that a robust economy eventually uses up the work force and the capacity to produce. Workers bid up wages and employers raise prices, leading to an increase in inflation. Therefore, to keep a lid on inflation, the Fed must tighten the money supply and raise interest rates to reduce the rate of economic and employment growth.

Mr. President, the simultaneous reduction in both inflation and unemployment during the Reagan expansion should have laid the Phillips curve to rest and proved to everyone that inflation is a monetary phenomenon. Jude Wanniski recently pointed out that "you can never have inflation because too many people or too many machines are working. Inflation can occur only if the central bank prints more money than workers and employers are demanding for the purpose of facilitating trade." The Federal Reserve should look at commodity prices as a guide for monetary policy—not the monthly unemployment figures.

Over the past decade, the U.S. economy has weathered the energy crises, high inflation, recession, tax reforms, extreme volatility in exchange rates and drought. While the U.S. economy is resilient, the one thing that could send it into a tailspin is a failed idea.

I recommend to my colleagues recent articles by Jude Wanniski and economist Paul Craig Roberts which debunks the notion that inflation is caused by too many people working. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles are ordered to be printed in the RECORD, as follow:

[From the New York Times, Sept. 14, 1988]

AN OVERHEATED IDEA

(By Jude Wanniski)

Perhaps the greatest threat to the American economy at the moment is an idea. It is the notion that economic growth can cause inflation.

Almost all economists accept this false idea, having learned about it in textbooks written since World War II. This idea is also at the heart of Wall Street's fears that if the economy gets too strong, the Federal Reserve will have to stop the party by raising interest rates. This will "cool things off," as they say. Several officials at the Fed are known to believe in this idea, which is why there seems to be such perversity in the news lately.

For example, when the unemployment rate was reported to have climbed from 5.3 percent to 5.6 percent in August, the stock market soared 52 points and bonds rallied. Why? Because Wall Street believed that bad news on unemployment meant that the Fed would not be forced to end the party just yet.

Specifically, the idea is that the economy can become "overheated" if production uses up the available workforce and the capacity of plant and equipment. That is, if too many workers are chasing too few jobs, they will bid up wages, forcing producers to raise prices, leading to a general inflationary spiral! Likewise, if too many consumers want to buy goods from manufacturers whose machines are working at full steam, this strong demand will bump up prices of consumer goods.

Supply-side economists reject these notions. They argue, instead, that inflation is a monetary phenomenon. This means you can never have inflation because too many people or too many machines are working. Inflation can occur only if the central bank prints more money than workers and employers are demanding for the purpose of facilitating trade.

Imagine if there were no money in the system—that is, if there were a modern barter economy. The price of an orange is one apple. The price of an apple is one orange. Then, say, the demand for oranges rises and, because there are not enough men or machines to produce more, so does the price. The price of an orange becomes two apples!

Now suppose there are not enough men or machines to produce apples, because overheated demand spreads into that sector. Now the price of two oranges is two apples! In other words, we are right back where we started, even though the apple-orange economy is overheated.

In reality, inflation will occur only if the Federal Reserve increases the amount of money in the system by printing more of it. If there is $1 in the system to permit the apple grower to buy one orange, the price is $1 per apple (or $1 per orange). But if the Fed then doubles the amount of dollars in the economy, even though only $1 is needed, the price will go to $2 per apple. Thus, a dollar inflation will occur whether or not the economy is unemployed or at full employment.

To put it another way, the demand for all goods is always met by an equal value of goods produced. We can put every man, woman and child to work and there will still be no inflation. They will demand goods with goods they are producing, which are themselves in demand.

In classical theory, all inflations, everywhere, begin with a rise in the price of gold in the local currency. The several supply-side governors of the Federal Reserve who have been resisting "cooling off" the economy with higher interest rates have pointed out that the price of gold has been falling of late, not rising. And, as the Economist recently noted, a falling gold price "suggests deflation, not inflation."

We have nothing to fear from the unemployment rate going to zero or capacity utilization rate going to 100 percent, as long as the price of gold tells us all prices are in balance. Thus, the Fed should not try to cool the economy by shutting it down with higher interest rates. Among other things, that would cause higher unemployment among those last hired and first hired. As Margaret Bush Wilson put it years ago when she was chairman of the National Association for the Advancement of Colored People, "Inflation is not caused by too many people working."

[From the Washington Times, Sept. 15, 1988]

PUTTING STABILITY AT RISK?

(By Paul Craig Roberts)

Socialism is dead all over the world, but conservative central banks in the United States, Germany and Great Britain are working overtime to revive it. Never able to leave well enough alone, the central banks are engaged in a competition to raise interest rates.

The higher interest rates threaten the economy with slowdown, thus jeopardizing the jobs and career opportunities of millions of people. The higher interest rates swell the cost of public borrowing and counteract efforts to reduce the deficit.

The central banks are taking these risks and imposing these costs because they believe that a successful full-employment economy is the cause of inflation.

In practice, this means that every time people regain employment and get on with their lives, the Federal Reserve throws them out of work again, which is no way to run a humane economy.

A year ago when the Federal Reserve Board raised interest rates and collapsed the stock market, causing the greatest destruction of wealth in history, the central bank was operating on the theory that the way to lower interest rates is to raise them.

The theory, of course, didn't work. Interest rates went up, as any rational person would have predicted, causing panic and collapse in the stock market.

After this disaster, the Federal Reserve drew up a list of inflation indicators to reassure the public that the Fed would not again raise interest rates unless the danger signals were real. According to the Fed, a falling dollar, a rising price of gold and rising commodity prices would be its indicators of inflationary pressures, justifying higher interest rates to slow the economy.

Last month, three hours before a Treasury financing, the Fed raised interest rates, even though its own indicators did not support its action. The dollar was rising, the price of gold was falling and the upward movement in commodity prices was largely related to drought and drought-induced speculation.

The Fed's apologists in the pundit community, of which there are many, invented a new theory to justify the Fed's action: The economy was growing, but the ability to produce was not. In other words, the economy was at full capacity and inflation was at hand.

This theory lasted a short time, until the U.S. Department of Commerce last week released its survey, which revealed that real business spending on new plants and equipment was surging, up 11.6 percent over last year. According to the department's report, investment will be a major source of U.S. economic growth in coming months.

Considering the Fed's well-established record for inconsistency and self-contradiction, the next time the Fed raises interest rates it may blame its inflation fears on strong investment and too rapid an expansion in the ability to produce.

As the Fed shifts from crackpot theory to crackpot theory, the lives and fortunes of real people are at stake.

Only recently the Fed was worrying about the "weak dollar," using it as an excuse to "defend the dollar" with high interest rates. Once the dollar began to regain strength on the basis of our growing exports and shrinking trade deficit, the Fed began intervening in currency markets to drive the dollar back down!

Last week the New York Federal Reserve Bank revealed that it had dumped $3 billion on the market during June and July in its effort to stop the dollar's rally.

What are we to make of this? If the dollar is weak, we have to have high interest rates. If the dollar is strong, we have to have high interest rates. According to the Fed, the only time the American people can expect low interest rates is when millions of people are unemployed and the economy is not growing.

Over the course of this decade, the consensus forecasts of the future have been absurd.

In 1981, the forecast was that the tax cuts would cause higher inflation, and inflation collapsed.

In 1982, it was forecast that the deficits would prevent interest rates from falling, and interest rates collapsed.

In 1983, forecasters claimed that the deficit would crowd out investment and prevent an economic recovery, and we began the longest expansion in our history.

In 1984, the forecast was that the deficits would prevent the dollar from falling and result in the deindustrialization of America.

In 1985, the dollar fell, causing pundits to forecast that foreign money would flee the country, and it poured in.

In 1986, the "dollar crisis" changed its spots and became the crisis of the weak dollar, which would shrink to near zero because of the "twin deficits."

In 1987, it was forecast that the weak dollar would cause inflation, and none appeared.

In 1988, the "crisis" is a "destabilizing rise in the dollar" which threatens political agreements to "stabilize" exchange rates.

Today, while central banks tighten monetary policy, the U.S. trade deficit is shrinking, removing a source of liquidity from world markets. The combination of high interest rates and a shrinking trade deficit is more likely to result in a liquidity crisis than in inflation. But central banks will discover that only when unemployment is soaring.

BICENTENNIAL MINUTE

AUGUST 15, 1890: BUSTS OF THE VICE PRESIDENTS

Mr. DOLE. Mr. President, 98 years ago, on August 15, 1890, the last of the 20 niches that surround the Senate Chamber at the gallery level was filled with the bust of Vice President Thomas A. Hendricks. Hendricks, a former Representative and a Senator from Indiana, had served for 8 months until his death in later 1885.

From the time of the Chamber's completion in 1859 until March 1890, the 20 niches had remained empty. In 1886, the Senate Committee on the Library initiated a project to acquire likenesses of each Vice President, in recognition of that official's constitutional role as President of the Senate. In awarding the first commissions, the committee tried to select artists associated with individual Vice President's native States. Daniel Chester French, the Nation's leading sculptor, was from Massachusetts and won the commission for the bust of the first Vice President, John Adams. Augustus Saint-Gaudens, raised in New York, portrayed Chester Arthur of that State.

In March 1890 the Adams' bust was the first to be installed in the Chamber. It was placed on the north wall to the left of the presiding officer's desk. Over the next 5 months, additional busts arrived and were located in the alternating niches according to the chronological sequences of Vice Presidential service. The arrival of the Hendricks bust in August completed the placements. While his was the 20th bust installed in the Chamber, Hendricks was actually the 21st Vice President. The discrepancy's explained by the fact that the bust of the 18th Vice President, Henry Wilson rests just off the Chamber in the Vice President's room, where he died in 1875. Busts of succeeding Vice Presidents have been placed in the halls adjacent to the Chamber, where they observe our deliberations from a distance.

Mr. McCLURE. Mr. President, I support the principles of free trade and am convinced it is in the best interest of America to promote these principles throughout the world. I was pleased when the administration sought authority to begin a free trade negotiation with the Canadians. However, I want to point out that when the administration revealed the United States-Canada Free-Trade Agreement many of us had many concerns. I heard from the mining industry, the agriculture groups, energy interests and others who pointed out the flaws in the agreement. I understood those concerns and agreed with many of my constituencies that corrections would have to be made before I could support the agreement.

Mr. President, since the first draft was revealed, Congress has had the opportunity to scrutinize the agreement and work with the administration to deal with the many concerns that were first expressed. Many of the concerns were taken care of and some will be handled in future negotiations. I am not completely satisfied with the agreement and will be monitoring it closely to make sure Idaho's interests do not suffer to the benefit of Canada. Further, I will continue to push this administration and future administrations to deal with the remaining concerns in bilateral and multilateral negotiations.

The concerns over Canadian subsidies must be dealt with as soon as possible. More than any other concern, I believe the administration fell short in leveling the playing field in areas where the Canadians subsidize their industries. These subsidizes allow the Canadians an unfair advantage that hurt the natural resource producing States like Idaho.

In the energy areas, I think it is important to note that the agreement does not in any way affect the ability of the U.S. regulatory authorities to impose terms and conditions on the import and export of natural gas. Also, Canada has agreed to eliminate the "least cost alternative test" on the export of energy goods to the United States, and the agreement provides for the principle of national treatment for British Columbia Hydro in the discussion of future energy sales and transmission with the Bonneville Power Administration. There are two areas where I believe the administration fell short. I am concerned that Canadian subsidies in the energy sector and the transportation of energy sector that might fall outside the provisions already covered under the agreement. In addition, I am disturbed by the failure of the administration to take action to ensure the viability of the domestic uranium industry.

Mr. President, much of the legislation we vote on in this body is not perfect and this agreement is no exception. While I have many concerns, on balance I believe the agreement will benefit the interests of the United States. After consultation with Idaho's industries effected under the agreement, I have decided to support the agreement.

COLONEL QADHAFI'S MADE-BY-JAPAN POISON GAS BOMBS

Mr. HELMS. Mr. President, it is now widely known that Libya's notorious Colonel Qadhafi has enlisted the aid of a Japanese firm, the Japan Steel Works, to assist his chemical warfare project. News reports have detailed the whole story.

In the desert 50 miles south of the capital of Libya there is an industrial complex. In one part of the complex, chemicals are combined to make deadly nerve and mustard gases. Adjacent to the poison gas plant is an extensive Japanese-made metal fabrication facility. The bomb casings for the poison gas are assembled in the metal fabrication building. The Japanese firm is, therefore, providing the delivery system so that Qadhafi can rain poison gas down on his neighbors.

Mr. President, over the course of his reign, Colonel Qadhafi has quarreled with all of his immediate neighbors, and any of them could be potential targets. However, it is fair to assume that his chief target would be the State of Israel.

The Wall Street Journal has been performing an important public service through a series of articles describing the serious spread of chemical weapons in the Middle East. Two headlines tell it all: "Israel's Enemies Develop Alarming Poison Gas Potential" and "Western Industry Sells Third World the Means To Produce Poison Gas." In other words, since they have been frustrated in their efforts to obtain nuclear weapons to use against Israel, the terrorist nations of the region, Libya, Syria, Iran, and Iraq have turned to poison gas as a substitute mass murder weapon. As we have seen in the Toshiba case, corrupt Western firms are only too happy to assist these terrorist regimes acquire the means to assassinate innocent civilians.

Mr. President, the State of Israel was created by the survivors of the first mass use of poison gas against civilians. The same kind of poison gas that Hitler's henchmen used on Anne Frank's family is being mass produced by Colonel Qadhafi; and a Japanese firm is giving him the means to rain it down upon Israeli children.

The export of chemical warfare agents, equipment, and technology to terrorist nations must stop. International firms must not be corrupted into becoming accessories to mass murder.

It is my intent to offer legislation very soon which would create a barrier to the international trade in chemial agents and equipment to terrorist countries such as Libya, Syria, Iran, and Iraq. This will be emergency legislation because we are facing an emergency situation little different from nuclear proliferation. Ensuring that weapons of mass murder such as poison gas do not reach the hands of terrorist nations must be one of our highest foreign policy priorities.

Mr. President, I ask unanimous consent that two articles from the September 15 and 16 Wall Street Journal be printed in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 15, 1988]

ISRAEL'S ENEMIES DEVELOP ALARMING POISON-GAS POTENTIAL

(By Tony Horwitz)

JERUSALEM.—At Chana Kanarak's apartment building, the stairs to the bomb shelter are blocked by a wooden plant and covered with soda bottles, cobwebs and pools of murky water.

"It's so gross that I'd rather go outside and get gassed than hide down there," says the 24-year-old secretary. Ms. Kanarak, like most Israelis, isn't panicked by the thought of chemical warheads slamming into the neighborhood.

But with two-thirds of Israel's population concentrated on the Mediterranean coast, the country is vulnerable. Officials say they don't have an effective defense against missiles; a single chemical warhead, like one the Syrians are believed to be developing, could kill thousands of civilians.

Yet Israelis aren't donning gas masks and scurrying to the nearest shelter. One reason is a stoicism bred of constant conflict and war. Another is the belief that the Arab nations would be crazy to use chemical weapons and risk retaliation.

JEKYLL AND HYDE

"If the Arabs leave us alone, we're Dr. Jekyll. If they use chemical weapons, we become Mr. Hyde," says Yehezkel Dror, a Hebrew University professor and former adviser to Israel's Defense Military. "There will be no self-shackling when poison gas appears. We will be demonic in our response."

Syria is believed to be producing nerve and mustard gas—two chemicals Iraq is believed to have used on Iranians and Kurds beginning in 1983. Libya used gas during fighting in Chad. And Egypt, now at peace with Israel, dropped gas on Yemen in the 1960s and may have helped other Arab states develop chemical arms. While poison gas isn't new to the Middle East, the ability to lob it into Israeli cities is improving rapidly. Israeli defense officals were surprised by Iraqi missile strikes on Tehran this spring, meaning that Tel Aviv is also within range.

Taken together with Chinese sales of medium-range missiles to Saudi Arabia, a possible Sino-Syrian deal for short-range rockets, and Libyan efforts to join the missile club, "the worst-case scenario becomes very grim," says Miriam Ziv, a disarmament specialist with Israel's Foreign Ministry. "If Arabs work together in a future war, we could have chemical warheads coming from three or four directions." Israelis also are worried by what they see as the world's laissez-faire attitude toward Iraqi use of chemicals, most notably against Kurdish civilians in Iraq. "The shooting of two Palestinians [by Israeli police] gets more publicity than the gassing of 5,000 Kurds," says Col. Zeev Eytan, a leading military analyst. "The danger is that chemical weapons become as conventional as planes and tanks."

Israeli Defense Minister Yitzhak Rabin also has criticized the press for focusing more on the Palestinian uprising than on the use of chemical weapons by Iraq and Iran. "There is no doubt in my mind," he told the National Press Club this summer, "that some of the Arab leaders believe that they have got legitimization to use ground-to-ground missiles, to use chemical means, maybe combined together, against centers of population."

Israel's army has stepped up training for poison-gas attacks; troops now carry antidotes and gas masks that can be fitted with prescription lenses. Last November, Israeli students held their largest gas drills ever, performing mock first-aid as tape decks simulated battle sounds. And in May, the deputy defense minister went to Switzerland to consider mass purchases of gas masks.

To be sure, many military experts think the chemical-warfare threat is overrated. On the battlefield, they say, gas would be little more than a nuisance, due to Israeli preparedness and prevailing westerly winds. A Syrian gas attack could easily blow back in the enemy's face—or into the faces of Palestinians. If there is a tactical danger, it is gas attacks on the depots where reservists gather for battle. Because reserves make up more than 75% of the Israeli army, "mobilization is the Achilles heel of our whole military system," says a senior official.

As for civilian targets, most analysts believe that rational Arab leaders will recognize the consequences and refrain from using gas. "Israel isn't Iran," says Aharon Levran, a brigadier general with the reserves and a senior researcher at the Jaffee Center for Strategic Studies, "We have reprisal measures and Arabs respect them."

SUFFICIENT DETERRENT

Most analysts believe "conventional" reprisals, such as heavy air strikes, are a sufficient deterrent. When Syrian missiles hit civilians in 1973, Israel bombed Syria's staff headquarters and knocked out power plants. Syria fired no more missiles.

But Israel is believed able to produce nuclear and chemical weapons as well. Asked about this, Israelis respond coyly. "It wouldn't surprise me to learn that a modern country such as ours can develop chemical agents," says Brig. Gen. Levran, who has served with military intelligence. "But if it's true we have a nuclear potential, why should we underrate ourselves with something as messy as gas?" Analysts also note that the 1925 Geneva Protocol forbids only the use of chemical weapons, not making and storing them.

Even with strong deterrents, chemicals have shifted the strategic balance in the Middle East. Traditionally, Israel's air force has struck with impunity behind enemy lines, as it did in destroying an Iraqi nuclear plant in 1981. Now Israel must consider the risk of a retaliatory chemical strike, or the potential for unintended side effects. If, for instance, Israel hits a Syrian airfield where chemicals are stored, it could let loose poison gas and spark a nonconventional war.

Also, chemical warheads allow hostile parties that don't border Israel, such as Iraq and Libya, to play a major role in future conflicts. In earlier wars, Iraq sent men and material to the frontline states. Next time, it could launch a chemically armed missile instead. Nor will Israel's better-trained and motivated troops count for much once missile exchanges begin.

"The overall impact is that we've lost much of our traditional edge," says a senior defense analyst, who adds that "in the next war, every coffee house in Tel Aviv will be on the front line."

ANTI-MISSILE AGREEMENT

To stay a step ahead, Israel recently signed an agreement with the U.S. to jointly develop an anti-missile system, the Arrow, that could defend against incoming warheads. Israel also may be working on a medium-range missile of its own, the so-called Jericho. And there is increasing debate about pre-emptive strikes against countries such as Saudi Arabia that are upgrading their missiles. But officials concede that an effective defense could take a decade and cost millions of dollars.

Surprisingly, all this talk about chemical weapons hasn't caused widespread anxiety among ordinary Israelis. Israel's military always has developed tanks and bombers at the expense of sheltering civilians. Most Israelis support this, believing that the best defense is a strong offense.

Israelis also recognize the fallibility of any civilian defense. A 1951 law requires that all new buildings have bomb shelters. But over the years, many of the concrete bunkers have become storage rooms, darkrooms, or gyms—or been completely neglected. "I don't know where the shelter in my building is, or who has the key," says Denise Wells, a 26-year-old graphic artist in Jerusalem. "My feeling is, if a gas attack happens, it happens."

MASKS IN STORAGE

The army has distributed gas masks on a trial basis, to test the feasibility of supplying each home with protective gear. It found that people used the mask while spray-painting cars, or tossed them in a corner. After six months, most of the masks where lost or useless. Officials now say there are enough masks for every citizen, stored in several hundred warehouses. "Even in the best of circumstances," Says Col. Eytan, "It could take hours, even days, to distribute masks to everyone."

But underlying Israelis' acceptance of the chemical threat is the fact that it is hard to panic a nation that has endured five major wars in 40 years, and now the months-old Palestinian uprising.

"Israelis have been traumatized so often that the threat of nerve gas isn't going to break them," says Hebrew University's Mr. Dror. "Some people may lie awake at night. But most will think, "Haven't I got enough to worry about already? And fall right back to sleep."

[From the Wall Street Journal, Sept. 16, 1988]

WESTERN INDUSTRY SELLS THIRD WORLD THE MEANS TO PRODUCE POISON GAS

(By John J. Fialka)

In the spring of 1984, it began to dawn on the specialty-chemicals sales staff at Phillips Petroleum Co. In Bartlesville, Okla., that somebody had made a terrible mistake.

News accounts told of thousands of Iranian soldiers at the Iraqi front suffering severe burns and damaged lungs from mustard gas, a poison that killed or maimed over a million people in World War I. Just a year earlier, a Belgian unit of Phillips had sold an Iraqi pesticide company 500 tons of a complex chemical called thiodiglycol. When combined with hydrochloric acid, thiodiglycol produces mustard gas.

The deal was a record sale of this obscure chemical, and had been regarded as a coup at the time. Now the reaction at Phillips was anguish.

Poison gas is pushing its way into the world's attention these days, with Iraq accused of turning the savage weapon on its own Kurdish minority, only months after the latest chemical exchanges in the Iran-Iraq war. But where does a country like Iraq or Iran get chemical weapons? Alarmed officials of Western governments set out four years ago to track this lethal trade and try to curb it.

They have made some progress, along with some unsettling discoveries. What they found was a maze of shadowy deals reaching from Third World countries through European trading companies and brokers to large chemical-supply concerns such as Phillips, and especially, several West German companies.

The first shock for the Western officials was to learn that Iraq, the main suspect, didn't have to import fully manufactured chemical weapons. Much of the simpler poison-gas technology, the means to make World War I vintage compounds such as mustard gas, was already in place and operating within Iraq itself.

EXPORT CONTROLS

Even more disturbing, they learned that an Iraqi entity called State Establishment for Pesticide Production (SEPP), which was the agency that bought the thiodiglycol from Phillips, was acquiring hardware and ingredients to make deadly nerve gas. Nerve gases can be up to 100 times more toxic than mustard gas, capable of killing almost instantly in tiny amounts. Though U.S. Intelligence says there is no conclusive evidence, United Nations investigating teams that made five trips to the war front suspect Iraq of using nerve gas there.

The Western defense and Intelligence officials were set on the track of the chemical supplies after Iran sent to British hospitals patients who obviously had been victims of gas attacks. Also in 1984, Iran presented to an international assemblage in Geneva videotapes and other evidence of Iraqi use of chemical weapons. The Western officials began meeting privately at the Australian Embassy in Paris, where they drafted proposed new export regulations for members to take back to their home countries and impose.

But they quickly learned that the global chemical trade isn't one that is easy to put a leash on. Many of the chemicals that needed to be curbed to prevent poison-gas manufacture also have legitimate uses in commercial products like pesticides, lubricants, paints and fertilizers. The same is true of some of the laboratory equipment. And the chemicals trade is a highly competitive business, which puts a premium on confidentiality.

"Part of the problem here is that you're dealing with an industry where no eye brows are ever raised against anything," complains one member of the so-called Austrailian group, which now includes representatives from 19 nations and the Common Market.

THE SALE TO IRAQ

Apparently no eyebrows were lifted in 1983 at Phillips, which received the order for the thiodiglycol from KBS Holland B.V., a Dutch trading company handling the order from Iraq's SEPP pesticide organization. In July 1983, when the trucks arrived in Tessenderloo, Belgium, to pick up the thiodiglycol, Phillips learned that "it was going to a big agricultural user in Iraq," says Raymond Verding, a vice president of the Phillip's specialty-chemicals division in charge of the sale. Referring to mustard gas, he says, "Nobody had any idea some people would be looking at a gas of that sort."

The sales executive contends the deal didn't seem unusual, because pesticide manufactures often buy thiodiglycol, in "orders of hundreds of tons." But pesticide experts disagree. They say thiodiglycol normally is sold in quantities of a few tens of tons at a time, for uses in the printing, textile and automotive industries. "I'm not aware of this particular chemical being used in agriculture" at all, says Stanford Fertig, head of pesticide research at the U.S. Department of Agriculture's research center.

By early 1984, when Phillips received a second order for 500 tons of thiodiglycol from SEPP, company officials had grown suspicious. They rejected the order. The alarm was spreading too within the Belgian government. It revoked Phillip's license to make thiodiglycol, and put the chemical on list subject to export controls. Many other industrial nations, spurred by the Australian group, have since done the same.

Phillip's U.S. parent subsequently decided to sell it only to known domestic customers. "We lose business," says specialty chemicals manager Robert Emerson, "but it's not worth the risk."

Around this same time, in February 1984, a customs inspector at New York's Kennedy Airport stopped a shipment from being sent to Iraq's SEPP by a Nashville, Tenn., company called Al-Haddad Enterprises Inc. It was 74 barrels of potassium fluoride—a chemical used in making Sarin nerve gas. Sahib Al-Haddad, a naturalized American citizen born in Iraq, won't comment on the shipment, which wasn't illegal because U.S. controls hadn't yet come into effect. He says his company mainly exports food to Iraq.

Finding the shipment was "a fluke" at the busy airport, says the agent in charge of Customs Service operations at Kennedy, Art Stiffle. Some 120 cargo-carrying flights leave Kennedy for overseas each day. New regulations or no, "unless we have specific information saying, yes it can be used for chemical weapons, we have to let it go," Mr. Stiffle says.

GERMAN INITIATIVE

But U.S. officials did detect several years ago a sudden surge in Middle Eastern demand for pesticide technology. They also noticed that West German chemical companies were heavily involved in meeting it. "The Germans were showing up all over the place," says a U.S. official who spoke on condition he not be named. A State Department-CIA task force visited the Bonn government to ask it to rein in the companies.

The delegation came armed with statelite photos of heavily fortified underground sites in Iraq, where it suspected the Iraqis were working on poison gas. One site, near the Iraqi city of Smarra, included a $2.6 million pesticide factory that had been sold to SEPP by Pilot Plant, a unit of a West German laboratory-equipment supplier called Karl Kolb. The plant contained special corosion-resistant parts that could be used to make Sarin, the most lethal of the nerve gases developed by the Nazis.

Kolb denies that the plant was designed to produce poison gas. Such a facility, says managing director Helmut Maier, "would need special precautions, special pumps that can't break down or leak." When the West German government responded to the U.S. plea with export controls on certain lab equipment and chemicals, Kolb sued, forcing Bonn to admit that two government chemists sent to inspect the plant had found it appeared to be a normal pesticide plant.

But Mr. Maier concedes that Pilot Plant unit had been set up to meet "a tremendous demand" among developing countries for plants to conduct large-scale experiments in exotic chemical processes. And Kolb quietly folded the unit after Bonn began requiring exporters to guarantee that a plant will be used for a specific process. "This is something that no scientist will tell you, so we decided to liquidate this company," Mr. Maier says.

A CRIMINAL CASE?

Not all West German companies, however, may have been so ready to give up the exotic chemicals business in the Third World. Last November, German prosecutors seized over a ton of documents relating to dealings by Kolb and 12 other companies with the Middle East. Thomas Marx, the lawyer for one of them, expects a major trial involving 25 defendants among the 13 companies being investigated.

The company Mr. Marx represents, W.E.T. G.m.b.H. of Hamburg, sold Iraq's SEPP $10 million worth of equipment, including heavy-duty pumps and chemicals that could be used to make nerve gas. W.E.T. was told it was for a water-treatment plant. But Marx says the gear was taken by truck through Turkey to Iraq, and the West Germany companies dealing with SEPP weren't allowed to follow into the heavily guarded restricted area where the plant was being built.

"The whole scheme may be for the Holy Ghost or someone who can pull all these things together," Mr. Marx says.

The Iraqis take a cynical view of the West's actions, says the lawyer, who recently returned from Baghdad after negotiating damage claims made W.E.T. stopped delivering. "They said there were many of the same [European] companies just over the border [in Iran], and they're building the same technology."

Iran, in fact retained West Germany's Lurgi G.m.b.H. last October to advise it on construction of a large modern pesticide complex. Lurgi says that it has taken no role in engineering or building the plant which, it adds, will make only commercial pesticides under licenses from West German, East German, Swiss and Indian companies.

SYRIAN PROGRAM

Syria, another nation that Western government experts say has chemical weapons, aroused U.S. concern about five years ago over another West German deal. A company called Schott Glasswerke sold a Damascus research institute corrosion-resistant glass pipes, glass vessels and other lab equipment that U.S. officials suspect is used to handle the ingredients of Sarin nerve gas. Schott doesn't know what the equipment was used for, says a spokesman, Deiter Kappler, "In nearly all cases, we do not know what our customers are producing because they don't tell us," he says. Syria has denied that it is making chemical weapons.

Since Western nations imposed the new chemical export controls inspired by the Australian group apparently just one firm, a Dutch trading company called Melchemie Holland B.V., has been convicted of violations. The Netherlands government fined it $30,000 for selling Iraq's SEPP a number of restricted chemicals without a license, including phosphorus oxychloride, a possible component of nerve gas. Melchemie officials didn't return calls seeking comment.

Though the Australian group believes it has made progress in curbing chemical-weapons supplies, concern that further controls are needed grew last March after fighting near Halibja in northern Iraq. Television coverage of the aftermath of the battle, in which Iran claimed that 3,000 people were killed, showed entire families of indigenous Kurds frozen in death, their unmarked bodies giving little evidence of what had killed them.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 5090, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5090) to implement the United States-Canada Free-Trade Agreement.

The Senate proceeded to consider the bill.

(Mr. LEVIN assumed the chair.)

Mr. BENTSEN. Mr. President, I am pleased to support this bill, which grants congressional approval to the United States-Canada Free-Trade Area Agreement.

This agreement will increase our exports to Canada, but, quite frankly, opening a market one-fifth the size of Japan, about one-tenth the size of our market, and about one-fourteenth the size of the European Common Market is really not big bucks.

To me, the real significance of this agreement is that it moves the world a little closer to realizing the potential of the global economy, that is waiting for us if we can expand world trade.

We are far from realizing the potential of that global economy today.

All the exports of goods from all the countries in the world total up to one-half the gross national product of just one country—the United States. And this country buys nearly one-fourth of all the world's total exports of goods.

So, in a very real sense, world trade is a one-way street, right to America's front door.

I have traveled in many countries around the world, and I can tell you that they believe they have a God-given right to access to the U.S. market, while they see our access to their markets as a special privilege.

The rest of the world, much of it, at least, assumes it can be just as protectionist as it wants and still sell to the biggest market in the world, the United States.

Under the trade bill that was just enacted, that sort of thing is going to stop. Now, other countries are going to open up their markets to our competitive exports. And this Canada agreement shows how we are going to help bring it about.

This agreement eliminates all customs tariffs between our two countries over a period of 10 years. That is a remarkable step forward toward free trade. It contains some provisions to open up services and investment trade between the two countries.

What this means is that when we go into the multilateral negotiations in Geneva next year, we have some positive leverage over those countries who want to keep their markets closed. We can say, "all right, gentlemen, if that is the case, then we have an alternative. If you won't work with us to open up world trade, then we can negotiate trade agreements with other countries on a bilateral basis and those two countries will have the advantage of it and you won't be sharing in it."

Sometimes, it is well to remember that bilateral agreements can lead to stronger multilateral rules, which really has to be our objective.

When Cordell Hull began the reciprocal trade agreements program back in 1934, he proceeded with bilateral agreements. Eventually, he got enough standardization amongst those bilateral agreements around the world that they were able to patch together a multilateral agreement. And that is how we brought about the General Agreement on Tariffs and Trade—the GATT.

This country has been working at bilateral investment treaties for the last few years, and eventually may be able to lay the foundation for multilateral rules on investment, and that would be a major step forward.

After you study the trade issue for a while—as the distinguished ranking minority member on our committee has and I have—you come to the conclusion, that the really meaningful deals are not bilateral. Real gains are made in agreements adopted by many nations at once. On the other hand it is very difficult to get a consensus of over 90 nations on the trade issue. We used to be able to do it easily because we made most of the concessions—we were so powerful from an economic standpoint that we could do that—and because in a few cases we ended up having to use our overwhelming economic muscle, to get the deals we needed. But those days are gone.

Today, our economic muscle is pretty thin. The world's largest debtor has less economic muscle than it used to have, when it was the world's largest creditor. We are now the world's largest debtor, and we can expect some of the new creditor nations to try out their muscles in this new negotiations period. So using bilateral free trade agreements is a good form of leverage to improve the world trading system.

Quite frankly, Mr. President, this agreement is not all that it could have been. At one point, the Canadians got more than they deserved by the simple measure of just walking out on the talks. That was a last-minute tactic on their part. And the administration made some further concessions to get them back to the bargaining table.

That kind of bargaining resulted in some provisions in this agreement that are not as good as they should have been and I expect that we are going to lose a few votes over that. However, I think there would have been many more votes against this agreement, and maybe no agreement at all, if there had not been active congressional involvement in this effort.

The Finance Committee first proposed such an agreement with Canada back in 1974, nearly 15 years ago. We proposed the idea, but we have not been Pollyannas about it. From the beginning, in 1974, we said the agreement had to have some tangible economic benefits for both sides, that both sides had to benefit from this agreement or it just would not float, that it could not be sold politically.

Quite frankly, a couple of years ago the negotiations were pretty well stalled. They were not going anywhere. So I led a bipartisan group to Ottawa one very snowy day back in December of 1986 and we explained to the Prime Minister, Mr. Mulroney, what it would take to get an agreement through the U.S. Congress.

I think that trip helped get this agreement moving again and I commend my colleagues who joined me on that trip: Senator MATSUNAGA, Senator BAUCUS, and Senator CHAFEE. We sure did not go for the weather, because I remember it was cold and snowy. But we had a most effective trip.

Another problem with this agreement, which may cost it a few votes, was the unsatisfactory level of consultations that this administration gave us last fall. That is not the way the fast track is supposed to work.

So, in the recently enacted trade bill we made some changes to prevent that happening again. But in this Canadian case I felt that, in spite of the lack of full consultation, we had to find a way to give this agreement a fair hearing in the Congress.

What saved us in that situation was that last February we in the Congress worked out an agreement with Secretary Baker, who was working on behalf of the administration, under which they would consult with us and accept our recommendation on the implementing bill if we made those recommendations by June 1 of this year. In return, we agreed to a vote on the implementing bill in this Congress.

We completed those consultations in record time, about 5 weeks. The administration has not abided by our advice in some details. That may cost them some votes. But it did abide by most of that advice and that is to their credit. So we in Congress today are fulfilling our share of the bargain by completing action on this bill in this Congress. I commend the majority leader, Senator BYRD; the Speaker of the House, JIM WRIGHT; my counterpart, DAN ROSTENKOWSKI; and the distinguished minority leader on the committee, Senator PACKWOOD, for their work with me in patching together a procedure that worked in spite of the early failures of consultation.

Mr. President, I would like to add just a word about the timing of this action. Obviously the Government of Canada has encountered some problems in getting their legislation to implement the agreement enacted. That is their domestic concern and we cannot and should not interfere in their internal political matters.

Personally, I believe that the free trade agreement between our two great countries will prove compelling to most citizens of Canada, so I believe they will decide to implement the agreement. I just want to point out to Senators that, under this bill, the President of the United States cannot allow the agreement to enter into force until Canada has acted to implement fully its obligations under the agreement. In other words, it is not going to be a situation where we are bound and they are not bound.

Moreover, if we act favorably on this agreement today, the rest of the world can see that we deliver on trade agreements and it will help the new President in the difficult trade problems that he will have to overcome.

Mr. President, the main accomplishment of the Congress this year in the area of trade was the enactment of the Omnibus Trade and Competitiveness Act of 1988, a law that is aimed at opening up world markets. To those who question whether Congress is really interested in opening world markets, this Canadian agreement, with a 15-year history of support in the Congress, shows that we are serious about opening world markets.

Mr. President, I support the bill. I yield the floor.

The **PRESIDING OFFICER**. The Senator from Oregon.

Mr. **PACKWOOD**. Mr. President, what is the control of the time?

The **PRESIDING OFFICER**. The minority has 2 hours and 58 minutes. The majority has 2 hours and 47 minutes.

Mr. **PACKWOOD**. I have 3 hours?

The **PRESIDING OFFICER**. Two hours and 58 minutes.

Mr. **PACKWOOD**. Thank you, 2 hours and 58 minutes. And then, as I understand it, Senator MITCHELL and Senator COHEN have some time; is that correct?

The **PRESIDING OFFICER**. Senator MITCHELL has 1 hour and Senator COHEN has a half-hour.

Mr. **PACKWOOD**. I thank the Chair. The other day, when Senator BYRD, the majority leader, was talking about time, clearly Senator BENTSEN and I are on the same side of the bill and I have indicated, and I think probably Senator BENTSEN, or whoever he designates to handle his time, would be willing to give time to the opponents in addition to Senator MITCHELL and Senator COHEN who have reserved time because it would not be fair that 6 hours of the presentation be on the side of this agreement to the detriment of others who might want to speak.

Mr. President, I support this bill as strongly as I have supported any bill that has come before the Congress in almost the 20 years that I have been here. We have had three bills, three trade bills this year: the general trade bill, which Senator BENTSEN referred to, which I supported and which I think is a good bill—has some good provisions in it. It gives citizens of this country the right to bring some actions that they did not quite have the right to initiate before and the rice growers have initiated an action under section 301 under that bill last week.

It is a good bill. It is not a great bill. I think in the pantheon of legislation in the 100th Congress that we have had, it would not rank in the top 50, but it is a good bill. We passed the textile bill last week, which I voted against, and I think in the pantheon of terrible legislation would rank easily in the top 50 of legislation this Congress has passed and should not pass—or any other Congress.

But this Canadian agreement, I hope, is a harbinger of what we may do with other countries or with a number of other countries in multilateral negotiations if the other countries are willing.

First. I want to compliment one country, and then compliment Prime Minister Mulroney of Canada in this agreement.

First, the country is Israel because we entered into a free trade agreement with Israel a number of years ago. It was our first free trade agreement. Having gone through the process of the negotiations, and the passing of legislation, it broke the ice and gave us the path to travel in negotiating other free trade agreements, and I think we would not have negotiated the one with Canada and would not have this implementing legislation before us but the fact that we did it first with Israel.

I know the argument can be made, Israel is a small country and the quantity of imports that Israel sends to this country is miniscule in comparison with our trade with Canada. I heard Senator MOYNIHAN time and again say our trade with the Province of Ontario is greater than trade with the entire country of Japan or any other country. But still the methods and the procedures we developed in that Israeli free trade agreement were important.

Second, Prime Minister Mulroney deserves a great deal of credit for courage. I am not sure how the Canadian elections are going to come out that apparently are going to be called later this year. What has happened is that Prime Minister Mulroney's party has a great majority in the House of Commons and the implementing legislation has passed the House of Commons in Canada. The Canadian Senate, however, which is a body that has infinitely lesser powers than the U.S. Senate, is holding up the treaty.

In Canada the Senate is an appointed body, not an elected body. It is usually honorific, ceremonial, call it what you want. It is not expected under Canadian tradition to hold up major pieces of legislation. But it has chosen to exercise the power that it has and is holding up the implementing legislation in this free trade agreement until an election is held.

The reason I compliment Prime Minister Mulroney is at the time he opted to support this agreement, pushed this agreement, staked his political reputation on this agreement, there was strong opposition in Canada. The agreement had strong support from the academic community, from the editorial community, from the business community, but strong opposition from the Liberal Party, his principal opponents; from the New Democratic Party, the third party in Canada and a significant force.

I think it took a great deal of courage on his part to go ahead with the agreement, not because the arguments of his opponent were valid that the agreement was not in Canada's interest, but there was a strong feeling that somehow the United States was going to gobble up Canada in this agreement and Canada would lose its sovereignty and independence, which is simply not the case.

First, let us take the broad outlines of the agreement. It eliminates over 10 years the tariffs between the United States and Canada. And there is a mutual advantage for each country and certainly a 100-percent advantage for the consumers in both countries with the elimination of tariffs. All the tariffs do is drive up the prices of goods that the consumers buy.

On average, Canada has tariffs about twice as high as the United States. On average, if you were to take all of their tariffs, average them all together, it is about 10 percent. Some goods have none; some goods have 20 percent. On average, it is about 10 percent. If you were to average all of the tariffs in the United States, they are on average about 5 percent. So you might initially say this is a great benefit to the United States, we get rid of tariffs at 10 percent, Canada gets rid of tariffs at 5 percent on the goods coming into this country.

Bear in mind the consumers in Canada are now going to get goods without a 10-percent tariff going into Canada. Our consumers will get goods without a 5-percent tariff coming from Canada.

If you argue that the tariff reduction more favors the United States, there is a second way to look at the argument in which Canada benefits. The United States is a market approaching 250 million people. Canada is a market of about 25 million. So Canadian entrepreneurs are going to get access to a market 10 times Canada's size with no tariff barriers, and our entrepreneurs will get access to a Canadian market one-tenth our size, 25 million. If we sell everything we could conceivably sell in Canada, we could not sell as much as Canada can sell in the United States just because of the relative sizes of the markets.

So for the good Canadian businessman and businesswoman who are sharp entrepreneurs, they suddenly have a level-playing field to an immense market that they did not have before.

I emphasize, again, that it is a tariff-reduction measure. It is more than that, but one of the criticisms that is leveled at the agreement is that it did not end the subsidies in Canada, and we would have to add, of course, in the United States because the United States has subsidies also.

Subsidies differ from tariffs in that subsidies are payments made to industries, to agriculture, to others as an encouragement to produce or grow products, to make up a difference if the government feels the person who is producing the product is not getting enough money.

There are a variety of subsidies, such as transportation subsidies, hauling goods back and forth across country. I emphasize, the United States has subsidies also.

This agreement does not end the subsidies in the United States and in

Canada. There is a provision in the agreement that Canada and the United States will start to negotiate subsidy reductions when this agreement is in force, and that is going to be headknocking, hard bargaining, just as the bargaining on the agreement was.

I think we will get there. I think we will get there gradually, but just because this agreement does not accomplish everything in one fell swoop is not to say the agreement, therefore, should be excluded and voted against altogether.

I know the United States has complained that we will not be able to buy to the degree we would like properties that you might refer to as cultural properties, cultural identification, such as newspapers, magazines, televisions, radios. We are hard-pressed in one sense to make that argument. We do not allow foreigners to own broadcast properties in the United States. So for us to say, "Well, Canada won't let us buy their television stations," we say, "Yes, but we have never let the Canadians, the French, the Germans, or anybody else buy our radio and television stations."

I can understand from the smaller country's standpoint why they have some hesitancy to allow the larger country unfettered access to their news media properties, to the organizations that to a large degree shape the culture and the information that their citizens receive. You have some misgivings about allowing foreigners to own them.

As I say, we have had that misgiving in this country for years, and that is why we prohibit foreigners from owning our broadcast properties. I do not think that is a big issue in the overall lexicon of this bill, but I can understand in perspective why a smaller country would have some misgivings about a larger country buying up its broadcast companies.

That is a very minor flyspecking of a negative in this bill. The United States gets almost unlimited access to invest in Canadian energy. We have not had that right before. I emphasize again "invest." Clearly, energy is something that is indigenous. If we are going to invest capital to develop Canada's hydro, oil, gas—and Canada has these in abundance—it is clearly going to be investment in Canada, fixed capital investments, immense capital investments, but Canada need have no fear of control. They are going to be built on Canada's soil, under their sovereignty subject to their laws. The benefit for the United States, of course, is that we can build immense energy-producing facilities in a country that has immense energy-producing resources, and the output of that energy can be used both in the United States and Canada. Clearly a plus for both countries.

From a standpoint of resolving disputes, the so-called dispute settlement mechanism under dumping and countervailing duties, we have entered into an interesting agreement with Canada. A good agreement, I think, but hardly one that violates the sovereignty of either nation. The United States wants to be careful when it gets into dumping and countervailing duty arguments anyway.

Dumping is where you sell something in a country overseas for less than it is selling for in your country. The argument is if you are selling a product in your country for what you need to make a profit and you sell it below that price in another country, you are dumping it, and it is unfair to the foreign country's manufacturers.

Countervailing duties are duties that you can levy on goods that are subsidized coming into your country. You say they are subsidizing the production of these particular goods; we are going to level a countervailing duty on it at the borders as it comes in because the subsidy is unfair.

First, the United States has more dumping and countervailing duty claims filed against it than we filed against other countries overseas. So anytime we get into an argument about dumping and countervailing duties, we want to realize the U.S. manufacturers have had more successful actions filed against them, concluded against them by foreign countries and foreign manufacturers than vice versa. It is not a one-way street if there is some limitation put on the method of filing and adjudicating these claims.

In this case, it is a very modest change, but I think a step in the right direction in which both Canada and the United States have agreed that in the adjudication of these dumping and countervailing duty claims, while each country will apply its own law, if the United States is claiming that Canada is dumping something in the United States, we will contest that claim under United States law. But we have made an agreement, and in this agreement is that on appeal it will got to an international tribunal of five people selected from a panel to be suggested by the Canadian and American Governments; a five-person panel. The adjudication will replace that that would otherwise take place in the normal appellate courts of Canada or the United States.

This was a part of the agreement that was very dear to Canada. I think but for this provision, the agreement might have floundered. I think it is a good agreement.

The international panel applies the law of the complaining country, so we are not giving up sovereignty in that sense. The international panel says if this is a claim brought by an American manufacturer against the Canadians dumping, American law on dumping is applied. If we do not like the decision an international panel makes or Canada does not like the decision, either country is free to change its law. In Canada, it is the parliamentary process; in our case, it is the congressional process.

If we make that change, however, and it violates the General Agreement on Trades and Tariffs or other parts of the agreement, the country against which it is applied could claim compensation, that is, they could levy certain duties on goods coming in, but that is a common part of international law now.

So on balance, Mr. President, I think this is a major step in the right direction. I look at some of my manufacturers in Oregon: pickles, broom handles, wines, even timber, although Canada has a big timber industry, and we see access to a Canadian market we did not see before. I emphasize again not an immense one because they are 25 million people and we are 250 million. But almost everyplace else in this world we would look at access to a market of 25 million, if we could get it with some reasonable degree of unfettered access, as a step in the right direction.

What fortunately we have to build on with Canada is a lifetime relationship of two friendly neighbors, competitive neighbors in the sense that we are both capitalists, both free enterprise, but two lifelong neighbors, with the longest unguarded border in the history of the world, where for 99 percent of the time we have lived in harmony pursuing common goals throughout the world, common defense policies, and realizing that the coordination of our efforts jointly has been to the mutual benefit of both countries.

So I would hope, Mr. President, the Senate would ratify this agreement overwhelmingly. The House did with only 40 dissenting votes. I would like this agreement to pass unanimously. I realize it is not going to, but I would like to send a very strong signal to Prime Minister Mulroney that we enthusiastically adopt this agreement and that we doubly enthusiastically appreciate the courageous leadership that he had to undertake when a smaller country signs an agreement with a larger country causing some trepidations with some groups and the fear that the larger country is going to swallow them up.

That is not true. What is going to happen under this agreement is that the consumers in Canada and the consumers in the United States are going to benefit, that the real competitive capitalist entrepreneurs in Canada and the United States are going to benefit, and I hope, Mr. President, that this is a harbinger of an agreement that we will one day extend bilaterally if necessary to other countries, multilaterally if possible to other countries because it is the only way that rationally the world should be going.

The Prime Minister is due his credit. Secretary Baker, Ambassador Yeutter, Ambassador Holmer, Judy Bello, his general counsel, all deserve extraordinary credit in this country for helping us achieve one of the major trade pieces of legislation in the history of this country.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to join my dear friend, chairman emeritus of the Finance Committee, one of the luminaries of this body now and through its history, the Senator from Oregon, BOB PACKWOOD, in support of the free trade agreement with Canada.

If I may, I would like to begin my remarks by noting the characteristic generosity with which the Senator from Oregon has referred to the Prime Minister of Canada, Mr. Mulroney, who indeed took a large political step in Quebec in 1985, when he first broached the idea for this agreement. I think an equal tribute is in order to our President, President Reagan, who joined in this effort. This was an altogether reciprocal matter as the two leaders met in Quebec on St. Patrick's Day in 1985.

A point to be made is that it was almost 75 years from the last time such a large effort was envisioned by the two countries. That time being 1911, when President William Howard Taft and Canadian Prime Minister Wilfred Laurier reached a rather epic agreement to change the trading and tariff structures of both countries. At that time Canajda was very much linked to the British imperial system. Its trade was almost entirely with Britain itself. For our part, we were in the midst of a long period of high tariffs that kept products out of this country. And it made no sense to see these two immediately adjacent nations to have a line drawn across the continent that divided them just politically, but also economically.

This agreement came down to Washington and was greeted, I am sorry to say, by the Speaker of the House of Representatives, Mr. Champ Clark, saying this was to be welcomed as it was the next-to-last step before the annexation of Canada could be finally consummated. And that was enough for the Canadians, and within months Mr. Laurier's government had fallen, as the Canadians say. He is remembered by a hotel, the Chateau Laurier, in Ottawa. He is also on the $5 bill, as I recall. His experience, however, was well remembered by his successors, and it took 75 years to bring it to this point again. These facts add all the more to the credit of the two leaders of the nations, who put us onto the path of free trade where we find ourselves, today.

I was disappointed to hear from the Senator from Oregon that we will not have a unanimous approval today, but I would think we will be close enough, as it makes no matter, to send to Ottawa a clear signal that we are for this agreement and we are proud of our negotiators. We think Ambassador Murphy and his team did a first-rate job, under the direction of Ambassador Yeutter, who has been a tower of strength, purpose, and integrity in this whole process, and we look with admiration on their counterparts who were surely their equals.

The importance of this measure will dawn on us. It is in one respect the successor to that whole series of agreements starting, I guess, with the Rush-Bagot Convention a century and a half ago about our borders, which helped to conclude the period of hostilities in our bilateral relations. Indeed, not 2 months ago in Buffalo and the adjoining region in Canada, what we call the Niagara frontier, there was a very moving ceremony in which the remains of American soldiers killed in the War of 1812, having been discovered, were disinterred and given a military funeral in Canada, even though they had been attacking Fort Niagara on the Canadian side. The British on the occasion sent representatives of the very regiments that had fought in those battles in those years.

We were forever at odds with each other in the latter part of the 18th and early part of the 19th century. The largest military installation ever built by the British Empire connected Ottawa with Lake Ontario, such that any force having to make its way to the Great Lakes would not have to run the gauntlet of American artillery fire on the St. Lawrence River. And such it went.

It was never quite clear what would be the future of our two countries. Would we finally become one nation? That was an expectation in the United States, and one which the Canadians are much more sensible of than we, perhaps. But of course, it did not happen. What did happen was something better.

We became two separate nations, united by an undefended border and joined in a vast range of common enterprises, most recently in the defense of North America and the Western World generally against the Soviet Union. There is no other country on Earth as important to us as is Canada, and none other is as important to Canada as the United States.

Having reached the political agreements to have peace, and then having joined in military agreements to protect that peace, we now move to an economic unity which has never existed before at the level it will now evolve into. We certainly have an enormous amount of trade.

Now we will have more. The measure of that trade, if I could just give it to the Senate, is an example. I am of course a New Yorker, and we are particularly sensible of our relations with Canada. Immediately opposite, on the other shore, on the far shores of Lake Ontario is the Province of Ontario. It has a great capital city of Toronto.

The United States, Mr. President, exports more to the Province of Ontario than it exports to Japan. That is how closely linked our economies are, and this is a measure that will bring that linkage to an even greater degree.

The distinguished Presiding Officer is of course the Senator from Michigan, and represents lucidly the city of Detroit which, if my geography is correct, is north of Canada, and Canada is south of Detroit at that particular point, Detroit being a French word for strait. Not everyone recalls this, saving those who live in New York, but Buffalo is a French word for beau fleuve, which is that great Niagara River that flows over New York. We use the word "historic" frequently in this Chamber, and perhaps too frequently, but every so often the occasion arises in which the word is in fact in order, and this is one.

The events that brought us here were not without difficulty, not if I may say without a measure of peril. After the Shamrock Summit of 1985 in Quebec following the meeting between Mr. Mulroney and Mr. Reagan, the time came when the Congress was asked to approve a fast-track, as we say, netotiating procedure for the agreement envisioned by our respective heads of government.

Mr. President, I want to report something of importance, something that has to be understood by this Nation, and I hope will be heard in Canada; that is, that on the occasion that the President asked the Congress for this fast-track authority under the procedures of the relevant statute, the measure is in effect decided in the Senate Finance Committee. And it is called a fast-track measure because it gives the President a chance to move forward with expedited procedures to have an executive action in an area which has always until the 1930's been an area of congressional initiative, and not always a happy one. Since Congress gave up this power, delegated it to the president, and said we will assume the President is acting correctly when he makes these decisions from time to time and says he intends to go forward, we now would have to deny him the right to do so.

On this occasion, Mr. President, there were great misgivings about what might happen, great anxieties, and some grievances. The Canadians as a political economy are more given to open public subsidy of their industries than we are, which is not to say that we do not do it. It is just that we do not avow more often than not. As the Senator from Oregon pointed out, antidumping cases and countervailing duty cases against the United States are successfully pressed under the General Agreement on Tariffs and Trade by other countries all over the world.

But in Canada, there is a somewhat different ethos, if I can use that word, which sees the support of what we used to call infant industries as appropriate, as is the support of regions. The regions of Canada vary considerably, in terms of their national wealth and development. I think it is the case that 85 percent of the Canadian population lives within 100 miles of the American border, and you cannot distinguish the economic regions by that border.

There is just a line drawn across the country. The wheat harvest for example begins down in Texas and moves up to Saskatchewan as if there was simply one great plain, which indeed there is. But the Canadians have a smaller economy, and they do not have the economies of scale that this near continental United States has. So they have subsidized. They have regions that do not have the development. So they have help regionally. That is much more an open thing with them as I said than it is with us. We do it but deny it. They assert it.

There was genuine misgiving in the Senate Finance Committee over these subsidies, and the President's request to us to go forward in this negotiation was almost turned down. It was a 10-to-10 vote, a tie vote to deny him. Under our rules, of course, a tie vote fails, and only by that rule was the President given the authority to go forward.

I can speak with some certainty when I say that this was a 2-day discussion in the Finance Committee. On the first day we had three votes.

I see my friend from Oregon nodding in wistful agreement. That was not an easy moment for us. We went from 3 to 10 on that vote in April 1986, and then from 10 to 20, when we unanimously reported this legislation under consideration today. That is the essential fact.

We watched this negotiation very carefully. We were apprehensive about it. We were inquiring of it. We had the negotiators before us over and over again, in informal sessions and formal sessions. We knew what they were doing, and we know what they have done. We are proud of their work.

We are not least pleased with the system for settling disputes. In the end, that is what organized society is about: How do you settle disputes without resort to violence, and how do you find ways you can cooperate without just breaking away? We have done it.

Our relations with Canada are a model to the world and have been more obvious than perhaps we know. One example is the International Joint Commission which has been working for years and years. It has work to do; admittedly less and less, over time. But it is a long run from Novia Scotia to Seattle, to Vancouver.

Then, of course, we have that great border of Alaska, which I think is as long in itself as the border across the United States, when you take the undulations and cross over the Pacific coast and into the Arctic. That Commission has done wonders, and it has been there long enough to be an example to the world that you can do this.

The decision to demilitarize our borders has been, in a sense, policed, and there was never any difficulty with it at all. The crossing from Canada into our country has been a routine affair for two generations that requires no documents, requires no seals, passes, affirmations, checks, tests, investigations. It is normal to us. It had been normal in an earlier century. I guess in 1914, Russia and Bulgaria were the only two countries that required passports. In the rest of the world, you could move easily across the borders without asking anybody, nobody was interested, and nobody was concerned.

At the end of World War I, we entered a period of ever-increasing restrictions on cross-border movements, such that the time came when the only example of an open and free border in the world was between the United States and Canada. Now it is going to be characterized by free trade as well as free movement, and we will have a greater system for reaching decisions about disputes.

The Senator from Oregon has described it with characteristic precision, with his lawyer-like and orderly and well-disciplined mind. I would not wish to change a word, for fear that anything I said might be thought different from what he said and would be confusing and would almost certainly be wrong.

Mr. President, the Senate Finance Committee has looked at this agreement with the greatest care. Our original disposition was not to go forward. By a tie vote, it emerged that we would. Then, step by step, there was a long negotiating process, characterized by crises.

At one point, it looked as though negotiations had bogged down. In that circumstance, a number of the committee members went to Ottawa. In the end, the good sense of our governments, the good faith of our negotiators, and the great, shared common interest in what we have done now, prevailed.

I can only say that this is a triumph of democratic governments, of good sense, of good economics, and of good faith.

Mr. President, I hope very much that our approval will be as near to unanimous as can be. I think it is important that we send a message to Canada that we have negotiated in good faith, we have reached this agreement, and we expect that they will do the same.

We have the greatest sense of neighborly good feeling, but there are processes of government. It took 75 years for a Canadian Prime Minister to try again, after the failure of the Taft-Laurier initiative. It might not take that long for an American President to try this again, but it could take a lot longer than it should. Now is the time.

The Commons has acted. The Senate in Ottawa ought to act. It is not for us to tell them what to do. It is clearly our responsibility to tell them what will be the consequences here of how they act there, which is simply to say that we will be deeply concerned, and those who have opposed this agreement will seem to have been affirmed in their opposition, and we will have lost a great opportunity.

Before this day is over, we can overwhelmingly approve it, and the matter will be done with here. It remains to be finished in Ottawa; we expect that it will be, and the sooner it is, the better for both our nations.

In closing, Mr. President—although I may speak later in the debate—I want to affirm what the Senator from Oregon has stated. We have tremendous admiration for Prime Minister Mulroney's initiative here. It had a quality of verve and adventure to it. Here is a man who trusts the future, and cannot wait to get into it. Our President responded in the same spirit. And our two governments have brought this matter to the point where it is now on the floor of the U.S. Senate, where we will endorse what they have done, having watched with the greatest care the doing of it.

Mr. President, I look forward to the vote, which is at a fixed hour, as a moment which not only will be part of the history of our two countries but also will set an example to the world of what can be done; and if it can be done, so it ought to be.

I yield the floor.

The **PRESIDING OFFICER** (Mr. SANFORD). Who yields time?

Mr. **PACKWOOD**. I yield a half hour to the Senator from Missouri.

The **PRESIDING OFFICER**. The Senator from Missouri is recognized.

Mr. **DANFORTH**. Mr. President, this debate gives the Senate an opportunity to review not only the trade agreement with Canada but, more broadly, the role of bilateral as opposed to multilateral agreements in United States trade policy.

Today we are considering the implementing legislation for the proposed United States-Canada Free-Trade Agreement [FTA]. In so doing, we are fulfilling a commitment made earlier this year in an exchange of letters that Congress would vote on the agreement before the end of this session. That exchange of letters is but one indication of the priority which the administration has consistently placed on successfully executing this accord.

There is no doubt that the Senate will approve this agreement later today by an overwhelming margin. Adoption of this measure is a foregone conclusion—less a reflection of the substantive merits of the FTA itself than of the political imperative that has driven its evolution since the shamrock summit in early 1985. Clearly, there are Senators who will vote for the United States-Canada FTA because they honestly believe that it is a worthwhile agreement. But I daresay that there are many more who are less familiar with the substance of the pact or who are ambivalent about its merits, yet they, too, will vote for it. Why? Because this agreement represents a major foreign policy accomplishment for this administration: It marks the formal establishment of a "special relationship" with a close neighbor and trusted ally, and that makes it very difficult to vote against. Ultimately that is why I will vote for this FTA, though I will do so very reluctantly.

It is no secret that I am not wildly enthusiastic about this agreement. It is not because I have anything against Canada per se—indeed, the Canadians are good friends and valued allies. But in my mind, friendship and other political considerations are not the right reasons to enter into a trade agreement. Instead, such arrangements must be driven principally by commercial considerations if they are to be truly effective.

Anyone who really cares about trade policy will necessarily try to delink it from foreign policy. We have just spent 3 years raising the visibility of trade policy so that it is no longer accorded second-class status compared to other policy considerations. We were able to forge a bipartisan consensus on a coherent, aggressive, multifaceted trade policy, and our overwhelming endorsement of the omnibus trade bill is a fitting measure of that success.

But comprehensive bilateral agreements such as the United States-Canada FTA threaten to undermine all our hard work. These agreements are dangerous because, by their very nature, they ultimately subordinate trade policy to foreign policy concerns, leading us in some instances to accept even flawed commercial arrangements in order to avoid weakening the underlying political relationship. That is exactly what happened in the Canadian case, and I am certain this experience would be repeated if we were to jump into similar agreements with other trading partners in the near term. It should be noted that as we were completing work on the United States-Canada FTA, Congress asked the International Trade Commission [ITC] to examine the pros and cons of undertaking comprehensive bilateral free trade agreements with Japan, Korea, and Taiwan. Improving our bilateral trading relationships must be an integral part of any trade policy. But placing high priority—as this administration did in the case of Canada—on achieving "comprehensive" bilateral agreements is bound to cause problems. Once we begin down this road, expectations grow and foreign policy constraints too easily lead us to believe that we must complete the journey, whatever the cost. This is the wrong way to conduct our trade policy, and I would urge my colleagues and future administrations to take a hard look at our experience thus far with this kind of agreement before jumping into others.

To be sure, there are some positive aspects to the United States-Canada FTA. The centerpiece of the agreement is the chapter on tariff elimination. The pact phases out all tariffs, including agricultural duties, between our two countries over the next 10 years. For many small- and medium-sized American firms, this is the single most important aspect of the FTA, since Canadian tariffs are on average two to three times higher than their American counterparts. As a tariff elimination agreement, then, the FTA is worth voting for.

Whenever I suggest that this is little more than a tariff elimination agreement, I hear cries of protest from the FTA's staunchest defenders. To be sure, the agreement does contain other measures that—in theory—should enhance the flow of goods, services and investment between the United States and its largest trading partner. With respect to trade in goods, the pact establishes a general rule of nondiscriminatory national treatment. In the area of services, it sets forth a code of principles to guide the development of future laws and regulations in a wide range of sectors. In addition, the agreement: liberalizes somewhat Canada's highly restrictive investment regime; provides for free trade in financial services; establishes a framework for freer trade in energy; eliminates Canada's discriminatory practices with respect to American wines and distilled spirits; eases border crossing for business travelers; promotes harmonization of technical standards; and establishes a Canada-United States Trade Commission to oversee the implementation of the FTA and to resolve disputes on matters other than financial services and antidumping and countervailing duty laws. The accord also: makes some improvements in the auto pact; sets out a tough rule of origin for determining whether products are eligible for preferential tariff treatment; expands the scope of each country's government procurement market open to suppliers from the other country; and, finally, establishes a binational panel process for the review of final antidumping and countervailing duty determinations.

This summary is not all-inclusive, but it touches on the most often-cited elements of the proposed accord. Despite the apparent breadth of the agreement, however, time constraints and the complexity of certain issues led the talks to fall short in many critical respects.

A key objective of the FTA negotiations was the resolution of outstanding disputes. Yet many of the thorniest problems—such as border broadcasting, telecommunications procurement and discriminatory postal rates—were left untouched because, according to the administration, "Canada was unwilling to address" them. Indeed, the administration had to acknowledge 16 examples of Canadian trade barriers in the 1987 National Trade Estimates [NTE's] that were not fully resolved by the FTA. In some instances, the pact partially addresses a dispute but fails to establish a framework to ensure that similar problems do not arise in the future. For example, though the accord addresses the satellite retransmission problem, it fails to establish a general framework for enhanced protection of intellectual property rights.

I am concerned that we were unable to resolve satisfactorily our outstanding disputes with Canada during the FTA negotiations. I recognize that time was short and, in some instances, it was U.S. intransigence that prevented a compromise. But this outcome illustrates my basic point: Political considerations were such that we were willing to conclude the negotiations without having put to rest some of the more obvious "hot spots" in our commercial relationship. I am especially worried that once we formalize this special relationship with our good friends, we may become less vigilant in pressing for the elimination of remaining barriers. To ensure that efforts to resolve these disputes are ongoing, I proposed a measure in the implementing bill which will: acknowledge that some important Canadian barriers and restrictive practices remain even after the implementation of the FTA; and enable us to use the NTE's as a report card on the adequacy and enforcement of the FTA, as well as a resource in establishing priorities for future market-opening initiatives.

The chapter on investment frequently is cited as a major achievement in the FTA, and I believe it does make important strides toward liberalizing Canada's highly restrictive investment regime. However, performance requirements involving R&D, technology transfer and licensing remain in place and certain other existing measures are explictly grandfathered. Because screening of direct acquisitions in Canada continues to be permitted, for example, it will be impossible for American companies subject to hostile takeover attempts by Canadian interests to respond with counterattempts. While this is in fact no worse than the current situation, it is an unfortunate disadvantage, especially given the current business climate which is conducive to takeovers of U.S. firms.

The fact that the agreement fails to address certain restrictive measures is at odds with the administration's long-standing policy of encouraging investment liberalization in other countries. It is my hope that future negotiations in the area of investment will lead to the elimination of remaining Canadian investment barriers.

The exemption of Canada's cultural industries from coverage under the agreement also perpetuates inequities in trade and investment opportunities between our economies. During the past year, several daily newspapers throughout the State of Missouri have been bought up by Canadian interests. In Washington, nearly half of the movie threaters are owned by Canadian concerns, and one major Canadian newspaper has indicated interest in starting a new daily in the Nation's Capital. American firms simply do not enjoy reciprocal opportunities in Canada and, in fact, the Canadians have retained the right to require the divestituture of a cultural subsidiary of a firm when it is acquired by a foreign interest. I am sensitive to Canada's desire to preserve its unique identity, but, at the same time, I am concerned that the mantle of "cultural sovereignty" may be too easily used to cloak unfair practices which would otherwise be actionable under U.S. trade laws. I hope that future administrations remain vigilant on this point.

The single most obvious shortcoming of the FTA is its outright failure to address the issue of subsidies. Federal and provincial subsidies benefit a broad range of Canadian sectors and are far more pervasive in that economy than in ours. Yet the United States-Canada agreement glaringly fails to establish even a minimal framework for disciplining these subsidies. We have been told that the Canadians wanted an exemption from our antidumping and countervailing duty laws in exchange such discipline. This would have been equivalent to handing them an official license to export their unfairly dumped or subsidized products to the United States, and I am glad that our negotiators stood firm on this point. Unfortunately, the compromise which was included—the binational panel process—is not satisfactory, in my opinion.

As I understand it, the binational panel would have the authority to make binding determinations as to whether a final antidumping or countervailing duty determination was made in accordance with the laws of the determining country. The panel could uphold the determination or remand the case for "action not inconsistent" with its decision. The panel would also have the authority to determine whether proposed amendments to U.S. antidumping and countervailing duty laws are consistent with the GATT and with the terms of the FTA.

This binational panel process is billed as an interim procedure—to run at least 5 to 7 years—pending the development of a substitute system of rules to govern the use of antidumping and countervailing duties. I am dubious about the prospects for achieving major breakthroughs on this issue and, as a result, I believe this system will be in place for some time to come. Maybe it will turn out to be a workable mechanism after all. But I am troubled by the fact that these panels—which will be majority Canadian half the time—could wield a considrable amount of influence with respect to the scope and application of our antidumping and countervailing duty laws.

The FTA's failure to provide for subsidies discipline, coupled with its tariff elimination provisions, is bound to hurt certain domestic industries. The lead industry is a good example: 90 percent of this country's primary lead comes from Missouri. Global overcapacity and depressed world market prices have forced a substantial restructuring of this industry in recent years, at the expense of hundreds of jobs. Productivity has improved, but Canadian competition remains stiff. Meanwhile, Canaidian lead companies enjoy extensive Federal and provincial subsidies—such as direct grants and loans for capital construction—which have enabled them to build state-of-the-art facilities. American producers simply do not receive comparable subsidies.

To acknowledge the FTA's shortcoming on subsidies discipline, I joined with my colleague from Montana, Senator Baucus, to offer a provision that enables an industry—whose competitive position is likely to be eroded before sufficient subsidies disciplines are developed—to request that the administration gather information and consider the appropriateness of pursuing an unfair trade case. This provision gives an industry a leg up in the information gathering process only. It makes no judgment about the countervailability of the subsidies in question, and it does not create a new trade remedy.

After lengthy negotiations, we were able to craft a compromise that was acceptable to my colleagues on the Senate Finance Committee, to our counterparts in the House, and, yes, even to the administration.

It seems, however, that the Canadians are only interested in special treatment from the United States when "special" means "better," After we completed our consultations on the implementing bill, we were informed that Canada could not live with the provision because it singled them out, that it was a "deal breaker," that it had to be changed. Did we balk at this instrusion into our policymaking process? No. Instead, we buckled, and the provision was broadened—against my better judgment—to cover other countries with whom we might enter into similar agreements. Once again, politics overruled substance, and I fear that we may find ourselves with more problems down the road as a result.

The evolution of the FTA has been marked by rushed and incomplete negotiations, a staged walk-out by the Canadians at the 11th hour, a truncated congressional consultation process, and expedited consideration of the implementing bill. All are reflections of the political importance attached to achieving this agreement. Frankly, I reject the contention that a failure by the United States to accept this agreement would do irreparable damage to our bilateral relationship.

Excessive emphasis on "comprehensive" bilateral free trade agreements is dangerous. It detracts from much-needed efforts to strengthen the international trading system through multilateral negotations. Adoption of flawed commercial arrangements should not be automatic, even if they involve our most important allies. Today's vote on the United States-Canada FTA will be overwhelming. But I urge my colleagues to think very carefully about the implications of these arrangements before we rush ahead to embrace others.

Mr. President, I yield back the remainder of my time.

Mr. BAUCUS adressed the Chair.

The PRESIDING OFFICER. The Seantor from Montana.

Mr. BAUCUS. Mr. President, I am pleased to rise today in support of the United States-Canada Free-Trade Agreement.

Several months ago, I would not have predicted that I would be supporting this agreement today.

But, thanks to the hard work of many, my concerns regarding the FTA were adequately addressed in the implementation legislation for this agreement.

I am inserting a statement for the RECORD that summarizes my original concerns regarding the FTA and the steps taken to address them.

This agreement, however, has implications for United States trade policy that go far beyond the direct economic and political implications of the agreement for the United States and Canada. That is the subject I want to address today.

The Canada agreement is one of the few bright spots in the trade picture over the last several years.

The United States has become deeply mired on the trade front.

In 7 short years, the U.S. trade deficit has swelled from $1 to $170 billion, and the U.S. manufacturing trade balance has gone from a $28 billion surplus to a $138 billion deficit.

The United States has gone from being the world's largest creditor to being the world's largest debtor because we have been borrowing money from abroad to pay for the imports we have been purchasing.

We now owe the rest of the world $400 billion .

By the mid-1990's, we will owe the rest of the world $1 trillion.

The interest on this huge debt will drive down the U.S. standard of living by 2 to 3 percent—the same amount that the U.S. standard of living declined during the Great Depression.

What has gone wrong? Why is this Nation's economy declining?

There is no easy answer.

Our current trade and economic difficulties are the result of several factors—some beyond our control.

But part of the problem is that the United States has fallen into the trap of using yesterday's solutions to today's problems.

In no area is this problem more clearly apparent that in this Nation's strategy toward trade negotiations.

Until the recent departure from the pattern to conclude the Canada Free-Trade Agreement, the United States relied almost exclusively upon international trade negotiations through the General Agreement on Tariffs and Trade—the GATT.

THE WEAKNESSES OF THE GATT

Through the GATT, the United States has sought to negotiate tariff reductions and multilateral rules that allow international trade to be conducted on a more or less free market basis.

The GATT served us well after WWII. Significant progress was made toward decreasing tariff levels worldwide.

But in recent years nontariff barriers to trade have arisen around the world to replace the tariffs.

The GATT appears unable to address these new challenges.

The GATT now covers less than 7 percent of world commerce and financial flows. The GATT does not cover trade in services, investment, and capital flows. Even significant portions of the merchandise trade—such as agricultural products and textiles—are effectively excluded from the GATT.

Beyond that, the GATT has never been a forum for addressing the underlying international economic problems—like exchange rate fluctuations, uneven world growth, and debt.

Further, the GATT dispute settlement procedures are painfully slow and unenforceable. The 12-year-long U.S.-EC citrus-pasta dispute is an excellent case in point. The GATT dispute settlement procedure drug on for years only to have the EC ignore the results.

A 1987 GAO study of GATT dispute settlement indicated that the average length of time that it took to conclude a U.S. dispute under the GATT was 45 months.

The GATT decisionmaking process has been working more efficiently lately, but its fundamental weaknesses have not and very likely cannot be addressed. It will be very difficult to forge a more effective disputes settlement in negotiations involving more than 90 parties.

The trade bill's unilateral enforcement procedures for unfair trade practices will help to bolster the GATT. But, these unilateral measures may themselves precipitate a GATT dispute as other nations challenge U.S. retaliation as inconsistent with the GATT.

Further, the rest of the world is increasingly unwilling to allow the United States to dictate free market principles to them through the GATT.

The European Community—an advocate of the GATT in the past—now seems to be focusing more on its internal market liberalization through the "Europe 1992" talks than on multilateral market opening through the GATT.

Although it may have more to gain from a successful GATT round than any other nation, Japan is not now and has never been an enthusiastic participant in GATT negotiations.

Some of the newly industrialized countries [NIC's]—like Korea—would rather pursue mercantilist policies on the Japanese model than be further restricted by the GATT.

Finally, a number of developing nations, in particular Brazil and India, would prefer to keep their domestic markets closed instead of being subject to further GATT discipline.

Only the United States and a few of its closest allies appear truly committed to the GATT process.

A commitment by the United States may have been enough to move the GATT in years past, but we no longer have that kind of economic and political power. Given that the GATT works by consensus, intransigence on the part of even one major trading partner can cripple the negotiations.

As the results of the Toronto summit on agricultural trade indicate, other nations are ready, willing, and able to block U.S. trade initiatives. Other major trading nations—especially Japan, Korea, and others—do not share the United States commitment to the market principles enshrined in the GATT. They are also increasingly unwilling to have those principles imposed upon them through multilateral negotiations.

ONE TRACK MINDS IN A TWO-TRACK WORLD

Unfortunately, many in the U.S. Government and the U.S. trade community are blind to the weaknesses of the GATT.

New approaches—like the one we are today approving with Canada—have been criticized by some as undermining the GATT.

But we must break from this mindset. As Pat Choate of TRW wrote:

> While multilateral talks drag on, the United States misses opportunities for international economic cooperation and trade expansion. The new reality is that a multilateral world requires more options, both inside and outside the GATT, than multilateral negotiations provide. * * * Indeed, GATT's inability to change has made the agreement not merely an obstacle, but a threat to expanded world trade.

I would not go as far as Mr. Choate in condemning the GATT. I do see a role for the GATT in the future of U.S. trade policy. But I do agree that the current mindset toward the GATT has become a barrier to true progress.

A NEW STRATEGY

We must continue to work through the GATT. But the United States must also aggressively look to bilateral and plurilateral agreements with major trading partners as an alternative method of attacking U.S. international economic problems.

Further, the United States must look to broader economic agreements; agreements that address not only trade rules but trade volumes, exchange rates, and other economic issues.

In a bill I recently introduced—S. 2696, I proposed that such an agreement be negotiated with Japan.

I proposed a sweeping economic agreement—much more extensive than the Canada agreement—that would set the stage for a new level of economic coordination between the world's two largest economies—the United States and Japan. The basic concept would be establishing an international economic coordination process between the United States and Japan akin to the G-5—a sort of G-2.

But the G-2 would be more extensive than the G-5. It could address the trade deficit problem, coordinate economic policy, stabilize exchange rates, and address the unequal security burden between the United States and Japan.

And Japan is not the only possible target for a bilateral agreement. Mexico, the NIC's, and other nations are all potential negotiating partners.

THE ADVANTAGES OF BILATERAL AGREEMENTS

Although multilateral trade agreements have certain theoretical advantages over bilateral agreements, bilateral agreements have practical advantages over multilateral agreements.

First, bilateral negotiations can be concluded more quickly than multilateral negotiations. The old rule that "the fewer parties at the table the faster the negotiations" is borne out in international trade negotiations.

As the FTA negotiations demonstrate, significant progress is possible in a relatively short time. The FTA negotiations took about 16 months while the last round of GATT negotiations lasted 6 years.

Second, bilateral negotiations provide a more flexible forum for addressing economic problems. The next generation of international trade agreement must go beyond simple rules on merchandise trade and address broader international economic problems.

But, as the current GATT round demonstrates, it is very difficult to convince some nations to negotiate an agreement that goes beyond the merchandise trade. The United States has had to fight merely to get such issues as the trade in services, investment flows, and protection of intellectual property on the agenda, and an actual agreement on these issues still seems out of reach.

As the FTA demonstrates, bilateral agreements can be concluded to address issues like the trade in services and the flow of investment. Bilateral agreements could be used to address a myriad of problems ranging from exchange rates to distribution system reform that are probably beyond the scope of the GATT in the foreseeable future.

But perhaps the major advantage of bilateral agreements is that success is possible. Bilateral negotiations give the United States an option to break the multilateral deadlock. The United States merely chooses those nations that are willing to negotiate and enters into negotiations with them.

RELATIONSHIP TO THE GATT

Strange though it may at first sound, these bilateral negotiations actually improve chances for successful multilateral negotations.

Our trading partners can now safely drag their feet in the GATT round because it is effectively the only game in town.

But when it becomes apparent that the United States is willing to actively pursue its economic interests in bilateral agreements—agreements that potentially shut out the foot draggers—then U.S. leverage in the GATT is increased.

In other words, bilateral negotiations with Japan are not only a way of addressing our economic problems with Japan, but a way of reinvigorating the GATT.

Further, a sweeping bilateral agreement with Japan would be an excellent stick to keep the EEC from slapping up protectionist walls as it proceeds with "Europe 1992." As Robert Hormatz recently write:

> * * * There is a risk nonetheless that intra-European deals will be made in important sectors and that regulations will be written to the advantage of European companies at the expense of foreign trading partners.

Ongoing bilateral negotiations between the United States and Japan would remind the nations of Europe that they are not the only ones that could move toward a closer economic union.

A NEW OPPORTUNITY

We have in front of us concrete evidence that bilateral negotiations can yield results: the United States-Canada Free-Trade Agreement.

I do not believe this is a perfect agreement. It clearly has weaknesses. But it is progress—more progress than we have seen in some time.

I hope that the next President can establish his trade strategy based upon a realistic assessment of the United States needs and of the opportunities available.

In order to dig out the deep economic hole that we are now in, the next President should pursue a flexible strategy. He should put a very high priority on both bilateral and multilateral economic negotiations. The President should then shift resources to the avenue that is demonstrating results—whichever that may be.

The world today is not the same as the world that existed after WWII. The United States no longer has the raw political power to force the GATT along on its own.

We cannot put blinders on and ignore the new avenues for progress that present themselves.

As Dr. Paul Kennedy wrote:

> In all the discussions about the erosion of American leadership, it needs to be repeated again and again that the decline referred to is relative, not absolute, and is therefore perfectly natural, and that the only serious threat to the real interests of the United States can come from a failure to adjust sensibly to the newer world order.

THE IMPACT OF THE FTA ON MONTANA

Given the long border that Montana shares with Canada, it is not hard to see why the United States-Canada Free-Trade Agreement is a major concern to my State. I would like to discuss the impact that the agreement is likely to have on my State, and to describe the negotiations that went into various provisions in the implementing legislation that are of interest to Montanans.

IMPACT ON MONTANA

As a member of the Senate Finance Committee, I was closely involved in the deliberations over the agreement. In January I voiced strong opposition to the FTA because—as it was presented to Congress—the agreement contained weak language regarding the way Canada subsidizes its domestic industries. This was a significant flaw in the agreement because it would not promote free trade. Instead, the agreement would have institutionalized the Canadian subsidy system, and that would have placed a number of Montana industries at a severe competitive disadvantage.

Non-Ferrous Metal: The United States nonferrous metals industry, including the lead smelter located in east Helena, face Canadian competition. As part of its effort to encourage the development of industries in the western Provinces, the Canadian Government has provided heavy subsidies to the Canadian nonferrous metal industry. These subsidies gave Canadian nonferrous metal producers an unfair advantage over their United States counterparts. The U.S. tariffs on metal imports partially offset the impact of these subsidies. By not eliminating the Canadian subsidies and eliminating the United States tariffs, the FTA put the United States nonferrous metals industry at a significant disadvantage.

Plywood: Both the United States and Canada impose high tariffs on plywood imports. Canada, however, also imposes a number of purely discriminatory standards that effectively block United States plywood from being sold in Canada. Canada agreed to reconsider these standards as part of the agreement, and the United States reserved the right not to lower the tariff on Canadian plywood until the standards were eliminated. Early this spring, Canada decided not to eliminate its plywood standards. Thus, Montana plywood producers were threatened with a situation in which Canadian plywood could be sold in the United States, but United States plywood still could not be sold in Canada.

Wheat: Both the United States and Canada have laws on the books to restrict wheat imports in order to maintain a price support system for its farmers. Canada has had such restrictions in place for a number of years, but the United States has not actually had such restrictions in place for several years. The FTA addressed this issue very poorly. It did not require a definite elimination of the Canadian restrictions, but, according to the administration's initial interpretation of the FTA, it did restrict the use of section 22 by the United States. This provision was of great concern to United States wheat producers because wheat imports from Canada had been increasing rapidly over the last 3 years.

Coal: The problem faced by the coal industry was in many ways similar to the problems of the nonferrous metals industry. Canadian coal and electricity production is subsidized. Although the United States is a significant coal exporter to Canada, the United States industry was concerned that the subsidies could result in increased imports.

BAUCUS EFFORTS

Working close with Finance Committee Chairman LLOYD BENTSEN and the ranking Republican on the Trade Subcommittee, JOHN DANFORTH of Missouri, I convinced my Senate Finance Committee colleagues and the administration to address these problems in the implementing legislation for the agreement.

Non-Ferrous Metals: Senator DANFORTH and I prepared a provision for the implementing legislation that addressed the problem of Canadian subsidies. Our provision had three major sections: First, negotiating objectives and direction for further negotiations to eliminate subsidies, second, a provision to terminate the agreement if progress was not made toward eliminating subsidies, and third, an interim procedure to monitor Canadian subsidies and impose offsetting duties or take other action under United States trade law to counter any subsidies that were identified. This provision was especially drafted for the nonferrous metals industry.

Plywood: Under pressure from myself and several other Senators, the administration agreed not to lower the tariff on Canadian plywood until the Canadian standards were eliminated. Shortly after the administration announced this decision, Canada agreed to establish a joint panel of experts to harmonize all standards and regulations affecting plywood.

Wheat: The administration agreed to an interpretation of the terms of the agreement that allows the United States to reimpose section 22 restrictions on Canadian wheat if it threatens United States farmers. The United States Government also promised to take further action aimed at eliminating Canadian restrictions on United States grain exports to Canada.

Coal: The problems of the coal industry can be addressed using the same provisions described in the nonferrous metals section.

CONCLUSION

Several months ago, I thought it was unlikely that I could support the FTA. The agreement threatened to have a negative impact upon several key Montana industries. And because the agreement was not tough enough on Canadian subsidies the agreement did not fully promote free trade.

However, after months of negotiations with my Senate colleagues and the administration—and valuable comment from leaders of Montana's natural resource industries—the Finance Committee approved implementing language with real "teeth." Using all the legislative tools available, we crafted legislation that will allow the United States to implement the trade agreement—and thus allow both nations to benefit from more open trade—while providing the legal and political means to force Canada to address the subsidy problem.

With the Baucus-Danforth proposal now approved, this is an agreement that I can support. It is now an agreement that works for, not against Montana.

A FINAL NOTE

Talk of "implementing language" and "fast-track authority" may seem no more than legal jargon, and thus of little interest to most Montanans. Yet in the complex world of international trade diplomacy, these and other arcane rules can mean the life or death to whole industries. In short, it means jobs. My effort to make the United States-Canada Trade Agreement work for Montana was based on the belief that more trade means more jobs for Montana. The key is to make sure that the other guy does not try to twist the rules so that free trade becomes a one-way street. Both the United States and Canada will benefit from the Baucus-Danforth amendment because its purpose is to make sure both sides compete on equal ground.

Mr. President, I yield the floor.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time does the Senator from Washington want?

Mr. EVANS. Possibly 20 minutes.

Mr. PACKWOOD. I yield 20 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I listened with considerable interest to my colleague from Montana. His remarks are interesting, provocative, and I would disagree with him on one major point when he suggests that the United States is in a deep economic hole. We may have some economic problems.

The gross national product has never been larger. More people are at work today than ever before in our history. There is a shrinking of the trade deficit which was large and remains large. I think the view of the United States should be optimistic rather than dismal, the future being a productive future rather than an unproductive future, and a future which will come about through the viability and the continued progress of our great private sector.

Mr. BAUCUS. Mr. President, will the Senator from Washington yield just for a question?

Mr. EVANS. I will be delighted to yield. I would be disappointed if there was not a request to yield.

Mr. BAUCUS. I thank the Senator. The Senator is correct that the gross national product is doing well and unemployment is lower than in previous years, but would not the Senator agree that one reason why we are in an economic hole is that the amount of money this Government has borrowed in the last 6, 7, 8 years helped prime the pump, that is, to spur on American economic growth? In this decade we have borrowed about $1 trillion and, sure, the expenditure of $1 trillion in this decade is going to help spur the growth, but the point that this Senator is making, and I ask the Senator if he agrees, is that it is a double-edged sword. In the short-term, all that borrowing might spur growth, but in the long term we are going to have to pay the bills. Would not the Senator agree that one of the reasons the economy is doing somewhat well is because of the huge amount of debt that we have accumulated from borrowing and spending?

Mr. EVANS. I would say to the Senator from Montana that is another story which deserves debate at another time. It will suffice to say this. As I have said on this floor many times before, you have to be specific as to what you are talking about, as the problem. In this case, we talk frequently about the external deficit and the national debt without separating out which portion of that represents development in long-term capital projects and which portion is just running our Government and governmental operations on borrowed money.

AT&T, during its heyday, borrowed a lot of money. Each year it went deeper and deeper into debt, but it did so in a way which gave them greater earning power, greater capacity, greater prosperity, and greater earnings.

I suggest the true measure of our own situation is whether we are able to handle the debt we have and whether debt service is rising or falling as a share of our GNP.

Mr. BAUCUS. Will the Senator yield for one more brief question.

Mr. EVANS. Surely.

Mr. BAUCUS. It is true after World War II the United States was a net debtor nation, that is, somewhat after World War II we borrowed to finance investment in America. There is a very crucial difference though between our net debtor status today and those years. In those years the foreign borrowing was used for plant and equipment, roads, and the Federal Government deficit was used for infrastructure and for plant and equipment, whereas most debt today is used to finance services or to pay off bills. I think the quality of the borrowings is different and as a consequence it is going to be harder for America to repay the debt we are now incurring.

Mr. EVANS. I should say to my colleague in fact I am not sure that I want all of this exchange to come out of my time, but nonetheless I am not so sure that there is anything more than a subjective difference. Investment of other countries in the United States in job-producing, permanent investments has increased. That is not all bad. Just as we have invested in other nations over the years, we are integrating more fully into the world's economy. I think that is certainly one of the major moves toward world peace because to the degree we have an investment and a financial stake in each other we are much less likely to fight each other.

I would be delighted at some future time to debate at greater length this concept of whether or not we are in a good and growing economic time or whether we are in economic peril. Perhaps I might even go back and refer to what a former President of the United States talked about during his campaign for election. He said that the measure of economic progress or lack of it was the so-called misery index. The trouble is that the misery index at the time he ran was 13 or 14 percent, a combination of the unemployment and interest rates. By the time he had been in office for 4 years it was 20 percent, and today it is less than 10 percent, the best record we have had in many years. I think this, more than anything else suggests that the misery index of this Nation has been lowered dramatically by this administration and that is a pretty darned good record. It is the kind of record that should suggest reelection of that administration, but that is off the current point. Let me, Mr. President, return to my remarks and my time.

Washington State has had a long relationship with the Government and people of Canada. The closest large urban center to the city of Seattle is not Portland, OR, but, rather, Vancouver, BC. Trade, people crossing the border, and close political ties all have given us a strong relationship between the province of British Columbia, the State of Washington, and our two nations. In fact, even preceding Canada's independence, at a time when we had some conflict in the Northwest, we engaged in perhaps the only war in history in which no one died but a pig. The famous pig war of the San Juan Islands was a potential conflict of major proportion for the British and the Americans. With armed encampments on the San Juan Islands, both worried about the problems of a border dispute. They finally took it out on a poor pig that wandered from an American garden into a British garden. That pig, fortunately, was the only casualty. Since, then, the United States and Canada have enjoyed the longest free border, both in mileage and in time, with the strongest relationships across that border of any two nations on Earth.

Mr. President, I suggest that in spite of the major proportions of the comprehensive trade bill of earlier this session, in the long run, 10, 20 or 50 years from now, this implementing bill for the free trade area will be looked upon as the single most important act of the historic 100th Congress. This bill has extraordinary historic significance. First, in the process with which we debated and developed this bill. It is a free trade agreement which comes to the Congress under the fast-track procedure. It means we cannot at this point further amend it. We cannot insert every little particular problem that we have as individual Senators who are representing individual States. This bill, the implementing bill of the historic agreement itself, was negotiated before presentation to this Congress. The bill's provision and accompanying statement of administrative action were negotiated by leaders on both sides, the House and the Senate, and by the administration. There were compromises to be sure. But when the bill came before us it came before us as a developed piece of legislation, we have the opportunity and privilege of debating it in its entirety. This means we must debate the fundamental concepts of whether or not we want to enter into a free trade agreement with Canada.

The omnibus trade bill, on the other hand, was one subject to hundreds of amendments and thousands of pages. It is a fine example, I would say a fine example, of Congress in its usual operation. This free trade agreement is Congress acting in an exceptional way, and that exceptional way allows us to concentrate on principle, on overall relationships rather than our own independent and particular problems.

Canada not only shares a border with the United States, the longest contiguous border in the world, the most open and most peaceful, but Canada has been a strong ally in World War II and is today. Canada is a strong member of NATO and shares with us those military responsibilities and has a special defense relationship with the United States. This free trade agreement does not represent a marked or radical departure from the past or the present. Mr. President, instead, it deepens and strengthens already strong and dynamic economic relationships.

A few facts need to be set forth. We are the two largest trading partners in the world—$163 billion of two-way trade in goods and services in 1987. We fret and worry and wring our hands about the trading relationships with Japan and with other countries, but the largest trade flow occurs across the United States-Canada border with our neighbors to the North.

We export over twice as much in merchandise to Canada as we do to Japan, which has four and a half times as many people;

From the United States standpoint, Canada takes 24 percent—about one-quarter—of our merchandise exports, and Canada supplies about 17 percent of total United States goods imports;

If the FTA is approved by both countries, we will form an extraordinary economic relationship. The total population of the two nations is 271 million. China of course is larger. The total land area will be 7.4 million square miles; the U.S.S.R. is larger than that combination. But the total gross national product, the total economic productivity of the United States and Canada together is about $5.2 trillion in current dollars. That is not only larger by far than other country on Earth, but is larger than the European Economic Community. It will make this combination the largest and most productive trading unit in the entire world.

The FTA in the economic area builds on what we have accomplished in other noneconomic areas during the past century. We have coordinated water and navigation development on the St. Lawrence Seaway; and the coordinated efforts in the Great Lakes. We have joint national parks across our borders increasing environmental relationships, and the boundary dispute settlements have been settled rather amicably since the early 1900's.

This agreement in my view, will be shown to be consistent with GATT, which is an important consideration. The tension between a bilateral system, between two nations or groups of nations, and a multilateral system which GATT itself attempts to handled have always existed. They have always existed outside and inside of GATT. But his relationship I believe will be considered by GATT and the nations who are negotiating the new round as positive because they help liberalize trade, are comprehensive in nature, and do not openly discriminate against third parties.

These are the concept which make this such a positive agreement. We have a long and checkered history in terms of trade between the United States and Canada. We first negotiated a reciprocity agreement in 1854. It covered mainly a reduction of tariffs on natural resources but the United States shortly after the Civil War unilaterally abrogated that agreement in 1866 in a fit of protectionsim for our manufacturing sector after the Civil War.

Canada then moved in response in 1879 to a nationalist and protectionist course of protecting its growing manufacturing industries. This pattern became familiar in later years. Canadians negotiate freer trade than the United States in which the United States has a relative lack of interest, and the nationalist and protectionist policies and forces in Canada then stir up anti-American sentiments and stress Canadian particularism through political campaigns. The first real attempt at a board trade agreement with the United States was initiated on the Canadian side in 1911 by a government headed by the Liberal Party. The Senator from New York, the senior Senator from New York, spoke eloquently on that piece of American and Canadian history.

The Conservative Party challenged the liberals at that time in an election on which free trade was a major issue. The Conservatives won, they scrapped the proposed reciprocity agreement, and that was the end of that.

Following the Smoot-Hawley Tariff Act of the United States in the early 1930's, the Roosevelt administration convinced Congress to give the broad authority to negotiate reciprocal trade agreements bilaterally with countries in order to lower the high tariffs of that era. Agreements were negotiated with Canada in the mid- and late 1930's. After the close working relationships in World War II, we began the postwar era. Secret negotiations were conducted by then Prime Minister Mackenzie King for a free trade area with the United States but were abandoned and never publicly pursued.

Now, finally, a new administration, a relatively new administration in Canada under the courageous leadership of Prime Minister Mulroney, has stepped forward to suggest that freer trade with the United States, and greater economic relationships were in the best interests of Canada, of the United States, and of the North American continent. That is interesting. It was a reversal of historic roles in Canada, the liberals and the conservatives changing their position that has led to the current proposed free trade agreement, and I might say that the positions of U.S. political parties have reversed as well, although I believe we will see a strong bipartisan support of this issue. But it is a Republican administration, in contrast to the Republican Party of 50 years ago, who believe now that free trade and the extension of free trade with Canada is in the best interest of both nations.

The turning point really was the so-called Shamrock summit in March 1985 in Quebec between President Reagan and Prime Minister Mulroney. It set both countries on a track toward a free trade agreement, directing their respective trade officials to come back within 6 months on the prospect.

I think it is extraordinary that just 3 years later those negotiations have been concluded. We view today's situation; a free trade agreement signed by the President and the Prime Minister; the agreement approved by the Canadian House of Commons, and by the United States House of Representatives, and I am confident this evening by the Senate of the United States.

Mr. President, the United States is predominant in this unique relationship due to our huge economy and enormous market. Canada has one-tenth of our population and one-twelfth of our GNP. It makes this a uniquely political issue in Canada. Particularly sometimes the lack of United States sensitivity toward Canadian concerns and outright abrogation of our obligations as occurred 100 years ago has forced a national political response in Canada and changes in a political party. But trade and investment generally are evolutionary in nature. They have been steadily growing, despite the ups and downs in trade negotiation. With greater trade and investment flows, the desire for predictability and for certainty also grows. That is precisely what this free trade agreement is designed to bring about.

Let me speak about only one major element of this free trade agreement because others have spoken and will speak on many of its specific provisions. Tariff reductions begin from the current state where Canada has an average of almost 10 percent tariffs on deductible imports from the United States while the United States has an average of 3.3 percent on Canadian imports. There are many U.S. sectors, however, that will benefit from these tariff reductions either on an immediate, on a 5-year, or on a 10-year phase-out, with all tariffs under this agreement being phased out after 10 years.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EVANS. Mr. President, I wonder if the Senator from Oregon will yield me 10 more minutes.

Mr. PACKWOOD. Mr. President, I am happy to yield 10 more minutes to the Senator.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. I thank the Chair.

The sectors that will benefit from these decreases in tariffs are the furniture industry, computers and peripherals, telecommunications products, and printed products such as catalogs and aluminum products. Several of these are of particular interest to the Northwest and to the State of Washington. Estimates are that United States exports to Canada should grow by about $2.4 billion and Canadian exports to the United States by $1.1 billion through the complete elimination of tariffs. That is of extraordinary interest to both sides.

Let me speak specifically only of one major area of this particular agreement, and that has to do with energy, because it does affect the Pacific Northwest far beyond the population of our part of the country. Our two countries already have the world's largest bilateral energy trade—about $10 billion a year. In recent years, Canada has become our largest oil supplier. We think of the OPEC nations and we think of Mexico and we think of others, but it is Canada which has become our largest supplier. Canada also supplies almost all our natural gas, and electricity imports are steadily growing.

Canada is our largest coal export market, accounting for 20 percent of our total coal exports. It is a highly integrated market today and is becoming more so. In the past, it has been subject to a high degree of government intervention on both sides, especially during the 1970's.

We ought to learn from the past and build certainty and predictability. Chapter IX, the energy chapter of the FTA, does that in a very historic way.

I mentioned the importance of energy trade to the Pacific Northwest. I remember very well in the early 1970's, when I was forever, during the two oil crises we faced, that the Northwest suffered a sixfold increase in the price of natural gas from Canada virtually overnight. As you can tell, that disrupted energy supplies and sources for years after that date.

Nondiscrimination and proportionality represent the basic elements of the energy chapter. It means that if supplies are reduced in any country, they must be carried out on a nondiscriminatory and proportional basis to domestic as well as to foreign users. It means that United States customers must be treated like Canadian customers of a Canadian energy supplier.

It builds a consultation mechanism for discussion of regulatory matters while preserving the institutional sovereignty of regulatory bodies in each country.

In the field of uranium, it exempts the United States from Canadian upgrading requirements. We in the United States exempt Canadian uranium from potential import restrictions under section 161(v) of the Atomic Energy Act. This became a controversial legislative issue this year during debate on S. 2097, free comprehensive uranium bill reported by the Energy and Natural Resources Committee. Senator BRADLEY and I lost by a very narrow margin with respect to an amendment earlier this year to delete such import restrictions from that bill. But the administration, the House, and the Senate have not been able to resolve this issue in this Congress, although I believe the administration made a good-faith effort to do so.

I am glad that no uranium-restricting legislation was attached to the FTA implementing bill, since I do not think it is appropriate for use to attempt to do that under the fast-track process.

The Bonneville Power Administration has a growing interrelationship with Canadian energy suppliers. This free trade agreement does not alter existing law with respect to the operation of the mainstem Columbia River dams and the marketing of their power by BPA. BPA is required under United States law to give preference to in-region customers and has an obligation to market its power first and fulfill its financial obligations to the Federal Government; but the existing intertie access policy has been changed to reflect the principle of national treatment for Canadian utilities like BC Hydro. They will be treated in the same fashion as any other out-of-region utility is treated in its relationship with the BPA.

Finally, this agreement does not require new negotiations between Canadian utilities like BC Hydro and Bonneville for a certain purposer or require that certain utilities be present at any negotiating table. I believe it encourages such negotiations, which have taken place in the past and are taking place now, and urges them to come up with solutions in the spirit of the agreement. In other words, it states that each side should consider all, whether on the Canadian or United States side of the border—as national entities; all, in essence, part of the same pot.

I said earlier, Mr. President, that others would speak of the benefits of this agreement in terms of investment, in terms of tourism, in terms of the opportunities for professional organizations—architects, engineers, and other professionals across the border—in terms of financial services.

Let me mention one in particular, because it does have a uniquely large impact on the State of Washington, and that is the discriminatory pricing and listing practices toward United States wine in the provinces of Canada. It would eliminate that discriminatory situation over a 7-year period. I believe it will result in an increased market for United States products in Canada. Washington State wines, particularly, will be able to take advantage of this, especially in British Columbia and Alberta.

It establishes a joint Canada-United States Trade Commission to handle complaints, led by a ministerial-level Trade Representative in each country and the use of a formal dispute settlement if the Commission fails to reach a resolution of the problem.

Consultation groups are set up, and this bill emphasizes consultation, mutual discussions, and the rule of law as the principal basis of resolving our mutual differences, instead of the former unilateral and domestic-driven actions which have exacerbated trade ties between our two nations.

This is extraordinarily important. If we succeed in this, it will have an important lesson for the other members of GATT and important lessons for this GATT round. It helps us for the rule of law, the rule of certainty, which is to the benefit of all of us.

There are places where we might have done better. I was disappointed that the transportation sector had to be deleted from the agreement due to the inordinate political influence of the maritime industry in the United States. The USTR had proposed a very modest proposal for liberalizing maritime laws in both countries. That proposal was to grandfather the existing structure and coverage, under the Jones Act, while proposing new rules for new vessels and structures.

Agricultural policies were sort of a mixed bag. I am glad that the agreement eliminated the westbound subsidies for subsidies, which are commonly called crow's-nest rates; but the other issues have proved more intractable, and they will have to be resolved in the GATT round.

However, this was never put forward as a perfect agreement. This was put forward as the beginning of a new and expanded, healthier relationship between the United States and Canada, and I believe that is exactly what will happen.

In conclusion, let me restate that the Northwest has had, particularly with the Western Provinces of Canada, close and harmonious relations with Canada. This is a unique opportunity, a remarkable time, when both sides and the leaders of both countries are arguing the case for freer trade. The last time such an opportunity presented itself was 1911. If we fail now, it may not come again for another 50 to 70 years.

Let me turn to two personal congratulations.

First, to the President of the United States. I am not sure that anyone would have predicted, before his taking office as President, that President Reagan would prove to be such an extraordinary supporter of free and broader trading relationships around the world.

He had courage and foresight in carrying forward this agreement. It could be his most lasting contribution to trade liberalization during his Administration.

His counterpart to the north, Prime Minister Mulroney, has shown equal courage and determination. He stepped forward with a proposal in 1985, knowing full well that it would be not easy, that he would not immediately have strong support from the political interests in Canada. He recognized full well the intensely personal and political nature of the people of Canada and the delicate history of trade relationships. In spite of this, he went forward with the talks with the Canadian side making the initial proposal.

The two of them in the March 1985 Shamrock summit moved swiftly and strongly toward concluding this trade agreement.

I believe both are to be commended and will be commended by history for their courage and for their foresight.

I predict not only this agreement will be an extraordinary success but that we will be looking soon at the next element of this free trade agreement: freer trade with our neighbor to the south—Mexico. Mexico is a big and important neighbor, approaching 100 million in population and with a gross national product already among the top 20 in the world. Such an agreement will perhaps take a long time to conclude. But the example we make with a successful carrying out of the United States-Canada Free Trade Agreement will be very important in expanding it beyond our two countries.

Mr. President, let us pass this agreement with an overwhelming vote today, fulfill our side of the bargain as the House of Representatives has done, show that we have a strong interest in freer trade with Canada, and put the burden of approval on the Canadian Senate.

This will send a challenge to Canada, and I strongly believe that they will respond likewise. They are committed to calling an election. The Canadian people will ultimately decide this question. I believe they will decide to move more closely to the United States rather than further away from the United States.

We should respect whichever decision the Canadians make, but we should extend the open hand of broader and freer trade and closer relationships with our long-time friends to the north.

Finally, let us send a positive signal to the world that the two largest trading partners in the world can cooperate and work together for freer and broader trade. I believe our success will have a ripple effect on other nations during the current Uruguay round of GATT. It may well be the most significant push of this century toward a worldwide trading relationship that will aid all countries who participate enthusiastically in it and very likely could have the largest impact toward peace in this next century.

I yield the floor.

The **PRESIDING OFFICER**. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, we are waiting on the majority leader to be here. He will be here in a minute.

In the meantime, I may suggest to those who are in their offices monitoring the proceedings, that if they do wish to have time in speaking on this agreement they should call the Cloakroom to indicate their wish, and we have, of course, until 5:30 this afternoon at which time there will be a final vote for an hour.

Mr. President, I yield to the distinguished majority leader for whatever time he may wish.

Mr. BYRD. Five minutes.

Mr. MATSUNAGA. Five minutes.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Hawaii [Mr. MATSUNAGA].

I feel a little tinge of sympathy for him in view of the fact that he only got 82 percent of the vote in Hawaii's primary last week. I am sure he wonders what happened to the other 18 percent.

I congratulate him. That will probably be the record around here.

Mr. President, I am pleased that today the Senate will be voting on the legislation needed to implement the United States-Canadian Free Trade Agreement. I take this occasion to thank Mr. BENTSEN, Mr. PACKWOOD, Mr. MATSUNAGA, Mr. BAUCUS, and all the members of the Finance Committee on both sides of the aisle for their persistence and for the good work that they have done in this regard.

This historic agreement signed by President Reagan and Prime Minister Mulroney of Canada on January 1, 1988, represents a most comprehensive trade agreement between two countries that has ever been reached.

Not only does the United States and Canada have the world's longest unarmed border but they are also the world's largest trading partners. Their total trade in 1986 amounted to over $166 billion.

This agreement breaks new ground as it will in 10 years eliminate tariffs on merchandise trade and import and export restrictions and establish new mechanisms to deal with bilateral trade issues. This liberalization of trade laws and regulations will benefit both the United States and Canada. This trade agreement will also benefit my State of West Virginia.

In 1986 West Virginia exported goods worth over $256 million to Canada while importing approximately $174 million worth of goods. Therefore, the State of West Virginia enjoyed a trade surplus of over $82 million with Canada.

The major components of West Virginia trade export to Canada are coal, $70 million; chemicals, plastics, and other chemical products, $90 million; aluminum, $13 million; and motor vehicle and aircraft parts, $24 million.

So as we can see many of West Virginia's major industries are major exporters to Canada. West Virginia's ties with Canada go well beyond trade. For instance, the $4.3 billion of Canadian investment in West Virginia has already generated 15,000 new jobs.

Canadian visitors to West Virginia spent over $5 million in the State in 1986.

Concerns were raised in West Virginia originally on the agreement's potential impact on these exports and on potential imports that could be detrimental to our major industries.

The primary concern raised was by West Virginia's coal industry. The industry while enjoying the greatest amount of export to Canada was concerned about how subsidized Canadian electricity imports would affect their business domestically.

I am pleased that my colleague from West Virginia, Senator JAY ROCKEFELLER, was able to secure from his standpoint, from his position on the Finance Committee an agreement between the United States Government and the Canadian Government that they would work together to produce a comprehensive study on the subsidization of Canadian electricity and provide the needed information to determine whether further action is needed. Due to the agreement between the two Governments, both the National Coal Association and the West Virginia Coal Association are endorsing this agreement, as are other West Virginia major exporting industries.

I believe that this agreement will be to the benefit of both the United States and Canada, and very importantly, I believe that it provides an opportunity for West Virginia's industries to grow, export more West Virginia products, and create more jobs for West Virginians.

I again thank my good friend, SPARKY, for the leadership that he has demonstrated and for his good work, and I thank all Senators.

I yield back the remainder of my time, if I have any left.

Mr. MATSUNAGA. Mr. President, I thank the distinguished majority leader for his great statement.

And I thank him for congratulating me on my primary victory. I recall that in 1982 when, in the general election, I won by 82 percent, he came over to me on the floor and he said, "Well, SPARKY, I see that you won by 82 percent."

I said, "Yes, I did."

"Well," he said, "it seems to me that you have yet to take 18 percent of Hawaii's population for lunch," as I have a reputation for taking constituents to lunch.

Mr. PACKWOOD. I yield 20 minutes, Mr. President, to the Senator from Idaho.

Mr. SYMMS. Mr. President, I must say that the managers of the bill are very prompt. I thank them for this good luck that I had to walk onto the floor and be yielded time immediately.

Mr. President, I compliment the Senate Finance Committee and members of the committee on both sides of the aisle who have worked on this free trade legislation and have worked very closely with the administration on the Free Trade Agreement.

I have been involved personally with this issue since back in 1985 and 1986, when I was a member of the Finance Committee, with respect to the timber problems that we faced with subsidized stumpage from Canada. And I thought that Dr. Yeutter and then Secretary Baldrige worked out a reasonable solution with the Canadians on making a fair or at least a more level playing field for American timber producers vis-a-vis their counterparts north of the border.

Of course, those of us in the Pacific Northwest, where the distinguished ranking member, Senator PACKWOOD, and I come from, and Senator EVANS, who recently gave an excellent speech on this matter on the floor, are very sensitive to those people in the wood processing industry because so many people's livelihoods depend on it.

We have a situation in the Pacific Northwest where the Federal Government has a monopoly on the ownership of the softwood timber. Those producers, those wood processors, who are private enterprise wood processors, have to buy through a Government monopoly to get timber supplies. I have said many, many times that if Weyerhaeuser or Boise Cascade or Georgia-Pacific or Louisiana-Pacific owned all of that softwood timber, as the U.S. Forest Service does, the Federal Government does, if they sold it in the same fashion and made it as hard to buy as we have done through Government rules, regulations, laws, and so forth—and some for good reason, I would concede that point—but I am certain that we would have a case by the Justice Department on antitrust restraint of trade—the fact that there is plenty of timber out there but the private enterprise wood processors cannot get it. They make it so difficult through the bidding process, through the costs that go into the roads, so on and so forth, that it makes it very difficult to keep competitive.

So we had this problem when we started this free trade agreement in the Senate Finance Committee. I think it was resolved very well. I compliment Senator PACKWOOD, who was then chairman of the committee, and others on the committee for working with me to help that become a reality.

I might also say, Mr. President, that back in 1976 when I was a member of the other body, I was one of three members of the House that supported then Governor Reagan in the primary when he ran unsuccessfully for President in 1976. I recall very vividly, when he spoke in Boise, ID, during that campaign, that he called in 1976 for a North American Free Trade Agreement. In his campaign in 1976, he was talking about a North American free trade zone, including Mexico, the United States, and Canada.

Well, there is an old saying in politics that you always fly higher in a campaign than you can once you get in office. And I think all of us on both sides of the aisle recognize that that sometimes is the truth.

But I think this is the end product of a lot of long, hard work by many, many people in both political parties. Certainly it is a fine achievement by President Reagan because it is a vision that he had 10, 12, 15 years ago, that we should be expanding trade in our own continent with our neighbors, both to the north and the south, because trade is a way for us to help people without adding the cost of goods and services to people and that on both sides of a trade agreement people can enjoy better wealth and better opportunity because trade makes both sides more wealthy.

So I am happy to be here today, having watched this and worked with it. It is not a completely perfect agreement, but I think, by and large, it is a good agreement.

I rise in support of the Free Trade Agreement between the United States and Canada. It is a first step toward, I think, a goal of a North American Free Trade Agreement which would be very healthy for us and for our neighbors both to the North and South.

If the difficulties that I see still unresolved by the agreement can be corrected, this trade agreement could be one of the most historic and beneficial trade agreements ever hammered out heretofore in history, because the potential is tremendous.

There are still some problems, but the potential for increasing the standard of living for all Americans and all Canadians is immense in the macrosense. Our two nations already share the world's longest undefended border. We share a common political and legal heritage. Our mutual trade is the greatest in the world, even as impeded as it now is by trade restrictions and tariff regulations.

In the big picture of things, Mr. President, there is just no reason why our two countries should not eliminate all economic barriers between the producers and the consumers on both sides of the border. Now, that is much easier said than done. It is true if we would eliminate all the barriers, the greater productivity in economic efficiency would have the potential to make everyone better off.

But there are some of the problems that are left—subsidies on both sides of the border. For example, as I mentioned at the outset of my remarks, these problems are very, very difficult when we in the United States, for example, with respect to our timber, allow a government monopoly to control how much timber is marketed and force the private enterprise wood processors to compete against each other. When one person owns all the timber supplies to sell, it has been a very difficult thing.

The way the Canadians do it, with their vast Government ownership, is a different methodology. It turns out that amount to a stumping subsidy. But there are other problems still left. That is one problem that is resolved, and I think we still have other problems to resolve with respect to agricultural subsidies that need to be continued to be worked on by the trade people in the administration and the next administration and the next administration from that, aggressively, so that they can be worked out so that this trade agreement can, in fact, work out.

The Canadian House of Commons has approved implementing legislation for this agreement. The Senate of Canada, however, has indicated that it will not grant final approval until after the Canadian people have spoken in a general election.

There is serious political opposition to the Free-Trade Agreement in Canada. There is profound opposition to this agreement in the United States also. The reason for opposition is just as clear and easy to understand as the economic potential for great benefits: the Free-Trade Agreement will cause a reallocation of economic resources between our two countries, so that each national economy will become more specialized and efficient in producing and trading those commodities and services in which each of us has a comparative advantage.

This is what has long ago happened inside the United States and inside of Canada. We all understand the adjustment pains of the movement of industry from the Rust Belt to the Sun Belt, and the adjustments as our industrial productivity has improved and we have created more and more high-technology service jobs to replace lower technology industrial jobs.

The economic adjustments that must occur will not make anyone happy who will have to make an adjustment. It may sound good in theory and look good in theory, but if you are the person, you are the family that has to be part of the adjustment, it is not done without difficulties and trauma and some personal sacrifice on the part of the many people.

The fact is the potential is there that it could even make some people temporarily worse off instead of better off.

So, none of us should be so full of positive words about the Free-Trade Agreement that we become insensitive to the real economic problems the Free-Trade Agreement will create in the transition years. The "transition years," moreover, will last a long time—much longer than the period of phasing in the tariff reductions and the subsidy reductions that are actually addressed in the agreement.

I am speaking here today as a supporter of the Free-Trade Agreement. I believe it is in our overall interests that this pass and that it be ratified. It is in the best interests of the people I represent in my State and of the Nation.

However, I do think that there can be serious problems in this adjustment process for individual people and we should not be blinded to that effect.

I believe the free market system is the best way to produce social and economic justice—and politics and politicians most of the time do not produce more justice and equity with all the regulating and meddling we do, in the interests of our constituents.

We try, and I do not fault people for trying, but I do not think that we always produce as much equity and justice as the free market does. I am a firm advocate of free markets, and the people of Idaho are advocates of the free market.

Idaho is distinguished for being one of the most agriculturally dependent States in the Nation—fourth in terms of percent of jobs supplied by agriculture. Yet, Idaho agriculture is very different from other ag-dependent States. Eighty percent of our farm production—by value—is not subsidized by the Federal Government. While most other ag-States are heavily dependent on wheat and feedgrains, cotton, rice, or soybeans, Idaho produces potatoes, onions, dry edible beans, peas and lentils, fresh fruits, beef, and lamb.

In 1987, the Commodity Credit Corporation of the U.S. Department of Agriculture paid out $2.8 billion in wheat subsidies, $14 billion in corn and feed grain subsidies, almost $1 billion in rice subsidies—$906 million—and $1.8 billion in cotton subsidies. It did not make any payments for potatoes, onions, beans, or any of those other crops that make up the bulk of Idaho agriculture.

That is why, Mr. President, Idaho agriculture suffers very dramatically and unfairly when forced to compete against subsidized ag products. The same products that Idahoans produce without subsidy are produced in Canada with subsidies at various levels.

Perhaps the most dramatic subsidy is that offered to Canada's east-bound freight. Idaho producers are now depending on new markets in the Eastern United States. Under the Free-Trade Agreement they will be required to compete with farm production just north of them that is shipped to the eastern seaboard, in part, courtesy of the Canadian Government. But not by their own production. So it is a discombobulation, if you will of the market. It distorts the pricing when those products are then sold in a free enterprise system on the eastern seaboard.

Here in Washington, the transportation from Idaho can make up as much as one-third of the cost you pay for Idaho potatoes. How can Idaho producers be expected to compete against such a significant transportation subsidy?

But that is not the only place we have a problem. Canadian potato and dry edible bean producers also receive direct subsidies from their own National and Provincial governments. These subsidies insulate Canadian farmers from market signals, allowing them to continue producing even when market prices have dropped below production costs. An Idaho farmer cannot continue producing for a prolonged period of time under those circumstances. After all, Idaho farmers must make a profit on their potatoes, or they don't eat. They have no supplemental government subsidy to keep them in business and their families on the land. These people are farming and they are depending on selling into a market.

There are "snap-back" provisions in the Free-Trade Agreement that restore trade barriers in cases where severe market damage is caused by Canadian subsidies. Unfortunately, these provisions are geared to fluctuations in price, not surges in volume. Therefore, if subsidized Canadian sales are strategically targeted at grabbing market share rather than depressing prices, the "snap-back" will be of no benefit at all to Idaho farmers and their piles of potatoes without buyers.

I might say that will have the same impact on potatoes produced in the Columbia basin, in Oregon and Washington. The same problem exists. So, I think we in the Northeast do have a very sensitive awareness of what some of the potential problems are.

As a supporter of the free market, therefore, I am extremely concerned that our negotiators, who under the terms of the Free-Trade Agreement, are committed to continue negotiating about subsidies—that our negotiators will not do enough to eliminate all those unjust and unfair economic subsidies and market restrictions that Canada has set up throughout its economy, both at the national level and the provincial level. My State cannot afford to wait patiently for 5 years while the negotiators say they are working to get Canadian subsidies eliminated gradually—unfair subsidies should be eliminated right now.

If the reallocation of resources that we know must occur under the Free-Trade Agreement is to be done fairly, and in the true interests of American consumers and Canadian consumers—and with fairness to all producers—the Canadian practices that are economically wrong must end. And yes, Congress must take action to eliminate a lot of subsidies and restrictions on this side of the border too. So, this is a two-way agreement. Until this further work is done, however, I am afraid the Free-Trade Agreement is very deeply flawed in ways that could limit its potential for success.

I hope that we can make that case with this administration, with the next administration and so on to aggressively go after those problems on both sides of the border so this agreement will be successful.

Mr. President, whenever negotiators work out a complex international agreement, the temptation is to address only those issues which appear to have the easy solutions. I sincerely fear that the pressure to reach this agreement at the end of last year may just have led to some "path-of-last-resistance" understanding. I am not going to allow, however, that fear that I have and that concern that I have to turn me against the Free-Trade Agreement. But I am here to tell you today that this Senator is going to do everything I can to make up for the path of any least resistance problems in this agreement.

Idaho's agriculture and mineral-based economy suffers when trade barriers prevent us from selling our products in Canada, and the Free-Trade Agreement is helpful to us in that area. But far greater harm may be done to the Idaho economy by the subsidization of Canadian products, and we cannot permit that to happen to the farmers in my State, in Washington State, and in Oregon, or to any economic interest of any Senator's State.

I want to say again to Senator PACKWOOD, Senator MATSUNAGA, and the distinguished chairman, I thank them for their work to make this a successful agreement. I think they have done admirably, but I think we have to have commitment in the Senate from the Finance Committee from the pressure that we can bring to bear on no matter which administration is in office, that we do not take the path of least resistance and leave isolated pockets of American citizens, who are producers without subsidies, at the mercy of a subsidized competitor just north of the border who will be eating away at some of their market share.

All in all, I think this is an opportunity for all of us to make a giant step forward with our biggest trading partner in a direction of allowing free markets to allocate scarce resources through free men working through free institutions in a voluntary fashion and takes us away from the forces of government to allocate those scarce resources.

All one has to do, Mr. President, is to visit the nations where they use the whips and guns of government to allocate their scarce resources and see how they are doing as compared to those countries that, generally speaking, try to allow the volunteer action of people in the free market to free institutions to allocate those scarce resources. I yield the floor.

The **PRESIDING OFFICER.** The Senator from Hawaii.

Mr. **MATSUNAGA.** Mr. President, I rise in strong support of H.R. 5090, legislation to implement the United States-Canada Free-Trade Agreement. In my view, legislation to establish a free trade area between the United States and Canada, the largest free trade area in the world, will, in the future, stand as one of the most notable achievements of the 100th Congress.

Mr. President, exploratory discussions about a possible Free-Trade Agreement between the United States and Canada began in mid 1985 at the request of the Prime Minister of Canada, the Honorable Mr. Brian Mulroney. It should be here recorded, as a bit of interesting legislative history, that in May 1986, I cast the deciding vote in a divided Finance Committee which permitted the negotiations on the free-trade agreement to move ahead on the fast-track process.

The Republicans were in the majority in the Senate then, and to register their protest against the manner in which the Reagan administration was carrying on the negotiations with Canada, four Republican members of the Finance Committee submitted a resolution disapproving negotiations on the fast-track process. Unlike previous administrations, the Reagan administration had been negotiating with Canada without consulting with members of the Finance Committee. On the initial vote, the resolution was adopted by a single vote majority.

After a lengthy telephone call from President Reagan, followed by a conference at the White House, I was convinced that the resolution of disapproval was not in our best interest; and upon President Reagan's commitment to consult with the Finance Committee in future negotiations, I agreed to switch my vote and cast the deciding vote against that resolution.

In retrospect, Mr. President, I believe that my decision to vote in favor of allowing the negotiations to proceed was the right one. The outcome is a landmark agreement, one that will become a cornerstone of America's economic future.

Mr. President, Canada is already our largest trading partner with 1987 bilateral trade in goods and services exceeding $166 billion. This agreement is not going to change radically that fact, but it will establish in law a sound basis to continue that flourishing trade. It will mean expanded trade between our two countries; it will mean more opportunity for producers and consumers, and it will mean greater economic growth for North America. This is a formula for a more competitive America.

Mr. President, in a number of areas, the United States benefits substantially from the free-trade agreement. Foremost among these benefits are the reduction and complete elimination in 10 years of Canada's high tariffs on United States imports. Canada's average tariff level of more than 9 percent is twice that of the United States, but the average tariff level does not adequately explain the distortion that Canada's high tariffs have on trade patterns for particular United States industries.

Because nearly two-thirds of United States exports to Canada already enter duty free, this 9-percent average is clearly a much greater burden on those products actually facing a Canadian duty.

Major beneficiaries from tariff reductions will include the furniture industry, the chemicals industry, and machinery manufacturers. In my State of Hawaii, our important agriculture sector will gain an advantage in exporting tropical products to Canada.

The elimination of tariffs will put governments in step with the existing operations of many businesses on both sides of the border. Much of our bilateral trade consists of intracompany transfers of goods and services. This agreement will allow the integrated operations of firms to rationalize their production without, in essence, being subject to an internal transfer tax.

Mr. President, a major benefit to the United States flowing from the free-trade agreement will be the energy provisions of the agreement. While energy trade between our two countries now moves virtually without restriction, the provisions of the free-trade agreement will establish as a certainty based in law, assured access to the massive energy resources available on this bountiful continent. These provisions will promote energy security for America and lessen our dependence on uncertain foreign sources of supply for petroleum. They will also allow American companies which are large consumers of energy to operate in a more predictable and efficient manner.

There are two other areas of note where benefits will accrue to our country. The first area of significant benefits is the reduction in the Canadian Government's review of takeovers of Canadian firms by United States companies. Mr. President, persuading the Government of Canada to modify its legal review process for American investment is an undertaking that we have been engaged in for more than 15 years. While Canada is already the largest site of United States foreign investment, its Investment Canada Act has not always permitted the kind of access that we allow Canadians in the United States. Under the free-trade agreement, Canada will only review direct acquisition of companies valued at more than 150 million Canadian dollars. This does not completely eliminate review but will essentially exclude from review 90 percent of Canadian companies. This constitutes a major step forward in Canadian investment liberalization which will benefit both the United States and Canada. The United States will continue to welcome Canadian investment, investment which in fact exceeds United States investment in Canada on a per capita basis.

Another area of major benefits from this agreement is the liberalized treatment for United States financial services firms in Canada and the guarantee of national treatment for new United States entrants into the Canadian financial services market. This agreement will provide opportunities for takeovers and expansion for U.S. financial firms across the spectrum of banks, insurance companies and securities companies. Because of the explosive growth of the international financial services industry during this decade, it is essential that U.S. firms attain unimpeded access to foreign markets. This agreement provides for that access to a greater degree than we are afforded in any other country.

Mr. President, in extolling this agreement, I do not pretend that it is flawless. Some important issues are not resolved and some Canadian practices which I might find objectionable remain in place. I suspect the Canadians feel the same way about certain of our own practices. In many areas though, the free-trade agreement provides for continuing negotiations seeking to address the shortcomings of the agreement.

Canada, for example, has retained an exemption for what it calls cultural industries, industries such as publishing, recording, movie production, and distribution. For those of us in Washington, a claim that a special exemption is necessary is sometimes difficult to understand because of the high profile that Canadian firms have in the Washington region. For example, a Canadian firm controls a major theater chain and another is contemplating the establishment of a major newspaper in our Capital. A GAO report issued last spring found that Canadian interests own hundreds of newspapers across the United States.

Coming from a State such as Hawaii, which is justifiably proud of its distinctive island heritage, I am particularly sensitive to the desire to protect one's cultural identity. Hawaii, however, is proof that close economic ties do not lead to the degradation of cultural heritage. Hawaii's links with the U.S. mainland have grown dramatically but the State still retains its unique culture.

Canada also retains some barriers against United States alcohol beverages. These include provincial barriers against American beer and bottling requirements that discriminate against U.S. wine. Since this agreement was signed, the Canadian Government has already agreed to provide $100 million in subsidies to winemakers in British Columbia and Ontario. However, these practices serve to lower the Canadian living standard, not ours, by reducing consumer choice and increasing taxation in order to subsidize.

The issue of subsidies, which was a subject that received considerable examination by the Finance Committee, has not been fully resolved. Under the terms of the agreement, negotiations for a more comprehensive accord on this critical matter are scheduled to continue for 5 years. In the meanwhile, U.S. firms retain full access to our countervailing duty laws. It should be noted that while the Canadian Government subsidizes to a significantly greater degree than in the United States, final affirmative determinations in countervailing duty cases have been limited to five since 1980.

There also has been criticism from some quarters that the bilateral dispute settlement mechanism is a giveaway by the United States. My assessment of this procedure is that it will have little effect on United States law; it may actually provide more benefits to United States litigants than to Canadian. During hearings before the Finance Committee, Ambassador Yeutter testified that in the last 8 years there have been more than three times as many antidumping cases in Canada involving United States firms than cases in the United States against Canadian companies. Under current Canadian practice, United States firms have no recourse to appeal findings by Revenue Canada regarding dumping margins. The dispute resolution mechanism provides a new avenue for limited review of Revenue Canada determinations.

In endorsing this free-trade agreement, I would also like to express a more cautionary note toward the Reagan administration's view of concluding additional free-trade agreements in the near future. At this juncture in America's trade policy, I believe we need to have a greater emphasis on multilateral trade discipline and trade liberalization and less of a focus on what can be attained bilaterally. The growth of international trade in the post-war period is a testimonial to the multilateral trade system. While the benefits from a bilateral free trade area are easily observed, the costs are not so readily apparent. I am also concerned that negotiation of these agreements becomes entangled with the political aspects of our international relationships.

Economists call the negative effects which occur with the establishment of a customs union or a free trade area trade diversion. This is the trade that is made less economic by the fact that different barriers to trade are applied to different foreign producers. For example, a producer in the United States may gain an economic advantage from a tariff elimination in Canada that does not apply to a British competitor. This may be a great advantage to the U.S. company but may not reward the most efficient producer, a reward which is a fundamental tenet underlying trade theory. Thus, trade is diverted from the most efficient producer to a less efficient source. This effect occurs under any preferential trading arrangement, of which there are many, and is not intended to be a criticism of the Free-Trade Agreement.

Mr. President, the creation of an area of liberalized trade in North America in conjunction with the planned creation of the European Community's internal market in 1992 has created a certain uneasiness in trade circles around the globe. Mr. President, the United States-Canada Free-Trade Agreement complies fully with the requirements of article 24 of the General Agreement on Trade and Tariffs on the establishment of a free-trade area. The United States-Canada Agreement isn't intended to, and does not, establish new barriers to international trade. In the same way, I fully expect that European integration will not erect new barriers to trade. However, the very fact that the world trading system is developing in a manner that creates widespread apprehension about trading blocs should be a real trade policy concern.

Perhaps the most important benefit from this agreement does not flow directly from the Free-Trade Agreement itself. Coming as it does at an early point in the Uruguay Round of multilateral trade negotiations, the United States-Canada Free-Trade Agreement will hopefully set an important precedent for what might be achieved in these international negotiations. For example, in the services sector, the United States-Canada Free-Trade Agreement establishes for the first time a model agreement on the right of nationals of both countries to provide services without discriminatory regulation by governments on the right of establishment and provision of services. While I urge the administration to emphasize multilateral rather than bilateral negotiations, our trading partners must also be willing to negotiate. Countries that announce they are unwilling to even discuss issues of clear-cut importance to the United States only invite the pursuit of bilateral negotiations avenues.

Mr. President, I am a strong supporter of this Free-Trade Agreement with Canada. Passage of this legislation and implementation of the agreement next January 1 is an historic opportunity that should be seized by the United States and Canada. Our countries have had similar opportunities in the past but, for one reason or another, these agreements have failed to be implemented. In this regard, I note that the Canadian House of Commons endorsed on August 31 an implementing bill for the agreement by a margin of 177 to 64.

Mr. President, some of those who have criticized this agreement have done so because it does not create a completely unrestricted, identical business environment in both countries. Because the agreement does not create an identical environment in the United States and Canada, it is alleged that the agreement is reduced to being nothing more than a tariff reduction agreement rather than a free-trade agreement.

Mr. President, achieving a level playing field is often dependent first upon domestic policy decisions which frequently are not viewed as an issue of international competition. Our Government should not be content to eliminate barriers at an international border which affect trade but then become blind to differing tax incentives, domestic subsidies, environmental standards and other regulatory measures which are promulgated domestically and have a significant impact on the competitive environment for business. Reduction or elimination of international trade barriers alone is not an economic panacea. However, these arguments seem to be in favor of additional negotiations for a broader set of rules under the agreement, not against the Free-Trade Agreement itself.

Mr. President, it is clear that this agreement does not solve every existing economic problem between the United States and Canada nor does it render identical every aspect of doing business in the two countries. When broad trade agreements of this scope are negotiated with another country, one can never conclude an agreement where every aspect of doing business is rendered identical. However, the fact that every bilateral trade problem is not resolved by this agreement doesn't make it a bad agreement.

The key question that should be propounded in evaluating this agreement is a simple one: is the United States better off with this free trade agreement with Canada or are we better off without it? No one argues that the agreement solves every economic dispute we have with Canada. But the essential question this body should address in considering passage of the implementing legislation is whether the United States is better off with it or without it?

When the House of Representatives considered this question on August 9, they decided overwhelmingly, by a vote of 366 to 40, that this agreement was in the best interests of the United States. I urge my colleagues in this body to come to a similar conclusion. When the Finance Committee reported this legislation in August, it did so unanimously. I believe this unanimity of opinion on the Finance Committee is a result of the consultative process between the Congress and the administration in developing the implementing legislation for this agreement, in addition to the merits of the agreement itself.

As a result of this consultative process, I believe H.R. 5090 is legislation which the vast majority of my Senate colleagues will be able to endorse unreservedly. The United States-Canada Free Trade Agreement is one of the most important economic accords this country has entered into in the post-war period. At their creation, historic accords which laid the foundation for such organizations at the GATT and the World Bank were the subject of considerable speculation as to whether they would work or merely fall as the handiwork of impractical internationalists. In retrospect, these agreements have withstood the test of time, even though neither institution was perfect as and when created. I have every confidence that this agreement will stand alongside those agreements as a landmark for America's conduct of its international economic relations.

Mr. President, I urge my colleagues to support the pending implementing legislation.

Mr. PACKWOOD. Mr. President, I yield 15 minutes to the Senator from Rhode Island.

Mr. PRESIDING OFFICER (Mr. CONARD). The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the distinguished floor manager of this legislation for the time.

Mr. President, today the Senate will act on one of the most significant pieces of legislation in the last quarter of this century.

The agreement before us today is an historic Free-Trade Agreement between the two countries that enjoy the largest trading relationship in the world. I do not think many people realize there is more trade between the United States and the Province of Ontario than there is between any two nations, except of course between the United States and Canada.

In the protectionist fever prevalent throughout the world, this agreement will send a dramatic message. And it will signal that the benefits of open trade far outweigh the narrow gains of protectionism. It means more jobs, increased exports, and lower prices and greater choices for American and Canadian consumers.

Canada is our biggest export market. However, it maintains very high tariffs in sectors of special interest to American exporters. About 25 percent of our bilateral merchandise trade is subject to tariffs. Canadian tariffs average about 9 to 10 percent, while American tariffs average 4 to 5 percent. In addition, Canada maintains a complex array of Federal and provincial nontariff trade barriers, of long serious concern to our exporters.

This agreement, over the course of 10 years, will eliminate tariffs and reduce trade barriers across a broad range of goods and services. When ratified, it will substantially increase the flow of goods between the United States and Canada. It is estimated that the agreement will result in a 1 percent increase in our gross national product. It is estimated that American exports to Canada will increase by up to $2.4 billion per year. And consumer prices are expected to fall, saving American households between $1 and $3 billion a year.

It is important to emphasize that this agreement deals not only with goods but also with services. It establishes rules governing trade in 150 sectors of the service economy—such as banking, insurance, advertising, accounting, engineering and legal services. This is the first such comprehensive agreement in service industries between two major trading nations.

My State serves as a good example of the ways in which the United States will benefit from this agreement. Rhode Island is a substantial trading partner with Canada, with $593 million in bilateral trade in 1986, the last year for which we have statistics. Rhode Island received imports totaling $465 million, and exported $128 million in products to Canada. Thus, we experienced a trade deficit of $377 million.

Precious metals—gold and silver—account for approximately 65 percent ($302 million) of Rhode Islands; total imports from Canada. These are extremely important to our jewelry and silverware industries. Raw materials imported from Canada will be less expensive as our tariffs are eliminated, and our finished jewelry products exported to Canada will be more competitive as Canadian tariffs are removed. And our finished products, be it the silverware we make, flat silver, or be it finished jewelry products, when they are exported to Canada, no longer will they have the 25 to 30 percent tariffs that currently exist on jewelry going into Canada.

Let us look at another area.

In light of the continuing tension in the Middle East and the reappearance of OPEC, actions which threaten to undermine the dominant sources of energy for New England, our future reliance on Canadian energy sources is of increasing importance.

This agreement will provide all of New England with secure, tariff-free energy supplies, especially hydroelectric power and natural gas. There are currently no barriers to energy exports in Canada, and the FTA will prevent any from being imposed in the future. Over the long term, the agreement is expected to lower energy costs, and this will help our industries to become more competitive.

In developing the implementing legislation we have worked to assure that the agreement will not only promote free trade but also fair trade between our two nations. For example, in the area of commercial fishing, the United States will be required to retaliate in the event that Canada imposes a requirement that all fish caught in Canadian waters by either Canadian or United States vessels, be landed in Canada. New England fish processors who depend on Canadian supplies of raw fish obviously would be harmed if all fish were required first to be landed in Canada and then shipped to the United States.

This agreement provides retaliation in the event that such should take place.

This historic agreement did not just happen; it did not fall from heaven. It came about because of extraordinarily diligent efforts by many individuals. It is clear, however, that two people are primarily responsible for this trade agreement; President Reagan and Prime Minister Mulroney.

President Reagan as we all know, is a deeply committed free trader and he is determined to break down trade barriers wherever they exist. In his wisdom he foresaw the importance of a Canada-United States Free-Trade Agreement. He deserves this Nation's applause and its gratitude.

Likewise, Prime Minister Mulroney has been a tower of strength and courage. He has vigorously pushed this agreement from its inception. His eloquent address to the joint session of Congress on April 27 of this year gave the agreement impetus. Let me quote one line from his speech:

> The Free Trade Agreement presents our two countries with an historic opportunity to create new jobs and enduring prosperity.

Mr. Mulroney did not merely talk about the agreement. He put his full personal and political prestige behind it—and that has taken a great deal of courage for which we all salute him.

I am pleased to note that on August 31 of this year, not quite a month ago, the House of Commons in Canada passed the United States-Canada Free-Trade Agreement by a vote of 177 to 64.

Of course, it now still must clear the Canadian Senate.

I also wish to pay tribute to the Canadian Ambassador to the United States, Alan Gottlieb, for his tireless efforts on behalf of the agreement. Ambassador Gottlieb has demonstrated the most dogged tenacity in connection with these efforts. Throughout ups and downs he has never lost either his determination or his even disposition, although at times, I will have to confess, he sometimes wore a somewhat harried look.

On the American side, tremendous credit is owed to our United States Trade Representative, Ambassador Clayton Yeutter, who never flagged in his efforts to bring about this agreement.

He constantly consulted the committees in Congress and kept us posted, the Ways and Means Committee and the Finance Committee, who have jurisdiction in these matters. He has done a superb job. Likewise, we are indebted to his assistants, Peter Murphy, Alan Homer, Alan Woods, and Judy Bello who spoke with such knowledge and such ability before our committees and also, of course, conducted the negotiations with the Canadians.

Let no one think this agreement has had easy sailing. In April 1986—this started over 2 years ago—in the Finance Committee a crucial vote took place, a vote in which there was a motion to disapprove proceeding further. That was the motion. It said do not go any further on this Canadian free-trade agreement, and that motion to disapprove proceeding further failed on a tie vote. Out of the 20 members of the Finance Committee, the vote was 10-10 and, therefore, the motion not to proceed failed and we were able to proceed on a tie vote of 10-10 which was hardly an auspicious start to a long and difficult journey.

Throughout the 100th Congress we have talked in the House of Representatives and the Senate about the need to improve American competitiveness. We have received dozens of suggestions about how best we can improve this competitiveness, and we have acted indeed on many of them. But I can think of no single action that the United States could take which would have a more profound effect on America's economic future than the ratification of the agreement that we will vote on at 5:30 today.

I hope my colleagues will join me in giving this agreement a resounding vote of approval.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island has yielded the remainder of his time.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, it is my understanding that the quorum call runs against the party calling it unless otherwise indicated; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. Whereas if there is no quorum call it would run proportionately against all of the parties that have time.

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged proportionately.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, in the 8 months since the United States-Canada Free-Trade Agreement was negotiated, I have extensively studied its ramifications for the economy of my State and for the country as a whole. I am convinced that few issues to come before the Senate will have greater implications for the economic welfare of border States like my own.

I am a strong advocate of free trade when it is truly free trade. But this agreement, in my judgment, has multiple shortcomings. It will set in stone many of the inequities that currently exist in the trade relations between the two countries. I know this agreement will hurt the farmers of North Dakota. I know the agreement will hurt energy producers. And I suspect it will damage a number of other industries around the country.

I believe that a North American free-trade zone is long overdue. But at a minimum, the free-trade agreement should meet the following five criteria:

First, a free-trade agreement must eliminate tariffs between the two countries.

The Canadian free-trade agreement does eliminate tariffs. This is a major accomplishment, even though tariffs are a relatively small trade barrier between the United States and Canada. Fully 80 percent of Canadian exports to the United States are duty free and 65 percent of U.S. exports to Canada are duty free.

Second, the agreement should provide for the systematic elimination of nontariff barriers.

It is well known by both Canadian and United States trade experts that the major trade barriers in world trade, and certainly between the United States and Canada, are nontariff trade barriers. In fact, while tariff levels have declined, nontariff barriers are proliferating. Achieving reductions in nontariff barriers will be the primary focus of this round of the GATT negotiations in Geneva. But instead of setting a positive precedent for progress at these talks, the United States-Canada Free-Trade Agreement almost completely neglects the problem of nontariff barriers.

To me, this is a major failing of the agreement. Because Canada has many more nontariff barriers, Canada will profit and we will lose if these barriers are left in place.

Third, the agreement should provide for the elimination or, at the very least, the coordination of industry subsidies.

The Canadian free-trade agreement fails this basic test.

The failure to do so not only leaves in place substantial advantages for a number of Canadian industries, but it also encourages both countries to increase subsidies in subtle ways to take further advantage of the other's markets.

The importance of industry subsidies and the difficulty in dealing with them through our countervailing duty laws and antidumping laws cannot be overemphasized. Unlike in the United States, the use of subsidies by the Canadian national and provincial governments to help preserve, stabilize, or develop industries is widespread. For example, Canada heavily subsidizes livestock and poultry production. The following table, based on a study by Economist Larry Martin at the University of Guelph in Ontario, shows the massive involvement of Canadian provinces in agricultural subsidization.

Mr. President, I ask unanimous consent that the table be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

CANADIAN PROVINCIAL LIVESTOCK SUBSIDIES*

Province	Total	Direct subsidies	Indirect subsidies
Hogs (per $100 cash receipts):			
Nfld	$65.88	$18.08	$47.80
P.E.I	37.94	22.33	15.61
N.S	31.74	15.96	15.78
N.B	31.37	15.56	15.81
Que	11.66	9.51	2.15
Ont	6.54	4.99	1.55
Man	8.34	5.39	2.95
Sask	16.85	13.90	2.95
Alta	11.51	9.53	1.98
B.C	9.76	8.33	1.43
Sheep (per head):			
Nfld	2,012.99	1,043.68	969.31
P.E.I	427.69	143.55	284.14
N.S	58.78	16.11	52.67
N.B	94.72	31.02	63.70
Que	103.92	97.60	6.32
Ont	13.54	6.56	6.98
Man	13.35	1.16	12.19
Sask	40.50	17.19	23.31
Alta	15.33	9.05	6.28
B.C	38.62	19.26	19.36
Beef (per $100 of receipts):			
Nfld	44.62	9.80	34.82
P.E.I	25.68	9.71	15.97
N.S	26.27	8.33	17.94
N.B	28.38	11.79	16.59
Que	45.47	42.15	3.32
Ont	4.43	2.46	1.97
Man	9.54	6.15	3.39
Sask	12.33	10.47	1.86
Alta	10.84	8.41	2.43
B.C	20.23	14.85	5.38

*Source: Prof. Larry Martin, University of Guelph. Direct subsidies are those that show up in the net income statements of farmers. Indirect subsidies are those that benefit the industry, but don't flow directly to farmers.

Mr. CONRAD. Mr. President, just to give a couple of quick examples. On hogs, per $100 of cash receipts, Newfoundland, a total of $65.88 of every $100 of receipts are direct and indirect subsidies. On sheep, in Newfoundland, per head, a total subsidy direct and indirect over $2,000, Canadian, a head.

On beef, again, in Newfoundland, direct and indirect subsidies per $100 of receipts, $44.62.

Canadian livestock subsidies are heavy compared to United States assistance to the livestock industry. Moreover, most United States assistance to the livestock industry is in the form of general research available not only to Americans, but to other countries including Canada. In addition, meat inspection services to guarantee a clean and healthy product. Canadian provincial subsidies, however, are typically in the form of direct payments to producers.

Canadian provincial subsidies have had substantial effects on United States-Canada trade in livestock and meat products. According to a recent study by the Congressional Research Service, net Canadian exports of beef to the United States were up 40 percent—about 50 million pounds—between 1982 and 1986. Net Canadian pork exports to the United States were up 106 percent—an increase of 237 million pounds—in the same period. Only in poultry did the United States gain in the 1982-86 period—9.5 million pounds. Obviously, we lost in that exchange—our balance of trade in livestock declined by 280 million pounds in 4 years. The failure to deal in any systematic fashion with Canadian subsidies is a major drawback of the agreement.

In addition, Canada's massive subsidies of manufacturing, particularly of autos, through duty and tariff remission schemes could actually slow American investment and GNP growth over the next 7 years as foreigners take advantage of Canadian investment subsidies to produce for the duty-free United States market. Some supporters of the agreement argue that our countervailing duty and antidumping laws will prevent Canadian abuse of subsidy schemes. In fact, the agreement weakens our law and guarantees nearly unfettered access for the subsidized goods.

Fourth, the agreement should provide rules for the trade of services and intellectual property.

Some progress has been made in this area—setting an important and positive precedent for the GATT negotiations on these issues. I understand, however, that the film and broadcasting industry has raised serious questions about the failure to remove very serious nontariff barriers to trade in their products.

Fifth, the agreement should provide consultation and coordination of exchange rates and the policies that affect exchange rates so that neither nation may take advantage of the elimination of tariffs.

This agreement does not address exchange rates at all. But exchange rates are critically important: A 10-percent decline in the value of the Canadian dollar relative to the United States dollar is equivalent to a 10-percent tariff on United States exports to Canada and a 10-percent subsidy to Canadian exports to the United States. A 10-percent change in exchange rates exceeds the average Canadian tariff on United States goods currently in effect.

Distortions in exchange rates, exemplified by the rapid and unprecedented rise in the value of the dollar during the 1980's, were a far more serious barrier to trade than tariffs. The value of the dollar rose by over 50 percent in 3 years. It is no wonder that the United States became the biggest debtor nation in the world.

Some will argue that exchange rates reflect basic, underlying economic factors. That is true. But the most important economic factor in exchange rates has not been our competitive ability, but the level of real interest rates in the United States relative to the rest of the world.

United States-Canadian exchange rates may be in fairly close alignment with our underlying competitive abilities at this time. But there is no guarantee that exchange rates will stay at a level based on competitive ability. Failure to address this fundamental problem in bilateral agreements will complicate the job on the GATT negotiators in Geneva.

No matter how laudable the goals of the Free-Trade Agreement, no matter how desirable the notion of open borders, we must assure that the hopeful ideal of free trade does not become a harsh reality of unfair trade for American farmers, auto workers, energy producers, and manufacturers.

(Mr. EXON assumed the chair.)

Mr. CONRAD. Returning to agriculture, Mr. President, I note that the occupant of the Chair represents a great agricultural State, the State of Nebraska, and that he has a keen understanding of the effect of this agreement. It is critical to understand how very different the United States and Canadian farm programs are.

The U.S. program, whether we like it on not, is primarily a supply management program. That means our farm program is designed to store surplus grain in years of bounty and to sell it to the world in years of shortage. The objective is to mitigate the weather related boom-bust cycle in agriculture.

For example, during the first half of the 1980's, beneficial weather led to the accumulation of the largest grain stockpiles in world history. At the same time, the growth rate of world food demand dropped sharply, due to a world wide recession. U.S. grain stocks rose to historic highs. By late 1985, we had a year's domestic and export supply of wheat and nearly a year's supply of feed grains in storage.

In the last 3 years, changing weather patterns and an aggressive export subsidy program allowed the United States to reduce stocks substantially. World grain stocks by the end of 1988 will be at the lowest levels since 1973.

The U.S. farm program also calls for the set-aside of productive land until the surplus stocks are worked off. In 1988 alone, 80 million acres of farmland were set-aside—including 27.5 percent of wheat acres.

In contrast to the United States farm program, the Canadian farm program is designed to move Canadian grain to export terminals and to obtain the best possible price for their farmers in the world market. To do this, Canada heavily subsidizes rail transport from the grain producing areas of Canada to port cities. In addition, the Canadian Wheat Board acts as an agent for export sales of all Canadian wheat as well as other products.

Mr. President, at this point in the RECORD I would like to have printed two tables that I think highlight the differences between our program and the Canadian program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Chart I is an index of U.S. and our competitors' exports. I chose the 1980/81 marketing year as the base year—setting it equal to 100—in order to create the export index. As you can see, while the U.S. suffered a major market loss in the 1980's—which we are now regaining due to export subsidies and a falling dollar, our competitors have increased their exports by about 30 percent.

WHEAT EXPORT INDEX: UNITED STATES AND COMPETITORS

Year	United States	Canada	Canada, Australia, and Argentina
1980–81	100	100	100
1981–82	116	104	104
1982–83	95	126	117
1983–84	93	127	133
1984–85	91	114	137
1985–86	60	99	124
1986–87	68	122	127
1987–88	104	132	127

Source: USDA, FAS, World Grain Situation and Outlook, April 1988. The volume of exports for the 1980–81 marketing year was set equal to 100 to set the base year for the index.

Chart II is an index of U.S. and our competitors' levels of production. Again, I have chosen the 1980-81 crop year as the base year. While the U.S. program is designed to cut back production in years of surplus stocks, the Canadian program and those of our other competitors are not. While U.S. production in the past few years is down more than 10 percent from 1980, Canadian production is up, as is that of our other competitors.

WHEAT PRODUCTION INDEX: UNITED STATES AND COMPETITORS

Year	United States	Canada	Canada, Australia, and Argentina
1980–81	100	100	100
1981–82	117	128	131
1982–83	116	138	134
1983–84	102	137	162
1984–85	109	110	140
1985–86	102	126	129
1986–87	88	163	149
1987–88	88	136	128

Source: USDA, FAS, World Grain Situation and Outlook, Aprill 1988. The volume of exports for the 1980–81 marketing year was set to 100 to set the base year for the index.

Mr. CONRAD. Like it or not, the effect of our current program during periods of world surplus is to reduce U.S. production while our competitors increase theirs.

In the last 2 years, the United States has experienced an influx of Canadian wheat, particularly durum or pasta wheat which is a high quality wheat grown in North Dakota, Montana, and Canada. The United States produces more than twice the durum demanded by American consumers, but in spite of domestic surpluses, Canadian imports took 15 percent or more of the United States market.

It is most disturbing that this trend occurred at a time that the United States had ample supplies of wheat including durum; at a time when the CCC was conducting massive sales of wheat to reduce their stocks; at a time when U.S. wheat prices, adjusted for inflation, where at an 18-year low; and at a time when nearly three-fourths of U.S. wheat needed EEP—subsidies—to be exported at all.

It is clear that if all barriers to Canadian wheat imports to the United States are removed, that our supply management farm program will draw in Canadian wheat, increasing any existing surpluses. The resulting combination of lower commodity prices and high storage payments will increase the cost of our farm program.

Experts have advised us that agriculture should not have been included in this agreement in the first place. "One product which clearly should not be covered is wheat," stated Prof. Paul Wonnacott of the University of Maryland. "Here, the major issue between the two countries is not how to eliminate barriers between them, but rather how to gain greater access to overseas markets while limiting the use of subsidies.

It's worth asking, why was agriculture put into the agreement at the last minute? Even more perplexing is why we agreed to allow Canadian wheat into this country on January 1, 1989, but enabled Canada to prevent any United States wheat from entering Canada until some future, indefinite time when the subsidy levels are equal for United States and Canadian wheat. According to both countries, that equality will not occur any time soon. But we've agreed to open our agricultural markets immediately while Canada's markets stay closed.

Our negotiators should have insisted on reaching an understanding on agricultural subsidies before deciding to include livestock, wheat, and other commodities in the agreement. But without this understanding, we must expect that Canada will maintain its high provincial subsidies and continue to export large volumes of agricultural products to the United States.

Similarly, I am very concerned about Canadian provincial subsidies of energy production. The pact calls for the freest possible bilateral trade in energy, and it secures access for Canadian energy exports to the United States. But by delaying consideration of subsidies, the past will institutionalize Canadian advantages in the production and marketing of energy.

It is apparent that negotiators drafted the agreement with consumer, not producer interests in mind. The treaty and its supporting documents indicate that access to Canadian energy resources is a major feature of the treaty.

But the agreement poses special problems for energy-producing States like North Dakota. My State produces large quantities of oil, gas, coal, and electricity. Under present economic conditions, these industries can ill-afford an agreement that fortifies their disadvantaged position in the marketplace.

As a general rule, Canadian energy, particularly hydroelectric energy, is provincially owned, highly subsidized, subject to less stringent environmental regulation and sold to United States utilities on the basis of voided cost, regardless of the cost of production.

The Canadian provinces have more generous incentives for exploration and development than does the United States. They have cost-sharing provisions for exploration and development, royalty holidays, and incentives to keep marginal production on-line during periods of lower prices. Although United States producers receive some tax advantages, these benefits do not compare to the large Canadian subsidies.

For example, the Canadian Exploration and Development Incentive Program includes cash incentives equal to one-third of their eligible exploration and development expenses up to $10 million to provide relief to small oil and gas companies. This program could inject an additional $350 million per year into Canadian industry cashflow and lead to over $1 billion in additional investment.

Canadian natural gas production is highly subsidized and fully deregulated, which puts our natural gas at a sharp disadvantage. Further, U.S. producers have higher costs of production. As a result of this agreement, DOE estimates that gas imports from Canada could double by 1995. The effect would extend to our oil production as well, since much of our oil is produced in conjunction with natural gas.

I also have reservations about the provision that excludes Canada from any future fee on imported oil. This provision could have a significant impact upon our ability to revitalize our oil and gas industry through imposition of an import fee.

Although the agreement may be generally beneficial for exports of U.S. coal, it is very detrimental to U.S. power generation in the Upper Midwest. The Department of Energy has estimated that the agreement will displace only about 1 percent of U.S. coal production, but a very significant portion of that 1 percent will come from States like North Dakota.

In 1986, for example, the Upper Midwest imported approximately 7 billion kilowatt-hours of electricity from the Canadian Province of Manitoba. These imports displaced approximately 6.3 million tons of U.S. coal. Most of the coal displaced was in North Dakota, where about 4.7 million tons of coal were displaced by imported power. And as electricity imports increase, the amount of coal displacement is expected to rise in the future.

This displacement is particularly disturbing when one considers that Canada has few of the environmental restrictions this country has on controlling powerplant emissions, reclaiming mined lands or siting hydroelectric dams.

Canadian power producers have not placed a single scrubber on any of their coal-fired generating plants.

Mr. President, let me repeat that. Canadian power producers have not placed a single scrubber on any of their coal-fired generating plants.

Meanwhile, North Dakota producers have spent literally hundreds of millions of dollars on building state-of-the-art emission controls for our plants.

Much of the displaced coal will be the result of cheaper Canadian hydropower, an industry that is largely publicly owned and highly subsidized. Hydro-Quebec believes that the agreement will permit them to build a $25 billion project to produce electricity for sale in the United States.

In short, if you take account of the disparities in exchange rates and the much larger size of the U.S. market, there is little in the agreement that would benefit high-producer, low-consumer economies like my State.

Mr. President, I would like to turn briefly to two constitutional issues. The first concerns the constitutionality under U.S. law of the binational panel, which, under the agreement, is the final arbiter of American law in countervailing duty and antidumping cases. The second concerns the constitutional powers of Canadian provinces to ignore or countermand portions of the trade agreement.

Under current U.S. law, the Department of Commerce makes final determinations in antidumping and countervailing duty cases, while the International Trade Commission makes determinations on injuries. However, parties to the case have the right to judicial review of agency decisions. Under the trade agreement, a binational panel will determine if Department of Commerce or International Trade Commission rulings are in compliance with U.S. law. At least half of the time, the majority on the binational panel will be Canadian citizens. Although the Justice Department does not see a problem, many constitutional experts argue that using such a panel to interpret U.S. law is unconstitutional.

This arrangement with Canada could lead to conflicting interpretations in antidumping cases. I am not an attorney, but it seems to me that either the courts or the binational panel should be the final arbiter of U.S. law in this area. It appears to be entirely possible under this agreement that we will eventually have one interpretation of United States trade law as determined by the binational panel applying only to Canada and a second interpretation of the same laws as determined by our courts applying to all nations except Canada.

The second constitutional issue involves the power of the Canadian Federal Government to impose its will on the provincial governments regarding commerce. According to a memorandum prepared for my office by legal experts at the Congressional Research Service, current Canadian constitutional practice concerning the relative powers of the Federal versus provincial governments would prevent Canada from forcing the provinces to comply with the Free-Trade Agreement.

It is entirely possible that Canada will be unable to strictly enforce the agreement in Canada. Obviously, if some Canadian province is in egregious violation of the agreement, the United States has the option of nullifying the agreement. But, the practical operation of the treaty will mean that United States businesses will have to fight every small violation by getting the U.S. Trade Representative to investigate the violation; to begin consultation with their Canadian counterparts; and, if satisfactory resolution is not obtained, to take the issue to the binational panel. This process can take years, millions of dollars in legal fees, and can eventually be a waste of time.

Mr. President, there is much at stake in this agreement. The future of our trading relationship with Canada, one of our best friends in the international community; the signals—positive and negative—which will be sent to the negotiators at the GATT talks in Geneva; and the economic future of millions of farmers, workers, and businesses throughout the Nation.

I have become convinced that this is not a good agreement for North Dakota; in fact, I believe that this agreement may not be good for many parts of the United States. Certainly consumers and some industries will benefit, but many will also lose. I remain a strong advocate of free trade, but I believe that this agreement has multiple shortcomings and will prove to be unfair to significant sectors of our country. I cannot support the agreement and urge its rejection by the Senate.

Mr. President, I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, before I yield 7 minutes to the Senator from Vermont, I might indicate there are more requests for time allegedly coming later this afternoon than there is time. The Members have not come. Senator Mitchell and Senator Cohen have 1½ hours reserved for themselves. The earlier Members get here, the better the likelihood they will get to speak.

I yield 7 minutes to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I certainly want to thank the distinguished Senator, my friend, Senator Packwood, for yielding me this time. At the outset, Mr. President, I want to say that this Senator is strongly in favor of ratifying the treaty with Canada which we will be voting on later this afternoon, and I suspect we will vote to ratify that treaty.

Mr. President, at this time, I intend to talk on a different subject.

ATMOSPHERIC CONTAMINATION—VI

Mr. STAFFORD. Mr. President, there is now widespread scientific agreement that the ozone layer in the stratosphere that shields life on Earth from the deadly radiation of the Sun is being destroyed by the family of chemicals known as chlorofluorocarbons, CFC's, or freons to most of us.

We use these chemicals as cleaning agents in our electronics industry; as refrigerants for our air-conditioners, and as blowing agents in the manufacture of building board and styrofoam cups. In all of these uses, CFC's are released into our atmosphere and live there for as long as 150 years.

The chlorine released from the breakdown of the CFC's in the stratosphere destroys the ozone that protects us. Most scientists now agree that this happens. And, most scientists, until lately, agreed that one chlorine molecule would destroy an ozone molecule every minute until the chlorine finally fell to Earth.

But, at the Antarctic, where polar stratospheric clouds have been formed because of the extreme cold temperatures that freeze water vapor in the air, the reaction between chlorine and ozone takes places literally 10 times faster than once a minute.

The result has been the total destruction of available ozone and the opening of an ozone layer hole the size of North America. The recent discovery of the ozone hole took the world's scientific community by surprise and we still don't have a full explanation.

Even the scientists who originally discovered depletion of the ozone layer by CFC's are not sure of the actual reason for the ozone hole, but they and other scientists are seeking an answer to two questions right now:

First, could the reaction at the Antarctic happen elsewhere?

And, second, even if it could not, what docs it mean to us?

A scientific panel appointed to seek the answers to those and other questions reported in March of 1988 and gave partial answers to the two questions.

The scientists say that reactions similar to those at the Antarctic are possible. Scientists have measured depletions in the Northern Hemisphere that they believe are caused by chemistry like that associated with polar stratospheric clouds.

The answer to the second question is that, even if a second ozone hole does not appear anywhere else—the Antarctic hole is enough of a threat to keep us awake at night.

Scientists have found ozone depletion of 5 percent throughout the year in the Southern Hemisphere and they think this is the result of the impact of the Antarctic ozone hole. The southern half of the world is flooded with air that has been exhausted of its chlorine because of the Antarctic circumstance. There is no end in sight to this condition unless we change our ways—and even then existing CFC's in the atmosphere will live on for more than a century.

So, there we have it.

There is evidence that circumstances similar to those that have created the ozone hole at the Antarctic exist today in the Northern Hemisphere.

And, there is also evidence that the ozone layer in the Southern Hemisphere has been damaged disproportionately by the chemistry that has caused the ozone hole at the Antarctic.

In each case, there can be no doubt that man has become a rival of nature and evolution. What has been created by forces long thought of as vastly greater than those of the human race can now be undone—and with something as seemingly inconsequential as a hair spray can powered by CFC's.

Even if we halted all releases of CFC's into the atmosphere today, we would still feel the adverse impact of those releases for at least another century—for that is the lifespan of CFC's.

But, we continue to use CFC's in this country and around the globe. We are continuing to deplete the ozone layer that protects all human life on this planet. We are continuing to gamble with our very existence.

I hope to discuss in the future the Montreal protocol, a proposed international agreement designed to control and reduce production of CFC's.

But, before I do that, tomorrow I would like to examine a more conventional pollutant—sulphur dioxide—and its role in killing the lakes, streams, forests and people of the United States.

Mr. President, again I thank the distinguished manager of the bill on our side for the time, and I yield the floor.

UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The Senate continued with the consideration of the bill.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. (Mr. Dodd). The Senator from Hawaii.

Mr. MATSUNAGA. I yield 15 minutes to the distinguished Senator from Michigan, Mr. LEVIN.

Mr. LEVIN. Mr. President, I thank my dear friend from Hawaii.

Mr. President, the United States-Canada Free-Trade Agreement has been front page news in Canada for well over a year. With rare exceptions, we are fortunate in the United States if we find a story on the FTA at all. If it is in the business pages, we are doing well, but it is rarely front-page news.

The FTA may not be front page news here, but in my home State of Michigan we cannot afford to ignore it. Michigan has more trade with Canada than any other State, exchanging more than $26 billion worth of goods annually. In fact, Canada exchanges more goods with Michigan alone than it does with Japan and Great Britain combined.

Much of that Canada-Michigan trade is in automotive products—finished vehicles, engines, chassis, and other parts—which account for about 80 percent of the two-way trade. But we also trade things like fresh fruits and vegetables, meat, iron and steel, petroleum and coal products, lumber, chemicals, and machinery. And there are other products that we could trade with our neighbor if they would let them come in, beer being but one example.

This trade agreement will increase trade flows. But the important question is how will this increase be shared? Next year, the year after, and 10 or 20 years down the road.

When it comes to analyzing this or any other trade agreement, we must look at more than predicted gross trade figures. We must focus on trade fairness.

Our current trade relationship with Canada is, frankly, a bad deal for the United States. While both countries protect some industries and maintain trade distorting practices, Canada is clearly far more protectionist than we are. Their tariffs are, on average, two to three times higher than ours, and they have a whole host of nontariff barriers and unfair practices, ranging from quotas on eggs and poultry, to restrictive licensing requirements for wheat, to subsidies for fish processing, to so-called cultural industry protections which, for example, effectively prevent many United States magazines from entering Canada. The current playing field is tilted sharply in Canada's favor.

With the status quo working against us, the decision to support or oppose the FTA was a particularly difficult one for me. I worked hard, together with some of my colleagues in both the House and Senate, first to get the best deal possible and later to make improvements in the agreement through changes in the implementing legislation. We met with the U.S. negotiators and other administration officials, and wrote numerous letters to the Trade Representative, the Treasury Secretary, and others. I had the opportunity to question administration officials and other trade experts directly at a Governmental Affairs Committee hearing on the FTA last May. Through the efforts of the Michigan congressional delegation, and with the help of the Finance Committee and the Ways and Means Committee, we were able to get some language added to the implementing legislation which slightly improved the automotive provisions of the FTA. So I speak as someone who was involved in efforts to get a fair deal for the United States in this agreement.

In the final analysis, however, I must oppose the FTA. My decision came down to this: By approving this agreement, we are accepting as part of our law a trading relationship that is significantly tilted in the other country's favor.

The problem with the agreement is that it does not level the playing field. And, if we approve the FTA, it is less likely that we will ever get a level playing field with Canada.

Put another way, we lose more than we gain by approving this agreement. We gain elimination of all tariffs over 10 years. The agreement also eliminates some nontariff barriers and mitigates the effect of others.

That is why it is argued that agreement is better than the status quo.

However, the status quo is not the result of our law, but mainly the result of unilateral Canadian actions. If we do not approve this agreement, we can work to correct the status quo by taking the kinds of tough actions—up to and including retaliatory actions—necessary to level the playing field. If we pass this agreement, we lose the power to effectively level that field.

Supporters of the agreement argue that we are not giving up any of our rights under GATT or under our own trade laws to challenge Canadian practices on grounds that they violate fair trade rules. They also point to the various joint commissions and blue ribbon panels set up by the FTA which will continue to study and report on the various trade problems between our two countries. They assume that these commissions and panels will have a real impact in terms of eliminating Canadian protections. I doubt that will happen if history is any guide. And what in the meantime do we tell those folks who will continue to suffer from the tilted playing field?

How do I tell Michigan potato farmers that they will still face discriminatory Canadian packaging requirements which prevent them from selling bulk shipments in Canada? How do I tell Michigan brewers that they still cannot sell their beer in Canada? How do I tell Michigan auto parts makers that Canada will retain programs that give an unfair competitive advantage to Canadian auto parts?

And equally as important for the long run: How do we tell the Japanese and our other trading partners that we will insist on a level playing field if we accept a tilted field with Canada? If we cannot achieve fair and reciprocal trade with Canada—our closest friend, neighbor, and ally—how will we ever achieve it with others?

Yes, some people will point to the improvements as a result of the FTA for some sectors. The furniture industry, which is important to my State, will get a boost from the elimination of high Canadian tariffs on furniture. Recreational boat builders will also get improved access to Canadian markets now closed to them because of high tariffs. Machinery and computers will also benefit, as will those service industries connected with trade, since the overall flow of goods is likely to increase.

But again more bad than good will result from approval of the FTA. One more example, an important one in Michigan. This agreement—which we are preparing to enact into law—reaffirms the 1965 Auto Pact, under which automotive manufacturers are required to produce at least one car in Canada for every car they sell there, and to maintain at least a 60-percent Canadian content in the cars they build in Canada. The United States under the Auto Pact gets no similar protections for our auto production. The Auto Pact creates a magnet in Canada which unfairly attracts factories there to build autos and auto parts. This pact is unbalanced because it was negotiated at a time when the Canadian auto industry was weak and vulnerable and completely dominated by the United States-based auto companies. But now we are running a substantial deficit in automotive trade with Canada, a deficit which came to about $3 billion last year. How do we justify baking into our law an arrangement which discriminates against U.S. production of cars and auto parts?

Here is how supporters of the FTA justify it: Under the FTA, Canada has agreed to limit the application of the Auto Pact to the Big Three auto companies and not extend it to the Japanese and Korean companies now opening plants in Canada. And so, it is argued, the FTA is an improvement over the status quo, because we are better off having limits on the Auto Pact than an unlimited Auto Pact. But what we give up is any realistic chance to eliminate the clearly unfair Canadian advantage under the Auto Pact.

Similarly, we agreed in the FTA to let the Canadians continue their so-called duty remission programs until 1996, and in some cases until 1999.

Under these programs, Canada gives special tariff breaks to auto producers who agree to purchase Canadian parts. If, for example, an automaker purchases $1 million worth of Canadian auto parts, they will get a refund of duties on $1 million worth of cars they import into Canada. But they cannot get the duty refund if they purchase U.S.-made auto parts. These special programs, which are offered to Japanese and Korean automakers who build plants in Canada, discriminate against United States auto parts and possibly violate the GATT. Again, how do we justify baking into our law these discriminatory programs which hurt our auto parts producers?

Proponents of this agreement argue that at least we have limited the duration of these duty remission programs to 7 or 10 years. But by the time these programs expire, severe damage will have already been done in terms of souring decisions made by Japanese and Korean automakers. They will buy Canadian parts instead of United States parts.

We have to do better than this. We must dismantle the unfair and updated Auto Pact and get rid of the discriminatory duty remission programs, which unfairly protect and create Canadian jobs and destroy United States jobs.

I simply cannot vote to make part of our law a clearly discriminatory arrangement where Canadian auto production gets treated better than American auto production and which gives an unfair discriminatory tilt toward the use of Canadian auto parts. I cannot support enacting this arrangement into law when by doing so we will for all practical purposes lose the opportunity to remove the discrimination.

We should not write into U.S. law a new status quo that is unfair and works to our trade disadvantage, just because it works less to our trade disadvantage than the old status quo, which was for the most part imposed unilaterally by the other country. I believe that this is neither a consistent nor effective approach to trade policy. For example, I was critical of the administration's decision in 1984 to agree to new quotas on our beef and citrus exports to Japan. The new quotas were somewhat higher than the old quotas, but they were still strict quotas—specific numerical limits on how much beef and citrus American farmers could sell in Japan. What was our alternative to negotiation quotas? We could have threatened retaliation, threatened the imposition of reciprocal American quotas on products that meant a lot to the Japanese—perhaps autos, consumer electronics, or computer chips—unless the Japanese removed their quotas. In order to achieve reciprocal free trade, the real threat of reciprocal trade barriers may sometimes be necessary. In other words, in the area of trade, we will achieve fair trade when we treat others no better than they treat us.

As an advocate of reciprocity in trade with Japan, I must apply the same standard to my Canadian neighbors. In those areas where Canada discriminates against our goods, we must be willing to act to end that discrimination. By approving this agreement, we do the opposite: We give our legislative blessing to discriminatory practices against us. How can we convince Japan to let in our rice when the agreement we are approving today says that while Canadian beer can come freely into the United States, Canada need not let in our beer?

The bad part of this agreement outweighs the good because we are incorporating in our law a playing field clearly tilted against us. That is a terrible precedent which outweighs the positive benefits of tariff reduction and elimination of some nontariff barriers.

Suppose my neighbor, without my permission, were cutting down 10 of my trees a year and I let him get away with it. Then he suggests that we enter into an agreement to reduce his cutting to 5 trees a year. I have two choices: I can say that 5 is better than 10, and accept the agreement—or I can act to stop him from cutting down any of my trees.

I believe that we must retain our ability to stop our trees from being unfairly cut down. I emphasize "unfairly." We must retain our right to act independently, to fight against unfair practices. By approving this agreement, we are accepting some unfair practices and restricting our ability to fight other unfair practices. In so doing, we are setting a dangerous precedent for our trade relations with other countries.

Despite its title, this agreement does not establish free trade. Instead, it gets rid of some protections, lessens the effect of others, and perpetuates still others. The playing field will still be tilted against us. And we will for all practical purposes be giving up any opportunity to level the field in the decade ahead.

Mr. President, in closing I want to thank the Finance Committee for the way in which they have worked to improve this agreement and this bill. The Senator from Oregon this morning pointed out that because of the involvement of the Finance Committee—I am sure the same is true of the Ways and Means Committee in the House—we have come up with a better agreement and a better bill than we would otherwise have. He is exactly right. We are all very much in his debt.

There will apparently be a few of us that will not be able to vote for the agreement for various reasons. But what he said is very true indeed. The Finance Committee has made great strides in improving this agreement. We are a lot better off for their efforts.

Senator BENTSEN and Senator PACKWOOD, members of the Finance Committee, have worked with us to try to make this as good a package as possibly could be achieved under the circumstances.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I might say to my good friend from Michigan that we always hold out hoping "We will get you the third time." There is a charming old saying: "We lost you on tax reform, and we lose you on this one. But the next time around?"

Mr. LEVIN. We are both looking forward to that.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum and ask that the time be charged proportionately.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. MURKOWSKI. I thank the Senator from Oregon.

Mr. President, I rise today to express my support for the United States-Canada Free-Trade Agreement. It embodies many of the principles which we are seeking in our efforts to remove barriers to trade and expand opportunities for U.S. exports.

The FTA represents a significant achievement on the part of the administration. I want to compliment President Reagan, Ambassador Yeutter, and former Secretary Baker for their contribution to the FTA.

I opposed the Free-Trade Agreement when it was first presented to the Congress because of a provision relating to the export of Alaska North Slope crude oil to Canada. The original agreement allowed, for the first time in history, 50,000 barrels of Alaska North Slope crude per day to be exported to Canada. While I strongly supported this easing of the regulatory burdens which currently inhibit production of Alaska's oil, I objected to a requirement that the oil be shipped from Alaska to a port in the lower 48 States before going to Canada.

Anyone who is familiar with the geography of the west coast knows that for oil to move from Alaska to the lower 48, it must move right past the coast of British Columbia. Tankers were moving within 1½ to 2 miles of the various ports of British Columbia, including Vancouver. Yet, initially, before the oil was to be allowed to go to Canada, it would have to go to the lower 48—the worst kind of protectionism. This provision made absolutely no sense. It was an unfair restriction on exports from Alaska and, in the opinion of many, was unconstitutional. I am pleased that we were able to work successfully within the administration, and with the input of many of my colleagues, to remove this restriction and replace it with a requirement that the oil be transported to Canada on United States vessels.

This agreement, by eliminating a broad range of tariffs, should significantly increase trade between the United States and Canada. However, I remain concerned over the failure of the FTA to address Canadian subsidies. This omission is of serious concern to those States with resource based economies.

For example, in my State of Alaska, Canadian subsidies for timber stumpage and coal transportion substantially affect our ability to compete with Canadian producers—both in domestic markets and in third countries. An attempt has been made to address this issue by including language which clarifies that United States producers can petition the U.S. Trade Representative for relief if they believe that Canadian subsidies are creating distortions in trade. However, the burden is still on our producers to come forward and prove that these subsidies exist.

I think it is fair to say that this legislation favors consumers in the United States, and that is a good thing; but it favors them at the expense of U.S. domestic resource producers. It is too bad, but hindsight does reflect the reality that the leverage we had in negotiating the Free-Trade Agreement should have been used to address the issue of subsidy as well. I question very much the ability to proceed now and address in substance those subsidies without having the leverage we had previously.

Many of the tariffs we currently have in place are designed to counter Canadian subsidies. I question the wisdom of removing these tariffs without corresponding reductions in Canadian subsidies.

If this agreement is to reach its full potential in expanding bilateral trade, Canadian subsidies must be addressed in a comprehensive manner in the near future.

In addition, I hope that the Canadians will not seek to replace barriers removed by the agreement with new regulatory regimes. For example, last year, in a case filed by several west coast seafood processors, a GATT panel ruled that a Canadian prohibition on the export of certain unprocessed fish was an unfair trade practice. While the Canadians indicated they would lift the export ban, there are rumors that they may replace it with requirements that all unprocessed fish must first be landed in Canada for inspection before being exported. Due to the time involved for this exercise, it is tantamount to an export ban.

I will carefully watch progress on this and other areas to ensure that the spirit of the FTA is upheld.

Despite some of its shortcoming, on the whole, the FTA will serve our national interests. As has been pointed out by my colleagues, Canada is already our largest trading partner, last year, total trade between our two countries was over $166 billion dollars. This agreement will mean expanded opportunities for both the United States and Canada. It has already sparked a great deal of interest on the part of other trading partners. It will better prepare both of our countries for efforts by the European community to complete, by 1992, the creation of a single internal market with free movement of goods, services, and capital. And who knows, maybe it will serve as a model for similar agreements with other trading partners, particularly those of the Pacific Rim.

No agreement can resolve every problem in bilateral trade. However, I hope that this agreement will be the foundation for truly comprehensive free trade between Canada and the United States, and lead the way for further free trade extensions to other countries throughout the world.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum, the time to be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, rather than having the time charged equally, which is what would have happened under the last request, I am going to suggest the absence of a quorum and ask unanimous consent that the time be charged proportionately against all of those who have time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield 15 minutes to the Senator from Pennsylvania if he needs that much.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 15 minutes.

Mr. HEINZ. Mr. President, I thank my friend and colleague from Oregon, Senator PACKWOOD, for yielding me this time.

Mr. President, a number of our colleagues have spoken today about the United States-Canada Free-Trade Agreement that we are considering. This agreement, of course, is one that has much concerned my colleagues and me as members of the Senate Finance Committee, and as one who participated in those deliberations and who voted to report this agreement, it should come as no surprise that having weighed this agreement carefully and come to a conclusion, as I did in voting to report it, that I do support it.

On balance, it is an agreement that is good for the country and good for my home State of Pennsylvania. The tariff reductions alone should be helpful in obtaining access to the Canadian market in a number of sectors, including some steel categories where we are clearly internationally competitive.

This is for me, nonetheless, a far closer call than it should have been. By that I mean this: While the agreement will be helpful, there is much more it could have done and should have done. I will discuss those concerns in a moment, and then I will turn to the other question this agreement raises namely, the wisdom of trying to deal with global trade problems through bilateral negotiations.

As I said concerning my support a second ago, I think the tariff reductions are important, but I must say that there is not that much more to talk about than those tariff reductions from an American point of view. In essence, when it comes to overcoming Canadian barriers, nontariff barriers in particular, to their market, we the United States, that is to say our exporters, have I think found ourselves "grandfathered" to death. The agreement is filled with what are popularly known as "grandfather clauses," provisions which make changes prospectively but which permit existing practices to continue.

As a result of these provisions, the agreement has prevented Canadian trade practices from getting worse—that much is true—but it is also true that it has done very, very little if anything to make those nontariff practices better. At the conclusion of my remarks, I will place in the RECORD a partial list of such clauses and practices. But at this point, Mr. President, rather than read what might seem to many a tediously long and perhaps overly technical lsit, let me provide a few examples that people will be able to understand.

Perhaps the most outrageous grandfather clause is the total exemption of all cultural industries in Canada.

At this point, Mr. President, let me provide just a few examples.

Perhaps the most outrageous is the total exemption of all cultural industries. That means, for example, that Canadian newspapers can continue to take over United States newspapers, but we cannot purchase Canadian newspapers. It means that United States broadcasters along the Canadian border will continue to suffer revenue losses because of discriminatory tax legislation Canada enacted over 10 years ago. It means the Canadian Government can continue to threaten our motion picture industry with discriminatory distribution requirements.

Another example of particular importance to my home State of Pennsylvania is the fact that the agreement says virtually nothing about subsidies, about Government financial support of Canadian industry.

Under this agreement I am sorry to say the Canadian Government can continue to provide subsidies without any new restraints.

Indeed, that process has already begun. Only a few weeks ago I took the floor here to alert Senators to additional Canadian subsidies to Sysco's steel rail mill in Nova Scotia. Now I understand the products of that subsidized plant have indeed begun to enter the U.S. market, directly threatening Bethlehem Steel, the major east coast rail producers.

In another area, third, in the investment area specifically the Canadian Government is permitted to continue its restrictions on non-Canadian majority ownership of energy companies—oil, gas, and uranium to name a few; and other existing restrictions are continued as well. In the communications sector, for example, continued government review of investments over $150 million is permitted. Investment in the transportation sector is not covered at all by the agreement.

Mr. President, these are only a few examples from that long list that I mentioned a moment ago. I provide the list not so much to demonstrate that the agreement is a bad one but rather to point out how much more we could have gotten had we really attempted to.

This is not simply complaining about poor negotiating—I want that very clear—since the way we have constructed the agreement influences future changes in it. In hearings and discussions on the agreement, I frequently expressed my concern that by leaving so many barriers and subsidies intact, we have effectively legitimized them and made it more difficult to get rid of them in the future.

Ambassador Yeutter not unexpectedly objected to my use of the term "legitimizing" and indicated that the barriers and subsidies in question were in no way legitimized, and that the agreement protected our rights under GATT rules and U.S. law to seek further redress and take appropriate retaliatory action. Of course, trying to wring a commitment out of him to take those steps forward turned out to be quite simply another matter. The administration as far as I can tell, is simply unwilling to make any commitments of that sort, at least certainly at this time.

The result is that we will be left to try again to obtain by negotiation what we failed to get over the past 2 years. I am going to not hold my breath waiting for the Canadians to make those concessions.

I also want to stress that what I am talking about here is not any kind of theoretical argument. In the cultural sector, as I already mentioned, there are millions of dollars and thousands of jobs at stake. The Canadian refusal to repeal bill C-58 means our border broadcasters will continue to suffer serious revenue losses from Canadian companies no longer advertising in United States media. They are prevented by the Canadian Government from doing so effectively through the denial of an tax reduction for that legitimate business expense.

The Canadian Government's proposal on film distribution, while improved over the version I discussed with Minister MacDonald on my visit to Ottawa in April 1987, will still have an adverse impact on our industry's ability to distribute films in Canada.

Canadian restrictions on foreign ownership in a variety of sectors is not only discriminatory on its face, but it removes an effective weapon American companies have in fighting hostile takeovers—the ability to strike back in the acquirer's home country.

This problem is even more serious in the subsidy area. By everyone's admission, subsidies are for more prevalent in Canada as an instrument of both provincial and Federal Government policy. Canadian negotiators, not surprisingly, devoted most of their time and effort to trying to put into the agreement mechanisms that will allow them to continue their subsidies.

To the credit of our negotiators, particularly Peter Murphy, effort was blocked, but the price was a provision that takes judicial review of these matters out of our hands and into the hands of a binational dispute settlement panel. I have no doubt at all that the Canadians will try to use this panel process as a means of achieving on a case-by-case basis what they were unable to achieve in the negotiations. I can only hope that our panelists and our administration will be equally creative in fighting any such ploy.

The other price we paid in the subsidy area was agreement on further negotiations to replace both countries' unfair trade practices laws. As with the binational panels, I have no doubt that the Canadian proposals in this area, when they are made, will seek to allow subsidies, probably in violation of the GATT Subsidies Code and current United States law, and we will find ourselves once again on the defensive in trying to stand up for the free market system.

What is particularly frustrating about this latter provision of the agreement is its uniqueness. There is nothing like it that any of us has ever seen. What we have done is to agree to mandatory negotiations on further progress in the subsidy area, at least from the Canadians point of view, which is to legitimize and have more subsidies. Have we agreed to similar mandatory negotiations in the cultural area that I referred to a moment ago? In investment? In agriculture? In State and Provincial procurement? In all those cases, indeed in all other cases, the answer is "No." The result is that we have created a mandatory process to help the Canadians get what they want, but we have done nothing to help us do the same thing.

Part of the reason why things turned out this way, Mr. President, is that the Canadians entered these negotiations with a very clear idea of what they wanted to accomplish, and I fear we did not. Indeed, I have some doubt as to whether our Government ever definitively decided what its goals were in this negotiation. Our role most of the time appears to have been a passive one, responding to Canadian demands but demonstrating no coordinated plan of attack ourselves. Since we are dealing with a friendly neighbor, this is not a fatal flaw, but it hardly speaks well of us as negotiators or as policymakers. Nor does it provide much reassurance about how we will conduct future discussions, either with Canada or with other nations seeking similar arrangements.

That, Mr. President, brings me to the final topic I want to discuss—the wisdom of bilateral free trade agreements generally. This concept may be turning into a new fad, now that the Finance Committee has requested ITC studies of similar agreements with Japan, Korea, and Taiwan. A similar suggestions, by the way, has been made with respect to Mexico, and I know other Pacific Rim nations beside those I have mentioned have some interest in the idea.

This enthusiasm, if that is what it is, ignores the special circumstances surrounding the two free trade areas we have established with first Israel and now Canada, both countries with whom we have longstanding political relationships and many common interests.

But beyond the question of whether the idea can be transferred to other nations that lack those special qualities is the question of whether this is a wise approach to trade and to multilateral discipline at all. In that regard, Mr. President, I have a confession to make. I believe in the multilateral system. I believe in the GATT. I support what we are trying to do with the Uruguay round, and I think strengthening GATT discipline worldwide is the best way to promote free trade.

For that reason I am skeptical that carving up the world in special side arrangements will help us attain our larger free trade objective. A small agreement excludes—it provides benefits to those that are in it, and discriminates against those that are not. The concept is, by definition, a violation of the most favored nation principle, which is why the GATT insists on passing judgment on such agreements after they are made.

There is no question that these agreements can be good for the participants, but there is equally no question that they can ultimately be trade limiting for those that are not party to them. That is precisely what now threatens us with the prospect of the European Community becoming a genuine single market in 1992. They may well be doing so at the expense of those outside the Community seeking to do business with those inside.

Unfortunately, this issue was not discussed extensively in our consideration of either the Israel or Canadian free trade agreements. It should have been. As is so common in so many aspects of our trade policy, I fear we are being mesmerized by the short term charms of a bilateral agreement to the point where we are not really looking at the long term costs.

There was a story making the rounds at the time the Canadian discussions began that they were being pursued by administration advocates of the "bicycle" theory of trade—if we fail to keep moving, the bicyle will fall over and the system will collapse. In fact, this is simply a clever way of saying any movement is better than no movement—an idea that pays no attention to whether we are going backwards or forwards.

The burden must always be placed on the advocates of a negotiation to show that there is something to be gained from it, and that burden must be continuously placed, and the showing made over and over again. Otherwise we fall into the trap of concluding that an agreement is politically necessary so the negotiations, and therefore the negotiators, are not perceived as having failed. At that point we have committed a fatal error, because we have made reaching an agreement more important than its contents.

I have grave fears that that is precisely what happened in the case before us today. We entered into the negotiations without a clear understanding of what we wanted or what an agreement might mean to us but with a clear sense that we had to show progress on trade somewhere; and we concluded them because reaching agreement became a political imperative that transcended the substance of what was being discussed.

The deed, however, is done, and we must deal with what is before us. And as I said at the outset, what is before us is a modest improvement that should increase our bilateral trade to the benefit of both our countries. Therefore, I will support the agreement, but I will also continue to argue that we should think long and hard before we enter into other such agreements and that we must do a better job of guarding against the negative long term consequences for the multilateral system that could be the cost of such agreements.

Mr. President, I ask unanimous consent that a document entitled "Grandfather Clauses in Free Trade Agreement" be printed in the RECORD.

There being no objection, the document ordered to be printed in the RECORD, as follows:

GRANDFATHER CLAUSES IN FREE TRADE AGREEMENT

Technical standards provisions do not apply to states/provinces.

The services section grandfathers: non-conforming provision of any existing measure; continuation or prompt renewal of any non-conforming provision; any amendments to non-conforming measures that do not worsen its nonconformity.

The services section does not cover transportation services or government procurement of services.

Most tax measures are excluded from coverage.

Canada may continue to introduce investment-limiting measures for crown or provincial corporations in place as of date of implementation.

Investment in transportation services is excluded.

With respect to investment, existing legislation is grandathered, as is its continuation, renewal, or amendment (that does not make it worse). One example is communcations, where continued government review of investments above C$150 million is permitted.

With respect to investment, restrictions on non-Canadian majority ownership of oil, gas, and uranium resources are grandfathered.

States and provinces are excluded from financial services provisions.

Probably the most important exclusion is the blanket exemption for cultural industries.

Provisions relating to certain retransmission rights of cable system carriers using distant or low priority signals in effect on October 4, 1987, are grandfathered.

Increases in planted acreage attributable to a reduction in wine grape planted acreage existing on October 4, 1987, is exempted from a temporary duty increase.

Provisions relating to automatic listing are not applied to certain estate wineries in British Columbia that were in existence on October 4, 1987, and provided less than 30,000 gallons and met then-existing content rules.

Private wine store outlets in British Columbia and Ontario can continue to discriminate in favor of provincial wines in their stores.

Quebec is permitted to continue requiring that any wine sold in Quebec be bottled there.

Continued tariffs on certain fruits and vegetables are permitted for 20 years.

In general, the agreement does very little about subsidies. In particular, many agricultural production subsidies can be continued, and subsidized grain transport rates will continue to be applied on shipments through eastern Canada ports.

Lamb is excluded from removal of meat import quotas.

Canadian poultry and egg quotas are maintained, albeit at a somewhat higher level.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Who yields time?

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, 7 years ago, I had occasion to chair a hearing in the Governmental Affairs Committee to assess the impact of United States and Canadian trade policies on natural resource industries located in our northern border States. During the course of the hearing, I recall asking the question: "How can we preserve the health and vitality of our domestic industries, while, at the same time, promote the regional cooperation which is the historical keynote of the relationship between the United States and Canada?"

In other words, must we watch the decimation of small and medium-sized industries in order to placate our Canadian friends or to promote better relations with an ally? Was this really a "Mission Impossible"?

I went on to stress the importance of ensuring that the thousands of small- and medium-sized industries and businesses which flourish in New England not be sacrificed in the blind rush toward the creation of a free trade area with Canada. I am sad to report that somewhere in the stampede that probably best characterizes the negotiations for the free-trade agreement lie the remnants of those small entities who could not afford high-priced Washington lobbyists or connected Washington trade associations to protect their future.

I should have known that ill winds were blowing these small industries when our own United States Trade Representative, Clayton Yeutter, told a House subcommittee this spring that "It would be a terrible mistake to evaluate the proposed United States-Canada Free Trade Agreement on the basis of its impact on particular firms, industries, and States."

Well, who am I suppposed to represent? Quebec? Ontario? British Columbia? Am I supposed to represent the interest of those States and industries that are not threatened with extinction? I think they have their own advocates. Is it such a terrible mistake to defend a small industry's right to exist and compete on an equal footing with foreign competition?

It is not terribly fashionable today to speak up for your constituents when they are under siege from imports produced and sold with the aid of Government subsidies. You tend to be dismissed as a protectionist—someone who has only the narrow, parochial interests of his State in mind and not that of the United States, a sort of microminded Senator and not a macroheaded statesman.

Yet, how, with a straight face, can we call this document a free-trade agreement when it allows and, in my opinion, legitimizes the most insidious trade a distorting action in international commerce today—Government subsidization of the production and distribution of goods and services. What we have before us today is not a free-trade agreement, but, as our colleague from Montana, MAX BAUCUS has indicated, merely a tariff reduction act. This 200-page document neatly sidesteps the question of government subsidies by promising cooperation between United States and Canadian trade officials during the ongoing multilateral trade negotiations. Until a solution is found, I must assume that governments will be allowed to continue to subsidize their industries to the extent they believe they can get away with it.

I would like to spend a few moments explaining the effect that government subsidized imports have had on two industries in my State of Maine. I hope through this discussion to provide a better understanding of my belief that governmental subsidies are as much of a trade barrier as tariffs, quotas, or import licensing schemes.

I would like to go back to the hearings I mentioned before on November 17, 1981.

I asked our State Department witnesses, I asked our Commerce Department witnesses, I asked those in our Trade Office. Could they define a subsidy for me?

I might have well asked them to discribe the sound of one hand clapping. They were absolutely befuddled. Inexplicably inarticulate. Strangely uninformed. I could not believe what I was hearing. We have a massive bureaucracy downtown with our State Department, Trade Office, and Commerce Department, occupying acres of territory. Yet, they could not define a subsidy and, indeed, had made no effort to try and define it.

Fortunately or unfortunately, depending upon your view, the Canadian Government saved them the embarrassment of having no statistical information, no facts, no studies, no intent to investigate. The Canadian Government published a little pamphlet listing all of the subsidies that are granted to their particular industries.

It was an embarrassing moment, I think, for this government. They promised, of course, that they would look into the matter and apparently had looked into it and decided to dismiss it.

In the area of round white potato trade, the Canadian Government has embarked upon a long-term program to expand exports to the Eastern United States at whatever cost necessary to capture the market.

During the antidumping proceedings that were filed by the Maine Potato Council back in 1982, we had our local potato growers association spending hundreds of thousands of dollars to try and get some relief. It filed an antidumping petition. The U.S. Department of Commerce found dumping margins in excess of 36 percent.

I pass over the fact that there was an exchange rate differential at that time in excess 35 cents on the dollar. A 36-percent dumping margin was found by the Commerce Department on top of the exchange rate differential.

There is no doubt that these Canadian producers were able to undersell United States growers because of the vast array of subsidies; for storage, transportation, planning, exports—the whole gamut of production and distribution of those goods. They were made available to them by the Federal and provincial governments. Despite this incredible dumping margin, the International Trade Commission [ITC] could find no correlation between the level of dumping and injury to the Maine potato industry. In 1982, there were 930 potato growers in Maine—today, there are barely 600. I believe that these figures speak for themselves.

Lawyers call that the doctrine of res ipsa loquitur. If you find sugar in your gas tank, there is a reasonable inference that Texaco did not put it there. Yet our ITC could find no connection between a 36-percent dumping margin, the extraordinary advantage given to our Canadian counterpart, and the injury being inflicted upon the Maine potato industry.

The Canadian response to the ITC decision was predictable. Imports of Canadian round white potatoes have increased dramatically, with the resulting price depression—and depression is the proper word—threatening the very existence of the Maine potato industry. To further tip the scales, the Government of Prince Edward Island has recently bought a controlling interest in the largest potato distributor in Canada. Now, unsubsidized Maine potato growers will be competing not only with subsidized Canadian producers, but against a government-owned sales and brokerage agency. Mr. President, where will it stop?

I suspect it will end in tragedy for the Maine potato industry.

To add one last comment on potato trade, the Canadian Federal Government announced earlier this year that it was paying some $17.5 million to growers to compensate them for losses incurred during the 1985-86 crop year. Growers in Maine remember that year well—on average, they received 75 cents for a 165-pound barrel of potatoes that cost them $9 to $10 to produce. Unlike other U.S. agricultural producers, there are no price support or diversion programs propping up the Maine potato industry. Maine growers are entirely on their own, and that's apparently the way the administration wants it.

I mention this because Senator MITCHELL, my colleague from Maine, and I did meet with the Secretary of Agriculture. We pleaded with him to give us some measure of relief, meager as it might be. A small diversion program to help these people survive until next year.

The Secretary responded by saying: "I am sorry, we cannot give you any help. Because if we were to give you a diversion program, small as it might be, the Canadian Government in all likelihood would retaliate and, therefore, your request is denied."

Well, the Canadian Government did, in fact, retaliate. The next day after our Secretary of Agriculture refused to provide any help for Maine potato growers, the Canadian Government came out with an announcement of a diversion program. I cannot recall the figure—$5 or $6 million—for the diversion program.

So that, combined with the $17.5 million, put them at about $24 million that the Canadian Government provided to their potato growers for the season and exactly zero cents for the Maine potato grower. That is the kind of lack of equity that we have been speaking about for so long.

In the area of fisheries trade, I believe that our Government's message to Canada should not be "let us look forward to a relationship which allows unrestricted imports on the basis of free trade." Instead, our Government must make clear to the Canadian Government that until there is some adjustment of Canadian governmental production and marketing policies—to encourage fair competition in the domestic marketplace—continuing opposition from United States fishermen to the existing unfair trade practices can be expected. Our United States fishermen must be allowed to compete head to head with their Canadian counterparts—they should not be forced to compete against the combined Canadian federal and provincial treasuries.

The Maine sardine industry may well become the first casualty of this free trade agreement. Not only did this industry give up all tariff protection, but it faces subsidized Canadian competition that can hide behind a little-noticed provision in the agreement. Article 1203, subsection c, allows New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, and Quebec to ban the export of unprocessed fish under provincial laws which are grandfathered into this agreement.

The implications of article 1203 are astounding. At certain times of the year, the Maine sardine industry depends on Canadian fishermen to supply it with raw product. Fish are a migratory resource, and sometimes they are simply not found in U.S. waters. If this agreement is ratified, Maine sardine producers will be at the mercy of their competitor's governments to secure a supply of raw product. Predatory pricing and government subsidization pale in comparison to the potential damage a government-imposed export ban could cause to this industry. Thanks to the effort by my colleague from Maine, Senator MITCHELL, the Finance Committee included language in this implementing legislation requiring the U.S. Government to respond immediately to any action by the provincial governments to implement an export ban. It is unfortunate that we had to go to such lengths to force our own Government to protect a U.S. industry's rights, but, I am even more disappointed that our negotiators allowed this outrageous language to remain in the final agreement.

I would suggest to Ambassador Yeutter that I would be more inclined to take a nationalistic view of this agreement, a macro view of this agreement, if there were a shred, if there were a scintilla of evidence that anyone in the USTR, the State Department, or the Commerce Department had demonstrated the slightest concern for some of the industries that are vitally important to our State—and I can find none.

Finally, I want to say that I am extremely disappointed that the administration refused to include language which promotes the conservation of American lobsters. U.S. lobstermen have to observe existing Federal and State regulations which set a minimum legal size for harvested lobsters' body shell length to ensure that only the mature lobsters can be caught.

Even though 50 percent of the lobsters consumed in the United States come from Canada, Canadian lobsters do not have to meet the minimum size requirements. This situation undermines the U.S. conservation system and clearly places U.S. lobstermen at a competitive disadvantage.

Nevertheless, the administration once again bowed to pressure from the Canadian Government, and they deleted this provision from the final implementing legislation. I see this action once again, as a missed opportunity to address a serious regional conservation measure.

I do not fault the Canadian Government. They are looking after their industries. What I fault is our Government for failing to do the same.

While I have pointed out what I believe are some glaring deficiencies in this agreement, I also suggest there are some positive gains in the areas of energy security, increased market access for some goods and services, the relaxation of Canadian investment restrictions and the opening up of some Government contracting requirements. Nonetheless, I feel compelled to oppose this legislation for the reasons that I have outlined.

In my judgment, having been a little less in a hurry to end the negotiations, I think we could have gained additional concessions from the Canadians. Looking at the matter with a critical eye, I believe that we bargained away more of our own trade restrictions than were necessary to achieve the limited concessions that we won. So now we are left with fewer bargaining chips to play during any future bilateral negotiations with the Canadians.

We have eliminated all U.S. tariffs, quotas and other import restrictions. We have given Canadian business unlimited access to our markets. We have agreed to have our own administrative import relief determinations adjudicated by a binational panel, and we allowed the Canadians to retain the right to maintain whatever level of Federal and provincial subsidies they think they can get away with. In my opinion, we missed a golden opportunity to force a major trading partner to scale back a number of trade distorting subsidies in return for greatly increased access to our market.

I believe in the rush to gain an agreement at any cost, we gave up too much in return for the potentially hollow promises of cooperation and further negotiations on the admittedly thorny issues of governmental subsidies.

Perhaps, Mr. President, I am just too skeptical. Perhaps I am too cynical, but I have served in this body long enough and listened to enough witnesses to form my own conclusions about the good intentions of this administration in seeking relief for these harried industries. Assuming this agreement is approved by Congress and the Canadian Parliament, and I assume that it will be, it will become effective on January 1, 1989. On January 2, we are going to have the opportunity to test the commitments to further negotiations made by each Government under this agreement. Both countries have to be willing to make the effort to successfully resolve the outstanding questions of subsidies to complete access to each other's markets and the operation of an objective dispute resolution system.

If our two countries are content to sit back on their perceived laurels and make no further attempt at reaching an understanding on these issues, I think that we will have reached a very hollow victory. But, if there is a real commitment toward the future resoultion of these outstanding problems, then the first steps taken today might ultimately lead to the establishment of a truly free trade area which will benefit all the sectors of our two countries at the expense of none.

In conclusion, Mr. President, let me say that I regret that I cannot support this agreement, but having had year after year of experience with administration witnesses who not only could not define a subsidy, but made no attempt to define one, did not take them into account, did not even seriously take them up during the course of negotiations, I cannot place my faith in a future promise that they will dedicate themselves to removing this inequitable situation in the future. For that reason, I cast a very strong, if not decisive, no on this trade agreement. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Maine.

Mr. MITCHELL. Mr. President, I want to begin by commending my colleague from Maine, Senator COHEN, on a very thoughtful, clear, and lucid statement of arguments against the proposed trade agreement.

I have had the privilege and pleasure of working with Senator COHEN, and he described, on many of the matters affecting trade. This has been a matter of concern for him since he entered the Congress over 15 years ago and he, more than anyone, is intimately familiar with the serious problems that producers of a wide variety of products in Maine face in trade with Canada.

Accordingly, I will join Senator COHEN in voting against the proposed trade agreement between the United States and Canada because it is not in the best interest of our Nation, nor is it in the best interest of Maine.

This is billed as a free trade agreement. So the natural inclination of the Senate is to approve it. The agreement would phaseout all tariffs between the United States and Canada. So in that sense it is a free trade agreement. There are parts of the agreement that provide for freer transfer of goods and services than exist today.

But there are many other provisions that preserve and validate trade restrictive, trade distorting, and trade protectionist policies now in effect in both nations. It is, therefore, inaccurate to call this a free trade agreement. It is simply a trade agreement where two nations have settled some issues, and agreed not to settle many other issues.

My initial concern with this agreement has been reinforced since it was initialed in January. The action taken by the Canadian Government in response to the agreement have made it even more certain that this agreement is not in our Nation's interest.

Since January, Canada has announced a series of programs to counteract the effects of the agreement, including new import restrictions, export controls, subsidy programs, and other actions that distort international trade.

Each of these actions are inconsistent with the purpose of the agreement. Yet Canada has taken them without even consulting the United States. And the administration has meekly accepted them, even though they contradict the agreement and distort trade between the two nations.

Meanwhile, throughout congressional consideration of the agreement, the administration opposed any proposals made on behalf of U.S. industries if they were not specifically included in the agreement or if they were in any way objected to by Canada.

Most of the trade problems between our two nations are not addressed in this agreement. They have simply been put off for further discussions, including the different and troublesome issue of subsidies.

Under these circumstances, where so many issues are not addressed, and where the resolution of so many issues has been deferred, the nation which is most vigorous in representing the interests of its industries will have an advantage.

That circumstance works far more to the benefit of Canada, because its government plays a much greater role than does ours in private economic affairs; and their government attaches far greater importance to trade matters, which it pursues far more aggressively than does our Government.

This has already occurred. Since the agreement was initialed, Canada has not hesitated to protect the interests of its industries and workers. Meanwhile the Reagan administration has unilaterally forfeited our interests to Canadian concerns. In Canada, they have taken this so-called free trade agreement as an opportunity to exploit U.S. markets, while they have gone on with business as usual. At the same time, in case after case, the administration has used the agreement as a reason to oppose every congressional initiative, on the ground that Canada might object.

Since January, the Canadian Government has announced at least seven new trade restricting and trade distorting programs for: First, duty remissions on textile products, second, import restrictions on dairy products, third, landing requirements on fish caught in Canadian waters, fourth, further restrictions on fruit and vegetable imports, fifth, increased deficiency payments for potato farmers, sixth, subsidy programs for the grape and wine industry to offset the trade agreement, and seventh, regulations mandating majority ownership in energy projects.

Each of these actions is inconsistent with the letter or spirit of the free-trade agreement. Each of these proposals was taken unilaterally with little or no consultation with the U.S. Government. In each case our Government capitulated with a whimper of protests.

This administration wrings its hands and worries about the reaction in Canada when considering any action to defend United States interests. Meanwhile the Canadian Government freely violates the spirit of the agreement with a number of new initiatives aimed at United States producers.

This is most critical with respect to the question of Canadian federal and provincial subsidies. The Canadian economic system is different from ours. At both the federal and provincial level, Canadian governments are much more involved in private economic matters, with grant and subsidy programs, as well as programs to control local markets.

Those programs are particularly pervasive in the maritime provinces where Canada focuses its regional economic development programs. The many special grant and subsidy programs are designed to preserve and foster the growth of industries, including the lumber, fish, textile, and potato industries.

That situation has for years generated trade disputes between these Maine industries and their neighbors to the North. In recent years, the Maine lumber, potato, and fish industries have all been involved in countervailing duty and antidumping cases against Canada.

The citizens of Maine are well aware of differences in the Canadian economy and the much more active role the Canadian Government plays in the private sector, through grant and subsidy progams and market restrictions.

So, when President Reagan announced his intention to negotiate, a so-called free-trade agreement with Canada, there was, understandably, a good deal of optimism that many of these trade irritants would be resolved in this trade agreement.

The optimism was quickly dashed.

The Maine potato industry, for example, met on several occasions with the U.S. Trade Representative, as did I and the entire Maine delegation, and our Governor. We asked for true free trade. We asked that Canada agree to remove some of the 32 subsidies which it provides to its potato industry; that Canadian provinces agree to repeal their laws that have the effect of prohibiting Maine potatoes from being sold in Canada most of the year.

None of those objectives were achieved. This agreement does not resolve any potato irritants between Canada and the United States. It is not free trade in any sense of the word. Indeed, it adds insult to injury. Not only does the agreement not address Canadian subsidies to their potato growers, it also affirms those Canadian provincial laws that effectively prohibit Maine potatoes from being sold in Canada. That's a double whammy that no American industry should have to endure.

The same situation applies in the fish industry. There the Canadian Government is actively involved in the industry through at least 55 grant and subsidy programs—programs not addressed by this agreement. To add insult to injury again, the agreement specifically preserves Canadian provincial laws which permit export bans of fish vital to United States processors.

Is it any wonder that this agreement is particularly frustrating to Maine industries? Their interests are ignored by their Federal Government, while their Canadian competitors enjoy generous subsidies and are protected from competition from Maine producers.

Let me repeat for my colleagues what I have said because the unfairness of it is so dramatic. Canada subsidizes its potato growers. Canada through its provinces has laws which prohibit American potatoes from being sold in Canada. This agreement does nothing about the subsidies, does nothing about the Canadian provincial laws that prohibit American potatoes from being sold in Canada but, yet, further opens the floodgates for American markets to Canadian potatoes. That is so unfair it is astonishing the administration would permit this to occur. And yet the administration's position has been hostile to the American producers in every respect.

There is considerable two way trade in potatoes between the United States and Canada. Nevertheless, for several years now, there has been interest on both sides of the border in establishing upper limits on potato trade to serve as a backstop in years of excessive supply, when prices are deeply depressed. That interest has been particularly keen among our farmers because the U.S. potato industry does not benefit from any price supports.

During consideration of this agreement, I proposed a modest provision granting the President negotiating authority for reciprocal limits on potato trade with Canada. Negotiations of course would not be possible unless the Canadians decide it is in their interest to do so. Nevertheless, the administration opposed even this amendment at every turn, arguing that it was contrary to the agreement.

It is difficult to accept the reasoning that a simple authority to discuss potato limits are contrary to an agreement which preserves existing Canadian restrictions that bar Maine potatoes from being shipped into Canada.

Both the House and Senate ignored administration objections to this provision, so it was included in the implementing legislation. The administration was finally constrained to accept the provision and I am pleased it was included. Nevertheless, the attitude of this administration on this issue is clear opposition.

I am also pleased that other amendments I offered in the Finance Committee were adopted in the final legislation before Congress today. These include modifications to the "snapback" provisions of the agreement which will make it easier to reinstate existing tariffs on fresh fruits and vegetables during periods when domestic planting is down and import prices are below average. We were also able to include provisions requiring that the U.S. Government take action within a certain period of time to enforce our GATT rights if Canada institutes landing requirements, or otherwise limits fish exports.

I am deeply disappointed, however, that the Reagan administration rejected an amendment we had included in the Senate bill to extend domestic minimum size limits to Canadian lobster imports. This issue has been of great interest to Maine and other New England States which harvest lobsters. Thousands of families in those States are dependent on lobsters for their livelihood. In an effort to conserve lobster stocks, U.S. harvesters have agreed to restrictions on their catch which limit the minimum size of lobsters that may be caught.

These conservation restrictions are incorporated in a Federal management plan for the American lobster. The minimum size is scheduled to increase over the next few years. However, the restrictions do not apply to imports. That severely undermines the domestic conservation program.

In other words, a Canadian lobsterman can sell in the United States a lobster that an American lobsterman is precluded by American law from catching and selling in the United States. If you want a small lobster in the United States you must buy a Canadian lobster because American lobstermen are prohibited by law from selling in their own country a lobster which their Canadian competitors can legally catch and then sell in the United States. How could you possible have a more unfair situation?

It is no surprise therefore that 50 percent of the lobsters sold in the United States are Canadian lobsters. And it is anticipated after this agreement goes into effect fully one-third of those lobsters will be lobsters that would be illegal if caught in the United States.

This is a situation of simply incredible unfairness and yet the administration opposes every effort to try to do something about it.

Under article XX of the General Agreement on Tariffs and Trade [GATT] and article XII of the Free-Trade Agreement itself, the United States retains a right to impose those import restrictions which are necessary for conservation purposes. The Senate Finance Committee lobster provision would have been an exercise of such rights.

In spite of our rights under international law, and under the signed agreement, the administration rejected this provision.

Not only did the administration reject it, but every New England family whose livelihood is dependent on lobster should know that the administration fought this provision tooth and nail. The administration gave preference to the interests of Canadian families over the interests of American families.

The administration opposed this provision simply because the Canadian Government objected. For several weeks I discussed this with the administration and offered to accommodate Canadian objections. None were accepted. It was sad for me to realize, in my discussions with representatives of the United States Government on behalf of American lobstermen this administration on behalf of New England lobstermen, that the administration had no interest in the substance of the issue, but only in appeasing Canadian concerns.

I am deeply disappointed in the administration's decision. It is a very clear signal that the New England fishing industry cannot depend on its Government, the Federal Government, to represent its interests—and reflects an attitude which does not inspire confidence by other industries.

The Commerce Department, through the National Oceanic and Atmospheric Administration [NOAA] and its National Marine Fisheries Service [NMFS] has claimed that the provision is unnecessary—in spite of evidence to the contrary from State marine resource officials, and even some experienced NMFS representatives.

The Fisheries Service repeatedly provided testimony to Congress that was imprecise, incomplete, and misinformed bending science to the political dictates of the administration. And this debate demonstrated clearly what New England fishermen long have known, that the Federal bureaucracy at NOAA and especially the Fisheries Service is out of touch, does not know what it is talking about, and is ruining the American fishing industry.

At the same time the U.S. Trade Representative argued against this provision on the ground that we cannot do anything that might upset Canada. Well, I, for one, am fed up with hearing this administration repeatedly express its concern about Canadian interests while ignoring the interests of American working men and women.

The administration's treatment of the lobster issue reflects its approach to many U.S. industry concerns. It does not bode well for what we can expect after the agreement is in effect. And it reinforces my judgment that the agreement itself remains fundamentally flawed—because we concede too much to Canada and leave open too many issues that are critical to the United States interests.

What this administration has been doing with this agreement since it was signed in January is simply more of the same of its discredited trade policies; trade policies that have resulted in a record trade deficit every single year the administration has been in office; trade policies that transformed the United States from the world's largest creditor nation in 1980—other countries owed us money—to now being the largest debtor nation in the history of the world. We owe other countries money. Congress, on both sides of the aisle, has been complaining for years that this administration was too prone to sacrifice the interests of U.S. industries to some other concern.

The Omnibus Trade Act recently enacted into law is an attempt to deal with that problem.

And Canada offers a perfect illustration of this problem. This administration has gone to any length to get this agreement. In spite of the valid conservation basis for the lobster provision, and in spite of the fact that such conservation measures are allowable both under the GATT and terms of the Free-Trade Agreement itself, the administration opposed it because the Canadian Government opposed it.

Canada does not hesitate to act in its self-interest. Neither should the United States.

As my colleague, Senator Cohen, pointed out earlier, we who live next to and have dealt with the Canadians for many years admire the way in which they act out of their self-interest. They do not hesitate to take whatever action they deem necessary to support their people. And it stares in stark contrast to the policies here where there is a quivering, a quaking, and a shivering fear of saying or doing anything to which the Canadians might object.

Simply labeling an agreement free trade does not make it free trade. And shunting the most difficult issues off to the future is no solution.

This so-called Free-Trade Agreement depends to a great extent on future discussions between our two nations to address outstanding issues and resolve disputes. But if the past offers any guidance, the progress so glibly promised by the administration on subsidies, market access, and freer trade will never happen.

I advise all the Senators who will vote for this agreement not to hold their breath waiting for action on subsidies which the agreement contemplates and which the administration has promised. It simply will not happen.

I support an agreement which would remove all tariffs between Canada and which would be truly free trade because that would be in our national interest.

But I think we have to look beyond the superficial appeal of nice sounding titles and reduced tariffs and decide whether it is indeed in our national interest to reach such an agreement with a nation with a very different economic system from ours, and one that gives far greater emphasis to trade issues.

We have to look beyond the rhetoric and ask whether it is truly in our national interest to eliminate all tariffs and reduce our protections against a nation that will employ its extensive system of subsidies and market controls to neutralize any benefits to us from this agreement.

After months of careful reflection and study, I will vote no because I believe this agreement is not in the best interest of our Nation.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. MITCHELL. I yield.

Mr. COHEN. Mr. President, I commend my colleague from Maine for his very powerful statement expressing his reason as to why he will not support this agreement.

I made reference during my own time to a document which apparently was totally unknown to our Government. It is called ABC. We have a different ABC coming before our Congress this session. This is called ABC—"Assistance to Business in Canada."

I hesitate to introduce any portion of this because it is quite lengthy, but our administration was totally unaware of the vast array of programs which are documented in the little handbook. I would like to read briefly from chapter III, for example.

> What is the extent of federal economic development assistance to the business community? The federal government provides over $8 billion each year in grants, expenditures, contributions, loans, loan guarantees and insurance to promote economic development in Canada. Of this amount, more than $6 billion is provided in direct support to business, including independent businessmen, fishermen and farmers. In addition special tax incentives, designed to stimulate economic development, reduce taxes by hundreds of millions of dollars each year. Numerous federal services also play a major role in the federal economic development effort.

It goes on to list all the services that are provided. I will quote a couple of pages. Under "Stabilization Program for the 1979 Eastern Canadian Potato Crop" the Agriculture Minister announced a stabilization program. They call it stabilization rather than subsidy.

> Potato producers in Ontario, Quebec and the Atlantic Provinces will receive a payment of 70 cents per hundredweight for potatoes grown and marketed in the 1979-80 crop year.
>
> The stabilization payment is based on the difference between the support price of $3.42 per hundredweight (90 per cent of the previous five-year average indexed for changes in cash costs of production) and the average market return for the 1979 crop, which was $2.72.

A nice little compensation for the price they did not receive. Nothing was given that year to their counterparts in our country, particularly the Maine potato growers.

On fisheries:

> Loans are available for the following purposes:
>
> Building of new boats 18 feet and over;
>
> Purchase of second hand boats 18 feet and over;
>
> Acquiring new engines;
>
> Buying certain approved types of fishing equipment;
>
> Conversion of boats from one fishery to another;
>
> The present terms for the loans introduced in 1977 are as follows: 5 percent downpayment and interest rate of 3½ percent with no repayment requirement for two years.

During that timeframe of 1979 through 1981 when did Americans have access to 3.5 percent loans, with no repayment for 2 years?

Mr. President, that is just a small sample of the effort the Canadian Government has made on behalf of their industries.

As Senator MITCHELL and I have indicated, we admire the Canadian Government for what they have done. We fail to admire our own Government for being totally indifferent to the disparity in the marketplace with respect to our competitors. Under no circumstance can we say that we have done equity or justice to our producers, who are willing to compete on an equal basis, head to head, but cannot compete against Canadian subsidies, cannot compete against the treasuries in Ottawa and the Provinces.

Mr. MITCHELL. Mr. President, I yield 7 minutes to the Senator from Montana.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Montana is recognized.

Mr. MELCHER. I thank the distinguished Senator from Maine.

Mr. President, I want to talk about wheat, first of all, in the proposed agreement.

It is familiar to those of us who come from wheat-producing areas what our total crop is in the United States, and it is roughly 2 to 2.4 billion bushels per year. As a single country, we are probably, year in and year out, the largest producer of wheat. But our neighbor to the north, Canada, is a significant wheat producer also. They produce somewhere in the range of 1 billion bushels maybe 1.1 billion bushels.

However, both countries are plagued with the same problem, and that is that wheat producers in the United States as well as the wheat producers in Canada are producing wheat for export.

We produce about two-thirds of the American crop for export, because we consume only one-third. Canadian producers are faced with a similar situation, in that they habitually, year in and year out, export 60 to 70 percent of their crop. So they are only consuming a small portion of the wheat produced in their country.

The fact is that, quite often, both countries carry over surplus wheat. So we have a common problem. We are tied together on what the export market is for wheat. Under existing law, we understand where we are. Where would we be after this trade agreement would become effective, if it does become effective? The American wheat producer would be at a disadvantage. Why? I would like to cite three reasons.

After the trade agreement would become effective, Canadian wheat would move into our country without restriction, while United States wheat going into Canada would still be subject to a licensing procedure, and that licensing, simply put, by the Canadian Government, is that they are not going to import any wheat into Canada if there is ample supply there. It would be an unusual set of circumstances where there would not be an ample supply of Canadian wheat. Therefore, that is not even at all.

While Canadian wheat can come into the United States, let us view what would happen in the State of Montana. Wheat producers in Saskatchewan and Alberta would be free to send their wheat down if they needed elevator space, and they would undoubtedly do so, because there would be no restriction. That would put us at a disadvantage, because, by and large, the elevators we have in our State—and I think it is true of other States—is about what we need. Usually, during harvest, we wish we had twice as much elevator space.

Second, as the Canadian wheat would come in, it would not only compete for elevator space in the United States but also would compete for transportation—in other words, rail cars to move it for export. Are there rail cars in surplus? Of course not. They are in a deficit situation all during harvest; and barely 4 or 5 months after the harvest is over, you still might find a problem getting hopper cars or other cars when you need them to ship your wheat.

Second, Canada has a system where they subsidize wheat producers and grain producers on the basis of providing transportation that is generally rated at about $18 per ton of wheat subsidy. Under this agreement, they would knock off that subsidy for any wheat going west, but retain it for any wheat going east.

So in effect what they would do would be to subsidize their wheat movement going east which would put us as American wheat producers at a very distinct disadvantage in trying to move American wheat east to meet some export requirements.

Third, the trade agreement as it affects wheat would place the United States in a very awkward unworkable position regarding Public Law 480 wheat that is shipped for export or wheat that is shipped under what is known as the export enhancement program because the agreement contains a section, because you have to read two or three sentences in conjunction with each other, that would say that an export sale if it would put Canada at a disadvantage woud be prohibited. In other words, they would be running our export policy as it affects wheat. That is unconscionable. But so much for wheat.

There are other commodities that we fear would place our producers at a disadvantage when it comes to energy. Oil and gas out of Canada is sometimes dumped because there is a surplus in their country, and to the extent that it is, it causes less production in a State like Montana and other energy producing States.

So I think on those two groups of commodities; wheat, first; energy, oil and gas, second; we find that American producers would be at a distinct disadvantage as it affects our production compared to theirs and how it is handled, what the price is, what we can expect in American producers having a so-called level playing field.

This agreement will not provide a level playing field. It is tilted to the advantage of Canada. Canada is our good neighbor, but this agreement is not really free trade at all.

After all, we would like to have an even balance or roughly even balance with Canada.

It is the United States that has the disadvantage in that more Canadian products have poured into the United States than we export to Canada. They are part of the reason we have such a serious trade imbalance.

This agreement does not correct that trade imbalance. Rather it aggravates the trade imbalance, giving Canadian producers an advantage over United States producers.

We do not need that. Our friendship with the Canadians will continue whether or not we accept this trade agreement. But this agreement is unworkable as to fairness, unworkable as to correcting the imbalance of trade we have with Canada. It should be rejected, and I shall vote against it.

Mr. **DURENBERGER.** Mr. President, later today we will be voting on the United States-Canada Free-Trade Agreement.

Based on what I have heard so far during Senate debate, I expect that the Senate will probably follow the House of Representatives in voting, perhaps overwhelmingly in favor of the agreement.

Although it will not be a source of great joy to anyone, it has been a difficult task coming up with this improvement. Those of us on the Finance Committee who have been dealing with this issue now for several years know how difficult it has been to construct an agreement that satisfies the needs of all constituencies and at the same time passes political muster in two different countries. We have had in our committee a history of close votes leading up to this issue but when it finally passed, it was by a large vote, indicating that a great deal of effort has been put in on the part of the members of the Finance Committee in making sure that this is a bill which while it may not meet everyone's expectations does as good a job as a nation like ours can do to try to start to set the pace of more reasonable trade relations with our best neighbor and hopefully eventually with all of our neighbors and all of our trading partners.

But I do not think that the margin of these votes should be construed as signifying that any of us on the committee are totally satisfied with all four corners of this agreement. I do not know any member of the committee is.

If this agreement is ultimately implemented, and I emphasize the word "if" because there are some doubts that the Canadian opposition liberal party will allow the agreement to go into effect before a national election, I think it will represent an important first step toward building a North American free trade zone.

Elimination of all tariffs between the United States and Canada over 10 years could very well serve as a model for the rest of the world to show that the United States and its largest trading partner, Canada, have taken a first step in creating an open trading border.

On average, Canadian tariffs generally are twice as high as American tariffs, and elimination of those tariffs over the next 10 years should enhance trade between the two countries.

This could be especially beneficial to the citizens of Minnesota. Our State's bilateral trade with Canada last year totaled $3 billion, of which almost $1 billion represented Minnesota exports. More than 40,000 Minnesota jobs are tied directly or indirectly to this trade relationship.

Ending tariffs as high as 17 percent on high-technology products, including computers and medical equipment, will be a tremendous benefit to Minnesota's high-technology companies, like 3M, Control Data, and Cray.

Although we are a major agriculture State, I think it is important to note that high-technology products are Minnesota's No. 1 export to Canada.

Nearly half of Minnesota's imports from Canada consist of petroleum and natural gas products.

This agreement will enhance all Minnesotans' energy security because it provides for free and open energy trade between the two countries and assures our citizens that they will continue to have access to Canadian oil and natural gas during times of energy shortage such as we experienced in the early and latter part of the last decade.

Minnesota currently imports $90 million per year of hydro power from Manitoba. The agreement assures a continuation of this electrical power from non-polluting hydropower sources in Canada.

Not only will this assure an inexpensive source of electricity for the State, but it lessens our dependence on fossil fueled powerplants which are a major source of acid rain and contribute to the alarming trend of global warming.

I would also note that this agreement takes a first step in establishing rules allowing American service companies to compete for business in Canada and takes a small step toward opening up investment for American companies in that nation.

These are first steps that should be built upon in future negotiations with the Canadians.

Mr. President, there are several areas where I think this agreement could have been improved upon.

I would have hoped that the negotiators would have made real progress in reducing the heavily subsidized and regulated Canadian agricultural program which, in effect, prevents many

American agriculture exporters from gaining even a foothold in the Canadian market.

This would be a far better agreement if the Canadians had agreed to remove their rail subsidies into Thunder Bay which gives Canadian wheat and corn growers an unfair advantage against the American farmer producer.

Although the Canadians made a small concession by eliminating their western rail subsidies, the eastern subsidies remain a major concern to many farmers in my State and throughout the Midwest.

Although the agreement loosens the Canadian import licensing system to the benefit of some of our oat and barley farmers, the import licensing system effectively bans the import of United States wheat, for the foreseeable future.

The implementing language that was recommended by the members of the Finance Committee recognizes the threat posed by competition from subsidized Canadian producers.

The special expedited procedures that have been adopted for industries facing subsidized competition should prevent any major market disruptions for the foreseeable future.

We have broad tools available under section 301 and under our antidumping laws to prevent such market disruptions, and I expect those tools to be used.

I would also note that the agreement establishes a United States-Canadian working group whose goal is to achieve increased discipline on Government subsidies that have a significant affect on United States-Canadian trade.

More importantly, both countries have agreed to take a united stand in the Uruguay Round of the multilateral GATT talks on finding ways to reduce Government subsidies that have made it so difficult for American farmers to compete in world markets without the United States having to get into the export subsidy game to offset unfair EC export subsidy programs.

Mr. President, I would not be inclined to vote for this agreement if the United States was not prepared to negotiate meaningful reductions in agriculture subsidies in the multilateral talks at the Uruguay Round.

However, in adopting the omnibus trade bill last month, which gives the next administration negotiating authority for the Uruguay Round, I think we have sent a strong message to our trading partners, including the Canadians, that we will not tolerate unfair subsidies that prevent American farmers from selling in world markets.

On another matter, I want to express my disappointment that the Canadians did not agree to eliminate their 39 cents per bushel countervailing duty on corn.

However, since we grandfathered the U.S. countervailing duty on shakes and shingles and on live hogs from Canada, I understand that our negotiators' hands were tied on this issue.

Nonetheless, the corn tariff still remains a major sticking point between our two countries, and I would like to see it removed as soon as possible.

I was also quite concerned that the Canadians might import dumped EC wine and create an ethanol industry like the one in the Caribbean that unfairly competes with our domestic industry.

I am pleased that the administration has taken note of my concerns, and the concerns of Senators Dole and Danforth, and insured that the rules of origin in the agreement preclude the creation of such an industry.

Finally, Mr. President, I also want to express my concern with that part of the agreement which allows unlimited Canadian exports of processed foods containing less than 10 percent sugar.

I am concerned that this provision could serve as a loophole in the U.S. Sugar Program that could directly undermine the U.S. Sugar Program, and inadvertently damage trade relations with our trading partners in the Caribbean Basin.

It has been suggested that the Canadians may use this provision to import Cuban sugar for use in their processed products.

However, the statement of administrative action makes clear that the administration plans to strictly enforce the embargo on Cuban sugar by requiring a strict certification of the origin of the sugar.

Violation of these rules carries a penalty of the greater of the value of the shipment or $10,000.

Mr. President, there has been much concern expressed on both sides of the border as to how this agreement will affect trade relations between our two countries.

In my State, the greatest concern has been expressed by the small rural communities that are so dependent on the sustained vitality of American agriculture.

Although there are risks associated with this agreement, I think the safeguards we have put in place to protect American agriculture, and the commitment we have made to work to end such subsidies worldwide are worth the challenge this agreement poses.

Therefore, I will vote for this agreement and, at the same time I want to encourage our negotiators to continue to work to bring more discipline on Canadian and world subsidies.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

THE FTA: GOOD FOR THE NATION AND GOOD FOR NEW ENGLAND

Mr. PELL. Mr. President, the Canadian Free-Trade Agreement is an historic step in the evolution of our relationship with our Northern neighbor, and it promises great benefits for the Nation as a whole and for New England in particular.

The Free-Trade Agreement dismantles in one sweep some of the highest tariff barriers in the industrialized world, erected by Canada over 100 years ago in the political wake of the Civil War. At last, both economic opportunity and politic wisdom have dictated their removal.

For the United States, the agreement provides improved access to a market of some 25 million consumers. Hopefully, there will be a resulting reduction in the $16 billion merchandise trade deficit now in Canada's favor.

We in New England have reason to embrace the FTA both as importers and as exporters. Our prime interest as importers lies in the assurance of long-term and equal access to Canadian hydroelectric power on an uninterruptible basis.

New England, together with New York and New Jersey, already consumes over half of Canada's exported electricity. Increased hydropower imports will reduce our dependence on local fossil fuel generation and hopefully hold down power costs and reduce environmental pollution at the same time.

In terms of exports, some 12.7 percent of New England's manufacturing jobs currently are trade based, as opposed to 10.9 percent nationally. Canada already is our best customer and the Free-Trade Agreement gives promise of increasing the volume and reducing our regional trade deficit, now running at about $2.5 billion.

Rhode Island's total trade with Canada amounted to $593 million in 1986, of which 78 percent were Canadian imports to the State. Most of the imports are precious metals to be used in the manufacture of jewelry and silverwear by Rhode Island craftsmen.

Our State already ships a substantial volume of finished goods to Canada, and it is anticipated that the volume will now increase, particularly in such areas as computers, electronics and telecommunications equipment.

Over recent months, I have heard from several sectors of the Rhode Island economy urging removal of trade barriers. Contractors and lumber dealers support removal of United States barriers to imports of Canadian lumber, boat builders favor removal of Canadian tariffs on their products, and manufacturers of special products such as optical fibers favor the fastest possible phaseout of tariffs.

One unresolved problem for New England is the question of Canadian export of lobsters which fail to meet United States minimum-size requirements. I have joined with the Senator from Maine [Mr. MITCHELL] and other Senators from New England, to call attention to this matter. While our efforts to deal with the matter in the context of the free-trade agreement enabling legislation have not been successful, we are determined to take whatever steps are possible within the framework of the agreement to reach an equitable solution and protect the interests of New England fishermen and our New England lobstermen.

On balance, Mr. President, the Canadian Free-Trade Agreement is an idea whose time has come and I support its passage. In this connection, I ask unanimous consent to have printed in the RECORD a resolution of the Rhode Island Senate and an editorial from the Providence Journal Bulletin.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION MEMORIALIZING CONGRESS TO APPROVE THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

Whereas, Each year the United States and Canada exchange more goods and services than any two countries in the world. In 1986, biliteral trade exceeded $150 billion. As a consequence of this reciprocal and expanding economic relationship, these two nations have dedicated themselves to the mutual elimination of tariffs and most other trade barriers to increase economic growth, lower prices, expand employment and enhance the competitiveness of both countries in the world marketplace; and

Whereas, This agreement will eliminate all tariffs on bilateral goods traded within 10 years of implementation; reduce nontariff trade barriers; establish principles for the conduct of bilateral trade in services; establish rules for the conduct of bilateral investment; resolve many outstanding bilateral trade issues; enhance the energy and national security of the two countries; facilitate business travel; and establish a timely bilateral dispute settlement mechanism; and

Whereas, In the truest sense, this is an historic agreement for both sides. It will strengthen what is already a deep and abiding friendship between our peoples by enhancing economic opportunities and creating jobs in both countries. Moreover, the agreement firmly establishes that the trade environment between the two nations will be founded upon the principle of free and open trade; and

Whereas, The phasing out of tariffs will save consumers hundreds of millions of dollars while also improving export opportunities. It will, likewise, secure access to Canada's market for American manufacturing, agriculture, financial services and high technology; now, therefore be it

Resolved, That this senate of the state of Rhode Island and Providence Planations hereby respectfully memorializes the Congress to expeditiously approve the mutually advantageous United States-Canada Free Trade Agreement; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the members of the Rhode Island delegation in the Congress of the United States.

UNITED STATES-CANADA TRADE AGREEMENT: A BIG BOOST FOR RHODE ISLAND

The U.S.-Canada Free Trade Agreement, signed in January but still unratified by the U.S. Senate and the Canadian Parliament, will benefit both nations by eliminating tariffs and reducing non-tariff trade barriers on both sides of the border. New England should gain from the treaty because of its proximity to Canada. Rhode Island should gain because some of its major industries are particularly sensitive to tariffs, both American and Canadian.

Rhode Island "suffers" a massive trade deficit with Canada, exporting $128 million and importing $465 million worth of goods in 1986. Ocean Staters should not find these figures distressing, however, for their impact is deceiving. The bulk of imports—$302 million in precious metals and alloys—is made into jewelry and related goods to be sold in other states and countries, including Canada.

This means Rhode Island gets a double benefit from the Free Trade Agreement. First, the raw materials imported from Canada to make finished products here (especially jewelry) will be less costly because U.S. tariffs on those materials will be eliminated. Second, the ability of firms here to sell the finished goods in Canada will improve because the 13.8 percent Canadian tariff will be removed over five years.

Not all local firms will receive such a double benefit, but all who export to Canada will find competition easier when tariffs disappear. To be sure, Canadians seeking to sell to Rhode Islanders will benefit—but because the Canadian tariff tends to be twice as high as the U.S. tariff on fabricated metals (such as valves) and finished products, the advantage will be here.

On the down side, the Canadian textile industry would benefit more from the pact than the textile industry here, for the same reason our jewelry makers would benefit: Most Canadian apparel is made with U.S. textiles, so its manufacturers will reap a double benefit unavailable here. Still, since Canada's tariffs tend to be higher, the elimination over 10 years would be of greater comparative benefit to local exporters.

One aspect of the Free Trade Agreement that merits special attention in Rhode Island and New England generally involves energy. The New England Power Pool provides for a significant and growing proportion of the region's energy needs with hydroelectric power and natural gas from Canada. There are no Canadian barriers to energy exports now, but the FTA would prevent future problems. With the politics of acid rain, the Persian Gulf, and nuclear energy threatening to undermine the dominant sources of regional power, the reliability of Canadian energy sources is of mounting importance.

The advantages of the pact are sufficiently apparent that Rhode Island's two senators, Claiborne Pell and John H. Chafee, both have said they will vote for its ratification. Because the pact will benefit both the state and the nation, this is an easy call for them. But some senators, whose states might bear the brunt of greater competition from Canada, need to be persuaded. Mr. Chafee and Mr. Pell should help try to bring them around—and join also in convincing skeptics in Canada to vote Yes.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. DURENBERGER. Mr. President, will the Senator yield for the purpose of a question?

Mr. KASTEN. Yes.

Mr. DURENBERGER. Might I inquire as to how much time remains on the Republican side?

The PRESIDING OFFICER. Thirty minutes and nine seconds remain.

Mr. KASTEN. Will the Senator yield me 6 minutes?

Mr. DURENBERGER. I yield 6 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. I thank the Senator from Minnesota and I thank the Chair.

Mr. President, I rise today in enthusiastic support of the proposed free trade agreement between the United States and Canada. Our two countries share more than a border—we share a spirit of free enterprise and a common economic destiny.

Canada is already our number one trading partner. In fact, no two countries in the whole world exchange more goods and services than do Canada and the United States today.

So Canada is a terrific customer for American exports. And under this proposed agreement, we will be able to do even better in selling to the Canadian market.

The Free Trade Agreement would phase out all tariffs on bilateral goods trade within 10 years, liberalize non-tariff trade barriers, and provide an improved framework for settling bilateral disputes. This liberalization of trade between our two countries will yield palpable—and rapid—benefit to the economy of our country and to the economy of my home State of Wisconsin.

Wisconsin has led America in per capita exports. We can expect to see this export capability multiplied under a free trade regime—especially since Canada is already Wisconsin's number one foreign trade partner. One-fourth of all of Wisconsin's foreign sales are rung up in Canada, and Wisconsinites exporting to Canada reaped profits of $1.47 billion in 1986 alone.

Those profits mean jobs for Wisconsin. Open markets mean more profits for Wisconsin business, and these profitable enterprises will create more and more jobs for Wisconsin workers. The ripple effect of economic growth will be felt throughout the community.

While the State's economy as a whole stands to benefit from the free trade agreement, some industries will receive an especially strong shot in the arm. Among them are the furniture and paper industries, and Wisconsin's already-exploding high-technology sector.

When we eliminate the 9.9-percent Canadian tariff handicap, we will see an export boom in these industries and many others.

Even with that tariff handicap, Wisconsin exports 11 percent more to Canada than we import from Canada. Under the Free Trade Agreement, this balance of trade will keep on improving.

One study commissioned by Wisconsin's Department of Development indicates that the Free-Trade Agreement would increase Wisconsin exports to Canada by $525 million per year—a full 36 percent over the current level.

And what is true of Wisconsin will also be true of the other States catapulted into the immense new free market on our northern border.

Of course, no agreement is ever perfect. I would have liked this agreement to require a lowering of the Canadian barriers to American beer exports. I'll be working to remedy this and other trade problems affecting Wisconsin once the agreement is passed.

But make no mistake—on balance, this agreement is a giant step forward for the American economy, and we ought to support it.

I understand that some Canadians are worried that free trade is merely a cover for imperialism—for a thinly disguised American raiding party on the heritage of Canada and on its distinctive culture.

Nothing could be further from the truth. The glory of free trade is precisely that—that trading partners have the liberty to select goods and services from each other with a minimum of Government involvement in the process of making choices.

And this liberty flows both ways. Americans will have entirely free access to the fruits of Canadian culture—and Canadians will likewise be free to enjoy as many products of American culture as they themselves choose.

I urge our Canadian friends to reflect on how much both our economies—and both our cultures—stand to benefit from this new freedom of exchange.

Mr. President, the agreement we will vote on today is a fitting monument to the principles of this administration and its President. Ronald Reagan came to office committed to the proposition that the more freedom people have, the more opportunities they can create—and the better off their communities will be as a result.

This agreement will spark economic growth and cultural exchange among two very large and extremely innovative nations. In war, we have been allies; in peace, friends, and in trade, partners. Under the Free-Trade Agreement, we will contribute as never before to the building of a bright and prosperous future for both our nations; indeed, for our continent.

I urge my colleagues to support this agreement—and add a valuable building-stone to the foundation of North America's economic future.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I yield 6 minutes to the Senator from North Carolina.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from North Carolina is recognized.

Mr. SANFORD. Mr. President, I rise today in support of H.R. 5090, The United States-Canada Free-Trade Agreement. President Reagan and Prime Minister Mulroney signed this agreement on January 2d of this year, and it is now time for this Senate to clear the way for its passage.

The Free-Trade Agreement represents the culmination of an extensive effort involving five committees in the Senate and eight in the House. These committees worked with the administration to review the agreement and to make the changes necessary for implementation in U.S. law. As in the past, the bipartisan cooperative effort between the Congress and the executive branch demonstrates the success of the fast track procedure under House and Senate rules for consideration and approval of international trade agreement.

The opportunity to open up trade within the largest trade partnership in the world must not be resisted by the Senate. Economists estimate that the lowered costs of trade and investment would increase the United States' gross national product by $12 to $17 billion annually. This translates into between 500,000 and 750,000 new U.S. jobs. Beyond economics, the agreement provides the means to build upon the strong economic and political history of United States-Canadian relations. We must not back away from this unique opportunity.

While the agreement on balance profits both the United States and Canada, I am concerned about two issues of concern for the United States textile industry and urge the administration to closely monitor both the transshipment of foreign goods and the creation of a Canadian duty remission program.

The textile and apparel industries of North Carolina must not be undermined by the illegal and unrestricted flow of goods from low-wage countries to the United States through Canadian territory. The administration must strictly enforce the rule of origin system in order to stop low-wage nations from exceeding quotas and avoiding tariffs by using transshipment.

The administration must also oppose the creation of a Canadian duty-remission program which would give Canadian apparel companies the right to import fabric, duty free, for use in clothing exported to the United States. The Free Trade Act will only be a fair trade act if this program is eliminated.

Aside from these stumbling blocks, I support this historic agreement. The reduction of tariffs will result in increased sales of United States products in Canada and lower prices to consumers in this country. Trade between our two countries exceeds $150 billion annually, generating 4.2 million jobs. These totals can only increase as the tariffs come tumbling down.

North Carolina industries would also reap rewards from the opening up of trade relations. The reduction of high furniture and printing tariffs, which now favor Canadian firms, would encourage State exports in these areas.

Financial institutions would benefit from the opening of the Canadian financial services sector. Commercial bank subsidiaries in Canada will no longer operate under restrictions regarding market share, asset growth, and capital expansion, while U.S. insurance and securities firms will receive added diversification opportunities.

This agreement would also promote prosperity in North Carolina's boating industry.

Mr. President, I have noted that our varying colleagues have talked about what this agreement would mean for their individual States, and I think that gives you a good general picture of how so many parts of the country will benefit. Our boating industry, which contains several of the Nation's leading recreational marine craft manufacturers, would certainly benefit.

Finally, high tech firms and small businesses would also gain from agreement provisions which remove tariffs, reduce trade and investment costs, and free up the movement of goods and people across the border.

I believe this agreement will also help the Canadians. This is not a situation where we win and they lose. Both sides win. The Canadian Department of Finance estimated that the agreement would reduce the average production costs of Canadian manufacturers by more than 3 percent, and increase exports 3.5 percent by 1993. Moreover, the agreement provides additional Canadian access to a market 10 times the size of its own.

Aside from economic advantages, the Free-Trade Agreement will inspire cross-cultural understanding. The United States and Canada share a 5,000-mile border, and yet comparatively little is known about our neighbor to the north. Additional economic activity between the two countries will lead to increased appreciation of the diverse ethnic backgrounds and cultural traditions of these two fine nations.

The United States-Canada Free-Trade Agreement will strengthen both economic and cultural ties between the two countries. It equalizes trade conditions and expands the export markets of both countries while providing opportunities for cultural interaction. For these reasons I strongly support the passage of this historic agreement.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak on a subject unrelated to this matter with the time to be charged to the junior Senator from Maine.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. MITCHELL. How much time would the Senator like?

Mr. REID. About 10 minutes.

Mr. MITCHELL. I yield 10 minutes off my remaining time on the bill to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Maine is controlling 5 minutes, 30 seconds.

Mr. MITCHELL. I will yield that time to him with the remainder to be taken off the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair and also I appreciate the courtesy extended to me by the Senator from Maine.

MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

Mr. REID. Mr. President, I rise today to revisit an issue the vast majority of us thought closed. I am speaking of one of our Nation's newest laws, the Medicare Catastrophic Coverage Act of 1988.

My purpose today is to remind my colleagues of the one gaping flaw in this legislation, the funding mechanism. The funding mechanism is unduly harsh and unfair treatment for a select number of Americans over the age of 65. The way this new coverage is paid for needs reviewing and revising. The 101st Congress must begin with the cleaning up of this particularly toxic mess we have created for middle income seniors.

Let me remind my colleagues of the financing method about which I speak. On top of a monthly premium increase for all Medicare part B participants beginning in 1989, an estimated 45 percent of all Medicare eligible people will pay a new, so called, supplemental premium of $22.50 for every $150 in tax liability. The amount owed will be paid together with tax returns filed for fiscal year 1989. In fact, this "supplemental premium" will be remitted to the Internal Revenue Service.

I, like most of my colleagues, chose not to dwell on the act's defective financing, but rather to take pride in its many excellent benefit increases and additions such as: the cap on out-of-pocket part B expenses, unlimited hospitalization coverage, and spousal impoverishment protection. I guess most of us saw the financing method as a necessary evil.

Mr. President, I hold we did not see enough. We did not see those older Americans who planned for their retirements and so are financially secure enough to have tax liabilities, yet who might have that security taken away from them thanks to this new expense. This new charge is not a necessary evil—we can do something about it.

This year we really had no choice but to accept the funding mechanism—for the time being—the President being who he is. The so-called "premium increase" was our only means of providing the vitally important provisions of the Medicare Catastrophic Coverage Act. Other means of financing would most certainly have meant a veto by President Reagan.

It has become increasingly evident to me, thanks to a very active group of Nevadans headed by the capable and intelligent Daniel Hawley, that this "premium increase," to be paid by the upper 45th percentile of income-earning seniors, is, indeed, a new tax—a very burdensome tax—a tax that is unacceptable to me. I feel sure all Members of this body have heard from those older Americans hurt by the tax, just as I have. In fact, I would like to credit Mr. Hawley and his supporters with raising the seniors' awareness of this tax not only in Nevada, but nationwide.

We all, Democrats and Republicans alike, want to avoid raising taxes, but reality is catching up with this legislation. We did, in effect, raise taxes for a small and financially vulnerable portion of our citizenry. We must face this reality and consider how to remedy this untenable approach to financing Medicare coverage.

The refusal to call a tax increase a tax increase that we have witnessed during the many long hours of work on the crafting of this legislation is an ailment that has been particularly prevalent in the Reagan administration years. During the last 8 years we have suffered massive tax increases, few of them obvious, many of them disguised, yet have been repeatedly told that this is the Reagan era of lower taxes and Federal cutbacks.

In 1982, we witnessed one of the largest tax increases ever. It was crafted by the Republicans. This law raised taxes by approximately $98 billion and was passed with the promise of $3 in Federal cutbacks for every $1 in tax revenue. This 3-for-1 promise became a way for Ronald Reagan and company to disguise the ugly truth of $98 billion in new tax liability.

Almost 50 percent of those promised cutbacks were reductions that had to come from the executive branch. Neither the Republicans, who crafted this massive tax package, nor the President, who signed it into law, were able to deliver the promised Federal spending cutbacks. What remains with us today are the taxes—none of the cutbacks—just taxes.

What remains with the unlucky group of seniors I am talking about today are taxes, just taxes.

Let us revisit the subject of cutbacks—of priorities. We have all had enough of the Reagan years and their accompanying hat tricks which inevitably meant bad news for our livelihoods, particularly those of senior citizens. During the last 8 years we have seen a scaling back of benefits for Social Security recipients born from 1917 to 1921 period, Medicare outlays reduced by tens of billions of dollars, Social Security cost-of-living increases postponed, and Social Security benefits of middle- to upper-income seniors taxed for the first time. How can we tax these people again? Let us go back to the unkept 1982 promises of a Republican Senate and a Republican President. Let us make those cutbacks and shifts. Let us make paying for our Nation's health a national priority, not the burden of a few already heavily taxed individuals on fixed incomes.

Come January, I expect we in Congress will have a lot to consider.

Foremost in our minds must be the health, both physical and financial, of this Nation's senior citizens. We must redefine our priorities come January. Improvements in our Nation's health must take precedence over military spending of questionable merit, such as the B-1 bomber. Our Nation's health must come before tobacco subsidies, and before special defense contracting breaks for administration favorites.

While we are in our home States this fall, let us remember the older residents of our States paying for the Catastrophic Act. Let us remember the basic tenet of Tax Reform—fairness. When we return in January, let us act on that tenet.

Medicare is health insurance for all Americans. Some are covered now, most later, but we are all covered. Fairness is not to be found in forcing a targeted group to pay for all. Fairness must be found in January.

I yield the floor.

UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the 11 minutes which the distinguished senior Senator, Mr. COHEN, from Maine, had remaining be transferred to the Senator from New Mexico as the Republican manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I yield myself 15 minutes.

As I understand it, Mr. President, with that 11 minutes we have 35 minutes remaining. Is that correct?

The PRESIDING OFFICER. There are 24 minutes 29 seconds under the control of the minority.

Mr. DOMENICI. Plus the 11 that I just acquired?

The PRESIDING OFFICER. Yes; 35 minutes and 29 seconds.

Mr. DOMENICI. I thank the Chair.

Mr. President, it is with regret that I will not be able to support the Canadian Free-Trade Agreement. Even though I will vote against the agreement, I am quite sure it will pass and that it will pass overwhelmingly. I am also here to congratulate those in the administration who negotiated this agreement and the President of the United States, President Ronald Reagan, under whose direction this treaty was negotiated, culminated, and I am sure will be ratified here today.

However, the Senator from New Mexico cannot vote in favor of this agreement simply because of some of the energy policies and ramifications of energy policy that will inure to the United States and in particular to the State of New Mexico. I wish to talk about those for just a moment.

Before I do that, let me suggest that it is a difficult vote even though I am quite sure from the standpoint of my State, both as to the uranium which is mined in our State and the future of domestic nuclear energy as fed by a basic commodity called uranium, this agreement is not good for us. Secondly, I am absolutely positive that we are going to grow more dependent upon natural gas from Canada and oil from foreign countries including Canada, Mexico, and others, and that this agreement will make that dependence worse.

There is, however, a provision within this agreement that is extremely healthy and very salutary for the United States and her future, and that is the energy security umbrella that will be created by this agreement between the United States of America and Canada.

We do not have to be very old to be able to recall the consequences of the oil boycott and the crisis that occurred in America when we had a disruption of the oil supply from overseas. Recall, we quickly saw gasoline lines in the United States. In Eastern America we saw Americans' typical civility go out the window when they were waiting for gasoline. We saw people shoot each other in some gasoline lines. We saw manufacturing plants in Ohio and Illinois so frightened about natural gas shortages that they seriously considered working at night instead of during the day in order to have enough natural gas to run those plants.

Americans have forgotten about the inconvenience and dangers of oil dependence. We have no energy policy or at best a policy of more dependence on foreign energy rather than less.

For those who are worried about the trade deficit, I remind you all that this year about $40 billion of the total trade deficit will be attributed to purchases of energy and energy-related products from foreign countries.

So for those who want to reduce the trade balance to zero, they need an energy policy. Otherwise you can't get there from here. Unless we have an energy policy that substantially diminishes this $40 billion dependence on foreign oil we will continue to have trade deficits. Keep in mind that foreign oil dependence is growing, not diminishing. The Department of Energy projects that we will be importing over 50 percent of our oil by 1995. This agreement with the Canadians from the standpoint of another crisis does an interesting thing, an excitingly positive thing. It says to the Canadians if you are going to get part of our market during good times, you have to share some of the risks of bad times. So there is an umbrella that shelters us if we have another oil shortage and crisis. If Americans and Canadians have pressure put on their domestic energy supplies, Canadians must continue to sell us first the same percentage that we were getting before the crisis. This is a guarantee that if the United States buys from Canada now, they will have to sell to us in times of short supply; Second, it prohibits a price differential on either side of the border in the event of a crisis. This means the Canadians won't be able to charge us more than they are charging their domestic customers.

Frankly, considering the inevitability of another energy crisis because of the way we are ignoring so many other energy sources, the energy security umbrella may be reason enough to vote for this agreement. I commend those in the administration in our National Government and in Canada's for coming up with it. It is a fair concept, and will inure to America's benefit in a time of crisis.

Having said that, however, let me suggest that the United States of America, should be extremely concerned if not embarrassed about the fact that we are growing in energy dependence while this country is ladened with alternative energy sources, coal, tar sands, natural gas, uranium for its civilian nuclear power, and many other technologies that would permit us to begin to diminish the dependence. We are squandering time and resources.

So long as crude oil is available in the world, and so long as it is selling for $14.80 a barrel—we will depend on it and use nothing else because no other source of energy will make economic sense. We will not increase our coal usage even with new technology and clearner coal uses. That will grow only slightly. We will not come on board with alternatives because the marketplace dictates that they will not work. So what we have done in my opinion for the foreseeable future is decide that the United States is going to remain substantially dependent upon crude oil and natural gas. I am hopeful that we are going to see the light, and begin to use a little more nuclear energy.

Let me tell you why I cannot support the agreement being from a State like New Mexico which was number one for years in the production of uranium. We had 7,000 employees in that business, and we now have slightly over 165 today.

Second, we are fourth in natural gas production, and seventh in oil. And oil production and reserves are declining, not increasing. The rig counts are going down, not up, and America is literally permitting small wells, which we call "stripper wells," to be closed up—19,000 of them last year closed because the price is so low that we cannot justify taking the oil out of the ground. So we close them up, and buy more from overseas.

Having said that, let me suggest to you that while this trade agreement with the Canadians in many respects was fair when it came to subsidies, including incentives for the production of oil and natural gas, we did not create a level playing field.

The administration is quick to admit that little or no progress was made regarding subsidies and yet the Canadians are some of the most inventive policy makers around when it comes to subsidies. We said let each side continue to do what they are doing. And unless it violates the law, each can keep its particular incentives.

The agreement provides each country can enact new incentives to preserve its reserve base. I regret to tell you that when it comes to natural gas and oil production incentives, U.S. independent producers who have historically found most of our reserves, are clearly at a disadvantage. It is like having the Canadians with a 12-man football team and America with a football team with 11 players. Each team is playing by different rules. That is not a level playing field. It isn't even the same game. Unless the Canadians are absolutely without competence and ability, they will win because 11 players will not beat 12. As this analogy applies to oil and gas exploration, the exploration and development will take place in Canada. Investment capital will flow toward Canada. Canada will keep on scoring and the United States will lose.

It has been proven that, small independent producers, have better incentives to go out and find oil in Canada than we do. Because of that, with the support of a number of Senators I introduced the United States-Canada Free-Trade Agreement Oil and Natural Gas Incentive Equalization Act, S. 2096 with Senators BOREN, NICKLES, WALLOP, JOHNSTON, BREAUX, SIMPSON, BINGAMAN, and MCCLURE as cosponsors.

This is an effort to build back into our system incentives for the production of oil and gas that we have either given away, that we have done away with in the tax reform package, or that the Canadians have created but we do not have.

I ask unanimous consent that a summary of that bill be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S.-CANADA FREE TRADE AGREEMENT OIL AND NATURAL GAS INCENTIVE EQUALIZATION ACT OF 1988"

A bill to be introduced by Senator Domenici, cosponsored by Senators Boren, Nickles, Wallop, Johnston, Wallop, Breaux, Simpson, Bingaman, McClure.

The findings and purposes of the bill are identical to the objectives set forth in the U.S.-Canada Free Trade Agreement, however the findings specifically mention oil and natural gas.

Purpose of the bill is to conform the intent of the U.S.-Canada Free Trade Agreement with the realities of the oil and natural gas marketplace in North America; to provide parity between the tax burdens and the other exploration and development incentives provided in the United States and Canada.

Specifically, the bill includes the following provisions:

Expresses the intent of Congress that this Act be enacted prior to or at the same time as Congress considers the U.S.-Canada Free Trade Agreement.

Improves tax treatment of geological, geophysical and surface casing costs to provide parity between the U.S. Internal Revenue Code and the Canadian Income Tax Act.

Eliminates the Income Limitation Rule to assure parity between the U.S. Internal Revenue Code and the Canadian Income Tax Act.

Reforms the precentage depletion allowance to provide incentives to offset resource allowances provided by the Canadian Government.

Repeals the Net Transfer Rule to provide a "catch up" incentive since the U.S. industry is required to pay substantially higher royalties than Canadian companies.

Repeals the recapture provisions dealing with disposition of oil, gas, or geothermal property interests in order to provide "catch up" incentives for U.S. industry, which pays substantially higher royalties than Canadian companies.

Provides a marginal production credit in order to offset exploration credits provided by the Canadian and provincial governments.

Provides a crude oil production credit for maintaining economically marginal wells, a credit that offsets the cash payments made by the Canadian provincial government for exploration and development.

Provides a crude oil and natural gas exploration and development credit to offset exploration and development credits provided by the Canadian and provincial governments.

Eliminates intangible drilling costs as a preference item under the Alternative Minimum Tax in order to provide parity between U.S. Internal Revenue Code and the Canadian tax code.

Establishes a procedure under which the Congress and the Administration work together to implement a plan designed to decrease imports whenever foreign oil dependence exceeds 50 percent.

Repeals the taxable income test for percentage depletion in order to partially offset the resource allowances provided by the Canadian Government.

I am glad that one provision of this bill has already been enacted and that, Mr. President, is the repeal of windfall profit tax. Canada repealed then windfall profit tax in 1986.

Mr. DOMENICI. Mr. President, this summary explains in some detail what I think we ought to be doing in order to increase our production of crude oil and natural gas because our policy appears to be to depend on them and nothing else for all of the liquid fuel needs of this country. That is an enormous part of America's economic survival and economic prosperity.

Having said that, let me move a minute to uranium. First, I want to thank the U.S. Senate because this Senate has on two occasions recognized that the United States of America has had for many years a policy on the books, a statutory law that said America shall have a viable uranium industry. The Senate has voted twice to take steps to make the uranium industry viable again. The United States Government ignored this policy requirement found in section 161(v) of the Atomic Energy Act. As a result the Canadians, Australia, South Africans, and others took the uranium business over. We produce little or none in the United States. The Senate has voted twice: Once to give the U.S. uranium industry 10 years of protection to get back into the business of producing uranium. The administration would have vetoed that. So we negotiated and produced another bill.

As a result of these negotiations this Senate voted to purchase domestic uranium for a stockpile. This would give us a chance in the next 3 or 4 years to produce uranium again. In that same bill, we rectified some deficiencies in the uranium enrichment policy of this country, and stabilized the financing and corporate structure for uranium enrichment. That bill is awaiting House action. I am hopeful that they will consider it. If they do not this year, hopefully next year we will get it done.

It is an absolute must as we think about the greenhouse effect on this world, and the need sooner rather than later to move again with some kind of common sense in the use of civilian nuclear energy.

It is imperative that the United States have the enrichment business that it founded, and that we continue to maintain world dominance in it. The Japanese spend $250 million a year on uranium business in the United States. We ought not to lose that. If we pass the bill I just described, we will indeed continue to have a viable uranium industry.

Having said that, let me suggest that this Canadian Free-Trade Agreement did not have to vitiate literally the provision in the Atomic Energy Act which required viability—that is, survival—of the uranium industry in America but it did. I do not think our negotiators had to give that away. I think the Canadians would have given us 5 to 7 years of transition but they were never asked. The bill I just referd to that the Senate passed will provide that stabilizing period of time. But I am not sure we will ever pass it in both Houses. It is a complicated bill.

I am hopeful, but I cannot support an agreement with the Canadians that essentially abolishes all opportunities for the United States in its national security interest to have a viable uranium industry.

Having said that, I would suggest that the issue of oil and gas tax policy—which I have spent a few minutes on is backed up by studies.

The Department of Energy itself on May 9 concluded that the small producers operating within the limits of Canadian incentives experience lower overall tax and royalty obligations than comparable producers operating in the United States.

Mr. President, I would also suggest, that tax reform which succeeded in lowering our basic taxes—may indeed be taxing the capital of the oil and gas industry of this country rather than the profits this is as a result of the alternative minimum tax which was also part of tax reform. This is especially true when the price of oil is low.

I would like to insert in the RECORD a scenario that suggests this is probably the case.

THE LOW PRICE SCENARIO AND ITS TAX IMPLICATIONS

In an attempt to learn more about the impact the Canadian Free-Trade

Agreement on the energy sector of our economy, the Department of Energy, the Natural Gas Association, and CRS each completed studies.

The May 9, 1988, Department of Energy study concluded that:

> The cumulative effect of the various Canadian incentive programs makes investment in Canadian oil and gas production more attractive than investment in otherwise comparable U.S. oil and gas production.
>
> Small producers operating within the limits of Canadian incentives experience lower overall tax and royalty obligations than comparable producers operating in the United States.
>
> Larger integrated producers also receive benefits of the Canadian incentives. However, once these larger producers exceed the incentive limitations, the effect of the incentives on additional drilling decisions diminishes.

The study also made it clear that the Canadians have made a policy decision to mitigate, through tax policy, the impact of low prices on their oil and gas industry.

Investors in Canada have a better investment climate for exploring for oil and gas. They have more flexibility and their system is more competitive.

Under the Canadian system, an exploration and development company receives a return of capital much quicker than an exploration and development project in the United States. The risks of the project are more equally shared between the Government and the exploration and development company.

As a result, we are already seeing Amoco and other exploration and development companies who have historically been very prominent and active in the United States moving to Canada and elsewhere.

Since the Canadian Free-Trade Agreement will treat the United States and Canada as one market, it seems critical that we reexamine our energy policy to make sure that it is at least as favorable as that in Canada.

Since Energy is so important, we should be developing an energy policy that takes into account the lower prices that the world is likely to experience for the next 5 years.

The Canadians have already initiated policies to address the low-price scenarios.

We have not, and we must. The Department of Energy started examining our tax law as it relates to energy policy when it completed its May 9, 1988, study. I understand that a follow-up analysis is being worked on right now.

In fact, our tax policy regarding energy policy exacerbates the boom and bust cycle. The social and economic costs of this are enormous.

One of the unintended consequences of tax reform is that our energy tax policy is not conforming with our stated public policy.

Under tax reform the alternative minimum tax requires a taxpayer to deduct IDC's. In low price scenarios, this requirement acts as a penalty upon the marginal producer. The result is that effective tax rates are higher than the nominal rates.

An other unintended consequence is that with lower prices for oil and gas, our tax system has become more regressive. If you look at Federal income taxes, the alternative minimum tax, severance taxes and royalties, as a package, the lower the prices the higher the percentage of tax.

The lower prices result in a penalty.

The greater the percentage of the tax take, the less incentive there is to explore for oil and gas. This undermines our energy policy.

It may be even worse than a penalty. At low prices, it may be that we are unintentionally taxing capital.

As profitability declines, it becomes more difficult to replace reserves. The Department of Energy estimates that it becomes 3½ percent more difficult to find an oil and gas field each year.

According to the Joint Tax Committee the average effective rate of taxation for all industries is 23 percent. The effective tax rate for the energy sector is 26 percent.

If you take these two factors together there is a 6-percent penalty each year built into our tax laws for oil and gas exploration.

If you take that 6 percent per year penalty over 10 years the result is that we would have taxed away 50 percent of the capital structure of the industry.

Clearly, this needs to be looked into and corrected. Mr. President, I had hoped that the disparity between the incentives in the United States and Canada would have been addressed prior to the Congress approving the Canada Free-Trade Agreement.

I submit that if I am anywhere near close, we will find some authentication of it in either the ongoing studies of the Department of Energy or the ongoing evaluation of the Joint Tax Committee. Sooner or later, what I have outlined will turn out to be true. We will find that not only are the Canadians doing more to increase their supply, and beating us at that, we will find that we have created a disincentive for a number of American producers in the name of tax reform. We will find that innocently, without analyzing the full ramifications of the low price of oil and gas that is there now that our tax laws, especially the alternative minimum tax, are eating away at the capital base of the oil and gas industry in America.

Mr. President, I will conclude by saying that it is with regret that I will not vote for this trade agreement. What I suggest to the United States, to those who are our leaders, to those who are helping with policy, is that we should develop American energy policy, and sooner rather than later, that moves us toward independence.

We wanted to become independent 7 or 8 years ago. There is no reason for us not wanting to be now, other than that the supply of oil is adequate now, but we continue to risk our future, both our security and our economic future, on this growing dependence. This is a real security issue, because the Middle East contains more than 50 percent of the total supply of oil. The Soviet Union has only 11 percent. Sooner or later, that part of the world is going to become more and more dangerous, rather than less, and we will be in the middle of something we do not have to be in if we develop our own energy.

Within 10 or 15 years, we could become independent. As some have said to me, if we had the will, we could be exporters of energy and energy technology within the next 15 or 20 years, instead of continuing this dependence. This agreement will not help; it will hinder. Unless and until we pass incentives on our side and do other things, I think it will make it more difficult for us to do so.

Mr. MATSUNAGA. Mr. President, I yield 3 minutes to the distinguished Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. I thank my colleague from Hawaii.

Mr. President, I want to note in passing that he has just been renominated in the State of Hawaii and received, I think, 82 percent of the vote, which is a tribute to his great performance.

Mr. President, this is a historic day for the world's two largest trading partners—the United States and Canada. The bill we are considering today marks the culmination of a process which began in March 1985, when President Reagan and Prime Minister Mulroney agreed to look for ways to eliminate existing barriers to trade between our two countries.

I congratulate both leaders for the positions they have taken. It is much easier not to find common ground than it is to work through the difficulties of trying to find a new and positive arrangement that can work to the benefit of all sides.

Congress has been an active participant in this process, and has, in my opinion, improved the agreement and the implementing language in ways which would not have been addressed otherwise.

The State of Michigan has, perhaps, the biggest stake in this agreement, having the single largest trading relationship with Canada of the 50 States. Bilateral trade between the State of Michigan and Canada is greater than Canada's trade with Japan and the United Kingdom combined.

I have had serious reservations about the automotive provisions of the agreement. I have attempted to address these concerns in what I believe is a constructive manner in the Finance Committee, with the Michigan congressional delegation and Governor's office, with the administration, and in discussions with Canadian officials.

Representative DINGELL and I had a strong interest in that area, as did Representative SANDER LEVIN, and I think we have made important progress in strengthening the agreement and clarifying it in ways that help us solve some of these problems.

The Michigan congressional delegation is comprised of 18 members. Of the 18 members, 14 have decided to support this agreement; 4, of course, are opposed. But among my Democratic colleagues in the House, Representatives DINGELL, BOB CARR, HOWARD WOLPE, SANDER LEVIN, JOHN CONYERS, GEORGE CROCKETT, and DAVE BONIOR have decided, along with all our Republican colleagues, that, on balance, this is a good agreement for our country and one in which there are some substantial long-range advantages to us.

THE IMPORTANCE OF THE AUTO INDUSTRY TO UNITED STATES-CANADIAN TRADE

In 1987, more than one-third of the trade between the United States and Canada was related to the automotive industry. For the State of Michigan, 77 percent of all trade with Canada was in the auto sector, totaling $19.2 billion. Total merchandise trade between Michigan and Canada exceeded $25 billion, 19 percent of the United States bilateral total of $131 billion.

In 1987, $111.9 billion worth of automobiles and $63.3 billion worth of trucks were produced in the United States, employing 705,000 workers in motor vehicle manufacturing in 37 States.

The automotive industry is one of the best customers for such vital U.S. products as iron, steel and lead, computer chips, textiles, and electronics. Forty-six States have suppliers to the automotive industry. If we take into account employment in the automotive sector and all related industries, 10.7 million people—13.8 percent of all U.S. workers—are dependent on this industry.

This agreement provides us with an opportunity to form a trade alliance which will present new opportunities to enter foreign markets, and recapture more of our domestic markets as well.

Our trading partners in the Pacific and in Europe are watching these developments with great interest and more than a little concern about what it might mean to their future shares of the North American market.

But we need to maximize the benefits which can accrue from this agreement, and my intention has always been to make certain that we were doing everything possible to see that the outcome meets our expectations.

SPECIFIC ISSUES OF CONCERN

There are two major issues of concern in the automotive sector of the agreement: increasing the rule of origin from 50 to 60 percent, and the continuation of Canada's production-based duty remission program.

I sponsored three amendments to address these issues, which are included in the implementing legislation.

First, to provide negotiating authority to the President for an increase in the rule of origin for automotive products;

Second, to provide proclamation authority to the President to implement an increased rule of origin;

Third, to require a study of the Canadian production-based duty remission programs regarding their consistency with the GATT, and the possible initiation of an unfair trade case following completion of the study by the United States Trade Representative.

In addition, I sponsored language which has been included in the statement of administrative action, clarifying the scope of the select panel on the North American auto industry established in the FTA. It is intended that this panel will address the issue of an increased rule of origin and as well as other issues of importance to the North American industry.

RULE OF ORIGIN

The rule of origin is the definition which is used in the context of an agreement such as this one, to determine which products meet the criteria necessary to be considered "Made in the U.S.A. or Canada." The first and most important issue for the panel to address is an increase in the rule of origin for automotive products.

The FTA establishes a 50-percent rule. However in the automotive sector, that would grant duty-free treatment to foreign transplant vehicles which may still contain imported engines and drive trains. Therefore, if the 50-percent rule stands, there will be no reason for assembly plants to become manufacturing plants, and for both foreign-owned as well as U.S.-owned companies to use as many North American parts as possible. Increasing the rule of origin to 60 percent would ensure that the engine or transmission is of United States or Canadian origin and would be in the mutual interest of parts suppliers in both countries.

Should the United States and Canada make it easier for these foreign-owned companies to hitch a ride on our bilateral trade agreement with Canada? A recent article in the Washington Post graphically displayed the importance of this question. The Japanese transplants in North America import most of their high-tech, high value-added components such as steel, brakes, engines, and transmissions from Japan. Lower technology parts such as tires, gas tanks, paint, batteries and glass are sourced domestically from North American or Japanese-owned suppliers.

What's wrong with that? It erodes our technological base. As more advanced technology is imported, less will be developed in the United States. Manufacturing is a vital catalyst for these new technologies. Therefore, the higher the standard used to define a North American product, the better the chance that the high-technology items will be produced in the United States and Canada.

The same Washington Post story articulated a concern that I have been raising for over a year now: Masahiro Uchida, executive vice president of Mazda's U.S. operations in Flat Rock, MI, is quoted as saying:

> Japanese auto makers do tend to favor Japanese parts suppliers for critical items. It's very tough to tell suppliers with whom we have had a long-term relationship, "Bye-bye."

If these transplants are going to increase production in this country, it is important that they begin to learn how to say "bye bye" to their traditional suppliers, and "hello" to qualified United States and Canadian suppliers.

SELECT PANEL

I intended to offer an amendment to make the composition of the Select Panel established in section 1004 of the FTA more specific, as well as the issues the panel will address and the timeframe in which the panel will make its recommendations. At the request of Congressman DON PEASE of Ohio and myself, the administration has agreed to include most of these provisions in the statement of administrative action.

Since the panel is half American and half Canadian, it would be difficult to require any action until Canada is consulted. Therefore, the statement of administrative action is sufficient for now to indicate our expectations for the select panel and its important mandate. Specifically, recommendations on an increased rule of origin are to be made by June 30, 1989.

Members we have proposed for the panel are: automobile producers, automotive parts producers with and without export experience in Canada, automotive workers, relevant trade associations, an academic with expertise in automotive issues and consumers.

PRODUCTION-BASED DUTY REMISSION

Another issue of great concern is the continuation of Canada's production-based duty remission program. This Canadian program is scheduled to remain in effect until 1996 for certain foreign-owned manufacturers in Canada. Under this program, Canada grants a reduced duty on vehicles and parts imported into Canada by a manufacturer, provided that company increases the amount of Canadian value added in its assembly operations in Canada. This program discriminates against United States parts producers, because only the use of Canadian parts qualify vehicle manufacturers for reduced duties on their imports. Use of United States parts do not.

The real importance of continuing this program for another 7 years is its effect on the future sourcing decisions of foreign-owned vehicle manufacturers in Canada. As I pointed out earlier, particularly in the case of Japanese manufacturers, once a parts supplier is chosen, it is a relationship of longstanding. The supplier becomes part of the design team, part of the overall planning which takes place on future models, part of the manufacturing family.

By providing Canadian suppliers with this advantage for the next 7 years, United States parts producers are cut out of future opportunities to supply these plants. The program will encourage United States suppliers to locate in Canada, thus jeopardizing American jobs across this country.

A section of the implementing bill which I sponsored requires the United States Trade Representative to conduct a study to determine if this program is consistent with Canada's GATT obligations or if it otherwise denies benefits to the United States. The results of this study are to be completed by no later than September 30, 1989. At that time, USTR will determine whether to initiate an unfair trade case with respect to the duty-remission program.

At the request of my colleague from Michigan, Energy and Commerce Chairman JOHN DINGELL, this amendment was expanded to include the duty-remission program's consistency with the FTA.

These changes will improve the agreement, and address some of the concerns of many in Congress and the auto industry. It is my hope this agreement will produce the benefits which have been predicted by its supporters, for workers and industries in the United States and Canada, and that any adverse impact on industries will be mitigated in whatever way possible.

OTHER ISSUES

Whenever there is a proposal of this sort, there are always pluses and minuses. Objectively, what we all try to do is weigh them both in making a decision on whether to support or reject such an agreement. There are global considerations, but quite frankly, local considerations are on all of our minds. During hearings, we have all discussed issues which are troublesome for our local industries.

Zinc alloyers are among those smaller United States businesses which could be seriously threatened by a removal of tariffs on the raw material which they must import from Canada. I sponsored language which has been included in the statement of administrative action which will provide some level of protection to this industry which is vital to our Nation's security.

I have weighed this agreement carefully, and believe that with the changes that have been made, the agreement is an improvement over current practice, and has the potential for greatly enhancing the North American auto industry in the face of ever-growing competition from the Pacific rim. We should not lose sight of the enormity of this industry, and the importance it has to the economies of both the United States and Canada.

For Michigan, automotive products are clearly the largest single sector, however, others, such as machinery and furniture would likely gain an increased market share under the FTA's proposed elimination of tariffs. In addition, the energy provisions of the FTA will benefit Michigan consumers, industries and utilities who are dependent on Canadian energy. After all, the bottom line is whether, from a Michigan point of view, we are able to make our State a more attractive location for new manufacturing facilities, creating good, new jobs. I think this helps us in important ways, and it is on that basis that I am supporting this agreement.

There is more to be done. The agreement, in my view, is a beginning. Recently, it was reported that the Toronto Star plans to realize "every Canadian journalist's dream" of owning a newspaper in the capital of the United States by starting a new daily publication in Washington. That is not a dream that can currently be realized by American journalists in Ottawa. Because so-called cultural industries are still protected in Canada, United States investors are not free to own a newspaper in Canada. That is not reciprocity. That is a blatant exemption to the intention to create free trade between our two countries. Other issues also remain unresolved. But the agreement provides the basis for continued improvements in many areas, and I am hopeful we will succeed.

This process is coming to a close. I anticipate that after some political maneuvering, the agreement will be approved in Canada. I am confident the agreement will be overwhelmingly approved by the Senate, as it was in the House, and that it will soon govern trade between our two countries. Then, the real work will begin—making sure that both countries implement it fully, and that the benefits which its supporters have promised will be realized.

Mr. MATSUNAGA. Mr. President, I yield 12 minutes to the Senator from Nebraska.

Mr. EXON. I thank my colleague from Hawaii, the manager of the bill.

Mr. President, the so-called fast track procedures restricting the consideration of the United States-Canadian Free-Trade Agreement present the Senate with only the opportunity to accept or reject the implementing legislation in toto.

In many respects, the Free-Trade Agreement is good. The agreement arguably strengthens relations with our closest and perhaps most important ally, Canada. The mammoth unprotected border between the United States and Canada is not a barrier but a seam which stitches two proud peoples together. Our nations share a common heritage and common values. Friendly United States-Canadian relations are an example for the entire world. I applaud the effort to bring our nations closer together.

However, in our pursuit for closer relations, we must not forget that in the marketplace, we are competitors. Over the years Canada has used trade laws, government subsidies, and high tariffs to strengthen Canadian agriculture, and industry.

One very positive aspect of the Free-Trade Agreement is that it will lower many trade barriers and give United States and Canadian industrial and financial businesses an opportunity to compete on a more level playing field. For most manufacturing, and especially in financial services, the Free-Trade Agreement is a net plus for America.

In agriculture, while there will be new opportunities, I have several important reservations. I am not certain that negotiators for the Reagan-Bush administration were tough enough. In several areas such as wheat, eggs, and corn commodities and products, the administration opened the United States market but failed to gain significant concessions on several Canadian subsidies which appear to grant an unfair agriculture advantage to our neighbors to the north.

Earlier this year, the Surface Transportation Subcommittee which I chair held hearings on the impact that the Free-Trade Agreement will have on our agriculture transportation systems. While the Free-Trade Agreement limits Canadian westward grain transportation subsidies, the agreement takes no action against Canadian eastward transportation subsidies.

There is a possibility the agreement could open a new southern route for Canadian grain and further clog our transportation facilities. A key problem, or course is that the United States habitually stores grain, while Canada moves grain into the marketplace often regardless of price.

I also am concerned that U.S. trade laws will not adequately protect American farmers from subsidized agriculture products being dumped on the

U.S. market. The Free-Trade Agreement takes an unprecedented move in creating a binational panel to interpret and rule upon United States and Canadian trade law.

We are assured by the administration that any unfair agricultural trade policy would be corrected by the panel or possibly by court action to protect dumping agreements and protection rights. Here, Mr. President, we are clearly in uncharted waters.

Mr. President, the essence of the Senate's decision is to weigh the positive aspects against the possible risks. I compliment the leadership of the Senate Finance Committee for making important improvements in the free trade implementing legislation. These were helpful.

I could not have supported the original agreement as first submitted to the Congress by the administration. However, after applying considerable pressure on the administration, adjustments were made to the implementing legislation, especially to meet the concerns of the National Wheat Growers Association.

This is a close judgment call but based upon the assurances from the administration, I will cast my vote, with considerable concern for its less than totally statisfactory agriculture features, for the bill in hope that on balance it will not only improve our relations and standing with our friendly neighbors to the north, but holds the promise of some new opportunities for American business and American agriculture.

Mr. President, I reserve the remainder of my time and yield the remaining time assigned to me back to the manager of the bill. And I yield the floor.

The **PRESIDING OFFICER.** The Senator from Hawaii.

Mr. **MATSUNAGA.** Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged proportionately.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **MATSUNAGA.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. EXON). Without objection, it is so ordered.

Mr. **MATSUNAGA.** Mr. President, I yield 7 minutes to the Senator from Florida.

The **PRESIDING OFFICER.** The Senator from Florida is recognized.

Mr. **GRAHAM.** Mr. President, I express my appreciation to the Presiding Officer and the manager of the bill for affording me this opportunity and the time to discuss this subject.

Mr. President, we have heard at considerable detail the benefits which will come to both the United States and Canada as a result of this new agreement.

I would add to those that my State of Florida will be a beneficiary of a relationship which already has yielded substantial good to the peoples of both Canada and the State of Florida. Canada represents the largest non-U.S. purchaser of some of our most important products, specifically citrus. Canada represents the largest contributor internationally to Florida tourism.

Our relationships with Canada are deep. They are more than economic and political. They are personal.

As with many Floridians, Mr. President, my ancestors were born in Canada and so we have a special sense of affinity. We feel a closeness to the leadership of Canada.

We applaud President Reagan, Prime Minister Mulroney, and I would especially commend Canadian Ambassador Alan Gotlieb for the leadership which he provided and to the education which he provided to many Members of the Congress as to the importance of this new agreement.

So, I will with enthusiasm vote affirmatively today.

But beyond these immediate benefits and reflections of our history, I would like to bring to the attention of the Senate what I consider to be some of the implications for the future of this agreement. The most significant of those implications is not confined to North America. Rather it represents the opportunity which this agreement affords to build upon it toward the goal of greater hemispheric economic partnership.

Both Canada and the United States have longstanding, extensive economic interests in Latin America and the Caribbean.

Entering into this new Free-Trade Agreement will be a catalyst for the consideration and eventual accomplishment of expanded economic relationship from pole to pole.

Mr. President, there are reasons to do this which are both defensive and affirmative in character. Defensively and reactively the United States and Canada need to be concerned about developments such as these, the increased economic influence of Europe and especially the Pacific rim in our traditional trading partners in the Caribbean and Latin America. We need to be concerned about the potential of a fortress Europe after 1992 and the next stage of European economic integration. We need to be concerned about the increased Soviet deployment of its interest in Latin America and the Caribbean toward an interest in economic influence. The kinds of new relationships which have been established with countries such as Peru and Uruguay are indicative.

But affirmatively in terms of our opportunities to shape the future, the United States and Canada share some great opportunities within our hemisphere. These relate to the increasing recognition of the complementary status of the economies of North America and South America: North America mature, fully developed agriculture, developed economies with a high rate of technology; Latin America economies which are still in an early or middle stage of development, resource rich, in great need of the technologies which we can provide.

We recognize that by fostering that economic cooperation we will also be making the most fundamental contribution toward our common interest in stable democratic governments throughout this hemisphere. We should all take pride in the tremendous progress which has occurred in the last decade in terms of bringing democracies into the New World.

We should also share a common concern about developments such as those of this weekend in Haiti and in recent weeks in Panama which indicate how fragile the concept of democracy continues to be in our hemisphere.

We also have this opportunity, Mr. President, to use intelligently one of our great national resources—a resource which is shared by both the United States and Canada—and that is our diversity. The very fact that we are countries which are made up of people from around the world give us a greater capacity to understand, to reach out, and to be the cement for new relationships.

Finally, Mr. President, seeing this as a prelude to broader hemispheric relationships economically indicates an understanding of what is happening within our hemisphere. One of the most exciting and promising economic developments in the New World is the trade agreement among Brazil, Argentina, and Uruguay. That we could be building upon a new trading relationship at the Northern part of the New World while one is evolving in the Southern tip provides exciting opportunities to bring these two movements together to the benefit of a whole hemisphere.

So, Mr. President, we in North America have benefited fulsomely by the history of friendship and comity between the United States and Canada. This Free-Trade Agreement adds another chapter.

If this agreement contributes to a new era of hemispheric cooperation in a new century of the Americas, it will be a worthy contributor to a world of peace and the achievement of hemispheric democracy and economic prosperity.

I yield the floor.

TOBACCO AND THE FREE-TRADE AGREEMENT

Mr. HELMS. Mr. President, earlier this year I wrote to Clayton Yeutter, the U.S. Trade Representative, asking for this comments on a particular problem for U.S. tobacco farmers with the United States-Canada Free-Trade Agreement. Tobacco farmers are concerned that this Free-Trade Agreement may be used to allow foreign-grown, cheaper grades of tobacco to be transshipped through Canada from Third World countries into the United States without normal tariffs and trade restrictions. I asked Clayton for his assessment of this risk.

His reply leads me to believe this issue has been covered in the agreement. In the customs chapter of the agreement there is a rule of origin which ensures that the new tariff benefits are restricted to only United States and Canadian goods. In any event, this issue of transshipments of foreign tobacco needs to be made a part of the RECORD so our customs officials and the USTR will have a record of the intent of Congress.

Mr. President, I ask unanimous consent that the resolution from the Flue-Cured Tobacco Stabilization Corp. and Mr. Yeutter's letter be made a part of the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Flue-Cured Tobacco
Cooperative Stabilization Corp.,
Raleigh, NC, July 8, 1988.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: The Board of Directors of Flue-Cured Tobacco Cooperative Stabilization Corporation which represents the growers of flue-cured tobacco throughout the entire flue-cured producing area adopted the following resolution on July 8, 1988 regarding the U.S.-Canada Free Trade Agreeement:

Whereas, the Board of Directors of the Flue-Cured Tobacco Cooperative Stabilization Corporation is concerned about transshipments of foreign grown tobacco through Canada into the United States under the proposed Canada Free Trade Agreement, and

Whereas, such transshipments would be disruptive to the operation of the U.S. tobacco program and to the welfare of the membership of the Flue-Cured Tobacco Cooperative Stabilization Corporation,

Therefore, be it resolved, That the Board of Directors of the Flue-Cured Tobacco Cooperative Stabilization Corporation urge the Congressional Delegations of Virginia, North Carolina, South Carolina, Georgia, and Florida to use all the means available to them to insure that transshipments do not occur. Furthermore, the Board requests that the Congressional Delegations seek the assurance from the Administration, prior to enactment of the Canada Free Trade Agreement, that such transshipments would not occur.

Attached is a listing of Stabilization's Board of Directors.

The Board would greatly appreciate your assistance and support in obtaining assurance from the administration that transshipments do not occur. On behalf of the growers, the Board expresses their thanks and appreciation to you for your past support and assistance in all matters protecting their livelihood.

Sincerely,

FRED G. BOND,
Chief Executive Officer.

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, September 1, 1988.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR JESSE: Thank you for our July 18 letter and the resolution from the Flue-Cured Tobacco Cooperative Stabilization Corporation.

The Board of Directors of the Corporation are concerned about the treatment of tobacco in the U.S.-Canada Free Trade Agreement [FTA]. While I understand this concern, I do not believe the FTA will adversely impact our tobacco industry. The customs chapter of the Agreement establishes a rule of origin to ensure that the tariff benefits are restricted to U.S. and Canadian goods. The FTA also establishes a cabinet-level Commission to supervise implementation of the Agreement. A violation of the Agreement, such as FTA treatment of third country goods, can certainly be raised in the Commission.

Jesse, I am confident that the FTA will strengthen the economies of both the United States and Canada by substantially increasing trade and investment opportunities. As President Reagan has said, it is a "win-win" situation for both countries.

Sincerely,

CLAYTON YEUTTER.

Mr. SIMPSON. Mr. President, I am pleased now to be able to support the implementing legislation in order to validate the agreement signed on January 2, 1988, to create free trade between the United States and Canada. This trade agreement is the culmination of 3 years of negotiations and represents an historic achievement in international trade relations. This agreement is one that is long overdue. It is only appropriate that two nations which have the world's longest undefended border—that have set their young men and women to fight as allies in two world wars—that exchange more goods and services annually than any other two countries in the world—that these two great neighbors and friends should create one of the world's largest internal markets.

I applaud the good efforts of our fine respective leaders—Ronald Reagan and Brian Mulroney—for this achievement. And I want them to know that this surely will work because I have witnessed such strong economic ties in action. A fine company, Husky Oil, was created and located in my hometown of Cody, WY, and later expanded to Canada—we even had regularly scheduled corporate jet flights between Cody and Calgary. Those ties were of great benefit to citizens on both sides of the border.

In 1986 my State of Wyoming and Canada conducted almost 60 million dollars' worth of trade with each other. The balance of trade favored Wyoming, which sold about $13 million more of goods and services to Canada than it bought. In 1986, we enjoyed the visits of 66,000 Canadian tourists who spent over $4 million in our State. In continuing visits with my fellow Wyomingites, I have learned of some very real concerns with various aspects of the agreement, but little outright opposition. We're ready to compete—and to sell.

I am confident that ratification of this Free-Trade Agreement with Canada will not have an adverse effect on the natural gas industry in Wyoming.

There was a valid question at one time in Wyoming about the amount of Canadian gas reserves made available by this agreement and the threat this posed to the future of a pipeline project originating in southwestern Wyoming and delivering gas to the enhanced oil recovery fields in southern California. I have been assured by the U.S. Trade Representative's Office that this agreement will indeed not have critical impact on the market for Wyoming gas. And furthermore, the Trade Representative expressed support for the pipeline and pledged to cooperate with the State fully in order to assure that the pipeline project is successfully completed.

It can never be ignored that the natural gas industry is facing very tough and difficult times in Wyoming. Oil and gas prices are very low and FERC regulations—namely Nos. 256 and 500—continue to hamstring the industry. But these circumstances will not be improved, nor will they be worsened, by this Free-Trade Agreement.

I will continue to work very hard for total deregulation of the natural gas industry. I will continue to work to see that the quagmire of regulations at the FERC are reduced and that "take-or-pay" problems are ultimately and sensibly solved. But I do not believe that these issues are adequately addressed or resolved by opposing the Free-Trade Agreement. They are not. They are separate issues and must be treated as such.

Historically, Free-Trade Agreements between nations have increased and assisted the economies of both parties. This agreement can—and will—create new jobs in both nations. It will increase investment opportunities for both Canadians and Americans. It will in a few short years greatly enhance the prosperity of both nations. As President Reagan has remarked, this one is a "win-win" situation. Estimates vary, of course, but this agreement could increase the total volume of United States-Canadian trade by more than $25 billion over the next 5 years. Estimates are that the agreement would boost the United States gross national product at least 1 percent, while the Canadian GNP would increase by as much as 5 percent.

To reject this agreement would seriously undermine our credibility in international trade negotiations—the current "Uruguay round." We are arguing for and promoting worldwide trade liberalization in order to seek greater market access for U.S. products in Asia and Europe. Approval of this FTA will surely send the right message to our other trading partners—not only are we eager in our pursuit of open markets—we're putting our words into real action with our largest trading partner. This agreement symbolizes America's belief in its own ability to compete.

The major feature of this bill is the phased elimination of all tariffs between the two nations. Since Canadian tariffs, on average, are now nearly double United States tariffs—this should be of immeasureable assistance to our United States exporters.

This agreement establishes rules—for the first time ever—between two major trading partners which will enhance and encourage bilateral trade in over 150 service sectors.

From the Reagan doctrine of fair and free trade has sprung unequaled export growth and economic expansion. This Free Trade Agreement extends this successful policy to our single largest trading partner—our fine northern neighbor Canada. It, therefore, should be hailed as a major step toward achieving a free world economy.

Before I conclude my remarks, Mr. President, I should like to comment just briefly about the provision in this agreement dealing with uranium trade between Canada and the United States. I have grave reservations about this part of the agreement. In short, what the uranium provision in this agreement will do is to repeal the longstanding statutory requirement that the United States maintain a healthy domestic uranium industry, as that requirement currently applies to uranium imported from Canada. Consequently, from this point forward, if this agreement is approved—and it is clear that it will be approved as we vote later this afternoon—we will no longer be able to restrict the enrichment of Canadian-supplied uranium even if it is determined that such a step is necessary to ensure a "viable" domestic uranium industry.

I will not go into extensive detail about the short sidedness of such a policy—my colleagues are fully familiar with the sound arguments about the importance of this industry to our energy future and to our national defense, because we have already debated this issue on two separate occasions this year, as we considered comprehensive legislation to address the various concerns in this area. And indeed, on both occasions, the Senate has gone on record in support of having a healthy, competitive domestic uranium industry—the second time by a fine vote of 78 to 17.

And the reason for the overwhelming support here in the Senate is obvious—this industry is critical to our energy future and to our national defense and security. And unless we act swiftly to address the problems confronting this industry, we will indeed run the risk of becoming dangerously dependent upon foreign sources, for both our raw uranium and for our enrichment services.

No one here wants to see our uranium supplies subjected to the same uncertainty and risk that we witnessed for oil in the 1970's. And I think we all recognize that we are coming dangerously close to that point. In my own State of Wyoming, for example—a State that, together with New Mexico, shared the lead in uranium production since virtually the day that uranium was first discovered in Wyoming's "Lucky Mac" outcropping—we have gone from over 2,000 employed miners, to less than 500 today. Mines have closed down, mills have been decommissioned, and we have become increasingly reliant on imported uranium. This dangerous trend cannot continue, Mr. President.

Early on in the negotiations over the Free-Trade Agreement, I expressed my concerns about the uranium industry—and about the particular provision now contained in this agreement—to the administration. I discussed those concerns at length with Secretary Jim Baker and Ambassador Clayton Yeutter. I conveyed to them in my own rich way my belief that this country needs a healthy domestic uranium industry—and that to achieve that, we need a comprehensive uranium policy, dealing not just with the health of the domestic uranium mining industry, but with the Department of Energy's enrichment program and the cleanup of mill tailings, as well. And I expressed my concern that in the absence of some progress toward agreement on such a policy, I would not support this proposed trade agreement and, specifically, the provision that would pull the plug on the only remedy currently available to the uranium industry.

And to the administration's credit—and to the leadership of Jim Baker in particular and my fine friend Senator PETE DOMENICI here in the Senate—we were able to hammer out just such an agreement, establishing a comprehensive approach to how we will deal with the domestic uranium mining industry, the issue of mill tailings cleanup, and the U.S. enrichment program. For the first time, the administration has recognized the need to address these problems—and, more importantly, has endorsed comprehensive legislation to do exactly that. And with their support, together with the support of the uranium producers and the nuclear utilities, this agreement was passed overwhelmingly by the Senate just over a month ago, as an amendment to the Nuclear Regulatory Commission authorization bill—by a vote of 78 to 17.

We still have a long row to hoe on this initiative—particularly in convincing our colleagues in the House of the need for a comprehensive uranium policy. But we have made considerable progress since the administration first proposed repealing the "viability" provision for Canadian uranium, in fashioning a solution that would address the problems facing this industry in a most effective and equitable way. And even though this comprehensive legislation has not yet passed, we are beginning to see the fruits of our efforts—as uranium producers and consumers here and abroad come to appreciate the seriousness of our efforts. Mines in Wyoming are slowly starting to come back to life, as our producers explore the benefits of "in situ" uranium mining. Nuclear utilities in other countries, such as Japan, for example, are beginning to look to the United States producers to supply their long-term uranium needs. And the huge inventories of uranium that had built up over the past 10 years are beginning to diminish.

And slowly but surely, I am becoming more confident that this industry will be back up and on its feet, competing here and abroad in the uranium market. The comprehensive uranium legislation is an essential component of our efforts—and, together with my good friend PETE DOMENICI, we will pursue that initiative unstintingly until it finds its way to the President's desk.

I intend to vote for this agreement today, not because I am wholly satisfied with it. Indeed, as I indicated at the outset, I am gravely concerned about the uranium provision in this agreement. But I hunch that each one of us here in the Senate has a separate concern with one aspect or another of this proposal—while at the same time we all support the objective of free trade with our most loyal and steadfast ally, Canada.

This has been a most difficult decision for me, but the considerable progress that we have made on comprehensive uranium legislation—and the administration's support of that initiative—have tipped the balance for me. I intend to press forward on the comprehensive legislation—to see it through to the end—because I think that approach holds the true solution to the problems facing this industry today. I feel confident that we can prevail in our efforts.

Mr. LUGAR. Mr. President, today I am pleased to give my enthusiastic support to the trade agreement between the United States and Canada.

This agreement is the result of tough and meticulous negotiations going back to the Shamrock summit of 1985 between Prime Minister Mulroney and President Reagan. Trade pacts between our two great nations have been difficult to reach, Mr. President. Indeed, some historians view the Canadian Reciprocity Treaty of 1854 as the last free-trade agreement between the two countries until the agreement which is now before us.

Given that history, it is most interesting to note that the volume of trade between our two nations is the largest of any two countries in the world: about $150 billion annually. Most of these goods move north and south free of duties. This agreement will expand on that excellent relationship, phasing out all tariffs over the next 10 years, easing the movement of goods and services and creating a freer and more stable environment for investment.

The extent of additional economic activity that this agreement will create is, to a large extent, dependent upon how active the private sector is in taking advantage of the more positive climate. I would note, however, that the U.S. Commerce Department estimates a potential $25 billion increase in trade and an additional 14,000 new American manufacturing jobs in machinery, textiles, clothing, paper, and furniture.

Agriculture is an important part of this agreement, Mr. President, and our farmers will benefit from the removal of tariffs and the elimination of Canadian import licenses for wheat, barley, oats and other commodities. The agreement does not remove the complex systems of support, subsidies, and protection that exist in both countries for some commodities. Subsidies and domestic protection exist throughout the world's agricultural system. Therefore, both Canada and the United States have agreed to work together in the current multilateral trade negotiations to seek global solutions to these problems.

During the negotiations on the agriculture section of this agreement, the administration was most careful to bring in representatives of farm and commodity groups and benefit from their advice and counsel. In this regard, both Agriculture Secretary Dick Lyng and U.S. Trade Representative Clayton Yeutter deserve much credit for their sensitivity to the concerns of American agriculture. In particular, I want to give recognition to the fine work done by USDA officials Ann Veneman, Richard Petges, Daniel Brinza, and Gary Blumenthal and to USTR officials Suzanne Early, Chip Roe, and Carol Singer. All of them spent considerable time with committee members and staff and did a first class job of keeping us informed.

I would also like to extend thanks to my good friend, the distinguished chairman of the Agriculture Committee, Senator Pat Leahy, for the fair and forthright manner in which he allowed private sector, administration and committee opinions to come together and be a part of this agreement. Democratic senior staff counsel, Bill Gillon did an outstanding job of putting together the law, statements of administrative action and necessary reports which constitute the agricultural portion of this trade agreement.

Mr. President, my home State of Indiana can look forward to an expansion of trade with Canada beyond the very good situation which exists now. The most recent figures show that Indiana exports about $2.2 billion in goods to Canada and imports about $980 million, giving us a trade surplus of about $1.2 billion. The removal of remaining Canadian tariffs will make our products even more attractive.

An analysis of the trade agreement prepared by the Senate's Northeast-Midwest Coalition has some very good news for investment and new jobs in Indiana. The analysis concludes that Indiana will have "long-term, nondiscriminatory access to Canada's abundant energy supplies" which would reduce input costs for local industry and potentially attract new plant investments to the state.

But the true benefits of this type of agreement, Mr. President, go far beyond the immediate gains for our states and our industries. We are now engaged in serious and determined efforts to reduce trade barriers and open markets worldwide through the new round of multilateral trade negotiations. This agreement marks the path and lights the way for future trade pacts with other countries and for achievement in those multilateral talks.

I understand that during the negotiations, some of our Canadian friends referred to this agreement as the "Freer Trade Agreement" making the point that no trade relationship is absolutely free. It also makes the point that this agreement is not static. It's dynamic. It has the mechanisms for change, for improvement and for resolution of disputes.

With this agreement, Mr. President, Canada and America are adding another strong tie to an already strong relationship. I salute Prime Minister Mulroney and President Reagan for their wisdom and perserverance in bringing it to us and I urge my colleagues to support free and fair trade and vote for the Free-Trade Agreement.

Mr. GARN. Mr. President, I rise today to express my restrained support for the pending United States-Canada Free-Trade Agreement [FTA] now before the Senate. The FTA's passage today by this body is another step in a long road to improving trade relations with our northern neighbor. Those involved with this process, on both sides of the border, deserve credit for their efforts. While I have serious reservations regarding the agreement, I support its passage.

As a strong supporter of free trade, the FTA's passage provides an increase in trade activity between the world's largest trading partnership, the United States and Canada, with approximately $166 billion in goods and services crossing the border each year. Canada currently purchased 22 percent of America's exports, and for the last 5 years has been our fastest growing export market, with United States export sales increasing by 39 percent compared to a growth rate of less than 7 percent for all overseas sales. Like most of my colleagues, I have every expectation that these figures will dramatically increase as a result of the FTA's implementation.

On the national level, the FTA contains several key elements which should be noted and which will simultaneously be positive forces on the States. These include:

The elimination of all tariffs and many other restrictions on traded goods within 10 years. This is especially beneficial when Canadian tariff rates now average twice the rate of average United States tariffs.

The opportunity of free trade in over 150 service sectors, thus guaranteeing national and equitable treatment to service providers.

The possibility of a better investment climate in Canada. This is accomplished by eliminating the Canadian screening of indirect investment over the next 5 years, raising the threshold for review of direct investment from $5 million Canadian to $150 million Canadian and bans the imposition of most investment performance requirements.

The preservation of each country's right to apply existing antidumping and countervailing duty [AD/CVD] laws. The FTA alters existing trade remedy laws by establishing a binational panel to make a final decision in trade remedy cases.

I am also encouraged by other figures the administration has provided to demonstrate the FTA's benefits for the United States. The FTA should result in a 1-percent increase, or about $45 billion, in the U.S. GNP, and create nearly 750,000 jobs. This should lead to an increase in United States exports to Canada of about $2.4 billion per year, and decrease consumer prices thus saving United States households between $1 and $3.5 billion a year.

On the State level, the FTA should provide greater economic opportunities for Utah than it is currently enjoying. Whereas the United States currently runs a trade deficit with

Canada, Utah, in 1986, realized a trade surplus with Canada totaling $187.7 million on exports of almost $400 million. We now sell to Canada more than 2½ times as much as we buy from Canada. Utah's list of exports to Canada includes precious metals, electronic computers, phosphate rock, nonferrous metals and alloys, telecommunications and related equipment, miscellaneous inedible and end products, oil and gas mining machinery, and miscellaneous motor vehicles. In exchange, we import live animals, petroleum and coal products, aircraft engines and parts, newsprint paper, motor vehicle engines and parts, inorganic and organic chemicals, excavating and mining machinery, fertilizers and fertilizer materials, and telecommunications and related equipment. At the same time, Utah's service industry exceeded $2.4 billion in revenues in 1982 from Canadian sources, while approximately 87,000 Canadian tourists visited Utah spending over $9 million in 1986.

And the profits to Utah businesses should continue under the FTA. According to a report by the Commerce Department, two of the leading American export prospects to Canada in 1988 are Utah's No. 2 and No. 5 export industries—electronic computers and telecommunication, and related equipment. The manufacture of these two exports alone employ over 22,000 Utahns. The elimination of the 3.9-percent duty on computers this January and the phaseout of tariffs on telecommunications and all other products by 1998 is expected to increase Utah's sales to the fast-growing Canadian high-technology market. Like most United States businesses, Utah firms will be eligible to compete for an additional $500 million in Canadian public sector purchases through an expansion of Government procurement by both parties. The Commerce report goes on to highlight how Utah's other export-related industries—petroleum and coal products, trucks and truck products, service trade and foreign investment—will benefit from the FTA's provisions.

Clearly, the majority of Utah's industries will be positively impacted through implementation of the FTA.

However, like most accounting problems, the FTA contains a credit and a debit ledger for the American people to consider. Thus far, I have focused on the credit side of the balance sheet and enumerated several positive results awaiting this country. There is a debit side to the FTA that, despite the many projections by the Commerce Department and the many "shoulds" contained in its economic reports, may cause more harm than good for several U.S. sectors. One of these sectors is the energy and uranium industry, and is the cause of my diluted support for the FTA.

Utah is one of the Nation's leading producers of yellow cake, the usable product of uranium. This product is mined in two mines located in the southern section of the State, the Rio Algom Mine and Mill and the Umetco Minerals Mill. Together, these mines employ over 500 people and effect the lives of nearly 500 more persons who are gainfully employed in jobs related to the manufacture and transportation of uranium. The economies of several Utah counties depend on the continued operation of these mines and a hopeful resurgence in the U.S. industry as a whole. Utah State Governor Norm Bangerter recently commented to me that "the uranium industry is important to Utah from the standpoint of the jobs it provides Utah workers and the income it provides the State."

Under the FTA, what could be labeled an open market is established for energy products. This means the United States is guaranteed nondiscriminatory, duty-free access to Canadian suppliers, even in times of shortages. Canada agrees not to restrict exports, impose export taxes or establish export price requirements, with an exception in cases of national security and short supply. Canada, as well, gains unlimited access to the United States market, with the same exceptions, and a removal of the long-standing prohibition under the Atomic Energy Act that has prevented the importation and enrichment of foreign uranium into the United States. This prohibition was initiated, as Congress observed in 1964, for the maintenance of a domestic uranium mining and milling industry that is an essential part of a sound nuclear industry and is also vital to national security interests.

There has been considerable discussion these past few weeks about a domestic industry's impact on national security. I cannot think of any one industry that plays a more vital role in this country's national security interests than the uranium industry. Congress envisioned its importance in 1964 in the Atomic Energy Act, and has manifested a significant increase in this role in recent years. For example, the House Armed Services Committee stated in 1982 that the domestic uranium industry should be exempt from a policy of free trade at any cost because of national security concerns. The FTA ignores this counsel and provides the ill-advised opportunity for United States users to become dependent on Canadian uranium.

While the national security question of the FTA gravely concerns me, I am also perplexed by the apparent disregard in the FTA negotiations of the matter of Canadian subsidies in the energy sector. Trade experts will agree that Canada uses subsidies far more extensively than the United States to assist and support certain industries. I understand one major international development group reported in 1982 that Canadian subsidy levels were approximately five times higher than the United States subsidy level. Also, the Canadian Constitution requires the transferring of public funds to assist companies in noneconomic locations to compete in international trade. Under the FTA, these subsidies are allowed to continue, thus placing our uranium producers at an unfair disadvantage in the uranium market.

It seems to me that if our goal is to lower tariffs and quotas to achieve greater free trade, we should address Government subsidies, since they also impact trade just as much as tariffs, quotas and other nontariff barriers. Since price is the main determinant of which uranium is used, Canadian uranium subsidized by the Canadian Government will be sold in the United States at prices below what it costs to produce it in the United States. Given that situation, United States uranium producers and Utah uranium producers cannot compete and will be forced out of business. The FTA can be called anything but a free and fair trade agreement as long as these subsidies are permitted to continue to the detriment of the domestic uranium industry.

Our negotiators in the FTA were able to gain consent from the Canadians to continue negotiations on the subsidy issue under certain constraints and time limits. This consent includes the implementation of a substitute system of rules on subsidies in 7 years and, failing the creation of a new system, a complete abrogation of the FTA. I think it is fair to say that we lost the opening round on subsidies. Early this year, a package negotiated by Senator DOMENICI and several of my colleagues addressing this issue and providing relief to the uranium industry was rejected at the last moment by the House, after being accepted by the administration. it is a shame that Senator DOMENICI was not on the original negotiating team in 1987 when this matter could have been resolved at first mention.

The consent garnered on the subsidy issue is fine, if Congress wants to ask our uranium producers and producers of other energy products to wait 4, 5, or 7 years for a remedy. These industries are faced with subsidized competition now, as we are speaking today. They cannot wait 7 years. They cannot wait for a new round of negotiations to help them, especially after witnessing the results of the first round. They do receive some support now from U.S. tariffs and other trade barriers. However, as these tariffs come down as a result of the FTA, these industries will feel the full weight of increased subsidized competition.

In the face of an unequal playing field awaiting the U.S. uranium industry and most U.S. energy producers, I applaud the efforts of Senators BAUCUS and DANFORTH, who relentlessly pursued this issue in the Senate Finance Committee. Thanks to their doggedness, the committee accepted language, as did the House and the administration, to the implementing legislation to provide transitional relief to Canadian subsidies. The language states that the International Trade Administration [ITA] and the International Trade Commission [ITC] "will continue faithfully to enforce the AD/CVD laws," providing relief "where the ITA finds subsidies or sales at less than fair value and the ITC finds injury to a U.S. industry." This is not new trade relief. The language relies on existing law and simply continues existing AD/CVD law beyond the implementing date of the FTA. Thus, while negotiations proceed on subsidies, U.S. industries can continue to rely on U.S. laws in cases of identifiable unfair trade practices.

This ensures that U.S. nonferrous metal industries are not placed at a large disadvantage during the next 7 years. The remedy is appropriate; it is necessary, especially since the Domenici, et al. package has been rejected.

Senators BAUCUS and DANFORTH have exemplified clear vision on the FTA. They have refused to put aside fair trade in the name of free trade. For this, they should be complemented and supported in the future. I know my uranium producers appreciate their work as being the best possible solution to a difficult situation.

Mr. President, as I have indicated, there are many positives in this agreement with Canada for the United States in general and specifically for Utah. There are also several prominent negatives contained in the FTA which the country must face in the years ahead. I have mentioned those which concern me that are primarily related to the domestic uranium industry.

On balance, I believe the FTA is good for the country and good for Utah, which is why I support its ratification. It could do more, and it could and should provide a more level playing field on the issue of subsidies. However, in lieu of a perfect agreement, the FTA establishes a system to effectively address this matter within the next 7 years. I encourage our negotiators to proceed forthwith on the subsidy issue once the FTA is ratified. I can assure them that I, along with several of my colleagues with similar concerns, will closely watch the proceedings of their negotiations with the Canadians.

My support for the FTA is, as I stated, restrained. My appreciation, however, for those Senators who have worked hard to make the FTA more palatable is not. While the FTA is not everything I want, I commend my colleagues for their efforts. I pledge my support with future negotiations on issues which remain outstanding with the FTA, specifically the item of addressing Canadian subsidies.

Mr. ROTH. Mr. President, as important as the omnibus trade legislation recently signed into law by the President is to strengthening America's trade policy, it is not the only positive development for trade in 1988. In fact, in the long view of history another event, the proposed enactment by the United States Congress and the Canadian Parliament this year of a Free-Trade Agreement between our two countries, may be viewed as at least as important.

I applaud the leadership of President Reagan and Prime Minister Mulrooney in pressing forward on this free-trade area agreement. Though such ideas have been pursued on each side of the border at various points in the past, I am hopeful that the very deep personal commitments of our current leaders will finally lead later this year to the achievement of this admirable objective.

As a participant in the Finance Committee and the House and Senate conference committee set up to develop United States implementing legislation for this free trade area, I have been able to work to assure mutual benefits of the agreement for the United States and Canada. This agreement will be beneficial to both Delaware's and the Nation's economy and it will also serve as a model for other mutually beneficial international trade agreements.

Trade with Canada has been especially profitable for Delaware. In fact, Delaware exports more than one-and-a-half times as much to Canada as it imports from there. Delaware sells a variety of products to Canada, including plastics, alloys, paper products, manmade fibers and chemical products. According to the United States Department of Commerce, Delaware exported more than $390 million in commodities to Canada in 1986. Imports into Delaware from Canada totaled more than $251 million. On a national per capita basis, Delaware's share in United States-Canada trade in services is estimated to be approximately $67.2 million.

It is interesting to note that while the Nation as a whole generally has a goods trade deficit with Canada, Delaware enjoys a trade surplus with that country. When finalized, the United States-Canada Free-Trade Agreement should further enhance Delaware's exports to our neighbor to the North.

This agreement, like the recently enacted omnibus trade legislation, demonstrates that America is moving to make the global economy work for us. With this agreement we will grasp an historic opportunity to bring about closer relations with our largest trading partner, Canada. It is a significant step forward on eliminating tariffs; it creates new export opportunities particularly for products such as chemicals; it breaks new ground on rules for fair trade in services; and on assuring fair treatment for American investors in Canada.

This agreement is not an end, but a beginning. It will serve as a foundation on which to build a stronger, more comprehensive, mutually beneficial trade relations between the United States and Canada. I will vote for the United States-Canada Free-Trade Agreement and I expect this legislation to pass the Senate by a wide margin today. Though I know this agreement is more controversial in Canada then here in the United States, I hope we will see the agreement in place by January 1, 1989, as scheduled.

Mr. CRANSTON. Mr. President, throughout this Congress we have focused much attention on the need to develop a strategy for improving American competitiveness in world markets and lowering our Nation's massive trade deficit. Just last month, I joined President Reagan in Long Beach, CA, as he signed the Omnibus Trade and Competitiveness Act of 1988. This legislation, the culmination of 3 years of hard work and bipartisan cooperation, set forth a more comprehensive and coordinated national trade policy. It is a policy aimed at expanding American access to foreign markets, strengthening our domestic trade laws, and ending the unfair trading practices of our foreign competitors. We must not be fooled into thinking, however, that our work toward these goals is over.

While the omnibus trade bill contains provisions which will strengthen our international competitiveness, it will not totally eliminate America's trade deficit. We must continue our efforts to open world markets to American goods and services. What better place to start than Canada—our largest single trading partner. That's why I rise today to express my strong support for the United States-Canada Free-Trade Agreement. Signed on January 2d by President Reagan and Canadian Prime Minister Mulroney, this historic agreement will result in long-term benefits for both nations and, I believe, the entire international trading community. The United States and Canada currently enjoy the world's largest bilateral trading partnership, with a combined trade in goods and services totaling over $150 billion.

Probably the most important provision of the free trade agreement is the eventual elimination of most tariff and nontariff barriers to trade by 1998. Although approximately 75 percent of all United States-Canadian trade is already duty-free, Canadian tariffs are normally twice the amount imposed by the U.S. on the remaining 25 percent of trade. Tariff elimination will considerably lower the price of Unites States goods in Canada, providing a helpful boost for American exports.

The agreement will also relax the requirements and controls which Canada imposes on foreign investment. As you know, Mr. President, the United States has always refrained from placing excessive controls on its foreign investors, in keeping with America's commitment to free and open access to trade and investment around the globe. During negotiations on the free-trade agreement, the United States representatives stressed the importance of more equal treatment for Americans wishing to invest in Canada. I am pleased that they are successful in including provisions in the agreement which will pave the way for increased American involvement in the Canadian economy. U.S. companies will be given national treatment in the establishment of new businesses, acquisition of existing businesses, and the operation and sale of established businesses in the future.

The United States-Canada agreement also sets the ground work for liberalizing trade in the services sector, an area which represents a rapidly growing share of the United States economy. This is the first international agreement governing trade and investment in the service industries and will be of great benefit to both countries and an example for the world. In addition, it contains market-opening provisions for trade in energy and agriculture, and expands access to government procurement markets in both countries. Finally, the agreement sets up a binational panel to settle trade disputes. In breaking down sone of the trade barriers which still exist between the United States and Canada, the agreement will increase the current level of bilateral trade and necessarily result in increased economic growth for both nations. In fact, it is estimated that the agreement willl boost United States GNP by 1 whole percent.

Just as our Nation stands to benefit from increased economic cooperation with our Northern neighbor, so too would my home State of California benefit from passage of the free trade agreement. California is the Nation's leader in international trade and Canada is one of its largest trading partners. In 1986, trade between California and Canada totaled $5.4 billion and resulted in a $1 billion trade surplus for California. According to figures published by the California State World Trade Commission, approximately 120,000 jobs in California are supported through the State's economic ties to Canada. Of that number, 93,000 are involved in the exporting of goods and services to Canada and the remaining 27,000 stem from Canadian direct investment in the State.

Mr. President, let me briefly outline the positive effects this agreement would have on my State's economic future. California's major exports to Canada include: computing equipment, aerospace products, fruits and vegetables, wine, and telecommunications equipment. The agreement would eliminate tariffs on computers and some telecommunications equipment, as well as on certain semiconductor devices, by January 1, 1989. This provision would encourage California's high-tech community to increase its already substantial level of exports to Canada. Eventually, all duties on electronic products will be eliminated as will many nontariff barriers. Also, restrictions on wine imports would be relaxed, thereby giving California winemakers an opportunity to capture a larger share of Canada's market demand. As Canadian wine consumption was valued at over $370 million for 1986, the agreement will be beneficial for the California wine industry. Finally, increasing market access for agricultural goods benefits California as our Nation's largest agricultural producer. Canada is currently my State's third largest agricultural export market, and in 1986, California enjoyed a net surplus of more than $412 million from its agricultural trade with Canada. Removal of trade barriers for these products will certainly increase this surplus.

I must express concern, however, that the agreement exempts cultural products; this means California's $6 billion film and television industry will not benefit from its provisions. During negotiations on the agreement, the Canadian Government announced a proposal to restrict the distribution of American films and video material in Canada. As exportation of films and home videos accounts for more than $1 billion in annual revenues, this proposal would adversely affect California's economy and the U.S. balance of trade. Moreover, if other nations were to follow Canada's example, the film industry in California and in our Nation as a whole would be dealt a serious blow. Prior to hearings held by the House on the merits of the United States-Canada Agreement, I sent a letter to SAM GIBBONS, chairman of the Subcommittee on Trade, to express my concern about this development. The letter, which was also signed by seven of my Senate colleagues, stressed that the implementing legislation for the agreement should more clearly define the counteractions which could be taken by the President in response to Canadian cultural laws of a protectionist nature. Mr. President, I am happy to report that our suggestions were incorporated into the Statement of Administrative Action.

The Free Trade Agreement is an important step along the road to open trade between the United States and Canada. Although this agreement does not address all of our trade concerns, and will not eliminate all of our trade disagreements with Canada, it creates a foundation from which further cooperation on issues of importance to both nations may be achieved. In addition, the United States-Canada Free-Trade Agreement provides a model of liberalized trading practices for the Uruguay round of GATT negotiations as well as other bilateral negotiations.

Mr. President, this agreement will expand domestic employment, provide lower prices for consumers, strengthen our balance of trade, promote efficiency in production, and increase our competitiveness in world markets. It is an agreement which will brighten America's economic future, and it is an agreement worthy of our support. I urge my colleagues in the Senate to demonstrate their support by voting for this historic agreement.

Mr. ROCKEFELLER. Mr. President, I rise in support of the United States-Canada Free-Trade Agreement. This agreement will benefit the United States and it will benefit the economy of my state of West Virginia.

This is truly a historic measure. It is certainly the most comprehensive trade agreement ever negotiated between two advanced industrialized nations. It significantly liberalizes trade laws and regulations in the United States and Canada, and the result will be more trade in goods and services, greater cross-border investment, and increased economic growth in both countries.

The U.S. Trade Representative, Ambassador Clayton Yeutter, has called this a win-win agreement because it provides advantages to both countries. I agree with that, and would like to congratulate Ambassador Yeutter, his staff, and the many people from a large number of government agencies who helped in the lengthy and arduous negotiating process. This country is well-served by these hard working, dedicated, trade experts.

Mr. President, we will hear a lot during this debate about the positive impact of the FTA on the United States, and I am sure I will agree with most of those remarks. I would, however, like to address in my remarks the question of how the FTA affects my State of West Virginia and explain it in some detail.

West Virginia is one of only 18 States that have a favorable balance of trade with Canada. In 1987, my State's sales to Canada amounted to $253 million while our purchases from Canada came to $198 million, giving us a positive trade balance of $55 million. Only 12 other States had a better balance of trade with Canada last year than we did.

Coal is the largest single product in the West Virginia economy. During the early stages of the deliberations on the free-trade agreement, the coal industry had doubts, which I shared, about this agreement. This concern related to allegations that the Canadian Government, at both the federal and provincial levels, provides subsidies to its electricity-generating industry. If this were true, the result would be that Canadian utilities could sell electricity to American users at artificially low prices. This electricity from Canada could then unfairly substitute for electricity produced and sold in the United States by our own coal-fired power generation plants.

This is of concern in the context of the free-trade agreement because of the provisions removing Canadian restrictions on the export of electricity to the United States. The amount of Canadian electricity sold to utilities in this country is likely to increase, and we must be sure that the pricing of that electricity does not unfairly damage our coal industry.

The first step in dealing with this problem is to gather information about subsidies from the Canadian Federal and Provincial governments to the electricity industry. This information does not exist at present, and it would be quite costly for the coal industry to collect it on its own. Working closely with the coal industry, the Department of Commerce, and the U.S. Trade Representative's office, I was able to secure agreement from our Government and from the Canadian Government that, working together, they would produce a comprehensive study of these subsidies to the electricity industry. I might add, parenthetically, that this study will examine subsidies in both countries—by the Canadian Federal and Provincial governments and by the United States Federal and State Governments. It will be an even-handed, objective examination, and it will provide the coal industry with the information it needs to decide whether to take further action in the future.

At this point, Mr. President, I ask unanimous consent that a letter that Senator MOYNIHAN and I sent to Canadian Ambassador Gotlieb be placed in the RECORD. This letter asks for the Canadian Government's assurance that they will agree to this study. I also ask unanimous consent that a reply from Ambassador Gotlieb be placed in the RECORD. His letter provides us with assurance that this study will be addressed within the consultative procedures of the FTA.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, June 23, 1988.
Hon. ALLAN GOTLIEB,
Ambassador, Embassy of Canada, Washington, DC.

DEAR ALLAN. As you know, the Finance and the Ways and Means Committees, in agreement with the Administration, have included in the Statement of Administrative Action the following:

The Administration will make every effort to assure that the working group prepare a report, within 24 months of entry into force of the agreement, on the nature and extent of assistance and benefits provided to electric utilities in the United States and Canada by Federal and provincial or State Governments.

This provides for an even-handed study of practices in both countries by a neutral body. As members of the Finance Committee with quite different constituent interests, we worked closely together to craft this statement. It is our full expectation that, when the U.S. Administration makes a request to the working group that it undertake such a study, the Canadian side will agree. It would be very helpful if you could provide us with an assurance that this will be the case.

We appreciate your help and understanding.

Sincerely,
DANIEL PATRICK MOYNIHAN.
JOHN D. ROCKEFELLER IV.

CANADIAN EMBASSY,
AMBASADE DU CANADA,
Washington, DC, August 8, 1988.
Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate, Washington, DC.

DEAR SENATOR ROCKEFELLER: I am responding to your letter of June 23 concerning the program of the Working Group to be established under Article 1907 of the Canada-U.S. Free Trade Agreement.

While the objectives of the Working Group are clearly stated in the agreement, its work program has yet to be negotiated and will obviously have to reflect the priorities of both parties. On the Canadian side, we will have to consult closely with the provinces on our approach to these negotiations, and I expect that the U.S. federal government might wish to do likewise with the states.

In the interim, after the agreement's entry into force, the Administration would be at liberty, without prejudice to the results of the negotiations on the work program of the Working Group, to request consultations on the matter raised in your letter under the provisions of Article 1804 of the agreement. As you know, Article 1804 reads as follows:

(1) Either Party may request consultations regarding any actual or proposed measure or any other matter that it considers affects the operation of this Agreement, whether or not the matter has been notified in accordance with Article 1803.

(2) The Parties shall make every attempt to arrive at a mutually satisfactory resolution of any matter through consultations under this Article or other consultative provisions in this Agreement.

(3) Each Party shall treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.

The Canadian side, of course, is committed to fulfilling all its obligations under the agreement, including those under Article 1804.

I take this opportunity to thank you for your constructive efforts in moving this historic agreement towards adoption.

Yours sincerely,
ALLAN GOTLIEB,
Ambassador.

Mr. ROCKEFELLER. Because of the agreement I secured to carry out this study, plus the continuing high level of coal sales to Canada—especially from West Virginia mines which sold 53 million dollars' worth of coal to Canada last year—both the West Virginia Coal Association and the National Coal Association have endorsed the free-trade agreement. Mr. President, I ask unanimous consent that letters to me from Gary White, president of the West Virginia Coal Association, and from Richard Lawson, president of the National Coal Association, be included in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 8, 1988.
Hon. JOHN D. ROCKEFELLER, IV,
U.S. Senate, Washington, DC.

DEAR SENATOR ROCKEFELLER: Following the finalization of recommendations by the Senate and the House of Representatives to the Administration on the components of implementing legislation for the proposed U.S.-Canada Free Trade Agreement (FTA), I reviewed the concerns of the National Coal Association, and the status of those concerns, in a letter to you on July 14. Subsequently, the Administration has submitted S. 2651, legislation to implement the FTA.

The points raised in National Coal's testimony to the Senate Finance Committee and other committees of the Congress directly relevant to the FTA were reflected in the recommendations of the House and Senate to the Administration, and have subsequently been addressed in the implementing legislation. The FTA will further help to assure that Canada, the largest customer for U.S. coal exports, will maintain open borders to U.S. coal. As a consequence, NCA, supports this legislation.

However, as we stated to the Congress, the U.S. must move forward in taking necessary steps to address the federal and state regulatory problems that act as disincentives to the construction of transmission facilities to make low cost, coal-fired power available in regions of the United States which are experiencing or will experience generation shortfalls. Separately, the U.S. Congress must take steps to move the U.S. coal industry toward a more level playing field with Canadian coal producers with respect to the taxation of extractive industries in the respective countries. In this regard, your sponsorship of legislation with Senators Heinz and Wallop to restore incentives for coal exploration and development and investment in productivity improvements for the U.S. coal industry is greatly appreciated.

The National Coal Association looks forward to working with you toward the enactment of this and other legislation to enhance the competitiveness of the U.S. coal industry in the remainder of this Congress and the 101st Congress.

Sincerely,

RICHARD L. LAWSON.

NATIONAL COAL ASSOCIATION,
August 9, 1988.

Hon. JOHN D. ROCKEFELLER, IV,
U.S. Senate, Washington, DC.

DEAR SENATOR ROCKEFELLER: Following the finalization of recommendations by the Senate and the House of Representatives to the Administration on the components of implementing legislation for the proposed U.S.-Canada Free Trade Agreement (FTA), I reviewed the concerns of the National Coal Association, and the status of those concerns, in a letter to you on July 14. Subsequently, the Administration has submitted S. 2651, legislation to implement the FTA.

The points raised in National Coal's testimony to the Senate Finance Committee and other committees of the Congress directly relevant to the FTA were reflected in the recommendations of the House and the Senate to the Administration, and have subsequently been addressed in the implementing legislation. As a consequence, I believe the FTA will not adversely impact the interests of the coal industry. More particularly, it will help assure that Canada, the largest customer for U.S. coal exports, will maintain open borders to U.S. coal.

However, as we stated to the Congress, the U.S. must move forward in taking the necessary steps to address the federal and state regulatory problems that act as disincentives to the construction and operation of coal-fired power plants in the United States and the construction of transmission facilities to make low cost, coal-fired, power available in regions of the United States which are experiencing or will experience generation shortfalls. Separately, the U.S. Congress must take steps to move the U.S. coal industry toward a more level playing field with Canadian coal producers with respect to the taxation of extractive industries in the respective countries. In this regard, your sponsorship of legislation with Senators Heinz and Wallop to restore incentives for coal exploration and development and investment in productivity improvements for the U.S. coal industry is greatly appreciated.

The National Coal Association looks forward to working with you toward the enactment of this and other legislation to enhance the competitiveness of the U.S. coal industry in the remainder of this Congress and the 101st Congress.

Sincerely,

RICHARD L. LAWSON.

NATIONAL COAL ASSOCIATION,
July 14, 1988.

Hon. JOHN D. ROCKEFELLER IV,
U.S Senate, Washington, DC.

DEAR SENATOR ROCKEFELLER: Over the past several months you, as well as other members of the Senate Finance Committee, have invested significant time in analyzing the proposed U.S.-Canada Free Trade Agreement, including its impact on domestic industries. As you are aware, the U.S. coal industry has a direct interest in the Free Trade Agreement as a result of the longstanding export of U.S. coal to Canadian utilities and steel companies, as well as the growing importation of electric power to the U.S. from Canadian utilities. The views of the National Coal Association were expressed in testimony before the Senate Finance Committee this past April.

As you will recall from NCA's testimony and its statement submitted to the Committee, the coal industry made four principal points regarding the proposed Free Trade Agreement. NCA recommended:

(1) That implementing legislation should include direction to the working group on subsidies established by Article 1907 of the Free Trade Agreement to identify, assess and quantify subsidies available to either Canadian or U.S. utilities and recommend ways to offset advantages that these subsidies might afford in electricity trade;

(2) That the Congress should obtain clarification on the question of the authority, and thus the ability, of the Canadian federal government to enforce the provisions of the Free Trade Agreement in the provinces when conflicts between terms of the agreement and provincial law or regulation arise;

(3) That legislation should be considered to provide U.S. coal producers tax incentives similar to those available to Canadian coal producers with specific recommendations for modification of several tax provisions; and

(4) That appropriate agencies be directed to address the federal and state regulatory problems that act as disincentives to the construction and operation of coal-fired power plants and constrain U.S. utilities ability to compete with Canadian power.

I have reviewed the Recommendations for Canada-U.S. Free Trade Agreement Implementing Legislation made by the Senate Finance Committee and the House Ways and Means Committee. The points raised by NCA directly related to the Free Trade Agreement have been addressed in the recommendations of the Senate Finance Committee. Your efforts in pursuing these issues as a member of the Committee are sincerely appreciated.

More specifically, the direction provided to the working group established by Section 1907 to report on United States and Canadian subsidies to electric utilities within 24 months of entry into the force of the Free Trade Agreement, in conjunction with the Baucus-Danforth provisions address the concerns raised by NCA in point number one. The second issue directly related to the Free Trade Agreement, the authority of the federal government in Canada to implement the agreement, has been reflected in the qualifications under Article 2105 regarding "entry into force." These provisions would assure that Canada has taken the necessary measures to comply with the obligations of the Free Trade Agreement, including compliance by provincial and local governments.

The latter two points raised by NCA in its testimony do not directly relate to the implementing legislation for the Free Trade Agreement. Those concerns, however, are being addressed by the legislation you, along with Senators Heinz and Wallop, are developing in response to the specific recommendation we made on changes to applicable tax laws. NCA looks forward to working with you in pursuing those legislative modifications at an appropriate time.

Finally, you will be pleased to know that the concerns raised regarding the constraints on domestic utilities in constructing new coal-fired power plants are receiving broader cognizance. More specifically, increasing numbers of both elected and non-elected public officials are becoming concerned regarding the failure of U.S. law and regulation to facilitate the construction of new generation capacity to supply the U.S. with electricity over the coming years.

NCA appreciates your continuing concern with the problems we outlined earlier this year and your aggressive pursuit of actions to ameliorate those concerns. If the Administration's implementing legislation reflects the recommendations of the Senate Finance Committee regarding the Canada-U.S. Free Trade Agreement, it is my anticipation that the National Coal Association will recommend congressional approval of the agreement.

Sincerely,

RICHARD L. LAWSON.

WEST VIRGINIA COAL ASSOCIATION,
June 10, 1988.

Hon. JAY ROCKEFELLER, IV,
U.S. Senate, Washington, DC.

Subject: Canadian-U.S. Free Trade Agreement.

DEAR SENATOR ROCKEFELLER: We have received the statement presented by the National Coal Association (NCA) to you and other members of the Senate Finance Committee regarding the Canadian-U.S. Free Trade Agreement. In the statement Mr. Altmeyer, on behalf of NCA, made two principle points relevant to the terms of the Agreement:

Possible Canadian government subsidies to power companies should be identified and quantified; and

The authority of the Canadian national government to enter into an agreement binding on the Provinces should be clarified.

We are pleased to note that the Finance Committee has incorporated these two points in its recommendations to the Administration for inclusion in the implementing legislation and statement of administrative action.

The West Virginia Coal Association, representing operators producing 65% of the West Virginia's underground production of coal, would support the Free Trade Agreement and implementing legislation which incorporates the two NCA points endorsed by the Finance Committee.

Best regards.

Sincerely,

GARY G. WHITE
President.

Mr. ROCKEFELLER. I am extremely pleased that we were able to get agreement to proceed with this study. There is no industry more important to me, and to West Virginia, than the coal industry. I will continue to make every possible effort to enhance the competitiveness of the coal industry, and this includes ensuring that it is treated fairly by our trading partners.

Mr. President, let me turn now to the second largest industry in West Virginia—chemicals. West Virginia's sale of chemicals to Canada last year exceeded our sale of coal, amounting to $80 million. Major chemical manufacturers in the State—Borg-Warner, Union Carbide, Monsanto, Dupont—endorse the free trade agreement, believing that it will not only help their national business but will also help their operations in West Virginia. Mr. President, I ask unanimous consent that letters to me from officials in each of those four companies be placed in the RECORD.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Borg-Warner Chemicals, Inc.,
Parkersburg, WV, July 25, 1988.

Hon. John D. Rockefeller IV,
Senator, State of West Virginia, Hart Senate Office Building, Washington, DC.

Dear Senator Rockefeller: The United States Senate will soon be considering legislation to implement the proposed U.S./Canada Free Trade Agreement. As you are well aware, Borg-Warner Chemicals supports efforts to eliminate artificial barriers that restrict international trade. Free and equal access between the U.S. and other countries is beneficial to the United States and to the chemical industry.

It is Borg-Warner Chemicals' belief that the U.S./Canada Free Trade Agreement is advantageous to the West Virginia chemical industry. Our company has participated in efforts to negotiate the treaty and we do support its implementation. I urge you to support and vote for the implementation of the agreement.

I look forward to continuing to work with you in the future in efforts to further reduce trade barriers.

Sincerely,

George J. McNally.

Union Carbide Corp.,
South Charleston, WV, July 18, 1988.

Hon. John D. Rockefeller IV,
Senate Office Building,
Washington, DC.

Dear Senator Rockefeller: The Congress will soon be called upon to give its approval to legislation implementing the Canadian Free Trade Agreement. We hope you will support the agreement and legislation.

Taken as a whole, we believe that the provisions of this agreement will be beneficial to the U.S. economy, to Union Carbide and to our operations in West Virginia. As you know, the agreement is not likely to have many significant short-term effects. For instance, tariff reductions under the agreement will be phased out over five and ten years, and one of the ultimate benefits of such tariff reductions should be enhanced exports to Canada of the kind of specialty products produced at Union Carbide's South Charleston plant.

Sincerely,

Thad D. Epps.

Monsanto Co.,
Washington, DC, August 8, 1988.

Hon. John D. Rockefeller IV,
Dirksen Senate Office Building, Washington, DC.

Dear Senator Rockefeller: As one of the top 25 exporters in the United States and a manufacturer with facilities in West Virginia, Monsanto supports ratification of the U.S. Canada Free Trade Agreement.

Monsanto is a producer of industrial and agricultural products, pharmaceuticals, low-calorie sweeteners, industrial process controls, man-made fibers, plastics and electronic materials. With 1987 sales amounting to $7.64 billion, Monsanto does business in more than 100 countries and employes 50,000 people worldwide, of which 32,000 are based in the United States. Exports in 1987 amounted to $887 million.

We have closely followed the talks between Canada and the United States on this agreement, making our views regarding key issues known to negotiators on both sides of the border. Short term, there are pluses and minuses to the agreement, which is not unexpected. However, over the long term, especially after the agreement is fully implemented, the overall effect clearly will be positive.

More importantly, the potential economic benefits to the United States of the U.S.-Canada Free Trade Agreement are significant, not only through increased bilateral trade but also through the influence it will exert on behalf of free and fair trade throughout the world.

Thank you for this opportunity to share our views with you. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

Thomas M. Helscher,
Director, Congressional Affairs.

E.I. du Pont de Nemours & Co.,
Parkersburg, WV, May 5, 1988.

Hon. John D. Rockefeller IV,
Dirksen Senate Office Building, Washington, DC.

Dear Mr. Rockefeller: In the interest of securing existing markets and of enhancing new business opportunities for West Virginia, DuPont Washington Works encourages your support of the United States-Canada Free Trade Agreement (FTA) finalized in January. The Agreement is good not only for industries like DuPont, but also for the entire economy of our State.

West Virginia's manufacturing sector is even more dependent on exports than the United States as a whole, and the FTA reduces substantially barriers to trade and investment between the U.S. and Canada. In 1986, West Virginia and Canada traded $430 million worth of commodities, and that trading relationship can be made even stronger by the following provisions of the FTA:

Phased Tariff Reductions, eliminating all tariffs on goods traded between the United States and Canada.

Rules of Origin, including a workable formula for determining the domestic content of goods eligible for duty free treatment.

More Certain Investment Climate, providing a much greater measure of national treatment to U.S. firms seeking to invest in Canada.

Energy Trade, locking in the relatively unrestricted energy markets that have evolved in Canada and the U.S. over the past six years following a period of immense difficulties for U.S. energy firms under the old National Energy Policy in Canada.

DuPont believes that the above provisions will offer many opportunities to expand the commercial relationship between the United States and Canada through increased trade and investment between the two countries. That improved relationship would greatly benefit West Virginia by making the State more competitive in the Canadian market. Attached is a document detailing the benefits of the FTA for West Virginia. We understand it probably will be coming up for action sometime in June and request your favorable consideration.

H. Verlon Bradley,
Works Manager.

Mr. ROCKEFELLER. Why has the chemical industry endorsed the FTA? First, the elimination of all Canadian tariffs will allow the American chemical industry to price its products more competitively in Canada. Second, the general growth in the Canadian economy resulting from this agreement will increase demand for chemicals, thus expanding the potential market for our industry. Finally, the spur that the FTA will give to ongoing multilateral efforts at trade liberalization will, ultimately, be of benefit to the chemical industry which is so dependent on export markets.

I am very happy that we were able to negotiate an agreement that will be so helpful to this important industry in West Virginia.

Other industries in West Virginia will also be well-served by the Free-Trade Agreement. Two major companies, Westvaco and Kaiser Aluminum, support it and believe it will help their operations in the State. Mr. President, I ask unanimous consent that letters from Westvaco and Kaiser Aluminum endorsing the FTA be placed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Westvaco,
New York, NY, July 8, 1988.

Hon. John D. Rockefeller IV,
U.S. Senate,
Washington, DC.

Dear Senator Rockefeller: I am writing at this time to urge you to support the U.S.-Canada Free Trade Agreement. We have carefully considered the impact that the proposed pact will have on Westvaco, and we believe the elimination of tariffs on paper products will open up many new marketing opportunities for the innovative products that are being produced at our Luke, Maryland and Covington, Virginia mills.

The agreement is a positive step in U.S.-Canadian trade relations and will be beneficial to us because Canada is the largest U.S. export market for paper, paperboard, and converted products. Currently, the Canadian tariff level is two to three times greater than U.S. duties on most paper and paperboard products and as much as 70 percent of U.S. paper industry exports to Canada are dutiable.

At Westvaco, we are moving aggressively toward advanced and innovative products which will stand alone and command a special place in both the international and domestic markets. By taking advantage of our unique organizational strengths, we concluded that we could bring special value-added products to the market which others would find very difficult to duplicate. The removal of tariffs helps to level the playing field, particularly as we compete against the heavily subsidized Canadian paper industry.

These new marketing opportunities in Canada will have a positive impact on the timber industry in West Virginia as we will be utilizing our own timber resources and those of our independent West Virginia loggers to produce paper products for potential new markets in Canada.

You may be interested to know that Westvaco has a yearly economic impact in the state of West Virginia of over $100 million.

As the debate on the trade pact continues, we hope that your discussions relating to the value of the dollar in comparison to the Canadian dollar will intensify. As you may recall from our last visit in your office, exchange rates are very important to our ability to sell our products in foreign markets. When you consider that Canada is both the

U.S. and the U.S. paper industry's largest trading partner, the importance of this issue cannot be overlooked.

We appreciate your continuing interest in Westvaco and urge you to call on us whenever we may be of assistance.

Sincerely,

David L. Luke III.

Kaiser Aluminum and
Chemical Corp.,
Charleston, WV, August 9, 1988.

Hon. John D. Rockefeller, IV,
U.S. Senator,
Washington, DC.

Dear Senator Rockefeller: On behalf of the management of the Kaiser Aluminum Ravenswood Works, I would like to urge your support of the United States-Canadian Free Trade Agreement Bill as it is currently written.

Although Kaiser Aluminum is not pleased with all aspects of the legislation, we have decided that the benefit of the total bill outweighs that of some of the parts.

Thank you for all of your hard work on this very critical piece of legislation. If I can be of further assistance to you, please let me know.

Sincerely,

Patrick M. Gallagher,
Vice President,
Public Affairs, Midwestern Region.

Mr. ROCKEFELLER. Just as the American economy is becoming increasingly internationalized, the same is true for West Virginia. It is little recognized, however, even in West Virginia, how dependent my State is on foreign trade. For example, over 13 percent of manufacturing employment in West Virginia is export related. Over 17 percent of manufacturing shipments from West Virginia is export related. In this, West Virginia ranks behind only Alaska and Washington.

We in West Virginia import materials from Canada and turn them into finished and semifinished products. The Free-Trade Agreement will make that easier. Canada is a significant export market for West Virginia, and the Free-Trade Agreement will mean a larger market that is more accessible to our companies.

Under this agreement, the United States and Canada will buy more from each other and will sell more to each other. This will benefit both countries, and it will benefit West Virginia. That is why I fully support the United States-Canada Free-Trade Agreement and why I urge all my colleagues to vote to approve it.

Mr. HELMS. Mr. President, the elimination of tariffs between the United States and Canada, proposed by the United States-Canada Free-Trade Agreement, will represent an important achievement in United States trade policy. I am convinced that the agreement will provide significant economic benefits to many businesses, both large and small, throughout the United States. It will also have a particularly significant impact on trade between North Carolina and Canada.

Unlike many States, North Carolina maintains a substantial surplus in its trading relationship with Canada. In 1986, for example, North Carolina exported $918 million worth of goods to Canada, while importing $729.6 million. Major exports from North Carolina include electronic computers, motor vehicle parts, marine craft and parts, furniture, fertilizers and fertilizer materials, and various textile products.

Canadian tariffs on many of these products are some of the highest in the industrialized world. North Carolina industries stand to benefit significantly from the phaseout of tariffs and the elimination of various nontariff barriers.

Mr. President, on balance, I view the agreement favorably; however, I am concerned about certain aspects of the agreement. Those concerns center around a topic that the Senate has been debating extensively for the past few weeks: the future of the American textile industry.

First, I'm concerned that the agreement may leave open the potential for significant transshipments of textiles from third countries through Canada. While I compliment our negotiators for their efforts to address this problem through well thought-out Rules of Origin, the fact remains that our Customs Service is already over-burdened in its attempt to enforce existing regulations. The textile industry is rightfully concerned that there may be successful efforts to circumvent the Rules of Origin contained in the Free-Trade Agreement.

Mr. President, Asian countries have been gearing up for what they perceive as new avenues into the United States textile/apparel market. A November 1987, issue of the South China Morning Post contained an article about a seminar hosted by the Chinese Manufacturers' Association in conjunction with the Government of British Columbia. According to the article, a Canadian official told the group that:

> One of the main advantages for a Hongkong [sic] manufacturer setting up in the province was the absence of quotas on Canadian-made garments shipped to the United States. * * * [T]he percentage for the U.S. market [is] expected to go up significantly in the coming years.

Mr. President, I am also concerned about the various government subsidies that the Canadian Government provides for some of its products. In negotiating the United States-Israel Free-Trade Agreement, our negotiators were able to acquire an agreement from the Israelis to phase out their subsidies. To my knowledge, no such commitment has been acquired from the Canadians.

In fact, there is still an unresolved issue regarding the duty remission scheme that Canada has proposed for textile and apparel products. To emphasize the seriousness of this issue, let me quote from a January 28, 1988, edition of the Journal of Commerce:

> Textile makers * * * have been guardedly supportive of freer trade with Canada; their highly efficient mills, they assumed, would give them the edge over Canadian producers. The duty remission program would remove one of the major advantages the United States expected from freer trade.

Mr. President, another concern arises due to the Canadian's recent efforts to gain an advantage after the agreement has been signed by trying to modify the interpretation of its provisions. For example, all of our trading partners accept the definition of wool products as those containing at least 36 percent wool. Yet, I'm informed that the Canadian Government is now attempting to interpret "wool products" for purposes of United States-Canada trade as those containing 50 percent wool. This is being done with the obvious intent of allowing more wool products to be shipped into the United States from Canada outside of the wool quota. To my knowledge, our negotiators have yet to resolve this issue.

Mr. President, if the United States-Canada agreement is implemented, we must ensure that the primary beneficiaries are the United States and Canada. It is also essential that the provisions regarding textile/apparel trade are not allowed to be used to the detriment of the U.S. industry.

We all know that there are other countries who will try to take unfair advantage of the open trade relationship embodied in the agreement. While I congratulate the administration on this achievement, I also urge that we make certain that our trade laws are strictly enforced so that none of our domestic industries is unfairly harmed as a result of this agreement.

Mr. McCAIN. Mr. President, I support the United States-Canada Free-Trade Agreement. This historic document is the product of extensive negotiations between the world's two largest trading partners. It is by far the most sweeping bilateral trade agreement ever concluded between two nations, and I hope it will pave the way for other far-reaching arrangements at the global level. This agreement is undeniably worthy of our support because of its potential effort on free trade around the world, as well as the immediate benefits the United States and Canada stand to gain. The FTA is a truly reciprocal agreement which, when fully implemented, should serve a blueprint for the GATT Uruguay Round and for other trade agreements in the future.

This agreement will continue the progress the Reagan administration has recently made in getting our trade deficit down, despite huge budget deficits and unfair practices abroad, by giving us an opportunity to expand our exports significantly. I do not mean to imply that Canada will suffer as our exports flood her markets, but rather that our exports will displace some Japanese and European exports to the Canadian market.

Like every other Member of this body, I am primarily concerned about the effects of this agreement on the industries which employ residents of the State I represent. I am convinced that the State of Arizona stands to benefit greatly from the FTA, for the very basic reason that Arizona exports more to Canada than any other State. Arizonan businesses exported $256 million worth of commodities to Canada in 1986. These commodities ranged from $4.5 million in vehicle components to $56 million in telecommunications, electronic tubes, and semiconductors to $22.4 milllion in fruit and vegetables to $57.8 million in electronic computers. More than one in six Arizonans hold export related positions—positions that are dependent on sales to other countries and which can only benefit from increased trade with Canada. In addition, as a result of the FTA, Arizonan firms will be eligible to compete for an additional $500 million in Canadian federal public sector purchases.

However, in any agreement as comprehensive as this one, there are bound to be provisions which are not agreeable to all. I have listened to the arguments of the natural resources lobby against the Free-Trade Agreement with serious concern. Although some protection for uranium and mineral interests has been built into the agreement through the binational dispute resolution panel, I remain troubled by the potential impact Canadian subsidization of natural resource industries on our own domestic industries. As the FTA goes into effect, the impact on the American natural resource industries should be carefully assessed. If great harm is being done to these industries, remedial measures should be considered immediately.

In my opinion, however, these concerns do not warrant opposition of the Free Trade Agreement. I believe this agreement is an improvement which will benefit both consumers and industries in our two countries. The phase out and elimination of the remaining tariffs between the United States and Canada will provide a vast opportunity to improve this country's economy. Already Canada is the largest importer of American manufactured goods, with some 2 million jobs dependent on the Canadian market. The elimination of tariff barriers, which in Canada average twice as high as the United States, is expected to ultimately add as much as 1 percent to our GNP.

Perhaps most importantly, the FTA offers greater opportunities for Americans in the industries of the future, services and high technology. While they are undoubtedly essential to our Nation today, these industries will certainly have a growing importance in the world economic system of tomorrow. This is particularly evident in my home State of Arizona. As I noted earlier, in 1986 Arizona exported over $56 million in telecommunications and related equipment to Canada. The FTA would open the fast-growing Canadian market in this area even further to U.S. enterprise by the staged elimination of all Canadian duties and the reduction of selected nontariff barriers in both the enhanced telecommunications and computer services market.

Finally, the major criterion we must use in evaluating any trade legislation must be its contribution to free and fair trade. As I said during consideration of the trade bill earlier this year, I believe we must ask ourselves a very serious question when confronted by proposed alterations to our trade policy. If our other trading partners adopted a similar strategy, would the United States be impacted negatively? In the case of the trade bill and in the case of the textile bill, I believe the answer would be yes, and I opposed both pieces of legislation. Undue protectionism can only hurt this country and our economy in the long run. However, in the case of the free trade agreement, the adoption of a similar plan by other trading partners would be to our benefit. I think it is clear that the Free-Trade Agreement includes tangible and substantial benefits for America as a whole.

Our Nation has a serious trade deficit. To ensure our continued economic prosperity, this problem must be remedied. President Reagan, with the assistance of Prime Minister Mulroney, has taken a significant step toward reducing our trade deficit and expanding international trade.

Mr. GLENN. Mr. President, I rise in strong support of the United States-Canada Free-Trade Agreement. Today, the Senate is voting once again on legislation concerning U.S. international trade policy—an issue that has dominated the 100th Congress from its very beginning.

Our work to date in the trade arena has almost exclusively been worrying about and debating ways to improve our trading relations with Japan, Europe, and the Newly Industrialized Countries [NIC's]. In the meantime, with a country just across this Nation's northern border, our trade relationship has matured to the point where, I believe, we are about to embark on a trading policy whose effects on the U.S. economy will be every bit, if not more, exciting and enduring than those promised by the other initiatives which lie at the center of the current U.S. trade debate.

The United States-Canadian Free-Trade Agreement or [FTA] which we have before us today is, in short, a comprehensive plan to pull down most of the existing barriers to trade between our two countries. If the FTA is approved, it will truly be a watershed event in modern economic history. In 1986, the United States and Canada traded goods and services valued in excess of $150 billion—the largest bilateral trading relationship in the world.

There are numerous benefits that the FTA will create. For one, the FTA will benefit consumers. American consumers will experience lower prices for many goods, as Canadian tariffs—on average two times as high as American tariffs—come down. Consumers on both sides of the border will also have access to a wider range of goods, services, and investment opportunities.

The FTA will also make both of our economies more competitive because it will create a larger market for United States and Canadian goods and services. Healthy industries will become more efficient as they realize new economies of scale. Overprotected, "fat" industries in both countries will have to streamline their production or move into businesses in which they are more competitive. The end result will be a reallocation of resources that otherwise were artificially and inefficiently diverted by market distorting trade barriers.

In fact, by being able to take advantage of these economies of scale within a new, North American market, our firms will be better able to compete with firms outside North America and increase exports overseas. Thus the FTA is truly a competitiveness-enhancing trade policy.

By the same token, the creation of a combined market of 265 million people under the FTA will mean greater market leverage for United States and Canadian consumers vis-a-vis consumers elsewhere—including consumers in the European Economic Community [EEC]—to obtain foreign products at the lowest possible price.

I would be remiss if I did not mention that not all parties are satisfied with the FTA. Some industries and some regions feel that the FTA could expose them to ruinous and perhaps unfair competition from Canada. Others believe that the FTA does not provide enough trade liberalization; still others, that the little gained for United States in the FTA is guaranteed by ill-conceived institutions. I should say, however, that in the rush to protect special interests touched on by the FTA, few have evaluated the agreement from a national perspective.

I believe that it is important to judge the FTA from that perspective. To be sure, because this agreement has been negotiated under the "fast track" procedure, what we have before us is something of a "done deal." Perhaps it is not exactly the deal we would have made, but that is not what we are being asked to decide. Our job, under this procedure, is to judge whether this agreement is in the Nation's best interests—whether, overall, its benefits outweigh its costs. Thus, in assessing the FTA we must determine how it will change our existing trade relationship with Canada. Now is not the time to talk about the ideal agreement that might have been. Now is the time to decide whether we are to have any change at all.

Six Senate committees, including the Governmental Affairs Committee, jointly drafted the implementing legislation now before us. Senator BENTSEN once again showed leadership in managing the drafting process. I am very proud of my own committee's involvement in that process.

My colleagues, what we are going to vote on today is a truly historic opportunity. I urge all of you to approve this bill.

Mr. LEAHY. Mr. Chairman, it is my understanding that the United States-Canada Free-Trade Agreement now before the Senate will create the largest free trade area in the world, removing all tariff barriers within 10 years. It will create substantial international business opportunities for both the United States and Canada.

It is my understanding that the objective of the Canada-United States Free-Trade Agreement is to eliminate barriers to trade in goods and services between our countries.

For 40 years, Greyhound has provided scheduled bus service between Montreal and Burlington, Vermont, and between Montreal and New York City. This Greyhound service promotes the free flow of trade in goods and services between our two countries, and provides necessary and incidental passenger service to rural communities in the States of New York and Vermont.

Currently, these bus operations are the only affordable and reliable scheduled transportation service in numerous small communities in New York State and Vermont. The preservation of this service is supported by the Amalgamated Transit Union in order to protect the jobs of its members who are from both the United States and Canada.

It is further my understanding, Mr. Chairman, that the trade negotiators did not intend to eliminate this vital bus service between Canada and the United States.

Specifically, Mr. Chairman, is my understanding correct that the Fair-Trade Agreement annex 1502.1 part A and its schedule I, nor S. 2651, the implementing legislation, are not meant to affect, control, or influence in any way the INS' consideration of the immigration status of Greyhound Lines, Inc.'s Montreal-based drivers operating from Montreal on the routes to and within Vermont and New York?

Mr. KENNEDY. The gentleman from Vermont is correct in his understanding.

THE UNITED STATES-CANADA FREE-TRADE AGREEMENT: A STEP IN THE RIGHT DIRECTION

Mr. BUMPERS. Mr. President, I would like to express my strong support for the United States-Canada Free-Trade Agreement [FTA] which will not only serve to strengthen our important economic and political ties with our great ally, Canada, but it will also serve as an important model for our trading relations with the rest of the world.

The United States has an increasingly important national security interest in maintaining a strong and sound economy in the global market place. The United States-Canada Free-Trade Agreement will help us meet that goal.

The proposed agreement stands in sharp contrast to the bulk of the trade policies of this administration. Over the course of the last 7½ years of the Reagan administration, we have seen the United States fall from its status as the world's largest creditor nation to the world's largest debtor nation. Supply-side economics has worked exactly as I had anticipated. It has supplied us with more debt than any other nation in the world. Now, we must continue to dig our way out of this debt with every tool available.

The United States and Canada enjoy the unique position of having the world's largest bilateral trading partnership as evidenced by the $133 billion merchandise trade volume between the two countries in 1987. Trade in services totaled nearly $31 billion in 1987. The Free-Trade Agreement will enhance this partnership and provide numerous benefits to both the United States and Canada.

There is no wall of concrete guarded by armed soldiers dividing our two great countries, and it is now time to bring down the economic barriers which divide us.

The United States will benefit from the elimination of tariffs and nontariff barriers that serve to constrain trade.

The United States will benefit from the national treatment of the investment and service sectors in the future. This will create many new areas for trade.

The United States will benefit by having secure access to Canadian energy supplies.

Overall, the United States will enjoy positive changes in income and employment, according to a study done by the nonpartisan institute for international economics. Naturally, Canada will enjoy the same affect on income and employment since it will have improved access to a market 10 times its size.

The Free-Trade Agreement creates a unique and important binational dispute settlement mechanism which will review United States and Canadian antidumping and countervailing duty decisions after the domestic trade laws and procedures of each country have been utilized. This mechanism does not change United States or Canadian trade law. It simply provides a means to review disputed cases.

Some people are critical of the dispute settlement mechanism and state that it is unconstitutional because it violates article III of the Constitution. As I have said before, I believe that after the Bible, the Constitution is the most sacred document ever written. However, we have an indication of how the Supreme Court might view the constitutionality of the dispute settlement mechanism. In a 1981 decision in Dames and Moore versus Reagan, the Supreme Court ruled that a binding tribunal procedure used to settle Iranian claim disputes was legal.

Internationally, the free trade agreement provides tremendous momentum for the Uruguay round of the GATT. It keeps the trade liberalization bicycle upright and pedalling forward through tariff cuts and a binding dispute settlement mechanism. Further, it serves as a model for the investment and services sectors.

I do not say that the free trade agreement is perfect. However, it is definitely a step in the right direction in improving our bilateral economic relationship.

The Free-Trade Agreement will strengthen the U.S. economy by providing new markets for export, enhancing U.S. competitiveness, and improving U.S. productivity. The benefits will also spill over to the international economic system by improving the climate for multilateral efforts to improve and strengthen the international economic system.

The United States must build on this historic agreement by providing strong leadership in the international economic community to address longstanding inequities in the world trading system and create new markets for U.S. products.

Creating new opportunities and markets abroad for U.S. exports will remain an important factor in our effort to deal with the Reagan-Bush legacy of deficits which threaten our national security.

To those ends, the United States-Canada Free-Trade Agreement is a step in the right direction.

I support that step and will continue to work toward liberating the United States from the shackles this administration's economic policies have imposed on us, our children, and our grandchildren.

Mr. GRASSLEY. Mr. President, the free-trade agreement signed by President Reagan and Prime Minister Brian Mulroney on January 2, 1988, is a landmark in United States-Canada relations and a historic breakthrough in United States trade policy.

The agreement will stimulate expanded trade and other exchanges between two countries which are already the world's largest economic partners. It offers the promise of significant job and wealth creation benefits to both nations.

The United States and Canada currently exchange more goods between themselves than any two nations in the world. Total trade between the two countries is running at close to $150 billion.

Canada is by far the largest market for United States exports. It is also the fastest growing market for the United States. In recent years, about a quarter of United States exports have gone to Canada. Manufactured goods exported to Canada are some 20 percent higher than to the European Common Market and three times higher than to Japan.

A young Iowan by the name of Tony Burton worked at the U.S. International Trade Commission during the summer of 1987 as an intern. Tony did a study of Iowa manufacturers on the United States-Canada Trade Agreement and the effect it would have on them. Of the 500 Iowa companies that were contacted, 70 percent expressed a feeling that such an agreement would improve sales. Also, not one exporting manufacturer surveyed anticipates a deterioration in relations or loss of sales, as a result of this agreement.

In a letter I received by the Davenport Chamber of Commerce in my home State, I would like to quote a portion of the letter as they perceive this agreement: "The proposal to remove all Canadian tariffs, secure improved access to Canadian markets for U.S. manufacturing, agriculture, high technology, and financial sectors; improve U.S. security by opening access to Canadian energy supplies; and offer new investment opportunities, would serve to help the United States, particularly the Midwest area."

The agreement, however, is not without disagreement. As many of us are aware, the National Corn Growers Association, in a letter to the majority leader, on February 26, 1988, expressed its opposition to the agreement.

In that letter, they raised several elements of the agreement which they felt would have a negative impact on U.S. corn farmers. These concerns ranged from:

A 39-cent per bushel countervailing duty against all corn exports to Canada;

The elimination of the so-called crow's nest subsidies on agricultural products shipped to the United States through western Canadian ports, but the transportation subsidies on agricultural products shipped through eastern ports to the United States being maintained;

The possible effect on the United States ethanol industry that could be significantly impacted by elimination of the 60-cent tariff on ethanol imports, and I might add, I am deeply concerned over the possibility of European wine entering the Canadian borders and being diverted to the United States as ethanol. I have written to the administration about this and hope that it will be closely monitored; and

The establishment of a binational panel to settle trade disputes which may well lead to circumvention of the existing U.S. court system. The United States will not be well served by giving up our judicial review system in lieu of a binational panel which could well be influenced by any number of pressures—political, economic, or even foreign special interest.

Mr. President, I, too, feel some concern over this procedure. On May 27, 1988, I wrote a letter to the chairman of the Finance Committee, and at this time would ask unanimous consent to include the total text of that letter in to the RECORD along with the chairman's response.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, June 6, 1988.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR CHUCK: Thank you for your letter of May 27 addressing the treatment of the binational panel in proposed implementing language for the U.S.-Canada Free Trade Area Agreement.

I regret that the Senate Judiciary Committee was unable to formulate recommendations with respect to the implementation of the Agreement as it affects the Judicial Code of the United States. Under these circumstances, I anticipate that the Congressional recommendation will show the action of the House Judiciary Committee in such a way as to indicate that the Senate has not agreed to it.

The Finance Committee and its House counterpart have agreed to the implementation of the binational panel procedure. While members of the Committees remain free to vote against the implementing bill, it was deemed absolutely necessary to put the panel into effect in order to implement the Agreement.

In agreeing to put the panel in place, committee members decided that panel determinations should be implemented directly by the Federal agencies administering the antidumping and countervailing duty laws. Members also decided that panelists should be designated annually, in consultation with the Finance Committee and Ways and Means Committee, and that these committees should also have authorization control over the budget needed to run the panel system.

Again, thank you for contacting me about your interst in the U.S.-Canada Agreement. Your comments will be included in the record.

Sincerely,

LLOYD BENTSEN.

U.S. SENATE,
May 27, 1988.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR SENATOR BENTSEN: As a member of the Committee on the Judiciary, I would like to take the opportunity to comment on the implementing legislation for the U.S.-Canada Free Trade Agreement ("FTA"). My comments, based upon the hearing held by the Judiciary Committee on May 20, 1988 and review of the proposed legislation, will be confined to portions of the draft legislation which address the binational panel, chapter 19 of the FTA.

At the outset, I wish to convey some policy concerns with the establishment of a binational panel system. Our judicial system has evolved to allow for judicial review of final administrative determinations in antidumping ("AD") and countervailing duty ("CVD") cases. Parties to AD and CVD cases have come to rely on and have confidence in court review. This has the effect, recognized by U.S. Trade Representative officials Alan F. Holmer and Judith Bello, of reducing "the pressure that disappointed U.S. petitioners attempt to apply to the Congress to amend the law whenever [the Department of] Commerce makes any determination adverse to their interests." Holmer and Bello, "The U.S.-Canadian Lumber Agreement: Past as Prologue," 1987 The International Lawyer, p. 1198. Any elimination or erosion of judicial review should, therefore, proceed cautiously.

Notwithstanding these policy concerns, the binational panel in the context of the FTA, is a workable solution to the final resolution of trade disputes between the U.S. and Canada. According to all but one (the representative from the Customs and International Trade Bar Association) of the legal authorities who testified before the Senate Judiciary Committee, the establishment of a binational panel would comport with constitutional standards. There is some disagreement, however, as to the constitutional implications of the process by which panel decisions would be implemented.

First, I share the primary view which I understand has been adopted by the Finance Committee, that the decisions of the panel can be implemented directly by the relevant federal agencies, the Department of Commerce and the International Trade Commission. The weight of legal authority supports the view that such a process would not run afoul of the Appointments Clause of the U.S. Constitution, Article II, Section 2. However, I would urge that the Finance Committee go one step further and include language which would require that the Department of Commerce and the International Trade Commission directly implement the decisions of the binational panel. It is my understanding that the House version includes such language. Language offered by the Justice Department's Office of Legal Counsel authorizing the President to direct the agencies to implement the panel's decisions could lead to unnecessary involvement by the President in decisions of the panel.

Second, I also share what I understand to be the Finance Committee's view that the appointment of the American panelists should be made by the President, subject to the advice and consent of the Senate. I would add that the appointment of the Canadian panelists should also be subject to appropriate checks and balances. While I understand the Commerce Department's concern that the panel not be subject to the political process that sometimes accompanies Presidential appointment, the replacement of judicial review with the panel requires that the panel be erected in a way that will give it respect and credibility. Appointment by the U.S. Trade Representatives, even with informal consultation by appropriate Congressional Committees will not ensure such qualities. Presidential appointment, subject to the Senate's check, will do so. In addition, it should serve as a protection against possible conflicts of interest the panelists could potentially have with other functions they may have.

In sum, the implementing legislation for the FTA should strive to give the binational panel utmost integrity and independence, so that its procedures and decisions will inspire the confidence and satisfaction of the individuals who appear before it. Thank you for consideration of these views.

Sincerely,
CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. Mr. President, this is just but one example of what I am sure has caused farmers on both sides of the border to be nervous. Obviously, tariff elimination means benefits for the country that is the most efficient producer of various products.

Yet, on the whole, tariff-free trade between our two countries will be seen in the fact that United States products will have an advantage over other foreign products in Canada and vice-versa.

The U.S. Trade Representative has stated that many of the farm-trade questions may have to be resolved in multicountry negotiations now under way in Geneva at the general agreement on tariff and trade. He also indicated that he felt it is a great improvement over the status quo. I would agree with him and will be closely monitoring the proceedings at the GATT on the agricultural issue.

While I do have some concerns over the agreement, I have concluded, as has the American Farm Bureau, which backs the accord, that "It won't result in free trade, but that it is a fairly balanced package and a step in the right direction."

Mr. President, as I stated earlier, I do have some concerns over this agreement—things such as the countervailing duties placed on American corn exports, the Bi-National Commission, and Canada's subsidized pork export to the United States. However, as we all know, this agreement, while not amendable and not perfect, has caused me to conclude that on balance it is worthy of an "aye" vote.

Mr. President, as with any agreement, it is only good if both parties mutually benefit. Should this legislation pass, I would hope that this Congress and the next administration closely monitor the benefits, or lack of them, that may accure.

My vote on the legislation is predicated on the fact that it will result in mutual benefit. Should that not happen and the United States be severely disadvantage, it would be my hope that the Congress move swiftly to terminate the agreement.

UNITED STATES-CANADA FREE-TRADE AGREEMENT

Mr. KARNES. Mr. President, today we are going to vote on the United States-Canada Free-Trade Agreement. I am going to vote that this measure be passed and sent to the President. I favor fair trade, equitable trade with reduced barriers to trade. This is not a free trade bill, however. The United States and Canada represent the largest trading partnership in the world. The agricultural trade between the two countries is not nearly so large. The products that we in Nebraska grow are, for the most part, the same products grown in Canada. I believe, however, that our trading relationship in agriculture can grow and prosper.

I share the concern of many of the agricultural organizations that represent the growers of Nebraska. I have met with wheat growers, corn growers, hog producers, dry bean growers, and suger producers among others. All have, at one time or another, expressed serious concern with the United States-Canada Free-Trade Agreement. The administration, the Department of Agriculture and the Office of the Special Trade Representative have worked hard to meet those concerns and in conversations with me they have assured me that they will continue to work hard to ensure that these producers clearly benefit and are not harmed by the implementation of this agreement.

The title of this agreement was a misnomer from the beginning. There is no such thing as free trade. I would rather have seen the agreement titled the "Fair-Trade Agreement." I support the reduction of unfair trading practices and the elimination of barriers to trade. This measure moves in that direction. However, as with most international agreements, it is our farmers and ranchers that are put most at risk. No other sector of our economy is as affected by changes in international trade as our agricultural sector. Those of us who represent agricultural States have a special responsiblility to the family farmers and ranchers of America to ensure that they are not hurt in a rush to increase trade for other parts of the economy.

Conversely, I believe that our farmers and ranchers can be helped by the benefits that may accrue to the overall economy as a result of this agreement. Lower, and more stable interest rates, combined with a larger total market for produced goods should result in a substantial benefit to the gross national product of both countries. And that would be good for all of us. And, if the United States-Canada Free-Trade Agreement works, then it may be used as a model for future agreements with other important trading partners with the United States. Barriers to trade, such as those we have seen in Japan, can be frustrating to those of us here in the United States who understand the ability of our farmers to compete in a tough world market.

Overall, I believe that the benefits to the American farmer of the United States-Canada Free-Trade Agreement outweigh the negative aspects of this agreement. For that reason I will vote for the agreement. I will, however, continue to closely monitor its progress, and, if I become convinced that it is not providing net benefit to the American farmer and the farmers and ranchers of Nebraska, then I will seek corrective legislation.

Mr. HATFIELD. Mr. President the formulation and promotion of international trade are threads which are interwoven in the fabric of U.S. history. This has been the source of stability between sovereign nations, and the cause of war between trading partners. The need for its coordination and growth, in part, sparked the call 201 years ago for a Constitutional Convention, out of which came a governing document that transformed separate mercantilist States into a unified nation.

I have long believed that to foster stable and productive relations between nations one must support all efforts to expand trade and commerce. With this in mind, I applaud the accomplishment represented by the United States-Canada Free-Trade Agreement. Nowhere is the positive relationship between trade and foreign relations more evident than with our relationship with Canada. While countries, it is important to note that the United States and Canada are each other's most important trading partners.

In 1987 alone, our two-way trade volume in goods and services exceeded $163 billion and represented the largest bilaterial trading relationship in the world. Canada is our best customer, buying approximately 25 percent of all our exports. That is more than United States exports to the entire Common Market, and twice as much as United States sales to Japan. In fact, Canada has been one of our fastest growing markets. For the 6-year period from 1980 to 1986, our exports to Canada increased $15 billion, or 40 percent. That trend is expected to continue, and to grow.

The United States-Canada Free-Trade Agreement currently before us will help to strengthen this remarkable relationship. The agreement will eliminate almost all tariffs between our two countries within 10 years and will establish principles for the conduct to bilateral trade in our service industries. In addition, the agreement provides for the liberalization of Canadian investment restrictions, the elimination of restrictions on energy trade and the elimination of some Canadian nontariff barriers. Finally, two binational dispute resolution procedures are established: one for countervailing duty and antidumping cases, and one for the rest of the agreement,.

With adoption of this free-trade agreement, an estimated 750,000 new jobs will be created in the United States, and 150,000 jobs will be created in Canada. Both countries' GNP growth is expected to increase a minimum of 1 percent by virtue of the free-trade agreement.

The benefits of this new enhanced trading relationship will be felt not only by our Nation as a whole but by my own State of Oregon. The States of Oregon, Washington, and California have experienced some of the most rapid growth in exports to Canada. In Washington, the largest exports are motor vehicles, parts, aircraft and aircraft parts. In California, these exports include electronic equipment and semiconductors, computers, aircraft, parts and special industry machinery.

More significant to me, Oregon's largest exports to Canada are lumber and forest products, motor vehicles and parts, industrial machinery, electronic and scientific equipment and computers. Oregon has enjoyed a particularly lucrative partnershp with Canada. In 1986, and $690 million worth of products were exchanged between my State and Canada. With adoption of the United States-Canada Free-Trade Agreement, this healthy trading relationship will grow even stronger.

Naturally, as with any agreement of this size and scope, there are areas of concern to me. Adoption of this bilateral trade agreement should not be a signal that the United States is abandoning its pursuit of multilateral agreements. As our economy becomes more international in focus, the philosphy behind the GATT, to achieve enchanced trade on a multilateral basis, should be reiterated and supported.

I am also cognizant of the fact that Canadian subsidies and nontariff trade barriers still remain. Although the tariffs on goods and services will be eliminated over a 10-year period, efforts now should be directed to the elimination of Canadian subsidization of the goods which will now enjoy duty-free treatment.

Of significance to Oregon is how these nontariff trade barriers will impact the export of U.S. softwood plywood. Currently, about 80 percent of American plywood is denied entry into Canada as a result of these nontariff barriers. While the Free-Trade Agreement eliminates tariffs on softwood plywood over 10 years, these nontariff barriers must also be eliminated. I am gratified that the implementing legislation now provides that the reduction of tariffs on Canadian softwood plywood will be delayed until an agreement can be reached on uniform plywood standards for both countries.

Mr. President, the Free-Trade Agreement will be a clear benefit to the United States as well as to Canada, but only if its adoption marks the beginning of an effort to eliminate all tariff and nontariff barriers between our countries. I congratulate President Reagan, Trade Representative Yeutter, and former Treasury Secretary Baker on this significant accomplishment.

Mr. BIDEN. Mr. President, in recent years, issues of international competitiveness have become immensely important to the United States. Consequently, the Congress has been more involved in competitiveness and trade issues than at any time since I came to the Senate. Our concerns have focused on the $171 billion trade deficit, and the barriers to free trade that have grown throughout the world.

In such an atmosphere, it is refreshing and hopeful that two nations can join together in removing barriers to trade. That is what the United States and Canada have done. It is a real pleasure for me to join what I am sure will be the overwhelming majority of my colleagues in approving the implementation of this Free-Trade-Agreement.

The $131 billion trading relationship between the United States and Canada is the largest in the world—important to the economies of each.

Canada is the largest single market for United States exports. Our exports to Canada were $59 billion last year—double our exports to our next largest customer. And Canada was our second largest source of imports. Imports from that nation totaled $72 billion in 1987.

The agreement that we are considering today will phase out all tariffs between Canada and the United States within the next 10 years. This is the single greatest benefit to the United States, because Canadian tariffs are usually higher. It will give us greater access to Canadian energy supplies. It will prevent the raising of barriers against trade in services. It will provide equitable treatment in investment, making United States investment in Canada easier.

These positive accomplishments will increase trade between our two nations. It will make both economies healthier. It will increase the real gross national product of both Canada and the United States. The agreement should also mean lower prices for both Canadians and Americans.

On the other hand, there are aspects of the agreement that strike me as unwise.

Little was accomplished toward eliminating subsidies that affect international competitiveness. Canadians use governmental subsidies more widely than the United States—many imposed at the provincial level. I fear that failure to deal with the subsidy issue will lead to pressures for more subsidies in the United States to counter their use by Canada.

Perhaps the most disturbing feature of this agreement is that it does so little to equalize the present unfairness in United States-Canada automobile trade, the single largest element of our trade, totaling $45 billion in 1986.

This agreement does little to open automotive trade between the two nations. Many of the existing protections for Canadian-based producers will be retained permanently. Others will be retained for years, allowing time for Canada to secure lasting advantages in auto trade. Failure to eliminate tariffs promptly will postpone benefits and give Canada more time to consolidate its position in auto trade.

The United States-Canada Auto Pact of 1965 was intended to give temporary assistance to the establishment of a Canadian automotive industry. Instead, safeguards put in place under the pact have remained as a permanent incentive to auto producers to locate in Canada, rather than the United States, to serve the American market. Under this agreement these incentives will continue to operate in the same manner. The United States has no similar protections for its auto industry.

Other barriers to fair auto trade remain. The new rule of origin, requiring 50 percent North American direct cost of manufacturing, is too loose to prevent major components from being produced outside North America. Duty remissions based on domestic Canadian production will continue as an advantage for Canadian parts suppliers until 1995.

These weaknesses in the agreement will leave the American auto industry at a considerable disadvantage against its Canadian counterpart.

The legislation before us calls for continued negotiations to work out numerous problems. Any additional agreements reached within the next 30 months will be able to use fast-track approval procedures in Congress.

I am particularly concerned that the administration proceed promptly to negotiate an increase in the rule of origin to at least 60 percent, if not more. In addition, the U.S. Trade Representative should promptly undertake studies of whether production-based duty remissions, which will continue until 1995, are inconsistent with GATT.

Continued negotiations are not as satisfactory as negotiating a good agreement in the first place. However, with the possibility of future amendments to the agreement, and given the benefits that can flow from its constructive features, I believe it should be implemented.

This agreement can serve as a practical example to the world, showing that trade barriers can be reduced. As we seek, in other parts of the world, to overcome unfair trade barriers against American industry, it behooves us to show how free trade can work. This agreement can demonstrate the ability of American enterprise to do well in competitive environments. If we in the United States and Canada can reconcile our differences, we can combine our trading power to compete even more effectively in the new global economy.

Mr. THURMOND. Mr. President, I rise today in support of the United States-Canada Free-Trade Agreement. This historic agreement will eliminate trade and investment barriers between the largest trading partnership in the world. Last year, over $130 billion in goods and services crossed the United States-Canadian border. The Free-Trade Agreement will contribute to the growth of the American economy by expanding opportunities for trade and investment and by creating more job opportunities and a larger market for U.S. products and services.

Mr. President, today an estimated 2 million American jobs depend on exports to Canada. Canada purchased more than a fifth of all American exports and for the last 5 years has been our fastest growing export market. American exports to Canada alone equal our exports to all 12 members of the European Economic Community and more than twice the value of our exports to Japan.

South Carolina alone exported 418 million dollars' worth of commodities to Canada in 1986 according to the United States Department of Commerce. Major South Carolina exports included fabrics, textile fabricated materials, yarn and thread, chemical products, transportation equipment, motor vehicle engines, engine parts, rubber products, hand tools, textile machinery, and electric lighting.

On the other hand, South Carolina imported 451 million dollars' worth of commodities from Canada in 1986.

Tourism is a vital industry to South Carolina and is heavily supported by Canada. In 1986, 321,300 Canadian tourists spent $48 million in South Carolina.

Under this agreement, South Carolina consumers and manufacturers will benefit from reduced prices and a greater diversity of available products brought about by greater competition and more efficient business operations. South Carolina manufacturers will experience great gains in the Canadian market.

Many of my colleagues may question whether supporting the trade bill, the textile bill, and the United States-Canada Free-Trade Agreement is inconsistent. Mr. President, there is no inconsistency. In fact, this agreement represents the position that I have been advocating all along.

I have always supported fair trade as opposed to free trade. Free trade works only when all countries engage in this practice, but as we know, most do not. I feel that we must take measures, such as the United States-Canada Free-Trade Agreement, to insure our domestic industries are not victim of unfair trade practices abroad.

The United States-Canada Free-Trade Agreement ensures not only free trade, but also fair trade. As long as there is fair trade, I am confident American industries can compete with any other nation.

On January 2, 1988, President Reagan said that—

> In the truest sense, this is a historic agreement for both sides. We will strengthen what is already a deep friendship between our people by enhancing economic opportunities and creating jobs in both countries. Moreover, the agreement firmly establishes that the trade environment between the two countries will in the future be founded on the principle of free and open trade.

Mr. President, I urge my colleagues to support this measure which will ensure not only free trade, but more importantly fair trade.

Mr. PRESSLER. Mr. President, I rise in support of the United States-Canada Free-Trade Agreement. Free trade is a worthwhile goal. If we can reach that goal, both the United States and Canada will benefit.

Nearly a year ago, when the outlines of the United States-Canada Free-Trade Agreement were first announced, I had several serious reservations. There was a great concern in the Midwest and West that Canadian suppliers would have an unfair advantage in agricultural and natural resource products. It was felt that this advantage would result from subsidies the Canadian national or provincial governments provide producers. For example, Canadian wheat producers currently are allowed to ship their grain on Canadian railroads at a very low rate. Canadian hog producers benefit from provincial subsidies. This could give Canadian farmers an unfair advantage in the international market.

In an effort to address these agricultural and natural resources concerns, I joined a number of other Western U.S. Senators in urging the administration to consider changes in the enabling legislation. The administration did a very good job of working with Canada and Congress to address our concerns. I am pleased to say that most of them were resolved. Most agricultural organizations now support the agreement, or do not oppose its adoption.

South Dakota businesses in general support the Free-Trade Agreement. They expect the agreement will expand their markets. Some small businesses that have never exported their products see the agreement as an opportunity to begin exporting, and thus expanding their businesses. For example, a small auto parts dealer in Aberdeen, SD, contacted me recently to ask when the agreement would be adopted. He already had made a deal to sell parts in Canada. However, the current Canadian customs would make the sale unprofitable. If the duty is eliminated, the sale would become profitable. The Free-Trade Agreement, if approved, should help many small businesses expand their markets.

The agreement should benefit both the United States and Canada. Some businesses may be adversely affected by the agreement, but, overall, the benefits far outweigh any losses. The agreement would increase United States exports to Canada by an estimated $2.4 billion annually. U.S. consumers would save an estimated $1 to $3.5 billion annually from increased competition created by the treaty. Clearly, the United States would benefit from the agreement.

Mr. President, the United States-Canada Free-Trade Agreement creates great economic opportunities. It is a landmark accomplished, and I support its adoption.

Mr. WEICKER. Mr. President, I rise in support of the United States-Canada Free-Trade Agreement. I believe this agreement will benefit New England and the Nation in expanding our trading relationship with our largest trading partner, Canada. Connecticut has approximately $2 billion of trade with Canada which will be enhanced by the elimination of tariffs between our two countries. Removing the large number of trade barriers and discriminatory practices that have been erected can only enhance the flow of trade and allow our nations to grow.

The scope of the Free-Trade Agreement is impressive. Canada will expand its Government procurement markets to United States businesses. American financial services and investments in Canada will be given far greater opportunities under the agreement. Future trade disputes will be resolved by a new Binational Commission which will hopefully reduce the frictions we have experienced in recent years.

This agreement is testimony to the alliance of our two countries. There are no guarantees and the agreement is far from perfect. It is however a symbol of the commitment that the United States and Canada have in the future growth of trade between our nations.

Mr. DODD. Mr. President, I rise to voice my strong support for passage of the implementing legislation for the United States-Canada Free-Trade Agreement [FTA].

I must commend both President Reagan and Prime Minister Mulroney for their unflagging efforts in pressing forth with this historic legislation. Today, there seems little doubt that the Senate will join the House in overwhelming support of the agreement. I know our friends to the North have yet to settle some rather vitriolic political battles being waged over the agreement. It is my hope that the political parties in Canada can work out their differences in time for the agreement's scheduled implementation on January 1 of next year so that the peoples of both Canada and the United States can begin to feel the indisputable benefits that this legislation will confer on both of our great nations.

In the spirit of the omnibus trade bill passed by Congress earlier this summer, the Free-Trade Agreement is a critical step toward achieving increased U.S. competitiveness and more open world trade. As is well known by now, Canada and the United States form the largest bilateral trade relationship in the world, valued at over $150 billion annually. Together the United States and Canada have the potential to create a common market of $70 million people and 7 million square miles. The Free-Trade Agreement eliminates all tariffs between our two countries by 1999 and also seeks to remove other nontariff barriers that currently distort our bilateral trade relationship. The agreement spurs business investment and most importantly, will result in lower prices for consumers and increased growth for the economy as a whole.

This legislation, like most other legislation, is hardly perfect. Some industries and some regions of the country will benefit more, some will benefit less, from implementation of the Free-Trade Agreement. But, overall, the benefits of the agreement far outweigh its drawbacks. Freer flow of people, goods and transactions across our massive borders will result in enlarged markets, greater investment and enhanced prosperity and understanding between the United States and Canada.

However, I must join a number of my colleagues who have voiced some concern that the pursuit of bilateral agreements such as the United States/Canada Free-Trade Agreement not be done at the expense of pursuing more comprehensive multilateral solutions to the spiraling problems and potentials of world trade.

Despite that word of caution, Mr. President, I urge my colleagues to vote for passage of the implementing legislation for the United States/Canada Free-Trade Agreement.

Mr. HUMPHREY. Mr. President, I strongly support the United States-Canada Free-Trade Agreement. This is a landmark agreement that will have an enormously beneficial effect on both sides of the border. Workers, consumers, and businesses will reap from enhanced trade opportunities.

The boldest initiative is the agreement to eliminate almost all tariffs on United States-Canada bilateral trade over the next 10 years. Canada is the United States' largest trading partner, with about $170 billion in goods traded annually. the United States exports more than twice as much to Canada as it does to Japan, and United States exports to Canada are about the same amount traded to the entire European Common Market. According to the Commerce Department, 1 in 100 American jobs is linked to trade with Canada.

Since Canadian tariffs generally are higher than United States tariffs, tariff elimination under the agreement will have a net benefit to United States producers. In my State of New Hampshire, manufacturers will find expanded markets in Canada for electronic computers, printing presses, lumber, electrical equipment, organic and inorganic chemicals, and aircraft engines and parts. This is crucially important as New Hampshire's and the New England region's economies are dependent on exports.

In 1986, New Hampshire exported $186 million worth of commodities to Canada—principally electronic computers, auto vehicles and parts, aircraft engines and parts, printing presses, organic and inorganic chemicals, and electrical measuring equipment. Approximately 50,000 people are employed in these industries in New Hampshire. Manufacturers' shipments totaled $800 million, and over 11 percent of New Hampshire's manufacturers' shipments are export-related. New Hampshire will be able to increase its exports of these products through the phasing out of tariffs that now restrict the entry of such goods into Canada.

Over 20,000 people are employed in New Hampshire in the production of electric and electronic equipment production. They will be ensured of increased market access through the immediate elimination of the 3.9 percent tariff on computers; 800 jobs are maintained by the chemical industry in New Hampshire. They, too, will benefit by reduced duties on organic and inorganic chemicals.

New Hampshire imported $311 million worth of commodities from Canada in 1986, principally plate, sheet and strip steels, softwood lumber, fish products, and petroleum and coal products. Many of these products will enter duty-free within the next 10 years. This will benefit New Hampshire manufacturers who depend on Canadian steel products as their production costs will be lowered and their products will be more competitive in foreign markets. The United States consumer will enjoy reduced prices in products to the extent that reductions of tariffs on Canadian goods are passed along to the consumer.

This agreement provides for free bilateral energy trade—extremely significant for New Hampshire and the entire New England region. The New England States account for between one-third and one-half of current electricity supplies. The access to Canadian energy supplies will lessen the degree to which New Hampshire is reliant upon other energy sources.

Over 114,000 New Hampshire employees work in the service, insurance, and real estate fields. The trade agreement will enhance their trade services to Canada by simpler border crossing procedures and nondiscrimination practices.

This trade agreement expands and liberalizes trade between the United States and Canada, and will benefit business, workers and consumers in both countries. It will create jobs, lower costs, and increase productivity and economic activity. It should serve as the model for future trade deliberations with all nations.

Mr. DECONCINI. Mr. President, today I rise to express my support for the Free-Trade Agreement and the implementing language which will consummate this historic agreement. This United States-Canada Trade Agreement symbolizes our goal of establishing a free and open market and a level of playing field for businesses on both sides of the border. Many features of this agreement, considered by seven committees in the House of Representatives and five in the Senate, could serve as a model for future bilateral and multilateral trade agreements. Canada is our largest trading partner and will continue to be a close business partner during the ensuing decades under this agreement. This will greatly strengthen our community, business, and cultural ties, both nationally and in the great State of Arizona.

Although I am voting in favor of the FTA and believe that the agreement contains many benefits for the State of Arizona, as a member of the Senate Judiciary Committee I do have a serious concern about the FTA's creation of a binational panel to replace the United States' long-established judicial review system in antidumping and countervailing duty cases. I was opposed to this provision during the Judiciary Committee's review of the implementing bill language and wish to remind my colleagues of the importance of this issue.

Clearly, the FTA panel procedure sets a precedent for the elimination of judicial review in connection with future trade agreements with other nations. To deprive U.S. citizens of their existing right to judicial review in AD/CVD duty cases is a step we should not take lightly. It is imperative that we closely monitor this aspect of the United States-Canada Free-Trade Agreement to determine whether the binational panel is an equal and workable system and whether it can sustain a constitutional challenge. I urge my colleagues to observe the application of the binational panel system during the next 2 years and evaluate the wisdom of our decision in applying that aspect of this trade agreement.

I also expressed some initial doubts regarding the progress toward opening markets in some sectors as Canada provides subsidy programs that place some United States industries at a disadvantage. Many of my concerns have been addressed in the implementing language of this agreement. A letter sent to President Reagan, signed by 21 of my colleagues, got the attention of Secretary Baker and Trade Representative Yeutter. This letter, sent on February 23, 1988, represented a number of western Senators' interests in economic issues, including, uranium, wheat, and nonferrous metals. They have also addressed concerns of the copper industry in the Arizona economy.

I would like to discuss how this agreement affects the business relationship with my State of Arizona. In 1986, Canada and Arizona traded over $388 million worth of commodities. Arizona exported almost twice as much to Canada as it imports from that country. Our businesses throughout Arizona exported $256 million worth of fresh vegetables, electronic equipment, aircraft components, rubber and plastic products, and computers. Arizona's service industry establishments recorded over $5.6 billion in revenues in 1982. In 1986, Canadian tourists spent over $250 million in Arizona. In 1986, Arizona exported over $56 million in telecommunications, semiconductors, and electronic tubes to Canada. Arizona industries have done well with Canada in the past, and have strongly supported this agreement for the future business environment.

As far as the national picture for future United States-Canada trade relations, the Commerce Department is estimating that this agreement will produce $25 billion over the next 5 years in trade for the United States and could create 500,000 to 750,000 new jobs. And if this agreement eliminates trade barriers over the next decade, as it should, it will boost the United States gross national product by $45 billion, or 1 percent, while the Canadian GNP would increase by 5 percent. Mr. President, we are quickly moving into an international economy where the United States is dependent on foreign relations. We depend heavily on our neighbors to the north. President Reagan talked about a "North American accord" when he opened his Presidential race in 1979. We should continue to expand this "accord" in our negotiations to the south with Mexico.

I believe this agreement benefits the armies of exporters in Arizona and throughout the United States. This agreement epitomizes free trade, open trade, and fair trade. This agreement also provides a powerful lesson on how to resist protectionism. Our friends in Japan, Korea, and Taiwan could learn from this expanding trade relationship which seeks to completely obliterate all barriers and subsidies. This agreement deserves approval on both sides of the aisle in Congress and on both sides of the border to the north.

Mr. President, I ask unanimous consent that the letter and following articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 23, 1988.

HON. RONALD REAGAN,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our concerns regarding the U.S.-Canada trade agreement, and to urge the Administration to work closely with Congress to draft implementing legislation that will eliminate some of the trade distortions and competitive problems created by or ignored in the agreement. Our goal is to move the U.S. and Canada toward a free and open market and establish a "level playing field" for businesses on both sides of the border.

The Administration has called the U.S.-Canada trade agreement a historic accomplishment. We are told that many features of this agreement could serve as a model for future multilateral and bilateral trade agreements. The weaknesses and strengths of this agreement could be greatly magnified as its provisions are copied in other trade agreements. For that reason, we cannot afford to make mistakes or overlook shortcomings. We must work to perfect and refine the agreement, the implementing language, and the policies we pursue as a result of the agreement.

In our view, there is much work to be done. As currently drafted, we have several serious reservations about the U.S.-Canada trade agreement.

We are concerned about the apparent lack of judicial review for countervailing and anti-dumping duty cases. Replacing Article III judges with political appointees raises serious constitutional questions that we would like to explore further. In addition, we request clarification of the Canadian federal government's constitutional power to enforce provincial compliance with the agreement. We would like to discuss U.S. options in the event a province violates the agreement.

The agreement does not provide for free trade between the United States and Canada. Progress is made toward opening markets in some sectors, but a number of Canadian trade barriers and subsidy programs that place U.S. industries at a disadvantage are ignored. By failing to eliminate certain barriers the agreement may actually institutionalize these Canadian trade barriers that impair U.S. remedies to counter them. We are particularly concerned that the U.S. has tied its hands with regard to countering subsidies with U.S. countervailing duty law while obtaining no assurances from Canada that it will discontinue its present subsidy programs or refrain from initiating new ones in the future.

Perhaps it is too late to address this problem completely, but steps can be taken to minimize these problems and build momentum for further market openings. The implementing language for the agreement must be drafted so as to put pressure on both the U.S. and Canada to eliminate subsidy programs and trade barriers that are not covered by the agreement. Without such measures, the agreement could actually become a barrier to truly free trade, and U.S. industries—like non-ferrous metal production, plywood manufacturing, coal mining, and wheat production—would be put at an unfair competitive disadvantage.

Finally, we are concerned that the agreement inadequately addresses the complex trade issues affecting several key U.S. industries, including natural gas production, fisheries, auto parts manufacturing, and uranium mining. Thorough consultation with Congress during the negotiations could have eliminated these problems entirely. But there are still measures that can be taken to alleviate these problems without endangering the agreement.

In the spirit of cooperation, we have worked closely with many of the industries with concerns about the agreement—including non-ferrous metal production, plywood manufacturing, wheat production, uranium mining, natural gas production, and coal mining—to address their problems without changing or otherwise undermining the agreement. They range from careful drafting of implementing legislation for the agreement to actions the U.S. government can take unilaterally to level the playing field. For example, we have developed implementing language that would tie the elimination of Canadian subsidies for non-ferrous metal production to the elimination of U.S. tariffs on non-ferrous metal imports. We understand that some of our proposals may require some refinement, but they certaintly illustrate that constructive solutions are still possible.

Submitting the U.S.-Canadian trade agreement to Congress under the fast-track process without working with Congress to solve these problems endangers not only this agreement, but the entire fast-track process. It would be a serious mistake to leave Members with concerns about the agreement with no alternative short of amending the fast-track process or opposing the agreement outright.

We look forward to working with the Administration to address these concerns. We would like to arrange a meeting with Administration officials to discuss the issues that we have raised at the earliest possible date.

Sincerely,

Pete V. Domenici, Jeff Bingaman, Max Baucas, Orrin Hatch, Dennis DeConcini, Quentin Burdick, Kent Conrad, Jake Garn, Larry Pressler, Frank H. Murkowski, John Heinz, Chic Hecht, John Melcher, Alan Simpson, Harry Reid, Steve Symms, Tom Daschle, Malcolmm Wallop.

[The Arizona Republic, May 7, 1988]

CONSUMMATE PARTNERSHIP

The preamble to the Free Trade Agreement between the United States and Canada suggests the magnitude of the undertaking.

The purpose of the historic pact, it notes, is to (1) improve the economic of both countries, (2) strive for full employment, (3) raise living standards and (4) strengthen the trading partners as competitors in the international marketplace.

That is a tall order, indeed, even for the most comprehensive trade agreement ever concluded between two countries. The agreement covers more trade and related issues than any other U.S. trade agreement even entered into. What is more, the agreement can scarcely help spurring economic growth on both sides of the border.

"Partners in prosperity" is the official view from the north, where the pact has received somewhat more attention that it has generated in this country. But if the partnership is to endure, it ought to be approved without undue delay. Before side issues intrude—already they threaten to get out of hand—Congress and the Canadian Parliament should close the deal.

One such issue is the massive trade bill approved by Congress. Although the Senate Democratic leadership appears to have backed down from its earlier threat to hold the free-trade accord hostage if President Reagan vetoed the bill, the pact with Canada nevertheless remains vulnerable to congressional pique.

Another touchy issue is acid rain. As Canada sees it, Washington has been dragging its feet. While Canadians are high on free trade, they have a low opinion of U.S. efforts to clean up the atmosphere. Ottawa points to coal-burning utilities in the Midwest as the major source of the widespread acidity—a view that is hotly contested in this country.

For the moment, the acid rain issue has subsided. But it is precisely the sort of volatile controversy that could ignite without warning, imperiling the trade agreement in the process.

The accord on trade is the last major obstacle to the tariff-free movement of goods across the U.S.-Canada border. Little by little over the past 25 years, the barriers have been coming down, and the U.S. and Canada are now able to boast the largest two-way trade in the world.

The beauty of the Free Trade Agreement is that unlike the omnibus trade bill, it moves away from protectionism. It would dismantle finally the remaining barriers to full trading partnership between this country and Canada, and Congress should expedite it so as to avoid the possibility of a last-minute glitch.

[From the Washington Post, Oct. 6, 1987]

FREE TRADE FOR NORTH AMERICA

At the last moment, it turned out that both President Reagan and Prime Minister Brian Mulroney wanted a free-trade agreement badly enough to take risks. They were right to do it, for this agreement can bring important benefits to both countries. But the risks are not minor. The two governments now have to enact legislation to bring the agreement into effect, and each commander will now have to deal with heavy sniper fire from entrenched protectionists on his own side of the border.

This free-trade zone was conceived by the two governments to set the world an example of enlightened commercial relations. At first some of the trade experts objected that it pointed the wrong way, toward bilateral deals rather than general worldwide rules. The answer was that the system of worldwide rules—the General Agreement on Tariffs and Trade—was becoming creaky and obsolescent. The latest attempt to broaden it and bring it up to date, the Uruguay round of trade negotiations, is off to an uncertain start. The Canadian-American agreement can set a standard for the GATT.

Over the past year, as the North American talks went on and on, they inevitably got entangled with shoes and ships and sealing wax—all the grievances over specific commodities that are the substance of trade policy. But the end of the summer, it looked as though the whole endeavor might collapse under the weight of them. The turnaround was late in the long session Saturday at the Treasury, with each side pressing its case almost to the deadline at midnight.

There's no complete text yet, but the most difficult of the differences seems to have been resolved ingeniously. Canadians do quite a lot of subsidizing, but much of it is irrelevant to exports. They feared that American companies would use exaggerated complaints about these subsidies to tie Canadian exports up in endless and expensive litigation. The solution is to be an international tribunal as court of last appeal in these cases. It will abide by each country's law but guarantee that the law is being fairly applied. If American companies are right in saying that they only want orderly enforcement of the rules against unfair subsidies, they have nothing to lose. If Canadians are right in saying that the American government has increasingly indulged in stretched and tendentious reading of the law, this tribunal will correct it.

Next comes a fierce attack on the agreement by all the industries in both countries that find the idea of expanded competition to be deeply threatening. They are entitled to a hearing. But they don't deserve to win.

Mr. HATCH. Mr. President, the United States and Canada have the largest bilateral trading relationship in the world. In 1986 alone, we in Utah traded over $399 million worth of commodities with Canada, and Utah enjoyed a $200 million surplus in this trade. The Canada-United States Agreement now has the potential to establish the world's largest virtually unrestricted market.

Yet, while I find much to be supported in this agreement, I have a very serious concern with the provisions it contains regarding the uranium industry. This is an industry which has suffered from severe market penetration over the past few years, and it will not be helped any by the repeal of the protective provisions of current law which this treaty would eliminate.

Mr. President, although I have worked along with Senator DOMENICI and other western Senators to press for changes in this agreement, none have been made to accommodate our concerns. Therefore, I must say that were it not for the substantial trade surplus the State of Utah enjoys with Canada and for the positive impact the treaty is expected to have on wide sectors of the Utah economy, I could not support the agreement, given its effect on the uranium industry. My survey of the State, however, indicates that Utah expects to significantly benefit from the adoption of this agreement.

So, Mr. President, with this one very significant reservation, I will support the treaty, and I will work to see that the legislation designed to revitalize the domestic uranium industry, successfully attached to H.R. 1313—the Nuclear Regulatory Reauthorization Act, is ultimately enacted into law.

Mr. ADAMS. Mr. President, I rise in support of this proposed Canadian Free-Trade Agreement. It is the product of 3 years of careful and difficult negotiation between the world's two largest trading partners. While I have always supported the concept of a free trade agreement with Canada, I will admit that there were times when I did not think we could work out the details. One lesson we have all learned over the past 3 years is that implementing trade liberalization is never easy.

We can all be pleased that the administration and Congress, working together, have overcome the obstacles to this agreement on our side of the border. We have come up with a formula, acceptable to the Canadians, which will insure that this agreement has real economic benefits for our Nation.

This agreement has tangible benefits for my home State of Washington. Presently, Washington State and Canada conduct about $5.5 billion in two-way trade each year. This represents about 4.5 percent of the total commerce between the United States and Canada. The only country which Washington State has a larger bilateral trading relationship with is Japan.

The provisions of this agreement will stimulate additional two-way trade. The provision of the agreement to eliminate all tariffs on bilateral trade within 10 years will mean more exports for Washington State exporters and cheaper goods for Washington State industries and consumers.

This agreement, then, represents an economic opportunity for Washington State. But beyond that, it is a fair agreement for Washington State. Even though we have had a prosperous trading relationship with Canada, it has not been without its problems in the past. While this agreement does not resolve all of the past trade tensions between our State and Canada, it does address all of the problem areas. As a result, we know where we are and what we have to do to get to where we want to go.

Let me address a few specific features of this agreement.

First, I am particularly pleased that the energy portion of this agreement will work to Washington State's benefit. The treaty will guarantee the United States access to Canada's energy supplies, which are important to many energy consumers and industries in our States. In addition, while Canada may boost hydroelectric sales to the United States as a result of this agreement, they will not gain access to the Bonneville Power Administration's transmission lines for the sale of surplus power to California through this agreement. Pacific Northwest utilities will preserve primary access to BPA transmission lines. On balance, this is a very good and fair deal for Washington State.

Second, I am pleased that the provision originally proposed to include maritime services as part of the transportation annex to this agreement has been deleted. Inclusion of such a provision in this agreement would have had grave implications for national security and seriously handicapped the ability of Washington State shippers to compete fairly with their Canadian counterparts.

Third, the implementing legislation before us authorizes negotiations with Canada for common performance standards for plywood. Tariff reductions for plywood will be delayed until such an agreement is reached. This section will help resolve a problem faced by Northwest plywood exporters who have faced discriminatory performance standards when trying to export to the Canadian market.

Fourth, while by no means totally resolved, this implementing legislation does take steps to address the weak provisions of this agreement with regard to trade in wheat between United States and Canada. I remain concerned that under this agreement, the United States market will remain open to Canadian wheat producers while the Canadian market will in effect continue to be closed to United States producers under the present Canadian import licensing system. In addition, Canadian wheat producers will still be able to take advantage of rail subsidies for wheat sold to the United States through Thunder Bay.

To help resolve this concern, the implementing legislation clarifies the applicability of section 22 of the Agricultural Adjustment Act of 1933 to Canada under this agreement. This permits the application of import restraints when imports of grain increase significantly as a result of a substantial change in the support programs for that grain of either the United States or Canada. In addition, this legislation authorizes negotiations to end Canadian subsidies for grain exported to the United States through eastern ports.

Finally, this agreement will have significant benefits for Washington State's high-technology sectors, aluminum producers, and wine makers.

With all this in mind, I am pleased to support this agreement. As I have indicated, it will help my State. It will also help our country as we head into another negotiation under the GATT. By finalizing this agreement, the United States and Canada will demonstrate to the world that a more open trading system is possible and mutually beneficial. This agreement holds out the promise that we may be able to expand this agreement to include other North American countries, such as a Mexico. Such an extension could benefit us not only economically, but also politically and militarily.

In summary, I urge approval of this agreement. It represents progress toward what must be our ultimate goal of expanding, and not contracting our international trading system. All who have worked on this agreement in the administration and in the Congress should be proud of this achievement.

Mr. LEAHY. Mr. President, I rise today in strong support of the Canadian Free Trade Agreement. The agreement will create jobs in my State of Vermont and across the Nation.

Vermont, a State of just over 500,000 people, did more than $1 billion in business with Canada in 1986. Canada is Vermont's biggest customer and the free trade agreement will make it easier and cheaper to do business.

Vermont businesses sold nearly $200 million in goods to Canada in 1986. In Vermont, one-out-of-five manufacturing workers depend on exports to Canada and other nations to bring home their paychecks.

The Canadian Free-Trade Agreement, which will create the largest free trade zone in the world, will help us keep good jobs in Vermont and create even more skilled positions. Canadian tariffs on exports from Vermont and the rest of the United States will be phased out over 10 years, making our manufactured goods even more competitive north of the border.

The Free-Trade Agreement will ensure that Vermont continues to enjoy access to cheap Canadian hydroelectric power. Vermont's economy is booming, with unemployment at just above 2 percent. Low-cost electricity from Canada has helped fuel Vermont's economic comeback, making manufacturers more competitive and helping to lower home utility rates for consumers.

This historic agreement will also help Vermont attract Canadian investment. Canadian-owned businesses in Vermont have created hundreds of jobs in fields ranging from locomotive manufacturing to candy production.

Mr. President, as chairman of the Agriculture Committee, I have become intimately familiar with the agricultural provisions that make up this agreement. The Agriculture Committee was one of six committees in the Senate that had a coordinating role in the preparation of this legislation.

Under section 151 of the Trade Act of 1974, legislation to implement trade agreements are required to be referred jointly to committees of jurisdiction. This agreement was jointly referred to the Finance Committee, the Agriculture Committee, and several other Senate Committees.

The Agriculture Committee held hearings on the agreement during May. We worked closely with the House Agriculture Committee and the administration to develop the provisions in this bill that are within our jurisdiction.

Canada is a major market for our agricultural products. Canada has consistently been among the top five markets for United States goods. Canada was the No. 2 importer of fruit from the United States in 1987, ranking only behind Japan. Canada is the No. 1 foreign market for United States vegetables.

But Mr. President, the United States is also a very important market for Canadian agricultural products. In 1986, the United States represented a market for more than 75 percent of Canadian exports of sugar, live animals and red meats. Of the grain products leaving Canada, 64 percent landed in the United States.

The provisions of this bill will liberalize much of the agricultural trade that occurs between Canada and the United States. Import restrictions on grains, meat, eggs, and other products will either be lifted or eased. Import restrictions dealing with technical and health standards will begin to be harmonized between our countries.

The agreement provides for the elimination of tariffs over a 10-year period. The United States and Canada exempt each other from the respective application of their meat import laws. Both parties agree to improve the access to their markets for grains. Canada agrees to remove its transportation subsidies for grain moving west for export into the United States.

Maybe even more important than these specific concessions are the general commitments contained in the agreement. These commitments look toward free and harmonized trade between our two countries. The United States and Canada agree to stop subsidizing exports to each other, to work toward the reduction or elimination of trade distorting subsidies in agriculture, and to work toward harmonizing our respective rules governing sanitary and other restrictions on imports.

Quite frankly, Mr. President, this agreement has received mixed reviews from the agriculture community. With each liberalization of trade comes a corresponding risk of harm from increased imports. Under this agreement, that risk is shared more heavily by some sectors of agriculture than others. In the Agriculture Committee, we attempted to weigh that risk in light of the potential gain from expanded trade.

This legislation and the interpretations of the agreement evidenced by the statement of administrative action and the report of the Agriculture Committee ensure that this agreement will be implemented fairly and equitably. We worked with associations representing those most likely affected by this agreement in developing the bill and the legislative record. Those provisions and those interpretations are important to the affected sectors of our agricultural community. They are central to my endorsement of the agricultural portion of the bill.

I believe that the efforts of the Agriculture Committee were worthwhile. By implementing this agreement, we will effectively and, I believe, equitably expend trade between our two countries. Expanded trade will help provide us with long term markets for our agricultural products. The opportunity presented by this agreement outweighs the risk.

Mr. President, by opening rather than closing doors to more trade, we nurture the possibility that we can at some point let our farmers concentrate on expansion of their business—not contraction.

I would like to thank my good friend Senator LUGAR for his work on this bill. As always, he provides an invaluable service to the Agriculture Committee through his cooperation and insight. Our accomplishments on the committee would not have been possible without his assistance and the work of his outstanding staff.

I also want to thank Senator BENTSEN for the help he provided in guiding this legislation through the Congress. The passage of this legislation adds yet another star in the long list of his legislative accomplishments. As with the trade bill, the Finance Committee and its fine staff have served as the nucleus around which this legislation was constructed. I appreciate their efforts.

Mr. President, I ask unanimous consent that a summary of the agriculture provisions of the agreement be printed at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, notwithstanding my enthusiasm about most of this agreement, I must mention my disappointment that the United States and Canada did not use this opportunity to strengthen intellectual property protections and to prohibit barriers to the free trade in ideas.

I have spoken on the floor in the past about this subject. I have had frank communications with the friend the Canadian Ambassador, about the need to protect U.S. creators and to keep our common border open to the trade in ideas.

The United States is the world's leading exporter of copyrighted materials. our primacy in the trade in books, films, sound recordings, computer software, and other copyrighted works gives us a vital stake in supporting those whose ideas lead to new goods and services. In my view, there are too many instances in which our neighbors to the north prevent us from protecting the ideas that the United States provides to the world's consumers.

Unfortunately, the U.S. negotiating team went along with Canada's insistence that "cultural industries" be excluded from the Free Trade Agreement. So even though the agreement lowers tariff walls for U.S. manufactured goods, some barriers remain for intellectual property.

We have seen some progress. Patent holders are better off now that Canada changed its compulsory licensing law. And Canada finally agreed to revise its copyright law to protect the programming of U.S. television networks transmitted by satellite signals.

I will be watching to see whether Canada gives relief to those U.S. broadcasters who operate near the Canadian border. Border stations are disadvantaged because the Canadian tax code currently denies Canadian businesses a deduction for broadcast advertisements not created in Canada. Canada agreed to strike print advertisements from that protectionist law and must do the same for TV and radio commercials.

I will continue to press the Canadians to strengthen intellectual property protections and to prohibit barriers to the free trade in ideas.

EXHIBIT 1

SUMMARY OF AGRICULTURAL PROVISIONS OF UNITED STATES-CANADA FREE-TRADE AGREEMENT

The bill will amend section 22 of the Agricultural Adjustment Act to provide that the President could, pursuant to Articles 705.5 and 707 of the United States-Canada Free-Trade Agreement (the "FTA"), exempt products of Canada from import restrictions imposed under section 22.

In order to implement the provisions of Article 708(3) of the FTA, the bill would revise the Virus-Serum-Toxin Act to provide that, in the case of any virus, serum, toxin, or analogous product for use in the treatment of domestic animals originating in Canada, such Articles may be imported into the United States upon a certification by Canada as prescribed by the Secretary of Agriculture or upon the issuance of a permit from the Secretary of Agriculture.

The bill would amend section 302 of the Federal Seed Act to provide that the provisions of that Act requiring the staining of seeds will not apply to alfalfa or clover seed originating in Canada.

The bill would amend the Federal Plant Pest Act pursuant to Article 708(3) of the FTA. The amendments would change the requirements governing imports of plant pests from Canada.

Restrictions governing the importation of plants from Canada will be revised in order to implement the FTA. The Plant Quarantine Act will be amended to allow the importation of certain plants from Canada upon a certification by Canada that the plant is free of disease and insect pests.

The bill would amend the Federal Noxious Weed Act of 1974, pursuant to Article 708(3) of the FTA to except products of Canada from the requirement that imports of weeds covered by that Act must be accompanied by a permit from the United States Secretary of Agriculture.

Finally, in order to implement Schedule 4 of Annex 708.1 of the FTA, the bill would allow imports of cattle, sheep, and other animals from Canada even if rinderpest or foot-and-mouth disease have been determined to exist in some region of Canada if—(1) the United States and Canada have entered into an agreement delineating the criteria for recognizing that a geographical region of either country is free from rinderpest or foot-and-mouth disease; and (2) the appropriate official of the government of Canada certifies that the region of Canada from which the animal or meat originated is free form rinderpest and foot-and-mouth disease.

Mr. HOLLINGS. Mr. President, today, I am voting for H.R. 5090, the Canadian Free-Trade Agreement implementing legislation. The agreement contains some very good provisions, specifically those which lower some nontariff trade barriers. In total, I believe the bill will benefit U.S. companies and U.S. workers. Given a fair chance to compete, they are the most productive in the world. I do, however, have some serious concerns about the Canadian duty remission scheme for textiles which was announced late last year. This remission program, while technically allowed by the agreement, violates the spirit of the agreement. The proposal by the Canadians gives duty free benefits to third countries and sorely disadvantages American apparel and textile manufacturers who hope to sell in Canada.

Since the announcement of this program in late 1987, the Canadian Government has recognized some of its problems and scaled it back. We will continue to work with the Canadians to bring this program into accord with the spirit and the intent of the agreement, that is, freer and fairer trade between the United States and Canada.

Mr. DASCHLE. Mr. President, I rise in support of H.R. 5090, the implementing bill for the United States-Canada Free-Trade Agreement [FTA].

There are many good and valid reasons for the United States and Canada to enter into a bilateral free-trade agreement. Trade between the United States and Canada exceeds $150 billion per year, resulting in the world's largest bilateral trading relationship. The United States trades more with the Province of Ontario alone than it does with Japan. In fact, Canada buys one-fifth of all United States exports, twice as much as exports purchased by Japan. And the United States buys more than three-fourths of all Canadian exports.

Just as important is the fact that we are close neighbors and allies. The United States and Canada share a 5,542-mile border which is crossed approximately seventy-five million times per year by the citizens of Canada and the United States.

In addition, our educational institutions study each other to the extent that 450 programs in Canadian studies are offered at American universities.

From business to agriculture to tourism to education, these statistics demonstrate the vast potential for economic expansion and growth that can be gained from the Free-Trade Agreement.

This legislation, which legally implements the provisions of the agreement reached in January between President Reagan and Prime Minister Brian Mulroney, actually represents the culmination of an extensive review process involving five committees in the Senate and eight in the House.

As a member of two of the Senate committees responsible for drafting this implementing bill, the Senate Finance and Agriculture Committees, I was able to participate in most of the negotiations between the Congress and the administration. The bipartisan, cooperative effort between these two branches of Government was extensive and the final product, the legislation before us today, clearly reflects the constructive nature of these negotiations.

Without question, the cornerstone of this agreement, and the provision that may have the greatest potential for economic expansion, is the agreement to eliminate almost all tariffs between the United States and Canada over 10 years, beginning January 1, 1989. Even though 75 percent of trade between our two countries is already tariff-free, the United States generally benefits by this aspect of the agreement because Canadian tariffs on United States products are, on average, almost double United States tariffs on Canadian products.

The reduction of tariffs is a good start toward more open trade between the United States and Canada, but it's just a start. The chairman of one of South Dakota's leading companies, Sencore, has stated that his company "benefits with less handling and processing complications, greater competitiveness with lower prices in Canada, easier supply of replacement parts and repairs and ultimately, a great savings on advertising printed materials." This particular businessman sees the United States-Canada Free-Trade Agreement as a "win-win situation." This agreement has been hailed by most United States business leaders who say their exports will gain from the elimination of excessive Canadian tariffs.

However the agreement was not as successful in eliminating Government subsidies that are found in key Canadian industries, such as agriculture.

Because the issue of subsidies was—and remains—a major concern to me and other members of the Finance and Agriculture Committees, under the superb leadership of Chairmans BENTSEN and LEAHY, we succeeded in convincing the administration to adopt a much tougher stance on the issue of Canadian subsidies. While the Free-Trade Agreement already provides for ongoing negotiations to reach an agreement eliminating subsidies, these negotiations are not likely to produce a meaningful product for several years.

In order to ensure that United States industries do not continue indefinitely in a disadvantageous position to their Canadian counterparts, the administration agreed to include an interim provision, proposed by Senators BAUCUS, DANFORTH, and myself, to place additional pressure on future subsidy negotiations.

This procedure allows U.S. industries that face subsidized competition to petition the U.S. Trade Representative for relief. Once that industry has completed its petition, the administration is directed to investigate imports and subsidy programs that compete with the industry using existing investigation techniques. The USTR and the Department of Commerce are then directed to determine whether sufficient unfair trade conditions exist to apply trade sanctions, such as the unfair trade practice section of U.S. law, section 301, or countervailing duties.

This procedure is vital if Congress is to ensure that key U.S. industries are not harmed by the subsidy programs of other trading partners. It is especially important during the implementation of a Free-Trade Agreement that has not dealt thoroughly with Government subsidies, as many of us had hoped this agreement would do.

With this procedure, along with the administration's assurances that they will aggressively engage in further negotiations in areas where Canadian subsidies have an impact on U.S. industrial competitiveness, I am optimistic that this agreement can be viewed to be in the best interests of our Nation.

Several additional procedures have been established by the Free-Trade Agreement to help U.S. industries deal with Government subsidies and other possible trade-distorting practices.

For example, the agreement requires the President to monitor, and take action, when surges of Canadian imports threaten to undermine the effectiveness of import relief.

The Free-Trade Agreement also establishes a binational panel to resolve trade disputes between our two countries. This new system is designed to minimize and resolve bilateral trade controversies—such as antidumping or countervailing duty determinations—before they escalate into political conflicts.

It provides the President with the authority to seek agreement with Canada on rules dealing with unfair pricing and Government discipline on subsidies. Special emphasis is to be given to obtaining discipline on Canadian subsidy programs adversely affecting United States industries that directly compete with subsidized imports.

Mr. President, representing a State where agriculture is the largest industry, I first viewed this agreement with considerable skepticism, especially as it applied to agriculture. It is not that agricultural trade between our two countries is insignificant. In fact, two-way agricultural trade is about $3.5 billion.

Rather, I viewed this agreement with skepticism because of its failure to immediately address the issue of Canadian subsidies, as I referenced earlier.

Nowhere is the failure to address the subsidy issue more pronounced than with the wheat industry. Continuation of Canadian transportation subsidies and restrictions on the United States ability to impose import restrictions on subsidized Canadian wheat through section 22 of agricultural law caused me a great deal of concern, as it did for those organizations representing the Nation's wheat farmers, such as the National Association of Wheatgrowers.

However, as a result of the subsidy negotiation language I described earlier, and additional comments included in the Agriculture Committee's recommendations on this agreement, I am cautiously optimistic that future negotiations on wheat subsidies will be aggressive on eliminating wheat subsidies.

For example, at my urging, the Agriculture Committee's report recommended that the Department of Agriculture report to Congress annually on their negotiations, so that we can be sure that progress is being made.

The agreement also requires the administration to enter into immediate consultations with Canada to end the Canadian "Crow's Nest" transportation subsidies for grain destined to be exported to the United States through Eastern Canadian ports. This transportation subsidy could provide Canadian wheat with a distinct price advantage in the United States market.

In addition, the Free-Trade Agreement includes a provision to establish conditions for future removal of the Canadian import licensing system for wheat, barley, corn, and oats.

As a result of these mandatory provisions to force the elimination of these Canadian subsidies, the National Association of Wheatgrowers has dropped its opposition to the Free-Trade Agreement.

The Free-Trade Agreement also has earned the support of the National Pork Producers and the National Cattlemen's Association, primarily because of the changes called for in the pork and livestock trade between the two countries.

The Free-Trade Agreement calls for the elimination of import restrictions on cattle and pork and establishes a mechanism to ensure that beef and pork transshipments do not occur from other countries. In addition, the Free-Trade Agreement calls for the elimination of the 30-day Canadian pork quarantine system which has effectively blocked United States pork shipments to Canada. Pork destined to slaughter will not enter a quarantine system in Canada.

However, should the President determine that meat imports are adversely impacting the domestic industry, the President may temporarily limit the importation of Canadian meat articles.

Finally, this agreement also establishes a mechanism to seek the harmonization of technical regulations pertaining to agricultural trade. This will be especially important in the area of livestock trade as the varying use of veterinary drugs is concerned.

There are those who will oppose this agreement because they are disappointed that it did not go far enough in dismantling Canadian barriers to United States exports. In some areas of the Free-Trade Agreement, I find myself in agreement. A perfect agreement would have brought completely free and fair trade between the United States and Canada and would have included the elimination of all trade subsidies.

In summary, I intend to support this agreement. I will do so because of the strong subsidy-negotiation provisions included in this legislation and the potential this holds for the Nation's business economy.

But I will put this administration, the next administration, and the Canadians on notice. My support, and that of many of my fellow Senators, is not unqualified. I intend to give the Free-Trade Agreement the chance to operate, and will rely on the subsidy negotiation provisions to work their course in eliminating subsidies.

However, as one U.S. Senator, I intend to make certain that more than lip service is paid to future negotiations to eliminate subsidies. If progress is not made in a reasonable length of time, I will lead the effort to end this Free-Trade Agreement. And I will be pressing my colleagues on the Finance and Agriculture Committees to join with me in that effort.

Free and open trade between Canada and the United States is a desirable goal. This agreement, and its enabling legislation, is a beginning, not an ending, of a historic negotiation process to eliminate trade barriers worldwide. The Free-Trade Agreement represents a unique opportunity to expand the economies of the United States and Canada and to recognize the new era of global competitiveness.

The success of this Free-Trade Agreement will depend, not on this agreement, but the future of continued negotiations between Canada and the United States.

Mr. BRADLEY. Mr. President, the Free-Trade Agreement we now consider is an historic step toward closer relations with Canada. It is the start of a process that over the next 10 to 20 years will create better jobs and more economic security for our children on both sides of the border. The simple fact is that this agreement is good for Canadians and Americans alike.

Sometimes we have a perverse impulse to create obstacles to economic growth. But today, we are about to pass a bill which, however complex, provides more mutual economic opportunities through closer relations with a neighbor. It's worth celebrating the fact that we're not letting this chance for mutual opportunity slip through the cracks.

Both Canadians and Americans owe special recognition to Canada's Prime Minister Brian Mulroney, who saw this opportunity, seized it, and took the risks to make it happen. Although he was a very tough negotiator, he never demagogued or blustered. Brian Mulroney has the touch of a real statesman who perseveres. He consistently asserted that the objective, if achieved, will serve the common interest of both countries for generations to come. His leadership has not only begun to reverse the rising tide of protection throughout the world—but also put Canada in the first rank of industrial countries working together to coordinate economic policies and promote worldwide growth. This Free-Trade Agreement assures his place in both Canadian and United States history.

But the adoption of this agreement is only a beginning. Just as important is the process of consultation and cooperation on new trade and economic issues it establishes. I am pleased that the implementing bill before us incorporates my suggestions to set up negotiating groups that will explore further trade liberalization. Specifically, it launches talks on services trade, intellectual property protection and investment rules. I believe these negotiations have the potential to greatly increase our bilateral trade and to set a new standard for international economic cooperation.

This agreement to open trade between our two countries is important because of the size and importance each market for the other. The Canadians are certainly aware of the size of the United States market but we may not appreciate the enormous importance of the Canadian market to United States workers and businesses. In 1987 the United States exported $59.8 billion of goods to Canada, by far our largest foreign market. The entire European Community, with a population 13 times the size of Canada, bought only 16 percent more United States goods than did Canada. Exports to Canada were more than twice the value of exports to Japan, our next most important market. Unlike most United States trade, manufactured goods dominate our exports to Canada. No country supports more United States jobs than does Canada.

Stronger economic relations with Canada are a step toward stronger economic ties throughout this hemisphere. The Western Hemisphere is in serious need of economic harmony. Ours has become a Hemisphere in debt. This administration not only plunged this country into debt, but compounded the debt of its southern neighbors through the shortsighted Baker plan. Our best hope now is to grow out of that debt. And to grow, the nations of the Americas will have to cooperate more closely than ever before. The United States-Canada Free-Trade Agreement is a critically important first step toward greater cooperation.

Some people have asked me why the bill is so complex if its premise of closer relations and stronger growth is so simple. I have analyzed this bill. Many of my colleagues have analyzed it. The Canadians have analyzed it. My conclusion is that it is just what it says it is: an historic opening of trade and a plan for the future.

The FTA sets an international precedent for harmonizing investment rules. It gives national treatment to investors establishing new businesses, and those making indirect and many direct acquisitions.

The FTA liberalizes financial markets in both countries to the institutions of the other. It lifts investment restrictions and permits open competition in insurance. By creating a larger and more diverse community of customers for our financial institutions, it will improve the stability of North American financial markets.

The FTA establishes a groundbreaking framework for services trade. It extends national treatment to a broad variety of commercial, management, information, real estate, distribution, agricultural, extractive, and construction services. It establishes a protocol for exchange of architectural, tourist, and enhanced telecommunications services. It guarantees rights of establishment and facilitates professional accreditation and temporary entry in each country for the companies and citizens of the other.

The FTA liberalizes energy trade, expanding markets for U.S. producers and enhancing energy security for U.S. energy consumers.

Finally, the FAA shows us how we can put teeth in international trade commitments. As discipline in the international trade system broke down in the early years of the Reagan administration, the system lost the confidence of U.S. businesses and labor. The FTA explores new ways to restore discipline to international trade.

For the future, I hope the FTA and the ongoing talks in services, intellectual property and investment it inaugurates will give greater support for an open world trading system. I believe our partners in multilateral trade negotiations will recognize this agreement as a new demonstration of American resolve to reconstruct a fair and flourishing trading system.

I hope Canadians will take pride in the agreement their government has brought about.

The United States-Canada Free-Trade Agreement is one of a kind, but I believe this bilateral agreement should be the last of its kind. We desperately need to reinvigorate the GATT and restore confidence in the multilateral trading system it oversees. This bilateral agreement can help because of the nature of the United States-Canadian relationship. But a series of bilateral trade agreements will shear the multilateral system and ultimately shrink world trade. Let us make Canada the special case its importance and proximity to us deserve.

For now, let us celebrate a piece of fortunate public policy for which our children will thank us.

Mr. BURDICK. Mr. President, I rise in opposition to the United States-Canada Free-Trade Agreement. I am concerned because the administration is asking Congress to approve a trade agreement that institutionalizes foreign subsidies and places U.S. trade law remedies in politically appointed panels to resolve disputes. Further, nothing in the FTA addresses the issue of nontariff barriers.

Mr. President, while the FTA benefits the big multinational companies it does little or nothing to help the farmer or small business. In fact, the effects of the agreement are largely unknown. A June 10, 1988, memorandum from Customs Commissioner William Van Raab to Deputy Treasury Secretary McPherson illustrates this point. I ask unanimous consent that the entire memo be printed in the RECORD following my remarks.

Mr. Von Raab said:

> Not only will the rest of the trading world be watching, there will be an impact of incalculable significance on the structure as well as the health of many non-multinational companies. Many of these changes cannot be foreseen, except to the extent of the certainty that they will take place, that they will be extreme in nature, and that they will be irreversible. Whether they are inevitable without enactment of the FTA is unknown. However, it is clear that once the FTA is enacted, there will be no turning back. Thus, whether one strongly favors or is opposed to the U.S.-Canada Free-Trade Agreement, there may be great wisdom in avoiding a blind rush towards its enactment. Deliberate consideration should be given to the ramifications that are both short-term and long-term.

I am particularly concerned about the impact of Canadian subsidies for their agricultural and natural resources and the effect that will have for our own industries. The Canadian Constitution specifically mandates subsidies, and the FTA does nothing concrete to address that issue. For example, how can we expect our farmers to compete against Canadian rail subsidies to Thunder Bay which add up to $24 per ton? When coupled with the currency differential some estimate Canadian agriculture has a 43 percent advantage over our farmers. This isn't fair trade or free trade.

Mr. President, the administration claims that one of the major advantages of the FTA is enhanced energy security. This is not so. I do not see the unrestricted flow of Canadian electricity over our borders as being a particularly secure position for this country. Our energy producers cannot be expected to compete with dirt-cheap Canadian electricity.

After the FTA was signed last January, the Canadian Government issued new regulations saying that Canadian energy companies must own at least 51 percent of any new projects when they come into production. In addition, no Canadian origin uranium—as well as Australian origin—may be used for fuel in the nuclear navy. This has grave national security implications.

Mr. President, the issue of massive Canadian subsidies to the big multinational Canadian companies and/or American subsidiaries is of great concern to the small individual farms and businesses on both sides of the border. I am submitting for the RECORD a series of reports that were prepared for the Western Senate Coalition by the Western States Foundation. They highlight the issue of subsidies and nontariff barriers.

The FTA is so controversial with our neighbors to the north that the Canadian Senate on July 21, 1988, decided to hold up implementation of the agreement until after a general election. Canadian Liberal Senate Leader Allan MacEachen told Prime Minister Brian Mulroney to "Go to the People" for ratification of the agreement.

However, because of the significant impact the FTA will have on the economy of North Dakota in particular, and the unknown effect it will have on the U.S. economy, I cannot support this agreement and I urge my colleagues to defeat it today.

I ask unanimous that the reports I referred to earlier be printed in the RECORD.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

[From the Commissioner of Customs, Washington, DC, June 10, 1988]

MEMORANDUM FOR DEPUTY SECRETARY MCPHERSON

Through: Assistant Secretary, (Enforcement).

From: Commissioner of Customs.

Subject: U.S.-Canada Free Trade Agreement; Rules of Origin and "Constructive Assembly".

SUMMARY

As you are aware, the proposed Free Trade Agreement (FTA) rules of origin are based on the commodity classifications set out in the Harmonized Tariff Schedules of the United States. Under these rules, the determination of whether origin of an article or material has been conferred will, in most cases, simply be contingent on whether manipulation of an article or material has brought about a requisite change in tariff classification. In some instances, it will be necessary to show that 50 percent of the processing or materials cost is attributable to an FTA country.

It has become increasingly evident that there is a need for the Customs Service to articulate formally an understanding of whether, for purposes of FTA applicability, country of origin can be conferred by operations which merely sort, combine, or otherwise configure goods (i.e., a "construcive assembly"), so as to bring about the tariff classification change required by the FTA rules of origin. We have concluded that the rules allow origin to be conferred on imported goods in such a manner, and this understanding has received a concurrence from Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement) John Simpson.

However, based on our analysis, as well as the reaction of Canadian representatives when our understanding was presented to them, we remain concerned about this aspect of the rules of origin and the possible ramifications which may not have been intended when the FTA was negotiated. Consequently, we are submitting to you a brief overview which addresses this issue and represents the results of more lengthy and detailed analysis.

ANALYSIS

The term "constructive assembly" has been coined to represent situations where goods are combined or sorted in an FTA country to the extent that their classification changes, even though nothing has been done to change or actually "transform" the goods themselves. This would be particularly true in the electronics commodity area.

An example:

"Components classifiable as "parts" of widgets are imported in separate entries to the United States, product of country X (e.g., Taiwan, South Korea, Mexico, etc.). In the United States, they are combined only to the extent that enough separate boxes of "parts," sufficient to produce 2000 widgets, are pulled from various inventory bins, loaded on a truck, and cross the border into Canada. Under the proposed rules of origin, the truck entering Canada is carrying 2000 "constructively assembled" widgets, of U.S. origin (because of the changed classification), and the merchandise is FTA-eligible (assuming there is no 50 percent value/content requirement applicable to widgets)."

We are compelled to conclude that such a "constructive assembly" would be allowed to confer origin under the FTA, and Deputy Assistant Secretary Simpson has concurred with this view. Mr. Simpson also agrees with our position that, in light of the language in Article 301 of the FTA, a contrary position (requiring a *bona fide* assembly of goods before origin is deemed to have been conferred), would require more than a Customs Service administrative ruling, or even language to such an effect in the FTA legislative report and history.

We are aware that the FTA rules are attractive because they seem to diminish governmental subjectivity in origin determinations; under the current "substantial transformation" origin criteria, determining whether the origin of goods has changed can often be contingent on a judgment of the significance or adequacy of a company's processing or assembly operations which are alleged have effected a change in the goods at issue. Further, allowing origin to be conferred by "constructive assembly" operations which are little more than inventory transfers may be consistent with the desires some of the multinational companies and their trade associations that are supporting passage of the FTA.

Nonetheless, we remain concerned about this type of "constructive assembly" operation conferring origin for purposes of FTA eligibility. We note that the reaction of the Canadians to our recent presentations on this matter did not seem to bear out suggestions of common knowledge and mutual acceptance. There can be no doubt that allowing origin to be conferred without any significant processing is an important departure from long-standing preference-scheme principles. We question whether this has received the attention that it may warrant, or which it may receive from Congressional sources once these rules of origin become a reality and the Customs Service begins to issue binding administrative determinations.

In this regard, we note that the general precepts of the FTA preclude transshipment through other countries. However, the current construction of the rules of origin raises the specter of transshipment *through the FTA countries* to "cleanse" articles on non-FTA origin. Given that such movement of goods is well within the normal business operations of most vertically integrated multinational companies, the lone anti-circumvention provision in the FTA rules of origin would very likely not come into play. The impact of this on areas such as marking, quotas, monitoring certain merchandise, and collecting trade data is largely unknown.

As an example of the numerous questions which relate to this origin issue, inquiry has been made whether such "constructively assembled" articles, having been configured under the FTA rules to become U.S. in origin, could be subsequently returned to the U.S. from Canada as American goods, sent to a Maquiladora plant in Mexico for actual assembly, and imported under item 807.00, TSUS. Although we agree with Mr. Simpson's view that there appears to be no specific bar to such a scenario, we believe that there could be a political reaction of surprise to a Customs Service approval of such an operation.

The need to give consideration to this FTA origin matter and its more controversial aspects increases upon consideration of the possibility of the FTA rules of origin being adopted for universal use, applicable to goods entering the United States from all countries.

CONCLUSION

We believe that your attention should be given to this issue under the FTA rules of origin to ensure that the administrative actions of the Customs Service are consistent with intent of the negotiators and the basic objectives of the U.S.-Canada Free Trade Agreement.

[Prepared for Western Senate Coalition By Western States Foundation, Feb. 21, 1988]

THE CANADIAN FREE TRADE AGREEMENT

AN ANALYSIS

The United States is proposing to enter into a bilateral trade agreement with Canada. According to the U.S. trade representative, the agreement will eliminate trade barriers, serve as a model for bilateral agreements with other nations, and bring pressure on other countries to reduce trade barriers as part of the Uruguay round of discussions. Query, however, whether the Canadian agreement is the appropriate vehicle to achieve these objectives. Many U.S. industries such as chemical, manufacturing, cultural, beverage, etc. which would benefit by true free trade among nations, think not.

Canada made no secret about its objectives in entering into the free trade agreement (the "FTA"). Clearly, these objectives have no relationship to the principles of free trade; rather Canada sought to assure guaranteed access to U.S. markets to minimize the threat to Canadian producers presented by foreign competition and foreign access to U.S. markets. In essence, Canada sought negotiated or institutionalized trade with the United States rather than free trade. For example, Canadian Agriculture Minister Wise said back in September:

"We're not after a free trade deal, that's what its termed, it's called a free trade deal. We want a bilateral trade arrangement, a bilateral trade agreement with the United States."

Canada was able to achieve its objectives largely because the U.S. trade representative's goals were very much different. While the U.S. trade representative worried about the precedent of a bilateral agreement on the Uruguay discussions, the Canadians subtly emasculated U.S. trade laws, preserved government supports for most industries like mining, cultural, beverage, manufacturing, agricultural, etc., and protected inefficient industries by restricting U.S. ownership and access to crucial markets. More importantly, Canadian negotiators deflected U.S. inquiries into past Canadian behavior by, once again, keeping the focus on the concept of global free trade.

The Canadians used the negotiating deadline of October 3, 1987 very effectively to achieve its goals. Prior to this date, agreement seemed impossible—there were too many demands by Canada which were inconsistent with free trade between the two partners. However, U.S. attitudes changed dramatically during the final hours, and Canada obtained the concessions so important to the maintenance of its industries. These concessions guaranteed unlimited access to U.S. markets, irrespective of competitiveness. The result is hardly consistent with a market based "free trade" environment; but Canadian producers have always been clear about their objectives. At the beginning of the trade negotiations, one Canadian representative stated that:

"You must understand that the Canadian people are committed to helping their industries that *cannot compete* (emphasis added). Our constitution requires that funds be transferred to assist companies in non-economic locations to compete in international trade. Its only to equalize the competition." *Canada Act 1982, § 36*

The Canadian trade negotiators never lost sight of this principal, and, at the conclusion of the negotiations, the principal Canadian trade representative, Simon Reisman, exclaimed:

"The trade covered by the items we eventually agreed to are close to three-to-one in favor of Canada. Our people were way ahead of them in terms of the analysis, the investigation, the facts, the methods, the procedures, the whole business. You would think that the United States was an underdeveloped country alongside us in terms of the way this negotiation went." *Maclean's, December 31, 1987, p. 18.*

How did Canada achieve its objectives?

At the last minute, just prior to the expiration of the negotiating deadline, Canada insisted that the U.S. Judicial system be bypassed in the application of U.S. trade laws. Our trade laws are directed at dumping and subsidization practices, and, although generally ineffective, they have been a constant aggravation to Canadian producers. To escape the application of these laws, Canadians demanded that trade sanctions imposed by U.S. administrative agencies be referred to a Binational panel, not to U.S. courts. The Canadians recognized that most trade disputes are extremely technical and that the relevant laws are antiquated. Historically, Canada has escaped trade sanctions because its non-competitive behavior was cleverly orchestrated to fall outside the reach of U.S. trade laws in such areas as manufacturing and natural resources. Under the FTA, if Canada is found guilty, Canada will appeal an adverse decision to a non-judicial panel capable of either compromising the issue or reversing the result for reasons unrelated to the merits of the claim. The political presures which will be brought to bear on the panel for unrelated "trade-offs" will be great. Furthermore, the lack of due process protection for the injured party is of great concern. Many consider this denial of judicial protection unconstitutional, but any resolution of this issue will take years. By that time, it will be too late for the poor litigant who is complaining of unfair trade practices. The Canadians could not be happier with this result since it greatly diminished the threat of current and future sanctions under U.S. trade laws.

The Binational dispute resolution procedure has yet to be defined. The trade agreement does not specify how the panel members will be selected, nor the procedures that will be followed. What seems certain, however, is that Canada will be able to test the effectiveness of U.S. trade laws with impunity. Any action by Congress to strengthen U.S. trade laws will, under the FTA, be subject to prior consultation with Canada. Canada will, of course, argue for complete exemption from U.S. trade sanctions as it is now doing with respect to the omnibus trade legislation pending in the U.S. Senate and House of Representatives.

The second plank in the Canadian negotiating platform had to do with the past and present subsidization of Canadian industries. Many of these subsidies have led to U.S. trade actions in the past and are currently of great concern to many U.S. producers. The U.S. trade representative completely ignored past Canadian subsidies under the theory that the agreement established a free trade environment, prospectively. Presumably, the U.S. industry could absorb the adverse impacts of past Canadian subsidies. U.S. negotiators did tackle the multitude of current Canadian subsidies, but failed to achieve a satisfactory result. Under the FTA, the issue is delegated to a study group for seven years. There is no assurance as to what will emerge from the seven-year study other than, whatever the level of government support for Canadian industries, U.S. trade laws will be inadequate. The Canadians will have little incentive to eliminate their regime of government supports.

Finally, U.S. negotiators failed to obtain Canada's agreement to open up its industries to U.S. investment. While Canadians are free to make investments and shift assets to preserve employment or maximize their return, U.S. investors remain restricted. Ownership and control restrictions continue to apply not only to the energy sector, but also to the other important industries such as the pharmaceutical and petro-chemical industries. U.S. negotiators argue that only seven percent of Canadian firms remain subject to ownership and control restrictions; but among the industries most important to U.S. investors, the percentage is as high as 90%. Canada cleverly avoided the threat to its inefficient industries posed by U.S. control and investment. For example, if a Canadian producer is marginally profitable, and continues to depress the market with its production, U.S. interest will be unable to purchase the asset for purposes of consolidation or efficiency. If the Canadian producer is marginally profitable as a result of Canadian subsidies, the inability of the U.S. investor to gain control is even more distorting. By restricting ownership and control, Canada assures itself that its marginally profitable industries will stay alive at the expense of U.S. producers.

In addition to the three main objectives of Canadian trade negotiators, the Canadians achieved a number of secondary victories. Despite repeated efforts by the U.S. trade representative, the FTA remains silent on the licensing of U.S. technology, excludes any adjustments for the already unbalanced exchange rates, and, maintains Canada's ability to price energy products on a non-market or controlled basis so long as they are marketed within Canada on the same basis. With respect to this later item, Canada has the ability to completely undercut the principles of free trade and ignore market conditions in energy commodities. Natural gas and uranium supplies are perfect targets for market manipulation, and Canada has a long history of price controls, supports and monopolistic behavior with respect to these commodities.

In summary, in negotiating the trade agreement, Canada did a masterful job of achieving its objectives, while keeping the focus of the U.S. trade representative on philosophy rather than the reality. Canada has continued this tactic and until recently has beguiled the U.S. media and important trade publications. Recent assurances given by Canada to its dairy product, textile and motion picture industries, vividly demonstrate that Canada has no intent to foster free trade. The paramount objective is still to help their industries gain a competitive advantage.

[Supplement One—Prepared for Western Senate Coalition by Western States Foundation, Mar. 14, 1988]

SUPPLEMENT TO ANALYSIS OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

Canada's Minister of Trade, Pat Carney, has expressed surprise at the low level of understanding and concern about the Canadian Free Trade Agreement ("FTA") among U.S. Senators and Congressmen. According to her, since the opposition is less than expected, Canada will proceed with its "duty remission scheme" to subsidize textiles and clothing and will impose import quotas for dairy products. Almost simultaneously, the Federal and Saskatchewan governments announced the merger of Canada's two largest government energy corporations, Eldorado Nuclear, Ltd. and Saskatchewan Mining and Development Corporation. In announcing the merger, Canada indicated that the resulting entity will be privatized, but that total foreign ownership will be limited to no more than 20% (no more than 5% per individual foreign company). This is, of course, contrary to the spirit of the FTA.

Canada's largest newspaper, the Toronto Star, criticized the FTA because Canada, while not relinquishing the right to subsidize its industries, may have to do so under future U.S. pressure. The Star asked "What does this [FTA] mean for the poorer regions of the country, which Ottawa has helped for decades with subsidies, particularly in the resources field." Trade Minister, Carney, responded by insisting that "Regional development and [Canadian] capacity to sustain regional development are not on the table." *Toronto Star, February 28, 1988.*

Given such acts and statements by Canada's first conservative government in decades, the U.S. should be extremely wary about continued subsidies and non-tariff barriers to trade which are permitted to continue under the FTA and which will quickly counter any advantage gained. Canadian opposition parties have vowed to overturn the FTA, a threat considered doubtful; but nothing will prevent these political parties from doing indirectly what they cannot do directly. In fact, the behavior of the Mulroney government following the signing of the FTA, will greatly encourage the next government to protect further noncompetitive Canadian industries through mechanisms which are not specifically prohibited by the FTA.

ALERT

Canadian Agriculture Minister John Wise announced last week that his government plans to implement a subsidy program to assist Canada's grape and wine industry from potential adverse effects of the proposed U.S.-Canada Trade Agreement. Wise also said the government will implement new regulations on American fruit and vegetable imports to assist Canada's agriculture industry. These regulations are commonly referred to as "non-tariff" barriers.

In another development, Canada is considering actions to assist Canada's lumber industry from any adverse impacts from the U.S.-Canada Trade Agreement. These actions come on the heels of Canadian government regulations mandating majority ownership (51%+) in all energy projects, the textile duty remission program, import restrictions for dairy products, schemes to help plywood, poultry and the recently implemented regulations requiring that all fish caught in Canadian waters must be landed and processed in Canada.

Our next supplement will address these issues.

[Supplement Two—Prepared for Western Senate Coalition by Western States Foundation, Mar. 28, 1988]

SUPPLEMENT TO ANALYSIS OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

One of the oft repeated justifications for the Canadian Free Trade Agreement ("FTA") is that it will provide guaranteed access to Canadian energy resources and thus enhance U.S. national security. The fact that our own energy producing sector will be hurt is said to be of little consequence because Canada is a reliable supplier and far more willing to tolerate environmental degradation than we. But the assertion that Canada is a reliable supplier of energy should not be accepted without a review of history.

Canada is a large producer of oil and natural gas with abundant reserves. In 1973, after the formation of OPEC and the resulting energy "crisis," Canada refused to sell oil and gas to the United States partly because of its own needs, but mostly because it agreed with the policy objectives of the OPEC countries. Long lines at U.S. gas stations made no difference to Canada.

In 1974, the U.S., Canada and other industrialized nations formed the International Energy Agency ("IEA") in order to avoid the impact of another oil or energy embargo. A central feature of the IEA is its Energy Sharing System ("ESS") which may be activated by one or more members. Administration officials have stressed to Congress that one of the advantages of the FTA is that it provides guaranteed access to Canadian energy supplies. However, the FTA specifically states that the ESS shall prevail. Thus, energy security will not be enhanced under the FTA because all IEA signatories must share energy supplies on an equal basis.

Canada has made a tremendous commitment to its nuclear power industry. Large investments have been made by the federal and provincial governments in uranium mines and mills, in conversion facilities and in Canada's unique reactor technology. Canada has historically produced more uranium than it consumes in its own nuclear power program. This overproduction continues. During the 1970's, Canada was a prime mover behind the international cartel which drove uranium prices from $6.00 per pound to over $40.00 per pound. When confronted by its involvement in price fixing, Canada ignored and attempted to thwart U.S. enforcement of its antitrust laws. Canada disbanded the cartel, but then proceeded to invest in excess of $3 billion in its government-owned uranium companies. This investment is now in jeopardy due to low uranium prices, and the government of Saskatchewan and the Canadian federal government have recently announced the merger of Canada's two largest government uranium mining companies. The merged entity, which is to be privatized within seven years, will control about 20% of the world supply and a significantly larger percentage of imports to the U.S. To make sure that Canada can still control the market behavior of the merged company, Canada has limited foreign ownership to no more than a total of 20%. The United States Department of Energy, in the early 1980's, concluded that the formation of a new cartel involving Canada is likely.

Finally, Canada supplies significant quantities of electric power to this country. Much of this power is either nuclear or generated by massive dams built across Canadian rivers. The investment and jobs associated with these projects are, of course, in Canada and not in the U.S. Regions receiving Canadian electricity have been willing to forgo the economic benefits of power projects in order to avoid public opposition. After the FTA was signed by President Reagan and Prime Minister Mulroney, Hydro-Quebec announced plans to build the $2.5 billion James Bay II hydro-electric plant. Thus, U.S. dollars and jobs are sent to Canada in exchange for reliable supplies of electricity. But last winter, these reliable supplies were cut off on two occasions because Canadian consumers required the electricity. Regions in the U.S. relying on these supplies were forced to cope with shortages.

Under the FTA Canada retains the right to manipulate energy supplies and costs. While it must treat the U.S. and Canadian markets proportionately, nothing prevents Canada from compensating its consumers in other ways for artificially high energy prices. In fact, Canada has become very adept at such rebate schemes.

[Supplement Three—Prepared for Western Senate Coalition by Western States Foundation, Apr. 13, 1988]

SUPPLEMENT TO ANALYSIS OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

The legislature of the Province of Ontario, Canada's most populous province, is set to reject the Canadian Free Trade Agreement ("FTA") executed by the U.S and Canada on January 2, 1988. A rejection by this body, while not binding on the Canadian federal government, would present a major question for the U.S. Congress when it is asked to approve the FTA.

U.S. trade negotiators have consistently claimed that the U.S. can live with "substantial compliance" by Canada with the FTA. This equivocation has been publicly acknowledged because of the likelihood that one or more provinces will refuse to honor the terms of the agreement (e.g., Manitoba & Prince Edward Island). U.S. trade negotiators have consistently refused to define "substantial compliance" in the hope that the more populous provinces would fall in line. Pursuant to Canadian constitution, Canadian provinces enjoy far more autonomy on trade issues than do American states.

There is no doubt that the Canadian federal parliament will approve the FTA, but approximately fifteen percent of the agreement will require provincial action. Assuming populous Ontario follows through on its rejection, even if it affects only fifteen percent of the agreement and not complete compliance by the province, the agreement will be significantly less attractive from the U.S. perspective.

Two opposition political parties in Canada, both of which have constituencies equal to or greater than the ruling party, have indicated their desire to tear up the trade agreement. If the U.S. approves the FTA, removes its existing trade barriers and neuters its trade laws with the binational panel only to have part or all of Canada reject the FTA, the FTA will become a one-way street disadvantageous to the U.S. If the FTA is to be approved by the U.S., the U.S. Congress should consider making it contingent upon the full ratification of each Canadian province. Failure of the provinces to ratify the FTA would be a clear sign from Canada that it wishes only the advantages and not the disadvantages of the agreement.

[Supplement Four—Prepared for Western Senate Coalition by Western States Foundation, May 13, 1988]

SUPPLEMENT TO ANALYSIS OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

The current question concerning the Canadian Free Trade Agreement ("FTA") is how much trust should Congress place in the statements of the Administration or the Canadian government. The U.S. Trade Representative has acknowledged that little, if any economic analysis was done to predict the impact of the FTA on the U.S. economy. This is disturbing particularly in light of the trade imbalance in manufactured goods which is predicted to worsen under the FTA. Thus far, the only source of information on the FTA's impact seems to be Canada.

The Canadians are not expecting or even asking for free trade, only guaranteed access to U.S. markets. "Free trade" is a convenient label that plays well in the U.S., but in Canada the most important objective is equality of regional development and employment. Canada barely waited until the ink was dry on the FTA to challenge U.S. objectives and patience. Rebates to Canadian manufacturers were announced on a broad scale in order to make them more competitive with U.S. manufacturers. Ownership restrictions were tightened further with respect to major energy industries. Import quotas have been announced on certain threatened dairy products. Energy supplies were interrupted because Canada needed the power, and restrictions on plywood exports to Canada were continued following a reaffirmation of exclusionary building codes.

Meanwhile, the U.S. has had to sit back and honor its commitment not to take actions contrary to the principles of the FTA pending its approval. As Canada continues to exploit the situation, it comes time to ask how tolerant the U.S. should be at the expense of our own economic and national security interests. Can we trust the Canadians or this Administration when they tell us that these recent protective moves on the part of Canada are weaker than expected and will not be strengthened later or extended to other industries? The question is especially pertinent since Canada's right to subsidize in order to promote regional development is ingrained in its Constitution (Canada Act, § 36) and was not given up as part of the FTA. "Regional development and [Canadian] capacity to sustain regional development are not on the table" stated Pat Carney—until recently Minister of Trade for Canada.

The remarks of the U.S. Trade Representative and other proponents of the FTA that U.S. industries can attack subsidies under U.S. trade laws are remarkable in light of the history of success under these trade laws. Most meaningful trade sanctions have come about "voluntarily" under the threat of Congressional, not executive actions. In fact, existing trade laws are only weakened as a result of the binational panel created by the FTA. Normal judicial and due process protections are abandoned. How much more can the U.S. tolerate in the interest of separate, bilateral trade agreements which are being roundly criticized by other members of GATT. Of course, most of these same members would glady enter into the same bilateral agreement since it is commonly believed that Canada received the best part of the deal. How do we explain to others that they are not entitled to the same.

Mr. WILSON. Mr. President, I rise to express my support for the United States-Canada Free-Trade Agreement and for the implementing bill now before us, H.R. 5090.

The Government of Canada controls our largest export market, and for reasons of culture, language, and geography, Canada's market continues to hold great promise for United States exporters of goods and services.

Similarly, Canada finds its largest export market in the United States. Indeed, Canada is much more dependent on us than we on them. Specifically, Canada sends about three-quarters of its exports here, while we send about one-quarter of ours to the north.

I cite this information to indicate the great level of mutual economic benefits our two countries already enjoy.

A free trade agreement between the United States and Canada can yield a win-win situation. However, it is not self-effectuating and not self-enforcing. In other words, for this historic free trade agreement to work, it requires a real, ongoing desire on both sides of the border to make it work, to open our markets, and not chew away at the edges overtime.

After a great deal of study and consideration, I have decided to support the agreement because, despite its flaws, it takes us a significant number of steps in the right direction toward expanded international trade.

The United States-Canada Free-Trade Agreement is worth billions of dollars to United States workers and businesses on both sides of our northern border.

The agreement will create opportunities for investment, it will give our companies reasons to hire more workers, and it will increase consumer choice in quality, well-priced products.

The benefits will flow to manufacturing companies, as well as service providers and farmers. There is a great potential for industries as diverse as electronic instrument manufacturing and wine making. The agreement gives us a chance to increase export sales of fruits, vegetables, and nuts, as well as electrical machinery, chemicals, and engineering services.

The agreement not only eliminates tariffs, but also removes many nontariff barriers, which today can truly cripple the export potential of many U.S. industries.

Beyond a specific industry perspective, the United States-Canada Free-Trade Agreement will also improve the collective abilities of our two countries to meet international competition. This is of growing importance, as the European Community moves toward economic unification, and as the economies of our trading partners in the Far East become further intertwined through foreign direct investment and offshore sourcing of the Japanese.

THE UNITED STATES-CANADIAN AGREEMENT AND "CULTURAL SOVEREIGNTY"

On the down side, this agreement continues the myth of Canadian cultural sovereignty, which is actually a bogus economic argument seductively veiled for Canadian political audiences and intended to be generously remunerative for selected Canadian business.

As I have said many times, both publicly and to Ambassador Gotleib, Canada has a legitimate interest in furthering the development of its movie and publishing industries. However, Canada does not have a right to place the burden of this development on one or two private United States industries.

In this regard, I am hopeful that the modified McDonald proposal constitutes the outer limits of Canada's policy on film distribution. I am also hopeful that, as spelled out in the Agreement, the television rebroadcast issue will be resolved through fair legislative changes in Canadian copyright law.

And finally, I am hopeful that Canada's policy on publishing, which authorizes the Canadian Government to compel divestiture, will not be wielded as a club against United States companies.

While I am told that Canada's policy on publishing divestiture will be administered fairly, such a concept constitutes an oxymoron—a policy that includes forced divestiture is inherently unfair.

I want to emphasize that I am expressing my support for the FTA for many reasons, including the reassurance contained in section B(2)(b) of chapter 20 of the "Statement of Administrative Action," which the law requires the President to submit with the FTA implementing legislation. This provision indicates that, should Canada impose restrictive policies affecting our industries that they define as cultural, the executive branch is committed to a broad review of the global impact of this policy, upon which it will base its plan for economic retaliation.

THE UNITED STATES-CANADIAN AGREEMENT AND WINE

While the Free-Trade Agreement is generally good news for growers of California specialty crops, I am especially concerned over the provision affecting our wine exports.

Potentially, California wine exporters are big gainers under the agreement. Right now, it is almost impossible to find a bottle of California wine in a Canadian store—especially in certain Provinces. That's because the Canadian stores dictate who has access to the retain outlets.

If you are lucky enough to find a bottle of California wine, the price is likely to be at least 60 percent higher than it should be because the Canadians make imported wine more expensive than Canadian produced wine as a matter of policy.

Under the Free-Trade Agreement, these discriminatory pricing and distribution policies are intended to be pared back. But will they?

Several Canadian Provinces, Ontario being the most militant, have announced the intention not to be bound by the agreement, asserting constitutional provincial autonomy that exempts them from its terms.

Ontario has gone so far as to announce that Ontario grape growers will receive $100 million from the Canadian Federal and Provincial governments to help them adjust to tougher international competition after implementation of the agreement.

Clearly, California vinters will have to fight for their new rights. It is my understanding that the wine industry plans to monitor their sales results in Canada over the first 6 months of the agreement. The failure of sales to increase to a reasonable level will be viewed as evidence that the agreement has failed.

All that wine industry seeks is a fair opportunity to compete. Obviously, increasing market share depends on more than successful implementation of the agreement. It involves successful marketing strategies, the level of foreign competition, favorable exchange rates, and consumption patterns.

But what is the value of a solid marketing strategy when the cards are stacked against you before the game even begins.

If Canadian provincial intransigence on compliance proves to be true, as asserted by the Premier of Ontario—that his and other Provinces can flout the provisions of the Free-Trade Agreement that they do not like—it is obvious that California vintners and United States generally cannot and will not suffer in silence.

If the National Government of Canada cannot assure either enforcement of the agreement or a remedy that makes a justly aggrieved United States industry whole, I for one promise unflagging pressure for retaliation, or even termination of the agreement.

CANADIAN RATIFICATION

Mr. President, I offer the following aside to the substance of the Free-Trade Agreement, and that regards implementation.

In the spring of 1987, I asked the State Department and USTR for their assessment of Prime Minister Mulroney's ability to have the agreement ratified in Canada. I was told that no such assessment had been done, as Canada's parliamentary system made ratification automatic.

Well, this answer apparently came out of some texbook on parliamentary systems—as reports on the present state of play in Canada make clear.

Indeed, I was told that we needed the ability to fast track through Congress our implementing legislation, otherwise Canada would not negotiate with us. Well, to borrow a popular phrase of the day, "Where is Canada's 'fast track'?"

It is now clear that Congress will clear the agreement for implementation well before Canada's Parliament does. Furthermore, the possibility of the Canadian Senate killing the agreement cannot be gainsaid at this time.

Will this holdup cause Canada to be forced from the GATT negotiating table at the pending Uruguay Round? Will it make it impossible for Canada to ever again be taken seriously in international trade discussions?

Obviously not.

Yet, the executive branch predicted an international economic Apocalypse if we did away with our fast track, even if we retained the ban on amendments. They argued that if we did not set a time certain for a ratification vote, then neither Canada nor any other country would enter into trade negotiations with us. Calling this hyperbole may be an understatement.

Next time we have a debate about Congress' role in setting trade policy, perhaps more sober comments will be forthcoming from the executive branch if it remembers our experience with Canada's ratification of the Free-Trade Agreement—whether or not the Canadian Senate ratifies it.

Mr. **MATSUNAGA** addressed the Chair.

The **PRESIDING OFFICER** (Mr. SHELBY). The Senator from Hawaii.

Mr. **MATSUNAGA**. Mr. President, there are no other speakers on this side. Are there speakers on the other side of the aisle?

Mr. **PACKWOOD**. I have checked. We have none to come except for Senator DOLE. As I understand it, the majority leader may put us in the morning hour and Senator DOLE can speak then in any event.

I know of no others that plan to speak right now.

Mr. MATSUNAGA. I yield to the distinguished majority leader.

Mr. BYRD. Mr. President, I thank both Senators.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business to extend until the hour of 5:30 p.m. today and that Senators may speak therein for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

(The remarks of Mr. MATSUNAGA pertaining to the introduction of legislation are in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME AGREEMENT—S. 328

Mr. BYRD. Mr. President, I ask unanimous consent that when the message from the House on S. 328, the prompt payment legislation, is laid before the Senate that it be considered under the following time limitation: Thirty minutes on an amendment to the House amendment dealing with a debt collection commission to be offered by Senators ARMSTRONG and GRASSLEY. Thirty minutes on the motion to concur in the amendment of the House as amended, if amended, equally divided and controlled by Senators GLENN and ROTH or their designees; that no other amendments, motions for the disposition of amendments between the Houses or points of order be in order; and that the agreement be in the usual form.

I further ask unanimous consent that immediately upon disposition of this House message the Senate proceed to the consideration of House Concurrent Resolution 351, a concurrent resolution to correct the enrollment of S. 328, provided further that no amendments be in order to the correcting resolution with the exception of the managers' technical amendment and that there be 10 minutes overall on the amendment and the concurrent resolution equally divided and controlled between the two managers and that no motions or points of order be in order in relation to the correcting resolution.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Fine. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the House message on S. 328, the Prompt Payment Legislation, is laid before the Senate, it be considered under the following time agreement:

30 minutes on an amendment to the House amendment dealing with a Debt Collection Commission, to be offered by Senators Armstrong and Grassley;

30 minutes on the motion to concur in the amendment of the House, as amended, if amended, to be equally divided and controlled by Senators Glenn and Roth, or their designees;

Ordered further, That no other amendments, motions for the disposition of amendments between the Houses, or points of order, be in order;

Ordered further, That the agreement be in the usual form;

Ordered further, That immediately upon disposition of the House message on S. 328, the Senate proceed to the consideration of H. Con. Res. 351, a resolution to correct the enrollment of S. 328.

Ordered further, That no amendments be in order to H. Con. Res. 351, with the exception of a managers' technical amendment.

Ordered further, That there be 10 minutes overall on the amendment and the resolution, to be equally divided and controlled between the two managers, and that no motions or points of order be in order in relation to H. Con. Res. 351.

RELIGIOUS FREEDOM WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 361, a joint resolution designating the week of September 25, 1988, as "Religious Freedom Week" and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 361) designating the week of September 25, 1988, as "Religious Freedom Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 361) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 361

Whereas the principle of religious liberty was an essential part of the founding of our Nation, and must be safeguard with eternal vigilance by all men and women of good will;

Whereas religious liberty has been endangered throughout history by bigotry and indifference;

Whereas the first amendment to the Constitution of the United States guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;

Whereas the Constitution of the United States ensures religious freedom to all of the people of the United States;

Whereas the bicentennial of the ratification of the Constitution occurs in 1988;

Whereas at Touro Synagogue in 1790, President George Washington issued his famous letter declaring "to bigotry no sanctions, to persecution no assistance";

Whereas the Touro Synagogue letter advocating the doctrine of mutual respect and understanding was issued more than a year before the adoption of the Bill of Rights;

Whereas the letter of President Washington and the Touro Synagogue have become national symbols of the commitment of the United States to religious freedom;

Whereas throughout our Nation's history, religion has contributed to the welfare of believers and of society generally, and has been a force for maintaining high standards for morality, ethics, and justice;

Whereas religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and

Whereas religious liberty can be protected only through the efforts of all persons of good will in a united commitment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 25, 1988, is hereby declared to be "Religious Freedom Week", wherein members of all faiths or of none, may join together in support of religious tolerance and religious liberty for all.

Mr. BYRD. Mr. President, I move to reconsider en bloc the votes that occurred on Senate Joint Resolution 361 and the preamble.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIGIOUS FREEDOM WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 518, a resolution designating the week of September 25, 1988, as "Religious Freedom Week."

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 518) designating the week of September 25, 1988 as "Religious Freedom Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution (H.J. Res. 518).

The **PRESIDING OFFICER.** The joint resolution is before the Senate and open to amendment. If there be no amendments to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 518) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. **PACKWOOD.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the preamble was agreed to.

Mr. **PACKWOOD.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL TRAILS SYSTEM ACT AMENDMENTS

Mr. **BYRD.** Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1544.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1544) entitled "An act to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes", do pass with the following amendments:

Page 3, line 17, strike out "laws.", and insert: "laws, as long as such uses do not preclude trail use."

Page 4, strike out lines 18 through 20, and insert:

"(B) Such unit or entity shall assume full responsibility and hold the United States harmless for any legal liability which might arise with respect to the transfer, possession, use, release, or quitclaim of such right-of-way.

Mr. **METZENBAUM.** Mr. President, I wish to thank the distinguished chairman of the Energy Committee and the ranking member, the gentleman from Idaho, for their hard work and cooperation in reporting the National Trails System Improvements Act of 1988. I also thank National Park Service Director Bill Mott for his strong support for this new law.

This legislation for the first time will assure that the Federal interest in about-to-be abandoned railroad rights-of-way is not simply ignored or given away but instead is devoted to public recreational trail use. As recognized by the President's Commission on Americans Outdoors, trails are one of the most important types of facilities needed to meet our Nation's growing recreational needs. Railroad rights-of-way generally make excellent trails. Such facilities, once developed, are inevitably viewed as public amenities that enhance local property values, foster small business opportunities, and serve local public needs. This legislation will lead to the formation of additional trails throughout the Nation, and I am pleased to be its Senate sponsor.

Mr. President, questions have been raised concerning the nature of the interest retained by the Federal Government in old federally granted rights-of-way. Some say that the United States has a mere easement which expires on abandonment; others claim that the United States gave away its interests in a statute passed in the 1920's. I do not believe that either argument is correct, and we would not have passed this legislation if we did not feel that there was a sufficient Federal interest to make the effort worthwhile.

The legislation will have other important impacts as well. All too frequently, the Interior and Agriculture Departments have ignored their responsibility to make trails and greenways available on public lands which they administer. This legislation reaffirms our intent, already stated in other statutes, that rights-of-way on public lands be employed for recreational purposes whereever appropriate.

Mr. President, this legislation is a first step toward developing a truly great National Trails System. More needs to be done, particularly by the Interstate Commerce Commission, to assure that about-to-be abandoned rights-of-way are in fact preserved for public use and railbanking. Our action in adopting this bill reiterates our intent that the Federal Government cooperate with State and local governments and private organizations under this and other laws to conserve these corridors. The authority to cooperate is there—what is still lacking is the will.

Mr. **WIRTH.** Mr. President, I am pleased to be a cosponsor of the National Trails System Improvements Act. Approximately 20 percent of the 150,000 miles of railroad right-of-way remaining in the United States was originally granted by the Federal Government. It is being abandoned at a rate of about 3,000 miles per year. At the same time our rail system has been shrinking, our needs for corridors have been growing—for public highways, for utilities, and for recreational trails. The Federal Government, though, has literally been giving such corridors away, even as our needs for them have been increasing. Under current law, federally granted rights-of-way are given to abutting landowners within 1 year of a judicial decree of abandonment, unless a Government agency first establishes a public highway—which presumably includes a trail—or the right-of-way is in a municipality. The act before us would prospectively retain these rights-of-way. Those still in or adjacent to existing Federal lands would be managed for trail purposes. Others would be made available to local agencies and private groups to operate as trails. Joint utility use would also be permitted, to the extent compatible with a trail. Preserving these corridors would preserve transportation routes for the future.

Our basic action here is obviously consistent with the recommendations of the President's Commission on Americans Outdoors. To quote Gilbert Grosvenor, president of the National Geographic Society and a member of the Commission, "these (railroad) trails can play an important role in the creation of a new system of parklands, a vast network of linear open spaces reaching all across the country—a system we on the President's Commission call greenways."

Mr. President, objections have been raised that this legislation as applied outside Federal lands may "take" property held by abutters. Early cases suggest that, at least as to so-called charter railroads prior to 1875, the Federal Government very much retains a fee interest in the property. As to lines formed under the 1875 Railway Act, there is strong reason to construe the grant as at least providing a transportation easement sufficient to support public highway uses other than strictly rail. The ultimate issue of the scope of property interests is for the courts. Our job is not to give away the interests of the Federal Government but instead to devote those interests to the public good.

There are other tools to form rail trails. Section 8(d) of the Trails Act, for example, is in no way affected by this legislation, and remains of great value to local agencies and private organizations. Ironically, some have argued that it too is a taking, although the second circuit has recently held to the contrary. The Interstate Commerce Commission affords other remedies in rail abandonment proceedings. This bill does not purport to solve all the problems in forming rail trails; it is simply a first step. It is, however, an easy and obvious one and merits our whole-hearted support.

Mr. **BYRD.** Mr. President, I move the Senate concur in the House amendments.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. **PACKWOOD.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCURRENT RESOLUTION CONGRATULATING ISRAEL AND EGYPT ON THE 10TH ANNIVERSARY OF THE CAMP DAVID ACCORDS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 364, a concurrent resolution commemorating the 10th anniversary of the signing of the Camp David Accords now at the desk.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

House Concurrent Resolution 364, a concurrent resolution congratulating Israel and Egypt on the 10th anniversary of the Camp David Accords.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the concurrent resolution.

The concurrent resolution was considered and agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the preamble.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the preamble was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 702

Mr. BYRD. Mr. President, I ask unanimous consent that a star print be made of S. 702, the Hate Crimes Statistics Act, to reflect corrections I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The changes will be made.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, are we actually at this time in morning business? That is my understanding.

The PRESIDING OFFICER. The Senator is correct.

Mr. PRYOR. Mr. President, my statement should take no more than 3, at the most 4 minutes.

TAXPAYERS' BILL OF RIGHTS

Mr. PRYOR. Mr. President the Pharaohs of ancient Egypt imposed a most severe punishment on abusive tax collectors. If they found that a tax collector was guilty of terrorizing innocent citizens, that tax collector had his nose cut off and was banished into the desert forever.

The Finance Committee in its infinite wisdom has decided to bestow upon the IRS a much more humane solution to this problem and that solution is, of course, Mr. President, the taxpayers' bill of rights.

On September 18, the Finance Committee agreed to an amendment to the Technical Corrections Act that includes the entire taxpayers' bill of rights package, as reported out of the committee earlier this year.

This package will significantly improve the safeguards afforded to the average taxpayer in dealing with the tax collector, the Internal Revenue Service.

In the early 1980's, Mr. President, the distinguished Senator from Michigan, Senator CARL LEVIN, held hearings about the abuses of the Internal Revenue Service against many of our taxpayers. Subsequent to this, the distinguished Senator from Montana, Senator MAX BAUCUS, also chaired hearings in which further illumination of this abusive power and abusive acts were taking place at the expense of the average American taxpayer.

To begin the 100th Congress, Mr. President, the distinguished Senator from Nevada, Senator HARRY REID, made his maiden speech on the floor of the U.S. Senate regarding trying to level the playing field between the taxpayer and the tax collector.

For a number of years, the distinguished Senator from Iowa, Senator GRASSLEY, has championed the rights of the individual taxpayer and has attempted to bring about something called the taxpayers' bill of rights. It appears that in 1988 the taxpayers' bill of rights might well become a reality using the vehicle of the technical corrections bill. Over 72 sponsors in the Senate are now on board in support of this very critical and needed piece of legislation.

For example, the taxpayers' bill of rights would give the taxpayer omnibudsman a new power, and that new power would be to issue taxpayer assistance orders to stop any actions by the IRS if the taxpayer is suffering unduly or is about to suffer a significant or unjustified hardship at the hands of the Internal Revenue Service.

Second, at the audit and the interview stage, the taxpayer would now, under the taxpayers' bill of rights, if passed, be granted a new and statutory authority to assert those rights even at this early stage in that dispute with the IRS.

The taxpayers' bill of rights would also establish an independent inspector general's office within the Treasury Department to oversee IRS operations. It would prohibit the IRS from using the records of sums collected or collection activities to promote IRS employees.

The taxpayers' bill of rights amendment would also order the Internal Revenue Service to improve all notices sent to taxpayers during disputes and to further explain why those disputes are actually not satisfied by the taxpayer. Today that is certainly not the situation.

It would also extend the time before collecting a tax by levy or seizure from at least 10 days under the present law to 30 days after final notice under the taxpayers' bill of rights.

It would also allow the taxpayers for the first time, Mr. President, the opportunity to recover administrative costs and those fees incurred as a consequence of unreasonable claims by the Internal Revenue Service against the taxpayer.

Additionally, this amendment, the taxpayers' bill of rights, would allow the American taxpayer to recover those actual damages sustained due to unlawful actions taken by any employee of the Internal Revenue Service.

Finally, Mr. President, the Finance Committee I think has done an absolutely magnificent job of patching together the committee amendment to address the concerns of as many different groups as possible. The fact that this committee was willing to commit a rather large portion of a very small revenue pie to the taxpayers' bill of rights demonstrates the commitment of the chairman, Senator LLOYD BENTSEN, of Texas, as well as the members of the Finance Committee, in protecting the due process rights of the average American taxpayer.

When the technical corrections bill comes to the floor of the Senate, this will be a major part of that legislation that this U.S. Senate will be considering at that time.

Mr. President, I yield back the remainder of my time.

AUTHORITY FOR CONCLUSION OF AGREEMENTS RELATIVE TO POLLUTION OF THE RIO GRANDE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration, for not to exceed 3 minutes, of Calendar Order No. 934 and that no amendments thereto be in order.

The PRESIDENT OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2046) to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENTSEN. Mr. President, I thank the majority leader for bringing this bill up for final passage today. He is always very willing to assist me whether on the floor of the U.S. Senate or in a committee. I have said it before both privately and publicly, the majority leader is a dedicated and able public servant especially deserving of high praise.

I also want to extend my appreciation to the chairman and ranking member of the Foreign Relations Committee for being so accommodating with respect to reporting this legislation out of committee. Senator PELL was kind enough to agree to my request that this bill be placed on the committee calendar so that we could move quickly to address the problem of pollution of the Rio Grande. In a letter to the distinguished chairman, I asked that the House passed bill, which is identical to the bill I introduced, be placed on the calendar so that a lengthy conference could be avoided. When the Senate passes this bill, it can go directly to the President for his signature.

Mr. President, the Rio Grande Pollution Correction Act is legislation that is long overdue. For the benefit of my colleagues who do not know its particulars, it authorizes the Secretary of State, in conjunction with the Environmental Protection Agency and the International Boundary and Water Commission to initiate talks with the Mexican Government to arrive at solutions on how to clean up the Rio Grande, and to implement those decisions. That is it. It is a simple bill, which tackles a serious health and environmental problem effectively and efficiently. There is no requirement for a study or any other kind of preliminary procedure which has the potential to slow down the actual process of cleaning up the river.

The Rio Grande is heavily polluted, and at several points along the border, it is used as a dumping pond for raw sewage, garbage, and industrial wastes. At one spot along the river, Nuevo Laredo, some 24 million gallons of raw sewage are dumped into the river daily. Now, that has got to stop. In the meantime, we have to take some remedial steps. I have received reasonable assurances from the International Boundary and Water Commission that it plans to move with dispatch to begin the process of negotiation with Mexico so that we can clean up the river.

My colleagues in the House, Representatives DE LA GARZA and BUSTAMANTE, have already done their part to shepherd this bill through that body. I am pleased that the Senate has acted on my request and we can get along with the cleanup job we have to do.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in strong support of H.R. 2046. We have a very severe problem with pollution in the Rio Grande. The problem comes from many sources, as is usually the case with pollution problems, but the largest source is the dumping of raw sewage in the Rio Grande, principally from towns on the Mexican side of the border.

The objective of this bill, Mr. President, is to put together a comprehensive engineering program to deal with the problem. Obviously, this problem affects both the United States and Mexico. If we are to have their full participation in cleaning up the problem, we have to have their participation in putting together the engineering program to do the job.

I thank the distinguished majority leader for expediting the consideration of this bill. The pollution of the Rio Grande River, which in some cases is 1,400 times higher than that which is allowed by EPA for water to safely come into contact with human skin, represents a real peril. This bill gives us the ability to move forward to deal with this problem, and I congratulate the Foreign Relations Committee for sending the bill to the floor.

I commend it to the President. I look forward to solving this problem. Unless we deal with this problem of pollution in the Rio Grande, it will ultimately affect our ability to create jobs on both sides of the border. This is an important step forward, and I commend it to my colleagues.

The PRESIDING OFFICER. If there be no further debate on the bill, the question is on the third reading and passage of the bill.

The bill (H.R. 2046) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. I yield 30 seconds to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished Republican leader for yielding. It is very seldom that we have an opportunity in this body to look history in the face. This is one of those opportunities. The Free-Trade Agreement with Canada will create the largest free trade area in the world. It will create jobs, growth, and opportunity in both countries.

I long for the day when we can conclude a similar agreement with Mexico. This is an important step forward, and I vigorously support it.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I ask unanimous consent that I may have 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Free-Trade Agreement between our country and Canada, our great neighbor to the North, is an important event in the history of both nations. We all know that it is the most comprehensive bilateral trade agreement in history, and it is between the biggest trading partners in the world. The core of the agreement is that each country will eliminate all tariffs on the other's goods over a 10-year period. If you think about it, it is a completely sensible concept, but it is extraordinary in these times that such an agreement could be consummated.

We know that the Free-Trade Agreement has been somewhat controversial, as any agreement of this magnitude must inevitably be. Trade between our two countries is at $166 billion per year. Changes in the rules affecting this trade will have an impact on millions of people.

But I expect most of us believe that the Senate will vote overwhelmingly in favor of this legislation to implement the agreement. There is a reason for this.

The administration estimates that this agreement will save consumers in this country between $1 billion and $3.5 billion a year. This should be reason enough for consumers to support this agreement. However, we should also have some concern about the impact of additional competition on producers of goods in our own country.

On this second point, the agreement still looks good. If the administration's estimates are accurate, the trade agreement should result in an increase of about 1 percent in our gross national product. That may not sound like much as a percentage, but it translates to $45 billion and as many as 750,000 new jobs. If we can lower prices and improve choices for consumers while, at the same time, improving our own economy, we should feel very good about supporting this agreement.

I might add that my good friend, the distinguished Governor of the State of Kansas, Mike Hayden, has written to ask my support for the free trade agreement. He noted that, if the agreement is implemented, Kansas can expect an increase in exports for those products that it is already exporting and increase in imports of the products it is already importing. But Governor Hayden urges support because it represents a "beginning to the development of new and expanding markets for Kansas products and commodities."

Governor Hayden has focused on the fundamental issue—not who got the better deal in the agreement, since no one can really say that with any authority—but on the opportunities that the agreement will provide. The agreement provides Kansas with greater opportunities to export both manufactured products and agricultural commodities.

This same improved opportunity should be a strong motivating force for people on both sides of the border to support this agreement. The simple fact of the matter is that businesses in both the United States and Canada will benefit because they will be able to compete in a freer market and bring the benefits from this enhanced trade to consumers in both countries.

We naturally dwell on the benefits to our own country. I should, however, point out that, since trade with the United States represents 75 percent of Canada's exports, removal of barriers to trade with us can only help the Canadian economy.

The major complaints on this side of the border have less to do with what was included in the agreement than with what was not accomplished. It is true that there is much left to do. The agreement focuses on tariffs. On that score it was successful with the elimination of tariffs over 10 years.

However, it is also true that subsidies also act as a barrier to trade. Both the United States and Canada have subsidies to help certain industries. But, since Canada's subsidies are generally two or three times the level of U.S. subsidies, it is understandable that some in our country are bitterly disappointed that the agreement was not expanded to include this subject. I would hope that we will be able to make some progress on these barriers in the near future.

Another area of concern is the lack of any progress on so-called cultural industries which were exempted from the Free-Trade Agreement. We in the United States find it difficult to understand why American interests are precluded from owning companies engaged in publishing, communications and the like while we do not prohibit Canadians from participating in these activities here.

To us, it is simply a matter of fair play. To at least some Canadians, however, it has become a matter of cultural identity. We must always remember that Canadians are as proud of their country and their cultural heritage as we are of ours. But Canadians also should understand that strengthening the economies of both countries by removing trade barriers is not inconsistent with maintaining our respective identities. Rather, it is a way of helping to assure that we will be able to maintain our separate identities.

We have many who should be recognized for their efforts on behalf of the Free-Trade Agreement. First, we should recognize the leadership of President Reagan and Prime Minister Mulroney who were willing to take the necessary political chances in order to improve the economic lives of their citizens.

Ambassador Yeutter and his staff negotiated hard and well for a fair agreement.

We also should recognize the efforts of the distinguished chairman and former chairman of the Finance Committee, Senators Bentsen and Packwood. They worked relentlessly to move the process along at the same time that the omnibus trade bill was taking so much time and effort. There was a time when it was very possible that the implementing legislation could have been stalled and not considered by this Congress. Lloyd Bentsen and Bob Packwood did their best, and we are seeing the results of their efforts today.

Other members of the Finance Committee were especially effective in advising the administration on the implementing legislation and in working out potentially insurmountable problems. On our side of the aisle the senior Senator from Missouri [Mr. Danforth] and the distinguished Senator from Rhode Island [Mr. Chafee] deserve our thanks. And the distinguished Senator from Minnesota [Mr. Durenberger] was especially effective in helping to work out some thorny problems presented by the drafting of the agreement's provisions dealing with ethanol and other products.

But this was not a partisan exercise. The legislation before us is a better piece of legislation also because of the distinguished chairman of the Subcommittee on Trade, Mr. Matsunaga, and the distinguished Senator from Montana [Mr. Baucus].

Finally, the Finance Committee Trade staffs once again did a fine, professional job of making certain that the members were adequately informed on the fine points and that their concerns were addressed in the drafting of this legislation. As a document which cannot be amended once it has been delivered to Congress, it was especially important that it was done right the first time.

Jeff Lang, Mike Mabile, and Marcia Miller of the majority staff, and Josh Bolton and Brad Figel of the Republican staff did their professional best for members of both parties. We expected no less, but sometimes we forget to let others know about the good work they do.

Mr. President, the agreement is good for our country and it is good for Canada. That is the way an agreement between friends should be. It will be a good foundation for future improved commerce between our countries. I urge my colleagues to support this implementing legislation.

I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank my friend. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The Clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. Bentsen], the Senator from Oklahoma [Mr. Boren], the Senator from New Jersey [Mr. Lautenberg], and the Senator from Ohio [Mr. Metzenbaum] are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio [Mr. Metzenbaum] and the Senator from New Jersey [Mr. Lautenberg] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Garn], the Senator from Nevada [Mr. Hecht], the Senator from Idaho [Mr. McClure] and the Senator from Indiana [Mr. Quayle] are necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. Garn] would vote "yea."

The PRESIDING OFFICER (Mr. Simon). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 83, nays 9, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—83

Adams
Armstrong
Baucus
Biden
Bond
Boschwitz
Bradley
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Evans
Exon
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Leahy
Lugar
Matsunaga
McCain
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby

Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—9

Bingaman
Burdick
Cohen
Conrad
Domenici
Ford
Levin
Melcher
Mitchell

NOT VOTING—8

Bentsen
Boren
Garn
Hecht
Lautenberg
McClure
Metzenbaum
Quayle

So the bill (H.R. 5090) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business for not to exceed 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:47 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 169. Joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi;

S.J. Res. 290. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week";

S.J. Res. 329. Joint resolution to designate October 24 through October 30, 1988, as "Drug Free America Week";

S.J. Res. 333. Joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week"; and

S.J. Res. 336. Joint resolution designating October 16, 1988, as "World Food Day."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 9. A concurrent resolution to provide for the display of the National League of Families POW/MIA flag in the Capitol rotunda.

At 3:44 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 5102. An act to amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals;

H.J. Res. 518. Joint resolution designating the week of September 25, 1988, as "Religious Freedom Week";

H.J. Res. 572. Joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week";

H.J. Res. 576. Joint resolution designating February 19 through 25, 1989, as "National Visiting Nurse Associations Week";

H.J. Res. 629. Joint resolution designating October 22, 1988, as "National Chester J. Carlson Recognition Day"; and

H.J. Res. 650. Joint resolution designating April 1989 as "Actors' Fund of America Appreciation Month."

The message also announced that the House has passed the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 364. A concurrent resolution congratulating Israel and Egypt on the 10th anniversary of the Camp David accords.

MEASURES REFERRED

The following bill and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5102. An act to amend the provisions of title V, United States Code, relating to the health benefits program for Federal employees and certain other individuals; to the Committee on Governmental Affairs.

H.J. Res. 572. Joint resolution designating November 28, through December 2, 1988, as "Vocational-Technical Education Week"; to the Committee on the Judiciary.

H.J. Res. 629. Joint resolution designating October 22, 1988, as "National Chester F. Carlson Recognition Day"; to the Committee on the Judiciary.

H.J. Res. 650. Joint resolution designating April 1989 as "Actors' Fund of America Appreciation Month"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 576. Joint resolution designating February 19, through 25, 1989, as "National Visiting Nurse Associations Week".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATSUNAGA, from the Committee on Finance;

Special report entitled "Finance Committee Allocation of Budget Totals—FY 1989" (Rept. No. 100-519).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATSUNAGA (for himself, Mr. BURDICK, Mr. MOYNIHAN, Mr. MELCHER, Mr. BOREN, and Mr. DASCHLE):

S. 2808. A bill to amend section 3104 of title 38, United States Code, to permit service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay after a reduction of 80 percent in either the amount of compensation or retired pay; to the Committee on Veterans' Affairs.

By Mr. WALLOP:

S. 2809. A bill to amend section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision for lands devoted to solid waste disposal, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself, Mr. MCCAIN, Mr. GORE, and Mr. DANFORTH):

S.J. Res. 381. Joint resolution to designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATSUNAGA (for himself, Mr. BURDICK, Mr. MOYNIHAN, Mr. MELCHER, Mr. BOREN, and Mr. DASCHLE):

S. 2808. A bill to amend section 3104 of title 38, United States Code, to permit service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay after a reduction of 80 percent in either the amount of compensation or retired pay; to the Committee on Veterans' Affairs.

CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION

Mr. MATSUNAGA. Mr. President, I rise today to introduce legislation cosponsored by Senators BURDICK, MOYNIHAN, MELCHER, BOREN, and DASCHLE that will provide America's disabled career soldiers with a measure of relief from an outdated 19th-century law. My bill will permit disabled members of the military services who retire after 20 years to receive a portion—specifically 20 percent—of the total offset required by current law between military retirement pay and veterans' disability compensation.

As my colleagues are aware, an 1891 law requires a career soldier who is also disabled to offset his retired pay by an amount equal to the amount of veterans' disability compensation he receives. This law was drafted under the misapprehension that military retirement pay and disability compensation are awarded for the same service. Nothing could be further from the truth. Veterans' disability compensation is awarded to compensate a veteran for the suffering and loss of future earnings caused by service-related injury or disease. Military retirement pay is an earned annuity for having honorably served in the Armed Forces for 20 or more years; as such, it is also an important element of the military benefits package that serves to attract and retain quality personnel for the All-Volunteer Force.

Despite the clear distinction between the two types of compensation, the offset continues to exist. This has created great disparities in the treatment of certain classes of workers. It will come as a surprise to many in this Chamber that military retirees are the only group of Government annuitants who cannot receive concurrent disability compensation without having to pay an offset. By contrast, a civil service employee, who prior to Federal employment served only a few years in the Armed Forces and was disabled during active duty, is eligible to receive both veterans' disability compensation and a retirement income based on his combined military and civil service.

To redress this egregious situation, I introduced S. 2120 last March to eliminate the offset for disabled career soldiers. Seventeen major military and veterans' service organizations endorsed the bill, as did a dozen Senators. Similar legislation, H.R. 303, was introduced in the House by Congressman MIKE BILIRAKIS of Florida, which received the support of 278 Members of that body. Last April, the House Veterans' Affairs Committee conducted a hearing on the House bill. But concerns over the potential cost of S. 2120—the latest Department of Defense estimate is $762 million a year—have prevented similar consideration of the bill in the Senate. Indeed, many Senators personally indicated that though they favored elimination of the offset in principle, they could not support the bill for fiscal reasons.

It was for this reason that I decided to introduce the current, revised bill. I believe that my new bill fully addresses the quite legitimate fiscal concerns of my colleagues by reducing the annual cost of the legislation from $762 million to $150 million annually.

Mr. President, the measure I am introducing today is a meaningful, interim compromise between the imperative of fiscal responsibility and our commitment to those who have devoted their lives to the defense of the Nation. The men and women on whose behalf I introduce this bill are fully aware that this country faces a deficit crisis. They understand the pressures legislators are under to make program funding choices with limited resources; and, for the time being, like the good soldiers they are, I believe they are willing to do with less, provided that they are treated fairly. In this bill, they are not asking for the whole loaf, or even half a loaf, but only for a fifth, a thin slice, of what this Nation should be providing them in the way of retirement and disability benefits. For the sake of equity and honor, I urge my colleagues to support this legislation.

By Mr. WALLOP:

S. 2809. A bill to amend section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision for lands devoted to solid waste disposal, and for other purposes; to the Committee on Energy and Natural Resources.

RECREATION AND PUBLIC PURPOSED AMENDMENT ACT

● Mr. WALLOP. Mr. President, on March 21 of this year, I rose in this Chamber to introduce legislation (S. 2202) that would resolve a solid waste disposal problem experienced by Western States. That legislation would amend Recreation and Public Purposes [R&PP] Act of 1926 by authorizing the Secretary of the Interior to issue certain patents without the usual reverter provision required by section 3 of the act (43 U.S.C. 869-2).

Today, I offer a second proposal addressing this same critical issue, very similar to S. 2202, that contains refinements which I feel are positive improvements toward the same objective of assisting States, counties, and municipalities throughout the West, and particularly my home State of Wyoming, secure adequate lands for the purposes of solid waste disposal.

This bill, too, would authorize the issuance of patents of public lands managed by the Bureau of Land Management [BLM] with a limited reverter provision. It would expressly apply to lands that will be used for the purposes of solid waste disposal or lands which will be used for purposes that may result in the release of hazardous substances. The refinements I mentioned earlier are not only of technical and clarifying nature; they include language which provides that the Secretary of the Interior shall take steps to ensure new landfill sites that are transferred will be free of hazardous substances. This legislation has been reported out by the House Interior Committee and is presently awaiting action by the full House of Representatives.

It should be pointed out that a bipartisan group of Governors from twelve Western States passed, unanimously, a resolution in support of this kind of initiative. The Governor of Wyoming, the Honorable Mike Sullivan, recently wrote to me reiterating his support on this bill by saying, "Many Wyoming communities are directly impacted by Federal land management activities. For communities surrounded by Federal lands, solid waste disposal site options rely on the availability of adequate sites that can be economically obtained and managed. For some communities, Federal lands represent the only option * * * I support the proposed legislation that will allow the moratorium to be lifted. The ability to meet the solid waste landfill needs of Wyoming Communities will be significantly impacted unless new leases or patents can be processed under the R&PP Act."

The National Association of Counties also fully endorses this proposal and has so stated its support in testimony presented to the House "that this legislation, which is vital to local governments, be acted on and passed before the 100th Congress adjourns." I would also add that the administration supports this bipartisan legislation.

Mr. President, the R&PP Act's contributions through the years to small- and medium-sized communities can be vividly seen across the West. Since 1926, the Recreation and Public Purposes Act has been the vehicle by which lands have been made available at affordable rates to local governments to help meet local needs for schools, libraries, parks, and other worthwhile public purposes. With the committed intent of halting unrestricted garbage dumping on our Nation's public lands, amendments were enacted by Congress in 1954 so that many communities could obtain lands under the act for the purpose of establishing and operating sanitary landfills.

Mr. President, there are approximately 335 landfills on public land in operation in the West today. In my own State, there are 36 such sites. BLM has provided areas needed for landfills at low and certainly affordable rates to local governments along with the provision for proper local government management of the waste sites. The R&PP Act requires that all patents issued for a recreation and public purpose lease contain a reverter clause in the event that lands are used for a purpose other than that for which they were conveyed. However, as now written with the present reverter clause, there is a considerable potential responsibility for BLM where hazardous wastes are unlawfully deposited at such sites and for management costs related to compliance with the new statutes.

It is for this reason, because of the potential liability to the Federal Government under the Resource Conservation and Rocovery Act of 1976, as amended—42 U.S.C. 6901-6987—and the Comprehensive Environmental Response, Compensation and Liability Act of 1980—42 U.S.C. 9601-9656—that the Bureau of Land Management has placed a moratorium in effect since 1987 on the issuance of leases or patents for landfills under the R&PP Act. Local and State governments together with the Environmental Protection Agency are best qualified to manage waste disposal sites and facilitate cleanup of hazardous waste sites. BLM, a multiple-use land management organization, is not staffed with the degree of expertise needed and is not eligible for Superfund moneys needed to handle contaminated areas.

My bill, Mr. President, would cut to the crux of this solid waste disposal matter in our Western States by amending the reverter language in the act, and incorporating the proper, essential safeguards, thereby allowing the Bureau of Land Management to lift its moratorium.

Mr. President, before I explain further what my bill would do, I think it is important to elaborate on what the bill would not do.

My legislation will not release the BLM from any currently existing responsibility or liability. The bill would not affect the applicability and operation of CERCLA or RCRA. It would not relieve BLM of its present responsibility stemming from the use of the lands prior to the time the lands are transferred under the act without a reverter, or prior to the removal of the reverter in existing patents. Moreover, the limited reverter would apply only to lands intended for use as landfills or for other activities that might involve the release of hazardous substance.

I must state unequivocally, Mr. President, that this legislation does not represent some sort of edict from the Federal Government placing local elected officials in an either/or decision posture. This bill would not force county and municipal governments into anything.

As a synopsis of what is to be achieved by enactment of this good government action, the bill would authorize the Secretary of the Interior to issue patents with a limited reverter provision. In situations where patents have already been issued with the reverter clause, and the lands are found to have been used for solid waste disposal or other purposes related to the release of hazardous substances, the Secretary would be authorized to release that reverter. Also, at the request of a lessee of lands used for solid waste disposal or potential release of hazardous wastes, the Secretary would be authorized to patent those lands to the lessee without a reverter provision.

Mr. President, it is imperative that the Senate review and act upon this legislation before sine die adjournment. The issue of solid waste disposal is far too serious for this Chamber to handcuff local communities by inaction on this measure. Members of this body have had to make many tough decisions in the recent past about assistance programs targeted to State and local governments. We have had to bite the bullet on the distribution of Federal expenditures and we have done so. This bill, Mr. President, provides a unique opportunity to keep one such assistance program viable for years to come because it conveys a commodity much more valuable than hard currency—it conveys land.

It is my belief that this bill gives the Secretary of the Interior the essential authority to remove reverter clauses in patents for lands for solid waste disposal and to convert to patents leases on sanitary landfill sites. I also firmly hold that this bill is the best alternative available to assure that much-needed landfill sites can again be available to small communities which seek primary control over their operation and maintenance.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD. In addition, I ask unanimous consent that the examples of how the R&PP Act can help communities in need of solid waste disposal sites be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Recreation and Public Purposes Amendment Act of 1988".

SEC. 2. AMENDMENT.—Section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2) is redesignated as subsection 3(a) and the following new subsections are added at the end thereof:

"(b) NEW DISPOSAL SITES.—(1) Notwithstanding the provisions of subsection (a) of this section, if the Secretary receives an application for conveyance of land under this Act for the express purpose of solid waste disposal or for another purpose which the Secretary finds may include the disposal, placement, or release of any hazardous substance, the Secretary may convey such land subject only to the provisions of this subsection.

"(2) Prior to issuance of any conveyance of land under this subsection the Secretary shall investigate the land covered by an application for such conveyance to determine whether or not any hazardous substance is present on such land. Such investigation shall include a review of any available records as to the use of such land and all appropriate analysis of the soil, water and air associated with such land. No land shall be conveyed under this subsection if such investigation indicates that any hazardous substance is present on such land.

"(3) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has furnished evidence, satisfactory to the Secretary, that a copy of the application and information concerning the proposed use of the land covered by the application has been provided to the Environmental Protection Agency and to all other State and federal agencies with responsibility for enforcement of State and federal laws applicable to lands used for the disposal, placement, or release of solid waste or any hazardous substance.

"(4) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has given a warranty that use of the land covered by the application will be consistent with all applicable State and federal laws, including laws dealing with the disposal, placement, or release of hazardous substances, and that the applicant will hold the United States harmless from any liability that may arise out of any violation of any such law.

"(5) A conveyance under this subsection shall be made to the extent that the applicant has demonstrated to the Secretary that the land covered by an application meets all applicable State and local requirements and is appropriate in character and reasonable in acreage in order to meet an existing or reasonably anticipated need for solid waste disposal or for another proposed use that the Secretary finds may include the disposal, placement, or release of any hazardous substance.

"(6) A conveyance under this subsection shall be subject to the following conditions—

"(A) Except as otherwise provided in subparagraph (D) of this paragraph, the document of conveyance shall contain a limited reverter which shall become a permanent reverter unless substantially all of such lands have been used for the purpose or purposes specified in the application on or before the date five years after the date of conveyance.

"(B) In the event that at any time after such conveyance any portion of such lands has not been used for the purpose or purposes specified in the application, and the party to whom such lands were conveyed by the Secretary shall transfer ownership of such unused portion to any other party, the party to whom such lands were conveyed by the Secretary shall be liable to pay the Secretary, on behalf of the United States, the fair market value of such transferred portion as of the date of such transfer, including the value of any improvements thereon. All amounts received by the Secretary under this subparagraph shall be retained by the Secretary and used for the management of public lands and shall remain available until expended.

"(C) Pricing for conveyances of land under this subsection shall be in accordance with the provisions of section 2 of this Act, except that no compensation shall be required for the inclusion of only the limited reverter specified in this paragraph.

"(D) Each patent issued under this subsection shall specify that no portion of the lands covered by such patent shall under any circumstances revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the Secretary finds may result in the dipsosal, placement, or release of any hazardous substance.

"(7) For purposes of this section the term "hazardous substance" has the same meaning as such term has when used in the Comprehensive Environmental Response, Compensation, and Liability act (42 U.S.C. 9601 et seq.).

"(c) EXISTING DISPOSAL SITES.—(1) Upon the application or with the concurrence of any party to whom the Secretary, prior to the date of enactment of this subsection, conveyed land under this Act, the Secretary may renounce the reversionary interests of the United States in such land, or portion thereof, if the Secretary finds that such land, or portion thereof, has been used for solid waste disposal or for any other purpose which the Secretary finds may result in the disposal, placement, or release of any hazardous substance, and the Secretary may rescind any portion of any patent or other instrument of conveyance inconsistent with such renunciation. After such renunciation, affected lands shall not under any circumstances revert to the United States by the operation of law, and shall cease to be subject to the provisions of subsection (a) of this section.

"(2) Upon the application or with the concurrence of a party to whom the Secretary, prior to the date of enactment of this subsection, leased lands pursuant to this Act, the Secretary may convey in fee the lands covered by such lease or any portion thereof which have been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance. Notwithstanding any other provision of this Act, a patent issued pursuant to this paragraph shall not contain a reverter provision and the lands covered by such patent shall not under any circumstances revert to the United States by operation of law after the issuance of such patent and shall not be subject to the provisions of subsection (a) of this section."

SEC. 3. SAVINGS CLAUSE.—Nothing in this Act or the amendments made thereby shall be construed to affect the applicability and operation of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) as amended, and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended.

BUREAU OF LAND MANAGEMENT,
Washington, DC.

EXAMPLES—HOW CAN THE R&PP ACT HELP COMMUNITIES IN NEED OF SOLID WASTE DISPOSAL SITES?

ARIZONA

The City of Prescott, Arizona received 400 acres under the Recreation and Public Purposes Act for an area to be called Pioneer Park with some of the lands to be developed as a golf course. The City's present landfill will run out of space in 14-15 months. The City would like to use as a landfill site some of the land at Pioneer Park that is acquired for a golf course.

When that acreage is full, in 4½ to 5 years, the City would develop it as a golf course. In the meantime it would use the money it would have used to acquire a new landfill site toward the development of recreation facilities at Pioneer Park.

The moratorium does not permit changing the use of Pioneer Park to a landfill site, even temporarily. H.R. 4362 would resolve this problem.

COLORADO

Park County, Colorado has a population of 6,000. Fifty-one percent of the County, amounting to 716,000 acres, is federally owned. The economy, which is related to mining and formerly to ranching, is depressed. Much of the land is being subdivided and offered for sale as recreation homesites. Sales are mainly speculative.

The existing landfill was leased to the County under the Recreation and Public Purposes Act in 1967. It will reach its capacity within 1 or 2 years. Adjacent public land is suitable and available for expansion of the landfill. The County has been working to acquire fee to the existing landfill and adjacent land. It could acquire sufficient land to extend the life of the landfill to several years, if favorable terms were available.

The moratorium prevents this from happening. H.R. 4362 would resolve this problem.

Chaffee County, Colorado has a population of 13,000. Seventy-six percent of the County, amounting to 505,000 acres, is federally owned. The economy, which is related to mining and ranching, is depressed. Much of the land is being offered for recreation homesites, with prices kept high for speculative reasons.

The County leased the present landfill under the Recreation and Public Purposes Act in 1974. The site will reach capacity in 2 or 3 years. Up to 120 acres of public land adjacent to the site will reach capacity in 2 or 3 years. Up to 120 acres of public land adjacent to the site is suitable and available for landfill purposes. The part of the existing site that is already full is used for a County equipment yard. The County is interested in acquiring in fee both the existing site and all or part of the adjoining land if favorable terms could be offered.

The moratorium prevents this from happening. H.R. 4362 would resolve this problem.

IDAHO

Oakley, Idaho developed a 5 acre landfill on public land under verbal authority and spent about $20,000 on development, including a chain link fence around the site. The landfill site serves a community of 665 people and surrounding area of about 15 miles.

The moratorium prevents authorizing this existing site. H.R. 4362 would resolve this problem.

Custer County, Idaho. The people in the southeast part of Custer County are presently using for waste disposal an open pit in a drainage with no fencing or provisions for periodic earth covering. If this is closed, the alternative for the county is to haul the refuse to the Challis landfill some 60 road miles to the northwest. The County has approached BLM for a site in Big Lost River Valley and another in Pahsimeroi Valley. These 2 sites would serve an area of about 900 square miles including 11 communities and 1,800 people.

The moratorium prevents conveying landfill sites at this time. H.R. 4362 would resolve this problem.

Lincoln County, Idaho recently closed a 20-acre landfill site on Bureau of Land Management lands because it is full. It has another landfill on private lands that is not in compliance. There is no room for expansion. The County, which encompasses 769,600 acres, is looking for two 40-acre sites to serve 3 communities and surrounding rural areas with a population of 3,450.

The Bureau of Land Management cannot convey land to the County under the Recreation and Public Purposes Act at this time because of the moratorium. H.R. 4362 would resolve this problem.

SOUTH DAKOTA

Sturgis, South Dakota has a slightly different problem. It needs approximately 5 acres adjacent to an existing sewage lagoon for expansion. The lands are within a withdrawal for Ft. Mead Military Reservation which segregates them from disposal under the Federal Land Policy and Management Act but not from the Recreation and Public Purposes Act. While the injunction in the National Wildlife Federation v. Burford lawsuit prevents removal of the tract from the withdrawal, even if that issue is resolved, conveyance could not be made because of the moratorium. H.R. 4362 would resolve this problem.

NEW MEXICO

In New Mexico 12 communities have leased a total of 17 landfill sites for which they would like to acquire title. At least 6 of the communities cannot afford to pay full fair market value. Transfer of sites to the communities under the Recreation and Public Purposes Act cannot be accomplished because of the moratorium. H.R. 4362 would resolve this problem.

UTAH

In Utah 10 towns or cities and 11 counties, with populations ranging from 100 to 25,000, have leased public lands for landfill sites. These range in size from 5 acres to 500 acres. Many of the towns, cities and counties would like to acquire title to the landfill sites under the Recreation and Public Purposes Act. This is impossible at this time because of the moratorium. H.R. 4362 would resolve this problem.

WYOMING

In Wyoming there are 7 communities which are leasing lands under the Recreation and Public Purposes Act. They would like to acquire fee title to the sites but cannot do so because of the moratorium in effect as to Bureau of Land Management lands. These communities cannot afford to pay full fair market value for the landfill sites:

Eden Valley Solid Waste Disposal District serves 2 farming communities of approximately 500 people.

Teton County, a community of approximately 800 people, has the City of Jackson landfill. It also serves Teton and Yellowstone National Parks which brings its trash to this facility.

Sublette County, a community of approximately 1,500 people, uses the City of Pinedale Sanitary Landfill.

Fremont County Solid Waste Disposal District maintains the Shoshoni Landfill which serves approximately 1,000 people and the Atlantic City Sanitary Landfill serves a community of approximately 500 people.

Fremont County Solid Waste Disposal District is seeking land for the expansion of the Lander landfill which serves a community of approximately 7,000 people.

Town of Granger is seeking a landfill site to accommodate the community of approximately 500 people. This transfer is also enjoined by the National Wildlife Federation lawsuit. However, even absent the injunction, conveyance under the Recreation and Public Purposes Act could not be made because of the moratorium. H.R. 4362 would resolve this problem.●

By Mr. BOND (for himself, Mr. MCCAIN, Mr. GORE, and Mr. DANFORTH):

S.J. Res. 381. Joint resolution to designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery"; to the Committee on the Judiciary.

FIRE SAFETY AT HOME DAY

● Mr. BOND. Mr. President, earlier this year in St. Louis, a 3-year-old girl and her 2-week-old sister were killed in an apartment fire. One of the smoke detectors did not work, the other had no battery. If the two smoke detectors in the apartment had been working, the children might have been saved. Fire safety experts tell us this tragedy and thousands like it could be avoided.

Every year approximately 500,000 fires occur in homes throughout the United States. These fires result in over 6,000 deaths and another 300,000 severe injuries.

In recent years most Americans have heeded the warnings of fire safety experts and installed smoke detectors. Currently, three out of four American households have at least one smoke detector. Unfortunately, as many as half of these alarms are useless because they have not been properly maintained. Their owners have allowed the batteries to wear down or have removed them completely.

The joint resolution I am introducing today with Senators McCain, Danforth and Gore designates October 30, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery," and urges all Americans to take a moment on October 30 while they are resetting their clocks from daylight-saving time to inspect their home fire safety devices. This simple act, which takes only seconds, can mean the difference between life and death.

I urge my colleagues to join us as cosponsors of this joint resolution.●

ADDITIONAL COSPONSORS

S. 473

At the request of Mrs. Kassebaum, the name of the Senator from Nevada [Mr. Hecht] was added as a cosponsor of S. 473, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 1346

At the request of Mr. Matsunaga, the name of the Senator from North Dakota [Mr. Conrad] was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 2330

At the request of Ms. Mikulski, the name of the Senator from Arkansas [Mr. Bumpers] was added as a cosponsor of S. 2330, a bill to promote the integration of women in the development process in developing countries.

S. 2395

At the request of Mr. Wirth, the names of the Senator from Alaska [Mr. Murkowski], and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of S. 2395, a bill to facilitate access to space, and for other purposes.

S. 2409

At the request of Mr. Bumpers, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of S. 2409, a bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate any portion of any overpayment of income tax, and to contribute other amounts, for payment to the national organ transplant trust fund, and for other purposes.

S. 2572

At the request of Mr. Bentsen, the name of the Senator from Kansas [Mr. Dole] was added as a cosponsor of S. 2572, a bill to amend title XVIII of the Social Security Act to recognize as an allowable cost under the medicare program the reasonable costs incurred by a provider in conducting, by contract with an educational institution, certain approved educational activities under a postgraduate nursing program, and for other purposes.

S. 2698

At the request of Mr. Dodd, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 2698, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 2756

At the request of Mr. Cranston, the name of the Senator from New Jersey [Mr. Bradley] was added as a cosponsor of S. 2756, a bill entitled the "Anti-Apartheid Act Amendments of 1988."

SENATE JOINT RESOLUTION 301

At the request of Mr. Wirth, the name of the Senator from South Carolina [Mr. Hollings] was added as a cosponsor of Senate Joint Resolution 301, a joint resolution designating January 20, 1989, as "National Skiing Day."

SENATE JOINT RESOLUTION 355

At the request of Mr. Heflin, the names of the Senator from Rhode Island [Mr. Pell], the Senator from New Hampshire [Mr. Humphrey], and the Senator from Indiana [Mr. Quayle] were added as cosponsors of Senate Joint Resolution 355, a joint resolution designating October 7, 1988, as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 361

At the request of Mr. Pell, the names of the Senator from Wyoming [Mr. Wallop], and the Senator from Kentucky [Mr. Ford] were added as cosponsors of Senate Joint Resolution 361, a joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

SENATE JOINT RESOLUTION 363

At the request of Mr. Sarbanes, the name of the Senator from Washington [Mr. Evans] was added as a cosponsor of Senate Joint Resolution 363, a joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week."

SENATE JOINT RESOLUTION 373

At the request of Mr. Byrd, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of Senate Joint Resolution 373, a joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week."

SENATE JOINT RESOLUTION 377

At the request of Mr. Roth, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of Senate Joint Resolution 377, a joint resolution proposing an amendment to the Constitution regarding Federal taxation of State obligations.

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. Moynihan, the names of the Senator from Michigan [Mr. Levin], the Senator from Tennessee [Mr. Sasser], the Senator from New Jersey [Mr. Lautenberg], the Senator from New Jersey [Mr. Bradley], the Senator from West Virginia [Mr. Rockefeller], the Senator from Hawaii, [Mr. Inouye], the Senator from Ohio [Mr. Glenn], the Senator from Tennessee [Mr. Gore], the Senator from Maryland [Ms. Mikulski], and the Senator from South Carolina [Mr. Hollings], were added as cosponsors of Senate Concurrent Resolution 55, a concurrent resolution providing for participation by delegations of Members of both Houses of Congress in ceremonies to be held in April 1989, in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of President George Washington, and the proposal of the Bill of Rights as the first 10 amendments to the Constitution.

AMENDMENTS SUBMITTED

MINIMUM WAGE LEGISLATION

PRESSLER AMENDMENT NO. 3045

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; as follows:

At the end of the bill, add the following new section:

SEC. 5. PAY OF MEMBERS OF CONGRESS.

(a) Short Title.—This section may be cited as the "Congressional Pay Accountability Act of 1988".

(b) Congressional Vote on Presidential Recommendations To Increase Congressional Rates of Pay.—Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF PRESIDENTIAL RECOMMENDATIONS; CONGRESSIONAL VOTE ON INCREASES IN CONGRESSIONAL RATES OF PAY.—(1)(A) Except for the recommendations relating to Members of Congress (which shall be subject to the provisions of paragraph (2)), the recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in subparagraph (B) of this paragraph, unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date on which such recommendations are transmitted to the Congress.

"(B) The effective date of the rate or rates of pay which take effect for an office or position under subparagraph (A) of this paragraph shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in such paragraph.

"(2)(A) The recommendations of the President relating to the rates of pay of Members of Congress which are transmitted to the Congress under subsection (h) of this section shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of such recommendation to increase the rate of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) For purposes of this paragraph the term "Members of Congress" includes all positions described under section 225(f)(A), except for the Vice President of the United States.".

(c) Congressional Vote to Increase Congressional Rates of Pay with Increases in the General Schedule.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Any increase in the rate of pay of Members of Congress which corresponds to an increase in the rates of pay in the General Schedule under section 5305 of title 5, United States Code, in any fiscal year shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of the increase in the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) If a joint resolution is enacted as provided under subparagraphs (A) and (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which such joint resolution is enacted, each annual rate of pay of Members of Congress shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under section 5305) of the adjustment in the rates of pay under the General Schedule.".

(d) Congressional Vote on any Increase in the Rate of Pay of Members of Congress.—(1) Notwithstanding any other provision of law, any increase in the rate of pay of Members of Congress shall become effective only after the enactment of a joint resolution as provided in subsection (b).

(2) The joint resolution described under subsection (a) shall—

(A) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(B) be recorded to reflect the vote of each Member of Congress thereon.

NOTICES OF HEARING

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. METZENBAUM. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources.

The hearing will take place Thursday, September 29, 1988, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 1998, a bill to regulate interstate natural gas pipelines providing transportation service which bypasses local distribution companies and to encourage open access transportation by local distribution companies at cost-based rates; and S. 2313, a bill to coordinate the regulatory authority of the Federal Energy Regulatory Commission with that of State or local regulatory agencies relative to service which would bypass local utility service and to facilitate the resolution at the State or local regulatory level of competition policy issues relating to local service.

For further information, please contact Joel Saltzman, staff counsel, at (202) 224-7932.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, September 19, to receive testimony concerning the effect of global atmospheric change on domestic forest resources.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, September 19, to receive testimony from Jerry J. Langdon, Charles G. Stalon, and Charles A. Trabandt, President Reagan's nominees to be members of the Federal Energy Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

RECOGNITION OF PADUCAH POWER SYSTEM

● Mr. FORD. Mr. President, on behalf of Paducah Power System and the citizens of Paducah, KY, I would like to recognize the contributions of public power systems across the country in conjunction with the American Public Power Association's celebration of Public Power Week, October 9-15.

Paducah Power provides homes, businesses, farms, social services, and local government agencies with reliable, efficient and cost-effective electricity employing sound business practices designed to ensure the best possible service at the lowest possible rates.

Public ownership assures not-for-profit electric rates and citizen participation in electric utility operations and policies.

Let me add that Paducah Power System is one of a community of 2,204 publicly owned electric utilities in the United States, ensuring competition in the electric utility industry and benefiting all electric consumers.

So let us honor today the utility, its employees, and its consumer-owners who work together to provide the best possible electric service as Paducah joins hands with others served by locally owned and operated electric systems in a nationwide celebration of the public benefits of public power.●

THE HATCH ACT

● Mr. BIDEN. Mr. President, today I am announcing my support for H.R. 3400, the Hatch Act reform bill, that was recently reported by the Governmental Affairs Committee. Federal employees, like all Americans, have a compelling interest in their Nation's policies. While I believe we must preserve the integrity of our civil service by safeguarding Federal neutrality in elections, the Hatch Act currently goes too far in limiting the rights of Federal employees and postal workers to take part in our political process.

As amended by the Governmental Affairs Committee, H.R. 3400 would help correct that imbalance. It would permit off-duty Federal and postal employees to participate in Presidential caucuses, stuff envelopes, work phone banks, pass out campaign literature, serve as officers of political parties, and become campaign officials for candidates.

At the same time, however, the bill keeps in place important safeguards to ensure the integrity of our political process. Federal employees could not solicit contributions for partisan candidates or engage in political activities while they are on duty.

H.R. 3400 would also help eliminate the problems created by confusing and oftentimes ambiguous interpretation of the Hatch Act. As a result of these vagaries and inconsistencies, Federal employees are frequently reluctant to exercise their full constitutional rights. H.R. 3400 would establish a firm set of easily understood guidelines.

The Governmental Affairs Committee did an outstanding job in coming up with this bill. H.R. 3400 is an excellent bill which has very strong support in this Senate. I believe its support is strong enough to overcome a possible Presidential veto, although I hope that will not be necessary. I urge debate to be scheduled as soon as possible, so that we can vote on this important matter before the end of the 100th Congress.●

ROBERT McFARLANE ON SDI

● Mr. JOHNSTON. Mr. President, as the House and Senate conferees begin the Defense appropriations conference this week, we are once again reminded of the President's veto of the Defense authorization bill.

A major reason, we are told, for the President's veto was Congress' treatment of SDI, in particular the restriction of the space-based interceptor [SBI] to $85 million when the administration requested about $300 million.

On August 2, Vice President BUSH criticized Congress for this provision that would deemphasize the space-based interceptor. He said:

> The technology isn't the problem, that's progressing faster than its most ardent supporters ever dreamed—it's the Democrats in Congress that are dragging their feet, for instance, cutting the space-based interceptor appropriations from over $300 million to $85 million and boasting they've "taken the stars out of star wars."

Well, it is not just Congress that thinks SBI is a dead end. And it is not just experts such as Dr. Harold Brown, George Miller of Lawrence Livermore Labs, and group after group of scientists, who have examined the issue.

In the latest issue of Foreign Affairs, Robert McFarlane, former national security adviser to the President, says:

> Insofar as space-based kinetic-energy weapons appear to be vulnerable to straightforward countermeasures, that approach should be deemphasized.

This is an astounding comment, considering the identity of the author. Mr. McFarlane was an original architect of SDI. He testified that he was the first person to talk to the President about pressing for a strategic defensive initiative. According to Dr. Simon Ramo, McFarlane was one of only six people, including the stenographer, who first knew about the President's decision on SDI. It was McFarlane who first publicly announced the so-called broad interpretation of the ABM Treaty to permit SDI testing and perhaps deployment to go forward.

Here is what else he says in the article:

> In short, the answer to the first threshold question—Can defensive technologies provide the means to defend us against ballistic missile attack?—Is that we do not know and cannot know for the next 10 to 15 years.
> * * * Because there is no current basis for confidence that a survivable defensive shield is within reach, and in view of the very substantial problems of political, economic, and military stability attendant to making a commitment to such a shield, the adoption of a defensive doctrine, even as a goal, would be imprudent.

Mr. President, writing this took courage and I commend Mr. McFarlane for his courage.

In his piece McFarlane laments the "misleading simplicity" that attended the announcement of SDI and the way it "exploited popular antinuclear aspirations."

Unfortunately, that simplicity and manipulation of public fears and aspirations continue today.

Those who refuse to worship on their knees at the altar of SDI are weak on defense, say the high priests of this cult. Nonsense. McFarlane's article helps reveal the flim-flam behind the curtain.

I do not agree with everything in his piece, but most of my disagreements are questions of budgetary affordability. I encourage my colleagues to read his article.

I ask that the article entitled, "Effective Strategic Policy," from the fall issue of "Foreign Affairs," be inserted in the RECORD at this point.

The article follows:

[From Foreign Affairs, Fall, 1988]

EFFECTIVE STRATEGIC POLICY

(By Robert C. McFarlane)

The past eight years have been a time of enormous flux in those strategic factors that affect stability among the great powers in Europe, Asia and North America. Some of the changes offer the possibility of reduced tensions in East-West relations; others, involving differences among allies or within the U.S. government, are deeply worrisome. This period of change is not over. Within the next year, decisions must be made regarding virtually every important area of American defense policy, from nuclear doctrine to the conventional balance in Europe.

Moreover, the Soviet Union is in the throes of generational change in its leadership. Self-interest alone would have led General Secretary Mikhail Gorbachev to attempt reforms that are essential to any hope of the Soviet Union's achieving sustainable increases in productivity and output. We cannot know whether he will succeed in carrying out fundamental reform of the party's control over the economy. But whether or not he succeeds, for the West the question is: What changes, if any, are in store in Soviet foreign policy?

In the short term (five to ten years), we can probably look forward to a period of gradual improvement in U.S.-Soviet relations. Gorbachev needs to focus on the resolution of internal problems, and he wants access to Western help. He can best achieve this through "good behavior"; hence his self-interested desire for a period of calm.

I am skeptical about the probability of any fundamental reorientation in Soviet global purposes before the turn of the century, if then. But because we cannot divine the future, U.S. strategic policy ought to be guided by a realistic evaluation of Soviet military capabilities—which remain formidable in every area: strategic offensive, defensive and conventional.

Some analysts believe that we can expect a cutback in the level of resources the Soviets will direct to their defense establishment. This may be small cause for comfort, however, because the motive for any cutback in military investment—if there is a cutback—seems likely to be to assure future military competitiveness, not a retrenchment in expansionist goals or a diminution of the power of the military in the state. How, then, should we proceed?

II

The goal of our nuclear strategy has been to convince the Soviet leaders that it would never make sense for them to initiate a strategic nuclear conflict, because of the survivability and retaliatory capacity of U.S. forces. In designing this capacity for our forces we have had to keep in mind that the Soviet Union might well discover an effective means to neutralize a particular system or technology, e.g., our land-based intercontinental ballistic missiles (ICBMS). Consequently, the United States has been careful not to put all its eggs into a single basket; instead it has followed a policy of maintaining a triad of forces comprised of ballistic missiles deployed both on land and at sea, and bomber aircraft, some armed with cruise missiles.

Our reliance through the years on the ability to threaten a credible, devastating offensive counterattack—the concept of deterrence, as opposed to defending against an incoming missile attack—has been the subject of periodic debate. The 1972 agreements of the Strategic Arms Limitation Talks (salt) capped this debate for a time. In those agreements, the two sides decided to limit strategic offensive missile launchers and, in the Anti-Ballistic Missile (ABM) Treaty, to forgo the significant defense of those forces or of populations. At the time, America's readiness to accept this decision reflected our hope that the Soviet Union would adopt as doctrine the principle that an approximate balance of forces and mutual vulnerability could provide for stable mutual deterrence. It also reflected the practical reality that the state of the art in defensive technologies made effective defense infeasible.

There were important but unstated American qualifications concerning what constituted "balance." Specifically, our postwar military strategy rested not only on nuclear deterrence, but on collective security as well, through the maintenance of strong alliances. In Europe our strategy—called flexible response—sought to compensate for a conventional military imbalance favoring the Soviet Union by committing, in advance, American nuclear forces to be used to check and then reverse any potentially decisive Soviet conventional breakthrough.

For as long as the United States held an indisputable speriority in nuclear arms vis-a-vis the Soviet Union, the credibility of our stated willingness to use it was largely moot; we were unlikely to be challenged. But starting in the mid-1970s, with the advent of rough nuclear parity between the two sides, inevitable doubts began to emerge on both sides of the Atlantic as to the credibility of

America's willingness to risk its own nuclear devastation over a conflict in Europe.

These doubts led to U.S. efforts to lend credibility to our pledges of nuclear intervention. One such measure was to move away from reliance, in our targeting doctrine, on the threat to destroy Soviet cities, and instead to make clear our capability and intention to maintain survivable, highly accurate systems that could attack Soviet military targets in Europe and elsewhere. We also modified our strategy to include plans for the possible execution of "limited nuclear options"—for attacking Warsaw Pact and other military targets discretely—while maintaining better control over the pace and character of escalation.

In addition, faced in the late 1970s with the Soviet deployment in the western U.S.S.R. of SS-20 intermediate-range missiles armed with multiple independently targeted reentry vehicles (mirvs) that could target all of Western Europe, NATO decided in December 1979 to deploy its own corresponding capability, although in much smaller measure. It was to consist of 108 U.S.-built Pershing 2 ballistic missiles and 464 ground-launched cruise missiles (GLCMs) stationed in Western Europe.

These missiles, which were to be targeted on the Soviet Union, were ostensibly meant to deter the Soviet SS-20 force. But the more plausible NATO motive was to link any European conflict more concretely to U.S. strategic nuclear weapons. It was assumed that if we had already crossed the nuclear threshold by using Pershings and/or GLCMs in Europe—an act that Europeans assumed would be easier for us than launching ICBMs from North Dakota were the Soviets to cross the East-West frontier—then the decision to launch central strategic systems against targets deep inside the Soviet Union would be less anguishing. If the Soviets appreciated such calculation, deterence would be enhanced.

These several actions—the revision of our nuclear doctrine, the development of limited nuclear options and the deployment of intermediate-range nuclear forces in Europe—were designed to strengthen American credibility at both the nuclear and conventional levels.

The doctrine was fine. But it was dogged by our inability to maintain survivable, responsive and effective nuclear forces to back it up. In a nutshell, our 550 Minuteman III ICBMs, each armed with three warheads, were our only responsive missiles with sufficient accuracy and high enough nuclear yield to threaten hardened Soviet missile silos and most other military targets. But the Minute man III force was too small to hold at risk a significant percentage of the Soviet target base. And it was deployed in fixed silos that were becoming ever more vulnerable to a Soviet attack.

In the mid-1970s, the Soviets took two actions that made matters worse. First, they built a very large force of new ICBMs (the SS-18 and SS-19 missiles, carrying ten and six warheads respectively) that were capable of destroying our silos and hardened military targets. Second, the Soviets hardened their own missile silos so as to reduce their vulnerability to attack. By the end of the decade, the Soviet Union had raised an alarm in the United States: Would the U.S.S.R.'s advantage tempt it, during a crisis, to destroy most of our counterforce systems in a preemptive strike, leaving us with no options other than surrender or a suicidal attack on Soviet cities? There was also concern that the Soviet Union was carrying out active research and development in defensive technologies.

In sum, within ten years after the SALT I agreements were signed, questions arose regarding the two axioms on which they were based—our hope that the Soviets would come to accept our concept of balance and mutual vulnerability, and our assumption that cost-effective strategic defenses were infeasible.

The United States responded in the mid-1970s by proposing to modernize its ICBM force. We sought to deal with the problems of imbalance and vulnerability by designing a new, highly accurate missile with up to ten warheads, the MX, which we planned to deploy in a basing arrangement that would ensure its survivability. The latter effort focused upon several variations of deceptive or mobile basing. (It should be noted that the Russians have since moved to mobile missiles, the multiple-warhead SS-24 and the single-warhead SS-25, which are currently being deployed.) But in the United States, a considerable popular backlash emerged, as antinuclear sentiment combined with partisan political opportunism and legitimate military criticism to roll back President Carter's plan for a multiple protective shelter deployment mode. This same combination of sentiments subsequently killed a series of basing schemes proposed by President Reagan.

At that juncture in late 1982, with the charged political climate promising continued paralysis, President Reagan appointed the Bipartisan Commission on Strategic Forces (known as the Scowcroft Commission) in an effort to establish a political consensus on the modernization of our strategic nuclear arsenal, especially our ICBM forces. In its report, submitted in April 1983, the commission reconfirmed the conceptual soundness, military effectiveness and technical feasibility of deterrence. It stated clearly that, considering all military, political and economic factors, our best course from now until some time in the early 21st century was to seek to deter a Soviet attack by maintaining a balanced triad of modern, survivable, *offensive* forces. Its program recommendations emphasized the importance of assuring the survivability of all our forces, and especially of moving away from high-value (MIRVed), vulnerable (silo-based) systems in the land-based leg of the triad. The commission proposed instead the development of a small single-warhead missile to be deployed in a mobile configuration (the Midgetman).

III

Two weeks before this report appeared, a major new factor was introduced by President Reagan's Strategic Defense Initiative (SDI). It is now clear that, even before he was elected, the president held the conviction that it was irresponsible to leave Americans exposed to the risk of nuclear devastation, and that scientific discovery could provide the means for effective protection against such a threat. As a corollary, he believed that such a discovery, by devaluing the threat of nuclear attack, could render nuclear weapons "impotent and obsolete." He believed that, ultimately, nuclear weapons could be eliminated from the face of the earth. And at a time when he saw nuclear weapons threatening to proliferate into dozens of countries, he thought an attempt should be made to stem the tide.

The president's SDI proposal of March 23, 1983, raised two threshold questions and a host of subsidiary ones. First, had the state of the art in defensive technologies advanced to the point where it would be feasible in the foreseeable future to defend the entire population, and at tolerable cost? If so, how should that prospect affect our strategy and force planning? Second, could effective defenses make the elimination of offensive nuclear weapons feasible and likely?

The president's speech provoked a firestorm of debate, and the five years since then have been marked by bitter, passionate advocacy and criticism. Concurrently, however, the scientific community has been evaluating the potential of several remarkable discoveries that might be applied to the problem of defeating tens of thousands of incoming objects (warheads and decoys). Initially, these efforts were polarized by, on the one hand, the romantic and manipulative hyperbole of the Administration and, on the other, by the flatly dismissive rhetoric of scientists who should have known better. Since this initial conflict, however, a more sober climate has emerged that makes possible a more objective evaluation of the proper role that defensive technologies might play in the years ahead.

It is useful to enumerate the basic criticisms of defensive concepts: 1) they would only provoke offsetting countermeasures, including expanded and more modern offenses; 2) they would present the appearance to Soviet leaders that we might be aspiring to a first-strike capability—a destabilizing impression that could provoke Soviet preemption; and 3) to the extent that development and testing—not to mention deployment—could involve violation of the ABM treaty, the utility of arms control would be undermined.

Truly impressive gains have been made in the technologies associated with ballistic missile defense since the late 1960s. The most dramatic has been in the technology of battle management—specifically in the speed and problem-solving capacity of computers. With regard to weapons applications, substantial improvements have been made in efficient missile propellants and in guidance systems that make possible high-speed, non-nuclear, ground-based interceptors of greater reliability. Separately, the technology of kinetic-kill systems has advanced considerably and holds a high probability of being adaptable to ground—or space-based platforms within ten years. As for the more exotic technologies—directed-energy and particle-beam systems—much of the information about U.S. programs is classified. But it is fair to say that truly remarkable strides are being made, particularly in the free-electron laser.

Yet there is no basis for saying that any of these systems will be adaptable as effective weapons systems before the turn of the century, except for two traditional ground-based interceptors (called the exoatmospheric reentry vehicle interceptor system, or ERIS, and the high endoatmospheric defense interceptor, or HEDI) and a relatively primitive space-based kinetic-kill system. In short, the answer to the first threshold question—can defensive technologies provide the means to defend us against ballistic missile attack?—is that we do not know and cannot know for the next ten to 15 years.

A critical military weakness of space-based systems is vulnerability to Soviet countermeasures. Ground-based systems such as ERIS and HEDI are susceptible to being easily overwhelmed by Soviet missile warheads, which can be produced relatively cheaply. Systems operating from low earth orbit in space, moreover, are vulnerable to a family of countermeasures, both ground-space-based, at costs that also favor the Soviet Union. Pentagon planners believe that the vulnerability of space-based systems can be overcome by building into each platform a maneuvering capability and other protective measures, but it is not clear that these measures could be adopted at a cost approaching that of the Soviet countermeasures. As a separate matter, there remains the difficult problem of how to enable a U.S. interceptor to distinguish between a real nuclear warhead and thousands of decoys.

The central reason for opposing exclusive reliance upon defensive systems for protection against nuclear attack is that to do so is to misrepresent the character of the threat, and, more cynically, to mislead our own people concerning feasible and sensible options for dealing with it.

It is irresponsible to assert either that, once developed, an instrument of mass destruction can be eradicated or that it portends inevitable catastrophe. To suggest that the Soviet Union, or any other nuclear power facing a nuclear threat, would voluntarily do away with all its own nuclear weapons is to assert that the differences that divide great powers are unimportant matters, of no consequence; that Soviet leaders are not serious about their international ambitions or the defense of their homeland and therefore will not see it as imperative to maintain the most modern weaponry for promoting and defending their national interests. Nuclear weapons cannot be disinvented. The technology essential to the construction of these weapons has spread throughout the world.

The Soviet Union has been deterred from the use of nuclear weapons, and a strong basis exists for believing it will remain deterred if faced with the enduring impossibility of any rational concept of gain. Because there is no current basis for confidence that a survivable defensive shield is within reach, and in view of the very substantial problems of political, economic and military stability attendant to making a commitment to such a shield, the adoption of a defensive doctrine, even as a goal, would be imprudent.

At the same time, a vigorous strategic defense program is very sound policy. A properly structured program is essential to our national security. In the event that an arms control agreement providing for deep reductions in strategic weapons is reached with the Soviet Union, the diminution of the threat measured in terms of Soviet ballistic missile warheads will affect the scale of any strategic defense program designed to deal with it. If we are no longer dealing with many tens of thousands of incoming warheads, but, say, only 5,000 to 10,000, the program requirements for strategic defense should be much more modest.

In this context, it is clear that a review of the SDI program is appropriate. As such a review is undertaken, the concept of strategic defense should be broadened to encompass how to preserve the survivability of each leg of the triad—not just ICBMs—against the putative threat before us.

While there is much to criticize in the misleading simplicity of the Administration's announcement of the SDI program and the way in which it exploited popular antinuclear aspirations, one cannot ignore the positive practical consequences. In truth, the analysis behind the original concept was oriented toward dealing with an intractable military problem—a worsening counterforce imbalance which we appeared unable to check.

While we can argue whether SDI could conceivably deal with this problem and whether, even if it could, other solutions would not be preferable, it must be said that, in retrospect, SDI—as evaluated by the Soviets—seems to have played an important role in leading the U.S.S.R. to engage seriously in an effort to meet our concerns over the counterforce imbalance. In addition, the prospect of SDI may have been an important influence in encouraging Kremlin leaders to reassess their economic system's fundamental ability to compete, in leading them to the ultimate conclusion that it could not, and in bringing about their acceptance of the need for perestroika.

For those of us involved in shaping the original SDI proposal, two conclusions stood out regarding the ability of the United States to restore and preserve a stable balance of offensive systems.

First, the United States had been reduced to competing on terms according to which the Soviet Union enjoyed a comparative advantage—that is, in building and deploying ICBMs. The problem was not that we could not build as good a missile, but that we could not fashion a political consensus behind a deployment plan, so divisive were the effects of partisanship, environmentalist opposition, legitimate military misgivings and antinuclear sentiment.

Second, those of us in the White House who proposed the Strategic Defense Initiative believed that a reorientation of our investment strategy to emphasize an area of our comparative advantage—excellence in high technology—could persuade the Soviets that we could outstrip an entire generation of Soviet military investment. If we could do so, we would remove their only claim to superpower status and perhaps lead them to deal more constructively with our concerns about their forces. The Soviets' commitment to a 50-percent reduction in their heavy missile launchers and warheads—a possibility they would not discuss seriously until after SDI was proposed—represents a vindication of that strategy.

IV

If a reorientation of our strategic doctrine is infeasible and imprudent at this time, then we must return to the basic task—how otherwise to address the offensive imbalance in a way that enhances overall stability. The goal for U.S. strategic offensive forces is to deter the Soviet Union from committing aggression. This is best assured by our having strategic forces that are survivable, have a short time of flight, are highly accurate and within easy, reliable reach of communications.

Submarine-launched ballistic missiles (SLBMs) fulfill the first two qualifications very well; they are survivable and can reach their targets quickly. The design criteria for the new generation of such missiles, the D-5, include sufficient accuracy and yield to enable SLBMs to attack hardened Soviet military targets successfully. Unfortunately, however, the difficulties in discrete, dispersed targeting inherent in any multiple-warhead missile, when combined with the problematic communications characteristic of submarines, make this a poor weapon of choice. If the goal is high confidence of assuring rapid initial response as well as measured responsiveness through the course of the battle, SLBMs do not fill the bill.

That leaves land-based forces, ICBMs as the only alternative. They possess the requisite accuracy and short flight time, and communications with them are reliable. Survivability is the problem with ICBMs.

Our goal should be to move both sides in the dircetion of more survivable forces. This objective is promoted by reducing the ratio of each side's warheads to the number of aim points on the other side that would have to be attacked in a preemptive strike. By definition, the objective of reducing the warhead/aim point ratio can be approached by reducing the numerator—the size of the Soviet counterforce arsenal—through arms control negotiations, by increasing the denominator by adding American aim points, or by a combination of the two.

It is to President Reagan's credit that he has succeeded in getting Soviet commitment to reductions in its ballistic missile forces, and especially in its heavy, silo-based MIRVed ICBMs (SS-18s). If the current Soviet agreement to reduce this force by 50 percent can be translated into a final agreement while the current warhead/aim point ratio is maintained or lowered, this would represent a very substantial gain for the stability of the East-West nuclear balance. If the Soviets do in fact cut their SS-18 force by 50 percent to 1,540 warheads, stability will improve or remain the same, but only as long as we keep 500 or more aim points on our side. The important issue to keep in mind, however, is the ratio, *with or without arms control.*

But reducing the number of nuclear weapons—decreasing the size of the numerator—is not without its own set of problems. After reductions, we may have no more than 20 ballistic missile submarines in our force and perhaps no more than 12 at sea, instead of as many as 41 boats, with 22 at sea, as in years past. This smaller submarine force would be inherently more vulnerable, simply because the Soviets could concentrate their entire submarine attack force—the size of which is unaffected by the Strategic Arms Reduction Talks (START)—on finding fewer U.S. boats.

Regardless of the outcome of arms control negotiations, the toughest issue remains whether we will make the hard decision today that we have avoided in the past—to make our new ICBS survivable by adopting a deceptive-basing or mobile-deployment scheme (whereby the number of aim points becomes substantially larger).

The choice is complex. We seek to maximize the number of our aim points, and thus survivability, with the least disruption of the civil/environmental setting and the least financial cost. We should proceed from the assumption that within the lifetime of the system we are designing, any START agreement reached may expire. Since, therefore, our missile force could face attack from huge numbers of Soviet ICBMs and/or SLBMs, ideally it should be able to survive an attack without warning. It should be a system that, first and foremost, meets our military requirements; if possible, it should also be compatible with the verification desiderata of sensible arms control agreements.

There are several approaches that, to varying degrees, would fulfill these criteria. Those considered have included horizontal multiple protective shelters (MPS) and closely spaced basing (CSB), both of which were turned aside earlier because of different disadvantages.

Horizontal MPS, proposed in the late 1970s, provided for 200 MX missiles to be moved randomly within a matrix of 2,300 horizontal shelters, each separated from the others by a mile and hardened against 200 pounds per square inch of overpressure. It would have taken at least 4,600 Soviet warheads to barrage such a deployment successfully, and the shelters would have cost between $40 billion and $50 billion to construct. Horizontal MPS would have occupied an enclosed land area of approximately 4,000 square miles.

CSB was based on a different principle: it called for deploying a given number of MX missiles in a corresponding number of silos spaced near to each other. This system relied upon the probability that, if an attack were launched against it, the first incoming warheads would upon detonation, create conditions in which successive waves of the attacking force would be destroyed or would be rendered inoperable for a period of several minutes (a phenomenon called fratricide). It would have required a substantial hardening of the silos to avoid damage to more than one from each single blast and was undermined by uncertainty over largely undemonstrated theories of fratricide effects.

The newer approaches are rail garrison, the so-called carry-hard approach and road-mobile basing.

Under rail garrison, up to 100 MX missiles would be deployed on trains based on military reservations. Current Pentagon thinking calls for the trains to operate outside the bases periodically, without nuclear warheads. In time of tension the trains would operate constantly, moving to prearranged assembly sites for warhead mating once an alert condition was directed. The chief drawback to this system is that it would require a matter of two to three hours to move to full alert. Such warning time may well be available, but to rely on its would be to subvert our historical resistance to a policy of "launch on warning." Throughout the nuclear age the United States has operated its strategic forces in the expectation that we will not have, and should not plan for, more than a few minutes warning. This is why we have kept ballistic missiles submarines on patrol and bombers on alert. There is no reason to alter this planning assumption now, and to do so would be imprudent.

The "carry-hard" MPS plan was designed to deal with a number of criticisms of the horizontal MPS system, notably: the high costs of each shelter due to the need to harden each one; the large land are required; the relative softness of the shelters, even with hardening, due to modifications required to meet verification needs; and persistent doubts over the system's penetrability by Soviet intelligence. The carry-hard version's improvement are achieved by putting each missile in a hardened canister, thus requiring only 100, not 2,300, hardened housings. These hardened canisters (resistant to 10,000 pounds per square inch), with missiles inside, would be moved randomly among over 2,200 shelters, as with the original MPS system, although the shelters would be vertical. As a consequence of the additional hardening, much greater Soviet accuracies would be requried, and each shelter could be separated from its nearest neighbor by as little as 1,500 feet (as opposed to a mile between the shelters in the original MPS plan), thus requiring much less land area—250 square miles as opposed to 4,000 square miles. And unlike the original MPS system, civilian observation would be prohibited to a distance of three miles. This system demonstrates an impressive ability to meet the criterion of assuring high survivabilty, particularly in a strategic climate where warheads are constrained by an arms control agreement. It also withstands higher overpressures and is relatively cheaper.

The road-mobile concept calls for single-warhead Midget-man missiles to be mounted on specially designed trucks and operated from military bases, preferably in the southwestern United States. It provides better survivability then any other system, since its operating area is larger (and therefore the number of Soviet warheads needed to barrage the area would be far greater). The 15-year cost would be about $29 billion for a 500-missile force. Its greatest advantage over the alternative systems is that it would assure survivability against even the most extravagant Soviet threat. If we consider the worst-case threat imaginable—no arms control limitations and a Soviet decision to build to the limit of their capability—only the road-mobile deployment concept would fulfill the survivability criteria.

If, however, a START agreement were to be concluded along the lines of the current U.S. position (but with mobile missiles allowed on both sides), we could improve system survivability under any of these alternative concepts, with the exception of the rail-garrison proposal. The lengthy alert time required by rail garrison would still make it less desirable than the others.

Turning to the modernization of missiles themselves: the basic widson of the Scowcroft Commission's proposal, that a new small single-warhead missile be developed, remains sound. It is also clear, however, that new techniques for updating current systems, and the fiscal realities before us, warrant consideration of alternatives. These include modification of the Minuteman II and/or Minuteman III systems. The Air Force has analyzed the military effectiveness and cost of refurbishing each of these systems. The Minuteman II, which is currently a single-warhead missile, could be modernized by refitting it with new propellant grains and a new third stage, as well as the single warhead and guidance system from the Minuteman III, at a cost of approximately $8.1 billion for 500 missiles. The Minuteman III missile could be modified by downloading two of its warheads at an even smaller cost.

If either alternative were selected, however, we would have a new problem: we would have to declare a system with the demonstrated capacity to deliver three warheads—the Minuteman III system or the upgraded former Minuteman II—to be considered henceforth a single-warhead system; this would lead to inevitable Soviet insistence on reciprocal treatment for their MIRved systems. Unfortunately, even if agreed, the larger throw-weight of Soviet missiles would give them an enormous breakout advantage, were they to cheat by reverting to multiple warheads. For this reason there is a stronger argument for choosing the Midgetman, which is designed at the outset to carry only one warhead. In addition, considerable research and development work has already been done on the Midgetman toward meeting the demanding conditions of road mobility; a converted Minuteman system would likely prove less reliable in this area.

The foregoing analysis might best be summarized by presenting the most desirable approach to meeting the most demanding requirements, and then proceeding by regression to less demanding levels.

If there is no arms control regime and we must deal with an unconstrained Soviet threat, leaving aside fiscal limitations, our best course would be 1) to proceed with the MX, to be deployed in a carry-hard configuration at a force level of at least 100 missiles, and 2) to plan for the deployment of a large Midgetman force—at least 600 missiles—in a road-mobile configuration. Such a deterrent would present an extremely demanding challenge to any Soviet attack, because of the enormous proliferation of aim points to be attacked.

If, however, an arms agreement is concluded at or about the currently proposed warhead levels, and we continue to assume no fiscal constraints, then the 50-missile MX program in silos, augmented by at least a 500-missile Midgetman program in a road-mobile configuration would fulfill our needs.

Proceeding further, however, if fiscal realities and our political process foreclose the expense of proceeding to a $29-billion Midgetman deployment at this time, then the same 50-missile MX program (in silos), paired with a program calling for 500 Midgetman missiles in a carry-head configuration, is the next best choise.

In my judgment, the overall economics argue for going directly to a mobile deployment mode for the Midgetman system. I believe that such a course is affordable without undue damage to other major procurement programs. At the same time, there is certainly room for argument. Putting a Midgetman or upgraded Minuteman force of 500-600 missiles in existing silos on an interim basis (assuming a START agreement along currently agreed numerical lines) would represent an improvement upon the current situation in terms of stability. Consideration should be given to this course.

V

To sum up: deterrence, through maintenance within a triad of forces of survivable retaliatory capability to inflict prompt, intolerable damage on Soviet military and related targets, remains the most cost-effective, stable and militarily sensible way to avoid nuclear war and lower-order aggression in Europe.

In the future it may be necessary for the United States to adopt some form of strategic defense to maintain the credibility of its nuclear strategy. There are foreseeable circumstances in which an accidental or unauthorized launch might endanger military and/or civilian targets. And there are other reasons for a serious program of research and technological development applicable to defense against ballistic missiles and air-breathing systems (aircraft and cruise missiles). These include:

assessement of the cost-exchange ratios for defending various targets to various levels of survival in the face of responsive threats, including countermeasures, to determine the vulnerability of the defenses to direct attack and to analyze the stability of configurations of defensive and offensive deployments.

deterrence of, and if necessary response to, a Soviet ABM breakout.

preservation of possible options for the active defense of selected retaliatory forces and strategic command, control, communication and intelligence against certain small attacks, such as accidental, unauthorized or third-country launches.

Among the political decisions the United States should make are: to abide by the restrictive interpretation of the ABM treaty; to protect fully, in any negotiations, the ability of the United States to do research under the treaty; and to continue to evaluate SDI by the criteria of cost-exchange ratios at the margin, degree of vulnerability to direct attack, effect on stability, and impact on the strategic balance. The cost and value of SDI must also be weighed against other critical military programs for both strategic and general-purpose forces.

The SDI research program should avoid "spectaculars" carried out for their own sake. It should explore ground-based terminal defense of mobile or fixed hard points, ground-based and space-based sensors and advanced direct-energy weapons (such as ground-based free-electron lasers and space-based chemical lasers). Insofar as space-based kinetic-energy weapons appear to be vulnerable to straightforward countermeasures, that approach should be de-emphasized.

This general program should also proceed at a measured technological pace, with annual funding increasing from the fiscal year 1988 level ($3.7 billion over the next two or three years) at a rate consistent with efficient progress—on the order of ten percent per year.

Some of the funds thus made available should be diverted to high-technology conventional force initiatives, in order to reduce the risk that the rapid increase in SDI research and development funding may starve U.S. conventional forces of the technological edge they need to offset the Soviet numerical advantage in conventional forces. Any decision on full-scale engineering development of a multi-tier SDI system should be delayed at least until the early 1990s.

With regard to arms control, our purpose should be to seek agreements which contribute to the establishment of balance and stability, as described in this article. In that context, I believe that the current U.S. proposal in the START negotiations is generally sound, but only if our strategic modernization program is guided by the need to reduce or at least preserve warhead/target ratios. It is particularly noteworthy that the Soviets have agreed to reduce their SS-18 force by 50 percent. Presumably, the United States will drop its demand that mobile missiles be banned, although as a strategem to underscore the importance of assuring adequate verification, this demand has not yet served its purpose.

The past five years have been a time of enormous change. We entered those years with public support for a more assertive U.S. international role. Much of that enthusiasm has been usefully channeled into sensible national security programs, but some of it has been wasted, in part as a consequence of our ambivalence in regard to strategic concepts.

The next five years promises to be equally tumultuous as a result of fiscal pressures, technological progress and the normal, disarming swing of the political pendulum in the West back toward the romantic side of the arc. This latter trend is most unsettling. For unlike times past when, as these swings occurred, our superior strength afforded us a margin of error to experiment with various concepts for securing our interests, we no longer have that luxury. It has become much more important that we be guided by a concrete understanding of the threat before us and the path that, historically, has been the best way to deal with it.●

ANOTHER CALL TO CUT OFF AID TO THE GOVERNMENT OF BURMA

● Mr. **MOYNIHAN.** Mr. President, I rise today to renew my call for the President and the Secretary of State to stop all United States aid funds to the current Government of Burma.

Events in Burma have once again turned violent, and there are widespread reports of heavy firing by the armed forces on unarmed protesters. Hundreds and perhaps thousands have been killed. We cannot wait any longer—we must cut off aid now.

The new violence follows the replacement of Burma's President Maung Maung, by the chief of the armed forces, General Saw Maung. To call this change of leaders a "coup" is an overstatement, since it is clear that General Ne Win, Burma's leader for the last 26 years, continues to manipulate events and remains in control.

Ne Win, who in fact came to power in a military coup against a democratic government in 1962, appears intent on refusing the legitimate demands of his people for democracy. He will not cede power, and believes that the murder of his people is the way to keep it. The installation of Saw Maung represents a final desperate move to reimpose his will.

I first called for an aid suspension on September 9. I said that we should withhold all funds from the Government of Burma until a new democratic government is established. An aid cutoff now would reaffirm our commitment to the people of Burma, which the Senate proclaimed when it unanimously agreed to Senate Resolution 464 on August 11, 1988. The resolution was adopted in the wake of the same type of horrible violence by the armed forces that the appointment of Saw Maung as President has unleashed today.

Our aid programs consist of military training, opium eradication funds that include aircraft and dangerous herbicides, and an economic assistance program. It is particularly the first two programs that concern me. Although, I have absolutely no confidence that the current Government of Burma can be trusted to administer any aid program: how can we continue to supply any assistance to the Burmese Armed Forces.

After all, it is only the armed forces that stand between democracy and dictatorship. We condemn those members of the armed forces that would maintain their privileged positions at the price of shooting their own citizens, and we call upon all other members of the Burmese military to refuse unlawful orders to kill innocent protesters.

Mr. President, now is the time for the President and the Secretary of State to speak out against the remnants of the Ne Win regime that cling to power through the brutality that occurred in August, and which is now reoccurring. And now is the time to suspend all U.S. aid to that same government.●

AMERICAN MILITARY MISSION

● Mr. **SIMON.** Mr. President, with one administration drawing to a close and another soon to take office, it is time to reevaluate our American military mission in the world. Indeed, defense has become a major issue in this Presidential campaign. In a recent column I wrote for newspapers in my State, I have called on the next President—whether Mike Dukakis or GEORGE BUSH—to appoint a small group, including some key Members of Congress, to conduct a study of our military presence abroad. I ask to have it reprinted in the RECORD.

The column follows:

A NATION IN A MILITARY RUT

An article about the recent, dramatic tragedy at an air show at a U.S. base in Germany, claiming 51 lives, contained a paragraph mentioning that citizens in the nearest city had been complaining about air noise and other activities of the American military presence.

Within a day or two of that tragedy, I talked to someone who told me the American military presence in Honduras is hurting the United States in that country and destabilizing that nation. Another person told me that the American air base in Athens not only is the cause of serious complaints; militarily it doesn't make sense to have an air base within the city limits of a major city.

I recall being stationed in the Army in Germany. Too frequently our service personnel, lonely and far from home, indulged their loneliness in drinking too much and there were problems in the communities.

As a general rule, it is probably better not to have troops of another nation stationed within a sovereign country.

But that general rule breaks down when there are real security needs.

In South Korea, for example, we have approximately 43,000 troops. South Korea is much healthier economically than when we got involved in the defense of that country, but the Communist dictator in North Korea, Kim Il Sung, continues to make noises that sound like he might invade South Korea.

I doubt he would, but pulling out American troops might send the wrong signal and destabilize that area, inviting a war.

But a reexamination of what commitments we should have does seem in order.

We are now roughly 20 percent of the world's economy, but we have fundamentally the same military commitments we had when we were 40 percent of the world's economy.

It does not make sense that the United States spends 6.7 percent of our national income on defense, almost half for the defense of Western Europe, while our Western European friends spend about 3.3 percent. That made sense in 1950, but not in 1988.

How can we reduce some of our responsibilities abroad without sending the wrong signal to the Soviets?

That question ought to be part of an overall appraisal that is even more fundamental.

What is the American military mission today? Has it changed as the world has changed? Should it change? Our mission should include defending our Nation and also helping to provide a shield for other nations that might be threatened. How do we most effectively carry that out today?

I hope that the next President will immediately appoint a small group, including some key members of Congress, to reevaluate where we are and where we should be.

I hear talk, for example, about closing some military bases within our country. It is possible that should be done, but it is also possible that those bases should remain open and some forces stationed abroad should be brought back to fill these bases, reducing our presence abroad, and at the same time cutting back on our costs and our trade deficit.

Nations get in ruts, just as individuals do. We're in a military rut, and we should examine carefully how we should change.●

IN SUPPORT OF PEACE AND DEMOCRACY IN BURMA

● Mr. PELL. Mr. President, over the weekend the Burmese military seized control of the Government in Rangoon and began an immediate crackdown on demonstrators seeking a return to democracy in that strife-filled country. Reports early this morning indicate as many as 83 people may already have been killed since Saturday. In at least one case demonstrators sought refuge in the U.S Embassy in Rangoon in order to avoid further deaths. In other areas of the city barricades were being dismantled by the army, while Radio Rangoon announced a decree dissolving national governmental bodies, banning the assembly of groups of more than five people, and ordering striking workers to return to work.

Mr. President, the situation in Burma is a dangerous one. Burmese are killing Burmese and the movement for democracy is being systematically suppressed. As chairman of the Senate Foreign Relations Committee I deplore this violence and wish to express my continued support for democracy in Burma. The people of Burma have waited a long time for the restoration of democracy and deserve our support in their effort.

Mr. President, in August I cosponsored Senate Concurrent Resolution 139, expressing the opposition of the Senate to the mass killings, arrests and denial of human rights to the people of Burma. Today I wish to go on record as further supporting the right of the people of Burma to determine their own destiny. I therefore join with the Department of State in condemning the recent killings and in expressing support for the restoration of democracy and for an end to one-party rule in Burma. I further urge the President to suspend all new obligations and to withhold disbursement of foreign aid to the Government of Burma until such time as the current abuses are rectified and a multiparty system of government is instituted.●

THOMAS NASTASI, SR.

● Mr. D'AMATO. Mr. President, I rise today to honor an old friend, Thomas Nastasi, Sr., on the occasion of his 90th birthday.

Mr. Nastasi has come a long way in his life, literally and figuratively. Born in Mirto, Sicily, he emigrated to the United States at age 15, becoming a citizen 10 years later. Arriving unschooled and unskilled, he became with hard work, faith, and discipline an accomplished and renowned builder of fine homes.

A classic American story, Mr. President. But from personal observation, I have to say that—in my view—his most significant accomplishment is his family. Mr. Nastasi and Angelina Malara, his wife of 62 years, boast 5 children, 24 grandchildren, and 9 great-grandchildren. To his offspring, he has passed on the principle, and the living example, that hard work leads to success. One need only look at his children and grandchildren to see how thoroughly this philosophy has taken hold. All of them have achieved success and are making their own contributions to this great country.

Thomas Nastasi is a shining example of the American Dream, living proof of the enduring truth of the values of family, hard work and determination.

Mr. President, I know that my colleagues join me in saluting Thomas Nastasi, Sr., on his full and accomplished life, wish him a very happy birthday, and many, many more to come.●

MINNESOTA AIR NATIONAL GUARD

● Mr. BOSCHWITZ. Mr. President, I rise today to call the attention of my colleagues to a group of dedicated individuals committed to serving their country and State in the Minnesota Air National Guard

Both of Minnesota's flying units, the 133rd Tactical Airlift Wing, Minneapolis/St. Paul IAP, and the 148th Fighter Interceptor Group, Duluth IAP, were awarded this year's Air Force Outstanding Unit Award. I must tell you that I am very proud of these people for their accomplishments, and what makes it even more special is the fact that Minnesota is the only State that can claim two award winning units this year.

Minnesota has a proud history of excellent service and notable achievement by its National Guard. In 1987 the 109th Aeromedical Evacuation Flight, assigned to the 133rd Wing, was recognized as the Outstanding ANG Medical Unit and the Outstanding Reserve Forces Medical Unit. Mr. President, Minnesota's achievements don't stop there as the 208th Weather Flight, which supports the 47th Infantry Division in St. Paul, was selected, last year, as the Outstanding Air Guard Weather Flight.

Mr. President the list of achievements and awards by my State's Guard goes on to include the selection, also this year, of the 210th Engineering Installation Squadron, out of Minneapolis/St. Paul IAP, as one of three Air Guard EI units to receive the Air Force Outstanding Unit Award for 1988.

I wish to extend my congratulations and thanks to these hardworking and dedicated people—my pride in their accomplishments can't be overstated. Mr. President I would be remiss if I did not acknowledge the very important work and services of the Air Guard Support Center at Andrews AFB. In a letter to me, Brig. Gen. Eugene Andreotti expressed his gratitude to the worker bees as he put it at the support center. Without their help and assistance Minnesota's Air National Guard could not have enjoyed the recognition it has.

So it is with great pride and appreciation that I invite my colleagues to join me in applauding the achievements of the Minnesota Air National Guard, the Support Center at Andrews, and all guardsmen and women who serve this country with dignity.●

REMEMBERING U.S. POW/MIA'S IN SOUTHEAST ASIA

● Mr. WIRTH. Mr. President, 13 years after the end of Vietnam war, there are still nearly 2,400 American servicemen and civilians who are listed as missing in action [MIA] in Southeast Asia. We must make every effort to determine the fate of these brave individuals, including aggresively investigating all reports of live sightings of Americans in Vietnam. We owe it to the families of these missing Americans, who fought so valiantly in American's longest war, to work for the fullest possible accounting of those individuals still missing in Southeast Asia and to secure the repatriation of all recoverable remains.

I was pleased to join my Senate colleagues on July 26, 1988, in unanimously passing Senate Joint Resolution 330 which designated September 16, 1988, as "National POW/MIA Recognition Day." This measure serves the important and dual purposes of maintaining this issue in the forefront of the public mind and assuring the families of those still missing that their Nation has not forgotten the sacrifices nor the plight of their loved ones.

We can be thankful that the past few years has brought some progress on this issue, but there is still much yet to be done. We must continue to pursue all reasonable avenues to obtain the answers that these families deserve. By observing "National POW/MIA Recognition Day," we rededicate ourselves to finding those answers.●

JOHN W. GALBREATH

● Mr. GLENN. Mr. President, I rise today to honor the memory of one of Ohio's most distinguished citizens, the late John W. Galbreath of Columbus.

John Galbreath, born, raised, and educated in Ohio, lived over 90 generous and vital years. To refer to his career as that of "realtor" is to understate his vocation. John was a builder—he built a business, John W. Galbreath & Co., from modest beginnings in 1924 to a nationwide enterprise; he built homes and he built whole cities; he built a chapel at Ohio University and a housing project for 80,000 people in Kowloon, Hong Kong; he built a successful professional baseball team and a stable of prizewinning racehorses.

John W. Galbreath built up and built on everything he touched, which included the March of Dimes, the Center for Science and Industry in Columbus, and funding for cancer research, university development, scholarships and the performing arts. He built a camp for children and facilities for senior citizens.

John W. Galbreath was justly honored, during his lifetime, for his many accomplishments and philanthropies. Outstanding among these honors are the Horatio Alger Award for achieving success through hard work, honesty and determination in the tradition of Horatio Alger; the Christopher Columbus Award for making "a great contribution to the knowledge and welfare of mankind" by exploring new fields of endeavor; and the Lifetime Achievement Award of the United States Olympic Committee for outstanding achievement in the field of sports.

I am proud to have known this great Ohioan, who made Columbus the hub of his successful, far-flung business empire and who remained loyal all his life to his country, his State, his alma mater, his business associates and colleagues, and his friends and neighbors in his community. I am proud of his lifetime of leadership in real estate, marketing and management, and of his lifetime of contributions to sports, education and the arts.

The living presence of John W. Galbreath will be missed in Ohio, but all that he built will stand as a living legacy for many generations to come. I ask my colleagues to join me in saluting this great American builder, John W. Galbreath.●

ACLU DEFENDED

● Mr. SIMON. Mr. President, in my weekly newspaper column, I recently rebutted a column by Pat Buchanan attacking the American Civil Liberties Union. I ask unanimous consent to have it reprinted in the RECORD.

The column follows:

GOING TO BAT FOR BASIC FREEDOMS

My friend, columnist Pat Buchanan, writes with vigor. Sometimes he is vigorously right and sometimes he is vigorously wrong.

The other day he had a column attacking the American Civil Liberties Union. That group would be the first to defend his right to that opinion.

I don't agree with the American Civil Liberties Union on some of their positions, but they stand on behalf of unpopular people and positions in order to protect our basic liberties.

They perform an important function in our society.

They are joining in the defense of Colonel Oliver North. I believe he violated the law, but I also believe he is entitled to the full protection of the law as he defends himself, and so the American Civil Liberties Union defends him.

They have defended the right of Communists, Ku Klux Klan members and American Nazis to express their views freely. I don't happen to agree with the Communists, the Ku Klux Klan or the American Nazis, but I also believe freedom of speech applies to them, and I'm grateful there are those out there defending basic freedoms. The ACLU has also gone to bat for fundamentalist church groups, police and the rights of crime victims.

Right now the ACLU opposes a bill of mine that simply permits the television industry—without violating antitrust laws—to get together and adopt voluntary standards to reduce violence on television. Studies are overwhelming showing that the excessive violence we have on television is causing some of the violence in our society.

The ACLU opposes my bill, wrongly I believe, and I'm pleased that some prominent civil libertarians, including Elmer Gertz, disagree with their stand.

But I also understand their position. Anything that in any way affects freedom of speech or basic freedoms that Americans have, they look at carefully.

Frequently that means defending extremists. And frequently that means drawing criticism from one side or another of some of the most polarizing issues of the day.

But they continue to make important contributions to defending our freedoms.

I assume that is why the new attorney general appointed by President Reagan, Dick Thornburgh, served as a member of the board of directors of the Pittsburgh chapter of the American Civil Liberties Union.

I'm sure Dick Thornburgh does not agree with every stand the ACLU has taken.

But I'm reasonably sure that he agrees with me, not with Pat Buchanan, that the ACLU does an important job in protecting basic American liberties.●

ORDER FOR FILING MODIFICATION TO AMENDMENT 3041

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. KENNEDY may have until 8 o'clock p.m. today to modify—he has a right to modify the amendment at this point, does he not?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I ask unanimous consent that he may have until 8 o'clock tonight to submit his modification, notwithstanding the fact the Senate would not be in session.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I make that point. If there was objection, it would mean we would wait until the modification arrived. He has that right. I have tried to contact the distinguished Senator from Utah, Mr. HATCH, to clear it with him, but he is not available. It is a technical modification in any event, according to the Senator from Massachusetts. It does not change the substance of the amendment. There is no reason to wait here until 7, 7:30, 8 o'clock, so we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. But even if it did change the substance of the amendment——

Mr. DOLE. He could still do it.

Mr. BYRD [continuing]. The Senator from Massachusetts would have the right to modify his amendment; am I not correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. Mr. President, so the permission has been granted.

The PRESIDING OFFICER. The majority leader is correct.

Amendment No. 3041, as modified, to amendment No. 3040, is as follows:

In the pending amendment, strike all after "following:" on line 4, and insert the following:

"(E)(1)(A) Any retail, service, agriculture or higher education employer may, in lien of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B of such employee is a full-time student and the employer was mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities other than those employed pursuant to this subsection.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk, and in doing so I will make it clear that I am not offering a cloture motion to indicate either explicitly or implicitly that there is a filibuster going on. I do not imply there is. But if this cloture motion is not offered today, it could be offered tomorrow which would mean that, the Senate not being in session on Wednesday, the cloture motion would not mature until Friday. And I would hope to have the vote on Thursday on cloture, not because there is a filibuster going on but to preclude nongermane amendments. If cloture can be invoked on Thursday, it may very well be that agreements will be reached in the meantime that would see us complete this bill, I would hope, by Thursday. I certainly would hope it would be done by Friday of this week.

So that is the purpose in offering the cloture motion today.

Mr. DOLE. Mr. President, will the majority leader yield at that point?

Mr. BYRD. Yes; I am happy to yield.

Mr. DOLE. I appreciate the majority leader indicating that for the record, because, as the Record shows, there has been less than 7 hours of debate. There is no effort that I know of at this point to in effect filibuster the bill. I think there are some serious questions, particularly on the training wage and some others. But I think the record is clear.

Again, in addition to the nongermane amendments, there is a question of finally adjourning the Congress this year. This is a matter that was on the majority leader's "must" list, has been for months, and is not something that he brought in at the last moment.

I would hope, I say to my colleagues on this side, that they would not invoke cloture on this first effort. I would also hope there might be some way to bring the parties together on some agreement on the total package.

Mr. BYRD. Mr. President, the distinguished Republican leader, when we called this bill up last Thursday, I think it was, asked me if I had any intention of offering a cloture motion early on. I said I will not offer it this week, meaning last Thursday or Friday. I would not offer it today if the Senate were going to be in on Wednesday. I would wait until tomorrow. That would give me a cloture vote on Thursday. But in view of the fact, as I have already explained, that the Senate will be out on Wednesday, I offer the cloture motion at this time.

MINIMUM WAGE RESTORATION ACT

The PRESIDING OFFICER. The clerk will report the pending business, and then the cloture motion.

The assistant legislative clerk read as follows:

A bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXIII, the Chair directs the clerk to read the motion.

CLOTURE MOTION

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned, Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for the bill, S. 837, the Minimum Wage Restoration Act of 1987:

Senators Edward M. Kennedy, Daniel K. Inouye, Tom Harkin, Terry Sanford, Paul Simon, Jay Rockefeller, Christopher Dodd, Don Riegle, Bill Proxmire, Alan Cranston, J. Bennett Johnston, Patrick J. Leahy, Jeff Bingaman, Tom Daschle, Bill Bradley, Harry Reid, and Robert Byrd.

ORDERS FOR TUESDAY

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the two leaders on tomorrow under the standing order, there be a period for morning business to extend until the hour of 10:30 and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBATE AND VOTE ON NOMINATION

Mr. BYRD. Mr. President, I believe that under the order previously entered, the debate on the nomination in executive session is to begin at 10:30 and is to run until 11 o'clock. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. And the vote is to begin at 11.

The PRESIDING OFFICER. The majority leader is again correct.

30-MINUTE VOTE

Mr. BYRD. Mr. President, I have conferred with the distinguished Republican leader, and he is agreeable that the vote could run for 30 minutes, and I ask unanimous consent, therefore, as in executive session, that on that rollcall vote, there be 30 minutes and that the call for the regular order occur automatically at the expiration of the 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, does the distinguished Republican leader have any further statement or any business he would like to transact?

Mr. DOLE. I have no additional business, and no further statement.

Mr. BYRD. Mr. President, I thank my friend.

Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 tomorrow morning.

The motion was agreed to; and at 6:54 p.m., the Senate recessed until Tuesday, September 20, 1988, at 9:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 20, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 21

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings to review legislative implications of staff concept papers to develop the framework for a National Affordable Housing Act.
SD-538

10:00 a.m.
Foreign Relations
To hold hearings on foreign language competence in the foreign service.
SD-419

2:00 p.m.
Select on Indian Affairs
Business meeting, to consider pending calendar business.
SR-485

SEPTEMBER 22

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings to review legislative implications of staff concept papers to develop the framework for a National Affordable Housing Act.
SD-538

Commerce, Science, and Transportation
To hold hearings to examine airline concentration at hub airports.
SD-562

Energy and Natural Resources
Business meeting, to mark up pending calendar business.
SD-366

Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
To hold hearings on S. 2773, to authorize funds through fiscal year 1992 for solid waste disposal programs.
SD-406

10:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

2:00 p.m.
Finance
To hold hearings to examine the role of the Federal Government on child care services, and to review proposed changes to current law relating to child care issues.
SD-215

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on proposed legislation to amend title II of the Job Training Partnership Act.
SD-430

SEPTEMBER 23

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Foreign Relations
War Powers Subcommittee
To resume hearings to review the War Powers Resolution of 1973 (P.L. 93-148).
SD-419

SEPTEMBER 26

10:00 a.m.
Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
To resume hearings on S. 2773, to authorize funds through fiscal year 1992 for solid waste disposal.
SD-406

SEPTEMBER 27

9:30 a.m.
Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
To hold hearings on proposals to address asbestos issues in public buildings.
SD-406

Governmental Affairs
To resume hearings to review the causes and consequences of alcohol abuse and alcoholism in the United States.
SD-342

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative priorities of the American Legion.
SD-106

SEPTEMBER 28

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
S-146, Capitol

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review current food prices in the United States.
SR-332

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings to review legislative implications of staff concept papers to develop the framework for a National Affordable Housing Act.
SD-538

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on S. 2728, to permit coal to be transported in foreign flag vessels between the States of Alaska and Hawaii without regard to section 27 of the Merchant Marine Act of 1920, and S. 2729, to allow certain foreign-flag vessels to carry passengers among ports in Alaska and between points in Alaska and Seattle, Washington.
SD-562

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on the use of Federal highway rights-of-way for development of magnetic levitation transportation.
SD-406

Governmental Affairs
To continue hearings to review the causes and consequences of alcohol abuse and alcoholism in the United States.
SD-342

SEPTEMBER 29

9:30 a.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 2313 and S. 1998, bills to prohibit the Federal Energy Regulatory Commission from authorizing the bypass of local distribution companies when the Commission deems such authority is required by the public convenience and necessity.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, and General Legislation Subcommittee
To hold joint hearings with the House Committee on Agriculture's Subcommittee on Department Operations, Research, and Foreign Agriculture on critical challenges facing agricultural research.
SR-332

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SEPTEMBER 30

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To hold oversight hearings on the implementation of the Agricultural Credit Act of 1987.

SR-332

OCTOBER 3

2:00 p.m.

Govermental Affairs

To resume hearings on regulatory reform.

SD-342

OCTOBER 5

10:00 a.m.

Governmental Affairs

To hold hearings on S. 2721, Federal Advisory Committee Act Amendments of 1988.

SD-342

SENATE—*Tuesday, September 20, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come now, and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.—Isaiah 1:18.

God of Abraham, Isaac, and Israel, abounding in mercy, love, and grace, with unspeakable gratitude we hear the word of the prophet Isaiah, the promise of total absolution from sin.

Tomorrow, Israel celebrates the most holy day in the Jewish year—Yom Kippur—the day of atonement. As the Senate suspends business for that day, may each of us find time to join our Jewish friends in fasting and prayer as we look to Thee for forgiveness and cleansing.

We pray this in the name of the Messiah, the Reconciler, God's infinite remedy for man's perpetual need. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 20, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SHELBY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

AMERICA'S GREAT FUTURE IN SPACE EXPLORATION

Mr. PROXMIRE. Mr. President, this is the sixth in a series of speeches this Senator is giving on the floor of the Senate on why Americans should be happy about their future, regardless of who wins the election in November or whether we have an economic recession or even a first-class depression.

Today, let us consider the dazzling future of the coming space age. This Senator has consistently criticized what I view as excessive and wasteful spending on the space program. Of course, I agree that our country should help lead the world into space exploration. But I believe the world should help us pay for it. Our manned visit to the Moon was certainly a smashing, thrilling success. It established America as No. 1 in space. How much better it would have been if this had been a multinational, international travel to the Moon. And how much cheaper. Henceforth, we can and should build worldwide cooperation, mutual respect, constructive interdependence with our space program. In doing this we will use international scientific as well as economic resources that will enable us to explore space more swiftly and fully than if we insist on going alone.

The fruits of space travel may be great for mankind. The spinoffs could eventually be substantial. So why should we not do it alone or at least do it first and gain the benefits for America? Answer: Because there is no way we can keep away from other countries whatever we learn from space discovery that has practical material application. After all, what has happened to every material benefit we have derived from our American funded space program to date? It has, without exception, been exploited promptly and fully by other nations, especially by the Japanese and Germans. So why not bring the Japanese and the Germans and, yes, the Russians in on the high cost of the exploration?

Is this something that will pay off only centuries from now, or several thousand years in the future? Or can we expect some tangible benefits in the next 30 or 40 years? The most immediate benefit would cost a bundle, while providing minimal benefits for us earthlings. NASA's $30 billion space station—or, as the New York Times has put it, the "space palace"—would permit the development of pharmaceutical products and the fabrication of new, stronger, lighter metal alloys in a gravity-free environment.

The HUD Independent Offices appropriation bill for 1989, which Congress has passed and the President has signed, provides less than the President requested for the "space palace," but enough to keep the $30 billion project alive. In the judgment of this Senator, Congress would have been wiser to drop funding for the big space station and to encourage the private enterprise in Houston, TX. The $30 billion "palace" will require token contributions by some European nations and Japan of around 10 percent with 90 percent coming from Uncle Sugar.

In any event, whether we go tourist or luxury class, the U.S. space commitment is clear. This year, both candidates for President are talking first class for space and damn the cost. When either one takes office, whoever wins in November may settle for the tourist fare, which just means it will take a few years longer and cost several tens of billions less. But, in any event, we are on our way to space. At the very least, this means an improvement in a wide variety of products that serve us here on Earth—particularly in the field of medicine. At the most, it will mean the beginning of colonies in space.

Many trillions of dollars and a generation or 10 down the line, Jack Kent Cookes and Donald Trumps of that future age may have their estate a million miles or so out in space. They would be equipped with their own immaculate, scented atmosphere and with lawns and swimming pools as well as majestic palaces. Perhaps Mr. Cooke could even move the Redskin training camp from Carlisle, PA, to a cozy little tract a million miles in the sky. After all, what good is it to be a billionaire or a trillionaire if you cannot flaunt it a little?

Then could come the great colonization of space. Impractical? Too far out? Consider: A Member of the Senate could occupy his little home-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

stead a million miles in the sky. He could travel at the speed of light, and zoom to the Senate floor in less than 6 seconds. Why not? The speed of light is 186,000 miles per second. That means light moves a million miles in just under 6 seconds. A future Senate chaplain like our esteemed Chaplain Halverson could literally streak in from the heavens every morning to deliver the morning prayer.

In between this wild fantasy and dollar and cents reality is the prospect that space may in fact ultimately be mankind's future—perhaps far-off future—home. The possibilities are so awe inspiring that many Americans tell us to forget such prosaic, spoilsport considerations as to when and how we can afford this glorious future.

In the latest issue of U.S. News & World Report, Daniel Boorstin, the Librarian of Congress emeritus, put it this way:

> To make the most (of this discovery of space) we must free ourselves from obsession with desired goals.* * * The god of cost effectiveness imprisons us in a world of deja vu. We must recapture the zest for the quest.

Of course, this Senator vigorously disagrees with those who call for this all-out leap into the future. Cost effectiveness makes sense to me.

But, Mr. President, whoever wins the Presidential and congressional elections will not really make that much difference in making outer space accessible or useful or even more or less expensive for Americans present or future. In any event, come recession or depression, our future will be dazzling. Indefinite, but dazzling.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

ATMOSPHERIC CONTAMINATION—VII

Mr. STAFFORD. Mr. President, the evidence is in. Atmospheric contamination has killed the spruce and fir trees on the peak of Mount Mitchell in North Carolina, just as it has killed the forests on the peak of Camels Hump in my own State of Vermont.

We can argue whether the killer pollution has been acid rain or ozone, or a combination of the two with other pollutants. But, there is no longer any credible dispute that acid deposition is causing massive damage throughout North America and Europe.

Mount Mitchell is the highest point east of the Rockies. Located about 45 minutes from Asheville, the mountain is a protected wilderness area remote from any industrial center.

Because it is so remote and so protected, scientists have been monitoring the air quality there for years. This spring and summer they found that, for 3 months, the mountain was bathed in clouds as acid as lemon juice and vinegar. And, ozone levels were high. Similar conditions existed at six other mountains along the Black Mountain Range.

Dr. Robert Bruck, who reported on these events, said that in 1984, less than 1 percent of the trees were dead. The death rate of trees on Mount Mitchell had risen sharply, as it had all along the ridge, through last year. Then, on July 19, 1988, he reported, the death rate was greater than 99 percent—and that went for all seven mountains on the ridge that he has studied.

The news is even worse than that. The soil itself has been poisoned in the area. Lead levels in the soils are 150 times greater than in the soil below. The aluminum levels are thousands of times greater.

The damage was inflicted by contamination of the atmosphere.

Acid rain is caused by oxides of sulphur dioxide and nitrogen, which are converted into sulfuric and nitric acids after they've been in the air for a few hours or a few days. Levels of both sulphur dioxide and oxides of nitrogen have declined from their historic highs of the 1970's, but their levels remain high enough to constitute threats to human health and the environment.

The rain that falls through the Eastern United States and much of the West, as well, is at least 5 times as acidic than normal—and it may be 10 or 15 times as high.

The result is that lakes and streams have become more acidic and they have been damaged to the extent that—in too many cases—they can no longer sustain plant and fish life.

And, it is not only plants and fish that have suffered.

While we still do not have all the answers, scientists tell us when acid-based air pollution increases, so do the rates of wintertime illnesses and mortality of humans. The soup of air pollutants that is becoming all too common in this country injures the health not only of the very young and the very old and those with respiratory diseases, but also those who are healthy and strong.

More than 35 million Americans live in dirty air areas of this Nation that not only do not meet existing air quality standards, but where the air quality has declined since 1981. More than 100 million Americans are breathing air that does not meet the Federal health standards.

In addition, researchers have demonstrated adverse health effects of levels of exposure to air previously presumed to be safe. Pediatricians have told us that we should reduce the levels of sulphur dioxide and oxides of nitrogen to prevent continued injury to healthy infants.

Each and every year, for 20 to 40 years, this Nation has produced up to 400 pounds of sulphur and nitrogen oxides for every man, woman, and child in the country. It is unlikely that either the people of this Nation or our environment can continue to absorb that level of insult to our well-being.

The danger to the health of Americans is serious and pervasive. There is no choice but to breathe the air—whether it is clean or dirty. We know it is too dirty in too many places, and the evidence is compelling that we are long past the time when action is necessary.

Mr. President, I ask unanimous consent that a variety of materials be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STAFFORD. Mr. President, tomorrow I propose to discuss the role of oxides of nitrogen and ground level ozone in our continuing examination of atmospheric contamination.

EXHIBIT I

COMPARISON OF AIR POLLUTION LEVELS AND DEPOSITION RATES BETWEEN FORESTED AREAS IN WEST GERMANY AND THE UNITED STATES

Pollutant	Averaging period	Germany [1]	United States [2]
Ozone (ppb)	Annual average	36–48	40–50
	Maximum peak	115–180	85–120
Precipitation (pH)	Annual average	4.2–4.6	4.2–4.7
Cloud Events (pH)	Minimum observed pH	—	2.2–2.8
Total Sulfate Dep. (Wet and Dry) (kg/ha-Yr).	Annual	70–125	100–400
Nitrate Dep. (Wet only) (kg/ha-Yr).	Annual	22–48	50–200

[1] Forested areas showing decline symptoms in southern Germany.

[2] Various mountains in the eastern United States where tree damage is being observed.

Sources: From Various Tables, "Acid Deposition Studies," Ebasco Services Incorporated, prepared for the Business Roundtable Environment Task Force, (New York: Ebasco, 1986); "Exposure of Forests to Gaseous Air Pollutants and Clouds," Mountain Cloud Chemistry Project, Volker A. Mohnen, June 1987; "Technical Report, Spruce-Fir Research Cooperative," March 1988.

1986 FOREST DAMAGE IN WEST GERMANY BY SPECIES AND DAMAGE CLASS

[In percent]

Damage stage	Spruce	Pine	Fir	Beech	Oak	Others	Total
Undamaged	45.9	46.0	17.1	39.9	39.3	65.8	46.3
Slightly damaged	32.4	39.5	22.5	41.2	41.2	24.5	34.8
Moderately damaged	20.1	13.1	49.1	17.5	18.7	8.5	17.3
Seriously damaged or dead	1.6	1.4	11.4	1.4	0.8	1.2	1.6
All damage classes	54.1	54.0	82.9	60.1	60.7	34.2	53.7

Source: Waldschadenserhebung 1986, Bundesministerium fuer Ernaehrung, Landwirtschaft and Forsten, Table 5.

Mr. STAFFORD. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

SIGNIFICANT CONTRIBUTIONS

Mr. SIMON. Mr. President, first let me note that the two who preceded me are two who are retiring from this body, Senator STAFFORD and Senator PROXMIRE.

Just as Senator STAFFORD was speaking today about protecting our environment, he has been on this floor talking about education, protecting our children, and all the other things. He has made a very, very significant contribution to this body and to this Nation.

Senator PROXMIRE has also. This morning, Senator PROXMIRE was a little less down to earth than he usually is, but as usual, he was thought provoking.

We will miss both of our colleagues in the coming years.

Mr. STAFFORD. Mr. President, if the Senator will allow me simply to say how much I appreciate his very kind words this morning. I admire the Senator and, therefore, what he says means a great deal to me.

Mr. SIMON. I thank my colleague from Vermont.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

ELECTION YEAR CONVERSIONS

Mr. REID. Mr. President, election year conversions are really curious things. We hear now the Republican Presidential nominee claiming to be a friend of the environment while being the second in command of an administration that has overseen the worst environmental record this country has ever known. This is the same administration that brought us the likes of James Watt and Anne Gorsuch Burford to protect and care for our public lands and environment. This is the same administration that brought us President Reagan's proclamation that "trees cause pollution." And now in these waning years, this same administration gives us the wisdom of Interior Secretary Donald Hodel to rely upon.

I refer to the recent interest Mr. Hodel has expressed with regard to our Nation's premier park—Yellowstone National Park.

Personally, it is hard for me to believe that this is the same man who only 2 years ago tried to stand in the way of the creation of the Great Basin National Park in Nevada by stating that more study was needed. The Great Basin Area had, in fact, been continuously studied for almost 60 years and had been recommended for national park status on several occasions.

And yet, Mr. Hodel has now become the great defender of our national parks. Unfortunately, it took a major forest fire to get his attention.

A few weeks ago, Mr. Hodel, began to criticize the let burn policy that our public lands agencies generally follow in wild forested areas. This policy which generally serves the forest and environment well, has gotten out of hand. Such a policy may demand some revision. However, that decision needs to be made through close consultation with our foresters and wildlife experts. Unfortunately, Mr. Hodel is not among those experts.

However, to harp on the let burn policy really begs the real question. That question is lack of funding.

In 1979, Congress asked the Forest Service to develop a model which would predict the most efficient level to fund activities before a fire starts. The 1982 budget submitted by President Carter proposed $181,105,000. This was amended by the Reagan administration to provide $162,380,000—13 percent under the efficient level. On the average, this administration has underfunded fire presuppression activities by 21 percent.

As for firefighting funding requests in the Park Service, the Congress had to increase funding by $10 million in 1988 and $5.5 million in 1989 above the Service's budget request. In the same vein, the Bureau of Land Management firefighting funding had to be increased by Congress $73.9 million in 1988 and $26.9 in 1989.

Perhaps if Mr. Hodel was as concerned as he claims to be regarding the Yellowstone forest fires, he would have seen to it that the agencies under his direction had the monetary resources to handle the fires.

Yes, election year conversions are curious things.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

KRISTALLNACHT

Mr. DANFORTH. Mr. President, November 9-10, 1988, marks 50 years since the Nazi pogroms in Germany and Austria known as Kristallnacht, the Night of the Broken Glass.

Kristallnacht was a night of violence directed against Jews, which signaled the beginning of the Holocaust. Nazi storm troopers and Nazi supporters rampaged through Jewish-owned businesses and synagogues, breaking windows, looting stores, burning buildings, and attacking Jewish men and women. The pogrom left approximately 100 Jews dead, 7,500 Jewish businesses destroyed, and 275 synagogues razed or burned. Thirty thousand Jewish men were arrested and sent to concentration camps.

Kristallnacht was met with immediate and widespread condemnation throughout this country. As an example of the news reporting of that time, I would like to read into the record an editorial from the St. Louis Globe-Democrat, November 12, 1938:

> Accustomed as we are to witnessing an almost constant parade of anti-Semitic violences in the land of vaunted culture, the latest outbreak was so savage in its operation, so flimsy in its immediate excuse and so palpably condoned by the government, that we stand in horror at this outbreak of savagery. Civilization has progressed only a little since Attila, if it permits for long such inhumanity.

Mr. President, recalling Kristallnacht reminds us of the brutish and cruel acts which man is capable of committing. Kristallnacht was only the beginning of the long nightmare of the Holocaust. It goes without saying that Jews will not forget the Holocaust, that they will always recall their most awful time of persecution, that they will forever remember the 6 million men, women, and children whose lives were extinguished. It is equally important for Christians to remember, to consider the meaning of our own faith, and to contemplate how this appalling thing could have happened.

This past weekend we were given one more reason to remember Kristallnacht by the act of two young vandals in New York. Two boys, aged 12 and 15, broke into a Brooklyn synagogue, set fire to five Torah scrolls, and painted more than a dozen swastikas on the ceiling, walls and on the volumes of a Talmud. The desecration of a synagogue in Brooklyn may not compare with the barbarity of the Holocaust, but it cannot be dismissed as a youthful prank. It was an act of hatred and ignorance.

Fifty years is not a long time in history, but it may as well be an eternity if our children are not taught the lessons of the past. The Senate is remembering Kristallnacht today to encourage reflection on the Holocaust. We remember Kristallnacht today in order to restate that nazism and its brutality are in absolute contradiction to our most basic beliefs. We remember Kristallnacht today to help teach our children about the potent and destructive evil of prejudice.

As reported in the New York Times yesterday, when the plain pine coffin carrying the burned Torah scrolls passed by, a father held up his young son by the shoulders and shouted in Yiddish, "Look—look and remember."

Mr. President, we must remember, and we must teach our children what happened on that terrible night 50 years ago.

A DAY OF REMEMBRANCE

Mr. CRANSTON. Mr. President, in a few short weeks, millions of people throughout the world will solemnize the 50th anniversary of one of the century's most horrendous events. On the nights of November 9 and 10, 1938, Adolf Hitler and his Nazi party revealed to all the world the true depth of their evil intentions when they turned plainclothes storm troopers, police agents, and SS men on the Jewish people of Germany and Austria. Pretending to be "civilians" expressing the nation's "patriotic" fervor, these government-sanctioned instruments of Nazi terror arrested thousands of Jews, axed windows, demolished furnishings, wrecked houses, smashed store fronts, looted merchandise, and torched synagogues. Tragically, for all concerned, most non-Jewish neighbors stood passively by and watched.

The Nazis called this event Kristallnacht or Night of the Broken Glass. The American press dubbed it Black Thursday. Many people, familiar with the physical attacks against Jews in Czarist Russia, called it the Night of the Pogroms. The truth is that no language has words sufficient to describe the outrages committed on those terrible nights, early portents of far worse things to come.

Kristallnacht was not the beginning of the Nazis' virulent anti-Semitism, but it marked an intensification of Hitler's demonic efforts.

From his very first days in power 5 years before, Adolf Hitler had begun a campaign against German Jews—encouraging boycotts of Jewish-owned shops, eliminating all Jews from civil service jobs, cultural organizations and the military, and mandating identification cards for Jews. But Kristallnacht revealed that the penalties and punishments that he sought to impose would not be limited to legal, economic or social life.

Kristallnacht represented the first organized, widespread use of violence against the Jewish community. By Friday morning, November 11, nearly 100 Jews were dead, 7,500 Jewish businesses had been destroyed, 275 synagogues had been razed or burned, and 30,000 Jewish men had been arrested and sent to the German concentration camps of Dachau, Sachsenhausen, and Buchenwald.

Any doubts the world may have had about the Nazis' intentions to continue this brutal and bestial course should have vanished when, within a few days after the event, Herman Goering issued a decree eliminating the Jews from German economic life. It levied a 25-percent flight tax on all Jewish property being removed from German territory. And it fined the Jewish community 1 billion marks—$400 million. Goering expropriated all remaining Jewish businesses by transferring their ownership to Aryan hands. Thus, Jews were not only robbed, assaulted, and murdered, they were made to pay huge fines while having their economic lifelines cut.

What followed in the years after Kristallnacht the whole world now knows: The Nazis murdered more than 6 million Jewish men, women, and children. Their deaths, and the condition of the tens of thousands who managed to survive the concentration camps, made clear the Nazis' limitless depravity.

Mr. President, there are many reasons why we remember these events. Perhaps the best expression of these reasons comes from the U.S. Holocaust Memorial Council, which is organizing the commemoration of Kristallnacht and other "days of remembrance." The Council keeps as its guiding principle the motto "for the dead and the living we must bear witness."

So, we remember in order to honor those who suffered at the hands of the Nazis. And we remember in order to make sure that nothing like Kristallnacht, like the Holocaust, like the Third Reich, ever happens again.

Finally, it's particularly appropriate that we remember today because at sundown tonight, Jews around the world will be congregating for the celebration of Yom Kippur, the most solemn day of the Jewish liturgical year, a day of atonement and reflection for the living and a day of remembrance for the departed.

Mr. WEICKER. Mr. President, when we look back on the Nazi era we so often focus, with reason, on the horrific final solution. It has no parallel in history. But the atrocities that preceded the extermination of millions in the death camps deserve to be remembered as well. They have much to teach us about legalized terror practiced on a people by their own government. And so, with other of my colleagues, I wish to commemorate the 50th anniversary of Kristallnacht, the Night of the Broken Glass.

Mr. President, the windows weren't the only things shattered the evening of November 9–10, 1938. Entire lives, entire futures were treated like just so much plate glass. For Jews residing in Germany and Austria, it was the beginning of the end. The crescendo of Nazi persecution—which had already included a spate of anti-Semitic decrees and the cruel deportation of 10,000 Jews to Poland in railroad boxcars—reached a terrible new height.

On November 7, 1938, the 17-year-old son of one of the deportees, himself a refugee in France, took revenge by shooting an official in the German Embassy in Paris. Joseph Goebbels, the chief Nazi propagandist, and the other high-ranking officials seized upon the incident as just the excuse they had been looking for to set flame to the German Jewish community. In "The Rise and Fall of the Third Reich," wartime correspondent and historian William Shirer describes in detail the orchestrated violence which followed:

> On the evening of November 9, according to a secret report made by the chief party judge, Major Walther Buch, Dr. Goebbels issued instructions that "spontaneous demonstrations" were to be "organized and executed" during the night.

As Shirer goes on to explain, the No. 2 man in the SS, Reinhard Heydrich, teletyped orders to party headquarters and police stations across the country to "discuss the organization of demonstrations." They included these directions:

> Only such measures should be taken which do not involve danger to German life or property. (For instance synagogues are to be burned down only when there is no danger of fire to the surroundings.) . . . The demonstrations which are going to take place should not be hindered by the police. . . . As many Jews, especially rich ones, are to be arrested as can be accommodated in the existing prisons. . . . Upon their arrest, the appropriate concentration camps should be contacted immediately, in order to confine them in these camps as soon as possible.

Mr. President, as history shows, these orders were carried out with zeal. The dark streets began to glow as storm troopers and other of Hitler's henchmen bashed in the windows of synagogues, homes and shops and set fire to them. Men, and women, and children were shot to death while attempting to escape the flames.

Afterward, with the fires still smouldering, the Jewish community reckoned its loss: 275 synagogues ruined; 7,500 businesses destroyed; 100 people dead; 30,000 men rounded up and sent to Buchenwald, Dachau, and Sachsenhausen.

Such horrors against humanity are hard to fathom. But it is precisely for this reason that they must be recalled and retold, for our sake and that of our children.

Just a few days ago, in a Brooklyn, NY, neighborhood where many Holocaust survivors live, young vandals broke into a synagogue, spray painted its walls with swastikas and ripped apart and burned the sacred Torah scrolls. It was a shocking attack but not completely unexpected. According to one neighborhood resident, the building had been pelted with eggs "all summer long."

Mr. President, what happened last Saturday in Brooklyn was no pogrom. It was not the work of our Government or some secret police. Teenagers, not storm troopers, were to blame. Still, that desecration must not be lightly dismissed as youthful folly. For it and hundreds of similar incidents which take place every year are ugly reminders that anti-Semitism continues to sully our Nation. In a country where religious freedom is too often taken for granted, people are still persecuted for their beliefs. And none of us, U.S. Senator or average citizen, can afford to remain silent in the face of it.

We must do all we can to condemn all manner of bigotry and persecution, whether because of religion or race, nationality or class. For it is the vandals, the bigots, and the racists—and not the object of their hatred—which besmirch our Nation and are at variance with all we stand for as a people.

Tomorrow marks the most sacred of holidays on the Jewish calendar, Yom Kippur, the Day of Atonement. It is a time of remembering and learning from the past. So with Kristallnacht, we can and must remember it and, whatever our own faith, work to rid the United States of all vestiges of prejudice and persecution. Only then can we take pride in a country as good as its Constitution.

(At the request of Mr. DANFORTH, the following statement was ordered to be printed in the RECORD:)

THE NIGHT OF SHATTERED ILLUSIONS

● **Mr. BENTSEN.** Mr. President, I want to join in this solemn commemoration of the Nazi night of terror against Jews across Germany and Austria only 50 years ago.

The evening of November 9, 1938, marked the start of the final campaign to deny Jews their civil rights, their possessions, their livelihoods, and their very lives. The Nazis, masters of the big lie and twisted logic, even used the storm troopers' violence as an excuse for further assaults on the Jews.

The German word for that Night of Pogroms is "Kristallnacht," The "Night of Broken Glass." It might also be called the night of shattered illusions, for it destroyed the false hopes in many lands that there were some limits to Hitler's hatred and some possibility that Jews could live in peace and safety in the Third Reich.

Mr. President, 50 years is a very short span of time. Many of us saw the pictures of the burned synagogues and broken storefronts. That night of terror, and the Holocaust which followed, was not some bloodstained page from ancient history, but an event in our lives whose significance too few of us understood at the time.

That is why we now should commemorate those tragic events. Our memories must be vivid if we are to see clearly whenever hatred and violence are loose in the world.●

REMEMBERING "KRISTALLNACHT"

Mr. SIMON. Mr. President, I am grateful to my colleagues, Senators ALAN CRANSTON and JOHN DANFORTH for organizing this commemoration for the victims of Kristallnacht, the Night of the Broken Glass. Fifty years ago this November 9-10, brutal anti-Semitic Pogroms broke out all over Nazi Germany and Austria. Thousands of Jewish businesses were destroyed, hundreds of synagogues were burned, many Jews were killed, and many more—about 30,000—were taken away to concentration camps.

Kristallnacht was certainly not the first Nazi outrage against Jews. In 1933 Hitler became Chancellor, and anti-Jewish propaganda and laws became commonplace. The 1935 Nuremberg laws, severely restricting and eventually removing Germany's Jewish population from everyday economic and social life, lent added impetus to an increasingly virulent anti-Semitism. By 1938, being a Jew in Nazi Germany had become a very difficult struggle.

The mass Pogroms of Kristallnacht were followed in short order by new actions against the Jews of the Third Reich. The U.S. Government recalled our Ambassador a few days later, but our immigration laws were not changed to accommodate many more Jewish refugees. Clearly, we ought to have done more to accept the persecuted Jews of Germany and Austria.

Mr. President, Kristallnacht is not a happy anniversary but is nevertheless one that cannot be forgotten. The genocide practiced against European Jewry in this 20th century is now a constant reminder to all of us of the horrors and insanity of extremism, bigotry, and hatred. Throughout the long centuries Jews in particular have been singled out for scapegoating and persecution, and it is sad to note that anti-Semitism still persists in too many places around the world. We all must redouble our efforts to stamp out this affliction wherever it occurs.

There is another lesson of Kristallnacht, and the genocide that followed. This lesson has particular relevance to the United States: That persecuted people wherever they may be can look to our land as a beacon of hope and a place of refuge in a rough storm. George Washington said America ought not go looking for dragons to slay, and rightly warned of the dangers of overcommitment abroad. But it is our special responsibility to open our doors to people suffering from mistreatment, abuse, and genocide. We should have taken every step to welcome all Jewish refugees in the dark years before World War II. There should never be a question about welcoming refugees fleeing from political injustice and persecution.

And we must speak out, if we see political oppression occurring, before mass violence breaks out. The value of America's collective, united voice holds terrific power. We ought to speak out much more forcefully than we have to date on the cruelties and horrors of apartheid in South Africa. We must continue to speak out in favor of religious and political liberties in the Soviet Union and the occupied Baltic States.

America should not always seek dragons to slay, but we must never be silent, and we can never forget.

Mr. President, I am grateful to our colleagues for having a special time set aside that they will be observing shortly for the 50th anniversary of what has been known as Kristallnacht.

It was a time 50 years ago in Germany when one night glass was broken—that is where we get the term "Crystal Night," a literal translation—where Jewish stores were destroyed, synagogues destroyed, and about 30,000 Jews were taken off to concentration camps and many people were killed.

It is appropriate that we remember that and we remember the poison of racism in whatever form it may emerge, whether it is anti-Semitism, whether it is in the form of anti-Asian, antiblack, anti-Catholic, antianything. The poison of racism has to be stopped wherever it occurs.

There is a book written by a Presbyterian chaplain by the name of David Weinman, who wrote a book called "The Abandonment of the Jews." It is not pleasant reading either for Christians or for Jews. It talks about our silence as Hitler moved ahead.

In 1935 they had the Nuremberg laws which restricted movement by Jews and we said it was wrong but we did nothing.

I mention this today not only because it is important to remember those who suffered and to remind ourselves what we should not do, but today in South Africa you have the same kind of creeping racism and we have to stand up. We do not want to repeat the mistakes of 50 years ago.

What if 50 years ago when Hitler first started his anti-Jewish activities, the United States had stood up firmly using our economic muscle, I cannot give you the answer what if. But maybe, maybe it would have caused some people in Germany to rethink where they were going. Maybe we could have avoided this tragedy not only for the Jewish people but for millions of others slain in World War II. We cannot revise that history. That tragedy has occurred. What we can do is to prevent that kind of occurrence in the future.

Right now we have to be saying to our friends in South Africa, let us have peaceful change, let us stop this brutal, and that is what it is, this brutal system of apartheid that says to the blacks and coloreds and Asians, "You can only live here; you can only do certain things."

We ought to honor and remember those who suffered on Kristallnacht 50 years ago but we also ought to take a look at our world today and say how do we avoid repeating that kind of a tragedy.

KRISTALLNACHT

Mr. BOND. Mr. President, the night of November 9, 1938, 50 years ago this autumn, marked a little-recognized but dramatic turning point in 20th century history. It was a 24-hour period of cruelty, barbarism, and terror. The historical facts offer only a statistical account of the events on that fateful evening as throughout Germany and Austria 100 Jews were murdered, 275 synagogues were burned to the ground, and 7,500 Jewish-owned businesses were destroyed. Amid the shattered glass of broken storefront windows lay the shattered collective conscience of the world's people.

Never before had the Nazi regime taken such brazen and ruthless measures in pursuit of their goal. The events of "Kristallnacht," the Night of the Broken Glass, would soon be replaced with more systematic and more graphic methods of terror. Yet the significance of that autumn night in 1938 can be found in mankind acting as a reluctant witness to its own brutality. No longer could a passive world ignore the persecution in distant Europe, for on that night in Germany the cries of tortured Jews and the sound of shattered lives crossed every foreign border and every sea.

The following morning, the New York Times offered a poignant response to the night's events:

> Recently the (German) government has extended its domain with the consent of the Western Powers, who acquiesced in its bloodless victories as the prelude to European appeasement. Instead they were the prelude to the scenes witnessed yesterday, scenes which no man can look upon without shame for the degradation of his species.

The harrowing images of the night remain equally haunting 50 years later; that of a 12-year-old girl trying to lead her frail grandfather to safety through a tormenting mob; of entire families being corralled into waiting concentration camps; of businessmen being forced to bear the cost of their own destruction.

These events will never be forgotten. But with equal conviction we must never forget the lessons of the "Kristallnacht." We must never forget that an attack on a Nation's minorities is an attack on democracy. We must never forget that violence against the helpless is a violation of the very concept of self-government. And we must never forget that mankind's capacity for cruelty toward his fellow man is an affront to civilization itself.

KRISTALLNACHT REMEMBRANCE

Mr. DIXON. Mr. President, November 9, 1988 marks the 50th anniversary of the "Kristallnacht," the Night of the Broken Glass, in which partisans of the Third Reich pillaged Jewish-owned synagogues, businesses and homes. Many Jews were killed and thousands were arrested. This act effectively revealed the anti-Semitic Nazi plan openly not only before Germany and Austria, but before the entire world. Franklin Delano Roosevelt "* * * could scarcely believe that such things could occur in a 20th century civilization."

The Kristallnacht served as the manifestation of Hitler's anti-Semitic program which had been initiated shortly after he gained power in 1933. Subsequently, Jewish citizens there were stripped of their civil rights, their right to gainful employment, their property and indeed, all that they have ever worked for. Jews were subjected to exorbitant "flight" taxes and were forced to pay for damages wrought by Nazi agents. Ownership of Jewish businesses was forcibly turned over to "Aryan" hands.

Several months after the Kristallnacht, Hitler publicly promised the destruction of the Jewish people.

Fifty years later, we commemorate this event to show resolve and intolerance for government-sponsored persecution anywhere in the world. As the Jews suffered unspeakable ills, remembrance also asks for rededication to the freedoms and concerns for civil rights which are the foundations of our democratic society. For, "the secret of redemption lies in remembrance."

COMMEMORATING THE 50TH ANNIVERSARY OF KRISTALLNACHT

Mr. MOYNIHAN. Mr. President, I rise today to bear witness to two significant events: the 50th anniversary of Kristallnacht and the 13th anniversary of the decision by the U.N. General Assembly to declare Zionism a form of racism and racial discrimination.

There are some who would take strong exception to the linkage of these two dates. After all, they might ask, is it right to compare the destruction of synagogues and stores with a mere vote in the General Assembly? Do we not trivialize the Holocaust if we declare that such a vote, no matter how offensive to our political and moral sensibilities, is in any way similar to the first sustained, nationwide attack in a war of genocide?

And yet this linkage was made by a wise man, who weighs his words with the care of the Talmud scholar he was trained to be. Thirteen years ago November 10, Chaim Herzog, Israel's Permanent Representative to the United Nations, stood before the General Assembly and spoke to the world about Kristallnacht and about the vote the Assembly was to take.

"It was the night which led to the most terrifying Holocaust in human history," he declared, "the night in which the world, by its collective silence, assured the leaders of the Third Reich that they could do what they pleased to the Jewish people." And now, Chaim Herzog suggested, the General Assembly was being asked to legitimatize the efforts of those who could "complete the work of the final solution by destroying the Jewish people and the Jewish State."

Senators speak today because the world ignored the lessons of Kristallnacht. How well have we understood the lessons of the 1975 vote equating Zionism with racism?

The sad truth is that after an initial flurry of indignation, most of Israel's friends around the world chose to ignore or even forget this vote. It wasn't until 4 years ago, when newly elected President of Israel Chaim Herzog convened a conference at his Jerusalem residence, that any systematic effort was made by Israel's supporters to refute and examine this monstrous lie.

There has been scattered writings on the subject previously, and as the years passed we seemed bit by bit to learn more of the genesis of that 1975 event. First Bernard Lewis published an article in Foreign Affairs in 1976, in which he traced the roots of the Zionsim-racism charge to the Soviet practice of seeking to discredit ethnic assertiveness in the vast Russian Empire that is the U.S.S.R.

"In the technical vocabulary of Soviet vituperation," Lewis wrote, "The term racist is applied to nationalist movements linking the non-Slavic peoples of the Union with their kin elsewhere. * * * And its extension of Zionism * * * a kind of pan-Judaism, with a focus in Israel—is a development of its use against pan-Turkism and pan-Iranism."

Charles Fairbanks and others have recorded that during the early 1950's, the term "Zionist" was introduced as a euphemism for Jew in official Soviet anti-Semitism.

I have given any number of speeches on the subject, and have devoted portions of three books to it: "A Dangerous Place" (1978), of which an Israeli edition in Hebrew has been published, "Counting Our Blessings" (1980), and "Loyalties" (1984).

In the course of all this we have gotten a pretty good grip on the Soviet origins of the event.

The disastrous showing of the Soviet Union's clients in the 1967 Six Day War apparently prompted the Soviets to launch the ambitious propaganda campaign that led ultimately to November 10, 1975.

As I wrote in "Loyalties":

> Three events occurred. Israel overwhelmed its combined Arab neighbors, most of whom were armed by and clients of the Soviet Union. Second, the United States for the first time came to the aid of Israel in a military crisis. Henceforth, the Middle East was setting in which Soviet arms would face American arms. Finally, the Israeli victory * * * "generated enormous enthusiasm among Soviet Jews." Zionism had proven itself in battle.

Having failed to destroy Israel because—and this is important—Israel could now rely on the aid of the United States, the Soviet Union took another course, and set out to undermine the legitimacy of the Israeli state. Moscow presumably calculated that Western governments would find it difficult to marshal popular support in the future for a country widely perceived as illegitimate.

Yet at no time—until the study day in Jerusalem 4 years ago—had sustained, informed attention been devoted to the subject by persons with command of the various fields involved. Thus, for example, Dr. Mikhail Agursky, a fellow of the Soviet and East European Research Center at the Hebrew University of Jerusalem, offered one thought—that part of the story may be no more and no less complicated than an effort by the chief Soviet ideologue, Mikhail Suslov (who died in 1982), to discredit Foreign Minister Andrei Gromyko, the senior official most closely linked to early Soviet overtures to Israel.

Agursky suggested:

> Attempts of the Soviet Anti-Zionism literature to cast doubts on the Soviet recognition of Israel in 1947-48 * * * is an indirect attack against Gromyko as the person who was involved in this decision.

Certainly, the campaign had the kind of formal beginning that we associate with Suslov. I described this in "Loyalties":

> On February 18-19, 1971, a two-part article appeared in Pravda [by] Vladimir Viktorovich Bolshakov, then (or shortly thereafter) Deputy Secretary of Pravda's editorial board in charge of the newspaper's International Department.
>
> * * * He asserted in the official newspaper of the Communist Party of the Soviet Union that Jews, far from being victims of the Nazis, had been their collaborators. "Zionist agents active during the last war in Western and Eastern Europe and in the occupied part of the Soviet Union, collaborated with the Nazis. Many cases are known where Gestapo men recruited overseers in death camps and special 'police' from among Zionist who 'kept order' in Jewish ghettos. 'The tragedy of Babi Yar' wrote a number of Soviet citizens of Jewish origin, who live in the Ukraine, in a letter to Pravda, 'will forever be a reminder not only of the monstrous barbarity of the Nazis but also of the indelible disgrace of their accomplices and followers—the Zionists.' "

And so we have come full circle from Kristallnacht to the General Assembly vote. If the atrocities at Babi Yar were carried out by the "Zionists," then those who burned synagogs and destroyed Jewish-owned stores were surely also Zionists. And if Zionism was the enemy then, Zionism must also be the enemy now.

Looking back to November 10, 1975, it is fair to say that we were aware how much the nature of international political discourse would be changed by Resolution 3379. I spoke to the General Assembly immediately following the vote:

> The terrible lie that has been told here will have terrible consequences. * * * There will be new forces, some of them arising now, new prophets and new despots, who will justify their actions with the help of just such distortions of words as we have sanctioned here today. Today we have drained the world racism of its meaning. Tomorrow, terms like "national self-determination" and "national honor" will be perverted in the same way to serve the purposes of conquest and exploitation. And when these claims begin to be made—as they have already begun to be made—it is the small nations of the world whose integrity will suffer. * * * On what grounds will others be moved to defend and protect them, when the language of human rights, the only language by which the small can be defended, is no longer believed and no longer is a power of its own.

If there had been a wider appreciation of this at the time, then perhaps less damage would have been done. But that is behind us now. What is left to us is the future. And the question of how we will choose to enter it.

In one of the papers prepared for the 1984 Jerusalem conference Dr. Ehud Sprinzak sums things up about right, to my mind:

> Anti-Zionism is here to stay. * * * But all these unchanging and persistent factors do not add up to inevitable radicalization.
>
> The operational conclusion from the deterministic nature of anti-Zionism is that its future development depends to great extent on what we do or do not do.

The Government of Australia was the first to take action. On October 23, 1986, the Australian Parliament passed the following resolution:

> That this House—
>
> (1) resolves that the United Nations General Assembly Resolution 3379 (XXX) which equates Zionism with racism—
>
> (a) has been unhelpful in the context of the search for a settlement in the Middle East;
>
> (b) is inconsistent with the Charter of the United Nations;
>
> (c) remains unacceptable as a misrepresentation of Zionism;
>
> (d) has served to escalate religious animosity and incite anti-semitism;
>
> (2) recommends that the Government lend support to efforts to overturn Resolution 3379 (XXX) in the United Nations.

An elegant statement speaking elemental truths. I introduced an identical resolution in the Senate, which passed on October 23, 1987—exactly 1 year after the Australian action. The House of Representatives passed its version on the eve of the anniversary of Kristallnacht, November 9. The resolution became the law of the land on November 17.

Now, we must work to keep the momentum going. The other democratic nations of the world must follow suit. We must look to our friends the Canadians, who no doubt know the harm done by this resolution. We must turn to the Costa Ricans, the Nordic states, and the EEC. We must reach a point where on one anniversary of Kristallnacht, the U.N. General Assembly passes a resolution repudiating Resolution 3379 (XXX).

What we must do is tell the truth about the lie. We must tell it loudly and clearly and often, and insist upon it, abroad and at home.

SEPTEMBER 20, 1988, THE ANNIVERSARY OF KRISTALLNACHT

Mr. LAUTENBERG. Mr. President, I join with my colleagues in commemorating the 50th anniversary of Kristallnacht, those 2 days in November 1938 when violence directed against German and Austrian Jews signaled the beginning of the Jewish community's destruction. In one sense, the rigorously systematic, bureaucratically organized, and yes, legally sanctioned murder of millions of innocent people—people whose only crime was the Jewish identity of one of their grandparents began on that night.

On November 9, 1938, Nazi storm troopers and Nazi supporters rampaged through Jewish-owned businesses and synagogs, breaking windows, looting stores, and burning buildings; 100 Jews were killed, 275 synagogs razed or destroyed, and 7,500 Jewish businesses wiped out; 30,000 Jewish men were arrested and sent to concentration camps at Dachau, Buchewald, and Sachsenhausen.

In another sense, the Holocaust began when a legislative body passed the infamous Nuremberg decrees. Those decrees separated out the Jewish minority and held it up for scorn and abuse. Those laws began the process that ultimately led to the murder of 6 million Jews and millions of others. They began a cold, hard, legal process of destruction, one which was sanctioned by the authority of the state.

Just as surely as law is used today to preserve and enhance human life and dignity, it was used in Nazi Germany to degrade and dehumanize the victims before they were put to death. In this great lawmaking body of our country, the U.S. Senate, it is fitting to remember the role that law played in the extermination of millions of Jews and other victims. Every step of the way, attempts were made to isolate, separate, and murder under the guise of legality. The laws of Nazi Germany did not protect the victims of the Holocaust. They helped move the Holocaust toward its grisly end.

The Holocaust proves that laws are only as decent and compassionate as those who make them. Laws can be used to protect fundamental freedom and human dignity, or to undermine it. The only laws that cannot be changed are the unalterable laws of human conduct, the unwritten laws that mandate respect and love for our fellow man.

The laws of Nazi Germany set the stage for the Holocaust. But it was men who accomplished the evil that came after. Traditional patterns of discrimination and random violence yielded first a rigid definition of Jews. The Nuremberg laws defined Jews biologically. Then Jews were isolated and deported. That was followed by a systematic and vigorously organized program of expropriation of wealth. Expropriation gave way to riots and pogroms, the hallmarks of previous anti-Semitism.

After each move, Hitler and his colleagues waited, assessing the reaction, wondering aloud if anyone cared. The world's silence was seen as acceptance of Hitler's oft-repeated plan to wipe out the Jewish race. Hearing none, the random violence was replaced by depersonalized, systematic brutality in camps like Auschwitz and Treblinka and Belzec—extermination camps—sites that still mar the countryside of Europe.

Camps that transformed not only the physical landscape but the moral landscape of the modern world. So, once again, we recall that change, which may have begun with Kristallnacht, and mourn it. We remember in order to remind ourselves that the law is only as good as those who make it.

Our Declaration of Independence tells us that all men are created equal. But those of us who remember the Holocaust will never forget that it is up to us to keep it that way. That is why it is so important to remember the milestones—like Kristallnacht—that led Nazi Germany on the road to the Holocaust.

SENATE COMMEMORATION OF KRISTALLNACHT "NIGHT OF THE BROKEN GLASS"

Mr. GRAMM. Mr. President, the Senate today marks the 50th commemoration of the Nazi pogroms in Germany and Austria known as "Kristallnacht," the Night of the Broken Glass.

During the late night and early morning of November 9 and 10, 1938, the Gestapo methodically orchestrated the destruction of selected targets within the Third Reich which resulted in the destruction of 7,500 Jewish businesses and 275 synagogues, the arrest and deportation of 30,000 Jewish men to concentration camps, and the loss of nearly 100 Jewish lives.

Cries of "Death to the Jews" preceded the SA and SS troopers as they systematically axed windows, demolished furnishings, wrecked houses, smashed storefronts, ravaged merchandise, torched synagogues, and arrested thousands of Jews while many neighbors watched.

Hermann Goering, Reich Minister of the Four-Year Plan, issued, within days, the "Decree Eliminating the Jews from German Economic Life," establishing a 25-percent "flight" tax on all Jewish property leaving German territory. To compensate for the damages wrought against them, a 1 billion mark $400 million fine was levied on the Jewish community. Those Jewish businesses that had somehow escaped, were expropriated and ownership transferred to "Aryan" hands.

Requests for exit visas from the panicked Jewish population far exceeded the number of visas provided through the stringent immigration rules and regulations, although some visas were granted. Of approximately 535,000 Jews remaining in the Reich, about 150,000 German and 6,000 Austrian Jews—nearly one third the Jewish Reich population—fled after "Kristallnacht."

"Kristallnacht" marked the intensification of the 5-year, anti-Semitic program initiated by Hitler in 1933 and signaled the beginning of the Holocaust.

Commemorating this event compels us to remember, to intensify our efforts in fighting the persecution of peoples wherever it occurs in the world, and to rededicate our commitment to the principles of tolerance and freedom which form the very foundation of our society.

While this is a day of remembrance, it must also be a day of resolve. We must resolve anew never to tolerate bigotry in any form lest the smallest spark engulf us all in flame.

50TH ANNIVERSARY OF KRISTALLNACHT

Mr. RIEGLE. Mr. President, November 9 and 10 will mark the anniversary of the night of terror inflicted on the Jewish citizens of Germany and Austria by Hitler's Nazis. During "Kristallnacht" or the "Night of the Broken Glass," nearly 100 Jews were killed, tens of thousands of Jewish men were arrested and sent to concentration camps, thousands of Jewish businesses were destroyed, and hundreds of synagogues were razed or burned.

I rise today to join my colleagues in commemorating the 50th anniversary of that tragic event, which marked the intensification of Hitler's anti-Semitic program and signaled the beginning of the Holocaust.

Few who experienced the horrors of Kristallnacht could have imagined the nightmare of the Holocaust which was to follow. The survivors of that tragic chapter in the history of mankind have told us that we must never erase the memory of the horrors of the Nazi death camps, which took the lives of over 6 million Jews. For it is only by recalling the mistakes of the past that we ensure against repeating them in the future. For the same reason, we must never forget the tragedy of Kristallnacht.

In one of its most important actions, the Senate, 2 years ago, voted overwhelmingly to ratify the Genocide Treaty, which makes the systematic killing of racial, ethnic, or religious groups a crime under international law. While Senate ratification of the Genocide Treaty will not end the injustices of the world, it serves as a powerful demonstration of our Nation's commitment to protecting human rights around the world. And that is, perhaps, the most meaningful way in which we can pay tribute to the millions of victims of genocide throughout the world, as well as the Jewish victims of Kristallnacht.

One of our greatest teachers on the moral imperative of protecting the world from the horrors of genocide is the distinguished humanitarian and Holocaust survivor, Elie Wiesel. Through his words and deeds, Elie Wiesel has etched his own tragic experience in the world's memory, in the hope of preventing the occurrence of future Holocausts. He eloquently reminds us that respect and dignity for each individual is essential to the achievement of world peace.

And so, as we mark the anniversary of the tragedy inflicted on the Jews on November 9 and 10, 1938, we reaffirm the value of each individual life, and, in so doing, take an important step toward achieving world peace.

COMMEMORATING THE 50TH ANNIVERSARY OF KRISTALLNACHT

Mr. BIDEN. Mr. President, today we commemorate the 50th anniversary of "Kristallnacht," an event which marked the beginning of Adolf Hitler's long campaign of death against the European Jews.

On the night of November 9-10, 1938, Nazi agents and supporters throughout Germany and Austria went on a rampage, methodically destroying Jewish synagogues, businesses and homes. Jewish communities across the Third Reich were terrorized, and by the end of the night nearly 100 Jews had been killed and over 30,000 had been arrested and sent to concentration camps. In addition, 275 synagogues were razed or burned and 7,500 Jewish businesses were destroyed.

Recently, the Jewish community in New York—which includes many survivors of the Holocaust—suffered a chilling reminder of Kristallnacht. This past week—the holiest of the Jewish calendar—vandals broke into a Brooklyn synagogue and destroyed a number of Torah scrolls. It was a shameful and despicable act, one which evoked memories of Nazi attacks 50 years ago.

The historian Martin Gilbert, in his fine work The Holocaust, provides us a vivid description of that horrible night:

> Bonfires were lit in every neighborhood where Jews lived. On them were thrown prayer books, Torah scrolls, and countless volumes of philosophy, history, and poetry. In thousands of streets, Jews were chased, reviled and beaten up.

The Nazis gave that night the name "Kristallnacht" or "Night of the Broken Glass," words chosen, Gilbert tells us, to deliberately mock and belittle the destruction of the synagogues.

To add further insult, Germany's Jewish population was subsequently "fined" for the damage caused by Hitler's agents. In addition, Jewish businesses were expropriated and Jewish children were barred from German schools.

All of us are well aware of the nightmare that followed. Hitler's systematic attempt to eliminate all European Jews led to a holocaust of unimaginable proportions. By the end of World War II, roughly 6 million Jews had been killed. Millions more had been forced to endure the most inhuman conditions in concentration camps and death marches.

When considering the Holocaust, the question is often raised: "How could such a thing happen in the 20th century?" Unfortunately, the record of this century suggests that man's inhumanity to man knows few boundaries, either geographical or chronological. Examples abound: The death of millions of peasant farmers in the Soviet Union during Stalin's forced collectivization; the death of over 1 million Cambodians at the hands of the brutal Khmer Rouge; the death and disappearance of thousands across Latin America during the military regimes of the 1970's.

Even this decade's not spared the horror of genocide: in the last month, conclusive reports from the State Department indicate that Iraq used chemical weapons in its war against the minority Kurdish population. This atrocity must not be ignored. and I am pleased that the administration has publicly condemned the Iraqi Government for its action.

Mr. President, in the 1930's, the world turned a blind eye to the evil campaign that Hitler waged against the Jews. We must never let it happen again, As we commemorate the anniversary of Kristallnacht, let us pledge to maintain eternal vigilance against the crime of genocide. If we fail to keep this pledge, we can be sure that history will judge us harshly.

50TH ANNIVERSARY OF KRISTALLNACHT

Mr. WILSON. Mr. President, 50 years ago this November 9, Nazi storm troopers and Nazi supporters in Germany and Austria rampaged through Jewish-owned businesses and synagogues, breaking windows, looting stores, and burning buildings. This event, remembered today as Kristallnacht—Crystal Night—signaled the beginning of Jewish persecution by the Nazis during the Second World War. In just 1 night and 1 day, November 9 and 10, 1938, 100 Jews were killed, 7,500 Jewish businesses were destroyed, 275 synagogues were burned, and 30,000 Jewish men were arrested and sent to concentration camps.

Mr. President, this year we commemorate the 50th anniversary of this tragic night and day. The brave men and women who suffered through Kristallnacht and the Holocaust certainly deserve a permanent place in our consciousness. We must commit ourselves to always remembering Kristallnacht and those who perished in it.

Although this event opened a 12-year nightmare of terror, the men and women of Kristallnacht as well as those who went to places called Dachau, Treblinka, and Auschwitz, did not die in vain. We can see that the amazing endurance of their faith, though they themselves were martyred, has given the world a new example—a light unto the nations in the land of Israel. So in this agony, we can indeed find a glimmer of light. As much as we cannot forget the Holocaust, we also cannot forget that agony suffered by the just may yet bring victory.

COMMEMORATION OF THE 50TH ANNIVERSARY OF THE KRISTALLNACHT POGROMS

Mr. GLENN. Mr. President, it has been 50 years since the Kristallnacht, or the Night of the Broken Glass, pogroms took place in Germany and Austria. These nightmarish events that claimed the lives of nearly 100 Jews and destroyed homes, businesses, and synagogues were only prolog to the even greater acts of institutionalized barbarism which were to follow—the Holocaust.

Today, a half century later, we recall these events with profound sadness and horror. While it is difficult to envision such inhumanity, the voices of those whose lives were lost or destroyed during the dark, brutal nights of the 1938 pogroms cry out from across the intervening decades. Intolerance must never again be permitted to cast its hypnotic spell over a nation's people in the form of government-sponsored persecution.

As a nation, the United States is dedicated to both freedom and equality. We recognize that justice cannot long withstand selective application, and to make an individual or a people prisoner of hatred is to enslave us all. These principles must not be forgotten and they must guide our relations with other states as they do our internal affairs.

As we remember these tragic events of 50 years ago and the Holocaust that ensued, we are reminded of mankind's ability to perform acts of good or evil. Only through great effort and constant vigilance can we aspire to the former and ever hope to escape the latter.

THE NIGHT OF BROKEN GLASS

Mr. LEVIN. Mr. President, on November 9, 1988, we will commemorate the 50th anniversary of Kristallnacht, the "Night of the Broken Glass." On Kristallnacht, Nazi storm troopers throughout the German Reich attacked Jews, Jewish institutions, and businesses. A hundred men died at the Nazis' hands on that long night. More than 275 synagogues were destroyed; 7,500 businesses leveled, and 30,000 Jews arrested and sent to concentration camps.

It says something about the history of this century that the figure of 100 murdered does not seem especially large today. We now know that by the time the Third Reich fell 6,000,000 Jews were murdered.

But the world was a more innocent place in 1938. When President Franklin Roosevelt heard about the 100 deaths and the massive destruction of religious institutions and businesses, he was shocked. "I myself could hardly believe," he said, "that such things could occur in a 20th century civilization."

But, of course, such things did happen in this century. And far worse. The terrible fact is that the killings and destruction of Kristallnacht were a prelude, to the systematic murder of millions in death camps. One hundred men died on Kristallnacht. In the remaining weeks, months, and years of the Holocaust, millions of women and children were killed. The victims were primarily Jews, but millions of others were also murdered.

Mr. President, I think that it is right that we stop for a moment today and remember Kristallnacht and the events that followed it. Only by remembering, and by telling others, can we help ensure that the age of nazism will not be repeated.

KRISTALLNACHT

Ms. MIKULSKI. Mr. President, I welcome this opportunity to mark the 50th anniversary of Kristallnacht, the "Night of the Broken Glass"—November 9-10, 1938.

When Nazi agents attacked Jews and their property throughout German territory, they shattered more than glass storefronts; they shattered the last bonds to civilized behavior.

The Nazi Holocaust did not materialize overnight. Its path was paved by a series of much smaller incidents—subtle discrimination, taunts, anti-Semitic slogans painted on walls, punitive treatment by the Government, the brutal Kristallnacht.

The challenge for us all is to recognize the incremental developments in today's world that they may lead us imperceptibly to a bigoted and more polarized society.

Unfortunately, there are still little Kristallnachts, some in my own State. We have had cross burnings at black churches in Prince Georges County and swastikas painted on the walls of Montgomery County synagogues.

The lesson of Kristallnacht is that we cannot simply shrug off these incidents.

I like to think that our Constitution is shatterproof, but, if it has not been shattered, it certainly has been stretched, as in the case of the Japanese-Americans interned during World War II. To make our Constitution work we have to aggressively condemn any hostile action which is directed against a segment of our population which is "different," no matter how insignificant that action seems at the time.

As we approach Yom Kippur this year, the solemnity of the Jewish Day of Atonement is deepened by the 50th anniversary of the events leading up to World War II. We should all take time to reflect on the lessons we should have learned from that conflict.

KRISTALLNACHT

Mr. BOREN. Mr. President, 50 years have passed since the "Night of the Broken Glass." For 50 years, our generation has wrestled with that night, trying to place its terror into some sort of human perspective. However, even 50 years later, Kristallnacht and the extermination of the 6 million which it precipitated remains outside our ability to understand.

On that fateful evening in 1938, Nazi storm troopers left behind vandalized synagogues, burned Bibles, and looted stores owned by Jews. Yet, the Nazi path of destruction had only just begun. Ultimately, even the horror of Kristallnacht would be overshadowed by the destruction to come to the Jews of Europe.

While 50 years of reflection will not make the unimaginable become understandable, we can look to Kristallnacht and see the seeds of what was to come. By taking note of the anti-Semitism expressed the evening of November 9, 1938, we should all become more sensitive to the immense power and fury that lies beneath the surface of racism and prejudice.

We are left with a lesson and a creed. "Never Again," is the creed and call in the wake of the Holocaust. Kristallnacht, its precursor, provides the lesson. We must fight every sign of racial and religious persecution, at every step, in every instance.

The vandalism and harassment of Kristallnacht are not unfamiliar to us now. They are not relics of another age but forces still present. With this reminder today of the fury expressed in a vandalized synagogue or in a swastika on a high school wall, I hope we will not slow or tire in our efforts to stop crimes of hate and prejudice in this country. The rising number of hate groups and supremacist organizations should not be taken lightly but, instead, viewed with outrage and as an invitation to strike back.

Let us hope that Kristallnacht and the Holocaust will always remain our most vivid reminder of the human potential to do harm and that our memories will help us prevent its reoccurrence.

Kristallnacht was a warning to the world about the nature of the Nazi regime and, 50 years later, it should renew our commitment to the values of freedom, liberty, and pluralism that we cherish.

KRISTALLNACHT

Mr. SARBANES. Mr. President, almost 50 years ago the world witnessed the horror of the opening march of the martyrdom of the 6 million Jewish victims of Nazism. Kristallnacht—the Night of the Broken Glass—was a night of terror and the beginning of the Holocaust. Through the night of November 9 and the dark morning of the 10th, 1938, Nazi storm troopers and their sympathizers began the terrible onslaught of their systematic effort to annihilate the Jewish people. It was a night that saw homes, businesses, and synagogues destroyed; over 100 Jews brutally murdered; and 30,000 arrested and condemned to Buchenwald, Dachau, and Sachsenhausen. Torahs and Bibles became mere fuel for the fires of destruction, and families were torn asunder—their hopes, dreams, and lives destroyed.

We mark that sad and shameful night and call on the world community never again to allow such devastation to be brought against a people. As Americans, citizens of a nation founded on the ideals of freedom and human dignity, we must educate our citizens about the events 50 years ago and renew our commitment never to remain indifferent in the face of such assaults on humanity.

We have learned that history repeats itself, but only when it is not remembered. It is, therefore, incumbent upon us, in order to ensure that such a tragedy never be repeated, each year to remember the victims and pay tribute to the survivors. Today we remember Kristallnacht. Earlier this year, it was my privilege to participate as one of the six Members of Congress who served as candlelighters during the annual Days of Remembrance of the Victims of the Holocaust ceremony at the State Department, when we remembered the 6 million Holocaust victims. A few years ago, during a remembrance of the Holocaust at a ceremony in the Capitol, Elie Wiesel spoke of the importance of remembering and learning:

> We have learned not to be neutral in times of crisis—for neutrality always helps the aggressor, never the victim. We have learned that silence is never the answer. We have learned that the opposite of love is not hate, but indifference.

He closed the ceremony with these words:

> Let us remember, let us remember the heroes of Warsaw, the martyrs of Treblinka, the children of Auschwitz, they fought alone, they lived alone—but they did not die alone; for something in all of us died with them.

To ignore the past is to remain its captive—remembrance and understanding are the means of facing its legacy. Sharing in the painful memory of Kristallnacht, there should be profound admiration for the determination, courage, and perseverance of the Jewish people and survivors of the Holocaust and at the same time a renewal of dedication to protect all potential victims of tyranny.

THE 50TH ANNIVERSARY OF CRYSTAL NIGHT

Mr. D'AMATO. Mr. President, this year marks the 50th anniversary of an event that still has the power to shock the conscience of the world: Kristallnacht, or "Night of the Broken Glass." On the night of November 9 and 10, 1938, Nazis and their sympathizers began a program against Germany's Jews during which at least 36 Jews were killed, 36 more were severely injured, 191 synagogues were set on fire and 76 more were destroyed, 815 Jewish shops and 29 warehouses were destroyed, 171 houses were burned down or demolished, and roughly 30,000 Jews were arrested. This event was a major step down the road to Hitler's "final solution to the Jewish problem."

At the end of that road lay the Holocaust. Let us recall the words of the report to the President of the President's Commission on the Holocaust. That Commission was chaired by a survivor of the Holocaust, Nobel Laureate Elie Wiesel. In its September 27, 1979, report, the Commission described the Holocaust as follows:

> The Holocaust was the systematic, bureaucratic extermination of 6 million Jews by the Nazis and their collaborators as a central act of state during the Second World War: As night descended, millions of other peoples were swept into this net of death. It was a crime unique in the annals of human history, different not only in the quantity of violence—the sheer numbers killed—but in its manner and purpose as a mass criminal enterprise organized by the state against defenseless civilian populations. The decision was to kill every Jew everywhere in Europe: The definition of Jew as target for death transcended all boundaries. There is evidence indicating that the Nazis intended ultimately to wipe out the Slavs and other peoples: had the war continued or had the Nazis triumphed, Jews might not have remained the final victims of Nazi genocide, but they certainly were its first.
>
> The concept of the annihilation of an entire people, as distinguished from their subjugation, was unprecedented: never before in human history had genocide been an all-pervasive government policy unaffected by territorial or economic advantage and unchecked by moral or religious constraints. Ordinarily, acts or violence directed by a government against a populace are related to perceived needs of national security or geographic expansion, with hostilities diminishing after the enemy surrenders. In the case of the Nazis, however, violence was intensified after subjugation, especially in Poland and other parts of Eastern Europe, against all the subjugated populations. Jews were particular targets despite the fact that they possessed no army and were not an integral part of the military struggle. Indeed, the destruction frequently conflicted with and took priority over the war effort. Trains that could have been used to carry munitions to the front or to retrieve injured sol-

> diers were diverted for the transport of victims to the death camps. Even after the Nazi defeat on the Russian front, when it became evident that the Germans had lost the war, the killings were intensified in a last desperate attempt at complete annihilation. Clearly, genocide was an end in itself independent of the requisites of war.
>
> In the Nazi program of genocide, Jews were the primary victims exterminated not for what they were but for the fact that they were Jews. (In the Nuremburg decree of 1935, a Jew was defined by his grandparents' affiliation. Even conversion to Christianity did not affect the Nazi definition.) While gypsies were killed throughout Europe, Nazi plans for their extermination were never completed nor fully implemented. However, Nazi plans for the annihilation of European Jews were not only completed but thoroughly implemented. Many Polish children whose parents were killed were subjected to forced Germanization—that is, adoption by German families and assimilation into German culture—yet Jewish children were offered no such alternative to death.

Mr. President, I speak today on the subject of an event that happened almost 50 years ago to make a small contribution to our battle against forgetfulness. I join with my colleagues in this effort, propelled by the fundamental belief that the story of the Holocaust must be kept alive to prevent any future outbreak of genocide, not just against the Jews, but against anyone.

Elie Wiesel's Commission report said it best, under the heading of "The Moral Obligation To Remember":

> The American philosopher George Santayana has warned that those who forget history are condemned to repeat it. The Holocaust reveals a potential pathology at the heart of Western civilization together with the frightening consequences of the total exercise of power. Remembering can instill caution, fortify restraint, and protect against future evil or indiffernce. The sense of outrage in the face of the Holocaust expressed in the declaration "never again"—neither to the Jewish people nor to any other people—must be informed by an understanding of what happened and how.

We must remember what conditions were in the United States when Kristallnacht occurred. We must remember that American anti-Semitism was at its most virulent between the turn of the century and World War II. That period was marked by such events and personalities as Telemachus Timayenis, Ignatious Donnelly, Henry Ford, the Leo Frank case, the Knights of the Klu Klux Klan, the German-American Bund, and the incident at Masena.

Before the war, at the Evian Conference, no nation, including the United States, was willing to take in Jewish refugees from Nazi Germany. In fact, we interpreted our immigration rules to exclude such refugees.

Even during the war itself, according to a 1944 U.S. Department of the Treasury memo to the President quoted in the Commission report:

> [State Department officials] have not only failed to use Government machinery at their disposal to rescue Jews from Hilter, but have even gone so far as to use this governmental machinery to prevent the rescue of these Jews. They have not only failed to cooperate with private organizations in the efforts of these organizations to work out individual programs of their own, but have taken steps designed to prevent these programs from being put into effect. They not only have failed to facilitate the obtaining of information concerning Hitler's plan to exterminate the Jews of Europe but in their official capacity have gone too far as to surreptitiously attempt to stop the obtaining of information concerning the murder of the Jewish population of Europe. They have tried to cover up their guilt by: (a) Concealment and misrepresentation; (b) the giving of false and misleading explanations for their failures to act and their attempts to prevent action; and (c) the issuance of false and misleading statements concerning the "action" which they have taken to date.

Fortunately, the United States was at the forefront of world efforts to aid the victims of the Holocaust and to bring to justice its Nazi authors. Gen. Dwight D. Eisenhower ordered that the Nazi extermination camps be fully photographed and documented, and Gen. George Patton forced German citizens living near the camps to visit them and see firsthand the horrors the Nazis had committed. Our forces aided the camp survivors and operated the displaced persons' camps for years after the war.

The United States was one of the founders of the United Nations War Crimes Commission, and was a leader in the Nuremburg war crimes trials. Since the war, the United States has had a leading hand in the development of the international institutions that will stand as a bulwark against future genocides. The Universal Declaration of Human Rights, the final act of the Conference on Security and Cooperation in Europe, and the Genocide Convention are all steps taken to erect barriers against any repetition of industrialized mass murder.

The first amendment to the U.S. Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. * * *" It is no accident that the first right enumerated in our Bill of Rights is freedom of religion.

The first amendment does not bar anti-Semitism. Indeed, anti-Semitism has existed in America from our earliest days. But, as Jonathan D. Sarna wrote in an article entitled "Anti-Semitism and American History," which was published in the March 1981 edition of Commentary,

> If the country (the United States) has not been utter heaven for Jews, it has been as far from hell as Jews in the Diaspora have ever known. Broadly speaking, the American Jewish experience is unique.

In support of this conclusion, Mr. Sarna makes four major points:

> 1. In America, Jews have always fought anti-Semities freely. Never having received their emancipation as an "award," they have had no fears of losing it. Instead, from the beginning they made full use of their rights to freedom of speech; 2. American anti-Semitism has always had to compete with other forms of animus. Racism, anti-Quakerism, Anglophobia, anti-Catholicism, anti-Masonry, anti-Mormonism, anti-Orietalism, Nativism, anti-Teutonism, primitive anti-Communism—these and other waves have periodically swept over the American landscape; 3. anti-Semitism is more foreign to American ideals than to European ones. The central documents of the republic assure the Jews of liberty: its first President conferred upon them his blessing. The fact that anti-Semitism can properly be branded "un-American," while no protection in the formal sense—the Nation has betrayed its ideals innumerable times—grants Jews a measure of protection not found in Europe. There, anti-Semites could always claim a legitimacy stemming from times past when the Volk [sic] ruled and Jews knew their place. American romantics could point to nothing remotely similar in their own past. The Founding Fathers, whatever they personally thought of Jews, gave them full equality; 4. American politics resists anti-Semitism. In a two-party system where close elections are the rule, neither party can long afford to alienate any major bloc of voters. The politics of hatred have thus largely been confined to noisy third parties and single-issue fringe groups.

I agree with Mr. Sarna's conclusion regarding the manner in which the United States has treated its Jewish citizens. Anti-Semitism still exists in this country, but as a discredited tenent of hate groups. Undercurrents still break the surface in repugnant forms.

Late last Friday night, two young boys broke into the Orthodox Congregation Rabbinical Institute Sharai Torah in Brooklyn, vandalized the synagogue, and set the Torahs on fire. This act of wanton violence was condemned by all New Yorkers. The youngest of the boys, who was 12 years old, turned himself in to the police. The other was captured shortly thereafter.

Mr. President, I ask unanimous consent that an article entitled "2 Boys held in Synagogue Fire and 10,000 Mourn 5 Torahs," by Ari L. Goldman, that was published in the Monday, September 19, 1988, edition of the New York Times, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. D'AMATO. Mr. President, I comment on this contemptible act because of its superficial resemblance to the events of Kristallnacht. The entire New York community has reacted to this vicious outrage, rejecting it and the people who committed it.

Kristallnacht, however, was the result of organized Nazi policy. In the words of the Encyclopaedia Judaica—

[Kristallnacht] was officially provoked by the assassination of Ernest Vom Rath, Third Secretary of the German Embassy in Paris, by Herschel Grynszpan, the son of Polish-Jewish parents living in Germany until their deportation to the Polish-German frontier in October 1938. Vom Rath was shot on November 7 and died in the afternoon of November 9.* * * Thus, following the Germans' deliberately engineered atmosphere of tension, widespread attacks on Jews, Jewish-owned property, and synagogues were made throughout Germany and Austria on the night of November 9-10. Many windows were broken and the aktion [sic] therefore became known as Kristallnacht.* * * Though the German Government attempted to present the aktion as a spontaneous protest on the part of the 'Aryan' population, it was, in fact, unleashed very early on the morning of November 10 at the order of the Nazi leaders, congregated in Munich for the annual commemoration of Hitler's abortive beer-hall putsch in 1923. The claim of spontaneity is futher discredited by the punishment inflicted on German Jewry in the period following the attack.* * * The November Kristallnacht marked a turning point in the treatment of German and Austrian Jewry: Thereafter there was no place for them in the German economy, and no independent Jewish life was possible, with the dissolution of cultural and communal bodies and the banning of the Jewish press.

This 50th anniversary of Kristallnacht should mark a time of renewed dedication to fight anti-Semitism and all forms of prejudice. It is from the seeds of prejudice, spread by hate-filled people, that small boys get the idea that vandalizing a synagogue and burning Torahs is all right. It is from such hateful seeds that such groups as the KKK and the Aryan White Peoples' Party grow. These groups have no place in America.

By remembering Kristallnacht and the Holocaust, we pay a tribute to those who died at the hands of the Nazi mass murderers and their accomplices, and we make certain that "never again" is more than just another slogan—it is a statement of basic American principles that cannot be bent or broken.

Thank you.

EXHIBIT NO. 1

[From the New York Times, Sept. 19, 1988]

2 BOYS HELD IN SYNAGOGUE FIRE AND 10,000 MOURN 5 TORAHS

(By Ari L. Goldman)

Only hours after two boys, aged 12 and 15, were arrested for desecrating and setting fire to a Brooklyn synagogue, about 10,000 people gathered on the nearby streets yesterday to attend a funeral service for the five Torah scrolls destroyed in the Sabbath blaze.

The scrolls—objects so holy in Judaism that they are by law accorded a funeral rite—were placed in a plain pine coffin draped with a blue velvet cloth and carried to the corner of Coney Island Avenue and Avenue L in the Midwood section, where eulogies were delivered. Mourners, some of them dressed in Hasidic garb and others who did not even wear yarmulkes, reached out to touch the coffin as it passed.

A father held up his young son by the shoulders and shouted in Yiddish, "Look—look and remember."

A FIRE FROM MEN

"Aycha," wailed Rabbi Hillel David, the head of the congregation, using the Hebrew word from the Book of Lamentations. "How? How can such a thing be that the holy Torah is destroyed by fire? A fire from men, from haters of the Torah? The whole life is a life of tests. But I do not know what this test is."

Other speakers, pounding the heavy air in agony as they spoke, compared the desecration to Kristallnacht, the "night of the broken glass" in Nazi Germany that signaled the beginning of the Holocaust. The 50th anniversary of Kristallnacht is to be observed on Nov. 9 and 10.

Meanwhile, the police announced that the 12-year-old, accompanied by a parent, turned himself in at the 70th Precinct station house at 10:30 Saturday night. Three hours later, detectives went to the home of the 15-year-old and placed him under arrest. The younger boy was described by the police as Hispanic and the older as white. The police, who by law are prohibited from releasing the names of the juveniles, believe that the two acted alone.

The vandals broke into the Orthodox Congregation Rabbinical Institute Sharai Torah late Friday night, took the Torahs from the ark and unraveled them the length of the synagogue before setting the parchment on fire. They also painted more than a dozen swastkas on the ceiling, walls and on the volumes of a Talmud, the library of Jewish law and custom.

The funeral crowd broke into applause when Mayor Koch said that, despite their young age, the vandals "have to be assailed and have to be punished."

"The law—the holy law encased in that casket and the civil law—should not allow the social engineers to dismiss this as a childish prank," he said. "It is not a childish prank!"

Later, as he toured the charred interior of the synagogue, where scorched woolen prayer shawls lay among the debris, the Mayor criticized the law that keeps the names of juvenile offenders from the public record. The parents and the children, he said, should be held up to public scorn for their actions.

"These kids were raised wrong," Mr. Koch said. "Parents who say they don't know are liars. These kids were taught to hate. And they are not going to be untaught by being called juvenile delinquents. They should be punished. Look at this synagogue. You have to cry. It is just days before Yom Kippur."

City Councilman Noach Dear, who guided the Mayor through the synagogue, said the older boy lived just doors away from the congregation, which is at 1162 East 12th Street. Mr. Dear, who represents the area in the City Council, said the boy was a "known troublemaker." A lone police guard stood at the door of one of the attached two-family homes on the block but would not answer questions about who lived there.

PART OF AVENUE CLOSED

The coffin containing the Torah scrolls was set up in front of a makeshift stage on Coney Island Avenue, which was closed for half a mile for the ceremony. Heads of the city's major rabbinic academies, both Hasidic and non-Hasidic Orthodox, sat with leaders of Jewish communal organizations and Federal, state and local government representatives.

While numerous addresses were delivered, none was as passionate as that of Rabbi David. Local residents said the congregation was known simply as "Reb David's shul."

The rabbi, a barrel-chested man with a long gray beard, told of the second-century rabbi, Hananiah ben Teradyon, whose martyrdom is recalled in the liturgy of Yom Kippur, the Day of Atonement, which begins tomorrow night.

The Romans wrapped Rabbi Hananiah in a Torah scroll and set him afire. "His student asked him, 'Rebbe, what do you see?' " Rabbi David said in a mixture of Yiddish, English and Hebrew. "He saw the parchment burning, but the letters, the letters of the Torah, were flying up in the air. He saw a message amid the destruction and he saw a consolation."

"We may only be able to see what the eyes can see," Rabbi David continued. "But the truth is that only the parchment of our Torahs was burning, but the letters are in the air and imprinted on the souls of all Israel.

"The truth is that the burning of the Torah is the epitome of the desecration of the body Torah, but this gathering is the epitome of honoring the Torah."

After the 90-minute service, the coffin was again carried through the crowd to a waiting station wagon. The mourners—a sea of mothers pushing baby carriages, girls in school uniforms and pigtails, fathers clutching their sons' hands, and elderly bearded men leaning on their students' arms—walked solemnly behind the station wagon until it sped up and disappeared down Coney Island Avenue. The coffin was buried at a Jewish cemetery in Deans, N.J.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Alabama.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader.

BICENTENNIAL MINUTE

OCTOBER 28, 1928, JIM PRESTON, PRESS GALLERY CZAR

Mr. DOLE. Mr. President, 60 years ago, on October 28, 1928, the Washington Evening Star paid special tribute to the "Czar of the Senate Press Gallery," James S. Preston. Old newspapermen in Washington said Preston knew more and told less than any other living person.

If only he could write what he knows, said journalists, he would scoop them all. But, they concluded, "He never will write it. He can't even tell it."

Jim Preston was one of those remarkable Senate employees who devoted his entire life to this institution. Born in Washington in 1876, the son of a Washington correspondent, he became the unofficial superintendent of the Senate press gallery in 1897—

the post had not yet been established. As superintendent, he was supposed to keep the reporters' ink wells filled and supply them with writing paper. But Preston began gathering copies of bills and committee reports, and finding bits and pieces of information to help the reporters cover the Senate. He also began coaxing the Senators to make copies of their speeches available in advance.

After 34 years as czar of the press gallery, Preston became Senate Librarian. To mark the occasion, reporters held a mock impeachment trial, finding their former superintendent "guilty of devotion, friendship, and service." In later years he transferred to the National Archives, where he helped process the Senate's historical records, and then returned again to the Senate. In the mid-1950's the Senate paid tribute to Preston in honor of his 60 years on the Senate staff.

The reporters who predicted that Preston would never write nor tell the secrets he knew were correct. As an elderly man he burned his diaries and correspondence. It was a sad loss for the Senate's recorded history, but an understandable one for a man who spent his lifetime keeping secrets.

KIRKPATRICK COLUMN ON PHILIPPINE BASE ISSUE

Mr. DOLE. Mr. President, former Ambassador Jeane Kirkpatrick has made some excellent points regarding United States-Philippine base negotiations in a column in Monday's Washington Post entitled "The High Price of Protecting Others."

She has expressed a concern—which I and many Americans share—that Philippine Foreign Minister Raul Manglapus and his government have been raising one obstacle after another in our negotiations concerning Clark Air and Subic Naval Bases. The Philippine Government has persisted in this game of brinksmanship even though United States withdrawal from the bases would have a severe impact on the Philippine economy and the morale of its military forces.

Less than 2 months ago, here in the Senate, I spoke of the importance of these bases to America and to every free nation in the Pacific—including, let me stress, the Philippines itself. I noted difficulties with the ongoing talks and the Philippine Government's troublesome negotiating tactics. I called for an end to bluff and bluster, and a return to serious, productive negotiations. Judging from Mr. Manglapus' apparently cavalier refusal to even consider U.S. proposals, including an offer to double our current aid commitment from $180 to $360 million per year, it appears that negotiations have not gotten onto a proper, mutually beneficial track.

Ambassador Kirkpatrick raises an interesting alternative, which I believe merits discussion and consideration. As she accurately points out, "The United States does not seek an empire or hegemony in the Pacific, but rather to nurture a world of independent, self-governing nations." Clark and Subic help protect our friends, and are needed to prevent any other country from intimidating the free nations in the region.

With this in mind, Ambassador Kirkpatrick suggests that Japan, South Korea, and the Asian countries, who share this vital interest, join us in collective security arrangements involving the Philippine bases. Those countries can now afford to take a larger responsibility for the region, and Ambassador Kirkpatrick suggests that a collective security arrangement might be more welcome to the present Philippine Government.

That is certainly one option worth further exploration. But the bottom line on this ought to be that those bases do not represent some kind of unilateral concession by the Philippines to the United States, but a joint commitment by the United States and Philippines to security in the region. Both nations, and all free nations of the region, derive benefit from the bases. And both sides in the negotiations we are conducting ought to be aiming in good faith at a balanced, mutually beneficial outcome—not at doing everything possible to complicate the search for one.

Mr. President, I ask unanimous consent that Ambassador Kirkpatrick's editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 19, 1988]

(By Jeane Kirkpatrick)

The High Price of Protecting Others

How much should the United States be willing to pay for the privilege of helping to preserve stability in the Pacific region?

Deadlocked talks between the U.S. and Philippine governments should be viewed as an opportunity as well as a problem—an opportunity that gives Americans the chance to rethink what we should do in the Pacific, what we can do, and how much we are willing to pay to maintain military bases in regions so remote from our shores.

Although the United States has been extremely supportive of the Aquino government—which it helped bring to power—and although the U.S.-Philippine Military Bases Agreement is not due to be renegotiated until 1991, the Manila government has raised one difficulty after another concerning the Clark Air and Subic naval bases.

Under the guise of a "five-year review," the Philippines is demanding $1.2 billion for continued U.S. use of the bases. The Reagan administration has offered less than half that amount.

The U.S. offer to double its current aid commitment (which is $180 million per year) was brusquely rejected by Philippine Foreign Minister Raul Manglapus, despite the manifest importance of the bases to the Philippines' security and economy and to the stability of the area.

That the Philippine government should pursue a course of confrontation and deadlock against its major benefactor at a time when the country is wracked by civil war and chronic economic depression testifies to the unrealistic expectations of that government and perhaps to the anti-American feelings of its foreign minister.

It is clear that American withdrawal from the bases would have a devastating effect on the morale of Philippine military forces and strengthen its adversary, the revolutionary New People's Army, whose power has spread during the last two years. The Philippine economy, which derives thousands of jobs and more than $500 million in direct income from the bases (and many millions more in intangible benefits from the American presence), can ill afford a U.S. withdrawal.

Why then has Manglapus forced a confrontation and deadlock?

There are several possible explanations for his flat rejection of the U.S. offer.

It may be that Manglapus' nationalism and anti-Americanism blind him to the benefits the Clark and Subic bases bring to the Philippines. This would also explain his outraged rejection of Secretary of State George Shultz's proposal that the Philippines count as "compensation" the $500 million that flows into its economy from base operations.

It may be that Manglapus and Aquino believe the bases are so important to the United States, or that we are such a soft touch, that the American government will finally pay any price demanded in order to maintain them.

It may be that Manglapus finds the American presence so distasteful he is ready to eliminate it regardless of its cost to Philippine society.

The foreign minister's departure for Washington to work with Congress on the mini-Marshall Plan immediately following a stormy session with U.S. Ambassador Nicholas Platt demonstrates his feeling that Washington need not be taken seriously, and that aid will be forthcoming regardless of the disagreement.

Any or all of these motives may be present. For the United States, however, the motives of Manglapus and Aquino are less important than our own. Why do we really want those bases?

The answer is clear. In the Pacific, as elsewhere, the United States seeks not empire or hegemony but to nurture a world of independent, self-governing nations. We do not want any other country to be able to dominate and intimidate the nations of the region. We note that the Soviets today possess the naval base at Vietnam's Cam Ranh Bay that was once ours.

Presumably, the U.S. goal of a Pacific region of independent nations is shared by almost all of the governments in the region. If it is the case that Japan, South Korea and the ASEAN countries share our goal, why should not they join us in collective security arrangements for the region, including maintenance of the Clark and Subic bases?

It is true they would resist such a course. It is true they would rather save their money. But so, of course, would most Americans. It is true they would rather offer economic than military assistance to protect the stability of the region. But so would most Americans.

U.S. bases are not really welcome to the present Philippine government. We should face that fact. Perhaps representatives of a collective security association would be more welcome.

Philippine reluctance has created an excellent opportunity for Japan and other interested, prosperous countries to join together with the United States to provide the security shield and stability America has provided alone since World War II.

Such a regionally based, collective security organization would solve many problems, including the responsible use of Japan's great power.

Our Asian friends can afford to take a larger responsibility for their region. They should do so. It would be good for them and good for us.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-CANADA FREE TRADE AGREEMENT

Mr. KERRY. Mr. President, yesterday the Senate voted to enact the United States-Canada Free-Trade Agreement. I believe that this important and far-reaching agreement, between the two countries with the largest bilateral trading relationship in the world, will accomplish a great deal toward boosting the economy of Massachusetts, the New England region, and the United States as a whole.

Since President Reagan and Prime Minister Mulroney signed the United States-Canada Free-Trade Agreement on January 1 of this year, research on the potential economic effects of the agreement has been exhaustive. There is extensive information available, from various sources, detailing the provisions of this agreement and its projected effects. Interestingly, as opposed to many of the issues facing this body, there appears to be a consensus on the benefits posed by this agreement. Many of the experts in the field of United States trade believe that this agreement will strengthen the trading relationship, and the respective economies, of the United States and Canada. And I would like to add here that many of my constituents, including corporate employees, small business owners, and consumers, feel the same way.

In 1986 the New England States enjoyed an overall trading relationship with Canada consisting of $8.6 billion in volume. Massachusetts was the largest participant in this relationship conducting $3.8 billion in trade with Canada—more than twice the volume of Connecticut, the State with the second largest volume in New England.

However, while New England exported $3.1 billion worth of goods and services to Canada in 1986, we bought $5.6 billion of their goods and services. This trading activity resulted in a $2.5 billion trade deficit between the New England States and Canada for that year. In the same period, Massachusetts alone sold $1.5 billion in goods and services to Canada and bought $2.4 billion worth, a trade deficit of almost $900 million.

This agreement, which United States Trade Representative Clayton Yeutter calls the most ambitious bilateral economic accord the United States has ever made, will create a free trade area between the United States and Canada, eliminating many of the barriers contributing to the imbalance of trade between the two countries. By eliminating a wide range of tariffs that each country imposes on the products of the other, the agreement will allow both United States and Canadian businesses to bid fairly for customers on both sides of the border. The absence of such barriers to free trade is bound to improve the economic competitiveness of the United States at a time when competition within the world economy has become increasingly intense.

In addition to eliminating Canadian tariffs imposed on such key United States industries as telecommunications, machinery, and auto components, the existence of a free trade area will eliminate such nontariff barriers as "Buy Canadian Rules" and restrictive customs practices that impede the exportation of United States goods to Canada. A free trade area will also provide increased opportunity for direct United States investment in the Canadian economy.

Mr. President, I am optimistic about the possibilities that the United States-Canada Free-Trade Agreement poses for the economy of New England. The New England Council, in a study of the costs and benefits of the agreement, concluded that the establishment of a free trade area would have a positive impact on New England. The council predicts positive effects on such important Massachusetts industries as electronics, industrial machinery, paper products, and printed material.

Massachusetts ranks third in the United States in the total number of people employed by the electronics industry. And although Massachusetts—and the United States as a whole—enjoys a trade surplus with Canada in the area of electronic equipment, Canada has erected significant trade barriers to increased trade in this area. Telecommunications equipment from the United States faces duties between 10.2 and 17.8 percent in Canada. A 3.9-percent duty is imposed on United States data processing equipment and a 17.5-percent tariff impedes the export to Canada of telephone sets. The United States-Canada Free-Trade Agreement will act immediately to eliminate those trade barriers to United States electronic equipment and give United States companies poised to do so the chance to compete fairly for increased market share in Canada.

In recent months the fall of the dollar, among other factors, has revitalized the American machine industry by providing an increased potential for exports. In addition, the trend toward automation and modernization of businesses here and abroad creates a vast opportunity for an industry which has seen its dominance in the world market eroded by trade barriers and cheap competition abroad. This agreement will, in 5 years, eliminate the tariffs of up to 9.2 percent that Canada imposes on American manufactured machinery.

Another very important sector of the U.S. economy which will benefit from this agreement is that of paper and printed materials. New England has a large and productive paper industry, composed of many small companies that specialize in various types of paper products, which will surely profit from the elimination of Canadian duties, as high as 10 percent, imposed on their products.

The printed materials industry is one the largest employers in the United States, employing 350,000 more Americans than the computer industry and selling $3 billion more a year in goods. Canada alone accounts for more than half the exports of United States printed material, buying $750 million worth in 1987. The U.S. printing industry is made up overwhelmingly of small businesses, with the average U.S. company employing 22 people. The establishment of a free trade area will no doubt give these, and many other small businesses, often America's most innovative companies, the opportunity to contribute to America's economic strength through growth and expansion.

Mr. President, I have mentioned specific aspects of the agreement which I feel are important to industries in my State and New England in general. However I feel very strongly that the United States-Canada Free-Trade Agreement will do a great deal to strengthen the economy of the United States as a whole. A recent survey by the United States Department of Commerce has projected that the institution of a free trade area will result in a $25 billion increase in trade between the United States and Canada in the next 5 years which, in turn, will create more than 14,000 new jobs in American manufacturing industries.

In addition, the U.S. service industry—currently accounting for 70 percent of our economy—stands to gain as well from this agreement. A free trade area will increase the opportunity for the United States to export its know how in such areas as financial, health, educational, and legal services. According to data collected by the Northeast-Midwest Senate Coalition, in 1986 the United States exported $18.9 billion worth of services to Canada resulting in a trade surplus in services of $11 billion. That figure says to me that the United States is doing something right. This agreement will substantially increase the opportunity for United States companies to offer their services in Canada.

Jane Snedden Little, an economist at the Federal Reserve Bank of Boston, observes that the provisions of the agreement pertaining to financial services represents this country's first bilateral agreement covering the entire financial sector. She asserts that these provisions end "essentially all of the discriminatory practices, such as restrictions on market share, asset growth and capital expansion, currently faced by United States financial institutions operating in Canada."

It must also be mentioned, Mr. President, that a key beneficiary of this agreement is the consumer on both sides of the border. Increased openness of United States and Canadian markets means increased competition for an expanded customer base. Both United States and Canadian businesses had better be ready to compete for a consumer who will have more choices. Those that succeed, will grow and, in turn, strengthen the economies of both nations.

Before I conclude I would like to note that, while this agreement is a major step in improving an already sound trading relationship between the United States and Canada, there remain some barriers that are not addressed in the agreement. A report by the Northeast-Midwest Senate Coalition notes that some longstanding trade disputes, including subsidies and the protection of Canada's cultural industries, are not addressed by the establishment of a free trade area. In addition, the coalition sees the potential gains for U.S. producers of textiles and automotives, as limited under the current agreement.

Yet, Mr. President, in 1992 the world will see the institution of a single, European Common Market. By that year, Japan and South Korea will only have expanded and strengthened their respective economies. In such an environment, a world economy becoming increasingly competitive, as well as technology based, it is vital that the United States make economic competitiveness a top priority. The United States-Canada Free-Trade Agreement is a major step toward this goal. The institution of a free trade area will give American businesses the opportunity to compete in an expanded market. Such an environment can only help the U.S. economy as it allows our businesses to innovate and to become more competitive.

I supported the United States-Canada Free-Trade Agreement because a changing world economy demands that the United States work harder than ever to remain strong. I supported it because it represents progressive and effective economic policy. And, Mr. President, I supported this agreement because it is the right thing for America now.

BILL BENNETT'S LEGACY TO THE DEPARTMENT OF EDUCATION

Mr. DOLE. Mr. President, today is my good friend Bill Bennett's last day as Secretary of Education. It is a position that his big shoes filled very well. Often stirring up controversy, William Bennett succeeded in drawing attention to the problems and shortcomings of the American education system. Solutions to these problems inevitably followed. He blasted us out of our sense of complacency by demanding better performance from all those involved in the education process—Federal, State, and local governments, school boards, parents, teachers, and students themselves. What's more he was at the helm when States and local school districts were stirred to improve the quality of the education their classrooms offered to our young people.

Bill Bennett provided leadership by using his Federal position to get States and local communities to take the necessary steps to implement much-needed reforms. As the Washington Post says this morning:

> The Bennett reign coincided with intense State and local activity in education, one of the most energetic periods of change in history. The focus on education enhanced Bennett's profile, and his very public style meshed well with the national agenda.

It is true he never gave up in his hope that better services could be offered to train our children and young people for the future they will inherit. Along with this came a strong sense of responsibility. He went out of his way to find successful programs, and emphasized what's right with our education system, while pointing out what's wrong.

It is perhaps ironic that the Reagan administration came to power with full intent to abolish the Department of Education. However, under this administration and Bill Bennett's leadership as Secretary, the Department gained more visibility than at any other time in its history. It would seem that abolishing the Department of Education is now a moot issue. This administration has proven how important a strong Federal role in this area is—and we have Bill Bennett to thank for that. This is not to say that the Federal Government should assume most of the burden of funding for education programs. It's role is to guarantee access to education opportunity for all American children, regardless of race, sex, religion or disability. Bill Bennett provided the kind of leadership that was needed to promote State and local efforts to improve the quality of education for all our children.

TRIBUTE TO LORRAINE DANZEY

Mr. HEFLIN. Mr. President, it is my honor to rise, today, to pay tribute to a lady who helps preserve the fast disappearing art of pastry making. Lorraine Danzey, of Abbeville, AL, works out of both her home and her shop, The D&D Donut Shop, in Henry County, preparing baked goods for almost every occasion.

Lorraine Danzey is renowned for her pastries, candies, and cakes throughout southeast Alabama and southwest Georgia. Whenever I travel through her area of the State, I look forward to tasting some of her mouth-watering treats. I have been lucky to partake of her baked delights as I travel and have meetings in Henry County.

Lorraine Danzey is especially celebrated for her wedding preparations. For her special wedding cakes and wonderful catered receptions, Lorraine is widely recognized as the best. She employs three people in her shop but takes pride in making all the candies herself. She makes heavenly pralines, fudge, chocolate peanut clusters, and old fashioned divinity.

Mr. President, Abbeville is certainly fortunate to have someone of Lorraine Danzey's skills. I ask unanimous consent that a newspaper article describing her talents be entered in the Congressional Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

SWEET THINGS—ABBEVILLE BAKER CONSTANTLY DELIVERING THE GOODIES

(By Judy H. Armstrong)

Abbeville.—To Henry countains and others who know her, Lorraine Danzey's name is synonymous with sweet things.

She specializes in making them, and the D&D Donut Shop here is where they have been coming together for 11 years.

In her small, clean and cheerful shop on Kirkland Street, Mrs. Danzey begins her work in the early morning hours making anew doughnuts of all kinds, pastries, cinnamon rolls, apple fritters, candies, cookies, cakes, pies, and more all baked from scratch.

By 5 a.m. daily Mrs. Danzey has the two big showcases in her shop filled with fresh goodies, a boon especially for the early morning-to-work force who stop in for some warm doughnuts, a hot biscuit and sausage and coffee.

While her downtown business is good, the enterprising Mrs. Danzey also caters wedding receptions, after-rehearsal dinners and other events.

She prepares all the food to be served and sets everything up, including a lot of the furnishing needed for decorations. Her work crew stays for event, serves the food and then does the clean up work.

Mrs. Danzey got her start making cakes for the public about 18 years ago baking birthday cakes for friends. As her reputation for good, quality products grew, she got into making layer cakes, or what she calls "just good eating cakes."

Mrs. Danzey attributes her success to her cooking things like she likes them. "As if I was at home cooking for my family," she said.

Although she has the shop, Mrs. Danzey said she still bakes cakes at homes some times.

Christmastime is her busiest season for cake making and she has made as many as 56 cakes in one day at home, some with as many as five layers each. Although she also bakes cakes at her shop, she said she keeps closer count of the turnout at home where she works alone.

In her shop, which she calls "a little family operation," she has three employees, but she personally makes all the candies—old-fashioned divinity, fudge, chocolate peanut clusters, pralines, which include generous portion of homegrown peanuts and pecans.

The most unusual wedding cake she ever baked, Mrs. Danzey readily recalls, was made to feed about 550 people, and made in the form of a church "complete with the steeple and everything."

She carried the body of the cake, with the exception of the finishing touches, to the reception site in Columbus, Ga., where she assembled it, added the front porch with its columns and the steeple.

Her most popular birthday cakes are the regular white cake with white icing. However, her best sellers are her layer cakes—butternut, caramel or lemon cheese, the icings for which she makes from scratch as well as the layers.

Mrs. Danzey does a lot of catering in Dothan, Fort Gaines and Eufaula and other Wiregrass communities.

The catering of an event by Mrs. Danzey means that she will prepare meats, vegetables, casseroles, desserts, whatever the host wants, or she will prepare her own menu. One of her favorites, as well as of her customers' is a chicken roll-up, which features ham and chicken breast rolled up a in pastry with cheese, broccoli casserole or some type casserole, a vegetable, a congealed salad, a potato salad or some type of starchy salad, a dessert, tea and the rolls.

Mrs. Danzey says proudly she has never seen anything she couldn't cook. "Just show me a picture and I can make it."

THE HEALTH CARE PROPOSAL OF GOVERNOR DUKAKIS

Mr. KENNEDY. Mr. President, Mike Dukakis has just delivered a major address on the health policies that a Dukakis administration will support. During the course of this week, he will be announcing a number of important and innovative proposals. It is a constructive and far-reaching program that all Americans committed to a healthier society should support. After 8 long years of reaction and retreat on the quality of health care in the United States, the time for progress is overdue.

Since the Reagan administration took office, the number of families without even basic health insurance coverage has risen by an average of a million people a year—to a shocking 37 million of our fellow citizens who have no such coverage today.

Two and a half million families a year face catastrophic costs in excess of $3,000 that their health insurance does not cover.

According to studies by the Robert Wood Johnson Foundation, 15 million Americans a year who feel they need health care do not obtain it because they cannot afford it. In today's highly competitive health care market, community hospitals across the country increasingly face a cruel choice between closing their doors to the uninsured, or opening their doors and risking bankrupcy.

In the face of this growing crisis, the administration has done one of two things—at best, they have looked the other way. At worst, they have contributed to the problem. Indeed, the administration has fought hard for proposals that would make the crisis worse. They have offered cruel and heartless proposals, rejected by the Congress, to cut billions of dollars from Medicaid and swell the ranks of the uninsured by forcing millions of the poor out of the program. They proposed an ill-considered tax increase that would add a minimum of $18 billion over 3 years to the cost of the employment-based health insurance that most Americans depend on for protection against the high cost of essential health care.

A Dukakis administration will work to reverse the negative policies on health care of the past 8 years. On this issue, as in so many other areas, the American people face a choice between meeting the challenge of the future or continuing the unacceptable policies that burden so many millions of our fellow citizens who are left out and left behind.

One of the most devastating legacies of the past that confronts America today is the dishonor roll of infants who die or are permanently disabled because their mothers did not receive the cost-effective prenatal care that every mother in America deserves. The United States is first in the world in wealth, first in military power—and 16th in infant mortality. Yet the administration has consistently proposed measures that would make the problem worse. Instead of committing itself to a healthy future for American children, they have led the assault on maternal and child health programs, on community health centers, and on Medicaid for mothers and children. Governor Dukakis is committed to a healthy start for all American children. There is no more important investment that can be made in the future of America.

It has been said that the measure of a society's greatness is how it treats the very young and the very old. Our commitment to health care and retirement security for senior citizens is not only simply justice for those who kept faith with America through war and depression. It is also an investment in the future. All of us, if we are fortunate, will some day be old.

But the present administration has been as callous and shortsighted in its treatment of senior citizens as it has been in its treatment of children. Every elderly American depends on Medicare—and they need to know that Medicare is dependable and will be there when they need it. Every senior citizen knows the burden of health care costs is already too high. Because of excessive inflation in costs and gaps in Medicare coverage, senior citizens must now pay the same high percentage of income—15 percent—for health care that they had to pay a quarter century ago, before Medicare was enacted.

Year after year, senior citizens throughout the country have been struggling harder and harder to pay for the health care they need. Since the day it took office, the administration has tried to cut back on Medicare by stealth. Reductions in benefits and increases in premiums enacted under this administration will take a total of $22.8 billion in Medicare protection out of the pockets of our senior citizens over the next 5 years.

To add insult to injury, the administration's 1988 budget—the most recent budget not constrained by the budget summit—proposed $25.6 billion in additional cuts over the same period.

The Reagan-Bush program adds up to almost $1,500 less in Medicare for each senior citizen in America—and that is unacceptable. Gov. Michael Dukakis has pledged to protect Medicare, not repeal it—and as his distinguished record on health care in Massachusetts makes it clear, he is a chief executive who knows how to keep the promise of better health care.

This election is about more than not repeating the mistakes of the past 8 years; it is about building the America we want for the future. The greatest need the elderly face today is for a compassionate, effective program to protect them against the high cost of long-term care—whether that care is provided in a nursing home or in a senior citizen's own home. Mike Dukakis will fight for long term care protection for every senior citizen. The Reagan-Bush administration has opposed us every step of the way on this all-important issue.

Few things are more important to the quality of life in the United States than the health of our citizens. Today Governor Dukakis has put health care where it belongs—at the top of our national priorities. On this challenge we know where Vice President BUSH has been for the past 8 years—on the wrong side of the issue. And Governor Dukakis is just the President to set things right. I commend him for his thoughtful and progressive address today.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Lauro F. Cavazos, of Texas, to be Secretary of Education, on which there shall be 30 minutes of debate, to be equally divided and controlled by the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Utah [Mr. HATCH].

The clerk will report the nomination.

DEPARTMENT OF EDUCATION

The assistant legislative clerk read the nomination of Lauro F. Cavazos, of Texas, to be Secretary of Education.

Mr. KENNEDY. I yield myself such time as I may use.

Mr. President, today the Senate will vote on the nomination of Lauro Cavazos to be Secretary of Education.

Lauro Cavazos was born on the King Ranch in Texas. After serving in the U.S. Army, he worked his way through college and earned a bachelors and masters degree from Texas Tech. Later, he received a Ph.D. from Iowa State. He taught for 10 years at the Medical College of Virginia. In 1964, he moved to Boston as a professor and, later, became dean of the Tufts Medical School. In 1980, he was appointed president of Texas Tech University and Texas Tech University Health Sciences Center.

I note that Dr. Cavazos has spent considerable time and compiled an excellent record in both Massachusetts and Texas. I think Massachusetts and Texas is a winning combination, and I think the voters will agree with me in a few weeks.

Mr. President, this is an outstanding academic record. It is readily apparent that Lauro Cavazos knows a great deal about American education and that he has the perspective to be a superb Secretary of Education.

The Labor Committee held a confirmation hearing for Dr. Cavazos and all of us were impressed with his commitment to Federal education programs. Dr. Cavazos noted that "the Federal Government is part of the solution" to America's education problems and added that "the Federal Government has a responsibility to provide resources for those students who are most vulnerable. The Federal Government must provide leadership and ideas. It must be an ally in the education reform movement."

For the last 7 years, Members of Congress from both sides of the aisle have worked hard to ensure that the Federal Government will continue to have a role in education. It is apparent that Dr. Cavazos will be an ally in these efforts in the future.

Mr. President, at his confirmation hearing Dr. Cavazos told the Labor Committee that he had spent over 50 years in education. For 21 years he was a student and, in his words:

> I have spent the last 34 years trying to repay this debt by working to see that others fulfill the American dream through educational progress.

Clearly this is a man who shares our views about the importance of education in American society. He will be an outstanding Secretary of Education and I look forward to working with him.

Dr. Cavazos is to be congratulated for yet another achievement in a long and distinguished career. He is an authentic American success story and an inspiration to millions of young students.

Mr. President, I urge my colleagues to join me in voting to confirm the nomination of Lauro Cavazos.

Mr. President, I welcome the members of the Cavazos family, Dr. and Mrs. Cavazos and their 10 children, who are in the Capitol at this time with their husbands and wives, and some with their children.

I mentioned to Dr. Cavazos that his parents had one more child than the Kennedy family, so we understand large families.

We extend a warm word of welcome to all of them. This has to be a very proud moment for Dr. Cavazos and Mrs. Cavazos, and it has to be a very important moment for the members of their family as well, and the Senate welcomes all of them to the Capitol today.

Mr. President, I reserve the remainder of my time.

Mr. HATCH. Mr. President, I am pleased to be here today, and I echo the sentiments of our distinguished colleague from Massachusetts.

I am pleased that the Senate today is considering the nomination of Dr. Lauro Cavazos to be the Secretary of Education. To my knowledge, all of us are thoroughly delighted at this nomination. Education is probably the most strongly bipartisan issue in Congress, and it has become apparent already that Dr. Cavazos intends to work with us on Capitol Hill, and to lead our Nation as a whole, in that spirit.

Lauro Cavazos is a highly respected teacher and academic administrator. His credentials in the physical sciences, health issues, and health-medicine policy are gilt edged. Most impressive, of course, is the fact that those impeccable credentials have been earned by a self-made man. Dr. Cavazos is living proof of the American dream.

The son of a foreman on the King Ranch in Texas, Lauro Cavazos "kept at it," eventually obtaining a Ph.D. in physiology from Iowa State University. That pattern of achievement and excellence continued. Dr. Cavazos has held many prestigious academic and administrative positions, has been published in numerous scholarly journals, and has held membership in several professional public service societies and associations. To be Secretary of Education, Dr. Cavazos will take a leave of absence from Texas Tech University and Texas Tech Health Sciences Center. He is the first graduate of Texas Tech and the first Hispanic to hold those positions.

Largely as a result of his own background, Dr. Cavazos is strongly committed to ensuring that excellent educational opportunities are available to all Americans, particularly those most in need of the extra assistance the Federal Government can give to special groups and individuals who otherwise would not have that opportunity. He has made that commitment quite clear in visits with me and in his testimony before the Labor and Human Resources Committee on September 9, 1988. He shares the committee's special concern for sufficient funding and efficient administration of such programs as Pell grants, supplemental educational opportunity grants, TRIO and Upward Bound, Chapter 1, Head Start, and Bilingual Education, to mention only a few. I have seen the beneficial effects of these programs in my home State of Utah and look forward to working particularly hard with Dr. Cavazos to ensure that they receive sufficient funding and constructive attention from us all.

I applaud especially Dr. Cavazos' activities as chairman of the dropout task force for the Lubbock, TX, Independent School District. Preventing students from dropping out of school and encouraging dropouts to return to school is a worthy objective for us all. In Utah, we estimate that approximately one student in five will not complete a secondary education. Across the country, the dropout rate is often higher still. That is a tragic loss, for both the individual student and our country as a whole. In recognition of that problem, Congress, last year, in the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, enacted a new Dropout Prevention Demonstration Grant Program. We look forward to the implementation under Dr. Cavazos of that most urgently needed new program. He is extraordinarily qualified for that task.

Mr. President, I am proud to support this nomination. I urge my colleagues, as I am sure they will, to confirm Dr. Lauro Cavazos as Secretary of Education immediately. Let us then work together to ensure the best education possible for all our Nation's citizens—young and old, well-off, and needy. There can be no finer endeavor.

Mr. President, I feel honored to serve on the same committee with the present chairman and the ranking Republican member of the Education Subcommittee, Senators CLAIBORNE PELL and ROBERT STAFFORD. No two people in the history of this country have done more from a Federal standpoint to help in the areas of education than these two wonderful gentlemen. So I am pleased to serve on that subcommittee with them.

I know that Senator STAFFORD would like to make some remarks. I again express my regard for him and for the educational leadership he has provided all these years as a Member of the U.S. Senate, especially since he is going to retire this year.

Like Senator KENNEDY, I also welcome the Cavazos family. I come from a large family also. There were nine children in our family. Elaine and I have six children and seven grandchildren, so we understand about large families.

I want to express my regard and appreciation for Lauro Cavazos and how much I look forward to working with him as we work in the U.S. Senate to further the aims of education throughout our country.

I yield to Senator STAFFORD.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, first let me thank the ranking member of our full committee, Senator HATCH, for his very kind words.

It has really been a great pleasure for the almost 18 years now I have served in the Senate to serve on the committee with Senator KENNEDY, the chairman of the full committee, and Senator HATCH, who has been its ranking member for some years and was its chairman for 6 years.

I think much of whatever success we have had during our watch has been the nonpartisan nature of education which needs everybody's support, the necessity for education, the understanding of Senator KENNEDY and Senator HATCH that this was necessary and the free hand that they have given Senator PELL and myself acting as a two-man team to head up the educational efforts on behalf of the committee in the subcommittee and present the full committee with generally a bipartisan proposal that could be supported by the committee in full and by the Senate itself.

So it has been an effort of some really great people and I cannot tell you how much I am going to miss the association with people like Senator KENNEDY, Senator PELL, and Senator HATCH when I leave here.

I do rise today in enthusiastic support of the nomination of Dr. Lauro Cavazos to become Secretary of Education for the final months of the Reagan administration and maybe beyond. Dr. Cavazos is uniquely qualified to assume this position as Senators HATCH and KENNEDY have already pointed out. His career as an educator has been marked by success and achievement. Dr. Cavazos is a man who has lived the American dream. His lifelong pursuit of educational excellence as a teacher, a researcher, and university president has been appropriately rewarded by today's Senate vote. The Hispanic community has taken particular pride in his achievements and his nomination by President Reagan. I am pleased to have this opportunity to join my colleagues in the Senate and the Cavazos family members who are here today to offer my congratulations and support.

When Dr. Cavazos appeared before the Committee on Labor and Human Resources he was asked to describe his goals as the new Secretary of Education. He spoke of advocacy for educational excellence, for individual access, and for improved Federal financial support for important programs such as chapter 1, Pell grants, and the Education for All Handicapped Children Act. Those were refreshing words to this Senator. There is nothing more important that we can offer our children, our grandchildren, and future generations than educational opportunity. The Secretary of Education should be the No. 1 voice in support of excellence in our Nation's schools. I believe that Dr. Cavazos will carry out that role with distinction.

I urge my colleagues to join us in support of his nomination and wish him great success with the challenges that the next 4 months and maybe beyond will present to him as Secretary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I first of all express my appreciation for the kind comments of the Senator from Vermont.

As all of us on the Labor Committee know, and I think all of us in this body know, for the young people in our States the quality of education has been enriched by his service. I think every Member of this Senate can make the same comment.

As was pointed out at the time of our last hearing, that probably was the final hearing of that committee that Senator STAFFORD would attend. And it was on that occasion that there was a unanimous presentation to the Senator from Vermont commending him on behalf of all of us, and really for the whole Senate, the Congress, and the American people for the extraordinary contribution he has made in education. His endorsement and support of this nomination is something which I am sure Dr. Cavazos will value very highly because of the great respect that all of us have for him.

I appreciate his kind comments.

Mr. HATCH. Mr. President, I likewise express my appreciation to a very dear colleague. I personally have appreciated working with him and Senator PELL and also my friend, Senator KENNEDY.

I think this has been probably the most bipartisan effort when it comes to education of anything we have done, and on a committee that oftentimes is noted for divisiveness, it is really a pleasure to work on the education areas.

I think all of us have enjoyed it but a lot of that benefit really has to be attributed to the firm of STAFFORD and PELL or PELL-STAFFORD, because of the really effective way that they have operated that subcommittee and the way they have led in Federal education matters as well as education matters across this country.

So we appreciate the kindness which is typical of the distinguished Senator from Vermont, and I just want him to know that.

I am happy to yield 3 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the nomination of Dr. Lauro Cavazos for Secretary of Education. Dr. Cavazos is internationally recognized as an outstanding educator and administrator. He is considered to be an authority in the areas of: anatomy, cell biology, and medical education. Dr. Cavazos is an imaginative and innovative scholar, who has worked throughout his impressive career to promote educational opportunities and social advancement for minorities.

A sixth-generation Texan, Lauro Cavazos is a member of a hard-working family that has distinguished itself through service to its community, State, and country. In 1980, Dr. Cavazos was named as president of Texas Tech University and the University's Health Services Center. As such, he became the first Hispanic president of a major American university, and at the same time, the Health Services Center became the largest medical school in the United States to be headed by a Hispanic. Prior to his position at Texas Tech, Dr. Cavazos was the dean of the medical school at Tufts University in Boston for 5 years.

Lauro Cavazos has served ably on many committees and task forces in the education sector and has contributed numerous articles to scholarly publications. In 1984, President Reagan bestowed the outstanding leadership in education award upon Dr. Cavazos.

Under Secretary William Bennett, our Nation has experienced strong leadership in effecting President Reagan's policies at the Department of Education. I am confident that the President has made a sound choice in selecting Dr. Cavazos as Secretary Bennett's successor and am sure that he will demonstrate the leadership necessary to continue the advances that have been made in the field of education under the Reagan administration.

Mr. President, Dr. Cavazos has stated that he is convinced that education is the key to many things and that if you have sufficient education, you can solve most any problem in the world. I believe that, as Secretary of Education, Dr. Cavazos will dedicate himself to the task of providing our great Nation's citizens with the educational background that is required to compete and be productive in today's complex society. I urge my colleagues to support his confirmation.

Mr. KENNEDY. Mr. President, I yield such time to the Senator from Illinois, Senator SIMON, who was chairman of the House Education Committee and has been one of the most active, if not the most active, members of our committee in the areas of education. I am delighted to hear from the Senator.

Mr. SIMON. Mr. President, I thank my colleague. I was in my office and I heard his remarks about this great background that Dr. Cavazos has in both Massachusetts and Texas and that that is a great combination. I assume that Senator THURMOND, Senator DOLE, and other colleagues on the floor today also think that Massachusetts-Texas combination is a great combination.

Let me simply add that I am very pleased that Dr. Cavazos is the nominee here. When I chaired the Higher Education Subcommittee in the House, I held hearings on the whole question of Hispanics in higher education, because, frankly, the Hispanic population in our country is, in some ways, an untapped resource.

One of the witnesses before my subcommittee was Dr. Cavazos. He made an excellent impression then. He has made an excellent impression I think on all of us since that time. I think his appointment is a sound appointment.

I believe he will be a Secretary of Education who, candidly, is probably not going to bring as much visibility to the Department of Education as the current Secretary of Education, but I think will accomplish a great deal more in terms of being willing to work with the Members of the Senate and the House. And getting the job done is, after all, what the ball game is really all about.

I certainly am going to vote for his confirmation and I welcome this appointment by the President.

Mr. KENNEDY. Mr. President, under the previous order, we are scheduled to vote at 11 o'clock, as I understand it; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the remaining time be granted to the Senator from Rhode Island, the chairman of the Education Subcommittee.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I think this is an excellent appointment. I have already made a statement concerning the abilities, skills, and knowledge of Dr. Cavazos for this post. It is a good appointment. I think it recognizes the fact, too, that education is a matter that crosses party lines. Education is not a partisan matter.

I hope, with the appointment of Dr. Cavazos, that some of the divisions that have occurred in the past between the Department of Education and the educational community can be healed and that we can see a fresh start made in this regard. This is an appointment that I am happy to support, and trust he will be approved unanimously.

I am very glad to see my colleague and ranking minority member, the Senator from Vermont, on the floor. As is so often the case, this is one more instance where we have similar views.

I yield the floor.

Mr. GRAMM. Mr. President, we vote today on the nomination of Larry Cavazos to be Secretary of Education. For those of us from Texas, this is a time of great pride, and I think it should be a time of great pride for every American.

Larry Cavazos is a remarkable man. He is a remarkable man in part because of his humble beginnings. He was born on the King Ranch. His dad was a cowboy. When we got out of high school, he joined the Army. He came out of the Army and worked his way through college and graduate school, went into academics, and became dean of the medical school at Tufts University in Massachusetts.

He went on to become president of a great university, Texas Tech University in Lubbock, TX. And today he becomes the first educator of America.

It is a great testament to Larry Cavazos and his family that he has risen from the son of a cowboy to become the first educator of America.

But, Mr. President, it is more than a testament to this remarkable man and his remarkable family. It is a testament to America. I think it proves once again that the American system is alive and well; that it still works; that hard work and God-given talent, when combined in a free society, produce extraordinary results.

So I believe that Larry Cavazos should be approved by a unanimous vote in the Senate.

I look forward to working with him during his service as Secretary of Education. He is committed to quality education for all of our citizens; committed to seeing that every child has an opportunity to develop that child's abilities, to allow that child to compete on the playing field and to use his talents to benefit himself and his family and America.

So, Mr. President, I urge my colleagues to join me in voting for a remarkable man whose life is an American success story and whose service as Secretary of Education, which quite frankly I hope will extend into the next administration, will be something that all Americans can be proud of; will be a service that will contribute greatly to upgrading the quality of education which represents the highest aspiration of the American people.

I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, Dr. Cavazos does not have a great deal of time, but I happen to believe that this will be good training for him to start service in the Bush administration, beginning next January. [Laughter.] So this will really work out just about the way we planned. I strongly support the nomination of Lauro F. Cavazos as Secretary of the Department of Education.

Dr. Cavazos is an extradorinarily well-qualified educator, who is now serving as president of Texas Tech University. But Dr. Cavazos is one of those rare individuals who has literally worked his way up the ladder in his profession—functioning in both teaching and administrative positions.

As my colleagues have already pointed out, Dr. Cavazos testified before the Senate Labor and Human Resources Committee that he will pay special attention as the Education Secretary to programs the Senate, and the population at large decided are critical if the United States is to achieve educational superiority—programs like Headstart, bilingual education, and Pell grants.

Dr. Cavazos is the first Hispanic president of Texas Tech University, and as such, is an inspiration, a role model, for millions of young Hispanic children throughout the Nation. The Federal Government does need to play a role in assuring that these youngsters—all children from minority families—receive the kind of education that assures they will be playing on a level field when they reach adulthood.

Everything I have heard and read about Dr. Cavazos indicates that he will be a top-notch Education Secretary—the kind of Education Secretary who will not merely mouth the words that he is committed to education, but actually carry that commitment out.

Mr. KENNEDY. Mr. President, I see we have about a minute left. I wish to introduce into the RECORD the names of the Cavazos children:

Lauro Cavazos III, Sarita Cavazos, Ricardo Cavazos, Alicia Cavazos, Victoria Cavazos, Roberto Cavazos, Rachel Cavazos, Veronica Cavazos, Tomas Cavazos, and Daniel Cavazos, all of who are here. I wish to welcome them.

Mr. DOMENICI. Mr. President, I rise today to express my strong support for confirmation of Lauro F. Cavazos to be Secretary of Education.

Dr. Cavazos has a very distinguished record of achievement and service in both education and science. He is exceptionally well qualified for the post.

I commend President Reagan for making an excellent choice.

Lauro Cavazos was born in Texas and attended college at Texas Tech University in Lubbock, where he received both his bachelor's and master's degrees in zoology, concentrating in cell biology. In 1954, he earned a doctorate in physiology from Iowa State University.

Since then, Dr. Cavazos has compiled an outstanding record of achievement—achievement as a teacher, as an administrator, and as a scientist. He is considered a world authority in anatomy, cell biology, and medical education.

He has taught and held administrative posts at the Medical College of Virginia and Tufts University, where he served for nearly 7 years as dean of the Tufts Medical School.

In 1980, Dr. Cavazos returned to Texas Tech University to become president of his alma mater, the first Texas Tech alumnus to hold that position.

Mr. President, American education faces substantial challenges over the next decades, as revolutions in various scientific fields offer the opportunity for tremendous economic growth, while transforming our daily lives.

We must prepare our children for future jobs that will require a highly skilled and literate work force. We must substantially improve American education in many areas, but particularly in basic skills, math, and science.

We need to do this at a time when a host of social problems threaten the ability of so many of our children to succeed in school: Illiteracy, teen pregnancy, and a series of economic and social barriers.

Among the children at risk are disturbing large proportions of our minority children.

We must find ways to assure that all our children—and I mean all—succeed in school. If we fail, we will fail as a nation.

American education needs strong leadership from someone familiar with addressing these challenges. I am convinced that Lauro Cavazos can provide that leadership.

He brings many qualities to the post of Education Secretary that will serve him and America extremely well throughout his tenure. As a Hispanic and a southwesterner, Dr. Cavazos is very familiar with the educational barriers confronting minorities. His experience in fighting those barriers, as well as his background in science and medical education, will serve America well in our efforts to improve scientific literacy.

In closing, Mr. President, I urge my colleagues to vote to confirm the nomination of Lauro Cavazos, truly an outstanding educator, as Secretary of Education. America needs his leadership.

Mr. DODD. Mr. President, I rise in support of the nomination of Lauro Cavazos to be Secretary of Education. His record as an instructor and university administrator and his testimony before the Senate Committee of Labor and Human Resources are evidence of his lifelong commitment to education excellence.

While I am confident that Dr. Cavazos is committed to the education concerns of our Nation, he will be working with an administration with a track record of education neglect, an administration that set out to abolish the Department of Education and set out to reduce Federal spending on education programs. Dr. Cavazos will face the formidable task of elevating education concerns to a national level. And, it is absolutely vital to the future of our Nation, that Dr. Cavazos take on the challenge of moving education to the forefront of the public policy debate.

There is little time to spare. A lack of concern for education excellence today will result in future costs to the Federal Government, our national security and private sector competitiveness. While the rhetoric of the administration has pushed for State and local efforts to strive for education excellence, the lack of Federal initiatives are representative of its lack of commitment to this area. A commitment on behalf of the Federal Government to improving the system would serve as a needed catalyst for State, local, and private initiatives.

The administration must realize that education is as important a component of our national security as weapons. Our children are the Nation's greatest, most valuable resource. Our Nation needs a solid pool of educated workers, teachers, parents, and soldiers to lead us into the 21st century. As the next Secretary of Education, Dr. Cavazos will have the opportunity to set a precedent and make education a leading item on the public policy agenda.

I am confident that Dr. Cavazos has the determination to lead the United States toward education excellence. He comes to the job knowing he has only a few months to make a difference. But, in those few months he will have ample opportunity to outline a strategy that will assist State and local governments in attracting bright and enthusiastic persons into the teaching force. Finally, Dr. Cavazos can tackle the challenge of preserving the Student Loan and Grant Programs and making higher education more affordable to students from low-income families.

In closing, I encourage my colleagues to join me in supporting the nomination of Dr. Cavazos. Anticipating Dr. Cavazos' confirmation today, I wish him success as Secretary of Education and look forward to working with him.

The PRESIDING OFFICER. All time having expired, the question is, Will the Senate advise and consent to the nomination of Lauro F. Cavazos, of Texas, to be Secretary of Education? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. HECHT], the Senator from Idaho [Mr. MCCLURE], and the Senator from Indiana [Mr. QUAYLE] are necessarily absent.

The PRESIDING OFFICER (Mr. FOWLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 333 Ex.]

YEAS—94

Adams
Armstrong
Baucus
Biden
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—6

Bentsen
Boren
Hecht
McClure
Quayle
Stennis

So the nomination was confirmed.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINIMUM WAGE RESTORATION ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 837, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Hatch Amendment No. 3040, to provide for a new hire wage.

(2) Kennedy Amendment No. 3041 (to Amendment No. 3040), of a perfecting nature.

AMENDMENT NO. 3041, AS MODIFIED

Mr. KENNEDY. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the modification of the Kennedy amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the modification be dispensed with. It is a technical modification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. There is one grammatical change, a technical change.

The modified amendment reads as follows:

In the pending amendment, strike all after "following:" on line 4, and insert the following:

"(E)(1)(A) Any retail, service, agriculture or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

Mr. KENNEDY. Mr. President, we had a good opportunity to debate two amendments to the legislation—that proposed by the Senator from Utah [Mr. HATCH] and my amendment—last week. I am prepared to go back to the consideration of those amendments at this time and hopefully be able to get some action on them.

If we are going to be able to get consideration of them, I would like to go back and renew briefly the basic justifications and the reasons to support my amendment and what I consider to be the failings of the amendment of the Senator from Utah.

Mr. President, prior to that, I would like to focus the attention of the Senate on this morning's New York Times, which reported two tragic findings by the National Academy of Sciences.

The first finding was with respect to the rising population of homeless children. These children are innocents; they are blameless victims of policies made by people with secure jobs and secure homes.

The second tragedy is that the views of the majority of the panel were silenced by the Academy.

Let me quote from the excluded material which represents the views of 10 of the panel's 13 members.

It made recommendations including calls for the Federal housing programs to be restored to 1981 spending levels and for minimum wages to be high enough to make decent housing affordable.

They made four recommendations dealing with health and with other changes in welfare, as well as the housing program. But they focused an important element in that report on an increase in the minimum wage.

I think the statement this morning by 10 of the 13 members of the panel, indicating their indignation and their outrage that this country does not come to grips with the problem of the homeless in our society, is really something that every Member of this body ought to take to heart.

We are not talking about runaways; we are not talking about abandoned children; we are not talking about children pushed out of their homes. What we are talking about is more than 100,000 children each night living out in the streets. Children age 5 or under, in our society living on the streets.

One of the recommendations of that panel was to make some adjustment in the minimum wage. So I hope we will have an opportunity to revisit this issue.

We are quite prepared to move ahead with the debate. We are also prepared to move ahead with the votes.

I see in the Chamber now the Senator from Iowa [Mr. HARKIN], who spoke on an amendment in the committee and indicated that he would offer such an amendment on the floor. We could consider that amendment. It is extremely important. He is entitled to make that case.

During the course of the last vote, I talked to the Senator from Illinois [Mr. SIMON], who is ready to offer his amendment at any time. He does not think it will take a great amount of time.

So we can make some real progress on this important piece of legislation, and we are eager to do so.

I note that we have spent more than 7 hours of debate on the Hatch and Kennedy amendments. We have also spent a number of hours in quorum calls, waiting for speakers. We know that we have important unfinished business here.

I welcome the opportunity to further debate these issues, to justify and support the various statements and the case we have made in support of a higher minimum wage, and to get about the Senate's business.

I also see the Senator from Illinois [Mr. DIXON] in the Chamber. He wanted to make a brief comment, but he has indicated that he would gladly accommodate the leadership to permit us to take whatever action we might want to take on any of these measures.

I hope we can spell out some path so that we can come to a resolution of these various issues. /

Mr. DOLE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. DOLE. Mr. President, I discussed with the majority leader earlier that if we could not continue with this bill between now and the time of the policy luncheons, we could go to the prompt payment measure. Now I have a problem with that. One of the cosponsors of an amendment cannot be here between now and 2 o'clock.

So maybe we could continue the debate—not me, but others who have been working on this issue—continue the debate on the minimum wage.

I would like to accommodate the Senator from Illinois, and we have speakers on this side—if that is all right with the majority leader.

Mr. BYRD. Mr. President, we have a problem on our side, too, so we could not have done prompt payment. We could recess out until 2.

But in any event, I ask unanimous consent that Senators may have until 1 o'clock p.m. today to offer amendments in the first degree as they would have under the rule but for the fact that the Senate is recessing at 12:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon Committee substitute for the bill S. 837, Minimum Wage Restoration Act of 1987.

Senators Edward M. Kennedy, Daniel K. Inouye, Tom Harkin, Terry Sanford, Paul Simon, Jay Rockefeller, Christopher J. Dodd, Don Riegle, Bill Proxmire, Alan Cranston, J. Bennett Johnston, Patrick Leahy, Jeff Bingaman, Bill Bradley, Tom Daschle and Harry Reid.

The PRESIDING OFFICER. The Senator from Illinois, Mr. DIXON.

Mr. DIXON. Mr. President, the clerk has just read a document calling for a cloture vote on the minimum wage bill. I have signed such a motion and would hope that my colleagues in the U.S. Senate would join me on Thursday morning in voting for cloture on this important legislation.

As Members of the Senate know, we have been discussing minimum wage since last week and at this point in time, at about noon on Tuesday, we have not yet voted on a single amendment or otherwise expressed the view of the U.S. Senate on the question of minimum wage, a matter I think of tremendous importance to the working poor of this country.

I am here to tell the people of the U.S. Senate that we are behind the surve. The people in this country already recognize that in most cases, particularly in higher employment areas, you cannot now hire people who will work for the standard $3.35 per hour minimum wage that has existed in this country for a good many years.

I just want to give you a personal example of this Senator. When I was home on the Labor Day break for the latter part of August and early September, I had occasion to make several speeches in the Aurora-Elgin area in Kane County. As I was driving from Aurora back to Elgin that particular day to make another speech, I drove past a White Castle hamburger stand in Aurora, IL, and on the marquee in front of the White Castle hamburger stand in Aurora, IL, was this sign. "Help wanted—starting salary $4.35 an hour."

In my State in Aurora the hamburger business has already established a minimum $1 an hour higher than the existing minimum wage in America. I say why not? Since the $3.35 minimum wage went into effect the value of that wage in America has eroded by 22 percent due to inflation.

Today's minimum wage worker has lost about 65 cents of buying power per work hour over the last several years. That is like working 9 hours a week for nothing just to make up for the lost value of the minimum wage.

The minimum wage has slipped to 36 percent of the average hourly wage but historically in setting the minimum wage when our predecessors here in the Congress first set the minimum wage the Congress was guided by an attempt to achieve a level of about 50 percent of the average hourly wage for the minimum wage.

So I say to my colleagues in the Senate this issue is simply a matter of ordinary fairness. America has been enjoying a very long peacetime economic expansion. Some 12 million new jobs have been created, but regrettably, sadly, not everyone in America has shared the prosperity and the best example is the working poor of our Nation. Five million minimum wage workers who have seen their wages decline 22 percent in value in my view should not be part of the fuel that drives this economy.

Much has been said about the potential for job loss if we increase the wage floor.

You can get statistics on both sides of that issue. But what we know for sure is that everything in our economy boils down to a matter fo supply and demand and if we pay people a better wage they are going to be out there in the economic marketplace buying our products.

The Vice President has promised the people of America 30 million new jobs. That is more jobs than every man, woman, child, and illegal alien in this country can fill.

What we want in this country are good jobs. In America, everyone ought to share in the good times just as all of us are forced to share in the bad times.

I hope on Thursday morning more than 60 of my colleagues in the U.S. Senate of both political persuasions from both sides of the aisle will join the managers of this bill, the Senator from Massachusetts and others and, yes, will join the Vice President of the United States who has made statements that he supports a minimum wage and will vote for cloture Thursday morning so we can go to this minimum wage bill and give the working poor of America a more decent share of the economic well-being of this great Nation.

Mr. President, having observed the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

Thereupon, at 12:03 p.m., the Senate recessed until 12:19 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KERRY].

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise today to support the Minimum Wage Restoration Act. I commend Senator KENNEDY, chairman of the Labor Committee and principal architect of the bill, for his forceful leadership in bringing this important issue to the floor. He has truly been a tireless champion fighting to help America's workers.

The minimum wage is a cornerstone of our Government's commitment to provide humane conditions for all working Americans. That commitment, which includes child labor laws, maximum hour provisions, occupational safety and health protection, and Social Security, separates this country from those nations in the world where people work from cradle to grave for pennies per hour in unsafe, unsanitary conditions. We have banned such slave-like labor conditions in this country. We are the envy of the world because we demand that our workers be treated with dignity and simple human decency.

When Franklin Roosevelt proposed the Fair Labor Standards Act of 1938, he declared:

> Our Nation so richly endowed with natural resources and with a capable and industrious population should be able to devise ways and means of insuring to all our able-bodied working men and women a fair day's pay for a fair day's work. A self-supporting and self-respecting democracy can plead no justification for the existence of child labor, no economic reason for chiseling workers' wages or stretching worker's hours.

Congress' commitment to humane working conditions is as strong today as it was 50 years ago when we first enacted minimum wage legislation. That is why Congress overwhelmingly passed the plant closing bill to provide advance notice to workers about to lose their jobs. And that's why I believe we will also support this effort to make the minimum wage a decent, livable wage once again.

There are over 15 million workers in this country who earn between $3.35 and $4.55 per hour. Over 2 million of these low-wage workers are working, full-time heads of households. A full-time worker earning the minimum wage makes $134 per week—$134 per week to pay the rent, put food on the table, buy clothes for the children and pay for basic utilities. Impossible.

Regrettably, concern for humane working conditions has not been a hallmark of the Reagan/Bush administration. They fought us tooth and nail on the plant closing bill, but they were forced to relent because public support for advance notice was so overwhelming. They have been no better on the minimum wage. We have not had any increases in this basic wage standard during the Reagan/Bush administration—the longest period without an increase in the 50-year history of the minimum wage.

We have not heard a word from the President of the United States about increases. And we do not even know at this point where the Vice President stands on the issue. We have not heard him speak out in the last 7½ years.

During the last 7½ years, the purchasing power of the minimum wage has declined by nearly 30 percent. We must restore that purchasing power because it simply is impossible to make ends meet at $3.35 per hour.

Opponents of this bill raise the same tired arguments about job loss and inflation that they have raised with respect to every decent piece of legislation having to do with workers' conditions for the last 50 years. But, as our President recently has grown fond of saying, "facts are stubborn things." As the Labor Committee's report outlines in painstaking detail, Government statistics prove that changes in the minimum wage since 1938 have had little impact on prices or employment of levels. If you need further proof, look at the 10 States that since 1981 have enacted laws raising minimum wage above the Federal level. In 9 of those 10 States, employment increased and unemployment decreased or remained stable after the minimum wage increased.

If we are serious about fighting poverty in this country, then we must restore the minimum wage. If we are serious about helping people escape from dependency on welfare, then we must restore the minimum wage. If we are serious about our commitment to basic human decency for every working man and woman in this country, then we must restore the minimum wage. I urge all my colleagues to support this important bill.

Mr. President, I would also like to comment on the pending amendments. The amendment by Senator Hatch would totally subvert the concept of the minimum wage.

It allows employers to pay new employees 80 percent of the minimum wage for the first 90 days on the job. It has been called a training wage but there is no mention of training in the amendment. It is absurd to call this a training wage. What businessman would create a job that requires 90 days worth of training, then pay only minimum wage or less to that highly trained worker?

The Hatch amendment is supposed to help young workers, but the subminimum applies regardless of age or experience. If anything, it will entice students to drop out of school to pursue dead-end jobs.

This amendment is supposed to be a critical element in the Bush proposal for an increased minimum wage. There has been much talk recently of the Vice President's desire to create a "kinder, gentler Nation." Those are his words. That is a nice sentiment. You could put it to a violin and play it. But the fact is that it is about time the Vice President recognized that in the last 8 years, America's working men and women have been brutalized by the policies of the Reagan-Bush administration, and not a word—not a word from George Bush.

If the Hatch amendment is an example of Vice President Bush's new found compassion for the less fortunate in our society, then we are all victims of a cruel hoax. America's workers are being "Bush-whacked." Bush is insisting on a draconian subminimum approach. Worse, this proposed subminimum virtually guarantees that employers will hire and fire their low-skill work force every 3 months—just as they have completed their so-called training period.

That is why the Kennedy amendment makes so much sense. It expands incentives for employers to hire full-time students, who can work part time at low wage, low skill jobs while staying in school to learn the skills necessary for a fulfilling career. The amendment encourages learners, instead of creating dropouts.

It doubles the number of full-time students an employer can hire with an automatic certification. It also simplifies the entire certification process, eliminating currently burdensome paperwork requirements.

I urge all my colleagues to adopt the Kennedy amendment to expand the student wage program. It is a targeted approach that helps employers and allows students to work while they learn.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 12:44 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Sanford].

MINIMUM WAGE RESTORATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chairman, in his capacity as a Senator from North Carolina, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, it feels like January around here. We are sort of plodding along with a pace and with a sense of relaxation and even indifference that would cause somebody to imagine that adjournment was quite some distance away.

That does not really matter to me because I am not going anyplace. So far as I know I am free for the rest of my life or at least the rest of my term which still has a couple of years to run, so it really is a matter of complete indifference to me whether we adjourn on September 25 or October 25 or October 20 or any particular date because I am not running. I am going to be right here. I have already told my folks at home in Colorado that I will see them if, as and when Congress ever comes to an adjournment.

But it does seem to me that public interest would be served if we would get around to acting on some of these measures and as I understand it, Mr. President, the current deadlock is over when, if ever, we are going to vote on the pending amendments to the minimum wage bill.

As I understand it, that is not because of any inherent controversy regarding the amendment but whether or not anybody else is ever going to get to offer any amendments.

At least on our side of the aisle, talking to those who are more knowledgeable about the parliamentary situation than I, it comes down to this. As I understand it, our people are ready to vote on some amendments from the Democratic side of the aisle but with the understanding that when we have voted on one of theirs, we would like to have a chance to offer one of ours.

I will explain why that is a matter of particular interest to me very simply. I have an amendment I would like to offer. I do not care whether I offer it this afternoon. I was prepared to offer it last Friday. I would offer it tomorrow—I guess we are not in session tomorrow. But if we were in session, I would offer it tomorrow. Any time would be fine with me. It is an amendment which I believe deserves to be considered. It will not take very long to consider it, and after I present it, I hope the body will vote on it.

But what does stick in my craw a little bit, and what seems to stick in the craws on the Republican side of the aisle, is the pattern that seems to be developing that by using the power to grant or withhold recognition that the majority has, once again, filled up the amendment tree.

If I understand it correctly—and I am prepared to be corrected on this if I am mistaken—it is impossible for a Senator on this side of the aisle or any Senator at this point to offer an amendment until the pending amendment is disposed of.

I guess the expectation on our side is that unless we have some understanding with the managers of the bill that after we have voted on whatever is the pending amendment that once again the majority leader or his designee will, again, rise to offer an amendment and we would not be in a position to vote on any amendments from this side of the aisle and that does not seem to us, at least, to be entirely fair.

Mr. President, I do not want to dwell on that too long, but I wanted to note it in passing because it appears to me that somewhere along the line we ought to be able to work that out. That does not seem to be an insurmountable problem. In fact, the custom for a long time, as long as I can remember it, has always been that we alternate amendments on one side and the other back and forth; and did it actually as a matter of course, without any great controversy on that subject.

Mr. SIMON. If my colleague would yield?

Mr. ARMSTRONG. I would be happy to yield.

Mr. SIMON. I am just handling things temporarily. The manager of the bill, Senator KENNEDY, is not on the floor right now.

Mr. ARMSTRONG. Let me say to my friend from Illinois, he and I are exactly in the same boat. I have been sent here as cannon fodder. I have been sent here for the express purpose of keeping the ball rolling, holding up our side of the thing while the Republican manager is off at a tea party at the White House or someplace, and he asked would I be kind enough to come down and express any thoughts that I had and offer an amendment if I could get a chance to do so, because he knows I have this industrial homework amendment.

But since my friend from Illinois and I are both in the same boat, since the managers are not here, why do we not work out a deal and get on with this thing?

Mr. SIMON. Well, I would be happy to do so. Unfortunately, I am not authorized to do that and my guess is the Senator might not be authorized to do that either.

Mr. ARMSTRONG. Well, I am not authorized, but I might do it anyway.

(Disturbance in the visitors' galleries)

The PRESIDING OFFICER. The galleries will observe silence.

Mr. SIMON. I might say to my friend from Colorado that this morning I wanted to offer an amendment. I think my colleague from Iowa wanted to, but there was reluctance on the Senator's side to withdraw the pending amendment.

But I am sure that I speak for Senator KENNEDY and the majority leader when I say I want to protect your right to an amendment. I have an amendment that will come up. The bill as it now stands takes away minimum wage protection from Puerto Rico. I just do not think we ought to have second class citizens in this country.

But I think I will get my amendment and the Senator from Colorado will get his amendment, too.

Mr. ARMSTRONG. Mr. President, let me point something out to my friend from Illinois. In fact, let me point out two things. First of all, I am sure that I do not speak for Senator KENNEDY nor the majority leader. In fact, I do not speak for anybody at this point. I am just freelancing. But it does not seem to me that the proposition he has described quite means the benchmark that I was trying to establish because the point I was making is we have pending two Democratic amendments. Am I mistaken about that?

Mr. SIMON. I think we have a Hatch amendment pending. As I recall, he is a member of the other side of the aisle.

Mr. ARMSTRONG. So the proposal of the Senator from Illinois would be that we would vote on what is the second-degree amendment?

Mr. SIMON. The second degree is the Kennedy amendment.

Mr. ARMSTRONG. Could we vote on Kennedy, on Hatch, and then go to the amendment of the Senator from Illinois, to the Republican amendment, and back-and-forth. Is that the notion?

Mr. SIMON. I am not in a position to agree on anything like that. But we have the amendment, the second-degree amendment that has to be disposed of before either the Senator from Colorado or I are in the position to be offering amendments.

Mr. ARMSTRONG. I see. I note the arrival of the leader. Perhaps he can tell us what to do next so we can get on with this task.

Mr. SIMON. He is always ready to tell us what to do next. We do not always do it, though.

THE PRESIDING OFFICER. The majority leader.

Mr. BYRD. We could do either of two things, or a number of things for that matter. I would like to see us vote on the Kennedy amendment. We can vote on that. If our friend on the other side of the aisle would not let us reach a vote on that amendment this afternoon, then let us set it aside temporarily and take up another amendment. We cannot have any votes after 4 o'clock today because I assured our friends who will be observing the Jewish religious holiday that we will not have rollcall votes after 4 today.

Mr. ARMSTRONG. Mr. President, before the leader's arrival the Senator from Illinois and I were just discussing the extent of the charter which each of us brings to the floor. We correctly pointed out that we are filling in for the managers momentarily. But in accord with that, and for that reason, I do not know who on our side still wishes to speak on the pending amendment. but if it is the desire to set this aside, I would be happy to call up an amendment. And as I was pointing out, what we are seeking to get established here is a back-and-forth proposition whether it be a Democratic amendment offered and disposed of or a Republican amendment. I have an amendment that I am prepared to offer if that would be the leader's desire or I will be glad to explain the amendment pending at the time I might actually be able to offer it.

Mr. BYRD. The rules do not provide for back-and-forth recognition. The rules provide for recognition of the first Senator who seeks recognition. Where we reach these back-and-forth situations is where we enter into an agreement of that kind. And at such time as we may enter into an agreement, if we do, we may arrange it. But that is not the normal procedure here. It is not provided for under the rules.

Mr. ARMSTRONG. Mr. President, I am sure the leader recalls we have often followed that practice in the past where we had large numbers of amendments pending as I understand we do in this case.

Mr. BYRD. From time to time, occasionally we do. But I am not enthusiastic about going outside of the rules, and unless we have a unanimous-consent agreement which provides for such, provides for certain amendments, that is another matter. But barring such an agreement I am not an advocate of the back-and-forth amendments.

Mr. PRESSLER. If my friend will yield?

Mr. ARMSTRONG. Mr. President, I have the floor. I would be happy to yield to my friend from South Dakota.

Mr. PRESSLER. Mr. President, I have an amendment I would be willing to offer at any time which will require about 10 minutes.

Mr. ARMSTRONG. Mr. President, the Senator from South Dakota is in the same boat I am. I have an amendment I would like to offer. Were it in order I would be happy to yield to him to offer his. But really I was just expressing sort of the sense of those of us on this side that we are eager to go forward. I do not know the subject of the amendment by the Senator from South Dakota. Mine deals with the question of industrial homework which I gather is of interest to a number of people in this Chamber and elsewhere. So at the proper moment I would be glad to do that. I take it we are not quite at that stage of the game just yet.

Mr. BYRD. Mr. Simon has an amendment that he would like to call up, and we sought to arrange for that this morning. I notified the distinguished Republican leader, and indicated Mr. Harkin had an amendment. Mr. Simon has an amendment and asked if we could set aside the pending amendment so we could take advantage of the hour and 15 minutes or whatever it was at that time we have remaining before conferences, but we could not arrange that.

So there are several amendments around, I am sure. If the distinguished Senator from Colorado wishes to work with the managers of the bill, Mr. Kennedy, and can arrange some way of having a back-and-forth approach here for a little while, it is all right with me. But it is entirely up to the managers. But right now we have the Kennedy amendment pending to the Hatch amendment, and it would require unanimous consent to set aside those.

Mr. ARMSTRONG. Mr. President, I know our leader and also our manager, Senator Hatch, are desirous of working out an arrangement of that type. I do not want to interfere in that process. I guess I just want to be an encouragement to them.

Mr. BYRD. May I say, if the Republican leader wishes to discuss this with me, I am available. I would be happy to discuss it.

Mr. SIMON. Senator Kennedy will be on the floor in just a few minutes. I think the initial step might be to agree to a limited time on the pending amendments. I do not know whether it is 30, 40 minutes, or an hour, whatever it might be, so we can move to the Senator's amendment, my amendment, Senator Harkin's amendment, Senator Pressler's amendment, and other amendments that might be pending.

Mr. ARMSTRONG. It still feels like January to me, Mr. President. I am either prepared to go ahead and comment on the pending business or be glad to yield the floor if the Senator from Iowa wishes to speak.

Mr. HARKIN. I just wanted to say to the Senator from Colorado I share his sentiments and frustrations about not moving ahead on this. It seems to me we have a pending amendment, a pending perfecting amendment. If we sit down, the Chair will put the question. We will put the question, and we will vote. We will be on with it. We have to sit down. Let us all join the Senator, sit down; he will put the question, we will vote, and we will move on.

Mr. ARMSTRONG. Mr. President, that goes to show that everybody has their own approach to this.

[Disturbance in the visitors' galleries.]

The PRESIDING OFFICER. The galleries will observe silence at all times.

Mr. ARMSTRONG. I guess my notion is this: That at this stage of the game, I would like to ask Senators to focus not just on the pending amendments, but upon the underlying issues which bring us to this stage of the game.

As I understand the legislation, it is the proposal to raise the minimum wage to $4.65 an hour over a period of 3 years. The arguments I heard in support of this are that it is sort of a fairness issue, that it will provide a more comfortable, more desirable wage to people who are at the lowest income earning levels of our working society. Proponents have argued that this legislation will reduce the misery of millions of American workers, and they contend it will have little or no discernible effect on the state of our economy. The truth of the matter is I believe quite different than this. What will actually result is more unemployment precisely among the people who are expected to be helped by the increase in the minimum wage.

In the last few months my office has been contacted, indeed has been repeatedly contacted, by people who are concerned about the effect on job security and job opportunity of increasing the minimum wage.

A number of thoughtful editorials have been published on this subject out in my part of the country. For example, the Longmont Times-Call carried an article a few months ago under the headline "Minimum Wage or Minimum Work?" I commend it to the attention of my colleagues. I would like to share some of the conclusions that appeared in this article which also appeared not only in the Longmont paper but also in the Canon City, CO, Courier. They said:

> When politicians are in season, no American is safe, but Congress's latest attempt to jam through an increase in the minimum-wage rate is even sillier than usual.
>
> Those who advocate increasing the minimum from $3.35 an hour to $4.65 or $5.05 talk as if the only effect of such government wage control would be to put more money in the pockets of American poor. Would that it were true.
>
> In reality, as economist, Andrew F. Brimmer pointed out, "A growing body of statistical and other evidence accumulated by economists shows that increases in the statutory minimum wage dampen the expansion of employment and lengthen the lineup of those seeking jobs. Advances in the minimum wage have notable adverse effect on young people—with the effects on black teen-agers being considerably more severe."

The editorial in the Times-Call continues:

> Brimmer's view is supported by virtually every serious private student of the history of the minimum wage. Among the many who have expressed this agreement to me privately were the chief economists for both Jimmy Carter and Ronald Reagan. In the real world, employers must calculate their costs, and if the benefit of hiring a particular worker is less than the price, the worker will not be hired. The true question today should be, "Is it better to have masses of workers unemployed at $4.65 an hour or working at $3.35?"
>
> We have grown so used to hearing devastating figures about black youth unemployment that we may have come to think of such statistics as a tragic remnant of our

racist past. In fact, it is a phenomenon produced over the past four decades by repeated increases in the minimum-wage rate.

In 1948 the unemployment rate for 16- and 17-year-old blacks was actually less than that for whites (9.4 vs. 10.2 percent). And until 1954 black teen-agers were more active in the labor market than their white counterparts—the reverse of today's situation.

Mr. President, this commentary by Louis Rukeyser, writing in the Times-Call and the Canon City Daily Record, makes several points which Senators could well consider.

It is commonplace to see people holding up this minimum wage legislation as something that is going to be good for poor working people. In fact, it is my belief—based not just on what Mr. Rukeyser has written, but upon my own observation of how the private labor market works—that the practical effect will be that there will be a certain number of people at the margin who will not get jobs, and most will be teenagers.

This is of particular poignant interest to me, as I would expect it is to other parents, although my children are a little past the teenage years and have already crossed the threshold of the minimum wage. It was not very long ago that minimum wage laws and similar laws made it difficult—in fact, for a time, impossible—for them to obtain employment.

In our household, we did not have to have the income that might arise from our son or daughter working. It was not an economic need we felt in our family. We felt they needed that experience.

The fact is that it is more difficult today for youngsters, especially teenagers, to get a job than it was in the times of our fathers and grandfathers and great grandfathers. It is not just the minimum wage, although it is certainly part of it. It makes it difficult for youngsters to have the experience of working.

I recall vividly in my own case, when I started to work, how much I was paid, and I believe it was 25 cents an hour. I do not know whether there was a minimum wage in existence when I had my first job. I was not a teenager yet. But I recall the experience because I thought it was one of the most important and significant events of my childhood that I had an opportunity to have a job, an opportunity which, I would judge, is denied, for one reason or another—not just the minimum wage but also for some other reasons—to people who are, as I was then, 10 years old.

I think it is good for people to work. It is part of the experience of growing up that is wholesome and desirable. As Louis Rukeyser said, the minimum wage makes it more difficult for youngsters to get that kind of experience.

Mr. President, among those who have written on this subject is the Colorado Springs Gazette-Telegraph, in an interesting editorial in May of last year, under the headline "Minimum Wage Kills Jobs":

> The labor unions, leading Democrats in Congress and run-of-the-mill liberals are gaining support in Washington for an increase in the minimum wage, which has been fixed at $3.35 an hour since 1981. They argue that minimum wage workers do not earn enough to keep a family of three above the poverty level; that it is "not a living wage" anymore.

The editorial goes on to point out that sponsors of the legislation propose increasing the minimum wage to $4.65 an hour in stages over the next 3 years, and thereafter the minimum wage would automatically equal half the average wage, now $8.88 per hour, for nonsupervisory private workers, such as secretaries, keypunch operators, guards, and janitors.

The editorial in the Colorado Springs Gazette makes this point:

> Actually, the minimum wage is a jobs issue, not a pay-scale palliative. When Congress last increased the minimum wage in 1977 by 46 percent during a four-year period to the current $3.35 level, the cost was 644,000 jobs lost, according to the U.S. Chamber of Commerce.
>
> The influential Heritage Foundation of Washington, DC., warns that, if Congress enacts pending minimum-wage legislation, "between 400,000 and 1,200,000 Americans could be made jobless." Black youths, already burdened with a 40 percent unemployment rate, would be hardest hit.
>
> The minimum wage as a job killer is aptly described by Rick Berman, a Dallas businessman who heads S&A Restaurants Corp. He said the company, which owns 400 Steak and Ale and Bennigan's restaurants across the country, eliminated about 8,000 jobs when the restaurants came fully under the minimum-wage law during the mid-1970s. The restaurants eliminated two hostess positions, two busboy slots and six jobs for waiters on each of two shifts—a total of 20 per restaurant—to help reduce the increased labor costs.

Mr. President, I interrupt this editorial to raise a question that might have crossed the minds of Senators or others who are following these proceedings.

In a country like this, with more than 100 million people working at high wages, why should the Senate be concerned about what happens to two busboys and six waiters on each shift in a handful of steak and ale restaurants. The reason is that that is the real world. That is where the rubber meets the road. We are not talking about blips on a graph or statistics. We are talking about real people who are struggling to gain entry-level jobs and to hold them. Those are the people we are talking about, at the margin of the minimum wage. What we are really doing, this editorial points out, is putting people, legislating people, out of a job, in the guise of trying to be helpful to them by raising the minimum wage. The editorial continues:

> The experience of this one company multiplied across the nation tells why there are fewer store clerks, fewer gas-station attendants, fewer domestic workers, and, withal, ever-decreasing service for American consumers.
>
> The minimum wage has cruelly priced unskilled, poorly educated youngsters out of the labor market. The worst of it is that these maturing jobless persons are denied entry-level work that alone offers experience, good work habits and provides references for climbing the economic ladder. Increasing the minimum wage precludes job training and emphasizes production in dead-end jobs.

Mr. President, the editorial goes on at some length, and I ask unanimous consent that the entire editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Colorado Springs (CO) Gazette-Telegraph, May 18, 1987]

Minimum Wage Kills Jobs

The labor unions, leading Democrats in Congress and run-of-the-mill liberals are gaining support in Washington for an increase in the minimum wage, which has been fixed at $3.35 an hour since 1981. They argue that minimum wage workers do not earn enough to keep a family of three above the poverty level; that it is "not a living wage" anymore.

Sen. Edward Kennedy, D-Mass., chairman of the Senate Labor Committee, and Rep. Augustus Hawkins, D-Los Angeles, chairman of the House Labor Committee, propose increasing the minimum wage to $4.65 an hour in stages during the next three years. And, thereafter, the minimum wage would automatically equal half the average wage—now $8.88 an hour—for nonsupervisory private workers such as secretaries, keypunch operators, guards and janitors.

Actuallay, the minimum wage is a jobs issue, not a pay-scale palliative. When Congress last increased the mimimum wage in 1977 by 46 percent during a four-year period to the current $3.35 level, the cost was 644,000 jobs lost, according to the U.S. Chamber of Commerce.

The influential Heritage Foundation of Washington, D.C., warns that, if Congress enacts pending minimum-wage legislation, "between 400,000 and 1,200,000 Americans could be made jobless." Black youths, already burdened with 40 percent unemployment rate, would be hardest hit.

The minimum wage as a job killer is aptly described by Rick Berman, a Dallas businessman who heads S&A Restaurants Corp. He said the company, which owns 400 Steak and Ale and Bennigan's restaurants across the country, eliminated about 8,000 jobs when the restaurants came fully under the minimum-wage law during the mid-1970s. The restaurants eliminated two hostess positions, two busboy slots and six jobs for waiters on each of two shifts—a total of 20 per restuarant—to help reduce the increased labor costs.

The experience of this one company multiplied across the nation tells why there are fewer store clerks, fewer gas-station attendants, fewer domestic workers, and, withal, ever-decreasing service for American consumers.

The minimum wage has cruelly priced unskilled, poorly educated youngsters out of the labor market. The worst of it is that these maturing jobless persons are denied entry-level work that alone offers experience, good work habits and provides references for climbing the economic ladder. Increasing the minimum wage precludes job training and emphasizes production in dead-end jobs.

Small wonder the National Association of Black Mayors last year called for a summertime subminimum wage to help reduce unemployment in poor areas of inner cities. Although the mayors were joined by the National Association of Minority Contractors, the Cuban-American Association, and many other groups, Congress adamantly refused to reduce the minimum wage because of AFL-CIO insistence that young workers would push older workers out of their jobs. Never mind the congressionally created Minimum Wage Study Commission report that cutting the $3.35 per hour minimum to $2.50 per hour would produce up to 356,000 new jobs for teenagers.

Economists realize this if politicians do not and argue that any measure that raises wages above the free-market level will create unemployment. Otherwise, minimum-wage advocates could safely insist on, say, $100 per hour.

If Congress lacks the fortitude to repeal the demonstrably wrong minimum wage, as we believe, then the least harmful approach would be to leave the minimum wage alone and let passing time and the laws of economics confirm its irrelevancy.

Mr. ARMSTRONG. Mr. President, I note that the Senator from North Carolina has arrived. While I have some other thoughts that on another occasion I would like to share with my colleagues about this legislation, and, as I have pointed out, at some time I intend to offer an amendment on the subject of industrial homework, at this point I will yield the floor and invite the Senator from North Carolina or others who may wish to speak to do so.

I hope that at some point we will be able to resolve the timetable for consideration of amendments, so that I can get consideration of the homework amendment on my own.

Mr. KENNEDY. Mr. President, I was not here earlier this afternoon when the Senator from Colorado suggested that the delay in the ability to consider his amendment was somehow caused by the fact that I had a perfecting amendment to the amendment of the Senator from Utah [Mr. HATCH].

So I ask unanimous consent that we vote on the Kennedy amendment at 3:15 today, so that we would be able to get some resolution of this matter, and we will find out just who is delaying the particular amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I believe that the Senator from Massachusetts is correct in pointing out that he was not here when I raised this question, and perhaps he misunderstood the context in which I raised it.

I was simply pointing out that, coming to the floor sort of in the middle of the proceeding, it was my understanding that there was an attempt, at least on our side, to work out a process whereby we could vote on a Democratic amendment and then a Republican amendment, and then back and forth, which would be fair.

So far as I know, there is no disposition on our side of the aisle to prevent a vote on the pending Kennedy amendment. In fact, my disposition is that there are probably some people on our side of the aisle who would like to vote for it and think it improves the bill, although many of us think it does not go far enough.

The underlying issue which has been a sort of sticking point, as I understand it, is the unwillingness on the part of somebody—and at this time I cannot say who—to work out a process by which amendments from both sides of the aisle could be considered in an orderly fashion.

With that explanation, I am constrained to object.

Mr. KENNEDY. Mr. President, that is news to me—the proposal that the Senator from Colorado has just made.

I am the floor manager of the bill and have been here most of the time during the floor consideration. When there was some indication by the Senator from Utah and the minority leader that, for whatever reason, we would not be able to continue with our amendments, the Kennedy amendment and the Hatch amendment, we sought to find out what other amendments had been filed and what Senators were prepared to go. There were two on our side. I see the Senator from Iowa, who has been waiting his turn. The Senator from Illinois has been on the floor 2 or 3 days waiting for that opportunity.

I know of no suggestion or recommendation that was made to alter this situation. As the majority leader has pointed out, a process and procedure has been worked out in the past as part of a complete agreement to reach a final resolution.

I want to indicate that evidently the position of the Senator from Colorado is that he is so eager to get to his amendment that he still objects to a final resolution of the matter that is before the Senate at the present time, which is the amendment of the Senator from Massachusetts.

We can resolve that particular issue and can resolve it now and then go by the rules of the Senate.

I thought the majority leader spelled out quite completely what our situation is. We are glad to vote now. We are glad to set a time limit for the Senator from Iowa and do it this afternoon. We are glad to have an amendment by the Senator from Illinois and set a time limit. We are glad to set time limits on other amendments, and I say that as the floor manager of the bill.

The first amendment that was offered was by the Republican side, by the Senator from Utah. He was the one who gained the floor and recognition. Now, as the rules provide, we have an amendment to that particular amendment.

So I would hope that no one would be confused as to who is holding up this legislation.

I will be glad to make that request again, to indicate who is prepared to vote, and ask consent that we vote at 3 o'clock this afternoon on the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, of course, as the Senator knew I would, I do not think this is the kind of unanimous-consent request that ought to be propounded until the manager of the bill on this side is present. He is engaged in a conference at the White House and will be back at 3 or shortly thereafter, and whatever the decision is will be satisfactory to me.

But in the meantime, I feel obligated to object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Does the Senator yield?

Mr. KENNEDY. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, while I have the floor, I think we ought to state a few reasons why Senators should vote against cloture on this bill come Thursday.

If cloture is invoked under the Senate rules, it will not only limit the remaining debate, but it also will effectively close out important relevant amendments. For example, as my distinguished friend from Colorado, Mr. ARMSTRONG, has indicated, he and I plan to offer an amendment to lift the current ban on work done in the home. I might add that the amendment is consistent with regulations that have been proposed by the Department of Labor.

The Armstrong-Helms amendment would remove an outdated provision in the Fair Labor Standards Act that still bans so-called homework in six industries: women's apparel, gloves and mittens, buttons and buckles, handkerchiefs, embroideries, and jewelry manufacturing.

Now, the point is that homework is allowed in every other industry except these six. This ban on homework in these six industries is both unfair and unnecessary. Furthermore, it has caused a great deal of hardship around the country and particularly in the State represented in the Senate by the distinguished Presiding Officer, Mr. SANFORD, and this Senator.

In North Carolina in 1986, 85 women lost their jobs because of this absurd provision. Some Senators may say: Just 85. What does that matter?

Well, it matters a whole lot to the 85 women who lost their right to make a living at their home.

These women were employed by the Tom Thumb Glove Co. in Wilkesboro, NC. They were making gloves. They were being paid two and three times the minimum wages for doing this work in their homes. Yet because of the Fair Labor Standards Act provision, these 85 women, bingo, were put out of work. And what happened? The company began having their gloves made overseas.

One of the women who lost her job was a lady named Virginia Deal. The Department of Labor prohibited the Tom Thumb Glove Co. from allowing its workers to sew the gloves in their homes. Mrs. Deal told us that she could complete 144 gloves in 1 hour and a half, earning up to $210 a week, far more than the minimum wage. She liked her job because it allowed her to be at home when her 12-year-old daughter got home from school. It also allowed her to look after her seriously ill father.

Mrs. Gracie Roten is another woman who lost her job at Tom Thumb. She had been earning about $600 a month sewing at home for that company. When the Tom Thumb Co. was forced to put her out of work, her only source of income remaining was the $235 Social Security check supplementing her husband's $330 Social Security check. The point is that her medical bills per month alone averaged $235. So you see the fix she was put in as a result of this stupid law.

Mrs. Barbara Elledge lives in a fine community known as Hays, NC. Her husband is a diabetic. He cannot work. Her daughter is visually handicapped. When Mrs. Elledge lost her job at Tom Thumb, she was able to find work in a factory, but she eventually had to quit to stay home because her husband needed someone there to give him his insulin shot on time. If he did not get the shot, he would go into a coma.

There are scores of examples like these, and I have recited only two or three, all representing injustice and hardship that has resulted from the enforcement of these outdated regulations.

Back in October 1986, the Reader's Digest published a very fine article which described these and other travesties that had been caused by the so-called homework regulation.

I ask unanimous consent that the text of this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, let me quote just two or three paragraphs.

The article was written by Trevor Armbrister. He began by saying:

> At least three mornings each week, a grandmother named Carol Hook crisscrosses southwestern Iowa in a 22-foot motor home. Behind a restaurant in the town of Atlantic one day, she waits for seamstresses to arrive with jogging suits they have appliquéd at home. Stowing the finished garments they bring in her van, Carol notes the numbers and types of suits the seamstresses want to work on the next week.
>
> In the year and a half that she's driven for a company called Bordeaux, Carol has gotten to know most of these farm wives well. "I hear it when their cat dies," she says. "I know when the banks are going to foreclose on their mortgages." But what she learns today has nothing to do with the depressed agricultural economy. These women have heard that government officials could force them to stop working at home for Bordeaux—and they are furious. "They're putting food on the table with that money," Carol says. "There are no other jobs in the area. They don't understand why Washington says what they're doing is wrong."

Then the article continues:

> The answer is tucked away in an obscure Department of Labor (DOL) regulation on the books since the 1940s. Part 530 of the Fair Labor Standards Act, the regulation banned employees from producing at home such items as knitted outerwear, women's apparel and gloves. It even prohibited sewing buttons and embroidering.
>
> The restrictions were lobbied into law by, among others, the New York City-based International Ladies' Garment Workers' Union (ILGWU), which argued that they were needed at that time to protect workers in the clothing industry from "sweatshop conditions." Without the ban, union officials said, employers would pay less than the minimum wage.

I might say, parenthetically, Mr. President, that simply is not so, and the statistics that I recited earlier demonstrate that it is not so.

So the union officials misrepresented what the facts were and what the facts are now.

But back to the article:

> But with a few exceptions sweatshops have faded into history. Federal law requires that all workers receive at least the minimum wage of $3.35 per hour, and employers who refuse to obey are fined heavily. Other provisions prohibit child labor and hazards in the workplace.

"So," asked Trevor Armbrister in his article in the Reader's Digest, "do Americans still need the 'protection' of the homework bans?"

I will suggest that Senators read the full text of this Reader's Digest article which the distinguished occupant of the chair has already approved being printed in the RECORD at the conclusion of my remarks.

Mr. President, in response to the closing of the Tom Thumb homework-ing operation in 1986, the entire North Carolina delegation at that time sent a letter to the Secretary of Labor protesting the action. Let me read one paragraph from that letter.

> As members of the North Carolina Congressional Delegation, we affirm the fundamental right of Americans to choose the location and purpose of their vocation within reasonable limits. And we oppose this outrageous intrusion by the government into the homes and working lives of our constituent.

Mr. President, I ask unanimous consent that a copy of the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. I thank the Chair.

I also ask unanimous consent that a copy of a letter from the North Carolina Farm Bureau Federation endorsing the Armstrong-Helms amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HELMS. I thank the Chair.

Now, I alluded a moment ago to the letter that was sent in April 1986 by the entire North Carolina delegation as of that time. It was signed by both Senators from North Carolina and Congressmen BROYHILL, COBEY, COBLE, HEFNER, HENDON, JONES, MCMILLAN, NEAL, ROSE, VALENTINE, and WHITLEY.

The farm bureau letter dated September 20 of this year reads as follows:

> DEAR SENATOR HELMS: The North Carolina Farm Bureau Federation is the state's largest general organization of farm and rural people, with County Farm Bureaus in all 100 counties of North Carolina.
>
> We are interested in Section 11(d) of the Fair Labor Standards Act, which gives the Secretary of Labor authority to ban employment in homes if it is determined that the Act cannot be adequately enforced at such work sites. We favor repeal of this section primarily because it has severely limited work opportunities in rural North Carolina where many families need extra income and are unable by circumstances or choice to leave their home in search of employment.
>
> We certainly endorse the lifting of the ban on employment in the following five "industries": gloves and mittens, buckles and buttons, embroidery, handkerchiefs and jewelry. However, the language stating that the Department of Labor will not issue a permit for employment in those five industries if state law prohibits such employment is too restrictive. Although the state of North Carolina has not adopted such a law or regulation, we feel that it sets a bad precedent and would recommend that the restriction be removed from the proposal.
>
> We support your amendment to add women's apparel to the list of industries open for home employment. It is certainly one of the areas that families in North Carolina are interested in pursuing. In previous comments submitted on this subject, it became apparent how vital home employ-

> ment is to rural families as an additional source of income.
>
> Thank you for your consideration of our views. We support your efforts in making these changes.
>
> Sincerely,
>
> W.B. Jenkins,
> *President.*

I spoke earlier today with Bob Jenkins. He is a marvelous citizen of our State, and consistent with the tradition of North Carolina Farm Bureau Federation, he is a great leader of that important organization.

Mr. President, the ban on homework was passed years ago when there were very few labor laws. Now there is a plethora of Government regulations and laws presumably designed to protect workers. This ban on homework in any event is inconsistent with modern labor laws and is no longer necessary, if indeed it ever was. In fact, in 1984, the ban on homework in the knitted outerwear industry was removed. The absurdity of this ban is exemplified by the fact that golf gloves can be made in the home, but work gloves cannot.

In short, this FLSA provision denies Americans the right to work in their home, ignoring the fact that some people may not be able to leave their home to seek employment because of physical limitations or age or whatever. There are a lot of people in that predicament.

Others forgo employment in order to take care of their children. And this is something we ought to concentrate on to the fullest extent possible. Mothers are needed in the home as much as possible. Homework allows families to avoid expensive child care costs, yet the mothers can add to the family income.

So lifting the ban on homework in the six remaining industries would enable parents to care for their children while they are engaged in gainful employment.

Mr. President, many families are located and live in rural areas too far to travel to a factory. This was precisely the situation at the Tom Thumb Glove Co., to which I alluded earlier in these remarks. Homework gave the people in these remote, rural areas an option to work that was not previously open to them. It is a travesty, I reiterate, that this Government has for so long precluded and prevented and denied them that opportunity.

Mr. President, another important amendment that will not be considered by the Senate if cloture is invoked is one that will be offered by the distinguished Senator from South Dakota [Mr. Pressler]. The Pressler amendment will prohibit back-door congressional pay increases. I am a cosponsor of that one, as well.

There is not a Member of the U.S. Senate or U.S. Congress who did not know what the salary was when he or she ran for public office. The Pressler-Helms amendment provides that before Members of Congress may receive a pay raise, Congress itself must pass by a recorded vote a joint resolution of approval.

Now that is fair enough. If people want a pay raise that bad, let them vote for it on a record vote.

Under the current system, it is too easy for Members of Congress to receive a pay raise by other means. It is ironic that we have extended debate to raise the minimum wage, but Members of Congress have created for themselves a system under which Members of Congress do not even have to cast a vote in order to raise their salaries by several thousand dollars.

Mr. President, the proponents of an increase in the minimum wage say that it is a way to fight poverty in this country. Well, I dissent from that. Fortunately, there are a lot of people in North Carolina and across this country, opinion leaders, who also disagree with the proponents of an increase in the minimum wage.

In that connection, let me read from a couple of editorials that were broadcast in North Carolina by a distinguished broadcaster, Wally Jorgensen, who is known well by the distinguished occupant of the chair, Mr. Sanford. Wally is president of Jefferson Pilot Communications in Charlotte, NC. He presents on the air the editorials representing that fine broadcasting company. I think it is worthwhile to read.

The title of the first editorial is "The Poverty Industry—Part I." He begins by saying:

> "The poverty industry." It's a phrase to describe the bureaucracy that has grown up around programs to aid the poor in this country. And it's an industry that "literally rides on the backs of the poor."
>
> That's the opinion of Robert Woodson, chairman of the Council for a Black Economic Agenda and president of the National Center for Neighborhood Enterprise. We think his comments are worth hearing.
>
> In a recent speech at Hillsdale College, Woodson noted that since Lyndon Johnson's War on Poverty began in the 1960's, we have spent more than a trillion dollars on aid to the poor.
>
> Yet we are told that 30 million Americans are still below the poverty line.
>
> Enormous strides have been made in efforts to relieve poverty. But in the process we have created a system that encourages an ever-rising increase in public expenditures. We have hundreds of agencies and thousands of government workers dispensing aid to the poor. It has been estimated that 75 percent of the funds budgeted for anti-poverty programs actually goes not to the poor, but to those who serve the poor.

I might add, parenthetically, that means the bureaucrats.

Back to the editorial:

> And what may be equally bad is that these programs tend to reward failure. As Woodson notes, "If you are poor and truant from school, there is a program for you. If you are poor and alcoholic, there is a program for you. If you are poor and pregnant, there is yet another. But if you are merely in the low income category, if you obey your parents, if you are struggling to achieve in school, if you refrain from sexual activity, there is no program for you. You just don't qualify.
>
> But Woodson does not just criticize. He has some ideas for dealing with poverty that we'll talk about in another editorial.

That was Wally Jorgensen's first editorial.

The second editorial is titled "The Poverty Industry—Part II." It reads as follows:

> In a previous editorial we shared some comments by Robert Woodson, a black man who heads the National Center for Neighborhood Enterprise.
>
> Mr. Woodson believes our well meaning efforts to aid the poor have—in fact—created a "poverty industry," which, in his words, "rides on the backs of the poor."
>
> He says our past failures to end poverty have simply resulted in renewed calls for spending increasing amounts on programs that don't work.
>
> He believes the test for poverty programs should not be how much is spent, but on how wisely it is spent. He says we should encourage the natural instincts within people to improve their own condition. He says the poor should be more involved in devising solutions to their own problems. We should learn from success, rather than study failure.
>
> He gives the example of a program in a public housing project in Washington, D.C. Until recently, only two children from the 464-united project has ever gone on to college. Many never even finished high school. But a woman who lived in the project decided to start a tutoring program, in which the students helped each other. For example, one who was good in math would tutor another, and in turn would get help in his or her own weak areas. If a student failed to show up for the sessions, the others would go and get him. At the end of each grading period report cards would be posted on the bulletin board.
>
> In the seven years since the program began, more than 580 students from this project have gone on to college.
>
> And it was not a government program that brought this about. It was the initiative and leadership of a woman who saw a need, and knew what to do about it.
>
> We need to do more to encourage this kind of self-help. And we need to hear more from people like Robert Woodson who bring these ideas to our attention.

Those two editorials, as I say, were broadcast in Charlotte, by a distinguished television journalist, Wally Jorgensen.

Mr. President, even most newspaper editorial boards in North Carolina agree that an increase in the minimum wage is a bad idea. Let me share some of the headlines of North Carolina editorials.

I ask unanimous consent that these editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Charlotte Observer, Aug. 20, 1987]

MINIMUM-WAGE BILL WOULD COST CAROLINAS 75,000 JOBS

(By Richard B. McKenzie)

CLEMSON, S.C.—Many of the nation's political leaders have lamented the inability of American businesses to compete on an equal footing with firms in other countries especially countries regrettably endowed with an abundance of low-wage labor. Leaders also have been concerned that the U.S. economy has been creating "too many" low-wage jobs, supposedly to the detriment of American family incomes.

Yet Sen. Edward Kennedy, D-Mass., and a host of his colleagues are seeking to exacerbate the country's competitiveness problem by throttling its capacity to produce low-wage jobs. Their legislative vehicle: a substantial increase in the federal minimum wage through passage of "The Minimum Wage Restoration Act of 1987." If that bill is passed, the Carolinas would lose tens of thousands of jobs by 1995.

Supporters of the Kennedy bill recommend that the federal minimum wage be raised in three steps to $4.65 an hour in January 1990 and be held to 50% of the average U.S. wage thereafter. According to econmetric analysis undertaken with the Washington University (St. Louis) macroeconomic model, the adverse effects of the proposed doubling of the minimum wage in eight years would reduce the nation's civilian employment by approximately 1.9 million. The South would lose approximately a third of that total.

My colleague Curtis Simon and I estimate that, assuming those job losses are roughly distributed across states in accordance with projected state employment levels, North Carolina would lose nearly 51,000 jobs by 1995, South Carolina more than 25,000.

Most of the job losses would be among teenage workers. Many of the job losses would be in services (including, for example, hotels and personal care, but not real estate and insurance) and retail trade. If the Kennedy bill is passed, by 1995 the Carolinas would expect to lose more than 15,000 service jobs and nearly 28,000 retail-trade jobs.

Nor would manufacturing employment remain untouched. "Low-wage" manufacturing workers (those who earn less than the average textile wage) in the Carolinas would face approximately 7,100 fewer job opportunities by 1995. More jobs would be lost in agriculture, construction wholesale trade and transportation.

Most of the job losses would be among low-income workers who are directly priced out of the market by the Kennedy minimum-wage bill. However, many of the job losses would be among workers who earn more than the minimum wage but work for firms whose sales fall because their prices inflated in response to the minimum-wage hike.

Even workers who retain their jobs would be adversely affected. A growing body of economic research suggests that they would suffer fewer fringe benefits, less on-the-job training and greater work demands.

As one of the country's leading newspapers editorialized when the minimum wage bill was introduced at the start of 1987. "The idea of using a minimum wage to overcome poverty is old, honorable—and fundamentally flawed."

There is hardly any debate over the proposition that an increase in the minimum wage would reduce employment opportunities; that the bigger the increase, the bigger the employment reduction; and that the adverse employment affect would be felt most severely by the nation's youngest, most-inexperienced and most disadvantaged workers.

The political problem arises in trying to make members of Congress see that their votes for minimum-wage increases are votes against the economic and humanitarian interests of the country and many of their constituents.

Today Congress is desperately seeking policy reforms that would improve the competitiveness of American business and the job opportunities for American workers, and most governors are trekking the globe on the "great industrial job hunt." It's odd that in such a time Congress is considering a new minimum-wage law that would worsen the country's competitiveness and job-creation problems.

[From the McDowell News, May 16, 1988]

MINIMUM WAGE WILL COST JOBS

(By Donald Lambro)

The Congressional Budget Office is supposed to be the non-partisan budget-analysis arm of Congress, but Democratic leaders have turned it into a political tool on behalf of their campaign agenda.

Here's the story behind what some angry Republicans are calling the "corruption of CBO":

Organized labor has made raising the minimum wage one of its legislative priorities for this election year, and Democratic congressional leaders are only too happy to deliver this socially costly goody to the powerful AFL–CIO in exchange for its campaign support in the fall.

The proposal has already been approved by the House Education and Labor Committee chaired by Rep. Augustus Hawkins, who asked CBO to provide his panel with a government cost estimate of the measure.

But when CBO's Acting Director James L. Blum delivered his report to Hawkins on March 25, the California Democrat and his staff were outraged that the analysis included an estimate of the number and the kind of jobs the wage hike would eliminate. Blum said he included the estimates "at the request of several committee members."

Before the CBO report could be made public, Hawkins' staff demanded that a revised version be prepared, but this time without the offending "Effects on the Economy" section in it.

Here's what the first, uncensored version had to say about the effect of raising the minimum wage to $5.05 per hour by 1991 (it's currently $3.35 an hour):

"The Congressional Budget Office estimates that the increases in the minimum wage contained in H.R. 1834 could cause the loss of approximately 250,000 to 500,000 jobs.

"In general, the negative impact on employment would be larger in the sections of the economy and the groups in the labor force with low wage rates. the loss of jobs probably would be minimal in durable goods manufacturing and in metropolitan areas where labor markets are tight and jobs readily available.

"Among demographic groups, the loss of jobs most likely would be concentrated among youth, and especially among teenagers."

However, the CBO wasn't telling the committee anything it shouldn't have already known. Virtually every major study done on the minimum wage has shown that entry level jobs have been steadily disappearing as the minimum has risen, exacerbating unemployment among younger workers, especially among poor, under-educated, urban minorites.

Studies by the General Accounting Office, presidential commissions and the U.S. Chamber of Commerce, and separate inquiries by independent economists have all reached the same conclusion. Labor-intensive businesses employing entry level, low income workers will find other ways to provide services if the cost of hiring new workers is raised.

If Hawkins' bill is approved, Congress would be pricing up to half a million young, unskilled workers out of the marketplace—worsening unemployment rates in poor inner cities where the jobless level among young blacks and other youths is far above the national average.

These young people form the heart and soul of the disadvantaged constituencies for which lawmakers like Hawkins express so much compassion. Yet by CBO's own analysis, H.R. 1834 would destroy job opportunities for the people who need them most.

Also deleted from the report, at Hawkins' insistence, was the legislation's estimated impact on inflation. CBO analysts figure that the minimum-wage hike "could add about 0.2 to 0.3 of a percentage point to the annual inflation rate during the projection period."

Needless to say, Hawkins' censorship has Republican lawmakers steaming. "If we are to make the best decisions in Congress," says an angry Rep. Thomas Petri, R-Wis., a member of Hawkins' committee, "we must have honesty from our research arm. Political corruption of the CBO is unacceptable."

But political corruption of the worst kind is exactly what is happening here, in order to cover up the unsettling truth about pushing up the minimum wage. "It may be that the committee didn't like the answers we gave," CBO's Blum told a reporter.

Footnote: Hawkins' bill was originally scheduled for House action on April 20 but has been postponed until next month, when conservative Democrats including Rep. Charles Stenholm of Texas plan to offer alternatives that would raise the minimum wage to about $4 or $4.25 by 1991.

Republican lawmakers want a training wage, which would allow new workers to be paid $3.35 for the first three months, encouraging employment for the unskilled, and a small-business exemption for companies making $600,000 a year or less.

NORTH CAROLINA JOBS LOST IF A PROPOSAL BECOMES LAW

WASHINGTON.—North Carolina will lose 50,639 jobs by 1995 if the labor-backed proposal to raise the minimum wage becomes law, according to a new study by the National Chamber Foundation, an affiliate of the U.S. Chamber of Commerce.

Nationwide, 1.9 million fewer Americans will be working if the legislation is passed.

"The vast majority of the loss will be in the small business sector, which provides America with 90 percent of its new jobs." Richard W. Rahn, vice president and chief economist of the U.S. Chamber and executive vice president of the foundation, said.

"And America's teen-agers, who faced a 15.5 percent unemployment rate in July, will be forced to absorb about two thirds of the total with 1.3 million fewer jobs nationwide and 35,042 fewer in North Carolina," he said.

The higher minimum wage would cost 718,000 jobs in the retail sales sector (18,504 in North Carolina) and 417,000 in the services sector (9,775 in North Carolina), according to the study, principally funded by the Minimum Wage Coalition to Save Jobs.

This study is believed to be the first state-by-state breakdown of the impact of a higher minimum wage in more than a decade.

The South, as defined by the Census Bureau, would bear more than one third of the job losses, 33.8 percent. The Northeast would lose 21 percent; the Midwest 23.7 percent and the West 21.4 percent, according to the study.

California would suffer the most from a higher minimum wage with a loss of 220,647 jobs, followed by New York with 136,500 and Texas with 134,033. The least impacted would be Vermont, with a loss of 4,641 jobs.

The proposal to raise the minimum wage, considered the number one legislative issue by organized labor, would increase the present $3.35 per hour minimum wage to 3.85 in 1988; $4.25 in 1989; $4.65 in 1990 and index it to 50 percent of the average private, nonsupervisory, nonagricultural wage starting in 1991.

The foundation study was conducted by Richard B. McKenzie, president of RBM Research Inc. and professor of economics at Clemson University, and Curtis Simon, assistant professor of economics at Clemson. It is based on a projection of the national overall job loss conducted by Gracela Testa-Ortiz, director of the U.S. Chamber's Forecasting Section, using the macroeconomic model developed by Lawrence H. Meyer and Associates at Washington University in St. Louis, Mo.

She reported that total U.S. economic output would be $70 billion less by 1995, measured in 1982 dollars. The nation's unit labor cost—wages per man-hour divided by output per man-hour—would increase by 3 percent, with the higher minimum wage, she said.

In addition, she found that both the unemployment rate and the consumer price index would be pushed up by more than a full percentage point.

[From the Wilson (NC) Times, Aug. 21, 1987]

MINIMUM WAGE INCREASE UNNECESSARY

At first glance, a bill sponsored by Sen. Edward Kennedy and Rep. Augustus Hawkins to raise the minimum wage seems to make a lot of sense. After all, the cost of living has increased 27 percent since 1981, when the current minimum wage was set at $3.35 an hour.

But closer examination reveals the fallacies behind the Kennedy-Hawkins bill, which increases the minimum wage to $4.65 an hour (a 39 percent increase) in three annual steps. Proponents of this measure are promoting it as an income enhancement bill to improve the position of people near the bottom of the economy. In fact, raising the minimum wage will hurt more poor and near-poor than it will help.

The Minimum Wage Study Commission, which was appointed by President Carter, reported in 1981 that every 10 percent increase in the minimum wage eliminates 80,000 to 200,000 entry-level jobs for teenagers. The 1987 minimum wage bill would be as many as 800,000 young people to unemployment statistics. The Heritage Foundation estimates that as many as 1.2 million jobs would be lost by the Kennedy-Hawkins bill.

National polls indicate a majority of Americans support an increase in the minimum wage, but that support may be based on ignorance of the issue or confusion over just who would benefit. The working poor probably would not benefit because the elimination of jobs would put many out of work. The current $3.35 minimum wage does not provide luxurious living, but it does keep an individual above the poverty level. A couple, each working at a minimum wage job, would earn about $14,000 a year, well above the $9,300 poverty level for a family of three.

Who works for the minimum wage? Only 28 percent of minimum wage workers are heads of households. Nearly 70 percent (teen-agers and second wage-earners, mostly) come from households with incomes well above the poverty level, according to the Congressional Budget Office.

So what will an increase in the minimum wage provide the average consumer? Higher costs and poorer service (from fewer employees) at fast-food restaurants and higher costs of supporting those whose jobs have been eliminated. At a time when American businesses are struggling to compete with low-wage foreign imports, a minimum wage hike will make American products less competitive.

Who will benefit? Labor unions, mostly. Unions have been the primary backers of the Kennedy-Hawkins bill. Unions would benefit from the smaller labor force created by the elimination of low-end jobs.

Although living costs have increased since 1981, one can argue that the Carter-era increases in the minimum wage were unrealistically generous. The minimum wage went up nearly 50 percent, from $2.25 to $3.35 between 1977 and 1981. The wage more than doubled between 1971 and 1981.

Perhaps the worst aspect of the Kennedy-Hawkins bill is its provision to tie the minimum wage to a federally determined average wage. The minimum wage after 1991 would be automatically adjusted each year to half of the average wage (now $8.88 an hour) for non-supervisory private workers. This insidious provision removes minimum wage increases from the decision-making process in the way congressional pay raises are now "automatic."

Congress should muster the courage to reject this wolf in sheep's clothing. An increase in the minimum wage is no friend of the working poor or of the American economy.

[From the Greenville (NC) Reflector, March 18, 1988]

ECONOMIST: JOBS GO IF PAY RISES

(By Greg Laudick)

A proposal intended to bring economic relief to the nation's working poor by raising the minimum wage to over $5 an hour within the next four years would actually hurt the very people the proposal is trying to help, according to a local economist.

L.H. Zincone, Jr., director of the Bureau of Business Research at East Carolina University, said raising the federal minimum wage would inevitably create higher unemployment for low wage workers.

"Its inevitable effect would be the loss of jobs. It always has been. There's never been a case in the history of this country since they've started the minimum wage that some people have not lost their jobs when an (increase) was put into effect," Zincone said.

"In my estimation, the minimum wage is probably one of the greatest hoaxes ever perpetrated on the American people. I'll say that unequivocally," he added.

The Democratic-controlled House Labor and Education Committee on Wednesday approved the plan which would raise the current federal minimum wage of $3.55 per hour to $5.05 during the next four years.

According to the House committee-passed bill, the minimum wage would go to $3.85 per hour next year, $4.25 in 1990, $4.65 in 1991 and $5.05 in 1992.

The legislation is expected to be addressed by the full House in late April.

According to Zincone, raising the minimum wage as proposed would create a situation where managers in many low-wage paying businesses would be forced to further scutinize hiring levels.

"If you had someone (working at a business) and the law says you have to pay them $5 an hour and they weren't worth $5 an hour to you, would you keep them? I wouldn't. I'd find some other way to get the job done," he said.

"What it amounts to is, let's say the minimum wage goes to $5. Anybody that you have employed that you can't make money on by paying them $5 an hour is going to get laid off. It's as simple as that."

Zincone's belief that an increase in minimum wage levels will affect employment coincides with that of several Reagan Administration economists who are also opposed to increases in minimum wage levels.

The administration claims the proposal would result in the elimination of approximately 880,000 jobs as employers will not be willing to pay their workers the proposed wage increases.

"What you've got to ask yourself, is it better for somebody to be working at $4 an hour or be out of work when the minimum wage is $5 an hour. My answer to that is you ought to keep them working. If it's a judgment of society that they don't make enough money, the government can give them another dollar an hour, if that's what they want to do, but if you say that companies have got to do it then inevitably there's going to be some layoffs. It's as sure as the sun's going to come up tomorrow," he said.

Zincone said the relatively low rates of unemployment the country has been experiencing can be partly attributed to the current $3.35 minimum wage level.

"People can hire more workers if they're cheap than if they were expensive, just like people can buy more of anything if it's cheap rather than expensive," he said.

"Do you think it's an accident that we have automatic teller machines? Everywhere they can replace a person with a machine they do it. The reason is people are too expensive, by the time you add wages, the fringe benefits and all the aggravation that you've got to go through," he said.

With the current proposal expected to go before the full House next month, the debate over minimum wage increases is likely to become a much ballyhood political issue during this election year.

"Minimum wage increases always hurt the very people the politicians say that it's going to help," Zincone said.

[From the Asheville (NC) Citizen, May 19, 1988]

OFFICIAL WARNS AGAINST RAISING MINIMUM WAGE

WASHINGTON.—President Reagan's chief economic adviser predicts there will be a loss of more than 600,000 jobs if Congress increases the minimum wage from the current $3.35 to $4.65 an hour over three years, according to a letter released Wednesday.

Beryl W. Sprinkel, chairman of the president's Council of Economic Advisers, said in a letter to Rep. Thomas E. Petri, R-Wis., that the job losses "would be concentrated among younger, less skilled and minority workers."

In a chart which accompanied the letter, Sprinkel said an increase in the minimum wage to $5.05 an hour over four years, approved by the House Education and Labor Committee, would eliminate 850,000 jobs by 1992.

The chart also indicates that by 1992 the increase would cost consumers $21.3 billion a year, would raise the federal deficit by as much as $9 billion a year and would cause a loss in the gross national product by as much as $31.6 billion a year, in 1982 dollars.

An increase to $4.65 an hour over three years, as proposed by Sen. Edward M. Kennedy, D-Mass., would cost more than 600,000 jobs, Sprinkel said. Kennedy's bill is pending in the Senate Labor and Human Resources Committee that he chairs.

Petri sought Sprinkel's assessment of the minimum wage legislation after he charged that the Democratic leadership had attempted to suppress a Congressional Budget Office report that an increase to $5.05 an hour will cost as many as 500,000 jobs.

The draft study was sent to Labor Committee Chairman Augustus Hawkins, D-Calif., who returned it to the CBO, asking only the costs of the bill and not its economic impact.

House Republicans charged that the CBO "deliberately censured information pertinent to consideration of the bill or was specifically instructed to do so and followed that instruction," according to a letter from House Minority Leader Robert Michel, R-Ill.

Sprinkel said alternative proposals to increase the minimum wage would give more assistance to families of the working poor, with a smaller impact on the economy.

One alternative, he said, would be the earned income tax credit (EITC), which was unsuccessfully proposed by Petri in both the labor subcommittee on standards and the full committee. He plans to place it before the full House when the bill reaches the floor.

The bill provides a wage supplement for low-income workers which would increase the subsidy and vary it for family size.

"Without the same adverse effects on the economy, and with comparable or even smaller budgetary cost than the proposed increase in the minimum wage, an expanded EITC would target increased income to working heads of larger families below or close to poverty level," Sprinkel wrote.

He said costs to consumers and government because of an increased minimum wage would be more than five times the income gained by poor families.

"In contrast, the EITC is better targeted toward the working poor; virtually all budget costs are matched by income gains for families with earnings who are either poor or near poor," said Sprinkel.

[From the Dunn (NC) Record, Mar. 17, 1988]

MINIMUM WAGE INCREASE IS DANGEROUS LEGISLATION

(Eric Brodin)

The U.S. Congress is currently discussing a new federally mandated Minimum Wage Legislation which would raise the wage from $3.35 to $4.65 by 1990. On the surface, it seems like an attractive bill and most reasonable people would support it in the interest of a "decent wage." The proposal is bolstered by the argument that the minimum wage has not been raised since 1981 and it needs to be compensated for inflation. (The last argument is weakened, however, by the fact that in the last few years we have had the lowest inflation rate increase for decades.)

What would be the impact of the minimum wage legislation if it came about? The Kennedy-Hawkins Bill is fraught with serious consequences. One thing of which we can be sure is that these men and most of those who will support such legislation are not likely to have been in the vulnerable position of having a small business in which that wage differential would mean the success of the enterprise, or more likely lead to the dismissing of workers. In 1981, when the last increase was mandated, President Jimmy Carter appointed a commission to ascertain the effects. It concluded that a ten percent increase in the minimum wage would lead to the loss of at least 80,000 and probably as many as 200,000 entry level jobs. Today, while the unemployment generally has been reduced from about 10.5 percent in 1982 to 5.8 percent today, the highest unemployment is to be found among the young and unskilled, and then particularly the ethnic minorities.

If Senate bill 837 passes both houses, it is estimated that it would lead to the loss of three quarters of a million jobs by 1990; two thirds of these lost employment opportunities would be found among teenagers working. A report by the U.S. Department of Labor shows that as of the 4th quarter of 1986, "there were 4.9 million workers earning $3.35 or less and of these 58 percent were between the ages of 16 and 24 with 36 percent being between the ages of 16 and 19." 65 percent are part-time workers, and whereas 39 percent are between 25 and 64, they represent a mere two percent of the total U.S. labor force.

In the last seven years, the U.S. economy has been able to create 15 million jobs, an absolutely unprecedented phenomena at a time of a great deal of restructuring of our traditional economic power center. We are now proposing legislation which would do a great deal to counteract these economic gains. It is only one of four pieces of legislation proposed by the majority party in Congress which will have tremendous impact on our labor market and ultimately for compulsory health coverage of workers (with a price tag of $38.8 billion the first year) and the increased minimum wage would add $1.49 an hour to wage costs. That represents a 44 percent increase and even the simplest inquiry among many small firms would show that it would mean a massive turn down in economic profitability and result in large increases of unemployment, especially for the most vulnerable in our society.

Economists have repeatedly pointed out that the effects of each increase in federally mandated minimum wage legislation has caused additional hardships and unemployment among the least skilled in our society, the young and the ethnic urban minorities. In 1938, when the first such legislation was passed, the unemployment rate among the young is 19 percent, or more than three times the adult rate of unemployment. But these arguments have not won any favor with congressmen who would like the favorable media attention of joining something which on the surface is positive. We may be "horrified" at a wage of $3.35 an hour (or even the summer-vacation unskilled jobs held by high school students at the still lower rate of $2.75, according to the Youth Employment Opportunity Law), but for these teenagers, earning $2.75 sure beats earning nothing at all. Senator Kennedy, who we can be assured has never experienced the real meaning of earning a living claims that this legislation is in order "to help the poor." Yet only five percent of the total work force is in this category today as compared to 12 percent when the last increase was made in 1981. And as the figures quoted above show, these wage earners represent by and large a secondary or tertiary earner in a household: only 15 percent of the earners of the minimum wage are heads of households.

Footnote: Frank Proctor, Legislative Assistant to the U.S. Congress representative of the third district Mr. Martin Lancaster, at a speech at Campbell University, was asked how the congressman viewed the demand of the increased minimum wage rate. He was not able to answer the question. We look forward to an early answer from the Congressman. The Daily Record would be glad to publish a letter from him to that effect.

[From the New Bern (NC) Sun-Journal, Apr. 18, 1988]

MINIMUM WAGE HIKE WOULD COST JOBS

A congressional committee has passed a bill that would slow economic growth, make it harder for poor people to find jobs and boost illegal immigration. The measure, which the full House of Representatives expects to consider this month, raises the minimum wage from $3.35 to $5.05 an hour.

Forcing employers to give salary increases to their lowest-paid workers is a classic example of an idea that looks better on paper than it is in practice.

In the real world, unlike in Washington, bosses hire employees only when they have reason to expect that the goods or service produced by those workers will be worth more than the added payroll costs. If a new law increases a job-seeker's price above his value, he or she simply will not be hired.

The job most affected by this reality, of course, are those that require little education and few skills—the very jobs that the young need to get started and the poor need to work their way upward.

Instead of being employed at a modest rate, with a chance to learn more skills, the neediest will find themselves out of work altogether. Other Americans will suffer indirectly: By increasing production costs and making it harder for companies to expand, minimum-wage hikes shrink job opportunities for a wide range of workers.

The U.S. Bureau of Labor Statistics—an organization that cannot by any means be termed as a hotbed of conservatives—has calculated that each 10 percent increase in the minimum wage costs the country anywhere from 100,000 to 200,000 jobs.

The House bill would thus wipe out about 500,000 to 1 million jobs; a milder Senate version of the measure would only "cost" 400,000 to 800,000 jobs.

Employers willing to break the law can turn to the large pool of workers who are content to accept sub-minimum pay without telling the authorities. That pool consists of illegal aliens; the higher the legal minimum, the more incentive for them to come here.

Some legislators complain that the minimum wage has remained constant for seven years—the longest period without an increase in half a century. What they do not point out is that during those years the number of Americans paid only the minimum has fallen from 6.7 million to 4.7 million; some fast food outlets now pay entry-level employees more than $5 an hour.

For workers at every level, the key to prosperity is not government wage-fixing, but private sector growth.

[From the Kinston (NC) Free Press, D. 13.758 S. 13.342 Apr. 17, 1988]

MINIMUM WAGE: GOOD INTENTIONS, BAD IDEA

The minimum wage is a classic example of a good intention and a bad idea. The idea behind minimum wage legislation is that government, by simple decree, can increase the earning power of all marginal workers. Implicit in this idea is the notion that employment is an exploitive relationship and that business owners will never voluntarily raise the wages of their workers.

Not only does this line of thinking run contrary to the most basic economic principles of a free society, but it is also illogical. If government could raise the real wages of millions of Americans by merely passing a law announcing that fact, then why stop at $3.35 per hour, or $4.65, or even $10.00? Isn't $500 per hour more compassionate than $50? Absurd, you say, and I would agree. But the "logic" is perfectly consistent with the idea of a minimum wage, once you have accepted the premise that political decrees can raise wages.

What does make wages increase? It is most certainly not government edicts that simply rearrange and redistribute existing wealth. Wages rise in response to the creation of new wealth through greater productivity. The more that a society produces per capita, the more there is to distribute through the marketplace in the form of higher wages, better benefits, lower prices, and so on.

The "bigger economic pie" concept isn't complicated, and yet it is a principle that seems to elude us time and again in matters of public policy. We know instinctively that government cannot create or produce anything. It regulates, confiscates, and consumes, all at the expense of the private economy. And yet we still believe that government can wave its magic wand with laws like the minimum wage, and we all will be better off.

Politicians engage in this deception to buy political favor from special interest groups. We keep falling for these political deceptions because our focus is on short-term personal gains rather than on the long-term consequences to the entire nation. We see the apparent benefit of having our own wages increased. But we don't consider the nameless victims of the minimum wage hike who will lose their jobs because the government has priced them out of the labor market.

The net loss to society from the minimum wage is staggering. Those losses include: (1) the loss of employment to the individual himself, (2) the shrinking of the economic pie by the loss of his productive contribution, (3) the financial loss to society in supporting him in his idleness (unemployment compensation, welfare, etc.), (4) the financial loss in funding job training programs and other government efforts to get him re-employed, and (5) the net loss to society in having consumer prices driven up to cover the higher labor costs, and (6) the loss of market share to foreign competition that may occur.

The cruel irony of the minimum wage is that it harms most the very segments of our society that it is intended to help—the unskilled poor and the inexperienced young. The evidence to support this is overwhelming, and it is the black community that is hardest hit. In the 1950's black teenage unemployment was roughly that of white teens. Following years of steady increases in both the level and coverage of the federal minimum wage, more than percent of the nation's black teenagers are now unemployed.

If a young person is willing to work for $2.50 an hour, to gain work experience and self-esteem, is it the right of Congress to tell him he can't do it? Is it, in fact, the right of any politician to make these kinds of economic choices for a free people?

In a free society, people must have the right to offer their services in the marketplace for whatever price they choose, whether they are workers serving employers or businesses serving consumers. It is by this process that productivity, wage rates, and prosperity are maximized. Government has no more business objecting to a low wage for a menial job than it has objecting to a business that offers its services or products for a low price. Government intervention in these matters distorts economic decision-making, misallocates scarce resources, and destroys personal liberty.

If we are to remain a free people, we need to start trusting freedom, and jealously guard our right to make our own choices about our own lives. Repealing the minimum wage law would be an excellent place to start.

Mr. HELMS. Mr. President, let me just read the headlines. The Charlotte Observer says: "Minimum-Wage Bill Would Cost Carolinas"—that is to say North Carolina and South Carolina—"75,000 Jobs."

Then the McDowell News in Marion, NC, the headline says: "Minimum Wage Will Cost Jobs."

Rocky Mountain Telegram in the eastern part of North Carolina, the headline is: "N.C. Jobs Lost if Proposal Becomes Law."

The Wilson Times, also in eastern North Carolina: "Minimum Wage Increase Unnecessary."

From the Greenville, NC, Reflector, the headline: "Economist: Jobs Go if Pay Rises."

In the western part of the State, the Asheville Citizen, the headline reads: "Official Warns Against Raising Minimum Wage."

The Dunn, NC, Daily Record, published by a good friend of the Presiding Officer and mine, Hoover Adams, had the headline: "Minimum Wage Increase is Dangerous Legislation."

The New Bern, NC, Sun-Journal, the headline: "Minimum Wage Hike Would Cost Jobs."

The Kinston Free Press, the headline: "Minimum Wage: Good Intentions, Bad Idea."

EXHIBIT 1

[From the Reader's Digest, Oct. 1986]

"WHY ARE THEY TRYING TO TAKE OUR FREEDOM AWAY?"

(By Trevor Armbrister)

At least three mornings each week, a grandmother named Carol Hook crisscrosses southwestern Iowa in a 22-foot motor home. Behind a restaurant in the town of Atlantic one day, she waits for seamstresses to arrive with jogging suits they have appliquéd at home. Stowing the finished garments they bring in her van, Carol notes the numbers and types of suits the seamstresses want to work on the next week.

In the year and a half that she's driven for a company called Bordeaux, Carol has gotten to know most of these farm wives well, "I hear it when their cat dies," she says. "I know when the banks are going to foreclose on their mortgages." But what she learns today has nothing to do with the depressed agricultural economy. These women have heard that government officials could force them to stop working at home for Bordeaux—and they are furious. "They're putting food on the table with that money," Carol says. "There are no other jobs in the area. They don't understand why Washington says what they're doing is wrong."

Striking Back.—The answer is tucked away in an obscure Department of Labor (DOL) regulation on the books since the 1940s. Part 530 of the Fair Labor Standards Act, the regulation banned employees from producing at home such items as knitted outerwear, women's apparel and gloves. It even prohibited sewing buttons and embroidering.

The restrictions were lobbied into law by, among others, the New York City-based International Ladies' Garment Workers' Union (ILGWU), which argued that they were needed at the time to protect workers in the clothing industry from "sweatshop conditions." Without the ban, union officials said, employers would pay less than the minimum wage.

But with a few exceptions sweatshops have faded into history. Federal law requires that all workers receive at least the minimum wage of $3.35 per hour, and employers who refuse to obey are fined heavily. Other provisions prohibit child labor and hazards in the workplace. So, do Americans still need the "protection" of the homework bans?

"Absolutely yes!" thunders Sol C. Chaiken, president emeritus of the ILGWU. "We are talking about tens of thousands of Hispanics and Asians who are being exploited daily in this system of industrial homework." Would Chaiken concede that the situation might be different in rural areas? "Not at all," he replies. "I'm not going to concede anything."

The union boasts powerful friends in the 13-million-member AFL-CIO, in Congress and in the legislatures of many states. Currently, the ILGWU would like not only to keep the federal homework ban in place but also to increase the number of states that either prohibit all types of homework, as New York does, or restrict it. The laws of more than a dozen states contain such restrictions today.

Far more is at stake than several hundred jobs in the clothing industry. America is in the midst of the "telecommuting" revolution. By 1990, says futurist Alvin Toffler, as many as 15 million people may be using telephones and computers to earn money at home. They will see no reason to pay union dues. So unions are striking back. In 1983 the 780,000-member Service Employees International Union passed a resolution condemning any kind of employee work at home. Last year the AFL-CIO declared that computer-terminal homework should be outlawed.

Bathed in Ridicule.—The first salvo in this battle over what kind of work people can peform at home came from an unlikely quarter. Since the end of World War II, women in Vermont had been knitting ski caps, sweaters and scarfs in their homes for companies that sold these goods to stores. The work generally paid well over the minimum wage, saved the women commuting expenses and let them look after their children. Since no one made a fuss, the women remained unaware that what they were doing was illegal. Then in 1979 the Carter Administration, acting upon a complaint, decided to enforce the law.

The spectacle of the DOL teaming up with the ILGWU to deprive Vermont housewives of their livelihoods provided impossible for the media to resist and the Administration was bathed in the light of ridicule. In the Rutland, Vt., Herald, a cartoon showed armed G-men surrounding a farmhouse. "Awright, lady," the caption read, "throw out those needles and come out and no one will get hurt!!" As The Wall Street Journal observed, it was "a classic case of big government hurting little people in its overbearing zeal to help them."

In May 1981, Reagan Administration Labor Secretary Raymond J. Donovan proposed lifting the ban on homework in all seven restricted industries. Organized labor's response was so furious that Donovan retreated and said he would remove only the ban on knitted outerwear. The other restrictions could stand. The ILGWU promptly filed suit. When the U.S. District Court in Washington, D.C., ruled for Donovan, the union announced that it would appeal.

Although the U.S. Court of Appeals later reversed the lower court, the Administration's position eventually prevailed, and the ban against making knitted outwear at home was eased. But six more prohibitions—ranging from gloves to jewelry—remained, and DOL inspectors continued to harass the employers of homeworkers.

"Against the Law."—For nearly a year Virginia Deal had sewn work gloves at her home in rural Taylorsville, N.C., for the Tom Thumb Glove Co. of nearby Wilkesboro. She wanted to be home when her 12-year-old daughter returned from school, and she was able to run errands for her ailing father just up the road.

Along with 84 other seamstresses, Virginia had signed a contract stipulating that she was not an employee of Tom Thumb. She loved her work. She would complete 144 gloves in an hour and a half and earn as much as $210 a week, enough to pay for groceries and utilities, and far more than the minimum wage.

So what Virginia heard last February came as a real shock. Plant supervisor Charlie Billings informed her by phone that Tom Thumb would have no more work for her because the DLO had decided that she and other seamstresses had been "sewing against the law."

A large woman with a ready smile and a hearty laugh, Virginia has always had a stubborn streak. The more she thought about it, the angrier she became. Why was it legal for her to produce a baseball glove at home but illegal to make a worker's glove? Or sew men's boxer shorts but not women's wear? "The DOT thought we would stand back and take it and not say any more. We're just little people, but we're going to be big people, so they will have to listen to us," she says.

Virginia telephoned the White House, and the offices of North Carolina's governor, and the state's Senators and Congressmen. She also talked to the media. Exhorting other homeowners to join her crusade, Virginia tried to focus attention on the women in her state who had been hurt the most:

In Wilbar, a 69-year-old diabetic with high blood pressure, Gracie Roten, had been earning $600 a month sewing for Tom Thumb. Now her only income is a $225 Social Security check. Her medicine cost $235 each month. Her husband's Social Security check of $330 has to provide food and pay all the bills.

In Hays, Barbara Elledge has lost her sole means of support. Her husband, a diabetic, cannot work, and her 15-year-old daughter is visually handicapped. After she lost her job with Tom Thumb, Barbara found work in a factory. But she couldn't stop worrying about her husband's health. If he didn't get his insulin shot on time, he'd slip into a coma. She decided to remain at home—unemployed.

In Taylorsville, both Jo Deal (not related to Virginia Deal) and her husband have had open-heart surgery since 1982. For Jo, sewing at home helped pay hospital bills totaling $15,000, while allowing her to take care of her 96-year-old father-in-law. Now she goes in to work at Tom Thumb a few days a week, earning far less.

Enter the Center on National Labor Policy, a public-interest foundation in North Springfield, Va., that represents workers and small companies free of charge. Michael E. Avakian, the general counsel there, had battled for the knitters in Vermont and agreed to take Virginia Deal's case. On March 13, Avakian filed a petition with the DOL requesting that new Labor Secretary William E. Brock suspend the regulations. The entire North Carolina Congressional delegation endorsed his plea; so did the 2.2-million-member National Alliance of Senior Citizens and the 500,000-member General Federatiuon of Women's Clubs.

"It's a Travesty."—Meanwhile, in Clarinda, Iowa, Carol Hook, the Bordeaux company's representative in the motor home, wonders if she is witnessing the end of a dream come true. In 1981, three of her friends and neighbors—Bertha Turner, Julie Lisle and Jean Negley—had started Bordeaux from scratch. Their idea was to appliqué 126 different designs onto jogging suits and sell them to boutiques.

By the end of 1985, the company had contracts with 150 seamstresses—most of them farm wives—who worked at home and earned as much as $350 per week. Its products were available in 3000 stores from coast to coast, and sales were expected to top $3 million in 1986.

Then in June this year DOL began an investigation. Complicance officer Carol Halterman pored over Bordeaux's books and interviewed its seamstresses. The problem was that appliqué is a form of embroidery and thus against the law. "We thought this was a democracy," one seamstress told Carol Hook. "Why are they trying to take our freedom away?"

Why indeed?

"It is a travesty that government can prevent individuals from making gloves and mittens or appliquéing jogging suits in their homes," insists U.S. Sen. Orrin Hatch (R., Utah), who has introduced Senate Bill 665 to deregulate all types of homework. "It's about time we give American workers the flexibility and choice they deserve."

Finally, Secretary Brock is moving to change these regulations. And if his action survives an expected court challenge, it would effectively ease federal restrictions against homework. But what we really need is for the law to be changed to ensure that homeworkers are freed permanently. Otherwise, future federal officials could restore the bans.

If you agree, write Secretary Brock at the U.S. Department of Labor, Washington, D.C. 20210, and urge him to carry through with the regulation changes. Then write Congress and tell your Representatives and Senators that the Hatch bill freeing homeworkers should be passed.

EXHIBIT 2

U.S. SENATE,
Washington, DC, April 14, 1986.

Hon. WILLIAM E. BROCK,
Secretary, Department of Labor, Washington, DC.

DEAR BILL: In late February, your Department ordered Tom Thumb Glove Company in Wilkesboro, North Carolina, to shut down its home mitten-mending operation (enforcing Rule 29, CFR Part 530). Eighty-five seamstresses depended upon this homeworking arrangement for much-needed income and were earning well over minimum wage.

By eliminating this job-producing operation, the Federal Government has caused personal hardship, increased unemployment, as well as damage and distress the local economy.

As members of the North Carolina Congressional Delegation, we affirm the fundamental right of Americans to choose the location and purpose of their vocation within reasonable limits. And we oppose this outrageous instrusion by the government into the homes and working lives of our constituents.

For these reasons, we respectfully request that you grant the Wilkesboro workers' request for an emergency hearing so that they may be granted relief from this order.

Furthermore, we ask that, by your authority as U.S. Secretary of Labor, proceedings be initiated to rescind—permanently—these unnecessary restrictions on home enterprise.

Respectfully,

Jesse Helms, John P. East, James T. Broyhill, William W. Cobey, Jr., Howard Coble, W.G. Hefner, Bill Hendon, Walter B. Jones, Alex J. McMillan, Stephen L. Neal, Charles Rose, Tim Valentine, Charles Whitley.

EXHIBIT 3

NORTH CAROLINA
FARM BUREAU FEDERATION,
Raleigh, NC, September 20, 1988.

Senator JESSE HELMS,
U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR SENATOR HELMS: The North Carolina Farm Bureau Federation is the state's largest general organization of farm and rural people, with County Farm Bureaus in all 100 counties of North Carolina.

We are interested in Section 11(d) of the Fair Labor Standards Act, which gives the Secretary of Labor authority to ban employment in homes if it is determined that the Act cannot be adequately enforced at such work sites. We favor repeal of this section primarily because it has severely limited work opportunities in rural North Carolina where many families need extra income and are unable by circumstance or choice to leave their home in search of employment.

We certainly endorse the lifting of the ban on employment in the following five "industries": gloves and mittens, buckles and buttons, embroidery, handkerchiefs and jewelry. However, the language stating that the Department of Labor will not issue a permit for employment in those five industries if state law prohibits such employment is too restrictive. Although the state of North Carolina has not adopted such a law or regulation, we feel that it sets a bad precedent and would recommend that the restriction be removed from the proposal.

We support your amendment to add women's apparel to the list of industries open from home employment. It is certainly one of the areas that families in North Carolina are interested in pursuing. In previous comments submitted on this subject, it became apparent how vital home employment is to rural families as an additional source of income.

Thank you for your consideration of our views. We support your efforts in making these changes.

Sincerely,

W.B. Jenkins,
President.

Mr. HELMS. So, Mr. President, I see the distinguished manager of the bill for this side has returned from his meeting at the White House. I very much appreciate his giving me the opportunity to fill in for him while he has been gone. If he needs me further later on he need only let me know.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to thank the distinguished Senator from North Carolina for accommodating me inasmuch as I had to be at the White House for the swearing in of the Secretary of Education.

Mr. President, I ask unanimous consent that we have a quorum call, but with the immediate return of the right to the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the Senator has not been recognized. The Senator has not been recognized, has he?

Mr. HATCH. Yes, I have been recognized.

The PRESIDING OFFICER. Yes. The Senator was recognized as he spoke about his colleague from North Carolina.

Mr. HELMS. Well, if that is true, Mr. President, if the Senator yielded to me, I have not yielded the floor yet.

Mr. BYRD. That is right. The Senator has not yielded.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this issue has been a volatile issue through the years. It has been difficult for everybody involved. And, Mr. President, no matter which way you look at it, increases in the minimum wage cost jobs for people who are the least protected and cared for in our society. Even the most liberal economist admits it. If you take the most conservative economists, sure they estimate more jobs and many more jobs than the most liberal economists. But the Robert Nathan Associates, which is generally considered a liberal economic group has estimated that this bill, if it goes through in its present form, will cost hundreds of thousands of jobs.

In addition, if this bill goes through without a training wage then we have just written off all these young, uneducated, unskilled, untrained, and unfortunate people. To me it is as plain as the nose on anybody's face that we should not write those people off. It is also clear to me that if you keep increasing the minimum wage, then every other wage in society has to go up correspondingly—if not geometrically, at least correspondingly. Every other wage goes up. Then that makes our wage structure even less competitive for worldwide competition than it is today. We find in many areas other than the service areas that we have a tough time competing. So increases in the minimum wage are a fiction to push up from the bottom so that higher wage demands can be made at the top. That fiction has existed for years.

This is the first time in my recollection of history where, because of the literally thousands of editorials all over this country decrying the use of the minimum wage as an economic special, or an economic event, decrying it, admitting it, that the minimum wage is not the way to keep a strong economy. This is the first time in history that I can recall where people really are jittery about it, where people are starting to say, "hey, maybe that argument that we want to pay everybody a livable wage is not a valid argument." It is nice to say that, but even $4.55 an hour is not a livable wage. The minimum wage basically, the more it goes up, the less jobs there are going to be because you price it to a point where some of these undereducated, undertrained, unskilled people just cannot break into the work force.

So we thought, well, since the minimum wage is almost automatically lifted up from time to time because of the arguments of many of our colleagues in the past, who I might add continue to cling to the past, maybe we cannot stop the increase at this time. So what we had better do is try for a training wage, a training wage that might be an incentive for small business people to give a break to some of these unfortunate young people who are dropouts, who are unskilled, untrained, undereducated, many of whom are white but even more of whom are, from a percentage standpoint, black, Hispanic, and women. Give an incentive to the small business community in this country or any community that might hire them in this country, and might give them a break in this country. Give them an incentive to give these people jobs, and give them a break.

Well, we thought it would really be good if you had a training wage that would be 50 percent of the minimum wage because that would really get people into the work force, but that will not fly because that is just too low. So we thought, well, what about 75 percent? Well, many people admit that would be a perfect compromise. That would be a good situation—75 percent of the prevailing minimum wage. There are a lot of businesses that would love to hire young people, and take a chance on them at something that is a savings off the minimum wage for the first 2 or 3 months. Actually, we hoped it could have been 6 months, but we have reduced that.

Finally, we decided, let us do it 80 percent of the prevailing wage, as long as it does not go below the present minimum wage of $3.35 an hour. In 3 months, any business, be it large or small, can hire any one of these young dropouts, any one of these undereducated, unskilled, untrained, unfortunate people for 80 percent of the minimum wage, as long as it is not below $3.35 an hour, and in the process pay them that lower wage for 3 months during the training period, and then pay them the minimum wage or better thereafter.

The problem is training; the problem is opportunity. The numbers of the laboring force are diminishing. By the year 2000, we will not have enough employees in this country to fill all the jobs. It stands to reason that, to get those employees, businesses will have to pay even more than the minimum wage, but they are not willing to do it for somebody who is unskilled, undereducated, and in many ways unfortunate.

So the training wage would be a way of getting them to do it, getting them to give a break to these young people, and giving the young people an opportunity to work.

I cited a young black kid who came to me a number of years ago and said:

Senator, let me have a job. I am unskilled. I am not trained. I dropped out of high school. I'll work for free for the first 6 months, if you give me a job, because I know that thereafter I'll be skilled and I'll be trained at least to a degree, and I can make the minimum wage or better. Let me work for free. Just give me a break, give me a chance.

That is all we are saying here. We are not asking people to work for free. We are asking small business people to take these people on, and we are saying there is an incentive. For the first 3 months, we will allow you to pay them 80 percent of the minimum wage, as long as it is not below $3.35 an hour.

Senator KENNEDY's second-degree amendment to my amendment is just a band-aid on the continual problem of finding employment opportunity for the hard-to-employ in our society. Not only is his proposal based on the same old inadequate Student-Learner Program, but also, the program itself is an illusion to the people who are hoping for a chance to learn and to prove themselves.

Who really needs help from us? The odds that these students will find jobs paying the minimum wage or better on their own, particularly where employment is scarce, is very good. Those who are hard to employ will have difficulty finding employment anywhere in our country. They will not take a chance on hiring a person who is an ex-offender or a substance abuser. They will not take a chance on someone who cannot speak English well enough to deal with customers and coworkers. They will be less likely to take a chance on people who have not demonstrated responsibility.

These are the people in our society who face the toughest barriers to employment, the people the minimum wage increase will hurt the most, and the people Senator KENNEDY's amendment completely ignores. How can we possibly hold out his proposal to these people and tell them with a straight face that they are going to be able to get a job?

So far, the Student-Learner Program has helped very few. The reasons why, I think, are obvious to those who think about it. The Kennedy amendment only helps those who are full-time students. I submit that if they are full-time students, they are capable of getting a job at the minimum wage, and they will, if they want to.

We are talking about dropouts. We are talking about the young kids who have been born in poverty, in obscurity, who have no education and no skills and never have had a chance. They are not covered by the Kennedy amendment. Therefore, this is what we call a subminimum wage. In the case of any employer who applies for a certificate from the Department of Labor, who now has a right to hire six of these people at a subminimum wage, under the Kennedy amendment they will be able to hire 12. That is a joke. Many people do not want to bother with the Department of Labor to get a certificate. Many do not want to do it on an annual basis because it costs money. Many of them do not want to do it for just six people who might work for a little less than the minimum wage.

As I have said, under the Kennedy proposal, first, an employer is required to obtain a certificate from the Department of Labor. The application for this certificate, according to Senator KENNEDY, is very simple. It is a simple listing of the students' name and the declaration that the employer will obey the Fair Labor Standards Act.

I wonder why we have to have Labor Department personnel process these applications when they are usually granted automatically? Could not these people do more important things, like enforcement?

When the employer makes a declaration to obey the Fair Labor Standards Act, that employer lays himself or herself out to all kinds of legal responsibilities, and most small business people do not want to do that. Then again, it is only limited to full-time students, anyway.

In addition, employers have to obey the Fair Labor Standards Act, in any case. Why do they need a special certificate to hire students—these full-time students? Why not require a special certificate to employ senior citizens or women, veterans, the disabled, or Mormon lawyers, for that matter? Or people born in Massachusetts? It makes little sense to me that it will require employers to go through this needless certificate procedure just for drill. Most employers simply do not bother with it.

As for the student-learner programs, they hire these kids for the minimum wage because they know they are well schooled, can read and write and speak English, for the most part, and they hire them.

Second, the student-learner program extends only to retail, service, and agricultural enterprises. That condition eliminates thousands of students from manufacturing firms. Senator KENNEDY's amendment would not change this restriction, so it is a joke. It is what we call a mock subminimum wage amendment.

Mr. President, I am not certain what the reason for this restriction limiting the job to only retail, service, and agricultural enterprises really is. Surely, we cannot think we are protecting the safety of teenagers by keeping them from working in manufacturing. They could work in manufacturing if they were not employed under one of these superfluous certificates. Why cannot Desert Pharmaceutical, in Midvale, UT, or WordPerfect, in Provo, UT hire people under this program? Joe's Bar and Grill can use the program, but Mary's Tool and Die cannot. Why, If it is such a good idea to give these full-time students, who are capable of getting the minimum wage anyway, a chance to get a subminimum wage, then why should not Mary's Tool and Die hire them, also?

This raises a third point. The law that Senator KENNEDY is minimally modifying also pertains to enterprises, not establishments. That means that individual units or franchises of Marriott Corp. do not hold the certificate. The parent company, the enterprise, holds the certificate; and under Senator KENNEDY's amendment, each certificate is good for only 12 full-time students. While I have to admit that 12 is better than 6, as under current law, it is really unbelievable that this is being held out as a significant help to the youth of America.

Under the Student-Learner Program, Marriott Corp. would have to apply for hundreds of certificates in order to employ just one or two students in each of its restaurants and hotels.

Senator KENNEDY pointed out that the Secretary could issue a certificate for more than 12 students as long as Fair Labor Standards Act compliance could be demonstrated. Why should a company have to prove its innocence before being allowed to give students a job? Why make them prove their compliance with the Fair Labor Standards Act before giving an adult a job? We do not do that.

My amendment, the underlying amendment to which Senator KENNEDY has attached his amendment—and if his is adopted, mine will be gone—has none of these Mickey Mouse certification requirements, no obligations, no certificates, no numerical limit, no industry restrictions. Yes, it does require employers to adhere to the Fair Labor Standards Act and states very clearly that employers may not displace workers who are not eligible for the training wage.

Violations of the Fair Labor Standards Act, by the way, are subject to fines up to $10,000 and jail terms up to 6 months, as well as back pay.

My amendment recognizes two key points. No. 1, employers are innocent until proven guilty. While there have been and no doubt there will continue to be violations of the Fair Labor Standards Act, this Senator would certainly hate to assume that the vast majority of employers are anything but honest businessmen and women in this country. I believe they are. They are not out there deliberately trying to exploit youth or shortchange adult workers.

When violations of the Fair Labor Standards Act are noted, employers should be penalized accordingly, and I would support that. I am not in favor of letting violators off the hook, but I am in favor of eliminating a redundant certification process which has shown itself ineffective for finding jobs for anyone who desires to work.

No. 2, my amendment recognizes the simple economics of trying to create employment opportunities for those who are hard to employ, especially if the minimum wage is increased by a whopping 36 percent, as this legislation calls for.

My amendment would provide a modest incentive for employers to take a chance on individuals who otherwise would not be in the running for any particular job.

Prof. Mansanori Hashimoto of the University of Washington in Seattle described the training wage as a way hard-to-employ people could, in essence, buy their training. A person who has gone to college or trade school has obtained a credential through tuition and through hard work. Many people, however, cannot buy their way into the labor market in the same way; they can get in by offering to work for a lower wage. Some people may want to correct a mistake they made when they were 16 years old and dropped out of school, and not all of them are going to be able to be full-time students restricted to working 20 hours a week. My amendment would create hundreds of thousands of opportunities for these citizens to get into the job market and prove themselves.

Senator KENNEDY says that restricting the training wage to full-time students will be incentive for teenagers to stay in school. Mr. President, I respectfully suggest to my colleague from Massachusetts that he has this backward. In fact, the real incentive to stay in school is the prospect of earning a higher wage if one completes his or her education. The correlation between education and earnings is well established.

Furthermore, the logic of economic findings that education is complementary to specific employer-provided training, which increases the value of the worker to the firm, is not hard to understand. Let me quote from an article by Curtis Gilroy in the July 1975 issue of Monthly Labor Review:

> Recent literature in human capital has emphasized the fact that workers are made more productive by firms providing on-the-job training * * *.

Gilroy refers to research by University of Chicago economist Gary Becker:

> The worker would be willing to pay for general training since training raises both his marginal product and his future wage. On the other hand, the firm would be induced to pay for the [company or firm] specific training, and attempt to recoup its investment after the training period * * * in the form of large profits resulting from increased productivity * * *. Hence, workers with specific training have less incentive to quit and firms are less likely to lay them off.

Gilroy also cites research conducted by Prof. Jacob Mincer of Columbia. Mincer also finds a positive correlation between education and the provision by employees of on-the-job training. Education does not by itself provide job skills; rather, it serves as an indication of an individual's trainability.

Now, what does all of this mean? It means that students already have an incentive to stay in school. And, it means that those who lack education, whether they are young or old, are the ones who face the toughest barriers to employment. Their prospects will grow even smaller if the minimum wage is raised. A meaningful training wage is one positive, constructive way to help these hard-to-employ people compensate for this labor market disadvantage.

My amendment is simple and effective. It would allow employers to pay new employees 80 percent of the statutory minimum wage for 3 months. After that 3-month period, the employee would be raised to the full minimum. There is a provision clearly stating that employers may not displace, or even partially displace by reducing the hours or benefits of employees who are not eligible for the training wage.

The efforts and resources of the Federal Government are not wasted on processing useless certificates—which the Senator from Massachusetts has as much as said are pro forma. Under my amendment, the training wage provision of the FLSA would be enforced the same way as all other provisions of the act are enforced, and the penalties would be the same.

To me, Mr. President, this approach makes good sense. If we really want to do something positive for those individuals in our society who are looking for a way into the labor force, let's get away from the same, old, student learner program which has been so ineffective. Let's try a new fresh approach—an approach that would create hundreds of thousands of entry-level job opportunities.

Finally, Mr. President, let me conclude my statement with this plea to my colleagues on both sides of the aisle. I know many Senators are struggling with the politics of this issue. The training wage I have proposed need not be a Republican or a Democratic proposal. It should have bipartisan support. I hope that Senator KENNEDY's amendment will be voted down not because it is a Democratic idea, but because it is an old, ineffective, unworkable idea. I hope Senators will support my amendment because they agree with me that this training wage is a good policy and a significant step forward toward creating job opportunities for the hard-to-employ in our country.

I think it is important to also point out that if we are interested in getting a livable wage for the working poor. Again, I cite the statistics that only 14 percent of the 4.7 million people in this society are presently working at the minimum wage. Many get more because of tips. If you cut it off at those who actually work for the minimum wage, you get 4.7 million people; 14 percent of those, or approximately 550,000 people, are the working poor. They are heads of households.

I agree something should be done for them. But you do not saddle the whole country by pushing up every body's wages, especially those who are capable of making more and who are working for the minimum wage. You do not push all their wages up and thus give the incentive, across the board in our society, for every other wage in society to go up. If that happens, inflation does occur. It is inevitable. If that happens, then the cost of goods and services increases. If that happens, then we become less competitive in the worldwide markets. If that happens, then that puts more pressure on the taxpayers of America because we have to pay more taxes to overcome that lack of competitiveness.

If that happens then all of us are saddled with more and more expenses because we are going to have to pay more for food, clothing, shelter, gas and cars, and more for every consumer product. And, so those who have been pushed up from the bottom $3.35 an hour to $3.75 an hour will find the increase is all eaten up. So, why do it to the country this way? Why not help the working poor by having an earned income tax refundable tax credit and give them the additional help directly rather than try to do it this way? That would be an intelligent approach. That also is a bipartisan approach. It has been advocated by our friend and colleague, Senator BRADLEY, from New Jersey, a Democrat; it has been advocated on the House side by THOMAS PETRI, a Republican. It is bipartisan. It is an intelligent way to approach it.

It would be a way of helping the working poor to come up to at least to a more reasonable living standard. And, in the end it would help to stop the inflationary push up that has happened every time they have increased the minimum wage.

Now, the minimum wage was increased three times as a result of the Carter administration, and we wound up with interest rates of 21.5 percent and the inflation rate going up to 13.5 percent a year. Who wants to return to that? Why do we not learn from these mistakes of the past? Why do we cling to these ideas?

I suspect the reason we do it is because of strong special interest groups in this country who for their own purposes want the minimum wage to be increased so they can make higher demands at the top.

I have to say that is a pretty smart way to go if you do not care for the country. It is a pretty smart way to go if you are thinking only of yourselves. It is a pretty smart way to go if you want the higher wages to the top. It is a cynical thing to do to those down at the bottom because they get less increase than anybody and those increases are simply wiped out by inflation.

Why have that happen and then everybody who is living on a fixed income, every Social Security recipient, every pensioner, everybody who works at the minimum wage. They all get killed by these continually upgoing pushes from the bottom done artificially by Government.

The fact of the matter is that many of the traditional minimum wage payers have been paying more than the minimum wage. We hear that the minimum wage, that the youth opportunity wage differential that we tried to put through a number of years ago that is a McDonald's bill. McDonald's voluntarily right now pays more than minimum wage as does almost every other fast food franchise. They cannot get the quality employees that are trained and educated and worthwhile to do this job unless they pay them more. So, they pay them more.

When you get into minimum wage jobs in many cases they happen to be in restaurants and other retail establishments where tips are given so people make more than the minimum wage that way.

The real users of minimum wage are youth, and it is the way they get into the work market. It is the way they get a job. It is the way that they participate. It is a good thing. It is a good thing, but if it keeps going up then we do away with jobs.

We used to have ushers in theaters a lot more than we have today. In fact, we have hardly anybody today. The theaters were cleaner. They were better managed. There was less disruption. We used to have people to bag groceries in supermarkets. We used to have car washers. We used to have all kinds of jobs for youth that no longer exist because with the minimum wage going up and up and up the jobs went down and down and down.

Why can we not learn from these mistakes of the past? There is only one reason why. I think we get to this battle periodically and that is because special interest groups want the minimum wage to go up regardless of what happens.

Well, I could go on and on on these issues but the important point, Mr. President, is that the so-called training wage of my friend and colleague from Massachusetts helps only a very narrow class of people—full-time students who work 20 hours or less a week. They do not need that help. But even if we assume they do—and I am happy to do that—his amendment does not really help that many people. As a matter of fact, his amendment becomes even more of a bureaucratic ensnarlment than before.

The people we really want to help are those who cannot help themselves. That is an appropriate role for government. Government should not be in the process of interfering with those who can help themselves.

But when people cannot help themselves—the handicapped, those who really are downtrodden and unfortunate—then government, I think, does have a legitimate role to come in and try to bring about some reasonable help, keeping in mind at all times that the taxpayers and the people who are on Social Security who have paid taxes all their lives deserve to not have an inflationary economy. This bill keeps none of those people in mind.

The amendment of my colleague from Massachusetts really does not help these people who cannot help themselves. It helps those who can help themselves, for the most part, to a very modest degree, but it does not help those who cannot help themselves. That is why the training wage that has been put forward—and I think it is a bipartisan training wage; I know there are Democrats who would support this, and rightly so—that would help those who, unfortunately, cannot help themselves.

We can go on and on on this. All I can say is I think it is a wonderful thing that many editorial writers in this country, from the left and the right, have now concluded that increases in the minimum wage are not good for America over the long run. I think all of us ought to start looking at the real facts, the real economics, the real approaches that really might help our country to help these people who need help and do it in a more innovative way than just clinging to the past.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I wish to ask my friend and colleague a couple of questions, if I might. One of the arguments that the Senator from Utah has made is that we are talking about 500,000 heads of household that are now making the minimum wage, $3.35 an hour. I just wonder how people at $3.35 an hour, that are heads of households, how they put food on the table, how they clothe their children, how they heat their homes, and how they are possibly able to afford a mortgage? Maybe the Senator can explain that. But that is not my question.

One of the principal reasons that he raises opposition to the minimum wage is because he is saying, if we add what effectively is a cost-of-living increase, we are somehow inflating the whole economy. Well, let me ask the Senator: Is the Senator from Utah for a cost of living for our senior citizens, 32 million senior citizens, on Social Security? Is he for that cost of living?

Mr. HATCH. Well, let me just say this.

Mr. KENNEDY. I would like an answer to the question. The Senator does not choose to respond.

Mr. HATCH. I will be happy to do so.

Mr. KENNEDY. If he would not, I would like to continue. I will yield for a brief response.

Mr. HATCH. All right, I will be glad to briefly respond.

The fact of the matter is that I do not think that going to $4.55 an hour, if we did it this year, is going to really help those heads of household. It would help them a little bit, but it certainly would not pay the mortgage or pay for the heat and so forth. If you want to try to help them, we ought to go to $6.50, or $7.50, or $8.50 an hour.

The fact is that is a fiction. All it does is do away with jobs. I am saying that what we should have is a refundable earned income tax credit that would get them that additional income that would help solve the problem.

Now, the minimum wage is not just a simple little cost-of-living increase. What the minimum wage is is an artificial push by Government.

Mr. KENNEDY. Madam President, I reclaim the floor. I asked the Senator a very simple question to which he could give a yes or no answer, and that is whether or not he was for a cost-of-living increase for 32 million senior citizens. I am. I am for it. Is the Senator from Utah? Can he answer yes or no that he is for that or against that?

Mr. HATCH. That adjustment is a response to true economic conditions. And I have been for every one of those, as I recall.

Mr. KENNEDY. So, the answer is yes?

Mr. HATCH. But let me finish. I mean, it is only fair that I be given a chance to answer. These are complex questions, even though they seem simple.

That is a response to sincere economic conditions. The minimum wage is not necessarily a response to that. The minimum wage creates part of the problem and the minimum wage creates those conditions.

Three times it was increased at the end of the Carter administration and we saw inflation go through the roof. And that hurt everybody on fixed incomes and on Social Security. If we did not——

Mr. KENNEDY. Madam President, I will reclaim the floor. I asked a question and I gather that the Senator is for the increase for 32 million elderly Americans cost-of-living increase.

Mr. HATCH. If economic conditions justify it.

Mr. KENNEDY. Madam President I did not interrupt.

I did not hear the Senator complain about increasing the cost of living for the Armed Forces of our country, several million of them. No complaint that if you add the cost of living to Social Security, or if you add the cost of living to the Armed Forces, it might have an inflationary effect. I did not even hear him say that he was opposed to providing an increase in the cost of living for Federal employees, millions of those; 40-odd million people. We are talking about 550,000 individuals who are on the lowest rung of the ladder. And if you listen to the Senator from Utah you would think it would be economic catastrophe to do this.

Why should not those individuals who have not had any increase in the cost of living for the last 7 years at least be put on a par in purchasing power where they were 7 years ago?

Mr. HATCH. Will the Senator yield?

Mr. KENNEDY. I will yield at the end of my statement.

Mr. HATCH. How about on that point?

Mr. KENNEDY. I will yield at the end of my statement.

Mr. HATCH. The Senator——

Mr. KENNEDY. I will be glad to yield at the end of my statement.

Madam President, regular order.

The **PRESIDING OFFICER.** The Senator from Massachusetts has the floor.

Mr. KENNEDY. Madam President it is just amazing to me that we have these crocodile tears over the rest of America when you are talking about men and women who have families and want to provide for their families and want to go out and work 40 hours a week, 52 weeks of the year. And we say, "Oh, no, we are going to have economic tragedy"—economic tragedy to lift the people at the lowest end of the ladder, lift those people up at the lowest end of the ladder to some kind of a cost-of-living increase.

The Senator goes on: "Too bad about the students. They are all well off at the start of this. Why are we helping them? They can provide for themselves."

I say to the Senator, come up with me and meet those that are going to the University of Massachusetts in the Harbor Campus in Boston. They pay $1,000 for tuition. Eighty-five percent of those student's parents never went to college. Eighty-five percent of them are working 25 hours a week or more. These are all the rich and privileged middle-income kids that do not need any increase? In spite of the fact that you have an increase in terms of tuition, you have a reduction in terms of student loans, they should get no increase. Too bad. They are all part-time workers. They are all in college. They are privileged.

You tell that to the sons and daughters of middle-income families who are trying to send their kids off to get a college education.

Madam President, the student that the Senator from Utah refers to is not the kind of student that is attending our schools and colleges in my State or in the States that I have visited.

Now, Madam President, we go on and hear about the burden that it is going to be on the taxpayers—burden on the taxpayers from this bill.

The fact is, the Senator cannot have it both ways. He cannot say, look, we are going to have an inflator and then, on the other hand, say it is going be a burden on the taxpayer. When you raise the minimum wage and it has that ratcheting effect, you have less people eligible for entitlement programs. You save the taxpayers billions of dollars. You just cannot have it, I say to the Senator, both ways in the argument. If you ratchet them up, then they are not eligible for those programs that they might otherwise be eligible for, in terms of food stamps and other types of programs. And the savings there mean millions of dollars for the taxpayers.

What you are basically saying is that the Federal Government is not going to continue to subsidize employers who want to provide subservient wages. That is what this is all about. Evidently, when we hear the Senator from Utah talking about the taxpayers, he does not mind the taxpayers paying in and using taxpayers' moneys to fund programs that are used as a supplement for wages that are being received by employees that have not been raised over the period of the last 7 years. That is what you are talking about, Mr. Taxpayer or Madam Taxpayer. That, in effect is what is happening. They were eligible for some assistance programs. Who pays for those assistance programs? Taxpayers. Taxpayers.

So, I daresay that this has more of an impact in terms of relieving some burden on the taxpayers. It makes the people pay that should pay, and those are the employers. It raises, obviously, the gross receipts threshold to exempt many mom and pop stores from coverage. As a matter of fact, we raise it up so much that we are eliminating 1,200,000 employees that otherwise would be covered. We have eliminated the last year of the increase in the minimum wage. We have eliminated indexing. We have increased the gross receipts amount and we will be excluding 1,200,000 small business employees that will still be able to be paid below the minimum. That is what we have done under a series of compromises.

Madam President, we can go back into how we have simplified the bureacracy on this program. You write the name down of the employer, you tell what your business is. You give a business address. You sign the assurances that you are not going to displace full-time employees. You drop it in the mail. And that is deemed to be proper certification. It is about as easy a way to achieve approval that we could possibly imagine, and we simplify it.

Madam President, we heard figures earlier in the debate—well, we did not bring these particular figures up. In 1978, there were 515,000 students that were actually working at that time on the student subminimum wage; you had 32,000 employers, the average number of student employees—16. Average number 16.

The Senator complains and says well, there is a limitation of 6. We raise it to 12. Well, is that not fine? That is not enough? What we have seen in the way that this particular provision has been enforced in the past is that it has permitted great flexibility in terms of granting, on the basis of a petition, more than six. It used to be 6. the average number used in 1978 was 16 students, and each one of these by the various employers. Some were 70 and 80 percent of the work force. These employers were able to make the case—were able to get the certification. So we give even more flexibility on our particular measure.

Madam President, we resume debate today on the Minimum Wage Restoration Act and this is the fourth day the bill has been before the Senate. For 3 days we had before us the Hatch amendment pending in the first degree, the Kennedy amendment pending in the second degree.

We will recess now, shortly, this afternoon. I would have hoped by that time we would have been able to vote on the Kennedy amendment, dispose of the question of the so-called training wage. I have pointed out time in and time out that the word training is not even mentioned in the amendment of the Senator from Utah. He talks about the training wage when he speaks on the floor about it. But just find the word "training" in his amendment. It is not existent.

We have described what that matter is really all about.

I also hope that we could have considered the Harkin tip credit amendment before recessing. I want to review briefly the arguments made last week on the pending amendments. I will begin with the arguments made on the Hatch amendment and conclude with the discussion of the Kennedy "stay-in-school" wage amendment.

The amendment proposed by Senator HATCH is called the training wage but that name has little if any relation to the true effect of the amendment. I have invited my colleagues to try and find the word "training" in any aspect of the amendment. Nowhere is any training required. A training wage without training.

It is disturbing enough that this proposal does not do what it says it will do. The bigger problem is that it will be enormous harm to working people. The amendment provides a rich reward to employers with high employee turnover. Remember the Hatch amendment gives a 20-percent wage cut to all employees for the first 90 days after they are hired. Many employers already turn over their workers on an average every 90 days. Some of the fast food places have a turnover of 400 percent a year. This really fits right into that interest. For them the Hatch amendment is nothing but a windfall wage and for the workers whose wages would be cut for no good reason at all, the Republican alternative is nothing but a 20-percent BUSH "Push" into poverty.

What about employers who do not turn over their work forces now? The Republican proposal becomes a "Hire 'em and Fire 'em" wage for those employers. Once a worker reaches the 90-day cliff created by the Republican amendment, the Republican plan provides a powerful incentive to push those workers right out the door and into the unemployment lines.

So here is the offer that the so-called training wage amendment makes to employers. If you have minimum wage workers now, fire them and you can hire on a new crew, for 20 percent less than you paid before. After you hired that crew you can have another batch for 20 percent less if you let go the first group. That is the offer to the employer.

What is the effect on the workers? What happens to the working people who get caught up in the coils of the so-called training wage? They get pushed 20-percent closer to poverty on day one, and a BUSH "Push" into the unemployment lines on day 91.

The working poor will become the wandering poor as they roam from job to job looking for their next round of training. They will be trained all right—in destitution and desperation. The training wage is a wolf in sheep's clothing at the door of the working poor.

My alternative to this miserly subsidy is a far more sensible proposal, and I call it a Stay-in-School wage. The amendment provides that employers may pay 85 percent of the minimum wage to full-time students. The amendment applies to high school as well as college students and the message it sends to employers is this: If you want to create new jobs by paying less than the minimum wage you may do so for full-time students; and the message we send to the students is this: you can have a job for 20 hours a week but that cannot subtract from your real, full-time job, which is to complete your education.

Madam President, this bill's opponents have long claimed that new jobs would be created by a subminimum wage, jobs that do not now exist. I listened to the Senator from Utah saying: Remember those old jobs out there in the theaters? Remember those old jobs that we used to have with people cleaning?

The fact is if they were there 7 years ago, they would be there today, because we have not raised the minimum wage. We have not done anything to change that in the last 7 years, except to drive the purchasing power down.

If they were all out there 7 years ago, why are they not there today? The reason for the change is because of the demographic change in our population, the reduction of numbers of teenagers in our society that is the basic and fundamental reason, Madam President, or the argument of the Senator from Utah would apply. You have all those theater employees, people that cleaned your car 7 years ago. We have not moved the minimum wage. Its purchasing power has gone down and they disappeared.

But if their theory is correct, these new jobs would be no more than bait that could entrap our students into dropping out of school. The human logic of that risk is clear enough. Research suggests the same.

A study supported by the U.S. Employment and Training Administration of the minimum wage law found that "most important is the substitution of additional schooling for work experience and job training that may have long run effects on the incomes and well-being of those youths adversely affected by the minimum wage law." Specifically, the study's main thesis is that many youths who withdraw from the labor force due to the minimum wage laws "do so in order to continue or resume their formal education."

They go back to school. They continue their education.

My guess is that every Member of the Senate would prefer that our students complete their educations rather than drop out of school to take a low-wage, dead-end job. The Department of the Census estimates that dropping out of school costs a teenager more than $300,000 over his or her lifetime. It would be a terrible mistake to subsidize a system that would cost our youths hundreds of thousands of dollars over a lifetime so we can save employers a few dimes an hour. My amendment allows employers to create these jobs but takes the poison out of the package by making them available only to full-time students. The program is not limited by age.

To the high school dropout who cannot find work, this program is a direct incentive to return to school. For the student who is tempted to leave, this program is a clear incentive to stay in school.

I will conclude by clarifying a few points made by the Senator from Utah regarding what my amendment would and would not allow.

The Senator claims my amendment would result in a bureaucratic nightmare. Far from it. This proposal should win a paperwork reduction prize.

No bureaucracy is involved for an employer to hire up to 12 employees at the subminimum. All he or she must do is fill out a one-page simple form, drop it in the mailbox, and under my amendment, he may begin hiring at the subminimum immediately. You do not have to wait to hear from the Secretary of Labor or anyone else; mailing the form is sufficient.

Second, the Senator claims that 12 is of no use for employers who have thousands of employees.

He apparently misunderstands the way the program works. An employer may hire up to 12 without any approval by the Department of Labor; but he or she may, and frequently employers do, apply for many more. As the Senator acknowledged in his statement, approval by the Secretary is generally automatic. In 1978, 515,000 students worked at this subminimum for 32,000 employers—an average of 16 per employer. So the number 12 is only a limit on hiring prior to approval, and approval of more is generally automatic.

Third, the Senator points out the program general rule is a limitation of 10 percent of establishment hours. Since teens constitute 9 percent of the work force, this seems a fair general limitation.

But what the Senator failed to point out is that my amendment allows a higher percentage of hours worked at the subminimum if the Secretary allows more. There are food service establishments which have prior approval for as high as 60 and 70 percent of establishment hours, and that would continue.

This is the least bureaucratic approach possible. The certification does allow the Secretary to know which employers are paying less than the minimum for enforcement purposes. And it limits the hours of work to 20 or less, because the full-time job of these kids is to graduate from school. As I demonstrated in my speech on Friday, students' grades fall off rapidly if they work more than 20 hours a week.

Madam President, the choices here are clear: The choice is between the "hire 'em and fire 'em" wage and the "stay-in-school" wage. The former will inflict wage cuts and misery on hundreds of thousands of our most helpless citizens. The stay-in-school wage will provide strong incentives for hundreds of thousands of kids to stay in school. It is not often that the Senate gets a choice so clear on the merits, and I hope that my colleagues will do right by our young people and vote in support of the Kennedy amendment.

Madam President, we heard statements earlier this afternoon about how the American people are going to react to this kind of suggestion about the increase in the minimum wage. Madam President, you know something? Unlike the chamber of commerce, which has been lobbying continuously against this particular proposal, north, south, east, west, old, young alike, the people have overwhelmingly indicated their support. Not just for a three-stage increase to 40, 40, and 40, but for a minimum wage to go up to $5.05 an hour by 1992.

This is what 76 percent of the American people favor and 20 percent oppose, a provision that would increase the minimum wage from $3.35 an hour to $5.05 in 1992.

Now, I am not going to suggest that the Vice President saw these figures. Or that all Americans saw them because this is a published poll by Mr. Gallup. But it is interesting that the Vice President came out in favor of some increase in the minimum wage shortly after this poll came out. We are glad to have his support. We wish he would indicate what that support would be. We wonder why he cannot make up his mind about what that dollar figure ought to be.

The Senator from Indiana, Mr. QUAYLE, talked about a $4 figure which, of course, would not even bring us back to the purchasing power that we were facing the last time we had an increase in the minimum wage.

The Vice President was asked last week even as the Senate started to debate this issue was he still for it. He said yes. I wonder why he will not speak to some of our Republican colleagues and urge them to speak in favor of this particular proposal, or to indicate that they would support our proposal. The silence is deafening, Madam President. The Vice President is a spokesman for the party of our opposition.

I want to commend some of my Republican colleagues, and they are noteworthy, for their support of this proposal. They have supported this proposal right from the very beginning, just as we had a number of Republicans who voted for the last increase in the minimum wage.

As I pointed out in the first time when this legislation was introduced, this should not be a partisan issue. Under President Eisenhower, a Republican, the minimum wage went up three times. I have the greatest difficulty understanding why it is that this same group this is opposed to the increase in the minimum wage, that was opposed to giving workers in this country reasonable notification before they are going to lose their jobs or they were going to get laid off. In many instances these are men and women who worked their entire lifetime in these plants. They said no, no way; it is going to have some impact on the economy.

Well we said we are interested. We are interested in creating jobs, not notifying people when they lost jobs. Now we come up and say, look, people are working out there. If they are going to work, and work all year, should they not be able to at least exist on the proverty line, the poverty line in this richest and wealthiest country in the world?

What we hear is we cannot do that either. We cannot provide the day care for working women, cannot provide the parental leave when you have a sick child at home, cannot raise the minimum wage, do not want to give workers any notification—all of those issues, all those issues, Madam President, we hear no. Let alone trying to get some decent health benefits for working people, some 24 million people. On every one of those issues, Madam President, it has been the same group in our Human Resources Committee that have said no, no to the American workers, no to the women and fathers in society, that have a sick child at home. No. No. No. No. No for health benefits, and we are talking about basically some of the hardest working men and women in our country that are doing some of the most thankless tasks in our society—no, because of the economic impact it is going to have in our society.

The economic impact of this particular legislation according to the testimony that we had is the expenditures of $10 billion in our budget, a $1.2 trillion budget, and we are talking about the ripple effect of the equivalent of $10 billion. That is what has got everybody so upset on this side of the aisle; $1.2 trillion, and the economic impact is $10 billion. I mean what is this, Madam President, at this time, that we have been on this day in, day out, we know what the issue is, and we cannot even get a vote on it? We cannot even get a vote on an amendment.

I wish as we talk about these family issues that we would hear from the leader of the Republican Party on this. Yes; we are for a little parental leave. What? Well, no; we cannot tell you what it is. We are for a little minimum wage. No; we cannot tell you what the figure is. We are for day care. We want the earned credit possibly added on to that, and yet you come out and talk about what the cost will be, $6 billion in 5 years and you hear, oh, that ought to be studied. It ought to be studied. We need a study. It was not in the agreement of the package that was worked out between the Congress and the President last year. Where was George then? Where was he then when that agreement was being worked out? He was so concerned about the child care. Yes; we are all for that, and we want that in. But where was he down there at that conference trying to fight for day care then?

Madam President, it is just deafening—the silence. Hopefully the American people will understand, and they do understand. You cannot have it both ways. You cannot have it both ways with regard to the people that are the most vulnerable.

We resolved the issue about what we were going to do, whether as a society we were going to establish a basic wage floor for workers in our society. That was 50 years ago. And already we are hearing that argument out here again this afternoon. Should the Federal Government establish a basic floor? And already we are hearing that argument out here again this afternoon. Should the Federal Government establish a basic floor? Fifty years ago the country resolved that under President Roosevelt. It has been altered and changed, and all these stories of gloom and doom and unemployment, inflation, all the rest of this, as we pointed out earlier in the debate, just have not come to pass. You do not have to take my studies or the studies of the Senator from Utah. Just look at what has happened in the past. Put it all in that. It is right in the committee report.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. KENNEDY. I will in just a minute. I will in just a minute for a question.

We have been waiting around here to get some action for a long period of time. I wish we could have that action. But those particular economic studies, the figures on unemployment, youth unemployment, impact on our economy, we have debated those. You hear the same old tired arguments against—the same ones, exactly the same ones, churned out by the Chamber. They were churning them out 50 years ago. They churn them out today.

Mr. SYMMS. Will the Senator yield?

Mr. KENNEDY. I will not yield until I finish.

The good Senator from Utah put in the Record last week articles from those 7 inches of books which included editorials, and I made some reference about them being churned out by the Chamber. We will not get into those. That is exactly where they were coming from. They were replicated in many of my State's newspapers, exactly the same articles, done by whom—the President and officers of the Chamber of Commerce. It is no mystery about who is churning those out, Madam President. You could change the date on the press releases, and they could have been put in 50 years ago or any time that we have been increasing the wage the last six times—any time, the same press releases, the same gloom and doom. We have heard those all over a long period of time.

Now, I will yield for a question from the Senator.

Mr. SYMMS. Madam President, my question is, and I say to the distinguished chairman of the committee that after hearing this speech about how wonderful this is to put a floor under it, I have an amendment prepared which put the floor at one-half of the average mean income in the country. I wonder if the good Senator from Massachusetts would support that. That would be the $8.80 an hour; if he believes it would do some good, why not do that?

Mr. KENNEDY. The Senator knows the answer to that question. And he basically insults the intelligence of this body by ridiculing what is a very real and important issue. That is whether families that are going home tonight are able to look their children in the eye, and do that with a sense of dignity. If the Senator wants to——

Mr. SYMMS. Will the Senator yield?

Mr. KENNEDY. Sort of either pretend or demagog the issue, why do we not do it at $8? We understand it, and so do they. I would not support it, if that is the question of the Senator from Idaho.

Mr. SYMMS. If that is the case, the Senator's point is well taken—that people will go home from work and look their children in the eye. But if they have a job, I think in many ways that must be more important to them than if they do not have a job. Surely, the Senator cannot ignore the fact that the intellectual community has time and time again in all types of forums, all kinds of editorials in the country, are saying that what the Senator is trying to do goes right against the people he says he is trying to help. How are we going to help people by putting them out of work?

Mr. KENNEDY. Let me ask the Senator a question. Take half the average hourly wage? That is what has been the basis of the minimum wage since it was put in 50 years ago. Will the Senator sign onto that?

Mr. SYMMS. No, I would not because the point is I think this——

Mr. KENNEDY. There it is, Madam President. We have that. That was the basic concept 50 years ago. In all of the various increases six different time, that is what has been the standard which we have used. Either the Senator did not understand it or did not want to support it. That, I think, shows quitely clearly where the Senator is on this issue.

Mr. SYMMS. I say to the good Senator, I think because the Senator does understand it is why I do not support it because I think we need to give people the opportunity to enter the job market.

Mr. KENNEDY. Could the Senator tell us how much of the agricultural subsidy increase has gone into his State in the period of the last 7 years?

Mr. SYMMS. I cannot tell the Senator the amount of money, but I can tell him 80 percent of the agriculture in my State is not part of the subsidy program.

Mr. KENNEDY. Could he tell us the percentage increase of the part that is, and how much that has increased?

Mr. SYMMS. I could say this, we are trying——

Mr. KENNEDY. Could he answer that?

Mr. SYMMS. The Senator asked me a specific question. I am asking him a specific question. Does he know if it has been higher than the cost of living?

Mr. SYMMS. I say to the Senator that it has gone down a lot in the last year. I know that.

Mr. KENNEDY. That is not the question. Can he give us what percentage of increase of the subsidy of the taxpayers' money that is going out to agriculture in his State? Could he give us some indication? I would dare say, Madam President, I would take the percentage, that 20 percent, and take the percentage of increase if the Senator wanted to do that, and put that as a substitute in here without knowing the figures.

Mr. SYMMS. If the Senator wants to talk about agricultural subsidy——

Mr. KENNEDY. I want to ask the Senator a question.

Mr. SYMMS. I would like to say 80 percent of the agriculture in my State is not participating in any Government program.

Mr. KENNEDY. Is the Senator supportive of the increase in agriculture in other States?

Mr. SYMMS. The Senator supported the 1985 Farm Act because it was less obnoxious than the one that preceded from the previous administration.

Mr. KENNEDY. Does the Senator want to tell us what the increase in agricultural subsidies has been in the period of the time when these individuals have not gotten a cost-of-living increase? Can the Senator tell us?

Mr. SYMMS. I do not know the answer.

Mr. KENNEDY. I will tell him. It has gone from approximately $5 billion to $20 billion. It is so interesting to listen to the Senator from Idaho, the Senator from Texas, the Senators from agricultural States who have been opposed to a minimum wage increase. They were not opposed when we have that kind of increase, and I have supported it because I think we need to have stability in agricultural America. But to begrudge the other working people of this country because somehow it is going to be an inflater, after what has happened when we have gone through the agricultural subsidy increase, I find the Senator's arguments to be remarkably vacant—remarkably, remarkably vacant.

Madam President, I would hope that we would be able to get some kind of resolution.

I asked earlier in the day for a unanimous-consent agreement to try to get a vote on the Kennedy amendment. It was pointed out at that time that the floor manager was not on the floor. Then we heard comments from others that they are not able to get recognition or they cannot get action. We want action and we are prepared to see a vote on this measure.

I would ask unanimous consent that we would be able to have a vote on the Kennedy amendment at 11 o'clock on Thursday next, so that we can move on in an orderly manner. We would be able to consider the amendment of the Senator from Iowa, who has been on the floor repeatedly, wanting to debate that issue, as well as the amendment of the Senator from Illinois.

We know that there are Senators on the other side who want to debate the issue. Senator ARMSTRONG has been here. We would be glad to start talking about what I consider the Armstrong amendment, the new Republican Child Care Program. This is going to be a wonderful discussion we will have with that.

The Senator from Washington [Mr. EVANS] has an amendment. We would be glad to work on that measure, a study on pay equity, as well as any of the other amendments on the other side.

We want an opportunity to debate and discuss all amendments and have the Senate reach a judgment. We have been on this bill for this period of time. I hope we are going to have some indication, by this request, of who is prepared to move ahead and let the Senate work its will on the issue of the minimum wage.

The PRESIDING OFFICER. Is there objection to the request?

Mr. SYMMS. I object.

Mr. HATCH. Madam President, reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. Reserving the right to object——

Mr. SYMMS. I withdraw my objection.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I think it is safe to conclude that there will be no further votes today, by agreement.

Second, we will not be in session tomorrow.

Third, there is a cloture vote that should occur 1 hour after we come in on Thursday. If cloture is not invoked, then I fully intend, as I have throughout this debate, to move ahead on amendments.

Whether we vote on the amendment of the Senator from Massachusetts or not may be a question, but that amendment can be set aside as we go on other amendments. I intend to move ahead.

The fact is that the Senator, in filing his amendment to my amendment, has locked up the amendment tree, and there has been a desire not to vote on his amendment until there has been a full and complete debate on the minimum wage. I have been willing to move to another amendment, as has he, but others on both sides have not.

When the cloture motion was filed, as I understand it, the majority leader—and I hope I am not misstating this—indicated that he was filing it, not because there was a filibuster in process, but because he wanted to cut off nongermane amendments—or at least that is what has been said behind the scenes. Frankly, that has caused quite a bit of consternation among a whole raft of Senators who feel that that procedure is used far too many times to cut off effective debate in the U.S. Senate. So we have to object to this unanimous-consent request.

However, I tell the distinguished Senator from Massachusetts that if cloture is not invoked, I hope we can move to other amendments and debate them and vote upon them with expedition, and I will do my best to do that. I suppose the earliest we will be able to do that will be Thursday.

There has not been any desire on my part to delay this debate or to filibuster at this time or to not have votes. There is a desire on the part of a number of Senators—and I believe it is fair to say on both sides—to delay this until Thursday, at this particular point. I do not think either side should be trying to get political advantage.

So I have to object at this point.

The PRESIDING OFFICER. For parliamentary clarification, the objection has been heard.

Mr. KENNEDY. Madam President, just so that we have clarification of what the situation is, from at least the floor manager's point of view, when the Senator from Utah was recognized, we had an amendment in the second degree. If that is locking up the tree, then the Senate has been locking up amendments for the 25 years I have been around here. This is a regular parliamentary process that is the ordinary system which has been time honored, and rightly so.

Second, when it appeared that there was a desire by the Senator from Utah, at the suggestion, evidently, of other Members, not to have a vote on this amendment, both of our colleagues approached me to see if we could move toward consideration. There was an objection to setting that aside, to moving toward action on either or both of those amendments. Nothing from anyone on this side. We are prepared to go ahead—no time limit, and prepared to go ahead.

So I do not want any suggestion that there has been reluctance by Members who want to speak on this or that there is a general sense that we have not had full debate and discussion. I dare say that that is not a fair evaluation of what has been going on here, and anyone can draw their own conclusion, based on the record.

This is an issue that has been around for a long time. It is not all that complicated. Often we debate issues and questions which we get de novo. This is an issue which we have debate year in and year out.

The fact that we are into this number of days, given the other unfinished business, is obviously a matter I would think most distressing to the millions of Americans who have to be looking at the Senate today and wondering why we are unable or unwilling to take the kind of steps that were taken under Republican and Democratic administrations in the 1960's and 1970's to ensure that people who want to work for a living will not be sentenced to a life of continued poverty.

Madam President, I see some of my colleagues on the floor who wish to speak. I hope we obtain cloture, so that at least we will be able to proceed on matters that are germane to this particular subject matter. Then, so far as the Senate of the United States is concerned, we can look to those who are on the most difficult rung of life, the working poor, to say that at least we have offered a helping hand to them to be part of the American dream.

Mr. HATCH. Madam President, I notice that there are colleagues on the floor who would like to speak, and I hope they will indulge me for a few moments to answer the Senator from Massachusetts.

I have enjoyed the histrionics of my distinguished colleague and friend from Massachusetts as he has tried to paint this as the answer to all problems and that anybody who is opposed to it is opposed to the poor, the sick, the needy, and everything else.

He makes a very good point, and that is that he has never seen—and, I might add, many on the Labor Committee who support this particular bill have never seen—a spending bill they did not love.

Frankly, it is one thing to come here and just vote for every spending bill that comes down the pike, and we know there are those on this floor who do exactly that. It is another thing to try to think things through and do what is right and not be linked to the past, to the exclusion of good logic and good economics and what is right for America.

To stand here and act like this is a simple cost-of-living increase which we give to Social Security recipients, which we give to Federal employees, and treat it exactly the same, I think, is one of the most unfortunate things that has happened around here in a long time. When we give cost-of-living increases to those on Social Security, we do it because of inflation, generally caused by Government, and we do it because Government helps to pay by taxing taxpayers for Social Security.

When we give a cost-of-living increase to Federal employees, we do it because they are our employees. We want to treat them fairly, and we make that determination in public, in the open, that we are going to do it for those employees.

When you increase the minimum wage time after time, you are mandating that on the backs on every small businessman and woman in America, and that is a considerably different thing from asking the almighty Federal Government to make a cost-of-living increase.

That is what these people are doing. Let us just be honest about it.

The fact of the matter is every time the minimum wage goes up inflation goes up. Every time it goes up everybody demands an increase. The fact is that most people who are students, most people who are qualified, most people who have education and some training are able to get minimum wages or better. In fact all people are, especially with a declining work force.

The people who cannot get them are those who are dropouts, those who are underserved, undereducated, undertrained, and unfortunate.

And he completely and blithely ignores every one of those as he comes up with a training wage for full-time students and tries to pass that off as a training wage. It is a subminimum wage for full-time students, and I may not disagree with that.

But what do we do for these millions of people who cannot get a break in our society?

We increase the minimum wage for everybody else and we write them off.

The fact of the matter is that the Senator's amendment is an attitude of "Let us take good care of the full-time students, and the heck with everybody else." That is what it comes down to.

And, then to stand here and talk as though this is the salvation of everybody who is poor in our society I think is the wrong approach to take.

The fact is there may be some people who do benefit from the minimum wage increase but they benefit at the expense of millions of others and, frankly, everybody else in society. And, the benefits do not outweigh the detriments to society as a whole. When you think of the millions who cannot get a job because they are underserved, undereducated, unskilled, and unfortunate, you really have to say what is wrong? Why do we cling to these past ideas? Why do we not do something directly to help those people who really are unfortunate?

When we come up with an idea that might help them, it is pooh-poohed as an idea that is going to be a "Bush hire 'em and fire 'em."

Come on. When a person in small business hires a person at a youth training wage and trains them for 3 months, they are not going to boot them out the front door. They have an investment in that person and that person is going to continue to work as long as that person can do a good job.

The only way they are going out the front door is if they do not work or they are incompetent or they cannot do the job or they cannot be trained. But at least let us open the door to give them an opportunity. That is a far better thing than just writing them off, which is what the Senator's amendment does.

I can agree with the Senator's amendment. If it is not a bureaucratic ensnarlment then why make them even file for a certificate? Why file the millions of pieces of paper and inundate our Labor Department here with millions of pieces of unnecessary paper since he himself admits that it really does not do anything?

Why not just trust the businessmen and women in America, and if they are not worthy of trust let us have our regulators look at them and bring enforcement action under the Fair Labor Standards Act that is provided within the act?

No. We have to have a great big bureaucracy to take care of the paperwork that he says is not really all that important.

Look. I am willing to go with his approach, but let us go with the approach for those who do not have a chance. Let us go with a training wage for those young people who are not trained, who never will be trained if we do not try something new. Let us go with an approach that helps those who are underskilled, those who are untrained, those who are unfortunate in our society. Let us not just write them off because they are not going to go back to school. Let us not just throw them into the drug and criminal culture as though we are callously forgetful of the circumstances they are in. Let us not treat the minimum wage as though it is a cost-of-living increase.

The Government has a right to do that for its own employees. It should not have a right to just ruin every small businessman and woman in America and cause inflation for everybody else by mandating these things.

If this were the only mandated benefit that this Senate has imposed upon America this year, maybe it would be easy to tolerate and stomach. But already this year we have had all kinds of mandated benefits that this body, because we are not going to tax the American people more, is going to indirectly tax them by imposing it upon business and small business at that.

I suppose one reason why this present President was against the so-called itty-bitty plant closing and layoff provision was because he saw the Krupp Corp. in Germany where they have that provision spend $800 million trying to shut down an antiquated unworkable plant. He does not want that to happen in America because that $800 million is lost to Germany. It is not some simple thing, even though that battle was lost. I do not want to fight it again. There are very good reasons why. That is not as simple as politically it is being used in our society today.

I predict right now we will live to rue the day that we passed that so-called little-bitty act that is so complex that it is going to add to the cost of business in this country and the loss of jobs in this country like never before.

I get a little sick and tired of people making it a pure political issue when in fact it is such a bad piece of legislation.

I know I have taken too long and I have burdened my colleagues on this, but let me tell you something: To worry about full-time students who are in school, who are being trained and educated and who are capable of getting jobs themselves is a commendable thing, but to do that at the exclusion of the millions of young people who will never hold a job because they do not have a chance and just write them off blithely because certain special interest groups in this country do not want them and do not want to have a real training wage I think is the most callous thing I have seen in a long time. That is what it comes down to.

I will make the distinguished Senator from Massachusetts an offer. I will accept his amendment and vote for it if he will vote for my amendment, and if we will go with both amendments I think maybe we can also compromise on the minimum wage and get that done this year. If Dukakis wins he can come back next year and try and raise it more. If BUSH wins he can come back and try to raise it more with BUSH since he is for the minimum wage increase, whatever that amount may be.

The distinguished Senator from Massachusetts certainly raises some good points there, but if he will go for a real youth training wage for those who are unfortunate, and I am willing to work out modifying the suggestions I have made, if he is willing to go for that I will go for his. And maybe we can get together and resolve this problem and we will not have to have a big worry about having amendments up and anything else.

I throw the helping hand to him, and he knows and I know if we get together on this there is a darn good chance it is going to pass.

But, no, they want it only one way, and one way at all——

Mr. DECONCINI. Madam President, will the Senator yield?

Mr. HATCH. I am happy to yield the floor. I know my distinguished friend has been waiting.

Mr. DECONCINI. I thank the Senator from Utah. I hope the Senator from Utah can get together on the minimum wage.

Mr. HATCH. I hope so, too.

Mr. DECONCINI. This Senator supports the minimum wage. It is very important and I think the Senator from Utah expressed enough indications here that he is willing to compromise. I want to urge my friend from Utah——

Mr. HATCH. Why does the Senator not urge our friend from Massachusetts?

Mr. DECONCINI. I have already done so, and I will do so again, and I think there is a feeling here that maybe this is going to be a political battle, but I think if we are really interested in doing something good for the working people of this country we ought to look at raising that minimum wage, and I realize from the Senator's argument that it is tough on small business and indeed it is.

My family happens to be in that business and we paid for a few jobs at minimum wage, and most of them are above that, and we will have to pay a little bit more.

I think it is important to note that the responsibility of business is to pay the living wage, and I daresay if we did not have the minimum wage instituted under the Roosevelt administration, I am not sure we would have the working class we have today.

So I am a strong supporter of the minimum wage, and I hope that some compromise can be reached because I think it is the right thing to do. I really do.

I happen to agree with the Senator on a training differential. I think that maybe a more proper way to go, much better than a student exemption certificate which I offered as a substitute for a "true" subminimum wage proposal in 1977.

It seems to me there is some merit on setting aside a period of time when an employer has to train somebody to be prepared to enter even in the very elementary levels.

So I thank the Senator.

Madam President, I would like to ask the majority leader a question.

The **PRESIDING OFFICER.** Has the Senator from Utah completed his remarks?

Mr. **HATCH.** If I could say one other thing.

Mr. **DECONCINI.** I thought the Senator yielded?

Mr. **HATCH.** I have yielded, but if the Senator will yield to allow me to state something, I appreciate his remarks because I am not nearly as caught up in stopping increases in the minimum wage as I am in getting a youth training wage. I think there maybe a way of resolving this, but it is going to take some effort by both the distinguished Senator from Massachusetts and myself to do so. I think we might be able to do so, but I surely think my offer to take his amendment on the full-time student training wage, or really subminimum is what that is, ought to be combined with my suggestion to take my idea on the training wage for all others who never held a job. It just makes sense.

Mr. **DECONCINI.** Madam President, will the Senator yield?

Mr. **HATCH.** I yield.

Mr. **DECONCINI.** Had the Senator considered less than 90 days for a training wage?

Mr. **HATCH.** I would consider any reasonable offer, because I would like to get the concept implemented and see if it works. If it does not work, I will stand reproved.

Mr. **DECONCINI.** If the Senator will yield, it is my observation that 90 days is probably more than what is necessary in many entry-level jobs. But the concept, I think, has a lot of merit to it and we ought to try it.

Nobody has the perfect legislation out here ever, and this is so much preferable, I think, than a student subminimum wage just for students. This is for any entry-level person while they get trained on the job.

The only suggestion I have, and it is only that—to my friend from Utah—maybe 90 days is a bit too long a period of time for someone to be trained for a job.

Mr. **HATCH.** If my friend will yield a few seconds more, I would be interested in my friend from Arizona helping to bring us together on this because I am open to any reasonable suggestion, as long as it is enough period of time to really give incentive to small business to hire people and give them a chance. If it is enough period of time and it will give them a chance and help save a lot of these people and get them in the work force and give them the experience and self-esteem that comes from working, I think that would be a worthwhile thing to do.

It is not just a matter of standing here trying to stifle the minimum wage bill. It is trying to fight for a principle that literally I think we made a pretty good case for and not just accepting old cliches. We should try something new.

If we can do that, then let us talk about where the three-tier minimum wage should go this year, and I am willing to do that. Then I think we can resolve this and dispose of this matter in a reasonable way, and I think most Republicans and most all Democrats would probably breathe a sigh of relief and say that is a reasonable way to do it. We do not have to have this in the middle of politics all the time. Maybe there is a way of resolving this problem.

So I will leave that offer on the table. If we can do it, it will be great. If we cannot, then I guess we have to fight it out here, because I think we are fighting for principle with regard to the training wage.

I thank my colleague for yielding me time.

(Mr. DASCHLE assumed the chair.)

Mr. **DECONCINI.** Mr. President, before I proceed, I wish to ask the majority leader a question. I would like to submit a resolution here on another subject matter, but I do not want to interfere with anything.

Mr. **BYRD.** Mr. President, I thank my friend for his characteristic consideration and courtesy.

I intend to call up a conference report on which there is a time agreement, but if the distinguished Senator would like to proceed first, that is fine.

Mr. **DECONCINI.** I thank the majority leader.

(The remarks of Mr. DECONCINI on the resolution appear elsewhere in today's RECORD.)

ALTERNATIVE MOTOR FUELS ACT—CONFERENCE REPORT

Mr. **BYRD.** Mr. President, I submit a report of the committee of conference on S. 1518 and ask for its immediate consideration.

The **PRESIDING OFFICER.** The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1518) to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 16, 1988.)

Mr. **ROCKEFELLER.** Mr. President, I yield myself 10 minutes.

The **PRESIDING OFFICER.** The Senator is recognized.

Mr. **ROCKEFELLER.** Mr. President, before I begin, I will ask unanimous consent to have printed in the RECORD a letter dated August 4 from California energy and environmental agencies, in which it is stated that the bill that we are about to discuss is critical to air quality, public health, energy efficiency, and energy security strategies of California.

Mr. President, I am pleased that the Senate is today considering the conference report on S. 1518, my bill, cosponsored by over 60 of our colleagues, to foster the manufacture of alternative fuel motor vehicles. We have brought back from our conference with the other body a strong bill that preserves the principles embodied in the Senate bill.

The strong support for this legislation in both Houses of Congress is a reflection of the many benefits the bill will provide. The bill encourages production of automobiles that can run on methanol, ethanol, and natural gas. These clean burning fuels can help improve air quality in cities struggling with smog. Alternative fuels can also help reduce our dangerous dependence on imported oil. Finally, they can bring jobs home to domestic producers of the feedstocks for alternative fuels. This could mean new markets for the grain from our farm States and new jobs from Alaska to Texas to West Virginia and other States where natural gas is found. As technology develops, it could mean new jobs in the coal fields of States like West Virginia, as coal is used to produce methanol.

The bill encourages production of alternative fuel vehicles by providing manufacturers of such vehicles with limited incentive increases toward the average fuel economy standards which must be met by each manufacturer. The conference agreement also adopts, in modified form, House provisions authorizing a moderate, but useful, program to demonstrate and to learn more about alternative fuel vehicles.

A noteworthy feature of this bill is its careful balancing of several important economic, environmental, and energy policy goals. For example, an essential aspect of the Senate bill was our effort to ensure that, in encouraging alternative fuels, we also maintain the strength of the existing fuel economy program. This was accomplished by placing a cap on the fuel economy incentives that could be earned under the bill for production of dual fuel vehicles.

The conference agreement not only preserves this principle, but strengthens it by reducing the maximum credits that can be earned.

Another question that was raised in Senate consideration of the bill was the bill's impact on emissions of gases like carbon dioxide, which some believe are contributing to a troubling global warming trend. Actually, the bill should help address such concerns because, when compared to gasoline, production and use of natural gas and methanol derived from natural gas result in the same or even less carbon dioxide.

During Senate consideration of the bill, concern was expressed by a few Senators that with methanol derived from coal, more carbon dioxide might be produced. However, with development of technology, we can deal with carbon dioxide emissions. This point was reflected in the findings added by a floor amendment to the Senate bill. These findings were adopted by the conference. The conference agreement further strengthens the bill on this issue by requiring the Environmental Protection Agency to report to Congress on the impact, if any, of the bill, on global climate change. The report is to identify ways to offset increases in carbon dioxide that may result from the use of alternative fuels.

This bill establishes a modest program to encourage alternative fuels, but it is a model of the kind of balanced approach we need to take to the environmental, energy, and security challenges that we are facing. When confronted with several different dangers, the wise approach is to be prepared to deal with them all. This was the approach the Senate took with this bill, and it is the approach we were guided by, and which prevailed, in working out the conference agreement.

Throughout this process, we were careful to balance and reconcile potentially conflicting goals. We wanted to strengthen our energy independence, but not at the expense of reasonable fuel economy goals. We wanted to obtain immediate improvement in air quality, but we required a thorough environmental impact study to ensure that, as experience with alternative fuels is gained, information about long-term costs and benefits will be examined. We wanted to find out what might be done to improve the environmentally sound development of the long-term potential of alternative fuels. But we did not wish to delay in beginning to improve our energy security. No one wants our country's security and world peace to remain dependent on the volatile state of Middle East oil politics.

In short, in developing this legislation, we have carefully, but persistently pushed forward to meet an array of energy, environmental, and security challenges. This bill is a modest step, but it demonstrates the balanced approach we must take for the larger tasks that lie ahead. In the next Congress, with a new administration, we must move even more forcefully to deal with these long-neglected problems.

If we are to prevail in a world of dwindling resources and fierce international rivalry, we must declare an end to drift and take the initiative. Approval of this bill is an important step in that direction.

Finally, I want to express my gratitude to the many Senators, staff and others who have worked for enactment of this legislation. I commend the distinguished majority leader, Senator BYRD, an original cosponsor of this bill, the distinguished chairman and ranking minority member of the Committee on Commerce, Science and Transportation, Senator HOLLINGS and Senator DANFORTH, and our many other colleagues who have worked to enact this bill.

I would be glad to yield time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Is time controlled?

The PRESIDING OFFICER. Time is under control. Does the Senator wish to yield to the Senator from Tennessee?

Mr. ROCKEFELLER. First, I would like to find out if the Senator from Missouri wishes to make an opening statement.

The PRESIDING OFFICER. The Chair would inform Members that the Senator from Missouri controls 1 hour, the Senator from West Virginia controls 1 hour.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, let me begin by thanking Senators ROCKEFELLER, HOLLINGS, GORE, MCCAIN, GLENN, ROTH, and LEVIN for their work in promoting this important legislation. I am pleased that we have successfully completed our conference negotiations. I look forward to immediate Senate and House action on this conference report.

Mr. President, our domestic oil reserves are in permanent decline. This makes us vulnerable to a resurgence of the OPEC cartel. Our need for imported oil remains so great that our economic well-being and national security have become linked to the stability of the Persian Gulf. This has been called an energy crisis. But we do not face a shortage of energy; our ability to produce electricity domestically has virtually no long-term limits. Instead, we face a shortage of liquid fuels, primarily for transportation. Transportation uses consume more than 60 percent of the oil used in this country.

FUELS THAT CAN REDUCE OUR DEPENDENCY ON FOREIGN OIL

Mr. President, there are a variety of fuels whose use will reduce this dangerous dependency on foreign oil while maintaining the quality of the environment. The most promising of these fuels is methanol. It is currently available in excess supply. It can be produced domestically in nearly inexhaustible quantities from natural gas, coal, or biomass. It is a proven transportation fuel that can be used in ordinary automobiles. It can be delivered through our existing distribution network with only minor modifications.

Methanol can be used as an octane enhancer—90 percent gasoline and 10 percent methanol—to form gasohol or as a replacement fuel for gasoline—100 percent methanol or a 85-percent methanol/15-percent gasoline blend. Methanol burns so efficiently that race cars use it at the Indianapolis 500. Methanol burns more cleanly than gasoline, producing lower emissions of nitrogen oxide and hydrocarbons. Finally, methanol can be delivered at a price that is competitive with gasoline.

Mr. President, there are other alternative fuels that might be used for transportation, including ethanol and compressed natural gas. Ethanol is made from corn or agricultural wastes and, like methanol, has been used as an octane enhancer. Almost all of Brazil's automotive fleet operates either on pure ethanol or on ethanol-gasoline blends. Like methanol, ethanol burns more cleanly than gasoline.

Compressed natural gas is currently used to power 30,000 vehicles in the United States and has been used even more widely overseas. Its use would also lower harmful emissions.

In my judgment, we need to convert a portion of our automotive fleet to methanol and other alternative fuels. Such an effort would have positive consequences for our national security, or domestic economy, and for the environment. For these reasons, that I have been working to promote alternative fuels since 1984. I am pleased to join Senator ROCKEFELLER as the primary cosponsor of this legislation.

The intent of this conference report is simple. We want to encourage the production and sale of vehicles that can run on methanol and other alternative fuels in two ways. First, this bill provides for appropriate treatment for such vehicles under the corporate average fuels economy [CAFE] standards. Second, it establishes a program for developing commercial applications of alternative fuels in cars, trucks, and buses.

TAPPING OUR METHANOL PRODUCTION POTENTIAL

Mr. President, we need to tap our Nation's almost unlimited methanol production potential. At the present time, methanol is made from natural gas and is primarily used as a chemical feedstock; it is an important source of formaldehyde for use in plywood and other building materials.

Natural gas is likely to meet the demand for methanol in the near term. Currently, the methanol equivalent of a gallon of gasoline can be produced from natural gas for $1.25. Indeed, an enormous amount of excess capacity for producing methanol from natural gas exists in the world today.

Broad adoption of methanol by the immense American auto market would eventually exhaust excess natural gas supplies and require conversion of coal, at a slightly higher cost—the energy equivalent of less than $2 a gallon of gasoline. Domestic coal supplies would be sufficient to meet the demand for centuries.

METHANOL—A PRACTICAL TRANSPORTATION FUEL WITH POSITIVE ENVIRONMENTAL CONSEQUENCES.

The California Energy Commission and the Bank of America have both conducted major fleet test for methanol cars, with excellent results. Methanol-powered cars have operated significantly more cleanly than gasoline-powered cars. Emissions of nitrogen oxides and hydrocarbons are reduced substantially. Controlling emissions through uses of alternative fuels is particularly important for the 100 jurisdictions around the country that are in noncompliance with the Clean Air Act's air quality standards. For example, computer modeling predicts reductions of harmful pollutants by 15 to 25 percent in Los Angeles if methanol is substituted for gasoline and diesel fuels.

Mass production of ethanol vehicles would not pose significant problems for American automakers. Some rubber parts and metal coatings must be replaced, the carbeurator must be adjusted, and large gas tanks may be desirable. However, the cost impact would be minor to nonexistent.

PROVIDING NECESSARY INCENTIVES FOR ALTERNATIVE FUEL USE

Given all of the advantages of alternative fuels, what, then, is preventing their widespread use? Inertia. For very good reason, automakers are unwilling to produce vehicles for which there is no current demand. Consumers are unwilling to purchase cars or trucks for which there is no readily available fuel supply. Service stations are unwilling to provide fuel for cars that are not on the road. This extremely difficult marketing problem can be overcome by the introduction of a flexible fuel vehicle, which can run on any combination of alternative fuel, such as methanol and gasoline. Ford has an operating prototype of such a vehicle.

This legislation will encourage widescale use of alternative fuels in two ways. First, it provides CAFE incentives to manufacturers that produce alternative fuel vehicles. The fuel economy standards were enacted to reduce our dependence on petroleum, not on fuel generally, and should encourage, not discourage, the use of alternative fuels. This conference report would offer an incentive to auto manufacturers to produce alternative fuel-powered cars by the simple device of basing fuel economy ratings on the amount of gasoline consumed. Vehicles would be divided into two categories for determining the amount of incentive:

First, dedicated vehicles—those using at least 85 percent of the alternative fuel at all times would be rated based on 15 percent gasoline content.

Second, dual fuel vehicles—those capable of operating on a range of fuel mixes with up to 85 percent of the alternative fuel would be rated on a 50-percent gasoline and 50 percent alternative fuel basis.

To illustrate, suppose a particular gasoline-powered car gets 25 miles a gallon. When converted to run on a blend of 85 percent methanol and 15 percent gasoline, it might get only 15 miles per gallon, but for every gallon of gasoline in the blend, the car would travel 100 miles. The last figure is the significant one for CAFE purposes and that is how the car would be rated.

The second incentive of this conference report is a program for developing the commercial application of alternative fuels in different types of vehicles. Specifically, the Federal Government would purchase alternative fuel cars and small trucks for its vehicle fleet. This would provide a consumer test of alternative fuel vehicles prior to their general sale to the public. Moreover, the Department of Energy would work to develop heavy duty trucks capable of operating on alternative fuels. Finally, the National Highway Traffic Safety Administration, the Department of Energy and the Environmental Protection Agency are directed to work with State and local governments to develop urban transit buses that can operate on alternative fuels.

STIMULATING THE DOMESTIC ECONOMY

Mr. President, development of a major automotive market for methanol would stimulate the Nation's coal industry in an environmentally acceptable way. In my own State of Missouri, we have an abundance of coal; however, much of it has such a high sulfur content, it is undesirable for utility use. Since sulfur extraction is a necessary part of the coal-to-methanol process, such coal could be used to meet our energy needs without contributing to excess sulfur loading in the atmosphere. During a November 1987 hearing, a witness from the Environmental Protection Agency [EPA] told me that EPA thinks methanol conversion "is probably the most environmentally attractive use of coal in the country."

The increased production and use of ethanol as a transportation fuel would also boost our economy. Ethanol is made from corn or agricultural wastes. Its increased use would provide a major new market to farmers.

CONCLUSION

Mr. President, methanol and other alternative fuels can be produced from domestic sources. The use of alternative fuels can reduce our dependence on foreign suppliers of oil, which will have important economic and strategic consequences. It can reduce the pollution of our skies and stimulate our domestic economy. I believe we should move forward quickly to encourage the development and growth of a transportation market for alternative fuels. I urge my colleagues to vote in favor of this important conference report.

Mr. President, I want to congratulate Senator ROCKEFELLER for his very determined effort on behalf of this bill. This bill has been a long time coming. Its predecessor was first introduced in 1984. The first I ever heard of this issue was from my then legislative director, a man named Reid Detchon. He became very interested in alternative fuels and particularly in methanol. He explained the concept to me back in 1984, and a bill was introduced at that time, but it became bogged down, as so many good ideas do, in the legislative process.

Senator ROCKEFELLER took this issue on, I guess, a year or so ago, and he was absolutely determined to get it passed. That determination, that persistence was what brought about today's result.

I do not agree with Senator ROCKEFELLER's characterization of this as a modest piece of legislation. I do not think it is modest at all. I think it is a significant bill, and I think that it will make a significant contribution to the twin goals of making America less dependent on foreign sources of energy and more able to deal with the environmental problems that we face.

The concept of the bill is really very simple. It provides that in computing the corporate average fuel economy, or CAFE, standards for automobiles, those vehicles that are capable of burning alternative fuels, methanol and ethanol, be rated only by the gasoline they burn in the mixture.

For instance, if a car can burn 85 percent methanol and 15 percent gasoline, and if it consumes a gallon of fuel every 25 miles, then the CAFE requirement would not be rated at 25 miles per gallon, but instead at 165 miles an hour because it would factor in only the gasoline that was being consumed and not the alternative fuel that was being consumed.

The effect of this is that it provides a very powerful incentive for automobile manufacturers to construct automobiles that are capable of burning alternative fuel, and methanol requires a different construction of automobiles so that methanol can be burned.

So this really is a very important step forward. It is a very powerful incentive for the automakers to produce automobiles that can consume alternative fuels.

Again I want to congratulate Senator ROCKEFELLER for this significant accomplishment. It is major legislation and only his determination has made it possible for us to come this far.

Mr. McCAIN. Mr. President, let me begin by expressing my appreciation for the leadership that Senator ROCKEFELLER and Senator DANFORTH have taken on this issue. I am pleased that we have successfully completed our conference negotiations on this important legislation.

I cosponsored and was a conferee on the Alternative Motor Fuels Act of 1988 because I believe it could help ease the energy crisis our Nation faces and help protect our precious environment while preserving growth.

This bill can help us in achieving energy independence by encouraging the use of a broad range of alternative transportation fuels that can be produced from domestic sources. These fuels include methanol, ethanol, and compressed natural gas. In committee, I was successful in adding language to the bill that would also require that Secretaries of Transportation and Energy to conduct a comprehensive investigation of means to stimulate the production and introduction of electric and solar powered vehicles. Their production could increase our energy independence. I am pleased that this provision is included in the conference report.

Mr. President, I want to make a few remarks about the environmental value of alternative fuels.

Latest estimates from the Environmental Protection Agency indicate that about 100 U.S. metropolitan areas are in noncompliance with its ozone pollution standards, carbon monoxide standards or both.

No part of the country is immune from these problems. People moved to my home State of Arizona in the past for its quality of life. They wanted to get away from pollution to ease their respiratory problems. Unfortunately, times have changed. Currently, Phoenix is not meeting EPA standards for carbon monoxide and ozone. Tucson has also had this dubious distinction in the past and may well again in the future. To ensure the health of our citizens and the continued growth of Arizona, we need to control air pollution.

I believe that mobile sources play, if not the largest, certainly a very significant role in this problem. Alternative fuels are among the tools that local communities can use to lessen the impact of mobile source pollution. Methanol and other alternative fuels can substantially reduce ozone and carbon monoxide pollution because they burn cleaner than gasoline.

The technology for alternative fuel cars has already been developed and has been successfully used in major fleet tests in California.

Mr. President, the Alternative Motor Fuels Act can stimulate the use of alternative fuels by providing corporate average fuel economy incentives for the manufacture of alternative fuel vehicles and establishing a program for the development of alternative fuel cars, trucks, and buses. It is an idea whose time has come and I urge colleagues to vote for the conference report.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I would very much like to thank the Senator from Missouri. I will have comments that basically agree with the characterization that this is a very important step forward in terms of our country.

But the Senator from Tennessee, Senator ALBERT GORE, is not only the chairman of the subcommittee from which this piece of legislation emanated but is one of the leaders, if not the leader, in the U.S. Senate with respect to global warming concerns as well as a whole range of environmental concerns, as well as representing a State that has natural gas and coal.

Mr. President, I ask unanimous consent that the letter to which I referred earlier be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CALIFORNIA ENERGY COMMISSION,
Sacramento, CA, August 4, 1988.

Hon. J. ROCKEFELLER,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER: The California Energy Commission, the Air Resources Board, and South Coast Air Quality Management District are writing to urge that you complete negotiations in the House-Senate Conference on S. 1518 and H.R. 3399 prior to the August recess.

This legislation has been extensively debated in Congress for more than 3 years and has reached the Conference with the support of 65 Senate cosponsors and a House vote of 327-29. In California, this legislation has broad support.

Federal legislation to stimulate the commercial production of cleaner, more efficient alternative-fueled fuel flexibile vehicles is critical to the combined air quality, public health, energy efficiency, and energy security strategies of California.

Failure to reach an agreement before the recess will cause at least another model year delay in the availability to the public of fuel flexibile vehicles. This will also hinder California's ability to attain federal clean air standards.

California leads the nation both in terms of air quality problems and dependence on petroleum in the transportation sector; and in terms of innovative strategies through the strongest state air quality standards in the nation, the most advanced energy efficiency standards for buildings and appliances, and the most alternative fuels for vehicles.

But California cannot and should not be expected to do it all alone. Other states and urban nonattainment areas are recognizing the need to accelerate the introduction of alternative fuels nationwide. Only through this legislation will these strategies be given the opportunity to bring air quality and energy security relief by the year 2000.

We cannot afford to wait for another Congress to provide the incentives necessary for the auto manufacturers to begin commercial production of flexibile fuel vehicles through CAFE credits combined with caps over a defined transition period.

More than 20 million people in California alone are living and working in unhealthy nonattainment areas. Today, in the South Coast Air Basin, studies conducted at the University of California at Irvine indicate that otherwise healthy children have a 15 percent reduced lung function compared to children in other cities due to air pollution. In addition, the South Coast Air Basin, especially the San Bernardino-Riverside area, has a serious fine particulate air quality problem which exacerbates the existing threat to air quality from ozone. These problems are immediate and their solutions should not be subjected to further delays.

In supporting this fuel flexible incentive legislation, we want to stress three basic points. First with respect to methanol, we are confident based on our research that there exists more than 50 years of proven natural gas reserves from global sources to support not only an extensive California methanol program, but methanol programs in other nonattainment urban areas should these areas choose that strategy.

Second, while the aggregate fuel economy of manufacturers' fleets may be lower during the transition period while the incentives are in effect, individual fuel flexible vehicles will be more efficient than existing or future gasoline vehicles, and will pave the way towards methanol and other clean fuels displacing imported petroleum.

Third, the legislation is absolutely consistent with, and an important instrument for achieving CO_2 reductions in the transportation sector because the feestock for methanol during the next half century will be natural gas, and the inherently greater efficiency of methanol vehicles burning this fuel will result in reduced CO_2 emissions.

We hope you, as Conferees, share our sense of urgency and confidence in the importance and validity of this legislation.

With best regards,

CHARLES R. IMBRECHT,
Chairman,
California Energy Commission.
NORTON YOUNGLOVE,
Chairman,
South Coast Air
Quality Management District.
JANANNE SHARPLESS,
Chairperson,
Air Resources Board.

Mr. ROCKEFELLER. Mr. President, I yield to Senator GORE such time as he may require.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Thank you, Mr. President. I thank my colleague for yielding time.

I want to begin my comments by associating myself with the remarks of the Senator from Missouri with respect to the determination of the junior Senator from West Virginia to see this legislation pass, and to make certain that the final product is a good bill. I said earlier today in the markup of the Commerce Committee that in 12 years of serving in first the House and now the Senate, I have never seen such determination with respect to a piece of legislation, and it is very much the reason why we are here. I complement my colleague, not only on his hard work, but also on the final work product.

I am proud to cosponsor this bill. The conference was very difficult, and I think the agreement that resulted is a very good one.

Increased use of alternative fuels has the potential for positive results in at least two areas, Mr. President: Reduction of our transportation sector's dependence on foreign oil and cleaner air, particularly in urban areas that presently cannot meet Federal clean air requirements.

When you talk about environmental protection and efforts to clean up the air in particular, the subject rapidly becomes very complicated because by addressing one problem if you are not careful you might make another problem worse. And so we look carefully at balancing the competing concerns that have to be addressed in legislation like this.

I think we have struck a good balance that allows the Nation to move forward in reducing our dependence on foreign oil and in cleaning up the environment.

For example, this legislation provides credits toward the auto manufacturers' corporate average fuel economy, or CAFE, standards if they produce alternative-fuel vehicles. At the same time, it contains strict outside limits on the amount of such credits and the time in which they will be available for alternative-fuel vehicles that could also run on gasoline. This reflects the balance between the need for alternative-fuel technology and the importance of strict fuel economy standards.

Additionally, the legislation attempts to balance complex and interrelated environmental concerns, as I mentioned a moment ago. The testimony at the committee's hearing on S. 1518 was in virtual agreement that increased use of alternative fuels, including compressed natural gas, methanol, and ethanol, should assist in the attainment of Federal clean air standards. Indeed, an official of the Environmental Protection Agency stated that because of the large contribution of motor vehicle emissions to the nonattainment of ozone standards, the use of alternative fuels may be one of the few remaining ways for some urban areas to come closer to reaching Federal air quality standards.

At the same time, we must ensure that the production, distribution and use of these alternative fuels does not have other adverse effects on the environment, such as increased production of carbon dioxide which contributes to dangerous global warming. The legislation's findings recognize this and there is no reason why this bill has to worsen that problem.

Indeed, the changes made in the legislation and the discussion clarifying the legislation, I think, have been extremely helpful. The legislation mandates vital new environmental research. The EPA is to undertake what will be the most comprehenisve review to date of all environmental consequences of increased uses of alternative fuels. This research will include projections for both the direct and indirect environmental consequences under various economic and policy scenarios which may occur as the use of alternative fuels increases.

Some studies, for example, have shown that, depending on the feed stock used to produce methanol, CO_2 emissions could double. If that is so, we need to know that early on. I do not believe that it need be so. We see optimistic projections about how solar energy technology can be improved with respect to the effeciency with which solar photovoltaic cells convert sunlight into electricity, and based on the history of our commitment to science and technology in this country, we have reason to believe that we can make photovoltaic cells more efficient.

The same commitment can improve the efficiency with which we convert other sources of energy from their raw state into useful sources of energy.

We must also determine, as we carefully study these issues, whether the use of natural gas as an alternative fuel would affect stationary source emissions. This could occur if natural gas currently used to produce electricity or to heat homes was displaced by fuels that result in more CO_2 released into the atmosphere as more natural gas goes to produce methanol.

Events this summer, including the drought and even Hurricane Gilbert, among other developments, dramatically illustrated to the entire country the severe consequences that global warming due to excess CO_2 emissions can cause in the future. As we embark on this new path that holds so much promise for our future energy security and as we deal with ground level air pollution concerns, we must ensure that we do not take actions that might make worse a problem as serious as the greenhouse effect problem which I believe is, by all odds, the most serious environmental crisis that we face in our lifetimes.

The study in this bill will do precisely that. It will answer these questions and other critically important environmental questions in order to ensure that this legislation has the net positive effects that Congress intends and expects.

Again, I want to congratulate Senator ROCKEFELLER for his extraordinary and successful efforts on behalf of this legislation which takes such an important step for the transportation sector of this country and guarantees that the environmental consequences of that step will be carefully monitored and examined all along the way. I look forward to the positive results of this bill and, at the same time, pledge myself to personally participate in the continued careful monitoring of its environmental consequences.

With that, I once again thank my colleague for yielding time and again congratulate him on the bill.

Mr. ROCKEFELLER. I thank the Senator from Tennessee, and I thank him not only for his remarks, but also for the strong discipline that he imposed on all of us as we moved forward in this negotiation process with respect to the particular concerns that he has about global warming, about carbon dioxide in the future, the possibilities of that. His influence has been very great. As I said, the subcommittee from which this bill emanates is chaired by Senator GORE.

The other committee of jurisdiction, of course, is the Committee on Governmental Affairs which is chaired by Senator JOHN GLENN. Senator GLENN has had a very strong interest in demonstration projects, a very strong interest over the years in alternative fuels. He comes from a State which has a variety of requirements, a delicate balancing with respect to fuel, the environment, and I am very pleased that he is on the floor to address this matter. I yield such time as Senator GLENN may require.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. I thank the distinguished Senator from West Virginia. Mr. President, I am happy to rise today in support of the conference agreement on the Alternative Motor Fuels Act of 1988 because this bill acts affirmatively to help secure our energy future, and that future, Mr. President, comes from many sources. It comes not just from a guaranteed supply of oil out there someplace or the flow of oil around the world. It comes from alternative sources. It comes from being flexible; it comes from making certain that another cutoff of oil, such as we had back in 1973 and 1974 and again in 1979, does not leave us shorthanded.

Let me bring an international note into this just by saying that is really at the heart of our Persian Gulf policy. I do not think most people realize that somewhere between 60 and 70 percent of the world's known reserves of oil are in the Persian Gulf.

We talked about freedom of the seas and all sorts of things such as that when we were deciding to escort tankers over there. Nevertheless, it was that economic interest and our concerns that the free world never be left short which led to our involvement in the Persian Gulf. I supported that. I disagreed with the flagging and reflagging and some things like that, but to make certain that the Persian Gulf never fell out of our control and into the hands of either an Ayatollah or a Soviet commissar was the reason I supported that.

So we are vulnerable, is what I am pointing out, to the indefinite future as far as whether or not we will ever have another cutoff. When the future reserves of the world are that much tied up in the Persian Gulf area, that brings home to me the importance of the legislation for which Senator ROCKEFELLER has pushed so hard. He has taken a balanced approach. It has been a great effort on his part, and I think the people of West Virginia should be aware of this and very proud that their Senator is addressing matters of tremendous international importance as well as the parochial interests of West Virginia. When we have matters that are on a parallel track and then come together is when somebody should take action, and I compliment Senator ROCKEFELLER for the initiatives he has taken.

Through a system of very carefully crafted incentives and demonstration programs, the act will encourage the production of alternative fuels. In doing this, however, the act does not shy away from dealing with the serious environmental questions which remain about some alternative fuels, particularly those regarding the effect of coal-based methanol production on the ozone layer. So I commend Senator ROCKEFELLER for his hard work and leadership on this balanced, considered and, I believe, effective approach to the promotion of alternative fuels.

Various sectors of our economy are not equally vulnerable to the effects of a disruption in oil supplies. Take the electric utility industry as an example. It has to a significant degree diversified its fuel sources. The price spike in the world oil market would also not bring U.S. manufacturing industry to a halt because many firms have installed dual-fired boilers capable of switching among fuels as their relative prices change.

Unfortunately, when it comes to our personal mobility, our automobiles, trucks, and so on, we do not have that kind of flexibility. Our personal transportation, of course, our trucks and buses, are not as flexible as our electric power and manufacturing plants. The transportation sector largely relies on the continued, cheap, and plentiful supply of oil. But the point brought home by this legislation which Senator ROCKEFELLER has sponsored is that this need not be the case. We need not be that bound up in our personal transportation and with our trucks. Automobile manufacturers are starting to wisely invest their research funds into developing vehicles which run on alternative fuels, and vehicles can be made which run on ethanol, methanol, compressed natural gas, or on virtually any combination of gasoline, ethanol, or methanol. In addition, newly developed "flexible fueled vehicles," as they are called, are capable of switching quickly between gasoline and alternative fuels.

Detroit has not yet produced alternative-fueled vehicles on a commercial scale and for good reason: car companies are faced with consumers that have little interest in vehicles which use fuels that cannot be purchased at the local pump, at the retail level, conveniently, competitively, and readily available, driving very few city blocks before you pass a gas station.

Fuel distributors will not supply such fuels until there are cars on the road which use them, so the introduction of alternative fuels is hampered by a "chicken-and-egg" barrier. Which comes first. Do we have the fuel available or do we have the cars available?

Well, if the past is any indication, we are probably going to have both of these developed in certain areas where fuel is available, where it is practical, where it is worthwhile. Then we will see that acceptability move to other communities.

Development of alternative fuels is also being slowed because of the current softness in oil prices. At present, gasoline is much cheaper than ethanol; or methanol. Although it is difficult to make accurate comparisons because of the small amount of ethanol and methanol currently produced, a rough estimate is that corn-manufactured ethanol, without tax advantages, costs somewhat over $2 to produce in an amount comparable to 1 gallon of gasoline. Methanol, when made from natural gas, costs about $1.50 to produce in an amount comparable to 1 gallon of gasoline.

So this bill, I feel, is necessary to help overcome these obstacles and allow the Nation to enjoy the benefits of alternative fuels and the safety of our industry and of our business, of our personal mobility, of the truck traffic. I think it is necessary to make certain that we have that kind of safety no matter what happens to our oil supply in the future. The benefits are many.

This bill offers the prospect of replacing a significant portion of the gasoline and diesel fuel used in our Nation's transport system. This is one of the most important steps we can take today to enhance our future energy security. Cars use about 50 percent of the oil consumed in the United States, and converting just 10 percent of our cars to alternative fuels by the end of the century would reduce U.S. oil imports by almost 1 million barrels per day.

Another benefit of using vehicles capable of running on fuels other than gasoline and diesel is the effect on the environment. Both methanol and ethanol, when used to run automobiles, emit much less carbon monoxide than does gasoline. As I noted earlier, however, serious questions remain about coal-manufactured methanol production. Fortunately, methanol is much cheaper to produce from natural gas than from coal, and natural gas supplies in North America are abundant. We will have ample time to ensure that we do not make methanol from coal until we are certain the process will not cause serious environmental damage. That can be done. Research is under way on that now. So this bill is not premature in any sense of the word.

There are two core provisions to this bill. The first is a series of demonstration programs to test a variety of vehicles—automobiles, trucks, and buses—running on various alternative fuels under actual driving conditions. The second is a CAFE [corporate average fuel economy] standard incentive for manufacturers to build alternatively fueled cars. These provisions do not rely on heavy-handed regulation; instead they are market-reinforcing measures. They also require a very minimal expenditure of public funds.

So again I thank Senator ROCKEFELLER for his work and his leadership. I feel this is an important piece of legislation. I urge my colleagues to approve the conference agreement. I do not want to see us be as vulnerable in the future to energy cutoffs as we have been in the past. Senator ROCKEFELLER has seen this need. He seeks an approach that is balanced. We appreciate his effort, and I urge all my colleagues to approve this conference agreement. I yield the floor.

Mr. BYRD. Mr. President, will my colleage yield to me 3 minutes?

Mr. ROCKEFELLER. I am honored to yield whatever time the majority leader requires.

Mr. BYRD. Mr. President, I thank my distinguished colleague. I commend my colleage from West Virginia, Senator ROCKEFELLER, for his leadership in shepherding this legislation through the Senate, through a conference with the House of Representatives, and now a conference report through the Senate. This is his bill. He has spent untold hours of work on it, giving it his finest attention in the committee, in the conference. I know he has spoken with me time and time again about this bill, while it was in conference, and before it went to conference. He has really had his heart in it.

It is through his diligent and his indefatigable efforts, and his vision that we are presented now at this point with this legislation in the form of a conference report on which we will soon vote.

This legislation will facilitate the development and the use of alternative fuels in the United States for purposes of energy security, and it will lead to an improvement in air quality. It is a good bill, and this effort to commercialize alternative fuel technology will benefit our Nation, and lead to further improvements in these alternative-fuel technologies.

Again I congratulate my colleague for making this legislation possible. I think it is a significant achievement, and one of which he has every right to be proud. And I have every right to be proud also because he is my colleague. I think in the time he has been here to have produced a major piece of legislation of this kind is truly a significant accomplishment. It would not be a reality if not for his vision, his hard work, and his tenacity. It is a tribute to him that our Nation's environment will benefit, and that our energy security will be enhanced by the enactment of the Alternative Fuels Act of 1988.

I am proud of my colleague. I am proud to see him prevail in this effort. It has not been an easy one. It has been a long time in coming. The people in West Virginia will benefit as will the Nation.

Mr. President, I thank my colleague again.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I am very grateful to my colleague, the majority leader, for his kind words. His leadership in this body has been supreme and superb over the years. And I am proud to have him standing at my side as I pass the first of what I hope will be many more major pieces of legislation. But this is the first, and to be complimented by the majority leader of the Senate, my senior colleague from West Virginia, gives me a deep sense of satisfaction and pride.

Mr. BYRD. Mr. President, I thank my friend. I should point out that in my 30 years of service here it is not every Senator who comes here who is able to produce a major piece of legislation of this kind in his first term, to say nothing of it being in his fourth year, and in this 100th Congress. So he is truly being congratulated. I think it is a tremendous accomplishment.

Mr. HOLLINGS. Mr. President, since 1980 when I introduced the Methane Transportation Research, Development, and Demonstration Act of 1980, I have been a strong supporter of efforts to increase the use of alternative fuels. My methane bill authorized certain activities to advance the use of methane as a fuel substitute. Since then, the advantages of methanol as an alternative fuel have become even more clear, and other alternative fuel sources have emerged as well. In this vein, I cosponsored S. 1518, which is designed to encourage further development and use of alternative fuel vehicles. I am gratified that the conference on this legislation, in which I participated, has reached a reasonable and workable agreement.

I am hopeful that the incentives to automobile manufacturers which are provided in S. 1518 will lead to the design and widespread production of automobiles capable of running on fuel other than gasoline. That development, in turn, should help to reduce our dangerous reliance on foreign oil. Additionally, the increased use of alternative fuel vehicles should help cities to come into compliance with the EPA's clean air standards.

I am aware that some people are concerned about the effect of increased production of alternative fuels on the problem of global warming. The potential increase in global temperatures, which may result from a variety of man-made and natural processes, is of serious concern to me. For that reason, I recently introduced S. 2614, the National Global Change Research Act of 1988. The purpose of that bill is to ensure a well-planned and well-coordinated national research effort among the various Federal agencies who are or will be a part of the fight to protect the planet from the serious consequences of global warming which threaten it. I am pleased that the conference version of S. 1518 reflects an awareness of the need to be conscious at all times of the threat of global climate change. It directs the EPA to conduct a study, including forecasting, of the effects of the use of alternative fuels under this legislation on global warming as well as other environmental concerns. I expect this study to become an important component of the national global climate research effort.

The Senate version of S. 1518 required no expenditure of Federal dollars. The conference adopted a portion of the expenditures authorized by the House for projects to test the new alternative fuel technology in practical applications and for its impact on compliance with Federal clean air standards. I am pleased that the conference was able to reduce the total amount of money in the House-passed bill, and I am hopeful that the relatively small amount of money authorized by this bill will be well spent in advancing the cause of alternative fuel technology.

I would like to conclude by congratulating Senator ROCKEFELLER for his tenacious leadership and hard work on this legislation. I think we have achieved a valuable result for ourselves and future generations.

Mr. DASCHLE. Mr. President, I rise today in strong support of the conference report before us on a bill to promote the use of alternative liquid fuels such as methanol, ethanol, and natural gas through the development of flexible fuel vehicles. I would be negligent if I didn't pay special tribute to the Senator from West Virginia, Mr. ROCKEFELLER, who has been tireless in his effort to move this landmark legislation through.

On April 15 of this year, this body debated, and passed, its version of the Methanol and Alternative Fuels Promotion Act. At the close of that debate, Senator ROCKEFELLER made specific mention of the fact that this bill marked a new era of cooperation between the proponents of ethanol and methanol development.

The distinguished Senator from West Virginia and I are in complete agreement that both of these liquid fuel alternatives have a prominent role to play in our energy future. They also hold tremendous promise for addressing the pressing environmental problems of ozone formation and atmospheric carbon monoxide buildup.

As Senators, we not only have a responsibility to respond to the interests of our constituents who grow grain and mine coal, we also have a responsibility to promote the interests of the entire Nation. The national energy and environmental challenges that the Methanol and Alternative Fuels Promotion Act addresses are so important that it will require the cooperation of everyone—farmers and coal miners, environmentalists and automakers, petroleum refiners and motorists—to achieve our objectives.

In the recent issue of Foreign Affairs, Daniel Yergin writes:

"There are no quick, ready substitutes for oil in the transportation sector." Melvin Comant in the Washington Post noted that: "Two-thirds of the oil we use—more than 25 percent of all the oil burned in the free world—goes into U.S. transportation." And a recent Atlanta Constitution editorial flatly stated that, "* * * it is blithe, at best, to act as if the Nation needs no energy policy at all."

There are compelling reasons for the Senate to support the production and use of dual fuel vehicles at a time when, despite low oil prices, our dependence on foreign sources for that oil is approaching record levels. The proverbial "chicken and egg" dilemma has never been more appropriate than in this situation. Automobile manufacturers currently possess the technology to provide cars that are capable of operating on both gasoline and alternative fuels, but lack the market to produce these vehicles in any quantity. The fuels themselves, also technologically available, are in part constrained from developing to their full market potential because of the lack of vehicles. S. 1518 addresses this dilemma by developing a market for, and thus stimulating the production of, liquid fuel alternatives for the transportation sector.

This bill also addresses one of our Nation's greatest environmental challenges—the air pollution problem. Most Americans have been made acutely aware in recent months of the extent to which the over 110 billion gallons of gasoline burned in our automobiles each year are responsible for the alarming deterioration of the air we breathe. From lung damage in the residents of cities to billions of dollars of crop losses in the countryside, scientists tell us that one of the major causes of destructive ozone is the "Nation's heavy reliance on fossil fuels for energy."

Denver, Phoenix, and Albuquerque have already moved to address their carbon monoxide problems by requiring minimum levels of oxygen—achieved by blending fuel alcohols or other oxygenates—into the gasoline during winter months. Scientists have begun to quantify the level of carbon monoxide reduction that can be achieved by the use of renewable ethanol, since an acre of corn or sugarcane is said to take more carbon monoxide out of the air than an acre of Amazon rain forest. An article in the September edition of Atlantic magazine entitled "Fighting for Cleaner Air," noted that "the single most important source of smog is the widely beloved automobile."

Is the answer to these very real, and serious, environmental and health problems associated with automobile emissions to simply take the cars off the road? Clearly not.

Should we attempt to exclusively rely on the imposition of ever more intrusive rules on the use of automobiles to eke our small percentages of emissions reductions? Traditional pollution control practices certainly have their role, but we must go beyond such regulation to apply new technologies to fuel composition and combustion.

Many of us believe that efforts to bring about a whole new fuel standard—ranging from so-called clean fuels that contain lower levels of fuel alcohols and fuel alcohol-based ethers like ETBE and MTBE, to the neat fuels like 100 percent methanol, ethanol, or natural gas—would be more cost effective and less intrusive on the personal lives of our citizens. The Methanol and Alternative Fuels Promotion Act gives substantial impetus to that goal.

We have a huge task in front of us, and the road will not be easy. However, with the passage of legislation like the bill before us, we are taking the right steps to improve our Nation's energy security, environment, and economic vitality.

I urge adoption of this conference report.

Mr. ARMSTRONG. Mr. President, Senate passage of S. 1518 boosting the possibilities for alternative fuels use is heartening. S. 1518 provides limited corporate average fuel economy [CAFE] incentives for production of alternative fuel vehicles. Under current law, car manufacturers must have CAFE standards of 26 miles per gallon average across all lines of production, but there is no distinction between gasoline powered and alternative fuel vehicles. Under S. 1518, CAFE standards for alternate fuel vehicles will be calculated more favorably, providing an incentive for their manufacture.

Encouraging the development of vehicles that use alternative fuels, such as ethanol, natural gas, and methanol, will help clean our air of poisonous carbon monoxide emissions. Also, S. 1518 will help our agricultural States growing crops used to make some alternative fuels. Senate support for the Methanol and Alternative Fuels Promotion Act signals the concern of us all about our Nation's air pollution and our determination to meet the challenge of improving air quality.

Coloradans are proud that, like this legislation, they are at the forefront in hastening the use of alternative fuels. Vehicles are the major source of carbon monoxide emissions. Last winter Colorado had the Nation's first mandated oxygenated fuels program. This program met its goal of 8 to 10 percent reduction in Denver's carbon monoxide levels. Fuels with a higher oxygen content burn more completely, emitting less carbon monoxide. Oxygenating fuels aids combustion, particularly in the high altitude, oxygen-thin atmosphere of Colorado and neighboring Rocky Mountain States.

And, importantly, Colorado's oxygenated fuels program disspelled the myths that alcohol fuels are damaging to vehicles. The program concluded with a notable lack of consumer problems or complaints—most callers wanted to know where they could purchase ethanol. During the program, ethanol demand exceeded supply, and since the wintertime program ended, Colorado's ethanol sales have increased to record numbers.

Last year's program required fuel oxygenation of 1.5 percent. At this level, oxygenation by the petroleum product MTBE was a major factor, although ethanol still accounted for 5 to 8 percent of all gasoline sales in Colorado. This year the oxygenation requirement is 1.8 to 2 percent, which may boost ethanol use. And there's a new player in the game—ETBE, which is a petroleum product like MTBE, but made with ethanol. In addition, Conoco and Total Petroleum have refineries in the Denver area and have announced they will produce ethanol.

Denver's concentrations of carbon monoxide have been ranked as some of the worst in the Nation. Other cities on Colorado's Front Range violate carbon monoxide air quality standards. But due to aggressive strategies such as our oxygenated fuels program, our carbon monoxide violations are decreasing significantly. Denver's violations have been reduced from 156 in 1970 to 36 in 1986 to 19 in 1987.

Last year, I traveled to Detroit to talk with our major carmakers about the importance of reducing carbon monoxide emissions and the need for cars to accommodate alternative fuels. I also wrote to and received responses from, I think, every manufacturer of cars in the world today about alternative fuel use. Many of today's new cars are capable of operating efficiently on some oxygenated fuels.

S. 1518, considering a variety of alternative fuels, provides incentives for car manufacturers to economically produce and market dual fuel vehicles. People are keenly aware of the need to clean our air. And after Colorado's successful experience with its oxygenated fuels program, I am more convinced than ever that alternative fuels are a necessary part of strategies to attain air quality standards in our Nation.

Mr. DOLE. Mr. President, I rise today in support of this important bill, S. 1518, the Methanol and Alternative Fuels Promotion Act. This bill will have a great impact on America's energy future. Today we have an opportunity to send a strong signal that the United States is committed to further development of alternative fuels that will strengthen America's hand with regard to increasing foreign imports of oil.

Oil imports are on the rise. Roughly 40 percent of the total deliveries in the United States are imports. It doesn't take an expert to understand that we are reaching the dangerous levels of 1973 and 1979 when OPEC was first able to affect gas supplies through painful oil embargoes.

Mr. President, the time to act is now. This bill provides us with the opportunity to look to America first in the development of a secure, domestic energy supply. We are the Saudi Arabia of corn and coal. Ethanol and methanol development will enable the United States to never again be dependent on OPEC.

At the same time, we have a unique opportunity to address and contribute in a positive way to environmental protection and economic development of our depressed rural, agricultural, and coal production areas.

Mr. President, it is absolutely irresponsible to wait until a crisis is at hand. The benefits for America are clear: A stable and secure domestically produced energy supply; jobs and economic development for thousands of rural Americans in agricultural and coal producing areas; and cleaner air for our urban areas suffering from the threat of federally imposed sanctions for failure to meet ambient air standards. I urge my colleagues to support this important legislation.

Mr. President, I also commend the distinguished Senator from West Virginia, Mr. ROCKEFELLER, for his tireless efforts and the efforts of Senator DANFORTH and others. This is major legislation. It is important legislation. I am very pleased to have supported it.

Mr. WILSON. Mr. President, I rise in strong support of this conference agreement and extend my congratulations to Senators ROCKEFELLER AND DANFORTH for successfully bringing this conference report on methanol legislation to the floor.

As an original sponsor of this bill, I consider it to be one of the most important pieces of legislation to be considered by this Congress. And I am especially pleased that this bill will be one of the few that will actually be sent to the President for signature into law.

My colleagues will readily understand my interest in this bill—it promises cleaner air. California has the unfortunate distinction of having the most polluted air in the country. The bulk of this dirty air—as much as 70 percent—is generated by the transportation sector. There are more than 2.6 million cars and trucks per day that travel the roads of the Los Angeles basin alone.

The promise of alternative fuels is the fact that they burn cleaner than conventional gasoline-powered vehicles. If we can wratchet down tailpipe emissions, we can begin to hope that areas such as Los Angeles may one day breathe clean air.

If we can not control mobile source emissions, all the sacrifices that are currently being made now and in the future by stationary sources such as oil and gas refineries will never solve the problem.

The local air pollution control district in Los Angeles tells me that the promise of alternative fuels is the single most important tool that they will have in controlling air emissions. In fact, they estimate that if all the 2.6 million cars and trucks were taken off the roads of Los Angeles, the ozone level would be improved by 22 percent. If, instead of taking these vehicles off the road, they were to use alternative fuels such as methanol, ozone levels could be reduced by 18 percent.

In short, we can achieve nearly the same clean air effect by conversion to methanol as we can with simply banning cars and trucks in Los Angeles.

A conversion of alternative fuels will not happen overnight. But now is the time to provide the incentives to the automobile industry to begin producing methanol capable cars. This bill does exactly that and I am proud to be part of this important legislation.

In closing, I would note that the Vice President has been a strong advocate of alternative fuels from the very beginning, and I am sure that he will welcome the news that we have finally completed action on this legislation. I urge my colleagues to join with me in supporting this conference report. It is truly important environmental legislation.

Mr. ROCKEFELLER. Mr. President, I do not know about my colleague on the other side of the aisle, but I am prepared to yield back the remainder of the time on our side.

ORDER OF PROCEDURE

Mr. DANFORTH. Mr. President, if I could direct a question to the majority leader while he is on the floor, I have an engagement that I have to attend at 6 o'clock off the Hill. I am controlling time on this side. I am prepared to yield back the remainder of our time. But I also have a statement of maybe 5 or 6 minutes in length that I would like to deliver. I wonder whether it would be agreeable with the majority leader if I may deliver that statement.

Mr. BYRD. Mr. President, I know of no other business that the Senate will transact today except some routine morning business that has been cleared by unanimous consent. So if the distinguished Senator wishes to make a statement, and then if they wish to yield back time, we could have a voice vote on the conference report. Is that the question?

Mr. DANFORTH. That is right. I thought maybe we could dispose of the conference report now, and then maybe I could deliver the statement right after that.

Mr. BYRD. That would be perfectly agreeable.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROCKEFELLER. Mr. President, I feel very strongly about the marvelous people who helped to make this whole methanol bill come to pass.

I have spoken about Senator BYRD. I could not possibly speak about him strongly enough, as well as Senator HOLLINGS and Senator GORE, who was here earlier and spoke. Also, Senator GLENN was as solid as a rock, as he always is on matters that affect Ohio and West Virginia.

The Presiding Officer at this time, the Senator from South Dakota [Mr. DASCHLE], and I earlier in the year agreed that whereas in the past the ethanol forces and the methanol forces had met on the field of combat, this was a process that was getting us nowhere, and we worked together and passed a methanol bill which includes ethanol and natural gas.

I am grateful to the Senator from California [Mr. WILSON], who felt strongly about this. I also express my gratitude to Senator DANFORTH.

I also am grateful to the people who made this happen, the staff. The leadership staff, the committee staff, headed by Kevin Curtin and Linda Lance. Both worked tirelessly.

I remind those listening that a 5-month negotiation on a conference report is not an easy thing to do.

Alan Maness is staff counsel to Senator DANFORTH. Harry Broadman and Kate Sparks are on the staff of Senator GLENN. All of them did superb work.

I reserve, I guess, the most special feeling on my part for Paul Joffe, who is my staff person on this. He was balancing methanol, tax and railroad legislation, and other things at the same time, day after day, night after night, and he persevered to help make the conference committee work.

I share the view of the Senator from Missouri that we have taken a major step here today. Americans are burning approximately 100 billion gallons of gasoline a year. My objective, through this bill, is to see oil move out of the transportation sector altogether, and I dream of the day when it will be methanol, not only from natural gas but also from biomass and from coal. I think that day can come, as surely as America is a smart and inventive country.

During the Second World War, we had no such thing as synthetic rubber. The Japanese came into Indonesia and took away most of our supplies of natural rubber, and almost instantaneously American inventiveness was able to come up with synthetic rubber.

I know there is a way to turn coal into methanol in a clean-burning fashion. I know it will come, and when it does come, coal miners in this country, particularly in my State, West Virginia, will be able to go back to work.

In closing, I also want to thank one more staff person who was staff to me prior to Paul Joffe, Bill Ichord, who deserves great thanks.

This is a moment to be proud of in terms of environmental integrity and energy security for our Nation and getting ourselves off the oil habit.

Mr. WILSON. Mr. President, let me return the gracious compliment of my friend from West Virginia. I commend him for his leadership and I commend Senator DANFORTH as well for bringing this conference report on methanol to the floor.

DEBT COLLECTION AMENDMENT TO BE OFFERED TO THE PROMPT PAYMENT BILL

Mr. GRASSLEY. Mr. President, it is not very often that I have to rise to set the record straight. Debate around here and actions by lobbyists do not often require that, thank goodness.

I do not often complain about lobbying tactics; but, on the other hand, I do not like misrepresentations of my position. That is what I think is happening in relation to an amendment I plan to offer when this body takes up the prompt payment legislation, of which I am a cosponsor and enthusiastically support.

The amendment in question would simply create a panel of private sector experts. These people would volunteer for 18 months to contribute their expertise on the Federal Government's debt collection problems. These problems are represented by $83 billion, and have grown by 20 percent just in this past year.

It does not sound controversial to me, and I doubt if it sounds controversial to any Members of this body. Nevertheless, I and my colleague from Colorado, Senator ARMSTRONG, who joins me as a cosponsor of this amendment, have been misrepresented and lobbied against with what we all refer to as "hard ball" tactics.

I have experienced such an onslaught from the lobby groups on few things that I have initiated in my 8 years as a Member of this body.

First of all, the amendment has been labeled by these groups as unconstitutional. That claim originated with a letter from the Department of Justice. It made several far-reaching assumptions in order to determine that the amendment in their words, may be unconstitutional. The letter does not say the amendment is unconstitutional. The Justice Department never contacted me or gave me an opportunity to respond to their concerns.

Mr. President, the provision which was considered unconstitutional was dropped from the amendment. But it wasn't dropped because Senator ARMSTRONG and I agreed with the Justice Department's assertions. Rather it was modified out of courtesy to the floor managers of the prompt payment bill in the consideration of avoiding that debate and thus saving time on this floor during the consideration of that legislation.

Now, in addition, Senator ARMSTRONG and I have been accused of killing the prompt payment bill.

Mr. President, I am obviously not in favor of killing that bill. I am a cosponsor of that bill. I was a cosponsor last year. I have had a perfect voting record in support of prompt payment legislation.

We are also being accused of obstructing what lobbyists refer to as a key small business initiative.

Mr. President, I, like many of my colleagues, have received many small business awards. That is for voting records in support of small business. I have received, as an example, four awards from the National Federation of Independent Businesses for every Congress I've served in the Senate.

I have received that award because I consistently support small business legislation.

My position on small business certainly has not changed just because of this amendment.

Further, I do not understand how one could call a vote for collection of delinquent debt, a vote that will reduce the Federal deficit, as anti-small business.

My sponsorship of this amendment has been so labeled by those in the lobby.

Mr. President, I want to set the record straight that Mr. ARMSTRONG and myself are not obstructing progress on the prompt payment bill.

I have agreed to a time agreement of only 30 minutes because I appreciate the need of the majority leader to control floor time in the waning days of the 100th Congress. All I have asked for and, what I have been granted as part of the time agreement, is the right to offer my amendment and ask my colleagues for a vote.

I hope Members really understand the merits of this issue and that they will not be diverted from the merits of the amendment by the propaganda that has come from the lobby who somehow think that no amendments should be offered.

The merits are simple. Delinquent debts must be collected.

The process is simple. Experts who are active in the process of debt collection for their livelihood will provide the know-how.

The process is not controversial. It is a useful method for addressing issues that are technical and far-sweeping. Such methods have been used in several other pieces of legislation this year. Debt collection for all of the Federal Government is both complex and large in scope. We can benefit from this expertise of the panel.

In conclusion, I just want to bring these concerns to the attention of my colleagues before they are asked to vote on this amendment in the next few days. I want to set the record straight. That is what I hope I have done at this time.

I yield the floor.

CONGRESSMAN GENE TAYLOR

Mr. DANFORTH. Mr. President, earlier this year, Congressman GENE TAYLOR decided that he would not be a candidate for reelection. The weeks remaining in this Congress will be the finale to a career of distinguished service to the people of the Seventh District of Missouri, to our entire State, and to the Nation.

GENE TAYLOR is a special person. I have no better friend in Government. I believe GENE would say the same about JACK DANFORTH. I have known GENE TAYLOR since 1968 and have served with him in Congress since 1976. I believe I can speak with authority on GENE TAYLOR as a public servant, a person, and a friend.

GENE's accomplishments for the seventh district are too numerous to recount in full. They include the new post office in Springfield, a facility that Congress has voted to name for him.

As a new member of the House, he succeeded in securing the funds that helped put public television on the air in the Ozarks. Today, KOZK enriches the entire Springfield area.

His efforts were critical in assuring that the new highway bill includes the much-needed widening of U.S. 71 from Carthage to the Arkansas border. He fought for the outpatient clinic for veterans in Mount Vernon, and won. He fought to preserve funding for the fish hatchery in Neosho, and won.

GENE is regarded as a Congressman who pays attention to his people. His office enjoys a well-earned reputation for assistance to individual constituents. The work of his staff speaks well for Congressman TAYLOR. His employees do what he would want them to do: they leave no stone unturned in trying to help people who need a voice in dealing with Federal agencies.

GENE is the senior Republican member of Congress from Missouri and the Ranking Republican on the House Committee on Post Office and Civil Service. As a senior member of this important committee, he has influenced numerous pieces of legislation. A hallmark of his legislation record is the ability to work with Members of Congress in both parties on a basis of trust and mutual respect.

GENE's most important and demanding assignment in Congress is the House Rules Committee. Other committees grab headlines, but the Rules Committee is where the power is. No bill reaches debate in the House without clearing the Rules Committee. Everyone in Congress knows the Rules Committee is entrusted with great power. Service on the committee means communicating with virtually every Member of the House and working with the leaders of both parties. Thus, the Rules Committee is a place where one is able to form relationships that get things done for the people of the district. Gene Taylor's career is proof positive that the Rules Committee is a key road to influence in the House.

Gene Taylor is remarkable. He works very hard in an unassuming way. I doubt that anyone in Congress puts in more hours. It is legendary that he spends every weekend in the seventh district. For almost two decades, he has capped off a typical week of legislative work with a round trip to Sarcoxie, his home, and visits to communities all over the Ozarks. He could match Frequent Flyer points with the crew of Air Force One.

Gene's devotion to being with the people of his district is such that a member of his staff once groused that his schedule was so intense it was beginning to cause trouble. Wherever the aide went, somebody would ask: "Hey, where's Gene? We haven't seen him for 2 weeks, maybe 3."

Gene's personal qualities exemplify what is best in the people of Missouri and the entire heartland of America.

He is loyal. He is steadfast. If he is your friend, he will stick up for you through thick and thin.

He is wonderful company. He has a great sense of humor. Gene is the opposite of a sourpuss. It is a treat to hear him tell a good story. He is living proof that people with a good sense of humor like and respect others. Too many in this business talk at people. Gene talks with people; he is an excellent listener. He enjoys talking about the price of cattle, an arms control agreement, the weather, baseball, and all topics in between. He loves people and it shows. Gene Taylor has soul.

He has good sense and sound judgment. He has been an unfailing source of counsel and friendship. This was the case in 1968 when he helped me get started in my first political race. It has been true during our service in Congress. I look forward to his continued friendship in the years to come.

Gene Taylor is a great Congressman and a great American. I am proud that he is my friend. He will be missed by all in Congress who know him and have worked with him, and that is most of us. I wish every happiness to him and to Dorothy.

Mr. President, I ask unanimous consent that Representative Taylor's official biography from the Congressional Directory be printed in the Congressional Record.

There being no objection, the biography was ordered to be printed in the Record, as follows:

Gene Taylor

Gene Taylor, Republican, of Sarcoxie, MO; born near Sarcoxie, MO, February 10, 1928; educated in public schools of Jasper County; graduated from Sarcoxie High School; attended Southwest Missouri State College, Springfield, MO; served in the 108th Cavalry, Missouri National Guard, 1948-49; former automobile dealer; rancher; past member, board of directors, Missouri Automobile Dealers' Association; mayor of Sarcoxie, MO, 1954-60; member, board of trustees, Missouri Southern College, Joplin, MO; Republican national committeeman, 1966-72; member: United Methodist Church, Sarcoxie, MO; Masons; Scottish Rite; Shriner; Lions Club; Missouri State Chamber of Commerce; Sarcoxie Chamber of Commerce; married Dorothy Wooldridge of Sarcoxie, July 26, 1947; two children: Linda Kay and Larry Eugene; elected to the 93d Congress, November 7, 1972; reelected to each succeeding Congress.

AGENT ORANGE UPDATE—SCIENTIFIC EVALUATIONS OF AGENT ORANGE EVIDENCE

Mr. CRANSTON. Mr. President, on August 1, the Veterans' Affairs Committee reported S. 2011, the proposed Veterans' Benefits and Programs Improvement Act of 1988. Title II of S. 2011 contains comprehensive agent orange benefits provisions. Senators Daschle and Kerry have indicated that when S. 2011 comes to the Senate floor they will move to substitute for the committee's agent orange compensation provisions the provisions in S. 2675. In their August 11 "Dear Colleague," they cited a list of sources in support of their proposed amendment. In anticipation of consideration of S. 2011 and the proposed amendment, the ranking minority member of the committee, my good friend the Senator from Alaska [Mr. Murkowski] and I sent letters to a number of expert scientists and scientific entities requesting their scientific evaluation of those sources. I am working with Senators Daschle and Kerry to try to reach a compromise on their amendment, and hope that we can work it out.

We requested the evaluations because the questions raised about the possible adverse health effects from veterans' exposure to agent orange in Vietnam are scientific questions requiring scientific analysis. We have received evaluations from the Office of Technology Assessment [OTA], the Harvard University School of Public Health, the Stanford University School of Medicine, the Veterans' Advisory Committee on Environmental Hazards [EHAC], and the Science Panel of the Agent Orange Working Group of the Domestic Policy Council [Science Panel]. The evaluations reach consistent conclusions: none found support for enacting permanent presumptions of service connection for non-Hodgkin's lymphoma [NHL] or soft-tissue sarcoma [STS] at this time, as the Daschle-Kerry provisions would do.

The dean of the School of Public Health at Harvard, Dr. Harvey Fineberg, selected Dr. Brian MacMahon, professor of epidemiology and chairman of the department of epidemiology at that school, because he is a distinguished epidemiologist with special interest in cancer causation and is widely recognized for outstanding research achievements, particularly his authoritative interpretation of data in the search for causes of various diseases, including cancer in its several forms. Dr. MacMahon advised that:

> It is important to review all of the scientific evidence relating to [an] effect. * * * [O]ne could support practically any point of view by selective culling of what is sometimes euphemistically called "the literature." This * * * occurred in the assembly of the [Daschle-Kerry] list of "studies." * * * This is not a list of studies but a list of opinions and conclusions, many of which are incorrect, misleading or irrelevant, but, more important, they are selected from the enormous body of literature on the topic.

Dr. MacMahon found that there was no reasonable basis for Senators Daschle and Kerry's conclusions with respect to NHL and STS.

The OTA noted that "[m]any of the [Daschle-Kerry studies] * * * are not actually studies, but letters to the editor" and "it would not be appropriate to give a great deal of weight to them." With respect to the items that actually were studies, the OTA concluded that some "suggest that the hypothesized connection of NHL and STS with exposure to certain chemicals, including phenoxy herbicides, may be real. Results among studies have not been entirely consistent, however, some finding associations only with one of the two types of cancer, or finding no association at all * * *." The OTA added that "the results of CDC's selected cancers study will be extremely important in enlightening the scientific issues."

The dean of Stanford Medical School, Dr. David Korn, selected Dr. Alice Whittemore, professor of epidemiology and biostatistics in the department of health research and policy, to make the requested evaluation because she is a nationally respected epidemiologist, and a scientist who is widely known for the importance and quality of her work in cancer epidemiology. Dr. Whittemore found that "the cumulative epidemiologic evidence does not support establishing a permanent presumption of service connection for Vietnam veterans with NHL or STS" and that it would be "scientifically prudent to postpone [such] legislation until completion of" the CDC study.

The EHAC concluded:

> That there is no convincing scientific or medical evidence to associate adverse health consequences with exposure of Vietnam veterans to dioxin or Agent Orange. In fact, the evidence is accumulating that Vietnam veterans are not at increased risk for disease. There are, however, some areas that are especially deserving of close examination; in particular, whether there is a relationship between exposure and the later development of non-Hodgkin's lymphoma.

Dr. Theordore Colton of the Boston University School of Public Health, who is the chair of the EHAC Scientific Council's Dioxin Panel, also responded in a separate letter with his individual views as a public health scientist. Dr. Colton cited the importance of the CDC study to provide further evidence and concluded that:

> To compensate Vietnam veterans * * * on the basis that there is firm scientific evidence that herbicide exposure in Vietnam caused these cancers is, in my view, totally unjustified at this time.

The Science Panel concluded:

> That Soft Tissue Sarcoma (STS) is not associated with service in Vietnam. Data is still inconclusive [as] to the association of Non-Hodgkins Lymphoma (NHL) and service in Vietnam and final conclusions must await completion of the Centers for Disease Control (CDC) Selected Cancers Studies * * *.

Senator MURKOWSKI and I agree with these evaluations. The committee provisions, consistent with the evaluations but giving the benefit of all reasonable doubt to Vietnam veterans, would provide presumptive benefits for thousands of Vietnam veterans with NHL—and their survivors—who apply during an interim period ending 6 months after the submission of the results from the CDC's selected cancers study. Based on the results of that study and all other available scientific evidence, the Congress would then determine whether any permanent presumptions should be enacted.

Mr. President, the selected cancers study is the largest study ever done on NHL and STS and has a 98-percent chance of detecting an increase as small as a doubling or risk. That extremely powerful study is evaluating whether Vietnam veterans are at risk of suffering these and three other cancers because of anything in Vietnam service, including agent orange exposure. The CDC has advised us that the study results will be made available to the Congress in late 1989. We strongly disagree with the position of Senators DASCHLE and KERRY that we should proceed without those study results in reliance on a small, selected group of studies and letters citing as few as one case of either disease.

Mr. President, I recognize and respect the strong convictions and excellent intentions of my two colleagues in offering their amendment. The issue, however, is not whether we should give Vietnam veterans the benefit of the reasonable doubt; the committee provisions do just that. Instead, the question is whether we should vote to enact permanent disability compensation provisions despite the convincing evidence that those provisions are not scientifically supportable.

I believe that the provisions in S. 2011 would provide the maximum benefits while not being inconsistent with the science and urge that my colleagues join me and Senator MURKOWSKI in opposition to the Daschle-Kerry amendment when S. 2011 comes before the Senate.

Mr. President, I ask unanimous consent that Senator MURKOWSKI's and my August 8 letter to the OTA—which was virtually identical to our letters to the EHAC, the Science Panel, and the National Academy of Sciences—and our August 8 letter to the President of Harvard University—which was virtually identical to our letters to the Presidents of Stanford and Johns Hopkins Universities—requesting an evaluation of the Daschle-Kerry evidence and the evaluations from the OTA, Harvard, Stanford, the EHAC, Dr. Colton, and the summary portion of the Science Panel's evaluation be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 5, 1988.

DR. JACK GIBBONS,
Director, U.S. Congress, Office of Technology Assessment, Washington, DC.

DEAR JACK: As you may know, on August 1, 1988, Senators Thomas A. Daschle and John F. Kerry introduced S. 2675, legislation to provide permanent presumptions of service connection for non-Hodgkin's lymphoma (NHL) and soft-tissue sarcoma (STS) arising in Vietnam veterans. In their August 1, 1988, "Dear Colleague" letter discussing S. 2675, Senators Daschle and Kerry provided a list (copy enclosed) of studies which they stated support establishing such permanent presumptions of service connection for NHL and STS for purposes of service-connected disability compensation and dependency and indemnity compensation.

As the Chairman and Ranking Minority Member of the Senate Veterans' Affairs Committee, we are writing to request that the Office of Technology Assessment review and provide comments on those studies to us and to the House Veterans' Affairs Committee. We would appreciate your evaluation, with respect to each study individually, of the scientific methods used, the validity of the statistical analysis, and the strength of the study's findings. In addition, we would appreciate the OTA's views as to whether these studies, evaluated and considered individually as well as cumulatively, along with any other studies which the OTA believes are relevant, support establishing a permanent presumption of service connection for Vietnam veterans with NHL or STS at this time without allowing for the results from the forthcoming report on the Centers for Disease Control's Selected Cancers Study, expected in early 1990.

We anticipate that the Senate will be voting on Agent Orange benefits legislation next month. Therefore, in order to enable us appropriately to evaluate the merits of all such legislation which is pending, we request that you report the OTA's views to us on this matter by August 25.

Jack, we regret the short turnaround time and greatly appreciate your accommodating our legislative schedule in this matter, as well as your continuing cooperation and assistance in this and other areas. We look forward to your response.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.
FRANK H. MURKOWSKI,
Ranking Minority Member.

SOFT-TISSUE SARCOMA

1977.—Hardell and his associates, publishing studies in several Scandinavian and British medical journals, report a significant increase in the relative risk for soft-tissue sarcomas for those exposed to phenoxy herbicides. At the request of the Office of Technology Assessment, the Swedish studies are reviewed by Richard D. Remington, Dean of the School of Public Health at the University of Michigan. Describing the researchers as "unusually careful" and the study an "excellent investigation," Remington asserts that a relative risk of this magnitude "must be taken seriously."

In Lancet, Coggan and Acheson conclude that the Swedish studies provided "suggestive evidence of a biological association between phenoxy herbicides (or their contaminants) and soft-tissue sarcoma."

1981.—In the United States, Honchar and Halperin; Cook; Moses and Selikoff; and Johnson, et al. observe significantly higher than expected incidences of soft-tissue sarcomas among American chemical workers at Monsanto Company and Dow Chemical Company.

1982.—Sarma and Jacobs, in the New England Journal of Medicine, report an unusually high number of soft-tissue sarcomas among Vietnam veterans in Atlanta, Georgia.

1984.—In the Journal of Epidemiology and Community Health, Balarajan and Acheson report a statistically significant higher relative risk for soft-tissue sarcomas among farm workers presumably exposed to phenoxy herbicides in England and Wales.

1985.—In Dioxin and the Environment, by Kamin and Rodgers, Merlo reports a significant excess of soft-tissue sarcomas in the population living around the ICMESA plant in Seveso, Italy, site of a major release of dioxins into the environment.

Lynge reports in the British Journal of Cancer a significant association between soft-tissue sarcoma and exposure to phenoxy herbicides among workers in Denmark.

1986.—Holmes, et al., of the West Virginia Health Department, reports a statistically significant increase in mortality due to soft-tissue sarcoma among Vietnam veterans.

A study by Anderson, et al., reports an increased risk of soft-tissue sarcomas among Wisconsin Vietnam veterans when compared to all other Wisconsin veterans.

In the Scandinavian Journal of Work and Environmental Health, Vineis, et al., report a significantly higher incidence of soft-tissue sarcomas in female rice workers exposed to phenoxy herbicides.

Echoing Merlo's results, Puntoni reports in Lancet an excess of soft-tissue sarcomas in eleven municipalities near the ICMESA plant in Seveso, Italy, where dioxins were released following an industrial accident.

1987.—Kang, et al., report in the Journal of the National Cancer Institute a higher, though not statistically significant, incidence of soft-tissue sarcomas among subgroups of Vietnam veterans with higher estimated opportunities for Agent Orange exposure than a reference group of Vietnam veterans.

1988.—In the International Journal of Epidemiology, Kogan and Clapp report a statistically significant excess of deaths due to soft-tissue sarcomas among Massachusetts Vietnam veterans.

In a new study, Hardell and Eriksson find an increased risk of soft-tissue sarcomas among workers exposed to phenoxyacetic acid-based herbicides in three northern counties in Sweden.

NON-HODGKIN'S LYMPHOMA

1981.—In the Scandinavian Journal of Work and Environmental Health, Hardell and his associates report elevated levels of non-Hodgkin's lymphomas in a population exposed to phenoxy herbicides in five Swedish counties.

Olson and Brandt, in Lancet, report an excess of non-Hodgkin's lymphoma of the skin among Swedes exposed to PCDD (a form of dioxin).

In Lancet, Bishop and Jones cite a higher than expected incidence of non-Hodgkin's lymphoma of the scalp among workers at a plant manufacturing herbicides contaminated with dioxin.

1983.—Analyzing cancers among veterans listed in the Agent Orange Registry, Young, Kang and Shepard report in Environment, Science and Technology a significantly higher occurrence of lymphomas (non-Hodgkin's and Hodgkin's combined) among registrants than in a comparable control group. Flicker and Young report similar results at the Symposium on Chlorinated Dioxins and Dibenzofurans in the Total Environment at an American Chemical Society meeting in Washington, DC.

Burmeister, et al., in the American Journal of Epidemiology, report significantly increased rates of non-Hodgkin's lymphomas in farmers in Iowa counties with high herbicide usage.

1985.—Pearce, et al., in the American Journal of Epidemiology, report a statistically significant association between non-Hodgkin's lymphoma and employment in occupations with likely exposure to phenoxy herbicides.

1986.—In the Journal of the National Cancer Institute, Woods, et al., report an increased risk of non-Hodgkin's lymphoma associated with prolonged exposure to phenoxy herbicides among those exposed at least 30 years before the study was conducted.

In a National Cancer Institute study published in the Journal of the American Medical Association, Hoar, et al., report a greatly increased relative risk for non-Hodgkin's lymphoma among Kansas farmers exposed for more than 20 days per year to the dioxin-laced herbicide 2, 4-D, one of the principal components of Agent Orange.

Cook, et al., report in Chemosphere an increased, though not statistically significant, incidence of non-Hodgkin's lymphoma among workers with potential exposure to dioxins at the Dow Chemical Company plant in Midland, Michigan.

1987.—The Veterans Administration, in its "Proportionate Mortality Study of Army and Marine Corps Veterans of the Vietnam War," compares deaths of Vietnam and non-Vietnam veterans and reports a 110 percent excess of non-Hodgkin's lymphomas among Marines who served in areas of Vietnam sprayed heavily with Agent Orange.

1988.—In the Vietnam Experience Study, the Centers for Disease Control reports a statistically significant excess of non-Hodgkin's lymphomas among veterans who served in Vietnam.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 8, 1988.
Mr. DEREK BOK,
President, Harvard University, Massachusetts Hall, Cambridge, MA.

Dear Derek: On August 1, 1988, United States Senators Thomas A. Daschle and John F. Kerry introduced S. 2675, legislation which would require the Veterans' Administration to pay monthly service-connected disability compensation to Vietnam veterans who are diagnosed as having non-Hodgkin's Lymphoma (NHL) or soft-tissue sarcoma (STS) and death benefits to the survivors of Vietnam veterans who die from those diseases. These payments would be made even though there was no evidence in the particular case that the disease was incurred or aggravated during military service. In their August 1, 1988, "Dear Colleague" letter discussing S. 2675, Senators Daschle and Kerry provided a list (copy enclosed) of studies which they stated support establishing such permanent presumptions of service connection for these diseases.

As the Chairman and Ranking Minority Member of the Senate Veterans' Affairs Committee, we are writing to request that you ask distinguished scientists at your University (including epidemiologists and cancer research specialists) to review and provide comments on those studies to us and to the House Veterans' Affairs Committee. Because of the importance of the Agent Orange issue to Vietnam veterans and the Congress and the emotion and controversy which has surrounded it for so long, we are seeking the views of independent scientists at the most eminent American Universities. We would appreciate an evaluation by the scientists, with respect to each study individually, of the scientific methods used, the validity of the statistical analysis, and the strength of the study's findings. In addition, we would appreciate the scientists' views as to whether these studies, evaluated and considered individually as well as cumulatively, along with any other studies which the scientists believe are relevant, support establishing a permanent presumption of service connection for Vietnam veterans with NHL or STS at this time without allowing for the results from the forthcoming report on the Centers for Disease Control's Selected Cancers Study, expected in early 1990, which focuses on NHL and STS among other cancers.

We anticipate that the Senate will be voting on Agent Orange benefits legislation next month. Therefore, in order to enable us appropriately to evaluate the merits of all such legislation which is pending, we request that you forward the evaluations to us by the end of August if at all possible but not later than September 7.

We regret the short turnaround time and would greatly appreciate your assistance in this matter. We look forward to your response.

If you or individuals advising you on this matter have any questions about this request, please contact Jane Wasman, Associate Counsel on the Committee staff (for Senator Cranston) (202-224-9126) or, in her absence, Lisa Moore, Minority Professional Staff Member on the Committee staff (for Senator Murkowski) (202-224-2074).

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman.
FRANK H. MURKOWSKI,
Ranking Minority Member.

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, August 25, 1988.
Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In response to your letter dated August 5, 1988, cosigned by Senator Murkowski, I am enclosing an OTA Staff Paper containing the review you requested of the studies listed by Senators Daschle and Kerry in support of their proposal to compensate Vietnam veterans who have soft-tissue sarcoma (STS) or non-Hodgkins lymphoma (NHL). The OTA staff paper includes comments on study methods, the validity of the analyses, and the strength of the findings relating STS and NHL to herbicide exposure and, where relevant, to service in Vietnam.

Many of the entries on the list are not actually studies, but letters to the editor of various journals, reporting one or a small number of cases, or suggesting or speculating upon hypotheses. Particularly when evaluating case reports, it is important to keep in mind that these cases have generally become interesting *because* of an already published study or hypothesis, with which the cases fit. All the letters on the list fit this description. While they play a useful role in the scientific process, it would not be appropriate to give a great deal of weight to them.

These are also many well planned, well conducted studies listed, and these in general suggest that the hypothesized connection of NHL and STS with exposure to certain chemicals, including phenoxy herbicides, may be real. Results among studies have not been entirely consistent, however, some finding associations only with one of the two types of cancer, or finding no association at all. It may be that the potentially carcinogenic exposures are not known with enough specificity to focus studies narrowly enough.

The question of exposure of Vietnam veterans to Agent Orange is not addressed in these studies. The evidence to date suggests that herbicide handlers, of which there appear to have been relatively few, probably had exposures similar to other occupationally exposed groups (e.g., forestry worker, farmers). Military records and information from the CDC Validation study suggest that ground troops, by and large, were *not* exposed to any great degree. I understand that the New Jersey Agent Orange Commission, whose early work supports these generalizations, is pursuing the issue of ground troop exposure, and their findings will be of interest in furthering understanding of this issue.

Your letter asks our views on the bearing that these and other studies may have on establishing a permanent presumption of service connection for STS and NHL. OTA can make no direct evaluation of the appropriate use of evidence from these and other studies for that purpose, as these are policy decisions, and, as far as I am aware, not based on strict scientific criteria. Certainly, as your letter alludes, the results of CDC's Selected Cancers Study will be extremely important in enlightening the scientific issues.

I hope this review is helpful to you and your colleagues in wrestling with this difficult issue. I am pleased that OTA can continue to be of assistance in this area. If you have any further questions, please do not hesitate to call me, or to contract Hellen Gelband or Maria Hewitt (at 8-6590), the

OTA staff members responsible for this review.

Sincerely,

JOHN H. GIBBONS.

OTA REVIEW OF LIST OF STUDIES CONCERNING NON-HODGKINS LYMPHOMA AND SOFT-TISSUE SARCOMA CIRCULATED TO CONGRESSIONAL COLLEAGUES BY SENATORS DASCHLE AND KERRY, AS REQUESTED BY SENATORS CRANSTON AND MURKOWSKI

The studies, reviews, and letters to editors noted on a list provided to the Senate Veterans' Affairs Committee by Senators Daschle and Kerry, in support of a permanent presumption of service connection for non-Hodgkins lymphoma (NHL) and soft-tissue sarcoma (STS) are reviewed in this OTA Staff Paper, as requested by Senators Cranston and Murkowski, Chairman and Ranking Minority Member of the Committee. The study methods, the validity of the analysis, and the strength of the findings are addressed, as far as possible from the published reports, for each full study.

In general, letters to editors do not report full stories, and are not "peer-reviewed" in the same way as articles in journals. They often report one or a small number of interesting cases, accompanied by a conjecture or hypothesis and frequently are written to advocate a position. They sometimes are written to put forth data that support another hypothesis. While letters can provide suggestive evidence, they should not be given great weight in assessing casualty in a case such as this one. (Entries are discussed under the years noted in Daschle and Kerry's list.)

SOFT-TISSUE SARCOMA

1977.—Hardell and colleagues: various studies (1977 et seq.) of soft-tissue sarcoma among Swedish forestry workers.

Methods: case-control studies, appear to be well designed and conducted; case-control studies, in general, may be subject to systematic biases resulting from choice of controls. These studies do not have an identifiable source of bias.

Validity of analysis: no problems identified.

Strength of findings: other than general cautions concerning interpretation of case-control studies, the findings are strong and consistent.

Remington's 1980 critique of the Hardell studies is generally positive, but cautions about the potential biases of case-control studies.

Coggon and Acheson's (1982) review of the Swedish studies and other reaches a reasonable conclusion that there is suggestive evidence of a relationship between phenoxy herbicides and soft-tissue sarcoma, and that the evidence for an association with lymphomas is weaker.

1981.—Honchar and Halperin, letter to the editor: reports 3 cases of STA with occupational exposure to 2,4,5-T. Excess suggested by comparison with number expected based on U.S. incidence rates.

Evaluation: Appropriate method for hypothesis generation; cannot be taken as independent evidence of association.

Cook, letter to the editor: reports an additional case of STS from one of the cohorts described by Honchar and Halperin above.

Evaluation: Appropriate method for hypothesis generation; cannot be taken as independent evidence of association.

Moses and Selikoff, letter to editor: reports 1 STS case with exposure to 2,4,5-T.

Evaluation: Cannot be taken as independent evidence of association.

Johnson et al, letter to editor: reports STS in a father and son employed at a chemical plant manufacturing chlorinated phenols.

Evaluation: Cannot be taken as independent evidence of association.

1982.—Sarma and Jacobs, letter to editor: reports 3 Vietnam veterans with STS.

Evaluation: No comparison with any expected values; no evidence of direct exposure to herbicides in Vietnam; cannot be taken as independent evidence of association.

1984.—Balarajan and Acheson, [paper not available for review].

1985.—Merlo, [paper not available for review].

Lynge, "A Follow-up Study of Cancer Incidence Among Workers in Manufacture of Phenoxy Herbicides in Denmark."

Methods: Retrospective follow-up study. Employment records were linked with a cancer registry.

Validity of analysis: Analysis appears to be appropriate. Five cases of STS were observed among male employees as compared to 1.8 expected cases (SMR 2.7).

Strength of findings: The predominant product of the two factories included in the study was 4-chloro-ortho-cresol; only a very limited amount of 2,4,5-T was processed. Whether STS cases were extensively exposed is uncertain; employment periods for 3 of the STS cases were less than 4 months and only one of the cases was assigned to the departments for manufacture and packaging of phenoxy herbicides. Increased risk of STS may be associated with 2,4-D and M type phenoxy herbicides.

1986.—Holmes et al., West Virginia Health Department: Proportionate mortality study.

Methods: General method useful for hypothesis generating; identification of veteran and Vietnam veteran deaths based on state "bonus list;" degree of completeness unknown; STS cases identified only through death certificates (no pathologic verification).

Validity of analysis: Analysis appears to be appropriate in general; comparison of Vietnam theater and Vietnam-era non-theater veterans suffers from very small numbers for some causes of death, including STS, making the comparison rather uninformative.

Strength of findings: STS finding based on 3 deaths; no herbicide exposure information; given other uncertainties in study, findings suggestive only.

Anderson et al., State of Wisconsin: Proportionate mortality and standardized mortality studies.

Methods: Proportionate mortality generally good for hypothesis generating: standardized mortality generally subject to fewer biases than proportionate mortality.

Validity of analysis: Appears to be appropriate in general.

Strength of findings: Weak; excess STS noted only when Vietnam veterans compared with veterans not of the Vietnam era; all Vietnam era veterans—whether service was in Vietnam or not—have about the same risk; no excess in methodologically stronger standardized mortality study; overall little or no support for causal link between Vietnam service and STS.

Vineis et al.: Case-control study of female rice weeders in Italy.

Methods: Design appropriate; see comments about case-control studies at Hardell and colleagues, above.

Validity: Appears to be a standard analysis, except use of 90% instead of 95% confidence intervals.

Strength of findings: Analysis of women with definite exposure to herbicides based on only 4 cases; result not conventionally significant ($p<0.05$).

Puntoni et al., August, 1986 letter to editor: Reports small number of STS cases from around Seveso.

Evaluation: Validity of data questionable; STS rate higher in contaminated areas even before release of TCDD at Seveso; completeness of case identification unknown. In a December, 1986 letter to the editor, Merlo and Puntoni acknowledge exposure misclassification and state that "latency considerations as well as exposure definition deficiencies do not permit any assessment of causality, and long-term follow-up of people exposed to TCDD because of the 1976 explosion is strongly recommended."

1987.—Kang et al: Case-control study of STS.

Methods: Generally appropriate; see comments about case-control studies at Hardell and colleagues, above.

Validity of analysis: Generally good except Agent Orange exposure analysis; Agent Orange exposure index may be invalid.

Strength of findings: Findings regarding Agent Orange may be invalid.

1988.—Kogan and Clapp: Proportionate mortality study of Massachusetts veterans.

Methods: Reasonable method for hypothesis generation; use of death certificate diagnosis (no pathological confirmation of STS) may bias results.

Validity: Ascertainment of veteran status based on "bonus list," with unknown effect on completeness.

Strength of findings: Suggestive at best; based on small number (9) of cases.

Hardell and Eriksson, letter to the editor: According to the case control study mentioned, TCDD exposure does not increase risk of developmenting KS among HIV-infected subjects.

Evaluation: Appropriate method for hypothesis generation.

NON-HODGKINS LYMPHOMA

1981.—Hardell and colleagues: Case-control study.

Methods: See comments on Hardell and colleagues above.

Validity of analysis: See comments above.

Strength of findings: See comments above.

Olsson and Brandt, letter to editor: reports 5 cases cutaneous NHL from NHL case series; 4 individuals exposed to 2,4-D.

Evaluation: Suggestive evidence.

Bishop and Jones, letter to editor: reports 2 cases of NHL in pentachlorophenol workers.

Evaluation: No denominator; weak evidence.

1983.—Young, Kang, and Shepard: report from VA Agent Orange registry.

Methods: Method flawed; proportionate analysis of data from Agent Orange registry, made up of self-selected individuals compared with incidence data from SEER program.

Validity of analysis: Questionable.

Strength of findings: Weak.

Flicker and Young, abstract in Amer Chem Soc (186:53, 1983): Author concludes that to date no statistically significant health or reproductive effect has been attributable to phenoxy herbicide and dioxin contaminant exposure among Vietnam veterans.

Evaluation: The result of studies of the Veterans Administration and other federal agencies appear to have been summarized in this presentation. Data from specific studies are not present.

1983.—Burmeister, et al.: Selected Cancer Mortality and Farm Practices in Iowa.

Methods: Case-control study; design appropriate; see comments above case-control studies at Hardell and colleagues, above.

Validity of analysis: "Exposure" based on occupational information recorded on death certificate (farming) and herbicide use in county of death; no record of actual herbicide exposures.

Strength of findings: A significant excess of NHL is reported among farmers over age 65 (odds ratio=1.75) but not age 65 and under (odds ratio=.72). Significant excess of NHL evident in those born prior to 1901. Evidence suggestive of risk associated with farming practices.

1985.—Pearce et al.: Case-control study of NHL, Hodgkins disease, and multiple myeloma.

Methods: Appropriate; see comments about case-control studies at Hardell and colleagues, above.

Validity of analysis: Generally appropriate; "exposure" based on occupation information recorded on cancer registry form; no record of actual exposure.

Strength of findings: Few conventionally significant findings; significant excess (odds ratio—1.76) among men 20-64 years old, not among those 65+; evidence suggestive.

1986.—Woods et al: Washington State Case-Control study of STS and NHL.

Methods: Appropriate; weak "exposure" estimate, based on occupation; see comments about case-control studies at Hardell and colleagues, above.

Validity of analysis: generally appropriate; large number of analyses done, cutting data several different ways, possibly increasing the probability of spurious findings.

Strength of findings: Significantly increased odds of NHL found with one type of analysis (by occupation, for farmers and forest sprayers) but not for aggregate estimated exposure measure; findings generally supportive of association between phenoxy herbicides and NHL.

Hoar et al: Kansas case-control study of NHL, STS, and Hodgkins Disease.

Methods: appropriate; relatively strong exposure estimate (self-reports corroborated by actual herbicide sales records); see comments about case-control studies at Hardell and colleagues, above.

Validity of analysis: analysis appropriate.

Strength of findings: relatively strong, including a dose-response relationship.

Cook et al., Mortality Experience of Workers Exposed to the Chlorinated Dioxins.

Methods: appropriate; mortality patterns analyzed using standardized mortality ratio.

Validity of analysis: analysis appropriate.

Strength of findings: Study limited by small number of cases. Five cases of NHL were observed as compared to 2.1 expected to this cohort. This difference was not statistically significant.

Breslin et al. (published 1988): VA proportionate mortality study.

Methods: Generally good; very high "find" rate for death certificates; some inherent problems with proportionate mortality studies, which may lead to spurious findings particularly with small numbers in some subanalyses.

Validity of analysis: analysis appropriate.

Strength of findings: moderate excess of NHL only among Marines; lack of consistency with larger numbers of Army veteran deaths suggests either spurious finding or risk factor associated exclusively, or nearly so, with Marines; information currently lacking to infer relationship to Agent Orange exposure.

1988.—CDC: Vietnam Experience Study (NHL findings, unpublished.)

Evaluation: The Vietnam Experience Study was not designed to assess adequately the risk of selected cancers.

HARVARD UNIVERSITY,
DEPARTMENT OF EPIDEMIOLOGY,
Boston, MA, August 21, 1988.

Hon. ALAN CRANSTON,
Hon. FRANK H. MURKOWSKI,
Committee on Veterans Affairs,
U.S. Senate, Washington, DC.

DEAR SENATORS: At the suggestion of Dean Harvey Fineberg, I am responding to your letter of August 8, 1988 to President Derek Bok inviting comments on the "studies" listed in the "Dear Colleague" letter of Senators Daschle and Kerry as evidence for a relationship between exposure to Agent Orange (AO) in Vietnam and increased risk of soft-tissue sarcoma (STS) and non-Hodgkin's lymphoma (NHL). Comments on each of these studies are attached. In addition, I would like to offer some more general perspectives.

The committee should note that there are many hundreds of studies, reviews and anecdotes relating to potential health effects of dioxin. With a chemical as pervasive as dioxin has become, it is inevitable that people will see links and associations that have no general implication. In considering the evidence relating to any one potential effect it is important to review all of the evidence relating to that effect. In this field one could support practically any point of view by selective culling of what is sometimes euphemistically called "the literature".

This in fact is exactly what has occurred in the assembly of the list of "studies" appended to your letter to Mr. Bok. This is not a list of studies but a list of opinions and conclusions, many of which are incorrect, misleading or irrelevant, but, more important, they are selected from the enormous body of literature on the topic. Clearly the gathering of these notions has had a political rather than a scientific motivation.

It is also important to note the speed with which evidence on the health effects (or lack thereof) of dioxin is accumulating. The most cogent data have developed since 1984—largely gathered by agencies of the U.S. Government—so that views and theories expressed five years ago may no longer be valid.

The issue at hand would be simpler to address if it were clear whether the alleged association of STS and NHL were at AO itself (or one of its components, 2,4-D or 2,4,5-T) or with its contaminant tetrachloro-dibenzodioxin (TCDD or dioxin). Generally speaking, because of its high toxicity in some animal species, the concern has been with TCDD and I will assume that to be the case here. However, most of the studies relating to exposure to TCDD in herbicides have used exposure to the herbicide as a surrogate of exposure to TCDD, since only very recently have direct measures of TCDD exposure been possible by analysis of TCDD accumulation in blood lipids or body fat.

These recent analyses of TCDD body burdens are relevant to your deliberations since the results reported to date indicate that veterans who served in Vietnam during the period of AO spraying (other than those who actually carried out the spraying) have blood levels of TCDD identical to those of veterans who saw no such service.[1] On the other hand, Air Force veterans who participated in the spraying (Operation Ranch Hand) still have blood levels of TCDD substantially higher than the general population. The range of levels is wide but while "typical" levels are below 20 parts per trillion (ppt) (averages for Vietnam era veterans are 3.8 ppt whether or not the veteran served in Vietnam), levels in some Ranch Hand (RH) personnel have been in the 50-300 ppt range.

The study which is probably most directly relevant to your concern is therefore the follow-up study carefully and competently carried out by the Air Force on approximately 1200 RH veterans and 1200 matched Air Force personnel (controls) who served in flight operations in Southeast Asia not involving herbicide spraying. The mortality of these two groups has been followed and reported on annually since 1983.[2] About 95% of these men gave detailed medical histories and a large proportion (approximately 80 percent) underwent very detailed medical examinations and numerous laboratory tests in 1982[3] and again in 1985.[4] There has been one case of STS in the RH group and one in the controls. There has been no case of NHL reported in either group. In the absence of any evidence of increased risk in this relatively heavily exposed group, it is difficult to believe that the much more lightly exposed ground troops need be concerned about these diseases.

As the notes appended to your letter suggest, the issue of the possibility of an association betwen STS and lymphoma (both Hodgkin's disease (HD) and NHL) was raised by a series of studies by Hardell, Eriksson and colleagues in Sweden in the period 1977-81. Relative risks associated with exposure to "phenoxy acids" were around 6 for all three types of tumor.[5] [6] [7] The numbers of cases were relatively small (all three are rare forms of cancer)—85 cases of STS, 60 of HD and 109 of NHL—but, nevertheless the findings were statistically significant.

It remains unclear as to whether and to what extent Swedish forestry and agricultural workers had been exposed to TCDD. The generic term 'phenoxy acids' is widely used throughout these studies. In the study of Hardell and Sandstrom,[5] among the 13 cases and 14 controls who reported exposure to phenoxy-acids, all but 1 case and 3 controls reported use of 2,4,5-T, the only phenoxy-acid likely to be contaminated with TCDD. Only 1 case and 2 controls reported exposure to MCPA, which does not have this contaminant. On the other hand, Wiklund & Holm in 1986, referring implicitly to the same time period in Sweden, state that the most commonly used phenoxy-acid was MCPA.[8]

The question is perhaps moot, since the increased risks reported by this group of investigators were present whether or not 2,4,5-T was a likely exposure. Thus, as just noted, practically all of the exposed cases and controls in the STS study in the forested north of Sweden reported exposure to 2,4,5-T. A second study was therefore undertaken in the principally agricultural south where 2,4,5-T was little used.[6] The relative risk associated with exposure to phenoxy-acids, 6.8, was as high as that found in northern Sweden, 5.3. The south Swedish data were also analyzed after exclusion of

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Footnote references at end of article.

individuals exposed to 2,4,5-T, giving a relative risk of 5.9. In the study of lymphomas, 12 cases and 1 control reported exposure to only MCPA or 2,4-D, while, overall, there were more than twice as many controls as cases.[7] That is, the risk associated with exposure to phenoxy-acids that did not contain TCDD was much higher than that associated with exposure to the one that did.

All epidemiological (observational) studies are susceptible to error, but there seemed initially no reason to be particularly skeptical of these studies. However, repeated attempts by other investigators have failed to confirm their findings. Thus:

Axelson et al reported in 1980 a cohort study of Swedish railway workers with exposure to various herbicides, including 2,4,5-T, in spraying the right-of-way.[8] Among 348 workers over a 20-year study period, there were 45 deaths (49 expected). There were 12 cancer deaths among the subgroup exposed to phenoxy-acids. There was no case of STS or NHL.

Also from Sweden, in 1986 Wiklund & Holm compared the frequency of STS among 354,620 workers born between 1891 and 1940 and classified according to the 1960 census as agricultural or forestry workers with 1,725,845 workers in the same birth cohort not so classified.[9] A total of 331 cases of STS were identified in the study group and 1,508 in the control group. The relative risk for being an agricultural or forestry worker was 0.9 (0.8-1.0). No subcohort showed significantly elevated risk of STS—the subcohorts examined included horticulture, other agriculture, silviculture (cultivation of trees), timber cutting and other forestry. Use of phenoxy acids in Sweden increased from about 100 metric tons in 1955 to about 1,800 tons in 1978 (18-fold). There was no increase in STS over the period 1965-79, either in the cohort overall or in any of the sub-cohorts.

In Finland, large-scale spraying of foliage and forests occurs during a 2-8 week period each year. The main herbicide used was a 2:1 mixture of 2,4-D and 2,4,5-T. Riihimaki et al, in 1982 identified 1,971 male herbicide applicators who sprayed for at least two weeks during the years 1955-71, and traced them through 1980.[10] Ascertainment of deaths was essentially complete. There were 144 deaths overall (184 expected) and 24 from cancer (36.5 expected). There were no deaths from STS or lymphoma.

Phenoxy herbicides, in particular 2,4,5-T, have been widely used in New Zealand for the past 30 years. Three case-control studies have been conducted using the New Zealand cancer registry as sources of cases. Different methods of control selection and of interviewing were used in the three studies. Smith et al, in a series of 82 cases of STS, found a relative risk of 1.3—not significantly different from 1.[11] Pearce et al found a marginally significant risk of 1.8 (confidence limits 1.0-3.0) for "all other lymphoma" (88 cases) but not for the predominant forms of NHL (lymphosarcoma and reticulum cell sarcoma) (136 cases, relative risk 1.1).[12] Another study by Pearce et al, using different controls and sources of information, found a relative risk for all NHL of 1.4—not significantly different from one.[13]

Milham in 1982 updated a PMR study in Washington State, 1950-79.[14] The PMR for 12 occupations "with exposure to phenoxy herbicides and chlorophenols" was not significantly elevated (O/E=109/104). For the lymphomas, observed and expected values were as follows: HD (109/107), lymphosarcoma and reticulum sarcoma (188/192), other lymphoma (109/104) Perusal of individual occupations did not lead to any suggestion of increased exposure to herbicides associated with STS or lymphoma.

Woods et al in 1987 report a population-based case-control study of males with STS (n=128) or NHL (n=476).[15] Cases were ascertained from the ongoing Cancer Surveillance System. Controls (n=694) were identified by random-digit dialing or from the Health Care Financing Administration (HCFA) but were interviewed in person, as were the cases or their surrogates. The relative risks for STS and NHL associated with all occupations involving potential exposure to phenoxy herbicides were 0.8 (0.5-1.2) and 1.1 (0.8-1.4), respectively. No analysis by latency produced an excess risk for STS. No specific jobs had a clear indication of increased risk of either tumor.

Hoar et al in 1986 reported a population-based case-control study of 135 cases of STS, 121 cases of HD, and 170 cases of NHL in the State of Kansas.[16] Controls (3:1) were selected by random-digit dialing or from the HCFA files. Subjects, or their surrogates were interviewed by telephone. Response rates were good, but half of the STS and NHL patients and one-third of the HD patients had died before the initiation of the study and information had to be obtained from widows or other relatives. Neither STS nor HD showed any association with being a farmer or with frequency or duration of use of herbicides. NHL showed an association with being a farmer (RR 1.4, 0.9-4.0) and a signficant trend with both duration and frequency of use of herbicide. Significant association for NHL was found with every use of phenoxyacids (RR 2.2, 1.2-4.1), triazines (RR 2.5, 1.2-5.4), amides (RR 2.9, 1.1-7.8) and 'nonspecified' (RR 5.8, 1.9-17.2). The authors state that although "(2,4-D) has been the most commonly used herbicide in Kansas, substantial amounts of 2,4,5-T have also been used, along with myriad other chemicals". It is probable that herbicide usage was grossly under reported in this study and with a high proportion coming from surrogates the possibility of recall bias is present.

There are numerous other studies that support the idea that there is a weak but consistent association between farming generally and NHL. However, the mechanism of this association is unknown.

Given the lack of consistency in these results one must re-examine the Hardell studies more critically. That the startling findings are the result of some not fully identified methodologic bias is suggested by the following:

1. The lack of specificity in the effect of different exposures. Associations of similar strength were found with phenoxyacids, chlorophenols and industrial solvents. The associations were, if anything, slightly stronger for herbicides not containing TCDD than for those which were commonly contaminated.

2. The lack of specificity of the diseases involved. STS itself is a heterogenous grouping of at least a dozen cell types of cancer. In addition to STS, NHL and HD, associations were also found with nasal, nasopharyngeal and liver cancer. No association was found for colon cancer but the timing of this study was subsequent to the STS and lymphoma studies and no new controls were selected.

3. There were several places where bias may have been introduced into the collection of exposure information. There was considerable media attention to the AO issue at the time of the studies. This may have affected the information given on the mail questionnaire completed by subjects. There is the possibility that recall of exposure was influenced by case or control status. The questionnaire information was subsequently augmented by a telephone interview, but this was done selectively, not for all subjects. Finally, the investigators discarded certain exposures which they judged unlikely to be relevant; it is not clear that this process was entirely objective.

4. The associations have no biologic plausibility. There is no laboratory work indicative of a role either for the components of AO or for TCDD in these particular tumors.

Although good statistics are lacking on both STS and NHL (because of their rarity and difficulty of diagnosis) there is no indication of any change in their frequency during the time of the enormous increase in use of 2,4,5-T during the 1950s and 1960s.

The Australian Royal Commission, reviewing the Hardell studies in connection with their own deliberations on the AO exposure of Australian Vietnam veterans concluded: "We cannot, on the balance of probability, accept them (the Hardell studies) as supporting an inference of causal connection between soft-tissue sarcoma, malignant lymphoma and exposure to phenoxy herbicides."

Finally, I should point out that if STS and/or NHL are causally associated with pesticide application, and if the mechanism is via dioxin (which the Hardell studies do not suggest) there should be an enormous epidemic of STS and NHL in the industrial populations that have been exposed at much higher levels. In some industrial situations, the majority of exposed workers have developed severe chloracne—the hallmark of exposure to dioxin. Epidemics of STS or NHL have not been seen in these populations. Looking at the industrial experiences overall there is no evidence of excess occurrence of STS, NHL or any other cancer. Incidentally, no chloracne has been reported in Vietnam veterans, even among the participants in Operation Ranch Hand.

In short, it is my belief that the findings of Hardell and his colleagues were in error and that there is no reasonable basis for the view that exposure to AO during service in Vietnam has conferred increased risk of STS or NHL.

National and international authorities which have expressed the view that the evidence is inadequate to conclude that dioxin is carcinogenic in general in humans include the American Medical Association, the Veterans Administration, the Environmental Protection Agency, the Agency for Toxic Substances and Disease Registries, and the International Agency for Research on Cancer.

Thank you for the opportunity to present this material.

Sincerely yours,

BRIAN MACMAHON, M.D.,
Professor and Chairman.

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Comments by Brian MacMahon on the list of "studies" taken from the "Dear Colleague;" letter of Senators Daschle and Kerry dated August 1, 1988 discussing S. 2675. The list is taken from the letter of Senators Cranston and Murkowski to Mr. Derek Bok dated August 8, 1988. The "study" is first reproduced as it appears in the letter of Senators Cranston and Murkowski, followed by a "Comment" from Dr. MacMahon.

SOFT TISSUE SARCOMA

"1977.—Hardell and his associates, publishing studies in several Scandinavian and British medical journals, report a significant increase in the relative risk for soft-tissue sarcomas for those exposed to phenoxy herbicides. At the request of the Office of Technology Assessment, the Swedish studies are reviewed by Richard D. Remington, Dean of the School of Public Health at the University of Michigan. Describing the researchers as 'unusually careful' and the study an 'excellent investigation,' Remington asserts that a relative risk of this magnitude 'must be taken seriously'."

Comment.—The main problem with the Hardell studies (as noted in the accompanying letter to Senators Cranston and Murkowski) is not inherent in the studies themselves but in the failure of the observations to be replicated by other investigators. It would be of interest to know the data of Dr. Remington's comment but, since he left Michigan in 1982, it was presumably before that. His comments would have been appropriate at that time. I believe that the studies published subsequently might modify Dr. Remington's opinion of the Hardell studies.

"In Lancet, Coggan and 'Acheson conclude that the Swedish studies provided "suggestive evidence of a biological association between phenoxy herbicides (or their contaminants) and soft-tissue sarcoma'."

Comment.—Again, Coggan and Acheson were writing in 1982 when there was not such strong reason to be suspicious of the Hardell studies.

"1981.—In the United States, Honchar and Halperin; Cook: Moses and Selikoff: and Johnson, et al observe significantly higher than expected incidences of soft-tissue sarcomas among American chemical workers at Monsanto Company and Dow Chemical Company.

Comment.—Soft tissue tumors occur rarely in industrial populations just as they do in other populations. Because of the rarity of the disease and the difficulty of diagnosis it is difficult to estimate how many cases should be expected in the relatively small populations occupationally exposed to dioxin. In 1984, Fingerhut et al (Scand J Work Environ Health 10:290-303) collected 4 cases of STS in persons with documented occupational exposure to dioxin. However, 2 of these cases were found not to be STS on pathologic review. (Overall about half the cases of STS reported to cancer registries are found not to be STS on review and about an equal number of cases reported as something else are diagnosed as STS on review). In the Dow Chemical Company experience—the largest occupational dioxin cohort (all employees since 1940, numbering 2,187)—there has been only one STS diagnosed. The case was reclassified by Fingerhut as a renal clear-cell carcinoma. One case at Monsanto was reclassified by Fingerhut as a poorly differentiated carcinoma. Considering the differences in levels of exposure between the industrial exposures and the exposures of pesticide applicators, if the latter experienced any increased risk there should be vastly more cases in the industrial populations than have been seen.

"1982.—Sarma and Jacobs, in the New England Journal of Medicine, report an unusually high number of soft-tissue sarcomas among Vietnam veterans in Atlanta, Georgia."

Comment.—This 1982 letter to the editor reports 3 cases of thoracic STS among veterans who have a history of heavy exposure to AO in Vietnam. Such anecdotes may stimulate investigation but they do not constitute evidence. In a study of 264 cases of STS in Vietnam-era veterans, Kang et al (J Occup Med 1986; 28:1215-8) of the Veterans Administration found that service in Vietnam was not a risk factor for STS.

"1984.—In the 'Journal of Epidemiology and Community Health,' Balarajan and Acheson report a statistically significant higher relative risk for soft-tissue sarcomas among farm workers presumably exposed to phenoxy herbicides in England and Wales.

Comment.—These authors used British national data to evaluate the relative risks of STS among farmers, agricultural workers and related occupations. One of the four groups examined (comprised of farmers, farm managers and market gardeners) showed a relative risk of 1.7 which just achieved statistical significance. The other three groups (comprised of agricultural workers, gardeners and groundsmen, and foresters and woodsmen) showed no increased risk. There are no data on herbicide exposure either of the individual or of the categories in which they were classified. The relevance of this observation is obscure.

"1985.—In 'Dioxin and the Environment,' by Kamin and Rodgers, Merlo reports a significant excess of soft-tissue sarcomas in the population living around the ICMESA plant in Seveso, Italy, site of a major release of dioxins into the environment."

Comment.—I do not have this reference but the observation is probably the same as Merlo has reported in Letters to the Editor (Puntoni, Merlo, Fini et al, Lancet 1986; 2:525: Merlo, Puntoni, Lancet 1986; 2:1455). The first letter describes a cancer registry set up in the region of Lomardy in 1981—five years after the Seveso incident. The registry is based on hospital admission/discharge forms. The letter gives age-adjusted incidence rates for STS for each year 1975-1981 for the "polluted" and "unpolluted" areas. The second letter clarifies that the "polluted area" is comprised of zones A, B, and R and the rest is regarded as unpolluted (zone 0). Numbers of cases in the polluted zone are 2 in each year, except 1975 which has 3. Rates of STS are slightly higher in the polluted zone relative to the unpolluted area in each year, the difference decreasing with time. The greatest excess was in 1975, before the accident. The authors have convoluted explanation of this in terms of prior contamination from the ICMESA plant which somehow "came to peak" with the accident. (Although we don't know what was going on before 1975, the peak must actually have occurred considerably before the accident if it is to explain the high rate of STS.) The doubling of the rates in the unpolluted area between 1975 and 1981 must be a reflection of the sensitivity of these numbers to biases of diagnosis and reporting and is indicative of the sensitivity of reporting of STS to public awareness and concern. I frankly think that these letters provide no credible evidence of an increase in STS in the Seveso region resulting from the accident. I doubt that the reference that I do not have has much more since the information is limited by the small size of the population, the rarity and difficulty of diagnosis of the tumor and the retroactive nature of the reporting.

"Lynge reports in the British Journal of Cancer" a significant association between soft-tissue sarcoma and exposure to phenoxy herbicides among workers in Denmark."

Comment.—Lynge reports on a cohort of 3,390 male and 1,069 female employees in two herbicide manufacturing plants. The principal product is MCPA which may be contaminated with other dioxins but not 2,3,7,8,-TCDD. There were 5 cases of STS in the whole population in which 2.6 would have been expected. Among the employees with phenoxy acide exposures there was 1 case, compared to 0.5 expected. These differences could readily be due to change. A high rate of STS has not been observed in other population industrially exposed to dioxin.

"1986.—Holmes, *et al*, of the West Virginia Health Department, reports a statistically significant increase in mortality due to soft-tissue sarcoma among Vietnam veterans.

Comment.—I do not have this report. I believe it is unpublished.

"A study by Anderson, et al reports an increased risk of soft-tissue sarcomas among Wisconsin Vietnam veterans when compared to all other Wisconsin veterans."

Comment.—This one also. From other written accounts I believe these are both small-size proportional mortality studies. The evidence they provide is greatly outweighed by the study from New York State (Greenwald, et al., JNCI 1984; 73:1107-9) and the VA's own national study (JOM 1986; 28:1215-8).

"In the 'Scandinavian Journal of Work and Environmental Health,' Vineis, et al., report a significantly higher incidence of soft-tissue sarcomas in female rice workers exposed to phenoxy herbicides."

Comment.—I have been able to find this reference.

"Echoing Merlo's results, Puntoni reports in Lancet an excess of soft-tissue sarcomas in eleven municipalities near the ICMESA plant in Seveso, Italy, where dioxins were released following an industrial accident."

Comment.—See the comment on Merlo, above.

"1987.—Kang, et al., report in the "Journal of the National Cancer Institute" a higher, though not statistically significant, incidence of soft-tissue sarcomas among subgroups of Vietnam veterans with higher estimated opportunities for Agent Orange exposure than a reference group of Vietnam veterans."

Comment.—This is one of two case-control studies conducted by Kang and his colleagues. The two studies differ in the sources of the cases of STS (VA hospital files in one case, Armed Forces Institute of Pathology). In both studies the relative risks were slightly lower than 1 for Vietnam veterans (0.83 and 0.85). That is, Vietnam veterans had lower risks of STS than Vietnam-era veterans who had no service in Vietnam, although the differences were not statistically significant. In the JNCI paper various indicators of probable exposure to AO among the Vietnam veterans were used and for some of these indicators relative risks were higher for the probably exposed than for the less likely exposed. However, numbers are very small and in no instance is the difference statistically significant. Further, it is difficult to reconcile the idea that exposed Vietnam veterans had higher risks than non-exposed with the fact that rates for Vietnam veterans overall were lower than non-Vietnam veterans. It would mean that the unexposed Vietnam vets would have to have substantially lower rates than non-Vietnam vets, for which there is no explanation. We should also note that in 1987 dioxin blood levels in Vietnam vets showed no relationship to any historical indicator of exposure—other than having served in Operation Ranch Hand.

"1988.—In the "International Journal of Epidemiology," Kogan and Clapp report a statistically significant excess of deaths due to soft-tissue sarcomas among Massachusetts Vietnam veterans."

Comment.—As with Holmes, et al., and Anderson, et al., this was a proportional mortality study. That is, it is based on the risk of dying from particular causes when the risk of death is unknown. The rather remarkable finding is of 9 deaths from STS among Vietnam veterans when 1 would have been expected. The pathology was not reviewed. As reported, there were 5 different tumor types reported. I cannot explain this finding, but it is clearly inconsistent with the findings of Greenwald, et al., and Kang, et al. There was no information on the probability of exposure to AO for the cases—only the fact that they had served in Vietnam.

"In a new study, Hardell and Eriksson find an increased risk of soft-tissue sarcomas among workers exposed to phenoxyacetic acid-based herbicides in three northern counties in Sweden."

Comment.—I am not aware of a new study by Hardell & Eriksson. Their first study (1979) was also carried out in Northern Sweden.

NON-HODGKIN'S LYMPHOMA

"1981.—In the "Scandinavian Journal of Work and Environmental Health," Hardell and his associates report elevated levels of non-Hodgkin's lymphomas in a population exposed to phenoxy herbicides in five Swedish counties."

Comment.—The Hardell studies have been commented on above in the comments relating to STS and in my letter to Senators Cranston and Murkowski.

"Olsson, H and Brandt, L, in Lancet, report an excess of non-Hodgkin's lymphoma of the skin among Swedes exposed to PCDD (a form of dioxin)."

Comment.—Among 123 cases of NHL seen by these clinicians 5 had involvement of the skin of the foot. Of the 5 with skin involvement 4 gave histories of occupational exposure to herbicide spray. Among the 118 cases with no skin involvement only 7 (6%) gave such histories. Although the difference is formally significant, this is the kind of anecdotal evidence that one would like to see replicated before giving it much credence. To my knowledge, nobody has repeated this observation since 1981. I do not understand the reference to PCDD—it is not mentioned in the letter. Two of the skin cases were exposed to 2,4,5-T and 3 to 2,4-D.

"In Lancet, Bishop and Jones cite a higher than expected incidence of non-Hodgkin's lymphoma of the scalp among workers at a plant manufacturing herbicides contaminated with dioxin."

Comment.—This is a letter reporting 2 cases of NHL among 158 workers heavily exposed to dioxins, particularly the hex and octo compounds—not the 2,3,7,8-tetra compound which is of particular concern in the context of AO. These compounds vary greatly in their effects. In any case, the occurrence of 2 cases could be coincidental—NHL has not been seen in excess in the larger cohorts heavily exposed to TCDD.

"1983.—Analyzing cancers among veterans listed in the Agent Orange Registry, Young, Kang and Shepard report in "Environment, Science and Technology" a significantly higher occurrence of lymphomas (non-Hodgkin's and Hodgkin's combined) among registrants than in a comparable control group. Flicker and Young report similar results at the Symposium on Chlorinated Dioxins and Dibenzofurans in the Total Environment at an American Chemical Society meeting in Washington, D.C."

Comment.—I have not seen this report.

"Burmeister, et al., in the "American Journal of Epidemiology," report significantly increased rates of non-Hodgkin's lymphomas in farmers in Iowa counties with high herbicide usgage."

Comment.—This is a well conducted case-control study of multiple myeloma, NHL, prostrate cancer and stomach cancer in Iowa. Many farming characteristics were examined and NHL was "associated with egg-laying chickens, milk products sold, hog production, and herbicide use." These "exposures" were determined on the basis of statistics for the county of residence—not for the individual cases and controls themselves. "Correlation" studies of this type are notoriously susceptible to misleading associations. Nevertheless there is an extensive literature suggesting a small increased risk of NHL among farmers, which is unexplained.

"1985.—Pearce, et al., in the "American Journal of Epidemiology," report a statistically significant association between non-Hodgkin's lymphoma and employment in occupations with likely exposure to phenoxy herbicides."

Comment.—This study has been commented on in my letter to Senators Cranston and Murkowski.

"1986.—In the "Journal of the National Cancer Institute," Woods, et al., report an increased risk of non-Hodgkin's lymphoma associated with prolonged exposure to phenoxy herbicides among those exposed at least 30 years before the study was conducted."

Comment.—This is a well conducted case-control study in which there was no overall association of NHL (or STS) with occupations involving exposure to phenoxyherbicides. However, as noted, there were moderately increased risks for persons who had been farmers (1.33) or forestry herbicides applicators (4.80) for 15 years or more at least 15 years prior to the diagnosis of NHL. Many subgroups of occupation and latency were examined in this study and it is not clear that these are not just some of the positive results that will inevitably turn up if enough variables are examined. The relative risk for none (1.0), low (0.90), medium (0.95) and high (1.24) exposures to phenoxyherbicides in this study overall are not suggestive of an association. The figure of 1.24 for high exposure has confidence limits of 0.8–1.9 and is not statistically significant.

"In a National Cancer Institute study published in the "Journal of the American Medical Association," Hoar, et al., report a greatly increased relative risk for non-Hodgkin's lymphoma among Kansas farmers exposed for more than 20 days per year to the dioxin-laced herbicide 2,4-D, one of the principal components of Agent Orange."

Comment.—This study has been commented on in my letter.

"Cook, et al., report in Chemosphere an increased, though not statistically significant, incidence of non-Hodgkin's lymphoma among workers with potential exposure to dioxins at the Dow Chemical Company plant in Midland, Michigan."

Comment.—The latest data for the Dow employees are in Chemosphere 1987. The number of cases of NHL is 5—the same as reported in 1986. The expected is 2.6. The difference, as noted, is not significant. There is no indication of a trend with duration of exposure:

Duration of exposure	NHL deaths	
	Observed	Expected
6 months	2	0.7
6–11 months	0	.3
1–4 years	2	.7

Duration of exposure	NHL deaths	
	Observed	Expected
5+ years	1	.7

"1987.—The Veterans Administration, in its 'Proportionate Mortality Study of Army and Marine Corps Veterans of the Vietnam War,' compares deaths of Vietnam and non-Vietnam veterans and reports a 110 percent excess of non-Hodgkin's lymphomas among Marines who served in areas of Vietnam sprayed heavily with Agent Orange."

Comment.—37 different causes of death were examined in 2 different branches of the service (Army and Marines) making 74 different comparisons. By chance alone there should have been 3 "statistically significant differences: there were in fact 3-1 low and 2 high. One of these was the high PMR for the Marines. However, the Army, with a four times larger population had a PMR below 100 (81, confidence interval 63-104). The most likely explanation of the observation in Marines is that it was due to chance.

"1988.—In the Vietnam Experience Study, the Centers for Disease Control reports a statistically significant excess of non-Hodgkin's lymphomas among veterans who served in Vietnam."

Comment.—I have not seen this study. The observation reported would be inconsistent with that in the immediately preceding reference.

Harvard University,
School of Public Health,
Department of Epidemiology,
Boston, MA, August 26, 1988.
Hon. Alan Cranston,
Hon. Frank H. Murkowski,
Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Senators: Your Associate Counsel, Jane Wasman, has sent me some materials that I was unable to locate from the listing taken from the "Dear Colleague" letter of Senators Saschle and Kerry. I can therefore fill in some of the gaps in the comments accompanying my letter of August 21, 1988. None of these materials changes the basic views expressed in that letter. These are that the Swedish studies of Hardell, Erickson and colleagues are in error, for reasons that have not been clearly identified, and that there is no reason to suspect increased risk of soft-tissue sarcoma (STS) or non-Hodgkin's lymphoma (NHL) as a consequence of exposure to Agent Orange (AO) in Vietnam.

Bishop and Jones (1981) and Olsson and Brandt (1981).—I had already located these items and commented on them in my earlier letter.

Anderson et al (1986). Wisconsin Vietnam Veteran Mortality Study.—This is a proportionate mortality study. That is, the risk of death is not known—but in two or more series of deaths one asks whether the distributions by cause of death differ. Usually the distribution of one series is used to estimate the number of deaths expected in the other series if it had the same distribution by cause of death in each age group. Among 974 deaths of Vietnam veterans there were 5 attributed to STS. The expected number based on Vietnam-era veterans who did not serve in Vietnam was 3.4, and, based on non-veterans it was 2.2. Clearly, these differences could have been due to chance. However, the expected number based on all other veterans (i.e. veterans who did not serve in the Vietnam era) was only 0.3 and that was statistically significant (unlikely to be due to chance). The remarkable thing is not the high rate in the Vietnam veterans but the very low rate of STS among the "all other" veterans relative to Vietnam-era veterans and non-veterans. Clearly, the "all other" veterans would have a very different age distribution than the Vietnam-era veterans and it is not clear that this has been adequately taken into account by the method used. In addition, they belonged to a different generation, in which the diagnosis of STS was less frequently made.

Holmes (1986). West Virginia Vietnam-era Veterans Mortality Study.—This is also a proportional mortality study of 615 deaths of male Vietnam veterans and 610 deaths of Vietnam-era veterans who did not see service in Vietnam. Comparing all veterans with non-veterans there was an excess of STS (3 observed, 1.2 expected) and all 3 cases occurred in veterans who saw service in Vietnam (compared to non-veterans the expectation for Vietnam veterans is 0.7). While this difference is on the border of statistical significance the findings of this study, that of Anderson et al and the Massachusetts study of Kogan and Clapp are outweighed by the negative findings in the much larger study in New York State (Greenwald et al) and the VA-wide study of Kang et al.

Vineis et al (1986). Phenoxyherbicides and soft-tissue sarcomas in female rice weeders.—This is a case-control study of 68 cases of STS and 158 population controls. Among the men (37 cases and 85 controls) suspected exposures to phenoxyherbicides were reported with equal frequency by cases and controls (relative risk 0.91). There was no male case who had been exposed with certainty. Among the women (31 cases, 73 controls) there were 3 definite exposures in the cases and 1 in the controls. There were no suspected exposures in either cases or controls. The relative risk of exposure in women was 2.7 with a 90 percent confidence interval of 0.59-12.37, which easily includes the value 1.0—that is to say, the excess could readily be due to chance. This is a very small study which carries little weight because of that and because there is no information on the nature of the exposures.

Merlo (1985). Chapter from Kamin and Rodgers.—There is less information here on STS than in the authors' 1986 letters to Lancet which were reviewed in my previous letter.

Flicker and Young (1983).—On the basis of medical examinations of a haphazardly selected group of veterans in the AO registry (no controls) the author conclude that "the Agent Orange Registry data do not support the thesis that there is any unusual long-term morbidity or mortality associated with Vietnam service or Agent Orange exposure". An attached table shows 11 cases of STS among 84,458 veterans recorded in the AO registry. This is 1.9 percent of all cancers compared to 2.6 in the national SEER data. There were 117 lymphomas, giving a percentage of all cancers of 20.0, significantly higher than the 15.0 percent in the SEER data. The difference is described as "marginal" by the authors. No breakdown of the lymphomas into Hodgkin's and non-Hodgkin's is given. The analysis is superficial and not persuasive.

I hope these additional comments will be of assistance.

Sincerely,

Brian MacMahon, M.D.,
Professor.

Stanford University
Medical Center,
Stanford, CA, August 31, 1988.
Senator Alan Cranston,
Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Senator Cranston: Upon receipt of my copy of your August 8 letter to Donald Kennedy, and with President Kennedy's concurrence, I turned for help to one of my Medical School faculty colleagues, Dr. Alice S. Whittemore, Professor of Epidemiology and Biostatistics in our Department of Health Research and Policy. Dr. Whittemore is a nationally respected epidemiologist, and the principal focus of her academic work is in epidemiological studies relating to cancer. Her research is supported by funding from the National Cancer Institute, and she has on numerous occasions served as a consultant in matters of cancer epidemiology to the National Cancer Institute and other agencies.

Dr. Whittemore and I were both sensitive to the substantive issues posed in S. 2675, recognizing, as we did, the scientific, political and emotional complexities of the issues concerning putative disease causation from exposure to Agent Orange. Dr. Whittemore and I also agreed that it would not be possible, in the short time frame suggested in your letter, to carry out the comprehensive analysis of the lengthy list of studies that was appended to your letter, as assembled by Senators Daschle and Kerry in support of their position.

Fortunately, however, Dr. Whittemore has had a long-standing interest in Agent Orange and the controversies that swirl around it, and for that reason she was able to prepare on relatively short notice an extraordinarily thoughtful and well-documented analysis that I have enclosed for your review with this letter. I believe Dr. Whittemore's report is a first-class piece of scholarship, and I trust that it will provide you and your colleagues with useful expert opinion as you formulate your own views regarding the proposed Daschle-Kerry bill.

I know that Dr. Whittemore would be pleased to discuss these issues further with you, other members of your committee or your staff at your request.

Sincerely,

David Korn, M.D.

Report on Supporting Material for Legislation S. 2675

(Alice S. Whittemore, Ph.D., Professor of Epidemiology and Biostatistics, Department of Health Research and Policy, Stanford University School of Medicine)

On August 1, 1988, United States Senators Thomas A. Daschle and John F. Kerry introduced S. 2675, legislation that would require the Veteran's Administration to pay monthly service-connected disability compensation to Vietnam veterans who are diagnosed with non-Hodgkin's lymphoma (NHL) or soft-tissue sarcoma (STS) and death benefits to the survivors of Vietnam veterans who die from these diseases. These payments would be made even though there was no evidence in the particular case that the disease was incurred or aggravated during military service. In their August 1, 1988 letter discussing S. 2675, Senators Daschle and Kerry provided a list of studies which they stated support establishing such permanent presumptions of service connection for these diseases. The list of studies is divided into those relating to NHL and those to STS.

The most noteworthy feature of the list is the choice of studies selected for inclusion. For example:

(i) a population-based case-control study conducted in Kansas by the National Cancer Institute (NCI) (1) found evidence to support a link between exposure to 2,4-D (a constituent of Agent Orange) and NHL, but no support for a link to STS. This study is included in the NHL section, but it is excluded from the STS section.

(ii) a population-based case-control study conducted in western Washington State (2) found support for increased NHL risk associated with phenoxyherbicide exposure, but no such support for increased STS risk. This study also is included in the NHL section and excluded from the STS section.

(iii) a case-control study conducted in New Zealand initially reported an increased NHL risk among agricultural workers potentially exposed to herbicides in Agent Orange (3). More recent expansion of this study to include larger numbers of subjects found no evidence to support an increased risk for potential exposure to phenoxyherbicides (4). The positive 1985 report, but not the more recent and negative 1987 report, is included in the NHL section.

The list includes studies with positive findings but excludes those with negative findings. Therefore it does not give the balanced overview of potential risks associated with exposure to Agent Orange that is needed to evaluate the proposed legislation.

Recent, well-conducted epidemiologic studies provide reassuring evidence that exposure to 2,4-D (a major constituent of Agent Orange) probably does not portend increased risk for STS. The evidence concerning NHL is more worrisome, as discussed below. Also discussed are recent studies concerning probable exposure levels among U.S. ground troops in Vietnam.

STS.—The cumulative evidence in support of increased STS risk associated with Agent Orange exposure is generally weak and unconvincing. Those studies with positive findings have been considered flawed. For example, the work of Hardell and his associates (5) shows excess incidence of both STS and NHL among Swedish men exposed to phenoxyherbicides. Hardell testified in 1985 to the Australian Royal Commission on the Use and Effects of Chemical Agents on Australian Personnel in Vietnam. The commission's final report (6) states:

"[The] absence of replication [by other studies], the absence of specific outcome (ie, 12 types of soft tissue sarcoma, nonHodgkin's malignant lymphoma and Hodgkin's disease), admitted information bias, the presence of significant confounding factors, the unreliability of the exposure data and the other factors detailed above all indicate that the statistical associations asserted by Dr. Hardell are suspect. The Commission cannot, on the balance of probability, accept them as supporting an inference of causal connection between soft tissue sarcoma, malignant lymphoma and exposure to phenoxyherbicides."

Since publication of this report, the previously mentioned large, population-based case-control studies conducted in Kansas (1) and western Washington state (2) found no evidence for an association between STS and exposure to 2,4-D or 2,4,5-T, the chief constituents of Agent Orange. The positive studies conducted in Massachusetts and Wisconsin (7,8) and cited in the STS section are proportionate mortality studies (ones that compare causes of death among Vietnam veterans' death certificates with those of a control population). These studies have shown a higher proportion of STS deaths among the veterans than among the control populations. However, the studies suffer from potential selection bias, from lack of exposure information and from other problems inherent in this study design. The new unpublished study by Hardell and Eriksson, mentioned in the STS section as showing an excess STS risk associated with phenoxyherbicide exposure, apparently is based on 55 male STS cases. Since it has not yet been published, it is not possible to determine if the observed excess is statistically significant, or whether it is more likely a random fluctuation due to small case numbers.

NHL.—Since publication of the Australian Royal Commission's report, three large, population-based case-control studies have found an increased risk among agricultural workers exposed to phenoxyherbicides (1,2,9).

1. The study in Kansas investigated exposures to pesticides and herbicides among 170 male cases of NHL, 133 male cases of STS, and 948 male controls. As summarized in NCI's recent Congressional testimony (10) the study concluded that: (a) Farm herbicide use was associated with a 60-percent increase in NHL, but no increase of STS; (b) NHL risk increased significantly with the number of days per year of herbicide exposure and time since first exposure; (c) farmers exposed to herbicides more than 20 days per year had a six-fold increased NHL risk relative to nonfarmers. Farmers so exposed who mixed or applied the herbicides themselves had an eight-fold NHL risk; (d) a finding of lower risk among farmers who usually used protective equipment while mixing or applying herbicides is consistent with a causal association; (e) the NHL excess was associated with use of phenoxyacetic acid herbicides, particularly 2,4-D; (f) among Kansas farmers, there were few past users of 2,4,5-T (the other major constituent of Agent Orange). Almost all of those so exposed had also been 2,4,-D users; (g) use of 2,3,5-T alone did not appear to increase NHL risk, although the data are inconclusive because of small numbers.

2. NCI recently completed another population-based case-control study of NHL (385 cases) versus herbicide use and other agricultural factors in Nebraska (9). Preliminary results indicate moderate increases in NHL risk associated with exposure to 2,4-D and 2,4,5-T. Risk increases with days per year of 2,4-D exposure, similar to the pattern in the Kansas study, but the risks were not as great.

3. The study conducted in western Washington state (2), including 576 male NHL cases and 694 randomly selected controls without cancer, evaluated the relationship between NHL risk and exposure to phenoxyherbicides and chlorinated phenols (chemicals that, like Agent Orange, are contaminated with dioxin). No excess risk was seen for chlorinated phenols, or for increasing duration or intensity of exposure to either class of chemicals. However, risk was elevated among farmers, forestry herbicide applicators, and those potentially exposed to phenoxyherbicides in any occupation for 15 years or more during the period prior to 15 years before diagnosis.

Although suggestive, these studies cannot be considered conclusively supportive of a causal association between Agent Orange and NHL. They are based on populations of agricultural workers, who differ from the veterans in many respects, including potential for exposures to other harmful substances. The Selected Cancers Study conducted by the Centers for Disease Control is a population-based case-control study designed specifically to evaluate if Vietnam veterans are at increased risk of developing STS, NHL and certain other cancers. This large study, now underway in several areas of the United States, will be completed in late 1989 and the results will be published in 1990. Because it will include detailed lifetime exposure histories for all participants, the study promises to provide more definitive information on cancer risks among Vietnam veterans than has heretofore been possible. Consideration of the proposed legislation seems premature in light of this major study, so near to completion.

Finally, a causal inference relating Agent Orange to subsequent malignancy requires evidence that the veterans were exposed to the herbicide at moderate-to-high levels. Information on probable exposures is available from blood levels of dioxin, which has a half-life of about seven years. Recent studies (11) suggest that Air Force pilots in Vietnam who loaded and handled the material have blood dioxin levels 30 times those of the ground troops. Further, those exposed to dioxin in the Seveso accident in Italy have blood levels roughly 90 times that of the Air Force pilots, and thus 2700 times that of the ground troops in Vietnam. It is noteworthy that, to date, there has not been an excess of STS or NHL among the Seveso workers. It is also noteworthy that the excess NHL risk noted in Kansas and Nebraska occurred among men who applied and mixed the herbicides. Such activities involve inhalation and dermal contact more intense than that probably experienced by the ground troops in Vietnam.

In summary, at this time, the cumulative epidemiologic evidence does not support establishing a permanent presumption of service connection for Vietnam veterans with NHL or STS. It therefore seems scientifically prudent to postpone this legislation until completion of the forthcoming Centers for Disease Control's Selected Cancers Study, expected in early 1990. Much more definitive information on Agent Orange-related risks of NHL and STS can be expected from this study because of its sound design, its population base, its large numbers of cases of NHL and STS, and its detailed exposure information. Legislation at the time its findings are available would provide the base for Congressional action that is more informed and more responsive to the needs of the Vietnam veterans.

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7. Kogan MD, Clapp RW: Soft tissue sarcoma mortality among Vietnam veterans in Massachusetts, 1972 to 1983. Int J Epidemiol 17: 39-43, 1988.

8. Anderson H, Hanrahan L, Jensen M et al: Wisconsin Vietnam veteran mortality study—proportionate mortality results. State of Wisconsin Division of Health, 1985.

9. Presented at the Annual Meeting of the Society for Epidemiologic Research, Vancouver, BC. June 1988.

10. Testimony at Senate Hearing to consider S. 1692 (the proposed "Agent Orange Disability Benefits Act of 1987") and S. 1787 (the proposed "Veterans' Agent Orange Disabilities Act of 1987") and Agent Orange-related oversight issues, May 12, 1988.

11. Dr. Robert Miller, personal communication.

OFFICE OF THE
ADMINISTRATOR OF VETERANS AFFAIRS,
Washington DC, August 23, 1988.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: I am writing to you on behalf of the Veterans' Advisory Committee on Environmental Hazards in response to the letter of August 5, 1988, by you and Senator Murkowski wherein you asked for the views of the Committee on a number of studies relating to the association of soft-tissue sarcoma and non-Hodgkin's lymphoma with exposure to phenoxy acid herbicides or their contaminant, 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin.

Rather than address each individual study as your letter requested, the committee believes it more beneficial to discuss the issue as a whole and to refer to those studies particularly germane to the Vietnam veterans' experience.

First, the work of Hardell et al., wherein they found an association between soft-tissue sarcoma and prior exposure to phenoxy acid herbicides is of key importance. That work generated considerable interest in the question and stimulated much research in this area. Neither the authors of this work nor the authors of the other papers cited have stated a cause and effect relationship for this association. (For example, Coggon and Acheson, "Do Phenoxy Herbicides Cause Cancer in Man?" The Lancet 1(8278): 1057-1059 (1982): "On the present evidence it seems possible that soft-tissue sarcomas have arisen in association with exposure to phenoxy herbicides during both manufacture and use in the field. . . . (T)here is suggestive evidence of a biological association between phenoxy herbicides (or their contaminants) and soft-tissue sarcoma." Also, Remington, "However, the four Swedish studies are generally good and do considerably raise the index of suspicion concerning the possible carcinogenicity of phenoxy acids." Cong. Record August 6, 1980, p. S 10911)

As stated at the May 12, 1988, hearing before the Senate Committee on Veterans' Affairs, however, the relevance of this earlier work to the veterans who served in Vietnam is marginal. First, these studies engendered serious methodologic and statistical criticisms. Perhaps, more importantly, the types and duration of exposure among subjects in these studies and in other occupationally exposed groups had do not mirror those of the Vietnam veteran. The typical Vietnam veteran served on the average of 13 months in Vietnam. The vast majority of the veterans did not serve in areas of heavy combat where most of the heavily concentrated spraying was conducted. Consequently, most Vietnam veterans are now believed to have had little opportunity for meaningful exposure. The Centers for Disease Control's recently published blood assay study confirms this. That study found that those Vietnam veterans thought to have had higher exposure opportunities did not have any higher levels of serum dioxin than those who had known exposure. The occupational exposure studies, however, usually involved groups with many months, if not years, of exposure to a variety of chemicals, including the chemicals of interest.

With respect to the various mortality studies, a number of these relied upon death certificate information for determining cause of death without confirming that information by, for example, reviewing the individual's medical-clinical records or conducting an independent review of available pathological specimens. As is discussed later in commenting on the individual studies, this is important because the margin of error can be great especially with difficult to identify malignancies such as soft-tissue sarcomas.

With regard to those studies that relate specifically to Vietnam veterans, the Advisory Committee has reviewed each of the studies cited: "West Virginia Vietnam Era Veterans Mortality Study"; the "Wisconsin Vietnam Veteran Mortality Study"; "Soft Tissue Sarcoma and Military Service in Vietnam: A Case Control Study"; and "Mortality Among Vietnam Veterans in Massachusetts, 1979-1983." The Committee also reviewed a number of studies not referenced: "Mortality Patterns of New York State Vietnam Veterans"; "Post Service Mortality Among Vietnam Veterans"; "Proportionate Mortality Study of Army and Marine Corps Veterans of the Vietnam War"; "Mortality of Australian Veterans of the Vietnam Conflict and the Period and Location of Their Vietnam Service"; "Sarcomas of Soft Tissues after Vietnam Service"; "Soft Tissue Sarcomas and Military Service in Vietnam: A Case Comparison Group Analysis of Hospital Patients"; and the various reports from the "Ranch Hand" study. Additionally, there is the recently completed Centers for Disease Control's Vietnam Experience Study which the Committee will review at its next meeting in November, 1988.

Among the factors taken into account by the Scientific Council of the Advisory Committee in its review of the scientific literature were: (1) the relevance of each scientific report to the experience of the Vietnam veteran; (2) evidence of significant exposure to the constituents of Agent Orange or other herbicides during the Vietnam conflict based upon descriptive reports and, when available, tissue studies, for example, blood serum; (3) the validity of diagnosis of the cases, particularly the availability of pathological/hematological confirmation; (4) the statistical strength of the reported association or lack of association between exposure and the subsequent developing disease; (5) evidence of a dose-response relationship; (6) the interval between exposure and the date of onset of the disease; and (7) the consistency of the reports, pro or con, for an association.

The Committee considered the "West Virginia Vietnam Era Veterans Mortality Study" and the "Wisconsin Vietnam Veteran Mortality Study" together. Neither of these studies presented any information on pertinent confounding factors such as smoking and alcohol consumption. The studies were relatively small with few deaths being studied. This could leave any one study having a small statistically non significant effect with too little statistical power to pick up any real meaningful differences even if those differences existed. For that reason, the Committee thought it worthwhile to consider the studies together.

The basis of the West Virginia study is the availability of data derived from the payment of bonuses to those who served in Vietnam. There was no basis for determining what percentage of the eligible population applied for the bonus; hence the completeness of these data is unknown. Also, the study would exclude persons who received the bonus and then emigrated from the state. The study's authors also noted these limitations.

The study considered deaths among three groups of men—Vietnam veterans, Vietnam era veterans, and male non-veterans. There was no information available concerning the likelihood of exposure to Agent Orange.

The West Virginia study found no difference for all causes of death but did note higher proportionate mortality ratios for lymphoma (Hodgkin's disease), testicular cancer, and soft-tissue sarcoma among Vietnam veterans.

The Wisconsin study was similar to the West Virginia study and found statistically significant increases in pancreatic cancer, all diseases of the genito-urinary system, and all pneumonias.

Regarding soft-tissue sarcoma, the West Virginia study found 3 deaths from soft-tissue sarcoma among those categorized as Vietnam veterans when 0.7 was expected. The Wisconsin study, found 5 deaths with 3.4 expected, a statistically non-significant difference. With, however, combination of the results of the two studies, a controversial technique of questionable scientific validity, a statistically significant difference emerges.

Both of these studies entailed review of death certificates for determination of cause of death. Neither study considered pathologic confirmation of the diagnosis of the soft-tissue sarcoma. There is general agreement that an accurate diagnosis of a soft-tissue sarcoma is a difficult task that can result in an underreporting of the actual frequency of this type of malignancy.

An additional point in regard to the West Virginia study is that among the 3 identified soft-tissue sarcoma cases among those categorized as Vietnam veterans, 2 had never served in Vietnam. At our meeting in March 1986, it was reported that one of the veterans had served in Thailand and the other had served on board a ship off the coast of Vietnam. This emphasizes the importance of verification of the reported service data.

Also, both of these studies had no information whatsoever concerning exposure to Agent orange. Hence, one should consider these as Vietnam experience studies.

The Committee reviewed the paper by Kang et al., "Soft Tissue Sarcoma and Military Service in Vietnam: A Case-control Study," *JNCI* 79: 693-699 (1987) at its February 1988 meeting. The authors of that paper had selected cases of soft-tissue sarcoma from among those reported to the Armed Forces Institute of Pathology (AFIP). This involved men diagnosed between January 1975 and December 1980 who were born between 1940 and 1955, thereby restricting the study to individuals potentially at risk of exposure to Agent Orange. The study attempted to reduce selection bias by choosing a cut off year that preceded the publicity concerning Agent Orange and Vietnam service. The study enrolled 217 cases of soft-tissue sarcoma and 599 controls. The factors examined included: Vietnam service, occupational and non-occupational exposure to various chemicals, occupational history, medical history and life style.

The authors concluded that the results did not support a strong positive association between Vietnam service and the occurrence of soft-tissue sarcoma. Vietnam veterans, as well as subgroups categorized as having had higher opportunities for Agent Orange exposure by virtue of their military occupation or the location of their units in Vietnam, did not have a statistically increased risk of soft-tissue sarcoma when compared with men who never served in Vietnam. However, the Vietnam veterans who had higher opportunities for Agent Orange exposure appeared to have had a numerically greater incidence of soft-tissue sarcoma, although not statistically significant. The authors noted, however, that the findings in regard to subgroups of Vietnam veterans had a smaller sample size and consequently considerably weaker study power than those that pertain to Vietnam veterans generally.

The Committee thought that a particular strong point of this work was the source of cases, namely, the AFIP, where there is an assurance of accurate diagnosis of a soft-tissue sarcoma. This sole source of case selection could also constitute a weakness and allow for potential selection bias. Additionally, the paper suffered the major disadvantage of inability to determine exposure to Agent Orange. The Committee noted that the observed tendency towards increased risk of soft-tissue sarcoma was not statistically significant. The Committee considered this to be a well done but negative study on Vietnam service and soft-tissue sarcoma.

The Committee reviewed and commented upon the paper by Kogan and Clapp, "Mortality Among Vietnam Veterans in Massachusetts, 1972-1983," at its meeting in June 1985. This study was a proportionate mortality analysis of cause of death among male Vietnam veterans compared with male veterans who did not serve in Vietnam and male non-veterans from Massachusetts. The cause of death was determined by a review of death certificate information. Veteran status was based upon whether or not the decedent's name appeared on a list of Massachusetts veterans who served from 1958-1973 and received a bonus. (Vietnam veterans received a higher bonus than non-Vietnam veterans and non-veterans received no bonus.)

The study found proportionately more deaths due to motor vehicle accidents, suicides, and kidney cancer among Vietnam veterans compared to non-veterans for the period 1972-1983; these increases were statistically significant. Deaths due to stroke and connective tissue cancer were significantly elevated among Vietnam veterans compared to both non-Vietnam veterans and non-veteran males. Death due to circulatory system diseases, other then stroke, were lower among the Vietnam veterans compared to non-Vietnam veterans. There were proportionately elevated deaths due to motor vehicle accidents and suicide.

The authors of the study recognized the inherent limitations of the proportionate mortality analysis they had performed and the problems with their data sources. With respect to the soft tissue sarcoma finding, the authors stated:

"The significant elevation of connective tissue cancer was based on only nine deaths; all of these were sarcomas of five different types. . . . Previous studies have reported that soft-tissue sarcomas were associated with exposure to phenoxyacetic acids such as 2,4-D and 2,4,5-T, the components of Agent Orange. For all of the cases with the possible exception of case 9, occupational exposure as obtained from the death certificate did not seem to be significant. A more recent study of upstate New York Vietnam veterans reported no excess of soft-tissue sarcomas diagnosed through 1980. The present study was not based on either adequate numbers of deaths or adequate exposure information to help resolve this important issue. Nevertheless, the highly significant excess of this rate malignancy in Vietnam veterans is important new information. The latency period for soft-tissue sarcoma in adults is probably sufficiently long that several more years of observation will be necessary before any conclusive findings can be made."

The Advisory Committee believed the study well conducted and agreed with the authors concerning the study's limitations. The Committee indicated, at the time of the review in June 1985, that the study did not present any persuasive evidence that soft-tissue sarcoma occurs with greater frequency among individuals exposed to dioxin than among those not so exposed.

The Committee, in reviewing the Massachusetts study, also discussed two studies conducted in New York: Greenwald, et al., "Sarcomas of soft tissues after Vietnam service," JCNI 73: 1107-1109 (1984) and Lawrence et al., "Mortality Patterns of New York State Vietnam Veterans," AJPH 75: 277-279 (1985). The first study by Greenwald et al., found no significant association between soft-tissue sarcoma and exposure to Agent Orange or service in Vietnam. The principal concern the Committee had with this study was that the period between service in Vietnam and the subsequent development of a soft-tissue sarcoma may have been too shot to detect meaningful differences.

The second study by Lawrence et al. found no significant difference between Vietnam veterans and non-Vietnam veterans for causes of death. The deaths due to soft-tissue sarcomas were distributed between Vietnam and non-Vietnam veterans. The Committee voiced the same concern with this study as it had with the Greenwald study: i.e., the latency period may be longer than the period covered by the study.

In a paper by Kang et al., "Soft-Tissue Sarcomas and Military Service in Vietnam: A Case Comparison Group Analysis of Hospital Patients", J. Occup. Med. 28: 1215-1218 (1986), the investigators searched the VA's Patient Treatment File to identify all Vietnam era veterans diagnosed with soft tissue sarcomas from 1969 to 1983 and identified 234 cases. The comparison group consisted of 13,496 patients systematically sampled from the same Vietnam era patient population as that of the cases. Then, the investigators obtained military service information. The authors found no significant association of soft-tissue sarcomas with military service in Vietnam.

The Committee, in its review, noted that the study has as a limitation its hospital basis which may allow for selection bias. Also, as with the two New York State studies, there may have been insufficient lead time; for 80% of the cases, diagnosis occurred within ten years subsequent to possible exposure in Vietnam.

The Centers for Disease Control conducted a mortality study of Vietnam veterans (Boyle et al., "Post Service Mortality Among Vietnam Veterans", JAMA 257: 790-795 (1987) and found that Vietnam veterans experienced excess mortality during a five year period following separation from military service primarily due to motor vehicle accidents, suicide, homicide, and accidental poisonings. Thereafter, the mortality among Vietnam veterans was similar to that of other Vietnam era veterans except for drug-related deaths which continued to be elevated. Among Vietnam veterans there was no reported excess mortality for soft-tissue sarcoma. The Advisory Committee judged this a well designed and well conducted study, though, obviously, not directly relevant to the issue of Agent Orange exposure.

The Committee reviewed and commmented favorably upon the study by Breslin et al., "Proportionate Mortality Study of Army and Marine Corps Veterans of the Vietnam War," J. Occup Med. 30: 412-419 (1988). This was a study of the patterns of mortality among 24,235 Army and Marine Corps veterans who served in Vietnam compared with that of 25,685 non Vietnam veterans. The study entailed determination of standardized proportional mortality ratios. The veterans were a random sample of deceased Vietnam era veterans identified in the VA's Beneficiary Identification and Record Locator Subsystem. Military service information was obtained from military personnel records and cause of death information was obtained from death certificates. Statistically significant excess proportional deaths were observed among Army Vietnam veterans for the motor vehicle accidents, non-motor vehicle accidents, and accidental poisonings. Proportional deaths from suicide were not elevated among Vietnam veterans. Marine Corps veterans were observed to have excess proportionate mortality ratios for lung cancer and non-Hodgkin's lymphoma. There was no excess observed for soft-tissue sarcoma. (A discussion of the Committee's views on this study with respect to the excess mortality ratio for non-Hodgkin's lymphoma follows.)

Finally, the Committee reviewed a mortality study of Australian Vietnam veterans. Forcier et al., "Mortality of Australian Veterans of the Vietnam Conflict and the Period and Location of Their Vietnam Service," Military Medicine 152: 117-123 (1987). This was a retrospective cohort mortality study of 19,205 Australian veterans who served in Vietnam. Causes of death were analyzed by the time period of service in Vietnam and by 5 classifications of military jobs. For all causes of death, the results were negative, i.e., "no statistically significant variation in death rates either between the phases of the Conflict or between locations or service in Vietnam."

The Committee has also reviewed various reports on the Ranch Hand study. In neither the mortality nor the morbidity reports released thus far has there been any observed excess of soft-tissue sarcomas or non-Hodgkin's lymphoma among the Ranch Hand population of approximately 1,200 men as compared to the larger number of controls. The Committee has commented, however, that the relatively small size of this study should be kept in mind in view of the absence of any cases of soft-tissue sarcoma.

The material with your letter also references several papers that deal with non-Hodgkin's lymphoma. As with Soft-tissue sarcoma, the Committee believes that the most pertinent work is that which relates to the Vietnam veterans' experience. We note that few of the studies that do concern Vietnam veterans have identified non-Hodgkin's lymphoma as among those conditions observed in greater then expected frequency.

Perhaps the most important of the Vietnam experience papers is the "Proportionate Mortality Study of Army and Marine Corps Veterans of the Vietnam War," J. Occup. Med. 30: 412-419 (1988). Following its review of this paper in October 1987, the Committee issued the following statement:

"The Veterans Administration's "Proportionate Mortality Study of Army and Marine Corps Veterans of the Vietnam War" is a well-designed and well-conducted study. The general conclusion, no statistically significant differences in overall mortality between Vietnam and non Vietnam veterans, is supported by the reported data. Concern is raised by the statistically significant proportional mortality findings of excess non-Hodgkin's lymphoma and lung cancer among Marines who served in Vietnam. This finding did not appear among Army veterans who served in Vietnam during the same time period as the Marine veterans involved in the study. It is our best scientific and professional judgement that the findings concerning the non-Hodgkin's lymphoma and lung cancer, while statistically significant, should be interpreted with caution and are not conclusive.

"Reasons for this include the fact that a proportionate mortality study, by its very nature, cannot resolve by itself the question whether the observed results constitute a direct cause and effect relationship. A study such as this can only lead to the identification of issues requiring further study and analysis.

"In particular, with respect to the lung cancer finding, nothing is known about the smoking history of the study's subjects. Given the widely accepted view of a causal relationship between smoking and the subsequent development of lung cancer, it is critical that more analyses be done before drawing any conclusions about the relationship between service in Vietnam and the subsequent occurrence of lung cancer.

"We therefore, do not recommend that the Veterans Administration effect any changes in its guidelines on the basis of this study."

The Committee continues to urge caution in interpretation of the results of this effort. Our basis for caution in interpreting a proportionate mortality study is one that others in the scientific community share. For example, the authors of the study "Mortality among Vietnam veterans in Massachusetts, 1972-1983" referenced earlier commented:

"The standardized proportionate mortality ratio (sPMR) as a method of analysis has been criticized by various authors. The major criticisms of the sPMR approach concern the summary of nature of the statistic. Because the sPMR for all causes must equal 100, the statistic cannot give any information about the total force of mortality. Secondly, the sPMRs for two or more causes are interdependent, since the sum of the expected numbers must equal the sum of the observed numbers. Therefore, any sPMR greater than the null may be an underestimate if more than one specific cause of death is estimated. It has also been pointed out that sPMRs tend to be more easily interpreted for uncommon causes of death, because they are less dependent upon how common are the other causes, relative to the cause of interest."

Reference was also made to the Vietnam Experience Study that demonstrated a statistically significant excess of non-Hodgkin's lymphoma among veterans who served in Vietnam. We are aware of correspondence between the Centers for Disease Control (CDC) and the Veterans' Affairs Committees of the House and Senate that 7 cases of non-Hodgkin's lumphoma had been discovered among the 7,924 Vietnam veterans who participated in the Vietnam Experience Study whereas there was only 1 case among the 7,364 non Vietnam veterans who served as controls. In a subsequent letter to the Veterans Affairs Committees, the CDC provided additional information that sheds more light on this issue. The CDC reported that among the 7 Vietnam veterans with non-Hodgkin's lymphoma, one had the disease while in Vietnam and 2 others developed the disease within 3 and 4 years of leaving Vietnam. This time frame is too short a latent period for any possible association with exposure while in Vietnam. Also, the CDC reported that the cases of non-Hodgkin's lymphoma were not identical and included 2 cases of an extremely rare form of the disease. These additional factors raise serious questions about the interpretation of these findings.

Finally, the listing of studies on non-Hodgkin's lymphoma contains a reference to two papers concerning the VA's Agent Orange Registry. In that description of the Registry, as it existed in 1983, the authors noted:

"Some differences, however, were found for cancer of the buccal cavity and pharynx, and lymphomas. The 95% confidence limits for differences in proportions for these two sites were 1.2-5.7 and 1.6-8.4 respectively. In other words, proportions for the sites in the Registry were higher than expected from the reference population. Whether these marginal, but statistical, differences are artifacts or something of importance is not clear at this time. . . . In analyzing and describing the Registry data, one must recognize many limitations of data source and exercise great caution. The veterans in the Agent Orange Registry are a self-selected group of veterans who are concerned about the possible adverse health effect of Agent Orange and who were willing to visit VA hospitals for physical examinations. Therefore, they may not be representative of the general Vietnam veteran population. One can not be sure whether certain symptoms and diseases in the group are underrepresented or overrepresented. A valid external comparison of health outcomes from this group to other populations is difficult to make for this reason."

The Veterans Advisory Committee on Environmental Hazards agrees with this analysis. Additionally, the Committee notes that a large series of comparisons can be expected to reveal a "significant difference" by chance alone.

In conclusion, the Committee continues to hold to the opinion expressed before your Committee at its hearing on May 12.

"It is the consensus of the (Advisory Committee) that there is no convincing scientific or medical evidence to associate adverse health consequences with exposure of Vietnam veterans to dioxin or Agent Orange. In fact, the evidence is accumulating that Vietnam veterans are not at increased risk for disease. There are, however, some areas that are especially deserving of close examination; in particular, whether there is a relationship between exposure and the later development of non-Hodgkin's lymphoma."

Questions regarding adverse health effects of exposure to Agent Orange or, indeed, to service in Vietnam are most vexing. There remains an inherent inability of science to state conclusively and definitively whether or not Vietnam veterans have experienced untoward health effects as a consequence of their service in Vietnam. But one should not translate that inability to be definitive into an excuse for precipitious action. We cannot ignore the considerable investigation that has been reported regarding Vietnam veterans. That work has thus far failed to demonstrate that Vietnam veterans suffer from physical illnesses in unusual numbers or at premature ages. Rather, the bulk of the scientific evidence is that Vietnam veterans are no different, health-wise, than you or me. Whatever action Congress chooses to take should acknowledge this basic fact and should not be cloaked in the fiction that Vietnam veterans as a class have experienced undue impairment of their physical health as a result of their honorable and dedicated service to their country.

A similar letter is being sent to Senator Murkowski.

Sincerely,

OLIVER E. MEADOWS,
Chairman, Veterans' Advisory Committee on Environmental Hazards.
LEONARD T. KURLAND,
M.D. Dr. Ph.D.
Chairman, Scientific Council, Veterans' Advisory Committee on Environmental Hazards.

BOSTON UNIVERSITY
SCHOOL OF PUBLIC HEALTH,
Boston, MA, August 15, 1988.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: I am a member of the Veterans' Advisory Committee on Environmental Hazards and, in fact, serve as chair of the Dioxin Panel of the Scientific Council of that Committee. I am a biostatistician-epidemiologist who, since the mid-1980's, has had considerable interest in and involvement with the issue of heribicide exposure and subsequent adverse health effects, particularly cancer. I am familiar with and have reviewed nearly all the epidemiologic studies that deal with this issue. I am writing to you not in my role as a member of Veterans' Committee, but as a public health scientist with interest in the question of dioxin exposure and cancer.

In the material assembled to support the Daschle-Kerry legislation, the paper by Hoar et al (Journal of the American Medical Association, 256, pp. 1141-1147, September 5, 1986) figures prominently in the documentation cited to support the association with non-Hodgkin's lymphoma. (Interestingly, although the Hoar et al study does indeed support the non-Hodgkin's lymphoma association, another major finding in this study was no association for soft tissue sarcoma. Curiously, no mention of the Hoar et al study and this negative finding appears in the documentation of evidence regarding soft tissue sarcoma.) I wish to point out that

I wrote the editorial for the Journal of the American Medical Association that accompanied publication of the Hoar et al paper. I am enclosing, for your information, a reprint of my editorial.

The editorial summarizes my assessment of the state of the epidemiologic evidence at that time regarding herbicide exposure and cancer, in particular, soft tissue sarcoma, Hodgkins's disease and non-Hodgkins lymphoma. I hope I have provided sufficient rationale and justification for the strengths and weaknesses of the various studies.

I do not believe that in the two years since publication of my editorial and what has subsequently appeared in the literature that I would change any of my conclusions regarding the state of the evidence. In fact, I wish to note that the subsequently published Kang case-control study to which I refer (p. 1177, bottom of the second column) was negative and thus adds additional strong support to no association with soft tissue sarcoma.

I reiterate my stance that the present state of scientific evidence is negative in regard to dioxin exposure and soft tissue sarcoma. With regard to non-Hodgkins' lymphoma, I would say, "The jury is still out on that one". The epidemiologic evidence to date is suggestive of an association, but is far from conclusive. I, for one, eagerly await completion and publication of the Selected Cancer Case—Control Study that the Centers for Disease Control is currently undertaking. This study, in my view, has the potential to provide the solid further information that can tilt the balance on the comulative evidence regarding association with non-Hodgkins lymphoma.

There may be good reason politically and otherwise to compensate Vietnam veterans, particularly those who eventually suffer as devastating an illness as cancer. To do so, however, on the basis that there is firm scientific evidence that herbicide exposure in Vietnam caused these cancers is, in my view, totally unjustified at this time.

Yours sincerely,

THEODORE COLTON, Sc.D.,
Professor of Public Health (Epidemiology and Biostatistics).

[From JAMA, Sept. 5, 1986]

HERBICIDE EXPOSURE AND CANCER

The case-control study in Kansas reported by Hoar et al[1] in this issue has importance beyond its population of agriculture workers to the highly controversial and adversarial issue of health effects associated with herbicide exposure in Vietnam. The well-designed and carefully executed Kansas study adds substantially to the cumulating body of evidence concerning the following question: Does human exposure to phenoxyacetic acid herbicides increase the risk of soft-tissue sarcomas (STS), Hodgkin's disease (HD), and non-Hodgkin's lymphoma (NHL)? The findings among Kansas farmers are in accord with "no" answers to the first two malignancies and a "yes" answer to the third.

Most relevant to the Kansas study are the series of case-control investigations undertaken by Hardell and colleagues[2-4] in rural Sweden in the mid- and late-1970s. Hardell's studies found highly significant relative risks, of magnitude fivefold and sixfold, for exposure to phenoxyacid herbicides in association with STS, HD, and NHL. Among the published epidemiologic studies, many regard the Hardell studies as the strongest in study design and certainly as providing the strongest available evidence of an association of herbicide exposure with the occurrence of cancer. However, selection bias, observation bias, and uncontrolled confounding loom as important points of vulnerability and, in fact, have emerged as the focus of sharp criticisms of the Hardell studies. In addition to critiques in the scientific literature, Hardell's studies have garnered considerable airing in the harsh give-and-take of the courtroom. Most recently, Hardell provided testimony in Australia to the Royal Commission on the Use and Effects of Chemical Agents on Australian Personnel in Vietnam. The commission's Final Report[5] states:

"This absence of replication, [I discuss this below] the absence of specific outcome (ie, 12 types of soft tissue sarcoma, non-Hodgkin's malignant lymphoma and Hodgkin's Disease), admitted information bias, the presence of significant confounding factors, the unreliability of the exposure data and the other factors detailed above all indicate that the statistical associations asserted by Dr. Hardell are suspect. The Commission cannot, on the balance of probability, accept them as supporting an inference of causal connection between soft tissue sarcoma, malignant lymphoma and exposure to phenoxy herbicides."

With regard to STS, one other case-control study has appeared, namely, that of Smith et al[6] in New Zealand. Smith's findings conflict with those of Hardell and yield a negative result with an estimated relative risk of 1.3. Smith's study was designed to have adequate statistical power to detect a relative risk of roughly 3, if such a risk truly existed.

What now does the study by Hoar et al add to the evidence? Perhaps most noteworthy are the negative findings for STS and HD. As a crude tally, this makes a score of two negative (Smith and Hoar) vs one positive (Hardell) study for STS and a tie of one each negative (Hoar) and positive (Hardell) study for HD. With regard to NHL, the score stands at two positive studies (Hoar and Hardell).

More important and relevant, however, are how the Hoar and Hardell studies compare methodologically. Does the Hoar study better withstand the critical onslaught that has besieged Hardell's studies? Of course, the Hoar study has undergone only the intensity of *JAMA*'s peer review process and has not (at least to my knowledge) been subject to the rigors and scrutiny of courtroom debate. Let me attempt to probe some methodological contrasts of the two studies.

The Hoar study, like Hardell's, has the strength of case ascertainment with a population-based tumor registry along with independent pathological review and confirmation of disease. The Hoar study is considerably larger than Hardell's, with nearly twice the number of cases of malignant lymphoma and three times the number of controls. Thus, Hoar's study has considerably greater statistical precision and statistical power to detect differences. Both studies employed population-based controls, using living controls for living cases and deceased controls for deceased cases. As such, both studies had to rely in part on next of kin's reporting of exposure status.

In contrast to what has surfaced regarding the procedure for conducting the interviews in the Hardell studies, the Hoar study involved experienced and trained interviewers who followed a detailed, predetermined interview protocol (Dr. Hoar, oral communication, April 1986). The interviewers knew that the study concerned chemical exposure, but were unware that the study's major hypothesis dealt with exposure to phenoxyacetic acid herbicides. Although the Hoar study intended blind interviews in regard to the subject's status as a case or control, information provided during the conversation often indicated clearly to the interviewer the subject's disease classification. Another advantage of the Hoar study is that the interviewing, conducted mainly in 1983, occurred at a time when there was no particular local media attention to herbicide exposure and cancer risk. Although there was considerable national concern at that time with Agent Orange exposure in Vietnam, the media in Kansas in 1983 did not shine the public spotlight on farmers' herbicide exposure and their risks of these three malignancies. This is very much in contrast to the timing of the Hardell studies during a period of intense media attention in Sweden and Dr. Hardell's prominent role in the media with his taking of an advocacy position. Clearly, the interview methodology and the climate of the Hoar study make information bias a much more unlikely explanation for their findings compared with the Hardell studies.

Another strength of the Hoar study is the validation of a sample of self-reported exposure by a survey of suppliers. No differences were found in the corroboration among controls and each of the STS, HD, and NHL cases. Of course, not all subjects had such validation of their exposure status. But what was done suggests the unlikely event of large differences between cases and controls in their accuracy of reporting exposure.

The Hoar study considered and reasonably ruled out confounding effects of exposure to other herbicides, insecticides, fungicides, nonfarming exposures, and both the known and alleged risk factors for each of these three malignancies. Another strength of the Hoar study is the consistent dose-response relationship for NHL according to the nature, intensity, and duration of exposure. The specificity of the findings of an association with one cancer and no association with the other two is another relative strength of the Hoar study compared with the Hardell studies, in which the results were an across-the-boards elevated relative risk for each of the three cancers.

Limitations of the Hoar study include those inherent with case-control studies that rely on subjects' and next of kin's recall of exposure status. Faulty recall leads to misclassification. If this occurred equally among cases and controls, the study would underestimate and thus possibly miss a true increase in risk. If it occurred differentially, this could lead to bias. As indicated above, however, bias due to differential recall of cases and controls seems unlikely in the Hoar study.

Another limitation characteristic of observational epidemiologic studies is the possibility of uncontrolled confounding, particularly with diseases whose epidemiology is unclear. This, of course, remains a possibility and to some extent constitutes the frontiers of our knowledge of the etiology of these three malignancies.

Also, one cannot rule out entirely the possibility of chance as an explanation for the findings.

All in all, however, the Hoar study does indeed provide a much firmer and tighter body of scientific evidence than do the Hardell studies.

What supporting or contradictory evidence exists from other epidemiologic studies? None of the several industrial cohort mortality studies of dioxin exposure has resulted in a noted perturbation in the frequency of deaths from these cancers. The one published cohort study of Agent Orange exposure in Vietnam, namely, the US Air Force Ranch Hand Study,[7] has to date not detected any increase in incidence or mortality from these cancers. But, the industrial studies generally entail extremely small sample sizes that almost totally lack adequate statistical power to detect meaningful increases in risk. Even the Ranch Hand Study with its defined cohort of roughly 1200 exposed individuals lacks statistical power to detect an increased risk of these malignancies, whose incidence rates in the general population are low. Thus, the negative findings of the published cohort studies, though at first blush are corroborative of the negative case-control studies, provide little substantiation because of their inherent small sample size and limited statistical power.

Several proportional mortality studies have appeared in "bonus" states (ie, those states that offered a bonus in terms of a financial incentive to men who enlisted for Vietnam service). Most notable is the Massachusetts study[8] that found nine deaths from STS among Vietnam veterans compared with only one expected. Interestingly, the Massachusetts study lacked sufficient numbers to investigate proportional mortality for NHL (Richard Clapp, MPH, oral communication, March 1986). In contrast to case-control studies, proportional mortality studies have even greater vulnerability to forces of selection, observation, and confounding biases. Furthermore, these state studies have three additional serious limitations: (1) the quality and accuracy of the death certificate diagnosis of these malignancies, (2) the effects of migration resulting from the sizable numbers of veterans who, subsequent to their military service, emigrated from the state and thus do not appear on the state's death tapes, and (3) the fact that none of these studies determined decedents' herbicide exposure but dealt only with their service in Vietnam. Thus, whatever the findings of the proportional mortality investigations, they add little if any substantive analytic evidence to the fundamental question of cancer risk as a result of herbicide exposure.

Is more pertinent evidence on these cancer risks in the offing? Yes! To my knowledge two additional case-control studies of these cancers are under way, each involving a considerably larger number of cases than any of the studies presently at hand, including the study by Hoar. Both studies in progress involve herbicide exposure in Vietnam as assessed by the Environmental Support Group of the Armed Forces with the use of available military records on troop locations in conjunction with records of herbicide sprayings. The first of these studies, tentatively scheduled for completion in the summer of 1986, is a joint effort of the Veterans' Administration and the Armed Forces Institute of Pathology (Han Kang, PhD, oral communication, March 1986). It involves STS only and entails nearly 300 confirmed cases ascertained through the Armed Forces Institute of Pathology and approximately 600 controls. The study was designed to have good statistical power to detect a twofold increase in relative risk. The second study is the Selected Cancers component of the massive Centers for Disease Control's Epidemiologic Studies of the Health of Vietnam Veterans. The Centers for Disease Control's selected cancers study, scheduled for completion in the fall of 1989, entails enrollment of approximately 400 incident cases of STS and 2400 malignant lymphomas (HD and NHL) during the period Dec. 1, 1984, through Nov. 30, 1988 (Edward Brann, MD, oral communication, March 1986). Case ascertainments is through six population-based cancer registries in the United States that, interestingly, includes the registry in Kansas. The studies by the Centers for Disease Control have been designed to have good statistical power (namely, 80% or higher) to detect a true twofold increase in relative risk for each of these three cancers, as well as for other "selected" cancers (ie, primary liver, nasal and nasopharyngeal).

Where does this leave us now in regard to herbicide exposure and cancer risk? The Hoar study in Kansas, in conjuction with the Smith study in New Zealand, tends to shift our concern toward a somewhat lesser interest in STS and a greater interest in NHL. I note that in Hardell's study of malignant lymphoma,[4] only one short paragraph at the end of the "Results" section indicated that the elevated risk was the same for HD and NHL; otherwise, Hardell's analysis considered the two malignancies together as "malignant lymphoma." Hoar et al have now focused attention specifically on NHL risk.

Perhaps the question will never be answered entirely satisfactorily. Whatever direction future results take, it is clear that the report by Hoar et al will have considerable use—and the attendant and inevitable abuse—in the continuing scientific controversy, public debate, and legal battles regarding herbicide exposure and cancer risk.

THEODORE, COLTON, ScD,
Boston University School of Public Health.

FOOTNOTES

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[1] Hoar SK, Blair A, Holmes FF, et al: Agricultural herbicide use and risk of lymphoma and soft-tissue sarcoma. *JAMA* 1986;256:1141-1147.

[2] Hardell L, Sandstrom A: Case-control study. Soft-tissue sarcomas and exposure to phenoxyacetic acids or chlorophenols. *Br J Cancer* 1979; 39:711-717.

[3] Eriksson M, Hardell L, Berg NO, et al: Soft-tissue sarcomas and exposure to chemical substances: A case-referent study. *Br J Ind Med* 1981;38:27-33.

[4] Hardell L, Eriksson M, Lenner P, et al: Malignant lymphoma and exposure to chemicals especially organic solvents, chlorophenols and phenoxy acids: A case-control study. *Br J Cancer* 1981;43:169-176.

[5] *Cancer, vol 4, in Final Report—Royal Commission on the Use and Effects of Chemical Agents on Australian Personnel in Vietnam.* Canberra, Australia, Australian Government Publishing Service, 1985, pp VIII-166.

[6] Smith AH, Pearce NE, Fisher DO, et al: Soft-tissue sarcoma and exposure to phenoxyherbicides and cholorophenols in New Zealand. *JNCI* 1984; 73:1111-1117.

[7] Epidemiology Division, Data Sciences Division; *Project Ranch Hand II—An Epidemiologic Investigation of Health Effects in Air Force Personnel Following Exposure to Herbicides; Baseline Mortality Study Results.* Brooks AFB, Tex, USAF School of Aerspace Medicine, 1983.

[8] Kogan MD, Clapp RW: *Mortality among Vietnam veterans in Massachusetts, 1972-1983.* Boston, Division of Health Statistics and Research, Massachusetts Dept of Public Health, 1985.

THE UNDER SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, August 26, 1988.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As promised in my letter to you dated August 12, 1988, I requested the Science Panel of the Domestic Policy Council, Agent Orange Working Group to review the list of studies you sent me on August 5, 1988. These studies purport support establishing permanent presumptions of service connection for Non Hodgkins Lymphoma (NHL) and Soft Tissue Sarcoma (STS) for purposes of service connected disability legislation introduced by Senators Kerry and Daschle.

We appreciate receiving from your office the additional information from the list of studies which Senators Daschle and Kerry used in support of S. 2675.

As we suspected, many on the list were not studies but articles, or letters to the editor of journals, some of which were of limited circulation.

The Agent Orange Working Group Science Panel met in extraordinary session on August 22 and 23, 1988 and has submitted a careful analysis of the list.

Each of the articles mentioned by Senators Kerry and Daschle have been specifically reviewed and assessed for the four points requested in your letter of August 5, 1988. The Science Panel took the liberty to add additional articles to the review when they felt it was considered necessary to maintain a balanced scientific view.

In summary it is our opinion that the list shows no changes and that Soft Tissue Sarcoma (STS) is not associated with service in Vietnam.

Data is still inconclusive to the association of Non-Hodgkins Lymphoma (NHL) and service in Vietnam and final conclusions must await completion of the Centers for Disease Control (CDC) Selected Cancers Studies, due in late 1989.

Please call on me at any time should you wish to discuss any part of the list which we have reviewed.

Sincerely,

DON M. NEWMAN,
Chairman, Domestic Policy Council, Agent Orange Working Group.

NATIONAL CENTER
FOR TOXICOLOGICAL RESEARCH,
Jefferson, AR, August 22, 1988.

Hon. DONALD M. NEWMAN,
Chairman, Agent Orange Working Group, Domestic Policy Council, Department of Health and Human Services, Washington, DC.

DEAR MR. NEWMAN: In response to the August 5, 1988 request from Congressmen Cranston and Murkowski to review the list of articles concerning Soft-Tissue Sarcomas and Non-Hodgkin's Lumphoma, the AOWG Science Panel met on August 22 and 23. The attached packet is our specific response to each study.

Each of the articles mentioned by Senators Daschle and Kerry have been specifically reviewed and assessed for the four points alluded to in the Congressional request. The Science Panel took the liberty to add additional articles to the review when they felt it was imperative.

The Science Panel is aware of two scientific reviews on this subject that have been recently submitted to peer reviewed journals. We believe that each of these reviews basically agree with the present Science Panel assessment and summary. These reviews which consider ALL articles on the subject present a smuch more balanced scientific assessment than the individual articles that we were asked to comment on and would make for a much more balanced position from which to make decisions.

If more information is needed, please do not hesitate to ask.

Sincerely,

RONALD W. HART, Ph.D.,
Chairman, AOWG Science Panel,
Director, NCTR.

SUMMARY

The following is a summary statement on the association of Vietnam service and the development of Soft-Tissue Sarcomas (STS) and Non-Hodgkin's Lymphomas (NHL).

Soft-Tissue Sarcomas: The data shows that Scandinavian people exposed to phenoxy herbicides and their contaminants through occupational routes may have an increase in STS. Additional studies done in other population groups and done in other ways do not show the same results.

Non-Hodgkin's Lymphoma: The data show that occupationally exposure to phenoxy herbicides and their contaminants may have a small increased risk of developing NHL. These positive findings are more generalized and are found in more ethnic groups than in the STS studies.

Exposure: The data show that unless the veteran had been occupationally exposed (i.e., sprayers, handlers, formulators), significant exposures to the herbicide Agent Orange in the vast majority of Vietnam veterans is not likely to have occurred.

STS in Vietnam Veterans: While there is evidence among the occupationally exposed that exposure to phenoxy herbicides and their contaminants may increase the risk of developing STS, the perponderance of evidence is that the Vietnam experience did not do so. The best evidence is the VA's Proportional Mortality Study, the CDC's Vietnam Experience Study and the New York State Study as the best of the state studies. Two small state studies—not of equal quality—show a small increase.

NHL in Vietnam Veterans: In contrast to the STS evidence noted above, the studies in Vietnam veteran population do *not* lead one to determine that the Vietnam experience—(not exposure to herbicides)—is *not* associated with an increase in NHL. The data do not show that it is, but questions remain. These studies include the VA's Proportional Mortality Study, the CDC's Vietnam Experience Study, and a few smaller State studies. The best of the State studies, the New York study, did not show an excess.

It is our opinion that STS is not associated with services in Vietnam. A definitive answer to the association of NHL and the service in Vietnam must await the completion of the CDC Selected Cancer Study.

VIETNAM EXPERIENCE STUDY

Mr. CRANSTON. In 1979, Congress passed legislation—enacted in section 307 of Public Law 96-151—mandating that the VA conduct an epidemiological study of the health effects in Vietnam veterans of exposure to dioxin as found in herbicides used in Vietnam. The scope of that study was expanded—by section 401 of Public Law 97-72—to authorize the inclusion of an evaluation of the impact on the health of Vietnam veterans of other environmental factors which may have occurred in Vietnam. This latter approach is known as a health experience study. In 1983, the VA delegated to the Centers for Disease Control [CDC] the responsibility for the overall study.

The first component of the study, the Vietnam Experience Study [VES], is a three-part effort designed to demonstrate whether or not there is any difference in the health of veterans who served in Vietnam compared to the health of veterans who served elsewhere in the same period of time. The results of this facet of the study were reported by the CDC at the committee's May 12 hearing and were published in the May 13, 1988, edition of the Journal of the American Medical Association [JAMA].

The CDC found that, despite a substantial increase in health problems reported by Vietnam veterans in telephone interviews, analysis of the hundreds of physical health items evaluated as part of the medical examinations revealed that there were few objective differences between the physical health of the two groups of veterans. The CDC reported that in the telephone interviews, Vietnam veterans reported an increased prevalence of a number of medical problems including hypertension, chloracne and other skin conditions, liver conditions, and urinary problems, as well as overall "fair or poor health." However, these increases, according the the CDC, were not substantiated by the physical examinations, which indicated that the Vietnam veterans generally are as healthy as the non-Vietnam veterans.

The CDD found that the "most noteworthy differences (which were verified upon physical examination of the two groups of veterans) were hearing loss, stool occult blood, evidence of past infection with hepatitis B, lower sperm concentrations, and lower average proportions of morphologically 'normal' sperm cells. Despite these last two findings, the average number of children fathered per veteran in each cohort * * * was identical—1.6 children." The CDC also reported that, although Vietnam veterans reported more adverse reproductive and children health outcomes, examination of both certificate records revealed no significant difference between the two groups of veterans in the number of or the incidence of birth defects among their children.

With respect to psychological health, the CDC found that Vietnam veterans seem to be functioning socially and economically in a manner similar to Army veterans who did not serve in Vietnam and generally were well-adjusted. However, the study did find certain significant differences between the two groups of veterans, including an increase of current psychological problems, anxiety, and depression among the Vietnam veterans. The CDD also found that 14.7 percent of the veterans who served in Vietnam have experienced combat-related post-traumatic stress disorder at some time either during or after their service and that 2.2 percent of the veterans in the study had this disorder during the month before their examination. These percentages translate to approximately 461,000 and 69,000 veterans, respectively.

At the request of the Senate and House Veterans' Affairs Committees, the OTA and the Science Panel reviewed the VES. The OTA found "no problems with the study design or analytic methods." The Science Panel concluded that this "was a scientifically well conceived, conducted, and analyzed study."

Mr. President, I ask unanimous consent that the OTA's and the Science Panel's reviews of the study be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR ALAN: Enclosed is a review of the Centers for Disease Control Vietnam Experience Study (VES), "Health Status of Vietnam Veterans: (1) Psychosocial Characteristics, (2) Physical Health, (3) Reproductive Outcomes and Child Health," which your colleagues and you requested in your letter of May 27. Overall, OTA finds no problems with the study design or analytic methods. The study was carried out according to the plan approved by OTA in 1984, with some alterations (e.g., addition of birth records study and semen analysis) made after a planned interim analysis of data suggested a need for them.

The clearest differences, documenting immediate health problems, are in psychological conditions. Vietnam veterans have significantly more mental health problems than do their non-Vietnam veteran counterparts. Few differences in physical health were found on physical examination and laboratory testing. The clearest association was an increased risk of high-frequency hearing loss among those with combat experience. Of concern, as well, were findings in semen characteristics suggesting possible negative effects in Vietnam veterans.

One of the most striking findings was the differential reporting of health conditions by Vietnam and non-Vietnam veterans, differences that were not corroborated by findings from medical records or the physical examination. It is not clear whether the differential is mainly a result of overreporting by Vietnam veterans or underreporting by non-Vietnam veterans, either of which is possible.

Based on these results, it appears unlikely that research in addition to that already being conducted (CDC's Selected Cancers Study, the Ranch Hand Study, and the continued mortality followup by VA, primarily) on possible effects of the "Vietnam experience" would yield major new insights. As far as possible the positive and equivocal findings of the VES should be explored in those ongoing efforts. In addition, it would be useful to continue to follow the mortality experience of the VES cohorts by periodic searching of the National Death Index. Some very long-term effects might still be identified in this way, now that the baseline information has been collected. Patterns of causes of death of the entire cohort may be of use in studying broader health questions, as well.

Long-term followup of veterans of several eras has been useful in studying a number of health questions. As was the case in the VES, the information generated in pre-enlistment screening tests is often used as a baseline for measuring change among veterans and for purposes of adjustment when comparing one or more groups. There may be value in reviewing the tests used in the different services and determining whether changes could be made to increase their value for long-term studies, while still meeting the primary goal of screening potential recruits. Such a review might be carried out by the Medical Follow-up Agency.

As requested in your letter, we will review the VES Monograph for any further findings of importance, when it is available. If you have additional questions or comments, please do not hesitate to contact me, or Hellen Gelband in the OTA Health Program (7-6590), who prepared this review.

Sincerely,

JOHN H. GIBBONS.

OTA REVIEW OF: "HEALTH STATUS OF VIETNAM VETERANS: 1. PSYCHOSOCIAL CHARACTERISTICS, 2. PHYSICAL HEALTH, 3. REPRODUCTIVE OUTCOMES AND CHILD HEALTH"

The Centers for Disease Control Vietnam Experience Study (Journal of the American Medical Association 259(18):2701-2719, 1988)

In a joint letter of May 27, 1988, the House and Senate Veterans' Affairs Committees asked OTA to review and comment on these three journal articles, which report the results of CDC's Vietnam Experience Study (VES). The VES was carried out in response to the mandate of Public Law 97-72, for an epidemiologic study of the long-term health of Vietnam veterans.

The study population consisted of a random sample of U.S. Army veterans who enlisted (volunteers and draftees) during the portion of the Vietnam era when U.S. troop strength was greatest, 1965 to 1971. The results are based on interviews of 7,924 men who served in Vietnam (Vietnam veterans), compared with 7,364 who served outside of Vietnam (non-Vietnam veterans); and intensive examinations of 2,490 Vietnam veterans, compared with 1,972 non-Vietnam veterans. The examination cohorts were a random sample of men who had completed the interview.

The Vietnam and non-Vietnam cohorts were quite similar in some ways: average age, racial mix, average age at enlistment, and percentage of men with some AWOL or confinement time. As might be expected, they differed in other characteristics. A higher percentage of Vietnam veterans than non-Vietnam veterans: enlisted before 1969, were volunteers (percentage just slightly higher), had tactical military occupational specialties (MOS), and served in combat units. Compared with Vietnam veterans, non-Vietnam veterans: had a somewhat higher average score on the enlistment general technical (GT) test, were somewhat more likely to have had a nonhonorable discharge, and were more likely to be discharged at lower pay grades. So that differences in the "entry characteristics" would not be a cause of differences in health outcomes between the two cohorts, all the analyses were adjusted for: age at entry into the Army, race, GT score, enlistment status (draftee or volunteer), year of entry into the Army, and primary MOS.

PSYCHOSOCIAL CHARACTERISTICS

Socioeconomic Characteristics.—Information on social and economic characteristics was available for the overall group of interviewed veterans. Much of the detailed information on psychologic and psychiatric conditions comes from the examination, and therefore is based on the interview subcohorts. The two groups were quite similar in socioeconomic measures. Marital histories were nearly identical. Education, employment, and income differed slightly, with Vietnam veterans having somewhat less education, a somewhat higher percentage being unemployed (9.5 percent compared with 8.5 percent of non-Vietnam veterans), somewhat lower percentages in managerial and professional jobs, and a slightly lower income distribution.

Psychological Characteristics.—A significantly higher percentage of Vietnam veterans had psychological problems than did the non-Vietnam cohort, several of these conditions being serious. (The questionnaires used to detect psychological conditions was epidemiologic tools, designed to characterize groups and differences between groups, but they cannot be taken as diagnostic measures in particular cases, or as reflecting the true prevalence of disorders in the group. The VES did not include psychiatric interviews, which would be needed to verify specific diagnoses and, generally, to determine the relationship between true prevalence and prevalence as measured by the questionnaires.)

Compared with non-Vietnam veterans, a higher percentage of Vietnam veterans were affected by alcohol abuse or dependence (13.7 percent vs. 9.2 percent), generalized anxiety (4.9 percent vs. 3.2 percent), depression (4.5 percent vs. 2.3 percent), or by combinations of these conditions. In addition, more Vietnam veterans than non-Vietnam veterans were characterized by a composite measure, "poor psychological status." Within both the Vietnam and non-Vietnam cohorts, the actual prevalence of poor psychological status was higher in those who were younger at enlistment, had lower initial GT scores, and were non-white; and the relative excess in the Vietnam cohort was about the same size in each subgroup. The absolute excess was greatest among those who enlisted in the first half of the study period, 1965-1967.

The relative levels of these conditions points strongly to an effect of Vietnam service, but the actual levels may or may not be accurate. Very low and similar rates of drug abuse or dependence were found overall (0.4 percent of Vietnam veterans and 0.5 percent of non-Vietnam veterans), based on those who participated in the examination. Drug dependence could certainly be a reason for not attending a several-day examination at a remote site, and may also affect willingness to participate in a telephone interview, so those data may not be reliable. CDC does not discuss this possibility in any detail in the journal article, but perhaps it will be discussed in the monograph.

Posttraumatic Stress Disorder (PTSD).—PTSD was assessed only in the Vietnam cohort; the definition of a "case" was based on the presence of all of a number of symptoms during a specified time period. From Vietnam service onward, about 15 percent of the Vietnam cohort met all the criteria at some time. In the month before the examination, 21 percent had one symptom or more, and 2.2 percent met all criteria. Veterans with PTSD were more likely than those without PTSD to have other psychiatric disorders, as well. Men with a tactical MOS were about twice as likely to have met the criteria for PTSD as those with a nontactical MOS.

The level of current PTSD measured by CDC appears to be low, compared with the preliminary findings of the National Vietnam Veterans Readjustment Study (NVVRS), which was released recently. NVVRS used psychiatric interviews to validate the questionnaires used in the study, including those used by CDC. NVVRS results were similar to CDC's, when the CDC criteria for PTSD were applied to the NVVRS data. However, the rate was much lower than the best estimate of the NVVRS researchers.

PHYSICAL HEALTH

According to results of the physical examination, Vietnam and non-Vietnam veterans had similar physical health problems. During the telephone interview, however, Vietnam veterans reported many conditions more frequently than did non-Vietnam veterans. Overall, about 20 percent of Vietnam veterans perceived their current health status at the lower end of the spectrum—"fair" or "poor"—compared with about 11 percent of non-Vietnam veterans. It is likely that the examination was more accurate than are the self-reported data; however, the fact that many more Vietnam veterans believe their health is not good may represent a serious, though not necessarily physical, problem.

There were some physical findings of note. More Vietnam veterans experienced loss of hearing in the high frequency range (14.4 percent vs. 9.9 percent, right ear; 18.4 percent vs. 12.9 percent, left ear; 9.4 percent vs. 6.2 percent, both ears), most of the excess occurring among men with a tactical MOS. Vietnam veterans had a slightly higher mean level of thyroid stimulating hormone (TSH), a higher percentage with occult blood in stool samples (1.3 percent vs. 0.5 percent), and evidence of higher rates of past hepatitis B infection (14.1 percent vs. 11.1 percent) compared with non-Vietnam veterans. The paper also notes finding an excess of left ventricular hypertrophy (an abnormality associated with some serious heart conditions), but according to the data presented, the excess is not statistically significant.

Another finding that raises concern is a significantly lower average sperm concentration among Vietnam veterans in the subsample of men (324 Vietnam veterans and 247 non-Vietnam veterans) who participated in the semen analysis, and a finding that a greater percentage of Vietnam veterans had abnormally low rates of "normal" sperm cells in their semen compared with non-Vietnam veterans. None of the factors known to affect the quantity and quality of sperm appeared to account for these differences. The report states that these differences did not seem to affect the overall fertility of the study participants, as the number of children per veteran and the percentage of childless veterans were similar in both groups. These overall figures, however, may obscure real differences in fertility among the group with abnormal semen characteristics. It is possible also that the results are somewhat biased because of a lower participation rate among non-Vietnam veterans invited to be part of the subsample, and somewhat imprecise because of the relatively small size of the subsample.

REPRODUCTIVE OUTCOMES AND CHILD HEALTH

Questions about the full range of reproductive outcomes and about the health and development of offspring were asked of all veterans involved. In addition, about half of those examined were asked to permit release of the hospital records for all reported offspring. This substudy was begun after an interim analysis of the self-reported results suggested higher rates of a number of birth defects among the offspring of Vietnam veterans compared with non-Vietnam veterans. Another substudy, looking specifically at cerebrospinal malformations (CSM; including anencephaly, spina bifida, hydrocephalus), was begun at that time as well. For that substudy, all reports of defects that might possibly have been cases of CSM were identified from the questionnaire data, and the fathers were recontacted for their permission to obtain birth records.

In the interview, Vietnam veterans reported about 30 percent more birth defects in all categories than did non-Vietnam veterans. Rates of major, minor, suspected, and total birth defects were nearly identical, however, in the substudy based on birth records. However, the results differed by race. Approximately equal proportions of offspring of white Vietnam-veteran fathers and non-Vietnam veteran fathers, had birth defects (as recorded on birth records); children of Hispanic Vietnam-veteran fathers were less likely (though not significantly so) than those of Hispanic non-Vietnam veteran fathers to have birth defects. Children of black Vietnam-veteran fathers were about three times as likely to have birth defects as those of black non-Vietnam veteran fathers, however, and these results were not explainable by any known risk factors associated with the fathers. The only maternal risk factors known were the mother's age at the time of birth and gravidity (number of previous pregnancies), which did not explain the excess in blacks. The analysis was based on a relatively small number of births, however, and the defects in children of Vietnam veterans include more than one child per family in two instances who had conditions that may be genetic in origin; these could not have been affected by the father's military service.

The substudy of CSMs was inconclusive, although more CSM cases were documented among children of Vietnam veterans than among children of non-Vietnam veterans. The means used to identify possible cases, which was based initially on interview responses, may have introduced some bias, and a substantial difference in the rate of birth record acquisition between the two cohorts may also have influenced the results.

Vietnam veterans reported fathering more pregnancies ending in miscarriage than did non-Vietnam veterans, but not more stillbirths, tubal pregnancies, or induced abortions. Reported infant and child mortality were not different, either.

Childhood cancers were reported with about the same frequency in both groups. Vietnam veterans reported about 30 percent more childhood health problems overall than did non-Vietnam veterans.

GENERAL COMMENTS

The clearest differences, documenting immediate health problems, are in psychological conditions. Vietnam veterans have significantly more mental health problems than do their non-Vietnam veteran counterparts. Few differences in physical health were found on physical examination and laboratory testing. The clearest association was of high-frequency hearing loss with a tactical MOS. Of concern, as well, were findings in semen characteristics suggesting possible negative effects in Vietnam veterans. The excess of documented birth defects in offspring of black Vietnam veterans compared with black non-Vietnam veterans is also of some concern. However, that finding, based on a relatively small number, is inconsistent with the findings in Hispanics, among whom the rates were lower in Vietnam veterans' offspring, and whites, where no differences were found, and therefore may be a spurious finding.

One of the most striking findings of the VES was the differential reporting of health conditions by Vietnam and non-Vietnam veterans, differences that were not corroborated by findings from medical records or the physical examination. It is not clear whether the differential is mainly a result of overreporting by Vietnam veterans or underreporting by non-Vietnam veterans, either of which is possible. The detailed information in the monograph may allow a clearer interpretation of this.

OTA found no major problems with the design or the analytic methods of the VES, as presented in these three papers. Based on these results, it does not appear necessary to undertake additional research on possible effects of the Vietnam experience. It would be useful to continue to follow the mortality experience of the VES cohorts, through periodic searching of the National Death Index, however. The large amount of baseline information on the participants would make such a followup valuable for identifying differences between the cohorts that appear only in the longer term, but also for broader health research, by relating measured health status at the time of the study with ultimate causes of death.

THE UNDER SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, July 11, 1988.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your correspondence dated June 1, 1988 requesting that the Agent Orange Working Group (AOWG) of the Domestic Policy Council, review and provide comments on the results of the Centers for Disease Control (CDC) Vietnam Experience Study (VES) reported in the May 13, 1988 edition of the Journal of the American Medical Association (JAMA).

I requested that the Science Panel of the AOWG meet and prepare a summary and a synopsis.

Enclosed is the reply and the Summary of the CDC's JAMA 259(18) 1988 Publications (3) and Volume I. Synopsis on the Health Status of Vietnam Veterans, from Dr. Ronald Hart, Chairman of the Science Panel (AOWG) and Director National Center for Toxicological Research (NCTR).

We will be happy to provide you with a copy of the review of the CDC Monograph when published.

If you have any questions, please feel free to call.

Sincerely,

DON M. NEWMAN,
Chairman, Domestic Policy Council
Agent Orange Working Group.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
June 23, 1988.

Hon. DONALD M. NEWMAN,
Chairman, Domestic Policy Council Agent Orange Working Group, Department of Health and Human Services, Washington, DC.

DEAR MR. NEWMAN: In response to the June 1, 1988 request from Congressmen Cranston, Murkowski, Montgomery, and Solomon (Senate and House Committees on Veterans' Affairs) to review the CDC Vietnam Veterans Experience Study (VES), I would like to submit the attached summary. As you know from the CDC presentation at the joint meeting of the AOWG Domestic Policy Council and Science Panel, the study as well done and the presentation was well received by all the members of both groups. This was a scientifically well conceived, conducted, and analyzed study.

The Science Panel members have taken extreme care to look at all sides of the issues in keeping with sound scientific and a statistical judgment. The results of the studies over the last year should be reassuring to the Vietnam veteran that their experience in Vietnam was probably not going to adversely affect their future health. I have observed a tendency on the part of some individuals to emphasize isolated comparisons from selected papers to paint an entirely different picture. I have seen no evidence of down playing any of the findings by any member of the scientific staffs associated with the Science Panel. There has been and continues to be a great deal of concern about non-Hodgkin's lymphoma and other selected and rare cancers; the evidence is being gathered, but it is too early to tell. The data currently being gathered by the CDC in its Selected Cancers Study should permit an impartial and balanced evaluation relative to these issues. As indicated in the attached summary of the Science Panel review of the VES, no adverse health effects other than stress-related effects were found.

If more information is needed, please do not hesitate to ask.

Sincerely,

RONALD W. HART, Ph.D.
Chairman, AOWG Science Panel,
Director, NCTR.

SUMMARY OF THE CDC's JAMA 259(18), 1988 PUBLICATIONS (3) AND VOLUME I. SYNOPSIS ON THE HEALTH STATUS OF VIETNAM VETERANS

The material contained in these manuscripts was presented to a joint meeting of the AOWG Domestic Policy Council and the AOWG Science Panel on May 10, 1988. The AOWG Science Panel further discussed the four documents at their meeting held on June 1, 1988. There was general agreement at both meetings that the study and documents were well done and scientifically valid.

The Synopsis and the three JAMA articles were complementary with the same data in both documents. Three points are especially noteworthy from this study: (1) the Vietnam veteran has adjusted well in his blending back into the social strata on returning from his tour of duty in that he ranks higher than the national average for most social and economic indicators, such as salary, education, or marital stability; (2) the Vietnam veteran was more likely to report health problems than the non-Vietnam veteran control, yet few differences were detected based on the physical examination; and (3) the Vietnam veterans were more likely to have psychological problems. This third point is tied heavily into an approx. 2.2% incidence of post traumatic stress disorder which was found in the Vietnam veteran; these veterans should continue to be monitored and to receive the proper VA care.

The second point does not seem to stem from over-reporting by the Vietnam veteran as much as an under-reporting by the controls; this is supported by a comparison with the national average for like health effects. The Vietnam veteran appears to have an increased health awareness. One such effect was the reporting via telephone interviews of more birth defects by the Vietnam veteran, but the difference was not maintained following the objective evaluation of birth records. In addition there was no differences between the two cohorts as to number of children per family. This last observation makes it hard to determine the significance of the semen quality deficiencies found in the Vietnam veterans.

READJUSTMENT PROBLEMS STUDY

Mr. CRANSTON. Mr. President, there is also an extensive PTSD and post-war-readjustment psychological problems study that Congress mandated 4 years ago in Public Law 98-160. That study is being carried out, under contract with the VA, by the Research Triangle Institute [RTI] of North Carolina at a cost of over $9 million. Initial results from the study were released by RTI at the committee's July 14 hearing. RTI gave indepth, face-to-face interviews averaging 3 to 5 hours in length to over 3,000 individuals, including approximately 1,600 veterans who served in the Vietnam theater, 750 veterans who served during the Vietnam era but not in Vietnam, and 650 individuals with similar demographics who did not serve in the Armed Forces. In addition, a subset of over 300 Vietnam-theater veterans and 100 Vietnam-era veterans underwent a followup clinical interview with an expert mental health professional.

RTI estimates that about 15 percent of male veterans who served in the Vietnam theater are currently suffering from PTSD. This percentage represents a current demand for services of about 470,000 out of the estimated 3.14 million men who served in the Vietnam theater. Among females, RTI estimates the current prevalence of the disorder to be about 9 percent of the estimated 7,166 women who served in the Vietnam theater, or about 650 cases. In the racial/ethnic subgroups of male Vietnam-theater veterans, RTI found a much higher current prevalence of PTSD—about 19 percent, or 68,000 cases, among black veterans, and as high as 27 percent, or approximately 45,000 cases, among Hispanic veterans.

The CDC study indicates that a significant percentage of Vietnam combat veterans suffer not only from severe chronic anxiety but also from substance abuse and dependence. Witnesses at the committee's July 14, 1988, hearing testified that alcoholism afflicts between 40 percent and 80 percent of Vietnam veterans with PTSD. For instance, at the VA's specialized inpatient program in Menlo Park, CA, a recent survey of codiagnoses among the inpatient veterans sampled 350 veterans of which 42 percent met the criteria for alcohol abuse or dependence. To meet this need, the Menlo Park PTSD program is reassigning 28 of its 90 beds to a coordinated PTSD-alcohol unit. I believe the VA should pay greater attention to the treatment of veterans suffering concurrently from PTSD and alcohol abuse or dependence.

ALBANESE RANCH HAND STUDY REPORT

In 1979, the Air Force began an epidemiological study [RHS] of ranch hand personnel, the Air Force personnel who participated in the agent orange spraying missions in Vietnam, to determine whether these individuals suffered adverse health effects from herbicide exposure. The RHS compares the health of those personnel with that of counterparts who served in the Air Force in Southeast Asia and were not exposed to herbicides.

In February 1988, a report entitled "United States Air Force Personnel and Exposure to Herbicide Orange," identified as an interim report for the period March 1984–February 1988 by Dr. Richard A. Albanese of the U.S. Air Force School of Aerospace Medicine, was released by the Air Force. Dr. Albanese compared "salient" findings of the first RHS morbidity report published in 1984 with a dioxin toxicological profile which he developed from a review of scientific literature relating to the effects of dioxin exposure. Dr. Albanese had two principal differences with the 1984 Air Force report.

First, in the area of birth defects, he concluded that minor birth defects cannot be assumed to account for an excess of reported birth defects—which the Air Force is in the process of verifying—as the earlier report had suggested. The Air Force generally agreed with this conclusion at the May 12 hearing and said that its next ranch hand report will contain an update in this area. Second, Dr. Albanese stated that a possible increase in cancers should not be assumed to be limited to skin cancers, as the 1984 report suggested. The Air Force disagreed with this conclusion. Dr. Albanese's report concluded that dioxin "cannot be confidently identified as the causative agent of these findings at this time" but that it also "is not exonerated as a causative agent".

At the request of the Senate and House Veterans' Affairs Committtees, the EHAC, the OTA, and the Science Panel reviewed Dr. Albanese's report. The OTA concluded that the "report by Dr. Albanese does not call into question any of the findings reported directly by the Air Force study team in their original reports" and the Science Panel concluded that ". . . In summary, the five 'significant' morbidity measures mentioned by [Dr.] Albanese as being in excess among the ranch hand group are either undergoing validation—parent-reported birth defects—or are not supported by subsequent work." In a July 27, 1988, letter to me from Frederic Conway, executive secretary of the EHAC, discussing the results of the EHAC's May 27 telephone conference, he reported the EHAC's conclusion that "the report is flawed in a number of ways." Most significantly, the EHAC found that the report's failure to refer to more recent 1988 morbidity data was a serious shortcoming "because many of the trends observed in the 1984 data did not continue in the 1988 data. Therefore, many of the inferences derived from the 1984 data were incorrect when viewed in light of the 1988 data." The full text of the reviews by the OTA and the Science Panel were previously printed in the May 12, 1988, Agent Orange Update in the Record (page S5590).

Mr. President, I ask unanimous consent that the letter from the EHAC regarding the Albanese report be printed in the Record at this time.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Veterans' Administration,
July 37, 1988.

Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: This is in response to your request for the views of the Veterans' Advisory Committee on Environmental Hazards on a report entitled, "United States Air Force Personnel and Exposure to Herbicide Orange" by Dr. Richard Albanese. The full Committee is not scheduled to meet until November 1988. However, the Chairman of the full Committee and the Chairman of the Scientific Council, in an effort to be responsive to your request in a timely manner, convened a telephone conference on May 27, 1988, of the members of the Dioxin Panel of the Scientific Council, to discuss this report.

The panel agreed that the report is flawed in a number of ways. The most significant criticism of the Panel was that the author used data derived from the first morbidity report of the Air Force Health Study published in 1984 and gave no reference to more recent morbidity data published in 1988. The panel thought this important because many of the trends observed in the 1984 data did not continue in the 1988 data. Therefore, many of the inferences derived from the 1984 data were incorrect when reviewed in the light of the 1988 data.

Concern was also expressed by the apparent reliance by the author on animal data as being predictive of human experience. This concern was based upon the fact that there is widespread species variability in terms of observed effects of exposure to dioxin and that the animal data are not replicated in much of the human exposure experience. There was also concern about the use of unvalidated, self-reported data on the occurrence of birth defects among progeny of the Ranch Hand population and that some of the trends indentified by the author were not supported by the data contained in his report.

The Panel members did note that the author expressed some caution in interpreting his study. However, they believed that the author's failure to give recognition to the 1988 data was a serious flaw and considerably reduces the pertinence of this report.

I am sending an indentical letter to Senator Murkowski and to Representatives Montgomery and Solomon.

Sincerely,

Frederic L. Conway,
Executive Secretary, Veterans' Advisory Committee on Environmental Hazards.

CDC BLOOD-DIOXIN VALIDATION STUDY

Mr. CRANSTON. Pursuant to Public Law 96-151, the CDC designed a study to determine if there are any differences in the health of veterans who were exposed to agent orange during service in Vietnam compared to the health of veterans who also served in Vietnam but who were not so exposed. The implementation of the CDC's agent orange study depended on the development of a scientifically valid agent orange exposure index. In late 1986, the CDC refined a methodology for detecting residuals of dioxin in blood samples and conducted a study to validate dioxin exposure predicted by both military records and self-reported exposure estimates.

The results of this blood validation study were published in the September 2, 1988, edition of JAMA. The CDC found that there was no association between serum dioxin levels and the exposure estimates. The CDC found no significant dioxin exposure among the Vietnam veterans studied regardless of whether their military records or self-reported estimates indicated high, low, or intermediate exposure. Moreover, all except two of the Vietnam veteran participants had dioxin levels within normal background levels—that is, the upper limit for United States residents without known dioxin exposure.

Preliminary results from this study were released by the CDC in July 1987. The OTA, in a September 25, 1987, letter from Director Dr. John H. Gibbons, enclosed a staff paper setting forth the OTA's views of those preliminary results. These materials were printed in the October 1, 1987 Record at S 14263. The OTA found generally that the CDC study was well designed and conducted and concluded that "[t]here is no support for the rationale for a large-scale epidemiologic study—that a large percentage of ground troops were heavily exposed to agent orange." The OTA also concluded that "[t]here cannot be a general study of agent orange effects on ground troops."

I will be asking the OTA, the Science Panel, and EHAC to review the final results of the CDC study as contained in the JAMA article.

Mr. President, I ask unanimous consent that the September 2, 1988, JAMA article be printed in the Record at this point.

There being no objection, the article ordered to be printed in the Record, as follows:

Serum 2,3,7,8-Tetrachlorodibenzo-*p*-dioxin Levels in U.S. Army Vietnam-Era Veterans

(The Centers for Disease Control Veterans Health Studies)

This study investigates whether military records can be used to identify US Army Vietnam veterans who were likely to be exposed to the herbicide Agent Orange. Serum levels of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD), a toxic contaminant in Agent Orange, were obtained for 646 ground combat troops who served in heavily sprayed areas of Vietnam and for 97 veterans who did not serve in Vietnam. The distributions of current TCDD levels in Vietnam and non-Vietnam veterans were nearly identical (mean in each group, ≈ 4 parts per trillion [ppt]). Only two men (both Vietnam veterans) had clearly elevated levels (>20 ppt). Levels of TCDD did not tend to increase with greater likelihood of exposure to Agent Orange, as estimated from either military records or self-reported exposure. This study is consistent with other studies and suggests that most US Army ground troops who served in Vietnam were not heavily exposed to TCDD, except perhaps men whose jobs involved handling herbicides.—(*JAMA* 1988:260:1249-1254)

[Tables not reproducible for the Record.]

The herbicide Agent Orange, a 1:1 mixture of 2,4-dichlorophenoxyacetic acid and 2,4,5-trichlorophenoxyacetic acid in diesel oil, was sprayed in South Vietnam from 1962 to 1970. The herbicide contained 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD) at levels of less than 1 to more than 20 ppm[1,2] as a result of contamination of the 2,4,5-trichlorophenoxyacetic acid and possibly the 2,4-dichlorophenoxyacetic acid components. Heavy exposure to TCDD causes chloracne,[3] may be associated with certain cancers,[4] and may affect enzyme levels, porphyrin metabolism, and immune function.[3] Many Vietnam veterans are concerned that their health may have been affected by exposure to Agent Orange, especially by exposure to its TCDD contaminant.

In response to these concerns (Veterans Health Programs Extension and Improvement Act of 1979, Public Law 96-151 [HR 3892], 93 STAT 1092-1098; and Veterans' Health Care, Training, and Small Business Loan Act of 1981, Public Law 97-72 [HR 3499], 95 STAT 1047-1063), the Centers for Disease Control (CDC) is conducting two relevant studies: a "Vietnam experience" cohort study, comparing male US Army Vietnam veterans with other veterans,[5-7] and case-control studies of veterans' risks of six cancers suggested to be associated with exposure to TCDD. To evaluate the concerns about Agent Orange directly, the CDC proposed a cohort study in which the health of veterans exposed to Agent Orange would be compared with that of unexposed veterans, using records of military unit locations and herbicide spray locations to assess exposure. Evaluation of these records, however, suggested that they alone could not be used to estimate likelihood of exposure. For example, records may be unavailable for many of the herbicide applications most likely to have exposed troops.

Recent studies have shown that high TCDD levels can be detected 20 or more years after heavy exposure to Agent Orange[8-10] and that the half-life of TCDD in humans may be about seven years.[11] Results suggest that these TCDD levels may be used as an objective marker of exposure. The development of a serum assay[12] and its strong correlation with adipose tissue levels[10,13] made a large study of TCDD levels of veterans feasible. The study reported herein, the first large-scale study to evaluate TCDD levels in US Army veterans, was conducted to determine if military records can be used to identify veterans exposed to Agent Orange. The CDC compared current TCDD levels of Vietnam veterans with exposure estimates based on military records and with TCDD levels of veterans not serving in Vietnam.

SUBJECTS AND METHODS: USE OF MILITARY RECORDS

The US military recorded the dates and locations of herbicide sprays in South Vietnam for Operation Ranch Hand missions[14] and for some other sprays.[15] Most herbicide was sprayed from fixed-wing aircraft in Operation Ranch Hand,[16] but herbicides also were sprayed from helicopters, trucks, and backpack equipment, especially around base camps. Some recorded sprays were of unknown type (herbicides or insecticides).

Military unit locations and personnel records were abstracted from military records by the US Army and Joint Services Environmental Support Group. The Environmental Support Group identified 65 US Army combat battalions (27 infantry, 25 artillery, seven armor or cavalry, and six engineering) that served 18 months or longer in the III Corps military region (encompassing Saigon) during 1967 and 1968. This region had the greatest volume of Agent Orange spraying of the four military regions in Vietnam, with heavy spraying in 1967 and 1968. After abstracting the daily company locations for a battalion for 1967 to 1968, the Environmental Support Group abstracted military service information for veterans who had served in that battalion during 1967 and 1968, including veterans' dates of service in various companies. The CDC used this information to compute exposure scores for individual veterans.

When this study began, the Environmental Support Group had abstracted company locations for 50 of the 65 identified battalions. For each day of the study and for each company in these 50 battalions, five exposure scores were computed from the dates and map coordinates of herbicide sprays and from military unit locations. Scores were then assigned to each Vietnam veteran by using the dates he served in various companies.

EXPOSURE SCORES

Estimated half-lives of TCDD in the environment depend on environmental conditions. The half-life may be a few hours on foliage,[17] several days on or near the soil surface,[17-19] and several years if adsorbed to soil.[20-22] The five different scoring methods based on military records reflect these varying environmental half-lives and different assumptions about completeness of data on troop and spray locations.

The intermediate score reflects possible exposure during the first few days after spraying. This score is the weighted number of days on which at least one location for a

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Footnotes at end of article.

company was within 2 km of a recorded Agent Orange spray within six days after the spray; the weight was the number of different sprays this close to a company location. The distance 2 km was chosen because the dispersion of herbicide from Operation Ranch Hand sprays could cover a path hundreds of meters wide and because unit locations could be imprecise, in part due to movement around recorded locations. In selecting subjects, we sampled all men with a high intermediate score in an attempt to include those most likely to have been exposed.

Four other scores also use military records to estimate exposure. The slow score is the weighted number of days a company was within 2 km of an Agent Orange spray after any earlier spray, with weights computed for a five-year half-life (similar to the decay of TCDD adsorbed to soil). Because some recorded sprays of "unknown" material undoubtedly were of Ageny Orange, unknown agent intermediate and slow scores also were computed for these sprays. The remaining score based on military records, the area score, is the number of days a company was in one of five large, heavily sprayed regions, which included 70% of the recorded Agent Orange sprays in III Corps during 1967 and 1968. This score depends less on precise military unit location information than do the other scores.

Two other scores were the number of days of self-reported direct exposure and of indirect exposure to herbicides during military service, derived from a structured interview. Direct exposure includes spraying herbicides or being present during spraying, handling herbicides, and getting herbicides on one's skin or clothing. Indirect exposure includes walking through or clearing vegetation in a previously sprayed area.

Few pairs of these scores are well correlated. Spearman correlations among the records-based scores were less than .40, except for three pairs of scores (slow and area, the two intermediate scores, and the two unknown-agent scores), for which the correlations were between .50 and .60. The correlation between the two self-reported scores was .38. All correlations between the records-based and self-reported scores were less than .10. These low correlations indicate that the different scores could reflect different sources of exposure.

The records-based scores were computed from relatively complete data on military unit location. For half of the veterans studied, locations were available for their military units for at least 96% of their days in Vietnam, and three fourths had a location available for at least 89% of those days.

SELECTION OF PARTICIPANTS

All veterans in this study served a single term of enlistment (minimum, 16 weeks; usually two to three years) in the US Army. Each had a military occupational specialty other than "duty soldier" or "trainee" and was discharged at pay grade E-5 or lower (this excluded officers). Deceased veterans were excluded; deaths were identified from the records of various US government agencies and from tracing individual veterans.[23]

In addition to these basic eligibility criteria, Vietnam veterans must have served in Vietnam during 1967 and 1968 in a company for which the Environmental Support Group had abstracted locations. Men who served only in headquarters and headquarters companies were excluded because locations for these companies were considered unreliable for estimating exposure. Vietnam veterans served an average of about 320 days in Vietnam.

When this study began, personnel records had been abstracted for 14,473 Vietnam veterans, 816 of whom had died. Key data were missing or inconsistent for 253 men, and exposure scores could not be computed for an additional 3677 because no locations were available for their Army units. We selected 994 Vietnam veterans by stratifying the 9727 eligible men according to the intermediate Agent Orange score. We included all those with a score of 5 or more. For comparison, we sampled men with scores of 1 through 4 and selected all veterans least likely to have been exposed (score of 0, unknown-agent intermediate score of 0 or 1, and at most 44 days for which the unit location was unknown). During the study, 15 veterans were found to be ineligible (seven were dead, five were mentally handicapped or in prison, and three did not meet basic eligibility criteria), leaving 979 eligible Vietnam veterans. The Environmental Support Group verified that each veteran was present in his company on each day he had an opportunity for exposure according to the intermediate score.

US Army veterans who did not serve in Vietnam were included as a reference group. These men, all of whom entered the Army between 1965 and 1971, were sampled from men interviewed near the end of the Vietnam Experience Study but who had not been selected to attend the medical examination phase of the study and who served in the continental United States or Germany. The 200 men invited to participate were a random sample from the 367 who met these eligibility criteria, frequency-matched by race (white or nonwhite) and age (younger than 40 years old on Jan. 1, 1986) to the Vietnam veterans originally selected.

DATA COLLECTION

Data were obtained by methods similar to those used in the Vietnam Experience Study.[5,7] The Research Triangle Institute (Research Triangle Park, NC) and its subcontractor, Equifax Inc (Atlanta), located the veterans, and the Research Triangle Institute conducted a telephone interview. All 871 Vietnam veterans interviewed were invited to take part in a medical examination at Lovelace Medical Foundation (Albuquerque), as were the 200 non-Vietnam veterans who had been interviewed during the Vietnam Experience Study. As part of the medical examination, serum samples were collected for TCDD measurements, and men were questioned about exposure to herbicides during military service, civilian work, and at home.

LABORATORY METHODS

Serum samples were collected under a standard protocol. Each participant fasted overnight and then ate a low-fat, low-cholesterol breakfast. About two hours later, 450 mL of blood was collected in a 500-mL bag that did not contain anticoagulant. A sample of the collection bags was tested for TCDD and its analytic interferences; none showed contamination. Serum samples were separated, then stored at −70°C. Analysis of TCDD and serum lipid was done at the Division of Environmental Health Laboratory Sciences, Center for Environmental Health and Injury Control, CDC. We used only laboratory runs that met quality-control criteria.

2,3,7,8-Tetrachlorodibenzo-*p*-dioxin was analyzed by high-resolution gas chromatography/high-resolution mass spectrometry.[12,24] Values are on a lipid weight basis, in units of parts per trillion (ppt), calculated by dividing TCDD on a whole weight basis by total serum lipid content. In general, 100 g of serum was analyzed, with a TCDD detection limit of 3 parts per quadrillion on a whole weight basis, or roughly 1 ppt on a lipid weight basis. Less than 1% of the samples were below this limit; these "nondetects" were given a value of 0 for analysis. Replicate analyses of quality-control pools indicate a coefficient of variation of about 20%.

STATISTICAL METHODS

Results of this and other studies suggest that TCDD levels can be described by a log-normal distribution.[25] Some TCDD values were 0 (the nondetects), so the logarithm of the TCDD value plus one was used in analysis of variance and linear regression models. These models were used to verify that adjustment for potential confounders does not affect the associations observed in univariate analyses between exposure scores and TCDD levels. To reduce skewness, all continuous scores except the area score were used in these models. Detectable levels in each cohort were adequately described by a log-normal distribution ($P > .06$), based on the Kolmogorov statistic.[26]

Current age, race (white or non-white), body mass index (kilograms per meter squared), and self-reported civilian occupational and home exposures to herbicides were judged a priori to be potential confounders. Smoking history, alcohol consumption, and region of residence were included as additional covariates based on preliminary data analyses. Continuous covariates were used as categorical variables, generally based on quartiles.[27]

RESULTS: PARTICIPATION

Of the 979 eligible Vietnam veterans, 900 (92%) were located and 871 completed the interview. Of the 29 located but not interviewed, 27 refused to participate and two could not be contacted. Blood samples were obtained from 665 Vietnam and 103 non-Vietnam veterans. Results of TCDD analyses that met laboratory quality-control criteria were obtained for 646 Vietnam veterans and 97 non-Vietnam veterans, or 66% and 48%, respectively, of those eligible for the study. Participation was similar among the three exposure groups used to select Vietnam veterans.

Most demographic and other characteristics of Vietnam veterans, summarized in Table 1, were similar to those of veterans who did not serve in Vietnam. Herbicide exposure was an important exception: Vietnam veterans were much more likely than non-Vietnam veterans to report exposure to herbicides during military service, but less likely to report civilian exposure. These characteristics, as well as length of service in Vietnam and reported combat intensity, were similar in the Vietnam veterans in the three exposure groups defined by the intermediate score.

Demographic and military characteristics as well as exposure scores were similar for Vietnam veterans for whom TCDD values were and were not obtained. In contrast, interviewed Vietnam veterans for whom TCDD results were not obtained were less likely to report exposure to herbicides during military service or physical health problems after discharge from service than were Vietnam veterans for whom TCDD results were obtained (Table 2).

TCDD LEVELS AND EXPOSURE SCORES

The distributions of current TCDD levels in the 646 Vietnam and 97 non-Vietnam veterans are similar, with a mean and median in each group of about 4 ppt (Figure and Table 3). These findings were confirmed by analysis of variance models, in which service in Vietnam was not associated with TCDD level, after adjusting for age, race, region of residence, body mass index, smoking history, alcohol consumption, and reported civilian herbicide exposure (P = .23).

The TCDD levels of veterans did not tend to increase with increases in any of their five exposure scores based on military records or with increases in either of their self-reported exposure scores. In each group defined by one of these scores, the median TCDD level was between 3.2 and 4.3 ppt (Table 4), and each of the 75th and 90th percentiles was not more than 0.5 ppt greater than the corresponding percentile in non-Vietnam veterans. Cross-tabulation by pairs of scores also did not identify veterans who were likely to have elevated levels. Regression models using individual scores, pairs of scores, or all seven scores also showed no trend toward higher TCDD levels in veterans with higher exposure scores or more self-reported exposures to herbicides in Vietnam. Levels were not elevated in veterans who served in any one company or battalion.

Table 4 does suggest some variability in TCDD levels among the groups defined by each of the self-reported exposure scores. However, the 75th and 90th percentiles of the TCDD levels were not elevated in either the 41 veterans reporting the most frequent direct exposure or the 153 men reporting the most frequent indirect exposure to herbicides in Vietnam.

Nine Vietnam veterans had TCDD levels of 10 ppt or higher, two of whom had levels above 20 ppt (25 and 45 ppt). The veteran whose level was 45 ppt reported no exposure (military or civilian) to herbicides; the veteran whose level was 25 ppt reported 180 days of indirect military exposure to herbicides (about the 85th percentile, half the days he served in Vietnam) and one day of home use, but no other exposure. These two men each reported their health status as "excellent" and did not attribute any health problems to Agent Orange exposure. Self-reported herbicide exposure was unremarkable in the other seven men whose levels were above 10 ppt. Four reported direct exposure to herbicides during military service (up to 15 days), four reported indirect exposure (up to 130 days), and one reported occupational exposure (200 days).

To study the possibility that results might have been distorted ("confounded") by differences between study groups, we examined the associations between TCDD levels and the characteristics listed in Table 1. No characteristic was a good predictor of TCDD level, and most were similarly distributed between groups (Table 1) so that confounding was unlikely. Lack of confounding was confirmed by regression models that included appropriate indicator terms for each covariate. These models showed no trend toward higher TCDD levels in veterans with higher exposure scores or more self-reported herbicide exposure after adjustment for covariates.

COMMENT

This is the first report on TCDD levels in a large group of US Army Vietnam veterans. The CDC conducted this study to determine if exposure scores based on military records of troop locations and spray locations can identify a large number of men exposed to Agent Orange, as would be needed for a large cohort study. The five different methods that use these records incorporate a wide variety of assumptions about sources of possible TCDD exposure and about the completeness and accuracy of the military records. None of the indirect measures of exposure, and neither type of self-reported exposure to herbicides, identified Vietnam veterans who were likely to have currently elevated serum TCDD levels. In particular, only two Vietnam veterans (0.3% of the sample) had serum TCDD levels greater than 20 ppt, and neither had an unusually high exposure score. It is unlikely, therefore, that military records can be used to identify a large number of US Army veterans who might have been heavily exposed to TCDD in Vietnam. In addition, the distributions of current TCDD levels were nearly identical in Vietnam and non-Vietnam veterans.

The similarity between current TCDD levels in Vietnam and non-Vietnam veterans in this study is not entirely due to elimination TCDD since service in Vietnam. Other studies, some of which used adipose tissue samples, have found that a substantial proportion of people with documented heavy exposure to TCDD continue to have levels above 20 ppt 15 or more years after exposure. Levels of TCDD higher than 100 ppt have been found 15 or more years after the last known exposure to TCDD in Vietnam veterans[8-10, 28] and civilians.[25, 29] Recent results suggest a TCDD half-life in humans of about seven years, independent of initial TCDD level.[13] Moreover, serum TCDD levels correlate strongly with adipose levels.[10, 13] As a result, we should have found more than two veterans with high current TCDD levels if many men in our study had been heavily exposed in Vietnam.

Our failure to detect a difference in TCDD levels between the cohorts is unlikely to result from a sample size that was too small. This study could have detected differences even if only a moderate proportion of Vietnam veterans had elevated TCDD levels while they were in Vietnam. For example, assuming first-order kinetics, a half-life of seven years, and a background level of 4 ppt, a TCDD level of 33 ppt drops to about 8 ppt after 20 years, and a level of 18 ppt drops to 6 ppt. Thus, the current mean TCDD level in Vietnam veterans should be 1 to 2 ppt higher than that of non-Vietnam veterans if at least 25% of Vietnam veterans had levels above about 30 ppt while in Vietnam. This study had 99% power to detect such a difference in the mean level, using a two-sided test at the .05 level. No such difference was observed.

There is no indication of selection bias or confounding in this study. Among Vietnam veterans for whom records were abstracted, demographic and military service characteristics of veterans selected for study were similar to those of veterans who were not selected. Interviewed Vietnam and non-Vietnam veterans were similar with respect to most measured characteristics (Table 1). Civilian herbicide exposure was reported somewhat more often by non-Vietnam veterans, but adjustment for this exposure did not affect our results. Similarly, results were not affected by adjustment for other potential confounders, including age, race, body mass index, region of residence, smoking, and alcohol consumption.

Although participation rates in this study were modest (66% of the Vietnam and 48% of the non-Vietnam veterans), indirect evidence suggests this was unlikely to cause bias. Demographic, military, and health characteristics, such as smoking and alcohol consumption, were similar in the interviewed veterans who did and who did not provide blood. Only nine interviewed veterans gave a medical condition as a reason for not attending the medical examination; in the literature, TCDD has not been documented to cause any of these conditions. Interviewed Vietnam veterans for whom TCDD levels were measured, however, reported poorer health and more exposure to herbicides than those for whom values were not obtained. (Table 2). Thus, the TCDD levels in this study are not likely to be spuriously low due to poorer participation by veterans who may have had health problems related to TCDD or who thought they were exposed to herbicide. If anything, the opposite may be true.

Results from this study cannot necessarily be generalized to other Vietnam veterans since our sample was not random. All Vietnam veteran participants served in the heavily sprayed III Corps area during 1967 and 1968, and, as a result of the selection method, 611 of the 646 for whom TCDD values were obtained (more than 94%) served in one of five battalions (three infantry, one cavalry, and one artillery). In addition, the study did not include veterans from a relatively small group with a high potential for exposure, the chemical corps.[9,10]

Despite these limitations, our results are consistent with those of the three other studies of current TCDD levels in Vietnam veterans. In those studies, investigators found elevated current levels (>20 ppt) only in veterans who had handled herbicides in Vietnam. Kahn et al[9, 10] reported elevated levels in some Operation Ranch Hand and chemical corps veterans, but not in other ground troops. Schecter et al.[28] also found elevated levels in some Operation Ranch Hand veterans, but none in ground troops. Cross et al.[8] found elevated TCDD levels in three veterans classified as "heavily exposed" to Agent Orange but did not report their source of exposure or branch of service. In this context, our results are not surprising, as only about 5% of the Vietnam veterans in our study reported spraying herbicides or handling spray equipment during military service.

Except for two veterans who had levels greater than 20 ppt. current serum TCDD levels in this study are essentially the same in the Vietnam veterans and the comparable group of veterans who did not serve in Vietnam. It seems, therefore, that most US Army ground combat troops who did not handle or spray herbicides were not heavily exposed to TCDD in Vietnam.

FOOTNOTES

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MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kilbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 2:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 2789. An act to require the Secretary of the Treasury to mint and issue $1 coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower;

H.R. 439. An act for the relief of Thomas Wilson;

H.R. 4387. An act to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 4586. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes;

S.J. Res. 169. Joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi;

S.J. Res. 290. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week";

S.J. Res. 329. Joint resolution to designate October 24 through October 30, 1988, as "Drug Free America Week";

S.J. Res. 333. Joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week"; and

S.J. Res. 336. Joint resolution designating October 16, 1988, as "World Food Day"; and

H.J. Res. 600. Joint resolution to commemorate the 50th anniversary of the passage of the Federal Food, Drug, and Cosmetic Act.

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. SHELBY).

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4807. An act to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 4526. A bill to provide for the addition of approximately 600 acres to the Manassas National Battlefield Park (Rept. No. 100-520).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Leslee Kathryn Alexander, of Tennessee, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1991;

R. Kent Burton, of Virginia, to be Assistant Secretary of Commerce for Oceans and Atmosphere; and

Thomas C. Griscom, of Tennessee, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1991.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably two nomination lists in the U.S. Coast Guard which were printed in full in the CONGRESSIONAL RECORD of July 28, 1988, and, to save the expense of reprinting them on the Executive Calendar, I ask that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. ADAMS, Mr. BREAUX, Mr. STEVENS, Mr. HOLLINGS, Mr. PACKWOOD, Mr. WILSON, and Mr. KASTEN):

S. 2810. A bill to amend the Marine Mammal Protection Act of 1972 and to authorize appropriations for that Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY (for himself and Mr. Lautenberg):

S. 2811. A bill to further the utilization and rehabilitation of the area known as Officers Row located within the Sandy Hook Unit of the Gateway National Recreation Area, New Jersey, by permitting the State of New Jersey to construct a marine sciences laboratory; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 2812. A bill to amend the National Labor Relations Act to provide States with an option to include agricultural employees within the scope of such Act, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself and Mr. Murkowski):

S. Res. 475. A resolution urging the Polish Government to recognize the independent trade union Solidarity as a legal entity; to the Committee on Foreign Relations.

By Mr. DeCONCINI (for himself, Mr. Graham, Mr. Proxmire, Mr. Shelby, Mr. Simpson, Mr. Chiles, Mr. D'Amato, Mr. Boren, Mr. Hollings, Mr. Hatch, Mr. Dole, Mr. Symms, Mr. McClure, Mr. Bond, and Mr. Karnes):

S. Res. 476. Resolution expressing the sense of the Senate regarding U.S. policy in bringing about national reconciliation and self-determination in Angola and Namibia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 2810. A bill to amend the Marine Mammal Protection Act of 1972 and to authorize appropriations for that act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARINE MAMMAL PROTECTION ACT AMENDMENTS

● Mr. KERRY. Mr. President, I rise to introduce important legislation to reauthorize the Marine Mammal Protection Act. This act first enacted in 1972 is critical for the protection and conservation of marine mammals which are so essential to our marine ecosystem as well as enjoyed by many people recreationally.

The bill which I am offering today, is the result of tremendous time and effort by many individuals. This document represents a bipartisan and bicameral effort and reflects the input of all interested parties, including the fishing industry, environmentalists, the administration, the Marine Mammal Commission and virtually any and every group who was interested in this reauthorization process. I would like to offer my special appreciation to the House and Senate committee staff both minority and majority—who in marathon sessions during the past several months used their collective expertise and patience, to craft a consensus bill from which the legislation being introduced today, is based.

Sixteen years ago, the Marine Mammal Protection Act was enacted in response to growing public concern at that time, over the health and welfare of marine mammals, from seals to whales to porpoise to manatees, sea lions and many more. The citizen outcry then, brought us a law which today protects over 100 species of marine mammals. The act has proven successful over the years by replenishing declining species of marine mammals and protecting others from extinction. Probably one of the most significantly efforts of the MMPA, is the moratorium that has been placed on the taking and the harassment of marine mammals within the jurisdiction of the United States. The MMPA does provide limited exemptions where it is both appropriate and necessary, such as for legitimate scientific research, display for education, and of course incidental takes by commercial fishermen.

The bill being introduced today builds upon and enhances the current act. It does this by focusing on and making changes in three major areas: problems associated with the tuna fishery in the Eastern Tropical Pacific as it relates to porpoise mortality; a fisheries agreement regarding the incidental taking of marine mammals by commercial fishermen; and, finally, it addresses issues surrounding scientific research and public display of marine mammals.

The issues surrounding the mortality of dolphins in the tuna fishery in the Eastern Tropical Pacific [ETP] are both extremely difficult as well as tremendously emotional. It is estimated that over 100,000 porpoise are killed each year in the ETP by both the foreign and the domestic tuna fleet with the overwhelming majority being killed by the foreign fleet. Last year for example 60 percent of the tuna caught and 80 percent of porpoise killed in the ETP were taken by foreign fishermen. Clearly, the focus of the problem lies with the foreign fleet.

In 1984 when the act was last reauthorized, Congress made a number of substantive changes designed to make the foreign fleet more accountable and responsible. Most noteably was a provision which ensures that nations exporting tuna to the United States must have an adequate marine mammal protection program. This objective was to be achieved through an observer program which the Inter-American Tropical Tuna Commission. Sadly, however, until recently the administration, had not issued or even drafted for that matter, regulations putting in place many necessary and important changes. Building on what Congress set out to do in 1984, the bill that I am introducing today places new, tougher restrictions on foreign and domestic tuna fishermen who kill dolphin. These changes will force the foreign fleet to lower the number of dolphins they are killing by using comparable regulations and methods in their fishery as well as, achieve an average rate of incidental take comparable to the U.S. fleet. In addition, the legislation will enable the domestic fleet to minimize their kill even further.

Specifically, the legislation will require foreign fleets to cut in half their mortality rate of dolphin by the end of 1989 and by the end of the 1990 fishing season they must be fully comparable with the U.S. rate. Any foreign nation selling their tuna in U.S. markets must adopt a comprehensive dolphin protection program which includes an observer coverage program. Those foreign nations which do not comply will have their tuna banned from U.S. markets. In addition, any intermediary nation selling tuna which does not come under a comparable plan will also be banned. The legislation requires the Secretary of Commerce to enter into international negotiations aimed at establishing worldwide protection of dolphins.

On the domestic side it must be noted that the U.S. fleet has done a commendable if not exemplary job in reducing dolphin mortality since the act was first established. In 1972 U.S. vessels killed roughly 368,600 dolphins and last year the number had decreased to an impressive 14,000. Clearly we have witnessed a respectable improvement. Through an all out effort of education and new gear technologies fishermen have made this very responsible achievement. In 1981, Congress imposed an annual quota on domestic fishermen of 20,500 for the number of porpoise allowed to be killed and I am pleased to say that our fleet has only reached that level twice in the past decade. In talks with the industry, it is my opinion, that they can and will do even better in the future.

To that end, Mr. President, this legislation also makes additional changes to the 1984 amendments designed to help the U.S. fleet lower their rate even further. It requires 100 percent observer coverage on all U.S. tuna boats with some of the observers participating in the IATTC observer program. This will enable a sound data base to be developed on the rate of porpoise mortality. After 2 years the Secretary may determine if this full level of coverage is still necessary. It places a ban on sundown sets beginning 30 minutes after sundown. It directs the Secretary to develop a system in which exemplary skippers can apply for waivers to the sundown provision if their records shows that they have not killed porpoise during night sets. It establishes a system of performance standards for captains in which the Secretary and other skippers will determine when certain skippers are killing porpoises at a significantly higher level than others in order that they can be educated, reprimanded and if they are repeat offenders, suspension or removal of their license is also possible. The legislation requires the Secretary to ban the use of class A, explosive devices, and to proscribe regulations effective April 1, 1990, to prohibit or restrict the use of class C bombs, unless the Secretary through a study determines that their use does result in harm to dolphins. Also the bill also directs the National Academy of Sciences to study and devise alternative fishing gear that could be used by fishermen to reduce porpoise mortality. Finally, the legislation asks the Secretary to submit a report to Congress before April 1992 on the results of efforts required by the legislation to reduce porpoise mortality throughout the international fleet. If the mortality rate has not been reduced, then the Secretary is directed to recommend to Congress alternative proposals to achieve the goals of the act. Finally in the area of the dolphin, the bill directs the Secretary to conduct a study into last year's death of bottlenose dolphin which washed upon the Atlantic coast.

With regard to the problems associated with incidental taking of marine mammals by commercial fishermen, this legislation is designed to fix and balance the need for protection of our marine mammals with the ability of commercial fisheries to operate in a responsible manner. The act currently prohibits the taking of marine mammals, but it includes procedures under which commercial fisheries can receive general permit exemptions. However, commercial fishermen may not be issued permit exemptions for the incidental take of marine mammals that are depleted. All general permits issued to domestic fisheries—except tuna—expire at the end of this year. Northern fur seals have recently been determined as depleted. Furthermore, in a recent court ruling, NOAA is now prohibited from issuing any new permit exemptions. Therefore, Mr. President it is imperative that we pass this vital legislation before the session ends. Otherwise, thousands of U.S. fishermen will find themselves tied up at the docks at the height of next year's fishing season.

To address the issue of declining and depleted stocks of marine mammals, particularly in the northern Pacific, this legislation establishes a 5-year program to assess fishery and marine mammal interactions. It will strengthen reporting and verification requirements by fishermen as well as improve statistical information gathering so that the Secretary will better be able to determine the status of many stocks, and develop a more efficient system.

The Secretary is required to establish a system which identifies the number of vessels and individuals with: Frequent incidental takings of marine mammals; occasional incidental takings and remote incidental takings. Those with frequent and occasional incidental takings will be required to register their vessel and be subject to reporting requirements. In addition, vessels with frequent takings could be subject to an observer coverage program. Based on all the appropriate information, the Secretary will establish an exemption system. If a vessel does not participate in the system they will be subject to a penalty. If they do not comply with the reporting requirements or cooperate with the observer program, they are subject to having their exemption permit revoked.

In 1990 the Chairman of the Marine Mammal Commission shall transmit guidelines to the Secretary governing the incidental taking of marine mammals.

North Pacific fur seals and Steller sea lions are given special attention for conservation matters.

With regard to public display and scientific research, current law provides that permits may be issued for the taking or importation of marine mammals for this use. Permits can not, however be issued for enhancing the survival or helping to recover depleted stocks. The legislation being introduced today adds a provision to allow permits for such actions.

And lastly Mr. President, the bill being introduced broadens the authority under the Pelly amendment to include any product from a certified nation.

Mr. President, this consensus bill is a compromise between many parties. In order to achieve such broad support many individuals have had to come to agreement on some very sensitive, and emotional issues. I believe we have been successful in crafting such a bill which enjoys broad support. It is my belief that it will fly through Congress and do what we have all set out to do—save the lives of marine mammals while balancing the needs of our commercial fishing fleets. Mr. President I am proud to say we have accomplished that task.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2811. A bill to further the utilization and rehabilitation of the area known as Officers Row located within the Sandy Hook Unit of the Gateway National Recreation Area, New Jersey, by permitting the State of New Jersey to construct a marine sciences laboratory; referred to the Committee on Energy and Natural Resources.

MARINE SCIENCE LABORATORY

● Mr. BRADLEY. Mr. President, I rise today, with my distinguished colleague from New Jersey, to introduce a bill which will permit the State of New Jersey to use and occupy a small piece of property in the area known as Officers Row on Sandy Hook for the express purpose of constructing, developing, and operating the National Marine Fisheries Laboratory. This facility will be known as the James J. Howard Marine Sciences Laboratory.

A tragic fire destroyed the lab in September 1985. After 3 years of planning for a new facility, the National Park Service, the National Oceanic and Atmospheric Administration [NOAA], and the State of New Jersey have agreed on a site that is acceptable to all parties. The last hurdle to overcome is this legislation.

The National Marine Fisheries Laboratory is of great importance to New Jersey. The shore is one of New Jersey's most precious resources and the reestablishment of this facility will help us better understand and protect the ocean and its marine life. Work done at the Sandy Hook facility has been instrumental in assessing the impacts of ocean dumping of sewage sludge and dredged material on our coastal water quality. Many commercial fishermen also depend on this research to manage fisheries resources.

It is a fitting tribute that the lab will be named after Jim Howard. His tireless efforts were instrumental in keeping the lab at Sandy Hook. As chairman of the House Public Works and Transportation Committee he continually fought for the people of New Jersey. The naming of this facility after Jim Howard will serve as a reminder of one of his many accomplishments.●

● Mr. LAUTENBERG. Mr. President, I'm pleased to join my distinguished colleague, Senator BRADLEY, in introducing a bill that will clear the way for the construction of a new marine sciences lab at Sandy Hook, NJ.

Mr. President, with this bill we clear the last of many hurdles in a long race. The efforts to build this new lab date back to 1985, when arson fires destroyed major portions of the National Marine Fisheries Service lab, which has been housed at Sandy Hook for 20 years.

The laboratory conducts vital research, much of it focusing on the New York bight and other mid-Atlantic waters. That research is essential not only to furthering our understanding of the region's fisheries resources, but also to understanding—and reducing—the impact of pollution on our coastal waters.

Since the lab was devastated by fire, Senator Bradley and I, along with our distinguished late colleague Congressman Jim Howard, have worked to keep the lab in New Jersey, and to make it a first-class facility.

In 1985, I offered an amendment to the fiscal year 1986 Commerce, Justice, State, and the Judiciary appropriations bill that blocked the Commerce Department from moving the lab out of New Jersey. In the interim, we have worked hard to get the lab rebuilt. It is appropriate that we pay tribute to Congressman Howard by naming the rebuilt lab after him, as is done in this legislation.

Mr. President, earlier this summer, the Commerce Department, Interior Department, and the State of New Jersey reached agreement on siting and construction of the lab. The legislation we are introducing today allows that construction to now take place. Additionally, as I noted, the bill would name the facility the "James J. Howard Marine Sciences Laboratory."

Mr. President, the Sandy Hook lab is an important resource for New Jersey and the entire mid-Atlantic region. I urge my colleagues to support this bill.●

By Mr. HATCH:

S. 2812. A bill to amend the National Labor Relations Act to provide States with an option to include agricultural employees within the scope of such act, and for other purposes; to the Committee on Labor and Human Resources.

AGRICULTURAL LABOR AMENDMENTS ACT

Mr. HATCH. Mr. President, I am introducing today the Agricultural Labor Amendments Act, which provides States with the option of bringing agricultural employment under the National Labor Relations Act.

When the Wagner Act was developed, debated, and passed in the 1930's, there was no serious effort to include agricultural employees and their employers under the new act. Instead, such employment was exempted from the jurisdiction of the act and thus the National Labor Relations Board.

Although some efforts have been undertaken in the past either to repeal the agricultural exemption, or to enact legislation creating a separate Federal law to regulate collective-bargaining in agriculture, they have not succeeded due to opposition from employer or worker interests, or both.

Since enactment of the Wagner Act, Congress has passed some far-reaching amendments to protect the rights of individual workers and employers. At the same time, Congress has protected the right of workers to organize and sustain labor unions, to exercise the right to withhold their labor through strikes, and to engage in collective bargaining under terms and conditions laid down in the act and by administrative rulemaking by the National Labor Relations Board and by precedents set by the courts.

In addition to the agricultural exemption in the original act, Congress included several other exemptions, most of which have been subsequently repealed or modified by legislation geared for the special needs of a particular area of employment. The Railway Labor Act, which preceded the Wagner Act, remains a separate act.

During the past 25 years, agriculture has undergone profound changes, including far-reaching changes in agricultural employment. Agricultural exemptions from most labor protection laws have been modified or repealed. During the past 10 years the number of farmers has been reduced substantially, while the number of hired workers on farms has remained virtually constant. Taken together, these two facts mean that an increasing percentage of the total work performed on farms is accomplished by employees relative to that done by the farmowner or operator and members of the family.

Family farms continue to dominate American agriculture and are expected to continue in that role for the foreseeable future, but agriculture is becoming more like other industrial operations. It is more dependent on technology and more dependent on the services of employees.

The time has come to recognize these trends and to take a serious look at labor-management relations in agriculture.

In the absence of Federal action, some State governments—notably California and Arizona—have moved to fill the void. The administration of the agricultural labor relations laws in those States has been characterized by widespread labor unrest, including interruption of harvests by strikes, violence on both sides, costly litigation, and little accomplishment in terms of labor organizing, collective-bargaining agreements, or improved relations between management and labor.

The NLRA is not perfect, but it does provide the basic concepts and needed rules to protect the rights of both labor and management and to adjudicate disputes in an even-handed manner.

I believe it is time to seriously consider bringing agricultural employment under the act; but, it is not realistic to simply remove the exemption and subject all of agriculture to the act in one fell swoop.

According to information derived from the last Census of Agriculture, there are just fewer than 200,000 farms and ranches employing 10 or more employees, and those farms are concentrated in 10 to 15 States where labor-intensive production predominates. These States account for more than half of all agricultural employment.

The bill I am introducing today would give each State the option of bringing agricultural employment in the State under the NLRA through an act of the legislature, signed by the Governor and appropriately addressed to the President of the United States. This bill will have no effect on agricultural employers or workers in any State unless official action is taken through the normal legislative process in that State.

The bill has the endorsement of the American Farm Bureau Federation and has been adopted as official policy by the member State Farm Bureaus in convention for the past 2 years, without dissension.

The language of the bill has been drawn in such a way as to avoid as much complicating detail as possible, although I will appreciate and give consideration to any suggestions which may be offered. For example, it may be necessary to add additional language in order to avoid litigation or to clarify the administration of this legislation.

I believe the concept of the bill is constitutionally sound and workable. It is a way to make the protections and procedures of the National Labor Relations available to agricultural employers and employees in those States where the legislature and Governor determine it would be in the public interest to do so; at the same time the bill will not force Federal jurisdiction of agricultural labor relation beyond current law in any State in which it would be inappropriate or ineffective. It is a balanced approach to labor relations in the agricultural field, and I urge my colleagues to join me as a cosponsor.

ADDITIONAL COSPONSORS

S. 702

At the request of Mr. Simon, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 702, a bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

S. 889

At the request of Mr. Gore, the name of the Senator from Delaware [Mr. Roth] was added as a cosponsor of S. 889, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

S. 1230

At the request of Mr. Grassley, the names of the Senator from Minnesota [Mr. Durenberger], and the Senator from North Carolina [Mr. Helms] were added as cosponsors of S. 1230, a bill to amend title XVIII of the Social Security Act to permit payment for services of physician assistants outside institutional settings.

S. 1269

At the request of Mr. WIRTH, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1269, a bill to improve hazardous materials transportation safety.

S. 1426

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1426, a bill to amend the Internal Revenue Code of 1986 to encourage small businesses to extend retirement and fringe benefits to all employees, and for other purposes.

S. 1738

At the request of Mr. WILSON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1766

At the request of Mr. SARBANES, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1766, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1797

At the request of Mr. THURMOND, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1797, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 2047

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2047, a bill to require a health warning on the labels of all alcoholic beverage containers.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreation heritage, and for other purposes.

S. 2395

At the request of Mr. WIRTH, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2395, a bill to facilitate access to space, and for other purposes.

S. 2584

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2584, a bill to eliminate drug-related crime in public housing projects.

S. 2664

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2664, a bill to amend the Internal Revenue Code of 1986 to exempt from the capitalization rules certain expenses of producers of creative property.

SENATE JOINT RESOLUTION 280

At the request of Mr. HATCH, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week."

SENATE JOINT RESOLUTION 309

At the request of Mr. WILSON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 309, a joint resolution designating the month of May as "National Asparagus Month."

SENATE JOINT RESOLUTION 355

At the request of Mr. HEFLIN, the name of the Senator from Nebraska [Mr. KARNES] was added as a cosponsor of Senate Joint Resolution 355, a joint resolution designating October 7, 1988, as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 363

At the request of Mr. SARBANES, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 363, a joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the names of the Senator from Nevada [Mr. REID], the Senator from Nevada [Mr. HECHT], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of the Congress concerning support for Amateur Radio and Amateur Radio frequency allocations vital for Public Safety purposes.

SENATE CONCURRENT RESOLUTION 132

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Senate Concurrent Resolution 132, a concurrent resolution regarding the protection and promotion of human rights in the Republic of Singapore.

AMENDMENT NO. 3041

At the request of Mr. KENNEDY, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of amendment No. 3041 proposed to S. 837, a bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

AMENDMENT NO. 3045

At the request of Mr. PRESSLER, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from North Carolina [Mr. HELMS], the Senator from Nebraska [Mr. KARNES], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. EXON], the Senator from California [Mr. WILSON], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of amendment No. 3045 intended to be proposed to S. 837, a bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

SENATE RESOLUTION 475—RELATING TO RECOGNITION OF THE TRADE UNION SOLIDARITY

Mr. DODD (for himself and Mr. MURKOWSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 475

Whereas in 1980 the independent trade union Solidarity was formed by Polish workers dissatisfied with labor conditions in Poland;

Whereas in the same year the Polish Government recognized Solidarity as a legitimate organization of free trade unions;

Whereas in 1981 the Polish Government invoked martial law and arrested most of the top leaders of Solidarity;

Whereas in 1982 the Polish Government revoked its earlier recognition and officially outlawed Solidarity;

Whereas the same economic difficulties that gave rise to Solidarity not only persist in Poland but have been aggravated by the continuing strife between the Polish people and its government, bringing the country into the most serious crisis it faced since World War II;

Whereas it is becoming increasingly clear for the world community that the development of a modern society and economy cannot be accomplished without the voluntary participation of free citizens and their independent organizations;

Whereas the Polish Government, in search of popular acceptance, has again opened talks with Lech Walesa, the leader of Solidarity, with the assistance and good offices of the Catholic Church of Poland; and

Whereas more than 8 million Americans are, at least in part, of Polish extraction and, consequently, the stability and prosperity of Poland and the well-being of the Polish people are a natural and legitimate concern of millions of Americans; Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Government of Poland should recognize the important contribution to the economic and social reconstruction of the country to be made by the people of Poland acting through independent, voluntary organizations; and

(2) as evidence of such recognition the Government of Poland should immediately confer legal and independent status upon the trade union Solidarity.

The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the Government of Poland.

SENATE RESOLUTION 476—RELATING TO NATIONAL RECONCILIATION AND SELF-DETERMINATION IN ANGOLA AND NAMIBIA

Mr. DeCONCINI (for himself, Mr. Graham, Mr. Proxmire, Mr. Shelby, Mr. Simpson, Mr. Chiles, Mr. D'Amato, Mr. Boren, Mr. Hollings, Mr. Hatch, Mr. Dole, Mr. Symms, Mr. McClure, Mr. Bond, and Mr. Karnes) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 476

Whereas current negotiations at Brazzaville, mediated by the United States, between the Republic of South Africa, the Republic of Cuba, and the Popular Movement of the Liberation of Angola (MPLA) regime in Angola continue to yield progress toward the total withdrawal of all Cuban and foreign forces from Angola in the context of the completion of the decolonization of Africa through the implementation of United Nations Security Council Resolution 435/78;

Whereas the successful conclusion of these negotiations would achieve objectives long sought by succeeding United States Administrations in that it would provide independence for 1.3 million Namibians from South African occupation while removing Cuban occupation forces from Angola;

Whereas, as a direct result of these United States mediated negotiations, all South African forces have withdrawn from Angola;

Whereas this cessation of hostilities does not include the forces of the National Union for the Total Independence of Angola (UNITA) and the MPLA;

Whereas the MPLA refuses to enter into negotiations or discuss a cease-fire or national reconciliation with UNITA;

Whereas the Angola civil war between the forces of the MPLA regime and UNITA has continued for more than thirteen years, stimulating even higher levels of Cuban and South African intervention and bringing untold suffering to the Angolan people, generating massive displacement of Angolan civilians and refugee flows into neighboring countries, and taking more than 60,000 lives;

Whereas the root cause of this civil war is resistance by Angolans to the imposition upon them of a totalitarian regime by Cuban occupation forces which prevented the holding of the free elections envisaged by the Alvor Accords of 1975 signed by the MPLA and UNITA, under which Angolans were to achieve democracy and independence;

Whereas three successive presidents of the United States have declined to recognize the MPLA regime;

Whereas only a negotiated end to the civil war and the holding of free and fair elections, as envisaged by the Alvor Accords of 1975 can create a government which demonstrably enjoys the consent of the majority of Angolans which therefore can restore peace and foster economic development in Angola; and

Whereas regardless of whether foreign forces are withdrawn from Angola and Namibia, the civil war in Angola will continue with consequent massive suffering for the Angolan people and continuing insecurity for the Front Line States, as long as there is no internal political settlement and national reconciliation among Angolans: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should welcome the prospect of an indepenent Namibia free of South African occupation and should act to ensure that the United Nations supervised transitional process assures that the Namibian people can pursue national reconciliation and self-determination through fair and free elections and the formation of a genuine multi-party, non-racial democracy;

(2) U.S. mediators should seek the negotiation of a formula for the total and reliably verifiable withdrawal of all Cuban and Soviet-bloc forces and advisors from Angola and that pending total withdrawal these forces cannot intervene against Namibia or UNITA-held territory in Angola;

(3) the international agenda comprising the withdrawal of all foreign forces from Angola and the implementation of the United Nations-sponsored process of independence in Namibia must be synchronized with the domestic agenda of national reconciliation and free and fair elections in Angola, and that failure to ensure synchronization will only encourage the MPLA and the Cubans to pursue a military option;

(4) the continued presence of Soviet-bloc and Cuban logisitic and military personnel in support of the MPLA and the continued large scale build-up of sophisticated Soviet weaponry by the MPLA in Angola poses a significant threat to peace;

(5) the United States shall not cease, suspend, diminish, or otherwise restrict—or cause to be restricted—assistance to UNITA as long as the MPLA continues to receive Soviet, Cuban or other Soviet-Bloc or foreign military assistance, and until the President has certified to the Congress that—

(A) all Cuban forces have been withdrawn from Angola, including those who may be serving in any capacity with the forces of the MPLA regime;

(B) such forces have not been redeployed elsewhere for the purpose of a later invasion of Angola; and

(C) UNITA and the MPLA have agreed to form a government of genuine national reconciliation and have agreed to set a date for the holding of free and fair elections;

(6) the United States should actively encourage a cease-fire between Cuba and MPLA regime forces, respectively, and UNITA in Angola in order to facilitate a negotiated political settlement of the Angolan civil war as sought by UNITA;

(7) United States should vigorously promote direct talks between the leaders of UNITA and the MPLA regime in Angola to achieve an agreed process of national reconciliation among Angolans leading to the free and fair elections of a government which can enjoy the consent of the majority of Angolans; and

(8) the United States should urge the Organization of African Unity (OAU) and the independent majority-ruled states of Africa, as well as the Soviet Union and Cuba, to press the MPLA regime in Angola to open direct talks with UNITA to craft such a political settlement of Angola's internal divisions.

Sec. 2. The Senate further declares its support for a negotiated settlement of the civil war and national reconciliation in Angola by directing that the appropriate committees in the Senate conduct hearings to—

(1) determine what legislative actions may be appropriate and necessary to promote the establishment and survival of a multiparty, non-racial democracy in Namibia;

(2) consider the appropriation of humanitarian assistance to help the Angolan people to reconstruct their war-damaged economy, resettle displaced persons and refugees, reduce hunger and malnourishment, and otherwise recover from the injuries inflicted by their lengthy civil war and the foreign intervention it had invited, in the context of national reconciliation as outlined in section 1; and

(3) make recommendations to the President with respect to considering the establishment of diplomatic relation with a freely elected government in Luanda and formulate plans to assist the democratic government with economic reforms leading to the membership of Angola in the International Monetary Fund and the International Bank for Reconstruction and Development.

Sec. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

Mr. DeCONCINI. Mr. President, I rise today to introduce a resolution on United States policy objectives toward obtaining peace in South-west Africa. I have worked closely with Senator Graham, Senator Kasten, Senator Shelby, Senator Simpson, Senator Proxmire, Senator D'Amato, Senator Symms, and Senator Chiles to articulate goals toward a peaceful settlement to the 13-year civil war in Angola and a process of fair and free elections. As chairman of the Angola Task Force, I have attempted to incorporate the bipartisan concerns of the Congress regarding this resolution.

As we all know, there are currently talks taking place between the South Africans, Cubans, MPLA, and the Americans. These talks resume this week in Brazzaville. Although we have seen some positive and encouraging progress toward achieving peace, some tough issues still remain unresolved. We have worked hard to put together a resolution that would help in addressing some of these problems, and hope this will be voted on in the next few days. We would all agree that 13 years of civil war, 60,000 Angolans killed in combat, and over 500,000 displaced citizens is enough. We need peace. We need to stress negotiations. And we must achieve withdrawal of foreign troops and a cease-fire between UNITA and the MPLA.

I hope that Assistant Secretary Crocker will suceed in these negotiations. I do, however, have concerns about the future of UNITA and our support for these democratic resistance fighters. We should firmly support them. Recently, the Soviets have stated that they support direct negotiations between the MPLA and UNITA. Formally, the United States has not made this statement. When foreign troops are removed from Angola and Namibia, UNITA and the MPLA must sit down and talk. The United States should support a cease-fire, direct negotiations, and fair and free elections. We should loudly and openly support the process of democracy and peace.

Second, reports have appeared in the New York Times, the Washington Post, the Washington Times, and the Baltimore Sun stating that the Cubans are increasing their troop levels and the Soviets are still sending in huge amounts of equipment during these delicate negotiations. The South Africans have pulled out of Angola. Yet, the MPLA and Cubans continue to strengthen their positions. We should encourage the Soviets to continue to urge the MPLA and Cubans toward peace and discussions on national reconciliation. I would hope we could encourage this both through public and private channels. Also, the MPLA have made statements that they do not need the Cubans to destroy the UNITA forces. These are not helpful comments at this time.

This resolution encourages other African states to become involved in this process. If peace is to be achieved in Angola, Angolans and Africans must be the primary motivators and sponsors of this process. If we are to find a solution to the problems of civil war in South-West Africa, Africans must help craft the process of peace.

The resolution also states that if the Soviets and Cubans continue to aid the MPLA, the United States should not curtail its aid to UNITA. More specifically, the Cubans have close to 60,000 troops in Angola and the Soviets have sent in over $1 billion in military equipment over the past year. The United States has reportedly provided very modest support to UNITA in the form of $15 million. This has been widely published in press reports. We have learned from Afghanistan not to prematurely withdraw our support.

The resolution also states that there should be a direct relationship and symmetry between the timetables of withdrawal for the Cubans from Angola and the South Africans from Namibia. We do not want to see 30,000 Cuban troops remaining in Angola for 2 years after the South Africans are totally out of Angola and Namibia. This should be a fair and equal tradeoff of the previously supported goal of all foreign troops out of Angola and Namibia. There should be strenuous verification and monitoring to make sure the withdrawal and cease-fire is adhered to. We should also ensure that UNITA is protected from any kind of attack.

We should also stress humanitarian assistance for incentives toward peace. Section 2 of this resolution says that the Senate should hold hearings to discuss the possibility of aid to the starving, the misplaced, and the injured Angolans. We should attempt to provide carrots toward peace. We should encourage the eventual recognition of a democratically elected government in Luanda. We should encourage membership in the IMF for a democratic government.

Mr. President, this resolution will help toward achieving peace in South-West Africa. This resolution will help bring about values such as democracy, freedom, and fair elections in Angola. and, Mr. President, this resolution is supported by a bipartisan group of Senators hoping to contribute toward ending a disastrous 13-year-old civil war which has destroyed a once promising economy. The Senate should support this resolution. Africans and Angolans need this peace process.

Mr. President, I wish to thank Tim Roemer of my staff and Al Cumming of Senator GRAHAM's staff, Andy Jazwick on Senator SYMMS' staff, Terry Lynch on Senator SHELBY's staff, and Shawn Smeallie on Senator D'AMATO's staff, and a number of other staff people who have worked very diligently to put this legislation together. I hope that the Foreign Relations Committee will move swiftly to approve this for a vote on the floor. It really is not a controversial matter. It is merely expressing the sense of the Senate that we want a democratic process put together in Angola, we want the MPLA involved, we want UNITA involved, and we want the South Africans out. And that is about ready to occur, except for one fly in the ointment, Mr. President, and that is some 60,000 Cuban troops that are still there.

Mr. President, I ask unanimous consent that various newspaper articles in support of this resolution to bring this tragic civil war to an end be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 19, 1988]

AFRICANS PUSHING FOR PEACE IN ANGOLA

(By James Brooke)

GBADOLITE, ZAIRE, September 18.—The leaders of Angola, Angola's neighbors and South Africa have agreed to meet in coming weeks to discuss peace in Angola, President Mobutu Sese Seko of Zaire said in an interview here today.

The meeting, organized by Mr. Mobutu, is part of an accelerating effort by African leaders to promote a peaceful solution to Angola's 12-year-old civil war.

This week in New York, African leaders and foreign ministers are expected to use the opening of the United Nations General Assembly as a setting for bilateral meetings to advance peace in Angola.

The following week, in Brazzaville, Congo, talks are to resume between Angola, Cuba and South Africa on setting a calendar for the withdrawal of the estimated 50,000 Cuban troops in Angola. The United States is mediator at the talks, which are also intended to lead to independence for Namibia, a territory occupied by South Africa in defiance of United Nations resolutions.

COALITION IS AIM

The African initiative is largely aimed at bringing the two sides in Angola's civil war together in some form of coalition government.

"We sincerely believe that many African countries are calling with all their might for national reconciliation in Angola," President Mobutu said in the interview at his country estate here. He said that a time and a place were being negotiated for the meeting of regional heads of state.

African peace efforts took on a sense of urgency after Jonas Savimbi, the leader of Angola's rebels, charged recently that Angolan and Cuban troops were preparing a major offensive against his positions. On Saturday, Mr. Savimbi announced a tightening of rebel defenses and communications to deal with the threat.

Angola's Government refuses to open political negotiations with the rebels. But in recent interviews in Angola, Congo, Ivory Coast, Nigeria and Zaire, African diplomats and officials have shown increasing interest in a political solution.

"A lot of African countries would buy the idea of a resolution once the foreign forces decamp," said a diplomat from Nigeria, a country that has long maintained close ties with Angola's leftwing Government. "The rebels are from a disenfranchised tribe, so there is a need for integration, for reconciliation.

CONGO, TOO, SEEKS SOLUTION

Supported by the United States and South Africa, Mr. Savimbi's rebel group, the Union for the Total Independence of Angola, or Unita, draws its members largely from the Ovimbundu tribe. The Ovimbundu, Angola's largest ethnic group, accounts for about 35 percent of the population.

Congo, another country that has long supported Angola's Government, has also started pushing quietly for a political solution.

At a private meeting in Brazzaville in mid-August, Congo's President, Denis Sassou-Nguesso, President Mobutu and President Omar Bongo of Gabon urged Angola's President, José Eduardo dos Santos, to seek a political solution to the civil war.

"With their close ties with Congo, the Angolans saw it as a betrayal," a European diplomat in Angola said later. Congo and Angola share an official Marxist ideology. During the 1970's, Brazzaville was host to the Popular Movement for the Liberation of Angola, the rebel group that bested Unita in a struggle to rule Angola at independence from Portugal in 1976.

INCREASINGLY ISOLATED

The behind-the-scenes pressures for a political solution by Nigeria and Congo, two close allies of Angola, indicate that Angola is increasingly isolated in Africa in its insistence on a military solution.

In another sign of broad African support for a negotiated solution, Moussa Traoré, President of Mali and acting president of the Organization of African Unity, visited Luanda in late August with the goal of broaching the subject with Mr. dos Santos. But before the talks began, President dos Santos warned at a welcoming banquet, "Angola does not accept pressures from wherever they may come, which aim is the formation of a so-called coalition government."

President Traoré left the next morning.

[From the New York Times, Sept. 9, 1988]

ANGOLANS STRIVE FOR MILITARY VICTORY

(By James Brooke)

LUANDA, ANGOLA.—Angola's leadership appears determined to press for a military victory in the country's 13-year-old civil war, despite African, American and Soviet appeals for a negotiated settlement.

The calls for a political solution have taken on a special urgency this summer, when Angolan, Cuban and South African military diplomats are making an effort to set a timetable for the withdrawal of a Cuban expeditionary force that has protected Angola's Marxist Government since it achieved independence in 1975.

Several diplomats, businessmen and aid workers interviewed here have expressed skepticism that the Government troops could maintain control without the Cubans.

Armed by the United States and South Africa, guerrillas of the Union for the Total Independence of Angola, or Unita, have succeeded in impoverishing this country, black Africa's second largest oil producer after Nigeria.

HARD-LINE BY PRESIDENT

In late August, President José Eduardo dos Santos sounded a hard-line theme when he told members of the National Assembly that the guerrillas' "neutralization" will demand an additional and final sacrifice by our people and by our armed forces, combining political action with military action."

Political action, the President stressed, would take the form of amnesty for individual guerrillas, not power sharing with the guerrilla group.

The guerrillas now exert direct control over about 15 percent of Angola's population of 9 million in an area totalling about 20 percent of the nation, diplomats here estimate.

In addition, roving guerrilla bands are active in each of Angola's 18 provinces, and they exert veto power over productive economic activity in most of this country, which is twice the size of France.

FOCUSED ON 10 PROVINCES

Angola's army recognized the spread of the insurgency last July when it announced "clean-up campaigns mounted by the armed forces to once and for all annihilate the puppet gangsters in the pay of imperialism and racist South Africans."

According to the communiqué, the campaigns "particularly focused" on 10 provinces that constitute more than half the country.

Dismayed by the unraveling of the country and heartened by Soviet and American efforts to broker a regional peace accord, African leaders embarked on a major campaign in August to urge the Angolan Government to start political talks with the guerrillas' organization.

In late August, at what may have been the apex of the African peace initiative, Moussa Traore, President of Mali and acting president of the Organization of African Unity, arrived here for a two-day visit.

At at a welcoming banquet, President dos Santos turned to his guest and said: "Angola does not accept pressures, from wherever they may come, which aim at the formation of a so-called coalition government."

FEEL VERY FRUSTRATED

The president of the African organization left the following morning.

"The Angolan Government people feel very frustrated," a European ambassador said. "They feel everyone is ganging up on them."

In interviews at the end of August Angolan Government officials displayed deep bitterness about the guerrillas' organization and its leader, Jonas Savimbi.

Many cited a separate peace that they said Mr. Savimbi negotiated in the 1970's with Portuguese colonial officers, freeing the Portuguese to attack the Marxist group that eventually came to power here. Others cited the rebels' military alliance with South Africa, a power that repeatedly invaded southern Angola since independence.

"The massacres, the unholy alliance with South Africa—it has gone too deep for reconciliation," said an Angolian economist who asked not to be named.

Instead of reconciliation, the Angolan Government evidently calculates that two events may strengthen its hand for a successful final offensive against the guerrillas next year.

FAVOR A DUKAKIS VICTORY

First, officials openly hope that Gov. Michael S. Dukakis of Massachusetts will win the United States Presidential race in November. In June, Governor Dukakis said: "Military aid to Unita fans the flames of regional conflict in Southern Africa and should be halted."

In contrast, the Republican candidate, Vice President George Bush, met with Mr. Savimbi in Washington in June. Calling the Angolan rebel "a true patriot," Mr. Bush said that ending aid to the guerrillas would be "an immoral sellout of a loyal friend and a foreign policy disaster."

A second event that would help Angola militarily would be the independence of Namibia, also known as South-West Africa, which is administered by South Africa and is used as a supply base for guerrilla camps in southeastern Angola.

So far, Angola, Cuba and South Africa have not decided on a troop withdrawal timetable. The South Africans say the Cubans should go home in one year. The Angolans have offered three years.

Mr. Savimbi is not represented at the talks. But in comments in mid-August to reporters who visited his bush headquarters in Jamba, he charged that the Angolan Government wants to use the extra time to mount a joint Cuba-Angolan assault to wipe out his organization.

At the Defense Minister here, Lieut. Col. Mário Placido Cirilo de Sa, the Angolan army's intelligence chief, smiled when asked if such an offensive is planned.

"We don't need Cuban troops to annihilate Unita," he said.

[From the Wall Street Journal, Sept. 12, 1988]

BITTER LEGACY: AFTER 27 YEARS OF WAR, ANGOLANS FIND "PEACE" HAS LOST ITS MEANING—NEW GENERATION CARRIES ON A FIGHT BOTH SIDES VOW WILL LAST UNTIL VICTORY

(By Roger Thurow)

LUANDA, ANGOLA.—What is peace?

Espirito Luciano, a 19-year old government soldier who stepped on a land mine and lost his left leg 18 months ago, is dumbfounded by the question. He scratches his head, laughs nervously, and asks his comrades at a hostel for casualties, all of them amputees, for help. No one speaks. "Peace?" he finally says. "In Angola we do not know this word."

On the opposite end of this huge country, at the bush headquarters of the Angolan rebel movement known as Unita. Lt. Col. Paulo Gato is equally puzzled. As the man in charge of Unita's military instruction, he cannot conceive of life without war. "Peace?" he asks incredulously. "I'll always be a soldier."

For Angolans, who have know nothing but war since 1961, peace is an abstraction as arcane as a foreign language. For 14 years they fought Portuguese colonialists in a bloody struggle that ended in 1975. Then, on the day of independence, a fued between rival liberation movements exploded into an international conflict. Cuban soldiers streamed into the country to bolster the Marxist ruling party and repel U.S.-supported rebels backed by invading South African forces. The guns of Angola haven't rested a day in 27 years.

FILTH AND DECAY

As a result, one of the richest countries in Africa, blessed with oil and diamonds, is now one of the world's most impoverished. The capital of Luanda, once described as the Rio of Africa, is a filthy and smelly hovel of crumbling buildings and decaying morals. Angola is the orphan and amputee capital of the world.

Recent visits to both sides of the civil war reveal the most enduring and tragic legacy of three decades of nonstop fighting: profound and divisive hatred and an ingrained intolerance that has made confrontation a virtue and negotiation a vice. Brotherhood and compromise, like the word peace, seem to have disappeared from the Angolan vocabulary.

Even as the U.S mediates talks to rid Angola of its foreign armies, true peace in this sad corner of Africa remains as distant as ever. Several thousand South African troops completed their withdrawal by the beginning of September, and last week Angolan, Cuban and South African negotiators continued to discuss a timetable for the withdrawal of the 50,000 Cuban soldiers. In the meantime, the South Africans and Cubans have declared a ceasefire in their war. But not the Angolans. They don't know the meaning of ceasefire, either.

"How long can the war go on?" asks Desiderio da Costa, Angola's deputy minister of energy. "We are patient people. We can wait for the happy days." In other words, the war will go on, and on.

BIG STICKS AND RHETORIC

Leaders on both sides of the civil war—the ruling Popular Movement for the Liberation of Angola, or MPLA, and the rebel National Union for the Total Independence of Angola, or Unita—speak softly at times, dreaming of happy days ahead. But they aren't willing to lay down their big sticks, at least not until the enemy is vanquished.

The MPLA talks about "national harmonization." What this means is that South Africa's Unita "puppets" must surrender or perish. "All those forces that oppose the party and the government will be defeated," says Gen. Pedro Maria Tonha, the MPLA's defense minister. The day Unita loses its U.S. and South African support, the MPLA believes, is the day Unita will be crushed.

Unita talks of "national reconciliation." What this means is that it will keep fighting until the MPLA, ridiculed as Cuban surrogates, brings Unita into the government. "The MPLA *will* talk to us," insists guerrilla leader Jonas Savimbi in an interview at his bush-camp base, called Jamba, deep in Angola's southeastern corner. "Otherwise we will resist." Unita believes that the day the last Cuban leaves Angola is the day it will smash the MPLA and march into Luanda. Even if U.S. and South African aid to Unita stops, Mr. Savimbi claims he has weapons and unspecified help from other "friends" that will sustain his guerrilla campaign for many years more.

THE VIEW FROM LUANDA

Nowhere is there a defeatist note. "No one believes they will lose," says Espirito, the boy soldier. "We all expect to win."

In the middle of a busy traffic circle in Luanda, a curious monument to the war depicts two tanks running into each other. Across the street, a poster quotes the words of Agostinho Neto, the late MPLA leader and Angola's first president after independence: "Every citizen must consider himself to be a soldier."

On the southern edge of the capital, in a building that served as a restaurant and hotel during colonial days, 486 soldiers wait for the day when they can be fitted with new legs. This is an amputee hostel for the wounded awaiting flights to East Germany, Hungary, Yugoslavia or Russia for treatment. For them the fighting may be over, but the war endures.

"Look at all the suffering Unita has caused," says Espirito, resting his one leg on a bar stool. "How can we stop fighting now?"

His superior officer, Lt. Alfredo dos Santos, has just returned from East Germany, where his right foot was repaired. He interrupts with a diatribe against Unita. "You say they are our brothers. What brother would do this to his brother?"

As a group of foreign journalists leaves the hostel, the soldiers hop to attention on one leg and raise their fists in determination, "Viva MPLA!" they shout. "Victory is certain!"

Angola's foreign interlopers—Cubans, South Africans, Americans and Soviets—may believe that a military victory by one side or the other is impossible. But such thinking is considerd heresy inside the country. In the central provinces of Huambo and Bie, still under MPLA control, emotions are particularly sharp, for this is where many of the Unita leaders were born.

Over breakfast in the ornate government palace of Huambo, Andre Olamba, the provincial director of culture, speaks disdainfully of the Unita "traitors" who he says attack and terrorize the peasants. He sheepishly admits that his brother-in-law joined Unita in 1975. "But he's not from my side of the family," he adds quickly. "We don't even know if he's dead." Nor does Mr. Olamba, picking at his fried chicken, seem to care.

Just outside the town of Kuito in Bie province, local officials and residents stand amid the rubble of the delivery room of a maternity clinic. They say it was destroyed in May by a Unita blast.

"Bandits," says Clementio da Silva Angolares, the ideological commissar of the province, spitting out the MPLA's standard description of Unita. "Their war has no objective. This is not a military unit. Babies are born here."

Peace is the last thing on his mind. "We can never imagine a reconciliation with Unita," Mr. Angolares says to the delight of the citizenry crowding around him. "How can we reconcile with these people? How can we?" The best Unita can hope for, he says, is to accept the government's offer of clemency. "Those who don't turn themselves over," he warns, "are just awaiting death."

THE VIEW FROM JAMBA

At Unita's headquarters at Jamba, the war takes on an eerie timelessness. "The years, they just pass by," says Brigadier Ernesto Mulato, who was chased out of Angola by the Portuguese in 1960 only to return to the bush, and Unita, in 1975. "We've been out here for 13 years, but for us it seems like yesterday."

Unita leaders, who began their guerrilla campaign against the Portuguese in 1966, say they didn't fight for independence so that Angola could be "re-colonized" by Cubans and Soviets. The guerrillas claim control of one-third of the Angolan countryside—which they call "Free Angola"—and they pledge to continue fighting until they can "liberate" the rest of it. If that takes another 13 years, so be it.

"When there is a common suffering of your people, it is easier to bear," says Brig. Mulato. "Our people are a determined people. Look at Gen. Savimbi. He's been fighting for 30 years, and every day he gets stronger and stronger."

That is seven years longer than Paulo, a short, sensitive lieutenant, has even been alive. Paulo was only 11 in 1976 when MPLA and Cuban forces swept into his town in Bie Province. He was at school the day his five sisters and parents were killed, and he managed to run away into the bush. A few days later, he was picked up by Unita forces. It wasn't long before the orphan became a soldier.

A CAPTAIN'S STORY

"I want the Cubans and the MPLA to pay for what has happened to my family," Paulo says bitterly. "When I first went into the bush, I cried a lot. Now I understand I wasn't crying alone. What has happened to me has happened to millions of Angolans."

Like David Oliveira. He, too, was separated from his family in 1976 when the fighting swept into Huambo Province, and he, too, "cried like a baby" during his first days in the bush. Today, he is 31 years old and a captain in Unita's special forces. He has six steel pins in one ankle, which was shattered by a bullet in 1978.

Reclining on a tree limb, scribbling into his diary of the war, Capt. Oliveira says, "We are winning the war. I can tell you that for sure. We have the motivation."

He puts down his writing and saunters over to the billiards table sitting unevenly in the sand at Unita's visitor's camp. It is a jolting bit of civility in this land of war. "How can people live for 13 years in the bush, behind trees, under trees?" the captain asks. "Thirteen years of fighting destroys people intellectually and physically. But you think of how all those people under Cuban control are living, and you don't get tired. You can't get tired."

He sinks a ball and continues his discourse. "For Unita, it was hard to start fighting again in 1975 after fighting all those years for independence. But it isn't hard to continue fighting now," he says. He proudly announces that he has a one-year-old son. "He will take up my gun when I die," the captain says.

Mr. GRAHAM. Mr. President, I join with Senator DECONCINI in submitting today a resolution intended to signal support for the negotiations now underway to bring peace and reconciliation to Angola, and free elections as called for under United Nations Resolution 435 to Namibia.

This resolution is balanced and direct. It urges the administration to:

Encourage direct negotiations between the popular movement of the liberation of Angola [MPLA] and the National Union for the Total Independence of Angola [UNITA];

Appeal to African States and their governments to support peace and national reconciliation in Angola;

Continue to support UNITA as long as the MPLA continues to receive Soviet, Cuban or other Soviet-bloc or foreign military assistance.

The resolution also welcomes the prospect of an independent Namibia and Namibian national reconciliation and self-determination.

The key to eventual peace in Angola, as this resolution underscores, is national reconciliation between the Marxist MPLA and Jonas Savimbi's UNITA.

No matter one's view of the MPLA or UNITA, the objective reality is that until the two sides sit down to settle their differences at the bargaining table, this civil war will continue.

Mr. President, we must work to end this war. More than 60,000 lives have been lost; 500,000 people have been displaced. A promising economy—Angola is second only to Nigeria in oil production in black Africa—lies in ruins.

After 13 years of bloodshed, the time for peaceful reconciliation is long past due. That is why I hope—and I know it is a hope shared by all of my colleagues—that the negotiations now underway will bring peace.

As you know, Mr. President, UNITA is not a party to the current United States-mediated negotiations between the MPLA, Cuba and South Africa.

This is not by choice. UNITA has long been willing to talk with the MPLA, without preconditions. The MPLA has refused. Nevertheless, we hope the current negotiations will create an environment whereby national reconciliation talks can take place.

The negotiations, which began 4 months ago and have progressed through five rounds, continue to show progress. South Africa removed the last of its 2,000 troops from southern Angola on August 30, and has agreed to abide by U.N. Resolution 435. Under the U.N. plan, elections would be held in Namibia on June 1, 1989. South Africa would withdraw its military forces from Namibia by that time.

Negotiators, who are scheduled to resume talks at Brazzaville in the Congo this week, must now focus on the tough issue of a Cuban troop withdrawal timetable.

Although a degree of good faith continues to characterize the negotiations, that good faith is now being put to the test. Cuba has stepped up its military activity in Angola and the

MPLA is engaging in large-scale buildup of sophisticated Soviet weaponry.

As reported by the New York Times on September 9, the MPLA leadership appears determined to press for a military victory, despite appeals by African nations, the Soviet Union and the United States for a negotiated settlement.

The Times quotes Angolan President Jose Eduardo Dos Santos as telling his national assembly in late August that the guerrillas' "neutralization will demand an additional and final sacrifice by our people and by our armed forces, combining political action with military action."

Mr. President, I ask unanimous consent that the September 9 Times article be printed, in the RECORD following my remark.

This despite efforts by African leaders to encourage the MPLA to enter into negotiations with UNITA. Indeed, President Dos Santos rebuffed Moussa Traore, acting president of the Organization of African States and President of Mali, in his efforts to foster talks.

At a time when delicate negotiations are underway, renewed military activity coupled with hardline statements do not advance the cause of peace. Indeed, these actions indicate a continuing determination on the part of the MPLA to deal with UNITA militarily rather than politically.

Appeals by African leaders for reconciliation are expected to continue when African leaders and foreign ministers meet this week at the opening of the United Nations General Assembly. We can only hope they result in some progress.

In the meantime, the path to continued military confrontation can only lead to more bloodshed. No matter what one believes about UNITA, whether one agrees with them or not, the fact is that UNITA controls 20 percent of Angola's territory and an estimated 15 percent of Angola's 9 million people. Jonas Savimbi has been in the bush for 13 years. He has made it clear that he's not leaving Angola.

One reason for UNITA's military success is that it has a political program that makes sense and seems fair to many Angolans. The foundation of that program is national reconciliation.

UNITA has consistently supported national reconciliation and free elections since it joined with the MPLA and the now defunct National Front for the Liberation of Angola in signing the Alvor accords in 1975.

The accords called for the formulation of a constitution, electoral laws, and elections for a constituent assembly. That was a reasonable program then and it is one of the main reasons why UNITA remains popular among a significant portion of the Angolan population today.

It is also one of the reasons that the Congress repealed in 1985 the so-called Clark amendment prohibiting aid to UNITA. Another reason is that almost 10 years of self-restraint—the Congress first passed the Clark amendment in 1976—was met not with reciprocity but the delivery of nearly $10 billion in Soviet arms and a four-fold growth in Cuban forces in Angola to current level of more than 50,000.

As recently as last year, the Senate went on record by a vote of 94 to 0 in support of free elections as outlined under the Alvor agreement, condeming Soviet and Cuban intervention in Angola and criticizing the MPLA for human rights violations.

Mr. President, this resolution is completely consistent with past Senate action. It comes at a critical juncture in the negotiations and will make an important contribution to their eventual success. That success will turn on national reconciliation between the MPLA and UNITA. Without it, the war will continue. It is as simple as that. I urge my colleagues to support this resolution.

There being no objection, the article mentioned earlier was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 9, 1988]

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(By James Brooke)

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The calls for a political solution have taken on a special urgency this summer, when Angolan, Cuban and South African military diplomats are making an effort to set a timetable for the withdrawal of a Cuban expeditionary force that has protected Angola's Marxist Government since it achieved independence in 1975.

Several diplomats, businessmen and aid workers interviewed here have expressed skepticism that the Government troops could maintain control without the Cubans.

Armed by the United States and South Africa, guerrillas of the Union for the Total Independence of Angola, or Unita, have succeeded in impoverishing this country, black Africa's second largest oil producer after Nigeria.

HARD-LINE BY PRESIDENT

In late August, President José Eduardo dos Santos sounded a hardline theme when he told members of the National Assembly that the guerrillas' "neutralization will demand an additional and final sacrifice by our people and by our armed forces, combining political action with military action."

Political action, the President stressed, would take the form of amnesty for individual guerrillas, not power sharing with the guerrilla group.

The guerrillas now exert direct control over about 15 percent of Angola's population of 9 million in an area totalling about 20 percent of the nation, diplomats here estimate.

In addition, roving guerrilla bands are active in each of Angola's 18 provinces, and they exert veto power over productive economic activity in most of this country, which is twice the size of France.

FOCUSED ON 10 PROVINCES

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According to the communiqué, the campaigns "particularly focused" on 10 provinces that constitute more than half the country.

Dismayed by the unraveling of the country and heartened by Soviet and American efforts to broker a regional peace accord, African leaders embarked on a major campaign in August to urge the Angolan Government to start political talks with the guerrillas' organization.

In late August, at what may have been the apex of the African peace initiative, Moussa Traore, President of Mali and acting president of the Organization of African Unity, arrived here for a two-day visit.

But at a welcoming banquet, President dos Santos turned to his guest and said: "Angola does not accept pressures, from wherever they may come, which aim at the formation of a so-called coalition government."

FEEL VERY FRUSTRATED

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"The Angolan Government people feel very frustrated," a European ambassador said. "They feel everyone is ganging up on them."

In interviews at the end of August, Angolan Government officials displayed deep bitterness about the guerrillas' organization and its leader, Jonas Savimbi.

Many cited a separate peace that they said Mr. Savimbi negotiated in the 1970's with Portuguese colonial officers, freeing the Portuguese to attack the Marxist group that eventually came to power here. Others cited the rebels' military alliance with South Africa, a power that repeatedly invaded southern Angola since independence.

"The massacres, the unholy alliance with South Africa—it has gone too deep for reconciliation," said an Angolian economist who asked not to be named.

Instead of reconciliation, the Angolan Government evidently calculates that two events may strengthen its hand for a successful final offensive against the guerrillas next year.

FAVOR A DUKAKIS VICTORY

First, officials openly hope that Gov. Michael S. Dukakis of Massachusetts will win the United States Presidential race in November. In June, Governor Dukakis said. "Military aid to Unita fans the flames of regional conflict in Southern African and should be halted."

In contrast, the Republican candidate, Vice President George Bush, met with Mr. Savimbi in Washington in June. Calling the Angolan rebel "a true patriot," Mr. Bush said that ending aid to the guerrillas would be "an immoral sellout of a loyal friend and a foreign policy disaster."

A second event that would help Angola militarily would be the independence of Namibia, also know as South-West Africa, which is administered by South Africa and is used as a supply base for guerrilla camps in southeastern Angola.

So far, Angola, Cuba and South Africa have not decided on a troop withdrawal timetable. The South Africans say the

Cubans should go home in one year. The Angolans have offered three years.

Mr. Savimbi is not represented at the talks. But in comments in mid-August to reporters who visited his bush headquarters in Jamba, he charged that the Angolan Government wants to use the extra time to mount a joint Cuban-Angolan assault to wipe out his organization.

At the Defense Ministry here, Lieut. Col. Mario Placido Cirilo de Sa, the Angolan army's intelligence chief, smiled when asked if such an offensive is planned.

"We don't need Cuban troops to annihilate Unita," he said.

Mr. SYMMS. Mr. President, as a member of the Senate Angola Task Force, I am pleased to join Senators DECONCINI and GRAHAM as a sponsor of legislation supporting the continued assistance to the UNITA freedom fighters in Angola.

Included in support for this resolution are Senators MCCLURE, DOLE, PROXMIRE, HATCH, HOLLINGS, HECHT, D'AMATO, CHILES, SIMPSON, SHELBY, BOND, BOREN, MCCAIN, COCHRAN, GRASSLEY, KASTEN, and KARNES.

Mr. President, for more than 13 years, Jonas Savimbi and the UNITA freedom fighters have combatted successfully the Communist MPLA regime in Angola. The illegitimate MPLA regime, propped up by 60,000 Cubans and thousands of other Soviet-bloc personnel, have been unable to stop the spread of freedom and democracy in Angola. This is largely because of the courage, will and determination of UNITA. But it is also important to recognize that the assistance provided to UNITA by the United States and other Western democracies has played a vital role in bringing the MPLA and Cubans to the negotiating table.

In 1984, when I visited President Savimibi at his headquarters in Jamba, he asked me to carry a message back to the United States from the Angolan people. That message was to encourage Congress to repeal the Clark amendment which prohibited any U.S. assistance to UNITA. I was pleased to sponsor the Senate language, which passed in 1985, repealing that amendment. Not only has U.S. assistance enhanced UNITA's military capabilities, it has encouraged other moderate Western nations to openly support UNITA's struggle for freedom.

Now, many years later, the MPLA regime, Cuba and the Government of South Africa have sat down at the negotiating table to reach workable solutions for the entire southern Africa regional issues. These negotiations, which are mediated by the United States, have yielded some progress toward ending the Angolan war and bringing independence for Namibia. However, there is considerable work to be done before these goals can be reached. And it is very important for this Congress to outline the objectives that are important in the context of the role the United States plays in solving these problems.

Mr. President, my colleagues will remember that earlier this year, under quite similar circumstances, the U.S. mediated negotiations to bring an end to the Afghan war and the removal of Soviet troops from that country. The overwhelming support in Congress for the Afghan resistence required U.S. negotiators to seriously review their position in ending that bloody war. Had it not been for the passage of the Afghan Resolution in March, the United States was, in the words of Deputy Assistant Secretary of State Robert Peck, "prepared * * * to prohibit U.S. military assistance to the Afghan resistance." Moreover, Mr. Peck went on to state that they—the State Department—"would expect the Soviet Union to show reciprocal restraint."

Today, the United States is in the midst of negotiating an end to another regional conflict. As I said earlier, the circumstances surrounding the current African negotiations resemble greatly the Afghan negotiations. And, it is the belief of the Senators who support the resolution being introduced today, that Congress must offer its guidance, support and recommendations before the negotiations continue further.

I strongly encourage the leadership to bring this resolution up before the Senate for its timely consideration, and I encourage Senators listening to the floor debate to review this resolution and join us as cosponsors.

AMENDMENTS SUBMITTED

MINIMUM WAGE LEGISLATION

KASTEN AMENDMENT NO. 3046

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; as follows:

On page 3, strike lines 1 through 11, and insert:

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the year ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SIMON AMENDMENT NO. 3047

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill, S. 837, supra; as follows:

On page 4, strike out line 6 and all that follows through line 4 on page 7, and insert in lieu thereof the following new section:

SEC. 4. PUERTO RICO, THE VIRGIN ISLANDS, AND AMERICAN SAMOA.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5(29 U.S.C. 205) is amended—

(1) in subsection (a)—

(A) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and inserting in lieu thereof "American Samoa"; and

(B) by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa";

(2) in subsection (e), by striking out "Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "American Samoa (1) by the United States or by the government of American Samoa"; and

(3) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS" and inserting in lieu thereof "AMERICAN SAMOA".

(b) MINIMUM WAGE.—Section 6 (29 U.S.C. 206) is amended—

(1) in subsection (a)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (b), by striking out "subsection (a)(5)" and inserting in lieu thereof "subsection (a)(4)'; and

(3) in subsection (c)—

(A) by striking out "Puerto Rico or the Virgin Islands" in paragraph (1) and inserting in lieu thereof "American Samoa";

(B) by striking out paragraphs (2) and (4); and

(C) by redesignating paragraph (3) as paragraph (2).

(c) WAGE ORDERS.—Section 8 (29 U.S.C. 208) is amended—

(1) in subsection (a)—

(A) by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa";

(B) by striking out "Puerto Rico, in the Virgin Islands, or in both places" in paragraph (1) and inserting in lieu thereof "American Samoa"; and

(C) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and inserting in lieu thereof "American Samoa";

(2) in subsection (b)—

(A) by striking out "Puerto Rico or or in the Virgin Islands" and inserting in lieu thereof "American Samoa"; and

(B) by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa"; and

(3) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS" and inserting in lieu thereof "AMERICAN SAMOA".

(d) This section shall be effective three days after enactment.

GRAMM AMENDMENTS NOS. 3048-3054

(Ordered to lie on the table.)

Mr. GRAMM submitted seven amendments intended to be proposed by him to the bill, S. 837, supra; as follows:

AMENDMENT No. 3048

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$10,000,000".

AMENDMENT No. 3049

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$5,000,000".

AMENDMENT No. 3050

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$1,000,000".

AMENDMENT No. 3051

On page 3, strike lines 5-11 and insert in lieu thereof:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, and not less than $10 an hour during the year beginning January 1, 1989;".

AMENDMENT No. 3052

At the appropriate place add the following: "This Act shall not apply to:

(1) anyone who has been receiving public assistance for more than twelve months."

AMENDMENT No. 3053

At the appropriate place add the following: "This Act shall not apply to:

(1) anyone who has been unemployed for more than twelve months."

AMENDMENT No. 3054

At the appropriate place add the following: "This Act shall not apply to:

(1) anyone who has been unemployed for more than twelve months, or

(2) anyone who has been receiving public assistance for more than twelve months."

EVANS (AND CRANSTON) AMENDMENT NO. 3055

(Ordered to lie on the table.)

Mr. EVANS (for himself and Mr. CRANSTON) submitted an amendment intended to be proposed by them to the bill S. 837, supra; as follows:

At the end of the pending amendment, insert the following:

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term "position" means employee positions that are subject to classification under chapter 51 of title 5, United States Code, or the job-grading system under subchapter IV of chapter 53 of such title;

"(2) the term "Commission" means the Commission on Compensation established by subsection (c);

"(3) the term "Director" means the Director of the Office of Personnel Management;

"(4) the term "employee" means an individual to whom chapter 51 or subchapter IV of chapter 53 of such title applies;

"(5) the term "labor organization" shall have the meaning given such term by section 7103(a)(4) of such title;

"(6) the term "economic analysis" means a method of analyzing differentials in pay between and among positions within occupations in order to determine if, and the extent to which, those differentials are attributable to factors such as seniority, merit, productivity, education, work experience, geographic factors, supply and demand factors, or any other factor exclusive of sex, race, or ethnicity, and

"(7) the term "objective job evaluation analysis" means a quantitative method of rating positions within occupations based upon factors such as the skill, effort, responsibilities, qualification requirements, and working conditions involved so that comparisons may be made with respect to the positions and occupations involved."

"(c) ESTABLISHMENT.—There is established a commission to be known as the Commission on Compensation Equity.

"(d) STUDY.—(1) To determine whether distinction between rates of basic pay for Federal jobs in executive agencies of the United States Government reflect substantial differences in the duties, difficulty, responsibility, and qualification requirements of the work performed, in accordance with sections 5101 and 5341 of title 5, United States Code, and are not based on considerations of sex, race, or national origin, the Commission shall provide, by contract with the consultant selected pursuant to subsection (i), for—

"(A) the conduct of a study of classification, grading, and pay-setting processes within and between the position-classification system under chapter 51 of such title and the job-grading system under subchapter IV of chapter 53 of such title, using standard objective job-evaluation and economic analysis techniques, to determine whether the development or implementation of these processes results in the payment of rates of basic pay for positions in which either sex is numerically predominant or any race or ethnic group is disproportionately represented that are not in proportion to the duties, difficulty, responsibility, and qualification requirements of the work performed, and

"(B) the preparation and submission of a report containing the findings of such study, including a list of any such positions and the extent of the differences in the rates of pay in such cases.

"(2) For the purposes of this subsection, the term "executive agency" shall have the meaning given such term by section 105 of title 5, United States Code.

"(e) REPORT.—(1) Not later than eighteen months after the effective date of this section, the Commission shall transmit to the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service the report required by subsection (d) and shall provide a copy of this report to the Director.

"(2) The report shall include—

(A) the Commission's findings resulting from the study; and

'(B) the Commission's recommendations, consistent with the provision of section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) (as added by section 3 of the Equal Pay Act of 1963), for such administrative or legislative actions, or both, as it considers appropriate (including any recommendations for modification of the provisions of subsection (h)).

"(3) Not later than ninety days after the Commission submits its report to the appropriate Committees of the Congress pursuant to paragraph (1), the Director shall submit to such Committees and the Commission a repaort which shall include a detailed response to each of the findings and recommendations of the Commission.

"(4) Not later than sixty days after the Director submits the report to the appropriate commitees of the Congress pursuant to paragraph (3), the Commission shall submit to such Committees and additional comments that the Commission deems appropriate in response to the Director's report.

"(5) The consultant's study and any findings, conclusions, recommendations, or comments by the consultant or the Commission under this section with respect to such study shall be considered to be of an advisory nature only.

"(f) APPOINTMENT OF COMMISSION.—(1)(A) The Commission shall be composed of nine members as follows:

"(i) Two appointed by the President of the United States.

"(ii) One appointeed by the majority leader of the Senate.

(iii) One appointed by the minority leader of the Senate.

"(iv) One appointed by the Speaker of the House of Representatives.

"(v) One appointed by the minority leader of the House of Representatives.

"(vi) Three appointed by the Director to represent Federal employee labor organizations, one designated (and certified to the Director) by each of the three respective labor organizations representing, as exclusive representatives, the largest number of individuals occupying positions that are subject to chapter 51 or subchapter IV of chapter 53, of title 5, United States Code.

"(B) Members of the Commission may not be members of Congress and shall, to the maximum extent practicable, be chosen from among persons who have extensive knowledge and technical expertise in the major areas of the Commission's consideration and study.

"(2) All apppointments under paragraph (1) shall be made not later than sixty days after the effective date of this section.

"(g) Administrative Provisions.—(1)(A) The President shall designate a Chairman of the Commission from among the Commission members. The Commission shall elect a Vice Chairman from among its members. The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman.

"(B) The Commission shall adopt such rules and regulations as it considers necessary to establish its procedures and to govern the manner of its operations, its organization, and its personnel.

"(C) Five members of the Commission shall constitute a quorum.

"(D) Any vacancy in the Commission shall not affect its powers except to satisfy the quorum requirements in subparagraph (C). Such vacancy shall be filled in the manner in which the original appointment was made.

"(2) Each member of the Commission who is not an officer or employee of the United States Government shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for level IV of the Executive Schedule for each day the member is engaged in the performance of the duties of the Commission.

"(3)(A) The Commission may appoint, terminate, and subject to subparagraph (B), fix the compensation of such personnel as it considers advisable to employ to assist in the performance of its duties, without regard to the civil service laws, the provisions of title 5, United States Code, or any other law relating to the number, classification, or compensation of employees. The Commission also may procure temporary and intermittent services in carrying out its responsibilities. The Chairman shall appoint an executive director of the Commission with the approval of a majority of the Commission members.

"(B) An employee of the Commission may not receive compensation at a rate exceeding the rate of pay payable for grade GS-18 under section 5332 of title 5, United States Code.

"(C) Service of an individual as a member of the Commission or as an employee of the Commission shall not be considered service in an appointive or elective position in the United States Government for the purposes of section 8344 and 8468 of title 5, United States Code.

"(4) All members and employees of the Commission and all individuals performing temporary or intermittent services for the Commission shall, while performing the duties of the Commission, be paid per diem, travel and transportation expenses in the same manner as provided for under subchapter I of chapter 57 of title 5, United States Code.

"(5)(A) The Commission or any member authorized by the Commission may, for the purposes of carrying out this section, hold such hearings and sit and act at such times and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, with or without consideration or bond, and take such other actions as the Commission considers advisable, to the extent that amounts provided pursuant to subsection (k) are available. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

"(B) The Commission is authorized to obtain directly from any officer, department, agency, establishment, or instrumentality of the United States Government such information, suggestions, estimates, and statistics as the Commission considers necessary to carry out this section. Each such officer, department, agency, establishment or instrumentality shall furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made on behalf of the Commission.

"(C) The Commission may use the United States mails and receive administrative support from the Administrator of General Services in the same manner and under the same conditions as departments and agencies of the United States Government.

"(D) No officer or agency of the United States Government shall require the Commission to submit any report, recommendation, or other matter to any such officer or agency for approval, comment, or review before submitting such report, recommendation, or other matter to Congress or Committees of Congress.

"(6) Upon request of the Commission, the head of any federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

"(7) The Commission shall meet from time to time, as its members consider appropriate.

"(h) TERMINATION.—Ninety days after the date the Commission submits its comments pursuant to subsection (e)(4), the Commission shall cease to exist.

"(i) CONSULTANT.—The Commission shall—

"(A) develop the specifications for the study required under subsection (d) in the form of a request for proposals; and

"(B) solicit from the Comptroller General of the United States, the Congressional Office fo Technological Assessment, and the National Academy of Sciences a list of consultants who on the basis of the specifications developed under subparagraph (A) and the objectivity, extensive knowledge and technical expertise of such consultants in the matters to be studied pursuant to this section, are appropriate to conduct the study.

"(2) The Comptroller General of the United States and the Congressional Office of Technological Assessment shall provide the lists to the Commission within sixty days after the date of such solicitation pursuant to paragraph (1).

"(3) From among the consultants on the lists provided pursuant to paragraph (1), the Commission shall select one consultant to conduct such study.

(j) CONSTRUCTION.—Nothing in this Act may be construed to limit or expand any of the rights or remedies provided under the Civil Rights Act of 1964, section 6(d) of the Fair Labor Standards Act of 1938, or any other provision of law relating to discrimination on the basis of race, color, religion, sex, national origin, handicap or age.

"(k) FUNDING—(1) Of the sums appropriated to the Office of Personnel Management for general operating expenses for fiscal year 1989 and 1990, an amount not to exceed $3,000,000 shall be made available to pay the expenses of the Commission and shall remain available for such purpose until September 30, 1991.

"(2) The Commission, by majority vote, shall determine the necessary expenses of the Commission and notify the Director of the Office of Personnel Management.

"(l) EFFECTIVE DATE.—This section shall take effect on October 1, 1988.".

PRESSLER AMENDMENT NO. 3056

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

At the end of the bill, add the following new section:

SEC. 5. PAY OF MEMBERS OF CONGRESS.

(a) SHORT TITLE.—This section may be cited as the "Congressional Pay Accountability Act of 1988".

(b) CONGRESSIONAL VOTE ON PRESIDENTIAL RECOMMENDATIONS TO INCREASE CONGRESSIONAL RATES OF PAY.—Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF PRESIDENTIAL RECOMMENDATIONS; CONGRESSIONAL VOTE ON INCREASES IN CONGRESSIONAL RATES OF PAY.—(1)(A) Except for the recommendations relating to Members of Congress (which shall be subject to the provisions of paragraph (2)), the recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in subparagraph (B) of this paragraph, unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date on which such recommendations are transmitted to the Congress.

"(B) The effective date of the rate or rates of pay which take effect for an office or position under subparagraph (A) of this paragraph shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in such paragraph.

"(2)(A) The recommendations of the President relating to the rates of pay of Members of Congress which are transmitted to the Congress under subsection (h) of this section shall become effective only after the enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of such recommendation to increase the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) For purposes of this paragraph the term "Members of Congress" includes all positions described under section 225(f)(A), except for the Vice President of the United States.".

(c) CONGRESSIONAL RATES OF PAY WITH INCREASES IN THE GENERAL SCHEDULE.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Any increase in the rates of pay of Members of Congress which corresponds to an increase in the rates of pay in the General Schedule under section 5305 of title 5, United States Code, in any fiscal year shall become effective only after enactment of a joint resolution as provided under subparagraph (B).

"(B) The joint resolution described under subparagraph (A) shall—

"(i) relate only to the issue of the increase in the rates of pay of Members of Congress; and

"(ii) be recorded to reflect the vote of each Member of Congress thereon.

"(C) If a joint resolution is enacted as provided under subparagraphs (A) and (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which such joint resolution is enacted, each annual rate of pay of Members of Congress shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under section 5305) of the adjustment in the rates of pay under the General Schedule.".

(d) CONGRESSIONAL VOTE ON ANY INCREASE IN THE RATES OF PAY OF MEMBERS OF CONGRESS.—(1) Notwithstanding any other provision of law, any increase in the rates of pay of Members of Congress shall become effective only after the enactment of a joint resolution as provided in subsection (b).

(2) The joint resolution described under subsection (a) shall—

(A) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(B) be recorded to reflect the vote of each Member of Congress thereon.

SYMMS AMENDMENT NO. 3057

(Ordered to lie on the table.)

Mr. SYMMS submitted an amendment intended to be proposed by him to the bill, S. 837, supra; as follows:

In section 2, strike the paragraph after the words "to read as follows:" and insert in lieu thereof:

"(1)(A) except as otherwise provided in this section, not less than $8.80 per hour during the period ending December 31, 1988.

"(B) The Secretary shall determine and publish a wage order no later than October 1 of each year which will increase the applicable amount in paragraph (1)(A)—$8.80 per hour in calendar year 1988—by an amount equal to the increase in the consumer price index for all urban wage earners during the twelve-month period from July 1 of the previous year through June 30 of the current year, and such increase in the minimum wage shall become applicable on January 1 of the subsequent year.".

SIMON AMENDMENT NO. 3058

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill, S. 837, supra; as follows:

On page 4, strike out line 6 and all that follows through line 4 on page 7, and insert in lieu thereof the following new section:

SEC. 4. PUERTO RICO, THE VIRGIN ISLANDS

(a) SPECIAL INDUSTRY COMMITTEE.—Section 5 (29 U.S.C. 205) is amended—

(1) in subsection (a)—

(A) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(B) by striking out "Puerto Rico and the Virgin Islands";

(2) in subsection (e), by striking out "Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and

(3) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS"

(b) MINIMUM WAGE.—Section 6 (29 U.S.C. 206) is amended—

(1) in subsection (a)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (b), by striking out "subsection (a)(5) and inserting in lieu thereof "subsection (a)(4)"; and

(3) in subsection (c)—

(A) by striking out "Puerto Rico or the Virgin Islands" in paragraph (1)";

(B) by striking out paragraphs (2) and (4); and

(C) by redesignating paragraph (3) as paragraph (2).

(c) WAGE ORDERS.—Section 8 (29 U.S.C. 208) is amended—

(1) in subsection (a)—

(A) by striking out "Puerto Rico and the Virgin Islands";

(B) by striking out "Puerto Rico, in the Virgin Islands, or in both places" in paragraph (1), and

(C) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands,";

(2) in subsection (b)—

(A) by striking out "Puerto Rico or in the Virgin Islands"; and

(B) by striking out "Puerto Rico and the Virgin Islands"; and

(3) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS".

(d) This section shall be effective three days after enactment.

HEINZ AMENDMENTS NOS. 3059 AND 3060

(Ordered to lie on the table.)

Mr. HEINZ submitted two amendments intended to be proposed by him to the bill, S. 837, supra; as follows:

AMENDMENT No. 3059

In section 2 strike "$4.55" and insert in lieu thereof, "$4.45".

AMENDMENT No. 3060

On page 3, line 10, strike "$4.55" and insert in lieu thereof, "$4.45".

HATCH AMENDMENTS NOS. 3061 THROUGH 3090

(Ordered to lie on the table.)

Mr. HATCH submitted 30 amendments intended to be proposed by him to the bill, S. 837, supra; as follows:

AMENDMENT No. 3061

At the appropriate place insert the following: "Section 2 of this Act shall not apply to Senior Volunteers employed as part of the Senior Companion Program as defined in the Domestic Volunteer Services Act so long as the pay for such Volunteers is increased by 20 cents on January 1, 1989; January 1, 1990; and January 1, 1991."

AMENDMENT No. 3062

At the appropriate place insert the following: "Section 2 of this Act shall not apply to employers reimbursed by Medicare until the Health Care Financing Administration adjusts Medicare payment rates to compensate for the increase in the minimum wage required by this Act."

AMENDMENT No. 3063

At the appropriate place insert the following: "Section 2 of this Act shall not apply to employers reimbursed by Medicaid until the Secretary of Health and Human Services certifies to Congress that at least half of the States have adjusted their Medicaid rates to compensate for the increase in the minimum wage required by this Act."

AMENDMENT No. 3064

At the appropriate place insert the following: "Any increase required by Section 2 of this Act shall be delayed if the national unemployment rate on or before the date of the increase is greater than 7 percent, until such time as the national unemployment rate falls below 7 percent."

AMENDMENT No. 3065

At the appropriate place insert the following: "Section 2 of this Act shall not apply to public school employees unless the Secretary of Education certifies to Congress that the increase will not adversely affect the quality of education and the safety and health of students will not be compromised due to inadequate staffing."

AMENDMENT No. 3066

At the appropriate place insert the following: "Section 2 of this Act shall apply to public school employers at the start of each applicable school fiscal year."

AMENDMENT No. 3067

At the appropriate place insert the following: "Section 2 of this Act shall not apply to public school employees until Congress appropriates sufficient funds to compensate State and local education agencies for the increase in cost to perform federally required functions resulting from implementation of this Act."

AMENDMENT No. 3068

At the appropriate place insert the following: "Section 2 of this Act shall not apply to public higher education employees until Congress appropriates sufficient funds to compensate State higher education authorities for the increase in cost to perform federally required functions resulting from implementation of this Act."

AMENDMENT No. 3069

At the appropriate place insert the following: "Section 2 of this Act shall not apply any to employee covered by a collective bargaining agreement."

AMENDMENT No. 3070

At the appropriate place insert the following: "Section 2 of this Act shall not take effect until Congress enacts legislation to bring Senate and House employees under the coverage of the Fair Labor Standards Act."

AMENDMENT No. 3071

At the appropriate place insert the following: "This Act shall not apply until Congress enacts legislation requiring that in calculating the wage rate, an employer may include fringe benefits, bonuses, and gifts."

AMENDMENT No. 3072

At the appropriate place insert the following: "This Act shall not apply until Congress enacts legislation requiring that in calculating the wage rate, an employer may take into account fringe benefits."

AMENDMENT No. 3073

At the appropriate place insert the following: "This Act shall not apply until Congress enacts legislation requiring that in calculating the wage rate, an employer may take into account bonuses."

AMENDMENT No. 3074

At the appropriate place insert the following: "This Act shall not apply until Congress enacts legislation requiring that in calculating the wage rate, an employer may take into account gifts."

AMENDMENT No. 3075

At the appropriate place insert the following: "Prior to the implementation of Section 2, the Director of the Office of Management and Budget shall transmit to Congress a list of the federal programs which may be affected, along with an estimate of the necessary increases in appropriations to prevent cuts in services, cuts in benefits, cuts in safety, or increases in citizens out-of-pocket costs."

AMENDMENT No. 3076

At the appropriate place insert the following: "This Act shall not apply until the Congress enacts legislation to provide that for the purposes of P.L. 100-379, the passage of this Act shall be deemed adequate notification of termination for any employee who is terminated as a direct or indirect result of the passage of this Act."

AMENDMENT No. 3077

At the appropriate place insert the following: "Section 2 shall not apply to any area which has been declared a national disaster area for a period of 60 days following such declaration."

AMENDMENT No. 3078

At the appropriate place insert the following: "Section 2 shall not apply to any program which is religiously affiliated."

Amendment No. 3079

At the appropriate place insert the following: "Prior to the implementation of Section 2, the the Director of the Office of Management and Budget shall report to Congress on the impact this legislation will have on the federal budget deficit and on the budget impact on states and local governments."

Amendment No. 3080

At the appropriate place insert the following: "Prior to the implementation of Section 2, the Secretary of Labor shall report to Congress on the impact this legislation will have on unemployment and the labor force participation of women, minorities, and the disabled."

Amendment No. 3081

At the appropriate place insert the following: "Prior to the implementation of Section 2, the Secretary of Commerce shall report to Congress on the impact this legislation will have on the trade deficit."

Amendment No. 3082

At the appropriate place insert the following: "Prior to the implementation of Section 2, the Commissioner of Social Security shall report to Congress on the impact this legislation will have on Social Security recipients."

Amendment No. 3083

At the appropriate place insert the following: "Prior to the implementation of Section 2, the Secretary of Labor shall report to Congress on the impact this legislation will have on displaced workers."

Amendment No. 3084

At the appropriate place insert the following: "Section 2 shall not apply to any employer who has received a one year waiver from the Secretary upon showing severe economic hardship resulting from the compliance with this Act."

Amendment No. 3085

At the appropriate place, insert the following:

"Sec. . Relief for Special Economic Conditions.—The Governor of any state may petition the Secretary of Labor to delay the implementation of the minimum wage rates prescribed by section 6(a) if such Governor determines that economy of the state would be severely disadvantaged by the implemention of such rates."

Amendment No. 3086

At the appropriate place, insert the following:

"Sec. . Relief for Special Economic Conditions.—"(a) The Governor of any State may petition the Secretary of Labor to delay the implementation of the minimum wage rates prescribed by section 6(a) and establish a special review committee to prescribe a minimum wage for such State based on the economic conditions of that State.

"(b) The special review committee shall be appointed by the Secretary of Labor and shall consist of representatives of business, labor, and state legislative and executive branch officials.

"(c) In no case may the special review committee prescribe a minimum wage for a state which is less than $3.35 per hour."

Amendment No. 3087

At the appropriate place, insert the following:

"Sec. . Relief for Special Economic Conditions.—The Governor of any state may petition the Secretary of Labor to delay the implementation of the minimum wage rates prescribed by section 6(a) if such Governor determines on the basis of economic evidence that the estimated job losses within the state would exceed 3,000."

Amendment No. 3088

At the appropriate place, insert the following:

"Sec. . Relief for Special Economic Conditions.—The Governor of any state may petition the Secretary of Labor to delay the implementation of the minimum wage rates prescribed by section 6(a) if such Governor determines on the basis of economic evidence that the estimated job losses within the state would exceed one-tenth of one percent of the labor force within the state."

Amendment No. 3089

At the appropriate place, insert the following:

"Sec. . Relief for Special Economic Conditions.—The Governor of any state may petition the Secretary of Labor to delay implementation of the minimum wage rates prescribed by section 6(a) if the ratio of the minimum wage prescribed by such section to the average hourly wage of such state is greater than 36 percent."

Amendment No. 3090

At the appropriate place, insert the following new section:

"Sec. . Reduced Minimum Wage for High Unemployment Areas.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end thereof the following subsection:

"(g)(1) Except as provided in paragraph (2), in the case an employee who resides in a State or political subdivision thereof that has an unemployment rate that is at least 150 percent of the national average unemployment rate, if the State or political subdivision makes a recommendation to the Secretary that the rate or rates provided by subsection (a)(1) applicable to such employee be temporarily reduced, such rate or rates may be reduced only for so long as and insofar as such employee is covered by a wage order issued by the Secretary pursuant to such recommendation.

"(2) In the case of any employee in such State or political subdivision, no wage order issued by the Secretary pursuant to paragraph (1) shall—

"(A) prescribe a rate that is less than $3.35 an hour;

"(B) be effective for longer than a 12-month period; or

"(C) permit an employer to reduce the rate of compensation paid to an employee as the result of the issuance of the order.".

KENNEDY AMENDMENT NOS. 3091 THROUGH 3128

(Ordered to lie on the table.)

Mr. KENNEDY submitted 38 amendments intended to be proposed by him to the bill S. 837, supra; as follows:

Amendment No. 3091

In lieu of the matter proposed to be stricken insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) Special Industry Committees.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) Minimum Wage.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) Wage Orders.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) Employment Under Special Certificates.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) Amendment.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a ceritificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

Amendment No. 3092

In lieu of the matter proposed to be stricken insert the following.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) In General.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) Preservation of Coverage.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) Special Industry Committees.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) Minimum Wage.—Section 6 of such Act (29 U.S.C. 205) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) Wage Orders.—Section 8 of such Act (29 U.S.C. 208 is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) Employment Under Special Certificates.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

Sec. . NEW WAGE FOR FULL-TIME STUDENTS

(a) Amendment.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph b if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (a) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

Amendment No. 3093

In lieu of the matter proposed to be stricken insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.55 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) In General.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30; 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

Amendment No. 3094

In lieu of the matter proposed to be stricken insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "In Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in Section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in Section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3095

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Island (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subseciton (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(b) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employment is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less that the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less that $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(b) the wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the secretary has issued a certificate permitting a large number or fraction. No individual student covered by this program may work more than 20 hours per week. The secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3096

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1900;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that precribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraph (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage of 85 percent of the wage precribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exeed one-tenth unless the secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3097

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3098

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 12(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3099

Strike all after "Section 1" and insert the following:

SECTION . SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) os section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) Minimum Wage.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) Wage Orders.—Section 8 of such Act (29 U.S. 208) is amended—

(1) is the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) Employment Under Special Certificates.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) Amendment.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in Section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in Section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 21 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

Amendment No. 3100

Strike all after "Section 1" and insert the following.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) In General.—Effective Janaury 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) Preservation of Coverage.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) Special Industry Committees.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) Minimum Wage.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) Wage Orders.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) Employment Under Special Certificates.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraph (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in Section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in Section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3101

Strike all after "Section 1" and insert the following:

SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, no less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.55 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands", and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

(e)(1)(A) Any retail, service, agricultural, or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 21 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3102

Strike all after "Section 1" and insert the following

SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective Janaury 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made of business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu

thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determiantion that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT NO. 3103

In the instructions strike "the", and insert the following: , strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less then $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu there of "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage and order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c)

would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph (B) if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 per centum of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in whch full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3104

In the instructions strike "the", and insert the following: , strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof of the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee; that prescribe a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph (B) if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 per centum of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3105

In the instructions strike the, and insert the following, strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) In General.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) Preservation of Coverage.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) Special Industry Committees.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) Minimum Wage.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) Wage Orders.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rate to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) Employment Under Special Certificates.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) Amendment.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

Amendment No. 3106

In the instructions strike the , and insert the following , strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) In General.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) Preservation of Coverage.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) Special Industry Committees.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico.", and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) Minimum Wage.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee; that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3107

In lieu of the matter proposed to be inserted insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 12(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3108

In lieu of the matter proposed to be inserted insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than a $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage precribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT NO. 3109

In lieu of the matter proposed to be inserted insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out. "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in leu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraph (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in Section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in Section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3110

In lieu of the matter proposed to be stricken insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3111

In lieu of the matter proposed to be stricken insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 per centum of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3112

In lieu of the matter proposed to be stricken insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3113

In lieu of the matter proposed to be stricken insert the following:

Sec. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student

covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3114

Strike all after the first word and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusively of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

"(1) by striking out "June 30, 1978" inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3115

Strike all after the first word and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s)(2)) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sale made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,000".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico"; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the

Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employees is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time-to-time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3116

Strike all after the first word and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,", and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage, prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3117

At the appropriate place insert the following:

SEC. . WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3118

At the appropriate place, insert the following:

SEC. . WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3119

At the appropriate place, insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 7, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4) issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3120

At the appropriate place, insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 7, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4) issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3121

Strike all after the first word and insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 per centum of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3122

Strike all after the first word and insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 per centum of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3123

Strike all after the first word and insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3124

Strike all after the first word and insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3125

Strike all after section and insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 21 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that emloyment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3126

Strike all after section and insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 21 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3127

Strike all after Section and insert the following.

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 21 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3128

Strike all after section and insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 21 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

COCHRAN AMENDMENT NO. 3129

(Ordered to lie on the table.)

Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . PERSONNEL PLACEMENT SERVICE EMPLOYEES.

Section 13(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)) is amended—

(1) by striking out the period at the end of paragraph (29) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following:

"(30) any individual employed as a personnel consultant in the personnel placement service industry who is compensated at a rate per week of not less than a rate specified in regulations issued by the Secretary, if more than one-half of the compensation of such individual for a representative period (of not less than 1 month) is derived from commissions for services rendered by such individual.".

DOMENICI AMENDMENTS NOS. 3130 and 3131

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3130

At the appropriate place, insert the following:

SEC. . SUMMER YOUTH TRAINING WAGE.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed in section 6, pay any individual participating in the program authorized under Title II-B of the Job Training Partnership Act, as amended, the wage prescribed by subparagraph (B) if such employer."

(B) The wage referred to in subparagraph (A) is a wage 80% of the wage prescribed by Section 6, but at least $3.35 an hour.

"(2) An employer may pay a participant the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the participant began employment with the employer."

"(3) No participant may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to participants first employed by an employer on or after January 1, 1989.

AMENDMENT No. 3131

At the appropriate place, insert the following:

SEC. . SUMMER YOUTH TRAINING WAGE.

This Act shall not apply to individuals employed in activities authorized under Title II-B of the Job Training Partnership Act, as amended.

KENNEDY AMENDMENT NOS. 3132 THROUGH 3135

(Ordered to lie on the table.)

Mr. KENNEDY submitted four amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3132

On page 3 of the Committee substitute under Sec. 2, strike out lines 7 through 11 and insert in lieu thereof the following: January 31, 1989, not less than $3.75 an hour during the 11 months beginning February 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

AMENDMENT No. 3133

On page 3 of the Committee substitute bill, under Sec. 3, strike out lines 20 and 21 and insert in lieu thereof the following: $405,650 (exclusive of excise taxes at the retail level that are separately stated), during the year beginning January 1, 1989, not less than $448,900 during the year beginning January 1, 1990, and not less than $492,500 after December 31, 1990;".

AMENDMENT No. 3134

On page 3 of the Committee substitute bill, under Sec. 3, strike out lines 20 and 21 and insert in lieu thereof the following: $410,000 (exclusive of excise taxes at the retail level that are separately stated), during the year beginning January 1, 1989, not less than $450,000 during the year beginning January 1, 1990, and not less than $500,000 after December 31, 1990;".

AMENDMENT No. 3135

On page 3 of the Committee substitute under Sec. 2, strike out lines 5 through 11 and insert in lieu thereof the following: "(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending January 31, 1989, Not less than $3.75 an hour during the year beginning February 1, 1989, not less than $4.15 an hour during the year beginning February 1, 1990, and not less than $4.55 an hour after January 31, 1991;".

WILSON AMENDMENT NO. 3136

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

On page 3, strike out lines 5 through 11, and insert the following new paragraph:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.65 an hour during the year beginning January 1, 1989, not less than $3.95 an hour during the year beginning January 1, 1990, and not less than $4.25 an hour after December 31, 1990;".

NICKLES AMENDMENT NOS. 3137 AND 3138

(Ordered to lie on the table.)

Mr. NICKLES submitted two amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3137

At the appropriate place, add the following:

REPEAL OF THE DAVIS-BACON RESTRICTIONS

SEC. . Section 276a of Title 40, United States Code, is hereby repealed for all gross sales of less than $500,000.

AMENDMENT No. 3138

At the appropriate place, add the following:

REPEAL OF DAVIS-BACON ACT RESTRICTIONS

SEC. . Section 276a. of title 40, United States Code, is hereby repealed for all contracts of less than $500,000.

KASTEN AMENDMENT NO. 3139

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SOCIAL SECURITY EARNINGS LIMITATION INCREASED TO REFLECT INCREASE IN MINIMUM WAGE.

(a) IN GENERAL.—Section 203(f)(8) of the Social Security Act (42 U.S.C. 403(f)(8)) is amended by adding at the end thereof the following new subparagraph:

"(E) Notwithstanding any other provision of this subsection, in the case of any individual who has attained retirement age (as defined in section 216(L)) the exempt amount determined under this paragraph for any month of a taxable year beginning after December 31, 1988, shall be increased by an amount equal to—

"(i) the product of—

"(I) the amount of the increase in the minimum wage per hour for such year under the Minimum Wage Restoration Act of 1988, and

"(II) 2000 hours; divided by "(ii) 12.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to months in taxable years beginning after December 31, 1988.

HEINZ AMENDMENT NOS. 3140 THROUGH 3147

(Ordered to lie on the table.)

Mr. HEINZ submitted eight amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3140

Strike section 2, and insert in lieu thereof the following:

"SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.05 an hour during the year beginning January 1, 1990, not less than $4.35 an hour during the year beginning January 1, 1991, and not less than $4.65 an hour after December 31, 1991;"."

AMENDMENT No. 3141

Strike section 2, and insert in lieu thereof the following:

"SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.10 an hour during the year beginning January 1, 1990, not less than $4.45 an hour during the year beginning January 1, 1991, and not less than $4.65 an hour after December 31, 1991;"."

AMENDMENT No. 3142

Strike section 2, and insert in lieu thereof the following:

"SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.05 an hour during the year beginning January 1, 1990, not less than $4.35 an hour after December 31, 1990;"."

AMENDMENT No. 3143

At the appropriate place insert: Notwithstanding any other provision of this measure, the minimum wage shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.05 an hour during the year beginning January 1, 1990, not less than $4.35 an hour during the year beginning January 1, 1991, and not less than $4.65 an hour after December 31, 1991.

AMENDMENT No. 3144

At the appropriate place insert: Notwithstanding any other provision of this measure, the minimum wage shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.05 an hour during the year beginning January 1, 1990, not less than $4.35 an hour hour after December 31, 1990.

AMENDMENT No. 3145

At the appropriate place insert: Notwithstanding any other provision of this measure, the minimum wage shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.10 an hour during the year beginning January 1, 1990, not less than $4.45 an hour during the year beginning January 1, 1991, and not less than $4.65 an hour after December 31, 1991.

AMENDMENT No. 3146

At the appropriate place insert: Notwithstanding any other provision of this measure, the minimum wage shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.20 an hour during the year beginning January 1, 1990, not less than $4.50 an hour hour after December 31, 1990.

AMENDMENT No. 3147

At the appropriate place insert: Notwithstanding any other provision of this measure, the minimum wage shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.05 an hour during the year beginning January 1, 1990, not less than $4.35 an hour during the year beginning January 1, 1991, and not less than $4.55 an hour after December 31, 1991.

ARMSTRONG (AND OTHERS) AMENDMENT NO. 3148

(Ordered to lie on the table.)

Mr. ARMSTRONG (for himself, Mr. NICKLES, Mr. HATCH, Mr. HELMS, Mr. SYMMS, Mr. COCHRAN, Mr. GRAMM, and Mr. BOSCHWITZ) submitted an amendment intended to be proposed by them to the bill S. 837, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . HOMEWORK.

(a) IN GENERAL.—Section 11(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(d)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(3) by striking out "regulating, restricting, or prohibiting" and inserting in lieu thereof "regulating or restricting"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) The Secretary may not make any regulation or order under this act that would prohibit an individual from engaging in homework as an employee of any employer subject to this Act, except that the Secretary may make such an order with respect to an individual employer found to be in violation of this Act. For purposes of this paragraph, an individual shall be considered as being engaged in homework if the individual performs work in the individual's home as an employee of a particular employer.

"(3) Not later than 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall report to Congress on—

"(A) the impact on industries and employers of regulations of the Secretary under paragraph (1); and

"(B) the economic effect on industries and employees of paragraph (2)."

(b) EFFECT ON EXISTING REGULATIONS AND ORDERS.—Any regulation or order of the Secretary of Labor made under section 11(d) of the Fair Labor Standards Act of 1938 before the date of enactment of this Act that is not authorized by such section (as amended by subsection (a)) shall, as of such date of enactment, be of no force or effect.

HARKIN AMENDMENTS NOS. 3149 THROUGH 3152

(Ordered to lie on the table.)

Mr. HARKIN submitted four amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3149

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE; TIP CREDIT.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), no amendment made by this Act shall become effective unless the amendment made by subsection (b) is enacted into law.

(2) TIP CREDIT.—The amendment made by subsection (b) shall become effective 5 days after the date of enactment of this Act.

(b) TIP CREDIT.—The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and inserting in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1989, and (2) 50 percent of the applicable minimum wage rate after December 31, 1989,".

AMENDMENT No. 3150

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE; TIP CREDIT.

(a) EFFECTIVE DATE.—No amendment made by this Act shall become effective unless the amendment made by subsection (b) is enacted into law.

(b) TIP CREDIT.—The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and inserting in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1989, and (2) 50 percent of the applicable minimum wage rate after December 31, 1989,".

AMENDMENT No. 3151

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE; TIP CREDIT.

(a) EFFECTIVE DATE.—No amendment made by this Act shall become effective unless the amendment made by subsection (b) is enacted into law.

(b) TIP CREDIT.—

AMENDMENT No. 3152

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EFFECTIVE DATE; TIP CREDIT.

(a) EFFECTIVE DATE.—No amendment made by this Act shall become effective unless the amendment made by subsection (b) is enacted into law.

(b) TIP CREDIT.—The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and insert in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1989, and (2) 50 percent of the applicable minimum wage rate after December 31, 1989,".

McCLURE AMENDMENTS NOS. 3153 AND 3154

(Ordered to lie on the table.)

Mr. McCLURE submitted two amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3153

At the appropriate place, insert the following new section:

SEC. . MAXIMUM HOUR EXEMPTION FOR IRRIGATION DISTRICTS.

Paragraph (12) of section 13(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12) is amended to read as follows:

"(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways—

"(A) operated—

"(i) by a water delivery organization that is qualified as exempt under the Internal Revenue Code of 1986; or

"(ii) on a sharecrop basis; and

"(B) which facilities are used exclusively for supply and storing water, 85 percent of which is ultimately delivered for agricultural purposes; or".

AMENDMENT No. 3154

At the appropriate place, insert the following new section:

SEC. . MAXIMUM HOUR EXEMPTION FOR IRRIGATION DISTRICTS.

Paragraph (12) of section 13(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12) is amended to read as follows:

"(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways—

"(A) operated—

"(i) by a water delivery organization that has less than 100 total employees and is qualified as exempt under the Internal Revenue Code of 1986; or

"(ii) on a sharecrop basis; and

"(B) which facilities are used exclusively for supply and storing water, 85 percent of which is ultimately delivered for agricultural purposes; or".

WILSON AMENDMENT NO. 3155

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

At the appropriate place, insert the following:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.65 an hour during the year beginning January 1, 1989, not less than $3.95 an hour during the year beginning January 1, 1990, and not less than $4.25 an hour after December 31, 1990;".

DOMENICI AMENDMENT NO. 3156

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

At the appropriate place, insert the following:

SEC. . SUMMER YOUTH TRAINING WAGE.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribe by section 6, pay any individual participating in the program authorized under title II-B of the Job Training Partnership Act, as amended, the wage prescribed by subparagraph (B) if such employer.

"(B) The wage referred to in subparagraph (A) is a wage of 80 percent of the wage prescribed by section 6, but of least $3.35 an hour.

"(2) An employer may pay a participant the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the participant began employment with the employer."

"(3) No participant may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to participants first employed by an employer on or after January 1, 1989.

(c) AMENDMENT.—Section 142 of the Job Training Partnership Act is amended by deleting "Section 6(a)(1) of" wherever it appears.

KENNEDY AMENDMENT NO. 3157

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

Strike all after the first word and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business doen is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Pureto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands",

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. No individual student covered by this program may work more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

HARKIN AMENDMENTS NOS. 3158 THROUGH 3161

(Ordered to lie on the table.)

Mr. HARKIN submitted four amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3158

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE; TIP CREDIT.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), no amendment made by this Act shall become effective unless the amendment made by subsection (b) is made as part of this Act.

(2) TIP CREDIT.—The amendment made by subsection (b) shall become effective 5 days after the date of enactment of this Act.

(b) TIP CREDIT.—The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and inserting in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1989, and (2) 50 percent of the applicable minimum wage rate after December 31, 1989,".

AMENDMENT No. 3159

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EFFECTIVE DATE; TIP CREDIT.

(a) EFFECTIVE DATE.—No amendment made by this Act shall become effective unless the amendment made by subsection (b) is made as part of this Act.

(b) TIP CREDIT.—The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and inserting in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1989, and (2) 50 percent of the applicable minimum wage rate after December 31, 1989,".

AMENDMENT No. 3160

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE; TIP CREDIT.

(a) EFFECTIVE DATE.—No amendment made by this Act shall become effective unless the amendment made by subsection (b) is made as part of this Act.

(b) TIP CREDIT.—The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and inserting in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1989, and (2) 50 percent of the applicable minimum wage rate after December 31, 1989,".

AMENDMENT No. 3161

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE; TIP CREDIT.

(a) EFFECTIVE DATE.—No amendment made by this Act shall become effective unless the amendment made by subsection (b) is made as part of this Act.

(b) TIP CREDIT.—

SPECTER (AND HEINZ) AMENDMENT NOS. 3162 AND 3163

(Ordered to lie on the table.)

Mr. SPECTER (for himself and Mr. HEINZ) submitted two amendments intended to be proposed by them to the bill S. 837, supra; as follows:

AMENDMENT No. 3162

At the end add the following:

SEC. 5. CERTAIN STEEL FACILITIES.

(a) IN GENERAL.—The provisions of this Act shall not take effect unless the provisions of subsection (b) are enacted.

(b) RESTRICTION ON SALE.—Nothwithstanding any other provision of law, the steel facilities of Wheeling-Pittsburgh Steel Corporation located at Monessen, Pennsylvania, that are subject to bankruptcy proceedings may only be sold to a buyer who agrees to continue to operate the steel facilites at Monessen, Pennsylvania.

AMENDMENT No. 3163

At the end, add the following:

SEC. 5. CERTAIN STEEL FACILITIES.

(a) IN GENERAL.—The provisions of this Act shall not take effect unless the provisions of subsection (b) are enacted.

(b) RESTRICTION ON SALE.—Notwithstanding any other provision of law, no steel or other facility, that are subject to bankruptcy proceedings may be sold to a foreign buyer where the Economic Development Administration (E.D.A.) has a Security interest when the foreign buyer intends to remove their facilities from their existing locale in the United States when there are other buyers for those facilities even though there is a significant price differential which may cause a financial loss to the E.P.A.

DOLE AMENDMENT NOS. 3164 AND 3165

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3164

On page 3, strike out lines 5 through 11 and insert in lieu thereof the following:

SEC. 2. MINIMUM WAGE.

(a) IN GENERAL.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990; ".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not become effective until January 1 of a calendar year following a calendar year in which the average unemployment rate in the United States is less than 5 percent.

AMENDMENT No. 3165

On page 3, strike out lines 5 through 11 and insert in lieu thereof the following:

SEC. 2. MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Standard Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section—

"(A) in the case of any calendar year following a calendar year in which the average unemployment rate in the United States is less than 6 percent, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990; or

"(B) in the case of any calendar year following a calendar year in which the average unemployment rate in the United States is 6 percent or more, not less than the minimum wage rate in effect under subparagraph (A) during such previous calendar year;".

McCONNELL AMENDMENT NOS. 3166 and 3167

(Ordered to lie on the table.)

Mr. McCONNELL submitted two amendments intended to be proposed by him to the bill S. 837, supra; as follows:

AMENDMENT No. 3166

At the appropriate place add the following:

SEC. . (a) Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (b)(1), by striking "class and";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) A licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased such use pursuant to the provisions of subsection (b)(1).".

(b) This section and the amendments made by this section shall become effective on November 9, 1988 and shall apply to elections held after such date.

AMENDMENT No. 3167

At the end of the pending matter, add the following new title:

TITLE —FULL DISCLOSURE OF ELECTION-RELATED EXPENDITURES

SEC. . Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended—

(1) in clause (ii) by inserting before the semicolon at the end thereof the following: ", except that any payment, services, or other benefit furnished or otherwise made available by a corporation or by a labor organization directly attributable to a registration or get-out-the-vote campaign, shall, if the aggregate of such payments and the fair market value of such services or other benefit exceed $2,000 for any election, be reported to the Commission in accordance with section 434(a)(4)(A)(i) of this title, and in accordance with section 434(a)(4)(A)(ii) of this title with respect to any general election"; and

(2) in clause (iii) by striking out "(other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate)".

SEC. . Section 301(14) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(14)) is amended to read as follows:

"(14) The term 'national committee' means the organization or organizations which, by virtue of the bylaws of a political party, are responsible for the day-to-day operation of such political party at the national level, including the Democratic National Committee, the Democratic Senatorial Campaign Committee, the Democratic Congressional Campaign Committee, the Republican National Committee, the National Republican Senatorial Committee, and the National Republican Congressional Committee, and any other such committees as determined by the Commission.".

SEC. . (a) Section 304(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)) is amended—

(1) in subparagraph (J), by striking out "and" after the semicolon;

(2) in subparagraph (K), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(L) for a national committee of a political party, all contributions, loans, transfers, and other receipts from any source to the committee and to any account financed, established, maintained, or controlled by such national committee, regardless of whether such account is a political committee;".

(b) Section 304(b)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)) is amended—

(1) in subparagraph (F), by striking out "and" after the semicolon;

(2) in subparagraph (G), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(H) person who provides any contribution, loan, transfer, service, or any other benefit or thing of value to a national committee of a political party or to any account financed, established, maintained, or controlled by such national committee, regardless of whether such account is a political committee, in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount or value of such contribution, loan, transfer, service, or other benefit or thing of value;".

(c) Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4) is amended—

(1) in subparagraph (H), by striking out "and" after the semicolon at the end thereof;

(2) in subparagraph (I), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(J) for a national committee of a political party, all disbursements made by the committee or from any account financed, established, maintained, or controlled by such national committee, regardless of whether such account is a political committee;".

SYMMS AMENDMENT NO. 3168

(Ordered to lie on the table.)

Mr. SYMMS submitted an amendment intended to be proposed by him to the bill S. 837, supra, as follows:

In Section 2, strike the paragraph after the words "to read as follows:" and insert in lieu thereof:

"(1)(A) except as otherwise provided in this section, not less than $8.80 per hour during the period ending December 31, 1988.

"(B) The Secretary shall determine and publish a wage order no later than October 1 of each year which will increase the applicable amount in paragraph (1)(A)—$8.80 per hour in calendar year 1988—by an amount equal to the increase in the consumer price index for all urban wage earners during the twelve-month period from July 1 of the previous year through June 30 of the current year, and such increase in the minimum wage shall become applicable on January 1 of the subsequent year.

ZUNI-CIBOLA NATIONAL HISTORICAL PARK

BINGAMAN AMENDMENT NO. 3169

Mr. BYRD (for Mr. BINGAMAN) proposed an amendment to the bill (S. 2162) to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes, as follows:

1. On page 8, line 23, strike "acquired" and insert "leased".

Explanation: This amendment clarifies the fact that lands included within the boundary of the park are to be subject to a leasehold interest and not acquired in fee for inclusion in the park.

2. On page 9, line 7-9, delete the last sentence of section 3 in its entirety and insert the following:

"Any lease approved pursuant to this section shall not become effective until 30 calendar days after such lease has been transmitted to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the U.S. Senate and the Committee on Interior and Insular Affairs of the U.S. House of Representatives.".

Explanation: This amendment insures that the general management plan for the park will be prepared after the lease agreement is made and the lands for inclusion in the park are identified rather than preparing the plan prior to the formulation of such an agreement. It also provides for a 30 day review period for the appropriate Committees of Congress before the lease becomes effective.

3. On page 11, strike line 18 in its entirety and insert the following: "the date of enactment of this Act.".

Explanation: This is a self-explanatory clarifying amendment.

4. On page 12, line 4, strike "Tribe.", and insert the following: "Tribe, no more than two of which shall be members of the Zuni Tribe.".

Explanation: This amendment clarifies that the Governor of the Zuni Tribe will make recommendations for the Advisory Council from Zuni and non-Zuni Tribal members.

5. On page 14, line 8, strike "fiscal year of enactment of this Act," and insert the following: "the approval of the lease pursuant to section 3,".

Explanation: This is a conforming amendment which deals with the timing of the preparation of the general management plan.

6. On page 9, line 3, insert after the word "interest" the words "of not more than 600 acres".

Explanation: This amendment sets a limit of 600 acres on the size of the park.

7. On page 9, line 18, after the word "Secretary," insert the words "acting through the Director of the National Park Service,".

Explanation: Technical and conforming.

8. On page 11, strike lines 7 and 8 and insert in lieu thereof:

"(B) will not have a significant adverse effect on the resources of the park as determined by the Secretary".

9. On page 11, strike lines 14 and 15 and insert in lieu thereof: "this Act and will not have a significant adverse effect on the resources of the park as determined by the Secretary".

Explanation: These amendments change the Federal consistency standard from one of no adverse effect to no significant adverse effect as determined by the Secretary of the Interior.

INTELLECTUAL PROPERTY BANKRUPTCY PROTECTION ACT

DECONCINI AMENDMENT NO. 3170

Mr. BYRD (for Mr. DECONCINI) proposed an amendment to the bill (S. 1626) to keep secure the rights of intellectual property licensors and licensees which come under the protection of title 11, of the United States Code, the Bankruptcy Code, as follows:

1. On page 2, line 7, strike out "s" at the end of "patents";
2. On page 2, line 8, strike out "s" at the end of "applications";
3. On page 2, line 12, strike out "s" at the end of "copyrights";
4. On page 3, line 12, strike out "," before "under";
5. On page 3, line 13, strike out "," after "contract";
6. On page 3, line 13, strike out "under" before "any agreement supplementary";
7. On page 4, line 3, insert "royalty" before "payments";
8. On page 4, lines 3-4, strike out "with respect to such rights";
9. On page 4, lines 4-5, strike out "with respect to the rights retained";
10. On page 5, line 19, strike out "third" and insert in lieu thereof "another".

RELIEF OF MICHAEL WILDING

KENNEDY AMENDMENT NO. 3171

Mr. BYRD (for Mr. KENNEDY) proposed an amendment to the bill (S. 1919) for the relief of Michael Wilding, as follows:

On page 1, lines 3 and 4, strike out "in the administration of the Immigration and Nationality Act," and inserting in lieu thereof "notwithstanding section 212(a)(23) of the Immigration and Nationality Act, for purposes of such Act,".

COMPUTER MATCHING AND PRIVACY PROTECTION ACT

COHEN (AND LEVIN) AMENDMENT NO. 3172

Mr. DOLE (for Mr. COHEN, for himself and Mr. LEVIN) proposed an amendment to the amendment of the House to the bill (S. 496) to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes, as follows:

In lieu of the matter proposed to be inserted by the amendment of the House, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for the holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as requird by subsection (p);

"(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency or records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives, and

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied by verification in accordance with (A) the requirements of paragraph (2); and (B) any additional requirements governing verification under such Federal benefit program.

"(2) Independent verification referred to in paragraph (1) requires independent investigation and confirmation of any information used as a basis for an adverse action against an individual including, where applicable—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program (A) unless such individual has received a notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and (B) until the subsequent expiration of any notice period provided by the program's law or regulations, or 30 days, whichever is later. Such opportunity to contest may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the notice period required by such paragraph.

"(q) Sanctions.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p); or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) Notice in Federal Register.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) Report to Congress and Office of Management and Budget.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) Report on New Systems and Matching Programs.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) Data Integrity Boards.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reason for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report:

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4)(A) Except as provided iin subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective.

"(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

"(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of the Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations."

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records of a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(III) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, of any State or local government, or agency thereof which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

"(a) AMENDMENT.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

"(2) provide continuing assistance to an oversight of the implementation of this section by agencies.".

(b) IMPLEMENTATION GUIDANCE FOR AMENDMENTS.—The Director shall, pursuant to section 552(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 6 of the Privacy Act of 1974 is repealed.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "ANNUAL"' in the heading of such subsection and inserting "BIENNIAL";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) EXCEPTIONS.—The amendment made by sections 3(b), 6, 7, and 8 of this Act shall take effect upon enactment.

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. MELCHER. Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a hearing to consider Cost-of-Living Adjustments and the CPI: A Question of Fairness.

The hearing will be held in room 628 of the Dirksen Senate Office Building at 10 a.m. on Tuesday, October 4, 1988.

For further information you may contact Max Richtman at (202) 224-5364.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, September 21, 1988, in Senate Russell 485, beginning at 2 p.m., on S. 187, the Native American Cultural Preservation Act; S. 2672, the Federal recognition of the Lumbee Tribe of North Carolina; Senate Concurrent Resolution 76, the Iroquois Confederacy, S. 2723, the Indian Reorganization Act; and for other purposes.

Those wishing additional information should contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 20, 1988, to hold an oversight hearing on the United States and Foreign Commercial Service of the Department of Commerce.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON COMMERCE, SCIENCES, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 20, 1988, to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 20, to receive testimony concerning title XIV, XV, and XVI of S. 2667, the National Energy Policy Act of 1988 and the relationship of international deforestation and development policies to global atmospheric change.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Taxation and Debt Management of the Committee on Finance be authorized to meet during the session of the Senate on September 20, 1988, to hold a hearing on S. 2409, the Cooperative Organ Transplant Contributions Act of 1988.

The PRESIDING OFFICER. Without objection, it is ordered.

SPECIAL SUBCOMMITTEE ON WAR POWERS

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Subcommittee on War Powers of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 20, to continue their series of hearings on the war powers resolution.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, September 20, for a hearing on S. 2298, Agricultural Commodity-based Plastics Development Act of 1988.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, September 20, to conduct an oversight hearing on implementation of programs for the protection of Chesapeake Bay.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO THE LATE MARTIN JELIN

• Mr. LAUTENBERG. Mr. President, I rise to note the passing of Martin Jelin, a close personal friend and leader in the Jewish community in New Jersey.

Martin Jelin had a long life of accomplishment and service demonstrated by four decades of participation in community service and in philanthropic endeavors.

Born in Highland Park, NJ, he was educated at Rutgers University and Fordham Law School. He later served as a member of the board of Rutgers University and was founder and president of the Hebraic Studies Department.

For 55 years he was president of the Karnak Chemical Co. and the chairman of NRG Barriers. He was an active participant in local, national, and international Jewish affairs. He was past president of the United Jewish Federation of MetroWest and vice president of the board of governors of the United Jewish Centers of MetroWest and president of the New Jersey Y Camps.

He participated in international Jewish life as a frequent delegate to the Jewish Agency Assembly in Israel and as a trustee of the United Israel Appeal. He served on the boards of trustees of the Jewish News, of the Jewish Education Association, and the Newark Beth Israel Medical Center.

Martin Jelin was also active in Democratic politics, and served as a delegate to the 1976 Democratic Convention.

Admired and loved by family, friends, and colleagues, he leaves a legacy of contributions to his community. He will be missed.

Mr. President, I extend my deepest sympathies to his devoted wife, Sima and his children; Dr. Abraham Jelin, Frederick Jelin, Anne Jelin, William Jelin, Sara Jane Jelin, Deborah Jelin Newmeyer, and to his seven grandchildren.•

SOVIET REFUSENIKS

• Mr. LEAHY. Mr. President, recent actions by the Soviet Union—beginning to withdraw from Afghanistan and participation in discussions on ending the conflicts in southern Africa, the Persian Gulf, and Southeast Asia—are encouraging signs that better relations between East and West may lie ahead.

But one issue that continues to frustrate those of us who welcome these developments is the plight of Soviet Jews. Several hundred thousand Jews in the Soviet Union have been denied exit visas. Many have been the subject of appeals by Members of Congress, but the Soviet leadership insists that this is an internal matter.

Nothing could be further from the truth. The Soviet Union is a party to the Helsinki accords just as we are. It is imperative that we continue to call attention to these cases and pressure Soviet authorities to respect its citizens' human rights.

It is inconceivable to Vermonters, as it is to all Americans, that a government would force its citizens to remain in a country against their will. I am often asked to intervene on behalf of a Soviet Jewish family or individual, as are my colleagues. This public concern has resulted in a constant stream of letters, resolutions, and other appeals to Soviet officials to let these people emigrate.

The most recent requests came from two 13-year-old Vermonters, Debbie Sklar who will be celebrating her Bat Mitzvah this September, and William Atkin who celebrates his Bar Mitzvah in October. One 12-year-old, Andrew Lipman who will be Bar Mitzvahed the same day as William Atkin, also contacted me.

Debbie will be "twinning" her ceremony with Sofya Gorkhov, and William and Andrew will be twinning with Constantin Kaplansky, both Jewish refuseniks who cannot have their own Bat or Bar Mitzvahs. Under Soviet law, it is forbidden for anyone under 16 to take part in a religious ceremony.

Sofya and Constantin's families have been denied exit visas on the grounds of "secrecy." Sofya's father initially applied for permission to leave with his family in 1981. Since then he has not been able to find work in his field. Constantin's father left his job in 1981 and waited until last summer to apply for a visa. He still was denied.

In his letter asking me to speak out on behalf of Constantin's family, Andrew Lipman noted that his grandparents were born in Russia and that "it could have been me who wants to be free like my friend Constantin." What a powerful statement by a 12-year-old boy. Soviet officials are badly mistaken if they think that by ignoring these appeals the problem will go away. These appeals are going to become more frequent, not less, as these young Vermonters so ably show. Like the Berlin Wall, the issue of Soviet refuseniks will remain an obstacle to better relations between our two countries.•

THE SOMALI SITUATION

• Mr. SIMON. Mr. President, for the last several months Somalia has been wracked by fierce fighting between Government forces and the Somali National Movement [SNM], an insurgent movement based in the northern part of the country and strongly supported by the northern Issaq clan. Indiscriminate artillery fire and aerial bombings of northern cities by Government forces have taken the lives of many civilians and caused hundreds of thousands to flee to neighboring countries. Credible reports from foreign relief workers and Somali refugees indicate that Government troops have engaged in massacres, summary executions, and indiscriminate killings of alleged SNM supporters. It is estimated that 10,000 Somalis died in the first few weeks of the fighting. According to recent U.N. High Commissioner for Refugees [UNHCR] reports, more than 400,000 Somalis have fled to Ethiopia, where they are living under stark conditions in refugee camps.

The roots of this conflict lie in economic and political discrimination against the Issaqs—about one quarter of Somalia's population—by the ruling Marehan-dominated regime of President Siad Barre. The Marehans account for only 5 percent of the Somali population. Issaqs have been denied positions in the Government, and hundreds of Issaqs, many of them business owners, have been arrested. Routine torturing of political prisoners and a harsh counterinsurgency plan launched by the Government have further contributed to Issaq dissatisfaction and support for the SNM.

The SNM has had some significant military successes in recent months. The war is likely to continue and intensify unless the Siad regime takes some meaningful steps toward reconciliation with its political opposition. Last month, the Government announced the formation of a committee to investigate the causes of the conflict and recommend measures to bring about peace and reconciliation. This is a welcome step; however, its positive impact on the internal situation is diminished by the fact that only 2 of the 13 members of the committee are Issaqs from the north and the committee's credibility with northerners is in doubt. To date, there is little evidence that the committee is moving toward genuine reconciliation with the SNM and its supporters.

In recent years, the United States has developed a good working relationship with Somalia and has gained access to strategically important air and naval facilities. Along with Italy, we have become a major aid donor, providing Somalia with some $48 million in this fiscal year. With United States encouragement, the Government of Somalia has begun to make economic reforms and has negotiated a peace agreement with neighboring Ethiopia. These are positive steps which should be commended. They start Somalia down the road to peace and stability. However, those goals can never be achieved unless the civil war is ended and a political settlement is reached. As a friend of Somalia, we must encourage the Government of Somalia to take specific steps toward that end.

Political prisoners must be released. Human rights abuses by the army must be curbed, and a real dialog must be opened with the opposition. With the help of the United States and other donors, assistance must be provided to the victims of the war in the north and to the many Somalis who have fled to neighboring countries. A peaceful and stable Somalia is critical not only for the Somali people but also for all of East Africa. Through words and deeds, we must do all that we can to help Somalia reach this end.●

HISPANIC HERITAGE WEEK

● Mr. SIMON. Mr. President, I rise to speak to commemorate this "Hispanic Heritage Week." Throughout the Nation, government agencies, schools, and communities have celebrated this week the many contributions that Hispanics have made to America.

Hispanic influence in this country dates back almost five centuries to the time of the voyage of Christopher Columbus who claimed this land for Spain in 1492. Many of our great States were originally settled by the Spanish or were once under Mexican rule. Even prior to the Jamestown Colony, northern New Mexico was settled by Gov. Juan de Onate in the 1500's. The oldest city in the continental United States, St. Augustine, FL, was settled by Spaniards. The oldest capital city under the U.S. flag, San Juan, PR, was founded in 1521.

The year 1776 was not only the year of American independence. It was also the year of the founding of San Francisco. Many parts of our country today continue to be proud of their Hispanic origins and traditions, preserving Spanish names for their cities, towns, and streets.

Hispanics are not just a significant part of our Nation's origins. They are essential to our future. For example, in foreign service and trade, we can do much more to fully utilize the Spanish language capabilities of bilingual Hispanics.

Twenty years ago, President Johnson signed into law the legislation creating "Hispanic Heritage Week." I am proud to say that next year, because of my legislation that the President recently signed into law, the Nation will be celebrating "Hispanic Heritage Month." I am very pleased that next year 1 month, rather than 1 week, will be set aside to celebrate and acknowledge the numerous contributions Hispanics make to every aspect of American life.

My State of Illinois is unique to Hispanics because of its large populations of both Puerto Ricans and Mexican Americans. They are participating in public life in record numbers. The Midwest Northeast voter registration education project recently announced that 19 Hispanics won elected or appointed posts in 1988 in the State of Illinois. This great stride forward is due in no small part to the tremendous work of the voter registration project. Earlier this year, the project lost its cofounder, Willie Velasquez. The impact of Willie Velasquez on communities nationwide will be felt well into the next century. The close of this Hispanic Heritage Week is an appropriate time for me to share with my colleagues a recent tribute to Willie Velasquez and the names of the 19 new Hispanic elected or appointed officials in the State of Illinois.

The material follows:

William C. Velasquez: A Tribute

America lost one of its finest leaders when Willie passed away. Across the country there was shock and sadness as millions of people first learned of his untimely death. Willie succumbed to cancer at the prime of his life. Our initial reaction was certainly understandable. But for those of us who knew and loved Willie, we soon felt his spirit changing our own from mourning to celebration. That was Willie, always bringing out the best in us. We should take time to thank God for Willie. That he lived and worked among us. That he taught so much to so many. That he genuinely cared for every person whose life he touched. His life truly deserves to be celebrated.

Most of us met Willie at our annual conference in Chicago. We witnessed his brilliance, warmth, charm and humor. He was articulate, charismatic, fiery, sharp and informative. If you ever heard him, you know what I mean. The 1988 Conference will feature a special tribute to him.

Willie was an unselfish giver and a conscientious doer. He was a motivator who led by example. He founded and co-founded both the Southwest and Midwest Voter Registration Education Projects, respectively. Next to his wife and family, his work was his greatest love. It's good to celebrate his life, but our highest tribute to Willie would be to continue his work.

List of Appointees and Elected Officials

Consuelo E. Bedoya was appointed Associate Judge of the Cook County Circuit Court in Chicago, Illinois.

Joseph Berrios won the Democratic nomination for Cook County Board of Tax Appeals in Chicago, Illinois.

Guillermo Caceras was elected to the Lake Zurich Board of Education in Lake County, Illinois.

Carol L. Cesario was elected to the Addison District Board of Education in DuPage County, Illinois.

Raymond Figueroa, 31st Ward Alderman, defeated the incumbent and was elected Democratic Ward Committeeman in Chicago, Illinois.

Jesus Garcia, 22nd Ward Alderman, was reelected for a second term as Democratic Ward Committeeman in Chicago, Illinois.

Richard D. Guerra was elected to the Salt Creek District 48 Board of Education in DuPage County, Illinois.

Luis Gutierrez, 26th Ward Alderman, was elected Democratic Ward Committeeman in Chicago, Illinois.

Robert A. Jimenez was elected to the Board of Education for District 84 in Rockdale, Illinois.

A. Vito Martinez was elected to the Valley View District 365-U Board of Education in Will County, Illinois.

Ben Martinez, a Chicago Democrat, was renominated for a second term in the Illinois House of Representatives from the 20th Legislative District.

J.I. Mendez won the Democratic nomination for the County Board in DuPage County, Illinois.

Geraldo Pirela won the Democratic nomination for the County Board in Kane County, Illinois.

Judge Ralph Reyna was renominated for another term on the Cook County Circuit Court in Chicago, Illinois.

Donna M. Santiago was elected to the Board of Education for District 33 in West Chicago, Illinois.

Miguel Santiago won the Democratic nomination for State Representative in Chicago's 9th Legislative District and has no Republican opponent in the November general election.

Juan Soliz, 25th Ward Alderman, defeated the incumbent and was elected Democratic Ward Committeeman in Chicago, Illinois.

Teresa Valdes won the Republican nomination for State Representative in Chicago's 4th Legislative District.

Carmela Vargas was elected Republican Ward Committeewoman for the 7th Ward in Chicago, Illinois.●

HANDI-SHOP, INC.

● Mr. BOND. Mr. President, in August of 1971 a group of parents and interested persons met to discuss the limited employment opportunities for handicapped individuals in and around my hometown of Mexico, MO. Out of this meeting, Handi-Shop, Inc., was born. Incorporated in March 1972, the shop opened for business on June 4, 1973. This year marks its 15th anniversary.

Those employed at the Handi-Shop would have little opportunity for employment without it. Physically and mentally handicapped persons work at a variety of jobs which have been contracted out by businesses in the area. Starting with 16 employees in 1973, the shop now employs 39 people from Audrain County and Montgomery County, MO. Workers range in age from 18 into their sixties. The shop has an excellent safety record and very little absenteeism. The Handi-Shop operates as a manufacturing and assembling plant and also as a recycling center for aluminum scraps and cans, radiators, cardboard, and paper products.

Twenty-five employees and two staff members received continuing employment and service awards at the Handi-Shop's 15th anniversary celebration, which was held on September 18.

For 15 years of employment, those who received awards are: Donald L. Allen, Gary G. Brewer, Eleanor K. Chrismer, Donna J. Davis, H. Faye Fry, C. Gene Holbert, Sandra K. Lawson, and Martha May Trams.

For 10 years of employment, those who received awards are: Deborah M. Breeden, Mary Jo Lierheimer, James L. Moore, Edward Primus, David Righter, Glenn Welch, and Barbara Willingham.

For 5 years of employment, those who received awards are: Kimalea Anderson, Nelda L. Bowlin, Kenneth E. Brookings, Sr., James L. Case, Tina D. Clark, Jeff Forrest, Harry L. Fox, Ernest Mitchell, Herbert V. Salmons, and Lawrence E. Schroff.

Staff members who received awards are: L. King Huttsell, for 10 years of service, and Connie S. Hale, for 5 years of service.

The continuing success of the Handi-Shop has added to the economy of the area, but more importantly it has provided an opportunity to handicapped persons to be valuable members of their community and to live useful, meaningful lives. Congratulations are due to the shop's employees and staff members for 15 years of a job well done, and best wishes for continuing success.●

S. 1894—CLEAN AIR ACT AMENDMENTS

● Mr. ROTH. Mr. President, I rise today to express my support for S. 1894, the Clean Air Act Amendments.

I have long been an advocate of responsible Government action to protect the air we breathe, and I have always expected that I would support the legislation that the Senate would consider. In the past I have joined many of my colleagues and called for early consideration of the bill, but have postponed cosponsoring the legislation. I did this because I was not convinced that the bill as introduced met three important criteria of being fair, affordable, and effective. As we deal with the problem of clean air, we must not jeopardize the jobs of working men and women or unfairly burden consumers.

Several of my colleagues share my concerns. Currently there are several efforts to develop a compromise to produce a good bill. Because of this progress I am prepared to cosponsor the legislation and will work with the Environment and Public Works Committee to help them in addressing these issues.

These issues, Mr. President, can only be addressed by all parties working together and making the necessary compromises, to protect the health and safety of our citizens and industries. It is a difficult mission but not impossible. I look forward to the challenge before us.●

CRIMINAL CORRUPTION

● Mr. METZENBAUM. Mr. President, last week, I was pleased to join my colleagues, Senators BIDEN, MCCONNELL, SIMON, THURMOND, and DECONCINI, in introducing S. 2793, a bill addressing criminal corruption in this country. The legislation responds to recent Supreme Court decisions interpreting the Federal mail and wire fraud statutes.

Currently, title 18 of the United States Code prohibits the use of the mail or the telephone to execute any scheme or artifice to defraud. The scope of these statutes has traditionally been interpreted rather broadly, giving prosecutors potent weapons to use against criminal fraud schemes.

In June 1987, however, the Supreme Court cut back considerably on the reach of these fraud statutes in a case called McNally versus United States. While a subsequent Supreme Court case, Carpenter versus United States, did lessen the adverse impact of McNally, Congress still needs to clarify the scope of these Federal fraud statutes.

The prosecution underlying the McNally case involved a former public official and a private individual accused of violating the Federal mail fraud statute. More specifically, they were charged with defrauding the citizens and government of Kentucky of the intangible right of having the Commonwealth's affairs conducted honestly because of their participation in a self-dealing patronage scheme. After a jury conviction, the Court was asked to determine whether the defendants were convicted of conduct within the scope of the mail fraud statute.

The Court concluded that "the mail fraud statute clearly protects property rights, but does not refer to the intangible right of the citizenry to good Government." This decision appeared to strike the death knell for the use of the mail fraud statute against public corruption.

Subsequently, however, in the Carpenter case, the Supreme Court somewhat softened its holding in McNally. In that decision, the Court affirmed a guilty verdict against the defendant for fraudulent misuse of confidential information that breached an intangible fiduciary duty to his employer. The Court reaffirmed its statement in McNally that the mail fraud statute only protects property rights. It construed the term "property" to include "intangible property rights" such as "confidential business information." The Court also states that charging the defendant with defrauding his employer of its contractual right to his honest and faithful service would not be covered by the mail fraud statute.

The confusion engendered by these two Supreme Court cases requires a congressional response. S. 2793 would clear up the scope of the Federal fraud statutes concerning the intangible rights doctrine. Passage of this bill is necessary to support our Federal law enforcement officials throughout the country in their fight to protect our citizens.

The bill adds two new sections to title 18. The first would provide that a scheme or artifice to deprive or defraud the people of a State or the United States of the honest services of a government official or employee is a criminal violation. This section also makes clear that a scheme or artifice to deprive the citizens of a State of fair and impartially conducted election processes is a criminal offense.

The second section added by the bill would make clear that a criminal violation exists if there is a scheme or artifice to deprive an organization of the intangible right of honest services when the defendant received something of value or the defendant intended loss or harm to the organization.

Our bill would make clear that Federal law prohibits criminal fraud schemes in the public and private sector. Furthermore, it contains a responsible and careful definition of criminal corruption—conduct which defrauds Americans out of the honesty they deserve in every aspect of their lives.

We have worked closely with the U.S. Department of Justice to frame this important legislation and I am happy that the Department has endorsed our bill. I urge my colleagues to join us in supporting this important legislation.

I ask that a copy of the letter from the U.S. Department of Justice be printed in the RECORD.

The letter follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to express the strong support of the Department of Justice for your bill, the Anti-Public Corruption Act of 1988. This bill, which builds upon the proposal in this area sent to Congress by the Administration last May, would greatly strengthen and improve federal laws relating to public corruption. We are grateful to you and the bipartisan group of Senators (i.e. Senators Thurmond, McConnell, DeConcini, Simon, and Metzenbaum) joining you in sponsoring this measure and hope that it can be enacted before the end of the Session.

The core of the bill is a proposed new section 225 in title 18, United States Code, that would punish schemes to deprive or defraud the inhabitants of the United States or a State of the honest services of their public officials and employees, both elected and appointed. This section, which is very similar to the legislative remedy suggested by the Department, would restore federal coverage of public corruption schemes that was lost last year as a result of the decision of the Supreme Court in *McNally* v. *United States,* 107 S.Ct. 316 (1987), which overruled a long line of lower court precedents and adopted a narrow construction of the mail fraud statute under which only schemes to obtain money or property could be prosecuted, not schemes to deprive the citizenry of the intangible right to the honest services of their public officials. Moreover, section 225 contains substantial improvements over the pre-McNally mail and wire fraud statutes. The new section would increase the penalties for public corruption schemes (from a former maximum of five to a maximum of twenty years' imprisonment), and would extend federal jurisdiction over corruption schemes that affect interstate or foreign commerce or that use any facility of such commerce, not merely schemes in which the mails or an interstate wire communication is used. The broader jurisdiction provided in the proposed legislation will enable the government to prosecute a wider range of corrupt conduct and thus better protect the public.

In addition, the bill would restore much of the ground lost under McNally with respect to the ability to prosecute private sector schemes seeking to subvert the honesty and loyalty of officers and employees of an organization such as a partnership or corporation. With respect to public corruption schemes, the bill would also create new criminal and civil sanctions to protect employees who bring such schemes to the attention of law enforcement authorities and cooperate in the investigation. While not as important, in our view, as the core provision in section 225, we do not object to these additional proposals, which are clearly designed to further strengthen the bill.

Our vigorous support for the bill is, however, primarily founded upon the positive impact that the legislation, in our judgment, would have on the Federal Government's ability to prosecute public corruption schemes. We believe the citizens of this country are entitled to honest government, and that the United States, consistent with sound principles of federalism, must play a major role in insuring that most basic of intangible rights. Prosecution of public corruption cases has been one of the Department's highest priorities since the mid-1970s and if anything has increased in recent years, in part because of the proven link between public corruption and large scale drug trafficking. As a result of the Supreme Court's unexpected McNally interpretation last year, a sizable gap currently exists in the federal statutory arsenal that can be employed against corrupt public officials in all States throughout this nation. Prompt enactment of your bill, such as through an amendment to the omnibus anti-drug legislation that will shortly be considered by the Senate, would close this gap and would represent a major bipartisan accomplishment of the 100th Congress. The Department of Justice, and the Administration, stand ready to do whatever is necessary and appropriate to help achieve that goal.

Sincerely,

DICK THORNBURGH.

CANADIAN FREE-TRADE AGREEMENT

● Mr. BINGAMAN. Mr. President, I would like to take his opportunity to discuss my reasons for voting against the United States-Canadian Free-Trade Agreement.

The legislation to implement the agreement was one of the most important trade measures before Congress this session, second only to the Omnibus Trade and Competitiveness Act.

Canada is our largest trading partner, and total United States-Canadian trade is the largest between any two nations. The Canadian Free-Trade Agreement, the most comprehensive trade agreement the United States has ever entered into, does more than simply lower or eliminate tariffs. It also attempts to remove many nontariff barriers It covers agriculture, wine and distilled spirits, automobiles, cultural industries, changes to customs procedures, energy, government procurement, investment, and financial services.

It has been called a trend-setting agreement, since officials are now looking into the possibility of free-trade agreements with a number of other countries. And the issues handled in the Canadian Free-Trade Agreement set the stage for broader negotiations in the General Agreement on Tariffs and Trade.

Mr. President, I view this agreement with serious reservations. One of my concerns is the manner in which the agreement was reached. To insure orderly consideration of trade agreements, Congress created a fast track approval procedure. Under that procedure, the President must notify Congress that he intends to enter into an agreement at least 90 days before he signs the agreement. However, authority for the fast track procedure expired on January 3, 1988. To qualify, the Canadian FTA had to be signed on January 2, 1988. Thus, under the fast track procedure the President had to inform Congress by October 3, 1987.

If you remember, there was much uncertainty back then whether an agreement would be reached. The Canadians had pulled out of the talks. Only late night sessions with Secretary of the Treasury James Baker and U.S. Trade Representative Clayton Yeutter at the last minute produced an agreement.

Frankly, Congress was not adequately consulted in these negotiations. I understand the time pressures our negotiators faced. However, this last minute maneuvering left Congress facing a take-it-or-leave-it situation over many provisions which we never had a chance to comment upon earlier, especially key energy and national resource provisions. This is not the way trade negotiations should be carried out.

I must give the administration credit, however, for its willingness to work with the Congress in fashioning this implementing language after the agreement was signed. I believe the Congress, working with the administration, has immensely strengthened the agreement. But, problems remain, especially with its natural resources and energy provisions. I believe greater consultation with Congress may have been able to head off some of these unfortunate flaws in the agreement.

NATURAL RESOURCE PROVISIONS

Congress has improved the agreement's natural resources provisions. One of my principal concerns is the issue of Canadian subsidization of natural resource exports to the United States.

The agreement as signed is essentially silent on natural resource subsidies in general. Yet, Canadian subsidization of natural resource industries and the resulting unfair competitive edge those subsidies give the exporters of those products into the United States worries me. It especially concerns those of us from the West whose States bear the full brunt of these unfair imports.

In my home State of New Mexico is the Nation's largest potash reserve, accounting for 85 percent of U.S. potash production. This industry was almost driven out of business by heavily subsidized Canadian potash dumped into this country. One of the largest Canadian producers, Potash Corp. of Saskatchewan, is a Canadian Crown Corp.—a nationalized company. As a Crown Corp., PCS is exempt from Canadian Federal income taxes and has the resources of the Government to support its massive expansion program of the 1980's.

Late last year, the United States Commerce Department concluded its antidumping case against Canadian potash producers. Since Canadian dumping ended, the United States potash industry has staged a remarkable recovery. This proves that, given a level playing field, the U.S. potash industry can more than hold its own. Yet, the issue of subsidization remains. And the Canadian Free-Trade Agreement does nothing about the problem.

Copper is another example of Canada's policy of natural resource subsidization. A major cost in the copper refining process is pollution control on smelters. In the United States, copper smelters must control at least 90 percent of their sulfur oxide emissions. In our competitor nations, including Canada, emission standards are much less stringent. And, in Canada, costs of pollution control equipment are paid for the Government subsidies. For example, two-thrids of the cost of building the pollution control facilities at the Noranada copper smelter at Rouyn, Quebec, are paid for the Government funds. These subsidies give our Canadian competitors a distrinct economic advantage.

Recently, the U.S. copper industry has managed to pull itself out of its deep depression of the mid-1980's with painful modernization and structural adjustment programs. While the copper industry has thus recovered somewhat, it remains vulnerable to a future economic downturn. Competition from subsidized Canadian competitors will only make matters worse.

The story is the same for other nonferrous metals, such as lead and zinc.

While the final agreement said nothing about the subsidies, the issue was raised during the negotiations on antidumping laws. Our negotiators wished to include provisions on subsidies and the Canadian negotiators wished to exempt Canada from our antidumping and countervailing duties laws. It is my understanding that the agreement will not replace current U.S. law on dumping and will not set aside the past rulings and agreements, such as those governing potash dumping. However, the compromise was to set up a binational dispute settlement panel with jurisdiction over antidumping dispute settlement panel with jurisdiction over antidumping and countervailing duty cases. While dispute settlement panels are commonly used in international trade, this particular standing binational panel is a new and controversial process. It remains to be seen how well it works.

The implementing legislation also incorporates a provision requiring monitoring of natural resource subsidies. This will help harmed industries gather information for use in future antidumping and unfair trade practices cases.

The provision, included because of strong congressional objections to the lack of attention to the issue, also authorizes ongoing negotiations with Canada over subsidies. However, this a makeshift arrangement, rather than a solution to the problem. I would caution my colleagues that the issue of natural resource subsidies will return again and again until we craft a comprehensive solution.

ENERGY PROVISIONS

The energy provisions in this agreement are, in my view, even more troublesome as they relate to uranium and natural gas.

This legislation implementing the agreement exempts uranium imports from Canada from section 161(v) of the Atomic Energy Act. Section 161(v) restricts the use of foreign-origin uranium to assure the maintenance of a viable domestic uranium industry. Since Canada is a major supplier of uranium, this exemption could seriously weaken the United States uranium industry.

It seems that the administration has bargained away the U.S. uranium industry. But, it is unclear that such action was ever necessary to conclude the agreement.

Under the fast track procedures, where no amendments are allowed, there is nothing we can do about this particular provision. We must either accept or reject the entire agreement. Unfortunately, I must vote to reject the agreement.

There is one positive note. The debate over the free-trade agreement has given us the chance to educate the adminstration on the need to maintain a viable uranium industry. It has also given us the opportunity to pass legislation, the Uranium Revitalization, Tailings Reclamation, and Enrichment Act of 1987, which I cosponsored, to replace section 161(v) with a new procedure for a sliding scale charge for the use of foreign uranium. Since the legislation includes a 12-year phaseout of this charge, similar to the phaseout of tariffs under the Canadian FTA, and implements our commitment to repeal section 161(v), it is consistent with the FTA. A version of this legislation has also passed as part of the Nuclear Regulatory Authorization bill. I hope the House will act quickly on this legislation and the President will sign it.

Natural gas has been another sticking point for me in this agreement. The primary concentration of Canadian natural gas exports goes to the California market. New Mexico has also been a predominant supplier of natural gas to this market. However, in the past 3 years, Canadian gas has displaced much of the New Mexico gas. It is clear that this displacement stems from Canadian willingness to sell its gas cheaper than our domestic producers can sell theirs. Part of this is due to the difference in rate design which the Federal Energy Regulatory Commission's opinion No. 256, the "as billed" decision, attempted to address.

In earlier hearings before the Energy Committee, both the administration and the Canadian Ambassador gave their assurances that FERC opinion 256 will not be changed or affected by the free-trade agreement. In particular, the Canadian Government has assured us that it will not seek to overturn FERC 256. This decision is an important step in assuring fair regulatory treatment for United States and Canadian natural gas.

I have also been concerned that the agreement would prevent the United States from making needed changes in what I believe to be unfair energy regulations. Some of these changes I proposed in S. 1973, the Imported Natural Gas Fair Treatment Act. While the agreement requires consultation over my new legislation affecting trade between our two countries, I do not believe this will be an impediment to the creation of a fair regulation on both sides. Nor does the agreement prohibit the United States from granting incentives in the future for oil and gas exploration and development. But it leaves in place all of the Canadian incentives, which far outweigh our programs to help the oil and gas industry. These incentives give Canadian producers an unfair advantage, especially when they export into our markets.

CONCLUSION

Mr. President, there are a number of good features in this agreement, especially the attempt to reduce non-tariff barriers and eliminate tariffs. And the administration has attempted to correct the agreement's worst faults. However, for all the attempts to improve the agreement, it simply leaves too much unresolved. It reduces tariffs, but does not deal with the issue of subsidies. It undercuts our ability to assure a viable domestic uranium industry. It simply hurts New Mexico more than it helps. For this reason I must reluctantly vote against the agreement.●

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 68, WEST CALDWELL, NJ

● Mr. LAUTENBERG. Mr. President, I would like to take an opportunity to note that the International Union of Operating Engineers, Local 68, headed by the Giblin brothers, President Thomas P. Giblin, and business manager Vincent J. Giblin, will be holding its ninth annual picnic this Sunday with its friends and families.

Under the leadership of Tom and Vince, this union has participated proudly in the economic renaissance of New Jersey, and Local 68 does not stand pat on its accomplishments.

For instance, the Giblin team has continued the union's long-standing commitment to education as experienced by the engineer's union education fund. Entering its 31st year of operation, the education fund oversees Local 68's outstanding apprenticeship training program.

Local 68 realizes that educational training is the key to competition, not just to keep even at home today, but to be competitive with other nations tomorrow. The Operating Engineers are to be commended on their annual college scholarship fund that awarded over $60,000 to the sons and daughters of the union in 1988.

I'm proud of a union and its leaders which does the job today, and still plans now for the tasks ahead tomorrow; and, I know the members and families of Local 68 share the same pride.●

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of Mr. Dole, my good friend and leader on the other side of the aisle, as to whether or not Calendar orders numbered 908, 922, 930, and 950 have been cleared for passage.

Mr. DOLE. Yes, each of those has been cleared, I would say to the majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the aforegoing calendar orders seratim.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNIFORM REGULATORY JURISDICTION ACT

The Senate proceeded to consider the bill (H.R. 2884) to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniform Regulatory Jurisdiction Act of 1988".

SEC. 2. JURISDICTION OVER TRANSPORTATION OF NATURAL GAS.

Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended—

(a) by redesignating section "7(f)" as section "7(f)(1)";

(b) by striking the period at the end thereof and inserting "; and"; and

(c) by adding a new section 7(f)(2) to read as follows:

"(2) If the Commission has determined a service area pursuant to this subsection, transportation to ultimate consumers in such service area by the holder of such service area determination, even if across State lines, shall be subject to the exclusive jurisdiction of the State commission in the State in which the gas is consumed. This section shall not apply to the transportation of natural gas to another natural gas company.".

SEC. 3. EFFECTIVE DATE.

The provisions of this Act shall become effective one hundred and twenty days after the date of enactment.

Mr. GRASSLEY. Mr. President, I would like to discuss with the managers of the bill, the distinguished chairman of the Energy and Natural Resources Committee, Mr. Johnston, and the distinguished ranking minority member, Mr. McClure, how this legislation would affect the Interstate Power Company, an interstate pipeline and local distribution company which delivers natural gas to consumers located in both Iowa and Illinois.

As you are aware, when the House of Representatives passed H.R. 2884, it contained a provision which afforded Interstate Power the same lightened regulatory treatment as those who have received a Natural Gas Act [NGA] section 7(f) determination. However, when the Committee on Energy and Natural Resources reported H.R. 2884 it decided to remove that provision.

Based on my understanding of Interstate Power's situation, there is no question that the company would qualify for and receive a 7(f)(1) determination if it were to apply for one.

I would like to inquire of the committee chairman and the ranking minority member why this change was made, and whether that change was intended to preclude Interstate Power from obtaining the lightened regulatory treatment provided by this legislation?

Mr. JOHNSTON. I want to assure the distinguished senior Senator from Iowa, who is the sponsor of S. 1717, the Senate companion bill to H.R. 2884, that the committee's elimination of the provision in H.R. 2884 which dealt with Interstate Power was without prejudice to it. As the committee's report on the bill—Report 100-486—points out on page 4 in the description of the committee amendments:

> The Committee encourages all natural gas companies who perform activities of a local distribution nature in service areas which cross lines to seek a section 7(f)(1) service area determination. Once granted, the retail transportation of natural gas by the holder of the service area determination will be subject to state regulation in the state in which the gas is consumed, rather than federal regulation. The legislation will avoid costly, duplicative, and administratively burdensome regulation at both the federal and state levels which is required by the existing law.

The Committee's intent is to encourage Interstate Power to seek a 7(f)(1) service area determination, not to preclude it from doing so. If it meets the Commission's criteria for granting such a determination, and if the determination is granted, Interstate Power Company would be regulated in the same manner as those who are already covered by the provisions of the bill.

Mr. McCLURE. I want to concur completely with all of the comments made by the distinguished chairman of the committee, Mr. Johnston. It, too, is my understanding that there is nothing standing in the way of Interstate Power's applying for, and receiving, a section 7(f)(1) determination from FERC. And in particular, if Interstate Power were to apply for a section 7(f)(1) determination, I would strongly urge the Commission to make every effort to process that application without delay.

Mr. GRASSLEY. I thank the distinguished chairman and ranking minority member, and based on their comments and assurances I would urge the adoption of H.R. 2884.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2884) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEWIS M. PARAMORE DIVERSION UNIT

The Senate proceeded to consider the bill (H.R. 517) to designate Soldier Creek Diversion Unit in Topeka, KS, as the "Lewis M. Paramore Diversion Unit".

Mr. DOLE. Mr. President, I rise today in support of H.R. 517, legislation to rename the Soldier Creek Diversion Unit in Topeka, KS on behalf of Lewis M. Paramore, who was instrumental in coordinating the flood control program for the Topeka, KS area.

Lewis Paramore, in his long life, worked tirelessly to create the Corps of Engineers developed Soldier Creek Diversion Unit after the devestating 1951 flood in Topeka.

This bill to change the name was initially introduced in the 99th Congress, but because of the rush to complete the conference report of the Water Resources Development Act, its inclusion was omitted.

H.R. 517 was subsequently introduced in the 100th Congress with the understanding that this met all the criteria of the House and Senate Committees of jurisdiction. The Environment and Public Works Committee was prepared to consider H.R. 517 late last year, but it was discovered that the Federal Government does not actually hold title to the property, although the corps twice annually inspects the unit. Federal ownership is the only criteria of this name-change legislation that H.R. 517 fails to meet.

I want to thank the committee for being so responsive to the enormous constituent support for H.R. 517, by considering and approving the name change. The people of Topeka are well served by this project and the man who is synonymous with its development should be remembered accordingly.

The bill (H.R. 517) was ordered to be read a third time, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROVISION FOR SPECIAL REVENUE BONDS

The Senate proceeded to consider the bill (S. 1863) to amend the bankruptcy law to provide for special revenue bonds, and for other purposes, which had been reported from the Committee on the Judiciary, with an amendment:

On page 2, line 11, strike "101(29)" and insert in lieu thereof "101(31)".

So as to make the bill read:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109(c)(3) of title 11, United States Code, is amended by striking out "or unable to meet such entity's debts as such debts mature".

SEC. 2. Section 901(a) of title 11, United States Code, is amended by inserting "1129(a)(6)," between "1129(a)(3)," and "1129(a)(8)".

SEC. 3. Section 902 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively;

(2) redesignating paragraph (1) as paragraph (2);

(3) inserting before paragraph (1), as redesignated herein, a new paragraph (1), as follows:

"(1) 'insolvent', notwithstanding section 101(31) of this title, when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means financial condition such that the municipality is generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute, or is unable to pay its debts as they become due;"; and

(4) inserting between paragraph (2) and paragraph (4), as redesignated herein, the following:

"(3) 'special revenues' means—

"(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems,

"(B) special excise taxes imposed on particular activities or transactions,

"(C) incremental tax receipts from the benefited area in the case of tax-increment financing,

"(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions, and

"(E) taxes specifically levied to finance one or more projects or systems, but not including (except for tax-increment financing) receipts from general property, sales, or income taxes levied to finance the general purposes of the debtor.".

SEC. 4. Section 922 of title 11, United States Code, is amended by adding at the end thereof the following:

"(c) If the debtor, under this section, or section 362 or 364 of this title, provides adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under this section or section 362 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title.

"(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.".

SEC. 5. (a) Section 925 of title 11, United States Code, is amended by—

(1) adding to the section heading the following:

"and certain secured claims";

(2) striking out "A" and inserting in lieu thereof "(a) A"; and

(3) adding at the end thereof the following:

"(b) The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.".

(b) The table of sections for chapter 9 of title 11, United States Code, is amended by adding before the period in the item relating to section 925, "and certain secured claims".

SEC. 6. Section 926 of title II, United States Code, is amended by—

(1) inserting "(a)" before "If"; and

(2) adding at the end thereof the following:

"(b) A transfer of property of the debtor to or the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

SEC. 7. (a) Section 927 of title 11, United States Code, is redesignated as section 929.

(b) Title 11 of the United States Code is amended by adding between section 926 and section 929, as herein redesignated, the following new sections:

"§ 927. Post petition effect on security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system is subject to the necessary operating expenses of such project or system, as the case may be.

"§ 929. Municipal leases

"A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.".

(c) The table of sections for subchapter II of chapter 9 of title 11, United States Code, is amended by striking out the item relating to section 927 and inserting in lieu thereof the following:

"927. Post petition effect of security interest.
"928. Municipal leases.
"929. Dismissal.".

SEC. 8. Section 943(b) of title 11, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5);

(2) striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon;

(3) redesignating paragraph (6) as paragraph (7); and

(4) inserting between paragraph (5) and paragraph (7), the following:

"(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and".

Mr. DECONCINI. Mr. President, I am pleased that the Senate consented to proceed to the immediate consideration of S. 1863 and voted to pass the bill.

Mr. President, in 1978, Congress enacted sweeping revisions of the bankruptcy law to reflect the vast changes in commercial law that occurred in the 40-year period since the bankruptcy law was last revised. At that time, chapter 9 generally was amended to apply commercial bankruptcy law concepts to municipal corporations. However, due to the different nature of the evolution of municipal finance, some of the specific effects of the sweeping application of commercial law concepts to municipal corporations have resulted in unintended conflicts between municipal law and bankruptcy law.

Fundamental to the nature of municipal finance is the underlying scheme of State constitutional laws that provides States and localities the power to raise revenues for the purpose of providing governmental services. Since the founding of our Nation, each State has developed its own set of powers, restrictions, and limitations on the financing of State and local services. They are based on the citizens' beliefs in the need to limit or provide expansive governmental power to tax and the decision-making process which should be required. In general terms, this evolutionary process has resulted in the reliance by localities and States on revenue bonds and general obligation bonds to meet differing constitutional requirements. Here is where application of corporate law bankruptcy concepts to governmental entities conflict with State constitutional law and the general principles of local government law.

General obligation bonds are bonds for which the general taxing power of the issuer is pledged to repay the bonds. Usually general obligation bonds are issued to finance capital projects such as schools and police stations, but also can be used to finance annual governmental expenses. With a general obligation bond, the taxpayers are committed to raise their future taxes to whatever level may be necessary to repay the bondholders.

Revenue bonds are issued to finance projects or programs, the revenues from which are pledged to repay the bonds—for example, toll roads, water systems, and sewers. At the time the Government borrower approves financing for the project or program, it has been convinced by the financial analysis that the project or program will generate adequate revenues to repay the bondholders and operate the project or program, without any financial obligation on the governmental entity. These are "limited obligation" securities; the taxpayers are not committed to repay the bonds.

This bill will resolve unintended conflicts between State and local laws and bankruptcy law. The amendments protect the future effectiveness of revenue bond financing against the possibility of an adverse judicial determination in connection with a local government bankruptcy. Specifically, the amendments ensure that in the event of a bankruptcy, taxpayers will not be required to pay bondholders for bankrupt municipal projects that were intended to be funded exclusively through project revenues. Second, the amendments ensure that State and constitutional and statutory debt limits will not be preempted by the application of bankruptcy laws. Third, the amendments ensure that revenue bondholders will receive the benefit of their bargains with the municipal issuer, that is, they will have unimpaired rights to the project revenues pledged to them.

This bill has received wide support from the National Bankruptcy Conference, the National Association of Bond Lawyers, the National Governors' Association, the National Conference of State Legislatures, the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, the Government Finance Officers Association, the National Association of State Budget Officers and the American Public Power Association.

Mr. President, I am pleased that the Senate has acted on this important piece of legislation. It is my understanding that the House will soon act on the companion bill and we will have a bill to send to the President to sign that will provide critically needed relief to municipalities.

The **PRESIDING OFFICER.** The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill (S. 1863) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The bill (S. 2800) to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NUCLEAR WASTE NEGOTIATOR.

Section 402(a) of the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"SEC. 402. (a) ESTABLISHMENT.—There is established the Office of the Nuclear Waste Negotiator that shall be an independent establishment in the executive branch.".

SEC. 2. MONITORED RETRIEVABLE STORAGE COMMISSION.

Section 143(a)(3) of the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress on November 1, 1989.".

The amendment was agreed to

The amendment was ordered to be engrossed, the bill was read the third time, and passed.

ORDER TO INDEFINITELY POSTPONE CERTAIN CALENDAR ITEMS

Mr. BYRD. Mr. President, I ask unanimous consent that the following calendar orders numbered 279, 357; 661, 662, 764, 787, and 952 be indefinitely postponed.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER TO INDEFINITELY POSTPONE CERTAIN BILLS

Mr. BYRD. Mr. President, I ask unanimous consent that the following bills be indefinitely postponed: S. 538, S. 406, S. 907, S. 512, S. 800, S. 748, S. 1865, S. 2631 and H.R. 2160.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none and it is so ordered.

ZUNI-CIBOLA NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 683, S. 2162.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2162) to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes.

The **PRESIDING OFFICER.** Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SHORT TITLE

SECTION 1. This Act shall be known as the "Zuni-Cibola National Historical Park Establishment Act of 1988".

ESTABLISHMENT OF PARK

SEC. 2. In order to preserve and protect for the benefit of present and future generations certain nationally significant historical, archeological, cultural, and natural sites and resources associated with the Zuni Tribe, and in order to assist members of the Zuni Tribe in preserving and interpreting their *tribal culture, there is hereby established the Zuni-Cibola National Historical Park (hereinafter referred to as "park"). The park shall consist of those lands acquired pursuant to section 3 hereof.*

ACQUISITION

SEC. 3. The Secretary of the Interior is authorized to approve a National Park Service leasehold interest in and to such trust lands of the Zuni Indian Reservation which are necessary and adequate to carry out the purpose of this Act as determined jointly by the Zuni Tribe, the Bureau of Indian Affairs and the National Park Service. The lease shall not be executed until the park plan required under section 7 is fully developed and approved.

MANAGEMENT

SEC. 4. (a) The Secretary, acting through the Director of the National Park Service, and in consultation with the Commission established pursuant to section 6 of this Act, shall manage the park as a unit of the National Park System consistent with the provisions of this Act, and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461), as amended. The Secretary, in cooperation with the Zuni Tribe, shall protect, manage, and administer the park for the purposes of preserving the nationally significant historical, archeological, natural, and cultural sites of the park and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

(b) The Secretary is authorized to accept concurrent jurisdiction from the Zuni Tribe for the purpose of law enforcement.

(c) The Secretary, acting through the Director of the National Park Service, shall consult regularly with the Commission established pursuant to section 6 of this Act. The Commission shall advise the Secretary on the management and operation of the park.

(d) The Secretary, acting through the Director of the National Park Service, shall exempt all enrolled members of the Zuni Tribe from the payment of fees for admission into the park.

(e) In furtherance of the purpose of this Act, and after consultation with the Commission created by section 6 thereof, the Secretary is authorized to enter into cooperative agreements with the Zuni Tribe, its subordinate boards, committees and enterprises, and individual members of the Zuni Tribe for the purpose of providing training of Zuni tribal members in interpretation, management, protection and preservation of archaeological and historical properties and needed public services on the Zuni Indian Reservation.

FEDERAL CONSISTENCY

SEC. 5. (a) The head of any Federal agency conducting or supporting activities directly affecting the park shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission established pursuant to section 6 of this Act; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act, and (B) will not have an adverse effect on the resources of the park.

(b) No Federal agency may issue any license or permit to any person to conduct any activity within the park unless such agency determines that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act and will not have an adverse effect on the resources of the park.

(c) The provisions of this section shall apply only with respect to activities begun and licenses or permits issued after the effective date of this Act.

ESTABLISHMENT OF ZUNI-CIBOLA ADVISORY COMMISSION

SEC. 6. (a) There is established within the Department of the Interior a commission to be known as the Zuni-Cibola National Historical Park Advisory Commission (hereinafter referred to as "Commission") which shall advise regularly the Director of the National Park Service on the planning, management, and administration of the park. The Commission shall consist of the Governor of the Zuni Tribe, the Director of the National Park Service, the Secretary of the Smithsonian (or their designees), and four members appointed by the Secretary from recommendations made by the Governor of the Zuni Tribe. The Commission is authorized to employ an administrative director.

(1) The Commission is authorized to have an Administrative Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS-12 of the General Schedule.

(2) The Administrative Director of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the individual so appointed may not receive pay in excess of the annual rate of basic pay payable for grade GS-12 of the General Schedule.

(3) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(b) The initial terms of members of the Commission appointed pursuant to subsection (a) shall be staggered, as determined by the Secretary, in order to assure continuity in the administration of the Commission. Thereafter the term shall be four years. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) The non-Federal members of the Commission appointed pursuant to subsection (a) while away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) The Governor of the Zuni Tribe shall be the Chair of the Commission. Other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members. Consistent with the public meeting requirements of the Federal Advisory Committee Act, the Commission shall from time to time meet with persons concerned with park issues relating to the Zuni Tribe.

(f) Except as provided in subsection 6(e), the provisions of the Federal Advisory Committee Act, as amended, shall not apply to the Commission established by this section.

PARK PLAN

SEC. 7. Within three full fiscal years following the fiscal year of enactment of this Act, the Secretary, through the Director of the National Park Service, in consultation with the Commission, shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the United States Senate, a general management plan for the park which shall describe the appropriate uses and development of the park consistent with the purposes of this Act. The plan shall include but not be limited to—

(1) implementation plan for a continuing program of interpretation and public education about the resources and values of the park;

(2) proposals for visitor use facilities to be developed for the park;

(3) natural and cultural resources management plans for the park, with particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act, as amended, within the park. The natural and cultural resources management plans shall be prepared in close consultation with the New Mexico State Historic Preservation Office and the Zuni Tribe and their traditional cultural and religious authorities; and such plan shall provide for long-term scientific use of archeological resources in the park;

(4) proposals for training members of the Zuni Tribe in such fields as interpretation, management, and artifact curation;

(5) a plan to insure the protection of the right of the Zuni people to practice traditional Zuni religious activities within the park boundaries and to implement the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996);

(6) proposals for cooperative research and interpretive programs within the park to be directed by the Zuni Tribe through its archeology program, with technical assistance from the National Park Service; and

(7) notwithstanding any other provision of law, proposals for operation and supply of park concessions by qualified Zuni-owned businesses.

ADDITION TO MASAU TRAIL

SEC. 8. The first sentence of section 202 of the Act of December 31, 1987 (101 Stat. 1540; Public Law 100-225), is hereby amended by deleting "and Gila Cliff Dwellings National Monument." and inserting "Gila Cliff Dwellings National Monument, and Zuni-Cibola National Historical Park.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

AMENDMENT NO. 3169

Mr. BYRD. Mr. President, on behalf of Mr. BINGAMAN, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], on behalf of Mr. Bingaman, proposes an amendment numbered 3169.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

1. On page 8, line 23, strike "acquired" and insert "leased".

Explanation: This amendment clarifies the fact that lands included within the boundary of the park are to be subject to a leasehold interest and not acquired in fee for inclusion in the park.

2. On page 9, line 7-9, delete the last sentence of section 3 in its entirety and insert the following:

"Any lease approved pursuant to this section shall not become effective until 30 calendar days after such lease has been transmitted to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the U.S. Senate and the Committee on Interior and Insular Affairs of the U.S. House of Representatives.".

Explanation: This amendment insures that the general management plan for the park will be prepared after the lease agreement is made and the lands for inclusion in the park are identified rather than preparing the plan prior to the formulation of such an agreement. It also provides for a 30 day review period for the appropriate Committees of Congress before the lease becomes effective.

3. On page 11, strike line 18 in its entirety and insert the following: "the date of enactment of this Act.".

Explanation: This is a self-explanatory clarifying amendment.

4. On page 12, line 4, strike "Tribe.", and insert the following "Tribe, no more than two of which shall be members of the Zuni Tribe.".

Explanation: This amendment clarifies that the Governor of the Zuni Tribe will made recommendations for the Advisory Council from Zuni and non-Zuni Tribal members.

5. On page 14, line 8, strike "fiscal year of enactment of this Act," and insert the following: "the approval of the lease pursuant to section 3,".

Explanation: This is a conforming amendment which deals with the timing of the preparation of the general management plan.

6. On page 9, line 3, insert after the word "interest" the words "of not more than 600 acres".

Explanation: This amendment sets a limit of 600 acres on the size of the park.

7. On page 9, line 18, after the word "Secretary," insert the words "acting through the Director of the National Park Service,".

Explanation: Technical and conforming.

8. On page 11, strike lines 7 and 8 and insert in lieu thereof: "(B) will not have a significant adverse effect on the resources of the park as determined by the Secretary".

9. On page 11, strike lines 14 and 15 and insert in lieu thereof: "this Act and will not have a significant adverse effect on the resources of the park as determined by the Secretary".

Explanation: These amendments change the Federal consistency standard from one of no adverse effect to no significant adverse effect as determined by the Secretary of the Interior.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 3169) was agreed to.

Mr. **BINGAMAN**. Mr. President, I rise today in support of S. 2162, the Zuni-Cibola National Historical Park Act of 1988. This historic legislation will create the first national historical park in the United States located entirely on Indian trust lands. Consideration of such a park has been under discussion since 1960 when the Secretary of Interior declared the ancient Zuni city of Hawikku eligible for Registered National Historic Landmark status.

Since that time, the National Park Service has diligently studied the potential for including certain areas of the Zuni reservation in the National Park System. I am pleased that we are now able to introduce legislation that accomplishes the goals first set more than 20 years ago.

This legislation exemplifies a new spirit of cooperation between the Federal Government and Indian people. this may seen an unusual partnership, Mr. President, but a partnership we can be very proud of because it was formed by the Pueblo's interest in sharing its history and the Government's interest in protecting the resources.

The national significance of the historic sites of the Zuni culture is well documented. In the many studies conducted by the National Park Service, Zuni has been identified as a major focal point of the Anasazi culture, as a crossroads of Southwestern events since 1539, and as one of the most important centers of ethnological studies in the United States.

The park will be a prime example of an Indian-owned area of national importance, containing cultural, historical and archaeological sites and resources. It deserves to be preserved and properly interpreted.

The legislation will designate certain portions of the Zuni reservation as the Zuni-Cibola National Historical Park, to be managed by the Park Service as a unit of the National Park System.

The bill also establishes within the Department of the Interior an Advisory Commission which will consult with the Director of the Park Service in the planning, management, and administration of the park. The Commission will be chaired by the Governor of Zuni. The Secretary of the Smithsonian, who has long been an advocate of this particular proposal will also be a member of the Commission. I also hope the legislation will eventually assist members of the Pueblo of Zuni in preserving and interpreting the Zuni culture, provide for appropriate development of the recreational resources of their lands and waters, and provide training opportunities for Indians in the interpretation and management of their cultural, historical, and recreational resources.

Mr. President, this legislation is unique in one other way. For most of our previous national parks, we have had to acquire private land, sometimes at tremendous cost to the Federal Government. This legislation does not involve the purchase of any private lands; moreover, it specifically authorizes the Secretary to acquire land only through donation.

In order to preserve and protect this rare natural treasure for the benefit of present and future generations, I urge my colleagues to support this legislation.

The **PRESIDING OFFICER**. The question is on agreeing to the committee substitute, as amended.

The committee substitute, as amended, was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act shall be known as the "Zuni-Cibola National Historical Park Establishment Act of 1988".

ESTABLISHMENT OF PARK

Sec. 2. In order to preserve and protect for the benefit of present and future generations certain nationally significant historical, archeological, cultural, and natural sites and resources associated with the Zuni Tribe, and in order to assist members of the Zuni Tribe in preserving and interpreting their tribal culture, there is hereby established the Zuni-Cibola National Historical Park (hereinafter referred to as "park"). The park shall consist of those lands leased pursuant to section 3 hereof.

ACQUISITION

Sec. 3. The Secretary of the Interior is authorized to approve of not more than 600 acres a National Park Service leasehold interest in and to such trust lands of the Zuni Indian Reservation which are necessary and adequate to carry out the purpose of this Act as determined jointly by the Zuni Tribe, the Bureau of Indian Affairs and the National Park Service.

"Any lease approved pursuant to this section shall not become effective until 30 calendar days after such lease has been transmitted to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives."

MANAGEMENT

Sec. 4. The Secretary, acting through the Director of the National Park Service, and in consultation with the Commission established pursuant to section 6 of this Act, shall manage the park as a unit of the National Park System consistent with the provisions of this Act, and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461), as amendmend. The Secretary, acting through the Director of the National Park Service, in cooperation with the Zuni Tribe, shall protect, manage, and administer the park for the purposes of preserving the nationally significant historical, archeological, natural, and cultural sites of the park and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

(b) The Secretary is authorized to accept concurrent jurisdiction from the Zuni Tribe for the purpose of law enforcement.

(c) The Secretary, acting through the Director of the National Park Service, shall consult regularly with the Commission established pursuant to section 6 of this Act. The Commission shall advise the Secretary on the management and operation of the park.

(d) The Secretary, acting through the Director of the National Park Service, shall exempt all enrolled members of the Zuni Tribe from the payment of fees for admission into the park.

(e) In furtherance of the purpose of this Act, and after consultation with the Commission created by section 6 thereof, the Secretary is authorized to enter into cooperative agreements with the Zuni Tribe, its subordinate boards, committees and enterprises, and individual members of the Zuni Tribe for the purpose of providing training of Zuni tribal members in interpretation, management, protection and preservation of archaeological and historical properties and needed public services on the Zuni Indian Reservation.

FEDERAL CONSISTENCY

SEC. 5. (a) The head of any Federal agency conducting or supporting activities directly affecting the park shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission established pursuant to section 6 of this Act; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act, and "(B) will not have a significant adverse effect on the resources of the park as determined by the Secretary".

(b) No Federal agency may issue any license or permit to any person to conduct any activity within the park unless such agency determines that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to the plan required in section 7 of "this Act and will not have a significant adverse effect on the resources of the park as determined by the Secretary".

(c) The provisions of this section shall apply only with respect to activities begun and licenses or permits issued after the date of enactment of this Act.

ESTABLISHMENT OF ZUNI-CIBOLA ADVISORY COMMISSION

SEC. 6. (a) There is established within the Department of the Interior a commission to be known as the Zuni-Cibola National Historical Park Advisory Commission (hereinafter referred to as "Commission") which shall advise regularly the Director of the National Park Service on the planning, management, and administration of the park. The Commission shall consist of the Governor of the Zuni Tribe, the Director of the National Park Service, the Secretary of the Smithsonian (or their designees), and four members appointed by the Secretary from recommendations made by the Governor of the Zuni Tribe, no more than two of which shall be members of the Zuni Tribe. The Commission is authorized to employ an administrative director.

(1) The Commission is authorized to have an Administrative Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS-12 of the General Schedule.

(2) The Administrative Director of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the individual so appointed may not receive pay in excess of the annual rate of basic pay payable for grade GS-12 of the General Schedule.

(3) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(b) The initial terms of members of the Commission appointed pursuant to subsection (a) shall be staggered, as determined by the Secretary, in order to assure continuity in the administration of the Commission. Thereafter the term shall be four years. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) The non-Federal members of the Commission appointed pursuant to subsection (a) while away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) The Governor of the Zuni Tribe shall be the Chair of the Commission. Other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members. Consistent with the public meeting requirements of the Federal Advisory Committee Act, the Commission shall from time to time meet with persons concerned with park issues relating to the Zuni Tribe.

(f) Except as provided in subsection 6(e), the provisions of the Federal Advisory Committee Act, as amended, shall not apply to the Commission established by this section.

PARK PLAN

SEC. 7. Within three full fiscal years following the the approval of the lease pursuant to section 3, the Secretary, through the Director of the National Park Service, in consultation with the Commission, shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the United States Senate, a general management plan for the park which shall describe the appropriate uses and development of the park consistent with the purposes of this Act. The plan shall include but not be limited to—

(1) implementation plan for a continuing program of interpretation and public education about the resources and values of the park;

(2) proposals for visitor use facilities to be developed for the park;

(3) natural and cultural resources management plans for the park, with particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act, as amended, within the park. The natural and cultural resources management plans shall be prepared in close consultation with the New Mexico State Historic Preservation Office and the Zuni Tribe and their traditional cultural and religious authorities; and such plan shall provide for long-term scientific use or archeological resources in the park;

(4) proposals for training members of the Zuni Tribe in such fields as interpretation, management, and artifact curation;

(5) a plan to insure the protection of the right of the Zuni people to practice traditional Zuni religious activities within the park boundaries and to implement the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996);

(6) proposals for cooperative research and interpretive programs within the park to be directed by the Zuni Tribe through its archeology program, with technical assistance from the National Park Service; and

(7) notwithstanding any other provision of law, proposals for operation and supply of park concessions by qualified Zuni-owned businesses.

ADDITION TO MASAU TRIAL

SEC. 8. The first sentence of section 202 of the Act of December 31, 1987 (101 Stat. 1540; Public Law 100-225), is hereby amended by deleting 'and Gila Cliff Dwellings National Monument." and inserting "Gila Cliff Dwellings National Monument, and Zuni-Cibola National Historical Park.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

PROTECTION OF INTELLECTUAL PROPERTY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 929, S. 1626.

The **PRESIDING OFFICER.** The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1626) to keep secure the rights of intellectual property licensors and licensees which come under the protection of title 11 of the United States Code, the bankruptcy code.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) in paragraph (50) by striking "and" at the end,

(2) in paragraph (51) by striking the period at the end and inserting in lieu thereof a semicolon, and

(3) by adding at the end the following:

"(52) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, plant, or plant variety, including patents or patent applications thereon;

"(C) confidential research or development information;

"(D) work of authorship, including copyrights therefor; or

"(E) mask work;

to the extent protected by applicable nonbankruptcy law; and

"(53) 'mask work" has the meaning given it in section 901(a)(2) of title 17.".

(b) EXECUTORY CONTRACTS LICENSING RIGHTS TO INTELLECTUAL PROPERTY.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(n)(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

"(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

"(B) to retain its rights (other than a right under applicable nonbankruptcy law to specific performance of the future affirmative obligations under such contract, except those affirmative obligations retained in paragraphs (2) and (3) under such contract, and any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

"(i) the duration of such contract; and

"(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

"(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

"(A) the trustee shall allow the licensee to exercise such rights;

"(B) the licensee shall make all payments with respect to such rights due under such contract with respect to the rights retained for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

"(C) the licensee shall be deemed to waive—

"(i) any right of setoff it may have with respect to such contact under this title or applicable nonbankruptcy law; and

"(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

"(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment) including any right to obtain such intellectual property (or such embodiment) from another entity.

"(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract or any agreement supplementary to such contract—

"(i) perform such contract; or

"(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

"(B) non interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from a third entity.".

SEC. 2. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

AMENDMENT NO. 3170

Mr. BYRD. Mr. President, I offer an amendment on behalf of Mr. DECONCINI.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. DECONCINI, proposes an amendment numbered 3170.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. On page 2, line 7, strike out "s" at the end of "patents";

2. On page 2, line 8, strike out "s" at the end of "applicants";

3. On page 2, line 12, strike out "s" at the end of "copyrights";

4. On page 3, line 12, strike out "," before "under";

5. On page 3, line 13, strike out "," after "contract";

6. On page 3, line 13, strike out "under" before "any agreement supplementary";

7. On page 4, line 3, strike out "royalty" before "payments";

8. On page 4, lines 3-4, strike out "with respect to such rights";

9. On page 4, lines 4-5, strike out "with respect to the rights retained";

10. On page 5, line 19, strike out "third" and insert in lieu thereof "another".

Mr. DECONCINI. I am pleased that the Senate consented to proceed to the immediate consideration of S. 1626 and then voted to pass the bill as reported by the Judiciary Committee with technical amendments.

Mr. President, this legislation will correct a major problem facing intellectual property licensees by clarifying the rights of parties if a licensor declares bankruptcy. Under recent court decisions such as *Lubrizol Enterprises, Inc.* v. *Richmond Metal Finishers, Inc.*, 756 F.2d 1043 (4th Cir. 1985), cert. denied, 106 S.Ct. 1285 (1986) a debtor may reject as an executory contract any license agreement involving intellectual property. This effectively terminates the licensee's use of one-of-a-kind technology without regard to the business that has been built around the technology. Intellectual property is inherently unique—by definition it cannot be replaced or purchased elsewhere.

The system of granting rights for the use of intellectual property, rather than an outright transfer of ownership, evolved to assure a full and fair development opportunity for patents, copyrights, trade secrets, and trademarks. Through the use of nonexclusive licenses, different commercial applications of intellectual property develop in different geographic markets. Society benefits from the licensing of new technology because licensing increases the number of companies that can take advantage of an innovative or cost-saving discovery. But recent court decisions have changed the game. Potential licensees are now insisting on total ownership transfers to prevent the possible loss of rights during a bankruptcy filing.

In addition, this quirk in the bankruptcy law threatens American licensors competing in the international marketplace. Uncertainty over the law jeopardizes American technology licenses in the world market. I am pleased that the Senate is acting now to encourage full development of intellectual property in the worldwide marketplace.

S. 1626 amends section 365 of the Bankruptcy Code to permit a licensee of intellectual property to elect to continue to use that property, after a trustee rejects the license agreement, to the extent that the use existing immediately before the bankruptcy case commenced. The protection afforded by S. 1626 would be similar to that given by the code to lessees under real estate licenses. S. 1626 affects only the status of executory contracts for licenses of intellectual property, which is clearly defined in the bill.

This legislation has received wide support from the National Bankruptcy Conference, the business bankruptcy and intellectual property sections of the American Bar Association, the American Bankruptcy Institute, the Intellectual Property Bar and the Intellectual Property Owners. The House is expected to act soon on a companion measure and I am confident that the Congress will send a bill to the President to sign before we adjourn in October.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3170) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of the bill, S. 1626 will be printed in a future edition of the RECORD.)

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF MICHAEL WILDING

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 936, S. 1919.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1919) for the relief of Michael Wilding.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3171

(Purpose: To waive section (a)(23) of the Immigration and Nationality Act, relating to a grounds for exclusion)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. KENNEDY, proposes an amendment numbered 3171.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, lines 3 and 4, strike out "in the administration of the Immigration and Nationality Act," and inserting in lieu thereof "notwithstanding section 212(a)(23) of the Immigration and Nationality Act, for purposes of such Act,".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3171) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(a)(23) of the Immigration and Nationality Act, for purposes of such Act, Michael Wilding shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 4807

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4807, a bill to make certain improvements with respect to the Federal judiciary, just received from the House, be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 496.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 496) entitled "An Act to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as required by subsection (p);

"(F) procedures for the timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient

agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied either (A) by verification in accordance with the requirements governing such Federal benefit program, or (B) by verification in accordance with the requirements of paragraph (2).

"(2) Independent verification required by paragraph (1)(B) shall include independent investigation and confirmation of—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use,

"(C) the period or periods when the individual actually had such asset or income, and

"(D) any other information used as a basis for an adverse action against an individual.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, until 60 days after such individual receives a notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings. Such opportunity may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the 60-day notice period required by such paragraph.

"(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4) A Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. The Board may waive the requirements of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Man-

agement and Budget, that a cost-benefit analysis is not required.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Notice of the appeal must be provided to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement investigations.".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed to produce background checks for security clearances of Federal personnel or for foreign counterintelligence purposes;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or any agent thereof, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) Amendment.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) Office of Management and Budget Responsibilities.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

"(2) provide continuing assistance to and oversight of the implementation of this section by agencies.".

(b) Implementation Guidance for Amendments.—The Director shall, pursuant to section 552a(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

(c) Conforming Amendment.—Section 6 of the Privacy Act of 1974 is repealed.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552a(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "Annual" in the heading of such subsection and inserting "Biennial";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

SEC. 10. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) Exceptions.—The amendment made by sections 6, 7, and 8 of this Act shall take effect upon enactment.

AMENDMENT NO. 3172

Mr. DOLE. Mr. President, I move to concur in the House amendment with an amendment on behalf of Senators Cohen and Levin which I send to the desk.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. COHEN and Mr. LEVIN proposes an amendment numbered 3172.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment of the House, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for the holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as required by subsection (p);

"(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency or records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives, and

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied by verification in accordance with (A) the requirements of paragraph (2); and (B) any additional requirements governing verification under such Federal benefit program.

"(2) Independent verification referred to in paragraph (1) requires independent investigation and confirmation of any information used as a basis for an adverse action against an individual including, where applicable—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program (A) unless such individual has received a notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and (B) until the subsequent expiration of any notice period provided by the program's law or regulations, or 30 days, whichever is later. Such opportunity to contest may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the notice period required by such paragraph.

"(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p); or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reason for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective.

"(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

"(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of the Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations."

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records of a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(III) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, of any State or local government, or agency thereof which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

"(a) AMENDMENT.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

"(2) provide continuing assistance to an oversight of the implementation of this section by agencies.".

(b) IMPLEMENTATION GUIDANCE FOR AMENDMENTS.—The Director shall, pursuant to section 552(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 6 of the Privacy Act of 1974 is repealed.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "ANNUAL"" in the heading of such subsection and inserting "BIENNIAL";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) EXCEPTIONS.—The amendment made by sections 3(b), 6, 7, and 8 of this Act shall take effect upon enactment.

Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 496, the Computer Matching and Privacy Protection Act of 1988. The bill before us today is a House substitute to a bill that was passed unanimously by the Senate last year. The language of the House bill is based upon, and is very similar to, the Senate-passed bill. Today Senator LEVIN and I are proposing a Senate amendment to the House-passed bill. This amendment, which is in the nature of a substitute, makes modest changes in the House-passed bill and will be, I believe, acceptable to the House.

The purpose of the Computer Matching and Privacy Protection Act of 1988 is to regulate the use of computer matching programs that involve records subject to the Privacy Act of 1974. In matching programs, agencies cross-check information from two or more data bases to find individuals common to both. Most often, matching programs are performed to detect fraud, abuse, or overpayments in Government programs. A single matching program could exchange the records of thousands of citizens at one time.

In the past few years, the expansion of matching programs has been staggering, with over 2 billion separate records being exchanged between 1980 and 1985. The Congress is increasingly requiring agencies to conduct computer matches of their programs with other data bases to verify the accuracy of information provided by applicants for, and recipients of, Federal benefits, or to collect overdue loans. Many of these matches involve very personal information, such as income and employment data, of individual citizens.

While computer matching is a useful, efficient tool to protect the integrity of Government programs, this technique also presents tremendous potential for abuse because there are no mandatory rules for agencies to follow when performing matches, little protection for the persons whose records are matched, and little oversight of how these programs are conducted. Citizens can be—and have been in the past—placed in the difficult position of having to defend themselves against information that has never even been reviewed by a human being for its accuracy.

Without vigilant oversight and strict procedures in place, the power of computer technology, when in the hands of the Government, can pose threats to the individual rights of citizens. Unchecked disclosures and exchanges of personal records could result in "fishing expeditions" by overzealous Government officials who may be insensitive to the privacy and confidentiality rights of citizens and could expose sensitive personal records to computer security risks.

S. 496, as passed by the Senate and amended by the House, incorporates the recommendations of several experts—ranging from strong privacy advocates, such as the American Civil Liberties Union, to the inspectors general, the Office of Management and Budget and managers of Federal benefit programs—on how to strike the proper balance between the legitimate needs of Government efficiency and personal privacy.

S. 496 contains three main elements. First, it requires agencies to enter into written matching agreements before disclosing records for use in matching programs. These agreements will force agencies participating in or conducting matches to establish and observe basic safeguards on information that they exchange and will facilitate oversight of matching by the Office of Management and Budget, the Congress, and the agencies themselves.

The bill also establishes a "data integrity board" in each agency that participates in or conducts computer matching programs. These boards will have the responsibilities to review, approve, and maintain matching agreements, and to review all matches in which the agency has participated. I believe that the existence of these boards will go far in enhancing privacy as a priority of each agency when exchanging records in matching programs.

Finally, this bill ensures basic due process protections of individuals whose records are matched by prohibiting agencies from reducing, suspending, or terminating Federal financial assistance on the basis of information produced by a matching program without first verifying the information for accuracy, providing notice to the individual involved, and providing individuals with an opportunity to refute the information produced by the computer match. These basic elements are not only principles of fairness, but are also good management practices for agencies to follow.

The House amendment to S. 496 is very similar to the Senate-passed bill, and most of the changes made by the House are acceptable to the Governmental Affairs Committee, which reported the Senate bill. The amendment that Senator LEVIN and I are offering today would make only minor changes to the House amendment. I would like to highlight two proposed changes to the House amendment that address particular concerns expressed by the inspectors general and the Office of Management and Budget.

First, the proposed amendment would modify the notice requirements established by the House amendment. Concerns have been raised that the notice procedures contained in the House amendment may be costly and difficult for agencies to follow, by requiring them to provide individualized notice to all applicants and recipients of Federal benefit programs, or to persons who are already holding positions in the Federal Government, that any information provided by them may be subject to verification through matching programs. The proposed amendment would modify this provision to require agencies to establish procedures for requiring individualized notice at the time of application, and notice periodically thereafter, as directed by the data integrity boards established by the bill, to these persons that their records may be subject to verification in matching programs. This amendment is intended to provide more flexibility for agencies in giving notice about matching programs.

The second provision of this amendment that I want to highlight is a change in the House amendment's provision requiring agencies to wait 60 days until taking adverse actions against individuals based on information produced by a matching program. Requiring agencies to afford an individual ample opportunity to contest the findings of the match is a crucial element of this legislation and was a provision of the Senate-passed bill. A strict rule that agencies must wait 60 days before taking adverse action is too rigid, however, to be applied to all matching programs. Thus, the amendment being proposed today would alter this delay provision to provide that agencies may not take adverse action until 30 days after the individual has been given notice of the findings of the matching program and of the opportunity to contest these findings or until the notice period provided by the law or regulation governing the Federal benefit program has expired, whichever is later.

This proposed amendment will shorten the delay period to minimize the danger of allowing erroneous payments to continue, while ensuring a minimal delay period of 30 days, which is necessary to comport with due process rights.

I also want to clarify a potential problem that came to the attention of the Governmental Affairs Committee since S. 496 passed the Senate last year. Concerns were raised that matches conducted by the Federal Parent Locator Service and the Office of Child Support Enforcement may be subject to the requirements of this bill. Language in the committee report and changes made by the House amendment, which are acceptable to the Governmental Affairs Committee, should clarify that these matches are not subject to the bill's requirements, allowing them to continue without interference.

Mr. President, the Federal Government would be remiss if it did not take full advantage of advanced technology to ensure that it is spending tax dollars wisely. In our pursuit of efficiency, however, we cannot become insensitive to the fundamental rights of our citizens. What is today seen as an ally against fraud and waste could grow into an enemy of the very liberties that we profess to cherish most.

This bill is an important step in guaranteeing that information practices of the Federal Government adequately respect the privacy and due process of our citizens. I urge my colleagues to adopt the proposed amendment to S. 496 so that the House may take swift action on this legislation.

I want to thank my colleague, Senator LEVIN, chairman of the Oversight Subcommittee, for his continued support and involvement in this issue, and also want to thank his staff for their fine and able assistance on this bill. Finally, I also want to express my thanks to Congressman GLENN ENGLISH, chairman of the House subcommittee that considered this bill, and his staff, for the expertise and dedication that they have provided on this legislation in the House.

Mr. President, I ask unanimous consent that a summary of the amendment I am offering to S. 496 to printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF SENATE AMENDMENT TO S. 496 AS PASSED BY THE HOUSE

The Senate amendment includes minor changes to the House-passed provisions of S. 496, the Computer Matching and Privacy Protection Act of 1988. The amendment, which takes the form of a substitute amendment, alters the following provisions of the House-passed bill:

1. TERMS OF MATCHING AGREEMENTS

The amendment modifies Section 2 of the House-passed version of S. 496, which sets forth elements that must be included in the written matching agreements required by the bill. The amendment modifies this section of the House bill in two respects:

First, the House bill requires that the matching agreements contain procedures for providing individualized notice at the time of application, and periodically thereafter as directed by the Data Integrity Board to applicants for and recipients of financial assistance or payments under Federal benefit programs and to applicants for and holders of positions as Federal personnel, that any information provided by them may be subject to verification through matching programs.

The requirement for notice to such individuals that their records may be matched was also a provision contained in the Senate-passed bill. There is concern, however, that the provision of the House bill that requires individualized notice periodically to all persons who are already receiving Federal benefits or persons who are already holding positions in the Federal government may be prohibitively expensive, especially if this provision is interpreted as requiring agencies to send separate notices to these persons that their records may be matched. Thus, the amendment modifies the House provision to require the matching agreement to include procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board, to these persons that their records may be subject to verification in matching programs.

This amendment is intended to require individualized notice for all applicants for benefits and federal positions. Such notice can be included on the application form or with other notices provided to applicants. The amendment is intended to provide more flexibility for agencies when providing periodic notice to persons who are already receiving benefits or who already hold government positions. The specific procedures for giving periodic notice for a particular matching program should be directed by the Data Integrity Board, subject to guidance from the Office of Management and Budget. Constructive notice, such as publication of the matching program in the Federal Register, is not considered adequate to meet the periodic notice requirement except in very limited circumstances when actual notice would interfere with the essential purpose of the match. The mailing of separate periodic notices is not required by law, but could be required in specific instances either by the Data Integrity Board or through OMB guidance.

Second, the amendment reinstates the provision from the Senate-passed bill that matching agreements contain procedures for the retention and timely destruction of identifiable records created by matching programs. This provision recognizes that agencies must retain the information created by matching programs in order to conduct the matching program, and the verification and followup that is essential to the matching program. This would include the investigation and prosecution that may result from a matching program that uncovers activity that warrants civil criminal investigation or prosecution. All records created by the match, however, should be destroyed as soon as the records are no longer needed for the match itself and directly related followup.

2. VERIFICATION

The amendment modifies section 2 of the House-passed bill to specify that independent verification of the information produced by the matching program must, at a mimimum, meet the independent verification requirements as set forth in this bill. The House-passed version of S. 496 allowed verification to be satisfied by either the requirements set forth in the bill or the verification requirements governing the particular Federal benefit program involved in the matching program.

The amendment is intended to assure that agencies will, at a mimimum, meet the verification requirements set forth in S. 496, which include independent investigation and confirmation of any information used as a basis for adverse action against an individual. Both versions of the bill include specific elements that must be verified, when applicable to the matching program.

3. DELAY IN TAKING ADVERSE ACTIONS

Both bills prohibit agencies from suspending, terminating, reducing, making a final denial of any financial assistance or payment under a federal benefit program, or from taking any other adverse action against individuals based on the information produced by a matching program until the individual has received a notice of the findings and has been given an opportunity to contest the findings. The House-passed bill prohibits any such adverse action until 60 days after notice and opportunity to contest findings have been given to the individual, while the Senate bill does not specify a period of time for agencies to wait until taking adverse action.

A strict rule that agencies must wait 60 days before taking adverse action is too rigid to be applied to all matching programs covered by the bill, and may result in a significant number of erroneous payments being made to ineligible claimants under Federal benefit programs. In some cases, a 60 day delay may be longer than the waiting period required by the law or regulations governing the specific Federal benefit program involved in the matching program, thus causing confusion to agency officials over which waiting period they must follow prior to taking adverse action.

The amendment alters the delay period to provide that agencies may not take adverse action until the individual has been given notice of the findings of the match and an opportunity to contest the findings of the match and until the subsequent expiration of the notice period provided by the law or regulation governing the program, or 30 days after giving a notice of findings and of the opportunity to contest findings, whichever is later. This provision will shorten the delay to minimize the danger of allowing erroneous payments to continue, while ensuring a minimal notice period of 30 days, which is necessary to comport with due process rights. For programs in which a longer notice and contest period is allowed, this longer period would govern.

4. COST BENEFIT ANALYSIS

The House bill, but not the Senate-passed bill, requires agencies to submit a cost-benefit analysis of the proposed matching program before a matching agreement can be approved by the Data Integrity Board. A waiver of the cost-benefit analysis requirement is available from the Data Integrity Board in accordance with guildelines prescried by OMB.

Mandating a pre-match cost-benefit analysis is inappropriate for those matching programs that are required by law. Thus, the Senate amendment specifically exempts these matches from the up-front cost-benefit analysis requirement.

Since the costs of matching programs should be considered for those matches that will be repeated to determine if the matching program is truly cost-effective, the Senate amendment further specifies that any subsequent matching agreement for a matching program specifically required by statute will not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted.

5. CONFORMING AND TECHNICAL AMENDMENTS

The Senate amendment makes clarifying and conforming amendments, such as:

providing that any reports on matching activities conducted outside the scope of this bill may present information on an aggregate basis in order to protect counterintelligence investigations, in addition to protecting law enforcement matching programs (as specified in the House bill);

adding matches performed to produce background checks for security clearances of Federal contractor personnel to the list of matching programs exempted from the bill; and

including any program administered by a state on behalf of the Federal government within the definition of "federal benefit program" in order to clarify that state-administered Federal benefit programs, such as AFDC and Medicaid, are included within this definition.

Mr. LEVIN. Mr. President, the Computer Matching and Privacy Protection Act, S. 496, was introduced by Senator COHEN and myself in February 1987 and passed by the Senate, unanimously, last December. The bill was then referred to the House Subcommittee on Government Information, Justice, and Agriculture of the Committee on Governmental Operations. Under the leadership of my colleague, Congressman GLENN ENGLISH, that subcommittee held hearings on the bill and suggested improvements in its text. In July, the House passed S. 496 with an amendment and returned the legislation to the Senate. Staffs from both bodies and both sides of the aisle then met, discussed the issues, and resolved their differences.

The bill before you today incorporates the best of the two earlier versions approved by our respective bodies. It is one that both Houses can and should support. Over the past few years, the Subcommittee on Oversight of Government Management, under Senator COHEN's leadership, conducted lengthy investigations and hearings reviewing the issues related to compputer matching. As members of the subcommittee, we heard repeated descriptions of the problems with Federal practices, including inaccurate data, poor control over the records, lack of oversight and lack of statutory guidance. This bill provides a reasonable statutory scheme to resolve those problems.

Federal benefit programs rely on computers, not only to store information about assistance provided to particular beneficiaries but also to uncover irregularities and fraud that may be hidden within the Federal system. Computer matching programs are an increasingly popular means to check applicants' eligibility for Federal benefits and to discover possible fraud. By directing their computers to compare two or more sets of agency records, Federal workers can quickly cross-check various facts. Such procedures improve the efficient and effective review of beneficiary programs.

At the same time, however, computers and computer matching programs are not infallible. Mistakes can be and are made. One obvious problem is that computers often have outdated or incorrect data. Other problems arise from computer operators who mistakenly enter wrong information or design faulty programs.

Consider, for example, a State agency which conducted a 1983 computer match of welfare records and local bank records. The matching project identified a large number of individuals with bank assets seemingly in excess of the program's requirements. The agency did not, however, immediately cut off these individuals' benefits; it first gave each beneficiary a chance to explain. The agency later determined that the computer match had an error rate of 94 percent. That means that 94 percent of the people identified in the match as ineligible were, in fact, eligible to receive their benefits. Experiences like this one demonstrates that computer matching programs are only useful when carefully administered.

In addition to the specter of inaccurate data, computer matching practices threaten the privacy rights of individuals. Unrestrained matching projects could lead to the compilation of detailed computer files on every individual or to the Government's improper release or use of personal information. To prevent such abuses, agency records used in matches, as well as the resulting data, should be safeguarded during their use and either destroyed or returned upon completion of the project.

The bill before you today provides needed statutory controls over Federal use of computer matching. It creates a statutory scheme in which each Federal agency is required to process its computer matching projects in an orderly fashion under the watchful eye of an agency data integrity board. Each matching project must proceed under a document setting forth its terms and procedures, including the records to be matched, the treatment of the records after the match, the use of the resulting data, and the means by which the data will be verified. Most importantly, the bill prohibits the termination of any individual's benefits on the basis of matching data until the relevant agency first verifies that data and gives the individual a chance to respond.

These are commonsense safeguards. The controls are comprehensive but flexible, permitting agencies to tailor their matches to their needs but requiring them to think through protections for the individuals involved. The rules represent the collective wisdom of many groups and individuals who have been tracking this issue since computer matching first appeared in the Federal arena.

I commend Senator COHEN for his continuing efforts in this important area and for his ability to produce legislation that enjoys the consensus support of the groups interested in and affected by its provisions. The bill before us now is the culmination of literally years of work wrestling with issues of efficiency, privacy, effectiveness, and fairness. Its provisions are workable, sensible, and sorely needed. This bill merits the Senate's unanimous support, and I urge all my colleagues to join with us in voting for its enactment into law at this time.

Mr. GLENN. Mr. President, I rise in support of the substitute amendment to the House amendment to S. 496, the Computer Matching and Privacy Protection Act of 1988. S. 496 was reported unanimously by the Committee on Governmental Affairs on May 20, 1987, and was passed by the Senate on May 21, 1987. The House of Representatives recently passed its version of the bill, substituting the text of H.R. 4699 in lieu of the Senate language. The committee's review of the House amendment shows that it includes many of the same provisions of the Senate bill. The substitute amendment under consideration today includes certain provisions from the original Senate bill, and other technical and conforming amendments which the House has agreed to.

I want to commend Senator COHEN, ranking minority member of the Subcommittee on Oversight of Government Management, who was responsible for putting together two sets of excellent oversight hearings on computer matching by Federal agencies and non-Federal agencies with Federal records. The subcommittee's review determined that computer matching is a technique used extensively by inspectors general to track down fraud, waste and abuse in Federal benefit programs. The hearings raised questions about the due process and privacy rights of those individuals subject to unregulated computer matching activities.

To resolve these questions, Senator COHEN and Senator LEVIN, the subcommittee chairman, introduced and secured Senate passage of S. 496, which establishes procedures to regulate the use of computer matching, including requiring matching agreements between agencies when sharing data, providing the right to appeal to individual affected by information obtained in a match, and establishing Data Integrity Boards to oversee matching programs. I believe the legislation we have before us today represents an appropriate balancing of the need to track down fraud, waste, and abuse in Government through computer matching and the need to protect the privacy and due process rights of individuals subject to those matching programs.

I urge my colleagues to give this bill their full support and speed its enactment into law.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ORDER FOR STAR PRINT—S. 1626 AND S. 1863

Mr. BYRD. Mr. President, I ask unanimous consent that the reports for S. 1626, the Intellectual Property Bankruptcy Protection Act, and S. 1863, the Municipal Bankruptcy Amendments, be star printed to effect the changes that I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with Public Law 90-206, appoints the following individual to the Commission on Executive, Legislative, and Judicial Salaries: the Honorable Charles Mathias of Maryland.

ORDERS FOR THURSDAY, SEPTEMBER 22, 1988

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock on Thursday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROL OF TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time for debate during the 1 hour, the cloture hour be under the control of Mr. KENNEDY and Mr. HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in at 9 o'clock a.m. on Thursday next. The hour on the motion to invoke cloture will begin running at 9 o'clock. After the prayer, the time will be divided between Mr. KENNEDY and Mr. HATCH. At the conclusion of the 1 hour, the clerk will call the roll to establish a quorum. The rollcall vote on the motion to invoke cloture then will occur at circa 10:20, following the establishment of the quorum.

If cloture is invoked, the minimum wage measure will be the business before the Senate to the exclusion of all other business until completed. If the cloture vote fails, the Senate will continue on that bill during the afternoon with debate and action on amendments, hopefully.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. I would add that the Senate could be in fairly late.

Yes, I will be happy to yield.

Mr. DOLE. Would it be possible to permit second-degree amendments to be filed up until the hour of 10 o'clock? I am thinking about being out tomorrow and the early hour we are coming in on Thursday. I do not know of any second-degree amendments.

Mr. BYRD. Yes. Under the rule, the second-degree amendments may be filed up to 1 hour before the vote begins, so this would mean that they could be filed up until roughly 9:20.

The Republican leader would like to have the time set at 10 o'clock?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may have until 10 o'clock on Thursday morning next to file amendments in the second-degree.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the majority leader. I think that will accommodate Senators.

Mr. BYRD. Yes. I am happy to do it.

RECESS UNTIL THURSDAY, SEPTEMBER 22, 1988 AT 9 A.M.

Mr. BYRD. Mr. President, does the Republican leader have any further statement he would like to make or any business he would like to transact?

Mr. DOLE. No further statement, no further business.

Mr. BYRD. Very well. I thank my friend.

Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, the Senate stand in recess until the hour of 9 o'clock a.m. on Thursday next.

The motion was agreed to, and the Senate, at 6:25 p.m., recessed until Thursday, September 22, 1988, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 1988:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MALCOLM M.B. STERRETT, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE RONALD E. ROBERTSON, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS RESERVE OF THE AIR FORCE (ANGUS) IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 593 AND 8351, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER).

LINE OF THE AIR FORCE

To be lieutenant colonel

DOUGLAS G. MALLOY, [redacted] 6/11/88

IN THE NAVY

THE FOLLOWING NAMED FORMER U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

MACK BONNER
ALLYN G. MAY
STEVEN R. SHACKFORD
JOHN B. GIEDRAITIS
PAUL G. STEINKULLER
RICHARD C. LUCAS
CHRISTIE W. WINKLER

THE FOLLOWING MEDICAL COLLEGE GRADUATES, TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

ALAN M. FIRESTONE
ROBERT W. HILL
DAVID LIEVERS

THE FOLLOWING FORMER U.S. AIR FORCE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE SECTION 593.

DAVID C. PIEPGRAS

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR PROMOTION AS RESERVES OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 593, 8366 AND 8372, OF TITLE 10, UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8372 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE OF 17 JUNE 1988, AND PROMOTIONS MADE UNDER SECTION 8366 SHALL BE EFFECTIVE UPON COMPLETION OF SEVEN YEARS OF PROMOTION SERVICE AND TWENTY-ONE YEARS OF TOTAL SERVICE, UNLESS A LATER PROMOTION EFFECTIVE DATE IS REQUIRED BY SECTION 8372(C), OR THE PROMOTION EFFECTIVE DATE IS DELAYED IN ACCORDANCE WITH SECTION 8380(B) OF TITLE 10.

LINE OF THE AIR FORCE

To be lieutenant colonel

DAVID ABRAMSON, [redacted]
ARVEL L. ACOACH, JR, [redacted]
CRAWFORD G. ADAMS, [redacted]
LARRY J. ADDISON, [redacted]
ALLEN B. ADKINS, [redacted]
PHILIP J. AKERS, [redacted]
ROGER L. ALDRICH, [redacted]
DAVID K. ALLEN, [redacted]
ROBERT T. ALLEN, [redacted]
WILLIAM R. ALLEN, [redacted]
STEPHEN L. ALLER, [redacted]
MICHAEL L. ALLEY, [redacted]
KENNETH R. ALM, [redacted]
HERBERT E. ANDRUS, JR, [redacted]
JOHN J. ANDRYCHOWICZ, JR, [redacted]
MICHAEL E. ANKENBRANDT, [redacted]
PAUL F. ANTES, [redacted]
RALPH A. ANTHENIEN, [redacted]
JOHN W. ARAGON, [redacted]
ROMEO S. ARENGO, [redacted]
CHRISTOPHER G. ATKIN, [redacted]
JAMES L. BAILEY, [redacted]
STEVEN D. BAILEY, [redacted]
KIRK A. BAKER, [redacted]
LARRY N. BAKER, [redacted]
WARREN E. BAKER, JR, [redacted]
JOSEPH M. BALL, [redacted]
BURT E. BALLENTINE, [redacted]
GERALD P. BALLINGER, [redacted]
RICHARD G. BALLINTINE, [redacted]
RICHARD A. BARAZZOTTO, [redacted]
EUGENE S. BARNES, [redacted]
JOSEPH W. BARNES, [redacted]
THOMAS N. BARNUM, [redacted]
PAUL H. BARRETT, JR, [redacted]
WILLIAM D. BARRETT, [redacted]
MARVIN J. BARRY, [redacted]
STEPHEN W. BARTER, [redacted]
GEORGE H. BAUM, [redacted]
HENRY J. BAUMAN, [redacted]
HARVEY E. BAXTER, [redacted]
JAMES W. BEATTIE, [redacted]
CHRISTIAN J. BECHT, [redacted]
JAMES D. BECKER, [redacted]
JAMES S. BEITZEL, [redacted]
ROBERT F. BELLES, [redacted]
JOHN L. BENBOW, [redacted]
JOHN D. BENNETT, [redacted]
MIKE E. BERGEN, [redacted]
JOETTA A. BERNHARD, [redacted]
STEPHEN C. BERT, [redacted]
WYNN M. BERVEN, [redacted]
RICHARD K. BETTERTON, [redacted]
RONALD M. BIENIAS, [redacted]
JAMES F. BIR, [redacted]
RONALD W. BIRD, [redacted]
DONALD M. BISHOP, [redacted]
JAMES L. BLAHA, JR, [redacted]
THOMAS J. BLAKELY, [redacted]
JOHN R. BLASER, [redacted]
CRAIG V. BLEDSOE, [redacted]
CRAIG N. BLINE, [redacted]
ALVIN E. BLUMBERG, JR, [redacted]
GEORGE W. BOCKIUS, JR, [redacted]
BARRY J. BODILY, [redacted]
RICHARD M. BONALEWICZ, [redacted]
MICHAEL K. BONHAM, [redacted]
DUDLEY W. BOONE, [redacted]
LESLIE L. BORDELON, [redacted]
STANLEY L. BOST, [redacted]
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MARK J. BOWER, [redacted]
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JOHN V. BOZARTH, [redacted]
JAY M. BRADBURY, [redacted]
LEONARD J. BRADY, JR, [redacted]
CRAIG E. BRANDT, [redacted]
STEWART B. BRANDT, [redacted]
GEORGE H. BRAUBURGER, JR, [redacted]
DAN R. BRAUN, [redacted]
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WILLIAM M. CORDEIRO, [redacted]
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JOHN K. CORNEY, [redacted]
EDWIN M. CORNS III, [redacted]
DAVID A. CORTESE, [redacted]
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EDWARD C. CUSTER, JR, [redacted]
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DALE A. DEMOTT, [redacted]
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EDWIN FIGUEROABORGES, [redacted]
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VENN W. FORTINBERRY, [redacted]
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GENE E. GARTON, [redacted]
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MERRILL C. GATES, [redacted]
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CLYDE H. GODFREY, [redacted]
BENJAMIN F. GOFF, [redacted]
ROBERT B. GOODMAN, [redacted]
ROY E. GOODWIN, JR, [redacted]
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SHANE R. GRIFFIN, [redacted]
JOHN B. GRIMES, [redacted]
GEORGE C. GRINER, [redacted]
JOHN M. GROCKI, [redacted]
MILTON J. GROSENBACH, JR, [redacted]
ELIZABETH A. GROTE, [redacted]
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WILLIAM C. GROTHUES, [redacted]
WARREN L. GROVER, [redacted]
PAUL J. GRUPPOSO, [redacted]
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CARL O. GUSTAFSON, JR, [redacted]
GENE A. HAAS, [redacted]
DAVID L. HADDOCK, [redacted]
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CHRISTOPHER L. HAGEDORN, [redacted]
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DAVID C. HARMON, [redacted]
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MICHAEL HARRIS, [redacted]
GORDON L. HART, JR, [redacted]
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LLOYD C. HARVESON, JR, [redacted]
JAMES F. HARVEY, III, [redacted]
JAY RILEY HASH, [redacted]
ARNIM V. HAYNES, JR, [redacted]
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BARRY E. HEDQUIST, [redacted]
JAMES R. HEITZ, [redacted]
ROGER W. HELBIG, [redacted]
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DWIGHT J. HEMPEL, [redacted]
ANDREW B. HENDERSON, [redacted]
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EDWARD B. HERNANDEZ, [redacted]
EVERETTE L. HERNDON, JR, [redacted]
ROBERT W. HERSHBERGER, [redacted]
LARRY R. HESS, [redacted]
LONNIE C. HILEMAN, [redacted]
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ALLEN C. HOFFACKER, [redacted]
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CLINTON W. HYDE, [redacted]
KURT R. HYDE, [redacted]
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JOHN D. IRVIN, JR, [redacted]
CARL E. JABLONOWSKI, [redacted]
DEAN A. JACKSON, [redacted]
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M. DAVID JACKSON, JR, [redacted]
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EDWARD KELLY, [redacted]
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JOHN O. LABOULIERE, [redacted]
WILLIAM E. LACEY, III, [redacted]
TIMOTHY D. LADEWIG, [redacted]
WILLIAM D. LAIN, [redacted]
MICHAEL M. LAKE, JR, [redacted]
ERNEST J. LALLY, JR, [redacted]
JOHN M. LAMBERT, [redacted]
WILLIAM F. LAMBERT, [redacted]
EMILE J. LAMULLE, JR, [redacted]
CLAUDE O. LANCIANO, III, [redacted]
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THOMAS LORENC, [redacted]
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THOMAS G. MAIER, [redacted]
RALPH MAIOLINO, [redacted]
DAVID C. MALCOLM, [redacted]
ALFRED J. MARCHISIO, JR, [redacted]
MARY J. MARKS, [redacted]
ROBERT D. MARKS, [redacted]
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JOHN L. MEACHAM, [redacted]
JOHN W. MEEHAN, [redacted]
JAY R. MEMMELAAR, SR, [redacted]
ALAN G. MENY, [redacted]
HENRY H. MERRITT, [redacted]
WILLARD G. MERWIN, [redacted]
THOMAS R. METZLER, [redacted]
THOMAS J. MICHAEL, [redacted]
HARLAN R. MICKELSON, [redacted]
MELVIN H. MICKELSON, [redacted]
ARTHUR R. MILLER, [redacted]
MICHAEL D. MILLER, [redacted]
ROBERT G. MILLER, [redacted]
TED D. MILLER, [redacted]
TOMMY J. MILTON, [redacted]
BRUCE K. MINATO, [redacted]
MICHAEL R. MITCHELL, [redacted]
JOHN T. MIZELLE, [redacted]
RICHARD M. MOATE, [redacted]
WILLIAM G. MOFFITT, [redacted]
ROBERT R. MOLINE, [redacted]
BERNHARD P. MOLLDREM, JR, [redacted]
ROGER P. MOLNAR, [redacted]
THEODORE D. MONGEON, [redacted]
THOMAS P. MONTALDO, [redacted]
BENJAMIN E. MOODY, JR, [redacted]
GILBERT D. MOOK, [redacted]
ROBERT T. MOORE, [redacted]
THOMAS L. MOORE, III, [redacted]
JAMES M. MORGAN, [redacted]
THOMAS R. MORGAN, JR, [redacted]
ROBERT N. MORIKADO, [redacted]
STEPHEN V. MORRISON, [redacted]
DOUGLAS W. MOSER, [redacted]
CHARLES L. MOSS, [redacted]
VAN MOURADIAN, [redacted]
MARA O. MOWERY, [redacted]
WILLIAM L. MUENCH, [redacted]
JAMES C. MULL, JR, [redacted]
THOMAS E. MULLIGAN, [redacted]
ROBERT W. MUNDLE, [redacted]
PAUL R. K. MUNSELL, JR, [redacted]
RICHARD A. MURNOCK, [redacted]
SAMUEL E. MURPHY, II, [redacted]
THOMAS P. MURPHY, JR, [redacted]
WILLIAMSON MURRAY, [redacted]
MAX J. MURRELL, [redacted]
NICHOLAS T. MUSTRIC, [redacted]
GEORGE W. MYERS, [redacted]
JOHN J. NANCE, [redacted]
FRED M. NASH, [redacted]
GREGORY D. NASTROM, [redacted]
ALAN R. NATHAN, [redacted]
FIDENCIO V. NAVARRETE, [redacted]
CHARLES V. NEALY, JR, [redacted]
DAVID F. NEFZGER, [redacted]
JAMES E. NEHRER, [redacted]
RICHARD E. NELSON, [redacted]

NELSON H. NEWHOUSE, xxx-xx-xxxx
WILLIAM S. NIEHAUS, xxx-xx-xxxx
RONALD B. NOBLES, xxx-xx-xxxx
STEPHEN J. NOLAND, xxx-xx-xxxx
MICHAEL A. NOREEN, xxx-xx-xxxx
STEPHEN P. NORGRESS, xxx-xx-xxxx
JOHN S. NOSARI, xxx-xx-xxxx
RICHARD R. NUNEZ, xxx-xx-xxxx
ROBERT A. NUTTELMAN, xxx-xx-xxxx
WILLIAM G. NUTTING, xxx-xx-xxxx
TED D. OATS, xxx-xx-xxxx
CRAIG A. OBECK, xxx-xx-xxxx
JOHN A. OBRIEN, xxx-xx-xxxx
MAURICE J. OCONNELL, xxx-xx-xxxx
JAMES A. ODONNELL, xxx-xx-xxxx
WILLIAM D. OHEARN, xxx-xx-xxxx
JOHN H. OLDFIELD, JR, xxx-xx-xxxx
RICHARD J. OLSON, xxx-xx-xxxx
JAMES E. ONEILL, xxx-xx-xxxx
THOMAS M. ONEILL, xxx-xx-xxxx
JAMES R. ONOPRIENKO, xxx-xx-xxxx
MICHAEL W. OTT, xxx-xx-xxxx
ROBERT G. OTTMANN, xxx-xx-xxxx
CHARLES E. PAGE, xxx-xx-xxxx
WILLIAM R. PALAFOX, xxx-xx-xxxx
THOMAS G. PALKIE, xxx-xx-xxxx
STANLEY D. PAPIZAN, xxx-xx-xxxx
HAROLD A. PARAGHAMIAN, xxx-xx-xxxx
PRESTON L. PARKER, xxx-xx-xxxx
ROGER E. PARKS, xxx-xx-xxxx
JAMES L. PARTINGTON, xxx-xx-xxxx
GEORGE P. PARTON, III, xxx-xx-xxxx
JAMES PATTERSON, III, xxx-xx-xxxx
DAVID J. PAUL, xxx-xx-xxxx
RICHARD A. PAVLASEK, xxx-xx-xxxx
ROBERT M. PAYER, xxx-xx-xxxx
FRANK M. PAYSON, xxx-xx-xxxx
TODD W. PEARSON, xxx-xx-xxxx
GEORGE L. PECK, xxx-xx-xxxx
JOHN M. PECK, III, xxx-xx-xxxx
STEWART T. PEET, JR, xxx-xx-xxxx
DANIEL J. PEITZMEYER, xxx-xx-xxxx
ROBERT H. PENDLETON, xxx-xx-xxxx
CLAUDE D. PENTECOST, xxx-xx-xxxx
JUAN A. PEREZ, xxx-xx-xxxx
DONALD R. PERRIN, xxx-xx-xxxx
DALE E. PETERSON, xxx-xx-xxxx
VINCENT J. PETRARCA, xxx-xx-xxxx
GEORGE S. PETRICK, xxx-xx-xxxx
THOMAS R. PETTEGREW, xxx-xx-xxxx
JAMES R. PFEIFER, xxx-xx-xxxx
GEORGE W. PHILLIPS, xxx-xx-xxxx
JAMES M. PIERCE, xxx-xx-xxxx
JOSEPH A. PITASI, xxx-xx-xxxx
RICHARD A. PITTS, JR, xxx-xx-xxxx
ROBERT H. PLENGE, xxx-xx-xxxx
WILLIAM E. PLOWDEN, JR, xxx-xx-xxxx
PHILIP D. POLAND, xxx-xx-xxxx
THOMAS D. POLK, xxx-xx-xxxx
JOSEPH PONCE, xxx-xx-xxxx
JOSE M. PORTELA, xxx-xx-xxxx
BONNIE S. PORTER, xxx-xx-xxxx
WILLIAM D. POSTON, xxx-xx-xxxx
KENNETH W. POWELL, xxx-xx-xxxx
DANIEL E. POWER, III, xxx-xx-xxxx
EDWARD M. POWERS, xxx-xx-xxxx
ROBERT J. POWERS, xxx-xx-xxxx
CAROL E. PRISMONREED, xxx-xx-xxxx
PAUL R. PROCACCINI, xxx-xx-xxxx
FRANCIS G. RABUSE, xxx-xx-xxxx
RICHARD J. RACETTE, xxx-xx-xxxx
ROBERT E. RADTKE, xxx-xx-xxxx
DAVID R. RAIL, xxx-xx-xxxx
JEROLD L. RAMSEY, xxx-xx-xxxx
LAWRENCE W. RAMSEY, xxx-xx-xxxx
JOSEPH A. RAPIER, xxx-xx-xxxx
RAYMOND E. RATAJIK, JR, xxx-xx-xxxx
RONALD C. RAY, xxx-xx-xxxx
ROBERT E. RAYFIELD, xxx-xx-xxxx
RONALD I. REAGAN, xxx-xx-xxxx
CHARLES R. REAVES, xxx-xx-xxxx
DONALD J. RECHER, xxx-xx-xxxx
RHONIE R. REED, xxx-xx-xxxx
JAMES M. REES, xxx-xx-xxxx
FRED P. REINERO, JR, xxx-xx-xxxx
CHARLES D. RESTIVO, xxx-xx-xxxx
HOWARD J. REYNOLDS, xxx-xx-xxxx
JAMES H. RICHARDS, JR, xxx-xx-xxxx
CARL H. RICHARDSON, JR, xxx-xx-xxxx
DOYT J. RICHARDSON, xxx-xx-xxxx
LEE H. RICHEY, xxx-xx-xxxx
NEALE J. RIELY, xxx-xx-xxxx
JOHN E. RILEY, JR, xxx-xx-xxxx
VALENTINE W. RIORDAN, II, xxx-xx-xxxx
JAIME A. RIVERA, xxx-xx-xxxx
ARTHUR RIVOLO, xxx-xx-xxxx
JAMES B. ROBERTS, xxx-xx-xxxx
EDWARD B. ROBERTSON, JR, xxx-xx-xxxx
EARL F. ROBINSON, JR, xxx-xx-xxxx
GERALD D. ROBINSON, xxx-xx-xxxx
JOHN P. ROBINSON, JR, xxx-xx-xxxx
EVERETT J. ROBISON, JR, xxx-xx-xxxx
DANIEL G. ROBLYER, xxx-xx-xxxx
JAMES F. ROGERS, II, xxx-xx-xxxx
RONALD B. ROLAND, xxx-xx-xxxx
MARCEL H. ROMAN, xxx-xx-xxxx
PAUL E. RONAN, xxx-xx-xxxx
CHARLES T. ROOF, xxx-xx-xxxx
ROBERT H. ROSER, JR, xxx-xx-xxxx
NICHOLAS D. ROSETO, JR, xxx-xx-xxxx
WILLIAM W. ROWELL, xxx-xx-xxxx
JOHN K. ROWLAND, xxx-xx-xxxx
DAVID A. RUBINSTEIN, xxx-xx-xxxx
CHARLES R. RUMSEY, xxx-xx-xxxx
ANTHONY E. RUSSELL, xxx-xx-xxxx
ENRIQUE SAAVEDRA, xxx-xx-xxxx
ERNEST L. SANDERS, xxx-xx-xxxx
MELVIN L. SANDERS, xxx-xx-xxxx
RICHARD B. SATTERWHITE, JR, xxx-xx-xxxx
WARREN J. SAUL, xxx-xx-xxxx
DONALD M. SAVAGE, xxx-xx-xxxx
JOHN W. SCANLON, xxx-xx-xxxx
MATTHEW J. SCHACK, xxx-xx-xxxx
HENRY J. SCHANK, xxx-xx-xxxx
JOHN B. SCHAUSS, xxx-xx-xxxx
LOUIS J. SCHEUCHENZUBER, xxx-xx-xxxx
RICHARD A. SCHILHAVY, xxx-xx-xxxx
FRANKLIN C. SCHMEER, xxx-xx-xxxx
JAMES C. C. SCHMIDT, xxx-xx-xxxx
ALBERT H. SCHNEIDER, JR, xxx-xx-xxxx
ALLEN J. SCHNEIDER, xxx-xx-xxxx
BARRY B. SCHRODER, xxx-xx-xxxx
ROBERT L. SCHROEDER, xxx-xx-xxxx
RONALD B. SCHUH, xxx-xx-xxxx
JAMES W. SCHULTZ, JR, xxx-xx-xxxx
MICHAEL J. SCHULTZ, xxx-xx-xxxx
CHARLES O. SCHULZ, xxx-xx-xxxx
RUDOLPH J. SCHWEIZER, xxx-xx-xxxx
GLENN D. SCOTT, xxx-xx-xxxx
LOWELL E. SCOTT, xxx-xx-xxxx
WALKER W. SCOTT, JR, xxx-xx-xxxx
JAMES C. SEARCY, xxx-xx-xxxx
JACK A. SELTMAN, xxx-xx-xxxx
DAVID A. SHAFFER, xxx-xx-xxxx
DAVID E. SHAFFER, xxx-xx-xxxx
ROBERT D. SHANKEL, xxx-xx-xxxx
MICHAEL B. SHANNON, xxx-xx-xxxx
TIMOTHY E. SHARPE, xxx-xx-xxxx
JAMES A. SHEARER, xxx-xx-xxxx
FRANK A. SHEEHAN, JR, xxx-xx-xxxx
WILLIAM J. SHEILS, xxx-xx-xxxx
GREGORY E. SHELBY, xxx-xx-xxxx
MILTON L. SHERWOOD, xxx-xx-xxxx
JAMES J. SHIMKUS, xxx-xx-xxxx
JAMES W. SHOFNER, xxx-xx-xxxx
PERRY L. SHOLER, xxx-xx-xxxx
GERALD C. SHUMAKER, xxx-xx-xxxx
JAMES W. SHUMARD, III, xxx-xx-xxxx
HOWARD J. SILKMAN, xxx-xx-xxxx
THOMAS R. SIMM, xxx-xx-xxxx
ERVIN M. SKOUSEN, xxx-xx-xxxx
JOHN S. SKUBIK, xxx-xx-xxxx
DONALD H. SMITH, xxx-xx-xxxx
DONALD L. SMITH, xxx-xx-xxxx
ETHER D. G. SMITH, xxx-xx-xxxx
FRANK M. SMITH, III, xxx-xx-xxxx
G. ALEXANDER SMITH, xxx-xx-xxxx
GARY L. SMITH, xxx-xx-xxxx
JEFFREY W. SMITH, xxx-xx-xxxx
QUENTIN J. SMITH, JR, xxx-xx-xxxx
RICHARD A. SMITH, xxx-xx-xxxx
ROGER E. SMITH, xxx-xx-xxxx
ROY C. SMITH, xxx-xx-xxxx
STEPHEN A. SMITH, xxx-xx-xxxx
WALTER J. SNYDER, JR, xxx-xx-xxxx
BRUCE E. SOILEAU, xxx-xx-xxxx
VINCENT F. SOLL, JR, xxx-xx-xxxx
MICHAEL H. SOLON, xxx-xx-xxxx
RICHARD C. SOMERS, xxx-xx-xxxx
JOHN P. SPARKMAN, xxx-xx-xxxx
RAYMOND E. SPARKS, xxx-xx-xxxx
WAYNE P. SPEIGEL, xxx-xx-xxxx
THOMAS W. SPENCER, xxx-xx-xxxx
GLENWARD L. SPIVEY, xxx-xx-xxxx
JOHN P. SPRINGETT, xxx-xx-xxxx
JONATHAN G. STACEY, xxx-xx-xxxx
DONALD L. STALLARD, xxx-xx-xxxx
HAROLD R. STARKS, xxx-xx-xxxx
ROBERT D. STAUSTIN, xxx-xx-xxxx
ALFRED J. STEINBERGER, III, xxx-xx-xxxx
PHILLIP G. STEINWEG, xxx-xx-xxxx
DARL L. STEPHENSON, xxx-xx-xxxx
JAMES M. STEPP, JR, xxx-xx-xxxx
PHILIP P. STEPTOE, xxx-xx-xxxx
MICHAEL J. STERLING, xxx-xx-xxxx
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ALAN E. STICKLEY, xxx-xx-xxxx
JOHN A. STIPETICH, xxx-xx-xxxx
DONALD L. STOCKTON, xxx-xx-xxxx
THOMAS M. STOGSDILL, xxx-xx-xxxx
RONALD J. STRANCAR, xxx-xx-xxxx
DAVID P. STRYKER, xxx-xx-xxxx
SIDNEY W. STUART, xxx-xx-xxxx
RAYMOND D. SUFFRON, xxx-xx-xxxx
MICHAEL K. SULLIVAN, xxx-xx-xxxx
THOMAS H. SULLIVAN, xxx-xx-xxxx
WILLIAM J. SUMMA, xxx-xx-xxxx
ROBERT W. SUTTON, xxx-xx-xxxx
CLARK E. SWAIL, III, xxx-xx-xxxx
ROBERT L. SWANSON, JR, xxx-xx-xxxx
NATHANIEL H. SWARTZ, xxx-xx-xxxx
JAMES L. SWEENEY, xxx-xx-xxxx
JAMES H. SWENSON, xxx-xx-xxxx
JERRY B. SYMONS, xxx-xx-xxxx
ROBERT F. SZUL, xxx-xx-xxxx
WILLIAM D. TAFS, JR, xxx-xx-xxxx
DAVID P. TALBERT, xxx-xx-xxxx
JOSEPH TAMPELLINI, xxx-xx-xxxx
PATRICK Y. TANAKA, xxx-xx-xxxx
THOMAS D. TAVERNEY, xxx-xx-xxxx
BARBARA G. TAYLOR, xxx-xx-xxxx
DENNIS G. TAYLOR, xxx-xx-xxxx
HOWARD W. TAYLOR, JR, xxx-xx-xxxx
JOHN R. TAYLOR, xxx-xx-xxxx
WILLIAM S. TEER, xxx-xx-xxxx
WILLIAM R. TEFTELLER, xxx-xx-xxxx
EMIL J. TEJKOWSKI, xxx-xx-xxxx
LAWRENCE A. TELLER, xxx-xx-xxxx
RICHARD R. TELLESGOINS, xxx-xx-xxxx
KAAREN J. TEUBER, xxx-xx-xxxx
WILLIAM E. THOMLINSON, xxx-xx-xxxx
GEOFFREY R. THOMPSON, xxx-xx-xxxx
GERALD V. THOMPSON, xxx-xx-xxxx
THOMAS W. THOMPSON, xxx-xx-xxxx
JOHN E. THORSON, xxx-xx-xxxx
GLENN L. TIMM, xxx-xx-xxxx
THOMAS S. TISON, xxx-xx-xxxx
WILLIAM M. TOIVAINEN, xxx-xx-xxxx
JAMES B. TORBERT, xxx-xx-xxxx
JAMES A. TORRES, xxx-xx-xxxx
ANTHONY M. TOSI, xxx-xx-xxxx
ROBERT T. TOWNSEND, xxx-xx-xxxx
WILLIAM E. TRUMP, JR, xxx-xx-xxxx
GEORGE E. TUCKER, xxx-xx-xxxx
DAVID R. TULO, xxx-xx-xxxx
GEORGE T. TUTT, xxx-xx-xxxx
HARVEY J. VANCE, xxx-xx-xxxx
JOHN A. VANDYKE, xxx-xx-xxxx
ROGER L. VANDYKEN, xxx-xx-xxxx
GARY R. VASEK, xxx-xx-xxxx
ALFONSO VAZQUEZ, III, xxx-xx-xxxx
JAMES R. VINEYARD, xxx-xx-xxxx
JOHNNY R. VINSON, xxx-xx-xxxx
THOMAS W. VINSON, xxx-xx-xxxx
JAMES R. WAGNER, xxx-xx-xxxx
JOHN G. WAGNER, xxx-xx-xxxx
JOHN C. WAGNITZ, xxx-xx-xxxx
LYNN K. WALDRON, xxx-xx-xxxx
ROBERT E. WALDRON, xxx-xx-xxxx
JOHN M. WALGUS, xxx-xx-xxxx
DAVID B. WALKER, xxx-xx-xxxx
JAMES T. WALKER, xxx-xx-xxxx
JOHN W. WALKINGTON, xxx-xx-xxxx
STEVEN N. WALLACE, xxx-xx-xxxx
JAMES J. WALSH, xxx-xx-xxxx
HOMER A. WARD, JR, xxx-xx-xxxx
JOSEPH P. WARD, JR, xxx-xx-xxxx
JEFFREY K. WARNER, xxx-xx-xxxx
KENNETH L. WARNICK, xxx-xx-xxxx
JIMMY D. WARREN, xxx-xx-xxxx
ROBERT L. WASHBURN, xxx-xx-xxxx
GARY W. WEBB, xxx-xx-xxxx
ROBERT J. WEED, xxx-xx-xxxx
PHILLIP N. WEIGANT, xxx-xx-xxxx
FRANK J. WEILER, xxx-xx-xxxx
HARVEY A. WEISBLAT, xxx-xx-xxxx
HOWARD S. WEISS, xxx-xx-xxxx
DONALD E. WEST, xxx-xx-xxxx
MICHAEL S. WEST, xxx-xx-xxxx
SHERWOOD R. WEST, xxx-xx-xxxx
SUSAN K. WESTBROOK, xxx-xx-xxxx
KAREN J. WETZEL, xxx-xx-xxxx
EDWARD C. WHALEN, JR, xxx-xx-xxxx
JOHN L. WHALEN, xxx-xx-xxxx
FREDRICK H. WHEELER, xxx-xx-xxxx
DALE C. WHITE, xxx-xx-xxxx
GEORGE A. WHITE, xxx-xx-xxxx
WILLIAM W. WHITE, JR, xxx-xx-xxxx
HOWARD L. WIELAND, xxx-xx-xxxx
CRAIG S. WIESE, xxx-xx-xxxx
THOMAS T. WIGGIN, xxx-xx-xxxx
RODNEY L. WIGGINS, xxx-xx-xxxx
DWIGHT C. WILCOX, xxx-xx-xxxx
KENNETH L. WILHELM, xxx-xx-xxxx
DONALD C. WILLIAMS, xxx-xx-xxxx
ROBERT M. WILLIAMS, xxx-xx-xxxx
STEPHEN B. WILLIAMS, xxx-xx-xxxx
WADE H. WILLIFORD, xxx-xx-xxxx
ROBERT H. WILLIS, xxx-xx-xxxx
EMERY S. WILSON, JR, xxx-xx-xxxx
JAMES S. WILSON, xxx-xx-xxxx
JOHN G. WILSON, xxx-xx-xxxx
JOHN S. WILSON, xxx-xx-xxxx
JOHN B. WILT, xxx-xx-xxxx
HUBERT WIRTZ, xxx-xx-xxxx
HOWARD G. WISSEMANN, xxx-xx-xxxx
DANNY J. WITTLIFF, xxx-xx-xxxx
GERARD G. WOLKE, II, xxx-xx-xxxx
RONALD K. L. WONG, xxx-xx-xxxx
ROBERT J. WOODWARD, xxx-xx-xxxx
RICHARD J. WORDEN, xxx-xx-xxxx
WILLIAM W. WORKING, xxx-xx-xxxx
DOUGLAS K. WORTHINGTON, xxx-xx-xxxx
JONATHAN P. WORTHLEY, xxx-xx-xxxx
RICHARD B. WRAY, xxx-xx-xxxx
ELAINE A. WRIGHT, xxx-xx-xxxx
PETER V. YANAGIHARA, xxx-xx-xxxx
MICHAEL A. YANKE, xxx-xx-xxxx
TIM O. YENNEY, xxx-xx-xxxx
OLIVER S. YOUNG, xxx-xx-xxxx
THOMAS R. YOUNG, xxx-xx-xxxx
GARY E. YUDELL, xxx-xx-xxxx
JAMES A. YULE, xxx-xx-xxxx
THOMAS C. ZABEL, xxx-xx-xxxx
JOSEPH A. ZBORIL, xxx-xx-xxxx
JOHN F. ZEUNER, xxx-xx-xxxx

CHAPLAIN CORPS

To be lieutenant colonel

STANLEY W. ERICKSON, xxx-xx-xxxx
WAYNE K. HARRISON, xxx-xx-xxxx
DANIEL N. LEININGER, xxx-xx-xxxx
JAMES B. MARSHALL, xxx-xx-xxxx
JAMES T. OLDHAM, xxx-xx-xxxx

RUSSELL L. OSMOND, [redacted]
HAROLD E. OWENS, [redacted]
JOHN R. POSTON, [redacted]
DARWIN L. PRICE, [redacted]
JERRY A. QUICK, [redacted]
BRAXTON L. ROBERTS, JR, [redacted]
LLOYD S. VANNORDEN, [redacted]
LOWRIE J. WELTON, [redacted]

DENTAL CORPS

To be lieutenant colonel

BRUCE W. ALBRIGHT, [redacted]
RICHARD F. CAUDILL, [redacted]
FERNANDO A. DELRIO, [redacted]
JOHN T. DOYLE, [redacted]
JOHN R. GOSSMAN, JR, [redacted]
DAVID C. HAGELIN, [redacted]
JEFFREY P. JACOBSON, [redacted]
DAVID M. JOHNSON, [redacted]
SAMUEL A. LEISHEAR, III, [redacted]
DAVID A. LEWELLEN, [redacted]
RICHARD G. LUBMAN, [redacted]
JOHN F. OKEEFE, [redacted]
FREDERICK A. PARIS, [redacted]
PHILIP M. PRIMMER, [redacted]
VINCENT C. SANCHEZ, [redacted]
MAX L. SCHAEFFER, [redacted]
JAMES R. SMOUSE, [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

ROBERT W. BARKER, [redacted]
RONALD A. BARRETT, [redacted]
PETER A. BERKOWSKY, [redacted]
JAMES L. BOWLES, [redacted]
JON H. BURROWS, [redacted]
MICHAEL R. BUTLER, [redacted]
JAMES S. CAREY, JR, [redacted]
JOSEPH E. CARROLL, [redacted]
JAMES F. CLARK, [redacted]
JOHN P. CONGDON, [redacted]
ROBERT V. CONOVER, [redacted]
JOHN M. DEVLIN, [redacted]
FARRIS A. DUNCAN, [redacted]
JOHN A. EIDSMOE, [redacted]
MICHAEL R. FARROW, [redacted]
PERRY D. FLETCHER, [redacted]
PAUL C. GARRETT, [redacted]
JOHN C. GATLIN, [redacted]
JAMES H. GRAHAM, JR, [redacted]
GLENN B. HAMMOND, [redacted]
DAVID T. HOPPER, [redacted]
LEWIS S. HORTON, [redacted]
JOHN W. HUCKLE, [redacted]
PAUL C. ISHAM, [redacted]
MICHAEL B. JENNISON, [redacted]
MORRIS J. KIRSCHBERG, [redacted]
JOHN L. LAAKSO, [redacted]
KENNETH T. LEVENBOOK, [redacted]
JAMES A. LOWE, [redacted]
CHARLES W. MAHAN, [redacted]
RANDOLPH R. MAHAN, [redacted]
FRANK E. MARLEY, JR, [redacted]
ROBERT R. MARQUARDT, [redacted]
THOMAS O. MASER, [redacted]
LEWIS B. MCNEACE, JR, [redacted]
DENNIS G. MILLE, [redacted]
CHARLES J. MURRAY, [redacted]
PETER M. PERRILL, [redacted]
THOMAS R. ROBINSON, [redacted]
ALLAN C. ROOTEN, [redacted]
BRYAN E. SHARRATT, [redacted]
RANDOLPH C. SLONE, [redacted]
GERALD A. STIMMEL, [redacted]
JOHN F. STRONG, [redacted]
CHARLES R. STUBBLEFIELD, [redacted]
JAMES L. SWIFT, JR, [redacted]
JOHN C. USNICK, [redacted]
PAUL R. VALENTE, [redacted]
DAVID P. WADYKA, [redacted]
WILLIAM W. WEEMS, [redacted]
GEORGE E. WELMAKER, [redacted]
JOSEPH A. WILHELM, III, [redacted]

MEDICAL CORPS

To be lieutenant colonel

VICTOR B. ABELLO, [redacted]
PAUL T. BAROCO, [redacted]
WALTER R. COBLE, [redacted]
ELLIOT S. COHEN, [redacted]
JAMES M. CUPOLI, [redacted]
ALFONSO T. DAMPOG, [redacted]
MARCONI R. DELADISMA, [redacted]
NELSON D. DESTAFFANY, [redacted]
RICHARD A. DIASIO, [redacted]
RICHARD O. DOLINAR, [redacted]
RONALD P. HATTIS, [redacted]
LINDA M. HEDLUND, [redacted]
RALPH S. IZARD, JR, [redacted]
GAYLORD D. JANZEN, [redacted]
RAY L. KUNDEL, [redacted]
PAUL M. LOFTUS, [redacted]
JAMES Y. MASSEY, [redacted]
LORETA A. MENDOZA, [redacted]
ZENAIDA M. MENDOZA, [redacted]
RAZIUDIN Y. MOOSAJEE, [redacted]
GENEROSA M. M. NUVAL, [redacted]
ADORACION A. PALACIOCHANG, [redacted]
MUNI S. POLSKY, [redacted]
KAKARALA J. RAO, [redacted]
JOHN M. RAUENHORST, [redacted]
ROBERT L. SAVORY, [redacted]
JEHANGIR R. SETHNA, [redacted]
JOHN C. SHAW, [redacted]
GEORGE R. VIEYRA, [redacted]
ROBERT J. WELLS, [redacted]
LEONARD B. ZADECKY, [redacted]

NURSE CORPS

To be lieutenant colonel

MATTIE H. ADAMS, [redacted]
LLEWELLYN ALSPACH, [redacted]
DIANA M. ANDERSON, [redacted]
MARIANNE F. AYRES, [redacted]
BARBARA L. BARNES, [redacted]
JACQUELYN BARONDEAU, [redacted]
KATHRYN A. BOOM, [redacted]
MILDRED G. BOYKINSRICHARDS, [redacted]
LINDA L. CARNEAL, [redacted]
MARYLYN S. CATEY, [redacted]
KATHERINE C. COOPER, [redacted]
MARY A. DOMINIQUE, [redacted]
JUDITH L. FADROWSKY, [redacted]
EILEEN S. HADBAVNY, [redacted]
ELLEN J. HALVORSON, [redacted]
GLORIA M. HAMMONDS, [redacted]
SANDRA I. HAUSER, [redacted]
ELISE A. HERNANDEZ, [redacted]
SUSAN D. HOFFMANN, [redacted]
JUDITH L. JACOBS, [redacted]
LAURA ESTHER JOHNSON, [redacted]
JANE E. KARR, [redacted]
JUDITH A. KEETON, [redacted]
BARBARA K. KURIGER, [redacted]
DAVID C. LAPLANTE, [redacted]
RUNE B. LILLQUIST, [redacted]
CLAUDIA A. MCCARTHY, [redacted]
JANET M. MCCAW, [redacted]
MARY E. MCCOLLOUGH, [redacted]
MARY T. MCGILL, [redacted]
NORMA J. MCMORROW, [redacted]
PENELOPE S. NEWTON, [redacted]
JOSEPHINE S. NOU, [redacted]
ANN M. PAREY, [redacted]
LOUISE A. PESNICAK, [redacted]
SANDRA A. PETIT, [redacted]
BARBARA J. PHILLIPS, [redacted]
ANNE L. SALETTA, [redacted]
GWENDOLYN L. SMITH, [redacted]
MARY K. STRANTZ, [redacted]
CAROLE A. STRUBLE, [redacted]
CLAIRE STUDER, [redacted]
PATSY C. TALMUD, [redacted]
BETTY J. TAPP, [redacted]
JOEL I. TRENT, [redacted]
LUVINA J. TRIPLETT, [redacted]
SANDRA L. WHITLAW, [redacted]
JANET C. WILSON, [redacted]
ELAINE C. WOODLOCK, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

JAMES A. BERG, [redacted]
RAYMOND T. BICKERT, [redacted]
STEPHEN J. BROWN, [redacted]
RICHARD C. CARR, [redacted]
REES M. DONNESON, [redacted]
PIERRE M. DOSSMAN, JR, [redacted]
MAVORIC J. FARMER, [redacted]
WALTER H. GOURGUES, II, [redacted]
NOELANI N. HAAS, [redacted]
ARMOND T. IPRI, [redacted]
GEORGE G. KARAHALIS, [redacted]
NORMAN S. RAY, [redacted]
RONALD E. REDMON, [redacted]
KARL F. SCHMITT, [redacted]
WILLIAM J. SELAWSKY, [redacted]
MYRON L. TONG, [redacted]
ROBERT E. WATERS, [redacted]

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

SUE Q. BRANNON, [redacted]
RICHARD I. CANTOR, [redacted]
JOE A. CHAMBERS, [redacted]
GERALD H. CRAIG, [redacted]
JAMES T. GOODWIN, [redacted]
JEANNE R. GOURLEY, [redacted]
ALLAN J. REITER, [redacted]
TRENT E. RILEY, [redacted]
JULIO E. ROLDAN, [redacted]
JAMES L. SCOTT, [redacted]
STEPHEN J. SEEMAN, [redacted]
CARLTON S. SEVERANCE, III, [redacted]
BRUCE G. SIMPSON, [redacted]
HARRISON T. SMILEY, II, [redacted]
JOSEPH R. STENCEL, [redacted]
DENNIS E. SWEET, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3383:

ARMY PROMOTION LIST

To be colonel

LEON D. ANDERSON, [redacted]
ALVIN K. C. AU, [redacted]
PETER I. CASSELL, [redacted]
RUSSELL A. EGGERS, [redacted]
RONALD E. FERRI, [redacted]
SANTO J. FILIPPO, [redacted]
RONALD T. HAJIME, [redacted]
FORREST P. HANSON, [redacted]
DAVID C. HINSHAW, [redacted]
HORACE B. LESTER, JR, [redacted]
CURTIS A. LOOP, [redacted]
JAMES R. MARTIN, [redacted]
VIRGIL J. MCVICKER, [redacted]
JOHN W. O'RIORDAN, [redacted]
JOHN S. PIERCE, JR, [redacted]
JEFFREY A. ROY, [redacted]
DENNIS A. SCHULZE, [redacted]
BRUCE C. STARLING, [redacted]

MEDICAL CORPS

To be colonel

CELIA G. ROQUE, [redacted]

MEDICAL SERVICE CORPS

To be colonel

RANZELL NICKELSON, II, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

THOMAS C. ADA, [redacted]
JOHN W. BECKER, [redacted]
JOHN F. BENDER, [redacted]
ROBERT E. BOIVIN, [redacted]
TROY L. BOOKER, [redacted]
ALBERT J. BUSH, III, [redacted]
JAMES R. CARTER, [redacted]
LEROY K. CHUNG, [redacted]
JOSEPH M. CLAPS, [redacted]
CHARLES R. CURNELL, [redacted]
GARY R. DILLALO, [redacted]
WAYNE L. ELLIS, [redacted]
CLEO R. FRANKLIN, [redacted]
RICHARD M. GAGE, [redacted]
RICHARD C. HARRIS, [redacted]
JOHN W. KNUTESON, [redacted]
RODNEY M. KOBAYASHI, [redacted]
STEPHEN J. KOVACS, [redacted]
ROBERT G. F. LEE, [redacted]
DEAN A. LOGAN, [redacted]
THOMAS J. MACRAE, [redacted]
LESLIE K. MASON, [redacted]
RANDALL L. MASON, [redacted]
JAMES E. MCCURDY, [redacted]
JOHN E. MCKEMIE, [redacted]
JAMES F. NORTON, [redacted]
IVAN W. O'BRIEN, [redacted]
GLENN A. PLAISANCE, [redacted]
DONALD P. RACHETER, [redacted]
HENRY E. SCHMALZ, [redacted]
ROBERT T. SCHOVILLE, [redacted]
DAVID P. SEELEY, [redacted]
STEPHEN C. SHUMAKER, [redacted]
ZANE F. SPITZER, III, [redacted]
GARY G. STRANEVA, [redacted]
JAMES F. TAYLOR, [redacted]
JOSEPH E. THOMAS, JR, [redacted]
LEONARD P. WALLEN, [redacted]
HOWARD L. WARREN, [redacted]
EMMETT T. WHITE, JR, [redacted]
JAMES H. WILLIS, [redacted]
LARRY E. WINE, [redacted]

CHAPLAIN

To be lieutenant colonel

JUNIOR L. BRELAND, [redacted]
DUANE B. CHASE, [redacted]
SHERMAN R. REED, [redacted]
JAMES M. SWAIM, [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

CATHERINE H. GRUMBECK, [redacted]
SUE A. MOORHEAD, [redacted]
THERESA J. ZOLOCK, [redacted]

MEDICAL CORPS

To be lieutenant colonel

WILLIAM R. ALLEN, [redacted]
ARNOLD J. HILL, [redacted]
JOHN S. KASPER, [redacted]
THOMAS W. LUCAS, [redacted]
WALTER N. MINOR, [redacted]
THOMAS G. PETERS, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

ALAN B. FISHER, [redacted]

VETERINARY CORPS

To be lieutenant colonel

DARIO T. CAPPUCCI, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3366:

ARMY PROMOTION LIST

To be lieutenant colonel

ROBERT P. BRANDENBERG, [redacted]
OWEN F. DEVLIN, [redacted]
MARLENE E. GOSELIN, [redacted]
HOWARD J. HURST, [redacted]
WYLEY P. NEAL, [redacted]
JAMES H. PETERSON, [redacted]
JAMES S. POTTS, [redacted]
HUBERTO C. TORRES, [redacted]
JAMES R. WASHINGTON, [redacted]
EMRON A. YANCEY, [redacted]

CHAPLAIN

To be lieutenant colonel

PAUL F. GRAY, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3370:

ARMY PROMOTION LIST

To be colonel

ELBERT M. COOPER, JR., [redacted]
JAMES E. JARRETT, [redacted]

CHAPLAIN

To be colonel

WALLACE A. ALCORN, [redacted]
CARL H. BURTON, [redacted]

MEDICAL CORPS

To be colonel

WILLIAM D. WISE, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3359:

MEDICAL CORPS

To be colonel

DAVID M. VAN HOOK, [redacted]

MEDICAL CORPS

To be lieutenant colonel

CALVIN E. MEIN, [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate September 20, 1988:

DEPARTMENT OF EDUCATION

LAURO F. CAVAZOS, OF TEXAS, TO BE SECRETARY OF EDUCATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, September 20, 1988*

The House met at 12 noon.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We pray, Gracious God, that we will not place our faith in the hand of earthly things, nor be tempted by the riches of the present time. While we are placed in a world of power and pride, may we not cling to any worldly security, but hold fast to the eternal truths of compassion, justice, and mercy and by so doing abide in Your presence forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

The message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills, joint resolutions and concurrent resolutions of the House of the following titles:

H.R. 2046. An act to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande;

H.R. 5090. An act to implement the United States-Canada Free-Trade Agreement;

H.J. Res. 518. Joint resolution designating the week of September 25, 1988, as "Religious Freedom Week";

H.J. Res. 602. Joint resolution in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge;

H. Con. Res. 348. Concurrent resolution expressing the sense of the Congress concerning the 1988 Seoul Olympic games; and

H. Con. Res. 364. Concurrent resolution congratulating Israel and Egypt on the tenth anniversary of the Camp David accords.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1490. An act for the relief of Jean DeYoung.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2637. An act for the relief of Gillian Lesley Sackler;

S. 2647. An act to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that Act, and for other purposes;

S. Con. Res. 129. Concurrent resolution expressing the support of Congress for the Dalai Lama and his proposal to promote peace, protect the environment, and gain democracy for the people of Tibet; and

S. Con. Res. 142. Concurrent resolution congratulating Israel and Egypt on the tenth anniversary of the Camp David accords.

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentleman from Mississippi [Mr. MONTGOMERY] kindly lead the House in the Pledge of Allegiance?

Mr. MONTGOMERY. Thank you, Mr. Speaker, and I would like to ask the Members to stand, and also the staffs and the pages, to participate in the Pledge of Allegiance and place their hands over their hearts facing the flag.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

PLEASE CANCEL THE CHINESE ROCKET DEAL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, it is known that I keep wanting to say, "If only Ronald Reagan had gotten elected, this would not have happened," except he got elected. He encouraged private industry to go out and try and close the gap between the European space launched missiles and the fact that we did not have them, and many of our industry giants did, one being Martin Marietta in my district. They invested millions of dollars, hired thousands of people, and they have gone out, and they are able to compete with anyone who is in the private sector now in launching satellites into space. They closed the gap.

But then what happens, Mr. Speaker, is the administration now decides that they are going to let China, which has state-owned satellites and launchers; they are going to let China compete against ours, and there is absolutely no way state-owned industries can compete against ours, plus we turn around, and we are also doing very serious technology transfer. Well, I am concerned about the trade deficit, but I do not think it can be closed by selling the top of our line in what we have for technology, and I think this is a very, very serious issue.

Mr. Speaker, I have written Secretary Shultz and asked him to please cancel the Chinese rocket deal.

The letter is as follows:

> HOUSE OF REPRESENTATIVES,
> *Washington, DC, September 19, 1988.*
>
> Hon. GEORGE SHULTZ,
> *Secretary of State, Department of State, Washington, DC.*
>
> DEAR SECRETARY SHULTZ: I am concerned about the decision to let the Chinese government launch three American-made communication satellites. The decision could be a serious blow to both national security and American industry.
>
> The transfer of sensitive technology to the Chinese government seems to carry a high risk and little benefit. The Chinese government can in no way insure the safety and integrity of U.S. space technology. With the recent wave of incidents where sensitive American technology has been compromised, it seems prudent to be extremely cautious in transferring technology. I am concerned that we are not being cautious enough.
>
> The decision also conflicts with the President's policy of encouraging the development of commercial launch firms. Considering the Challenger disaster and the failure of other U.S. launch vehicles, now is perhaps the most important period in the development of the fledgling commercial launch industry. To let a state-subsidized foreign launch service carry these satellites into space could cripple any development of our own private industry. Being state-subsidized, the Chinese can launch without having to turn a profit. It would be almost impossible for our own domestic industry to be competitive given this fact.
>
> Considering what is at stake, I urge you to reverse your decision on this matter.
>
> Sincerely,
>
> PATRICIA SCHROEDER,
> *Congresswoman.*

Mr. Speaker, I hope many of my colleagues will join me in this issue.

A FUTURE COMMITMENT TO IMPROVE THE HEALTH CARE SYSTEM

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, today marks a healthy start in addressing the health care needs of this Nation. Today Mike Dukakis will outline his program for addressing the health care problems that concern all Americans, from the youngest to the most

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

senior. The change from the Reagan-Bush years couldn't be more dramatic.

Over the past 8 years, our Nation's health care system has had to face major problems:

The number of working families without health insurance coverage has grown every year.

The threat of ruinous nursing home costs to the elderly and their children has grown every year.

The United States infant mortality rate has remained 19th in the world, nearly twice the rate of first-place Japan.

Over the past 8 years, the Reagan-Bush administration has let each of these problems fester, allowing them to reach crisis proportions.

After these 8 years of not-so-benign neglect, it is refreshing to hear what leadership in health care is all about.

It is obvious from his record that Mike Dukakis cares about making the health care system work for the people of this country and has the skills to make it happen.

He does not view Medicare and other Federal health programs as targets in a budgetary shooting gallery. He views these programs as tools to help meet the challenges of today and tomorrow.

He has grappled with the problems of the uninsured, of long-term care, and of infant mortality in his own State and has enacted creative solutions—solutions which will serve us well at the national level.

Under his leadership, Massachusetts has taken the lead in assuring that working families and their children have health insurance coverage.

Under his leadership, Massachusetts has expanded coverage for low-income pregnant women and infants who are at risk for infant mortality. Mike Dukakis knows that there is no better investment of Government funds than the purchase of prenatal and maternity care for low-income women.

Mike Dukakis has committed to working with the Congress on the long-term care problem. I welcome this commitment, and look forward to joining him in crafting a solution to the No. 1 financial worry for the elderly.

Today we will have a preview of what a combination of past experience and future commitment can mean for improving the health care system in this country. I like what I see, and I think the American people will like it, too.

THE NEW MEXICAN GOVERNMENT WANTS TO DEAL WITH CONGRESS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, United States-Mexican relations should have more of a priority in American foreign policy. We spend far too much time on the problems of NATO, Japan, United States-Soviet relationships, and other areas and fail to recognize that with Mexico we have equally difficult problems. We have a myriad of problems with Mexico that go unattended; trade, immigration, narcotics, environmental pollution, Central America, and debt. The relationship is not given the proper attention, either by the U.S. Congress or the executive branch.

In the same vein the Mexican Government has not dealt with the United States Government and the Congress in a way that is conducive to their interests. They often ignore the Congress and plead lack of interest in dealing with knotty blatant problems preferring that they go away. Thanks to your efforts, Speaker WRIGHT, Members of Congress are holding conversations and discussions with government representatives of the President-elect Salinas' new government: Messrs. Camacho, Carsona, and Cordoba. This is a welcome, positive step. The new Mexican Government wants to deal with the Congress. They want to discuss issues with us. In the past they have ignored us and dealt directly with the State Department. Mexico's presence in Washington needs to be more visible. In this connection, the efforts of Speaker WRIGHT and Gabriel Guerro should be commended.

Mr. Speaker, the U.S. Congress should make every effort to work with President-elect Salinas de Gortari to make the United States-Mexico relationship, so vitally important, more harmonious and productive.

GLICKMAN LAUDS BURNLEY DECISION TO GIVE GOVERNORS AUTHORITY TO EXEMPT FARMERS FROM COMMERCIAL DRIVERS LICENSE REQUIREMENTS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, the Secretary of Transportation today announced his decision to give the States authority to exempt farmers from commercial drivers license requirements. Back in February, I initiated a letter signed by several other House Members urging the Secretary to exclude farm vehicles from this requirement. These licenses were intended to protect the driving public from unnecessary driver risk and hazard, and, as the Secretary pointed out today the safety record for farm vehicles is more than twice as safe as that of nonfarm vehicles. Many of these vehicles are seldom, if ever, on public roads and highways.

I am today urging Kansas Governor Hayden to move expeditiously to put this waiver into place for Kansas farmers. It is the only course of action that makes good common sense.

BUSH ON DEFENSE: "BUY A ROUND FOR THE HOUSE"

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, it is time for us Democrats to admit it. GEORGE BUSH likes defense spending more than we do. In fact, he is so smitten with defense spending that he wants to pay for our defense, for Japan's defense, for Korea's defense, for Western Europe's defense.

Actually, I misspoke slightly. He wants to spend the money, but he doesn't want to pay for it; he wants to charge it all to the grandkids.

In the past 8 years, GEORGE BUSH and Ronald Reagan have doubled defense spending from $150 billion to $300 billion and then put it all on a charge card.

No weapon system costs too much for these big spenders. If it explodes, buy it; if our allies want it, give it to them.

These guardians of the American taxpayer have asked each United States taxpayer to pay over $1,000 a year for defense costs for Japan, Korea, and Western Europe.

"Put it on our tab" they have told our allies. "The good old American taxpayer will pay the bill to keep the free world free."

Now I admit, somebody who thinks September 7 is Pearl Harbor Day might miss a few details about the debate over burden sharing. But its time for us to ask GEORGE BUSH to answer to this spending spree he and the President have been on.

It's really all very confusing to the voters. BUSH runs as a conservative, but he is a genuine, dyed in the wool, unrepentant, international liberal when it comes to defense spending. He says, "let's double ours, in fact let me buy a round for the house. Let's pay for the defense bills for Japan, Korea, Western Europe, and others. Heck, the taxpayers won't mind. Ron and I have been doing it for 8 years."

Well, I figure the taxpayers are fed up. They wonder when are we going to invest in America first. When will we demand that our allies begin to pay their fair share of keeping the free world free. The answer ought to be now—right now.

Times have changed. We are no longer dealing with the war tattered nations of the post-World War II period. Today, our allies are tough, smart economic competitors and it's time for them to share the burden.

And, so for GEORGE BUSH—he needs to understand that we sure do need defense spending—but we can't go hog wild about it. We've got other needs right here at home that we had better care about. Education, research, health care, roads, bridges, and more.

Sometimes, I get the feeling that this arms race has cost some public officials their common sense. I figure if this administration heard today that the Soviets were reinstituting a cavalry unit, BUSH and Reagan would be out looking for horses tonight; but, there won't be enough horses. There never are.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GLICKMAN). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Thursday, September 22, 1988.

VETERANS' HEALTH-CARE PROGRAMS AMENDMENTS OF 1988

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5114) to amend title 38, United States Code, to improve programs for the recruitment and retention of health-care personnel of the Veterans' Administration, to extend certain expiring programs of the Veterans' Administration, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; DEFINITION OF ADMINISTRATOR.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Health-Care Programs Amendments of 1988".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) ADMINISTRATOR DEFINED.—For purposes of this Act, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE I—PERSONNEL PROVISIONS

SEC. 101. SPECIAL PAY FOR NURSES.

Section 4118 is amended as follows:

(1) The heading is amended to read as follows:

"§ 4118. Special pay for physicians, dentists, and nurses".

(2) Subsection (a)(1) is amended—

(A) by striking out "physicians and dentists" after "highly qualified" and inserting in lieu thereof "physicians, dentists, and nurses";

(B) by striking out "physician or dentist" both places it appears and inserting in lieu thereof "physician, dentist, or nurse"; and

(C) by inserting after clause (B) the following: "or (C) $7,000 per year to any nurse so employed on a full-time basis (or in the case of a nurse employed on a part-time basis, a proportional amount of the maximum benefit that would be paid under this section to such nurse if such nurse were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such nurse in the Department of Medicine and Surgery bears to full-time employment)".

(3) Subsection (a)(2) is amended by striking out "physician or dentist" and inserting in lieu thereof "physician, dentist, or nurse".

(4) Subsection (a)(3) is amended by striking out "and dentists" both places it appears and inserting in lieu thereof ", dentists, and nurses".

(5) Subsection (b) is amended—

(A) in paragraph (2), by inserting "or $1,500 to any eligible full-time nurse," after "dentist,"; and

(B) in paragraph (3)—

(i) by inserting "or of $1,500 to any eligible part-time nurse," after "dentist," the first place it appears; and

(ii) by striking out "physician or dentist" and inserting in lieu thereof "physician, dentist, or nurse".

(6) Subsection (c) is amended—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) In the case of eligible full-time nurses appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $5,500 to any eligible nurse. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per year amounts of incentive special pay to any full-time nurse eligible for such pay:

"(A) For tenure of service within the Department of Medicine and Surgery of two years or more but less than five years, $500.

"(B) For tenure of service within the Department of Medicine and Surgery of five years or more, $1,000.

"(C) For service in intensive care units, critical care units, emergency rooms, or operating rooms or in a nursing specialty with respect to which the Chief Medical Director has determined that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $4,000.

"(D) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $1,500.

"(E) For service in a head nurse position $1,500.

"(6) In the case of eligible part-time nurses appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $5,500 to any eligible nurse. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per year amounts of incentive special pay to any nurse eligible for such pay, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such nurse bears to full-time employment:

"(A) For tenure of service within the Department of Medicine and Surgery of two years or more but less than five years, $500.

"(B) For tenure of service within the Department of Medicine and Surgery of five years or more, $1,000.

"(C) For service in intensive care units, critical care units, emergency rooms, or operating rooms or in a nursing specialty with respect to which the Chief Medical Director has determined that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $4,000.

"(D) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $1,500.

"(E) For service in a head nurse position $1,500.".

(7) Subsection (d) is amended—

(A) by striking out "physician or dentist" each place it appears and inserting in lieu thereof "physician, dentist, or nurse"; and

(B) by striking out "or (c)(4)(C)" and inserting in lieu thereof ", (c)(4)(C), (c)(5)(D), or (c)(6)(D)".

(8) Subsections (e)(1) and (e)(2) are amended by striking out "physician or dentist" each place it appears and inserting in lieu thereof "physician, dentist, or nurse".

(9) Subsection (e)(4) is amended by adding at the end the following new subparagraph:

"(D) any nurse who becomes employed in the Department of Medicine and Surgery after the date of the enactment of this subparagraph and who enters into an agreement under this section is entitled to special pay beginning on the date on which the agreement is entered into, or the date on which the nurse becomes employed, whichever date is later.".

(10) Subsection (e) is further amended by adding at the end the following new paragraphs:

"(5) An agreement may only be entered into with a nurse under this section if the nurse is a registered nurse and is an employee of the Department of Medicine and Surgery whose duty assignments involve direct patient care.

"(6) A nurse who is eligible for additional pay under section 4107(g)(1) of this title and special pay under this section may not receive such special pay under this section unless the nurse waives receipt of additional pay under section 4107(g)(1) of this title in an amount equal to the amount of special pay payable under this section.".

(11) Such section is further amended by adding at the end the following new subsection:

"(i) During fiscal year 1989—

"(1) subsection (b) shall be applied by substituting '$1,000' for '$1,500' in paragraphs (2) and (3); and

"(2) subsections (c)(5) and (c)(6) shall be applied—

"(A) by substituting '$500' for '$1,000' in subparagraph (B);

"(B) by substituting '$2,000' for '$4,000' in subparagraph (C); and

"(C) by substituting '$1,000' for '$1,500' in subparagraphs (D) and (E).".

SEC. 102. PREMIUM PAY FOR LICENSED PRACTICAL OR VOCATIONAL NURSES AND NURSE ASSISTANTS.

(a) IN GENERAL.—Section 4107(e) is amended by adding at the end the following new paragraph:

"(11) For purposes of this subsection, an employee of the Department of Medicine and Surgery who is a licensed practical or vocational nurse or a nurse assistant shall be treated in the same manner as a registered nurse.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1988.

SEC. 103. CLARIFICATION OF CERTAIN LIMITATIONS WITH RESPECT TO EMPLOYMENT.

(a) LIMITATIONS ON OUTSIDE EMPLOYMENT.—Section 4108 is amended by adding at the end the following new subsection:

"(e) Any provision of this title limiting employment outside of the Veterans' Administration by an employee of the Veterans' Administration shall not apply to an employee who is appointed under the provisions of title 5 and paid under the provisions of this title.".

(b) COMPENSATION OF EMPLOYEES WHO ARE RETIRED MILITARY PERSONNEL.—(1) Section 4107(i) is amended by inserting "or registered nurse" after "physician".

(2) The amendment made by paragraph (1) shall take effect on the first day of the first pay period beginning on or after the date of the enactment of this Act.

SEC. 104. PARKING FEES AT MEDICAL FACILITIES.

(a) WAIVER FOR CERTAIN HEALTH-CARE WORKERS.—Section 5009(c) is amended—

(1) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) A parking fee under this subsection may be waived in the case of any health-care employee who is eligible for an increase in basic pay under section 4107(g)(1) of this title.".

(b) EXCLUSION OF CERTAIN LEASED FACILITIES.—(1) Section 5009(d) is amended by adding at the end the following new paragraph.

"(3) A schedule of parking fees prescribed pursuant to paragraph (1) of this subsection for a parking facility acquired by lease may be in effect only during the period of the original term of the first lease by the Veterans' Administration of that facility.".

(2) Section 5009(e) is amended by adding at the end the following new sentence: "A schedule of parking fees prescribed pursuant to this subsection for a parking facility acquired by lease may be in effect only during the original term of the first lease by the Veterans' Administration of that facility.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988.

SEC. 105. CONVERSION OF NONPHYSICIAN HOSPITAL DIRECTORS TO SENIOR EXECUTIVE SERVICE.

(a) CONVERSION.—Section 4101(e) is amended by striking out "and persons appointed under section 4103(a)(8) of this chapter".

(b) CONFORMING AMENDMENTS.—(1) Section 4103(a) is amended—

(A) by striking out paragraph (8); and

(B) by redesignating paragraph (9) as paragraph (8).

(2) Section 4107(c) is repealed.

(d) APPLICABILITY TO CURRENT DIRECTORS.—Each nonphysician director appointed under section 4103(a)(8) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, is hereby designated as a career appointee in the Senior Executive Service established under chapter 31 of title 5, United States Code. The provisions of section 3393(d) of such title shall not apply to a director designated as a career appointee pursuant to the preceding sentence.

(e) PRESERVATION OF PAY.—The amendments made by this section shall not result in a reduction in the rate of pay payable to any person.

SEC. 106. EXCLUSION FROM PERSONNEL CEILING.

Section 5011(d) is amended by adding at the end the following new paragraph:

"(6) To the extent that the Veterans' Administration employs additional personnel at any medical center in order to support services provided to the Department of Defense under an agreement under this subsection, such personnel may not be counted for the purposes of any limitation on the number of full-time equivalent employees that the Veterans' Administration may have for any fiscal year.".

SEC. 107. APPOINTMENT OF CERTAIN INDIVIDUALS IN HEALTH-CARE POSITIONS.

Section 4106 is amended by adding at the end the following new subsection:

"(h)(1) The Administrator may appoint qualified individuals in the competitive civil service without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title).

"(2) For purposes of this subsection, qualified individuals are individuals—

"(A) who have a recognized degree or certificate from an accredited institution in a health-care profession or occupation; and

"(B) who were appointed to and have successfully completed a clinical education program affiliated with the Veterans' Administration.

"(3) In using the authority provided by this subsection, the Administrator shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

"(4) The Administrator may appoint an individual under this section only upon the recommendation of the Chief Medical Director.".

TITLE II—HEALTH PROGRAM AMENDMENTS

SEC. 201. EXTENSION OF EXPIRING PROGRAMS.

(a) ALCOHOL AND DRUG ABUSE TREATMENT.—Section 620A(e) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) VETERANS MEMORIAL MEDICAL CENTER IN THE PHILIPPINES.—(1) Subsections (a) and (b)(1) of section 632 are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(2) Subsection (b)(1) of such section is further amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000,".

SEC. 202. COMMUNITY NURSING HOMES.

(a) RESCISSION OF REGULATION.—The amendment to Veterans' Administration medical regulations relating to the use of community nursing home care facilities that was effective as of May 23, 1988, and which is further described in subsection (b) is hereby rescinded, and the provisions of regulations replaced by such regulations described in subsection (b) are hereby restored.

(b) REGULATION DESCRIBED.—Subsection (a) applies to the amendment to title 38 of the Code of Federal Regulations section 17.51a published in the Federal Register on April 21, 1988 (53 Fed. Reg. 13120).

SEC. 203. COMPENSATED WORK THERAPY PROGRAM.

(a) AUTHORIZED SOURCES FOR PROVISION OF THERAPEUTIC WORK.—Subsection (b)(1) of section 618 is amended by striking out "contractual arrangements with private industry or other sources outside the Veterans' Administration" and inserting in lieu thereof "a contract or other arrangement with any appropriate source (whether or not an element of the Veterans' Administration or of any other Federal entity)".

(b) USE OF REVOLVING FUND.—Subsection (c)(1) of such section is amended by striking out "carrying out the provisions of" and inserting in lieu thereof "furnishing rehabilitative services authorized in".

TITLE III—HEALTH-CARE MANAGEMENT

SEC. 301. PILOT PROGRAM FOR IMPROVED MANAGEMENT SYSTEM FOR COLLECTION OF FEES.

(a) PILOT PROGRAM.—The Administrator shall carry out a pilot program for the establishment of an improved management system for the administration of fees and other amounts payable to the United States arising from programs administered by the Department of Medicine and Surgery under the provisions of title 38, United States Code. The pilot program shall be carried out in one medical region of the Department of Medicine and Surgery. The pilot program shall be carried out during fiscal years 1989 and 1990.

(b) AUTOMATED PROGRAM FOR BILLING AND COLLECTION.—(1) As part of the management system established under subsection (a), the Administrator shall provide for the development of an automated program to carry out billing and collection of fees and other amounts. The automated program shall have the capability to process (A) fees charged to third parties and to government and private agencies which have sharing agreements with the Veterans' Administration, (B) amounts recoverable by the United States under section 629 of title 38, United States Code, and (C) amounts payable as first-party medical copayments authorized in such title.

(2) In developing such automated billing and collection program, the Administrator shall use billing and collection expertise and services of the private sector.

(c) ALLOCATION OF AMOUNTS COLLECTED.—The Administrator shall allocate amounts received by the Veterans' Administration through the pilot program as follows:

(1) 25 percent shall be covered into the Treasury as miscellaneous receipts.

(2) 25 percent shall be allocated to funds and accounts of the Veterans' Administration medical center through which the amounts were collected.

(3) 50 percent shall be allocated to funds and accounts available to the Chief Medical Director.

(d) USE OF AMOUNTS RETAINED.—The Administrator may obligate amounts retained by the Veterans' Administration and allocated pursuant to paragraph (2) or (3) of subsection (c). The Administrator shall require that such amounts be used—

(1) for pay and other personnel benefits to enhance the recruitment and retention of health-care employees of the Department of Medicine and Surgery; or

(2) to supplement the medical equipment accounts of medical centers at which such accounts are deficient.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $500,000 to carry out the pilot program under this section.

SEC. 302. CHAMPVA PROGRAM.

(a) LIST OF BENEFICIARIES.—The Administrator shall compile an accurate and complete list of individuals eligible as of October 1, 1988, for benefits under section 613 of title 38, United States Code. Such list shall be compiled not later than October 1, 1988, and shall be maintained and periodically updated thereafter. The Administrator may pay benefits under that section only to persons whose names are included on the list.

(b) PROGRAM REVIEW.—Not later than October 1, 1988, the Administrator shall establish a procedure for the periodic review of the need for, the cost effectiveness of, and the appropriateness of the provision of health care by the Administrator under section 613 of such title.

(c) INSPECTOR GENERAL REVIEW.—Not later than December 1, 1988, the Inspector General of the Veterans' Administration shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the compliance of the Administrator with subsections (a) and (b). If the report indicates that the Administrator is not in compliance with either such subsection, the Administrator shall promptly submit to those committees a report explaining the reason for any such noncompliance and the plans of the Administrator to correct the deficiency.

(d) STUDY OF ALTERNATIVES.—(1) The Administrator shall carry out a study of alternative methods for providing for the costs of health care which are currently provided under section 613 of such title. In carrying out the study, the Administrator shall consider methods which would result in a substantially unchanged cost to the United States while providing improved health benefits at lower costs to beneficiaries.

(2) The Administrator shall submit a report on the results of the study to Congress not later than one year after the date of the enactment of this Act.

(3) There is authorized to be appropriated the sum of $500,000 to carry out the study under this subsection.

SEC. 303. ELIGIBILITY OF MILITARY DEPENDENTS FOR HEALTH CARE UNDER SHARING AGREEMENTS.

Section 5011(g)(5) is amended by inserting after "title 10" the following: "or a dependent (as defined in section 1072(2) of such title) who is eligible for care under section 1076 of such title".

SEC. 304. TRANSFER OF TITLE TO CERTAIN MEDICAL EQUIPMENT.

(a) AUTHORITY.—Notwithstanding any other provision of law, the Administrator may transfer all right, title, and interest of the United States in and to any medical equipment described in subsection (b) to the college or university holding such equipment on the date of the enactment of this Act. Any such transfer shall be without compensation or reimbursement to the United States.

(b) MEDICAL EQUIPMENT COVERED.—This section applies with respect to medical equipment acquired by the Administrator for the purposes of the pilot program established under subchapter I of chapter 82 of title 38, United States Code, and made available by the Administrator to a State college or university as part of the assistance provided that college or university under section 5073(a) of such title.

SEC. 305. CANTEEN SERVICE.

(a) LIMITATION ON EMPLOYMENT.—Section 4203 is amended by adding at the end the following new subsection:

"(c) A contract or other agreement may not be made by or on behalf of the Service for performance by an individual not directly employed by the United States of any activity otherwise performed by an individual employed by the United States who is compensated with nonappropriated funds.".

(b) INDEPENDENT STATUS WITHIN THE VETERANS' ADMINISTRATION.—Section 4208 is amended—

(1) by striking out "It is the purpose of this chapter that, under" and inserting in lieu thereof "Under the"; and

(2) by adding at the end the following: "The head of the Service may not be required to report to or be supervised by any official of the Veterans' Administration other than the Administrator and Deputy Administrator.".

SEC. 306. AGENT ORANGE RESEARCH.

Funds previously appropriated to the Veterans' Administration for medical and prosthetic research and obligated through the Centers for Disease Control for a contract for the conduct of an epidemiological study relating to exposure of veterans to the herbicide known as Agent Orange shall, upon the cancellation of that contract, be available for obligation until September 30, 1989, in the amount of $3,000,000 for payment of expenses of the Department of the Air Force in connection with blood tests of individuals who, while serving in the Air Force, participated in the spraying of Agent Orange in Vietnam during the Vietnam era.

SEC. 307. SATELLITE OUTPATIENT CLINIC, TOLEDO, OHIO.

(a) CHANGE IN STATUS OF CLINIC.—The Administrator shall change the status of the Veterans' Administration satellite outpatient clinic located on Glendale Avenue in Toledo, Ohio, to that of an independent clinic.

(b) FUNDING.—Within the funds available for operation of Veterans' Administration medical facilities in any fiscal year, the Administrator shall ensure that adequate funding is provided for the efficient operation of such clinic after its change in status to that of an independent clinic.

SEC. 308. LAND TRANSFER, RUTHERFORD, TENNESSEE.

(a) AUTHORITY.—Subject to subsection (b), the Administrator shall transfer to the State of Tennessee all right, title, and interest of the United States in and to a tract of land consisting of not to exceed seven acres, together wtih improvements thereon, in the Southeast corner of the Alvin C. York Veterans' Administration Medical Center in Rutherford County, Tennessee. Such transfer shall be made without consideration.

(b) PERMITTED USE.—The transfer under subsection (a) may only be made subject to the condition (1) that the property transferred be used by the State of Tennessee for a nursing care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38, United States Code, and (2) that if that property issued at any time for any other purpose, all right, title, and interest in and to that property shall revert to the United States.

(c) ADDITIONAL CONDITIONS.—The transfer under subsection (a) shall be made under such additional terms and conditions as the administrator considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Is a second demanded?

Mr. SOLOMON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5114 would make improvements in certain health-care programs of the Veterans' Administration and was reported out of our committee unanimously by voice vote. The various provisions are summarized in a "blue sheet" summary here at the table. The provisions are more fully explained in the report on the bill, House Report 100-937. Therefore, I will limit my remarks to only the major provisions of the bill.

In general, Mr. Speaker, the provisions of this bill recognize the reality that every dollar available to the VA for medical care must be carefully weighed so that high quality care is delivered to our Nation's veterans on a timely basis.

Specifically, this bill extends programs that have been evaluated and shown to achieve desirable results and to be cost effective. This bill also addresses one of the most compelling problems in the VA medical care system: Attracting and keeping the dedicated, well-trained staff that is the foundation of the VA's Department of Medicine and Surgery. Finally, this bill would also make some management changes to improve delivery of medical services.

Mr. Speaker, there are two program extensions addressed by the bill. First, the bill would extend authority through September 1991 for the VA to contract with halfway houses and other community treatment facilities for treatment of veterans with alcohol or drug abuse problems.

According to a report submitted to the Congress in February of this year, this program is a very good one. Of the veterans who had completed the Contract Residential Treatment Program, 75.4 percent were found at a 6-month followup to be abstaining from any substance abuse compared with 58 percent who had dropped out of treatment. Also, at the time of followup, 46.8 percent of the treatment group were employed compared to 16.1 percent at the time of admission to treatment. The average per diem rate paid by the VA for this treatment mode was about $26 compared with about $93 to $103 per day for alcohol and drug abuse treatment respectively in VA inpatient settings.

Another program extension is the authority for the VA to make grants to the Veterans' Memorial Medical Center [VMMC] in the Philippines, which would be extended through September 30, 1992. The policy underlying this program has been in existence since 1948 when the Congress enacted legislation to construct the VMMC and to provide contract care to the veterans in the Philippines who served in components of the United States armed services. This provision would also authorize an increase from $500,000 to $1 million in the amount of the grant in order to address the rising costs of construction materials and increased maintenance needed on the 34-year-old hospital.

Mr. Speaker, the problems of recruitment and retention of medical care staff are well known in American medicine, especially in the area of nursing staff. The Federal environment makes the challenge even more difficult. The recent "Survey of Veterans' Administration Medical Centers"—House Committee Print No. 10—documented that VA medical centers are staffed at a much lower level than their community neighbors and that, in addition, they suffer from unfilled vacancies across all of the medical professions. H.R. 5114, as amended, would address some of these general problems.

First, the bill would provide primary and incentive special pay for registered nurses similar in format to the successful program that was enacted for VA physicians and dentists in 1975. Primary special pay of up to $1,000 per year would provide an improvement in pay based on employment of at least half-time status with the VA. Incentive special pay would allow an emphasis on specific recruitment and retention difficulties as defined by such factors as tenure of service, service in intensive care units, critical care units or other services, and in specific geographic locations in which there are extraordinary difficulties in recruiting and retaining qualified nurses.

Mr. Speaker, this provision will not solve all of the VA's nurse recruitment problems. At the base of the problem is an inadequate supply of nurses in the United States. However, this should make it possible for the VA to compete with other employers. Another important feature of this provision is that it puts up front in the budget the cost of personnel. The current way used by the VA to pay the competitive wage rates for nurses is through special salary rates. The committee's recent survey of medical centers revealed that often the costs of these rates are not funded by the VA. Instead the funds are taken from other hospital accounts such as medical equipment and maintenance funds. This is not the way to keep the VA strong.

Another provision related to registered nurses is a provision that would allow retired military nurses to keep their retirement pay if they choose to work as nurses in the VA. While there may only be a small pool of such nurses, their experience would be a valuable resource for the VA. The disincentive under current law is that they would lose their retirement pay if they worked at a Federal job. In view of the general shortage of nurses, however, we should take every opportunity to increase the number of those who want to work for the VA.

Mr. Speaker, another way to address the shortage of nurses is to support employment of other medical staff on the wards. For instance, licensed practical or vocational nurses and nursing assistants assist in some tasks of registered nurses. Similarly, ward clerks take some of the paperwork burden from nurses. This bill would authorize Saturday premium pay for LPN/LVN's and nursing assistants in order to recruit and retain these health care professionals. The lack of this premium pay was listed as a disadvantage to VA employment by 24.7 percent of VA medical centers responding to the VA's "1987 Survey of Health Professions." Currently such pay is discretionary for LPN/LVN's.

The last provision that I will discuss with regard to personnel has applicability to all individuals who have a recognized degree in an "allied health profession" and who have completed a clinical education program affiliated with the VA. Such individuals would be able to accept an appointment with the VA without having to go through the Office of Personnel Management process for civil service employment.

As described in a 1982 report to the Congress, highly motivated allied health-care employees who might consider employment with the VA become frustrated by the length and complexity of the civil service procedures. The VA, as part of its statutory mission to develop and carry out a program of education and training of health-care personnel for the Nation, annually trains 50,000 allied health professions students through clinical education programs in VA facilities. In this group, there is a large number of potential employees. These allied professions include pharmacology, occupational therapy, psychology, social work, audiology, speech pathology, dietetics and recreational therapy, and are integral parts of the VA medical care team. We should try to keep as employees these students who have successfully completed VA's affiliated training programs.

The third group of provisions, Mr. Speaker, have to do with management concerns. First, there is a provision that would allow on a space available basis the dependents of active duty military personnel to receive care in a VA facility through VA/DOD sharing agreements. Mr. Speaker, VA/DOD sharing program is a success. It was authorized under Public Law 97-174 and since that time approximately 250 locally initiated agreements have been signed which allow the two agencies to share their capacities to deliver medical care. GAO has recommended to the Congress that a modification be made that would allow—where space is available—a change to the original law, which limited the eligibility for care through a sharing agreement to the primary beneficiaries of the VA and DOD. Bills were introduced in the House and Senate in 1986 and in the House again in 1987 to remove the restriction on VA treating DOD dependents under VA/DOD sharing agreements. No action was taken on these bills, but the success of the sharing program encourages us to propose this change. I want to be clear, Mr. Speaker, that an eligible veteran would never be denied care because of a dependent patient.

A second management provision would require the VA to establish a 2-year pilot program for fiscal years 1989 and 1990 for an improved, automated management system for billing and collection of fees charged to third parties and for agencies which have sharing agreements with the Veterans' Administration, as well as first party medical copayments. Public Law 99-272 prohibited third-party insurers from excluding from their liability medical care provided in Federal medical facilities. Under that law, such insurance companies are billed for the medical care delivered by the VA to non-service-connected veterans.

A program was instituted in VA's Medical Region 2 to increase the revenue and collections under this authority. Initial results show that collections could be increased by over $6 million per year. However, there is little experience in the VA with collection of these fees and there is little incentive for VA medical centers to incur the costs to collect them. This provision would require 25 percent of the collected funds to be allocated to the medical center, 50 percent would be required to be allocated to accounts available to the VA's Chief Medical Director, and the remaining 25 percent would go to the U.S. Treasury. If the recovered amounts are allocated to the VA entities, they would be required to be used for pay and other personnel benefits to enhance the recruitment and retention of health-care employees or to supplement the medical equipment accounts of the medical centers.

Mr. Speaker, there was a provision that would have authorized the use of U.S. Internal Revenue Service information to verify incomes of veterans where the income is relevant to VA program eligibility. The Ways and Means Committee asked for a sequential referral of the bill, and in view of the few working legislative days remaining before adjournment, we have decided to move the bill without this provision.

There follows communications between the two committees in reference to this provision:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, September 19, 1988.
Hon. DAN ROSTENKOWSKI III,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: As you are aware H.R. 5114, the Veterans Health-Care Programs Amendments of 1988, which was reported by our Committee on September 16, 1988 was referred to your Committee for consideration of section 309 of the bill, which amends the Internal Revenue Code of 1986.

In order to expedite enactment of this measure, I have decided to strike section 309 of the bill and have the bill considered by the House tomorrow. A copy of the bill as amended is enclosed. I expect that we will consider a similar proposal during the 101st Congress, and would hope to receive favorable consideration at that time.

Sincerely,
G.V. (SONNY) MONTGOMERY,
Chairman.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 19, 1988.
Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, H.R. 5114, as reported from the Committee on Veterans' Affairs, was sequentially referred to the Committee on Ways and Means until September 29, 1988, for consideration of those provisions within the jurisdiction of this Committee.

You have suggested that the provisions in H.R. 5114 relating to the disclosure of Federal tax return information that are within the jurisdiction of the Committee on Ways and Means be deleted from that legislation in order to allow the bill to be considered by the House of Representatives this week. I would have no objection to the removal of these tax-related provisions from H.R. 5114 and its subsequent inclusion on the suspensions calendar of the House of Representatives.

While I am prepared to ask the Committee on Ways and Means to consider H.R. 5114 on an expedited basis, I also am pleased to honor the wishes of the Committee on Veterans' Affairs to allow the bill to be considered on Tuesday, September 20, 1988, by the House of Representatives after deletion of the provisions within the jurisdiction of the Committee on Ways and Means relating to the tax return information rules.

I hope this understanding is of assistance to you.

Sincerely yours,
DAN ROSTENKOWSKI,
Chairman.

Mr. Speaker, as I mentioned, there are other provisions, but these are the major ones.

Mr. Speaker, I am grateful to the distinguished ranking minority member of the committee, Mr. SOLOMON, and the very able ranking minority member of our Subcommittee on Hospitals and Health Care, Mr. HAMMERSCHMIDT, for the leadership they have provided in putting this comprehensive bill together.

I urge the adoption of the bill.

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Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first commend the chairman of the full committee, the gentleman from Mississippi [Mr. MONTGOMERY], for his outstanding leadership in bringing this and other legislation to the floor today.

Mr. Speaker, I rise in strong support of the Veterans' Health Care Programs Amendments of 1988.

While I support H.R. 5114 in its entirety, I want to focus on the nurse recruitment and retention provisions because of my particular concerns about the nationwide shortage of nurses.

In the past several weeks, I have visited VA medical centers around the country, and I have seen confirmation that the shortage of nurses has reached crisis proportions.

At the Denver Medical Center, for example, there was a shortage of 10 nurses reported in a recent survey by the committee. In the short time since the survey was made, Denver has lost 20 more nurses.

Our bill, H.R. 5114 would provide $1,500 of special pay per year for full time nurses over and above their regular pay, and it further would provide for incentive pay, with combined special and incentive pay of up to $7,000 per year.

Practical or vocational nurses and nursing assistants would also be made eligible for Saturday premium pay.

A major attraction for retired military nurses would be a provision exempting them from any offset of their retirement pay, if they work as VA nurses.

These enhancements will help greatly, but we must continue to work on the nurse shortage.

Additional study and initiatives will be necessary in the next Congress, and I look forward to working with my colleagues on them.

In matters of veterans health care, nobody can beat the team of MONTGOMERY and HAMMERSCHMIDT, as chairman and ranking member of our Subcommittee on Hospitals and Health Care, their dedication and experience has been of enormous benefit to millions of veterans, and today's legislation is only the latest example.

Mr. Speaker, this bill has been unanimously reported by the Veterans' Affairs Committee, and I urge this body to likewise give H.R. 5114 unanimous support.

Mr. Speaker, I yield such time as he may consume to the former ranking member of the Committee on Veterans' Affairs, the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for those complimentary words.

Mr. Speaker, as ranking member of the Subcommittee on Hospitals and Health Care, I rise in strong support of H.R. 5114, which will be the Veterans' Affairs Committee's final health care bill of the 100th Congress. I am proud of the progress our committee under the bipartisan leadership of Chairman SONNY MONTGOMERY and ranking member JERRY SOLOMON has accomplished in health care legislation for veterans.

The bill before us provides for several badly needed recruitment and retention incentives for nurses; it allows Civil Service health-care personnel to be hired without competitive exams if they have recognized degrees or certificates and have completed VA clinical education programs. It extends authority for grants of $1 million for 3 years to the Veterans Memorial Medical Center in the Philippines.

A very important provision would require a 2-year pilot program for improved collections from third parties, and would also give a split of receipts between the Treasury, the local medical center, and the Department of Medicine and Surgery. In this way, there would be greater incentives for effective collection.

And, finally, while I have not addressed nearly all of H.R. 5114's sections in the interest of brevity, I do want to note that this legislation would extend for another 3 years the VA's authority for the terribly important contracts with halfway houses and community facilities to give treatment to veterans with alcohol or drug abuse facilities.

We all know too well how serious the drug and alcohol problems are which face our country, and it is important to recognize the significant role the VA plays both in its own facilities and in contract programs.

Mr. Speaker, this is an excellent finale for veterans health care this session, and I commend the efforts and support of all of the members of the committee.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to another distinguished member of the committee, the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Speaker, I rise in strong support of

H.R. 5114, the Veterans Health Care Programs Amendments of 1988.

The House Veterans Affairs' Committee recently completed a survey of VA medical centers that indicated more than 13,000 hospital beds are temporarily out of service—significantly diminishing the capacity of the VA to provide care for our Nation's veterans. One of the primary reasons given for these beds being out of service was the inability to recruit and retain qualified medical personnel, particularly nurses. For example, the director of the VA Medical Center in Manchester, NH, indicated that he would need to recruit a total of 23 more nurses in order to staff the beds he has had to put out of service.

H.R. 5114 goes a long way toward addressing this critical shortage in nursing by authorizing up to $7,000 per year in special and incentive pay for nurses. I wholeheartedly support this package as well as the rest of the provisions in this bill, and I urge my colleagues to do likewise. I also would like to commend both the chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking minority member, the gentleman from New York [Mr. SOLOMON], for moving so swiftly to bring this much needed legislation to the floor of the House.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise today in stong support of H.R. 5114, the Veterans' Health-Care Programs Amendments of 1988 and I commend the distinguished chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY], the Veteran Committee's ranking member, my fellow colleague from New York [Mr. SOLOMON] and the subcommittee's ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for their continued service to our veterans.

Many hospitals and nursing homes throughout the Nation are confronted with severe nursing shortages. Nowhere are the impacts of this shortage more apparent than at our VA facilities. Many of the VA hospitals are faced with the prospect of closing their doors because of the nursing shortage.

H.R. 5114, amongst other important health care programs, provides financial incentives to recruit and retain nurses within the Veterans' Administration. The VA will be required to provide a $1,500 special pay supplement in addition to primary pay to nurses employed on a full-time basis, and up to an additional $5,500 per year incentive pay to eligible nurses based on tenure, seniority, and nursing specialty. Other incentives include making licensed practical and vocational nurses and nursing assistants eligible for premium Saturday pay, allowing military nurses to retain their retirement pay if they work in the VA, waiving the parking fees at VA facilities for hard-to-recruit personnel, and permitting the direct hiring of health care professionals without going through the civil service procedure.

In addition, the veterans' health-care programs amendments extends until fiscal year 1992 VA authority to contract with halfway houses and other community treatment facilities for the treatment of veterans with alcohol or drug-abuse problems, and rescinds the new VA regulation limiting a veteran's length of stay in a community nursing home to 45 days. Furthermore, to help finance the cost of the bill, hospitals will be allowed to keep 25 percent of what they recover as an incentive to do a better job of collecting funds for reimbursement.

Mr. Speaker, H.R. 5114 has the full support of the Veterans' Affairs Committee and the administration. Accordingly, I ask my colleagues to join in support of this much-needed measure.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of H.R. 5114, the Veterans' Health Care Programs Amendments of 1988 and commend Chairman MONTGOMERY for his leadership in bringing this initiative to the floor.

After a series of meetings with administrators and nurses at the Fargo, ND, Veterans' Administration Hospital, I am convinced of the need to improve pay incentives for skilled nurses in the VA system. Private sector pay scales and other benefits are simply drawing away many of our most able nursing professionals from VA hospitals. Since our veterans clearly deserve the best health care possible, we must reverse this trend and ensure that we can retain highly trained nurses in the VA.

This bill takes a major step toward improving retention and recruitment of nurses. It requires that the VA pay up to $7,000 per year in special and incentive pay. This will avail nurses similar incentives to those already available to both doctors and dentists. The special pay will be given automatically to all nurses employed by the VA as a kind of catchup raise. Depending on years of service, nurses will be eligible for additional incentive pay up to as much as $5,500 per year.

The legislation also addresses some other problems by making licensed practical and vocational nurses and nursing assistants eligible for premium Saturday pay, by allowing military nurses to keep all of their retirement pay if they choose to work as nurses in the VA, and by waiving parking fees at VA facilities for certain personnel.

Additionally, the bill will help to improve care directly for veterans and their dependents. It rescinds the limit on veterans' length to stay in VA nursing homes; allows, on a space available basis, care in a VA facility for dependents of active duty military personnel; improves the recovery of certain insurance payments; and allows hospitals to keep a share of these recovered payments.

Finally, the bill enables the VA to protect itself from overpayments of pension and compensation benefits. The General Accounting Office determined that the VA overpaid about $167 million in benefits in 1984 to veterans with incomes above the eligibility level. The use of computer matching techniques will assist the VA in eliminating this problem and targeting those funds to priority programs.

Mr. SMITH of New Jersey. Mr. Speaker, as a member of the Veterans' Affairs Subcommittee on Hospitals and Health Care, I rise in strong support of H.R. 5114, the Veterans' Health Care Amendments of 1988.

H.R. 5114 offers solutions to the very real problem the VA is now experiencing in recruiting and retaining nursing personnel. Provisions are designed to attract nurses to the VA, to keep nurses at the VA and to make their work environment more agreeable.

The legislation offers pay bonuses to nurses working in VAMC's and incentive pay for nurses who commit to work for certain time periods or in hard-to-staff units. Premium pay is also provided for licensed practical nurses and nurses aides working on Saturdays. Current restrictions on VA nurses—such as limitations on concurrent employment outside the VA and required pay reductions for military retired nurses—are eliminated by this legislation.

Mr. Speaker, these changes are necessary to address existing shortcomings in VA policy and in order to make the VA more competitive with private sector hospitals for the limited number of available nurses. As we all realize, without sufficient nursing personnel, our Nation's veterans will not receive the quality care they deserve.

I believe H.R. 5114 is an important step in ultimately improving the delivery of health care to veterans and I urge my colleagues to act favorably on the measure.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GLICKMAN). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5114, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

JAMES J. HOWARD VETERANS' OUTPATIENT CLINIC

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4535) to designate the outpatient clinic of the Veterans' Administration to be located on New Jersey State Route 70 in Brick Township, NJ, as the "James J. Howard Veterans' Outpatient Clinic."

The Clerk read as follows:

H.R. 4535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The outpatient clinic of the Veterans' Administration to be located on New Jersey State Route 70 in Brick Township, New Jersey, shall be known and designated as the "James J. Howard Veterans' Outpatient Clinic".

SEC. 2. LEGAL PREFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the outpatient clinic referred to in section 1 shall be deemed to be a reference to the "James J. Howard Veterans' Outpatient Clinic".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4535 would name the new Veterans' Administration Clinic in Brick Township, NJ, for our late colleague, the Honorable James J. Howard, a man who cared deeply for veterans and for their families.

The bill is cosponsored by every Member of the New Jersey House delegation.

Mr. Speaker, since the ranking minority member of the Public Works Committee, my distinguished colleague, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], worked closely for many years with Mr. Howard on that committee, I will withhold my remarks so that he can speak to the merits of the bill, and at a later time in this debate I will yield some time to the distinguished chairman of the Public Works Committee, the gentleman from California [Mr. ANDERSON].

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4535, to name the Veterans' Administration Outpatient Clinic in Brick Township, NJ, after former Congressman James J. Howard.

Congressman James Howard was a strong supporter of veterans. His voting record is proof of this commitment to veterans legislation and programs.

Of course he could easily identify with the problems and concerns of veterans having served with the U.S. Navy in the South Pacific during World War II.

Time and time again, Jim Howard reaffirmed his support for America's veterans.

His record on veterans legislation including his vote in favor of upgrading the VA to a cabinet level department just four months before his death, demonstrated his overriding concern and compassion for veterans.

Mr. Speaker, when I first came to Congress I served as a member of the Public Works and Transportation Committee and came to know, respect and admire Jim Howard.

As ranking member of the Veterans' Affairs Committee I am pleased that our committee has acted on this bill as a tribute to the memory of Jim Howard.

□ 1230

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. MOLINARI], a member of the Committee on Public Works and Transportation.

Mr. MOLINARI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, Jim Howard was well known to all of us. When I saw this bill coming on the calendar, I had a conversation with the gentleman from New York [Mr. SOLOMON], and I said, "When we consider all that Jim Howard has done and as a Member of Congress, why is it that we are naming a simple outpatient clinic for him? It seems to me that a man of his stature, we should be naming some of the largest buildings in his area in New Jersey after him."

The answer I received, I think, is significant. The gentleman from New York [Mr. SOLOMON] said that the reason is that Jim Howard felt very, very strongly about this veterans' outpatient clinic, and I think those of us who have those clinics know what they do, particularly for the Vietnam veterans who have such a problem.

I say here, here to the efforts of our chairman, the gentleman from Mississippi [Mr. MONTGOMERY] and the gentleman from New York [Mr. SOLOMON], so I second the efforts and praise them for what they are doing here for a man who served his country well.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from New York for his comments, and I yield 2 minutes to the chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I wish to express my strong support for this tribute to our late colleague, the gentleman from New Jersey, whose accomplishments extended well beyond the field of public works.

Jim Howard, my predecessor as chairman of the Committee on Public Works and Transportation, had a well-deserved national reputation in the fields of transportation and environment. His concern was always with individuals—with individual lives saved through better roads or safety conditions, and with the way the quality of our Nation's water affected the individuals using it.

That concern for individuals extended to other fields as well. He was an educator by profession and he was justifiably proud of his legislation that provided the means for financing community colleges thus opening up higher education to many for whom it had previously been denied.

Similarly, he was an advocate of the cause of the Nation's veterans. He was concerned about the quality of health care that was being provided to the many veterans at the New Jersey Shore.

It was his personal efforts with the Veterans' Administration that resulted in the clinic that is being named in his honor being placed in Brick Township, NJ. This location will make the veterans outpatient services available to the many veterans who now live in northern Ocean County.

Jim Howard worked during his 23 years in Congress to make Government help people. He believed that Government programs had contributed to making America the great Nation that it is. He wanted to use the power of Government to help people, to improve the quality of their lives and give them greater opportunity for success.

I served with Jim Howard for almost 20 years and worked closely with him on many Public Works and Transportation issues. He is one Member of Congress who has truly made a lasting contribution. His aggressive efforts in Congress for more than 20 years undoubtedly made this a better Nation.

Jim Howard had many accomplishments but I know he would have been proud to have the Veterans' Outpatient Clinic in Brick bear his name. I urge support of H.R. 4535 to designate the James J. Howard Veterans' Outpatient Clinic.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the former ranking member of the Committee on Veterans' Affairs and the ranking member of the Committee on Public Works and Transportation, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, as ranking member of the Subcommittee on Hospitals and Health Care, I rise in strong support of H.R. 4535, to name the Veterans' Administration Clinic in Brick Township, NJ, after former Congressman James Howard.

I cannot think of a better way to remember our late colleague, Jim Howard, than by naming for him the New Jersey VA Clinic he helped to establish. As ranking member of the Public Works and Transportation Committee, I worked very closely with Jim, who was the committee's chairman.

He was an esteemed colleague, and one of the most highly respected Members of this body. This is the least that we can do in his memory.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in support of the bill H.R. 4535, which will designate the new Veterans' Administration outpatient clinic, to be built in Brick, NJ, as the James J. Howard Veterans' Outpatient Clinic.

It is entirely fitting that this new and greatly needed facility be named for our late friend and colleague, Jim Howard. Jim was one of the first to recognize the need for an outpatient health clinic to serve the needs of veterans in central and south Jersey.

Most of the hundreds of thousands of veterans in that part of my State are veterans of World War II and Korea, and are now reaching the age when their medical needs are becoming more acute. Unfortunately, these veterans now have to travel relatively long distances to Wilmington, Philadelphia, or north Jersey for medical attention. This makes it difficult, if not impossible, for many veterans to get the treatment they need.

Jim Howard's untimely death denied him the chance to see fulfilled his wish of bringing the best available medical attention to the veterans of his area. Now that dream will soon be realized with the construction of a new outpatient clinic, and it is right and proper that it bear the name of Jim Howard—a public servant who worked diligently to benefit those men and women who have so proudly served our country.

I urge my colleagues to pay tribute to a man who set an example as a representative of his constituents and a trustee of his Nation, by voting to suspend the rules and pass this worthy bill.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I thank the gentleman from California and the gentleman in the well, the gentleman from New Jersey [Mr. HUGHES], for their comments on this legislation.

In closing, I would like to thank two very able members of our committee, the gentleman from New Jersey [Mr. FLORIO] and the gentleman from New Jersey [Mr. SMITH]. They both have served on the Committee on Veterans' Affairs, and I want to thank them for the work they did in making certain that an outpatient clinic will be established in southern New Jersey. Their persistence has paid off, and this clinic is now a reality.

Jim Howard worked very hard on this clinic, and I think he would be proud that it would bear his name.

Again, I want to thank the gentleman from New York [Mr. SOLOMON] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for their support.

Mr. Speaker, I urge adoption of the bill.

Mr. SHUSTER. Mr. Speaker, I rise today in strong support of H.R. 5435, a bill to designate the VA outpatient clinic in Brick Township, NJ, as the "James J. Howard Veteran's Outpatient Clinic."

Jim Howard and I became good friends on the Public Works and Transportation Committee, and though many of you know of him in this capacity there are those of us who also knew him as a fierce advocate for veterans and veteran's benefits. Jim was a member of the U.S. Navy serving in the South Pacific during World War II, since that time, he has always been an outspoken advocate for veterans and the benefits they so richly deserve.

Recognizing a need for a medical facility in central New Jersey, Jim worked closely with the Veterans' Affairs Committee to gain the authorization necessary for the clinic. Though a section of highway is already named for him, the memory we and his constituents hold of him would not be complete unless we pay tribute to him in his other great love, the veterans of this Nation. I urge my colleagues to support this measure, and the memory of our colleague and friend Jim Howard.

Mr. RODINO. Mr. Speaker, I rise in support of H.R. 4535 which I introduced on behalf of the New Jersey delegation and the distinguished chairman and ranking minority members of the Committee on Veterans' Affairs. This legislation designates the Veterans' Administration outpatient clinic in Brick Township, NJ, as the James J. Howard Veterans' Outpatient Clinic. I believe that it is a fitting tribute to our colleague and friend Jim Howard who died on March 25 and who represented New Jersey's Third Congressional District—which includes Brick Township—for 23 years.

As a veteran who served with distinction in the Navy during World War II, Jim had a personal understanding of the needs and concerns of veterans and their dependents. He recognized that we have a responsibility to honor and care for those brave men and women who were always ready to protect our Nation. In moments of great sacrifice and hardship, they never forgot us and Jim was determined that we should never forget them.

As a Member of Congress, Jim Howard translated this concern into action. He was a forceful advocate on behalf of America's veterans and he strongly supported legislation for compensation benefits paid to veterans and fought to maintain adequate staffing levels at VA medical facilities. During the last 2 years of his life, Jim worked tirelessly to persuade the Veterans' Administration to open an outpatient clinic in northern Ocean County to meet the tremendous need of veterans in this area who were forced to travel long distances to the nearest VA facility. Because of Jim's effective leadership, this clinic will become a reality.

Jim's efforts on behalf of veterans was a reflection of his true hallmark—a concern for people. He was a man of dedication who first and foremost served his constituency. As the Chairman of House Public Works Committee, Jim helped create jobs, opportunities, safer roads, and improvements in the quality of life for all citizens. These are what gave Jim his greatest satisfaction. They are also his legacy to us all.

The James J. Howard Veterans' Outpatient Clinic will be an enduring reminder of Jim's total commitment to public service. It will honor his distinguished career and his service to the people of the Third Congressional District. Most important, it will provide an appropriate recognition of Jim Howard's unwavering support for America's veterans and his pivotal role in making the VA clinic in Brick Township a reality for the thousands of veterans it will serve.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. GLICKMAN). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4535.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR RESTORATION OF PACIFIC WAR MEMORIAL AND OTHER MEMORIAL SITES ON CORREGIDOR

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4948) to direct the American Battle Monuments Commission to restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines.

The Clerk read as follows:

H.R. 4948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION.

(a) IN GENERAL.—Subject to subsection (b) and to the agreement referred to in such subsection, the American Battle Monuments Commission shall restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines.

(b) CONDITION.—The Commission may carry out this Act only after an agreement has been entered into between the Republic of the Philippines and the United States with respect to the restoration, operation, and maintenance of the Memorial and other historical and memorial sites referred to in subsection (a).

(c) PERSONNEL.—The Commission may employ personnel as may be necessary to carry out this Act.

(d) USE OF OTHER AGENCIES.—Departments, agencies, and other instrumentalities of the United States are authorized to assist the Commission, on a reimbursable basis, in carrying out this Act.

SEC. 2. FUNDING.

(a) IN GENERAL.—The American Battle Monuments Commission shall carry out this Act with private funds except to the extent funds are appropriated pursuant to subsection (d).

(b) AUTHORITY TO SOLICIT FUNDS.—For the purpose of carrying out this Act, the Commission may solicit and accept private contributions and shall deposit such contributions in the fund established by subsection (c).

(c) FUND.—(1) There is hereby established in the Treasury a fund which shall be available to the American Battle Monuments Commission only for carrying out this Act. The fund shall consist of—

(A) amounts deposited into, and interest and proceeds credited to, the fund under paragraph (2); and

(B) obligations obtained under paragraph (3).

(2) The Chairman of the Commission shall deposit into the fund the amounts that are accepted under subsection (b). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(3) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(4) Amounts in the fund that are in excess of the costs of carrying out this Act, as determined by the Chairman of the Commission, shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (d).

(d) AUTHORIZATION OF FUNDING.—There are hereby authorized to be appropriated—

(1) $6,000,000 for site preparation, design, planning, construction, and associated administrative costs for the restoration of the Memorial and other historical and memorial sites referred to in section 1(a); and

(2) such sums as may be necessary for the operation and maintenance of such Memorial and other historical and memorial sites.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4948 would authorize the American Battle Monuments Commission to restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on the island of Corregidor in the Republic of the Philipppines.

The bill would authorize an appropriation of $6 million for the projected cost of site preparation, design, planning, construction, and associated administrative costs for the restoration and would authorize the Commission to receive private and corporate contributions to offset this cost.

Funds collected in excess of the authorized amount would be reverted to the U.S. Treasury.

I headed a congressional delegation to the island of Corregidor in April of 1987 to investigate reports the committee had received from the Disabled American Veterans and others that the Pacific War Memorial and other historical sites had fallen prey to neglect and vandalism.

Three of my committee colleagues, BOB MCEWEN, DR. J. ROY ROWLAND, and CLAUDE HARRIS, accompanied me on the trip. BOB BADHAM, BEN BLAZ, BILL DICKINSON, have gone to look at this disgraceful sight. I would encourage Members who are in that part of the world to go to Corregidor.

We were shocked by what we found.

We met with President Aquino and she agreed that our two Governments should work together to restore the monuments.

Veterans organizations want to be involved.

Leaders of the Disabled American Veterans accompanied us on the trip, and during our visit, the organization committed $100,000 toward the restoration.

The DAV later presented the Navy with an initial $34,000 of that commitment for materials and supplies to be used by the Navy Seabees for preliminary repairs on the memorial and adjacent museum and grounds.

That work has been completed.

In June of 1987, the Secretary of State and Mrs. Shultz visited Corregidor and came away with impressions similar to those experienced by the congressional delegations.

The Secretary supports our efforts to restore Corregidor and the State Department is working to secure final agreement with the Philippine Government that would allow the American Battle Monuments Commission to complete the restoration.

We understand the final agreement is expected in the very near future.

Mr. Speaker, there were about 15,000 Americans and Filipinos on Corregidor and three smaller fortresses in Manila Bay. More than 3,000 Americans and Filipinos lost their lives before the island was liberated from the Japanese in March 1945.

Corregidor must not be allowed to deteriorate further.

It must be saved to honor the thousands of American and Philippine servicemen who lost their lives in that part of the world in order to preserve freedom.

Mr. Speaker, there were two provisions contained in the bill as reported which have been deleted from the bill.

One of the provisions would authorize the Administrator of Veterans' Affairs to expend not less than $200,000 from funds appropriated for construction of facilities of the Veterans' Administration to carry out an environmental impact study for a national cemetery to be located in the Dallas-Fort Worth, TX, area.

The other provision would authorize the Administrator to expend not less than $60,000 from funds appropriated for construction of faclilities of the Veterans' Administration to assist in paying for an access road to the national cemetery under construction in Merced County, CA.

Although we feel both of these provisions have merit, since the Appropriations Subcommittee on HUD-independent agencies has expressed concern about them, we have agreed to delete the provisions from the bill.

We expect the Veterans' Administration to proceed with each of these projects and we will have an opportunity to monitor the agency's progress in these areas during our oversight hearings early next year.

I appreciate the cooperation of the distinguished ranking minority member of the committee, JERRY SOLOMON, and the very able chairman of our Subcommittee on Housing and Memorial Affairs, MARCY KAPTUR, and the ranking minority member of the subcommittee, Mr. BURTON of Indiana.

This is a very worthwhile bill, Mr. Speaker, and I urge the House to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4948 to direct the American Battle Monuments Commission to restore, operate, and maintain the Pacific war memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines.

During the early days of World War II, American and Filipino troops made a courageous and determined stand on Corregidor against overwhelming Japanese forces.

For nearly 3 years, the island remained under Japanese control and was liberated at last by the American 503d Parachute Regimental Combat Team in March 1945.

During the 15-day campaign to retake the island, American forces suffered 210 killed and 790 wounded. Of the 5,200 Japanese defenders, fewer than 50 survived.

On the day of victory, Col. George M. Jones, commander of the 503d, announced to General MacArthur: "Sir, I present you fortress Corregidor."

MacArthur replied: "I see the old flagstaff still stands. Have your men hoist the colors to its peak and let no enemy ever haul them down."

The purpose of the legislation we are considering today is to restore and preserve our memorials on Corregidor. The memorials on the island have deteriorated and have been vandalized.

The restoration of Corregidor is long overdue and I commend Chairman MONTGOMERY for his commitment to preserve the memory of the Filipinos and Americans who fought and died in defense of the island.

□ 1245

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 4948, a bill to restore the monument on Corregidor. It was built to honor those who bravely carried the American banner there at a most difficult moment in American history.

The memorial is to forever enshrine in the memories of our people and the people of the Philippines what took place there.

On Corregidor, the American and Philippine defenders held out against vastly superior forces for many long days and nights.

What occurred there stirred the hearts of freedom-loving people everywhere.

After the Philippines were liberated and the war was won, the American Nation responded with the establishment of a beautiful memorial with flowering fountains, statues, and gardens, and a historical museum.

The Philippine Government was to perpetuate the memorial but, for a variety of reasons, it has fallen into a sad state of neglect.

The Philippine Government has agreed to have the American Battle Monuments Commission maintain this memorial for the future.

The State Department concurs. The Commission maintains American cemeteries all around the world, and we can be assured that the Corregidor memorial will be in good hands under its jurisdiction and control, as this legislation provides.

The cost is very modest and is not an issue.

The situation came to the attention of SONNY MONTGOMERY, our distinguished chairman, and he took the initiative to save the memorial from deterioration and vandalism.

I commend him, and the Disabled American Veterans, who have generously contributed $100,000 to the restoration of the monument. Also, I commend MARCY KAPTUR, chairwoman of the Subcommittee on Housing and Memorial Affairs; DAN BURTON, the subcommittee's ranking member; and JERRY SOLOMON, ranking member of the full committee, for their staunch support of H.R. 4948.

Mr. Speaker, I urge unanimous approval of this bill.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, what the gentleman from New York said is true if we do not adopt this legislation. I think of Corregidor and its significance in the same terms as the Iwo Jima statue. What if someone would go and spray paint that statute, or the Vietnam Memorial and not clean it up for 5 or 6 years, or take a tractor and go over to Arlington Cemetery and knock down the markers on the graves. That is what we have on Corregidor.

We have a monument over there. It has not been taken care of. We have great artifacts such as 18-inch guns that we do not even build any more, and vandals have come and sawed off the barrels of these guns. It is disgraceful.

We have to do something about it. I am sure the Congress will support this legislation.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I am glad to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I do not like to take up other subjects while we are debating this important bill, but this is the last bill that the gentleman from Mississippi and I will have the honor to present here today. I would like to take this opportunity just to bring to the attention of Members that almost 1½ years ago this body overwhelmingly, I think by a vote of 390 to 12, passed the Cabinet-level status for the Department of Veterans' Affairs. Two months ago the Senate passed the same legislation in a different form, and we have been in conference now for over 2 months.

Mr. Speaker, I call this to Members' attention because I know the gentleman from Mississippi, Mr. SONNY MONTGOMERY, has done everything in his power to get this bill to the President's desk where he has promised that he will sign it. But we keep having these delays, one after the other.

We only have about 12 or 13 legislative days left, and I know the gentleman from Mississippi would join me in appealing to everyone to talk to Senator GLENN, to Senator ROTH, to the gentleman from New York, Mr. FRANK HORTON, and the gentleman from Texas, Mr. JACK BROOKS, and all other of the other conferees to get this legislation off the dime and get it onto the President's desk.

Mr. MONTGOMERY. I thank the gentleman for those comments and agree with what he says. But I want to commend the gentleman from Texas [Mr. BROOKS] and also the gentleman from New York [Mr. HORTON], the ranking minority member on the committee that is handling the bill. I think they are doing everything possible, and they are totally supportive of this Cabinet-level Department of Veterans' Affairs.

Our problem has been over on the Senate side where legislation having nothing to do with this Cabinet-level position has been added onto the bill. But our conferees on this side, in my opinion, are out there fighting for us and will get us a Cabinet-level bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GLICKMAN). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4948.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

LOCATION OF PRINCIPAL OFFICES OF EXECUTIVE AGENCIES IN THE NATIONAL CAPITAL REGION

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2524) to amend the Public Buildings Act of 1959 to permit certain executive agencies to have their headquarters located anywhere in the National Capital region, as amended.

The Clerk read as follows:

H.R. 2524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the location of the seat of government in the District of Columbia has brought about the development of the metropolitan region extending well into adjoining territory in the States of Maryland and Virginia;

(2) the distribution of Federal installations throughout the National Capital region has been and will continue to be a major influence in determining the extent and character of development in such region; and

(3) the principal offices of executive departments should be located at the seat of government in the District of Columbia.

SEC. 2. LOCATION OF PRINCIPAL OFFICES OF EXECUTIVE AGENCIES.

The Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 19. LOCATION OF PRINCIPAL OFFICES OF EXECUTIVE AGENCIES.

"(a) IN THE NATIONAL CAPITAL REGION.—Subject to the provisions of this section, any executive agency which is required by statute to have its principal office in the District of Columbia or which is required by statute to be established at the seat of government may, notwithstanding such statute or any other provision of law, have its principal office located anywhere in the National Capital region (as defined in section 1(b) of the Act of June 6, 1924 (40 U.S.C. 71(b)).

"(b) CONSIDERATION AND CONSULTATION REQUIREMENTS.—The location of a principal office outside of the District of Columbia under subsection (a) may only be carried out after—

"(1) consideration is given to agency needs and mission, the best interests of the United States, and economic impact; and

"(2) appropriate Federal, State, and local officials (including the National Capital Planning Commission) are consulted.

"(c) LIMITATION ON APPLICABILITY.—

"(1) GENERAL RULE.—Subsection (a) shall not apply to the principal office of an executive department (as such term is defined in section 101 of title 5, United States Code).

"(2) DESCRIPTION OF PRINCIPAL OFFICE COMPONENTS.—The head of each executive department and the Administrator shall prepare and transmit to Congress a written description of the components of the principal office of such department in terms of personnel, operations, and facilities. Such description may be revised from time to time.

"(3) DEADLINE FOR TRANSMITTAL.—Transmittal of a description of the principal office of an executive department under this subsection shall be made not later than 1 year after the date of the enactment of this section or the date of the establishment of such department, whichever is later.

"(4) EFFECTIVE DATE.—A description or revised description transmitted to Congress under this subsection shall be effective beginning on the 180th day following the date of such transmittal.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes and the gentleman from New York [Mr. MOLINARI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is important in that it would provide needed flexibility in the location of certain executive agencies in the National Capital region at a significant savings to the Government. One illustration of the importance of such overall flexibility is evident in simply comparing leasing rates—the average lease rates in the District range from $27 to $37 a square foot compared to only $18 to $22 in Prince Georges County, MD, and $22 to $31 in Alexandria, VA.

Currently, an agency may be precluded from taking advantage of such significant cost savings by having relocation to the Maryland or Virginia suburbs foreclosed by law. This legislation would permit, but not require, certain executive agencies to relocate. The legislation exempts, however, the principal offices of the 13 executive departments such as the Department of Justice from relocation outside the District of Columbia.

GSA has estimated that over a 10-year lease for 100,000 square feet of space, Federal funds of $6 million could be saved by relocation of an agency to a suburban location in contrast to a similar lease of space in the district.

Economic benefits, however, are only one factor considered before relocation. As H.R. 2524 carefully provides, relocation of an agency or part of an agency could be accomplished only after several safeguards have been met: GSA and the committee would have to consider the economic impact of the relocation on the recipient community and the district, the agency's needs and mission and the best interests of the United States. Also, GSA would have to consult with appropriate Federal, State, and local officials.

I strongly urge your support for H.R. 2524.

Mr. MOLINARI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2524, which would provide that certain executive agencies could be located anywhere in the National Capital region. This legislation would not affect all agencies, as many already do not have locational restrictions.

My interest in introducing this legislation came about from my position as the ranking minority member of the subcommittee on public buildings and grounds. That subcommittee reviews lease prospectuses submitted by the General Services Administration for the housing of Federal agencies. Our leasing costs have risen dramatically over the past several years, and next year will approach $1.2 billion. Of course, the National Capital region is of particular concern due to the high concentration of the Federal Government in this area. Last year, we paid $375 million to lease roughly 30 million square feet of space in the National Capital region alone.

Let me make a few comments as to what H.R. 2524 would and would not do. H.R. 2524 would simply lift the locational restriction on certain agencies or bureaus which are now required by statute to be located in Washington, DC, and would allow such agencies to be located anywhere in the National Capital region. In this way, all Federal agencies or department bureaus would be evaluated on the same basis—in effect we are leveling the field to provide for consistent determinations as to the housing and location of Federal agencies in the capital area. Again, let me point out that many agencies already do not have such a restriction—such as the Export-Import Bank and the Federal Deposit Insurance Corporation.

The bill also requires that consideration be given to agency needs and mission as well as cost, and that Federal, State, and local officials as appropriate are consulted. In addition, the bill would exempt the principal office of the heads of our major departments, such as the Department of Labor or Department of Transportation. The GSA Administrator and the Secretary of the department are to determine what components of the department will comprise the principal office. No relocation is to take place until 6 months after submission of such report to the Congress.

H.R. 2524 does not mandate the relocation of any particular agency. The intent of this bill is to provide greater flexibility to GSA in negotiating leases and to take advantage of lower leasing costs which may be found in the National Capital region outside the District. If we do not restrict the location for certain agencies that can function in the National Capital region outside the District, we would also increase competition by drawing a larger pool of lessors, rather than being at the mercy of the big developers downtown.

As recently as 10 years ago, leasing costs in the District of Columbia, northern Virginia, and Maryland were comparable. Today, however, suburban rents can be as much as 50 percent lower than rents in the District of Columbia. Rental rates in the District range from $18 to $22 per square foot and Fairfax County in Virginia where leasing rates may run $20 to $27 per square foot.

Obviously, it would not be desirable or feasible to move every agency out of the District and that is not the intent, nor would it be the effect, of this legislation. Each agency should be analyzed on a case-by-case basis as to their particular housing needs. In a November 24, 1987, letter to the Public Works Committee supporting this legislation, former GSA Administrator Terry Golden stated: " * * * GSA is aware that, in many instances, agencies have legitimate needs requiring a downtown location. In other cases, however, suburban locations are appropriate. Thus, prior to any decision to relocate an agency from Washington, GSA would carefully consider the mission of that agency and the importance of a continuing Federal presence in downtown Washington."

The subcommittee on Public Building and Grounds conducts hearings on each individual lease prospectus submitted by GSA before acting upon any prospectus. Agencies have appeared before the subcommittee citing this locational restriction in their enabling legislation as one of the primary reasons why they must remain in the District of Columbia. If this restriction on certain agencies were removed, decision could be made on the issues of an agency's operational needs, cost, and quality of space. In fact, some agencies have moved to suburban locations and continue to operate effectively.

The House and Senate appropriations committees have also recognized the high leasing costs we are facing in this area. Appropriations committees reports have included language supportive of relocating agencies to lower cost, yet quality, suburban locations—again after considering operational needs.

Let me state that concerns that the Federal Government would abandon the District with the passage of H.R. 2524 are unfounded. In addition to the fact that the Government will undoubtedly continue to lease space in the District of Columbia, there is currently almost 16.5 million square feet of government-owned office space in the District of Columbia—over 23 million when storage space and special type space is included. In addition, this Congress has passed a public works bill providing for nearly 1.5 million square feet of Federal space at the international cultural and trade center on the Federal triangle. Later today we will consider a bill for a 520,000 square foot judiciary office building next to Union Station.

H.R. 2524 recognizes that the landscape National Capital region has changed considerably since many of these restrictions were enacted. The location of the seat of government in Washington has spurred development in the metropolitan area and blurred the borders.

Mr. Speaker, we must make every attempt to lower the Federal Government's $1.2 billion annual leasing bill. H.R. 2524 is a bill, supported by the administration and GSA, which simply seeks to save some money for our taxpayers, and I would urge its passage by the House today.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my support for H.R. 2524, legislation relating to the location of Federal agencies in the National Capital region.

Certain agencies have in their enabling legislation requirements that the principal office be located at the seat of government or in the District of Columbia. H.R. 2524 would remove these restrictions so that decisions on where to locate an agency would be determined based on the operational requirements of an agency and cost of housing that agency.

The National Capital region has experienced rapid development in the past several decades. What was once farmland is now thriving commercial development. Transportation, including mass transportation, has also become more sophisticated.

H.R. 2524 would enable the Federal Government to achieve cost savings by taking advantage of lower lease costs which may be found in suburban locations. Again, any relocation would take place only after careful consideration is given to agency needs and mission.

For example, GSA has estimated that over the course of a typical, 10-year lease for 100,000 square feet of space, up to $6 million could be saved in a high quality suburban location as opposed to a location in downtown District of Columbia.

H.R. 2524 would not apply to the principal offices of Federal departments. The bill does, however, direct the Secretary of each department and the GSA Administrator to submit to Congress a description of components which make up that department's principal office. Congress would have 6 months to review the report.

This legislation does not mandate the relocation of any particular agency. The housing of Federal agencies or bureaus would continue to be analyzed on a case-by-case basis. But it is the intent of this legislation that Federal taxpayers' money could be saved by providing more flexibility in the negotiating of leases and by the housing of appropriate agencies or bureaus in lower cost, but high quality, space in the National Capital region.

Mr. Speaker, H.R. 2524 is supported by the administration, and I would urge my colleagues to give their support to the bill today.

Mr. BOSCO. Mr. Speaker, I rise in support of H.R. 2524, as amended, a bill to amend the Public Building Act of 1959 to permit certain executive agencies to have their headquarters located anywhere in the National Capital region.

The National Capital region includes the District of Columbia, Montgomery, and Prince Georges Counties in Maryland, and Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia.

The enabling legislation of many agencies requires them to be located in the District. Even though quality low-cost lease space may be available in the Maryland or Virginia suburbs, an agency will fall back on such statutory requirements to resist relocation. Yet the Federal Government's leasing bill increased from $364 million in 1975 to $1.2 billion now.

In contrast, Government-owned space in the District has remained substantially unchanged since 1968. Consequently, reducing leasing costs would be an achievement of great significance.

This bill would permit, but not require, relocation of agencies or parts of them out of the District to quality low-cost lease space in the Maryland or Virginia suburbs. Agencies to which this new law applies would be reviewed for possible relocation on a case-by-case basis. Relocation outside the District could only occur after numerous safeguards had been met. In addition, 13 executive agencies are exempted from the bill.

This is sound, well thought out legislation and I urge your support for it.

Mr. FAUNTROY. Mr. Speaker, I rise in strong opposition to H.R. 2524, a bill which seeks to amend the Public Building Act of 1959 by permitting certain executive agencies to relocate their headquarters outside of the District of Columbia. This bill, as amended by the committee, would result in a major overhaul of existing law by repealing, in one statute, all statutes that require executive agencies to be located in the District of Columbia.

Every executive agency would be affected by this legislation, with the exception of 10 Cabinet-level departments. Despite the language in the report of the committee, three Cabinet-level departments are not exempt from relocation—the Departments of Education, Health and Human Services, and Labor. And every Cabinet-level department is subject to the requirement in the bill that each agency prepare a written description of its principal office, and all offices which are not principal offices can be relocated out of Washington, DC.

This legislation will inevitably create fierce and unwanted competition between the District, Maryland, and Virginia. It is not clear and in my estimation is highly questionable as to whether this competition will result in any measurable savings to the Federal Government.

At stake are the jobs of 17,000 employees of independent agencies as well as 5,500 employees of Cabinet departments in leased space, and 19,000 employees of independent agencies in owned space in the District of Columbia.

This bill seems to overlook the fact that many independent Federal agencies occupy space owned by the Federal Government and absolutely no rental cost savings would be realized if agencies were relocated from that space.

The bill also fails to distinguish between the 53 independent agencies insofar as their significance and importance are concerned. Some agencies are more important than others and proximity to the seat of Government is more critical. The bill treats all of them the same, allowing for relocation.

The National Capital region is not the seat of Government as defined by the U.S. Constitution. The District of Columbia is the seat of Government.

I would suggest that before we adopt a blanket policy with the effect of rewriting well-established law, and before we perform radical surgery through the approach of the suspension calendar, that we consider why the national and historic principle of locating Federal agencies at the seat of Government was established in the first place, why it has survived the years, and whether it is prudent to change that policy now in the absence of a compelling case of cost saving and improved efficiency.

It seems to me that the process of considering executive agency relocations on a case-by-case basis as we have done in the past has worked and is imminently reasonable.

I urge a "no" vote on H.R. 2524.

Mr. MOLINARI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 2524, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

JUDICIARY OFFICE BUILDING DEVELOPMENT ACT

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1934) an act pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States, and for other purposes, as amended.

The Clerk read as follows:

S. 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judiciary Office Building Development Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings and declarations:

(1) Space for consolidation of activities of the Administrative Office of the United States Courts and other offices of the judicial branch of Government and for providing office space for retired justices of the Supreme Court is necessary and should be located in the vicinity of the Supreme Court building.

(2) Orderly development of the Capitol Grounds should be consistent with the Master Plan for the United States Capitol, dated 1981.

(3) The cost of leasing space by the judicial branch of the Government is high.

(4) Development of squares 721 and 722 in the District of Columbia is necessary to achieve the objectives of the Union Station Redevelopment Act and the revitalization of the Union Station area.

(5) The Judicial Conference of the United States endorsed by resolution the construction of an office building on the Capitol Grounds to house the Administrative Office of the United States Courts and related judicial branch offices.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To implement the report submitted to Congress by the Architect and the Secretary of Transportation under the Act of December 28, 1985 (99 Stat. 1749-1750), relating to the needs of the Federal judiciary for additional Federal office space.

(2) To authorize the Architect to acquire by lease space primarily for use by the judicial branch of the Government by entering into contracts for the design and construction of a building adjacent to Union Station.

(3) To ensure that the design and construction of such building will insofar as practicable result in a building which is efficient and economical and which provides visual testimony to the dignity, enterprise, vigor, and stability of the Federal Government.

SEC. 3. CONSTRUCTION OF BUILDING.

(a) SELECTION PROCESS.—

(1) GENERAL RULE.—The Architect, under the direction of the Commission and in accordance with such policies and procedures as the Architect shall establish, shall select in accordance with provision of this subsection a person to develop squares 721 and 722 (bounded by F Street, 2nd Street, Massachusetts Avenue, and Columbia Plaza, Northeast) in the District of Columbia.

(2) REVISION OF PROPOSALS.—Not later than 90 days after the date of the enactment of this Act, each of the 5 persons who submitted a proposal for development of squares 721 and 722 under the study conducted under the Act of December 28, 1985 (99 Stat. 1749-1750), which is one of the 5 proposals under consideration by the Architect may revise such proposal to take into account the objectives of this Act and resubmit such proposal to the Architect.

(3) SELECTION OF REVISED PROPOSAL.—Subject to paragraph (4), not later than 120 days after the date of the enactment of this Act, the Architect shall select one of the persons resubmitting a proposal under paragraph (2) to develop squares 721 and 722 in the District of Columbia.

(4) NONSUBMISSION OF REVISED PROPOSALS; PROTECTION OF UNITED STATES INTEREST.—If no proposal is resubmitted to the Architect under paragraph (2) in the 90-day period or if the Architect determines that none of the proposals resubmitted under paragraph (2) is in the best interests of the United States, the Architect shall conduct a competition for selection of a person to develop squares 721 and 722 in the District of Columbia. Such competition shall be conducted in accordance with such policies and procedures as the Architect may establish for a development competition.

(5) PURPOSE OF DEVELOPMENT.—The purpose of development of squares 721 and 722 is to provide office space for the Administrative Office of the United States Courts, the Federal Judicial Center, the Judicial Panel of Multidistrict Litigation, and the United States Sentencing Commission, chambers for retired justices of the Supreme Court, and other related offices of the judicial branch of the United States and other persons (including governmental entities).

(6) APPROVAL OF CHIEF JUSTICE.—All final decisions regarding architectural design of the building to be constructed under this Act shall be subject to the approval of the Chief Justice of the United States.

(7) PROHIBITION ON PAYMENTS FOR BIDS AND DESIGNS.—The Architect may not make any payment to any person for any bid or design proposal under any competition conducted under this subsection.

(8) LIMITATIONS.—

(A) SIZE OF BUILDING.—The building (excluding parking facilities) to be constructed under this Act may not exceed 520,000 gross square feet in size above the level of Columbia Plaza in the District of Columbia.

(B) HEIGHT OF BUILDING.—The height of the building and other improvements shall be compatible with the height of surrounding Government and historic buildings and conform to the provisions of the Act of June 1, 1910, commonly known as the Building Height Act of 1910 (36 Stat. 452).

(C) DESIGN.—The building and other improvements shall be designed in harmony with historical and Government buildings in the vicinity, shall reflect the symbolic importance and historic character of the United States Capitol and other buildings on the United States Capitol grounds, and shall represent the dignity and stability of the Federal Government.

(b) DEVELOPMENT AGREEMENT.—

(1) AUTHORITY TO ENTER.—The Architect may enter into with the person selected to develop squares 721 and 722 under subsection (a) an agreement for the development of such squares. Except as otherwise provided in this Act, such agreement shall provide for development of such squares substantially in accordance with (A) alternative D of the report to Congress entitled "The Study of Alternatives for the Construction of an Office Building(s) for the Administrative Office of the United States Courts", submitted to Congress on August 10, 1987, by the Architect and the Secretary of Transportation, and (B) the Master Plan for the United States Capitol, dated 1981.

(2) CONTENTS.—The development agreement under paragraph (1) shall at a minimum provide for the following:

(A) Except to the extent otherwise provided by this Act, all design, development, and construction costs incurred with respect to the building to be constructed under the agreement will be at no cost to the United States.

(B) Title to squares 721 and 722 will remain in the United States.

(C) Title to the building and other improvements constructed or otherwise made on or to squares 721 and 722 will immediately revert to the United States at the expiration of not more than 30 years from the effective date of the lease agreement entered into under section 4 without payment of any compensation by the United States.

(D) The building and other improvements constructed on or to squares 721 and 722 to be leased to the United States will be in accordance with the provisions of this Act and the lease agreement will contain such terms and conditions as may be prescribed by the Architect to carry out the objectives of this Act.

The agreement shall include a copy of the lease agreement entered into under section 4 by the Architect and the person selected to develop squares 721 and 722.

(c) CHILLED WATER AND STEAM FROM THE CAPITOL POWER PLANT.—

(1) AUTHORITY FOR HOOKUP TO CAPITOL POWER PLANT.—The building to be constructed under this Act may be connected to the Capitol Power Plant through construction of extensions to the chilled water and steam lines which serve Union Station. If such building is to be connected to the Capitol Power Plant, the agreement under subsection (b) between the Architect and the person selected to construct such building shall provide that such person will bear all costs associated with the installation of chilled water and steam lines to the building and shall reimburse the Union Station Redevelopment Corporation for an equitable share of the costs incurred by the Union Station Redevelopment Corporation in the construction of extensions of the chilled water and steam lines from such Plant to Union Station.

(2) FURNISHING OF CHILLED WATER AND STEAM FROM CAPITOL POWER PLANT.—If the building to be constructed under this Act is connected with the Capitol Power Plant pursuant to paragraph (1), the Architect shall furnish, on a reimbursable basis, chilled water and steam from such Plant to such building.

(d) CONSTRUCTION STANDARDS AND INSPECTIONS.—The building and other improvements constructed under this Act shall meet all standards applicable to construction of a Federal building. During construction, the Architect shall conduct periodic inspections of such building for the purpose of assuring that such standards are being met. Such building shall not be subject to any law of

the District of Columbia relating to building codes, permits, or inspection (including any such law enacted by Congress).

(e) APPLICABILITY OF CERTAIN LAWS.—The building and other improvements constructed under this Act shall not be subject to any law of the District of Columbia relating to real estate and personal property taxes, special assessments, or other taxes (including any such law enacted by Congress).

SEC. 4. LEASE OF BUILDING BY ARCHITECT OF THE CAPITOL.

(a) ENTRY INTO LEASE AGREEMENT.—Before the development agreement is entered into under section 3, the Architect shall enter into with the person selected to construct the building under this Act an agreement for the lease of such building by the Architect to carry out the objectives of this Act.

(b) TERMS OF LEASE AGREEMENT.—The agreement entered into under this section shall include at a minimum the following terms:

(1) The Architect will lease the building and other improvements for a term not to exceed 30 years from the effective date of such lease agreement.

(2) The rental rate per square foot of occupiable space for all space in the building and other improvements will be in the best interest of the United States and carry out the objectives of this Act, but in no case may the aggregate rental rate for all space in the building and other improvements produce an amount less than the amount necessary to amortize the cost of development of squares 721 and 722 over the term of the lease.

(3) Authority for the Architect to make space available and to sublease space in the building and other improvements in accordance with section 6 of this Act.

(c) ACCOUNTING SYSTEM.—The Architect shall maintain an accounting system for operation and maintenance of the building and other improvements to be constructed under this Act which will permit accurate projections of the dates and the costs of major repairs, improvements, reconstructions, and replacements of such building and improvements and other capital expenditures on such building and improvements.

(d) OBLIGATION OF FUNDS.—Obligation of funds for lease payments under this section may only be made on an annual basis and may only be made from the account established by section 9.

SEC. 5. STRUCTURAL AND MECHANICAL CARE AND SECURITY.

(a) STRUCTURAL AND MECHANICAL CARE.—Upon occupancy by the United States of the building and other improvements constructed under this Act, the structural and mechanical care and maintenance of such building and improvements (including the care and maintenance of the grounds of such building) shall be the responsibility of the Architect, under the direction of the Commission, in the same manner and to the same extent as the structural and mechanical care and maintenance of the United States Supreme Court Building under the Act of May 7, 1934 (48 Stat. 668; 40 U.S.C. 13a), and all other duties and work required for the operation and domestic care of such building and improvements shall be performed by the Architect, under the direction of the Commission.

(b) SECURITY.—

(1) GENERAL RULE.—The United States Capitol Police shall be responsible for all exterior and interior security of the building and other improvements constructed under this Act.

(2) AUTHORITY OF SUPREME COURT MARSHAL.—Nothing in this Act shall be construed to interfere with the obligation of the Marshal of the Supreme Court of the United States to protect justices, officers, employees, or other personnel of the Supreme Court who may occupy the building and other improvements.

(3) REIMBURSEMENT.—The Architect shall transfer from the account established by section 9 such amounts as may be necessary to reimburse the United States Capitol Police for expenses incurred in providing exterior and interior security under this subsection. The United States Capitol Police may accept amounts transferred by the Architect under this paragraph, and such amounts shall be credited to the appropriation account charged by the United States Capitol Police in executing the performance of security duties.

SEC. 6. ALLOCATION OF SPACE.

(a) GOVERNMENTAL ENTITIES.—

(1) JUDICIAL BRANCH.—Subject to the provisions of this section, the Architect shall make available, on a reimbursable basis, all space in the building and other improvements constructed under this Act to the judicial branch of the United States substantially in accordance with the report referred to in section 3(b)(1).

(2) OTHER.—Any space in the building and other improvements constructed under this Act which the Chief Justice determines is not needed by the judicial branch of the United States may be made available by the Architect, on a reimbursable basis, to Federal governmental entities which are not part of the judicial branch and which are not staff of Members of Congress or Congressional Committees.

(3) TERMS AND CONDITIONS.—Space made available under this subsection shall be subject to such terms and conditions as are necessary to carry out the objectives of this Act.

(4) REIMBURSEMENT RATE.—All space made available by the Architect under this subsection shall be subject to reimbursement at the rate established under section 4(b)(2) plus such amount as the Architect and—

(A) in the case of the judicial branch, the Director of the Administrative Office of the United States Courts, or

(B) in the case of any governmental entity not a part of the judicial branch, such entity,

determine is necessary to pay on an annual basis for the cost of administering the building and other improvements (including costs of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) which are attributable to such space.

(5) MEETING JUDICIAL BRANCH NEEDS.—

(A) IN GENERAL.—Whenever the Chief Justice notifies the Architect that the judicial branch of the United States requires additional space in the building and other improvements constructed under this Act, the Architect shall accommodate those requirements (i) in the case of space made available to the Administrator of General Services, by a date agreed upon under subparagraph (B), or (ii) in the case of space made available to any person or governmental entity (other than the General Services Administration), within 90 days after the date of such notification.

(B) SPACE AVAILABLE TO GSA.—In any case in which such additional space is provided from space in the building made available to the Administrator of General Services, the space shall be vacated expeditiously by not later than a date mutually agreed upon by the Chief Justice and the Administrator of General Services.

(C) UNOCCUPIED SPACE.—Whenever any space in the building is unoccupied, the Chief Justice shall have a right of first refusal to use such space to meet the needs of the judicial branch in accordance with this subsection.

(6) ASSIGNMENT OF SPACE WITHIN THE JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts may assign and reassign space made available to the judicial branch of the United States under this subsection among offices of the judicial branch as the Director deems appropriate.

(b) NONGOVERNMENTAL TENANTS.—

(1) GENERAL RULE.—Any space in the building and other improvements constructed under this Act which the Chief Justice determines is not needed by the judicial branch of the United States shall first be offered to other Federal governmental entities which are not staff of Members of Congress or Congressional Committees; and then, if any space remains, it may be subleased by the Architect, under the direction of the Commission, to any person.

(2) RENTAL RATE.—All space subleased by the Architect under this subsection shall be subject to reimbursement at a rate which is comparable to prevailing rental rates for similar facilities in the area but not less than the rate established under section 4(b)(2) plus such amount as the Architect and the person subleasing such space agree is necessary to pay on an annual basis for the cost of administering the building (including costs of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) which are attributable to such space.

(3) LIMITATION.—Subleases under this subsection must be compatible with the dignity and functions of the judicial branch offices housed in the building and must not unduly interfere with the activities and operations of the judicial branch agencies housed in the building. The provisions of section 4 of the Act of July 31, 1946 (60 Stat. 718; 40 U.S.C. 193d), and section 451 of the Legislative Reorganization Act of 1970 (84 Stat. 1193; 40 U.S.C. 193m-1) shall not apply to any space in the building and other improvements subleased to a non-Government tenant under this subsection.

(4) COLLECTION OF RENT.—The Architect shall collect rent for space subleased under this subsection.

(c) DEPOSIT OF RENT AND REIMBURSEMENTS.—All funds received under this subsection (including lease payments and reimbursements) shall be deposited into the account established by section 9.

SEC. 7. COMMISSION FOR JUDICIARY OFFICE BUILDING.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission for the Judiciary Office Building.

(b) MEMBERSHIP.—The Commission shall be composed of the following 13 members:

(1) Two individuals appointed by the Chief Justice from among justices of the Supreme Court and other judges of the United States (or their designees).

(2) The members of the House Office Building Commission (or their designees).

(3) The majority leader and minority leader of the Senate (or their designees).

(4) The Chairman and the ranking minority member of the Senate Committee on Rules and Administration (or their designees).

(5) The Chairman and the ranking minority member of the Senate Committee on Environment and Public Works (or their designees).

(6) The Chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives (or their designees).

(c) DUTIES.—The Commission shall be responsible for supervision of design, construction, operation, maintenance, structural, mechanical, and domestic care and security of the building to be constructed under this Act. The Commission shall from time to time prescribe rules and regulations to govern the actions of the Architect under this Act and to govern the use and occupancy of all space in such building.

(d) QUORUM.—Seven members of the Commission shall constitute a quorum.

SEC. 8. REPEAL OF DOT AUTHORITY.

Section 116(a)(2) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 816(a)(2)), relating to assignment of squares 721 and 722 to the Secretary of Transportation, is repealed.

SEC. 9. FUNDING.

(a) SEPARATE ACCOUNT.—There is established in the Treasury of the United States a separate account. Such account shall include all amounts deposited therein under section 6(c) and such amounts as may be appropriated thereto but not to exceed $2,000,000. Amounts in the account shall be available to the Architect for paying expenses for structural, mechanical, and domestic care, maintenance, operation, and utilities of the building and other improvements constructed under this Act, for reimbursing the United States Capitol Police for expenses incurred in providing exterior and interior security for the building and other improvements, for making lease payments under section 4, and for necessary personnel (including consultants).

(b) UNEXPENDED BALANCES OF FUNDS.—The unexpended balance of funds appropriated by the Urgent Supplemental Appropriations Act, 1986 under the heading "Study of Construction of Office Building" (100 Stat. 717) are transferred to the Architect on the date of the enactment of this Act. Such unexpended balance shall be available for design review, construction inspection, contract administration, and such other project related costs under this Act as the Architect may deem appropriate.

SEC. 10. DEFINITIONS.

As used in this Act—

(1) ARCHITECT.—The term "Architect" means the Architect of the Capitol.

(2) CHIEF JUSTICE.—The term "Chief Justice" means the Chief Justice of the United States or his designee; except that in any case in which there is a vacancy of the office of the Chief Justice of the United States, the most senior associate justice of the Supreme Court shall be treated as the Chief Justice of the United States for purposes of this Act until such time as such vacancy is filled.

(3) COMMISSION.—The term "Commission" means the Commission for the Judiciary Office Building established by section 7.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes and the gentleman from New York [Mr. MOLINARI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1934, commonly known as the Judiciary Office Building Development Act, is to provide for a building next to Union Station that would meet the current and future office space needs of the Administrative Office of the U.S. Courts, the Federal Judicial Center and other judicial functions.

This legislation is a result of a longstanding need of the U.S. Supreme Court and its related judicial support offices for expansion. It provides for the consolidation of some 800 employees of the judicial organizations which are currently housed in leased space at seven different locations. The Government leases 160,430 square feet of space for these offices at an average annual cost of $5,246,000. Moving these offices from expensive commercial lease space and closer to the Supreme Court at one location would certainly not only save taxpayers dollars but, it would also increase efficiency and productivity within the respective judicial offices.

On December 28, 1985, Congress approved Public Law 99-229 directing the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice, to study alternative approaches for providing a building next to Union Station. On August 7, 1987, the report was issued by the joint Directors. It recommended a 520,000-gross-square-foot building. It also advised that the project be built by a private developer. Private development appeared to best eliminate upfront congressional appropriations for the entire project. Rents to the judiciary will be paid at below market rates to take into account the value of the land, estimated at $34 to $41 million. Title to the land, which is part of the Capitol Grounds, would remain with the Government with title to the building reverting to the Federal Government in 30 years or less.

This legislation directs the Architect of the Capitol to select a developer/architect team to develop square 721 and 722 east of Union Station. After 120 days from enactment, the Architect shall select one from the five remaining finalists, or if no revision proposal is acceptable, a new competition shall be conducted.

This legislation sets up a 13-person Commission for the Judiciary Office Building to govern the conduct of the Architect. The Commission is composed of two individuals designated by the Supreme Court and 11 designated Members of the House and the Senate. The Architect is expected to work closely and will regularly consult with the Commission.

The bill provides for 750 parking spaces. Currently, most of square 721 and square 722 is made of about 500 parking spaces for the Senate staffers. The construction of the building is estimated to cost between $88 to $155 million. Consultants retained by the Architect estimated that over 30 years, $503 million would be saved by construction of this building over continued leasing. The committee report of this legislation emphasizes that the proposed judicial building should be compatible with other Government and historic buildings in that area. In addition, it must conform to provisions of the Building Height Act of 1910.

Mr. Speaker, lease costs for the Federal Government continue to rise. Rents in the National Capital region have increased by 30 percent over the last 2 years alone. The annual rental bill for the Federal Government will reach $2 billion by the end of the century. Over 90 percent of all Federal office leases will come up for renewal. Obviously, the Government needs to own more long-term office space buildings instead of leasing. The proposed judiciary building is one step toward correcting that need. I urge my colleagues to support this cost-effective and worthwhile legislation.

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Mr. Speaker, I reserve the balance of my time.

Mr. MOLINARI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1934 would authorize the Architect of the Capitol to enter into an agreement with a private developer to construct a building on land adjacent to Union Station for the current and future space needs of the Administrative Office of the Courts and other judicial organizations. The judiciary now has 800 employees scattered in 7 different locations. A judiciary office building at Union Station would avoid continued high-cost leasing and lead to greater efficiency and productivity at a location in close proximity to the Supreme Court.

This bill was passed by the Senate on June 7, 1988. The Subcommittee on Public Buildings and Grounds held hearings on the matter in October of last year and again on July 6, 1988. While the bill was introduced in the Senate, I believe it should be noted that we have worked closely with the Senate on this legislation for several months.

The judiciary building will be constructed on Capitol Grounds east of Union Station. The Architect of the Capitol, in conjunction with the Chief Justice and a new Commission of Judicial Representatives and Members of the House and Senate, will oversee a design/development competition. A preliminary competition has already been held with five developer/architect teams still under consideration.

Special emphasis has been placed on the design of this building, which will complete Columbus Circle and must complement the monumental character of Union Station and the old city post office.

The development agreement with the developer will lead to eventual Government ownership following lease payments for not more than 30 years. Rental rates will be below market rates as land costs are avoided. It is estimated from proposals submitted that rates would fall somewhere between $16 to $26 per square foot, depending on the developer selected. Economic consultants retained by the Architect of the Capitol have estimated that the Government will save up to $500 million over 30 years with this alternative rather than continuing the status quo of leasing high-cost space to house the judiciary. Construction costs are estimated to be from $88 to $115 million.

The judiciary will have first priority to space in this building, followed by Government agencies, other than personal staff of Members of Congress or staff of congressional committees, and if any space remains, private tenants to be charged market rates. Tenants will also be charged to cover such expenses as operational costs, domestic care and security.

While the building tenants will reimburse the Architect for costs once occupied, $700,000 in funds remaining from a previous appropriation to undertake a study on construction alternatives will be available to the Architect for costs of added duties and responsibilities before occupancy occurs. In addition, additional sums are authorized to be appropriated, if such a need is demonstrated.

I want to emphasize that the Commission for the Judiciary Office Building is to be kept informed and actively involved in overseeing the development of the property, as well as operation of the building in the future.

Mr. Speaker, the issue of an additional building for the judiciary has been discussed for many years. The master plan for the U.S. Capitol, prepared in 1981, proposes that a building for the judiciary be located on this site. Three years ago, Congress passed legislation ordering a study on construction alternatives for a judiciary building. Such a report was issued last August by the Architect of the Capitol and the Secretary of Transportation, with the support of Chief Justice William Rehnquist. The legislation we are considering today is modeled after the recommendations of that report. I would also note that former Chief Justice Warren Burger has also been actively involved and supportive of this proposal.

With passage of S. 1934, we will consolidate the judiciary, avoid dramatically increasing leasing costs, and contribute a magnificent building to complete Columbus Circle, with the old city post office to the west of Union Station, and the new judiciary office building to the east.

I urge my colleagues to support this important bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my support for S. 1934, which would provide for the construction of a building to house the Administrative Office of the Courts and other related agencies.

A private developer will construct the building on the Capitol Grounds located east of Union Station. Following not more than 30 years of payments to the developer in an amount necessary to amortize the cost of development, the Government will gain title to the building. Title to the land, of course, will remain with the Government.

Because the building will be constructed on Capitol Grounds, land and associated costs will be avoided, thus allowing rents for the space for the judiciary and other Government agencies which may occupy the building to be lower than current market rates.

While the Architect of the Capitol will be responsible for the selection of a developer/architect team and then management of the building, it is expected that he will work closely with the newly created Commission for the Judiciary Office Building.

This 13-member Commission is comprised of 2 individuals appointed by the Chief Justice, as well as designated Members of the House and Senate.

Mr. Speaker, the Judiciary Office Building will achieve several goals. The Administrative Office of the Courts will be consolidated in close proximity to the Supreme Court, costly leased space will be released, and we will complete Columbus Circle with a building designed to complement Union Station and the Old City Post Office.

This legislation is the culmination of several years of consideration and it is the result of close cooperation between the House and Senate Public Works Committees, the Architect of the Capitol, the Department of Transportation, and the judiciary—including Chief Justice William Rehnquist and former Chief Justice Warren Burger, as well as the Director of the Administrative Office of the Courts.

Mr. Speaker, S. 1934 deserves the support of the House today.

Mr. MOLINARI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the Senate bill, S. 1934, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1934, the Senate bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1988

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5263) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, and to make supplemental authorization of appropriations for the Board of International Broadcasting.

The Clerk read as follows:

H.R. 5263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC 101. SHORT TITLE.

This title may be cited as the "Overseas Private Investment Corporation Amendments Act of 1988".

SEC. 102. UPDATING INCOME LEVELS; CARIBBEAN BASIN EXCEPTION.

Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended in paragraph (2) of the second undesignated paragraph—

(1) by striking out "$896 or less in 1983 United States dollars" and inserting in lieu thereof "$984 or less in 1986 United States dollars"; and

(2) by striking out "$3,887 or more in 1983 United States dollars" and inserting in lieu thereof "$4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702))".

SEC. 103. FINANCING DEVELOPMENTAL TECHNOLOGY AND PRODUCTS.

Section 234(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2194(c)) is amended by inserting after the first paragraph the following new paragraph:

"The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.".

SEC. 104. PILOT PROGRAM OF EQUITY FINANCING IN AFRICA AND CARIBBEAN BASIN.

Section 234 of the Foreign Assistance Act of 1961 (22 U.S.C. 2194) is amended—

(1) in subsection (c) by striking out the second and third sentences;

(2) in subsection (f) by striking out the first sentence of the last paragraph; and

(3) by adding at the end thereof the following new subsection:

"(g) PILOT EQUITY FINANCE PROGRAM.—

"(1) AUTHORITY FOR PILOT PROGRAM.—In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to establish a 4-year pilot program under which it may, on the limited basis prescribed in paragraphs (2) through (5), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this title, except that—

"(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

"(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

"(2) LIMITATION TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN.—Equity investments may be made under this subsection only in projects in countries eligible for financing under this title that are countries in sub-Saharan Africa or countries designated as beneficiary countries under section 212 of the Caribbean Basin Economy Recovery Act.

"(3) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

"(4) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

"(5) CREATION OF FUND FROM CORPORATE REVENUES.—The Corporation is authorized to establish a fund to be available solely for the purposes specified in this subsection and to make a one-time transfer to the fund of $10,000,000 from its income and revenues.

"(6) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.".

SEC. 105. ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.

(a) COOPERATIVE PROGRAMS.—Section 234A of the Foreign Assistance Act of 1961 (22 U.S.C. 2194A) is amended to read as follows:

"SEC. 234A. ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.

"(a) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this title, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

"(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

"(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

"(3) Notwithstanding section 237(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

"(b) ADVISORY GROUP.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

"(A) Up to seven persons from the private political risk insurance industry, of whom no fewer than two shall represent private political risk insurers, one shall represent private political risk reinsurers, and one shall represent insurance or reinsurance brokerage firms.

"(B) Up to four persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

"(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(3) MEETINGS.—The advisory group shall meet not later than September 30, 1989, and at least annually thereafter. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

(b) REPORT ON COOPERATION WITH PRIVATE SECTOR.—(1) Section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a) is amended—

(A) by redesignating subsection (e) as subsection (f); and

(B) by inserting after subsection (d) the following:

"(e) Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 234A(a), including the following information, to the extent such information is available to the Corporation:

"(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this title.

"(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this title.

"(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.".

(2) Subsection (f) of such section (as redesignated by paragraph (1) of this subsection) is amended by striking out "(c)" and inserting in lieu thereof "(e)".

SEC. 106. RAISING CEILING ON INVESTMENT GUARANTIES.

Section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)) is amended by striking out "$1,000,000,000" and inserting in lieu thereof "$1,500,000,000".

SEC. 107. EXTENDING ISSUING AUTHORITY.

Section 235(a)(6) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(6)) is amended by striking out "1988" and inserting in lieu thereof "1992".

SEC. 108. ELIGIBILITY OF ROMANIA FOR OPIC PROGRAMS.

Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by striking out ", Romania,".

SEC. 109. SMALL AND MINORITY-OWNED BUSINESSES.

(a) FINDINGS.—The Congress finds that—

(1) the Overseas Private Investment Corporation has a consistent record of encouraging United States business investment in the world's developing countries; 62 percent of the open projects supported by the Corporation during fiscal year 1987 were located in the poorest of developing countries; and

(2) United States small businesses participated in 34 percent of the open projects supported by the Corporation during fiscal year 1987.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Overseas Private Investment Corporation should continue to encourage United States small businesses to invest in the world's developing countries; and

(2) the Corporation should continue to encourage United States small businesses that are minority-owned to invest in the world's developing countries as these businesses are well suited to the economic and social development needs of such countries.

SEC. 110. TECHNICAL AMENDMENTS.

(a) ENVIRONMENTAL CONSIDERATIONS.—(1) Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended in paragraph (3)—

(A) by striking out "sections 118 and" and inserting in lieu thereof "section 117 (as so redesignated by the Special Foreign Assistance Act of 1986), section 118, and section"; and

(B) by striking out "biological diversity" and inserting in lieu thereof "tropical forests and endangered species".

(2) Section 239(g) of that Act (22 U.S.C. 2199(g)) is amended by striking out "118(c)" and inserting in lieu thereof "117(c)".

(b) Reporting Requirement.—Section 240A of that Act (22 U.S.C. 2200A) is amended—

(1) by repealing subsection (c); and

(2) in subsection (d)—

(A) in paragraph (1) by inserting after "subsection (c)" the following: "(as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988)"; and

(B) in paragraph (2) by striking out "by either subsection (b) or (c)" and inserting in lieu thereof "either by subsection (b), or by subsection (c) (as in effect before the enactment of that Act)".

(c) Conforming Amendment.—The section caption for section 237 of that Act (22 U.S.C. 2197) is amended by striking out "and Guaranty" and inserting "Guaranty, and Financing".

SEC. 111. OPIC PROGRAMS IN HAITI.

Prohibitions on United States assistance for Haiti during fiscal year 1988 shall not be construed to apply with respect to the Overseas Private Investment Corporation unless the prohibition specifically states that it applies with respect to the Overseas Private Investment Corporation.

TITLE II—BOARD FOR INTERNATIONAL BROADCASTING

SEC. 201. RADIO TRANSMITTER CONSTRUCTION AND MODERNIZATION.

Section 501(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (101 Stat. 1383) is amended to read as follows:

"(b) Authorization of Appropriations for Radio Transmitter Construction and Modernization.—Section 8 of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877) is amended by adding at the end thereof the following:

'(d) In addition to amounts authorized to be appropriated under subsection (a)(1)(A), there is authorized to be appropriated without fiscal year limitation $24,000,000 to the Board for International Broadcasting for radio transmitter construction and modernization.'".

SEC. 202. BROADCASTING RELAY STATION IN ISRAEL.

There are authorized to be appropriated to the Board for International Broadcasting such sums as may be necessary for the costs associated with construction of a relay station in Israel. Amounts appropriated under this section are authorized to be made available until expended.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. Mica] will be recognized for 20 minutes and the gentleman from Iowa [Mr. Leach] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Mica].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MICA asked and was given permission to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I rise in support of H.R. 5263, reauthorizing the activities of the Overseas Private Investment Corporation and making supplemental authorizations of appropriations for the Board for International Broadcasting. This legislation is brought before the House today as a purely procedural matter, as a way to provide the Senate with a second vehicle to renew the basic authorities of the Overseas Private Investment Corporation.

As Members will recall, in May the House passed H.R. 4471, reauthorizing OPIC. In passing that bill, the House attached as title III the text of H.R. 3100, the foreign aid bill which had passed the House in 1987 but had yet to be considered in the Senate.

This bill, H.R. 5263, includes titles I and II of H.R. 4471 as it passed the House, but not title III.

Just to refresh Members of the contents of this bill, title I extends OPIC's authorities for 3 years, creates a 4-year pilot program for equity investment in projects in the Caribbean and Africa, raises the contingent liability ceiling to $1.5 billion, and permits up to 25 percent of loan proceeds to be used for technology adaptation in the United States.

Title II authorizes $24 million in no-year funding for radio construction and modernization by the Board for International Broadcasting, and authorizes such sums as may be necessary for the construction of a broadcasting relay station in Israel.

As H.R. 5263 simply provides the Senate with an alternative vehicle for enacting this legislation which has already passed the House, I urge Members to support adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LEACH of Iowa asked and was given permission to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, the Overseas Private Investment Corporation, which was created in the 1960's, primarily provides political risk insurance for U.S. business ventures in the Third World.

Through this role, it has also served as an economic development agency that has promoted growth in the neediest parts of the world. By removing the political uncertainty of projects in these developing nations, OPIC has harnessed the power of the U.S. private sector to help them grow economically. By working with U.S. businesses, it has also enhanced business opportunities and promoted U.S. exports. OPIC has therefore implemented some of the United States' most important global development goals, and in many ways should be considered as a model for foreign assistance programs.

OPIC has performed well under its mandate, and—unusual for a Federal agency—operates under a surplus. It started off with $106 million in taxpayers' money and has long since returned it. OPIC is not only self-sustaining in its operations, but has also, from time to time, returned money to the Treasury.

By any standard, the Overseas Private Investment Corporation deserves to be reauthorized.

In addition this bill authorizes emergency funding support for Radio Free Europe and Radio Liberty, and authorizes the continuation of construction of a relay transmitter in the Arova Valley in Israel.

I urge my colleagues to vote for passage of this bill.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5263, reauthorizing the activities of the Overseas Private Investment Corporation, and making supplemental authorizations of appropriations for the Board for International Broadcasting. I would like to commend the chairmen of the Subcommittees on International Operations and on International Economic Policy and Trade, Mr. Mica and Mr. Bonker, for their efforts in putting together this legislation.

As Members will remember, when the House considered this legislation earlier in the year, the foreign aid bill, which had passed the House earlier, was attached as an amendment in an effort to get the foreign aid bill to conference. The legislation before the House today is identical to the measure that passed the House, but does not contain the foreign aid bill. We are hopeful that by sending a clean OPIC bill to the other body, they will be able to act on it before the end of the session.

As this is basically a procedural matter, I would urge my colleagues to support this legislation.

Mr. LEACH of Iowa. I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Mica] that the House suspend the rules and pass the bill, H.R. 5263.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and exend their remarks on H.R. 5263, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

EXPRESSING SENSE OF CONGRESS REGARDING CONTRIBUTIONS OF JOHN FOSTER DULLES IN INTERNATIONAL AFFAIRS

Mr. MICA. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 102) to express the sense of the Congress regarding the contributions of John Foster Dulles in international affairs.

The Clerk read as follows:

S. CON. RES. 102

Whereas February 25, 1988, marked the 100th anniversary of the birth of John Foster Dulles, a commanding Secretary of State who confronted issues his Nation had not previously faced: the changing configuration of power in the nuclear age and relations with other nations, the links between national economic structures, competing systems of government and ideology, and the dilemmas posed by great power status for a democratic society;

Whereas John Foster Dulles has, in his contributions to the peace of reconciliation through the treaty with Japan and the securing of the Austrian State Treaty, and in his steadfast support of a bipartisan approach to foreign policy as exemplified by his advocacy of the North Atlantic Treaty Organization and the Marshall Plan, served the highest calling of creativity and dedication in international relations;

Whereas on the anniversary of his birth, Princeton University convened a conference—bringing together a unique combination of scholars of diplomatic history, journalists, associates of Dulles, and practitioners of the craft of diplomacy—to evaluate Dulles's contributions to America's international policies and to explore the many parallels between international affairs today and during the period in which Dulles played a creative role in shaping international policy; and

Whereas Princeton University has initiated a program of research, study, and publication addressing leadership in international affairs named for John Foster Dulles, using the resources of the Dulles Diplomatic Library at Princeton and linking it to the Woodrow Wilson School's Center of International Studies for the purpose of supporting the efforts of graduate students, scholars early in their careers, and visiting scholars from other countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, on the centennial of the birth of the statesman of the nuclear age, John Foster Dulles, Americans should examine the contributions of John Foster Dulles in international affairs and the importance of his leadership in international affairs and should study our Nation's past in order to gain insight and inspiration in meeting the challenges that are strikingly similar to those faced by John Foster Dulles.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. MICA] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Congressional Resolution 102, expressing the sense of the Congress regarding John Foster Dulles' contributions in international affairs.

John Foster Dulles was one of the outstanding statesmen of this century. As Secretary of State in a particularly difficult period in American history, one in which the specter of global nuclear confrontation first appeared, he showed creativity combined with unswering dedication in carrying out the duties of his high office. His list of accomplishments is long, including the securing of the Austrian State Treaty, reconciliation with Japan, and his support for the creation of the North Atlantic Treaty Organization and the Marshall Plan.

In honor of the anniversary of the birth of John Foster Dulles, Princeton University convened a conference of scholars and diplomats to evaluate the contributions of John Foster Dulles in international affairs. In addition, a program of study for graduate, undergraduate, and foreign students has been instituted at Princeton in the name of John Foster Dulles. Princeton should be commended for these efforts.

Mr. Speaker, I would like to commend my colleague from Iowa, Mr. LEACH, for his efforts in bringing this resolution before the House. This resolution is straightforward, commending the efforts of one of America's foremost statesmen, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House has before it today a concurrent resolution expressing the sense of the Congress that it is appropriate for Americans to observe the centennial of the birth of John Foster Dulles by examining his contributions to the formulation of the foreign policy of this Nation. The resolution also notes that a program has been initiated at Princeton University to study the leadership provided by Secretary Dulles in foreign affairs. At the request of Mr. PELL, Mr. SARBANES, and Mr. BOND, Senate Concurrent Resolution 102 was passed by the Senate on March 4, 1988. At the cobehest of Mr. JAMIE CLARK (the gentleman from North Carolina) and myself, I would like to encourage the House to do the same.

History has taught that it is improbable for man to meet successfully the challenges of the present without reflecting on the past, on the circumstances that created them. This is certainly the case regarding John Foster Dulles. Whatever one's assessment of his career, he served in the high reaches of our Government at a time of unprecedented change. Present at the dawn of the nuclear age, he participated in setting this country's course when it found itself confronted with the dilemmas posed by great power status in a war-torn world.

Dulles' contributions to the treaty with Japan ending the Second World War, to the Austrian State Treaty, to the formation of NATO and the implementation of the Marshall Plan are part of an extraordinary legacy.

Mr. Speaker, I encourage my colleagues to support this resolution calling on scholars and the public to reflect on the life and times of one of the giants of the 20th century.

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Concurrent Resolution 102, expressing the sense of the Congress with respect to the contributions of John Foster Dulles in International Affairs.

The resolution rightfully recognizes the significant diplomatic and foreign policy contributions of former Secretary of State John Foster Dulles. Secretary Dulles presided over a particularly difficult era in our history. The 1950's represented the first decade of American global leadership and imposed new responsibilities of American foreign policy heretofore unknown to American policymakers.

Secretary Dulles provided strong leadership during this period. This resolution appropriately notes Secretary Dulles foreign policy contributions and it is fitting to recognize his service to the Nation on the 100th anniversary of his birth.

I would like to commend the gentleman from Iowa [Mr. LEACH] for helping to bring this matter to the floor and I urge adoption of the resolution.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 102).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 102, the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

U.S. INFORMATION AGENCY AMENDMENTS ACT OF 1988

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2365) authorizing the release of 86 U.S. Information Agency films with repect to the Marshall plan, as amended.

The Clerk read as follows:

S. 2365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—UNITED STATES INFORMATION AGENCY

SEC. 101. SHORT TITLE.

This title may be cited as the "United States Information Agency Amendments Act of 1988".

SEC. 102. DISSEMINATION IN THE UNITED STATES OF MATERIAL PREPARED FOR DISSEMINATION ABROAD.

Section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) is amended—

(1) by inserting "(a)" after "501."; and

(2) by adding after subsection (a) (as designated in paragraph (1)) the following new subsection:

"(b) Motion pictures, films, and other material prepared for dissemination abroad shall be available for use in the United States 12 years after the initial dissemination of such material outside the United States, or in the case of material not disseminated abroad, 12 years after the preparation of such material. The Archivist of the United States shall be the official custodian of material made available under this subsection. The Archivist of the United States shall issue necessary regulations to ensure that persons seeking domestic release of motion pictures, films, and other material made available under this subsection have secured necessary licenses and that costs associated with making master copies of any such material shall be paid by the person seeking domestic release of such material. The National Archives and Records Administration may charge fees for copies made under this subsection in accordance with section 2116(c) of title 44, United States Code. Fees collected by the National Archives and Records Administration under this subsection shall be paid into, administered, and expended as part of the National Archives Trust Fund.".

SEC. 103. AUDIENCE SURVEY OF WORLDNET PROGRAM IN NON-EUROPEAN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS FOR AUDIENCE SURVEYS IN NON-EUROPEAN COUNTRIES.—The Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (hereafter in this section referred to as "the Act") is amended in section 209(a) by adding at the end thereof the following: "Of the funds authorized to be appropriated for USIA's Worldnet Program by section 201(2), not less than $100,000 for the fiscal year 1989 shall be available only for the purpose of conducting market surveys in non-European countries of USIA's Worldnet programming.".

(b) QUALIFICATIONS OF SURVEYOR.—Section 209(b) of the Act is amended to read as follows:

"(b) QUALIFICATIONS OF SURVEYOR.—Such surveys shall be conducted by market survey companies which have a long-established reputation for objective survey research.".

(c) REPORTS.—Section 209(c) of the Act is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" before "Not later"; and

(3) by adding after paragraph (1) (as so designated by this subsection) the following new paragraph:

"(2) Not later than March 1, 1989, the Director of the United States Information Agency shall submit to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives—

"(A) a report containing the best estimate by the companies performing the audience surveys of the average daily audience of the passive (noninteractive) programs of USIA's Worldnet television service in selected non-European countries; and

"(B) a report on efforts of the Director to include as part of Worldnet's daily service American commercial and public broadcasting news and features programs.".

(d) LIMITATION.—Section 209(e) of the Act is amended—

(1) by striking "October 1, 1988," and inserting "October 1, 1989,";

(2) by striking in paragraph (1) "the survey required by this section has" and inserting "the surveys required by this section have";

(3) by striking in paragraph (2) "the report required by this section, along with a copy of the survey results, has" and inserting "the reports required by this section, along with copies of the survey results have"; and

(4) by striking in paragraph (3) "the survey shows with a high degree of reliability that the average daily European audience" and inserting "the surveys show with a high degree of reliability that the average daily audience in Europe and in selected non-European countries".

TITLE II—ANTITERRORISM AND ARMS EXPORT AMENDMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Antiterrorism and Arms Export Amendments Act of 1988".

SEC. 202. PROHIBITION ON ARMS TRANSACTIONS WITH COUNTRIES SUPPORTING TERRORISM.

(a) PROHIBITION.—Section 40 of the Arms Export Control Act (22 U.S.C. 2780) is amended to read as follows:

"SEC. 40. TRANSACTIONS WITH COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

"(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

"(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

"(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

"(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

"(2) Providing credits, guarantees, or other financial assistance under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

"(3) Consenting under section 3(a) of this Act, under section 505(a) of the Foreign Assistance Act of 1961, under the regulations issued to carry out section 38 of this Act, or under any other law (except as provided in subsection (h)), to any transfer of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

"(4) Providing any license or other approval under section 38 of this Act for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

"(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

"(A) by any department, agency, or other instrumentality of the Government,

"(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

"(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

"(b) PROHIBITED TRANSACTIONS BY UNITED STATES PERSONS.—

"(1) IN GENERAL.—A United States person may not take any of the following actions:

"(A) Exporting any munitions item to any country described in subsection (d).

"(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

"(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item will be made available to any country described in subsection (d).

"(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

"(2) LIABILITY FOR ACTIONS OF FOREIGN SUBSIDIARIES, ETC.—A United States person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue) takes an action described in paragraph (1) outside the United States.

"(3) APPLICABILITY TO ACTIONS OUTSIDE THE UNITED STATES.—Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3)(A) or (B). To the extent provided in regulations issued under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United States by a person designated as a United States person in those regulations.

"(c) TRANSFERS TO GOVERNMENTS AND PERSONS COVERED.—This section applies with respect to—

"(1) the acquisition of munitions items by the government of a country described in subsection (d); and

"(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

"(d) COUNTRIES COVERED BY PROHIBITION.—The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism, taking into account such factors as whether that government grants sanctuary from prosecution or apprehension to an individual or group which has committed an act of international terrorism.

"(e) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

"(f) RESCISSION.—A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in leadership and character of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in paragraph (2), the term 'legislative day' means a day on which both Houses of Congress are in session.

"(g) WAIVER.—The President may waive the prohibitions contained in this section with respect to a specific transaction if—

"(1) the President determines that the transaction is vital to the national security interests of the United States; and

"(2) not less than 15 days prior to the proposed transaction, the President—

"(A) consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

"(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

"(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

"(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

"(iii) the reasons why the proposed transaction is vital to the national security interests of the United States and the justification for such proposed transaction;

"(iv) the date on which the proposed transaction is expected to occur; and

"(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

"(h) EXEMPTION FOR TRANSACTIONS SUBJECT TO NATIONAL SECURITY ACT REPORTING REQUIREMENTS.—The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

"(i) RELATION TO OTHER LAWS.—

"(1) IN GENERAL.—The provisions of this section shall apply notwithstanding any other provision of law, except as provided in paragraph (2).

"(2) SECTION 614(A) WAIVER AUTHORITY.—The authority of section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)) may be used to permit a transaction under the Foreign Assistance Act of 1961 or the Arms Export Control Act which is otherwise prohibited by this section provided—

"(A) there are exceptional circumstances where time is of the essence which require that the provisions of this section be waived without complying with the requirement of subsection (g) of this section that there be a 15-day period of advance consultation and reporting;

"(B) the President begins the consultation with the Congress (required by section 614(a)) as soon as the President determines to exercise the authority of section 614(a), but not less than 24 hours before that authority is exercised;

"(C) the President submits the report described in subsection (g)(2)(B) of this section not less than 24 hours before that authority is exercised; and

"(D) all of the requirements of section 614(a) are otherwise fully met.

"(j) CRIMINAL PENALTY.—Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 10 years, or both.

"(k) CIVIL PENALTIES; ENFORCEMENT.—In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979 (subject to the same terms and conditions as are applicable to such powers under that Act), except that, notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

"(l) DEFINITIONS.—As used in this section—

"(1) the term 'munitions item' means any item enumerated on the United States Munitions list (without regard to whether the item is imported into or exported from the United States);

"(2) the term 'United States', when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

"(3) the term 'United States person' means—

"(A) any citizen or permanent resident alien of the United States;

"(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

"(C) any other person with respect to that person's actions while in the United States; and

"(D) to the extent provided in regulations issued by the Secretary of State, any person that is not described in subparagraph (A), (B), or (C) but—

"(i) is a foreign subsidiary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with those regulations), or

"(ii) is otherwise subject to the jurisdiction of the United States,

with respect to that person's actions while outside the United States.".

(b) CONFORMING AMENDMENT.—Section 3(f) of the Arms Export Control Act (22 U.S.C. 2753(f)) is repealed.

SEC. 203. CONSIDERATIONS IN ISSUANCE OF ARMS EXPORT LICENSES AND IN ARMS SALES.

(a) Export Licenses.—Section 38(a)(2) of the Arms Export Control Act (22 U.S.C. 2778) is amended by inserting "support international terrorism," after "arms race,".

(b) Arms Sales.—Section 36(b)(1)(D) of that Act (22 U.S.C. 2776(b)(1)(D)) is amended—

(1) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively; and

(2) by inserting the following new clause (ii) after clause (i):

"(ii) support international terrorism;".

SEC. 204. EXPORTS TO COUNTRIES SUPPORTING TERRORISM.

Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App 2405(j)) is amended to read as follows:

"(j) Countries Supporting International Terrorism.—(1) A validated license shall be required for the export of goods or technology to a country if the Secretary of State has made the following determinations:

"(A) The government of such country has repeatedly provided support for acts of international terrorism, taking into account such factors as whether that government grants sanctuary from prosecution or apprehension to an individual or group which has committed an act of international terrorism.

"(B) The export of such goods or technology could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

"(2) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any validated license required by paragraph (1).

"(3) Each determination of the Secretary of State under paragraph (1)(A), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1988, shall be published in the Federal Register.

"(4) A determination made by the Secretary of State under paragraph (1)(A) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

"(A) before the proposed rescission would take effect, a report certifying that—

"(i) there has been a fundamental change in leadership and character of the government of the country concerned;

"(ii) that government is not supporting acts of international terrorism; and

"(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(B) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in subparagraph (B), the term 'legislative day' means a day on which both Houses of Congress are in session.".

SEC. 205. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) is amended to read as follows:

"SEC. 620A. PROHIBITION ON ASSISTANCE TO GOVERNMENTS SUPPORTING INTERNATIONAL TERRORISM.

"(a) Prohibition.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism, taking into account such factors as whether that government grants sanctuary from prosecution or apprehension to an individual or group which has committed an act of international terrorism.

"(b) Publication of Determinations.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1988, shall be published in the Federal Register.

"(c) Rescission.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in leadership and character of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in paragraph (2), the term 'legislative day' means a day on which both Houses of Congress are in session.

"(d) Waiver.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

"(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under part II of this Act (including chapter 4, chapter 6, and chapter 8), or the Export-Import Bank Act; and

"(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

"(A) the name of the recipient country;

"(B) a description of the national security interests or humanitarian reasons which require the waiver;

"(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

"(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under the Foreign Assistance Act of 1961 which is also prohibited by section 40 of the Arms Export Control Act.".

SEC. 206. DESIGNATION OF ITEMS ON THE MUNITIONS LIST.

Section 38 of the Arms Export Control Act (22 U.S.C. 2278) is amended by adding at the end the following:

"(h) The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall be final and conclusive for purposes of this section and section 40 and shall not be subject to judicial review.".

SEC. 207. QUARTERLY REPORTS ON THIRD COUNTRY TRANSFERS AND ON DOD TRANSFERS TO OTHER AGENCIES.

(a) Quarterly Reports.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (9) the following:

"(10) a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the quarter for which such report is submitted, for purposes of section 3(a)(2) of this Act, the regulations issued under section 38 of this Act, or section 505(a)(1)(B) of the Foreign Assistance Act of 1961, if the value (in terms of original acquisition cost) of the defense articles or defense services to be transferred is $1,000,000 or more; and

"(11) a listing of all munitions items (as defined in section 40(l)(1)) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the quarter for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if—

"(A) the value of the munitions items was $250,000 or more; or

"(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).".

(b) Classification of Reports.—That section is amended in the parenthetical clause in the text preceding paragraph (1) by inserting ", and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum" after "(b)(1) of this section".

SEC. 208. SPECIAL AUTHORITIES.

The second sentence of section 614(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(c)) is amended to read as follows: "The President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection prior to the use of such funds.".

SEC. 209. HOSTAGE ACT.

Section 2001 of the Revised Statutes of the United States (22 U.S.C. 1732) is amended by inserting "and not otherwise prohibited by law" after "acts of war".

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

The was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. MICA] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

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Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2365, authorizing the release of 86 U.S. Information Agency films with respect to the Marshall plan, and for other purposes, as amended.

As Members are painfully aware, periodically the Committee on Foreign Affairs passes legislation authorizing the distribution of USIA films within the United States, as the bill before us does. However, we have taken the opportunity in this legislation to partially address the problem of needing an act of Congress to release these materials every time it becomes necessary. The bill before the House today therefore provides a system whereby films that have been distributed outside the United States more than 12 years ago, or films that are over 12 years old and have never been distributed, may be released in the United States. This system is similar to that used in releasing Presidential documents. While this does not address the release problem in its entirety, I believe this partial remedy is long overdue.

In addition, S. 2365, as amended, contains a provision temporarily extending the operations of Worldnet's passive programming in Europe. As Members may recall, last year in the Department of State authorization a provision was added which required an independent market study of the audience of Worldnet's passive programs in Europe. That provision terminated this programming if the survey did not show an audience of 2 million people. While I believe viewership should be a criterion for measuring the success of such a program, I do not believe it should be the sole determining factor in terminating these broadcasts.

Finally, S. 2365, as amended, contains the text of H.R. 3651, the antiterrorism and arms export amendments, which passed the House on May 24 of this year. H.R. 3651 strengthens and clarifies prohibitions on the export of military arms and equipment and the provision of other assistance to countries which have been placed on the Secretary of State's list of terrorist countries, and impose stiff criminal and civil penalties for those who violate these prohibitions. Once again, this is a purely procedural amendment designed to give the other body another opportunity to act on this legislation as we near the final days of this session.

I urge the adoption of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the substitute for S. 2365.

S. 2365 as originally drafted would have permitted the release of certain films on the Marshall plan which were produced many years ago by the U.S. Information Agency [USIA].

In the substitute, this provision has been expanded to permit the Archivist of the United States to release USIA films and other materials to the public after 12 years. The public has a legitimate interest in these materials, and after 12 years the danger that they might influence the domestic political process will be past.

This provision will also obviate the necessity of passing special legislation in the future, as in the past, whenever there was a desire to have certain USIA material made publicly available.

The substitute also contains a separate title, added at the request of Mr. BROOMFIELD, that would permit continued operation of USIA's Worldnet television project. It would amend current law that could have prevented continuation of this potentially valuable service, and provide for additional information to be obtained that will permit further legislative consideration of its merits next year.

Information already submitted by USIA at congressional direction revealed that the Worldnet European service already reaches nearly 235,000 people. The program shows special promise in the Third World, however, and the provisions in the bill would direct USIA to provide further information on the potential there.

Finally, Mr. Speaker, the substitute contains the text of H.R. 3651, the Berman-Hyde bill which has already passed the House. This portion, entitled the Anti-Terrorism and Arms Export Control Amendments of 1988, will make useful and valuable changes to the Arms Export Control Act and other laws.

These amendments will help ensure that countries which sponsor international terrorism do not receive any form of military assistance, including arms and other controlled goods, from the United States. Adding this title to the present bill will assist in securing consideration of this important initiative by the Senate.

Mr. Speaker, this bill contains several worthwhile provisions. I hope that it will receive wide support.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, title II of S. 2365 is a provision which is identical to H.R. 3651, the Anti-Terrorism and Arms Export Amendments Act of 1988, which unanimously passed the House of Representatives on May 24, 1988. H.R. 3651 passed with broad bipartisan support aided by the active leadership of Chairman DANTE FASCELL, and Representatives LEE HAMILTON and HENRY HYDE. I am very grateful for their wise contributions at every juncture of this legislation's development.

The Anti-Terrorism and Arms Export Amendments Act of 1988 reaffirmed, strengthened, and clarified this Nation's prohibition on exports of military weapons and equipment to countries which have been designated by the Secretary of State as supporters of international terrorism. It imposed new criminal penalities on violators of the prohibition. H.R. 3651 also required more detailed and frequent reporting by the executive of arms exports.

H.R. 3651, which is the new title II of S. 2365, is largely a restatement of existing law. Its intent is to close potential loopholes and revise certain existing provisions to ensure that uniform standards are present in the U.S. Code. Over the years, Federal law has absorbed overlapping standards that can lead to confusion and misinterpretation. For example, there is no single standard in the law for:

First, determining whether a country supports international terrorism;

Second, identifying which U.S. official should make that determination;

Third, identifying which arms are subject to restrictions;

Fourth, identifying the criteria that empower the President to waive statutory restrictions; and

Fifth, adequately informing Congress of arms exports, including covert exports.

The inconsistent provisions do not make good law either for the U.S. Government, witness the Iran arms transactions, or for private American citizens who look to the law for guidance. H.R. 3651 seeks to correct there inconsistencies.

Those pages of the Congressional Record which comprise the debate of H.R. 3651, on May 24, 1988 are H3561 to H3569. The debate includes several colloquies: Between Chairman Fascell and Chairman Stokes, on the subject of the reporting of intelligence transfers of munitions items; between myself and Mr. Hyde, on the subject of the use of the waiver authority of section 614(A) of the Foreign Assistance Act pursuant to section 40(i) of the Arms Export Control Act; and another between Mr. Hyde and myself on the subject of the interpretation of the law's application to diplomatic activity.

Mr. Speaker, I urge adoption of this bill.

Mr. FASCELL. Mr. Speaker, I rise in strong support of S. 2365, authorizing the release of 86 U.S. Information Agency films relating to the Marshall plan, as amended.

Mr. Speaker, the Committee on Foreign Affairs has in this bill taken the opportunity to correct a longstanding problem: That is, requiring an act of Congress to release certain USIA materials within the United States. We have instituted a procedure whereby these materials can be released after a 12-year period, a procedure similar to that used for the release of Presidential documents. I believe this sort of procedure is long overdue and will prove useful in the future.

In addition, we have included in this bill the text of H.R. 3651, the Anti-Terrorism and Arms Export Amendments Act which passed the House earlier this year. This is simply a procedural amendment designed to give the Senate another opportunity to pass this measure.

Mr. Speaker, I would like to commend my good friend from Florida, Mr. Mica, for his leadership as the chairman of the Subcommittee on International Operations on issues affecting the Department of State, the Board for International Broadcasting, and the U.S. Information Agency. It is largely due to his efforts that we have reached a partial solution to problem of the release of USIA materials.

Mr. Speaker, I urge the adoption of S. 2365.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion offered by the gentleman from Florida [Mr. Mica] that the House suspend the rules and pass the Senate bill, as S. 2365, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, amended, was passed.

The title of the Senate bill was amended so as to read: "An act to authorize the release of certain United States Information Agency films and program materials, to provide for audience surveys of Worldnet programming in non-European countries, to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMEMORATING THE BICENTENNIAL OF THE FRENCH REVOLUTION

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 317) commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen, as amended.

The Clerk read as follows:

S.J. Res. 317

Whereas the Treaty of Commerce and Amity concluded February 6, 1778, between France and the United States was the first alliance entered into by the United States;

Whereas the independence of the United States was achieved with significant assistance from France and from individual citizens of France;

Whereas the ideals of liberty and freedom which animated the people of the United States during the American Revolution were shared by many of the people of France and are held sacred by both people today;

Whereas the year 1789 was of particular significance in the history of both France and the United States, marking the opening chapter of the French Revolution and the concluding chapter of the American Revolution;

Whereas within a period of 31 days, the National Assembly of France approved the Declaration of the Rights of Man and of the Citizen on August 26, 1789, and the Congress of the United States approved the Bill of Rights on September 25, 1789, thereby proclaiming the sanctity of human rights on both sides of the Atlantic Ocean and guaranteeing them for future generations;

Whereas the Government of France has established a Commission for the Bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen; and

Whereas an American Committee on the French Revolution has been organized to plan an appropriate commemoration in the United States of the bicentennial of the historic events of 1789 and of the shared aspirations, ideals, and experiences of the French and American peoples: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress and people of the United States extend to the people of France an expression of friendship and high regard on the occasion of the bicentennial of the French Revolution.

(b) The Congress hereby—

(1) urges the people of the United States to observe the bicentennial of the French Revolution as may be appropriate to the occasion: and

(2) finds with pride and satisfaction that France and the United States remain fully committed to the principles of the Declaration of the Rights of Man and of the Citizen, and the Bill of Rights, respectively.

(c)(1)(A) There shall be printed as a Senate document during the bicentennial year 1989 the Rights of Man and of the Citizen, and the Bill of Rights, with accompanying historical notes.

(B) Such document shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Committee on Foreign Relations.

(C) In addition to the usual number of copies, there shall be printed—

(i) bound volumes suitable for presentation to the President of the French Republic, the President of the Senate of France, and the President of the National Assembly of France; and

(ii) extra copies for the Committee on Foreign Relations of the Senate in the amount of $1,200.

(2) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. Mica] will be recognized for 20 minutes and the gentleman from Iowa [Mr. Leach] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Mica].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the gentleman from Florida [Mr. Fascell], my colleague, the chairman of the Committee on Foreign Affairs, and myself, I rise in support of Senate Joint Resolution 317 commemorating the bicentennial of the French Revolution.

Mr. Speaker, Senate Joint Resolution 317 was approved unanimously both in the Senate and in the Committee on Foreign Affairs. I know of no opposition to the resolution. It is supported by the Executive, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to express my support for Senate Joint Resolution 317, commemorating the bicentennial of the French Revolution.

Both the French and American people cherish the liberties which we have today. French support was certainly instrumental in aiding our forbearers in their struggle to win these freedoms. This resolution offers a simple statement of the continued appreciation of the American people for this assistance. There were, after all, more troops of our first ally, the French, at Yorktown than of George Washington's. For this Americans will always be appreciative.

In reflecting on history, it is interesting to note that some 20 years ago a group of French journalists asked Chou En Lai his view of the import of the French Revolution. His response: "It is too early to tell." That may or may not be the case, but it is certainly appropriate to apply a two century perspective.

The minority supports this resolution and urges its adoption.

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Joint Resolution 317, commemorating the bicentennial of the French Revolution, as amended.

This resolution, which passed the Senate and the Committee on Foreign Affairs unanimously, recognizes a milestone in the history of the world; the French Revolution and the declaration of the rights of man. It also reminds us that in the same year of 1789, the American Bill of Rights was approved. The resolution thus recognizes the long and historical ties between the American and French people—ties which have helped make possible a productive economic, political, and security relationship with France.

Upon passage of this resolution by the Congress, it is expected that French President Francois Mitterand will join the House and the Senate leadership in a ceremonial signing of Senate Joint Resolution 317. I urge my colleagues to participate in this outstanding event. In the interim, I urge unanimous adoption of this resolution.

Mr. CLINGER. Mr. Speaker, I rise today to express my support for Senate Joint Resolution 317, a bill to commemorate the bicentennial of the French Revolution.

The existing bond of friendship and alliance between the United States and France has been both powerful and longstanding. Together our nations have endured wars and revolution, from the Battle of Yorktown, to the beaches of Normandy and now as partners in NATO.

France has been beside us as an ally for well over 200 years, in war and in peace. Without her, our revolution may not have taken place at all. French military aid and manpower assistance were vital elements in our quest to secure independence. Their belief in what this Nation could become inspired other nations to join our cause, effectively driving a wedge between the Old and the New World.

As our new nation was unveiled, France grew dark. Their revolution, an outcome of the tightening political and economic pressure experienced by the "common man," had begun. But what is important are the new principles, values and goals that evolved from both revolutions. A vision of liberty and justice for all, as implied by both the Declaration of the Rights of Man (France) and the Bill of Rights (United States) are foundations of democracy and nearly interchangeable. An extension of this powerful arm of democracy can be seen in New York Harbor, our Statue of Liberty holds a torch whose light inspires all of the free world. She was a gift of the French people, and they gave her to us, they said, as an expression of their friendship and appreciation.

Today, as in years past, our relationship with France remains a crucial element of our foreign policy. We all know the importance of our own bicentennial, let us all share in the recognition of the bicentennial of the French Revolution. I urge all of my colleagues and all Americans to support the passage of Senate Joint Resolution 317.

Mr. LEACH of Iowa. Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the Senate joint resolution (S.J. Res. 317), as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just considered.

The **SPEAKER** pro tempore. Is their objection to the request of the gentleman from Florida?

There was no objection.

ENCOURAGING INCREASED INTERNATIONAL COOPERATION TO PROTECT BIOLOGICAL DIVERSITY

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 648) to encourage increased international cooperation to protect biological diversity, as amended.

The Clerk read as follows:

H.J. RES. 648

Whereas habitat destruction is a main cause of the accelerating extinction of animal and plant species;

Whereas increased international cooperation is essential to protect species threatened with extinction and to halt the loss of unique and irreplaceable ecosystems; and

Whereas the United States has strongly supported efforts to convene an international convention for preservation of the Earth's biological diversity: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF POLICIES.

The Congress—

(1) supports the United States efforts, consistent with section 119(g) of the Foreign Assistance Act of 1961, to intitiate discussions to develop an international agreement to preserve biological diversity; and

(2) calls upon the President to continue exerting United States leadership in order to achieve the earliest possible negotiation of an international convention to conserve the Earth's biological diversity, including the protection of a representative system of ecosystems adequate to conserve biological diversity.

SEC. 2. REPORT.

Not later than 1 year after the date of the enactment of this joint resolution, the President shall submit a report to the Congress on progress toward the goal of negotiating the international convention described in paragraph (2) of section 1.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Florida [Mr. MICA] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 648, as amended, legislation which calls for continued and strengthened U.S. efforts to bring about an international agreement to preserve biological diversity. I would like to commend the gentlelady from Rhode Island, Miss SCHNEIDER, who is the original sponsor of this legislation, and the gentleman from Pennsylvania, Mr. YATRON, for their outstanding leadership on this important global issue.

An important lesson which the international community is beginning to study more closely concerns the potential contributions to be gained from maintaining maximum diversity in plant and animal species—contributions in medicine and public health, agriculture, industry, and general economic growth. Because by far the greatest variety of species is found in tropical areas, which are principally located in developing countries, the Congress has urged the Agency for International Development to assist these countries in efforts to protect and maintain their natural resources, including protecting wildlife and plant genetic resources in preserves and parks.

The resolution before us today continues these policies and takes them a step further, by urging the United States to continue its leadership on this important issue by supporting efforts to bring about an international convention to conserve the Earth's biological diversity.

The House of Representatives has already approved legislation similar to this resolution as an amendment to H.R. 3100, the foreign assistance authorization for fiscal years 1988 and 1989, on which the other body has not acted. I, therefore, urge my colleagues to join with me in approving House Joint Resolution 648, as amended, today.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when a species of plant or animal life becomes extinct, there are no second chances for bringing it back to life. It is lost, and future generations will never experience its unique attributes. Consequently, we must make every effort to preserve the multiplicity of life that inhabits our planet today.

Congresswoman CLAUDINE SCHNEIDER introduced House Joint Resolution 648 to focus attention on the important issue of biological diversity and the need to work with other nations to ensure that actions are taken to protect our biological heritage. In so doing, she complements the sustained bipartisan interest of the Foreign Affairs Committee in highlighting the importance of this pressing matter.

As amended in the committee, the resolution supports U.S. efforts to initiate discussions to develop an international agreement to preserve biological diversity. It calls upon the President to continue exerting U.S. leadership in order to achieve the earliest negotiation of an international convention to conserve Earth's biological diversity.

This is an issue that the administration has taken the lead in promoting in international forums. At the July 1987 governing council meeting of the U.N. Environmental Program, Assistant Secretary of State John Negroponte suggested that a convention be developed.

Miss SCHNEIDER's resolution would reflect congressional approval of the administration's efforts.

I urge its approval.

The leadership of the administration, the gentlelady from Rhode Island, and Chairman YATRON, the gentleman from Pennsylvania, is particularly to be commended.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Iowa for yielding, and I just want to say that this legislation was originally referred to the Subcommittee on Human Rights and National Organizations, that we waived the original sent us, and we have no objections. It is good legislation. We support it.

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 648, legislation that calls on the President to continue to lead the effort to negotiate an international convention to conserve the Earth's biological ecosystem.

The accelerating loss of the world's rich diversity of animal and plant species has become a cause for international concern. The main cause of this accelerating loss is habitat destruction. The extent of the tropical rain forests that the world loses each year is the size of Pennsylvania. In these rain forests are the vast majority of plant and animal species. Scientists estimate that one in three of the world's 200 primate species already are in trouble as present trends, and the Office of Technology Assessment [OTA] projects that the rate of loss of biological diversity is likely to increase over the next several decades.

Accordingly, I urge my colleagues to support House Joint Resolution 648.

Mr. LEACH of Iowa. Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the joint resolution, House Joint Resolution 648, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMEMORATING THE BICENTENNIAL OF THE FRENCH REVOLUTION

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent to withdraw the request for a vote on the French Revolution resolution previously passed just before this one.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the Senate joint resolution (S.J. Res. 317), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 648 the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMENDING THE INTERNATIONAL BOUNDARY AND WATER COMMISSION

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 344) commending the International Boundary and Water Commission for its efforts during the past 100 years to improve the social and economic welfare of the United States and Mexico and to improve good relations between our two countries.

The Clerk read as follows:

H. CON. RES. 344

Whereas the International Boundary and Water Commission will celebrate its one hundredth anniversary on March 1, 1989;

Whereas the International Boundary and Water Commission consists of a United States section and a Mexican section;

Whereas both sections of the International Boundary and Water Commission are headed by a commissioner who is appointed by the President of the commissioner's respective country;

Whereas the International Boundary and Water Commission is entrusted by the Government of the United States and the Government of Mexico with resolving the boundary and water issues that exist between the two countries;

Whereas the International Boundary and Water Commission approaches its responsibilities with a view toward improving the social and economic welfare of the United States and Mexico and further improving the good relations that exist between the two countries;

Whereas the International Boundary and Water Commission can claim a long list of accomplishments that have benefited millions of people over the past century; and

Whereas the International Boundary and Water Commission will celebrate its one hundredth anniversary on March 1, 1989: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress commend the International Boundary and Water Commission for its efforts during the past century to improve the social and economic welfare of the United States and Mexico, recognize its accomplishments in improving good relations between the United States and Mexico, and honor the Commission as it prepares to celebrate its one hundredth anniversary on March 1, 1989.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on the motion.

The gentleman from Florida [Mr. MICA] will be recognized for 20 minutes and the gentleman from Iowa

[Mr. Leach] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Mica].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 344, introduced by my good friend from Texas, Mr. de la Garza, commends the International Boundary and Water Commission for its efforts to improve the social and economic welfare of the United States and Mexico and honors its 100th anniversary on March 1, 1989.

The Commission, because of its contribution to improved social and economic welfare of the United States and our southern neighbor Mexico, deserves this public recognition. The Commission, through its many accomplishments, has improved United States-Mexican relations.

We wish the Commission continued success during its second hundred years of operations.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support House Concurrent Resolution 344 and wish to commend the gentleman from Texas, Mr. de la Garza, for his leadership in calling attention to the outstanding work of the International Boundary and Water Commission. The gentleman from Texas is one of the most estimable members of this body and we appreciate his leadership on this and so many other issues.

On the occasion of its 100th anniversary, it is appropriate to pay tribute to the Commission for the significant contributions it has made to the social and economic welfare of the United States and Mexico.

This year in particular, the ravages of nature have highlighted the importance of the agreements reached between the United States and Mexico through the efforts of the Commission. Droughts and floods have wreaked havoc in both countries. The Commission has, as one of its major responsibilities, the just apportionment of the waters of the Rio Grande and the Colorado River. Whether for irrigation or for drinking, the urgency of this task cannot be overemphasized, especially this year.

Nor, for that matter, can we overlook the importance of flood control. Having just witnessed the terrible toll in life and property from Hurricane Gilbert, we can be thankful for the work of the Commission. If it had not been for the Commission's efforts in previous years, the tragedy striking northern Mexico might have been even greater.

As the International Boundary and Water Commission approaches March 1, 1989, its 100th anniversary, I am pleased to join my colleagues in commending the Commission for its outstanding contributions to better relations between the United States and Mexico and in wishing it equal success in the future.

I urge my colleagues to give their unanimous support for this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. de la Garza], my colleague.

□ 1330

Mr. de la GARZA. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the chairman of the committee and the subcommittee, the ranking members and everyone who has worked on this legislation.

I might mention, Mr. Speaker, just last night the Senate passed another bill dealing with pollution on the Rio Grande. This bill make the International Boundary and Water Commission the lead agency that will negotiate between the United States and Mexico and provide the leadership to clean up the Rio Grande.

This is just one of the issues from Tijuana down to the gulf, Tijuana to Brownsville. This is one of the things that we mentioned and the reason for this legislation. For 100 years they have been working in a unified manner with the Mexican Government and the United States Government, on everything having to do with the Rio Grande, the border, the delineation of the border, the waters and the lands adjacent to the Rio Grande.

Mr. Speaker, I thank all my colleagues for their support of this legislation.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion offered by the gentleman from Florida [Mr. Mica] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 344).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 344, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

RAILROAD DRUG ABUSE PREVENTION ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4748) to amend the Federal Railroad Safety Act of 1970 to provide for drug and alcohol testing for railroad employees, as amended.

The Clerk read as follows:

H.R. 4748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Drug Abuse Prevention Act of 1988".

SEC. 2. NATIONAL POLICY.

The Congress hereby declares it to be the national policy of the United States to eliminate the threat to railroad transportation safety posed by drug and alcohol use.

SEC. 3. DRUG AND ALCOHOL TESTING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall, in the interest of railroad safety and the protection of the privacy of railroad employees, issue regulations within 90 days after the date of the enactment of this subsection to establish a program which requires rail carriers, at the carriers' expense, to conduct testing—

"(A) of employees holding jobs covered by the Act of March 4, 1907, commonly referred to as the Hours of Service Act, and employees holding other positions the Secretary determines to be safety-sensitive (including supervisory and management positions) whose performance can directly and immediately cause serious physical injury, for impairment by alcohol or for the unlawful use of a controlled substance; and

"(B) of applicants for such jobs and positions, and applicants for reinstatement or return from furlough with respect to such jobs and positions, for impairment by alcohol or for the unlawful use of a controlled substance.

"(2) Regulations issued under this subsection shall provide that testing of applicants and employees shall be required in the following circumstances:

"(A) Applicants shall be tested prior to employment as part of a pre-employment screening process.

"(B) Employees shall be tested—

"(i) on a random, nondiscriminatory basis;

"(ii) as part of all employer-required physical examinations for individuals out of service more than 90 days;

"(iii) as part of scheduled, routine employer-required physical examinations for a primary purpose other than drug or alcohol testing, but not more frequently than annually, and only upon reasonable notice in accordance with regulations issued by the Secretary to assure that all employees are treated on a uniform and nondiscriminatory basis;

"(iv) upon return from illness or injury which requires an absence of more than 30 days;

"(v) immediately following a railroad accident or incident involving loss of human life, serious bodily injury requiring medical attention, or property damage in excess of $50,000 in value (except for a grade crossing or trespassing accident which does not involve a violation of an operating rule of a railroad), if the employee is a part of the crew of a train involved in the accident or incident or may otherwise be involved and there is a reasonable basis to believe the employee may bear some responsibility for the accident or incident;

"(vi) when prescribed as part of a rehabilitation program; and

"(vii) following successful completion of a rehabilitation program, as required in paragraph (4).

"(C) Employees whose job performance the employer reasonably and in good faith suspects is being or is about to be impaired by the influence of alcohol or a controlled substance shall be tested immediately. For purposes of this subparagraph, reasonable suspicion must be based on specific personal observations that at least two supervisory employees can articulate in writing concerning the appearance, speech, behavior, or body odors of the employee. At least one such supervisory employee must have at least 8 hours of training in the recognition of drug and alcohol impairment in accordance with training standards established by the Secretary. For purposes of this subparagraph, the following violations of a major operating rule of a railroad shall constitute grounds for reasonable suspicion:

"(i) Occupancy of a block or other segment of track to which entry was not authorized.

"(ii) Failure to clear a track to permit opposing or following movement to pass.

"(iii) Moving across a railroad crossing at grade without authorization.

"(iv) Passing an absolute restrictive signal or passing a restrictive signal without stopping (if required).

"(v) Failure to protect a train as required by a rule consistent with regulations issued by the Secretary.

"(vi) Operation of a train at a speed that exceeds the maximum authorized speed by at least 10 miles per hour or by 50 percent of such maximum authorized speed, whichever is less.

"(vii) Alignment of a switch in violation of a railroad rule or operation of a switch under a train.

"(viii) Failure to apply or stop short of derail as required.

"(ix) Failure to secure a hand brake or failure to secure sufficient hand brakes.

"(x) In the case of a person performing a dispatching function or block operator function, issuance of a train order or establishment of a route that fails to provide proper protection for a train.

No employee or job applicant, whether or not described in paragraph (1), shall be required to undergo drug and alcohol testing except in accordance with the procedures provided in this subsection. Drug and alcohol testing of an employee described in paragraph (1) may be carried out only as provided in this subsection.

"(3) In issuing the regulations required under this subsection, the Secretary, after consultation with the Secretary of Health and Human Services, shall provide—

"(A) that each employer shall notify all employees and applicants covered by this subsection of—

"(i) the employer's policy on the use of alcohol and controlled substances;

"(ii) the rights and obligations of the employer, employee, and applicant under this subsection and regulations issued under this subsection;

"(iii) the procedures used by the employer in conducting tests (including the manner in which notice will be provided, the amount of time between notice and testing, the types of tests used, the substances being tested for, the chain of custody the sample will pass through, and the identity of the laboratory used to perform the test);

"(iv) the quantified level of alcohol which constitutes impairment, and the quantified level of controlled substances which constitutes a positive finding, such levels to be established by the Secretary;

"(v) the right of the employee or applicant to challenge the accuracy of test results;

"(vi) notice of sanctions associated with positive tests; and

"(vii) rights to rehabilitation and the identity of personnel an employee may contact to obtain rehabilitative help in resolving a problem with the use of alcohol or a controlled substance;

"(B) that whenever an employer is required by this paragraph to act in accordance with the mandatory guidelines for Federal workplace drug testing programs promulgated on April 11, 1988, by the Alcohol, Drug Abuse and Mental Health Administration (53 Fed. Reg. 11970) (hereafter in this subsection referred to as the 'ADAMHA guidelines'), the employer shall be treated as though it were an agency under such guidelines;

"(C) that each employer shall be required to employ or retain a qualified licensed physician to serve as a medical review officer as required by the ADAMHA guidelines;

"(D) that each employer shall afford the employees and applicants being tested the opportunity to inform the medical review officer of any medication or other legal substance the employee or applicant is using or has used, ingested, or been exposed to, or any medical condition, that might affect the outcome of the test;

"(E) that each employer shall assure that urine samples are collected in accordance with the ADAMHA guidelines and are analyzed by a medical laboratory meeting the requirements of subparagraph (K), and shall compensate the employee for any time lost and for reasonable travel expenses in order to provide the specimen;

"(F) that time lost in order to provide a urine, breath, or other sample required by regulations issued under this subsection shall not be counted as time off duty or time on duty for purposes of the Hours of Service Act;

"(G) that each employer shall assure that an unbroken chain of custody sufficient to protect the sample from tampering and to verify the identity of each sample and test result is maintained for specimen samples and that each sample is kept in a separate container for confirmation and retesting;

"(H) that any positive initial test shall be confirmed by the most scientifically reliable test available, as prescribed by the ADAMHA guidelines;

"(I) that the medical review officer of each employer shall interpret and verify each confirmed positive test result as prescribed by the ADAMHA guidelines, discounting for any medication, substances, or medical condition disclosed under subparagraph (D) and any chemical or other substances to which the applicant or employee is or has been exposed, with any doubt as to the outcome resolved in favor of a negative finding;

"(J) that the medical review officer of each employer shall notify each applicant or employee who is tested of the results of the test within five working days after the medical review officer receives, interprets, and verifies such results, and shall furnish the applicant or employee an explanation of the results and notice of the availability of the independent reconfirmation test procedures provided by subparagraphs (O) and (P);

"(K) that each employer shall retain an independent laboratory, not affiliated directly or indirectly with any rail carrier, which shall be certified by the Secretary of Health and Human Services under subpart C of the ADAMHA guidelines for the performance of all initial urine tests and confirmation tests; and which shall be required to comply with subpart B of the ADAMHA guidelines, except that notwithstanding the quality assurance and quality control provisions in section 2.5 and subpart C of the ADAMHA guidelines, the Secretary shall not permit any laboratory to continue to perform tests for purposes of this subsection which has incorrectly reported the presence of a controlled substance in any blank sample submitted to it in external blind proficiency testing during any 90-day period referred to in the ADAMHA guidelines;

"(L) that following each quarterly blind proficiency test described in subparagraph (K), each employer shall provide a report to the Secretary of any false positive result referred to in subparagraph (K), which shall be reviewed by the Secretary for purposes of disqualification of the laboratory under such subparagraph;

"(M) that each employer shall assure that any sample which produces a positive result in a confirmation test is retained by the medical laboratory in properly secured long-term frozen storage for at least 365 days;

"(N) that in the case of a laboratory disqualified under subparagraph (K), each of the tests performed by such laboratory within the 90 days preceding the false positive result which formed the basis for disqualification shall be reanalyzed as though it were an untested sample;

"(O) that each employer shall afford an applicant or employee whose confirmation test results are positive the opportunity to have a portion of the sample assayed by a confirmation test done independently, at the applicant's or employee's expense (subject to reimbursement by the employer if the results are negative) at a laboratory meeting the requirements of subparagraph (K) if the applicant or employee requests the independent test within 60 days of being advised of the results of the confirmation test;

"(P) that in the event of a discrepancy between the test results of the railroad's laboratory and the laboratory chosen by the applicant or employee, the sample shall be retested at a third qualified laboratory selected by the applicant or employee, at the employer's expense, and that finding shall be conclusive;

"(Q) that each laboratory shall, unless the applicant or employee provides written consent or unless the laboratory receives valid compulsory process, assure that the results of the test are kept confidential from all persons (other than the applicant or employee) except that the laboratory may so notify the medical review officer of the employer of any test result other than an unconfirmed positive test for controlled substances;

"(R) that each medical review officer shall, unless the applicant or employee provides written consent or unless the medical review officer receives valid compulsory process, assure that the results of the test and any information disclosed under subparagraph (D) are kept confidential from all persons, other than the applicant or employee, except that such officer may notify those supervisory or managerial personnel of the employer who have a compelling need for the information to carry out the employer's policies, and the medical personnel in any rehabilitation program in which the applicant or employee is enrolled;

"(S) that the personnel to whom the results of a test are reported under subparagraph (R) shall, unless the applicant or employee provides written consent or unless the employer receives valid compulsory process, keep the results of the test confidential from all persons (other than the applicant or employee);

"(T) that each employer shall provide an applicant or employee, or the employee's exclusive representative who is processing a grievance on behalf of the employee, the right to receive upon request, at no charge, within five working days, copies of all documents held by the employer or employer's agent (including the laboratory conducting the test) relating to the testing of the individual for the prohibited use by the individual of alcohol or controlled substances;

"(U) that the provisions of subparagraphs (Q), (R), and (S) requiring the confidentiality of test results shall not apply to confirmed positive test results for employees tested pursuant to paragraph (2)(B)(v), to the extent such test results are required for use by the Secretary, other Federal agencies, and law enforcement agencies in official investigations and reports;

"(V) that employees tested under paragraph (2)(B)(v) or (C) shall be suspended from duty with pay until the results of a test and any retest performed under regulations issued under this subsection are received;

"(W) that no employee shall be tested for alcohol or drugs under paragraph (2)(B)(v) or (C) after eight hours have passed from the triggering event; and

"(X) that any employee required to provide a urine sample under paragraphs (2)(B)(v) or (C) shall be afforded the opportunity to provide, in addition, a blood sample for testing, which shall be considered by the employer's medical review officer under subparagraph (I), together with all other available information.

"(4)(A) Regulations issued under this subsection shall further provide that each rail carrier shall establish and maintain a rehabilitation program which is approved by the Secretary and at a minimum provides for the identification and opportunity for treatment of employees described in paragraph (1)(A).

"(B) Any employee who voluntarily enters such a rehabilitation program due to drug or alcohol dependence shall be removed from any safety sensitive position. Such an employee shall continue to receive pay if he accepts and performs alternative duties which do not conflict with any applicable collective bargaining agreements, or if he is precluded from performing such duties by the requirements of the rehabilitation program. An employee shall not be considered to have acted voluntarily under this paragraph if such employee enters a rehabilitation program after receiving notification that he will be tested or the occurrence of an event giving rise to such testing, whichever occurs first, and before the results of such test are verified by the medical review officer under paragraph (3)(I).

"(C) Any employee for whom a test conducted and confirmed under this subsection, or under regulations issued under this subsection, establishes that the employee has used alcohol or a controlled substance in violation of the rules of the rail carrier shall be suspended from duty without pay and referred to the rehabilitation program.

"(D) Such regulations shall provide that any employee referred to a rehabilitation program who fails to successfully complete the program or who tests positive following successful completion of the program shall be discharged from employment. Such regulations shall provide that an employee shall be subject to drug and alcohol testing as frequently as daily for 3 years following the successful completion of a rehabilitation program. Such regulations shall provide that a rail carrier may also make such program available to its employees not referred to in paragraph (1)(A).

"(E) Nothing in this paragraph shall preclude any rail carrier from establishing a program under this paragraph in cooperation with any other rail carrier. Nothing in this subsection shall supersede the provisions of any collectively bargained or company provided rehabilitation program which does not conflict with the requirements of this subsection, and which meets or exceeds the minimum requirements imposed by the Secretary in regulations issued under this subsection.

"(5) A person—

"(A) other than the applicant or employee being tested, who, other than as specifically provided by this subsection, discloses the results of a test performed under this subsection;

"(B) who alters the results of any alcohol or controlled substance testing performed under this subsection or who falsely reports such results;

"(C) who performs or causes to be performed on a specimen taken pursuant to this subsection a test for any substance, drug, or medical condition other than alcohol or a controlled substance as provided in this subsection;

"(D) who is an employer and who disciplines, discharges, or discriminates against an employee on the basis of a positive result that has not been verified by a confirmatory test performed in accordance with this subsection;

"(E) who is an employer and who disciplines, discharges, or discriminates against an employee on the basis of a positive result that has been verified by a confirmatory test performed in accordance with this subsection, unless the employee (i) refuses to undertake or fails to complete a rehabilitation program described in paragraph (4), or (ii) has undertaken or completed such rehabilitation program;

"(F) who is an employee who attempts to avoid or avoids being tested pursuant to this subsection, including by leaving the scene of an accident or by leaving his or her appropriate place of duty, without proper authorization, unless injury or other urgent circumstances so warrant; or

"(G) who is an employer who fails to administer the drug and alcohol testing as prescribed by this subsection,

shall be subject to penalties as provided in paragraph (6).

"(6) A person who violates paragraph (5) shall be subject to one or more of the following sanctions:

"(A) Assessment by the Secretary of a civil penalty of not less than $1,000 nor more than $10,000.

"(B) Where the violation is committed knowingly, imprisonment for not more than 3 years, or a fine under title 18, United States Code, or both.

"(7) A person who operates a locomotive while under the influence of alcohol or drugs shall be subject to the following sanctions:

"(A) If death results, the offender shall be subject to imprisonment for not more than 20 years, or a fine under title 18, United States Code, or both.

"(B) If serious bodily injury results, the offender shall be subject to imprisonment for not more than 10 years, or a fine under title 18, United States Code, or both.

"(C) In any other case, the offender shall be subject to imprisonment for not more than 5 years, or a fine under title 18, United States Code, or both.

"(8) An applicant or employee who is tested or whose test results are handled in violation of, or is deprived of rights under, this subsection may institute a civil action in any Federal district court of competent jurisdiction for appropriate legal and equitable relief, plus the costs of suit, including a reasonable attorney's fee which shall be allowed in the manner in which attorney's fees are allowed under the last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988). It shall not be a defense to such an action that the employee has waived the rights provided for in this subsection, except as provided in paragraph (3)(Q), (R), and (S), or has otherwise consented to a violation of this subsection, or that the defendant acted in good faith. No action may be instituted under this paragraph after the expiration of three years from the date the applicant or employee discovers, or with the exercise of reasonable diligence should have discovered, the violation or deprivation.

"(9) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with this subsection, except that this subsection shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to employees of a rail carrier or to the general public.

"(10) For the purposes of this subsection, the term 'controlled substance' means any substance defined as such under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.

"(11) If any provision of this subsection, or the application of that provision to any person or circumstance, is held invalid, the remainder of this subsection shall be considered valid.

"(12) Nothing in this subsection limits the authority of the Secretary to impose sanctions otherwise authorized under this Act.

"(13) Nothing in this subsection affects the authority of a rail carrier to suspend, discipline, or discharge an employee for reasons other than the use of alcohol or a controlled substance in violation of the rules of the rail carrier referred to in paragraph (1)(A).".

SEC. 4. JUDICIAL REVIEW.

It shall be the duty of the courts of the United States to advance on the docket and to expedite, to the greatest possible extent, the disposition of any matter challenging the constitutionality of random drug and alcohol testing under the amendment made by section 3 of this Act.

SEC. 4. REPORTS.

The Secretary of Transportation shall require each rail carrier performing testing under section 202(l) of the Federal Railroad Safety Act of 1970 to report annually to the Secretary on their drug and alcohol testing programs. Each such report shall include, at a minimum, for the 12-month reporting period—

(1) the number and kinds of tests performed;

(2) the number of positive results;

(3) the number of challenged tests and the outcome of the challenges;

(4) the number of employees who voluntarily and involuntarily entered the rail carrier's rehabilitation program;

(5) the number of employees successfully treated in the rail carrier's rehabilitation program and returned to service;

(6) the number of employees dismissed or otherwise disciplined as a result of testing;

(7) the average length of time spent in rehabilitation and a statement of the range of lengths of time and the general distribution within such range; and

(8) the cost to the rail carrier of administering each category of testing and of providing a rehabilitation program.

The Secretary shall submit to the Congress an annual report compiling and analyzing information received under this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. WHITTAKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we are considering today, the Railroad Drug Abuse Prevention Act of 1988, would require the most stringent and far-reaching drug and alcohol testing program for rail employees ever to be introduced in Congress.

A major feature of this bill is that it will for the first time require the random testing of all rail employees in safety-sensitive positions. That means all employees whose jobs involve the safe movement of trains, whether they are engineers, train crews, yard crews, or dispatchers—will be tested for drugs and alcohol. Moreover, this will apply not only to blue collar workers, but management, too.

This bill doesn't just stop at random testing, however. It also requires by law for the first time a full scale program of postaccident drug and alcohol testing; reasonable cause testing; preemployment testing; and testing as part of annual physicals. This should remove any doubt as to the authority of DOT to require drug and alcohol testing. And this is a very important point. It was only a few months ago that the U.S. Court of Appeals for the Ninth Circuit in San Francisco declared the current DOT postaccident testing regulations void. The court held that DOT didn't have the authority to require the tests. The bill we are considering today will reverse that decision and ensure that post accident testing as well as all other drug and alcohol testing will be on firm legal ground.

The need for this legislation is very clear. A shocking number of rail accidents in recent years have involved rail employees who use drugs or alcohol. The most well-known and devastating of those accidents occurred in Chase, MD, only a year and a half ago, when 16 people died after a Conrail locomotive recklessly ran through four red signals into the path of a crowded Amtrak passenger train. The Conrail engineer later confessed to having smoked marijuana only minutes before the crash.

Unfortunately, the Chase crash was not an isolated incident. It could easily have been repeated in April of this year in New York when one Metro North commuter train smashed into another which was standing still. The trains were empty, so no passengers were injured. But of the 10 rail employees tested for drugs after the accident, 5 tested positive—for everything from marijuana to morphine.

Despite these and other accidents, remedies have been slow in coming. An amendment added by the Senate to the Airline Consumer Protection Act which is now in conference between the House and the Senate would require drug and alcohol testing of rail employees. But that bill appears to be bogged down after months of discussion over the random testing of truck drivers and various airline issues.

In the meantime, only a few weeks ago the Department of Transportation issued proposed rules for random drug testing of rail employees. While I congratulated the Secretary of Transportation on his initiative, I am concerned that the DOT regulations inexplicably fail to require testing for alcohol in addition to drugs. Furthermore, DOT's proposal makes no provision to ensure the accuracy of drug testing laboratories through a system of proficiency testing, nor does it provide for the treatment and rehabilitation of employees who test positive.

The bill we are marking up today not only establishes a comprehensive system of drug and alcohol testing, but addresses these other issues as well.

At this point I would like to thank my colleague, Mr. WHITTAKER, who helped draft this bill and who has given it his strong support.

At this point also, Mr. Speaker, I am including a letter from Chairman RODINO of the Judiciary Committee concerning certain jurisdictional matters involving this bill.

Mr. Speaker, I urge the House to pass this very important legislation.

Mr. Speaker, I include the following letter:

COMMITTEE ON THE JUDICIARY,
Washington, DC, September 16, 1988.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: On September 16, 1988, the Committee on Energy and Commerce reported H.R. 4748, the "Railroad Drug Abuse Prevention Act of 1988". You have asked that this bill be scheduled for floor consideration under suspension of the rules on Tuesday, September 20, 1988.

The Committee on the Judiciary has jurisdiction over several matters set forth in H.R. 4748, including the establishment of a new federal cause of action and of priorities for judicial consideration of such actions. The bill also establishes new criminal penalties for violations of its provisions.

I understand that you intend to modify the federal cause of action provisions and the criminal provisions and to delete the court priority provision to address the concerns of the Judiciary Committee.

With these changes, I will agree to waive the jurisdiction of the Judiciary Committee in this one instance so that H.R. 4748 can be considered expeditiously by the House.

Please make ths letter a part of the record during consideration of this bill by the House.

Sincerely,

PETER W. RODINO, Jr.,
Chairman.

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this important legislation is a well-balanced, bipartisan approach to the chronic problem of drug and alcohol use on the Nation's railroads. Earlier in this Congress, the Energy and Commerce Committee, under the leadership of the gentleman from Ohio, its Transportation Subcommittee chairman, and of the gentleman from Michigan, its chairman, produced the first modernization of our Federal rail safety laws in almost two decades—the Rail Safety Improvement Act. Today we are to take up a bipartisan measure that closes the last major gap in the rail safety laws—the lack of a comprehensive, preventive, and humane drug detection and rehabilitation system.

Recent events have clearly established the need for this legislation. Last year, drug use by a locomotive engineer led to the Conrail-Amtrak collision at Chase, MD, in which 16 passengers lost their lives. More recently, a number of major derailments and collisions have been shown to be drug related.

Drug use by operational personnel on the railroads represents a clear and present danger to the public safety. The frequency of drug-related accidents in recent months should persuade even the most skeptical citizens and legislators that the time for truly preventive drug testing has arrived. Railroad personnel who occupy safety-sensitive positions literally hold the lives of others in their hands. Therefore, whatever our views may be of drug testing in other contexts, the public interest in having our rail lines operated by drug-free personnel is clearly overwhelming. We also should not forget that many of the victims of drug-related rail accidents are the fellow workers of the drug-user.

The essence of the present legislation is a carefully crafted equilibrium between the public-safety interest in detecting and deterring drug use on the railroads and the need for humane treatment that allows drug users a fair chance to reorder their lives through a professional rehabilitation program.

The bill achieves this balance by requiring that drug testing be scientifically accurate and fairly administered. The legislation includes accuracy standards for testing laboratories, sanctions against those who do not observe the required procedures, and legal remedies to deter and redress any breach of confidentiality. The confirmed drug-user will be removed from safety-sensitive duties when detected, but will be afforded company-funded rehabilitation, with follow-up testing to guard against a relapse.

Mr. Speaker, as one of the earliest advocates of random drug testing in rail transportation, I strongly support this much-needed legislation and I urge its approval.

Mr. WHITTAKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion offered by the gentleman from Ohio [Mr. Thomas A. Luken] that the House suspend the rules and pass the bill, H.R. 4748, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4748, RAILROAD DRUG ABUSE PREVENTION ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 4748) to amend the Federal Railroad Safety Act of 1970 to provide for drug and alcohol testing for railroad employees, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in passing the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 4748, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HEALTH PROFESSIONS REAUTHORIZATION ACT OF 1988

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4983) to amend the Public Health Service Act to revise and extend programs with respect to health research and teaching facilities and training of professional health personnel, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REVISION AND EXTENSION OF PROGRAMS WITH RESPECT TO HEALTH RESEARCH AND TEACHING FACILITIES AND TRAINING OF PROFESSIONAL HEALTH PERSONNEL

SEC. 101. SHORT TITLE.

This title may be cited as the "Health Professions Reauthorization Act of 1988".

SEC. 102. FEDERAL PROGRAM OF INSURED LOANS TO GRADUATE STUDENTS IN HEALTH PROFESSIONS SCHOOLS.

(a) Establishment of Additional Credit Authority.—Section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)) is amended in the first sentence by striking "and" after "1987;" and by inserting before the period the following: "; $325,000,000 for fiscal year 1989; $350,000,000 for fiscal year 1990; and $375,000,000 for fiscal year 1991".

(b) Extension of Period for Insurance of New Loans.—Section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)) is amended in the third sentence by striking "1991," and inserting "1994,".

(c) Prohibition Against Apportionments of Credit Authority.—Section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)) is amended by adding at the end the following new sentence: "The total principal amount of Federal loan insurance available under this subsection shall be granted by the Secretary without regard to any apportionment for the purpose of chapter 15 of title 31, United States Code, and without regard to any similar limitation.".

(d) Priority in Provision of Insurance.—Section 728(b) of the Public Health Service Act (42 U.S.C. 294a(b)) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

"(2) In providing certificates of insurance under section 732 through comprehensive contracts, the Secretary shall give priority to eligible lenders that agree—

"(A) to make loans to students at interest rates below the rates prevailing, during the period involved, for loans covered by Federal loan insurance pursuant to this subpart; or

"(B) to make such loans under terms that are otherwise favorable to the student relative to the terms under which eligible lenders are generally making such loans during such period.".

(e) Eligibility of Certain Postdoctoral and Residency Programs.—

(1) Section 731(a)(1) of the Public Health Service Act (42 U.S.C. 294d(a)(1)) is amended—

(A) by striking "or" at the end of subparagraph (A);

(B) by striking "and" at the end of subparagraph (B) and inserting "or"; and

(C) by inserting at the end the following new subparagraph:

"(C) an individual who is or will be in an accredited postdoctoral program, or residency, of not less than one year at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry; and".

(2) Section 729(a) of the Public Health Service Act (42 U.S.C. 294b(a)) is amended in the first sentence—

(1) by inserting "or other individual" after "made to a student"; and

(2) by inserting after "podiatry," the following: "$20,000 in the case of individuals in an accredited postdoctoral program, or residency, of not less than one year at any of such schools,".

(f) Frequency of Compounding of Interest.—Section 731(a)(2)(D)) of the Public Health Service Act (42 U.S.C. 294d(a)(2)(D)) is amended by inserting "not more frequently than" after "compounded".

(g) Determination of Financial Need of Students.—Section 731 of the Public Health Service Act (42 U.S.C. 294d) is amended by adding at the end the following new subsection:

"(e) With respect to any determination of the financial need of a student for a loan covered by Federal loan insurance under this subpart, this subpart may not be construed to limit the authority of any school to make such allowances for students with special circumstances as the school determines appropriate.".

(h) Authority for Assignment of Loans With Respect to Secondary Market.—Section 732(d) of the Public Health Service Act (42 U.S.C. 294e(d)) is amended by striking "eligible lender, or" and inserting the following: "eligible lender (including a public entity in the business of purchasing student loans), or".

(i) Clarification With Respect to Reference to Holders of Federally Insured Loans.—Section 733(d) of the Public Health Service Act (42 U.S.C. 294f(d)) is amended in the first sentence by inserting "eligible lender or" before "holder";

(j) Amount of Loss Pursuant to Default.—Section 733(e)(2) of the Public Health Service Act (42 U.S.C. 294f(e)(2)) is amended by inserting before the semicolon the following: ", less the amount of any judgment collected pursuant to default proceedings commenced by the eligible lender or holder involved".

(k) Clarification With Respect to Effect of Bankruptcy.—Section 733(g) of the Public Health Service Act (42 U.S.C. 294f(g)) is amended by inserting "any chapter of" before "title 11,".

(l) Provisions With Respect to Actions for Default.—

(1) Section 733(a) of the Public Health Service Act (42 U.S.C. 294f(a)) is amended by striking "(including, if appropriate, commencement of a suit)" and inserting the following: "(including, subject to subsection (h), commencement and prosecution of an action)".

(2) Section 733 of the Public Health Service Act (42 U.S.C. 294f) is amended by adding at the end the following new subsection:

"(h)(1) With respect to the default by a borrower on any loan covered by Federal loan insurance under this subpart, the Secretary shall, under subsection (a), require an eligible lender or holder to commence and prosecute an action for such default unless—

"(A) in the determination of the Secretary, the eligible lender or holder has made reasonable efforts to serve process on the borrower involved and has been unsuccessful with respect to such efforts;

"(B) for such loans made before the date of the enactment of the Health Professions Reauthorization Act of 1988, the loan involved was made in an amount of less than $5,000; or

"(C) for such loans made after such date, the loan involved was made in an amount of less than $2,500.

"(2) With respect to an eligible institution that has commenced an action pursuant to subsection (a), the Secretary shall make the payment required in such subsection, or deny the claim for such payment, not later than 60 days after the date on which the eligible institution notifies the Secretary that judgment has been entered with respect to the action.".

(m) State Designations of Eligible Lenders.—Section 737(2) of the Public Health Service Act (42 U.S.C. 294j(2)) is amended—

(1) by striking "or" after "State," the second place such term appears; and

(2) by inserting before the period the following: ", or a nonprofit private entity designated by the State, regulated by the State, and approved by the Secretary".

SEC. 103. FEDERAL CAPITAL CONTRIBUTIONS INTO STUDENT LOAN FUNDS.

(a) Standards With Respect to Loan Collection.—Section 740(c)(1) of the Public Health Service Act (42 U.S.C. 294m(c)(1)) is amended by adding at the end the following new sentence: "This subsection may not be construed to require such schools to reimburse the student loan fund under this subpart for loans that became uncollectible prior to 1983.".

(b) Reduction in Interest Rate.—Section 741(e) of the Public Health Service Act (42 U.S.C. 294n(e)) is amended by striking "9" and inserting "5".

(c) Grace Period for All Full-Time Students.—Section 741(c)(1) of the Public Health Service Act (42 U.S.C. 294n(c)(1)) is amended by striking "and" at the end of subparagraph (B) and by adding at the end the following new subparagraph:

"(D) during which the borrower is pursuing a full-time course of study at such a school; and".

(d) Striking of Date Certain With Respect to Distribution of Assets of Loan Funds.—Section 743 of the Public Health Service Act (42 U.S.C. 294p) is amended—

(1) in subsection (a), by amending the matter preceding paragraph (1) to read as follows: "If a school terminates a loan fund established under an agreement pursuant to section 740(b), or if the Secretary terminates the agreement with the school, there shall be a capital distribution as follows:"; and

(2) by amending subsection (b) to read as follows:

"(b) If a capital distribution is made under subsection (a), the school involved shall, after the capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established pursuant to section 740(b) as was determined by the Secretary under subsection (a)."

SEC. 104. LOAN REPAYMENT PROGRAM FOR ALLIED HEALTH PERSONNEL.

Part C of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by inserting after subpart II the following new subpart:

"Subpart III—Loan Repayment Program for Allied Health Personnel

"ESTABLISHMENT OF PROGRAM

"Sec. 751. (a) The Secretary shall establish a program of entering into agreements with allied health personnel and with allied health professions students under which such individuals agree, in consideration of the agreement described in subsection (b) (relating to loan repayment), to serve as an allied health professional for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a rural health clinic, in a rural health facility that is a sole community provider, in any other rural hospital, in a rural home health agency, in a rural or urban hospital that serves a substantial number of patients pursuant to title XIX of the Social Security Act, in a private nursing facility 60 percent of whose patients are patients pursuant to title XIX of such Act, in a public nursing facility, in a migrant health center, in a community health center, or in a health facility determined by the Secretary to have a critical shortage of nurses.

"(b) The agreement referred to in subsection (a) is an agreement, made by the Federal Government in consideration of the agreement described in paragraph (1) with respect to service as an allied health professional, under which the Federal Government agrees to pay—

"(1) for the first year of such service, 30 percent of the balance of the principal and interest of the educational loans of the individual;

"(2) for the second year of such service, 30 percent of such balance; and

"(3) for the third year of such service, 25 percent of such balance.

"(c) With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(d) For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 105. SCHOLARSHIPS FOR FIRST-YEAR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.

(a) Amount of Scholarship.—Section 758(b)(2) of the Public Health Service Act (42 U.S.C. 294z(b)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "shall" and inserting "may"; and

(2) by inserting after and below subparagraph (B) the following new matter:

"A scholarship provided to a student for a school year under a grant under subsection (a) shall be made in an amount sufficient to cover the costs of not less than 50 percent of tuition and reasonable educational expenses described in subparagraph (A) and 100 percent of the monthly stipend specified in subparagraph (B).".

(b) Authorization of Appropriations.—Section 758(d) of the Public Health Service Act (42 U.S.C. 294z(d)) is amended by striking "and" after "1987," and inserting before the period the following: "$7,300,000 for fiscal year 1989, $7,600,000 for fiscal year 1990, and $7,900,000 for fiscal year 1991".

SEC. 106. CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH.

(a) Authorization of Appropriations.—Section 770(e) of the Public Health Service Act (42 U.S.C. 295f) is amended by striking "and" after "1987," and by inserting before the period the following: ", $5,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $2,000,000 for fiscal year 1991".

(b) Sunset Provision.—Part E of title VII of the Public Health Service Act (42 U.S.C. 295f et seq.) is amended by adding at the end the following new section:

"SUNSET PROVISION

"Sec. 773. Effective October 1, 1991, this part is repealed.".

SEC. 107. AUTHORIZATION OF APPROPRIATIONS FOR PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE.

Section 780(d) of the Public Health Service Act (42 U.S.C. 295g(d)) is amended—

(1) by striking "There" and inserting "For the purpose of carrying out this section, there";

(2) by striking "and" after "1987," and inserting after "1988" the following: ", and $7,300,000 for each of the fiscal years 1989 through 1991"; and

(3) by striking "for payments under grants under subsection (a)".

SEC. 108. AREA HEALTH EDUCATION CENTERS.

(a) Minimum Number of Individuals in Certain Internships.—Section 781(d)(2)(C) of the Public Health Service Act (42 U.S.C. 295g-1(d)(2)(C)) is amended by striking "six" and inserting "four".

(b) Authorization of Appropriations for General Program of Area Health Education Centers.—Section 781(h) of the Public Health Service Act (as redesignated by subsection (c)(1) of this section) is amended in the first sentence—

(1) by striking "There are authorized" and all that follows through "this section" and inserting the following: "For the purpose of carrying out this section other than subsection (f), there are authorized to be appropriated"; and

(2) by striking "and" after "1987," and inserting before the period the following: ", and $18,700,000 for each of the fiscal years 1989 through 1991".

(c) Health Education and Training Centers.—Section 781 of the Public Health Service Act (42 U.S.C. 295g-1) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by adding after subsection (e) the following new subsection:

"(f)(1) The Secretary shall enter into contracts with schools of medicine and osteopathy for the purpose of planning, developing, establishing, maintaining, and operating health education and training centers—

"(A) to improve the supply, distribution, quality, and efficiency of personnel providing (in the United States) health services along the border between the United States and Mexico;

"(B) to improve the supply, distribution, quality, and efficiency of personnel providing, in other urban and rural areas of the United States, health services to any population group, including Hispanic individuals, that has demonstrated serious unmet health care needs; and

"(C) to encourage health promotion and disease prevention through public education in the areas described.

"(2) The Secretary may not enter into a contract under paragraph (1) unless the applicant for such assistance agrees, in carrying out the purpose described in such paragraph, to enter into arrangements with one or more public or nonprofit private entities in the State that have expertise in providing health education to the public.

"(3) The Secretary shall, after consultation with health education and training centers, designate the geographic area in which each such center will carry out the purpose described in paragraph (1). The service area of such a center shall be located entirely within the State in which the center is located. Each border health education and training center shall be located in a county (or other political subdivision) of the State in close proximity to the border between the United States and Mexico.

"(4) The Secretary may not enter into a contract under paragraph (1) unless the applicant for such assistance agrees—

"(A) to establish an advisory group comprised of health service providers, educators and consumers from the service area and of faculty from participating schools;

"(B) after consultation with such advisory group, to develop a plan for carrying out the purpose described in paragraph (1) in the service area;

"(C) to enter into contracts, as needed, with other institutions or entities to carry out such plan; and

"(D) to be responsible for the evaluation of the program.

"(5) The Secretary may not make a grant or enter into a contract under paragraph (1) unless the applicant for such assistance agrees—

"(A) to evaluate the specific service needs for health care personnel in the service area;

"(B) to assist in the planning, development, and conduct of training programs to meet the needs identified pursuant to subparagraph (A);

"(C) to conduct or support not less than one training and education program for physicians and one program for nurses for at least a portion of the clinical training of such students;

"(D) to conduct or support training in health education services, including training to prepare community health workers to implement health education programs in communities, health departments, health clinics, and public schools that are located in the service area;

"(E) to conduct or support continuing medical education programs for physicians and other health professionals (including allied health personnel) practicing in the service area;

"(F) to support health career educational opportunities designed to provide students residing in the service area with counseling, education, and training in the health professions;

"(G) with respect to border health education and training centers, to assist in coordinating its activities and programs carried out pursuant to paragraph (1)(A) with any similar programs and activities carried out in Mexico along the border between the United States and Mexico; and

"(H) to make available technical assistance in the service area in the aspects of health care organization, financing and delivery.

"(6) In carrying out this subsection, the Secretary shall ensure that—

"(A) not less than 75 percent of the total funds provided to a school or schools of medicine or osteopathy will be expended in the development and operation of the health education and training center in the service area of such program;

"(B) to the maximum extent feasible, the school of medicine or osteopathy will obtain from nongovernmental sources the amount of the total operating funds for such program which are not provided by the Secretary;

"(C) no grant or contract shall provide funds solely for the planning or development of a health education and training center program for a period in excess of two years;

"(D) not more than 10 percent of the annual budget of each program may be utilized for the renovation and equipping of clinical teaching sites; and

"(E) no grant or contract shall provide funds to be used outside the United States except as the Secretary may prescribe for travel and communications purposes related to the conduct of a border health education and training center.

"(7) For purposes of this subsection:

"(A) The term 'border health education and training center' means an entity that is a recipient of a contract under paragraph (1) and that is carrying out (or will carry out) the purpose described in subparagraph (A) of such paragraph.

"(B) The term 'health education and training center' means an entity that is a recipient of a contract under paragraph (1).

"(C) The term 'service area' means, with respect to a health education and training center, the geographic area designated for the center under paragraph (3).

"(8)(A) Of the amounts appropriated pursuant to subsection (h)(2) for a fiscal year, the Secretary shall make available 50 percent for allocations each fiscal year for applications approved by the Secretary for border health education and training centers. The amount of the allocation for each such center shall be determined in accordance with subparagraph (B).

"(B) The amount of an allocation under subparagraph (A) for a fiscal year shall be determined in accordance with a formula prescribed by the Secretary, which formula shall be based—

"(i) with respect to the service area of the border health education and training center involved, on the low-income population, including Hispanic individuals, along the border between the United States and Mexico and the growth rate of such population;

"(ii) on the need of such population for additional personnel to provide health care services along such border; and

"(iii) on the most current information concerning mortality and morbidity and other indicators of health status for such population.".

(d) Authorization of Appropriations for Health Education and Training Centers.—Section 781(h) of the Public Health Service Act (as redesignated by subsection (c)(1) of this section) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

"(2) For the purpose of carrying out subsection (f), there are authorized to be appropriated $4,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

SEC. 109. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAMS FOR PHYSICIAN ASSISTANTS.

Section 783(d) of the Public Health Service Act (42 U.S.C. 295g-3(d)) is amended by striking "and" after "1987," and by inserting before the period the following: ", $5,000,000 for fiscal year 1989, $5,200,000 for fiscal year 1990, and $5,400,000 for fiscal year 1991".

SEC. 110. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

Section 784(c) of the Public Health Service Act (42 U.S.C. 295g-4(c)) is amended—

(1) by striking "There" and all that follows through "section" and inserting "For the purpose of carrying out this section, there are authorized to be appropriated"; and

(2) by striking "and" after "1987," and by inserting before the period the following: ", $23,000,000 for fiscal year 1989, $24,550,000 for fiscal year 1990, and $25,450,000 for fiscal year 1991".

SEC. 111. FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY.

(a) General Practice of Dentistry.—Part F of title VII of the Public Health Service Act (42 U.S.C. 295g et seq.) is amended—

(1) in section 786—

(A) in the title, by striking "AND GENERAL PRACTICE OF DENTISTRY"; and

(B) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(2) by inserting after section 784 the following new section:

"RESIDENCY PROGRAMS IN GENERAL PRACTICE OF DENTISTRY

"Sec. 785. (a) The Secretary may make grants to, and enter into contracts with, any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

"(1) to plan, develop, and operate an approved residency program in the general practice of dentistry or an approved advanced educational program in the general practice of dentistry; and

"(2) to provide financial assistance (in the form of traineeships and fellowships) to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

"(b) For the purpose of carrying out this section, there are authorized to be appropriated $4,000,000 for fiscal year 1989, $6,000,000 for fiscal year 1990, and $8,000,000 for fiscal year 1991.".

(b) Authorization of Appropriations for Family Medicine.—Section 786(c) of the Public Health Service Act (as redesignated by subsection (a)(1)(B) of this section) is amended to read as follows:

"(c) For the purpose of carrying out this section, there are authorized to be appropriated $37,900,000 for fiscal year 1989, $39,500,000 for fiscal year 1990, and $41,100,000 for fiscal year 1991.".

SEC. 112. EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

(a) Authority for Stipends for Additional Categories of Students.—Section 787(a)(2) of the Public Health Service Act (42 U.S.C. 295g-7(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by inserting after subparagraph (F) the following new paragraph:

"(G) paying such stipends as the Secretary may approve for such individuals for any period of education at any school described in subsection (a)(1), except schools of medicine, osteopathy, or dentistry.".

(b) Authorization of Appropriations.—Section 787(b) of the Public Health Service Act (42 U.S.C. 295g-7(b)) is amended in the first sentence by striking "and" after "1987," and by inserting before the period the following: ", $31,200,000 for fiscal year 1989, $32,600,000 for fiscal year 1990, and $33,800,000 for fiscal year 1991".

(c) Set-Asides.—Section 787(b) of the Public Health Service Act (42 U.S.C. 295g-7(b)) is amended in the second sentence—

(1) by striking "Not less" and all that follows through "fiscal year" and inserting the following: "Of the amounts appropriated under this section for any fiscal year, not less than 60 percent"; and

(2) by striking "higher education and not more than 5 percent" and inserting the following: "higher education, not less than 10 percent shall be obligated for community-based programs, and 5 percent".

SEC. 113. TWO-YEAR SCHOOLS OF MEDICINE, INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT.

(a) Certain Projects With Respect to Hospitals and Schools of Podiatric Medicine.—Section 788 of the Public Health Service Act (42 U.S.C. 295g-8(e)) is amended—

(1) by redesignating subsections (f) through (h) as subsections (g) through (i), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) The Secretary may make grants to, and enter into contracts with, public and nonprofit private hospitals and schools of podiatric medicine for the purpose of—

"(1) planning and implementing projects in primary care training for podiatric physicians in approved or provisionally approved residency programs which shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care;

"(2) planning and implementing projects for the education and training of faculty and residents to teach geriatrics, which shall provide financial assistance in the form of traineeships or fellowships to faculty and residents who participate in such projects; and

"(3) planning and implementing projects to recruit students who reside in areas having shortages of podiatric manpower (as determined by the Secretary), and to operate clinical training programs in such areas.".

(b) Authorization of Appropriations.—Section 788(i) of the Public Health Service Act (as redesignated in subsection (a)(1) of this section) is amended to read as follows:

"(i)(1)(A) For the purpose of carrying out subsections (d) through (f), there are authorized to be appropriated $12,000,000 for fiscal year 1989, $14,000,000 for fiscal year 1990, and $16,000,000 for fiscal year 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for each of the fiscal years 1989 through 1991, the Secretary shall make available $2,000,000 to carry out subsection (f).

"(2) For the purpose of carrying out this section other than subsections (d) through (f), there are authorized to be appropriated $5,500,000 for fiscal year 1989, $6,000,000 for fiscal year 1990, and $6,500,000 for fiscal year 1991.".

SEC. 114. GENERAL PROVISIONS.

(a) Minimum Amount of Grant for Certain Grantees.—Section 790 of the Public Health Service Act (42 U.S.C. 295g-10) is amended—

(1) in paragraph (3), by striking "The amount" and inserting the following: "Except as provided in paragraph (4), the amount"; and

(2) by adding at the end the following new paragraph:

"(4) With respect to grants under any of sections 780, 784, 785, and 786 for fiscal year 1989 and subsequent fiscal years, if an entity has been a grantee under the section involved for two consecutive fiscal years and the Secretary approves an application under such section from the entity for any subsequent consecutive fiscal year, the amount of the grant for such fiscal year may not be less than an amount equal to 20 percent of the average of the amounts received under such section by the entity for the consecutively preceding fiscal years.".

(b) Requirement of Peer Review for Certain Programs.—Section 790 of the Public Health Service Act (42 U.S.C. 295g-10), as amended by subsection (a) of this section, is further amended by adding at the end the following new paragraph:

"(5)(A) Each application for a grant under any of sections 784 through 786 shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the evaluation. Each application for a grant under section 780 may be submitted to such peer review group for such an evaluation.

"(B) The Secretary shall establish such peer review groups as may be necessary to carry out subparagraph (A). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers of employees of the United States.

"(C) With respect to applications referred to in subparagraph (A), a peer review group established pursuant to such subparagraph shall report its findings and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(D) This paragraph shall be carried out by the Secretary, acting through the Administrator of the Health Resources and Services Administration.".

(c) Certain Provisions With Respect to Hispanic Individuals and Other Members of Minority Groups.—

(1) Section 790 of the Public Health Service Act (42 U.S.C. 295g-10), as amended by subsection (b) of this section, is further amended by adding at the end the following new paragraph:

"(6)(A) With respect to the programs established in sections 758, 783, and 787, the Secretary shall, subject to subparagraph (B), make available for projects with respect to Hispanic individuals not less than 10 percent of the amounts appropriated to carry out each of such sections. With respect to the program established in section 796, the Secretary shall, subject to subparagraph (B), make available for projects under section 796(a)(4) with respect to Hispanic individuals not less than 10 percent of the amounts appropriated to carry out such section.

"(B) With respect to the programs established in sections 783 and 796, amounts made available pursuant to subparagraph (A) shall be made available only with respect to Hispanic individuals who are individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary under section 787(a)).".

(2) Section 708(b)(2) of the Public Health Service Act (42 U.S.C. 292h(b)(2)) is amended by adding at the end the following new sentence: "Such studies shall include studies determining by specialty and geographic location the number of health professionals (including allied health professionals and health care administration personnel) who are members of minority groups, including Hispanics, and studies providing by specialty and geographic location evaluations and projections of the supply of, and requirements for, health professionals (including allied health professionals and health care administration personnel) to serve minority groups, including Hispanics.".

(3)(A) The Secretary of Health and Human Services shall conduct a study for the purpose of determining—

(i)(I) the extent to which health care is being provided to Hispanic individuals in medically underserved areas by health care professionals who are unable to communicate with such individuals in the most appropriate language and cultural context; and

(II) whether the extent of the provision of health care to Hispanic individuals by such health care professionals is detrimental to the health of such individuals; and

(ii)(I) the extent to which Hispanic individuals in medically underserved areas rely on allied health personnel as the primary source of health care;

(II) whether the extent of such reliance is detrimental to the health of such individuals; and

(III) if the extent of such reliance is detrimental to such individuals, whether area health education center programs (as defined in section 781(g) of the Public Health Service Act, as redesignated by section 8(c)(1) of this Act) can be utilized with respect to providing appropriate health care to such individuals.

(B) The Secretary of Health and Human Services shall, not later than 1 year after the date of the enactment of this Act, complete the study required in subparagraph (A) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 115. SPECIAL PROJECTS.

Part F of title VII of the Public Health Service Act (42 U.S.C. 295f-2 et seq.) is amended by adding at the end the following new section:

"SPECIAL PROJECTS

"SEC. 790A. (a) The Secretary may make grants to, and enter into contracts with, schools of public health for the costs of planning, developing, demonstrating, operating, and evaluating projects—

"(1) for public health and preventive medicine;

"(2) for health promotion and disease prevention; and

"(3) for increasing the enrollment in such schools of individuals from disadvantaged backgrounds (as determined in accordance with criteria established by the Secretary under section 787(a)).

"(b) The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) The Secretary may make a grant under this subsection only—

"(1) pursuant to the issuance of solicitations for such grants; and

"(2) if the application for such a grant has been recommended for approval by an appropriate peer review group.

"(d) For the purpose of carrying out subsection (a), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $3,500,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991.".

SEC. 116. GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION.

(a) MINIMUM NUMBER OF STUDENTS.—Section 791(c)(2)(A)(i) of the Public Health Service Act (42 U.S.C. 295h(c)(2)(A)(i)) is amended—

(1) by striking "25" and inserting "15"; and

(2) by striking "20" and inserting "15".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 791(d)) of the Public Health Service Act (42 U.S.C. 295h(d)) is amended by striking "and" after "1987," and by inserting before the period the following: ", $1,600,000 for fiscal year 1989, $1,600,000 for fiscal year 1990, and $1,700,000 for fiscal year 1991".

SEC. 117. AUTHORIZATION OF APPROPRIATIONS FOR TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS.

Section 791A(c) of the Public Health Service Act (42 U.S.C. 295h-1a(c)) is amended by striking "and" before "$500,000" and by inserting before the period the following: "; and $500,000 for each of the fiscal years 1989 through 1991".

SEC. 118. PROVISIONS WITH RESPECT TO GRADUATE PROGRAMS IN CLINICAL PSYCHOLOGY.

(a) DEFINITION OF GRADUATE PROGRAM IN CLINICAL PSYCHOLOGY.—

(1) Section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)) is amended by inserting at the end the following new sentence: "The term 'graduate program in clinical psychology' means an accredited graduate program in a public or nonprofit private institution in a State which provides training leading to a doctoral degree in clinical psychology or an equivalent degree.".

(2) Section 701 of the Public Health Service Act (42 U.S.C. 292a) is amended by striking paragraph (14).

(b) NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION.—Section 702(a) of the Public Health Service Act (42 U.S.C. 292b(a)) is amended—

(1) in the first sentence, by striking "twenty members appointed" and inserting "twenty-one members appointed"; and

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "twelve" and inserting "thirteen"; and

(B) in subparagraph (A), by inserting before the semicolon the following: "and graduate programs in clinical psychology".

(c) DISCRIMINATION ON BASIS OF SEX.—Section 704 of the Public Health Service Act (42 U.S.C. 292d) is amended—

(1) in the first sentence, by inserting after "allied health personnel" the following: ", or graduate program in clinical psychology,"; and

(2) in the second sentence, by striking "school or training center" and inserting "school, training center, or graduate program".

SEC. 119. AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC HEALTH TRAINEESHIPS.

Section 792(c) of the Public Health Service Act (42 U.S.C. 295h-1b(c)) is amended by striking "and" after "1987;" and by inserting before the period the following: "; $4,100,000 for fiscal year 1989; $4,200,000 for fiscal year 1990; and $4,300,000 for fiscal year 1991".

SEC. 120. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING IN PREVENTIVE MEDICINE.

Section 793(c) of the Public Health Service Act (42 U.S.C. 295h-1c(c)) is amended by striking "and" after "1987," and by inserting before the period the following: ", $1,700,000 for fiscal year 1989, $1,900,000 for fiscal year 1990, and $2,000,000 for fiscal year 1991".

SEC. 121. TRAINING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) ESTABLISHMENT OF PROGRAM.—Section 788B of the Public Health Service Act (42 U.S.C. 295g-8b) is amended to read as follows:

"TRAINING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 788B. (a) The Secretary may make grants and enter into contracts to assist schools in meeting the costs of projects—

"(1) to train the faculty of schools of medicine, nursing, osteopathy, dentistry, public health, and allied health to teach health professions students to provide for the health care needs of individuals with acquired immune deficiency syndrome; and

"(2) with respect to improving clinical skills in the diagnosis, treatment, and prevention of such syndrome, to educate and train the health professionals and clinical staff of schools of medicine, osteopathy, and dentistry.

"(b) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.".

(b) CONFORMING AMENDMENT.—Section 788A(c)(2) of the Public Health Service Act (42 U.S.C. 295g-8a(c)(2)) is amended by inserting before the period the following: ", as such section was in effect on the day before the date of the enactment of the Health Professions Reauthorization Act of 1988".

SEC. 122. DEFINITION OF SCHOOL OF ALLIED HEALTH.

Section 701(10) of the Public Health Service Act (42 U.S.C. 292a(10)) is amended—

(1) in the matter preceding subparagraph (A), by striking "university—" and inserting "university or hospital-based educational entity—"; and

(2) in subparagraph (B), by inserting before the semicolon the following: "(except that this subparagraph shall not apply to any hospital-based educational entity)".

SEC. 123. REFERENCES WITH RESPECT TO PODIATRIC MEDICINE.

Title VII of the Public Health Service Act (42 U.S.C. 292a et seq.) is amended—

(1) in section 701—

(A) in paragraph (4), by striking "school of podiatry" and inserting "school of podiatric medicine" and by striking "doctor of podiatry" and inserting "doctor of podiatric medicine"; and

(B) in paragraph 13(C), by striking "podiatry" and inserting "podiatric medicine";

(2) in section 702(a)(1)(A), by striking "podiatry," and inserting "podiatric medicine,";

(3) in section 704, in the first sentence, by striking "podiatry," and inserting "podiatric medicine,";

(4) in section 721—

(A) in subsection (c)(3), in subparagraphs (A) and (B), by striking "podiatry," each place it appears and inserting "podiatric medicine,";

(B) in subsection (d)(1)(A), by striking "podiatry," and inserting "podiatric medicine,"; and

(C) in subsection (f)—

(i) in paragraph (1), in the first sentence, by striking "podiatry," and inserting "podiatric medicine,"; and

(ii) in paragraph (3)(A), by striking "podiatry," and inserting "podiatric medicine,";

(5) in section 729(a), in the first and second sentences, by striking "podiatry," each place it appears and inserting "podiatric medicine,";

(6) in section 737(1), by striking "podiatry," and inserting "podiatric medicine,";

(7) in section 740—

(A) in subsection (a), by striking "podiatry," and inserting "podiatric medicine,";

(B) in subsection (b)(4), by striking "podiatry" and inserting "podiatric medicine"; and

(C) in subsection (c)—

(i) in paragraph (1), by striking "podiatry," and inserting "podiatric medicine,"; and

(ii) in paragraph (3)(C), by striking "podiatry," and inserting "podiatric medicine,";

(8) in section 741—

(A) in subsection (b)(1), by striking "podiatry" and inserting "podiatric medicine";

(B) in subsection (f)(1)(A), by striking "podiatry" and inserting "podiatric medicine"; and

(C) in subsection (l)(4), by striking "podiatry," and inserting "podiatric medicine,";

(9) in section 758(a), by striking "podiatry," and inserting "podiatric medicine,";

(10) in section 787(a)(1), by striking "podiatry," and inserting "podiatric medicine,"; and

(11) in section 788—

(A) in subsection (c)(1), in the first sentence, by striking "podiatry," and inserting "podiatric medicine,"; and

(B) in subsection (f), by striking "podiatry" and inserting "podiatric medicine".

SEC. 124. PROFICIENCY EXAMINATIONS OF LABORATORY TECHNICIANS AND TECHNOLOGISTS.

Part G of title VII of the Public Health Service Act (42 U.S.C. 295h et seq.) is amended by adding at the end the following new section:

"PROFICIENCY EXAMINATIONS OF LABORATORY TECHNICIANS AND TECHNOLOGISTS

"Sec. 798A. The Secretary shall develop and conduct annually a program designed to determine the proficiency of individuals who do not otherwise meet the formal educational, professional membership, or other specific criteria established under section 353 for determining the qualifications of laboratory technicians and technologists.".

SEC. 125. STUDY BY GENERAL ACCOUNTING OFFICE OF STATE PRACTICES IN ENDORSEMENT LICENSING OF FOREIGN PHYSICIANS.

(a) In General.—The Comptroller General of the United States shall conduct a study for the purpose of determining the practices and policies of the States in licensing by endorsement physicians who are graduates of schools of medicine located in countries other than the United States. In carrying out the study, the Comptroller General shall—

(1) with respect to such licensing of such physicians—

(A) make a comparison with the practices and policies of the States in licensing by endorsement physicians who are graduates of American schools of medicine; and

(B) determine the merits of any additional requirements imposed on physicians who are graduates of medical schools of other countries, including a determination of the relative proficiency of such physicians and a determination of the relevancy of any requirement of producing additional information or records;

(2) determine whether the graduates of schools of medicine located in other countries are being discriminated against with respect to licensing by endorsement in the United States; and

(3) if such discrimination is occurring, determine the geographic areas in which the discrimination is occurring and the circumstances under which the discrimination is occurring.

(b) Consultation With Appropriately Qualified Individuals.—In carrying out the study required in subsection (a), the Comptroller General of the United States shall consult with individuals with appropriate expertise.

(c) Time for Completion.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

SEC. 126. IDENTIFICATION AND NOTIFICATION OF POTENTIAL GRANTEES UNDER CERTAIN PROGRAMS.

The Secretary of Health and Human Services shall identify entities that would be appropriate applicants for grants under section 788(a) of the Public Health Service Act (42 U.S.C. 295g-8(a)) and shall notify such entities of such fact.

SEC. 127. RESEARCH WITH RESPECT TO HEALTH RESOURCES AND SERVICES ADMINISTRATION.

With respect to any program of research pursuant to the Public Health Service Act, any such program carried out in fiscal year 1987 by an agency other than the Health Resources and Services Administration (or appropriate to be carried out by such an agency) may not, for each of the fiscal years 1989 through 1991, be carried out by such Administration.

SEC. 128. REQUIREMENTS WITH RESPECT TO APPLICATION AND AWARD PROCESS FOR CERTAIN PROGRAMS.

(a) Semiannual Grant Solicitations.—With respect to grants under any of sections 780, 784, 785, and 786 for fiscal year 1990 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants, and remaining unobligated at the end of the first solicitation period, are sufficient with respect to issuing a second solicitation.

(b) Preliminary Review for Technical Sufficiency.—In reviewing applications for grants referred to in subsection (a), the Secretary shall—

(1) make a preliminary review of each such application in order to determine whether the application involved is sufficient with respect to the minimum technical requirements established by the Secretary for applications under the program involved; and

(2) if the Secretary determines pursuant to the preliminary review that any such application is not sufficient with respect to such requirements—

(A) prepare a statement explaining the insufficiencies of the application; and

(B) return the application, together with such statement, by a date that permits the applicant involved a sufficient period of time in which to prepare a timely second application for submission pursuant to the solicitation with respect to which the first application is being returned.

SEC. 129. ESTABLISHMENT OF LOAN REPAYMENT PROGRAM FOR RESEARCH AT NATIONAL INSTITUTES OF HEALTH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) In General.—Part F of title IV of the Public Health Service Act is amended by inserting after section 487 the following new section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"Sec. 487A. (a)(1) Not later than one year after the date of the enactment of the Health Professions Reauthorization Act of 1988, the Secretary shall, subject to paragraph (2), establish and implement a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, research with respect to acquired immune deficiency syndrome in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) The Secretary may not enter in an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988.

"(b) With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c)(1) For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(2) Amounts appropriated pursuant to paragraph (1) for a fiscal year shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

SEC. 130. NATIONAL RESEARCH SERVICE AWARDS WITH RESPECT TO TITLE VII PROGRAMS.

Section 487(d)(3) of the Public Health Service Act (42 U.S.C. 288) is amended by inserting after "made available" the following: "to the Secretary, acting through the Administrator of the Health Resources and Services Administration,".

SEC. 131. ENHANCEMENT OF QUALITY CARE.

(a) In General.—With respect to amounts appropriated after the date of the enactment of this Act, of such amounts appropriated for each of the fiscal years 1989 through 1991 to carry out title VII of the Public Health Service Act, the Secretary of Health and Human Services shall, for each of such fiscal years, make available $650,000 for a grant to a qualified hospital for the purpose of enhancing the ability of such hospital to provide high quality inpatient services. For purposes of this section, the term "qualified hospital" means a hospital located in a rural county that is adjacent to 7 counties, of which 1 such adjacent county is a county described in paragraph (8)(B) of section 1886(d) of the Act referred to in section 371(b)(1)(C) of the Public Health Service Act and, of the remaining 6 such adjacent counties, 5 such counties are (or are treated as) urban counties for purposes of such section 1886(d) and 1 such county is not (or is not treated as) an urban county for purposes of such section.

(b) Pro Rata Determination.—In making available amounts for a fiscal year for purposes of subsection (a), the Secretary of Health and Human Services may not reduce the amounts available for each program of title VII of the Public Health Service Act by more than an amount equal to the product of—

(1) the amounts appropriated, after the date of the enactment of this Act, for carrying out the program involved for the fiscal year; and

(2) a percentage equal to the quotient of—

(A) $650,000; divided by

(B) the amounts appropriated, after the date of the enactment of this Act, for carrying out such title VII for the fiscal year.

SEC. 132. CLARIFICATION WITH RESPECT TO APPLICABILITY OF CERTAIN FEDERAL REGULATIONS TO SECONDARY MARKETS FOR STUDENT LOANS.

Section 728(c) of the Public Health Service Act (42 U.S.C. 294a(c)) is amended by adding at the end the following new paragraph:

"(3) With respect to Federal regulations for lenders, this subpart may not be construed to preclude the applicability of such regulations to the Student Loan Marketing Association or to any other entity in the business of purchasing student loans, including such regulations with respect to applications, contracts, and due diligence.".

SEC. 133. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE II—WAIVER OF LIABILITY FOR CERTAIN SALE OF FACILITY UNDER PROGRAM OF CONSTRUCTION AND MODERNIZATION OF MEDICAL FACILITIES

SEC. 201. ESTABLISHMENT OF WAIVER AUTHORITY.

(a) IN GENERAL.—If, pursuant to subsection (b) of section 202, the Secretary of Health and Human Services makes a certification of compliance with the conditions described in subsection (a) of such section, section 609 of the Public Health Service Act (42 U.S.C. 291i) shall not, with respect to the transferor and transferee described in subsection (b), apply to the sale on November 26, 1986, of the medical facility—

(1) located in Blanding, in the State of Utah;

(2) known, prior to such date, as San Juan County Nursing Home; and

(3) with respect to which funds were received during the years 1967 through 1970 pursuant to title VI of the Public Health Service Act (42 U.S.C. 291 et seq.).

(b) DESCRIPTION OF PARTIES TO SALE.—In the sale described in subsection (a), the transferor is San Juan County, a political subdivision of the State of Utah, and the transferee is Auburn Manor Holding Corporation, a corporation under the laws of the State of California.

SEC. 202. CONDITIONS OF WAIVER.

(a) IN GENERAL.—The conditions referred to in section 201(a) are that, not later than the expiration of the 12-month period beginning on the date of the enactment of this Act—

(1)(A) San Juan County establish an irrevocable trust with a res of $321,057 for the sole purpose of satisfying, with respect to the medical facility described in section 201(a), the obligation of San Juan County under regulations issued under clause (2) of section 603(e) of the Public Health Service Act (42 U.S.C. 291c(e));

(B) except to the extent inconsistent with this Act, San Juan establish such trust in accordance with regulations issued under section 609(d)(1)(A) of such Act for trusts established pursuant to such section; and

(C) San Juan County agree—

(i) except to the extent inconsistent with this Act, to administer such trust in accordance with regulations issued under such section 609(d)(1)(A); and

(ii) with respect to the obligation described in subparagraph (A)—

(I) to carry out such obligation at the medical facility known as San Juan County Hospital and located in Monticello, in the State of Utah;

(II) to ensure that uncompensated services provided at any location other than such medical facility will not be reimbursed from the trust established pursuant to subparagraph (A); and

(III) not to seek contribution from Auburn Corporation towards the satisfaction of such obligation; and

(2) Auburn Corporation agree—

(A) to satisfy, with respect to the medical facility described in section 201(a), the obligation of San Juan County under regulations issued under clause (1) of section 603(e) of the Public Health Service Act;

(B) to satisfy such obligation at the medical facility described in section 201(a); and

(C) not to seek contribution from San Juan County towards the satisfaction of such obligation.

(b) DETERMINATION AND CERTIFICATION OF SATISFACTION OF CONDITIONS.—The Secretary shall make a determination of whether the conditions described in subsection (a) are satisfied by San Juan County and Auburn Corporation within the period described in such subsection. If the Secretary makes a determination that the conditions have been satisfied, the Secretary shall certify to the Congress the fact of such determination.

SEC. 203. MONITORING OF COMPLIANCE WITH AGREEMENTS AND EFFECT OF FAILURE TO COMPLY.

(a) MONITORING.—The Secretary shall determine the extent to which San Juan County and Auburn Corporation are carrying out their respective duties under the agreements made pursuant to the conditions described in section 202(a).

(b) FAILURE TO COMPLY.—

(1) If the conditions described in section 202(a) are not satisfied by San Juan County and Auburn Corporation within the period described in such section, the Secretary shall ensure that proceedings under section 609 of the Public Health Service Act (42 U.S.C. 291i) with respect to the sale described in section 201(a) are commenced or continued against San Juan County or Auburn Corporation, or both, as determined by the Secretary.

(2) If San Juan County or Auburn Corporation fails to carry out its duties under the agreements made pursuant to the conditions described in section 202(a), the Secretary shall ensure that proceedings described in paragraph (1) are commenced or continued against San Juan County or Auburn Corporation, respectively.

SEC. 204. DEFINITIONS.

For purposes of this Act:

(1) The term "Auburn Corporation" means Auburn Manor Holding Corporation, a corporation under the laws of the State of California.

(2) The term "San Juan County" means San Juan County, a political subdivision of the State of Utah.

(3) The term "Secretary" means the Secretary of Health and Human Services.

TITLE III—MEDICAL DEVICE IMPROVEMENTS

SEC. 301. SHORT TITLE AND REFERENCE TO ACT.

(a) SHORT TITLE.—This title may be cited as the "Medical Device Improvements Act of 1988".

(b) REFERENCE.—Whenever in this title (other than in section 311) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 302. USER REPORTS.

(a) REQUIREMENT.—Section 519 (21 U.S.C. 360i) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"User Reports

"(b)(1)(A) Whenever a hospital, ambulatory surgical facility, or nursing home receives or otherwise becomes aware of information that reasonably suggests that a medical device may have caused or contributed to the death of a patient of the hospital, ambulatory surgical facility, or nursing home, the hospital, facility, or home shall promptly report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(B) Whenever a hospital, ambulatory surgical facility, or nursing home receives or otherwise becomes aware of information that reasonably suggests that a medical device may have caused or contributed to a life-threatening illness of, or a life-threatening injury to, a patient of the hospital, ambulatory surgical facility, or nursing home, the hospital, facility, or home shall promptly report the information to the manufacturer of the device. If the hospital, facility, or home is unable to learn the identity of the manufacturer of such a device, the report of such information shall be sent to the Secretary. The Secretary may require a hospital, ambulatory surgical facility, or nursing home which receives or otherwise becomes aware of information that reasonably suggests that a medical device may have caused or contributed to a life-threatening illness of, or a life-threatening injury to, a patient of the hospital, facility, or home to report such information to the Secretary (including, the identity of the manufacturer of the device involved).

"(C) Whenever a hospital, ambulatory surgical facility, or nursing home receives or otherwise becomes aware of information that reasonably suggests that a medical device has malfunctioned or will malfunction and such malfunction would be likely to cause or contribute to the death or serious illness of, or serious injury to, a patient of the hospital, facility, or home, the hospital facility, or home shall promptly report the information to the manufacturer of the device. If the hospital, facility, or home is unable to learn the identity of the manufacturer of such a device, the report of such information shall be sent to the Secretary.

"(D) Each hospital, ambulatory surgical facility, and nursing home shall submit to the Secretary on a quarterly basis a summary of the reports made under subparagraphs (B) and (C) respecting malfunctions of a device. Such a summary shall be in such form and contain such information from such reports as the Secretary may require for the purpose of determining compliance by manufacturers with reporting requirements under subsection (a) and shall at least include—

"(i) sufficient information to identify the hospital, ambulatory surgical facility, and nursing home which made the reports for which the summary is submitted,

"(ii) in the case of any product which was the subject of a report, identification of the product name, serial number, and model number,

"(iii) the name and the address of the manufacturer of such device, and

"(iv) a brief description of the event reported to the manufacturer.

"(E) For purposes of subparagraphs (A), (B), and (C), a hospital, ambulatory surgical facility, or nursing home shall be treated as having received or otherwise become aware of information with respect to a medical device of that entity when an individual who is employed by or otherwise affiliated with the entity receives or otherwise becomes aware of information with respect to that device in the course of their duties.

"(2) The Secretary may not disclose the identity of a hospital, ambulatory surgical facility, or nursing home which makes a report under paragraph (1), the identity of a device which was the subject of such a report, or the identity of a manufacturer of such a device—

"(A) except in connection with an action brought to enforce section 301(q),

"(B) except in connection with a communication to a manufacturer of a device which is the subject of a report under paragraph (1), or

"(C) unless required to be disclosed under subsection (a).

This paragraph does not authorize the Secretary to withhold the identity of an entity making a report under paragraph (1) or any information in such a report from the duly authorized committees and subcommittees of the Congress.

"(3) No individual or entity shall be held liable in any private civil action with respect to the content of any report made under paragraph (1) unless the individual or entity had knowledge of the falsity of the information contained in the report. A report made under paragraph (1) respecting a device or the fact that such a report has been made may not be admitted into evidence or otherwise used in an action other than an action brought to enforce this subsection.

"(4) No hospital, ambulatory surgical facility, or nursing home may—

"(A) discharge or take any other adverse personnel action with respect to any employee because the employee made a report to an officer or employee of the hospital, ambulatory surgical facility, or nursing home respecting a device, or

"(B) limit the practice of, or take any other adverse action with respect to, any practitioner because the practitioner made a report to an officer or employee of the hospital, ambulatory surgical facility, or nursing home respecting a device.

"(5)(A) Any hospital, ambulatory surgical facility, or nursing home which knowingly fails to make a report in accordance with paragraph (1) shall be subject to a civil penalty of not more than $10,000 for each day in which such failure to report occurs, except that the maximum amount of a civil penalty for any failure to report may not exceed $500,000.

"(B) Section 303 shall not apply to a violation of the requirements of this subsection.

"(6) A report made under paragraph (1) respecting a device does not affect any obligation of the manufacturer of the device who receives the report to file a report as required under subsection (a) respecting the device.".

(b) Sanction.—Section 302 (21 U.S.C. 332) is amended—

(1) in subsection (a) by inserting "(1)" before "to restrain", and

(2) by inserting before the period at the end of subsection (a) the following: ", and (2) of civil actions brought by any individual against a hospital, ambulatory surgical facility, or nursing home for damages for actions taken against the individual in violation of section 519(b)(4)".

(c) Regulations.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(b) of the Federal Food, Drug, and Cosmetic Act, added by subsection (a) of this section, not later than 12 months after the date of the enactment of this Act.

(d) Effective Date.—

(1) Section 519(b) of the Federal Food, Drug, and Cosmetic Act (other than paragraph (5) of such section), as added by subsection (a), shall take effect—

(A) upon the effective date of regulations promulgated under subsection (c), or

(B) upon the expiration of one year from the date of the enactment of this Act, whichever occurs first.

(2)(A) The Secretary of Health and Human Services shall conduct a study of compliance with the requirements of section 519(b) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), by hospitals, ambulatory surgical facilities, and nursing homes and of the cost-effectiveness of the requirements and their implementation and any recommendations for improving the requirements. The Secretary shall report the results of the study to the Congress after the expiration of 45 months after the date of the enactment of this Act.

(B)(i) If upon the expiration of 48 months after the date of the enactment of this Act the Secretary has not made the report required by subparagraph (A), paragraph (5) of such section 519(b) shall take effect upon the expiration of such months.

(ii) If in the report under subparagraph (A) the Secretary reports that there has been substantial compliance with the requirements of such section 519(b) by hospitals, ambulatory surgical facilities, or nursing homes and if the Secretary does not make a determination under clause (iii) with respect to such hospitals, ambulatory surgical facilities, or nursing homes, such paragraph (5) shall not take effect with respect to such hospitals, ambulatory surgical facilities, or nursing homes.

(iii) If—

(I) in the report under subparagraph (A) the Secretary determines, or

(II) after making the report under subparagraph (A) the Secretary determines by regulation,

that there is not substantial compliance with the requirements of such paragraph (5) by hospitals, ambulatory surgical facilities, or nursing homes, such paragraph (5) shall take effect with respect to such hospitals, ambulatory surgical facilities, or nursing homes upon the effective date of the regulation.

(e) Education and Information.—During the one-year period beginning on the date of the enactment of this Act the Secretary shall conduct education and information programs for hospitals, ambulatory surgical facilities, and nursing homes and manufacturers of devices respecting the requirements of section 519(b) of the Federal Food, Drug, and Cosmetic Act.

(f) Study.—Three years after the date of the enactment of this Act the Comptroller General of the United States shall conduct a study of—

(1) the compliance by hospitals, ambulatory surgical facilities, and nursing homes with the requirements of section 519(b) of the Federal Food, Drug, and Cosmetic Act,

(2) the actions taken by the manufacturers of devices in response to reports made to them under such section, and

(3) the cost effectiveness of such requirements and their implementation and any recommendations for improving the requirements.

The Comptroller General shall complete the study and submit a report on the study not later than 3 months before the expiration of 4 years from the date of the enactment of this Act. The report shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary of Health and Human Services.

SEC. 303. DISTRIBUTOR REPORTS.

(a) Inclusion of Distributors.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall amend the regulations published as part 803 of title 21 of the Code of Federal Regulations to require distributors of medical devices to establish and maintain records and make reports under section 519 of the Federal Food, Drug, and Cosmetic Act.

(b) Copies to Manufacturers.—Section 519(a)(3) (21 U.S.C. 360i(a)(3)) is amended by inserting before the semicolon the following: "and shall require distributors who submit such reports to submit copies of the reports to the manufacturer of the device for which the report was made".

SEC. 304. PREMARKET APPROVAL.

(a) Application Standard.—

(1) Section 515(c)(1) (21 U.S.C. 360e(c)(1)) is amended in the matter preceding subparagraph (A) by striking out "Such" and inserting in lieu thereof "Except if the Secretary determines, on the basis of evidence of the type described in section 513(a)(3), that any requirement specified in subparagraphs (A) through (G) has been met, such".

(2) Such section is further amended by adding after and below subparagraph (G) the following: "If the Secretary determines that a requirement has been met for a device, the Secretary shall make that determination for all devices of the same type unless the Secretary decides for good cause that such determination should not be made. Upon the making of such a determination, the Secretary shall include, in the summary of safety and effectiveness information made available to the public under section 520(h), a statement describing each application requirement that is the subject of such determination, explaining the basis upon which the determination was made with respect to such application requirement and summarizing the data that the Secretary considered in making such determination.".

(b) Substantial Equivalence.—

(1) Section 520 (21 U.S.C. 360j) is amended by adding at the end the following:

"Substantial Equivalence

"(m)(1) For purposes of sections 513 and 515 and this section, a device may be considered to be substantially equivalent to another device only if—

"(A) the device has the same intended use and the same technological characteristics as such other device, or

"(B) the device has the same intended use as such other device but has different technological characteristics and the evidence submitted that the device is substantially equivalent to such other device contains information, including clinical data if required by the Secretary, demonstrating that the device with such different technological characteristics is as safe and effective as comparable devices which are currently being sold in interstate commerce.

For purposes of this paragraph, technological characteristics of a device shall be considered to be different from those of the device to which it is being compared if there is a significant change in the materials, design, energy source, or other features from those of the device to which it is being compared.

"(2) The Secretary shall promulgate regulations under which a manufacturer of a device shall prepare a detailed summary of any clinical data (including information respecting any adverse effects of the device on health) required under paragraph (1), including a standard format for such information. Such manufacturer summary shall be made available to the public by the Secretary which 30 days of the issuance of any determination regarding substantial equivalence under paragraph (1).".

(2) Section 513(f) (21 U.S.C. 360c(f)) is amended by adding at the end the following:

"(3) If a manufacturer reports to the Secretary under section 510(k) that a device is not a class III device under paragraph (1) because the device is substantially equivalent to another device within a type of device—

"(i) which the Secretary has classified as a class III device under subsection (b),

"(ii) which was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of the enactment of this paragraph, and

"(iii) for which no final regulation requiring premarket approval has been promulgated under section 515(b),

the manufacturer shall certify to the Secretary that the manufacturer has conducted a reasonable search of all information known to the manufacturer and of all published information respecting such other device and has included in the report under section 510(k) a description of and a citation to all adverse safety and effectiveness data respecting such other device and respecting the device for which the 510(k) report is being made and which has not been submitted to the Secretary under section 519. The Secretary may require the manufacturer to submit the adverse safety and effectiveness data described in the report.".

(c) Revision of Classification.—

(1) Section 515 (21 U.S.C. 360e) is amended by adding at the end the following:

"Revision

"(i)(1) Before the expiration of 5 years after the date of the enactment of this subsection, the Secretary shall by order require manufacturers of devices, which are subject to revision of classification under paragraph (2), to submit to the Secretary a description of and citation to any adverse safety or effectiveness information known to the manufacturers respecting the devices which has not been submitted under section 519. The Secretary may require a manufacturer to submit the adverse safety and effectiveness data for which a description and citation was submitted to the Secretary.

"(2) After the issuance of an order under paragraph (1) but before the expiration of 5 years after the date of the enactment of this subsection, the Secretary shall publish a notice in the Federal Register for each device—

"(A) which the Secretary has classified as a class III device,

"(B) which was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of the enactment of this section, and

"(C) for which no final regulation has been promulgated under section 515(b),

revising the classification of the device so that the device is classified into class I unless the notice requires the device to remain in class III or revises the classification of the device so that the device is classified into class II. In determining whether to revise the classification of a device or to require a device to remain in class III, the Secretary shall apply the criteria set forth in section 513(a). Before the publication of a notice requiring a device to remain in class III or revising its classification, the Secretary shall publish a proposed notice respecting the classification of a device under this paragraph and provide reasonable opportunity for the submission of comments on any such notice. No notice requiring a device to remain in class III or revising its classification may take effect before the expiration of 90 days from the date of its publication in the Federal Register as a proposed notice. Any person adversely affected by such a final notice under this paragraph may challenge the retention of a device in class III or the revision of its classification only by filing a petition under section 513(e) for a classification change.

"(3) Within 12 months after the effective date of the notice requiring a device to remain in class III the Secretary shall establish by regulation a schedule for the promulgation, as promptly as is reasonably achievable, of a section 515(b) regulation for each device which is subject to such notice.".

(2) Section 520(l) (21 U.S.C. 360j(l)) is amended by adding at the end the following:

"(5)(A) Before the expiration of 1 year after the date of the enactment of this paragraph, the Secretary shall by order require manufacturers of devices, which are subject to revision of classification under subparagraph (B), to submit to the Secretary a description of and citation to any adverse safety or effectiveness information known to the manufacturers respecting the devices which has not been submitted under section 519. The Secretary may require a manufacturer to submit the adverse safety and effectiveness data for which a description and citation was submitted to the Secretary.

"(B) Except as provided in subparagraph (C), after the issuance of an order under subparagraph (A) but before the expiration of 2 years after the date of the enactment of this paragraph, the Secretary shall publish a notice in the Federal Register for each device which is classified in class III under paragraph (1) revising the classification of the device so that the device is classified into class I unless the notice requires the device to remain in class III or revises the classification of the device so that the device is classified into class II. In determining whether to revise the classification of a device or to require a device to remain in class III, the Secretary shall apply the criteria set forth in section 513(a). Before the publication of a notice requiring a device to remain in class III or revising its classification, the Secretary shall publish a proposed notice respecting the classification of a device under this subparagraph and provide reasonable opportunity for the submission of comments on any such notice. No notice under this subparagraph requiring a device to remain in class III or revising its classification may take effect before the expiration of 90 days from the date of its publication in the Federal Register as a proposed notice. Any person adversely affected by a final notice under this subparagraph revising the classification of a device may challenge the revision of the classification of the device only by filing a petition under section 513(e) for a classification change.

"(C) The Secretary may by notice published in the Federal Register extend the 2-year period prescribed by subparagraph (B) for a device for an additional period not to exceed 1 year.".

(d) Judicial Review.—Section 517(a)(1) (21 U.S.C. 360g(a)(1)) is amended by striking out "section 513 classifying a device in class I or changing the classification of a device to class I or an order" and inserting in lieu thereof "section 513(e) classifying a device or changing the classification of a device or the issuance of an order".

(e) Conforming Amendment.—Section 301(q)(1) (21 U.S.C. 331(q)(1)) is amended by striking out "519 or 520(g)" and inserting in lieu thereof "513(f)(3), 515(i)(1), 519, 520(g), or 520(l)(5)(A)".

SEC. 305. CLASSIFICATION AND RECLASSIFICATION OF DEVICES.

(a) Standards.—

(1) Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended by striking out "for which there is sufficient information to establish a performance standard to provide such assurance" and the remainder of such section and inserting in lieu thereof "and for which there is sufficient information to determine that a performance standard is appropriate to assure the safety and effectiveness of the device.".

(2) Section 513(a)(1)(C) is amended in clause (i), by striking out "insufficient information exists for the establishment of a performance standard" and inserting in lieu thereof "insufficient information exists to determine that a performance standard is appropriate to assure the safety and effectiveness of the device".

(b) Evidence.—Section 513(e) is amended by inserting "(1)" after "(e)" and by adding at the end the following:

"(2) By regulation promulgated under paragraph (1), the Secretary may change the classification of a device from class III—

"(A) to class II if the Secretary determines that a performance standard for the device would provide reasonable assurance of the safety and effectiveness of the device and that general controls would not provide reasonable assurance of the safety and effectiveness of the device, or

"(B) to class I if the Secretary determines that general controls for the device would provide reasonable assurance of the safety and effectiveness of the device.".

SEC. 306. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) Procedure.—

(1) The last sentence of section 513(a)(1) (21 U.S.C. 360c(a)(1)) is inserted as the last sentence of section 514(a) (21 U.S.C. 360d(a)).

(2) Subsections (b) through (f) of section 514 (21 U.S.C. 360d) are repealed.

(3) Subsection (g) of such section is redesignated as subsection (b).

(4) Subsection (b) (as so redesignated) of such section is amended by striking out paragraphs (1) and (2), by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively, and by inserting before paragraph (2) the following:

"(b)(1) A notice of proposed rulemaking for the establishment of a performance standard for a device shall—

"(A) set forth a finding by the Secretary that the performance standard is both appropriate and necessary for the device,

"(B) set forth proposed findings with respect to the degree of the risk of illness or injury designed to be eliminated or reduced by the proposed performance standard and the benefit to the public from the device,

"(C) provide an opportunity to submit to the Secretary a request (within 15 days of the date of the publication of the notice) for a change in the classification of the device based on new information relevant to its classification, and

"(D) invite the submission of an existing performance standard as a proposed performance standard for the device.".

(b) Conforming Amendments.—

(1) Paragraph (2) of subsection (b) (as so redesignated) of such section is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

(2) Paragraph (3)(A) of such subsection (as so redesignated) is amended by striking out "paragraphs (2) and (3)(B)" and inserting in lieu thereof "paragraphs (1) and (2)(B)".

SEC. 307. NOTIFICATION AND OTHER REMEDIES.

(a) Standard for Repair, Replacement, and Refund.—Section 518(b)(1) (21 U.S.C. 360h(b)(1)) is amended by adding after subparagraph (B) the following:

"(C) If—

"(i) the Secretary determines that—

"(I) a device intended for human use which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health,

"(II) there are reasonable grounds to believe that the unreasonable risk was not caused by failure of a person other than a manufacturer, importer, distributor, or retailer of the device to exercise due care in the installation, maintenance, repair, or use of the device,

"(III) there are reasonable grounds to believe that the device was properly designed and manufactured with reference to the state of the art as it existed at the time of its design and manufacture, and

"(IV) the notification authorized by subsection (a) would not by itself be sufficient to eliminate the unreasonable risk and action described in paragraph (2) is necessary to eliminate such risk, and

"(ii) the person the Secretary determines is responsible for the unreasonable risk has not submitted to the Secretary a plan, satisfactory to the Secretary, for taking one or more of the actions described in paragraph (2) or if such person has submitted such a plan, such person has not made adequate progress in carrying out the plan,

the Secretary shall file a civil action in a district court of the United States for an order to require such person to take one or more of the actions described in paragraph (2). In such an action the court shall issue such an order if the court finds that the Secretary has shown by a preponderance of the evidence the matters set out in subclauses (I), (II), and (IV) of clause (i). The provisions of subparagraph (A) respecting an order issued under that subparagraph which is directed to more than one person shall apply to an order issued under the preceding sentence. The Secretary may bring an action under this subparagraph in the United States district court for the district in which the defendant has its place of business. A determination of the Secretary under clauses (i)(I) and (i)(III) may not be admitted into evidence or otherwise used in a civil action other than a civil action brought under this subparagraph.

"(D) For purposes of subparagraph (C)(i)(I), no device shall be considered to present an unreasonable risk of substantial harm to the public health solely on the basis that a device was designed and manufactured subsequent to the device and incorporated safer features.

"(E) If an order is entered in a civil action brought under subparagraph (C) which requires a person to repair or replace a device or provide a refund for a device, the repair, replacement, or refund shall be subject to a reasonable allowance for use unless the device involved is a device intended to be implanted into the human body.".

(b) Expense Reimbursement.—

(1) Section 518(b)(3) (21 U.S.C. 360h(b)(3)) is amended by inserting after "charge" the following: ", other than a reasonable allowance for use,".

(2) Section 518(b)(3) (21 U.S.C. 360h(b)(3)) is amended by adding at the end the following: "In the case of an order issued under paragraph (1)(C), the term 'expenses actually incurred' does not include any expense which is covered under any policy or program of health insurance or any health benefit plan.".

(c) Reports of Removals and Field Repairs.—Section 519 (21 U.S.C. 360i) (as amended by section 302) is amended by adding at the end the following:

"Reports of Removals and Field Repairs

"(d)(1) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report to the Secretary any removal or field repair of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or field repair was undertaken to—

"(A) eliminate a risk to health posed by the device, or

"(B) remedy a violation of this Act caused by the device.

A manufacturer, importer, or distributor of a device who undertakes a field repair or removal of a device which is not required to be reported under this paragraph shall keep a record of such field repair or removal.

"(2) No report of the field repair or removal of a device may be required under paragraph (1) if a report of the field repair or removal is required, and has been submitted, under subsection (a).

"(3) For purposes of paragraphs (1) and (2), the terms 'field repair' and 'removal' do not include routine servicing.".

SEC. 308. REMANUFACTURE.

Section 510(a) (21 U.S.C. 360(a)) is amended—

(1) by striking out "and" at the end of paragraph (1) and by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(2) by adding after paragraph (2) the following:

"(3) the term 'manufacture' includes remanufacture and the term 'remanufacture' means the fabrication, assembly, substantial alteration, processing, or reprocessing of a device which has been previously introduced into interstate commerce if the fabrication, assembly, substantial alteration, processing, or reprocessing is not part of routine service on the device.".

SEC. 309. EDUCATION AND TRAINING.

Section 520 (21 U.S.C. 360j) is amended by adding at the end the following:

"education and training

"(n) The Secretary shall plan, conduct, coordinate, and support education, training, and operational activities to minimize the exposure of people to the health hazards associated with devices.".

SEC. 310. MISCELLANEOUS PROCEDURES.

(a) Section 513(f).—Section 513(f)(2) is amended in subparagraph (B)(i), by striking out "the Secretary shall" and inserting in lieu thereof "the Secretary may for good cause shown".

(b) Section 514.—Section 514(b) (21 U.S.C. 360d(b)(4)(B)) (as so redesignated) is amended—

(1) in paragraph (3)(B) (as so redesignated), by striking out ", after affording all interested persons an opportunity for an informal hearing,", and

(2) in clause (ii) of paragraph (4)(A) (as so redesignated), by striking out "unless" and all that follows in that clause and inserting in lieu thereof the following: "which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation refer such proposed regulation,".

(c) Section 515.—Section 515(c)(2) (21 U.S.C. 360e(c)(2)) is amended by striking out "paragraph (1), the Secretary shall refer such application" and inserting in lieu thereof "paragraph (1), the Secretary—

"(A) may on the Secretary's own initiative refer such application, or

"(B) shall, upon the request of an applicant unless the Secretary finds that the information in the application which would be reviewed by a panel substantially duplicates information which has previously been reviewed by a panel appointed under section 513, refer such application,".

(d) Section 516.—Section 516(a) (21 U.S.C. 360f(a)) is amended (1) by striking out "and after consultation with the appropriate panel or panels under section 513", and (2) by striking out the last sentence.

(e) Section 520(l).—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended by striking out "and after affording the petitioner an opportunity for an informal hearing".

SEC. 311. ELECTRONIC PRODUCTS.

(a) In General.—Subpart 3 of part F of title III of the Public Health Service Act is transferred to chapter V of the Federal Food, Drug, and Cosmetic Act, is placed after section 528, and is amended as follows:

(1) The heading for the subpart is amended to read as follows:

"SUBCHAPTER C—ELECTRONIC PRODUCT RADIATION CONTROL".

(2) The subpart is amended by striking out "subpart" each place it occurs and inserting in lieu thereof "subchapter".

(3)(A) Section 356 of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534", and

(ii) by striking out "sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5)" and inserting in lieu thereof "section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)".

(B) Section 358(a)(1)(E) of such Act is amended by striking out "355" and inserting in lieu thereof "531".

(C) Section 359 of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534", and

(ii) by striking out "360A" each place it occurs and inserting in lieu thereof "536".

(D) Section 360 of such Act is amended by striking out "358" each place it occurs and inserting in lieu thereof "534".

(E) Section 360A of such Act is amended—

(i) by striking out "358" and inserting in lieu thereof "534", and

(ii) by striking out "359" each place it occurs and inserting in lieu thereof "535".

(F) Section 360B of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534",

(ii) by striking out "359" each place it occurs and inserting in lieu thereof "535", and

(iii) by striking out "360A" each place it occurs and inserting in lieu thereof "536".

(G) Section 360C of such Act is amended—

(i) by striking out "358" and inserting in lieu thereof "534",

(ii) by striking out "360B" each place it occurs and inserting in lieu thereof "537", and

(iii) by striking out "360F" and inserting in lieu thereof "542".

(H) Section 360F of such Act is amended by striking out "358" and inserting in lieu thereof "534".

(4) Section 354 of such Act is repealed and sections 355 through 360F of such Act are redesignated as sections 531 through 542, respectively.

(b) Conforming Amendment.—The heading for part F of title III of the Public Health Service Act is amended by striking out "and Control of Radiation".

(c) Construction.—The transfer of subpart 3 of part F of title III of the Public Health Service Act to the Federal Food, Drug, and Cosmetic Act does not change the application of the requirements of such subpart and such Act to electronic products which were in effect on the date of the enactment of this Act.

SEC. 312. APPLICATION.

Medical devices used to deliver electroconvulsive therapy shall be subject to sections 513 through 521 of the Federal Food, Drug, and Cosmetic Act as in effect on the day before the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. TAUKE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Waxman] will be recognized for 20 minutes and the gentleman from Iowa [Mr. Tauke] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Waxman].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill now before the House is H.R. 4983, the Health Professions Reauthorization Act of 1988. This bill reauthorizes the health professions programs in title VII of the Public Health Service Act.

The programs in title VII are the principal Federal efforts to aid students in the health professions. Many years ago programs in title VII used Federal funds to expand medical school enrollments. Those programs have long since expired.

Title VII now principally represents the Federal Government's commitment to encouraging medical students to enter primary care specialities. Without these programs there would be far fewer opportunities for primary care training, and more new physicians would pursue more lucrative careers in surgical and other "procedural" specialties and subspecialties rather than primary care. The net result would be much more costly and less appropriate medical care for all of us.

Title VII also provides opportunities for seriously disadvantaged students to attend medical school, and it assists people who want to enter other health professions such as podiatry or public health.

The Subcommittee on Health and the Environment heard compelling testimony about the special, and severe, health problems faced by residents of the areas along the United States-Mexico border. As a consequence, this bill includes a specific proposal to address these needs. That provision was inspired by legislation that our distinguished colleague, Congressman Jack Brooks, introduced. In addition, the legislation includes provisions sponsored by Congressman Bill Richardson of New Mexico that are intended to improve the health of the Hispanic population.

Finally, this legislation incorporates important new initiatives to improve the education of health professionals about AIDS.

This is a bipartisan bill developed in close cooperation with the distinguished ranking minority member of the subcommittee, the gentleman from Illinois [Mr. Madigan]. He has joined me as a cosponsor of this bill, and I appreciate his efforts and urge all Members to join with us in supporting this legislation.

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Mr. Speaker, I reserve the balance of my time.

Mr. TAUKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of H.R. 4983, which reauthorizes the health professions programs. The primary purpose of this bill is to reauthorize the programs in title VII of the Public Health Service Act which would otherwise expire at the end of fiscal year 1988. The health professions authorities are extended for 3 years at current funding levels or at slight increases and several new initiatives are proposed at modest funding levels.

Now that we no longer face a general shortage of physicians, the programs in title VII have shifted from expansion to focus assistance in the areas of family medicine training, geriatric medicine, and AIDS education. Recognizing the very serious shortages of allied health professionals, the legislation creates a loan repayment program for allied health professionals who agree to practice in shortage areas and sites, such as rural hospitals and nursing homes.

Since there is still a need for more minority individuals to enter the health professions, the grants to schools and appropriate organizations to foster the recruitment and retention of disadvantaged students are still a major part of the title VII programs. Also, several of the categories specify a special set-aside for Hispanic students.

The bill improves the loan process for the Health Education Assistance Loan [HEAL] Program to reduce the likelihood of defaults and makes numerous other material changes to improve program management.

The new initiatives include the authorities for AIDS education and training, a program at NIH to enable qualified graduates to repay a portion of their loans by serving as AIDS researchers; and new health education and training centers to address critical needs along the United States-Mexico border or in other undeserved and seriously depressed areas, including rural areas. Finally, GAO will be required to conduct a study of the discrimination against licensed physicians who are foreign medical school graduates when they seek to obtain a license in another State by reciprocity.

Mr. Speaker, the legislation we are considering today also includes amendments to the Food, Drug, and Cosmetic Act which should improve the regulatory scheme for medical devices. In particular, the changes are intended to improve the post marketing surveillance of medical device performance and the approval process for devices entering the marketplace.

I believe this legislation represents a reasonable effort to improve the public health. It is a priority of the Rural Health Coalition and I urge you to join me in support of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, as I mentioned in my opening comments, a very important part of this bill deals with the health questions along the United States-Mexico border which was inspired by legislation introduced by our distinguished colleague, the gentleman from Texas [Mr. Brooks].

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I rise in strong support of this bill, particularly the provisions creating health education and training centers along the United States-Mexican border. This portion of the measure before us is very similar to legislation I introduced first in the 99th Congress, and I would like to give special thanks to our colleague from California, Mr. WAXMAN, in bringing this important program to life. He has exhibited an untiring effort to maintain crucial national health care programs and to take the lead in providing new means of assuring that all citizens are provided with the best health care possible.

We are all aware, Mr. Speaker, of the many difficulties that face our citizens along the border between the United States and Mexico, including decreasing economic growth, unprecedented illegal immigration, and severe unemployment. Among these many problems, however, perhaps the one of most concern is the lack of adequate health care services, resulting in an unacceptable number of women and young children at nutritional risk and a dangerously short supply of trained health care personnel.

In my own State of Texas, studies show that there is only 1 doctor for every 1,151 patients in the lower Rio Grande Valley, as compared to 606 patients in the rest of the State. A possible solution to the glaring health problems along the border was first brought to my attention by officials of the University of Texas medical branch at Galveston, TX, located in my congressional district.

The program originally envisioned by UTMB officials, and now a part of this bill, is a simple one requiring limited funding. Under the provisions of the measure, a new program will be established in cooperation with medical schools in the border States to improve the supply, distribution, and efficiency of personnel providing health services along the United States-Mexico border through a series of border health education and training centers. It calls for a great emphasis on health promotion and disease prevention and mandates close cooperation with health service providers, educators, and consumers from the areas to be served. By these means, it is hoped that not only will the health of our border citizens improve but that they will also be left with a self-sustained program to make certain that improved health care becomes a part of their everyday lives.

The medical branch has long led the way in many innovative programs to serve community and statewide health needs in Texas and has a good deal of experience in working with local colleges and health care providers in the border areas of Texas. The involvement of UTMB experts in this important project from the beginning, along with the able leadership of Mr. WAXMAN, assures that we will have a program that is designed to solve health care problems along our Nation's border with Mexico in a practical and efficient manner. It is a program that deserves the strong support of all Americans, and I urge my colleagues to support it.

Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of H.R. 4983, reauthorizing title VII of the Public Health Service Act. Title VII provides necessary financial assistance to health professions students, and to educational institutions for health manpower programs. At this time, I would like to extend my sincere thanks to the subcommittee chairman, Mr. WAXMAN, for his expertise and critical help in adopting provisions addressing the need for population parity in the Hispanic health care work force.

Numerous studies—including one by the Robert Wood Johnson Foundation—have indicated the need for population parity in the Hispanic health professions. These studies have shown that the lack of culturally and linguistically appropriate health care has had and is having a negative impact on the Hispanic community's access to health care.

The lack of Hispanic health care workers is well documented. Despite the fact that Hispanics represent 7.9 percent of the U.S. mainland population, they account for only 4 percent of physicians and 2 percent of registered nurses.

They are also dramatically underrepresented in allied health professions. For example, Hispanics comprise only 3.4 percent of physician's assistants; 3.8 percent of health technicians; and 5.3 percent of health administrators and nutritionists.

We have found that the primary deterrent to achieving parity is one of finances. As you may know, the average cost per year for medical school is $12,421 for a public school, in-State student. Private medical schools average $23,455 per year and can go as high as $31,315 per year.

In other words, the ability to meet the high cost of financing a medical school education is the most significant obstacle for Hispanics going into the medical field. In fact, Hispanic medical school applicants are four times as likely as non-Hispanic white applicants to have parents with incomes of $14,999 or less. In addition, of those minority students who interrupted their medical studies in 1982, 47.5 percent reported financial difficulties as playing a role in their decision.

For this reason, I am gratified H.R. 4983 contains my provisions requiring that not less than 10 percent of funds go to disadvantaged Hispanics for the following programs: Students with exceptional financial need (section 758), physician's assistants (section 783), educational assistance for students from disadvantaged backgrounds (section 787), and grants for the training of allied health professionals will go to disadvantaged Hispanic individuals.

I am also pleased my provisions incorporating Hispanics in the report to the President and Congress on the status of health personnel in the United States, and a requirement for a study evaluating the extent to which Hispanics rely on health professionals who are unable to deliver culturally or linguistically relevant health care were included in H.R. 4983. The report to Congress must include evaluations of Hispanic health professionals by specialty and geographic location, as well as projections of the supply and requirement for Hispanic health professionals.

Because of the pervasive disregard of Hispanics in the collection and analyzation of health data, health planning for the Hispanic community is currently impossible. As a result, we do not know the extent or nature of the Hispanic community's health problems. These provisions will go a long way toward addressing the current lack of information on the health status of the Hispanic community.

In closing, I would like to commend COSSMHO—the National Coalition of Hispanic Health and Human Services Organization—the only national Hispanic health organization serving the health needs of the Hispanic community, for its tireless efforts in this area of critical need. In implementing this legislation, I hope the Secretary will consult closely with COSSMHO and other interested groups. Finally, I will be closely monitoring the implementation of these provisions.

Mr. ROTH. Mr. Speaker, I rise in strong support of H.R. 4983, a measure which reauthorizes the health manpower education programs of the Public Health Service Act.

Our Nation's health manpower programs have been extremely successful in increasing the number of doctors available per capita since the program began in the 1960's. However, rural communities are at a serious disadvantage. Communities with less than 2,500 people have only 30 doctors per 100,000 people as compared to the national average of 163 doctors for every 100,000 people.

I recently had the opportunity to visit the New London Family Medical Center, a small general hospital, in northeast Wisconsin. At the hospital, I discussed the changing dynamics of the rural health care system with several of the physicians and nurses. The fear expressed by the health care professionals at the center was that they could be forced to close their doors. The primary reason is due to the lack of adequate reimbursement from Medicare and the center's inability to recruit young doctors and nurses to the area.

Today, we are facing a new crisis in the health care profession—acute manpower shortages and hospital closings in our rural areas. Since 1980, 161 rural community hospitals have been forced to shut their doors.

More important is the fact that an estimated 600 of the remaining 2,700 rural hospitals are currently near or on the brink of closing. Likewise, the high costs of a medical education and the lure of high salaries in urban hospitals has shrunk the available labor pool for rural areas.

There are unique problems facing the Nation's rural population. Rural America currently has 33 percent of the population but only 12 percent of the physicians and 18 percent of the nurses. Meanwhile, the percentage of elderly is rapidly increasing and many of the medical problems are only common to the area including high infant mortality, animal-borne diseases, and farm equipment injuries.

H.R. 4983 takes a positive step in expanding the Area Health Education Centers Program to target greater resources for our rural areas. The centers are designed to act in cooperation with one or more medical schools to improve the distribution, quality, and supply of health professionals. A renewed emphasis on the importance of the Area Health Education Centers will undoubtedly help bring a greater number of health professionals to high-priority rural areas.

Life in rural America is rich in its heritage and tradition. It is a way of life that has served as a fundamental pillar of our Nation's wealth and prosperity. Today, rural America is facing a unique crisis in the availability of adequate health care and passage of H.R. 4983 is an important initiative to help address these critical needs.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TAUKE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4983, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Public Health Service Act to revise and extend programs with respect to health research and teaching facilities and training of professional health personnel, to amend the Federal Food, Drug, and Cosmetic Act with respect to the improvement of medical devices, and for other purposes."

A motion to reconsider was laid on the table.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS AMENDMENTS ACT OF 1988

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5155) to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize appropriations for activities under such Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988".

SEC. 2. REFERENCES IN ACT.

Except as otherwise specifically provided, whenever in this Act there is an amendment or repeal of a section or provision, the amendment or repeal shall be considered to be made to that section or provision of the Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. SCOPE OF COVERAGE.

(a) Abuse or Neglect Resulting in Death.—Section 102 (42 U.S.C. 10802) is amended—

(1) in paragraph (1), by striking "injury to a mentally ill individual" and inserting "injury or death to a mentally ill individual"; and

(2) in paragraph (4), by striking "injury" each place it appears and inserting "injury or death".

(b) Individuals Covered by Act.—Paragraph (3)(B) of such section is amended—

(1) by striking "(B) who is an inpatient or resident" and inserting "(B)(i) who is an inpatient or resident";

(2) by striking the period at the end and inserting the following: ", or who is in the process of being transported to such a facility for the purposes of being admitted as an inpatient or resident; or"; and

(3) by adding at the end the following new clause:

"(iii) who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense.".

SEC. 4. ESTABLISHMENT OF GOVERNING BOARD FOR SYSTEMS.

(a) Designation of Current Advisory Boards as Advisory Councils.—Section 105(a)(6) (42 U.S.C. 10805(a)(6)) is amended by striking "board" and inserting "advisory council"; and

(b) Rules for System Governing Boards.—Section 105 (42 U.S.C. 10805) is amended by adding at the end the following new subsection:

"(c)(1) Each system established in a State under section 103 to protect and advocate the rights of mentally ill individuals shall have a governing authority. Such governing authority shall—

"(A) together with the advisory council described in subsection (a)(6), have the responsibility for jointly developing the annual priorities of the system; and

"(B) have the final responsibility for the planning, design, implementation, and functioning of the system.

"(2) If the governing authority of such system is a multi-member governing board, such board shall include members (to be selected not later than October 1, 1990) who broadly represent the clients served by the system. In the case of a system organized as a private non-profit entity whose governing authority is a multi-member governing board, the chairperson of such system's advisory council shall serve as a member of the governing board.".

SEC. 5. REQUIREMENTS FOR SYSTEM ADVISORY COUNCIL.

(a) Advisory Functions of Council.—Section 105(a)(6)(A) (42 U.S.C. 10805(a)(6)(A)) is amended—

(1) by striking "policies and priorities" and inserting "ongoing policies and priorities"; and

(2) by striking "; and" and inserting ", and on annual plans, priorities, and reports of the system; and".

(b) Annual Report.—Section 105(a)(7) (42 U.S.C. 10805(a)(7)) is amended—

(1) by striking "describing the activities" and inserting "which describes the activities"; and

(2) by striking the period at the end and inserting the following: ", and which includes a section prepared by the advisory council describing the activities of the council and its assessment of the operations of the system;".

SEC. 6. RECORDS COVERED UNDER ACCESS PROVISIONS.

(a) Records of Missing Individuals.—Section 105(a)(4)(B)(i) (42 U.S.C. 10805(b)(4)(B)(i)) is amended by striking "such access;" and inserting "such access (including an individual who has died or whose whereabouts are unknown);".

(b) Definition.—Section 106(b) (42 U.S.C. 10806(b)) is amended by adding at the end the following new paragraph:

"(3) As used in this section, the term 'records' includes—

"(A) reports prepared by any staff of a facility rendering care and treatment, or by an agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at such facility, which describe incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents; and

"(B) discharge planning records.".

SEC. 7. MISCELLANEOUS PROVISIONS.

(a) Subcontracting.—Section 104(a)(2) (42 U.S.C. 10804(a)(2)) is amended by striking "which, on the date of enactment of this Act" and inserting ", including groups run by individuals who have received or are receiving mental health services, or by the family members of such individuals, which".

(b) Technical Assistance Limitations.—

(1) State assistance.—Section 104(b)(2) (42 U.S.C. 10804(b)(2)) is amended by striking "5 percent" and inserting "10 percent".

(2) Assistance by the secretary.—Section 115 (42 U.S.C. 18025) is amended—

(A) by striking "shall provide technical assistance" and inserting "shall use not more than 2 percent of the amounts appropriated under section 117 to provide technical assistance"; and

(B) by striking the period at the end and inserting the following: ", consistent with requests by such systems for such assistance.".

(c) Additional System Requirements.—Section 105(a) (42 U.S.C. 10805(a)) (as amended by section 5), is further amended—

(1) in paragraph (6)(B) by striking "; and" and inserting a semicolon; and

(2) by adding at the end the following new paragraphs:

"(8) on an ongoing basis, provide the public with a mechanism for commenting on the priorities established by, and the activities of, the system; and

"(9) establish a grievance procedure for clients or prospective clients of the system to assure that mentally ill individuals have full access to the services of the system.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 117 (42 U.S.C. 10827) is amended by striking "$10,000,000 for fiscal year 1986," and all that follows and inserting "$13,000,000 for fiscal year 1989, and such sums as may be necessary for fiscal year 1990 and fiscal year 1991.".

SEC. 8. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act or on October 1, 1988, whichever comes later.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Iowa [Mr. TAUKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5155, the bill under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R 5155 is the reauthorization of an important program of protection and advocacy services for the mentally ill. I ask for your support of the bill, a bipartisan effort to extend this successful and needed program for 3 more years.

The system of protection and advocacy set up in 1986 is charged with safeguarding the rights of mentally ill individuals and investigating incidents of abuse and neglect of these persons when they are residents or inpatients at treatment facilities. Under the act, the system is guided by an advisory council, half of which is made up of the consumers themselves—people who have or are receiving mental health services, or their family members.

The piece of legislation before you today contains amendments that would clarify definitions and activities contained in the current law.

Incidents that result in the death of a client would be added to the definition of abuse and neglect. The definition of individuals entitled to protection and advocacy services would be expanded to include those being transported or admitted to treatment facilities, and also to include persons being involuntary detained but not serving a sentence in a municipal detention facility.

In hearings on this program, the committee became concerned about the frequent lack of access to the reports describing incidents of abuse and neglect. This legislation expands access to the kinds of records the protection and advocacy system needs to do its job.

HR. 5155 also establishes a governing authority that will jointly develop priorities for the program with the advisory council. The advisory council is directed to prepare a report and assessment of its activities, and to give the general public an opportunity to express its views on the activities and priorities of the system.

The protection and advocacy system is strongly supported by the parents and families of mentally ill patients as well as the public and private institutions with which the system works. In the short time of its existence, the protection and advocacy system has begun to prove its worth.

The bill is cosponsored by Congressman MADIGAN, the distinguished ranking member of the subcommittee. I know of no opposition to its passage. I urge your support.

Mr. Speaker, I reserve the balance of my time.

□ 1400

Mr. TAUKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 5155, the Protection and Advocacy for the Mentally Ill Individuals Act of 1988. This legislation will reauthorize, with several needed improvements, the existing protection and advocacy program for the mentally ill. This program was initiated in 1986 under Public Law 99-319 to ensure that the rights of the mentally ill are protected while they are inpatients or residents in treatment facilities. This program distributes funds through the already established protection and advocacy systems set up under the Developmental Disabilities Act.

Under Public Law 99-319, these agencies were given the authority to investigate incidents of abuse and neglect to the mentally ill when they are residents of treatment facilities and for 90 days after discharge. These systems are responsible for pursuing the appropriate legal, administrative, and other remedies for these individuals. H.R. 5155 strengthens the current program with some new provisions. One of these provides protection to the mentally ill while being transported to a treatment facility and when temporarily detained in a municipal detention facility. Another requires that the governing boards shall have the responsibility for developing the annual priorities together with the advisory council.

This improved legislation should better serve our mentally ill citizens. This bill represents a modest effort to try to assist the States in helping those individuals in society least able to help themselves. I know in my home State of Iowa, the program has proven to be very effective and beneficial.

Iowa's Protection and Advocacy System opened a total of 16 investigations in fiscal year 1987, the first full year of the program. Already this year Iowa's program has opened 22 cases, and my State protection and advocacy officers indicate that the 1988 total may be double that of 1987. This is but one indication of the need for this program.

I also wish to stress the importance of the provisions allowing protection and advocacy services to follow the individual when he or she is deinstitutionalized. These provisions help to ensure that the individual receives appropriate community-based services. As we are very much aware in our efforts to address the serious problem of homelessness, many of our Nation's homeless are mentally ill individuals who have been deinstitutionalized without assurances that they will in fact receive the community-based services they need.

I urge my colleagues to support this bill.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 5155, the Protection and Advocacy for Mentally Ill Individuals Act. I would like to commend the distinguished chairman of the subcommittee, Mr. WAXMAN, and the ranking member, Mr. MADIGAN, for introducing this worthy bill, and for their continued commitment to enriching the lives of our mentally ill citizens.

Last Congress, we acted the protection and advocacy for mentally ill individuals to ensure that the rights of the mentally ill are protected while patients or residents in facilities rendering care or treatment. H.R. 5155 reauthorizes the program for 3 years, providing $13 million in fiscal year 1989 and "such sums" in each of fiscal years 1990-91, to protection and advocacy systems (P&As), or any other State-approved mental health protection and advocacy system, to administer programs to protect and advocate for mentally ill individuals and investigate incidents of abuse and neglect.

Furthermore, H.R. 5155 establishes a grievance procedure for clients, mandates that P&A's have access to facility staff reports of incidents of abuse and neglect, and expands the eligibility for P&A service to include the time the mentally ill are being transported to a treatment facility for admission. The legislation also authorizes family support groups and a national network for victims of Alzheimer's disease and related memory disorders.

Mr. Speaker, H.R. 5155 is a bipartisan measure, endorsed by the administration. Accordingly, I ask my colleagues to join me in support of this bill.

Mr. TAUKE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the

House suspend the rules and pass the bill, H.R. 5155, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1988

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 659) to establish agricultural aid and trade missions to assist foreign countries to participate in U.S. agricultural aid and trade programs, and for other purposes, as amended.

The Clerk read as follows:

S. 659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988".

(b) Table of Contents.—The table of contents is as follows:

Section. 1. Short title and table of contents.
Sec. 2. References to the Federal Insecticide, Fungicide, and Rodenticide Act.

TITLE I—REGISTRATION

Sec. 101. Definition of outstanding data requirement.
Sec. 102. Reregistration of registered pesticides.
Sec. 103. Expedited registration of similar applications.

TITLE II—REVIEW AND CANCELLATION

Sec. 201. Administrative changes.

TITLE III—RECORDS AND INSPECTIONS

Sec. 301. Records.
Sec. 302. Inspections.

TITLE IV—DISPOSAL AND TRANSPORTATION

Sec. 401. Storage, disposal, transportation, and recall.
Sec. 402. Containers, rinsates, and other materials.
Sec. 403. Pesticide containers.
Sec. 404. Notice for stored pesticides with canceled or suspended registrations.

TITLE V—INDEMNITIES

Sec. 501. Indemnities.

TITLE VI—GENERAL

Sec. 601. Definitions.
Sec. 602. Scientific Advisory Panel.
Sec. 603. Unlawful acts.
Sec. 604. Penalties.
Sec. 605. Congressional review.

TITLE VII—AUTHORIZATION FOR APPROPRIATIONS

Sec. 701. Authorization for appropriations.

TITLE VIII—TECHNICAL AMENDMENTS

Sec. 801. Technical amendments.
Sec. 802. Table of contents amendments.

TITLE IX—EFFECTIVE DATE

Sec. 901. Effective date.

SEC. 2. REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

TITLE I—REGISTRATION

SEC. 101. DEFINITION OF OUTSTANDING DATA REQUIREMENT.

Section 2 (7 U.S.C. 136) is amended by adding at the end thereof the following new subsection:

"(ff) Outstanding Data Requirement.—

"(1) In general.—The term 'outstanding data requirement' means a requirement for any study, information, or data that is necessary to make a determination under section 3(c)(5) and which study, information, or data—

"(A) has not been submitted to the Administrator; or

"(B) if submitted to the Administrator, the Administrator has determined it must be resubmitted because it is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued under such section.

"(2) Factors.—In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.".

SEC. 102. REREGISTRATION OF REGISTERED PESTICIDES.

(a) Amendment.—The Act is amended by inserting after section 3 (7 U.S.C. 136a) the following new section:

"SEC. 3A. REREGISTRATION OF REGISTERED PESTICIDES.

"(a) General Rule.—The Administrator shall reregister, in accordance with this section, each registered pesticide containing any active ingredient contained in any pesticide first registered before November 1, 1984, except for any pesticide as to which the Administrator has determined, after November 1, 1984, and before the effective date of this section, that—

"(1) there are no outstanding data requirements; and

"(2) the requirements of section 3(c)(5) have been satisfied.

"(b) Reregistration Phases.—Reregistrations of pesticides under this section shall be carried out in the following phases:

"(1) The first phase shall include the listing under subsection (c) of the active ingredients of the pesticides that will be reregistered.

"(2) The second phase shall include the submission to the Administrator under subsection (d) of notices by registrants respecting their intention to seek reregistration, identification by registrants of missing and inadequate data for such pesticides, and commitments by registrants to replace such missing or inadequate data within the applicable time period.

"(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (e).

"(4) The fourth phase shall include an independent, initial review by the Administrator under subsection (f) of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary, of requests for additional data.

"(5) The fifth phase shall include the review by the Administrator under subsection (g) of data submitted for reregistration and appropriate regulatory action by the Administrator.

"(c) Phase One.—

"(1) Priority for reregistration.—For purposes of the reregistration of the pesticides described in subsection (a), the Administrator shall list the active ingredients of pesticides and shall give priority to, among others, active ingredients (other than active ingredients for which registration standards have been issued before the effective date of this section) that—

"(A) are in use on or in food or feed and may result in postharvest residues;

"(B) may result in residues of potential toxicological concern in potable ground water, edible fish, or shellfish;

"(C) have been determined by the Administrator before the effective date of this section to have significant outstanding data requirements; or

"(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

"(2) Reregistration lists.—For purposes of reregistration under this section, the Administrator shall by order—

"(A) not later than 70 days after the effective date of this section, list pesticide active ingredients for which registration standards have been issued before such date;

"(B) not later than 4 months after such effective date, list the first 150 pesticide active ingredients, as determined under paragraph (1);

"(C) not later than 7 months after such effective date, list the second 150 pesticide active ingredients, as determined under paragraph (1); and

"(D) not later than 10 months after such effective date, list the remainder of the pesticide active ingredients, as determined under paragraph (1).

Each list shall be published in the Federal Register.

"(3) Judicial review.—The content of a list issued by the Administrator under paragraph (2) shall not be subject to judicial review.

"(4) Notice to registrants.—On the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time by which the registrants are to notify the Administrator under subsection (d) whether the registrants intend to seek or not to seek reregistration of such pesticides.

"(d) Phase Two.—

"(1) In general.—The registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and any information, commitment, or offer described in paragraph (3).

"(2) Notice of intent to seek or not to seek reregistration.—

"(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) shall notify the Administrator by certified mail whether the registrant intends to seek or does not intend to seek reregistration of the pesticide.

"(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Reg-

ister stating that such a notice has been submitted.

"(3) MISSING OR INADEQUATE DATA.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator—

"(A) in accordance with regulations issued by the Administrator under section 3, an identification of—

"(i) all data that are required by regulation to support the registration of the pesticide with respect to such active ingredient;

"(ii) data that were submitted by the registrant previously in support of the registration of the pesticide that are inadequate to meet such regulations; and

"(iii) data identified under clause (i) that have not been submitted to the Administrator; and

"(B) either—

"(i) a commitment to replace the data identified under subparagraph (A)(ii) and submit the data identified under subparagraph (A)(iii) within the applicable time period prescribed by paragraph (4)(B); or

"(ii) an offer to share in the cost to be incurred by a person who has made a commitment under clause (i) to replace or submit the data and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing.

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (e)(1)(G) that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be considered to be inadequate if the data are derived from a study submitted before January 1, 1970, unless it is demonstrated to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.

"(4) TIME PERIODS.—

"(A) A submission under paragraph (2) or (3) shall be made—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later than 3 months after the date of publication of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later than 3 months after the date of publication of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 3 months after the date of publication of the listing of such active ingredient.

On application, the Administrator may extend a time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the registrant prevent the registrant from complying with such period.

"(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (3)(B) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(5) CANCELLATION AND REMOVAL.—

"(A) If the registrant of a pesticide does not submit a notice under paragraph (2) or (3) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of intent to cancel the registration of such registrant for such pesticide and shall publish the notice in the Federal Register and allow 60 days for the submission of comments on the notice. On expiration of such 60 days, the Administrator, by order and without a hearing, may cancel the registration or take such other action, including extension of applicable time periods, as may be necessary to enable reregistration of such pesticide by another person.

"(B)(i) If—

"(I) no registrant of a pesticide containing an active ingredient listed under subsection (c)(2) notifies the Administrator under paragraph (2) that the registrant intends to seek reregistration of any pesticide containing that active ingredient;

"(II) no such registrant complies with paragraph (3)(A); or

"(III) no such registrant makes a commitment under paragraph (3)(B) to replace or submit all data described in clauses (ii) and (iii) of paragraph (3)(A);

the Administrator shall publish in the Federal Register a notice of intent to remove the active ingredient from the list established under subsection (c)(2) and a notice of intent to cancel the registrations of all pesticides containing such active ingredient and shall provide 60 days for comment on such notice.

"(ii) After the 60-day period has expired, the Administrator, by order, may cancel any such registration without hearing, except that the Administrator shall not cancel a registration under this subparagraph if—

"(I) during the comment period a person acquires the rights of the registrant in that registration;

"(II) during the comment period that person furnishes a notice of intent to reregister the pesticide in accordance with paragraph (2); and

"(III) not later than 120 days after the publication of the notice under this subparagraph, that person has complied with paragraph (3) and the fee prescribed by subsection (i)(1) has been paid.

"(6) SUSPENSIONS AND PENALTIES.—The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if the Administrator determines that (A) progress is insufficient to ensure the submission of the data required for such pesticide under a commitment made under paragraph (3)(B) within the time period prescribed by paragraph (4)(B) or (B) the registrant has not submitted such data to the Administrator within such time period.

"(e) PHASE THREE.—

"(1) INFORMATION ABOUT STUDIES.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) who has submitted a notice under subsection (d)(2) of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under paragraph (4), to the Administrator—

"(A) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient and considered by the registrant to be adequate to meet the requirements of section 3 and the regulations issued under such section;

"(B) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient that may not comply with the requirements of section 3 and the regulations issued under such section but which the registrant asserts should be deemed to comply with such requirements and regulations;

"(C) a reformat of the data from each study summarized under subparagraph (A) or (B) by the registrant concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient that were submitted to the Administrator before January 1, 1982;

"(D) where data described in subparagraph (C) are not required for the active ingredient by regulations issued under section 3, a reformat of acute and subchronic dosing data submitted by the registrant to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section;

"(E) an identification of data that are required to be submitted to the Administrator under section 6(a)(2) indicating an adverse effect of the pesticide;

"(F) an identification of any other information available that in the view of the registrant supports the registration;

"(G) a certification that the registrant or the Administrator possesses or has access to the raw data used in or generated by the studies that the registrant summarized under subparagraph (A) or (B);

"(H) either—

"(i) a commitment to submit data to fill each outstanding data requirement identified by the registrant; or

"(ii) an offer to share in the cost of developing such data to be incurred by a person who has made a commitment under clause (i) to submit such data, and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing; and

"(I) evidence of compliance with section 3(c)(1)(D)(ii) and regulations issued thereunder with regard to previously submitted data as if the registrant were now seeking the original registration of the pesticide.

A registrant who submits a certification under subparagraph (G) that is false shall be considered to have violated this Act and shall be subject to the penalties prescribed by section 14.

"(2) TIME PERIODS.—

"(A) The information required by paragraph (1) shall be submitted to the Administrator—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later than 12 months after the date of publication of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later than 12 months after the date of publication of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 12 months after the date of publication of the listing of such active ingredient.

"(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (1)(H) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment under such paragraph. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(3) Cancellation.—

"(A) If the registrant of a pesticide fails to submit the information required by paragraph (1) within the time prescribed by paragraph (2), the Administrator, by order and without hearing, shall cancel the registration of such pesticide.

"(B)(i) If the registrant of a pesticide submits the information required by paragraph (1) within the time prescribed by paragraph (2) and such information does not conform to the guidelines for submissions established by the Administrator, the Administrator shall determine whether the registrant made a good faith attempt to conform its submission to such guidelines.

"(ii) If the Administrator determines that the registrant made a good faith attempt to conform its submission to such guidelines, the Administrator shall provide the registrant a reasonable period of time to make any necessary changes or corrections.

"(iii)(I) If the Administrator determines that the registrant did not make a good faith attempt to conform its submission to such guidelines, the Administrator may issue a notice of intent to cancel the registration. Such a notice shall be sent to the registrant by certified mail.

"(II) The registration shall be canceled without a hearing or further notice at the end of 30 days after receipt by the registrant of the notice unless during that time a request for a hearing is made by the registrant.

"(III) If a hearing is requested, a hearing shall be conducted under section 6(d), except that the only matter for resolution at the hearing shall be whether the registrant made a good faith attempt to conform its submission to such guidelines. The hearing shall be held and a determination made within 75 days after receipt of a request for hearing.

"(4) Guidelines.—

"(A) Not later than 1 year after the effective date of this section, the Administrator, by order, shall issue guidelines to be followed by registrants in—

"(i) summarizing studies;

"(ii) reformatting studies;

"(iii) identifying adverse information; and

"(iv) identifying studies that have been submitted previously that may not meet the requirements of section 3 or regulations issued under such section,

under paragraph (1).

"(B) Guidelines issued under subparagraph (A) shall not be subject to judicial review.

"(5) Monitoring.—The Administrator shall monitor the progress of registrants in acquiring and submitting the data required under paragraph (1).

"(f) Phase Four.—

"(1) Independent review and identification of outstanding data requirements.—

"(A) The Administrator shall review the submissions of all registrants of pesticides containing a particular active ingredient under subsections (d)(3) and (f)(1) to determine if such submissions identified all the data that are missing or inadequate for such active ingredient. To assist the review of the Administrator under this subparagraph, the Administrator may require a registrant seeking reregistration to submit complete copies of studies summarized under subsection (e)(1).

"(B) The Administrator shall independently identify and publish in the Federal Register the outstanding data requirements for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is contained in a pesticide to be reregistered under this section. The Administrator, at the same time, shall issue a notice under section 3(c)(2)(B) for the submission of the additional data that are required to meet such requirements.

"(2) Time periods.—

"(A) The Administrator shall take the action required by paragraph (1)—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later than 18 months after the date of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later than 24 months after the date of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 33 months after the date of the listing of such active ingredient.

"(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time, as determined by the Administrator, but not to exceed 48 months after the issuance of such notice. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(3) Suspensions and penalties.—The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if the Administrator determines that (A) tests necessary to fill an outstanding data requirement for such pesticide have not been initiated within 1 year after the issuance of a notice under paragraph (1)(B), or (B) progress is insufficient to ensure submission of the data referred to in clause (A) within the time period prescribed by paragraph (2)(B) or the required data have not been submitted to the Administrator within such time period.

"(g) Phase Five.—

"(1) Data review.—The Administrator shall conduct a thorough examination of all data submitted under this section concerning an active ingredient listed under subsection (c)(2) and of all other available data found by the Administrator to be relevant.

"(2) Reregistration and other actions.—

"(A) Within 1 year after the submission of all data concerning an active ingredient of a pesticide under subsection (f), the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. For extraordinary circumstances, the Administrator may extend such period for not more than 1 additional year.

"(B) Before reregistering a pesticide, the Administrator shall obtain any needed product-specific data regarding the pesticide by use of section 3(c)(2)(B) and shall review such data within 90 days after its submission. The Administrator shall require that data under this subparagraph be submitted to the Administrator not later than 8 months after a determination of eligibility under subparagraph (A) has been made for each active ingredient of the pesticide, unless the Administrator determines that a longer period is required for the generation of the data.

"(C) After conducting the review required by paragraph (1) for each active ingredient of a pesticide and the review required by subparagraph (B) of this paragraph, the Administrator shall determine whether to reregister a pesticide by determining whether such pesticide meets the requirements of section 3(c)(5). If the Administrator determines that a pesticide is eligible to be reregistered, the Administrator shall reregister such pesticide within 6 months after the submission of the data concerning such pesticide under subparagraph (B).

"(D) If after conducting a review under paragraph (1) or subparagraph (B) of this paragraph the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

"(h) Compensation of Data Submitter.—If data that are submitted by a registrant under subsection (d), (e), (f), or (g) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

"(i) Fees.—

"(1) Initial fee for food or feed use pesticide active ingredients.—The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $50,000 on submission of information under paragraphs (2) and (3) of subsection (d) for such ingredient.

"(2) Final fee for food or feed use pesticide active ingredients.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $100,000—

"(i) on submission of information for such ingredient under subsection (e)(1) if data are reformatted under subsection (e)(1)(C); or

"(ii) on submission of data for such ingredient under subsection (e)(2)(B) if data are not reformatted under subsection (e)(1)(C).

"(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $150,000 at such time as the Administrator shall prescribe.

"(3) Fees for other pesticide active ingredients.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is not an active ingredient of any pesticide registered for a major food or feed use shall collectively pay

fees in amounts determined by the Administrator. Such fees may not be less than one-half of, nor greater than, the fees required by paragraphs (1) and (2). A registrant shall pay such fees at the times corresponding to the times fees prescribed by paragraphs (1) and (2) are to be paid.

"(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) and that is not an active ingredient of any pesticide that is registered for a major food or feed use shall collectively pay a fee of not more than $100,000 and not less than $50,000 at such time as the Administrator shall prescribe.

"(4) REDUCTION OR WAIVER OF FEES FOR MINOR USE AND OTHER PESTICIDES.—

"(A) An active ingredient that is contained only in pesticides that are registered solely for agricultural or nonagricultural minor uses, or a pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by paragraph (3).

"(B) An antimicrobial active ingredient, the production level of which does not exceed 1,000,000 pounds per year, shall be exempt from the fees prescribed by paragraph (3). For purposes of this subparagraph, the term 'antimicrobial active ingredient' means any active ingredient that is contained only in pesticides that are not registered for any food or feed use and that are—

"(i) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surface or in water or air;

"(ii) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

"(iii) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects;

"(iv) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces; or

"(v) fungicides or fungistats.

"(C)(i) Notwithstanding any other provision of this subsection,. in the case of a small business registrant of a pesticide, the registrant shall pay a fee for the reregistration of each active ingredient of the pesticide that does not exceed an amount determined in accordance with this subparagraph.

"(ii) If during the 3-year period prior to reregistration the average annual gross revenue of the registrant from pesticides containing such active ingredient is—

"(I) less than $5,000,000, the registrant shall pay 0.5 percent of such revenue;

"(II) $5,000,000 or more but less than $10,000,000, the registrant shall pay 1 percent of such revenue; or

"(III) $10,000,000 or more, the registrant shall pay 1.5 percent of such revenue, but not more than $150,000.

"(iii) For the purpose of this subparagraph, a small business registrant is a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to reregistration, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by March 1 of each year of—

"(i) in the case of a registrant holding not more than 50 pesticide registrations, $425 for each registration; and

"(ii) in the case of a registrant holding more than 50 pesticide registrations—

"(I) $425 for each registration up to 50 registrations; and

"(II) $100 for each registration over 50 registrations, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(C)(i) The maximum annual fee payable by a registrant under clause (i) of subparagraph (A) (as adjusted under subparagraph (B)) shall be $20,000.

"(ii) The maximum annual fee payable by a registrant under clause (ii) of subparagraph (A) (as adjusted under subparagraph (B)) shall be $35,000.

"(D) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(E) The authority provided under this paragraph shall terminate on September 30, 1997.

"(6) OTHER FEES.—During the period beginning on the date of enactment of this section and ending on September 30, 1997, the Administrator may not levy any other fees for the registration of a pesticide under this Act except as provided in paragraphs (1) through (5).

"(7) APPORTIONMENT.—

"(A) If two or more registrants are required to pay any fee prescribed by paragraph (1), (2), or (3) with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the 3 calendar years preceding the date of payment of such fee, except that—

"(i) small business registrants that produce the active ingredient shall pay fees in accordance with paragraph (4)(C); and

"(ii) registrants who have no market share but who choose to reregister a pesticide containing such active ingredient shall pay the lesser of—

"(I) 15 percent of the reregistration fee; or

"(II) a proportionate amount of such fee based on the lowest percentage market share held by any registrant active in the marketplace.

In no event shall registrants who have no market share but who choose to reregister a pesticide containing such active ingredient collectively pay more than 25 percent of the total active ingredient reregistration fee.

"(B) The Administrator, by order, may require any registrant to submit such reports as the Administrator determines to be necessary to allow the Administrator to determine and apportion fees under this subsection or to determine the registrant's eligibility for a reduction or waiver of a fee.

"(C) If any such report is not submitted by a registrant after receiving notice of such report requirement, or if any fee prescribed by this subsection (other than paragraph (5)) for an active ingredient is not paid by a registrant to the Administrator by the time prescribed under this subsection, the Administrator, by order and without hearing, may cancel each registration held by such registrant of a pesticide containing the active ingredient with respect to which the fee is imposed. The Administrator shall reapportion the fee among the remaining registrants and notify the registrants that the registrants are required to pay to the Administrator any unpaid balance of the fee within 30 days after receipt of such notice.

"(j) EXEMPTION OF CERTAIN REGISTRANTS.—The requirements of subsections (d), (e), (f), and (i) (other than subsection (i)(5)) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 3(c)(2)(D), the person would not be required to submit or cite such data to obtain an initial registration of such pesticide.

"(k) REREGISTRATION AND EXPEDITED PROCESSING FUND.—

"(1) ESTABLISHMENT.—There shall be established in the Treasury of the United States a reregistration and expedited processing fund.

"(2) SOURCE AND USE.—All fees collected by the Administrator under subsection (i) shall be deposited into the fund and shall be available to the Administrator, without fiscal year limitation, to carry out reregistration and expedited processing of similar applications.

"(3) EXPEDITED PROCESSING OF SIMILAR APPLICATIONS.—

"(A) The Administrator shall use each fiscal year not more than $2,000,000 of the amounts in the fund to obtain sufficient personnel and resources to assure the expedited processing and review of any application that—

"(i) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from any such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

"(ii) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

"(B) Any amounts made available under subparagraph (A) shall be used to obtain sufficient personnel and resources to carry out the activities described in such subparagraph that are in addition to the personnel and resources available to carry out such activities on the date of enactment of this section.

"(4) UNUSED FUNDS.—Money in the fund not currently needed to carry out this section shall be—

"(A) maintained on hand or on deposit;

"(B) invested in obligations of the United States or guaranteed thereby; or

"(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

"(5) ACCOUNTING.—The Administrator shall—

"(A) provide an annual accounting of the fees collected and disbursed from the fund; and

"(B) take all steps necessary to ensure that expenditures of such funds are used only to carry out this section.

"(l) JUDICIAL REVIEW.—Any failure of the Administrator to take any action required by this section shall be subject to judicial review under the procedures prescribed by section 16(b).".

(b) CONFORMING AMENDMENT.—

(1) Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end of clauses (ii) and (iii) the following: "The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.".

(2) Section 3(c)(2)(D) (7 U.S.C. 136a(c)(2)(D)) is amended—

(A) in the matter preceding clause (i), by striking out "an end use product" and inserting in lieu thereof "the pesticide that is the subject of the application"; and

(B) in clause (i), by striking out "the safety of".

SEC. 103. EXPEDITED REGISTRATION OF SIMILAR APPLICATIONS.

Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended—

(1) by striking out "Application.—The Administrator" and inserting in lieu thereof "Application.—

"(A) The Administrator"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) The Administrator shall, as expeditiously as possible, review and act on any application received by the Administrator that—

"(I) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

"(II) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

"(ii) In expediting the review of an application for an action described in clause (i), the Administrator shall—

"(I) within 45 days after receiving the application, notify the registrant whether or not the application is complete and, if the application is found to be incomplete, reject the application;

"(II) within 90 days after receiving a complete application, notify the registrant if the application has been granted or denied; and

"(III) if the application is denied, notify the registrant in writing of the specific reasons for the denial of the application.".

TITLE II—REVIEW AND CANCELLATION

SEC. 201. ADMINISTRATIVE CHANGES.

Section 6 (7 U.S.C. 136d) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsection:

"(f) General Provisions.—

"(1) Voluntary cancellation.—A registrant at any time may request that any of its pesticide registrations be canceled or be amended to delete one or more uses. Before acting on such request, the Administrator shall publish in the Federal Register a notice of the receipt of the request. Thereafter, the Administrator may approve such a request.

"(2) Publication of notice.—A notice of denial of registration, intent to cancel, suspension, or intent to suspend issued under this Act or a notice issued under subsection (d)(4) or (e)(5)(A) of section 3A shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.".

TITLE III—RECORDS AND INSPECTIONS

SEC. 301. RECORDS.

Section 8(a) (7 U.S.C. 136f(a)) is amended—

(1) by inserting after "requiring producers" the following: ", registrants, and applicants for registration"; and

(2) by inserting before the period in the first sentence the following: "and to make the records available for inspection and copying in the same manner as provided in subsection (b)".

SEC. 302. INSPECTIONS.

(a) In General.—The first sentence of section 9(a) (7 U.S.C. 136g(a)) is amended—

(1) by inserting after "employees" the following: "of the Environmental Protection Agency or of any State",

(2) by striking out "at reasonable times," and inserting in lieu thereof the following: "at reasonable times (i)" and by inserting before the period at the end the following: ", or (ii) any place where there is being held any pesticide the registration of which has been suspended or canceled for the purpose determining compliance with section 19".

(b) Warrants.—Section 9(b) (7 U.S.C. 136g(b)) is amended by amending paragraph (1) to read as follows:

"(1) entry, inspection, and copying of records for purposes of this section or section 8;".

TITLE IV—DISPOSAL AND TRANSPORTATION

SEC. 401. STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL.

Section 19 (7 U.S.C. 136q) is amended to read as follows:

"SEC. 19. STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL.

"(a) Storage, Disposal, and Transportation.—

"(1) Data requirements and registration of pesticides.—The Administrator may require under section 3 or 6 that—

"(A) the registrant or applicant for registration of a pesticide submit or cite data or information regarding methods for the safe storage and disposal of excess quantities of the pesticide to support the registration or continued registration of a pesticide;

"(B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

"(C) the registrant of a pesticide provide evidence of sufficient financial and other resources to carry out a recall plan under subsection (b), and provide for the disposition of the pesticide, in the event of suspension and cancellation of the pesticide.

"(2) Pesticides.—The Administrator may by regulation, or as part of an order issued under section 6 or an amendment to such an order—

"(A) issue requirements and procedures to be followed by any person who stores or transports a pesticide the registration of which has been suspended or canceled;

"(B) issue requirements and procedures to be followed by any person who disposes of stocks of a pesticide the registration of which has been suspended; and

"(C) issue requirements and procedures for the disposal of any pesticide the registration of which has been canceled.

"(b) Recalls.—

"(1) In general.—If the registration of a pesticide has been suspended and canceled under section 6, and if the Administrator finds that recall of the pesticide is necessary to protect health or the environment, the Administrator shall order a recall of the pesticide in accordance with this subsection.

"(2) Voluntary recall.—If, after determining under paragraph (1) that a recall is necessary, the Administrator finds that voluntary recall by the registrant and others in the chain of distribution may be as safe and effective as a mandatory recall, the Administrator shall request the registrant of the pesticide to submit, within 60 days of the request, a plan for the voluntary recall of the pesticide. If such a plan is requested and submitted, the Administrator shall approve the plan and order the registrant to conduct the recall in accordance with the plan unless the Administrator determines, after an informal hearing, that the plan is inadequate to protect health or the environment.

"(3) Mandatory recall.—If, after determining under paragraph (1) that a recall is necessary, the Administrator does not request the submission of a plan under paragraph (2) or finds such a plan to be inadequate, the Administrator shall issue a regulation that prescribes a plan for the recall of the pesticide. A regulation issued under this paragraph may apply to any person who is or was a registrant, distributor, or seller of the pesticide, or any successor in interest to such a person.

"(4) Recall procedure.—A regulation issued under this subsection may require any person that is subject to the regulation to—

"(A) arrange to make available one or more storage facilities to receive and store the pesticide to which the recall program applies, and inform the Administrator of the location of each such facility;

"(B) accept and store at such a facility those existing stocks of such pesticide that are tendered by any other person who obtained the pesticide directly or indirectly from the person that is subject to such regulation;

"(C) on the request of a person making such a tender, provide for proper transportation of the pesticide to a storage facility; and

"(D) take such reasonable steps as the regulation may prescribe to inform persons who may be holders of the pesticide of the terms of the recall regulation and how those persons may tender the pesticide and arrange for transportation of the pesticide to a storage facility.

"(5) Contents of recall plan.—A recall plan established under this subsection shall include—

"(A) the level in the distribution chain to which the recall is to extend, and a schedule for recall; and

"(B) the means to be used to verify the effectiveness of the recall.

"(6) Requirements or procedures.—No requirement or procedure imposed in accordance with paragraph (2) of subsection (a) may require the recall of existing stocks of the pesticide except as provided by this subsection.

"(c) Storage Costs.—

"(1) Submission of plan.—A registrant who wishes to become eligible for reimbursement of storage costs incurred as a result of a recall prescribed under subsection (b) for a pesticide whose registration has been suspended and canceled shall, as soon as practicable after the suspension of the registration of the pesticide, submit to the Administrator a plan for the storage and disposal of the pesticide that meets criteria established by the Administrator by regulation.

"(2) Reimbursement.—Within a reasonable period of time after such storage costs are incurred and paid by the registrant, the Administrator shall reimburse the registrant, on request, for—

"(A) none of the costs incurred by the registrant before the date of submission of the plan referred to in paragraph (1) to the Administrator;

"(B) 100 percent of the costs incurred by the registrant after the date of submission of the plan to the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, but before the approval of the plan by the Administrator;

"(C) 50 percent of the costs incurred by the registrant during the 1-year period beginning on the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later;

"(D) none of the costs incurred by the registrant during the 3-year period beginning on the 366th day following approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later; and

"(E) 25 percent of the costs incurred by the registrant during the period beginning on the first day of the 5th year following the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, and ending on the date that a disposal permit for the pesticide is issued by a State or an alternative plan for disposal of the pesticide in accordance with applicable law has been developed.

"(d) Administration of Storage, Disposal, Transportation, and Recall Programs.—

"(1) Voluntary agreements.—Nothing in this section shall be construed as preventing or making unlawful any agreement between a seller and a buyer of any pesticide or other substance regarding the ultimate allocation of the costs of storage, transportation, or disposal of a pesticide.

"(2) Rule and regulation review.—Section 25(a)(4) shall not apply to any regulation issued under subsection (a)(2) or (b).

"(3) Limitations.—No registrant shall be responsible under this section for a pesticide the registration of which is held by another person. No distributor or seller shall be responsible under this section for a pesticide that the distributor or seller did not hold or sell.

"(4) Seizure and penalties.—If the Administrator finds that a person who is subject to a regulation or order under subsection (a)(2) or (b) has failed substantially to comply with that regulation or order, the Administrator may take action under section 13 or 14 or obtain injunctive relief under section 16(c) against such person or any successor in interest of any such person.".

SEC. 402. CONTAINERS, RINSATES, AND OTHER MATERIALS.

Section 19(a) (7 U.S.C. 136q(a)) (as amended by section 401 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(3) Containers, rinsates, and other materials.—The Administrator may by regulation, or as part of an order issued under section 6 or an amendment to such an order—

"(A) issue requirements and procedures to be followed by any person who stores or transports any container of a pesticide the registration of which has been suspended or canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide;

"(B) issue requirements and procedures to be followed by any person who disposes of stocks of any container of a pesticide the registration of which has been suspended, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

"(C) issue requirements and procedures for the disposal of any container of a pesticide the registration of which has been canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide.".

SEC. 403. PESTICIDE CONTAINERS.

Section 19 (7 U.S.C. 136q) (as amended by section 401 of this Act) is further amended by adding at the end thereof the following new subsections:

"(e) Container Design.—

"(1) Procedures.—

"(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides.

"(B) The regulations shall ensure, to the fullest extent practicable, that the containers—

"(i) accommodate procedures used for the removal of pesticides from the containers and the rinsing of the containers;

"(ii) facilitate the safe use of the containers, including elimination of splash and leakage of pesticides from the containers;

"(iii) facilitate the safe disposal of the containers; and

"(iv) facilitate the safe refill and reuse of the containers.

"(2) Compliance.—The Administrator shall require compliance with the regulations referred to in paragraph (1) not later than 5 years after the effective date of this subsection.

"(f) Pesticide Residue Removal.—

"(1) Procedures.—

"(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal.

"(B) The regulations may—

"(i) specify, for each major type of pesticide container, procedures and standards providing for, at a minimum, triple rinsing or the equivalent degree of pesticide removal;

"(ii) specify procedures that can be implemented promptly and easily in various circumstances and conditions;

"(iii) provide for reuse, whenever practicable, or disposal of rinse water and residue; and

"(iv) be coordinated with requirements for the rinsing of containers imposed under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

"(C) The Administrator may, at the discretion of the Administrator, exempt products intended solely for household use from the requirements of this subsection.

"(2) Compliance.—Effective beginning 5 years after the effective date of this subsection, a State may not exercise primary enforcement responsibility under section 26, or certify an applicator under section 4, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with this subsection.

"(3) Solid waste disposal act.—Nothing in this subsection shall affect the authorities or requirements concerning pesticide containers under the Solid Waste Disposal Act (42 U.S.C. 6901).

"(g) Pesticide Container Study.—

"(1) Study.—

"(A) The Administrator shall conduct a study of options to encourage or require—

"(i) the return, refill, and reuse of pesticide containers;

"(ii) the development and use of pesticide formulations that facilitate the removal of pesticide residues from containers; and

"(iii) the use of bulk storage facilities to reduce the number of pesticide containers requiring disposal.

"(B) In conducting the study, the Administrator shall—

"(i) consult with the heads of other interested Federal agencies, State agencies, industry groups, and environmental organizations; and

"(ii) assess the feasibility, costs, and environmental benefits of encouraging or requiring various measures or actions.

"(2) Report.—Not later than 2 years after the effective date of this subsection, the Administrator shall submit to Congress a report describing the results of the study required under paragraph (1).

"(h) Relationship to Solid Waste Disposal Act.—Nothing in this section shall diminish the authorities or requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).".

SEC. 404. NOTICE FOR STORED PESTICIDES WITH CANCELED OR SUSPENDED REGISTRATIONS.

Section 6 (7 U.S.C. 136d) (as amended by section 201(a) of this Act) is amended by adding after subsection (f) the following:

"(g) Notice for Stored Pesticides With Canceled or Suspended Registrations.—

"(1) In general.—Any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who possesses any pesticide which has had its registration canceled or suspended under this section shall notify the Administrator and appropriate State and local officials of—

"(A) such possession,

"(B) the quantity of such pesticide such person possesses, and

"(C) the place at which such pesticide is stored.

"(2) Copies.—The Administrator shall transmit a copy of each notice submitted under this subsection to the regional office of the Environmental Protection Agency which has jurisdiction over the place of pesticide storage identified in the notice.".

TITLE V—INDEMNITIES

SEC. 501. INDEMNITIES.

(a) In General.—Effective 180 days after the date of enactment of this Act, section 15 (7 U.S.C. 136m) is amended to read as follows:

"SEC. 15. INDEMNITIES.

"(a) General Indemnification.—

"(1) In general.—Except as otherwise provided in this section, if—

"(A) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(B) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f); and

"(C) any person who owned any quantity of the pesticide immediately before the notice to the registrant under subparagraph (A) suffered losses by reason of suspension or cancellation of the registration;

the Administrator shall make an indemnity payment to the person.

"(2) Exception.—Paragraph (1) shall not apply if the Administrator finds that the person—

"(A) had knowledge of facts that, in themselves, would have shown that the pesticide did not meet the requirements of section 3(c)(5) for registration; and

"(B) continued thereafter to produce the pesticide without giving timely notice of such facts to the Administrator.

"(3) Report.—If the Administrator takes an action under paragraph (1) that requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate on—

"(A) the action taken that requires the payment of indemnification;

"(B) the reasons for taking the action;

"(C) the estimated cost of the payment; and

"(D) a request for the appropriation of funds for the payment.

"(4) Appropriation.—The Administrator may not make a payment of indemnification under paragraph (1) unless a specific line item appropriation of funds has been made in advance for the payment.

"(b) Indemnification of End Users, Dealers, and Distributors.—

"(1) End users.—If—

"(A) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(B) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f); and

"(C) any person who, immediately before the notice to the registrant under subparagraph (A), owned any quantity of the pesticide for purposes of applying or using the pesticide as an end user, rather than for purposes of distributing or selling it or further processing it for distribution or sale, suffered a loss by reason of the suspension or cancellation of the pesticide;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

"(2) Dealers and Distributors.—

"(A) Any registrant, wholesaler, dealer, or other distributor (hereinafter in this paragraph referred to as a 'seller') of a registered pesticide who distributes or sells the pesticide directly to any person not described as an end user in paragraph (1)(C) shall, with respect to any quantity of the pesticide that such person cannot use or resell as a result of the suspension or cancellation of the pesticide, reimburse such person for the cost of first acquiring the pesticide from the seller (other than the cost of transportation, if any), unless the seller provided to the person at the time of distribution or sale a notice, in writing, that the pesticide is not subject to reimbursement by the seller.

"(B) If—

"(i) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(ii) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f);

"(iii) any person who, immediately before the notice to the registrant under clause (i)—

"(I) had not been notified in writing by the seller, as provided under subparagraph (A), that any quantity of the pesticide owned by such person is not subject to reimbursement by the seller in the event of suspension or cancellation of the pesticide; and

"(II) owned any quantity of the pesticide for purposes of—

"(aa) distributing or selling it; or

"(bb) further processing it for distribution or sale directly to an end user;

suffered a loss by reason of the suspension or cancellation of the pesticide; and

"(iv) the Administrator determines on the basis of a claim of loss submitted to the Administrator by the person, that the seller—

"(I) did not provide the notice specified in subparagraph (A) to such person; and

"(II) is and will continue to be unable to provide reimbursement to such person, as provided under subparagraph (A), for the loss referred to in clause (iii), as a result of the insolvency or bankruptcy of the seller and the seller's resulting inability to provide such reimbursement;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

"(C) If an indemnity payment is made by the United States under this paragraph, the United States shall be subrogated to any right that would otherwise be held under this paragraph by a seller who is unable to make a reimbursement in accordance with this paragraph with regard to reimbursements that otherwise would have been made by the seller.

"(3) Source.—Any payment required to be made under paragraph (1) or (2) shall be made from the appropriation provided under section 1304 of title 31, United States Code.

"(4) Administrative settlement.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.

"(c) Amount of Payment.—

"(1) In general.—The amount of an indemnity payment under subsection (a) or (b) to any person shall be determined on the basis of the cost of the pesticide owned by the person (other than the cost of transportation, if any) immediately before the issuance of the notice to the registrant referred to in subsection (a)(1)(A), (b)(1)(A), or (b)(2)(B)(i), except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by the person immediately before the issuance of the notice.

"(2) Special rule.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of the pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this section, proper adjustment shall be made for any pesticide used or otherwise disposed of by the owner.".

(b) Interim Payments.—

(1) Source.—Any obligation of the Administrator to pay an indemnity arising under section 15, as it existed prior to the effective date of the amendment made by this section, shall be made from the appropriation provided under section 1304 of title 31, United States Code.

(2) Administrative settlement.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.

TITLE VI—GENERAL

SEC. 601. DEFINITIONS.

(a) In General.—

(1) To use any registered pesticide in a manner inconsistent with its labeling.—The first proviso of section 2(ee) (7 U.S.C. 136(ee)) is amended—

(A) in clause (1), by inserting before the comma at the end thereof the following: "unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency"; and

(B) in clause (3), by inserting before the comma at the end thereof the following: "unless the labeling specifically states that the product may be applied only by the methods specified on the labeling".

(2) To distribute or sell.—Section 2 (as amended by section 101 of this Act) is further amended by adding at the end thereof the following new subsection:

"(gg) To Distribute or Sell.—The term 'to distribute or sell' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticides or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.".

(b) Conforming Amendments.—

(1) Registration of pesticides.—Subsection (a) of section 3 (7 U.S.C. 136a(a)) is amended to read as follows:

"(a) Requirement of Registration.—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide that is not registered under this Act. To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.".

(2) Unlawful acts.—Section 12(a) (7 U.S.C. 136j(a)) is amended—

(A) in paragraph (1), by striking out "distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—" and inserting in lieu thereof "distribute or sell to any person—"; and

(B) in paragraph (2)(F), by striking out "to make" and inserting in lieu thereof "to distribute or sell, or to make".

SEC. 602. SCIENTIFIC ADVISORY PANEL.

The sentence beginning "The advisory panel established" in section 25(d) (7 U.S.C. 136w(d)) is amended to read as follows: "The advisory panel established under this section shall be permanent.".

SEC. 603. UNLAWFUL ACTS.

Section 12(a) (7 U.S.C. 136j(a)) (as amended by section 601(b)(2) of this Act) is further amended—

(1) in paragraph (1), by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) any pesticide that is not registered under section 3 or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;"; and

(2) in paragraph (2)—

(A) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) to refuse to—

"(i) prepare, maintain, or submit any records required by or under section 4, 5, 7, 8, or 19;

"(ii) submit any reports required by or under section 4, 5, 6, 7, 8, or 19; or

"(iii) allow any entry, inspection, copying of records, or sampling authorized by this Act;";

(B) by striking out subparagraphs (J) and (K) and inserting in lieu thereof the following new subparagraphs:

"(J) to violate any suspension order issued under section 3(c)(2)(B), 3A, or 6;

"(K) to violate any cancellation order issued under this Act or to fail to submit a notice in accordance with section 6(g);";

(C) in subparagraph (M), by striking out "section 8" and inserting in lieu thereof "this Act"; and

(D) by adding at the end thereof the following new subparagraphs:

"(Q) to falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the Administrator, or that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this Act;

"(R) to submit to the Administrator data known to be false in support of a registration; or

"(S) to violate any regulation issued under section 3(a) or 19.".

SEC. 604. PENALTIES.

Paragraph (1) of section 14(b) (7 U.S.C. 136l(b)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) Any registrant, applicant for a registration, or producer that knowingly violates any provision of this Act shall be fined not more than $50,000 or imprisoned for not more than 1 year, or both.

"(B) Any commercial applicator of a restricted use pesticide, or any other person not described in subparagraph (A) who distributes or sells pesticides or devices, that knowingly violates any provision of this Act shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both.".

SEC. 605. CONGRESSIONAL REVIEW.

Paragraph (4) of section 25(a) (7 U.S.C. 136w(a)(4)) is amended to read as follows:

"(4) CONGRESSIONAL REVIEW OF REGULATIONS.—Simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.".

TITLE VII—AUTHORIZATION FOR APPROPRIATIONS

SEC. 701. AUTHORIZATION FOR APPROPRIATIONS.

Effective October 1, 1988, section 31 (7 U.S.C. 136y) is amended to read as follows:

"SEC. 31. AUTHORIZATION FOR APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act (other than sections 23(a))—

"(1) $83,000,000 for fiscal year 1989, of which not more than $13,735,500 shall be available for research under this Act;

"(2) $95,000,000 for fiscal year 1990, of which not more than $14,343,600 shall be available for research under this Act; and

"(3) $95,000,000 for fiscal year 1991, of which not more than $14,978,200 shall be available for research under this Act.".

TITLE VIII—TECHNICAL AMENDMENTS

SEC. 801. TECHNICAL AMENDMENTS.

(a) SECTION 2.—Section 2 (7 U.S.C. 136) is amended—

(1) in subsection (c), by striking out "if:" and inserting in lieu thereof "if—";

(2) in subsection (p)(2), by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services";

(3) in subsection (q)(2)(A), by striking out "if:" and inserting in lieu thereof "if—";

(4) in subsection (q)(2)(C)(iii), by striking out ": Provided, That" and inserting in lieu thereof ", except that";

(5) in subsection (u)—

(A) by striking out ": Provided, That" and inserting in lieu thereof ", except that";

(B) by striking out "(1)(a)";

(C) by striking out "or (b)";

(D) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services";

(E) by striking out "(2) that" and inserting in lieu thereof "that"; and

(F) by striking out "an article covered by clause (1) of this proviso" and inserting in lieu thereof "a new animal drug"; and

(6) in subsection (ee)—

(A) by striking out ": Provided, That the term" and inserting in lieu thereof ", except that the term";

(B) by striking out "or" before clause (4);

(C) by striking out ": Provided further, That the term also shall not include" and inserting in lieu thereof ", (5)";

(D) by striking out "or any use" and inserting in lieu thereof "or (6) any use"; and

(E) by striking out ": And provided further, That after" and inserting in lieu thereof a period and "After".

(b) SECTION 3.—Section 3 (7 U.S.C. 136a) is amended—

(1) in subsection (c)(1)(D), by striking out "subsection (c)(2)(D) of this section" and inserting in lieu thereof "paragraph (2)(D)";

(2) in subsection (c)(1)(D)(i)—

(A) by striking out ": Provided, That such" and inserting in lieu thereof a period and "Such"; and

(B) by striking out the semicolon at the end thereof and inserting in lieu thereof a period;

(3) in subsection (c)(1)(D)(ii)—

(A) by striking out "except as" and inserting in lieu thereof "Except as";

(B) by striking out "subparagraph (D)(i) of this paragraph" and inserting in lieu thereof "clause (i)"; and

(C) by striking out the semicolon at the end thereof and inserting in lieu thereof a period;

(4) in subsection (c)(1)(D)(iii)—

(A) by striking out "after expiration" and inserting in lieu thereof "After expiration";

(B) by striking out "subparagraphs (D)(i) and (D)(ii) of this paragraph" and inserting in lieu thereof "clauses (i) and (ii)"; and

(C) by striking out the semicolon at the end thereof and inserting in lieu thereof a period;

(5) in subsection (c)(2)—

(A) by striking out "(2)(A) DATA IN SUPPORT OF REGISTRATION.—The" and inserting in lieu thereof the following:

"(2) DATA IN SUPPORT OF REGISTRATION.—

"(A) The";

(B) by indenting all of subparagraph (A) (as amended by the preceding provisions of this Act) two ems, so as to align its left margin with the margin of subparagraph (A) of section 3(d)(1);

(C) in subparagraph (B), by striking out "(B)" and all that follows through "(i) If" and inserting in lieu thereof the following:

"(B)(i) If";

(D) by realigning clauses (ii), (iii), (iv), and (v) of subparagraph (B) (as amended by the preceding provisions of this Act) two ems to the left, so as to align the left margin of each clause with the margin of subparagraph (A) (as amended by subparagraph (B) of this paragraph);

(E) in the fourth sentence of subparagraph (B)(iv), by striking out ": Provided, That the" and inserting in lieu thereof a period and "The";

(F) in the first sentence of subparagraph (B)(v), by striking out "subsection (c)(1)(D) of this section" and inserting in lieu thereof "paragraph (1)(D)";

(G) in subparagraph (C), by striking out "SIMPLIFIED PROCEDURES.—"; and

(H) by indenting all of subparagraph (C) two ems, so as to align its left margin with the margin of subparagraph (A) (as amended by subparagraph (B) of this paragraph);

(6) in subsection (c)(7)—

(A) by striking out "subsection (c)(5) of this section" each place it appears and inserting in lieu thereof "paragraph (5)";

(B) in the second sentence of subparagraph (A), by striking out ": Provided, That, if" and inserting in lieu thereof a period and "If";

(C) in subparagraph (B), by striking out ": Provided, That, if" and inserting in lieu thereof a period and "If"; and

(D) in subparagraph (C), by striking out ": Provided That a" and inserting in lieu thereof a period and "A".

(8) in subsection (d)(1)(A)—

(A) in the first sentence, by striking out ", provided that if" and inserting in lieu thereof a period and "If";

(B) in the last sentence, by striking out ": Provided, however, That the" and inserting in lieu thereof a period and "The"; and

(9) in subsection (f)(2), by striking out ": Provided, That as" and inserting in lieu thereof a period and "As", and

(10) by striking out subsection (g).

(c) SECTION 4.—Section 4(a)(1) (7 U.S.C. 136b(a)(1)) is amended—

(1) by striking out ": Provided, That such" and inserting in lieu thereof a period and "Such"; and

(2) by striking out ": Provided, however, That the" and inserting in lieu thereof a period and "The".

(d) SECTION 5.—The last sentence of section 5(g) (7 U.S.C. 136c(g)) is amended by striking out ": Provided, That such" and inserting in lieu thereof a period and "Such".

(e) SECTION 6.—Section 6 (7 U.S.C. 136d) is amended—

(1) in subsection (a), by striking out ": Provided, That the" and inserting in lieu thereof a period and "The";

(2) in subsection (c), by striking out "Agency" each place it appears and inserting in lieu thereof "Administrator";

(3) in subsection (c)(1), by running into the second sentence the undesignated paragraph in that subsection;

(4) in the second sentence of subsection (c)(3)—

(A) by striking out "(i)" and inserting in lieu thereof "(A)"; and

(B) by striking out "(ii)" and inserting in lieu thereof "(B)"; and

(5) in subsection (e)(1), by striking out ": Provided, That the" and inserting in lieu thereof a period and "The";

(6) in the second sentence of subsection (e)(2), by striking out ": Provided, That the" and inserting in lieu thereof a period and "The".

(f) SECTION 10.—Section 10(d) (7 U.S.C. 136h(d)) is amended—

(1) in paragraph (1)—

(A) by striking out ": Provided, That the" and inserting in lieu thereof a period and "The"; and

(B) by striking out ": Provided further, That this" and inserting in lieu thereof a period and "This"; and

(2) in the second sentence of paragraph (3), by striking out ": Provided, That where" and inserting in lieu thereof a period and "Where".

(g) SECTION 12.—Section 12(a)(2)(F) (7 U.S.C. 136j(a)(2)(F)) is amended by striking out ": Provided, That it" and inserting in lieu thereof a period and "It".

(h) SECTION 13.—Section 13 (7 U.S.C. 136k) is amended—

(1) in subsection (b), by moving the last sentence in paragraph (3) after such paragraph as a full measure sentence; and

(2) in the first sentence of subsection (c), by striking out ": Provided, That upon" and inserting in lieu thereof a period and "On".

(i) SECTION 16.—Subsection (a) of section 16 (7 U.S.C. 136n) is amended to read as follows:

"(a) DISTRICT COURT REVIEW.—Except as otherwise provided in this Act, the refusal of the Administrator to cancel or suspend a registration or to change a classification not following a hearing and other final actions of the Administrator not committed to the discretion of the Administrator by law are judicially reviewable by the district courts of the United States.".

(j) SECTION 17.—Section 17(c) (7 U.S.C. 136o(c)) is amended—

(1) by striking out ": Provided, That the" and inserting in lieu thereof a period and "The"; and

(2) by striking out ": And provided further, That all" and inserting in lieu thereof a period and "All".

(k) SECTION 18.—Section 18 (7 U.S.C. 136p) is amended—

(1) in the heading, by inserting "AND STATE" after "FEDERAL"; and

(2) by running in the second sentence after the first sentence.

(l) SECTION 21.—Section 21 (7 U.S.C. 136s) is amended—

(1) in subsection (a), by inserting "SECRETARY OF AGRICULTURE.—" after the subsection designation;

(2) in subsection (b), by inserting "VIEWS.—" after the subsection designation; and

(3) in subsection (c), by inserting "NOTICE.—" after the subsection designation.

(m) SECTION 24.—Section 24 (7 U.S.C. 136v) is amended—

(1) in subsection (a), by inserting "IN GENERAL.—" after the subsection designation;

(2) in subsection (b), by inserting "UNIFORMITY.—" after the subsection designation; and

(3) in subsection (c)—

(A) by striking out "(c)(1) A" and inserting in lieu thereof the following:

"(c) ADDITIONAL USES.—

"(1) A"; and

(B) by indenting each paragraph two ems, so as to align the left margin of each paragraph with the margin of paragraph (1) of section 25(c).

(n) SECTION 25.—Section 25 (7 U.S.C. 136w) is amended—

(1) in subsection (a)—

(A) by striking out "(a)(1) REGULATIONS.—The" and inserting in lieu thereof the following:

"(a) IN GENERAL.—

"(1) REGULATIONS.—The";

(B) by indenting paragraphs (1), (2), and (3) two ems, so as to align the left margin of each paragraph with the margin of paragraph (1) of section 25(c) and by indenting each subparagraph of paragraph (2) two ems; and

(C) in paragraph (3), by striking out "Committee on Agriculture and Forestry" and inserting in lieu thereof "Committee on Agriculture, Nutrition, and Forestry"; and

(2) in the second sentence of subsection (e), by striking out ": Provided, That whenever" and inserting in lieu thereof a period and "Whenever".

(o) SECTION 26.—Section 26 (7 U.S.C. 136w-1) is amended—

(1) in subsection (a), by inserting "IN GENERAL.—" after the subsection designation;

(2) in subsection (a)(1), by striking out "; Provided, That the" and inserting in lieu thereof ", except that the";

(3) in subsection (b), by inserting "SPECIAL RULES.—" after the subsection designation; and

(4) in subsection (c), by inserting "ADMINISTRATOR.—" after the subsection designation.

(p) SECTION 27.—Section 27 (7 U.S.C. 136w-2) is amended—

(1) in subsection (a), by inserting "REFERRAL.—" after the subsection designation;

(2) in subsection (b), by inserting "NOTICE.—" after the subsection designation; and

(3) in subsection (c), by inserting "CONSTRUCTION.—" after the subsection designation.

(q) REDESIGNATION OF SECTIONS 3A AND 4.—

(1) SECTION 4 INTO SECTION 11.—

(A) Subsections (a), (b), and (c) of section 4 (7 U.S.C. 136b) are transferred to section 11 and inserted at the beginning and subsections (a) and (b) of section 11 (7 U.S.C. 136i) are redesignated as subsections (d) and (e), respectively.

(B) Section 4 is amended by striking out "SEC. 4. USE OF RESTRICTED USE PESTICIDES; CERTIFIED APPLICATORS.".

(C) The section heading for section 11 is amended to read as follows: "USE OF RESTRICTED USE PESTICIDES; APPLICATORS.".

(B) CONFORMING AMENDMENTS.—Sections 5(f), 19(f)(2) (as added by section 401 of this Act), and 26(b) are each amended by striking out "section 4" and inserting in lieu thereof "section 11".

(2) REDESIGNATION OF SECTION 3A AS SECTION 4.—

(A) IN GENERAL.—Section 3A (as added by section 102 of this Act) is redesignated as section 4.

(B) CONFORMING AMENDMENTS.—Sections 6(f)(2) (as added by section 201 of this Act) and 12(a)(2)(J) (as amended by section 603 of this Act) are each amended by striking out "3A" and inserting in lieu thereof "4".

SEC. 802. TABLE OF CONTENTS AMENDMENT.

Subsection (b) of section 1 (7 U.S.C. prec. 121) is amended to read as follows:

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.
  "(a) Short title.
  "(b) Table of contents.
"Sec. 2. Definitions.
  "(a) Active ingredient.
  "(b) Administrator.
  "(c) Adulterated.
  "(d) Animal.
  "(e) Certified applicator, etc..
    "(1) Certified applicator.
    "(2) Private applicator.
    "(3) Commercial applicator.
    "(4) Under the direct supervision of a certified applicator.
  "(f) Defoliant.
  "(g) Desiccant.
  "(h) Device.
  "(i) District court.
  "(j) Environment.
  "(k) Fungus.
  "(l) Imminent hazard.
  "(m) Inert ingredient.
  "(n) Ingredient statement.
  "(o) Insect.
  "(p) Label and labeling.
    "(1) Label.
    "(2) Labeling.
  "(q) Misbranded.
  "(r) Nematode.
  "(s) Person.
  "(t) Pest.
  "(u) Pesticide.
  "(v) Plant regulator.
  "(w) Producer and produce.
  "(x) Protect health and the environment.
  "(y) Registrant.
  "(z) Registration.
  "(aa) State.
  "(bb) Unreasonable adverse effects on the environment.
  "(cc) Weed.
  "(dd) Establishment.
  "(ee) To use any registered pesticide in a manner inconsistent with its labeling.
  "(ff) Outstanding data requirement.
  "(gg) To distribute or sell.
"Sec. 3. Registration of pesticides.
  "(a) Requirement of registration.
  "(b) Exemptions.
  "(c) Procedure for registration.
    "(1) Statement required.
    "(2) Data in support of registration.
    "(3) Time for acting with respect to application.
    "(4) Notice of application.
    "(5) Approval of registration.
    "(6) Denial of registration.
    "(7) Registration under special circumstances.
    "(8) Interim administrative review.
  "(d) Classification of pesticides.
    "(1) Classification for general use, restricted use, or both.
    "(2) Change in classification.

"(3) Change in classification from restricted use to general use.
"(e) Products with same formulation and claims.
"(f) Miscellaneous.
"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"Sec. 4. Reregistration of registered pesticides.
"(a) General rule.
"(b) Reregistration phases.
"(c) Phase one.
"(1) Priority for reregistration.
"(2) Reregistration lists.
"(3) Judicial review.
"(4) Notice to registrants.
"(d) Phase two.
"(1) In general.
"(2) Notice of intent to seek or not to seek reregistration.
"(3) Missing or inadequate data.
"(4) Time periods.
"(5) Cancellation and removal.
"(6) Suspensions and penalties.
"(e) Phase three.
"(1) Information about studies.
"(2) Time periods.
"(3) Cancellation.
"(4) Guidelines.
"(5) Monitoring.
"(f) Phase four.
"(1) Independent review and identification of outstanding data requirements.
"(2) Time periods.
"(3) Suspensions and penalties.
"(g) Phase five.
"(1) Data review.
"(2) Reregistration and other actions.
"(h) Compensation of data submitter.
"(i) Fees.
"(1) Initial fee for food or feed use pesticide active ingredients.
"(2) Final fee for food or feed use pesticide active ingredients.
"(3) Fees for other pesticide active ingredients.
"(4) Reduction or waiver of fees for minor use and other pesticides.
"(5) Maintenance fee.
"(6) Other fees.
"(7) Apportionment.
"(j) Exemption of certain registrants.
"(k) Reregistration and expedited processing fund.
"(1) Establishment.
"(2) Source and use.
"(3) Expedited processing of similar applications.
"(4) Unused funds.
"(5) Accounting.
"(l) Judicial review.
"Sec. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"(f) State issuance of permits.
"(g) Exemption for agricultural research agencies.
"Sec. 6. Administrative review; suspension.
"(a) Cancellation after five years.
"(1) Procedure.
"(2) Information.
"(b) Cancellation and change in classification or labels.
"(c) Suspension.
"(1) Order.
"(2) Expedite hearing.
"(3) Emergency order.
"(4) Judicial review.
"(d) Public hearings and scientific review.
"(e) Conditional registration.
"(f) General provisions.
"(1) Voluntary cancellation.
"(2) Publication of notice.
"(3) Existing stocks.
"(4) Additional information.
"(g) Notice for stored pesticides with canceled or suspended registrations.
"(1) In general.
"(2) Copies.
"(h) Judicial review.
"Sec. 7. Registration of establishments.
"(a) Requirements.
"(b) Registration.
"(c) Information required.
"(d) Confidential records and information.
"Sec. 8. Records.
"(a) Requirement.
"(b) Inspection.
"Sec. 9. Inspection of establishments, etc.
"(a) In general.
"(b) Warrants.
"(c) Enforcement.
"(1) Certification of facts to Attorney General.
"(2) Notice not required.
"(3) Warning notices.
"Sec. 10. Protection of trade secrets and other information.
"(a) In general.
"(b) Disclosure.
"(c) Disputes.
"(d) Limitations.
"(e) Disclosure to contractors.
"(f) Penalty for disclosure by Federal employees.
"(g) Disclosure to foreign and multinational pesticide producers.
"Sec. 11. Use of restricted use pesticides; applicators.
"(a) Certification procedure.
"(1) Federal certification.
"(2) State certification.
"(b) State plans.
"(c) Instruction in integrated pest management techniques.
"(d) In general.
"(e) Separate standards.
"Sec. 12. Unlawful acts.
"(a) In general.
"(b) Exemptions.
"Sec. 13. Stop sale, use, removal, and seizure.
"(a) Stop sale, etc., orders.
"(b) Seizure.
"(c) Disposition after condemnation.
"(d) Court costs, etc.
"Sec. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private applicator.
"(3) Hearing.
"(4) Determination of penalty.
"(5) References to Attorney General.
"(b) Criminal penalties.
"(1) In general.
"(2) Private applicator.
"(3) Disclosure of information.
"(4) Acts of officers, agents, etc.
"Sec. 15. Indemnities.
"(a) General indemnification.
"(1) In general.
"(2) Exception.
"(3) Report.
"(4) Appropriation.
"(b) Indemnification of end users, dealers, and distributors.
"(1) End users.
"(2) Dealers and distributors.
"(3) Source.
"(4) Administrative settlement.
"(c) Amount of payment.
"(1) In general.
"(2) Special rule.
"Sec. 16. Administrative procedure; judicial review.
"(a) District court review.
"(b) Review by Court of Appeals.
"(c) Jurisdiction of district courts.
"(d) Notice of judgments.
"Sec. 17. Imports and exports.
"(a) Pesticides and devices intended for export.
"(b) Cancellation notices furnished to foreign governments.
"(c) Importation of pesticides and devices.
"(d) Cooperation in international efforts.
"(e) Regulations.
"Sec. 18. Exemption of Federal agencies.
"Sec. 19. Storage, disposal, transportation, and recall.
"(a) Storage, disposal, and transportation.
"(1) Data requirements and registration of pesticides.
"(2) Pesticides.
"(3) Containers, rinsates, and other materials.
"(b) Recalls.
"(1) In general.
"(2) Voluntary recall.
"(3) Mandatory recall.
"(4) Recall procedure.
"(5) Contents of recall plan.
"(6) Requirements or procedures.
"(c) Storage costs.
"(1) Submission of plan.
"(2) Reimbursement.
"(d) Administration of storage, disposal, transportation, and recall programs.
"(1) Voluntary agreements.
"(2) Rule and regulation review.
"(3) Limitations.
"(4) Seizure and penalties.
"(e) Container design.
"(1) Procedures.
"(2) Compliance.
"(f) Pesticide residue removal.
"(1) Procedures.
"(2) Compliance.
"(g) Pesticide container study.
"(h) Relationship to Solid Waste Disposal Act.
"(1) Study.
"(2) Report.
"Sec. 20. Research and monitoring.
"(a) Research.
"(b) National monitoring plan.
"(c) Monitoring.
"Sec. 21. Solicitation of comments; notice of public hearings.
"Sec. 22. Delegation and cooperation.
"(a) Delegation.
"(b) Cooperation.
"Sec. 23. State cooperation, aid, and training.
"(a) Cooperative agreements.
"(b) Contracts for training.
"(c) Information and education.
"Sec. 24. Authority of States.
"Sec. 25. Authority of Administrator.
"(a) In General.
"(1) Regulations.
"(2) Procedure.
"(3) Congressional committees.
"(4) Congressional review of regulations.
"(b) Exemption of pesticides.
"(c) Other authority.

"(d) Scientific advisory panel.

"Sec. 26. State primary enforcement responsibility.

"Sec. 27. Failure by the State to assure enforcement of State pesticide use regulations.

"Sec. 28. Identification of pests; cooperation with Department of Agriculture's program.

"Sec. 29. Annual report.

"Sec. 30. Severability.

"Sec. 31. Authorization for appropriations.".

TITLE IX—EFFECTIVE DATE

SEC. 901. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the expiration of 60 days after the date of enactment of this Act.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **GRANDY**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. **DE LA GARZA**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 659 would extend FIFRA for 3 years, through fiscal year 1991.

In addition, it would address what virtually everyone agrees is the single most pressing problem facing the pesticide regulatory program today: that is, the need to reexamine, in a timely manner, the majority of the pesticides currently on the market.

The legislation would ensure that prompt completion of EPA's reregistration program by prescribing a systematic procedure that the agency must follow over the course of the next 9 years to assess the adequacy of the health and safety data that support the continued registration of nearly 600 pesticide active ingredients.

More importantly, the legislation will ensure that EPA has the resources needed to do the job within the schedule established in the bill. The additional resources will be provided in the form of one-time reregistration fees and annual maintenance fees that will be assessed on pesticide products.

S. 659 will also substantially limit the Government's obligation to indemnify the holders of suspended pesticides as well as the Federal cost of safely disposing of those same products.

Mr. Speaker, much of the credit for the reforms embodied in the indemnification and storage provisions of the bill must go to the gentleman from Oklahoma [Mr. SYNAR]. It is largely because of his efforts to identify the costs and shortcomings of the indemnification and disposal provisions of the current act that these reforms are included in the bill today, and I greatly appreciate the help and cooperation that he has shown on the matter.

In addition, I want to thank the House leadership for the support and cooperation that it has offered in facilitating floor consideration of this sound and reasonable bill.

Mr. Speaker, S. 659 represents yet another attempt by the Committee on Agriculture to fulfill its commitment to restore public confidence in EPA's pesticide regulatory program. As my colleagues may recall, the House on three separate occasions in 1986 approved comprehensive legislation to revise FIFRA, only to have those efforts die in the last days of the 99th Congress when our differences with the other body were not reconciled.

In an effort to develop a bill that would have a good chance of passage in the 100th Congress, the committee has put aside, for now, many of the difficult issues that, while important, were almost certain to prevent enactment of legislation this year. I thus want to thank members of the committee, as well as others in the House, for the cooperation and restraint that have shown in the interest of securing passage of necessary FIFRA legislation this year.

As the bill now stands, I am hopeful that important improvements of FIFRA will be enacted this year.

Briefly, Mr. Speaker, S. 659 would amend FIFRA as follows:

First, it would accelerate EPA's current reregistration effort and provide the resources, in the form of fees on pesticides, to ensure that reregistration is completed over a 9-year period.

Second, the bill would sharply limit the Government's current obligation to indemnify the holders of suspended and canceled pesticides. Only certain "end users" would remain eligible for indemnification.

Similarly, the legislation would end EPA's principal role in ensuring the proper disposal of suspended and canceled pesticides. Instead, the agency would share in the cost of storing such pesticides before their disposal. EPA's portion of the cost of storing the pesticide would depend on how quickly the agency approves industry plans to dispose of the chemical and the ultimate success of the registrant in securing proper disposal.

In addition, S. 659 includes certain definitional changes to FIFRA necessary to facilitate implementation of the reregistration and indemnification and storage provisions. For similar reasons, changes are proposed in the criminal penalties and unlawful acts provisions of current law, and the Administrator's authority to request records or conduct inspections is strengthened.

In order to prevent unnecessary delay in EPA's ability to promulgate regulations necessary to carry out its new authorities, the agency is required, under S. 659, to submit any proposed rule or regulation to Congress at least 60 calendar days before they are formally proposed. Current law, by contrast, requires submission of a draft rule or regulation for 90 calendar days of continuous session of Congress prior to proposal of the rule of regulation.

Finally, S. 659 would reauthorize FIFRA for 3 years—fiscal years 1989 through 1991—and provide that EPA's Scientific Advisory Panel [SAP] be made permanent, rather than require that the SAP be authorized separately in conjunction with FIFRA.

Mr. Speaker, I urge prompt adoption of this important legislation.

Mr. **GRANDY**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appear today on behalf of the gentleman from Kansas [Mr. ROBERTS], the ranking minority member of the subcommittee on Department Operations, Research, and Foreign Agriculture, who is delayed in transit.

Mr. Speaker, the nature and complexity of FIFRA bears with it a variety of issues, many of which are very controversial. Only through the dedicated leadership of Chairman DE LA GARZA, and my colleague and chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture [DORFA], Mr. GEORGE BROWN, are we able to seriously expect that the House amendments to S. 659 will be enacted into law this year.

As a member of the DORFA Subcommittee, I have had the privilege of working on all the issues intersecting with FIFRA: including ground water, uniform marketing standards, farmer liability, data compensation, and many others. Although, for the purposes of expediting passage of these House amendments to FIFRA the Agriculture Committee reported a bill that addresses only the most pressing problem—the lack of a timely and efficient reregistration process at EPA. In other words, we need to sort through this Nation's inventory of pesticides and better document which pesticides meet the stringent health and environmental standards that agriculture, industry, and the general public demand of chemicals in the environment. The House amendments to S. 659 will once and for all put to rest any doubts, or any contrary assertions, regarding the commitment and resources of EPA to regulate pesticides adequately.

I am disappointed that time constraints did not allow the many interested parties to the FIFRA debate bring a more comprehensive bill to the floor. In the last Congress the House passed a comprehensive FIFRA bill three times, once by unanimous consent. However, I am pleased to note the continued leadership of the House on these matters, as we will be the first body of this Congress to pass a FIFRA bill. I look forward to building upon the foundation established by the bill and the committee's report, and working next year on other issues pertinent to FIFRA.

Pesticides are complex chemical agents meant to kill, or control, pests that spoil our food, rats that eat our grain or infest our cities, or bacteria and other microbes that would otherwise make us ill. Certainly, with regard to agriculture the judicious and reasoned use of pesticides is crucial to the healthy and plentiful food supply that we and billions of others enjoy today. In 1972 Congress recognized the complexity inherent to pesticides, the variability of modern risk assessment, and the nature of regulatory decisions predicated on risk assessment techniques. As a consequence, and given the partnership effort characterizing the pesticide registration process, since 1972 FIFRA has provided for the indemnification of persons when the Administrator suspends and cancels a pesticide on the basis of an imminent hazard.

I support the changes made by the House amendments to the indemnification provisions of FIFRA. Without any doubt, that provision of current law has diverted resources that EPA would have otherwise used for general pesticide regulatory programs. We have taken a giant step toward ensuring that EPA can operate unfettered by the demands of indemnification. The House amendments to S. 659, provide in only very limited instances the payment of indemnities to persons outside farmers and other end users. This provision will ensure the timely and safe removal of suspended and canceled pesticides from the marketplace.

Again, I want to commend the leadership of Chairman de la Garza. This bill is a bipartisan effort to ensure the adequate regulation of pesticides. This bill charts a course for protecting the ground water resource, ensuring the safety of our food supply, safeguarding the health of pesticide applicators, and reestablishing the confidence of this Congress and the American public in the efforts of the Environmental Protection Agency.

At this point, Mr. Speaker, if I could have the attention of the gentleman from Texas [Mr. de la Garza], chairman of the Agriculture Committee, I would like to engage him in a colloquy.

Section 102 of S. 659 requires persons holding a pesticide registration to notify the Administrator of the Environmental Protection Agency whether or not they intend to seek reregistration of those pesticides.

The bill provides that those who fail to respond to the Administrator with a notice of whether or not they intend to seek reregistration are subject to having their pesticide registration canceled. The bill is somewhat unclear, however, with regard to the treatment of those who inform the Administration that they do not intend to seek reregistration.

May I ask the chairman of the committee—the author of the legislation—to state his intention with regard to the treatment of those who inform the Administrator that they do not intend to seek reregistration.

Mr. de la GARZA. Mr. Speaker, if the gentleman will yield, the intention, with regard to registrants who inform the Administrator of their decision not to seek reregistration, is to have the Administrator proceed to cancel the registration of the pesticide. For this purpose, the Administrator may treat such a registrant in the same manner as a registrant who fails to notify the Administrator whether or not he intends to seek reregistration.

At the Administrator's discretion, notice of a registrant's decision not to seek reregistration may also be treated as a request for voluntary cancellation since, under FIFRA, the term "registration" is defined to include "reregistration," and thus a decision not to seek reregistration is equivalent to requesting that one's registration be canceled.

Mr. GRANDY. Mr. Speaker, I thank the gentleman from Texas for that explanation.

Mr. ROBERTS. Mr. Speaker, I wish to associate myself with the remarks of my colleague, Mr. Grandy, and I thank him for his management of this bill. Unfortunately, our modern day airline schedules and performance do not guarantee on-time presence in this House.

But, Mr. Grandy's statement certainly summarizes the need for and the merits of this legislation. Since I have had the privilege of serving on the House Agriculture Committee, we have attempted to deal with the task and responsibility of enacting amendments to the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA]. During the last session of Congress, this House passed a comprehensive FIFRA bill three times, once by unanimous consent, only to find the legislation bogged down in the Senate. In that effort, a great deal of credit was due our former colleague from Iowa, Berkely Bedell.

This session, we have seen progress on a stripped down version of FIFRA due to the leadership and cooperation of our chairman, Mr. de la Garza and the "Godfather" of this legislation, if you will, the chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture, my friend and colleague, Mr. Brown of California. They deserve every credit for the progress we hope to achieve.

Mr. Speaker, while this is truly landmark legislation considering the time and effort we have put into this bill, I do have mixed emotions. There are several amendments that our committee previously accepted and the House passed within the scope of FIFRA. And, I am hard pressed to proceed without addressing the issues upon which we have worked so hard. I am talking about national uniformity so that we can protect the interstate marketing of our Nation's food supply and establish agreed upon health and safety standards for all Americans. I am talking about farmer liability language over and above what is inferred in this bill and I am talking about ground water legislation, at least to the extent of the fine ground water research bill the House has already passed.

But, as troubled as I am for not dealing with these issues, or the virtual truckload of "non-controversial" and needed amendments trailing close behind, I recognize that any one of these amendments could have killed this effort. In effect, we are putting FIFRA on a series of up-or-down votes until enactment into law. Simply put, we take it or leave it.

Mr. Speaker, it is in the best interests of agriculture, the farmer and the rancher, and the public, that we take it. At the outset, I was not convinced of the merits of this approach or procedure. However, I now believe the House Agriculture Committee and the interests of the agriculture community are better served by passing this bill and only this bill. Obviously the issues we have left on the doorstep will be back next year and will demand attention.

More to the point, I believe this bill has important benefits for agriculture. If we are going to be assured of a plentiful food supply of high quality in this country we are going to need pesticides that are safe and effective. I believe that agriculture is in greatest jeopardy of losing valuable chemical tools when the EPA lacks the confidence of the American public. We in agriculture must appreciate the significance of a credible reregistration program. This bill puts the EPA on the right track, and its a bill that once and for all puts to rest the assertions that the EPA has neither the authority or the resources to regulate pesticides adequately.

Then there is the issue of indemnification. Mr. Speaker, despite all of the rhetoric and the understandable emotion and frustration connected with this issue, it has not received the fair hearing it deserves.

Let me point out that people opposed to the very notion of indemnification offer up comparisons between things such as cars and toasters and pesticides. The common point made is that it's easier to recall a toaster than a pesticide and we darn sure ought to make the manufacturer pay for it.

I would expect a toaster manufacturer would and should know whether or not his product will pose any hazard to the public, The technology of a toaster, I would assume, is relatively well understood and objective assessments of safety are easily rendered. And, I believe the same is true of automobiles although that example is more complex.

On the other hand, pesticides are different type of product. They are complex chemicals meant to perform complex tasks in an extremely diverse biological environment. The system to ascertain a pesticide's safety is rigorous, comprehensive, complex and costly but it is also far more subjective than determining the safety of a toaster. Using a parts per billion and even trillion technology, if you run three sets of tests on mice, rats and guinea pigs to determine the cancer causing potential of a pesticide, and you fund a statistically significant occurence of benign tumors in the livers of those animals, does the pesticide get yanked off the market? Can we make a risk assessment projection? Will the public safety be protected? Will the farmer be denied a commonly used pesticide, lose a crop, and be forced out of business? Will the resulting infestation be more of a public safety hazard?

I do not intend to perjure the manner of which EPA and industry conducts these tests and determines their significance or the comments and criticism by countless other groups and organizations, but after hour upon hour of hearings before our DORFA Subcommittee, I do know as a fact that scientists have legitimate disagreements. It is to the point that I am not certain that the science of risk assessment is capable of satisfying the political demands of the public. It is not pure, clear cut or objective.

However, Mr. Speaker, despite these differences and inadequacy of modern risk assessment techniques to square up with precision that we demand of the process, we are none-the-less going to eliminate indemnification for pesticide manufacturers. I suspect the end result of this effort will be directly opposite of what its sponsors hope to accomplish but at least in this bill indemnification is preserved for farmers and end users and that is the absolute minimum requirement to this Member.

Mr. Speaker, as a result, of this particular amendment, I will predict to you that the research and development we must have to bring newer and less toxic pesticides on line will be severely hampered. We certainly need hearings to monitor this situation.

Having expressed my reservations, let me say again however, that I do support this bill. It is truly landmark legislation. Again. I commend the leadership of Mr. BROWN, Mr. DE LA GARZA, Mr. MADIGAN and others on the Committee for their help in expediting this legislation.

Mr. GRANDY. Mr. Speaker, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I want to commend the House Agriculture Committee—in particular the chairman, Mr. DE LA GARZA and the ranking minority member, Mr. MADIGAN, as well as Mr. BROWN and Mr. ROBERTS—for bringing to the floor today a bill that will revitalze the Federal Pesticide Regulatory Program. This legislation, S. 659, will provide needed reform of our pesticide law and enable the Environmental Protection Agency to get on with the essential task of reviewing the safety of thousands of pesticides on the market today.

The health and environmental effects of extensive pesticide use in this country is an issue of growing public concern. Farmers and consumers alike want and need to be assured that the pesticides they use and the agricultural products they consume are safe. Such assurances can only be provided if EPA has the resources and commitment to complete timely safety reviews of all pesticides—particularly the older chemicals which came on the market prior to the imposition of stricter safety data requirements.

In 1972, Congress gave EPA the ambitious task of reviewing the safety of the reregistering all pesticides then on the market within a 3-year period. Today, some 16 years later, EPA has barely scratched the surface. Of the 600 chemical ingredients of primary concern, EPA has completed reregistration for only 2. Since 1983, my Government Operations Subcommittee on Environment, Energy and Natural Resources has conducted numerous investigations of EPA's Reregistraton Program. We identified a multitude of shortcomings and unacceptable delays in the safety review process—many of which will be corrected by the accelerated reregistration requirements of S. 659.

More recently, in 1986 and 1987, our subcommittee held hearings to review the current pesticide indemnification and disposal policies. Under present law when EPA finds that a pesticide presents an imminent public health hazard and bans its further use, the Agency is obligated to indemnify all holders of the product and pay all costs of its disposal. Our subcommittee found that these indemnification and disposal obligations have paralyzed the reregistration program. We found that just the four emergency bans issued to date will cost taxpayers an estimated $260 million. We found that EPA had diverted funds from pesticide safety reviews to pay mounting disposal costs. In fiscal year 1989 alone, the Agency will spend more on pesticide disposal than it will on pesticide regulation. Clearly, this situation is unacceptable.

As you will recall, Mr. Speaker, the current indemnification and disposal policies were the subject of considerable floor debate this summer when the House considered the fiscal year 1989 HUD-independent agencies appropriation. My subcommittee colleague and counterpart, the ranking minority member, Mr. CLINGER, and I urged the House to repeal the indemnification and disposal requirements. They are, in my view, the biggest impediment to the revitilizaton of our pesticide regulatory program. While Mr. CLINGER and I were ultimately unable to offer our amendment last June, S. 659 changes radically the current indemnification and disposal requirements and I applaud the Agriculture Committee for addressing these issues.

Quite frankly, the provisions adopted by the committee do not go as far as I would like. I continue to have some concerns. S. 659 preserves indemnification payments for farmers. I agree that farmers should not have to suffer economic loss if a pesticide they hold is banned. However, our subcommittee found that this has not been a problem in the past. We found that pesticide manufacturers and retailers, as with most other commercial products, have recalled their banned pesticides and reimbursed their customers. Is is an accepted business practice common to many industries. I am concerned, therefore, that preservation of farmer indemnification will have the unintended result of freezing decidedly dangerous chemicals in the hands of those we most want to protect—the American farmer.

I am also concerned about the disposal provisions in S. 659. While the bill transfer the obligation and costs of pesticide disposal from the taxpayer to the manufacturer, as I believe it should, the EPA will continue to share a portion of the pesticide storage costs. While these costs may prove small in relation to EPA's current obligation, I do not believe they are legitimate or warranted taxpayer expenditures. I am also concerned that the cost-sharing provisions provide an unintended disincentive for proper and adequate disposal planning. Under S. 659, the manufacturer will pay 100 percent of storage costs while they develop a disposal plan. Once the plan is submitted to EPA, the Agency will pay 100 percent of the storage costs until the plan is approved. I am concerned that such fiscal pressures may encourage quick and perhaps incomplete preparation of a plan on the part of the manufacturer, and equally superficial review and approval of the part of EPA. I believe EPA's thoroughness in reviewing disposal plans will require close oversight.

Nonetheless, these concerns do not diminish my support for S. 659. It repeals the most onerous and costly indemnification payments to pesticide producers and transfers the fundamental responsibility of disposal from EPA to the manufacturer. In short, these changes, along with other provisions in the bill, will enable EPA to proceed with the essential task of pesticide reregistration. In the end our farmers, consumers, and the pesticide industry itself will benefit greatly from restored public confidence in our Federal Pesticide Regulatory Program. I urge my colleagues to support S. 659.

Mr. Speaker, I would like to enter into a colloquy with the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Agriculture Committee.

Mr. Speaker, is the legislative language in S. 659 regarding indemnification and disposal that which was developed by the Senate Agriculture Committee and adopted in S. 1516.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. SYNAR. I am pleased to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, the gentleman is correct. That is basically the same language as was adopted in the Senate committee.

Mr. SYNAR. Mr. Speaker, I include for the RECORD that report language.

The language referred to is as follows:

TITLE XIII—INDEMNITIES

Section 1301—Indemnities

Section 130(a) amends section 15 of the Act, effective 180 days after the date of enactment of the bill, to limit eligibility for indemnity payments for stocks of suspended and canceled pesticides.

Similar to current law, paragraph (1) of new subsection (a) provides that, subject to other provisions of section 15 (including, specifically, subsection (a)(4)), if (1) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued, (2) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(g), and (3) any person who owned any quantity of the pesticide immediately before the notice of intent to suspend suffered losses by reason of suspension or cancellation of the registration, the Administrator must make an indemnity payment to the person.

Under paragraph (2), the Administrator may not make an indemnity payment if the Administrator determines that the person had knowledge of facts that, in themselves, would have shown that the pesticide did not meet the requirements of section 3(c)(5) (approval of registration) of the Act and continued thereafter to produce the pesticide without giving timely notice of such facts to the Administrator. A similar prohibition is contained in current section 15.

Paragraph (3) of new subsection (a) contains a new reporting requirement. If the Administrator takes an action under paragraph (1) that requires the payment of indemnification, the Administrator must report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate on the action taken that requires the payment of indemnification, the reasons for taking the action, the estimated costs of the payment, and a request for the appropriation.

Paragraph (4) adds a new prohibition that the Administrator may not make a payment of indemnification under paragraph (1) unless a specific line item appropriation of funds has been made in advance for the payment. No obligation by the Federal Government is incurred if an advance appropriation is not made.

New subsection (b) provides that if (1) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued, (2) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(g), and (3) any person who owned any quantity of the pesticide for the purpose of applying or using the pesticide as an end user, rather than for purposes of distributing or selling it or further processing for distribution of sale, suffered losses by reason of suspension or cancellation of the registration, the person is entitled to an idemnity payment for such quantity of the pesticide from the appropriation provided under section 1304 of title 31, United States Code (the Judgment Fund of the United States Treasury). The Committee intends to authorize indemnification for a person who owned the pesticide only for the purpose of applying or using it, and does not intend to authorize indemnification for a person who owned the pesticide for the purpose of selling and applying it. Quantities of pesticide that are owned for purposes of distribution, sale, or further processing will not qualify for indemnification. The Committee intends to exclude persons who sell the service of applying pesticides from indemnification in under this subsection.

Paragraph (2)(A) of new subsection (b) provides that any registrant, wholesaler, dealer, or other distributor (hereinafter in this paragraph referred to as a "seller") of a registered pesticide who distributes or sells the pesticide directly to any person not described as an end user in paragraph (1)(C) must, with respect to any quantity of the pesticide that such person cannot use or resell as a result of the suspension or cancellation of the pesticide, reimburse such person for the cost of first acquiring the pesticide from the seller (other than the cost of transportation, if any), unless the seller provided to the person at the time of distribution or sale a notice, in writing, that the pesticide is not subject to reimbursement by the seller.

Under paragraph (2)(B), dealers and distributors would be eligible for indemnity payments in limited circumstances. If—

(1) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

(2) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(g);

(3) any person who, immediately before the notice to the registrant under clause (i)—

(a) had not been notified in writing by the seller, as provided under subparagraph (A), that any quantity of the pesticide owned by such person is not subject to reimbursement by the seller in the event of the cancellation or suspension of the pesticide; and

(b) owned any quantity of the pesticide for purposes of distributing or selling it or for purposes of further processing it for distribution or sale directly to an end user; suffered a loss by reason of the suspension or cancellation of the pesticide; and

(4) the Administrator determines on the basis of a claim of loss submitted to the Administrator by the person, that the seller did not provide the notice specified in subparagraph (A) to such person, and the seller is and well continue to be unable to provide reimbursement of such person, as provided under subparagraph (A), for the loss referred to in clause (iii), as a result of insolvency or bankruptcy of the seller and the seller's resulting inability to provide such reimbursement; the person is entitled to an indemnity payment under subsection (b) for such quantity of the pesticide.

Paragraph (2)(C) provides that if an indemnity payment is made by the United States under paragraph (2), the United States shall be subrogated to any right that would otherwise be held under paragraph (2) by a seller who is unable to make a reimbursement in accordance with such paragraph with regard to reimbursements that otherwise would have been made by the seller.

Paragraph (3) provides that any payment required to be made under paragraph (1) or (2) must be made from the appropriation provided under section 1304 of title 31, United States Code.

Paragraph (4) states that an administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.

New subsection (c) is similar to current subsection (b) of section 15. New subsection (c) provides that the amount of an indemnity payment under subsection (a) or (b) to any person must be determined on the basis of the cost of the pesticide owned by the person (other than the cost of transportation, if any) immediately before the issuance of the notice to the registrant referred to in subsection (a)(1)(A), (b)(1)(A), or (b)(2)(B)(i), except that in no event may an indemnity payment to any person exceed the fair market value of the pesticide owned by the person immediately before the issuance of the notice. Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposition disposal of the pesticide. In determining the quantity of any pesticide for which indemnity must be paid under this section, proper adjustment must be made for any pesticide used or otherwise disposed of by the owner.

Section 1301(b) provides that any obligation of the Administrator to pay an indemnity arising under section 15, as it existed prior to the effective date of the amendment made by section 1301, must be made from the appropriation provided under section 1304 of title 31, United States Code. An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and must be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.

The Committee wishes to confirm that these amendments to section 15 shall apply only prospectively to regulatory actions taken by the Administrator after the effective date of these amendments. These amendments shall not affect any obligation of the Administrator arising under section 15 that is still pending, either administratively or judically, on the effective date.

TITLE XVI—DISPOSAL AND TRANSPORTATION

Section 1601—Storage, disposal, transportation, and recall

Section 1601 amends section 19 of this Act (7 U.S.C. 136 q) by deleting all subsections and inserting the following subsections:

Paragraph (1) of subsection (a) provides authority to the Administrator to require that registrants provide data or information needed about safe storage and disposal of excess quantities of a pesticide, and labeling about requirements and procedures for the transport, storage and disposal of pesticides, pesticide containers, reinsates containing pesticides and other material. Registrants may be required to provide evidence of sufficient financial and other resources to carry out a recall and disposal of a suspended and canceled pesticide.

Paragraph (2) provides that the Administrator may issue requirements and procedures for the storage and disposal of suspended and canceled pesticides. Nothing in this paragraph is intended to affect existing authority under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et. seq.) to regulate suspended and canceled pesticides that are hazardous wastes.

Paragraph (1) of subsection (b) provides the Administrator with authority to order a recall of a pesticide.

Paragraph (2) establishes authority and procedures for the Administrator to authorize a voluntary recall of a pesticide by the registrant and others in the chain of distribution. The Administrator may disapprove a plan submitted by a registrant after an informal hearing if he determines that the plan is inadequate to protect the public health or the environment.

Paragraph (3) provides that the Administrator may order a recall by regulation to be conducted by current or former registrants, distributors, sellers or their successors in interest.

Paragraph (4) requires persons subject to a recall order to arrange for and provide notice of storage facilities, to accept and store stocks tendered by persons who obtained the pesticide directly or indirectly from such person, to provide for proper transportation of the pesticide to the storage facility, and to take reasonable steps to inform pesticide holders of the terms of the recall and means for tendering and transporting the pesticide to a storage facility.

Paragraph (5) requires that the recall plan indicate the level of the distribution chain to which the recall extends and the means to verify the plan's effectiveness.

Paragraph (6) limits any recall plan to the procedures outlined in this subsection.

Paragraph (1) of subsection (1) requires registrants who wish to be eligible for storage cost reimbursement as a result of a recall under subsection (b), to submit a plan as soon as practicable for storage and disposal to the Administrator that meets criteria established by the Administrator. The Committee considers six months to be a reasonable period of time. The Administrator must, by regulation, establish minimum criteria against which a registrant-submitted plan for storage and disposal of a pesticide whose registration has been suspended and canceled shall be judged. The Committee contemplates that such criteria shall be designed in such a manner as to (1) allow the Administrator to reject a plan that clearly does not provide a scheme for safe storage, and safe, practicable disposal of the pesticide in question that is reasonable in its general approach. The criteria are to be minimum standards for use in deciding whether a plan has been submitted in good faith and should be accepted for further consideration and possible modification, rather than standards for final approval of plan.

Paragraph (2) sets out the conditions for reimbursement to a registrant for storage costs incurred and paid by the registrant as a result of a recall of suspended and canceled pesticides. Reimbursement shall be paid as follows:

(A) none of the costs incurred prior to submission of a disposal plan that meet criteria established by the Administrator;

(B) 100 percent of costs incurred by the registrant after a disposal plan that meets Agency criteria is submitted to the Administrator or the date the pesticide registration is canceled, whichever is later;

(C) 50 percent of the costs incurred by the registrant for one year beginning the day the plan is approved or the date the pesticide registration is canceled, whichever is later;

(D) none of the costs incurred by the registrant for three years beginning on the 36th day after the plan is approved for the pesticide registration is canceled, whichever is later;

(E) 25 percent of the costs incurred by the registrant for beginning on the first day of the 5th year following the date that the plan is approved or the pesticide registration is canceled, whichever is later, and ending on the date that a disposal permit is obtained or an alternative plan for disposal has been developed. The reference is a permit includes State or EPA permits or modifications of such permits. An alternative plan for disposal would be developed as result if consultation between the registrant and the Administrator.

Paragraph (1) of subsection (d) provides for voluntary agreements between sellers and buyers of pesticides or pesticide ingredients to allocate the costs or storage, transport or disposal of a pesticide.

Paragraph (2) provides for Congressional review of rules or regulations promulgated with respect to recall, storage, transport, and disposal of a suspended and canceled pesticide.

Paragraph (3) limits a registrant's responsibility for recall, transportation, storage and dispoal of canceled and suspended pesticides of registrations that he holds.

Paragraph (4) establishes rights to injunctive relief and penalties by the Administrator if the registrant for a suspended and canceled pesticide fails to comply with applicable regulations or orders regarding the handling of the pesticide.

Section 1602—Containers, rinsates, and other materials

Section 1602 further amends section 19 (7 U.S.C. 136q), subsection (a) by providing authority to the Administrator to establish requirements and procedures (A) to be followed by any person who stores or transports a pesticide container, a rinsate containing the pesticide and other material related to containing or collecting excess or spilled quantities for a pesticide the registration of which has been suspended or canceled, (B) to be followed by any person who disposes of stocks of such containers, rinsates or materials of a pesticide the registration of which has been suspended, and (C) for the disposal of stocks of such containers, rinsates or materials of a pesticide that has been canceled.

Nothing in section 1601 or 1602 is intended to supercede the authority of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.). The Committee wishes to confirm that these amendments to section 19 shall apply prospectively to regulatory actions taken by the Administrator after the effective date of these amendments. These amendments shall not affect any obligation of the Administrator arising under section 19 is still pending, either administratively or judicially, on the effective date.

Section 1603—Pesticide containers

Section 1603 amends Section 19 (7 U.S.C. 136q) (as amended by sections 1601 and 1602 of this Act) by adding the following new subsections (e), (f), and (g):

Paragraph (1) of subsection (e) requires the Administrator to promulgate regulations for the design of pesticide containers that will promote safe storage and disposal of pesticides. The regulations must provide for containers that accommodate residue removal rinsing, eliminate splashing and leakage, and facilitate safe refill and reuse of such containers.

Paragraph (2) mandates compliance with such regulations not later than five years after this subsection becomes effective.

Paragraph (1) requires the Administrator to develop procedures and standards for removal of pesticide residues from containers prior to disposal. Such procedures must include triple rinsing or equivalent removal techniques, reuse of containers, and disposal of rinsate and residues. Requirements for rinsing containers must be coordinated with those imposed under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

The Administrator may exempt certain products intended for household use from the requirements of this subsection, provided that nothing in this subsection shall affect the authorities or requirements concerning such products under the Resource Conservation and Recovery Act of 1976. Similarly, nothing in this subsection shall affect the authorities or requirements concerning pesticide containers under the Resource Conservation and Recovery Act of 1976.

Paragraph (2) requires a State to carry out an adequate program in compliance with this subsection within 5 years of the effective date of this subsection or lose its primary enforcement authority under section 26 and certification authority for pesticide applicators under section 4 of this Act.

Paragraph (1) of subsection (g) requires the Administrator to conduct a study of options regarding the recycling of pesticide containers, pesticide formulations that facilitate pesticide residue removal, and bulk storage facilities. The Administrator must consult with other Federal agencies, State agencies, industry and environmental groups, and assess the feasibility, costs and benefits of various options.

Under paragraph (2), the Administrator must report to the Congress regarding the results of the study no later than 2 years after the effective date of this subsection.

Mr. Speaker, let me conclude again by saying how proud I am of the chairman of the committee and his excellent work, and particularly his staff for the outstanding job they have done. I rise in support of this bill.

□ 1415

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Oklahoma [Mr. SYNAR] and also say that we appreciate his cooperation throughout this process.

Mr. GRANDY. Mr. Speaker, may I inquire, do I understand that the Senate report language has just been added to the proceedings here? Is that what I understand was just placed in the RECORD.

Mr. DE LA GARZA. Mr. Speaker, my understanding of the gentleman's request was for permission to insert the Senate report language at this point.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Oklahoma [Mr. SYNAR] for his continued leadership on this issue. I appreciate the gentleman's effort to explain the contextual origins of S. 1516.

The Committee on Agriculture report that accompanies S. 659 we believe sufficiently explains the intentions of the House Committee on Agriculture with regard to that bill and furthermore I am confident that the legislative language of S. 659 with regard to indemnification is clear as well.

I would ask, Mr. Speaker, therefore that we be able to submit for the RECORD a copy of the House Committee on Agriculture's report language regarding indemnification, storage, and disposal.

The SPEAKER pro tempore (Mr. MONTGOMERY). Does the gentleman from Iowa [Mr. GRANDY] have an estimated cost, how large this volume is that he is requesting?

Mr. GRANDY. It is roughly four pages, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

The was no objection.

The House report language is as follows:

HOUSE REPORT LANGUAGE, EXCERPTED, ACCOMPANYING S. 659

STORAGE AND DISPOSAL

Under the current provisions of FIFRA, EPA is responsible for receiving, storing, and ultimately disposing of pesticides that are suspended and canceled. EPA projects that the storage and disposal costs for three suspended and canceled chemicals—2,4,5-T/Silvex, ethylene dibromide (EDB), and dinoseb—could be as high as $196 million. To meet initial costs incurred for these purposes, EPA has diverted funds otherwise available to the reregistration process.

S. 659 would shift EPA's current responsibility for the storage and disposal of suspended and canceled pesticides to regulating the process as performed by the registrant. The registrant would be responsible for transporting, storing, and disposing of suspended and canceled pesticides. EPA would share a small portion of the storage costs. The provision is intended to provide incentives to both manufacturers and EPA to expedite the safe disposal of the suspended and canceled pesticides.

The Committee does not intend that this legislation will change in any respect any current obligation of the Administrator under existing section 19 of FIFRA to accept for disposal or storage those pesticides the use of which was suspended and canceled prior to the effective date of these amendments.

Proposed section 19(d)(3) states: "No registrant shall be responsible under this section for a pesticide the registration of which is held by another person." This provision is not intended to preclude a voluntary contractual agreement allocating liability between the transferer and the transferee of a particular registration, such as an agreement under which a registrant who is transferring ownership rights in a registration to another person agrees to hold the transferee harmless against claims by third persons under section 19 with respect to events that predated the transfer of the registration.

S. 659 would require EPA to take a number of actions aimed at lessening the problems associated with disposal of pesticide containers. The Committee notes that several States have useful experience in this regard. Because the Agency has not previously taken an active role in the regulation of container design, and therefore will need to gain experience in the area, the Agency is urged to move rapidly to gather information that will be needed to develop regulations in a timely manner.

INDEMNIFICATION

Section 15 of FIFRA requires the Environmental Protection Agency to indemnify all holders of pesticide products that are suspended and canceled as a result of a determination that continued use of the pesticide will create an imminent hazard. Persons currently covered by indemnification include farmers, commercial applicators, pesticide formulators, pesticide dealers and distributors, and registrants.

Indemnity payments have been costly to the government. To date, EPA has spent over $20 million for indemnity payments for two suspended and canceled chemicals, 2,4,5-T/Silvex and ethylene dibromide (EDB). If EPA were required to make these payments out of an operating budget of approximately $40 million for the pesticide program, then the on-going pesticide activities of the Agency would suffer greatly.

A third chemical, dinoseb, was suspended in October 1986. The Agency estimates that indemnification costs will exceed $40 million. To prevent dinoseb indemnification payments from draining the Agency's fiscal year 1988 pesticide budget, Congress ordered in the FY 1988 Continuing Appropriations Act (P.L. 100-202) that indemnification claims be paid from the Judgment Fund of the Treasury rather than EPA's operating budget. Conference Report 100-498, Making Further Continuing Appropriations for the Fiscal Year Ending September 30, 1988 provides that—

"The conferees want to make clear that this provision is not intended to change the responsibility of the U.S. Government for indemnification. The conferees understand that claims for indemnification will continue to be submitted by claimants to EPA. The Agency should continue to conduct the technical review of such claims in an expeditious manner to determine the validity of amounts claimed. Claims will then be referred by EPA to the Department of Justice under 28 U.S.C. 2414 for settlement (or for litigation if the liability or amount are disputed by the Government) and paid pursuant to 31 U.S.C. 1304. The conferees expect that claims which EPA deems valid should be processed routinely by the Justice Department and that approved claims should be paid promptly from the Judgment Fund of the Treasury."

S. 659 would prohibit the EPA Administrator from making an indemnification payment to anyone other than an end user unless Congress provided in line-item appropriation. End users, such as farmers, would continue to be eligible for indemnification through the Judgment Fund. S. 659 also would provide for reimbursement arrangements among manufacturers, distributors, and dealers. If the Administrator determines that such as arrangement could not be carried out due to a business insolvency or bankruptcy, dealers and/or distributors would be indemnified through the Judgment Fund.

The Committee does not intend that this legislation will change in any respect any current obligation of the Administrator under existing section 15 to indemnify any person, including manufacturers, who owned any quantity of the pesticide the use of which was suspended and canceled prior to the effective date of these amendments. The Judgment Fund shall be used to satisfy any such obligations arising under section 15.

Mr. GRANDY. Mr. Speaker, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished majority whip, the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker, I applaud the distinguished chairman of Committee on Agriculture for the job that he and the gentleman from Illinois [Mr. MADIGAN] and the gentleman from California [Mr. BROWN] have done to try to make this bill a reality. We have had difficulty in times past trying to make this happen.

I want to say that I appreciate the efforts that they have all done to make this come about.

Mr. Speaker, I thank the chairman for the time.

I would like to engage in a colloquy with the chairman at this time.

Mr. Speaker, I am cognizant of the fact that consumers who use home and garden pesticides, including household disinfectants, share a common problem with farmers who use agricultural insecticides and herbicides, that is, the rising cost of these important products.

We cannot directly control the cost of pesticide manufacturing, but we can help the farmer and consumer by reducing the increased pricing associated with the cost of unnecessary and redundant testing.

I recognize the need to fill data gaps at both the State and Federal levels. However, it is critical that data requirements among the State and EPA be coordinated and synchronized so that only one set of data needs to be generated where possible.

Speaking for Mr. GUNDERSON and myself, we support this legislation and speak on its behalf because we believe that unnecessary, repetitive and redundant testing not only consumes valuable time and resources, but also delays the closing of data valuable time and resources, but also delays the closing of data gaps. Valuable time and resources which could be used to develop new data are wasted in refocusing on gaps that have already been or are in the process of being filled.

Many low-volume, low-profit specialty products, including antimicrobial products, may be discontinued because neither the registrant, the formulator, nor the State will pay for the additional tests required on active ingredients. Many nonagricultural, minor use products also could disappear. Unrealistic requirements for implementing and generating these needed studies could cause some of these products to be dropped from the market.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Speaker, would the gentleman from California please make clear the intent of this legislation as it applies to State preemption in this area?

Mr. COELHO. Our proposal will not cause Federal preemption of State pesticide laws. The States are not precluded from establishing data requirements or standards because EPA has done so, by either commission or omission. In fact, the amendment has effect only when both State and Federal Government have exercised their discretion and the result is a data requirement which, because of some variation, requires duplicative testing.

Our proposal merely provides that if the testing can be coordinated, it should be by requiring the Federal and State agencies to confer. Neither the State nor the Federal position is designated to prevail over the other. I want to make it absolutely clear that we will not introduce a proposal which would cause Federal preemption of State pesticide requirements.

Although it was our hope that this language would be included in the Federal Insecticide, Fungicide, and Rodenticide Act amendments, we understand the restraints associated with accomplishing this objective so late in the legislative session. We have agreed to defer movement of the language in this Congress and plan to introduce legislation addressing this problem early in the 101st Congress.

Would the chairman from Texas be interested in joining with us in the introduction and passage of such language next year?

Mr. DE LA GARZA. Mr. Speaker, if the gentleman will yield?

Mr. COELHO. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I fully support the objective of eliminating unnecessary testing by encouraging similar data requirements by the Federal and State governments. I would be pleased to examine this issue in greater detail in the next Congress, when we expect to revisit many of those issues that we had to put aside in order to achieve some progress on FIFRA this year.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the distinguished gentleman from Iowa [Mr. GRANDY] for his cooperation in the committee and his hard work throughout the process and for managing the legislation here today.

Let me add also, Mr. Speaker, that this is the work of many Members. The distinguished chairman of the subcommittee, Mr. BROWN of California, the distinguished ranking minority member, Mr. ROBERTS of Kansas, have done great work and to them we owe a debt of gratitude for their leadership in this endeavor.

I might mention, Mr. Speaker, that with this legislation we basically pick up where our distinguished former colleague, Berkley Bedell, of Iowa, left us when he engineered and passed FIFRA legislation through the House three times in the last Congress. Unfortunately, differences in the legislation could not be resolved in the final minutes of the last Congress but now we pick up where he left off and I assure the Members that we miss the gentleman's leadership and his guidance in this endeavor but the Members who are now heading the effort have built on his progress and are meeting the challenge which he left us.

I assure you, Mr. Speaker, that this bill reflects the art of the possible. This is what we could put together, this is where we could get consensus. This legislation will not satisfy everyone but this is what we could move at this point.

We will continue working on other issues and we assure everyone concerned that we will resume our endeavors in this area until we can ensure the safe and responsible use of pesticides. We will continue our efforts to see that registration, reregistration and the general oversight of EPA and its FIFRA activities remain a primary concern of the Committee on Agriculture.

We in the Congress and in the Committee on Agriculture will continue our deliberations as something of this importance should be a continuous process.

Just to inform the Members, is shaping the legislation before us we temporarily set aside some of the more contentious items that, frankly needed more time to resolve. We intend to revisit those issues in the days ahead.

Mr. Speaker, I have a letter from the Office of Management and Budget directed to me as chairman of the committee that I would ask unanimous consent to insert in the RECORD at this point.

The letter referred to is as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 20, 1988.
Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As the House prepares to vote on S. 659, we would like to take this opportunity to convey our views on the bill as reported by the House Agriculture Committee. The reported bill amends the reregistration, indemnification, and disposal provisions of the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA].

We are pleased that the Congress is moving forward on these important issues and we would like to see the enactment of acceptable legislation. We share your concerns about the need to reregister old pesticides that may have been registered without adequate health data. In addition, we applaud your efforts to implement a fee structure to pay for the accelerated reregistration process. The increased revenue provided by these fees is essential to the success of the ambitious reregistration program that S. 659 would mandate.

The Committee is also to be commended for removing the current requirement for the Environmental Protection Agency (EPA) to dispose of suspended and cancelled pesticides at Federal expense. As the Administration has consistently testified, disposal is a cost that should not be borne by the Federal Government. Further, the pesticide industry is better equipped than EPA to deal with the technical issues pertaining to disposal of their products.

The Committee also addressed the difficult issue of indemnification. The Administration continues to maintain that indemnification is essentially an insurance program for registrants and should not be funded by the Federal Government. However, the bill's requirement for line item appropriation of most indemnification payments is an improvement over current law.

While we support these positive aspects of the bill and are pleased that the bill is not loaded down with controversial and unnecessary amendments, we are concerned about the provision prohibiting collection of existing fees for new pesticide registrants until FY 1998. EPA just completed a lengthy rulemaking process to implement these fees which are consistent with the Administration's goal of requiring direct beneficiaries to pay for Federal programs rather than the general public. This provision will reduce anticipated revenue by $125 million over nine years and make it more difficult to avoid sequestration under Gramm-Rudman in future years.

Therefore, we strongly urge action in the future to allow collection of fees for new pesticide registrations. With the budget squeeze ahead, this source of revenue should not be lost.

We look forward to continuing to work with you on this and other issues in the near future.

Sincerely yours,

JAMES C. MILLER III,
Director,
Office of Management and Budget.
LEE M. THOMAS,
Administrator,
Environmental Protection Agency.

Mr. DE LA GARZA. Mr. Speaker, once again I thank all of my colleagues and everyone on the outside who cooperated with us. I ask them to continue their interests and to continue with their patience and understanding. We must, and we will go forward, and I hope that my colleagues approve this legislation today as a further step in the process of protecting the public health and safety.

Mr. STENHOLM. Mr. Speaker, I rise in support of S. 659, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.

Let me begin my remarks by first expressing my admiration to both the distinguished chairman and ranking minority member of the Committee on Agriculture for their quality efforts in addressing important and complex issues like those embodied within S. 659.

As a farmer, myself, and as a Member of this Chamber representing one of the largest agricultural producing areas in the country, the goal of resolving the fundamental issues that have hindered the effectiveness of the Federal pesticide regulatory program is both admirable and long overdue.

Certainly, the legislation before us today is not everything to everybody. Regretfully, S. 659 does not include important provisions dealing with farmer liability protection, uniform tolerances for pesticide residues, ground water contamination control, or patent-term restoration for agricultural pesticides. Due to overlapping jurisdictions, time constraints, and a lack of consensus on certain issues, additional action was not achievable. Nonetheless, the bill represents the best legislative product that could be developed given the current political environment.

As Chairman DE LA GARZA so eloquently explained, the purpose of this bill is to strengthen the protection of public health and the environment; to increase public confidence that pesticides are approved and used in a manner consistent with current health and safety requirements. Furthermore, the legislation before us today will go a long way to ensure that pesticide users, including agricultural producers, will have access to the effective and affordable products they need on the farm, in the workplace, and at home.

Mr. Speaker, in summary, the adoption of this bill confirms the House Agriculture Committee's commitment to ensuring the safety of the environment while keeping effective and useful pesticides and herbicides available to American farmers and ranchers.

Mr. CLINGER. Mr. Speaker, I would like to take this opportunity to commend the gentleman from Texas, Chairman DE LA GARZA, the gentleman from Illinois, Mr. MADIGAN, and the other members of the House Agriculture Committee for bringing to the floor a legislative package that makes several critical and important changes in the law governing pesticide regulation and use. The committee has worked long and hard in developing a Federal insecticide, fungicide, and rodenticide reauthorization bill, and I fully support the product of their efforts.

Since 1983, the Government Operations Subcommittee on which I serve as the ranking minority member, has held numerous hearings focused on the Environmental Protection Agency's pesticide program. The subcommittee convened hearings in 1986 and 1987 to review current pesticide indemnification and disposal policies. Unfortunately, what was discovered during those hearings was a pesticide program falling far short of the mark.

The reregistration program, designed to identify pesticides that may pose an unreasonable risk to man or the environment, was not being implemented in a timely manner. In fact, at its current pace, the program would not be completed until the year 2024.

Despite taxpayer subsidies for indemnification, storage and disposal costs associated with banned and suspended pesticides, designed to enhance the safe handling of pesticides, the subcommittee found far too many examples of barrels leaking into the environment, thousands of gallons of pesticide unsafely vaporizing, and large amounts of pesticide improperly stored near a town's only water supply.

Last, the subcommittee found that the costs of the pesticide program were increasing at alarming rates, with an almost unlimited potential for future increases. Investigations showed that EPA had found it necessary to divert funds from pesticide safety reviews to pay escalating disposal costs. Estimates showed that if the 14 pesticides currently under EPA special review were emergency suspended; indemnification, storage and disposal costs could exceed $500 million.

The bill that we are considering today provides a major step forward in addressing the problems identified by the subcommittee. It can be argued that this bill will help put EPA's pesticide regulatory program back on track.

Today's measure provides EPA with clear authority to establish, monitor, and enforce regulations governing the recall, storage, and disposal of banned pesticides. Under the bill, the reregistration program would be completed within approximately 9 years; not the 36 years currently projected. To help provide sufficient funds for the reregistration program, reregistration fees are imposed on pesticide registrants.

Earlier this year, Chairman MIKE SYNAR and I attempted to offer an amendment to the fiscal year 1989 HUD-independent agencies appropriation that would have implemented a Government Operations Committee recommendation to repeal the costly indemnification, storage and disposal provisions. The gentleman from New York [Mr. HORTON], who serves as the ranking minority member of the Government Operations Committee, joined with us in urging adoption of the amendment. While our effort fell short by three votes, the overwhelming support received from both sides of the aisle was gratifying and appreciated.

During the debate on the amendment, commitments were received from members of the House Agriculture Committee to address the issue of indemnification and disposal costs. Those commitments were kept, with provisions included in the FIFRA reauthorization repealing Federal payments to pesticide manufacturers for the indemnification of pesticides banned by EPA. The compromise language would maintain indemnity payments to end-users such as farmers.

In addition, the bill restructures reimbursement of storage and disposal costs, requiring registrants to assume a greater share of those costs.

The FIFRA bill before us today is a good bill that will move this country toward an increasingly safe pesticide regulatory program. I support the bill and urge my colleagues to support its adoption.

Mr. HORTON, Mr. Speaker, I rise in support of S. 659, the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] Amendments of 1988, and want to commend the gentleman from Texas [Mr. DE LA GARZA] and the other members of the House Agriculture Committee for developing a bill that responsibly addresses a number of shortcomings in the Federal pesticide regulatory program.

We all recognize the importance of the proper and responsible use of agricultural chemicals and fertilizers. These tools of modern agriculture have assisted America's farmers in producing an abundant supply of food and fiber by diminishing the problems of diseases, insects and inadequate soil conditions.

However, as technology has improved and our knowledge of the effects pesticides may have on the environment and public health has increased, it has become necessary to review the safety of pesticides currently on the market and on occasion to remove unreasonably hazardous pesticides from the marketplace.

The House Government Operations Committee, on which I have served as the ranking minority member for the past 16 years, has held numerous oversight hearings regarding the administration of EPA's pesticide program. In a number of reports issued by the committee, the most recent in November 1987, it was concluded that critical changes needed to be made in the pesticide program to ensure a higher level of environmental and public safety.

It is gratifying that many of those changes are incorporated in the FIFRA amendments before us today. In addition to strengthening and clarifying EPA's authority to regulate pesticide safety, the measure expedites the pesticide reregistration program, makes manufacturers responsible for storage and disposal of pesticides found to be unsafe, and brings to an end Federal indemnification payments to the manufacturers of banned pesticides.

Earlier this year, I joined with two other members of the Government Operations Committee, Mr. CLINGER and Mr. SYNAR, in urging the House to allow a vote on an amendment to repeal taxpayer payments for the indemnification, storage, and disposal costs associated with banned pesticides. While we fell short in that effort, the bill before us today responsibly addresses many of the issues that lead us to take our fight to the floor. I certainly appreciate the good-faith effort of the Agriculture Committee in working to address those concerns.

Again, this is a good bill that will improve EPA's pesticide program and will make a positive contribution to the safe use and handling of pesticides. I support the bill and urge its passage.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. de la Garza] that the House suspend the rules and pass the Senate bill, S. 659, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 659, the Senate bill just passed.

The SPEAKER pro tempore. Is there ojection to the request of the gentleman from Texas?

There was no objection.

ESTABLISHMENT OF A UNITED STATES DECADE FOR NATURAL DISASTER REDUCTION

Mr. ROE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 290) supporting the International Decade for Natural Disaster Reduction by endorsing the establishment of a United States Decade for Natural Disaster Reduction.

The Clerk read as follows:

H. Con. Res. 290

Whereas the natural hazards of earthquakes, tsunamis, volcanoes, floods, hurricanes, typhoons, tornadoes, landslides, and wildfires have caused great loss of life, enormous property damage, and untold suffering in the United States and throughout the world;

Whereas the risk from natural hazards continues to increase due to rapid population growth and its increasing concentration in urban areas, increasing capital investment projects worldwide, the interdependence of people in local, national, and global communities, and the existence of large numbers of unsafe buildings, vulnerable critical facilities, and fragile life-line systems;

Whereas on December 11, 1987, the General Assembly of the United Nations established an International Decade for Natural Disaster Reduction beginning in 1990;

Whereas the goal of the International Decade for Natural Disaster Reduction is to promote cooperative efforts between nations to reduce the ravages of all types of natural hazards through the international exchange of data, the identification of gaps in knowledge, cooperative research projects, implementation of mitigation measures, preparedness planning and hazard awareness, and the timely and effective transfer of information and knowledge;

Whereas the International Decade for Natural Disaster Reduction requires the cooperation of all nations to successfully meet its goal;

Whereas the United States suffers from the destructive occurrences of earthquakes, tsunamis, volcanoes, floods, hurricanes, typhoons, tornadoes, landslides, and wildfires with attendant loss of life and property;

Whereas in 1977, Congress passed the Earthquake Hazards Reduction Act (Public Law 95-124) mandating the Federal Emergency Management Agency, United States Geological Survey, National Science Foundation, the National Bureau of Standards, and other Federal agencies to develop a comprehensive national program to reduce the risks to and losses of life and property from future earthquakes and to contribute to earthquake hazards reduction through programs undertaken as part of the basic missions of these agencies; and

Whereas Congress, recognizing that natural and technological hazards may not be independent of one another in any given disaster and that planning for and responding to different hazards have certain common elements, established the Multihazard Research, Planning, and Mitigation Program, a program with goals similar to those of the International Decade for Natural Disaster Reduction, in the 1980 reauthorization of the Earthquake Hazards Reduction Act (Public Law 96-472): Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress strongly endorses the establishment of a United States Decade for Natural Disaster Reduction as a means of supporting the goal of the International Decade for Natural Disaster Reduction to enhance existing cooperative efforts and promote new cooperative efforts to reduce the devastating impact of natural hazards in the United States and throughout the world.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. Roe] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. Lujan] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before you, for consideration is House Concurrent Resolution 290, Supporting the International Decade for Natural Disaster Reduction, which was introduced on May 3, 1988, by Congressman George E. Brown and other members of the Committee on Science, Space and Technology. The resolution expresses support for the International Decade for Natural Disaster Reduction and endorses the establishment of a U.S. Decade for Natural Disaster Reduction, to enhance existing cooperative efforts and promote new cooperative efforts to reduce the devastating impact of natural hazards in the United States and throughout the world.

On December 11, 1987, the United Nations passed a resolution by unanimous consent to designate the 1990's as a decade in which the international community, under the auspices of the United Nations, will pay special attention to fostering international cooperation in the field of natural disaster reduction. Through many international and national activities, the decade's objective is to reduce loss of life, property damage, and social and economic disruption caused by natural disasters. Goals of the International Decade for Natural Disaster Reduction are to improve the capacity of each country to mitigate the effects of natural disasters. A critical element for the success of the program will be the participation of U.N. member nations and other institutions such as the World Bank and private industry. U.S. involvement is especially important to the success of the initiative internationally. Participation by the United States could also help focus and integrate disaster reduction efforts within the United States. Therefore, the establishment of a U.S. Decade for Natural Disaster Reduction would be in an important contribution to the International Decade for Natural Disaster Reduction.

House Concurrent Resolution 290 does not authorize new funds, has bipartisan support, and is noncontroversial. Endorsing House Concurrent Resolution 290, will be a significant step in raising public awareness to the importance of cooperative efforts between nations to reduce the ravages of all types of natural hazards.

I urge the House to pass House Concurrent Resolution 290 at this time.

□ 1330

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 290, supporting the International Decade for Natural Disaster Reduction by endorsing the establishment of a U.S. Decade for Natural Disaster Reduction.

On December 11, 1987, the United Nations passed a resolution to designate the 1990's as a decade in which the world's community of nations will devote increased attention to fostering international cooperation in the field of natural disaster reduction. This is an important and appropriate objective for all governments to pursue, because the natural hazards of earthquakes, hurricanes, floods, windstorms, volcanoes, wildfires, and drought take their tolls in lives and human suffering without regard to national boundaries. It is estimated that approximately 3 million people around the world have lost their lives as the results of natural hazards over the past 20 years, and the lives of another 800 million people have been adversely affected. Certainly Hurricane Gilbert and its disastrous effects on Jamaica and other Caribbean nations, Mexico and the United States is just the most recent example of the international magnitude of natural disasters.

The goals of the International Decade for Natural Disaster Reduction are to improve the capacity of each nation to mitigate the effects of natural disasters within its own boundaries and to also do so in cooperation with other nations. The initiative will have a scientific and engineering component which will address risk assessment and engineered solutions. Participation by the United States will assure that existing and new national efforts, such as the National Earthquake Hazard Reduction Program, will effectively contribute to a worldwide reduction in the loss of life and property.

Mr. Speaker, House Concurrent Resolution 290 is a sound message of support for this House to send to the international community.

In closing, I would like to compliment Congressman BROWN of our committee for introducing this resolution. It was approved by the Science Committee by unanimous voice vote on August 11. I urge its adoption by the House.

Mr. WALGREN. I support House Concurrent Resolution 290, "Supporting the International Decade for Natural Disaster Reduction," which was introduced on May 3, 1988, by Congressman GEORGE E. BROWN, JR., and other members of the Committee on Science, Space and Technology.

This resolution expresses support for the International Decade for Natural Disaster Reduction and endorses the establishment of a U.S. Decade for Natural Disaster Reduction, to enhance existing cooperative efforts and promote new cooperative efforts to reduce the devastating impact of natural hazards in the United States and throughout the world.

Natural disasters have resulted in frightening and costly human experience since the beginning of time. Although natural disasters have severe impacts locally, they also have national and global effects. During the past two decades, natural disasters have killed about 3 million people around the world and have caused immediate damages of more than $23 billion. At least 800 million more people have felt the long-term effects of the natural disasters, and losses continue to exceed billions of dollars.

The goal of this resolution is to encourage support for cooperative international projects to lessen the toll of natural disasters. I urge support of this resolution as a means to formally address the issue of hazard reduction throughout the world and provide the institutional framework for the timely and effective transfer and exchange of knowledge in the United States and throughout the world.

I urge the House to pass House Concurrent Resolution 290 at this time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 290).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 290, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

NATIONAL SUPERCONDUCTIVITY AND COMPETITIVENESS ACT OF 1988

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3048) to establish a national Federal program effort in close collaboration with the private sector to develop as rapidly as possible the applications of superconductivity to enhance the Nation's economic competitiveness and strategic well-being, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Superconductivity and Competitiveness Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) recent discoveries of high-temperature superconducting materials could result in significant new applications of these materials in such areas as microelectronics, computers, power systems, transportation, medical imaging, and nuclear fusion, yet most potential applications may well lie beyond our ability to predict them;

(2) full application of the new superconductors is expected to require 10 to 20 years, thus calling for long-term commitments by the public and private sector to appropriate research and development programs;

(3) the Nation's economic competitiveness and strategic well-being depend greatly on the development and application of critical advanced technologies such as those anticipated to evolve from the new superconducting materials;

(4) the United States manufacturing industries confront strong competition in both domestic and world markets as other countries are increasingly taking advantage of modern technology and production techniques and innovative management focused on quality;

(5) whereas we have as a Nation been highly successful in the conduct of basic research in a variety of scientific areas, including superconductivity, other nations have been highly successful in the commercial and military application of the results of such fundamental research;

(6) if the United States is to begin its competitive advantage, it must commit sufficient long-term resources to solving processing and manufacturing problems in parallel with basic research and development;

(7) Federal agencies have responded aggressively to this exciting challenge by reprogramming funds to basic superconductivity research while informally coordinating their efforts to avoid unnecessary duplication; and further commitment of Federal funding and efforts directed to developing manufacturing, materials processing, and fabrication technologies is essential so that these activities may be conducted in parallel;

(8) successful development and application of the new superconducting materials will require close collaboration between the Federal Government and the industrial and academic components of the private sector, as well as coordinating among the Federal departments and agencies involved in research and development on superconductors;

(9) a committed Federal program effort with appropriate long-term goals, priorities, and adequate resources is necessary for the rapid development and application of the new superconducting materials; and

(10) a national program should serve as a test of new agency authorities directed at technological competitiveness such as those provided to the Department of Energy.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a 5-year national action plan to research and develop new high-temperature superconducting materials with appropriate goals and priorities;

(2) to designate the appropriate roles, mechanisms, and responsibilities of various Federal departments and agencies in implementing such a national research and development action plan.

SEC. 3. NATIONAL ACTION PLAN ON SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT.—(1) The Director of the Office of Science and Technology Policy shall establish a 5-year National Action Plan on Advanced Superconductivity Research and Development (hereinafter in this Act referred to as the "Superconductivity Action Plan").

(2) The Office of Science and Technology Policy shall coordinate the development of the Superconductivity Action Plan and any recommendations required by this Act with the National Critical Materials Council and the National Commission on Superconductivity.

(b) CONTENT AND SCOPE.—The Superconductivity Action Plan shall include—

(1) goals and priorities for advanced superconductivity research and development to be carried out by individual departments and agencies and organizational elements therein;

(2) the assignment of responsibility for the conduct of advanced superconductivity research and development among the departments, agencies, and organization elements therein;

(3) recommendation of proposed funding levels for activities relating to superconductivity of the 5 years following the date of enactment of this Act for each of the participating departments, agencies, and organizational elements therein; and

(4) proposals for the participation by industry and academia in the planning and implementation of the Superconductivity Action Plan.

(c) Action Plan Report.—The Office of Science and Technology Policy, in conjunction with the National Critical Materials Council, shall submit a report detailing the Superconductivity Action Plan to the Committee on Science, Space, and Technology of the House of Representatives, and to the Committees on Energy and Natural Resources, and Commerce, Science, and Transportation of the Senate, within 9 months after the date of enactment of this Act.

(d) Update Reports.—The Office of Science and Technology Policy, with the assistance of the National Critical Materials Council as specified in the National Critical Materials Act of 1984 (30 U.S.C. 1801 et seq.), shall prepare an annual report setting forth and evaluating the progress of the Superconductivity Action Plan. This report shall include a description of the amount of funds expended in the previous year by all Federal departments and agencies involved with superconductivity. This report shall be submitted with the President's annual budget request to the Committee on Science, Space, and Technology of the House of Representatives, and to the Committees on Energy and Natural Resources, and Commerce, Science, and Transportation of the Senate.

SEC. 4. DEPARTMENT OF ENERGY.

The Secretary of Energy shall conduct a program in superconductivity research and development. Within 180 days after the date of enactment of this Act, and for the two succeeding years thereafter, the Secretary shall submit annual reports on the implementation of technology transfer activities under the Stevenson-Wydler Technology Innovation Act of 1980 and related legislation with respect to superconductivity research and development to the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate. Such report shall include recommendations for improvements in the technology transfer between government and industry, and in the management of property developed or made at the National Laboratories.

SEC. 5. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

In pursuance of the goals of this Act, the National Institute of Standards and Technology shall promote fundamental research and materials standards to accelerate the use and application of the new superconducting materials, and shall utilize the Superconductivity Center Focusing on Electronic Applications at the National Institute of Standards and Technology in Boulder, Colorado.

SEC. 6. NATIONAL SCIENCE FOUNDATION.

The National Science Foundation shall promote fundamental research in pursuance of the goals of this Act.

SEC. 7. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

The National Aeronautics and Space Administration shall utilize existing programs in technology transfer, aeronautics and space technology, and space commercialization to promote the commercial applications of high-temperature superconductors, including applications relating to thin film technology, communications technology, sensors, space power, and propulsion.

SEC. 8. THE DEPARTMENT OF DEFENSE.

(a) Focus of Research.—In conformance with the Superconductivity Action Plan, the Secretary of Defense, in the superconductivity research and development activities of the Department of Defense, shall give emphasis to fundamental research, materials processing, and applications of new superconducting materials.

(b) Additional Activities.—In conducting research under subsection (a), the Secretary of Defense shall—

(1) systematically define the engineering parameters for high-temperature superconducting materials; and

(2) conduct the necessary development, engineering, and operation prototype testing considered appropriate to the overall mission of the Department of Defense. Such operational prototype testing shall, where appropriate, utilize criteria developed by the Defense Advanced Research Projects Agency.

(c) Defense Advanced Research Projects Agency.—The Director of the Defense Advanced Research Projects Agency shall, in conformance with the Superconductivity Action Plan, conduct activities to—

(1) augment, as appropriate, basic and applied superconductivity research conducted in other federal agencies and industry; and

(2) develop criteria for operational prototype testing within the Department of Defense.

SEC. 9. INTERNATIONAL COOPERATION.

The President, as part of the Superconductivity Action Plan, shall establish a program of international cooperation in the conduct of fundamental and basic research on superconducting materials. Such program of international cooperation shall include the exchange of basic information and data, as well as the development of international standards for the use and application of superconducting materials.

SEC. 10. TECHNOLOGY TRANSFER.

(a) Promotion.—In pursuance of the goals of this Act, all Federal departments and agencies shall conduct technology transfer activities as appropriate to the overall mission of each department or agency to—

(1) complement basic superconductivity research by promoting the rapid development of manufacturing and processing technologies necessary for the commercialization of high-temperature superconductors; and

(2) promote collaborative arrangements and consortia of industry (which shall include small business) in order to lower the barriers to deployment of advanced high-temperature superconductor technology; such consortia to also include, as appropriate, universities and independent research organizations.

(b) Impediments to Commercialization.—The Director of the Office of Science and Technology Policy, in collaboration with the Secretary of Commerce and the Secretary of Energy, shall identify those Federal policies and regulations which impede the ability of the private sector to undertake long-term investment programs to commercialize superconductivity applications.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. Roe] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. Lujan] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3048, the National Superconductivity and Competitiveness Act of 1988. This bill authored by my colleague from Oklahoma, Mr. McCurdy, represents a cumulative effort of the entire Committee on Science, Space, and Technology, a majority of which are cosponsors of the bill.

I wish to give special thanks to the efforts of my minority colleagues, Mr. Lujan, the ranking Republican member of our committee, Mr. Lewis, and Mr. Ritter, all of whom have been instrumental in moving this bill through the committee. In addition, I commend Mrs. Lloyd and Mr. Walgren, chairmen of the Energy Research and Development and Science, Research and Technology Subcommittees respectively, who, together with Mr. McCurdy, who chairs the Transportation, Aviation, and Materials Subcommittee, shepherded this bill through for consideration today.

Mr. Speaker, I, together with many of my colleagues, was enthralled by the startling news last year of the discovery of new, high-temperature superconducting materials. The discovery of these new materials suddenly threw open the door to the possibilities of a vast new world of electronics, transportation, energy, and medical diagnosis. Headlines in the Washington Post and the New York Times; a Time magazine cover story; feature articles in U.S. News & World Report, Business Week; among many others underscored the high expectations of the new materials. Even the President became involved, announcing at a specially convened Presidential conference, an 11-point initiative to accelerate development of these new materials. A new superconducting world seemed just around the corner.

Today, more than a year later the clamor and noise have died down. There are no more headlines. The only conferences are held by scientists and the technical community. In short, reality has set in. What most of us did not hear and what the press did not emphasize was that much still remains to be done if we are to apply these new super materials. Years, possibly decades, of effort will be necessary to use these materials at their full potential. Such a long-term effort requires a major long-term commitment of funds and human resources. Costs are estimated in hundreds of millions of dollars annually in both the private and public sector.

For the time being money does not seem to be the problem. Our analysis of Federal spending suggests that overall R&D funding for high-temperature superconductivity appears adequate. This research will approach $90 million if fiscal year 1988 and appears to be at the level of more than $130 million in fiscal year 1989. That's the good news. The bad news is we have no national program directing these hard-won funds. Indeed it is hard for us to identify even individual agency program plans. There are other problems as well:

Only one-third of the moneys are being directed through our civilian, research agencies;

Only a minimal amount of the research is directed to processing and engineering sciences, essential to the commercial development of these materials;

Industry has had little opportunity to provide formal input into current and future research plans;

We have no formal long-term commitment to high-temperature superconductivity. Despite the enthusiasm shown by this administration, there are no guarantees that the next administration will be equally willing to pursue this work.

Other countries, most notably Japan, have not been standing idly by during this past year. They, too, have begun the process of redirecting funds into superconductivity research, now at a level at or exceeding that of the United States. However, unlike the United States, Japan has put together a strongly coordinated program to commercialize these new superconductors. That program brings together Japan's three major R&D elements—industry, universities, and its national laboratories—in a comprehensive and long-term effort to apply these materials. Recently, their private sector, with strong government encouragement, established a new International Superconductivity Technology Center with participation of more than 90 companies, representing the major industries of Japan. Apparently, the private sector in Japan, in contrast to the United States, sees the new superconductors as a major opportunity for high technology competitiveness into the 21st century. In a recent OTA report requested by our committee, noting the aggressiveness and commitment of their industries OTA stated "Japanese companies could well come out ahead in the race to commercialize superconductivity."

Mr. Speaker, the primary purpose of H.R. 3048 is to provide for a national, 5-year action plan in high-temperature superconductivity research and development. The bill requires that the Director of the Office of Science and Technology establish such a plan with appropriate priorities and goals, agency responsibilities, and recommended funding over 5 years. The Director is to work collaboratively with the National Critical Materials Council and the recently created National Commission on Superconductivity in establishing the action plan. Specifically the bill before the House today focuses on the research agencies, including the Department of Energy, the Department of Defense, the National Science Foundation, National Aeronautics and Space Administration, and the National Institute of Standards and Technology. The President as part of the plan is required to establish a program of international cooperation in basic research on superconductivity materials. In addition, a requirement to transfer federally funded advanced technology in manufacturing and processing to the private sector as well as a requirement to establish collaborative arrangement and consortia, are highlighted.

I am very pleased that our colleagues from the Committee on Armed Services have assisted our committee in making this a truly national effort. The amendment to the bill as reported by the committee, which was worked out with the Committee on Armed Services, adds a new section on the Department of Defense providing some focus to its efforts. In addition, the amendment underscores the activities of the Defense Advanced Research Project Agency, calling on that Agency to augment, as appropriate, basic and applied superconductivity research.

Mr. Speaker, I do not stand here and propose that this bill will solve all the problems we face in competing with Japan and the rest of the world in this or any other technical area of economic interest. However, I do believe passage of this bill into law will help clarify our Nation's strategy in pursuing the application of this vital, new technology. As such I urge my colleagues to support this important measure and vote for its passage.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3048, the National Superconductivity and Competitiveness Act of 1988.

Mr. Speaker, at this point let me commend the chairman of the committee for bringing this bill to us, and also I commend those members of the committee who worked especially hard to make this a reality, and I refer especially to the gentleman from Oklahoma [Mr. McCurdy], the gentleman from Florida [Mr. Lewis], the gentlelady from Tennessee [Mrs. Lloyd], and the gentleman from Pennsylvania [Mr. Ritter]. We took parts of different bills that each one of them had had an interest in and rolled them up into one. This bill is the product of that. So I commend those Members for this effort.

Mr. Speaker, the incredible progress made in superconductivity research over the past 3 years may be unprecedented in the history of science. Although superconductivity was discovered over 75 years ago, it largely remained a scientific curiosity with limited applications because of the requirement that known superconductors had to be cooled with expensive and hard-to-handle liquid helium. However, with the discovery of the new high-temperature superconducting materials, superconductivity has truly come in from the supercold. Many of these new materials can be cooled with much more plentiful and cheaper liquid nitrogen and some even hold the promise of being superconducting near room temperature.

These exciting discoveries have the potential to lead to nothing less than a new industrial revolution, rivaling or even surpassing the societal impact which the transistor had. There is such a broad spectrum of possible uses—from desktop supercomputers to magnetic resonance imagery for diagnosing brain tumors, to more compact and efficient electric motors and generators, to superfast trains that can glide on a cushion of magnetism—that it is beyond our imagination to predict where the technology will lead us.

The importance of the superconductor revolution is demonstrated by the fact that thousands of researchers around the world—in Japan, in Germany, in Britain, in China, in the Soviet Union—are literally working around the clock to develop these new materials. Whichever nation is the first to commercialize high-temperature superconductors will reap extraordinary economic benefits.

Our Federal Government is committing significant resources across several agencies—the Department of Defense, the Department of Energy, the National Science Foundation, the National Institute of Standards and Technology, recently renamed from the National Bureau of Standards, and the National Aeronautics and Space Administration—for high-temperature superconductivity research. However, there does not now exist either the high-level guidance or the institutional framework for a national program to ensure that the United States will be competitive in the development and applications of high-temperature superconductors. H.R. 3048 is designed to remedy this deficiency and to help us get a leg up on the rest of the world in commercializing high-temperature superconductors.

H.R. 3048 requires the President's science adviser, the Director of the Office of Science and Technology Policy, to establish a 5-year Federal action plan which will include the following: goals and priorities for the Federal Government's high-temperature superconductivity R&D; assignment of responsibility for this R&D within the Federal Government funding levels for each agency over the 5-year plan; and provisions for the participation of industry and academia in the implementation of the plan. H.R. 3048 ensures that the direction and emphasis of the Nation's high-temperature superconductivity program receive the attention at the highest levels of the Federal Government—namely, the Executive Office of the President.

H.R. 3048 will not guarantee that we will win the high temperature superconductivity race—that will be decided by the brillance and dedication of our scientific and engineering researchers and the entrepreneurial skills of the men and women in our industry—but it will help us to be competitive so that we can play the game. That is why I support this legislation, and why I recommend the support of my colleagues.

I urge the adoption of H.R. 3048 by the House.

Thank you, Mr. Speaker.

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Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. McCurdy], the chairman of our Subcommittee on Transportation, Aviation and Materials.

Mr. McCURDY. Mr. Speaker, I am pleased to rise in support of H.R. 3048, the National Superconductivity and Competitiveness Act of 1988. As noted by our chairman, Mr. Roe, the bill before us today represents the combined efforts of many Members, including Mr. Lujan of New Mexico, Mr. Lewis of Florida, Mr. Ritter of Pennsylvania as well as Mr. Walgren of Pennsylvania, and Mrs. Lloyd of Tennessee. From the list of cosponsors, as well as from the unanimous vote in favor of this bill in committee we obviously have here a bipartisan consensus in addressing the critical issue of superconductivity.

As noted by Mr. Roe, the primary purpose of this bill is to establish a long-term national action plan in advanced superconductivity research and development. This superconductivity action plan is to be established by the Office of Science and Technology in conjunction, and working closely, with the National Critical Materials Council. We expect to see heavy involvement of the various Federal agencies and departments named in the bill in establishing that plan. We also expect to see a long-term commitment to implementing the plan once it is created. In addition, the bill takes into consideration the newly created National Commission on Superconductivity which will give the private sector a formal mechanism by which their concerns and ideas can be made a part of the final plan.

I want to place special emphasis on the new section related to the Department of Defense. First, I want to thank the chairman of the Armed Services Committee, Mr. Aspin, for approving the amendment language in the bill we are considering. This amendment would not be possible without the full concurrence of my colleagues in the Armed Services Committee. This amendment emphasizes the important role we feel the Department of Defense and in particular the Defense Advanced Research Projects Agency [DARPA] has in pushing for development of these exciting new materials. The primary purpose of this legislation is for commercial exploitation of advanced superconductivity. As such we expect that the defense program will emphasize strongly generic research in the manufacturing and processing of these materials applicable to commercial as well as defense needs rather than specific weapons or systems. It would be indeed unfortunate if the primary results of our Federal research efforts in superconductivity would be restricted to strictly defense applications and allow our foreign competitors abroad to exploit the broad consumer, commercial sector.

Mr. Speaker, some have suggested that we are in a race to develop these new superconductivity materials. I would certainly agree. In looking at our international competitors abroad—most notably Japan—I am struck by the fact that whereas we may capture the Nobel Prizes, they most often succeed in capturing the marketplaces. I do not believe it has anything to do with unfair trade or dishonest acquisition of technology. Rather, they work hard and long, through concerted industry—government—university efforts, focused on applying the scientific results developed here and abroad. In the case of superconductivity we are all starting at the same point. If we win this race we must simply run harder and run longer. In carrying this analogy one step further I would submit we must proceed as if we're in a marathon, not a sprint. Thus, we must have the commitment to endure for the long term.

Mr. Speaker, I believe the legislation before us is essential to helping this Nation establish that long-term program and commitment. I strongly urge my colleagues to support H.R. 3048.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Lewis], the ranking member on the Subcommittee on Transportation, Aviation and Materials.

Mr. LEWIS of Florida. Mr. Speaker, advances in high-temperature superconductivity have moved from the front page of daily newspapers to the science section. Nevertheless, continued technology development is very important because the benefits of the research are enormous.

For example, the most cost-effective mass transit system of the future may well be magnetic levitated high-speed trains. With the recent advances in high-temperature superconductivity which can be applied to magnetic levitation, this type of high-speed rail transportation could whisk passengers from Washington, DC to New York in less than an hour.

In my own State of Florida, travelers leaving Miami could be in Orlando or Tampa in under 1 hour's time. High-speed rail travel is scheduled to become a reality in Florida soon.

The continuity and coordination of superconductivity research mandated by H.R. 3048 will go a long way toward insuring that the United States will have the leadership in high-speed rail and other technologies for years to come.

I commend Mr. McCurdy and Mr. Ritter for their vision in preparing this legislation and in playing roles in bringing it to the floor.

As a cosponsor, I will support the legislation and urge my colleagues to support it also.

Mr. RITTER. Mr. Speaker, I am grateful to my colleagues for the opportunity to have contributed many of the original ideas underlying H.R. 3048, the National Superconductivity and Competitiveness Act. H.R. 3048 is the culmination of my own efforts, along with others, over the past several years to introduce congressional colleagues and the administration to this exciting, important, potentially life-changing scientific breakthrough—high-temperature superconducivitivity.

The new high-temperature superconducting materials may transform our industry, our jobs, our products, and our lives. The potential payoffs from the race to develop superconducting materials are enormous. This July, the Washington-based Council on Superconductivity for American Competitiveness [CSAC] reported that the potential market in superconducting materials is a whopping $12 billion in Japan alone in the next 10 years.

As I see it, there is a role for our Government in helping our country rise to the challenge. The challenge of superconductivity is not so much increasing our technical competence—although that is important—but promoting superconductivity and the potential new technology in a hotly competitive world where scientific information is instantaneously transferred and markets are increasingly global.

The CSAC report—citing a study from a Japanese think tank—makes no bones about it: The Japanese say that they'll be developing improved medical diagnostic machines—now an American domain—zero-resistance circuit boards for all electronic devices, and magnetically powered ships, to name a few. They're already working on an ocean-going ship that will be powered with the help of traditional superconducting materials. It's clear that the global competition is going to be fierce in the emerging race for preeminence in superconductivity.

As a representative of one of the most manufacturing-intensive congressional districts in the country—AT&T/Bell Labs, Bethlehem Steel, Mack Trucks, Air Products, Pfizer, Fuller, Cement, Apparel, Lehigh University, and numerous small to midsize manufacturers—news of new high temperature superconductors registered some immediate response back home—at places like AT&T, Bell Labs, Air Products, and at Lehigh University where they have organized other companies in the region into a consortium. Our manufacturing industry was—and still is—in the throes of rapid change. With competition, automation, computers, and a new focus on quality, the tools and the human resource contribution of our industry are undergoing a sea-change. I remember thinking, "our problems with steel and apparel could pale in comparison to the troubles we'll face if we lag in the race to understand and promote these new materials." That's because the future can come so fast and move so quickly.

And right here is an exciting future knocking on our door. But will we respond? As chairman of the Republican Research Committee's Task Force on HIgh Technology and Competitiveness, I and my colleagues began to respond when we called together some of our Nation's best brains in this new field for advice on how to proceed.

Paul Chu (University of Houston);

Kent Bowen (M.I.T.);

Brian Maple (University of California at San Diego);

Frank Y. Fradin (Argonne National Laboratories);

John Hulm (Westinghouse);

Praveen Chaudhuri (IBM-T.J. Watson Research Center);

Richard Harris (National Bureau of Standards);

Neil Ashcroft (Cornell University);

James L. Merz (University of California at Santa Barbara);

Alan Clark (National Bureau of Standards);

Robert Laudise (AT&T-Bell Laboratories);

Art Sleight (Du Pont);

Don Smyth (Lehigh University);

Also, Science Adviser to the President, Dr. Bill Graham and White House Domestic Policy Adviser, Gary Bauer.

Even the White House knew something very important was happening. They were there, too. We learned at the conference that the realities of international competition in the laboratory and the marketplace compel us to pursue an active two-track policy to advance the new superconductors. We need to support basic research, applied research and manufacturing and processing technologies—all in parallel. Our witnesses' comments on this issue were enlightening.

Dr. Brian Maple of the University of California at San Diego said:

> I would like to see a parallel approach where one tries to develop the materials we have now [in] whatever technological ways they can be used [and] in the longer view to try to understand the materials * * *.

Dr. Alan Clark of the National Bureau of Standards said:

> There is fundamental research money * * * but nowhere is there a source of money to develop the commercial production capability.

Dr. John Hulm of Westinghouse said:

> I think the national laboratories have excellent experience in superconductivity and development of magnets * * * but I think that the important thing to make sure that technology is transferred rapidly to industry.

Dr. Praveen Chaudhari of IBM said:

> Then we have another coupling that is missing, and that is the coupling that requires this development or this discovery to go into something which would be closely related to applications. This is something * * * we pay considerable attention to, but in my opinion not enough.

Dr. Art Sleight of Du Pont said:

> I doubt that this country can effectively compete with Japan if we don't cooperate with each other in ways that we haven't done in the past.

Following the conference, I began working with Dr. Bill Graham and the Office of Science and Technology Policy and the White House to help foster coordination of those agencies working on superconductivity, and to encourage administration leadership. OSTP and the Department of Energy [DOE] then held a conference on commercial applications of superconductivity in Washington on July 28–29, 1987.

The administration's support for superconductivity work was surprisingly enthusiastic. I've never before seen a Presidential address focused on one single science issue as President Reagan and the White House did with his speech on superconductivity at the White House conference. I'd like to think that our task force meetings with Presidential Science Adviser Dr. Graham and Domestic Policy Adviser Gary Bauer encouraged that response. Yet, there is no guarantee that this enthusiasm will continue over the longrange when patience is the real virtue. And who knows what the next administration will do? It is important to ensure that the Federal role in the research and development of superconductivity continues at an appropriate level. The work being done by our national laboratories, universities, and the private sector needs legislative encouragement.

I subsequently introduced H.R. 3024, the National Superconductor Manufacturing and Processing Act of 1987, which called for $400 million to be spent over 5 years—$80 million annually—by:

The Defense Advanced Research Projects Agency [DARPA] ($50 million), the Department of Energy [DOE] ($12.5 million), the National Science Foundation [NSF] ($12.5 million), and the National Bureau of Standards [NBS] ($5 million).

After discussing superconductivity funding strategy with leaders in the field from all sectors, I decided that the Defense Advanced Research Projects Agency [DARPA] was most suited to lead a new effort focusing on developing manufacturing and processing capabilities within American industry, in conjunction with universities and national laboratories. My bill also sought funding for basic scientific research.

After the bill's introduction, the three relevant Subcommittees of the Science, Space, and Technology Committee held hearings on H.R. 3024 and H.R. 3048/3217 (introduced by Representative Dave McCurdy). Mr. McCurdy's legislation sought to expand the use of our national labs and universities by creating research centers. As originally drafted, H.R. 3048 proposed annual funding of $50 million for DOD, $48 million for DOE, $40 million for NSF, $10 million for NBS and $2 million for a coordinating body.

While generally supportive, the administration believed that there was no need for additional legislation. Nevertheless, they used H.R. 3024 as the basis of their own policy position.

Yet even as the administration supported concepts embodied in the new bill, it squeezed DARPA's superconductivity manufacturing and processing technology budget, because of overall budget pressures. If not for some last minute pressure in 1987's continuing resolution—appropriation bill—DARPA would not have received even $15 million in fiscal year 1988 funds. It was as apparent then as now that we need legislation to commit the Federal Government to promoting superconductivity research and technology development, and to provide a basis to ensure stable Federal support in the coming years.

With this in mind, Representative McCurdy and I combined our bills to produce a bipartisan legislative vehicle. Mrs. Lloyd's substitute, while deleting specific funding levels, is a most appropriate first step. I commend her for recognizing the importance of superconductivity and providing the leadership in the Energy Research and Development Subcommittee. The main thrust of the bill is to commit the United States to a multiyear program of superconductivity research beginning in fiscal 1989.

Collaborative ventures through DARPA, the national laboratories, and the universities take time to develop. Passage of legislation will signal a green light to begin making preparations for new research efforts. At our task force breakfast meeting in April 1987, we operated on the principle that a lot of what we're looking at should have been done yesterday. Quoting N. Nakahara of Sumitomo Electric, "1 year in the past is 1 day now."

Mr. WALGREN. I support of H.R. 3048, the National Superconductivity and Competitiveness Act of 1988, and I wish to commend my colleagues on the Science, Space, and Technology Committee for working to bring this important legislation before us today. The Subcommittee on Science, Research and Technology has been committed to furthering the development and application of superconductivity through our Nation's important basic research organizations, the National Science Foundation [NSF] and the National Bureau of Standards [NBS], now known as the National Institute of Standards and Technology [NIST]. NSF and NIST will provide the U.S. with the measurement capability and the basic research needed to assist U.S. industries to be among the first to commercialize this technology. H.R. 3048 coordinates the research supported by these organizations and the Department of Energy in a way that will increase the effectiveness of the U.S. strategy in superconductivity research and development.

Mr. Speaker, superconductivity falls outside the normal categorization of our scientific endeavors as "big science" or "little science." Superconductivity, and the products which may be derived from it, is so fundamental to our Nation's technological prowess that I classify its development as a new agenda for science. The principles of superconductivity have been understood for some time; however, the recent breakthroughs in new materials, which effectively have zero resistance to electric current at economical temperatures, mean that our designers and engineers have to rethink almost all products in our economy to understand the impact. New machines and technologies are now possible to the fields of electronics, transportation, medicine, and manufacturing, to name a few. If the United States is to remain competitive in these fields, and that translates into keeping U.S. jobs in the United States, we must keep ahead of the crowded international field attempting to bring new products to our shores first.

The Federal role in superconductivity can take only one of two options: lead the world in research and commercialization efforts underway now, or choose the rocky path or protectionism when its too late to catch up. H.R. 3048 sets us on the former course, by establishing a 5-year National Action Plan under the leadership of the Office of Science and Technology Policy [OSTP]. This plan will include recommended 5-year funding levels for superconductivity research, and proposals for industry and academia participation in development of this technology. NSF and NIST will be two important Federal components of this plan because of their present superconductivity programs.

NIST is the Nation's leading laboratory addressing the technical challenges in superconductivity research, development, manufacturing and marketing. The NIST superconductivity program will continue to accelerate U.S. innovation in this field. NIST is not alone in addressing the technical challenges, but it is the only resource American industry has to acquire the necessary measurement and quality standards. Through its newly established Superconductivity Center in Boulder, CO, NIST will perform fundamental measurement research, and characterize new materials which will be available to the private sector through its very successful technology transfer programs.

NSF has funded basic research programs in superconductivity for many years, and it is NSF who established the U.S. position in the field prior to the recent breakthroughs in higher temperatures. I believe that it is important to continue this basic research effort through the funding of individuals who make up the U.S. network of research scientists, and that with the implementation of the National Action Plan we can continue to move forward with a recognized goal to fully fund the programs at NSF, NIST, and other agencies. Without an identified plan, coordination could be sporadic rather than strategic and our foreign competition would gain new products and processes at our expense.

Mr. Speaker, these two organizations have the expertise and the resources to perform outstanding work in superconductivity, and achieve the technological breakthroughs required to keep the U.S. competitive. H.R. 3048 brings all of the Federal resources together in a coherent fashion by mandating a long term, national effort which coordinates this important scientific activity. I believe this legislation takes a very large step in the right direction by focusing our attention on the long term, not just the short term, and challenges us to find effective mechanisms to achieve our goals and priorities. Clearly, one of our major priorities is to remain scientifically and commercially at the forefront, and no where is this more pressing than in superconductivity.

I urge my colleagues to join me in support of H.R. 3048.

Mrs. LLOYD. Mr. Speaker, I rise in support of H.R. 3048, the National Superconductivity and Competiveness Act of 1988. The purpose of this Act is to establish a 5-year national program of research and development in high-temperature superconducting materials. The goal is to accelerate commercial applications for this technology utilizing the resources of Federal agencies funded to perform this research. The act prescribes the institutional framework that is necessary to accomplish this program and will achieve its objective through a coherent approach in building a technology base which recognizes the breadth of potential applications.

H.R. 3048 acts to establish the coordination of basic and applied research in high temperature superconductivity at the Department of Energy, National Science Foundation, National Bureau of Standards, NASA, and the Department of Defense, especially the Defense Advanced Research Projects Agency [DARPA]. This act endeavors to support basic and applied research across the different agencies as well as materials processing and system prototyping. The efforts of DOD, especially DARPA, in utilizing enterprising companies across America to address manufacturing processes and techniques, especially as they have direct relevance to commercial products, is a key program element.

Mr. Speaker, the country can no longer accept second best to our international competition in areas of technology development which harvest the fruits of American ingenuity. The remarkable developments in the field of high-temperature superconductivity offer a unique opportunity for this country to show the world that it still has the ability and the will to convert new ideas into practical realities. We simply cannot afford not to exploit the far reaching potential of this research breakthrough.

I believe that this bill emphasizes that research in high-termperature superconductivity can serve as an important test of our Nation's resolve to move federally funded technology into the commercial marketplace. In particular, I am most interested in using superconductivity research to demonstrate that the new technology transfer authorities to be granted to the Department of Energy laboratories in another bill which I have introduced. That bill, the Federal Laboratories Competitiveness Act (H.R. 5132) indeed will erect a framework to expedite transfer of technologies from our laboratories to the private sector.

I wish to express my gratitude and appreciation to my colleagues on the Committee on Science, Space, and Technology who worked so hard to bring this legislation before us today. I urge all the Members of the House to support this important bill that calls for a renewed national commitment to competitiveness through technical excellence.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3048, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXPRESSING THE SENSE OF THE HOUSE REGARDING AGING AIRCRAFT

Mr. ROE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 450) to express the sense of the House of Representatives that the Federal Aviation Administration should immediately establish a research and development program to study structural fatigue, wear, corrosion and damage to aircraft resulting from age and intense utilization and to conduct nondestructive and destructive testing of older aircraft on a regular basis, as amended.

The Clerk read as follows:

H. RES. 450

Whereas the safety of the flying public is of the utmost concern to the House of Representatives;

Whereas the United States has always been a world leader in aviation safety and prides itself on having the safest system in the world;

Whereas the average age of aircraft in the United States commercial fleet is fifteen years or older and indications are that the fleet is gradually getting older;

Whereas economic deregulation has resulted in the utilization of aircraft in a manner other than that for which they were originally designed, and for lengths of time and numbers of flights greater than originally projected;

Whereas structural deficiencies contributed to the Aloha Airlines incident and that airline subsequently retired its remaining older aircraft; and

Whereas current Federal Aviation Administration inspection methods have proven inadequate to detect the onset of significant fatigue damage on aging aircraft: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Federal Aviation Administration, working with the National Aeronautics and Space Administration and university research entities, should give high priority to establishing an immediate, operational research and development program into structural fatigue, wear, corrosion, and damage to aircraft resulting from age and intensive utilization, including destructive and non-destructive evaluation activities; and be it further

Resolved, That as part of such research and development program, the Government should consider purchasing a representative sample of aircraft from the geriatric fleet for extensive testing and tear down inspections to validate and improve upon non-destructive testing methods and to gather research data about the continued airworthiness of the aircraft after extensive use in a variety of environments.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. Roe] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. Lujan] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 450, relating to research and development on fatigue and corrosion in aging aircraft.

Mr. Speaker, in reporting this resolution we commend the longstanding leadership in promoting aviation safety by the distinguished gentleman from Kansas [Mr. Glickman], author of this resolution as well as other measures dealing with this vital subject. I'd also like to thank Mr. McCurdy and Mr. Tom Lewis, chairman and ranking minority member, respectively of the Transportation, Aviation, and Materials Subcommittee and Mr. Lujan, ranking Republican of the committee for their work and leadership.

Our committee's work on this topic began more than 2 years ago when the Transportation, Aviation, and Materials Subcommittee convened a hearing on aging, or "geriatric" aircraft. At that time, we began to realize that the competitive economic pressures of deregulation, were causing most carriers to operate their fleets of jet transports for periods that exceeded the airplanes' original design expectations.

Although witnesses at that hearing believed that older aircraft were being operated safely, there was considerable uncertainty that fatigue and corrosion were adequately understood. Doubts were expressed as to the implications of operating an airplane beyond its economic design life and the adequacy of FAA surveillance of maintenance and inspection. But the FAA took no action to improve its understanding of the problems and risks.

Then, on April 28, 1988, over the Hawaiian Islands, passengers on Aloha Airlines Boeing 737 suddenly found themselves staring directly into the deep blue sky of 24,000 feet. What may well have started as a series of small cracks in the skin of the aging airplane many flights before, had progressed to the point where a major section of skin simply peeled off the airplane. We can all remember the news photos of the aircraft showing a damaged seating area without a top. We marveled at the skill of the pilots who were able to get the plane safely on the ground. And we were deeply saddened at the tragic loss of the flight attendant who was swept to her death.

Shortly thereafter, Mr. Glickman introduced House Resolution 450, which calls on the FAA and NASA to take concerted action to prevent such accidents by establishing an operational research program into structural failure, wear, corrosion, and damage to aircraft resulting from age. It also urges the Government to consider purchasing representative, older aircraft for the purpose of extensive testing and tear down.

Mr. Speaker, this is a matter of vital concern to the American public and I believe we must take steps toward reassuring those who fly, that their airplanes are safe.

I urge my colleagues to join with me in supporting this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 450, expressing the sense of Congress that the Federal Aviation Administration should expand its research and development program to study the effects of aging on aircraft.

Airlines are keeping aircraft longer, and putting far more hours on them than the manufacturers originally intended. Some of these aircraft have accumulated these hours over many short hops, necessitating numerous takeoffs and landings. The relative importance of these factors is not well understood. Moreover, some of these airlines operate in extremely corrosive environments, and these effects are even less well understood. It is not clear how long a well maintained airplane can safely fly, but we do know that in April of this year one Aloha Airlines 737 took off one too many times.

Mr. Speaker, I am aware that our airlines have an outstanding safety record. Flying today is safer than it has ever been, and far safer than most of the alternatives. But it is also important to keep in mind that for many Americans, flying can still be a pretty frightening experience. When they read about airplanes ripping apart in flight, statistics about air safety aren't very comforting or very convincing. We have to do everything we possibly can to assure the American public that we are concerned over their safety, and we are doing all we can to make flying even safer.

What this resolution says is that we do not want to see a repeat of the Aloha Airlines tragedy, and we believe it is possible to prevent it. We think the time to study the structural integrity of aircraft is before they come apart in flight—not after.

I think this is an important message to send to the FAA and I urge my colleagues to support this resolution.

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Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Subcommittee on Transportation, Aviation and Materials, the gentleman from Oklahoma [Mr. McCurdy].

Mr. McCURDY. Mr. Speaker, I rise in support of House Resolution 450, on aging aircraft. My good friend from Kansas, Mr. Glickman, deserves all of our thanks and respect for his initiative in introducing this resolution. I would like to commend the chairman of the Committee on Science, Space, and Technology for his leadership in bringing this important legislation to the floor.

House Resolution 450 calls on FAA and the National Aeronautics and Space Administration to establish a generic, long-term research program to address the issues associated with the maintenance of aging aircraft. In addition, the agencies are requested to study the impact of metal fatigue and corrosion on maintenance technologies. Finally, the resolution asks the agencies to consider establishing a research program that would include a complete tear-down inspection of older aircraft.

Mr. Speaker, this resolution is an excellent companion to H.R. 4686 which is scheduled for consideration later today.

It gives deserved, additional emphasis to the aircraft structures part of H.R. 4686 and makes some timely recommendations for work in that area.

I second my good friend, the gentleman from New Jersey [Mr. Roe] in encouraging your support of the resolution.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the ranking member of the subcommittee, the gentleman from Florida [Mr. Lewis].

Mr. LEWIS of Florida. Mr. Speaker, I rise in strong support of House Resolution 450.

The inadequacy of the Federal program in overseeing the maintenance and inspection of older aircraft was emphasized by Aloha Airlines accident of April 28. This accident was preventable and we want to make sure it does not happen to another aging aircraft.

House Resolution 450 calls on FAA to accelerate the research into understanding the magnitude of metal fatigue and other problems of older aircraft and to improve inspection technologies of the aging aircraft.

The thrust is to detect problems before they become accidents. Mr. Glickman has done an excellent job in bringing this resolution before the House. I agree with him, that this is a serious problem and must be addressed now, before other airline accidents occur.

Mr. Speaker, I also want to thank the chairman of the committee, the gentleman from New Jersey [Mr. Roe], and the gentleman from New Mexico [Mr. Lujan] for their leadership on this legislation.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Kansas [Mr. Glickman].

Before that, I would like to commend the gentleman for an extraordinarily capable move that he has made in developing this legislation, which is timely, and very, very important. We commend the gentleman for his efforts.

Mr. GLICKMAN. Mr. Speaker, first of all, I rise in strong support of this resolution that I introduced with the gentleman from Oklahoma [Mr. McCurdy] and the gentleman from Florida [Mr. Lewis].

I want to particularly thank the gentleman from New Jersey [Mr. Roe] for his concern and the concern of the gentleman from New Mexico [Mr. Lujan] in dealing with the issue of aviation safety and the problems associated with older airplanes, older commercial aircraft that were built in the sixties and in the early seventies that are still flying today that have a whole assortment of unusual maintenance and inspection problems because of the way they are being utilized. In this era of deregulation, we are flying planes differently than they were designed to be flown when they were built in the 1960's. That requires us to have a different kind of maintenance and inspection operation, a much more careful one, and the purpose of this resolution is to highlight the attention of the FAA to this problem.

Two years ago, the subcommittee held a hearing on "Geriatric Aircraft: Aircraft Maintenance During an Era of Aging Commercial Fleets." At that time, I raised concerns about the apparent inadequacy of the FAA's maintenance inspection system and work force, particularly now that airlines are operating much older aircraft and devoting less of their operating budgets to maintenance. Let me remind my colleagues that the hearing was held almost 2 years to the day that the recent Aloha Airlines incident occurred.

Yet, at a hearing this past May held by the same subcommittee, I questioned FAA Administrator Alan McArtor about the need for the FAA to give more priority to research and development into the areas of structural fatigue, wear, corrosion, and damage as a result of the age and intensive utilization of aircraft. While I think generally he is doing a pretty good job, I didn't feel that the FAA viewed these things with the priority they deserve.

Shortly after that hearing, having become convinced that one of the most serious and potentially volatile problems facing aviation today is the number of older aircraft in the commercial aviation fleet, I introduced House Resolution 450. It is a fact that in 1986 nearly half of the U.S. airline fleet was at least 15 years or older. Given that, I believe a clear, concise policy regarding the testing and inspection of older aircraft must be a priority of the FAA to avert future, potentially more serious, incidents like the one involving Aloha Airlines.

Specifically, House Resolution 450 directs the FAA to develop an operational research and development program into structural fatigue, wear, corrosion, and damage to aircraft resulting from age and intensive utilization. Included in that program would be routine testing of several models of older aircraft through "tear down inspection" procedures.

While aircraft inspections do take place at certain intervals, there is no systematic program for testing and conducting tear down inspections of older or geriatric aircraft. Without such in-depth and regular testing, we are faced with not knowing when the next tragedy will occur. We shouldn't wait for a wing to fall off a plane to find out that testing procedures to ensure it is attached correctly are faulty. Further, we need to validate the nondestructive techniques that are used regularly by following them up with destructive testing, such as complete tear down inspections. We also need to make sure that the FAA review the methods by which the people who purform the maintenance and inspections on commercial aircraft are properly trained and certified.

Just yesterday, the Wall Street Journal published an excellent investigative piece on the problems the airliners are having, in the cutthroat era of economic deregulation, of properly maintaining their aircraft.

In closing, I want to say that while I am encouraged that in response to my efforts and those of my colleagues such as Mr. McGurdy and Mr. Lewis of Florida, the FAA held an international symposium on aging aircraft, I think passage of this resolution is all the more important to ensure that they follow through with a much needed research and development program.

There's an old saying that goes, "what you don't know, can't hurt you." In the case of old aircraft, what you don't know, can kill you. This is truly a matter of life and death. I urge my colleagues to support this resolution.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. Roe] that the House suspend the rules and agree to the resolution (H. Res. 450), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 450, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AVIATION SAFETY RESEARCH ACT OF 1988

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4686) to amend the Federal Aviation Act of 1958 relating to aviation research, as amended.

The Clerk read as follows:

H.R. 4686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Research Act of 1988".

SEC. 2. AVIATION MAINTENANCE AND FIRE SAFETY RESEARCH.

Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety, to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resist-

ance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for in-flight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing postcrash fire hazards.".

SEC. 3. RESEARCH ON RELATIONSHIP BETWEEN HUMAN FACTORS AND AIR SAFETY AND ON DYNAMIC SIMULATION MODELING.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system which will provide analytical technology for predicting air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in operations programs.".

SEC. 4. RESEARCH PLAN AND REPORTS.

(a) In General.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end thereof the following new subsection:

"(d) Research Plan and Reports.—

"(1) Plan.—The Administrator shall prepare and transmit to Congress, a national aviation research plan. Not later than the date of the submission of the President's budget for fiscal year 1990 and for each fiscal year thereafter, the Administrator shall review and revise the plan and publish and transmit the revised plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies, forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

"(A) for the first 2 years of the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

"(B) for the 3rd, 4th, and 5th years of the plan, estimates of the total cost of each major project for such year and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

"(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given highest priority; and

"(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

"(2) Reports.—Subject to section 316(d)(2) of this Act and the regulations issued to carry out such section, the Administrator shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.".

(b) Conforming Amendment.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(d) Research plan and reports.

"(e) Functions of Civil Aeromedical Institute.

"(f) Research advisory committee.".

SEC. 5. CIVIL AEROMEDICAL RESEARCH.

(a) Establishment of Civil Aeromedical Institute.—Section 106 of title 49, United States Code, relating to the Federal Aviation Administration, is amended by adding at the end thereof the following new subsection:

"(j) Civil Aeromedical Institute.—There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the 'Civil Aeromedical Institute'.".

(b) Civil Aeromedical Research.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is further amended by adding at the end thereof the following new subsection:

"(e) Functions of Civil Aeromedical Institute.—The Civil Aeromedical Institute established by section 106(j) of title 49, United States code, is authorized—

"(1) to conduct civil aeromedical research, including—

"(A) research related to protection and survival of aircraft occupants;

"(B) research related to medical accident investigation and airman medical certification;

"(C) research related to toxicology and the effects of drugs on human performance;

"(D) research related to the impact of disease and disability on human performance;

"(E) research related to vision and its relationship to human performance and equipment design;

"(F) research on human factors affecting aviation personnel, including—

"(i) analysis of human error in aviation accidents;

"(ii) research on the interrelationship between aviation personnel and aviation equipment, rules, procedures, organizations, and training;

"(iii) research on man-machine interfaces;

"(iv) research on the adverse effects of automation on human performance, such as boredom and complacency;

"(v) research on the effects of stress and fatigue on human performance; and

"(G) research on the relationship between aircraft design and human performance;

"(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

"(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

"(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

"(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.

For purposes of this subsection, the term 'aviation personnel' includes flight crews, air traffic controllers, aircraft mechanics, aircraft inspectors, and airway facility technicians.".

SEC. 6. ADVISORY COMMITTEE.

Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is further amended by adding at the end thereof the following new subsection:

"(f) Research Advisory Committee.—

"(1) Establishment.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

"(2) Functions.—The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

"(3) Members.—The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

"(4) Chairman.—The chairman of the advisory committee shall be designated by the Administrator.

"(5) Pay and expenses.—Members of the advisory committee shall serve without pay; except that the Administrator may allow any member while attending meetings of the advisory committee or a subordinate committee travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

"(6) Support staff.—The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

"(7) Information and administrative services.—Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and sup-

plies as the Administrator determines are necessary for the advisory committee to carry out its functions.

"(8) TERMINATION DATE INAPPLICABLE.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

"(9) FUNDING.—

"(A) SOURCES.—Not more than 1/10 of 1 percent of the funds made available to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

"(B) APPLICATION OF CERTAIN LIMITATIONS.—No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.".

SEC. 7. FUNDING.

Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) for fiscal year 1989—

"(i) $92,004,000 solely for air traffic control projects and activities and $16,236,000 solely for long-term research projects;

"(ii) $13,359,000 solely for air traffic control advanced computer projects and activities and $2,357,000 solely for long-term research projects;

"(iii) $9,686,000 solely for navigation projects and activities and $1,709,000 solely for long-term research projects;

"(iv) $18,527,000 solely for aviation weather projects and activities and $3,270,000 solely for long-term research projects;

"(v) $6,613,000 solely for aviation medicine projects and activities and $6,613,000 solely for long-term research projects;

"(vi) $21,013,000 solely for aircraft safety projects and activities and $21,013,000 solely for long-term research projects; and

"(vii) $2,210,000 solely for environmental projects and activities and $390,000 solely for long-term research projects; and

"(C) for fiscal year 1990—

"(i) $25,000,000 solely for human factors research projects and activities; and

"(ii) $221,530,000 for all other research projects and activities.

Not less than 15 percent of the amount appropriated pursuant to subparagraph (C) shall be for long-term research projects. As used in this paragraph, the term 'long-term research project' means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4686, the Aviation Safety Research Act of 1988. This bill is the result of a strong bipartisan consensus that aviation safety, in this country, needs improvement and can benefit greatly from expanded research in a variety of areas, including the human causes of accidents, post crash fire safety and aging aircraft structures.

I would especially like to thank the gentleman from Florida [Mr. TOM LEWIS], principal author of the bill and the ranking minority member on the Subcommittee on Transportation, Aviation and Materials for his foresight and hard work in crafting the bill. I would also like to acknowledge the valuable contributions of the gentleman from Oklahoma [Mr. MCCURDY], chairman of the Transportation, Aviation and Materials Subcommittee, and the gentleman from New Mexico [Mr. LUJAN], ranking Republican on the committee.

Mr. Speaker, the air transportation industry has amassed a pretty good safety record here in the United States. But every few months, another accident reminds us that "pretty good" isn't enough. The causes of some recent accidents are revealing:

For example:

In Denver, November 1987. Inexperienced pilots depart with ice on the wings; 28 deaths.

In Detroit, September 1987. At the end of a long day, pilots forget to set the flaps after disabling the electronic warnings; 155 deaths.

In Hawaii, April 1988. The skin of an aircraft gets peeled off when a crack goes undetected. We are oddly relieved that just one life is lost.

And in Dallas, just 3 weeks ago. Investigators have not been able to confirm that the flaps were set properly. But it seems that the 14 who perished as a result of that accident did so not because of the force of the crash, but because of the fire and smoke which followed it.

No one accepts these accidents. We all want to be sure everything possible is done to prevent future occurrences. But what the Science, Space, and Technology Committee has discovered is an alarming lack of a "big picture."

Rules are prepared, inspection procedures are drawn up, changes are made to pilot training programs—good measures to be sure. But what led these humans to make these errors? Why did those pilots forget the flaps? Why did those inspectors miss the crack? And why weren't those 14 people able to get out of the aircraft before they were overcome by fire and smoke?

Mr. Speaker, this bill directs FAA research into those very questions. We do not believe that we have to eliminate these kinds of accidents by trial and tragic error. We can anticipate them. We must.

Strong support can be found for much of what is contained in this bill in the Office of Technology Assessment's recent report, "Safe Skies for Tomorrow," issued during the committee's consideration of H.R. 4686. The report draws special attention to the work needed in human factors research. Let me quote:

> OTA concludes that long-term improvements in aviation safety will come primarily through systematic operational human factors solutions and that such solutions will be found only with consistent, long-term support for research and development. Without Federal backing, human factors research and application will languish.

Mr. Speaker, there has been little opposition to this bill. Even administration witnesses at our hearings questioned only the need for the small changes to the enacted authorizations. This is not a "big spending" bill. Dollar-wise, it is a very modest effort which can have a major payoff in lives, and in the ease with which all Americans travel on airplanes. And the money to pay for it has already been collected and is sitting in the Aviation Trust Fund which now stands at over $10 billion. I urge my colleagues to support this bill.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4686, the Aviation Safety Research Act of 1988 and I commend the authors of this legislation, the gentleman from Florida [Mr. LEWIS] and the gentleman from Oklahoma [Mr. MCCURDY], the ranking Republican and chairman, respectively, of the Subcommittee on Transportation, Aviation, and Materials, and the gentleman from Kansas [Mr. GLICKMAN] who has long been a leader in aviation safety, for the outstanding work they did on this bill.

One of the difficulties that the Federal Aviation Administration has had to face is the continual need to deal with the daily crises—the near term problems that must be dealt with immediately. As a result, research and development that would enhance safety, thereby preventing some of the crises, and alleviating some of the workload in the future, sometimes doesn't get adequate attention or adequate funding.

This legislation addresses that problem by directing the FAA to conduct the necessary long-term research in such areas as structures, fire safety, and human factors that would lead to a safer as well as a more efficient, air transportation system in the future.

This legislation directs some of the funds authorized in fiscal years 1989 and 1990 into long-term research projects and also provides an additional authorization of $24,530,000 in 1990 for human factors research. I am sympathetic to the concerns voiced over this additional authorization; however, it should be pointed out that this is a very small amount compared to the billions of surplus in the Aviation

Trust Fund, a trust fund that was established for this purpose. Morever, there is ample evidence to suggest that human error is the major cause of accidents, and before we can reduce these human errors, we must have a better understanding of how the human operator interfaces with the system and what the limits of human performance are. One accident prevented will recoup the cost of this program many times over.

Mr. Speaker, there are no quick or easy ways to prevent accidents, but I firmly believe we can improve our record by investing today in the research that will pay dividends in the future. I urge my colleagues to support this legislation.

□ 1515

Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Oklahoma [Mr. McCurdy], chairman of our Transportation, Aviation and Materials Subcommittee.

Mr. McCURDY. Mr. Speaker, I rise in support of H.R. 4686, the Aviation Safety Research Act, which I joined with the gentleman from Florida in introducing just 4 months ago. I would like to commend the chairman of the Committee on Science, Space, and Technology for bringing this important legislation to the floor so expeditiously. I would also like to second his remarks as regards H.R. 4686.

I want to highlight three major aspects of the bill. First, it should help everyone better understand the need for FAA research. Support for FAA research has been lacking. None of us—the administration, the Congress, or the industry—has made the case for aviation research as well as we should.

Last year, Public Law 100-223 authorized FAA research budgets of about $200 million for fiscal years 1988 through 1990. But for both 1988 and 1989, the administration requested less than 75 percent of the authorized amounts.

This bill gives us some tools which enable us to better focus on what these shortfalls have given up. It calls for improved research planning, reporting, and consultation. Not only will this help FAA focus on what it should be doing, it will allow FAA's overseers to understand the priorities as well, and to make better decisions when it comes time to consider budget support for FAA. We can't simply wait until the next accident occurs to figure out what we ought to research.

Another tool provided in H.R. 4686 is a dynamic simulation model of the air traffic control system. The model can be used to figure out in advance just what a proposed research program, procedure, expenditure, or regulation will accomplish. FAA Administrator McArtor is enthusiastic about this provision, and is moving to implement it as best he can under existing authority.

A second major contribution of this bill is the emphasis on long-term research. Some like to say there is no "R" in FAA R&D. It's all development. H.R. 4686 directs FAA to devote 15 percent of its research appropriation to continuing, long-term projects: those where implementation of the results cannot be expected for a period of several years.

A third contribution of the legislation is support for the excellence of FAA's technical capability. One of FAA's major problem has been an erosion of in-house expertise. One purpose of the long-term emphasis in the bill is to allow FAA to attract and retain experts, which is not possible when highly specialized programs run for a year or two and then are interrupted or canceled.

Aviation medicine provided a good example of this which came home—quite literally—when our committee looked at the FAA's Civil Aeromedical Institute. CAMI, which is in my State of Oklahoma, was once a proud facility which had earned worldwide respect for its medical and human factors research. Today, after budget pressures and institutional neglect, staff have gone elsewhere, to the point where there is only a core struggling to maintain its organizational identity.

Continuity is important in research and this bill will bring that continuity to many areas of FAA—at laboratories not only in Oklahoma, but in New Jersey, in Washington, and at the many private and university groups which support FAA throughout our country.

I believe that H.R. 4686 is a well-considered, well-prepared bill. The committee worked hard on it, polishing the ideas which my distinguished colleague from Florida, Tom Lewis, presented to us as he prepared the initial bill. I join the distinguished gentleman from New Jersey in encouraging your support for H.R. 4686.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Lewis].

Mr. LEWIS of Florida. Mr. Speaker, the aviation research legislation, H.R. 4686, before us, establishes a long-range safety research program within the Federal Aviation Administration.

This legislation would not be possible without the leadership of Chairman Roe and of subcommittee Chairman Dave McCurdy. Chairman Roe has brought a new dimension to scientific research legislation, that of long-term authorization. H.R. 4868 is another such bill, establishing a 15-year generic research program within FAA. This is absolutely necessary if we are to advance aviation safety by quantum leaps rather than by the current tombstone technology.

The August 31, 1988, Delta jetliner crash in Dallas illustrates the need for this legislation. First and foremost, the number of survivors was very high. That was due in part to past fire protection requirements by FAA.

However, they are not good enough. We must develop an all fire resistant aircraft interior, which would increase the amount of time for passengers to escape following an accident. FAA is not conducting the appropriate research to accomplish this goal and H.R. 4686 would start such a program.

Second, the cause of the Dallas crash has not been established, however human error is suspected. Again, not enough research is being conducted in this area.

The recent OTA report "Safe Skies for Tomorrow" concluded, "FAA has never devoted the resources necessary to deal objectively with human factors issues." H.R. 4686 will mandate a major research effort to analyze and correct human errors that lead to accidents.

The administration has expressed opposition for H.R. 4686, citing "it would impose unnecessary constraints."

I would point out to my colleagues that the bill only earmarks 15 percent of the authorized research funds for long-range studies. There is an adequate funding surplus in the airport and airways trust fund—approximately $7 billion—to cover the meager research funds requested. In fact, H.R. 4686 only adds $25 million in new dollars for human factors research to the already 1990 authorized total research level of $222 million contained in Public Law 100-223.

Moreover, FAA does not have the research scientists necessary to conduct world leading research, H.R. 4686 calls on FAA to establish the scientific programs with adequate staff to improve air safety significantly.

I just received a GAO analysis of FAA's research and development staff. The study listed the staffing levels from 1978 through July 31, 1988. Currently, FAA has only 372 permanent full-time technical staff employed in research and development. This is an increase of only three people since 1978. While some areas are up, computer scientists are down 31 percent, electrical engineers down 24 percent, and scientists who are conducting human factors research up only 5 percent since 1978.

Many of my colleagues may have difficulty in visualizing the significance of these staffing levels. Let me illustrate the point with another recent GAO analysis, in 1981, FAA published the National Aerospace System [NAS] plan. Soon thereafter, the Agency recognized that they did not have the expertise to evaluate and find problems in the system. Consequently, they hired a systems engineering and integration contractor firm to give FAA technical advice. The technical advice will cost over $900 million and will be given for 10 years.

The consultant firm has identified about $2 billion in engineering changes, much of which was due to the simple fact that FAA does not have the in-house technical expertise to plan or evaluate these programs.

From both improved air safety and cost-benefit standpoints, H.R. 4686 is justified and needed.

I urge my colleagues to support this important legislation.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation, the gentleman from California [Mr. Mineta].

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 4686, the Aviation Safety Research Act of 1988. This legislation provides congressional guidance to the Federal Aviation Administration in its aeronautical research programs.

Chairman Roe, the gentleman from Oklahoma [Mr. McCurdy], the gentleman from Florida [Mr. Lewis] and other members from the Committee on Science, Space, and Technology have ably described the need for the legislation and what will be accomplished when this bill is enacted. I would like to take a few moments to focus on the provisions that address human factors research.

For some time now, aviation safety experts and analysts in government and industry have called for increased emphasis on the human factor in aviation safety. Human errors, mistakes, and lapses in judgment are now recognized as the most significant safety issues confronting aviation today. Accident investigation reports of the National Transportation Safety Board usually reveal a shortcoming in human performance as opposed to a failure of the equipment, machines, or technology.

If we are going to see further advances in air safety, we must understand how human beings perform, fail to perform, or can be made to perform better. Understanding of these issues is only in the early stages and a concerted research effort is required. Beyond identifying human factors as an item that is on the FAA's research agenda, this legislation authorizes $25 million in fiscal year 1990 for a research program on human factors in aviation safety.

This level of funding was suggested recently in a study by the Office of Technology Assessment as what would be needed to establish and implement a human factors research program at the FAA. Approximately $20 million would be needed for initial startup costs with another $5 million for the staff of researchers.

I commend the leadership of the Committee on Science, Space, and Technology, Chairman Roe, Chairman McCurdy, the gentleman from New Mexico [Mr. Lujan], and the gentleman from Florida [Mr. Lewis] for their fine work on this and the other bills they have brought before the House today.

And again, I urge our colleagues to pass this important bill.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. Glickman].

Mr. GLICKMAN. Mr. Speaker, with all the sophisticated improvements in aviation technology, including composite materials, computer-aided design fly-by-wire techniques, and modern communication improvements, the fact is that the weak link in all of these things is the human factor. How people operate airlines, fly and maintain airplanes, and control the separation of aircraft—all get far less attention from the research people at the FAA and NASA than the hardware issues. Yet most accidents are caused by human failures. Among other things, this bill organizes human factors research as a high priority in the FAA and makes the FAA clearly responsible for doing research on aircraft and the people who operate an aviation system—research which has often suffered with recent emphasis on air traffic control related research. This bill will help motivate the FAA to do the kind of research needed to make flying safer.

Mr. Speaker, I commend the gentleman from Florida [Mr. Lewis] for sponsoring this bill. I rise in strong support of this legislation.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. Roe] that the House suspend the rules and pass the bill, H.R. 4686, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4686, the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONTROLLER PERFORMANCE RESEARCH ACT

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3779) to direct the Administrator of the Federal Aviation Administration to conduct research into the consequences for the air traffic control system of automation of such system, and for other purposes.

The Clerk read as follows:

H.R. 3779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Controller Performance Research Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

SEC. 3. STUDY OF CONSEQUENCES OF INCREASED AUTOMATION OF AIR TRAFFIC CONTROL SYSTEM.

(a) In General.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(b) Content.—Research conducted under subsection (a) shall include investigation of the following:

(1) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(2) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(3) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying individuals possessing those attributes and aptitudes.

(4) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(5) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(c) Report.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

SEC. 4. AGREEMENT WITH ADMINISTRATOR OF NASA.

(a) In General.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of traffic controllers.

(b) Content.—Research under this section shall include investigation of the following:

(1) Human perceptual capabilities and the effect of computer-aided decisionmaking on the workload and performance of air traffic controllers.

(2) Information management techniques for advanced air traffic control display systems.

(3) Air traffic controller workload and performance measures, including development of predictive models.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

For conducting research under this Act there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. Roe] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. Lujan] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support H.R. 3779 the Controller Performance Research Act. I'd like to commend my colleague from Missouri, Mr. Buechner for his leadership in proposing this bill. I'd also like to thank the gentleman from Oklahoma, Mr. McCurdy, and the gentleman from Florida, Mr. Tom Lewis, chairman and ranking minority member, respectively, of the Transportation, Aviation and Materials Subcommittee and the gentleman from New Mexico, Mr. Lujan, ranking Republican of the committee for their important contributions.

This legislation arose from concerns voiced by FAA controllers over staffing allocations to FAA facilities. The facilities have had difficulty maintaining an adequate number of trained controllers, in part because of the way FAA determines authorized staffing levels and allocates them to the field facilities, and in part because of the long training time between recruitment and full competence on the job. This problem will grow more complex as automated equipment changes the training requirements.

FAA carries out R&D on issues related to air traffic controller selection, training and performance at the Civil Aeromedical Institute [CAMI] in Oklahoma City. Most of the selection and performance research is focused on the near term, although some attention is directed to the controller in the longer term, when additional automation will be introduced. The human/computer interface and the effects of automation on it are major questions for the future, and a greater emphasis on developing expertise in these areas would better prepare FAA for evaluation of new air traffic control [ATC] technology.

This bill, then, directs FAA to take a longer term, look at these issues. Like the other measures we are presenting to you today, it embodies what our committee is all about. It is the result of a scientific examination of the often emotional issues surrounding staffing of air traffic controllers, and is, I believe, a comprehensive, measured, and careful response.

I urge my colleagues to support this bill.

□ 1530

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3779, the Controller Performance Research Act. This is the third and final bill relating to aviation safety that the Committee on Science, Space, and Technology is bringing to the floor today.

This bill deals with a critical element in our air transportation system—namely, the air traffic controller who directs the traffic in the sky. More and more Americans are flying today than ever before, and the congestion in our skies and around our airports is making it increasingly difficult to manage this traffic.

One way to deal with this, of course, is improved technology, and we're doing that. But with increased automation and increasingly sophisticated equipment, comes the need to better screen and train the people we hire to operate this equipment.

Human error continues to be the single greatest cause of accidents. We can no longer afford to ignore the men and women on the ground who also share in the responsibility for keeping our skies safe.

This legislation directs the FAA to conduct research aimed at a better utilization of personnel and equipment. Like the two preceding pieces of legislation, this bill does not promise a quick fix to our air safety problems. This is a long-term problem needing long-term solutions. I believe this bill is a thoughtful contribution, and I commend the distinguished gentleman from Missouri [Mr. Buechner] for this innovative approach to dealing with the role of the controller in air safety. I urge my colleagues to join me in supporting H.R. 3779.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Oklahoma [Mr. McCurdy], the chairman of the Subcommittee on Transportation, Aviation and Materials.

Mr. McCURDY. Mr. Speaker, I rise in support of H.R. 3779, the Controller Performance Research Act. I would like to commend the chairman of the Committee on Science, Space, and Technology for his leadership in bringing this important legislation to the floor, and of course, the gentleman from Missouri, Mr. Buechner for his foresight in introducing the bill.

Controllers and their training process have been of special interest to me, not only because of the jurisdiction of the Subcommittee on Transportation, Aviation and Materials which I chair, but also because of the fact that controllers are trained at the FAA Academy in Oklahoma City. Recent initiatives on the part of Administrator McArtor presented the academy and the training it conducts for controllers with some special challenges to which they are responding well.

What the bill does, however, is to single out for research emphasis, precisely the issues that have caused FAA to question the job the academy has done. Why does it take so long to train air traffic controllers? Why is the washout rate so great? What institutional factors within FAA have contributed to the labor unrest among the controller work force?

One of the major contributions is the stress controllers are under. And why is it so stressful at some locations? Because we don't know with sufficient precision how many people it takes to run a particular control tower, or an en route air traffic control center. The performance standards which FAA uses to make these determinations have been largely seat of the pants. The research called for in this resolution will make it possible to refine those standards, and eliminate a major cause of the air traffic control staffing uncertainties which we have debated in these halls.

I join my good friend, the gentleman from New Jersey [Mr. Roe], in encouraging your support of this bill.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Lewis], the ranking member on the Subcommittee on Transportation, Aviation and Materials.

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I thank the gentleman from New Jersey [Mr. Roe], chairman of the committee, the gentleman from New Mexico [Mr. Lujan], and the gentleman from Oklahoma [Mr. McCurdy], the subcommittee chairman, for bringing this legislation to the floor.

Mr. Speaker, I rise in support of H.R. 3779.

Many of the air safety issues facing us today involve human factors aspects of the air traffic control system. Over the years, human errors by air traffic control personnel have contributed to some air accidents.

The legislation before us, H.R. 3779, directs FAA to study human factors problems and devise ways of correcting the errors.

As we move to more high technology in air traffic control systems, it is important that research into the complex human machine interface, address any weaknesses before they result in accidents.

I congratulate Mr. BUECHNER for his efforts in advancing this important legislation.

Mr. LUJAN. Mr. Speaker, it gives me great pleasure to yield such time as he may consume to the gentleman from Missouri [Mr. BUECHNER], the author of this bill.

Mr. BUECHNER. Mr. Speaker, I am very pleased that the House is considering my legislation, H.R. 3779, the Controller Performance Research Act. I want to express my sincere thanks to my good friend from New Jersey, the chairman of the Science, Space, and Technology Committee, who has provided such critical leadership in the area of aviation safety. I also want to thank the vice chairman of the committee, MANNY LUJAN for his support and guidance. I know we will all miss his leadership on the committee next year. And I want to express my deep appreciation to DAVE MCCURDY and TOM LEWIS, chairman and vice chairman of the Transportation, Aviation and Materials, Subcommittee. Needless to say, they have been instrumental in bringing this legislation before the House.

Mr. Speaker, with a 50-percent increase in air travel since 1982, aviation safety has become of critical importance to the American public as well as to Congress. While the Federal Aviation Administration has taken steps to improve aviation safety in the short term, they have failed to provide long-term improvements, especially in the area of human factors.

The study of human factors seeks to understand why humans fail to operate and understand sophisticated technology. Such an understanding is critical to the jobs of the air traffic controller and the cockpit crew. However, a tragic example caused by human error can be found in this Nation's second worse airline accident when a Northwest Airline crew failed to lower the wing flaps for takeoff in August 1987, resulting in 156 deaths.

The Office of Technology Assessment, in a recent report on aviation safety, noted that "human error is partially responsible for over 65 percent of the major airline accidents." And the OTA recommended that "Congress establish a program that utilizes available human-factors expertise at NASA and other organizations that could bring improvements to safety without large expenditures of additional funds."

I am pleased to say that the Science, Space, and Technology Committee has been working on the issue of human factors even before the OTA released their report. The legislation we are considering, H.R. 3779, will provide much needed research in this area through a cooperative study between NASA and the FAA to determine whether air traffic controllers will be able to operate new technologies quickly and accurately at our Nation's airports. Located in my district St. Louis Lambert International, the Nation's sixth busiest airport, will greatly benefit from such a study. The bill will also provide scientific criteria to determine the number of air traffic controllers needed for the 1990's and into the next century.

Such a program is desperately needed considering that the FAA's advanced automation system, A $16 billion program to modernize the air traffic control system throughout the next decade, will implement a host of new technologies. For example, the FAA and IBM are working on a $3.6 billion system that will replace voice communications between air traffic controllers and pilots with electronic messages. While most of us applaud this new system, little research has been conducted on whether the air traffic controller and the pilot will be able to interface with the machine.

This legislation will also contribute to our understanding of the appropriate size for the air traffic controller work force. While the the FAA maintains that their modernization effort will reduce the workload for the air traffic controller, they are still unable to determine the appropriate size and composition of the work force. Some facilities may be overstaffed while the work force at other facilities may be stretched too thin.

During a subcommittee hearing on this legislation, Dr. Earl Wiener of the University of Miami, speaking in support of this bill noted that the FAA's research effort in human factors has been seriously lacking and he predicted that if human factors research continues on its present course, "considerable and serious problems will be encountered at the human-equipment interface when the new technology of the national airspace plan is implemented." In addition, the OTA report on aviation safety concluded that "long-term improvements in aviation safety will come primarily from human factors solutions and that current FAA programs to understand human error and enhance controller performance are inadequate."

Basic human factors research for air traffic controllers has been overlooked for too long. I am very pleased that the House is considering legislation addressing this issue which will greatly contribute to improving the safety of our crowded skies.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3779.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3779, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RECREATION AND PUBLIC PURPOSES AMENDMENT ACT OF 1988

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4362) to amend section 3 of the act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Recreation and Public Purposes Amendment Act of 1988".

SEC. 2. AMENDMENT.—Section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2) is redesignated as subsection 3(a) and the following new subsections are added at the end thereof:

"(b) NEW DISPOSAL SITES.—(1) Notwithstanding the provisions of subsection (a) of this section, if the Secretary receives an application for conveyance of land under this Act for the express purpose of solid waste disposal or for another purpose which the Secretary finds may include the disposal, placement, or release of any hazardous substance, the Secretary may convey such land subject only to the provisions of this subsection.

"(2) Prior to issuance of any conveyance of land under this subsection the Secretary shall investigate the land covered by an application for such conveyance to determine

whether or not any hazardous substance is present on such land. Such investigation shall include a review of any available records as to the use of such land and all appropriate analysis of the soil, water and air associated with such land. No land shall be conveyed under this subsection if such investigation indicates that any hazardous substance is present on such land.

"(3) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has furnished evidence, satisfactory to the Secretary, that a copy of the application and information concerning the proposed use of the land covered by the application has been provided to the Environmental Protection Agency and to all other State and Federal agencies with responsibility for enforcement of State and Federal laws applicable to lands used for the disposal, placement, or release of solid waste or any hazardous substance.

"(4) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has given a warranty that use of the land covered by the application will be consistent with all applicable State and Federal laws, including laws dealing with the disposal, placement, or release of hazardous substances, and that the applicant will hold the United States harmless from any liability that may arise out of any violation of any such law.

"(5) A conveyance under this subsection shall be made to the extent that the applicant has demonstrated to the Secretary that the land covered by an application meets all applicable State and local requirements and is appropriate in character and reasonable in acreage in order to meet an existing or reasonably anticipated need for solid waste disposal or for another proposed use that the Secretary finds may include the disposal, placement, or release of any hazardous substance.

"(6) A conveyance under this subsection shall be subject to the following conditions:

"(A) Except as otherwise provided in subparagraph (D) of this paragraph, document of conveyance shall contain a limited reverter which shall become a permanent reverter unless substantially all of such lands have been used for the purpose or purposes specified in the application on or before the date five years after the date of conveyance.

"(B) In the event that at any time after such conveyance any portion of such lands has not been used for the purpose or purposes specified in the application, and the party to whom such lands were conveyed by the Secretary shall transfer ownership of such unused portion to any other party, the party to whom such lands were conveyed by the Secretary shall be liable to pay the Secretary, on behalf of the United States, the fair market value of such transferred portion as of the date of such transfer, including the value of any improvements thereon. All amounts received by the Secretary under this subparagraph shall be retained by the Secretary and used for the management of public lands and shall remain available until expended.

"(C) Pricing for conveyances of land under this subsection shall be in accordance with the provisions of section 2 of this Act, except that no compensation shall be required for the inclusion of only the limited reverter specified in this paragraph.

"(D) Each patent issued under this subsection shall specify that no portion of the lands covered by such patent shall under any circumstances revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance.

"(7) For purposes of this section the term "hazardous substance" has the same meaning as such term has when used in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.).

"(c) EXISTING DISPOSAL SITES.—(1) Upon the application or with the concurrence of any party to whom the Secretary, prior to the date of enactment of this subsection, conveyed land under this Act, the Secretary may renounce the reversionary interests of the United States in such land, or portion thereof, if the Secretary finds that such land, or portion thereof, has been used for solid waste disposal or for any other purpose which the Secretary finds may result in the disposal, placement, or release of any hazardous substance, and the Secretary may rescind any portion of any patent or other instrument of conveyance inconsistent with such renunciation. After such renunciation, affected lands shall not under any circumstances revert to the United States by the operation of law, and shall cease to be subject to the provisions of subsection (a) of this section.

"(2) Upon the application or with the concurrence of a party to whom the Secretary, prior to the date of enactment of this subsection, leased lands pursuant to this Act, the Secretary may convey in fee the lands covered by such lease or any portion thereof which have been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance. Notwithstanding any other provision of this Act, a patent issued pursuant to this paragraph shall not contain a reverter provision and the lands covered by such patent shall not under any circumstances revert to the United States by operation of law after the issuance of such patent and shall not be subject to the provisions of subsection (a) of this section.".

SEC. 3. SAVINGS CLAUSE.—Nothing in this Act or the amendments made thereby shall be construed to affect the applicability and operation of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) as amended, and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended.

The SPEAKER pro tempore (Mr. McCURDY). Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Chairman UDALL and a number of others joined in introducing H.R. 4362 at the request of the Department of the Interior. It is aimed at providing the Department with new flexibility as to the terms upon which public lands could be made available to local governments for purposes of solid-waste disposal sites. This would be done through amendments to the Recreation and Public Purposes Act, under which such lands are currently made available for this purpose.

As was brought out at our subcommittee's hearing, the bill responds to a situation which in a number of areas has become very pressing. Because hazardous materials have been dumped at sites transferred to local governments under the Recreation and Public Purposes Act, Federal liability has arisen, based on the retained reversionary interests of the United States in those sites.

In self-defense, the Bureau of Land Management has imposed a moratorium on the transfer of additional lands for such purposes until legislation along the lines of this bill can be passed.

While this moratorium has indeed protected the United States and the taxpayers of the Nation from additional liability, it has created problems for many western communities who have few if any realistic alternatives for obtaining waste disposal sites, and it has also increased the danger of unauthorized, illegal, disposal of waste materials on the public lands.

H.R. 4362 would clear the way for BLM to lift the moratorium on transfer of waste disposal sites to the State and local governments under the Recreation and Public Purposes Act.

Under the bill, transfers of lands for such puposes would not be subject to the usual reverter provisions otherwise applicable under the Recreation and Public Purposes Act. Instead, the lands would be transferred subject to the condition that they must be used for the proposed purposes within 5 years, and that the recipient has demonstrated compliance with all applicable State and local requirements for such sites and has agreed to comply with all applicable State and Federal laws.

The Department of the Interior would be required to inspect lands prior to their transfer, to lessen the chance that any unsuitable or contaminated lands might be transferred; and the recipient would have to agree to hold the United States harmless against any liability that might arise out of violation of law in connection with the use of the lands.

Finally, while a recipient would be free to dispose of transferred lands in any way permitted by law once they have been used for their intended purpose, in order to discourage disposal of unused lands transferred for one of the specified purposes, a recipient would have to pay the United States the full fair market value of any such unused portion that might be transferred by the recipient.

Mr. Speaker, this is an important bill that addresses a very real problem being experienced by the Interior Department and by many local communities. I believe that as reported by the Interior Committee, it sets a good policy for the future. It does not, of course, completely resolve all the problems that exist with respect to existing landfills or other waste-disposal sites. This is an area in which the BLM, and other Federal agencies as well, need to do much more. However, this bill would improve matters considerably with respect to future transfers of public land for this purpose, and I urge its approval.

□ 1545

The SPEAKER pro tempore (Mr. McCURDY). The gentleman from Minnesota [Mr. VENTO] has consumed 4 minutes.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I too rise in support of H.R. 4362 that amends the Recreation and Public Purposes Act. We have worked out with the Department of the Interior and within the Interior Committee a very reasonable amendment to the R&PP Act. The amendment is prospective and accomplishes the primary goal of keeping Federal lands, as an option, for solid waste disposal. Presently, the Bureau of Land Management has a moratorium on granting additional requests for solid waste disposal sites, because of the reverter requirement under present law. In short, the Bureau of Land Management could end up with the site after the site is no longer used for waste disposal. The legislation before us would eliminate the requirement of the patent containing a reverter.

In many western communities the best sites for solid waste disposal may be on Federal lands. If you are familiar with the settlement patterns in the West many of the river bottoms were homesteaded and are now in private ownership. Lands now remaining in Federal ownership are usually the more remote and less productive lands. Without the option, of using Federal lands, we may be for example, forcing solid waste disposal sites to be located in agricultural and ground water areas. That is just what we do not want to happen.

There are many problems associated with solid waste disposal, not only in the West, but everywhere. We should not add to that problem by eliminating the use of Federal lands in certain circumstances as an option. I urge all Members to support this legislation.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of H.R. 4362 to amend the Recreation and Public Purposes Act. My State of New Mexico is in dire need of Federal land to be used for solid waste landfills. Many towns in New Mexico are surrounded by Federal land and cannot afford to pay market price for private landfills even where they are available.

The Federal Government has stopped granting patents to local governments for landfills because of the reverter provision in the Recreation and Public Purposes Act. H.R. 4362 amends the act and removes this provision. This will result in the Federal Government beginning again to grant patents for landfills.

My State needs these landfills and I am a cosponsor of this bill which helps to provide them.

I urge my colleagues to support H.R. 4362 and help local communities address their solid waste problems.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

The gentleman chairs a complementary subcommittee of the Committee on Government Operations. He has worked diligently on this matter and has some deep concerns. I appreciate the gentleman's interest.

Mr. SYNAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the committee made several changes which improve H.R. 4362 as it applies to Federal land not currently in use for solid waste disposal. However, H.R. 4362 does not adequately address the problems associated with more than 300 landfills operating on land managed by the Bureau of Land Management.

Existing Environmental Protection Agency guidelines for the design and operation of landfills are mandatory for Federal land—Section 6004(A)(3) of the Resource Conservation and Recovery Act. Last year, the Committee on Government Operations issued a report which showed that BLM landfill sites are generally not in compliance with these requirements—H. Rept. 100-457. As a result, they have provided an open invitation for the illegal dumping of hazardous wastes. To summarize the committee's report:

The majority of BLM's landfills do not comply with even the most fundamental operational guidelines, such as having fences, locking gates, records of dumping and an operator on duty;

At the sites we examined, the BLM had failed to take action to enforce the mandatory guidelines, even when they were included as a condition of the lease with the landfill operators;

BLM does not know how many of its hundreds of operating landfills are contaminated with hazardous wastes. In fact, according to a 1984 report from the General Accounting Office, the department has basically failed to comply with the Comprehensive Environmental Response, Compensation and Liability Act—Superfund—which requires all past and present operators of facilities where hazardous wastes have been disposed, spilled, or dumped to notify EPA. Rather than try to identify new sites, the department's efforts have involved primarily verifying data on previously identified sites—GAO/RCED-84-188, September 28, 1984.

In November 1987 the committee made several recommendations, including one that BLM should bring operating landfills into compliance with the law.

Finally, last month, the Secretary of the Interior responded to the committee's report by promising that the department would begin to address some of the problems. But, promises for the future can do little to eliminate potential hazards posed by land which may be transferred before corrective action is taken.

Here are the problems.

The first is obvious. If hazardous wastes were disposed of at the sites, ground water supplies and other natural resources may become contaminated as waste begins to leach out of the landfill. How do we insure that our valuable resources are not contaminated? Do local jurisdictions have the money to insure that these sites do not pose a hazard?

The second is a matter of the public duty of the BLM. While BLM did not actively create the hazards, its negligence in failing to enforce the law clearly contributed to their creation. If BLM just passes ownership of the sites off to local jurisdictions, it is not doing its fair share to clean up.

The third is a practical concern. The United States, as owner of contaminated land from which there is a hazardous waste "release" under the strict joint and several liability provisions of Superfund, can be held liable for contamination which occurred while it owned the land. To apportion the costs and responsibilities of any future cleanup, BLM needs to know the condition of the site when it leaves Federal ownership.

To address these problems, to protect our citizens and the Federal Government, land with an operating landfill should not be patented until the

BLM has thoroughly investigated the site. If it is contaminated by hazardous waste, it should not be transferred until the Federal Government has taken corrective action to eliminate the hazards and has begun to seek recovery of cleanup costs from any other responsible parties. I had urged the committee to require such action before allowing the conveyance of any land with operating landfills. Unfortunately, they did not adopt that suggestion.

So, that leaves us with the still unanswered question. How do we get the Department to comply with the law? Certainly, under this administration, the Environmental Protection Agency cannot sue to require compliance and DOI has a bad habit of not living up to its promises. For that reason, I hope that the Interior Committee will join the Government Operations Committee in the effort to see that these sites are cleaned up. In the meantime, let me urge the Bureau of Land Management to be responsible and not try to foist its potential liability off on local governments either by failing to disclose their potential for contamination or by threatening enforcement of lease terms if the local jurisdiction doesn't take the land.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's point. I think the concern here, of course, is to deal here prospectively. Most of the issues that the gentleman presented to our subcommittee and that he reviewed in his own subcommittee are addressed in terms of the survey of the land that is transferred prospectively, the condition of those sites, the working with the EPA and the local and State agencies that are responsible for environmental standards, as well as complying with all permitting systems. The gentleman, of course, points out that the major problem is the sites that have been passed to local governments in the past with the reverter language on them. That, of course, creates a national Federal liability for the BLM. I think it is important to note that there ought to be surveys, there ought to be resources that are expended on that. I think it is important to note that a lot of solid waste, most solid waste sites because of lack of knowledge and because of a lack of due care where improper substances were improperly disposed of at those sites. And I think, certainly I will specify that I think the gentleman's observations and the review that has been done insofar that it has been done is accurate. That is a problem that still remains, that is the past sites that do exist.

I point out, importantly, this legislation only addresses one aspect of that, extinguishing that reverter language or rescinding that reverter language, and that is insofar as the local governments agree to extinguish that type of reverter language. But it is certainly our intent that there be a cooperative effort in terms of helping the local governments deal with such problems as they exist and as is appropriate based on the fact that BLM was supposed to be monitoring what was going on in that site and that improper disposal of toxics or other hazardous substances at those sites should have resulted in termination of the lease, under the lease agreements or under the agreements under which that land was transferred.

Unfortunately, because of the point we are at in this session, we are trying to deal prospectively, which is less of a problem; the problem the gentleman raises is extremely controversial. And there is some expense involved, but I think nevertheless one that must be dealt with. I think it is especially important because as we look at the opportunity to deal with solid wastes, these remote areas, these areas that are largely surrounded by Federal lands, are likely to continue to use solid waste disposal land at their disposal as an alternative. Therefore, recycling and some of the other alternatives available to urban areas is not appropriate or applicable at these sites.

So I share the gentleman's concerns and I am very deeply concerned about them, but I hope that we could move forward with the tenor of this legislation with the understanding that local governments will not be forced by other tradeoffs in terms of accepting an unconditional extinguishing of that reverter, that the national government observes the responsibility of the BLM, that we in Congress observe that responsibility and intend to see a cooperative effort in terms of dealing with what now has become these problem sites.

I appreciate the gentleman's interest and concern in this matter and certainly am prepared to work with him.

Mr. SYNAR. I thank the gentleman for his comments.

I would like to respond in three ways. First of all, I think the committee has done an excellent job with respect to prospective sites. Regrettably, the BLM does not have a good track record on its monitoring and inventorying of these past sites. That is one of the reasons that we stand here in the well today really concerned about what we are doing with those 300 sites.

Finally, I appreciate the gentleman's comments that he thinks it would be improper for BLM to use undue leverage in not working in a cooperative effort with these local communities.

The last thing I want to see as an oversight chairman and the gentleman from Minnesota as the authorizing subcommittee chairman will want to see is BLM rush these lands out into local jurisdiction while we are in adjournment before the next session of Congress and in almost a threatening way telling the localities either to take it over or they are going to enforce the lease which puts the localities who have very few resources in a very awkward position.

So I commend the gentleman for his statement with respect to cooperation.

As the oversight chairman, I am putting the BLM on notice. We will be watching this in the next couple of months.

Mr. CRAIG. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

□ 1600

The SPEAKER pro tempore (Mr. McCURDY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4362, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR APPROVAL OF DESERT LAND ENTRY IN VICINITY OF DINOSAUR NATIONAL MONUMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1927) to provide for the consideration by the Secretary of the Interior of a desert land entry in the vicinity of Dinosaur National Monument, and for other purposes, as amended.

The Clerk read as follows:

S. 1927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law or any order of land classification based thereon, the Secretary of the Interior is authorized to consider an application for desert land entry covering approximately 280 acres of public lands, 105 of which constitute a part of a scenic easement area of the Dinosaur National Monument, Utah, as identified on a map entitled "Desert Land Entry—Dinosaur National Monument—October 1, 1987.". If the applicant meets the requirements of section 2 of this Act, the Secretary shall issue a patent to the applicant in accordance with the Desert Land Entry Act (43 U.S.C. 321 et seq.). Such patent shall reserve to the United States a right-of-way 200 feet in width for the Dinosaur National Monument entrance road.

SEC. 2. The Secretary shall not issue a patent to the lands described in section 1 until the applicant has: (a) complied with the requirements of the Desert Land Entry Act; and (b) conveyed to the United States at no cost, title to scenic easements for purposes of Dinosaur National Monument on lands identified by the National Park Service as tracts 07-114, south half; 07-115, the complete tract.

SEC. 3. The scenic easements acquired by the Secretary and any patents issued by him under this Act shall be subject to the restrictions set forth in the scenic easement deed dated March 16, 1967, and filed in the records of Moffat County, Colorado, at pages 2 and 3 of book 341 of the deed of records of the county.

SEC. 4. UTAH EXCHANGE.—Notwithstanding any other provision of law, if the owner or owners of the lands identified as "Tract C" on a map entitled "Deer Creek Land Exchange—Proposed" dated September 1, 1988, comprising approximately 0.55 acres of land in Garfield County, Utah, should offer to convey to the United States title to such lands and should in addition tender to the Secretary of the Interior the sum of $2,000, the Secretary shall accept such title and such sum on behalf of the United States and in exchange shall convey to such owner or owners all right, title, and interest of the United States in the lands identified as "Tract A" on such map, comprising approximately 0.73 acres of public lands in Garfield County, Utah. After the consummation of such exchange, lands conveyed to the United States shall become public lands and shall be managed by the Secretary of the Interior under applicable law, and the Secretary of the Interior shall retain the moneys received in such exchange, which shall be available to the Secretary until expended for purpose of managing the public lands in the State of Utah.

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1927 would permit the Department to consider and act on a pending application for a patent under the Desert Lands Entry Act for certain public lands near the Dinosaur National Monument in Utah that are managed by the Bureau of Land Management. It would also provide for an exchange of two small parcels of land in Garfield County, UT, between the BLM and a private landowner, in order to resolve an inadvertent trespass situation. At present, the desert lands application cannot be considered because of legislatively imposed restrictions. The bill would clear the way for action on that application, provided that the applicant transferred to the United States scenic easements on certain other lands in the vicinity of the national monument. It would also retain the existing scenic easements for the benefit of the monument that apply to some of the lands covered by the application.

As was made clear at our hearing, the applicant would still have to meet both the requirements of the Desert Land Entry Act and the additional requirements of the bill in order to receive a patent.

As for the Garfield County exchange, the committee agreed to language proposed by the gentleman from Utah [Mr. HANSEN] that would provide for transfer of about three-quarters of an acre to the private party in return for receipt by the United States of about one-half an acre plus $2,000 to equalize values. This exchange could possibly be done administratively, but evidently the acreage involved is so small that without legisltation of this sort to expedite the process it would cost more than it would be worth.

Mr. Speaker, I urge approval of this bill as reported by the interior Committee.

Mr. Speaker, I reserve the balance of my time.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are in full support of S. 1927. It is a noncontroversial bill and despite what the administration says about the amendment adopted in committee, the legislation remains without controversy. The committee adopted an amendment to clear up an inadvertent trespass on public lands. But it should be noted that in return for the land the public gives up under the amendment, it also receives land and $2,000 in return.

I believe the administration is being a little over dramatic when it states that the amendment will encourage others to freely trespass on public lands. That is simply not the case.

I have no further comments and encourage my colleageues to support the measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1927, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ZUNI-CIBOLA NATIONAL HISTORICAL PARK ESTABLISHMENT ACT OF 1988

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 4182) to authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni-Cibola National Historical Park Establishment Act of 1988".

SEC. 2. ESTABLISHMENT OF PARK.

(a) ESTABLISHMENT.—In order to preserve and protect for the benefit of present and future generations certain nationally significantly historical, archeological, cultural, and natural sites and resources associated with the Zuni Tribe, and in order to assist members of the Zuni Tribe in preserving and interpreting their tribal culture, there is hereby established the Zuni-Cibola National Historical Park. The park shall consist of lands with respect to which the Secretary of the Interior has accepted a leasehold pursuant to section 3 of this Act.

(b) EFFECTIVE DATE.—This section shall take effect on the date of publication by the Secretary, pursuant to section 3 of this Act, of a notice that the Secretary has accepted a leasehold interest that meets the requirements of this Act.

(c) TERMINATION.—This section shall terminate and shall be ineffective 18 months after the date of enactment of this Act unless prior to the end of such 18-month period the Secretary has published a notice of acceptance of a leasehold pursuant to section 3 of this Act.

SEC. 3 ACQUISITION OF LEASEHOLD.

(a) AUTHORITY OF SECRETARY.—If, no later than 1 year after the date of enactment of this Act, the Zuni Tribe offers to the Secretary a leasehold interest in trust lands of the Zuni Indian Reservation, in New Mexico, meeting the requirements of this Act, the Secretary is authorized and directed to accept such leasehold on behalf of the National Park Service and to publish in the Federal Register a notice of such acceptance.

(b) REQUIREMENTS.—The Secretary shall accept a leasehold under subsection (a) of this section if such leasehold—

(1) would continue for a period of at least 99 years;

(2) would require no rentals or other payments by the United States to the Zuni Tribe or any other party;

(3) would be applicable to lands within the Zuni Indian Reservation that the Director of the National Park Service, after consultation with the Zuni Tribe and the Bureau of Indian Affairs, has determined to be necessary and adequate to carry out the purposes specified in section 4(a) of this Act; and

(4) would not be inconsistent with any of the provisions of this Act.

(c) MAP.—As soon as possible after publication of a notice of acceptance pursuant to subsection (a) of this section, the Secretary shall prepare a map of the park and shall provide copies of such map to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate.

(d) ADDITIONS.—If at any time after the publication of a notice of acceptance pursuant to subsection (a) of this section, the Zuni Tribe offers the Secretary a leasehold interest in additional trust lands of the Zuni Reservation (other than lands covered by the leasehold referenced in such notice), the Secretary may accept such leasehold if the Secretary determines that the terms thereof are consistent with the provisions of this Act and that its acceptance would be desirable in order to carry out the purposes specified in section 2(a). If the Secretary accepts a leasehold pursuant to this subsection, the Secretary shall revise the map prepared under subsection (c) of this section and shall provide copies of such revised map to the Committees specified in such subsection (c). Lands covered by a leasehold accepted pursuant to this subsection shall be incorporated into the park and managed accordingly.

SEC. 4. MANAGEMENT.

(a) PURPOSES.—The Secretary, acting through the Director of the National Park Service, and in consultation with the Advisory Commission established pursuant to section 6 of this Act, shall manage the lands covered by any leasehold accepted by the Secretary pursuant to section 3 as a unit of the National Park System consistent with the provisions of this Act, and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461), as amended.

(2) The Secretary shall protect, manage, and administer the park for the purposes of preserving the historical, archeological, natural, scientific, cultural, and other resources and values of the park and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these resources and values for future generations.

(3) In implementing this Act, the Secretary shall cooperate with the Zuni Tribe.

(b) JURISDICTION.—The Secretary is authorized to accept concurrent jurisdiction from the Zuni Tribe for the purpose of law enforcement.

(c) CONSULTATION.—The Secretary, acting through the Director of the National Park Service, shall consult regularly with the Commission established pursuant to section 6 of this Act. The Commission shall advise the Secretary on the management and operation of the park.

(d) FEES.—All enrolled members of the Zuni Tribe shall be exempt from the payment of fees for admission into the park.

(e) TRAINING.—In furtherance of the purposes specified in subsection (a)(2), and after consultation with the Advisory Commission established by section 6, the Secretary is authorized to enter into cooperative agreements with the Zuni Tribe, its subordinate boards, committees and enterprises, and individual members of the Zuni Tribe for the purpose of providing training of Zuni tribal members in the interpretation, management, protection, and preservation of archaeological and historical properties and in the provision of public services on the Zuni Indian Reservation needed for the fulfillment of the purposes specified in subsection (a)(2).

(f) PREFERENCE.—To the extent feasible, the Secretary shall exercise existing authorities so as to give preference to employing qualified members of the Zuni Tribe in the development, interpretation, and management of the park and in carrying out other activities related to the park.

SEC. 5. FEDERAL CONSISTENCY.

(a) FEDERAL ACTIONS.—The head of any Federal agency conducting or supporting activities directly or indirectly affecting the park shall—

(1) consult with, cooperate with, and, to the maximum extent practicable, coordinate its activities with the Secretary and with the Advisory Commission; and

(2) conduct or support such activities in a manner which—

(A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act, and

(B) will not have an adverse effect on the resources or values of the park.

(b) PERMITS.—No Federal agency may issue any license or permit to any person to conduct any activity within the park or which could affect the resources or values of the park unless such agency determines that any such proposed activity within the park will be conducted in a manner consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act and wherever occurring will not have an adverse effect on the resources or values of the park.

(c) LIMITATION.—The provisions of this section shall apply only with respect to activities begun and licenses or permits issued after the date of enactment of this Act.

SEC. 6. ESTABLISHMENT OF ZUNI-CIBOLA ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established within the Department of the Interior a commission to be known as the Zuni-Cibola National Historical Park Advisory Commission which shall advise regularly the Director of the National Park Service on the planning, management, and administration of the park. The Advisory Commission shall consist of the Governor of the Zuni Tribe, the Director of the National Park Service, the Secretary of the Smithsonian Institution, the State Historic Preservation Officer of New Mexico (or their designees), and four members appointed by the Secretary from recommendations made by the Governor of the Zuni Tribe.

(1) The Advisory Commission is authorized to employ an administrative director who shall be appointed by the Advisory Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS-12 of the General Schedule.

(2) The administrative director of the Advisory Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the individual so appointed may not receive pay in excess of the annual rate of basic pay payable for grade GS-12 of the General Schedule.

(3) The Administrator of the General Services Administration shall provide to the Advisory Commission on a reimbursable basis such administrative support services as the Advisory Commission may request.

(b) TERMS.—The initial terms of members of the Advisory Commission appointed by the Secretary pursuant to subsection (a) shall be staggered, as determined by the Secretary, in order to assure continuity in the administration of the Advisory Commission. Thereafter the term shall be four years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of such member's term until a successor is appointed. A vacancy in the Advisory Commission shall be filled in the manner in which the original appointment was made. The Advisory Commission shall exist for the duration of a leasehold accepted by the Secretary pursuant to section 3, and any extensions or renewals thereof.

(c) EXPENSES.—The non-Federal members of the Advisory Commission appointed pursuant to subsection (a) while away from their homes or regular places of business in the performance of services for the Advisory Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) CHAIR.—The Governor of the Zuni Tribe shall be the Chair of the Advisory Commission. Other officers of the Advisory Commission shall be elected by a majority of the members of the Advisory Commission to serve for terms established by the Advisory Commission.

(e) MEETINGS.—The Advisory Commission shall meet at the call of the Chair or a majority of its members. Consistent with the public meeting requirements of the Federal Advisory Committee Act, the Advisory Commission shall from time to time meet with persons concerned with park issues relating to the Zuni Tribe.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Except with respect to any requirement for reissuance of a charter and except as otherwise provided in this Act, the provisions of the Federal Advisory Committee Act shall apply to the Advisory Commission established by this section.

SEC. 7. PARK PLAN.

(a) DEADLINE.—No later than 3 years after the date of the publication of a notice pursuant to section 3(a), the Secretary, acting through the Director of the National Park Service and in consultation with the Advisory Commission, shall develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate, a general management plan for the park which shall describe the appropriate uses and development of the park consistent with the purposes of this Act.

(b) ELEMENTS.—The park plan shall include (but not be limited to) the following:

(1) Plans for implementation of a continuing program of interpretation and visitor education about the resources and values of the park.

(2) Proposals for visitor use facilities to be developed for the park.

(3) Plans for management of the natural and cultural resources of the park in order to carry out the purposes specified in section 4(a)(2) of this Act, with particular em-

phasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the park. The natural and cultural resources management plans shall be prepared in close consultation with the New Mexico State Historic Preservation Office and the Zuni Tribe and their traditional cultural and religious authorities.

(4) Proposals for training members of the Zuni Tribe in such fields as interpretation, management, and artifact curation.

(5) A plan to implement the provisions of section 8 of this Act so as to ensure the protection of the right of the Zuni people to practice traditional Zuni religious activities within the park boundaries in a manner consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996).

(6) Proposals for cooperative research and interpretive programs within the park to be carried out by the Zuni Tribe through its archeology program, with technical assistance from the National Park Service.

(7) Proposals for implementing the provisions of this Act relating to the operation and supply of park concessions by qualified Zuni-owned businesses.

SEC. 8. CULTURAL AND RELIGIOUS USES.

In furtherance of the American Indian Religious Freedom Act, the Secretary, upon the request of an appropriate official of the Zuni Tribe, may, from time to time, temporarily close to general public use one or more specific portions of the park in order to protect the privacy of religious activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes. Not later than 7 days after the first day on which any such closure takes effect, the Secretary shall provide written notification of such action to the Energy and Natural Resources Committee and Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

SEC. 9. DEFINITIONS.

As used in this Act—

(1) the term "Advisory Commission" means the Zuni-Cibola National Historical Park Advisory Commission established under section 6;

(2) the term "park" means lands constituting a Zuni-Cibola National Historical Park established under section 2;

(3) the term "park plan" means the general management plan developed pursuant to section 7; and

(4) the term "Secretary" means the Secretary of the Interior.

SEC. 10. ADDITION TO MASAU ROUTE.

(a) REDESIGNATION.—(1) Section 201 of the Act of December 31, 1987 (P.L. 100-225; 101 Stat. 1540), is amended by striking out "Masau Trail (hereinafter referred to as the 'trail')" and by inserting in lieu thereof "Masau Route (hereinafter referred to as the 'route')".

(2) The title of title II of such Act is amended by striking out "TRAIL" and inserting in lieu thereof "ROUTE".

(3) The heading of section 201 of such Act is amended by striking out "TRAIL" and inserting in lieu thereof "ROUTE".

(4) Section 202 of such Act is amended—

(A) by striking out "The trail" and inserting in lieu thereof "The route"; and

(B) by striking out "the trail" and inserting in lieu thereof "the route".

(5) Section 203 of such Act is amended by striking out "the trail" each place it appears and inserting in lieu thereof "the route".

(6) Section 204 of such Act is amended—

(A) by striking out "The trail" and inserting in lieu thereof "The route";

(B) by striking out "the trail" and inserting in lieu thereof "the route"; and

(C) by striking out "Masau Trail Marker" and inserting in lieu thereof "Masau Route Marker".

(b) ADDITION.—The first sentence of section 202 of the Act of December 31, 1987 (P.L. 100-225; 101 Stat. 1540) is amended by striking out "and Gila Cliff Dwellings National Monument." and inserting in lieu thereof "Gila Cliff Dwellings National Monument, and Zuni-Cibola National Historical Park.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is sponsored by our colleague from New Mexico, Mr. RICHARDSON, and the distinguished chairman of the Interior Committee, Mr. UDALL. It would provide for the establishment of a new unit of the National Park System to be located on lands within the Zuni Reservation in western New Mexico.

The Zuni Reservation is an area of great historic and cultural significance, with a wealth of archeological and other resources that rivals many other parts of the Nation. It is also the homeland of the Zuni people, whose occupation of this area can be traced back at least to 1540, and whose ancestors were in the area even earlier. Thus, the Zuni area offers a remarkable concentration of past and present cultural values.

As reported by the Interior Committee, H.R. 4182 would lay the foundation for a mutually beneficial cooperative relationship between the National Park Service and the Zuni people that would further the sound management of the values and resources of this area and assist the efforts of the Zuni people to protect their heritage while sharing better understanding of it with other people everywhere.

The bill was worked out through consultations among the committee staff, the Park Service, and the Zuni Tribe, and it includes a number of common elements in the version of the legislation that has been favorably reported by the Senate's Select Committee on Indian Affairs.

Under the bill, the Zuni Tribe would have 1 year after enactment to offer to the Secretary of the Interior a lease of Zuni trust lands for the purposes of establishment of the park. The Secretary would have to accept the lease if it met the requirements of the bill—that is, that it was for a term of at least 99 years, would not require payment of rent, included lands the Director of the Park Service determined necessary and adequate for the purposes of the park, and was not inconsistent with the bill. Upon acceptance the Secretary would publish a notice in the Federal Register which would trigger the other provisions of the bill and which would constitute the formal establishment of the park.

Under the bill, once the park was established, additional Zuni lands could be added to it if the tribe offered to lease those additional lands under similar terms and the Secretary agreed to accept such a lease—in other words, once the park is established, additions to it could be made but only by the mutual consent of the tribe and the Secretary.

The bill also includes a number of other provisions relating to the management of the park after its establishment, which have been carefully shaped to address the particular circumstances of this area and the new relationship which we anticipate between the Zuni Tribe and the National Park Service.

Finally, the bill would amend the legislation passed last year which provided for designation of a vehicular tour route linking a number of National Park System units in New Mexico and Arizona. The substitute would rename that link as the "Masau Route" rather than the "Masau Trail." This would be consistent with the nomenclature the Interior Committee has subsequently used with other, similar designations. It would also lessen the chance of any confusion between such designations and the designation of units of the National Trails System, which for the most part includes unroaded trails.

Mr. Speaker, establishment of a National Park System unit in the Zuni area is not a new idea. Consideration of such a designation has occurred at least since 1960. Former Secretary of the Interior Stewart Udall especially provided us with a better understanding of some of this history when he testified at the subcommittee hearing in support of H.R. 4182. And I believe that the time is now ripe for this committee and the Congress to finish the job. I believe that H.R. 4182, as refined by the Interior Committee is a sound and workable measure that deserves support and approval. I urge the House to approve H.R. 4182.

Mr. Speaker, I reserve the balance of my time.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4182 to create Zuni-Cibola National Historical Park in the State of New Mexico. Mr. Speaker, with this legislation we will be providing recognition of one of the greatest cultural heritage traditions in this country, that of the people of the pueblo of Zuni.

The ancestors of the Zuni people had already been occupying this same region for several hundred years when they were visited by Coronado in 1540 during his search for the fabled Seven Cities of Cibola. Mr. Speaker, the significance of the resources included within this park has been recognized for almost 30 years when the first site within the reservation was proposed for national historic landmark status.

Mr. Speaker, this bill provides for the people of the pueblo of Zuni to donate lands, through a 99-year leasehold agreement, to the Federal Government for the establishment of this park. The bill also provides for the people of the Zuni tradition to assume an active role in the management and operation of this park through participation in an advisory board, park-related job training programs, and employment opportunities.

Mr. Speaker, I am pleased that the people of the pueblo of Zuni are willing to share their rich cultural history with the public, and I believe the partnership created here between the Federal Government and the Zuni people will be beneficial for all Americans.

Mr. Speaker, there is a long list of people who have worked for a number of years to bring this innovative bill before us today. Certainly, Mr. Stuart Udall, former Secretary of the Interior is to be recognized for his vision in developing the concept of an "Indian National Park." Mr. Robert Lewis, Governor of the pueblo of Zuni, also deserves to be recognized as one of the early participants in the development of this concept, and for his efforts over 20 years to bring it into fruition. The bill's sponsors, both the gentleman from Arizona and the gentleman from New Mexico have contributed significantly to the final product and participated actively in the negotiations to develop the final product. Finally, I recognize the chairman of the subcommittee, for his leadership in the drafting of an excellent bill which I urge all my colleagues to join me in supporting.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of H.R. 4182, a bill which I have introduced to establish the Zuni-Cibola National Historical Park on the Zuni Pueblo in New Mexico. This bill is unprecedented in that it will establish the first national park of Indian land. I am hopeful that this park will serve as a model for a system of American Indian National Parks that will mark a new era of cooperation between the Indian tribes and the Federal Government in the preservation and interpretation of the historical and scenic treasures of Indian lands.

Under this bill we depart from our past practice of taking Indian land for our National Parks. The Zuni-Cibola Parkland will remain part of the Zuni Pueblo under lease to the National Park Service and the Zuni Tribe will work with the National Park Service in preserving and interpreting the great heritage that exists at Zuni. The bill provides that the park will be managed by the Park Service in consultation with an advisory commission chaired by the governor of Zuni and including members recommended by the Governor. The bill also calls for training members of the Zuni Tribe in interpretation, management and artifact curation and a hiring preference for qualified members of the Zuni Tribe. In this way, the Zuni people who best know the cultural and historical context of the park resources will be intimately involved in their interpretation.

The Zuni culture is one of the richest Indian cultures in North America. The archaeological sites, ruins, sacred lands, and other physical evidence associated with Zuni span 2,000 years and form the framework for today's living Zuni culture. Nowhere in the National Park System is there a continuum of this magnitude. The Zuni-Cibola National Historical Park will open to the public some of the most historically valuable sites in the nation, including:

Hawikuh, one of the fabled "Seven Cities of Cibola" discovered by the Spanish explorer Coronado; and

The village of the Great Kivas, a Mogollon and Anasazi site with three separate house blocks and two Great Kivas covering 3½ acres.

Let me also note that the Zuni Park requires no Federal expenditure on land acquisition. The Zuni Tribe has agreed to provide the leasehold to these sites without cost to the Federal Government.

The idea of a Zuni-Cibola National Historical Park was studied by the National Park Service in the mid-1970's. Following that study, the Secretary of the Interior and the National Park Advisory Board endorsed the proposal for Zuni-Cibola as the most viable means for preservation and interpretation of the Zuni culture.

This bill has the strong support of the Governor of Zuni Pueblo, Robert E. Lewis, the Zuni Tribal Council, and the Zuni people. The Zuni Park is also supported by national conservation groups, American Indian organizations, archaeologists and historians such as the Secretary of the Smithsonian, Robert McC. Adams.

This bill has bipartisan support. I want to thank my colleague from New Mexico, MANUEL LUJAN, for his support for this new park. I also want to thank the chairman of the National Parks and Public Lands Subcommittee for his support and his advice on the bill, as well as New Mexico Senators BINGAMAN and DOMENICI.

Finally, I want to thank Chairman UDALL and his brother, former Interior Secretary Stewart Udall. It was Stewart who first envisioned an American Indian national park 20 years ago and his ceaseless effort has bore fruit in the Zuni-Cibola National Historical Park bill before us today.

I urge my colleagues to support H.R. 4182 and the Zuni-Cibola National Historical Park.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just make this comment. I appreciate the fact that the gentleman has provided credit to a former Secretary of the Interior, Stewart Udall, who has worked closely with his brother, the chairman of the committee. I would also want to mention that we thank both Senators, Senator DOMENICI and Senator BINGAMAN, for their support of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CRAIG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4182, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DISCLAIMING ANY RIGHT, TITLE, OR INTEREST IN CERTAIN LANDS IN CALIFORNIA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4039) to disclaim any right, title, or interest of the United States in certain lands in the State of California which form a part of the right-of-way granted by the United States to the Southern Pacific Transportation Co., to declare that those lands have been abandoned by the railroad, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Southern Pacific Transportation Company is the successor grantee of the real property described in section 3;

(2) Through a petition to the Interstate Commerce Commission to be allowed to cease using such property for the provision of railroad services, through the removal of tracks, and through other actions, the Southern Pacific Transportation Company has taken steps to abandon and relinquish the real property described in section 3;

(3) The County of Alameda (a political subdivision of the State of California wherein the real property described in section 3 is situated) has acted to include such property within its County System of Highways; and

(4) Use for public purposes of lands granted for railroad rights-of-ways, including use of such land for highway, communications, and other public purposes as well as for public recreational trails or other recreational purposes, is in the national interest.

SEC. 2. DECLARATION OF ABANDONMENT, ETC.

(a) Abandonment of Right-of-Way.—The Congress hereby declares that the Southern Pacific Transportation Company has abandoned the real property described in section 3.

(b) U.S. Interest.—(1) Except as otherwise provided in this Act, any and all right, title, and interest of the United States in the real property described in section 3 shall be retained and managed by the Secretary of the Interior for use as a public recreational trail or for other recreational purposes, as well as for such other uses as the Secretary may determine to be appropriate pursuant to applicable law, so long as such uses do not preclude trail use.

(2) Paragraph (1) of this subsection shall not apply to any portion of the real property described in section 3 embraced in a public highway in a manner meeting the requirements of the Act of March 8, 1922 (43 U.S.C. 912).

(3) Section 4 of this Act shall apply to all the real property described in section 3, regardless of whether any portion of such property may be covered by paragraph (2) of this subsection.

(c) Limitations.—(1) Nothing in this Act shall be construed as expanding or diminishing any right, title, or interest of any party other than the United States in the real property described in section 3 which under applicable law vested in any such party on or before the date of enactment of this act.

(2) Nothing in this Act shall be construed as requiring or permitting the acquisition by the United States of any right, title, or interest in the real property described in section 3 greater than any such right, title, or interest of the United States in such real property as of the date of enactment of this Act.

SEC. 3. DESCRIPTION OF PROPERTY.

(a) In General.—The property referred to in sections 1, 2, and 4 is certain real property situated in the County of Alameda, State of California, forming a part of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489).

(b) Specific Description.—The real property referred to in subsection (a) involves certain real property situated in the unincorporated townships of Murray, Pleasanton, and Washington, and in the incorporated area of the cities of Union City and Fremont, and is more particularly described as follows:

(1) Parcel 1.—A strip of land, 400 feet in width, acquired by the Central Pacific Railway Company by an Act of Congress dated July 1, 1862 (as shown on the map entitled "C.P.RY. Co. Oakland to Sacramento Main Line Via Niles and Tracy Map of Real Estate and Right of Way Properties through Alameda, County, California" dated 1914, in Alameda County Road Department Files numbered A 77-32, A 77-33, and A 77-34), lying equally 200 feet on each side of the center line more particularly described in that certain Quitclaim Deed from the Southern Pacific Transportation Company, a Delaware corporation, to the County of Alameda, dated March 15, 1985, and recorded April 23, 1985, as Series No. 85-077990, Official Records of Alameda County, California.

(2) Parcel 2.—Those strips of land varying in width acquired by the Central Pacific Railroad Company by an Act of Congress, dated July 1, 1862 (as shown on the map entitled "C.P.RY. Co. Oakland to Sacramento Main Line Via Niles and Tracy Map of Real Estate and Right of Way Properties through Alameda County, California" dated 1914, in Alameda County Road Department Files numbered A 77-26, A 77-27, and A 77-28), the center line of said strip of land being more particularly described in that certain Quitclaim Deed from the Southern Pacific Transportation Company, a Delaware corporation, to the County of Alameda, dated March 15, 1985, and recorded April 23, 1985, as Series No. 85-077991, Official Records of Alameda County, California.

(3) Parcel 3.—Those strips of land varying in width acquired by—

(A) the Central Pacific Railroad Company under the Act referred to in subsection (a) (as shown on the map entitled "C.P.RY. Co. Oakland to Sacramento Main Line Via Niles and Tracy Map of Real Estate and Right of Way Properties through Alameda, County, California" dated 1914, in Alameda County Road Department Files numbered A 77-26, A 77-27, and A 77-28);

(B) the Western Pacific Railroad Company by Order and Declaration dated June 22, 1868, concerning the Report of Commissioners in the matter of the Western Pacific Railroad Company against Matthew W. Dixon, et al., in the District Court of the Third Judicial District in and for the County of Alameda, State of California, a certified copy of the Order recorded September 7, 1869, in Book 43 of Deeds at page 262, Records of Alameda County, California; and

(C) the Western Pacific Railroad Company by deed dated April 18, 1870, from Jonas G. Clark, recorded June 14, 1870, in Book 55 of Deeds at page 342, Records of Alameda County.

SEC. 4. RESERVATION AND RESTRICTIONS.

(a) Reservation.—Any and all rights of the United States in and to all oil, coal, and other minerals in the real property described in section 3 shall be retained by and reserved to the United States, together with the right to prospect for, mine, and remove such oil, coal, and other minerals under applicable law.

(b) Restrictions.—Any portion of the real property described in section 3 embraced in a public highway in a manner meeting the requirements of the Act of March 8, 1922 (43 U.S.C. 912) shall be used only for such purposes (including but not limited to public recreational purposes) as may be authorized under laws of the State of California applicable to property forming part of such public highway. In the event that any portion of such real property should be used for any other purpose, or in the event that an attempt should be made to transfer ownership of any portion of such real property to any party other than the State of California or a political subdivision thereof, there shall revert to and be vested in the United States all the right, title, and interest in such real property which the United States possessed on the date of enactment of this Act.

MOUNTAIN WARFARE TRAINING CENTER

Sec. 5. Unless otherwise provided by law, the lands within the Toiyabe National Forest, in California, which have been used for purposes of the United States Marine Corps Mountain Corps Mountain Warfare Training Center, shall be retained as part of such National Forest. The Secretary of Agriculture shall continue to make such lands available to the United States Marine Corps for purposes of such training center, subject to such restrictions as the Secretary of Agriculture finds appropriate to protect the natural, environmental, aesthetic, scientific, cultural, and other resources and values of such lands. So far as possible, consistent with use of such lands by the United States Marine Corps for purposes of the Mountain Warfare Training Center, the affected lands shall be open to public recreation and other uses.

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Idaho [Mr. Craig] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was not objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4039 is a bill by Representative Stark of California that addresses the status of certain lands in Alameda County, CA, that were originally granted by the United States for a railroad right-of-way.

The Southern Pacific Railroad, which is the successor grantee of the lands involved, has acted to abandon use of the lands. The tracks have been removed and the railroad has relocated its lines in that area.

Alameda County wants to have the old right-of-way included in the county's highway system. Under California law, lands within a county highway right-of-way can be used for recreational purposes as well as for other public purposes, including transportation. Under existing law, such action by a local government must be preceded by a declaration of abandonment by a court or by Congress. This bill would provide such a declaration.

Earlier this session the House approved legislation sponsored by our colleague from Maryland, Mrs. Byron, and many others, that dealt with future policy concerning whatever interests the National Government may have in such rights-of-way upon their abandonment. That "rails-to-trails" legislation recognized and continued the policy in existing law favoring the ability of local governments to incorporate such rights-of-way into public highway systems. Therefore, H.R. 4039 is not inconsistent with the general policies the House has adopted for disposition of such rights-of-way as the one addressed by the bill.

Mr. Speaker, the Interior Committee made a number of revisions in the bill in order to accomplish three main purposes.

First, the committee amendments more closely conform the bill to the generic "rails-to-trails" legislation that we hope will soon be enacted into law.

Second, the committee amendments are intended to assure that the bill cannot be construed as an attempt to resolve any of the issues in ongoing litigation concerning these lands. As was brought out at our hearing, certain parties claim to be entitled to ownership of these lands under a 1922 act dealing with abandoned rights-of-way. That claim was denied by a decision of the U.S. district court, but the claimants have appealed that decision to the court of appeals. So as to avoid interfering with those judicial proceedings, H.R. 4039 as reported includes explicit language that nothing in the bill is to be construed as expanding or diminishing any right these parties may have in the lands in question if that right vested on or before the date of enactment. I believe that this fully protects the position of all parties in the litigation, which does not directly involve the United States.

Finally, the bill as reported includes language proposed by Mr. Lehman of California that has already passed the House as part of H.R. 1548, the "California Military Lands Withdrawal Act," but has not been acted on by the Senate. This would provide for maintaining the status quo at the Marine Corps' Mountain Warfare Training Center, in the Toiyabe National Forest, and would preclude the Forest Service from selling or otherwise transferring the affected lands, while allowing the Marine Corps to continue to use them for their training activities. This was not controversial when we approved it last year and I know of no controversy about it now.

Mr. Speaker, I believe that as amended by the Interior Committee this bill is not controversial. It would allow the courts to continue to resolve underlying questions, but would put in place policies that could advance the public interest once the courts have made a final ruling. I believe the amended bill deserves our support, and I urge its approval.

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Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are not opposed to this bill because it has been amended to take care of a concern we initially had with the bill. As introduced, the bill would have been a congressional declaration that the county of Alameda had legally established a highway on an abandoned railroad right-of-way thereby establishing the county as the lawful owner of the right-of-way. However at the subcommittee hearing on this legislation, we heard testimony that property owners adjacent to the right-of-way were actively contesting the county's ownership through the courts.

According to the testimony presented by a representative of the landowners, the Interstate Commerce Commission approved the abandonment by the Southern Pacific Railroad for a 20-mile stretch of right-of-way in Alameda County in 1982. Following the ICC approval for abandonment, Southern Pacific represented to the adjacent landowners that they were now the holders of the reversionary rights-of-way under the 1922 Railroad Abandonment Act.

According to the landowners, it was not until 1985 that the county of Alameda attempted to establish a county highway on the right-of-way. Since the 1922 Abandonment Act requires establishment of such a highway within 1 year after abandonment, the landowners argue that the county failed to fulfill its duties under the 1922 act and therefore the right-of-way belongs to the adjacent landowners.

Mr. Speaker, since neither the county nor the landowners could agree on the interpretation of the 1922 act, the landowners filed suit against the county in Federal Court for the Northern District of California. Although the court found in favor of the county, that decision has been appealed to the Ninth Circuit Court of Appeals where it is still pending.

Because it is still pending in the courts, our subcommittee amended H.R. 4039 to clarify that nothing in the act could be construed to affect the pending litigation.

Mr. Speaker, before I yield back the balance of my time, I would like to enter into a colloquy with the subcommittee chairman, the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, if the gentleman will yield, I would be pleased to engage in a colloquy with him.

Mr. CRAIG. Mr. Speaker, I thank the gentleman from Minnesota [Mr. Vento] for recognizing the need for a colloquy in this given area.

Mr. Speaker, is it the understanding of the chairman that this legislation cannot be construed to affect any interest the plaintiff landowners might have in the abandoned railroad right-of-way?

Mr. VENTO. I would say to my colleague that is correct. The subcommittee amended the legislation to ensure that enactment of the bill will not affect the litigation pending before the Ninth Circuit Court of Appeals. In fact, the committee report states that it is the intention of the committee that the bill not have the effect of prejudicing the position of any of the parties in the litigation.

Mr. CRAIG. I thank the chairman for that clarification. I have no further comments and urge my colleagues support the measure before us.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill H.R. 4039, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to declare that certain lands in the State of California which form a part of the right-of-way granted by the United States to the Central Pacific Railway Company have been abandoned, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PROVIDING FOR A VISITOR AND ENVIRONMENTAL EDUCATION CENTER IN THE PINELANDS NATIONAL RESERVE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1165) to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey, as amended.

The Clerk read as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PINELANDS INTERPRETATIVE AND EDUCATIONAL PROGRAM; INTERIOR DEPARTMENT STUDY AND RECOMMENDATIONS.

Section 502 of the National Parks and Recreation Act of 1978 (Public Law 95-625; 16 U.S.C. 471i) is amended by adding at the end the following new subsection:

"(l) PINELANDS INTERPRETATIVE AND EDUCATIONAL PROGRAM; INTERIOR DEPARTMENT STUDY AND RECOMMENDATIONS.—

"(1) STUDY AND RECOMMENDATIONS FOR INTERPRETATIVE AND EDUCATIONAL PROGRAM.—For the purpose of enhancing public understanding, awareness, and appreciation with respect to the natural and cultural resources of the Pine Barrens area of New Jersey, the Secretary shall, within 9 months after the enactment of this subsection, study and recommend appropriate initiatives to provide an educational and interpretative program for the Reserve. The Secretary shall conduct such study in consultation with the planning entity and the appropriate departments and agencies of the State of New Jersey.

"(2) ITEMS INCLUDED.—The study and recommendations required by this subsection shall include, but not be limited to each of the following:

"(A) Interpretative and informational materials, exhibits, films, lectures, and other devices and educational methods.

"(B) A plan to provide for educational and interpretative programs for the Reserve, considering among other things the improvement of existing facilities and interpretative programs in the Reserve, including the possible use of existing facilities such as Whitesbog, Batsto, Double Trouble State Park and Stockton State College.

"(C) The use and enhancement of existing fire towers in the Reserve to serve as observation platforms.

"(D) The appropriate role for departments and agencies of the State of New Jersey and the Federal Government in implementing the program.

"(3) STUDY OF DEVELOPMENT CREDIT BANK AND DEVELOPMENT CREDIT SYSTEM.—The Secretary is authorized and directed to study the State of New Jersey Pinelands Development Credit Bank and Pinelands Development Credit System, and to submit to the Congress within 9 months after enactment of this subsection such recommendations as the Secretary determines appropriate for improvements of the operation of the State Pinelands Development Credit Bank and the overall Pinelands Development Credit Program.

"(4) STUDY OF MUNICIPAL COUNCIL.—The Secretary shall study the Pinelands Municipal Council, and submit to the Congress within 9 months after enactment of this subsection such recommendations as the Secretary determines appropriate for improvements of the operation of the council.

"(5) CONTRACTS AND AGREEMENTS.—The Secretary may enter into such contracts and agreements with the State of New Jersey and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. For purposes of this subsection, there is authorized to be appropriated not more than $500,000 to prepare and complete the study pursuant to paragraph (1) and $3,000,000 to implement the recommendations of such study upon its approval by the Congress, the Federal share of which may not exceed 75 percent of the total cost.".

SEC. 2. AUTHORIZATION OF APPROPRIATONS.

Section 502(k) of the National Parks and Recreation Act of 1978 is amended by inserting "(1)" before the first full sentence thereof, and adding at the end thereof the following new paragraph:

"(2) In addition to other funds authorized pursuant to this subsection, there are hereby authorized to be appropriated not to exceed $14,500,000 for land acquisition, the Federal share of which may not exceed 50 percent of the total cost. Land acquisition pursuant to ths subsection shall be carried out in accordance with the requirements of subsection (h) of this section insofar as such requirements are not consistent with this paragraph. Such acquisitions shall also be carried out in a manner consistent with the management plan and shall include—

"(A) lands located within the preservation area of the National Reserve which is designated in the management plan;

"(B) lands that are within the areas protected by the management plan and that are threatened by adverse development or have critical ecological values; or

"(C) lands that have limited practical use because of their location in the Reserve and that are held by landowners who both own less than 50 acres in the Reserve and have exhausted existing remedies to secure relief.

Additional funds contributed by the State to the Pinelands Development Bank after enactment of this Act not to exceed $5,000,000, may be counted as part of the State share of land acquisition funds.".

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1165 would further the management and protection of the Pinelands National Reserve in New Jersey. Established in 1978, the Pinelands National Reserve is an unusual ecosystem consisting of wetlands and pine forests set in the midst of one of the Nation's most developed and industrialized regions. New Jersey and the Nation are very fortunate that the beauty and naturalness of the pinelands have survived after all these years of rapid development.

The management of the reserve is a unique experiment in cooperation between Federal, State, and local government. S. 1165 continues this cooperation through several important provisions:

First, it directs the Secretary of the Interior to complete an education and interpretation study for the reserve and to study the effectiveness of a Pineland Development Credit Bank and System and the Pinelands Municipal Council. Although it does not direct the construction of a visitor center, it does allow this operation to be considered as part of the study.

Second, the bill authorizes to be appropriated $14.5 million for land acquisition, $500,000 for the education and interpretation study, and $3 million to implement the study if it is approved by Congress. It requires the State to supplement Federal funding by providing 50 percent of all funds spent on land acquisition and 25 percent of all funds spent on study implementation.

Mr. Speaker, S. 1165 is a bipartisan proposal with the unanimous support of the New Jersey congressional delegation. I commend Mr. HUGHES and Mr. SAXTON of this body for all their hard work to create a consensus for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of S. 1165 before us today. This bill will reinforce the vision of the framers of the 1978 legislation which established Pinelands National Reserve by continuing to recognize the leadership role of the State and local governments in the management and operation of this nationally significant area.

Mr. Speaker, this legislation has been significantly modified and improved through the diligent efforts of Mr. SAXTON and Mr. HUGHES. Their efforts to reduce the required Federal land acquisition expenditure by almost

$7 million and require a 50-50 cost share basis between the Federal and State governments is commendable in light of the Federal deficit situation. Similarly, their proposal to modify existing State facilities to provide needed information and environmental education instead of developing new Federally operated facilities is a very positive step. Finally, their sensitivity to land acquisition impacts on their constituents reflects the rapport that good legislators should maintain with "the folks back home." I commend them for all their efforts to make this a better bill and urge my colleagues to join me in supporting it.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SAXTON], who has played a key and important role in the formation of this legislation.

Mr. SAXTON. Mr. Speaker, I rise today in support of S. 1165, a bill which will continue the process of preserving the Pinelands region of New Jersey. I thank my friend, the gentleman from Minnesota, Mr. VENTO, for his efforts to being this much needed legislation to the floor for a vote. I thank the senior Senator from New Jersey, Mr. BRADLEY, for sponsoring this legislation in the other body. And, finally, I thank my dear friend and colleague, Mr. HUGHES for his efforts to work with me on this legislation. I think we truly have assembled a bill that addresses many of the concerns of the region.

Mr. Speaker, I believe that Congressman HUGHES and I represent almost 90 percent of the Pinelands National Reserve. It is for this reason that we hold such a strong feeling about this preservation program.

The Pinelands Reserve is an area of great cultural, historic, and environmental significance. The Pinelands Reserve is also the location of the Coahnsey Aquifer, which holds some of the purest pristine water in the world. It is a testimony to the pride of all New Jerseyites that these 1 million acres, most of them pristine, are able to exist in the most densely populated State in the country. In addition, it has been recognized by the United Nations as an international biosphere reserve.

Today everyone recognizes the historical and environmental significance of the New Jersey Pinelands region. In 1978 and 1979, the State and Federal Governments recognized the need to preserve as much of this land as possible and entered into a cooperative agreement, which might be termed an experiment. The objectives of those who supported the Pinelands experiment were to find a unique way to preserve large amounts of environmentally important land while, at the same time, transferring a controlled level of development from this land to less sensitive areas. It pleases me that this experiment has been, for the most part, a success.

In spite of this success, however, there are some weaknesses in the plan. These weaknesses are obvious to the people who live in the Pinelands. Whether through loss of property value or cost of policing the region, these people have found themselves primarily responsible for paying the bill for the preservation of the Pines. However, I feel, and I know that my friend Mr. HUGHES agrees, that inasmuch as the Pinelands are being preserved for all of us, then all of us should share in some way for paying the bill. Therefore, when we found that we must continue the acquisition program, we felt we must also continue to address the concerns of the people of the region.

The legislation will continue the land acquisition program established by the original Pinelands legislation. We have differed, though, from the original legislation by decreasing the Federal share of the funds to 50 percent instead of the 75 percent stated in the original program. We have done this in light of the Federal budget deficit and the fact that New Jersey finds itself in a fairly good fiscal situation.

Additionally, the bill restricts acquisition to areas that are either within the preservation areas of the region, environmentally sensitive lands that are threatened by adverse development, or lands owned by a small landowner who has exhausted all other methods of compensation for the loss of his rights to build.

Seeing the need to compensate landowners for the loss of the right to develop their lands, the planning entity established a program of transfer of development credits. For every acre of land that a person owns in the preservation region, that landowner is entitled to a certain number of Pinelands development credits or PDC's. These PDC's can be transferred to growth areas in order to allow a developer to build units in excess of what otherwise might be possible. It is a unique program that, in theory, works very well. However, in spite of the best efforts of the State and the Pinelands Commission, the program has been only marginally successful.

While we realize that the State has recently established a credit bank in order to facilitate the trading of these credits, we feel there is more that could be done to stimulate the program. Toward that end, our legislation calls for the Secretary of the Interior to perform a study and make recommendations to the State and to the Congress as to how this PDC Program might work better.

Furthermore, in order to establish a method for the 52 local municipalities located within the Pinelands area to have a voice in the process, the planning entity established the Pinelands Municipal Council. The council was not intended to be a legislative body; it is more of an advisory body that would provide input to the Pinelands Commission. This council, composed of each of 52 mayors, has also not been successful. Congressman HUGHES and I believe that it should work, and to that end this bill also calls for a study of the municipal council in order to provide recommendations as to how it might be improved.

Finally, if the Pinelands experiment is to succeed it needs to be understood. Understood by the residents of the region, of the State, and of the country. Toward that end Mr. HUGHES and I concur that there ought to be a formal interpretive program in the region. After much discussion, we arrived at an agreement as to how this program should proceed. This legislation will provide funding for the Pinelands Education and Interpretive Program.

There are presently a number of sites in the Pinelands region that are very well suited to act as sites at which this program should proceed. I speak of historic villages, State forests, and academic facilities, many of which presently perform Pinelands programs of their own. In order to obtain the right combination of the best facilities, we have decided to call on the Secretary of the Interior to design the educational program that utilizes these sites to the greatest extent possible.

Mr. Speaker, as I have said, I believe that the bill before us is a good piece of legislation. It will contribute to the continued preservation and understanding of the Pinelands area. Continued land acquisition and the Pinelands Interpretation and Education Program, operating in conjunction with Federal efforts to assist with programs designed to address the concerns of the local citizens, will assure the success of the Pinelands experiment.

☐ 1630

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES], who is a sponsor of this legislation and who has worked very hard on this side to develop this legislation.

Mr. HUGHES. Mr. Speaker, I rise today in support of S. 1165, legislation to help protect and promote the beautiful Pinelands region of New Jersey. I wish to commend Chairman BRUCE VENTO and ranking member JOHN RHODES of the Subcommittee on National Parks and Public Lands for their tremendous support and cooperation in developing this legislation. At the same time, I am pleased to thank my colleagues, Senator BILL BRADLEY and Congressman JIM SAXTON of New Jersey, for their leadership on this issue. This is a good bill which will help us protect the unique and splendid national treasure we call the Pinelands.

For those who may not be familiar with this region, the Pinelands are a massive range of forests and bogs which cover nearly one-quarter of the State of New Jersey. The Pinelands have been aptly described by the U.S. Department of the Interior as "the land that time forgot."

Within this world of pine and oak trees, cedars and shrubs, live a rare collection of plants and animals. It is a unique combination of flora and fauna which scientists tell us exists nowhere else in the world today. In the center of the Pinelands is a dwarf forest of pines and oaks. Underlying the region is a huge reservoir of fresh water equivalent to a lake 2,000 square miles in area and 37 feet deep. This reservoir is a major source of drinking water in southern New Jersey and nourishes the sensitive ecosystem of the region.

In 1977, former Senators Clifford Case and Harrison Williams of New Jersey, the late Congressman Ed Forsythe and my colleague Jim Florio and I first began to develop legislation to protect the Pinelands. It took us the better part of a year to complete that task and, just as important, to develop a consensus for the legislation back home in New Jersey. We finally reached an agreement and, in 1978, President Carter signed into law our legislation which created the Pinelands National Reserve.

In the judgment of Congressman Saxton and myself passage of the Federal Pinelands law was one of the most significant environmental achievements of our time. The fact that we were able to set aside some 1.1 million acres in the middle of the most densely populated State in the country for protection was truly remarkable. Through this program, we have preserved for our children, grandchildren and future generations the opportunity to learn about and enjoy the wonder of this beautiful natural resource.

For the most part, we think the Pinelands protection effort has been very successful. The legislation before us today gives us an opportunity to build on the success in two vital respects: First, continued public acquisition of land; and second, an expanded program to educate people about the history and culture of this unique area.

On the first point, the legislation authorizes $14.5 million to purchase land in the Pinelands. The Federal funds are to be matched 50/50 by the State, making a total of $29 million available to continue the land acquisition program which is now about two-thirds completed.

The bill directs that land be acquired in three categories: Lands within the core or preservation area of the Pinelands; lands within the management zone which are threatened by adverse development or have critical ecological values; and property of 50 acres or less owned by small landowners who have suffered hardships under the State's Pinelands law and who have exhausted existing remedies to secure relief.

I would like to elaborate on this last point for a moment because it is one of the most important elements of the legislation. In 1979, the State of New Jersey passed a Pineland law of its own which cause serious problems for thousands of small landowners in the region. The State law made it difficult, if not impossible, for many people to use or sell the property they own within the Pinelands region, although they still have to pay taxes on it. In essence, as a result of the State law, private property owners have been forced to bear much of the burden of what was intended to be a public conservation effort.

It has been 10 years now and the State has still not addressed this problem in a meaningful way. That is probably the single greatest failing of the Pinelands protection effort to date. I have always maintained that if the common good requires the setting aside of land in the Pineland for public purposes, then the Government must pay a reasonable value for that land. The legislation before us today will, for the first time, help ameliorate the hardship which many small landowners have suffered under the State's Pinelands law.

The second aspect of S. 1165 authorizes funds to develop educational and interpretative programs in the Pinelands. As I mentioned before, the Pinelands are a very diverse area. There is no single place to go in the region to capture the full flavor and identity of the Pinelands. There are three visitors' centers in place now in Batsto, Whitesbog and Double Trouble which do a good job of serving the thousands of people who visit them each year. There are also Pinelands education programs at several facilities throughout the area. However, we do not have a comprehensive, organized program in place to publicize the Pinelands or to help people understand what this unique region is really all about.

The Federal Pinelands law which we enacted in 1978 was intended not only to protect the Pinelands, but also to promote a better awareness and understanding of them. There is no better way to do that than by developing a comprehensive education and interpretative program, including maps, brochures and other informational materials, to assist those who wish to learn more about the Pinelands.

Accordingly, this legislation authorizes $500,000 for the National Park Service to work with the State in developing such a program. It also authorizes $3 million to implement this program, once it has been approved by Congress. I have said many times before that the Pinelands are one of New Jersey's best kept secrets. This funding will go a long way toward telling a more complete story about this unique and splendid region of our State. It is a good bill, which will help protect one of America's great environmental treasures—the New Jersey Pinelands.

Mr. VENTO. Mr. Speaker, I commend the gentleman from New Jersey [Mr. Hughes] and the gentleman from New Jersey [Mr. Saxton] for their diligent work in terms of arriving at a compromise on this legislation, and I commend this bill to my colleagues.

Mr. CRAIG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the Senate bill, S. 1165, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

AIDS FEDERAL POLICY ACT OF 1988

The **SPEAKER** pro tempore. Pursuant to House Resolution 520 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5142.

□ 1639

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5142) to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such act with respect to research programs relating to such syndrome, and for other purposes, with Mr. Vento in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. Waxman] will be recognized for 30 minutes and the gentleman from Iowa [Mr. Tauke] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5142, the AIDS Federal Policy Act of 1988.

The Subcommittee on Health and the Environment and the Committee on Energy and Commerce have considered the issues surrounding AIDS research and AIDS testing extensively. Since the beginning of the epidemic, the subcommittee has held over 20 hearings relating to AIDS. Within the past year, the subcommittee has held 5 days of hearings on the issues of counseling and testing for AIDS.

The legislation that is before the House represents a hard-fought synthesis of the proposals made in those hearings. It provides for widespread voluntary counseling and testing in health care settings, for Federal confidentiality protections of counseling and testing records, for the expediting and expansion of research, and for a National Commission to advise us on AIDS issues that will be upcoming.

The bill is not perfect and it is no one's first choice. But it is a balanced compromise:

It contains confidentiality protections, but it does not contain nondiscrimination protections.

It contains mandatory testing or people convicted of high-risk crimes, but it does not contain mandatory testing of all prisoners.

It contains routine testing of patients in VD clinics, but it does not contain routine testing of all hospital patients.

It contains a notification program for emergency workers who may be exposed to AIDS on the job, but it does not jeopardize the privacy of patients' records.

What I would emphasize to you is simply that the counseling and testing policies in this bill focus limited resources on those patients who need them most and it provides those people with some certainty that their private medical information will remain private.

In the research area, the bill will speed up the administrative process of research without undercutting the basic protections of peer review and scientific quality. It also cuts through some of the difficult clearance procedures to get the basic staff and laboratory facilities to perform the research needed to end this disease.

The bill also provides for the creation of a national commission on AIDS to advise the President and the Congress on AIDS issues in the future. This provision is authored by the distinguished gentleman from Georgia [Mr. ROWLAND], and has passed the House overwhelmingly earlier this Congress.

Clearly there are some policy issues about which Members have strong feelings and beliefs. The rule provides for a reasonable length of time and a reasonable number of amendments and allows the major issues of testing policy to be debated and voted later this week.

The health and medical consensus is clear on most of the proposed amendments. The American Medical Association has written to oppose the amendment on mandatory collecting and reporting of names of persons testing positive. The American Nurses Association and the American Hospital Association have written to oppose the amendment on routine hospital testing. The National Governor's Association and the National Conference of State Legislatures have written to oppose those two amendments and those to require prison testing and marriage license testing.

I urge my colleagues to consider the opinions of these professional and governmental groups as we consider the amendments.

But the one thing that is most clear is that we cannot afford to wait to act to end this epidemic in America and in the world. The bill is supported by Members of both sides of the aisles and I urge its quick passage.

Re: H.R. 5142, The AIDS Federal Policy Act.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, September 13, 1988.

Hon. HENRY A. WAXMAN,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WAXMAN: The American Medical Association strongly supports the AIDS Federal Policy Act, H.R. 5142, that will soon come to the House floor. Throughout this Congress we have worked hand-in-hand with the Energy and Commerce Committee at every step to draft the best possible legislation to address one of the most ominous public health problems of recent times.

We believe that this legislation strikes the proper balance among many competing viewpoints and should be adopted without any disabling amendments. For example, several proposed amendments to this bill would interfere with the flexibility which local public health officials need to engage in appropriate AIDS-related programs. Specifically, the AMA opposes mandatory HIV testing of low-prevalence populations such as marriage license applicants and hospital patients.

We also oppose any amendment that would deprive local public health officials of the authority to decide what, if any, HIV reporting or contact tracing efforts are appropriate for a particular area. The benefit of reporting HIV positive individuals to public health officials will vary to such a degree that the decision to require reporting is best left to the local health officials, as now provided in the bill. It should not be required by federal law in all circumstances. Mandatory reporting may even discourage high-risk individuals from coming forward for testing and counseling.

Earlier this summer, the AMA sent every member of Congress a copy of the Association's latest report on AIDS, entitled "Progress on the Prevention and Control of AIDS" (BOT Report LLL, A-88). This report reviews existing scientific studies of the incidence of HIV infection among hospital patients and marriage license applicants. The report concludes that because of the extremely low incidence of infection, mandatory testing for these groups is not a cost-effective method of uncovering HIV infection. A preferable approach is to make voluntary testing available to all and routinely provide the HIV test to patients at sexually transmitted disease and drug abuse clinics, to certain individuals seeking family planning services, to pregnant women in high prevalence areas, and to hospital patients from high prevalence areas who need surgical or invasive procedures. This approach is similar in part to the testing scheme set out in H.R. 5142.

Once again, we know of no better Congressional response to the AIDS crisis at this moment than prompt passage of the AIDS Federal Policy Act. The programs and resources provided by this legislation are urgently needed to combat AIDS. We urge you to vote *for* H.R. 5142.

Sincerely,

JAMES H. SAMMONS, M.D.

AMERICAN HOSPITAL ASSOCIATION,
AMERICAN NURSES' ASSOCIATION,
August 26, 1988.

Hon. HENRY A. WAXMAN,
U.S. House of Representatives
Washington, DC.

DEAR REPRESENTATIVE WAXMAN: As the House of Representatives begins its deliberations over the H.R. 5142, the AIDS Federal Policy Act of 1988, we want to inform you of the position of the American Hospital Association (AHA) and the American Nurses' Association (ANA) regarding the legislation and possible amendments.

In developing sound policies to address the problem of AIDS, we can neither afford to let fear guide our actions nor can we afford to ignore the real concerns that the possible spread of infection engenders. The primary focus of this legislation is to establish a federal grant program for AIDS prevention and counseling including voluntary Human Immunodeficiency Virus (HIV) antibody testing. The American Hospital Association and the American Nurses' Association support H.R. 5142 and would oppose amendments that would detract from its objectives. Individuals at risk for infection with the AIDS virus should be encouraged to seek testing and counseling in an environment that ensures that the confidentiality of this sensitive medical information will be maintained.

Concern has been raised over potential amendments regarding routine testing for HIV in patients admitted to hospitals, and testing of health care workers who perform invasive procedures. The American Hospital Association and the American Nurses' Association oppose mandatory routine testing of patients and health care workers. Together with the Centers for Disease Control (CDC), AHA and ANA have endorsed universal precautions as the most effective means of reducing the risk of HIV infection for hospital staff and patients. Because HIV is transmitted only by direct contact with blood or body substances, the treatment of specified body substances as potentially infectious protects both patients and hospital staff regardless of whether an individual's infection status is known. Universal precautions require the use of a barrier such as gloves, gowns, masks, or protective eyewear when exposure to blood or specified body substances is anticipated. Use of such barrier precautions provide additional benefit in protecting employees and patients from a wide variety of infectious diseases.

It has not been demonstrated that routine testing will increase the level of protection for workers or patients above that achieved by rigorous adherence to infection control procedures such as universal precautions. Routine testing of either patients or staff is unnecessary to reduce the risk of exposure to HIV and should not be substituted for rigorous adherence to universal precautions.

Testing for HIV infection is appropriate when making a medical diagnosis; screening blood, organs, or other body substances prior to donation; or in conducting follow-up procedures when a potential exposure to HIV has occurred. If barrier precautions fail, for example after needlesticks or inadvertent violations of universal precautions, it is appropriate to conduct post-exposure follow-up testing. Such testing, however, should not be done without thorough pre- and post-test counseling as well as maintenance of confidentiality of information about HIV status.

Other arguments against mandatory routine testing are that it is prohibitively expensive; there is a time delay that accompanies the administration of the test; and there is also an important risk of inaccurate test results. For many hospitals, the screening test would be sent to reference laboratories and results may be unavailable for several days. In the case of ambiguous or positive results, repeat testing will be necessary. It is often impossible to perform a test before treatment is required. False negative test findings could result in treating a small number of infectious patients as though they were not infectious, and false positive test results could create serious problems for the patients.

Ultimately, consistent use of protective measures is the best safeguard against the transmission of HIV. Routine screening of patients or staff is unnecessary to reduce the risk of exposure to HIV and should not be viewed as a substitute for universal precautions.

As the leading national organizations representing hospital employees and hospital management, we strongly support H.R. 5142. We urge careful consideration of this issue as Congress attempts to fashion a reasoned response to the public health problems associated with AIDS, and urge Members to reject amendments to this critical AIDS legislation that would detract from its objectives.

Sincerely,

JACK W. OWEN,
Executive Vice President,
American Hospital Association.
JUDITH A. RYAN,
Executive Director,
American Nurses' Association.

AMERICAN HOSPITAL ASSOCIATION, AMERICAN OSTEOPATHIC HOSPITAL ASSOCIATION, AMERICAN PROTESTANT HOSPITAL ASSOCIATION, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, CATHOLIC HEALTH ASSOCIATON OF THE U.S., THE CLEVELAND CLINIC FOUNDATION, FEDERATION OF AMERICAN HEALTH SYSTEMS, NATIONAL ASSOCIATION OF CHILDREN'S HOSPITALS AND RELATED INSTITUTIONS, NATIONAL ASSOCIATION OF PRIVATE PSYCHIATRIC HOSPITALS, NATIONAL ASSOCIATION OF PUBLIC HOSPITALS, NATIONAL COUNCIL OF COMMUNITY HOSPITALS, NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, VOLUNTARY HOSPITALS OF AMERICA,

September 13, 1988.

To Members of the House of Representatives:

The House of Representatives will soon be considering H.R. 5142, the AIDS Federal Policy Act of 1988. This legislation brings together into one bill H.R. 4757, the AIDS Testing and Counseling Act of 1988; H.R. 4850, the AIDS Health Research Act of 1988; and H.R. 2881, the National Commission on Acquired Immune Deficiency Syndrome Act. The new, combined legislation represents a fair and balanced approach to many of the public health problems associated with AIDS.

The primary focus of H.R. 5142 is to establish a federal grant program for AIDS prevention counseling, including voluntary Human Immunodeficiency Virus (HIV) antibody testing. As organizations representing hospitals, we support this bill and oppose amendments that would detract from its objectives. Individuals at risk for infection with the AIDS virus should be encouraged to seek testing and counseling in an environment which ensures that the confidentiality of this sensitive medical information will be maintained.

During committee consideration of the legislation, amendments were offered and defeated that would have required that hospitals offer and encourage admitted patients, between the ages of 15 and 49, be tested for the HIV infection. When H.R. 5142 is considered on the floor, Rep. William Dannemeyer will again offer an amendment mandating that hospitals, located in states with an HIV prevalence rate of at least 0.1 percent, "routinely" test admitted patients from the ages of 15 to 49. There are many arguments against the amendment; we ask your careful consideration of them as you deliberate the issue.

ARGUMENTS AGAINST MANDATORY ROUTINE TESTING

PROTECTING THE PUBLIC'S HEALTH

Consistent use of protective measures, such as gloves, gowns, masks, and protective eyewear, is the best safeguard against the transmission of the HIV. Routine screening of patients or staff is unnecessary to reduce the risk of exposure to the HIV and should not be viewed as a substitute for universal precautions.

All major health organizations, together with the federal Centers for Disease Control, have endorsed universal precautions as the most effective means of reducing the risk of HIV infection for hospital staff and patients. Because the HIV is transmitted only by direct contact with blood or body substances, the treatment of all body substances as potentially infectious protects both patients and hospital staff, regardless of whether an individual's infection status is known.

Other arguments against routine testing of hospital admissions are: there is a time delay that accompanies the administration of the test; there is a time delay before exposed individuals manifest the HIV antibodies; and there is the risk of inaccurate test results. False or premature test findings could give patients and health care workers a false sense of security and discourage preventive practices. A false positive test result could create serious social and psychological problems for patients. Requiring hospitals to test admitted patients for the presence of the HIV removes the physician from directing the patient's course of treatment.

THE COST OF ROUTINE AIDS TESTING

The escalating demand for a complex array of health care services and the growing tendency of insurers and employers to seek ways to limit their liability have prompted concern that AIDS will test the limits of the current financing system and perhaps jeopardize the pluralistic approach to financing health care.

An amendment to require hospitals to "routinely" test for AIDS could further strain this system. For example, the Illinois state legislature approved legislation last year—legislation that was vetoed by Governor James Thompson—requiring AIDS testing of all hospital inpatients between the ages of 13 and 55. According to the Illinois Hospital Association, this requirement was estimated to have cost approximately $49.5 million per year.

U.S. hospitals had more than 33 million admissions in 1987, with more than 22 million of those admissions involving individuals under the age of 65. Given the fact that the average cost for the AIDS test is $45, according to Centers for Disease Control, and $65, according to the Office of Technology Assessment, the breadth and the cost of the Dannemeyer's amendment could be staggering. (These figures do not include any hospital counseling before or after administration of the test.)

Further complicating this policy is whether third-party payers and Medicaid would pay for the test if it is not medically indicated. The patient or more likely the hospital could be held responsible for meeting the test's cost and any necessary counseling. This action could divert scarce health resources away from direct patient care, thus raising a new set of financial pressures on our nation's hospitals.

AIDS presents new challenges for all of us. We urge you to support H.R. 5142 and reject any amendment that could impair a hospital's ability to deliver care for individuals with AIDS.

NATIONAL GOVERNORS' ASSOCIATION,
September 12, 1988.

Hon. HENRY WAXMAN,
Chair, Subcommittee on Health and the Environment, Committee on Energy and Commerce, Washington, DC.

DEAR REPRESENTATIVE WAXMAN: Thank you for your letter of July 25 outlining the pending AIDS Counseling and Testing Act of 1988. This is certainly an important legislative initiative that will go a long way toward addressing the problems the country faces in combatting the AIDS epidemic.

I would like to reiterate the concerns of the Governors that I expressed in my May 23 letter to you. We strongly oppose any efforts to place federal mandates on the states regarding their policies for testing, reporting, and tracing. The Governors and their health departments are in the best position to decide what testing policies are the most effective for their states in prevention efforts.

Specifically, we are opposed to the four amendments to your bill that are scheduled to be offered on the House floor that would require: (1) the mandatory testing of prisoners, (2) the mandatory testing of all marriage license applicants, (3) the routine testing of hospital patients and (4) the mandatory reporting of the identification of individuals testing positively for the HIV virus.

Such blanket mandates would have adverse consequences and at a very large cost.

Thank you for your consideration of this issue.

Sincerely,

Raymond C. Scheppach.

National Conference of State Legislatures,
Washington, DC, September 15, 1988.

Dear Member of Congress: The National Conference of State Legislatures (NCSL), supports the increased funding for combatting AIDS in FY 1989. We also support efforts to expand the availability of and accessibility to AIDS testing and counseling services, such as the ones that could be provided under the provisions of H.R. 5142.

NCSL is concerned about the number of state mandates and the blanket preemption of state confidentiality law in H.R. 5142. We believe that the most effective testing and counseling programs, and comprehensive strategies to address the AIDS epidemic in the states, must be developed with the specific needs of the affected community in mind. States should be afforded maximum flexibility to target these limited resources to those most in need of assistance. State mandated testing is no substitute for a concentrated, comprehensive education program.

The bill imposes a number of mandates on the states. Additional mandates will spread the proposed state grants extremely thin and will preclude states from effectively targeting funds. We urge you to oppose amendments to H.R. 5142 that would place additional costly mandates on states. Specifically, NCSL urges to oppose the following amendments: (1) the Dannemeyer amendment to require states to test and counsel all prisoners; (2) the McCollum amendment to require testing and counseling for all marriage license applicants; and (3) the Dannemeyer amendment to require states to collect identifying information on all persons tested for HIV infection.

The bill already requires states to test persons convicted of and incarcerated for sexual assault, prostitution and crimes associated with intravenous drug abuse. Only one state requires testing and counseling for marriage license applicants, and that state, Illinois, has the law under review due to implementation problems and questions of cost effectiveness. Finally, the Dannemeyer amendment on contact tracing precludes states, such as Colorado, from operating contact tracing programs where the client may use a pseudonym. This program has been particularly effective in Colorado which has a comprehensive contact tracing program in place.

We believe that H.R. 5142 is already too prescriptive. We urge you to reflect additional state mandates and to provide states with sufficient flexibility to develop effective and efficient testing and counseling services.

Sincerely,

William Pound,
Executive Director.

UFCW,
September 15, 1988.

To All Members of the U.S. House of Representatives:

Dear Representative: Like all Americans, the officers and members of the United Food and Commercial Workers International Union are greatly concerned about the AIDS and HIV epidemic. While we are hopeful that medical research will soon provide a vaccine and treatment for this disease and virus, we understand that more research is needed and more funding is necessary to provide adequate AIDS counseling and testing.

Organized labor has always been one of America's most vigilant guardians of individual rights and sound public policies. We join the public health, medical, and the entire provider community in urging you to vote for the passage of H.R. 5142, the AIDS legislation which addresses counseling, testing and research.

The AIDS epidemic is an issue that touches all of us. It is not only a worker's issue but an employer's concern as well. We must work together against the spread of the virus.

We urge you to support the passage of H.R. 5142 and oppose all mandatory testing amendments. We anticipate amendments requiring mandatory testing of hospital patients, marriage license applicants, and prisoners, and the reporting of those who test positive. As is true of education, rational testing and counseling programs will reduce the risk of spreading the AIDS epidemic.

Thank you for your support.

Sincerely,

William H. Wynn,
International President.

United Automobile Workers,
Washington, DC, September 6, 1988.

Dear Representative: We understand the House may take up the proposed AIDS Federal Policy Act (H.R. 5142) the week of September 12. The UAW supports this important legislation; we urge you to vote for the bill and against weakening amendments.

Like all Americans, UAW members are deeply concerned about the growing threat to public health posed by the spread of AIDS. In our judgment, there is an urgent need for increased research on the treatment of and cure for AIDS, as well as additional testing and educational programs designed to help prevent the spread of this dread disease. H.R. 5142 would help to accomplish these objectives by expediting existing research activities and providing for a number of new research initiatives. In addition, the legislation would authorize grants to the states and existing health care facilities for various counseling and testing programs aimed at preventing exposure to and the transmission of AIDS.

A number of amendments may be offered to H.R. 5142 to require the testing of various groups or categories of individuals. Such mandatory testing programs would impose significant costs on the states and/or hospitals. The UAW is also concerned that such programs could foster discrimination against the victims of AIDS or infringe upon the confidentiality of individuals. Accordingly, the UAW urges you to reject any such amendments, and to vote for H.R. 5142 when it is considered on the House floor.

Your consideration of our views on this issue will be appreciated. Thank you.

Fraternally,

Dick Warden,
Legislative Director.

AFSCME,
Washington, DC, September 13, 1988.

Dear Representative: On behalf of the more than 1.1 million members of the American Federation of State, County and Municipal Employees (AFSCME), I urge you to support H.R. 5142 the AIDS Federal Policy Act of 1988.

We believe that testing and counseling are vital components of any national program dealing with the AIDS crisis. Until recently, federal support for AIDS testing and counseling was limited. The increased funding contained in H.R. 5142 will greatly assist the unmet demand for services which are currently overwhelming facilities across the country.

In addition, we oppose an amendment which will be offered by Congressman William Dannemeyer (R-CA) that would mandate AIDS blood testing of most hospital patients. Adoption of this amendment would place hospitals, particularly public hospitals where we represent more than 100,000 workers, under an immense and unmanageable financial burden.

Once again, I ask you to vote for H.R. 5142.

Sincerely,

Jerry D. Klepher,
Director of Legislation.

American Council of Life Insurance and Health Insurance Association of America,
Washington, DC, August 8, 1988.

Hon. **Henry A. Waxman,**
Chairman, Subcommittee on Health and the Environment, Washington, DC.

Dear Mr. Chairman: On behalf of the American Council of Life Insurance and the Health Insurance Association of America, we are writing to express our support for H.R. 4757, the "AIDS Counseling and Testing Act of 1988," as recently reported by the Energy and Commerce Committee.

We commend you and the Committee for its leadership in reporting a bill which will promote widespread voluntary testing and counseling for AIDS and protect the confidentiality of AIDS testing and counseling records. We believe that this legislation represents a major step forward in the battle against AIDS.

As you know, the life and health insurance business has taken a prominent position in advancing practices which protect medical and other personal information concerning millions of policyholders. The life and health insurers strongly committed to the protection of confidential information provided in connection with insurance transactions.

We appreciate the changes which have been made in the legislation since introduction to accommodate our concerns and look forward to continuing to work with you on remaining issues as the legislation approaches enactment.

Sincerely,

Carl J. Schramm,
President,
Health Insurance Association of America.
Richard S. Schweiker,
President,
American Council of Life Insurance.

AIDS Action Council,
Washington, DC, July 28, 1988.

Dear Representative: On June 22, the Energy and Commerce Committee reported out the AIDS Testing and Counseling Act of 1988, H.R. 4757, and the AIDS Research Act, H.R. 4850, the first major pieces of AIDS legislation to be placed before the House of Representatives. The undersigned member agencies of the National Organizations Responding to AIDS (NORA) are writing to urge you to support these bills and oppose restrictive amendments when they come to the floor of the House.

The AIDS Research Act as reported provides long overdue authorizing guidance to the critical AIDS research activities which are undertaken by the National Institutes of Health (NIH), the Centers for Disease Control (CDC), the Health Resources and Services Administration (HRSA), the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), and the Food and Drug Administration (FDA). Among other things, the bill specifies minimum staffing levels for the Public Health Service's AIDS programs and establishes a number of new research initiatives.

During Committee passage there was an unsuccessful effort to remove the specific staffing levels for the AIDS programs. We consider the staffing delineations among the most critical components of H.R. 4850. Therefore, should this issue be revisited during floor debate, we urge you to defeat any effort to remove the AIDS federal agency staffing allocations.

For almost a year, Members of the Energy and Commerce Committee, along with our organizations and numerous witnesses, actively considered all of the facets of the compelling public health agenda relative to AIDS counseling and testing. With as many as 1.5 million Americans currently infected with the Human Immunodeficiency Virus (HIV), it is imperative that a sound testing and counseling program, with strong confidentiality assurances, be put in place immediately. Much of the AIDS Testing and Counseling Act represents the best wisdom from practitioners, service providers, and advocacy groups. In addition, this bill is the product of significant compromise regarding many difficult political, ethical and civil rights dilemmas confronted in the pursuit of a sound national AIDS policy.

We would like to bring to your attention some specific amendments that were dealt with by the Committee, as we expect that these amendments may be offered on the House floor as well. There was bi-partisan agreement to modify amendments concerning mandatory names reporting and mandatory contact tracing to ensure that states would retain flexibility to choose the reporting and tracing systems that best fit the needs of their populations. We support those agreements and would urge that they not be modified further.

The Committee rejected amendments to require routine testing for hospital admittees and marriage license applicants. The Committee voiced concerns about the costs and the questionable contribution of such testing in meeting the public health agenda in combating AIDS. We urge you similarly to reject these amendments should they be offered on the floor.

The Committee also rejected an amendment to require states to institute mandatory testing of all prisoners. The rejection of this amendment is consistent with the stated public positions of the National Association of State Corrections Administrators, the Correctional Health Services Association, the National Institute of Justice, various state correctional commissioners, and—most recently—the Presidential Commission on the HIV Epidemic. These organizations and individuals have noted that mandatory testing of all prisoners is often an expensive, unnecessary and inappropriate procedure, and, in any event, any decision to undertake testing of prison populations should be left to the individual states.

Our organizations feel strongly that the bill reported by the Committee is the product of long and difficult compromise efforts. It should be passed by the House of Representatives with no restrictive amendments.

Sincerely,

AIDS Action Council, American Association for Counseling and Development, American Association of Marriage and Family Therapy, American Civil Liberties Union, American College of Physicians, American Foundation for AIDS Research, American Psychological Association, American Public Health Association, American Red Cross, American Social Health Association, Association of State and Territorial Health Officials, Catholic Health Association of the United States, Child Welfare League of America, Conference of Local Health Administrators, Consortium of Social Science Associations, Disability Rights Education and Defense Fund, Human Rights Campaign Fund, National AIDS Network, National Alliance for the Mentally Ill, National Association of Association of Counties, National Association of County Health Officials, National Association of People with AIDS, National Association of Social Workers, National Association of State Alcohol and Drug Abuse Directors, National Association of Community Health Centers, Inc., National Association for Home Care, National Association of Protection and Advocacy Systems, National Gay and Lesbian Task Force, National Leadership Coalition on AIDS, National Minority AIDS Council, National Network of Runaway and Youth Services, Planned Parenthood Federation of America, United Food and Commercial Workers Union, U.S. Conference of Mayors.

Mr. TAUKE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to speak in support of H.R. 5142, the AIDS Federal Policy Act of 1988. H.R. 5142 proposes a comprehensive set of programs designed to counteract the spread of the AIDS epidemic through testing and counseling and various research initiatives for prevention and treatment.

I wish to recognize the bill's sponsor, our distinguished chairman of the Subcommittee on Health and the Environment, for his leadership and work on this bill. I also appreciate the important efforts of the ranking minority member of the subcommittee, the gentleman from Illinois, [Mr. MADIGAN], to achieve the committee's consensus on this bill. Further, we must give credit to the gentleman from California [Mr. DANNEMEYER] for his leadership and input. The fact that at least seven of Mr. DANNEMEYER's amendments have been adopted in committee demonstrates his considerable impact to this legislation.

Since there is no known cure for AIDS, we must attempt to halt the spread of AIDS by first, convincing infected individuals to modify their high risk behavior and second, persuading uninfected individuals to take precautions against becoming infected. Thus, the testing and counseling provisions created by this bill will be important in our battle against this tragic epidemic.

H.R. 5142 includes detailed requirements on confidentiality and disclosure to protect individuals who undergo testing and counseling as well as appropriate exemptions to the disclosure provisions to enable notification of others who may become exposed to the virus. Many compromises were required to reach agreement on these provisions. I particularly support the compromise that enabled the deletion of the clause prohibiting discrimination against infected persons in employment and housing. While I strongly believe that discrimination against AIDS infected individuals is deplorable, I am not convinced that Federal legislation in this area is appropriate. I believe enactment of such a prohibition at this time would be inequitable since similar protections do not exist for others who have fatal and debilitating diseases.

I look forward to the debate on the amendments to this bill to be considered under the rule. I intend to support several amendments and I hope that we will make the decisions necessary to enact this legislation. I believe H.R. 5142 offers a reasonable approach in terms of prevention, treatment, and research programs, and I urge all my colleagues to join me in support of this legislation.

□ 1645

Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today for purposes of general debate to discuss H.R. 5142, the AIDS Federal Policy Act of 1988. My purpose today is to point out what I regard as the strengths and weaknesses of the bill, and to advocate several amendments which we will be debating later this week.

First, the bill approved by the Energy and Commerce Committee contains several solid provisions which deserve our support. H.R. 5142 would establish a State block grant which will provide up to $200 million a year for State AIDS testing and counseling programs. Persons to be tested must receive pretest counseling that encourage testing and the benefits of testing. A proportional amount of the funds authorized for counseling, moreover, must be directed to women, children, and hemophiliacs.

In addition, States receiving funds under the bill must test all persons convicted of prostitution, drug abuse, or a crime related to sexual assault offer routine testing for those who receive treatment for drug abuse, venereal disease, tuberculosis or attend family planning clinics, and require

States to make it a crime for a person to knowingly spread the AIDS virus.

Another provision requires individuals receiving counseling to be told about the harmful effects of promiscuous sexual activity and intravenous drug abuse, and the benefits of abstaining from such activity. No funds appropriated under this bill may be used to promote or encourage, directly, homosexual or unsafe heterosexual activity or intravenous substance abuse. Counselors, however, may provide "the most current scientific knowledge available" to reduce an individual's risk with respect to AIDS, provided the materials used are not obscene.

REPORTING

The bill also makes a significant, but inadequate, first step in the area of reporting. Reporting, Mr. Chairman, is the single most important unresolved issue in this debate and I would like to take a few moments here to explain its significance with respect to controlling the epidemic.

States receiving funds under the bill must report on a confidential basis to the State public health officer information sufficient to perform statistical and epidemiological analysis of: First the incidence of HIV infection in the State; and second, the demographic characteristics—age, sex, race and location—of those carrying the AIDS virus. While this will result in the State public health officer learning of each and every positive test result, along with demographic information about the infected individual, it misses a very basic point concerning rational public health policy.

An incurable infectious disease can be controlled only by interrupting its transmission. Historically, public health officials have responded to epidemics by: First, locating the carriers of the infectious disease; second, contacting those who may have been exposed to it; third, determining whether the carriers will continue the activity which spreads the disease and preventing those who knowingly continue to spread it from doing so; and fourth, closing public establishments which foster the activity by which the disease is spread.

These provisions already exist with respect to other, curable infectious diseases in virtually every State. Unfortunately, only 13 States treat AIDS in this manner. Thus, in the words of Dr. David Pence, "the epidemic of the century has been granted a peculiar immunity from the protective measures of standard public health practice."

Later this week the Members of this esteemed body will have an opportunity to inject a little reason into the often acrimonious debate on AIDS. Along with the distinguished gentleman from Texas, Mr. Hall, I will offer an amendment to require States receiving funds under the bill to report all positive AIDS test results, along with information that is "sufficient to locate" the individual who tests positive, to public health officials. This amendment addresses what I consider to be the most glaring weakness in the bill. Without it, I will not be able to support the legislation and on balance will not make a substantial contribution to curtailing this deadly disease.

Mr. Chairman, reportability is the cornerstone of sound public health policy. One of the most intelligent commentators on the AIDS epidemic, Dr. David Pence, a radiation oncologist at the University of Minnesota Hospitals, offers a succinct defense of reportability:

> It was a good idea to set up testing centers, but it was a fundamental conceptual error to allow that testing to be anonymous. Remember the crucial distinction. Confidential testing means results are known only to the patient, his doctor and public health officials. This is the standard practice throughout medicine. Anonymous testing means a person is tested without giving his name. This practice is unique to the HIV infection.

As Dr. Pence explains, those who defend anonymous testing have convinced officials that the government and medical profession cannot be trusted:

> The nameless carrier of the virus, however, is to be granted total discretion in warning his sexual contacts and desisting from the behavior which spreads the disease. This policy displays an unfortunate naivete when we consider the addictive and compulsive behavior by which most HIV carriers contracted the disease.

Mr. Chairman, this policy must end. Among the States that currently require reporting, I have found the two most oftrepeated criticisms of reporting to be entirely without foundation. Opponents argue that reporting will deter many high-risk individuals from seeking testing and that leaks of confidential information will result in AIDS-related discrimination in housing, employment, and other areas. My conversations with officials in the States that require reporting has revealed two very important truths: First, there have been no breaches of confidentiality; and second, the number of persons seeking testing has actually increased dramatically in most of these States.

In fact, one need only consider the experience in two States, my own State of California and Colorado, to understand the value of reporting. Colorado requires reporting; California does not. As the architects of Colorado's AIDS prevention program found: "Whatever factors influence test seeking behavior, they appear to operate simultaneously and equally in both States." Colorado, moreover, reports about 41 percent more voluntary HIV tests per 100,000 population than California.

As some of my colleagues will explain, the results in other States that require reporting are quite similar to the Colorado experience.

Reporting is an indispensible tool to those who educate and counsel high-risk individuals. Using mandatory reporting and other techniques routinely used to control infectious diseases, physicians in a rural South Carolina community identified 12 previously unknown carriers of the AIDS virus. Six months later, after followup counseling, physicians reported an astounding 80 percent drop in the number of sexual contacts among infected individuals and a 50-percent drop in the number of sexual contacts among high-risk individuals who were HIV-negative. Mandatory reporting played a crucial role in this achievement.

Finally, to actually quantify the value of reporting in saving human lives, consider the implications of a report in the Journal of the American Medical Association [JAMA] of January 8, 1988. Researchers surveyed individuals seeking an AIDS test at two California clinics and found that 19.5 percent of those who engaged in high-risk sex with numerous partners did not intend to tell their partners of their positive test results. On the average, these recalcitrant individuals reported having had sex with 4.38 partners in the previous month. Mr. Chairman, that represents more than one new sex partner each week who would not know of their partner's HIV status.

Contrary to what our critics have said, the amendment does not require that the individual's name be reported. Colorado, which requires the reporting of positive tests results, allows those being tested to give pseudonyms, and many have done so.

Mandatory reporting is an indispensable tool for public health officials in stemming the AIDS epidemic.

TESTING AMENDMENTS

My colleague, the distinguished gentleman from Florida [Mr. McCollum] will offer an amendment that also warrants your support. The McCollum amendment, as I will explain in greater detail at the appropriate time, will require States receiving funds under the bill with a seroprevalence rate of 0.1 percent or greater to institute mandatory testing of applicants for marriage licenses. Such testing could be paid for at the expense of the applicant, as is testing for other premarital blood tests.

There are two reasons to test this population. First, the data obtained from these tests would serve as a good random, statistical survey of the magnitude of infection if the United States. Second, premarital testing is the best way to prevent the birth of AIDS-infected babies and the transmission of the virus to spouses of

AIDS-infected individuals. Because the great majority of AIDS cases have been among men, premarital testing serves primarily as a way to protect uninfected women who marry men who are bisexual, who have used intravenous drugs, or who have received infected blood.

Dr. James W. Curran, director of the Centers of Disease Control [CDC] AIDS program, supported this reasoning recently when he advocated mandatory AIDS testing for all pregnant women who live in high-risk areas. The McCollum amendment accomplishes this policy goal. As Curran said: "There's no reason that the number of cases [in this category] shouldn't decline. Someone who understands the disease and is logical will not want to be pregnant and will consider the test results when making family planning decisions." Premarital testing in States with a seroprevalence rate of 0.1 percent is the best way to interrupt the transmission of the AIDS virus from mothers to their babies.

Mr. Chairman, the measures which I am advocating, and especially the McCollum amendment, address an issue which should be viewed by women's groups as the preeminent women's issue of the 1980's and beyond.

In addition to the McCollum amendment, members of the House will have the opportunity to vote on two other amendments that would help stem the epidemic: one will require States to routinely test hospital admittees in States with a seroprevalence rate of 0.1 percent or greater when they enter the hospital and for surgery; the other requires States to test all prisoners when they enter prison and within 30 days of their release. Again, I will be addressing each of these important issues in greater detail at the appropriate time, but allow me to briefly state the case for them here.

Testing hospital admittees has been criticized on the grounds that it would waste scarce resources on a population group that is at low risk for AIDS. I wish this was the case. Unfortunately, it appears from recent figures compiled by the Centers for Disease Control [CDC] that more than 3 out of every 1,000 hospital admittees may be carrying the deadly virus. This level of infection, Mr. Chairman, is higher than most experts anticipated and speaks eloquently to the need for this amendment.

Finally, Mr. Chairman, I will be offering an amendment to require States receiving funds under the bill to test all prisoners as they enter and leave prison. In June, the Energy and Commerce Committee rejected this amendment by a tie vote of 21-21. The main source of opposition to the amendment, as I understand it, comes from State and local governments which fear the potential liability costs that may arise should an inmate test negative for AIDS upon entering and then seroconvert while serving his sentence. Presumably, the prisoner or his estate could sue the responsible governmental entity for damages.

If, indeed, this is the argument against prison testing, it suggests that my opponents want to treat symptoms rather than the disease itself. The real problem lies in the unprecedented expansion of the concept of tort liability in our legal system. The State and local governments, it seems, prefer to remain ignorant of seroconversions within the prison population.

The prison population clearly is a high-risk group. According to the Bureau of Prisons, 2.3 percent of all male prisoners and 3.6 percent of all female prisoners tested between November 1987 and February 1988 tested positive. Mandatory prison testing will help prevent the transmission of the AIDS virus to those who are involuntarily confined with HIV-positive individuals and, in turn, to the families of prisoners who may visit them during conjugal visiting hours or contract the virus upon their release.

The American Medical Association [AMA] supports the concept of prison testing, and I urge you to do so as well.

□ 1700

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 4 minutes to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Energy and Commerce Committee.

Mr. DINGELL. Mr. Chairman, last week, a panel of public health experts reported that our failure to promptly and decisively respond to the AIDS crisis with intelligent public health policy has cost us dearly. It was only the most recent such finding. The Presidential Commission on AIDS, the Institute of Medicine, the Office of Technology Assessment, the General Accounting Office, and virtually all experts who have examined the Federal response to AID have reported similar results.

The history of Federal inaction has already been written. In the early years of the epidemic, the Federal Government was slow to begin research efforts. It also dragged its feet in developing education programs. Thankfully, we have recently begun to remedy these problems. But, huge deficiencies remain.

For years our efforts to encourage testing and counseling for HIV to help people determine their antibody status and to modify destructive behavior have been insufficient. Confidentiality protections have been wanting. Requirements to assure that emergency workers exposed to AIDS be notified have been nonexistent. Expedited research in some critical areas has not been accomplished. Finally, we have lacked a permanent expert body which could advise us and provide leadership in developing AIDS policy.

This legislation addresses these gaping holes in the Federal response to AIDS. It is the product of almost 2 years of work, weeks of hearings, and extensive consultations with interested organizations of every stripe. Months of negotiations ensued in order to bring this bill to the floor.

This bill is an opportunity. It is an opportunity for the Congress to show that it can lead. The administration has ducked that responsibility and we are paying for that in lives and in dollars and in human suffering that defies description. With 70,000 people sick, 40,000 dead and hundreds of thousands of additional deaths expected in the next decade, it would be a crime and a disgrace if this Congress could not muster the will to take a few necessary steps to fight AIDS.

I commend Mr. WAXMAN for his longstanding concern and Mr. MADIGAN and others on the Energy and Commerce Committee for working to develop a bill that makes sense and that can be supported by Members on both sides of the aisle. It is no accident that this legislation is supported by public health, medical and labor groups. It is good policy stripped of controversial provisions that might divide members.

While people get sick and die, we can debate whether this legislation is perfect or we can act to fight an epidemic that is ravaging our people. This is a good and urgently needed bill; I urge my colleagues to support it.

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon [Mr. WYDEN] an important member of our subcommittee.

Mr. WYDEN. Mr. Chairman, I would like to first associate myself with the remarks of the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce. I think he said it very well, and I associate myself also with the remarks of the gentleman from California [Mr. WAXMAN], chairman of the Subcommittee on Health and the Environment.

Mr. Chairman, I am greatly concerned about the cries for mandatory testing that the minority insists on making. Their premise is that if we test people in a hospital and everyone who applies for a marriage license, we will find all the people with AIDS.

Mr. Chairman, this could not be further from the truth. In fact, what my friends from the other side of the aisle are proposing puts innocent people—the low-risk population—at a greater risk of being diagnosed with a deadly disease that they do not have.

Over the past 2 years, I have spent a great deal of time looking into laboratory testing. What I have found is astonishing.

Each year, thousands of Americans have millions of medical tests performed on them in labs that are subject to no government oversight or regulation whatsoever.

This gross lack of accountability has produced frightening results and a totally unacceptable level of inaccuracy. It is no different for AIDS testing.

There is no question about it—we cannot pursue a widespread testing policy without assurances that testing will be both accurate and cost effective. Currently, neither of these assurances can be given.

Frightening factors combine to severely limit the reliability of human immunodeficiency virus [HIV] tests for low-risk populations.

First, the confirmatory Western blot test is very subjective. Despite ongoing efforts, the scientific and medical communities have not determined how to uniformly interpret results that fall between accepted positive and negative interpretations.

This means that one lab may call a test result "positive" when another lab would call the same result "negative." Patients, or people who want to get married, will get unconfirmed results that will traumatize them. They will think they have AIDS when, in fact, they may not.

Second, accuracy rates for the Western blot test—the confirmatory test—are astonishingly low.

The Subcommittee on Regulation and Business Opportunities, which I chair, heard testimony from experts in the field in late 1987, 1 year ago. Dr. Miike from the Office of Technology Assessment analyzed the data from one of the more stringent proficiency testing programs. He found that when the labs in his study tested low-risk populations, 9 out of 10 positive HIV test results were false positives!

The reason these results are so high is because unlike previous studies, these test results are based on actual lab performance.

The U.S. Army testing, which began in 1986 is used as an example of why there should be mandatory testing. However, the startup of that program showed the gory underside of HIV testing in its truest form. When granting the HIV testing contract, the U.S. Army sent proficiency testing samples to 19 of the Nation's largest labs—11 of them failed.

At present, we can control the quality of the tests that are done in government programs. However, we cannot guarantee quality testing under the mandatory testing amendments that will be proposed.

In the meantime, innocent people will suffer severe repercussions because a test came back saying they have AIDS. People have lost their jobs, their insurance, and their houses based on positive AIDS tests. In low-risk populations, this is a severe punishment for someone who simply slipped through the cracks.

And what do we say to these people? I'm sorry, we had to find all the people with AIDS, your case was an unfortunate side-effect. We cannot even offer them protection from discrimination because the provisions we originally proposed to provide that protection were dropped from the bill.

If falsely labeling an uninfected individual as "HIV positive" carried little medical or social consequence, then some individuals might simply be inconvenienced by a mandatory screening program. Sadly, but perhaps understandably, we are all frightened by the enlarging threat of AIDS.

However, with the mandatory testing amendments, adults and even children labeled as "HIV positive" will become social outcasts. We must ask ourselves as members of society, who are supposed to be developing responsible public policies, if we can afford to bear the burden of the inevitable "false positive" population that we will create through these amendments. My answer is we cannot.

Mr. TAUKE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to ask my colleague, the gentleman from Oregon [Mr. WYDEN], because when he questioned the integrity of testing results, I am not sure he realized the hole into which he had dug himself. Is the gentleman saying to the American people that the blood supply of this country is not safe?

Mr. WYDEN. Mr. Chairman, if the gentleman will yield, I am not saying anything of the sort.

Mr. DANNEMEYER. When the gentleman says the test results for detecting the presence of HIV positive status is not accurate, he is saying that, whether he realizes it or not, and I raise this question for the reason of the tests that we have developed, the ELISA test, the routine test, is as good as our medical science can develop. Before we report to the Public Health, we have the ELISA test confirming the ELISA test, and then a third test confirming the Western blot.

Major Redfield has told us that this test is so accurate that the false positives are not greater than 1 in 100,000. It is as good as our science can get, and for the gentleman to stand there and suggest to the American people that the existing system of testing for HIV positive status I think, sadly, is lacking in integrity.

Mr. Chairman, I yield to my friend, the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, the hearing was in 1987, but my staff spoke yesterday to the person at the Office of Technology Assessment, who did the study. He stands by his figures for low-risk populations, the rate of false positives is 9 to 1. We are not talking about false negatives, which is where the blood supply would be dangerous, but false positive rates for low-risk populations such as marital testing. The date was confirmed yesterday by the Office of Technology Assessment.

Mr. TAUKE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, there can be no argument that AIDS has devastated this Nation. As of June 6, 1988, 64,506 cases of HIV positive individuals had been reported to the Centers for Disease Control. It is estimated that 1.5 million Americans are infected with the HIV virus, but are not yet symptomatic. These numbers attest to the severity of this epidemic. We must unite to provide a strong voice in guiding the development of an effective AIDS policy. We must demonstrate strong support in the development of testing and counseling policies that protect the rights of all individuals. H.R. 5142, the AIDS Federal Policy Act, establishes critically needed AIDS research programs, and guidelines for testing and for counselng. I rise in strong support of H.R. 5142 and urge my colleagues to join me in supporting this bill.

The AIDS Federal Policy Act establishes new research initiatives, including grants for much needed community-based programs and an evaluation of the effectiveness of unapproved therapies used in treating HIV positive individuals. This bill also authorizes additional staff at the National Institutes of Health and other health agencies to lead the fight against this disease. The global effect of AIDS cannot be ignored and must be addressed. H.R. 5142 authorizes grants to enhance international cooperation and the sharing of information.

The battle against AIDS must be fought on the local and State levels, as well as the Federal level. This bill authorizes $400 million for Federal grants to State and local agencies for confidential counseling and testing of high-risk, low-income populations, targeting those individuals who need those services. Education and counseling must become our first line of defense in prevention.

Mr. Chairman, this bill is endorsed by most health care providers, including the American Hospital Association, the American Medical Association, and the American Nurses Association, along with the Presidential Commission on the HIV Epidemic, the Surgeon General and other health authorities. I urge prompt passage of this bill and encourage my colleagues to vote in favor of H.R. 5142.

□ 1715

Mr. TAUKE. Mr. Chairman, I yield 6 minutes to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Speaker, the bill that we are considering and are going to have up for amendment in a couple of days is one which is so extraordinarily important that I think this moment to talk about it in general debate is perhaps more significant than oftentimes we have on general debate over legislation we consider.

The emotional component to AIDS is great. In the communities that are most affected today by it, the gay community in particular, it is a very emotional issue because of the discrimination and because of the deaths which occur, because of all the things that have occurred in the print media about the issue.

But in many parts of the country where this is going to be much more significant than just a homosexual disease, in every community we need to learn more about it. We need to find ways that we can craft legislation, some of which is done in this bill, some of which, of course, is not because the rules prohibit us from offering key amendments to it. We need to find ways in order to protect the American public from a public health standpoint.

I might just talk for a couple of minutes to put it in perspective at least, to try to do as I see it.

First of all, AIDS is an absolutely deadly disease. Everybody who has studied it, every authority says that it is highly unlikely we will ever develop a cure. The reason for this is because it is one of these types of diseases that becomes genetically blended in our bodies when it enters. It is almost impossible to envision a situation in which that can be extracted by any known type of cure process.

There is some hope that we might someday develop a vaccine to prevent it or that someday man will eventually develop some inherently genetic immunity to it. Right now we do not have it. The issue then becomes one of recognition that this is a terrible problem in the heterosexual community. And the fact is that it will be spread in the near term to many, many people.

We do not know we have this disease, unless it is tested for, for a long time. The disease is carried from between 5 and 15 years before the symptoms occur. For that reason, well-meaning people can accidently and unintentionally pass the disease to loved ones in normal sexual intercourse and normal sexual contact.

For that reason we need to have more awareness, we need to have more education, we need to have more studies and so forth.

But we also need to have testing. We need to have testing in hospitals, we need to have testing at the marriage spot. We can debate the merits of any given test but the fact is we need to let people be aware that they have the disease and we need to let spouses and others who come in contact with them become aware that somebody might pass that disease to them so that we can protect those people. That is just common sense. that is the public health component.

The fact of the matter is that when this little bug, this HIV virus enters the body, it attacks and attaches itself to what is known as the T-helper cell. This is a basic bodily immunity cell that protects us from other diseases.

It lives on those cells as a parasite. Over a period of time, it destroys thousands and thousands of these cells. And after that 15-year period, depending on which body and the human reaction to it, when there are not enough of those cells around any longer, people begin to get other diseases and die from them.

By 1991 the Armed Services Study shows that we will have had more people die in 1 year from AIDS symptoms and AIDS-related diseases than died in the entire Vietnam war.

We probably will not have enough bed spaces in many of our hospitals for people with AIDS, let alone other diseases, unless we act responsibly to find out who is passing this disease.

Right now they say in the studies which are very accurate that somewhere over 50 percent of the prostitutes in Washington, DC, and maybe as many as 50 percent in New York City and some of our other leading cities have the HIV virus. These prostitutes are probably passing this into the community at a fairly rapid rate. We do not know exactly what that rate is. And then as divorces occur, marriages take place again, and so forth, this disease spreads. Again, the need for testing, again the need for knowledge, and so forth.

When someone is tested, whether that is in a hospital, or whether that is in some other location, the military when you go in or when you go to get a marriage license, whatever the law may be that we may be able to set up would require, then the public health officials need to know about that in every community that deals with this.

There needs to be contact tracing, not just spousal notification, although there certainly needs to be that, to let other people find out who might have had the contact, who else might have the disease. Again, that is the way normal communicable diseases are contained. Unfortunately, this bill does not provide all of that.

There will be great debate over the next few weeks, next few months, probably the next few years over a lot of this. People do not like the idea of forced testing. The fact of the matter is that it is absolutely essential. The fact of the matter is that without testing at the frontline, how can we have notification of the spouse when we do not know somebody has the disease? They do not even know they have got it. Without the testing you cannot have the contact tracing; without the testing you cannot contain the disease. You cannot contain any communicable disease if you do not find out what the body-certain is that has that disease, what the parameters of it are.

In the end, when this disease starts killing more and more and more everyday average American citizens, somebody is going to look back on this body and say, "Why didn't you do something about it? Why didn't you act responsibly back then when we could've checked this disease?"

Let me make one other comment: As far as discrimination and problems like that are concerned, there is some good news in all of this. I think we should be aware of this. That is that the studies also show that the disease is not passed by simple, casual contact, not by kissing, not by intimate kissing, not by the type of thing like eating off the same fork or the same plate or in any other way. In over 2,000 cases that the Walter Reed Army Hospital has under study in the husband-wife situation, with one of the spouses having the disease, no known passage of the disease in this fashion existed. It is a sexually transmitted disease. But it is heterosexually transmitted, it is becoming common place. We do need testing, we do need responsible contact tracing, we do need spousal notification. We need more than this bill gives but we need, at the very least, what this legislation offers.

I urge my colleagues to fully debate it, pass the key amendments that need to be passed in the next couple of days and pass the bill and then let us come back next year and address those things we were not allowed to address so that we can really stop the spread of this very deadly plague.

Mr. TAUKE. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. Konnyu].

Mr. KONNYU. Mr. Chairman, today I rise to convey my disappointment over the approval on a rule to consider H.R. 5142, the AIDS Federal Policy Act of 1988. While I did not participate in the September 16 vote, I would like to express my support for the efforts to defeat the previous question and provide for a minority substitute to the rule.

As some of you know, I have sponsored legislation similar to the amendment offered by the gentleman from Indiana [Mr. COATS]. My bill, H.R. 3695, requires physicians to confidentially notify the spouse of an individual if the patient tests positive for AIDS. Therefore, my support of such measures is without question.

But I did not rise today to glorify my bill or to endorse any particular legislative measure. Rather, I would like to urge my colleagues to take a moment to consider the ramifications of prohibiting debate on the issue of spousal notification.

The AIDS epidemic poses one of the most ominous long-term health threats to this Nation. As national policymakers, we have a responsibility to our constituency to consider every conceivable method of halting the spread of this disease. By denying debate of spousal notification, we are turning our back on the men and women whose lives are endangered by the threat of contamination with the HIV-virus.

As representatives of the American people, we cannot act irresponsibly when we establish an AIDS policy. While the issue of spousal notification may be defeated on the House floor, at least we will know that we have left no stone unturned in the war on AIDS.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 5172, the AIDS Federal Policy Act. As we battle this national epidemic, I believe the AIDS Federal Policy Act strikes a careful balance between compelling public health prerogatives, and the privacy and confidentiality needs of those with AIDS.

AIDS is extracting a harsh toll on this Nation's minority communities. The incidence of AIDS among blacks and Hispanics is at least twice that of whites. In fact, 16 percent of documented AIDS cases are Hispanic while an astounding 25 percent are black. This is put in frightening perspective when we realize Hispanics and blacks represent only 8 to 11 percent of the total U.S. population respectively. Sadly, the Center for Disease Control estimates that Hispanic children comprise 82 percent of pediatric cases of AIDS. I am also aware of at least three cases of AIDS among Navajos on the reservation in my district. AIDS could have a devastating impact upon our Nation's American Indians.

We are well aware of the reasons for these statistics. For many, the realities of being minority include: a higher rate of teenage pregnancy which contributes to greater numbers of pediatric AIDS cases, and a higher rate of IV drug abuse and needle sharing. The problem is compounded by traditional deficiencies in the provision of health care and health education to minority communities.

For this reason, I am pleased H.R. 5172 includes the National Commission on AIDS which will advise us on matters of national policy and priority in our campaign against AIDS. I would like to remind my colleagues of a colloquy I had with my distinguished colleague, Mr. WAXMAN, when this bill passed the House in August 1987. At that time, we concurred that the Commission should pay special attention to the unique problem of AIDS in minority communities, especially in determining preventive steps that should be taken in this critical area.

As a member of the Hispanic community, I am painfully aware of the stigmatizing impact AIDS has as it becomes identified with a particular minority or population group. Thus, as we fight the ADIS epidemic, it is critical that we maintain our humanity. I sincerely believe the AIDS Federal Policy Act will assist us in this serious endeavor. I am greatly pleased this legislation does not simply require testing of target populations, for testing without counseling is meaningless: it helps neither the individual nor society. If we are to stop the spread of AIDS, we must go beyond testing since testing alone cannot change behavior, but only corroborate types of behavior that already exist, such as intravenous drug use.

Throughout history, we have depended on the enlightenment of education to lead us out of the darkness of ignorance. Only through education and counseling can we hope to change those aspects of human behavior which contribute to the spread of AIDS. In short, counseling is the best method of changing human behavior. For this reason, I strongly endorse the combination of testing and counseling found in H.R. 5142. By requiring both pre- and post-test counseling about the meaning of test results, and how to prevent exposure to and transmission of the AIDS virus, we can curb the spread of this disease.

I am also pleased at provisions in this bill which address compelling public health needs including: the establishment of civil and criminal penalties for intentional or knowledgeable transmission of AIDS, requirements that all persons convicted of prostitution, sexual assault, or IV drug abuse be tested and counseled, and a provision requiring a public information campaign encouraging testing and counseling for all persons who have received a blood transfusion since 1977.

At this time, I would like to take a moment to speak in opposition to an amendment that will be offered requiring routine testing of hospital patients. First, and foremost, fear this amendment would instill a false sense of security in the minds of health care workers. It is important that health care workers assume that all bodily fluids are potentially infective. Second, this requirement would be tremendously costly. Having read the proposed amendment, it is not clear to me who would bear the costs of these tests: The patient? The hospital? Insurance companies? Or Medicaid? I am convinced the resources diverted under this amendment could be much better spent educating the public about avenues of transmission, and methods of prevention.

Finally, I commend the chairman and the ranking minority member for the strong confidentiality measures found throughout this legislation. Privacy of test results will assist us in reaching those who are most at-risk of contracting AIDS. More importantly, I believe it signals our willingness to respond to the AIDS crisis in a caring and humane manner rather than seeking reproach and castigation. The AIDS Federal Policy Act will help prevent the transmission of AIDS, thereby sparing thousands of individuals and their families the pain and agony associated with AIDS and putting a stop to this horrible waste of lives.

□ 1730

Finally, Mr. Chairman, I would wish to commend a group that was recently here in Washington called the Hispanic Designers. These are a group of prominent designers headed by Paloma Picasso, Adolfo, Caroline Herrera, and many others, who put together a memorable fashion show to benefit public education in the Hispanic community for AIDS. This event recently took place and raised close to a million dollars, and it is directed at a foundation here in the Washington, DC, area that deals with AIDS cases. It is also meant to push throughout the Hispanic media the news that it is critically important that the Hispanic community recognize that AIDS is one of the biggest killers in their community.

Indeed, let me repeat that frightening statistic. Despite the fact that the Hispanic community is 8 percent of the American population, 24 percent of all AIDS cases are Hispanic. That is a disproportionate share. There are many cultural barriers that prevent Hispanics from admitting that this is a problem. Many cases go unattended. Many cases go completely without any notice by any public health officials.

Mr. Chairman, I wish to commend the Committee on Energy and Commerce for the work that has been done on this legislation. It is important that we pass it. I know it is controversial. I know there will be a number of amendments offered, but it is in the best interests of this country that we have a national discussion and leadership on AIDS. That is something we have not had from the executive

branch, and hopefully this legislation will be a first step in that direction.

Mr. GREEN. Mr. Chairman, today we are considering legislation that addresses the most serious health issue the Nation has faced during my 10 years in Congress. I believe all of my colleagues in the House have shared in the difficulty of attempting to craft a rational and compassionate response to this fatal disease whose ramifications to our society as a whole have unknown boundaries.

Yet the difficulty of our task pales in comparison to the pain and suffering of the thousands of people who have AIDS, and of their families and friends who share that suffering.

It was in 1982 when representatives of gay and lesbian groups first came to see me to tell me the nature and scope of the disease that was killing gay men. It did not take too long to understand that many people were dying and that many, many more people would die unless Federal action were taken. It was clear that funding was needed for research to find a cause and cure for AIDS. As our understanding of this disease grew, and we realized that a prevention or cure was beyond our immediate grasp, increased attention was given to the need for widespread public education, voluntary testing, and pre- and post-test counseling to stem the spread of AIDS.

On May 5, 1987, I testified before the House Appropriations, Labor, Health and Human Services, Education Subcommittee on the AIDS crisis. At that hearing and in subsequent communication with the gentleman from California [Mr. WAXMAN] whose subcommittee was drafting the AIDS Federal Policy Act, I made clear the necessity for increased funding for education, voluntary testing, and counseling. I also stressed the need for strict guidelines concerning confidentiality for people who decide to be tested and antidiscrimination provisions to protect people who test positive for the AIDS virus. Testing, combined with counseling, can slow the spread of AIDS if people choose to be tested. But people will not choose to be tested if they think they might lose their jobs, health insurance, or housing because of a positive test result. Discrimination against people with AIDS is no more acceptable than other types of discrimination that we find reprehensible.

The original AIDS Federal Policy Act contained antidiscrimination provisions but those provisions were removed during the markup of the bill. Despite my efforts and the efforts of the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Oregon [Mr. WYDEN], we shall not have the opportunity to offer amendments which would restore the antidiscrimination language. As I stated during my testimony before the Rules Committee on August 10, 1988, antidiscrimination provisions are absolutely crucial if we expect to encourage people who may be at risk to be tested.

H.R. 5142 reflects the involvement of key members of the medical profession and public health officials and addresses many of the issues which I raised in my testimony on May 5 and indeed, which I have attempted to impress on my colleagues since 1982.

I ask that we keep in mind where our responsibility lies: It is to formulate a national policy that provides for research, education, voluntary testing, and counseling to ease the burden for those who have AIDS and to prevent the spread of AIDS to those who are healthy. It is in our power as elected Representatives to do this and H.R. 5142, despite its shortcoming on antidiscrimination measures, is a good and necessary first step.

I encourage my colleagues to stand up on the side of justice, compassion and sound public health policy, and support the AIDS Federal Policy Act without any restrictive amendments.

Mr. MADIGAN. Mr. Chairman, I am pleased to participate in this debate on H.R. 5142, the Federal Aids Policy Act of 1988. I would like to begin by complimenting my two colleagues from the great State of California who have worked together to develop legislation that will benefit the citizens of this country. The bill before us today reflects compromises on all sides and is the result of their diligent efforts.

This legislation represents the many compromises resulting from the extensive hearings and markups held on this legislation. In sum, 51 amendments were offered to this legislation in subcommittee and full committee. Out of these amendments, a total of 30 were adopted by the committee.

The testing and counseling provisions of this bill differ considerably from H.R. 3071, the original bill introduced by Mr. WAXMAN last year. The proposal we are considering today deletes the very broad discrimination provisions in H.R. 3071 that provided a Federal prohibition of discrimination against individuals who test positive for the AIDS virus in employment, housing, public accommodations, and Government Services. I believe this is a major concession that makes enactment of this important legislation into law considerably more likely.

H.R. 5142 contains three titles. Title I authorizes the establishment of a voluntary counseling and testing program for HIV infection. Funds for this program would be allocated between a State block grant and a categorical grant program. States would be required to carry out a program of contact tracing and to assure that testing sites report sufficient information to the State public health officer to permit analysis of the incidence of HIV infection and actual cases of AIDS.

This title also contains informed consent protections for the individuals undergoing testing and establishes a Federal confidentiality standard for the protection of AIDS testing and counseling records. I strongly believe that individuals suffering from AIDS or HIV infection are entitled to such protection. At the same time, however, I believe public health concerns demand exceptions to the general rule of absolute confidentiality. I am pleased that the bill before us today allows for these public health exceptions in order to provide notification to individuals who may have been exposed to the disease such as health care providers, funeral directors, spouses, sexual contacts, needle sharers, victims of sexual assault, and by court order of the public health officer.

Additionally, I believe it is important that the bill provides for the routine notification of emergency medical personnel if it is determined these personnel have been involved in the transport of an infected patient. Further, the bill provides for mandatory testing of persons convicted of prostitution, sexual assault, or crimes related to IV drug abuse. Finally, this title also includes language prohibiting the use of funds for counseling that promotes, or encourages directly, homosexual or unsafe heterosexual activity or IV substance abuse.

Title II contains provisions addressing AIDS-related research activities. I believe these provisions are worthwhile and will prove important in our fight against AIDS. I am pleased these provisions were substantially modified during committee consideration to delete provisions mandating the bypass of budget review by the Office of Management and Budget and to delete a number of inappropriate managerial directives.

I did not support this title of the bill when it was reported out of the Energy and Commerce Committee because I was concerned about the precedent of a provision mandating the hiring of personnel by the Department of Health and Human Services to conduct work on AIDS-related research activities. I am pleased to report that the chairman of the Health and the Environment Subcommittee and I have worked out our differences on this point. I will be offering an amendment that reflects our agreement to modify these provisions.

Title III of the bill establishes a national commission on AIDS. The text of this title is identical to a bill that passed the House last year by a substantial margin. Essentially, the purpose of the national commission will be to continue the work of the President's Commission on AIDS. Given the projected impact of this disease in our society in the very near future, I believe continuation of such a commission is both appropriate and timely.

In conclusion, I urge my colleagues to act prudently and to adopt realistic and balanced legislation. I am hopeful that we will be able to send this legislation to the President before the Congress adjourns.

Mr. LENT. Mr. Chairman, I am pleased that the House is considering H.R. 5142, the AIDS Federal Policy Act of 1988. Many compromises and a great deal of work has been required to reach this point in the legislative process.

Much of the credit for this accomplishment must go to the bill's sponsor, our distinguished chairman of the Subcommittee on Health and the Environment and to another tenacious gentleman from California [Mr. DANNEMEYER]. Many of Mr. DANNEMEYER'S proposals have received wide support and no less than seven amendments have been adopted and are reflected in H.R 5142. I would also like to recognize the ranking Republican Member, my friend and colleague from Illinois for his work on this bill.

H.R. 5142 is comprehensive in the programs it offers and includes confidentiality and disclosure provisions to protect individuals infected with AIDS from the personal and social rejection associated with this epidemic. At the same time, the bill provides appropriate exceptions of this rule for notifying others who may have been exposed to the virus. I commend all those involved in the negotiations on this bill for their willingness to put the bill above their personal interests in order to make the compromises on sensitive issues which were necessary.

Finally, I believe the passage of this legislation will be a major step toward a solution to the AIDS epidemic. I urge all my colleagues to join me in support of this important legislation.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 5142, the AIDS Federal Policy Act of 1988. The need for a comprehensive and coordinated Federal response to the tragic AIDS epidemic has never been greater. This legislation, a compilation of a number of legislative measures, is a viable vehicle for the implementation of Federal AIDS policy.

More than 70,000 cases of AIDS has been confirmed in this country to date. More than 39,000 individuals have died from it. Caused by a virus which impairs the immune system, AIDS leaves affected individuals susceptible to numerous diseases and infections. The Public Health Service estimates that 1.5 million Americans are infected with the AIDS virus, while the World Health Organization estimates that more than 10 million people worldwide are infected with this fatal virus. No cure is available, and no vaccine has yet been discovered.

In years of research, we have learned that acquired immune deficiency syndrome can be contracted through sexual contact, the intermingling of blood and bodily fluids, as well as contaminated needles and related illicit IV-drug paraphernalia. As ranking minority member of the House Select Committee on Narcotics Abuse and Control, I applaud the Health Subcommittee's serious consideration of the relationship between intravenous drug use and AIDS. Of the AIDS cases reported to the Centers for Disease Control since January 1988, over 30 percent were associated with IV drug use. Clearly, it is imperative that any AIDS legislation encompass a strategy for dealing with IV-drug related AIDS. The percentage of IV related AIDS cases is growing yearly.

Earlier in this Congress, Chairman RANGEL and I introduced a comprehensive IV-drug related AIDS measure. That bill, H.R. 3292, known as the Intravenous Drug Abuse and AIDS Prevention Act of 1988, would have provided $400 million in grant funding to the States to combat this newest health menace. Although that measure is not among those contained within H.R. 5142, the legislation before us does indeed authorize $400 million in each of fiscal years 1989-91 for counseling and testing to prevent and reduce the transmission of the AIDS virus. As drafted, 50 percent of the funds are allocated to the States through formula grants, while the remaining 50 percent are meant for categorical grants such as alternate blood testing sites, nonprofit hospitals, youth drug and alcohol rehabilitation programs, and clinics treating sexually transmitted diseases.

Other sections of the pending legislation would provide guidelines pertaining to voluntary testing and counseling, including the important matter of confidentiality. States receiving grant moneys would also be required to conduct mandatory testing, beginning in October 1990, for those convicted of prostitution, sexual assault, or crimes related to intravenous drug abuse. States must also develop by that date civil and criminal offenses to respond to those infected individuals who intentionally infect another person with the AIDS virus. And, the research section of H.R. 5142 would expand and expedite AIDS related biomedical research programs.

Mr. Chairman, the AIDS crisis continues to take its toll upon society through the use and abuse of illicit substances. Surveys of blood samples from drug users entering treatment programs in New York City found that 55 to 63 percent were carriers of the AIDS virus. These 3 year figures are indeed frightening. While the primary method of transmitting the virus among IV-drug abusers is through the sharing of contaminated needles and other works, infection from these abusers—which consists not only of herion addicts, but of a growing number of IV-cocaine addicts—is passed on to nonusers through sexual activity. In this matter we see AIDS occurring in ever growing numbers among the female sexual partners of intravenous drug users. Tragically, babies are also being born with AIDS, acquired from an infected mother. One of the most chilling new statistics about AIDS is that it has now become the leading cause of death in New York City for women in their mid-twenties to early thirties.

Yet, only a few days ago, the New York Post published a series of articles that sheds even more frightening light on the AIDS problem. Thousands of homeless boys and girls sell themselves on the streets of New York City in order to satisfy their cravings for illicit drugs. Many of these are crack abusers, which is alleged to heighten sexual activity. The vicious cycle encountered by these young, abusing prostitutes indicates that many of them are infected with the AIDS virus as well. We have become familiar with IV-drug related AIDS, but now, it seems, that tragically, we will have to contend with an explosion of crack related AIDS in our major urban centers.

Mr. Chairman, I would like to insert one of these articles in the CONGRESSIONAL RECORD for close review by my colleagues. Clearly, while I support the legislation now pending, a new drug related AIDS epidemic is emerging that deserves the serious consideration of health care workers, prevention and treatment specialists, and policy formulators throughout the Nation. Perhaps our Narcotics Select Committee will have the opportunity to schedule hearings early next Congress. In the interim, Mr. Chairman, I urge my colleagues to vote for the AIDS Federal Policy Act of 1988. Its provisions are vitally needed.

INVESTIGATION OF THE TRAGIC PLIGHT OF THE CITY'S YOUNG PROSTITUTES—AIDS PLAGUE HITS TEENAGE HOOKERS

Richie is an 18-year-old from Long Island who was born the youngest of 10 kids.

He's clean-cut and handsome, and he looks like any high school teenager as he stands on the corner in his long-sleeved rugby shirt and shorts.

He's been living on the street in New York City selling his body for over a year now.

"Yeah, I'm afraid of AIDS," says Richie. "Some of my friends think I have it because of these."

Richie raises his long sleeves to show the scabbed lesions that run from his wrist to the top of his arm. He also points to the lesions on the side of his mouth.

"This is just a pimple that got infected," he says, reassuringly. "I know I don't have AIDS because I'm careful about who I go with.

"No, I don't use condoms. And if any kid out here—boy or girl—tells you they do, they're lying because none of the johns will let you use them," he says, adamantly.

Richie has not been tested for AIDS. He continues night after night to sleep with johns—business men, married and gay, who pay him $50 to $100 a trick.

He and other kids just like him solicit sex on Manhattan's posh Eastside at 53rd St. and Second Av.

For the first time in the history of the AIDS epidemic in this city, significant numbers of street kids—boys and girls—are testing positive for the HIV virus.

"And many of them eventually get jobs and go on to a larger circle of society—an adult society where they disperse and comingle with people just like you and me," said Dr. James Kennedy, director of medicine at Covenant House and associate professor of medicine at New York University Hospital.

About 80 to 90 percent of these kids—estimated at 20,000—sell their bodies for sex every night, according to the outreach groups Covenant House and the Victim Services Agency.

And according to a survey conducted by Montefiore Medical Center's AIDS in Adolescents Program, New York City has 21 percent of all the adolescent AIDS cases in the nation.

"This is a very real issue—a very, very real issue in the AIDS epidemic," said Kennedy.

"We have a group of adolescents who are engaging in activity within a population that is infected," he said." And they are acquiring and transmitting the virus.

"They do all the things you would have to do to catch this virus from someone, and they do it with great regularity."

Kennedy said it wasn't until last summer that the HIV virus started appearing in street kids.

"During the summer of 1987 we [Covenant House] started testing kids who were sick—kids who clearly had ARC [AIDS-related complex] and AIDS- and HIV-related infections," he said.

"And we began seeing very significant numbers of kids, many of whom go right back out on the street—after they test positive.

"If you look at the overall number of people we were seeing infected in the gay community in 1979 and 1980, we're seeing at least as many now in the street kid population," he said.

"We tested the kids who I thought were at significant risk because of their lifestyle—and six of the first 10 kids tested positive for the virus.

"And we went on to test another 50, and roughly 40 percent of them turned out to be positive," said Kennedy.

"And 31 percent of the last 100 kids we tested were positive," he said. "That's 31 patients in this clinic—and we don't come anywhere near testing everybody."

Both Covenant House and the Montefiore Center only test kids on a voluntary basis.

"The significant thing is that we're seeing as many infected girls as we are infected boys," said Kennedy.

"And one thing that is very clear—these were all sexually transmitted infections. There were no intravenous drug users in the test group, said Kennedy.

When you ask Richie why he doesn't go home he says he can't because his parents are divorced and his mother can't support him.

He lived with his sister and her boyfriend for a while, but he says they physically abused him.

So Richie dances in burlesque clubs for about $150 a night and turns tricks at 53rd St. and Second Av. in his high school clothes. He knows the younger he looks, the more tricks he'll get.

"When I first met Richie over a year ago, he said he was only going to be out here for a week," said Anne Donahue, director of the Covenant House Outreach Program.

He said, "I just need to make some money to tide me over until I get a job," she said. "He's aged so much in one year. He's a different person."

Richie says he wants to get married and have children some day—but only if he makes enough money.

"I want to create a life with sombody," he says. "But you shouldn't have kids unless you have enough money to take care of them."

He pulls down his sleeves to cover the lesions as a john approaches.

"I never got any attention at home," says Richie, "And I came out here and everybody looks at me and wants me.

"I love people to want me. I want people to look at me and want to be like me."

Richie walked away saying he knows other kids have AIDS, but not him.

Nobody has good scientific data on the HIV virus and street kids.

Montefiore's Adolescent AIDS Program has tested some kids and agrees with Kennedy's findings.

"We've got a real problem," said program director, Dr. Karen Hein. "This is the next wave of the epidemic—AIDS in adolescents."

Montefiore's survey found that the spread of the virus through heterosexual contact accounts for over half of all the adolescent female cases in New York City, said Hein.

"That's a much higher percentage than is true with adult females," she said.

The State Dept. of Health has just begun a statewide survey to test for the HIV virus in adolescents—the first such study in the state, said Health Dept. spokesman Fran Tarlton.

"We"re trying to look at high risk adolescents—those involved with intravenous drugs and street kids," said Tarlton.

But, she said, all of the testing will be blind and not linked to individuals. The state expects to see results by early next year.

New York City has no real numbers on street kids testing positive for the HIV virus because they receive only anonymous specimens for testing, said Dr. Polly Thomas, director of surveillance for the Dept. of Health.

"We have a small number of adolescents who have actually been reported with AIDS," said Thomas.

Convenant House is building two new special needs floors in its dorms at 41st and Tenth Av. which they hope will be completed by December.

"It's for the kids that we know are very, very likely to die of AIDS," said Kennedy.

"It's important that people understand that you can't stop the spread of this disease among these kids by slipping a condom on them," he said.

"You've got to get the kids off the street. The problem is not that there's a virus out there.

"The real problem is why are there 20,000 kids abandoned to the streets of New York City."

Mr. TAUKE. Mr. Chairman, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield back the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. RICHARDSON] having assumed the chair, Mr. VENTO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5142) to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such act with respect to research programs relating to such syndrome, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 5142, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS AMENDMENTS ACT OF 1988

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2393) to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize such act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Protection and Advocacy for Mentally Ill Individual Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. SCOPE OF COVERAGE.

Section 102 (42 U.S.C. 10802) is amended—

(1) in paragraph (1), by inserting "or death" after "caused, injury";

(2) in paragraph (3)—

(A) by inserting "(i)" after the subparagraph designation in subparagraph (B);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof the following: ", even if the where abouts of such inpatient or resident are unknown; or"; and

(C) by adding at the end thereof the following new clause:

"(ii) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility."; and (3) in paragraph (4)—

(A) by inserting "or death" after "injury" each place such word occurs; and

(B) by inserting before the period at the end thereof the following: ", including the failure to maintain adequate numbers of appropriately trained staff".

SEC. 4. ESTABLISHMENT OF A GOVERNING BOARD.

Section 105 (42 U.S.C. 10805) is amended—

(1) in subsection (a)(6), by striking out "a board" and inserting in lieu thereof "an advisory council"; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) In States in which a system established in a State under section 103 to protect and advocate the rights of mentally ill individuals is organized as a private nonprofit entity with a multi-member governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. The governing board shall be composed of—

"(A) members (to be selected no later than October 1, 1990) who broadly represent the clients served by the system; and

"(B) in the case of a system organized as a private non-profit entity, members who broadly represent the clients served by the system including the chairperson of the advisory council of such system.

"(2) The governing board established under paragraph (1), and the person acting in the same capacity as such in States that do not have a multi-member governing board, shall—

"(A) be responsible for the planning, design, implementation, and functioning of the system; and

"(B) consistent with subparagraph (A), jointly develop the annual priorities of the system with the advisory council.".

SEC. 5. ADVISORY COUNCIL REPORT.

Section 105(a)(7) (42 U.S.C. 10805(a)(7)) is amended by striking out the period and inserting in lieu thereof the following: ", including a section prepared by the advisory council that describes the activities of the council and its assessment of the operations of the system;".

SEC. 6. ACCESS TO RECORDS.

Section 106(b) (42 U.S.C. 10806(b)) is amended by adding at the end thereof the following new paragraph:

"(3) As used in this section the term 'records' includes reports of incidents of abuse and neglect prepared by the facility staff, and discharge papers under circumstances consistent with our provisions of this Act.".

SEC. 7. GENERAL ACCOUNTING REPORT.

Section 114 (42 U.S.C. 10824) is amended—

(1) in the section heading, by striking out "BY THE SECRETARY"; and

(2) by adding at the end thereof the following new subsection:

"(c) Not later than 18 months after the date of enactment of this subsection, the Comptroller General of the General Accounting Office shall prepare and submit, to the appropriate Committees of Congress, a report that—

"(1) identifies whether mentally ill individuals, as defined in section 102(3)(A), held in Federal, State, and local jails and prisons are subjected to abuse and neglect;

"(2) describes the extent to which mentally ill individuals, as defined in section 102(3)(A), are being inappropriately confined in prisons or jails instead of being served by appropriate mental health programs, and the factors contributing to such inappropriate placements;

"(3) describes model State and local programs designed to divert mentally ill individuals, as defined in section 102(3)(A), from prisons and jails, and place such individuals into appropriate mental health programs;

"(4) describes the extent to which public defenders have knowledge of or have received specific training regarding the special needs of mentally ill individuals, as defined in section 102(3)(A), who are confined in prisons or jails, and the extent to which such public defenders represent such mentally ill individuals when incidents of abuse or neglect are alleged; and

"(5) identifies and analyzes any other issues considered appropriate by the Comptroller General.".

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) Subcontracting.—Section 104(a)(2) (42 U.S.C. 10804(a)(2)) is amended by striking out "which, on the date of enactment of this Act" and inserting in lieu thereof "including, in particular, groups run by individuals who have received or are receiving mental health services, or the family members of such individuals, which".

(b) Technical Assistance Limitations.—

(1) State assistance.—Section 104(b)(2) (42 U.S.C. 10804(b)(2)) is amended by striking out "5 percent" and inserting in lieu thereof "15 percent".

(2) Assistance by the secretary.—Section 115 (42 U.S.C. 18025) is amended to read as follows:

"TECHNICAL ASSISTANCE

"Sec. 115. The Secretary shall use not more than 2 percent of the amounts appropriated under section 117 to provide technical assistance to eligible systems with respect to activities carried out under this title, consistent with requests by such systems for such assistance.".

(c) Additional System Requirements.—Section 105(a) (42 U.S.C. 10805(a)) (as amended by section 5), is further amended by adding at the end thereof the following new paragraphs:

"(8) on an annual basis, provide the public with an opportunity to comment on the priorities established by, and the activities of, the system; and

"(9) establish a grievance procedure for clients or prospective clients of the system to assure that mentally ill individuals have full access to the services of the system.".

(d) Applications.—Section 111 (42 U.S.C. 10821) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Applications submitted under this section shall remain in effect for a 3-year period, and the assurances required under this section shall be for the same 3-year period.".

(e) Allotment Formula.—Section 112(a) (42 U.S.C. 18022(a)) is amended—

(1) in paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) and subject to the availability of appropriations under section 117—

"(A) if the total amount appropriated in a fiscal year is at least $13,000,000—

"(i) amount of the allotment of the eligible system of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall be the greater of—

"(I) $140,000; or

"(II) $125,000 in addition to the amount determined under paragraph (3); and

"(ii) the amount of the allotment of the eligible system of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be the greater of—

"(I) $75,000; or

"(II) $67,000 in addition to the amount determined under paragraph (3); and

"(B) if the total amount appropriated in a fiscal year is less than $13,000,000, the amount of the allotment of the eligible system—

"(i) of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000 in addition to the amount determined under paragraph (3); and

"(ii) of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall not be less than $67,000 in addition to the amount determined under paragaph (3)."; and

(2) by adding at the end thereof the following new paragraph:

"(3) In any case in which the total amount appropriated under section 117 for a fiscal year exceeds the total amount appropriated under such section, as in effect on the day before the date of enactment of this paragraph, for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the allotments under clauses (i)(II) and (ii)(II) of subparagraph (A) and clauses (i) and (ii) of subparagraph (B) of paragraph (2) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 117 for the fiscal year for which the increase in minimum allotment is made, minus;

"(B) the total amount appropriated under section 117 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 117 for such preceding fiscal year.".

(f) Authorization of Appropriations.—Section 117 (42 U.S.C. 10827) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 117. For allotments under this title, there are authorized to be appropriated $14,300,000 for fiscal year 1989, $18,500,000 for fiscal year 1990, and $23,500,000 for fiscal year 1991.".

MOTION OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Richardson moves to strike all after the enacting clause of the Senate bill, S. 2393, and to insert in lieu thereof the provisions of H.R. 5155, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize appropriations for activities under such Act, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5155) was laid on the table.

The SPEAKER pro tempore (Mr. Vento). Under a previous order of the House, the gentleman from California [Mr. Konnyu] is recognized for 5 minutes.

[Mr. KONNYU addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

HANDICAPPED PROGRAMS TECHNICAL AMENDMENTS ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Owens] is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, I am introducing today the "Handicapped Programs Technical Amendments Act of 1988." This bill makes technical and conforming amendments to the Education of the Handicapped Act, the Rehabilitation Act of 1973, the Helen Keller National Center Act, two joint resolutions, approved on August 11, 1945 and July 11, 1949, respectively, concerning the newly renamed President's Committee on Employment of People With Disabilities, and two statutes, 20 Stat. 467, 468, as amended, and 41 Stat. 272, as amended, concerning the American Printing House for the Blind. I am pleased to report that there is unanimous support for this legislation among the House and Senate committees of jurisdiction and the Department of Education. We plan to bring this bill to the floor under a motion to suspend the rules Monday, September 26, and expect that it will pass both Chambers and be signed into law before the session comes to a close.

A section-by-section analysis of the bill follows:

Section-by-Section Analysis of Title I of the Bill

Section 101 of the bill amends section 602 of the Education of the Handicapped Act (hereinafter referred to as the EHA) by restructuring certain subsections and paragraphs to make them more readable; by deleting the reference to the National Advisory Committee on the Education of the Handicapped because the statutory authority for the Committee was repealed by P.L. 99-457.

Section 101 of the bill also amends section 602 of the EHA by making necessary grammatical changes; by making the terminology gender neutral; by correcting certain cross-references; by deleting an erroneously designated subparagraph and making it an unlettered paragraph; and by clarifying that the term "institution of higher education" includes community colleges receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

Section 101 of the bill also amends section 605 of the EHA by making the terminology gender neutral; by making grammatical changes, and by correcting a cross-reference. The bill also amends section 607 of the EHA by correcting a cross-reference; and amends section 608 of the EHA by removing the acronym "IEP" and replacing it with the phrase "individualized education program" and by deleting a reference to the now defunct National Advisory Committee.

Section 102(a) of the bill amends section 611 of the EHA by making necessary grammatical changes; by correcting certain references; by making conforming changes to other parts of the Act; by making the terminology gender free; and by correcting a punctuation error.

Section 102(b) of the bill amends section 612 of the EHA by restructuring the section to make it more readable and by clarifying a reference.

Section 102(c) of the bill amends section 613 of the EHA by making the terminology gender neutral; by updating a cross-reference; by restructuring the section to make it more readable; by correcting punctuation errors; by making a necessary grammatical change; and by adding clarifying language.

Section 102(d) of the bill amends section 614 of the EHA by restructuring the section to make it more readable and by correcting punctuation errors.

Section 102(e) of the bill amends section 615 of the EHA by making necessary grammatical changes and by restructuring the section to make it more readable.

Section 102(f) of the bill amends section 616 of the EHA by restructuring the section to make more readable and by making the terminology gender neutral.

Section 102(g) of the bill amends section 617 of the EHA by making the terminology gender neutral and by clarifying a reference.

Section 102(h) of the bill amends section 618 of the EHA by restructuring the section to make it more readable; by clarifying references; and by correcting a punctuation error.

Section 102(i) of the bill amends section 619 of the EHA by improving the readability of the section; by making a necessary grammatical change; by correcting an erroneous reference; and by permitting the state educational agency, the local educational agencies, and the intermediate educational units in those states whose allotment of the succeeding fiscal year is adjusted downwards to have two fiscal years succeeding the fiscal year for which such funds were appropriated to expend such funds.

Section 103 of the bill amends sections 621, 622, 623, 624, 625, and 626 of the EHA by adding clarifying language; by correcting an erroneous reference; by making necessary grammatical changes; by restructuring applicable sections to make them more readable; by correcting spelling errors; and by correcting punctuation errors.

Section 104(a) of the bill updates the heading for part D of the EHA. Section 104(b) of the bill amends section 631 of the EHA by updating a cross-reference; by adding clarifying language; by making necessary grammatical changes; and by making state agencies eligible to compete for special projects under section 631(b) of the EHA.

Section 104(c) of the bill amends section 632 of the EHA by improving its readability; by adding a necessary cross-reference; and by clarifying that non-competitive grants shall be made to each state educational agency that applies and to an institution of higher education in any state in which a state educational agency does not apply.

The bill also authorizes the Secretary to make a limited number of grants to state educational agencies only on a competitive basis not to exceed 10 percent of the amount expended for grants under section 632 during the preceding fiscal year. It is our expectation that in the event the Secretary exercises his or her authority under this subsection that the grant program will be designed in cooperation with the State educational agencies and reflect the needs of the states.

Section 104(d) authorizes the Secretary to make continuation grants to institutions of higher education that received competitive grants for fiscal year 1987 under section 632 as then in effect.

Section 104(e) of the bill amends section 633 of the EHA to clarify a reference.

Section 105 of the bill updates the heading for part E of the EHA and amends section 641 of the EHA by correcting punctuation errors and updating a cross-reference.

Section 106(a) of the bill updates the heading for part F. Section 106(b) of the bill amends section 651 of the EHA by restructuring the section to make it more readable and by updating references. Section 106(c) of the bill amends section 652 of the EHA by updating references; by making grammatical changes; and by making the terminology gender free.

Section 107 of the bill updates the heading for part G and amends section 661 of the EHA by correcting an erroneous cross-reference.

Section 108 of the bill amends section 671, 672, 675, 676, 677, 678, 679, 680, 681, and 682 by making necessary grammatical changes; by correcting erroneous references; and by correcting punctuation errors. This section is not intended in any way to expand the scope of authorized activities.

Section 109 of the bill provides that notwithstanding section 412(b)(2) of the General Education Provisions Act, a state educational agency may use funds made available in fiscal year 1986 under the preschool provisions of the Act for expenditure in fiscal year 1987 in accordance with the provisions of the Act in effect during FY 1986.

Section 110 of the bill provides that 34 CFR 300.300(b)(3) of the EHA does not apply to children aged 3-5 in any state for any fiscal year during the phase-in period for which the state receives a grant under section 619(a)(1) of the EHA. Section 300.300(b)(3) provides that if a public agency provides education to 50 percent or more of its handicapped children in any disability category in the 3-5 age group, it must make a free appropriate public education available to all of its handicapped children of the same age who have that disability.

TITLE II—REHABILITATION ACT OF 1973

Section 201(a) of the bill amends section 3(a) of the Rehabilitation Act of 1973 (hereinafter the "Act" for purposes of title II of the bill) by striking "National Council on the Handicapped" and by replacing it with "National Council on Disability" to reflect the name change.

Section 201(b)(1) of the bill amends section 6(a) of the Act by eliminating an obsolete reference to the Developmental Disabilities Services and Facilities Construction Amendments of 1970 and by replacing it with a reference to the Developmental Disabilities Assistance and Bill of Rights Act.

Section 201(b)(2) of the bill amends section 6(b) of the Act by eliminating an obsolete reference to the Developmental Disabilities Services and Facilities Construction Amendments of 1970 and by replacing it with a reference to the Developmental Disabilities Assistance and Bill of Rights Act. This subsection also strikes the last sentence and replaces it with a new format to improve its readability.

Section 201(c) of the bill amends section 7 of the Act by correcting punctuation errors; spelling errors; striking a repetitive phrase; and by making necessary grammatical changes.

Section 201(d) of the bill amends section 10 of the Act by correcting a punctuation error.

Section 201(e) of the bill amends section 12(c) of the Act by making the terminology gender neutral.

Section 201(f) of the bill amends section 14 of the Act by correcting a punctuation error and by making a necessary grammatical change.

Section 201(g) of the bill amends section 18 of the Act by correcting punctuation errors.

Section 202(a)(1) of the bill amends section 100(b) of the Act by eliminating an obsolete authorization of appropriations for American Indian vocational rehabilitation services. The authorization contained in this provision of the Act expired at the end of fiscal year 1986. Current authorizations are funded from set asides under the State grant program contained in section 110 of the Act.

Section 202(a)(2) of the bill amends section 100(c) of the Act by deleting the references to "price index" and replacing it with "Consumer Price Index" which is currently defined in section 100(c)(3) of the Act and by making a necessary grammatical change.

Section 202(a)(3) of the bill amends section 100(d)(1) by eliminating the unconstitutional legislative veto, and by improving the readability of the subsection which automatically extends certain authorization for an additional year if they are not reauthorized before the end of their terminal year.

Section 202(b) of the bill amends section 101(a) by correcting punctuation errors; making the terminology gender neutral; making necessary grammatical changes; and by clarifying assurance for statewide studies of the needs of individuals with handicaps in the state plan to improve the readability.

Section 202(c) of the bill amends section 102 of the Act by correcting an erroneous reference and by making necessary punctuation and grammatical changes.

Section 202(d) of the bill amends section 103(a) of the Act by correcting punctuation errors; changing the format to improve its readability; and making necessary grammatical changes.

Section 202(e) of the bill amends section 111 by deleting a repetitive phrase; improving the readability of the reduction of the maintenance of effort section; incorporating the effective date into the compilation; and correcting a punctuation error.

Section 202(f) of the bill amends section 112 of the Act by making necessary grammatical changes; correcting punctuation errors; adding the definition of "Governor" which was erroneously deleted; making the terminology gender neutral; and correcting an erroneous reference.

Section 202(g) of the bill amends section 120(a) of the Act by deleting an erroneous section reference.

Section 202(h) of the bill amends section 121(a)(3) of the Act by making a necessary grammatical change.

Section 202(i) of the bill amends section 130 of the Act by correcting a punctuation error, making necessary grammatical changes; and deleting an erroneous subsection.

Section 202(j) of the bill amends section 132 of the Act by deleting an obsolete provision.

Section 203(a) of the bill amends section 201(a)(1) of the Act of correcting a punctuation error.

Section 203(b) of the bill amends section 202 of the Act by making necessary grammatical changes; making the terminology gender free; changing the name of the "National Council on the Handicapped" to the "National Council on Disability"; making a change in a proper name; inserting an omitted word; changing the format mandating a Research and Training Center in the Pacific Basin to be more readable; changing the name of the "Interagency Committee on Handicapped Research" to "Interagency Committee on Disability Research" in order for the wording to conform to the name of the "National Institute on Disability and Rehabilitation Research" and correcting a punctuation error.

Section 203(c) of the bill amends section 203(a)(1) of the Act by changing the name of the "Interagency Committee on Handicapped Research" to "Interagency Committee on Disability Research" in order for the wording to conform to the name of the "National Institute on Disability and Rehabilitation Research".

Section 203(d) of the bill amends section 204 of the Act by making necessary grammatical changes; deleting unnecessary words; and inserting an omitted word.

Section 204(a) of the bill amends section 300(3) of the Act by making a necessary grammatical change.

Section 204(b) of the bill amends section 302(b)(3)(D) of the Act by making a necessary grammatical change.

Section 204(c) of the bill amends section 304 of the Act by making necessary grammatical changes; deleting an obsolete term; changing the name of "the Office of Information and Resources for the Handicapped" to "the Office of Information and Resources for Individuals With Disabilities"; abbreviating a current reference; and deleting a repetitive punctuation mark.

Section 204(d) of the bill amends section 305(a)(1) of the Act by making a necessary grammatical change.

Section 204(e) of the bill amends section 306 of the Act by making necessary grammatical change; inserting an omitted word; and correcting a punctuation error.

Section 204(f) of the bill amends section 310(a) by making a necessary grammatical change.

Section 204(g) of the bill amends section 311 of the Act by making necessary grammatical changes; correcting a punctuation error; inserting an omitted word; and making a necessary spelling change.

Section 204(h) of the bill amends section 312 of the Act making a necessary grammatical change.

Section 204(i) of the bill amends section 314(a)(2) of the Act by making a necessary grammatical change.

Section 204(j) of the bill amends section 316 of the Act by inserting an omitted heading and making a necessary grammatical change.

Section 204(k) of the bill repeals the obsolete section 313 provision where it follows section 316.

Section 205(a) of the bill amends the title heading for title IV of the Act by deleting "Title IV—National Council on the Handicapped" and replacing it with "Title IV—National Council on Disability."

Section 205(b) of the bill amends section 400 of the Act by changing the section heading to "Establishment of National Council on Disability"; changing the name of the "National Council on the Handicapped" to "National Council on Disability"; and making necessary grammatical changes.

Section 205(c) of the bill amends section 401 of the Act by making necessary grammatical and punctuation changes.

Section 205(d) of the bill amends section 402(a) of the Act by correcting a spelling error.

Section 205(e) of the bill amends section 403(b)(2)(B) of the Act by inserting omitted words and making necessary punctuation changes to improve its readability.

Section 206(a) of the bill amends section 501 of the Act by clarifying subsequent references; making necessary grammatical changes; making terminology gender free; making name changes; abbreviating a reference; and correcting a reference.

Section 206(b) of the bill amends section 502 of the Act by rewriting subsection (a)(2) to reflect the fact that it has twelve, not eleven members and to ensure that each year the terms of four appointed members of the board shall expire; making the terminology gender free; making necessary grammatical changes; correcting punctuation errors; correcting a reference; correcting a designation inconsistency; and making necessary spelling changes.

Section 206(c) of the bill amends section 503 of the Act by making necessary punctuation, grammatical and spelling changes.

Section 206(d) of the bill amends section 504 of the Act by making the terminology gender free and correcting a reference.

Section 206(e) of the bill amends section 506 of the Act by correcting a designation inconsistency; making a necessary grammatical change; and correcting a punctuation error.

Section 206(f) of the bill amends section 508 of the Act by inserting omitted words; making necessary grammatical changes; and ensuring that the revisions of guideline follow the same consultative process as the original development referred to in section 508(a)(1).

Section 207(a) of the bill amends section 612(b) of the Act by deleting obsolete references.

Section 207(b) of the bill amends section 621 of the Act by making necessary grammatical changes; correcting subsection references; and making a name change.

Section 207(c) of the bill amends section 622 of the Act by making a necessary grammatical change.

Section 207(d) of the bill amends section 623 of the Act by making necessary punctuation changes.

Section 207(e) of the bill amends section 633 of the Act by making necessary punctuation, grammatical and spelling changes.

Section 207(f) of the bill amends section 634 of the Act by inserting an omitted subsection number; making necessary grammatical changes; incorporating the waiver provision into the compilation; and correcting erroneous references.

Section 207(g) of the bill amends section 635(a)(1) of the Act by inserting an omitted word and making necessary punctuation changes.

Section 207(h) of the bill amends section 638 of the Act by inserting an omitted word.

Section 208(a) of the bill amends section 702(a) of the Act by inserting omitted words.

Section 208(b) of the bill amends section 703 of the Act by making necessary grammatical changes.

Section 208(c) of the bill amends section 704(b)(2) of the Act by correcting a reference.

Section 208(d) of the bill amends section 705(a)(4)(C) of the Act by inserting an omitted word; eliminating an obsolete reference; updating a reference.

Section 208(e) of the bill amends section 706 of the Act by making a necessary grammatical change.

Section 208(f) of the bill amends section 711 of the Act by making necessary grammatical changes; correcting punctuation errors; and changing a name.

Section 208(g) of the bill amends section 721(a)(6) of the Act by making a necessary grammatical change.

Section 208(h) of the bill amends section 731(a) of the Act by inserting an omitted word.

Section 208(i) of the bill amends section 741(d) of the Act by correcting the ommission of the last year of authorization and correcting a spelling error.

Section 209 of the bill amends the table of contents of the Act by deleting an obsolete section; updating section headings; and changing a name.

Section 210 of the bill amends subsection (b) of section of the Rehabilitation Act Amendments of 1986 by deleting a duplicative phrase.

TITLE III—AMENDMENTS RELATING TO THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

Section 301(a) of the bill amends the joint resolution entitled "Joint Resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week" by changing the commemorative week to a month and changing the name from "National Employ the Physically Handicapped" to "National Disability Employment Awareness Month".

Section 301(b) of the bill amends the joint resolution entitled the "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week" by updating the reference from week to month changing the name from "National Employ the Physically Handicapped" to "National Disability Employment Awareness Month"; changing the "President's Committee on Employment of the Handicapped" to the "President's Committee on Employment of People With Disabilities"; and adding a new subsection permitting the President's Committee on People with Disabilities to accept voluntary and uncompensated services.

TITLE IV—AMERICAN PRINTING HOUSE FOR THE BLIND AMENDMENTS OF 1988

Section 401 of the bill specifies that title IV of the bill may be cited as "American Printing House for the Blind Amendments of 1988".

Section 402 of the bill terminates the perpetual trust fund and permanent annual appropriations to the American Printing House for the Blind effective October 1, 1989.

Section 403 of the bill makes a conforming change regarding the termination of the perpetual trust fund.

Section 404 of the bill compensates the American Printing House for the Blind for any rights vested in the perpetual trust by an appropriation for Fiscal Year 1990.

Section 405 of the bill provides that references in other Federal laws to the perpetual trust and permanent annual appropriations shall not be given effect.

TITLE IV—AMENDMENTS TO THE HELEN KELLER NATIONAL CENTER ACT

Section 501 of the bill extends the authorization of the Helen Keller National Centers an additional year to conform to the reauthorization date of the Rehabilitation Act of 1973.

AUTHORIZING THE PRINTING OF TWO PUBLICATIONS FOR THE 200TH ANNIVERSARY OF THE UNITED STATES CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana [Mrs. BOGGS] is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, I am introducing two related resolutions to authorize the printing of booklets on black Americans in Congress and women in Congress as part of our overall commemoration of the 200th anniversary of the House next year.

These two publications have been recommended by the Commission on the Bicentenary of the U.S. House of Representatives. The preparation of these booklets will be the responsibility of the Office for the Bicentennial of the House, under the direction of our Historian, Dr. Raymond Smock.

Mr. Speaker, back in 1976, during the bicentennial of the American Revolution, the House prepared similar booklets which were very popular and important contributions to our bicentennial activities at that time. They were in great demand and the supply was quickly exhausted. They have been out of print for more than a decade now.

The Commission on the Bicentenary of the House of Representatives believes that these booklets, revised and expanded to include new information and to include Members who have been elected to the House and Senate in the past decade, will be a welcome addition to the publications in honor of our 200th anniversary.

AIDS FEDERAL POLICY ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, on Thursday of this week, September 22, the House is scheduled in the 100th Congress to take up H.R. 5142, the major AIDS bill, the first such bill that this 100th Congress will consider.

There are some provisions of that legislation that speak to the issue of how our country should be dealing with the epidemic, and I congratulate the Committee on Energy and Commerce for producing a project that in part gives the people of this country some needed legislative action to deal with this epidemic. There will, however, be a series of amendments offered.

The Member from California will be offering at least three amendments, and I have taken this time this evening for the purpose of discussing or, rather, advising my colleagues as to some of the reasons as to why this Member of California will be offering an amendment or, rather, at least three amendments to this bill, H.R. 5142, that were made in order by the Rules Committee and that previously were discussed and considered by this House last Friday.

I think it is appropriate for us to say that historically the way our country has dealt with communicable diseases deserves a modest level of attention when any of us are earning our living outside the medical profession seek to try to understand this whole AIDS epidemic and that is to come to an understanding or appreciation of how the public health care system has functioned in general in this country. It has historically been the case that the enforcement of public health laws in America has been at the city or the county or the State level, not at the Federal level. The Federal involvement and control of communicable disease in this country has been essentially in research under the National Institutes of Health with the gathering of statistical information and research being in the Centers for Disease Control in Atlanta, GA, and under the Surgeon General of the United States, who currently is Dr. Everett Koop.

The role of the Federal Government has essentially been advisory in nature. The issue of what diseases to be reportable to public health authorities has essentially be relegated to the States of the Union. In my State of California, for instance, 58 diseases are on the list of reportable diseases. AIDS itself, that is, fully developed AIDS, is on the list of reportable diseases, and has been for the last 6 years. Fully developed AIDS, to my knowledge, is a reportable disease in every State of the Union.

We Americans have noticed or reported something in excess of 70,000 fully developed AIDS cases around this country. That represents a tragic loss of lives. We are going to miss these people of our culture, mostly men who are meeting with a termination of their lives because of this epidemic. Not only will we miss them as individuals and their families will mourn them, but we will miss their contributions to our society, because many of them are in the most productive years of their lives.

Getting back to my original comments about understanding how the health care system functions, I think it is appropriate for us to begin with when any of us go into a doctor's office for an examination, because that is where the whole public health care system begins, at our family doctor's. When any of us are ill enough so that we need medical care from a doctor, one of the things that usually takes place early on in the examination in the doctor's room is that we will stick out our arm and the health care technician will place a tourniquet around our muscle above the elbow and puff up a bulb to create pressure so as to expose our viens, and then blood is taken from a vein. There the doctor will ask that the lab conduct tests on the blood as are dictated by the judgment of the physician, considering the complaints and systems exhibited by any of us as a patient to our physician.

The whole way our health care system has functioned is that when we put out our arm and let our blood be taken we impliedly consent to have our blood tested for any disease, virus or whatever that the physician believes is appropriate given the symptoms we reveal. That is the way the system functions, except that now this new virus, HIV-positive status, has come along, there is a provision in this bill that changes all that I have described.

□ 1745

It will establish for the first time that I have been able to figure out or find out in the history of the practice of medicine and public health control of communicable disease in America a new requirement just for people who are HIV positive, that before the doctor can test the patient's blood for the virus for AIDS the doctor must get written consent from the patient to test the virus, or rather to test the blood for the presence of the virus.

Mr. Speaker, this Member offered an amendment in the committee to eliminate that requirement for written consent. I asked the Committee on Rules to make the amendment in order so that the full House can consider that. The Committee on Rules saw fit not to make that amendment in order, and in my judgment it is a tragic failure for the House not to be able to consider that.

In my mind there is no reason why we should set this disease on a pedestal all of its own in how our public health care system seeks to deal with it. Why should our physicians be able to operate on the basis of implied consent in testing our blood for such conditions or pathogens or viruses as are called for in the judgment of a physician when we stick out our arm and permit our blood to be taken? But in this instance with the HIV possibility in our blood we require written consent. There is no rational reason why such a requirement should be in the law.

Mr. Speaker, the reason that it is in the bill is a reflection of what I call those who seek to treat this epidemic as a civil rights issue. For some reason the proponents of this provision in the bill that written consent has to be obtained to test the patient's blood for the virus for AIDS is nothing more than a carryover or an extension of that argument that somehow the civil rights of the person to be tested, at least in the instance for a person having HIV, is on a higher plane than the civil rights of somebody who does not have the disease and does not want to get it.

Aside from that fundamental flaw in this legislation, there is another provision of the bill that needs correction by an amendment that was made in order by the Committee on Rules on the whole cornerstone of public health's ability to deal with any communicable disease that has come down the pike, and and that is the concept of reportability in confidence to public health authorities.

Earlier today during general debate on this, the gentleman from Michigan [Mr. DINGELL], the distinguished chairman of the Committee on Energy and Commerce, made mention, as is appropriate, of the necessity of confidentiality in reporting of communicable diseases to public health authorities. I agree with him completely. But I think it is appropriate for us to observe that this Nation has witnessed the reportability of over 70,000 cases of fully developed AIDS to public health authorities in America so far, and this Member has not been aware of anyone claiming that the public health officials to whom these cases have been reported have breached the confidentiality law and improperly released or released at all the names of persons with fully developed AIDS that have been reported to public health officials.

Mr. Speaker, the point that I seek to make for my colleagues is that, if the existing system of confidentiality in public health reportability around the country has worked effectively to control, as it should, the identity of persons with fully developed AIDS, it will also work to protect the identity of persons who are HIV positive.

I would like to speak for just a few moments about the whole rationale for the necessity for having the concept of reportability in confidence for those who are HIV positive to be adopted when the House takes up H.R. 5142 on September 22. This amendment on reportability would give States and the Federal Government a clear understanding of the number of persons infected, would interrupt transmission of the virus to others not infected. It would ultimately protect the blood supply. Specifically it would condition receipt of certain Federal moneys on States requiring physicians and laboratories to report all cases of HIV infection to State and local health departments in confidence. Those statistics would then be reported to the Centers for Disease Control.

Mr. Speaker, this policy has been widely endorsed. The President's Commission in their final report recommended that identity linked reports be reported to health authorities in confidence so that public health officials may pursue partner notification.

In addition, in June of this year the American Medical Association called on States to trace the sexual partners of people infected with AIDS virus. "I think that contact tracing has the potential to substantially reduce the proliferation and spread of AIDS," said Dr. James Sammons, executive vice president of the 295,000 member American Medical Association.

The need for this amendment was best stated by the Colorado State Health Department when it adopted the requirement for mandatory reporting of HIV infected individuals just 8 months after the FDA approval of the ELISA test.

The purpose of mandatory reporting is fourfold; one, to alert responsible health agencies to the presence of persons likely to be infected with the highly dangerous virus; two, to allow responsible health agencies to insure that such persons are properly counselled as to the significance of their laboratory test and as to what they need to do to prevent further transmission of the virus; three, to allow responsible health agencies to monitor the occurrence and spread of infection of the virus in the population of Colorado; and, four, to allow responsible health agencies to recall persons with likely or proven HIV infection when specific antiviral treatment becomes available.

Mr. Speaker, these purposes are embodied in the amendment I intend to offer on September 22.

Mandatory reporting of venereal disease to the State health departments in confidence is not new to the U.S. system of controlling communicable diseases. During the 1930's when this country faced a syphilis epidemic, States enacted legislation requiring mandatory reporting of all syphilis cases to the State health departments. By 1940 every State in the United States required State reporting. It is important to note that we did not have a workable cure for syphilis until the discovery of penicillin in 1943, and yet cases of syphilis were required to be reported.

Mr. Speaker, my amendment would simply add HIV infection to the list of diseases which must be reported to public health authorities in confidence. At the present time positive HIV results must be reported to the State health departments in Arizona, Colorado, Florida, Idaho, Montana, South Carolina, Wisconsin, and Minnesota. A number of entities have independently determined that a policy of mandatory reporting of HIV infected individuals is, in fact, the best means of getting a handle on this burgeoning epidemic. According to a report in the American Medical News in February 1988, 77 percent of organs physicians favored reporting names of people with positive HIV tests to county health departments so that sexual partners and drug users could be notified. The health division is drafting administration rules to begin such a process.

The Medical Society of the State of New York recommended on February 2, 1988, that the AMA recommendations on reporting be modified so that reporting would be in confidence but not anonymous. Individuals who are found to be zero positive for the AIDS virus would be reported to public health authorities on a confidential basis with enough information to be epidemiologically significant. In order to be epidemiologically significant New York State considers changing from a system of anonymity to a system of confidentiality in reporting persons with HIV infection. The Medical Society concluded the current policy of providing total anonymity to individuals testing positive is inappropriate from a scientific standpoint and has the potential to frustrate efforts to deal with AIDS.

Similarly, the president of the Maryland State Medical Society states that HIV infection should be a reportable disease in Maryland and the public health system should be mandated to actively track down and warn sexual partners of all who test positive for the lethal disease. Currently only 15 States' public health departments encourage partner notification for IV needle sharing or sexual partners of infected individuals. Detailed results on the success of four of these programs are available and indicate that partner notification efforts have been very successful in testing and counseling identified contacts as well as altering behavior patterns to prevent further transmission. The States of Colorado, Idaho, Virginia, and South Carolina attest to the need for reporting in order to allow States to pursue contact tracing. Colorado results from January 1986 through December of 1987; 282 infected patients were offered partner notification services. They identified 508 partners of whom 414, 81 percent, were located. Of these 414, 44, 11 percent, had previously tested positive and were not contacted. Of the remaining 370 identified partners, 296, 79 percent, underwent counseling and testing, 74, 20 percent, were counseled but refused testing; 45, 15 percent, of those 296 newly tested, were positive for the HIV antibody. No one had previously been reported to the State. Idaho results from late 1985 to date: of 128 HIV positive patients identified since the program began in 1985, 97, 81 percent, have received counseling about partner notification. These patients identified 118 partners of which 59 were located. All 59 accepted counseling and testing, and 23, 39 percent, were found to be infected.

South Carolina results of 1987: in one rural county where only one case of HIV infection and known case of AIDS had been previously reported, 96 partners, 69 of whom were county residents, were named by a single HIV infected homosexual male. Of the 69 county residents who consented to testing, 12 partners, 18 percent, were infected.

Virginia results: between September 1986 and December 1987, 387, 19 percent of the 479 individuals testing positive for HIV antibody had sexually transmitted disease clinics return for test results that offered partner notification services. Of these 230, 59 percent chose to have the health department contact their partners. A total of 318 partners were located and accepted counseling; 44, 15 percent, were found to be HIV infected. Partner notifiction data reveals a high zero prevalence rate in many States ranging from 11 to 39 percent among identified as sex- or needle-sharing partners, many of whom are engaging in high risk behavior. Only be identifying such individuals through reporting can the partner notification process interrupt transmission by counseling infected individuals and those not infected but at risk about how to modify their behavior. Notifying unsuspecting partners is especially important because it enables persons who may not have been reached through other AIDS educations programs to receive risk reduction education. Opponents claim that mandatory reporting will force people underground. The facts simply do not support that assertion. A clear illustration of the falsity of that claim is made by the comparison of the percentage of people in Colorado who have been tested with the percentage of people who have been tested with the people in California. Colorado, which requires all laboratories and physicians to report all cases of HIV infection to State health departments reports that they have tested 6 percent of their population.

□ 1800

California, on the other hand, subjects a physician to criminal penalties if he or she tells anyone, including the State Health Department, about a case of HIV infection. In California because of these draconian standards, only 1 percent of the population has been tested.

In November of this year, proposition 102 will appear on the ballot in California and will permit the voters of that State to treat the AIDS epidemic as a public health issue, not a civil rights issue, and one of the provisions of that initiative will impose the same requirement on those with a noncurable venereal disease, such as the virus for AIDS, as currently is in the law in that State with respect to persons with a curable venereal disease, such as syphilis or gonorrhea; namely, reportability and accountability to public health authorities.

In addition, Missouri began reporting all HIV positive cases to the public health department in October and has not seen any drop in the number of people seeking testing since the reporting requirement went into effect. In May the health department began tracing the sexual contacts for every case of infection in the State.

The Army has been testing military recruits and active duty personnel since the ELISA test became available. They estimate that they have tested 1.7 million recruits since 1986 and that 2,500 have tested positive. Of the 2,500 testing positive only 150-200 infected individuals were reported back to States with identifying information for the purposes of contact tracing and followup medical attention. California and New York specifically declined to accept that information because they said they had no use for such results. Col. Donald Burke, the chief of the military's testing program at Walter Reed feels that this situation can be characterized as a truly "tragic scenario." This information "represents a tragically lost opportunity for public health officials to interrupt transmission and for individuals to seek early treatment."

I might share with my colleagues that some segments of the New York Medical Society have filed suit in the State of New York to compel the chief health officer of that State, Dr. Axelrod, to exercise his discretion to add HIV positive people to the list of reportable diseases. It is the hope of this Member from California that those plaintiffs in that lawsuit will be success in compelling the health officer of New York to list HIV positive persons as on the list of reportable diseases, because it is, as Col. Donald Burke has said, it is the means whereby our society has of interdicting and stopping the transmission of the virus of those who have it to those who do not.

Some States claim that they refuse such information because possession of identifying information about infected individuals threatens confidentiality of test results and could result in discrimination against infected individuals. Dr. Tom Vernon, director of the Colorado Department of Health, reports that his State has vigorously pursued reporting and contact tracing policies since 1986 and that there have been no breaches of confidentiality and no problem with discrimination. By tracing the partners of infected individuals Colorado has contacted 414 persons and found 45 or 15 percent positive since 1986. According to Nancy Spencer, State AIDS program manager, "The thing we think we're doing is preventing a person who has tested positive from transferring it to one new partner."

The 1987 South Carolina study also suggests that tracing those who had intimate contact with people infected with AIDS is effective in controlling the spread of AIDS. The South Carolina study which identified 19 infected individuals who were partners of one man found that after counseling many changed their sexual habits. Investigators reported that the HIV-positive men reduced their sexual contacts by 82 percent and uninfected men reduced their contacts by 54 percent. The South Carolina health officials contend that behavior changes resulting from the tracing make the effort worthwhile.

Opponents also contend that education alone will stop the disease because when infected individuals are informed about their status, they will inform their contacts independently without the help of the public health departments. Studies contradict that assertion. According to a study of homosexual and bisexual men published in the January 8, 1988, edition of JAMA 12 percent of those surveyed said they would not tell their primary sexual partners and 26.8 percent said they would not tell their nonprimary partners if they had engaged in other than high-risk activities with these individuals. One fifth (19.5 percent) of those infected did not intend to tell their nonprimary partners if they were seropositive and had engaged in high-risk sex with numerous multiple partners, mean number of partners, 4.38 during the previous month; 7.3 percent did not intend to communicate their HIV positive status to their nonprimary partners and had engaged in somewhat risky activities with multiple partners, mean number of partners, 2.67. These results were obtained from individuals seeking HIV-antibody testing at two alternative testing centers in Alameda County. The group of homosexual/bisexual men completed self-administered questionnaires prior to obtaining their test results.

If we are ever going to be able to control this epidemic we must know who is infected and who they may have infected so that public health authorities can effectively interrupt transmission. This system benefits not only the presently uninfected, but the infected, as it presents the opportunity for diagnosis and treatment at the earliest possible time. While AIDS is not a curable disease, it is treatable and recent studies indicate that early treatment is effective in slowing progression of the disease.

Mr. Speaker, there are two States in the Union that have almost half the cases so far that have developed, New York and California. Indeed, three cities in America have just about half the cases: New York, Los Angeles, and San Francisco. Those two States have something in common. Neither of them now mandate reportability for those people who are HIV positive. Those three cities, New York, Los Angeles, and San Francisco, also have something in common. They each have adopted antidiscrimination laws for persons who are HIV positive.

I think it is appropriate for us to ask a very fundamental question. How did it come to be that with this disease so decimating the States of New York and California that the public health officials in those States have failed to take action to make or pursue this routine step of reportability that historically has been used to control communicable disease that has come down the pike? The answer is that we Americans are looking at the first politically protected disease in the history of the country. That is the only rationale that any one of us can come up with.

When our public health officials refrain from pursuing a routine step that we historically have pursued, such as reportability in confidence to public health authorities, and then we look around and try to find out a rationale as to why we are not pursuing that in those two States, the only possible answer is that the people who are most adversely affected by it currently are not accountable to the public health care system and they want to continue that status for the indefinite future.

Nationally, 73 percent of the cases are found in male homosexuals. In those two States that group is not reportable as having HIV-positive status. It should be.

This disease should be treated no better, no worse, no different than any other communicable disease in our society, and our public health officials in New York and in California and across this country should be adopting a uniform standard of reportability for those who are HIV positives.

Some of my colleagues have argued that, well, it is a matter of States rights, that we should not, that is, at the Federal level, interfere with what the States want to do with respect to how a public health response in those States will be developed to deal with the epidemic.

Given the magnitude of the problem that by 1991 CDC says that we are going to have 270,000 people as having fully developed AIDS, that is a national tragedy. The scope for our society is absolutely mind boggling in terms of the adverse impact, the loss of life, the impact on the health care system, the drain on public resources for paying for or providing for health care for all these people who will be afflicted with this disease. We should for the sake of protecting the uninfected in our society have our public health officials recognize that this is a Federal problem, a national problem, not a States rights problem.

The analogy that I have used before, and I think it is appropriate in this instance, is to compare our actions in World War II. No one would have suggested that the Governors of the States of the Union should have been able to determine for themselves whether they would send men from the States of which they were Governors to defend the Government in World War II. It was a national commitment to win that war.

Similarly today, given the magnitude of the national problem in America, it just does not make sense for the Federal Government to permit a State in this country to pursue a policy which avoids implementing a routine step that historically has been pursued to control communicable disease; namely, reportability for those with a virus to public health authorities in confidence and contact tracing as a primary means of interdicting between those who have the virus and those who do not want to get it.

I have also heard the claim that, well, the civil rights of those who are affected by this virus requires that they not be accountable to the public health care system. To those who make that assertion, I can make this observation, that the civil rights of the uninfected should be entitled to just as much protection as the civil rights of the infected.

This Member from California on Thursday, September 22, when this bill is taken up, will also offer amendments to test hospital admitees between the ages of 15 and 49 and also an amendment for mandatory prison testing for persons going into the prison population and leaving the prison population.

I will also be assisting my colleague, the gentleman from Florida [Mr. McCollum] in his effort to have mandatory testing of premarital applicants.

These are all essential amendments to make H.R. 5142 truly a public health response to the AIDS epidemic and move it away from the civil rights response which it currently has in the form that it is now found at the desk of the Clerk of the House of Representatives, specifically anonymous reportability for those who are HIV positive, and the existence of the requirement that a physician has to get written consent to test a patient for the virus for AIDS.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore, entered, and granted to:

(The following Members (at the request of Mr. Dannemeyer) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 60 minutes, on September 28.

Mr. Gingrich, for 60 minutes, today.

Mr. Smith of New Hampshire, for 60 minutes, on October 5.

Mr. Dannemeyer, for 60 minutes, today.

Mr. Horton, for 60 minutes, on October 3.

(The following Members (at the request of Mr. Richardson) to revise and extend their remarks and include extraneous material:)

Mr. Owens, of New York, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Boggs, for 5 minutes, today.

Mr. Owens, of New York, for 5 minutes, each day on September 22 and 23.

Mrs. Boxer, for 60 minutes, on September 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Hammerschmidt, following Mr. Solomon of H.R. 4948, in House today.

Mr. Roberts, immediately preceding the remarks of Mr. Grandy of S. 659, in the House today.

(The following Members (at the request of Mr. Dannemeyer) and to include extraneous matter:)

Mr. Gradison.

Mr. Schuette.

Mr. Solomon in two instances.

Mr. McDade.

Mr. Gunderson.

Mr. Fish.

Mr. Davis of Michigan.

Mr. Oxley.

Mr. HORTON.

(The following Members (at the request of Mr. RICHARDSON) to revise and extend their remarks and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mrs. BOXER.

Mr. RICHARDSON.

Mr. KENNEDY.

Mr. COLEMAN of Texas.

Mr. COYNE.

Mr. DORGAN of North Dakota.

Mr. FASCELL in two instances.

Mr. MURTHA.

Mr. TORRES.

Mr. FORD of Michigan in two instances.

Mr. CARDIN.

Mr. BERMAN.

Mr. LELAND.

Mr. LAFALCE.

Mr. SYNAR.

Mr. MONTGOMERY.

Mr. TRAFICANT.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 129. Concurrent resolution expressing the support of Congress for the Dalai Lama and his proposal to promote peace, protect the environment, and gain democracy for the people of Tibet; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 439. An act for the relief of Thomas Wilson;

H.R. 4387. An act to authorize appropriations for fiscal year 1989 for intelligence and intelligence related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 4586. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; and

H.J. Res. 600. Joint resolution to commemorate the 50th anniversary of the passage of the Federal Food, Drug, and Cosmetic Act.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 2789. An act to require the Secretary of the Treasury to mint and issue $1 coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower;

S.J. Res. 169. Joint resolution designating October 2, 1988, as a day of recognition for Mohandas K. Ghandi;

S.J. Res. 290. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week";

S.J. Res. 329. Joint resolution to designate October 24 through October 30, 1988, as "Drug Free America Week";

S.J. Res. 333. Joint resolution to designate the week of October 15, 1988, as "National Job Skills Week"; and

S.J. Res. 336. Joint resolution designating October 16, 1988, as "World Food Day."

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September 15, 1988:

H.R. 4867. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, and

H.R. 4783. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

On September 16, 1988:

H.R. 2342. An act to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

ADJOURNMENT

Mr. DANNEMEYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 14 minutes p.m.), under its previous order, the House adjourned until Thursday, September 22, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4340. A letter from the Acting Deputy Assistant Secretary for Logistics, Department of the Air Force, transmitting notification of the decision to convert to contractor performance the military family housing maintenance function at Mather Air Force Base, CA, which was found to be the most efficient and cost-effective, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216), Public Law, 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Appropriations.

4341. A letter from the General Counsel, Export-Import Bank of the United States, transmitting a statement to the Congress with respect to a proposed transaction of more than $100 million with Venezuela, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

4342. A letter from the Director, Office of Dependents Schools, Department of Defense, transmitting the annual test report for school year 1987-88 for the overseas dependents' schools administered by the Department, pursuant to 20 U.S.C. 924; to the Committee on Education and Labor.

4343. A letter from the Acting Assistant Attorney General, transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions added thereto by the Prescription Drug Marketing Act of 1987; to the Committee on Energy and Commerce.

4344. A letter from the Assistant Secretary of Energy for International Affairs and Energy Emergencies, transmitting notification of a proposed subsequent arrangement under the agreement for cooperation between the United States and Japan involving the approval for sea transport of plutonium from either France, or the United Kingdom, to Japan, pursuant to 42 U.S.C. 2160 (H. Doc. No. 100-231); to the Committee on Foreign Affairs and ordered to be printed.

4345. A letter from the Administrator, Health Care Financing Administration, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4346. A letter from the General Counsel, Immigration and Naturalization Service, transmitting a report of the grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

4347. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a brief statement, covering the 12-month period ended June 30, 1988, on the activities of the Federal Courts under the Equal Access to Justice Act of 1980, which will be included in the annual report of the Director, pursuant to 28 U.S.C. 604(a)(4) and (h)(2); 28 U.S.C. 2412(d)(5); to the Committee on the Judiciary.

4348. A letter from the Commandant, United States Coast Guard transmitting an interim progress report on the study of the use of vessel tonnage in U.S. laws and regulations, pursuant to 46 U.S.C. 14301 nt.; to the Committee on Merchant Marine and Fisheries.

4349. A letter from the Acting Administrator, General Services Administration, transmitting informational copies of various lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4350. A letter from the Secretary of Transportation, transmitting the annual report on the status of the public ports of the United States for calendar years 1986 and 1987, pursuant to 49 U.S.C. 308(c); jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on September 14, 1988, the following report was filed on September 16, 1988]

Mr. de la GARZA: Committee on Agriculture. S. 659. An act to establish agricultural aid and trade missions to assist foreign countries to participate in United States agricultural aid and trade programs, and for other purposes; with amendments (Rept. 100-939, Pt. 1). Ordered to be printed.

[Submitted September 20, 1988]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4748. A bill to amend the Federal Railroad Safety Act of 1970 to provide for drug and alcohol testing for railroad employees; with an amendment (Rept. 100-940). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4039. A bill to disclaim any right, title, or interest of the United States in certain lands in the State of California which form a part of the right-of-way granted by the United States to the Southern Pacific Transportation Company, to declare that those lands have been abandoned by the railroad, and for other purposes, with amendments (Rept. 100-941). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4182. A bill to authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes, with an amendment (Rept. 100-942). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ROE: Committee on Science, Space, and Technology. H.R. 5132. A bill to amend the Federal Nonnuclear Energy Research and Development Act of 1974 to improve the transfer of technology or devices developed by the Department of Energy National Laboratories, and to improve interagency cooperation between the Department of Energy and other agencies with respect to technology transfer, with an amendment; referred to the Committees on Armed Services and the Judiciary for a period ending not later than September 30, 1988, for consideration of such provisions of the bill and amendment as fall within the jurisdictions of those committees pursuant to clause 1 (c) and (m), rule X, respectively. (Rept. 100-943). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DYMALLY:

H.R. 5332. A bill to amend the Foreign Assistance Act of 1961 to authorize international disaster assistance for Jamaica to assist in alleviating the human suffering caused by Hurricane Gilbert; to the Committee on Foreign Affairs.

By Mr. FAUNTROY:

H.R. 5333. A bill to provide for participation by the United States in a capital stock increase of the International Bank for Reconstruction and Development and a replenishment of the African Development Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. OWENS of New York:

H.R. 5334. A bill to make certain technical and conforming amendments to the Education of the Handicapped Act and the Rehabilitation Act of 1973, and for other purposes; to the Committee on Education and Labor.

By Mr. CRANE (for himself, Mr. Daub, and Mr. Frenzel):

H.R. 5335. A bill to require the Secretary of Health and Human Services to study and report on the feasibility and costs of providing periodic personal earnings and benefit statements to individuals covered under title II of the Social Security Act and to amend the Internal Revenue Code of 1986 to allow for access to address information necessary to provide such statements; to the Committee on Ways and Means.

By Mr. UDALL (for himself, Mr. Roe, Mr. Rodino, Mr. Florio, Mr. Dwyer of New Jersey, Mr. Hughes, and Mr. Guarini):

H.R. 5336. A bill to further the revitalization, rehabilitation, and utilization of the areas known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROYBAL:

H.J. Res. 659. Joint resolution designating El Paseo de las Flores Pedestrian Promenade and Hispanic Vietnam Veterans Memorial in Los Angeles, CA, as the "Hispanic Vietnam Veterans National Memorial;" to the Committee on House Administration.

By Mrs. BOGGS:

H. Con. Res. 367. Concurrent resolution authorizing printing of the booklet entitled "Black Americans in Congress;" to the Committee on House Administration.

H. Con. Res. 368. Concurrent resolution authorizing printing of the booklet entitled "Women in Congress;" to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

462. By the SPEAKER: Memorial of the General Assembly of the State of California, relative to Federal timber receipts; to the Committee on Agriculture.

463. Also, memorial of the General Assembly of the State of California, relative to trauma care; to the Committee on Energy and Commerce.

464. Also, memorial of the General Assembly of the State of California, relative to the U.S. airline workers; to the Committee on Public Works and Transportation.

465. Also, memorial of the General Assembly of the State of California, relative to Federal transportation funding; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1213: Mr. Espy and Mr. Bonior

H.R. 1352: Mr. Markey, Mr. Carr, Mr. Wolpe, and Mr. Ford of Michigan.

H.R. 1966: Mr. Ford of Michigan, Mr. Carr, and Mr. Markey.

H.R. 2134: Mr. Espy.

H.R. 2474: Mr. Skeen, Mr. Rinaldo, Mr. Young of Alaska, Mr. Moakley, Mr. Stallings, Mr. Roth, and Mr. Rahall.

H.R. 2852: Mr. Kostmayer.

H.R. 3454: Mr. Derrick, and Mr. Murphy.

H.R. 3660: Mr. Nagle.

H.R. 3769: Mr. Shays.

H.R. 3889: Mr. Campbell, Mr. Clarke, Mr. Hochbrueckner, Mr. Wolpe, and Mr. Bonior.

H.R. 4361: Mr. Herger.

H.R. 4576: Mr. Gallegly, Mr. Hyde, Mrs. Meyers of Kansas, and Mr. Penny.

H.R. 4720: Mr. McEwen.

H.R. 4847: Mr. Rinaldo, Mrs. Kennelly, Mr. Cooper, Ms. Kaptur, Mrs. Boxer, Mr. Roe, Mr. Beilenson, Mr. Conyers, Mr. Garcia, Mr. Moody, Mr. Kolter, Mr. Gallo, Mr. Morrison of Connecticut, Mr. Ackerman, Mr. Dellums, Mr. Atkins, Mr. Hochbrueckner, Mr. Markey, Mr. Rodino, Mr. Swift, and Mr. Bates.

H.R. 4950: Mr. Bustamante, Mr. Brown of California, Mr. Leach of Iowa, Mr. Schuette, Mr. Neal, Mr. Levine of California, and Mr. Lancaster.

H.R. 5018: Mr. Levine of California and Mr. Weiss.

H.R. 5050: Mr. Mrazek, Mr. Hochbrueckner, and Mr. Livingston.

H.R. 5081: Mr. Eckart.

H.R. 5113: Mr. Solarz and Mr. Traficant.

H.R. 5187: Mrs. Meyers of Kansas.

H.R. 5214: Mr. Gray of Pennsylvania, Mr. Rodino, Mr. Fuster, and Mr. Atkins.

H.R. 5270: Mr. Weiss.

H.R. 5271: Mr. Buechner, Mrs. Boxer, Mr. Crane, Mr. Fawell, Mr. Green, Mr. Lehman of California, Mr. Schumer, and Mr. Studds.

H.R. 5273: Mr. Anderson, Mr. Wilson, Mr. Burton of Indiana, Mr. Lewis of California, Mr. Courter, Mr. Solomon, Mr. Hunter, Mr. Wortley, Mr. Skelton, Mr. Porter, Mr. Erdreich, Mr. DioGuardi, Mr. Flippo, Mr. Henry, Mr. Bereuter, Mr. Dreier of California, Mr. Saxton, Mr. Oxley, Mr. Weldon, Mr. Green, Mr. Bustamante, Mr. Gejdenson, Mr. Horton, Mr. Denny Smith, Mr. Fawell, Mr. Atkins, Mr. Lantos, Mr. Frost, Mr. Hyde, Mr. Broomfield, Mr. Inhofe, Mr. Mack, Mr. Lewis of Florida, and Mr. Stratton.

H.R. 5274: Mr. Anderson, Mr. Wilson, Mr. Burton of Indiana, Mr. Lewis of California, Mr. Courter, Mr. Solomon, Mr. Hunter, Mr. Wortley, Mr. Skelton, Mr. Porter, Mr. Erdreich, Mr. DioGuardi, Mr. Flippo, Mr. Henry, Mr. Bereuter, Mr. Dreier of California, Mr. Saxton, Mr. Oxley, Mr. Weldon, Mr. Green, Mr. Bustamante, Mr. Gejdenson, Mr. Horton, Mr. Denny Smith, Mr. Fawell, Mr. Atkins, Mr. Lantos, Mr. Frost, Mr. Hyde, Mr. Broomfield, Mr. Inhofe, Mr. Mack, Mr. Lewis of Florida, and Mr. Stratton.

H.R. 5329: Mr. Rinaldo, Mr. Atkins, Mr. Molinari, Mr. Courter, Mr. Smith of New Jersey, and Mr. Saxton.

H.J. Res. 449: Mr. Swindall, Mr. Regula, Mr. Yates, Mr. Rose, Mr. Skaggs, Mr. Lujan, Mr. Pickle, Mr. Wyden, Mr. Markey, Mr. Studds, Mr. Mavroules, Mr.

Carr, Mr. Dickinson, Mr. Johnson of South Dakota, Mr. AuCoin, and Mr. Price of North Carolina.

H.J. Res. 503: Mr. McCollum, Mr. Campbell, and Mr. Dixon.

H.J. Res. 597: Mr. Dellums, Mr. Visclosky, Mr. Sabo, and Ms. Kaptur.

H.J. Res. 598: Mr. Weiss and Mr. Buechner.

H.J. Res. 615: Mr. Lancaster, Mr. Rodino, Mr. Weiss, Mr. Lungren, and Mr. Emerson.

H.J. Res. 623: Mr. Brennan, Mr. Young of Florida, and Mrs. Bentley.

H.J. Res. 639: Mr. Hatcher, Mrs. Collins, Mr. Gregg, Mr. Quillen, Mr. Roe, Mrs. Bentley, Mr. Lantos, Mr. Lipinski, Mr. Horton, Mr. Weiss, and Mr. Lancaster.

H.J. Res. 642: Mr. Porter, Mr. Whittaker, Mr. Inhofe, and Mr. Fawell.

H. Con. Res. 333: Mr. Penny.

H. Con. Res. 358: Mr. Henry, Mr. Eckart, Mr. Jontz, Ms. Pelosi, Mr. Mrazek, Mrs. Boxer, Mr. Levin of Michigan, and Mr. Lancaster.

H. Res. 225: Mr. Swindall.

H. Res. 471: Mr. Coleman of Texas, Mr. Hamilton, Mrs. Meyers of Kansas, Mr. Neal, and Mr. Lehman of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3822

By Mr. SOLOMON:

On page 13, line 4, at the end add the following:

"The procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress which are required to be established by the House of Representatives and the Senate pursuant to this subsection shall ensure that Members of Congress and officers, staff or employees of the Congress who gain access to such information under the provisions of this Title are made subject to security procedures that are comparable to those applicable to officials and personnel of the Intelligence Community, and shall include the completion of an appropriate background investigation prior to becoming eligible to receive classified information and regularly thereafter as long as such eligibility continues, submission to periodic counterintelligence polygraph testing administered on a random basis, and prohibition of continued access to classified information by any Member, or continued employment of any officer, employee or staff member, who, having had authorized access to classified information in such capacity, is found to have knowingly and willfully disclosed the substance of such information to anyone not authorized to receive it.".

EXTENSIONS OF REMARKS

H.R. 5320, THE ELDER-CARE LONG-TERM CARE ASSISTANCE ACT OF 1988

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. WAXMAN. Mr. Speaker, last Friday, September 16, 1988, I, along with my colleagues, Congressman WALGREN and Congressman MARKEY of the Energy and Commerce Committee, introduced H.R. 5320, the Elder-Care Long-Term Care Assistance Act of 1988. The purpose of this legislation is to establish a comprehensive program under the Medicare statute that offers protection against the devastating costs of in-home long-term care services and nursing home care.

As was so painfully clear during the debate to expand Medicare to provide catastrophic coverage for acute medical expenses, long-term care is a catastrophic burden that virtually no one can afford. Although long-term care is the real financial catastrophe that Americans fear most, it is not covered under Medicare. In fact, Medicare pays for less than 2 percent of the nursing home bills of elderly people. The Medicaid Program does pay for nursing home care, but it provides assistance only for those who impoverish themselves to meet the stringent, means-tested eligibility levels. And there is still no adequate, private long-term care insurance market to allow those with the financial resources to purchase secure coverage. Thus, more and more Americans are facing long-term care needs that threaten to force them out of their homes, eat up their savings, and put tremendous financial burdens on their families.

The growing elderly population's need for long-term care affects us all. Those in need of long-term care are our parents, our spouses, and our friends. Most Americans have already dealt personally with spouse or loved one in need of long-term care or expect to confront the situation soon. Most Americans have had first-hand experience trying to find a nursing home and then arranging to pay for the care. They know long-term care is hard to secure and even harder to pay for. They know the average cost of nursing home care now exceeds $25,000 a year. They know they need help with such bills and that they want protection for themselves and their families. And they are tired of the years of inaction on improving long-term care benefits.

When Americans are asked about their priorities, 94 percent say they feel it is important that older Americans be insured against the cost of long-term care. Long-term care is consistently cited as the number one priority for increased Government spending against all other issues. By nearly a 2-to-1 margin, middle-aged and older people prefer a government social insurance program to one based on private financing with Government coverage limited to the poor. They want a program that covers home care, but believe any long-term care system must also cover nursing home services. And taxpayers say they are willing to pay specific additional taxes, such as lifting the cap on the Medicare payroll tax, to finance a Federal, comprehensive long-term care program.

It is time to come to grips with this crisis that threatens so many older Americans. It is time to face the facts and bring real protection against these financial burdens to the American people. It will not be easy to fashion a balanced and comprehensive plan that offers protection to those most in need at a price tag that all can afford, but the elderly and their families cannot and should not wait any longer.

H.R. 5320 is designed to address these problems. It provides much needed assistance to severely impaired elderly and disabled Medicare beneficiaries. It covers both home care and nursing home services and fills the financial void that now confronts most families when the need for long-term care strikes.

Although broad in scope, the legislation does not address every need or every concern. But it makes a fair start. H.R. 5320 expands the Medicare Program to provide long-term care coverage for the most severely impaired elderly. It gives the frail elderly and disabled the choice of staying at home, but also provides assistance if nursing home care is required. It asks frail beneficiaries to shoulder some of the responsibility for care by continuing to pay part of the cost. For the poor and near-poor with inadequate resources, H.R. 5320 directs Medicaid to assist with cost-sharing obligations. And the legislation includes specific sources of revenue, so that the cost of long-term care reform will not add to the Federal deficit.

More specifically, Elder-Care provides coverage for in-home and community-based services to all Medicare beneficiaries with two or more limitations in activities of daily living [ADL's] or a similar level of cognitive impairment. The Medicare beneficiaries the bill is designed to help are unable to bathe, dress, eat, toilet, or transfer from a bed or chair without substantial assistance. They suffer from the effects of stroke, diabetes, arthritis, and Alzheimer's disease. Because of their impairments, they need substantial assistance from family and friends or paid assistance in order to survive at home, in the community.

Under the legislation, beneficiaries would become eligible for services after being assessed and certified by the long-term care assessment term of a Community Assessment, Review and Evaluation [CARE] agency. Based upon a uniform assessment and methodology established by the Secretary, the CARE organization would evaluate the beneficiary to establish eligibility for receipt of benefits and to determine the beneficiary's impairment level. For those eligible for long-term care assistance, the CARE organization would develop a plan of care to provide for needed services in the community and monitor the provision of those services. The CARE agency would operate under contract with the Secretary and would perform quality audits of both home care and nursing home services in addition to conducting assessments. Under the provisions of the bill, CARE agencies would be either units of State or local governments or non-profit organizations.

Once determined to be in need of home care services, impaired beneficiaries would receive financing for such care based on their degree of impairment. H.R. 5320 specifies three levels of impairment for reimbursement purposes. Those with the most severe limitations would receive the most assistance: coverage for services valued at up to 65 percent of the cost of a year of nursing home care—over $20,000 in 1991. The moderately impaired would receive care valued up to 50 percent, and the mildly impaired up to 35 percent, of the annual cost of nursing home care in benefits. These levels would be based on the average cost of nursing home care in the beneficiary's home State in order to account for differences in the cost of services across the country. CARE agencies would develop plans of care for the impaired elderly within these maximum benefit caps.

Covered services would include homemaker, personal aide care, and adult day health care, as well as skilled nursing services. These services are to be provided by federally certified home health and home care agencies.

The beneficiaries receiving home care benefits would be expected to pay for 20 percent of the cost of their care; Medicare would cover the remaining 80 percent. For the severely impaired who use the maximum package of services, cost-sharing would not exceed $5,000 a year.

Although this is still a steep price, Elder-Care provides an expanded package of services that is currently unavailable under Medicare or private insurance at a cost far more below and far more manageable than that which an individual would have pay without Federal assistance. For most families, this level of assistance will make the difference between continued care at home and nursing home placement. It offers new and needed assistance to those struggling to care for their loved ones with Alzheimer's disease or suffering the disability of stroke.

Recognizing, however, that poor and near-poor beneficiaries are already financially strapped and can hardly shoulder additional cost-sharing requirements, H.R. 5320 provides Medicaid assistance to cover their cost-sharing obligations. This coverage includes both cost-sharing and premiums for current Medicare benefits as well as the new cost-sharing

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

obligations under Elder-Care. Medicaid would cover all cost-sharing for individuals with incomes below the poverty level and would provide partial assistance to those with incomes between 100 and 200 percent of poverty. Low-income beneficiaries would apply to the State Medicaid Office for assistance.

In addition to these Medicaid protections, H.R. 5320 creates a new grant program within the Public Health Service [PHS] Act for the development and operation of Community Care Agencies [CCA's] that would provide home and community-based services in low-income or rural areas. Such communities often have great difficulties in establishing provider organizations and networks that can offer the home care services covered under the Elder-Care Program. Modeled on the PHS Community Health Centers Program, CCA's would provide access to needed home care services and help ensure that Elder-Care benefits are available to all those eligible for community care. Ultimately, such organizations would have to be certified as home care agencies under Medicare in order to continue to participate in the Elder-Care Program.

For those individuals who can no longer cope in the community, Elder-Care also provides nursing home coverage. In order to be eligible for services, a beneficiary would have to be screened and certified to need institutional care. Preadmission screening would be conducted by the CARE agency that is also used to establish home care eligibility. Individuals seeking nursing home care would be provided with alternative arrangements in the community, when appropriate. Those who are screened eligible for nursing home care would be covered for community care as severely impaired while awaiting nursing home placement or as alternative to entering a nursing home.

Payment for nursing home services would be made only to those facilities that are federally certified. Reimbursement would be provided under a prospective payment system that is based on the average Medicare facility cost in an individual State and adjusted to reflect the case mix of the nursing home's resident population. The Secretary is to specify the methodology for the nursing home prospective case mix payment system.

H.R. 5320 also requires beneficiaries to share in the cost of nursing home care. Beneficiaries are responsible for the full cost of the first 2 months of nursing home care, unless such services are covered by the current Medicare skilled nursing facility [SNF] benefit. For months 3 through 24 of care, the beneficiary is expected to pay one-third of the average national Medicare nursing home per diem rate. After 24 months of care, the beneficiaries would pay 10 percent of the per diem rate—a rate that permits individuals to finance long-term care using their own Social Security pensions, but without tapping into family resources and savings.

With these cost sharing levels, the maximum out-of-pocket payment an individual in a nursing home for 2 years would pay for care today would be less than $30,000. This is not a trivial amount to be sure, but it is a manageable and predetermined amount that families could plan for through savings or the purchase of private insurance. The fear of total impoverishment from nursing home care would be replaced by an insurable risk.

Again, for those with low-incomes for whom even this fixed outlay would represent an impossible burden, the Medicaid Program would provide assistance with cost-sharing obligations. Medicaid would pay for all cost-sharing and uncovered care of those with incomes below the poverty level and would offer partial assistance to those with incomes between 100 and 200 percent of poverty.

Elder-Care would be financed through a new Medicare Long-Term Care Trust Fund supported by revenues raised from three different tax sources. H.R. 5320 would first eliminate the cap on wages now covered by the OASDHI tax, including the 1.45-percent Medicare payroll tax. Second, the legislation would impose a 10-percent surcharge on the excess of taxable estates and gifts over $100,000. Finally, the bill would require an income surcharge of $3.50 per $100 of income tax liability for all taxpayers. Taken together, these revenues cover the entire cost of the Elder-Care Program, making it self-financing and deficit neutral.

In addition to the creation of Elder-Care, H.R. 5320 includes expansions in the Medicaid Program to improve coverage of the low-income elderly and to provide assistance to low-income pregnant women and children and the nonelderly disabled. These improvements are financed through reduced State and Federal spending under Medicaid that would result from the establishment and implementation of the Elder-Care Program.

Although final estimates are not yet available from the Congressional Budget Office [CBO], preliminary reports indicate that the cost of Elder-Care for a full year of implementation will be between $50 and $55 billion in 1991.

Despite its high cost, Elder-Care is a program that must be enacted. We know that long-term care reform won't be easy, and we know that it won't be cheap. It will take enormous resources. It will take Federal leadership and grassroots support. But Americans want long-term care reform and they tell us they are willing to pay for it. It is time to act on those commitments and bring an end to the years of indecision on this critical health care issue.

We, as a nation, have already made great gains in expanding affordable health services for the elderly. But we cannot stop before the job is done. The time has come to enact a long-term care program that is broadly accessible, progressively financed, and insured quality care for all. Elder-Care provides a good starting point for this long overdue improvement in the social safety net for elderly Americans.

DAVID STOCKMAN DESCRIBES REAGAN DEFICITS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, Sigmund Freud had a grandson named Clement who once said, "When you hit someone over the head with a book and hear a hollow sound, it doesn't mean the book is empty."

President Reagan's statements recently about his administration's record with respect to Federal deficits reminded me of this quote from Clement.

President Reagan has taken this country on a borrowing binge that has us in debt up to our teeth and it was caused by a reckless fiscal policy GEORGE BUSH once called "voodoo economics."

The President now shrugs his shoulders, rolls his eyes and says, "it wasn't me, it was those liberal Democrats."

Well, this time it won't wash, Mr. President. You've been in office 8 years and you should now be ready to assume the responsibilities of the Presidency. One of those responsibilities is to own up to the programs that you have offered and the fiscal policies you have proposed and the deficits you have asked for.

The American public is understandably skeptical of statements by partisans during a political campaign. So let me cite for the record the words of David Stockman, who wrote a book called the "Triumph of Politics" in describing President Reagan's fiscal policies.

Again, this is not from the mouth of a Democrat—it comes from the man whom President Reagan selected to be the point person for his fiscal policy. He was the Director of Management and Budget for the first 5 years of this administration.

Here is what David Stockman says about Federal deficits and Ronald Reagan's fiscal policy.

> The final reckoning of the original fiscal plan of the Reagan revolution shows where we were headed * * * we were not headed toward a brave new world as I had thought in February * * * where we were headed was toward fiscal catastrophe.
>
> By late 1981, it had become overwhelmingly clear that the Reagan revolution's original political and economic assumptions were wrong by a country mile.
>
> I was appalled by the false promises of the 1984 campaign. Ronald Reagan had been induced by his advisers and his own illusions to embrace one of the more irresponsible platforms of modern times. He had promised, as it were, to alter the rules of arithmetic. No program that had a name or a line in the budget would be cut—no taxes would be raised—yet the deficit was pronounced intolerable and it was pledged to be eliminated. This was the essence of unreality. The President and his advisors promised to eliminate the monster deficit with spending cuts and for all practical purposes, they had already embraced or endorsed 95% of all the spending there was to cut.
>
> By 1984 it had become a dream land. It was holding the American economy hostage to an unstable fiscal policy based on the politics of high spending and the doctrine of low taxes. Yet, rather than acknowledge that the resulting massive buildup of public debt would eventually generate serious economic troubles, the White House proclaimed a roaring economic success. It bragged that its policies had worked as never before when, in fact, they had produced fiscal excesses that had never before been imagined.
>
> . . . what do you do when your President ignores all of the palpable relevant facts

> and wonders in circles. I could not bear to watch this good and decent man go on in this embarrasing way."
>
> Our budget is now dramatically out of balance * * *. This condition can be remedied—whenever the White House decides to face the facts of life. Meanwhile, the economic danger mounts and the fiscal folly of the Reagan revolutions aftermath reaches new heights.
>
> In the years ahead I continued to think that one day the President would realize the consequences of what had been done. The day never came, however."

Those are the statements of David Stockman about the Federal deficit and this administration's fiscal policy.

Those aren't the words of a partisan, a Democrat, or a critic. They are the words of someone who was there—who with the President helped formulate this plan, but who now understands that this plan has caused America to choke on a massive deficit that mortgages our future.

It has often been said that to solve a problem, you have to understand it. I offer these observations today so that we can better understand this fiscal deficit problem—where it originated, how it originated. Now, all of us need to join hands and make the tough choices needed to eliminate these Federal deficits.

THE VETO OF THE PLEDGE OF ALLEGIANCE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. SOLOMON. Mr. Speaker, there has been much discussion in recent days of a veto by Gov. Michael Dukakis of Massachusetts of a bill which required Massachusetts teachers to lead students in the Pledge of Allegiance.

The Pledge of Allegiance is an opportunity for us to reaffirm our faith and belief in our country. It encourages students to understand and appreciate what our country stands for as well as our precious heritage of freedom.

I would like to call attention to recent remarks by Dr. Howard Huruitz, a retired principal from New York and a syndicated columnist on educational issues. Dr. Hurwitz does an excellent job of pointing out the real issues involved in this debate:

In combing over Michael Dukakis' stands on issues, researchers for the National Republican Committee discovered that Governor Dukakis of Massachusetts vetoed a bill that stated:

> Each teacher at the commencement of the first class of each day in all grades in all public schools shall lead the class in a group recitation of the "Pledge of Allegiance to the flag".

Why should anyone in his right mind oppose a requirement that the American flag be saluted at the beginning of each school day? It happens that there are a great many people who believe for one reason or another that there should be no such requirement.

One reason for not saluting was slavered over by kids during the Vietnam war years. They were cheered on by the American Civil Liberties Union, ever on the alert to tear down a required pledge as an infringement of the constitutional rights of peaceniks, civil rightniks, and an assortment of niks that have been nitpicking American values for decades.

In my own experience as a high school principal during the tumultuous 1970's, an occasional student would refuse to salute the flag either in class at the start of the day or in an assembly program.

In my office, the girl or boy would explain to me that the pledge is a lie; that there is no "liberty and justice for all" in our country. I responded that the phrase voiced a hope that was more fully realized in the United States than anywhere else in the world; that the pledge was required by New York State law, that I was going to enforce the law. No student persisted in his or her refusal to pledge allegiance.

In other schools in New York, New Jersey, and elsewhere in the Nation, the courts were occupied with cases in which children refused to stand for salute, or refused to leave the room while others saluted, or were in classrooms where the teacher refused to lead them in the pledge.

The prestigious Second Circuit Court of Appeals—New York, Connecticut, and Vermont—in 1973, unanimously reversed a U.S. district court ruling which upheld the dismissal of a high school teacher for refusing to participate in the daily pledge. The appeals court ruled that the teacher's conduct was protected by the first amendment.

Controversy surrounding the pledge was hightened in 1954 when the words "under God" were added by act of Congress. Atheists, abetted by the ACLU, rushed to the barricades screaming that the wall separating church and state had fallen. The wall remains in excellent repair, but the pledge has been sniped at by almost every antipatriotic element in the Nation.

In the single case in which the U.S. Supreme Court ruled on the right of individuals not to pledge, the Court did allow the right of the petitioners not to pledge. However, the ruling was confined to those who see the pledge as an oath and would not honor the flag for deeply held religious reasons—West Virginia State Board of Education versus Barnette, 1943.

Dukakis, when he came down on the side of those who will not honor the flag, said that he believed the requirement was unconstitutional. His veto was overridden by the Massachusetts State Legislature and the pledge remains part of the general laws of the State.

In echoing the cry of the civil rightniks, who hold the flag in contempt, Dukakis suggests a frame of mind that should rightfully be weighted in his campaign for the Presidency. True, his hand is over his heart at public ceremonies where the flag is honored. But, so is his heart at public ceremonies where the flag is honored. But, so far as I'm concerned, his heart is not in the right place on an issue that is fundamental in distinguishing patriots and civil rightniks.

A TRIBUTE TO THE HISTORICAL CHARLES T. MITCHELL HOUSE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. SCHUETTE. Mr. Speaker, today I would like to take the opportunity to recognize the dedication of a State historical marker in my home State of Michigan. The marker is being dedicated to the Charles T. Mitchell House which is located in Cadillac, MI. The marker dedication ceremony is being held September 24, 1988, to commemorate this important occasion.

The Charles T. Mitchell House was built in 1874 by George Mitchell who was Cadillac's founding father and first mayor. He originally built the house as a wedding gift for his daughter, but when the wedding failed to take place, the Mitchell family decided to make the house their own home.

When George Mitchell died in 1878, the house was sold to the Cummer family where it remained until the 1920's. It was brought back into the Mitchell family by the grandnephew of George Mitchell, Charles T. Mitchell, who completely remodeled it and added a carriage house.

In 1958, the house was sold and remodeled into a funeral home. It remained a funeral home until 1985 when Dr. and Mrs. Rowland Lamkin purchased it for the doctor's medical practice. Today, it houses medical offices and is known as the Mitchell Health Center, providing medical services for the people of Cadillac.

Mr. Speaker, I hope my colleagues in the House will join me today in recognizing this important historical marker dedication to the Mitchell House in Cadillac, MI. The people of Cadillac deserve to be recognized for preserving an important part of our American heritage. As Americans, this is an accomplishment that we can all be very proud.

TECH-PREP EDUCATION ACT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. FORD of Michigan. Mr. Speaker, on September 14, 1988, I introduced H.R. 5290, the Tech-Prep Education Act. It will establish a program of matching grants to consortia consisting of secondary schools and community colleges to encourage them to provide a 4-year program of tech-prep education, linking the last 2 years of high school with 2 years of community college. Tech-prep education is a combined high school/community college program which, first, leads to an associate degree, second, provides technical preparation in at least one mechanical, industrial, or practical field, third, provides a high level of competence in mathematics, science, and communications, and fourth, leads to job placement.

Our society needs workers well trained in technology and well versed in basic skills if we are to forge a world-class work force for the future. Today, some education or training beyond high school is required for entry into about 50 percent of all job classifications. By the mid-1990's it is predicted that 75 percent of all job classifications will require some postsecondary education. The work force of the future will need large numbers of computer operators and programmers, carpenters, plumbers, masons, nurses, dental hygienists, paramedics, travel agents, police officers, and technicians in areas such as broadcasting, aerospace, electronics, heating, air-conditioning, instrument repair, robotics, welding, and waste treatment. Training for these and many similar occupational specialties is a principal goal of tech-prep education.

Today, one in four high school students do not complete high school. At that rate, out of approximately 45 million students in elementary and secondary education, 11 million of them will not complete their high school program. Another of the goals of tech-prep education is to provide students with a challenging curriculum that involves them directly in concrete and productive learning and that will keep them in high school through graduation and lead them into postsecondary education.

A recent study indicates that the unemployment rate among 20- to 24-year-olds with less than a high school diploma was 32 percent. The rate for those in the same age group who were high school graduates was 15 percent, while the unemployment rate for those with 1-3 years of college and those with 4 or more years of college were 9 percent and 6 percent respectively. Tech-prep education will clearly contribute to lowering the unemployment rate among young adults.

Thus tech-prep education will contribute to reducting the rate of high school dropouts, increasing employment among young adults and providing future workers with the skills the Nation needs for an economically productive future. Those trained in a tech-prep education program will also have high level competency in the basic skills of mathematics and communications so that they can continue to learn and to adapt to the rapidly changing workplace of the future.

Tech-prep education is a math, science, literacy, technical education program aimed primarily at the two middle quartiles academically of the typical high school. It is not designed to replace the college-prep program but to offer one challenging and rewarding alternative to it. It is important to remember that all those who will be in the work force by the year 2000 are already alive and in school today, and a great skilled worker shortage is approaching unless we act to forestall it. The greatest threat to our future economic security and productivity is unskilled workers. It is imperative that high schools and community colleges work together in developing and implementing educational programs that will serve the greatest numbers of young Americans, those who will be neither on the breadlines nor Phi Beta Kappas. These are the people who will keep this country economically healthy. They will keep our airplanes flying, our water flowing, our computers humming, our cars running, our goods and services produced and sold and our laws enforced in a society saturated at every level with technology and information.

I have introduced this bill at the end of the 100th Congress to stimulate discussion of the concept of tech-prep education and to encourage comments on the appropriate mechanism for the Federal Government to encourage this concept. I hope that my colleagues will review H.R. 5290 and share their thoughts on it with me. I intend to reintroduce this bill in the next Congress and to have it considered in the context of the reauthorization of the Vocational Education Act. The text of the bill follows:

H.R. 5290

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tech-Prep Education Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Rapid technological advances and global economic competition demand increased levels of skilled technical education preparation and readiness on the part of youths entering the work force.

(2) Effective strategies reaching beyond the boundaries of traditional schooling are necessary to provide early and sustained intervention by parents, teachers, and educational institutions in the lives of students.

(3) A conbination of nontraditional school-to-work technical education programs, using state of the art equipment and appropriate technologies, will reduce the dropout rate for high school students in the United States and will produce youths who are mature, responsible, and motivated to build good lives for themselves.

(4) The estabalishment of systematic technical education articulation agreements between secondary schools and community colleges is necessaray for providing youths with skills in the liberal and practical arts and in basic academics and with the intense technical preparation necessary for finding a position in a changing workplace.

(5) By the year 2000 an estimated 15 million manufacturing jobs will require more advanced technical skills, and an equal number of service jobs will become obsolete.

(6) More than 50 percent of jobs that are currently developing will require skills greater than those currently provided by existing educational programs.

(7) Dropout rates in urban schools are currently 50 percent or higher, and more than 50 percent of all Hispanic youth drop out of high school.

(8) Each year, as a result of 1 million youths dropping out of high school with inadequate preparation to enter the workforce, the United States loses $240 billion in earnings and taxes.

(9) Employers in the United States pay an estimated $210 billion annually for formal and informal training, remediation, and in lost productivity as a result of untrained and unprepared youth joining, or attempting to join, the workforce of the United States.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide planning and demonstration grants to consortia of local educational agencies and community colleges, for the development and operation of 4-year programs designed to provide a tech-prep education program leading to an associate degree for youths; and

(2) to provide, in a systematic manner, strong, comprehensive links between secondary schools and community colleges.

SEC. 3. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—The Secretary of Education shall make grants to pay the Federal share of the cost of activities carried out under this Act to consortia of—

(1) local educational agencies or area vocational schools serving secondary school students; and

(2) community colleges (including postsecondary vocational technical schools).

(b) AMOUNTS OF GRANTS.—

(1) FEDERAL SHARE.—The Federal share of the cost of any activity carried out with assistance under this Act may not exceed—

(A) for the first year that a grant is received, 100 percent of such cost with respect to planning purposes;

(B) for the second year that a grant is received, 80 percent of such cost with respect to implementation and operation;

(C) for the third year that a grant is received, 70 percent of such cost with respect to operation;

(D) for the fourth year that a grant is received, 60 percent of such cost with respect to operation; and

(E) for the fifth year that a grant is received, 50 percent of such cost with respect to operation.

SEC. 4. TECH-PREP EDUCATION PROGRAMS.

(a) GENERAL AUTHORITY.—Each grant recipient shall use amounts provided under the grant to develop and operate a 4-year tech-prep education program.

(b) CONTENTS OF PROGRAM.—Any such program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of the 2 years of secondary school preceding graduation and 2 years of higher education, with a common core of required proficiency in mathematics, science, communications and technologies designed to lead to an associate degree in a specific career field;

(3) include the development of tech-prep education program curriculum appropriate to the needs of the consortium participants; and

(4) include in-service training for teachers that—

(A) is designed to train teachers to implement effectively tech-prep education curriculum;

(B) provides for joint training for teachers from all participants in the consortium; and

(C) may provide such training in weekend, evening and summer sessions, institutes or workshops.

(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Any such program may—

(1) provide for training programs for counselors designed to enable counselors more effectively to recruit students for tech-prep education programs, ensure their successful completion of such programs and their placement in appropriate employment; and

(2) provide for the acquisition of tech-prep education program equipment.

SEC. 5. APPLICATIONS.

(a) IN GENERAL.—Each consortium that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

(b) Five-Year Plan.—Each application submitted under this subsection shall contain a 5-year plan for the development and implementation of activities under this Act.

(c) Approval.—The Secretary shall approve applications based on their potential to create an effective tech-prep education program as provided for in section 4.

(d) Special Consideration.—The Secretary shall give special consideration to applications which—

(1) provide for effective employment placement activities or transfer of students to four-year baccalaureate degree programs;

(2) demonstrate commitment to continue the program after the termination of assistance under this Act; and

(3) are developed in consultation with business, industry and labor unions.

(e) Equitable Distribution of Assistance.—In making grants, the Secretary shall ensure an equitable distribution of assistance among the States and among a cross section of urban and rural consortium participants.

SEC. 6. REPORTS.

Each grant recipient shall, with respect to assistance received under this Act, submit to the Secretary such reports as may be required by the Secretary to ensure that such grant recipient is complying with the requirements of this Act.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) The term "articulation agreement" means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a tech-prep education program.

(2) The term "community college" has the meaning provided in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a two-year program which is acceptable for full credit toward a bachelor's degree.

(3) The term "Secretary" means the Secretary of Education.

(4) The term "local educational agency" has the meaning provided in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(5) The term "tech-prep education program" means a combined secondary and postsecondary program which—

(1) leads to an associate degree;

(2) provides technical preparation in at least 1 field of mechanical, industrial or practical art, trade or applied science;

(3) provides competence in mathematics, science and communications (including through applied academics); and

(4) leads to placement in employment.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $200,000,000 to carry out the provisions of this Act in fiscal year 1989, and such sums as may be necessary in each of the 4 succeeding fiscal years.

KILDEE HONORS REV. REUBEN RUSSEL AND REV. J.S. HOPKINS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. KILDEE. Mr. Speaker, I rise to day to pay tribute to two outstanding leaders in the Flint community, who are dedicated to promoting human dignity and fighting for justice for all—Rev. Reuben Russell and Rev. J.S. Hopkins. On September 23, 1988, a testimonial dinner will be held in their honor at the Avery Aldrige Activity Center in Flint.

For over 28 years, Rev. Reuben Russell has been pastor of Vernon Chapel AME church and a stalwart for justice in our community. He was formerly chairman of the Flint Chapter of the March of Dimes, chairman of the Chaplains Advisory Committee of the Department of Corrections for the State of Michigan, and member of the NAACP board of directors. Rev. Russell is presently a member of the board of directors of Greater Flint O.I.C., the board of directors of the Red Cross, the Brotherhood and Connectional Council of the AME church, and is host of the Concerned Pastors for Social Action radio outreach program on social concerns.

Rev. J.S. Hopkins is the pastor and organizer of the St. Mark Baptist Church and a charter member of the Genesee County Christian Institute, a group of organized Christians who are committed to assisting people during crises. Rev. Hopkins is also a community activits. He is chairman of the board of the CPSA Courtier, a community outreach newspaper that covers churches and neighborhood activities. He is a member of the board of trustees of the Foss avenue Christian School and a member of the United Theological Seminary, Flint branch.

Mr. Speaker, these distinguished gentlemen have added greatly to the quality of life in the Flint area. Their grace and strength have touched many lives, and their message of hope has blessed our entire community. It is with great pride and gratitude that I ask my colleagues in the House of Representatives to join me in recognizing Rev. Reuben Russell and Res. J.S. Hopkins for a commitment to human dignity that has never wavered and a vision for truth that has never dimmed.

FORMER ASIAN ENEMIES SEE THE TEMPTATIONS OF TRADE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. ANDERSON. Mr. Speaker, it is no surprise that the eyes of the world are focused on Seoul, South Korea for the XXIV Olympic games. For the first time in 12 years virtually every country in the world has decided to overlook their respective ideological differences to foster and promote international athletic competition. Although it is unfortunate that the world continues to be plaqued by splintered politics and fractured ideologies, the fact that the countries of the world can come together in one geographical location for constructive and competitive purposes instead of for war and destruction, offers a sign of hope for the future.

During this time of global unity, I think it is appropriate that I bring to the attention of my colleagues an article entitled, "Former Asian Enemies See the Temptations of Trade", written by Dr. Armand Hammer, chairman and chief executive officer of Occidental Petroleum Corp., appearing in the July 31, 1988, edition of the Los Angeles Times. It is appropriate that I bring Dr. Hammer's article to the forefront because of his uncanny ability to overlook political differences while focusing on mutual interests and similarities with which to accomplish his goals. Because of the great significance of the issues Dr. Hammer addresses in this article and its coincidence with the Olympics in Seoul, I encourage all of my colleagues to read it.

Former Asian Enemies See the Temptations of Trade

(By Armand Hammer)

A new order of political harmony and economic prosperity is about to be born in the Far East with the Pacific Rim as its cradle. I am glad to be one of the attendants witnessing its arrival, eager to nurture the infant.

"New Order" is a historically chilling term, but the one arising in the East is not rigidly rooted in ideology nor is it a set of theological precepts drawn from ancient texts. The signs in some of the dominant countries and cities of the Far East, capitalists and socialist alike, are that most people increasingly want to live together in prosperous harmony—not to impose their political beliefs and differing ideologies upon each other but to improve their standards of living as much as possible by trade among themselves and, otherwise, to let each other be.

It may not be long, I suspect, before Taiwan will be trading directly with the People's Republic of China and South Korea will be trading with North Korea. For their standing in international markets and for their people at home, they need each other; and my experience over 70 years in business has taught me that, in the long run, economic necessity always counts for more than ideology.

What is happening in the Far East taxes credulity; the pace of change is so rapid, the tempo of human activity so frenetic that, at times, you doubt the evidence of your own senses.

Last time I was in Seoul, six years ago, six bridges spanned the Han River, connecting the two sides of the city. When I visited last month, I counted 16 bridges and saw two more in construction. In 1982, when I first visited South Korea, the population of Seoul was 7 million. It is now 10 million. What will it be by the end of the century? In Taipei, a senior member of the governing Kuomintang Party joked about the idea that economic aid might be given to Taiwan by China if ever the countries were reunified, saying: "By any measure of truth, any offer of help should be the other way round."

The foreign reserves of tiny Taiwan stand at $75 billion and, as a distinguished American diplomatic tole me. "The country is awash in liquidity: It sloshes round your knees when you walk down the street; the banks are discouraging depositors." The benefits of this prosperity are felt by people at all levels.

Under a liberal new policy, tens of thousands of Taiwanese are now able to visit their old homes and relatives on the mainland. To the amazement of both governments, all but a handful of those who have made the trip have returned to Taiwan and the benefits of the free-enterprise system. The only ones who remained behind were some aged people who want to be buried in the old country and some entrepreneurs who have spotted financial opportunities under Deng Xiaoping's "open door" policy.

The Pacific Rim is fast becoming the economic cockpit of the industrialized world ("these countries are production platforms for the West," an American diplomat told me); but few of us have begun to realize what those countries might achieve if they could break through the old political and ideological barriers that still restrain them economically. On my recent trip, I detected clear signs that breakthroughs may be imminent.

It would be absurd to treat the Pacific Rim as a homogenous economic entity. Singapore, Indonesia and the Philippines all differ from each other and from South Korea and Taiwan. The political problems of those last two countries are exceptional—witness the continuing unrest in Seoul. Yet South Korea and Taiwan have one economic characteristic in common: incredible productive output achieved with, effectively, no raw materials. Meanwhile, across the borders of both countries are boundless reserves of mineral wealth, cut off by twists of history and the consequences of war. Think what South Korea might do if it could gain access to the mineral reserves of North Korea; imagine what Taiwan could accomplish if it had access to part of the mineral surpluses of China.

Such trade would be very much in the interests of North Korea and China. As do all members of the socialist bloc, leaders in Pyongyang and Beijing face deepening difficulties in providing their people with satisfactory standards of living. Their domestic industries are incapable of providing finished manufactured goods in the quantity and quality of finish their people require.

They realize that the solution lies, partly, in friendly trading connections with the old, capitalist, enemies at their frontiers. Skeptics will say that this will not happen to any great extent in the foreseeable future. But I believe that future to be just around the corner.

In Taipei, I had lunch with all the major cement manufacturers in Taiwan. These industrialists buy coal from Australia, South Africa and the United States. They could import coal much more cheaply from China but old barriers prohibit such trade. Not the least of their fears is that they might become dependent upon mainland coal which China could cut off at any time. I offered them an idea off the top of my head, suggesting that they turn to American capitalism to satisfy the needs of both Taiwan and China.

In association with the Chinese government, my corporation, Occidental, has developed one of the biggest open-pit mines in the world at An Tai Bao in Xianxi province. Meanwhile, through its subsidiary Island Creek Coal Co., Occidential is also one of the biggest coal-producers in the United States. "What if," I said to the Taipie manufacturers, "you bought Chinese coal from us and we guaranteed supply against our American reserves? That way, you would be independent of China."

The gentlemen around the table, enjoying their shark's fin soup, greeted my idea with cheerful laughter and applause. They didn't reject it out of hand as unworkable or immoral. They did not raise ethical objections to doing business with their old enemy. The only inhibition they mentioned was that such an arrangement would require a change of government policy at the top (and then, *Soto voce,* they added that such a change might be possible).

When men cast in the mold of Chiang Kai-shek can say that they would welcome trade with the mainland, through the intermediary of an American company, then observers may truly reckon that a new day is dawning over the East China Sea.

In Seoul, eager businessmen urged me to try to act as an intermediary between them and the North Korea government in the hope of effecting some trading connection between north and south.

Yet we know far more about Beijing than we know about Pyongyang. I know Deng Xiaoping as well as I know any political leader on earth; no more realistic and pragmatic man is in office in any country. Deng initiated an "open door" policy long before we heard any talk of *glasnost* in Moscow and, to some extent, Mikhail S. Gorbachev's reform policies seem to reflect Deng's campaigns in Beijing. If the authorities in Taiwan will open a window of opportunity, Deng will push China right through it.

Kim Il Sung in Pyongyang is a much less predictable force. North Korea is the Albania of the Far East, one of the most tightly controlled and exclusive societies in all history. The public demeanor of the government appears extremely hostile to the outside world and the political perceptions of North Korean leadership are anybody's guess.

Everybody is looking at the coming Olympics in Seoul as a vital trail and test of Kim Il Sung's good faith. If he restrains his followers and the games run their course without disturbance or attack, we may believe that North Korea genuinely wants a new climate of good will; in those circumstances, we may be able to look more favorably on President Roh Tae Woo's request that the friends of South Korea try to open a new trading relationship with North Korea.

The U.S. government position is unequivocal: hang tough. During a recent visit to South Korea, Secretary of State George P. Shultz reaffirmed support for Roh and confirmed that U.S. troops would remain in South Korea. The day after I saw Roh, U.S. Secretary of Defense Frank C. Carlucci III, visiting Seoul, said the United States was ready to use military force to prevent any terrorist activities by the North Koreans at the Olympic Games.

Firm declarations of American intent give Roh confidence. His most recent public statement sound like he is increasingly willing to initiate an accord with Kim.

If trade were to begin between South and North Korea and between Taiwan and China—eventually leading to open trade in the region and around the globe, we would take a vital step toward a new order in world politics; the 20th Century, so often so bleak and dark for the Far East, might close on a full note of hope, another new dawn in the progress toward world peace.

NATIONAL POW/MIA DAY

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. SYNAR. Mr. Speaker, September 16 was National Prisoner of War/Missing in Action Day, and I rise in honor of American servicemen and their families who have made a great sacrifice for our country.

This observance may be best summed up by the symbolism of the Prisoner of War Medal recently authorized by Congress. The medal depicts an eagle standing with its wings outspread, ringed by a barbed wire and bayonet points. Although symbolically imprisoned, the American eagle is alert to regain freedom, the hope that upholds the prisoners' spirit.

While we honor former prisoners of war who have returned safely home, we realize that this observance will be a difficult one for the families of Americans missing in action in Southeast Asia. The most articulate expression of concern I could provide comes from April 20 testimony of Mary Stout, president, Vietnam Veterans of America, before the House Subcommittee on Asian and Pacific Affairs. Mr. Speaker, I insert her remarks in the RECORD:

The issue of American servicemen who still remain as Missing in Action or who still may be held against their will in Southeast Asia is an agonizingly painful one. Progress over the past fifteen years in resolving the fates of those individuals on the list of over 2400 missing Americans has been incremental, slow, and punctuated with long periods of silence and lack of perseverance. Progress at this time is being made, and being made at a measurably accelerated pace. Progress is being made through a well coordinated and thought out interagency policy and program, spearheaded over the past year by General John Vessey, former chairman of the Joint Chiefs of Staff and a Vietnam Veteran. The significance of the Vessey initiative should not be underrated or misunderstood as it represents a real hope and a bold thrust in the attempts to resolve this issue.

NATIONAL ACADEMY OF SCIENCES' PANEL FEELS "SHAME" ABOUT HOMELESS PLIGHT

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. LELAND. Mr. Speaker, a group of experts convened by the National Academy of Sciences to study the health needs of the homeless protested yesterday that they were unable to express their "sense of shame and anger" over the plight of the homeless in the formal report which had been requested by Congress.

A strongly worded supplementary statement was issued by 10 of the 13 experts on the panel at the same time the 242 page Academy report was made public according to reporter Philip Boffey in the New York Times today. What these trained and competent professionals felt is what most Amerians would feel it they examined the conditions in which homeless people exist every day in the United States.

Contemporary American homelessness is an outrage, a national scandal. Its character requires a sophisticated and dispassionate analysis—which this (the National Academy of Sciences) report provides—but tragedy demands something more direct and human, less qualified and detached. We have tried to present the facts and figures of homelessness, but we were unable to capture the extent of our anger and dismay.

The statement said.

> We felt continuously uneasy because of our inability to state the most basic recommendation: homelessness in the United States is an inexcusable disgrace and must be eliminated.
>
> We can no longer sit as spectators to the elderly homeless dying of hypothermia, to children with blighted futures poisoned by lead in rat-infested delapidated welfare hotels, to women raped, to old men beaten and robbed of their few possessions, and to people dying in the streets with catastrophic illnesses such as AIDS.

This dramatic protest emphasizes the need for prompt reauthorization of the Stewart B. McKinney Emergency Homeless Assistance Act which is now being considered by the Senate and will go to conference before adjournment. In addition, it makes clear the complexity of the causes of this human suffering and and the need for a continuing congressional response.

The protest statement by the experts called for restoration of federal housing support to 1981 levels and minimum wage levels that would make housing affordable.

Homelessness will not disappear until we take the actions recommended again and again by those who study the problem.

Let me congratulate those who had the courage and compassion to speak out yesterday:

Dr. Bruce C. Vladek, president, United Hospital Fund of New York, panel chairman; Drew Altman, commissioner of the New Jersey Department of Human Services; Ellen L. Bassuk, associate professor of psychiatry at Harvard; William R. Breakey, associate professor of psychiatry and behavioral sciences at Johns Hopkins University; A. Alan Fischer, chairman of family medicine at Indiana University; Charles R. Halpern, professor of law at Queen's College; Gloria Smith, former state health director in Michigan; Louisa Stark, adjunct professor of anthropology, Arizona State University; Nathan Stark, Washington lawyer and former Federal health official; and Phyllis Wolfe, executive director of a homeless project in Washington.

INDIAN VOCATIONAL EDUCATION ACT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, I am pleased to join with the gentleman from New Mexico [Mr. RICHARDSON] as an original cosponsor of H.R. 5296, a bill to strengthen Indian vocational education throughout the country.

As recent studies have shown, the overall economic growth in the Nation has been very spotty indeed. Some would even question whether average economic growth in recent years is much to shout about.

What is abundantly clear is that we have seen most new jobs and business growth concentrated in a handful of States sprinkled along the west coast and east coast, regions that accounted for four-fifths of the total economic expansion in the Nation in 1987. The other 34 States, the so-called Heartland Region, snagged only one-fifth of this growth, even though they contained almost 60 percent of the Nation's people. States like North Dakota have yet to experience the economic growth that just a few States have enjoyed in recent years.

Not only have rural States found tough going, so have most of the Indian reservations located in those States. Unemployment rates in Indian country range from 37 percent on the Navajo Reservation to over 60 percent on North Dakota reservations. At the root of this problem is the fact that only 55 percent of American Indians complete high school. College attendance rates show that American Indians have the lowest participation rates of any minority group in the Nation: just 17 percent.

Against this bleak landscape there are some bright spots. The only two Indian vocational education institutes in the country have both achieved successes against these staggering odds. the Crown Point Institute in New Mexico has graduated over 1,150 Indian adults into the Nation's labor force with skills from 25 accredited training programs.

Similarly the United Tribes Technical College in my district of North Dakota has placed 80 percent of its graduates in paying jobs. This is all the more remarkable when you consider that 70 percent of UTTC students were once on the welfare rolls. Not only have these graduates become roll models for others, but they have become taxpaying contributors to our society in general. Investments made in vocational education like UTTC and Crown Point are returned to the Treasury in a matter of only a few years as a result of reduced welfare dependency and increased tax payments.

Another encouraging development in Indian country is the growth of tribally controlled community colleges. Since their inception in 1981, these institutions have graduated over 3,500 students. Placement of these graduates in jobs or higher education institutions is as high as 85 percent. Two of these schools have achieved full accreditation as 4-year institutions. Whereas most Indian students drop out of 4-year colleges and universities, the overwhelming majority of students who transfer from tribal colleges complete their baccalaureate degrees.

The legislation which we introduce targets additional vocational education resources at these successful Indian education schools. The bill will provide a more stable, basic source of funding for carrying out the proven programs at Crown Point Institute and the United Tribes Technical College. Stable funding will enable these schools to plan effectively and then obtain needed faculty to operate high-quality programs. In recent years, both schools have been buffeted by a shortage of funding and undependable funding. It's time that we change that and give these schools an opporutnity to fulfill their potential in training Indian students for gainful employment.

Likewise, the bill will also increase resources available for tribal community colleges, which also run substantial vocational education programs. They have also worked closely with tribal governments in promoting economic development. Whereas the bill will earmark resources for vocational training at Crown Point and UTTC, it will authorize new funds for tribal colleges to expand their role in offering programs to encourage tribal economic development.

I should also point out that other sections of the bill would establish a National Indian Center for Vocational Education Research and strengthen the matching program for Bureau of Indian Affairs secondary schools.

In conclusion, I urge the support of my colleagues for these Carl D. Perkins Vocational Education Act amendments. They meet a critical need in advancing Indian self-determination by both improving the training of qualified Indian workers and by promoting tribal economic opportunities. Matching trained workers with vibrant enterprises is precisely the combination needed in Indian country to unlock tribal members from welfare dependency. It's also the approach we need to stop the waste of tax dollars and to ensure instead that tax dollars flow back to the Treasury.

STATE DEPARTMENT JETTISON'S U.S. SPACE INDUSTRY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. SOLOMON. Mr. Speaker, on the same day the State Department approved of a license to export United States-made satellites for launch on China's "Long March" rockets, I introduced a bill to prevent the export. Under the Arms Export Control Act, Congress has 30 days to act on this resolution of disapproval.

Mr. Speaker, the State Department would have us jettison the American commercial space industry before it even gets off the ground. This license approval runs contrary to America's efforts to revitalize our commercial space industry. It jeopardizes our goal of assured United States access to space and would result in the export of thousands of American jobs to China.

The problems relating to national security unfair trade practices, and transferrence of sophisticated U.S. aerospace technology have not been adequately addressed. This agreement should be overturned by Congress and I respectfully request ask all my colleagues to cosponsor House Joint Resolution 652.

A TRIBUTE TO THE 100TH ANNIVERSARY OF THE OSCODA COUNTY COURTHOUSE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. SCHUETTE. Mr. Speaker, I would like to take this opportunity today to pay tribute to the 100th anniversary of the Oscoda County Courthouse, located in Mio, MI. A program of recognition was held Saturday, September 17, 1988, to celebrate this notable occasion.

As one of the few remaining original courthouses in the State of Michigan, the Oscoda

County Courthouse is a proud part of our Michigan heritage. The county of Oscoda was formed in 1881 by a small group of settlers and the county seat was established at Union Corners. In March 1882, however, the county seat was moved to the settlement of what was then called Mioe. Over the next few years, there was much debate over moving the county seat again, but the determined people of Mioe managed to keep it where it was.

Until 1885, the county supervisors of Mioe held court and conducted county business in two rooms which they rented from Jon Randall. It became evident that the county would need more space, and plans for a new courthouse, as well as a county jail were drawn up. When the building of a courthouse and a jail were finally agreed upon, it was blocked by years of legal and financial problems. After much debate, the construction of a courthouse by George E. Hunter finally began in 1888. Other than minor changes, the courthouse stands as originally constructed and is still being used today for its original purpose.

Mr. Speaker, and my colleagues in the House, please join me in commemorating the 100th anniversary of the Oscoda County Courthouse. It stands as a tribute to our ancestors and to our American heritage. Our pride as Americans stems from our history and from those that made this country great. The people of Oscoda County deserve to be congratulated for preserving a piece of American heritage that we can all be proud of.

A TRIBUTE TO DR. WILLIAM SIMMONS, SUPERINTENDENT OF WAYNE COUNTY INTERMEDIATE SCHOOL DISTRICT, WAYNE, MI

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. FORD of Michigan. Mr. Speaker, on Thursday, September 15, 1988, it was my personal pleasure and privilege to present the Third Annual James R. Kirkpatrick Governmental Relations Award to my friend and colleague, Dr. William Simmons, superintendent of Wayne County Intermediate School District, Wayne, MI. This prestigious award is given annually by the American Association of School Administrators in honor of the association's first Governmental Relations Director, James Kirkpatrick.

The award, needless to say, is not given lightly. Each year it goes to a carefully selected, active member of the AASA, and that member, like Dr. William Simmons, must be one that is nationally recognized by school administrators as a knowledgeable and resourceful individual, committed to the improvement of educational opportunities for children. He or she must also be someone who is an effective, action-oriented person skilled in working on Federal policy issues, and who has a demonstrated commitment to the enhancement of education for all students. Finally, he or she must be able to conceptualize and articulate education's needs, and to actively represent local school administrators' needs to the Federal Government.

No one, in my opinion, is more qualified nor more nationally recognized as an expert in Government relations, than this year's recipient of the AASA's James Kirkpatrick Award, my friend Dr. William Simmons.

Dr. Simmons began his career as a school teacher in 1945, and he served as principal and superintendent in many Michigan school districts before he came to the Wayne County ISD as superintendent in 1972. In this position, he oversees a staff of more than 900 persons, serving the needs of some 380,000 students in 34 local school districts. The Wayne County ISD is the third largest regional educational service agency in the United States, furnishing resources and consultation to local districts in all areas of education, as well as coordinating special education programs for more than 16,000 physically, mentally and emotionally impaired children in Wayne County.

For more than 40 years Bill Simmons has been recognized as a State and national leader in seeking legislation beneficial to public education. He founded the Washington-based "Committee for Full Funding of Education" in 1969, which is now known as the Committee for Education Funding [CEF]. CEF is still successfully campaigning for full funding of Federal education programs in Washington after nearly 20 years of existence, thanks to Dr. Simmons.

Dr. Simmons currently sits on the Federal Legislative Committee of the Michigan Association of School Administrators, and is co-chair of the legislative committee of the Michigan Association of Intermediate School Administrators.

He was appointed to the Eastern Michigan University Board of Regents in 1982, and he also serves as a member of the Wayne County Tax Allocation Board and the Board of Wayne County's Federated Library System.

In 1974, Dr. Simmons was awarded an honorary doctor of laws degree by the Eastern Michigan University, where he received his Bachelor's degree in 1942. He is widely published on school law, taxation, administration and school finance. Dr. Simmons' doctoral dissertation at Wayne State University was entitled "An Appraisal of Federal Assistance for Educating Children in Localities Affected by Federal Activities: Public Laws 815 and 874", now popularly known as the Impact Aid Act. He is a nationally recognized expert in that field.

As I have said, Dr. William Simmons is a good, close friend of mine, and it was my privilege to present him with the AASA James Kirkpatrick Award this past week. But he is more than that. Dr. Simmons has earned my respect and that of the Nation as being a thoroughly professional man. Coupled with the strongest and most pragmatic leadership abilities the field of education could ever aspire to, Dr. Simmons is also a person who brings a deep understanding of human nature to the field.

To fully realize the depth and dimension of this dedicated educator, one must look beyond a mere listing of his honors and awards, even when they are as impressive as Dr. Simmons' are. The true essence of the man is as teacher, for no matter how he has grown or been changed over the years, Dr. Simmons is still, at heart, a teacher. That he is a scholar too is evidenced by the number of scholarly works he has published, but the measure of his success is not so much in his material accomplishments as in his ability to convey enthusiasm for the study of education itself, and his articulation of the responsibility we all have to make certain that a quality educational opportunity is available to all who seek it.

Dr. Simmons deeply appreciates the past and he is deeply involved in the present. He also has a genuine feel for what the future of education should and must be, if any of us who call ourselves educators are going to be successful in assuring educational quality in the years ahead. Dr. Simmons is a man who is loyal to the best of the past, and who is especially creative in the face of today's educational challenges.

KILDEE HONORS TOM WARD

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to a man who has dedicated his life to serving the community of Grand Blanc, MI, Mr. Tom Ward. After 34 years of outstanding service, Tom is retiring from the position of Fire Chief of the Grand Blanc Fire Department. Because of Tom's tireless service, Grand Blanc city and township leaders have dedicated September 22 as "Tom Ward Night" and are celebrating this designation with a retirement banquet at the Grand Blanc Golf Club.

Throughout his long career in fire safety, Tom Ward has distinguished himself through many noteworthy deeds and accomplishments. Although the Grand Blanc Fire Department relies upon the conscientious services provided by dedicated volunteers, Tom early on set as a high priority the training of his force. Tom set in motion a spirit of willingness in his volunteers to go the extra mile not only by fighting dangerous fires but also by attending weeks of training designed to save life, limb, and property. Many of Tom's force have achieved the maximum training level for volunteer fire fighters. Tom Ward will also be remembered for many years to come as the driving force behind the construction of a new fire hall on High Street in the city of Grand Blanc as well as for the activation of a second fire station at the Grand Blanc Township Governmental Center. To ensure the safety of each and every citizen in the city of Grand Blanc and Grand Blanc Township, Tom has also provided effective leadership in long-term efforts to replace and update major equipment. Today, for example, the Grand Blanc Fire Department is prepared to assault multiple storied fires in the city and township and if called, in surrounding communities, with a newly acquired aerial ladder truck.

Mr. Speaker, the Grand Blanc community and I want to thank Tom for a life time of hard work which has helped to make the Grand

Blanc Fire Department one of the finest in the State of Michigan. We, his loving wife Margaret, and his children—including his daughter who also serves as a vounteer fire fighter—are extremely proud of Tom. I urge my colleagues to join me in my wish to Tom for a most enjoyable retirement.

TRADE DEFICIT: NO TIME FOR EUPHORIA

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. LAFALCE. Mr. Speaker, last week, the Commerce Department announced that the U.S. merchandise trade deficit decreased to $9.5 billion in July, which represents the second single-digit monthly trade deficit in the last 3 years. At the same time, however, the Government also substantially revised its June merchandise trade deficit from the originally reported $12.5 to $13.2 billion. Taken together, these two monthly figures illustrate that the annualized trade deficit will still be approximately $138 billion, which is far too large and reflects that progress on the trade deficit is still too slow and too erratic.

A preliminary examination of the July figures shows that the slight drop in the deficit is accounted for primarily by an 8.9-percent decrease in the level of imports—due primarily to decreases in the price of oil—but that the level of U.S. exports increased only by 0.7 percent. This is a dismal result for it is not possible for us to significantly reduce or wipe out our trade deficit without substantially increasing our exports, which means to increase the competitiveness of American industry.

Thus, I cannot agree with recent statements that we are growing out of our twin deficits and that U.S. companies are becoming much more competitive due to a cheaper dollar. Indeed there are a number of warning signals that U.S. competitiveness continues to erode: a meager surplus in the U.S. high-technology balance; declining shares in the bearings, machine tool, semiconductor and other markets; an emerging shortage of science and engineering talent; and lower nondefense research and development expenditures compared to West Germany and Japan. In addition, business productivity in the United States has decreased at a rate unparalleled since 1981—it declined 1.7 percent from April through June—the largest decline in productivity since 1981.

All this indicates once again the importance of the establishment of the Competitiveness Policy Council, which I authored and have been advocating since 1983 and which is included in the recently enacted omnibus trade bill. The establishment of this Council must be a national priority so that we can draw together the best leaders from Government, business and labor to work cooperatively on the development of strategies for enhancing American competitiveness. We must ensure, inter alia, that the United States is on the cutting edge of technology; that we address the critical needs of our educational system; and that we find ways to increase American productivity, research and development. It is only through such a long-term national competitiveness strategy that we will resolve our trade deficit problem.

Additional reasons for the decrease in the July deficit have been suggested by some analysts based on the method of reporting that is used by the Commerce Department. Some analysts have speculated that the Commerce Department has been manipulating the monthly figures, by lagging the export and import data, in order to show more favorable trade deficit results. In addition, the new method of estimating the deficit, which does not include the insurance and freight charges, will also lower the trade deficit by $1.5 billion each month. Thus, it appears that even this more favorable trade result might only be illusory, which reemphasizes that this is no time for euphoria and inaction, but rather a time for the development of constructive policies to meet this continuing challenge.

TRIBUTE TO DR. EDGAR FISHER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to a distinguished citizen of my 17th Congressional District of Ohio, Dr. Edgar Fisher.

Dr. Fisher has had a positive impact on the city of Youngstown, OH; through his tireless leadership as pastor of the Tabernacle Baptist Church of Youngstown and his service in several capacities for numerous influential organizations. A lengthy list of his accomplishments includes being past president of the northern Ohio District Congress of Christian Education; past president of the Ohio Baptist General Convention Constitution Committee; past member of the board of directors for the Youngstown Area Urban League; past president of the Youngstown Baptist Ministers Conference; member of the board of directors for the Youngstown Branch of the NAACP; past president of the Youngstown Black Leadership Summit Council; member of the Youngstown Afro-American Leadership Council; member of the Youngstown Charter Review Board; and chairman of the Social Action Committee of the Interdenominational Ministerial Alliance.

This outstanding community leader has also improved the plight of minorities throughout the country by organizing and participating in demonstrations designed to point out and correct the unjust practice of discrimination in this country. Although he was jailed many times with the late Dr. Martin Luther King, Jr. for his activities, Dr. Fisher's actions continue to promote the cause of minorities everywhere.

During his 8 years as pastor of his church, Dr. Fisher has instituted evangelical training courses, regular Bible study for church members, annual youth revivals, and participation in the Youngstown Area United Negro College Fund annual campaign. He has also developed a well-structured finance and budgeting system for the church and a church building and redevelopment program, which constructed the new educational wing and fellowship hall in the summer of 1987.

Dr. Fisher is married to the former Evelyn Williams of Pachuta, MI. They have three wonderful daughters: Veronica, Tabitha, and Stephanie.

Mr. Speaker, it fills me with pride to honor this caring man before my colleagues gathered here today.

AMERICAN DREAM APPROACHES ETHNIC REALITY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. FASCELL. Mr. Speaker, the Order of AHEPA recently held its 66th annual Supreme Convention at the Fontainebleau Hilton Hotel in Miami Beach. This was a gala event hosted by Miami Chapter No. 14 and cochaired by Anthony H. Callesis and John Prokos. More than 7,000 Americans of Hellenic heritage from throughout the United States and Canada attended the convention.

During the convention week, the Miami News reprinted a column by James S. Scofield of the St. Petersburg Times which capsulized the feelings of ethnic Americans toward name discrimination and the realization of the American dream. This column has been reprinted by more than 20 newspapers in the United States as well as by newspapers in Greece and Cyprus.

Mr. Scofield is a past national officer of AHEPA and patriarchal officer of the Greek Orthodox Church, and it is my pleasure to share his perceptive words with our colleagues:

[From the Miami News, Aug. 17, 1988]

AMERICAN DREAM APPROACHES ETHNIC REALITY

(By James S. Scofield)

It was a magic moment of victory, pride and fulfillment which brought tears of joy.

There was hardly a dry eye among Americans of Greek heritage when Michael Dukakis accepted the nomination of the Democratic Party for the presidency of the United States.

Even those who do not agree with his politics and who will not vote for him in November were moved because they now know that the American Dream is real, not just mythology.

Not that they ever really doubted it, but now it had been validated and endorsed by their fellow Americans—elite and ethnic, native-born and foreign-born—who accepted one of them for national leadership.

It was a truly symbolic triumph for those of us, and there are many more than is generally believed, who had to change our names in decades past. We changed them because we could not get job offers, were denied available jobs and had to prove we were better than the best to hold the jobs we had.

When a man bearing the name Dukakis can be nominated for the presidency, win or lose, that means that we and our parents before us have succeeded in proving that we are worthy of acceptance in the American mainstream.

Michael Dukakis says he never remembers being discriminated against. Maybe things were different in upper-middle-class Brookline. Or maybe he would rather forget. But those of us who had to battle up the economic ladder elsewhere remember it quite differently.

Finishing at the top of your college class in the '40s and '50s usually didn't mean much if your name was different. The big job offers too often went to the people with easy-to-pronounce, easy-to-spell names which looked good on the corporate nameplate.

When the generation of my mother and father was not hired, it created business ventures. When my generation was not hired, it went into business or entered professions where ability was more important than who you were. Or the family name was Americanized, reluctantly but realistically.

When my name was legally changed, on the advice of a sympathetic college adviser and the permission of my understanding parents, from Skufakiss to Scofield, the whole job picture changed for the better.

Doors that had been closed were opened. For the first time, I was judged completely on my ability, not on the sound and spelling of my name. But I never denied my Greek heritage, as those who know me personally can readily attest. Only the label was changed to make the package more attractive.

My fond hope is that Michael Dukakis has done for names what John Kennedy did for religion and what some day a black presidential candidate will do for race and a Hispanic presidential candidate will do for origin. Then the American Dream will finally be fully realized for all.

Skufakiss and Dukakis always sounded good to me, but they sound good to almost everybody now.

TRIBUTE TO JAMES S. MITCHELL

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. TORRES. Mr. Speaker, I rise today to pay tribute to an outstanding individual, Mr. James S. Mitchell. Mr. Mitchell recently was chosen as the National Distinguished Principal from Maryland. Mr. Mitchell is currently the principal of Centennial Lane Elementary School in Howard County, MD. This award is sponsored by the Department of Education and the National Association of Elementary School Principals. Each year only 59 principals are chosen to be honored as a National Distinguished Principal.

Mr. Mitchell began his career as a teacher in Prince George's County. In 1970 he became the principal of James McHenry Elementary School. Since then he has served as principal of Dasher Green Elementary School and Centennial Lane Elementary School.

Jim is also involved in many professional associations. He has been a member of the National Education Association for over 20 years. He is also a member of the Howard County Education Association, the Maryland State Teacher's Association, the Maryland Association of Elementary School Administrators, and the National Association of Elementary School Principals.

I have known Jim for many years. In fact, I knew him when he was a young teacher who was very dedicated to education and his students. He truly cared about the students and the community. At that time, it was apparent Jim would be quite successful in his chosen field. His designation as the National Distinguished Principal is a symbol of his committment to education and the ideals he has implemented so well.

Jim's dedication to high academic standards and the betterment of elementary education are indeed commendable. We need more people like Jim Mitchell educating our children. I urge my colleagues to join me in congratulating Jim for his remarkable achievements. Congratulations also must go to Jim's wife Mary Jane, and their children Laura and Scott.

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. OXLEY. Mr. Speaker, on Friday, September 16, 1988, I was unavoidably absent from the House Chamber due to business in my district. Had I been present, I would have voted as follows:

Rollcall 323—"Nay."
Rollcall 324—"Nay."
Rollcall 325—"Nay."
Rollcall 326—"Yea."

REMARKS FOR DEDICATION AND PUBLIC OPENING OF THE WILLIAM HOWARD TAFT BIRTHPLACE, CINCINNATI, OH

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. GRADISON. Mr. Speaker, this past Saturday, September 17, I had the honor of participating in the dedication and opening to the public of the birthplace and boyhood home of President and Chief Justice William Howard Taft. With the support of the Congress and the dedication of private citizens, this national historic site was opened to the public as part of the bicentennial celebration of the city of Cincinnati. I would like to take this opportunity to share my remarks with my colleagues.

REMARKS FOR DEDICATION AND PUBLIC OPENING OF THE WILLIAM HOWARD TAFT BIRTHPLACE, CINCINNATI, OH

It is a distinct honor to participate in the dedication and opening to the public of the birthplace and boyhood home of William Howard Taft. His was a distinguished life of public service that has been matched by few Americans. His example of selfless service continues to provide inspiration to this community and to the nation.

His public career began at the youthful age of 23 when he became solicitor and then assistant prosecutor for Hamilton County. President Taft's legal reputation grew and with it came a series of increasingly important positions. In 1890, he was appointed Solicitor General of the United States. Two years later he was named to the federal bench as a circuit judge in the 6th Judicial Distirct. Following a stint as President of the Philippines Commission, Taft was appointed Civil Governor of the Philippines.

Although he opposed the seizure of the island Archipelago by the United States, Taft believed that a just civil administration would, in time, lead to a self-governing and democratic Philippines. His stewardship of the Philippines was one in which reforms were successfully introduced into Filipino life, including a basic land reform.

In 1903, President Theodore Roosevelt appointed Taft to be Secretary of War. As Secretary, Taft proved to be one of Roosevelt's closest advisors. Roosevelt entrusted Taft with dealing with many of the most sensitive problems for the United States in that day. During crises in the Canal Zone and Cuba and in a difficult period in relations with Japan, William Howard Taft proved to be worthy of that trust. In 1908, Taft was elected the 27th President of the United States.

Although he found, as all presidents do, relations with the Congress difficult at times, he built upon the accomplishments of the Roosevelt administration. The Taft Administration vigorously enforced the nation's recently enacted anti-trust laws. His administration was the first to produce a comprehensive federal budget. Taft was responsible for the establishment of the Children's Bureau and the Department of Labor. Taft also completed the union of the 48 contiguous United States, bringing New Mexico and Arizona into the Union in 1911.

Following a hard fought campaign in 1912 that saw the election of Woodrow Wilson to the presidency, Taft returned to Yale as Professor of Constitutional Law. President Wilson brought Taft back to government as co-chairman of the National War Labor Board.

It was President Warren Harding who later nominated Taft to the office he had always wanted. In 1921, Taft became the 10th Chief Justice of the United States and thereby became the only man in American history to hold the office of President and Chief Justice, an accomplishment unlikely to be duplicated.

As Chief Justice for nine years until his retirement and death in 1930, William Howard Taft oversaw a significant improvement in the efficiency of the federal judiciary. At his urging, Congress created new federal judges to remove some of the burden from the Supreme Court. His efforts at judicial reform are widely considered to be one of Taft's most important achievements in public life. In addition, he was primarily responsible for the construction of the present Supreme Court building. It is impossible to go by the Court today without thinking of Taft's achievements.

With his lasting record of service to the nation, the influence of William Howard Taft continues to be felt in the public and private lives of Americans. Even for baseball fans, Taft is an important figure. He began a presidential tradition in 1910, opening the season by throwing out the first pitch. For Cincinnati, home of the oldest professional baseball team, that is somehow fitting.

It is rare for a city to be able to celebrate the accomplishments and dedication of one of its sons that touch the lives of all Americans. In this bicentennial year, Cincinnati has that rare opportunity. It is an opportunity that many of you saw long ago. In 1963, the William Howard Taft Memorial Association acquired this site and six years later it became a National Historic Site by Act of Congress.

The Friends of the William Howard Taft Birthplace are to be commended for their efforts over the last 20 years. In that time, the Friends have raised over $600,000 to support the acquisition of period furnishings, decor, and exhibits. The federal government has supported the project with another $1.1 million. Securing sufficient federal dollars has not always been easy, but with the support of interested members of Congress, particularly the generous support from my colleagues, Ralph Regula of Ohio and Sidney Yates of Illinois, the restoration of this important site has gone forward.

The Taft home will enable generations that come after us to know of the selfless dedication to country that President and Chief Justice Taft represents. It is an example that should inspire future generations of Americans to that same sense of honor and duty.

GERMAN-AMERICAN DAY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. FISH. Mr. Speaker, I rise in support of House Joint Resolution 458, to designate October 6, 1988, as "German-American Day." This legislation has received 226 cosponsors, and I hope it will be enacted into law in this Congress.

The president of the borough of Brooklyn, NY, has proclaimed October 6 as German-American Day in Brooklyn. I would like to enclose his proclamation into the RECORD.

BOROUGH OF BROOKLYN—PROCLAMATION

Whereas, Brooklyn is comprised of ninety different ethnic groups and distinguished men and women of every nationality have played a major role in shaping the past and future of our borough and through their diversity and individuality have created a borough that is an exciting and stimulating place to live and work; and

Whereas, it is a time-honored tradition in the borough of Brooklyn to recognize the outstanding contributions of our many ethnic groups, and it is only fitting that we honor the German residents of Brooklyn and New York City, as they celebrate the anniversary of the arrival of German immigrants who first came to these shores on October 6, 1683; and

Whereas, citizens of German descent have played a significant role in the educational, political, economic and cultural sectors of the State of New York and the United States of America, and their proud heritage is further enhanced by their many achievements; and

Whereas, I urge all Brooklynites to join the German community as they gather to celebrate German-American Day, their proud heritage and their important role in the borough of Brooklyn, and I wish them great happiness during this festive time;

Now, therefore, I, Howard Golden, president of the borough of Brooklyn, do hereby proclaim October 6, 1988, as "German-American Day in Brooklyn."

A TRIBUTE TO H.E.L.P.

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to the H.E.L.P. Group, an organization that has served people with special needs in my community for over a decade. This organization has instilled into the hearts and minds of its patients strength, hope, dignity, and a strong desire to achieve their dreams.

On September 24, 1988, the H.E.L.P. Group will open its 10th home. This home is special for several reasons. First, it is another facility that will aid in the growth and development of people who need special assistance. Second, it exemplifies the degree of sharing that is prevalent in the hearts of Americans. And finally, it is named in honor of one of the most outstanding and giving people I know, Mr. Bruce Corwin.

The H.E.L.P. Groups' decision to name the new home in honor of Bruce on behalf of Variety Club Children's Charities of Southern California, a philanthropic organization which raises money for handicapped and underprivileged children, is a clear indication of this organization's dedication to community service and the proliferation of goodwill and love throughout our country.

Mr. Speaker, it gives me great pleasure to invite my colleagues to join with me in honoring Bruce Corwin and the members of the H.E.L.P. Group for their contributions toward making the lives of special needs friends more comfortable and rewarding.

CONGRESSMAN BILL CHAPPELL HONORED

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. McDADE. Mr. Speaker, I would like to take this opportunity to salute my colleague, Congressman BILL CHAPPELL of Florida, the chairman of the Appropriations Subcommittee on Defense, who has been chosen by the Non Commissioned Officers Association of the USA to receive the Association's 1988 "L. Mendel Rivers Award for Legislative Action."

As the ranking Republican of the subcommittee, I have seen firsthand BILL CHAPPELL'S commitment to the well-being of the members of our military service. Congressman CHAPPELL is a most appropriate choice to receive this prestigious award, which was named after the late distinguished Congressman L. Mendel Rivers of South Carolina.

Mendel Rivers, as chairman of the House Armed Services Committee, is remembered for his concern with the plight of our service members, particularly those serving in the enlisted ranks. His efforts and success in bringing greater congressional attention to the issues affecting military personnel has earned him the respect of the men and women who are serving or have served in the U.S. Armed Forces.

The award was first presented in 1971 by the NCOA to honor the legislator who, in their opinion, is most worthy of recognition for his or her efforts in furthering the ideals of democracy, freedom and patriotism on behalf of our beloved Nation.

BILL CHAPPELL is most deserving of this recognition because he has worked tirelessly as chairman of the subcommittee for those ideals. He is a patriot, and a firm believer in democracy and freedom. His record proves him to be a true friend of the military and those who serve in the National Guard and Reserve.

The NCOA will present its award to BILL CHAPPELL tonight during its 16th annual congressional reception. I want to add my congratulations to BILL CHAPPELL and commend the NCOA for making an excellent selection to receive this year's "L. Mendel Rivers Award."

OCTOBER 10, 1988—TAIWAN'S 77TH BIRTHDAY

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. COLEMAN of Texas. Mr. Speaker, as our Taiwanese friends celebrate their 77th birthday on October 10 of this year, we in the U.S. Congress wish to assure them that we applaud their political reforms and appreciate their efforts to try to reduce their trade surplus with us. We hope to work out our differences with them satisfactorily, and I am confident that our long history of friendship and cooperation will allow us to accomplish that goal.

As a recent publication pointed out, Taiwan has achieved the greatest economic success of all the newly industrialized countries. The economy has won remarkable real growth rates, hitting 11 percent last year. Equally important is the fact that this economic success is being shared throughout its society. Observers expect Taiwan to soon make the leap from a newly industrialized country to a fully developed economy.

Equally encouraging is the liberalization of the nation's political system that has provided for a broader participation in the political process. The dedication to constitutional democracy is clear, and I believe it is important that Taiwan's allies in this country understand and applaud this progress.

Although there has been criticism of Taiwan's economic policies, it is important for Americans to note that Taiwan is rapidly becoming an important economy. In this first quarter of 1987, United States imports soared 136 percent, and Taiwan is now the fifth largest market for United States farm products, and the largest on a per capita basis.

Helping this import boom, of course, is the more equitable distribution of income—not through government intervention, but by the flourishing free enterprise system—and the decision by the government to allow the New Taiwan dollar to float on the world currency market.

Mr. Speaker, I think I can speak on behalf of all my colleagues when I say that I would like our Taiwanese friends and allies to know that we support a free and prosperous Taiwan as stated in the Taiwanese Relations Act of 1979. And last, but certainly not least, I would like to extend the warmest of welcomes to Minister Ding Mou-shih, Taiwan's new representative in Washington.

DATA COORDINATION ACT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. GUNDERSON. Mr. Speaker, I rise today to bring to the attention of the House legislation which I have introduced (H.R. 5129) to eliminate unnecessary and redundant data requirements requested by States or the Federal Government under our pesticide laws.

Although it was my hope that this language would be included in the Federal Insecticide, Fungicide, and Rodenticide Act Amendments, I understand the restraints associated with accomplishing this objective so late in the legislative session. Therefore, I have agreed to defer movement of the language in this Congress and plan to introduce legislation addressing this problem early in the 101st Congress.

Mr. Speaker, consumers who use home and garden pesticides, including household disinfectants, share a common problem with farmers who use agricultural insecticides and herbicides, that is, the rising cost of these important products.

We cannot directly control the cost of pesticide manufacturing, but we can help the farmer and consumer by reducing the increased pricing associated with the cost of unnecessary and redundant testing.

The need to fill data gaps at both the State and Federal levels is clear. However, it is critical that data requirements among the States and EPA be coordinated and synchronized so that only one set of data needs to be generated where possible.

H.R. 5129 would facilitate this objective by requiring State and Federal agencies to coordinate such tests with respect to such aspects as test protocols, timetables, and standards of review so as to avoid repetition and redundancy. I believe unnecessary and repetitive and redundant testing not only consumes valuable time and resources, but also delays the closing of data gaps. Valuable time and resources which could be used to develop new data are wasted in refocusing on gaps that have already been or are in the process of being filled.

In addition, many low-volume, low-profit specialty products, including antimicrobial products, may be discontinued because neither the registrant, the formulator, nor the State will pay for the additional tests required on active ingredients. Many nonagricultural, minor use products also could disappear. Unrealistic requirements for implementing and generating these needed studies could cause some of these products to be dropped from the market.

Finally, my legislation will not cause Federal preemption of State pesticide laws. The States are not precluded from establishing data requirements or standards because EPA has done so, by either commission or omission. In fact, the amendment has effect only when both State and Federal Government have exercised their discretion and the result is a data requirement which, because of some variation, requires duplicative testing.

H.R. 5129 merely provides that if the testing can be coordinated, it should be, by requiring the Federal and State agencies to confer. Neither the State nor the Federal position is designated to prevail over the other.

COMMENDING ROBERT GONZALES OF NEW MEXICO

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. RICHARDSON. Mr. Speaker, this week we are celebrating Hispanic Heritage Week in recognition of the many contributions the Hispanic community has made and continues to make to our Nation's advancement. The entire Southwest, including my home State of New Mexico, was settled by Spanish colonists in the 1500's, long before Europeans began to seriously settle on the east coast.

As we celebrate Hispanic Heritage Week, I would like to commend Robert Gonzales of Arroyo Hondo, NM. Robert Gonzales is the grand prize winner of the McDonald's Hispanic Heritage art contest, a national program established for young artists. Robert's vision and interpretation of what his Hispanic heritage means to him, was chosen out of over 4,000 entries from across the United States and Puerto Rico.

Robert Gonzales' accomplishments as a young artist exemplify the meaning of Hispanic Heritage Week. Robert's thoughtful and beautifully executed vision of the meaning of his Hispanic heritage will help further our Nation's understanding and awareness of the importance of the Hispanic community, and its culture and language. All New Mexicans are proud of his accomplishments.

OPENING OF THE FIRST BLIND REHABILITATION CENTER AT THE HINES VA HOSPITAL

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. RUSSO. Mr. Speaker, this year marks the 40th anniversary of the establishment of blind rehabilitation services within the Veterans' Administration with the opening of the first Blind Rehabilitation Center at the Hines VA Hospital in Maywood, IL. To commemorate the occasion, the Central Blind Rehabilitation Center is sponsoring several events celebrating its rich history and contributions to the field.

On Saturday September 24, Hospitalized War Veterans will be hosting a picnic for the blind and disabled veterans and families from over the Midwest. These men and women will be out to Hines Hospital for an open house and tours of the blind center. On Saturday night a banquet-dance will be held, featuring two guest speakers: Mr. Warren Bledsoe, the first chief, Blind Rehabilitation Service VACO; Mr. Russel E. Williams, the first chief of blind rehabilitation at Hines. And then on Sunday morning out-of-town visitors wil be treated to a bus tour of Chicago.

We can be most grateful to know that so many good people are out there doing so much for our veterans. I want to commend the dedicated individuals whose work is at the blind center, and Hospitalized War Veterans whose members selflessly work throughout the year to make special events possible for the veterans. Sometimes the arranged outings are the first time the vets experience life away from the blind center; they are provided the environment needed to practice their newly acquired skills.

I'd like to quote Mr. Patrick J. Sullivan, president of Hospitalized War Veterans in Oak Lawn, concerning our war veterans:

"Our country's war veterans responded to a great need during their military service. Their sacrifices insured our continued safety and freedom. Today, many of these veterans need our help. Some remain hospitalized for medical treatment, which they receive from the government, but they need stimulating recreational and social activities to improve the quality of their lives."

Since 1972, the Hospitalized War Veterans have been responding to this need. This is a nonprofit organization, chartered by the State of Illinois, staffed entirely by volunteers. With the assistance of generous sponsors, they are able to provide the luncheons, picnics, boat excursions, Easter brunch, zoo trips, baseball games, cultural trips, and other activities for the blind and disabled veterans.

I want to extend a special thank you to Mr. Sullivan and his fine group, as well as to J.J. Whitehead, chief, Central Blind Rehabilitation Center. And I second the sentiment I've seen on bumper stickers and T-shirts lately: If you love your freedom, thank a vet.

I know my colleagues join with me in commending the blind center on its 40th anniversary and wishing the staff and personnel and veterans a most wonderful weekend, and for the center, continued years of success and service.

TRIBUTE TO MARGARET AND PATRICK HAGAN

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. KENNEDY. Mr. Speaker, I would like to take this opportunity to congratulate two of my constituents, Margaret and Patrick Hagan, of Arlington, MA, on the celebration of their 50th wedding anniversary.

The Hagans have been friends and supporters of my family for many years. We have shared many happy times together and we're looking forward to many more years of friendship.

I join the Hagan's family and many friends in wishing them all the best.

COMMEMORATING THE 211TH ANNIVERSARY OF THE SOMERSET HOLY TRINITY LUTHERAN CHURCH

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. MURTHA. Mr. Speaker, on October 9, 1988, a special celebration will be held commemorating the 211th anniversary of the oldest church recorded in Somerset County, PA. The Holy Trinity Lutheran Church conducted its first baptism on that date in 1777, and the church has been a vital part of the area ever since.

In making this commemoration, we are not only celebrating the history of this church, but actually we are commemorating the entire history of our great country. Throughout the history of the United States of America, the churches in communities throughout the Nation have always served as a community center, a source of strength, and a continuing symbol of America's past successes and future goals.

In just the last couple decades in our area, this church and the others throughout the community have served their neighbors and families in providing strength during times of war, natural disaster, economic disruption, and personal and family problems.

It is my pleasure to insert these comments commemorating the history of the oldest church on record in Somerset County and extend my hopes for continued success by the congregation of the Holy Trinity Lutheran Church.

CELEBRATING THE CENTENNIAL OF ST. MARKS CHURCH

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. CARDIN. Mr. Speaker, on October 7, 1988, St. Mark Catholic Church in Catonsville, MD will pass an important milestone. On that day, St. Mark will celebrate 100 years of service to the Catonsville community.

The first Mass at St. Mark was celebrated by its first pastor, Father John E. Dunn, on November 3, 1889. Since that time, the congregation has grown to 2,700 families with a parish school enrollment of 350 students.

St. Mark has celebrated many important occasions in the lives of its congregants. From baptisms to confirmations to weddings to funerals, the critical life events of many Catonsville families have been marked at the church.

A celebratory Mass and reception are planned to commemorate St. Mark's centennial on October 2. I know that many of the members of the church will be there, and am sorry that I cannot attend. However, I urge my colleagues to join me in congratulating and offering best wishes to Monsignor John McCall and the congregants of St. Marks for a wonderful 100 years.

COASTWEEKS 1988: THE ROLE OF THE GREAT LAKES

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1988

Mr. DAVIS of Michigan. Mr. Speaker, September 17 began the seventh annual celebration of Coastweeks, a 2-week-long celebration of our marine and Great Lake coasts. This annual event is organized by the Coastal State Organization, which this year is chaired by Chris A. Shafer, chief of the Great Lakes Shorelands Section, Division of Land Resource Programs, of the Michigan Department of Natural Resources. Mr. Shafer has been an effective leader in highlighting the similarities between our ocean shores and those of the Great Lakes, and has ensured that these national treasures continue to receive the attention and support they deserve.

Those of us who represent the Great Lakes region are acutely aware of their specialness, and at the same time were recognized as those properties that they share with the "other" coasts. When the Great Lakes water levels go up, as they did by record levels two summers ago, we face the problem of how the manmade regulating works along the lakes might be the cause of, or an effective escape from the flooding and erosion. As a rule, we don't question how we may have affected extremely high tides along our ocean coasts. They just happen. When we talk about pollution in our water, we have to recognize that while our oceans contain extremely important ecologies, they are not the single largest body of fresh water we have. When we talk about recreation, it is a proud State of Michigan that can claim more registered boats than any other State in the Nation. These are some of the reasons the lakes are special—but the problems they face can be solved through many of the same programs we direct to our oceans, if we remember to take advantage of them. Medical waste plastic pollution, harmful toxics, dangers to fish populations, threatened drinking water: these are all things which we have set ourselves against in our oceans and they are all things that we see happening in the lakes.

It has given me great pleasure while serving as the ranking minority member of the Committee on Merchant Marine and Fisheries to raise the consciousness of my coastal colleagues about the importance of the Great Lakes. To that end we have included special Great Lakes provisions in several of these measures we have reported this year such as: Sea Grant Programs, prohibitions on medical waste dumping, the coastal barriers resources program, plastic pollution protection. I also have been pleased to get action on separate legislation to inventory the pollutants now in the Great Lakes and to remap the Great Lakes shoreline.

Making sure that our waters are clean and safe for drinking, recreation, and commercial fishing is a worthy goal for all of us. I pledge continued support for Great Lakes programs, so that future generations will be able to enjoy these "sweetwater seas."

SENATE—*Thursday, September 22, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Thus saith the Lord: Let not the wise man glory in his wisdom, neither let the mighty man glory in his might, let not the rich man glory in his riches: But let him that glorieth glory in this, that he understandeth and knoweth me, that I am the Lord which exercise loving-kindness, judgment, and righteousness, in the earth: for in these things I delight, saith the Lord.—Jeremiah 9:23, 24

God of righteousness and truth, in explaining a rich young ruler's rejection of Him, Jesus said, "* * * The things which are impossible with men are possible with God."—Luke 18:27.

With all its power, the Senate cannot remove greed, avarice, lust, addiction, violence from the human heart. Their legislation cannot prevent evil. In their struggle for justice, help them to recognize the limitations of their power in the light of Reinhold Niebuhr's beautiful prayer: "God grant me the serenity to accept the things I cannot change; Courage to change the things I can, And the wisdom to know the difference."

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 22, 1988.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.
>
> JOHN C. STENNIS,
> *President pro tempore.*

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. BYRD. I thank the Chair.

I also thank the Chaplain for his beautiful prayer.

SENATOR SANFORD PRESIDES FOR 100 HOURS

Mr. BYRD. Mr. President, on Tuesday, September 20, the junior Senator from North Carolina [Mr. SANFORD] had presided over the Senate for 100 hours during the 2d session of the 100th Congress.

Prior to his election to the Senate in 1986, the distinguished junior Senator from North Carolina [Mr. SANFORD] had already achieved success in an illustrious career which included election as Governor of North Carolina and serving as president of Duke University for 16 years. He has approached his new career as a Senator with a high degree of intelligence and industry, and has quickly become a valuable Member of this body.

Presiding over the Senate for 100 hours is a visible measure of the junior Senator from North Carolina's [Mr. SANFORD] dedication and commitment to fulfilling his duties as a U.S. Senator.

I congratulate the junior Senator from North Carolina [Mr. SANFORD] for becoming the second Senator in this 2d session of the 100th Congress to preside for 100 hours. I look forward to seeing him in the Presiding Officer's chair for many years to come; and I look forward to his second 100 hours of presiding so well, so skillfully, and so fairly.

Mr. President, I reserve the remainder of my time, and I yield the floor.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The acting Republican leader is recognized.

CLASSIFIED INFORMATION

Mr. COHEN. Mr. President, 12 years ago, the Senate established a new Select Committee on Intelligence, and charged it with oversight of the CIA and other intelligence agencies. The House followed suit a year later.

Under the resolution establishing both committees, it is made clear that classified information in the possession of the two committees shall not be disclosed to the public, either by the committees themselves or by individual Members of either body who obtain access to such information. The failure to abide by these restrictions constitutes a violation of the respective rules of each House, to be referred for investigation to the Ethics Committee concerned. All of this was done to demonstrate that Congress accepted and took seriously its own responsibility to protect classified information.

A breach of these responsibilities is, therefore, a serious and debilitating event—serious in that U.S. national security interests may be compromised, and debilitating in that confidence in Congress as a responsible partner in matters of national security is shaken.

Two days ago, Mr. President, we witnessed what appears to have been a violation of these rules. The Speaker of the House of Representatives, citing "clear testimony from CIA people," stated that "they have deliberately done things to provoke an overreaction on the part of the government in Nicaragua."

Whether or not this accusation of the Speaker is true, it is likely to have considerable repercussions in Managua. For those members of the internal opposition already in prison, they may stay there a little longer or suffer a harsher fate. For the Sandinistas, they will likely seize upon the Speaker's statement to justify their past repressive actions, as well as future ones.

I point to an AP wire story which says:

> Pro-Sandinista newspapers ran banner headlines Wednesday on U.S. House Speaker JIM WRIGHT's statement that the CIA tried to undermine Nicaragua's leftist government.* * *
>
> "CIA Confesses Plan Melton" . . . "Jim Wright confirms: CIA Devises Plan Melton."

As serious as the practical repercussions are likely to be, Mr. President, of greater concern is the Speaker's attribution of these accusations to "clear testimony from CIA people." "CIA people" do not testify in open session. Nor do they testify about operational activities before other than the two intelligence committees. The clear implication, therefore, is that the Speaker's statement could only have been derived from classified information in the possession of the House Intelligence Committee.

The Speaker, in any case, owes his colleagues in Congress and the Ameri-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

can people an explanation. Where did he obtain this information? If, indeed, it was derived from classified testimony before the House Intelligence Committee, or if it was from some other private source of the Speaker's, on what basis did the Speaker believe he had the privilege to speak to reporters about classified information?

This episode is particularly disheartening to me, Mr. President. Last year, I introduced a bill requiring the President to consult the Congress with respect to covert actions undertaken by the executive branch. That legislation passed the Senate on a strong bipartisan vote of 71 to 19. It was the product of our experience known as the Iran-Contra Affair. Two congressional committees spent approximately 10 months investigating the executive branch and concluded that some members of the administration had decided that the ends they sought justified the means they chose to achieve them.

In a lengthy report that I signed, a majority of the members condemned the notion that those who profess to be dedicated to the rule of law are free to ignore laws they dislike or dispute when it is expedient to do so.

We quoted from Justice Louis Brandeis' dictum offered 50 years ago: "If the Government becomes a law-breaker, it breeds contempt for law, it invites every man to become a law unto himself, it invites anarchy."

We can brook no double standard here. We must hold ourselves to the same standard to which we hold the executive branch. The executive is not above the law, and neither are we. If we expect accountability and discipline from them, so too should we demand accountability from, and discipline, our own.

Mr. President, there are well-known acceptable ways for members entrusted with classified information to register objections to and indeed stop executive branch conduct. Releasing statements to the press is not one of them.

It is now incumbent upon Congress to demonstrate that it is prepared to meet the same standards that we demand of others.

A failure to do so will result, not only in the defeat of an important piece of legislation, but in a diminished role for Congress in reviewing future classified activities.

This result would not be in the best interests of the American people but one that Congress will have invited and deserved if it fails to take appropriate action.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WHY CIVIL RIGHTS ADVANCES MEANS A MORE PROSPEROUS AMERICA FOR ALL

Mr. PROXMIRE. Mr. President, this is the seventh in my series of floor speeches on why America's future will steadily improve the lot of most Americans regardless of who wins the Presidential election in November and in spite of whatever economic recessions or depressions might intervene. Today I will speak on the better world coming for all Americans because of the continuing, improving effect on our economy and our American society from civil rights legislation enacted in the past 30 years and the prospect for additional civil rights legislation in the future.

What's the answer to the argument that civil rights legislation may benefit minorities, but will only do so at the expense of the majority? What's in it for whitey? And I'm not just talking about assuaging the guilt feelings of whites or a sense of fairness or feeling of compassion. In terms of hard dollars and cents, why do equal opportunities for blacks, Hispanics, and women benefit white males? Here's why. Just as the economy can only progress if American workers are educated to be literate and trained to be skilled, so the white, male worker can only enjoy the fullest opportunity if the 11 percent of the work force that is black and the additional large percent that is Hispanic and the majority that is female have a full opportunity to become as productive workers as possible.

The unskilled, poorly educated, whether black or white, represent a dead weight on the economy. They contribute disproportionately to the burden of crime and welfare that has for so long painfully slowed our economy. Why is the standard of living rising more rapidly in Japan and the Scandinavian countries than it is in America? Experts say it is because those competing free countries are more homogeneous than we are. They have few racial minorities. There is no large group of Japanese in Japan who suffer discrimination as a separate group. Result: The Japanese workers carry the load of work together, pay taxes together, contribute to the excellence of technology and science based on their intelligence and character, not based on the color of their skin.

One of the prime reasons our American society has advanced so steadily in the past 30 years is because of an extraordinary series of civil rights bills that the Congress has enacted into law. These laws promise to continue to bring all Americans, regardless of race or sex, into productive American economic enterprises. The civil rights agenda is far from finished. Just before the August break, the Congress enacted at long last a fair housing bill by smashing majorities in both the House and Senate. That fair housing bill joins an impressive list of civil rights bills that have become law since I entered the Senate 31 years ago.

Consider the results. The Department of Labor reports that over the past 30 years, earnings by blacks have risen from about half to 75 to 80 percent of the earnings of whites with the same education. Obviously, the legislation mandating equal educational opportunities for blacks enacted in 1964 and 1972 and the legislation of 1963, 1964, 1967, 1970, 1973, and 1978 providing for equal employment opportunity have helped improve both the number of jobs open to minorities and especially blacks, and the pay received by minorities, including blacks. But what is the fair housing legislation of 1968 and 1988 doing for minorities? That legislation is making it possible for minorities who have studied hard to get an education so they can get a job and earn a decent income, can use that income to provide a home for their family that is clean and dignified, in a neighborhood reasonably free of crime.

But the civil rights agenda is far from finished. When black men earn only 75 to 80 percent as much as white men with the same education, we still have a way to go.

Look around this Chamber. This Senate is the upper House in the Congress. We are leaders in governing our country. In the 31 years I have served in this body, exactly 312 other Senators have served with me. How many of those were black? Exactly one. We obviously have a long way to go.

Meanwhile, a black man, the Rev. Jesse Jackson made a superb run for the Presidency of the United States in 1988. Blacks serve as mayors of some of our biggest cities. Some have established distinguished records in the House of Representatives. We're making progress, but we have a long way to go. And let us never forget that all of us will benefit by this civil rights progress. Not only will our consciences be clearer, but our checking accounts and our wallets will be fatter. Civil rights progress is not a benefit for minorities alone. It is a benefit for all Americans. As civil rights advances, regardless of recession or even depression that might hit America, we will have a more prosperous, as well as a more just country.

Mr. President, I yield the floor.

MINIMUM WAGE RESTORATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Hatch Amendment No. 3040, to provide for a new hire wage.

(2) Kennedy Amendment No. 3041 (to Amendment No. 3040), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The 1 hour of the time between now and 10 a.m. under the rule shall be equally divided and controlled by the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Utah, Mr. HATCH.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask unanimous consent that I may proceed as if in morning business for a period not to exceed 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. REID pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the speeches thus far which have been out of order be deemed to have been given by consent.

The ACTING PRESIDENT pro tempore. In each case, the Senator asked for unanimous consent.

Mr. BYRD. Very well. I was not aware of that. I thank the Chair.

Mr. BOREN, Mr. President, I ask unanimous consent that I may proceed as if in morning business to make remarks and introduce a bill.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senator from Oklahoma.

(The remarks of Mr. BOREN pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed for 7 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the Senator from Wisconsin is recognized.

THE S&L SCANDAL

Mr. PROXMIRE. Mr. President, in May, the Senate Banking Committee held hearings on the S&L industry's problems. At that time private forecasters' estimates of the cost of cleanup ranged between $45 and $65 billion. Government estimates were lower. The Federal Home Loan Bank Board projected $21 billion and the U.S. General Accounting Office estimated between $26 and $36 billion. In July the Bank Board acknowledged a larger $31 billion problem.

Last week, the U.S. General Accounting Office raised its estimate—to $50 billion, similar to the estimate made by private forecasters in May.

GAO, testifying before the House Banking Committee, said that it believed that the S&L industry has already reached the limits of its ability to pay for cleaning its own house. In saying this, GAO confirmed the industry's testimony to the Senate in August.

Mr. Wolf, head of the Accounting and Financial Management Division at GAO, categorically stated that there would have to be a taxpayer bailout of the industry. The only alternative, he said, would be for Congress to renege on its pledge of the full faith and credit behind the insured deposits—and that is unthinkable.

The bailout to come will be the largest ever in the history of the United States. It will be far bigger than the combined cost of the assistance given, after intensive congressional scrutiny, to Chrysler, Lockheed, and New York City.

We know that the problem is serious. We also know that it needs to be addressed urgently. Witnesses before the Senate Banking Committee testified that the cleanup cost is growing at a rate of 15 percent per annum or by almost $1 billion per month. Delaying dealing with the problem increases the final bill that will have to be paid by the taxpayer.

Delay also harms other depository institutions. Allowing deadbeat institutions to continue to operate bids up the cost of funds for both S&L's and commercial banks. The Texas premium hits hardest in State, but it harms banks and thrifts nationwide. The zombies also bid down loan rates in their search for business.

These dual pressures raise S&L costs, reduce earnings, and squeeze profitability at solvent thrifts. As a result, some that are marginally solvent will ultimately fail. Even the strongest will have their strength tapped and their ability to contribute to the cost of cleanup reduced.

ADMINISTRATION INTRANSIGENCE

All the evidence demands that we act now. But the administration is opposed to any action this year.

Chairman Wall, for example, has consistently underestimated the expenditures that the FSLIC will incur. GAO has documented these underestimates. The congressional watchdog analyzed Bank Board data on the 54 institutions that the Bank Board claims to have "resolved" by liquidation, acquisition, or merger through August 31 this year.

These 54 institutions had a total of $24.9 billion in assets. At the end of last year, for the 1987 annual audit, the Bank Board projected that these thrifts would cost 33 cents on each dollar of assets—a total of $8.2 billion—to resolve. As the deals have been made this year, the Bank Board has raised its cost estimates to $16.2 billion, or 65 cents on the dollar, twice the original estimate.

Treasury Secretary Brady in his confirmation hearings this week was nonchalant about the S&L mess. He said:

> I do not see any reason at this point in time for a taxpayer bailout. I'm told that the FSLIC can't do any more than it is doing right now anyway, so putting more money in it wouldn't help.

I can only disagree most vigorously with this assessment.

CONGRESSIONAL ACTION IS BLOCKED

It is virtually impossible for Congress to act decisively to end the S&L scandal when the administration has its head buried in the sand.

The administration prefers to pretend that the problem is manageable within the S&L industry and will not require a taxpayer bailout. To maintain this fiction the Bank Board is engaging in sham resolutions.

Many of the most heavily insolvent S&L's are conducting Ponzi schemes that take in new deposits to pay their bills. Often these institutions have an inadequate local deposit base. Instead they gather deposits through brokers and bucket shops. Healthy thrifts are interested in buying networks of core deposits. But they do not want to be saddled with expensive sources of funds that are also likely to run at the drop of a hat. Institutions funded this way have virtually no franchise value and little appeal as takeover targets. They need to be liquidated.

But the Bank Board does not have the funds it needs to pay off their insured depositors. Instead, it is forced to paper over the problem by selling even the most troubled institutions. Because sound, well-managed thrift institutions have no use for the deadbeats, the Bank Board has to look elsewhere for buyers.

It is finding two sorts of buyers for deadbeat thrifts—commercial firms that want to enter the banking and thrift industries and weak thrifts willing to gamble on recovery.

Capital is being introduced into the industry, but at the cost of further reducing the separation between banking and commerce. In the proposed Bass group purchase of American Savings and in the Pulte deal, outsiders are buying into the S&L industry—outsiders who will use the insured deposits of the thrift to further their own business ventures. These Faustian bargains may provide temporary relief, but at the expense of the long-term independence and health of the thrift industry.

All too many of the other deals are thinly capitalized. Sometimes the surviving thrift has zero capital. Large amounts of FSLIC assistance merely bring the deeply insolvent thrift to zero net worth. Despite the objective of the Bank Board's southwest plan to introduce new capital into the thrift industry, it has located little so far. In some cases no new capital has been introduced. In other cases a few millions in private funds have accompanied billions in FSLIC assistance.

This situation is dangerous. The new owners have enormous leverage. They have little to lose if they make mistakes because they have insignificant amounts of their own capital at stake and they have FSLIC capital guarantees and income maintenance agreements to protect them against loss. The danger is that they will be tempted to take undue risks because they will receive most of the income earned, while the FSLIC will take on most of the losses.

As I have pointed out before, allowing insolvent and undercapitalized institutions to continue operating gave rise to many of the industry's current credit quality problems. Only the vigilance of the Bank Board and the public-spiritedness of the new owners and managers will protect the taxpayer from further losses on the deals that have been consummated this summer.

OVERCOMMITMENT

Lacking the money to do the job right, the Bank Board has resorted to "garbage deals with garbage thrifts." Short of cash to close down the Ponzi schemes, it is using funny money to payoff the purchasers. IOU's, guarantees, and promises to maintain yields are the currency of Bank Board deals. It is spending this debased currency far beyond its ability to repay in real dollars.

The danger is that the "resolutions" currently being arranged by the Bank Board will backfire—that they will not reduce or even contain the ultimate cost of cleanup. If worse comes to worst, the deals being done may even make the situation more expensive in the future.

CONGRESSIONAL ACTION

Without the cooperation of the administration, Congress cannot do what needs to be done—address the S&L scandal now.

It does not take an economic genius to figure what should be done:

First, the Bank Board should be provided with enough real cash to liquidate the hopelessly insolvent thrifts. If this requires a direct appropriation, then so be it;

Second, the Board should end its capital forbearance policy. Thrifts that have less than 6-percent real capital should be put on notice. Either get your capital up to 6 percent in 3 years or go out of business;

Third, the FSLIC should stop insuring whatever activities State legislatures see fit to bestow on State-chartered thrifts. If the States want to provide their own insurance, fine. But if they want Federal insurance, they need to play by Federal rules;

Fourth, the cozy regulatory relationship between the Bank Board and the thrift industry must be phased out. Thrifts should be subject to the same capital, accounting, and regulatory restrictions that we impose on commercial banks.

Mr. President, this is what we should be doing now. Instead, we are wasting time waiting for a new administration to tackle the problem. One thing is certain. The delay will be paid for by our constituents, the American taxpayer.

Now Mr. President, having been somewhat critical of the Bank Board and the administration, I want to say that the Congress itself must also assume its fair share of the blame for the savings and loan mess. During the 1980's many Members of Congress pressured the Bank Board to relax its efforts to bring the high fliers in the savings and loan industry under stricter control. The Congress delayed action on and finally reduced the administration's request for $15 billion in new borrowing authority. And it imposed new capital forbearance requirements on the Bank Board that can only make its job more difficult.

Given the size and depth of the savings and loan problem and the lack of any real cash resources, the Bank Board is doing the best it can with the authority it has. I do not like some of the deals the Bank Board has approved, but in the absence of real cash, it undoubtedly had no better alternatives. I strongly supported Danny Wall to be the Chairman of the Bank Board and I continue to support him. He has one of the toughest jobs in Washington. Unfortunately, no one can possibly succeed in that position without the resources needed to do the job. Unless and until the Congress and the administration recognize reality and provide those resources, we will simply shift the problem without solving it.

Mr. President, I thank my good friend from Massachusetts and my good friend from Utah for so generously permitting me to go ahead. I yield the floor.

The ACTING PRESIDENT pro tempore. Senators should be reminded that the time between now and 10 a.m. is to be equally divided between the Senator from Massachusetts, Senator KENNEDY, and the Senator from Utah, Senator HATCH.

Mr. KENNEDY. Mr. President, do I understand there are 20 minutes left?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. KENNEDY. I yield myself 7 minutes.

Mr. President, the Senate will soon decide whether to bring to a close debate on the Minimum Wage Restoration Act; we will decide whether to end the filibuster against a modest proposal to bring economic justice into the homes and workplaces of the lowest paid workers in America. These people, these millions of workers, have been waiting 8 long years for a simple cost of living increase. The cost of what it takes to live has gone up by 30 percent in that time, but their wages have been frozen at the same place they were when GEORGE BUSH and DAN QUAYLE were sworn into office.

And now we hear from the Republican opposition that we are moving too fast on this; that we need to take a few more days to think this one through. That claim is nonsense. We have had years to think this one through—this debate is not about some mysterious, untried proposal. We are debating about a policy that has served this Nation well for 50 years, that the public and every member of the Senate understands. The working poor of this country have studied this problem every day for the last 8 years as they find themselves getting poorer every day, waiting for the Chamber of Commerce and its spokesmen in the Senate and House to relax their grip on the legislative process. All they ask is a living wage for a hard day's work. The work hasn't gotten any easier in the last 8 years, but the pay has fallen 30 percent, and we have a chance today to fix that.

But we heard earlier this week that we should not invoke cloture because we haven't voted on enough amendments yet. Mr. President, the author of that claim should win a lead medal in the rhetorical olympics. The Kennedy "go to school" amendment has been pending before the Senate since last Thursday. We have tried to get a vote on that amendment and the opposition will not allow it. And now they say that they need more time to debate. They might think that they can pull up their argument by its own bootstraps—all they have really done is hoist themselves by their own petard.

The truth is that they do not want to vote on the Kennedy amendment and I will tell you why: Because that amendment will prevail and they do not like that. They say that somehow the amendment is a parliamentary trick. Let us get this straight—no Senator in this body, no member of the staffs, and no member of the press is fooled by that claim. A second degree amendment is the way that our rules allow the Senate to choose between two alternative proposals. We have before us the Hatch-Bush "Hire 'em and fire 'em" wage and we have the Kennedy-Byrd "go to school" wage. A vote for the Kennedy-Byrd amendment is a vote against the plan that Bush hatched. And vice-versa.

The two pending amendments would both be germane after cloture, and the Senate will still be able to vote on them.

We also heard on Tuesday that we need more time to discuss nongermane amendments. And we heard a great deal of talk about the need to repeal the ban on industrial homework as an example. Here is an amendment that does not even merit serious discussion. It has been a bad idea for 45 years, and it did not get any better this week. I have a short label for it—we are going to call this the Republican day care plan. There are 600,000 workers now laboring in factories to produce women's apparel. There are another 92,000 factory workers making jewelery. The overwhelming majority of these workers are women. The authors of this amendment say that these women have problems caring for their children and working in the factory. Our answer to that problem is the right one—provide factory workers with affordable, quality day care. The Republican answer is to have the workers take the factories home with them.

But it is an open secret in the Senate that the White House has asked the Republicans to vote in favor of a filibuster on the minimum wage. And the White House has asked them to keep voting for a filibuster, tomorrow and next week. So I expect that we will keep debating irrelevant amendments as the Republicans try to cover up their real problem with red herrings and dead issues—the real problem is that they do not want what the American people want, which is a decent, nonpoverty minimum wage. All the working poor are asking for is a cost-of-living-increase. They have waited 8 years, and today they will be forced by the Republicans to wait even longer.

But I will predict that on the next cloture vote, we will get closer as a few courageous profiles begin to emerge here in the Senate. I only hope that enough of my colleagues from the other side of the aisle will remember that the working poor do not have a White House Hotline. They do not have a sophisticated press operation. But they do have the same claim to justice that the elderly and the military and Federal employees had when they received a decent cost-of-living increase.

Mr. President, I hope the Senate will vote cloture so that we can move about the business that is before the Senate today.

AMENDMENT NO. 3041, AS FURTHER MODIFIED, TO AMENDMENT NO. 3040

Mr. KENNEDY. Mr. President, I send a modification to my amendment to the desk.

The ACTING PRESIDENT pro tempore. The Senator has the right to modify his amendment. The amendment will be so modified.

The amendment (No. 3041), as further modified, is as follows:

In the pending amendment, strike all after "following:" on line 4, and insert the following:

"(E)(1)(A) Any retail; service, agriculture or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work, except during vacation periods, more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

Mr. KENNEDY. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, how much time is available to both the minority and majority floor managers?

The ACTING PRESIDENT pro tempore. Ten minutes are available to the Republicans.

Mr. HATCH. And how much is available to the majority?

The ACTING PRESIDENT pro tempore. Four and a half.

Mr. HATCH. Mr. President, today we vote on cloture, whether or not we are going to end the debate on this matter. First of all, this is not a filibuster. When cloture was filed, as I recall, the purpose of filing cloture was to cut off nongermane amendments. It was not because anybody thought this was a filibuster.

The reason to vote against cloture today, tomorrow, whenever is because there are some germane amendments and there may be some nongermane amendments that Senators have a right to bring up at this time. So cloture is very important, and I hope it will not be invoked because I think it is wrong to cut off debate on bills like this.

Second, if cloture is not invoked, then I will suggest to the majority floor manager that we move ahead on amendments, set aside his amendment and move to the Harkin amendment and then go to a Republican amendment, or if he wants to—there are only two amendments that I know of on his side—move to the Harkin amendment, go to the Simon amendment and then go to a Republican amendment, and we can go back and forth.

If the Democrats do not have any other amendments, let us just keep moving through on Republican amendments whether they are germane or nongermane. I think that is the way to do it.

Frankly, to file cloture almost right off the bat in these matters does discourage debate, a true debate on issues as important as this.

This issue is extremely important. A vote for cloture is a vote, it seems to me, to cut off debate on something that really may make a heck of a lot of difference as to whether or not this country is going to continue to go forward economically or go backward.

Let us talk a little bit about the minimum wage and what it means. On the editorial pages, major American newspapers in this country are decrying the old-time, worn-out approach toward the minimum wage.

Just yesterday the New York Times came out on this subject in a major editorial—and I want to compliment them for it. I do not always agree with New York Times editorials, but I can say this. I have read a great number of them in the last couple of years. They have continually been responsive to the needs of this Nation on a number of issues.

This particular editorial is entitled, "The Minimum Wage: A Better Way." It starts off by saying:

> A job at the current Federal minimum wage of $3.35 an hour pays just $6,700 a year. Is it humane to ask anyone to clean offices or pump gas for that amount, which is only half of what it takes to keep a family of four out of poverty? Surely not. But the remedy proposed by the congressional Democrats is not humane, either.

Having the New York Times saying that is an amazing indictment of this process and this approach which is clinging to the past in a way which will not help the future.

The New York Times goes on to say:

> They would raise the minimum wage to $4.55, pushing thousands of needy workers off the job rolls.

Pushing thousands of needy workers off the job rolls. Even the New York Times agrees with us.

> Happily, there's another remedy that's humane and sensible, and that has no ad-

verse employment effects: expand an existing Federal program to supplement wages, the earned-income tax credit.

I might just interpolate here that if we take that approach I will support it, because it makes sense. There are only 14 percent of the working poor who are making the minimum wage and only 19 percent who are below the poverty line. Let us attack that problem directly by having an earned income tax credit—a bipartisan approach rather than the particularly partisan approach that is being taken by the majority floor manager and others.

It goes on to say:

A bipartisan effort to do just that, led by Representative Thomas Petri, a Wisconsin Republican, is probably doomed this Presidential election year because both parties would rather embarrass each other than reduce poverty.

I disagree with that. I do not want to embarrass anybody. I would like to do what is right. I would like to put people to work. I would like not to lose jobs. I would like not to hurt young blacks and Hispanics and women. I would like not to hurt small business which is sending me telegrams in droves saying, "Please, we will have to cut our employment if the minimum wage goes through as Senator KENNEDY and others would like to do."

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 21, 1988]

THE MINIMUM WAGE: A BETTER WAY

A job at the current Federal minimum wage of $3.35 an hour pays just $6,700 a year. Is it humane to ask anyone to clean offices or pump gas for that amount, which is only half of what it takes to keep a family of four out of poverty?

Surely not. But the remedy proposed by Congressional Democrats is not humane, either. They would raise the minimum wage to $4.55, pushing thousands of needy workers off the job rolls. Happily, there's another remedy that's humane and sensible, and that has no adverse employment effects: expand an existing Federal program to supplement wages, the earned income tax credit.

A bipartisan effort to do just that, led by Representative Thomas Petri, a Wisconsin Republican, is probably doomed this Presidential election year because both parties would rather embarrass each other than reduce poverty. But that's no reason to rush to raise the minimum wage. The tax credit belongs high on the legislative calendar next year, no matter who wins the White House.

Five out of six jobs paying the minimum wage are not held by poor people at all, but by the teenage children of middle-income families or by second earners in families with few children. But one in six is still a lot of people. According to Ronald Mincy, a researcher at the Urban Institute, increasing the minimum wage by just a dollar would lift nearly 100,000 families above the poverty line.

The catch is that a higher minimum wage would also induce businesses to get by with fewer employees. By conservative estimate, a dollar increase would eliminate 250,000 jobs, most held by people under age 24. For some, loss of a job might mean only the loss of movie money. But as Mr. Mincy points out, it would deprive others of the work experience needed to break the cycle of poverty. That's where the Petri plan fits in.

Wage subsidies have been built into the Federal tax code since 1975. Some four million poor families with children receive tax credits—cash payments—of up to 14 percent of wages, or a maximum of $870 annually. Mr. Petri would raise the maximum, and link payments to need. A family of six subsisting on $8,000 would receive $2,500.

Unlike an increased minimum wage, the expanded earned income tax credit would add nothing to employers' costs and create no incentives for evasion or payroll cuts. Targeting would be precise. Suburban teenagers wouldn't get a penny, while a $12,000-a-year garment worker supporting three kids would receive an extra 60 cents an hour.

Why, then, has Mr. Petri's plan received so cold a shoulder in Congress? Many Republicans are obsessed by the idea of a two-tier minimum, with a lower rate for teenagers. Many Democrats are eager to placate organized labor by voting to raise the minimum wage, and even more eager to embarrass George Bush by forcing a White House veto just before the election.

The best hope now is for Senate Republicans to kill the minimum wage bill in coming days. That would clear the decks for a fresh, bipartisan look at the earned income tax credit next year.

Mr. HATCH. Mr. President, most minimum wage earners do not come from poor families, are not poor. Approximately 70 percent of minimum wage earners come from families with incomes 50 percent or more above the poverty line. Think about that. Only 19 percent come from families below the poverty line. Most minimum wage jobs are not held by heads of families. About two-thirds are held by young and single workers. Two-thirds of them. Most workers do not get stuck in minimum wage jobs and of those who are in minimum wage jobs, two-thirds are part-time jobs. Since 1980, the proportion of workers receiving the minimum wage has fallen from 11 to 4 percent. It makes sense to leave the minimum wage where it is and to provide a means for employers to continue to pay more voluntarily. There are better ways of attacking the problems of the poor.

It has been said by most economists, certainly those who are thoughtful and reflective on this matter, whether they are liberal or conservative, that the loss of employment opportunities includes layoffs, reductions in hours of work, jobs which become automated, vacant jobs that remain unfilled and jobs that are never created if minimum wage increases occur. For each 10 percent increase in the minimum wage, there is a loss of between 100,000 and 200,000 full-time jobs. That is really something for employment opportunities. The irony is that the brunt of the loss of those jobs would be felt by those least able to bear it and according to economists—I think economists are fair and honest and reputable in this area—there will be a loss of between 400,000 and 1 million jobs if the majority approach goes into effect.

But the real brunt of any increase in the minimum wage will result in some very serious things. Take, for instance, the present civilian unemployment rate. It is 5.6 percent. You do not hear any more about Reaganomics or screaming and shouting about that. The teenage unemployment net rate is presently 16.5 percent. Minority teenage unemployment is 36.9 percent. Those have all come down since the minimum wage has not been increased, and I suggest that if this bill passes in its present form youth unemployment, especially black youth unemployment, will drastically rise.

These proposals come at a time when minority youth are making substantial gains in securing employment. Employment gains for black youth have been among the strongest of all demographic groups. It is amazing that some of the black leaders want the minimum wage under these circumstances. The gains for black youth are up over 50 percent since 1982, which is a year after the last increase in the minimum wage, compared with a gain of only 11 percent between 1975 and 1981 when the minimum wage was increased four times. In fact, during 1987 alone, employment of black teenagers increased by nearly the same amount as it did during the entire 1975 to 1980 expansion. Employment gains for black males has been even more remarkable, up 59 percent between November 1982 and November 1987.

The impact of minimum wage increases is felt especially by small businesses which are responsible for 70 percent of all new jobs. Two-thirds of all workers enter the work force via a small business.

Mr. President, I understand that my time is just about up. I want to leave the remainder of my time to the distinguished minority leader, but let me say in closing that there are better ways to go. The New York Times suggests one of them. I think we could all come together and do it. I hope that we will consider that, but most importantly I hope we will vote against cloture.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. How much time do we have?

The ACTING PRESIDENT pro tempore. One minute each.

Mr. DOLE. Mr. President, I ask unanimous consent for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. This is an important vote. I have listened to the debate of the Senators from Massachusetts and Utah. They are both experts in this field. They do outstanding work in the committee. I do not believe there are many on this floor who are not willing to take a look at increasing the minimum wage and voting for an increase in the minimum wage, but I do believe we have not reached the point yet where we have any indication that there is any compromise that would satisfy a majority on both sides.

As the majority leader indicated when he filed cloture in the first instance, there has not been any filibuster. He did not do it for that purpose. I think he did it for the purpose of keeping off nongermane amendments, and that is certainly a legitimate purpose.

I think we have had a total of about 8 hours of debate on this bill. It is an important bill. I was going to refer to the New York Times editorial which has already been discussed by the distinguished Senator from Utah. But I would hope that cloture is not obtained today. I am urging my colleagues on this side to vote against cloture. I hope we can have enough to prevent cloture from being invoked because, first of all, we have not had any amendments. We have some nongermane amendments which we believe are important. Pay equity by Senator EVANS; a study on pay equity is of concern to many on both sides of the aisle. I am certain the amendment would be supported. An antipornography amendment by Senator THURMOND some say would pass easily. Some say it does not belong on the bill.

We are in the tail end of the session now and there are not going to be many more opportunities. So I would hope cloture is not invoked and that those who are concerned on my side of the aisle, as they indicated, I must say, with a great deal of frustration at the Tuesday policy luncheon, "We cannot get our judges; they will not let us vote on judges; they will not let us do anything," would support me on this cloture vote. I am not certain that is going to bring forth any judges, but at least it may get the attention of the chairman of the Judiciary Committee, who I believe since his return has been trying to cooperate, and maybe we can work out the problem of judges.

I am advised by Members on my side to bring this place to a halt until we get some action, and I suggest those who are giving me that message better help me out this morning and tomorrow morning and next Tuesday and maybe one thing we can do is get out of this place after we get the appropriation bills and save a lot of this until next year. There is no urgency about this bill. So I would hope that cloture will not be invoked. I thank the majority leader and others for giving me the additional time.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. One minute.

Mr. KENNEDY. One minute? We had 10 minutes. I yielded myself 7. I used 4½. I was informed that I had 4½ minutes remaining.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator may have 5 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I would like the minority leader present since I am going to refer to his remarks.

Mr. President, now we have before the Senate the real reason why there is a filibuster going on. I have never believed that this country ought to trade arms for hostages, but now we hear the minority leader saying he is going to trade justice for 16 million working Americans for appointments by this administration. Jobs and dignity for certain judges. That is the job creation program of the Republican leader and the Republican Party. Hold up justice for 16 million Americans, hardworking Americans; 40 hours a week, 52 weeks a year; because Republicans cannot get certain appointments.

I hope 16 million Americans hear that statement, because that is a clear indication of what kind of priority they place on justice in America. American workers, 16 million of them, have been left out and left behind; what other kind of Republican prosperity do we have for them?

That has said more about this debate than any other single argument that has been made. Eleven hours, 7 days of debate here on the floor of the U.S. Senate prohibiting any further action, because the Republican leader says, "We are not getting our appointees." That is a fine indication of where the real priority is, and I hope that message goes all across this country. I hope the working men and women of this country, who are trying to put bread on their tables, understand what is really at stake here in the U.S. Senate.

No one could say it any clearer, and now we know what this debate is all about. That is their job creation program: more appointees, hold up justice for workers for more appointees. Mr. President, that argument, hopefully, will be dismissed, if not today, then tomorrow or next week.

Mr. President, just a final comment on the argument made by the Senator from Utah about the earned income tax credit. He quoted the New York Times about the earned income tax credit.

There is a proposal by the Senator from Minnesota about an earned income tax credit, and he is going to fund it by a 2-cent-per-gallon gasoline tax. Evidently, he has not read the Constitution and does not know that that is not possible under the rules of the U.S. Senate.

Let me point out what the amendment of the Senator from Minnesota would require: $6.7 billion over 5 years, $4 billion over 3 years.

I have not heard the Senator from Utah say he is prepared to see a tax increase of $4 billion.

I will be interested to hear in the debate what they say about the earned income tax credit of the Senator from Minnesota. Evidently, they have not read GEORGE BUSH'S lips: No new taxes.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator may have 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, the Republican alternative to job creation has been the creation of 17 million jobs. I think that is all I have to say about that type of rhetoric exhibited by the distinguished Senator from Massachusetts.

He also brought up child care and has acted like this has some relationship to child care.

Let me say this: I am the sponsor of one of two major bills in the whole Congress that pushes for child care. I can tell you that if the distinguished Senator from Massachusetts is serious about it, we have a compromise on child care that is bipartisan, and he knows that it accommodates a lot of Democrat concerns. This is the year to pass child care. I believe he will be side by side with me, making sure that it comes up before the end of this year; because if we pass it in the Senate, it is going to pass in the House, too.

And, yes, I will work to get tax increases to pay for child care. And, yes, rather than have the dislocation economically that will happen to this country if the approach of the distinguished Senator from Massachusetts on the minimum wage and increasing it goes through, and the loss of all the jobs that will come to blacks and Hispanics, other teenagers, and women, you bet, if we go for an earned income tax credit, I will also fight to find some decent way of increasing taxes enough to pay for it. That will not be a dislocation of this whole country, it will not be an increase in inflation, it will not be a job loss, but will attack the problem directly by helping the 14 percent of the 4.7 million who really are working poor.

That is the way to solve this problem, not to have Government come in and artificially mandate what business will have to pay. It is the most heartless approach to this. It is weighted in the past. It is outmoded. It is archaic. It is antiquated. It is pathetic.

The only reason we go through this fiction every time——

Mr. KENNEDY. Mr. President, will the Senator yield on my time?

Mr. HATCH. I yield.

Mr. KENNEDY. Why is George Bush for it? He is for an increase in the minimum wage. Why is he for it, if it is all the things you described.

Mr. HATCH. If there is a true training wage—and he is for a moderate increase in the minimum wage.

Mr. KENNEDY. Is the Senator able now, after 7 days, to tell what the increase would be?

Mr. HATCH. I have no idea what it would be.

I will say this: If the Senator cannot go to the route of an earned income tax credit, which is an intelligent way to go, which the New York Times says is the way to go, which I say is the way to go, if he will agree to a real youth training wage, not the facade we have put forth but a real training wage, then I will help him to find a way of increasing the minimum wage—if that is the best we can do under this archaic system.

If the Senator wants to cling to the past like that, then I will let him do it. I would rather go arm in arm and get something done by having a real training wage then to continue to go the way we have in the past, where we lose all these jobs, hurt the economy, cause inflation, and hurt everything in our society, which is the way we have gone before.

I would rather go the modern way, and that is to attack the problem directly for those who are hurt and do it through an earned income tax credit, and do it up front and where it is bipartisan, not just partisan, and not for political purposes but for the benefit of this country.

If we do all that, by gosh, I will go arm in arm with the distinguished Senator from Massachusetts. We have done that at least twice this year, and I have to admit that it is a strange feeling, but it has accomplished a lot.

Mr. KENNEDY. Mr. President, do I correctly understand, then, that the position of the Senator from Utah is in support of the Boschwitz amendment for a $6.7 billion tax program, the earned income tax credit?

Mr. HATCH. The answer to that is "yes," because it will solve the problem. If we are going to solve the problem, let us do it directly. It is an appropriate way to do it, and I will try to do that.

Mr. KENNEDY. You are for a $6.7 billion earned income tax credit?

Mr. HATCH. You bet. It is a problem, and I think the working poor should be helped, and I am willing to do that. You bet your life. I will link arms with you to do it, if you get away from your clinging with all fingernails and all 10 fingers with earnestness to the past and start doing something for the future.

Mr. KENNEDY. Mr. President, with my brief minute, I suggest the absence of a quorum, on my time.

The ACTING PRESIDENT pro tempore. The Senator does not have sufficient time to suggest the absence of a quorum.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. One hour having passed since the Senate convened, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon Committee substitute for the bill S. 837, Minimum Wage Restoration Act of 1987.

Senators Edward M. Kennedy, Daniel K. Inouye, Tom Harkin, Terry Sanford, Paul Simon, Jay Rockefeller, Christopher J. Dodd, Don Riegle, Bill Proxmire, Alan Cranston, J. Bennett Johnston, Patrick Leahy, Jeff Bingaman, Bill Bradley, Tom Daschle and Harry Reid.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 26]

Biden
Bumpers
Byrd
Dole
Graham
Hatch
Kennedy
Lautenberg
Proxmire
Sanford

The PRESIDING OFFICER (Mr. Graham). A quorum is not present.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. Bentsen] and the Senator from Hawaii [Mr. Inouye] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. Heinz], the Senator from Idaho [Mr. McClure] and the Senator from Indiana [Mr. Quayle] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 80, nays 15, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—80

Adams
Baucus
Biden
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Wilson
Wirth

NAYS—15

Armstrong
Bond
Boren
Chafee
Evans
Hecht
Humphrey
Kasten
McCain
McConnell
Moynihan
Murkowski
Nickles
Symms
Wallop
Weicker

NOT VOTING—5

Bentsen
Heinz
Inouye
McClure
Quayle

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute for the bill S. 837, the Minimum Wage Restoration Act of 1987, shall be brought to a close? The yeas and nays are mandatory under the rule.

The majority leader.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will come to order.

Mr. BYRD. Mr. President, I ask that the clerk announce the vote after each Senator responds to his name.

The PRESIDING OFFICER. The clerk will so announce.

The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. HEINZ], the Senator from Idaho [Mr. MCCLURE], and the Senator from Indiana [Mr. QUAYLE] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—53

Adams
Baucus
Biden
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Stennis
Weicker
Wirth

NAYS—43

Armstrong
Bond
Boren
Boschwitz
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Exon
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—4

Bentsen
Heinz
McClure
Quayle

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

MINIMUM WAGE RESTORATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the vote on invoking cloture was 53 to 43. Among those 53, we had two Republican votes, and I sincerely thank those two Republicans for their votes. Four? I thank those four, if there are four.

In any event, Mr. President, when I introduced the cloture motion last Thursday I made it clear at that time that it was not being introduced with any implications that at that time there was any filibuster going.

It is only clear now, following this vote, that there is a deliberate attempt to stall this bill. It is clear that economic justice for 15 million wage earners at the lowest rung of the economic ladder is being held hostage to a political agenda on the other side of the aisle.

Apparently, it is not enough that these low-wage earners have lost a quarter of their purchasing power since this administration has been in office for almost 8 years. Apparently, it is not enough that the National Academy of Sciences panel earlier this week recommended an increase in the minimum wage as a way to reduce the rate of homelessness, especially among children, in this country. And, apparently, it is not enough that the Vice President of the United States, who is the Presidential candidate of the other party, has indicated on the campaign trail that he favors an increase in the minimum wage. We do not know if those on the other side of the aisle have gotten his message or whether indeed he has intended for them to get that message. At least the vote today does not reflect that the message got through.

I suppose some of our friends on the other side of the aisle feel that the increase in minimum wage is only a necessity for teenagers who may be seeking a little extra popcorn money.

Mr. President, 63 percent of the wage earners who would be affected by an increase in the minimum wage are women. Twenty-four percent are blacks and Hispanics, 15 percent are blacks alone.

Mr. President, we tell our children and our grandchildren that it is all right to start at the bottom. You can work your way up; you can make it to the top. But those who voted against cloture are not saying that to these young people. They are saying you cannot make it to the top if you are on the bottom. They are saying you will stay at the bottom. The American dream is not for you. The American way is not for you.

Mr. President, I wonder how we would vote if our own children or grandchildren were out there trying to hack it today, raise a family on the minimum wage and working full time. They would be below the poverty level if there were as many as two dependents in the working family.

Mr. President, the workman is worthy of his hire. The workman is worthy of his meat, we are told in the Scriptures. The American people work an honest day and they want an honest deal. Those who work at this exceedingly low wage, which has not increased in the last 7½ years, are worthy of their dues. They are entitled to a decent wage. That is what we are trying to get enacted.

We are going to have another opportunity tomorrow on cloture. I hope that our friends on the other side of the aisle will have a change of heart overnight and will vote for cloture so that we can get on with this legislation and give those people who are at the lower rungs of the ecomomic ladder a chance and hope that at some point in time perhaps they, too, can get to the top.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I was in error. There were three Republicans supporting cloture and three Democrats opposing it. So it is an even split.

I am not the expert on minimum wage. The distinguished Senator from Utah, Senator HATCH, has been working on this issue for a number of years, as he has on many others. But I did happen to read the New York Times editorial yesterday when it said five out of six jobs paying the minimum wage are not held by poor people at all but by the teenage children of middle-income families or by second earners in families with few children.

Some will say, "Well, one in six is a lot of people." I do not think we ought to try to sell this as something it is not. It also indicates, the same editorial—I do not know where they get their facts. I assume they checked it out fairly carefully—that a dollar increase in the minimum wage might eliminate 250,000 jobs—jobs.

So I suggest that we need to take a look at the minimum wage bill. I do not know of many people on this side who are opposed to increasing the minimum wage, but that does not mean we have to take what Senator KENNEDY sends us from the Labor Committee without any amendment, trying to invoke cloture, trying to keep off nongermane amendments. We do not intend to let that happen. We have amendments, too. The Senator from Washington has an amendment. The Senator from South Carolina has an amendment. We have all kinds of amendments that we believe would strengthen this bill and make it more palatable.

I hope that we do not have any change in this cloture vote tomorrow. In fact, I hope it keeps going our way. We are willing to sit down with the managers and negotiate a minimum wage package for which we can all vote, or most of us. We have been willing to do that from day one.

The majority leader is correct; our candidate for President, GEORGE BUSH, did indicate he was willing to support a modest increase in the minimum wage. He did not say what it was. But we will figure that out for him if we can negotiate. But maybe we are not prepared to do that. We are told we have to take the Kennedy bill so we can get this out of the way so we can bring up another Kennedy bill and maybe if we have enough time we can bring up still another. Finish this, then parental leave, and then maybe he has mandated health benefits up his sleeve before it is over. We do not believe we ought to be around here right now working on some of this legislation. We ought to get the appropriations bills done, maybe welfare reform. We are so close on a welfare reform package that is going to take care of a lot of the questions raised on the other side about the minimum wage. I hope we can do that and then we ought to go home.

I do not always agree with the Washington Post but it had an editorial a few days ago saying we ought to pass the appropriations bills, maybe welfare reform, and go home.

Let us have some national debate on an issue like this. Maybe it will be brought up Sunday night when Governor Dukakis and Vice President BUSH have their first debate in North Carolina. Maybe child care will be brought up, maybe long-term health care, maybe the deficit, maybe issues that affect the American people will be focused upon.

So we do not want the record to show that somehow the Republicans are just for standing pat, we do not want to do anything. We are willing to make a reasonable adjustment. I think the Senator from Utah has the best idea I have heard of for a long time in the training wage, and he is even willing to compromise on that. What is wrong with giving someone an opportunity to work, taking him off the streets? They start at $3.35 an hour. Now they are making nothing except getting into difficulty with drugs, being picked up for who knows what.

I can tell you what is wrong with it. Organized labor does not like it. The labor leaders do not like it. That is why we are not going to get a fair hearing on the training wage, because organized labor does not like it. They have a lot of clout in this body. They have invested a lot in this body. They want to have their way. Well, it is not the Republicans versus the Democrats. It is the Republicans versus the labor leaders in this country who made big investments and big contributions and they want to get their money's worth. So they are going to tell us we can take this or leave it.

We are not going to play that game. I would have to respond to the Senator from Massachusetts, who earlier said we are holding this up for some judges, we are not doing it for that purpose, but I must say it is a travesty what has happened to some of the good men and women who have been in effect dying on the vine in the Judiciary Committee for the past year and a half. They have not even had a hearing. They will not even report them out of the committee because they are Republicans. We are not sending up a lot of fresh nominations with 3 weeks to go to say we want to get these done. For months these have been pending before the Judiciary Committee with the Senator from Massachusetts acting as its chairman, and for one reason or another nothing has happened. One Senator said, "Well, it is the other Senator's responsibility." He said, "It is the other Senator's responsibility."

We think that is a legitimate concern to raise. These judges just are not names on a piece of paper. They are men and women. They have families. They have given up their law practice in some cases because they have been nominated for the district or circuit court.

Mr. HATCH. Could I ask the distinguished Senator a question on that?

Mr. DOLE. Yes.

Mr. HATCH. I noticed that the distinguished Senator from Massachusetts made a comment that, well, you are arguing for the political purpose of getting these judges, 30 judges when we are talking about 16 million people. We are actually only talking about 4.7 million people who are at the minimum wage. Is it not true that some of these judges have been on that list for over a year?

Mr. DOLE. Some have been on the list for a long time. Twenty-nine as of today have been held up.

Mr. HATCH. Is it not also true that a single ruling by one judge may affect the full 230 million people in this country?

Mr. DOLE. Not only that, I would say to the Senator from Utah we are getting ready to maybe take up drug legislation this year. We need these judges out there dealing with drug dealers. In the State of Pennsylvania there are four judges being held up. Four judges. I spoke to the Senator from Pennsylvania, Mr. SPECTER, yesterday. He said all these judges are critically needed. They are all qualified. They just happen to be Republicans, so they are not qualified. It is not that they have been sent up here in the last 30 days. We understand there comes a time in a Presidential election year where the party is going to say, "That is enough. Do not send us any more." We are not trying to shove in any. We are trying to get justice for them. We know we are not going to get them all.

I know that the majority leader has a difficult time. I had that job for a while, and it is hard to satisfy everyone in this Chamber.

We are not going to quarrel with anybody on the other side of the aisle, except to say this: If we want a minimum wage bill, I will bet the Senator from Utah and the Senator from Massachusetts could put one together this afternoon and we could have a vote this afternoon, if that is what they want.

We should have an opportunity to offer amendments. I understand that the Democrats have only two amendments. They got everything they want in committee. We have a lot of people on our side who would like to offer legitimate amendments. There is a pay equity amendment. It is not going to be supported by everybody on this side, but the Senator would like to offer it.

So we would like to figure out some way to resolve issues that must be brought up and conclude our business and get on with the business of the election, which I think is fairly important, too, to the American people, including those on minimum wage, those who are out of work, the homeless, the hungry, those who may have good jobs. This election is important, and the voters will determine which way we go, who is going to control the Senate, who is going to control the House, who is going to be in the White House.

So I hope we can resolve this issue. We are told that we cannot change $4.45 because that is the index of what they had lost in the last 7 years, and that is where you are. There is some dispute about that. But there is no dispute on this side, the record should show, and no unwillingness on this side to try to negotiate some agreement on minimum wage and, I would hope, on training wage.

I heard the Senator from Utah on C-SPAN the night before last, and he was talking about the minimum wage and the training wage, and he indicated on that program that he would be willing to modify that—maybe 60 days or some other modifications.

So, if we really want some of these young men and young women who are out of work and on the streets to have an opportunity, why not take a look at what Senator HATCH proposes? I would hope that when we vote on that, it would be adopted. If that could be adopted, maybe in some modified form, and some minor adjustment made on the dollar figure, we would have a bill here very soon.

I hope we are not told we have to take this or nothing. This is a deliberative body. There has been no filibuster. If you count calendar days, it has been just 4 or 5 days, but there have been about 8 hours of debate. This is an important issue.

I suggest to my colleagues on both sides of the aisle that the Democrats bring up an amendment and then we bring up an amendment. That is not a stall. We are not going to stand here all day and let the Democrats offer their amendments and we offer none.

Not if I can help it. I will object to setting any amendment aside. We should work out a fair way to address amendments. We have legitimate amendments that ought to be offered.

As I understand it, there are only two on the other side: the Harkin amendment on tip credit, which I support, and the Simon amendment on Puerto Rico, which I do not support. But we have a modification to the Simon amendment to make it apply on a regional basis, and the Senator from Utah can discuss it at length.

I share the frustration of the majority leader, in a sense, that we want to move ahead. We do not know where we are moving ahead. If we finish this, how many Labor Committee bills do we have to have for organized labor before we go home?

So I hope we can work out some agreement. The Senator from South Carolina has been waiting for several days to offer this amendment, and he cannot do it. If cloture is invoked, he cannot do it at all, because it is nongermane. The amendment of the Senator from Washington is nongermane.

So, we do not have a choice. Either we are going to agree on an amendment procedure or we will have to encourage my colleagues to continue to vote against cloture. We may not be successful, but we are going to try.

In a sense of fairness, maybe the two managers can agree on alternating amendments. We do not want to hold up the bill. I do not think anybody has spoken on the bill, beyond the Senator from Utah. There has not been a barrage of Republicans here trying to filibuster this bill. We are ready to go to work and get the business of the Senate done.

I commend the majority leader. He has had a tremendous year. We have all the appropriations bills passed and want to get them to the President; and if we got a few more of those down there, we might see the end of the tunnel and we might be able to leave for the rest of the year.

Mr. KENNEDY. Mr. President, I have listened with interest to the minority leader. The statement he has made now is in complete agreement with the statement he made earlier, prior to the vote on the minimum wage. Apparently we are going to hold hostage the 16 million Americans who will be affected by an increase in the minimum wage, the 16 million Americans who have not had a cost-of-living increase, until we act on some number of appointments to which the minority leader has made reference.

I think all of us believe that there ought to be fairness to those who are considered by various committees; that is certainly true. But one fact I think we can say is that none of those nominees are at the minimum wage. Those who are waiting in the Judiciary Committee are not living on the minimum wage.

I will let the chairman of the Judiciary Committee address other questions about the procedures which have been followed by the Judiciary Committee. In the last meeting, there were five judges that were reported out. I know of no one on this side who has made the statement that was made by the former chairman of the Judiciary Committee, Mr. THURMOND, in 1980. On July 16, 1980—he said no more Federal judges should be acted on—when there was a Democratic administration. Or the statement made by Senator Robert Griffin in June 1968 that—no more Supreme Court nominations should be confirmed until after the Presidential election.

We can use little debaters' points, but the Judiciary Committee has reported and, as I understand, will continue to report Judges out. But let us not get away from the facts, a number of interesting facts.

While the Republican nominee is preparing for a debate next Sunday, the Republican Party, with the notable exceptions of Senator ROTH, Senator CHAFEE, and Senator WEICKER, virtually to a man, said no to those individuals who are on the lowest rung of the working ladder. They said no to those individuals.

At the same time, the Republican leadership was committing the Vice President of the United States to a $6 billion tax increase with the earned income tax credit. I hope that message is going to get to the Vice President, GEORGE BUSH. Many of us, when we travel around, hear the statement, "No new taxes." The Republican Party went on record today, through the floor leader for the Republicans, and the Senator from Minnesota [Mr. BOSCHWITZ], who was the chairman of the Republican campaign committee, they went on record for a $6.7 billion tax increase. They evidently want the new taxes.

So let us recognize that right away. There are some realities that are coming out. Speeches are cheap. Press releases go quickly. But we have a chance to act when you can make a difference in people's lives. The Republican Party today, as reflected in the U.S. Senate, has gone on record for increasing taxes, they are as clear as can be on that issue. They are on record now as holding hostage all those millions of Americans in exchange for some of their carefully selected appointees for various Federal jobs.

We have heard on other issues as well. I am glad we have the Republican leader on record. He has said no to parental leave. "No" to any mother who has a sick child or has adopted a child. They have a job but no protections for that mother or father. The Republicans are against that. They want the Senate to get out quickly evidently.

We can debate that and get action on that but, no; the Republican leader said "no." "No on day care. "No," no way. We only want to do the appropriations bills.

With respect to my friend from Utah, he has worked with the Senator from Connecticut who has been the principal sponsor of the day care programs and the parental leave, the Senator from Connecticut, Mr. DODD, and he has worked with us on that. He has indicated he would be willing to start a debate. But, no, the Republican leader said no way on that.

So when we hear these speeches all across the country, as we have heard from the Vice President, "we are for minimum wage, we are for parental leave, we are for day care," that message is not getting over to this party or to this leader because he says no, no, no, we do not want to debate it. We just want to get out. We want to talk about it but not take action on it.

And that is the message, Mr. President. Whether that message gets out across this country now will be the real test for the American people.

Evidently, Mr. President, on the earned income tax credit they are for higher taxes, because that is in the Boschwitz amendment. The Republican leader even referred to it. The floor manager for the Republican Party here has indicated his support for it. They are for higher taxes. They are for higher taxes because that is the way it is going to be paid but not for higher wages.

That is the only conclusion that you can reach with this record. There can be a lot of explanations, but by and large that is what we are facing.

I wish that the Vice President could take a little time away from that debate and just call over to the Republicans and to urge their support.

But we have now a protracted debate on this particular issue.

Just finally, with regard to the procedures, we should not be shedding crocodile tears because the Republicans offered the first amendment. If you listen to the Senator, the minority leader, and I wish he were here since I am responding to him as I indicated I would. But it was the Republicans that offered the first amendment, Mr. President; it was the Republicans, and we followed with a perfecting amendment. They were the first amendment, and we are prepared to deal with that. As the majority leader has pointed out, the procedures of the Senate were followed. As the majority leader has indicated, he was not opposed to considering some form of various amendments, if there was going to be some total agreement. In the past that has been the procedure.

But, Mr. President, I welcome the chance to either debate this issue, or any of the others that evidently the Republican leadership is opposed to. The issue providing mothers with any opportunity to preserve their job. That is what the parental leave is all about, that you do not have to make a choice between your sick child and your job. That is what parental leave is all about.

And the Republican Vice President said he is for some form of it but not this bill. Let us get a chance to debate that. And they evidently are not for providing any daycare debate as well.

I think, Mr. President, we have gained a good deal of insight as to exactly where they stand on these various issues. It does not come as a great surprise. We will hear a great deal of other rhetoric along the line explaining these positions, but I do not think that the working men and women of this country who are receiving the minimum wage now and have received the same wage over the period of the last 6 years or 7 years are going to be fooled.

I yield the floor.

The PRESIDING OFFICER (Mr. REID). The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to this now for a number of days and it is nice to oversimplify and nice to present only a biased, one-sided approach and to do it as only the distinguished Senator from Massachusetts can do. He has my respect. There is absolutely no question he is one of the best political advocates in the country. But let us emphasize the word "political." There is nobody who rises to the highest level of politics better than the distinguished Senator from Massachusetts. We all learn from him every day.

In fact, that is why the Senate is probably in the biggest quagmire it has been in a long time because he continually brings up politics and political rhetoric, ignores the facts, slants the rhetoric, and, of course, becomes very partisan.

That is not to say that the Senator from Utah does not occasionally get partisan himself.

But to say that the Republicans are for tax increases and the Democrats are for jobs maybe has some slight bit of exaggeration in it.

First of all, under this administration, 17 million new jobs have been created in the last 7 years, unexcelled in history. Of the 17 million, I will just state it again, better than 12 million of those jobs have been at least $10 an hour or more. So the vast majority are at high-wage jobs. Another 3 million are at better than $6 an hour or more.

So apparently something this administration is doing is creating jobs and it shows its dedication.

The Republican dedication, if you will, is to more jobs. The Job Training Partnership Act which I have to say the distinguished Senator from Massachusetts helped to put through, as we helped him on some of his, on the JEDI Program, good programs, has created 2 million of those jobs among people who never would have held a job in their lifetimes, all under this administration.

The vast majority of these jobs are at high wages. That has not happened before, certainly has not happened under Democratic administrations that are always asking for increases in the minimum wage and there is a difference.

When I say that I would be willing to fund the earned income tax credit by even an increase of taxes that does not negate the fact that I also realize that we might have to do what we really should do, and that is cut spending somewhere to offset. So there are two ways they can do it. One is cut spending; the other is increase taxes.

But if what we want to do is really help the working poor, the 14 percent who earn the minimum wage who are heads of households which the New York Times is talking about, I am willing even on that basis to raise taxes if that is the only way we can do it rather than go to the past and bring up this fiction again that does not work.

The fact is our laboring force is diminishing rapidly, and hardly anyone who is capable of learning is going to have difficulty getting a job in the future at higher than the minimum wage.

So the minimum wage is really irrelevant except that by pushing up at the bottom by 36 or 38 percent, which the distinguished Senator from Massachusetts wants to do—I guess it is one of his dedicated approaches against inflation—and he admits it in his statement—you cannot deduce anything else—every other wage scale in the country has to go up correspondingly and every good and service in this country has to go up correspondingly and inflation has to go up correspondingly, all to keep a fiction alive which does not work. We could take the adivce of the New York Times and many, many others who have thought about this sensitively and critically and have an earned income tax credit that attacks the problem directly. That is no small thing for me to stand here on this floor and say. If we are going to do it, let us do it.

Now the Senator wants to mandate to small business people what they can or cannot do, or to everybody, but mainly small business because two-thirds of the jobs that are created in this country come from small business. And he wants to mandate, he wants the Government to just say, "Look, we are going to tell you what to do." His mandated health benefits are the same, mandated parental leave is the same; mandated disease notification is the same; mandated plant closing is the same. Let us just tell business what they can do in this country and let us become just like Europe. They are so wonderful, we will become just like them.

All of these ideas are archaic, nonsense ideas that come from Europe and they do not work. They are out of date. They are even anti-intellecutal.

There is not any way you can come up with a new idea without the same partisans of the past saying, "Well, if the unions want it, it has got to be all right because they support us."

My gosh, the unions would, I think, appreciate some good, new, fresh thinking in this matter.

Now, I also appreciate his comments wherein he said that the Senator from Utah has played a significant role in trying to get up an acceptable child care proposal. That is true. My child care bill was the first one filed that I know of in this Congress. It was before the Democratic ABC bill.

I am not saying they do not have some good ideas, because they do or I would not be working with them on it. But, we have come up with what we think may be a compromise that would help every family in this country. It would help children all over this country, and it would help every child in this country who lacks child care.

I really do not believe the minority leader, Senator DOLE, would stand in the way of a legitimate child care bill being brought up here. But if he would, then I am going to take on Senator DOLE and I will take on our side if I have to, because I think it is that serious of a problem.

When 44 percent of our laboring force is women and two-thirds of those are either single heads of household or married to husbands who earn less than $15,000 a year, there is a problem and we ought to address it.

I do not think I have to take on my esteemed colleague, because I think he recognizes what an important issue it is. But if that is the way it is, so be it. Let us get it up and let us have the guts to bring it up on the Democratic side. They control the floor. All they have to do is bring it up, and I think we can pass it. If we pass it, then I think the House will have to take consideration of it, as well, even though right now they do not want it to come up. Why not? They control that House lock, stock, and barrel, including the Rules Committee.

If we can show the nerve over here to do something about this significant problem, then, my gosh, why would they not take it up? They would have to. They would not have any choice. Every woman in this Nation who is thinking about that problem and every man in this Nation who is thinking about that problem would have to say, "My gosh, why aren't you taking it up?"

I know they are responsive to the American people. They would take it up. We have to lead. Do not give me some mishmash about we cannot bring up the tax provision on that bill. We can. The House would have to accept it for it to be valid, but we still can bring it up.

To make a long story short, if we are going to debate this type of mandated issues, let us debate something that really creates hope in the future for everybody. Let us have an earned income tax credit here and let us have an earned income tax credit on child care, which we have agreed to do, in addition to some of the ABC things. It would be called the ABC childcare bill. We would agree to that. And, it would contain a lot of the provisions in my bill, because they would help every community-based organization to help develop affordable, quality, available child care.

Now, the distinguished Senator from Massachusetts should not be politicizing that issue. He ought to be making sure that his side brings it up. And, I will do my best to help our side to be interested in it. I am willing to stand here if it takes the rest of this year and fight for child care, it means that much to me, after studying the issue and looking at it in depth, not just superficially, which is the way many around here seem to look at these issues.

Now, let me get back to one other point—and I do not mean to take too much of the time of the distinguished Senator form Washington who has been waiting here. He wants to bring up his amendment, or at least talk about it. But, let me just say a couple of other things.

Senator **Kennedy** keeps mentioning these 16 million people. Now, those are 16 million that he claims are making less than $4.55 an hour, the point to which this bill would take the minimum wage over a 3-year period. The fact is only 2 million of those, as I recall, are working poor—only 2 million. The rest of them do not need what he wants to saddle the small business people with. Frankly, most of them are going to make much more than the minimum wage anyway. I think it is important to point that out.

We are for jobs. We make and create jobs on this side of the aisle, certainly with the help of some of our colleagues on the other side. This administration, I think, has patented the way to do it. It has done a terrific job in doing it and we intend to do a better job in the future. We would like some help.

With regard to child care, let us do something about it. Let us bring it up on that side. I am offering to fight for it. Let us bring it up and let us fight it out. Let us see if people really are sincere about doing something about child care. Let us not talk about it any more; just get the majority leader to bring it up. That is all you have to do.

Senators **Dodd**, **Mikulski**, **Kennedy**, and myself, and Senator **Cochran**, Senator **Roth**, and Senator **Wallop**, and so many others have worked very, very hard to try and solve this child care problem. I am sorry if I have left some names off.

If we are going to have to have bills on the floor, why do we not do something really constructive and right? Why do we not bring child care up and pass it? And the House will do the same. I know they will. They would not have any choice. There would be so many people upset in this country if they did not that they would have to bring it up, especially if we had the guts to bring it up here and to pass it on the floor of the U.S. Senate.

With regard to the minimum wage? Why cling to this fiction just because the unions want it? That is really it. Why cling to this fiction? Why do we not do something to help the working poor and do it directly? And if we cannot find the offsets, yes, I will vote for a reasonable tax increase to help solve the problem, not a tax increase across the board like Senator **Kennedy** is trying to make out, but a legitimate rifle-shot tax increase that will help the working poor.

I am a tax cutter, but the fact of the matter is that I would do that to help the working poor. I would do it to help the tax side of the child care bill. Those are two areas where, from a rifle-shot standpoint, we need to do something. There is only one other area that I think really deserves that kind of intensive consideration and that may be the approximately 30-plus million people in this country who lack any kind of health care. But I would not do it through a mandated health program which would cost upward of $100 billion, which is what the distinguished Senator from Massachusetts wants.

Like I say, politicians sometimes never see a spending bill they do not like. But I would like to do it by attacking it directly. If we have to face it directly, then I would do it, and I would do it honestly. I do not think anybody has a bigger reputation as a tax cutter or restrainer of tax increases that I do, nor will anybody in the future.

Now, let us get rid of the rhetoric. Let us get rid of the politics, and let us start doing something for the American people. Let us not cling to these old, archaic, wornout, outmoded ideas. Let us talk about the future and let us do something for the future.

What has happened to the Democratic Party? They have always claimed that they had the ideas. The ideas are coming from this side of the floor as well as that side of the floor. And this idea of a refundable earned income tax credit is a pretty darn good idea.

Last, but not least, the distinguished Senator from Washington wants to bring up his pay equity provision which would provide for a study on that issue. Although I disagree with some aspects of it, I am tempted to vote for it to get the issue out of the way and to give him his chance of having the study made, even though I would hate to have that study binding upon the American people because I know that pay equity is not comparable worth.

Pay equity is equal pay for equal work, which I am for. Comparable worth, I am against. I do not want government setting pay scales across this country. When government interferes, as it does in minimum wage matters, the country suffers. When government interferes and starts telling business what to do, especially small business, the free enterprise system suffers. When government starts dictating to us, the whole country suffers and, frankly, the whole world, because the rest of the world depends upon the economics of this country, and rightly so. And it is a shame to mess up the one economic system in the world that really does work.

So I am suggesting this and I have suggested it before: Let us come up with a process here. Let us set this aside, since Senator **Kennedy** has not yet, nor has anyone else on that side, other than Senator **DeConcini**, been willing to sit down to try to resolve the training issue. As Senator **Dole** said, if we could resolve the training wage issue I think we could resolve the increase in the minimum wage issue.

If we have to stick to the heritage of the past and the tired, worn-out ideas of the past, then let us at least do it in the most intelligent way we can. If we have to increase the minimum wage, let us do it with a training wage that gives these students who are not full-time students a chance. Why leave them out of the equation? Why say to them we do not have anything we can do for you when we do have something we can do for them. Why not try a new idea, especially since my economists feel it will work and every small business person feels it will work?

Why do we not just go—as a matter of fact, let me bring up the Simon amendment first. I would suggest we go to the Simon amendment. Set aside the training wage amendments that Senator **Kennedy** and I have with his amendment that locked up the tree and prevented any other amendments from coming up. Let us set it aside temporarily, bring them back as soon as we are through with one amendment, and go to the Simon amendment. And fight it out on that.

I am against the Simon amendment. I think Senator KENNEDY is right in adding the Puerto Rico amendment to the minimum wage bill. And let us go to the Simon amendment and vote on it up or down or table it if you want to, but let us vote on it. And then let us go, if we want to, let us go to Senator EVANS' amendment, or Senator THURMOND's amendment, or Senator BOSCHWITZ's amendment, or any number of other amendments, and dispose of them. Then let us go back and go to TOM HARKIN's amendment which I am for, the Harkin-Hatch amendment. Let us go to that.

There are only two Democratic amendments that I know of, or at least that Senator KENNEDY said that he knows of, and let us dispose of them. I think it will be passed overwhelmingly, the tip credit amendment. And then let us go over here and be fair and allow somebody over here. That way we will move ahead.

What I am saying is, this is not a filibuster. It was never meant to be. But this side gets a little tired of cloture being filed early and cutting off the right to debate. It is not right to do that. It is within the rules, but it is not right to do that over and over again.

There is no desire on anybody's part to filibuster except a few people who really are, as I am, upset about the failure to bring through these judges when we need judges, and especially law and order judges, in this country to solve the drug problems.

We ought to have brought them through. Some of them sat there, some of the top nominees in history, who are nonideological people, like Constance Hope, known as moderate in this country.

I have personally heard leaders on the Judiciary Committee on the Democrat side say we are going to get you through, and she is still sitting there without any hope of going through. And a whole raft of others.

They are not idealogues. They would not be this far if they were idealogues. The fact is they want those 30 positions in case Dukakis is elected. I do not blame them for that. But I think we ought to sometimes put the country first and get these judges on the bench since the dockets are so crowded and full.

That has irritated a few people over here including myself. It is downright reprehensible. But I am ready to go ahead and vote on some of these things and move right ahead.

If we will do that, then we will all be happy. But do not accuse this side of filibustering.

Now, I have to say I hope we will vote against cloture. I hope we will get a few Democrats who will stand up and say he is right, Senator HATCH is right. They ought to have a right to bring up some of their amendments, especially the germane amendments.

If they are nongermane amendments, they ought to have that right too. They should not be foreclosed just because they are in the minority.

I cannot say we foreclosed the Democrats very often when we were in the majority.

We find this procedure used all the time and then we are accused, unjustly and unfairly, of filibustering. I think I know a little bit about how to filibuster and I think I know a little bit about filibustering, because I certainly lead my share around here, but I only lead them on very, very important issues when we really have to have extended debate or what I would call extended educational dialog.

This particular bill needs a lot of that. We can do it through the amendment process and I suggest we go ahead and do that. I think that may be the way to go.

I would suggest to the distinguished Senator from Washington that if they will go with the Simon amendment, and temporarily set aside the Kennedy-Hatch amendments, and allow the Simon amendment to come up and vote on it, then we can go to his amendment and go from there. If this side wants to go to the amendment of the distinguished Senator from Washington, that is fine with me. But I also know that there are those who probably would want to filibuster the distinguished Senator from Washington's amendment. And I would hate to see this process completely shut down until after we have had a few substantive amendments on the bill itself.

But I would be willing to do that because I want to move ahead. So I would suggest, let us have at least one vote on the amendment of Senator SIMON and then move to the next amendment, which would be either Senator EVANS or Senator THURMOND or Senator BOSCHWITZ, any of those three. I prefer the amendment of Senator BOSCHWITZ because his is germane to the bill and we can go to two substantive germane amendments.

If the Senator is willing, Senator SIMON, I would ask unanimous consent to set this aside while you bring up your amendment.

Mr. EVANS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. I have not raised the unanimous-consent request.

Mr. EVANS. And I may object——

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Thank you, Mr. President. I may take a few moments. I have been waiting a long time and I am delighted to see that the majority leader has come back in because we have had a fascinating debate during the course of the last hour between the Senator from Massachusetts and the Senator from Utah and it has been wide ranging but it got quite far afield from the original remarks made by the majority leader followed by the remarks of the minority leader.

I am a proponent of increasing the minimum wage. I voted against cloture; not because I believe this ought to be filibustered, not because I am trying to delay for judges or for any other reason, but simply because I had been waiting for 5 years to get an opportunity to bring an important issue in front of this Senate.

I have always been told, well, wait until next year, wait until next month, wait until the next bill, wait, wait, wait. I intend to wait no longer, Mr. President.

The pay equity issue is one which clearly, clearly is associated with the minimum wage issue. Ultimately it could probably affect, and affect positively, more people in this country, more women, more minorities, than the minimum wage bill itself. It is merely a study but it is important for all of us to have studies first so we know facts and then can build on facts to make decisions.

I cannot conceive that many people in this Senate would oppose the concept of a study to learn more facts.

Mr. President, I voted against cloture simply because immediately after bringing this bill to the floor, the Senator from Utah and the Senator from Massachusetts agree that one would put up an amendment, the other would put a perfecting amendment on top of it, thus effectively blocking of any other amendments except by unanimous consent. That, effectively, puts control in the hands of one person, any one person who objects from then on to setting the amendment aside or doing anything other than continuing to debate that particular amendment.

On top of that we had a motion for cloture. That motion came due this morning and I understand there will be another one tomorrow morning.

We have asked the Chair, or the Parliamentarian, whether there was any hope or any chance of making this amendment germane in terms of post-cloture activity and the answer has been no.

Mr. BYRD. Will the Senator yield?

Mr. EVANS. Yes. I will be delighted to yield.

Mr. BYRD. Mr. President, the bill has been cleared on this side.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. BYRD. Will the Senator yield?

Mr. EVANS. Does the Senator from Utah still have the floor?

The PRESIDING OFFICER. The Senator from Utah has the floor. You are reserving the right to object.

Mr. BYRD. I just, without prejudicing the right of the distinguished Senator from Utah to the floor, I simply want to call to the attention of Mr. EVANS, his bill, Calendar 587, S. 552, a bill to improve the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government, is cleared on this side, has been cleared on this side. The hold or holds come from the side of the distinguished Senator from Washington, Mr. EVANS.

Mr. EVANS. I understand perfectly. The majority leader has said accurately what the particular problem is. But the broader problem is that this Senator has no opportunity to even bring the amendment before the body, regardless of objection, because we are caught in the squeeze between the tree already being filled, amendments already being offered, and a cloture vote and another cloture vote ahead of us. And in postcloture activity this amendment would fall as not being germane.

Mr. HATCH. If I can regain the floor a moment, I will just say that I suggest, since we are trying to see if there is room for negotiation on the training wage, we temporarily lay aside the two training wage amendments and move to Simon, have Simon voted upon and move to yours, if you want to. I would prefer to wait two or three amendments before we get to yours because I believe there are those who are opposed to your amendment. I would rather go through some votes before we go to yours. If you want to go next, that is fine with me. That way we move ahead on this matter.

Mr. EVANS. Mr. President, going with the Simon amendment and coming to a vote on the Simon amendment is all very well. This Senator has no problem with that. Having my amendment up next I think would be appropriate. The Senator from Washington is perfectly willing to enter into a time agreement on my amendment. If there is no time agreement on my amendment, then obviously we could debate the amendment until the time of the next cloture vote, until the time of a successful cloture vote and, at that time, the amendment falls.

This Senator intends to do everything he can to get a vote on my amendment. If it is not during this bill, it will be on the next bill that comes in front of this Senate. If it is not on that bill, it will be on the next bill that comes before this body. It will be on every single bill that comes in front of this body. There will be no unanimous-consent bills. There will be nothing until this Senator, after 5 years, gets a vote on a proposal that is endorsed by, I would guess, 75 percent of the Senate.

Mr. HATCH. Mr. President, if the Senator would listen to what I have suggested, I suggest we ask unanimous consent to set aside the pending amendment or amendments and move to the Simon amendment. If somebody wants to amend Simon, it is fine with me, because there is a dispute over whether his amendment should pass or whether we should go on to the Kennedy amendment on the bill and vote on those amendments.

I would prefer the distinguished Senator wait until after we go to some other amendments before he brings up his comparable worth study amendment, which I may very well support, although I am against the comparable worth itself because I do not think it is a valid economic approach to things. But give him a chance to bring this up and see if he can bring it to a vote. I do not know if he can.

I am for giving him a chance to talk about his amendment, if he would like to. If there is no objection to that, I would just as soon proceed because we are not filibustering. What we want to do is proceed here. There are a number of legitimate amendments I have that I would like to bring up.

The PRESIDING OFFICER. Will the Senator state his unanimous-consent request?

Mr. HATCH. Let me just make this point clear. I have a number of amendments I want votes on. I would like to have them up precloture. They are germane amendments, but if they do not come up precloture, I am going to bring them up post-closture, and we are going to be here for a long time so we might as well, it seems to me, have some of the amendments.

I might be satisfied with two or three amendments and maybe Senator KENNEDY will take my offer, that if he can accept some modification of my training wage, which is a training wage supported by both Democrats and Republicans, and I am willing to work with him to modify it so that it will be acceptable to both sides, we may be willing to accept some sort of increase in the minimum wage and have a bipartisan solution to this matter and be able to go on to other matters, including, hopefully, some I have raised today.

I am extending a good faith effort to let us resolve this. We can sit here and go through 30 amendments, but why do we not just resolve it and do what is right for the country?

I restate, if we go that route, that is archaic, old-fashioned, unworkable, it seems to me, clinging to the past way of doing thing, at least it can be better than what we have been doing with regard to the minimum wage up to now. I far rather would agree to go to a refundable earned income tax credit.

So, I ask unanimous consent that we temporarily lay aside the Hatch-Kennedy amendments and move to the Simon amendment and debate the Simon amendment with a right to whoever has an amendment on this side to amend Simon and have a vote on one or both of those amendments, if we can, with the understanding that we come back to the present tree before there is an amendment on this side.

The PRESIDING OFFICER. You have heard the request from the Senator from Utah. Is there objection?

Mr. EVANS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. I yield the floor.

Mr. EVANS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. That will be the order, hearing no objection. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. I should say to the majority leader, if I may, that I enjoyed his speech the other evening at the celebration of the 100th Congress. I found it to be very interesting, and I learned a lot about the history of the Senate. I admire the majority leader for the work that he does on the history of the Senate. I do not think it has ever been chronicled in the detail that the leader is doing, and it will provide a really valuable record. Somebody mentioned that they will be looking back at the 300th celebration and none of us will be there. But it was interesting and I thank the Senator for that evening.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his very kind comments concerning the speech and the event. My wife and I are grateful the Senator was able to be with us on that occasion.

Mr. BOSCHWITZ. In addition, Mr. Leader, it was the most spectacular fireworks display that I have ever seen.

Mr. President, it is my intention on this bill to offer an amendment that deals with the earned income tax credit. It also raises the minimum wage, somewhat more modestly than people have sought to raise it, and it also adds an expanded tip credit. I understand that the EITC aspect of my amendment has been the subject of some debate already this morning, that there have been some objections lodged because of the cost, and I certainly can deal with that later. But nevertheless, it is a provision that I am offering and that has been offered by Congressman PETRI in the House and by me in the Senate. It is a provision that would be directed exactly at the poor. We are obviously seeking to help the poor with the increase in the minimum wage, but it is a very poorly targeted instrument. However, the earned income tax credit is a skillfully and directly targeted instrument and that is why I am offering it.

Mr. President, I have some charts that I will use as part of the presentation.

The present Earned Income Tax Schedule is shown on this particular chart. We have now in the law an earned income tax credit, but it makes no differentiation for the size of the family. Under the provisions that we are going to offer, there is a differentiation for family size so that the earned income tax credit that one gets increases with family size up to four children. It would be applicable only in families. It would not be applicable with single people. We find in our research, that single people very often are members of families or live with others, so that the cost of their existence is split among several incomes. Clearly, the need is not as great for an earned income tax credit if it is just a single man or woman. However, when that person, be it a couple or a single parent, has children, then, of course, the need for extra income is considerably magnified, and it is to that family we are directing this earned income tax credit.

The earned income tax credit now, as I said, makes no differentiation for family size, and in the event that the adjusted gross income of the wage earner falls into these levels—let us say into the $8,000 level—then his earned income tax credit in the year 1988 would be $874. It will go up next year to $913. And that is about 45 cents an hour. If you want to put it on the basis of the pay of a person working 40 hours a week, 50 weeks a year, 2,000 hours, that would be about a 45 cent an hour pay increase under the earned income tax credit.

The tax credit, I might say, both in the amendment that I have and also under present law, can be added to a person's paycheck on a weekly basis even now, although a very small percentage of the people who would be entitled to it do it that way. Almost everybody does it in a different manner. They simply get the tax credit and get a refund when they file their tax return in April of the succeeding year. But it need not be so. The $874 can be added on a weekly basis, and that is about $17, $18 a week, a not insubstantial sum. Next year, as I have noted, it will be a little higher.

If we look at this chart over here, perhaps it is a little more difficult to read, but it shows the hump, we could say, under my proposal of how much the earned income tax credit becomes when there are four children—not $900 under the present law, but $2,500. Now, if you translate $2,500 into a per-hour increase, that would be $1.25 for a family with four children. In the event they were with three children, the credit would be $2,000. For a person who works 52 weeks a year, 40 hours a week, which is about 2,000 hours, the credit would be $1 an hour, a not insubstantial wage increase. Indeed, $40 a week could be added to the check during the course of the year. A taxpayer would not have to wait until he or she filed a return in April of the year and then get the tax refund. It could be done on an as-you-go basis.

The reason there is a hump like this is that these are the income figures on the bottom, and on the left is the credit. So if the family had an income of between $7,000 and $8,000, it is at that point that the credit is at its highest point.

The earned income tax credit is, in a way, spectacular fireworks, spectacular in the sense that it puts money in the pockets of the poor, unlike increasing the minimum wage, which really is a very poorly targeted instrument and does not aim its success at the poor but gets anybody who happens to be there, many of them being very young, in the early part of their working careers.

My amendment goes right at it, and this really gives the money to the people who are in need.

Mr. President, the earned income tax credit, as can be seen, maximizes between $7,000 and $8,000. On this side of the graph is the amount of the earned income tax credit. This is $2,500, which is the high point, and this is the number of children.

If you have one child, the dotted line shows what you will now receive under the present earned income tax credit. If you have one child, you will receive a maximum of $1,000; two children, $1,500; three children, $2,000; four children, you would get the maximum earned income tax credit of $2,500.

(Mr. DODD assumed the chair.)

Mr. BOSCHWITZ. Again, $2,500, or $50 a week, can be included in the paychecks as you go along. You do not have to file the income tax return and then seek the return at that time.

As I indicated, now the vast, vast majority of the people who seek the earned income tax credit do it that way. But this is a program that maximizes between $7,000 and $8,000 and the more you earn, it begins to phase-out.

When you get to $18,000, the income tax credit phases out. You no longer are considered to be in a poverty situation and, therefore, the Federal Government should not assist any longer. However, it gives quite a boost. If you are in the $8,000 bracket making $160 a week, suddenly your income is going to become $210 in the event you have four children; at $200 if you have three children. All of this is aimed at a family. It is not aimed at a single person. And it is a tax credit that can be added weekly, and that is a constructive way to increase the income of poor people. Once again, it is a replacement of an existing tax credit that maximizes at too low a number. My amendment would replace the existing tax credit that is set at too low a number, but also shows no distinction for family size. We think it is important to show a distinction in family size.

Yesterday in the New York Times, there was an editorial; I believe it is at the desk of every Senator here, entitled "The Minimum Wage: A Better Way." That editorial makes the case that I have just made. They cite Representative THOMAS PETRI, a Wisconsin Republican, who represents Oshkosh, WI, where I used to live, as a matter of fact, as the author of this concept. I have adapted it here for the U.S. Senate. Basically it is for the reasons that I have already stated that families will be helped, that a poor family specifically will be helped, and that it is the most aggressive targeting that can be expected from a Federal program. That is why I am particularly for it.

I want to read parts of this editorial, and I presume that it has been put in the RECORD already. Therefore it is not necessary to do that again.

It points out first in discussing the minimum wage that:

> Five out of six jobs paying the minimum wage are not held by poor people at all, but by the teenage children of middle-income families or by second earners in families with few children. But one in six is still a lot of people. According to Ronald Mincy, a researcher at the Urban Institute, increasing the minimum wage by just a dollar would lift nearly 100,000 families above the poverty line.

That is an important item. But yet the earned income tax credit will do that without causing some of the other impacts on the economy—the inflation aspect, and the loss of jobs which every economist agrees will occur. It is just a matter of degree as to how large it will be. But the idea of the earned income tax credit is an idea that targets exactly the people we are trying to help.

The editorial from the New York Times of yesterday continues. It says:

> The catch is that a higher minimum wage would also induce businesses to get by with fewer employees. By conservative estimate, a dollar increase would eliminate 250,000 jobs, most held by people under age 24.

I understand that some estimates are even quite a bit higher than 250,000, and indeed all of these are just estimates. It is hard to quantify and hard to prove to say the least.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. BOSCHWITZ. Certainly, I yield.

Mr. KENNEDY. The figure used was some 250,000. The econometric model said there were 100,000 over a period of 3 years potentially. But I was interested in the fact that just this past month there was a loss in the economy in the last quarter—250,000 lost jobs. Vice President BUSH indicated that was statistically insignificant.

So I am just always interested when we talk about 100,000 or 200,000 in terms of growth, and here we have lost these 250,000 jobs in a period of a quarter. The Vice President is talking about it is statistically insignificant. I just raise that as sort of a point of interest. I do not know whether the Senator from Minnesota would agree with the Vice President's characterization about the loss or not.

Mr. BOSCHWITZ. I thank the distinguished chairman of the Labor Committee for his comment. I think, as I understand it, the Vice President said that because the unemployment figure rose by, as I recall, two-tenths of 1 percentage point this was a reflection of the end of summer jobs, and that the jobs were lost because the season was coming to an end. And in that sense, it was not statistically significant.

I did not hear the Vice President say that 250,000 jobs was insignificant. I certainly would disagree with that statement; 250,000 jobs is very significant. It is not clear what the minimum wage bill would do. And I think the studies that I have seen—perhaps the Senator from Massachusetts has seen others—say that anywhere from a low of 70,000 jobs would be lost to as many as 600,000 or 700,000 jobs. It is indeed hard to quantify.

I certainly would be the first to admit that. And the benefits on the other hand of the minimum wage are equally difficult to quantify. However, the benefits of the earned income tax credits are not difficult to quantify. They are very direct. They are aimed exactly at the people that we want to aim them at. They are aimed at people who have families, and who are poor.

It gives an additional incentive to work. That, of course, is part of what we are trying to achieve in our society, part of what we are trying to achieve in seeking to pass this; that we are trying to give encouragement to people to work; that we are trying to make it profitable that people should go out and work; and by giving them an earned income tax credit it becomes more profitable to work because in effect we subsidize that work rather than subsidizing not working.

That, too, I think is a constructive element of the earned income tax credit provisions, and indeed maybe the most constructive. I think there is very broad support, and a very broad acceptance of the idea that people in our society who can work should work. However, it is also a well-understood element in our society that people who work lose a number of benefits.

I often think that medical benefits should perhaps be broader and not be lost so readily because more people would have a tendency to work in that regard, and the cost of medical help being what it is for the working poor it certainly should be available because more of the poor would be working in that case.

This whole idea of an earned income tax credit is a way of getting people who are not working once again. I think that has very, very broad support in our society.

Also, if we are to see to it that people leave the assistance rolls, get back into society, and be able to make their way in life, the idea of their working, the idea of subsidizing work rather than inaction is something that has a great deal to say for it.

Let me continue with the editorial from the New York Times, if I may, I quote:

> Wage subsidies have been built into the Federal tax code since 1975. Some four million poor families with children receive tax credits—cash payments—of up to 14 percent of wages, or a maximum of $870 annually. Mr. Petri would raise the maximum, and link payments to need. A family of six subsisting on $8,000 would receive $2,500.

That is indeed quite a bundle. Again, relating it to how much per hour, that is $1.25 per hour. Twenty-five hundred dollars spread over 50 weeks of working, over 2,000 hours, is $1.25 an hour. That, from the standpoint of a family that has an income of $8,000 is a one-third increase, almost—a 30-percent increase—in their wages, and, that, too, is most meaningful.

So the idea of an earned income tax credit, while not without its problems, is an idea that is far more direct, not inflationary, and of much less cost to the Federal Government than raising the minimum wage, as is sought by the bill that is before us.

Mr. President, the concern of many here in Congress for the well-being of American workers and their families has prompted consideration of proposals for increasing the Federal minimum wage and legislative mandating of health benefit coverage.

Robert Samuelson, in writing about this in the Washington Post, I believe, some time ago, said "Some of you"—in addressing those who read the article—"may think that raising the minimum wage is a long overdue way of helping the poor. That is outdated already. Current efforts of the Democratic leaders in Congress to raise the minimum wage have more to do with embarrassing the Republicans in an election year than helping the poor. Increasing the minimum wage is a misguided social policy, even if it seems the fair thing to do."

I must say that, in many regards, it does seem like the fair thing to do. A person making $3.35 an hour, or $3.50, or $3.75, or $4 and above seems to be underpaid.

Mr. President, I am a businessman and have been for many years—15 or 20 years prior to coming to the Senate—and in talking to my sons who now run our business, they cannot go out and hire people at the minimum wage. As a matter of fact, it is very difficult to hire people at quite a bit above the minimum wage. In that sense, one could make the argument that raising the minimum wage would not hurt. On the other hand, raising it would not help much, either.

I do not know if much has been said about rural America and the impact of the minimum wage on rural America, but I think that should be considered. Rural America has gone through some very trying times.

In the 1970's, everything was coming up roses, so to speak, for rural America. We doubled and doubled again our farm exports, so that there was a great deal of activity and a great deal of business in rural America, not only for the farmers but also for the people who sold the seed and the fertilizer, the people who transported the goods, the people who sold the insurance with respect to those goods, including the people who stored them in elevators. Every element of the agricultural sector, which employs about one out of five people in this country, was greatly invigorated in the 1970's, for a number of reasons.

First, the Russians decided that they would not slaughter their animals. The Russian crop bumps up and down. In those years, when it went down, since most grain is used for feeding animals, they slaughtered some of their animals. But in 1973, they made up their minds that they would increase the protein value of their people's diet and they would go out and buy grains on the world market. Of course, they were getting a little bit more for their oil, so they had some currency with which to do that. So they came storming on to the world market for grains and caused that market to rise; and during the balance of the 1970's, those were pretty good years in rural America.

Values of the crops, unfortunately, were immediately translated into higher values of farmland. The net result of that was that we finally became noncompetitive, and those people who bought farmland at too high a value found that they could not pencil it out, as they say. They could not get enough for their crops to pay the tax or the mortgage, considering the cost of fertilizer, seed, oil, and all the other things a farmer has in basic costs.

Rural America prospered during those years. It is interesting to look at a graph of land values in Minnesota. From 1910 to 1973, it was, generally speaking, easy for people to get into the business of farming because you could buy land at a reasonable price. It went up a little in the 1920's, came down in the 1930's, and then began a steady march upward.

Farm lands that in 1910 were about $70 an acre, were about $500 an acre in Minnesota in 1973, and suddenly went up to $1,300 in 5 or 6 years. The line went almost straight up. People who bought land at those very high prices found it difficult to make their farming operations work out, and they got into serious trouble.

So, as the basic asset of rural America doubled, quadrupled, quintupled in value, there was prosperity for a while; but then, of course, it was a classic bubble. What goes up comes down. It went up so high that it was no longer economically sensible to produce food on the land. So the prices came down, and we were beset by recession, and we were beset by the high dollar, and we were beset by foreign competition, because a lot of land in the world was brought into production because of the higher prices in the 1970's.

Having said all that about rural America, let me tie it back into the discussion of the minimum wage. Rural America, when the price of land came tumbling down, really came upon hard times.

As the price went up, farmers would go in the morning to have coffee—the way farmers do—and they would sit there in the cafe and tell each other that they were millionaires now. They were trying to figure out who had the cash to pay for the coffee because their cash flow was not so hot. But, by George, on paper they were millionaires. And it just did not make economic sense and it came tumbling down. Rural America, as we know, has fallen upon hard times since that time, recovering indeed and now beset by a drought but, nevertheless, recovering and mostly recovering because those in rural America have gotten their act together, not the farmers as much as the people in the rural communities, and in an organized way have gone out to seek job opportunities for people who live in their communities so that their communities would not die. Many of those efforts have proved to be very successful.

The fact of the matter is that in rural America one can live on substantially less. The costs are less. In some regards they are more, but by and large the basic costs of existence are less, particularly the cost of housing, particularly the cost of transportation because normally you are in a smaller physical area as well where you conduct your daily life and conduct your business life as well. So costs are less.

Very frankly, many rural communities in Minnesota have told me that one of the ways that they can attract new jobs is by having a wage level that is less than the wage level in cities.

Some of those jobs indeed may be at the minimum wage. Not many of them are, anymore. But perhaps some of them do start off at the minimum wage, and this is the way of attracting those jobs to those communities. They do not stay at the minimum wage for a long period of time, but perhaps they start there or near there, and then they build from there.

I recall speaking with a young woman from Fergus Falls, MN, who said just that, that the jobs that they have created are paying $7, $8, and $9 an hour now, though some of them when they were created were at the minimum wage or close to the minimum wage. In the very few years that they have had their industrial growth organizations in Otter Tail County, MN, they have moved forward indeed and now those jobs, even the new jobs they attract, are better paying jobs. They had some calamities in that community. They had a very large employer burn down, a kitchen cabinet manufacturer. So they got their act together and they have been able to replace those jobs and they have been able to bring good jobs to a community that is indeed one of the hard-working communities of rural America.

But if you increase the minimum wage to $5.05 or $4.65 you are going to reduce some of the opportunities that now exist in rural Minnesota, or rural America in general and we should not do that. We are going to make it more difficult for them to attract jobs.

Our State is a little different, I would say to my good friend from Massachusetts, than his State. My State is not one of the larger States of the Union but nevertheless my State is as large not only as Massachusetts but of all the New England States put together, of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, and Connecticut, and indeed you can throw in Maryland and New Jersey and still would not come to the size of my State. Many, many of our people, nearly half of our people live in the rural parts of Minnesota, and the way they attract jobs and the way they move forward out there often is through initiating employment through lower paying jobs. They do not remain that way long, but indeed one of the advantages that the rural parts of America has is the lower cost of their living, not lower living standards—I do not want to say that at all—there certainly are large numbers of rural poor, but it costs less to live in rural parts of this country. As a result they can indeed build their industrial base by creating jobs that are lower paying than jobs in Boston or Minneapolis-St. Paul, and the result of that is that it gives them an opportunity, an opportunity that would to a large degree be removed in the event the minimum wage were escalated by a dollar or a dollar and a half or even more per hour.

Mr. KENENDY. Mr. President, will the Senator yield for a question?

Mr. BOSCHWITZ. I yield.

Mr. KENNEDY. I was listening to the Senator from Minnesota. Minnesota does have a minimum wage, does it not?

Mr. BOSCHWITZ. It does.

Mr. KENNEDY. It has been increasing, has it not?

Mr. BOSCHWITZ. Increasing, that is correct.

Mr. KENNEDY. As I understand, in Minnesota it would be $3.85 by January 1989 and $3.95 by January 1, 1990.

Mr. BOSCHWITZ. That is correct.

Mr. KENNEDY. It would be $3.85 by January 1, 1989, $3.95 by January 1, 1990.

Mr. BOSCHWITZ. Yes, that is correct, but there are some exceptions. $3.95 in January 1990, $3.85 in January 1989.

Mr. KENNEDY. We heard a good many horror stories out here earlier about the impact of the increases. I see Minnesota, like Massachusetts, has raised its minimum twice in recent years. In Massachusetts we raised it to $3.75 July 1 of this year. A neighboring State of ours, Rhode Island, is up to $4. Other States have increased the wage.

I am just wondering if this has had an adverse impact on unemployment among the people.

Mr. BOSCHWITZ. Once again, our part of the country, I would say to the Senator from Massachusetts, has been growing albeit slowly, and indeed our State has been growing a little bit faster than surrounding States with the exception of South Dakota, perhaps.

I might say to my friend that the Minnesota wage at $3.85 and $3.95 is not the whole story. Mind you, in the amendment that I will offer my minimum will be at those levels as well. My minimum wage goes up to $4 in January 1991.

But there are also some exceptions for minors in the Minnesota minimum wage law. Minors are, presently, at $3.20 with an increase to $3.47 in 1989, and then an increase to $3.56 in 1990.

I would ask the Senator from Massachusetts if he finds the Minnesota law to be acceptable would he also find an exception for minors to be acceptable?

Mr. KENNEDY. In the proposal that we have there is a subminimum wage that would be available to younger people who are students. It is expressed in our amendment which builds upon the existing process and system.

Mr. BOSCHWITZ. The minimum wage in Minnesota, on the other hand, would not be so difficult to implement as I believe the amendment on this particular bill would be. It applies to minors and one does not have to go out and get things in writing. I suppose you have to take a look at the person's driver's license or something to indicate what age the person is.

But it is more general in its application than I understand the subminimum wage to be in the bill that is being offered by the Senator from Massachusetts.

Mr. KENNEDY. We have, what I consider to be, possibly the simplest paperwork application in the Federal Government, because all that is necessary is the name of the employer, the address of the employer's business, and the assurance that they are not going to replace current full-time workers. Once that is dropped in the mailbox, it is presumed approved. So it is extremely simple.

I am not familiar in detail with the way that the subminimum works in Minnesota, but it is difficult for me to believe that it is a great deal simpler than that.

Mr. BOSCHWITZ. I believe that the amendment of the Senator from Massachusetts only applies to students, is that correct?

Mr. KENNEDY. To high school students, college students, and vocational students. It recognizes the importance of continued education and that if people are out of school we ought to do everything to encourage them to go back to school. It emphasizes that we should not try to draw people out of school that are in school. We could very well have that effect by not having this particular requirement.

So, the Senator is correct. We believe that the most important job really for young people is to get a good education. We do provide the opportunity for them to work at a lesser rate when they are in school, high school as well as college.

Mr. BOSCHWITZ. Does the Senator from Massachusetts maintain that by offering people who stay in school a lower wage than people who do not stay in school, that that is in some way an incentive for people to stay in school? I presume that, under the bill the Senator from Massachusetts, in the event somebody were to drop out of school, then the minimum that applies in the bill would apply, but only if they remained in school, as I understand his provision, would the subminimum wage apply.

I would submit it is not much of an incentive to stay in school if, by staying in school here the minimum wage would be lowered for you. I understand that that would be, from my standpoint as well as yours, the much more acceptable procedure.

Mr. KENNEDY. The limitation is that they cannot work more than 20 hours a week. That is based upon the numerous educational studies that demonstrate that if they work more than 20 hours a week their grades fall off.

So, the Senator is quite correct in observing that this program is meant to encourage people to remain in school and it is not to be a device to draw people out of school and induce them into the labor market to go to work for a subminimum wage at McDonald's or the cheeseburger stands and the other types of jobs which under the Hatch amendment will have an incentive to lay them off after 90 days.

Mr. BOSCHWITZ. I must respectfully say to my friend from Massachusetts that providing a subminimum wage to students is not much of an incentive for them to stay in school.

Mr. KENNEDY. Well, it may not be much of an incentive, but many young students depend on that type of job to continue their education.

I mentioned in the debate last week the University of Massachusetts Harbor Campus. The tuition is about $1,000 a year there, which is relatively inexpensive, at least in our part of the country. Eighty-five percent of the students that go there have parents who never went to college. Eighty-five percent of the students there work 25 hours a week, and most of them are at minimum wage or maybe slightly above.

Mr. BOSCHWITZ. The parents have never gone to college.

Mr. KENNEDY. Never gone. So there are many young people who are going to school that depend upon employment. We are 1 of 10 States, along with Minnesota, that has increased the minimum wage over the past few years. But those are, by and large, minimum wage jobs. I know they are discounted by some here, but they are absolute lifelines if some of the young people are going to be able to stay in school. And, even if you consider the number of students that are at minimum wage, you take the increase in the cost of education, the fact that we have moved from the grant programs. We have moved from the Pell grant programs into the loan programs, and students have to earn a good deal more.

So it just seems to me, Mr. President, that the reasons for structuring this in the way that it has been structured by us, does make sense both from an educational point of view and the students point of view.

Mr. BOSCHWITZ. As I understand that provision, I ask the Senator from Massachusetts, each employer has a cap of six employees?

Mr. KENNEDY. The existing law is six.

Mr. BOSCHWITZ. The existing law?

Mr. KENNEDY. The existing law is six students. We double that to 12. We permit any employer to petition for more.

The fact of the matter is that in 1978 we had over 500,000 students who were in the subminimum jobs in 32,000 establishments. They averaged 16 individuals in those establishments. In some instances, they represented 60 or 70 percent of the total employees.

So, even when we had limitation of 6, the average in 1970's was 16. We have increased it to 12 and we facilitated the process where they would be able to increase that even more.

So as to that aspect of it, we think we have streamlined the program and it will be helpful. We have found instances where 60 or 70 percent of the employees are actually receiving the student subminimum. Actually, in that particular provision, we have simplified it a good deal.

Mr. BOSCHWITZ. Certainly that must be an unusual employer who has 60 or 70 percent.

It is my understanding that each employer—let us take your example of McDonald's. Supporters of the minimum wage bill would have you think that all new employees in the last 6 to 8 years are cooking hamburgers. That is certainly not the case. I believe that the distinguished Senator from Utah has had some charts and graphs showing the value of the new jobs that have been created in the last 8 years.

But, as I understand it, each employer would have to make application for this.

Mr. KENNEDY. The employer, yes. He fills out a rather simple form and drops it in the mailbox. When he drops it in, it is presumed approved. He does not have to get another communication back. That is it. It is presumed that they are approved.

Mr. BOSCHWITZ. And an employer or a larger employer, using the Senator's example, McDonald's, would have to file such an application for each 1 of their 4, or 6, or 40,000—I am not sure how many places they have—but they would each have to file a separate application?

Mr. KENNEDY. For the separate franchise.

Mr. BOSCHWITZ. Each franchise?

Mr. KENNEDY. Any McDonald's franchise would, yes, the Senator is correct.

Mr. BOSCHWITZ. The 12 people applied to all of McDonald's, but you can break it down and each franchise could do that?

Mr. KENNEDY. Yes.

Mr. BOSCHWITZ. Why doesn't the Senator just do it as Minnesota and allow a lower wage for minors?

Mr. KENNEDY. Because we do allow the lower wage. If they are students, it does permit them to receive a subminimum.

Mr. BOSCHWITZ. Once again, I would say to my friend from Massachusetts, it seems not much of an incentive to keep people in school. If people do not stay in school, then a higher wage would apply to them. If they stay in school, a lower wage would apply to them. That does not seem to be to be much of an incentive to keep people in school.

Let me also say that it is just the people who do not stay in school that we are trying to direct our efforts at. It is just the people who do not stay in school who are problems within our society. A lack of education means that they often are not qualified for jobs that would pay more, jobs that would require some technical skill. As our society becomes more technical, of course, more and more of the jobs require just those kind of skills.

So, having a higher wage for people who are not in school as opposed to people who are in school—you get a lower wage if you stay in school, at least the employer can offer you a lower wage—it seems to me to be rather a negative incentive rather than a positive incentive for staying in school.

Though I compliment the Senator from Massachusetts for making the distinction and for recognizing the necessity of these distinctions.

One of the aspects of the minimum wage that is difficult to cope with is the aspect of increased inflation. Some might think that, well, we are going to increase just a small percentage of the workers, their wages now being in the minimum or close to the minimum wage level, and we are just going to increase them by a dollar. That is not what will happen.

I was an employer for many years. I started my business in 1963 and went on until 1978 when I was elected to the U.S. Senate. By the time I came to the Senate. I had 1,200 employees, so obviously I could not review all the pay cards. But early on let us say in the first 7 or 8 years of my company, I used to review them all on periodic basis. Frankly, if the Senator from Minnesota was at one level and the Senator from Massachusetts at another level, if you raised me, you had to raise the other guy.

If somebody is at $3.50 and now he is going to be at $4.50, well, the people who were at $3.90 will have to be at $5, and the people who were at $4.70 will have to also be raised. There will be an upward movement of the entire wage base.

Some people would maintain that that is not so bad. Except that some of the gain, perhaps all of the gain, would be taken up by inflation, and of course others would be hurt by inflation, as we have noted in other times of our history.

So creating an inflationary impact on society certainly cannot be seen as a plus. If the entire wage base were going up, then some of the same people who now maintain that that should happen will come back on the floor and they will say America is no longer competitive. They will find one reason or another to point their fingers for the purpose of saying America is no longer competitive. Then they will want to increase or expand tariffs in order to keep imports out, which will have a very deleterious effect upon the consumer. It will also have the impact, as it has had in the past, of shrinking world trade and being very hard on some very poor people around the world. It would also have the impact of further heightening inflation in our country.

So the aspect of inflation that is associated with the increase in the minimum wage is, indeed, a very troublesome one. However, in the amendment that I will offer, I, too, ask that the minimum wage be increased approximately to the Minnesota levels. And, frankly, I do not think that a modest increase in the minimum wage will have the kind of negative impact I am talking about, particularly if it is staged. It will not have much of an impact because I, as an employer, and others as employers, know that it is very, very difficult to hire people at near the minimum wage.

That may be different in some of the States of the Union. Some of our Senators will perhaps say to us that many of their constituents are at or near the minimum wage. As a result, there would be an impact.

Once again I get back to the argument of rural America. Rural America would be much more substantially impacted by increasing the minimum wage and made less competitive. Rural America already is not very competitive. It is not very competitive because, frankly, companies often do not want to go to the rural areas. Transportation, trucking and other expenses are higher in the rural area. So the necessity of having a lower wage base, or at least being able to offer that, is an important element in the competitiveness of the rural parts of the country.

The idea that the minimum wage will not impact them, I think, is mistaken, as I have said earlier. But the impact of inflation, I think, would be quite important. I know that my friend from Massachusetts, when speaking about the earned income tax credit, said that, indeed, the earned income tax credit would be a cost to the Federal Government. There would be a cost because moneys would be paid to people who are working. I believe that the cost has been approximated at $6 billion over 5-year period, or approximately $1.2 billion a year.

I would say to those who consider that to be a detriment with respect to the issue of the earned income tax credit, that it really is not a detriment at all; that the savings in all of the programs associated with the Federal Government would be larger so that there would be no cost and perhaps there would even be a net savings to the Federal Government.

However, for budgetary purposes, those who are listening and those who wonder why it is not scored in that way, must understand that the scoring for the Federal budget, and that is the term of art that is used, the scoring occurs from the Congressional Budget Office and the Office of Management and Budget, the so-called CBO and OMB, in ways that sometimes defy the understanding of perhaps a normal American.

The costs of the earned income tax credit are scored as a budget cost. It is a direct outlay and it should be scored.

But the savings that are accompanied from other programs, consider for example, the WIC Program, the Women, Infants, and Children Program, one of the most constructive programs we have in the Federal Government, could be meaningful in the event we get the expectant mothers working because they find it in their interests to do so.

If we get 10,000 people off of welfare, the cost savings in that would be enormous. But yet none of that is scored, as they say. None of those savings are used to offset the costs of the earned income tax credit.

In addition, it is largely agreed among all economists, and I do not think there are any exceptions, that raising the minimum wage would raise inflation. I believe the CBO says 0.3 percent over 3 or 4 years. None of the costs associated with the additional inflation, the cost to the Federal budget, are counted or scored in the Federal budget process by the Congressional Budget Office, the CBO, or by the OMB, the Office of Management and Budget.

In the event we have a 0.3-percent increase in inflation, the cost to the Federal Government would be enormous; 0.3 percent would add at least $3 billion annually to the budget because all of the budget is sensitive to inflation.

Yet none of those things are scored as savings. Suppose we were to substitute the earned income tax credit for the minimum wage increase, or a combination of the two, as I will seek to do in my amendment, by raising the minimum wage to $4 and putting on top of that the earned income tax credit. If you would properly score the impact on our society and the impact on the budget of expanding the earned income tax credit and raising the minimum wage to $4, as opposed to a flat minimum wage increase of $4.65, there would be a net savings. Regretfully, that is not the way scoring of the budget occurs.

Under my proposal, raising the minimum wage to $4 with an earned income tax credit would mean that a low income parent with four children would suddenly find his wage raised to $5.25 an hour. But, again, the earned income tax credit would be targeted. It would not apply to everyone in the work force. It would not apply to the students or minors, those seeking their first job, but it would apply instead to the poor, and that is really who we are trying to help. The whole basis of what we are doing, I believe, is associated with the poor.

A combined minimum wage and expenses earned income tax credit would mean an increase of $1.25 an hour for a family with four children; $5.25 an hour in the case of three children; in the case of one child, it would be the equivalent of a 50-cent an hour increase; and in the case of two children, a 75 cents an hour increase. We again focused very directly on those who are most in need.

One of my constituents, Mr. President, is the Pillsbury Co. Pillsbury Co., as everyone understands, is in the food business and in the fast-food business as well. One of their subsidiaries is Burger King. Until recently, they also had a pizza subsidiary.

They note that increasing the minimum wage, as is suggested here, would increase their costs in the restaurant division by $30 million. The net income of that division of the company was about twice that, about $60 million. People should realize that the cost of their hamburgers, the cost of the things that consumers buy are going to increase as a result. They have to figure whether or not they are going to be better off.

Also, Pillsbury has told me that they alone would have to find a way of cutting 1,000 jobs out of their restaurant division, and that is a meaningful thing. One thousand jobs would be multiplied again and again in our society. So that from a strictly parochial viewpoint, from the standpoint of my constituency in Minnesota, one company in my State would lose 1,000 jobs.

I notice that in a chart that has been prepared by the National Chamber Foundation, that a total of 15,001 jobs would be lost—I wonder how they came to that "one." But 15,001 jobs is the projected total employment loss for the State of Minnesota for 1990, and by 1990, the projected employment loss in Minnesota would be 37,208 jobs, which is a very, very large number, indeed, in the event the minimum wage rose to—this study presumed $4.65, which is the figure that is in the bill before us.

A rise in the minimum wage would not only increase inflation, but indeed reduce jobs and job opportunities. That is the reason that I impose such a high rise in the minimum wage, and that is why I say that the minimum wage is a very ill-targeted proposal. The earned income tax credit, on the other hand, is a very well and a very precisely targeted proposal.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

Mr. **STAFFORD.** Mr. President, can the motion to raise a question of quorum be temporarily withheld?

The **PRESIDING OFFICER.** The Senator from Vermont.

Mr. **KENNEDY.** Will the Senator just withhold the request for a couple moments? I know the Senator from Vermont wants to speak. I wanted to thank the Senator from Minnesota for the explanation on his amendment. The concept of a refundable earned income credit I think has some very compelling arguments and is favored under certain conditions.

The concern that we have with the amendment of the Senator form Minnesota, as I understand it, and I would hope to have a better opportunity perhaps later when it is actually offered, that with regard to comparing what is reported in our increase, if you take a single individual who is working at the minimum wage, under our proposal they would have a greater increase in their earnings, their take-home pay, than under the earned income tax credit. A married couple would have more. A couple with one child would have more and a couple with two children would have an even greater income under the proposal that is on the floor at the present time.

Then, if I understand, if they have three children, four children, from that point on, the amendment of the Senator from Minnesota has a greater increase in their total income. Am I correct?

We have extrapolated on the figures of the Senator from Minnesota. Those are the figures that I have, and I just want to be fair. If I am not correct, I wish to be corrected, and if I am correct, I want to be able to at least indicate that to the membership.

Mr. **BOSCHWITZ.** I believe the minimum wage of the Senator from Massachusetts rises to $4.55. Since my amendment includes a rise in the minimum wage to $4, the Senator is correct in the case of one child, that it would be $4.50 under my plan, the earned income tax credit. Yours would be $4.55.

In the event there are two children, the earned income tax credit would be worth 75 cents. So it would be $7.75 as opposed to $4.55. As you say, with three or four children, it would be more important. Once, again, it would be targeted directly.

Mr. **KENNEDY.** Maybe we can get that figure down during the time the Senator from Vermont is speaking. The way that I understand it, adjusted to 1988 dollars, taking the minimum wage, minus payroll and EITC, at $4.55 for a single couple would be $7,643. A family with one child would be $8,518 and that would be $8,518 with two children, three children, or four children.

By 1991, with $4 and an EITC, a single couple is $6,715. A family with one child, $7,015; two children, $8,215, which is less than the $8,518. Maybe our staffs can get together.

This point I would make is just one aspect of it. If you are talking about a single individual, ours is much more beneficial. A family with one child, ours is more beneficial and I believe even with two children. Clearly with more children the program of the Senator from Minnesota does increase.

Perhaps we can agree on just the basic figures so that the membership understands what it is and I will, if I am corrected, make that correction. That is at least one aspect of the proposal of the Senator that is of concern to us. There are others, but I wanted to clarify that.

Mr. **BOSCHWITZ.** The Senator has baffled me with all those figures, to be very frank, and I have to leave in just a few moments, but I will look at them and comment on them.

Mr. **KENNEDY.** I thank the Senator. I yield the floor.

Mr. **STAFFORD** addressed the Chair.

The **PRESIDING OFFICER** (Ms. MIKULSKI). The Senator from Vermont.

Mr. **STAFFORD.** Madam President, the Senator from Vermont intended to speak on a nonrelated subject for about 5 minutes. I hope there will be no objection. I understand that I have a right to do it in any event.

The **PRESIDING OFFICER.** The Senator is correct.

ATMOSPHERIC CONTAMINATION—VIII

Mr. **STAFFORD.** We generally think of smog as an urban air pollution problem, but the remarkable and unexpected fact of the matter is that ground level ozone concentrations have at least doubled in the last 100 years in the most unlikely places.

Scientists tell us that ozone levels in rural areas of Europe and even in the middle of the Pacific Ocean have doubled and tripled in the last century. We are beginning to pay more attention to levels of ozone outside of our cities because our forest systems are beginning to die and also because ozone is a greenhouse gas.

At the gound level, ozone is formed when two pollutants—oxides of nitrogen and hydrocarbons—react in the presence of sunlight. Ozone is a powerful oxidizing agent—like bleach. It damages not only plant life, but also the cell walls of the human lung.

This has been a bad year for ozone in the United States. The worst previous year for ozone levels was 1983, but by last month the levels set in 1983 had already been broken at two out of every three monitoring stations in the country. At Acadia National Park in Maine, for example, there have already been six violations of the health standard for ozone this year. There was only one such violation last year.

It should come as no surprise that ozone levels are increasing. Ozone is formed from three ingredients—oxides of nitrogen, hydrocarbons, such as unburned gasoline, and the heat of the Sun. Since the levels of all three have been rising in the United States, so has the level of ozone.

Ozone in the lower atmosphere—called the troposphere—is a greenhouse gas, and a potent one, that contributes to global warming and climate change. It is also highly toxic to plant life. And, of course, it is part of the soup of air pollutants that includes acid rain.

So there it is—a multiple threat pollutant that is a direct hazard to human health and that is also linked to global warming, acid rain and ecosystem collapse.

Adding to the considerable concern of scientists is that ozone levels, already dangerously high, have the potential to increase tenfold. The key ingredient in the formation on nonurban ozone is oxides of nitrogen. As they increase, so do ozone levels.

Yet, nowhere in the world, including the United States, is any systematic effort being made to halt the runaway growth in emissions of oxides of nitrogen. We temporarily capped that growth in this country with the auto tailpipe standards enacted in the 1970's, but the benefits of that program are now nearly exhausted. And we have no plans to enact strong controls for powerplants and large industrial sources.

Nitrogen oxide emissions in this country increased from less than 3 million tons in 1900 to about 20 million tons at the beginning of this decade. The growth in Europe has been even more dramatic. European emissions are 37 million tons annually, about 54 percent of the global total. And emissions in the developing nations, including China, are expected to skyrocket.

Only in Japan have nitrogen oxide emissions dropped substantially. The Japanese have reduced emissions 90 percent over the last 20 years through controls on motor vehicles and smokestacks.

Elsewhere in the world, the trend is depressing. Nitrogen oxide emissions are increasing and with them come increases in concentrations of ground-level ozone. This is happening despite the fact that we know how to control these emissions with relative ease and at small expense.

The technology is at hand and it has been demonstrated effective at hundreds of installations of utilities and other industries. We seem to lack the understanding that we need to reduce these emissions before it is too late.

Tomorrow, I hope to discuss with you a variety of other air pollutants, including many that play a much more significant role in atmospheric contamination than is generally realized. Included among these are carbon monoxide and methane.

Madam President, I yield the floor.

S. 555, GAMING ON INDIAN LANDS

Mr. BYRD. Madam President, while the distinguished Republican leader is here, I ask unanimous consent that the Secretary of the Senate be authorized to make the following clerical corrections in the engrossment of S. 555, which I send to the desk.

Mr. DOLE. We have no objections.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerical corrections are as follows:

On page 48, line 16, strike "two" and insert in lieu thereof "one".

On page 51, lines 9, 12, and 15, strike "3" and insert in lieu thereof "2".

On page 80, line 9, strike "three" and insert in lieu thereof "two".

On page 84, line 4, strike "three" and insert in lieu thereof "two".

On page 92, line 19, strike "$100,000,000" and insert in lieu thereof "$1,000,000".

MINIMUM WAGE RESTORATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Madam President, I would like to speak of the issue of the minimum wage bill. I support an increase in the minimum wage, but I also support many amendments that I hope can be offered.

I would like to explain what is occurring in the Senate. A vote against cloture really is not an effort to stop action on the minimum wage bill. It is a vote against limiting important amendments. Many Senators, including myself, are prepared to offer some amendments relevant to the minimum wage bill.

One of those amendments regarding a tax credit will be offered by my friend, Senator BOSCHWITZ. I am going to speak of that issue this afternoon.

I also have an amendment prepared and filed to prohibit backdoor pay raise for Members of Congress. Currently, Members of Congress can receive automatic salary increases without a vote. I believe we should change that. We should require a vote to increase congressional salaries as we do on the minimum wage. That is an amendment I would like to offer to this bill which I consider germane. Unfortunately, that amendment would be out of order unless cloture is defeated. If cloture is invoked under the present plan, my amendment and many others such as the amendment by my colleague from Minnesota could not be offered.

I think there is much misunderstanding about cloture votes. While some believe a vote against cloture is an attempt to delay action, actually it allows us to offer relevant amendments. There are also alternate plans regarding the minimum wage. These should be offered as amendments and Senators should be able to vote on them. The Senate is a great institution. Sometimes the majority will set up an amendment tree, or seek a unanimous-consent agreement of some sort that blocks many Senators from offering worthwhile amendments. One such amendment is the job enhancement for families proposal by my friend from Minnesota.

The amendment would encourage welfare recipients to enter the work force and help lower income families to remain in the work force by expanding the earned income tax credit, EITC, and vary it by family size. A companion bill has been introduced in the House of Representatives by Mr. PETRI. I commend him for his efforts on this issue.

Before I describe this amendment let me summarize the concerns I have with simply increasing the minimum wage. First, simply raising the minimum wage will not help those who need it most. Congress should ensure that any legislation in this area targets those workers most seriously in need of assistance—low-income heads of household and minorities in depressed urban areas. While a support on increase in minimum wage, a flat increase will not do that. I think we have to analyze what we are talking about here.

A recent column by Robert Samuelson in the Washington Post titled "The Myth of the Minimum Wage" reaches a similar conclusion. He states that the "profile of minimum-wage workers simply doesn't fit the popular stereotype. Government policies shouldn't be based on stereotypes that are demonstrably false."

The minimum wage is most prevalent among teenagers in their first job. I certainly worked at more than one such job at the minimum wage when I was a young person. Among 16- to 19-year olds in 1987, 29 percent of those employed earned the minimum wage; among 20- to 24-year-olds, the proportion drops to 10 percent. And only 4.6 percent of adults over 25 earn the minimum wage. Only 1 percent of all workers are both minimum wage earners and below the poverty level. Seventy percent of all minimum wage earners live in a family where family income is at least 150 percent above the poverty level.

Second, substantially, raising the minimum wage will surely cost jobs and hurt those we are trying to help in some instances. An editorial in the New York Times, entitled "The Correct Minimum Wage is $0.00," states, "But there's a virtual consensus among economists that the minimum wage is an idea whose time has passed. Raising the minimum wage by a substantial amount would price working poor people out of the job market."

Many economic studies clearly substantiate that conclusion. A U.S. Chamber of Commerce study concluded that when the 1977 minimum wage increase was fully in effect, a 4 year process that raised the minimum wage by 46 percent, 644,000 jobs were lost.

Proposals pending in the House and Senate will have a similar effect. The Senate Labor and Human Resources Committee would increase the minimum wage to $4.55 by 1991; the House Labor Committee would raise the minimum wage by 51 percent, to $5.05 by 1992.

I do not necessarily agree with every aspect of these studies. Estimates about the number of lost jobs vary, but the one thing nobody disagrees with is that it will result in a loss of jobs. As reported in the Samuelson editorial, economists for the Federal Reserve Bank of San Francisco reviewed available studies regarding the effect of an increase in the minimum wage. They concluded that the House proposal would raise inflation and result in the loss of 100,000 to 300,000 jobs. According to the study's authors, "The increase in unemployment would be among lower wage workers, the group that the minimum-wage law is supposed to help."

A Congressional Budget Office study on the impact of a minimum wage increase estimated the job loss at anywhere from a quarter to a half million jobs. In addition, the study projected an increase both in unemployment and inflation by up to 0.4 percent. Unfortunately, it was rejected by the chairman of the House Education and Labor Committee because he had not specifically asked for an estimate of the effect on the economy. A revised study was prepared—with the impact on the economy deleted.

Teenagers—who represent 40 percent of all minimum wage workers—would account for between one-half and two-thirds of the anticipated job loss. This in itself would be tragic. A teenager's first job, often a minimum wage, it typically his or her main entry into the work force. Mine was. An employer faced with a 47 percent increase in the cost of part-time labor may have no choice but to eliminate such employment opportunities.

Third, raising the minimum wage may well increase inflation more than would immediately appear, because raising the minimum wage raises the whole wage base—not just the minimum. If minimum wage employees are raised by law from $3.35 to $4.55 or $5.05, what happens to those who were at $4? The spread would have to remain so their wages would raise to 65 cents, or more, over the minimum wage. So they would now be at $5.20 or $5.70. Those who were at $5 would go up to $6 or $6.50—the whole wage level would rise and the inflationary impact—the impact on our international competitiveness—would be greater than anticipated.

So I believe we have to take a look at what these studies say. I would be one who would not agree with every study in every respect. I am one who favors some increase in the minimum wage. However, there have been some very knowledgeable economists and some liberal newspapers such as the New York Times that have raised some very basic questions about some of the fundamental operating procedures and assumptions we seem to be operating under.

That inflationary pressure could be compounded when the proposed minimum wage increase is combined with mandatory health insurance, another bill currently pending in the Senate. A typical health insurance plan provided by an employer under the proposed legislation will cost about $100 a month or $1,200 a year for a single person. Of that amount, the employee may pay about 20 percent or about $20 and the employer the remaining $80. For those employees at or near the minimum wage, the employer would be required to pay the entire premium. The employee would have no choice about coverage. The only election would be whether the employee's spouse or dependents would also be covered.

The $100 per month premium represents an hourly cost increase for a full-time worker—assuming 2,000 hours per year—of 59 cents. For a part-time employee working 17½ hours a week, the additional cost would be $1.18 per hour.

Now add together the cost of providing insurance and the minimum wage increase which would take effect on January 1, 1989. For the full-time employee, the total per hour increase would be 88 cents; an increase of 30 percent. For the part-time employee, the total per hour increase would be $1.58, an increase of 47 percent. These increases do not take into account an additional 40-cent-an-hour increase in the minimum wage in both 1990 and 1991.

This could be, according to many economists, a cruel blow to many employees. Those who now work 25 hours a week would be cut to 17. If they needed more money they would have to take a second job, a second commute, a different and probably less convenient set of hours that may well impose themselves on the career preparation of the young who most often hold such jobs. When I was in high school and college, I had some of these minimum wage jobs which probably would not have existed under some of the proposals that we have here.

I also am concerned that the Senate committee did not include an increase in the tip credit as did the House Labor Committee. It is simply unfair for employers to pay social security taxes based on tips—the employee has no similar obligation—without receiving some expanded credit for the actual wage supplement which the employee receives.

Another important proposal would create a training wage for youth. Mr. President, I understand one of the amendments pending is a training wage for youth. This is a very important matter and there should be a vote in this Chamber on the training wage issue. We do not presently have that. I support some form of a training wage for youth, and want a vote on that issue.

This would enable young people to get necessary job experience at a time when they have few family or financial responsibilities.

A training wage is not so different from the apprentice wage authorized by collective bargaining agreements between labor unions and employers. The training wage concept would help minimize the impact of raising the minimum wage, if it is to be raised, especially for young people and minorities in inner cities where unemployment historically is the highest.

At the beginning of my remarks, I stated that the Senate really should try to target assistance to those most in need. The Boschwitz amendment would do that.

One of the biggest problems with raising the minimum wage is that, even if it is raised substantially, it will not help the poorest workers and their families as supporters claim it will. The main beneficiaries of an increase in the minimum wage will be part-time workers and middle-class teenagers.

Even if welfare recipients want to work, thereby increasing their earning power through job experience, they face big financial penalties for entering the work force. The basic problem is that economic need varies by family size—and while welfare takes this need into account, wages do not.

I am told that in the State of Minnesota, a single parent with two children can receive $8,160 in Aid to Families with Dependent Children and food stamps, plus Medicaid and possibly other benefits, such as Head Start, housing subsidies, and energy assistance. Working at the minimum wage—currently $3.65 in Minnesota—that same parent would take home about $7,300. Subtract work-related expenses and possibly child-care costs, and you can see why some families may choose to stay on welfare.

I think that is one of our greatest problems, Mr. President. Under our welfare system, many people are actually better off financially taking welfare than working on a productive job. That is why this amendment by Senator BOSCHWITZ is very important.

In raising the minimum wage, the main job losers will be the ones who can afford it the least—the poor and the unskilled. The job loss caused by raising the minimum wage may force many of these families back on the welfare rolls.

As proposed in the Boschwitz amendment, expanding the EITC for those with large families and limiting it to full-time and nearly full-time workers would motivate many to leave the welfare rolls and join the work force. In addition, unlike raising the minimum wage, the Boschwitz amendment would not directly affect the cost of labor for employers.

Consequently, it would not discourage employment. Rather, it would guarantee every American head of household who works full time the means to provide for his or her family without living below the poverty line or going on welfare. In addition, it encourages families to stay together in order to receive the credit.

Perhaps this Chamber should raise the minimum wage, and I am prepared to vote for some increase in the minimum wage. However, I believe we have to consider some amendments, some alternatives, that will supplement that, such as the Boschwitz amendment and such as the training wage for youths. These are amendments that deserve consideration by the full Senate. They are amendments on which I would like to debate and vote. But if we go forward as planned, if cloture should be invoked in this Chamber, we will not have a chance to vote on the Boschwitz amendment; we will not have a chance to vote on the Congressional Pay Accountability amendment.

I see that my colleague from Minnesota has arrived. During his absence, I talked about the Boschwitz amendment, which would provide those in the lowest income categories with an income tax credit similar to the Petri bill in the House. This will encourage work, rather than welfare.

To summarize my view on this, I have presented to the Senate several studies and an editorial from the New York Times which indicate that just raising the minimum wage will not necessarily help the poor in every case. In fact, in some cases it may hurt them. That is not necessarily my conclusion, but it is the conclusion of many learned economists. But even if we are to raise the minimum wage, it would be unfortunate to do so without taking into account something like the Boschwitz amendment, which would provide an income tax credit.

At this time, I yield the floor back to my colleague from Minnesota, and he can better explain his amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. I thank the Senator for his remarks and for speaking about my amendment and the minimum wage. I thought his remarks were indeed quite correct and quite well-founded, and I join him in those remarks.

Madam President, during the 1960's and 1970's, Congress sought to eliminate any Federal income tax liability of families whose income was below the poverty level. Several approaches were used in tax legislation enacted in 1969 and again in 1975, 1976, and 1978.

Included in those efforts were increases in the personal exemptions, the standard deduction, also termed the zero bracket amount, and the earned income tax credit. These provisions were intended to increase the level of income at which a family begins to pay Federal income tax, termed the tax threshold or entry point.

That, Madam President, is one of the reasons why we have such a high income standard associated with the earned income tax credit. The standard deduction is now $5,000; the personal exemption is almost at $2,000, and soon will be at $2,000. A single parent with one child would have two $2,000 exemptions plus a $5,000 standard deduction, for a total of $9,000 of tax-exempt income.

In the event that person is working, to give them a tax credit would not be very useful, because a tax credit can only be used to reduce tax that is owed; and a single person with one child has $9,000 of tax-free income. In the case of two children, it would be $11,000; in the case of four children, it would be $13,000 of tax-free income. But the refundable tax credit in the current EITC ensures that the taxpayer gets an actual wage subsidy if the credit exceeds taxes owed. It is for this reason I encourage my colleagues to support my amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, if there is no one on the floor wishing to speak, what is the regular order?

The PRESIDING OFFICER. The question is on the second-degree amendment.

Mr. METZENBAUM. Is that the Kennedy amendment?

The PRESIDING OFFICER. That is the Kennedy amendment.

Mr. METZENBAUM. If no one is present to speak and the minority leader is ready to vote——

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Thank you, Madam President.

I do have a comment or two in the debate on minimum wage. My colleague from Minnesota, I think, who has not quite concluded his remarks was asked to appear before a group here in room S-211. He will return.

I do have a thought about this issue as we find ourselves unable to obtain cloture or cutoff the debate on this issue. I have not entered the fray before. It does indeed seem to me that we are at a point in our legislating where we need to be doing some negotiation, and we are doing that. The public should be aware that, even though it would appear to be a bit of a stalemate here, I feel quite certainly, maybe naively so, but I have been accused of that before, that if we are to restrain the cutting off of debate tomorrow, and we will vote again, I really feel very sanguine about the fact that we will get a good compromise minimum wage package that most of us, a great majority of us, can agree to, that would deal with the contentious issues that have been part of this debate.

I really believe we can do that, and we have nothing to lose, if we have one more vote on that tomorrow to see if we cannot do that.

I think we can reach an accord and then go on to the next item of business. Meanwhile, back at the old homestead, we are seriously addressing this issue of judgeships, Federal district and circuit judges.

Chairman JOE BIDEN is back and we are very pleased and thrilled that he is and he is undiminished. He has not "lost a step" either physically or mentally, and that should please us all. He is a splendid chairman, and I mean that sincerely, and my colleague from Ohio, on the floor, knows as a fellow member of the Judiciary Committee that it is heartening to see Senator BIDEN and to see him doing so well and functioning just as before.

So he is back and he and Senator THURMOND, the ranking member, are discussing these things about the judges, and how many more hearings we will have. That has to go forward.

It is a very important point for us in the minority. We are well aware of what occurred with regard to President Carter, and I remember we were in the minority then and there were some 17 judges apparently that did not get processed, but the footnote to that is that in the next administration, a Republican administration, we even processed a request or two of our Democratic minority and those judges went on the bench, one I recall distinctly a personal friend, Stephen Breyer.

So we are desiring to see people who have sometimes even been sponsored in a sense by both Democratic and Republican Senators and see them come forward and be placed on the Federal bench. We are going to be working very hard to do that.

That means of necessity that we are going to have to say in those negotiations that are taking place that we are going to have to say "these 8 will not pass or these 10; these 4 or 5 will pass, if this passes; these 8 or 9 will pass regardless of whether anyone passes as long as this particular item passes." That is a scenario.

So, we should not disabuse the American public as to what we have here and what we are doing here.

It is the intention of the minority to try to present amendments which we can do best when we have not had cloture invoked. That means nongermane amendments. We all know what those would be, but we never know quite the whole flight of them and the intent sometimes, either.

Nevertheless, that gives us the freedom, and so we will hold off cloture and we believe we can do that. That is not a threat. It is not an intention to make it painful for the majority leader who I have said many times is superb in how he operates and sees to the stewardship of the Senate and its work. I have no qualm about that. He has always treated me exceedingly fairly.

But that is what we are doing here, assuring that we have the ability and the freedom to present nongermane amendments and to see if we cannot reach an accord of some kind—or just a shake of the hand will do it, thank you; we do not need to have it in writing—that these certain judges will be approved. Then if this occurs, we should deal with these other things, and there are several legislative items in that stack and they are as diverse as the Berne Convention, the visual arts, Genocide Treaty, several other things, maybe an agenda of six or eight items that fit in this discussion package along with release of those at the desk who are the Justice Department nominations.

So, that is really the issue before us and it really does not have anything to do with minimum wage. I know that is a shocking thing for the American public, but they have to know that whatever education they have had on legislating in the textbooks does not match anything the way we do it here because let me tell you, ladies and gentlemen, if the minimum wage were really the "cause celebre" of those of my opposite political faith, we would have seen this baby roll out of the House like a dose of salts. It does not come out of the House because they do not want to deal with it in the House. Think of it, the Democratic-controlled House failing to deal on a minimum wage bill. Is that not fascinating? Why? Because they are running for reelection and they all have to go home and as they go home the people in their communities, the real people in the real communities of the Members of a body that was supposed to have the heat put on its Members by the citizens—and that is why they have to run every 2 years and we get the opportunity to run every 6. As they have gone home the fellows they know, Democrat and Republican alike, say to them, "Hey, this may sound good but this is going to kill me. It cannot work. It puts an extra burden on my business. I am going to have to fire some of these young guys. I do not want to do that."

That is why it has not moved. So as we get into the heat connected with the minimum wage let us just remember that there is a body just not too many feet from this Chamber on down that hall that could have moved this measure at any time with some real hog. This was among the top agenda in the last elections for them. There was a lot of discussion about this, the top labor agenda. But yet really what we have here is the cooling process going on before they even clean the saucer over there.

So do not despair about minimum wage and believe that those of my political faith are doing bad things, because those of the political faith on the other side of the Capitol could have moved that measure at any time, anywhere, anyplace, with about all the horses you could ever muster on the Western plains.

So I just want to kind of put that in a bit of perspective.

I see my colleague from Oklahoma is here. I believe he wishes to address the issue and debate.

I certainly yield the floor to Senator Nickles of Oklahoma.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. Does the Senator seek time?

Mr. NICKLES. I seek the floor, yes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, my colleagues, and those who may be watching the debate on this issue concerning minimum wage, I would like to make a few general comments. One, I think this debate has a lot more to do with politics than it does minimum wage. I listened to the debate by my good friend the Senator from Ohio and also the chairman of the committee, Senator Kennedy, who repeatedly talked about the minimum wage. But I was almost amused by the number of times that I heard George Bush's name mentioned. I was also amused at the number of times I heard Dan Quayle's name mentioned and the administration for doing so little for those on the lower end of the economic scale, or at least that is what you would be led to believe.

I thought we were going to be discussing minimum wage, what it would do and what the economic impact of it would be.

I see my good friend from New Mexico. He has been very concerned about what we do in the economy and how we can make the economy better. I compliment him for that.

I do not know that this issue is so much about the minimum wage as it is about November 8, 1988, and how we are going to influence the election.

Actually, Senator Kennedy's references to George Bush, where he mentioned the Vice President and/or Bush, he mentioned his name 23 times in his remarks the other day. He referred to Senator Quayle 3 times, to the Republicans or the Reagan administration 20 times, and other references to Bush 7 times, for a total number of references to the Republicans of 53 times.

So, again, I think we are getting fairly partisan, pretty political, and not so direct on what the issue is and how it would affect people—working people, people who may or may not be making the minimum wage and what the impact would be.

I am also interested in this. I know that we had a break in August. I traveled around my State of Oklahoma. I can tell you, Madam President, that people were not knocking on the door saying, "Please increase the minimum wage." As a matter of fact, this was not really that much of a hot issue until people decided they would make it a political issue. So we are talking about politics.

Unfortunately, there are a lot of people who are vulnerable in that area. There are a lot of people who, I am afraid, will lose their jobs if we enact this legislation. It is not just Don Nickles' opinion, but the opinion of a lot of people—a lot of economists, a lot of people who make their living trying to figure out what happens when Congress takes various actions.

Almost all economists estimate that the net impact of raising the minimum wage to $4.55 over a 3-year period of time is going to cost jobs. It is going to cost hundreds of thousands of jobs. It is going to put people out of work. I think that is very unfortunate, particularly if the real reason is for political reasons. And that is what I happen to believe it is.

I will even go a little bit further. I used to have the honor and the privilege of chairing the Labor Subcommittee in the Senate for 6 years, from 1981 to 1986. Madam President, I cannot remember anyone introducing legislation to increase the minimum wage. And if they did, they never asked this Senator for a hearing and they never pushed the legislation. We did not wrestle with this issue on the floor of the Senate for those 6 years. It did not come up. The American people were not asking for it. We did not have Senators asking for it. It was not really an issue.

This will be the first time that we have discussed it and debated it and possibly will vote on it in 8 years. Again, it is just kind of coincidental, maybe, the fact that we are just getting ready for a Presidential election. So, again, I say this is more political than it is anything else.

But also it is real. What do we do? What is the real impact or effect if we have a law that says the minimum wage will have to be $4.55? What we do, Madam President, is we make it against the law for an employer and an employee to get together and decide to work and pay less than $4.55.

So if an employer and employee decide: Yes, we have a job to do and that job is worth $4 per hour and it is mutually acceptable, we are saying, "No, you can't do that." And, to the employee that is out trying to find a job, we are saying, "If you can't find a job that pays more than $4.55 per hour, you are out of luck. You are unemployed."

Now, I happen to know firsthand, I guess. I have a couple of teenagers. Both have worked for less than $4.55. Acutally, one is 18 years old, my son. Now he makes well more than that, but a couple of summers ago he made around $4 an hour. I have a 16-year-old daughter. She makes less than $4.55 an hour.

I do not want to pass a law that makes it illegal for my teenagers or anybody else's teenagers to work for $4.50 or $4.25 or $4 an hour or $3.75 an hour if that is the best they can do, if that is the best job they can find. If that is mutually acceptable with them and their employer, why should we pass a law that says, in our infinite wisdom in Washington, DC:

> You can't do it. We are sorry, young student, we are sorry, teenager, we are sorry, poor individual that is trying to get in the economic mainstream for the first time, we are going to pass a law that says you can't have that job. We have determined that no job is worth anything if it is not worth $4.55 an hour. Therefore, if you can't find a job that pays that much or more, you are out of luck. You are out of a job. We just priced it out of the market.

So a lot of jobs that people have, maybe it is their first job, maybe that job was pumping gas or sacking groceries—a lot of us had beginning-level jobs. Maybe those jobs pay $3.50 or maybe they pay $4 an hour. If we pass this legislation we are going to say, "We are sorry, but those jobs are now priced out of the market."

I think that it would be a mistake to pass a law that prices out and eliminates a large number of jobs. How many jobs are we talking about? I will tell you that I do not have the infinite wisdom, but I did happen to look up and see what some other people are saying. I can tell you there are a lot of jobs in Oklahoma right now that will not pay 4.55 an hour.

I mentioned pumping gas. We used to have full-service gas stations in a lot of places. That was kind of an entry-level job. A lot of 16-year-olds, perhaps they would get a car from their parents and, as I told my teenagers that have cars, I said, "Well, you need to earn the money to put the gas in the car." One of those jobs my son had was pumping gas. I believe he made $4 and something an hour.

I do not want to say to the employer and the employee that it is against the law for you to do that. And that is what we would do if we pass this bill as introduced today.

My daughter happened to be working in one of the fast-food restaurants. It was her first job. When she turned 16 years old, she was working in a fast-food restaurant making $4-something an hour. I do not want to pass a law to tell her that she cannot do that anymore. Not only her, but the countless thousands of other people.

I think that first job is one of the most important jobs that anyone can have. They learn work ethics. They learn what it means to show up on time. They learn what an employer expects of them. They learn work habits. They learn how to work for themselves; how to apply for a job; how to get dressed for a job; what it means to be on time. They learn that they cannot be tardy. They learn a lot of responsibility. They grow up. And that is very important.

Really, I think, again, it would be a serious mistake for us to pass a law that is going to eliminate thousands of those jobs. How many, I am not sure, but, again, a lot of studies have been published. The Department of Labor said the increases that were passed in 1977 cost 644,000 jobs.

If we pass this bill that is before us today, the Congressional Budget Office says it would be a loss of 500,000 jobs.

It is interesting to note that that part of the report was almost squelched. When they sent that back to the House committee and it said the estimated impact on the economy of a probable loss of 500,000 jobs, those in the House committee that did not want that part of the record included said, "Send it back and next time don't put down that we might lose 500,000 jobs."

The chamber of commerce estimates we might lose 750,000 jobs. Almost all the studies agree that there would be a loss of jobs. It is just a question of how much. I think the lowest estimate that I was able to find was minimum job loss of 100,000 jobs; 100,000 people will not be employed if we pass this legislation.

I personally would rather see my son or daughter or anybody have the first job, even if it pays $3.35 or $3.50 or $3.85, than not have a job if that job pays $4.55 or if that job pays $10, because $10 and no job does not help anybody, that does not train anybody, it does not pull anybody up into the mainstream.

They are unemployed. They are idle. And unfortunately if you have somebody that is idle, then they get into trouble. Not only do they not learn good work habits but sometimes they learn other habits which would put them in jail and maybe put them in the wrong direction. We do not want that to happen. I do not want it to happen and I do not want to pass a law that might facilitate that happening.

So I think, again, we are talking about something serious today so we should not just be playing politics and unfortunately I think this is very partisan. It is very political. I doubt that we would be looking at this today if it was not for the fact that we have an election in just 2 months.

Again, this idea of politics: I mentioned a number of times that Vice President BUSH's name was mentioned. I think by Senator KENNEDY it was mentioned 53 times.

Senator METZENBAUM mentioned GEORGE BUSH eight times, and the Republicans in the Reagan administration four times. If you add the two together in their opening statements, I believe, 65 times.

We are not just talking about the issue, not just talking about the bill, but we are talking about politics and we are also talking about loss of jobs. I hope we do not allow that to happen.

Some people say we are talking about setting a bare floor, bare minimum. We want to help these people get out of poverty. Well, passing this bill is not going to do it. As a matter of fact, if somebody does not have a job, you are putting them, confining them, in poverty. You do not allow them to be able to work themselves out of poverty. If they are one of the ones that lose the job, one of the 400,000 people that lose their job because we pass this bill, you are sentencing them to poverty. You are sentencing them to a loss of opportunity, a loss of freedom.

Why? Because we in Congress decided we would pass a law that says if you do not make $4.55, you do not have a job. This is not something we want; it is something we are going to mandate and tell every employer and employee, if you cannot make $4.55, you are out of luck. No job. No need to apply.

How many times will the employer have to say, when youngsters or other people apply and get turned down: Well, we do not have anything; we are not hiring now—after they get turned down three or four times, what is that going to do to their incentive, to their initiative? Will they keep trying? Keep knocking on the doors? Will they get discouraged and say: Well, I will goof off this summer, anyway. Well, I graduated from high school, yes. I want to get a job. I am undecided about college. My grades were not very good. I will see if I can get a job.

Maybe because this bill passed, they will not be able to get that job. Then what is going to happen? Maybe then they will become dependent on welfare. Maybe they become a single mother and become dependent on welfare and never get into the economic mainstream. I think that would be a serious, terrible thing to happen. I do not want it to happen. I think it would be a disaster if we will allow it to happen.

Again, I hope people will consider some of the real crucial things. This is just one of several bills. I have heard people talk about, well, minimum wage and yes, this is something we want to do, but also right behind this, we want to have parental leave. That is one of our objectives. And right behind that, yes, we want to have mandated benefits. We are going to mandate benefits and make sure everybody has health care, everbody who has a job has health care, and is this not going to be a better world for all?

We are going to mandate disability income; we are going to mandate maternity benefits. We are going to mandate not only maternity benefits, but parental benefits and also we are going to mandate health and accident insurance. And as a result of all these mandates, we are going to make this a better world to live in.

I am kind of bothered, I guess, but this idea that Washington, DC, or those of us in Congress, seem to think that we can dictate and mandate on free people and help them do something that they should not or could not do on their own. Why should we pass a law that tells somebody that there are certain wage components that should be such and such, whether it be minimum wage or whether it be Davis-Bacon, where we are going to mandate what wages should be? Or why shouldn't we in Washington, DC, pass a law and say here is what the disability program should be, or here is what the maternity program should be?

I happen to be one of the few Senators that was an employer before coming to the Senate, so I devised wage programs, I devised fringe programs. I am somewhat resentful of the idea that Washington thinks that they might be able to devise a program better than employers and employees working together; negotiating together; deciding what is best for themselves.

Instead, we are going to dictate from Washington, DC, and say: Here is what you need to have in your program. I think that is a serious mistake.

In our company, we provide maternity benefits. We do it with pay. I would very much resent the idea that the Federal Government would dictate: "Here is what you do as far as maternity benefit and, oh, incidentally we decided not just maternity benefits but we are going to do it for the fathers as well as the mothers."

Somebody might say, "well, that is not so bad because it is without pay. Well, the pay could come later. Oh, but we also find out that if the employer did not provide it he would be subjected to, possibly, very expensive fines and penalties, treble damages. It gets pretty expensive.

What about the health and accident side of the equation? We are going to demand State health benefits. Again, I am an employer and most employers provide health benefits but it may not be the exact same minimum benefits as prescribed by Congress. Estimated costs, I think, something like $1,640 per year. That is just the beginning.

(Mr. EXON assumed the chair.)

Mr. NICKLES. We are going to put that cost on employers. I used to run a manufacturing plant. I also, before that, had a little janitorial service. I will also go a little bit further. I worked for minimum wage and so did my wife in 1968, only 20 years ago. Only 11 years before I was elected to the U.S. Senate I was working for minimum wage.

Somebody might say, and I heard somebody else say, well, hey, would not those people on minimum wage like to have this increase? I will tell you I did not like working for minimum wage. It just so happened that was the best job I could find and I did not really like the stereotype or connotation of minimum wage.

At that time, the minimum wage, I will tell my good friend the Presiding Officer, the Senator from Nebraska, was $1.60 an hour. My wife and I worked for that for about a month or so, and I asked my employer: we would like to have a raise. We are a young couple working our way through school. We would like to have a raise.

After serious deliberation he gave us a raise to $1.65 an hour. He gave us a nickel raise.

That was not exactly what I had in mind. We terminated our work in that business and started a new business.

Senator HATCH and Senator D'AMATO talked about the fact that they were working as janitors. We were making minimum wage, working as janitors and the business we started was a janitorial service. Actually, we called ourselves custodial engineers, but it was still a janitor's service. And we were very successful. And we hired more people. And we expanded and we built that business and we did not pay minimum wage, I might add. We did not pay minimum wage. We hired and paid more than that and we helped a lot of other people work their way through school.

But the point I am trying to make is that entry-level jobs are very valuable. That entry-level job that I had working minimum wage in 1968 in Stillwater, OK, enabled me to learn a business. And 3 months later, I had my own business as a direct result of learning the ropes, making minimum wage. And within a couple of years, we were making darned good money and a lot of other people were making good money and it helped put them through school. Then we sold the business and whoever succeeded me continued expanding that business.

Eighty percent of all new jobs are created in small business just like that: a service industry, providing a service; making a product; contributing to GNP.

I really do not think that we in Congress should interfere with that happening and that is exactly what we are going to do if we greatly increase the minimum wage. We are going to be telling everybody, every small employer, do not bother to have a business if you cannot pay more than $4.55 an hour because we in Congress have said it is not worth doing if it is less than $4.55 an hour. We would just as soon you be unemployed if you cannot do better than $4.55. We would just as soon you be unemployed. It is against the law.

We are not just suggesting that you pay $4.55; we are saying if you do not pay $4.55, that you cannot work. Mr. Employer, Mr. Employee, you cannot work, enter into an agreement to make $4.55 an hour, and I think that would be a serious mistake and I do not want to see that happen.

I do not want to see us mandate fringe benefits and other benefits that will basically price a lot of jobs out of existence.

Why should we be telling these people with the smaller businesses—whether it is a janitor service, whether it is pumping gas or whether it is scooping ice cream or washing windows, you name it—why should we be saying it is against the law? If you cannot pay $4.55, do not bother; it is against the law.

I hope that we will not do that. I hope we do not send a message to 400,000, 500,000, or 700,000 people, predominantly young people. I hope we do not send them a signal that we do not care whether or not they are employed. Again, I think that would be a mistake.

Mr. President, there are other amendments that will be coming up that hopefully will improve this piece of legislation. I might just mention some comments of some economists on this legislation.

The Council of Economic Advisers estimates that raising the minimum wage will cost the consumers an extra $13 billion a year in higher prices. So we are going to increase the minimum wage. It does not just impact those on the bottom end of the scale, but really it has a ripple effect all the way through, but we are also going to be increasing prices to senior citizens; we are going to be increasing prices to the young families trying to buy their first home or buy their first TV; we are going to be increasing prices domestically, making it more difficult for American producers and manufacturers to compete overseas. So we will be increasing the trade deficit.

We need to be aware those are facts. All economists would agree with that. If you increase the cost domestically, thus making it harder and harder to compete domestically with international concerns, you are going to be increasing the trade deficit.

If you mandate these higher wages, higher fringe benefits, health and accident insurance, parental leave, if you mandate these on American manufacturers, "Here are your expenses, you have to provide these," then you are going to cost jobs, increase the trade deficit, and you are going to increase inflation. Then you have a whole cycle of negatives going all the way through the economy.

I do not think we really want to do that. I hope that we will not do it. An increase in the minimum wage would be felt especially on small businesses which are responsible for 70 to 80 percent of all jobs.

In my State of Oklahoma, we have gone through some difficult times. In my State of Oklahoma, it has been estimated by the Chamber of Commerce in Oklahoma that we would lose 24,960 jobs by 1995 if this bill becomes law. I do not want to see that happen. We have been fighting for jobs in Oklahoma. We have made some significant improvements over the last couple years. We hope that we are pulling ourselves out of difficult economic times. Passing this bill would be a step in the wrong direction. We do not want to see that happen.

We received comments from a lot of my constituents who have urged me to see it does not happen. I might mention that. The regional disparities are significant. What may be right for the minimum wage in New York may not be the right minimum wage for Nebraska or for Oklahoma. Or what is right in California may not be what is right in North Dakota. Our economies are different.

Why should we on the Federal level tell that person in Lincoln, NE, no, he cannot employ somebody to scoop ice cream at the local ice cream store; he cannot hire somebody to do that unless they pay $4.55? Maybe that makes sense in New York. They may command it in New York. They almost get that much in Northern Virginia. But the economy is a little different in Lincoln, NE, and it is a little different in Oklahoma. Why should we nationally be setting something the States have a right to do? And many States do it. So be it. I do not argue with that.

I just argue with the idea that the Federal Government would be mandating the national minimum because it does have severe economic impact. It will cost thousands of jobs, particularly in some areas.

We have received letters from some of my constituents, and I will certainly not print all these letters in the RECORD, but I will print a couple of them just to give a little flavor for how it might affect them.

Here is one from Jefferson County Hospital, a rural hospital, and I imagine several of us have made speeches talking about the difficulties that rural hospitals are having surviving. This is a rural hospital in Jefferson County.

* * * Rural hospitals are struggling to survive, and most of us are losing money now. If the minimum wage were allowed to increase it could very easily be the straw that breaks the back of our hospital and many more across the country. I am not opposed to employees making as much as they can, but when medicare patients comprise 75 percent of our business, and our reimbursement has been fixed at a very small increase below our cost, I'd like to know where our money would come from.

I am convinced that our employees would rather have a job and be able to pay their bills, than be unemployed and read about all those other people that are going to make more money.

Mr. President, I ask unanimous consent that this letter and a couple other letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JEFFERSON COUNTY HOSPITAL,
Waurika, OK, July 22, 1988.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: I would like to express to you my concerns over H.R. 1834, the minimum wage legislation.

As you are aware most small, rural hospitals are struggling to survive and most of us are losing money now. If the minimum wage were allowed to increase it could very easily be the straw that breaks the back of our hospital and many more across the country. I am not opposed to employees making as much as they can, but when medicare patients comprise 75 percent of our business, and our reimbursement has been fixed at very small increases below our cost, I'd like to know where the money would come from.

I am convinced that our employees would rather have a job and be able to pay their bills, than be unemployed and read about all those other people that are going to make more money.

I urge you to help defeat this legislation and thank you for your support.

Sincerely,

DON PHELPS,
Administrator.

MAY 14, 1988.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: I am in the restaurant business in Tulsa, Oklahoma City, and Bartlesville, OK. I am aware of a bill—Senate Bill 837 of House Resolution 1834; before Congress to raise minimum wage to $4.65 per hour over a three-year period. I am writing to you on behalf of myself and my employees asking that you vote against this legislation.

Everytime the minimum wage has been raised in the past, we have been forced into a combination of modest price increases and a reduction in hours worked by our staff, as well as a reduction in staff positions. If this proposed increase goes through, we cannot raise prices to adequately cover the costs that will ripple through our entire wage structure. Accordingly, I am going to have to reduce hours worked. This reduction will impact possibly 80% of the work force with reductions of 10 to 20% in total man hours.

Currently, my unskilled employees are given wage increases once they are on the job for several months and gain experience without the government mandating my wage structure. In the kitchen, for example, we train employees in many job skills throughout their first few months on the job. If they show promise, they will be promoted from dishwashers to cooks. The front of the house positions are a similar situation. Bus people can progress to wait staff positions, as well as cashier positions. Wage increases are subject to their competency as they learn these functions.

Senator Nickles, I would appreciate a response. If you need any additional information, I will be happy to provide it.

Sincerely,

RANDALL L. SALLS,
Tulsa, OK.

Mr. NICKLES. Here is another letter from Crest Discount Foods in Midwest City. He said:

I would like to share with you the fact that the only employees we have on minimum wage (out of a total of 540) who are in the 16 year old bracket, are package boys.

Guys who sack the groceries.

Everyone else is above that wage. Should this bill pass, we would have to raise everybody's wage accordingly. As one of the articles states . . . if you have to raise the wage for your bag boys, you have to increase the wage of the rest of your help accordingly. A response to increase minimum wage by retailers would be a decrease in the number of workers employed at that level. . . ."

I believe we could get along without such a vast increase, as it will "touch off a new round of high inflation and will cause businesses to cut back on hiring teenagers and those with few job skills."

Mr. President, again, we have economists who tell us that an increase in minimum wage will increase inflation and will cost jobs. Here is a person who has a discount food store in Midwest City and he just says this is important. He has 500 employees. Almost all of them make more than minimum wage except for the bag boys. They are the guys who carry the groceries.

He said if he increases their wages, he will have to increase wages for the rest of them. If he increases the bag boys at $1.20 an hour, he will have to increase the others accordingly. He said this will cost jobs. He also says they are also going to have to increase prices. So the cost of groceries in Midwest City is going to be higher because we passed this bill.

There is a lot of senior citizens in Midwest City. They are living on fixed income. They do not want to see their grocery bills going up. And we might be asking why. Passage of this bill would be one of those reasons.

Mr. President, I ask unanimous consent that this letter be printed into the RECORD as well.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CREST DISCOUNT FOODS, INC. NO. 2,
Midwest City, OK, May 18, 1988.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: Attached are copies of articles that appeared recently in Supermarket News, a newsletter I value greatly, and explains our position on the minimum wage.

I would like to share with you the fact that the only employees we have on minimum wage (out of a total of 540) who are in the 16 year old bracket, are package boys. Everyone else is above that wage. Should this bill pass, we would have to raise everybody's wage accordingly. As one of the articles states ". . . if you have to raise the wage for your bag boys, you have to increase the wage of the rest of your help accordingly. A response to an increased minimum wage by retailers would be a decrease in the number of workers employed at that level . . ."

I believe we could get along without such a vast increase, as it will "touch off a new round of high inflation and will cause businesses to cut back on hiring teenagers and those with few job skills".

Congressman, please realize the effect of the passage of this bill would cause the destruction of more and more independent supermarket retailers who cannot absorb the added costs.

Respectfully,

NICK HARROZ,
President.

Mr. NICKLES. Mr. President, I have many letters from Oklahomans. I am thankful that we have a lot of people who are communicating. I hope they are communicating with every Senator's office. I do not want to fill the RECORD. I could—a very extensive RECORD—where you have real employers facing difficult times, in many cases who are struggling to survive, who really do not want to see us dramatically increase their costs and/or reduce their employment.

I happen to have been an employer. You do not want to see those cases where you have to reduce employment. That is one of the most difficult decisions an employer can make. Most of us do not want to do it. Most of us want to be growing, expanding, hiring more people, adding to our payroll and giving raises, but giving raises through the market system, not giving raises because of a mandate by the Federal Government. That is a big difference.

In the company that I ran before coming to the Senate, we had as many as 100 employees, and we did not pay anywhere near minimum wage; we paid considerably more.

Again, I would very much resent the idea of the Federal Government trying to mandate and dictate our wage and benefit package, whether it be on the wage level or whether it be on the fringe benefit level. We provided a lot of things that are not in the health and accident plan. We provided dental coverage, maternity benefits with pay, et cetera. But those were freely negotiated.

We believe in the free enterprise system. We do not believe, or at least this Senator does not believe in having dictates from the Federal Government that continually say. "We know what you should be providing, Mr. Employer, Mr. Employee, so we will tell you what we think is best."

Again, what is best for Massachusetts may not be what is best for Oklahoma; it may not be what is best for Nebraska.

Again, I think we are talking about a serious bill. I think we are talking about a bill that needs some significant improvement. We need to pass some amendments. We need to make some improvements.

One of the amendments that I am very interested with, along with Senator ARMSTRONG, Senator HATCH, and others, deals with the homework issue.

This is an issue in which I have been interested for several years. When I was chairman of the Labor Subcommittee, we had extensive hearings on it. It is unfortunate to think we would require a legislative remedy but it seems as if we do.

The homework issue, to acquaint those who are not familiar with it, is basically due to the fact the Department of Labor has banned six industries from making items in workers' homes. You would not think that would be the case. It is almost ludicrous. You might be shocked to find out it is legal to make a man's shirt at home, but it is illegal to make a woman's blouse. It is against Department of Labor regulations. If you ever go to one of the crafts or trade fairs where people bring a lot of their homemade goods to sell, a lot of those are made against the law. If Uncle Sam was watching close enough, he would say, "You are in violation; it is against the law for you to make a woman's blouse at home."

It is against the law to make children's clothes at home. Do you know that? It is OK to make doll clothes, but it is against the law to make children's clothes at home. You might be interested to know that you can make a golf glove or a bike glove but you cannot make a work glove. It is against the law according to Department of Labor regulations. There are several things against the law: Women's apparel, gloves and mittens, buttons and buckles, handkerchieves, embroideries, and jewelry manufacturing. All of those are against the law. You are prohibited from making those items at home.

If the Armstrong-Nickles amendment passes, we are going to make it legal for those items to be made in the home. It is ridiculous for an individual not to be able to make those items in the home. On and on. Right now you can knit a sweater but you cannot knit the matching gloves. It is OK to knit the sweater but do not knit the matching gloves. The gloves are illegal according to the Department of Labor regulations.

You can make men's underwear, but you cannot make women's. That is interesting. You can make wooden buttons, but you cannot make metal buttons. Here is something that pertains to my State and the Senator from Nebraska. Certain Indian tribes can make certain types of Indian jewelry on the reservation while other nonreservation Indians cannot make any jewelry whatsoever.

We have a big festival in our State in Oklahoma City called Red Earth. A lot of Indian tribes bring in their handicrafts; they are very talented. Indian jewelry is very popular in my State, as I am sure it is in many States. It is, frankly, against the law for them to make it in their homes. We are going to change that with this amendment.

I have said to Senator KENNEDY, and I hope he would agree, it is an amendment that makes sense. It is overdue. We had hearings. We had people testify time and time again that they want to have the right to be able to make these items in their homes. Maybe they have to because their children are at home and they cannot afford day care or maybe it is not possible for them to commute to work at a factory because of their home demands, and so it makes sense, it is convenient, it is economical, and not only that but they make good money.

We had countless numbers of people testify they make good money working on these items in their own homes but the Department of Labor prohibits it.

We do not want to make it against the law for them to make these items at home. By passage of this amendment they would be entitled to work in their own home. Thousands of people are doing it right now, many of them against the law, many of them against these regulations.

We would change that. The Department of Labor is right now in the process of making those changes, but they have been in that process for the last 6 or 8 years. We can expedite that and solve this problem by passing this amendment which would allow men and women to work in their homes. We do not absolve them of regulations. They are still under Department of Labor regulations. We just do not prohibit them from making these items in their homes. They can make blouses and sell them. It just makes sense. They can embroider initials on blouses or shirts. Right now it is against the law. So passage of the Armstrong-Nickles amendment, which we will put on this bill at the appropriate time, will enable them to do something that, really, they should have been able to do all along.

That is an important item. There are thousands of people that this affects in every State. To give you a couple of examples: Margaretta, Inc., of Marblehead, MA, lost 110 employees when the company was forced to close its doors due to violations of restrictions on homework. Another one in Massachusetts, Salt and Air, Inc., also of Marblehead, MA, lost 13 employees. Lunt Cottage Industries of Tyrham, MA, lost 8 employees. In Texas, Malbrys Western & Leather lost 33 employees. Linda Baer, Inc., Dallas, TX, lost 20 employees. In North Carolina, the Tom Thumb Glove Co. of Wilkesboro lost 200 jobs when the company moved to Haiti because the Department of Labor said workers could not make items at home. Nobody said these individuals working at home were making less than the minimum wage. No one said they were working in sweat shop conditions. They were forced out because the Department of Labor regulations said it was unlawful to make these items at home. It is ridiculous but it is still part of the law and we need to change it. It is one of the amendments which we will offer to try to improve this bill.

At this point I will enter into the RECORD a paragraph from the Miami Herald article "She Uses Men's Shorts To Send a Message." A woman lost her job at the Tom Thumb Glove Co. and she was angered by this regulation so she sent some men's shorts to the President, and I believe also to Members of Congress.

> Seamstress Virigina Deal is bucking federal labor laws in her own way, which includes sending her message to President Reagan on a pair of blue boxer shorts and a pair of white panties.
>
> An attached note read: "We can sew the president's undershorts at home, but we can't make the first lady's panties."

It is a ridiculous regulation, but that is the current law. She lost her job. She was employed at the Tom Thumb Glove Co. They are angered at the fact they were put out of work, that they are not able to make a living. So she sent that to the President. The President responded.

Mr. President, I ask unanimous consent that the President's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, June 13, 1986.

MRS. VIRGINIA F. DEAL,
Route 5, Box 214,
Taylorsville, NC.

DEAR MRS. DEAL: Thank you for the letter and accompanying articles you forwarded to me after my recent visit to North Carolina. The "homework" regulations come under the Fair Labor Standards Act, and have been on the books for forty years. They cover seven different types of employment: knitted outerwear; women's apparel; jewelry manufacturing; gloves and mittens; button and buckle manufacturing; and embroidery.

In all other types of work, persons can be employed at home, so long as that employment meets the applicable Federal minimum wage and overtime law and, of course, any local legal requirements. But in these seven areas, "homework" had been absolutely prohibited by regulaton for anyone in the employ of another person or a company.

I have always thought that this approach to regulating workers was wrong and, what's more, it didn't work very well, either. Therefore, early in my presidency, I targeted these regulations for change. After a great deal of effort and much litigation by opponents of any change, the Labor Department was able to implement a new regulation which eliminated the "homework" prohibition for one of the seven industries—knitted outerwear. Under this new regulation, "homework" is permitted if the employer first notifies the Department that it is going to employ homeworkers.

When this new regulation was published, the Department made a commitment to study its impact for a period of time to see how it worked. That study has now been completed, and the Labor Department believes the regulation has worked well. The Department, therefore, is moving rapidly to publish proposed regulations that would lift the "homework" prohibition entirely, utilizing the notification procedures that now apply to knitted outerwear. I expect that this proposal will be published during July, with final regulatory action scheduled before the end of the year.

I appreciate your providing me with your views on this matter and hope that you will share this letter with your co-workers.

Sincerely,

RONALD REAGAN.

Mr. NICKLES. It states his support of our efforts to amend this homework amendment. The good Senator from North Carolina is aware of the Tom Thumb Co. He is aware of the fact the Department of Labor regulations forced 200 of his constituents' jobs to Haiti. So we have Americans losing their jobs; constituents who were paying taxes, had a job, working at home, staying with their families, lost their jobs because of this obscure regulation that dates back 46 years. It is absurd. It needs to be changed. We intended to change it on this legislation.

Mr. President, I am happy to yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent to proceed as if in morning session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE POSADA CONNECTION—WHERE IS GEORGE ON INTERNATIONAL TERRORISM?

Mr. HARKIN. Mr. President, as the American people prepare to make their final judgment on the two Presidential candidates, they deserve to know where the candidates stand on important foreign policy issues.

At the top of the list should be international terrorism and the candidates respective record of action against known international terrorists.

For this reason, the American voter deserves answers from GEORGE BUSH to some tough questions about his and his Vice Presidential office's relationship with a known international terrorist, Luis Posada Carriles.

Question 1. Mr. BUSH, what do you know about Luis Posada?

Luis Posada Carriles, also known as Ramon Medina, served as the chief logistics aide for Felix Rodriquez, who from 1985 to 1986 managed a secret White House operation based at Ilopango Airbase in San Salvador to ferry weapons to the Contras.

Posada, who has been identified by Rodriquez himself during the Iran-Contra hearings, had spent 10 years in a Venezuelan jail for blowing up a Cuban airliner, killing 73 people, in 1976. After escaping from prison in August 1985, Posada joined up with his fellow Bay of Pigs veteran, Felix Rodriquez, and assumed the alias Ramon Medina for his work at Ilopango.

Question 2. What did your National Security Adviser, Donald Gregg, know about Posada and did you ever ask Mr. Gregg about him?

Don Gregg, the Vice President's National Security Adviser, was Felix Rodriguez's CIA supervisor during the Vietnam war and helped place Rodriquez in El Salvador as a counterinsurgency adviser in 1984. Less than a year later, Lt. Col. Ollie North recruited Rodriquez to manage the secret Contra airlift based at Ilopango.

By the end of 1985, Rodriquez had helped arrange Luis Posada's arrival at El Salvador's Ilopango Airforce Base.

So I ask, Mr. President: Can we really believe that Don Gregg never asked his former CIA colleague Rodriquez about either the secret supply operations or Rodriquez's partner, international terrorist Luis Posada?

Question 3. Mr. Bush, in your numerous meetings with Felix Rodriquez, whom you have referred to as your "good friend," did you ever ask him about his associates and whether he had in his employ Posada?

Bush aides acknowledge that Rodriquez maintained regular contacts with the Vice President's office. On three separate occasions, the Vice President met with Rodriquez while he managed the secret Contra resupply operation during the 1984-86 congressional ban on U.S. military aid to the Contras.

Don Gregg's own briefing memo to the Vice President for a May 1, 1986 meeting with Felix Rodriquez specifically mentions as a topic for the meeting a briefing on "resupply of the Contras."

Are we to believe that neither you nor your National Security Adviser Don Gregg, who was a longtime associate of Rodriquez, never asked Rodriquez about his associates at Ilopango, about whom he was working with, and who were some of the people helping him out at Ilopango? Of course, they never asked him about Luis Posada.

Question 4. Mr. Bush, when you were CIA Director in 1976, did you ever investigate the role of Posada and other Cubans in the 1976 airliner bombing?

Bush was CID Director in 1976 when the airliner bombing occurred—as I said, 73 people lost their lives—and took a personal interest in this and a string of related anti-Castro bombings that shook the hemisphere that year, 1976.

The 1976 airline bombing, according to Federal officials in Miami, was carried out by a coalition of military anti-Castro groups calling itself the Coordination of United Revolutionary Organizations, or CORU. CORU had been implicated in a string of bombings and assassinations in the United States and Latin America, including the September 21, 1976 car bombing of Chilean exile leader Orlando Letelier in Washington, DC. That took place right here in Washington, DC, of course killing Orlando Letelier and a young American who was in the car with him.

Concerned about this wave of bombings, Bush as CIA Director made an early November weekend trip to Miami with a senior FBI official reportedly to look into the Cuban connection with the airliner and Letelier bombings here in Washington. Not only was Posada a member of CORU but he worked for the CIA on contract as late as 1975.

According to the CIA's own records, Posada, identified as a demolitions expert, worked virtually full-time for the CIA from the Bay of Pigs invasion in April 1961 until 1967.

He took a high-level post in Venezuelan intelligence, where he continued to serve as a CIA informer until June 1974.

The real question is, given Posada's past ties with the CIA, the CIA's knowledge of the Cuban connection with the 1976 Venezuelan airliner bombing and the Letelier car bombing, why, as CIA Director, were you not aware of Posada at the time? Why was no action taken at the time?

Questions 5 and 6. Why, Mr. Bush, after the press in October 1986 reported that Posada, the international terrorist responsible for the 1976 Venezuelan airline bombing, was the same person who worked with your "good friend" Felix Rodriquez at Ilopango, didn't you investigate these charges? And why didn't the President's Task Force on Combatting Terrorism, which you headed, investigate charges of Posada's connections with the secret Contra supply operation?

Mr. Vice President, in a 1986 report of your Task Force on Combatting Terrorism, you described U.S. policy on terrorism as "tough and resolute," and further wrote that "we firmly oppose terrorism in all forms and wherever it takes place."

Yet by November 1986, it was reported by UPI, AP, Newsweek, the Miami Herald, Christian Science Monitor and the Washington Post, that the Ramon Medina identified by Eugene Hasenfus as Felix Rodriquez's chief assistant at Ilopango was Luis Posada the international terrorist. Yet, nothing was done.

The Medina-Posada link was confirmed by Felix Rodriquez in his May 28, 1987, testimony before the Iran-Contra panel.

Yet, when Posada's role came to light in late 1986, Don Gregg, National Security Adviser to the Vice President, said that George Bush, who had been selected by the President to spearhead this administration's policy against international terrorism, "didn't pay much attention" to press reports, and made no inquiries after reporters questioned him about the fugitive's links to Rodriquez.

An international terrorist, blowing up an airline, killing 10 people, escaping from prison—we find him in Ilopango assisting Felix Rodriquez, his old friend from the CIA, in illegal coverup operations to resupply the Contras. Yet, the Vice President said he did not pay much attention to all the press reports—not one report, but reports by UPI, AP, Newsweek, the Miami Herald, Christian Science Monitor, and the Washington Post.

As for Vice President Bush's national security adviser, Don Gregg, he didn't "know about when the allegations on Posada came out, and I did not focus on it."

Let me repeat. Despite numerous press reports and inquiries that surfaced in October and November 1986, the Vice President, who chaired the President Special Task Force on International Terrorism, didn't even bother to ask Felix Rodriquez, his so-called good friend, or didn't ask his own national security adviser to inquire into the associates of Mr. Gregg's former CIA associate about Rodriquez's chief assistant at Ilopanog, Mr. Luis Posada?

Either Mr. Gregg and Mr. Bush are not telling us the whole story about what they know about the Rodriquez-Posada operation at Ilopango, or the Vice President was doing some very shoddy work for the President as his pointman on international terrorism. If Mr. Posada, who was a working partner of a close associate of the Vice President and a long-term ally of Mr. Bush's national security adviser, could escape from the Vice President's Terrorism Task Force scrutiny, then, we need to wonder what other international terrorists has the Vice President not bothered to investigate?

Which brings me to my final question for Mr. Bush: What is your policy on international terrorism?

You claimed that the Reagan-Bush administration opposed "terrorism in all forms and wherever it takes place." It appears that you find certain kinds of international terrorism less offensive, or at least less cause for investigation than others.

The Posada case demonstrates that you didn't bother to use your offices and your International Terrorism Task Force to investigate the activities of a known international terrorist. Was it because, Mr. Vice President, of Posada's ties with your "good friend" Felix Rodriquez? Or was it because of Posada's role in organizing the secret Contra supply operation run out of Ilopanga airbase? Or was it because of Posada's past ties with the CIA, which you headed in the mid 1970's?

What does this say about your stand, Mr. Vice President, against other terrorists—or other international figures involved in illegal activities such as drug running?

Mr. Vice President, I believe this is a dilemma: It's hard to fight terrorism when the terrorists are friends of one of your "good friends" and are part of an illegal operation going on right under your nose.

Mr. President, the American people deserve a full accounting of Mr. Bush and the Vice President's office and its knowledge of Luis Posada's role in the secret Contra supply operation and why Mr. Bush never bothered to use his good offices to investigate charges of Posada's links with the supply operation and Felix Rodriquez even after the press reported them in late 1986.

As chairman of the President's Task Force on International Terrorism, Mr. Vice President, you should have taken an oath—a pledge—to root out terrorists in all forms, whatever their affiliations.

Mr. Vice President, you owe it to the American people to come clean and explain to them where you were in late 1986 when the Posada link became clear.

You owe it to America's voters to reaffirm your commitment against terrorism by retaking that pledge to root out, to investigate, and to eradicate international terrorism wherever it takes place; and the first step is to come clean about Luis Posada, the international terrorist.

The **PRESIDING OFFICER**. The Senator from Kansas.

(The remarks of Mr. DOLE pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MINIMUM WAGE RESTORATION ACT

The Senate continued with the consideration of the bill.

Mr. **EVANS**. Mr. President, earlier today I objected to the move toward consideration of an amendment on the Minimum Wage Act not because I intend to delay, not because I am opposed to the Minimum Wage Act, which I am not, but I do believe we have amendments which are appropriate, amendments which are related, amendments which are in a very real sense germane, although if we were to vote cloture under the rules of the Senate, the particular amendment I would like to get in front of this body would be ruled not germane.

I hope that there will be an agreement reached that will allow continuation of amendments, voting on amendments, and an opportunity to vote on the pay equity study which I hope to present to the Senate a little while later.

Let me explain for my colleagues, and I hope many are listening, the essence of this amendment, because I believe there are many misconceptions about the amendment, many misconceptions about what it would do, many misconceptions about the whole concept behind pay equity.

This bill is the outgrowth of 5 years of work on this Senator's part as a Senator, many more years of work as a Governor, and as a college president, during which time I was deeply involved in the issue of pay equity in the State of Washington.

In the 5 years since I introduced this as the first bill I proposed in coming to the Senate much good work has been done. The Committee on Governmental Affairs of the Senate has had numerous hearings. The GAO conducted an extensive study and made many very fine recommendations. Ultimately during this Congress earlier this year the Committee on Governmental Affairs passed the proposed study bill now in front of us or which I hope to be in front of us shortly by an overwhelming margin, a greatly improved bill over the one introduced 5 years ago.

Mr. President, the pay system of the Federal Government has not been studied since 1923 in a comprehensive fashion. We have built one on top of another of new job classifications, new concepts, new ideas, without standing back and looking at the whole array of our pay system and what it means when you relate one person and one job classification with another.

No business would go for that long without comprehensive review. Most State governments and local governments have gone into extensive reviews of this type prior to now.

I think it is far past time for those who work in the Federal service to have this kind of comprehensive review which will help tell us in Congress and help tell the personnel departments, the overall personnel departments, the Office of Personnel Management, and departmental personnel departments what they can do to make sure that their pay scales are up to date, responsible, responsive to economic trends and competition and responsive also to the relationship of one job with another.

So what does this proposal do? First, it sets forth a study, a study which has two parallel or interrelated tracks. And let me read the definitions of those two tracks for those who may have some apprehension about this study.

There are those who believe that the term "objective job evaluation analysis" is something that simply cannot be done. The definition used in this proposed study is just this: Objective job evaluation analysis means a quantitative method of rating positions within occupations based upon factors such as the skill, effort, responsibilities, qualifications, requirements, and working conditions involved, so that comparisons may be made with respect to the positions and occupations involved.

When you strip away all of that language it simply says let us objectively look at jobs and try to compare them with other jobs that are not equal in terms of the work done to see how they relate one with the other.

For those who say you cannot do it objectively, it is a system which has been utilized by most American corporations for years to do precisely that. It is now being used by a significant number of States and local communities to do specifically that.

Mr. President, interestingly enough and later on when this issue is directly in front of us I will point out that the Federal Government is doing virtually the same thing now in looking at studies of the way in which physicians should be compensated under our Medicare Act. I will go into that a good deal later. But that is just one track.

There was a concern expressed by some that you cannot only look at these job comparisons because all jobs, all companies and even the Federal Government has to look at competition, has to look at the marketplace, has to recognize that you cannot pay someone in a vacuum but you must relate it to what is happening in the world around us. I believe that is an appropriate concern.

So, a second term and a second track is utilized in this study. The term is "economic analysis," and that means a method of analyzing differentials in pay between and among positions within occupations in order to determine if and the extent to which those differentials are attributable to factors such as seniority, merit, productivity, education, work experience, geographic factors, supply and demand factors, or any other factor, exclusive of sex, race, or ethnicity.

Those two tracks when brought together will give us through this study a thorough idea of just where we are in terms of our Federal pay system. It will give us some good ideas as to how we might make that system better, how we might make that system fairer, and still not try to unduly distort the marketplace of the United States.

That is the first and I think very important consideration which should be kept in mind.

Second, we establish a commission to be known as the Commission on Compensation Equity to carry out a study to determine whether distinction between rates of basic pay for Federal jobs in executive agencies of the U.S. Government, and this focuses on the executive agencies, not the legislative, not the judicial, whether they reflect substantial differences in the duties, difficulty, responsibility, and qualification requirements of the work performed in accordance with sections 5101 and 5341 of title 5, United States Code, and are not based on considerations of sex, race, or national origin.

Now that means clearly that we have divorced this study and its recommendations from the Civil Rights Act. We are aiming it instead at our merit system, which is where I believe it ought to be aimed. And the study will use both of these standard objective job evaluations and the economic analysis technique to determine whether the development or implementation of these processes results in the payment of rates of basic pay for positions in which either sex is numerically predominant or any race or ethnic group is disproportionately represented that are not in proportion to the duties, difficulties, responsibility and qualification requirements of the work performed.

A study would be prepared and presented to the appropriate committees of the Congress within 18 months.

It is important to note that it allows for additional views. It allows for public participation. And the most important thing, when they are done, when a consultant reports to the commission and the commission reports to Congress and all of the views and findings are in, "the consultant"—and this is reading from the proposal—"the consultant's study, and any findings, conclusions, recommendations or comments by the consultant or the commission under this section with respect to such study, shall be considered to be of an advisory nature only."

Let me repeat that. "Shall be considered to be of an advisory nature only."

That was put into the proposal to ensure that we did not embark on a study with unintended consequences; that it would not result in determinations made by others as to what future pay scales should bring. Because I believe, and I believe my colleagues believe, that these determinations should be made through the legislative process, through recommendations or requests of the Office of Personnel Management and, ultimately, if there is to be any change that would require appropriation, obviously, those must come through the initiation of Congress.

Mr. President, the Commission has been carefully designed to be as nonpartisan, nonpolitical or at least as balanced as we can make it—nine members: two appointed by the President of the United States, one appointed by the majority leader of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the minority leader of the House of Representatives, and three appointed by the Director of the Office of Personnel Management to represent Federal employee labor organizations.

It brings the representatives of employees into it, it brings representatives of Congress into it, and it brings representatives of the President into it.

Mr. President, this commission shall solicit from the Comptroller General of the United States, the Congressional Office of Technology Assessment, and the National Academy of Sciences, a list of consultants who, on the basis of the specifications developed under subparagraph (a) and the objectivity, extensive knowledge and technical expertise of such consultant in a matter to be studied pursuant to this section are appropriate to conduct the study.

We are giving to three of the most distinguished groups in this Nation the opportunity to tell the Commission who are the best qualified people to conduct this study.

Mr. President, toward the end of this proposal, we say very clearly that:

> Nothing in this act may be construed to limit or expand any of the rights or remedies provided under the Civil Rights Act of 1964, section 6(d) of the Fair Labor Standards Act of 1938, or any other provisions of law relating to discrimination on the basis of race, color, religion, sex, national origin, handicap or age.

Mr. President, that is in there, along with the earlier proposal that this be advisory in nature only and directed to the merit system code of the United States rather than the Civil Rights Act. When all of those three are taken in conjunction one with the other, it is to assure my colleagues that this study is to be carried out not under the Civil Rights Act and its remedies, that it would not be affected in any way, but it is focus on the merit system and how that is conducted, and the study and its results are advisory in nature only.

I find it hard to believe, Mr. President, that any Member, even if they are opposed to some of the concepts that some support in terms of pay equity, would object to an impartial and objective study to give us more information on which to act.

Too often we are called upon in this body to act on the basis of too little information. We are forced to, either because the information is not available and the problem is urgent, or because we have just simply failed to do a job of gaining sufficient information to make our actions the wisest they might be. In this case, we are deliberately setting forth to say, here is a serious problem for the millions of workers in the Federal service. Their pay system has not been looked at objectively and comprehensively for 65 years. It is far past time that we do that.

And so I hope my colleagues will join with me in bringing this issue before us and allowing for a vote after a responsible period of debate time. Because I am convinced that an overwhelming majority of this body would agree that a study is overdue, that this proposal sets forth a study in the best and most nonpartisan fashion we can.

Let me end, Mr. President, by saying that, as is so often the case, we come behind many of the States of this Nation in the new and most modern approaches to governmental management. Time and time again, those elements that relate to the way in which Government carries out its processes, or even some of the great national programs we have developed and embraced as terribly important, started in one or another of the States of this Union.

Even Social Security, if you look back into its earliest history, was a concept that started in a State, not at the Federal level. And, if you go down through virtually all of the major protections we have provided to our citizens relating to the workplace, they started in a State or a local community, with the ideas of some in another legislative body and they gradually spread as the good ideas finally got to others were adopted and ultimately—and maybe this is the right way we do things—ultimately they rose with enough emphasis to create national attention.

Our system probably is strong because we have 50 laboratories of government in our 50 States and hundreds more in the cities and the counties of our Nation. They can start and experiment without nationwide consequences. They can perfect and present to others ideas which can work well. And when they spread, they ultimately come to the attention of us in Congress and we can do an effective job then at the national level with the assurance that what we do is unlikely to be catastrophic in its end result. Mr. President, we are precisely at that point on this issue.

In terms of research data and collection, the beginning step in all of this process, 42 of the 50 States have done that or are in the process.

A task force or commission—the second step, which is what we are proposing here—the State appointing a task force or commission to conduct primary research and data collection or to have a job evaluation study, 36 of the 50 States have taken that second step.

Mr. President, the third step would be a full or pilot study of the State Civil Service classification and compensation system which addresses pay equity concerns within a single employer context. That is the job evaluation study which we are talking about. Twenty-eight—a clear majority—of the States of this Nation have already accomplished that step.

Mr. President, the final step is to utilize what we have gained through study, the knowledge we bring forth, to then carry out any pay adjustments which we believe are necessary to bring equity between the various classifications and those who hold those jobs.

Mr. President, 20 of the 50 States of this Nation have already carried out such pay equity adjustments, including States which I believe represent well over half of the population of this Nation.

So, Mr. President, I hope that my colleagues will join with me in a study which is overdue, in a study which has already been carried out by more than half the States of this Nation, and work toward the necessary adjustments which will come later, but which have already been carried out by 20 of the 50 States and by hundreds and hundreds of counties and city governments and thousands—Mr. President, I would say thousands of private employers.

The PRESIDING OFFICER (Mr. GORE). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have had the opportunity to talk to the Senator from Washington about this particular amendment. I find the amendment worthwhile and valuable. It is certainly related to the subject matter which is before the Senate.

I know of no objection to that amendment on this side of the aisle and if it was the desire of the Senator from Washington to temporarily set aside the current amendments and consider this amendment, at this time, I would certainly welcome that procedure.

Mr. EVANS. I appreciate the offer of the Senator from Massachusetts and I do understand that there are no objections—in fact, I suspect there is very widespread support from his side of the aisle. I believe if we bring it to a vote there will be widespread support from both sides of the aisle for this legislation.

I am currently trying to work with the floor manager on this side of the aisle to see if we can get to an arrangement where this can be brought forward and some time agreement be set so it can come to a vote, just as there is a hope that a similar time agreement might be made on amendments from that side of the aisle.

If we end up with this amendment on the floor with no time agreement and some just willing to debate it right up to the time tomorrow morning of a cloture vote, if a cloture vote succeeds then the amendment would fall and there would be no opportunity to add time.

I am even perfectly willing, I would say, Mr. President, to the Senator from Massachusetts, to see if we can reach a time agreement on this issue as a separate bill. I have no particular desire, although I think that it is so closely associated with minimum wage that it belongs here—I have no particular desire to unduly hold up this particular process if I can get to a point where we have a vote on an issue that I believe has the support of somewhere around 70 Senators.

Mr. KENNEDY. Well, what I am saying is, I am prepared to accept the amendment. If there are problems with it, I do not want it to be suggested that this side of the aisle is not prepared to move.

There may be problems on that particular side of the aisle—I do not see the minority manager now on the floor, but I want to tell the Senator from Washington, we are prepared to accept it and accept it right now.

I would not do it without giving the minority leader a chance to respond, but I want the record to be quite clear that we are prepared to accept it right now. I think the Senator has made a good cause for it. He talked about the study. I think there is a strong relationship with the subject matter that is before us and as the floor manager on behalf of this side of the aisle, I submit that we are prepared to accept it. I do not know if the Senator wants to press it at this time.

Mr. EVANS. I do appreciate what the Senator from Massachusetts has said and I am gratified for that. I do realize and would say from my own understanding that the concerns being expressed so far have been from this side of the aisle and not the other side of the aisle. I hope they can be worked out sometime rather promptly and that we can move ahead. I would hesitate to do so on my own volition without the floor manager or minority leader here to speak on that process.

Mr. KENNEDY. When the Senator from Washington is desirous of addressing that issue, and evidently he wants to have that cleared with his own leader, we would be prepared to move toward a vote on acceptance of the amendment.

Mr. EVANS. I thank the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask that I be permitted to proceed for 4 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. Mr. President, I am so interested in hearing the remarks of the Senator from Arkansas that if he requires more time than 4 minutes, I am anxious to extend whatever time is necessary. This is a very pleasing opportunity for all of us.

Mr. BUMPERS. With those remarks, Mr. President, I may extend my remarks to, say, 10 minutes, just for the edification of the Senator from Illinois.

The PRESIDING OFFICER. Without objection, the Senator from Arkansas is recognized as if in morning business for up to 10 minutes.

THE LESSONS OF "VINCENNES" FOR STAR WARS

Mr. BUMPERS. Mr. President, recently a very thought-provoking letter was published by the New York Times that merits the attention of the Members of this body. It asks this question: "What if the *Vincennes* had been 'star wars'?" I ask unanimous consent that this letter be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 10.)

Mr. BUMPERS. In the tragic *Vincennes* incident, the Navy found that under the stress of battle, the crew of the *Vincennes* was not able to adequately interpret all the information coming into them in the combat information center. As was pointed out, the crew had only 4 minutes between the time they first became aware of the Iranian plane and the time when the captain fired his missiles against it. That is a perfectly understandable explanation, and I do not disagree with it.

But I think it is useful to keep this in mind as we think about the SDI Program. General Abrahamson told me in a letter over 1 year ago that space-based interceptors would have to be fired 40 to 100 seconds after the Soviets launch their missiles in order to have enough time to intercept them.

Mr. President, let me reemphasize that 40 to 100 seconds is from 20 seconds less than 1 minute to 1 minute and 40 seconds, in which time we have to decide whether or not we want to destroy the planet.

Now given that it takes as much as 30 seconds for the missiles to clear cloud cover, this means that our people manning the SDI command post would have, not 4 minutes like the crew of the *Vincennes* had, but 10 to 70 seconds—1 minute or less—to fire our interceptor missiles. Can you imagine the battle stress under those circumstances? In terms of battle stress alone, the *Vincennes* incident would pale in comparison to the situation facing a star wars crew.

If SDI ever had a false alarm during a crisis, it could be the last false alarm in the history of the world. Yet we dare not turn over the question of life and death to computers alone. Humans must be part of the picture, and the President signed that requirement into law last year in the fiscal year 1988 DOD authorization bill, which contained an amendment I offered to that effect that a man must be in the loop and that SDI, if ever deployed, could not be activated by a computer, but only by human hands.

Tom Wicker made these same points in a recent column of his in the New York Times. He quotes an MIT scientist who accurately points out that for SDI, "the *Vincennes* episode was a birthday party by comparison." I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BUMPERS. In short, we need to look anew at SDI from the perspective of those who would actually operate it, and the vulnerabilities to which it would be subject. Let us not spend a trillion dollars for a system that would invite the very worst kind of disaster in a crisis.

Exhibit 1

[From the New York Times, Sept. 1, 1988]

What if the Vincennes Had Been "Star Wars"?

To the Editor:

Now that the Navy's investigation of the downing of an Iranian civilian airline by the cruiser Vincennes is complete, with an exoneration of all those involved, it's time to draw some lessons from this tragedy. In "11 Minutes to Downing of an Airliner" (Aug. 20), you state: "The senior officers who reviewed the incident today called the 'compression of time' a major factor leading to the fatal errors. In fact, the civilian aircraft, Iran Air Flight 655, was not descending but continuing to climb on its scheduled path across the Persian Gulf."

Applying this lesson to the Strategic Defense Initiative (popularly known as "Star Wars"), we must wonder how the military men who must advise the President when to push the button will be able to size up objectively and accurately the approach of nuclear missiles in less than seven minutes. The consequences of a mistake in judgment will be far greater than the death of 290 innocent people. It could mean a tragedy for millions and even the end of the world we know.

What S.D.I., with all its billions of dollars for research and development and its advanced technology does not take into consideration is the human factor. With so much at stake and so little time to make a decision, how can we permit such a risk to be taken?

No one person or group of people, no matter how highly trained and well intentioned, can be trusted to carry out this responsibility. Considering the human factor, S.D.I. becomes a far greater danger to humankind than the highly speculative danger of an unprovoked nuclear attack.

Robert L. Boehm,

New York, *Aug. 23, 1988.*

Exhibit 2

Chaos and Control

(Tom Wicker)

Two months ago the U.S.S. Vincennes, a cruiser equipped with the technologically advanced Aegis system of radar detection and electronic fire control, mistakenly shot down an Iranian passenger jet in the Persian Gulf, causing the loss of 290 lives.

Not long ago, John Markoff of The New York Times has reported, "computer designers at TRW, the weapons manufacturer, were surprised to find that a large computer network they had strung together in Europe was exhibiting strange, unpredictable behavior."

Nothing could be found wrong with this complex linkage of hundreds of computers, and the TRW engineers "now suspect that they were confronted with the mathematical concept called chaos, a natural phenomenon that leads to turbulence in rapidly moving water or in the atmosphere."

These two events were unrelated except that they offer a common warning against too complete reliance upon computers and electronic systems as substitutes for or multipliers of mankind's innate abilities.

That is what is most worrisome about President Reagan's Strategic Defense Initiative. If ever developed beyond the experimental stage—a dubious proposition—Star Wars will be heavily dependent upon a vast network of sensors, computers and electronic weapons guidance systems girdling the globe and only nominally under human control.

Given the likelihood of breakdown at any of thousands of points in a system so complex that no one has been able as yet even to design the necessary software, it takes a leap of faith to believe that the S.D.I. would increase national security against attack. More likely, aping the computers at your local bank or an airline ticket counter, the system would be "down" when most needed.

Worse, if the projected S.D.I. networks ever were deployed, in what would be a far larger and more intricate system than the one that went haywire in Europe, what is to prevent that system from falling into chaos, a phenomenon not even completely understood, much less correctable? Who can say what "wild and unpredictable variations," in Mr. Markoff's phrase, might occur in S.D.I.'s functions, or what uncontrollable consequences might result?

In the case of the Vincennes, the Navy blames "crew error arising from the psychological stress of being in combat for the first time" and exonerates the expensive Aegis system from any blame. Since Aegis has failed before, but the Navy has an enormous financial stake in its success, the judgment may be questionable.

But suppose the Navy is right, and the Vincennes crew, understandably excited and fearful in its first combat test, deployably misinterpreted Aegis readings? William F. Schreiber, a professor of electrical engineering at M.I.T., points out that a nuclear war, or a nuclear-weapon accident that looks like nuclear war, will be a "first time" for everyone.

"The Vincennes episode was a birthday party by comparison," writes Mr. Schreiber, who designs computer-based grapic arts systems. "After such a debacle in a very simple situation with a weapon system on which no expense has been spared and for which the crew trained exhaustively, what kind of performance should we expect from the crews of nuclear-weapons installations when the system seems to say that there are missiles coming our way?"

Or, it should be added, from Soviet nuclear-weapons crews, when their complicated techology—which probably is less reliable than ours—tells them missiles are headed their way?

"Quick and accurate" actions in response to what the instruments seem to be saying, Mr. Schreiber notes, "depend at least as much on how the operator receives information and makes his decisions known to the system as on the basic capability of the system itself."

Not only may these high-technology systems fail, or degenerate inexplicably into chaos, and be more prone to do either as they grow ever more complex; even when they function properly, the responses of the fallible human beings who may have to interpret their messages can be disastrous—and humans may be progressively less fit for a job so demanding.

Thus, as we move inexorably into the world of high technology and control by computer, the undeniable benefits will not come cheaply. For mankind's enhanced capacities, the price may be that we diminish, rather than increase, what little dominance we have of our own destiny.

Mr. BUMPERS. Mr. President, I hope this has been highly instructive and edifying to the Senator from Illinois. And with that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINIMUM WAGE RESTORATION ACT

The Senate continued with the consideration of the bill.

Mr. DIXON. Mr. President, while I am on the floor as the temporary manager of this bill, in the absence of the distinguished Senator from Massachusetts, with very little activity taking place at this point in time on the question of passing minimum wage legislation, the thought occurs to me that one ought to observe on behalf of those on this side of the aisle that old sage observation that we have in southern Illinois: With friends like Vice President George Bush on this issue, Mr. President, who needs enemies?

The Vice President has suggested at every opportunity lately how much he is concerned about passing minimum wage legislation for the working people of this country. I wonder if the public is aware of the fact that under the rules of this body in a very real sense on major pieces of legislation often it is not a question of whether a constitutional majority of elected people in this body support the issue. It is a question of whether you can get a supermajority. It is a question of whether you can get 60 people around here to vote for cloture so you can go to the issue. I am sure the people in the balcony observing us right now understand that.

Time is running out. We are going to leave here shortly to go home for the great election in 1988. Between now and October 15, we have to somehow straighten out the question about the Department of Defense authorization bill, which the President has vetoed, pass an appropriation bill which fits that authorization bill that he will sign, clear up all the appropriations measures and some other things of importance. The sad thing is, Mr. President, as you and I are in this Senate Chamber this afternoon, clearly 53 Members of the Senate, the necessary majority to pass this legislation, favor the minimum wage legislation that is before us.

Where is the Vice President when we need him the most, Mr. President? Where is he? Three Members from that side of the aisle joined us today—only three—to pass a minimum wage bill so far behind the curve it is laughable. I told the story in the Senate Chamber on Tuesday, Mr. President, about my experience when I was home during the Labor Day break in Illinois, and I was in Aurora, in northern Illinois. The President who has been in my State knows where that is, Aurora, Elgin, in Kane County. I was in Aurora, and I made a speech. I was driving from Aurora to Elgin to make another speech in those twin cities in Kane County, a fairly significant population center in the northern part of my State. On the marquee of a White Castle hamburger stand was this sign: "Employees wanted, $4.35 an hour." Mr. President, in Aurora, IL, the minimum wage is already $1 higher than it says on the statute book.

In Washington, DC, you cannot hire people for under $5 an hour. They do not even try to advertise for them. Here the minimum wage is higher than this legislation would make it in the 3-year developmental period to achieve the maximum increase in the minimum wage.

You know we have had one cloture vote. We are going to have another. There is even a remote chance we might have three. But I just want to say to the Vice President, unless some folks on his side are going to help, we are not going to have a minimum wage this year for the working poor of America.

You know, I was amazed and astounded a moment ago when 1 of my friends on the other side said it is not 12 million you are talking about. You are only talking about 2 million, like that is a throwaway. I will tell you what: If all we are talking about is 2 million, I want to say to those 2 million, and it is a lot more, in this country the working poor, that they are being denied 40 cents, chicken feed, because we cannot get cloture.

You know, Mr. President, it is campaign season. Everybody is going to make their political speeches. I just want to make this observation: I have seen the picture of the Vice President casting his rod and fishing in his suit and tie when he was making his point that he is an environmentalist. I believe he is an environmentalist. But when we passed a clean water bill, the President and this administration vetoed it. And the only environmental legislation we have passed worth mentioning is that legislation we had to override the President's veto in the House and Senate to pass it. He is an environmentalist, but the administration never does anything for the environment.

He wants to be the education President. I came here with this administration as a member of the loyal opposition, and was sworn in January 1981. Tell me what we ever did for education since I have been here. We reduced Pell grants. We did almost everything imaginable to put fiscal constraints on what we do for education. He may be the education President when he gets there, but I have not heard or seen much from him in the time I have been here.

And here we are at an impasse at 3:35 on a Thursday afternoon. We have been on this issue for a week. Fifty-three Members of the U.S. Senate are saying they are for a minimum wage bill, and others on that side saying privately, oh, we would like to vote for one if we could just get to it. I want to tell the working poor of America we cannot get to it because they will not give us the votes on cloture to get to the issue where a majority of the people in this body, and a substantial and significant majority on the other side in the other House are ready to vote for a minimum wage—40 cents this year, 40 cents next year, 40 cents the final year, no indexation, nothing of that kind at all; a bill that is actually behind the curve.

I would only want to say in conclusion that there is going to be a great debate Sunday night. Perhaps the Vice President can explain to the American people why this party he wants to command, this party he wants to be the general and commanding officer of, cannot produce any troops down here at the level of the foot soldier to support the concepts he so magnificently elaborates and articulates in speeches around the country.

I had the opportunity to see him in the flag factory the other night, literally wrapping the flag around him. I love the flag. I honor the flag. I pledge allegiance to the flag. I worship the flag. Everyone loves the flag. And I would suggest that when he has time he ought to get out of the flag factory and talk to a few folks in America who are pretty hungry; would like to have an opportunity to have a better wage. Maybe if he is not too busy some evening he could even make about seven phone calls, Mr. President—seven phone calls. That is all we ask; seven willing souls on the other side, and I know who they are. I can count them easily and name them, and would not because I would not want to embarrass any friends who are willing to vote for this bill, prepared to vote for this bill, and are almost anxious to vote on it. But they are hiding behind the cloak of cloture perhaps never to be heard from.

I just want to say in conclusion that tomorrow we will vote on cloture again. Maybe that is the last time. There is a slim chance we might vote a third time. I think the American people can penetrate this veil. They can understand this fact that they have been denied this minimum wage by a subterfuge; and that their candidate who suggests at every opportunity how warmly and wholeheartedly he supports it has not done anything at all to make it a reality. Think of it. The man running for President of the United States could make seven phone calls and pass this bill. I am sure he is going to be prepared to explain to the American people Sunday night why he was too busy to make those seven phone calls.

Mr. President, I observe a friend of mine on the other side who appears to be here to make some remarks. I am delighted to yield the floor to my friend from Idaho.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I appreciate the comments of my friend from Illinois, who I am pleased to serve with on the Armed Services Committee, as well the comments of the chairman of the Labor Committee. I think there are many aspects of this bill that have not yet been explored and talked about. Oftentimes I think we fall into a trap: We think the person who cares most about people is the one who wants to raise their wages by some kind of edict, when in reality better wages, better working conditions, better living conditions come from increased productivity and increased opportunity for the workers.

I think this administration in general does not have to take a back seat to anyone on that. Another fact that has not been mentioned is that in 1986, a reformation of the U.S. Income Tax Code was passed by this body that literally took the low-income people off the tax rolls so that they no longer pay income taxes. That is another way that the opportunity ladder has been opened up for them.

Senator GRAMM was here on the floor and said the other day if we are going to really do people a great service by raising wages, why do we not raise the wage to $10 or $1 million an hour, or some wage that would in fact make life much more comfortable for them?

The reason for that, of course, is that wages come from production, from work, from increasing the ability of people to pay for work performed.

This bill, S. 837, would increase the minimum wage to $3.85 in 1989, $4.25 in 1990, and $4.55 in 1991. It totally flies in the face of reason to believe we can repeal the law of supply and demand. It does not work in any areas where this Congress intervenes in the market system.

The distinguished chairman of the committee was talking about agriculture subsidies the other day on the floor. He is right in being critical of agriculture subsidies, because today we are losing the soybean market in the world because we have dragged soybeans into what used to be a successful agriculture marketing system where they were relatively out of farm programs. But we have made it more profitable to plant corn, and that got the soybeans high on the world market, and now they are planting soybeans in Argentina and Brazil and chipping away at America's market in soybeans. That is another example of political tampering with the marketing system, interfering in the name of doing something to help people, where the people who are supposed to be helped are often damaged the most by these programs.

I have said before that I recall my economics professor, Dr. Grau, at the University of Idaho, constantly reminding us in the classroom that the highways to hell are paved with good intentions. I say to my colleagues that I am sure they have good intentions by bringing this proposal to the floor. But the economic reality of artificially passing wage laws, throughout history, has proved to hurt the people whom the proponents of the act claim it helps the most.

So I strongly oppose this proposal, and I will not support any compromise amendments that simply whittle away at the number. This bill is bad economics, and I believe it can be bad politics for its proponents, if the candidates who propose the wage increase will face the issue head-on and explain the loss of jobs and the adverse impact on the poorest, most disadvantaged people in society.

What will the job loss be? We have heard a lot of numbers tossed around on this point. I suspect that it would be difficult for anyone, no matter how objective their analysis, to give us a very precise estimate on that question. I have seen numbers that range from 80,000, at the low end, to 2.7 million, at the high end. I do not know how many jobs will be lost if this bill becomes law as it is written.

The point should be of interest to all of us and to all our constituents: There really is no dispute that the passage of this legislation will result in some significant loss of jobs throughout this great land. A majority of the Labor Committee has admitted the adverse impact of a higher minimum wage on unemployment by approving the amendment allowing Puerto Rico an exemption because of the high unemployment and the strained economy in the Commonwealth.

The Delegate from Puerto Rico, Mr. FUSTER, has written each of us, on behalf of himself and the Governor, urging the Senate to retain the provision which was so critical to the jobs and general economic wellbeing of his constituents in Puerto Rico.

I hope we will do so, but I also hope we will take the advice of the good Delegate from Puerto Rico and take equal pity on the rest of the Nation and urge his colleagues in the House to vote against the minimum wage bill if it is considered in that body prior to adjournment. If it is going to hurt the low-income people in Puerto Rico, who already have suffered from too much unemployment, then it is going to do the same thing in other pockets of high-unemployment in the continental United States.

On that point, I make the following observation: it is the success of Reaganomics, the fact that we continue to enjoy the longest peacetime economic recovery in history, and the Nation is holding very near to what most economists would call full employment, that allows the proponents of S. 837 to bring the bill to the floor and discuss it seriously just prior to an election. If the situation were reversed, with the economy in decline and unemployment on the rise, serious debate on a bill that everyone will admit contributes to unemployment would never be undertaken just prior to an election. So I think that because we have so many people working and in the United States we are in a seller's market for labor, there is a great opportunity for jobs, for people who are able and willing and motivated to work in this country, and get into the income stream, and get into the income sector.

I remind my colleagues that not every section of the country has enjoyed the fruits of the Reagan economic miracle.

There are States and sections of States where the economy is based upon natural resource production and has suffered tremendous economic decline and thousands of job losses in this decade.

I am not sure that the people in south Texas, for example, where the unemployment rate is 15 percent and higher, will understand the pressing need for a bill guaranteed to slow the creation of new jobs and diminish even further their fragile hopes for a brigher economic future.

We suffered some of these losses in my State, a State which is largely dependent on resource production, on the worldwide commodity index, if you will. It is not just in Idaho or south Texas or North Dakota. Everywhere in the world where people make a living based on production of commodities, the extractive industry sector, the agriculture sector, there has been a difficult adjustment that has taken place throughout the 1980's.

We are seeing the bright lights of day in my State because, after many years of economic recession in Idaho and very high unemployment rates, the economy is slowly picking up and the seasonally adjusted unemployment rate was down to 4.7 percent in June. Yet, there are still six counties where the seasonally adjusted unemployment rate is very near or well above the 10 percent mark, with the Statewide economy having just rounded the bend and heading toward economic recovery. With the number of pockets in the State where job opportunities are few and far between, Idaho cannot afford the economic decline this bill will force on everyone, to the advantage of a very few.

That is really, I think, what the issue is here.

This bill will increase wages throughout the economy. Those people who are the higher paid, more skilled, more productive workers in many cases will get a pay increase from this, and those people who are underskilled, undereducated, undermotivated unfortunately in some cases, will be put further out of the reach of the first step of the ladder.

So if this bill makes it out of the Senate and eventually becomes law those who already suffer the most from unemployment will be the ones who will be hurting.

Will the job losses be spread throughout all sectors of society so the pain will be less acute? Clearly, at least it should be clear to anyone who has any prior business experience, the lost jobs will take a disproportionate toll on those segments of the work force that can least afford it; namely, the youth and minority workers; in other words, the unemployment created by this bill will hit hardest those groups who already suffer the highest unemployment rates in the country.

Establishing a minimum wage, any minimum wage automatically puts some below the job threshold in their area because of their lack of job skills. Work experience and education are an important factor. Employers simply have to determine how much a job applicant is worth before they will pay that job applicant to work for them.

Obviously, job applicants who lack any skills, any experience, any education are worth less than those applicants who have more qualifications. On the other hand, those on the low end of the employment ladder are generally willing to work for less just to get a start and acquire the skills and experience they need to move on to a more responsible and a higher paying job.

So I say that all that compassion for the working poor espoused by the proponents of this bill, is in reality a disregard for the needs of the unskilled people who are crying out to pull themselves out of poverty and who desperately seek the dignity that work itself can provide.

All one has to do is look at what happened at the end of the last century and into the early years of this century to the groups of people who came from the potato famine in Ireland, from Italy and other countries and moved into New York City. In many cases they were living in what by today's definition would be the ghetto environment, where maybe dad made

25 cents an hour, mom made 15 cents an hour, and the kids worked for 10 cents an hour and the family pooled together and made a dollar an hour. They worked themselves up through that, and by the second generation they had doctors, lawyers, engineers, and professional people in their families because they did not have the politicians in Washington passing laws that would have put them out of the job market. So they were able to move in and be successful.

I think we have seen it right now in the last 10 or 15 years since I have been here in the Congress. We have seen what has happened when the people from Vietnam and Southeast Asia came to this country, and in many instances lived in very crowded conditions, pooled their resources and now you see service stations, dry cleaning establishments, and restaurants that are owned and operated by very successful families from Asia.

Why is it that we are here today considering this bill which will have such adverse consequences for the economy as a whole and especially for those of us who may be the most disadvantaged among our society? Why in the world does this Congress continue to try to do this? What does it take for us to see the difference, the difference between what we have achieved in America and what they have achieved in Western Europe, what they have achieved in Japan and certainly what they have not achieved behind the Iron Curtain where the standard of living is much less and there is no incentive for people to work. Goods and services there are acquired by political power and not by productivity and not by real worth valued and judged by the market system. And that is why their economies are lagging behind our economies.

So this law that the proponents sincerely claim is necessary for the working poor, presumably for single earner heads of households to help get them out of poverty, in my view is a misguided adventure that will do nothing to help these people. If we pass a bill at the expense of that person who is at the bottom of the economic ladder who is trying valiantly to reach the first step by getting a first job, learning the dignity of work, learning the responsibility that goes with it, getting that on-the-job training, how can we claim to be helping poor people? And to see what the record is sometimes baffles this Senator greatly.

We have all seen these advertisements with husband and wife standing with their four or five children, apparently struggling to get by on father's minimum wage. The ad makes the case very eloquently for this argument about the impoverishment of families struggling under the current minimum wage.

If that is why we are going to pass it, then we ought to raise this wage to one-half the average income in the country so that it really would in fact do something more about the argument for the person who is trying to struggle and live on father's minimum wage and get the wage up there high enough so it will help them.

Let us just take a moment to look at some of the facts about who the minimum wage earners really are.

According to John Raisian and George J. Stigler, economists, whose article entitled "Minimum Wage: A Perverse Policy" appeared in the April 12, 1988, New York Times, there are 5 million workers earning the minimum wage today. Three million of them are between the ages of 16 and 24. I repeat that, Mr. President. Five million workers today currently earn the minimum wage, 3 million of them between the ages of 16 and 24.

As a father who has raised four children, I was always glad to have my children working even if it was at the legal minimum wage for two reasons: one, while they are working, they cannot be spending money. Two, they are learning responsibility.

I see the distinguished Presiding Officer smiling, and I know he also has young children and will be at that point as they get a little older that he will be very happy to see them out there working, because the benefits they get from the job oftentimes are more important than what they may get in the classroom. It depends on the individual. But it is a tremendous opportunity for young people to be able to go out and work even if it is at what some might call the so-called low wages of the miminum level.

Sixty-five percent of those minimum wage earners are only working in a part-time situation. Eighty-one percent are in families whose incomes are above the poverty line and 70 percent are in families that had one or more workers. In other words, the typical minimum wage worker is young, not the head of a household, working part-time, and in most instances, in most instances are not in poverty.

So it is totally erroneous to stand here day after day and say that the people getting the minimum wage are all in poverty. It simply is not the fact.

Mr. President, I will, at the appropriate time, after I have completed my statement, ask unanimous consent to insert that article in the RECORD, but it will come after I complete speaking.

Mr. President, it is a fallacy to further suggest that there are multitudes of families out there living in poverty because they only have one wage earner who is earning the minimum wage. I believe there are a few other particularly important reasons why this bill is on the floor today and a lot of it has to do with politics.

Now, we are a political group. We have all been in politics. That is why we are here. I believe politics is a respectable enterprise. It is very necessary. It is very important. We live in a political world.

But, sometimes, Mr. President, in my opinion, good politics has very little to do with good public policy. First of all, there are a lot of people in this town who think the minimum wage bill will be good for its proponents in the coming election. I understand that. They think the voters are feeling a great deal of compassion for the working poor and that any candidate who is against the minimum wage increase is going to get the not-so-compassionate boot out of office come election.

The evidence quite to the contrary shows that there are many people in this Chamber who have opposed irrational economic ideas consistently and have still been able to get 51 percent of the vote.

As I have already indicated, true compassion lies on the other side of the argument. True compassion lies on the side of those who want to preserve the economic growth we have achieved in the past 6½ years.

During the time from 1982, at the depths of the recession, through now, we have created more than 17 million new jobs. I believe any candidate who takes the time to review the facts about the minimum wage increases with his or her constituents can turn the issue into a serious political mistake for the supporters of S. 837.

I would be happy to run against someone if this were the issue in an election, because, in my judgment, economic growth is much more important and the creation of new jobs than anything else we can do if we want to be compassionate. And I think most Senators do want to be compassionate.

Who is going to have compassion for the unskilled youth who cannot find a job or get a place to start? Who will have compassion for the small-business man or small-business woman who can no longer afford planned business growth or who may be forced to fire some employees because of the increased labor costs?

The labor bosses back raising the minimum wage laws, not because their members are minimum wage earners, but because it gives them more leverage when they get into the bargaining room to lever up wages. And if you are a labor boss, your value to the membership lies in your ability to negotiate higher wages. And higher wages, of course, are one of those things people are interested in. I understand that.

But these are serious questions that any candidate who opposes S. 837 can and should ask of challengers who support the bill.

Finally, everyone here knows the big labor bosses are the most powerful lobbying force behind this bill. Their representatives have been beating down the doors of the Capitol. Some of them are my good friends; not that they support me, but we have a very amicable relationship.

Now, I do not doubt that the labor leaders in this town share the same concern that all of us feel for the poor people and especially poor people who work. But I doubt that that concern is their principal reason for lavishing all this attention on the minimum wage bill.

Why should it be? After all, their members, as I just said, are not the working poor. Rather, labor bosses are well aware that the ripple effect can be expected throughout the economy and particulary in terms of rising union wages if this bill passes. That is what the impact will be. We have seen it. We have seen it happen throughout our experience with this legislation since it first passed back in the Roosevelt administration.

However, Mr. President, organized labor shows a distinct lack of concern about raising the unemployment rate, which will certainly accompany the wage hike.

United Auto Workers president Walter Reuther once told an interviewer that he thought it was immoral for employers to create low-paying jobs. Mr. Reuther said he thought we ought to support the minimum wage law in order to get rid of all low-paying jobs and give employers an added incentive to put higher productivity equipment into service in the factories, so that all jobs would be high-value jobs. He tried to suggest that somehow employers have a moral obligation to pay higher wages—just as supporters of the minimum wage bill are trying to tell us that it is a moral obligation to support it here today, that somehow we are morally bound to support having the whips and guns of Government intervene between the employer and the employee and tell them how much they have to work for.

In other words, they are saying that two people, one who wants to hire someone and one who wants a job, are not intelligent enough to make a decision in a volunteer atmosphere, free people working through free institutions.

Now what we are saying is that we are going to put the Government in there to intervene, to set the wage. Yet the fact of the matter is all one has to do is go to countries where the government makes the economic decisions to find that our economic system is the more humanitarian one.

What Mr. Reuther's comments reveal is not so much the supposed moral concerns of a labor leader, in my opinion, as the revelation of the disregard of the economic opportunities of those livelihoods that depend on level-entry jobs.

In my view, it is a selfish attitude for people who are making $16, $17 an hour to push for a minimum wage law that will keep people who do not have the opportunity to get those jobs to work themselves up the ladder of economic success to get into that market. Actually, what Mr. Reuther's comments indicate to the Senator is the self-interest of a leader of a labor union whose members are employed in manufacturing the very equipment which displaces low-skilled labor.

An International Harvester tractor or trenchdigger or combine is typically operated by one or two skilled, high-paid workers. Those machines do the work that formerly had been done by hundreds or even thousands of very poorly paid workers. And I am in favor of that. That is what this system is all about—allowing people the opportunity to earn money and earn a living, accumulate some savings, work their way up on the economic ladder. Sometimes it takes more than one generation to do it, but they have been able to do it in this system.

At the same time, a forced increase in wage rates makes low wages illegal, it makes the economic demand for more advanced technology, equipment, greater. Thus the skilled jobs are created in the unionized industries while the unskilled jobs are destroyed elsewhere with no bridge for the unfortunate to cross over to obtain the better job.

So in some ways I can understand why many of the labor bosses for manufacturing unions support raising the minimum wage law but they do have a direct conflict of interest, and it is a crass conflict of interest in denying people at the low end of the scale the opportunity to work themselves up the ladder.

Everyone knows, Mr. President, that those same labor bosses contributed to the great success of many Democrats in the 1986 elections.

I do not impugn the motives of any of my colleagues by saying that I might feel more favorably disposed toward this bill if I were sitting on the other side of the aisle.

I want to assure my colleagues that the warm feeling I might have for those helpful leaders would not be sufficient, to get me to support this bill.

The Puerto Rican delegate, I think, has ably spoken of the need to exclude Puerto Rico from this; they are just recovering from years of economic recession and that this minimum wage increase will hurt the poor people in Puerto Rico. It will also hurt the poor people in Chicago, the poor people in New Jersey, the poor people in Idaho. This law will cause more unemployment and deny people the opportunity for jobs.

So, I hope my colleagues will cast the compassionate vote for jobs, for economic expansion, for unskilled and inexperienced job seekers, and for giving people a chance to obtain the dignity of a job. I hope we will vote against S. 837.

In my view, Mr. President, the compassionate vote would be to send this bill to the dust bin of history where it belongs.

If we continue to raise the minimum wage, the unskilled worker, the undereducated worker, the one that has not had quite the same opportunity as some of the rest of us, will find it is very difficult to go out in that market and get a job.

Mr. President, at the end of my remarks I have the text of an amendment which I ask unanimous consent to have printed again in the RECORD. I did have it printed yesterday in the RECORD.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. My amendment would strike the dollar amounts proposed by the committee and substitute $8.80 an hour with an indexing for inflation starting in 1989. The idea behind this amendment is inspired by the statement of the late Walter Reuther who, for many years, was president of the United Auto Workers Union.

I want my colleagues to have an opportunity to vote for minimum wage that would actually represent a level of income for a full-time worker that would be equivalent to half the average of America's family income.

Many of my colleagues share Mr. Reuther's opinion that wages should be increased as an act of morality. As Mr. Reuther was quoted as saying: "We should really outlaw low wages." That is what he used to believe. I want my colleagues who have been speaking in favor of the minimum wage to have an opportunity to vote for the higher amount to demonstrate to the voters they are sincerely in favor of the legislative solution. If $4.55 is right for 1991, surely $8.80 in 1988 would be better.

Mr. President, we are going to go on and debate the merits of this and I will debate my amendment at the appropriate time, but I do think I will make just a few comments about the logic of it.

Some believe that Congress can, by law actually increase the standard of living for workers. That is one argument and I can respect people if they believe that.

Others believe real economic forces, capital investment, savings, productivity, hard work, are the path to a real increase in the standard of living for workers.

To the extent we believe in different economic theories, even conflicting economic theories, we have a duty to the American people to make our theories known so the people can judge if we are doing the right thing. After all, if I happened to believe the world were flat, I would then oppose funding for the space shuttle since its supporters believe it flies in an orbit around the Earth but if the Earth were flat, of course, it would be an unworkable program.

I believe it is helpful in a serious intellectual debate to make the underlying assumptions and relationships of the theory more clear. I would respectfully say that it is my duty and the duty of all of us, including the Senator from Massachusetts, to lay out in a dispassionate manner the details of the economic theory that each of us is affirming in this debate over the minimum wage law.

My purpose in proposing the $8.80 an hour is to focus the debate on the economic theory of the minimum wage. It is not the consequences, it is not the effect of increasing the minimum wage but rather the reason why anyone might want to increase it.

My amendment specifies a particular proposal, $8.80 an hour. The distinguished chairman said last Tuesday the minimum wage for 50 years has been based on one-half the hourly wage. The payment of $8.80 an hour, 40 hours a week, 52 weeks per year would produce an income exactly half the average family income. I think all families should have some equal opportunity so my average is the average income, rather than the average wage rate.

The issue, therefore, is whether raising the minimum wage is the proper way to increase the incomes, to increase the standard of living, or to even increase the social status of the lowest paid workers in American society.

I have said, Mr. President, in my previous remarks, that I believe the increase in the minimum wage will destroy jobs. It will reduce employment opportunities of the very people who we are supposed to help by increasing the minimum wage.

I am not standing here asking anyone to believe I changed my views on the consequences of raising the minimum wage to $8.80 per hour, nor am I offering this amendment at the same time to poke fun at the honorable chairman of the Labor Committee and his staff, as they may believe. But I am sure they are aware of how many jobs will be terminated by increasing the minimum wage.

Surely, they are opposed to my amendment because even more jobs will be terminated if the wage is set at $8.80 an hour.

I am not saying they want to destroy half a million jobs, but I believe they are unwilling to destroy 2 million jobs. I have not asked anyone to calculate the employment effect of increasing the minimum wage to $8.80 per hour because that is not the reason why I am offering the amendment. It is clearly not the issue today.

The issue is what kind of economic theory do the supporters of minimum wage believe in? Do they believe it actually increases the wages paid to the same workers who had, prior to the increase, been receiving the lower minimum wage rate?

In other words, when the Congress increases the minimum wage, do they believe it is exactly the same thing as when an employer increases a worker's wage rate?

Many people support an increase in the minimum wage because they say that workers at the bottom deserve more of the fruits of the economic system. It is not exactly an economic theory to talk about how much people deserve. It is an ethical question that has certainly occupied the philosophers who are far wiser than this Senator and probably far wiser than many of us in this Chamber.

Another possibility, of course, is no change would occur in wage rates of workers, but all workers below the legal minimum wage would just be terminated. For those workers, their wages would not go up from the previous minimum, but instead would drop immediately to zero. This would be the other extreme case.

Some of us have considered the possibility. In our view, those workers do not deserve to be hurt by Congress, which will happen if we increase the mimimum wage rate at all.

Another economic theory that we have heard about in this debate has been called the ripple effect. Under this theory, the minimum wage worker gets an increase in pay, and the worker just above him gets an equal increase or a proportionate increase, which is even more money per hour, and the increases go up; they ripple up the ladder of wage rates.

The ripple effect theory is the economic theory that predicts inflation because unit labor costs go up across the board. The theory that simply says the lowest paid workers are terminated, and the worker who was formerly earning $4.55 per hour becomes the new lowest paid worker will not predict any inflation. It will just predict an increase in unemployment.

The ripple effect theory predicts both more inflation and more unemployment because when labor costs go up, the cost of production goes up. When the cost of production goes up, prices go up. When the prices go up, fewer goods are sold, so fewer goods are produced, and it is the reduced production that causes the unemployment.

Many of the Senators on this side of the aisle have already cited economic studies and have indicated their belief in the ripple effect theory. What the supporters of any minimum wage theory seem to be saying, however, is that there is a certain social minimum below which no American should be permitted to work. I make the point, permitted to work, Mr. President, not should work, but permitted to work because we are talking about arbitrarily setting a price out here where we are going to say that if Mr. Doe hires Mr. Brown to work for him and it is not above a certain wage, he is not permitted to work; it is against the law; they cannot do it.

The late Walter Reuther, for many years president of the United Auto Workers Union, at one time gave an interview in which he said there was something immoral about businessmen paying low wages. When he was presented with the argument that minimum wage law simply destroys low-wage jobs, he replied that was OK because there should not be any low-wage jobs. He favored high-wage jobs.

We all would like to have higher wage jobs. I favor higher wage jobs. I am sure the distinguished Presiding Officer favors it and the distinguished Senator from Illinois favors it. I personally would like to see a world in which the lowest paid worker receives more than he or she does today. I mean more in real terms, in real purchasing power, in ability to improve their standard of living.

I want to see not only American workers get more, but I would like to see workers in Mexico, in Latin America, in Africa, and all over the world, even behind the Iron Curtain, get much more for their labor than they receive today.

Mr. President, the point is that there are different economic theories about how to obtain that result. Mr. Reuther believed the best way to get rid of low-wage jobs would be to make them against the law. So he favored raising the minimum wage just as what this bill does.

That is exactly what the proponents of this bill are saying. They are not seemingly worried about what the effect of the law might be, to raise no one's wages; rather, the reply is that they would just be satisfied to see all low-wage workers terminated.

Of course, in fairness to the memory of Mr. Reuther, he favored the Government acting as the employer of last resort. Those low-wage workers terminated in the private sector would have been hired by the Government at the new minimum wage. This, of course, is remarkably similar to the proposal to have low-wage workers receive an unearned tax credit instead. Mr. President I am digressing.

The point is, are we being asked to vote for an increase in order to help the low-wage workers or perhaps are we being asked to vote for an increase in order to make a moral statement opposing low-wage employment, regardless of what the consequences are, to the very people we claim we are trying to help?

I am prepared to lay aside the third alternative, namely that the proponents of this bill want us to vote to hurt the low-wage earner. I do not believe it is the intention of any Senator to vote to hurt those low-wage earners, but I am not prepared to lay aside the possibility that voting to increase the minimum wage may hurt the low-wage worker because of the facts of economic life. And the supporters of this bill may not fully understand the errors of their economic theories. As I said earlier, sometimes what is good politics for the short term is bad economics for some people for the long term, and it is not even humanitarian.

So it is very clear to this Senator increasing the minimum wage will not help low-wage workers; it will not increase opportunities for low-wage workers. It is more likely to cause employers to change the way they do business and have fewer and fewer low-wage workers on their payrolls.

Mr. President, I can go on, but I just say that I come from a background of an intensive-type agriculture. My family operates a fruit farm in Idaho. We grow fruit. That kind of operation is very capital intensive, but we have a need for labor, too. You cannot operate a fruit-growing operation without having people there to care for the crop all year round. From the time the tree is planted, it has to be trained, it has to be pruned, it has to be irrigated, fertilized, cared for, protected from disease and insects, and so forth. If you are lucky, you might make a reasonable profit. Sometimes you have a reasonable loss, and you hope to minimize that.

It is a risky business, just as most businesses are. Profitability depends on both advanced planning, and some luck oftentimes is important.

But the number of workers who are employed depends upon how much extra help from an extra worker will contribute to the business, any business, whatever kind of business it is.

People try to have the right number of workers and they try to have those workers who contribute to the overall good of running a successful business.

The distinguished Presiding Officer comes from a very illustrious background in business. He understands this all too well—you simply cannot pay people to do nothing and then have a business which makes a profit. Those people have to produce something for what they draw from the company, whether they are growing apples or producing software programs for running payrolls as the distinguished Presiding Officer's business did. It is simply a matter of fact.

In the part of the country from which I come, southwestern Idaho, the land can be used for many things. You can raise cattle on it instead of growing fruit. Raising cattle takes less people. You would not need as many hired hands. But if the cost of labor were twice as much and the price of apples and beef are the same as they are today, many of the people who are using more help and providing more jobs and more intensive production of grains, of apples, of hops, of seed crops, et cetera, might switch into cattle production. Then there would be less jobs.

The point is that we simply cannot repeal the law of supply and demand in the reality of economics. Every business is the same. There is always the marginal value of the product of the labor. All Congress can do by raising the minimum wage is to prevent business people from running their businesses in the most efficient way. It will force business people to change what they produce, how they produce it, how they sell it, and it will destroy jobs for the lowest wage workers.

That is my view of it. I say to my colleagues, is it more important that this Congress try to make a moral statement about low-wage jobs than it is to create jobs and to preserve the opportunity for workers to move up? I do not care what business we are talking about, what kind of position it is. People need the opportunity to get a job. It is critical to the success and the human dignity of the individual.

This country is based on the individual having an opportunity to start out in life and get a chance to work his or her way up. So if it is going to be a moral statement, Members will vote for the bill at the expense of the people who are being denied an opportunity.

So if this Congress does pass a minimum wage bill and sends it to the President, I hope the President will veto the bill, because he is compassionate and concerned about those people at the low end of the ladder who are in many cases underskilled, undereducated, and need the opportunity to develop their own self-worth and their own dignity—people who need to learn the discipline of work to move themselves up the rungs of the economic ladder.

Mr. President, I do not know what the managers of the bill have in store for us today, but unless some other Senator seeks the floor, I will note the absence of a quorum. Before I do that, I ask unanimous consent to insert several other articles in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE MINIMUM WAGE

(By Ralph Smeed)

We remember the recent celebration to commemorate what has come to be one of America's most famous landmarks, namely, the Statue of Liberty in New York harbor. Given to America in recognition of her freedom for so many common citizens, the French people who built and donated the monument saw something great over here that was virtually brand new in the whole world. Hooray for them.

So much was said about our Lady of Liberty during the celebration that I won't rehash it here except to note that most of what was said had to do with the virtue of immigrants rather than the freedom, institutions and liberty already here that attracted them in the first place. Sad to say, however, some of these are disappearing today right under our very noses.

So let us examine the experience of ethnic groups that have migrated to the urban centers of the U.S. in search of economic progress. Jews, Italians, Chinese, Irish, Japanese and many others settled here and were usually despised and subjected to legal harassment for decades after their arrival. Nevertheless, members of these groups have been highly successful in moving into the mainstream and frequently into the highest strata of American life.

Discrimination did not keep them depressed. Why were they able to advance whereas today's bottom-of-the-ladder minorities seem to be forever stuck there? Have conditions changed in some way which would explain the difference? The answer is yes.

With the movement to the cities, the process of economic advancement began for the majority of the black population, just as it had for the Jews, Italians, Chinese and others in the previous century. What factors are militating against blacks now that did not hinder the progress of the other groups?

A rather large number of such causes could be identified, but let's take a look at one of the most significant. A big difference we can cite is today's existence of minimum-wage laws. They set a wage floor below which an employer may not pay. The proponents claimed the reason for this law was to raise the income of the poor workers. The real reason was that it would stifle competition from lower wage areas, such as the South. For this reason, the minimum wage bears a kinship to the infamous Jim Crow laws. And it sounded good, politically. Still does.

What the lawmakers either did not see or chose to ignore is that the amount of one's pay depends upon his value to his employer. If the law says that you, the employer, cannot pay anyone less than $3.35 per hour, you are not going to hire people who, because of lack of skills and work experience, cannot produce for you at least $3.35 worth of revenue per hour.

What the minimum wage does, then, is to prevent one from getting his start by cutting his "price." It prevents a teenager, for example, from going to an employer and saying, "I know I don't have a work record to prove my reliability, but I'm willing to start at a low wage. All I would like is a chance." That is exactly how the earlier immigrant groups began their climb up the ladder, but today that option is gone.

Because they cannot find work, millions of young blacks, Hispanics and others remain unemployed or unemployable. Frequently they turn to crime or drugs. Or, if you've been in downtown Boise lately on Friday night you've seen hundreds of teenagers "cruising," a simple mindless weekly event of driving cars hour after hour around the block. Maybe they think everything else is illegal.

Frequently, America's young people, not having anything else to do that is legal, turn to crime or mischief. If not, a life of indolence on welfare awaits them. It is not capitalism, my friends, that has caused this. It is the government. It is that government that has evolved after (repeat, after) the Statue of Liberty era.

I am indebted to the august Foundation for Economic Education in New York from whose work the above scenario was adapted, but others of high standing echo similar sentiments. Dr. Walter Williams, the famous black libertarian economist, himself a product of a genuine black ghetto and a broken home, says exactly the same thing about the minimum wage laws, i.e., they are virtually destroying black teenagers—especially.

As we might expect, superliberal Sen. Ted Kennedy and the Idaho Statesman are today pushing for an even higher minimum-wage law. One wonders why these two don't demand a real liberal increase in the minimum wage, say $20 rock bottom. Then they could export the rest of the worker's jobs back to Europe and Japan.

MINIMUM WAGE: A PERVERSE POLICY

(By John Raisian and George J. Stigler)

PALO ALTO, CA.—Congress appears ready to approve an increase in the Federal minimum wage, a perverse policy that hurts the low-income families it seeks to help. A bill calling for a $5.05 minimum recently passed the House Education and Labor Committee, and a similar bill calling for $4.65 is pending in the Senate Labor Committee.

Adding to the momentum, 54 economists wrote a letter to Congress in support of increasing the minimum wage from the current $3.35 an hour to $4.65, and thereafter pegging the minimum to one-half of the average hourly wage for nonsupervisory workers. Congress and the public should not assume, however, that this letter puts forth the majority view among economists.

In fact, the contention of the 54 that a higher minimum wage would not raise the unemployment rate appreciably is at odds with the opinion of the overwhelming majority of economists, who were surveyed on this question in the May 1979 issue of the American Economic Review. Moreover, the 54 fail to consider the potential effect on employment.

In addition to layoffs, the reduction in employment would take the form of unfilled vacancies, job elimination and substitution of part-time for full-time jobs. Since the unemployment rate does not include either workers who drop out of the labor force or jobs that employers decide not to fill, the actual effects of a higher minimum wage on employment are not fully measured. Hence, a higher minimum wage could lower total employment significantly, even though the unemployment rate might not rise dramatically.

The 54 economists see the minimum wage as "a social contract to protect the standard of living of the working poor." Yet a social contract that eliminates one's job would seem to injure, not protect, that person's standard of living. Again, they state that "a worker paid at the present minimum wage of $3.35 per hour earns $6,700 on a full time year round job . . . an annual income more than $1,900 below the official poverty threshold for a family of three." This statement seems to imply that such a situation is typical for a minimum-wage worker. It is not.

Indeed, it is illuminating to review the characteristics and circumstances of a worker earning a wage that is at or below $3.35 an hour. As of the mid-1980's, there were approximately 5 million such workers, representing less than 5 percent of total employment.

About these 5 million, census figures tell us the following: 58 percent were between the ages of 16 and 24; 76 percent were not the heads of a household; 65 percent were part-time workers; 81 percent were in families with income above the Federal poverty line; 70 percent were in families that had one or more other workers; and, most significant, only 2.3 percent were both full-time, full-year workers and in families below the Federal poverty line. Thus, the typical minimum wage worker is young, not the head of a household, working part-time and not in poverty.

For the sake of the affected workers, Congress should oppose the minimum wage initiative. Low incomes should be combatted by policies that raise the productivity of poorly paid workers, not by overpricing the workers' services to employers.

[From the Idaho Press-Tribune, July 31, 1987]

MINIMUM WAGE

The coincidence is too much not to note. Currently winding its way through the Senate and the House is a measure to raise the minimum wage from its current $3.25 an hour to $4.85 per hour by 1990. Sen. Edward Kennedy of Massachusetts is sponsoring the Senate bill; Rep. Augustus Hawkins of California is shepherding the House bill.

If you've ever watched the way food items, burgers for instance, are put together at a fast-food outlet, you know it is pretty mechanical; that is, the same movements are repeated over and over as the product is assembled and sold. It's minimum wage, rote-type work—ideal for teenagers.

Well, researchers at a university in Wisconsin are developing a robot that may someday be capable of replacing the kids on the fast-food line. It's just a matter of when, not if. Burger King, for example, already has automatic broilers that eliminate burger flippers.

Anyway, you can bet that if the minimum wage is raised very much, if at all, there will be a mad scramble by companies to replace those higher-priced kids with computers and robots that are basically one-time expenses.

The Minimum Wage Study Commission says that a 10 percent increase in the minimum wage could wipe out as many as 340,000 jobs. These are normally jobs held by youngsters and other persons at the bottom end of the skills scale who aren't productive enough to be worth a whole lot of money.

We'll give you a personal example. This newspaper's editorial department budgets enough money annually for two student interns. We choose local students from the College of Idaho, Northwest Nazarene College and Boise State University. The students receive $3.50 per hour plus expenses, they gain work experience in a field they might want to enter and they each take home about $70 weekly to help with college costs.

While most of our interns have been assets to the paper, they are not worth much more than minimum wage because they are inexperienced and are in fact receiving on-the-job training.

Right now we can justify hiring a couple of local students at $3.50 per hour, or a total of $7 per hour. Increase that, however, to $4.85 each per hour, or $9.70 total, and the situation might change. Maybe we hire only one intern or simply use that money to hire a full-time staffer and do away with the intern program entirely because it wouldn't be as cost effective.

Our preference is to retain our intern program. Do something for the local students and hopefully get something back in return.

There are tens of thousands of employers out there—from a fast-food chain with dozens of young employees to the newsroom of the local paper with two student interns—who would be forced to re-evaluate things with a higher minimum wage.

Raising the minimum wage sounds like the humanitarian thing to do. In reality, it would do much more harm than good.

[From the Idaho Falls Post Register, July 7, 1988]

HIGHER WAGE MAY NOT HELP

(By John Cunniff)

NEW YORK.—Almost any day of the week you may find politics and economics clash, but none with more noise than when minimum-wage legislation is the subject.

So high are the political decibels that some economists claim judgment is skewed. According to some politicians, so cold is the economic logic that it is bereft of human dimensions.

But whether the perspective is mainly political or economic might be far less important than another aspect of minimum-wage proposals—that they might not help those they are intended to help.

That is the contention of economist William Dunkelberg, who has studied, consulted and lectured intensively on the subject. "The minimum wage is earned primarily by secondary earners from above-median income families," he states.

Low-income workers, says Dunkelberg, account for only a bit more than 10 percent of all workers earning the minimum wage. And in retailing, a major employer of lower-wage workers, 70 percent of recipients are from families with incomes more than 200 percent above the threshold poverty level.

Citing statistics such as these, Dunkelberg states unequivocally that minimum-wage legislation "cannot effectively" redistribute income to the poor." Most beneficiaries, he says, are people we aren't trying to help.

"Trying to help the less-advantaged is an admirable goal and one that we all probably support," says the professor, formerly of Stanford and Purdue universities and now dean of the graduate business school at Temple University.

He continues: "Let's do it efficiently, not with the shotgun approach of a minimum wage that is destined to miss its target nine out of 10 times while imposing substantial economic costs on us all."

"States alone devote an amount to public welfare programs that, if distributed directly to the poorest 10 percent of all families in the United States, would yield more than $12,000 per family a year."

Dunkelberg points out that benefits of that level would be much higher than congressional proposals to raise the minimum wage from $3.35 an hour in three annual steps to between $4.25 and $4.55 in 1991.

Already many workers employed in what used to be minimum-wage jobs earn far more than that in areas of New England and California.

Dunkelberg opposes minimum-wage legislation for other reasons too, among them:

Most workers earn the minimum wage for only short periods of their lives, advancing to higher paying jobs as their skills improve.

What he perceives to be a threat to the hiring capabilities of very small businesses, where many unskilled workers obtain their first job experience.

His belief that raising the minimum wage would add to inflation, albeit by only a fractional amount.

His contention that the increases proposed would add to unemployment—again, however, by only a tiny amount.

But, he concludes, those tiny percentages are meaningful. They add up.

[From the Moscow Idahonian, Mar. 6, 1988]

HIGHER MINIMUM WAGE UNFAIR TO SMALL BUSINESS

(By Jack Clark)

In your (Feb. 22) editorial, you characterized small businessmen opposed to an increased minimum wage as "whining tightwads." As a "whining tightwad" bent on business survival, I say that the government should quit trying to kill the small business goose that is laying the golden egg by regulating it into an endangered species.

You cited a recent congressional study that found "not one shred of evidence pointing to significant employment and business disruption" as a result of raising the minimum wage. It would be naive to expect a congressional study to find that, by raising the minimum wage or any taxes, it has contributed to the high number of business failures. When the government regulates small businesses to death, the failure is rationalized as poor management.

Our government is constantly increasing the financial load on small business, and unless you are in a somewhat monopolistic position like the Idahonian/Daily News, it becomes harder and harder to carry that load. Each year I get a notice from you, Jay Shelledy, telling me that due to the increased cost of doing business, my advertising rates will be increased by some magic amount.

It is put in such a way that I am beginning to believe that the "Law of Annual Idahonian/Daily News Rate Increase" ranks up there with other physical laws like the "Law of Gravity." You may disagree with the "Law of Gravity," but there is no getting around it.

Being able to directly pass your increased costs on to your customers must be nice. Our government has the same attitude. . . .

I don't understand why you adopted a $4 minimum wage at the Idahonian/Daily News. Unless it is just an arbitrary "Law of Idahonian/Daily News Minimum Wage" or you are planning on running for government office and need individual votes, why not be very "progressive" and raise it to $12 per hour?

That would go a long way toward erasing poverty for your employees. All you have to do is lay off two employees for every one you keep, and your direct costs don't increase at all. The only problem is that you still have to pay for the ones you lay off in the form of increased taxes to support welfare programs.

Which brings up an interesting point. I'm surprised that the Legislature hasn't realized that by raising the minimum wage to $50 per hour, we can completely do away with poverty. Anyone should be able to survive on $146,000 per year with no problem.

We have a great capitalistic system in this country that will work if it isn't regulated out of existence. If your employees have not increased productivity to warrant a 65-cents-per hour raise on March 1, then it must be considered a form of charity and you are to be congratulated for your philanthropic gesture if not for your impact on poverty.

If their productivity warrants the raise, then you should probably be ashamed for not giving it to them sooner. That's not "progressive," that's "the equitable thing to do."

In anticipation of a government imposed increase in the state minimum wage, I have decided that I will not use it as an excuse to increase the prices my customers pay. They are the reason I am in business and able to keep employees working. Instead I will look for other ways of cutting costs.

As of March 1, I will cut my ads from five days per week to one day per week in your paper. If it does not impact my business, I am wasting over $200 per month that should rightfully go toward salaries. Thank you for opening my eyes to this overlooked form of cost reduction.

Sorry, Jay. I've been behind you in the past, but on this issue I strongly disagree. If your own employees can't afford a newspaper subscription, maybe you ought to take a look at your pricing. I find nothing "progressive" in making simplistic gestures toward solving the complex problems poverty present for this country.

One idea for really "putting your money where you pen is" is to give yourself a decrease in pay and to pass that amount along to employees less fortunate than yourself. If you do, please don't use increased wages as an excuse to increase costs to the customers that support your business. If you can live on less, it will allow someone else to live on more. But then, that is not capitalism.

[From the Idaho Business Review, Apr. 20, 1987]

MINIMUM WAGE HIKE WOULD HURT EMPLOYERS, MARGINAL EMPLOYEES

(By John Sloan)

"The good news is, we're giving you a raise. The bad news is, you no longer have a job." That's how one Texas small-business owner describes the dilemma he and his employees will face if the minimum wage is increased.

In a recent survey of its half-million members—small and independent business owners—the National Federation of Independent Business found 73 percent opposed increasing the minimum wage.

Sen. Edward Kennedy, D-Mass., and Rep. Augustus Hawkins, D-Calif., jointly introduced legislation in late March which would raise the minimum wage to $4.65 an hour, in three steps, by 1990 and index it to 50 percent of the average hourly wage thereafter.

Kennedy claims the current minimum wage, $3.35 an hour, "permits unscrupulous firms with significant market power to exploit their lowest paid workers." In fact, an increase in the minimum wage is likely to hurt those lowest paid workers.

The wage increase helps those who are able to keep their jobs, but even a modest 10 percent increase pushes hundreds of thousands of minimum wage earners out of the job market and into the "non-working and poorer" category.

Raising worker wages with no compensatory increase in productivity is bad business practice and it is inflationary. Mandating a higher wage scale causes prudent business owners to look for ways to reduce costs.

Prior to the last minimum wage increase in 1980, the University of Michigan surveyed employers from all sectors of the economy, employing 12 percent of all minimum wage earners. Of those surveyed: 11 percent said they cancelled or postponed plans to hire new workers; 9 percent said they would reduce employee work hours; 7 percent said they would lay off workers; and 6 percent said they would not fill vacancies.

Another argument frequently used to support the concept of a higher minimum wage is the myth that the minimum wage-earner stands as the sole breadwinner of a family, toiling eight hours a day to eke out a meager living for his wife and children. To the contrary, demographic research done in 1980 for the Minimum Wage Commission found that most minimum wage earners were single, without dependents and living in mid- to upper-income families. Only one in 10 headed a family with a poverty-level income. More than three out of four lived in households with incomes at least 50 percent above the poverty line.

Supporters of the higher wage say it would redistribute wealth more equitably. In fact, the lion's share of "new money" would flow to middle income families, perhaps ever widening the gap between upper- and lower-income people.

A minimum wage increase would be most harmful to two groups: marginal employers and marginal employees. It would contribute mightily to inflation. It would reduce productivity. As *The New York Times* said in an editorial on Jan. 14, " . . . there is a virtual consensus among economists that the minimum wage is an idea whose time has passed." Small-business owners agree.

[From the Idaho Business Review, June 29, 1987]

IDAHO SMALL-BUSINESS OWNERS OPPOSE MINIMUM WAGE HIKE

Idaho small-business owners strongly oppose raising the federal minimum wage, according to the results of a survey by the National Federation of Independent Business/Idaho.

Of those responding to the statewide poll, 73 percent opposed Congress raising the federal minimum wage, while 21 percent were in favor and 6 percent were undecided. "A minimum wage increase will be most harmful to two groups—marginal employers and marginal employees." said Pete Skamser, state director of the NFIB/Idaho.

"When the minimum wage is raised, many employers find it is cheaper to replace workers with machines. Others must lay off workers to compensate for rising costs. Some employers, dependent on low-cost labor, will be forced out of business." said Skamser.

Sen. Edward M. Kennedy (D-Mass.) and Rep. Augustus F. Hawkins (D-Calif.) are supporting legislation to raise the federal minimum wage from $3.35 an hour to $4.65 an hour in stages over three years.

Although labor leaders say raising the minimum wage will help the working poor, it will actually strip many thousands of low-paid workers of their jobs." said Skamser.

He said that a recent report by Michael Weinstein, economics department chairman at Haverford College, estimated that 300,000 teenagers would lose their jobs if the Kennedy-Hawkins bill became law.

Similarly, the National Restaurant Association estimates that a 4 percent increase in the minimum wage would result in a 1 percent drop in restaurant employment. Nearly a third (32 percent) of all minimum wage earners work in the food service industry.

The most recent available figures from the U.S. Bureau of Labor Statistics (BLS) show that, in 1986, 6.7 million workers of a work force of 99.5 million were paid at or below the minimum wage.

"Raising the minimum wage will be a major contribution to inflation, because it also pushes up other employer costs, like unemployment and workers' compensation insurance. These increased costs will be passed on to the consumer in the form of higher prices," said Skamser.

The NFIB/Idaho is the state's largest small-business organization with 7,200 members. Nationally, the NFIB has 500,000 members and offices in all 50 states.

[From the Post (ID) Register, Nov. 22, 1987]

EASTERN IDAHO EMPLOYERS WARY OF INCREASES IN MINIMUM WAGE

(By Rebecca Thompson)

Bonnie Struhs raised the wages she was paying her sales clerks about a year ago. She had been paying "her girls" the federal minimum of $3.35 an hour, but found no one could afford to hire a baby sitter and come to work.

So Struhs, who owns the Shanny Shack in Idaho Falls, bit the bullet to start her clerks at $3.50 an hour.

Now, Sen. Edward Kennedy, D-Mass., and Rep. Augustus Hawkins, D-Calif., are sponsoring a bill to boost the minimum wage by 15 percent to $3.85 on Jan. 1, 1988, and by 10 percent in each of the next two years, to $4.65 by 1990.

If that happens, Struhs said, small businesses like her's would be hard pressed to meet labor costs and realize a profit.

"The little guys won't make it," she said. "There's no way."

On the flip side, some workers earning minimum wage are holding down two jobs, and even after combining incomes with a spouse, they have difficulty paying expenses.

Laura Hamilton works 10 to 14 hours for minimum wage in the nursery and cafe at Skyline Lanes. She spends an additional 40 as a waitress, earning $3.10 an hour plus tips at the North Hi-Way Cafe.

Her husband who works at Phase 4 Stereo and Electronics, is the primary wage earner in the family, but once they pay the bills and buy necessities for their 7-month-old son they have little left over.

"You'd think we'd be able to make it on his wages, but with the groceries and formula . . ." Her voice trailed off naming essentials.

Struhs and Hamilton echo the sentiments of the nationwide debate to raise the wage floor by nearly 40 percent over three years. Although both sides in the debate say Congress isn't likely to address the issue before springtime, they have flexed their economic theories during hearings this fall on the committee level.

Opponents say an increase would cost some low-paid workers their jobs, raise costs for many employers and boost the inflation rate.

Proponents argue that the government-mandated minimum has not been increased since 1981, and that it is high time the floor was restored to a level adjusted for six years of inflation.

In 1986, about 3.5 million workers nationwide were reported to earn exactly $3.35 an hour, and 1.6 million earned less, the U.S. Department of Labor, Bureau of Labor Statistics said in the July issue of Monthly Labor Review. Together, these wage earners constituted 8.8 percent of all hourly paid workers.

For the most part, workers making the minimum or less were young people and women. The majority were part-time employees, earning a secondary income in service and sales occupations.

About 9.6 million workers paid at hourly rates earned between $3.36 and $4.35 per hour in 1986, and their demographic characteristics were similar to those paid the minimum or below.

In Idaho, the federal wage floor covers all employees working for businesses involved in interstate commerce, said Gary Gould, director of the Idaho Department of Labor and Industrial Services. But establishments that do not have contact with other states and that do a volume of business under $362,000 a year are required to pay only the state minimum of $2.30 an hour, he said.

The state minimum wage has stayed the same since 1977 and does not apply to agricultural labor or anyone engaged in domestic service.

State agencies have no firm statistics or demographic characteristics about who earns the state and federal minimum wage in Idaho. But Gould said 3.4 percent of the work force earns less than $3.35. Another 25.5 percent makes between $3.35 and $3.80; 39.5 percent earns between $4-5 and 25 percent makes more than $5.

Employees in Idaho Falls who earn the minimum wage, or slightly above, fit the national profile.

Connie Taylor, a sales clerk at Shanny Shack, is 19 years old, lives with her parents and uses her earnings to pay for personal expenses, such as clothes and entertainment.

Eighteen-year-old Dianne Bird, a cashier at The Wizard, is working two jobs to save up tuition money to attend Ricks College next year. And Elaine Luthy, 22, is a maid at the Westbank-Quality Inn, putting in 30 hours a week to supplement her husband's income.

Leading the opposition to raising the minimum wage is Sen. Orrin Hatch, R-Utah, senior Republican on Kennedy's Committee on Labor and Human Resources. His staff maintains the raise would result in unemployment as businesses cut back hours and employees to pay the new federal minimum. Moreover, business expansion and the creation of new jobs would come to a halt, a staff member says.

Quoting a study by two Clemson University economics professors, Kris Iverson, employment policy director for the minority side of the committee, said Idaho would lose 7,578 jobs, 83 percent of them held by teenagers and 2,856 in retail, if the minimum wage is increased.

"They claim to be helping the working poor by raising their wages," she said, "But they're going to end up hurting them by eliminating jobs and work hours."

The U.S. Chamber of Commerce also has taken a strong stance against the proposal. Bob Martin, the chamber's manager of Human Resource Development, said he believes a floor is necessary in some parts of the country, but elsewhere, such as the Northeast and West Coast, the minimum is dictated by the labor markets.

"I think what we're seeing is that the minimum wage is truly becoming a function of state and local economies," he said. "In the Northeastern part of the country the $3.35 federal rate is a relic because employment opportunties have expanded. That is the labor market determining the costs of labor, which in a free enterprise system is what we think is the right way for the economy to operate."

The Greater Idaho Falls Chamber of Commerce has not taken a position on the proposal, said Con Mahoney, president.

While preparing for a labor economics class, Chuck Skoro, chairman of the Economics Department at Boise State University, said his information supports the stand taken by the U.S. Chamber of Commerce and Hatch's staff. But, he said, it also shows that a wage increase will effect various groups of minimum wage earners differently.

It would have a positive effect on adult women, he said. They tend to hold full-time jobs and are more likely to be hired over teen-agers because employers consider them higher caliber workers, he said.

As a result, teen-age labor opportunities would decline, especially for inner-city minorities, he said.

"That can be either bad or good," Skoro said. "Teens stay in school longer because they don't have work to draw them out of school."

Evidence also shows that a higher minimum wage would lead to increased management efficiency, Skoro said. Because employers would pay their workers more, they would adopt better, more intensive management techniques.

Despite such positive aspects, Skore said that as an economist, he believes the proposal to increase the minimum misses the mark.

"I get frustrated in this country with the way we do things," he said. "If we had a better welfare system and more direct ways of getting help to people we want to help, we wouldn't have to use such round-about ways as minimum wage."

But a Kennedy spokesman, who would not be identified, said the adjustment is long overdue and necessary to give some workers bargaining power.

"They're trying to say, 'Oh well, this won't cure poverty, so it's not worth doing,'" he said. "It was never intended to cure poverty, but the wage floor is below which no one should be paid. If Jimmy Jones, the rich, affluent kid, is allowed to work for $1 an hour, it drives down the wages for Jimmy Jones, the poor, black kid in Washington, DC."

But most eastern Idaho business people oppose the wage proposal.

"I can't afford to take a kid with no working experience and pay more than $3.35 to train them," said Levi Strauss, owner and manager of The Branding Iron restaurant. "With a 16-year-old kid, you've got to teach them how to work."

Nel Phillips, manager of Teton Dry Cleaners, agrees.

"My feeling is you get what you pay for," she said. "If they're good workers and willing to act like they want to stay, we raise their wages."

Her colleague, Gina Yost, a silk finisher, said she closed her daycare center because she couldn't afford to pay the increasing costs of staying in business.

"You can't bring in unskilled workers and pay them a bunch of money," she said. "I think they need to earn their way up."

Several businesses said consumers ultimately would feel a wage hike's effect in their pocketbooks.

At the Stardust Motor Lodge, where about half of the 125 employees earn minimum wage, Manager Richard Scheets said, "The end result is John Q. Public ends up paying more for a hamburger or steak to help me compensate."

Mike Smith, owner and manager of The Wizard on Broadway, said he believes the pay increase would create a rippling effect. If the newest worker's pay is raised from $3.35 to $3.85, the person earning $3.90 is likely to demand an increase to stay ahead.

"If you pay someone $4.65, you have to pay everyone else to scale, and pretty soon they're making what I'm making," he said.

[From the New York Times, Jan. 14, 1987]

THE RIGHT MINIMUM WAGE: $0.00

The Federal minimum wage has been frozen at $3.35 an hour for six years. In some states, it now compares unfavorably even with welfare benefits available without working. It's no wonder then that Edward Kennedy, the new chairman of the Senate Labor Committee, is being pressed by organized labor to battle for an increase.

No wonder, but still a mistake. Anyone working in America surely deserves a better living standard than can be managed on $3.35 an hour. But there's a virtual consensus among economists that the minimum wage is an idea whose time has passed. Raising the minimum wage by a substantial amount would price working poor people out of the job market. A far better way to help them would be to subsidize their wages or—better yet—help them acquire the skills needed to earn more on their own.

An increase in the minimum wage to, say, $4.35 would restore the purchasing power of bottom-tier wages. It would also permit a minimum-wage breadwinner to earn almost enough to keep a family of three above the official poverty line. There are catches, however. It would increase employers' incentives to evade the law, expanding the underground economy. More important, it would increase unemployment: Raise the legal minimum price of labor above the productivity of the least skilled workers and fewer will be hired.

If a higher minimum means fewer jobs, why does it remain on the agenda of some liberals? A higher minimum would undoubtedly raise the living standard of the majority of low-wage workers who could keep their jobs. That gain, it is argued, would justify the sacrifice of the majority who became unemployable. The argument isn't convincing. Those at greatest risk from a higher minimum would be young, poor workers, who already face formidable barriers to getting and keeping jobs. Indeed, President Reagan has proposed a lower minimum wage just to improve their chances of finding work.

Perhaps the mistake here is to accept the limited terms of the debate. The working poor obviously deserve a better shake. But it should not surpass our ingenuity or generosity to help some of them without hurting others. Here are two means toward that end:

Wage supplements. Government might subsidize low wages with cash or payments for medical insurance, pensions or Social Security taxes. Alternatively, Washington could enlarge the existing earned income tax credit, a "negative" income tax paying up to $800 a year to working poor families. This would permit better targeting, since minimum-wage workers in affluent families would not be eligible.

Training and education. The alternative to supplementing income for the least skilled workers is to raise their earning power: in a free labor market. In the last two decades, dozens of programs to do that have produced mixed results at a very high cost. But the concept isn't necessarily at fault; nurturing the potential of individuals raised in poverty is very difficult. A human society would learn from its mistakes and keep trying.

The idea of using a minimum wage to overcome poverty is old, honorable—and fundamentally flawed. It's time to put this hoary debate behind us, and find a better way to improve the lives of people who work very hard for very little.

EXHIBIT I

In Section 2, strike the paragraph after the words "to read as follows:" and insert in lieu thereof:

"(1)(A) except as otherwise provided in this section, not less than $8.80 per hour during the period ending December 31, 1988.

"(B) The Secretary shall determine and publish a wage order no later than October 1 of each year which will increase the applicable amount in paragraph (1)(A)—$8.80 per hour in calendar year 1988—by an amount equal to the increase in the consumer price index for all urban wage earners during the twelve-month period from July 1 of the previous year through June 30 of the current year, and such increase in the minimum wage shall become applicable on January 1 of the subsequent year.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPEACHMENT TRIAL OF U.S. DISTRICT JUDGE ALCEE L. HASTINGS

Mr. FORD. Mr. President, on August 9 the Senate directed the Rules Committee to report to the Senate by September 23, 1988, on its advice and recommendations regarding certain procedural matters in the impeachment of Judge Alcee L. Hastings. Today, I have filed the committee's report and reported an original resolution to implement the recommendation of the committee.

Mr. President, I ask unanimous consent that the Committee's executive summary be printed in the RECORD immediately following my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit No. 1.)

Mr. FORD. Mr. President, the committee has found that the Senate has authority to continue the pending impeachment in the 101st Congress and recommends that it do so. It also recommends that the rest of the impeachment proceeding be carried over to the next Congress; and that the Rules Committee hold a hearing and make a report on the appropriate use of an impeachment committee and any other matter to assure a fair trial of the pending case.

Mr. President, the reason for this recommendation is that the committee believes that it should give the parties and Members the opportunity to be heard on these procedural matters before it makes its recommendations. Due to the busy schedule of the Senate at this time, such a hearing is not possible during the closing days of this Congress.

It is preferable that this matter be put over for a number of reasons. By continuing the proceeding to the next Congress, it will be possible for this committee to have a hearing and issue its report on the remaining issues referred to the committee; for the Senate, if it determines to appoint an impeachment committee, to appoint one that includes new Members; for the same Members who will hear the case to make the decisions regarding its procedure; and for the entire proceeding to be prosecuted by the same team of House managers.

EXHIBIT NO. 1

REPORT OF THE COMMITTEE ON RULES AND ADMINISTRATION OF PROCEDURE FOR THE IMPEACHMENT TRIAL OF U.S. DISTRICT JUDGE ALCEE L. HASTINGS IN THE U.S. SENATE

EXECUTIVE SUMMARY

Charge: The Committee was directed to advise the Senate on—

1. the authority of the Senate to continue in the next Congress proceedings on the impeachment of Judge Alcee L. Hastings;
2. the appropriate use, in the pending impeachment, of Senate Impeachment Rule XI; and
3. any other matter which may assist the Senate in a fair trial of the pending impeachment.

Findings: The Committee finds and advises the Senate as follows:

A. The Senate has clear authority to continue in the next Congress proceedings on the impeachment of Judge Hastings, and

B. The Senate has clear authority to appoint, pursuant to Senate Impeachment Rule XI, a committee to perform the duties and to exercise the powers provided for in the rule.

Recommendations:

1. The Senate should defer further proceedings in the pending impeachment to the 101st Congress.
2. Rules Committee should hold a hearing on items #2 and #3 during the week of January 23, 1989 and issue its report of advice and recommendations on or about February 1, 1989.
3. The parties should be prepared for trial, whether before the full Senate or an impeachment committee, by March 1, 1989 or as soon thereafter as the Senate may order.
4. In the meantime the parties should make every effort to resolve pre-trial matters to narrow issues and reduce number of

witnesses through among other methods, stipulations of facts and of authenticity of documents; report to the Senate their progress thereon by February 20, 1989 and be advised, to that end, that Senate will make available the services of the Senate Legal Counsel to act as mediator.

Justification:

The Committee's advice and recommendations on the subjects of the appropriate use of Impeachment Rule XI and of other matters to assure a fair trial in the pending impeachment should be the subject of careful consideration by the Committee. The parties and Members should be given the opportunity to be heard on these matters. It is not feasible, in view of the press of business and the limited number of days remaining in this Congress, to conduct such a hearing before adjournment.

By continuing the proceeding to the next Congress, it will be possible for this Committee to have a hearing and issue its report on the remaining issues referred to the Committee; for the Senate, if it determines to appoint an impeachment committee, to appoint one that includes new Members; for the same Members who will hear the case to make the decisions regarding its procedure; and for the entire proceeding to be prosecuted by the same team of House Managers.

THE OPERATION OF THE SENATE

Mr. FORD. Mr. President, last November, I announced on the floor of the Senate the intention of the Committee on Rules and Administration to undertake a "comprehensive study" of proposals to improve the operation of the Senate. I am pleased to have this opportunity today to bring Senators up to date on the actions taken and progress made since that announcement.

With the concurrence of Senator Ted Stevens, the ranking Republican member of the committee, Dr. Otis A. Singletary, president emeritus and professor of history at the University of Kentucky, was invited to serve as a consultant to the committee, and was specifically charged with preparing a report that would review past studies and recommendations, analyze current proposals for change, and focus upon the more significant unresolved issues still facing the Senate.

Dr. Singletary's report, which was submitted this past July, provided a thorough review of earlier committee reports and studies, including the work of the Culver Commission (1976), the Stevenson report (1977), the Pearson-Ribicoff study (1983), the Quayle committee report (1984), and numerous resolutions relating to Senate floor activities. He also provided an analysis of current proposals for change, items either under consideration or likely to be considered by the 100th Congress. Included were proposals sponsored by Senators Byrd, Kassebaum, Inouye, Pryor, and Danforth, among others. I am pleased to say that due note was also taken of the expressed views of Senate wives, who are appropriately concerned about "quality of life" issues in the Senate.

The report also included information from the recently published—January, 1988—survey of the 100th Congress entitled "Congress Speaks." The responses in this survey provided by Members of the Congress reflect strong sentiment for change and address directly many of the issues included in this report, specifically, budget reform, the committee system, the legislative schedule, limiting debate on a motion to proceed, and rules pertaining to germaneness.

This report is not and was not intended to be a "new study." The objectives were to present a survey of recent attempts at reform, to provide some indication of what has actually been done as a result of those efforts, and to identify some of the more significant issues that remain, as yet, unresolved. Dr. Singletary's report served as the basic "working paper" in the drafting of the committee report which I am submitting to the Senate.

In the preparation of this report, we have held public hearings, commissioned staff studies, and consulted with Senators and informed observers of the Senate. The committee conducted a survey of committee chairmen and ranking members. The CRS also provided invaluable assistance in the committee's work.

In addition to Rules Committee members, each member of the Ad Hoc Committee to Improve Senate Operations was provided a copy of the report for review and response. It is our hope that the "Quality of Life" Committee will come forward with specific proposals for implementing change in Senate operations to address the issues presented in this report.

Mr. President, I ask unanimous consent that the report, in its entirety but not the appendix, be printed in the Record, so that each Member will have full access to it.

There being no objection, the material was ordered to be printed in the Record, as follows:

Executive Summary

On November 17, 1987, Senator Wendell Ford announced to the Senate that the Committee on Rules and Administration would "undertake a comprehensive study of proposals to improve the operations of the Senate." His intention was endorsed by Senator Ted Stevens, the ranking Republican member of the Committee and the author of an innovative and thoughtful package of proposals. In the following months, the Committee has studied the bills and resolutions Senators have introduced, held public hearings, commissioned staff studies, and consulted with Senators and informed observers of the Senate. The Committee also has conducted a survey of committee chairmen and ranking members, the responses to which are reprinted in an appendix to this report.

The Committee has approached this task in a dispassionate and non-partisan manner, recognizing that the condition of the Senate as a unique and uniquely important institution under the Constitution transcends party interests and policy problems of the moment. The Committee also has been guided by two other fundamental beliefs. First, Senators must be as concerned with preserving the Senate as with changing it, though some changes may be necessary to preserve its fundamental nature and purpose. As Senator Ford observed to the Committee, "maintaining the Senate as a truly deliberative and responsible legislative body must be our prime goal." Second, the condition of the Senate is not just the responsibility of this Committee; the challenge of balancing continuity and change in the Senate must engage the wisdom, insight, and experience of all Senators.

In this report, the Committee assesses the climate for change in the Senate, and reviews four recent studies of Senate operations. Then the report considers four aspects of Senate operations that merit particular attention: the difficulty of scheduling business on the Senate floor; the recurring concerns with committee assignments and schedules; the issue of germaneness and other proposals affecting the subjects of floor amendments; and the frustrations that often result from the authorizations, appropriations, and budget processes. The report also addresses issues relating to committee jurisdictions as well as improvements in the Senate's computer systems.

Based on its study, the Committee has identified a number of proposals which, in its judgment, deserve serious consideration by the Senate:

—Agreeing on an annual agenda of legislative issues, as recommended by the Pearson-Ribicoff Study Group. Such an agenda, developed at the initiative of the Majority Leader, would help to define the Senate's priorities, organize its deliberations, and focus its attention, but need not restrict the Senate to a catalog of specific measures to be considered.

—Revitalizing the Senate's Morning Hour procedures, and developing more formalized procedures for disposing of measures on which there is little or no disagreement, again as proposed in the Pearson-Ribicoff report. In this way, the Senate would transact routine business in predictable ways and at predictable times, leaving most of each daily session available for uninterrupted deliberation on weightier matters.

—Imposing a time limit, or prohibiting all debate, on motions to proceed to consider measures. In S. Res. 309, for example, Senators Byrd, Stevens, and Pryor have proposed a two-hour limit on each motion to proceed made by the Majority or Minority Leader. Such a limit would strike an appropriate balance between preserving the right of extended debate and enhancing the Senate's ability to complete its work in a timely fashion.

—Enabling the Senate to vote, by an extraordinary majority, that amendments to a pending measure must be germane, as proposed by S. Res. 41, for example. Rather than require all amendments to be germane at all times, this proposal would allow the Senate to impose such a requirement selectively, but only when supported by more than a simple majority.

—Strengthening existing requirements for germane amendments, by permitting the Senate to overturn rulings of the Presiding Officer on germaneness only by extraordinary majorities, and by limiting the use of "the defense of germaneness" to protect amendments to appropriations measures.

—Requiring Senators to offer their floor amendments in a more orderly and predictable sequence, as proposed by Senators Pryor and Danforth in S. Res. 277. If implemented effectively, this proposal could expedite the conduct of floor business while enabling all Senators to plan their individual schedules with greater confidence.

—Limiting "sense of the Senate" and "sense of Congress" amendments, either by requiring that any such amendment be signed by 20 or more Senators before being considered, as proposed by S. Res. 274, or by imposing a more restrictive germaneness standard for such amendments, as proposed by S. Res. 41.

—Permitting subcommittees only to hold hearings, and mandating that markups be conducted at the full committee level. Such a change could well expedite committee consideration, lead to a gradual reduction in the numbers of subcommittees and subcommittee meetings, and reduce Senators' schedule conflicts.

—Addressing schedule conflicts between committee activities and floor sessions—for example, by authorizing committees to meet either from 9:00 to 2:00 or from 12:00 to 5:00 on each day the Senate is in session, without having to obtain unanimous consent on the floor. A more flexible arrangement could provide longer periods for committees to meet each day during the early months of the year, and less time in later months as the Senate's floor workload increases.

—Moving toward implementation of biennial budgeting, perhaps on a partial or experimental basis, to enhance the predictability of, and limit the time consumed by, budget-related decisions.

—Enhancing the computer capabilities and capacities available to Senators in both their Washington and their home State offices, as discussed in an appendix to the Committee's report. Such improvements must take account of the inevitability of technological obsolesence and the desirability of optional configurations to meet the varied needs of Senators' offices.

While the Committee believes that each of these proposals has much to recommend it, many of them could have far-reaching consequences and will require even more thorough study and full debate than they have received to date. There are a host of questions to be answered, for example, about all the procedural effects of offering amendments to each part of a bill in sequence. And any restriction on "sense" amendments must address the need for related controls on second-degree amendments. Moreover, even the most well-intentioned and desirable innovation can have unanticipated consequences. For example, the problem of reconciling committee and floor schedules has been compounded by the Majority Leader's very constructive and welcome initiative of scheduling the Senate to be in session from Monday through Friday on three successive weeks, followed by a regularly-scheduled week for activities in Senators' home States.

There are several other proposals the members of this Committee have examined with interest. For example, the Committee sympathizes with the intent of the Pearson-Ribicoff Study Group to limit repetitive debates and votes on the same controversial issues. The Committee also intends to give further attention to empowering the Presiding Officer to count to determine the presence of a quorum unless the absence of a quorum is suggested by either leader or his designee. And the Committee also is interested in exploring Senator Stevens' proposal in S. Res. 461 of the 98th Congress (summarized in an appendix) to create a Time Limitation Calendar and a new set of procedures for the Senate to act on measures which enjoy overwhelming but not unanimous support. These proposals address real problems, such as the delays created by frequent quorum calls and by rollcall votes on questions that are not in doubt, so the Committee plans to give further study to the sources of the problems and to the feasibility and potential consequences of these and other proposals for responding to them.

Furthermore, the Committee believes that solutions to the Senate's problems do not always lie in changes in or additions to its current rules. For example, the Committee has carefully considered issues of committee jurisdiction and referral (and addresses them in its report); these issues also were the primary subjects of the questionnaires distributed to the Senate's committee chairmen and ranking members. Based on its study, the Committee does not find it to be necessary or appropriate at this time for the Senate to undertake the difficult and contentious task of reorganizing its committee system. This matter is important and must be seriously considered in the coming years. Frustration with the three-tier system of budgets, authorizations, and appropriations is growing and must be addressed. To fully resolve this frustration may require a comprehensive restructuring of the committee system.

Much of the frustration that Senators have expressed with the committee system is attributable to the sizes of committees and the excessive numbers of committee and subcommittee assignments that some Senators hold. The Committee strongly believes that an essential first step toward resolving these problems is for the Senate to enforce the rules it already has, and to resist the temptation to grant exceptions to satisfy the policy interests or political needs of individual Senators. Similarly, no formal rules for developing and enforcing an annual agenda are likely to work unless Senators have the will and self-restraint to make them work.

In other respects, rules changes may be desirable, but they are not a complete answer to the challenges facing the Senate now and in the decades to come. Adopting a system of biennial budgeting, or transferring the responsibilities of the Budget Committee, provides no easy solution to the deficit problem. Nor would it be practical or realistic to impose an inflexible prohibition against continuing resolutions under all circumstances, however distasteful they are to members of this committee and all Senators. While the committee believes that the proposals listed above, among others, deserve the most serious consideration, it remains mindful that, ultimately, there are no organizational or procedural solutions for the very real and difficult policy choices the Senate will continue to confront.

The Committee on Rules and Administration has a continuing responsibility under Standing Rule XXV to study and report to the Senate on the organization and operation of the Congress. This report is submitted pursuant to that responsibility, but the committee's work continues. It fully intends to pursue its mandate by further hearings, studies, and other means. Some issues are of recurring concern to the committee, such as the need to review and improve the services available to Senators and the Senate. Careful scrutiny of the budgets of the Senate Officers and the Architect of the Capitol is especially important to providing effective oversight and to ensuring that appropriate priorities and policies are being implemented. New questions also arise which require the committee's attention, such as the problem of addressing provisions of questionable constitutionality in a conference report without jeopardizing the report in its entirety. The committee intends to explore this question as well, and continues to welcome recommendations from other Senators regarding additional matters that merit its consideration.

INTRODUCTION

In recent years, and amid recurring frustration with the operations of the Senate, Senators have commissioned a number of reports to assess the condition of their institution and to recommend appropriate changes in its organization, procedures, and practices. Some of these recommendations have resulted in amendments to existing rules or modifications of accepted practices. Many others, however, have not yet been acted upon, either because they have lacked sufficient support among Senators or because Senators have not yet been satisfied that the proposals have received the careful scrutiny and analysis they require. In any event, expressions of frustration and concern continue to be heard, both from inside and outside the Senate, reflecting a conviction that the Senate simply is not as effective in its day-to-day operations as it should be. In response, Senators have submitted various measures during the 100th Congress that have been referred to the Committee on Rules and Administration.

In November 1987, Chairman Ford advised the Senate that the committee would undertake an examination of these and other proposals as part of its continuing review of Senate operations. This report, which results from that study, is divided into two parts. Part I assesses the present climate for change in the Senate and reviews four recent Senate reports that addressed the state of the Senate and proposals for change. As the Senate debates proposed "reforms" in its operations, Senators will want to take full advantage of the contributions that have been made by the Commission on the Operation of the Senate, of 1975-1976 (the Culver Commission), the Temporary Select Committee to Study the Senate Committee System, of 1976-1977 (the Stevenson Committee), the Study Group on Senate Practices and Procedures, of 1982-1983 (the Pearson-Ribicoff Study Group), and the Temporary Select Committee to Study the Senate Committee System, of 1984 (the Quayle Committee).

Part II of this report addresses four general aspects of Senate operations that are of particular concern to this committee and that have attracted widespread interest among Senators: the difficulty of scheduling business on the Senate floor; recurring issues related to Senate committee jurisdictions, assignments, and schedules; the question of germaneness and related proposals for restricting the subjects of Senate floor amendments; and the frustrations associated with the budget and appropriations process. The committee has taken a dispassionate approach to these issues and the proposals for addressing them. There are no simple, ideal solutions to the problems that Senators have identified; otherwise, these problems would not remain subjects for debate among Senators and others who care about the Senate as an institution of representative government.

Throughout this report, and in the executive summary, the committee has noted recommendations and proposals that it believes merit particularly serious attention and sympathetic consideration. But the committee also believes that Senators must review any and all of these ideas very carefully before adopting them. Institutional change in the Senate is an ongoing process that must take account of the changing demands on the Senate and the changing circumstances in which Senators work, while preserving the Senate's essential and unique character. It is not enough to ask whether a proposed "reform" addresses a real and serious problem; it is equally important to determine whether the proposal offers a realistic and workable solution. And even the most well-intentioned and well-designed proposal is almost certain to have unanticipated consequences in an institution as complex as the Senate. Balancing continuity and change in the Senate must engage the wisdom and experience of all its members, without regard to party or philosophy.

Thus, the committee presents this report not as the final word on the subject, but as a contribution that will focus Senators' attention on an agenda of important issues and proposals which deserve their consideration during the remainder of this year and into the 101st Congress. Both sections of the report reflect the Committee's formal hearings and informal inquiries. The committee also benefited from the observations and statements Senators have made on the floor, and from assistance provided by the Government Division of the Congressional Research Service.

PART I—BACKGROUND

THE CLIMATE FOR CHANGE IN THE SENATE

Introduction

In 1987, six Senators, including three committee chairmen, announced that they would not run for re-election. Three of these Senators stated that their frustrations with the institution and its operations had contributed to their decisions to retire. While the rate of voluntary retirement from the Senate is not at its highest, the reasons for retirements have changed. Past retirements usually were attributable to Presidential ambition, age or illness, or a Senator's belief that he had served long enough. Only recently has frustration with Senate service been cited as a compelling factor.

"Inefficient" floor procedure, characterized as spurts of activity punctuated by frequent periods of deadlock and inertia, is a major focus of complaint. Together with erratic and unpredictable session schedules, this problem undoubtedly has contributed to Senators' growing frustration with their own institution, a degree of frustration that has culminated in calls for improving the "quality of life" in the Senate. For example, Senators have complained about their inability to (1) spend time with their families; (2) arrange events in their home States that need to be organized weeks in advance; (3) plan vacations; (4) keep commitments for appearances made well in advance; and (5) do more legislative work in daylight hours than after dark.

The emergence in 1985 of a "Quality of Life Caucus," the creation in 1987 of the Senate Leadership's Ad Hoc Committee to Improve the Efficiency of the Senate, and the concerns expressed by Senators' spouses all reflect the heightened interest in and widespread desire for a more efficient Senate. The committee believes that there is a climate for change in the Senate, and that this receptivity results from more than the unhappiness and dissatisfaction that normally accompany the stresses and strains at the end of Senate sessions.[1]

Symptoms and Causes of Frustration

Much of the frustration with Senate service is not caused by organizational or procedural inefficiencies, and so cannot be addressed by changes in its standing rules intended to enhance efficiency. But changing some aspects of Senate operations could make a difference. Three principal characteristics of the Senate are among the primary sources of Senators' frustration: (1) Senate rules, precedents, and practices governing debate, (2) the opportunity for Senators to offer non-germane amendments except under cloture and to appropriation and budget measures, and (3) perhaps most important of all, the expectation and assumption that the interests of individual Senators are to be accommodated and their prerogatives protected whenever possible.

Almost all the problems and complaints the committee has assessed can be traced ultimately to one or more of these characteristics. In one way or another, proliferating committee duties, holds on legislation, the uncertainties of floor scheduling, the length and frequency of quorum calls, the unpredictability of the amendment process on the floor, the iterative process of making budget decisions, as well as the more general issue of self-discipline and self-restraint, all can be profitably assessed in terms of the three underlying sources of the frustration that have been building in the Senate.

Potential Solutions

Distinguishing carefully between causes and symptoms is crucial to reaching appropriate judgments about the potential beneficial or adverse effects, and the possible unintended or unanticipated consequences, of the specific proposals for change in Senate rules, structures, and norms of conduct that the committee has considered. This is particularly true regarding the accepted and expected practice of protecting Senators' prerogatives and interests. With the end of Lyndon Johnson's highly centralized management of the Senate, the Senate returned to the long-established norm of accommodating individual Senators—a way of doing business more compatible with the historic nature of the Senate and its legislative practices. In fact, it is doubtful whether contemporary Senators would accept another Majority Leader who attempted to dominate the Senate to the extent Johnson did during the late 1950s.

The size of the House of Representatives and the expectation that its Members are to specialize more than Senators both are compatible with its more structured floor procedures, tighter control of debates, and more pervasive rules of germaneness. In the smaller Senate, on the other hand, its procedures traditionally have allowed for much greater freedom of debate and action. Furthermore, Senators were originally considered to be representatives of their States, elected by and accountable to their State legislatures. While the popular election of Senators changed this relationship, the continuing ties between Senators and their States have always protected the Senate against succumbing to a mechanical process of decision-making by simple majority vote. Accordingly, certain norms and expectations that developed early in the Senate's history prevail to this day.

First, the Senate always has prided itself on being a deliberative body, in which strict limitations on debate are unsuitable. It was not until early in this century, it must be remembered, that the Senate adopted any cloture rule at all. Most motions and other matters are debatable, and closing debate by cloture requires a super-majority. The Committee has encountered no convincing evidence to suggest that a majority of Senators have become frustrated and impatient enough to support cloture by simple majority vote. If so, then proposals affecting debate are likely to play at the margins without fundamentally altering debate rules in the Senate or their implications for how the Senate does its business.

Second, the Senate practice of allowing non-germane amendments has long been accepted. While Senators sometimes have complained about this practice, it does yield important benefits to the Senate and the Congress. But it also entails costs, such as unpredictable scheduling, inter-chamber conflict, periodic White House complaints, and media criticisms. As with the norms and rules affecting debate, the Committee finds no reason to believe that the Senate is disposed either to eliminate the possibility of non-germane amendments or to permit Senators to prohibit them by simple majority vote. However, Senators may now be prepared to consider proposals by which a super-majority of the Senate can impose limitations on the subjects of floor amendments in selected situations.

Third, no norm has a more important impact on the Senate than that of accommodating the interests and prerogatives of individual Senators. This norm has become so pervasive and powerful as to have contributed significantly in its own right to the frustration level now being heard in the Senate. A principal reason for this may be that Senators expect the leadership to accommodate their desires, but appear less willing to balance their requests against the need for the leadership to operate the Senate in a reasonably efficient way. Such attitudes and expectations among Senators contribute to the delays and lost time that sometimes plague the Senate and invite criticism from Senators as well as from those who observe it from outside. Scheduling by the leadership is difficult and subject to uncertainties and frequent changes, as leaders work together on both sides of the aisle to accommodate the interests of their party colleagues.

Thus, remedial efforts to impose a time limitation on rollcall votes and a more systematic process for considering amendments, as well as other proposals that would impinge on the individual prerogatives of Senators, may not have their intended effect unless changes in the Senate's standing rules are accompanied by complementary changes in Senators' expectations. Recommendations for restructuring the committee system and its procedures must also be evaluated in light of the traditional norms, practices, and agreements that shape the Senate's approach to its work. Proposals that run afoul of them are unlikely to be supported, or effective if adopted, unless the climate for change is so pronounced and lasting that Members are willing to set aside short-term advantages in the interest of pursuing a new and presumably more effective way of conducting business in the Senate.

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[1] This conclusion is borne out by a report, summarized in the Appendix, on Members' attitudes toward Congress, *Congress Speaks: a Survey of the 100th Congress*, published in January 1988 by the Center for Responsive Politics.

Conclusion

The cumulative effect of these Senate norms and practices has been to increase Senatorial frustration. Yet virtually every Senator has benefited from them in one way or another, at one time or another. It would be a rare Senator who has not done so—perhaps by urging that a rollcall vote be delayed or left open, or by offering a nongermane amendment, or by requesting a committee or subcommittee assignment in excess of the formal limits, or by placing a hold on some measure or nomination. As a practical matter, therefore, the Senate must recognize that its members will evaluate the proposals discussed in this report by asking whether the rules changes would benefit the Senate as an institution (or all Senators collectively) in ways that are clear and important enough to justify sacrificing some of the advantages and opportunities they now enjoy.

Senators also must consider the extent to which any proposed changes in Senate rules and practices are aimed at causes of problems and the extent to which they appear to address only symptoms. This does not mean that ameliorating symptoms is pointless; treating them can benefit Senators as individuals and the Senate as an institution. But the question remains whether proposed changes that would affect symptoms are likely to yield benefits that outweigh their costs. If their beneficial consequences would only be marginal, they could even have the ironic and unanticipated effect of adding to the Senate's existing frustration level.

SENATE REPORTS ON SENATE OPERATIONS

Since the mid-1970s, the Senate has created four groups to assess various aspects of Senate operations and make recommendations for improvements: the Culver Commission of 1975–1976, the Stevenson Committee of 1976–1977, the Pearson-Ribicoff Study Group of 1982–1983, and the Quayle Committee of 1984. Each effort approached its task differently, and each contributed in varying degree to the changes which have transformed the Senate into the institution it is today, while at the same time preserving its essential and unique character. Any consideration that Senators give in the near future to making changes in their institution should take account of the analyses and proposals of these groups. Their findings are summarized in the sections that follow, which also note some of the most significant changes in Senate rules and practices that have been related to the subjects of their recommendations.

As these summaries reveal, some of the same or similar proposals have been made to the Senate by two or more of the groups. More generally, there are themes that recur throughout many or all of their reports. For example, there has been a persistent interest in expanding the range and availability of information available to Senators, improving the cost-effectiveness of Senate operations and support services, and taking steps to increase public appreciation and esteem for the Senate as an institution. Unquestionably these are important matters which continue to deserve and receive the Senate's attention. But there are two other themes that, in this Committee's judgment, have been at the heart of these studies and their recommendations: first, the need to enhance the ability of Senators to plan their schedules and allocate their time; and second, the importance of improving the focus and timeliness of Senate policy deliberations.

In Part II of this report, the Committee offers further analyses of these issues, and certain proposals for addressing them, which are central to the ongoing questions of continuity and change in the Senate's procedures and practices.

COMMISSION ON THE OPERATION OF THE SENATE, OF 1975–1976

The Commission on the Operation of the Senate was created by S. Res. 227, adopted on July 29, 1975, to "make a comprehensive and impartial study of the organization of the Senate." Senator John Culver had advocated creation of such a group to review and recommend changes in Senate administration, management, legislative activities, information resources, and public communications. The Commission began its work in October 1975 and filed its final report on December 31, 1976. Chaired by former Senator Harold H. Hughes, the Commission's other members were distinguished private citizens. The Commission's final recommendations addressed five broad areas of concern: (1) organization and administration of the Senate; (2) the use of Senators' time; (3) technology and communication; (4) Senators' compensation, financial disclosure, and a code of ethics; and (5) foresight, oversight and the support agencies.

Organization and Administration of the Senate

The Commission recommended reorganization and consolidation of administrative operations under an Administrator of the Senate. These functions were, and remain, apportioned among the Secretary of the Senate, the Sergeant at Arms, the Committee on Rules and Administration, the Architect of the Capitol, and the President pro tempore. To oversee Senate administration, the Commission also recommended creating an Administrative Council, composed of the two party leaders and the chairman of the Committee on Rules and Administration, with the Secretary of the Senate serving as the Council's executive secretary.

After holding hearings on these recommendations in 1977 and 1978, this Committee directed the Senate's officers and the Architect to streamline their operations to eliminate duplication. In 1980, Committee staff developed specific recommendations in this area based on meetings with these officials. Regarding committee administration, the Commission recommended a simplified system of committee budgeting and accounting. Since the Commission's report, two measures (S. Res. 281 and S. 2018, 96th Congress) now provide for funding all expenditures of each Senate standing and select committee (except the Select Committee on Ethics) in a single resolution.

The Administrator of the Senate proposed by the Commission was to be responsible for management, assignment, and control of space in the entire Senate complex, and for an up-to-date occupancy inventory. Further, the use of space was to be improved by providing Senators with advisory design personnel and services. Functions not essential to chamber operations were to be relocated away from the Capitol, and those not essential to other Senate operations were to be moved from Senate office buildings. The Commission also proposed that each Senator be provided a personal office in the Capitol and that meeting rooms in the Capitol be generally available for Senate and conference committee use. Finally, the Commission recommended that the Senate increase its participation in planning for land use on Capitol Hill.

Since the Commission issued its recommendations, the Architect has further developed the master plan for the Capitol area, and many Senate offices have been relocated. The Hart Building has been completed and occupied and the old Immigration Building has been renovated. Several buildings, which had been used for Senate offices, including the old Carroll Arms Hotel and the Senate Courts apartment building, have been razed and replaced by parking lots. The Senate Computer Center also has moved to a larger facility on North Capitol Street.

The Use of Senators' Time

The Commission made a series of proposals to facilitate more effective use of Senators' time. Specifically, it recommended: (1) that certain days of the week be devoted to floor sessions only and other days to committee activities only; (2) that early in the session a schedule of debates on subjects of major national interest be established (subsequently also proposed in the Pearson-Ribicoff report); and (3) that the Senate continue to schedule annually at least six periods of no less than a week each for Senators to fulfill State and other obligations outside of Washington. It also proposed that someone other than a Senator be appointed to preside during routine Senate floor sessions. While most of these proposals have not received action, the Senate has begun to implement a program of three five-day work weeks in Washington, followed by a week out of session, in order to permit Senators to arrange their schedules more predictably.

Regarding committee operations, the Commission proposed a computerized clearinghouse for scheduling committee meetings, a recommendation similar to one by the Stevenson Committee. The Rules and Administration Committee has since authorized the Office of the Senate Daily Digest to compile information on the time, place, and purpose of committee sessions, including changes and cancellations. This information is published in the Daily Digest of the Congressional Record on Mondays and Wednesdays and maintained in computer files. These actions, however, have not ended Senators' concerns about committee meeting conflicts.

Finally, the Commission recommended that the Senate organize itself before the beginning of each Congress; that Senators be assigned, and moved in, to new offices no later than the end of the first month of a new session; that Senators-elect receive administrative support; and that they and their staff be provided orientation programs before they take office. Since the Commission issued its report, the Senate has provided Senators-elect and their staffs with orientation programs on office management and administration. In addition, programs on policy issues and on Senate procedures have been developed.

Technology and Communications

The Commission recommended broadly that the Senate develop automated systems for general Senate management and administration, individual office operations, legislative information, and policy analysis.

The Senate has since developed automated systems in several areas. The inventory of Senate office equipment is now assisted by an automated on-line system for all non-computer equipment. Similarly, an on-line system aids in allocating parking spaces. Both these systems are managed by the Office of the Sergeant at Arms. Also, the Senate Finance Office has automated many of its operations. Automated systems now enable GPO to print uniform committee calendars; as well, it uses automated text processing and electronic composition to print the Congressional Record, bill drafts, and hearing transcripts. The Senate also provides a number of automated services for budget and policy analysis and office management. Individual Senate offices and Senate-wide adminstrative operations are both assisted. Within the last year, the Rules and Administration Committee has established the Executive Advisory Committee to act as a steering committee for Senate automation policy.

The Commission also recommended that the Senate experiment with continuous summaries of floor proceedings transmitted to electronic displays in Senators' offices, computer displays of amendments being considered on the floor, and closed circuit televised proceedings. Subsequently, the Senate has increased on-line access to information about Senate floor proceedings. In 1985, the Senate also approved the closed circuit and temporary broadcasting of Senate floor proceedings (S. Res. 28, 99th Congress); then, in 1986, it made these broadcasts permanent and available to broadcasting organizations for non-commercial use.

With respect to public communications, the Commission proposed holding formal briefings for the news media. A "central information staff" would monitor, coordinate, and assist with Senate briefings, and provide summaries and background analyses on major issues. Since the Commission's report, the Senate has created a media room in the Hart Senate office building that is equipped for television broadcasting and other media activities.

Senators' Compensation, Financial Disclosure and a Code of Ethics

The Commission recommended increasing the annual compensation of Senators, ending honoraria income, and establishing a "clear and comprehensive code of ethics." These issues have been the subject of continuing review and debate since the Commission's report. The Senate subsequently adopted the provisions now in Senate Rules XXXIV through XLII, which address issues of official conduct. These rules deal with public financial disclosure, the treatment of gifts, conflicts of interest, a prohibition on unofficial office accounts, foreign travel, the franking privilege, use of radio and television studios, political fund activities, and employment practices. Title I of the 1978 Ethics in Government Act, incorporated by reference in Senate Rule XXXIV, revised financial disclosure requirements.

In April 1988, the Senate also approved S. 237, which would prohibit Members of Congress, certain senior congressional staff, and other high-ranking Government officials from representing or advising a foreign entity for a prescribed period of time after leaving Government service. The House has not yet acted on this measure.

Foresight, Oversight and the Utilization of Support Agencies

Finally, the Commission recommended that Senate capability to perform oversight and foresight be strengthened. It urged committees to plan, schedule, provide advance notice of, and report to the Senate on such activities. It suggested that the Senate secure increased GAO assistance in the conduct of oversight, establish oversight training programs for Senate staff, and encourage the creation of interdisciplinary work groups. Finally, it proposed establishing a Senate-wide system to collect information from individual Senate offices, e.g., from casework, that could identify areas requiring more oversight. The Senate has addressed some of these recommendations. GAO and CRS have developed oversight training for Senate staff; OTA provides a form of foresight analysis. The emergence of informal groups and caucuses also has assisted the Senate and its committees in foresight, oversight, and other policy development activities.

The Commission also recommended that the Senate enhance its supervision of congressional support agencies—the Congressional Budget Office, the Congressional Research Service, the General Accounting Office, and the Office of Technology Assessment—to improve their administration, ensure cooperation among them, and improve their information and analytic services. Since the Commission's report, the agencies have enhanced and expanded programs to assist Senators and staff with policy analysis. In addition, support agencies now provide programs on public policy issues, the legislative and budget processes, the conduct of oversight, and congressional office activities.

THE TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM, OF 1976–1977

On March 31, 1976, the Senate established a bipartisan, 12-member Temporary Select Committee to Study the Senate Committee System (commonly called the Stevenson Committee after its chairman, Senator Adlai Stevenson III). Eight months later, the Select Committee issued its first and principal report, with recommendations for revamping the Senate's standing committee system. Because the Stevenson Committee lacked legislative authority, its committee system proposals were submitted as S. Res. 4 of the 95th Congress, and referred to the Committee on Rules and Administration, which conducted hearings and mark-ups and then reported the resolution with a complete substitute. The Senate amended the resolution and adopted it on February 4, 1977, by an 89–1 vote. Thereafter, the Select Committee issued a second report containing recommendations on a variety of other subjects.

The brief discussion that follows highlights the major provisions of S. Res. 4 as adopted by the Senate. Other proposals of the Select Committee, contained in its second report, also are identified, along with subsequent related actions by the Senate.

Senate Resolution 4: Committee Structure and Assignments

Not since passage of the Legislative Reorganization Act of 1946 has the Senate adopted such a major restructuring of its committee system.

Jurisdictional change was, in large measure, the core of S. Res. 4. Committee jurisdictions were redefined and consolidated in several broad subtantive areas in order to promote more comprehensive policy-making and to reflect contemporary concerns. In turn this led to the renaming of some committees. Major subject areas which had been fragmented, such as international economic policy, human resources, energy, environment, and governmental affairs, were realigned. Jurisdictional realignment also resulted in a reduction in the number of committees, including the elimination of three standing committees (Aeronautical and Space Sciences, District of Columbia, and Post Office), one select committee (Nutrition), and three joint committees (Defense Production, Atomic Energy, and Congressional Operations).

Today's committee system largely reflects S. Res. 4, with a few exceptions. One select panel expected to be phased out has become permanent (Indian Affairs); another select committee has been transformed into a standing committee (Small Business). While jurisdictional consolidation probably has reduced "turf" battles, it is not likely that any jurisdictional plan can entirely eliminate policy overlap and competition. S. Res. 4 also assigned comprehensive policy oversight responsibilities to several standing committees. This new authority enables these committees to review comprehensively policy areas that cut across several committees' legislative jurisdictions.

Another fundamental goal of S. Res. 4 was to reduce the number of committee and subcommittee assignments per Senator. The objective of the reduction was twofold: to promote an equitable burden of work among all Senators and to insure that all Senators receive significant assignments. S. Res. 4 implicitly established three classes of committees for assignment purposes: (1) all Senators would be required to serve on two, but not more than two, Class A standing committees (paragraph 2 of Rule XXV); (2) Senators could serve on only one Class B committee (paragraphs 3 (a) and (b) of Rule XXV); and (3) Senators might serve, subject to certain restrictions, on any number of Class C committees (paragraph 3(c) of Rule XXV). Further, Senators could serve on no more than three subcommittees of each Class A committee (except Appropriations, which had no limitations), and on no more than two subcommittees of each Class B panel. Subcommittee limitations did not apply to Class C committees.[2] S. Res. 4 also stipulated the sizes of committees, but permitted the joint party leadership to authorize temporary increases to assure majority party control.

S. Res. 4 expected Senators to serve on an average of 11 panels (two Class A committees, three subcommittees on each of those panels, one Class B committee, and two subcommittees thereof), down from the preceding period when Senators averaged 18 assignments, with some serving on 30 or more panels.[3] However, pressure to increase assignments and sizes began as soon as S. Res. 4 was adopted and continues to this day, resulting in numerous exceptions to the limitations, accounting in part for the creation of another Temporary Select Committee (the Quayle Committee) in 1984.

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[2] Senate Rule XXV lists "A" committees as Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Banking, Housing, and Urban Affairs; Commerce, Science and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; Judiciary; Labor and Human Resources. It lists "B" committees as Budget; Rules and Administration; Veterans' Affairs; Small Business; Aging; Intelligence; and Joint Economic. "C" committees are Ethics; Indian Affairs; and Joint Taxation. Committees not listed in this Rule are "C" Committees.

[3] In the 100th Congress, the average is almost exactly 11, but there is considerable variation in the number of assignments among Senators.

To reduce extra committee assignments, S. Res. 4 struck from Senate rules a provision requiring three members from each of eight named authorizing committees to serve ex officio on the Appropriation Committees when it considered the appropriations bill relevant to that authorizing committee's jurisdiction. In addition, this provision had permitted one member of each of these authorizing committees to serve on the conference dealing with the related appropriations bill. Today, there are no formal ex officio members of Appropriations. However, the Armed Services Committee and the Appropriations Committee, for example, have a "Memorandum of Agreement" that permits the leaders of each panel to participate in the other's deliberations. Senators who serve on the Appropriations Committee also still serve on at least one authorizing committee, thereby continuing a linkage between the committees.

S. Res. 4 included a "sense of the Senate" provision that urged committees to democratize subcommittee assignments by ensuring that no Senator would be given a second subcommittee assignment until every Senator, in order of seniority, had received one, and that no Senator would receive a third assignment until all committee members had been given two. Several Senate committees include this provision in their committee rules, and other panels informally observe the same practice.

S. Res. 4 also established chairmanship limitations. Senators were prohibited from serving as chairman of more than one committee (standing, select, special, or joint), except that a Member who headed a standing committee could also chair a joint committee that related to the standing committee's jurisdiction. Senators could also chair no more than one subcommittee per committee. However, a full committee chairman of a Class A panel may only head one subcommittee in the Class A grouping. The purposes of these limitations are to disperse leadership among Senators and, indirectly, to limit the number of subcommittees per standing committee. There have been relatively few departures from these chairmanship limitations.

The number of subcommittees also was reduced during the post S. Res. 4 period: from 140 subcommittees of standing committees during the 94th Congress to 101 subcommittees during the 95th Congress, a reduction of 28 percent. Today, there are 85 subcommittees of standing committees, a 39 percent drop since the Senate adopted S. Res. 4; some of this reduction may be associated with the subsequent Quayle Committee report.

Senate Resolution 4: Committee Operations and Procedures

To reduce committee meeting conflicts, S. Res. 4 encouraged committees to meet within two designated time periods—from early morning to 11 a.m. and from 11 a.m. to 2 p.m.—in the hope that committees could work out scheduling conflicts. S. Res. 4 also directed that the Rules and Administration Committee, in consultation with the joint leadership, establish a computerized scheduling service for all meetings and hearings of committees, subcommittees, and conference committees. Committees would then have a relatively easy way to find out when other panels had scheduled hearings and meetings. This Committee authorized the Office of the Senate Daily Digest to compile information on the time, place, and purpose of prospective committee sessions, including changes and cancellations. This information is published in the Daily Digest of the Congressional Record on Mondays and Wednesdays and is maintained in computer files. However, Senators still indicate that committee meeting conflicts are commonplace.

To minimize conflicts between Senate sessions and committees, S. Res. 4 prohibited most committees from meeting after the first two hours of a floor session, or in no case after 2 p.m. when the Senate is in session, unless consent is obtained from the joint leadership. It is not uncommon for the Majority Leader to ask and receive unanimous consent for committees and subcommittees to meet during sessions of the Senate. In fact, the Committee has encountered strong sentiment among Senators that conflicts between committee and floor sessions remain a serious problem that merits further joint exploration by the Senate party and committee leaders.

When the Senate approved S. Res. 4, it agreed to the reallocation of committee staff resources between the parties. A majority of the minority members on any committee may request at least one-third of the committee's staff funds, excluding funds for nondesignated, or nonpartisan, personnel. Committees were granted a four-year transition period to bring funding allocations to the stipulated one-third level. In addition, S. Res. 4 directed that the minority on committees is to receive proportionate shares of space, equipment and facilities. In February 1981, this Committee found (S. Rept. No. 97-55) that "all Senate committees reported that at least one-third of staff funds not allocated to non-designated personnel were allocated to the minority." The absence of challenges from the minority party appears to indicate that there has been continued conformity with these staffing requirements.

In addition, S. Res. 4 directed the Committee on Rules and Administration, in consultation with joint leadership, to review, on a continuing basis, the committee system and Senate rules. The Committee meets this responsibility in a variety of ways, most of which do not involve holding public meetings and publishing formal documents. In 1981, however, the Committee issued a report (S. Rept. No. 97-55) on its continuing review function, in which it noted several Committee initiatives, such as a major revision in committee funding procedures and the first recodification of Senate rules in almost a century. The Committee performs the bulk of its public continuing review activities when it annually reviews committees' funding requests.

Other Stevenson Committee Recommendations[4]

In its Second Report, the Select Committee made recommendations, or suggested additional studies, in several areas. Some of its proposals have been acted upon; others remain as concepts for future consideration.

The Select Committee proposed severance pay for staff displaced by committee reorganization and unable to find comparable employment. The Senate adopted resolutions that provided severance pay to eligible staff displaced because of S. Res. 4, and has provided for staff severance pay on at least two occasions since.

The Select Committee recommended a simpler system for funding committee staff and activities. It proposed unified "inquiries and investigations" resolutions to authorize all staffing and operating funds for standing and select committees. In 1980, the Senate agreed to simplify the procedures for allocating funds to these committees. Since 1981, committees (except Ethics) receive all their funds in one Senate resolution.

In addition, the Select Committee proposed creation of a central public information office, under joint leadership supervision, to provide information on Senate activities to the press and public. Enhanced media facilities in the Capitol and the Hart building have contributed to the same goal by other means.

The Select Committee also proposed that the Senate establish a uniform automated document control and microfilm records system applicable to all committees. Such a Senate-wide system has not been established, but some committees have acted on their own to create an automated recordkeeping system. Each committee, the Select Committee suggested, should publish a tentative calendar of anticipated activities semi-annually, with all such committee calendars to be published together in the Congressional Record. While there is no semi-annual presentation of consolidated committee calendars of activities, committees do identify their proposed meetings and hearings in the Daily Digest, and some informally provide advance notice of their anticipated schedule.

Finally, the Select Committee recommended that committees change their rules to permit designated staff aides to conduct certain non-legislative hearings and receive testimony in the absence of Senators. Some committee rules authorize certain staff members to question witnesses, but no committee has adopted rules which formally permit staff to conduct hearings without committee members present.

THE STUDY ON SENATE PRACTICES AND PROCEDURES, OF 1982-1983

The findings of the Study Group on Senate Practices and Procedures, also known as the Pearson-Ribicoff study, were issued on April 5, 1983. The Study Group, consisting of former Senators James B. Pearson and Abraham A. Ribicoff, had been established on May 11, 1982, by adoption of S. Res. 392, in response to the frustrations expressed by many Senators with what they viewed as inefficiencies in Senate operations.

The Study Group's recommendations fall into four major categories: party leadership and agenda setting; chamber operations and floor procedures; committee operations; and the congressional budget process. Its proposals were the subject of a hearing by the Rules and Administration Committee on May 9, 1983. The Senate took no further formal action on the Study Group proposals as a whole. However, there have been subsequent Senate actions related to specific issues raised by the Study Group. A summary of its recommendations and a description of relevant Senate actions follow.

Party Leadership and Agenda Setting

The Study Group sought to strengthen the ability of Senate leaders to control the floor agenda and the Senate's schedule. It recommended that the Senate leadership, in coordination with House leaders, *establish an annual agenda* of major legislative issues for each Congressional session. The agenda would be approved by adoption in both chambers of a concurrent resolution, and could thereafter be changed in the Senate only by more than a simple majority vote. Senate committees could still hold hearings and report legislation on any subject within their jurisdictions, but a ⅔ vote of the Senate would be needed for the chamber to take up a reported measure outside the scope of the established legislative agenda.

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[4] As with S. Res. 4, this survey of other proposals covers many, but not all, of the Select Committee's additional recommendations.

This Committee recognizes that there remain significant questions about how the Senate would devise, adopt, and enforce such an agenda. Nonetheless, the Committee supports the goal of developing a planned and predictable floor program in the Senate for each year, and urges the leaders of both parties to explore the means for developing such an agenda. The Committee also sympathizes with the Study Group's recommendation that the Standing Rules be amended to prohibit the consideration of any controversial matter more than once in the same calendar year, unless the Senate chose to do so by either a ⅗ or ⅔ vote. Senators frequently have complained about having to cast repetitive votes on the same issue, but this Committee has yet to be convinced that the Study Group's proposal would be workable in practice. However, one way for the Senate to minimize the problem would be to implement one or more of the ideas discussed below for simplifying and streamlining the Senate's authorization, appropriations, and budget process.

The Study Group also recommended that the Senate leadership schedule floor debates on major issues once or twice each week for a period of two or three hours each time, and that these debates be broadcast. Instead, the Senate adopted S. Res. 28, on July 29, 1986, to provide for live unedited radio and television broadcast coverage of its floor proceedings in their entirety.

The Study Group further proposed that the Senate leadership establish a schedule and program one week in advance for those weeks the Senate is in session. In an attempt to address the issue of scheduling, Majority Leader Byrd announced on December 8, 1987, that the Senate would not be in session every fourth week in 1988, and that during the weeks in session, the Senate would meet Monday through Friday. The members of this Committee believe that this has been a useful innovation which has allowed Senators to arrange their schedules with greater confidence and to spend valuable time with their constituents. The Committee also recognizes, however, that the Senate will be able to adhere to this practice only if Senators commit themselves to being present and ready to transact business on the days the Senate is scheduled to be in session.

The Senate leadership was also urged by the Study Group to recess more frequently during the course of the day, subject to the call of the Chair, so that Senators could hold discussions off the floor aimed at expediting Senate floor activity. Relatedly, the Study Group proposed to grant enhanced authority to the Presiding Officer to count to determine the presence of a quorum. Although no procedural changes have been made formally, during the 100th Congress the Majority Leader has appeared to move, more frequently than in the past, to recess the Senate to a time certain on the same day as an alternative to suggesting the absence of a quorum. While this Committee appreciates that quorum calls often allow Senators to resolve procedural and substantive issues more easily than they could under the formal rules of debate, the practice is subject to abuse when Senators expect floor proceedings to be suspended by a quorum call until it is convenient for them to come to the floor. This is one of the problems, that is unlikely to be solved by a change in the Standing Rules; instead, it can be resolved only by Senators becoming more sensitive and responsive to the interests of their colleagues and the needs of the institution.

The Study Group recommended that the party leaders discourage requests for roll call votes on marginal issues. Although no systematic action has been taken on this proposal, Majority Leader Byrd has recently taken a related action by setting a time limit, usually 15 minutes, for some votes. One proposal, S. Res. 276, would impose a strict 15-minute limit on all roll call votes. The Committee believes that the Senate is making progress to control the length of votes. If Senators come to expect that each vote will be limited to 15 minutes, except under exceptional circumstances, there may be no need to amend the rules to impose a seemingly rigid requirement that may prove difficult to enforce in highly charged situations.

Finally, to replace the rotation of majority party Senators in the Chair, the Study Group recommended that the Senate elect a Senator to the post of Deputy President pro tempore for the primary purpose of performing the duties of the chair. On January 28, 1987, the Senate reconstituted the position of Deputy President pro tempore (S. Res. 90), and elected Senator George Mitchell to the post (S. Res. 91), a position held in the past by Senators Lee Metcalf and Hubert Humphrey. However, no job responsibilities were stipulated, and Senator Mitchell has not served in the role of the more or less permanent Presiding Officer envisioned by the Study Group.

Chamber Operations and Floor Procedures

The Study Group recommended that the Senate return to certain established procedures. For example, it suggested that, immediately following "leader time," the Senate adhere to the morning business and morning hour procedures stipulated in existing rules. Its report also called for each party to appoint a Calendar Committee to implement the existing but dormant procedure for considering bills to which there is no objection. Finally, it called for enforcement of the "Pastore Rule" (Rule XIX, paragraph 1(b)), which requires that debate be germane to the pending business for a three-hour period at the beginning of each new day of session. The Committee suggests that the party leaders explore the merits and feasibility of these proposals.

The Study Group also suggested several additions to Senate rules and practices in order to encourage more efficient debate procedures. For example, it recommended that Senators not be allowed to make non-germane remarks "except at the end of each day's business," nor to read speeches in their entirety. In 1986, in an effort to reduce the floor time consumed by non-germane remarks, then Majority Leader Dole decreased the length of special order speeches at the beginning of a day's session from 15 minutes each to 5 minutes each. During the 100th Congress, Majority Leader Byrd has encouraged 5 minute speeches "as in morning business" spread throughout the day, instead of having special order speeches at the beginning of each day. Also, it is not uncommon for Senators to summarize their statements and then insert them in the Record as if spoken in full.

In order to expedite raising measures for floor consideration, the Study Group recommended that the leadership cease honoring "holds" and that debate be limited on the motion to proceed to consideration of a measure. Recent Majority Leaders have reserved the right not to honor requests for holds. Several proposals to limit debate on the motion to proceed have been offered since 1983, including one by the Quayle Committee, although no change has been adopted. Most recently, S. Res. 275 was submitted to limit such debate to one hour, while S. Res. 308 and S. Res. 309 would limit debate on the motion to two hours. Conversely, S. Res. 107 would expand opportunities for debate on the motion to proceed. Limiting debate on the motion to proceed is an issue to which the Committee returns in a later section of this report.

The Study Group offered several changes in the consideration of *Senate floor amendments*. First, it suggested creating a motion to mandate germaneness of amendments to a pending measure, requiring a ⅗ vote for adoption. Second, it recommended eliminating the "defense of germaneness" for amendments to a general appropriations bill, unless the bill already contains House language addressing the subject. Several proposals regarding the germaneness of amendments have been offered since 1983, although no change has been adopted. Submitted during the 100th Congress have been S. Res. 27 and S. Res. 41, to provide for a privileged motion to require germaneness of amendments, and S. Res. 26 and S. Res. 42, to limit the use of the defense of germaneness during the consideration of a general appropriations bill. The Committee also returns to these proposals later in this report.

Third, the Study Group recommended that all amendments submitted for printing contain a statement of their purpose, and that all major amendments be printed a day before being considered. Fourth, it suggested that any major amendment modified during its consideration be made available in written form prior to a vote. While the Senate has not taken any action on these proposals, in a somewhat related development, then Majority Leader Baker announced on April 20, 1983, that, in order to save printing costs, amendments submitted for printing would no longer be printed as separate documents, but would be printed in the Congressional Record instead. Finally, the Study Group suggested that any amendment appropriately offered be allowed at least ten minutes of debate, regardless of any binding procedures governing floor consideration, e.g. "fast-track" procedures or unanimous consent agreements. No action to this effect has occurred.

The Study Group also recommended *revising the cloture rule* to discourage post-cloture filibusters. It suggested that once cloture has been invoked, no Senator, except the floor leaders and the floor managers, be allowed to offer more than two amendments, and that no amendment be subject to division. No proposal to either effect has been submitted. The Senate has made one major revision to post-cloture procedures since 1983. On February 26, 1986, it voted to reduce the post-cloture period from 100 hours to 30 hours. This change was part of S. Res. 28, the resolution which authorized the televising of Senate floor proceedings. During the 100th Congress, several measures to expedite post-cloture procedures have been submitted: for example, S.

Res. 24 and S. Res. 44, affecting amendments in the nature of substitutes under cloture; S. Res. 25 and S. Res. 43, requiring a ⅗ vote to overturn a ruling of the Chair on any question of germaneness of amendments under cloture; and S. Res. 28 and S. Res. 45, waiving the reading of all amendments called up under cloture. The Committee believes that these proposals could clarify how the Senate is to proceed under Rule XXII and preserve the integrity of the cloture procedure.

Committee Operations

The Study Group recommended that the Senate *consolidate its committees into fewer units, with fewer committee assignments per Senator.* Seven standing, select, and special committees were slated for merger, reducing the total number of Senate committees to thirteen. All joint committees were to terminate, with their Senate functions absorbed by standing committees with the appropriate legislative jurisdiction. The Study Group further proposed that Senators be limited to service on three committees—one from each of three new categories named in the report.

On related matters, the Study Group proposed an *automatic sequential referral* to the Committee on Rules and Administration of any measure affecting Senate procedure reported by another Senate committee. Its report also proposed *eliminating staffed subcommittees* and prohibiting any "standing subcommittees." Subcommittees would be limited to the conduct of hearings, investigations, and the compilation of data. Finally, the Study Group suggested that, after Senate passage of a measure, committee chairmen publish within five days *a summary of the differences* between the committee-reported version of the measure and the version passed by the Senate.

Since the Study Group's report was issued, several changes to the committee system have occurred. Some relate to the recommendations, discussed below, of the Quayle Committee. In addition, the Senate in 1984 redesignated the Select Committee on Indian Affairs as a permanent select committee. Although no action has been taken to require automatic sequential referral of measures affecting the Senate's rules, such referrals are routinely achieved by unanimous consent. In May 1988, the Committee on Rules and Administration held a hearing on S. Res. 260, submitted by Senators Inouye and Kassebaum, proposing significant changes in the Senate committee system, which are discussed below.

Congressional Budget Process

The Study Group sought to *"simplify the budget process."* It proposed abolishing the Budget Committee and shifting its responsibilities to two subcommittees, one of the Appropriations Committee and one of the Finance Committee. The Study Group also recommended adopting a two-year budget and appropriations cycle.

Although changes have been made to the congressional budget process since 1983, most notably by the Gramm-Rudman-Hollings Act and its successor, none have addressed the specific recommendations of the Study Group. However, several proposals have been submitted recently to institute biennial budgeting and several Senate committees have held hearings on these proposals. On May 17, 1985, the Senate agreed to S. Res. 159, to establish a select committee to study and make recommendations with respect to a two-year budget process, an action it later vitiated. On May 6, 1987, the Senate considered a "sense of the Congress" amendment that a biennial budget process should be established. The amendment, offered to the congressional budget resolution for 1988, H. Con. Res. 93, was tabled by a vote of 53-46. In the 100th Congress, several bills have been introduced to institute biennial budgeting, including S. 286, S. 416, S. 832, S. 1362, and S. 2478. The last three measures was reported by the Governmental Affairs Committee on August 25, 1988, and then referred to the Budget Committee for thirty calendar days.

Although the Senate has taken no action on the Study Group's proposal to abolish the Budget Committee, S. Res. 260, as mentioned above, would transform the Budget Committee into a Committee on National Priorities, to be composed of leaders of other committees, and the authorizing and Appropriations committees would be consolidated into a revamped group of legislative committees. This Committee and the Committee on Governmental Affairs have held hearings on this resolution and other proposed modifications in the budget process.

The Committee discusses this most important and difficult subject at greater length in Part II of this report.

THE TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM, OF 1984

The Senate created a second Temporary Select Committee to Study the Senate Committee System (the Quayle Committee) on June 6, 1984, with the adoption of S. Res. 127 of the 98th Congress. The panel, consisting of six Republicans and six Democrats, was chaired by Senator Dan Quayle and co-chaired by Senator Wendell Ford, Chairman of the Committee on Rules and Administration, and was charged with conducting a thorough study of the Senate committee system. The Select Committee's final report of December 14, 1984, focused primarily on committee reforms, but also suggested several procedural changes (discussed below under "Other Recommendations"). The final report contained two draft resolutions incorporating the Select Committee's proposed committee reforms. With some revisions, these resolutions were submitted by Senators Quayle and Ford at the outset of the 99th Congress (S. Res. 31 and S. Con. Res. 5), and referred to the Rules and Administration Committee, which held a January 15, 1985, hearing on the resolutions and other proposals for Senate reform. At the start of the 99th Congress, several provisions of the resolutions were supported by the (majority) Republican Conference, but Conference approval alone was insufficient for their across-the board implementation.

Following is a summary of the Select Committee's recommendations, as set forth in its final report and as incorporated into S. Res. 31 and S. Con. Res. 5 (99th Congress), and a discussion of related actions the Senate has taken.

Committee and Subcommittee Assignments, Sizes, Number and Chairmanships

The core of the Select Committee's recommendations dealt with issues of committee and subcommittee assignments, sizes, numbers, and chairmanship reductions, and were aimed at lessening Senators' heavy workloads and conflicting time demands. These subjects had been addressed by the Stevenson Committee and the Rules and Administration Committee, and in S. Res. 4 adopted by the Senate on February 4, 1977. From the 95th Congress through the 98th Congress (1977-1984), however, the Senate had not consistently adhered to the S. Res. 4 requirements, in part prompting the formation of the Quayle Committee.

At the time of the Quayle Committee's recommendations, Senate Rule XXV limited Senators to service on two "A" and one "B" committees, as codified by S. Res. 4. The Quayle Committee proposed the *strict enforcement of these limitations and the elimination of all exceptions to them.* Implementing this proposal would require reductions in committee sizes, because fewer Senators could be assigned to each committee. The Select Committee proposed reducing "A" committee slots to a total of 200, and "B" slots to 97, including the Indian Affairs Committee. The Select Committee proposed to reclassify the latter Committee as a "B" rather than a "C" committee, because of its June 1984 conversion to a permanent select committee. However, the Senate has not taken this action. The proposed "B" committee total was based on the desire of only 97 Senators to serve on a "B" committee and on the Senate party ratio at the time. In the event that all 100 Senators were to seek a "B" committee assignment, a total of 103 "B" slots was suggested to protect majority control. Senators had no "C" committee service limitation, and the Select Committee did not propose one.

Notwithstanding the strict enforcement recommendation, the Senate has retained some of the existing exceptions to the two "A", one "B" committee assignment limitations, and has added new ones. At the outset of the 99th Congress, 14 Senators had more than two "A" assignments and 25 had more than one "B" assignment; these figures increased to 24 and 27 respectively at the outset of the 100th Congress. The Select Committee also suggested retaining provisions of Senate Rule XXV allowing the joint party leadership to increase temporarity the size of any standing committee by up to two members, and to make additional committee assignments to accord the majority party a majority of seats on all standing committees. It is not clear how many exceptions, if any, have been granted to assure majority party control.

The Senate Republican Conference agreed in principal to the two "A", one "B" proposal during a January 1985 meeting, but later agreed to establish 213 "A" slots. Then, when the Senate ultimately approved committee assignments for the 99th Congress, 214 "A" slots were created, down from 231 (as of the end of the 98th Congress). This figure increased to 224 at the beginning of the 100th Congress. At the start of the 99th and 100th Congresses, the Senate created 112 and 113 "B" slots respectively.

The Select Committee also recommended *limiting Senators to service on two subcommittees of each of their "A" and "B" committees (except Appropriations), to reduce both the size of subcommittees and the number of panels on which Senators serve. The "B" committee recommendation was consistent with existing Senate rules. Instead, the subcommittee service maximum of three assignments per "A" committee remains unchanged. Relatedly, "A" and "B" committees (except Appropriations) were to be limited to a maximum of five subcommittees each. The Select Committee estimated that this reform would reduce the total number of "A" and "B" subcommittees from 110 to 80.*

At the beginning of the 99th Congress, the Senate Republican Conference voted to limit each committee (except Appropriations) to five subcommittees, but not if that limit would deprive any subcommittee chair of his or her post. However, this decision was not binding on committees because Senate rules do not limit the number of subunits a committee may establish, except indirectly through subcommittee service limitations. Senate "A" and "B" committees, both standing and select, reduced their total number of subcommittees to 94 in the 99th Congress and then 93 in the 100th Congress.

The Quayle Committee proposed *limiting the maximum number of committees and subcommittees on which a Senator could serve* to 9 (except for Appropriations Committee members, who would be limited to 11). At the start of the 99th Congress, the Republican Conference adopted a resolution to limit Senators to service on a maximum of eight "A" units, i.e., committees and subcommittees, but this action was not reflected in a formal rules change. In the 99th and 100th Congresses, Senators served on an average of between 10 and 11 "A" and "B" units, a decrease of approximately one per Senator from the 98th Congress level.

In addition, the Select Committee sought to *limit to two the total number of "A" and "B" panels a Senator could chair.* Specifically, Senators chairing a full committee would be limited to one subcommittee chairmanship, and other Senators would be limited to a total of two. At the outset of the 99th Congress, the Republican Conference voted in favor of a two-chairmanship maximum, but this change was not implemented. Currently the two "A" and "B" committee service limitations in Rule XXV restrict Senators to no more than three chairmanships. A Senator chairing a full "A" committee also may chair one "A" subcommittee and one "B" subcommittee, and a Senator chairing a full "B" committee may chair one subcommittee of each of [his or her "A" committees. Other Senators may chair one subcommittee of each of] their "A" and "B" committees. However, on several occasions, Senators have not been in compliance with these chairmanship limitations, generally because they have been granted an additional assignment.

Other Committee-related Recommendations

In view of the "important and time-consuming" administrative duties of party leaders, the Select Committee proposed that the *Majority and Minority Leaders not be counted for the purposes of determining a quorum* on committees on which they serve. For example, if both leaders were members of a 15-member committee, the quorum for ordering a matter reported would be 7, as if it were a 13-member committee. To avoid meeting conflicts, the Select Committee recommended that *committee chairman announcing mark-ups also be required to announce a list of committee members with other mark-ups scheduled for the same time.* In making this proposal, the Quayle Committee evidently hoped to encourage chairmen to consult the computerized scheduling system, with an eye towards avoiding such meeting conflicts. Neither the special quorum nor the mark-up announcement recommendation has been implemented.

The Select Committee also proposed creating two committees. The first, a temporary Select Committee on the Two-Year Budget, was to address Senate frustrations with the budget cycle. It was to study the feasibility of biennial budgeting and propose legislation to improve the budget process. The second, a permanent Joint Committee on Intelligence Oversight, was recommended for reviewing executive branch intelligence activities, in lieu of the House and Senate Select Committees on Intelligence. It was to have legislative jurisdiction and to be modeled after the Joint Committee on Atomic Energy.

In the 100th Congress, two measures to create a joint intelligence panel (S. Con. Res. 25 and S. 2113) are before this Committee. With respect to the budget panel, as previously noted, the Senate agreed to a S. Res. 159 (99th Congress), to establish a select committee to study and make recommendations with respect to a two-year budget, but subsequently this action was vitiated. In the 100th Congress, at least four Senate measures to establish a biennial budget cycle (S. 286, S. 416, S. 832, and S. 1362) have been introduced.

The Select Committee accepted the likelihood that, whatever the Senate's committee jurisdictions, a complex and lengthy bill reported by one committee might contain provisions within the purview of another. Accordingly, it did not attempt to redraw the committee boundaries that had been revised in 1977 by S. Res. 4 (95th Congress). Instead, the Quayle Committee proposed an amendment to Senate rules requiring reported bills to be sequentially referred to committees with jurisdiction over any of its provisions. Similarly, sequential referral was to apply to appropriations bills reported from the Appropriations Committee with legislative amendments. The Select Committee felt that without such sequential referrals, the authorizing committees would be undermined. Instead, the Senate continues to rely on unanimous consent agreements to make necessary arrangements for sequential referrals.

Other Recommendations

Although the Select Committee was mandated to study the committee system, it believed that problems with that aspect of the Senate could not be adequately addressed unless the entire institution were studied. Thus, the Quayle Committee's studies and recommendations also addressed other issues—in particular, the germaneness of amendments, and filibusters and cloture.

The Select Committee accorded non-germane amendments a legitimate place in Senate procedure, but sought to keep them from impeding floor action on essential legislation. To balance these interests, the panel proposed a new "germaneness motion", by which 60 percent of the Senators present and voting could prohibit non-germane amendments to a measure. The Select Committee also sought to require a similar majority to overturn any ruling of the chair that an amendment is non-germane. In the 99th Congress, language providing for a motion to require germaneness was stricken from S. Res. 28, which authorized live broadcasts of Senate floor proceedings to the public. And in the 100th Congress, S. Res. 27 (and S. Res. 41) provide for a new germaneness motion and requiring more than a simple majority to overturn the Presiding Officer's rulings on germaneness. Such proposals are considered in Part II of this report.

Finally, the Select Committee sought a more workable "balance between unlimited debate and the [early and frequent] invocation of cloture." It sought to allow extended debate only on substantive questions, and so endorsed a limit of two hours for debating any motion to proceed that currently is debatable. The panel also favored making cloture more difficult to invoke but more effective once invoked; however, it presented no specific cloture rule changes.

One provision of S. Res. 28 (99th Congress) reduced the total time for consideration under cloture from 100 to 30 hours. This change became permanent on July 29, 1986, with the Senate decision to continue live television and radio broadcasts of its floor proceedings. No other rules changes regarding debate and cloture have been made since then, but several have been suggested. Also, during debate on S. Res. 28, the Senate considered but failed to approve a provision to impose a two hour debate limit on the motion to proceed. In the 100th Congress, there are proposals that would limit debate on this motion under most circumstances—e.g., S. Res. 275, limiting debate to one hour, and S. Res. 308 and S. Res. 309, limiting debate to two hours. Conversely, several 100th Congress proposals, e.g., S. Res. 107, S. Res. 124, and S. Res. 133, would expand opportunities for debate on motions to proceed. Also in the 100th Congress, several measures to expedite procedures under cloture have been proposed.

PART II.—ANALYSIS OF SELECTED ISSUES

SCHEDULING BUSINESS ON THE SENATE FLOOR

Strategic and Accommodative Delay

The Senate has long been concerned with issues of delay in its proceedings and unpredictability in its scheduling. These concerns result in part from Senate rules that permit extended debate and non-germane amendments under most circumstances, but also from the Senate's well-entrenched practice, noted earlier, of accommodating the interests and preferences of individual Senators whenever possible. In the past, complaints commonly focused on "strategic delay"—dilatory tactics used to achieve policy ends. Today's criticisms more often address "accommodative delay," arising from attempts to accommodate the competing preferences and requests of individual Senators. This discussion centers on the evaluation of current proposals to deal with three sources of delay, both strategic and accommodative: (1) rollcall votes extending beyond the 15 minutes prescribed by standing order, (2) the lack of predictability in the Senate's amendment process, and (3) extended debate and other tactics used to prolong consideration of motions to proceed to consider measures.

Contexts and Approaches

All the proposals discussed in this section have been advocated as ways of reducing delay and enhancing the leadership's ability to schedule Senate business in an orderly and predictable way. They also may bear on such problems as low attendance, increased workload pressures, and time conflicts for Senators, as well as what many Senators believe to be a decline in the deliberative character of Senate proceedings. Underlying such lines of argument, of course, is the assumption that such problems can or should be addressed effectively through changes in the Standing Rules.

The Senate's work style today accepts that most Senators usually will not be present on the floor. This presumption is reflected not only in the frequency of quorum calls and other forms of accommodative delay, but also in the expectation that party leaders will protect the interests of absent Senators. Low attendance naturally fosters the need to extend rollcall votes and to use quorum calls to suspend proceedings while awaiting the arrival of Senators on the floor. And in turn, the expectation of delay reduces Senators' incentives to attend. Moreover, Senators have many other responsibilities which they cannot fulfill while on the floor—attendance at committee hearings and meetings, for example, which sometimes conflict with floor sessions. So by themselves, rules changes that pull Senators toward the floor probably would be detrimental to the demands and benefits of committee work. In short, rules that make it more costly or risky for Senators to be away from the floor would be a mixed blessing.

The delays and low attendance that now characterize the Senate's floor proceedings undoubtedly contribute to complaints about the dearth of true deliberation taking place there. If most Senators were on the floor more often, they would have more opportunities to engage in deliberation, and thereby affect the Senate's decisions. Today, Senators may reasonably ask whether making a floor speech to a largely empty chamber is the most effective and productive use of their time. If their colleagues were present, their arguments might make more of a difference. Also, the interchange and interaction that comes with deliberation are likely to promote comity and accommodation. And if the floor became more of a focal point for Senators and the Senate's decisions, everyone concerned would have more of an interest in arranging and adhering to an orderly schedule of business.

On the other hand, if the Senate floor now is not a place for persuasion through debate, it is not surprising that Senators are disposed to resort instead to obstruction to promote their legislative goals. Obstruction through strategic delay makes it more difficult to maintain an orderly schedule. So the problem can feed on itself, as delays and unpredictability in scheduling make Senators doubt the wisdom of attending and deliberating with each other.

When obstruction supplants deliberation, the Senate's rules to facilitate debate are easily adapted to strategic delay. One possible response is to make compensating changes in the Standing Rules or the Senate's precedents. In reaction to the rise of the "post-cloture filibuster," for example, the Senate established a precedent under which the Presiding Officer may take the initiative under cloture to rule amendments non-germane or dilatory. The disadvantage of this approach, however, is that procedures intended to respond to obstruction could be used instead by a determined and inpatient majority to limit or foreclose deliberation. As Senators evaluate possible rules changes, therefore, they must weigh the importance of preserving the unique nature of the Senate in the face of growing pressures for efficiency.

In light of these considerations, the most effective way of addressing many of the problems discussed in this report may not be through amendments to the Standing Rules, but through changes in the norms and incentives which guide Senators. At a minimum, the effectiveness of some rules changes undoubtedly would be enhanced if they were accompanied by changes in Senators' attitudes and expectations.

Especially in attacking accommodative delays, for example, all Senators but especially the party leaders could place much more emphasis on norms promoting courtesy to Senators who are present, not those who are absent. Altering group norms can be an effective way of changing behavior. On the other hand, changing norms generally requires great time and effort, and cannot be legislated. Such changes are most likely to occur if Senators see individual as well as collective benefits resulting from actions taken to reduce accommodative delays. Such benefits could occur if the proposed changes actually reduced delays and increased predictability enough to improve Senators' ability to carry out their other work activities. Thus, clear personal rewards would flow from institutional change.

Finally, the possible approaches to these problems are not limited to changes in attitudes and new rules flatly prohibiting certain actions. It also may be possible to develop rules and practices that permit the Senate to impose limitations, if and when appropriate, by vote on a case-by-case basis. This is the approach embodied, for example, in the proposals to allow the Senate to vote to exclude non-germane amendments to a particular measure. By encouraging Senators to reach accommodations on when and how to apply such limitations, or to supersede them by unanimous consent, rules changes of this kind may simultaneously foster expeditious action and also promote deliberation and comity.

Time Limit on Rollcall Votes

One frequent complaint has been the length of rollcall votes, as votes often have remained open longer than the 15 minutes provided by standing order. Delays of this sort may occur for either strategic or accommodative reasons. Leaders may hold a rollcall open while locating needed additional votes. More commonly, however, such delays occur because Senators who wish to vote, even though their votes would not affect the outcome, have not yet reached the chamber.

Clearly, the standing order to limit the time for rollcalls, which the Senate adopts at the beginning of each Congress, has not eliminated this problem. As noted in Part I of this report, the Majority Leader now often alerts Senators to the length of rollcall votes that are about to begin, limiting them to 15 minutes each whenever possible. It remains open to question, however, how well the Senate will be able to maintain this practice unless it can be enforced effectively under the Standing Rules. S. Res. 276 would address this issue, therefore, by mandating an end to rollcall votes after 15 minutes.

If enforced, various possible consequences might result from such a rule. One possibility is that Senators would adapt their behavior to the new requirement to enhance Senate floor efficiency, but in ways that interfere as little as possible with their other activities. They might work more often at their desks on the floor, for example, which might result in some increase in non-legislative activities on the floor, possibly increasing rather than diminishing the confusion of Senate floor sessions. Senators might also spend more time in offices in the Capitol building itself, so as to be close to the floor. Either of these adaptations might diminish Senators' personal interactions with their staff, as well as with constituents and the public.

On the other hand, Senators could attempt to vitiate the effect of the rule, rather than adjust their schedules. Conceivably, Senators could reduce voting delays without increasing attendance by reviving the practice of live pairing, a practice that has declined because it requires a Senator to voluntarily refrain from voting. A more likely development would be for Senators routinely to delay the beginning of rollcalls by triggering quorum calls until they were sure that all Senators who desired to be present, or whose votes they needed, could reach the chamber in time. Thus, the effect simply might be to shift time from votes to quorum calls.

The leadership might also direct the clerks not to conclude a rollcall at the end of 15 minutes, so that the Chair would not annouce the result, in spite of the rule's requirement. This practice has proven effective under present rules, even though any Senator can attempt to bring about an end to the rollcall by demanding the regular order. To enhance the effectiveness of such a demand, S. Res. 276 would require that a device signal the end of the 15 minute period. An additional step to facilitate enforcement might be to install an electronic voting system that would shut off automatically after 15 minutes.

In the absence of some such device, the new requirement might also become ineffective through being routinely waived by unanimous consent before a rollcall begins. To strictly enforce a 15-minute rule, at least one Senator willing to object to the waiver would have to be on the floor most of the time. And Senators who might do so undoubtedly would face persistent pleas to accommodate absent colleagues, in the name of Senate norms of mutual deference and individual prerogative. If Senators objected to waivers anyway, they might find their colleagues less willing to accommodate them in similar circumstances, or on other matters. Also, untimely interruptions of Senators in committee and other meetings could prove annoying and disruptive. Under these conditions, successful enforcement of the requirement might further diminish the Senate's general inclination to comity and deliberation, thereby perhaps leading to an increase in ill will and, possibly strategic obstruction.

Thus, even a proposal apparently as simple as a 15-minute ceiling on each rollcall vote raises more issues and potential problems than might appear at first. The Committee is not convinced that such a rule would be practical, desirable, or enforceable at all times and under all circumstances. On the other hand, it also is unquestionably true that the Senate wastes far too much time on prolonged and unnecessary roll calls. All Senators know the frustration of votes that stretch far beyond 15 minutes in order to accommodate one or more missing Senators who delay the Senate because they do not want to be listed as absent, even though the outcome of the vote is not in doubt. If Senators were to worry less about their own convenience than about the convenience of their 99 colleagues, the problem would disappear by itself. By the same token, if Senators exercised more restraint in demanding, and supporting demands for, rollcall votes to decide minor questions on which the Senate is not closely divided, the costs of prolonged votes would be much reduced. Although the Committee will continue to examine S. Res. 276 and related proposals, it is inclined to believe that the solution is more likely to lie in changing Senators' attitudes, and also in making possible a more orderly and predictable floor schedule so that Senators can do a better job of planning their schedules to take account of anticipated floor votes.

Another way to address the same problem might be to make more frequent use of agreements to schedule votes back-to-back at a time certain. Consent agreements on a measure might include provisions that all rollcall votes ordered on each day be stacked to begin at a specified time on that day (or, perhaps, the next). Stacking votes could save time and increase predictability in Senate scheduling. Moreover, it would be possible to reduce the time for votes after the first to less than 15 minutes each, particularly if an electronic voting system were in place. Because the time for voting would be known in advance, requests to accommodate individual Senators might be less frequent, and also easier to resist. Such an approach might even foster more direct and personal interaction among Senators by encouraging them to remain on or near the floor during the voting period.

On the other hand, a fixed requirement of this sort in rule or standing order could significantly change the dynamics of the amending process. If votes were automatically put off until a certain hour, Senators could not time a vote when maximum support was available. In addition, such a proposal would encounter many questions, to which there may be no satisfactory answers, about how to handle subsidiary motions. For example, should a rollcall be stacked on an appeal of a ruling that a pending amendment is not in order? If so, consideration of the amendment presumably would have to be suspended while the appeal was pending. If the amendment was then voted in order, would a stacked rollcall on the amendment then take place? If so, the effect of the point of order would be to cut off debate on the amendment. If not, its effect would be to delay consideration of the amendment. Finally, if these problems were avoided by not stacking rollcalls on appeals, stacking would become less useful, because rollcall votes could occur at other times anyway. Similar and equally serious problems would arise in connection with motions to table, second degree amendments, and many other questions.

Amending Measures Section by Section

Another recent focus of complaint has been the use of quorum calls for delay when Senators wish to offer amendments to a measure, or to participate in its consideration in some other way, but are not yet willing or able to come to the floor to do so. Senators often seem especially disinclined to offer their amendments early during consideration of a bill, leading to laments by bill managers and floor leaders that the Senate is ready to transact business if only a Senator would agree to propose his or her amendment.

Most attempts to address this problem have been directed to individual situations and measures on a case-by-case basis, as party leaders and bill managers have sought unanimous consent to limit amendments to a measure, to fix their sequence, or to set a time certain for the vote on final passage. Such ad hoc arrangements are helpful, but they depend on the explicit or implicit concurrence of all Senators. The only current proposal that appears to address this issue in a general and systematic way is S. Res. 277, which would require measures to be read for amendment by sections, with amendments in order only to the pending section.

This proposal has obvious appeal. If implemented effectively and consistently, it would make the Senate's floor proceedings far more orderly and predictable, to the benefit of Senators individually and the Senate institutionally. But S. Res. 277 proposes much more than a minor change in how the Senate does its business. It could fundamentally alter the process of floor consideration which, in turn, could provoke Senators to find ways to circumvent its intended effect. Most members of this Committee are intrigued by the proposal, and believe that it deserves sympathetic consideration. Before deciding whether to adopt this resolution, however, the Committee and all Senators must give careful thought to whether it would work and precisely how it would work.

For example, Senators might employ many of the adaptive devices discussed in the previous section. In particular, Senators might use the same means discussed there for remaining on or near the floor more often. Conversely, if adaption proved sufficiently burdensome, the Senate could always supersede the new rule by unanimous consent. Furthermore, although S. Res. 277 is advocated as requiring proponents of amendments to be on the floor at the appropriate time to offer them, it might increase rather than diminish demands for accommodative delay. Now, when no Senator present offers an amendment, managers may request a quorum call, which need only last until any Senator who wishes to amend any section of the bill arrives on the floor. Under the proposed rule, such delays might be more frequent because only Senators with amendments to the pending section would have any reason to come to the floor at that time.

Accommodative delay also might occur if the bill's managers or the party leaders accede to a request to postpone consideration of a section until Senators wishing to offer amendments to it can come to the floor for this purpose. It is uncertain, therefore, whether the approach of S. Res. 277 would lead to increased efficiency. It could do so if bill managers and party leaders steadfastly decline to accommodate Senators seeking exceptions, but this implies substantial alteration of the Senate's preeminent norm of accommodation.

This proposal also raises potentially complex and difficult questions about how the Senate would interpret and implement it. Questions almost certainly would arise, for example, about handling committee amendments, which now come before the Senate first when a measure is called up. Should this practice continue, or should committee amendments to each section come up first when that section is considered? Should a measure still be read by sections if a committee reports an amendment in the nature of a substitute, or should such a substitute automatically be considered as original text for purposes of amendment and read by sections? In addition, this proposal might be of no effect unless some requirement of relevancy also was instituted. Without such a requirement, a Senator who missed the appropriate section of a bill could propose his or her amendment to any subsequent, unrelated section, or perhaps offer an amendment providing that his or her original proposal be enacted, notwithstanding the language of the earlier section. Senators might even be able to add amendments at the end of the bill which are generally relevant to the bill as a whole and which contradict other of its provisions. Such a practice could effectively nullify the purpose and intent of S. Res. 277.

Any requirement of relevancy in the new rule, however, would be a fundamental departure from the Senate's historic practice of allowing unrelated amendments to be offered to most legislation under most circumstances. Abolishing that practice would deprive Senators of their principal means for bringing a proposition to the floor when the committee of jurisdiction declines to report it or the leadership declines to schedule it. Although the time may have come for such a change, the Senate obviously will want to carefully weigh the costs of foregoing this legislative opportunity for the sake of more orderly and predictable floor procedures.

Accommodative delay in the amendment process clearly is related to the work style of low attendance. Accordingly, reducing such delay effectively may require changing incentive and norms related to this work style. A key might be encouraging Senators to prepare their amendments to a bill before it reaches the floor. Proposals have been made, for example, that no amendment be in order if not filed before the bill is called up. Without changing the rules, similar results might be achieved by including such a restriction in each time agreement, along with a time certain for taking up the bill. Either approach also might require imposing debate limitations on the motion to proceed, so that this motion could not be filibustered to protect amendments not yet prepared.

To reduce strategic delay, such arrangements might have to be supplemented by agreements including a set sequence or times for Senators to offer their amendments. Such schedules could be arranged to benefit both individual Senators and the Senate as a whole. All such arrangements would increase the amount of coordination by party and committee leaders required to ready a bill for consideration, and their workability would accordingly depend heavily on the degree of comity in the Senate. If feasible, however, they might enhance the timeliness of floor action.

Limiting Debate on the Motion to Proceed

In some respects, strategic delay raises different issues than does accommodative delay. Strategic delay is usually possible because, absent provisions of a unanimous consent agreement or a rulemaking statute such as the Budget Act, Senate rules permit limiting the time for consideration only by cloture (or tabling motions). Through several rules changes in recent years, the cloture rule has evolved toward a more workable response to dilatory tactics when the requisite 60 votes can be found. Most recently, Rule XXII has been amended to reduce the time limitation on post-cloture consideration from 100 to 30 hours. Majority Leaders of both parties have become increasingly willing to use cloture to control the Senate's schedule.

However, strategic delay on the floor has continued to draw criticism and prompt proposals for change. In 1984, for example, a proposal included in S. Res. 461 would have permitted the Senate, by a ¾ vote, to impose amendment limitations and an 8-hour cap on a measure's consideration. But one focus of dissatisfaction has been the so-called "double filibuster" or "preliminary filibuster," which is possible because under most circumstances, Senate rules do not limit debate on motions to proceed to consider a measure. In the 100th Congress, S. Res. 275 proposes to limit debate on such motions to one hour; S. Res. 309 would impose a two-hour limit instead. Under the latter proposal, the two-hour limit would be in force only when the motion to proceed is offered by the Majority or Minority Leader, thereby reinforcing the Senate's existing practice of considering this motion to be a leadership prerogative. In any case, this is one significant issue on which most Senators may be able to find common ground.

Today, motions to proceed are nondebatable only if offered in the Morning Hour after an adjournment, or if offered on privileged matters such as conference reports and executive business. Recently, motions to proceed offered in the Morning Hour have been subjected to strategic delay through the use of other Morning Hour procedures. In reaction, the Senate has established precedents that may allow this device to be used more effectively in the future, even when some other measure is the Senate's unfinished business from the previous legislative day. If so, the nondebatable motion to proceed in the Morning Hour could serve some of the same functions for which pending proposals seek to limit debate on such motions at other times. On the other hand, Members with expert knowledge of the Senate's rules and precedents might be able to circumvent the effect of limiting or even prohibiting debate on all motions to proceed. Even if debate was limited to two hours, for example, total consideration of the motion might be extended to far more than that through quorum calls, motions, and rollcall votes. To address this possibility, consideration might be given to reformulating pending proposals to provide a cap on total consideration instead of on debate alone.

A comprehensive limit on debating the motion to proceed would mean renouncing a tool of legislative tactics, not workload accommodation. Historically, the Senate has been reluctant to accept time limitations such as those now being proposed for motions to proceed offered outside the Morning Hour. In response, proponents of the proposals argue that the essential opportunity for strategic delay would not be lost because it would still be possible to filibuster the measure itself. An alternative and more flexible approach might be to establish a nondebatable motion to place a time limit on considering a pending motion to proceed. For instance, a Senator might move that there be no more than six hours of consideration on the pending motion to consider a certain bill. If this motion to limit debate could be adopted by a simple majority vote, Senators might be encouraged to negotiate limitations on a case-by-case basis. The availability of such a motion also would encourage including similar provisions in time agreements. Such a rule would create no new opportunity for strategic delay, but would retain reasonable opportunity for deliberation. It could even prove useful as a test of sentiment on the measure. To prevent repeated use of this motion for dilatory purposes, if could be allowed only once on each motion to proceed (or on any motion to proceed to consideration of the measure).

Thus, there are several ways in which the Senate could prevent filibusters on motions to proceed, and imaginative Senators undoubtedly will be able to devise others that also merit consideration. What is most important is for the Senate to decide if it agrees that one filibuster on each bill is enough.

SENATE COMMITTEES: JURISDICTIONS, ASSIGNMENTS, AND SCHEDULES

Perhaps the most imaginative and far-reaching of the current proposals for change in the Senate is S. Res. 260, submitted by Senators Inouye and Kassebaum. Their resolution seeks to improve the Senate's legislative efficiency by reconfiguring the committee system, consolidating and re-aligning committee jurisdictions, and limiting committee sizes and assignments. Because of the issues this resolution addresses, and the respect its sponsors enjoy, the Committee has given it special attention. Precisely because of the far-reaching and politically complex changes it proposes, however, the Committee is not prepared at this time to endorse it, in whole or in part. Yet the resolution deserves consideration by all Senators, for the problems it identifies as well as for the solutions it offers. The following comments address the resolution's possible impact on committee jurisdictions and assignments and on the Senate and Senators' schedules.

Committee Structure and Jurisdiction

Invariably, comprehensive congressional reorganization initiatives to rationalize and integrate policy-making have centered on the jurisdictions of committees and on committee consolidation. Senators have not always agreed, however, that fragmentation of legislative jurisdictions necessarily or seriously impairs the formulation of coherent policy, or conversely, that consolidation of jurisdiction in fewer committees would promote the formulation of comprehensive policy or the more timely enactment of laws. What one Senator may see as inefficient fragmentation another may see as competition which generates action and new ideas by one committee when another is immobilized.

The 40 year effort to achieve more integrated policymaking, both in the Senate and the House, through jurisdictional realignment has not fully met expectations. The very act of dividing up subject matter, it can be concluded, deters full integration. Accordingly, practices such as multiple referrals have developed to overcome the deleterious effects of fragmentation, and to avoid or curb unwanted cross-committee conflicts. To a considerable extent, it has fallen to the parties, their committees and leaders, to develop, plan, and advance integrated and coherent policymaking.

However, there is no magic combination of jurisdictional adjustments and regroupings, committee restructurings, party policy committees, and integrative mechanisms that can overcome the fact that, in a body of 100 somewhat autonomous actors, tough and complex problems and policies will continue to resist easy solutions. Partisanship, clashing philosophies, and the need for consensus-building and compromise will remain essential parts of the process of finding acceptable resolutions for the problems of a complex, heterogeneous nation. This fundamental fact of American legislative life, which all Senators recognize, must shape their assessments of the merits and consequences of reorganization proposals, including S. Res. 260.

Committee reorganization can take a variety of forms. One approach is to amalgamate committees into a few broad functional groupings, another to set committee jurisdictions along the lines of the budget categories, a third to arrange committees to conform with the organization of executive branch agencies and programs, and a fourth to create committees to meet the most pressing current problems. Underlying all of them, however, is the assumption that change is needed, that self-restraint and strict adherence to existing rules and procedures are insufficient or unrealistic.

The primary effects of S. Res. 260 would be to combine the authorization and appropriations functions, and restructure the Senate's standing committees into three categories: policy, program, and administrative. The policy and program panels would collectively be called legislative committees. A newly created leadership committee would coordinate their efforts and formulate budgetary policy. Essentially, the 10 policy committees would closely approximate the current 12 "A" committees, while the 4 program committees would, for the most part, be reconstituted from the 7 "B" committees. The leadership committee would basically carry the legislative functions of the Budget Committee.

The consolidation of committees necessarily would involve jurisdictional shifts. But S. Res. 260, in its present form, leaves important issues unresolved and questions unanswered, including how the transfers are to occur, what role past precedent would play in future jurisdictional claims, and whether the multiple referral system would be altered. It is also unclear from the resolution where all issue areas are to be transferred. The resolution does not take explicit account of the possibility of creating other committees, such as select or special committees, although converting the Senate's existing select committees to standing committees implies that additions to the committee system are not anticipated, or at least should be discouraged. Finally, the resolution does not address whether the membership of the Intelligence Committee would continue to rotate.

Much of the change proposed in S. Res. 260 centers on creating a leadership committee to establish overall policy direction by setting spending priorities. The Committee on National Priorities would be composed of all chairmen and ranking members of legislative committees. In addition, the resolution allows for five at-large members to be appointed to create an appropriate party balance. S. Res. 260 does not explicitly reserve some or all of these positions for party leaders. But if this is not what the resolution's sponsors intend, the relationship between the committee and the Senate leadership will require the most careful consideration.

Numbers, Sizes, and Membership

The Senate will want to assess S. Res. 260 in the context of Senators' present and prospective committee assignments, and the impact the resolution would have on the number of assignments, the sizes of committees, the capacity of the Senate to examine issues in depth, and the ability of Senators to coordinate efficiently their range of legislative responsibilities.

As noted earlier, Senate Rule XXV provides for a complex system of committee memberships, which has been shaped in part by the recommendations of the 1977 and 1984 Temporary Select Committees to Study the Senate Committee System (Stevenson and Quayle Committees), as well as by the adoption of waivers creating specific exceptions and exemptions, or "grandfathers." Senators *shall* serve on two A Committees, *may* serve on one B committee, and may serve on as many C committees as needed. They may serve on three subcommittees of each A committee and two on each B committee. Senators also are limited to one full committee chairmanship among all class A and B panels and one subcommittee chairmanship per committee. Further, the sizes of the committees are fixed in the rules to create the appropriate number of seats, and where possible, to accommodate "grandfather" requests. However, by agreement of the Majority and Minority Leaders, the membership of any committee may be "increased temporarily" by up to two members to accord the majority party a "working majority."

In addition to Rule XXV provisions, each party has adopted assignment rules, while permitting some exceptions to them. Both designate "exclusive" committee and limit a Senator's service to only one such unit (Appropriations, Armed Services, Finance, and Foreign Relations for both parties; Budget for the Republicans, and Commerce for the Democrats). As well, the Republicans by precedent and the Democrats by practice do not allow Senators from the same party and the same State to serve on the same committee, although on rare occasions this has occurred. The Senate and each of its parties will need to consider all the intended and possible unintended effects of the Kassebaum-Inouye proposal on this assignment system.

Under S. Res. 260, the membership of each policy committee would be set at 17 members, making a total of 170 available slots, with each Senator limited to service on two of them. The four program committees would range in size from 9 to 19 members. The resolution is silent on service limitations on these program committees, as well as on the three administrative committees, set at 15, 6 and 15 members. The resolution also does not address critically important transition questions, especially how to reach the new size limitations when some current committees are larger than their proposed successors. The leadership committee's membership would range from 28 to 33 members, with chairmen and ranking members on legislative committees guaranteed slots (hence 28 seats).

It should be noted that standardized committee sizes first were adopted in the Legislative Reorganization Act of 1946. Soon after the 1946 Act, however, it became clear that committee workloads, not to mention jurisdictional breadth and attractiveness, were not all the same. Thereafter, committee sizes began to change, with some increasing and others decreasing. In light of Senators' individual preferences and the changing nature and importance of policy issues over time, this Committee is inclined to believe that it ultimately may not be possible to devise a jurisdictional system that effectively equalizes workload among committees. Further, such equalization may not be the most desired end. And if so, fixed committee sizes, much less equal sizes, may not be advisable unless there is a mechanism for making adjustments for purposes other than accommodating the preferences of individual Senators.

Furthermore, the appropriate number and sizes of committees cannot be determined in a vacuum—without regard, for example, to the desired number and sizes of subcommittees. And S. Res. 260 is silent regarding the permissible number of subcommittees—in the aggregate, per committee, or per Senator. If the Senate were to reduce the number of standing committees without also restricting subcommittees, the latter would probably grow in number, and perhaps also in size, thus exacerbating some of the problems the consolidation plan evidently was designed to address. Conversely, if the number of subcommittees were to be restricted, the Senate's practice of providing subcommittee chairmanships to the maximum number of majority members would be jeopardized.

Conclusion

The Committee finds that S. Res. 260 is an innovative and thoughtful approach to revamping the Senate's committee system and redistributing its work. In the interests of coordinating and consolidating responsibilities, the resolution clearly would increase centralization within the Senate, especially through the proposed Committee on National Priorities, to consist of the leaders of other committees and to be responsible for setting broad policy directions. In addition, the proposed policy committees and the dispersion of appropriations jurisdiction might well improve policy coordination and eliminate some of the repetitive debates and votes that often characterize the current authorization-appropriations process. The result probably would be a more orderly Senate, and therein lies the resolution's obvious appeal.

As all Senators recognize, however, orderliness is not the only, and perhaps not even the most important, criterion for evaluating the committee system and proposals to change it. A critical question for Senators to consider is how much centralization of authority the Senate needs, and is prepared to tolerate, for conducting its business. Furthermore, if Senators believe there should be a certain number of committees (for reasons of workload or equity, for example), this conclusion has important implications for the packaging of jurisdictions. On the other hand, if Members believe that jurisdictional lines should be drawn according to some other guidelines or principles, that starting point naturally affects the numbers and sizes of committees. Moreover, the Senate's mechanisms for inter-committee coordination can affect all aspects of committee work. Effective coordination can compensate for significant organizational deficiencies, and even the most carefully calibrated jurisdictional system will continue to require cooperation among committees.

This Committee is virtually unanimous in recognizing and sympathizing with the frustrations the Senate's committee system now provokes. Senators Kassebaum and Inouye deserve the appreciation of all their colleagues for developing a resolution which offers the Senate a vision of a more coherent and coordinated system. But it is precisely the comprehensive nature of the approach taken by S. Res. 260 which gives this Committee pause. Historically, the Senate has not been inclined to make dramatic and sweeping changes in its organization or procedures. Senators naturally are cautious about major changes that are almost certain to have important unanticipated consequences. Therefore, the Committee proposes that the Senate approach the issue of committee reform along two tracks: first, by using its hearings as a forum for continuing consideration of S. Res. 260 and alternatives to it; and second, by pressing for more incremental changes, such as more effective efforts to avoid schedule conflicts and more consistent adherence to the present rules limiting committee memberships, sizes, and assignments, and by considering more modest innovations, such as provision for automatic multiple referral of measures that overlap the established jurisdictions of two or more committees.

GERMANENESS AND OTHER RESTRICTIONS ON THE SUBJECTS OF SENATE FLOOR AMENDMENTS

Among the procedures affecting how the Senate does its work on the floor, only the ability to filibuster compares in importance with the right of Senators to offer non-germane amendments. There is a germaneness requirement only for amendments proposed under cloture and to general appropriations measures, budget resolutions and reconciliation bills, and other measures governed by expedited procedures contained in rulemaking statutes. Most often, Senators can offer amendments on whatever subjects they like, unless they relinquish this right by unanimous consent.

The consequences for the Senate are profound, and they shape the relationship between each Senator and the Senate. Committees can effectively veto bills by declining to report them, but supporters can offer the same proposals as non-germane floor amendments to other measures. The Majority Leader, acting for most Senators, may be able to control when measures reach the floor, but not the issues that Senators raise there as amendments. Any Senator can compel his or her colleagues to vote on (or in relation to) virtually any issue at almost any time. The success of floor managers can be jeopardized and their task complicated when Senators select their bills as appropriate "vehicles" for non-germane amendments. The Majority Leader's plans for the Senate schedule can be disrupted unexpectedly, and individual Senators cannot arrange their own calendars with assurance.

When the 100th Congress convened, the Majority Leader submitted three resolutions concerning germaneness that were referred to this Committee; three identical resolutions are on the Senate's Calendar, having gone over, under Rule XIV. These resolutions share a common purpose: to make it easier for Senators to impose and enforce a germaneness requirement on amendments. In addition, Senator Pryor has submitted a resolution intended to restrict "sense of the Senate" and "sense of Congress" amendments that frequently are not germane to the measures the Senate is considering. Senators have made related proposals in the past. For example, Senator Stevens submitted S. Res. 461 in 1984 and S. Res. 32 in 1985, both of which included proposals, closely related to those discussed here, concerning the germaneness of amendments.

The Committee believes this to be one of the most important issues it has considered, and urges all Senators to weigh carefully the merits of the several specific proposals discussed here.

Germane Amendments Under Cloture

Under cloture, the Presiding Officer rules on the germaneness of amendments, and may hold them non-germane even without Senators making points of order from the floor. But such a ruling, like any other, may be appealed, so a majority of Senators could vote to consider an amendment the Presiding Officer has deemed non-germane. Were the Senate to do so, however, the value of the cloture rule would be jeopardized. When Senators invoke cloture, they sacrifice their right to filibuster, but with the assurance that no non-germane amendments will be considered under the debate limits of Rule XXII. Senators would have good reason to hesitate before voting for cloture if they thought that a simple majority then might vote, on appeal, to consider one or more non-germane amendments.

S. Res. 43 would address this potential problem by requiring the same extraordinary majority to overturn rulings of the Presiding Officer on germaneness that is required to invoke cloture in the first place. This resolution may well have been inspired, at least in part, by a 1984 incident in which the Senate almost voted, under cloture, to overturn rulings that school busing and gun control amendments were non-germane, before Senators Byrd and Baker collaborated to convince the Senate to table both amendments. S. Res. 43 would reduce the dangers of such situations in the future by increasing the majority needed to hold an amendment germane on appeal under cloture. During the 1984 incident, however, it was noted that only twice before had a majority voted to override the Chair under similar circumstances. So S. Res. 43 would make it more difficult for Senators to do something that could be seriously disruptive, but something they have not been inclined to do.

Germane Amendments to Appropriations Measures

S. Res. 42, also submitted by Senator Byrd, deals with enforcing germaneness in another situation. Paragraph 4 of Rule XVI now prohibits Senators' amendments to general appropriations measures if the amendments are non-germane or if they propose "general legislation" (or limitations that depend on contingencies). By precedent, however, and notwithstanding these prohibitions, Senators may freely propose germane amendments to a legislative provision the House already has included in an appropriations bill. Otherwise, the Senate would lack the flexibility to respond to the House's legislative initiatives. So before the Presiding Officer rules on a point of order that a pending amendment constitutes legislation on a general appropriations bill, the amendment's sponsor frequently raises "the defense of germaneness," contending that the legislation proposed by the amendment is germane to legislation already in the House-passed appropriations bill. The Presiding Officer submits the question of germaneness to majority vote of the Senate without first ruling on it. If the Senate holds the amendment germane, the point of order falls; if not, the amendment falls because it violates the germaneness requirement.

The Senate may vote, and frequently has voted, that an amendment is germane even when it clearly is not. In fact, the defense of germaneness can be construed as a way for a majority to waive the germaneness requirement. In 1979, however, the Senate established the precedent, inspired by a point of order made by Senator Byrd, that the defense of germaneness can be raised to protect a legislative amendment only when the measure already contains some House legislative language to which the amendment could be germane. The Chair makes this threshold determination before submitting the question of germaneness to the Senate. S. Res. 42 would codify this precedent as a new subparagraph of Rule XVI.

In the Committee's view, this resolution raises at least three questions that Senators should consider. First, is it desirable to restrict the ability of the Senate to legislate on appropriations bills? Second, is the threshold test an effective way of doing so? And third, is it necessary or appropriate to codify the existing precedent?

Legislating on appropriations bills violates a premise of the authorizations-appropriations sequence—that programmatic and funding decisions should not become entangled. Also, legislative amendments certainly can complicate and prolong the Senate's consideration of appropriations measures. On the other hand, some legislative amendments are closely related to spending bills because they propose to restrict the availability of appropriations. And an appropriations bill may be the only measure the Senate will consider that is related to the amendment in any way. The alternative is to offer the legislative amendment as a non-germane amendment to some other bill, but appropriations measures are more likely than most others to become law. The House, where appropriations measures customarily originate, often waives its rules by majority vote to include legislation. Should the Senate be able to react to the House's legislative provisions, but deny itself the ability to add legislation of its own?

The Senate's 1979 precedent addressed this question. But the threshold test is not very demanding, and it has not been invoked very often. Furthermore, it may be effectively moot during consideration of continuing resolutions which incorporate the texts of other bills by reference. If the precedent has not been much of a constraint, then incorporating it in Rule XVI, as proposed by S. Res. 42, might not make much difference. On the other hand, adopting the resolution would protect against the Senate reversing or nullifying the 1979 decision by majority vote on an appeal whenever the Chair's threshold ruling prevents the Senate from considering an amendment it wants to adopt. Such a ruling presumably would be subject to appeal and reversal by simple majority vote, unless the Senate also were to adopt Senator Byrd's resolution requiring extraordinary majorities instead.

Germaneness Requirements by Motion

The only way in which the Senate can vote to preclude non-germane amendments to a bill is to invoke cloture, which also imposes the debate limitations of Rule XXII. In S. Res. 41, Senator Byrd proposes that the Senate be able to require germaneness without restricting debate as well. On each day the Senate considers a measure, there could be two motions, each debatable for an hour, to require that all non-committee amendments must be germane. Adopting such a motion would require a majority of ⅗ of the Senators present and voting—a slightly less demanding requirement than ⅗ of the Senators duly chosen and sworn, the majority usually required to invoke cloture. The Presiding Officer then would rule on points of order that specific amendments were not germane.

Each ruling by the Chair would be subject to appeal, but S. Res. 41 also would require the same extraordinary majority to overturn the ruling (or to hold an amendment germane if the Presiding Officer submits the question to the Senate). Moreover, this last subparagraph of the resolution would seem to apply to all circumstances in which Senators might vote on the germaneness of amendments, directly or indirectly. If adopted, therefore, S. Res. 41 presumably would complement S. Res. 42, by requiring a vote of ⅗ of the Senators present and voting to overturn a threshold ruling of the Chair concerning the defense of germaneness for an amendment to an appropriations bill.

It is difficult to predict what impact S. Res. 41 would have on the Senate. Senators probably would be more willing to require germaneness than to invoke cloture, but they still might be reluctant to prevent colleagues from offering non-germane amendments to the vehicles of their choice, for fear of being restricted in the same way. It is equally possible, on the other hand, the Senators might become accustomed to living within the constraints of germaneness, perhaps directing most non-germane amendments to a few predictable and attractive targets of opportunity, such as debt ceiling bills. In short, the Committee can be reasonably confident in anticipating how S. Res. 41 would work, but not how it eventually would affect Senators' attitudes and expectations about what happens on the floor.

Limiting "Sense" Amendments

S. Res. 41 and S. Res. 274, submitted by Senator Pryor for himself and Senator Danforth, both would restrict one class of amendments—amendments that would not change current law even if enacted because they only express the "sense of the Senate" or the "sense of Congress." According to Senator Pryor, the Senate considered roughly 50 such amendments during each of the past five years.

Senator Byrd apparently would restrict the "sense" amendments that are in order when amendments must be germane. Under current precedents, a "sense" amendment is likely to be germane if it falls within the jurisdiction of the committee that had jurisdiction over the measure being considered, but not under cloture when such amendments are considered dilatory. S. Res. 41 would narrow this standard by restricting germane "sense" amendments to those that "directly relate to the measure or matter before the Senate," although the resolution does not specify the test (or tests) by which this standard would be applied. Senators Pryor and Danforth propose a different approach. Under S. Res. 274, no "sense" amendment would be in order unless "signed by at least 20 Senators." Moreover, this requirement presumably would apply equally to germane and non-germane "sense" amendments, so the two approaches are not incompatible. But if the Senate decides to require germaneness more often, it might also prefer to preserve non-germane "sense" amendments as a useful outlet for Senators.

These proposals raise two threshold questions: whether "sense" amendments are more of a problem than a useful device, and if so, whether they are a sufficient problem to justify either or both rules changes. The principal objections to these amendments are (1) that they are pointless and a waste of the Senate's time because they do not propose to make law; (2) that despite their lack of legal effect, they can provoke controversy and floor delays because of the subjects they address; and (3) that they can be drafted in ways that convey misleading impressions of Senate or congressional opinion or that present Senators with politically awkward votes.

"Sense" amendments have advantages as well. Sometimes an expression of opinion is more appropriate than a change in law, or the only suitable action for one or both houses to take. These propositions also can be a satisfying outlet for congressional anger or frustrations, and their effect is immediate. "Sense of the Senate" proposals achieve their purposes, for example, when the Senate votes for them, not if and when they ultimately become law. And they can prove useful as compromises when Senators propose appealing legislation that could have detrimental effects. Moreover, not all "sense" proposals are time-consuming and controversial; a "sense of the Senate" amendment congratulating a championship team, for instance, is innocuous at worst, and perhaps even a helpful momentary distraction from weightier matters.

Neither resolution would bar "sense" amendments, nor would either affect *resolutions* expressing the "sense of the Senate" or the "sense of Congress." The Byrd proposal would subject "sense" amendments to a germaneness test, when applicable, that comes closer to the ordinary meaning of "germane" than the test of committee jurisdiction mentioned earlier. But S. Res. 41 would not require that all "sense" amendments be germane. And the Pryor resolution would only require that ⅕ of the Senate support consideration of a "sense" amendment, whether germane or not, although the Senate does not require such a demonstration of support under any other circumstances. Moreover, a Senator would have to take the initiative to enforce the 20-signature requirement by making a point of order, and perhaps creating delay and controversy that otherwise would not have arisen.

Conclusion

Most members of the Committee probably would support some or all of these proposals if they were to come to a vote on the floor, but the Committee also believes that it would be a mistake for the Senate to approve them out of frustration or irritation. Before any such votes occur, Senators will need to recognize that much more than considerations of efficiency are at issue. Requiring germane amendments would work a fundamental transformation in the relation between the Senate and its committees and in the rights and opportunities of individual Senators.

In addition, assessments of proposals to impose or enforce a germaneness requirement on amendments must take account of the Senate's tests of germaneness, which are considerably narrower than a test of relevancy or relatedness. Except for the standard that applies to "sense" amendments, these tests are quite strict—stricter than the House germaneness standards, and perhaps even stricter than some Senators appreciate. As a general rule, a legislative amendment is germane if, and only if, it proposes to strike out or to change a number or date, or if its effect would be to restrict the scope of the measure or the powers it grants. The germaneness requirement, when in effect and strictly enforced, now does more than preclude amendments that are irrelevant to the measure being considered. It also can prevent consideration of policy alternatives that are highly pertinent but nonetheless non-germane because they expand the coverage of the bill or the powers it conveys.

If the criteria were not quite so limited and narrow, Senators might be more willing to hold that amendments to appropriations bills are not germane, when the Chair submits such questions to majority vote, as Rule XIV requires. And Senators might be prepared more often to impose a germaneness requirement during consideration of other bills. To put it differently, if the Senate began requiring germaneness more often and enforcing it more strictly, Senators might find themselves more constrained than they had anticipated. Consequently, they might well decide to modify the existing germaneness tests so the Senate would not be prevented from considering related proposals and relevant alternatives. Instead, the Senate could overturn germaneness rulings of the Chair, but the Byrd resolutions would require a ⅗ vote to do so. There is precedent in the Gramm-Rudman-Hollings Act for requiring such extraordinary majorities on appeals. Until its enactment, however, the modern Senate had never relinquished ultimate control over its proceedings through majority votes on appeals. Requiring ⅗ votes instead suggests (1) that Senators will be (or will continue to be) tempted to waive the germaneness rule; (2) that there is a real possibility they will do so; and (3) therefore, that the Senate must be protected from its own inclinations, and especially from an unwillingness to allow procedural restrictions to limit its policy choices.

An alternative would be for the Senate to create a motion or other mechanism for waiving the germaneness requirement without resorting to appeals, as it did in the Budget Act, and as the House does through special rules reported by its Rules Committee. Senators might find germaneness requirements more acceptable, especially so long as the Senate's germanenesss tests remain unchanged, if they knew there was a procedure within the rules by which they could waive the requirement when necessary, by a majority or ⅗ vote. In any case, the desirability of extending the germaneness requirement cannot be separated from the willingness of the Senate to enforce it.

THE BUDGET AND APPROPRIATIONS PROCESS

The Constitution clearly assigns the "power of the purse" to Congress. It does not, however, specify the legislative procedures which Congress should use to exercise this power. Instead, such procedures have been developed in the Senate in the form of rules and precedents, rule-making statutes, and informal practices.

In recent years, significant formal changes have been made in budgetary procedures (e.g., the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget Act of 1985). At the beginning of the 100th Congress, Senators continued to voice their dissatisfaction with budget policies and the operation of legislative budget procedures. A majority of Senators almost certainly would agree that there is need for improvement in the procedures for making congressional budget policy. But agreeing that a problem exists is far easier than agreeing on what to do about it. The Committee has chosen to focus on two aspects of this problem that have been widely discussed: consolidating the authorization-appropriation process and instituting a biennial budget and appropriation process.

Consolidating the Budget and Appropriations Process in the Senate

In recent times, the distinction between authorizations and appropriations has become less clearcut than it once was. In some cases, similar if not identical issues are considered in both authorization and appropriations measures; in other cases, budgetary outcomes are determined solely in one arena or the other. The blurred distinction between authorizations and appropriations has prompted proposals to merge the two, usually by terminating either the appropriations or legislative committees and then combining the functions of both into one or the other. S. Res. 260, discussed in an earlier section of this report, is one of the most recent of these proposals.

As part of a plan to restructure the Senate committee system, S. Res. 260 would abolish the Appropriations Committee and create 13 new policy and program committees with both legislative and appropriations jurisdiction. The resolution also would amend Senate Rule XVI to abolish current prohibitions against unauthorized appropriations and legislation in appropriations. Taken together, these provisions remove the procedural impediments in the Senate to consolidating authorization and appropriations measures. Though the restructed committees could continue to report separate authorization and appropriations legislation, there would be little incentive for them to do so.

In assessing this dimension of S. Res. 260, the first task is to examine the major problems the resolution seeks to address through consolidation of the authorization-appropriations process, and second, to consider whether combining the two processes addresses these problems and accomplishes the desired objectives.

Addressing the Major Problems

The idea of consolidating the authorization-appropriations process is but one manifestation of a widespread and more general dissatisfaction with congressional budgeting. The size and persistence of Federal budget deficits is perhaps the biggest single budgetary problem of the 1980s. Concern over deficit control prompted enactment of two of the most important budget process reform laws in history—the Balanced Budget and Emergency Deficit Control Act of 1985 and its revision, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (commonly referred to as Gramm-Rudman-Hollings I and II, respectively).

The purposes of the 1985 Balanced Budget Act and the 1987 amendments were two-fold: (1) to induce Congress and the President to reach timely agreement on deficit reduction legislation, and (2) to impose an automatic procedure, known as sequestration, to reduce the deficit if Congress and the President fail to agree on such legislation. The 1987 amendments, which restored an automatic mechanism for triggering sequestration and extended to Fiscal Year 1993 the timetable for reaching a balanced budget, reflect a congressional judgment that achieving a balanced budget will require a long-term commitment.

The timing of budgetary actions also has been a major problem in recent years. Deadlines established in the Congressional Budget Act of 1974, and accelerated by the 1985 Balanced Budget Act, have been missed regularly. Delays in each stage of budgetary decision-making—adoption of the budget resolution, followed by consideration and enactment of authorizations, appropriations, and reconciliation legislation—have contributed to the problem. Final action on budgetary legislation has tended to occur late in the session. Consequently, important policy and funding decisions are decided under the dual pressures of a potential Government shutdown and sine die adjournment.

The problems of deficit control and delayed budgetary actions have contributed to another budget process phenomenon that concerns all Senators—the increasing use of omnibus packages to enact budgetary legislation. Under pressure to enact regular appropriations which have been delayed for one reason or another, Congress recently has resorted to the use of omnibus continuing resolutions to enact several or all regular appropriations bills in one enormous measure. The need to forge agreements to reduce the deficit also has contributed to the increasing use of omnibus continuing resolutions. Such measures provide a useful legislative vehicle in which to establish priorities, make trade-offs, and counter the President's veto authority. However, because action on omnibus continuing resolutions occurs late in the session, the need to expedite action can make informed deliberation difficult, if not impossible. In such a situation, Senators who may have waited the entire session to offer a particular amendment, perhaps because action on the relevant authorization or regular appropriations measures was delayed or did not occur, may find themselves under pressure to withhold in the interest of timely budgetary action. Conversely, wrapping regular appropriations bills into a single measure can facilitate the inclusion of provisions that might otherwise fail to pass or that might invite a presidential veto.

The Committee shares the widespread frustration in the Senate with this situation, as well as with the complaint that the three-stage budget-authorization-appropriation process invites and encourages revisiting closely divided issues throughout a session of Congress. Senators commonly cite the defense budget as the leading example of such repetition and redundancy; aggregate levels of defense spending as well as funding for specific programs are debated in the context of the budget resolution, and later when the accounts and programs are before the Senate during consideration of both the defense authorization bill and the defense appropriations bill. Nor is this situation unique to defense; it is characteristic of many of the Senate's decisions, especially for agencies and programs which must be reauthorized on an annual or periodic basis.

Possible Effects of Consolidation

Consolidating the authorization-appropriations process, particularly in the way proposed by S. Res. 260, could have an impact on each of the major problems discussed above. But such a major change in the Senate's operations is certain to have unanticipated effects as well. And the Committee is not yet convinced that any such organizational change offers a true solution to what is at heart a political problem and a policy dilemma.

Though a number of reasons can be cited for consolidating the authorization-appropriations process, for example, the cause of deficit reduction may not be among them, if past history is any indication. In the late 19th Century, the Senate and House Appropriations Committees were stripped of much of their jurisdictions. It is generally acknowledged that this action was taken in response to congressional sentiment at that time to increase spending for Federal programs. Legislative committees were viewed as being more likely to advocate more spending for programs within their jurisdictions than would the Appropriations Committees. When jurisdictions over appropriations were again consolidated within the Appropriations Committees in the early 1920s, it was done, in part, to encourage tighter control over Federal spending.

This historical experience should give the Senate pause. It is likely that legislative committees, which continue to have a more focused perspective that may place less emphasis on the total Federal budget, again would be less likely to exercise budgetary restraint than would a single committee which must consider the funding needs of all Federal activities. Of course, times have changed, and widely shared concern over persistent deficits combined with the budgetary discipline of the Budget Act and the Gramm-Rudman-Hollings Act may work to counteract any tendency of legislative committees to promote increased spending in their respective sectors. Yet, despite the budget and deficit control laws, large deficits persist, and reorganizing the committee system to decentralize jurisdiction over appropriations *could* aggravate the problem of deficit control.

Would consolidating the authorization-appropriations process speed the Senate's action on the budget? Perhaps delayed authorizations would no longer contribute to delay in the appropriations process. But other and possibly more intractable causes of delay would likely be unaffected or even worsened by consolidation. For example, the era of high deficits has made it increasingly difficult for Congress and the President to agree on broad fiscal policy. Stalemate between Congress and the President on the proper mix of revenues and spending, and of defense and non-defense spending, has delayed action on the legislation needed to implement these policies. Dispersing jurisdiction over appropriations would not appear to resolve this problem, and adding new participants might even make the situation worse. Another cause of delay which might be aggravated by consolidating the authorization-appropriations process is the use of appropriations measures to enact substantive legislative decisions. One of the reasons for separating authorizations and appropriations is that the controversy associated with substantive legislation tends to delay action on appropriations. So redesigning the committee system to encourage committees to address programmatic and funding issues in the same bill could further complicate the timely enactment of appropriations.

The extent to which consolidating the authorization and appropriations committees would reduce the number of repetitive budgetary decisions may be more limited than expected. The need for annual or periodic reauthorization bills would be eliminated, for all practical purposes. However, legislative committees already have jurisdiction over half of all spending, principally through their jurisdiction over entitlements and similar programs. Control over spending by the Appropriations Committee is diminished by all entitlement programs, whether annually or permanently appropriated, where spending levels are determined by existing law. Therefore, because annual discretionary action by the Appropriations Committee affects less than half of all Federal spending, the impact of dispersing its current jurisdiction might also be less than anticipated.

The increased use of omnibus budgetary measures, and particularly omnibus continuing resolutions, presents Congress with a difficult dilemma. Congress is inherently a decentralized institution, composed of coequal members representing different constituencies. But the use of continuing resolutions tends to concentrate decision-making authority in the hands of the Appropriations Committee. Support for breaking up the Committee's jurisdiction may reflect dissatisfaction with this trend. By dispersing control over appropriations to their legislative committees, Senators may feel that they would be more involved in important funding decisions.

On the other hand, dispersing appropriations jurisdiction would make it more difficult for the Senate to resort to omnibus packages when necessary. For example, how would appropriations bills reported from different committees be packaged together to implement a budget summit agreement? Also, the criticism that omnibus continuing resolutions deprive Senators of opportunities to influence or contribute to the legislative process may be somewhat misplaced. Most provisions of such measures are not created anew at the end of each session. There often has been extensive legislative action on separate measures both in committee and on the Senate floor, much of which is ultimately included in the final omnibus product. In fact, there sometimes have been complaints that Senators have used continuing resolutions to reopen policy decisions the Senate had made earlier in disposing of amendments to other measures.

Finally, the Committee is concerned that a unilateral Senate decision to disperse appropriations jurisdiction among legislative committees may create problems of coordination with the House. For example, House rules governing legislation and unauthorized appropriations in general appropriations bills normally are stricter than comparable Senate rules, and may present problems at the conference stage should existing Senate rules be fundamentally changed. For example, House conferees might well have to insist that any and all such Senate proposals be reported from conference as amendments in disagreement. In addition, if the Senate were to amend House authorization bills to include appropriations, the result might well be disagreement with the House over application of the Origination Clause. In short, this Committee has serious questions about whether it is practical and realistic for either house to adopt a proposal such as S. Res. 260 except as part of a bicameral agreement.

The Committee has approached S. Res. 260, as it would any other reform proposal, by assessing both the benefits and the costs that might accrue from consolidating the authorization-appropriations process. This has involved considering the purposes served by consolidation and the likelihood of accomplishing them, as well as possible adverse effects. And just as the Committee has some questions and doubts about the committee reorganization plan the resolution proposes, it also believes that the Senate should be very cautious about embarking on a major transformation of the way in which it makes its funding and policy decisions. This is a subject, after all, which affects all Senators directly and on which all Senators are experts from their own perspectives and positions.

Biennial Budget and Appropriation Process

At the same time, there are other approaches to addressing this complex of issues and problems which also deserve the most serious consideration. In particular, many Senators have expressed interest in exploring the concept of a biennial budget process, an idea on which the Pearson-Ribicoff and Quayle Committee reports both commented favorably.

Supporters of biennial budgeting have asserted that lengthening the budgetary cycle would ease the crowded budgetary agenda, permit more time for oversight activities, and greatly reduce the likelihood of continuing resolutions. Opponents have maintained, on the other hand, that the current budgetary problems of delay, stalemate, and legislative crowding result from the inability of the President and Congress to reach political agreements on substantive issues, and probably would not be solved by simply expanding the period for considering budgetary legislation. In the 100th Congress, S. 2478, introduced on June 7, 1988, by Senators Ford, Roth, Kassebaum, Heinz, Nickles and Danforth, would provide for a 2-year Federal budget cycle. The Committee believes that the Senate should consider adopting this proposal, at least on a partial and experimental basis, before turning to even more sweeping changes such as those proposed in S. Res. 260.

Mr. FORD. Mr. President, as you become familiar with the report, you will note that it is not merely a review of past studies of Senate operations. We also provide an assessment of the climate for change and explore several aspects of Senate operations that appear to merit particular attention; they are:

The efficient use of a Member's time on floor activities;

The difficulty of scheduling business on the Senate floor;

The recurring concerns over committee assignments and schedules;

The issue of germaneness and other proposals affecting floor amendments; and

The frustrations that often result from the authorization, appropriation, and budget process.

The report also addresses issues relating to committee jurisdictions, as well as improvements in the Senate's computer systems.

The Committee on Rules and Administration has a continuing responsibility under Standing Rule 25 to study and report to the Senate on the organization and operation of that body. This report has been prepared and submitted pursuant to that responsibility. We have approached this task in a dispassionate and non-partisan manner with recognition and appreciation of the fact that the Senate is a unique and uniquely important institution under the Constitution, an institution where party interests and policy questions of the moment can be transcended.

In its work, the committee has been guided by two fundamental beliefs. First, Members must be as concerned with preserving the Senate as with changing it, though history and experience show that prudent change may be necessary to preserve its fundamental nature and purpose. As I have said to the committee, and now say again to the Senate, our primary goal continues to be the maintenance of the Senate as a truly deliberative, responsible, and responsive legislative body. Second, the condition of the Senate is not just the responsibility of this committee. The challenging and sensitive balancing of continuity and change in this venerable institution must engage the wisdom, the insight, and the experience of all Members. Firm in this conviction, we urge the Senate, as a body, to give prompt and serious consideration to this important matter.

REPORT ON SENATE OPERATIONS

Mr. STEVENS. Mr. President, I want to commend the chairman of the Rules Committee, Senator FORD, for transmitting to the Senate the Rules Committee Report on Senate Operations. In particular, I commend the chairman for the cooperative and bipartisan manner in which he and his staff have conducted the drafting of the report.

I believe the report, itself, will provide Senators with an excellent summary of the four studies on Senate Operations conducted in recent years by the Culver, Stevenson, Pearson-Ribicoff, and Quayle committees, as well as reform proposals recently introduced by Senators BYRD, KASSEBAUM, INOUYE, PRYOR, DANFORTH, and myself.

By analyzing each of these studies and proposals, this report does a good job of setting before the Senate the major issues and ideas discussed in recent years with regard to improving the Senate.

The chairman and I agree that there is a great deal of sentiment in the Senate for constructive change in the way we operate this institution. We also agree that changes are unlikely to occur at the end of a Congress. Procedural reform is most likely to occur at the beginning of a new Congress, before Senators' attention is diverted from institutional matters to the substantive issues of the day.

The report on Senate Operations will serve as an excellent starting point for the leadership to begin considering changes which could be implemented during the opening weeks of the 101st Congress.

I also share the chairman's sentiment that changes in our standing rules and procedures should be done with a great deal of caution. Changes in procedure can often yield unpredictable results. Moreover, much can be accomplished through leadership initiatives as well as through the active enforcement of our existing rules.

But we should also be open to procedural change when we determine, after careful scrutiny, that our procedures or institutional arrangements are deficient. Procedures cannot settle policy issues; yet, they can have a profound impact on the manner in which the Senate considers policy matters. As an example, it can certainly be said that the Congressional Budget Act adopted in 1974, and the Gramm-Rudman-Hollings budget procedures, have profoundly impacted our policy decisions on the Federal budget.

I, therefore, urge Senators to give this report due consideration over the fall recess, so that we can convene the 101st Congress ready to make some positive improvements in the operation of the Senate.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent to proceed for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEND MOST OF THE PACS PACKING

Mr. McCONNELL. Mr. President, there is an article in the Wall Street Journal today by Brooks Jackson, one of the rare, small corps of reporters across the country who follow campaign finance carefully. I agree with its title and most of its recommendations. It is titled "Send Most of the PAC's Packing."

Mr. President, the article points out that in the 1970's, Republicans encouraged businesses to set up PAC's and compete with labor's support of Democrats. Now, the PAC's established by business have turned into "Frankenstein's Monster" for the Republicans.

Overall PAC giving is up 44 percent for Democrats this year. It is down 7 percent for Republicans. They are outraising us by about 2 to 1.

Democrats get all the union PAC money. Actually, you have to admire organized labor, because you know exactly where it stands; it does not flinch. It gives support to people of its particular point of view.

The Democrats also get most of the PAC business money. That is a good situation, if you happen to be a Democrat.

As today's article points out, "PAC's give overwhelmingly to incumbents they hope to influence." And Democrats obviously have more incumbents than Republicans.

The article points up other problems created by PAC's, beyond the partisan advantage that PAC's have turned into for Democrats.

PAC money piles up in incumbents' warchests, discouraging challengers and crushing the few who still have the courage to take on challengers.

Giving is based on "short-term, after-tax profits," not principle or beliefs and this is especially true of business PAC's.

They create "economic waste" by promoting "self-serving distortions in taxation, regulation, and subsidies," so says Brooks Jackson's article.

The article recommends that "Congress should outlaw PAC donations," on same constitutional basis as Congress' earlier bans on corporate and union contributions.

PAC's could make independent expenditures of course but they are not as effective.

Instead, PAC's might get involved in constructive political activities, the article points out, like voter turnout and education.

The article also recommends requiring tax-exempt groups that currently engage in such activities to disclose their donations.

The article also recommends deregulating party support of candidates, to replace the outlawed PAC funds that is recommended we eliminate.

It argues spending limits are "peseudo-reform"; and will not work.

Of course, this Senator believes that, having advocated eliminating the Presidential system which is the only system under which we have spending limits today.

Instead, Brooks Jackson says take the limit off how much money parties can give. "No 'good government' purpose is served by that kind of limit."

The article also advocates a ban on out-of-State contributions. But, frankly, I think that is a mistake and that is a place where I do completely disaggree. In certain areas of the county you would not have a two-party system if you had to rely entirely on instate contributions to fund races.

Finally, Brooks Jackson suggests public subsidy of political parties and he admits it raises "knotty quesitons," including the possibility of "La Rouche-style nuttiness," as he puts it, "at taxpayer expense." But it is an interesting thought.

Overall, the article make a lot of sense, and I intent to pursue some of its recommendations further in the next Congress.

LENORA FULANI

Mr. McCONNELL. While I am on the floor, Mr. President, I thought it would be useful to have an update on that great American Lenora Fulani. Lenora Fulani I am sure is becoming a household word because her campaign for President is being funded by the taxpayers and she kind of illustrates one of Brooks Jackson's points about public subsidies.

Lenora Fulani is running for President this year at taxpayer's expense under a public financing system that some want to impose on Congress. We had that argument this year in S. 2. She has received so far from the Federal Treasury tax dollars, this is Lenora Fulani, the great American who is running for President, $795,000 in tax dollars this year.

There is a story in the Washington Post today that Fulani has filed suit to block the upcoming Presidential debate unless she is included. She is not only getting taxpayer's money but obviously she is prepared to argue that she should be included Sunday night in the Bush-Dukakis debate.

Good luck, Lenora; our taxes are going into your campaign, so we may as well hear what we are paying for.

Mr. President, I ask unanimous consent that the Brooks Jackson article in the Wall Street Journal this morning be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 22, 1988]

SEND MOST PACs PACKING

(By Brooks Jackson)

"The PACs," Rep. Guy Vander Jagt announced, "are *whores!*".

Rep. Vander Jagt of Michigan, head of the National Republican Congressional Committee, was finding that business-sponsored political action committees aren't the friends he once hoped they would be. Indeed, in their present form they are a blight that the GOP—and the nation—would be better off without.

What is now dawning on Mr. Vander Jagt and many other Republicans is that PACs short-circuit the electoral process. Because they give overwhelmingly to the incumbents they hope to influence, their money piles up in the war chests of sitting lawmakers, discouraging many promising challengers and helping to crush most of the brave or foolhardy few who still run. Like free mail and large staffs, PAC money has become a perquisite of office.

SHORT-TERM PROFITS

For the GOP, business PACs are a Frankenstein's monster. In the mid-1970s, Rep. Vander Jagt spoke to hundreds of corporate boards and business groups urging them to establish PACs, to compete with labor. The conservative Michigan Republican sometimes went so far as to suggest that a company without a PAC was un-American.

Business PACs sprang up by the hundreds. Republicans hoped and Democrats feared that their money would flow to GOP challengers. But their masters were more interested in short-term, after-tax profits than in any vision of Republican realignment. Ever since the GOP setbacks in the recession-plagued 1982 elections, business PACs have been giving more and more to Democrats.

Democrats got 63% of the $87.4 million that all PACs gave to House candidates during the 1986 election, including nearly all the labor money, 52% of the trade-association funds and an astonishing 48% of the corporate PAC money. Less than 3% of the corporate PAC funds in House races went to Republicans challenging incumbent Democrats.

Republicans fared better in the Senate races than they did in the House races, but only because their incumbents outnumbered the Democratic senators who were running by 2-to-1. Several Democratic senatorial challengers were also incumbent House members, however, able to claim $8 million in PAC funds. Overall, Democrats got 45% of the $45.3 million in PAC funds to Senate candidates, including 40% of the trade-association money and 25% of the corporate funds.

Republicans are faring worse this year. During the first 18 months of the current two-year election cycle, PAC donations to Democratic House and Senate candidates, at $52 million, were 44% higher than in the like period in 1985–86. But PAC giving to Republican congressional candidates declined nearly 7% from the earlier period, to $28 million.

The problem with PACs transcends party lines, however. They hurt everyone. To start, there is the economic waste: Moneyed lobbies are too often able to induce self-serving distortions in federal taxation, regulation and subsidies. And now PAC money has become such a dominant factor that it is disenfranchising citizens by transferring political power from voters to donors. Increasingly, elections are being settled before voters get a chance to cast a ballot. Selection occurs first on the K Street corridor in the capital, where lobbyists and PAC managers decide who will have the funds required to run for office, particularly for the House.

In 1986 House incumbents got 44% of their re-election funds from PACs, and additional sums from individual lobbyists and businessmen outside their districts. They outspent their challengers by $150 million to $49 million, and 98% won.

Too little money is getting to challengers, who are the essential instruments for holding government accountable. That may be one reason for the continuing decline in voter turnout: In 1986 only 33% of those of voting age participated in House elections. Why bother to vote when the outcome is certain?

Congress should outlaw PAC donations, on the same constitutional basis that it banned corporate political donations in 1907 and labor union gifts in 1943. Most PACs would then fade away; the majority are just bank accounts for Washington lobbyists who are weary of lawmakers' incessant demands for money.

The largest PACs, which function almost as narrow political parties, would remain and seek ways around a ban. But the most obvious avenue for evasion—getting PAC members to write checks directly to favored candidates—would all but disappear if Congress also decreed that candidates could accept funds only from individuals in their home states.

Banning out-of-state money is a fundamental and easily enforceable reform that ought to be undertaken regardless of what is done about PACs. Donors become a second constituency, with interests often alien to those of the voters. Texas developers, Wall Street tax-shelter syndicators and Washington lobbyists pour money into the campaign accounts of incumbents from all over, influencing the choices available to voters back home.

Some PACs would still mount independent political campaigns to support favored candidates. As a matter of free speech, Congress can't constitutionally prohibit such spending. But while lawmakers live in fear of becoming a target, the evidence so far shows that these campaigns are miserably ineffective, and often backfire. They would be even less potent if Congress required the special-interest sponsors to identify themselves more clearly with big, bold disclaimers.

Some PAC activities are constructive and should be encouraged: grass-roots action, registering and turning out voters, and promoting wide discussion of issues. For those PACs truly interested in encouraging political involvement, there is plenty to do besides giving money to incumbents. Indeed, such reformed PACs would look somewhat like the tax-exempt political organizations—from the religious right to the anti-nuclear left—that currently engage in voter registration and thinly disgusted electioneering.

Such spending necessarily encourages wider electoral participation and encourages discussion of issues. Unfortunately, under current law, tax-exempt political groups can keep the identities of their donors secret, even when raising millions explicitly aimed at electing friends and defeating political enemies. Reform legislation ought to require that tax-exempt groups engaging in voter registration or other election-related activities file the same thorough and timely disclosures now demanded of PACs, parties and candidates.

DEREGULATE PARTIES

Outlawing PAC gifts is only part of what is needed. Running for office in an age of television and computers costs lots of money, and candidates have to get it somewhere. Arbitrary spending limits won't work; that pseudo-reform can't be enforced and, even if it could, would only give more protection to incumbents. The answer is to let candidates get more of their funds from their own parties. Parties should be deregulated. Currently, the law limits the amount of aid a party may give to its own nominee, a provision that serves no good-government purpose whatsoever. But at the same time, parties must be granted new sources of revenue, perhaps public funding or a payroll checkoff system for voluntary donations, or both.

Accomplishing real reforms won't be easy. Banning PAC donations in favor of deregulated, publicly subsidized parties raises a host of knotty questions, not the least of which is how to treat minor parties without encouraging a new rash of LaRouche-style nuttiness at the taxpayer's expense. But now that Republicans are becoming disenchanted with PACs, perhaps bipartisan discussions about such serious reform plans can at last begin.

Mr. McCONNELL. I yield the floor.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

MINIMUM WAGE RESTORATION ACT

The Senate continued with consideration of the bill.

Mr. DODD. Mr. President, I rise in strong support of the Minimum Wage Restoration Act of 1988. During the last 8 years we have watched the income gap between the wealthy and the poor widen. While our Nation has experienced one of the longest periods of economic growth in its history, Americans working at the minimum wage have watched the earning power of their wages decrease. Because the cost of virtually every product and service in our economy has risen while the minimum wage has remained static, the $3.35 an hour minimum wage now amounts to $2.56 in 1981 dollars.

Thus, while the cost of living has increased, the quality of life for minimum-wage workers has decreased. It is time to raise the wage for the millions of Americans working 40-hour weeks and still living under the poverty line. It is time to raise the wage for the single women struggling to afford food, shelter, and clothing for their children. And, it is time to raise the wage for the students struggling to save money to pay for the increasing costs of college tuitions. These workers deserve a livable wage.

Those opposing a wage increase argue that an increase in the minimum wage would result in a higher unemployment. However, as my colleague from Massachusetts, Senator KENNEDY, pointed out, past increases in the wage did not directly result in increased unemployment. The number of employed Americans actually increased from 1977 to 1981 when the last minimum wage increases were implemented. There is simply no factual basis for singling out an increase in the minimum wage as the cause of economic decline.

I would also like to point out that those opposing the wage increase also argue that it would harm small business. What they fail to point out is that the bill before us also raises the small business threshold from a current level of $362,500 to $500,000.

Finally, the opponents of the wage increase argue that the increase will result in fewer jobs for teenagers. However, many of the jobs traditionally held by teenagers are vacant today. The job market is already feeling the crunch of a shrinking pool of teenagers in the 15-19-age bracket. According to Census Bureau statistics, there were 1 million fewer teenagers in 1986 than in 1980. In the next 10 years the number of teenagers age 15-19 will drop another 1.5 million. The shrinking pool will make it more possible for those teenagers, in need of work to help support their family or save for college, to find employment. Many of them deserve and need the wage increase as much as working adults. However, I still feel strongly that these youth, first and foremost, should be encouraged to remain in school at least through the 12th grade.

A vote for the wage increase is a vote for many millions of forgotten American workers who help to make this Nation competitive. These workers are often not heard in Washington, but they are equally deserving of our attention and support. The millions of workers employed at or slightly above the current minimum wage deserve a livable wage. They deserve a cost-of-living increase.

Today, a full-time worker earning the minimum wage makes less than $7,000 per year. That is below the poverty line for a family of two, 77 percent of the poverty line for a family of three, and 60 percent of the poverty level for a family of four. I cannot justify paying fellow Americans, working 40-hour weeks with at least one dependent, a wage that keeps them below the poverty line.

The low minimum wage effectively serves as a Government subsidy to employers. Federal Health and Food Stamp programs are often needed to supplement subpoverty level wages. By increasing the wage, we are, in effect, helping more workers become self-sufficient. In some States, the value of the low wage is worth less than the Federal and State assistance. Even the best welfare-to-work efforts are doomed to fail if recipients will earn less working than they could collect on welfare. An increase in the wage could only help induce welfare recipients to seek employment.

Seven years have passed since the last minimum-wage increase and, as I pointed out earlier, the value of the wage has decreased. If my colleagues intend to oppose a wage increase in 1988, I would like to know when they would support a wage increase. Would they continue to hold the minimum wage at $3.35 until 1990 or 1992? Would they continue to hold the minimum wage at $3.35 until a single wage earner working 40 hours a week fell below the poverty line? When would they draw the line?

Now, the opponents of the bill are not only opposing the minimum-wage increase, they are standing in the way of a vote on final passage. I hope my colleagues can come to a decision tomorrow to support the motion for cloture so that we can get to the substance of this legislation, let the amendments be offered and voted on, so the American people would know where this Congress stands on this most important issue of a decent, fair, livable wage for millions of Americans.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I rise to address the legislation before this body. I would discuss what sort of workers earn the minimum wage.

The first point I would like to make is that most minimum-wage workers do not live in poverty.

According to a 1986 Congressional Budget Office report, "most minimum wage workers are not poor and * * * few poor minimum wage workers are employed on full-time schedules or are employed year-round." The fact is, about two-thirds of minimum-wage workers come from families with incomes at least 50 percent above the poverty line and one-fifth have family incomes of $50,000. Only 19 percent come from families below the poverty line.

It is important to realize that a minimum-wage increase will make a difference to a fairly small number of our working poor. In fact, most of the recipients of gains from an increase minimum wage largely would be from middle-income families, not the working poor.

Another point I would like to make is that the typical minimum-wage worker is not a head of household supporting a family. In fact, 93 percent of minimum-wage workers do not maintain families, and 70 percent of these workers are in families in which at least one other member of the family has another occupation.

About two-thirds of minimum-wage jobs are held by young, 24 and under, and single workers and one-third are teenagers. More than 92 percent of the 30 million minimum-wage workers are part-year or part-time workers, many with second jobs, and one-third of all minimum-wage jobs are in restaurants. The typical minimum-wage worker is a teenager from a nonpoor family working as a waiter or waitress.

Moreover, most minimum-wage workers' jobs are temporary and entry-level. Some jobs permanently pay the minimum wage but they have high turnover. Other jobs may start at the minimum, but companies quickly give raises to employees they want to keep.

I would also like to point out that the number of people working at the minimum wage has diminished significantly. In 1981, 15 percent of the hourly paid work force was working at or below the minimum wage. In 1987, only 7.9 percent of hourly workers were making at or below the minimum wage. It seems that the market has been moving people above the minimum wage as they gain skills and experience.

I would like to stop here a moment to discuss some of my concerns about raising the minimum too high.

First, I fear that too rapid and high an increase may result in job loss. While economists are known for their inability to agree on anything, 90 percent of the economists nationwide agree that a minimum wage increase creates more unemployment among young and unskilled workers.

Mr. President, it is likely that too abrupt and sharp an increase in the minimum wage will cost some of our least skilled workers their jobs. It's a matter of basic economics in our free market system. In the private sector, businesses hire workers only when they expect that the goods or services produced by those workers will be worth more than the added payroll costs. If a new law increases a jobseeker's price above his value, he simply will not be hired. Typically, the losers include young workers who have too little experience to be worth the new minimum and marginal workers who, for whatever reason, cannot produce very much. We must be careful to minimize the impact of an increase in the minimum wage on these workers. I simply cannot emphasize the need for moderation and prudence enough.

Let me say, too, that the sharper the increase in the minimum wage, the harder it will be for business to absorb their high-labor costs, or to pass them on to consumers. Only a small portion of increased labor costs inservice industries are absorbed by consumers in the form of higher prices, and consumer resistance to price hikes has traditionally forced employers to reduce services and inevitably cut back the number of employees needed to fulfill customer needs. Witness the declining number of retail clerks and gas station attendants resulting from this shift to self-service.

Raising the minimum wage too quickly and too high may also affect our competitiveness. It may make it difficult for companies—especially low-wage manufacturers—to compete in the increasingly borderless economy. If we are truly serious about this Nation's competitiveness we must take a more moderate approach.

Mr. President, I would like to commend my good friend, the distinguished Senator from Minnesota, for suggesting an idea that will do more for the working poor than the bill before us.

The Senator from Minnesota has lucidly explained his proposal. Simply stated, his proposal is to expand the earned income tax credit and to raise the minimum wage moderately.

The outcome of this two-fold approach would be to target efficiently relief to the working poor and their children, while enhancing the incomes of many minimum wage workers. It would spread the burden of this relief among all taxpayers while minimizing the effects on businesses which employ minimum wage workers as well the workers who are priced out of the job market and lost their jobs when the minimum wage is raised too high.

In listening to this debate and reading many of the articles that have appeared about the effects of the minimum wage on jobs and wage income, I have become convinced that too great an increase in the current minimum wage will cost jobs. I am also fearful that many of those who will inevitably lose their jobs will be the very low-income workers we are seeking to help. It only stands to reason that the higher the minimum wage is raised, the more jobs will be lost, and the more low-income workers we will harm.

As I've said already, by raising the minimum wage as dramatically as this bill would, we will greatly shake up the job market and to do so strikes me as especially imprudent in light of the fact that so few minimum wage workers live in poverty. The fact is that, although 90 percent of the work force is subject to the minimum wage, relatively few minimum wage workers are actually living in or near poverty. Only 18.5 percent of the minimum wage workers live in families who are below the poverty line—this is about 1 percent of the total work force. Another 11.6 percent have incomes within 100 to 150 percent of the poverty line, and the rest have incomes above 150 percent of this level.

This means that the beneficiaries of an increase in the minimum wage are likely to be members of families that are above the poverty line—yet this is not our goal. Instead, our stated purpose is to help those who are in need. A simple, large increase in the minimum wage, such as that included in the bill before us, is probably the least efficient, most distorting manner of accomplishing our goal.

An expansion of the earned income tax credit, however, would have a definite and immediate positive impact. Enacted in 1975, the earned income credit is intended to provide tax relief to low-income working individuals with children and to enhance incentives to work. This credit has been effective to date, and expanding the credit would make it still more useful, especially if it were structured to reflect the number of children in a qualifying household. It would also provide still greater incentive for low-income parents to work instead of to rely on welfare. By encouraging them to work we will be giving them the opportunity to learn basic job skills which could lead them to higher paying jobs, while ensuring important marginal economic stability for their children. These two effects would benefit low-income single mothers especially—a group which is particularly vulnerable to economic difficulties.

Some may argue that the expansion of the credit enacted in the Tax Reform Act of 1986 was sufficient, but this step served a much narrower focus. The 1986 changes were made to offset past inflation and increases in the Social Security tax, as well as to anticipate future inflation. It did not substantially expand the credit, unfortunately.

The Boschwitz proposal would also spread the cost of providing this well-targeted relief among all Americans by using the Tax Code. This is appropriate because it is our duty, as individuals and Americans, to ensure that the low income and needy among us are provided for and are assisted in being self-sufficient. On the other hand, the current minimum wage proposal would place the burden of helping the minimum wage employees who keep their jobs—not just those in poverty—on employers and employees who either lose their jobs or the nonwage benefits that have been part of their compensation.

An increase in the minimum wage to an employer is an increase in his or her labor costs. It would force employers who employ minimum wage employees to adjust their labor costs by reducing the number of employees they employ, or reducing nonwage benefits that some minimum wage employees require, such as flexible working hours or basic job training.

This is, in fact, what happens according to a number of studies that have been conducted recently. One such study, conducted by the Federal Reserve Bank of San Francisco, reveals that the present proposal would raise inflation at least a quarter of a percentage point and would result in the loss of 100,000 to 300,000 jobs. Another study, published in the American Economic Review, reveals that after the wage hike in 1967 total minimum wage workers lost $1.28 an hour in total compensation, including nonwage benefits, for every dollar raised by the minimum wage increase. Another study reveals that retail establishments increase work demands in addition to laying off employees so that ultimately fewer workers work more hours to produce the same amount. Finally, a fourth study reveals that quit-rates—the rate at which employees voluntarily leave employment—actually rise in the face of an increase in the minimum wage. This suggests that the workers' total benefits from employment decline in response to minimum wage increases.

The Boschwitz approach would increase the disparable income of many minimum wage earners at a modest cost to employers and employees, while ensuring that the working poor benefit tangibly and immediately from tax relief.

Given that these are not clearly articulated objectives, I can think of no reason, Mr. President, to oppose this proposal.

I hope it will receive serious consideration from the body.

IMPACT ON MINIMUM WAGE INCREASE ON SMALL BUSINESSES

Many people who have no knowledge or experience in business believe that increases in labor costs resulting from an increased minimum wage simply can be passed along to customers in higher prices. But consumer price increases are not always an option.

Companies are restricted largely by domestic and international competitive pressures, especially in a noninflationary environment. Higher wages for U.S. workers would make our goods more expensive, and thus less attractive, in foreign markets. And that means the loss of more jobs to foreign nations, where salaries are significantly lower.

American consumers also are reluctant to accept price increases. In a free market, price is set by the market. In highly competitive businesses such as fast-food restaurants, there is little leeway to pass along higher costs in the form of higher prices. An increased minimum wage would mean a greater emphasis on increasing productivity, which translates into serving more customers with fewer workers.

For some corporations, raising the minimum may be no big deal. They simply will pass on the increased costs, although that is inflationary. But for many small businesses, especially in rural areas and small towns, any major hike in the minimum could mean an end to profits. Small businesses tend to have the least flexibility since they cannot compensate for lower profit margins with greater volume, as large corporations sometimes can do.

The average American business earns an after-tax profit of about 6 percent. Some earn more than that, but because it is an average earning, it means a great many businesses return a profit of less than 6 percent.

Legislation cannot change economic facts. Mr. President, let me emphasize one last concern and that is about new entrants into the work force. These people need their jobs not only for income but also for our future—to build skills and gain experience so they will be able to move up to better jobs. The new entrants in the work force in America today are hired by small businesses. They are hired by small businesses who are operating on the thinnest of margins.

These small business people across this country if faced by an overly generous increase in the minimum wage will have no choice but to lay off workers, and certainly not hire any new entrants to the work force. A moderate increase, on the other hand, may be manageable.

Mr. President, we are not going to stop graduating young men and women from high schools, technical schools, vocational schools, and colleges all over this country. They are going to be graduating and looking for jobs. If they cannot turn to the traditional place, small businesses where the new entrants to the work force attain employment, Mr. President, we are going to have some serious problems.

I would like to urge my colleagues to consider the radical increase in the minimum wage, before they determine this legislation to go out and talk to the small business people in their States, go around to the shopping centers, go into the places where a guy and his wife are working 18 hours a day trying to make a business go, and they have hired their first two employees. Ask them how a huge increase in minimum wage is going to affect them.

I am always touched, as I know our President is, when I see a farm go under. One of the most tragic situations to which viewers across America have been treated by the news media in this country is to see the farmer, and his wife and his family standing there while they watch their worldly goods that many of them for generations have built up and acquired going under the block of the auctioneer.

Let me tell you, my colleagues, that it is just as moving, although not nearly as dramatic, to see that small businessman in that small shopping center putting a "Closed, going out of business" sign on that window as he or she sees their life's investment in that small business going down the drain as well. I believe that our job as their representatives, Mr. President, is to provide them with the best ways of succeeding in business. And one of those ways is not impose a minimum wage on them—which does not allow them to compete in the marketplace effectively. That is why I think it is so important that we rethink this legislation at least in its present form. Some modicum of increase is due, but we must be sure it is not going to hurt those we hope to help.

Mr. WEICKER. Mr. President, I rise today in enthusiastic support of the Minimum Wage Restoration Act of 1988. It has been 7 long years since Congress last raised the minimum wage, and during that time we have seen the purchasing power of $3.35 in 1981 erode to the point that it is only worth $2.60 an hour in today's dollars. This represents a decline of nearly 30 percent over a 7-year period, a dramatic drop by any estimation. What this means, Mr. President, is that a worker employed full time 8 hours a day, 40 hours a week, at minimum wage cannot keep a family of four above the poverty level. Clearly, the time has come to adjust for inflation, adjust for the decline in purchasing power, and ensure that the millions of hard working Americans who labor at minimum wage are not condemned to a life of poverty and deprivation.

This bill introduced by Senator KENNEDY and approved by the Labor and Human Resources Committee provides for a gradual increase in the current minimum wage by 40 cents over each of the next 3 years, with the final increase on January 1, 1991. The bill also provides for an adjustment to the retail or service enterprise test, which would be raised from the current level of $362,500 in annual gross sales to $500,000. By increasing both the minimum wage and service enterprise test, workers in many States will have a better alternative than turning to an already overburdened welfare system.

Opponents of this legislation contend that raising the minimum wage will result in increased unemployment. That is not borne out by experience. Mr. President, since 1981, 10 States have raised their minimum wage above the Federal wage yet in all of these States, with the exception of Alaska during the recession year of 1982, employment has increased, while unemployment has decreased or remained the same. In my own State of Connecticut, for example, the minimum wage was increased to $3.75 an hour in 1987, yet unemployment decreased from 3.8 percent in 1986 to 3.3 percent in 1987. By the way, the Connecticut minimum wage is scheduled to be raised to $4.25 by October 1, 1988.

Clearly, we need to ensure that the working people of this great Nation receive a fair wage and enjoy an improved standard of living. Neither of these objectives can be accomplished at today's minimum wage of $3.35 an hour. Therefore, I urge my colleagues to join me in supporting the Minimum Wage Restoration Act of 1988, and promote the economic self-sufficiency of the Nation's working poor.

MINIMUM WAGE RESTORATION CLOTURE MOTION

Mr. DURENBERGER. Mr. President, the Senate earlier today voted against invoking cloture on legislation that would raise the minimum wage. Although I strongly support raising the minimum wage, I believe it is inappropriate to restrict debate on this bill at this time.

I respectfully disagree with my colleagues on the other side of the aisle who would suggest that a vote against cloture is a vote against increasing the minimum wage. As I previously indicated, I will vote to increase the minimum wage, and I will oppose any efforts to adopt a subminimum wage, albeit now labeled the "training wage."

However, it is inappropriate to cut off debate on the minimum wage at this time. There are several issues and amendments that should be addressed before debate on this bill is restricted. For example, Senator Evans and I will be offering an amendment that would require a study of the Federal Government's pay practices in the context of pay equity between men and women. If we invoke cloture today, we would be precluded from offering that amendment.

Make no mistake, we are going to have sufficient opportunity to cast our votes on raising the minimum wage. Today is not the day to cut off debate on this important issue. I urge my colleagues to move forward on this legislation so that we can send a signal to the American people that this body can be responsive to the economic realities that face our poorest citizens.

THE MINIMUM WAGE BILL

Mr. KARNES. Mr. President, I cannot vote in favor of the minimum wage which the Senate is now considering. If enacted, its impact on employment, on small business, and on the economy, particularly in my home State of Nebraska, will be disastrous.

The bill reported out of the Senate Labor Committee would raise the minimum wage over 3 years from the current level of $3.35 to $4.55, an increase of almost 36 percent. The first increase to $3.75 would take effect in January 1, 1989; the second increase, to $4.15, on January 1, 1990; and the final increase, to $4.55, on January 1, 1991. The bill would also extend coverage to many jobs not currently covered by the law.

If this bill is enacted, there will be many adverse effects on the American economy. By 1991:

It is estimated that there will be a total job loss of over 750,000;

Fifty-six percent of these lost jobs will be jobs for teenagers;

Almost one-third of the total job loss will be in the retail trade sector—department stores, discount stores, groceries, and mom-and-pop retailers—or at total of 233,000 fewer jobs;

Over 81,000 jobs will be lost in the service sector—hotels, restaurants, beauty and barber shops, auto repair, nursing homes, hospitals, doctors' and dentists' offices, and various other professional services;

Total output in the U.S. economy will be reduced by $28 billion; and

Federal spending on unemployment benefits will increase by almost $1 billion.

These estimates came from a recent study by economists McKenzie and Simon of Clemson University. Based upon this same report we can project the losses in jobs for Nebraska by 1990, as follows:

Overall employment loss—5,217.
Fewer jobs for teenage workers—2,720.
Fewer retail jobs—1,585.
Lost service jobs—801.
Fewer low-wage manufacturing jobs—109.
Loss in agriculture and business (construction, real estate, insurance, etc.)—2,732.

These figures may not sound like a lot to many in Washington who are accustomed to loses in the billions, but to Nebraskans and to workers in rural areas, such job losses would be alarming.

Most economists agree that increasing the minimum wage will result in a loss of jobs and job opportunities, especially for young people and low-skilled workers. The Labor Department estimates that for every increase in the minimum wage there is a loss of between 100,000 and 200,000 job opportunities. Thus, a 36-percent increase in the minimum wage, to $4.55 per hour, means a loss of between 360,000 and 720,000 employment opportunities. The Institute for Research in the economics of taxation reports that this minimum wage increase could cost between 300,000 and 750,000 jobs per year.

Precise estimates may differ but the loss of employment is firmly established. The U.S. Chamber of Commerce estimates that some 644,000 jobs were lost as a result of the 1977 amendment to raise the minimum wage and claims that increasing the minimum wage to $4.55 will eliminate almost 750,000 jobs by 1990.

The minimum wage has not been raised since 1981. That in itself is not sufficient cause for mandating new increases. One need only compare the economic climate of today with conditions that existed during the last 4-year period during which the minimum wage increases were phased in—January 1978 through January 1981—to see that this is not the right time to raise the minimum wage.

According to the Labor Department, during the period 1978-81 the rate of inflation increased from 7 percent to 12 percent annually. In contrast, over the past 5 years inflation has remained under 4 percent. The prime interest rate rose from 8 percent to over 20 percent between 1978 and 1981. Since then the prime rate has been brought down to about 8 percent and stabilized.

Unemployment rose from 6.4 percent to 7.5 percent during the last period of the minimum wage increase. The U.S. Chamber of Commerce estimates that some 644,000 jobs were lost as a result of the 1977 amendment raising the minimum wage. This summer the unemployment rate fell to 5.6 percent, the lowest in 14 years.

The poverty rate rose every year during the last 4-year increase in the minimum wage, from 11.4 percent to 14 percent in 1981. However, the poverty rate has declined in each of the past 3 years. Family income declined in 3 of the 4 years during the 1978-1981 period, ending up over $2,100 lower at the end of that period. In contrast, real family income increased almost 11 percent—almost $2,000—in the past 4 years, with the 1986 increase the largest in 14 years.

Overall, economic growth slowed to a crawl when the minimum wage was increased. In contrast, America is currently enjoying the longest peacetime expansion in history. Of course, increases in the minimum wage did not by themselves cause the economic stagflation that plagued this country earlier; but neither did they help those that the increase was supposed to help.

Our focus should be on education, job training and retraining, not on raising the minimum wage. Jobs and skills—not a steep increase in the minimum wage—are the surest way out of poverty. Policies that discourage job creation and reduce hours of work are counterproductive. We should be doing all we can to promote economic growth and job training, not slowing the economy and eliminating job opportunities. Of what value is a higher minimum wage to an unskilled worker or teenager who cannot find a job?

One of the most interesting counterproposals was advanced by Congressman TOM PETRI and others to expand the earned income tax credit. The EITC is a refundable tax credit for low-income wage workers with dependent children. It works like a negative income tax for poor families: if a family's income is below the minimum, the family receives a refund from the Government, even if it has no tax liability. The Petri proposal would increase the EITC from its current maximum of $800 per family to $1,000 for one child, $1,500 for two children, $2,000 for three and $2,500 for four. He also proposes indexing these amounts for inflation and phasing them out for incomes between $8,000 and $18,000 per year. This proposal would target money to families with the greatest need and ensure that the credit will not be eroded by inflation. The ETIC also encourages work rather than welfare since it is available only to job holders. A similar idea has been advanced in the Senate by Senator BOSCHWITZ.

If the proponents of a minimum wage increase are really concerned about the problems of poverty and the working poor, they should be addressing the Petri or Boschwitz proposal, not a proposal which will put the working poor out of jobs and into unemployment lines.

I also favor a training wage or paying young workers, apprentices and trainees, and teenagers a wage lower than the mandated minimum so that they have the opportunity to find work. I cannot underemphasize the importance of enabling young people, especially minority youths, to obtain employment and to enter the work force so that they can learn the meaning of holding down a job, earning a living, and making a contribution to society.

In conclusion I would favor a more reasonable increase in the minimum wage that could be shown to have minimal impact on the economy and jobs, provided that such an increase were coupled with a training wage. This is the position taken by Vice President BUSH, and I consider it a sound one. If we are to raise the minimum wage, we must at least ensure that entry level workers and those most vulnerable to mandated increases are given the opportunity to enter the work force.

SUPPORTING DEMOCRACY AND THE RULE OF LAW IN BURMA

Mr. KENNEDY. Mr. President, after 25 years of military dictatorship, the people of Burma have finally risen up to shake off the chains of their oppression. In a demonstration of "people power" that the world has not seen since Ferdinand Marcos was swept from power in the Philippines, the people of Burma have taken to the streets. Their cause is just, and their struggle to bring democracy and the rule of law back to Burma deserves the support of all men and women who care about freedom. All America is with them.

It is a turning point in the history of this old and proud people. And at this moment of truth for all Burma, there should be no doubt in the minds of the Burmese people where the American people stand. We are with them as they struggle and sacrifice to be free.

American influence inside Burma is clearly limited. But what influence we have should be used to the utmost to support the valiant efforts of the Burmese people. This administration should waste no time in conveying this message to those who seek to thwart the restoration of democracy inside Burma. But strong words—in private as well as in public—should be just the beginning.

To put teeth in the policy, this administration should also take concrete steps to mobilize other governments in the region—Thailand, Malaysia, Singapore, Indonesia, India, and China as well as South Korea and Japan—to join with us in a common course of action, using whatever diplomatic, economic, and political influence is at our disposal, to support the forces for democracy inside Burma. Strong words are of course necessary but today they are not sufficient. Strong action is now needed.

Yesterday and today, the world learned that a bloody repression is underway inside Burma. The Burmese military has finally stepped in and removed any lingering doubts about who really runs Burma. Hundreds of peaceful people, many of them students, have been shot down in the streets of Rangoon. It is likely that thousands more have been killed in other parts of the country. There is one more thing to be said about this carnage: The people being killed are unarmed, they are young, they are non-violent. Their only crime is that they love freedom so much that they are willing to risk their lives, to give their lives to advance the cause. We, as Americans, can only shake our heads in admiration for the courage of the Burmese people and in respect for their willingness to sacrifice.

In truth, there is no civilian government in Burma today, and there has been none for 25 years. The generals have called the shots for 25 years, and they are calling the murderous shots today that are killing so many of their fellow citizens in the streets. Other than the opposition parties that have finally joined together in a desparate effort to bring democracy to Burma, there are no meaningful democratic institutions inside Burma today. The only institution with any real power is the military.

Let the people of Burma know that all America is with them in their struggle. We say to you: "There are no differences between Democrats and Republicans on this issue. We are all together here in support of your just cause there."

We are now in the final months of this administration's life. Typically, it is a time for caution and care in the conduct of our foreign policy. Ordinarily, that is the traditional and appropriate way for a lameduck President to carry out foreign policy in the final months of his administration. But the Burmese people cannot wait. They are in the streets today. They are dying today. They have put their lives on the line, and their pleas must not be allowed to fall on deaf or uncaring ears.

As a country, we must be stronger, we must be bolder, we must be more visible in our support for the cause of Burmese democracy.

Mr. President, I ask unanimous consent that the most recent news reports of the violence inside Burma be included at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 21, 1988]

TOLL MOUNTS IN BURMESE CRACKDOWN—FIGHTING SAID TO BE FIERCE IN MANDALAY

(By Keith B. Richburg)

BANGKOK, Sept. 21—Burma's new military rulers continued wresting control of the streets from armed prodemocracy protesters today, conducting house-to-house searches for weapons in the capital city of Rangoon and waging a fierce battle to retake the former royal capital of Mandalay from students and Buddhist monks.

Burma's state radio said 52 persons were killed in Rangoon, putting the official toll there at 170 since Sunday's coup. Another 60 were killed in violence around the country today, according to a government estimate.

Meanwhile, armed forces Chief of Staff Gen. Saw Maung consolidated power by taking over the position of prime minister. State-run radio Rangoon said Saw Maung, who was already both foreign minister and defense minister, was elected prime minister by the other eight members of Burma's new military-dominated junta.

Saw Maung is the third leader in two months, following the July resignation of strongman Ne Win—who is widely believed to be controlling decisions from behind the scene.

The government also extended until Oct. 3 its deadline for striking workers to return to their jobs. But opposition leaders, in a statement, vowed that no one would return to work until military rule gave way to an interim administration. Some diplomatic analysts said the new deadline and the opposition response have set the stage for another potentially violent confrontation next month.

One opposition leader, Anug San Suu Kyi, said the protesters "are not prepared to give in, because their resentment and bitterness has reached such proportions."

Scattered gunfire was heard throughout Rangoon today, and at one point government troops used rifles and mortars against pockets of resistance in the city center. One western diplomat in the capital said that using the mortars "is like using a steamroller to kill ants."

The mortars apparently were used following an overnight incident in which protesters riding in a pickup truck and firing grenade launchers attacked troop positions at city hall, which has been turned into a military garrison, and at a nearby government ministry.

The government's new spokesman, Kyaw San, said 15 soldiers were wounded in the southern city of Murgui when a dissident threw a grenade at their unit.

For the most part, Rangoon was reported quite today after the military forcefully suppressed the prodemocracy movement. There were no antigovernment rallies for the second straight day, in contrast to the last three weeks that saw hundreds of thousands of people filling the streets daily, demanding political and economic liberalization.

Rangoon took on more the look of a city under military occupation, according to foreign and Burmese journalists and western diplomats. At military roadblocks, the few cars still on the streets were being stopped, and people were being frisked.

"They seem to have subdued the protesters pretty much," said one western diplomat in Rangoon.

Diplomatic analysts foresaw diehard students going underground as a new guerrilla force in a country that is already battling a communist insurgency and a myriad of regionally based ethnic insurgent movements.

Burma's Communist Party issued a statement condemning last Sunday's coup as "blatant and brutal suppression," and it urged the antigovernment forces to join the communists in forming a new "patriotic army."

Fierce fighting was reported in Mandalay, 375 miles north of Rangoon, but few details were available. Troops were said to be trying to retake control of the historic city from the Buddhist monks and students who had been running it, and "pitched battles" were reported. "Numerous shootings have been reported," said one western diplomat, "but the people appear to have gained the upper hand. The Army is having a difficult time in many areas of the city."

In another development, U.S. Ambassador Burton Levin met with members of the ruling junta, but he was unable to see Saw Maung. According to diplomats, Levin went to the junta to express America's concern over recent events.

The U.S. Embassy is said to be making plans to evacuate more members of its staff on the first available flight from Burma, but the airport remained closed today.

[From the Washington Post, Sept. 20, 1988]

BURMA NAMES NEW CABINET—ARMY TIGHTENS RULE; DEATH TOLL RISES

(By Keith B. Richburg)

BANGKOK, Sept. 22—Burma's new hardline military rulers, moving to consolidate their grip on power after last weekend's coup, today named a new nine-member, military-dominated Cabinet to run the strife-torn country, according to western diplomats and the state-run radio.

Troops continued to fight running street battles with pockets of protesters opposed to the new regime, the same sources said.

In an interview with Washington Post special correspondent Philip G. Smucker, opposition leader Aung San Suu Kyi said, "There is hope for a settlement, but quite frankly things should be settled across the negotiating table. The more people they slaughter, the less likely it is that we can reach an agreement."

Three opposition leaders called for talks with the coup leader, armed forces chief of staff Saw Maung, in an effort to end the violence that yesterday claimed more than 400 lives, by most estimates. Similarly, government radio reported an appeal by senior Buddhist monks for the new regime and the opposition leaders "to show a sense of patriotism and meet face-to-face for talks."

One outspoken student leader, Min Ko Naing, who heads the All Burma Student Union, rejected the proposed dialogue and called instead for further violent action. "We have stopped using our mouth to protest," he said in a statement.

By the official count on state-run Radio Rangoon tonight, troops killed more than 60 protesters, identified in the broadcast as looters and "destructive elements," in a dozen separate incidents in Rangoon and elsewhere.

The protesters also appear to have obtained better arms, with one official radio report claiming that demonstrators fired on a unit of troops with "a weapon believed to be a grenade lanucher" from a rooftop in central Rangoon.

Other reports from official radio—which in the past has under-estimated civilian casualty figures—said 14 people were shot to death at Tamwe Circle at about noon when they used slingshots and crude homemade arrows to attack a truckload of soldiers. Another 16 people were shot to death inside Thamaing College, where they had gone to steal supplies, the radio said.

The radio, in its late evening broadcast, said three alleged looters were killed trying to break into the Ministry of Mines building, and another 16 were shot to death by troops when they fired on a mob that rampaged at the headquarters of the government-run Pearl and Fisheries Corp. at about 8:30 this morning.

Western displomats in Rangoon have said the death toll from the battles that began Sunday night after the coup is probably more than 400. One diplomat today estimated that at least 20 government soldiers may have died in the attacks, but he said that report could not be independently verified.

Student protesters still appeared to be controlling some streets and neighborhoods in Rangoon, special correspondent Smucker reported. In a dispatch filed from Rangoon to Bangkok, Smucker said that students were guarding the homes of key opposition leaders, and foreigners seeking interviews were being searched for weapons.

Smucker also reported that as the violence continued during the day, "people were spotted being carted away on rickshaws after receiving gunshot wounds."

Despite the continuing sporadic violence, the new government appears for the moment to have succeeded in stopping the prodemocracy demonstrations of the last six weeks that had brought hundreds of thousands of people into the streets.

Today was the first day since early August that there were no major rallies, and morning reports from Rangoon said that many people who had joined the earlier, largely peaceful protests were now staying indoors, fearful of the new level of bloodshed.

The military announced that a new nine-member Cabinet includes eight senior armed forces generals and one civilian, Health Minister Dr. Pe Thien.

Saw Maung will be Burma's minister of defense and foreign minister.

YOUTHS, MONKS FIGHT TROOPS IN BURMA—POST-COUP DEATHS REPORTED IN HUNDREDS

(By Keith Richburg)

BANGKOK, September 19.—Burma erupted into violence today as armed students and Buddhist monks took to the streets of Rangoon in defiance of the hardline military ruler installed after a coup yesterday. Troops responded by firing into crowds from rooftops and bridges, reportedly killing hundreds of people.

The violence, which some analysts said appeared to border on civil war, was spreading throughout the country tonight, with battles in the second largest city, Mandalay, and in smaller cities and towns, according to western diplomats, Burmese and foreign witnesses and the government's radio announcement.

State-run Radio Rangoon, monitored in this Thai capital, reported tonight that by incomplete, official count, 54 people were shot dead by troops today. Independent estimates from witnesses and foreign diplomats put the death toll as high as 400 in the capital alone.

Demonstrators were pressing their six-month campaign for democratic rule, while troops sought to enforce a ban on public gatherings issued just after yesterday's coup by Gen. Saw Maung.

Diplomats and other analysts voiced skepticism that Saw Maung acted on his own in staging the coup, saying it probably was orchestrated by longtime Burmese strongman Ne Win, who nominally resigned in July after 26 years in power. One analyst said Saw Maung visited Ne Win at his home in Rangoon yesterday, just hours before announcing his takeover.

Burma's opposition leaders, meanwhile, reacted with shock and anger to the takeover. In a joint statement, the leading opposition figures denounced the new regime for disrupting negotiations aimed at forming an interim government acceptable to all sides. "We firmly believe that we will have to utilize all methods in the fight for democracy," said the opposition leaders, former defense minister Tin Oo, Gen. Aung Gyi and Aung San Suu Kyi, the daughter of a revered independence leader.

In a separate interview later with reporters, Aung San Suu Kyi said the antigovernment forces would refuse to participate in any election organized by the new rule.

[As a show of U.S. displeasure with the military crackdown, the White House announced that aid programs are being reviewed "in the light of developments over the last 48 hours." The possible suspension of the aid, about $12 million this year, is of mostly symbolic importance, officials said. The spokesmen also called on demonstrators to refrain from provocative actions.]

According to eyewitness accounts and a lengthy official report on Radio Rangoon troops opened fire on crowds of students and monks with automatic weapons and recoilless rifles, and in some areas of the city the students were battling back with slingshots, crude arrow weapons called *jinglees* and seized from ransacked police stations.

The evening radio broadcast said 11 protesters were shot dead in front of a government ministry building after they attacked an Army unit with slingshots and arrows, injuring one soldier. The official radio report said 20 others were shot dead near the sacred Sule Pagoda in the center of Rangoon. Ten were killed when troops opened fire to break up a protest march, the radio said. Marches and demonstrations were declared illegal after yesterday's military takeover.

"Security forces had to open fire to restore control in many places in Rangoon," the broadcast said. "Many arms and ammunition were looted from police stations by people and robed persons," meaning Buddhist monks who, along with the students, have been at the forefront of the antigovernment activity.

In the past, official radio reports have vastly underestimated the casualties of Burmese violence.

Rangoon General Hospital, the city's main medical facility, received 65 shooting victims, according to Washington Post special correspondent Philip G. Smucker, who filed a dispatch from Rangoon shortly before midnight.

Other witnesses reported seeing military trucks carting away bodies of the dead near the sacred Sule Pagoda and from various other sections of the city, while residents dragged some dead and wounded into their homes. Unconfirmed reports said some soldiers had been killed.

Street battles, which continued into the night, were described as considerably more widespread and more violent than those in mid-August that left 1,000 dead, by most estimates, and forced hard-line president Sein Lwin from office after just 18 days.

"The fighting now is much more intense than in August because the people are fighting back," said analyst and writer Bertil Lintner, who was in close contact with Rangoon today. He said the student protesters had sacked police stations for weapons and in one instance even seized a government armored personnel carrier but burned it when they could not figure out how to operate it.

Radio Rangoon reported that mobs raided police stations in Latha, Kamayut and Yankin, taking away double-barreled shotguns, revolvers and ammunition.

Smucker reported that after nightfall, a fierce gunbattle could be heard across the river from the once opulent, now largely deserted Strand Hotel in the downtown area. A police station apparently was under siege by monks and students, Smucker said.

Saw Maung, Burma's new military leader, appeared to be relying on the Army's 22nd Light Infantry Division to enforce his current crackdown. That division of up to 6,000 troops consists of at least 40 percent ethnic Chins, many of whom do not even speak fluent Burmese. The military apparently believes the Chins would be more willing to open fire on the protesters, who are mainly ethnic Burmese.

The division also was used to suppress a similar student uprising in 1974. This time, the first contingent from that division was brought into Rangoon in March, after the first student-led demonstrations for democracy.

By August, the entire division had been shifted to the capital, according to analysts here in Bangkok. The government used the division in its unsuccessful attempt to crush the uprising in August—before deciding to switch to the more conciliatory line that brought civilian Maung to the presidency. He was deposed in yesterday's coup.

Saw Maung, meanwhile, tried to assert the military's control over the chaotic political situation that has already crippled Burma's economy and largely paralyzed the country. Troops using cranes and forklifts worked throughout the day removing the makeshift barriers that had been hastily erected throughout the capital, while other soldiers tried to break up strikes.

Antigovernment newspapers that had sprung up during the last few weeks of protests did not appear.

Saw Maung issued an order revoking the law that made the Burma Socialist Program Party the country's only political organization—effectively ending the one-party system legalized in 1974.

This morning, Saw Maung met with top-ranking administrators and directors of state industries, telling them "the deteriorated administrative machinery must be rebuilt today," according to a report of the meeting on official radio.

Saw Maung repeated his pledge, made after his takeover, to hold democratic, multi-party elections. But once again he refused to give a timetable, saying elections would be held "when there is peace and tranquility."

"Please believe it is not for lust or desire for power that it was seized," he said. "The reason that power was seized . . . is because of the prevailing circumstances in the country, about which you already know. Seizing power was unavoidable because if the country's prevailing circumstances are ignored, an even worse situation will arise."

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59 Killed in Burma Clashes, Radio Says

(By Seth Mydans)

Bangkok, Thailand, September 20.—Two days after seizing power, the Burmese armed forces named a military administration today and continued to battle demonstrators for control of the streets in Rangoon, the capital of Burma.

Reports of killings continued in sporadic clashes that included an ambush of a military truck described by Government radio and the gunning down of a group of schoolgirls described by a Western diplomat.

The radio said 59 people were killed today in five incidents around Rangoon, mostly involving large groups of looters.

In addition to shooting in four incidents of large-scale looting, the Government radio reported that 14 people were killed when protesters ambushed a military truck on patrol at noon.

4 KILLED IN MANDALAY

It also said that four people were killed in the second-largest city, Mandalay, when civilians attacked soldiers with swords and jinglees, sharpened bicycle spokes fired from slingshots.

Diplomats and other witnesses described a number of other incidents and said the unconfirmed death toll was in the hundreds. Official and unofficial accounts today described angry protesters attacking police stations and seizing guns for pitched battles against the soldiers.

Visitors to Rangoon General Hospital found 30 bodies, including that of a boy who had been shot between the eyes. They said doctors told them many more casualties had been trucked away by soldiers.

In what appeared to be an attempt to restart the workings of Government, the military leadership, headed by Gen. Saw Maung, named a nine-member administration including eight generals and one civilian, who will be Minister of Health.

RETAINS PORTFOLIOS

General Saw Maung retained his defense portfolio as well as that of foreign affairs. No President or Prime Minister was named.

When he seized power Sunday, General Saw Maung, who is also the Army chief, abolished Government departments, most of which had already been crippled by protest strikes.

In announcing the new military administration, Rangoon radio also said the commanders of the nine military regions would administer government in their areas and that towns would be run by their local commanders.

Prominent opposition figures and student leaders have rejected General Saw Maung's new Government and declared that they would not participate in general elections.

REQUEST FOR A MEETING

A spokesman said three leading opposition figures, U Tin Oo, U Ang Gyi and Aung San Suu Kyi, had asked to meet with General Saw Maung but had not yet received a reply.

The leader of the influential All Burma Student Union, Min Ko Naing, took a more militant stance in a statement announcing an "alert for the last-ditch fight throughout the country."

"We have stopped using our mouths to protest and warn the group that calls itself the government to seek their last meal," he said in a statement given to diplomats. "There is no honor greater than the willingness to sacrifice for the freedom of the motherland."

The streets of downtown Rangoon were described as mostly empty, without the anti-Govenment demonstrations that have continued, increasingly boldly for the last six weeks.

SCHOOLGIRLS FIRED ON

A Western diplomat said he had confirmed reports that during a clash Monday in the western suburb of Kemmindine, soldiers opened fire on a group of demonstrating schoolgirls.

"They were shot by troops, a whole group, maybe 13 or 14 years old," the diplomat said. "They were shot at, a number died and a number were wounded."

According to diplomats, the Burma Red Cross reported that soldiers had fired on an ambulance trying to recover the wounded near the downtown Sule Pagoda.

In Mandalay, the radio said today, 53 people including 3 monks had been arrested as soldiers closed down a "strike center" at the Mandalay Institute of Technology.

Burma's Army, Despite Foe, Appears to Control Capital

(By Seth Mydans)

Bangkok, Thailand, September 21.—The Burmese Army appeared today to be consolidating its control over the capital, Rangoon, but opposition leaders remained defiant and diplomats said militant students might be preparing for guerrilla warfare.

Gen. Saw Maung, the leader of Sunday's military takeover, was named Prime Minister by his own nine-member Cabinet, the Burmese radio announced. He is the third man to head the embattled Burmese Government in two months.

Diplomats say they believe that General Saw Maung—like his two predecessors, U Sein Lwin and U Maung Maung—is acting on the orders of U Ne Win, who led the country for 26 years until he resigned his as party chief on July 23.

The diplomats, reached by telephone, said sporadic shooting could be heard throughout the city today, though the violence that they said had killed hundreds since Sunday had subsided.

FIGHTING REPORTED IN MANDALAY

They said they had heard unconfirmed reports of heavy fighting in Mandalay, the country's second largest city, which has in effect been under the control of students and Buddhist monks for weeks.

A military spokesman, Kyaw San, said soldiers had killed 67 people, wounded 37 and arrested 100 on Tuesday and today "in the course of the Government's law and order restoration work." The Rangoon radio reported Tuesday that 59 people had been killed that day alone.

The figure brought the Government's count of deaths to at least 144, since Sunday, according to U Sein Win, the fomer editor of The Guardian, a Burmese newspaper, who now reports for The Associated Press. Reuters quoted a Burmese radio report listing 170 killed since the weekend.

Western journalists have generally been barred from entering Burma, and accurate casualty counts are impossible to obtain in the confused and dangerous situation. Diplomats say the Government's count have consistently been unrealistically low.

PROTESTS FROM THE WEST

Reuters reported that the United States Ambassador, Buron Levin, called for the Burmese party leadership to condemn army killings of unarmed civilians, including women and children. It also said the Ambassadors of France, Britain, Italy, the Netherlands and West Germany had delivered a note to the Foreign Ministry in Rangoon that said, "We must protest in the strongest terms at the renewed killing of unarmed demonstrators in defiance of respect for human rights."

The military takeover appeared for the moment to have succeeded in halting the anti-Government demonstrations and in subduing much of the civilian resistance.

Gunfire was reported at the campus of Rangoon University, but travel in the city remained dangerous and the reports could not be confirmed.

The Thai authorities reported that hundreds of Burmese students had crossed into Thailand at border towns, saying the military was rounding up students.

OPPOSITION FIGURES AT HOMES

But leading opposition figures remained at their homes, guarded by cordons of militant students. They issued statements saying they rejected the new military administration.

They said that they would not take part in elections administered by the current Government and that although street demonstrations had ceased, strikes would continue.

An aide to one opposition leader, U Tin Co, said he was at home awaiting a response from General Saw Maung to a request to meet him together with the other main opposition figures, Aung San Suu Kyi and Aung Gyi.

The military has moved back to Oct. 3 its deadline for striking workers to return to their jobs. Diplomats said that date had now become the latest in a series of confrontational deadlines set by both sides over the last six weeks.

Block Leaders Organized

New Delhi, September 21.—Burmese students and other protest leaders have organized networks in almost every block of Rangoon to provide food to demonstrators and pass on information about Government movements, travelers arriving here say.

"Every area has a leader who organizes food, there are different leaders for different organizations and they get their supplies from the business people," one of the travelers, Dari Keivom, the wife of the ranking Indian diplomat in Rangoon, said today.

BICENTENNIAL MINUTE

DECEMBER 26, 1976: PHILIP HART DIES

Mr. DOLE. Mr. President, nearly a dozen years ago, on December 26, 1976, the man we called the conscience of the Senate died, at the end of his third term in the Senate. Today, Philip Hart's name is memorialized on the third Senate office building. In his lifetime he was honored for his integrity, his high ethical standards, and his commitment to public service.

Outwardly, Senator Hart was a quiet, unpretentious, and seemingly unaggressive man. His political opponents sometimes mocked him as timid and weak, but they grossly underestimated him. That gentle exterior masked a tough interior. He seemed to thrive on tackling powerful committee chairmen, corporate executives, and special interest lobbies.

No matter whether they agreed with him or not, his colleagues in the Senate had to admit that Phil Hart never shied from a tough question and never ducked a politically unpopular issue; whether it was school busing rights, gun control, or antitrust laws. It was quite characteristic, therefore, that although he represented the largest automobile producing State in the Nation, he battled the auto industry to improve safety measures.

During World War II Phil Hart was wounded on D-Day—in fact, I first met him at the Percy Jones Veterans Hospital in Battle Creek, MI, where we were both recuperating. He had a veteran's love of his country and a belief in supporting his President in time of war.

During the Vietnam war, that put Phil Hart in conflict with members of his own family, as his children were active in the antiwar movement, and his wife, Jane, was arrested at a demonstration at the Pentagon. Hart's own views on the war changed, too, and in later years, when he served on the Church committee, which investigated CIA and FBI activities during the Vietnam war, Senator Hart went home one night to tell his wife: "Well, Janey, your wildest ravings were the truth."

"TURNING THE FSLIC PROBLEM INTO PARTISAN POLITICS IS OUTRAGEOUS"

Mr. GARN. Mr. President, I rise today, reluctantly, to respond to some very partisan charges by the senior Senator from Wisconsin about the problems of the thrift industry. I have had a bellyful of sanctimonious attempts by Members of Congress to lay these problems solely in the lap of the administration—the same Members who held up the administration's efforts to deal with this problem for 18 months. I am also outraged by repeated efforts to get the U.S. taxpayer to pick up the tab before exhausting every other alternative. But what really gets my goat is the posturing going on now, when it is obvious that Congress can do nothing about the situation until next year. It is election year grandstanding, and it is wrong.

As a result, I am compelled to set the record straight about the history of this problem, what the administration and the regulators have sought to do about it, and the sorry performance of Congress throughout.

HISTORY OF THE PROBLEM

First, let me emphasize a fact that critics conveniently forget, over and over again, when they point fingers about FSLIC. The administration proposed a $15 billion recapitalization over 2½ years ago, and everyone acknowledges that if the bill had passed then the size of the FSLIC problem would be much smaller than it is now. That is a fact. It is also a fact that the administration proposal was held up for 18 months—a year and a half—by a Congress unwilling to act. And when Congress did act it provided only two-thirds of the amount the administration requested.

Mr. President, the question is, Why did it take so long, since everyone knew that delay meant much higher costs? The answer is both simple and ugly: politics. The objections on the House side have received some attention from the press, but not enough. For those of you not familiar with this grisly story I refer you to an editorial, which I am submitting for the Record, in yesterday's Wall Street Journal about the role the Speaker of the House played in the FSLIC recap delay.

But that only describes part of the problem, at least in 1986. When the House finally did pass a FSLIC recap bill at the end of that year, they insisted on attaching a controversial housing authorization bill that had no chance of passing the Senate in the short time remaining in that Congress. And they consistently refused to drop that provision even though they had the chance to pass a clean FSLIC bill right up until the last moment that Congress was in session.

But the House was not the only one to blame. After I agreed to back off from a comprehensive banking bill, the Senate Banking Committee passed a clean FSLIC recap bill for the full $15 billion in August 1986. But it was impossible to get that bill by the full Senate until 2 months later, on the very last day of the session, when it was too late to negotiate with the House and the bill died.

What caused that delay? I am afraid that the senior Senator from Wisconsin believed that an entirely separate and controversial issue, closing the nonbank loophole, was more important than passing FSLIC recap. He first threatened to filibuster if that issue was not addressed in the bill, and later insisted that the controversial issue had to be addressed in any floor debate. That was what kept us from getting the floor time we needed for 2 months, which is the sad truth. He did finally agree to pass a clean bill in the closing days of the session, and worked hard to do so, but by that time it was too late. The House refused to take up the bill, even though it also meant that existing emergency authority critical to the regulators would also expire. It was the height of irresponsibility, yet Congress went home without passing the bill.

And when the new Congress came in the next year, FSLIC recap met the same political obstacles. The administration quickly sought to move the same bill, but Congress refused because of efforts to saddle it with the same controversial nonbank bank provisions. Those efforts finally succeeded, but not until 8 months later, and not until Congress agreed to provide only $10 billion of the $15 billion the administration requested—the House of Representatives actually wanted to limit the amount to only $5 billion.

Worse yet, the final bill that emerged tied the hands of the regulators, over my objections, with so-called forbearance" provisions that the House of Representatives insisted upon. That was the ultimate irony: after months of testimony about the FSLIC problems and the overwhelming need for funds to shut down bankrupt thrifts, Congress handed over the money with a clear message—do not shut these thrifts down; use forbearance instead. And now, the House critics who scream loudest now about the FSLIC problem are the same ones who voted for a paltry $5 billion recap and onerous forbearance. That was an outrage then and is an outrage now.

For those seeking more information about this miserable record of delay and irresponsibility, I submit for the RECORD a paper provided by the Department of Treasury in testimony before the Senate Banking Committee entitled "Chronology of FSLIC Recapitalization."

So do not tell me about politics and who is responsible for FSLIC's problems. FSLIC has already suffered enough from the politics of people on this end of Pennsylvania Avenue. And I am disgusted by it.

CURRENT EFFORTS TO RESOLVE THE THRIFT PROBLEMS

Let me now turn to charges leveled at the recent efforts by the Federal Home Loan Bank Board. Six months ago critics argued that the Bank Board was not doing enough to resolve the problems of failed and failing thrifts. Too many insolvent thrifts were open, they claimed, and no one was doing anything about it.

The Bank Board responded by closing thrifts at a record pace. Over 100 thrifts have already been shut down or merged this year, including some of the very largest problem cases, and that record pace is continuing. The cost of deposits, which has been propped up abnormally high by the funding needs of insolvent thrifts, has been dropping. The staff has been beefed up to its highest level in history, and some of the best talent from the banking regulators has been lured to the Bank Board and FSLIC.

Now critics charge that FSLIC is doing too much. One complaint is that not enough capital is coming into the industry. But last month FSLIC announced a single deal that would bring $2½ billion into the industry, which was much larger than the amount of private capital injected into the multibillion-dollar bailout of First Republic Bank.

That prompted critics to change their attack yet again. They argued that too much of the capital is coming from outside the banking and thrift industries. Would these critics prefer the taxpayer to foot the bill? What's wrong with buyers who are ready, willing, and able to step in, and who have always been legally permitted to buy thrifts? This is the banking and commerce phobia all over again, only this time it flies directly in the face of the fact that Congress has repeatedly endorsed the ability of commercial companies to own thrifts. Just last year Congress passed the Competitive Equality Banking Act, which modified the rules governing this issue but completely endorsed the concept. Doesn't anyone realize that some of the strongest thrifts are the ones owned by well-capitalized commercial companies? That the parade of horribles conjured up by such combinations has never materialized? Should Ford Motor be required to divest First Nationwide, a committed home lender? I think the answers to these questions are obvious.

My point is that the Bank Board is taking aggressive steps to solve the problem and that should continue. There is no need to rush off to saddle the taxpayer with the burden. Is the problem enormous? You bet it is. But the FSLIC clearly has the resources to deal with the problem in the near-term, and that is exactly what they should use before we turn to the U.S. Treasury. We will clearly have to monitor the situation closely in the coming months. But pushing the panic button now is unnecessary and irresponsible.

Let me make one final point. With 2 weeks left in the session, it is obvious that Congress will not adopt major legislation on this issue. So why do we need a sensational publicity campaign that will only make it more difficult to find buyers for troubled thrifts? What possible motive can there be?

The answer is the same sorry word that had dogged this issue since it first arose: politics. It is time to forget politics and get on with the business of solving this problem.

I ask unanimous consent that the editorial from the Wall Street Journal and the Department of Treasury paper entitled "Chronology of FSLIC Recapitalization" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 21, 1988]

THE SPEAKER'S WISHES

This Thursday Edwin Gray, until last year head of the Federal Home Loan Bank Board, will give testimony in the House Ethics Committee's investigation of Speaker Jim Wright's intervention on behalf of two ailing Texas thrifts. Mr. Wright's role in this issue surely merits more public attention than it's been getting, insofar as estimates of the cost of financing bailouts of collapsing thrift institutions now approach $50 billion.

As with Mr. Wright's personal appearance last week before the ethics committee. Mr. Gray's testimony will be taken in private. But the ethics committee is serious about this investigation. Mr. Gray has a lurid tale to tell. In recent interviews with us, he has added details to what was previously known about Mr. Wright's interventions, as well as his own opinion of the Speaker's activities.

"I have worked with all kinds of guys in government, going back to 1966," said Mr. Gray, now an S&L executive in Miami. "I've seen people who were honest and straightforward and those who were something else, but I never saw anything like this. The Speaker used his power and influence to bring about behavioral changes in a regulator. It was an abuse of power and improper."

Mr. Gray believes that from mid 1986 onward, the Speaker held up a vital recapitalization bill and exerted intense political pressure on Mr. Gray's agency as a way to bring pressure to delay FSLIC action against Texas S&Ls. And that delaying the bill held up action to close dozens of money losing S&Ls across the nation, adding many millions to the cost of eventual bailouts.

Mr. Wright first phoned Mr. Gray in September 1986, on behalf of Texas land developer Craig Hall. In previous news reports, Mr. Wright had made it clear there would be no vote on a FSLIC rescue bill unless the agency eased up on Texas S&L operators. A week after the phone call, Mr. Gray took what he calls the "very unusual" step of replacing the FSLIC appointed conservator who was trying to foreclose on loans made to Mr. Hall. Later, the new conservator worked out a compromise that kept Mr. Hall afloat.

In October still without a FSLIC bill, a worried Mr. Gray asked for a private meeting with Mr. Wright to lobby for immediate relief. "I said FSLIC wasn't the problem, and warned him the Texas operators were either crooks or going under," Mr. Gray told us. "I though he understood. But the meeting didn't change his behavior at all."

Within days Mr. Wright called Mr. Gray to get help for Independent American Savings owner Thomas Gaubert, who as finance chairman of the Democratic Congressional Campaign Committee raised $9 million for the party that year. In their conversation, Mr. Gray says that Mr. Wright relayed complaints from Texas that the FSLIC was a "Gestapo." (It has been previously reported that Mr. Wright later called to unsuccessfully ask that Mr. Gray fire the chief federal supervisor of Texas thrifts.)

As a result of Mr. Wright's call, Mr. Gray says he sought advice on the matter with another financial regulator, Federal Reserve Chairman Paul Volcker. Mr. Gray also appointed an independent counsel to examine the complaints. The counsel questioned some FSLIC actions but found the Gaubert complaints groundless. The agency quickly took over Independent, which by then had a negative net worth of $314 million. "We would have moved much earlier if Wright hadn't intervened." Mr. Gray says. "I'm sorry I didn't."

Then in December 1986 Mr. Wright again called Mr. Gray, who was on vacation, and pressured him to delay an imminent merger action on Vernon Savings, another troubled Texas thrift. Vernon has extensive business dealings with Mr. Gaubert's Independent American and a history of FSLIC disciplinary actions, the latest being a July 1986 order to "cease and desist" certain loan practices. "Anyone with any connections in Texas would have known Vernon was in deep trouble," Mr. Gray says. But he delayed action on the thrift.

FSLIC did not move on Vernon until March 1987, by which time its loss had grown from $1 billion to $1.3 billion. No less than 96% of Vernon's loans were delinquent.

Mr. Gray never heard again from Mr. Wright after the Vernon calls. In fact, after Mr. Gray called the Speaker's office "every 15 minutes for a solid week" to ask Mr. Wright about the FSLIC bill he was finally told to stop calling. But the Speaker's interest in Mr. Gaubert and Vernon didn't end. In late January 1987, the Speaker asked Rep. Doug Barnard to quiz Mr. Gray at a hearing about the treatment of Vernon and Independent. In April, after both had been taken over, the Speaker halfheartedly signed on to a watered-down bailout bill, which finally passed in August 1987.

Several executives of the two thrifts on whose behalf Mr. Wright intervened have been indicted; one is serving a six-month sentence for fraud. In his brief to the ethics committee, the Speaker rejects the contention that he applied unwarranted pressure on Mr. Gray and says he was merely "acting as a go-between for some constituents who were being treated unfairly." As for the mounting thrift crisis, the Speaker now says the problem is "bigger than I thought." He promises swift action on any new proposal by the agency.

Mr. Gray is somewhat sheepish about his willingness to bend before Mr. Wright. "I felt he was putting us through hoops to do his bidding," Mr. Gray says now. "I wish I had told him off, but when you have no money left in your fund you do things you would normally never do. I certainly would not have done what I did, unless I felt it was the only way to get the recap bill passed. I went the furtherest mile possible to accommodate him."

We're not sure what any of this has to do with what this committee or Washington in general now regards as "political ethics," but we're certain it describes a clear violation of the public trust.

CHRONOLOGY OF THE FSLIC RECAPITALIZATION

(1) 5-10-84—An FHLBB issue paper states concern over the dwindling FSLIC insurance fund and considers recapitalizing the FSLIC with higher premiums or requiring thrifts to maintain deposits at the FSLIC.

(2) 2-20-85—FHLBB Chairman Gray proposes the one percent solution to the House Appropriations Subcommittee on HUD.

(3) 10-18-85—Rep. Parris asks the GAO to report on the condition of the FSLIC.

(4) 2-12-86—The GAO estimates the FSLIC policy may need as much as a $22.5 billion recapitalization.

(5) 2-27-86—The Administration's Economic Policy Council approves a recapitalization plan for $15-$20 billion of new funding for the FSLIC to cover up to $30 billion of case resolution costs over three to five years (the full Administration plan).

(6) 3-4-86—Under Secretary of the Treasury George D. Gould testifies before the Senate Banking Committee in support of the Administration's FSLIC recapitalization plan and its three pronged strategy to revitalize thrifts.

(7) 3-12-86—Under Secretary Gould testifies before the House Banking Subcommittee on Financial Institutions in support of the Administration plan.

(8) 3-12-86—The U.S. League's board of directors adopts an FSLIC recapitalization plan with less funding.

(9) 3-13-86—Chairman Gray testifies before the Senate Banking Committee that the FSLIC will need $16 to $23 billion to resolve cases over five years.

(10) 3-20-86—Under Secretary Gould testifies before the House Banking Subcommittee on Financial Institutions on the problems within the thrift industry and the need to enhance the FSLIC's resources.

(11) 5-6-86—The U.S. League testifies before the House Banking Subcommittee on Financial Institutions that only $8-$15 billion is necessary to resolve cases.

(12) 5-8-86—Under Secretary Gould testifies before the House Banking Subcommittee on Financial Institutions in support of the full Administration plan and its three-pronged strategy to revitalize FSLIC and thrifts.

(13) 5-21-86—S. 2491, the Administration FSLIC recapitalization plan, is introduced by Senators Proxmire and Garn.

(14) 5-22-86—H.R. 4907, the Administration plan, is introduced by Reps. St Germain and Wylie.

(15) 6-6-86—Under Secretary Gould writes Chairman St Germain, urging the Committee to avoid amendments that would restrict the use of FSLIC resources to resolve insolvent thrift cases.

(16) 6-11-86—Chairman St Germain cancels Subcommittee mark up of H.R. 4907.

(17) 6-12-86—Chairman St Germain cancels Subcommittee mark up of H.R. 4907.

(18) 6-19-86—Chairman St Germain cancels Subcommittee mark up of H.R. 4907.

(19) 6-24-86—Chairman St Germain cancels Subcommittee mark up of H.R. 4907.

(20) 6-24-86—Senator Garn introduces S. 2592, a comprehensive banking bill that includes the full Administration plan.

(21) 7-17-86—The House Banking Subcommittee on Financial Institutions reports H.R. 4907, the full Administration plan.

(22) 7-21-86—A GAO letter to Chairman St Germain warns that the problem could be larger.

(23) 7-28-86—The U.S. League urges a "pay-as-you-go" plan in a letter to the House Banking Committee.

(24) 7-30-86—A letter to Chairman St Germain from 16 Committee members, including Rep. Wylie, requests a full Committee mark up of H.R. 4907.

(25) 7-31-86—Chairman St Germain responds in a letter to Rep. Wylie with concerns over nonbank banks.

(26) 8-1-86—Rep. Wylie again writes to Chairman St Germain requesting a full Committee mark up of H.R. 4907.

(27) 8-13-86—Senator Garn drops all of the banking provisions from S. 2592, other than the full Administration plan and two other emergency provisions.

(28) 8-13-86—The Senate Banking Committee reports a stripped-down banking bill (including the full Administration plan concerning the FSLIC) and assigns a new number to it, S. 2752.

(29) 8-13-86—Senator Proxmire says he will use all means at his disposal to prevent consideration of S. 2752, the FSLIC recapitalization bill, on the Senate floor, unless a controversial amendment to impose a moratorium on nonbank banks is adopted.

(30) 9-12-86—Senator Proxmire files amendments to S. 2752 on the Senate floor, including a nonbank bank moratorium, and states that it would be better to have no FSLIC bill than one that does not include the moratorium amendment. He also reserves his right to speak at length against a FSLIC bill.

(31) 9-19-86—Chairman St Germain introduces a new bill, H.R. 5565, which includes not only the Administration's FSLIC plan, but also a housing and other extraneous titles.

(32) 9-23-86—Chairman St Germain introduces another new omnibus bill, H.R. 5576, which includes the Administration plan, the housing title, and other extraneous titles.

(33) 9-23-86—The House Banking Committee reports the new bill, H.R. 5576, with the recapitalization plan and other extraneous titles, after dropping the provisions on nonbank banks.

(34) 9-29-86—H.R. 5576, as passed by the Banking Committee, is pulled from the suspension calendar.

(35) 9-29-86—Senator Proxmire files on the Senate floor additional, extraneous amendments to S. 2752.

(36) 10-1-86—Speaker Wright blocks House consideration of H.R. 5576 because of concerns over Texas thrifts, according to the *Wall Street Journal.*

(37) 10-7-86—Chairmen Gray, Volcker, and Seidman urge Congress to pass a clean FSLIC recapitalization bill.

(38) 10-7-86—The House passes H.R. 5576 by voice vote under suspension of the rules.

(39) 10-16-86—The U.S. League urges Congress to pass the full Administration plan before adjournment.

(40) 10-16-86—Chairman St Germain urges House Appropriations Committee Chairman Whitten in a letter to oppose a possible Senate attempt to attach the FSLIC recapitalization bill (S. 2752) to the continuing resolution.

(41) 10-16-86—Floor time for S. 2752 is denied because of the controversial nonbank bank title, according to an article in the *American Banker*.

(42) 10-16-86—Senator Proxmire states that the FSLIC can wait, because the nonbank issue is more important, according to an article in the *American Banker*.

(43) 10-17-86—Senator Proxmire agrees to withdraw the nonbank bank amendment, but a new provision restricting thrift direct investment is added to the FSLIC bill; Senator Garn agrees.

(44) 10-18-86—A new bill, S. 2443, which contains the full Administration plan plus other emergency provisions, passes the Senate hours before adjournment Sine Die. (The direct investment provision was dropped after objections by other Senators.) The House does not consider it, however, even though it was the very last matter discussed before the end of the 99th Congress.

(45) 10-18-86—Chairman St Germain issues a statement accusing the Senate of killing the recapitalization bill by making substantial changes in the consumer, housing, and regulatory titles during the final hours of the Congressional session.

(46) 1-6-87—H.R. 27, the full Administration plan, is introduced by Reps. St Germain and Wylie (with $15 billion in new funding).

(47) 1-6-87—S. 45, the full Administration plan, is introduced by Senators Proxmire and Garn (with $15 billion in new funding).

(48) 1-21-87—Under Secretary Gould testifies before the Senate Banking Committee in support of a clean FSLIC bill.

(49) 1-22-87—Under Secretary Gould testifies before the House Banking Committee in support of a clean FSLIC bill.

(50) 2-3-87—Chairman St Germain cancels the February 3 Subcommittee mark up of H.R. 27.

(51) 2-9-87—Speaker Wright endorses a plan providing only $10 billion in new funding for the FSLIC with forbearance provisions to assist troubled thrifts.

(52) 2-10-87—Chairman St Germain cancels mark up of H.R. 27.

(53) 3-2-87—Treasury Secretary James A. Baker III writes to Senator Proxmire urging that the full Administration plan be put into a clean bill.

(54) 3-3-87—The GAO testifies before the House Banking Subcommittee on Financial Institutions that the full Administration plan represents the minimum necessary and that the FSLIC is insolvent.

(55) 3-6-87—In a letter to the GAO, the U.S. League accuses Treasury of trying to "frighten" Congress into passing a "bloated" plan.

(56) 3-9-87—FHLBB Chairman Gray writes Senator Garn that the FSLIC is more insolvent than the GAO reported.

(57) 3-10-87—Secretary Baker addresses the National Council of Savings Institutions on the need for the full Administration plan.

(58) 3-10-87—In a letter to Chairman St Germain, the GAO defends its position against the U.S. League's attack.

(59) 3-10-87—A plan providing only $7.5 billion in new funding for the FSLIC (S. 45) is reported out of the Senate Banking Committee together with numerous, extraneous provisions.

(60) 3-10-87—Chairman St Germain cancels the Subcommittee mark up of H.R. 27.

(61) 3-18-87—The GAO defends its position in a letter to the U.S. League.

(62) 3-23-87—Secretary Baker writes to the members of the Senate urging support for the full Administration plan.

(63) 3-25-87—Secretary Baker writes to Senator Garn urging passage of the full Administration plan.

(64) 3-25-87—Under Secretary Gould writes to the members of the Senate urging passage of the full Administration plan.

(65) 3-27-87—The Senate passed S. 790, which contains a plan providing only $7.5 billion in new FSLIC funding and other extraneous and controversial amendments in the Competitive Equality Banking Act.

(66) 3-31-87—The House Banking Subcommittee on Financial Institutions reports the full Administration plan, 42-1.

(67) 4-1-87—The House Banking Committee reverses the subcommittee vote and reports a plan providing only $5 billion in new FSLIC funding, 45-5.

(68) 4-20-87—Secretary Baker writes Senator Garn opposing the $5 billion plan and calls for the quick passage of the full Administration plan.

(69) 4-28-87—The FHLBank presidents write to Chairman St Germain and express their opposition to the $5 billion plan.

(70) 4-28-87—Reps. Wright and St Germain issue a joint statement calling for a compromise plan that includes the full $15 billion in new funding and forbearance.

(71) 5-4-87—Secretary Baker writes Reps. St Germain and Wylie supporting the full Administration plan.

(72) 5-4-87—The GAO states that the FSLIC is $6 billion in deficit.

(73) 5-5-87—H.R. 27 passes the House after the St Germain amendment to increase the FSLIC plan to $15 billion in new funding from $5 billion was defeated, 258 nays to 153 yeas.

(74) 6-1-87—The Administration issues a policy statement urging adoption of the full Administration plan.

(75) 6-9-87—Chairman St Germain excuses FHLBB General Counsel Bill Black from testifying and cancels the subcommittee hearing on problems in the thrift industry.

(76) 6-11-87—House appoints conferees.

(77) 6-22-87—Secretary Baker urges the conferees in a letter to pass a responsibly funded recapitalizaion bill.

(78) 6-23-87—Conferees meet, but come to no resolution.

(79) 7-1-87—Conferees approve a plan providing for only $8.5 billion in new funding.

(80) 7-29-87—Secretary Baker's continuing negotiations with the conferees increase the package to $10.8 billion in new funding to cover over $20 billion of case resolution costs.

(81) 8-3-87—The House passes the $10.8 billion plan.

(82) 8-4-87—The Senate passes the $10.8 billion plan.

(83) 8-10-87—President Reagan signs the $10.8 billion plan into law (Public Law 100-86).

THE SAVINGS AND LOAN MESS IS NOT A PARTISAN ISSUE

Mr. PROXMIRE. Mr. President, I am sorry my good friend from Utah has interpreted my statement on the savings and loan mess as an exercise in partisan politics. That was certainly not my intent. As I have said on many occasions, there is enough blame to go around for everyone including the Congress. My purpose in making the speech was not to point the finger of blame but to get the Congress and the next administration to recognize the underlying reality of the situation.

The underlying reality is there will have to be a taxpayer bailout of the thrift industry, no and's, if's, or but's. The longer we maintain the illusion that we can somehow make the savings and loan industry pay for the entire cost of the cleanup, the bigger will be the check that the Congress will ultimately have to write. If my statement seemed overly critical of the Bank Board and the administration it is because this is where the view is most pronounced that the present resources are adequate to deal with the problem.

I am not sure what useful purpose is served by going over the record of previous efforts to recapitalize the FSLIC. I am willing to stipulate that I was wrong in voting against a $15 billion recapitalization as did Senator GARN himself when it was considered by the Banking Committee in early 1987. Although I supported $10 billion then, I should have voted for the $15 billion.

As it turns out, the Bank Board is only planning to use $9.4 billion of the borrowing authority during the first 5 years, far less than originally projected. During the same period, the Bank Board plans to issue over $15 billion in new notes, an authority it has had since the FSLIC was created. In reality, the issuance of notes can substitute for the administration's borrowing plan, thus making the congressionally authorized level of borrowing more or less irrelevant.

And so the debate over whether Congress acted quickly enough on the administration's $15 billion borrowing proposal misses the point. Yes, the Congress should have authorized $15 billion; and yes it should have acted quicker; and yes, the delay probably hurt somewhat. But the reality is that neither the Bank Board nor the administration nor the Congress nor the savings and loan industry understood the massive size of the problem when the FSLIC recap was debated. Moreover, even if the Congress had authorized the full $15 billion, the FSLIC could not have borrowed any more than it has because of the limited market for these kind of bonds.

At the start of 1988, after it had received its new borrowing authority, the Bank Board estimated what it would cost to close or merge all of the thrifts that were insolvent. During the first 8 months of 1988, 101 of these insolvent institutions were closed or merged. The cost turned out to be double the Board's estimate—$16 billion instead of $8 billion.

I am not faulting the Board for its wrong estimate. My only point is that the size of the problem has consistently exceeded the best estimates of the regulators once they discover the true situation.

In his replay of the FSLIC recapitalization legislation, Senator GARN has said a threatened filibuster on my part prevented the Senate from acting on a FSLIC bill in late 1986. That is not accurate. More than a week before adjournment I indicated I was willing to agree to a time limit on a $15 billion FSLIC recap bill if I could get an up or down vote on an amendment closing the nonbank bank loophole for 1 year and providing securities powers for bank holding companies, two measures the Senate had passed in 1984 by a vote of 89 to 5. If a majority of the Senate had agreed with Senator GARN that the FSLIC recapitalization was too important to be encumbered with these measures, it could have voted me down and I would have accepted the verdict. The fact was that the Senate leadership for whatever reason was unwilling to allow me an up or down vote on my amendment and never called up the FSLIC bill.

I believe any fair reading of the history of the delay in getting the FSLIC recap bill adopted will assign blame to both the Treasury and the Congress. The Bank Board realized the FSLIC was running out of money as early as May 1984. And yet the Treasury did not submit legislation to the Congress until over 2 years later near the end of a congressional session.

The Treasury still could have had a FSLIC bill in 1986 if it had agreed to combine it with closing the nonbank bank loophole. The then Chairman of the Bank Board wanted to close the loophole because its existence was making it more expensive to sell troubled thrifts. The House and Senate were on record in favor of closing the loophole. However, closing the loophole ran counter to the Treasury's free market ideology that any commercial or industrial firm should be allowed to own a bank. Because of the intransigent opposition of the Treasury, it took until August 1987 to get both measures finally adopted.

There is also no doubt that the size of the problem today would be substantially less if the Treasury had supported the efforts of the FSLIC and the FDIC to slow down the growth of brokered deposits instead of opposing their efforts. Similarly, the problem would have been smaller if the OMB had not opposed any increase in the staff of the FSLIC and the Bank Board. So it is not fair to lay all the blame at the feet of the Congress.

In closing, Mr. President, let me reiterate that it is not my intention to make the thrift problem a partisan issue. There is enough blame to go around for everyone. But it is important for the Congress and the next administration to recognize that a new plan is needed, one that provides FSLIC with the cash it needs to deal with the problem. The longer we try to deny a taxpayer bailout is necessary, the more expensive will be the ultimate solution.

SOUTH AFRICAN DETAINEES IN U.S. CONSULATE

Mr. KENNEDY. Mr. President, last week, three prominent antiapartheid activists escaped from prison in South Africa and sought refuge in the United States consulate in Johannesburg. Yesterday, a fourth activist also made good his escape from prison to join the other three in the American consulate.

These individuals have been in prison—not because they have committed crimes, not because they have engaged in any violence, not because their freedom is a threat to law and order. They have been in prison—for many months, without trial, without charges—because they are leaders in the effort, nonviolently, through peaceful means, to end apartheid in South Africa. The Government of South Africa arrested and detained these individuals because they had the audacity to speak against and to work against apartheid.

The decision that these courageous men have made—to escape from prison and to seek sanctuary in the American consulate—sends forth a call that should echo in the minds and hearts of freedom-loving people throughout the world.

By their actions, these individuals have again brought the spotlight of world attention to the plight of millions who live in the larger prison that is all South Africa today. Their presence—first as detainees in a South African prison, now as refugees in the American consulate—also highlights the fact that, over the past 5 years, the South African Government has arrested and detained over 30,000 antiapartheid activists for no reason other than their active opposition to apartheid.

Perhaps the most important message that this incident sends is a message to the American people. With their dramatic decision to seek sanctuary in the American consulate, these individuals provide compelling evidence that the people of South Africa in their struggle to end apartheid still look to the American people for support. Their actions speak louder than words. If we are to be true to ourselves and to our own most cherished values, we dare not disappoint them.

I spoke with Ambassador Perkins last Thursday, only a few hours after the detainees arrived at the American consulate to seek refuge. The initial response from our Embassy in South Africa was the right response. The detainees were received, and they were told that the consulate would allow them to remain. In addition, the detainees were permitted to meet with their attorney and with the members of their families.

I must, however, express my disappointment at the State Department's recent decision not to give Western journalists access to the detainees. I understand that the situation poses a dilemma for American diplomats. I understand that the American consulate must be able to conduct its regular business, and I understand that the South African Government might be upset if the American consulate were to allow itself to be transformed into a press office for the United Democratic Front. But, in truth, the detainees' request to be able to meet with one or two American journalists is not unreasonable. It poses no threat whatsoever to the daily operations of the consulate, and one or two interviews would hardly transform our consulate into a branch of the UDF.

On the contrary, I would hope that, on this matter, the United States, when forced to choose between the Government of South Africa and these antiapartheid activists, would come down on the side of those who have worked so hard and sacrificed so much for the cause of freedom. We should be sufficiently strong in our support for the antiapartheid cause to resist allowing our diplomats to become an extension of the South African Government's policy of muzzling the press.

The American people want to know what these courageous South Africans have to say, and our Government should not prevent that message from reaching our ears.

I hope the State Department will reconsider its shortsighted and ill-advised decision.

CHANNEL 12—THREE DECADES OF RESPONSIBLE SERVICE TO MID-MICHIGAN

Mr. RIEGLE. Mr. President, on October 12, Don Riefie—in my hometown of Flint, MI—celebrating its 30th anniversary of broadcasting, I would like to honor channel 12 for its three decades of responsible service to mid-Michigan. These past 30 years have been good ones: A tradition of strong, balanced news coverage; family entertainment; and fair and responsible public affairs programming. To its credit, channel 12 has always gone above the guidelines and provided more than required to its audience. Channel 12 still continues to produce more locally originated programming than any other station in the Flint-Saginaw/Bay City television market.

One major reason WJRT-TV is a good citizen is the people who work at the station. They realize the huge reponsibility they have to their viewers. And, it is to the station's credit that most of its employees are long-term ones—they care about their job and they like the work they do. I'd especially like to honor Dave Sikora, Bob Scott, and Bernie Voss—they have been with channel 12 since that October 1958 day when the transmitter was first turned on.

Critics say that television industry often misuses the great power and influence the Government has granted to it. At the network level, at least, those concerns may be justified—not all of their programming decisions can be regarded as uplifting. But at the local level, where WJRT-TV makes the decisions, they have made the right ones. Channel 12 viewers—in the heart of Michigan—know that their station is meeting and will continue to meet its responsibility to them.

My family and I are but one household of the 500,000 homes tuned to channel 12 each week, but all of us join in congratulating WJRT-TV on its 30th anniversary of broadcasting. WJRT-TV can be proud of its part in making Michigan the great State that it is.

THE SENSELESS, TASTELESS BIAS AGAINST DAN QUAYLE HAS BACKFIRED ON THE MAJOR LIBERAL MEDIA

Mr. HELMS. Mr. President, when the major liberal news media of the country began using Senator DAN QUAYLE for target practice, I recall feeling confident that fair-minded Americans would immediately detect the bias and poor taste so commonplace among the liberal media.

Obviously, my faith in the judgment of fair-minded Americans was not misplaced. There is widespread indignation at the way Senator QUAYLE has been abused by the news media.

These are the same media people who so enthusiastically supported George McGovern in 1972, and who have so constantly attacked and misrepresented Ronald Reagan through the Reagan Presidency. An indepth study sometime back found that the vast majority of the major media voted for McGovern, and consider themselves liberal in their political and philosophical persuasions.

But in attacking DAN QUAYLE as they have, it appears evident that they have shot themselves in their collective foot. The people are resentful, adding to the public distrust of the media.

There is a mindset among many major newspapers of this country, as well as the television networks and the news magazines. They are almost unanimously liberal, and they use their inordinate power, more often than not, to make and shape the news instead of reporting it.

As for the unfair attacks upon our distinguished Senate colleague, DANNY QUAYLE really needs no defense among people who know him. Senator QUAYLE is bright, he is honest, and he is a straightforward legislator. He is also conservative—which is why the major media have engaged in unprecedented attacks upon him.

So, Mr. President, it is gratifying to note the reaction of the American people. They resent the mistreatment of Senator QUAYLE. It is particularly gratifying to note that these attacks have been so gratuitous, so heavy-handed, so patently transparent that they have been an embarrassment to a good many journalists who believe in objectivity and fair play.

Mr. President, I shall shortly ask unanimous consent that two significant items be printed in the RECORD; both are highly enlightening as to the degree and the ferocity of the media attacks upon Senator QUAYLE.

The first, interesting enough, is a memorandum written by the ombudsman for the Washington Post. Richard Harwood was a deputy managing editor of the Post before he became the paper's ombudsman. Equally interesting is the fact that Mr. Harwood's memorandum has not been acknowledged by the Post. Instead, the memorandum found its way into the hands of the Washington Times, which disclosed it to the public on September 15 in an article headline, "Post Memo Assails Its Quayle Overkill." The memorandum was directed to Ben Bradlee, Meg Greenfield, and the rest of the staff of the Washington Post.

The second item is an article that appeared in Human Events on September 3. The article was written by Timothy Hunter, a former officer of the Indiana National Guard, who emphasizes that the Indiana National Guard had a unit in Vietnam at the time DAN QUAYLE signed up in 1969. Mr. Hunter's comments are well worth reading and provide an interesting assessment of the lack of objectivity of the major news media.

Mr. President, I now ask unanimous consent that the two aforementioned items be printed in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

POST MEMO ASSAILS ITS QUAYLE OVERKILL

A memorandum from its own ombudsman to senior editors of The Washington Post accuses the newspaper of succumbing to "mob psychology" in its sensational coverage of the selection of Dan Quayle as the Republican nominee for vice president.

The harshly detailed criticisms closely mirror those made by both partisan and trade critics in the days following the conclusion of the Republican National Convention in New Orleans, when coverage of Mr. Quayle] characterized by one media critic as "a piranha-like feeding frenzy"—dominated the front pages and television screens for fully a fornight.

Richard Harwood, who was a deputy managing editor of The Post until he became its ombudsman, or "reader's advocate," told senior editors that in its pursuit of the sensational, The Post had "succumbed to the soiled embrace of Paula Parkinson and the promotion department of Playboy Magazine."

Playboy is publishing a "memoir" by Miss Parkinson in which she reveals that she and Mr. Quayle once danced "very close together" at a beach party in Florida. The story was picked up by The Post and other news organizations after Mr. Quayle was chosen as the running mate of George Bush, suggesting that the two had forged a sexual liaison.

Mr. Harwood told The Times last night that he had received no reaction to his sharp critique. "I don't expect any reaction," he said. "This is a routine function of mine [to send internal memos examining Post coverage].

The memorandum, which was addressed to Ben Bradlee, the executive editor, and Meg Greenfield, the editor of the editorial page, and finally to "Staff, etc." characterized the later, more restrained coverage of the aftermath of the selection of Mr. Quayle, when many media voices reflected sober second thoughts about the general press hysteria immediately after the convention, as "a modest outcome for an August hurricane."

The memorandum notes that Mr. Quayle's service in the Indiana National Guard was well known in both Indiana and in Washington, that it had been published in the Congressional Directory, and that The Post published a 40-paragraph profile of Mr. Quayle on Aug. 16, noting in the 32d paragraph that he had been a Guardsman during the war. That still did not make the story."

The story was not "made," he said, until Mr. Quayle was asked in New Orleans whether he thought questions about his Guard service in the context of his being "tough on defense" constituted "a low blow."

The subsequent coverage provoked the loudest outcries of protests of the year, he said and he noted that the negatives were so excessive—which he called "accidental"—that one story about Cajun cuisine in The Post's food section became "a political parable" on the demise of the Republican Party.

"Sometimes every department wants into the act," he wrote.

Continued Mr. Harwood ". . . we still find it difficult to resist the mob psychology that seizes the press corps on occasion . . . If 'the networks' do it, it must be right and true . . . in our eagerness not to be left behind, [The Post] succumbed to the soiled embrace of Paula Parkinson and the promotion department of Playboy magazine."

Mr. Harwood's memo follows:

"The storm over Quayle the Minuteman seems to be ending with something approximating a whimper: maybe influence was peddled, maybe it wasn't but questions remain.' That's a modest outcome for an August hurricane.

"I have neither the talent nor the time to undertake a proper study of this event but it would be an interesting project for a graduate student. What goes into the 'making' of a story that totally obsesses our business for a few days and then drops off the screen of consciousness?

"Apparently, as Richard Cohen has reminded us, it was common knowledge during the Vietnam War that the National Guard was a refuge for those of the non-combatant persuasion.

"It must have been common knowledge in Indiana that Quayle had done his time in the Guard. And it might have been common knowledge in Washington inasmuch as Quayle listed his Guard service in the biography published in the Congressional Directory. But this fact did not 'make' a story prior to New Orelans.

"On August 16, when Quayle was selected by Bush, we produced a 40-paragraph profile noting in the 32d paragraph that he had been a Guardsman during the war. That still did not 'make' a story.

"The story seems to have been 'made' the following day when Quayle was asked the following question at his news conference:

. . . I'm listening to the Democrats trying to knock you down very quickly and this morning they were attacking you as someone who says he is tough on defense but from your era you didn't fight in the Vietnam War. I'm wondering if you think that's a low blow.

"Who were those Democrats? Our readers were never told. But [The Post's media reporter] Eleanor Randolph recalls that on the afternoon of Tuesday, August 16, Bob Squier, the Democratic political consultant and NBC commentator, was spreading the word among the press that it would be fruitful to examine Quayle's military service, his academic record and other aspects of his life.

"Squier had worked in Birch Bayh's losing campaign against Quayle in 1980. By Wednesday—prior to the Quayle press conference—Democratic politicians from as far away as California were calling reporters about Quayles military service, according to Randolph's recollection: 'It originated with the Bayh campaign.' The Paula Parkinson story resurfaced the same day.

"It is sometimes said of the Post: 'All pedal, no brake.' In the February paper, the pedal hit the metal. Fifteen reporters collaborated on three A-section pieces, the principal theme being that Quayle not only found sanctuary in the Guard but used political influence to get there.

"There were A-section columns by [Mary] McGrory and [Haynes] Johnson, two Style pieces and two op-ed columns. That was a heavy load: nine whacks.

"The Saturday paper was more of the same. The main Sunday story carried the headline: 'No influence used for Quayle.' It appeared as a 4-inch shirt tail on A-18.

"An A-1 story on Tuesday was headlined: 'Ex-General Says Quayle Received No Special Treatment.' By the end of the week, the certitudes of earlier days had changed; it had been fairly well-established that Quayle's Guard unit had vacancies when he joined and that it was at that point that influence was brought to bear on his enlistment.

"That still left Quayle in the position suggested by the questioner at his first news conference in New Orleans, 'Someone who says he is tough on defense but from your era you didn't fight the . . . war.' But that, of course, also describes Michael Dukakis, a man tough on defense who did not choose to fight in the war of his era—Korea.

"Our handling of this story inspired the largest number of public criticisms I've encountered this year. Many of them were partisan but some had validity.

"(1) We had insufficient hard evidence at the beginning to justify the excessive coverage that emanated from New Orleans. We were late in working the records offices and officers in both Indiana and the Pentagon. As a result, we published tentative and contradictory information and hearsay.

"(2) We were not entirely sure how to define Quayle's offense. One charge was preferential treatment. But was he also being attacked as a 'draft dodger'? Not exactly. We seemed, in our coverage, to divide draft dodgers into two categories—honorable men of conscience and hypocrites yclept 'chicken-hawks'

"Quayle made the second list, presumably because he was thought to be an ardent supporter of the war in 1969. That may or may not be true; no literary evidence—speeches, writing, oral history etc.—has emerged to illuminate his mental state or rhetoric at that time.

"(3) We have not yet decided to whom these military tests should be applied and which wars do and don't count; perhaps the Boomer generation recognizes no history but its own. In case of Vietnam the military service test presumably does not apply to members of Congress, because it was not an issue with Quayle before his nomination by the Republicans and is not yet an issue in the case of House and Senate candidates this year.

"It was not an issue in the presidential campaigns of Gephardt, Hart or Biden. It has not been made an issue in the case of Dukakis who found refuge at Swarthmore [College] while tens of thousands of World War II veterans were called back to hump it through the paddies and mountains of Korea, the Forgotten War with its 4.5 million military and civilian casualties.

"(4) There is an accidental quality about some of the excesses we commit. Sometimes every department wants into the act. During the New Orleans convention, a page-one story in the Food Section on Cajun cuisine (written by a free lance) was a political parable on the demise of the Republican party.

"(5) Finally, we still find it difficult to resist the mob psychology that seizes the press corps on occasion; part of that psychology is to seek validation in the actions and decision of competitors. If 'the networks' do it, it must be right and true. We resisted fairly well the tempation to join the mob in the Dukakis 'mental health' episode; but in the present case, in our eagerness to not be left behind, succumbed to the solid embrace of Paula Parkinson and the promotion department of Playboy Magazine."

SENATOR QUAYLE AND THE 38TH INFANTRY DIVISION

(By Timothy N. Hunter)

Some of Sen. Dan Quayle's critics have strongly insinuated that Quayle has something to be ashamed of for having joined the Indiana Army National Guard's 38th Infantry Division in 1969. The implication that is being spread is that the Indiana Army National Guard back in 1969 was a means by which one could effectively escape combat service in Vietnam.

Allegations about Sen. Quayle are that he used family connections to get onto a "list" for entrance into the Indiana National Guard. The implication is that thereby somebody else was "bumped" who then had to go into the draft pool and consequently wound up, and perhaps perished, in Vietnam. Such a picture of the recruitment system is based upon uninformed conjecture—the Guard as a whole did not maintain a formal register system.

Some units did keep lists, of course. The character of those lists is simple to describe—informal, unofficial, non-binding, casual, and occasionally useful.

In the late 1960s potential inductees called unit recruiting sergeants to inquire about delayed enlistments following graduation or other events and asked to be "put on the list." But, what list?

Individual recruiters undoubtedly did keep records of the names of some of those persons, but any "prioritization" to such listing would have been the role of commanders (i.e., senior officers) to determine. Much of the current conjecture stems from fundamental misunderstandings about the nature of reserve component recruiting procedures.

For instance, the fact that Quayle seems to have initially made an inquiry about enlistment through a senior National Guard officer, instead of calling a recruiting sergeant for his prospects for induction, does not indicate "string-pulling." It actually indicates that Quayle had enough sense to bypass layers of bureaucratic and administrative "red tape" and go to the most knowledgeable persons to determine qualifications and eligibility.

Quayle actually followed an administratively more direct, and infinitely more authoritative, procedure to determine whether he was eligible for enlistment than if he had walked up to one of the NCOs (non-commissioned officers) assigned to do unit recruiting.

At that time many of the Indiana Guard recruiters were actually unit technicians doing recruiting as an "additional duty." Some of the Guard's recruiters were untrained part-timers with little real information.

Nor is it unusual that the officer Quayle contacted was a major general. The Indiana National Guard, like most reserve components in the Midwest, is historically much more informal in its methods of recruiting than, say, the active duty, regular military. It is not unusual for privates in Indiana to be recruited by generals. The reason is simple—experience shows that generals often meet highly qualified inductees not encountered by the day-to-day recruiting sergeants and staff.

In the Indiana Guard it is the duty of every officer, including the generals, to encourage the induction of top-notch personnel. Quayle had a lot of strengths as an inductee.

Any officer, especially a general, could not have ignored the interest of someone like Quayle, whose qualifications as an enlistee included being a college graduate in good physical condition, possessing good character and having a sincere commitment to his country.

If Sen. Quayle is to be criticized for anything, perhaps it should be for his reluctance to tell the American people about the distinguished combat record of the Indiana Army National Guard during the Vietnam War and his former division's history of high profile, "first-to-fight," red-blooded patriotism.

Given the Eastern liberal media's frenzy in creating the accusations against Sen. Quayle, advisers of Quayle may be encouraging him to limit the factual discussion of his service and concentrate on demonstrating to the public his obvious loyalty signified by wearing our country's uniform for six years.

This advice could be a tactical mistake in light of the distinguished history of the Indiana Army Guard's service in combat in Vietnam.

This distinguished history could be contrasted by pointing out that during Vietnam the really skilled evaders of military service and combat were those who sought total exemption from military service by emigration to Canada, becoming a teacher, enrolling in divinity school, getting a job as a draughtsman's assistant in a defense plant, taking up farming on a commune, getting married, etc., ad nauseam.

If Sen. Quayle's main intent had been to avoid military combat, with his family's connections, he might have effortlessly signed up as a part-time surveyor's aide (which many college kids did to earn a "national defense" draft exemption in the 1960s) or gotten a letter from the family doctor about a vague and difficult to diagnose medical condition, or testimony from the school coach about a mythical "trick knee" (which is what the well-connected, athletically included kids usually did to avoid military service).

But, instead, he decided to join the highest Vietnam-oriented, combat-ready reserve organization in the U.S. Defense Department's inventory—the 38th Infantry Division.

As a potential inductee, Quayle had no way of knowing whether or not the Indiana National Guard in 1969 was to be mobilized for service in Vietnam. Ironically, if he had used his supposedly fabulous family connections, he would have discovered there was a very high probability that the 38th Infantry Division would have gone to Vietnam in a combat role, as did some of its personnel and one of it units—Company D, 151st Infantry.

In fact, the former division commander helped him join the Indiana Guard, so one has further grounds for doubting that Sen. Quayle thought he could avoid combat by joining the high-readiness organization.

Or did Maj. Gen. Wendell C. Phillippi, called a friend of the family, soft-soap and bamboozle Quayle into thinking that a unit with infantry soldiers in the field at the time he enlisted was exempt from further combat? Could an employee and friend be so "slick" as to pull that off or could Quayle have failed to read his own family's newspaper's stories about Company D's service in Vietnam?

Compared to the hundreds who weekly sent appeals to the Indiana draft boards during Vietnam, Sen. Quayle's "combat-dodging" skills could not have been less well-informed.

Joining the Indiana National Guard in 1969 was about as good a way to avoid combat service in Vietnam as it would have been for an evader in 1899 to have joined an auxiliary to Teddy Roosevelt's "Rough Riders" as a way to avoid combat in Cuba.

The comparison in that in both cases, as it happened, the war was over before the U.S. had used up all of its reserves. But that would hardly have reflected on the members of any unit who were not dispatched to join their comrades in the field.

Let's review some forgotten post-World War II history regarding the Indiana Army Guard's 38th Infantry Division:

In April 1968 the Department of Defense activated over 24,000 Reserve and National Guard soldiers to contribute to the escalating Vietnam War effort. Among those activated was the only National Guard unit to serve in Vietnam intact as a combat unit—Co. D, 151st Infantry (a part of the 38th Infantry Division) of the Indiana National Guard.

Company D of the Indiana National Guard was assigned to Vietnam to conduct reconnaissance and intelligence-gathering operations—behind enemy lines. The unit lost two members killed in combat and one killed in a helicopter crash.

Company D of the Indiana National Guard was one of the most decorated units in Vietnam for heroism. When it returned home in November 1969 its members had earned 110 Purple Hearts—along with 19 Silver Stars (the second highest medal for valor after the Congressional Medal of Honor), and 175 Bronze Stars.

If Sen. Quayle's reason for joining the Army National Guard was to avoid combat duty, his advisers, including former Army National Guard Gen. Phillippi, apparently did not know that the 38th Infantry Division had long been a high-profile "first to fight" type of unit.

In 1962 the Indiana Army National Guard became the first Reserve division to train with the nuclear-capable Honest John rocket and the division annually fired the rocket at its training exercises until 1977.

The division was alerted in 1962 for possible mobilization (Cuban missile crisis). Some old-timers say that the 38th would have been called up for duty, but the Kennedy Administration Pentagon planners apparently blundered by confusing the 36th Infantry Division (Wisconsin) with the 38th (Indiana/Michigan) and ordered the 36th to active service when they planned to activate the 38th. (When the error was found, Defense leadership decided to let the mistake stand and not activate the 38th or inform the public about the gaffe.)

From November 1965 to May 1968, the 38th was designated as one of three Reserve divisions included as part of the Selected Reserve Force. The Selected Reserve Force was to be given priority for federalization in the wake of the Vietnam buildup. The 38th was authorized to recruit to its fully authorized level of strength and was assigned the most modern equipment to allow it to go to full mobilization in seven days.

Many units within the 38th were required to increase training sessions by 50 per cent. The highest priority units within the 38th itself for war mobilization were artillery, infantry, support units, and the division headquarters (where the public affairs section was assigned) and the administrative sections (i.e., including the file clerks, desk jockeys and other supposedly invulnerable people—according to the "armchair" experts on the subject). At the time the Indiana Army Guardsmen were acknowledged as among the best trained and equipped soldiers in either the active duty or reserve defense component.

In 1967 rumors circulated throughout the division that the 38th had been ordered to mobilization status but that orders were rescinded by the secretary of defense at the last minute.

In 1968 and 1969 rumors were constantly circulating through the units of the 38th that the division was to move to a Central American tropical warfare training center preparatory to movement to Southeast Asia. Even today, many members of the 38th proudly wear the distinctive "Jungle Expert" badges earned in the Panama Canal Zone at the time, indicating the hardships overcome in successfully completing harsh, elite tropical warfare training.

In 1968 the Defense Department reorganized the Army National Guard, eliminating 15 divisions. The 38th was one of eight that were retrained—once again highlighting the Indiana Army National Guard's exceptional standing in the national defense planning system.

My own theory is that in the light of the last 19 years, Quayle probably feels a little sheepish that he did not wind up in Vietnam—it would manifestly have been a benefit to his subsequent political career to have been assigned closer to the guns. But Quayle's fate is shared by many who served in the Vietnam period but were never ordered to Southeast Asia.

In May 1969 no one knew that the last of the reserves had been called to fight in Vietnam. Circumstances indicate that the primary motivation of the 1969 Quayle to join the Indiana National Guard could not have come from any substantiated belief that he could avoid combat by enlisting in Indiana's 38th Infantry Division. Far from it—the Indiana Army National Guard's 38th Infantry Division in mid-1969 looked like it was about to go to war in Southeast Asia. Of course we know today that, as it turned out, the Guard was immune to further call-ups. But that came later, not in 1969, when Quayle joined.

My late uncle Norbert in 1944, like so many others, "avoided the draft" by enlisting in the Ohio National Guard. But he was sent to France to serve alongside former schoolmates from the Youngstown area, and was killed in action. Americans may have forgotten, too, that many of those U.S. soldiers who died on the Bataan Death March were members of the New Mexico National Guard—mobilized in the undeclared war period before Pearl Harbor.

The great difference that separates the tragic losses sustained by Guardsmen of the World War II period from the eventually mundane military experience of those like Sgt. Daniel Quayle was that his number never came up to march to the sound of the guns. Not having been tried in combat does not mean that the stuff of the heroic martyr is lacking in a soldier—only that, in the wisdom of Providence, one young, loyal enlisted soldier was discharged after peaceful service and allowed to run for Vice President.

MORNING BUSINESS

(The following morning business was transacted:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kilbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1988, the Secretary of the Senate, on September 21, 1988, during the recess of the Senate, received a message from the

House of Representatives announcing that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 102. Concurrent resolution to express the sense of the Congress regarding the contributions of John Foster Dulles in international affairs.

MESSAGES FROM THE HOUSE

At 9:46 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each with an amendment:

S. 1165. An act to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey, and for other purposes; and

S. 1934. An act pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States, and for other purposes.

The message also announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 317. Joint resolution commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2524. An act to amend the Public Buildings Act of 1959 to permit certain executive agencies to have their headquarters located anywhere in the National Capital region;

H.R. 3048. An act to establish a national Federal program effort in close collaboration with the private sector to develop as rapidly as possible the applications of superconductivity to enhance the Nation's economic competitiveness and strategic well-being, and for other purposes;

H.R. 3779. An act to direct the Administrator of the Federal Aviation Administration to conduct research into the consequences for the air traffic control system of automation of such system, and for other purposes;

H.R. 4039. An act to declare that certain lands in the State of California which form a part of the right-of-way granted by the United States to the Central Pacific Railway Company have been abandoned, and for other purposes;

H.R. 4362. An act to amend section 3 of the act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes;

H.R. 4535. An act to designate the outpatient clinic of the Veterans' Administration to be located on New Jersey State Route 70 in Brick Township, New Jersey, as the "James J. Howard Veterans' Outpatient Clinic"; and

H.R. 4948. An act to direct the American Battle Monuments Commission to restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 290. Concurrent resolution supporting the International Decade for Natural Disaster Reduction by endorsing the establishment of a United States Decade for Natural Disaster Reduction; and

H. Con. Res. 344. Concurrent resolution commending the International Boundary and Water Commission for its efforts during the past one hundred years to improve the social and economic welfare of the United States and Mexico and to improve good relations between our two countries.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1544. An act to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes;

H.R. 1223. An act entitled the "Indian Self-Determination Amendments of 1987";

H.R. 2046. An act to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande; and

H.J. Res. 518. Joint resolution designating the week of September 25, 1988, as "Religious Freedom Week".

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore [Mr. SANFORD].

At 5:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 425. An act for the relief of Sukhjit Kuldip Singh Saund;

S. 1583. An act for the relief of Maria Antonieta Heird;

S. 1945. An act to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory; and

S. 1972. An act for the relief of Irma Purisch and Daniel Purisch.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DIXON, Mr. NATCHER, Mr. STOKES, Mr. AUCOIN, Mr. WATKINS, Mr. HOYER, Mr. WHITTEN, Mr. COUGHLIN, Mr. GREEN, Mr. REGULA, and Mr. CONTE as managers of the conference on the part of the House.

The messsage further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 659. An act to establish agricultural aid and trade missions to assist foreign countries to participate in United States agricultural aid and trade programs, and for other purposes;

S. 2365. An act authorizing the release of eighty-six United States Information Agencies films with respect to the Marshall plan; and

S. 2393. An act to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize such act, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4182. An act to authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes;

H.R. 4686. An act to amend the Federal Aviation Act of 1958 relating to aviation research;

H.R. 4983. An act to amend the Public Health Service Act to revise and extend programs with respect to health research and teaching facilities and training of professional health personnel, and for other purposes; and

H.R. 5263. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, and to make supplemental authorizations of appropriations for the Board for International Broadcasting.

ENROLLED BILLS SIGNED

At 6:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 517. An act to designate Soldier Creek Diversion Unit in Topeka, Kansas, as the "Lewis M. Paramore Diversion Unit"; and

H.R. 5090. An act to implement the United States-Canada Free Trade Agreement.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2524. An act to amend the Public Buildings Act of 1959 to permit certain executive agencies to have their headquarters located anywhere in the National Capitol region; to the Committee on Environment and Public Works.

H.R. 3779. An act to direct the Administrator of the Federal Aviation Administration to conduct research into the consequences for the air traffic control system of automation of such system, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4039. An act to declare that certain lands in the State of California which form a part of the right-of-way granted by the United States to the Central Pacific Railway Company have been abandoned, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4362. An act to amend section 3 of the act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4535. An act to designate the outpatient clinic of the Veterans' Administration to be located on New Jersey State Route 70 in Brick Township, NJ, as the "James J. Howard Veterans' Outpatient Clinic"; to the Committee on Environment and Public Works.

H.R. 4948. An act to direct the American Battle Monuments Commission to restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 290. Concurrent resolution supporting the International Decade for Natural Disaster Reduction by endorsing the establishment of a U.S. Decade for Natural Disaster Reduction; to the Committee on Foreign Relations.

H. Con. Res. 344. Concurrent resolution commending the International Boundary and Water Commission for its efforts during the past 100 years to improve the social and economic welfare of the United States and Mexico and to improve good relations between our two countries; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The Committee on Energy and Natural Resources was discharged from the further consideration of the following bill, which was placed on the calendar:

S. 2153. A bill to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, and for other purposes.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4182. An act to authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes; and

H.R. 5263. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, and to make supplemental authorizations of appropriations for the Board of International Broadcasting.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on September 21, 1988, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2789. An act to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower;

S.J. Res. 169. Joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi;

S.J. Res. 290. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week";

S.J. Res. 329. Joint resolution to designate October 24 through October 30, 1988, as "Drug Free America Week";

S.J. Res. 333. Joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week"; and

S.J. Res. 336. Joint resolution designating October 16, 1988, as "World Food Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3884. A communication from the Assistant Secretary of Energy (International Affairs and Energy Emergencies), transmitting, pursuant to law, notice of a proposed subsequent arrangement under the Agreement for Cooperation between the United States and Japan; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the judiciary, with amendments:

S. 951. A bill entitled the "Federal Courts Study Act" (Rept. No. 100-521).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1849. A bill for the relief of Mr. Conwell F. Robinson and Mr. Gerald R. Robinson (Rept. No. 527).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1272. A bill to withdraw certain public lands in Eddy County, New Mexico (Rept. No. 100-522).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1554. A bill to provide Federal assistance and leadership to a program of research, development and demonstration of renewable energy and energy conservation, and for other purposes (Rept. No. 100-523).

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 2380. A bill to amend the Disaster Relief Act of 1974, and for other purposes (Rept. No. 100-524).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 252. A bill to establish a San Pedro Riparian National Conservation Area (Rept. No. 100-525).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1704. A bill to authorize the establishment of the Lewis and Clark National Historic Site in the State of Montana (Rept. No. 100-526).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2457. A bill to transfer certain lands in the State of Montana and to relieve the Town of Neihart, Montana, of any obligation to pay consideration for lands conveyed to it under authority of the Small Tracts Act (Rept. No. 100-528).

S. 2565. A bill to remove certain restrictions on land acquisition for Antietam National Battlefield (Rept. No. 100-529).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2586. A bill to quiet title and possession with respect to a certain private land claim in Sumter County, Alabama. (Rept. No. 100-530).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2596. A bill to improve Federal management of lands on Admiralty Island, Alaska (Rept. No. 100-531).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2952. A bill to increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Part (Rept. No. 100-532).

H.R. 3313. A bill to establish in the Department of the Interior the Heritage Preservation Commission, and for other purposes (Rept. No. 100-533).

H.R. 3559. A bill to authorize the acquisition of 25 acres to be used for an administrative headquarters for Canaveral National Seashore (Rept. No. 100-534).

H.R. 4050. A bill for the relief of certain persons in Riverside County, California who purchased land in good faith reliance on an existing private land survey (Rept. No. 100-535).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 4212. A bill to amend the Joint Resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, New York (Rept. No. 100-536).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment.

H.R. 4375. A bill to improve the management of certain public lands in the State of Michigan (Rept. No. 100-537).

H.R. 4457. A bill to create a national park at Natchez, Mississippi (Rept. No. 100-538).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 4519. A bill to provide for the disposition of certain lands in Arizona under the jurisdiction of the Department of the Interior by means of an exchange of lands, and for other purposes (Rept. No. 100-539).

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1786. A bill to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States (Rept. No. 100-540).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 479. An original resolution to amend rule XXVI of the Standing Rules of the Senate to authorize the Committee on Rules and Administration to direct Senate committees to report two year authorizing resolutions and to permit the Committee on Rules and Administration to report one authorization resolution containing more than one committee authorization resolution (Rept. No. 100-541).

S. Res. 480. An original resolution to carry the impeachment proceedings against Judge Alcee L. Hastings over to the 101st Congress (Rept. No. 100-542).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 472. Resolution authorizing the printing of background information relating to the Committee on Energy and Natural Resources.

S. Res. 473. An original resolution to provide additional funding for the Select Committee on Indian Affairs Special Committee on Investigations.

S. Con. Res. 137. Concurrent resolution to provide the use of the Rotunda of the Capitol in honor of John F. Kennedy.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 99-30. Tax Convention with the United Kingdom (on behalf of Bermuda) (with reservations) (Exec. Rept. No. 100-23).

Treaty Doc. 100-15. Supplementary Protocol to the 1970 Tax Convention with Belgium (with understandings) (Exec. Rept. No. 100-24).

Treaty Doc. 100-21. Protocol to the 1967 Tax Convention with France (with understandings) (Exec. Rept. No. 100-25).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Charles G. Stalon, of Illinois, to be a Member of the Federal Energy Regulatory Commission for the remainder of the term expiring October 20, 1989;

Charles A. Trabandt, of Virginia, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1992;

Jerry Jay Langdon, of Texas, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1992.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SASSER (for himself and Mr. GORE):

S. 2813. A bill to designate the United States Post Office Building located in Nashville, Tennessee, as the "Lewis E. Moore, Sr., Post Office Building"; to the Committee on Governmental Affairs.

By Mr. REID:

S. 2814. A bill to provide for the modernization of testing of consumer products which contain hazardous or toxic substances; to the Committee on Commerce, Science, and Transportation.

By Mr. BOREN:

S. 2815. A bill to establish a National Foundation for Excellence for outstanding students who are committed to careers in teaching in public education and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRANSTON:

S. 2816. A bill to amend the National Trails System by designating the Juan Bautista de Anza National Historic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HECHT:

S. 2817. A bill entitled the "National Right to Work Bill"; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 2818. A bill to temporarily suspend the duty on certain internal combustion, 2-stroke-cycle, piston-type engines; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. BOSCHWITZ, Mr. HELMS, Mr. GARN, Mr. HEINZ, Mr. COHEN, and Mr. RUDMAN):

S. 2819. A bill to amend the Export Administration Act of 1979 to impose sanctions against firms involved in the transfer of chemical agents or their related production equipment or technical assistance to Iran, Iraq, Libya, and Syria, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HECHT:

S. 2820. A bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. WEICKER, Mr. STAFFORD, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, and Mr. ADAMS):

S. 2821. A bill to make certain technical and conforming amendments to the Education of the Handicapped Act and the Rehabilitation Act of 1973, and for other purposes; placed on the calendar.

By Mr. CRANSTON:

S. 2822. A bill to provide for a grant program to assist eligible consortia in providing services to individuals with acquired immuno-deficiency syndrome of AIDS-related complex; to the Committee on Labor and Human Resources.

S. 2823. A bill to promote the provision of, and provide financing for, appropriate patient care for individuals with acquired immune deficiency syndrome (AIDS); to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 2824. A bill to establish a federally sponsored program for the restoration, conservation, and management of Onondaga Lake in Onondaga County, New York, and to provide for the sharing of costs of such clean up, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McCAIN:

S. 2825. A bill to waive the time limitations relating to the award of the Congressional Medal of Honor to Tibor Rubin for distinguishing himself by acts of valor during the Korean War; to the Committee on Armed Services.

By Mrs. KASSEBAUM (for herself, Mr. DASCHLE, Mr. HARKIN, Mr. REID, and Mr. HUMPHREY):

S.J. Res. 382. A joint resolution to establish a national aviation policy for the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S.J. Res. 383. A joint resolution to designate the period commencing December 4, 1988, and ending December 10, 1988, as National Humanities Week; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROTH:

S. Res. 477. A resolution expressing the Sense of the Senate that National Economic Commission meetings be open, that no increases in taxes be legislated, and that Social Security benefits, including COLAs, be preserved; to the Committee on Finance.

S. Res. 478. A resolution expressing the Sense of the Senate that National Economic Commission meetings be open and that Social Security benefits be preserved; to the Committee on Finance.

By Mr. FORD from the Committee on Rules and Administration:

S. Res. 479. An original resolution to amend rule XXVI of the Standing Rules of the Senate to authorize the Committee on Rules and Administration to direct Senate committees to report 2-year authorizing resolutions and to permit the Committee on Rules and Administration to report one authorization resolution containing more than one committee authorization resolution; placed on the calendar.

S. Res. 480. An original resolution to carry the impeachment proceedings against Judge Alcee L. Hastings over to the 101st Congress; placed on the calendar.

By Mr. BYRD (for Mr. PELL):

S. Con. Res. 143. A concurrent resolution correcting the enrollment of H.J. Res. 602; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SASSER (for himself and Mr. GORE):

S. 2813. A bill to designate the U.S. Post Office Building located in Nashville, TN, as the "Lewis E. Moore, Sr., Post Office Building"; to the Committee on Governmental Affairs.

LEWIS E. MOORE, SR., POST OFFICE BUILDING

● Mr. SASSER. Mr. President, I rise today to introduce S. 2813, a bill to designate the U.S. Post Office Building located at 525 Royal Parkway in Nashville as the Lewis E. Moore, Sr., Post Office Building. I am joined in offering this legislation by my distinguished colleague, Senator ALBERT GORE, Jr.

Quite simply, Louis E. Moore, Sr., was perhaps the best postmaster Nashville ever had. He was the postmaster in Nashville for 22 years, the longest tenured postmaster in the city's history.

Lewis E. Moore, Sr., was a postal patron's postmaster. He moved the mail efficiently and quickly as Nashville's postmaster. Indeed, he was one of the first postmasters in the country to place courtesy boxes in front of the Nashville Post Office so that people could drop off their mail without having to leave their car.

Lewis E. Moore, Sr., was born in Petersburg, TN, and at the age of 15 joined the Tennessee Army National Guard. He served with the Guard on the Mexican Border and later with the distinguished unit in France during World War I.

Mr. Moore spent 39 years with the U.S. Post Office during which time he was past vice president of the National Association of Postmasters. He was also extremely active in community affairs, serving as vice commander of the Tennessee Department of the American Legion, trustee of Baptist Hospital, and a member of the executive board of the Southern Baptist Sunday School.

S. 2813 is a fitting tribute to Mr. Moore who dedicated 39 years of faithful and productive service to the people of Nashville.

I ask unanimous consent that the full text of S. 2813 be printed at the conclusion of my prepared remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF LEWIS E. MOORE, SR., POST OFFICE BUILDING.

The United States Post Office Building located at 525 Royal Parkway in Nashville, Tennessee, is designated as the "Lewis E. Moore, Sr., Post Office Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Lewis E. Moore, Sr., Post Office Building".●

By Mr. REID:

S. 2814. A bill to provide for the modernization of testing of consumer products which contain hazardous or toxic substances; to the Committee on Commerce, Science, and Transportation.

CONSUMER PRODUCTS SAFE TESTING ACT

Mr. REID. Mr. President, Abraham Lincoln once said "I care not much for a man's religion whose dog or cat are not the better for it."

Today, legitimate concerns and questions have been raised about the problems associated with the use of animals for commercial product testing. Most of the attention has been focused on the Draize eye irritancy test and the classical LD-50 test.

The Draize test is usually performed using six rabbits. Often these rabbits are put in a stockade-type device so that they are unable to move. The attendant pulls each rabbits lower eyelid away from the eye and then drops the substance into the eye and pushes the lid back and holds it to assure good contact. The products tested range from pesticides to septic tank cleaner to perfumes and cosmetics.

Laboratory personnel have reported that the animals, the rabbits, sometimes scream or that vocalization occurs if the product is extremely irritating. It is important to note that the rabbit has been selected for this test because his eye is much more sensitive than our eyes. Also, the rabbit does not tear like we do so that means that there is little chance that the solution will become diluted to prevent some of the rabbits suffering. The product is left in the eye for at least 48 hours and sometimes even as long as 72 hours.

Anesthetics are often not used because the technicians are worried they might upset the results. The rabbit's eye reacts to the products by becoming ulcerated, developing puss and showing signs of total necrosis or death of the eye tissue. At the end of the experiment, the rabbits are killed.

It is not hard to imagine that after this experiment, death is a welcome relief.

Nonanimal alternatives to the Draize test have been developed. In hearings in the House of Representatives, Dr. Christopher Kelly described a chemical test developed by his company as a nonanimal alternative for almost all applications. But current Government regulations make it difficult to market this test.

In the classical LD-50 test, substances such as oven cleaners, lipstick, and household cleaners are force fed to up to 100 animals until 50 percent of them die. In testimony before the House Subcommittee on Health on this issue, Dr. Gerhardt Zbinden, a world renown toxicologist from the University of Zurich, stated that three fundamental problems exist in using the LD-50 test to predict product safety:

First. The LD-50 test is not a biological constant and is dependent on many factors such as the age, sex, strain of the animals, nutritional state, and caging that may vary from animal to animal in the laboratory.

Second. The LD-50 test reflects only the lethality of the test animal and does not predict nonlethal effects of poison or information on the reversibility of toxic effects.

Third. The animals suffer great pain and anxiety and the information gained from the animals is of minor practical or clinical significance.

The doctor pointed out in his closing statement that the overwhelming majority of professional toxicologists agree with the scientific concepts outlined in his testimony and also that many public health officials and regulatory agencies are very much in favor of using more humane methods for the determination of acute toxic hazards of chemicals.

The fundamental problem in initiating change in this area seems to be the Federal bureaucracy. The Government has issued numerous statements that are contradictory in reference to its need or support for animal toxicity data. This has left industry officials in a state of confusion as to what the Federal Government may or may not require for premarketing approval of consumer products. The alternatives that have been developed have been stifled in their adoption by industry because of the uncertainty related to what the Federal Government may or may not accept for premarketing approval of their products. If industry continues to believe that innovative testing techniques may be rejected by Federal agencies, then industry will continue to use tests which are not only inhumane but also may not be best indicators of human health concerns.

Mr. President, today I am pleased to introduce the Consumer Products Safe Testing Act, legislation aimed at modernizing these testing procedures—procedures thought to be unnecessary to protect consumers. This bill is designed to strike a compromise between the unregulated use of animals in testing procedures and mandatory humane testing guidelines.

As introduced, the Consumer Products Safe Testing Act calls upon each Federal agency requiring or recommending the LD-50, Draize, or other toxicity test, to review their regulations and, if in their own opinion, nonanimal alternatives exist, to substitute those alternatives. The bill also prohibits agencies from considering the results of the classical LD-50 test.

In short, the Consumer Products Safe Testing Act would require Government regulators to turn to more accurate and humane test procedures in their evaluation of product safety; bringing flexibility to the Federal regulatory process. This bill will lift the barriers to technological change and remove the obstructions created by outdated regulations which bear little relation to current technological innovations. Passage of this bill will promote consistency and quality in product testing, while at the same time, reduce the number of animals used to appropriately evaluate human product safety concerns. I urge my colleagues to support this necessary legislation.

Mr. President, this legislation, I believe, is critically important. I also would point out that this is something that should be accepted widely.

The great Mahatma Mohandas Gandhi said: "The greatness of a nation can be judged by the way its animals are treated."

Certainly, Mr. President, the way the animals are treated in this instance is abhorrent and wrong and should be changed. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Products Safe Testing Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the LD50 test is an acute toxicity test on animals which has been shown to be inaccurate, misleading, and unnecessary in product testing;

(2) other tests have been developed which are less costly, more humane, and more accurate;

(3) the Federal Government has encouraged the use of the LD50 test through regulations which mandate its use, encourage its use, or do not prescribe other less costly, more accurate and humane alternatives;

(4) private industry is reluctant to use other tests without encouragement from the Federal Government; and

(5) private industry and the consumer will benefit from the promotion of alternative methods of testing.

(b) POLICY.—Federal departments and agencies shall encourage the development and use of product testing procedures which accurately reflect human reactions to products, including consumer products and products containing hazardous or toxic substances, but which do not rely upon animal models.

SEC. 3. FEDERAL ACTION.

(a) PROHIBITION OF USING LD50 TEST FOR PRODUCT SAFETY, LABELING, AND TRANSPORTATION REQUIREMENTS.—Effective one year after the date of enactment of this Act, Federal department or agency heads may not consider LD50 test result when determining product safety, labeling, or transportation requirements for the purposes of Federal regulation.

(b) REGULATIONS CONCERNING TESTS OTHER THAN ANIMAL TOXICITY TESTS.—(1) Not later than one year after the date of enactment of this Act, each Federal department or agency head still—

(A) review and evaluate any regulation, guideline, or recommendation issued by that department or agency which requires or recommends the use of an animal toxicity test; and

(B) promulgate regulations which specify that nonanimal toxicity tests be used instead of animal toxicity tests, unless that Federal department or agency head determines that in certain limited cases the nonanimal toxicity test has less validity than the animal toxicity test.

(2) If a determination is made that a specific nonanimal toxicity test is less valid than an animal toxicity test, the appropriate Federal department or agency head shall publish in the Federal Register an explanation of all options considered and the justification for continuing the animal toxicity test, which shall be subject to public comment before a final regulation is promulgated.

(c) PERIODIC REVIEW OF ANIMAL TOXICITY TESTING REGULATIONS.—At least every two years (beginning three years after the date of enactment of this Act), each Federal department or agency head, after considering the most recent technological advances available, shall determine whether continued use of any animal toxicity test is justified. If a Federal department or agency head determines that such a use is justified, then that Federal department or agency head shall publish in the Federal Register an explanation and justification of such continued use, which shall be subject to public comment.

SEC. 4. DEFINITIONS.

For purposes of this Act the term—

(1) "animal" means any vertebrate.

(2) "animal toxicity test" means an animal model acute toxicity test including (but not limited to) the approximate lethal dose test and the limit test.

(3) "Federal department or agency head" means the head of a Federal department or agency who—

(A) has authority to promulgate regulations, guidelines, and recommendations with respect to procedures to be used in the testing of products, including consumer products, veterinary products, and products containing hazardous or toxic substances; or

(B) licenses or approves products, labeling requirements for products, or the transportation of products based on the results of these tests.

(4) "nomanimal toxicity test" means a nonanimal model acute toxicity test including (but not limited to) computer modeling, the Ames test, and cell culture tests.

By Mr. BOREN:

S. 2815. A bill to establish a National Foundation for Excellence for outstanding students who are committed to careers in teaching in public education, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL FOUNDATION FOR EXCELLENCE ACT

Mr. BOREN. Mr. President, since coming to the Senate, I have been privileged to introduce and help craft a number of bills dealing with issues which I have felt were of genuine importance to the Nation.

I truly believe that the bill which I am introducing today deals with the single most important challenge facing this generation of Americans: the critical need to restore excellence to our system of public education.

If we deal successfully with every other major policy area facing us and fail to rebuild our educational system, we will eventually undermine our progress in all other areas. The plain truth is that a nation with a second or third rate educational system will ultimately be in the second or third rank of nations.

Our public education system is the cornerstone of a strong and vital Democratic system.

The people cannot fully participate in a society if they are not sufficiently educated about themselves, their own past, and the nature of the problems which they confront.

Excellence in public education is fundamental to our commitment to equality of opportunity without regard to race, creed, or economic status.

If we allow two standards of educational opportunity to develop, excellence in private schools for the affluent and mediocrity in public schools for the masses, we will soon find that we live in a country in which true equality of opportunity has ceased to exist.

We will also find that our economic strenght and our ability to compete in the world marketplace will continue to erode and a nation that loses its economic strength will soon lose its political, diplomatic, and military strength as well.

No longer can we pay Americans $10 or $20 an hour to perform tasks requiring no advanced training when people in other parts of the world are willing to do the same tasks using the same machinery or the same assembly lines for far less. The only way for the United States to retain the highest standard of living in the world in a century in which human resource development has become the key element is to have the best educated work force in the world.

We are learning that the failure of our educational system to adequately prepare workers can greatly increase the cost of production in the private sector and make American companies less competitive. Private companies are now close to spending roughly as much retraining and providing remedial education for their workers as we as taxpayers spend educating all of the children in the Nation in elementary and secondary schools.

The key to rebuilding our educational system is the attraction of qualified young people into the teaching profession and retention of the best teachers already in the classroom. Fine physical facilities will only produce mediocre educational experiences if they are staffed with mediocre teachers.

As more and more career options have opened to young people and especially to young women who might have considered teaching as a career in the last generation, and as the salary gap between outstanding members of other professions and our very best teachers has widened even further, we have begun to see an alarming loss of our best and brightest men and women from the classroom.

Recent studies have shown that of those in college who plan to enter the teaching profession, very few, only 2 percent, rank in the top quarter of their class academically while over 50 percent come from the bottom quarter of their classes. These are the people that are planning to be the teachers for the next generation. If we populate our classrooms with teachers for the next generation who do not even measure up to the average level of academic performance, the result will be disastrous.

There is no single solution to the problem and no simple way to attract a fair portion of the best and brightest in our society to the teaching profession and keep them in it.

Compensation is a major part of the problem and the failure to recognize the importance of teaching and grant it the community status which it deserves is another.

In my home State, through the Oklahoma Foundation for Excellence, which I chair, we have started an annual ceremony carried on statewide television in which the business and political leaders of the State honor four outstanding public school and college educators each year with a metal of excellence and a $5,000 prize. Likewise, 100 high school seniors are selected as academic all-Staters and receive $1,000 prizes.

Symbols are important. Through them we indicate to the next generation what it really means to be successful. For far too long our actions, as opposed to our words, have failed to convey upon teaching the status which it deserves.

How do we break the cycle of taxpayers who are unwilling to raise teachers salaries as long as they feel that we are bringing too many mediocre people into the profession? A part of the answer is to ask taxpayers to invest in what they know is an excellent product. That is what this bill seeks to do. It is not a total solution to the problem. It does not deal with the need to retain good teachers already in the profession, but it does take a step in the right direction of bringing more of our most talented people into teaching.

When I was Governor, we had a shortage of doctors in rural areas and small towns. We developed a Rural Medical Scholarship Program under which we paid the full educational cost of medical students who promised to practice in these underserved areas for at least 5 years after graduation or be forced to pay back all of the educational costs plus a large penalty payment. The program made a major reduction in the shortage of rural medical manpower.

It is time to act on a major scale to do the same thing for the teaching profession—on a national scale. This bill seeks to do exactly that. It bears the title, "The National Foundation for Excellence Act." It establishes a national foundation ultimately funded by a public and private partnership to fund the full educational costs for our very best students who desire to enter the teaching profession in public schools for a minimum of five years. It provides for governance by a board of distinguished citizens and is patterned somewhat after the Harry T. Truman Scholarship Foundation which awards scholarships to students interested in careers in public service.

A student, to apply for the educational package, would have to have tested in the top 10 percent of the scholastic aptitude test or the American college test; must have graduated in the top 10 percent from high school; must maintain a 3.5-grade-point average in college; and must commit to teaching in public schools after graduation.

The amount of available financial aid would depend on the student's commitment to teaching postgraduation. A ceiling of $20,000 would be available for individuals who will teach for a minimum of 2 years: $28,000 for 3 years, $36,000 for 4 years, and $50,000 for 5 years.

A penalty for failing to teach in public schools after graduation would be the principal amount of the scholarship plus interest equal to the T-bill rate plus 20 percent.

The foundation would be funded by a permanent endowment. The funding would come from a one time $200 million appropriation and an additional $200 million available for matching to private gifts, for a period of 5 years. Further, $5 million would be appropriated for each of the first 5 years for administrative and operating costs of the Board.

The goal is to have at least 100 students per State participating in the program and States could enter into agreements with the Foundation to help pay part of the scholarship in return for the student's agreement to teach in that State.

The Board would consist of 15 members including an executive director as an exofficio, nonvoting member.

Eleven members would be appointed by the President with the advice and consent of the Senate—6 of which must have 10 years experience in education. Further, two would be appointed by the House—one each by the Speaker and the minority leader—and two appointed by the Senate—one each by the majority leader and minority leader.

One of the 11 would be designated by the President as the Chairman of the Board.

If we fail to rebuild our system of public education by attracting well qualified people into the profession, our generation will justly be held accountable for placing the future of our Nation in peril. This bill is not offered as a complete answer to the problem. It is, I believe, an important constructive step that should be taken as soon as possible. I will be on the doorstep of the next President of the United States earnestly seeking his support for its enactment.

Mr. President, I ask unanimous consent that I be permitted to introduce the bill at this time, that it be appropriately referred, and a copy of the bill appear in the Record at the conclusion of my statement with, also, a summary of the section-by-section analysis of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "National Foundation for Excellence Act".

PURPOSE

Sec. 2. The purpose of this Act is to establish a National Foundation for Excellence to carry out a scholarship program for outstanding students who are committed to careers in teaching in public education.

DEFINITIONS

Sec. 3. As used in this Act, the term—

(1) "Board" means the Board of Directors of the National Foundation for Excellence;

(2) "Foundation" means the National Foundation for Excellence established pursuant to section 4(a);

(3) "fund" means the National Foundation for Excellence Fund established pursuant to section 4(b);

(4) "institution of higher education" means any such institution as defined by section 1201(a) of the Higher Education Act of 1965;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) "Secretary" means the Secretary of the Treasury.

ESTABLISHMENT OF THE NATIONAL FOUNDATION FOR EXCELLENCE

Sec. 4. (a) Establishment.—There is established, as an independent establishment of the executive branch of the United States Government, the National Foundation for Excellence.

(b) Board of Directors.—(1) The Foundation shall be subject to the supervision and direction of a Board of Directors. The Board shall be composed of—

(A) 11 members to be appointed by the President by and with the advice and consent of the Senate;

(B) 2 members of the Senate;

(C) 2 members of the House of Representatives; and

(D) the Executive Director of the Foundation, who shall serve ex officio as a member of the Board, but shall not be eligible to vote.

(2)(A) In carrying out the provisions of paragraph (1)(A), the President shall appoint at least 6 individuals with 10 years experience as educators, not more than 3 of whom shall be of the same political party.

(B) In carrying out the provisions of paragraph (1)(B), the Majority Leader of the Senate shall appoint 1 member of the Board and the Minority Leader shall appoint 1 member of the Board.

(C) In carrying out the provisions of paragraph (1)(C), the Speaker of the House shall appoint 1 member of the Board and the Minority Leader shall appoint 1 member of the Board.

(c) Compensation of the Board.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

SCHOLARSHIPS

Sec. 5. (a) In General.—The Foundation is authorized, in accordance with the provisions of this Act, to award scholarships to outstanding students who are committed to careers in teaching in public education.

(b) Course of Study Rule.—A student awarded a scholarship under this Act may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare a recipient for a career in teaching in public education determined pursuant to criteria established by the Foundation in consultation with the Secretary.

(c) Duration of Scholarship Assistance.—Scholarship assistance under this Act shall be awarded for such periods as the Foundation may prescribe but not to exceed 4 academic years. In the case of graduate study, scholarship assistance may be awarded for a period of study not to exceed 2 academic years.

ELIGIBILITY AND SELECTION OF FOUNDATION SCHOLARS

Sec. 6. (a) Eligibility.—An individual is eligible to receive Foundation scholarships if the individual—

(1) ranks in the top 10 percent of the graduating class of the secondary school of the individual;

(2) scores in the top 10 percent of students taking the Scholastic Aptitude Test or the American College Test;

(3) maintains a 3.5 grade point average in an institution of higher education; and

(4) enters into an agreement with the Foundation, pursuant to section 8(c), that the student will pursue a teaching career after graduation from an institution of higher education.

(b) Selection of Foundation Scholars.—(1) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for selecting Foundation scholars.

(2) The Foundation shall adopt selection procedures which assure that at least 50 Foundation scholars shall be selected each year from each State in which there is at least 1 resident applicant who meets the minimum criteria established by the Foundation.

(3) The Board shall attempt to award scholarships to students in the 50 States proportionately, on the relative basis of the number of secondary school students in a State compared to the total number of secondary school students in the United States.

STIPENDS

Sec. 7. (a) In General.—Each student awarded a scholarship under this Act shall receive a stipend which shall not exceed the cost of attendance to such student at the institution of higher education for tuition, fees, books, and room and board. Such cost of attendance shall be adjusted annually to reflect increases, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

(b) Limitation.—In no event shall the total amount of scholarship assistance awarded to any recipient exceed $50,000.

SCHOLARSHIP CONDITIONS

Sec. 8. (a) In General.—A student awarded a scholarship under the provisions of this Act shall continue to receive the payments provided in this Act only during such periods as the Foundation finds that the student is—

(1) maintaining a 3.5 grade point average;

(2) maintaining a class rank in the top 10 percent of the class; and

(3) devoting full time to study or research designed to prepare the student for a career in teaching in public education and is not otherwise engaging in gainful employment other than employment approved by the Foundation pursuant to regulation.

(b) Reports.—The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under this Act. Each such report shall be accompanied by a certificate from any appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a).

(c) Student Agreement.—(1) A student awarded a scholarship under the provisions of this Act shall enter into an agreement with the Foundation to teach in a public elementary or secondary school for the period required under paragraph (2).

(2) For the purpose of determining the duration of the teaching commitment required in paragraph (1), the following schedule shall apply:

Total Amount of Scholarship Awarded	Teaching Commitment
	$20,000 or less
2 years	$20,000 to $28,000
3 years	$28,000 to $36,000
5 years.	$36,000 to $50,000

SCHOLARSHIP REPAYMENT PROVISIONS

Sec. 9. Each Foundation scholar found by the Foundation to be in noncompliance with the provisions of this Act shall be required to repay—

(1) the total amount of scholarships awarded under this Act plus interest equal to the sum of the rate of interest of 91-day Treasury bills auctioned for the 3-month period for which the determination of noncompliance is made;

(2) 20 percent of the total amount calculated under paragraph (1); and

(3) where applicable, reasonable collection fees.

EXCEPTIONS TO REPAYMENT PROVISIONS

Sec. 10. (a) Deferral During Certain Periods.—A Foundation scholar shall not be considered to be in violation of the provisions of this Act during any period in which the Foundation scholar—

(1) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(2) is temporarily totally disabled for a period of time not to exceed 3 years as established by the sworn affidavit of a qualified physician;

(3) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(4) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 12 months; or

(5) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this Act.

(b) Forgiveness if Permanently Totally Disabled.—A Foundation scholar shall be excused from repayment of any scholarship assistance received under this Act if the student becomes permanently totally disabled as established by the sworn affidavit of a qualified physician.

GRANTS TO STATES FOR FOUNDATION SCHOLARS

Sec. 11. (a) State Grants Authorized.—The Foundation is authorized to make grants to States to pay the Federal share of scholarship programs conducted by the States in accordance with the provisions of this Act.

(b) Application.—Each State desiring to participate in the scholarship program authorized by this section shall submit an application to the Foundation, at such time, in such manner, and containing or accompanied by such information as the Foundation may reasonably require. Each such application shall contain—

(1) assurances that the State will conduct the State program substantially in compliance with this Act;

(2) assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources;

(3) a description of any additional teaching commitment to which a student may be subject upon graduation from an institution of higher education under the State program; and

(4) such additional assurances as the Foundation determines essential to ensure compliance with the requirements of this Act.

(c) Federal Share.—The Federal share of the cost of the program established under this section shall be 50 percent.

NATIONAL FOUNDATION FOR EXCELLENCE FUND

Sec. 12. (a) Establishment.—

(1) There is established in the Treasury of the United States a trust fund to be known as the National Foundation for Excellence Trust Fund.

(2) The fund shall consist of amounts appropriated to it by section 16 of this Act. Amounts raised from non-Federal sources by the Foundation shall be credited to and form part of the fund.

(b) Investment Authority.—It shall be the duty of the Secretary to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) INTEREST AND PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

EXPENDITURES FROM THE FUND

SEC. 13. (a) IN GENERAL.—The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of the Act.

(b) AUDIT.—The activities of the Foundation under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities as necessary to facilitate the audit.

ADMINISTRATIVE PROVISIONS

SEC. 14. (a) IN GENERAL.—In order to carry out the provisions of this Act, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 3324);

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) EXECUTIVE DIRECTOR.—(1) There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall delegate.

(2) The Executive Director of the Foundation shall be compensated at the rate specified for employees in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

ANNUAL REPORT

SEC. 15. The Board shall make an annual report of its operations under this Act to the Congress not later than April 1 of each year. Each such report shall include—

(1) an analysis of the administration of the Foundation;

(2) a description of the services provided by the Foundation;

(3) a statement of the finances of the Foundation;

(4) a description of the plan and goals of the Foundation for disbursing $500,000 per year in States with a population of fewer than 2,000,000;

(5) a description of the plan and goals of the Foundation for disbursing $1,000,000 per year in States with a population greater than 2,000,000; and

(6) a description of the plan and goals of the Foundation to award scholarships to at least 100 students in every State.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) IN GENERAL.—(1) There are authorized to be appropriated $200,000,000 to the fund.

(2) There are authorized to be appropriated $5,000,000 to the Foundation for each of the fiscal years 1988 through 1993 for operating and administrative expenses.

(b) MATCHING FUNDS.—Subject to subsection (c), there are authorized to be appropriated $200,000,000 to the fund for the period beginning October 1, 1988, and ending September 30, 1993.

(c) AVAILABILITY.—The amount authorized pursuant to subsection (b) shall be available in each fiscal year in an amount equal to the amount raised from non-Federal sources by the Foundation in each such fiscal year.

SUMMARY OF THE NATIONAL FOUNDATION FOR EXCELLENCE

BOARD OF DIRECTORS

15 Members plus an Executive Director as ex-officio, non-voting member.

11 members appointed by the President with advice and consent of the Senate, 6 of which must have 10 years experience in education, not more than 3 of whom shall be of the same political party.

2 members of the Senate—1 appointed by the Majority Leader and 1 appointed by the Minority Leader.

2 Members of the House of Representatives—1 appointed by the Speaker of the House and 1 appointed by the Minority Leader.

Board members shall serve without pay but are entitled to reimbursement for travel, subsistence and other necessary expenses.

SCHOLARSHIPS

Eligibility: College individual who has graduated from secondary school in the top 10%; who has scored in the top 10% of the American College Test (ACT) or Scholastic Aptitude Test (SAT); maintains a 3.5 grade point average in college; AND who certifies he/she will enter a teaching career after graduation.

Award: Students would receive up to a full annual scholarship grant to be used for tuition, fees, and housing in college, so long as they maintain the requirements of eligibility. They would be able to recieve the grant for a maximum of 4 undergraduate years and/or 2 years of graduate study with a total cap of $50,000.

Teaching commitment: Individual must agree to teach in a public elementary or secondary school for a minimum of 2 years and maximum requirement of 5 years. The total amount of grants would determine the teaching commitment. (e.g. 2 years/$20,000 or less; 3 years/$20,000 to $28,000; 4 years/ $28,000 to $36,000; 5 years/$36,000 to $50,000.)

Penalty payback: Those not completing the program would pay back the amount of the grants plus interest equal to T-bill rate plus 20 percent to accrue when found in noncompliance.

Exceptions to payback: Individuals will not be found to be in violation in case of required military service; disability sworn by a physician and other unusual circumstances.

STATE PARTICIPATION

States are encouraged to help fund part of the costs of the program through a 50/50 partnership with the Foundation. The Board of Directors would have the discretion to make state/foundation agreements whereby a state could share half of the costs, in return, requiring participating students to commit to teaching in that state.

The Board would be directed that as funds are available, it is the intent of Congress that both aggregate financial disbursement and number of scholarships, should be distributed to students in the fifty states proportionally. Further, they are directed to report to Congress in their annual report, their plan and goals for bringing their disbursements up to a level of $500,000 for states with fewer than 2 million population and at least $1,000,000 in other states, and making awards to at least 100 students in every state.

FUNDS

$200 million would be authorized for deposit in the "National Foundation for Excellence Fund" to be invested by the Secretary of the Treasury.

$200 million would be authorized as "matching funds" to be matched dollar for dollar to private, cash gifts to the Foundation for a period of 5 fiscal years.

$5 million would be authorized to be appropriated for operating and administrative expenses with any excess to remain in the fund for endowment for 5 fiscal years after which time the Foundation would be fully self-supporting.

AUDITS & REPORTS

The General Accounting Office will have access for any such periodic audit as may be necessary.

The Board is required to annually report to Congress by April 1 its services, finances, plans and goals.

By Mr. CRANSTON:

S. 2816. A bill to amend the National Trails System by designating the Juan Bautista de Anza National Historic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL ACT

Mr. CRANSTON. Mr. President, I am introducing legislation to designate the Juan Bautista de Anza Trail as a component of the National Trails System. The bill is identical to legislation being introduced in the House by Congressman GEORGE MILLER and others.

In 1775 Juan Bautista de Anza, a second-generation frontier soldier, set forth from Horcasitas, Mexico, to open up the first overland route to Upper California. Crossing the border near the city of Nogales, the expedition followed a 1,200-mile route north along the Santa Cruz River past Tucson, then westward along the Gila River to Yuma, and across the Colorado River back into Mexico. Reentering the United States near El Centro, the expedition continued northward through Imperial, San Diego, Riverside, Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Monterey, San Benito, Santa Clara, and San Mateo Counties, finally reaching San Francisco in June 1776. The de Anza expedition proved that overland travel between the Mexican province of Sonora and Upper California was possible and resulted in the initial settlement of San Francisco and the founding of the presidio and mission there.

Pursuant to legislation I sponsored in the 98th Congress, the National Park Service has conducted a feasibility study of including the Juna Bautista de Anza Trail in the National Trails System. I'm pleased to report that this feasibility study/environmental assessment concluded that the de Anza Trail meets the criteria for designation as a National Historic Trail. The study further found that there is substantial public support for the designation and that State and local agencies and private organizations are prepared to contribute their resources to the endeavor.

The bill I am introducing today implements the recommendations of the study. It designates the Juan Bautista de Anza National Historic Trail, comprising approximately 1,200 miles from Nogales, Arizona to San Francisco, CA, and provides that the trail be administered by the Secretary of the Interior. The bill prohibits the acquisition of lands outside the boundaries of federally administered areas, and calls for coordination with volunteer trail organizations for development of the trail on non-Federal lands.

Mr. President, enactment of this legislation will give national recognition to an important pioneer route and commemorate an event significant to the course of American history and the settlement of California. I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Juan Bautista de Anza National Historic Trail Act".

SEC. 2. JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL.

(a) DESIGNATION.—Section 5(a) of the National Trails System Act of 1968 (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following:

"(D) The Juan Bautista de Anza National Historic Trail, a route of approximately 1,200 miles, extending from Nogales, Arizona to San Francisco, California, following the approximate route as depicted on maps identified as 'Juan Bautista de Anza National Historic Trail Study' in the report by the Department of the Interior entitled 'The Juan Bautista de Anza National Historic Trail Study Environmental Assessment', dated August, 1986, and which shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia, and in the office of the National Park Service, San Francisco, California. The trail shall be administered by the Secretary of the Interior. Notwithstanding section 7(e), no lands or interest therein outside the exterior boundaries of any federally administered area may be acquired or purchased by the United States for the Juan Bautista de Anza Trail. Whenever possible, the Secretary shall utilize existing or planned trails in close proximity to the historic route and shall encourage volunteer trail groups to participate in the development of the trail.".

(b) AUTHORIZATON OF APPROPRIATIONS.—Section 10(c) of the National Trails System Act (16 U.S.C. 1249(c)) is amended by adding at the end thereof the following new paragraph:

"(3) There is hereby authorized to be appropriated for fiscal year 1989 and subsequent fiscal years such sums as may be necessary to implement section 5(a)( ) of this Act relating to the designation of the Juan Bautista de Anza National Historic Trail.".

By Mr. HECHT:

S. 2817. A bill entitled the "National Right to Work Bill"; to the Committee on Labor and Human Resources.

NATIONAL RIGHT TO WORK BILL

● Mr. HECHT. Mr. President, today, I am introducing legislation, the national right to work bill, to allow the American worker a simple and long overdue choice—the choice to join a union or not join a union. It seems rather amazing, Mr. President, that we even need put forth such a bill, but it is clear to me that as the National Labor Relations Act is presently written, this bill is imperative.

The national right to work bill is designed to help the American worker, Mr. President. In giving wage earners the choice outlined by my proposal, we are taking a major initiative toward offering workplace freedom. We are saying that an individual will have the ability to choose to be a member of a union if they so desire, not be told they must.

Mr. President, my State of Nevada is a right to work State, a right which is held dearly by all Nevadans. Why should a group of outside individuals be allowed to make a decision for the workers of my State? It's not right and I think as a free Nation, one founded in the belief in individual freedoms, we must change this current practice. That is the purpose of my bill, Mr. President, and the reason why I believe Congress must act to change this flawed policy.●

By Mr. DURENBERGER:

S. 2818. A bill to temporarily suspend the duty on certain internal combustion, 2-stroke-cycle, piston-type engines; to the Committee on Finance.

TEMPORARY DUTY SUSPENSION ON CERTAIN SMALL ENGINES

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would alleviate an unintended problem that has arisen as a result of the adoption of the harmonized system of tariff classifications.

Polaris Industries, a Minnesota-based company and the last remaining domestic manufacturer of snowmobiles, has for several years been importing engines for installation in their snowmobiles. Since there appear to be no domestic suppliers of comparable engines, Polaris has been allowed to import these engines duty-free. However, in the transition from the TSUS tariff clarification system to the harmonized system, these engines have been reclassified into a new category which carries a U.S. tariff of 3.1 percent. The legislation I am introducing would temporarily suspend the duty on these engines.

When Congress approved the harmonized system, it was not our intention to raise tariffs on products that are currently not dutiable. The purpose of the harmonized system was to enhance our international competitiveness. In this instance, the harmonized system works to the disadvantage of a domestic manufacturer and simply forces the company to raise the price of its products.

Mr. President, in these remaining days of the 100th Congress, I would hope that Congress will find time to pass a miscellaneous tariff bill, and that this remedial legislation will be included in such a bill.

I ask unanimous consent that the full text of this legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN INTERNAL COMBUSTION, 2-STROKE-CYCLE, PISTON-TYPE ENGINES.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"912.50	Internal combustion, 2-stroke-cycle, piston-type engines of a cylinder capacity exceeding 50 c.c., but not exceeding 1,000 c.c. (provided for in intem 660.56, part 4A, schedule 6) that are to be installed in motor vehicles that are specially desighed for traveling on snow, are golf carts, or are nonamphibious, all-terrain vehicles designed to carry only one passenger (provided for in item 692.10, part 6B, schedule 6)	Free	No charge....	On or before 12/31/92".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.●

By Mr. DOLE (for himself, Mr. BOSCHWITZ, Mr. HELMS, Mr. GARN, Mr. HEINZ, Mr. COHEN, and Mr. RUDMAN):

S. 2819. A bill to amend the Export Administration Act of 1979 to impose sanctions against firms involved in the transfer of chemical agents or their related production equipment or technical assistance to Iran, Iraq, Libya, and Syria, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CHEMICAL WARFARE CONTROL ACT

Mr. DOLE. Mr. President, I rise to introduce legislation to deal with one of the most dangerous problems facing this Nation today: The explosive spread of chemical weapons, especially in the Middle East and Persian Gulf.

The evidence that Libya, Iraq, Iran, and Syria are hell-bent on developing a chemical weapons capability is overwhelming. Indeed, there is strong evidence that Iraq has not only acquired but used chemical weapons, against both Iran and its own Kurdish population. So this is not a problem of the future, but a growing crisis of the present.

Tragically, there are apparently some irresponsible and greedy companies in free world countries which—for a few bucks—are helping the likes of Qadhafi and Khomeini develop the capacity for mass murder.

All of us remember all too well two other recent cases where major free world corporations transferred highly sensitive advanced technology to the Soviet Union, threatening Western strategic forces and compromising Western security.

Judging by the growing body of evidence, it is fair to say: Here we go again—only this time on chemical weapons.

Let us learn the lesson of that recent past. This time, let us act effectively before the worst of the damage is done. Passing this bill is a good way to start.

We have a strong weapon to do the job: Economic sanctions. Scrupulous or not, any businessman with an ounce of sense is not going to do business with Qadhafi for "peanuts"—if it means risking the vastly greater economic benefits of access to the American market.

Let's make that the real trade-off: Do business with Qadhafi—and you can "kiss goodbye" to any business you want to do in America.

That's what this bill does. It calls on the President—using all the intelligence and other information available to him—to determine and report to Congress on which companies are helping Libya, Iraq, Iran, or Syria develop chemical weapons. Any company listed in the President's report would face severe mandatory sanctions, which would remain in effect for 2 to 5 years, at the President's discretion:

The company would not be eligible to provide goods or services to the U.S. Government. And the company's products could not be imported into the United States.

In short, the whole U.S. market would be closed, for 2 to 5 years.

Now let me stress: This isn't some kind of "witch hunt" or "fishing expedition." Under the bill, the President has the discretion to move against a company only when he determines the evidence is sufficient to justify action. Let the record be clear that the bill's authors believe the President should not list any company until he is confident of the strength of the evidence implicating that company.

No specific country is singled out—nor is any exempted. No country is named in the bill—other than our "target" countries of Libya, Iraq, Iran, and Syria. We are not out to "bash" anyone.

And, in fact, it is not accurate to say this whole problem can be laid to firms in any one country.

Similarly, in this bill, no individual company is singled out—or exempted. If there is no compelling evidence a company is involved in this kind of activity, it need have no fear of this legislation.

I should also note that we have taken care to protect sensitive information, such as intelligence information and sources. Much of the President's report to Congress would be classified. Any list of companies, of course, would have to be unclassified, in order to implement the sanctions. But the President need not provide—and surely wouldn't provide, in unclassified form—the evidence of the companies' activities, if he feels doing so would compromise intelligence activities or sources.

The media is already "on to" this issue. There have been a number of reports, both on television and in the press. I will not comment on any of them, other than to say that some of those reports are inaccurate and, again, that this problem isn't limited to just one country.

But I will affirm that there is real evidence that this is a real problem; a problem requiring a strong response. This bill not only deserves, but demands, quick action by the Congress.

The "genie" of chemical weapons is already out of the "bottle." But it is not too late to do something effective to keep that "genie" under some semblance of control.

We have to put a stop to the spread of chemical weapons. And there is no better way to start than by passing this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical Warfare Control Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as a legitimate basis for constricting free and open trade; title XXI of the General Agreement on Tariffs and Trade states that "[n]othing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests . . . .";

(2) it is necessary for the protection of the essential security interests of the United States to halt immediately all trade in materials essential to production of chemical weapons, and transfers of technology and delivery systems for chemical weapons, to certain destinations;

(3) four countries of the Middle East, Iran, Iraq, Libya, and Syria, either support

terrorism as a national policy or have done so in the recent past;

(4) Iran, Iraq, Syria, and Libya are either producing chemical weapons or on the verge of doing so;

(5) chemical weapons have been used by Iraq against its own citizens;

(6) chemical weapons represent a grave new threat to friendly countries of the Middle East and ultimately the United States itself;

(7) Free World industrial firms have been instrumental in the development of chemical weapons in Third World countries;

(8) international cooperation has so far been unable to stem the trade in materials essential to produce chemical weapons and their industrial inputs;

(9) in order to halt the trade in chemical weapons and their industrial inputs, severe sanctions must be applied to individuals and firms which export prohibited items and technology to proscribed destinations; and

(10) any efforts by Communist-bloc countries to aid and abet the production or use of chemical weapons, or to develop and deploy delivery systems for chemical weapons, by Iraq, Libya, or any other nation of the Middle East/Persian Gulf region are deplorable.

SEC. 3. POLICY.

The United States should take all appropriate measures—

(1) to discourage the proliferation of the material and technology necessary and intended to produce or deliver chemical weapons;

(2) to discourage all states from acquiring such material and technology;

(3) to discourage Communist-bloc countries from aiding and abetting other countries in acquiring such material and technology; and

(4) to discourage private companies in non-Communist countries from aiding and abetting other nations from acquiring such material and technology.

SEC. 4. AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1979.

(a) FINDINGS.—Section 2 of the Export Administration Act of 1979 (50 U.S.C. App. 2401) is amended by adding at the end the following:

"(14) The possession by Middle East/Persian Gulf countries of chemical weapons and delivery systems threatens regional stability and world peace.".

(b) POLICY.—Section 3 of the Export Administration Act of 1979 (50 U.S.C. App. 2402) is amended by adding at the end the following:

"(16) It is the policy of the United States to use export controls to curtail transfers of materials and technology intended for use in producing chemical weapons and delivery systems.".

(c) IN GENERAL.—The Export Administration Act of 1979 is amended by inserting after section 7 the following:

"PROHIBITION ON EXPORTS OF CHEMICAL WEAPONS TO TERRORIST COUNTRIES

"SEC. 7A. (a) PROHIBITION.—(1)(A) No item on the list prepared by the President under paragraph (2) which is subject to the jurisdiction of the United States or which is exported by a person subject to the jurisdiction of the United States may be exported to a country described in subsection (b).

"(B) Subparagraph (A) does not apply to any export pursuant to a contract entered into before the date of enactment of this section.

"(2) The President shall prepare a list of chemical agents, production equipment, and technical assistance the export of which would materially assist a country in attaining a chemical warfare capability.

"(3) The President may waive the prohibition contained in paragraph (1) upon a determination, based on a credible end-user certification, that an export will not materially assist a country in attaining a chemical warfare capability.

"(b) DESTINATIONS OF EXPORTS.—The countries referred to in subsection (a) are Iran, Iraq, Libya, or Syria, except that—

"(1) additional countries may be made subject to subsection (a)(1) at the discretion of the President upon notification to the Congress; and

"(2) any country may be excluded from the application of subsection (a)(1) beginning 30 days after the President submits the name of such country to the Congress.

"(c) REPORTS.—(1) Not later than 90 days after the date of enactment of this section, and every 180 days thereafter, the President shall submit to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader and Minority Leader of the Senate, the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, and the Select Committee on Intelligence, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations of the Senate a report on efforts by Iran, Iraq, Libya, and Syria to acquire the material and technology to produce and deliver chemical weapons, together with an assessment of such countries' present and future capability to produce and deliver such weapons.

"(2) Such report shall also include an assessment of whether and to what degree Communist-bloc countries have aided and abetted the government of Iran, Iraq, Libya, or Syria in its effort to acquire the material and technology described in paragraph (1).

"(3) Such report shall further list those companies in non-Communist countries which have aided and abetted the government of Iran, Iraq, Libya, or Syria in that effort by exporting any item (including technology) on the list prepared under subsection (a)(2) to any such country.

"(4) Such report shall provide any confirmed or credible intelligence or other information that any non-Communist country has aided and abetted the government of Iran, Iraq, Libya, or Syria in that effort, either directly or by facilitating the activities of the companies listed in paragraph (3) or had knowledge of the activities of the companies listed in paragraph (3), but took no action to halt or discourage such activities.

"(5) Nothing in this subsection requires the disclosure of information in violation of Senate Resolution 400 of the Ninety-fourth Congress or otherwise alters, modifies, or supersedes any of the authorities contained therein.

"(d) MANDATORY SANCTIONS FOR FUTURE VIOLATIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—The President, subject to paragraph (3), shall apply sanctions under paragraph (2) for a period of not less than 2 years and not more than 5 years, if the President determines that, on or after the date of enactment of this section, a foreign person has exported any item on the list prepared under subsection (a)(2) to a country described in subsection (b). The preceding sentence shall not apply to an export that, if it were subject to subsection (a), would receive a waiver under subsection (a)(3).

"(2) SANCTIONS.—The sanctions referred to in paragraph (1) shall apply to any person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the person, and, except as provided in paragraph (3), are as follows:

"(A) A prohibition on contracting with, and procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government.

"(B) A prohibition on importation into the United States of all products produced by a sanctioned person.

"(3) EXCEPTIONS.—The President shall not apply sanctions under this subsection—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

"(B) to—

"(i) products or services provided under contracts entered into before the date on which the President notifies the Congress of the intention to impose the sanctions;

"(ii) spare parts;

"(iii) component parts, but not finished products, essential to United States products or production;

"(iv) routine servicing and maintenance of products; or

"(v) information and technology.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'component part' means any article which is not usable for its intended functions without being imbedded in or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

"(B) the term 'finished product' means any article which is usable for its intended functions without being imbedded or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

"(C) the term 'sanctioned person' means a person, and any parent, affiliate, subsidiary, or successor entity of the person, upon whom sanctions have been imposed under this section.".

Mr. GARN. Mr. President, today I join the Republican leader (Senate leadership) in introducing legislation intended to stop the spread of chemical weapons and delivery systems to terrorist countries. For me, this is one more step in a 14-year effort as a U.S. Senator to stop the transfer of sophisticated Western technology into the arsenals of our enemies. My experience has taught me that while technology security is vital, it is very difficult to achieve. Every bit of progress we make seems to be matched by some new setback.

Early last year we learned of illegal sales of milling machinery that dramatically improved the performance of Soviet submarines. For 2 years, I labored to enact legislation that would impose severe economic penalties on those who would sell such advanced technology to our enemies. When the President signed by amendment into law last month, we added new armor to our national security. But before the ink was dry on that law, we were reading in the press that chemical weapons technology was being sold to the terrorist government of Libya. So we go back to the drawing board.

The bill we introduce today attempts to ensure that we do not arm terrorists and that we stop the spread of horrendous weapons that civilized nations have agreed for 60 years should be banned. It would do this by imposing the same type of economic penalties in my Toshiba amendment on companies that sell chemical weapons to terrorist states.

I do not underestimate the difficulty of making this work. We are attempting to control the spread of technology that is in many cases relatively unsophisticated. Use of sanctions is sure to raise howls of protest from governments and industry. But just as in the Toshiba-Kongsberg case, we must put the world on notice that there are some crimes we will not tolerate. We must stand ready to take unilateral action, hitting violators with criminal and financial penalties, to stop the export of this deadly technology.

Mr. HEINZ. Mr. President, today I join my colleagues in an effort to stop the spread of chemical warfare capability to terrorist governments. The legislation we are introducing attempts to stop export of this capability by imposing severe economic and criminal penalties on the "death merchants." It is a sad commentary on the world we live in that such legislation is even needed.

While I do not wish to repeat what others have said about chemical weapons, I would like to emphasize why legislation is needed now. First, despite the agreement of all civilized nations for 60 years that these weapons should never be used, we have recently witnessed their use in the Middle East, not only against invading armies, but against innocent civilians. Second, despite the hard lessons we have learned about terrorism, we have recently learned of at least one company trying to provide chemical warfare capability to Colonel Qadhafi. Those facts should chill the hearts of our friends in Israel and civilized nations everywhere.

In the Banking Committee, we have labored over many years to stop the flow of dangerous technologies to our enemies. Last month, the President signed into law a provision I developed with Senator GARN imposing tough economic sanctions on those who would sell such advanced technology. The bill we are introducing today would extend those penalties to sale of chemical warfare technology.

This will be no simple task. Many nations have chemical weapons capability and the technology is in some cases relatively unsophisticated. Sanctions always raise howls of protest from governments and industry. But we cannot stand silently by while genocidal weapons are put in the hands of madmen. We must be ready to act unilaterally, if necessary, to end this threat to world peace.

By Mr. HECHT:

S. 2820. A bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State; to the Committee on Finance.

IMPOSITION OF STATE TAXES ON PENSIONS OF CERTAIN INDIVIDUALS

● Mr. HECHT. Mr. President, I rise today to introduce legislation to address the "source of income tax" question. Simply put Mr. President, this important initiative would prohibit a State from taxing the pension income of individuals who no longer reside in the State in which their income was initially earned.

Many retired Americans have chosen to retire in States such as my State of Nevada for a variety of reasons. Much to their surprise and dismay, they quickly learn that the retirement pensions they worked so hard to attain are also being taxed by the very State in which the income was earned. Mr. President, it is simply unfair that retirees who pay taxes in the State they reside, are simultaneously forced to continue paying income tax in the State of prior residency even though they cannot vote in that State nor receive the many benefits provided through residency.

As we all know, Mr. President, a revolution was fought over taxation without representation, yet the very same injustice our forefathers so adamantly opposed, has surfaced once again today.

Mr. President, America's retired workers have paid income tax all their lives. These pensions belong to those who worked long and hard to accumulate a nest egg for the stability of their future. I believe my legislation is a sound tool which will aid me in my fight to insure that retirees who live on fixed incomes do so comfortably, without the worry that their hard earned money will be susceptible to an unfair tax.

This is why, Mr. President, this measure is so critical. Our retirees must have the freedom to move freely throughout the country without owing allegiance to a particular State through the vehicle of taxation. In the name of fairness and decency, I urge my colleagues to support this important legislative reform.●

By Mr. HARKIN (for himself, Mr. WEICKER, Mr. STAFFORD, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, and Mr. ADAMS):

S. 2821. A bill to make certain technical and conforming amendments to the Education of the Handicapped Act and the Rehabilitation Act of 1973, and for other purposes; ordered placed on the calendar.

HANDICAPPED PROGRAMS TECHNICAL AMENDMENTS ACT

● Mr. HARKIN. Mr. President, I am pleased to introduce today, along with Mr. WEICKER, Mr. STAFFORD, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, and Mr. ADAMS legislation making technical and conforming amendments to the Education of the Handicapped Act, the Rehabilitation Act, the President's Committee on Employment of People With Disabilities, the American Printing House for the Blind, and the Helen Keller National Center Act.

This bill has been developed after extensive discussions with the other body, with the U.S. Department of Education, and with the groups affected by the legislation. It is bipartisen consensus legislation that has the support of the administration and the groups. A companion bill has been introduced by Congressman OWENS, the chairman of the House Subcommittee on Select Education of the Committee on Education and Labor.

I ask consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF TITLE I OF THE BILL

Section 101 of the bill amends section 602 of the Education of the Handicapped Act (hereinafter referred to as the EHA) by restructuring certain subsections and paragraphs to make them more readable; by deleting the reference to the National Advisory Committee on the Education of the Handicapped because the statutory authority for the Committee was repealed by Pub. L. 99-457.

Section 101 of the bill also amends section 602 of the EHA by making necessary grammatical changes; by making the terminology gender neutral; by correcting certain cross-references; by deleting an erroneously designated subparagraph and making it an unlettered paragraph; and by clarifying that the term "institution of higher education" includes community colleges receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

Section 101 of the bill also amends section 605 of the EHA by making the terminology gender neutral; by making grammatical changes, and by correcting a cross-reference. The bill also amends section 607 of the EHA by correcting a cross-reference; and amends section 608 of the EHA by removing the acronym "IEP" and replacing it with the phrase "individualized education program" and by deleting a reference to the now defunct National Advisory Committee.

Section 102(a) of the bill amends section 611 of the EHA by making necessary grammatical changes; by correcting certain references; by making conforming changes to other parts of the Act; by making the terminology gender free; and by correcting a punctuation error.

Section 102(b) of the bill amends section 612 of the EHA by restructuring the section to make it more readable and by clarifying a reference.

Section 102(c) of the bill amends section 613 of the EHA by making the terminology gender neutral; by updating a cross-reference; by restructuring the section to make it more readable; by correcting punctuation errors; by making a necessary grammatical change; and by adding clarifying language.

Section 102(d) of the bill amends section 614 of the EHA by restructuring the section to make it more readable and by correcting punctuation errors.

Section 102(e) of the bill amends section 615 of the EHA by making necessary grammatical changes and by restructuring the section to make it more readable.

Section 102(f) of the bill amends section 616 of the EHA by restructuring the section to make it more readable and by making the terminology gender neutral.

Section 102(g) of the bill amends section 617 of the EHA by making the terminology gender neutral and by clarifying a reference.

Section 102(h) of the bill amends section 618 of the EHA by restructuring the section to make it more readable; by clarifying references; and by correcting a punctuation error.

Section 102(i) of the bill amends section 619 of the EHA by improving the readability of the section; by making a necessary grammatical change; by correcting an erroneous reference; and by permitting the state educational agency, the local educational agencies, and the intermediate educational units in those states whose allotment of the succeeding fiscal year is adjusted downwards to have two fiscal years succeeding the fiscal year for which such funds were appropriated to expend such funds.

Section 103 of the bill amends sections 621, 622, 623, 624, 625, and 626 of the EHA by adding clarifying language; by correcting an erroneous reference; by making necessary grammatical changes; by restructuring applicable sections to make them more readable; by correcting spelling errors; and by correcting punctuation errors.

Section 104(a) of the bill updates the heading for part D of the EHA. Section 104(b) of the bill amends section 631 of the EHA by updating a cross-reference; by adding clarifying language; by making necessary grammatical changes; and by making state agencies eligible to compete for special projects under section 631(b) of the EHA.

Section 104(c) of the bill amends section 632 of the EHA by improving its readability; by adding a necessary cross-reference; and by clarifying that non-competitive grants shall be made to each state educational agency that applies and to an institution of higher education in any state in which a state educational agency does not apply.

The bill also authorizes the Secretary to make a limited number of grants to state educational agencies only on a competitive basis not to exceed 10 percent of the amount expended for grants under section 632 during the preceding fiscal year. It is our expectation that in the event the Secretary exercises his or her authority under this subsection that the grant program will be designed in cooperation with the State educational agencies and reflect the needs of the states.

Section 104(d) authorizes the Secretary to make continuation grants to institutions of higher education that received competitive grants for fiscal year 1987 under section 632 as then in effect.

Section 104(e) of the bill amends section 633 of the EHA to clarify a reference.

Section 105 of the bill updates the heading for part E of the EHA and amends section 641 of the EHA by correcting punctuation errors and updating a cross-reference.

Section 106(a) of the bill updates the heading for part F. Section 106(b) of the bill amends section 651 of the EHA by restructuring the section to make it more readable and by updating references. Section 106(c) of the bill amends section 652 of the EHA by updating references; by making grammatical changes; and by making the terminology gender free.

Section 107 of the bill updates the heading for part G and amends section 661 of the EHA by correcting an erroneous cross-reference.

Section 108 of the bill amends section 671, 672, 675, 676, 677, 678, 679, 680, 681, and 682 by making necessary grammatical changes; by correcting erroneous references; and by correcting punctuation errors. This section is not intended in any way to expand the scope of authorized activities.

Section 109 of the bill provides that notwithstanding section 412(b)(2) of the General Education Provisions Act, a state educational agency may use funds made available in fiscal year 1986 under the preschool provisions of the Act for expenditure in fiscal year 1987 in accordance with the provisions of the Act in effect during FY1986.

Section 110 of the bill provides that 34 CFR 300.300(b)(3) of the EHA does not apply to children aged 3-5 in any state for any fiscal year during the phase-in period for which the state receives a grant under section 619(a)(1) of the EHA. Section 300.300(b)(3) provides that if a public agency provides education to 50 percent or more of its handicapped children in any disability category in the 3-5 age group, it must make a free appropriate public education available to all of its handicapped children of the same age who have that disability.

TITLE II—REHABILITATION ACT OF 1973

Section 201(a) of the bill amends section 3(a) of the Rehabilitation Act of 1973 (hereinafter the "Act" for purposes of title II of the bill) by striking "National Council on the Handicapped" and by replacing it with "National Council on Disability" to reflect the name change.

Section 201(b)(1) of the bill amends section 6(a) of the Act by eliminating an obsolete reference to the Developmental Disabilities Services and Facilities Construction Amendments of 1970 and by replacing it with a reference to the Developmental Disabilities Assistance and Bill of Rights Act.

Section 201(b)(2) of the bill amends section 6(b) of the Act by eliminating an obsolete reference to the Developmental Disabilities Services and Facilities Construction Amendments of 1970 and by replacing it with a reference to the Developmental Disabilities Assistance and Bill of Rights Act. This subsection also strikes the last sentence and replaces it with a new format to improve its readability.

Section 201(c) of the bill amends section 7 of the Act by correcting punctuation errors; spelling errors; striking a repetitive phrase; and by making necessary grammatical changes.

Section 201(d) of the bill amends section 10 of the Act by correcting a punctuation error.

Section 201(e) of the bill amends section 12(c) of the Act by making the terminology gender neutral.

Section 201(f) of the bill amends section 14 of the Act by correcting a punctuation error and by making a necessary grammatical change.

Section 201(g) of the bill amends section 18 of the Act by correcting punctuation errors.

Section 202(a)(1) of the bill amends section 100(b) of the Act by eliminating an obsolete authorization of appropriations for American Indian vocational rehabilitation services. The authorization contained in this provision of the Act expired at the end of fiscal year 1986. Current authorizations are funded from set asides under the State grant program contained in section 110 of the Act.

Section 202(a)(2) of the bill amends section 100(c) of the Act by deleting the references to "price index" and replacing it with "Consumer Price Index" which is currently defined in section 100(c)(3) of the Act and by making a necessary grammatical change.

Section 202(a)(3) of the bill amends section 100(d)(1) by eliminating the unconstitutional legislative veto, and by improving the readability of the subsection which automatically extends certain authorizations for an additional year if they are not reauthorized before the end of their terminal year.

Section 202(b) of the bill amends section 101(a) by correcting punctuation errors; making the terminology gender neutral; making necessary grammatical changes; and by clarifying assurance for statewide studies of the needs of individuals with handicaps in the state plan to improve the readability.

Section 202(c) of the bill amends section 102 of the Act by correcting an erroneous reference and by making necessary punctuation and grammatical changes.

Section 202(d) of the bill amends section 103(a) of the Act by correcting punctuation errors; changing the format to improve its readability; and making necessary grammatical changes.

Section 202(e) of the bill amends section 111 by deleting a repetitive phrase; improving the readability of the reduction of the maintenance of effort section; incorporating the effective date into the compilation; and correcting a punctuation error.

Section 202(f) of the bill amends section 112 of the Act by making necessary grammatical changes; correcting punctuation errors; adding the definition of "Governor" which was erroneously deleted; making the terminology gender neutral; and correcting an erroneous reference.

Section 202(g) of the bill amends section 120(a) of the Act by deleting an erroneous section reference.

Section 202(h) of the bill amends section 121(a)(3) of the Act by making a necessary grammatical change.

Section 202(i) of the bill amends section 130 of the Act by correcting a punctuation error, making necessary grammatical changes; and deleting an erroneous subsection.

Section 202(j) of the bill amends section 132 of the Act by deleting an obsolete provision.

Section 203(a) of the bill amends section 201(a)(1) of the Act by correcting a punctuation error.

Section 203(b) of the bill amends section 202 of the Act by making necessary grammatical changes; making the terminology gender free; changing the name of the "National Council on the Handicapped" to the "National Council on Disability"; making a change in a proper name; inserting an omitted word; changing the format mandating a Research and Training Center in the Pacific Basin to be more readable; changing the name of the "Interagency Committee on Handicapped Research" to "Interagency Committee on Disability Research" in order for the wording to conform to the name of the "National Institute on Disability and Rehabilitation Research" and correcting a punctuation error.

Section 203(c) of the bill amends section 203(a)(1) of the Act by changing the name of the "Interagency Committee on Handicapped Research" to "Interagency Committee on Disability Research" in order for the wording to conform to the name of the "National Institute on Disability and Rehabilitation Research".

Section 203(d) of the bill amends section 204 of the Act by making necessary grammatical changes; deleting unnecessary words; and inserting an omitted word.

Section 204(a) of the bill amends section 300(3) of the Act by making a necessary grammatical change.

Section 204(b) of the bill amends section 302(b)(3)(D) of the Act by making a necessary grammatical change.

Section 204(c) of the bill amends section 304 of the Act by making necessary grammatical changes; deleting an obsolete term; changing the name of "the Office of Information and Resources for the Handicapped" to "the Office of Information and Resources for Individuals With Disabilities"; abbreviating a current reference; and deleting a repetitive punctuation mark.

Section 204(d) of the bill amends section 305(a)(1) of the Act by making a necessary grammatical change.

Section 204(e) of the bill amends section 306 of the Act by making a necessary grammatical change; inserting an omitted word; and correcting a punctuation error.

Section 204(f) of the bill amends section 310(a) of the Act by making a necessary grammatical change.

Section 204(g) of the bill amends section 311 of the Act by making a necessary grammatical changes; correcting a punctuation error; inserting an omitted word; and making a necessary spelling change.

Section 204(h) of the bill amends section 312 of the Act by making a necessary grammatical change.

Section 204(i) of the bill amends section 314(a)(2) of the Act by making a necessary grammatical change.

Section 204(j) of the bill amends section 316 of the Act by inserting an omitted heading and making a necessary grammatical change.

Section 204(k) of the bill repeals the obsolete section 313 provision where it follows section 316.

Section 205(a) of the bill amends the title heading for title IV of the Act by deleting "Title IV—National Council on the Handicapped" and replacing it with "Title IV—National Council on Disability".

Section 205(b) of the bill amends section 400 of the Act by changing the section heading to "Establishment of National Council on Disability"; changing the name of the "National Council on the Handicapped" to "National Council on Disability"; and making necessary grammatical changes.

Section 205(c) of the bill amends section 401 of the Act by making necessary grammatical and punctuation changes.

Section 205(d) of the bill amends section 402(a) of the Act by correcting a spelling error.

Section 205(e) of the bill amends section 403(b)(2)(B) of the Act by inserting omitted words and making necessary punctuation changes to improve its readability.

Section 206(a) of the bill amends section 501 of the Act by clarifying subsequent references; making necessary grammatical changes; making terminology gender free; making name changes; abbreviating a reference; and correcting a reference.

Section 206(b) of the bill amends section 502 of the Act by rewriting subsection (a)(2) to reflect the fact that it has twelve, not eleven members and to ensure that each year the terms of four appointed members of the board shall expire; making the terminology gender free; making necessary grammatical changes; correcting punctuation errors; correcting a reference; correcting a designation inconsistency; and making necessary spelling changes.

Section 206(c) of the bill amends section 503 of the Act by making necessary punctuation, grammatical and spelling changes.

Section 206(d) of the bill amends section 504 of the Act by making the terminology gender free and correcting a reference.

Section 206(e) of the bill amends section 506 of the Act by correcting a designation inconsistency; making a necessary grammatical change; and correcting a punctuation error.

Section 206(f) of the bill amends section 508 of the Act by inserting omitted words; making necessary grammatical changes; and ensuring that the revisions of guideline follow the same consultative process as the original development referred to in section 508(a)(1).

Section 207(a) of the bill amends section 612(b) of the Act by deleting obsolete references.

Section 207(b) of the bill amends section 621 of the Act by marking necessary grammatical changes; correcting subsection references; and making a name change.

Section 207(c) of the bill amends section 622 of the Act by making a necessary grammatical change.

Section 207(d) of the bill amends section 623 of the Act by making necessary punctuation changes.

Section 207(e) of the bill amends section 633 of the Act by making necessary punctuation, grammatical and spelling changes.

Section 207(f) of the bill amends section 634 of the Act by inserting an omitted subsection number; making necessary grammatical changes; incorporating the waiver provisions into the compilation; and correcting erroneous references.

Section 207(g) of the bill amends section 635(a)(1) of the Act by inserting an omitted word and making necessary punctuation changes.

Section 207(h) of the bill amends section 638 of the Act by inserting an omitted word.

Section 208(a) of the bill amends section 702(a) of the Act by inserting omitted words.

Section 208(b) of the bill amends section 703 of the Act by making necessary grammatical changes.

Section 208(c) of the bill amends section 704(b)(2) of the Act by correcting a reference.

Section 208(d) of the bill amends section 705(a)(4)(C) of the Act by inserting an omitted word; eliminating an obsolete reference; updating a reference.

Section 208(e) of the bill amends section 706 of the Act by making a necessary grammatical change.

Section 208(f) of the bill amends section 711 of the Act by making necessary grammatical changes; correcting punctuation errors; and changing a name.

Section 208(g) of the bill amends section 721(a)(6) of the Act by making a necessary grammatical change.

Section 208(h) of the bill amends section 731(a) of the Act by inserting an omitted word.

Section 208(i) of the bill amends section 741(d) of the Act by correcting the ommission of the last year of authorization and correcting a spelling error.

Section 209 of the bill amends the table of contents of the Act by deleting an obsolete section; updating section headings; and changing a name.

Section 210 of the bill amends subsection (b) of section—of the Rehabilitation Act Amendments of 1986 by deleting a duplicative phrase.

TITLE III—AMENDMENTS RELATING TO THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

Section 301(a) of the bill amends the joint resolution entitled "Joint Resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week" by changing the commemorative week to a month and changing the name from "National Employ the Physically Handicapped" to National Disability Employment Awareness Month".

Section 301(b) of the bill amends the joint resolution entitled the "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week" by updating the reference from week to month changing the name from "National Employ the Physically Handicapped" to National Disability Employment Awareness Month"; changing the "President's Committee on Employment of the Handicapped to the "President's Committee on Employment of People With Disabilities"; and adding a new subsection permitting the President's Committee on People with Disabilities to accept voluntary and uncompensated services.

TITLE IV—AMERICAN PRINTING HOUSE FOR THE BLIND AMENDMENTS OF 1988

Section 401 of the bill specifies that title IV of the bill may be cited as "American Printing House for the Blind Amendments of 1988".

Section 402 of the bill terminates the perpetual trust fund and permanent annual appropriations to the American Printing House for the Blind effective October 1, 1989.

Section 403 of the bill make a conforming change regarding the termination of the perpetual trust fund.

Section 404 of the bill compensates the American Printing House for the Blind for any rights vested in the perpetual trust by an appropriation for Fiscal Year 1990.

Section 405 of the bill provides that references in other Federal laws to the perpetual trust and permanent annual appropriations shall not be given effect.

TITLE IV—AMENDMENTS TO THE HELEN KELLER NATIONAL CENTER ACT

Section 501 of the bill extends the authorization of the Helen Keller National Centers an additional year to conform to the reauthorization date of the Rehabilitation Act of 1973.●

By Mr. McCAIN:

S. 2825. A bill to waive the time limitation relating to the award of the Congressional Medal of Honor to Tibor Rubin for distinguishing himself by acts of valor during the Korean war; referred to the Committee on Armed Services.

TIBOR RUBIN DESERVES THE CONGRESSIONAL MEDAL OF HONOR

● Mr. McCAIN. Mr. President, all through our history, America has served as a beacon to others, serving as a source of political inspiration, a haven for the oppressed, and a friend to nations in times of need. But when Americans give their lives to defend our rights and liberties, it wakes us to the realization that the price of freedom can be very high.

We owe all of our veterans of military service a special debt of gratitude. It has been their commitment and devotion that has helped our great Nation persevere through more than two centuries of struggle. We must, however, also acknowledge and thank those Americans who defended this country under the most arduous conditions: our prisoners of war.

There are many powerful and searing accounts of courage, heroism, and ingenuity in the face of multiple tortures. And there is one such story that came to my attention, and that I would like to share. The story is about Tibor Rubin, a holocaust survivor who arrived in this country in 1949. A few months after his release from Nazi concentration camps and his arrival to the United States, Tibor enlisted in the U.S. Army. In November 1950, Tibor and many of the members of his company were taken prisoners by the Chinese in Unsan, North Korea.

During his 2½ years as a prisoner of war, Tibor Rubin waged a private war against his captors, and his efforts on behalf of his fellow prisoners are credited with saving the lives of 35 to 40 Americans. During his captivity Tibor turned down an offer to leave the gulag-type camp and return to his native Hungary. Instead, he chose to stay with his American comrades, tend to their wounded bodies and spirits, steal food and supplies for them, encourage them, and give them hope.

Thirty years later, several of his comrades have come forth to recommend Tibor Rubin for the Congressional Medal of Honor. Their campaign to waive the time limitation for receiving the award is gathering momentum, and I am introducing today a bill to accomplish this aim.

Mr. President, in an effort to further acquaint others with the exploits of Tibor Rubin, I ask unanimous consent to reprint a letter sent to my good friend, Representative BEN GILMAN. The author, Mr. Carl McClendon, is an ex-POW who was incarcerated with Tibor Rubin, and I hope his words will encourage my colleagues to support this bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR CONGRESSMAN GILMAN: During the late part of 1985, I received a letter from M/Sgt Randall J.J. Briere from San Antonio, Texas, who was with me in the North Korean Prisoner of War Camp for 36 months. He had found out that I lived in California, and was very happy to inform me that Tibor Rubin is alive. When I heard, I could not believe it. We all believed that Tibor was killed by the Chinese, but thank God we were wrong. When I heard the good news, my heart started beating faster, I felt faint, and started to cry from happiness. I then thanked our Lord for letting him stay alive, he was the man who saved my life and the lives of so many other GI's. M/Sgt Briere told me that Tibor Rubin has been recommended for the "Medal of Honor" by some of the ExPows whose lives he also saved. I figured that I have to do something myself also, but how?

I have to tell you that ever since I came home, I can't talk to anyone about my life as far as the War is concerned, especially my Prisoner of War days. I still have nightmares about the Prisoner of War Camp. I have severe panic spells, periods of nervousness, claustrophobia, shortness of breath, and I can't be with people. I get so nervous that many times I fear that I will go crazy. I have severe headaches, chest pains and became like a hermit. I had a stroke in 1978, then in January 1987 I had a by-pass operation and checked in the Long Beach Veterans Hospital at the end of March. I am now under group therapy as an outpatient and because my time is running out I asked the Lord to help me open up somehow to talk about the man who saved my life and the lives of many other GI's.

It took me 2½ weeks to write this letter. It was one of the hardest and most painful things I've had to do in the last 35 years, but I had to do it. I had to open up even though it hurts so much. I am reliving the horrors of the 36 months I spent in the Prisoner of War Camp in North Korea.

I was taken Prisoner on Nov. 27, 1950 around Ipsop, North Korea. (My life and many other GI's lives suddenly became a nightmare. We were not trained or prepared for such a life.) We were captured in our summer uniforms and the weather was cold. Our wounded did not have medical care, and hardly had any food, only a little corn twice a day. Many of us got dysentery, pneumonia, and later Beri-Beri. Our nerves were bad and when the real starvation started, we began to die. When we got to Camp No. 5, we were weak and disoriented, we had never faced death like that before. Our lives became hopeless. In no time, it was every man for himself. No one cared, and many of us started praying to ask our good Lord to let us die. Our GI's started dying at a rate of 30 per day.

I am 6'1 and I weighed 195-200 lbs. before capture. My weight was down to 95-100 lbs in a few months. My nerves started to crumble. Our most important thing was food, all we thought, dreamed, and talked about was food and food.

One night, someone was crawling toward me and told me in very bad English to keep quiet. Then he came closer and reached in his fatigue pants and his pockets, and he started giving me and a few others some food. It was Rubin, that young man whose English I did not really understand. He first started coming every evening a few hours. He used to bring corn, millet, barley, turnips and vegetables, and take care of the wounded people. He was like Santa Claus to us.

Rubin had to be very careful and keep a low profile, because if he ever got turned in to the Chinese or the North Koreans he would get shot on the spot.

Everyday we had to go to Communist lectures. They tried to brainwash us. They talked about war mongers and Capitalism. Rubin used to tell the GI's, "Please, don't believe all that 'Horse Shit'. These communists do not have anything to offer." In no time the Chinese found out that Rubin was talking against their teachings, so every day he was put on toilet detail, carry the buckets of waste, or he was put on burial detail, but nothing broke his morale. The more the enemy pushed him, the braver he became. He told us that this war was not over, and that we have to hit the enemy where it hurts. He told us: "The Chinese and the North Koreans do not have much food for themselves so stealing their rations will hurt them more than death." Every day, when it got dark, and we went to sleep, Rubin was on his way, crawling on his stomach, jumping over fences, and breaking into supply houses, and all the while guns were looking down on him. He tied the bottom of his fatigue pants and filled up anything he could get hold of. He risked his life as he crawled back and distributed the food he had stolen. He washed us, took care of our wounds, force fed us, and talked to us about not giving up. "We will go home", he used to tell us. "Our troops will liberate us, your family is waiting for you, please, don't give up."

The Chinese asked him a few times to go back to Hungary. They promised him good jobs. They told him: "You are a Hungarian citizen. Why do you fight the rich man's war?" Rubin asked us what would some of us do. We told him: "Rubin go back, get out of here, we all will end up in Siberia and die like Animals." They wanted to let him go back to Hungary, when 30 to 35 guys died every day and no one knew who will be next Rubin told us there was no way he ever would go back, and leave his comrades. They needed him here, and no way would he bring shame to his family back in the good old USA.

Rubin has guts. The Chinese planted a nice victory garden in springtime 1951. Nobody was allowed to go close to the garden. Our mouths were watering as we saw it grow. One tomato was worth a million bucks if we could have it. Well, one day Rubin told me. "Carl, if the good lord helps us, tomorrow there will be harvest day." I really did not know what he was talking about. But the next day around midnight we found out. Rubin had tomatoes, onions, radishes, cucumbers and turnips. He told us, the Chinese donated it to us.

Many of us died the very dirty way that first winter. No man should die the way they did. Rubin was very proud of his accomplishment to save and try to save our lives, and when he helped one and tried everything and lost some one, he was heart broken for weeks. To get rid of his hurt and anger, he stole more food. That is the only way he knew to get even. One time, he stole a whole bag of potatoes. Boy oh Boy; did we have a Thanksgiving. I never forget how sad he was for weeks, when William K. Bonner died in June 1951, with Beri Beri. He was from I believe FFD #1, Sault St. Marie, Michigan. Rubin saved his life twice. He was doing O.K. and all of a sudden he got Beri Beri. Rubin took it real hard, because he was working so hard to try to save Bonner's life, but this went on like that all the time.

We were separated from Rubin and I was transfered to Camp 4 in Aug. 1951. I believe M/Sgt. Briere and Rubin are the only ones who are alive today from the 1 Company, who spent 30 months or more as a Prisoner of War.

Now I told my story. While I was writing it I was in tears and nearly broke down. There is no way I can tell you what it meant to be a Prisoner of War in North Korea for 36 months. We lost 51 percent of our Comrades. It was a plain nightmare, which none of us will ever forget.

As far as Mr. Tibor Rubin, well M/Sgt. Randall J. Briere wrote in his letter to Congressman Les Aspin on Jan. 7, 1986, that in the front lines Rubin was cited for an award. M/Sgt. Briere later updated a letter on Feb. 2, 1987 that Rubin was written up for a decoration for Valor above and beyond the call of duty. So Rubin was already then an outstanding soldier.

I know most of Rubin's family was killed by the Germans in WW 2 and he also was a prisoner of the Nazis. Maybe that is where he learned to be so cunning and brave. He had more courage, guts and fellowship than I ever know any one had. I went through the war and Prisoner of War Camp and I have to say, that I never met any one to be a better soldier than Tibor Rubin. He is the most outstanding man I ever met with a heart of gold. Tibor Rubin committed every day Bravery that bogled my mind. How he came home alive is a mystery to me.

Tibor Rubin in my opinion really deserves 10 or 15 Congressional Medals of Honors for what he did for his fellow GI's under the most difficult conditions. While the enemy guns were looking down on him, he took the most precious things from the enemy, their food supply, every day, and hit them in their stomachs every day, where it really hurt them. While he did all these things, he was not born in the USA and he was not a United States Citizen.

We as a nation have to honor Ex-Soldiers like Tibor Rubin, and I pray to God that I can stay alive, so I can stand next to Mr. Tibor Rubin proudly when he receives the "Congressional Medal of Honor" and the DSC and the Silver Star from our President.

Respectfully Yours,

CARL MCCLENDON. ●

By Mr. CRANSTON:

S. 2822. A bill to provide for a grant program to assist eligible consortia in providing services to individuals with acquired immunodeficiency syndrome or AIDS-related complex; to the Committee on Labor and Human Resources.

S. 2823. A bill to promote the provisions of, and provide financing for, appropriate patient care for individuals with acquired immune deficiency syndrome [AIDS]; to the Committee on Finance.

AIDS HEALTH SERVICES ACT AND AIDS HEALTH CARE FINANCING ACT

Mr. CRANSTON. Mr. President, I am pleased today to be introducing two bills—S. 2822, the proposed "AIDS Health Care Services Act of 1988" and S. 2823, as a companion to H.R. 4136, the proposed "AIDS Health Care Financing Act of 1988" introduced by Representative NANCY PELOSI on March 10. Representative PELOSI is today introducing a companion measure to the first bill. The two bills together address what I consider to be the most serious questions facing public policymakers regarding the AIDS epidemic: How do we provide and pay for services for the increasing number of AIDS patients?

As the number of AIDS cases continues to grow, more and more communities and States across the country are becoming increasingly concerned about their ability to respond to this crisis. Without Federal assistance, I am deeply concerned that many will not be able to. These bills are intended to help fill in the gaps in our health-care system so that people with AIDS and people infected with the human immunodeficiency virus [HIV] have access to the full range of needed health and support services.

BACKGROUND

Mr. President, as of September 1, 1988, more than 75,000 cases of AIDS have been reported. That number is expected to rise to 270,000 by 1991. This epidemic is no longer one substantially affecting only the two coasts. It crosses all boundaries throughout the country, and communities in middle America are now confronting the same type of crisis as New York, Los Angeles, San Francisco, and Miami. Ten cities have already reported over 1,000 cases each; nearly half of all States have treated more than 500 AIDS patients. Over 60 percent of all AIDS cases in the United States have now been reported outside New York City, San Francisco, and Los Angeles, and by 1991, it is expected that 80 percent of all persons with AIDS in this country will reside outside of New York City and San Francisco.

The AIDS epidemic has brought us face to face with many of the deficiencies of our present health-care system that have too often been ignored. Lack of health insurance, uncompensated care, undercompensation by Medicaid, lack of access to and availability of nonhospital health services, and growing discrepancies between the uncompensated case loads of private and public hosptials are all serious problems plaguing health care in America. The AIDS epidemic has brought to the surface and magnified these problems, and a financial crisis is looming in our health-care system.

Currently between $1 and $2 billion a year is currently being spent on medical care of AIDS patients. By 1991, those costs may rise to between $4.5 and $8.5 billion annually. And, if current trends continue, the majority of that burden will be borne by the public hospitals and health systems and will seriously strain if not break their ability to continue providing health services to all low-income Americans.

THE SAN FRANCISCO MODEL

San Francisco, largely as a result of intensive efforts by the gay community, has successfully developed an integrated community-based system of comprehensive services for people with the HIV infection. This case-management-based model has resulted in dramatically lowered costs for AIDS care. I would add that, in most instances, community-based care is far preferable to hospitalization because it allows the individual to remain at home with his or her friends and families and maintain to the maximum extent possible, their abilities to function independently and to lead an active life.

Mr. President, at the conclusion of my remarks, I will ask unanimous consent to print in the RECORD the article "Case-Managing AIDS" by Paul S. Jellinek in the summer 1988 edition of Issues in Science and Technology, which describes the San Francisco model.

Other communities are attempting to replicate the San Francisco model through the help of the Robert Wood Johnson Foundation and Federal AIDS service delivery demonstration projects. Although I believe that these projects have been very helpful, the development and maintenance of services is dependent on the availability of funding, which often does not exist for nonhospital services.

The Presidential Commission on the HIV Epidemic, on page 143 of its landmark June 1988 report, stated that—

> The current situation calls for immediate action to provide funding necessary to help the hardest hit areas and provide care for people in desperate need of assistance. This would mean providing targetted assistance * * * and encouraging cost-effective care through enhanced reimbursement from the federal government.

Recommendations 2-11 of the Commission states that

> [t]he Public Health Service * * * should provide initial funding and technical assistance to communities in order to establish services to fill existing gaps and to develop coordinated networks of services. Systems created should include a continuum of services, emphasize alternatives to hospitalization, and utilize a case-management approach.

Mr. President, that is precisely what the proposed "AIDS Health Care Services Act of 1988' is intended to help accomplish.

I want to emphasize the great need that exists for two services in particular—mental health services and shelters—which would be included in the comprehensive service delivery system that would be encouraged and supported under this legislation.

With regard to mental health services, experts have repeatedly said that the mental health and counseling needs of people with AIDS and HIV infection are much greater than for individuals with other diseases. One recent study found that the relative risk of suicide in men with AIDS was substantially higher than that of the general population. The psychological stress of facing a terminal illness often coupled with discrimination and ostricization is tremendous. In addition, a form of dementia that frequently accompanies AIDS requires psychological or psychiatric assistance. Unfortunately, there are few mental health professionals trained to deal with AIDS and these types of services are often unavailable.

Second, I am deeply concerned that an increasing number of AIDS patients are without a permanent residence. In Los Angeles, for example, it is estimated that up to 15 percent of all people with AIDS suffer some degree of homelessness. Many lose their homes because of a loss of income or discrimination once they become sick. Many others, particularly intravenous drug addicts, may already be homeless. The Presidential Commission found that housing for homeless persons with AIDS is even more limited than it is for the general homeless population. Moreover, homeless shelters are generally inappropriate for people with life-threatening illnesses because they close during the day and do not provide essential medical and support services.

BILL PROVISIONS

Mr. President, this legislation would assist communities in developing a network of services to care for AIDS patients. The needs of people with AIDS are many—from basic shelter to counseling to home-health services. Unfortunately, the majority of communities throughout the country do not have adequate community-based services for AIDS patients. Consequently, many AIDS patients are needlessly hospitalized or have longer lengths of stay in hospitals than may be required. Other AIDS patients who require a level of care less intensive than hospital care may simply be going without it.

This legislation would require that in order to receive Federal support under the new program, city or county health departments, community-based organizations, health-care facilities and providers, including drug abuse and mental health clinics, public and private hospitals, and home-health agencies would have to form consortia and must work together to develop a comprehensive service delivery system for AIDS in their locality. Such a system would include, at a minimum, acute inpatient care, long-term care, case-management, outpatient services, home health care, mental health services, drug abuse treatment, and extensive support services, including homemaker services, adult day care, respite care, transportation, and legal services.

Consortia would further be required to give priority to establishing primary community health and support services, such as outpatient, mental health, and home-health services, shelter, food, and case management. Secondary services would include hospice care, homemaker services, respite care for caregivers of people with AIDS, adult day care, child care for children infected with the HIV, support services for volunteers providing assistance to people with AIDS, transportation assistance, foster care for children infected with the HIV, and assistance in obtaining legal services relating to infection with the HIV.

With regard to the second tier of services, priority would be given to those which would assist the consortium in providing the full range of services described in tier one. For example, if a lack of available transportation prevents people with AIDS from gaining access to mental health or outpatient services, the consortium should give priority to providing transportation assistance.

Mr. President, this legislation would authorize the appropriation of $250 million for the development of comprehensive service delivery systems for AIDS. Up to 15 percent of the funds would be able to be permitted to be used to supplement Medicaid or otherwise to provide relief for uncompensated costs for inpatient hospital or nursing home care for individuals with AIDS or AIDS-related complex.

Very few nursing homes currently take AIDS patients, although many need that level of care. Part of the reason nursing home beds are unavailable is that reimbursement rates do not cover the cost of care. I believe that this funding could encourage nursing homes to care for people with AIDS.

At least 20 percent of the funds would be required to be used for services targetted to minorities. Blacks and hispanics represent a disproportionately high percentage of persons with AIDS, and this provision would help ensure that minority health-care needs are met. In addition, each consortium would be required to provide in its application assurances that minorities will be represented in the policymaking and managerial components and that it will conduct outreach to minority communities.

Finally, this legislation would require the Secretary of Health and Human Services to conduct research focused on the provision of services to individuals infected with the HIV, including studies focused on the ability of the nation's health-care system to provide services to minorities with AIDS and the extent to which the public and private sectors of society are providing care to people with AIDS, and an analysis of the most cost-effective ways to provide medical amd mental health services to different populations of individuals with a spectrum of symptoms resulting from the HIV.

THE PELOSI BILL

Mr. President, the second bill I am introducing is the companion bill to H.R. 4236, the proposed "AIDS Health Care Financing Act of 1988," introduced by my good friend and colleague, Representative Nancy Pelosi. This bill would: First, extend the eligibility for continued private health insurance under the Consolidated Omnibus Reconciliation Act from 18 to 29 months for individuals who are found to be disabled under the Social Security Administration's medical criteria; second, authorize a special $30 million fund to pay the premiums and deductibles for those who cannot afford to pay; third, provide incentives to State Medicaid programs to utilize home- and community-based health-care waivers and to provide specialized AIDS patient care; fourth, establish demonstration projects to provide care to AIDS patients in medium- and low-incidence areas, to monitor and treat individuals infected with the HIV but who do not have AIDS, and to disseminate information about AIDS treatment programs; and fifth, authorize appropriations for providing limited financial assistance to local governments in areas with disproportionate numbers fo AIDS cases.

Mr. President, I believe that these two bills are complementary and would go a long way toward correcting the current gaps in our health-care system as it concerns AIDS. I am very pleased to join with Representative Pelosi in this effort on AIDS. With her introduction in the House of the AIDS Health Services Act of 1988 today, we will now have pending in both Houses a complete complement of legislation addressing the health care needs of people with AIDS.

CONCLUSION

Mr. President, one of the greatest challenges that will confront the 101st Congress will be the development and financing of health-care services for people with AIDS. We must begin now to develop alternative modes and comprehensive systems of care and at the same time ensure that our Nation's hospitals—particularly public hospitals—are able to continue providing services to people with AIDS. These bills are intended to start that process, and I urge my colleagues to join with me in the next Congress to ensure that these vitally important issues are addressed.

Mr. President, I ask unanimous consent that the article by Mr. Jellinek and the text of both bills be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "AIDS Health Services Act of 1988".

SEC. 2. PURPOSE.

It is the purpose of this Act to encourage the creation of consortia between health and social service providers that provide care to people with acquired immunodeficiency syndrome (hereinafter referred to in this Act as "AIDS") or AIDS-related complex (hereinafter referred to in this Act as "ARC") in order to—

(1) develop appropriate models of continuums of care, from inpatient hospital care to social and support services, responsive to the full spectrum of needs of individuals with illnesses resulting from infection with the etiologic agent for AIDS so that the health-care and social-service needs of such individuals can be met in a manner that supports to the maximum extent possible the opportunities of such individuals for independent, self-sufficient functioning in the community;

(2) promote outreach to members of minority communities;

(3) set priorities for targeting funding to fill gaps and other deficiencies in efforts to implement continuums of health-care and social support services; and

(4) foster communication and cooperative relationships between various service providers in order to enhance coordination of services.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ELIGIBLE CONSORTIUM.—The term "eligible consortium" means an association consisting of a city or county health department or agency, community-based service organizations, health-care facilities and providers, including drug abuse and mental health clinics, public and private hospitals, and home health agencies that have entered into arrangements for the purpose of providing for a comprehensive service delivery system.

(2) COMPREHENSIVE SERVICE DELIVERY SYSTEM.—The term "comprehensive service delivery system" means a coordinated system of care for people infected with the etiologic agent for AIDS that includes at a minimum, acute inpatient care, long-term care, case management, outpatient services, home care, mental health services, drug abuse treatment, and extensive support services including attendant and homemaker services, adult day care, respite care, transportation, and legal services.

SEC. 4. GRANT PROGRAM.

(a) MAKING OF GRANTS.—The Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary"), acting through the Administrator of the Health Resources and Services Administration, shall make grants to eligible consortia as follows:

(1) INPATIENT AND NURSING HOME CARE.—Not more than 15 percent of the funds provided under this section may be used to supplement benefits under title XIX of the Social Security Act or to otherwise provide relief for uncompensated costs for inpatient hospital or nursing home care for individuals with AIDS or ARC.

(2) PRIMARY COMMUNITY HEALTH AND SUPPORT SERVICES.—Funds provided under this section may be used to develop and provide services for individuals with AIDS or ARC if such services are not adequately provided for in the communities of such individuals, as follows:

(A) Out-patient services.

(B) Mental health and counseling services.

(C) Home health services.

(D) Short-term shelters and other small residential facilities for homeless individuals, and families of individuals, with AIDS or ARC, including residential facilities specifically designed for individuals who—

(i) use intravenous drugs, otherwise abuse substances, or are mentally ill; and

(ii) are infected with the etiologic agent for AIDS.

(E) Nutrition-related services.

(F) Case-management services.

(3) SECONDARY COMMUNITY SUPPORT SERVICES.—Funds provided under this section may be used to develop and provide services for individuals with AIDS or ARC if such services are not adequately provided for in the communities of such individuals. Such services may include—

(A) hospice care;

(B) personal, homemaker, and attendant care;

(C) respite care for parents or other caregivers of individuals, including children and infants with AIDS or ARC;

(D) adult day care for individuals with AIDS or ARC;

(E) child care for children infected with the etiologic agent for AIDS;

(F) support services and counseling for volunteers providing services to individuals with AIDS or ARC;

(G) transportation assistance;

(H) foster care, including training and incentives for foster parents for children infected with the etiologic agent for AIDS; and

(I) assistance in obtaining legal services relating to AIDS or ARC.

(b) PRIORITY SERVICES.—Priority in the provision of funds made available under this section shall be provided to assist in the development and availability of services described in subsection (a)(2).

(c) TARGETING OF FUNDS TO MINORITY COMMUNITIES.—Not less than 20 percent of funds made available under this section to provide services under paragraphs (2) and (3) of subsection (a) shall be used for the provision of services for members of minority communities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $250,000,000 in fiscal year 1989, and such sums as may be necessary in fiscal years 1990 and 1991.

SEC. 5. APPLICATION.

(a) IN GENERAL.—An eligible consortium seeking to receive assistance under section 4 shall submit an application to the Secretary in order to receive a grant under such section.

(b) CONTENTS OF APPLICATION.—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance is sought;

(2) contain a plan for establishing in the community concerned a comprehensive service delivery system for individuals with AIDS or ARC;

(3) identify agencies or organizations to provide case-management services for individuals infected with the etiologic agent for AIDS;

(4) contain a community needs and resources assessment report;

(5) contain an estimate of the numbers of patients who will utilize the services provided with funds made available under section 4 at any one time, and the estimated cost of care for each service component;

(6) provide assurances that representatives of minority communities are included in the policymaking and managerial component of the consortium and that major efforts will be made to provide outreach and other services to members of minority communities;

(7) describe a mechanism for information and records sharing to assure nonduplication of services;

(8) provide timetables for implementing the plan described in the applications;

(9) describe a mechanism to evaluate the success of the consortium in carrying out the plan and the cost-effectiveness of the services provided; and

(10) contain such additional information and assurances as the Secretary may by regulation prescribe.

SEC. 6. RESEARCH.

(a) CONDUCTING RESEARCH.—

(1) IN GENERAL.—The Secretary shall conduct health and mental-health services research focused on the delivery of services to individuals infected with the etiologic agent for AIDS.

(2) AREAS OF RESEARCH.—Research conducted under paragraph (1) shall include—

(A) studies on the ability of the nation's health-care systems to provide services to individuals with AIDS who are members of minority communities;

(B) studies on the extent to which various sectors of society are underwriting the costs, health-care needs, and expenditures of individuals infected with the etiologic agent for AIDS; and

(C) an analysis of the most cost-effective ways of providing medical and mental health services to individuals addicted to drugs, bisexual and gay men, women with AIDS, and pediatric AIDS patients, including the health outcomes of individuals who are receiving care in such different settings.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as are necessary for fiscal year 1989.

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "AIDS Health Care Financing Act of 1988".

SEC. 2. PRIVATE HEALTH INSURANCE.

(a) EXTENSION OF COBRA CONTINUATION COVERAGE FROM 18 TO 29 MONTHS FOR THOSE WITH A DISABILITY AT TIME OF TERMINATION OF EMPLOYMENT.—

(1) INTERNAL REVENUE CODE AMENDMENTS.—Section 162(k)(2) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraph (B)(i) (relating to maximum required period of continuation coverage), by adding at the end the following new sentence: "In the case of an individual who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in paragraph (3)(B), any reference in subclause (I) or (II) to 18 months with respect to such event is deemed a reference to 29 months."; and

(B) in subparagraph (C) (relating to premium requirements), by adding at the end the following new sentence: "In the case of an individual described in the last sentence of subparagraph (B)(i), any reference in clause (i) of this subparagraph to '102 percent' is deemed a reference to '152 percent' for any month after the 18th month of continuation coverage described in subclause (I) or (II) of subparagraph (B)(i).".

(2) ERISA amendments.—Section 602 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162) is amended—

(A) in paragraph (2)(A), by adding at the end the following new sentence: "In the case of an individual who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 603(2), any reference in clause (i) or (ii) to 18 months with respect to such event is deemed a reference to 29 months."; and

(B) in paragraph (3), by adding at the end the following new sentence: "In the case of an individual described in the last sentence of paragraph (2)(A), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '152 percent' for any month after the 18th month of continuation coverage described in clause (i) or (ii) of paragraph (2)(A).".

(3) PHSA amendments.—Section 2202 of the Public Health Service Act (42 U.S.C. 300bb-2) is amended—

(A) in paragraph (2)(A), by adding at the end the following new sentence: "In the case of an individual who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 2203(2), any reference in clause (i) or (ii) to 18 months with respect to such event is deemed a reference to 29 months."; and

(B) in paragraph (3), by adding at the end the following new sentence: "In the case of an individual described in the last sentence of paragraph (2)(A), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '152 percent' for any month after the 18th month of continuation coverage described in clause (i) or (ii) of paragraph (2)(A).".

(4) Effective date.—The amendments made by this subsection shall apply to plan years beginning on or after the date of the enactment of this Act.

(b) Optional Use of Medicaid Funds to Pay Premiums and Deductibles for Continuation Coverage.—

(1) In general.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(q) A State, at its option, may pay expenses of an individual eligible for benefits under its plan for premiums, deductibles, coinsurance, or similar costs for health insurance or other health coverage offered by or through the individual's employer (including such insurance offered pursuant to continuation coverage under section 162(k) of the Internal Revenue Code of 1986). In such case, the State shall treat the coverage under such a plan as a third party liability (under subsection (a)(25)). Payments for coverage under this subsection shall be considered, for purposes of section 1903(a), to be payments for medical assistance.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) Grant Program to Assist in Paying Premiums and Deductibles for Continuation Coverage.—

(1) In general.—The Secretary of Health and Human Services (in this Act referred to as the "Secretary") shall provide for a 3-year program of grants to States to assist in paying expenses for premiums, deductibles, coinsurance, and similar costs for continuation coverage described in section 162(k) of the Internal Revenue Code of 1986, title VI of the the Employee Retirement Income Security Act of 1974, or title XXII of the Public Health Service Act for individuals who were disabled at the time of termination of employment.

(2) Distribution of funds.—Funds made available under this section shall be distributed among the States in a manner that takes into account the relative numbers of individuals in the States who are eligible for assistance described in paragraph (1) and the relative expenses of providing such assistance to such individuals.

(3) Evaluation and report.—The Secretary shall provide for an evaluation of the program under this subsection and shall report to Congress, not later than March 1, 1991, on the success of the program in providing a transition from employment-based insurance to medicare coverage for disabled individuals and in facilitating the sharing of health care costs between individuals, employers, and the Federal government.

(4) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection $30,000,000 for each of fiscal years 1989, 1990, and 1991.

(5) State defined.—In this subsection, the term "State" has the meaning given such term in section 2(f) of the Public Health Service Act.

SEC. 3. MEDICAID PROVISIONS.

(a) Increase in Federal Matching Rate for Home and Community-Based Waivers.—

(1) In general.—Section 1915(c) of the Social Security Act (42 U.S.C. 1395n(c)) is amended by adding at the end the following new paragraph:

"(11)(A) Subject to subparagraph (B), insofar as a waiver under this subsection applies to individuals with acquired immunity deficiency syndrome (AIDS) or with an AIDS-related condition, the 'Federal medical assistance percentage' shall be not less than 75 percent.

"(B) Subparagraph (A) shall apply to a waiver only if the waiver targets care in home and community-based settings, such as through home health care, personal care services, case management services, outpatient mental health treatment, and outpatient substance abuse treatment.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to calendar quarters beginning on or after the date of the enactment of this Act.

(b) Supplemental (or "Patch") Payments for Providers Caring for AIDS Patients.—

(1) In general.—Section 1902 of such Act (42 U.S.C. 1396b), as amended by section 2(b)(1) of this Act, is amended by adding at the end the following new subsection:

"(r) Nothing in this title shall be construed as preventing a State from establishing differential payment rates for hospitals, physicians, and other providers to reflect the additional costs associated with providing services to patients with acquired immune deficiency syndrome (AIDS) or with an AIDS-related condition.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act, and shall apply to services furnished on or after October 1, 1988.

SEC. 4. DEMONSTRATION PROJECTS FOR AIDS TREATMENT.

(a) In General.—The Secretary of Health and Human Services shall provide for up to 4 Regional AIDS Treatment Demonstration Projects (each in this section referred to as a "project") for individuals with acquired immune deficiency syndrome (AIDS) and AIDS-related conditions in areas that do not have a disproportionate number of such individuals. Projects shall incorporate innovative approaches to the delivery of necessary services to patients with AIDS or AIDS-related conditions, particularly focusing on community-based services.

(b) Project Requirements and Considerations in Selection of Projects.—(1) Each project shall provide for case management services and community-based services.

(2) In selecting among projects to receive assistance under this section, the Secretary shall—

(A) select at least one project that is hospital-based and at least one project that is not hospital-based; and

(B) provide special consideration for projects that provide services to individuals in a manner that reflects the ethnic composition of individuals with AIDS or AIDS-related conditions in the area served by the project.

(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 1989, 1990, and 1991.

(d) Evaluation and Report.—The Secretary shall provide for an evaluation of the demonstration projects under this section and shall report periodically to Congress on the progress of demonstration projects conducted under this section and shall in such reports such recommendations for changes in legislation as may be appropriate based on the results of such projects.

SEC. 5. DEMONSTRATION HIV MONITORING AND TREATMENT CENTERS.

(a) In General.—The Secretary of Health and Human Services shall establish up to 6 Demonstration HIV Monitoring and Treatment Centers (each in this section referred to as a "center") to provide outpatient monitoring and treatment for individuals who have been diagnosed as having been infected with a virus related to development of AIDS but who have not developed acquired immune deficiency syndrome (AIDS).

(b) Services covered.—Each center shall provide services that include—

(1) clinical laboratory monitoring of patients' conditions;

(2) information and counseling on the availability of potential treatments (such as administration of the drug AZT) for the infection;

(3) psychosocial support groups;

(4) information and counseling on insurance and social services relating to such infection and related conditions; and

(5) prophylatic treatments relating to any illness or condition which may result from such infection.

(c) Other Terms.—

(1) If a center imposes charges for the provisions of services assisted under this section, such charges shall be pursuant to a public schedule of charges and shall not be imposed with respect to services provided to low income individuals (as defined in section

501(b)(2) of the Social Security Act), and shall be adjusted to reflect the income, resources, and family size of the individuals so served.

(2) Each center shall provide for the development of model clinical treatment plans as will promote the most appropriate intervention for individuals described in subsection (a).

(3) The provisions of section 544 of the Public Health Service Act (relating to confidentiality of records) shall apply to records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of a center under this section in the same manner and same extent as such provisions apply to records described in section 544(a) of such Act.

(d) Evaluation and Report.—The Secretary shall provide for an evaluation of the centers and shall report periodically to Congress on the need for establishment of any additional centers.

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 1989, 1990, and 1991.

SEC. 6. AIDS PATIENT CARE INFORMATION DISSEMINATION PROJECTS.

(a) In General.—The Secretary of Health and Human Services shall provide financial assistance to up to 4 local projects, which have established specialized AIDS prevention and treatment services, in order to permit such projects to assist entities in developing and establishing similar local projects in other areas.

(b) Use of Assistance.—Assistance provided under this section—

(1) may be used for the costs of staff and related overhead and for the preparation and reproduction of literature and other educational materials, but

(2) may not be used for payments for AIDS prevention and treatment services.

(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $3,000,000 for each of fiscal years 1989, 1990, and 1991.

SEC. 7. ASSISTANCE TO IMPACTED LOCAL GOVERNMENTS.

(a) In General.—From the amounts appropriated under this section, the Secretary of Health and Human Services shall provide financial assistance to local governments which demonstrate a disproportionate share of residents with acquired immune deficiency syndrome (AIDS) or an AIDS-related condition or of expenditures from local funds for treatment of such syndrome or condition.

(b) Use of Assistance.—Assistance provided under this section may only be used for prevention and treatment services for residents with AIDS and an AIDS-related condition.

(c) Distribution of Funds.—The Secretary, in consultation with directors of the health agencies of local governments described in subsection (a), shall establish—

(1) criteria for the qualification of local governments for assistance under this section;

(2) an application procedure for such assistance;

(3) a formula for the distribution of funds among qualifying local governments; and

(4) a reporting system by local governments receiving such assistance in order to permit an evaluation of the impact of such assistance.

(d) Evaluation and Report.—The Secretary shall provide for an evaluation of the assistance provided under this section and shall report periodically to Congress on the extent of the continued need for such assistance.

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 1989, $25,000,000 for fiscal year 1990, and $30,000,000 for fiscal year 1991.

Case-Managing AIDS

(By Paul S. Jellinek)

As the number of AIDS cases continues to grow, communities are becoming increasingly alarmed about their capacity to respond. Over 60,000 cases have already been reported, and the cumulative total is expected to reach 270,000 by 1991. Although projections beyond 1991 have not yet been issued, there is no reason to expect the epidemic to stop there. Twenty cities have already reported over 500 cases, and 10 of those have reported over 1,000 cases. Perhaps the most striking indication of the rapid geographic spread of the epidemic is the fact that over 60 percent of all AIDS cases in this country have now been reported outside New York City, San Francisco, and Los Angeles, the three cities that just a few years ago accounted for almost the entire national case load.

In terms of the health care system, AIDS patients last year accounted for upwards of 8 percent—or 1 out of 12—of the total hospital days in New York City; looking ahead, New York officials expect the number of hospital days for AIDS patients to triple by 1991. The situation is not much different in San Francisco, Miami, and Newark, and other cities are not far behind. The strain is especially severe for the municipal hospitals, which generally take responsibility for large numbers of Medicaid and indigent patients. New York City's public hospital system contains only 16 percent of the city's medical-surgical beds, yet in 1987 it accounted for over one-third of the city's total hospital days for AIDS patients.

INNOVATION IN SAN FRANCISCO

Faced with these statistics, communities around the country are increasingly experimenting with a strategy for AIDS that first emerged in San Francisco some five or six years ago: case-managed, community-based systems of care. Because San Francisco was one of the first cities to be hit by the epidemic and had only a single municipal acute-care hospital to absorb the brunt of the case load, residents soon realized the potential impact of AIDS on their health care system and moved fairly rapidly to develop a full range of hospital and community-based services. The premise was that much of the care and many of the support services needed by people with AIDS and AIDS-related illnesses could, in principle, be delivered in community settings that would be less intensive, less restrictive, and less costly than the inpatient medical-surgical unit of an acute-care hospital.

Within San Francisco General Hospital, the first step was the opening in October 1982 of a multidisciplinary AIDS outpatient clinic staffed by oncologists, infectious disease specialists, nurses, social workers, and volunteers. This was followed in the summer of 1983 by the establishment of the nation's first dedicated AIDS inpatient unit that provided comprehensive medical, psychological, and social support services.

Outside the hospital, a range of home and community-based services was developed. These included high-technology home health-care services such as intravenous antibiotics and chemotherapy; skilled nursing facilities; hospice care; emergency residential facilities for AIDS patients who could no longer afford housing; and a community-based counseling and supportive service program staffed primarily by volunteers. This latter group provided assistance to AIDS patients in shopping, cooking, cleaning, paying bills, and other basic activities of daily living, as well as counseling and support for patients and their immediate families and friends. City and county funds paid for many of these services, but San Francisco's large gay community clearly played an instrumental role in the successful development of this system, not only as a rich source of volunteer labor but also in terms of political support.

Although case management is widely regarded as a key element of the San Francisco model, it was in fact not an integral part of the system at first—at least not by design. The various service components evolved in response to unmet patient needs, and it was only over time, as the number of services—as well as the number of patients—continued to increase, that the need for some sort of formalized case management system became evident. Patients required help in negotiating this now rather complex array of services. Their case managers could be nurses, social workers, volunteers, or even physicians; and patients might be assigned to case managers through the hospital, an AIDS testing side, or any of a number of community-based organizations.

Case management first emerged in the 1940s, in connection with workmen's compensation and physical rehabilitation, and has since been applied to areas as diverse as mental health, care for the elderly, social work, and maternal and child health. It is essentially a four-step process that involves assessing the patient's specific medical and social needs, developing an individualized service plan to meet those needs, assisting the patient in obtaining the services specified in the plan, and monitoring the patient's progress and making necessary adjustments in the service plan as his or her needs change over time.

Interest in case management has surged in recent years because of its potential for identifying alternatives to high-cost hospitalization. And although the principal motivation for AIDS case management in San Francisco was to ensure that patients' medical, social, and psychological needs would continue to be monitored and addressed as services expanded beyond the hospital walls, early evidence suggested that the city's community-based system of care not only led to improved satisfaction among AIDS patients but also resulted in sharp reductions in the length and cost of their hospitalization. For example, in 1985 it was reported that the average length of an AIDS hospital stay in San Francisco was 12 days, compared with 25 days in New York City. While some of this difference was clearly attributable to the different kinds of patients being seen in the two cities, the data were sufficiently striking to attract considerable national attention.

CATALYZING THE PROCESS

Drawing on the San Francisco experience, the Robert Wood Johnson Foundation and the Health Resources and Services Administration of the U.S. Public Health Service both announced in 1986 major multiyear demonstration programs to assist cities around the country in developing case-managed community-based systems of care for persons with AIDS. The foundation program awarded $17.2 million on a competitive basis to 10 cities (and one county) with at least 100 reported AIDS cases as of December 1985: Atlanta, Dallas, Ft. Lauderdale, Jersey City, Miami, Nassau County, Newark, New Orleans, New York, Seattle, and West Palm Beach. The Federal program awarded $15 million to the four cities with the largest number of reported AIDS cases: New York, San Francisco, Los Angeles, and Miami. The federal program has since been expanded to include additional cities.

It was clear from the start that although San Francisco was the model for these programs, the circumstances there were sufficiently unique that the projects in other cities could not simply be designed as San Francisco clones. Some of them, like New York, Los Angeles, and Miami, had similarly large numbers of cases but their health care systems, and their patient mixes, were very different. New York City, for example, had an extensive system of municipal acute-care hospitals, and it had large numbers of cases among intravenous drug users. And although Miami, like San Francisco, had only one major municipal acute-care hospital, it too had a different mix of patients, including large numbers of Haitians.

Most of the other cities had much smaller case loads and were funded largely in the hope that by developing a community-based system of care while the numbers were still manageable, they would be able to avoid the near crises being experienced in certain hospitals in New York, Los Angeles, and Miami.

But the factor that most distinguished all these cities from San Francisco was that none of them had anything like its large, well-organized gay community to draw upon, both as a source of volunteers and as a political force for government action. In a sense, the resources provided by the Robert Wood Johnson Foundation and the Public Health Service were intended to catalyze the process that had taken place spontaneously in San Francisco.

Most of these projects are now only in their second year of operation, so it is still too early to tell how much of an impact they are having on patterns of patient care, costs, and other outcomes of potential interest to policymakers. Moreover, even after more time has elapsed, it will be extraordinarily difficult to isolate the effects of these case-managed systems of care from the effects of improvements in treatment, changes in service needs resulting from shifts in the types of patients with AIDS, and other changes unrelated to the systems themselves. Nevertheless, a number of important lessons are already emerging.

First, the establishment of these systems is often an intensely political process. Issues arise both among the various providers being drawn into the consortium and between the providers and the community at large. Provider agencies and institutions are often reluctant to yield autonomy to the larger interests of the system, and sometimes there are differences in priorities—or outright competition—among consortium members. Also, there is often a problem of unequal partnerships between the large public hospitals, which stand at the hub of the system, and the smaller community agencies, which may be completely overshadowed by them.

One approach that seems to help diffuse some of these political tensions is to base project leadership at a well-established community agency generally perceived as neutral by the other providers. An example is the AIDS Arms Network, based at the Community Council of Greater Dallas. This organization has a long track record of bringing together agencies and institutions in Dallas to address community problems. A second example is Catholic Charities of New Orleans, which has taken the lead in that city.

Within the community itself, a principal source of political friction has to do with the development of new community-based services for AIDS, such as nursing home care, institutional hospices, or supervised housing. A number of cities have run up against fierce neighborhood resistance, both because of fear of contagion and, in some cases, because of the link between AIDS and intravenous drug use. This is not unlike the resistance that has historically greeted the siting of substance-abuse treatment facilities or residences for the mentally retarded. As in those cases, positive political leadership is crucial. The county commissioners of Palm Beach County, Florida, set an important example by opening a 29-bed nursing home unit for AIDS at the county nursing home.

PRACTICAL CONSTRAINTS

A second important lesson is the critical role of financing. Current health insurance reimbursement policies, including those of most private insurers and Medicaid, tend to favor hospitalization over out-of-hospital, community-based alternatives. But without adequate reimbursement—including enhanced reimbursement for the provision of AIDS care in existing community facilities (such as nursing homes)—these services simply will not materialize.

New Jersey has attempted to address this problem by securing a Medicaid Section 2176 Home and Community-Based Services Waiver for AIDS that expands the range of services normally covered. Under this waiver, Medicaid will pay for case management, medical day care, drug abuse treatment, and private nursing as alternatives to inpatient hospitalization for AIDS patients.

New York State has taken a different approach, offering an enhanced Medicaid reimbursement rate to designated "AIDS Care Center" hospitals, which, in return, agree to establish an AIDS inpatient unit, an outpatient clinic, a home care program (either directly or under contract), and a variety of other services.

A third set of lessons has to do with the implementation of case management. One of the biggest problems facing AIDS case managers in all the projects has been the dramatic increases in their individual case loads. The number of case managers simply has not kept pace with the number of cases, and as a result, the projects are developing various forms of patient triage. AID Atlanta, for example, has designated five different levels of need for its patients, with case management to be provided at corresponding levels of intensity. Dallas has separated out the assessment function: After assessing the patient's needs, an "intake specialist" assigns the patient either to a professional care coordinator or to a less intensive track staffed by volunteers. Such strategies, however, can only stretch case management so far. Beyond that point, additional case managers must be recruited in order for the process to work.

Another problem facing many AIDS case managers is the shortage—or outright absence—of services to which to refer their patients. There has been a tendency to assume that once a patient is assigned to a case manager, his or her needs will somehow be met. While the case manager may indeed act as an advocate for the development of new services, case management cannot be the main initiator of those services.

These problems are compounded by the decentralized nature of much of AIDS case management, even in San Francisco. Ideally, the system should have a single centralized administration, appropriately positioned to deploy the system's resources in ways that best meet the specific service needs of individual patients. Instead, responsibility for case management is frequently distributed, with each agency and institution spawning its own team of case managers who may or may not relate well to their counterparts elsewhere in the system. One of the projects that has come closest to truly centralized case management is the AIDS Arms Network in Dallas, which, it maintains, "works *for* the client and *with* other agencies and services in the community." The Network convenes weekly meetings with 33 affiliated agencies, both to review some of the toughest individual cases and to discuss broader system-level issues.

The final lesson that has emerged so far from these projects is that they require a great deal of support and technical assistance, particularly at the management level. Although the grants are less than two years old, most of the projects have already undergone at least one change in leadership. The high turnover rate reflects the extraordinary demands that the epidemic is placing on these fledgling systems, and the high level of political, financial, and personal stress on the project directors.

ELEMENTS OF SUCCESS

The effort to develop case-managed, community-based systems of care is not unique to AIDS. But what sets AIDS apart is the extraordinary rapid increase in the case load. Policymakers are thus forced to consider radical solutions, and, in the process, to rethink some of the fundamentals of how we currently organize and finance our health and human services.

The stakes are high in the present efforts to develop community-based systems of care for AIDS. If they fail, the burden on the major municipal hospitals will continue to worsen; eventually, public officials will be forced to consider more drastic options, such as the establishment of special sanitarium-like facilities for AIDS far removed from the patients' home communities. On the other hand, to the extent that they do succeed, case management systems could point the way for how we deal with numerous other chronic or degenerative conditions.

Some of the elements necessary for these efforts to succeed include the following:

A genuine commitment by the community's political leaders. The absence of leadership—the key to securing sufficient resources, overcoming interagency conflicts, and responding effectively to neighborhood resistance to the establishment of community-based AIDS services—has been one of the major impediments to system development. In addition, civic leaders, clergy, and other prominent community members can play important roles in establishing the tone of the public debate on AIDS-related issues.

Flexible financing. In order for these community-based systems to become a reality, mechanisms must be developed to finance their components, including out-of-hospital services, community-based primary care, and the management of the overall systems.

State and federal agencies must be directly involved in this process. For example, states that have not already done so may want to apply for Medicaid AIDS waivers, while those that have such waivers can take steps—such as streamlining eligibility procedures or increasing the number of eligibility workers—to increase the number of persons covered. States may also want to consider ways to better coordinate the diverse categorical funding streams that AIDS patients draw upon, such as welfare, Medicaid, foster care, and assistance for mental health, substance abuse, and housing.

Support for strong case management. This includes both financial support for an adequate supply of well-trained case managers and political support to establish the centralization of case management. In this way, case managers may access any needed services within the system on behalf of their patients.

Support for community-based AIDS agencies, which are on the front lines and work closely with the patient population. These agencies are vital to the success of the case management approach. Yet many of them are suffering from problems of rapid growth and burnout, as evidenced by the high turnover rates at both the staff and management levels. Again, both financial and political support are needed, as well as extensive technical assistance on issues ranging from financial management and grantsmanship to board development and community relations.

AIDS has precipitated a health care crisis in this country and there is no question that, in one way or another, the epidemic will leave a permanent mark on our health care system. Whether or not the effect is positive will depend in large measure on the willingness of policymakers to confront the inadequacies in the current system head on and to take some of the bold steps that may be required to overcome them. Testing the case-managed, community-based model of care, and learning from its successes and problems, will be important parts of that process.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 2824. A bill to establish a Federally sponsored program for the restoration, conservation, and management of Onondaga Lake in Onondaga County, NY, and to provide for the sharing of costs of such clean up, and for other purposes; to the Committee on Environment and Public Works.

ONONDAGA LAKE RESTORATION ACT

● Mr. MOYNIHAN. Mr. President, it is with great pleasure that I take the first step today in the process of getting a Federal commitment to clean up Onondaga Lake once and for all. The bill I am introducing today, the Onondaga Lake Restoration Act of 1988, will be the centerpiece of this effort. What I am presenting today may not be what is finally enacted—I am still open to suggestions as to how best to proceed—but I am set on one idea: there will be no more delay. Onondaga County and the city of Syracuse are beginning their own small renaissance right now, and they will not flourish as they should if the lake they share remains so highly polluted. With a clean and usuable lake, the area will blossom. Without it, its future is very much in doubt.

It is enough that New York State is home to Love Canal, arguably the single most prominent symbol of reckless toxic waste disposal in the country. But our State has yet another distinction; it has been claimed that Onondaga Lake is the most polluted inland body of water in the country. Such a ranking is impossible to make with undisputed accuracy, but it clearly ranks near the bottom of the list. This type of distinction is something New Yorkers can live without. But we did something about Love Canal—I helped get Federal money for that—and the time has come to do the same for Onondaga Lake.

Some may not know the history of the lake quite so well, and consequently believe that there is no point in saving it. In the latter part of the last century Onondaga Lake was a well known aquatic playground. Water slides shot into the lake from prestigious lakeside resorts. Pleasure boats abounded and swimming was a common thing to do on a hot summer day. But for most of this century, the lake has served more as a cesspit than a public waterway. In 1884 the Solvay Process Co., opened operations on the lakeshore for the production of soda ash. This process, however, produced substantial quantities of chemical sludge as waste, which was dumped directly into the lake until 1907. Thereafter it was deposited along the lakeshore and substantial chemical leaching continued to pollute the lake. Another unfortunate byproduct of this process was mercury. The Solvay Co., and later Allied Chemical which bought out the original owners, dumped as much as 25 pounds of mercury into the lake per day.

In 1986 the city of Syracuse began construction of a rudimentary sewage system, which drained all of the city's wastes directly into the lake. This was corrected years later by the construction of a sewage treatment plant on the lake's south shore, but many combined sewer outfalls still dump untreated sewage into the lake during heavy rains, and the output of the county's treatment plant discharges nitrogen and phosphorus in sufficient quantities to cause the growth of undesirable levels of algae.

And so for all intents and purposes, the lake has been considered dead for as many years as most of us can remember. But in 1985, Allied Chemical pulled out of Onondaga County, and moved its soda production facilities to Wisconsin. And since then there have begun small stirrings of hope that perhaps the lake can be reborn. This is a worthy goal, and an achievable one. The lake may never recover fully from its checkered past, but we can reclaim it for human use. For swimming, for boating, and even for fishing. But this will not come cheap.

My bill will provide $100 million in Federal funds for the lake. It will bring the Environmental Protection Agency in to the process to look at the lake's various environmental problems, and will charge the Army Corps of Engineers with telling us what we might do to fix it, and how much it will cost. I should point out that much work has been done already in these areas by the State of New York and Onondaga County, but much more still needs to get done. And once our alternatives are clearly set before us, there must be a consensus among all involved on how to proceed.

The $100 million provided by this legislation will be administered not by the Federal Government, or even the State, but by a Lake Management Conference made up of representatives of the U.S. EPA, the Corps of Engineers, New York State, Onondaga County, the city of Syracuse, a Citizens' Advisory Commttee and a Technical Advisory Committee. Also represented would be any of the other political subdivisions around the area that have a direct interest in the state of the lake. This Management Conference will decide which projects should be funded in what order, and will identify additional sources of funding.

Such a collective decisionmaking process is perhaps not the most efficient way to get something done, but it has its purpose. It will ensure accountability, and it wil give all sides a voice in the decisions that are made about how much to spend, and how to spend it.

Mr. President, this really is very simple. In central New York we have a beautiful little lake that has been horribly abused for more than a century. The time has come to correct this longstanding mistake, and I will do everything in my power to see this happen.

Mr. President, I ask that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2824

Be it enacted in the Senate and the House of Representatives of the United States of America in Congress assembled,

SEC. 1. TITLE.—This Act may be cited as "The Onondaga Lake Restoration Act of 1988".

SEC. 2. FINDINGS.—The Congress finds that—

(a) Onondaga Lake has for many years received sewage discharge from a variety of sources, including numerous combined sewer outfalls, which can discharge raw sewage into the lake as many as one hundred times per year;

(b) Onondaga Lake has received industrial discharges of mercury, chlorine, sodium, carbonate ions, calcium, benzene, sodium hyperchloride, various petroleum distillates and other chemical pollutants since the late 19th century;

(c) there are restrictions on the consumption of fish taken from Onondaga Lake due to elevated mercury levels in fish flesh;

(d) existing waste beds in the Towns of Geddes and Camillus still contribute many tons of contaminants to the Lake per year through runoff and infiltration;

(e) Onondaga Lake borders directly on New York's fifth largest city, and has the potential to be a central part of the economic and recreational activity for the City of Syracuse, Onondaga County and central New York;

(f) the number, variety and mixture of sources of pollution in Onondaga Lake is unique for bodies of fresh water of comparable size in the United States;

(g) pollution from Onondaga Lake flows into the Oswego River and is a potentially major source of pollution to Lake Ontario and the St. Lawrence River;

SEC. 3. PURPOSE.—It is the purpose of this Act to formulate and implement a cooperative program for the restoration, conservation and management of Onondaga lake in Onondaga County, New York. This plan shall build on the efforts undertaken to date by the State of New York, Onondaga County, The Central New York Regional Planning and Development Board, other public entities and private individuals and businesses, and shall coordinate all activities undertaken to clean up the lake.

SEC. 4. GENERAL PROVISIONS.—Title III of the Federal Water Pollution Control Act is hereby amended by adding a new section 321, as follows:

"SEC. 321. ONONDAGA LAKE RESTORATION PROGRAM.—

"(a) CONVENING OF CONFERENCE.—The Administration shall convene a management conference for the restoration, conservation and management of Onondaga Lake. The purpose of the management conference convened with respect to this subsection shall be to—

"(1) catalog and evaluate all existing research and information regarding lake conditions;

"(2) assess the need for ongoing research regarding the Lake and assure that such research is carried out as expeditiously as possible;

"(3) coordinate with all ongoing research and modeling efforts in an attempt to gather all information needed to formulate a comprehensive restoration, conservation and management plan for the Lake;

"(4) develop a comprehensive restoration, conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and non-point sources of pollution to restore and maintain the chemical, physical, and biological integrity of the lake, including an assessment of the feasibility and desirability of projects to assure that—

"(A) there is sufficient dissolved oxygen in Lake water to allow fish to survive, reproduce and flourish;

"(B) presence of mercury in the Lake is reduced to the extent that fish taken from the Lake can be consumed without threat to health;

"(C) discharge of untreated sewage into the lake is reduced to negligible levels;

"(D) high phytoplankton levels and other sources of turbidity in the lake are reduced to the extent that Lake water can meet the standards of 1.22 matter average visibility;

"(E) concentrations of fecal coliform and other bacteria are reduced to the extent that swimming in the Lake is permissible and does not pose a threat to health;

"(5) coordinate implementation of the plan by the State of New York, the Environmental Protection Agency and all local agencies, governments and other groups participating in the conference under existing authorities, and recommend additional authority that should be granted to the management conference or to any of its participants that will aid in the execution of the plan agreed upon by the management conference;

"(6) monitor the effectiveness of actions taken pursuant to the plan and recommend modifications to the plan should they be necessary; and

"(7) review all Federal financial assistance programs and Federal development projects in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section. For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12382, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(b) MEMBERS OF CONFERENCE.—The members of the management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

"(1) The Governor of the State of New York,

"(2) The Assistant Secretary of the Army for Civil Works;

"(3) each interested Federal agency, as determined appropriate by the Administrator;

"(4) local governments having jurisdiction over any land or water bordering on or influencing the lake, as determined appropriate by the Administrator; and

"(5) a Technical Advisory Committee to be convened by the management conference to provide advice and assistance concerning the technical and scientific aspects of the plan;

"(6) a Citizens Advisory Committee to be convened by the management conference; and

"(7) affected or interested public and private institutions or groups as determined to be appropriate by the Administrator.

"(c) UTILIZATION OF EXISTING DATA.—In developing a plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the lake that have been developed by or made available to Federal, interstate, State, and local agencies.

"(d) APPROVAL AND IMPLEMENTATION OF PLANS.—

"(1) APPROVAL.—Not later than 120 days after the completion of a restoration, conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the Governor of the State of New York concurs.

"(2) IMPLEMENTATION.—Upon approval of a plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI, Section 319, and this Section of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

"(e) GRANTS.—

"(1) RECIPIENTS.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State lake management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) GRANTS UNDER THIS SUBSECTION SHALL BE MADE FOR—

"(A) assisting research, surveys, studies, and modeling and other technical work necessary for the development of a plan under this section, provided that the amount of grants to any person (including a State, interstate, or regional agency or entity) under this paragraph for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources;

"(B) conducting activities identified in the plan developed pursuant to this section for the restoration, conservation and management of Onondaga Lake, provided that the amount of grants to any person (including a state, interstate, or regional agency or entity) under this paragraph for a fiscal year shall not exceed 55 percent of the costs of such work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

"(f) GRANT REPORTING.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator and the management conference not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $17,000,000 per fiscal year for each of fiscal years 1989, 1990, 1991, 1992, 1993, and 1994 for—

"(1) expenses related to the administration of management conferences under this section, not to exceed 5 percent of the amount appropriated under this subsection;

"(2) making grants under subsection (g); and

"(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated."

SEC. 5. ROLE OF THE ARMY CORPS OF ENGINEERS.—The Assistant Secretary of the Army for Civil Works is directed to undertake a study to assess the cost, feasibility, probable duration, and effectiveness of various strategies for the reduction of pollutant and nutrient input into Onondaga Lake. The Assistant Secretary shall cooperate to the fullest extent possible with the State of New York, Onondaga County, the City of Syracuse and other interested parties in establishing a list of alternatives to be assessed, and descriptions of the individual projects. No later than 18 months after the date of enactment of this Act, the Assistant Secretary shall submit a report to Congress and to the Management Conference convened under Sec. 321 of the Federal Water Pollution Control Act as amended that includes the findings of this study. This report shall recommend which projects and techniques will offer the greatest benefits for the clean up of the Lake, and which are the most cost effective.●

By Mrs. KASSEBAUM (for herself, Mr. Daschle, Mr. Harkin, Mr. Reid, and Mr. Humphrey):

S.J. Res. 382. Joint resolution to establish a national aviation policy for the United States; to the Committee on Commerce, Science, and Transportation.

NATIONAL AVIATION POLICY

● Mrs. KASSEBAUM. Mr. President, I am pleased to join with a number of my colleagues in the Senate, and in the House, in introducing a joint resolution calling for a cooperative government, industry, and public effort to establish a national aviation policy for this country.

The economic future of our Nation is closely linked to the future of our transportation systems. Achieving America's air transportation goals and objectives for the 21st century will require a national resolve that can only be guaranteed through a national call to action.

Our efforts must begin now. By introducing this joint resolution we hope to call attention to the need for a national effort to formulate a blueprint for the future of national aviation policy.

Mr. President, I ask unanimous consent that the joint resolution be printed in the Record in full.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 382

Whereas the national objectives of general welfare, economic growth and stability, and security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with other national objectives, including the efficient use and conservation of the resources of the United States, and it is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation that serve the Nation, States and local communities efficiently and effectively;

Whereas the Constitution of the United States provides to its citizens the right to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement;

Whereas a recent national survey of public attitudes toward aviation found that 86 percent of the American public supports the development of a national aviation policy, and one which addresses the needs of all people who use or rely on air transportation in the United States;

Whereas the public interest is best served by an air transportation system that provides fast, safe, efficient, convenient, and cost-effective movement of passengers and goods throughout the Nation with its concomitant economic, social and cultural benefits;

Whereas the United States air transportation system is an essential element in the competitive foundation of the economies of the Nation and the world and has established and maintained world standards of safety, efficiency and utility, and the public's requirements for air transportation services will double by the year 2000 from 400 million annual passengers to nearly 800 million;

Whereas the public has lost confidence in the Nation's air transportation system due to the decline in service associated with the air traffic controller strike, airport and airway modernization delays airline mergers, and the lack of a clear national policy;

Whereas the Nation's airport and airway system are inadequate to meet the current and projected growth in aviation, and substantial expansion and improvement of the airway system and the development of an integrated, nationwide infrastructure of airports is required;

Whereas the Federal Aviation Administration's management and structure is constrained by regressive personnel and procurement rules, and a lack of authority to accomplish its tasks;

Whereas it is recognized that national policies were central to the successful development of our railroads and Interstate Highway System, and an integrated national aviation policy must precede successful deployment of an adequate supply of facilities, equipment and personnel to meet safety, access, and capacity demands of the future; and

Whereas a national aviation policy must ensure that adequate air transportation opportunities and services are available to all citizens regardless of geographic location and that citizens who choose to live and work in small or rural communities shall be provided the same air transportation benefits as all other citizens throughout the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

NATIONAL AVIATION POLICY

Section 1. The United States shall provide and maintain, for the benefit of all its citizens, a world standard-setting national air transportation system which meets the national objectives of general welfare, economic growth and stability, and the security of the United States, which is fast, safe, efficient, convenient, and at the lowest cost possible with access and capacity for all, which meets current demand as well as future growth requirements while continuing advancements in safety and modernization, and which is free of laws, rules, and regulations which unreasonably burden or restrict the right of all citizens to travel throughout the length and breadth of our land.

WHITE HOUSE CONFERENCE

Sec. 2. The Congress finds that—

(1) it is in the national interest for the United States to redesign and modernize the national airspace and air traffic control systems, and to develop a national airport system plan emphasizing the preservation, expansion, and further development of airports;

(2) access to the airport and airway system shall be available to all citizens with recognition given to all types of users on a balanced basis;

(3) the benefits of a deregulated aviation environment shall be maintained, and marketplace forces shall be utilized to ensure that the rates and services of America's scheduled air carriers meet the standard of reasonableness;

(4) a cooperative relationship among Federal, State, and local governments shall be encouraged, and the role of each in the development and maintenance of a national air transportation system shall be clearly defined;

(5) environmental impacts must be recognized and balanced with the benefits that America's air transportation system provides;

(6) the United States shall endeavor to maintain the safest air transportation system throughout the world;

(7) the United States shall ensure fair and equitable collection and allocation of revenues required to develop and maintain an air transportation system capable of meeting current and future public demand, and that contribution from public funds must be commensurate with the substantial public benefit derived, and that only that which is justifiable and reasonably necessary should be collected, and that which is collected must be reinvested in the airport and airway system in a timely manner and only for the purposes for which they are intended;

(8) national priorities and planning must be established to support and maintain the United States' worldwide leadership in aviation transportation and technology;

(9) achieving America's air transportation goals and objectives requires a national resolve which reflects the national will and is led by America's political leadership; and

(10) a bipartisan White House Conference shall be convened in 1989 to develop a National Aviation Policy, the body of whose conferees shall represent all segments of the aviation industry, the Executive Branch of the Federal Government, the Congress of the United States, State and local governments, and the general public.●

● Mr. HUMPHREY. Mr. President, I am pleased to cosponsor the joint resolution being introduced today by Senator Kassebaum that would establish a White House conference in 1989 to develop a national aviation policy.

It has been 10 years since the Airline Deregulation Act was enacted. Deregulation, along with the technical innovation, has changed the industry profoundly. Since 1978: Passenger enplanements have increased by 55 percent; fares have decreased in most markets; and safety has improved despite a 26.5-percent increase in aircraft departures—fatal accidents down 51 percent and passenger fatalities down 45 percent.

In fact, according to a recent analysis of the Council of Economic Advisers, the benefits to travelers of airline deregulation exceed $11 billion.

After 10 years, aviation is at an important juncture. The success of deregulation is manifested in some of the problems facing aviation today; namely, airport and airways congestion and delay. The search must begin for innovative approaches to solve today's problems while maintaining the benefits of deregulation.

The purpose of this conference will be to bring together all parties with an interest in the future of American aviation. It will be bipartisan and without a predetermined agenda.

Obviously, there are some critical issues which must be addressed. For instance, I expect that aviation's strained infrastructure will receive intense scrutiny. The shortage of airports, runways, and other facilities is acute in some cities. With limited economic resources, as well as environmental and esthetic restraints, the problem, in my view, will not always best be resolved through physical expansion.

Indeed, I hope that the conference will examine market oriented solutions, such as privatization, which could provide a rational, reasonable, and fair allocation of increasingly strained airport facilities.

Mr. President, I urge all Senators to support this resolution. It outlines the objectives of an integrated national aviation policy and provides a means—a White House conference—for a full exploration of innovative approaches to deal with the problems facing aviation today.

By Mr. PELL:

S.J. Res. 383. Joint resolution to designate the period commencing December 4, 1988, and ending December 10, 1988, as National Humanities Week; referred to the Committee on the Judiciary.

NATIONAL HUMANITIES WEEK

Mr. PELL. Mr. President, I am very pleased to be introducing a joint resolution today that designates the week of December 4 through December 10, 1988, as National Humanities Week. Such a proclamation by the U.S. Congress will help focus our attention on the very central place that the humanities occupy in our society. Among the activities scheduled for this period is the 1988 National Conference of State Humanities Councils which will convene here in Washington on December 9.

The Federation of State Humanities Councils is the national membership association, founded in 1977, that organizes this important meeting. Its members are the 50 State Humanities Councils as well as the councils in the District of Columbia, Puerto Rico, and the Virgin Islands. Through a program of research, publications, conferences, and legislative liaison, the Federation helps these councils achieve their goal of increasing the American public's understanding, appreciation and use of the humanities in their everyday lives.

The humanities may not solve all of the mounting practical problems that confront us daily in our modern existence but they are certainly a key element in the development of mature and educated persons. They deal with the most profound parts of man's existence—his relationship with the physical world as well as his relationship with the past and his history. They are a measure of the values and aspirations of society and they reveal the quality of our common life.

The humanities, however, are so often misunderstood and undervalued. Lynne Cheney, chairman of the National Endowment for the Humanities, has pointed out in her recent report to the Congress on the Humanities in America how fewer college students each year are selecting humanities subjects for indepth study today. Her reasons for this have provoked a lively and perhaps useful debate on the merits of scholarship versus teaching in higher education today.

It is my hope that activities during National Humanities Week will further elighten this debate by bringing together all those individuals—from scholar to public citizen—who care deeply about the humanities and their important place in all our lives.

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. CRANSTON, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 10, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 927

At the request of Mr. DASCHLE the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 927, a bill to protect caves resources on Federal lands, and for other purposes.

S. 1515

At the request of Mr. HEFLIN, the names of the Senator from Kentucky [Mr. FORD], the Senator from New York [Mr. D'AMATO], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1515, a bill to prohibit injunctive relief, or an award of damages, against a judical officer for action taken in an official capacity.

S. 2367

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 2367, a bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes.

S 2488

At the request of Mr. DODD, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of S. 2488, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

S. 2598

At the request of Mr. KASTEN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2598, a bill to ensure that waste exported from the United States to foreign countries is managed in a manner so as to protect human health and the environment.

S. 2675

At the request of Mr. DASCHLE, the name of the Senator from Montana [Mr. MELCHER] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 2675, a bill to amend title 38, United States Code, to provide certain service-connected presumptions in the case of veterans who performed active service in Vietnam during Vietnam era; to make improvements in the composition of the Advisory Committee on Special Studies Relating to the Possible Long-term Health Effects on Phenoxy Herbicides and Contaminants and the procedures used by such advisory committee, and for other purposes.

S. 2698

At the request of Mr. DODD, the name of the Senator from Delaware [Mr. BIDEN] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2698, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 2724

At the request of Mr. RIEGLE, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 2724, a bill to amend the Export Administration Act of 1979.

S. 2760

At the request of Mr. METZENBAUM, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2760, a bill to ensure air safety to air passengers.

S. 2778

At the request of Mr. LEVIN, the names of the Senator from New York [Mr. D'AMATO] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2778, a bill to establish a pilot program for the tracking of medical wastes in the States bordering the Great Lakes.

S. 2782

At the request of Mr. DASCHLE, the names of the Senator from Illinois [Mr. SIMON] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2782, a bill to amend title XIX of the Social Security Act to provide coverage for certain outreach activities undertaken at the option of a State for the purpose of identifying pregnant women and children who are eligible for medical assistance and assisting them in applying for and receiving such assistance, and for other purposes.

S. 2792

At the request of Mr. RIEGLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2792, a bill to amend title V of the Social Security Act to provide for supplemental resources to enhance the delivery of health services to pregnant women and infants.

SENATE JOINT RESOLUTION 321

At the request of Mr. BRADLEY, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution to designate the period commencing February 19, 1989, and ending February 25, 1989, as "National Visiting Nurse Associations Week."

SENATE JOINT RESOLUTION 348

At the request of Mr. REID, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Ohio [Mr. GLENN], the Senator from Mississippi [Mr. STENNIS], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 384, a joint resolution to designate the week of February 5, 1989, through February 11, 1989, as "National Burn Awareness Week."

SENATE JOINT RESOLUTION 366

At the request of Mr. CRANSTON, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 366, a joint resolution designating September 24, 1988, as "National Integrity Day."

SENATE JOINT RESOLUTION 373

At the request of Mr. BYRD, the names of the Senator from Washington [Mr. ADAMS], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Ohio [Mr. GLENN], the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Carolina [Mr. SANFORD], the Senator from Mississippi [Mr. STENNIS], the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Arizona [Mr. MCCAIN], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Joint Resolution 373, a joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week."

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. MOYNIHAN, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Washington [Mr. ADAMS], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Concurrent Resolution 55, a concurrent resolution providing for participation by delegations of Members of both Houses of Congress in ceremonies to be held in April 1989 in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of President George Washington, and the proposal of the Bill of Rights as the first 10 amendments to the Constitution.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

SENATE RESOLUTION 412

At the request of Mr. PRESSLER, the names of the Senator from Nevada [Mr. REID] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Resolution 412, a resolution expressing the sense of the Senate with regard to the use of degradable products.

SENATE RESOLUTION 463

At the request of Mr. ROTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Resolution 463, a resolution expressing the sense of the Congress that Federal laws regarding the taxation of State and local government bonds should not be changed in order to increase revenue.

SENATE CONCURRENT RESOLUTION—CORRECTING THE ENROLLMENT OF HOUSE JOINT RESOLUTION 602

Mr. BYRD (for Mr. PELL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 143

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the Joint Resolution (H.J. Res. 602) in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge, the Clerk of the House of Representatives shall make the following corrections:

(a) In subsection (2):

(1) strike out "in the context of a negotiated settlement"; and

(2) strike out "in the context of a negotiated settlement,".

(b) In subsection (10):

(1) strike out "immediately"; and

(2) strike out "support and sanctuary" and insert: "assistance"

Amend the title so as to read: "Joint resolution in support of the restoration of a free and independent Cambodia, the withdrawal of Vietnamese forces, and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.".

SENATE RESOLUTION 477—CONCERNING THE NATIONAL ECONOMIC COMMISSION

Mr. ROTH submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 477

Whereas, Congress has established a National Economic Commission to advise Congress and the President on fiscal and budgetary matters;

Whereas, the Commission is deliberating on issues of extreme importance to the American people but doing so in secret;

Whereas, it appears that the Commission is contemplating reducing Social Security benefits;

Whereas, it further appears that the Commission is considering increasing taxes on the American people: Therefore, be it

Resolved, That it is the Sense of the Senate that the records and minutes of all meetings of the National Economic Commission be made publicly available, that all future meetings be open, that no increases in taxes be legislated, and that the presently guaranteed level of Social Security benefits, including COLAs, be preserved.

SENATE RESOLUTION 478—CONCERNING THE NATIONAL ECONOMIC COMMISSION

Mr. ROTH submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 478

Whereas Congress has established a National Economic Commission to advise Congress and the President on fiscal and budgetary matters;

Whereas the Commission is deliberating on issues of extreme importance to the American people but doing so in secret;

Whereas it appears that the Commission is contemplating reducing Social Security benefits;

Therefore, be it resolved that it is the Sense of the Senate that the records and minutes of all meetings of the National Economic Commission be made publicly available, that all future meetings be open, and that the presently guaranteed level of Social Security benefits, including COLAs, be preserved.

Mr. ROTH. Mr. President, I had serious misgivings when Congress approved the establishment of the National Economic Commission [NEC] in 1987. Clearly, it was intended to be a smokescreen to provide political cover for those in Congress who support cutting Social Security benefits and boosting taxes.

Unfortunately, my worst fears have been realized in recent days. According to current press reports, members of the NEC have been meeting in secret, in violation of at least the spirit of the Sunshine Act, to consider Social Security cuts and large tax increases.

As one who successfully fought to open the committee system in Congress, I think it is outrageous that a commission would consider these issues in secret amidst a Presidential election campaign. Presumably, the reason we have elections is so the voters can express themselves on their policy preferences through the democratic process.

Many taxpayers and Social Security recipients now have grounds to fear that their interests are threatened by secret meetings held by a small elite group in Washington. Some of the press reports betray the Commission's fear that voters may discover some of the Commission's plans before the November election. Indeed, that could spoil apparent plans to cut Social Security and raise taxes.

The resolutions I am introducing today express the sense of the Senate that the National Economic Commission should conduct all of its business in public. Controversial policy options considered by the Commission should not be hidden from the voters in a democratic system, but should be discussed in the open. Furthermore, complete minutes of discussions held in secret should be made available to the public as soon as possible.

Mr. President, the taxpayers and Social Security recipients have a right to know how their interests will be affected by policy before, not after, a national election. Anyone on Social Security reading about the way the NEC operates has a right to be concerned about their benefits. The NEC should come clean, and reveal what Social Security and tax plans it has for the American people.

The first resolution addresses the issues of secrecy, Social Security reductions, and tax increases. It expresses the sense of the Senate that NEC meetings should be held in open session, and that minutes of closed meetings should be made available to the public. Furthermore, it expresses the sense of the Senate that reductions in Social Security benefits or COLA's should not be recommended by the NEC. A third clause expresses the sense of the Senate that tax increases not be legislated.

The second resolution is identical to the first except, in deference to some who might otherwise support the first resolution, the tax increase issue is removed. Though I strongly oppose efforts to further increase the tax burden of the American people, I recognize that all Members do not agree with this position.

I put forth these resolutions to assure Social Security recipients and the taxpayers, even if the Senate adopts different language to achieve this objective, my purpose in introducing these resolutions will be served.

SENATE RESOLUTION 479—ORIGINAL RESOLUTION REPORTED RELATING TO 2-YEAR AND MULTICOMMITTEE AUTHORIZING RESOLUTIONS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 479

Resolved, That paragraph 9 of rule XXVI of the Standing Rules of the Senate is amended by—

(1) in the first sentence by striking "Each" and inserting "(a) Except as provided in subparagraph (b), each; and

(2) adding at the end thereof the following new subparagraph:

"(b) In lieu of the procedure provided in subparagraph (a), the Committee on Rules and Administration may—

"(1) direct each committee to report an authorization resolution for a two year budget period beginning on March 1 of the first session of a Congress; and

"(2) report one authorization resolution containing more than one committee authorization resolution for one year or two year budget period.".

SENATE RESOLUTION 480—ORIGINAL RESOLUTION REPORTED RELATING TO IMPEACHMENT PROCEEDINGS AGAINST JUDGE ALCEE L. HASTINGS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was referred placed on the calendar:

S. RES. 480

Resolved, That proceedings in the impeachment of Judge Alcee L. Hastings, a Judge of the United States District Court for the Southern District of Florida, shall be continued into the 101st Congress and resumed at a date in that Congress that shall be designated by the Senate.

SEC. 2. The Committee on Rules and Administration shall conduct, during the week of January 23, 1989, a hearing on—

(1) the appropriate use of Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in the impeachment of Judge Alcee L. Hastings; and

(2) any other matter which may assist the Senate in a fair trial of the pending impeachment,

and shall report its recommendation to the Senate on or about February 1, 1989.

SEC. 3. Counsel to the parties to the impeachment shall be prepared by March 1, 1989, or as soon thereafter as the Senate determines testimony should be heard, to present their evidence in the forum to be designated by the Senate after receiving the recommendation of the Committee on Rules and Administration.

SEC. 4. Counsel to the parties to the impeachment are requested to work together to stipulate to evidentiary matters that are not in dispute, including stipulations as to documents, and shall jointly report, by February 20, 1989, on the stipulations to which such counsel have agreed, and on any other matter which such counsel agree may facilitate the resolution of this impeachment.

SEC. 5. The Senate Legal Counsel shall work with counsel to the parties to the impeachment to assist the counsel in resolving amicably issues that relate to stipulations about evidence and other matters concerning preparation for the trial of this impeachment.

AMENDMENTS SUBMITTED

MINIMUM WAGE RESTORATION ACT

BOSCHWITZ AMENDMENTS NOS. 3173 AND 3174

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted two amendments intended to be proposed by him to the bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes, as follows:

AMENDMENT NO. 3173

Strike the matter proposed to be inserted and insert the following:

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) Except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.60 an hour during the year beginning January 1, 1989, not less than $3.80 an hour during the year beginning January 1, 1990, and not less than $4.00 an hour after December 31, 1990;"

SEC. 3. TIP CREDIT.

The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 205(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate, except that" and inserting in lieu thereof the following: "in excess of 45 percent of the applicable minimum wage rate during the year beginning January 1, 1989, or 50 percent of the applicable minimum wage rate after December 31, 1989, except that".

TITLE II—JOB ENHANCEMENT FOR FAMILIES

SEC. 201. SHORT TITLE.

This title may be cited as the "Job Enhancement for Families Act".

SEC. 202. INCREASE IN EARNED INCOME TAX CREDIT.

(a) INCREASE IN AMOUNT OF CREDIT.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the earned income for the taxable year as does not exceed $7,143.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under this subsection for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $7,143, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $8,000.

"(b) PERCENTAGES.—For purposes of subsection (a)—

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	14	10
"2 qualifying children	21	15
"3 qualifying children	28	20
"4 or more qualifying children	35	25."

(b) Qualifying Child.—Subsection (c) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) Qualifying child.—The term 'qualifying child' means any child (within the meaning of section 151(c)(3)) of the eligible individual if—

"(A) such individual is entitled to a deduction under section 151 for such child or would be so entitled but for paragraph (2) or (4) of section 152(e),

"(B) such child has the same principal place of abode as such individual for more than one-half of the taxable year, and

"(C) the requirements of paragraph (1)(B) are met with respect to such child."

(c) Conforming Amendments.—

(1) Paragraph (2) of section 32(f) of such Code is amended by striking out "subsection (b)" each place it appears in subparagraphs (A) and (B) and inserting in lieu thereof "subsection (a)(2)".

(2) Paragraph (2) of section 31(1) of such Code is amended—

(A) by striking out "or (ii) in subparagraph (A)(i), and

(B) by inserting "and" at the end of subparagraph (B)(i), by striking out clause (ii) of subparagraph (B), and by redesignating clause (iii) of subparagraph (B) as clause (ii).

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 203. INCREASE IN TAX ON DIESEL FUEL, SPECIAL MOTOR FUELS, AND GASOLINE.

(a) In General.—

(1) Diesel fuel.—

(A) Section 4041(a)(1) of the Internal Revenue Code of 1986 (relating to tax on diesel fuel where no tax imposed under section 4091) is amended by striking out "15 cents" and inserting in lieu thereof "15.75 cents".

(B) Section 4091(b)(2) of such Code (relating to Highway Trust Fund financing rate on diesel fuel) is amended by striking out "15 cents" and inserting in lieu thereof "16.75 cents".

(2) Special motor fuels.—Section 4041(a)(2) of such Code (relating to special motor fuels) is amended by striking out "9 cents" and inserting in lieu thereof "10.75 cents".

(3) Gasoline.—Section 4081(d)(2)(A) of such Code (relating to the Highway Trust Fund financing rate on gasoline) is amended by striking out "9 cents" and inserting in lieu thereof "10.75 cents".

(b) Conforming Amendments.—

(1) Section 4041(b)(2)(A) of the 1986 Code is amended—

(A) by striking out "3 cents" and inserting in lieu thereof "4.75 cents", and

(B) by striking out "9 cents" and inserting in lieu thereof "10.75 cents".

(2) Section 4041(k)(1)(A) of the 1986 Code is amended—

(A) by striking out "9 cents" and inserting in lieu thereof "10.75 cents", and

(B) by striking out "15 cents" and inserting in lieu thereof "16.75 cents".

(3) Section 4041(k)(2)(A) of the 1986 Code is amended—

(A) by striking out "3 cents" and inserting in lieu thereof "4.75 cents", and

(B) by striking out "9 cents" and inserting in lieu thereof "10.75 cents".

(4) Section 4041(m)(1)(A) of the 1986 Code is amended—

(A) by striking out "4½ cents" and inserting in lieu thereof "6.25 cents", and

(B) by striking out "9 cents" and inserting in lieu thereof "10.75 cents".

(5) Section 4081(c)(1) of the 1986 Code is amended—

(A) by striking out "3 cents" and inserting in lieu thereof "4.75 cents", and

(B) by striking out "9 cents" and inserting in lieu thereof "10.75 cents".

(6) Section 4091(c) of the 1986 Code is amended—

(A) by striking out "9 cents" each place it appears and inserting in lieu thereof "10.75 cents".

(B) by striking out "10 cents" in subparagraph (B) of paragraph (1) and inserting in lieu thereof "11.75 cents", and

(C) by striking out '5 cents" in paragraph (2) and inserting in lieu thereof "6.75 cents".

(c) Floor Stocks Tax.—

(1) Imposition of tax.—On any taxable fuel which on August 15, 1989, is held by a taxable person, there is hereby imposed a floor stocks tax at the rate of tax which would be imposed if such fuel were sold on such date in a sale subject to tax under section 4041, 4081, or 4091 of the Internal Revenue Code of 1986.

(2) Overpayment of floor stocks taxes, etc.—Sections 6416 and 6427 of such Code shall apply in respect of the floor stocks taxes imposed by this subsection so as to entitle, subject to all provisions of such sections, any person paying such floor stocks taxes to a credit or refund thereof for any reason specified in such sections. All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code (as so added) shall apply to the floor stocks taxes imposed by this subsection.

Amendment No. 3174

On page 3, strike lines 1 through 11, and insert:

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) Except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.60 an hour during the year beginning January 1, 1989, not less than $3.80 an hour during the year beginning January 1, 1990, and not less than $4.00 an hour after December 31, 1990;"

SEC. 3. TIP CREDIT.

The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 205(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate, except that" and inserting in lieu thereof the following: "in excess of 45 percent of the applicable minimum wage rate during the year beginning January 1, 1989, or 50 percent of the applicable minimum wage rate after December 31, 1989, except that".

SEC. 4. SENSE OF SENATE REGARDING WORKING POOR FAMILIES.

It is the sense of the Senate that—

(1) the United States cannot deal with the problems of working poor families only by raising the minimum wage established under section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206);

(2) four-fifths of the individuals who receive the minimum wage are not poor;

(3) an increase in the minimum wage will not bring a large family supported by a minimum wage earner out of poverty;

(4) the minimum wage is therefore both inefficient and ineffective in dealing with the problems of poor working families;

(5) the long-term solution for working poor families is education and training to increase the productivity of these low wage workers;

(6) in the short term, the United States can increase incentives to work and make a more efficient commitment of resources to help low income families by amending the existing earned income tax credit established under section 32 of the Internal Revenue Code of 1986 to vary the credit by family size;

(7) only through a mechanism such as a family-size adjusted earned income tax credit can the United States deal with the tension between wages, which are based on productivity, and welfare which is based on need;

(8) such a mechanism provides a reward for working while adjusting that reward to need;

(9) the earned income tax credit should be amended to relate the percentage of credit to the number of children in the family;

(10) such an amendment would result in an additional credit of between $250 and $500 per child with a maximum credit of no more than $2,500;

(11) specific amounts should be determined by the consideration of revenue offsets; and

(12) amendments to carry out this section should be adopted on the first appropriate revenue bill.

NICKLES AMENDMENTS NOS. 3175 THROUGH 3186

(Ordered to lie on the table.)

Mr. NICKLES submitted 12 amendments intended to be proposed by him to the bill S. 837, supra, as follows:

Amendment No. 3175

At the appropriate place in the amendment, add the following:

SEC. . REPEAL OF DAVIS-BACON ACT RESTRICTIONS.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 276a of title 40, United States Code, is hereby repealed for all contracts of less than $500,000."

Amendment No. 3176

At the appropriate place in the amendment add the following new section:

SEC. . POLITICAL ACTION COMMITTEES.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by striking out "$5,000" and inserting in lieu thereof "$1,000"."

Amendment No. 3177

At the appropriate place in the amendment, add the following:

SEC. . REPEAL OF DAVIS-BACON ACT RESTRICTIONS.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 276a of title 40, United States Code, is hereby repealed for any contractor with annual gross sales of less than $500,000."

AMENDMENT No. 3178

At the appropriate place in the amendment, insert the following new section:

SEC. . FINANCIAL IMPACT STATEMENT.

None of the provisions of this Act shall become effective unless:

(a) The Committee on Labor and Human Resources requests that the General Accounting Office prepare a financial impact statement, as described in subsection (b) below, to accompany the Conference report of this bill.

(b) The financial impact statement required by subsection (a) of this section shall state the extent to which enactment of this bill would result in increased costs to the private sector and State and local governments and shall include, at a minimum, a detailed assessment of the annual impact of the bill (projected annually over a five-year period from its effective date and expressed in monetary terms where appropriate) on—

(1) costs to consumers and business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) State and local governments, fiscally and otherwise, and;

(5) outlays by the Federal Government, including indirect costs it will incur as an employer, as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office); *provided*, that the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars.

AMENDMENT No. 3179

Strike all in the amendment and insert in lieu thereof the following:

SEC. . REPEAL OF DAVIS-BACON ACT RESTRICTIONS.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 276a of title 40, United States Code, is hereby repealed for all contracts of less than $500,000."

AMENDMENT No. 3180

Strike all in the amendment and insert in lieu thereof the following new section:

SEC. . POLITICAL ACTION COMMITTEES.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by striking out "$5,000" and inserting in lieu thereof "$1,000"."

AMENDMENT No. 3181

Strike all in the amendment and insert in lieu thereof the following:

SEC. . REPEAL OF DAVIS-BACON ACT RESTRICTIONS.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 276a of title 40, United States Code, is hereby repealed for any contractor with annual gross sales of less than $500,000."

AMENDMENT No. 3182

Strike all in the amendment and insert in lieu thereof the following new section:

SEC. . FINANCIAL IMPACT STATEMENT.

None of the provisions of this Act shall become effective unless:

(a) The Committee on Labor and Human Resources requests that the General Accounting Office prepare a financial impact statement, as described in subsection (b) below, to accompany the Conference report of this bill.

(b) The financial impact statement required by subsection (a) of this section shall state the extent to which enactment of this bill would result in increased costs to the private sector and State and local governments and shall include, at a minimum, a detailed assessment of the annual impact of the bill (projected annually over a five-year period from its effective date and expressed in monetary terms where appropriate) on—

(1) costs to consumers and business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) State and local governments, fiscally and otherwise, and;

(5) outlays by the Federal Government, including indirect costs it will incur as an employer, as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office); *Provided*, That the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars.

AMENDMENT No. 3183

At the appropriate place in the bill, add the following:

SEC. . REPEAL OF DAVIS-BACON RESTRICTIONS.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 276a of title 40, United States Code, is hereby repealed for all contracts of less than $500,000."

AMENDMENT No. 3184

At the appropriate place in the bill, add the following:

SEC. . REPEAL OF DAVIS-BACON ACT RESTRICTIONS.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 276a of title 40, United States Code, is hereby repealed for any contractor with annual gross sales of less than $500,000."

AMENDMENT No. 3185

At the appropriate place in the bill, add the following new section:

SEC. . POLITICAL ACTION COMMITTEES.

Section 2 of this bill shall not become effective until the following is enacted into law: "Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by striking out "$5,000" and inserting in lieu thereof "$1,000"."

AMENDMENT No. 3186

At the appropriate place in the bill, add the following new section:

SEC. . FINANCIAL IMPACT STATEMENT.

None of the provisions of this Act shall become effective unless:

(a) The Committee on Labor and Human Resources requests that the General Accounting Office prepare a financial impact statement, as described in subsection (b) below, to accompany the Conference report of this bill.

(b) The financial impact statement required by subsection (a) of this section shall state the extent to which the enactment of this bill would result in increased costs to the private sector and State and local governments and shall include, at a minimum, a detailed assessment of the annual impact of the bill (projected annually over a five-year period from its effective date and expressed in monetary terms where appropriate) on—

(1) costs to consumers and business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) State and local governments, fiscally and otherwise, and;

(5) outlays by the Federal Government, including indirect costs it will incur as an employer, as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office); *Provided*, That the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars.

CONRAD AMENDMENT NOS. 3187 THROUGH 3189

(Ordered to lie on the table.)

Mr. CONRAD submitted three amendments intended to be proposed to him to the bill S. 837, supra, as follows:

AMENDMENT No. 3187

In lieu of the matter proposed to be inserted, insert the following:

SEC. . MINIMUM WAGE FOR BUSINESS AFFECTED BY THE DROUGHT OF 1988.

Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) in paragraph (4), by striking out "or" at the end thereof;

(2) in paragraph (5), by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) if such employee is employed by a business that—

"(A) is located in a county that has been declared a disaster area as a result of drought, hail, excessive moisture, or related condition in 1988;

"(B) is located in a county that suffered a crop loss in excess of 40 percent as determined by the Secretary of Agriculture;

"(C) is located outside of an urbanized area; and

"(E) employers fewer than 50 full-time employees as of January 1, 1989;

the minimum wage for such employee shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.55 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, not less than $4.20 an hour during the year beginning January 1, 1991, and not less than $4.55 an hour after December 31, 1991.".

AMENDMENT No. 3188

At the end of the amendment add the following new section:

SEC. . MINIMUM WAGE FOR BUSINESS AFFECTED BY THE DROUGHT OF 1988.

Section 5(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) In paragraph (4), by striking out "or" at the end thereof;

(2) in paragraph (5), by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) if such employee is employed by a business that—

"(A) is located in a county that has been declared a disaster area as a result of drought, hail, excessive moisture, or related condition in 1988;

"(B) is located in a county that suffered a crop loss in excess of 40 percent as determined by the Secretary of Agriculture;

"(C) is located outside of an urbanized area;

"(D) is located in a State in which not less than 4 percent of the Gross State Product of the State is dependent on agriculture, as determined by the Secretary of Labor; and

"(E) employs fewer than 50 full-time employees as of January 1, 1989;

the minimum wage for such employee shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.55 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, not less than $4.20 an hour during the year beginning January 1, 1991, and not less than $4.55 an hour after December 31, 1991.".

AMENDMENT No. 3189

At the appropriate place add the following:

SEC. . MINIMUM WAGE FOR BUSINESS AFFECTED BY THE DROUGHT OF 1988.

Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) in paragraph (4), by striking out "or" at the end thereof;

(2) in paragraph (5), by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph;

"(6) if such employee is employed by a business that—

"(A) is located in a county that has been declared a disaster area as a result of drought, hail, excessive moisture, or related condition in 1988;

"(B) is located in a county that suffered a crop loss in excess of 40 percent as determined by the Secretary of Agriculture;

"(C) is located outside of an urbanized area; and

"(D) employs fewer than 50 full-time employees as of January 1, 1989;

the minimum wage for such employee shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.55 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, not less than $4.20 an hour during the year beginning January 1, 1991, and not less than $4.55 an hour after December 31, 1991.".

GRAMM AMENDMENTS NOS. 3190 THROUGH 3204

(Ordered to lie on the table.)

Mr. GRAMM submitted 14 amendments intended to be proposed by him to the bill S. 837, supra, as follows:

AMENDMENT No. 3190

On page 3, strike lines 5 to 11 and insert in lieu thereof:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, and not less than $10 an hour during the year beginning January 1, 1989;".

AMENDMENT No. 3191

Strike Section 3, and insert in lieu thereof the following:

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$10,000,000".

AMENDMENT No. 3192

Strike Section 3, and insert in lieu thereof the following:

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$5,000,000".

AMENDMENT No. 3193

Strike Section 3, and insert in lieu thereof the following:

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$1,000,000".

AMENDMENT No. 3194

At the appropriate place add the following:

"This Act shall not apply to:

"(1) anyone who has been receiving public assistance for more than twelve months.".

AMENDMENT No. 3195

At the appropriate place add the following:

"This Act shall not apply to:

"(1) anyone who has been unemployed for more than twelve months.".

AMENDMENT No. 3196

At the appropriate place add the following:

"This Act shall not apply to:

"(1) anyone who has been unemployed for more than twelve months, or

"(2) anyone who has been receiving public assistance for more than twelve months.".

AMENDMENT No. 3197

On page 3, strike lines 5-11 and insert in lieu thereof:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, and not less than $10 an hour during the year beginning January 1, 1989;".

AMENDMENT No. 3198

Strike Section 3, and insert in lieu thereof the following:

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$10,000,000".

AMENDMENT No. 3199

Strike Section 3, and insert in lieu thereof the following:

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$5,000,000".

AMENDMENT No. 3200

Strike Section 3, and insert in lieu thereof the following:

On page 3, line 20, strike "$500,000" and insert in lieu thereof "$1,000,000".

AMENDMENT No. 3201

At the appropriate place add the following:

"This Act shall not apply to:

(1) anyone who has been receiving public assistance for more than twelve months."

AMENDMENT No. 3202

At the appropriate place add the following:

"This Act shall not apply to:

(1) anyone who has been unemployed for more than twelve months."

AMENDMENT No. 3203

At the appropriate place add the following:

"This Act shall not apply to:

(1) anyone who has been unemployed for more than twelve months, or

(2) anyone who has been receiving public assistance for more than twelve months."

SIMON AMENDMENT NO. 3204

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill S. 837, supra, as follows:

Strike all after the word "SEC." in the pending amendment and insert the following:

4. PUERTO RICO, THE VIRGIN ISLANDS

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 (29 U.S.C. 205) is amended—

(1) in subsection (a)—

(A) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands,";

(2) in subsection (e), by striking out "Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands"; and

(3) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS".

(b) MINIMUM WAGE.—Section 6 (29 U.S.C. 206) is amended—

(1) in subsection (a)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (b), by striking out "subsection (a)(5)" and inserting in lieu thereof "subsection (a)(4)"; and

(3) in subsection (c)—

(A) by striking out "Puerto Rico or the Virgin Islands" in paragraph (1);

(B) by striking out paragraphs (2) and (4); and

(C) by redesignating paragraph (3) as paragraph (2).

(c) WAGE ORDERS.—Section 8 (29 U.S.C. 208) is amended—

(1) in subsection (a)—

(A) by striking out "Puerto Rico and the Virgin Islands";

(B) by striking out "Puerto Rico, in the Virgin Islands, or in both places" in paragraph (1); and

(C) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands,";

(2) in subsection (b)—

(A) by striking out "Puerto Rico or in the Virgin Islands"; and

(B) by striking out "Puerto Rico and the Virgin Islands"; and

(3) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS".

KENNEDY AMENDMENT NOS. 3205 THROUGH 3211

(Ordered to lie on the table.)

Mr. KENNEDY submitted seven amendments intended to be proposed by him to the bill S. 837, supra, as follows:

AMENDMENT No. 3205

In the pending amendment, strike all after "following:" on line 4, and insert the following:

"(E)(1)(A) Any retail, service, agriculture or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full time. No individual student covered by this program may work, except during vacation periods, more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3206

In lieu of the matter proposed to be stricken insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph (B) if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities or persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 per centum of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction, but this limitation will not apply to any high school dropout who has returned to school full time. No individual student covered by this program may work more than 20 hours per week, except during vacation periods. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3207

In lieu of the matter proposed to be inserted insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph (B) if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85 per centum of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction, but this limitation will not apply to any high school drop out who has returned to school fulltime. No individual student covered by this program may work more than 20 hours per week, except during vacation periods. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability or reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3208

Strike all after the first word and insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph (B) if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (a) is a wage 85 per centum of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction, but this limitation will not apply to any high school drop out who has returned to school fulltime. No individual student covered by this program may work more than 20 hours per week, except during vacation period. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability or reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT No. 3209

At the appropriate place insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number of fraction, but this limitation will not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work more than 20 hours per week, except during vacation periods, the Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.".

AMENDMENT No. 3210

At the appropriate place insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number of fraction, but this limitation will not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work more than 20 hours per week, except during vacation periods, the Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.".

Amendment No. 3211

At the appropriate place insert the following:

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) Amendment.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number of fraction, but this limitation will not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work more than 20 hours per week, except during vacation periods, the Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.".

HATCH AMENDMENTS NOS. 3212 AND 3213

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to the bill S. 837, supra, as follows:

Amendment No. 3212

At the appropriate place in the pending amendment insert the following:

SEC. . NEW HIRE WAGE.

(a) Amendment.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) is a wage 80 percent of the wage prescribed by section 6, but at least $3.35 an hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the employee began employment with the employer.".

"(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

Amendment No. 3213

At the appropriate place in the pending amendment insert the following:

Sec. 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end thereof the following subsection:

"(g)(1) Except as provided in paragraph (2), in the case an employer who resides in a State or political subdivision thereof that has an unemployment rate higher than the national average unemployment rate, if the State or political subdivision makes a recommendation to the Secretary that the rate or rates provided by subsection (a)(1) applicable to such an employee be temporarily reduced, such rate or rates may be reduced only for so long as and insofar as such employee is covered by a wage order issued by the Secretary pursuant to such recommendation.

"(2) In the case of any employee is such State or political subdivision, no wage order issued by the Secretary pursuant to paragraph (1) shall—

"(A) prescribed a rate that is less than $3.35 an hour;

"(B) be effective for longer than a 12-month period; or

(C) permit an employer to reduce the rate of compensation paid to an employee as the result of the issuance of the order."

ARMSTRONG AMENDMENT NOS. 3214 AND 3215

(Ordered to lie on the table.)

Mr. ARMSTRONG submitted two amendments intended to be proposed by him to the bill S. 837, supra, as follows:

Amendment No. 3214

At the end of the bill, add the following new section:

SEC. . HOMEWORK REGULATIONS.

No amendment made by this Act shall become effective until the Secretary of Labor, using the existing authority of the Secretary, promulgates regulations to remove any ban on industrial homework in effect on the date of enactment of this Act.

Amendment No. 3215

At the end of the amendment, add the following new section:

SEC. . HOMEWORK REGULATIONS.

No amendment made by this Act shall become effective until the Secretary of Labor, using the existing authority of the Secretary, promulgates regulations to remove any ban on industrial homework in effect on the date of enactment of this Act.

HATCH AMENDMENT NOS. 3216 THROUGH 3251

(Ordered to lie on the table.)

Mr. HATCH submitted 36 amendments intended to be proposed by him to the bill S. 837, supra, as follows:

Amendment No. 3216

At the end of the pending amendment, add the following new section:

SEC. . SENIOR VOLUNTEER WORKERS.

The amendment made by section 2 shall not apply to senior volunteer workers employed as part of the Senior Companion Program as defined in the Domestic Volunteer Services Act as long as the compensation for such volunteer workers is increased by 20 cents on January 1, 1989, 20 cents on January 1, 1990, and 20 cents on January 1, 1991.

Amendment No. 3217

At the end of the pending amendment, add the following new section:

SEC. . MEDICARE PAYMENTS.

The amendment made by section 2 shall not apply to employers reimbursed under title XVIII of the Social Security Act until the Health Care Financing Administration adjusts medicare payment rates to compensate for the increase in the minimum wage under such amendment.

Amendment No. 3218

At the end of the pending amendment, add the following new section:

SEC. . MEDICAID REIMBURSEMENTS.

The amendment made by section 2 shall not apply to employers reimbursed under title XIX of the Social Security Act until the Secretary of Health and Human Services, using the existing authority of the Secretary, certifies to Congress that at least 25 States have adjusted their medicaid rates to compensate for the increase in the minimum wage required under such section.

Amendment No. 3219

At the end of the pending amendment, add the following new section:

SEC. . WAGE RATE DETERMINED BASED ON NATIONAL UNEMPLOYMENT RATE.

Each increase in the wage rate required under the amendment made by section 2 shall be delayed if the national unemployment rate on or before the date of each such required increase is greater than 7 percent, until such time as the national unemployment rate falls below 7 percent, and the applicable subsequent increase shall not become effective until the expiration of at least 1 year after the date on which the prior increase becomes effective.

AMENDMENT No. 3220

At the end of the pending amendment, add the following new section:

SEC. . CERTIFICATION BY SECRETARY OF EDUCATION.

The amendment made by section (2) shall not apply to public school employees unless the Secretary of Education, using the existing authority of the Secretary, certifies to Congress that the increase will not adversely affect the quality of education and that the safety and health of students will not be compromised due to inadequate staffing.

AMENDMENT No. 3221

At the end of the pending amendment, add the following new section:

SEC. . TIME FOR APPLICATION OF WAGE RATE TO PUBLIC SCHOOL EMPLOYEES.

The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to ensure that the amendment made by section 2 regarding the dates of the adjustment in the wage rate shall not apply to public school employers until the start of each applicable school fiscal year.

AMENDMENT No. 3222

At the end of the pending amendment, add the following new section:

SEC. . COMPENSATION OF STATE EDUCATIONAL AGENCY.

The amendment made by section 2 shall not apply to public school employees until Congress appropriates sufficient funds to compensate State educational agency for the increase in cost to perform federally required functions resulting from the increase in the minimum wage under such amendment.

AMENDMENT No. 3223

At the end of the pending amendment, add the following new section:

SEC. . COMPENSATION OF STATE HIGHER EDUCATION AGENCY.

The amendment made by section 2 shall not apply to public higher education employees until Congress appropriates sufficient funds to compensate State higher educational agencies for the increase in cost to perform federally required functions resulting from the increase in the minimum wage under such amendment.

AMENDMENT No. 3224

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY SECRETARY OF LABOR.

Not later than January 1, 1989, the Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations which state that the amendment made by section 2 shall not apply to any employee covered by a collective bargaining agreement and the wage increase included in the amendment made by section 2 to take effect on January 1, 1991, shall not take effect until the Secretary promulgated such regulations.

AMENDMENT No. 3225

At the end of the pending amendment, add the following new section:

SEC. . APPLICATION OF FAIR LABOR STANDARDS ACT TO EMPLOYEES OF CONGRESS.

The amendment made by section 2 shall not become effective until Congress enacts legislation that shall extend the application of the Fair Labor Standards Act of 1938 to employees of the House of Representatives and the Senate.

AMENDMENT No. 3226

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY SECRETARY OF LABOR.

Not later than January 1, 1989, the Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations that shall permit an employer to include fringe benefits, bonuses and gifts when calculating the wage rate of an employee and the wage increase included in the amendment made by section 2 to take effect on January 1, 1991, shall not take effect until the Secretary promulgated such regulations.

AMENDMENT No. 3227

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY SECRETARY OF LABOR.

Not later than January 1, 1989, the Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations that shall permit an employer to include fringe benefits when calculating the wage rate of an employee and the wage increase included in the amendment made by section 2 to take effect on January 1, 1991, shall not take effect until the Secretary promulgated such regulations.

AMENDMENT No. 3228

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY SECRETARY OF LABOR.

Not later than January 1, 1989, the Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations that shall permit an employer to include bonuses when calculating the wage rate of an employee and the wage increase included in the amendment made by section 2 to take effect on January 1, 1991, shall not take effect until the Secretary promulgated such regulations.

AMENDMENT No. 3229

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY SECRETARY OF LABOR.

Not later than January 1, 1989, the Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations that shall permit an employer to include gifts when calculating the wage rate of an employee and the wage increase included in the amendment made by section 2 to take effect on January 1, 1991, shall not take effect until the Secretary promulgated such regulations.

AMENDMENT No. 3230

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY DIRECTOR OF OMB.

Not later than January 1, 1991, the Director of the Office of Management and Budget, using the existing authority of the Director, shall prepare and submit to the appropriate committees of Congress a report on the federal programs which may be affected by the enactment of this Act, along with an estimate of the necessary increases in appropriations to prevent cuts in services, cuts in benefits, decreases in safety, or increases in citizens out-of-pocket costs, and the wage increase included in the amendment made by section 2 to take effect on January 1, 1991, shall not take effect until the Director submits such report.

AMENDMENT No. 3231

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY SECRETARY OF LABOR.

Not later than January 1, 1989, the Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations which state that the enactment of this Act shall be deemed adequate notification for the purpose of the Worker Adjustment, Retraining and Notification Act of 1988, Public Law 100-379, of any employee who is terminated as a direct or indirect result of the enactment of this Act, and the wage increase included in the amendment made by section 2 to take * * *.

AMENDMENT No. 3232

At the end of the pending amendment, add the following new section:

SEC. . APPLICATION OF WAGE RATE IN NATIONAL DISASTER AREAS.

The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations which waive the provisions of the amendment made by section 2 within any area that has been declared a national disaster area, for a period of 60 days following such declaration, and the wage increase included in the amendment made by section 2 to take effect on January 1, 1991, shall not take effect until the Secretary promulgated such regulations.

AMENDMENT No. 3233

At the end of the pending amendment, add the following new section:

SEC. . APPLICATION OF WAGE RATE TO RELIGIOUS AFFILIATIONS.

The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations which exempt the operation of a program that is religiously affiliated from the requirements of the amendment made by section 2, and the wage increase included in the amendment made by section 2 to take effect on January 1, 1991, shall not take effect until the Secretary promulgated such regulations.

AMENDMENT No. 3234

At the end of the pending amendment, add the following new section:

SEC. . REPORT OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

Not later than the date on which the President submits the budget of the United States to Congress, the Director of the Office of Management and Budget, using the existing authority of the Director, shall prepare and submit to the appropriate Committee of Congress a report describing the impact that the amendment made by this Act will have on the Federal budget deficit and on the budgets of State and local governments, governments, and the wage increases included in such amendment for each fiscal year that such budget is submitted shall not take effect until the report by the Director is submitted for such fiscal year.

AMENDMENT No. 3235

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY DIRECTOR OF OMB.

Not later than January 1, 1989, the Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations which state that the Director of the Office of Management and Budget, using the existing authority of the Director, shall prepare and submit to the appropriate Committees of Congress a report describing the impact this legislation will have on unemployment and the labor force participation of women, minorities and the disabled, and the wage increase included in the amendment made by Section 2 to take effect on January 1, 1991, shall not take effect until the Director promulgated such regulations.

AMENDMENT NO. 3236

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY SECRETARY OF COMMERCE.

Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce, using the existing authority of the Secretary, shall prepare and submit to the appropriate Committees of Congress a report describing the impact that the amendment made by section 2 will have on the trade deficit, and the wage increase included in such amendment to take effect on January 1, 1991, shall not take effect until the Secretary submits such report.

AMENDMENT NO. 3237

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY THE COMMISSIONER OF SOCIAL SECURITY.

Not later than 1 year after the date of enactment of this Act, the Commissioner of Social Security, using the existing authority of the Commissioner, shall prepare and submit to the appropriate Committees of Congress a report describing the impact that the amendment made by section 2 will have on social security recipients, and the wage increase included in such amendment to take effect on January 1, 1991, shall not take effect until the Commissioner submits such report.

AMENDMENT NO. 3238

At the end of the pending amendment, add the following new section:

SEC. . REPORT BY THE SECRETARY OF LABOR.

Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, using the existing authority of the Secretary, shall prepare and submit to the appropriate Committee of Congress a report describing the impact that the amendment made by section 2 will have on displaced workers, and the wage increase included in such amendment to take effect on January 1, 1981, shall not take effect until the Secretary submits such report.

AMENDMENT NO. 3239

At the end of the pending amendment, add the following new section

SEC. . SEVERE ECONOMIC CIRCUMSTANCES.

The Secretary of Labor using the existing authority of the Secretary, shall promulgate regulations to ensure that the amendment made by section 2 shall not apply to employers who receive a waiver from the Secretary on a showing by the employer that the employer would suffer severe economic hardship if the employer were forced to comply with such subsection.

AMENDMENT NO. 3240

At the end of the pending amendment, add the following:

"SEC. . RELIEF FOR SPECIAL ECONOMIC CONDITIONS.—The Governor of any state may petition the Secretary of Labor to delay the implementation of the minimum wage rates prescribed by section 6(a) if such Governor determines that economy of the state would be severely disadvantaged by the implementation of such rates."

AMENDMENT NO. 3241

At the end of the pending amendment add the following:

SEC. . RELIEF FOR SPECIAL ECONOMIC CONDITIONS.

"(a) The Governor of any state may petition the Secretary of Labor to delay the implementation of the minimum wage rates prescribed by section 6(a) and establish a special review committee to prescribe a minimum wage for such state based on the economic conditions of that state.

(b) The special review committee shall be appointed by the Secretary of Labor and shall consist of representatives of business, labor, and state legislative and executive branch officials.

(c) In no case may the special review committee prescribe a minimum wage for a state which is less than $3.35 per hour."

AMENDMENT NO. 3242

At the end of the pending, add the following:

"SEC. . RELIEF FOR SPECIAL ECONOMIC CONDITIONS.—The Governor of any state may petition the Secretary of Labor to delay the implementation of the minimum wage rates prescribed by section 6(a) if such Governor determines on the basis of economic evidence that the estimated job losses within the state would exceed 3,000."

AMENDMENT NO. 3243

At the end of the amendment, add the following:

"SEC. . RELIEF FOR SPECIAL ECONOMIC CONDITIONS.—The Governor of any state may petition the Secretary of Labor to delay the implementation of the minimum wage rates prescribed by section 6(a) if such Governor determines on the basis of economic evidence that the estimated job losses within the state would exceed one-tenth of one percent of the labor force within the state."

AMENDMENT NO. 3244

At the end of the amendment, add the following:

"SEC. . RELIEF FOR SPECIAL ECONOMIC CONDITIONS.—The Governor of any state may petition the Secretary of Labor to delay implementation of the minimum wage rates prescribed by section 6(a) if the ratio of the minimum wage prescribed by such section to the average hourly wage of such state is greater than 36 percent."

AMENDMENT NO. 3245

At the end of the amendment, add the following new section:

SEC. . REDUCED MINIMUM WAGE FOR HIGH UNEMPLOYMENT AREAS.

Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end thereof the following subsection:

"(g)(1) Except as provided in paragraph (2), in the case an employee who resides in a State or political subdivision thereof that has an unemployment rate that is at least 150 percent of the national average unemployment rate, if the State or political subdivision makes a recommendation to the secretary that the rate or rates provided by subsection (a)(1) applicable to such employee be temporarily reduced, such rate or rates may be reduced only for so long as and insofar as such employee is covered by a wage order issued by the Secretary pursuant to such recommendation.

"(2) In the case of any employee in such State or political subdivision, no wage order issued by the Secretary pursuant to paragraph (1) shall—

"(A) prescribe a rate that is less than $3.35 an hour;

"(B) be effective for longer than a 12-month period; or

"(C) permit an employer to reduce the rate of compensation paid to an employee as the result of the issuance of the order.".

AMENDMENT NO. 3246

At the end of the pending amendment, add the following new section:

SEC. . EFFECT OF COLLECTIVE BARGAINING AGREEMENTS.

The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to ensure that the amendment made by section 2 shall not apply to any employee covered by a collective bargaining agreement.

AMENDMENT NO. 3247

At the end of the pending amendment, add the following new section:

SEC. . INCLUSION OF FRINGE BENEFITS.

The amendment made by section 2 shall not become effective until the Secretary of Labor, using the existing authority of the Secretary, promulgates regulations that shall permit an employer to include fringe benefits when calculating the wage rate of an employee.

AMENDMENT NO. 3248

At the end of the pending amendment, add the following new section:

SEC. . INCLUSION OF BONUSES.

The amendment made by section 2 shall not become effective until the Secretary of Labor, using the existing authority of the Secretary, promulgates regulations that shall permit an employer to include bonuses when calculating the wage rate of an employee.

AMENDMENT NO. 3249

At the end of the pending amendment add the following new section:

SEC. . INCLUSION OF GIFTS.

(b) EFFECTIVE DATE.—The amendment made by section 2 shall not become effective until the Secretary of Labor, using the existing authority of the Secretary, promulgates regulations that shall permit an employer to include gifts when calculating the wage rate of an employee.

AMENDMENT NO. 3250

At the end of the pending amendment, add the following new section;

SEC. . APPLICATION OF WAGE RATE IN NATIONAL DISASTER AREAS.

The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations that waive the provisions of the amendment made by section 2 within any area that has been declared a national disaster area, for a period of 60 days following such declaration.

AMENDMENT No. 3251

At the end of the pending amendment, add the following new section:

SEC. . APPLICATION OF WAGE RATE TO RELIGIOUS AFFILIATIONS.

The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations that exempt the operation of a program that is religiously affiliated from the requirements of the amendment made by section 2.

COCHRAN AMENDMENTS NOS. 3252 THROUGH 3255

(Ordered to lie on the table.)

Mr. COCHRAN submitted four amendments intended to be proposed by him to the bill S. 837, supra, as follows:

AMENDMENT No. 3252

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.60 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, and not less than $4.10 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. 5. TIP CREDIT.

The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate, except that" and inserting in lieu thereof the following: "in excess of—

"(1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1988, or

"(2) 50 percent of the applicable minimum wage rate after December 31, 1988,

except that".

SEC. 6. NEW HIRE WAGE.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by section 6, but at least $3.35 per hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

AMENDMENT No. 3253

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.60 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, and not less than $4.10 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. 5. TIP CREDIT.

The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate, except that" and inserting in lieu thereof the following: "in excess of—

"(1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1988, or

"(2) 50 percent of the applicable minimum wage rate after December 31, 1988,

except that".

SEC. 6. NEW HIRE WAGE.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by section 6, but at least $3.35 per hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

AMENDMENT NO. 3254

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.60 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, and not less than $4.10 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. 5. TIP CREDIT.

The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate, except that" and inserting in lieu thereof the following: "in excess of—

"(1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1988, or

"(2) 50 percent of the applicable minimum wage rate after December 31, 1988, except that".

SEC. 6. NEW HIRE WAGE.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by section 6, but at least $3.35 per hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

AMENDMENT No. 3255

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.60 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, and not less than $4.10 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. 5. TIP CREDIT.

The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate, except that" and inserting in lieu thereof the following: "in excess of—

"(1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1988, or

"(2) 50 percent of the applicable minimum wage rate after December 31, 1988, except that".

SEC. 6. NEW HIRE WAGE.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by section 6, but at least $3.35 per hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

GRAHAM AMENDMENT NO. 3256

(Ordered to lie on the table.)

Mr. **GRAHAM** submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

In the pending amendment, strike out all after "following:" on line 4, and insert the following:

"(e)(1)(A) Except as provided in subsection (f), any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by section 6, but at least $3.35 per hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 60 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by an employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.

"(4) During any month in which employees are to be employed under this subsection, the proportion of employee hours of employment to the total hours of employment of all employees may not exceed 25 percent unless the Secretary has issued a certificate permitting a larger percentage.

"(f)(1)(A) Any retail, service, agriculture, or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph (B) if such employee is a full-time student and the employer has mailed an application form to the Secretary that gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 80 percent of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work more than 20 hours per week except during vacation periods. The Secretary may, pursuant to authority in section 14(b)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(b)(4)), issue such certificate on finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(3) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 60 days beginning with the day the employee began employment with the employer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

CONRAD AMENDMENT NO. 3257

(Ordered to lie on the table.)

Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 837, supra; as follows:

At the end add the following new section:

SEC. . MINIMUM WAGE FOR BUSINESS AFFECTED BY THE DROUGHT OF 1988.

Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) In paragraph (4), by striking out "or" at the end thereof;

(2) in paragraph (5), by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) if such employee is employed by a business that—

"(A) is located in a county that has been declared a disaster area as a result of drought, hail, excessive moisture, or related condition in 1988;

"(B) is located in a county that suffered a crop loss in excess of 40 percent as determined by the Secretary of Agriculture;

"(C) is located outside of an urbanized area;

"(D) is located in a State in which not less than 4 percent of the Gross State Product of the State is dependent on agriculture, as determined by the Secretary of Labor; and

"(E) employs fewer than 50 full-time employees as of January 1, 1989;

the minimum wage for such employee shall not be less than $3.35 an hour during the period ending December 31, 1988, not less than $3.55 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, not less than $4.20 an hour during the year beginning January 1, 1991, and not less than $4.55 an hour after December 31, 1991.".

GRAHAM AMENDMENT NOS. 3258-3259

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to the bill, S. 837, supra; as follows:

AMENDMENT No. 3258

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE: NEW HIRE WAGE.

(a) Effective Date.

(1) IN GENERAL.—Except as provided in paragraph (2), no amendment made by this Act shall become effective unless the amendment made by subsection (b) is made as part of this Act.

(2) NEW HIRE WAGE.—The amendment made by subsection (b) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

(b) NEW HIRE WAGE.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end thereof of the following new subsection:

"(e)(1)(A) Except as provided in subsection (f), any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by section 6, but at least $3.35 per hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 60 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.

"(4) During any month in which employees are to be employed under this subsection, the proportion of employee hours of employment to the total hours of employment of all employees may not exceed one-fourth unless the Secretary has issued a certificate permitting a larger fraction.

"(f)(1)(A) Any retail, service, agriculture, or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph (B) if such employee is a full-time student and the employer has mailed an application form to the Secretary that gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work more than 20 hours per week except during vacation periods. The Secretary may, pursuant to authority in section 14(b)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(b)(4)), issue such a certificate on finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.".

AMENDMENT No. 3259

At the appropriate place, insert the following new section:

SEC. . NEW HIRE WAGE.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e)(1)(A) Except as provided in subsection (f), any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by section 6, but at least $3.35 per hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 60 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by an employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.

"(4) During any month in which employees are to be employed under this subsection, the proportion of employee hours of employment to the total hours of employment of all employees may not exceed one-fourth unless the Secretary has issued a certificate permitting a larger fraction.

"(f)(1)(A) Any retail, service, agriculture, or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph (B) if such employee is a full-time student and the employer has mailed an application form to the Secretary that gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 85 percent of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work more than 20 hours per week except during vacation periods. The Secretary may, pursuant to authority in section 14(b)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(b)(4)), issue such a certificate on finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

D'AMATO AMENDMENT NOS. 3260-3271

(Ordered to lie on the table.)

Mr. D'AMATO submitted 12 amendments intended to be proposed by him to the bill, S. 837, supra; as follows:

Amendment No. 3260

In lieu of the matter to be added, add the following:

SEC. . RESTRICTION ON APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been—

(1) receiving public assistance; or

(2) unemployed;

for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 85 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3261

In lieu of the matter proposed to be added, add the following:

SEC. . RESTRICTION ON APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been unemployed for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 85 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3262

In lieu of the matter proposed to be added, add the following:

SEC. . RESTRICTION ON APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been receiving public assistance for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 85 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3263

At the end, add the following new section:

SEC. . RESTRICTION ON APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been—

(1) receiving public assistance; or

(2) unemployed;

for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 85 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3264

At the end, add the following new section:

SEC. . RESTRICTION OF APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been unemployed for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 85 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3265

At the end, add the following new section:

SEC. . RESTRICTION ON APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been receiving public assistance for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 85 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3266

At the end, add the following new section:

SEC. . RESTRICTION OF APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been receiving public assistance for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall received wages at a rate not less than 80 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3267

At the end, add the following new section:

SEC. . RESTRICTION OF APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been unemployed for more than the immediately proceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 80 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3268

At the end, add the following new section:

SEC. . RESTRICTION OF APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been—

(1) receiving public assistance; or

(2) unemployed;

for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 80 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3269

In lieu of the matter proposed to be added, add the following:

SEC. . RESTRICTION ON APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been receiving public assistance for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 80 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

Amendment No. 3270

In lieu of the matter proposed to be added, add the following:

SEC. . RESTRICTION ON APPLICATION.

(a) In General.—The amendments made by this Act shall not apply to any employee who has been unemployed for more than the immediately preceding 12-month period.

(b) Subminimum Wage.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 80 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

AMENDMENT No. 3271

In lieu of the matter proposed to be added, add the following:

SEC. . RESTRICTION ON APPLICATION.

(a) IN GENERAL.—The amendments made by this Act shall not apply to any employee who has been—

(1) receiving public assistance; or

(2) unemployed;

for more than the immediately preceding 12-month period.

(b) SUBMINIMUM WAGE.—The Secretary of Labor, using the existing authority of the Secretary, shall promulgate regulations to provide that the employees referred to in subsection (a) shall receive wages at a rate not less than 80 percent of the prevailing wage rate at the time the employee is hired, for a period not to exceed 90 days at which time the prevailing wage rate shall take effect.

AUTHORITY FOR COMMITTEES TO MEET

Mr. BYRD. Mr. President, I have a committee request that I would like to clear.

Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a brief business meeting.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, we are trying to clear that request on this side and in the meantime, I would be constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, I call attention to the fact that there are three nominations included among the business items that the Foreign Relations Committee wishes to discuss and act on.

I ask unanimous consent that five committee requests to meet which have been agreed to by the distinguished Republican leader be agreed to en bloc and spread severally on the record.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, the majority leader is correct. I think the only point I would make is that we do consent to the hearings except in Foreign Relations and Energy with objection to the markup. Beyond that there would be no problem.

The PRESIDING OFFICER. That is the agreement.

Mr. BYRD. Mr. President, I again thank the distinguished Senator for yielding. I again thank the Republican leader.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 22, 1988, to hold a hearing on the role of the Federal Government on child care services and to review several proposed changes to current law on issues relating to child care.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 22, 1988, to hold an oversight hearing on airline concentration at hub airports.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, September 22, to conduct a hearing on the Waste Minimization and Control Act of 1988 (S. 2773).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, September 22, 1988, to conduct a hearing on "A bill to amend Title II of JTPA."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, September 22, 1988, to conduct hearings on the staff concept papers regarding the National Affordable Housing Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FOREIGN AID REVIEWED—SOME OBSERVATIONS AND RECOMMENDATIONS

● Mr. MOYNIHAN. Mr. President, the International Executive Service Corps [IESC] has issued a statement setting forth proposals for expansion of Federal funds for foreign assistance. The benefits of a strengthened global market place are obvious; the sort of foreign assistance proposed by the IESC could do much to support such economic growth, with positive results for our own economy.

President Kennedy, speaking to the Congress on free world defense and assistance programs in 1963 characterized so well the benefits of international economic cooperation:

> History records that our contributions to international aid have been the critical factor in the growth of a whole family of international financial institutions and agencies, playing an ever more important role in the ceaseless war against want and the struggle for growth and freedom.

The IESC, founded in 1964, has been a leader in this family of international financial institutions and has contributed tremendously to the principles of peace and prosperity through broadened economic interaction and interdependence. I salute their efforts and ask that their statement of purpose be inserted in the CONGRESSIONAL RECORD.

The statement follows:

FOREIGN AID REVIEWED—SOME OBSERVATIONS AND RECOMMENDATIONS

Several broad conclusions emerge from a review of the course and effects of U.S. foreign assistance programs since World War II. One conclusion is that U.S. economic aid does benefit poor, needy populations, which reflects the humanitarian desires of the great majority of the American people. A second conclusion is that the security to the United States is strengthened by economic growth abroad which contributes to the stability of other countries and the prospects for international peace, as well as their military defense capabilities. A third conclusion is that prosperity overseas helps prosperity in the United States, because higher incomes there have enabled larger purchases of American goods and services. Former recipients of U.S. aid are now among our biggest customers, and the developing third world is buying more than a third of our exports.

The common factor making possible the benefits just described has been economic growth. Such growth is or should be the basic purpose of economic aid.

A further common factor has been that market economies—the free enterprise system—have been notably more successful in achieving economic growth than state-run economies.

Fortunately, from the standpoint of economic comparisons, there are three large historical examples post-World War II demonstrating free enterprise systems vs. state control. They are East Germany/West Germany, North Korea/South Korea, and Peoples Republic of China/Taiwan.

Each pair has basically similar geography, climate, and cultural and ethnic background, but their ways of doing business contrast. In East Germany, North Korea, and the PRC, enterprises are centrally directed, highly regulated and state owned. Their economies are grim and comparatively unproductive. West Germany, South Korea and Taiwan practice free enterprise. Their economies are lively and vigorously expanding.

Another large scale example since World War II lies in the contrast between West

Europe's recovery and the slow pace of development, or lack of it, in Africa. In this comparison the outstanding difference lies between existing availability of management personnel and technical information in Europe's modern societies, and the dearth of the managerial skills and technology in developing African countries, plus the plague of government ownership of much of what should be private business. With Europe under the Marshall Plan, the United States was able to provide capital and resources transfers on a large scale over a relatively short time frame with assurance of the capability of the recipients to apply them. In Africa the need was and is for training and technology transfer, a much slower process.

The experiences of the International Executive Service Corps have been instructive. IESC was formed in 1964 as a joint undertaking by U.S. business and government to help economic growth in developing countries. IESC is a non-profit organization. It is organized and directed by U.S. business executives. Its workforce consists of thousands of unpaid volunteers from among retired business executives in the United States. The Volunteer Executive (VE's) carry out short-term assignments in developing countries when asked to apply their skills to specific private enterprise projects there. IESC is funded by grants from the U.S. Agency for International Development, by payments from the overseas enterprise receiving its help, and by contributions from U.S. and foreign corporate and private donors.

IESC emphasizes the development of private enterprise in the recipient countries. It has found that people the world over tend to engage in more productive activity when income from that activity accrues to themselves and their families, rather than going to an impersonal pool or being withheld from them.

IESC provides needed managerial skills and technology transfer by sending its volunteers to help companies in lesser developed countries. It has found as a by-product that the work ethic imparted by the U.S. executives is infectious, with counterpart businessmen in the host countries wanting to produce results; just as do their visiting American advisors.

Two other products of these activities also worth noting:

The work by the American VE's has tended to expand ties between their developing country clients and U.S. businesses as a result of the projects. The implanation of American managerial and operational methods and technical information in the host country has led to expanded sales of U.S. equipment, goods, and services there.

The increased level of private enterprise activity in various countries has tended to foster the growth of middle classes with a resultant influence in favor of democratic institutions and stability. In U.S. dealings with countries having active free enterprise systems, we find their systems to be more compatible with our way of life.

Apparently the IESC experience has been sufficiently favorably to stimulate emulation by others. Since IESC's founding, thirteen other industrialized countries have founded similar organizations.

Also, countries not known for their espousal of free enterprise are now asking for IESC's services. IESC projects can be found in China and Hungary.

The humanitarian factor is ever-present in aid to poorer countries. The spirit of helping fellow human beings is an abiding characteristic of the American people. Since early in U.S. history, foreign disasters have brought outpourings of U.S. generosity. The Marshall Plan involving Germany and U.S. aid to Japan were, in part, extraordinary acts of magnanimity to vanquished foes, as well as being in the U.S. self interest.

In similar vein, there is substantial U.S. popular support for improving the lives of people abroad whom we know are impoverished. The characteristics of human poverty include high infant mortality rates and short life spans, hunger, disease, illiteracy, inadequate clothing and shelter, and excessive population growth. The bottom-line solution for improving the lives of the poor lies in economic growth, a dry statistic when cited nationally, but meaningful to the affected individuals because of the increased capabilities of their countries to address human needs.

Economic growth in itself provides a humanitarian benefit. U.S. economic assistance properly should not just respond to disaster-related aid, but can and should address the causes of poverty by stimulating economic growth over the long term.

U.S. aid programs for the third world currently do encourage long-term growth in various ways. However more emphasis should be given to private enterprise, a natural engine for growth that is winning increasing recognition in developing countries. It is understandable that a bureaucracy may feel more comfortable dealing with another bureaucracy that with the variety and unpredictableness of elements of the free enterprise system, and that government-to-government aid can be a convenient means of gaining favor with the host country officials. However, this tendency too often smothers opportunities in the private sector.

Private sector considerations should be in mind, for example, when a choice arises in development projects for a state-owned or run industry. Aid for a money-losing government owned shoe factory probably should be denied. But aid for a parastatal telephone company can be justified if improvement of the phone system significantly improves the environment for the conduct of business in that country, or if the project leads to economic rationalization of the system.

Other steps helpful for private sector assistance should include:

More long term planning and commitments. Non-governmental organizations dealing with AID usually must plan ahead over a multi-year period for their own operations (IESC's budget planning spans 5 years) and make commitments to their personnel and business partners.

Greater priority should go into U.S. aid programs for practical education, information and training in developing countries. Private enterprise in these countries has a great need for managers and technical know-how to get the job done. Perhaps, too much emphasis in Third World universities is given to classical education for an aristocracy and not enough for engineering, science, and business disciplines.

More attention should be directed to the trade possibilities from U.S. aid. IESC has found that a natural follow-through on projects often is a sale of U.S. goods and services for the projects or for portions of the host country's economy which have been oriented toward the American Way as a result of the projects.

U.S. government agencies should have a better coordinated organized system for their services, helping U.S. business in foreign markets. At present various export aids are available from the Commerce Department, USDA, Export-Import Bank, OPIC and other agencies, but their policies are now well synchronized with each other or with the opportunities that AID may be offering through its programs.

Accountability on AID spending for overseers such as the Inspector General, the Comptroller General and Congressional Committees is an acceptable aspect of aid programs. But more importantly, AID spending should be examined for its results. What did the project actually achieve? IESC has underway reviews to determine results of projects after they have ended, compared with what was originally intended.

Beyond accountability in a narrow sense, it should be recognized that there are risks in foreign assistance. Not every program or project is going to be a success. Foreign aid managers should be allowed more leeway for chance-taking where the opportunities loom for commensurately greater benefits.

IESC's domestic experience convinces us that there is indeed a constituency for American foreign aid programs, beyond the humanitarianism noted above. Our best evidence is the enthusiasm with which thousands of our nation's senior executives, from every state in the country, have responded to calls for their assistance in helping businesses in developing countries. Many Americans concerned with U.S. security know it is better to have economically-improving friends abroad than poverty situations threatening international stability. Americans whose products are involved in exports know that economic growth in the Third World increases U.S. markets. Where support for foreign aid from the man-in-the-street falls down is when U.S. officials administering aid fail to make their programs relevant to U.S. self-interest.

In the years ahead when the U.S. government budget will be under continuing constraints, it will be especially important to assure the most "bang for the buck" from what dollars are available for foreign aid. In our view the buck spent to bolster free enterprise in developing countries goes farther than any other.

Specifically with IESC, the U.S. government gets the services of a pool of nearly 10,000 top-flight retired executive volunteers for no cost except their transportation expenses and a modest per diem and the cost of a small administrative staff. Matching the government's expenses are contributions from U.S. businesses and fees from the businesses aided overseas. For the entire operation, AID currently pays $8 million a year, less than one-thousandth of the overall U.S. economic aid budget.

Studies have shown that for every dollar put into an IESC project, many times that cost is harvested in benefits to the recipient country's economy through increased employment, profits and trade. IESC currently fields about 700 projects a year. It could do more than a thousand annually if AID wished to apply a further small fraction of its funds to this area.●

COSPONSORING S. 1515

● Mr. D'AMATO. Mr. President, I rise today to join several of my colleagues in cosponsoring S. 1515, a bill to prohibit injunctive relief or damages against a judicial officer for acts taken in a judicial capacity.

This measure is long overdue. It would simply insulate judges from legal retribution for acts undertaken and decisions rendered in their judicial capacity. Specifically, the bill would preclude the granting of injunctive relief and the assessing of damages against judicial officers unless the acts complained of were in clear excess of such officer's jurisdiction or a declaratory decree was violated. Also, this act would assure that in cases where a judge is challenged in another proceeding such judge would not be liable for attorney's fees or court costs.

The need for this legislation should be self evident. An independent judiciary is crucial to liberty and the well-being of our constitutional form of Government. An effective, legitimate, and independent judiciary requires that its members be free from the threat of legal or other retaliation by disgruntled litigants. Just as we Members of Congress require immunity from charges of libel and slander, so, too, judges require protection from suits challenging decisions made in good faith and in the execution of judicial duty.

Over the months, I have received numerous letters and telegrams from judges which paint a vivid picture of the difficulties faced daily by those on the front lines of justice. Indeed, they make clear that judges of all courts are increasingly the subject of groundless and vexatious litigation seeking exorbitant money damages and injunctions to prevent the proper exercise of constitutional duties.

Mr. President, let us not allow the independence and legitimacy of our judiciary to be whittled down. Let us act now to assure an independent judiciary. I urge my colleagues to support this measure.●

APPRAISALS ON DONATIONS OF INVENTORY TO FOOD BANKS

● Mr. SASSER. Mr. President, the Internal Revenue Service issued a ruling last week that will help assure the continued success of our Nation's food bank system. This ruling exempts corporate gifts of food for the needy from the proposals released on May 5 that would require an independent appraisal on all charitable donations for the purposes of a tax deduction. Under the May 5 proposal, corporate donors of food and staples for distribution to the needy would have been forced to obtain an appraisal of the value of their donation before any type of tax deduction could be claimed.

On August 5, 1988, I contacted Lawrence Gibbs, Commissioner of the Internal Revenue Service and I spoke here last week on the devastating effect that these requirements would have on our national food bank system. The cost and paperwork involved would simply overwhelm grocers and erase the minimal tax benefit that corporations receive to offset the costs of their donations.

The decision to drop this new requirement represents a prudent decision by the IRS that will have a favorable impact on charitable institutions across the Nation.

Indeed, our food bank system can now breathe easier. This charitable network distributed over 152.5 million pounds of food collected from 256 companies to 38,000 charities in 1987. They were able to provide food to countless thousands of individuals otherwise without resources. Without the yoke of the appraisal restrictions, the food bank network can continue to serve as a tribute to what can be accomplished through the cooperation of the private sector and charitable institutions.●

COPPER: TECHNOLOGY AND COMPETITIVENESS

● Mr. DOMENICI. Mr. President, the Office of Technology Assessment, or the OTA, today released its report, "Copper: Technology and Competitiveness," a report that was requested by myself and my colleague from the Congressional Copper Caucus.

The report predicts a bright future for copper miners, but urges a greater commitment to research and development on process technology. It urges the U.S. industry to pursue cooperative research ventures involving producers, vendors, universities, and Government agencies. It cites the positive role the International Consumer Producer Forum proposal has played for the past 2 years. The forum is made up of government representatives from the major copper producing and consuming countries. The group meets periodically to discuss copper issues.

Because of the improvements that are occurring in the copper industry, OTA focused its study on three basic issues in order to assess the industry's future:

Current status of the domestic and world copper industry.

U.S. copper companies' recent efforts to improve their competitive position.

Options available to Congress to enhance U.S. copper production's competitive position.

Let me just say how very pleased I am that OTA has completed the report requested by the Copper Caucus. It documents Chile, Zambia, and Zaire's irrational market behavior during 1982 to 1985. The report outlines major strides by the U.S. copper industry since then and provides a road map for the future.

The report addresses improved technological innovation, as well as what can be done to maintain or improve the copper industry's competitiveness. One of the reasons that the domestic industry regained its competitiveness is cost-saving, new technology which increased operating efficiency and productivity.

The report specifically cites as an example of major innovation contributing to the domestic industry's revival is the leaching/SX-EW techniques used by Phelps Dodge.

Phelps Dodge reduced its overall production cost at the Tyrone Mine as much as 11 cents per pound between 1980 and 1985 by adding leaching/SX-EW. The process was so successful that Phelps Dodge expanded the Tyrone electrowinning plant, increasing its output to about 32,000 tons in 1986. To further benefit from this strategy, Phelps Dodge is adding two other SX-EW plants at Morenci and Chino.

Due to significant restructuring, the copper industry has improved since the hardships it endured during the early 1980's. Domestic companies cut their production costs substantially, and are now profitable.

The report found that the industry has made the capital expenditures necessary to comply with current environmental regulations. Barring any further changes in environmental control requirements; for example, more stringent air quality standards to classify hazardous wastes that would require additional capital outlays, the present burden of compliance without similar requirements. The disadvantage could even out over the long term if pressure for environmental quality initiatives in the lower developed countries mounted.

World copper mine capacity is projected to increase significantly between 1988 and 1992. If all planned mine expansions and new projects meet their anticipated production levels by the early 1990's, they will add around 1 million tons to annual output—15 percent of the 1986 output.

Let me add that the widespread of AIDS in Africa and the Canada Free-Trade Agreement are two developments that will play a role in the world copper market, and neither one of these factors were anticipated when the study was initially commissioned.

I voted against the Canada FTA because it fails to prohibit some Canadian subsidization practices. Canadian copper mines and smelters are being modernized with below-market rate capital made available through various national and provincial government assistance programs. The report cities as an example the allotment of $84 million of Canadian Government funds from an acid rain program for modernization and pollution control at Noranda's copper smelter at Rouyn, Quebec. There also have been allegations that the subsidies may be made available to reopen Noranda Gaspe copper mine in Murdockville, Quebec.

The FTA phases out the tariff on imports of Canadian copper, and to be fair to the copper industry, a good free trade agreement really should have put a stop to the subsidies that disadvantage our copper industry.

Finally let me add that future output from Zambia and Zaire are highly uncertain due to the need for significant capital investment in their mines and political unrest causes transportation problems. The widespread occurence of AIDS in these countries also makes it more difficult for operations there to attract skilled labor.●

JAPANESE TECHNICAL LITERATURE BULLETIN

● Mr. BAUCUS. Mr. President, in 1986 we recognized the need to make Japanese technical literature available to both Government and the private sector in order to improve our competitive stance in the world market.

I introduced legislation that went on to become Public Law 99-382, The Japanese Technical Literature Act of 1986.

I am happy to announce that the goals of the act are being implemented through the newly established Office of Japanese Technical Literature within the Department of Commerce.

The first issue of the Japanese Technical Literature Bulletin has been published this month and I recommend it to my colleagues for their perusal.

I ask that this first issue be printed in the Record.

The bulletin follows:

Japanese Technical Literature Bulletin, September 1988, Issue No. 1

(Editor's Note: The Office of Japanese Technical Literature is pleased to present its first Bulletin. The purpose of this bimonthly publication is to alert high technology decisionmakers to activities of the Office and other sources for information on Japanese science and technology. Starting in November, Japanese technical literature acquisition efforts by the Department of Commerce's National Technical Information Service and other Federal agencies will be included. This first issue will provide an overview of the Office of Japanese Technical Literature and summarize its mission and activities.)

THE OFFICE OF JAPANESE TECHNICAL LITERATURE

The Office of Japanese Technical Literature was established in June of 1987 by Under Secretary for Economic Affairs Robert Ortner following enactment of Public Law 99-382, the Japanese Technical Literature Act of 1986. The Office is staffed by Ms. Sabina Javits and Dr. Tamami Kusuda who report to Associate Under Secretary for Economic Affairs Barry Beringer. The Office is responsible for overseeing all activities required by the Act, the major objective of which is to increase the availability of Japanese scientific and technical literature in the United States. The law outlines four major tasks to achieve this objective including:

Publication of annual reports on Japanese scientific discoveries and technical innovations in key high technology areas;

Publication of an annual directory of resources in the United States for Japanese technology transfer information;

Submission of a report to Congress on all Federal government activities to acquire, translate, and disseminate Japanese technical literature;

Consultation with industry and professional societies to provide appropriate information where gaps exist.

In carrying out these and related activities, the Office coordinates Federal efforts and works cooperatively with the private sector to avoid duplication of effort. The Office works closely with the National Technical Information Service (NTIS) on publication of the Directory and other activities. NTIS reports to the Under Secretary for Economic Affairs on all matters including implementation of the Japanese Technical Literature Act.

THE JAPANESE TECHNICAL LITERATURE ACT

Spurred by Japan's success in marketing commercial products based on innovative applications of established technology (often developed in the United States), numerous conferences and hearings were held beginning in 1980 to explore the link between competitiveness and access to Japanese technical information. These efforts were capped by Congressional hearings held in 1984 and 1985. As a result of these hearings, the Japanese Technical Literature Act was enacted and signed into law by President Reagan on August 14, 1986.

ACTIVITIES

July 1987: Dr. Tamami Kusuda visited Japan to assess U.S. Government efforts to acquire Japan's technical literature. His stops included the U.S. Embassy and other Tokyo-based offices maintained by the Office of Naval Research, the National Science Foundation, the Department of Energy, NTIS, and the Commerce-supported Electronics Industry Association. Information gleaned from this trip is contained in the Report to Congress on Federal Government activities to acquire, translate, and disseminate Japanese technical literature. (See under "Publications" on page four).

September 1987: "Machine Translation Summit" in Hakone, Japan. Dr. Kusuda attended on behalf of the Office of Japanese Technical Literature and spoke about the importance of machine translation to carrying out the requirements of the Japanese Technical Literature Act. This conference provided very useful information on the state of Japanese-English machine translation technology in Japan and the European Community. An appendix on machine translation prepared on the basis of this trip is also contained in the Report to Congress.

September 1987: "International Conference on Japanese Information" held at the University of Warwick, England. Sponsored by the British Library and the National Technical Information Service, this conference was widely attended by information specialists in government, academia, and industry from Japan, the U.S., and Europe. In conjunction with presentations by NTIS, the Office of Technology Assessment, and the Library of Congress, Ms. Sabina Javits provided an overview of the recently established Office of Japanese Technical Literature. Conference proceedings may be obtained from: the British Library Japanese Information Service, 25 Southampton Buildings, London WC2A 1AW.

March 1988: Inter-agency meeting on Japanese technical Information convened by the Office of Japanese Technical Literature. Nearly thirty representatives from about twenty government agencies and departments made presentations on their efforts to acquire, translate, and disseminate Japanese technical literature. Summaries of these presentations are contained in the Report to Congress. A primary topic at this and future meetings is better dissemination of currently available information to industry users.

April 1988: Seminar on "High Tech Materials in Japan" sponsored by the Office of Naval Research, the Office of Japanese Technical Literature, and the Department of Energy. Held at National Defense University, this experimental seminar featured briefings on important high technology developments in Japan by U.S. researchers affiliated with the Office of Naval Research facility in Tokyo. Mr. Barry Beringer, Associate Under Secretary for Economic Affairs, made a presentation on behalf of the Office of Japanese Technical Literature.

April 1988: Hearing before the House of Representatives (Subcommittee on International Scientific Cooperation of the Committee on Science, Space, and Technology) on "Sharing Foreign Technical Information: Should We Pick Their Brains?" Associate Under Secretary Barry Beringer provided testimony on implementation of the Japanese Technical Literature Act in conjunction with the National Science Foundation and the Department of State. Witnesses included U.S. Senator John D. Rockefeller (D-WV), Dr. Christopher Hill of the Library of Congress, Mr. Justin Bloom, former science counsellor at the U.S. Embassy Tokyo and President of Technology International, Inc., Dr. Rustum Roy of Pennsylvania State University, Mr. Ora Smith of Rockwell International Corporation, and Mr. Tomoyuki Satoh, President of T. Satoh & Co., Inc. For further information contact: Virginia Gold, Technical Consultant to the Subcommittee on International Scientific Cooperation; Telephone (202) 226-3636.

PUBLICATIONS

Note: All of the publications listed below may be purchased from the National Technical Information Service. To order, refer to the document number and call (703) 487-4650, or write: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

"1987 Directory of Japanese Technical Resources" listing public and private technical translation/technology monitoring services and libraries. A listing of all Federally-sponsored translations of Japanese technical materials performed in the preceding year is also included. Order number PB87-205258.

"Report to Congress: Activities of the Federal Government to Collect, Abstract, Translate and Distribute Declassified Japanese Scientific and Technical Information." Significant Federal efforts to acquire and translate Japanese technical information concentrated in the Departments of Commerce, Defense, Energy, State, the National Science Foundation. NASA, and the CIA's Foreign Broadcast Information Service are summarized. The report confirms some duplication of effort and indicates a need to create effective channels for dissemination of government-acquired information to industry. Order number PB88-194816

"Recent Activities: Ceramic and Semiconductor Sciences in Japan," (1987) by Dr. Robert Gottschall of the Department of Energy. This report highlights twenty-five recent Japanese accomplishments in structural and electronic ceramics and semiconductors. Order number PB88-122478.

"Survey of Supply/Demand Relationships for Japanese Technical Information in the United States: The Field of Advanced Ceramics Research and Development." Written by Justin Bloom of Technology International Inc., this report provides an extensive view of current efforts by advanced ceramics R&D organizations to acquire, translate, and disseminate Japanese technical literature. It also contains revealing comments on limitations to acquiring Japanese information and suggestions for means to overcome these obstacles. Order number PB88-210943

"Presentation of Results of Limited Operations Robot Research and Development." The results of a large scale Japanese R&D effort to develop advanced robots for use in hazardous environments are summarized in this translation of a Japanese language report prepared for MITI's Agency of Industrial Science and Technology. Order number PB88-140033.

"The Current Status of Science and Technology Grey Literature in Japan" by Dr. Ichiko Morita of Ohio State University. This report examines Japanese scientific and technical literature which is not distributed through commerical or other conventional channels. Order Number PB88-227780

REPORTS IN PROGRESS

Available soon: "Factory Automation in Japan: Key Trends and Innovations." This report summarizing key factory automation trends in Japan and their implications for international competitiveness will be available from NTIS in September.

Available this Fall: The 1988 "Directory of Japanese Technical Resources." An expanded and updated version of the 1987 directory, this volume will contain a recent report by Dr. Tamami Kusuda on the status of Japanese-English machine translation efforts in the U.S., Japan, and Europe. University training programs and industry case studies will supplement the listing of Federally-sponsored translations and public and private technical translation/technology monitoring services included in the 1987 issue.

Available in 1989:

Survey of Japan's technical (online) databases analyzing extant and emerging database resources and their accessibility to the United States.

Reports on current Japanese developments in biotechnology supercomputers, and heating, venting, and airconditioning technology.●

CONGRESSIONAL BUDGET OFFICE REPORT ON S. 2748

● **Mr. JOHNSTON.** Mr. President, on September 16, 1988, the Committee on Energy and Natural Resources filed Senate Report No. 100-518 relating to S. 2748, a bill to extend the authorization in Public Law 96-309 to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, CO. At the time the report was filed, the Congressional Budget Office report on S. 2748 was not available. The CBO report has been completed and received by the Committee on Energy and Natural Resources and I ask that the CBO report be printed in the RECORD for the information of the Members and the public at large.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 19, 1988.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2748, a bill to extend the authorization in Public Law 96-309 to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, CO.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 19, 1988.

1. Bill number: S. 2748.

2. Bill title: A bill to extend the authorization in Public Law 96-309 to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, September 14, 1988.

4. Bill purpose: S. 2748 authorizes the Secretary of the Interior to undertake the design and construction of approximately 11,000 feet of additional gunite lining of the Bessemer Ditch, which is in the vicinity of Pueblo, Colorado. The bill authorizes the appropriation of $1.17 million (adjusted as necessary for changes in applicable construction costs) as the federal share of costs for the project, and requires that nonfederal interests contribute 22 percent of the total costs in cash or in kind.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
Estimated authorization level	1.2				
Estimated outlays	1.2				

The costs of this bill would fall within budget function 300.

Basis of Estimates: This estimate assumes that the amount authorized will be appropriated. Based on information provided by the Bureau of Reclamation, we estimate that if this legislation were enacted, the federal government would make a lump-sum payment to the local irrigation district in fiscal year 1989. Construction of the gunite lining would occur between September 1989 and December 1990.

6. Estimated cost to State and local governments: Based on the 22 percent matching requirement in the bill and a total estimated cost of $1.5 million, we estimate that the local share of the project cost would be about $330,000.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Carol Cohen (226-2860).

JAMES L. BLUM,
Assistant Director for Budget Analysis.●

BUDGET SCOREKEEPING REPORT

● **Mr. CHILES.** Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is over the budget resolution by $0.5 billion in budget authority, and under the budget resolution by $2.7 billion in outlays. Current level is under the revenue floor by $10.6 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $154.1 billion, $1.2 billion below the maximum deficit amount for 1988 of $155.3 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1988 and is current through August 11, 1988. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution (H. Con. Res. 93). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report the President signed Dire Emergency Supplemental Appropriations, P.L. 100-393. This action changed budget authority and outlay estimates.

Sincerely,

JAMES L. BLUM,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONG., 2D SESS., AS OF AUG. 11, 1988

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 93 [2]	Current level +/− resolution
FISCAL YEAR 1988			
Budget authority	1,146.5	1,146.0	0.5
Outlays	1,032.0	1,034.7	−2.7
Revenues	922.2	932.8	−10.6
Debt subject to limit	2,589.6	[3] 2,565.1	24.5
Direct loan obligations	34.4	34.6	−.2

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONG., 2D SESS., AS OF AUG. 11, 1988—Continued

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 93 [2]	Current level +/− resolution
Guaranteed loan commitments	155.1	156.7	−1.6

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with sec. 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under sec. 302(a) of the Congressional Budget Act.

[3] The permanent statutory debt limit is $2,800,000,000,000.

PARLIAMENTARIAN STATUS REPORT, 100TH CONG. 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS AUG. 11, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			911,050
Permanent appropriations and trust funds	792,035	674,291	
Other appropriations	569,646	574,400	
Offsetting receipts	−202,566	−202,566	
Total enacted in previous sessions	1,159,115	1,046,125	911,050
II. Enacted this session:			
Rescission of Jewish Education Centers Abroad (Public Law 100–251)	−8	−5	
Veterans Home Loan Program Emergency Amendments (Public Law 100–253)		1	
Assistance and Support for Central America (Public Law 100–276)		43	
Veterans Emergency Supplemental (Public Law 100–344)	709		
Atomic Veterans Compensation Act (Public Law 100–321) [1]			
Veterans' Benefits and Services Act of 1988 (Public Law 100–322)	1	1	
College-aid Annual Appropriation for Territories (Public Law 100–339)	([2])	([2])	
Catastrophic Health Care (Public Law 100–360)		5	
Dire Emergency Supplemental Appropriations (Public Law 100–393)	657	195	
Total enacted this session	1,359	240	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Disaster relief	142	85	
Special milk	5	1	
Special benefits	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social services block grants	50	48	
Veterans compensation:			
Previous law	282		
Public Law 100–321	15	12	
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
National wildlife refuge fund	1	1	
Total entitlement authority	649	288	
VI. Adjustment for economic and technical reestimates	−14,650	−14,650	11,200
Total current level as of Aug. 11, 1988	1,146,472	1,032,002	922,250
1988 budget resolution (H. Con. Res. 93)	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution	472		
Under budget resolution		2,698	10,550

[1] This act increases the current law estimate for veterans compensation, which requires an appropriation. The amount is shown in sec. V.

[2] Less than $500,000.

Note.—Numbers may not add due to rounding.

ESTIMATE OF FISCAL YEAR 1988 DEFICIT GRAMM-RUDMAN-HOLLINGS BASIS, SEPT. 12, 1988

[In millions of dollars]

	Amount
Revenues:	
Sequestration base	897,007
Hard taxes	9,261
IRS compliance (gross) [1]	1,850
User fees	−525
Total revenues	907,593
Spending:	
Sequestration base	1,076,942
Defense	−5,051
Non-Defense discretionary	−2,514
Omnibus Budget Reconciliation of 1987	−6,438
Debt service	−1,328
Legislation this session (net)	252
Other	−57
Total spending	1,061,657
Deficit	154,064

[1] Estimate based on IRS funding level in Public Law 100–202.

S. 1738—LONG-TERM HEALTH CARE

● Mr. D'AMATO. Mr. President, I rise today in support of S. 1738, legislation introduced by my colleague from California, Senator WILSON. This bill, which establishes an optional; long-term care insurance program for civilian Federal employees, represents a logical first step toward addressing the long-term health needs of all Americans.

According to the Department of Health and Human Services, there are currently more than 6 million Americans over age 65 requiring long-term care. We can expect the demand for long-term care to increase dramatically as our population ages. Between 1988 and 2025, the number of Americans age 85 and over—and at greatest risk of spending time in a nursing home—will escalate from 6 to 26 million.

For those older Americans who do spend time in a nursing home, the costs are often astronomical. The cost of spending 1 year in a nursing home currently ranges between $20,000 and $50,000 per year. As a consequence, the income and assets of more than half of all elderly couples are depleted within 1 year of a nursing home admission.

At present, 41.5 percent of all long-term care expenses are financed through Medicaid, while only 2 percent are covered under Medicare. More than 51 percent of these expenses are paid for out of pocket by older persons and their families. While a number of companies currently offer private long-term health care policies, the premiums—which can exceed $4,000 per year—are beyond the reach of most older Americans.

Clearly, the present situation places too many older Americans in the untenable position of choosing between unmanageable premiums on one hand, and vulnerability to the devastating costs of long-term care on the other.

Fortunately, we now have a bill that begins to address this dilemma in a significant way. S. 1738, which is based on a proposal developed by the Office of Personnel Management, will allow Federal employees to convert equity from their group life insurance plan to long-term care insurance—at no cost to the Federal Government. Under this plan, coverage for either nursing home care or home health visits will be available immediately to more than 655,000 Federal employees and their spouses.

Equally important, S. 1738 will create a strong new incentive for private insurance carriers to develop competitive long-term care policies. It is expected that, as more carriers enter the market to compete for the OPM contract, the quality of these policies will improve as prices come down, inducing private companies to offer new long-term benefits to their employees. Thus, through a domino effect, the benefits of this legislation can extend well beyond the sphere of those employed by the Federal Government.

Clearly, this bill does not address every facet of the long-term care crisis. I do believe, however, that it represents a realistic approach that will provide immediate benefits to thousands of older Americans, while keeping the door open for future legislative actions. I am pleased to support S. 1738 and I urge my colleagues in the Senate to join me in cosponsoring this legislation.●

EAST-WEST TRADE AND THE HELSINKI PROCESS

● Mr. DECONCINI. I would like to comment today on a matter of growing concern to me as Cochairman of the Commission on Security and Cooperation in Europe [CSCE]—more commonly known as the Helsinki Commission. My concern centers on the fear that military-security and East-West trade issues are being permitted to dwarf the human rights dimension of the Helsinki process at a time when this dimension needs to be strengthened in order to maintain the essential balance of the Helsinki process.

On November 4, 1986, delegates from the 35 Helsinki signatory nations convened in Vienna to review their record of compliance with the Helsinki Final Act. Now almost 2 years later, the delegates to that review meeting are finally moving closer to consensus on a concluding document. They are closer but they are not there yet. In addition to drafting a document which gives greater precision to the commitments made in Helsinki and Madrid, the United States has insisted that the first priority of the Vienna meeting must be significantly improved compliance by the Soviet Union and its allies with their previous Helsinki commitments. In other words, the promises made over the past 13 years must now turn into realities.

These objectives are essential if we are to move the Helsinki process forward. We must not agree to a final document which settles for less. But there is another factor which should not be overlooked as we approach agreement on a final document. That element, Mr. President, concerns the critical question of how Vienna will shape the course of the Helsinki process in the years to come—a course which currently is in danger of being defined in precisely the manner in which the Soviets wanted when they signed the Helsinki Final Act 13 years ago. The tragic irony is that if the United States were to join those and who would hand the Soviets this triumph, it would betray our hard fought efforts to maintain human rights as the centerpiece of the Helsinki process.

I am speaking, Mr. President, of the question of followup activities proposed for the post-Vienna period and, in particular, of two proposals for an economic conference in Basket II as the economic, scientific and environmental section of the Helsinki accords is called. Of the 11 followup meetings which are currently on the table for consideration in Vienna, only five or six would contribute to what must be our guiding reason for agreeing to any addition activity—improving implementation where it is most lacking. These are three human rights meetings; an information forum, the continuation of the mandate for confidence and security-building measures [CSBM] negotiations and, possibly, a conference on the environment.

There are several reasons, however, why I believe the United States—and hopefully others—should oppose an economic conference.

First, I believe an economic conference poses a real danger of eroding the principle of balance in the Helsinki process beyond what is already taking place in the military-security arena of CSCE. At this stage in the evolution of CSCE when the West is struggling to maintain balance between human rights and security, do we want to run the risk of squeezing human rights further by highlighting economic cooperation as the East has always wanted us to do?

Second, the proposal for an economic conference suggests that it end with a 4-day meeting of high-level officials. None of the human rights follow-up meetings currently being considered is slated for this type of political profile. Why should trade be given this undeserved status?

An economic conference already duplicates work being covered extensively in other multilateral and bilateral fora. For example, the U.N. Economic Commission for Europe, located in Geneva, has an almost identical membership to that of the CSCE and addresses virtually all of the trade and economic issues covered in the proposed agenda for these conferences. In addition, these same issues are already—and probably more effectively—covered by existing bilateral mechanisms, such as the joint governmental commercial commissions and the bilateral economic councils established by the U.S. Chamber of Commerce or interested American firms. The U.S.-U.S.S.R. Trade and Economic Council meetings last April, for example, were attended by about 500 representatives of the U.S. business community and were actively supported by Secretary of Commerce Verity.

Moreover, trade shows and marketing seminars already allow business representatives to explore possibilities for their products; the economic conference would add nothing new here. At a time when the administration and the Congress are wrestling with serious budgetary concerns, there is no reason to accept a politically motivated conference which merely repeats what is being addressed elsewhere.

The structure of the agenda for the conference is equally disturbing. The agenda, for example, targets five industry sectors for cooperation. This type of industry-specific and extensively business-tailored forum inappropriately injects a commercial dimension into CSCE which is unacceptable. Mr. President, it is not the role of CSCE to select industries and to stage trade events for the business community. These are for the business communities themselves to organize as they see fit. This distorts and undermines the proper role of CSCE in Basket II as envisioned by the Helsinki Final Act, that is, that of searching for ways in which CSCE governments can cooperate in creating the conditions in which private business initiatives can take place on their own.

Further, agreeing to an economic conference will give the Soviet Union and its allies yet another forum for attacking Western trade policies such as Cocom controls on the transfer of sensitive technologies, and the Jackson-Vanik amendment linking MFN trade status to emigration performance. Eastern delegates in Vienna have openly stated on several occasions that, regardless of what is on the agenda of an economic conference, they intend to use it to criticize the West for restricting technologies and credits. We, of course, can solidly defend these trade policies, which are necessary to further our security interests and foreign policy goals, but why should American taxpayers have to help fund a conference which puts the United States and its business community in this position in the first place?

Another disturbing feature of the agenda is that it devotes a signficant amount of time to the promotion of joint ventures in the targeted industrial sectors. Again, this should not be a function of a CSCE meeting. It is for the private sector, not governments, to determine whether or not joint ventures make good business sense.

Furthermore, promoting joint ventures seems particularly inappropriate at the present time when we have recently learned of yet another instance when past cooperation has led to the enhancement of Soviet military power. It was reported a few weeks ago that two French firms—Forest Line and Machines Francaises Lourdes—sold the Soviet Union computer-guided milling tools which can be used in producing Mig fighter aircraft. With a revelation such as this, or the Kongsberg/Toshiba scandal last year, it seems to me that the West should do more to prevent such breaches of security controls from recurring before it seeks to open additional avenues for commercial exchanges that sacrifice security for profits.

Finally, while the United States and other Western countries may want to do more to encourage nonstrategic economic cooperation with those Eastern countries that are undertaking serious reform efforts, we should not involve ourselves in efforts—as the economic conference would—to promote trade with those who are not.

For example, why should we support a conference that would promote trade ties with Romania, a country which is now engaged in a massive plan to bulldoze thousands of villages and destroy cultural life, ethnic traditions and the human bonds associated with them? Why should we invest time and effort to expand trade with Bulgaria while it continues to deny the very existence, let alone respect the rights of its Turkish minority? Should we be actively pursuing trade with Czechoslovakia while human rights activists such as Jiri Wolf languish in the same prison conditions under which his colleague, Pavel Wonka, died earlier this year and where prisoners are forced under slave labor conditions to produce glass products for export into the United States? Stated U.S. policy has been that government-to-government cooperation in the economic sphere should be dependent on progress in other areas of East-West relations, including observance of human rights. It would be tragic mistake to forget this policy in the same CSCE process where the relationship between human rights and trade is most clearly enunciated and broadly accepted.

There are those who would argue, Mr. President, that the reform movement in the Soviet Union and some Eastern European countries make this the golden opportunity to help these countries via expanded trade. They contend that an economic conference would give us a greater say in what reforms should be taking place. I would argue, however, that the authorities in the Soviet Union and the countries of Eastern Europe know well what they need to do to restructure their inefficient, centralized economic systems. They will take such action only when they see it is in their own economic and political interests to do so.

Now is not the time to pursue avenues which would permit these countries to rely on our economic achievements and to put their urgently needed reforms aside. If we are now seeing more in the East than just meaningless rhetoric and deceptive promises, it is a welcome development. But it is a development which requires a careful response on the part of the West in order to avoid providing the Soviet Union with preemptive sources of financial and industrial support thereby relieving the pressure on the Kremlin to make the structural changes required by its current economic crisis. The degree to which we expand our economic relations with the Soviets and other Eastern European countries must be paced proportionately to the degree of genuine reform we see actually being implemented. Economic cooperation should be in response to reform not a substitute for it.

In conclusion, Mr. President, I would like to make it clear that I do not oppose nonstrategic United States trade with the Soviet Union or certain countries of Eastern Europe. In fact, the Commission on Security and Cooperation in Europe, on which I serve as cochairman, has been very active in negotiating positions in Vienna on East-West trade that would lead to an expansion of that trade in a desirable way.

I fail to see, however, how an economic conference which merely duplicates, in an unconstructive manner, what is being addressed in many other fora, will enhance these efforts. Nor can I accept a conference which would place a country with a human rights record like Romania on the same trade footing as Poland or Hungary whose records, while far from perfect, at least represent greater progress. Moreover, there is no reason why the United States should accept a CSCE conference which provides the Soviets and its allies with a high profile forum in which to attack Western trade policy. Combined with the increased focus on military-security issues, the economic conference will further skew the Helsinki process away from the balance with human rights we have tried so hard to maintain. For these and reasons too numerous to go into in this statement, I strongly urge the United States Delegation in Vienna to deny consensus to the holding of such a conference.

There has never been a followup activity in Basket II, Mr. President, and I do not necessarily disagee with those who say it is time to consider one. But we should be focusing on that aspect of Basket II which is in most need of international cooperation from both the industrial as well as from the human rights perspective. That, Mr. President, is the environment—not trade and not science. The participating CSCE states face an environmental crisis which far overshadows what is lacking in economic and scientific cooperation.

The horror stories emanating from the Soviet Union and the other Warsaw Pact countries regarding the magnitude of the pollution problems in this entire region as well as their effects on neighboring countries in Western Europe are graphic examples of the urgency of the situation. Environmental activists groups are springing up throughout the Warsaw Pact countries as millions of people suffer the frightening consequences of national policies which force them to live and work in areas which have become polluted nightmares.

These are human rights abuses of a scale which can no longer be hidden. The CSCE states have a common responsibility to cooperate on a crisis which affects us all. Trade will survive with or without this cooperation; the environment and the victims of pollution may not.●

NATIONAL VOLUNTEER INCOME TAX ASSISTANCE [VITA] WEEK

● Mr. D'AMATO. Mr. President, I rise today to lend my support for the Senate joint resolution which would designate the week beginning February 6, 1989, as "National Volunteer Income Tax Assistance [VITA] Week." I commend my distinguished colleague from California for taking the initiative in recognizing the volunteers who give their time to this worthwhile cause.

The VITA Program is a national program in which volunteers assist low income, elderly, handicapped, and non-English speaking citizens in preparing and filing their tax returns. It has been in existence for over 18 years. The Internal Revenue Service provides training for the volunteers whose occupations range from lawyers to realtors and even IRS employees. VITA sites have included libraries, schools, shopping malls, and other community organizations.

Last year, over 880,000 taxpayers were assisted with their 1987 tax returns. Over 37,000 volunteers at approximately 6,000 sites throughout the United States helped them. I am proud to say that New York State's 2,300 volunteers helped over 20,000 taxpayers at 360 sites.

Mr. President, I salute the men and women who donate their time to helping others. They are providing a great service to their community and deserve to be recognized for their work. I am proud to support this joint resolution and urge my colleagues to do the same.●

THE PLIGHT OF ALEXANDER PYATETSKY

● Mr. DIXON. Mr. President, I rise today to once again bring to your attention the plight of the Alexander Pyatetsky family in Kiev. They are the relatives of my constituents, Sarra, Michael, and Mark Pyatetsky in Chicago. I take this opportunity today as Soviet Foreign Minister Shevarnadze is in Washington for meetings with Secretary of State Shultz.

The facts in this case speak for themselves. Alexander has been a refusenik for nearly 14 years. Throughout this period, the only reason given for his continual denial of an exit visa was that he once had a "security clearance."

The Soviet authorities allege that Mr. Pyatetsky knows state secrets. However, his exposure to sensitive material was as a messenger at the Orion Institute, where he delivered sealed packages more than 15 years ago. Moreover, in 1979, the director of the laboratory where Mr. Pyatetsky previously worked was allowed to emigrate.

On April 24, 1987, Alexander's security clearance was lifted. Although it seemed that the final obstacle to his emigration had been removed, Alexander received another refusal and was told not to reapply until 1990.

Alexander's denial is groundless and inhumane. Even Mr. Gorbachev has said that 5 to 10 years should be enough time once a security clearance has been lifted in order for emigration to take place. Apparently, the 14 years Alexander has waited is still not enough.

Late last year, Alexander's wife and children were finally granted permission to leave the Soviet Union for Chicago. However, permission was not granted to Alexander.

Today, Alexander is alone in Kiev, completely separated from his entire family. Alexander has not seen his parents since they were permitted to emigrate to the United States nearly 8 years ago. They are now elderly and in poor health. Alexander dearly hopes to see them again.

Mr. President, the case for allowing Alexander Pyatetsky to emigrate is clear and convincing. He has a first degree relative in the United States, his security clearance has been lifted, and because all of his immediate relatives have left the Soviet Union, he requires no financial waiver. Positive action will be another step toward building improved Soviet-American relations. Mr. Shevardnadze, I ask you to take this opportunity in Washington to end Alexander Pyatetsky's persecution and allow his 14 year dream to become reality. I urge you to permit Alexander to emigrate and be reunited with his family.●

COACH PAUL BRIGGS

● Mr. WALLOP. Mr. President, the youth of this Nation are the future leaders of our country. It is imperative that they be provided sterling examples, positive influence, and thoughtful direction. Few provide such leadership qualities and nowhere are those qualities more apparent than in Coach Paul Briggs. The State of Wyoming was fortunate to have him for several seasons as a high school coach in Casper. In that regard, we like to think that we helped him get his start.

When it comes to dedication to a sport, total involvement, and even reverence, can there be a more shining role model than Paul Briggs, who is 68 years old and in his 40th year of coaching football?

Briggs is now a volunteer coach, working with the backfield and special teams for Orange Coast Community College in Costa Mesa, CA. When he ended a 33-year tenure as head coach at Bakersfield, CA high school in 1985, many people thought that Briggs would hang up his whistle and clipboard and call it a career.

However, they didn't know the old warhorse. Over the years, he had laughingly proclaimed that he would coach the game he loves as long as he could be effective and "as long as somebody wants me around." He had declared that he wanted to round off his career at a full 40 years.

His goal has now been achieved and he is looking beyond that impressive milestone.

Yet, for all that football seems to have consummated him, it follows on. his list of priorities after faith, family, and country. A naval officer during World War II, he manifested his love of country and devotion to duty by long service in the Naval Reserve.

A native of Rhode Island, Briggs grew up in Colorado, starred as an offensive lineman at the University of Colorado and played a season of professional football for the Detroit Lions. Then, he started his coaching career at Rocky Ford, CO, for 2 years, followed by 2 more years at Casper, WY, before moving to Bakersfield High, a long-time high school powerhouse. There, he toiled for 33 years, although it was more a labor of love, working with young men to mold them into the strongest and most polished teams possible.

Briggs' overall head coaching record was 244 victories, 99 defeats and 12 ties.

His service to his craft extended far beyond the playing field. He was active in State and national coaching organizations, was president of the California Coaches Association, and the National High School Athletic Coaches Association. Was named National High School Football Coach of the Year in 1972 and Northern California Coach of the Year in 1976.

Among other honors, he is in the California Coaches Association Hall of Fame, the Bob Elias—Kern County, CA—Hall of Fame and the University of Colorado Hall of Honor.

Briggs became an institution at Bakersfield High. A special pride for him was the feeling that so many of his players over the years maintained a relationship with "Coach," as they called him. In fact, some two dozen came from far and wide in 1985 to honor him, out of nostalgia, respect, and appreciation for what he had imparted to them, and what it had meant to them over the years. There were many tears and hugs on that occasion.

To them, he epitomizes everything that a coach can be. That doesn't make headlines but in the realm of humanity, what more can any coach ask?●

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of S. 2576 which elevates the Environmental Protection Agency to Cabinet-level status and creates a new Department of Environmental Protection.

At a time when our oceans and waterways are being polluted by sludge, plastics, garbage, and medical waste; our air being defouled by carbon monoxide; and our ground water being contaminated with toxic substances we need strong environmental leadership. Protecting our environment must become a top priority in the next administration. Giving the EPA equal footing with other Cabinet-level posts will demonstrate this Nation's commitment to cleaning up our environment.

We have all witnessed the delays that environmental legislation has experienced in Congress—the Clean Air Act amendments being a major example. Direct Presidential involvement in environmental issues may even help in moving such legislation through Congress and ensuring that its intent is executed in the executive branch.

Many environmental problems have become international in scope—the greenhouse effect was not just a phenomenon in the United States. A Cabinet-level environmental official will have better standing among his colleagues from other nations when negotiating various environmental treaties.

It is imperative that the environment be on the national agenda. We have made great strides since 1970 when EPA was first created by, President Nixon, but more still needs to be done. Creation of a Department of the Environment will give the environment the prominence it deserves. I urge my colleagues to act on this legislation.●

TRIBUTE TO JAMES S. GRIFFIN

● Mr. DURENBERGER. Mr. President, retired St. Paul Deputy Police Chief Jim Griffin recently received long overdue recognition when the football stadium at St. Paul Central High School was named in his honor.

I remember Jim Griffin as one of the first black college football officials during an all-white era in the 1950's and 1960's. He and a fellow black official, Jim Lee, pioneered in this difficult role during an era when race and crowd reaction at athletic events were a frequent factor in emotion and conflict at athletic events.

But, they took on this difficult role with grace and competence and earned enormous respect. They also served as role models in a community that produced championship athletes like Dave Winfield. It's only appropriate that future generations of athletes at St. Paul Central will now play in the James S. Griffin Stadium.

Mr. President, because of his many outstanding contributions—to athletics, to education as a long-time member of the St. Paul School Board, and to law enforcement—I ask that an article on Jim Griffin from the St. Paul Dispatch-Pioneer Press be printed at this point in the RECORD.

The article follows:

ST. PAUL SCHOOL HONORS NATIVE SON—CENTRAL HIGH STADIUM NAMED FOR GRIFFIN

(By Louis Porter II)

James Griffin now sports an indelible smile because the stadium at his alma mater—where, ironically, his grades kept him off the team—will be named in his honor today.

"I appreciate it, I'll tell you that, said St. Paul's native son, the former deputy police chief and current treasurer of the school board. "It will be one of the biggest days of my life.

The change from Central Stadium to James S. Griffin Stadium becomes official during a 6 p.m. preview game between the football teams of several St. Paul and Minneapolis high schools.

Speakers at the dedication ceremony will include St. Paul Mayor George Latimer, Council Member Bill Wilson, School Superintendent David Bennett and Minneapolis School Board Member W. Harry Davis. A public reception follows the game.

Griffin, 71, has made great strides since those days at Central when his grades weren't up to par. "I tell kids, don't be a damned fool the way I was," he said, referring to his early academic shortcomings.

Among his accomplishments are a number of "firsts" in the St. Paul Police Department, incuding becoming the first black deputy chief of police in 1972. He has also written a book on the history of blacks on the St. Paul force. IN 1973, he was appointed to the school board and has continued to be among the top vote-getters. An official for basketball and football games, he also is the former president of a basketball officials' organization.

Moreover, Griffin says 1988 is definitely his year: He celebrated 50 year of marriage to his wife, Edna, and Concordia College granted him an honorary doctorate.

Today's honor stems from a conversation nearly two years ago between Kwame McDonald, interim director of the Inner City Youth League; Floyd Smaller, football coach at Central High School; and Mel Branch, athletic director for the school district.

"We talked about how black people don't get honored in the ways we thought they ought," McDonald said. "We started throwing out 'for instances.' Jim Griffin was one of the 'for instances.' "

McDonald called for the name change in an editorial that appeared in two black community newspapers, the Minneapolis Spokesman and the St. Paul Recorder. Later, he passed out photocopies of that editorial at a school board meeting. Board members unanimously endorsed the change.

"It was one of those things that was so universally accepted, that we didn't need a big committee or a drive," McDonald said.

Daniel Bostrom, chairman of the school board, said he was happy to see his colleague get the recognition.

"It's a fitting tribute to a grand gentleman," Bostrom said, "He's worked hard for his community and he's worked hard for all the citizens of St. Paul."

Griffin, in turn, expresses a real love for St. Paul.

"I've traveled all over this country and let me tell you, this is a good town, a friendly town," he said.

The son of a railroad dining car waiter and homemaker, Griffin remembers that he was one of eight blacks in his Central High School graduating class of 750 students.

That small representation mirrored the community in which Griffin was reared, he said. Because of that, he has experienced little overt racism in his lifetime, he said.

Institutional racism, however, is another matter, Griffin added. He was named a deputy chief of police—but not until he threatened to sue the department after being passed over for the job. William McCutcheon, who is now police chief, had finished second in the test, but was selected over Griffin. In the end, both became deputy chiefs.

It's a source of pride for Griffin that both blacks and whites came out in his support.

Griffin did not start out with a passion for police work. In 1938, the Depression made a job on the police force very attractive. Griffin was one of more than 1,000 people to take the examination.

"I didn't particularly want to be a policeman; I wanted a job," he said.

Griffin recalled that he had to take the physical for the police department more than five times because doctors kept finding something wrong with him, although his own doctor said his health was fine. He finally passed the physical—after talking with a City Council member who was the father of a boyhood friend, he said.

Griffin missed his first call to join the force because he was in Kalamazoo, Mich., where his stepfather had helped him find work. Fortunately for the homesick young man, he was able to return to St. Paul and join the force in 1941.

Moving up through the ranks from patrolman to deputy chief, Griffin had his share of battles in the department, he said, adding that he was able to avoid bitterness. In 1983, he retired from the force with 42 years of service.

Having left Western Virginia State College before completing his degree, Griffin received a bachelor's degree in law enforcement from Metropolitan State University in 1974.

After all, his wife and three daughters had degrees and he was not going to be left out, he said.

His daughter, Vianne, died unexpectedly in New York City in 1974. His other daughters are Linda Garrett, an administrator in the St. Paul school district, and Helen Anderson, a teacher in Baltimore.

And if Griffin didn't play football, his grandsons certainly have. Chris Garrett was an all-state player in football, basketball and baseball. He is now a student at Arizona State University.

Another grandson, Jim Garrett, a quarterback and defensive safety at Central, will be playing in tonight's preview game when Griffin will be honored.

"It's great, but it puts added pressure on me," Garrett said of his grandfather's recognition. "I know it's a big thrill for him. I'm just really proud of him."●

ORDERS FOR FRIDAY

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION IN LEADERS' TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the two leaders time be reduced to 15 minutes between the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders the 1 hour under the cloture rule begin running, and that that hour be under the control of Mr. KENNEDY and Mr. HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO INVOKE CLOTURE

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture tomorrow occur at 11 a.m.; that no quorum call be in order immediately prior thereto; that the mandatory quorum call be waived; and that if a quorum call is in progress at 11 o'clock, that I be recognized to call it off.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PLACE S. 2821 ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2821, a bill introduced earlier today by Mr. HARKIN and others, be placed on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CORRECTING THE ENROLLMENT OF HOUSE JOINT RESOLUTION 602

Mr. BYRD. Mr. President, on behalf of Senator PELL, I ask unanimous consent to proceed to the immediate consideration of Senate Concurrent Resolution 143, which is at the desk, which corrects the enrollment of House Joint Resolution 602, adopted earlier by the Senate, that the concurrent resolution be agreed to, and a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 143) follows:

SENATE CONCURRENT RESOLUTION 143

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the joint resolution (H.J. Res. 602) in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge, the Clerk of the House of Representatives shall make the following corrections:

(a) In subsection (2)

(1) strike out "in the context of a negotiated settlement"; and

(2) strike out "in the context of a negotiated settlement,".

(b) In subsection (10)

(1) strike out "immediately"; and

(2) strike out "support and sanctuary" and insert: *assistance*

Amend the title so as to read: "Joint resolution in support of the restoration of a free and independent Cambodia, the withdrawal of Vietnamese forces, and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.".

Mr. BYRD. Mr. President, does the Republican leader have anything further he wishes to say or business he would like to transact?

Mr. DOLE. No; I do not.

RECESS UNTIL FRIDAY, SEPTEMBER 23, 1988 AT 9:30 A.M.

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move the Senate stand in recess in accordance with the order previously entered until the hour of 9:30 a.m. tomorrow.

The motion was agreed to, and the Senate, at 6:23 p.m. recessed until Friday, September 23, 1988 at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1988:

DEPARTMENT OF STATE

RICHARD WOOD BOEHM, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

DEPARTMENT OF DEFENSE

CLYDE O. GLAISTER, OF VIRGINIA, TO BE COMPTROLLER OF THE DEPARTMENT OF DEFENSE. (NEW POSITION—PUBLIC LAW 99-433.)

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

THOMAS A. THOMPSON, OF MONTANA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM OF YEARS PRESCRIBED BY PUBLIC LAW 99-498 OF OCTOBER 17, 1986. (NEW POSITION.)

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

CLARENCE J. BROWN, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1990, VICE RICHARD F. HOHLT.

IN THE NAVY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. GEORGE W. DAVIS, JR., [redacted] 1110, U.S. NAVY.

HOUSE OF REPRESENTATIVES—*Thursday, September 22, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

You have given us, O mighty God, that gift above every gift, the blessed gift of life. May we do those things that protect life, that encourage the healing of life, that nurture those characteristics that truly make us human. May not the restraints of polls or popularity keep us from serving Your whole creation, from doing all we can to hold back those evil forces that so easily take to weapons or threats or injure Your gift to us. Help us, O God, to seek and speak the truth, that truth that makes us free. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. SOLOMON] kindly come forward and lead the Members in the Pledge of Allegiance to the flag?

Mr. SOLOMON. Mr. Speaker, I am grateful for this great privilege, and if all the Members of the House would rise, I will ask those in the gallery and all the employees of the House to please rise and join me in pledging allegiance to the flag.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 517. An act to designate Soldier Creek Diversion Unit in Topeka, KS, as the "Lewis M. Paramore Diversion Unit."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1544) entitled "An act to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1518) entitled "An act to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 361. Joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

CONSENT CALENDAR

The SPEAKER. Pursuant to the order of the House of Friday, September 16, 1988, this is the day for the call of the Consent Calendar.

The Clerk will call the first eligible bill on the Consent Calendar.

AMENDMENTS RELATING TO LEASING CERTAIN LANDS FROM ISLETA INDIAN TRIBE

The Clerk called the Senate bill (S. 1945) to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory.

There being no objection, the Clerk read the Senate bill as follows:

S. 1945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authorization contained in the Second Supplemental Appropriation Act, 1961 (Public Law 86-722; 74 Stat. 821), under the headings "Department of Commerce, Coast and Geodetic Survey, Construction and Equipment", is amended by adding a new sentence at the end thereof to read "Any lease renewal entered into hereunder after September 25, 1985, shall provide for payment of an annual rental equal to fair market rental value, based on an independent appraisal approved by the Secretary of the Interior or his designee, provided that such rental shall be reviewed every five years and readjusted thereafter, based on an approval reappraisal of the land. For the first such renewal, the payment of fair market value shall be made retroactive to September 26, 1985.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JAMES T. FOLEY UNITED STATES POST OFFICE AND COURTHOUSE

The Clerk called the bill (H.R. 4188) to designate the building located at 445 Broadway in Albany, NY, as the "James T. Foley United States Post Office and Courthouse."

There being no objection, the Clerk read the bill as follows:

H.R. 4188

Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled, That the building located at 445 Broadway in Albany, New York, known as the United States Post Office and Courthouse, is designated as the "James T. Foley United States Post Office and Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to that building shall be deemed to be a reference to the James T. Foley United States Post Office and Courthouse.

With the following committee amendment in the nature of a substitute:

Committee amendment in the nature of a substitute: Strike all after the enacting clause and insert:

SECTION 1. DESIGNATION.

The United States courthouse located at 445 Broadway in Albany, New York, shall be known and designated as the "James T. Foley United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "James T. Foley United States Courthouse".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the United States courthouse located at 445 Broadway in Albany, New York, as the 'James T. Foley United States Courthouse'."

A motion to reconsider was laid on the table.

GUS J. SOLOMON UNITED STATES COURTHOUSE

The Clerk called the bill (H.R. 5007) to designate the U.S. Courthouse at 620 Southwest Main Street, Portand, OR, as the "Gus J. Solomon United States Courthouse."

There being no objection, the Clerk read the bill as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

H.R. 5007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The United States Courthouse located at 620 Southwest Main Street, Portland, Oregon, shall be known and designated as the "Gus J. Solomon United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Gus J. Solomon United States Courthouse".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REINSTATEMENT OF CANCELED ENTRY OF WILLIAM A. WRIGHT TO CERTAIN LANDS IN ALABAMA

The Clerk called the bill (H.R. 4642) to provide for the reinstatement of the canceled entry of William A. Wright to certain lands in Lamar County, AL.

There being no objection, the Clerk read the bill as follows:

H.R. 4642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF CANCELED ENTRY.

(a) REINSTATEMENT.—Notwithstanding any other provision of law, the Secretary of the Interior shall execute such instruments as may be necessary to reinstate the entry in 1858 of William A. Wright to the land described in subsection (b) which was erroneously canceled.

(b) PROPERTY DESCRIPTION.—The land referred to in subsection (a) is the parcel comprising approximately 80.05 acres and more particularly described as the northwest quarter southeast quarter of section 14 and the northeast quarter southeast quarter of section 15, township 15 south, range 15 west, Huntsville Meridian, Alabama.

With the following committee amendment:

Page 2, line 3, strike "which was erroneously canceled".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

QUIET TITLE AND POSSESSION WITH RESPECT TO CERTAIN PRIVATE LAND CLAIM IN ALABAMA

The Clerk called the bill (H.R. 5059) to quiet title and possession with respect to a certain private land claim in Sumter County, AL.

There being no objection, the Clerk read the bill, as follows:

H.R. 5059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the limitation provision of section 1 of the Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), popularly known as the Color-of-Title Act, that restricts conveyances under that Act to not more than 160 acres, shall not apply to any claim for a patent that may be filed under the Color-of-Title Act for a parcel of land described as section 33, township 20 north, range 1 west, Sumter County, Alabama.

SEC. 2. Except as otherwise provided in section 2 of this Act, all provisions of the Color-of-Title Act shall apply to any claim for a patent under the Color-of-Title Act for the parcel of land described in the first section of this Act.

With the following committee amendments:

Page 2, line 6, strike "section 2" and in lieu thereof insert "section 1".

The committee amendment was agreed to.

Mr. HARRIS. Mr. Speaker, on July 14, 1988, I introduced a bill, H.R. 5059, to quiet title and possession with respect to a certain private land claim in Sumter County, AL. The bill comes before the House today for a vote under the Consent Calendar. I rise before you so that I may give you some background information on this legislation.

H.R. 5059 waives the 160-acre limitation under the Color-of-Title Act so that the Department of the Interior through the Bureau of Land Management may consider a claim for issuance of a patent on a parcel of land located in Sumter County, AL. My constituent, Mr. Lewis McLean, Jr., and his family have owned this 263-acre parcel and adjacent acreage since 1901. The land was transferred out of Federal control in the 1830's; however, apparently no proper conveyance was ever issued.

Mr. McLean discovered this cloud on his title to this parcel in 1986 when he ordered a title search on the acreage and found that while patents were available for the other tracts of land, no patent was found for the land covered by this bill. At that time, Mr. McLean requested through his attorney that the Bureau of Land Management issue a patent for this parcel. He was subsequently informed by the Bureau of the 160-acre limitation of the Color-of-Title Act which bars consideration of patent applications for land tracts in excess of the stated 160 acres.

H.R. 5059 merely waives the 160-acre limitation so that the merits of Mr. McLean's claim to the land may be considered. The bill does not constitute an adjudication of that claim. Although this must seem like a cumbersome process for such a small piece of land given the vastnes of the Federal Government's holdings, this bill is necessary so that a substantial barrier to the due consideration of Mr. McLean's claim may be removed.

The Subcommittee on National Parks and Public Lands held a hearing in this matter on August 5, 1988, and favorably referred the bill to the full committee. On September 7, 1988, the House Committee on Interior and Insular Affairs ordered the bill to be favorably reported to the House floor. I appreciate the expeditious manner in which the Interior Committee and the Subcommittee on National Parks and Public Lands reviewed this measure. In particular, I thank Chairman UDALL, Chairman VENTO, and the staff of the subcommittee for their diligent work. Efforts such as theirs make it possible for all of us in Congress to provide essential services to our constituencies.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MODIFYING A PORTION OF THE SOUTH BOUNDARY OF THE SALT RIVER PIMA-MARICOPA INDIAN RESERVATION

The Clerk called the bill (H.R. 5066) to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 5066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND POLICY.

(a) The Congress hereby finds that—

(1) the Salt River Pima-Maricopa Indian Reservation was established on Federal lands for the purpose of providing a place for members of the Salt River Pima-Maricopa Indian community to live in peace and prosperity with other persons in Arizona;

(2) the use of lands within the Salt River Pima-Maricopa Indian Reservation will be lost to the community through location of a regional expressway if an agreement is reached between the State of Arizona and the Salt River Pima-Maricopa Indian community; and

(3) the State of Arizona will compensate the Bureau of Land Management for land described in section 2 with lands of approximately equivalent value.

(b) The Congress hereby declares that it is the policy of the Congress to expedite these land exchanges and upon transfer of title from the State of Arizona to the Salt River Pima-Maricopa Indian community modify the boundaries of the Salt River Pima-Maricopa Indian Reservation.

SEC. 2. AUTHORIZATION FOR EXCHANGE.

The Secretary of the Interior is authorized and directed to exchange a tract of land known as Red Mountain located in section 24, township 2 north, range 6 east, Gila and Salt River meridian.

SEC. 3. REVOCATION OF RECLAMATION WITHDRAWALS.

Notwithstanding any other provision of law, in order to facilitate the transfer of certain Federal lands:

(1) Secretarial orders dated July 2, 1902, and February 10, 1906, which withdraw lands in aid of the Salt River project, are hereby revoked on the following described lands:

Lots 7, 9, 11, 13 through 15 and 17 through 29 of section 24, township 2 north, range 6 east, Gila and Salt River base and meridian.

The effective date of the revocation shall be the date of patent.

(a) Reserving to the Salt River project an easement for electric transmission and distribution lines and access purposes as to a portion of the east half of section 24, township 2 north, range 6 east of the Gila and Salt River base and meridian, Maricopa

County, Arizona, as authorized by virtue of this Act.

Said easement being that portion of the east 220.0 feet of said section 24 lying west of a line extending northerly from a point on the south section line of said section 24 being 57.0 feet west of the southeast corner of said section 24 to a point on the north section line of said section 24 being 129.0 feet west of the northeast corner of said section 24 as hereby referenced and depicted on drawing C-675-439.88

(b) The United States of America and the Salt River project shall not be liable whatsoever for damages to any lands revoked under section 3(1) of this Act which may be caused by flooding in conjunction with any of the United States or Salt River project existing or future facilities or protective works.

(c) Any future patentee, its heirs, executors, administrators, successors, and assigns shall be held liable to the United States or the Salt River project for damages caused by their activities which alter drainage and adversely affect adjacent lands, project facilities, or protective works of the United States or Salt River project.

SEC. 4. MODIFICATION OF SOUTH BOUNDARY.

The south boundary of the Salt River Prima-Maricopa Indian Reservation of Arizona, created by Executive order issued on June 14, 1879, as amended, shall be modified in accordance with the provisions of section 5 of this Act at such time as the reservation acquires title to the lands. Any portion of such boundary established by this Act shall be fixed and permanent and not ambulatory.

SEC. 5. RESERVATION LANDS.

(a) Upon acquisition by the reservation the following lands containing approximately 592 acres approximately continguous to and southerly of the reservation shall be added to the reservation:

(1) That portion of section 23, township 2 north, range 6 east, Gila and Salt River meridian, Maricopa County, Arizona, described as follows:

Beginning at a point in the east line of said section 23, which point is south 2 degrees 15 minutes 35 seconds west 623.38 feet from the northwest corner thereof;

thence south 55 degrees 56 minutes 10 seconds west 218.48 feet;

thence south 61 degrees 16 minutes 08 seconds west 321.78 feet;

thence south 69 degrees 42 minutes 05 seconds west 243.90 feet;

thence south 75 degrees 02 minutes 03 seconds west 270.30 feet;

thence south 57 degrees 16 minutes 09 seconds west 213.53 feet;

thence south 68 degrees 03 minutes 06 seconds west 608.58 feet;

thence south 76 degrees 29 minutes 02 seconds west 545.55 feet;

thence south 65 degrees 41 minutes 06 seconds west 415.84 feet;

thence south 59 degrees 46 minutes 09 seconds west 185.81 feet;

thence south 45 degrees 35 minutes 13 seconds west 195.41 feet;

thence south 28 degrees 23 minutes 18 seconds west 1235.60 feet;

thence south 41 degrees 06 minutes 15 seconds west 88.44 feet;

thence south 88 degrees 49 minutes 55 seconds east 418.10 feet;

thence south 15 degrees 54 minutes 15 seconds east 662.12 feet;

thence south 88 degrees 49 minutes 55 seconds east 675.00 feet;

thence south 15 degrees 54 minutes 15 seconds east 662.12 feet;

thence south 88 degrees 49 minutes 55 seconds east 675.00 feet;

thence south 0 degrees 34 minutes 46 seconds east 640.38 feet;

thence south 88 degrees 49 minutes 55 seconds east 3,477.03 feet to a point in the aforesaid east line of section 23, which point in north 0 degrees 36 minutes 23 seconds west 945.29 feet from the southeast corner thereof;

thence along said east section line north 0 degress 36 minutes 23 seconds west 1691.17 feet to the east quarter corner of section 23;

thence continuing along said east section line north 2 degrees 15 minutes 35 seconds east 2097.80 feet to the point of beginning, containing approximately 251 acres, and

(2) Lots 7, 9, 11, 13, 14, 15, 17, 18, 20, 22, and 24, section 24, township 2 north, range 6 east, Gila and Salt River base and meridian, containing approximately 341 acres.

(b) Any lands added to the reservation under this Act shall become a part of the reservation in all respects and upon all the same terms as if such lands had been included in the Executive order issued by the President on June 14, 1879, as amended, except that such lands shall remain tribal lands and shall not be subject to allotment to individual Indians.

With the following committee amendments:

Page 2, line 10, strike "expressway" and insert "freeway".

Page 2, line 20, strike "modify the boundaries of" and insert "add this additional land to".

Page 3, line 1, strike the first "and".

Page 3, line 3, strike before "Notwithstanding" insert "(a)" and renumber succeeding subsections accordingly.

Page 3, line 12, strike "base and".

Page 3, line 18, strike "base and".

Page 3, line 23, strike "220.0" and insert "300.0".

Page 3, line 24, strike "57.0" and insert "51.0".

Page 4, line 3, strike "C-675-439.88" and insert "C-675-439.90. Said easement establishes a priority right of way of the Salt River Project to the Bureau of Land Management Right of Way Number A.R. 020234".

Page 4, after line 20, insert "(d) Reserving to the United States a right of way for road purposes, as described in the Bureau of Land Management A.R. 020234".

Page 5, line 1, strike "Modification of South Boundary." and insert "Addition of Lands to the Salt River Pima-Maricopa Indian Reservation.".

Page 5, line 4, strike "south".

Page 5, line 12, strike "reservation" and insert "Salt River Pima-Maricopa Indian Community".

Page 5, lines 14 and 15, strike "592 acres approximately contiguous to and" and insert "594 acres lying".

Page 5, line 15, after "the" insert "present".

Strike page 5, line 20, through page 7, line 20, and insert the following:

Beginning at a witness point on the east line of said section 23, which is S.2°15'W., 9.58 chains distance from the northeast corner of said section, said point being on the southerly right of way of the Southern Canal as shown on the official Bureau of Land Management plat of the metes-and-bounds survey in section 23, accepted September 26, 1983.

Thence by metes-and-bounds along the southerly right of way of the Southern Canal as shown of said plat,

S55°56'W., 3.31 chains, to AP 1;

S61°16'W., 4.875 chains, to AP 2;

S69°42'W., 3.695 chains, to AP 3;

S75°02'W., 4.095 chains, to AP 4;

S57°16'W., 3.235 chains, to AP 5;

S68°03'W., 9.22 chains, to AP 6;

S76°29'W., 8.265 chains, to AP 7;

S65°41'W., 6.30 chains, to AP 8;

S59°46'W., 2.815 chains, to AP 9;

S45°35'W., 29.64 chains, to AP 10;

S28°23'W., 18.72 chains, to AP 11;

S41°06'W., 88.44 feet to a point;

Thence leave the southerly right of way of the Southern Canal and continue by metes-and-bounds through said section 23.

S.88°49'55" E., 418.10 feet;

N.15°54'15" E., 662.12 feet;

S.88°49'55" E., 675.00 feet;

S.0°34'46" W., 640.38 feet;

S.88°49'55" E., 3477.03 feet to a point on the east line of section of section 23, which is N.0°37'W., 945.29 feet from the southeast corner of section 23;

Thence northerly along the east line of section 23 3,788.97 feet, more or less, to the witness point on the southerly right of way of the Southern Canal and the point of beginning, containing approximately 251 acres, and

Page 10, line 3, strike "base and".

Page 10, line 4, strike "341" and insert "343".

Page 10, line 4, before the period insert "and subject to conditions, reservations and easements of Section 3(a), (b), (c) and (d) as authorized by virtue of this act".

Mr. GORDON. Mr. Speaker, I ask unanimous consent that further reading of the committee amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The committee amendments were agreed to.

Mr. KYL. Mr. Speaker, earlier today, the House considered a bill, H.R. 5066, which is of particular significance to my congressional district and the Metropolitan Phoenix area.

The bill, which I introduced in July with the support of the Arizona delegation, alters the south boundary of the Salt River Pima-Maricopa Indian community. It is intended to help overcome one of the remaining obstacles to establishing an alignment for the outer loop Freeway in the Metropolitan Phoenix area, and it does so at no cost to the U.S. taxpayer.

Mr. Speaker, one of the problems we have had in the Phoenix area is deciding where to put the outer loop in the east valley. An alignment through Scottsdale would require the destruction of over 1,000 homes. Undeveloped lands exist east of Scottsdale, but are part of the Salt River Pima-Maricopa Indian community. An Indian alignment would involve about 60 different properties owned by about 900 individual Indian allottees.

During the last several months, the Arizona Department of Transportation and the Indian community have been working together to determine whether or not an all-Indian alignment would be acceptable to the individual Indian allottees. To date, about 75 percent have expressed support for such an alignment. Understandably, however, the Indian community has concern about the potential loss of land should the alignment cross the reservation.

H.R. 5066 is intended to address that concern. Should it agree to the alignment, the bill would add about 594 acres of land, which is adjacent to the existing reservation and has been identified as suitable by the Indian community, to the Reservation. The Indian community would thus be kept whole.

Of the 594 acres, 343 acres of that land is currently owned by the Bureau of Land Management, but would be conveyed to the State of Arizona as partial repayment for lands already taken by the Federal Government for right-of-way for the central Arizona project. The other 251 acres is currently owned by the State of Arizona.

Under H.R. 5066, the land would be given reservation status once title is conveyed to the Indian community by the State of Arizona.

Mr. Speaker, the Phoenix area is one of the fastest growing areas in the Nation, and we desperately need additional freeway capacity to accommodate that growth and relieve serious traffic congestion in the valley. H.R. 5066 paves the way for that additional freeway development.

Before closing, I want to thank both the chairman of the Interior Committee, MO UDALL, and my Arizona colleague, JAY RHODES, who serves on this legislation. I also want to commend Gerald Anton, the president of the Salt River Pima-Maricopa Indian Community, and Charles Miller, the director of the Arizona Department of Transportation, and their staffs, for all of their hard work on this issue. Last, but not least, I want to thank Dean Bibles, the State director of the Bureau of Land Management, for his part in bringing about this legislation.

With the enactment of H.R. 5066 and some additional hard work by all of us, we can make the Outer Loop a reality.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "An act to add additional lands to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes."

A motion to reconsider was laid on the table.

The **SPEAKER**. This will conclude the call of the Consent Calendar.

PRIVATE CALENDAR

The **SPEAKER**. This also is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

CHUN WEI WONG, ET AL.

The Clerk called the bill (H.R. 2108) for the relief of Chun Wei Wong, Bic Ya Ma Wong, Wing Sing Wong, Wing Yum Wong, and Man Yee Wong.

Mr. **SENSENBRENNER**. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CATHLEEN S. O'REGAN

The Clerk called the bill (H.R. 2684) for the relief of Cathleen S. O'Regan.

Mr. **SENSENBRENNER**. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HILARIO R. ARMIJO, ET AL.

The Clerk called the bill (H.R. 2682) for the relief of Hilario R. Armijo, Timothy W. Armijo, Allen M. Baca, Vincent A. Chavez, David G. Chinana, Victor Chinana, Ivan T. Gachupin, Michael J. Gachupin, Frank Madalena, Jr., Dennis P. Magdalena, Anthony M. Pecos, Lawrence A. Seonia, Jose R. Toledo, Roberta P. Toledo, Nathaniel G. Tosa, Allen L. Toya, Jr., Andrew V. Waquie, and Benjamin P. Waquie.

Mr. **SENSENBRENNER**. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PINE RIDGE INDIAN RESERVATION

The Clerk called the bill (H.R. 2711) to settle certain claims arising out of activities on the Pine Ridge Indian Reservation.

Mr. **SENSENBRENNER**. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

IVAN LENDL

The Clerk called the bill (H.R. 4363) for the relief of Ivan Lendl.

Mr. **SENSENBRENNER**. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JENS-PETER BERNDT

The Clerk called the bill (H.R. 446) for the relief of Jens-Peter Berndt.

Mr. **SENSENBRENNER**. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ROSA PRATTS

The Clerk called the bill (H.R. 2109) for the relief of Rosa Pratts.

There being no objection the Clerk read the bill as follows:

H.R. 2109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), for the purposes of the Immigration and Nationality Act, Rosa Pratts shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

(b) Subsection (a) shall only apply if the beneficiary applies to the Attorney General for permanent residence status under that subsection within two years after the date of the enactment of this Act.

(c) Upon the granting of permanent residence to Rosa Pratts, the beneficiary under subsection (a), the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the beneficiary's birth under section 203(a) of the Immigration and Nationality Act or, if section 202(c) of that Act is applicable to the country, from the total number of immigrant visas which are made available to natives of such country under that section.

With the following committee amendment in the nature of a substitute:

Strike all after the enacting clause and insert in lieu thereof the following:

That (a) subject to subsection (b) and notwithstanding section 204 of the Immigration and Nationality Act, in the administration of such Act, Rosa Pratts, the widow of a citizen of the United States, shall be deemed to be an immediate relative within the meaning of section 201(b) of such Act.

(b) Subsection (a) shall only apply if Rosa Pratts applies for a visa and for administration to the United States not later than two years after the date of the enactment of this Act.

Mr. **SENSENBRENNER** (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MILENA MESIN AND BOZENA MESIN

The Clerk called the bill (H.R. 2461) for the relief of Milena Mesin and Bozena Mesin.

There being no objection, the Clerk read the bill as follows:

H.R. 2461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Milena Mesin and Bozena Mesin shall each be classified as a child within the meaning of section 101(b)(1)(E) of that Act, upon the approval of a petition filed under section 204 of that Act by Marko and Ann Mesin, citizens of the United States. The petition may be filed in the United States. Upon the approval of such petition, the status of each beneficiary under this subsection shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if such beneficiary meets the requirements of clauses (1) through (3) of section 245(a) of that Act.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of the enactment of this Act.

(c) The natural parents, brothers, and sisters of the beneficiaries under subsection (a) shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. TRAFICANT. Mr. Speaker, I rise in strong support of H.R. 2461, a private bill I introduced last year to save 20-year-old Milena and 18-year-old Bozena Mesin from being deported to Yugoslavia. The girls are currently living in Farrell, PA, with their adopted parents.

Milena and Bozena Mesin have resided continuously in the United States since 1973. On February 6, 1986, they were legally adopted by their aunt and uncle, Marko and Ann Mesin. Mr. and Mrs. Mesin are both U.S. citizens. At the time of the adoption Milena was 17 years old and Bozena was 16 years old. Due to the difficulty of obtaining parental consent under Yuoslavian law, adoption could not be obtained prior to the age of 16, as required by United States immigration law. At the time of the adoption, the girls were living in the United States on student visas. Unless H.R. 2461 is adopted, the girls will be deported back to Yugoslavia once their visas expire.

My bill would allow the sisters to stay in this country legally and eventually become U.S. citizens. I want to take this time to commend Congressman ROMANO MAZZOLI, chairman of the Subcommittee on Immigration, and the rest of the members of the subcommittee for their patience and understanding in getting this bill to the House floor.

Mr. Speaker, Milena and Bozena love their new country and their adopted parents very much. They wish to stay in America and become productive citizens. Without the timely intervention of Congress, these two girls will eventually face deportation back to the Communist state of Yugoslavia against their will. This is not right and it's not the American way. I urge the House to approve H.R. 2461.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TAREK MOHAMAD MAHMOUD

The Clerk called the bill (H.R. 2511) for the relief of Tarek Mohamad Mahmoud.

There being no objection, the Clerk read the bill as follows:

H.R. 2511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Tarek Mohamad Mahmoud shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act, upon the approval of a petition filed under section 204 of that Act by Ezzat Elsheemy and Nawal Elsheemy, citizens of the United States. The petition may be filed in the United States. Upon the approval of such petition, his status shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if he meets the requirements of clauses (1) through (3) of section 245(a) of that Act.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of the enactment of this Act.

(c) The natural parents, brothers, and sisters of the beneficiary under subsection (a) shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA LINDA SY GONZALEZ

The Clerk called the bill (H.R. 3238) for the relief of Maria Linda Sy Gonzalez.

There being no objection, the Clerk read the bill, as follows:

H.R. 3238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the numerical limitations specified in sections 201(a) and 202(a) of the Immigration and Nationality Act, Maria Linda Sy Gonzalez shall be issued an immigrant visa under section 221 of such Act and admitted to the United States for permanent residence if she—

(1) is found to be otherwise admissible under such Act, and

(2) Applies for an immigrant visa and for admission to the United States not later than 2 years after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LYNETTE J. PARKER

The Clerk called the bill (H.R. 3247) for the relief of Lynette J. Parker.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MEENAKSHIBEN P. PATEL

The Clerk called the bill (H.R. 3414) for the relief of Meenakshiben P. Patel.

There being no objection, the Clerk read the bill as follows:

H.R. 3414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a)(1) notwithstanding the provision of section 212(a)(1) of the Immigration and Nationality Act, subject to paragraph (2), Meenakshiben P. Patel may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act.

(2) Paragraph (1) shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

(b) Upon the granting of permanent residence to such alien as provided for in subsection (a), the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

With the following committee amendment in the nature of a substitute:

Strike all after the enacting clause and insert in lieu thereof the following:

That (a) Meenakshiben P. Patel may be issued an immigrant visa and admitted to the United States for permanent residence without regard to section 212(a)(1) of the Immigration and Nationality Act, if she—

(1) is found to be otherwise admissible under the provisions of the Act,

(2) applies for a visa and for admission to the United States within two years after the date of the enactment of this Act, and

(3) has a suitable and proper bond or undertaking, approved by the Attorney General, deposited on her behalf as prescribed by section 213 of such Act.

(b) The exemption under subsection (a) shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge before the date of the enactment of this Act.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RAJANI LAL

The Clerk called the bill (H.R. 3917) for the relief of Rajani Lal.

There being no objection, the Clerk read the bill as follows:

H.R. 3917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Rajani Lal shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act, upon the approval of a petition filed under section 204 of that Act by Sandip Lal, a citizen of the United States. The petition may be filed in the United States.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of the enactment of this Act.

(c) The natural parents, brothers, and sisters of the beneficiary under subsection (a) shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment in the nature of a substitute:

Strike all after the enacting clause and insert in lieu thereof the following:

That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Rajani Lal shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act, upon the approval of a petition filed under section 204 of that Act by Sandip Lal, a citizen of the United States and Swaran Kanta Lal, a permanent resident. The petition may be filed in the United States.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of enactment of this Act.

(c) The natural parents, brothers, sisters of the beneficiary under subsection (a) shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

(d) Upon admission to the United States, Rajani Lal shall be adopted in accordance with the laws of the State of Florida.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

Mr. McCOLLUM. Mr. Speaker, I am very pleased that the House Judiciary Committee reported out favorably H.R. 3917, a private bill for the relief of Rajani Lal.

Rajani Lal was adopted by Sandip K. Lal and his wife, Swaran Lal, in 1983 in India after many years of unsuccessfully trying to have their own natural child. Mrs. Lal with power of attorney for her husband went to India to make the arrangements and was not aware of the complications of U.S. immigration law as explained by U.S. Embassy personnel.

Because of the 2-year residency requirement she was unable to bring the child back to the States—and assumed that her husband could straighten out the problem. The adopted child was left with the adopted grandparents in India. It was not until they came to my office that the Lals understood that the issue of residency meant that the child needed to live for 2 years with them.

A further problem in this case was that Hindu law states that a male is entitled to adopt a child with his wife's consent, but does not give the wife that same right. Because the Library of Congress made that distinction concerning the original adoption, Mr. Lal went to India in September of 1987 and again adopted Rajani for the second time. The natural parents again gave the child to the Lals in an adoption ceremony.

Subsequently, the Library of Congress in a legal opinion, October 2, 1987, supported the legitimacy of the adoption.

Five years have lapsed since the Lals began the process to bring Rajani to the United States, and the child now 5 years of age, has lived with her paternal grandparents her entire life and believes that her natural parents intend to bring her to the United States to live with them.

The Lals have explored every avenue of relief suggested by various U.S. officials and not been able to remedy there situation through normal channels. It would be an enormous hardship on the Lals if they were forced to relinquish the security of their employment in the United States in order to technically qualify under the 2-year residency requirement.

Had the Lals been aware of the requirements concerning nonorphan adoptions, they would have adopted an orphaned child. However, because of the unique circumstances in this case—which the committee recognized—the Lals were unaware of the 2-year residency requirement.

An official home study has concluded that the Lals are highly qualified both personally and economically to provide an exemplary home for this child. They have through every means possible, letter, phone, and personal visits maintained a loving relationship with Rajani.

I am pleased therefore to have sponsored this legislation and hope, for their sake, that the House and Senate will also see the merit in the case and provide special relief.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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HYONG CHA KIM KAY

The Clerk called the Senate bill (S. 391) for the relief of Hyong Cha Kim Kay.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SUKHJIT KULDIP SINGH SAUND

The Clerk called the Senate bill (S. 425) for the relief of Sukhjit Kuldip Singh Saund.

There being no objection, the Clerk read the Senate bill, as follows:

S. 425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sukhjit Kuldip Singh Saund shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA ANTONIETA HEIRD

The Clerk called the Senate bill (S. 1583) for the relief of Maria Antonieta Heird.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1583

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Antonieta Heird shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper office to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens's birth under section 203(a) of the Immigration and Nationality Act, or if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROSWITHA STARINS

The Clerk called the Senate bill (S. 1329) for the relief of Roswitha Starins.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

IRMA PURISCH AND DANIEL PURISCH

The Clerk called the Senate bill (S. 1972) for the relief of Irma Purisch and Daniel Purisch.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Irma Purisch and Daniel Purisch, shall each be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of. a petition filed on their behalf by Carolyn Weiss Purisch, a citizen of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Iram Purisch or Daniel Purisch shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OSCAR H. McCORMACK

The Clerk called the bill (H.R. 1474) for the relief of Oscar H. McCormack.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CHRISTY CARL HALLIEN, OF ARLINGTON, TX

The Clerk called the bill (H.R. 2857) for the relief of Christy Carl Hallien, of Arlington, TX.

There being no objection, the Clerk read the bill, as follows:

H.R. 2857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Christy Carl Hallien of Arlington, Texas, is relieved of all liability for repayment to the United States of the sum of $18,913.21 plus accrued interest which represents the amount that the said Christy Carl Hallien is indebted to the Department of Defense for payments received for travel and relocation expenses arising from his relocation from Burlington, Vermont, to accept employment with the Department of Defense in Arlington, Texas, in October 1983. The said Christy Carl Hallien was erroneously informed by an agent of the Department of Defense that he was entitled to reimbursement of all travel and relocation expenses incurred relating to such relocation.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,382 to the said Christy Carl Hallien, in full settlement of all claims against the United States for certain real estate costs incurred in the relocation described pursuant to subsection (a).

SEC. 2. No part of the amount appropriated pursuant to subsection (b) of the first section of this Act or relieved from liability pursuant to subsection (a) of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claims and the relief from liability referred to in the first section of this Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section shall be a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM D. MORGER

The Clerk called the bill (H.R. 4538) to permit reimbursement of relocation expenses of William D. Morger.

There being no objection, the Clerk read the bill, as follows:

H.R. 4538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That William D. Morger is deemed to be an employee transferred by the Bureau of Reclamation, Department of the Interior, from one official station to another for permanent duty in the interest of the Government without a break in service incident to travel performed from Madera, California, to Grand Coulee, Washington, in July 1985, for the purpose of permitting reimbursement of relocation expenses authorized by sections 5724 and 5724(a) of title 5, United States Code, incident to that travel.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHARLOTTE S. NEAL

The Clerk called the bill (H.R. 4566) for the relief of Charlotte S. Neal.

There being no objection, the Clerk read the bill, as follows:

H.R. 4566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTION TO PROVIDE ANNUITY.

For purposes of determining the eligibility of Charlotte S. Neal, of Lynchburg, Virginia, former spouse of the late Lieutenant Commander Michael D. Christian, United States Navy retired, to an annuity under the Survivor Benefit Plan, Lieutenant Commander Christian shall be deemed to have made an election under section 1448(b)(3) of title 10, United States Code, to provide an annuity to Charlotte S. Neal in accordance with the separation agreement incorporated into their divorce decree of August 19, 1983. Such election shall be deemed to have been made as of September 24, 1983, notwithstanding the death of Lieutenant Commander Christian on September 4, 1983.

SEC. 2. LUMP SUM PAYMENT.

The Secretary of the Navy shall pay in a lump sum to Charlotte S. Neal the aggregate amount of which she is entitled by reason of section 1 for the period beginning on October 1, 1983, and ending on the last day of the month in which this Act is enacted.

SEC. 3. DEFINITION.

For purposes of this Act, the term "Survivor Benefit Plan" means the program provided under subchapter II of chapter 73 of title 10, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. SENSENBRENNER. Mr. Speaker, I insert a letter to the Speaker dated March 8, 1988, with accompanying report:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC., March 8, 1988.

Hon. JAMES WRIGHT,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Pursuant to 31 U.S.C. § 3702(d), we have the honor to transmit our report and recommendation to the Congress concerning the claim of Charlotte S. Neal for a Survivor Benefit Plan annuity. For the reasons set forth in our report, we recommend favorable consideration of Mrs. Neal's claim.

The Honorable Owen Pickett, Member, United States House of Representatives, has expressed a personal interest in Mrs. Neal's case, and a copy of this letter and our report is being furnished to him.

An identical report is being transmitted to the President of the Senate.

Sincerely yours,
MILTON J. SOCOLAR
(For Comptroller General of the United States).

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC., March 8, 1988.

To the Congress of the United States:

Pursuant to 31 U.S.C. § 3702(d), we submit the following report on the claim of Charlotte S. Neal for a Survivor Benefit Plan annuity. We believe this matter deserves the consideration of the Congress as a meritorious claim.

Mrs. Neal's claim for the survivor's annuity is based on her status as the former wife of Lieutenant Commander Michael D. Christian, USN (Retired) (Deceased). They were married in 1958, and they remained husband and wife during the following 20 years while he pursued a full-time career in the naval service. Upon his retirement from the Navy in 1978, Commander Christian elected to participate in the Survivor Benefit Plan with spouse coverage, thus electing to receive military retired pay at a reduced rate in order to provide an annuity for her if she survived him as his widow.

On August 19, 1983, Commander Christian and Mrs. Neal were divorced. In their separation agreement, which was incorporated in the divorce decree, he agreed to maintain Survivor Benefit Plan annuity coverage for her, if legislation which was then pending were to be enacted to allow him to provide annuity coverage for her as his former spouse. He died on September 4, 1983, just 3 weeks before the enactment of the legislation on September 24, 1983, which would have authorized him to elect former spouse coverage for her. The full details of the matter are set forth in our decision B-221968, December 29, 1987, copy enclosed.

As stated in the decision, Mrs. Neal's claim for a Survivor Benefit Plan annuity may not be paid under existing law because Commander Christian died before the date he would have become eligible to elect annuity coverage for her as his former spouse. We are of the opinion, however, that her claim is exceptional and contains such elements of equity as to be deserving of the consideration of the Congress as a meritorious claim, due to the following combination of circumstances: (1) Mrs. Neal was Commander Christian's wife during most of his active duty Navy career; (2) he elected and paid for Survivor Benefit Plan annuity coverage for her as his wife following his retirement from active duty; (3) he agreed to maintain annuity coverage for her at the time of their separation; and (4) under the laws governing the administration of the Survivor Benefit Plan, such coverage would have been automatically extended to her if he had lived another 3 weeks until September 24, 1983.

Provided the Congress concurs in our recommendation, it is our view that enactment of a statute in substantially the following language will accomplish the relief recommended:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for purposes of determining entitlement to an annuity under the Survivor Benefit plan, sections 1447-1455 of title 10, United States Code, Lieutenant Commander Michael D. Christian, USN (Retired) (Deceased), 416-50-4900, shall be deemed to have made an election on September 24, 1983, under 10 U.S.C. § 1448(b)(3), to provide a standard annuity at the maximum rate authorized to Charlotte S. Neal of Lynchburg, Virginia, notwithstanding the occurrence of his death on September 4, 1983.

"Sec. 2. For purposes of chapter 73 of title 10, United States Code, the entitlement of Charlotte S. Neal to a survivor annuity by reason of the first section of this Act shall be effective September 24, 1983. The aggregate amount to which Charlotte S. Neal is so entitled for the period before the date of the enactment of this Act shall be paid in a lump sum."

MILTON J. SOCOLAR
(For Comptroller General of the United States).

THE COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC.

DECISION

Matter of: Charlotte S. Neal—Survivor Benefit Plan—Former Spouse Coverage.
File: B-221968.
Date: December 29, 1987.

DIGEST

Amendments made to the Survivor Benefit Plan in 1982 and 1983 gave retired service members the option of voluntarily electing survivor annuity coverage for "a former spouse." A further amendment enacted in 1984 provides that if a retiree agrees in writing to elect annuity coverage for a former spouse and then "fails or refuses" to do so, the retiree nevertheless "shall be deemed to have made such an election." If a retiree dies without ever being eligible to provide annuity coverage for a former spouse, however, the retiree cannot properly be considered to have ever failed or refused to elect such coverage nor can the retiree be "deemed" to have made the election under the terms of the 1984 amendment. Hence, a voluntary election to provide annuity coverage for a former spouse cannot be "deemed" to have been made in the case of a retired Navy officer who died before the effective date of a statutory amendment that would have permitted him to elect coverage for his ex-wife.

DECISION

Mrs. Charlotte S. Neal questions the correctness of action taken by the Department of the Navy in denying her claim for a Survivor Benefit Plan annuity, based upon her status as the divorced wife of Lieutenant Commander Michael D. Christian, USN (Retired) (Deceased). In light of the facts presented, and the applicable provisions of law, we conclude that the Navy acted correctly in denying her claim.

BACKGROUND

Mrs. Neal married Michael D. Christian on November 8, 1958. On February 1, 1978, he retired from the Navy in the grade of lieutenant commander. Upon retirement he elected to participate in the Survivor Benefit Plan with spouse coverage, thus electing to receive retired pay at a reduced rate in order to provide an annuity for a surviving spouse, if he died while married and was survived by a widow.

On August 19, 1983, Commander Christian and Mrs. Neal were divorced. Their separation agreement, which was incorporated in the divorce decree, contained this provision:

"8. Husband agrees to assist wife in obtaining any and all benefits to which she might become due as a result of existing or proposed legislation to provide benefits to ex-dependents of retired servicemen, should such legislation become law. In addition, husband agrees to name wife as beneficiary under his Armed Forces Survivor Benefit Plan."

Commander Christian died on September 4, 1983. Mrs. Neal subsequently submitted a claim to the Department of the Navy for a Survivor Benefit Plan annuity on the basis of the divorce decree and her status as Commander Christian's former spouse. The Navy has denied her claim for the annuity, however. The Navy's position essentially is that under the federal laws governing the administration of the Survivor Benefit Plan, Commander Christian was not eligible to elect annuity coverage for Mrs. Neal as his former spouse between the time of their divorce on August 19, 1983, and the time of his death on September 4, 1983, so that their separation agreement cannot serve as a basis for allowing her claim for the annuity.

Mrs. Neal questions the correctness of the action taken by the Navy in denying her claim.

ANALYSIS AND CONCLUSION

The Survivor Benefit Plan, 10 U.S.C. §§ 1447-1455, was established by Congress in 1972 as an income maintenance program for dependents of deceased members of the uniformed services. See Public Law No. 92-425, September 21, 1972, 86 Stat. 706. Under the original legislation, there was no authority for coverage of a former spouse and upon a divorce, a retiree's former spouse generally lost coverage. The Plan originally provided a monthly annuity to be paid to:

"(1) the eligible widow or widower;

"(2) the surviving dependent children * * *; or

"(3) the natural person designated [with an insurable interest in the member] * * *."

See Public Law No. 92-425, September 21, 1972, 86 Stat. 706, 708, codified at 10 U.S.C. § 1450 (Supp. II 1972, superseded). The provision has been modified a number of times, and a brief history of the relevant modifications follows.

Public Law No. 97-252, September 8, 1982, 96 Stat. 718, 730, 735, title X, the Uniformed Services Former Spouses' Protection Act, amended the Survivor Benefit Plan to allow a member therefter to make a voluntary election to provide an annuity for "a former spouse," at the time the member became eligible to participate in the Plan. Previously, annuity coverage for a former spouse could have been elected only if the former spouse had qualified as a "natural person" having an "insurable interest" in the service member. *See,* generally, S. Rep. No. 502, 97th Cong., 2d Sess. 5, *reprinted in* 1982 U.S. Code Cong. & Ad. News 1596, 1599.

The Plan was again amended by section 941 of Public Law No. 98-94, the Department of Defense Authorization Act, 1984, September 24, 1983, 97 Stat. 614, 652. Under this amendment, a member who elected into the Plan by designating his spouse when he became eligible and later divorced the spouse, could now elect to designate that former spouse as the Plan beneficiary. This was designed to modify the restriction imposed by the Uniformed Services Former Spouses' Protection Act, described above, under which a member could only elect to provide an annuity for "a former spouse" if he had a former spouse at the time he became eligible to participate in the Plan. See S. Rep. No. 174, 98th Cong., 1st Sess. 255, *reprinted in* 1983 U.S. Code Cong. & Ad. News 1081, 1145.

After Public Law No. 98-94 was enacted in 1983 it was found that an agreement to provide an annuity to a former spouse could not be enforced even if the retired service member was eligible to elect coverage, since it was up to the member to make the election voluntarily on behalf of his former spouse. It was then concluded that, while participation in the Plan should remain a voluntary act of the retiree, a retiree should not be permitted to renege on a written agreement to provide coverage. As a result, Congress passed section 644 of Public Law No. 98-525, October 19, 1984, 98 Stat. 2492, 2548.[1] This provided that, if a member had voluntarily agreed in writing to cover a former spouse under the Plan, the agreement was incorporated, ratified or approved by a court order, and the member then refused or failed to make the election as agreed, the former spouse could make a request to the appropriate Service Secretary within a year of the passage of the Act or the date of the court order, whichever is later, and the Service would "deem" an election to have been made by the member. This amendment to the Plan concerning "deemed" elections was codified in 10 U.S.C. § 1450(f)(3) (Supp. III 1985).

Under these amendments to the Survivor Benefit Plan, a military retiree who is a Plan participant may now voluntarily elect annuity coverage for a former spouse. Also, if the retiree agrees to make an election for a former spouse under the terms of a divorce decree but subsequently "fails or refuses" to do so, such election may nevertheless be "deemed" to have been made under 10 U.S.C. § 1450(f)(3). We have expressed the view, however, that if a retiree is and always has been ineligible to provide annuity coverage for a former spouse under the provisions of law governing the Survivor Benefit Plan, the retiree cannot properly be considered to have ever "failed" or "refused" to elect such coverage nor can the retiree be "deemed" to have made the election under 10 U.S.C. § 1450(f)(3). *See DOD Military Pay and Allowance Committee Action Number 560*, B-221968, Sept. 28, 1987, 66 Comp. Gen. —. Hence, we have specifically held that if a retiree dies before the effective date of the statutory amendment that would have permitted him to elect his former spouse as a Plan beneficiary, he cannot be considered to have "failed" or "refused" to make such voluntary election, and there can be no "deemed" election under 10 U.S.C. § 1450(f)(3). *DOD Military Pay and Allowance Committee Action Number 560*, 66 Comp. Gen. —, *supra*.

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[1] *See* S. Rep. No. 500, 98th Cong., 2d Sess. 222 (1984). *See also* H.R. Rep. No. 1080 (Conference), 98th Cong., 2d Sess. 301, *reprinted in* 1984 U.S. Code Cong. & Ad. News 4258, 4280.

In the present case, therefore, it appears that when Commander Christian retired from the Navy in 1978, he was eligible to participate in the Survivor Benefit Plan with annuity coverage for a spouse, but under the laws then in effect he could not have elected to provide annuity coverage for a former spouse in the event of a divorce.[2]

The Survivor Benefit Plan was amended by Public Law No. 97-252 on September 8, 1982, to permit service members to elect annuity coverage for "a former spouse," if they had a former spouse at the time they became eligible to participate in the Plan. *See* 10 U.S.C. § 1448(b)(1) (1982 ed.). At that time Commander Christian did not have a "former spouse," however, and it is consequently our view that he was not eligible to elect coverage for a "former spouse" under the 1982 amendment.

The further amendment of the Survivor Benefit Plan by Public Law No. 98-94 on September 24, 1983, gave service members the additional option of electing annuity coverage for a "former spouse" in the event of their divorce after they became Plan participants with spouse coverage, even though they may not have had a "former spouse" at the time they initially became participants in the Plan. *See* 10 U.S.C. § 1448(b) (Supp. I 1983). In our view, Commander Christian could have elected annuity coverage for Mrs. Neal as his "former spouse" under this amendment if he had lived until the date it went into effect. However, since he died on September 4, 1983, prior to the enactment of this amendment provided by Public Law No. 98-94, our view is that he never had an opportunity to elect "former spouse" coverage for Mrs. Neal.

Public Law No. 98-525, enacted on October 19, 1984, again amended the Survivor Benefit Plan to authorize elections for former spouse coverage to be "deemed" in the case of service members who agreed to make such an election in a divorce settlement but who subsequently refused or failed to make the voluntary election as agreed. In this case, however, Commander Christian never had an opportunity to elect annuity coverage for Mrs. Neal as his "former spouse," so that we are unable to conclude that he ever "refused" or "failed" to make such a voluntary election under the terms of Public Law No. 98-525. *See DOD Military Pay and Allowance Committee Action No. 560*, 66 Comp. Gen. , *supra*. Hence, our conclusion is that he cannot now be "deemed" to have made the election under Public Law No. 98-525.

Accordingly, we conclude that the Department of the Navy properly denied Mrs. Neal's claim for a Survivor Benefit Plan annuity.

MILTON J. SOCOLAR
(For Comptroller General of the United States).

MERRILL L. JOHNSON-LANNEN

The Clerk called the bill (H.R. 4634) for the relief of Merrill L. Johnson-Lannen.

There being no objection, the Clerk read the bill, as follows:

H.R. 4634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Merrill L. Johnson-Lannen of Brooklyn, New York, shall be deemed to be an employee whose transfer in March 1985 from the United States Postal Service to the United States Army Corps of Engineers entitled him to travel, transportation, and relocation expenses to the same extent as those authorized, at the time of such transfer, under subchapter II of chapter 57 of title 5, United States Code, for other transferred employees within the meaning of chapter 57 of such title.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REFERENCE OF BILL FOR RELIEF OF LARRY LAND, ET AL.

The Clerk called the resolution (H. Res. 61) to refer H.R. 816 to the Chief Commissioner of the U.S. Court of Claims.

There being no objection, the Clerk read the resolution, as follows:

H. RES. 61

Resolved, That H.R. 816 entitled "A bill for the relief of Larry Land, Marie Land, and others", together with all the accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, for further proceedings in accordance with applicable law.

Mr. BROWN of Colorado. Mr. Speaker, I appreciate the opportunity to speak in support of House Resolution 61, to allow Larry Land and his family to bring their case against the Army to the Court of Claims for judicial review. I would like to take this opportunity to thank the gentleman from Massachusetts [Mr. FRANK], the gentleman from North Carolina [Mr. COBLE], and the chairman, the gentleman from New Jersey [Mr. RODINO], for their assistance in bringing this measure to the House floor.

The measure does not appropriate any money. It merely allows the Land family to bring their case. If any compensation were recommended, it would have to be approved by separate legislation.

The Land family, their home, and ranch were located next to the U.S. Army's Rocky Mountain Arsenal [RMA] it is alleged that the toxins produced at the arsenal contaminated water wells on the Land's property.

The 27-square-mile Rocky Mountain Arsenal [RMA] was established in 1942, and was used by the Army to manufacture and dispose of chemical weapons, such as nerve gas. The Army also leased a section of the arsenal grounds to a private company to manufacture pesticides.

The arsenal, which has been placed on Superfund's national priority list, is considered one of the most toxic parcels of land in the world. It is the No. 1 cleanup priority for the Department of Defense Environmental Restoration Program.

Several toxic disposal basins are located on RMA. The 96-acre basin F was used to dispose of chemical warfare agents and pesticides between 1957 and 1980. This basin, which is surrounded by a tall fence, contains chemicals considered so toxic that devices are in place to prevent birds from landing on the pool.

In December 1971, the Land family purchased 75 acres of land in Adams County, CO, approximately 1 mile north of RMA. Ground water from RMA flows in a north-northwest direction.

Mr. Land has indicated to the Army that his family and his cattle have suffered severe health problems since they moved their ranching operations to the area north of the arsenal. The Lands claim that both the family members and their livestock suffered neurological disorders. Eventually half of Mr. Land's calves developed symptoms similar to pneumonia and died. The surviving cattle suffered teeth damage and did not mature. The Lands hired a veterinarian who conducted water and diet tests on the cattle and concluded the sickness was caused by poison in the water.

During the 1970's, the Army denied responsibility, indicating that the contamination was not emanating from RMA. On October 6, 1976, the Army sent a letter regarding Mr. Land's claims to the Land's attorney, Samuel L. McClaren. The Army indicated that "* * * no pollution to the area occurred due to Government activities. * * *"

The Army's 1976 letter was sent several years after the Colorado Department of Health [CDH] discovered dicyclopentadiene [DCPD] outside the RMA boundaries. After the CDH's December 1974 and January 1975 tests indicated the presence of CDPD, the Army notified CDH that tests taken in the summer of 1974 showed signs of diisopropylmethylphosphonate [DIMP], a byproduct of nerve gas detoxification, in ground and surface water outside the arsenal boundaries.

Since that time, the Environmental Protection Agency has confirmed that trichloroethylene [TCE] has seeped from RMA, into the ground water emanating from the arsenal. EPA has further determined that RMA is the sole source of contamination to the north of 80th Avenue and RMA. The Land's property was located within this identified area.

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[2] Prior to the amendment of the Survivor Benefit Plan in 1982, annuity coverage for a former spouse could only be elected under 10 U.S.C. § 1448(b)(1) (1976 ed.), which provided: "A person who is not married and does not have a dependent child when he becomes entitled to retired or retainer pay may elect to provide an annuity to a natural person with an insurable interest in that person." *See DOD Military Pay and Allowance Committee Action No. 560*, 66 Comp. Gen. , *supra*. It has not been suggested, nor does it appear from the facts presented in the records of this case, that Commander Christian could have elected annuity coverage for Mrs. Neal under this provision.

Because the water in south Adams County has been contaminated, the Army has provided $13.5 million to treat South Adams County Water and Sanitation District's [SACWSD] water. Homes located above 80th Avenue which previously had drawn their drinking water from wells, now have been hooked up to SACWSD facilities.

The Lands' attorney indicates that the Army had administratively denied the Land's case and that the Lands have exhausted their administrative remedies. Their counsel indicates that the Federal Tort Claims Act contains exceptions that will prevent the U.S. district court from having the authority to hear the case. The Lands are simply asking to have their case brought before the U.S. Court of Claims for judicial review.

Mr. Speaker, the Lands have been seeking a judicial review of their case for more than a decade. I urge my colleagues to support the passage of House Resolution 61 so that the Lands may finally present their case to a Federal judge to be a finder of the facts and to render a recommendation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REFERENCE OF BILL FOR RELIEF OF FREDERICK PAUL OF SEATTLE, WA

The Clerk called the resolution (H. Res. 200) referring the bill (H.R. 2098) for the relief of Frederick Paul of Seattle, WA, to the chief judge of the U.S. Claims Court.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. GORDON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various bills and resolutions considered under the Consent Calendar and the Private Calendar today.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. WALKER. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. FOLEY. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Washington [Mr. FOLEY] to lay on the table the motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 41, noes 47.

Mr. FOLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 163, not voting 45, as follows:

[Roll No. 327]

YEAS—223

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Flake
Flippo
Florio
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Gray (PA)
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Payne
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Yatron

NAYS—163

Archer
Armey
Badham
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Johnson (CT)
Kasich
Kemp
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—45

AuCoin
Baker
Barnard
Bonker
Boucher
Boulter
Brown (CA)
Bruce
Byron
Crane
Daub
Dellums
Dowdy
Dreier
Dymally
Dyson
Espy
Feighan
Foglietta
Ford (TN)
Grant
Gray (IL)
Hall (OH)
Hochbrueckner
Holloway
Ireland
Jacobs
Jeffords
Konnyu
Lott
MacKay
Mica
Morrison (WA)
Murphy
Patterson
Pepper
Scheuer
Stokes
Sweeney
Taylor
Traxler
Williams
Wilson
Wortley
Yates

□ 1037

The Clerk announced the following pairs:

On this vote:

Mr. Foglietta for, with Mr. Boulter against.

Mr. AuCoin for, with Mr. Daub against.

Mr. SPENCE and Mr. McGRATH changed their vote from "yea" to "nay."

Messrs. NICHOLS, MARTINEZ, and COYNE changed their vote from "nay" to "yea."

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to sit during proceedings of the House under the 5-minute rule today to mark up H.R. 4645, the general capital increase for the World Bank.

The ranking minority member concurs in this request.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

EXPRESSING SENSE OF CONGRESS ON DEVELOPMENT OF UNION STATION

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 357) expressing the sense of the Congress that the historic restoration and commercial development of a self-sustaining Union Station will provide enormous historic and social benefit to the District of Columbia and to all the Nation as a great transportation center, a grand and magnificent monument to American architecture, a model commercial development, and a vitally important catalyst for redevelopment of the areas that surround it.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ANDERSON. Mr. Speaker, let me take this moment to note a significant event. House Concurrent Resolution 357 coincides well with a historical ceremony about to take place next week which will once again make the Union Station the buzzing exciting transportation hub it once was.

On the 29th of September, Union Station will reopen to the public for the first time in 7 years as a transportation and commercial center. It just went through major renovations and redevelopment and will once again be worthy of its important place in the history and future of Washington and the Nation. It has been restored to its original splendor and magnificence.

After its completion in 1907 by the famous Daniel Burnham, Union Station served as the gateway to Washington for American Presidents, Members of Congress, foreign monarchs and diplomats, members of the Armed Forces, and millions of rail passengers and other travelers throughout the century.

Union Station, with its grand examples of Beaux Arts Architecture, witnessed many events which are deepseated in America's historical experience and memory. It saw great excitement of American politics as trains brought the elected victors from different places of the Nation to the seat of government of the United States. Union Station stood by and watched as thousands of American soldiers went off to fight two World Wars. Of course it was happy to hear the shouts of joy when many returned home to unite with their loved ones. As many as 150,000 people a day once passed through the great halls and concourse of Union Station.

As other means of transportation became available in the 1950's, the use of rail dramatically declined. Union Station became quiet and was almost ignored. It was designated as an historical landmark in 1964. In 1981 Congress in its wisdom enacted the Union Station Redevelopment Act and appropriated funds for the preservation of the historical building, restoration of its use as a passenger rail station, and commercial development of its interior space.

Now, with more than 100 stores and services, restaurants and cafes, including several theaters, Union Station will welcome tourists and visitors to the Nation's capital, innercity travelers, downtown office workers, Washington metropolitan residents, and even congressional Members and employees. Not only millions of Americans have had fond memories of the Union Station, but future generations will have an opportunity to continue its legacy just as Daniel Burnham said in 1907, "long after we are gone, (the Station) will be a living thing."

Mr. Speaker, the restoration and development of Union Station was made possible through the cooperative efforts and financial contributions of individuals, officials, agencies, and corporations in the Federal and District of Columbia governments and in the private sector; including the Department of Transportation, the Federal Railroad Administration, Amtrak, Lasalle Partners Limited, William Jackson Ewing, Benjamin Thompson and Associates, Harry Weese & Associates, and the Union Station Redevelopment Corporation.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I want to express my support for this resolution commemorating the reopening of Union Station.

One week from today, Washington's Union Station will open again for the first time in seven years. This great building, restored to its original magnificence, will once more be teeming with people on their way to catch a train, browsing through a variety of shops, or enjoying dinner at one of several restaurants and cafes.

This transformation is a result of the Union Station Redevelopment Act approved by Congress in 1981. The project has been completed through the efforts of both the Federal and city governments, as well as many private corporations—including the Department of Transportation, the Federal Railroad Administration, Amtrak, Lasalle Partners Limited, Williams Jackson Ewing, Benjamin Thompson & Associates, Harry Weese & Associates, and the Union Station Redevelopment Corporation.

All those involved are to be commended for their vision and hard work in restoring this great monument.

Mr. Speaker, Union Station has played an important role in the past history of this city. Next week, as the resolution states, it will once again serve as "the monumental gateway to the Nation's Capital."

□ 1045

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 357

Whereas the historically restored and commercially developed Washington Union Station will reopen to the public for the first time in seven years as a transportation and commercial center on September 29, 1988;

Whereas this magnificent railroad station, designed by Daniel Burnham and completed in 1907, is one of the finest and most grand examples of Beaux Arts architecture in the Nation;

Whereas Union Station is included in the National Register of Historic Places, wherein it is described as contributing significantly to the cultural heritage of both the Nation and the District of Columbia;

Whereas Union Station served as the gateway to Washington for American Presidents, Members of Congress, foreign monarchs and diplomats, members of the Armed Forces, and millions of rail passengers and other travelers throughout the century;

Whereas Union Station holds an important place in history as a structure of historic, architectural, and social significance and as one of the greatest and busiest railroad stations in the Nation;

Whereas Union Station has been magnificiently restored to its original splendor and detail and to its original function as the monumental gateway to the Nation's Capital, and is now serving as the southern terminus of the Northeast Corridor, the most heavily traveled rail corridor in the Nation, and is used by as many as three million intercity Amtrak rail passengers, one million seven hundred thousand Maryland (MARC) rail commuters and six million commuter passengers of the Metropolitan Area Transit Authority metro system each year;

Whereas the commercial development of Union Station, which will include more than one hundred retail stores, numerous restaurants, and a cinema complex, will rejuvenate the Capitol Hill neighborhood around it and further commercial development and investment in an area long in decline;

Whereas the historic restoration and development of Union Station was made possible through the unique, diligent and cooperative efforts and financial contributions of individuals, officials, agencies and corporations in the Federal and District of Columbia governments and in the private sector;

Whereas Congress anticipates that the historic restoration and development of Union Station signals the end of the significant Federal financial investment that has consumed millions of dollars during the past decade and that hence forth Union Station will be operated as a financially self-sustaining enterprise: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the historic restoration and commercial development of a self-sustaining Union Station will provide enormous historic and social benefit to the District of Columbia and to all the Nation as a great transportation center, a grand and magnificent monument to American architecture, a model commercial development and a vitally important catalyst for redevelopment of the areas that surround it.

AMENDMENTS OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Speaker, I offer amendments, and I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. ANDERSON: Page 3, line 7, insert "and" before "a model".

Page 3, line 8, strike out "and a vitally" and all that follows through period on line 9 and insert in lieu thereof a period.

The SPEAKER. The question is on the amendments offered by the gentleman from California [Mr. ANDERSON].

The amendments were agreed to.

The concurrent resolution was agreed to.

AMENDMENTS TO THE PREAMBLE OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Speaker, I offer amendments to the preamble, and I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendments to the preamble is as follows:

Amendments to the preamble offered by Mr. ANDERSON: Page 2, in the sixth paragraph of the preamble of the resolution, strike out "(MARC)", insert "Washington" before "Metropolitan", and strike out "metro system" and insert in lieu thereof "Metro system".

Pages 2 and 3, in the seventh paragraph of the preamble of the resolution, strike out "rejuvenate" and all that follows through the semicolon at the end of such paragraph and insert in lieu thereof "greatly benefit its surrounding Capitol Hill neighborhood;".

Page 3, in the ninth paragraph of the preamble of the resolution, strike out "signals the end" and all that follows through "enterprise:" and insert in lieu thereof "will enable the enterprise to be financially self-sustaining:".

The SPEAKER. The question is on the amendments to the preamble offered by the gentleman from California [Mr. ANDERSON].

The amendments to the preamble were agreed to.

TITLE AMENDMENT OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Speaker, I offered an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. ANDERSON: Amend the title so as to read: "A concurrent resolution expressing the sense of the Congress that the historic restoration and commercial development of a self-sustaining Union Station will provide enormous historic and social benefit to the District of Columbia and to all the Nation as a great transportation center, a grand and magnificent monument to American architecture, and a model commercial development.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4776, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1989

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. GREEN

Mr. GREEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GREEN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 4776, be instructed to agree to the amendment of the Senate numbered 25.

The SPEAKER. The gentleman from New York [Mr. GREEN] is recognized for 1 hour.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a straightforward proposal to accede to a Senate amendment No. 25 that requires the District of Columbia government to absorb pay raises that District employees will receive in fiscal year 1989. The language is necessary if this bill is going to stay within its section 302 allocation. If the language is not included in this bill, the Congressional Budget Office will score the bill with additional pay costs, which will put the bill over the present section 302 allocation.

I would ordinarily not offer a motion to instruct, but since we do not want the bill to exceed the section 302 allocation, I urge Members to vote in favor of my motion to instruct.

Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentleman from New York [Mr. GREEN] for yielding me this time.

This Member from California has a motion to instruct conferees at the desk. The motion that has been presented by the gentleman from New York [Mr. GREEN], who is a member of the committee, preempts my ability to offer my motion. My ability to offer my motion will then depend on my ability to defeat the previous question, and that is what I am asking my colleagues to do when that point comes in the process.

Let me explain to you why I am asking that we do this. My motion to instruct conferees has two elements to it. Senator NICKLES offered a series of amendments in the Senate relating to this issue. This involves consideration of an action by the District of Columbia which was adopted several years ago and resulted in one of the most ridiculous laws of any State or district in the country relating to the AIDS epidemic.

The law adopted by the District of Columbia said that an insurance company, whether issuing life or disability or health, could not use any test to test an applicant for the virus for AIDS for insurance in the District of Columbia. Since that law was adopted by the District of Columbia, 82 percent of the insurance carriers in the District stopped writing policies.

The first provision of this instruction says to the District of Columbia that if they want money from the Federal taxpayers of this country, it must repeal the absurdity that is now in the law. The U.S. Senate passed this issue on August 1, 1986; on October 15, 1986; on September 30, 1987; and April 22, 1988. I think it is about time we pass on this same issue in this body, to give an indication to our conferees how this House feels about that issue.

The second provision relates to an amendment that was offered by Senator Armstrong in the Senate of the United States. Two years ago the District of Columbia adopted an ordinance that, in effect, says:

> It is unlawful, discriminatory practice * * * for an education institution to deny, restrict, or to abridge or condition the use of, or access to, any of its facilities and services to any person otherwise qualified wholly or partially for a discriminatory reason, based upon the * * * sexual orientation * * * of any individual.

What this ordinance adopted by the District of Columbia means is that institutions doing business in the District could not discriminate against organizations based on sexual preference. This presented quite a dilemma to those people running Georgetown University. It is a part of the Catholic faith that homosexuality is sinful and should not be condoned. As a result, they were in a real problem as to what they were going to do. As a result of this ordinance adopted by the District of Columbia, the Circuit Court of Appeals in the District of Columbia said to Georgetown University, "You may not follow your religious principles in running your institutions, you must sanction the homosexual group on the campus of Georgetown University."

What my second element in this motion to instruct conferees does is to say that the District of Columbia must repeal this ordinance that denied religious freedom to Georgetown University. The issue is religious freedom. An institution such as Georgetown, run by Catholic fathers and people of that persuasion, should have the right to follow their religious faith and practice which condemns homosexuality as a sin. This ordinance of the District of Columbia prevents them from doing that. In order to offer this motion to instruct conferees my opportunity to do so is dependent on defeating the previous question of the motion that is now pending by my colleague, the gentleman from New York [Mr. Green].

I ask my colleagues to defeat the previous question so that I will be able to offer an amendment to this motion so that the House will have an opportunity of expressing its sense on the two issues that I have described here.

Mr. GREEN. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Virginia [Mr. Parris].

Mr. PARRIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I do not intend to suggest a direction to the conferees on this matter, and I take this 1 minute just to accomplish two things. First is to extend to the gentleman from California [Mr. Dixon] my appreciation for his extraordinary cooperation in some of these things that are very important to me and to the authorizing committee and the congressional district which I am privileged to represent, and I want the Congress to understand and know that I do appreciate his extraordinary contribution to the compromise measures, one of which will be considered by the conferees, and which is the real purpose of my rising, and that is to remind those persons who will be in the conference, that the House in terms of its consideration of the residency amendment, for firefighters, police personnel, and emergency personnel in the District of Columbia, passed an amendment to the appropriations bill by a margin of almost 80 votes.

I think that is a clear understanding of the consensus that is represented in the House, and I would urge the consideration of that position by the House conferees as they meet with our colleagues from the other body.

Mr. GREEN. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Pennsylvania [Mr. Coughlin].

Mr. COUGHLIN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I urge the support of the motion to instruct offered by the gentleman from New York. It is extraordinarily important that we keep this bill within our section 302(b) allocation. This is the way to accomplish that, and if we fail to do that, we are going to have a great deal of difficulty completing action on this bill.

Mr. GREEN. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I did not know the appropriations bill was coming to the floor today. We have had 3 or 4 years in a row, now, of the House voting with a very overwhelming strong majority on the last Government entity that has funds that are comingled for the purposes of paying for abortions with Federal money. I notice one of the Presidential candidates last night was in a hospital talking about everything that he was going to do for prenatal care to protect infants in their mothers' wombs, and in that spirit of what Mr. Dukakis said last night, I would like the conferees to insist on the House position.

My amendment that passed overwhelmingly is A005. I want to put an amendment at the desk now, but I need 30 seconds to get up there and put in an amendment offered by me to the motion offered by the gentleman from New York [Mr. Green] at the end of the motion to strike the period and insert a semicolon and insert the following new language: "That the House conferees insist on the House language in their conference with the Senate conferees on the House position on Federal funds going to the District of Columbia that will end up being used for abortions."

I will bring that up right now, Mr. Speaker.

PARLIAMENTARY INQUIRY

Mr. GREEN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GREEN. Mr. Speaker, if the motion on the previous question loses, may I inquire whether it is the motion of this gentleman from California [Mr. Dannemeyer] or the more recent gentleman from California [Mr. Dornan] that gets offered?

The SPEAKER. The Chair will determine recognition priorities at the appropriate time, ascertaining at such time who is entitled to recognition.

Does the gentleman have further comments on his motion?

Mr. GREEN. Yes, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope that the motion on the previous question will be voted on favorably by this House. I do so because it is obvious that we are going to have possibly two or three separate matters to debate otherwise, and I suggest that at least in the case of the motion proposed to be offered by the gentleman from California [Mr. Dannemeyer] we are establishing a very bad precedent if we go down the route he proposes. In essence we would, by the route of the motion to instruct, be instructing our conferees to do something which the House itself could not have done during the ordinary consideration of this bill. Let me explain that point.

The amendment which the gentleman from California [Mr. Dannemeyer] has at the desk is twofold. It would first instruct us to give way to the so-called Nickles amendment.

□ 1100

That provides that none of the funds can be obligated or expended after December 31, 1988, unless the

District repeals a law that is now on its books. That is a law dealing with the ability of insurers to require testing of applicants for insurance with respect to the AIDS virus.

Now I have very serious doubts that that kind of an amendment offered to this bill on the floor of this House could withstand a point of order, for the obvious reason that it would be legislating on an appropriation bill to require further acts on the part of the District government before the District government could get its appropriation.

I think there would be serious question whether that could stand the scrutiny of the Chair and of the Parliamentarian.

The other amendment that is offered is the so-called Armstrong amendment, again stating that the funds appropriated by the act cannot be obligated or expended after December 31, 1988, if by that date the District of Columbia still has not adopted a law. That law in essence would reverse a court decision, the D.C. Appellate Court decision with respect to the rights of certain groups at Georgetown University.

Let me emphasize that the Dannemeyer amendment at least as it was given to me before we began this debate by the gentleman from California [Mr. DANNEMEYER]—and I appreciate his courtesy—does not have anything to do with abortion at this juncture.

I should also add that I am informed that Georgetown University has stated publicly that it did not ask that the Armstrong amendment be introduced, although the court case relates to Georgetown University.

So this is not something that is being done at the request of Georgetown University, and I hope everyone understands that.

So I simply say to my colleagues that not only are we being asked to act with no committee hearings, no serious discussions on two very complex matters, a matter of insurance reguation and a matter of the rights of students at educational institutions, but in addition to that we are being asked to do so in a way that I very seriously doubt could have been done in the form of an amendment offered to this bill when it came up for consideration on the floor of the House.

I think that is a very bad way to go about our business and I therefore hope that the Members would vote affirmatively on the previous question.

Mr. Speaker, for purposes of debate only, I yield 1 additional minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank my colleague for this time.

Mr. Speaker, I point out to my colleagues that Mr. DORNAN is adding his language relating to abortion at the end of the motion that I seek to add by way of an amendment to the gentleman from New York [Mr. GREEN] so that he and I will not be contesting for recognition if we are successful in defeating the previous question.

Mr. GREEN. Again, the amendment will contain what I consider very objectionable features on the part of the Dannemeyer amendment, features, I emphasize, that probably could not have been offered under the rules of this House in the form of an amendment to an appropriation bill while it was considered by this House because of the affirmative action that it would require on the part of the District government. I think the Dannemeyer amendment would set a very, very dangerous precedent regardless of how you feel on the substance of the issues it raises.

If you want to keep the appropriations process clean, if you want to leave the work of the authorizing committees to the authorizing committees, and if you do not want the appropriations process gummed up with the kind of actions which in future years are almost certainly going to force us into continuing resolutions, if you are serious about all those things, then I hope you will vote for the previous question.

Mr. Speaker, I move the previous question on the motion to instruct conferees.

The SPEAKER. The question is on ordering the previous question on the motion to instruct.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 198, nays 188, not voting 45, as follows:

[Roll No. 328]

YEAS—198

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Atkins
Bates
Beilenson
Bennett
Berman
Bilbray
Boehlert
Boggs
Boland
Borski
Bosco
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Campbell
Cardin
Carr
Chandler
Chapman
Chappell
Clay
Clement
Clinger
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coughlin
Coyne
Crockett
Darden
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Early
Edwards (CA)
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Gray (PA)
Green
Guarini
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hughes
Inhofe
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (WA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Payne
Pease
Pelosi
Pickett
Pickle
Price
Rangel
Richardson
Ridge
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Schneider
Schroeder
Schumer
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Stark
Stokes
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden

NAYS—188

Applegate
Archer
Armey
Badham
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Carper
Cheney
Clarke
Coats
Coble
Coleman (MO)
Combest
Conte
Courter
Craig
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
Derrick
DeWine
Dickinson
Dornan (CA)
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gingrich
Glickman
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Henry
Herger
Hiler
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Kasich
Kemp
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Mollohan
Moorhead
Morrison (WA)
Myers
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Penny
Perkins
Petri
Porter
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Russo
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner

Sharp
Shaw
Shumway
Shuster
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swindall
Tallon
Tauke
Tauzin
Upton
Volkmer
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—45

Aspin
AuCoin
Baker
Barnard
Bonior
Bonker
Boucher
Boulter
Brown (CA)
Byron
Coelho
Crane
Daub
de la Garza
DioGuardi
Dorgan (ND)
Dowdy
Dreier
Dymally
Dyson
Espy
Ford (TN)
Grant
Gray (IL)
Hall (OH)
Holloway
Jeffords
Lott
Lowery (CA)
Lowry (WA)
MacKay
Matsui
Miller (CA)
Montgomery
Murphy
Pepper
Scheuer
St Germain
Sweeney
Taylor
Thomas (CA)
Traxler
Vander Jagt
Wortley
Yates

□ 1124

Mr. SKEEN, Mr. RAY, Mrs. ROUKEMA, and Messrs. YATRON, PERKINS, NICHOLS, STAGGERS, and BEVILL changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the motion to instruct offered by the gentleman from New York [Mr. GREEN].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. DIXON, NATCHER, STOKES, AUCOIN, WATKINS, HOYER, WHITTEN, COUGHLIN, GREEN, REGULA, and CONTE.

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. STAGGERS. Mr. Speaker, I ask that the Committee on the Judiciary be permitted to sit today, on Thursday, September 22, 1988, while the House is reading for an amendment under the 5-minute rule.

Mr. Speaker, this has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. WALKER. Mr. Speaker, reserving the right to object, I could not hear the request, and I am just trying to find out whether this has been cleared with the minority.

Mr. MOORHEAD. Mr. Speaker, if the gentleman will yield, this has been cleared with the minority.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE OF THE COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. STAGGERS. Mr. Speaker, I ask that the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary be permitted to sit today while the House is reading for an amendment under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that in order to permit the facilitation of business today, and, hopefully, the conclusion of the House consideration of the drug bill, the Chair intends to limit recognition under the 1-minute rule to not more than six Members per side, and other 1-minute requests may be resumed later in the day.

THE 77TH BIRTHDAY OF THE REPUBLIC OF CHINA ON TAIWAN

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, October 10, 1988 will be the 77th birthday of the Republic of China in Taiwan. The Taiwanese indeed have much to rejoice about. Their country has just completed the 13th National Party Congress resulting in a new, youthful cabinet and policies. The Taiwanese are now allowed to travel to the mainland and import restrictions are being lifted every day. In short, it is a young dynamic country on the move. It is my belief that Taiwan, under the leadership of President Lee Teng-hui and ministers such as K.T. Li, Fredrick Chien, and Lien Chan, will definitely continue its spectacular economic growth, accompanied by political reform and progress in the years to come.

It is in the best interests of the United States to see Taiwan economically strong and politically progressive. On the occasion of Taiwan's 77th birthday, I wish the Taiwanese many, many happy returns.

My congratulations to President Lee Teng-hui and Representative Ding Mou-shih.

□ 1130

THE LATE HONORABLE GLENN R. DAVIS

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, it is with great sadness that I inform the House of the death of former Congressman Glenn R. Davis who represented the Second and Ninth Districts of Wisconsin for nearly 20 years. Congressman Davis had suffered from leukemia for the past several years. He was a friend to many Members, and a friend to me since I first entered politics. When I was teenager, one of the first campaigns in which I volunteered was Glenn's. His passing is a personal loss to many of us here today.

A memorial service will be held this Saturday, September 24 at Carroll College Student Union in Waukesha, WI. Family visitation begins at 2:30 p.m. The service is at 3:30 p.m. In addition, a memorial service will be held on Wednesday, September 28 at 2 p.m. in the Rayburn Room of the Capitol.

Glenn Davis was never one to shirk responsibility, rather he sought to accept it. In that spirit, his family has asked that in lieu of flowers, Glenn's friends and colleagues make donations to the Glenn Davis Charitable Foundation which gives scholarships to high school seniors.

ATTACK ON SPEAKER A DIVERSIONARY TACTIC

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, several days ago we Americans celebrated the 201st anniversary of our Constitution, a document which guarantees separate but equal powers to the administrative, legislative, and judiciary branches of Government. That is why it is very disconcerting to me that the President and others are disturbed that our Speaker would comment on activities of the CIA in Nicaragua.

Frankly, what the Speaker said is old news. He has said no more than published items that members of the CIA and the State Department have said, that they in fact are provoking internal strife in Nicaragua.

I believe this attack on the Speaker is a diversionary tactic. The real focus should not be on the Speaker's comments, but on the issue itself.

Is it the proper role of our Government to undermine another government? Should we be involved in another country's election and stability?

Soon we will be faced with our Presidential elections. How would we as Americans like it if another country attempted to disrupt our own elections and the stability of our country?

CONGRESS SHOULD PROTECT SENSITIVE INFORMATION

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, I am concerned. About 6 months ago I went before the Intelligence Committee which was considering the 48-hour bill, and told them, "Look, if you insist on tying the President's hands by passing this bill"—and I opposed it—"by making sure that covert activities that the President engages in are reported to Members of Congress, then at least, you have to take that sensitive information and protect it. The very least you can do is make sure that the recipients of the most sensitive information that the United States has to offer is kept secure by threat of criminal penalties on those who might disclose that information."

Some members of the Intelligence Committee thought that was a good idea, but not enough. We lost on a tie vote; but they said, "We'll go to the Rules Committee and let them decide."

We went to the Rules Committee and they said that my amendment, which would have put criminal sanctions on those who would disclose the most sensitive information we have, is nongermane. The Rules Committee said it was nongermane.

Mr. Speaker, it is germane. The front pages of the Washington Post and the Washington Times in the last 2 days indicate that Members of this House are disclosing classified information, and that cannot be tolerated, and should not be sanctioned. We must make those who release classified information subject to criminal penalties.

CONGRATULATIONS TO CONGRESSMAN MAZZOLI AND IMMIGRATION SUBCOMMITTEE FOR ASSISTING IN OBTAINING CITIZENSHIP FOR MILENA AND BOZENA MESIN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I rise today to commend Congress, and specifically the gentleman from Kentucky [Mr. MAZZOLI] and all the members of the Immigration Subcommittee for helping me to assist Milena and Bozena Mesin in their quest for citizenship. Without the support of Congress today, these two sisters would have been deported back to the Communist state of Yugoslavia.

Milena and Bozena Mesin have lived in America since 1973. They were legally adopted by their aunt and uncle, Marco and Ann Mesin, in 1986. Marco and Ann Mesin are caring, devoted citizens, devoted to our great freedoms of our Nation and their two daughters.

Due to Yugoslavian law, adoption was very difficult. Their student visas were about to expire.

I thank Chairman MAZZOLI and all the members of that committee, and I remind Congress that this was the right thing to do today. All the Mesins love America very much. It was the right thing for Congress to do.

DEDICATION OF FIRST HABITAT FOR HUMANITY HOUSE IN GREENSBORO, NC

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, on August 18, it was my privilege to participate in the dedication of the first Habitat for Humanity House in Greensboro, NC. Thanks to the efforts of many hardworking volunteers, a family in my district now has a new home in which to live. As a member of the board of directors of Habitat for Humanity, I was honored to participate in the dedication and the breakfast the following morning for those who were walking across the Sixth District to construct new homes.

Throughout the Sixth District, Habitat for Humanity volunteers are helping to build new homes for those who cannot find affordable housing. In Greensboro alone, six houses will be constructed this year, and eight more in 1989. I am proud that the Sixth District is fully participating in the Habitat for Humanity Program.

Habitat for Humanity uses no Government funds, but rather, relies upon the joint efforts of individuals, churches, corporations and foundations who all agree on the need to increase the supply of affordable housing. Habitat affiliates, including the one in Greensboro, also contribute funds so that each time a home is built in our area, one can be built in a developing country.

I applaud the efforts of all of those in the Sixth District who are participating in Habitat for Humanity.

ASKING FOR ASSISTANCE TO JAMAICAN ISLAND

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, this morning I rise to join in the strong leadership of the gentleman from New York [Mr. RANGEL] to ask for assistance for the Jamaican island. As the whole world knows now, Jamaica was hit with Hurricane Gilbert. There are 19 known dead, 500,000 homeless, hundreds of homes destroyed.

Mr. Speaker, the crops of sugar, cocoa, and coconuts, have all been destroyed so that they will not be able to be collected and this wonderful Nation will not be allowed the money it needs to keep going.

What also has happened, Mr. Speaker, is that this island has worked so terribly hard to build up a climate for travelers to come and enjoy this beautiful island. All this has been put to a stop by the devastation of this storm.

Mr. Speaker, the Foreign Operations Committee of the Appropriations Committee is meeting this afternoon. I would urge all the very distinguished members of that committee to do what we do best in this great country, starting with the tradition of the Marshall plan, to help our allies to help our neighbors, to help those who are in need.

DRUG SELLERS SHOULD LOSE DRIVER'S LICENSE

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, as we head toward completing the drug bill today, the House can take a fair amount of solace in the fact that we have passed out or are in the process of passing out a very substantial piece of legislation, which effectively addresses both the demand and the supply side issues involved in our drug concerns. It addresses the educational needs and it also addresses the questions of how to get stronger enforcement in controlling drug activity.

Specifically today we are going to take up some language which I think is very appropriate, language which requires that States proceed down the path of taking away from citizens the privilege of driving a car for a period of time should they be involved in drugs.

Driving a car is a privilege. It is not a right, and the fact that someone transgresses society's main concerns, the concerns of integrity of our youth, especially in the area of selling drugs, should limit that person's ability to participate in this privilege.

Thus, I hope the House will pass the language which takes away the driver's privilege for those people who sell drugs.

REPUBLICANS DESPERATELY TRYING TO DIVERT ATTENTION FROM REAL ISSUE

(Mr. COLEMAN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLEMAN of Texas. Mr. Speaker, the flag-waving Republicans who call for an investigation of the comments of the Speaker of the House on the CIA's possibly illegal activities in Nicaragua are once again desperately trying to divert attention from the real issue: Did Ronald Reagan once again allow the CIA to break the law in Nicaragua?

The President's comments have raised troubling questions. How would Ronald Reagan ever know what was going on in Nicaragua? He claims not to have known about the diversion to the Contras of profits from his arms sales to terrorists.

Republicans who have spent the last month hiding behind the flag to avoid the issues are at it again. The real question is not what the Speaker said, but what the President did or allowed to happen while he was asleep. Did he or didn't he—again—violate the law of the United States by subverting the very peace process the claims to support? That's the real issue, and I intend to get to the bottom of it.

Now it appears that the same administration that allowed Oliver North to take a chainsaw to the Constitution and that let Elliott Abrams turn lying into a fine art, is doing the same thing to the American people. The administration says it supports the peace process but secretly uses the CIA to incite riots in Nicaragua. It makes sure that its handiwork gets into the U.S. media. Then it denounces the Government of Nicaragua for hurting the peace process.

Investigate the Speaker? The Republican leadership ought to be ashamed of themselves. The American flag is supposed to be displayed proudly on a flagpole, not wrapped around politicians who are afraid of the real issue. Did Ronald Reagan and the CIA once again break the law in Nicaragua?

That is what I am formally asking the Intelligence Committee to investigate—and let me advise them—do not just take Reagan appointees' word for it like you did on my Iran-Contra resolution of inquiry.

THE SPEAKER'S SPEAKING

(Ms. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SNOWE. Mr. Speaker, there are times when all of us have learned of classified or secret information about policy that we find galling or fundamentally wrong. It can be a frustrating experience, since sometimes it makes it difficult for a Member to change that policy. Nonetheless, we are, each and every Member, duty bound to respect that secrecy.

This Government simply cannot function if each individual Member takes it upon him or herself to decide what can be declassified. No Member, in the leadership, on the Intelligence Committees or elsewhere, has the right to unveil unilaterally and deliberately the classified information that we receive. There is something fundamentally wrong when a Member, particularly our Speaker, becomes the self-designated arbiter of classified material. This is particularly so, because I have supported the 48-hour bill, which allows for the Speaker to receive information about covert operations within 48 hours.

Further, not having sat in on an actual classified briefing, or not actually seeing the word "classified" in plain block print on a piece of paper does not excuse the release of that information. When dealing with the CIA or the Intelligence Committee, any Member knows to ascertain the classification of that material prior to releasing it. To do otherwise is inexcusable and represents a failure to uphold the basic responsibilities we owe each other and, most importantly, the American people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PANETTA). The Chair will announce that pursuant to the Speaker's announcement, there were to be six 1-minute speeches on each side, the next two are the last 1-minute speeches on each side.

PARLIAMENTARY INQUIRY

Mr. DORNAN of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DORNAN of California. Mr. Speaker, there have been at least three of us waiting almost 2 hours, 1 hour and 42 minutes, to deliver 1-minutes. I left the floor for just a minute. Someone took my seat. It is getting a little complicated here.

I would have objected and appealed the ruling of the Chair.

We only have 12 more days left in the session.

Mr. Speaker, I ask unanimous consent that three more Members on each side, those who have been waiting here for an hour and 42 minutes, be allowed to make their 1-minute presentations this morning.

The SPEAKER pro tempore. As the gentleman knows, the gentleman can make 1-minutes later in the day. The Speaker did announce that he would limit it at this time to six on each side, and the Chair will follow that direction.

Mr. DORNAN of California. Mr. Speaker, a further parliamentary inquiry: Could I have it clarified whether it is within the prerogatives of the Chair, or could I rise for a point of personal privilege, which would entitle me to an hour?

I have sat here for 1 hour and 40 minutes. I am annoyed.

The SPEAKER pro tempore. If the gentleman states a proper question of personal privilege, then obviously that is within his right.

Mr. DORNAN of California. Mr. Speaker, Let me make one final request then.

Could we amend it to have two more 1-minute speeches on each side, in the interest of comity, and then tomorrow and the next 11 days all of us would be advised not to leave our chairs and because of the interests of time we can limit the speeches? Two of us have been here since 10 o'clock.

The SPEAKER pro tempore. The Chair will allow two additional 1-minute speeches on each side.

Mr. DORNAN of California. Mr. Speaker, I thank the Chair.

□1145

SPEAKER WRIGHT IS OWED ANOTHER THANK YOU

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, those who want to see the killing end in Nicaragua owe Speaker WRIGHT another thank you. Speaker WRIGHT was the first one to embrace the Arias peace plan for Nicaragua. He was blasted by the Republicans then; yet, he withstood that barrage, because he knew he could make a contribution toward peace.

Speaker WRIGHT again speaks the truth, and some people do not want to hear the truth. In answer to press questions, he confirmed what everyone knew for years. Yes; this administration is trying through the CIA to overthrow the Government in Nicaragua. America should not be in the business of overthrowing governments. That is not how our precious tax dollars ought to be spent. We are too great a country for that.

This administration clearly continues to undercut the Arias peace plan, and to do so covertly through the CIA is another admission of foreign-policy failure.

Speaker WRIGHT's honesty stands in stark contrast to the secret, undemocratic policy.

QUESTION IS INTEGRITY IN DEALING WITH NATIONAL SECURITY

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, there seems to be some confusion on the issue here. The issue is the ability of this institution to have some integrity. We have a 48-hour rule question coming up within the next 2 weeks dealing with the question of disclosure of covert operations. One of the concerns coming out of the whole Iran-Contra affair, if anybody was looking at it, was the lack of integrity on both ends of Pennsylvania Avenue when it comes to dealing with crucial issues.

If we have no mutual respect, we are not going to deal with the problem no matter how many 48-hour rules we have. And if anybody on this end of Pennsylvania Avenue takes it upon himself or herself to reveal information given to the intelligence committees of the two Houses that were set up to oversee intelligence activities and not allow for leaks, that person exposes the whole system to being crushed. If there is no mutual respect, we will not do the people's business.

No one, and I do not care if it is the Speaker of the House or the last Member just elected to this House, has the right to change the law or take the law unto himself or herself. That is the question, not the Contra affair. The question is the integrity of this House in dealing with serious national security issues, and we ought not to forget it.

ISSUE IS OVERTHROWING GOVERNMENTS

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, the issue today is Republican administrations overthrowing governments. That is what this is all about. They were responsible in 1954 for overthrowing the Guatemalan Government, in 1973 for overthrowing the Government in Chile, and they have been at it for 7 years now in Nicaragua, and it does not have to come from this Member or Speaker WRIGHT. It comes from the CIA themselves.

David McMichael, the CIA agent, testified in testimony before the World Court that the CIA was involved in overthrowing the Government of Nicaragua through the means that have been said in the newspaper. A UPI report less than 1 month ago indicates that this administration through CIA and State Department activities, and these were CIA and State Department people who talked to the media, that the CIA and the State Department have been involved in overthrowing that government internally and starting riots and perpetrating actions that were not conducive to conducting peace in the region.

The issue is overthrowing governments and going outside the bounds of this Constitution and not living up to the democratic standards which this body represents.

AMERICAN GOVERNMENT IS NOT A PARTISAN INSTITUTION

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the gentleman from Michigan just stated precisely the misunderstanding of the left in this country and why it is so sad and so tragic.

The Republican administration of Dwight Eisenhower was not the Republican administration. It was the Government of the United States of America with the support of Lyndon Johnson, with the support of Sam Rayburn, acting as the Government of America.

The Government of America has an Intelligence Committee in the legislative branch to which the Government of America tells things. The Government of America is engaged in activities across this planet. Human beings die, human beings are tortured, human beings are imprisoned because well-meaning people on the left break the law and reveal secrets, and it is a tragic commentary on the American left that they do not understand that the American Government to which we pledge allegiance is the Government of the United States and not a partisan institution.

ANOTHER SAD EPISODE OF ADMINISTRATION EFFORT TO TAKE THE LAW INTO ITS OWN HANDS

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, I think we are getting closer to the issue here, and the issue is whether a government of this country and, in particular, an administration of this country abides by the law, and the sad fact that we have seen in the course of the entire tragic Iran-Contra episode is that this administration has been willing to take the law into its own hands. This administration has been caught up with such rigid extreme ideological zeal in Central America that when the U.S. Congress passed a law limiting what it could do, the administration was unconcerned about abiding by the law and was willing to break the law. That is what the Iran-Contra situation is all about. That is what these hearings involving Iran-Contra have been all about.

To infer or state that the Speaker of the House has somehow breached confidentiality because he has simply restated the facts that have been in the public press that have been known to us all is another sad episode as a part of this administration's attempt to take the law into its own hands.

IF THERE WAS TESTIMONY, DID SPEAKER REVEAL IT?

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, I agree with the previous speaker that, indeed, it is a question of abiding by the law.

The Marxist Sandinista press has splashed the allegations of the gentleman from Texas [Mr. WRIGHT] all over its official newspaper, Barricada. Radio stations are trumpeting the charges that such opposition organs as La Prensa and the Catholic radio station are CIA fronts.

The Government has said that it is justified in taking whatever actions it considers necessary to combat these CIA threats. This comes as a result, Mr. Speaker, of your statement that we have received clear testimony from CIA people that have deliberately done things to provoke a reaction from the Government of Nicaragua.

Mr. Speaker, the question before the House is two things: No. 1, an abiding by the law; and, No. 2, if we have received such testimony, and did you reveal it?

I agree with the statement by the gentleman from Illinois [Mr. MICHEL] the gentleman from Wyoming and [Mr. CHENEY] that was made yesterday calling immediately upon the convening of the House Permanent Select Committee on Intelligence to discuss these matters to ascertain whether any unauthorized disclosures have, in fact, occurred, and to take immediate action by the House.

OMNIBUS DRUG INITIATIVE ACT OF 1988

The SPEAKER pro tempore (Mr. PANETTA). Pursuant to House Resolution 521 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5210.

□ 1153

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5210) to prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes, with Mr. COLEMAN of Texas [Chairman pro tempore] in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Friday, September 16, 1988, the amendment offered by the gentleman from South Dakota [Mr. JOHNSON] had been disposed of.

The next amendment in order is the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCCOLLUM: Page 240, after line 20, insert the following new section:

SEC. 8014. REVOCATION AND SUSPENSION OF DRIVERS' LICENSES.

(a) GENERAL RULE.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§159. Drug and narcotic offenses

"(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—

"(1) FIRST YEAR.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the first fiscal year beginning after September 30, 1990, in which the State does not have in effect and enforces a law—

"(A) which revokes or suspends for a period of not less than 6 months the driver's license of a person who—

"(i) is convicted after the date of the enactment of this section of a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), or

"(ii) is convicted after such date of enactment for any drug or narcotic offense chargeable under the law of such State or any other State; and

"(B) which revokes or suspends for a period of not less than 1 year the driver's license of a person who, in a 5-year period, is convicted of more than one of the offenses described in subparagraph (A).

"(2) AFTER THE FIRST YEAR.—The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of each fiscal year after the second fiscal year beginning after September 30, 1990, in which the State does not have in effect and enforces a law described in paragraph (1).

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1993.—Any funds withheld under this section from apportionment to any State on or before September 30, 1993, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) of this title but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) of this title but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of this title but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for whch such funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1993.—No funds withheld under this section from apportionment to any State after September 30, 1993, shall be available for apportionment to such State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State makes effective a law which is in compliance with subsection (a), the Secretary shall on the day following the effective date of such law apportion to such State the withheld funds remaining available for apportionment to such State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds apportioned under section 104(b)(5)(A) of this title shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

"(B) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of this title shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) of this title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not made effective a law which is in compliance with subsection (a), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

"(c) DEFINITIONS.—As used in this section—

"(1) DRIVER'S LICENSE.—The term 'driver's license' means a license issued by a State to any individual which authorizes the individual to operate a motor vehicle on highways.

"(2) DRUG OR NARCOTIC OFFENSE.—The term 'drug or narcotic offense' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act.".

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Drug and narcotic offenses.".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 15 minutes, and a Member in opposition will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

AMENDMENT OFFERED BY MR. ANDERSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MC COLLUM

Mr. ANDERSON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] and pursuant to the rule I offer an amendment as a substitute for the amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment offered by Mr. ANDERSON as a substitute for the amendment offered by Mr. MCCOLLUM: Page 240, after line 20, insert the following new section:

SEC. 8014. DRUG ENFORCEMENT PROGRAMS.

(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary of Transportation shall make grants to those States which adopt and implement drug enforcement programs which include measures described in this section to improve the effectiveness of drug enforcement laws. Such grants may only be used by recipient States to implement such programs.

(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for drug enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this Act.

(c) FEDERAL SHARE.—No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the drug enforcement program adopted by the State pursuant to subsection (a) of this section;

(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

(3) in the third fiscal year the State receives a grant under this section, 25 percent

of the cost of implementing and enforcing in such fiscal year such program.

(d) MAXIMUM AMOUNT OF GRANTS.—Subject to subsection (c) of this section, the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall not exceed 50 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of title 23, United States Code.

(e) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section if such State—

(1) provides for suspension or revocation for a period of not less than 6 months of the driver's license of a person who—

(A) is convicted after the date of the enactment of this Act of a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), or

(B) is convicted after such date of enactment for any drug or narcotic offense chargeable under the law of such State or any other State;

(2) provides for suspension or revocation for a period of not less than 1 year of the driver's license of a person who, in a 5-year period, is convicted of more than one of the offenses described in paragraph (1); and

(3) establishes and implements a program which permits the issuance, under such terms and conditions (including drug rehabilitation) as such State establishes, of a restrictive driver's license to a person whose driver's license has been suspended or revoked as a result of a conviction described in paragraph (1).

(f) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1989 and $50,000,000 per fiscal year for each of fiscal years 1990 and 1991. Such sums shall remain available until expended.

(g) DEFINITIONS.—As used in this section—

(1) DRIVER'S LICENSE.—The term "driver's license" means a license issued by a State to any individual which authorizes the individual to operate a motor vehicle on highways.

(2) DRUG.—The term "drug" means any substance the possession of which is prohibited under the Controlled Substance Act.

(3) DRUG OR NARCOTIC OFFENSE.—The term "drug or narcotic offense" means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any drug.

(4) STATE.—The term "State" has the meaning such term has when it is used in section 402 of title 23, United States Code.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment offered as a substitute for the amendment and request the time under the rule allowed for the opponent.

The CHAIRMAN pro tempore. The gentleman from California [Mr. ANDERSON] will be recognized for 30 minutes, and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Committee on Public Works and Transportation has taken the initiative in the Congress to encourage the enactment of laws that have helped reduce fatalities on our Nation's highways to an all-time low of 2.47 fatalities per 100 million vehicle miles. Highway safety improvements continue to save lives and reduce the number of injuries resulting from traffic accidents.

Mr. Chairman, the amendment that I offer for adoption as an amendment in the nature of a substitute for the McCollum amendment will help to continue this national trend of reducing fatalities and injuries sustained in motor vehicle accidents by addressing the issue of drug user accountability. The substitute amendment before you authorizes the Secretary of Transportation to make grants to States that adopt and implement drug enforcement programs which improve the effectiveness of drug enforcement laws. In order for a State to receive an incentive grant, the State must enact a law which provides for the suspension or revocation of the driver's license of a person convicted of any drug or narcotic offense. For the first offense, the State law must provide for the suspension or revocation of the drivers license for not less than 6 months. For subsequent offenses within a 5-year period, the State law must provide for the suspension or revocation of the driver's license for not less than 1 year. The State must also establish and implement a program that permits the issuance of a restrictive driver's license under certain conditions such as for a person undergoing rehabilitation. Rehabilitation must be encouraged since it is the only permanent solution to our drug problem.

The State grant recipient under this amendment must maintain its aggregate expenditures from all other sources for drug enforcement programs at or above the average level of expenditures for the 2 previous fiscal years. Therefore, the seed money provided by the incentive grant program will leverage additional funds from State and local governments to assist in the fight against drug use.

The maximum amount for an incentive grant may not exceed 50 percent of the amount apportioned to a State for fiscal year 1989 under the section 402 Highway Safety Grant Program. The total amount authorized to implement the incentive grant program is $125 million. These funds are available until expended. There is $25 million authorized for fiscal year 1989, $50 million for fiscal year 1990, and $50 million for fiscal year 1991.

This amendment lays the foundation for a preventive drug policy by encouraging the States through the use of incentive grants to give high priority to the adoption and implementation of drug enforcement programs. The amendment allows each State to make its own determination on how to develop drug enforcement programs. The adoption of this amendment will not penalize the States by withholding millions of dollars in badly needed highway trust funds, but instead, reward the States that take strong, effective action to address the drug problem in this country.

At a time when traffic congestion has reached critical levels, and our highway needs are so great, the Congress should not withhold Federal funds—funds contributed by the highway user—to accomplish a predominately social purpose, no matter how important, when incentive grants can serve the same purpose.

Mr. Chairman, the increased risk of the loss of the driver's license may significantly reduce drug offenses. The substitute amendment strongly encourages the States to enact laws that would increase that risk, yet uses the positive approach of incentive grants. Therefore, Mr. Chairman, I urge Members to join the American Association of State Highway and Transportation Officials, the National Governors' Association, the National Conference of State Legislators, the National League of Cities, the National Association of Governors' Highway Safety Representatives, the National Safety Council, the Highway Users Federation, the American Trucking Associations, the American Automobile Association, and the Associated General Contractors in adopting the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the issue here today before us on this particular user-accountability amendment fortunately is not over the question of whether we adopt something that encourages States to have a removal of driving privileges for someone convicted of drug possession, but it is over the issue of what the procedure is and what the best approach is to do this. I think it is a very important issue, and we cannot miss the overall thrust of this.

The concept of user accountability, a concept which has been carefully developed and adopted in part over the last 2 weeks on the floor of the House, in the process of restricting the eligibility of those who are convicted of drug-trafficking and drug-possession crimes from eligibility for Federal benefits, the position that we took last week on the question of civil fines for those who are convicted, or would not be convicted, but a simple possession, they do not have to have committed any criminal offense, those are what we call user accountability.

The idea here is we create a process in which the person who is about to commence the use of drugs thinks about it.

□ 1200

We have to get the demand side down. It is not enough to attack the supply side.

In the process of dreaming up ways besides education and rehabilitation to get that deterrent into law, to get people to be discouraged from using drugs, the Republican task force in the House came up with three methods. One of them was the loss of eligibility for certain Federal benefits, like student loans and grants, and so on. One of them was civil fines, and one of them was the loss of driving privileges that States would have to enact.

When we got to the loss of driving privileges, we had a great debate over the mechanism to be employed. We looked at the State of New Jersey which indeed has this provision in its law today where there is a minimum mandatory loss of driving privileges for up to 6 months for anyone who is convicted of simple possession of any narcotic substance. We asked Cary Edwards, their attorney general, to come down and talk to us, and he did, and he explained how that system worked, and it worked very, very well.

I am very pleased that the gentleman from California [Mr. ANDERSON] and others have acknowledged that it is a concept that we need to embrace. The method though is what we are debating here now. How do we implement it?

The amendment which I have offered to the substitute would use the highway trust fund dollars as a lever to force, in essence, the States to comply just as we used this same mechanism for increasing the drinking age to 21 years or just as we used the same mechanism to restrict States to the 55-mile-per-hour speed limit a few years ago when that was necessary.

It seems to me if we are going about the process of trying to get a grip on the entire issue of drugs in this country and we are going to be serious about that, then we need to employ the full resources of this Government in a logical method that will bring about that result. We cannot take the drug question and user accountability any less seriously than the 21-year-old drinking age.

If we are to truly get the States to enact this provision that restricts driving privileges and removes driving privileges for a period of at least 6 months after conviction of a simple possession, we need to have the kicker in my amendment that says if they do not do this over the next 2 years, by the fiscal year beginning October 1, 1990, those States will lose a certain portion of their highway trust fund dollars if they do not do that, the same mechanism used for the 21-year-old drinking age.

Now, Mr. ANDERSON's amendment would use a grant program as an incentive. He would use the carrot rather than a stick, which is as simple a difference as you can put it. The problem with the grant program is a couple-fold. One, as we already have a sizable grant program in this bill, some $250 million, that we have already for the State and local assistance programs for the next fiscal year, and $500 million for the next fiscal year. We had a State and local grant authorization for this existing fiscal year that we are in right now that we are ending, at the present month, of $230 million by preauthorization. However, we only funded that through the appropriations process at $75 million.

What I am making the point about is that grants, first of all, exist in this particular bill that we have out here in sizable amounts of money, so States do not have a lot of incentive to go out and look for new grant money that this amendment might offer in the first place and, in the second place, we have not been able to fully or close to fully authorize the existing grant programs under the drug bills that we passed in previous years, so why do we expect that there will be the amount of money that is suggested, between $25 and $50 million a year in the Anderson proposal, to provide an incentive for States to enact that law to restrict driving privileges.

I hope every State did it on their own. It makes common sense. Several States are considering it now. We, as a body, owe it to the American people to put it on the United States, to bring it to their attention, to say for them to do it. It has as much importance as the 21-year-old drinking age, and we should not treat it less vigorously. I urge my colleagues to defeat the proposal that would set the essence of the McCollum amendment, and adopt my amendment to force the States to make use of the highway trust fund and restrictions on it, and if they do not, to adopt law that would suspend the driving privileges of anyone convicted of simple possession of narcotics.

Mr. Chairman, I reserve the balance of my time.

Mr. ANDERSON. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the McCollum amendment and in support of the Anderson substitute.

Let me start, Mr. Chairman, by commending the distinguished gentleman from Florida [Mr. McCOLLUM] for the important leadership that he has provided on the drug issue. He has made a significant contribution to the effort we are undertaking here today.

This particular amendment of his would require States to adopt laws which would result in a person losing his or her driver's license for 6 months if he or she were convicted of any drug offense or for 1 year if he or she were convicted of a second offense within a 5-year period. If the State does not adopt such laws it would lose some of its Federal-aid highway money.

I do not have any problem with the underlying principle of the McCollum amendment. If people realize that they will lose their driver's license for 6 months if they are convicted of a drug offense, they will probably be much less likely to use drugs. This would be an especially effective deterrent with respect to teenagers.

My problem with the McCollum amendment is the way in which it is implemented. I do not think that we should be using the highway trust fund to force States to adopt drug laws.

The Anderson substitute, on the other hand, retains the essential features of the McCollum amendment, but uses incentive grants rather than highway trust fund sanctions to encourage the States to adopt such laws. I think that this is a far preferable approach.

And again while commending Mr. McCOLLUM for his hard work on this bill, I urge my colleagues to support the Anderson substitute.

Mr. McCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I rise in opposition to the substitute because I do not believe the author and those who support the substitute have a different intention in mind than those Members who support the McCollum amendment, but because I think we have to do things differently.

As I see the substitute, it is the same old business here. There is concern when we match up bricks and mortars and pouring concrete versus the substance of the drug laws of America. Unfortunately what I think we are going to find here is a little bit of a battle of committee turf.

It is important, evidently, that we use this sort of mechanism to require the States to have a 21-year-old drinking age. It is important in the view of those bringing a substitute, that we use this power of the Federal Government to impose our decisions as to what the maximum speed ought to be. I was one of those who felt that that was a worthy thing for Members to look at when we had a real energy crisis in this country. But later I felt that after its purpose was served that we ought to get out of the business of telling the States what the speed limit ought to be. We managed to put a little bit of a dent in the committee's position on that issue in the last Congress. Now we have the question of how we deal with the drug problem in

America. We have the same committee coming to us that said we, on the Federal level, should make the decision as to what the overall speed limit ought to be, and we, on the Federal level, ought to determine what the drinking age ought to be.

Now they say this is an intrusion into the trust fund, a violation of our faith, with those who have contributed to the trust fund. Folks, let me tell my colleagues what I think a violation of faith is. A violation of faith is to have this Congress, along with other institutions in this society, allow an attitude to prevail in his country which tolerates illegal drug use. We ought to take some responsibility for allowing that to occur and we ought to take some responsibility for attempting to change that. Now is not the time for turf protection. Now is not the time to say let us not invade this particular specialized trust fund because it is more important than the issue of rampant drug use in this country.

We are not going to change the face of America with respect to the drug problem until we change the culture of America with respect to the drug problem. That means going beyond the traditional methods that we have used in the past to combat the drug problem. Why? Because demonstrably they have not been enough. They have not worked. That is the whole idea for having a comprehensive approach to the drug problem here, involving many committees and many, many different tools. Here we are saying, take that which is so important to people, particularly young people, the driver's license, the privilege that is given to them, and say they will lose that if they involve themselves in drug usage.

Now some have said the connection is too tenuous, this is not taking away drivers' licenses from people who are using drugs while driving. I would say that same tenuous connection, if that is what the Member's argument is, exists with the drinking age. We did not impose on the Federal level an obligation on the part of the States to raise the drinking level to 21 only for those people who would be drinking while driving. We did it as a national policy because we saw how important it was. If any Member wants to come down here and say in support of this substitute that the problem of drug use is not as bad as the problem of drinking, that the problem of driving while under the influence of drugs is not comparable to the problem of driving while under the influence of alcohol, I would welcome them to come here and make that argument.

Maybe I am wrong, but I do not think that argument can be made. This is an essential amendment, the McCollum amendment, for the Members to change the terms of the debate on drug abuse in this country. It goes to the guts of the question of user accountability. Yes, it is something new. Yes, it is novel. But it is precisely because we need new and novel approaches to take care of the problem. If we shy away from doing it here, the question is how deep is our commitment to really addressing the drug problem? Do we always have to use the carrot and never the stick? Do we always have to say that is our approach? It is time for a change and time for the McCollum approach.

Mr. ANDERSON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I do not feel comfortable rising in opposition to the amendment of my friend from Florida who has done such an admirable job with this drug bill, and I thought long and hard for a solid week about whether to stand up before this body and oppose this kind of amendment because I agree with taking away the driver's licenses of people who are convicted of drug use. I also promised my voters when I first ran for office that I had the principle that I stood on to fight the Federal Government from intruding on States rights and to fight the Federal Government when they mandate programs without providing funding for those programs. It is a basic conservative philosophy and principle that we are debating here.

The gentleman from California talks about this being an issue between the trust fund and fighting drugs. It is not that at all.

I thought it was no longer fashionable to talk about States rights in this Chamber until we had the debate on the Brady and the McCollum amendments last week. I was overjoyed to see Member after Member saying that the principle of States rights is more important than the benefits that were argued for by those who favored that provision.

But now, 1 week later, we are talking about forgetting the passionate States rights arguments and trampling all over the constitutional division of powers. I say the constitutional principles are just as important as they were last week, and this amendment violates those rights and authorities of the States.

We can blackmail the States for a bad purpose or we can blackmail them for a good one, but it is blackmail just the same. This is a good purpose, but this Member is not going to forget the principles on which he was elected. I challenge my colleagues on this side of the aisle to do the same.

I am not going to take up a wrong to justify the end, no matter how good it may be. There are other ways of accomplishing the same thing. I have faith in the State Legislature of Texas, and if this proposal was offered in the State Legislature in Texas they would pass it in a minute, as I would assume that most of the States in the Nation would do.

□ 1215

Under the threat of withholding Federal highway funds, we could dictate almost anything to the States. We already use this stick to dictate the drinking age, seat belts, the speed limit. Although this is all done in the name of public safety, I am just afraid that it is done at the expense of our unique form of government.

As a matter of fact, we have passed 145 laws in the last 16 years which make specific requirements of the States. We are well down this slippery slope and I say it is time to stop this abuse.

The constitutional limitations on the power of Congress, and the delegation of the remaining powers to the States was done for a reason. By weasling around those limitations through the blackmail of withholding their rightful highway funding, we do an injustice to our sacred Constitution.

As far as I am concerned, there is no emergency to dire, no problem so severe that justifies putting aside the fundamental principles of federalism and I urge rejection of this amendment.

Thank you, Mr. Chairman.

Mr. McCOLLUM. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I certainly respect the gentleman's concerns over the States rights question. It troubled me a great deal with the 21-year-old drinking age and before that with the 55-mile-per-hour speed limit. And it troubles me on a number of things that we consider around here. I am often involved on that side of the issue.

But in discussing and debating and talking about the whole question of how do we get the States, how do we get the conformity that we need nationally to fight and win this war on drugs on this issue of driving privileges and on the issue of user accountability. I became convinced by many of my colleagues that the very least we could do would be to do the same thing we did with the 21-year-old drinking age. How could we in good conscience as a body treat the drug issue any less seriously than we treat the drinking age issue?

As a consequence of that, I became convinced that this is an absolutely essential mechanism.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. DELAY. I thank the gentleman for yielding.

Mr. Chairman, I just respond to the gentleman's point that I would, in this Chamber at the time, if I had had the opportunity, have voted against withholding highway funds for raising the drinking age.

Mr. McCOLLUM. I respect the gentleman being consistent in his principles and I understand that.

But I know that a great many others did not. In fact, this body just adopted that carte blanche here a couple of years ago, though there would have been some opposition.

It seems to me though that we have to have a stick in this case, not just a carrot. The problem is the carrot being offered here, the grant program, is not sufficient incentive to get States to do anything.

As I said earlier, first of all it is not going to be adequately funded at all. It is very clear we do not have adequate funding in the grant programs we already have in the laws dealing with drugs. But second the problem is they can go elsewhere and if they go after the grant program or want to get a grant program, they have other places to get it from. Why should they? Where is the true incentive? The amount of money involved is, by grant standards, much smaller than it would be for the other grant programs for law enforcement assistance elsewhere. And the complexity of having to file for grants is such that it really is meaningless.

I urge my colleagues to take the proper position.

Mr. ANDERSON. Mr. Chairman I yield myself such time as I may consume.

Mr. Chairman, my friend from Florida [Mr. McCOLLUM] is concerned that my substitute does not offer sufficient incentive to the States to pass laws suspending drivers' licenses.

Although there is other grant language money already in the bill, I feel certain, States need additional money to fight drugs and are looking for help. So, the funding we are authorizing provides strong incentive.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SHUSTER], the ranking member of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

Mr. SHUSTER. Mr. Chairman, saving lives on our Nation's highways is a critically important issue facing our country, along with the drug issue.

Nearly 50,000 people are killed each year on our highways. Saving those lives is very much dependent on the amount of money we are able to spend from the highway trust fund to build modern highways. If we have an old, antiquated highway the fatality rate on the average is about six fatalities for every 100 million miles traveled. But if you replace that antiquated highway with a modern four-lane divided highway, you reduce that death rate to under two, a 300-percent drop in fatalities. This is a worthy national goal and the money put into the highway users trust fund is building up a surplus there now, is not being spent. For us to say that we want to impose another restriction on the use of those highway dollars, those user dollars paid by your constituents into the highway trust fund, that we want to impose another restriction, another penalty, another withdrawal from improving our Nation's highway, is indeed shooting ourselves in the foot.

Yes, it could help in the short run in the drug war, but it would hurt in the short run and in the long run in the war against highway fatalities.

Therefore, the Anderson amendment is a far superior approach. It is a get-tough amendment, but it is get-tough in a positive way, in a way that does not withdraw badly needed highway funds from our States and instead encourages our States through positive encouragement to pass these badly needed get-tough laws against drugs.

Support the Anderson amendment so that you cannot only support getting tough on drugs but also support saving lives on our Nation's highways.

Mr. McCOLLUM. Mr. Chairman, before yielding to the gentleman from Ohio, I yield myself 1½ minutes.

Mr. Chairman, I respect the gentleman from Pennsylvania a great deal, the gentleman who just spoke, and I understand the sincerity with which he spoke.

But I just want to make one point based on the statistics he was using. I know from the statistics that we have on highway fatalities that of those who actually have been tested who died on the highways, between 10 and 15 percent, according to the National Highway Traffic Safety Administration, between 10 and 15 percent of those tested died of drugs or drug-related involvement.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding. Mr. Chairman, the gentleman is certainly correct, but the issue I make goes far, far above the 15 percent he speaks of. People are being killed because we are not spending the money that is lying there in the trust fund to improve our Nation's highways.

The amendment of the gentleman from Florida would impose a further restriction on the expenditure of those funds and in the process could cause more fatalities on our Nation's highways, not only to people who are using drugs, but to innocent people young people, old people, middle-aged people, all Americans.

Mr. McCOLLUM. In response to that, I say to the gentleman that the problem with that is that we definitely had the same issue before us with the driving under 21, et cetera, issue and we did pass the restriction on the highway trust funds that if the States passed the laws that we encourage them to do—and we gave them two years to do it before they lost any money—I think most everybody would do that as they should. That is why the stick is here. We will not have the problem that the gentleman is concerned with.

Mr. Chairman, I yield 4 minutes to the gentleman from Ohio, [Mr. DEWINE].

Mr. DEWINE. Mr. Chairman, I rise in opposition to the Anderson substitute. It sounds good, frankly it will probably do some good if it becomes law; but I think the time has come for us to make some radical changes in our law, to do something really tough, really hard, and really radical. If this problem is as great as we think it is—and we have been debating this now off and on for the past month in this drug bill—then it is time to make some innovative changes.

The McCollum amendment as originally written does just that. I think we have come to the conclusion in this whole lengthy long debate that we need a multifaceted approach, sort of what I would refer to as a full-court press; all they way from starting down in Colombia when we put the pressure on the people who are manufacturing the drugs and producing the drugs and shipping them into the United States; beefing up the Coast Guard; beefing up the military, getting the military involved onto the streets where we give our local law enforcement more assistance; the final component though is user accountability. It is a very, very important component of this whole package.

This part of this particular McCollum amendment, taking away people's drivers licenses who are in fact convicted of possession is a necessary component.

Now there are several ways you can get at users. The traditional way has always been that you put the person in jail. We have seen an evolution in that. We started off back when I was a county prosecuting attorney and an assistant prosecutor that we had stiff penalties in that regard. Then there was a movement away from that.

We will probably not go back to try to put everybody in jail who uses drugs; we simply are not going to do that. So how do we get their attention?

Frankly there is a much more effective way, a much more efficient way, and that is to hit them very, very hard. Where do we hit them? We take their driver's license away from them.

It is not just the young people who are affected when you take away their driver's licenses—and everyone knows how 17-year-olds and 18-year-olds value that license. Surprise, everybody values that driver's license just as much. And if you want to get someone's attention—and I do not care if they are 18 or 60—talk about taking their driver's license away. That is why the McCollum amendment as originally written is so very, very effective. So let us do not gut it, let us not throw it away; let us continue what we have been trying to do which is to craft a good bill, a multifaceted bill, a bill that tries to keep the pressure on all the way through and does not leave out the pressure that we so very much need to put on the user as well.

Vote for the McCollum amendment, vote against this gutting substitute. However well-intentioned it is, it really wipes out 95 percent of the effectiveness of the original McCollum amendment.

Mr. ANDERSON. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. Rangel].

Mr. RANGEL. Mr. Chairman, I rise in opposition to the amendment and in support of the substitute. But I am shocked to hear a lot of talk about the Republican task force. I had hoped that this effort would be a bipartisan effort, but I think it is pretty arrogant that a Republican task force is prepared to tell the States what they should be doing in order to control this drug addiction problem that we have.

What is this Republican task force? It seems to me that the Speaker had suggested that the majority leader, Mr. Foley, work with Bob Michel and that we work this process out. There was no Democratic task force.

And how well thoughtout are these sticks and carrots that you are talking about? If the Republicans are saying, and I can be partisan since they are so proud of these amendments, if they are saying that we do not have an administration point of view, that there is no comprehensive drug policy or strategy from the administration and so therefore on the eve of the election we got a task force because we have to go back home and say that we have done something, well then I have to have a little more compassion for my friends in the minority. If we are saying that Ed Meese did not have any plan before he left office and the Vice President has not suggested anything to this Congress, well I have to have a little more compassion for the Republican task force that now comes up and talks about carrots and sticks.

What carrots? The sticks are well known. First we take life from people which sounds rather Republican to me, to support the death penalty. What it has to do with the war against drugs, God only knows.

Then we take away the benefits from students and from veterans who have abused drugs rather than attempt to help them. Oh, yes, that sounds rather Republican.

We certainly have not found anything from Secretary Shultz as to what he thinks should be our international mandate. But then again, he has more important things to do.

So here we are now telling the States that we do not like what they are doing, that perhaps they have to get tougher: take away those driver's licenses, jail the abusers and make certain that we reduce demand.

Do you know that this administration has opposed every nickel raised by this Congress to help local law enforcement? Do you know that we got 28,000 drug enforcement administration agents in this country and abroad, and they are doing a fantastic job? What right do we have now to tell local police that they should be arresting abusers and arresting drug addicts and we do not want even to give them any help? And then if you want to talk about some carrots, how can we say we are trying to help people when we do not have one Federal rehabilitation program? And we have the arrogance to say here in Washington we have solutions to the problem, "We are going to advocate and legislate that the States take away the license of those who are involved in," what? Drug-related crimes. Not crimes involving driving, nothing related to driving. What we are saying is that we are going to hold hostage people who use the public highways because we think it is better that the State legislators penalize the people that were involved in drug-related offenses.

□ 1230

Let me say to the Members that this is arrogance. This is really showing the vacuum that exists when the Congress tries to create its own policy merely because in 8 years this administration has not seen fit to do what should be done.

I think this should be a legislative lesson to show just how absurd the Congress can get when we attempt to legislate a national policy and a national strategy. What we should be doing today is debating whether or not the administration's proposal is right or whether it is wrong, whether we can perfect a policy, and what we are going to do and what we should be doing. This is what we should be talking about. But since in 8 years we have received no proposals, we are now stuck with recommendations from the Republican Task Force. God bless us if that is all we have got going for us.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am a little disappointed that the gentleman from New York [Mr. Rangel] had such a partisan statement to make on this issue after so many days of debating this issue in a bipartisan fashion. Quite frankly, this bill is filed with joint efforts, filled with efforts by Democrats and Republicans.

This Member merely pointed out earlier that the three-user accountability provisions did originate in the House Republican Task Force, and it was supported by Vice President George Bush and by the administration. I am not going to get into the administration's position, because I do not think drugs should be a partisan issue. We have not allowed it to be up to this point, and even though we have a Presidential debate going on, it should not be now. What we should be concentrating on is the issue at hand, and the issue at hand is, how do we most effectively as a body create the kind of deterrence or incentives or disincentives that will yield the result of the reduction of the demand side for drugs in this country to win the war on drugs?

For several days now we have been over the question of how we should fight this war. No one thing does it. Certainly what the gentleman is talking about and what I am talking about, whichever provision comes to pass, the Anderson amendment or the McCollum amendment, is that we will have a little better tool, a new tool, but it will not alone win the war. We need the efforts in eradication, we need the efforts on interdiction to stop drugs from coming into this country, we need the assistance of local law enforcement, and we need tough criminal laws, including the death penalty we adopted a week or so ago.

We also very badly need to attack this demand side with education, with rehabilitation, and with user accountability. This concept that is in the proposal that I have offered here today has been embraced by the gentleman from California [Mr. Anderson] in his amendment. However, I do not think, unfortunately, that this will work at all if it is adopted, and that is the bad part of this. This concept is just one other stage.

I would like to point out that the attorney general of New Jersey, where this concept did originate, where they did adopt the provision of revoking the driver's license of anyone convicted of possession, had comments about this because he is concerned about the young people. In his comments to us earlier, he said this in his testimony:

> We are convinced that this form of mandatory punishment will be especially effective with respect to young people, for whom the loss of driving privileges would be viewed as an especially significant and unpleasant sanction. Indeed, as we may all recall from our own personal experiences, a driver's license is one of the most precious commodities which an adolescent can own. It is a privilege which young people look forward to with great anticipation. By mandating the loss of driving privileges upon

conviction of any drug offense, including the simple possession of even a single marijuana cigarette, we hope to provide students with one additional argument, one additional rationalization, to resist peer pressure and to resist the temptation to use drugs.

Mr. Chairman, the problem with the substitute amendment offered by the gentleman from California [Mr. Anderson] is that it does gut my effort. There is not going to be, and there is no reason why we should expect there to be, significant moneys appropriated to new grant program when we cannot even get a third of what we have had authorized for existing grant programs in this present Congress. Why should we expect to see a new grant program on top of the $250 or $500 million we already have in this bill? Why should we expect to see that funded?

There is going to be no incentive for the States to come forward and enact these laws revoking driving privileges if the Anderson substitute is adopted.

So I strongly urge my colleagues to use the stick in this case and do the same thing we did with the 21-year-old drinking age. There is no difference at all. All the other arguments are bogus. Most Members overwhelmingly voted to use the highways trust fund stick on the question of the 21-year-old driving and drinking age. Let us use that today on the drug question.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I apologize to the gentleman for appearing and indeed being partisan, but indeed it was the gentleman from Florida who raised the question of the Republican task force. And I am further confused because, as one Member of Congress, I would have been anxious to hear what the Vice President and the Attorney General and the Secretary of State had to say about formulating national legislation to deal with this problem.

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, I do not wish to engage with the gentleman in a partisan debate. That is what he is trying to do here now. They have expressed their views strongly many times now. They have been publicly aired, and if we continue this kind of debate for purposes of partisanship, I think it is wrong. I am not going to do that.

Mr. Chairman, before I yield back my time or reserve my time, I would like to ask the Chair, how much time to I have remaining?

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] has 6½ minutes remaining, and the gentleman from California has 11 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. ANDERSON. Mr. Chairman, I also reserve the balance of my time.

The CHAIRMAN. The Chair will put the question now if neither Member is going to yield further time.

Mr. McCOLLUM. Mr. Chairman, I would like to ask if the gentleman from New York has any more requests for time. I presently do not on my side.

Mr. ANDERSON. Mr. Chairman, if the gentleman will yield back his time, I would make a like statement.

Mr. McCOLLUM. Mr. Chairman, I would like to reserve my time until after the vote on the substitute amendment, if I may.

Mr. ANDERSON. Mr. Chairman, may I ask, how much time does the gentleman wish to reserve?

Mr. McCOLLUM. Mr. Chairman, I see no reason not to reserve it all at this time. If there are no more requests for time on the substitute, I would like to reserve my time pending the outcome of the vote on the substitute.

Mr. ANDERSON. Mr. Chairman, I think we ought to bring this to a close, and I yield myself such time as I may consume.

Mr. Chairman, under the McCollum amendment a person who is convicted of possession of drugs and enters a rehabilitation program to clear himself up would not be able to even drive himself to his rehabilitation program. He would have already lost his license. Under my substitute, this same person could be issued a conditional driver's license to allow him to get to rehabilitation. This provides an incentive for the person to clear himself up. Without my substitute, an individual would not have an incentive to get rehabilitated. Under my substitute, if he does seek rehabilitation, he can keep his driver's license.

Mr. Chairman, let me set the record straight. My substitute is not a watered-down approach. A vote for it is a vote for user accountability. A vote for it is a vote for drug rehabilitation. A vote for it is a vote for good public policy, not turf.

Mr. Chairman, I ask the Members to be strong on drugs and vote aye on my substitute.

The CHAIRMAN. The gentleman from California [Mr. Anderson] reserves the balance of his time, and the gentleman from Florida [Mr. McCollum] is recognized.

Mr. McCOLLUM. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I respect greatly what the gentleman has offered in the way of his substitute, but, unfortunately, it does gut the McCollum amendment. If Members want to vote for certainty that we are going to get States to pass laws to revoke driving privileges of anyone convicted of possession, a simple possession conviction, then they should vote down the substitute offered by the gentleman from California [Mr. Anderson] and vote for the McCollum amendment for true user accountability. I urge my colleagues to do that.

Mr. ANDERSON. Mr. Chairman, let us yield back the balance of our time.

Mr. McCOLLUM. Mr. Chairman, I would like to reserve my time pending the outcome of this vote.

The CHAIRMAN. If neither gentleman is going to yield time at this point, the Chair will put the question on the substitute.

The question is on the amendment offered by the gentleman from California [Mr. Anderson] as a substitute for the amendment offered by the gentleman from Florida [Mr. McCollum].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their name:

[Roll No. 329]

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boland
Bonior
Borski
Bosco
Boxer
Brennan
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)

Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

□ 1258

The CHAIRMAN. Three hundred eighty-nine Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Florida [Mr. McCollum] for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 281, noes 119, not voting 31, as follows:

[Roll No. 330]

AYES—281

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Ballenger
Bateman
Bates
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CO)
Bruce
Bustamante
Callahan
Campbell
Cardin
Carper
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Costello
Courter
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Emerson
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (PA)
Gregg
Guarini
Gunderson
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Hertel
Hochbrueckner
Hopkins
Horton
Hoyer
Hubbard
Hughes
Hutto
Inhofe
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lowry (WA)
Lujan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schroeder
Schuette
Schumer
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron

NOES—119

Archer
Armey
Baker
Bartlett
Barton
Bennett
Bilirakis
Bliley
Boland
Broomfield
Bryant
Buechner
Bunning
Burton
Carr
Chandler
Coats
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Craig
Dannemeyer
Davis (IL)
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dyson
Early
Edwards (OK)
English
Fawell
Fields
Fish
Gallegly
Gekas
Gibbons
Gilman
Glickman
Gradison
Green
Hall (TX)
Hansen
Hayes (LA)
Herger
Hiler
Holloway
Houghton
Huckaby
Hunter
Hyde
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (FL)
Livingston
Lloyd
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Mazzoli
McCandless
McCollum
McCrery
McGrath
Michel
Miller (OH)
Miller (WA)
Moorhead
Morrison (WA)
Myers
Nelson
Nielson
Olin
Oxley
Penny
Porter
Quillen
Rhodes
Ridge
Rinaldo
Ritter
Rogers
Roukema
Rowland (CT)
Schulze
Sensenbrenner
Sharp
Shumway
Sikorski
Slaughter (VA)
Smith (TX)
Smith, Robert (NH)
Solomon
Stenholm
Stump
Tallon
Tauzin
Thomas (CA)
Traficant
Vucanovich
Walker
Watkins
Young (AK)
Young (FL)

NOT VOTING—31

Aspin
Badham
Barnard
Bonker
Boucher
Boulter
Brown (CA)
Byron
Crane
Daub
Dowdy
Dreier
Dymally
Foley
Gingrich
Gray (IL)
Hall (OH)
Johnson (CT)
Kemp
Lott
MacKay
Murphy
Pepper
Scheuer
Schneider
Taylor
Traxler
Vander Jagt
Wilson
Wortley
Yates

□ 1305

Mr. KASICH changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment, was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. McCOLLUM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. McCOLLUM. Am I correct, Mr. Chairman, that now there is some time remaining before the vote on the amendment, as amended?

The CHAIRMAN. The Chair will announce that the gentleman from Florida [Mr. McCOLLUM] has 6 minutes remaining and the gentleman from California [Mr. ANDERSON] has 10 minutes remaining on the amendment, as amended.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, while I disagree with the mechanism we just adopted in the amendment offered by the gentleman from California to my amendment, I think it is important for the Members here to know that what we are doing or are in the process of doing by adopting this McCollum amendment with the provisions changed by the Anderson amendment is the third prong of what we call a user accountability approach to attacking the demand side of the war on drugs, and it is a very, very important prong of that.

First we had the elimination of eligibility for certain Federal benefits for those who were convicted of trafficking and simple possession in certain cases. Then we had civil fines that we adopted last week to give the alternative means of discouraging those who are out there using drugs, and now by the adoption of this amendment on which we are going to have a vote in a moment, we are encouraging in the strongest way that States go out and adopt procedures to revoke drivers' licenses for anyone convicted of simple possession, a one-time conviction only of simple possession of any narcotic substance, and I think that is very important.

I would hope that the States would look at what we are doing today and at what we are saying, and while we are not holding to the kind of stick that I wanted to see us hold, we do have an incentive program in it. We are making a statement that says that we, the Members of this Congress, strongly urge and want to see laws adopted by the 50 States like that of New Jersey that would fold the driver's privilege of anyone convicted of simple possession.

So I feel it is very important to adopt this today and I urge my colleagues to vote "yes" on the amendment, as amended.

Mr. Speaker, I yield back the balance of my time.

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to say that I like the remarks of the gentleman from Florida, because now it is known as the Anderson-McCollum amendment, and congratulations to the gentleman. I thank the gentleman for it.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 392, noes 9, not voting 30, as follows:

[Roll No. 331]

AYES—392

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boxer
Brennan
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—9

Armey
Chandler
Combest
DeLay
Olin
Shumway
Stenholm
Stump
Tallon

NOT VOTING—30

Alexander
Badham
Barnard
Bateman
Bonker
Boucher
Boulter
Brooks
Brown (CA)
Byron
Crane
Daub
Dowdy
Dreier
Dymally
Foley
Gray (IL)
Hall (OH)
Lott
MacKay
McCurdy
Murphy
Pepper
Scheuer
Taylor
Traxler
Vander Jagt
Wilson
Wortley
Yates

☐ 1328

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ACKERMAN: Page 363, line 9, strike "and" at the end.

Page 363, line 12, strike the period and insert a semicolon.

Page 363, after line 12, insert the following

"(6) determine the number of individuals who requested drug treatment provided by such programs of treatment for drug abuse and were denied such treatment because of insufficient program capacity; and

"(7) determine the number of such individuals who were placed on waiting lists to receive such treatment.

Page 363, line 18, insert after "evaluation" the following: "and containing the statistical data required by paragraphs (6) and (7) of subsection (b) to be included in the evaluation".

MODIFICATION TO AMENDMENT OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Chairman, I ask unanimous consent to revise my amendment which was originally made in order to modify a study called study called for in the bill to determine the effectiveness of drug treatment programs. The distinguished chairman of the Committee on Energy and Commerce, Mr. DINGELL, and the distinguished chairman of the Subcommittee on Health and the Environment, Mr. WAXMAN, have have made me aware of another section of the bill which is better suited to accommodate my proposal and achieve its intended goal.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will report the modification to the amendment offered by the gentleman from New York [Mr. ACKERMAN]

The Clerk read as follows:

Modification of amendment offered by Mr. ACKERMAN: Page 357, line 3, strike ", through representative sampling,".

Page 358, strike lines 11 through 13 and insert the following:

"(D) the number of individuals seeking treatment through such programs, the number and demographic characteristics of individuals receiving such treatment, and, with respect to individuals receiving such treatment, the length of time between an individual's request for treatment and the commencement of that treatment, and".

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. ACKERMAN] for 5 minutes.

☐ 1330

Mr. ACKERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am very pleased that the measure we are debating today includes a number of provisions designed to reduce the waiting period for drug abuse treatment that is often imposed due to insufficient program capacity. The measure requires States to ensure "to the maximum extent practicable" that each individual who requests treatment for intravenous drug abuse is admitted to such a program within 7 days after making the request, and provides grants to expand program capacity.

These are commendable goals which must be met if we are to make a sincere and meaningful attempt to combat drug addiction. It is appalling that there are drug addicts who finally come to the realization that they must seek out assistance in battling the nightmare of drug addiction, only to be told that there is no room available in the treatment program, or that they must be added to a waiting list.

Obviously, the decision to seek treatment is often hard to make, and the urge to get help is often fleeting. Many of those told to come back later never do so—their need for drugs have killed them, or caused them to kill another.

The bill we are considering wisely requires the annual collection of certain data with respect to substance abuse, including the number of individuals receiving treatment through public and nonprofit private treatment programs. My proposal will modestly expand the data collection list to include the number of individuals seeking treatment, and the length of time before they begin treatment.

This information is vital to understanding just how widespread drug addiction is in our society and to what extent the desire for treatment goes unmet.

In addition, my amendment would delete the words "through representative sampling" from line three of section 509D paragraph (a), to provide the Secretary of Health and Human Services with the discretion to determine the method of collection used to obtain the required data and to use means other than random samples.

I urge my colleagues to support passage of this proposal. By helping us understand the extent to which the request for drug abuse rehabilitation service goes unmet, the amendment will put us in a better position to win the war on addiction.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. I am delighted to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I am delighted to compliment and congratulate the gentleman from New York on his amendment. His staff and the staff of the Committee on Energy and Commerce have worked on this amendment to perfect it. It is a good amendment and I commend the gentleman and urge the House to vote for the amendment.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I am delighted to support the amendment of the gentleman from New York.

Mr. Chairman, I wonder if I might take some of the gentleman's time to engage in a colloquy with the gentleman from Florida [Mr. McCOLLUM].

Mr. ACKERMAN. I yield to the gentleman from Ohio for that purpose.

Mr. WYLIE. Mr. Chairman, as part of the legislative history on this important legislation and a supporter of the user-accountability amendment dealing with Federal benefits which passed overwhelmingly on September 8, 1988, I would like to take this opportunity to ask the gentleman from Florida [Mr. McCOLLUM] some questions regarding his intent.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I would be happy to explain the intent of the amendment to my colleague. It essentially provides that individuals convicted of drug or narcotic offenses in certain circumstances are ineligible for certain Federal benefits for 5 to 10 years, depending on the nature of the offense.

Mr. WYLIE. I am particularly concerned about the applicability of this amendment on the housing programs within the jurisdiction of the Banking Committee, of which I am the ranking member; namely, the Public Housing Program, the Federal Housing Administration's Mortgage Insurance programs, Rural Housing under Farmers' Home Administration, and also a similar Veterans' Administration Home Loan Guaranty Program, and GNMA's Mortgage-Backed Securities Program.

Mr. McCOLLUM. The amendment is intended to deny Federal benefits to certain persons convicted of drug or narcotic offenses, including Veterans' Administration entitlement programs such as the Home Loan Guaranty Program if the person has been convicted of distribution of a controlled substance. It is intended to apply to persons using the FHA and public housing programs as well. It is not intended to affect innocent parties, such as lenders and the Government National Mortgage Association. However, I would like to clarify how this amendment would apply to the FHA Insurance Program and the Veterans' Administration Home Loan Guaranty Program. This amendment would make individuals convicted of drug or narcotic offenses in certain circumstances ineligible applicants for FHA and VA programs. I envision regulation which would require such individuals under oath to disclose in writing any such convictions, prior to a determination of their eligibility. The lender and Federal agencies would be entitled to rely on the individual's disclosure, and, once granted, the insurance or guaranty would not be subject to revocation even if the disclosure is later convicted of a drug or narcotic offense. Therefore, mortgage-backed securities would not be affected.

Mr. WYLIE. I assume, therefore, that the Congressman does not intend to penalize innocent third parties or to create significant administrative burdens for private businesses, such as lenders, FHA, GNMA or VA that make Federal programs available.

Mr. McCOLLUM. Innocent third parties should not suffer as a result of this amendment. Further, we do not intend to create a significant administrative burden for private businesses, HUD, or VA.

At the time of application, individuals will certify that they have not been convicted of drug offenses. A false certification will subject the person who makes the false certification to criminal penalties. Under the amendment, the Attorney General and other department and agency heads, will make rules to carry out the amendment, and should consult with each other agencies, such as HUD, FmHA, and the VA, to determine the rules applicable for particular programs. We fully expect that, without imposing undue burdens on lenders or agencies, the amendment will serve to ensure that ineligible individuals are not inadvertently provided with benefits.

Mr. WYLIE. I am also concerned about how this amendment will affect public housing agencies in administering their programs.

Mr. McCOLLUM. This amendment is intended to be an additional tool for the eradication of the problem of drug abuse in public housing. It is not intended to disturb or preempt the preadmission screening PHA's currently have the discretion to perform, including screening potential tenants to determine any past history of drug use or drug distribution and denying admission on that basis. In this process, PHA's may exclude any tenant who has the potential for damaging the project, creating security problems, or interfering with the right of other tenants to have peaceful enjoyment of their property. This amendment is also not intended to interfere with the new lease and grievance procedures for public housing, which permit PHA's to evict tenants for drug-related activities.

The CHAIRMAN. The time of the gentleman from New York [Mr. Ackerman] has expired.

Mr. WYLIE. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. Ackerman] have 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ACKERMAN. Mr. Chairman, I am delighted to continue to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding. This was a very important colloquy in which I was asked to engage by the mortgage bankers, the homebuilders, and the realtors, and I think the gentleman from New York has an excellent amendment. I support it and I appreciate his yielding me the time.

Mr. McCOLLUM. Mr. Chairman, I do too, and I thank the gentleman for yielding to us on his time.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. I am delighted to yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I thank the gentleman from New York for yielding. We have examined his amendment and we think it is a good addition to the bill. We urge its adoption.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. I am delighted to yield to my colleague and friend and neighbor, the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I want to commend the gentleman from New York for his amendment. I think it is good that we have had this exchange between the gentleman from Ohio and the gentleman from Florida, the manager for the minority, on this bill because the amendment of the gentleman from New York seeks to give assistance at least to study the problem that we have and that we want to help in getting rid of drug addition, but we have to make certain that we have the rehabilitation centers to do it.

What is interesting is that while the Republican task force has spoken out a lot about the sticks in terms of what we have to do, I am glad to see that my friend and colleague from New York is talking about a little compassion in getting the job done, and I support the amendment.

Mr. ACKERMAN. I thank the gentleman very much. Carrots are also important.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from New York [Mr. Ackerman].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Oxley: Page 182, after line 24, insert the following:

SEC. 6307. OPERATION STING AMENDMENTS TO MONEY LAUNDERING OFFENSES.

Section 1956 of title 18, United States Code, is amended—

(1) in paragraph 1956(a)(1), by inserting "or has been represented to be the proceeds of some form of unlawful activity", after ", knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity";

(2) by inserting "or has been represented, directly or indirectly, to be the proceeds of specified unlawful activity" after "in fact involves the proceeds of specified unlawful activity"; and

(3) in paragraph 1956(a)(2)(B)—

(A) by inserting "or have been represented to be the proceeds of some form of unlawful activity" after "transportation represent the proceeds of some form of unlawful activity"; and

(B) by inserting in paragraph 1956(a)(2)(B)(i) "or activity that has been represented to be unlawful activity" after "control of the proceeds of specified unlawful activity".

The CHAIRMAN. Pursuant to the rule and the unanimous consent request previously agreed to, the gentleman from Ohio [Mr. Oxley] will be recognized for 5 minutes in support of his amendment.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. Hughes] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Ohio [Mr. Oxley].

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is the so-called money laundering amendment. This amendment is supported by the Treasury Department and the Justice Department. It makes a needed change in the current statutes to allow law enforcement to use socalled sting operations to find money launderers and to deal with them, and hopefully to convict them and to put them away.

The money laundering problem has grown in proportion with the drug problem in this country. In 1983, money laundering was 51 percent of the Federal drug task force cases. By 1987, almost 70 percent of all such cases involved money laundering offenses. The Economist reports that money launderers handled $30 billion a year in laundered money. That is equivalent to the gross national product of the country of Ireland.

We must take strong action and provide law enforcement officials the necessary tools to combat this crime.

Mr. Chairman, the problem with the current statute is this: The language says that the money in question, the so-called dirty money, has to be "in fact" dirty money. This amendment changes the language so that, for example, if an FBI agent wanted to pose as a money launderer, under a sting operation, the money that he uses, which would be Government money, would not be considered to be dirty money. We changed that to allow that sting operation to occur. Sting operations are a relatively new concept in law enforcement that have been very effective in dealing with fencing operations and in dealing with various fraud cases. Sting operations have proven to be successful and, at the same time, proven, Mr. Chairman, to be constitutional. The fact is that the drug business and money laundering really go hand in hand. There are a lot of people out there, a lot of crooks making a great deal of money, that are not even involved with drugs directly but simply washing the money that they were illegally given by drug dealers, and then using that effectively, to wash it through banks and other so-called legitimate businesses.

I think this amendment makes sense. It is just one more step in giving law enforcement a tool in dealing with money launderers in this potential sting operation. I think it makes a good deal of sense, and I certainly ask the House for its approval.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in opposition to the amendment.

Our Subcommittee on Crime wrote the Money Laundering Control Act of 1986, the Money Laundering Penalties Act of 1984 and the money laundering amendments in title VI of the bill. They are very strong laws to fight money laundering. The offenses are extremely broadly written to catch people who launder dirty money.

One of the important things to remember is that the conduct, engaging in financial transactions such as writing a check or making a deposit, is the kind of perfectly lawful activity that Americans engage in every day.

This amendment revises the offenses for which a person can be prosecuted so that a person can be convicted even if no money laundering actually takes place. The amendment is worded so that if the money is perfectly lawful, and the transactions are perfectly lawful, but someone represents to someone—it doesn't have to be the defendant—that the money is the proceeds of unlawful activity, even if the defendant doesn't believe the money was the proceeds of unlawful activity, a conviction can still take place.

The amendment goes too far.

In June, Richard Gregorie, the chief assistant U.S. attorney for the Southern District of Florida, a 16-year veteran of the Department of Justice, and the recipient of numerous awards from the Attorney General for his excellent work, testified before the Subcommittee on Crime in Miami at our hearing on the drug problem in south Florida.

I asked him about this particular amendment. He said that "there are a great deal of dangers with this type of operation." He pointed out that the way to address the problem that the Oxley amendment is designed to solve is through the use of a carefully drafted conspiracy offense which would apply to the structuring of a money laundering scheme. This amendment does not create such an offense.

Chief Prosecutor Gregorie pointed out that if in addition to showing that there were representations—as is all that is required by this amendment—there were a requirement to show that the defendent demonstrated reliance upon the representations through a course of conduct we would probably have an acceptable statute, but he added, and I quote:

> I think, however, there has to be careful consideration of the entrapment issue and I think that any legislation that you create should take into consideration because the fine line between abusing the statute and actually using it to catch people involved in money laundering is a very gray area and on that you have to be very careful of. What I am trying to tell you is that in any legislation that you create, you have got to be careful to take into consideration that you do not entrap legitimate businessmen as opposed to ensnaring those involved in the business of money laundering.

One of America's most experienced career Federal prosecutors says that there are very serious problems with this amendment.

Money laundering is completely different than a drug case. You can't prosecute someone for selling cocaine when the powder is actually cane sugar. You can prosecute them for an attempt or for a fraud in that case. You should not be able to prosecute someone for money laundering just because that person engages in an otherwise normal, lawful transaction and a third party says to someone else that the money is dirty. That is not money laundering.

Mr. Chairman, I was a prosecutor for 10 years before I was elected to Congress. It has always been hard to investigate crime. I have striven, in my 8 years as chairman of the Subcommittee on Crime, to make it easier to investigate and prosecute actual crimes. This amendment however, allows the conviction of persons for what I believe is an incomplete definition of a crime, a half crime, if you will.

In the next Congress, the Crime Subcommittee will look closely at just how the 1986 Money Laundering Control Act is working in practice, and we will consider the ways in which we need to modify the act. There is no hearing record on this amendment except that it is a defective amendment.

This amendment does violence to the money laundering law, and I urge that the amendment be rejected.

□ 1345

Mr. OXLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL] the chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. I rise in support of the amendment and would like to commend the gentleman from Ohio [Mr. OXLEY] who has worked on so many issues concerning addiction and also trying to control the drug problem that we have in our Nation, and in our country.

I think it is very important as we concentrate our effort on international drug traffickers, abusers, pushers, that we realize that in this country we have so many people who pass themselves off as business people who are just as corrupt as those bums that we find pushing drugs, themselves, on the street; that we find so much of the financing of the drug market being done by so many business people in different communities even to the extent that we know that many of our banks and bankers are directly involved in drug trafficking by financing these types of things. So when we talk about sting operations and giving the Justice Department additional legislation to work with and actually getting involved with the laundering of money, I think that this is really an additional tool that is needed in our fight against corruption and in our fight against drug control.

So I thank the gentleman for yielding and thank him for the great contribution that he has been making on the Select Committee on Narcotics Abuse and Control as well as to the Congress in general.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would commend my chairman, the gentleman from New Jersey [Mr. HUGHES]. I am on the subcommittee also. The subcommittee chairman has been a real leader in the fight against drugs; also my friend and colleague from Florida [Mr. MCCOLLUM].

The point is we need to take the profits out of drug deals. The people who are laundering the money may drive big cars and they may dress nice but those who are laundering the money are just as bad as those who are selling it. In fact, they are the ones providing the fuel to the sinister engine that is in fact destroying our children. Something needs to be done with this. This may not go as far as we would like it to go, in some of our opinions, but in fact I would like to congratulate the gentleman from Ohio, because I think this is a step in the right direction.

We need to get tough on those people who are laundering the money and making this a profitable enterprise.

So I congratulate the gentleman and hope for the passage of the amendment.

Mr. OXLEY. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, in summarizing on our side, I would like to point out that in a letter dated September 8 to me from the Department of Justice under the signature of Thomas M. Boyd, acting Assistant Attorney General, he endorses my amendment. He is right on the money, I think, when he says that the amendment "is a useful tool of a sting operation available in money-laundering investigations."

Mr. Chairman, this is a small but important part of law enforcement. The sting operations that we have witnessed are effective and I would ask the amendment be adopted.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. Hayes].

Mr. HAYES of Louisiana. Mr. Chairman, there is no distinction between those who put drugs into commerce and those who in turn put their ill-gained profits into commerce with the possible exception that the pusher on the street does not pretend to have either dignity or the trust of the public. With this in mind I strongly support the amendment both as a former assistant district attorney, as the former commissioner of financial institutions for the State of Louisiana and I commend the gentleman for offering it.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Just briefly, in closing, Mr. Chairman, I think that sting operations are extremely important. Frankly I think this could be cleaned up to make it perfectly acceptable if in fact it provided some reliance on the part of the defendant. This does not in fact require reliance; all it requires is some representation that it is dirty money.

For that reason I think that the amendment is flawed.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Ohio.

Mr. OXLEY. I thank the gentleman for yielding.

Mr. Chairman, having said that, I would certainly be willing to work with the gentleman in conference if it comes to that.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. Oxley].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Hughes: Page 374, after line 8, insert the following new section (and redesignate subsequent sections accordingly):

SEC. 10019. PROHIBITED DISTRIBUTION OF ANABOLIC STEROIDS.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following new subsection:

"(e) Whoever distributes or possesses with the intent to distribute any anabolic steroid for any purpose other than the treatment of disease pursuant to the order of a physician shall be imprisoned for not more than three years, or fined under title 18, United States Code, or both.".

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. Hughes] will be recognized for 10 minutes in support of his amendment.

Mr. BLILEY. Mr. Chairman, I rise to claim the time for this side.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. BLILEY. No, Mr. Chairman, the gentleman is not.

The CHAIRMAN. Is there a Member opposed to the amendment?

Without objection, the gentleman from Virginia will be recognized for 10 minutes in support of the amendment.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on behalf of myself, the gentleman from California [Mr. Lungren] and the gentleman from Louisiana [Mr. Baker].

Mr. Chairman, this amendment would make it a felony to distribute anabolic steroids for any purpose other than the treatment of disease and pursuant to a physician's prescription. This amendment is designed to curb one of the less publicized but very serious drug abuse problems our society faces—the abuse of anabolic steroids.

Anabolic steroids are synthetic and modified versions of the male sex hormone testosterone. This anabolic steroids are taken in enormous doses and can enable athletes to increase their strength and increase their body size. This type of use of these drug poses very serious risks of major physical damage to the drug user from liver damage, reproductive damage, and heart disease. There is also a significant potential for psychological dependence.

The Subcommittee on Crime heard shocking testimony this summer that abuse of these drugs has spread so rapidly among our youth that 7 percent of male high school seniors have reported current or previous anabolic steroid use—this amounts to between 250,000 to 500,000 high school age students injecting or swallowing these black market drugs. We heard that 40 percent of these drug users started using these drugs before they were 16 years old. Even more disturbing is the evidence that 38 percent of the surveyed high school steroid users reported that they had injected steroids. Think about the implications of 38 percent of the high school steroid users—kids who are trying to make athletic teams, in the midst of their adolescent growing years—injecting black market drugs.

These drugs are being distributed through clandestine criminal channels. Children using steroids get exposed to the syndicates that push amphetamines, cocaine, heroin, and marijuana.

The current law contains inadequate misdemeanor penalties for those who criminally traffic in steroids. This amendment would make such medically unsupervised drug trafficking a felony and would encourage law enforcement officials to give greater, and overdue, attention to this type of drug trafficking.

This amendment is consistent with section 10018 of the bill, developed by the Energy and Commerce Committee, which treats convictions under the Food, Drug and Cosmetic Act as felonies under the Controlled Substances Act for the purpose of criminal forfeiture of the drug traffickers profits.

We want to make it very clear to the Food and Drug Administration and to the Department of Justice—this is a very serious aspect of of our Nation's drug problem and we want intense enforcement of the law against this type of crime.

As the United States participates in the summer Olympics in Seoul, Korea, this is an especially appropriate time to state clearly to our amateur and professional athletes that the use of anabolic steroids corrupts the integrity of fair athletic competition. This amendment tells our young athletes if you admire the olympians, you don't do drugs. This amendment tells athletes that if they are using anabolic steroids they are conspiring with felons to obtain those drugs and they risk prosecution.

I want to commend Dan Lungren and Richard Baker for their leadership in addressing this issue. They have both introduced bills and contributed greatly to our hearings on this subject.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. Baker].

Mr. BAKER. I thank the gentleman for yielding.

Mr. Chairman, I rise very much interested in this matter. I want to commend Chairman HUGHES for his willingness to call hearings on this matter and for allowing Mr. LUNGREN and me to testify and express our concerns for the abuse of anabolic steroids among professional and amateur athletes and youngsters of this country as well.

Recent NCAA studies have concluded that in some 25 universities, after researching the use patterns by professional and amateur athletes, that up to one-third of the athletes in some universities were using, by injection, anabolic steroids.

Perhaps most distressing is the discovery that since 1 year ago when a similar research project was conducted, the use of anabolic steriods has increased almost eight times in such institutions.

Also recently released was a study indicating that steroid users who have been subject to followup analysis, indicate certain personality problems from continued use of steroids, reporting in some instances actual addiction, from manic depressiveness to hallucinations.

Steroid usage we know now is certainly not good for anyone. Although it is held out to be a way for significant strength and weight gain opportunities, it is not in the long-term best health interest of these athletes.

Of equal concern is the fact that now there are reports that indicate liver damage and sterility may result from prolonged long-term steroid abuse.

But there are still those who say that professional athletes should have the right to use these drugs, that it is his choice, that it is his life and his athletic opportunities that are at risk. Some may agree with that philosophy. I do not. I think that amateur and professional athletics ought to be measured by one's own self-sacrifice and hard work and not the result of some pharmaceutical achievement.

Beyond that question, however is the fact that many of our youngsters today in high school pick up health magazines, flip to the back of that advertisement section and find a miracle drug that will enable a person to enhance his strength or significantly gain weight thinking that it will be a harmless addition to their physical capabilities.

Unfortunately, regrettably many youngsters today use these drugs without parental knowledge, certainly without a doctor's advice.

In my judgment, the adoption of this amendment will go a long way toward resolving that problem.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. BAKER. I yield to the gentleman from Arkansas.

Mr. ANTHONY. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman for an excellent statement.

Mr. Chairman, I was prepared to make a speech in favor of the Hughes amendment, but the gentleman from Louisiana has so dramatically laid out the problem and I would like to accept and endorse and compliment the gentleman for his forceful and correct statement and I ask the House to accept this amendment.

Mr. BAKER. I thank the gentleman and I certainly appreciate his remarks. Certainly, we know this is a problem where we just begin to touch the tip of the iceberg. And as the unfortunate information develops, I am certain we will find that the use of anabolic steroids is widespread and serious. I commend the chairman for his willingness to adopt this legislative effort to curb the problem.

□ 1400

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, within a couple of months I will be leaving this House after having spent 10 years here. Several months ago, someone asked me if there was anything else I wanted to achieve before I left here, and I did say there was one issue that I was not certain I would be able to do anything about but that I hoped I would be able to make a beginning on, and that was the problem of antibiotic steroids and their abuse.

This has been a concern of mine for some time, not only because I have a son who is in high school and in athletic competition there but because the abuse of antibiotic steroids has become so apparent across this Nation.

If one were to go into virtually a majority of weight-lifting facilities around the country, it is a fairly easy proposition for one to discover an ability to obtain antibiotic steroids. We had testimony before our subcommittee that one steroid now used by some in certain sports is equipoise. That happens to be a drug created for racehorses. It is considered to be so powerful that when given to racehorses, it is calculated on the body mass of the racehorse in order to figure out the dosage, and because it is so powerful, it is only given very infrequently, perhaps once every 3 weeks, and the reports are that athletes may be using 10 times as powerful a dosage as given to these large racehorses, and it may be given several times a week, in other words, in amounts that, if given in a study, would be considered inhumane. Many of these people are using it because they only see the upside of it, not the downside and within the competitive atmosphere of some athletic competitions, some believe it is necessary to use. Somehow we have got to stop that. When it has gotten so bad that 7 percent of all high school males are now using steroids, some not only for athletic reasons but just to look better, with all the inherent problems that exist with that use, we have got to do something.

The amendment offered by the gentleman from New Jersey [Mr. HUGHES] would for the very first time create a separate offense under the FDCA, making it a felony for the distribution of antibiotic steroids without a prescription.

Mr. Chairman, this is just a start. We will probably have to go further, but it is an important start. Hopefully, this will allow the FDA to inquire of pharmaceutical houses as to the amount of steroids they produce. It would be interesting to see a study done on the amount of steroids produced by the pharmaceutical houses of America versus the number of people in the population that have ailments for which prescriptions are appropriate. I believe that the amount put out on the market today is far in excess of that, which suggests that it is not only illegally produced antibiotic steroids that are a problem but some that are properly produced and put into the marketplace and then basically used inappropriately, if not illegally administered. So this is a serious problem for us to address.

A recent article concerning the problem of steroid use in Orange County, CA, indicated that some students find this is the entry level into illegal drugs of a different sort, that if they are inculcated with the value that all one has to do is feel better, all one has to do to build himself up, all one has to do to compete successfully is to take a drug by injection, it is a very easy step then to take care of all their problems with drugs. We have to defeat that idea.

This is a problem that unfortunately is only now getting serious attention by the professional athletic associations of America, but it is something that frankly has been winked at for some time. A coach who tells an athlete that "Within 30 to 60 days you have to gain 30 pounds of muscle" has to know that the only way you can do it is with pharmaceutical assistance. You cannot say to somebody, "Eat all the raw eggs you want, drink all the milk you can, work out, and in 6 weeks you will gain 30 pounds." That type of attitude which winks at the use of steriods in America has got to be stopped.

This amendment will help. At least it will make us take the first step in addressing that problem.

Mr. Chairman, I want to commend the chairman of the subcommittee for seeing this through. I know he was as surprised as I was at the depth of the testimony and the breadth of the testimony we received on this subject. It is far greater than we expected. It is just one of those sub rosa problems that has been too long ignored, and it must now be addressed.

Mr. Chairman, I want to thank the subcommittee chairman for his efforts. I hope we will have a unanimous vote in favor of this particular amendment.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Berman.]

Mr. BERMAN. Mr. Chairman, I rise in support of the amendment, but my purpose in seeking recognition is to engage the chairman of the Subcommittee on Crime in a colloquy.

The gentleman from New Jersey deserves special notice and great credit for helping me and my colleagues in southern California in recently persuading the DEA to set up a drug task force in Los Angeles to fight the war on drugs.

As the gentleman is well aware, increasing evidence suggests that Los Angeles has become the city of choice for the drug underworld. Los Angeles is now the major entry point in the United States for heroin and cocaine. Moreover, the DEA has recently linked top-level Colombian cocaine smugglers with Los Angeles gang members.

The weaponry and violence of these gangs is unprecedented. In the past 5 years, there have been 1,400 gang-related murders in Los Angeles, and Uzi machineguns and AK-47's have been confiscated in an alarming number in drug arrests.

The Los Angeles gangs have expanded their drug trafficking activities throughout California, and it has been recently reported that they are now operating in 45 cities across the Nation. I am concerned that, unless an all-out effort is employed to stop the spread of the Los Angeles drug gang activity, the gangs will set up a criminal enterprise and structure similar to that of the Mafia.

While I am encouraged by the DEA's recent action to add eight additional agents to be a part of the larger drug task force in Los Angeles, I think we both know much more needs to be done.

It is my strong belief that Los Angeles drug task force should be designated a very high priority to receive funding when the money authorized in this bill is eventually allocated.

Would the gentleman agree that the Los Angeles drug task force needs to be expanded in order to adequately combat the serious drug-gang problem, and deserves priority funding when the money from this bill is allocated?

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the subcommittee chairman.

Mr. HUGHES. Mr. Chairman, the answer to the question is "Yes." After speaking to you, to Congressman Levine, and Congressman Moorhead and talking to the Director of the DEA, John Lawn, and after closely following this problem as chairman of the Judiciary Subcommittee on Crime, I strongly agree with you that the Los Angeles drug task force needs to expanded if we are to stop the spread of the Los Angeles gangs and their drug trafficking activities. The Los Angeles drug-gang problem presents one of the most serious impediments to our national war against drugs, and I will work with you and your colleagues in southern California, along with the DEA, to make sure that the Los Angeles drug task force gets increased funding.

Mr. Chairman, I might say to the gentleman that we have an additional $9 million to expand the organized crime drug enforcement task forces. The Foley amendment will include some language that will set aside some of the forfeited funds for five functions. One of them, of course, is the organzed crime drug enforcement task forces operations which give us more bang for the dollar.

Frankly, Los Angeles needs as much attention as any section of the country. It is a serious problem. That gang problem has spread throughout the entire Western part of the country, and I assure the gentleman we will work with him and his colleagues to see that they get the resources they need.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding me the time and, more importantly, for his statement in support of what we are trying to accomplish.

Mr. BLILEY. Mr. Chairman, I have no further request for time, and I urge the adoption of the amendment.

Mr. HUGHES. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the statement offered by the gentleman from New Jersey [Mr. Hughes].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Bliley: Page 341, strike line 14 and all that follows through page 356, line 5, and insert the following:

SEC. 10006. DRUG TESTING CERTIFICATION PROGRAM REQUIREMENTS.

(a) In General.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a procedure to be used to (1) certify certain clinical laboratories that analyze and determine the results of drug tests conducted by other entities or individuals, and (2) ensure that such laboratories maintain high quality and appropriate security concerning the results of such tests.

(b) Requirements.—Under the procedures established under subsection (a), a laboratory that conducts drug testing shall, as determined under guidelines prescribed by the Secretary of Health and Human Services—

(1) meet the mandatory guidelines, or be determined by the Secretary of Health and Human Services to have met the mandatory guidelines, established by the Secretary under subclauses (I) and (III) of section 503(a)(1)(A)(ii) of the Supplemental Appropriations Act, 1987, or

(2) have been inspected and accredited by a national accrediting body approved for such purpose by the Secretary.

(c) Spending Restriction.—

(1) The Secretary of Health and Human Services may not expand any Federal funds for any part of the certification of laboratories to conduct drug testing of Federal employees. Costs associated with such certifications shall be the responsibility of the laboratories seeking the certification.

(2) Paragraph (1) does not limit the authority of the Secretary to expand Federal funds to administer and provide oversight of the clinical laboratory certification process.

The CHAIRMAN. For what purposes does the gentleman from Michigan [Mr. Dingell] rise?

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment. I am opposed to the amendment in its present form, and I ask that I be granted the 15 minutes in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. Dingell] will be recognized for 15 minutes.

The Chair recognizes the gentlemen from Virginia [Mr. Bliley] for 15 minutes in support of his amendment.

MODIFICATION OF AMENDMENT OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Chairman, I ask unanimous consent to modify the amendment and offer the amendment that I have at the desk in its revised form.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read the modification, as follows:

Amendment offered by Mr. Bliley, as modified: Page 341, strike out line 14 and all that follows through line 5 on page 356 and insert in lieu thereof the following:

SEC. 10006. STANDARDS FOR CERTIFICATION OF LABORATORIES ENGAGED IN DRUG TESTING.

(a) Certification Program.—Title V of the Public Health Service Act is amended by adding at the end the following:

"Part E—Drug Testing

"certification program

"Sec. 551. (a) Not later than one year after the date of enactment of this part, the Secretary shall, by regulation, establish a program (hereinafter referred to in this part as the 'certification program') for the certification of laboratories for the performance of toxicological urinalysis conducted for drug testing programs. The certification program shall, to the maximum extent practicable—

"(1) conform to the mandatory guidelines for Federal workplace drug testing programs published on April 11, 1988, by the Alcohol, Drug Abuse, and Mental Health Administration at 53 Fed. Reg. 11979 (hereinafter referred to in this part as the 'ADAMHA guidelines'), and

"(2) treat any person conducting a drug testing program in the same manner as the ADAMHA guidelines treat the Federal agencies to which they are applicable.

"(b)(1) The certification program established by the Secretary under subsection (a) shall, in addition to the requirements of subsection (a)—

"(A) allow access by any test subject, upon written request, to any record relating to the results of such subject's drug test and to any record relating to the result of any relevant certification, review, or revocation of certification proceeding,

"(B) provide that the Secretary shall, in considering applications for certification under the certification program, consider whether the applicant has owned or operated a laboratory which has had its certification revoked under the program,

"(C) provide that the Secretary may approve private, nonprofit accrediting bodies to act on the Secretary's behalf in implementing the certification program in accordance with the requirements of this section,

"(D) provide that the Secretary shall oversee and review the performance of any accrediting body acting on the Secretary's behalf to ensure its compliance with the requirements of the certification program, and

"(E) provide that the Secretary shall have the right to obtain from an accrediting body acting on the Secretary's behalf and from any laboratory that may be certified by such a body all records and materials that may be necessary for the oversight and review required by subparagraph (D).

"(2) A laboratory may not be certified to perform drug testing under the certification program established under subsection (a) unless the laboratory is licensed or accredited under section 353. The Secretary may exempt from the requirement of this paragraph a laboratory which only performs toxicological urinalyses if the Secretary determines that compliance with the requirements of the certification program by the laboratory would necessarily result in compliance with the license requirements of section 353 by the laboratory.

"SANCTIONS

"SEC. 552. (a) No person may perform any toxicological urinalysis in connection with any drug testing program unless that person is a laboratory which is certified by the certification program established under section 551.

"(b) It shall be unlawful for any person—

"(1) who is not a test subject and who has been directly or indirectly involved in a drug testing program or a toxicological urinalysis under such a program, to knowingly disclose the results of a toxicological urinalysis in connection with any drug testing program, except as provided in the certification program established under section 551,

"(2) to knowingly—

"(A) alter or falsely report the results of a toxicological urinalysis, or

"(B) adulterate any urine specimen (other than a specimen spiked for use in a proficiency challenge), in connection with any drug testing program or proficiency challenge,

"(3) except in connection with epidemiological, biomedical, or other medical research in which the identity of a test subject is unknown, to knowingly perform or cause to be performed on a urine specimen a test for any medical condition or any substance other than drugs or alcohol without—

"(A) the consent of the test subject following disclosure to the test subject of the medical condition or substance for which testing will be performed, or

"(B) the consent or direction of a physician treating such test subject,

"(4) in the case of a toxicological urinalysis, to take any adverse action against any test subject based, in whole or in part, upon a positive result that has not been accurately verified by a confirmatory test—

"(A) which uses gas chromatography/mass spectrometry, or

"(B) which, after the establishment of the certification program under section 551, is performed in accordance with the requirements of such program, and

"(5) to knowingly fail to administer or conduct any toxicological urinalysis or drug testing program in accordance with the requirements of the certification program established under section 551.

"(c) A person who violates subsection (a) or (b) shall be subject to one or more of the following sanctions for each such violation:

"(1) Assessment by the Secretary of a civil penalty of not less than $1,000 nor than $10,000, taking into account the previous record of the person under subsection (a) or (b) and the gravity of the violation.

"(2) Imprisonment for not more than 3 years, or a fine under title 18, United States Code, or both.

"CIVIL ACTIONS

"SEC. 553. (a) Any test subject who is tested or whose test results are handled in violation of, or is deprived of rights under, subsection (a) or (b) of section 552 or the certification program established under section 551 may institute a civil action in any district court of the United States of competent jurisdiction for appropriate legal and equitable relief, including employment, reinstatement, promotion, the payment of lost wages and benefits, and damages. The costs of suit, including a reasonable attorney's fee, shall be allowed to a prevailing party. Such an attorney's fee shall be allowed in the manner in which attorney's fees are allowed under the last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988). It shall not be a defense to such an action that the plaintiff has waived the rights or protections provided for in this section or such certification program or has otherwise consented to a violation described in subsection (a) or (b) of section 552 or that the defendant acted in good faith. No action may be instituted under this subsection after the expiration of 2 years from the date the person discovers the violation or deprivation.

"(b) The Secretary may bring an action to restrain violations of section 552. In any action brought under this subsection, the district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with section 552, including such legal or equitable relief incident thereto as may be appropriate, including employment, reinstatement, promotion, and the payment of lost wages and benefits.

"(c) Any person conducting a drug testing program who takes any adverse action against any test subject based, in whole or in part, upon a report by a laboratory of a positive test result which is thereafter found to have been a false positive result and who consequently is held liable under subsection (a) or (b) for damages or other sums may institute a civil action for indemnification against such laboratory in any district court of the United States of competent jurisdiction. No action may be instituted under this subsection after the expiration of one year from the date on which a judgment under subsection (a) becomes final.

"CONSTRICTIONS

"SEC. 554. (a) Nothing in this part limits the authority—

"(1) of the Secretary to permit or require accrediting bodies described in section 551(b)(1)(B) to maintain, or

"(2) of any test subject or duly authorized representative of a test subject to contract for, standards, procedures, or requirements more protective of the rights of test subjects than those provided under section 552 or in the certification program established under section 551.

"(b) To the extent that section 552 or the certification program established under section 551 imposes more stringent standards, procedures, or requirements on—

"(1) the Secretary,

"(2) laboratories performing toxicological urinalysis, or

"(3) person conducting drug testing programs, such standards, procedures, or requirements shall supersede and replace those provided by the ADAMHA guidelines and by any statute, rule, regulation, executive order, or other law in effect on the date of the enactment of this part.

"STATE LAW

"SEC. 555. No State or local government shall adopt or enforce any law, rule, regulation, ordinance, standard, or order which addresses any matter which is regulated by this part.

"FEES

"SEC. 556. The Secretary shall require the payment of fees by a laboratory for certification and recertification in such amounts as the Secretary may, from time to time, determine are necessary to recover the cost of granting or denying such certification or recertification under the certification program established under section 551. The Secretary shall also require the payment thereafter of annual fees by certified laboratories in such amounts as the Secretary may, from time to time, determine are necessary to recover the cost of ongoing testing, inspection, and other supervisory activities with respect to certified laboratories under this part and such certification program.

"DEFINITIONS

"SEC. 557. As used in this part—

"(1) the term 'blank specimen' means a urine specimen containing no drug,

"(2) the term 'controlled substance' has the meaning given to it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

"(3) the term 'drug' means any controlled substance (other than a controlled substance used pursuant to a valid prescription) and any metabolite of a controlled substance,

"(4) the term 'drug testing program' means any program or policy under which 2 or more individuals are, or can reasonably be expected to be, required or requested to submit urine specimens for toxicological urinalysis, but such term does not include—

"(A) any program for toxicological urinalysis—

"(i) administered by the armed forces (as defined in section 2101(2) of title 5, United States Code) or the intelligence community (as defined in Executive Order 12333 of December 4, 1981), or

"(ii) involving the testing of arrestees, detainees, probationers, incarcerated persons, or parolees in the criminal justice system, and

"(B) the submission to a laboratory of any urine specimen by an individual's physician in the regular course of diagnosis or treatment,

"(5) the term 'false positive result' means a report in connection with any toxicological urinalysis of the presence of a drug in a urine specimen in which that drug is not in fact present,

"(6) the term 'person' includes the Federal Government, a State or local government, or any agency of such a government,

"(7) the term 'proficiency challenge' means a test of a laboratory's ability—

"(A) to identify correctly whether a urine specimen contains a quantity of a drug, and

"(B) in the case of a spiked specimen, to identify correctly a quantity of any drug in that specimen,

"(8) the term 'spiked specimen' means a urine specimen into which a quantity of a drug or drugs has intentionally been placed for use in a proficiency challenge,

"(9) the term 'test subject' means an individual who has been required to submit a urine specimen for toxicological urinalysis in connection with a drug testing program, and

"(11) the term 'toxicological urinalysis' means the performance of any analytical procedure or set of procedures on a urine specimen to identify the presence in that specimen of any drug and the mount thereof.".

(b) EFFECTIVE DATE.—Part E of title V of the Public Health Service Act, added by subsection (a), shall take effect on the date of the enactment of this Act, except that subsections (a), (b)(1), and (b)(5) of section 552 of such part shall take effect one year after the date the Secretary of Health and Human Services establishes the laboratory certification program under section 551 of such part.

Mr. BLILEY (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the revision or of the the amendment, as modified, be dispensed with, and that the amendment, as modified, be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I will not object. My reservation is for the purpose of permitting the distinguished gentleman from Virginia [Mr. BLILEY] to explain the modification and the circumstances leading thereto.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my dear friend, the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, it was obvious that Congressman DINGELL's and my original language were in direct conflict with regard to drug testing and clinical laboratory standards. During the past week, the gentleman from Michigan and I have been working diligently to resolve our differences. Because we have the common goal of insuring the highest quality and standard of testing, we were able to work out the major differences and agree on the language I am offering today.

This compromise is neutral on the issue of drug testing. Existing compulsory drug testing programs are not affected. The laboratory standards are stringent, yet reasonable. This amendment promotes reliable laboratory results without being overly punative. It is truly a bipartisan effort and I applaud the chairman for his willingess to respond to my concerns.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia to dispense with the reading of the modification?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia to modify the amendment?

Mr. DINGELL. Mr. Chairman, reserving the right to object, let me say that the distinguished gentleman from Virginia [Mr. BLILEY] was a complete gentleman in this matter, as he is in all matters. We each had concerns, concerns that I felt were important not only having to do with workable testing but also to protect the rights of the persons tested. The gentleman from Virginia had the same feelings and manifested them during the very harmonious and fine way in which not only he and I worked together but in which our very able staffs worked together.

The amendment is a good one and, as modified by the agreement and as modified by the distinguished gentleman from Virginia, I do enthusiastically support it. I urge my colleagues to do likewise.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia to modify the amendment?

There was no objection.

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] is recognized for 15 minutes in support of his amendment, as modified.

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I developed my original amendment because of my deep concerns that the original provisions of H.R. 5210 could be interpreted to prohibit involuntary drug testing—including drug-testing programs currently in place and under consideration. This would eliminate drug-testing programs such as the mandatory railroad drug testing legislation, H.R. 4748, which passed the House on Tuesday. I was also concerned that the laboratory certification requirements were so restrictive that very few, if any, laboratories would be able to meet them. My original amendment would have deleted the existing section on laboratory certification in H.R. 5210 and substituted language to extend to the private sector the existing Federal guidelines governing the certification of laboratories engaged in drug testing of Federal employees.

I brought my concerns to the attention of the distinguished chairman of the Energy and Commerce Committee, and I am pleased that he and I have been able to develop the compromise to be presented today. I think both the chairman and I learned from each other in this process, and we both modified our original positions to achieve what I believe is a very satisfactory solution to both sides.

My modified amendment reflects this compromise. Under this amendment, uniform Federal minimum standards for the certification of drug-testing laboratories would be established. All individuals who undergo drug testing would be entitled to the same protections that are now afforded to Federal workers, that is, to have their tests analyzed by laboratories that meet minimum quality standards. This amendment also provides reasonable remedies against violations of tested individuals' rights, including such remedies for breaches in confidentiality. These remedies are very similar to those the House passed on Tuesday as part of H.R. 4748, the Railroad Drug Abuse Prevention Act of 1988. It is important to note that my amendment deletes any language in H.R. 5210 that would have affected the circumstances under which drug testing could occur. It is neutral with respect to the application of drug testing. Existing compulsory drug-testing programs are not affected.

I thank my distinguished chairman for his willingness to respond to my concerns. Moreover, I am pleased that we were able to work out a mutual solution that I believe represents sound public policy. My modified amendment will establish reasonable yet rigorous quality standards for drug-testing laboratories. This will ultimately enhance the integrity and effectiveness of our drug testing programs.

I urge my colleagues to join me in supporting this amendment.

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Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is the gentleman from Michigan [Mr. DINGELL] opposed to the amendment?

Mr. DINGELL. Mr. Chairman, I yield myself 5 minutes, and I will immediately be yielding thereafter to my dear friend, the gentleman from New York [Mr. SCHUMER].

Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. Does the gentleman from Michigan [Mr. DINGELL] ask unanimous consent to be given the time?

Mr. DINGELL. Mr. Chairman, I understood that I had 15 minutes.

The CHAIRMAN. The gentleman was given the time under the understanding that he was opposed to the amendment. It has now been modified. The gentleman may ask for unanimous consent.

Mr. DINGELL. Then I ask unanimous consent, Mr. Chairman, that I may have the 15 minutes, which I will not use in its entirety.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend the gentleman from Virginia [Mr. BLILEY] for the modified amendment he is offering today. I also want to thank him for the close cooperation and good faith he has exhibited in working out our differences on the subject of laboratory standards for drug testing.

This compromise amendment represents sound public policy, appropriately balancing the rights of test subjects with the practical concerns that the gentleman from Virginia originally expressed. As a result of our negotiations, we have agreed on a package that I can wholeheartedly support.

I believe that the gentleman from Virginia would agree with me when I say that this is an area that cries out for legislation. We have seen in our committee, and particularly in the Oversight Subcommittee, evidence of slovenly procedures used by drug testing laboratories.

We have seen inattention to necessary quality control.

We have seen rampant abuse and unfairness on the part of employers who engage in drug testing, sometimes without adequate knowledge and understanding.

And we have seen the tragic consequences that befall victims of false positives, who often have no remedy against sanctions based on scientifically unreliable results.

The modified Bliley amendment addresses all of these concerns. We provide that there shall be one minimum standard, below which no laboratory or accrediting body may fall—and that is the standard set by HHS for drug testing in the Federal workplace.

Under that HHS standard, the Secretary will be responsible for examining each and every false positive result found in blind proficiency testing to determine what sanction to apply to a lab in each case. In appropriate cases, the lab's certification may be revoked or suspended.

The Secretary will, under this compromise, have the discretion to approve private accrediting bodies to act on his behalf in performance of lab certification. But the Secretary will have the corresponding responsibility to oversee and review the performance of such private bodies to ensure that they act in compliance with the HHS standard, and nothing less than that.

And perhaps most importantly, we explicitly mandate under the modified Bliley amendment that once this lab certification program is up and running, people doing drug testing must use certified labs, and only certified labs.

We have also retained several critical provisions ensuring the rights of test subjects:

To confidentiality;

To integrity of the specimen and the results of a test;

To the privacy of information about one's medical conditions or legal medications;

To have every drug test confirmed using the proper state-of-the-art technology; and

To enforce these rights in Federal court.

It has been my pleasure to work with the gentleman from Virginia [Mr. BLILEY] to achieve this fair, balanced, and responsible compromise. I want to thank him again and reiterate my respect and affection for him.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the chairman for yielding, and let me first congratulate both the gentleman from Virginia [Mr. BLILEY] and the chairman of the committee, the gentleman from Michigan [Mr. DINGELL] on the compromise language.

Mr. Chairman, I have long been concerned with inaccurate testing in the drug area. Inaccurate tests are a huge problem which we too often ignore. I became interested in the problem several years ago when I learned that studies showed that some labs had error rates as high as 50 percent.

Mr. Chairman, at hearings which we set up we found that people had gotten wrong results on their tests, had lost their jobs, been ostracized from their communities and their churches and had never once touched drugs. That is because, my colleagues, there is a cheap test that can be done that has a huge inaccuracy rate. There is a far more expensive test that can be done which has a very low inaccuracy rate, and without any kinds of regulations most employers will just choose the cheap test, and, even if 1 in 20 people who never use drugs would come out positive, they lose their jobs and have a permanent blot on their records.

Mr. Chairman, that is not testing for drugs. That is rolling dice with someone's career.

This legislation incorporates many of the ideas, I believe, which are central to a fair testing program such as guaranteed, confirmed tests. That is, if the first test comes out positive, going to the second test for a higher standard and higher standards for lab certification because, if we are going to fight the war on drugs, my colleagues, let us be sure we are shooting at our enemy, not at innocent bystanders.

Mr. Chairman, today I released a GAO report that shows that over half the States have no regulations on drug testing laboratories. That is what this legislation tries to undo. With the number of tests doubling in the country in the last 6 years, there are many people out there, such as the woman I mentioned, Juanita Jones, struggling to clear their names. If we are going to fight a war on drugs, let us make sure we are shooting at the enemy.

The legislation, the compromise legislation crafted by the gentleman from Michigan [Mr. DINGELL] and the gentleman from Virginia [Mr. BLILEY] goes a long way toward meeting that goal, and I compliment both gentlemen on it. I fully support the legislation.

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. PICKLE] to engage in a colloquy with the gentleman from Virginia [Mr. BLILEY].

Mr. PICKLE. Mr. Chairman, I wish to pose a question to either the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], or for the gentleman from Virginia [Mr. BLILEY].

Mr. Chairman, I think we all support the need for high certification standards for laboratories which engage in testing of drug samples, and none of us want to weaken those general provisions. However, operators of laboratories in my district have raised some questions about the impact of the language, and I would like to address this question to them.

Some laboratory operators say that the language now included in the bill will automatically and permanently suspend from the testing program any lab that reports even a single false positive result without an opportunity for either an appeal, or recertification or reinspection. My question is: Was this intended?

Mr. Chairman, I believe the gentleman has modified his amendment. I want to be sure that the laboratories, when something like this situation arose, would have a right of appeal. Could the gentleman comment what is the status of this type of provision?

I yield to the gentleman from Virginia [Mr. Bliley] for his answer.

Mr. BLILEY. Mr. Chairman, I thank the gentleman from Texas [Mr. Pickle] for yielding.

Mr. Chairman, that is the purpose for which I offered the amendment in the first place, to deal with the gentleman's question. And what it does under the modified amendment is that laboratories that make an error are subject to due process instead of immediate suspension or revocation. They have an appeal. If they are found guilty after a period of time, they may reapply for recertification.

So, Mr. Chairman, all of their rights are protected, just like anybody else that is charged with a violation.

Mr. PICKLE. All right.

Then I am assuming, Mr. Chairman, that the lab affected directly or indirectly would have a chance to make an appeal if that opportunity needed to be presented.

Mr. BLILEY. The gentleman from Texas is correct.

Mr. PICKLE. Mr. Chairman, I thank the gentleman from Virginia [Mr. Bliley].

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

Mr. BLILEY. Mr. Chairman, I have no further requests for time, and I, too, yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Virginia [Mr. Bliley].

The amendment, as modified, was agreed to.

AMENDMENTS OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, pursuant to the rule I offer a number of amendments.

The Clerk read as follows:

Amendments offered by Mr. Foley: Page 17, after line 2, insert the following new subtitle:

Subtitle C—Drug-Free Public Housing

SEC. 1021. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Public Housing Act of 1988".

SEC. 1022. PURPOSE.

The purpose of this subtitle is to reaffirm the principle that decent affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require better coordination and training in drug prevention programs among the public officials and agencies responsible for administering the public housing programs of the Nation.

SEC. 1023. CLEARINGHOUSE ON DRUG ABUSE IN PUBLIC HOUSING.

(a) Establishment.—The Secretary of Housing and Urban Development shall establish, in the Office of Public Housing in the Department of Housing and Urban Development, a clearinghouse to receive, collect, process, and assemble information regarding the abuse of controlled substances in public housing projects.

(b) Functions.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries by members of the public requesting assistance in investigating, studying, and working on the problem of the abuse of controlled substances; and

(2) receive, collect, process, assemble, and provide information on programs, authorities, institutions, and agencies, that may further assist members of the public requesting information from the clearinghouse.

SEC. 1024. REGIONAL TRAINING PROGRAM ON DRUG ABUSE IN PUBLIC HOUSING.

(a) Establishment.—The Secretary of Housing and Urban Development shall establish a regional training program for the training of public housing officials, to better prepare and educate the officials to confront the widespread abuse of controlled substances in the communities in which the officials work.

(b) Operation.—The regional training program established under subsection (a) shall be conducted within 12 months after the date of the enactment of this Act by a national training unit established by the Secretary of Housing and Urban Development.

SEC. 1025. REGULATIONS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to carry out this subtitle.

Page 17, after line 2, insert the following new subtitle:

Subtitle C—Elimination of Drug-Related Crime in Public Housing

SEC. 1021. GRANTS TO PUBLIC HOUSING AGENCIES FOR THE ELIMINATION OF DRUG-RELATED CRIME IN PUBLIC HOUSING.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"GRANTS TO PUBLIC HOUSING AGENCIES FOR THE ELIMINATION OF DRUG-RELATED CRIME IN PUBLIC HOUSING

"Sec. 22. (a) Authority To Make Grants.—The Secretary may make grants to public housing agencies to enable the public housing agencies to carry out programs to eliminate drug-related crime in housing projects.

"(b) Eligible Activities.—Any public housing agency receiving a grant under this section may use the grant only for the following purposes:

"(1) Employment of investigators.—The employment of 1 or more individuals—

"(A) to investigate the illegal manufacture, sale, distribution, use, or possession of controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) on or about the real property comprising any public housing project; and

"(B) to provide evidence relating to any such illegal activity in any administrative or judicial proceeding.

"(2) Assistance for tenant patrols.—The provision of training, communications equipment, and other related equipment for use by voluntary public housing tenant patrols acting under the supervision of local law enforcement officials.

"(c) Regulations.—The Secretary shall issue any regulations necessary to carry out this section.

"(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Any amount appropriated pursuant to this subsection shall remain available until expended.".

Page 71, line 12, after "paragraph (1)" insert "may".

Page 100, after line 17, insert the following:

Subtitle H—Miscellaneous Provision

SEC. 3071. ENCOURAGEMENT OF UNITED NATIONS' EFFORTS TO ESTABLISH AN INTERNATIONAL FORCE AIMED AT STOPPING THE TRAFFICKING OF ILLEGAL DRUGS.

The Congress encourages the United Nations to explore ways and means to establish an international force or mechanism aimed at stopping the trafficking of illegal drugs.

Page 49, at the end of the table of contents, add the following new item:

Subtitle H—Miscellaneous Provision

Sec. 3071. Encouragement of United Nations' efforts to establish an international force aimed at stopping the trafficking of illegal drugs.

Page 141, lines 16 and 17, strike out "law enforcement, prosecutorial, or judicial officer" and insert in lieu thereof the following: "official or employee".

Page 150, line 18, strike out "or" after the semicolon.

Page 150, line 22, insert "or" after the semicolon.

Page 150, after line 22, insert the following new paragraph:

"(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310, or the regulations issued under that section, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under that section is not required;

Page 156, strike out line 3 through line 23, and insert in lieu thereof the following:

Section 524(c)(1)(H) of title 28, United States Code, is amended—

(1) by striking out "deposits from the Assets Forfeiture Fund to" and inserting in lieu thereof "from the fund, with respect to such fiscal year, not more than $150,000,000 for the following purposes (but not more than 25 percent of the amount so transferred may be transferred for any single purpose): (i)"; and

(2) by inserting after "institutions" the following: ", (ii) offices of United States attorneys, (iii) organized crime drug enforcement task forces under the Attorney General, (iv) foreign cooperative investigation programs under the Administrator of the Drug Enforcement Administration, and (v) diversion control programs under the Administrator of the Drug Enforcement Administration".

Page 177, after line 7, insert the following:

SEC. 6213. NAME OF PROGRAM.

Part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h et seq.) is amended by inserting before section 1301 the following:

"NAME OF PROGRAM

"Sec. 1300. The grant program established under this part shall be known as the 'Edward Byrne Memorial State and Local Law Enforcement Assistance Program'."

Page 177, line 15, strike "Sec. 6213" and insert "Sec. 6214".

Page 179, after line 4, insert the following new paragraph:

(5) There is authorized to be appropriated, in addition to any sums otherwise authorized to be appropriated, for the fiscal year 1989 for the Department of Justice for the United States Marshals Service, $53,800,000.

Page 195, line 24, after "1980" insert the following: ", and under the regulations issued by the Secretary of State".

Page 198, line 8, insert "or jail" after "prison".

Page 205, after the quoted matter following line 4, insert the following new subtitle:

Subtitle M—United States Marshals Service

SEC. 6801. SHORT TITLE.

This subtitle may be cited as the "United States Marshals Service Act of 1988".

SEC. 6802. ESTABLISHMENT OF THE MARSHALS SERVICE.

(a) IN GENERAL.—Chapter 37 of title 28, United States Code, is amended by striking out sections 561 through 571 and inserting in lieu thereof the following:

"§ 561. United States Marshals Service

"(a) There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the 'Service') a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Director of the Service (hereafter in this chapter referred to as the 'Director') shall, in addition to the powers and duties set forth in this chapter, exercise such other functions as may be delegated by the Attorney General.

"(c) The Attorney General shall appoint a Uhited States marshal for each judicial district of the United States and for the Superior Court of the District of Columbia, except that any marshal appointed for the Northern Mariana Islands may at the same time serve as marshal in another judicial district. United States marshals shall be appointed subject to the provisions of title 5 governing appointments in the civil service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Each United States marshal shall be an official of the Service and shall serve under the direction of the Director.

"(d) The Director shall designate places within a judicial district for the official station and offices of each marshal. Each marshal shall reside within the district for which such marshal is appointed, except that—

"(1) the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District of New York may reside within 20 miles of the district for which the marshal is appointed; and

"(2) any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.

"(e) The Director is authorized to appoint and fix the compensation of such employees as are necessary to carry out the powers and duties of the Service and may designate such employees as law enforcement officers, in accordance with such policies and procedures as the Director shall establish. Employees appointed under this subsection shall be appointed subject to the provisions of title 5 governing appointments in the civil service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(f) The Director shall supervise and direct the Service in the performance of its duties, including accounting for public moneys.

"(g) The Director may administer oaths and may take affirmations of officials and employees of the Service, but shall not demand or accept any fee or compensation therefor.

"(h) The Director may delegate to other officials of the Service the authority to carry out any functions of the Director.

"(i) There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Service.

"§ 562. Vacancies

"In the case of a vacancy in the office of a United States marshal, the Director may designate a person to perform the functions of and act as marshal until a marshal is appointed in accordance with the provisions of section 561(c).

"§ 563. Oath of Office

"The Director and each United States marshal and law enforcement officer of the Service, before taking office, shall take an oath or affirmation to faithfully execute the duties of the office.

"§ 564. Powers as sheriff

"United States marshals, deputy marshals, and such other officials of the Service as may be designated by the Director, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

§ 565. Expenses of the service

"The Director is authorized to use funds appropriated for the Service to make payments for the conduct of its activities, including payments for—

"(1) the actual and necessary expenses associated with the offices established under section 561;

"(2) the expense of transporting prisoners, including the transporting between the United States and foreign countries of persons charged with crimes, and including the cost of necessary guards and the travel and subsistence expenses of prisoners and guards;

"(3) the lease, acquisition, maintenance, and operation of aircraft and vessels, and the lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for any current fiscal year and including the operation and maintenance for official use of vehicles seized and forfeited to the United States Government;

"(4) the supervision and care of United States prisoners in non-Federal institutions;

"(5) the purchase of firearms and ammunition and attendance at firearms matches and law enforcement competitions;

"(6) the payment of rewards, and payments for information;

"(7) expenses incurred for the use of facilities in the protection of witnesses, and planning, acquisition, construction, renovation, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites;

"(8) expenses incurred pursuant to personal services contracts and cooperative agreements, authorized by the Attorney General, for security guards and for the service of summons upon complaints, subpoenas, and notices in lieu of service by United States marshals and deputy marshals; and

"(9) other necessary expenditures authorized by law.

"§ 566. Powers and duties

"(a) It is the primary role and mission of the Service to provide for the security of, and to obey, execute, and enforce all orders of, the United States district courts, the United States courts of appeals, and the Court of International Trade.

"(b) The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in that district, and of the Court of International Trade holding sessions in that district, and may, in the discretion of the respective courts, be required to attend any session of court.

"(c) Except as otherwise provided by law, the Service shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute its duties.

"(d) Each United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director may carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(e) The Service is authorized to provide such protective services to judges and other persons, and to investigate such fugitive matters, as may be directed by the Attorney General. Nothing in this subsection shall be construed to interfere with or supersede the authority of other Federal agencies, bureaus, or services.

"(f) In accordance with procedures established by the Director, and except for public money deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

"(g) Before leaving office on account of resignation, retirement, or removal from office—

"(1) a United States marshal shall deliver to the marshal's successor all prisoners and all unserved process in the custody of the marshal; and

"(2) a deputy marshal of a district shall deliver to the marshal of that district all process in the custody of the deputy marshal.

"(h) The United States marshals shall pay such office expenses of United States Attorneys as may be directed by the Attorney General.".

(b) TRANSITIONAL PROVISIONS FOR PRESIDENTIAL APPOINTMENT OF CERTAIN MARSHALS.—

(1) INCUMBENT MARSHALS.—Notwithstanding the amendments made by this subtitle, each marshal appointed under chapter 37 of title 28, United States Code, before the enactment of this Act, for a term of four years by the President, by and with the advice and consent of the Senate, shall, unless that marshal resigns or is removed from office by the President, continue to perform the duties of that office until the expiration of that term and the appointment of a successor.

(2) First Vacancies After Enactment.—Notwithstanding the amendments made by this subtitle, with respect to the first vacancy which occurs in the office of United States marshal in any State during the period beginning on the date of the enactment of this Act and ending on December 31, 1992, the President, shall appoint, by and with the consent of the Senate, a marshal to fill that vacancy for a term of four years. A vacancy may be filled in the manner prescribed in the preceding sentence in only the judicial district in each State, and any vacancy in the office of United States marshal occurring in a State after the first such vacancy in that State, and before January 1, 1993, and any vacancy occurring in the office of United States marshal on and after January 1, 1993, shall be filled in accordance with section 562 of title 28, United States Code, as amended by subsection (a) of this section. Any marshal appointed by the President under this paragraph shall, unless that marshal resigns or is removed from office by the President, continue to perform the duties of that office after the end of the 4-year term to which such marshal was appointed until a successor is appointed in accordance with the provisions of section 561(c) of title 28, United States Code, as amended by subsection (a) of this section.

(c) Additional Amendments.—Chapter 37 of title 28, United States Code, is amended—

(1) by striking out sections 572a, 573, and 574; and

(2) by redesignating sections 572, 575, and 576 as sections 567, 568, and 569, respectively.

(d) Conforming Amendments.—The chapter heading for chapter 37 of title 28, United States Code, and the table of sections at the beginning of such chapter, are amended to read as follows:

"CHAPTER 37—UNITED STATES MARSHALS SERVICE

"Sec.
"561. United States Marshals Service.
"562. Vacancies.
"563. Oath of office.
"564. Powers as sheriff.
"565. Expenses of the Service.
"566. Powers and duties.
"567. Collection of fees; accounting.
"568. Practice of law prohibited.
"569. Reemployment rights.".

SEC. 6803. OTHER AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) Department of Justice Assets Forfeiture Fund.—Section 524(c)(1)(A) of title 28, United States Code, is amended by adding at the end thereof the following: "the Attorney General may, after appropriate notification to the Congress, exempt the procurement of contract services under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations;".

(b) Compensation of Bailiffs.—Section 755 of title 28, United States Code, is amended by striking out the third paragraph.

SEC. 6804. MARSHALS' FEES.

Section 1921 of title 28, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) the United States marshals or deputy marshals shall routinely collect, and a court may tax as costs, fees for the following:

"(A) Serving a writ of possession, artition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, complaints, or any other writ, order, or process in any case or proceeding.

"(B) Serving a subpoena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate, including overtime, for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(H) Overtime expenses incurred by deputy marshals in the course of serving or executing civil process.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under paragraph (1)(E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of paragraph (1)(G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding thereto any additional mileage traveled in serving or endeavoring to serve in behalf of the party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall from time to time prescribe by regulation the fees to be taxed and collected under subsection (a). Such fees shall, to the extent practicable, reflect the actual and reasonable cost of the service provided.

"(c)(1) The United States Marshals Service shall collect a commission of 3 percent of the first $1,000 collected and 1½ percent on the excess of any sum over $1,000, for seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, except that the amount of commission shall be within the range set by the Attorney General. If the property is to be disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than a marshal or deputy marshal, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to any judicially ordered sale or execution sale, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law. This subsection shall not apply to any seizure, forfeiture, sale, or other disposition of property pursuant to the applicable provisions of law amended by the Comprehensive Forfeiture Act of 1984.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commission collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover the fees and expenses prescribed under this section.".

SEC. 6805. SUPPORT OF UNITED STATES PRISONERS IN NON-FEDERAL INSTITUTIONS.

"(a) In General.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following new section:

§ 4013. Support of United States prisoners in non-Federal institutions

"(a) The Attorney General, in support of United States prisoners in non-Federal institutions, is authorized to make payments from funds appropriated to the United States Marshals Service for—

"(1) necessary clothing;

"(2) medical care and necessary guard hire;

"(3) payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive;

"(4) the housing, care, and security of persons held in custody of a United States marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities; and

"(5) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

"(A) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities of the Federal prison population,

"(B) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

"(C) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following:

"4013. Support of United States prisoners in non-Federal institutions.".

SEC. 6806. PAY OF DIRECTOR OF THE SERVICE.

Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, United States Marshals Service.".

Subtitle N—Miscellaneous Drug Enforcement

SEC. 6901. REQUIREMENT OF ENVIRONMENTAL IMPACT STATEMENT WITH RESPECT TO USE OF WEED OIL IN CANNABIS ERADICATION EFFORTS IN HAWAII.

(a) REQUIREMENT OF PREPARATION.—The Attorney General, acting through the Administrator of the Drug Enforcement Administration, shall ensure that a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is prepared with respect to the use in the State of Hawaii, in cannabis eradication efforts authorized by law, of the substance known as weed oil.

(b) COMMENCEMENT OF PROCESS OF PREPARATION.—Not later than 60 days after the date of the enactment of this Act, the Attorney General, acting through the Administrator of the Drug Enforcement Administration, shall commence the process of preparing the detailed statement described in subsection (a) by publishing in the Federal Register a notice of intent with respect to the preparation of such statement.

(c) COMPLETION OF PREPARATION.—The detailed statement required in subsection (a) shall, in accordance with regulations issued for such statements, be completed as soon as is practicable after the commencement, pursuant to subsection (b), of the process of preparing the statement.

SEC. 6902. PAYMENT OF BONUSES FOR FOREIGN LANGUAGE CAPABILITIES.

Notwithstanding any other provision of law, the Drug Enforcement Administration is authorized on and after October 1, 1988, to pay bonuses up to 25 percent of base pay to employees of the Drug Enforcement Administration who possess and make substantial use of one or more languages, other than English, in the performance of their official duties. The Administrator of the Drug Enforcement Administration will develop such policies as necessary to implement the payment of these bonuses.

Page 208, strike out line 5 and all that follows through page 210, line 24, and redesignate succeeding sections accordingly.

Page 213, after line 14, insert the following:

SEC. 7010. VESSEL IDENTIFICATION SYSTEM.

(a) CHAPTER 125, TITLE 46.—

(1) Title 46, United States Code, is amended by adding the following new chapter 125 after chapter 123:

"CHAPTER 125—VESSEL IDENTIFICATION SYSTEM

"Sec.

"12501. Establishment of a vessel identification system.

"12502. Identification numbers, signal letters, and markings.

"12503. Information available to the system.

"12504. Information available from the system.

"12505. Fees.

"12506. Delegation of authority.

"12507. Penalties.

"§ 12501. Establishment of a vessel identification system

"(a) The Secretary of Transportation shall maintain a vessel identification system to make available information under section 12503 of this title for use by the public for law enforcement and other purposes including—

"(1) the ownership of documented vessels;

"(2) the ownership of vessels numbered under chapter 123 of this title; and

"(3) the ownership of vessels titled under the law of a State.

"(b) The vessel identification system shall include information prescribed by the Secretary including—

"(1) identifying a vessel;

"(2) identifying the owner of the vessel;

"(3) identifying the State in which it is titled or numbered;

"(4) indicating whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicating where a lien or other security interest is recorded against the vessel in that State; and

"(6) information assisting law enforcement officials.

"(c) The Secretary may maintain information under this chapter in connection with any other information system maintained by the Secretary.

"§ 12502. Identification numbers, signal letters, and markings

"(a) For the identification of a vessel of the United States, the Secretary of Transportation—

"(1) shall maintain a unique numbering system and assign a number to each vessel of the United States;

"(2) may maintain a system of signal letters for a documented vessel;

"(3) shall record a name selected by the owner of a documented vessel approved by the Secretary as the vessel's name of record; and

"(4) may establish other identification markings.

"(b) The manufacturer or owner of a vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned and any other markings the Secretary may require.

"(c) Once a number is assigned under this section, it may not be used by another vessel.

"(d) Once a documented vessel's name is established, the name may not be changed without the approval of the Secretary.

"(e) A person may not tamper with or falsify a number or other marking required under this section.

"§ 12503. Information available to the system

"(a) Except as provided in subsections (b) and (c) of this section, a State or a State's delegee approved by the Secretary may make information available to the Secretary of Transportation if, in a manner and form prescribed by the Secretary, the State—

"(1) identifies the vessel;

"(2) identifies the owner of the vessel;

"(3) identifies the State in which it is titled or numbered;

"(4) indicates whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicates where a lien or other security interest is recorded against the vessel in that State;

"(6) includes information to assist law enforcement; and

"(7) includes other information agreed to by the Secretary and the State.

"(b) Except as provided in subsection (c) of this section, the Secretary also may accept information under conditions and in a manner and form prescribed by the Secretary.

"(c) The Secretary shall—

"(1) retain information on a vessel with a preferred mortgage under section 31322 (d) of this title that is no longer titled in a State making information available to the Secretary under this chapter until the mortgage is discharged or the vessel is sold; and

"(2) accept information under section 31321(g) of this title only if that information cannot be provided to a State.

"§ 12504. Information available from the system

"For law enforcement or other purposes and under conditions prescribed by the Secretary, the Secretary—

"(1) shall make available information in the vessel identification system to a State making information available under section 12503(a) of this title; and

"(2) may make available information in the vessel identification system to others.

"§ 12505. Fees

"(a) The Secretary of Transportation may charge a fee under section 9701 of title 31 for providing information to or requesting information from the vessel identification system, except to—

"(1) an agency; or

"(2) a State making information available to the Secretary of Transportation under section 12503(a) of this title.

"(b) The Secretary may collect an annual fee of not more than $1.00 from the owner of each vessel of the United States under 9701 of title 31 for the vessel identification system. However, the collection of that fee may be delayed under conditions prescribed by the Secretary.

"(c) The Secretary may employ any agency, State, or person to collect the fee established under subsection (b) of this section.

"(d) If a State is employed to collect a fee under subsection (c) of this section, the State may retain one-half of the amounts collected. A State shall transfer one-half of the amounts collected under subsection (b) of this section to the Secretary.

"(e) The Secretary shall deposit amounts transferred or collected under this section in the general fund of the Treasury as proprietary receipts of the Secretary and ascribed to the vessel identification system.

"(f) The amounts retained by a State under this section may be used to make information available to the Secretary and to pay incremental administrative costs.

"§ 12506. Delegation of authority

"The Secretary of Transportation may delegate to an agency, a State, or a qualified person the authority to—

"(1) establish and maintain the vessel identification system; and

"(2) charge fees under section 12505 of this title to a person making information available to or requesting information from the vessel identification system.

"§ 12507. Penalties

"(a) A person shall be fined under title 18, imprisoned for not more than two years, or both, if the person with the intent to defraud—

"(1) provides false information to the Secretary or a State issuing authority regarding the identification of a vessel under this chapter; or

"(2) tampers with, removes, or falsifies the unique vessel identification number assigned to a vessel under section 12502 of this title.

"(b) A person is liable to the United States Government for a civil penalty of not more than $10,000 if the person—

"(1) provides false information to the Secretary or a state issuing authority regarding the identification of a vessel under this chapter;

"(2) violates section 12502 of this title; or

"(3) fails to comply with regulations prescribed by the Secretary under section 12505 of this title.

"(c) A vessel involved in a violation of this chapter, or regulation under this chapter, and its equipment, may be seized by, and forfeited to, the Government.

"(d) If a person, not an individual, is involved in a violation of this chapter, the president or chief executive of the person also is subject to any penalty provided under this section.

(2) The title analysis at the beginning of subtitle II of title 46, United States Code, is amended by adding after item 123 in part H:

"125. Vessel Identification System..... 12501

(b) CHAPTERS 301 AND 313 OF TITLE 46.—

(1) Certain general and permanent laws of the United States, related to definitions and maritime commercial instruments and liens, are revised, consolidated, and enacted by paragraph (3) of this subsection as subtitle III of title 46, United States Code, "Shipping".

(2) The title analysis at the beginning of title 46, United States Code, is amended to read as follows:

"Subtitle Sec.
"I.
General.. 101
"II.
Vessels and seamen 2101
"III.
Maritime liability.................................. 30101
"[Balance of title reserved]"

(3) Title 46, United States Code, is amended by adding at the end the following new subtitle:

"SUBTITLE III—MARITIME LIABILITY

"Chapter Sec.
"301. General.. 30101
"[Chapters 303-311—Reserved]
"313. Commercial instruments and maritime liens.............................. 31301
"[Chapter 315—Reserved]

"CHAPTER 301—GENERAL

"Sec.
"30101. Definitions.

"§ 30101. Definitions

"In this subtitle—

"(1) 'documented vessel' means a vessel documented under chapter 121 of this title.

"(2) 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country.

"(3) 'public vessel' means (except in chapter 315 of this title) a vessel that is owned, demise chartered, or operated by the United States Government or a government of a foreign country.

"(4) 'recreational vessel' means a vessel—

"(A) operated primarily for pleasure; or

"(B) leased, rented, or demise chartered to another for the latter's pleasure.

"(5) 'seaman' means a master or a crewmember of a vessel in operation.

"(6) 'State' means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

"(7) 'State vessel' means a vessel owned or demise chartered by the government of a State or an authority or a political subdivision of a State.

"(8) 'United States', when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

"(9) 'vessel of the United States' means a vessel documented under chapter 121 of this title, numbered under chapter 123 of this title, or titled under the law of a State.

"[CHAPTERS 303-311—RESERVED]

"CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS

"SUBCHAPTER I—GENERAL

"Sec.
"31301. Definitions.
"31302. Availability of instruments, copies, and information.
"31303. Certain civil actions not authorized.
"31304. Liability for noncompliance.
"31305. Waiver of lien rights.
"31306. Declaration of citizenship.
"31307. State statutes superseded.
"31308. Secretary of Commerce or Transportation as mortgagee.
"31309. General civil penalty.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"31321. Filing, recording, and discharge.
"31322. Preferred mortgages.
"31323. Disclosing and incurring obligations before executing preferred mortgages.
"31324. Retention and examination of mortgages and documents of vessels covered by preferred mortgages.
"31325. Preferred mortgage liens and enforcement.
"31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims.
"31327. Forfeiture of mortgagee interest.
"31328. Limitations on parties serving as trustees of mortgaged vessel interests.
"31329. Court sales of documented vessels.
"31330. Penalties.

"SUBCHAPTER III—MARITIME LIENS

"31341. Persons presumed to have authority to procure necessaries.
"31342. Establishing maritime liens.
"31343. Recording and discharging liens on preferred mortgage vessels.

"SUBCHAPTER I—GENERAL

"§ 31301. Definitions

"In this chapter—

"(1) 'acknowledge' means making—

"(A) an acknowledgment or notarization before a notary public or other official authorized by a law of the United States or a State to take acknowledgments of deeds; or

"(B) a certificate issued under the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 1961.

"(2) 'district court' means—

"(A) a district court of the United States (as defined in section 451 of title 28);

"(B) the District Court of Guam;

"(C) the District Court of the Virgin Islands;

"(D) the District Court for the Northern Mariana Islands;

"(E) the High Court of American Samoa; and

"(F) any other court of original jurisdiction of a territory or possession of the United States.

"(3) mortgagee' means—

"(A) a person to whom property is mortgaged; or

"(B) when a mortgage on a vessel involves a trust, the trustee that is designated in the trust agreement.

"(4) 'necessaries' includes repairs, supplies, towage, and the use of a dry dock or marine railway.

"(5) 'preferred maritime lien' means a maritime lien on a vessel—

"(A) arising before a preferred mortgage was filed under section 31321 of this title;

"(B) for damages arising out of maritime tort;

"(C) for wages of a stevedore when employed directly by a person listed in section 31341 of this title;

"(D) for wages of the crew of the vessel;

"(E) for general average; or

"(F) for salvage, including contract salvage.

"(6) 'preferred mortgage'—

"(A) means a mortgage that is a preferred mortgage under section 31322 of this title; and

"(B) also means in sections 31325 and 31326 of this title, a mortgage, hypothecation, or similar charge that is established as a security on a foreign vessel if the mortgage, hypothecation, or similar charge was executed under the laws of the foreign country under whose laws the ownership of the vessel is documented and has been registered under those laws in a public register at the port of registry of the vessel or at a central office.

"§ 31302. Availability of instruments, copies, and information

"The Secretary of Transportation shall—

"(1) make any instrument filed or recorded with the Secretary under this chapter available for public inspection;

"(2) on request, provide a copy, including a certified copy of any instrument made available for public inspection under this chapter; and

"(3) on request, provide a certificate containing information included in an instrument filed or recorded under this chapter.

"§ 31303. Certain civil actions not authorized

"If a mortgage covers a vessel and additional property that is not a vessel, this chapter does not authorize a civil action in rem to enforce the rights of the mortgage under the mortgage against the additional property.

"§ 31304. Liability for noncompliance

"(a) If a person makes a contract secured by, or on the credit of, a vessel covered by a mortgage filed or recorded under this chapter and sustains a monetary loss because the mortgagor or the master or other individual in charge of the vessel does not comply with a requirement imposed on the mortgagor, master, or individual under this chapter, the mortgagor is liable for the loss.

"(b) A civil action may be brought to recover for losses referred to in subsection (a) of this section. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court shall award costs and attorney fees to the plaintiff.

"§ 31305. Waiver of lien rights

"This chapter does not prevent a mortgage or other lien holder waiving or subordinating at any time by agreement or otherwise the lien holder's right to a lien, the priority or, if a preferred mortgage lien, the preferred status of the lien.

"§ 31306. Declaration of citizenship

"(a) When an instrument transferring an interest in a vessel is presented to the Secretary of Transportation for filing or recording, the transferee shall file with the instrument a declaration, in the form the Secretary may prescribe by regulation, stating information about citizenship and other information the Secretary may require to show the transaction involved does not violate section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 835).

"(b) A declaration under this section filed by a corporation must be signed by its president, secretary, treasurer, or other official authorized by the corporation to execute the declaration.

"(c) An instrument transferring an interest in a vessel is not valid against any person until the declaration required by this section has been filed.

"(d) A person knowingly making a false statement of a material fact in a declaration filed under this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"§ 31307. State statutes superseded

"This chapter supersedes any State statute conferring a lien on a vessel to the extent the statute establishes a claim to be enforced by a civil action in rem against the vessel for necessaries.

"§ 31308. Secretary of Commerce or Transportation as mortgage

"When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary may foreclose on a lien arising from a right established under a mortgage under title XI of the Merchant Marine Act, 1936, (46 App. U.S.C. 1241 et seq.), subject to section 362(b) of title 11.

"§ 31309. General civil penalty

"Except as otherwise provided in this chapter, a person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"§ 31321. Filing, recording, and discharge

"(a)(1) A bill of sale, conveyance, mortgage, assignment, or related instruments, whenever made, that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed with the Secretary of Transportation to be valid, to the extent the vessel is involved, against any person except—

"(A) the grantor, mortgagor, or assignor;

"(B) the heir or devisee of the grantor, mortgagor, or assignor; and

"(C) a person having actual notice of the sale, conveyance, mortgage, assignment, or related instrument.

"(2) Each bill of sale, conveyance, mortgage, assignment, or related instrument that is filed in substantial compliance with this section is valid against any person from the time it is filed with the Secretary.

"(3) The parties to an instrument or an application for documentation shall use diligence to ensure that the parts of the instrument or application for which they are responsible are in substantial compliance with the filing and documentation requirements.

"(b) To be filed, a bill of sale, conveyance, mortgage, assignment, or related instrument must—

"(1) identify the vessel;

"(2) state the name and address of each party to the instrument;

"(3) state, if a mortgage, the amount of the direct or contingent obligations (in one or more units of account as agreed to by the parties) that is or may become secured by the mortgage, excluding interest, expenses, and fees;

"(4) state the interest of the grantor, mortgagor, or assignor in the vessel;

"(5) state the interest sold, conveyed, mortgaged, or assigned; and

"(6) be signed and acknowledged.

"(c) If a bill of sale, conveyance, mortgage, assignment, or related document is filed that involves a vessel that has not yet been documented, and the Secretary decides that the vessel cannot be documented by an applicant—

"(1) the Secretary shall send notice of the Secretary's decision, including reasons for the decision, to each party whose name and address is stated on the instrument filed for recording; and

"(2) 90 days after sending the notice as provided under clause (1) of this subsection, the Secretary—

"(A) may terminate the filing; and

"(B) may return the instrument filed without recording it under subsection (d) of this section.

"(d) A person may withdraw an application for documentation of a vessel for which a mortgage has been filed under this section only if the mortgagee consents.

"(e) The Secretary shall—

"(1) record the bills of sale, conveyances, mortgages, assignments, and related instruments of a documented vessel complying with subsection (b) of this section in the order they are filed; and

"(2) maintain appropriate indexes, for use by the public, of instruments filed or recorded, or both.

"(f) On full and final discharge of the indebtedness under a mortgage recorded under subsection (e)(1) of this section, a mortgagee, on request of the Secretary or mortgagor, shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary. The Secretary shall record the certificate.

"(g) On full and final discharge of the indebtedness under a mortgage filed under section 31322(d) of this title, a mortgagee, on request of the Secretary, a State, or mortgagor, shall provide the Secretary or the State, as appropriate, with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary or the State, as applicable. If filed with the Secretary, the Secretary shall enter that information in the vessel identification system under chapter 125 of this title.

"§ 31322. Preferred mortgages

"(a)(1) A preferred mortgage is a mortgage, whenever made, that—

"(A) includes the whole of a vessel;

"(B) is filed in substantial compliance with section 31321 of this title;

"(C)(i) covers a documented vessel; or

"(ii) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter; and

"(D) has as the mortgagee—

"(i) a State;

"(ii) the United States Government;

"(iii) a Federally insured depository institution, unless disapproved by the Secretary;

"(iv) an individual who is a citizen of the United States;

"(v) a person qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or

"(vi) a person approved by the Secretary of Transportation.

"(2) Paragraph (1)(D) of this subsection does not apply to a vessel operated only as a fishing vessel, fish processing vessel, or a fish tender vessel (as defined in section 2101 of this title) or to a vessel operated only for pleasure.

"(b) A preferred mortgage filed or recorded under this chapter may have any rate of interest that the parties to the mortgage agree to.

"(c)(1) If a preferred mortgage includes more than one vessel or property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and all property not a vessel by the payment of a part of the mortgage indebtedness.

"(2) If a vessel covered by a preferred mortgage that includes more than one vessel or property that is not a vessel is to be sold on the order of a district court in a civil action in rem, and the mortgage does not provide for separate discharge as provided under paragraph (1) of this subsection—

"(A) the mortgage constitutes a lien on that vessel in the full amount of the outstanding mortgage indebteness; and

"(B) an allocation of mortgage indebtedness for purposes of separate discharge may not be made among the vessel and other property covered by the mortgage.

"(d)(1) A mortgage or instrument representing financing of a vessel under State law that is filed under applicable State law covering the whole of a vessel titled in a State is deemed to be a preferred mortgage if—

"(A) the Secretary certifies that the State titling system complies with the Secretary's guidelines for a titling system under section 13106(b)(8) of this title; and

"(B) information on the vessel coverd by the mortgage or instrument is made available to the Secretary under chapter 125 of this title.

"(2) This subsection applies to mortgages or instruments covering vessels titled in a State after—

"(A) the Secretary's certification under paragraph (1)(A) of this subsection; and

"(B) the State begins making information available to the Secretary under chapter 125 of this title.

"§ 31323. Disclosing and incurring obligations before executing preferred mortgages

"(a) On request of the mortgagee and before executing a preferred mortgage, the mortgagor shall disclose in writing to the mortgagee the existence of any obligation known to the mortgagor on the vessel to be mortgaged.

"(b) After executing a preferred mortgage and before the mortgagee has had a reasonable time to file the mortgage, the mortgagor may not incur, without the consent of the mortgagee, any contractual obligation establishing a lien on the vessel except a lien for—

"(1) wages of a stevedore when employed directly by a person listed in section 31341 of this title.

"(2) wages for the crew of the vessel.

"(3) general average.

"(4) salvage, including contract salvage.

"(c) On conviction of a mortgagor under section 31330(a)(1)(A) or (B) of this title for violating this section, the mortgage indebtedness, at the option of the mortgagee, is payable immediately.

"§ 31324. Retention and examination of mortgages of vessels covered by preferred mortgages

"(a) On request, the owner, master, or individual in charge of a vessel covered by a preferred mortgage shall permit a person to examine the mortgage if the person has business with the vessel that may give rise to a maritime lien or the sale, conveyance, mortgage, or assignment of a mortgage of the vessel.

"(b) A mortgagor of a preferred mortgage covering a self-propelled vessel shall use diligence in keeping a certified copy of the mortgage on the vessel.

"§ 31325. Preferred mortgage liens and enforcement

"(a) A preferred mortgage is a lien on the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

"(b) On behalf of any term of the preferred mortgage, the mortgagee may enforce the preferred mortgage lien in—

"(1) a civil action in rem for a documented vessel or a vessel to be documented under chapter 121 of this title;

"(2) a civil action in personam in admiralty against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness; and

"(3) a civil action against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness.

"(c) The district courts have original jurisdiction of a civil action brought under subsection (b) of this section. However, for documented vessels or vessels to be documented under chapter 121 of this title, this jurisdiction is exclusive of the courts of the states for a civil action under subsection (b)(1) of this section.

"(d)(1) Actual notice of a civil action brought under subsection (b)(1) of this section, or to enforce a maritime lien, must be given in the manner directed by the court to—

"(A) the master or individual in charge of the vessel;

"(B) any person that recorded under section 31343(a) or (d) of this title a notice of a claim of an undischarged lien on the vessel; and

"(C) a mortgagee of a mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

"(2) Notice under paragraph (1) of this subsection is not required if, after search satisfactory to the court, the person entitled to the notice has not been found in the United States.

"(3) Failure to give notice required by this subsection does not affect the jurisdiction of the court in which the civil action is brought. However, unless notice is not required under paragraph (2) of this subsection, the party required to give notice is liable to the person not notified for damages in the amount of that person's interest in the vessel terminated by the action brought under subsection (b)(1) of this section. A civil action may be brought to recover the amount of the terminated interest. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court may award costs and attorney fees to the plaintiff.

"(e) In a civil action brought under subsection (b)(1) of this section—

"(1) the court may appoint a receiver and authorize the receiver to operate the mortgaged vessel and shall retain in rem jurisdiction over the vessel even if the receiver operates the vessel outside the district in which the court is located; and

"(2) when directed by the court, a United States marshall may take possession of a mortgaged vessel even if the vessel is in the possession or under the control of a person claiming a possessory common law lien.

"§ 31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims

"(a) When a vessel is sold by order of a district court in a civil action in rem brought to enforce a preferred mortgage lien or a maritime lien, any claim the the vessel existing on the date of sale is terminated, including a possessory common law lien of which a person is deprived under section 31325(e)(2) of this title, and the vessel is sold free of all those claims.

"(b) Each of the claims terminated under subsection (a) of this section attaches, in the same amount and in accordance with their priorities to the proceeds of the sale, except that—

"(1) the preferred mortgage lien has priority over all claims against the vessel (except for expenses and fees allowed by the court, costs imposed by the court, and preferred maritime liens); and

"(2) for a foreign vessel, the preferred mortgage lien is subordinate to a maritime lien for necessaries provided in the United States.

"§ 31327. Forfeiture of mortgage interest

"The interest of a mortgagee in a documented vessel or a vessel covered by a preferred mortgage under section 31322(d) of this title may be terminated by a forfeiture of the vessel for a violation of a law of the United States only if the mortgagee authorized, consented, or conspired to do the act, failure, or omission that is the basis of the violation.

"§ 31328. Limitations on parties serving as trustees of mortgaged vessel interests

"(a) Without the approval of the Secretary of Transportation, an instrument or evidence of indebtedness secured by a mortgage of a vessel to a trustee may not be issued, assigned, or transferred to, or held in trust for, a person not qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), unless the trustee—

"(1) is a State;

"(2) is the United States Government;

"(3) is a person approved by the Secretary and qualifying as a citizen of the United States under that section 2; or

"(4) has been approved by the Secretary.

"(b) The Secretary shall approve a trustee under subsection (a)(3) or (4) of this section if the trustee—

"(1) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

"(2) is authorized under those laws to exercise corporate trust powers;

"(3) is subject to supervision or examination by an official of the United States Government or a State;

"(4) has a combined capital and surplus (as stated in its most recent published report of condition) of at least $3,000,000; and

"(5) if the trustee is to be approved under subsection (a)(4) of this section, meets any other requirements prescribed by the Secretary.

"(c) If the trustee at any time does not satisfy the qualifications of subsection (b) of this section, the Secretary shall disapprove the trustee.

"(d) Except as provided in subsection (a) of this section, a right under a mortgage of a documented vessel may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322 of this title only with the approval of the Secretary.

"(e) The vessel may be operated by the trustee only with the approval of the Secretary.

"(f) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this section is void.

"§ 31329. Court sales of documented vessels

"(a) A documented vessel may be sold by order of a district court only to—

"(1) a person eligible to own a documented vessel under section 12102 of this title; or

"(2) a mortgagee of that vessel.

"(b) When a vessel is sold to a mortgagee not eligible to own a documented vessel—

"(1) the vessel must be held by the mortgagee for resale;

"(2) the vessel held by the mortgagee is subject to section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(3) the sale of the vessel to the mortgagee is not a sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

"(c) Unless waived by the Secretary of Transportation, a person purchasing a vessel by court order under subsection (a)(1) of this section or from a mortgagee under subsection (a)(2) of this section must document the vessel under chapter 121 of this title.

"(d) The vessel may be operated by the mortgagee not eligible to own a documented vessel only with the approval of the Secretary.

"(e) A sale of a vessel contrary of this section is void.

"§ 31330. Penalties

"(a)(1) A mortgagor shall be fined under title 18, imprisoned for not more than 2 years, or both, if the mortgagor—

"(A) with intent to defraud, does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) with intent to defraud, incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) with intent to hinder or defraud an existing or future creditor of the mortgagor or a lienor of the vessel, files a mortgage with the Secretary of Transportation; or

"(D) with intent to defraud, does not comply with section 31321(f) of (g) of this title.

"(2) A mortgagor is liable to the United States Government for a civil penalty of not more than $10,000 if the mortgagor—

"(A) does not disclose an obligation on a vessel as requred by section 31323(a) of this title;

"(B) incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) files with the Secretary a mortgage made not in good faith; or

"(D) does not comply with section 31321(f) or (g) of with section 31322(d)(3)(A) of this title.

"(b)(1) A person that knowingly violates section 31328 or 31329 of this title shall be fined under title 18, imprisoned for not more than 3 years, or both.

"(2) A person violating section 31328 or 31329 of this title is liable to the Government for a civil penalty of not more than $25,000.

"(3) a vessel involved in a violation under section 31328 or 3129 of this title and its equipment may be seized by, and forfeited to, the Government.

"(c) If a person not an individual violates this section, the president or chief executive of the person also is subject to any penalty provided under this section.

"Subchapter III—Maritime Liens

"§ 31341. Persons presumed to have authority to procure necessaries

"(a) The following persons are presumed to have authority to procure necessaries for a vessel:

"(1) the owner.

"(2) the master.

"(3) A person entrusted with the management of the vessel at the port of supply.

"(4) an officer or agent appointed by—

"(A) the owner;

"(B) a charterer;

"(C) an owner pro hac vice; or

"(D) an agreed buyer in possession of the vessel.

"(b) A person tortuously or unlawfully in possession or charge of a vessel has no authority to procure necessaries for the vessel.

"§ 31342. Establishing maritime liens

"A person providing necessaries to a vessel (except a public vessel) on the order of a person listed in section 31341 of this title or a person authorized by the owner—

"(1) has a maritime lien on the vessel;

"(2) may bring a civil action in rem to enforce the lien; and

"(3) is not required to allege or prove in the action that credit was given to the vessel.

"§ 31343. Recording and discharging liens on preferred mortgage vessels

"(a) Except as provided under subsection (d) of this section, a person claiming a lien on a vessel covered by a preferred mortgage filed or recorded under this chapter may record with the Secretary of Transportation a notice of that person's lien claim on the vessel. To be recordable, the notice must—

"(1) state the nature of the lien;

"(2) state the date the lien was established;

"(3) state the amount of the lien;

"(4) state the name and address of the person; and

"(5) be signed and acknowledged.

"(b) The Secretary shall record a notice complying with subsection (a) of this section.

"(c) On full and final discharge of the indebtedness that is the basis for a claim recorded under subsection (b) of this section, on request of the Secretary or owner, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

"(d) A person claiming a lien on a vessel covered by a preferred mortgage filed under section 31322(d) of this title must record and discharge the lien as provided by the law of the state in which the vessel is titled.

"[CHAPTER 315—RESERVED]"

(c) SURRENDER AND INVALIDATION OF CERTIFICATES OF DOCUMENTATION.—

(1) Section 12111 of title 46, United States Code, is amended—

(A) by striking the catchline and substituting the following:

"§ 12111. Surrender and invalidation of certificates of documentation"; and

(B) by striking subsection (b) and substituting the following:

"(b) An invalid certificate of documentation must be surrendered as provided by regulations prescribed by the Secretary of Transportation.

"(c)(1) Notwithstanding subsection (a) of this section, until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

"(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

"(B) section 9 and 37(b) of the Shipping Act, 1916 (46 App. U.S.C. 808, 835(b));

"(C) section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(D) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

"(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

"(3) The Secretary may approve the surrender of the certificate of documentation of a documented vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgage consents.".

(2) Item 12111 in the analysis of chapter 121 of title 46, United States Code, is amended to read as follows:

"12111. Surrender and invalidation of certificates of documentation.".

(d) MISCELLANEOUS AND CONFORMING PROVISIONS.—(1) Title 46, United States Code, is amended as follows:

(A) In section 2101(46), strike the period at the end and add "or titled under the law of a State.".

(B) In section 2110, strike "the licensing of masters, mates, pilots, and engineers, and the documentation of vessels," and substitute "and the licensing of masters, mates, pilots, and engineers,".

(C) In sections 12102(b), 12103(a), 12105(c), 12110(a), 12112(a), (b), and (c), 12117, 12119, and 12120, insert "of Transportation" after "Secretary" the first time it appears.

(D) Section 12103(c)(1) is amended to read as follows:

"(1) identify and describe the vessel;".

(2) The third paragraph of section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), is amended to read as follows:

"Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181), and sections 31322(a)(1)(D) and 31328 of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

"(1) sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel (except in a vessel operated only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title) or in a vessel operated only for pleasure) owned by a citizen of the United States; or

"(2) place a documented vessel under foreign registry or operate that vessel under the authority of a foreign country.".

(3) The first sentence of section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242), is amended by striking "or under construction" and substituting "a documented vessel, or a vessel under construction".

(4) Section 1101(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(a)), is amended to read as follows:

"(a) The term 'mortgage' includes—

"(1) a preferred mortgage as defined in section 31301 of title 46, United States Code; and

"(2) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of title 46, United States Code;".

(5)(A) Before January 1, 1992, the annual fee under section 12505 of title 46, United States Code (as enacted by this section), is $1.00.

(B) To establish, centralize, and computerize records and other information maintained under chapters 121, 125, and 313 of title 46, United States Code, from the effective date of this Act through September 30, 1993, the Secretary of Transportation shall spend (out of amounts appropriated for the Department of Transportation under an appropriations law) not less than an amount that is equal to the amounts estimated to be—

(i) collected under section 9701 of title 31, United States Code, for fees paid for services and things of value provided under chapter 313 of title 46, United States Code, (as enacted by this section) and for documenting vessels under chapter 121 of title 46; and

(ii) transferred to or collected by the Secretary under chapter 125 of title 46, United States Code (as enacted by this section).

(6) Chapter 313 of title 46 (enacted by this section), United States Code, does not affect the rules of law in existence on June 5, 1920, about—

(A) the right to proceed against a vessel for advances;

(B) laches in enforcing liens on a vessel;

(C) the right to proceed in personam;

(D) the rank of preferred maritime liens among themselves; and

(E) priorities between maritime liens and mortgages (except preferred mortgages) on documented vessels.

(7) Section 12502(a)(1) of title 46, United States Code (as enacted by this section), applies to a vessel of the United States that does not have a unique number as prescribed by the Secretary of Transportation under that section until the earlier of the following:

(A) the next time the vessel is documented, numbered, or titled.

(B) January 1, 1995.

(8) Nothing in this section requires the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment to carry out chapter 125 of title 46, United States Code (as enacted by this section), except to the extent that appropriations are made available in an appropriations law for the Department of Transportation.

(e) LEGISLATIVE PURPOSE AND CONSTRUCTION.—

(1) A reference to a law replaced by subsection (b) of this section, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this section.

(2) An order, rule, or regulation in effect under a law replaced by subsection (b) of this section continues in effect under the corresponding provision of this section until repealed, amended, or superseded.

(3) An action taken or an offense committed under a law replaced by subsection (b) of this section is deemed to have been taken or committed under the corresponding provision of subsection (b) of this section.

(4) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by section (b) of this section.

(5) If a provision of subsection (b) of this section is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of sub-

section (b) of this section is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

(f) Repeals.—

(1) The repeal of a law by subsection (b) of this section may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(2) The following laws are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of subsection (b) of this section:

(A) sections 9 (4th par.) and 40 of the Shipping Act, 1916 (46 App. U.S.C. 808 (4th par.), 838).

(B) section 30 of the Merchant Marine Act, 1920 (46 App. U.S.C. 911–984).

(C) the Act of February 16, 1925 (46 App. U.S.C. 1011, 1014).

(D) Reorganization Plan No. 1 of 1967 (46 App. U.S.C. 961 (note)).

(E) Sections 12109(c), 12113, 12114, 12115, 12116, 12118, and 12121 of title 46, United States Code.

(g) Effective Dates.—

(1) Subsection (b) of this section and amendments made by subsection (b) of this section take effect on January 1, 1989. However, sections 31321 and 31322 of title 46 (enacted by subsection (b) of this section, United States Code (as sections 31321 and 31322 apply to vessles for which an application for documentation has been filed), take effect on January 1, 1990.

(2) An instrument filed before January 1, 1989, but not recorded before that date, is deemed to comply with section 31321 of title 46, United States Code, if it is in substantial compliance with the provisions in that section that had corresponding requirements under the law on December 31, 1988. However, the mortgage may not become a preferred mortgage until the vessel is documented.

(3) This section and the amendments made by this section do not affect the validity of any instrument filed or recorded before January 1, 1989 if there was a corresponding requirement under the law on December 31, 1988.

(4) An instrument filed or recorded before January 1, 1989 is deemed to comply with any new requirement under chapter 313 of title 46, United States Code, (as enacted by subsection (b) of this section) affecting the validity of that instrument.

(5) Subsection (b) of this section and amendments made by subsection (b) of this section do not affect any civil action filed before January 1, 1989.

(6) The Secretary of Transportation shall establish the vessel identification system required under chapter 125 of title 46, United States code (as enacted by subsection (a) of this section) before January 1, 1994.

(h) Coastwise and Fisheries Documentation.—

Notwithstanding sections 12106–12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels:

(1) ALEUTIAN TRAWLER, United States official number 236979;

(2) ENCORE, United States official number 545162;

(3) FAIR TIDE, United States official number; 644363;

(4) FREEDOM, United States official number 569163;

(5) PAVLOF, United States official number 597532;

(6) SUVA, United States official number 225008;

(7) RA, United States official number 655181;

(8) TE DE II, United States official number 572205;

(9) FRE-N-EZE, United States official number 659826

(10) BETA LYRA, United States official number 679226;

(11) POLAR ICE, United States official number 604676;

(12) COMPASS ROSE III, United States official number 559647;

(13) SCOTCH 'N WATER, United States official number 264090;

(14) ERSA, United States official number 229511;

(15) GILBERT, United States official number 230568, with a restriction that this vessel may engage in the coastwise trade of the United States only for the purpose of moving barges filled with seafood waste and wastewater to designated ocean disposal sites from Port Canaveral, Florida;

(16) MARY L, United States official number 275311;

(17) ZB-6, United States official number 505317; and

(18) KUT N OUT, hull identification number BERL1087M-80A-385-80 and Florida registration number FL 7665FG.

(i) Fisheries Documentation.—

Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(g)), and United States Department of Transportation Contract MA 6772 IFB PD-X-945) and its amendments, the vessel OCEAN TEMPEST, United States official number 248773, may engage in the coastwise trade and fisheries of the United States. The vessel may only be scrapped in the domestic market, and only with the approval of the Secretary of Transportation.

(j) Repeal of Obsolete Laws.—

The following laws related to shipping are repealed:

(1) the paragraph immediately before the heading "UNITED STATES VETERANS' BUREAU" in the first section of the Independent Offices Act, 1928 (46 App. U.S.C. 810a).

(2) the Act of July 3, 1926 (46 App. U.S.C. 817a).

(3) sections 3 and 4 of the Act of July 7, 1960 (46 App. U.S.C. 817b, 817c).

(4) sections 2, 4, 5, 16, and 23 of the Merchant Marine Act, 1920 (46 App. U.S.C. 862–864, 874, 878, 879).

(5) section 2 of the Act of March 4, 1927 (46 App. U.S.C. 870a).

(6) the Act of April 16, 1934 (46 App. U.S.C. 870b–870d).

(7) section 2 of the Act of April 24, 1944 (46 App. U.S.C. 1128e-1).

(8) sections 203, 401–404, 716, 904, 907, 1001–1005, and 1010–1012 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1113, 1141–1144, 1206, 1243, 1246, 1251–1255, 1260–1262).

(9) the first section and sections 2 and 3 of the Act of February 6, 1941 (46 App. U.S.C. 1119a, 1119b, 1214).

(10) the Act of June 12, 1960 (46 App. U.S.C. 1401–1413).

(11) section 7 of the Maritime Act of 1981 (46 App. U.S.C. 1606).

Page 217, before line 16, insert the following:

SEC. 8004. REVOCATION OF AIRMAN CERTIFICATES.

(a) Limitation on Reissuance of Revoked Certificates.—Section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)) is amended by striking out subparagraphs (A) and (B) of paragraph (2) and inserting in lieu thereof the following:

"(2) Limitation on reissuance of revoked certificates.—

"(A) General rule.—Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under section 609(c).

"(B) Special rule for law enforcement purposes.—The Administrator may issue an airman certificate to any person whose airman certificate has been revoked under section 609(c) if the Administrator determines that issuance of such certificate will facilitate law enforcement efforts.".

(b) Waiver of Revocation Requirement.—Section 609(c) of such Act (49 U.S.C. 1429(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Waiver of revocation requirement.—Upon request of a Federal or State law enforcement official, the Administrator may waive the requirements of paragraphs (1) and (2) that an airman certificate of any person be revoked if the Administrator determines that such waiver will facilitate law enforcement efforts.".

Redesignate the subsequent sections of title VIII of the bill accordingly.

Page 240, after line 20, insert the following:

SEC. 8014. DRUG RECOGNITION EXPERT REGIONAL TRAINING PROGRAM.

(a) Establishment.—The Secretary of Transportation, acting through the National Highway Traffic Safety Administration, shall establish a regional program for training law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol, controlled substance, or other drugs.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $10,000,000 per fiscal year for each of fiscal years 1989, 1990, 1991, 1992, and 1993. Such sums shall remain available until expended.

Page 268, after line 26, insert the following:

$$A\left(\frac{X}{U}\right)$$

Page 269, after line 22, insert the following:

$$1-.5\left(\frac{S}{N}\right)$$

Page 284, after line 12, insert the following:

$$A\left(\frac{X}{U}\right)$$

Page 285, after line 9, insert the following:

$1—.6 \left(\frac{S}{N} \right)$

Page 260, line 18, insert "additional" before "cases".

Page 260, line 21, insert before the semicolon the following: "for the most recent fiscal year for which such data is available".

Page 267, line 17, strike "children;" and insert "children);".

Page 272, line 2, insert "of the United States" after "territory".

Page 272, line 12, strike "territory," and insert "territory involved,".

Page 272, beginning on line 15, strike "territories," and insert "territories of the United States,".

Page 272, line 23, insert "of the United States" after "territory".

Page 272, line 22, strike "year" the second place it appears.

Page 273, line 8, insert "of the United States" after "territory".

Page 273, line 11, strike "(b);" and insert "(c)".

Page 274, line 14, strike "1921(b)" and insert "1913".

Page 274, line 23, strike "such a" and insert "the".

Page 278, line 19, strike "1943" and insert "1942".

Page 279, line 4, strike "subsection" and insert "section".

Page 279, line 15, strike "paragraph (1)" and insert "subparagraph (A)".

Page 283, line 11, strike "plan" and insert "description of intended expenditures".

Page 286, line 21, insert "of the United States" after "territory".

Page 287, line 10, strike "territory," and insert "territory involved,".

Page 287, beginning on line 13, strike "territories," and insert "territories of the United States,".

Page 289, line 2, strike "such a" and insert "the".

Page 299, line 17, strike "that".

Page 304, beginning on line 16, strike "part B or part D," and insert "any of parts B through D,".

Page 305, line 19, strike "part B and D." and insert "any of parts B through D.".

Page 371, line 20, strike "contemporaneously" and all that follows through "grantees" on line 21 and insert the following: "will be available for use in more than one grant".

Page 267, after line 22, add the following new subsection:

"(b) Group Homes for Recovering Substance Abusers.—

"(1) For fiscal year 1989, the Secretary may not make payments under section 1931(a) unless the State involved agrees—

"(A) to establish, directly or through the provision of a grant contract to a nonprofit private entity, a revolving fund to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 4 individuals;

"(B) to ensure that the programs are carried out in accordance with guidelines issued under paragraph (3);

"(C) to deposit not less than $100,000 in the revolving fund;

"(D) to ensure that each loan made from the revolving fund does not exceed $4000 and that each such loan is repaid to the revolving fund not later than 2 years after the date on which the loan is made;

"(E) to ensure that each such loan is repaid through monthly installments and that a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved; and

"(F) to ensure that such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

"(i) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

"(ii) any resident of the housing who violates such prohibition will be expelled from the housing;

"(iii) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

"(iv) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

"(2) For fiscal year 1990 and subsequent fiscal years, the Secretary may not make payments under section 1931(a) unless the State involved provides assurances satisfactory to the Secretary that the State has provided for the establishment and ongoing operation of a revolving fund in accordance with paragraph (1).

"(3) Not later than 90 days after the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism, shall issue guidelines for the operation of programs described in paragraph (1).

Page 266, line 20, strike ""The" and insert "(a) In General.—The".

Page 276, line 7, strike "treatment." and insert the following: "treatment, including the effect of living in housing provided by program established pursuant to section 1932(b)(1).".

Page 307, line 18, strike "The" and insert "Except as provided in section 2305, the".

Page 308, beginning on line 7, strike "a grantee under such section" and insert "a recipient of the Federal financial assistance involved".

Page 308, line 15, strike "a grantee under such section " and insert "a recipient of the Federal financial assistance involved".

Page 311, line 21, strike "appropriate".

Page 315, after line 21, insert the following new section:

"SEC. 2306. REQUIREMENT FOR STATE GRANTEES OF NOTIFICATION OF CERTAIN INDIVIDUALS RECEIVING BLOOD TRANSFUSIONS.

"The Secretary may not provide Federal financial assistance to a State for counseling and testing with respect to acquired immune deficiency syndrome unless the State provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving on or after January 1, 1977, a transfusion of any blood product, the State will—

"(1) encourage such individuals to undergo testing for infection with the etiologic agent for acquired immune deficiency syndrome; and

"(2) inform such individuals of any public health facilities in the geographic area involved that offer such testing.

Page 316, line 1, strike "2306." and insert "2307.".

Page 318, line 12, strike "2307." and insert "2308.".

Page 318, line 14, strike "The" and insert "Except as provided in section 2305, the".

Page 319, after line 20, add the following new subsection:

Page 320, line 8, strike "2327." and insert "2329,".

Page 321, line 4, strike "2326." and insert "2327.".

Page 321, line 17, strike "2326." and insert "2327.".

Page 322, line 1, strike "2321(b)(1)." and insert "2321(b)(1)(A)".

Page 322, line 8, strike "2326," and insert "2327,".

Page 322, line 16, strike "(c);" and insert "(d);".

Page 323, line 10, strike "made;" and insert "made (including persons within the organization receiving the disclosure);".

Page 323, line 14, strike "A consent" and insert the following: "Except as otherwise specifically provided for pursuant to subsection (d), a consent".

Page 325, line 3, strike "may" and insert "shall".

Page 325, line 5, insert after "made to" the following: ", and at the request of,".

Page 325, line 16, strike "may" and insert "shall".

Page 325, line 18, insert after "made to" the following: ", and at the request of,".

Page 326, line 20, insert before the semicolon the following: "(or selling portions of such organization)".

Page 326, line 23, insert before the period the following: "(or of portions of such organization)".

Page 326, after line 23, insert the following new section (and redesignate provisions accordingly):

SEC. 2326. NONCONSENSUAL DISCLOSURES WITH RESPECT TO INSURANCE POLICIES AND HEALTH PLANS.

"(a) In General.—A person described in section 2321(b)(1) may disclose identifying information if the disclosure is made only to the extent reasonably necessary for the purpose of—

"(1) compliance with requirements imposed by the State agency that regulates the provision of insurance; or

"(2) responding to a judicial order to furnish evidence in proceeding to prosecute State or Federal causes of action for fraud, material misrepresentation, or material nondisclosure arising from acts or omissions of the protected individual, or on behalf of the protected individual, with respect to contracts (including the formation of contracts) for benefits under insurance policies or health plans (including health maintenance organizations, medical service plans, and hospital service plans).

"(b) Opportunity To Participate in Proceedings.—Before requiring or authorizing a disclosure of identifying information under subsection (a), the court shall provide to the protected individual, or a claimant referred to in section 2322(b), a reasonable opportunity to participate in the proceedings for determining whether, and to what extent, a disclosure will be ordered.

"(c) In Camera Proceedings.—Civil proceedings under subsection (a) shall be conducted in camera. Any references in court documents to the parties in such proceeding shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"(d) Findings of Facts and Conclusions of Law.—In issuing orders described in subsection (a)(2), the court involved shall find the facts specially and state separately the conclusions of law that constitute the grounds of the actions of the court.

"(e) Applicability of Confidentiality Prohibition.—If a court issues an order described in subsection (a)(2), the court shall determine the extent to which the prohibition established in section 2321(a) shall apply to individuals receiving identifying information pursuant to the order.

Page 327, line 1, strike "2326." and insert "2327.".

Page 327, line 8, strike "2325," and insert "2326,".

Page 328, line 17, strike "2327." and insert "2328.".

Page 329, line 18, strike "2328." and insert "2329.".

Page 330, line 5, strike "2329." and insert "2330.".

Page 330, line 10, strike "2326," and insert "2327,".

Page 330, line 24, strike "2324" and insert "2327".

Page 331, line 8, strike "2330." and insert "2331.".

Page 331, line 12, strike "2329" and insert "2330".

Page 333, line 5, strike "2329" and insert "2330".

Page 333, line 10, strike "2329" and insert "2330".

Page 333, line 14, strike "2329" and insert "2330".

Page 334, line 2, strike "2329" and insert "2330".

Page 334, line 9, strike "2331." and insert "2332.".

Page 334, line 21, strike "2332." and insert "2333.".

Page 335, line 1, strike "2329" and insert "2330".

Page 335, line 4, strike "2333." and insert "2334.".

Page 335, line 6, strike "The" and all that follows through "2328" and insert the following: "The imposition of a penalty under section 2331 or 2332 or a violation of section 2321 or 2330.".

Page 335, line 10, strike "2330(c)" and insert "2331(c)".

Page 335, line 13, strike "2334." and insert "2335.".

Page 336, line 12, strike "2335." and insert "2336.".

Page 336, strike lines 15 through 17 and insert the following: "means any individual whose identity is disclosed by a protected individual during the process of receiving counseling, testing, or health care described in section 2321(b)(1).".

Page 337, line 9, strike "or".

Page 337, line 13, strike the period and insert "; or".

Page 337, after line 13, insert the following new subparagraph:

"(C) who has disclosed identifying information with respect to himself or herself in the course of receiving health care.

Page 339, after line 21, insert the following new paragraphs:

"(5) The term 'State' means each of the several States, the District of Columbia, and the territories of the United States.

"(6) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Page 339, line 22, strike "'(5)" and insert "'(7)".

Page 340, line 3, strike "'(6)" and insert "'(8)".

Page 374, strike out line 9 and all that follows through line 16, page 375, and insert in lieu thereof the following:

SEC. 10019. ESTABLISHMENT OF TASK FORCE AND PROTECTION OF PUBLIC HEALTH WITH RESPECT TO ILLEGAL DRUG LABORATORIES.

(a) Establishment of Task Force.—There is established the Joint Federal Task Force on Illegal Drug Laboratories (hereafter in this section referred to as the "Task Force").

(b) Appointment and Membership of Task Force.—The members of the Task Force shall be appointed by the Administrators of the Environmental Protection Agency and the Drug Enforcement Administration (hereafter in this section referred to as the "Administrators"). The Task Force shall consist of at least 6 and not more than 20 members. Each Administrator shall appoint one-half of the members as follows: (1) the Administrator of the Environmental Protection Agency shall appoint members from among Emergency Response Technicians and other appropriate employees of the Agency; and (2) the Administrator of the Drug Enforcement Administration shall appoint members from among Special Agents assigned to field divisions and other appropriate employees of the Administration.

(c) Duties of Task Force.—The Task Force shall formulate, establish, and implement a program for the cleanup and disposal of hazardous waste produced by illegal drug laboratories. In formulating such program, the Task Force shall consider the following factors:

(1) The volume of hazardous waste produced by illegal drug laboratories.

(2) The cost of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

(3) The effectiveness of the various methods of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

(4) The coordination of the efforts of the Environmental Protection Agency and the Drug Enforcement Administration in cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

(5) The dissemination of information to law enforcement agencies that have responsibility for enforcement of drug laws.

(d) Guidelines.—The Task Force shall recommend to the Administrators guidelines for cleanup of illegal drug laboratories to protect the public health and environment. Not later than 180 days after the date of the enactment of this Act, the Administrators shall formulate and publish such guidelines.

(e) Demonstration Projects.—

(1) The Attorney General shall make grants to, and enter into contracts with, State and local governments for demonstration projects to clean up and safely dispose of substances associated with illegal drug laboratories which may present a danger to public health or the environment.

(2) The Attorney General may not under this subsection make a grant or enter into a contract unless the applicant for such assistance agrees to comply with the guidelines issued pursuant to subsection (d).

(3) The Attorney General shall, through grant or contract, provide for independent evaluations of the activities carried out pursuant to this subsection and shall recommend appropriate legislation to the Congress.

(f) Funding.—Of the amounts made available to carry out the Controlled Substances Act for fiscal year 1989, not less than $5,000,000 shall be made available to carry out subsections (d) and (e).

(d) Reports.—After consultation with the Task Force, the Administrators shall—

(1) transmit to the President and to each House of Congress not later than 270 days after the date of the enactment of this Act a report describing the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection);

(2) periodically transmit to the President and to each House of Congress reports describing the implementation of the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection) and the progress made in the cleanup and disposal of hazardous waste produced by illegal drug laboratories; and

(3) transmit to each House of Congress a report describing the findings made as a result of the evaluations referred to in subsection (e)(3).

Page 178, line 14, strike out "$620,551,000" and insert in lieu thereof "$625,551,000".

Page 375, after line 2, insert the following:

TITLE XI—INFORMATION ON ILLEGAL FOREIGN DRUG ACTIVITIES

SEC. 11001. COOPERATION BETWEEN AGENCIES AND WITH CONGRESS.

(a) Requirement for Interagency Cooperation.—Any officer or employee in the executive branch who, in the course of his or her official duties, obtains information about illegal foreign drug activities shall promptly furnish such information, in accordance with the procedures established by the President pursuant to subsection (b)(1), to the head of an agency designed by the President pursuant to subsection (c)(2).

(b) Establishment of Reporting Procedures and Designation of Recipient Agencies.—Not later than 60 days after the date of the enactment of this Act, the President—

(1) shall establish procedures for furnishing information pursant to subsection (a);

(2) shall designate one or more agencies as an agency to which such information is to be furnished (such agencies to include, as the President determines appropriate, agencies involved in the formulation of United States foreign policy, agencies involved in the enforcement of Federal drug laws, the agency in which the officer or employee who obtains the information serves or is employed, or other agencies);

(3) shall establish procedures for the sharing of information furnished to an agency pursuant to this section with other agencies, where appropriate; and

(4) shall notitfy the Congress of the procedures so established and the agencies so designated.

The President shall review such procedures and designations once each year and may, on the basis of the review, change any such procedure or designation, with notification as provided in paragraph (4).

(c) Definitions.—As used in this section—

(1) the term "agency" means a department, agency, or establishment in the executive branch of the Government;

(2) the term "controlled substance" has the same meaning as is provided in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(3) the term "illegal foreign drug activities" means activities occurring primarily outside the United States which, if they oc-

curred in the United States, would be a felony under—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(B) any other Federal law involving controlled substances; or

(C) Subchapter II of chapter 53 of title 31, United States Code (commonly referred to as the "Bank Secrecy Act"), section 1956 or section 1957 of title 18, United States Code (commonly referred to as the "Money Laundering Act"), or any other provision of title 18, United States Code, if the violation is related to illicit production of or trafficking in a controlled substance; and

(4) the term "officer or employee in the executive branch" means an appointed officer or an employee in the executive branch of the Government, and a member of a uniformed service.

Page 2, immediately after the item relating to title X, insert the following:

Title XI—Information on Illegal Foreign Drug Activities

The CHAIRMAN. Without objection, the reading of the amendments will be dispensed with, and the amendments will be printed in the RECORD.

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Washington [Mr. FOLEY] is recognized for 30 minutes in support of his amendments.

Mr. FOLEY. Mr. Chairman, I yield 15 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I am delighted to accept that, except I was wondering if I could claim the time designated for the gentleman from Illinois [Mr. MICHEL] as his designee.

The CHAIRMAN. The Chair would state under the rule the gentleman from Washington [Mr. FOLEY] is entitled to 30 minutes and the gentleman from Illinois [Mr. MICHEL] is entitled to 30 minutes.

As the Chair understood it, the gentleman from Washington [Mr. FOLEY] was yielding 15 minutes of his time.

Mr. FOLEY. Mr. Chairman, if the Chair will indulge me, I understood that the total time was half an hour. The Chair is correct; it is half an hour on each side, so I will claim the full 30 minutes, and the gentleman from Florida [Mr. MCCOLLUM] can claim the full 30 minutes on his side.

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. MCCOLLUM] may control the time of the gentleman from Illinois [Mr. MICHEL].

There was no objection.

The CHAIRMAN. The gentleman from Washington [Mr. FOLEY] will be recognized for 30 minutes and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment before us is offered on my behalf and that of the gentleman from Illinois [Mr. MICHEL], the Republican leader. It includes a number of individual proposals offered by Members on both sides of the aisle which have been consolidated in one package. Each of them has been cleared with not only the gentleman from Illinois [Mr. MICHEL] and myself, but with the leadership of the subcommittees of the various committees involved with this bill.

Mr. Chairman, while I intended to recognize a few Members present on the floor who wish to speak to specific proposals included in this amendment, let me say before doing so that I am deeply appreciative of the cooperation of the gentleman from Illinois [Mr. MICHEL], the Republican leader, and of the leadership of the subcommittees.

In particular I would like to mention the gentleman from New York [Mr. RANGEL] and the gentleman from New Jersey [Mr. HUGHES], as well as the gentleman from Florida [Mr. MCCOLLUM] on the Republican side. They have all worked very assiduously on this legislation and have had the principal responsibility for the managing of the bill during its consideration by the House.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, there are many questions that have been asked, or need to be asked, about how we deal with the problem of drugs in our country. For example, is urinalysis or any drug analysis reliable? Is random urinalysis without probable cause for suspected drug use constitutional, ethical, or effective? Should an employee be disciplined if his urine tests positive for marijuana as a result of inhaling secondary smoke at a rock concert? Do positive drug test results indicate impairment at work? Regardless of where one stands on the drug testing issue, these are concerns that have been raised by people of good conscience. The Drug Recognition Expert Program, which at my request has been incorporated into the pending amendment, provides one solution to these questions.

The Drug Recognition Expert procedure was developed in 1981 by the Los Angeles Police Department because its officers became concerned that impaired individuals were not being prosecuted due to lack of any measurable impairment such as that which exists for alcohol. As a result, the officers decided to develop their own expertise in identifying drug influence problems. After much research and consultation with experts in drug symptomatology, the Los Angeles Police Department developed a drug classification system based on specific observable symptoms. They tested the system in the field, compared their findings, and continually refined their knowledge through the field experience which they gained under street conditions.

Trained Drug Recognition Experts—DRE's as they are called—are successfully able to identify and prove impairment caused by drugs. They can also successfully identify the symptomatic class of drugs that cause the impairment through patterns of behavior and physiological symptoms associated with the major drug categories: stimulants, depressants, hallucinogens, or any combination thereof. After impairment has been established and the drug or drugs identified, urine or blood samples are obtained.

The validity of these drug influence recognition techniques have been tested in the courts and by supporting laboratory evidence. Currently, in Los Angeles, the conviction rate of those identified as being under the influence of drugs while operating a motor vehicle, excluding alcohol alone, is over 90 percent. And a toxicologist with the Arizona Department of Public Safety has found the DRE procedure to be the best tool ever developed for detecting drug impairment in traffic enforcement.

Furthermore, Johns Hopkins University, in a study performed under clinical conditions, proved the effectiveness of this procedure. The National Highway Traffic Safety Administration [NHTSA], which funded this study and a field evaluation which confirmed its results, has determined that currently there is no other procedure of physical or chemical testing that is able to demonstrate impairment. NHTSA has also found that the procedure is at least 90 percent successful in trying a particular category of drugs to the impairment witnessed in people suspected of drug impairment.

My amendment would authorize $50 million over 5 years to enable NHTSA to establish a drug recognition expert program regionally in areas where the program can best be implemented throughout the Nation. In that regard, these funds should provide for costs related to training a cadre of instructors to promulgate this program in those regions designated by NHTSA that will assure that all interested States will be able to participate.

This program should be designed to assist States and communities in the detection, arrest, and processing of drugged drivers through the identification and classification of the different types of drug impairment using the drug recognition procedures developed by the Los Angeles Police Department. Although the drug recognition program should be a comprehensive approach which includes legislation, law enforcement, prosecution, adjudication, driver licensing, public information, and community involvement, the major portion of the program will involve orientation of enforcement personnel in initial techniques to detect impairment of any type and training a sufficient number of personnel to perform drug recognition evaluations. Other parts of the program will involve training prosecutors, judges, and traffic enforcement administrators in methods of implementing a total drugged driving enforcement countermeasures system in the community.

In order to assure that the program retain its high quality and accuracy, instructors within the prescribed regions shall be certified to administer the program. In addition, facilities may be necessary for the training of instructors by the Los Angeles Police Department; in that case, NHTSA shall provide a cost-effective facility for this purpose.

□ 1430

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am delighted to join with the distinguished majority leader in this effort in a noncontroversial amendment to come up at the end of this bill and put some things in it that really were missing. I am doing it on behalf of our minority leader, the gentleman from Illinois [Mr. MICHEL] under the rule.

I think the intent is very clear. It is a safety valve amendment. It is one where compromises can be put to clean up whatever needs to be cleaned up, and that is what is being offered.

We on this side have examined it and believe this to be a very good amendment, and in a bipartisan spirit I think it should be adopted.

Let me say in commenting at this time, the efforts that have gone into this bill have been truly remarkable by all the parties, and I want to compliment them while I have the opportunity.

I think the leadership on the other side of the aisle, the gentleman from Washington [Mr. FOLEY] in particular, have done an excellent job in getting us to this point. I think the gentleman from New Jersey [Mr. HUGHES] and the gentleman from New York [Mr. RANGEL] have been very responsible.

I also want to thank those on my side, especially the House Republican Task Force for their efforts in coming up with some of the ideas that went into this bill.

Mr. Chairman, we have a very good opportunity today to present a very remarkable piece of legislation on the war on drugs. for the first time we recognize the need for user accountability in two or three different ways that we have never done before, including the loss of eligibility for certain Federal benefits for those convicted for the first time of simple possession and civil fines in that area, and also today the incentives that we placed in the bill for getting States to enact laws that would remove the right to take a driver's license for up to 6 months if somebody is convicted of simple possession, and many more things.

So this has been an excellent product. This amendment is noncontroversial.

Mr. Chairman, for purposes of debate only, I yield 3 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me begin by congratulating the distinguished gentleman from California [Mr. ANDERSON], the chairman of the Committee on Public Works and Transportation, as well as the distinguished gentleman from Nebraska [Mr. DAUB], for their contributions to the Foley-Michel amendment. As a result of their efforts, the bill before us today will be greatly strengthened.

The provision of the gentleman from Nebraska will make pilots of aircraft think twice before they get involved in drug trafficking. Under existing law, a pilot convicted of drug trafficking is supposed to have his or her pilot's certificate revoked for 5 years. This is not always enforced by the FAA and even when it is, the FAA has the discretion to reduce the period of revocation to less than 5 years. The Daub amendment will require the FAA to permanently revoke the certificate of any pilot convicted of drug trafficking.

The only exception would be for pilots who are cooperating with law enforcement officials. I believe this provision will go a long way to help deter pilots from getting involved in the trafficking of drugs.

The provision of the chairman of the Public Works Committee will also help in our effort to curb the use of drugs. His amendment provides $10 million per year for 5 years to train police officers to recognize and identify persons who are under the influence of drugs.

This program is based on the highly successful program developed by the Los Angeles Police Department which, according to the L.A.P.D., has a success rate of 94 percent.

Mr. Chairman, the Daub and Anderson proposals will improve the bill we are considering here today, and I therefore urge my colleagues to support the Foley-Michel amendment.

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, my amendment has been accepted and made a part of the leadership amendment and agreed to by both sides is intended to promote cooperation and information sharing among Federal agencies and with the Congress.

Information is essential to the success of our struggle to rid this Nation of the devastating plague of drug abuse. My amendment is directed at knocking down the stone walls which hamper the sharing of information among Federal agencies.

Currently, there is no legal requirement for the sharing of information. My amendment would change that.

Congressional concern about illegal drug trafficking and drug abuse is not a new phenomenon. For longer than I have been alive, Congresses have been providing Presidents with the authority and funding to wage war against destructive and criminal drug activities.

Yet, today, statistics lead us to believe that criminal drug activity and drug abuse is worse than at any other time in the history of our Nation.

This may be because data gathering is more efficient today than at any other time. It may be that a higher percentage of Americans, in fact, are involved. Neither possibility is encouraging.

Despite the priority Congresses, since the early part of this century, have placed on fighting drugs—despite the knowledge that information is a key to winning the battle, the Federal Government still has no requirement for information sharing.

We only have to recall the testimony of the Administrator of the Drug Enforcement Administration DEA is a lead agency in the war against drugs. Common sense says that—at a minimum—information on important drug investigations should be shared with the DEA Administrator.

But, the DEA Administrator has testified to the Congress that when he wrote letters praising the aid in the fight against illegal drug trafficking provided by Panamanian Gen. Manuel Noriega, the Administrator was not aware of the Justice Department probe which led to the indictment of the General for aiding and abetting the criminals flooding our Nation with illegal drugs.

My amendment will strengthen our forces in the fight against illegal drugs by requiring information sharing. It should improve the coordination between what the Federal Government does in law enforcement and what it does in foreign policy.

Under my amendment, any officer or employee of the executive branch who, in the course of his or her official duties, obtains information about illegal foreign drug activities shall promptly furnish that information, in accordance with procedures that are to be established by the President, to the head of an agency designated by the President.

Not later than 60 days after enactment of this act, the President will establish procedures for furnishing information, and he will designate one or more agencies as an agency to which the information will be furnished. Those agencies will include, as the President determines appropriate, ones involved in the formulation of foreign policy, enforcement of Federal drug laws, the agency in which the official who obtains the information is employed, or other agencies. The President will also establish procedures for the sharing of information furnished to an agency, and he will notify the Congress of the procedures established and the agencies he has designated.

Mr. Chairman, U.S. foreign policy and law enforcement interests could be seriously weakened without consistent cooperation among executive branch agencies and between such agencies and the Congress with respect to information about illegal foreign drug activities.

The Congress must have appropriate access to such information if it is to perform its constitutional oversight and lawmaking duties, and there must be procedures established to insure effective sharing and distribution of such information within the executive branch to facilitate the necessary interagency coordination of U.S. foreign policy and law enforcement activities.

My amendment, specifically, does not interfere with the continuation of voluntary, off-and-on, information sharing between Federal agencies and between Federal agency officials and employees and the Congress. It is intended to help insure that information is shared.

Congress has a responsibility for decisionmaking on issues relating to illegal drug trafficking and foreign policy. Indeed, the very bill we are now debating, and the major antidrug abuse reform law the Congress adopted in 1986, are evidence of this. Congress has an intense need for information in order to make the right decisions.

But, as the elected representatives of the American people, we Members of Congress cannot be confident that the Presidential administrations will cooperate even to the extent of sharing information with us.

This spring, because of my concerned questions about whether information about illegal foreign drug activities is shared as it should be, I asked the General Accounting Office to conduct an investigation of this.

I had specific concerns about whether, when foreign policy is being made, U.S. officials had the pertinent information relating to involvement for foreign government officials in illegal drug trafficking to the United States.

Many questions need answers as a part of this investigation. Some of the general ones are:

How are intelligence needs established?

How are intelligence needs communicated to the field agents who collect the information?

How is the information communicated back to headquarters?

How is the agency organized to assess information?

How many different units in the agency receive the information?

What does each unit do with the information; and so forth, how do they use it and what do they produce?

How is the information communicated back to the original requester?

Who else receives the information—especially law enforcement and foreign policymaking officials?

Who decides who should receive particular types of information?

Do the recipients receive raw information, detailed analyses, or summary reports?

What procedures are there for law enforcement agencies to communicate their intelligence needs to the intelligence community?

How do the law enforcement agencies decide the kind of intelligence they want; and so forth, are they interested in tactical intelligence exclusively or do they also identify strategic intelligence needs?

Who in the law enforcement agencies receive the intelligence information?

How do the law enforcement recipients use the intelligence information—do they pass it on in the raw form, do further analysis and summarization, or accumulate it for eventual use in developing a case?

What procedures are followed in each type of situation where law enforcement agencies use intelligence information?

How are law enforcement and or foreign policymaking officials further up the chain of command provided intelligence information—what procedures are involved, what kind of information is provided?

How do recipients further up the chain of command use intelligence information?

And there are numerous specific questions which need answers. Some of them are:

Were any specific instructions or directives issued requesting that the intelligence agencies collect information on illegal activities of foreign officials?

Were any specific instructions or directives prepared requesting information on illegal drug-related activities in Panama or on General Noriega's involvement in illegal drug activities?

What specific information was requested?

What information was collected specifically on illegal activities in Panama or on Noriega?

Who received the raw information, what did they do with it, what studies, reports, or analyses were prepared on illegal activities in Panama or on Noriega?

Who were these reports sent to—especially, were any recipients in the law enforcement community or in foreign policy making positions?

Why were they sent to these people?

How did the law enforcement recipients use the reports—did they do further analysis, did they use the intelligence as input to build or develop any criminal cases?

If intelligence information was not used, why not—was it considered to be inadequate or inconclusive?

What level officials in the law enforcement agency received the reports?

How did the foreign policy making recipients use the reports—did they discuss them, did they do further analyses, did they summarize for higher-level recipients?

If reports or summaries were prepared, who did they go to and how were they used?

To my absolute astonishment and shock, the National Security Council went into action to prevent Federal agencies from cooperating with the GAO investigation.

First, NSC warned other Federal agencies against providing lawfully requested cooperation and information.

Then in a further effort to block the lawful GAO Investigation, NSC ducked and dodged. It called on the Justice Department to find a way to keep the executive branch from sharing information with GAO and Congress.

Finally on August 29, ignoring the clear legal authority Congress has provided to GAO, NSC, in a letter to GAO, admitted that it is so nervous about the handling of the Noriega situation that it does not even want the executive branch to share relevant information on the procedures used by the agencies to define, collect, analyze, disseminate and use information on involvement of foreign government officials in illegal foreign drug activities.

Today, the need for a thorough investigation was dramatized by allegations that Vice President GEORGE BUSH may have complained to Noriega as early as 1983 about laundering of drug money in Panama. According to national wire reports, a former Noriega aide, Col. Roberto Diaz Herrera, alleged that BUSH complained to Noriega in 1983 about an estimated $3 billion of drug profits that had already been laundered in Panama.

I make no accusation against the Vice President regarding the Noriega connection; but if he has nothing to hide, then the administration should not object to providing information on this issue.

The GAO has contended that the blanket prohibition against providing any information regarding this inquiry is unacceptable. GAO officials have told me that "much of the information we need to examine should be considered to be releasable," and they have informed the NSC that they had completed previous assignments successfully that involved similarly sensitive information.

There is no reason why the executive should not provide information on the basic objective information of the GAO investigation, which is the organization and decision process for foreign policymaking when information is available on foreign official's drug trafficking.

The Vice President has contended that the administration took action against Panama as soon as it learned of his involvement in drug trafficking, after he was indicted in February 1988. If that is so, then Mr. BUSH should step forward and give an explanation of this actions.

A series of questions related to my home State of Arkansas remain unanswered about illegal drug trafficking in Latin America. Troubling questions continue to surface about allegations concerning Adler Berriman (Barry) Seal's gunrunning and drug smuggling. Seal, who was at one time a DEA informant and was slain in Louisiana in 1986, was allegedly involved in an operation in which a plane loaded with guns to aid the Nicaraguan Contras flew from Mena, AR down to Central America and then returned loaded with drugs.

One of Seal's planes, a C-123K that had been serviced and parked at the Mena airport during much of 1984 and 1985, was shot down over Nicaragua in October, 1986, while carrying supplies to the Contras, and an Arkansas, Wallace (Buzz) Sawyer, was killed in the crash. There have been local, State and Federal investigations into the Mena operation, but many questions persist. A vital goal of this amendment is to insure that all agencies are cooperating in giving and receiving the information they need to do their job.

Nothing in my amendment restricts the information gathering and action authority of either the Congress or the General Accounting Office beyond such restrictions which already exist in law.

I would like to thank and commend my distinguished colleagues, Mr. STOKES, Mr. HUGHES, and Mr. RANGEL, the distinguished chairman of the various committees involved for their dedicated work in fashioning this amendment. They are making a valiant contribution to the battle against illegal foreign drug trafficking.

Information sharing is essential to the success of our fight against illegal drug trafficking and drug abuse. For the first time in our battle, by adopting my amendment, the Congress would make clear that it intends information to be shared. I urge the adoption of the amendment.

Mr. Chairman, I yield to the gentleman from New York [Mr. RANGEL] to make a statement in that regard.

Mr. RANGEL. Mr. Chairman, I want to say in support of the gentleman's amendment that I think it is so important that we think about our foreign policy, that we include the effort to try to control these international drug bandits that sometimes operate with the knowledge of their heads of government. For us to be forced to have investigations and embarrassment to our State Department and to our Nation because we have not gathered the intelligence as to the depth in which drug trafficking is involved with international policy I think has been tragic and certainly causes a lot of embarrassment.

What the gentleman has attempted to do is to make certain that when we talk about intelligence in terms of our national security that we include drug trafficking as being a threat to that security.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, first, I want to congratulate the gentleman for offering what I think is a very important amendment. It is aptly characterized as the antistonewalling amendment.

Frankly, that is often what we get from agencies when we try to get information about drug trafficking and other activities involving foreign leaders and others.

On the news last night I happened to catch a piece about the CIA not sharing with the Customs Agency information about the sale of Bell Helicopters to North Korea. I do not know whether the gentlman caught it or not.

Mr. ALEXANDER. I did.

Mr. HUGHES. Now, that happens all the time in the drug area. Often the intelligence gathering agencies, particularly overseas, do not share that information with the drug agency that is charged with the responsibility in fact of developing good hard strategic intelligence, or with any other law enforcement agency.

I know the gentleman, who is the chairman of the Select Committee on Narcotics, on which I am privileged to serve also, has run into the very same problem. Trying to get information out of these agencies is very, very difficult.

Now, this is not the last word on it, but it is a major step in the right direction and I congratulate the gentleman.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman.

We are simply trying to discover the complicity of foreign governments in the Western Hemisphere, in illicit drug trafficking by both political and military officials, also we seek to discover the knowledge of U.S. Government officials of trafficking by foreign officials.

The policy driving, this amendment will take several more minutes to state.

U.S. foreign policy and law enforcement interests, especially U.S. interests in combatting illegal foreign drug activities, could be seriously impaired without consistent cooperation among executive branch agencies and between such agencies and the Congress with respect to information about illegal foreign drug activities;

Information about illegal foreign drug activities can be critical to the formulation and implementation of U.S. foreign policy and the enforcement of Federal drug laws, especially U.S. efforts to combat illegal foreign drug activity; and

Accordingly, the Congress must have appropriate access to such information if the Congress is to perform its constitutional oversight and lawmaking functions, especially with respect to the formulation and implementation of U.S. foreign policy and with respect to law enforcement activities, and there must be procedures established to ensure the effective sharing and distribution of such information within the executive branch to facilitate the necessary interagency coordination of U.S. Government foreign policy and law enforcement activities.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I rise today in strong support of the en bloc amendments.

But first, I want to thank both the chairman and ranking member of the Judiciary Committee, as well as the distinguished minority and majority leaders, for their work in crafting this historic drug bill.

And I appreciate their support for my amendment.

I firmly believe it will allow us to strengthen our Federal crackdown on the clandestine drug laboratories that have become—quite literally—a major cottage industry in the United States.

Today, the operators of these labs can buy unlimited quantities of entirely legal chemicals from perfectly reputable companies, then retreat to their rural hide-aways and concoct addictive, inexpensive and highly profitable narcotics.

By establishing reporting and recordkeeping requirements for large chemical transactions, this bill goes a long way toward righting the wrong that allows criminals to use legal chemicals as ingredients in their recipes for illegal drugs.

But my amendment would go one step further.

It would close a major loophole by making it a crime to intentionally buy or sell smaller amounts of these chemicals in order to avoid the new reporting and recordkeeping requirements.

Similar language was found in the Chemical Diversion and Trafficking Act which received bipartisan support in the Crime Subcommittee last year.

That bill represented a truly herculean effort on the part of our chairman, the gentleman from New Jersey [Mr. HUGHES], and our ranking minority member, the gentleman from Florida [Mr. McCOLLUM] in reaching agreement with the chemical industry and the Justice Department on precisely how we could address the problem of legal chemicals being used to produce illegal drugs.

While most of that bill's provisions are contained in the comprehensive legislation we have been debating this month, the language I am concerned about is not.

As a representative of both rural hills and city streets, I understand the magnitude of this problem, particularly the proliferation of methamphetamine, which is sold on the streets of America under names such as "meth" or "speed"—the poor man's cocaine.

For instance, in the San Antonio metropolitan area, the Drug Enforcement Administration this year has seized 18 "speed labs" that would have produced $36 million in drugs annually.

This abominable industry is spreading into the wide expanse of west Texas where criminals set up their "cooking" laboratories in hunting shacks and small trailers.

A few days ago, authorities there made the biggest "speed lab" bust so far in our State of Texas—a quarter million dollars in the latest high-technology equipment that was just about to finish cooking up a $6.1 million batch of speed destined to corrupt lives and corrode minds.

We must not ignore the fact that these illicit drugs are being manufactured right in our own backyards.

I appreciate the opportunity to participate in drafting this bill, and I urge support for the en bloc amendments.

Mr. McCOLLUM. Mr. Chairman, I ask unanimous consent that the balance of the time allotted to me may be controlled by the gentleman from California [Mr. LUNGREN].

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I thank the majority leader for yielding this time to me.

Mr. Chairman, I want to commend the majority leader for what I think is a very excellent package of en bloc amendments and speak briefly about just several that I think are particularly important.

The en bloc amendments in particular contain a package of legislation that I authored with our colleague, the gentleman from California [Mr. DORNAN], to establish $5 million in demonstration cleanup projects so that State and local governments will be able to gain firsthand knowledge and assistance on how to dispose of the very dangerous toxic wastes.

I think it is particularly important not just for my home State of Oregon, which has the dubious distinction of being at the top of the list in production of these methamphetamines, but I think it is important for our whole country. What we know, for example, is that when we clean up other dangerous wastes in this country, such as the wastes of the Superfund Program, there are very detailed guidelines and specific requirements for the cleanup of these dangerous wastes. At the same time when there are drug houses in a community in this country, law enforcement and health officials are really at a loss as to how to proceed on the cleanup. With this legislation we would establish guidelines for State and local governments to pursue when they are going to conduct these cleanups.

I think it is something that will be a real lifeline to law enforcement and health authorities around this country as they try to clean up the deadly residue of these labs.

The only other point that I would want to mention, Mr. Chairman, is that I want to tell the gentleman from New Jersey, the chairman of the Subcommittee on Crime, how pleased I am that this legislation includes strong controls against the precursor chemicals that are used in these drug labs.

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My colleague, the gentleman from Oregon [Mr. DeFAZIO], and I, from Oregon, introduced legislation. I appreciated very much the chance to come to the chairman's subcommittee. I think this legislation, for the first time, will allow us to control these precursor chemicals so that criminals cannot move from one State to another just to beat law enforcement authorities.

Mr. Chairman, with that, I urge my colleagues to support the legislation.

Mr. LUNGREN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I thank my colleague, one of the outstanding Members of this Chamber, who will someday be probably the Governor of California. Remember, you heard it here first, on the day the British hung Nathan Hale, September 22. You have but one career to give to your State, and I know that you, DANIEL LUNGREN, Notre Dame graduate, will someday be the Governor of California. And when he is the Governor of the State of California, I would not be a bit surprised if one of my colleagues from the other side of the aisle is the Governor of the beautiful State of Oregon, and that is the gentleman from Oregon [Mr. WYDEN].

There is not anything we cannot accomplish around here when two of us get inside the cockpit, share the title copilot, and fly straight and try to get something done for justice.

I know the way the gentleman's State of Oregon suffers from meth labs and these PC labs. It is the same in California. This drug problem is not only an issue for our youth, it is an issue that threatens the survival of our civilization. And I know what good work the gentleman from New Jersey [Mr. HUGHES] has been trying to accomplish with the gentleman from California [Mr. LUNGREN] and the gentleman from Florida [Mr. McCOLLUM], the Dornan-Wyden amendment deals with a pollution issue. When State authorities bust one of these meth or PCP labs, as the gentleman from Oregon [Mr. WYDEN] said with forceful articulation, what do we do with all of this garbage left over from these selfish people who are trying to pollute this God-given computer which is called a brain? What do we do with all of this residual garbage that can hurt children and continue to hurt our fellow citizens?

Mr. Chairman, we have to have some help, and the Dornan-Wyden amendment, or I will call it the Wyden-Dornan amendment, if the gentleman wants to use it as such, provides that help. I only wish we had such cooperation between one another on all issues concerning this nightmare narcotic problem, so that each succeeding Congress can take forceful steps to try to rid our country of this curse on the land.

Mr. Chairman, I thank the gentleman, and I also thank his staff for working with my excellent staff in getting the job done, and I thank the chairman of this bill for accepting this en bloc.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS of Michigan. Mr. Chairman, I am pleased to have this opportunity to speak in support of the provision in this amendment to establish a system to identify the owners of all U.S. vessels. This provision represents the efforts of many groups including the Maritime Law Association, the American Bar Association, the National Marine Bankers Association, and the administration. This system will primarily benefit law enforcement officials, but others, including State boating officials, and commercial and recreational vessel owners, insurers, national boating organizations, and financiers will benefit from the system.

The vessel identification system in this provision will, for the first time, provide a way to identify the owners of all commercial and recreational vessels in this country. Since the late 1970's, the Merchant Marine and Fisheries Committee, of which I am the ranking minority member, has received testimony on the need to clearly and easily establish the owners and identities of vessels. Thousands of vessels are stolen annually in this country, and law enforcement officials have no way to identify the true owners of those vessels and to effectively track the interstate movements of those vessels. The Federal Aviation Administration currently maintains a system to identify the owners of aircraft, and title VIII of H.R. 5210 contains provisions reported by the Public Works and Transportation Committee to strengthen that system. I understand that many of the problems associated with identifying the ownership of aircraft also exist with regard to vessels, and should be alleviated by the vessel identification system. Earlier this Congress introduced a bill, H.R. 3298, to address many of these problems.

This vessel identification system is required to be established by the Secretary of Transportation. The Secretary may require that the Coast Guard carry out this program, but this is not required by the provision. This system should be established in the most cost-efficient manner and combined, if possible, with other information systems the Secretary currently maintains. The system of information the Secretary maintains on documented vessels would be an appropriate information system to combine with the vessel information system, because the identification information maintained by the Secretary on documented vessels is part of the overall system of identification information for all vessels of the United States. Another reason to combine these systems is that the fees charged by the Secretary under the Ship Mortgage Act, 1920, as amended by this provision, may be sufficient to modernize the vessel information system maintained by the Secretary under that Act, and also to offset the costs of establishing the vessel information system under this provision.

States are encouraged to participate in the system by making ownership information available on vessels in their States to the Secretary of Transportation. Participation is voluntary on the part of States, but as a benefit to vessel owners and financiers, vessel mortgages filed in participating States with approved titling systems will be given preferred status currently available to federally recorded vessel mortgages. In addition, if a State is employed by the Secretary to collect the $1 per vessel fee authorized by this provision, the State may retain half of the amounts collected to provide vessel identification information to the Secretary. This purpose would include making updates and improvements to State vessel titling and numbering schemes to more effectively provide information to the Secretary. Total fees paid by boaters may stay the same or actually decrease, because States will reap the efficiency of making certain improvements to their numbering systems with these funds. I believe that these inducements will encourage a broad participation in the vessel identification system by the States.

This provision includes a codification of the Ship Mortgage Act recently reported by the Merchant Marine and Fisheries Committee (H. Rept. 100-918), with certain changes explained in the section-by-section analysis attached to this statement. It contains procedures to support the preferred status for State filed or recorded financing instruments, and many others to complement the new vessel identification system. For these reasons it is an important part of the vessel identification system.

The codification recognizes the prevalence of revolving credit loans in modern financing and allows their use in vessel financing. It eliminates a number of useless formalities such as requiring that a mortgage be endorsed on a vessel's document or the needless requirement that the Coast Guard be notified when a partial payment is made on a mortgage.

With respect to encouraging the financing of vessels, the codification establishes a nationwide indexing system which will allow a preferred ship mortgage to be valid from the date of filing. This will eliminate the current 8-month wait before a mortgage actually grants the security interest important to consumers and banks. While it will take some time to get this program operating, I am convinced that the new system will be a vast improvement over current labor intensive and time consuming procedures in use today. Again, modern computer technology can easily handle these tasks.

I want to thank Walter Jones, the distinguished chairman of the Merchant Marine and Fisheries Committee, for his leadership in introducing and developing the Ship Mortgage Act codification and also for his support of the vessel identification system in this provision. I also want to thank the chairman's staff for their hard work and dedication in helping to develop this provision. Finally, I want to commend the groups I mentioned earlier who have worked so closely with the committee and have been such a help in the development of this important piece of legislation.

The attached section-by-section supplements this statement with an explanation of the new vessel identification system, the Ship Mortgage Act codification, and other supplemental provisions. Also attached is the administration's letter of support of this provision.

The vessel identification provision is an important part of the omnibus drug legislation under consideration, to keep drug smugglers from concealing their illegal activities. I urge my colleagues to support this provision.

Section-by-Section Analysis of New Section 7010 of H.R. 5210 Establishing a Vessel Identification System

This provision adds a new section 7010 to title VII of H.R. 5210, the Omnibus Drug Initiative Act of 1988. Subsection (a) of section 7010 adds a new chapter 125 to title 46, United States Code, to establish a vessel identification system for vessels of the United States. Subsection 7010(b) contains a codification of the Ship Mortgage Act, 1920 (46 App. U.S.C. 911-984). A previous version of this codification was recently reported by the Merchant Marine and Fisheries Committee (H. Rept. 100-918). Previous versions of subsections (c)-(j) of this provision were also reported by the Merchant Marine and Fisheries Committee in H.R. 3105. This analysis supplements the Committee report on H.R. 3105 to the extent that this provision differs from the bill as reported. The language in the report relates directly to corresponding provisions within this provision.

SECTION 7010(a): VESSEL IDENTIFICATION SYSTEM

Section 7010(a)(1) adds a new chapter 125 to title 46, United States Code, to establish a vessel identification system for all vessels of the United States. This would include vessels documented under chapter 121 of title 46, numbered under chapter 123 of that title, or titled under the law of a State. This new chapter consists of new sections 12501-12507 as follows:

§12501. Establishment of a Vessel Identification System

Subsection (a) of section 12501 requires the Secretary of Transportation to maintain a system of information concerning vessels of the United States for law enforcement and other purposes. The Secretary is required to make available information from the sytem including the ownership of vessels documented under chapter 121 of title 46, numbered under chapter 123 of that title, and titled under the law of a State. The information is available under section 12503 for use by the public, similarly to the information maintained on documented vessels by the Secretary under the Ship Mortgage Act, 1920.

Subsection (b) lists the vessel identification information which is required to be maintained by the Secretary. The Secretary has the authority to prescribe other information to be maintained in addition to the items listed. For example, the Secretary may identify vessels issued fisheries permits by the Department of Commerce.

Subsection (c) clarifies that the Secretary has the flexibility to maintain this sytem in connection with any other information system maintained by the Secretary, including the Federal Aviation Administration system containing aircraft ownership information. This would also permit the Secretary to combine various systems and data bases maintained by the Secretary such as documentation and numbering of vessels, and safety, casualty, and law enforcement statistics.

§ 12502. Identification Numbers, Signal Letters, and Markings

Subsection (a) of this section requires the Secretary to maintain a unique numbering system for vessels of the United States. The Secretary may use existing vessel numbering systems such as the hull identification number for this purpose, but must ensure that no two existing vessels of the United States have the same number. The Secretary should consider and propose the use of a 17-digit number to implement this requirement. This subsection also requires the Secretary to maintain a system of signal letters and to record vessel names for documented vessels. The Secretary is authorized to establish other vessel identification markings for vessels of the United States, such as hailing ports.

Subsections (b), (c), (d), and (e) contain other requirements and restrictions concerning vessel identification markings.

This section consolidates the requirements of sections 12114, 12115, 12116, and 12118 of title 46. For this reason, section 7110(f) below repeals those sections.

§ 12503. Information Available to the System

Subsection (a) of section 12503 allows a State or approved State delegee to make vessel identification information available to the Secretary. Participation in the system is voluntary on the part of a State. A benefit to boat purchasers and financiers in States with approved titling systems participating in this system is that vessel mortgages or financing instruments filed or recorded in those States are deemed to be preferred mortgages under chapter 313 of title 46, United States Code (as codified and enacted by this provision).

Under subsection (a), the Secretary may prescribe the manner and form in which the information is made available by the States. In this regard, it is intended that the Secretary employ the most efficient, up-to-date computer technology in maintaining information made available from the States to avoid duplication of effort in maintaining information and to reduce the costs of the system. In addition to the vessel identification information made available by States under paragraphs (1)-(6), the Secretary and a State may agree that the State make available other information. For example, the purpose for which a vessel is routinely used would be valuable information for the system.

It is intended that most of the information in the system will come available directly and exclusively from the States to the greatest extent possible. However, under subsection (b), the Secretary may accept information from others under conditions and in a manner and form prescribed by the Secretary. Thus, if the Secretary discovers a valuable and reliable source of data that can be conveniently made available to the system, the Secretary can approve it.

Under paragraph (c)(1), the Secretary must maintain information on a State-titled vessel with a preferred mortgage that moves to a nonparticipating, nontitle State, until the mortgage is discharged or the vessel is sold. Under paragraph (c)(2), the Secretary must accept information submitted under section 31321 of title 46 (as enacted by this provision) concerning a discharge of a preferred mortgage on a vessel titled under State law. This would be necessary if the vessel moves to a nonparticipating State, and information on that vessel would not be provided to the system by that State. This subsection will allow the Secretary to keep the vessel information system current on these matters and purge files no longer required to be maintained.

§ 12504. Information Available From the System

This section requires that the Secretary make available information maintained in the vessel identification system to a State participating in the system for law enforcement or other purposes. The Secretary may make available information in the system to others, under conditions the Secretary may prescribe. At first, the Secretary may elect to deal only with the States. However, it is firmly expected that information will be made available through computer terminals in satellite offices or direct computer access by modem. In this manner, boating organizations or financial or documentation services could retrieve data without paper transactions for a fee.

§ 12505. Fees

This section contains the authority for the Secretary to charge a fee under the user charge law, 31 U.S.C. 9701, for providing information to or requesting information from the vessel identification system. Fees may not be charged under this subsection to an agency or a State that is participating in the vessel identification system maintained by the Secretary.

Under subsection (b) of this section, the Secretary may collect an annual fee of not more than $1.00 from the owner of a vessel of the United States under 31 U.S.C. 9701 for the vessel identification system. Since vessel owners will benefit from the vessel identification system, such as from documentation of ownership data and stolen vessel tracking, this fee is designed as a maintenance charge to owners for this service. The collection of the annual fee may be delayed by the Secretary, and an agency, State, or person may be employed to collect the fee under subsection (c). It is expected that the Secretary will make agreements with States to collect this fee at the time of vessel registrations. The term of these registrations varies from one to three years as permitted by chapter 123 of title 46.

Under subsection (d) of this section, if a State is employed to collect the fee, the State may retain one-half of the amounts collected, and must transfer the remainder to the Secretary. The amounts retained by a State may be used to cover the costs of making vessel identification information available to the Secretary. This includes upgrading or establishing titling systems as well as making improvements and other changes to vessel numbering systems to make information available. Because States are allowed to make improvements to their vessel titling and numbering systems with the amounts retained under this section, the costs of those programs may decrease. This could result in a corresponding decrease in State numbering fees and offset vessel identification system fees paid by vessel owners.

§ 12506. Delegation of Authority

This section allows the Secretary to delegate the authority to establish and maintain the vessel identification system to an agency, a State, or a qualified person. The Secretary may also delegate the authority to charge fees under section 12505 for requesting information from or making information available to the vessel identification system.

§ 12507. Penalties

This section establishes criminal and civil penalties for certain violations of chapter 125 of title 46 (as enacted by this provision).

SECTION 7010(B): SHIP MORTGAGE ACT CODIFICATION

Subsection (b) of this provision adds a new subtitle III to title 46, which contains a codification of the Ship Mortgage Act, 1920 and other related provisions. A previous version of this codification and subsections (c)-(j) was recently reported by the Merchant Marine and Fisheries Committee in H.R. 3105 (H. Rept. 100-918). The significant additions or changes by this provision to the version reported are explained as follows:

§ 30101: Vessel of the United States Definition

Paragraph (9) of this section amends the definition of "vessel of United States" to include vessels titled under the law of a State.

§ 31305: Waiver of Lien Rights

Section 31305 has been changed to clarify that the chapter does not prevent a mortgagee or other lien holder from waiving by contract their right to a lien, or the priority of that lien.

§ 31321: Filing, Recording, and Discharge

Section 31321 has been changed to clarify that a mortgage, whenever made, must be filed to be valid against third parties. This clarification allows mortgage closings to occur previous to filing of an instrument, and to eliminate the need for a fictional simultaneous closing and filing.

When a State perfected mortgage under 31322(d) is finally discharged, subsection (g) of this section requires the mortgagee to provide upon request to the Secretary or a State, whichever is more appropriate, an acknowledged certificate of discharge of indebtedness. This is necessary when a vessel in the system moves from a participating titling State and is not retitled in another participating State. In this case, there is no way to update the status of the indebtedness through the original titling State. The Secretary is required to accept this information to be maintained in the vessel identification system under section 12503(c) of title 46 (as enacted by this provision).

§ 31322: Preferred Mortgages

Under subsection (c)(2), if a vessel covered by a preferred mortgage that includes more than one vessel or property that is not a vessel is to be sold on the order of a district court in rem, and there is not a separate discharge, then the mortgage constitutes a lien on that vessel in the full amount of the outstanding mortgage indebtedness, and an allocation of mortgage indebtedness for purposes of a separate discharge may not be made. This change is made to eliminate the formula that did not work and to allow the vessel to be sold free and clear, regardless of the amount of the sale.

Under subsection (d) of section 31322, a mortgage or other instrument representing financing of a vessel under State law that is perfected under applicable State law and covering the whole of a vessel titled in a State is deemed to be a preferred mortgage if two conditions are fulfilled. The first condition is that the Secretary must certify that the State in which the vessel is titled has a titling system that complies with the Secretary's vessel titling guidelines established under section 13106(b)(8) of title 46. Congress mandated the promulgation of these guidelines in the Recreational Boating Safety Act of 1986, Public Law 99-626. The second condition is that the State in which the vessel is titled must make information available to the Secretary for the vessel identification system established under chapter 125 of title 46 (as enacted by this provision) on the vessel covered by the mortgage or other instrument. This status only applies to vessels titled in the State after those two conditions are met. The phrase "instrument representing financing of a vessel under State law" is used in addition to "mortgage" because State laws do not always use the term mortgage when referring to financing. It is intended, however, that the financing covered by this phrase would be the same as that covered by the concept of a mortgage under other Federal law.

Paragraph (2) of subsection (d) clarifies that mortgages or other financing instruments may obtain preferred status under subsection (d) if they cover vessels titled in a State after the Secretary certifies the compliance of the State's titling system, and the State begins making vessel identification information available to the Secretary. Preferred mortgage status can only be attained when these two conditions are in effect. Mortgages or financing instruments perfected prior to that are not preferred and, if these two conditions cease to exist, new mortgages or forecasting instruments perfected after that time cannot attain preferred status.

The law of the State controls the manner of perfecting the mortgage or financing instrument. No additional Federal recording requirements may be imposed for the mortgage or instrument to obtain preferred status under this subsection. State perfected preferred vessel mortgages retain that status even if the vessel is moved to another State. If the vessel is subsequently documented under chapter 121 of title 46, the preferred mortgage is valid from the date it was perfected under State law. It is intended that these preferred mortgages be valid and enforceable as preferred mortgages in this country and abroad. Information on vessels with preferred mortgages perfected under State law will be available to creditors from the vessel identification system under chapter 125 of title 46 (as enacted by this provision).

§ 31325: Enforcement of Preferred Mortgages

Subsection (c) of this section clarifies that the district courts have original jurisdiction for a civil action under subsection (b) of this section, and exclusive jurisdiction in the case of vessels documented or to be documented under chapter 121 of title 46.

§ 31330: Penalties

Subsection (a) of this section adds criminal and civil penalties for a preferred mortgagor's failure to carry out certain requirements under chapter 313 of title 46 (as enacted by this provision).

§ 31343: Recording Liens on Preferred Vessels

Subsection (d) of this section requires a person claiming a lien on a State perfected mortgage or financing instrument to record and discharge the lien as provided by the law of the State in which the vessel is titled.

SECTION 7010(C): SURRENDER AND INVALIDATION OF DOCUMENTS

Section 12111(c)(3) is changed to prohibit the approval of the surrendering of a certificate of documentation for any vessel with a mortgage filed or recorded with the Secretary, not just a vessel with a preferred mortgage.

SECTION 7010(D): MISCELLANEOUS AND CONFORMING PROVISIONS

Paragraph (1)(A) of this subsection amends the definition of "vessel of the United States" to include vessels titled under the law of a State.

Paragraph (1)(C) clarifies that the Secretary of Transportation has responsibility for the vessel documentation function, and ensures that the responsibility remains with the Secretary if the Coast Guard operates as a service in the Navy in time of war or when the President directs. Thus, the interrelated vessel identification, documentation, and mortgage recordation functions are all performed by the same authority.

Paragraph (1)(D) amends section 12103(c)(1) to delete the requirement that a vessel's certificate of documentation contain the name and home port of the vessel, and to allow the Secretary to prescribe the manner of identifying and describing a vessel in the vessel's certificate of documentation.

Paragraph (5)(A) sets the annual fee under section 12505 of title 46 (as enacted by this provision) at $1.00 for the vessel identification system in the three years 1989 through 1991. After this time, the fees must be established through regulations prescribed by the Secretary under 31 U.S.C. 9701, the general user charge statute, but cannot exceed $1.00 per vessel of the United States.

Paragraph (5)(B) directs the Secretary to spend not less than an amount equal to the fees collected or estimated to be collected under this section to establish, centralize, and computerize records and other information maintained under chapters 121, 125, and 313 of title 46 (as enacted by this provision).

Paragraph (7) ensures that the requirements of section 12503(a)(1) of title 46 (as enacted by this provision) concerning identification numbers, signal letters, and markings do not apply to a vessel without a unique number until the vessel is next documented, numbered, or titled or January 1, 1995, whichever is earlier.

Paragraph (8) clarifies that the Coast Guard is not required to utilize personnel or equipment to carry out chapter 125 of title 46 (as enacted by this provision) concerning the vessel identification system, except to the extent funds are appropriated.

SECTION 7010 (F): REPEALS

Paragraph (2)(5) repeals section 12113 of title 46 and removes the requirement that the Secretary document vessels and record instruments through ports of documentation. The repeal of this section will allow the Secretary to consolidate and centralize these functions and avoid duplication of effort in the vessel documentation system.

This paragraph also repeals section 12109(c) which authorizes fees for recreational vessel licenses, because the repeal of the prohibition against charging fees for documentation under section 2110 of title 46 will allow the Secretary to charge for all documentation services under 31 U.S.C. 9701, the general user charge statute.

Sections 12114, 12115, 12116, and 12118 of title 46 are repealed and partially consolidated under section 12503 of title 46 (as enacted by this provision).

The regulatory authority for the Secretary in section 12121 is repealed as unnecessary because of the authority in section 2103 of title 46.

SECTION 7010 (G): EFFECTIVE DATES

Subsection (g) has been changed to clarify three points:

First, under paragraph (2), an instrument filed before January 1, 1989, that is not recorded, is deemed to comply with section 31321 if it is in substantial compliance with the provisions in that section that had corresponding requirements when it was failed. It is not required to meet the additional new requirements under that section.

Second, under paragraph (3), this section does not affect the validity of an instrument filed or recorded before January 1, 1989, if there was a corresponding requirement under the law on December 31, 1988. For example, under the old law an instrument had to include an affidavit of good faith and have the amount of the mortgage endorsed on the vessel's certificate of documentation. Both of these requirements have been eliminated, and there is no corresponding provision in the new chapter 313. Therefore, under this provision an instrument cannot be ruled invalid because it does not have a complete affidavit of good faith or because the endorsement is not on the document.

Third, under paragraph (4), an instrument filed or recorded before January 1, 1989, is deemed to comply with any new requirement under chapter 313 affecting the validity of the instrument. For example, under the old law an instrument did not have to include the address of the parties. This paragraph clarifies that these are valid instruments even though they do not comply with this new requirement.

An additional paragraph (6) has been added to this subsection to require the vessel identification system under chapter 125 of title 46 (as enacted by this provision) to be established before January 1, 1994.

SECTION 7010 (H): COASTWISE AND FISHERIES DOCUMENTATION

Section 7010(h)(16) would allow the tug MARY L, United States Official Number 275311, to engage in the coastwise trade. This vessel was built in the United States but, due to an administrative oversight, the vessel was erroneously transferred to a U.S. citizen company whose President was a Dutch Canadian. Although the transfer was voided, to remove any uncertainty concerning the chain of title, special legislation granting coastwise privileges is being enacted. The vessel will be used to assist in construction projects in Alaska.

Section 7010(h)(17) would allow the barge ZB-6, United States Official Number 505317, to engage in the coastwise trade. It was part of the same transaction that resulted in the MARY L being transferred to a U.S. citizen company whose President was a Dutch Canadian. Like the transaction with the MARY L, it, too, was voided, but in order to remove uncertainties in the chain of title, special legislation is being enacted. The barge will be used to assist in construction projects in Alaska.

Section 7010(h)(18) would permit the vessel KUT N OUT, hull identification number BERL1087M-80A-385-80 and Florida registration number FL7665G, to engage in the coastwise trade. This 38' Bertram is U.S.-built but was registered in the Bahamas. Since the vessel was owned by foreign interests at one time, it cannot now engage in the coastwise trade without legislative relief. The vessel is intended to be used as a charter fishing vessel.

Mr. Chairman, I include the following letter:

The Secretary of Transportation,
Washington, DC, September 16, 1988.
Hon. Robert H. Michel,
House of Representatives,
Washington, DC.

Dear Bob: I am writing on behalf of the Administration concerning the language of the Davis amendment to H.R. 5210 relating to the establishment of a Federal vessel identification system to be maintained by the Secretary of Transportation and to be paid for through user fees. Although the Administration supported the concept of a mechanism to assist law enforcement officials in readily ascertaining ownership information on vessels, it opposed the amendment as drafted because of concerns that the scope of the system made it unmanageable and fears that the user fees collected would not be adequate to support the system.

These problems have now been resolved to the Administration's satisfaction and it no longer has any objection to the revised Davis amendment's vessel identification language.

The revised amendment would create a Federal system to connect state computerized data bases, to be financed by an annual one dollar user fee to be collected by the states. As structured, the system would greatly enhance accessibility of ownership information on vessels while creating the least intrusion on and cost to the states.

The program to be established by the amendment is a workable one, and I recommend that the House support it.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administation's program, to the submission of these views for the consideration of the Committee.

Sincerely,

Jim Burnley.

Mr. JONES of North Carolina. Mr. Chairman, I rise today in strong support of the Foley-Michel amendment to H.R. 5210. In particular I support the addition of section 7110, which is in large part the text of H.R. 3105 as ordered reported by the Committee on Merchant Marine and Fisheries.

As chairman of the Committee on Merchant Marine and Fisheries and the author of H.R. 3105, I would like to thank both the gentleman from Washington [Mr. Foley], and the gentleman from Illinois [Mr. Michel], as well as my distinguished colleague on the committee from Michigan [Mr. Davis], for all their work in having this provision in this amendment.

The changes made by section 7110 will revolutionize vessel financing by bringing the law up to date with modern financing practices. A detailed explanation of these provisions are contained in House Report No. 100-918 which accompanies H.R. 3105. These changes are the result of extensive work with the administration and representatives of the Maritime Law Association and the American Bar Association.

A few changes to H.R. 3105 have been made to make this system useful for drug law enforcement. Most importantly, this amendment establishes a vessel information system that will provide Federal and State agencies information on the ownership of a vessel, regardless of whether it is titled in a State or documented with the Coast Guard. Currently, it takes a great deal of time to determine who in fact owns a vessel. The Coast Guard's records are on paper and not centralized. It often takes the Coast Guard days to obtain ownership information from a State. This system will eliminate these problems by establishing a computer network of information on vessels titled, numbered, or documented. However, for this to work, the Federal documentation and mortgage recordation systems must be changed so they can be centralized and computerized.

A few changes to the text of H.R. 3105, as ordered reported, have been made.

Section 31301(3) has been changed to clarify that any trustee may be a mortgagee if they are so designated in the trust agreement. This change has been made to allow a trustee, other than a Westhampton trustee, to be a mortgagee in a case where a trust is established for financing syndication purposes, such as for the issuance of bonds. In these cases the trustee is not acting for a foreign holder of indebtedness; therefore the creation of a Westhampton trust is not necessary. Since anyone may be a mortgagee for fishing, fish processing, and fish tender vessels, and vessels operated only for pleasure, the creation of Westhampton trusts are not necessary for these vessels. Similarly, when a trust is created for non-Westhampton purposes, anyone can be the trustee mortgagee since under section 31322(a)(2) there are no restrictions on who can be a mortgagee for these vessels.

Section 31305 has been changed to clarify that the chapter does not prevent a mortgagee or other lien holder from waiving by contract his right to a lien, or the priority of that lien.

Section 31321 has been changed to clarify that a mortgage can be made at any time. However, it must be filed with the Secretary to be valid against third parties. This eliminates the need for a fictional simultaneous closing and filing.

This section also requires the filing of a discharge certificate for a vessel with a preferred mortgage that was titled in a State, but is now in a nontitle State.

Section 31322 has been changed to provide an incentive for States to join the vessel information system and to implement a uniform titling system. This incentive is a grant of preferred status to vessels titled in a State joining the vessel information system that has an approved titling system. In prescribing the standards for this uniform titling system, it is expected that the Secretary will use standards similar to those drafted by the National Association of State Boating Law Administrators and that the prescribed standards will require a title to be surrendered to the titling State when the vessel is retitled in another State or when the vessel is documented with the Secretary. This will prevent fraud and will allow the public to know where to check for the vessel's lien records.

Section 31322 also has been changed to clarify that when a vessel covered by a preferred mortgage, that includes more than one vessel or property that is not a vessel, is sold by order of a district court, and there is not a separate discharge included in the mortgage, then the mortgage constitutes a lien on that vessel in the full amount of the outstanding mortgage indebtedness, and an allocation of mortgage indebtedness for purposes of a separate discharge may not be made.

Section 31325 has been changed to clarify that district courts have original jurisdiction for a civil action brought to enforce a preferred mortgage on a vessel titled in a State.

Section 31329 has been changed to clarify that a foreign mortgagee for a fishing vessel, fish processing vessel, or fish tender vessel, or a vessel operated only for pleasure may bid in at the court sale of the vessel. However, if the foreign mortgagee buys the vessel at the court sale then the mortgagee must hold the vessel for resale and meet the other restrictions under subsection (b). A sale of any vessel under section 31328 is not subject to the restrictions under section 9 of the Shipping Act, 1916 since section 9 only applies to a vessel sold by a person, not a court or the U.S. Marshall.

Mr. Chairman, I believe that the adoption of this amendment will help identify and track the ownership of vessels used in the drug trade. Just as significantly, it will ease many of the restrictions on financing U.S. vessels and will help build up our merchant marine. Mortgagee restrictions have been eased in most cases and totally lifted in others, trustee qualifications have been eased, revolving credit term loans have been made easier, participation agreements to syndicate loans can be made without restriction, and Federal agency approval for financing has been eliminated for some vessels. These represent a major step forward in promoting the construction and documentation of vessels under the U.S. flag.

Mr. Chairman, I strongly support this amendment, and I urge its adoption.

Ms. SCHNEIDER. Mr. Chairman, I rise today in support of the provision to establish a vessel identification system. I would like to thank my colleague from Michigan, Bob Davis, for helping to add language in the legislative history of this provision to require the Secretary of Transportation to propose the use of a 17-digit hull identification number [HIN].

The necessity for requiring a 17-digit HIN was brought to my attention by Lt. Lucien Pratt, the senior investigative agent of Rhode Island's Division of Boating Safety. The expansion of the current 12-character HIN to 17 characters will go a long way toward reducing boat thefts nationwide. A nationwide implementation of this system will be a deterrent to boat theft and would assist State and Federal officials in recovering lost or stolen vessels.

The use of unique identifying number which the 17-digit HIN will provide, will also help to reduce increasing insurance premiums. This new system will also be a boon to this Nation's war on drugs. If this proposal is properly implemented it will enable law enforcement officials to identify vessels used in narcotics smuggling which are registered in other States under false names.

The language that is included in the legislative history of this provision will benefit both law enforcement officials and boat owners. I urge the Secretary of Transportation to propose the use of the 17-number HIN as soon as practicably possible, and I urge my colleague to support this excellent provision.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. CHAPPELL].

Mr. CHAPPELL. Mr. Chairman, I rise today in support of the Omnibus Drug Act of 1988. This is a comprehensive, wide-ranging attack on America's public enemy No. 1 drug abuse and trafficking and it deserves our support.

H.R. 5210 reconciles past disagreements on how to fight drugs with a three-pronged attack: Beefed-up interdiction and law enforcement, stiffer penalties for drug offenses, and expanded rehabilitation and prevention programs. This is the approach most likely to stamp out demand for drugs within the American population while choking off the supply from abroad. Central to eliminating both the demand and supply of drugs are stronger and more broadly based interdiction capacities for our law enforcement agencies. I believe that no law—not even the omnibus drug bill before us now—is a good law without enforcement to back it up, and therefore I have supported expanded use of our military forces in drug enforcement. A case in point is the Coast Guard, which has received $138 million for fiscal year 1988, including drug interdiction, from the Defense Appropriations Subcommittee which I chair. This bill continues that trend by assigning the Coast Guard, Customs Service and FAA additional interdiction and enforcement responsibilities.

Along with the Coast Guard, the budgets of the DEA, INS, FBI, and organized crime drug enforcement task forces will be increased. States will continue to receive Federal assistance for drug law enforcement, as well as pilot grants to train, recruit, and pay overtime to drug enforcement officers. This is the backbone of America's domestic drug demand offensive.

Equally important is our Nation's clout with drug producers abroad. The antidrug bill allows us to threaten recalcitrant drug-producers such as Panama with a cutoff of foreign aid, at the same time that it allows the creation of a multinational antinarcotics force in Latin America. It seeks to reward whistleblowers for submitting information on narcoterrorists, and authorizes expenditures for antidrug arms and education programs abroad. This view toward international cooperation to crush the drug trade is the only realistic one, given the magnitude of the drug tide over America's borders.

The second premise of the Drug Program is user accountability. H.R. 5210 scores a direct hit on drug users and traffickers in the United States with mandatory sentences for possession of crack, a new offense of endangering life for illegal manufacture of drugs, forfeiture of many Federal benefits and drivers licenses in connection with drug abuse, and sanctions for those who violate drugfree workplace laws. This emphasis on personal responsibility is the only way to change people's attitudes about drugs. Without this fundamental change in the social consciousness, our war against the merchants of the drug trade is futile.

The third cornerstone of the antidrug program outlined in this bill is treatment, education and prevention. We have a responsibility to those Americans debilitated by drugs to provide a means to beating dependency. The measure provides for $100 million to expand capacity in our Nation's drug treatment programs, so that the millions of Americans now seeking treatment may receive it. These people who have already made decisions to reject an addictive lifestyle, can point the way for the millions still committed to drugs and those about to turn to drug abuse. The measure would target urban youth gangs, homeless and runaway youth, juvenile delinquents, and prisoners with antidrug education and treatment programs. Last, the innocent victims of substance abuse—children of drug-dependent parents—and those disadvantaged youth whose background and surroundings make them especially vulnerable to the allure of drugs are provided special programs. This third and last prong of the antidrug strategy, drug education and prevention for young Americans, is vital to final victory over the drug menace—public enemy No. 1.

Mr. Chairman, I urge my colleagues to support this bill, and also to pledge our every effort to a full-fledged war against the enemy which threatens to dissolve the glue of American society.

Mr. FOLEY. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the distinguished majority leader for yielding.

Mr. Chairman, I want to congratulate all of those who have worked so hard on this legislation and to thank the majority leader and the gentleman from Illinois [Mr. MICHEL], the minority leader, for whatever courtesies were extended to me and my subcommittee. I particularly want to congratulate the distinguished chairman of the select committee, on which I am privileged to serve, for his work in this whole substance-abuse area, and I want to thank also the ranking Republican, the gentleman from California [Mr. LUNGREN], in particular, who is back on the Subcommittee on Crime, and I appreciate that. The gentleman from California [Mr. LUNGREN] has done yeoman's work not just in the substance-abuse area but with the whole criminal-justice system, and we are going to miss his work on the Committee on the Judiciary. He has done an outstanding job over the years, and I have often said that when push comes to shove when I am in the pits and we are fighting a tough battle, I want the gentleman from California [Mr. LUNGREN] right there, because I know he is always there carrying that battle forward. I never have to worry about him running away on some of the battles. There have been some tough battles on guns, handguns, and other issues that are very controversial, and I thank him for his work over the years.

Mr. Chairman, I must say that I am really a little troubled about some of the aspects of the bill. I have been asked on a number of occasions what I am going to do, whether I am going to vote for it, because we took a lot of provisions which I believe are of dubious constitutionality. I wonder whether or not they are counterproductive in many instances.

I want to say that I am going to vote for the bill because I believe we have an opportunity when we get to conference to clean up some of the things that I think are wrong about this bill.

We have talked about a lot of controversial issues, but we have not talked about some of the things that are not controversial that my Subcommittee on Crime spent the better part of 2 years on such as the diversions in the bill, the provisions that will for the first time enable us to track precursor and essential chemicals that are so necessary for traffickers, in fact, to carry out their trade. We do not hear very much about that, and those provisions are important.

We are going to give law enforcement a brand-new tool, something we have sold to other countries by way of chemical-free zones, but we have never implemented ourselves, so for the first time we are going to be able to say to Thailand, to India and China that we are doing something about precursor and essential chemicals ourselves now, and we have never done that before.

Mr. Chairman, I want to congratulate in particular my colleagues, the gentleman from California [Mr. HUNTER], the gentleman from California [Mr. LOWERY], and the gentleman from California [Mr. BATES] for their leadership in this area, and they have done yeoman's work in this area. They have made major contributions to the Subcommittee on Crime, and I wanted to thank the majority leader and the minority leader for permitting us to have made in order two particular provisions in the Foley amendment which I think are significant.

First of all, forfeiture has been extremely successful. In fact, the Drug Enforcement Administration in the last year forfeited more than their entire budget, almost $500 million in forfeited funds and assets. We are going to take about $150 million of those forfeited funds, and here is the irony of it, and we are going to use that against the traffickers, because we are going to use those funds to expand the Organized Crime Drug Enforcement Task Forces around the country that we need to extend, and we are going to put more money into the U.S. attorney's offices. We have a major shortfall. We have literally hundreds of cases backlogged, and that will enable us to prosecute mostly drug cases in the south Florida and other parts of the country.

The Foreign Cooperative Investigative Program is one of the most important programs of DEA. That is the intelligence-gathering ability overseas. We are so understaffed, as the gentleman from New York well knows, that everywhere we go we do not have enough DEA agents working with host governments, trying to develop better intelligence. This will enable us to do that, and in the area of prison construction, there will be funds from the forfeited funds, and we are going to house prisoners with their own money. We are going to take some of the money and provide for drug diversion. One of the major problems we have around the country in schools and neighborhoods, around the country, is diversion of prescription or legitimate drugs into the illicit market, and we will have funds for that. It is a good provision.

In addition to that, the Drug Enforcement Administration has a very difficult task recruiting agents with training, special agents, with training in languages, because we are sending agents overseas to countries, country posts, where they do not speak the language. That is of limited assistance to us in host countries. This will enable the DEA to pay up to 25 percent of base pay for those who will take particular training or have specialized training in language that are bilingual, and that will assist us in carrying out our foreign cooperation investigative program.

Mr. Chairman, I urge my colleagues to support the Foley amendment and to support the bill.

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just in reference to several of the amendments that have been rolled into this omnibus amendment, referred to on our side affectionately as the blob, it is an accumulation of some excellent ideas from various different Members and various different committees.

I might just comment on one of those. One of the amendments, by the gentleman from New Jersey [Mr. HUGHES], dealing with a bonus or an emphasis on language training with the DEA, on our side we certainly support that. We will work with the gentleman in the future in ensuring that that is implemented in the fairest possible fashion. There may be some problems in actual implementation as the gentleman is aware of, and we are on our side. We pledge ourselves to work with him in that regard.

With respect to the amendment of the gentleman from Arkansas [Mr. ALEXANDER], I dealt with the gentleman from Arkansas in coming to an accommodation on that, and in speaking with the gentleman, I inquired as to whether the nondisclosure language that he had in his original amendment, the absence of that language in this amendment, in any way suggested the President of the United States would not have the ability to articulate rules under which the head of an agency could withhold an interagency transfer of information under circumstances that may, for instance, jeopardize U.S. foreign intelligence or counterintelligence activity or source, jeopardize any law enforcement investigation or would adversely affect national defense or the security of the United States. He assured me it was his intent, and it was his understanding of the amendment which he submitted and which is now wrapped up in this omnibus amendment, that the President of the United States would continue to have that authority, and he felt it would be redundant to place it in this amendment, and that is the only reason for its absence.

In a very difficult area, in an area that has confronted many different administrations, the area of national security, national intelligence, and counterintelligence and the pursuit of those involved in illegal drug trafficking and use, this amendment gives some guidance as to the cooperation that will prevail with respect to the various agencies. At the same time it does recognize, as stated to me by the gentleman from Arkansas, that there are some circumstances where such transfer of information may, in fact, defeat the very purposes to which we all dedicate such an amendment.

I am authorized on my side of the aisle to say that we support the overall omnibus amendment. While many on this side of the aisle do not believe that this is necessary in terms of articulating a posture for the executive branch, it is, nonetheless, something we are willing to accept at this time and believe that it will not interfere with the proper implementation of the law with respect to the executive branch.

Mr. Chairman, this is an important day for the Congress of the United States. We are dealing with a piece of legislation that has received bipartisan input in a way that very few pieces of legislation have in the 10 years I have been here in the Congress. We have run the gamut from the Committee on Public Works to the Committee on the Judiciary and all the committees in between. We have taken testimony in those various committees. We have received input from the various Members there, and we have come up with an omnibus package which I think is a fair package.

Those from the outside who have criticized this process and suggested that somehow we are merely genuflecting to the political winds of the moment, I think, misunderstand the fact that the Congress is in many ways to be a responsive and reflective institution. Certainly, the House of Representatives, the people's House, cannot ignore important issues as they come before the American people, and if we do ignore them, we ignore them not only at our peril but at the Nation's peril.

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If we do not act, there is no one else to act.

So yes, the issue of drugs is an issue in a Presidential election year, and yes, it is an issue in a congressional election year. But that does not denigrate in any way the credibility of our effort, nor the necessity of our actions. There are literally hundreds of staff members who worked on this legislation on both sides of the aisle. I would like to at least mention two in particular, Mr. Bill Smith and Mr. Paul McNulty on our side. And if I might be allowed a point of personal privilege, I would like to mention my staffer and an attorney, Kevin Holsclaw, who has worked long hours with me on this effort.

Mr. Chairman, it is extremely important that we recognize this bipartisan effort contains some unique aspects to it. One I would underscore at this time is the user accountability element of this approach. I think it is by and large something new that we have never before included in our Federal effort, and so while we are building upon that which we did in the last number of years, we have certainly added to it.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. Mr. Chairman, it is my pleasure to yield to the gentleman from Illinois [Mr. MICHEL], our distinguished leader who is really the Member on our side of the aisle who has done the work in organizing and making sure that bipartisan meant that we were involved in the process as well.

Mr. MICHEL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, first I would like to compliment him on the comments that he has just made relative to what we have done here overall in this bill and the kind of cooperation we have had in a bipartisan way to develop the entire measure.

Earlier on, of course, by way of quick review, the Speaker did commission the majority leader and the gentleman from Illinois to try and help pull things together from a variety of committees around here which in itself is always a chore, particularly when there are strong-minded individuals on the respective committees, each of whom would like to have his own say, but when we have to harmonize Members' views on both sides of the aisles, but also among the differences of opinion on either of our sides. I think what we have done here is something that surely will have to go down as a monumental piece of work on the part of the House. I guess now my only concern is that we are running near the end of a session of the Congress not knowing for sure what the other body is going to do with respect to antidrug legislation, and to meet this problem that we all would perceive as being one of the most profound facing the country today.

I would hope that there would be sufficient time yet, in the other body, that something would come forward and that in conference we will be able to go home at the end of this Congress with something signed into law.

Now, that will be a big chore because, quite frankly, the broad sweep of the bill which we are about to pass here in the House of Representatives will be considerably different than that in the other body and whether or not those differences can be harmonized, I guess some of us would just as soon feel that the other body would pretty much take what we have done intact. They have put us in that position any number of times on other pieces of legislation. As a matter of fact, tomorrow we may very well be obliged to take without going to conference, take a bill that the other body has passed. I do not like that procedure but maybe a trade-off here and there would not be that bad.

I want to thank the distinguished majority leader and the distinguished gentleman from New York [Mr. RANGEL], and all those on that side of the aisle, particularly the gentleman from California, for filling in for me in my absence here in the early part of the afternoon, and I hope at the end we will have a good bill when both Houses have completed their work.

I thank the gentleman for yielding.

Mr. LUNGREN. If I might pick on something our distinguished minority leader said, there are important issues that we have on our side, have fought for for a long time, death penalty being one, exclusionary rule being another, user accountability, certain enhanced penalties, and we hope that the Senate does not use the other body and find itself in a position of a lack of time and not allow us to sustain those votes before we get out of here. We ran into that problem before and the American people have obviously evidenced where they stand on those viewpoints, and they sometimes ask us why we cannot get these things moved. We have to explain the process. We are moving it now, sending it to the other side, and it would be a real tragedy that the excuse is given that time does not allow us to consider that which the American people have been asking us to consider for the last 2 to 4 years.

Mr. MICHEL. If the gentleman will yield for a brief moment, I forgot to make mention of the fact that the distinguished gentleman from California today is celebrating a birthday, and I suspect that the passage of this measure today would be a capstone to that, a good birthday present for him. I am reminded of how diligently he worked previously in helping us craft an anticrime piece of legislation when on a motion to recommit he rallied to the cause, and he is going to be leaving us after this Congress by his own design and wishes, and we are certainly going to miss him. He has been a very effective, hard-working, diligent Member of the House of Representatives and there will be a big void when DAN LUNGREN leaves this House of Representatives.

DAN, obviously there will be other times before the end of this Congress to make special mention of that, but no more appropriate place to thank you for all the contributions you have made to the legislative process around here. A very happy birthday to you.

Mr. LUNGREN. I thank the gentleman from Illinois and appreciate his comments.

Mr. Chairman, I reserve the balance of my time.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Chairman, I thank the gentleman for yielding, and rise in strong support of the bill.

Mr. Chairman, I wish to clarify the congressional intent regarding the statutory language contained in title VI, subtitle D, section 6251(b) of H.R. 5210, the Omnibus Drug Initiative Act of 1988. Section 6251(b) of title VI refers to the fiscal year 1989 authorization of appropriations for the Department of Justice for the Drug Enforcement Administration [DEA].

Specifically, section 6251(b) states: "There is authorized to be appropriated for fiscal year 1989 for the Department of Justice for the Drug Enforcement Administration, $620,551,000 of which $800,000 shall be available for voice privacy equipment." With the inclusion of section 6251(b), the committee of jurisdiction reserves $800,000 in authorization for voice privacy equipment for the sole purpose of enabling the police departments of six Texas cities to purchase residential voice privacy equipment.

These six Texas cities are: Laredo, McAllen, Del Rio, Eagle Pass, Brownsville, and El Paso. The Congress intends that these cities use this money to purchase residential voice privacy equipment. This equipment is to be used by the local police departments of those cities to maintain secure communications during anti-drug operations. The Congress intends that this equipment is to be used to enhance anti-drug operations by local police departments in those cities, and thereby helping those cities to combat drug smuggling and drug trafficking along the United States-Mexico border.

The Congress intends for the Drug Enforcement Administration to disburse this $800,000 authorization of appropriations in the form of direct grants to the police departments of those six cities.

It is also congressional intent that the residential voice privacy equipment for each city for which DEA disburses grants should include the following: (1) a base station, (2) a desk unit, (3) a repeater, (4) and mobile communications equipment such as walkie talkies, cellular telephones, and mobile radios.

The Congress also intends that the Drug Enforcement Administration disburse sufficient grant funding for each police department to purchase the minimum amount of equipment necessary to establish a voice privacy base station. The disbursement for the purchase for the mobile communications equipment is to be computed on a per capita basis taking into account the respective size of each city police department.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Chairman, I thank the majority leader for giving me this time.

Mr. Chairman, I rise in strong support of H.R. 5210, the Omnibus Drug Initiative Act. I commend the leadership for its dedication and determination to wrest the stranglehold that drugs have on our community.

I would like to take this moment to explain my amendment which directs the Drug Enforcement Administration [DEA] to prepare an environmental impact statement [EIS] with respect to the use of weed oil in cannabis eradication efforts in the State of Hawaii.

As my colleagues are well aware, Hawaii has a significant problem with marijuana cultivation. To combat this plight, Hawaii sought help through herbicide application. However, with the unique environmental and ecological concerns of each of the Hawaiian islands, the application of herbicides was cautiously scrutinized. The potential impact on plant and wildlife habitats, soils and ground water resources, fresh water resources and aquatic creatures, and human health were carefully studied.

The State of Hawaii immediately determined that paraquat and 2,4-D were not suitable for use and conducted an EIS on glyphosate and weed oil for marijuana eradication on State-owned and State-managed conservation district lands in December 1986.

The State deliberately selected weed oil because it was the least damaging. Weed oil is an "old-fashioned" herbicide, approved for use in weed control when the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] was enacted by Congress and regulations were adopted by the Environmental Protection Agency. It is a light-bodied highly aromatic petroleum oil. Of the herbicides in use for marijuana eradication, weed oil kills the marijuana plant the fastest. The plant turns brown within a few hours and is unappealing for consumption and has an unpleasant odor.

Even though Hawaii has carefully surveyed its options and chosen the herbicide that is least harmful to its environment and its people, it is now being penalized for its decision. The DEA has cut Hawaii's funds and Air Wing support because it is using an herbicide that has not been considered in DEA's environmental impact statement—glyphosate, 2,4-D or paraquat.

DEA is satisfied with its EIS on cannabis eradication and is therefore, reluctant to conduct an EIS unique to the State of Hawaii. However, my State is being punished for being environmentally responsible while striving to meet its obligation to stop marijuana cultivation.

My amendment is offered to satisfy DEA's requirement that we use an herbicide approved by their EIS and to eventually restore DEA's financial and logistical support for cannabis eradication in Hawaii—a State which has an exemplary and model program for marijuana eradication.

Mr. FOLEY. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. RANGEL], chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. Mr. Chairman, I thank the gentleman from Washington for yielding time to me. I take this opportunity to laud him for the efforts that he has made to work with the minority and to bring us to the point that we are today.

In 1986, when we did not have a piece of comprehensive legislation before us, it was Speaker O'Neill that designated JIM WRIGHT and BOB MICHEL to pull together the halves of the committee and to get a comprehensive piece of legislation before the Members in 1986. We would have hoped that we would have had the opportunity for legislation to go through the full committees and the subcommittees. I have been honored to have been appointed as chairman of the Select Committee on Narcotics Abuse and Control and again honored to be the manager on this bill, and the gentleman from New York, Mr. BEN GILMAN, and I have worked so hard to make certain that our efforts were not made in a partisan way, and we would have hoped that this bill would have had the benefit of a committee chairman listening to the Secretary of Education, sharing with us that he would want to do to educate our youth. We would have hoped that the Secretary of Health and Human Services would have taken out the time to suggest to this body as to what would be the best method to set up Federal rehabilitation centers. God knows it would have been helpful if the Secretary of State would have had drugs on his agenda to have shared with us where he thought legislation would be helpful. Of course the Attorney General, we would have liked to believe that not only would he be talking about having this Congress support the Federal effort, but also to give assistance to local and State law enforcement.

While we did not hear from any of those people, at least the Congress did not, and once again we were about to close the session with no legislation in this war against narcotics. Speaker WRIGHT then selected the majority leader and minority leader, and it was not an easy task to bring together this package and to vote now on the final omnibus bill. Like most Members, it is going to be difficult to accept all parts of the bill. The Judiciary Committee played an important role in really giving us the base to move forward and the Foreign Affairs Committee, but what we have done is to try in our own way to fashion a bill to deal with all the problems. I do not really think that the legislative body should be setting out our domestic and foreign policy in this area, but if we do not do it, if this bill does not pass the House and the Senate, then nothing will be done.

At least we do give support to local and State law enforcement, something we have been talking about that has been fought against by the administration. We do improve the EEA and the FBI and strengthen our Federal efforts in law enforcement. We do have rehabilitation in our bill and give direct assistance to local and State agencies to not just say no against drugs but to say yes in getting off of drugs, and we even go as far on our own initiative to get involved in foreign policy by directing that we have a summit with the heads of these drug-producing countries, to see whether we can come to some international agreement. We provide assistance for the military in Colombia to more effectively protect themselves against the drug traffickers.

There have a lot of amendments, as the gentleman from California has pointed out, that they have been fighting for and could not get it done through the legislative process, and so it has been done through this process. I certainly hope that they are not included in the Senate bill, and indeed, if it comes to conference that we are able to try to perfect this bill and to make it something better than it is. In any event, we have reached a point that at least all of us can go home and say that we may not know what the executive branch wanted in legislation since they have not told us. We may not know what the Senate will do, and we do hope that they come up with a responsible bill. Certainly we in the House, once again as we did in 1986, have responded to our constituents and the Nation in just saying that we have not done everything that we should have. There is so much more than can and should be done, but we have made some effort to address the problem. I think as Republicans and Democrats we have set our labels behind us and attempted to do a job to make the House of Representatives proud.

Mr. LUNGREN. Mr. Chairman, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I want to express my strong support for this amendment. The U.S. Marshals Service Act is legislation whose time has come, and it is particularly appropriate that it be enacted as part of the Omnibus Drug Initiative Act of 1988.

The Marshals Service Act has been introduced in the 98th, 99th, and 100th Congresses. During that time, legislative hearings have been held in both the House and the Senate, and we have received constructive comments and suggestions on the legislation from members of the Federal judiciary, the executive branch, the private bar, and others. That process has resulted in significant improvements in the proposal so that, in its present form as contained in the amendment before us, it is legislation which will promote both good government and effective law enforcement.

My subcommittee exercises oversight responsibility for the Marshals Service, so I am very familiar with its activities. I know that the Service performs an extraordinary variety of law enforcement duties which are truly indispensable to our Federal justice system, particularly in the war on drugs. In fact, fully half of the Service's workload today is related to drug law enforcement activities. Whether safeguarding witnesses—which has become the Government's most effective weapon in prosecuting drug traffickers—protecting the courts, apprehending drug fugitives, or managing seized drug assets, the Marshals' do their jobs effectively and efficiently, and all too often their contributions go unheralded.

The U.S. Marshals Service Act would greatly assist the Service in the accomplishment of its law enforcement missions. It would provide an explicit statutory basis for many current functions of the Service, including the authority to carry firearms and make arrests; to protect Federal judges, witnesses and their families; to manage seized drug assets; to conduct fugitive investigations; to enter cooperative agreements with State and local authorities to obtain jail space for Federal prisoners; and to enter contracts to provide for security guards and the service of process in noncriminal proceedings.

The Marshals Service Act has been strongly endorsed by the Judicial Conference of the United States. The act underscores the Marshals Service's traditional and premier responsibility of providing security for the Federal courts and executing court orders. It explicitly authorizes the Service to provide personal protection to judges, U.S. Attorneys, and other Federal officials, which is frequently necessary in connection with drug cases.

In short, the U.S. Marshals Service Act is highly relevant and important to the anti-drug legislation we are considering, and I therefore urge my colleagues to support its adoption as an amendment to H.R. 5210.

I am submitting for the RECORD a section-by-section analysis of the U.S. Marshals Service Act.

PROPOSED AMENDMENT TO H.R. 5210—ADDITIONAL AUTHORIZATION FOR THE UNITED STATES MARSHALS SERVICE

In subsection 6251(b), insert the following new paragraph on page 179, after line 4:

"(5) There is authorized to be appropriated, in addition to any sums otherwise authorized to be appropriated, for the fiscal year 1989 for the Department of Justice for the United States Marshals Service, $53,800,000."

SECTION-BY-SECTION ANALYSIS—UNITED STATES MARSHALS SERVICE ACT

Section 2. This section amends existing provisions of Chapter 37 of Title 28, United States Code.

Amended section 561 establishes the United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. Although the U.S. Marshals have been statutorily under the supervision of the Attorney General for more than 100 years, the Marshals Service exists only by virtue of an Attorney General directive. The section provides for a Director appointed by the President, with the advice and consent of the Senate, and establishes the administrative and management authority necessary for the efficient and effective operation of the Service. Presidential appointment of the Marshals Service director would be in keeping with the similar status accorded Assistant Attorneys General and heads of other major Department of Justice divisions.

Section 561 provides for Attorney General appointment of all U.S. Marshals (subject to a transitional period hereinafter described) in accordance with Federal civil service statutes and regulations. This is necessary to achieve the complete professionalization of the Service by phasing out the political appointment of Marshals. Under current law, the Marshals for all Federal judicial districts, except the Virgin Islands, are appointed by the President with the advice and consent of the Senate. However, the current process for the appointment of Marshals does not provide for the continuity of management essential to a modern law enforcement agency of nationwide scope. Moreover, the process does not ensure that each Marshal will have the background and experience required to effectively direct and supervise the activities of Deputy U.S. Marshals, all of whom are professional law enforcement officers recruited under the competitive civil service process and extensively trained at the Federal Law Enforcement Training Center. The amended section 561 would permit the establishment and maintenance of high professional standards for candidates for the Office of U.S. Marshal and would ensure the enforcement of those standards under the applicable civil service regulations. The leadership structure and chain of command in all USMS district offices would thus be strengthened. The transitional provisions of section 2(b) of the bill would permit the continued Presidential appointment of one Marshal in each state until January 1, 1993.

Section 561 would also provide for establishment of an office of United States Marshal for the Superior Court of the District of Columbia. Currently, the U.S. Marshal for the District of Columbia provides support and executes court orders for the Federal court and, in addition, provides law enforcement support for the "municipal" D.C. Superior Court. Moreover, the Superior Court workload exceeds that of even the largest federal judicial districts. With the establishment of a separate office of U.S. Marshal for the D.C. Superior Court, we can assure that both the District Court and the Superior Court receive the levels of attention they require.

Administrative authorities provided in the amended section 561 relate to the selection and appointment of law enforcement and staff support personnel in accordance with applicable Federal personnel regulations, and the supervisory authority of the director.

Section 561 further provides for the accounting for funds collected by the marshals and for the appropriation of such sums as may be necessary to carry out the responsibilities of the U.S. Marshals Service.

Amended section 562 provides for the appointment of an Acting Marshal by the Director in the case of a vacancy in the office of Marshal, until the vacancy can be filled by Attorney General appointment under section 561. This amendment conforms the filling of temporary vacancies in the office of Marshal to the process of Attorney General appointment of Marshals.

Amended section 563 provides generally that the director, U.S. marshals, and all law enforcement officers of the Service must take an oath to faithfully execute the duties of their offices. The section deletes the specific oath prescribed by the current section 563, certain of the language therein having become obsolete.

Amended section 564 restates the historic authority of U.S. Marshals, in executing the laws of the United States, to exercise the same powers as a sheriff of a state. The change from current law modifies the language to explicitly provide that such authority is also shared by the other law enforcement officials of the Marshals Service.

Amended section 565 consolidates into one section of the various functional responsibilities for which the Service is authorized to expend funds. These include the "actual and necessary" expenses associated with the operation of Marshals Service offices in all Federal judicial districts; the expense of transporting prisoners; the acquisition, maintenance and operation of law enforcement vehicles, vessels and aircraft; expenses associated with the custody of Federal prisoners in non-Federal institutions; expenditures for firearms, ammunition, and activities associated with the development of expertise in their use; the payment of rewards and purchases of evidence; the costs of facilities used for protected witness safesites; and expenses for personal services contracts and cooperative agreements, as authorized by the Attorney General, for security guards and the service of summons, subpoenas and notices.

Amended section 566 specified the various "Powers and Duties" of the Service. It restates the historic function of marshals as the marshal of the courts and incorporates the language of the current section 569(a), which authorizes the court to require the marshal's attendance at court proceedings. The amended section 566 also mandates the execution by the Marshals Service of all lawful writs, process and orders issued by the courts, and authorizes it to "command all necessary assistance" to execute its duties. It also authorizes law enforcement officials of the Service to carry firearms and to make arrests, and it authorizes the Service to provide personal protection to judges and other Federal officials and to conduct fugitive investigations, domestic and foreign, as directed by the Attorney General.

Further, amended section 566 restates the existing requirements concerning the deposit of public monies into the Treasury; provides for the transfer of prisoners and unserved process from departing and deputy marshals to their successors; and provides for the payment by marshals of U.S. Attorney's office expenses as may be directed by the Attorney General.

Section 2 of the Act also makes the necessary renumbering changes to title 28 and repeals those other sections which have been consolidated into sections 565 and 566, above.

Section 3 of the bill further amends Title 28 by authorizing the Attorney General to exempt the procurement of goods and services under the Department of Justice Assets Forfeiture Fund from the requirements of the Federal Acquisition Regulations (FAR). The high volume of activity occurring within the national asset seizure and forfeiture program is generating a significant demand for the services of qualified experts in various fields to assure the accurate identification and immediate, secure management of a wide range of assets seized by federal law enforcement agencies from individuals allegedly engaged in drug trafficking and illicit activities. The requirements imposed by the Federal Acquisition Regulations were not designed to address the need for speed and confidentiality in securing such assistance. This exemption is necessary to permit the expeditious hiring of qualified private sector individuals or firms to perform title searches on properties targeted for seizure and to provide interim management for seized businesses to prevent deterioration. This exemption would also prevent the public release of confidential information concerning the impending seizure or continuing maintenance of an asset, thus compromising an ongoing criminal investigation.

Section 3 also would amend section 755 of title 28, U.S.C., by eliminating the obsolete provision limiting the compensation for court bailiff to $6.00 per day. Although current law authorizes each marshal, with the approval of the judge, to employ up to four bailiffs for each district judge, the arbitrary wage limitation effectively precludes the hiring of individuals to act as crier, messenger and bailiff for the court.

Section 4 amends section 1921 of Title 28, United States Code, to allow the Attorney General to set fees collected from non-Federal entities by United States Marshals in civil and criminal matters at levels reflecting the actual cost of the service provided. Under current law such fees are set at an artificially low level, well below the actual cost to the government, thus subsidizing at taxpayer's expense the service of a non-Federal government process.

Section 5 amends Chapter 301 of Title 18, United States Code, to provide specific authorization for payment from appropriated funds of the costs of necessary clothing and medical care for Federal prisoners in non-Federal institutions and for the payment of rewards in connection with the capture of Federal fugitives. It also provides and codifies the authority for the Cooperative Agreement Program under which the Service provides funds for state and local jail construction or modernization in exchange for the housing of Federal prisoners in those facilities.

Congressional and administration initiatives leading to increased numbers of arrests of drug violators and other criminals require a significant expansion of available jail space for their short-term incarceration. This secure housing is obtained for the Federal government through the Marshals Service Cooperative Agreement Program.

Section 6 would amend section 5315 of title 5, U.S.C. by adding the Director to those for whom compensation at Executive Level IV is authorized.

Mr. MOORHEAD. Mr. Chairman, I strongly support the adoption of the U.S. Marshals Service Act as an important and much needed amendment to H.R. 5210, the Omnibus Drug Initiative Act of 1988. The amendment will strengthen the ability of the Marshals Service to perform its vital role in the Nation's drug law enforcement efforts.

The U.S. Marshals Service occupies a crucial position in the war on drugs. It is the Marshals Service that protects the courts and witnesses in highly sensitive drug trials and produces prisoners for trials; tracks down and captures dangerous drug fugitives; manages and disposes of the criminals assets seized from drug traffickers; and takes custody of and transports drug-related offenders following their arrest. Those tasks constitute the critical "central stages" of the Federal criminal justice system—postarrest and preconviction—and without the successful performance of them, the justice system would cease to function.

Mr. Chairman, any legislation that increases the resources of the investigative agencies and prosecutors in the fight against drugs will inevitably increase the number of Federal prisoners to be housed and transported, trials to be secured, seized assets to be administered, fugitives to be hunted, and witnesses needing special protection—all of which are marshals Service responsibilities. Moreover, approximately one-half of the service's current resources are expended in such drug-related activities. The U.S. Marshals Service Act is thus highly relevant to the antidrug legislation before the House.

The act would modernize and consolidate the existing statutory provisions relating to the Marshals Service and to provide a clear statutory basis for its current responsibilities. Also, in recognition of the central role played by the Marshals Service in the criminal justice process, the act would elevate the service to bureau status within the Department of Justice. This would enable the service to function as a full partner while working with other components of criminal justice system in planning, scheduling, and performing its duties.

While restating the Marshals' traditional and premier responsibility of providing security for the Federal courts and executing court orders, the act would provide explicit authority for current functions of the Marshals Service which are essential to effective law enforcement, especially drug law enforcement: providing personal protection for judges, U.S. attorneys, and other Federal officials; operating the Witness Security Program, conducting fugitive investigations; and entering agreements as necessary to obtain jail space for Federal prisoners awaiting trial and sentencing.

The act would also create a separate U.S. Marshal's office for the Superior Court of the District of Columbia to ensure that both the local—or "municipal—D.C. court system and the Federal District and Circuit Courts in D.C. receive the levels of attention they require. This is critically important in light of the extremely heavy volume of drug arrests and trials in the District.

The U.S. Marshals Service Act was submitted to the Congress by the Justice Dpartment and is strongly supported by the Judicial Conference of the United States. In summary, it is legislation that will enhance the administration of justice and promote effective drug law enforcement. I urge my colleagues to join me in voting for the Marshals Service Act as an amendment to the Omnibus Drug Initiative Act of 1988.

Mr. BENNETT. Mr. Chairman, the en bloc amendment that is before us includes a sense of Congress resolution that read, "The Congress encourages the United Nations to explore ways and means to establish an international force or mechanism aimed at stopping the trafficking of illegal drugs."

The Department of State estimates that in 1987 the worldwide production of opium was between 1,902 and 3,107 metric tons, cocaine hydrochloride was between 324 and 422 metric tons, and marijuana was between 10,930 and 17,625 metric tons. This production had an estimated value of half a trillion dollars. Let me repeat that, half a trillion dollars.

Unfortunately, our country's jurisdiction to arrest drug traffickers extends only 200 miles from our shores. Hence an international force or mechanism aimed at stopping the trafficking of illegal drugs is necessary. Mr. Javier Perez de Cuellar, Secretary-General of the United Nations, supports this concept and has established a task force to examine the feasibility of such a force. My amendment is a strong show of congressional support for that task force and for the United Nations to continue its efforts in this area.

The drug problem is not limited to the United States: it is a worldwide problem that dictates worldwide strategies and cooperation. The United Nations has pledged to pursue vigorous international actions against drug abuse and illicit trafficking. Its now obvious that the United States cannot win the war on drugs alone, we must work together with our friends all over the world. By passing this amendment we demonstrate the resolve of Congress to fight drugs at every front.

At this point, I would like to comment on the bill in general, to say it is a good bill, which I support. Of course, there's only so much Congress can do; much is left up to local communities. This is true in the area of drug abuse education. Although Congress can provide valuable monetary assistance, drug abuse education programs, just as education in general, is something left up to the States.

I am glad that this bill authorizes millions of dollars for drug abuse education, because, let's face it, when all is said and done, education is really the most effective way we are going to deal with the drug menace. There must be a concentrated, long-term effort to educate our people on the perils of drug abuse. I stress here the word "long term." An example of how we can be successful with education is the protracted, decades-long effort to educate people on the hazards of smoking. After decades of educating people on this, we are now finally seeing results, with smoking tailing off tremendously throughout the Nation. How did that happen? Through education. When I was a young man no one knew how bad smoking was for health. Now we are all aware of that. Not everyone has quit, but no one can deny the great effect smoking education has had on reducing the number of people who smoke.

And who's to say a long-term education effort aimed at drug abuse wouldn't have similar success, perhaps more. Afterall, cigarettes are legal and therefore easier to obtain than most drugs. And the negative effects of taking drugs often happen more quickly than from smoking cigarettes. You don't often see people keel over dead from smoking a cigarette, but we all know that can happen from taking drugs, witness Len Bias.

Along the lines of education, we should be using the latest technology to get the point across. The printed word used to be the key to education, and still is important, but today's youth must be exposed to the latest in videos dealing with antidrug themes. I have worked with the Department of Education in this area, and I praise the Department's efforts in its production of 30 antidrug videos. These videos, which are scheduled to be released shortly, are aimed at delivering creative, effective antidrug messages to our Nation's students. As a young man I viewed an antidrug movie that left a life-long impression on me, and I am hopeful that these new videos will be just as effective on the students of today. I encourage my colleagues to learn more about this project so that we here in Congress can make sure that every school in our Nation is aware of this valuable antidrug tool.

So, let's commit ourselves to a long-term effort to educate people on the perils of drug abuse. As is the case with most social problems, there are no easy answers. We cannot wave a magic wand and have it all go away. We must all be vigilant. We cannot expect change overnight, but we can make progress. This bill is in the direction of progress, and I am glad to support it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington [Mr. FOLEY].

The amendments were agreed to.

Mr. KASTENMEIER. Mr. Chairman, today, I reluctantly voted for passage of the omnibus drug bill. I voted for the bill because it addresses a very serious societal problem, the use and sale of drugs in the United States; a problem that affects urban and rural areas, young and old, men and women. A substantial part of the bill is the bipartisan and cooperative work-product of the House Committee on the Judiciary, on which I sit. The committee endorsed bill was an infinitely better bill than that approved by the House.

I believe that the House mistakenly amended the bill in at least four areas: First, the death penalty for criminals who commit drug-related murders; second, increased civil fines—up to $10,000—for possession of controlled substances; third, user accountability, reducing the availability of Federal benefits for drug offenders; and fourth, creation of a good faith exception to the exclusionary rule.

All of these changes constitute major departures from accepted societal norms and civilized criminal justice standards. They are of dubious constitutional validity and will not contribute to a reduction in the use of drugs in American society. These additions caused me to seriously reconsider my vote in favor of the bill. In the end, however, I decided that a drug bill passed, even one as flawed as this one, is better than none at all. The drug crisis in this country simply has become too serious to be met by inaction on the part of elected officials.

I hope that the Senate will pass a more reasoned bill, and ultimately that a House-Senate conference process will produce a better version, more reflective of our constitutional system of government in the 20th century.

Mr. PAYNE. Mr. Chairman, as we continue to debate the Omnibus Drug Initiative Act, I would like to share with our colleagues news regarding a program which has been established in the Commonwealth of Virginia to assist in avoiding the problem we now seek to cure.

Under the leadership of Attorney General Mary Sue Terry, a program called CADRE [Commonwealth Alliance for Drug Rehabilitation and Education] is being utilized to educate young people on the dangers of drugs, and to redirect their energies to other, productive channels, as an alternative to drugs.

This year, Virginia's CADRE Program was one of eight projects selected for the Council of State Governments Innovations Awards in recognition. CADRE will serve as a model for other States seeking solutions in this area.

Programs such as this will not solve the problem of drug abuse, but they can be important tools in helping young people reject the drug environment.

Mr. MARLENEE. Mr. Chairman, I strongly support this drug bill. I am pleased to see a consensus among my colleagues on solving the drug problem. I also want to commend my colleagues on both sides of the aisle who have labored hard to get this package through 10 House committees before this session adjourns.

We all know that even with the passage of this legislation, the drug epidemic will not disappear from this country. There must be a fundamental change in the outlook of people in America away from a passive acceptance of substance abuse. I am sure everyone would agree that our First Lady, Mrs. Nancy Reagan, has done a great job in promoting "Just Say No" to drugs. We need constant reminders that illegal substance abuse will stop only when people get off drugs.

That's why I am pleased to see so many positive provisions in this drug bill. H.R. 5210 has struck a good balance between reducing the supply and demand of drugs in this country.

I was also pleased to note the willingness of those industries impacted by this bill to cooperate with Congress on ways to reduce drugs in this country. Banks had some concerns about the money laundering provisions, contractors with the Federal Government voiced reservations about the creation of drug-free workplaces, and chemical manufacturers were apprehensive about more Federal regulations on their industry. Their willingness to compromise and work with Congress deserves high praise.

On the demand side, H.R. 5210 would build on the 1986 drug bill by reauthorizing several drug educational prevention programs. We've got to stop the next generation from experimenting with illegal substances by telling the truth about the dangers and stupidity of using drugs.

In addition, I welcome the provisions in the legislation to provide $1.7 billion for various drug treatment and rehabilitation programs. I strongly support efforts to strengthen and enhance these programs because without them, the war on drugs rings hollow.

I also salute the Republican leadership in promoting a drug-free workplace. A special word of thanks goes to my good friend from Pennsylvania, BOB WALKER, in spearheading this issue through Congress. We've got to use every resource available to the Federal Government to battle this war on drugs. If we tolerate drugs in workplaces that accept Federal funding, this conveys a message that we're not serious about eradicating the scourge of drugs from this land.

On the supply side, this legislation proposes a variety of comprehensive programs to coordinate the battle against drugs from entering this country. From the creation of a new Latin American regional antidrug force to interdiction efforts by the Coast Guard and Customs, I strongly support measures to reinforce our ability to stop drugs from entering this country.

In addition, I applaud the provisions in H.R. 5210 to assist local and State law enforcement officials and give them the tools to fight the war on drugs in this country. I also endorse the reauthorization of funding for the Bureau of Justice Statistics to provide us with accurate and timely information about the extent of the drug problem in the United States.

I was pleased to join the majority of my colleagues in the Interior Committee for increasing funds for law enforcement activities by the National Park Service, the Bureau of Land Management, and National Forest Service. I also endorse the work the committee did in permitting "hot pursuit" by law enforcement personnel who work for these agencies to apprehend drug users and sellers. No agency of the Federal Government should be neutral in the war on drugs.

I am also delighted that many of the Republican-sponsored commonsense amendments overwhelmingly passed. The Broomfield amendment provides a sense of Congress that the Central Intelligence Agency should become more involved in covert operations to defeat the drug lords in other countries. It makes little sense to have liberals handcuff our intelligence community in the war on drugs. Let's keep the drug lords off balance with a strong covert capability in defeating their empires.

The McCollum amendment, which deleted the 7-day waiting period prior to the purchase of a handgun in favor of establishing a system to quickly identify criminals, represents a good compromise that will protect second amendment rights and keep guns out of the hands of criminals.

Also, private enterprise was not restricted in its ability to test its employees for drug use. I was pleased that the Bliley amendment clarified the procedures to certify certain clinical laboratories that analyze and determine the results of drug tests. If we really want to put pressure on drug users to stop, we've got to allow the private sector to test their employees within permitted constitutional protections.

I endorse expanding the good-faith exception to the exclusionary rule. All too often our law enforcement officials see their work go down the drain because of legal technicalities. This amendment would ensure that drug dealers don't get away with their crimes because of high-paid lawyers haggling over details over a search or arrest.

I was distressed, however, to find out that the Democrats deleted the provision dealing with user accountability in committee. Nonetheless, I was pleased that the entire House had the opportunity to reinsert these provisions, which will add another weapon in the war on drugs. I believe that we should tell young people that if they experiment with illegal substances, there will be a cost to that decision. Revoking drivers licenses and withholding Federal student assistance can serve as an additional deterrent to young people.

Finally, I was torn about voting for the death penalty. While I strongly support the right to life of every human being, some drug-related crimes are so heinous that the ultimate and final decision of justice is required. Because a drug kingpin has little regard for life, I believe society, as a last resort, should impose the death penalty.

Mr. Chairman, I commend the leadership on both sides of the aisle for developing this consensus on the drug problem. We must use all appropriate resources of the Federal Government to curb both the demand and the supply of drugs in this country. We need a comprehensive drug strategy, and H.R. 5210 provides a good guidepost.

I just hope that the other body and the conference committee does not delete any amendments added to this bill. I will stand firm to keep these amendments intact. In addition, I encourage my colleagues to press the Appropriations Committee and the executive branch to adequately fund these programs. Let's follow through on the commitments made today by funding these important antidrug programs.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in favor of the bill under consideration, H.R. 5210, the omnibus drug abuse bill. I would like to congratulate Speaker JIM WRIGHT, Majority Leader TOM FOLEY, Chairman RANGEL, and the rest of my colleagues on the committees with jurisdiction who contributed so much in bringing this bill to the floor. Our so-called war on drugs has gone on long enough without meaningful leadership from the current administration, and I commend my colleagues in the House leadership for filling this void.

All of us agree that drugs are one of the most serious problems threatening our communities today. As a representative of the Southwest border area, and I can tell you that my constituents appreciate the scope and extent of the problem better than residents of other parts of the country. In my hometown of El Pase, you can walk into the desert on any given night and hear the drone of aircraft flying north with their deadly cargo. Indeed, various intelligence sources indicate that drug smugglers have shifted their operations away from the Florida area and are using routes in the Southwest border region more often.

This legislation provides the means by which to carry out the war on drugs because it has to. Americans should ask themselves this question: Are their families and neighborhoods safer from the threat of drugs today than they were 4 years ago? The war on drugs needs leaders, not press releases. It doesn't need an administration that negotiates with indicted drug-smuggling dictators and then offers to drop the charges. It doesn't need more cuts in the Customs Service. It doesn't need any more PR campaigns, and it sure doesn't need any more noncombatants.

During the last 8 years, the administration:

Tried to cut $238 million from drug enforcement for State and local police departments;

Tried to cut drug treatment funding by 50 percent;

Succeeded in cutting 2,000 Coast Guard personnel;

Created a national narcotics border interdiction system that worked so badly that the head of the Drug Enforcement Administration said it should be abolished; and

Negotiated with Panama's indicted drug-smuggling dictator, Gen. Manuel Noriega, then offered to drop the charges in a political deal.

At the same time, the cost of cocaine plummeted and supply increased. Cocaine deaths doubled nationwide.

Mr. Chairman, this bill contains the strongest effort yet to fight the war on drugs. Many of its provisions are controversial and many will probably be changed when it is considered by the Senate. I do have some concerns about potential constitutional problems with some of the provisions, but I hope they can be resolved in conference.

Overall, however, it is a good-faith attempt, one whose urgency has been underscored by the completely failed approach of an administration that has been asleep at the wheel for the last 8 years.

I do want to take this opportunity to point out that while I strongly support the overwhelming majority of the bill's provisions, Mr. Chairman, I must take exception to the provision that deals with our neighbor to the south. In passing this legislation, once again we have failed to stand by a valuable ally by singling it out instead of focusing on those nations who either are not willing to cooperate with our law enforcement agencies or who cooperate on the surface but whose own public officials are in reality linked with drug traffickers. I consider it extremely unfair, and foolish at the same time, for this country to select a country like Mexico and attempt to penalize it despite the fact that it is one of our most valuable allies. As our neighbor to our south, Mexico plays a strategically valuable role for our country, and we should not threaten the cooperative relationship that we have been able to develop with that government.

Mr. Chairman, this legislation is necessary because the administration has been losing the war on drugs. With the passage of this bill, we have given them the money, the troops, and the weapons to fight the war on drugs. I hope that now, at long last, they in turn can provide the guts and the leadership to win.

Mr. VENTO. Mr. Chairman, I rise in reluctant opposition to the bill H.R. 5210, the Omnibus Drug Initiative Act. Reluctant, because much of the bill, including provisions which I sponsored or worked to achieve, still merit support. Opposition, because this bill which held much promise for aiding this Nation in its war on drugs, has now become a vehicle for bulldozing many of the individual rights for which this country was established and exists.

Mr. Chairman, I continue to support the provisions that would help eradicate the production and trafficking of illegal drugs in our national parks, national forests, and public lands. H.R. 5210 authorizes increased annual funding for drug-related law enforcement. The bill makes it a criminal act to pollute national forests with poisons and hazardous substances while manufacturing or distributing illegal drugs. It also gives the Forest Service, for the first time, the authority to combat drugs outside the boundaries of national forests while further strenthening their services by codifying into law the agency's authority to enforce its regulations.

Mr. Chairman, all these provisions can help our land-management agencies fight the war on drugs.

The problem drug today must be fought through efforts of prevention, education and treatment. I certainly support the provision paralleling my own legislation that authorizes at least $7.5 million for demonstration projects to provide prevention, education, and treatment services for substance-abusing pregnant women. These provisions fund research efforts focused on the effects of abuse on women and their infants. Education, counseling, and research have to be a focus of breaking the drug-abuse cycle in our society.

These good positive initiatives, however, don't override my serious concerns regarding the amendments we have added to this bill on the floor. Indeed, I find it ironic that we were unable to thwart the misguided effort of those fighting against a handgun-purchase waiting period because of claims that it was unconstitutional, while at the same time, we passed amendments that substantially carved away at fundamental constitutional rights.

In the last 2 weeks, we have heard many arguments against the death penalty, against the good faith exemption to the exclusionary rule, and against the proclaimed user accountability provisions. These amendments are no panacea for the real social problems facing our Nation as a result of drug abuse. They merely add to our problems. Provisions like the "good faith" acceptability clause for search and seizure procedures cloud the definition of admissible evidence in a trial. The user accountability provisions suspend Federal aid for people who need that very assistance to defeat the vicious circle of drug abuse, and entirely circumventing our court system. Although homicides associated with drugs are indeed a despicable crime, they, alone, should not escape the arguments against the death penalty. The bias, the inequitability, and the tremendous cost does not change with the crime. And will result in constricting the extradition proceedings essential for the cooperation on other nations.

Mr. Chairman, I must reiterate my concern that this legislation will tear into the very fabric of our Constitution and basic rights. We cannot look to the Senate to fine tune these provisions. It is not as if voting for legislation that we know will be unenforceable will absolve us of our responsibility to do everything in our power to eradicate the pervasive and ugly role of illegal drugs in our society.

This initiative in total is counterproductive, our Nation, the people we represent need not surrender their freedom and rights to fight the plague of drugs in our society. Public policy need not seriously penalize the innocent, the helpless in the overzealous effort to nail the drug abuser or criminal, children and families that have drug and substance abuse within them need not suffer further and severe penalties by virtue of congressional action as occurrs with this measure. Public policy and law that has such a dramatic and unfair effect is not worthy of this 100th Congress.

Election year fever has taken hold of the good common sense that should exist in the House of Representatives and it seems to me that the message of this legislation and symbolism has become more important to my colleagues than the substance and effect of the proposed law. We cannot legislate away drug abuse, indeed if that were the case we would have no drug abuse today. The fact is that we must put in place good policy, fair policy that will give the tools to the national, State, and local governments and do so within the constraints of the basic democracy so precious to the people we represent and to the Members of this Congress.

Mr. DEFAZIO. Mr. Chairman, I have always supported funding for drug and alcohol education, prevention, and rehabilitation programs. I support funding for law enforcement agencies to carry out and enforce our laws, funding for the Coast Guard to patrol our waterways, and funding for the Forest Service to protect our Federal lands. I support the most severe penalties possible for persons who violate those laws.

My home State of Oregon is the third largest manufacturer of methamphetamine in the Nation. Our crime rate has risen to correspond with the statistic. Therefore, I want to commend the Members on both sides of the aisle for their efforts in constructing H.R.

5210, the omnibus drug bill of 1988. The bill increases funding for these vital programs which will enable us to fight a successful war on drugs.

However, I am deeply concerned by the votes last week that included the exclusionary rule and civil penalty amendments in the bill. I believe the amendments are unconstitutional and voted against their inclusion.

The framers of the Constitution, through the fourth amendment, provided protection for all citizens against unreasonable searches and seizures and the invasion of privacy. The Supreme Court has consistently held that the warrant procedure is essential in assuring that an officer acts in an objective and good faith manner. Warrantless searches and seizures jeopardize our constitutional protections under the fourth amendment.

In addition, the Shaw amendment authorizes civil fines of up to $10,000 for possession of miniscule personal amount possession of any drug such as marijuana—a minor citable offense in Oregon. The Supreme Court has held that civil fines cannot be used to circumvent the requirements of the criminal law, including the need to prove guilt beyond a reasonable doubt. By labeling the penalty "civil," the amendment seeks to relieve the Government of the burden of proof that is required by the due-process clause of the fifth amendment before imposing a criminal penalty.

Mr. Chairman, while reducing the demand for illegal drugs is a legitimate goal, it is unconscionable that Congress would attempt to achieve this goal by trampling the rights guaranteed to all Americans under the Constitution. I cast a yes vote on H.R. 5210 only because we desperately need the education, interdiction, and legitimate enforcement programs.

I hope my colleagues will join me in urging the House and Senate conferees to strike these unconstitutional provisions from the final version of the bill.

Mr. HUGHES. Mr. Chairman, I would like to acknowledge the contribution of Congressmen DUNCAN HUNTER, JIM BATES, and BILL LOWERY to the Chemical Diversion and Trafficking Act of 1988. The gentlemen from California took an early interest in this subject and worked with the Subcommittee on Crime to produce the legislation before us today. My colleagues highlighted important aspects of the chemical diversion issue by sharing San Diego's experience in combating the production of methamphetamine.

Last year, for example, Mr. LOWERY introduced legislation focusing on the growing criminal use of variations of precursor chemicals to produce designer versions of drugs like methamphetamine. In his testimony before the Subcommittee on Crime, he emphasized the necessity of regulating the analogues of chemicals like ephedrine and pseudoephedrine. The subcommittee utilized the information provided by Congressman LOWERY and the law enforcement community in San Diego. The bill before us today provides for the regulation of the precursor analog used to produce methamphetamine. This will help prevent the spread of designer meth across our Nation.

I want to thank Mr. LOWERY, Mr. BATES, and Mr. HUNTER for their contribution to and support for the Chemical Diversion and Trafficking Act.

Mr. SMITH of New Hampshire. Mr. Chairman, I intend to vote in favor of final passage of the Omnibus Drug Initiative Act. It was a good bill to begin with and is even a better bill with the amendments that were adopted by the House.

It contains increases for Federal, State, and local drug enforcement. It provides money for education and treatment. And it includes important drug-free workplace language that I have long supported. I am most pleased, though, by the adoption of a number of amendments.

Perhaps the most important amendment to be adopted was the Gekas amendment to establish the death penalty for drug dealers who commit murder during the course of a drug-related crime. The death penalty might be opposed by Michael Dukakis and the American Civil Liberties Union, but it is strongly supported by the American public, and rightfully so. Those who poison America with illegal drugs and commit murder in the process should be forced to pay the ultimate price.

Another important victory was the adoption of amendments emphasizing the concept of user accountability. If we are ever to win the war on drugs, we can no longer tolerate even the smallest amount of illegal drug use. The casual or recreational users of illegal drugs might think they are engaged in a victimless crime, but they are not. They are just as responsible for the criminal activity and all the other problems associated with illegal drugs as the hard-core drug addict. They not only destroy their own lives, but compromise public safety and cost us millions in increased law enforcement and lost productivity. The user accountable amendments, particularly the Edwards amendment, will for the first time hold these yuppie users accountable for their action. Their adoption is long overdue, and will provide a major new tool in the fight against illegal drugs.

I also was pleased with the adoption of the amendment by Representative LUNGREN to allow evidence obtained in good faith to be used in court. This is a commonsense amendment that will make it easier to put drug offenders where they belong—behind bars. For too long, our laws have coddled criminals at the expense of the safety of law-abiding citizens. The Lungren amendment will reverse this trend and swing the pendulum of justice back to where it belongs, on the side of the innocent public.

Finally, the defeat and removal of the Brady amendment, which would have established a 7-day waiting period before the purchase of a handgun, was another important victory. The Brady amendment was a gun control measure that had no place in an antidrug bill. Its removal was warranted and a positive development for all those who respect the rights of our Nation's gunowners.

Mr. WEISS. Mr. Chairman, it is with a great sense of disappointment that I must vote against final passage of H.R. 5210, the Omnibus Drug Initiative Act as amended.

As I stated early on in this debate, I supported this legislation in its original form. Our Nation faces a frightening, complex drug crisis, from the streets of my district in Manhattan and the Bronx to the countryside along our borders. The Omnibus Drug Initiative Act of 1988 incorporated many important elements of a long-term fight against drug abuse. The hard work and careful thought of my friend and colleague, Chairman CHARLES RANGEL, and other distinguished committee chairmen and Members of the House who shaped the omnibus drug initiative produced a comprehensive bill with valuable and very necessary initiatives in drug education, drug treatment, and law enforcement programs.

Unfortunately, a number of ill-conceived amendments have been attached to the bill which not only would be ineffective in the fight against drugs, but which would pose grave constitutional questions. In our haste to protect citizens from the devastation of the drug crisis, we have seriously threatened their individual rights. I deeply regret to say that because the House has adopted amendments such as the modification of the exclusionary rule, establishment of a Federal death penalty, and postconviction denial of Government services to drug abusers, I will be unable to vote for this measure.

The exclusionary rule is one of the most important protections Americans have against unreasonable search and seizure. Under the exclusionary rule amendment, however, police will no longer have to obtain a warrant before embarking on seizures of admissible evidence. This amendment undermines the clearly enunciated constitutional right of the people to be "secure in their persons, houses, papers and effects."

Requiring the death penalty for drug-related deaths has no place in our effort to combat the drug problem. The death penalty is an inappropriate punishment in a system which depends upon human beings to decide who shall live and who shall die.

The so-called user accountability amendment mandates a punishment that is outrageously inhumane. By denying Federal benefits to drug offenders, this amendment works directly against reintegration of individuals who have already served their sentence. On a practical level, this amendment makes little sense, since its penalties are not related to the underlying offenses.

Mr. Chairman, we can do better than this. We can achieve solutions to the drug crisis while safeguarding the rights of individual Americans. But we have corrupted the Omnibus Drug Initiative of 1988 with a series of pernicious provisions. The lives of individuals across the Nation are threatened by the frightening drug crisis. We must not add to the crisis by taking away the protections guaranteed by the Nation's Constitution.

Mr. STARK. Mr. Chairman, I hate to rain on everyone's parade, but, this antidrug bill, H.R. 5210, the Omnibus Drug Initiative Act of 1988, is now destined to fail. Let us face it—we are losing the so-called war on drugs and it is our current drug policies which exacerbate the crisis.

To vote for this legislation is to say it is OK to deny drug treatment to 90 percent of those in need of assistance. A vote for this legislation is to say it is OK for addicts turned away from needed treatment to commit crimes to maintain their expensive drug habits. I cannot accept those tenets, and I will vote against this legislation.

By continuing to make this primarily a criminal problem rather than a health problem, we'll never solve this drug dilemma.

Admittedly, the antidrug bill—in its initial form—was a fairly responsible effort. The legislation does take a small step in the right direction in providing for more drug treatment grant moneys. And, as a result of thoughtful scrutiny of our drug policy, more Members on both sides of the aisle recognize that drug education awareness, prevention, treatment, and rehabilitation are much more cost effective than many of our supply side approaches.

A glimmer of hope existed for those of us who envision a small change of direction in our Nation's drug policy. But something happened along the way. Predictably, we have fallen victim to the biannual lust for drug bill demagoguery.

We had a chance to stand united with our Nation's police officers and vote for the Brady amendment. The House caved in to the distortions and lies of the NRA.

We had a chance to assist U.S. attorneys in their efforts to extradite drug lords oversees. The House caved in to the simplistic notion that the death penalty is a deterrent to drug-related deaths.

We had a chance to recognize the fundamental principles of the Constitution. The House caved in to pandering to election day desires and passed several amendments which any fifth grader would question as unconstitutional.

This antidrug bill will not end the drug dilemma as some might profess. In fact, it is likely to increase the devastation of drug use and abuse.

When the dust settles, and it becomes obvious our current approach guarantees failure, let's be willing to regroup and develop a winnable war on drugs.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in support of H.R. 5210, the Omnibus Drug Initiative Act of 1988, and offer my thanks and congratulations to the leadership of the House of Representatives for developing this important legislation. In conjunction with a number of committees, the leadership has produced a measure that offers a wide variety of answers to the problems posed by drug use, abuse, and addiction and drug trafficking.

Some cynics have scoffed at this bill, just as they ridiculed the wide-ranging antidrug legislation passed by the 99th Congress (Public Law 99-570). Even if I accepted the premise that this measure is nothing more than an election year ploy calculated to attract the maximum amount of publicity for incumbents seeking reelection—and I am confident that the vast majority of my colleagues believe as I do that a real problem requires a real response—I must note that our constituents, the American people, have consistently pointed to drugs as one of the most important and pressing problems confronting our society. In passing this legislation, this Chamber will be acting responsibly in meeting a threat that if left unchallenged will rapidly assume monumental proportions.

The use and abuse of drugs is a problem facing every American. Indeed, our society, as a whole, confronts a crisis-like situation.

As a former professional athlete, who is aware of the respect, admiration, and rewards accorded to those who excel at sports and games, I am deeply troubled by the pervasiveness of the drug problem in the sporting world as in society at large. There are now at least a dozen professional football players, including some of the National Football League's biggest stars, who are sidelined. These men, heroes literally to millions of children and others, are on the bench, not because of injuries associated with blocking and tackling, but because of something euphemistically referred to as "substance abuse."

It is particularly distressing that these young men, in such outstanding health and so dependent upon their physical well-being for their livelihoods, have fallen prey to illicit drugs. Often, these are drugs not prescribed for therapy or for rehabilitation, but used for "recreation." That "recreational" drugs can kill has been tragically demonstrated in recent years with the deaths of outstanding athletes, including Len Bias, a University of Maryland basketball player who had just been drafted by the Boston Celtics as the second college player selected overall, and Don Rogers, a Cleveland Browns defensive back.

These men and other young athletes, idolized by children and celebrated by adults, are role models. But, the use and abuse of drugs is clearly an example that I hope our youngsters would not emulate.

I realize, however, that this is just wishful thinking. Drugs, unfortunately, are endemic in our society.

My point is not to show that professional and intercollegiate sports are anymore inundated with drugs than our society, in general. But, these distressing examples from the world of athletics should suggest that no one can seriously doubt or dispute the pervasiveness or the seriousness of the problem we confront.

In answer to the problem, the response from our society must be multifaceted, designed to address both the supply and demand sides of the equation. We must make even greater efforts at education, treatment, and prevention. In keeping with that, this bill reauthorizes a number of sound programs and creates innovative approaches in other areas.

Looking at one aspect of our approach to drug addiction as an example, in many parts of our country even those drug addicts who are seriously seeking to enroll in drug treatment programs face lengthy waiting periods. Waits of 6 months or longer are not uncommon, and that is in areas where such treatment is even available. The bill authorized $100 million for grants to public and private nonprofit drug treatment programs to enable such programs to expand their capacity and thereby reduce such programs to expand their capacity and thereby reduce waiting periods. If we are to treat and rehabilitate drug addicts, there must be programs available for this purpose.

Also, while it can be argued that one lesson of our country's failed experiment of the 1920's, Prohibition, is supposedly that enforcing social behavior will not work, we must strike hard at those who manufacture, produce, and distribute illegal drugs. We cannot merely turn our backs to the law enforcement ramifications. Indeed, we must enforce and strengthen existing drug laws; interdict and destroy drug shipments to this country; and curtail drug production and operations within our borders. This legislation will strengthen the hands of our law enforcement agencies as they wage war on drugs.

I am pleased that this legislation explicitly notes that it is the "sense of Congress that proposals to combat sale and use of illicit drugs by legalization should be rejected. * * *" Instead, the House has decided to attack forcefully and directly both the supply of, and demand for illicit drugs.

This legislation, unfortunately, is even more necessary because of the misguided and ill-advised cuts made by the Reagan administration in a number of antidrug programs, including some efforts initiated by the 99th Congress when it passed the Anti-Drug Abuse Act of 1986. However, I am especially pleased that H.R. 5210 is another bipartisan effort by this body to meet a formidable adversary and threat using a number of weapons at our disposal.

In an ideal world, there would be no use and abuse of dangerous and harmful drugs. This, however, is far from an ideal world. The reality is that drugs are a real and present danger. In response, the Congress must adopt a number of steps to protect ourselves, our children, and indeed, our society, from the menace posed by drugs.

Again, Mr. Chairman, I congratulate the leadership on both sides of the aisle for crafting this measure. I urge my colleagues to join me in supporting this broad legislative attack on the problems of drug abuse and drug trafficking.

Mr. FRENZEL. Mr. Chairman, most Members, an overwhelming majority, will vote for this bill. They will do so with enthusiasm. I will vote for it without enthusiasm, merely to keep it alive.

The bill has worthy features, but mostly I view it as an unfulfilled, election-year promise. It will never be financed. The budget will not permit. The gun control feature is flawed, as I have noted in a previous discussion.

Unless this bill is mightily improved in the other body I intend to vote against it on final passage. I see little merit in election year exercises.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 5210, the Omnibus Drug Initiative Act of 1988, as amended, and commend my colleagues on both sides of the aisle for their efforts to enact a comprehensive antidrug measure. This measure will provide urgently needed resources in the important areas of drug law enforcement, interdiction, prevention, treatment, and rehabilitation.

This legislation sends a clear message to drug dealers and drug users that they are accountable for their actions. It also offers much needed funds to reduce demand.

No one seeking treatment for drug addiction should ever be turned away due to any waiting lists. If we want our citizens to say "no" to drugs, then we have a moral obligation to help those who wish to help themselves.

FUNDING

We have accomplished a great deal in the last several weeks. But we still have not properly addressed the issue of how we are going to fund our war against drugs.

The American people understand how drugs and drug-related crime and violence threatens our society. National opinion polls indicate that the American people will support revenue increases earmarked to fight drugs and I call to my colleagues attention my proposal (H.R. 5045) which would provide more than $1 billion by way of a moderate increase in excise taxes.

During World War II Congress appropriated the funds necessary to win the war against fascism. Will this Congress have the comparable foresight to provide the necessary funds to ensure that this war against drugs will be won?

This omnibus measure is a step in the right direction. Accordingly, I urge my colleagues to vote for final passage of H.R. 5210.

Mr. DONNELLY. Mr. Chairman, I rise today in support of H.R. 5210, the Omnibus Drug Initiative Act.

I would first like to commend my colleagues for their efforts in the drafting of this legislation, and for the bipartisan spirit of cooperation which is essential in an undertaking of this magnitude. Ten committees worked on the various sections of this bill, and the speed with which H.R. 5210 was reported indicates the high priority and the feeling of urgency which surrounds this issue.

No one can deny the effect that drugs are having on this country. Drugs have traditionally been a big city problem, one associated with the poor, or the uneducated. And the current crisis has hit cities very hard. Crime rates are up, particularly violent crime, and turf wars between rival drug gangs threaten to destroy whole neighborhoods in a number of major cities. But the drug problem is much more widespread. People who have been considered safe from the threat of drugs; rural residents, upper-income families, the well-educated, and even children, are now caught in the growing circle of drug victims. Some are addicts, some are dealers, some are only innocent onlookers or family members, but no one in this country today can ignore this crisis.

I strongly support the omnibus drug initiative. H.R. 5210 is truely a landmark piece of legislation. It addresses all phases of the drug problem; education, rehabilitation, irradication, and law enforcement on the local, State, Federal, and international levels. In all, H.R. 5210 authorizes over $6 billion in fiscal year 1989 for the war on drugs. H.R. 5210 takes a major step toward solving the drug problem.

Yet no one expects any piece of legislation of this size to be perfect, and we will be considering over 30 amendments over the next few days. I would like to take this opportunity to discuss two of the more controversial aspects of this legislation.

An amendment will be introduced to strike the Brady provision of the bill, which requires a 7-day waiting period in the purchase of a handgun. I oppose this amendment. A 7-day waiting period would allow law enforcement officials to check the police records of individuals wishing to purchase a handgun.

The purpose of the waiting period is to improve enforcement of existing Federal law on those who are not authorized to purchase guns—convicted felons, fugitives from justice, minors, drug addicts, and individuals with a history of mental illness. Currently such individuals can avoid the ban by merely lying on their Federal registration form. A waiting period would make it much harder for these individuals to obtain a handgun, and would have no effect on law-abiding gunowners.

Another amendment to be introduced during consideration of this bill would allow the death penalty for anyone who intentionally kills a person during, or while being sought for a drug felony. I support this amendment, which would also require a minimum 20-year sentence in those cases where the death penalty is not imposed.

The intent of this entire legislative package is to renew our focus on the drug problem, which is widely recognized as the greatest threat to our society today. While allowing the death penalty for drug-related homicides is a drastic measure, both the House and Senate have supported similar amendments in the past, and this provision will provide an important tool in the war against drugs. Society must be able to protect itself from those individuals who place such a low value on a human life.

Mr. Chairman, passage of H.R. 5210 marks a turning point in our efforts to end the destructive influences of drugs on the American people. I urge my colleagues to retain the handgun waiting-period provisions, and adopt the Gekas amendment. Let's let this country know that our commitment to the drug problem goes beyond just saying "No."

Mr. WOLPE. Mr. Chairman, I rise in support of H.R. 5210, the Omnibus Drug Initiative of 1988. Clearly, this is the most comprehensive antidrug legislation which the House has considered and the committees should be commended for their fine work in assembling this extensive legislation in such a short period of time. I am pleased with many of the provisions of this bill. The provisions which will focus our efforts on expanding the availability of drug abuse treatment are long overdue and much needed. I strongly support those portions of the bill which will increase funding for the various local, State, and Federal law enforcement agencies which are at the very heart of our war against the trafficking and distribution of narcotics. Similarly, the increased penalties against the major drug smugglers point us in the direction of effectively locking away these dangerous criminals.

This bill does have some troubling provisions. The death penalty for drug kingpins is especially discouraging since it would seem to hinder rather than enhance our capability to bring these people to justice. As Federal law enforcement officials have indicated, few countries will actually permit extradition of a defendant, if that person faces a possible death penalty. Additionally, the exclusion of the proposed 7-day waiting period for the purchase of handguns overlooks the wishes of the people who are closest to the war against drugs, the law enforcement community, which had vigorously supported this provision as a sound and reasonable law-and-order measure. I am also concerned by the extension of the good-faith exception to the exclusionary rule to include warrantless searches. This provision, I believe, raises some serious constitutional questions.

Obviously, this bill is not perfect. But it is a good foundation upon which to build. I am hopeful that the Senate will be able to add its own perfecting amendments.

I urge my colleagues to support this vital and crucial bill, the Omnibus Drug Initiative.

Mrs. COLLINS. Mr. Chairman, not much of what Congress does is permanent. Congress steers, directs, encourages, and limits, but almost everything that we do has, in one way or another, nonpermanent consequences.

The death penalty, however, involves ultimate finality. For the persons upon whom the death penalty is imposed, there is no tomorrow. There is no relevance to a future sobering of American legislative morality which prohibits the death penalty. There is no relevance to the discovery of additional evidence 5 years later which indicates a lesser degree of culpability. There is no relevance to the fact that the criminal, aged 19 at the time of the crime, has successfully turned to piety, atonement, morality, and rehabilitation during the subsequent appellate years. The death penalty is permanent.

It is with great regret that I consider some of the catastrophic consequences of the Gekas death-penalty amendment and other ill-chosen amendments, which I believe to be unconstitutional, to H.R. 5210, the omnibus drug bill. I would strongly encourage my colleagues to consider these points when preparing for conference.

The adoption of the Gekas amendment was a dangerous decision. It is largely premised on election-year symbolism and the assumption that certain crimes indicate the criminal's incorrigibility. This is a reckless assumption that I believe is fundamentally, constitutionally, and fatally flawed.

An additional problem with the assumption of incorrigibility is that it has been found in numerous States to be applied indiscriminately, and discriminatorily. As one compares the percentage of racial minorities to the rest of the population who are sentenced to death for similar crimes, only one conclusion is tenable: There is plenty of injustice in the justice system. The sad fact of the matter is that the race of the criminal and the race of the victim regularly figure into the determination of the criminal's duration of incarceration and into the decision of whether to invoke the death penalty.

I offered an amendment to limit the damage done by the Gekas amendment, but unfortunately was not made in order by the Rules Committee. The amendment would have limited the dealth penalty to:

The person who actually performed the killing;

Where the perpetrator had previously been convicted of grievous offenses; and

Where a law enforcement officer was killed. This amendment recognized the potential disaster generated by the death penalty. The Gekas amendment simply is not adequately delineated and that point was echoed by the voice-vote passage of each of the modifying-amendments to Gekas which were made in order. The overboard application of the death penalty—which this Gekas provision encourages—if it is not striken in conference—would have horrible consequences.

Another critical problem with the drug bill as it appeared upon final passage is that the "exclusionary rule," drawn from the fourth amendment, is severely crippled by the Lungren provision. The right to be free from illegal searches and seizures is fundamental to the American system of jurisprudence. From this right flows the principal of the exclusionary rule which holds that evidence gathered in an illegal seizure cannot be used against a defendant at trial. Yet, the Lungren provision treats this rule of law with contemptuous diffidence, not recognizing it as the cornerstone of justice that it is. What good is a constitutional prevention of illegal searchers and seizures if there is no enforcement mechanism? Should it not matter why an American's constitutional rights were violated? Fourth amendment rights are not subject to an officer's state of mind, nor to good and bad faith. If rights are violated, there must be redress, and that redress is known as the exclusionary rule. Without it, the fourth amendment is mere scratch-paper. The Lungren provision's attempt to trash the Bill of Rights is a blasphemy requiring not only reproach, but correction.

Yet another provision of the drug bill that is most likely unconstitutional—and, in any event, nonsensical—is the Edwards of Oklahoma amendment calling for civil penalties of up to $10,000 for the possession of even a small amount of marijuana. The concept of user accountability is just fine; but not when it devastates the long-held principle that the penalty be appropriate to the crime committed. To suggest that $10,000 is not an excessive penalty for possession of as little as a spec of a controlled substance is patently absurd.

Finally, although the deletion of the so-called Brady bill amendment is not unconstitutional, it does constitute a conspicuously malevolent, ill-conceived policy choice. The evidence was clear: notification to local law enforcement authorities and a 7 day waiting period before anyone buying a gun can take possession can help prevent crimes which involve guns. Why waste time with another study when we already have the results and know exactly what to do? The McCollum provision, which replaced the 7 day waiting period, reflects the reluctance of many of my colleagues on the other side of the aisle to resist the influence of the National Rifle Association or to take a solid stand in favor of law enforcement.

Mr. Chairman, to reiterate, the death penalty is intolerable, and the Gekas provision must be deleted from the conference agreement on H.R. 5210. This provision originated from a faulty premise, asserts legislative omniscience, yields a discriminatory result, and, through the permanence of its consequences, chooses to "scorch the Earth" first and ask questions later. The Lungren and Edwards of Oklahoma provisions must also be deleted as must be the McCollum provision in favor of the Brady bill language. As dangerous weapons that are out of step with the American people and their principles, these provisions must be resoundingly laid to rest.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that other Committee, having had under consideration the bill (H.R. 5210) to prevent the manufacturing, distribution, and the use of illegal drugs, and for other purposes, pursuant to House Resolution 521, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LUNGREN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 30, answered "present", not voting 26, as follows:

[Roll No. 332]

YEAS—375

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—30

Beilenson
Clay
Collins
Conyers
Crockett
Dellums
Dixon
Edwards (CA)
Fazio
Frank
Gonzalez
Hawkins
Hayes (IL)
Kildee
Lewis (GA)
Lowry (WA)
Markey
Oberstar
Owens (NY)
Rodino
Roybal
Sabo
Savage
Stark
Stokes
Vento
Waxman
Weiss
Wheat
Williams

NOT VOTING—26

Alexander
Badham
Barnard
Bonker
Boulter
Brown (CA)
Byron
Crane
Daub
Derrick
Dowdy
Dreier
Dymally
Gray (IL)
Hall (OH)
Lott
MacKay
Murphy
Nichols
Pepper
Roukema
Scheuer
Smith (IA)
Taylor
Wortley
Yates

□ 1534

Mr. OBERSTAR, Mrs. COLLINS, and Mr. LOWRY of Washington changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5210, OMNIBUS DRUG INITIATIVE ACT OF 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 5210, as amended, the Clerk be authorized to correct section numbers, cross-references, punctuation, and grammatical and spelling errors, to correct the title and any table of contents, and to make such other clerical, technical, and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on H.R. 5210, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested.

S. 555. An act to regulate gaming on Indian lands.

REPORT ON RESOLUTION PROVIDING FOR AGREEING TO SENATE AMENDMENT TO H.R. 1154, TEXTILE, APPAREL AND FOOTWEAR TRADE ACT OF 1988

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-949) on the resolution (H. Res. 540) providing for agreeing to the Senate amendment to the bill (H.R. 1154) to remedy injury to the U.S. textile and apparel industries caused by increased imports, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Tuesday, September 20, 1988, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 5114, by the yeas and nays; and H.J. Res. 648, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

VETERANS' HEALTH-CARE PROGRAMS AMENDMENTS OF 1988

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5114, as amended.

The Clerk read the title of the bill.

The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5114, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 25, as follows:

[Roll No. 333]

YEAS—406

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland

Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—25

Alexander
Badham
Barnard
Bonker
Boulter
Brown (CA)
Byron
Crane
Daub
Dowdy
Dreier
Dymally
Gray (IL)
Hall (OH)
Lott
MacKay
Mica
Murphy
Nichols
Pepper
Roukema
Scheuer
Taylor
Wortley
Yates

□ 1558

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

ENCOURAGING INCREASED INTERNATIONAL COOPERATION TO PROTECT BIOLOGICAL DIVERSITY

The SPEAKER. The unfinished business is the question of suspending the rules and passing the joint resolution (H.J. Res. 648) as amended.

The Clerk read the title of the joint resolution.

The SPEAKER. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the joint resolution (H.J. Res. 648) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 0, not voting 33, as follows:

[Roll No. 334]

YEAS—398

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—33

Alexander
Badham
Barnard
Bonker
Boulter
Brown (CA)
Byron
Crane
Daub
Dowdy
Dreier
Dymally
Fascell
Ford (MI)
Gray (IL)
Hall (OH)
Kanjorski
Latta
Lott
MacKay
Mica
Murphy
Nichols
Pepper
Roukema
Scheuer
Swindall
Taylor
Thomas (CA)
Traxler
Wilson
Wortley
Yates

□ 1606

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THANKS FOR COOPERATION ON BIODIVERSITY LEGISLATION

(Miss SCHNEIDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss SCHNEIDER. Mr. Speaker, in reference to the last resolution, I would like to extend special thanks to Chairman FASCELL and the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], as well as the subcommittee chairman, the gentleman from Pennsylvania [Mr. YATRON], and also the ranking minority member, the gentleman from New York [Mr. SOLOMON] for their leadership in facilitating this bipartisan and overwhelming vote of 398 to nothing.

I also would like to extend my thanks to the gentleman from Florida [Mr. MICA] and the gentleman from Iowa [Mr. LEACH] for their insightful remarks the other day and also their generous comments regarding this resolution in presenting this legislation to the floor this past Tuesday.

Mr. Speaker, despite the overwhelming support for this previous resolution, I would like to point out that regrettably, a few of my colleagues are not familiar with the term "biological diversity," and I would like to use this opportunity to share with them that what this resolution will do will be to call on the President to have an international convention to discuss the loss of plant and animal species that is happening at an overwhelming rate at this time.

It is particularly important to us economically when we recognize that one-fourth of all our prescription drugs in the United States right now are derived from plants with a market value of $8 billion that are primarily coming from tropical rain forests, and these rain forests, regrettably, are disappearing at a rate of 25 to 50 acres a minute; so the urgency of this legislation is crucial.

Thre is no question in my mind that now with this overwhelming vote this will be enough motivation to move the Congress, to move the President, and hopefully our international colleagues, in making sure that we can take action in preventing further destruction of our plant and animal species.

REVITALIZATION OF "OFFICERS ROW" IN SANDY HOOK UNIT OF GATEWAY NATIONAL RECREATION AREA

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the bill (H.R. 5336) to further the revitalization, rehabilitation, and utilization of the area known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Arizona to explain what is involved in this legislation.

Mr. UDALL. Mr. Speaker, this is not a complicated measure. It simply provides for the Secretary of the Interior to make available a site for a marine sciences lab on Sandy Hook in the Gateway National Recreational Area.

There is presently a NOAA marine laboratory at the site involved, but it was partially destroyed by fire and is in need of rehabilitation and expansion.

This is a matter I was working on with our late colleague, Jim Howard, and is a project he was most interested in completing. We had thought that no legislation would be needed, but the National Park Service felt that it needed this additional authority.

The rehabilitation and construction costs involved in this project will be paid by the State of New Jersey so that there will be no construction costs to the National Park Service. At the same time, the project will result in the rehabilitation of a historic structure and will provide benefits for visitors of Sandy Hook. The bill provides that the Marine Sciences Laboratory be named in memory of our friend and colleague, the late Jim Howard.

Mr. RHODES. Mr. Speaker, I thank the gentleman for his explanation.

Certainly we all remember our colleague, the late Jim Howard, very fondly. This recognition is well-deserved, since Congressman Howard was one of the leading proponents of the inclusion of Sandy Hook in the Gateway National Recreation Area over 15 years ago.

The work of the Marine Sciences Laboratory is certainly compatible with the environmental objectives of this popular urban recreation area.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the bill before us would clear the way for implementation of the agreement reached between the State of New Jersey, the National Oceanic and Atmospheric Administration and the National Park Service for construction of a new National Marine Fisheries Laboratory at Sandy Hook, NJ.

The previous lab was leveled by arson in September 1985, destroying and leaving in limbo critical research in the fight to combat ocean pollution and protect our precious fisheries industry.

It is essential that the facility be rebuilt. Marine fisheries scientists currently are working out of inadequate, makeshift buildings and are desperately in need of the features a modern laboratory would provide. In addition, other related organizations, including the New Jersey Marine Sciences Consortium of educational institutions, are poised to share the space.

After considerable deliberation and study, the State of New Jersey, NOAA and the National Park Service agreed to a plan to build a new 30,000 square foot laboratory and turn some remaining laboratory space into offices and a library. The State would pay for construction and enter into a lease back arrangement with NOAA.

This legislation requires no Federal appropriation. Because the Sandy Hook site is within a National Park Service Historic District we need to pass specific language assuring that the design of the new facility, the rehabilitation work on building 74 and the design of landscaping be approved and reviewed by the Director of the National Park Service or his designee. The language also provides that should the property no longer be used as a marine sciences lab, all use of the property and improvements thereon shall revert to the National Park Service.

Finally, and very importantly, this bill contains a provision to name the new laboratory the "James J. Howard Marine Sciences Laboratory." Those of us in the New Jersey congressional delegation keenly recall that when the lab burned down 3 years ago this month, it was our colleague, Jim Howard, who vigorously took up the cause of retaining the laboratory on Sandy Hook. It was through his leadership and the combined efforts of the entire New Jersey congressional delegation and State leaders that we were successful. It is a fitting tribute to Jim Howard, a leader in the fight against ocean pollution, that we name the lab in his honor.

Mr. RHODES. Mr. Speaker, I join the committee chairman, the gentleman from Arizona [Mr. UDALL], and the gentleman from New Jersey [Mr. ROE] in urging support of this legislation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

To further the revitalization, rehabilitation, and utilization of the area known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, the Secretary of the Interior, or his designee, shall enter into an agreement to permit the State of New Jersey to use and occupy the property depicted on the map numbered 646/80,003, entitled Marine Science Laboratory Land Assignment, dated September 1988, for the express purpose of constructing, developing and operating, without cost to the National Park Service, a marine sciences laboratory to be known as the "James J. Howard Marine Sciences Laboratory". The design of the new facility, the rehabilitation of Building 74, the design and location of landscaping, and any modifications thereto, shall be reviewed by, and subject to the approval of, the Director of the National Park Service or his designee using the standards for rehabilitation and National Park Service guidelines and policies approved by the Secretary of the Interior. At such time as the aforementioned improvements are no longer used as a marine sciences laboratory by the State of New Jersey, all use of the property and the improvements thereon shall revert, without consideration, to the National Park Service.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5336, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONFERENCE REPORT ON H.R. 4794

Mr. LEHMAN of Florida submitted the following conference report and statement on the bill (H.R. 4794) making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-957)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4794) making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 16, 27, 39, 42, 44, 45, 47, 49, 51, 52, 53, 55, 56, 58, 59, 61, 62, 63, 65, 67, 68, 70, 71, 81, 82, 85, 88, 89, 90, 94, 95, 96, 101, 102, 103, 108, 111, 113, 114, 115, 116, 117, 118, 119, 120, 123, 124, 125, 142, and 154.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 17, 18, 19, 24, 28, 29, 37, 43, 73, 84, 86, 91, 99, 110, 112, 128, and 129, and agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,600,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$295,000,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,000,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$67,000,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$36,600,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,410,000,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$471,320,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,384,528,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,150,000,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,400,000,000*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$217,350,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$33,427,000*; and the Senate agree to the same.

Amendment Number 46:

That the House recede from its disagreement to the amendment of the Senate number 46, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$12,000,000,000*; and the Senate agree to the same.

Amendment Number 54:

That the House recede from its disagreement to the amendment of the Senate number 54, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change the sum named to *$1,300,000*; and the Senate agree to the same.

Amendment Number 57:

That the House recede from its disagreement to the amendment of the Senate number 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change the sum named to *$3,600,000*; and the Senate agree to the same.

Amendment Number 60:

That the House recede from its disagreement to the amendment of the Senate number 60, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change the sum named to *$4,100,000*; and the Senate agree to the same.

Amendment Number 64:

That the House recede from its disagreement to the amendment of the Senate number 64, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change the sum named to *$1,000,000*; and the Senate agree to the same.

Amendment Number 66:

That the House recede from its disagreement to the amendment of the Senate number 66, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

OKLAHOMA HIGHWAY WIDENING DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to widen Oklahoma State Route 53 from Interstate Highway 35 east to the entrance of the Ardmore Regional Industrial Airpark for the purpose of demonstrating methods of improved highway and highway safety construction, $400,000, to remain available until expended. ; and the Senate agree to the same.

Amendment Number 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change the sum named to *$500,000*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$28,000,000*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$67,899,000*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$31,000,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change the sum named to *$2,000,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert ***$11,000,000***; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert ***$19,600,000***; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert ***$584,000,000***; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert ***$1,600,000,000***; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert ***$168,000,000***; and the Senate agree to the same.

Amendment numbered 106:

That the House recede from the disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert ***$11,100,000***; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert ***$14,800,000***; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert ***$9,300,000***; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 12, 20, 21, 22, 34, 38, 48, 50, 74, 75, 76, 77, 87, 97, 100, 104, 121, 122, 126, 127, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, and 153.

William Lehman,
William H. Gray II,
Bob Carr,
Richard J. Durbin
(except for amendment 128),
Robert J. Mrazek
(except for amendment 128),
Martin Olav Sabo,
Jamie L. Whitten,
Lawrence Coughlin,
Silvio O. Conte
(except for amendment 128),
Frank R. Wolf
(except for amendment 128),
Tom DeLay,
Managers on the Part of the House.

Frank R. Lautenberg,
John C. Stennis,
Robert C. Byrd,
Lawton Chiles,
Tom Harkin,
Bill Proxmire,
Alfonse D'Amato,
Thad Cochran,
Robert W. Kasten, Jr.,
Lowell P. Weicker, Jr.,
Mark O. Hatfield,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on amendments of the Senate to the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

CONGRESSIONAL DIRECTIVES

The conferees agree that Executive Branch wishes cannot substitute for Congress' own statements as to the best evidence of Congressional intentions—that is, the official reports of the Congress. Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

PROGRAM, PROJECT, AND ACTIVITY

During fiscal year 1989 and any year thereafter, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, with respect to funds provided for the Department of Transportation and related agencies, the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriations Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. In addition, the reductions made pursuant to any sequestration order to funds appropriated for "Facilities and equipment, Federal Aviation Administration" and for "Acquisition, construction, and improvements, Coast Guard", shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriations Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference. The conferees recognize that adjustments to the above allocations may be required due to changing program requirements or priorities. The conferees expect any such adjustments, if required, to be accomplished only through the normal reprogramming process.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Amendment No. 1: Appropriates $1,071,000, for the Immediate Office of the Secretary as proposed by the House instead of $1,072,000 as proposed by the Senate.

Amendment No. 2: Appropriates $464,000 for the Immediate Office of the Deputy Secretary as proposed by the Senate instead of $460,000 as proposed by the House.

Amendment No. 3: Appropriates $6,000,000 for the Office of the General Counsel as proposed by the Senate instead of $5,925,000 as proposed by the House.

Amendment No. 4: Appropriates $2,241,000 for the Office of the Assistant Secretary for Budget and Programs as proposed by the Senate instead of $2,147,000 as proposed by the House.

Amendment No. 5: Appropriates $2,265,000 for the Office of the Assistant Secretary for Governmental Affairs as proposed by the Senate instead of $2,345,000 as proposed by the House.

Amendment No. 6: Appropriates $24,300,000 for the Office of the Assistant Secretary for Administration as proposed by the Senate instead of $23,375,000 as proposed by the House.

Amendment No. 7: Appropriates $1,455,000 for the Office of the Assistant Secretary for Public Affairs as proposed by the Senate instead of $1,462,000 as proposed by the House.

Amendment No. 8: Appropriates $824,000 for the Executive Secretariat as proposed by the Senate instead of $815,000 as proposed by the House.

Amendment No. 9: Appropriates $1,305,000 for the Office of Civil Rights as proposed by the Senate instead of $1,270,000 as proposed by the House.

Amendment No. 10: Appropriates $585,000 for the Office of Commercial Space Transportation as proposed by the Senate instead of $550,000 as proposed by the House.

Amendment No. 11: Appropriates $1,727,000 for the Office of Essential Air Service as proposed by the Senate instead of $1,734,000 as proposed by the House.

Amendment No. 12: Reported in disagreement.

Amendment No. 13: Appropriates $3,915,000 for the Office of Small and Disadvantaged Business Utilization as proposed by the Senate instead of $3,105,000 as proposed by the House.

Amendment No. 14: Provides that $3,000,000 shall remain available until expended for the Minority Business Resource Center as proposed by the Senate instead of $2,275,000 as proposed by the House.

The conference agreement (Amendment Nos. 1-14) establishes the following distribution for Office of the Secretary salaries and expenses:

	Appropriation	Staff years
Immediate Office of the Secretary	$1,071,000	14
Immediate Office of the Deputy Secretary	464,000	9
General Counsel	6,000,000	104
Policy and International Affairs	7,950,000	142
Budget and Programs	2,241,000	37
Governmental Affairs	2,265,000	47
Administration	24,300,000	174
Public Affairs	1,455,000	29
Executive Secretariat	824,000	20
Contract Appeals Board	440,000	6
Office of Civil Rights	1,305,000	23

	Appropriation	Staff years
Office of Commercial Space Transportation	585,000	10
Office of Small and Disadvantaged Business Utilization	3,915,000	17
Office of Essential Air Service	1,727,000	29
Regional Representatives	(1)	(1)

[1] Reported in disagreement.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Amendment No. 15: Appropriates $5,600,000 instead of $4,925,000 as proposed by the House and $6,517,000 as proposed by the Senate.

The conference agreement distributes these funds as follows:

Personnel compensation and benefits	$2,334,000
Policy staff years	(25)
Commercial space staff years	(10)
Travel and administrative costs	131,000
Contracts	3,135,000
Policy	(1,000,000)
Commercial space	(2,135,000)

Electronic International Tariff Filing System.—In recent years funds have been provided to improve the international tariff filing system at the Department of Transportation. Although the Department and the air carrier industry use an automated system for domestic price changes, a costly and inefficient manual paper system is used for international tariff filings. The conferees direct the Department to allocate a minimum of $300,000 for this project because of the benefits that can be realized by expediting the implementation of an automated tariff filing system. Moreover, the House and Senate Committees on Appropriations are to be informed about the status of the automation improvements, a timetable for completing the project, and any revised cost estimates associated with the contemplated improvements.

Report on "Intelligent" Vehicle/Highway Technologies.—The conferees recently have been apprised of extensive research and development programs being conducted by European and Japanese governments and industry to develop advanced vehicle-highway technologies to improve traffic flow and to enhance the international competitive position of their own industrial enterprises. In Europe, for instance, the $700 million-$800 million PROMETHEUS program (to develop "smart" vehicles with advanced control and communications systems) is being pursued cooperatively by five national governments and 13 European vehicle manufacturers, with no participation by U.S.-affiliated firms being permitted. A similar closed research program is underway in Japan.

With no comparable U.S. program underway, the conferees are concerned that there may be unwarranted delays in introducing advanced vehicle-highway technologies in the U.S. and that U.S. manufacturers and research and development organizations may be placed at critical long-term competitive disadvantages. The conferees therefore direct the Secretary to submit a comprehensive report to Congress within nine months of enactment assessing European, Japanese, and U.S. advanced vehicle-highway technology research and development initiatives, analyzing the potential impacts of foreign programs on the introduction of advanced technologies for the benefit of U.S. highway users and on U.S. vehicle manufacturers and related industries, and making appropriate legislative and/or programmatic recommendations. In conducting this study, the Department shall consult with state and local governments and private sector transportation groups and with vehicle and electronics manufacturers.

WORKING CAPITAL FUND

Amendment No. 16: Limits obligations to $130,350,000 as proposed by the House instead of $132,500,000 as proposed by the Senate.

Amendment No. 17: Appropriates $3,200,000 for the development of the Departmental Accounting and Financial Information System as proposed by the Senate instead of $3,100,000 as proposed by the House.

Amendment No. 18: Deletes appropriations of $100,000 for the Department of Transportation office space reduction initiative and $600,000 for Departmental ADP systems development enhancements proposed by the House. The Senate bill contained no similar appropriations.

PAYMENTS TO AIR CARRIERS

Amendment No. 19: Appropriates $25,000,000 as proposed by the Senate instead of $29,070,000 as proposed by the House.

COAST GUARD

OPERATING EXPENSES

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed in said amendment, insert the following: *$2,100,616,000 is authorized to be appropriated, derived by transfer, or otherwise provided in "in kind" commodities and services for Coast Guard operating expenses in fiscal year 1989; of which $1,896,116,000 is hereby appropriated*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement assumes the availability of $200,000,000 to be provided in the Department of Defense Appropriations Act, 1989, thereby making a total of $2,100,616,000 (including $4,500,000 by transfer) available for Coast Guard operating expenses in fiscal year 1989. This is $146,510,000, or 7.4 percent above the amount provided for fiscal year 1988. The total made available is sufficient to reopen a number of closed facilities (specified in amendment no. 22) and to continue all drug enforcement and environmental protection activities at the proposed levels of service. In view of the Congressional requirement to reopen facilities closed by the Coast Guard, the conferees have agreed to increase the Coast Guard military full-time permanent position level by 114 positions—to 38,179.

Coast Guard Cutter "Mackinaw."—The conferees are concerned that the Coast Guard Cutter *Mackinaw* is "In Commission, Special Status" with engine problems that may preclude its operation during this winter's icebreaking season on the Great Lakes. It is expected that the Coast Guard will, using available funds, make every reasonable effort to restore the *Mackinaw* to service this coming season, if it is technically feasible to do so. In any event, the conferees direct the Coast Guard to assure that there is sufficient alternative icebreaking capability to maintain Great Lakes navigation through the 1988-1989 season.

Coast Guard Yard.—The conferees concur in the Senate report language on the Coast Guard Yard with the following modification: the staffing floor of 654 positions applies only to the Yard's industrial positions funded out of the Yard Fund. The conferees concur in the Secretary's 1987 designation of the Yard as a core logistics facility and believe that sufficient industrial work should be assigned to the Yard to maintain this capability. As a result, the Yard should be considered for construction, modification, repair or renovation work on ships, boats, buoys, and related vessel systems.

The conferees also expect the Coast Guard to fully support the GAO in its efforts to evaluate the relative costs of ship repair work at Curtis Bay versus private ship yards. Such support should include, but not be limited to, providing access to all relevant information and analytical support if needed. In this regard, the conferees direct the Coast Guard to make available to GAO, upon request and on a nonreimbursable basis, up to two Coast Guard personnel with relevant expertise in ship repair work to assist in the design and execution of the GAO study.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that not less than $147,000,000 shall be available for environmental protection activities.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That, of the funds provided in this Act for "Acquisition, Construction, and Improvements", $4,500,000 shall be transferred to this head to reopen and maintain the Coast Guard search and rescue stations located at Shark River, New Jersey; East Port, Maine; Block Island, Rhode Island; Ashtabula, Ohio; North Superior, Minnesota; Lake Tahoe, California; Kennewick, Washington; Kauai, Hawaii; and Mare Island, California; and to reactivate the Coquille and Rogue River Patrols in Oregon: Provided further, That, within available funds, the Coast Guard shall maintain the Coast Guard search and rescue station located at Bayfield, Wisconsin on a year-round basis*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Amendment No. 23: Appropriates $295,000,000 instead of $102,000,000 as proposed by the House and $297,700,000 as proposed by the Senate.

An additional $50,300,000 is contained in the conference agreement on the Military Construction Appropriations Act, 1989. The total program level of $345,300,000 is distributed as follows:

Vessels:	
270-foot cutter procurement	$13,300,000
Vessel survey and design.	600,000
Buoy tender replacement	3,200,000
WHEC plotting table	1,500,000
378-foot cutter FRAM	79,000,000
210-foot cutter MMA	40,000,000
378-foot cutter weapons	3,000,000
Other vessel projects	8,000,000
Aircraft:	
HH-60 MRR helicopter acquisition	93,000,000

HH-65A SRR helicopter engines	8,000,000
Command, Control, and Communications:	
HC-130 FLAR	13,000,000
Aircraft repair/supply center computer	5,700,000
Upgrade maritime defense zone command centers	1,300,000
Shore Facilities/Aids to Navigation:	
Shore survey and design	3,500,000
Minor AC&I construction	6,300,000
Underground storage tank cleanup	4,000,000
Support services	1,800,000
Savannah, GA—air station hangar construction	3,900,000
SEUS air interdiction shore facilities	2,600,000
Yorktown, VA—administration building	2,700,000
Petaluma, CA—training center	3,200,000
Public family quarters	4,400,000
Toledo, OH—barracks, dining facility	1,000,000
Cortez, FL—main building	2,200,000
Panama City, FL—rebuild station	2,400,000
South Portland, ME—moorings	8,600,000
Kodiak, AK—station restoration	3,700,000
Aids to navigation	3,000,000
Administration	22,400,000

Fleet Renovation and Modernization "FRAM" Program.—The conferees are concerned about several serious problems being experienced in the "FRAM" program to renovate twelve 378-foot Coast Guard cutters. Total program costs are now expected to exceed original estimates by $150 million - $200 million, and the final delivery schedule could slip by as much as 2 years. These escalating costs and schedule slippages are the result, in part, of management control problems such as lack of uniformity in the approach to defining the work at the two shipyards, untimely change orders, changeover and inexperience among Coast Guard support personnel, and the lack of top management involvement when key decisions are made. In addition to these problems, the conferees are also concerned about the contract performance effects of litigation brought by the East Coast shipyard contractor and the financial stability of the West Coast contractor.

The conferees expect the Coast Guard to move vigorously to identify and correct the weaknesses that are within its organizational control and to manage better the financial, legal, and operational uncertainties that threaten even further delays and cost growth of these contracts. As part of this effort, the conferees believe the Coast Guard should investigate the feasibility of using the U.S. Navy's SupShip organization, augmenting its resident inspector staff with expert contractors, and/or reconfiguring personnel profiles to assign permanent civilian Coast Guard personnel to these oversight responsibilities. In addition, steps should be taken to reduce the number of change orders made to the contract, and to take other decisive actions to reduce cost. The conferees reiterate the directive in the Senate Report requesting a report on this subject by no later than October 31, 1988.

Amendment No. 24: Deletes transfer of $4,800,000 to "Operating expenses" to reopen and maintain nine search and rescue stations proposed by the House. A requirement to reopen these stations was agreed to in Amendment No. 22.

ALTERATION OF BRIDGES

Amendment No. 25: Provides $5,000,000 by transfer instead of $3,000,000 by transfer as proposed by the Senate and $6,000,000 by transfer as proposed by the House.

RESERVE TRAINING

Amendment No. 26: Appropriates $67,000,000 instead of $66,650,000 as proposed by the House and $67,500,000 as proposed by the Senate.

The conference agreement provides for an increase of 625 positions over fiscal year 1988 for the selected reserve.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Amendment No. 27: Appropriates $18,800,000 as proposed by the House instead of $19,000,000 as proposed by the Senate.

OFFSHORE OIL POLLUTION COMPENSATION FUND

Amendment No. 28: Limits obligations to $60,000,000 as proposed by the Senate instead of $57,000,000 as proposed by the House.

DEEPWATER PORT LIABILITY FUND

Amendment No. 29: Limits obligations to $50,000,000 as proposed by the Senate instead of $47,500,000 as proposed by the House.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

Amendment No. 30: Appropriates $36,600,000 instead of $36,460,000 as proposed by the House and $37,000,000 as proposed by the Senate. The conference agreement includes five positions above the House level.

Airport Gross Receipts Fees Study.—The conferees direct that the study regarding the imposition of airport gross receipts fees on off-airport car rental companies required by the Senate report also be submitted to the House Committee on Appropriations.

OPERATIONS

Amendment No. 31: Appropriates $3,410,000,000 instead of $3,400,000,000 as proposed by the House and $3,425,330,000 as proposed by the Senate.

The total amount provided for FAA Operations in fiscal year 1989 (including Headquarters administration and funds derived by transfer) is $3,456,600,000. This is $262,860,000—or 8.2 percent—more than the amounts provided for similar programs in fiscal year 1988.

The conference agreement includes the following amounts:

Operation of air traffic control system (27,229 positions)	[1] $1,541,200,000
Installation and materiel services (1,485 positions)	192,300,000
Maintenance of air traffic control system (10,399 positions)	681,300,000
Leased telecommunications services	256,600,000
Administration of aviation standards program (6,035 positions)	378,000,000
Development direction (136 positions)	9,700,000
Administration of airports program (472 positions)	32,558,000
Human resources management (1,256 positions)	259,342,000
Direction, staff and supporting services (942 positions)	86,000,000
Management initiatives	−17,000,000

[1] Including $10,000,000 derived by transfer for reemployed annuitants.

The conferees expect that any potential shortfalls in safety programs resulting from this distribution will be reported promptly to the House and Senate Committees on Appropriations.

Flight Service Station Staffing.—The conference agreement includes 48 flight service station positions above the Senate level.

Air Traffic Controller Hiring.—The conferees have been advised that there may be an underrepresentation of minorities and women in the air traffic controller work force. The conferees direct the Federal Aviation Administration to give priority attention to this matter, including making a special effort to recruit and retain qualified minorities and women and removing employment impediments.

Amendment No. 32: Provides that $471,320,000 of the amount provided for operations shall be derived from the Airport and Airway Trust Fund instead of $55,150,000 as proposed by the Senate and $1,050,000,000 as proposed by the House.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 33: Appropriates $1,384,528,000 instead of $1,293,060,000 as proposed by the Senate and $1,486,000,000 as proposed by the House.

The conferees have agreed to the budget reform proposed by the Senate to delete outyear personnel and related overhead costs (PCB&T costs) from "full funding" project costs. The amounts specified in the following distribution do not include PCB&T costs for fiscal year 1990 and beyond. In addition, the conference agreement reprograms $81,379,000 from prior year funds reserved for future PCB&T costs to be used for fiscal year 1989 project costs.

The conference agreement distributes these funds as follows:

Air Traffic Control Centers:	
Long range radar program	$55,493,000
Radar microwave link replacement/expansion networking	39,407,000
Next generation weather radar (NEXRAD)	40,492,000
ATC radar facilities improvements	20,700,000
Advanced automation system (AAS)	210,000,000
En route software development/support	8,450,000
ODAPS software	14,100,000
Aeronautical data link	12,450,000
En route automation improvements	3,903,000
Central weather processor	7,234,000
NADIN II	23,497,000
ATC center improvements/modernization	21,000,000
Data multiplexing network	6,663,000
Communications facilities consolidation/networking	6,000,000
En route communications/control facilities	6,025,000

Traffic management system	7,415,000
Voice switching and control system	52,500,000
Telecommunications support	9,300,000
Radio tone control equipment	5,000,000
Subtotal, Air Traffic Control Centers	549,629,000
Airport Traffic Control Towers:	
Terminal doppler weather radar	108,447,000
MODE-S	14,563,000
Terminal radar improvements	6,130,000
New York TRACON modifications	25,600,000
Terminal area automation improvements	7,139,000
Remote maintenance monitoring systems	45,000,000
Terminal ATC facility replacements	37,500,000
Tower/TRACON modernization	20,902,000
Integrated communications switching systems	6,758,000
Interim support plan (TRACON upgrades)	150,000,000
Terminal communications improvements	4,410,000
Denver airport studies/design	4,000,000
Tower communications system (TCS)	11,232,000
Control tower simulator training system	6,880,000
Subtotal, Airport Traffic Control Towers	448,561,000
Flight Service Facilities:	
Flight service station modernization	19,000,000
VHF direction finder network	11,750,000
Automated weather observing system	4,550,000
Flight service facility improvements	1,800,000
Direct user access terminal (DUAT) system	11,000,000
Subtotal, Flight Service Facilities	48,100,000
Air Navigation Facilities:	
VOR, DME and VORTAC facilities	42,000,000
Nondirectional radio beacon facilities	3,244,000
Microwave landing systems and MALSR	13,000,000
Approach lighting system improvements	14,098,000
AWOS data acquisition system (ADAS)	12,660,000
Visual navaids	[1] 15,500,000
Instrument landing systems	....
Runway visual range equipment	4,453,000
Low level wind shear alert system	13,465,000
Airport approach landing aid facilities	2,850,000
Subtotal, Air Navigation Facilities	121,270,000
Housing, Utilities, and Miscellaneous Facilities:	
National radio communications system (NARACS)	9,851,000
Airway facilities building and equipment	10,459,000
Airport cable loop systems	4,493,000
Computer-based instruction	11,130,000
Power systems	10,393,000
Fuel storage tank replacement	25,000,000
CORN project	15,000,000
Computer-aided engineering design system	8,750,000
Maintenance control centers	15,500,000
Purchase of land/easements	3,000,000
Airport datum monument program	1,500,000
Automated command and control technology	7,750,000
Systems engineering and integration	105,000,000
Air navigation/ATC support	8,000,000
Mike Monroney Aeronautical Center lease	5,238,500
Regional logistics support	5,000,000
Air navigation aids/ATC facility improvements	2,259,000
Frequency and spectrum engineering	1,000,000
Explosive detection system	10,000,000
Test equipment, PCB software	2,450,000
Mike Monroney Aeronautical Center environmental cleanup	5,777,000
ADP short-term upgrades	....
Raleigh-Durham precision runway monitor demonstration program	5,000,000
Automated aircraft weather observations	2,000,000
Airway science curriculum	1,000,000
Subtotal, Housing, Utilities, and Miscellaneous Facilities	275,550,500
Aircraft and Related Equipment:	
Airborne MLS (17 systems)	1,355,000
TCAS II equipment (23 systems)	2,945,000
Airborne LORAN C (14 systems)	376,500
NARACS equipment (25 systems)	4,000,000
Training systems	1,180,000
Subtotal, Aircraft and Related Equipment	9,856,500
Development, Test, and Evaluation:	
FAA Technical Center building lease	5,290,000
Utility plant modifications	1,300,000
System support laboratory modernization	4,000,000
Boeing 727 cockpit modernization	1,500,000
ATC simulation facility	750,000
Engineering services support equipment	100,000
Subtotal, Development, Test, and Evaluation	12,940,000
Total Program Level	1,465,907,000
Less reprogrammed PCB&T costs	−81,379,000
Total, Facilities and equipment	1,384,528,000

[1] Includes $1,350,000 for Anderson County, SC glideslope/lights and $400,000 for Santa Monica Airport, CA localizer/DME approach system.

Terminal Doppler Weather Radars.—The conference agreement includes $108,447,000 for the terminal Doppler weather radar program for systems installation at the following locations:

FAATC, Atlantic City, NJ;
FAA Academy, Oklahoma City, OK;
Fort Lauderdale, FL;
Detroit, MI;
Charlotte, NC;
Houston (Hobby), TX;
New York (La Guardia), NY;
Kansas City, MO;
Washington (National), VA;
Cincinnati (Covington), KY;
Philadelphia, PA;
Raleigh-Durham, NC;
West Palm Beach, FL;
Phoenix, AZ;
Dallas (Love Field), TX;
Salt Lake City, UT;
Cleveland, OH; and
Washington (Dulles International), VA.

MLS/MALSR.—The conferees remain concerned about the microwave landing system program. The conferees have concluded that increased competition is necessary to effectively and economically proceed with the program. Thus, the conferees direct the FAA to use the funds provided to initiate a design and fabrication effort by no less than two MLS contractors to produce CAT II/III first article systems. The FAA is further directed to report to the House and Senate Committees on Appropriations on the results of this design competition prior to proceeding to the production phase.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate reserving $1,000,000 for airway science curriculum programs and up to $5,800,000 for a permanent auxiliary air traffic control tower at Orlando International Airport.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Airport Capacity Research.—The conferees have provided $25,779,000 for airport capacity research. The House and Senate reports cite a number of research activities and demonstration projects that the conferees expect will receive priority attention. These activities were identified by an industry task force as having the most immediate, direct, and beneficial capability for increasing capacity at congested airports. The conferees expect the FAA to ensure that its recent reorganization does not disrupt progress on these airport research activities. In this regard, the conferees direct the FAA to address the effects of its reorganization in the report on airport capacity research to be submitted to the House and Senate Appropriations Committees by December 31, 1988.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 35: Appropriates $1,150,000,000 for the liquidation of obligations incurred for airport planning and development instead of $1,129,000,000 as proposed by the Senate and $1,160,000,000 as proposed by the House.

Amendment No. 36: Limits obligations for airport planning and development to $1,400,000,000 instead of $1,325,000,000 as proposed by the Senate and $1,530,000,000 as proposed by the House.

Airport Grants.—In addition to the specific projects identified in the House and Senate Committee reports, with the exception of the Detroit Metropolitan-Wayne County Airport, MI, the conferees direct that priority consideration also be accorded to:

Boone Airport, IA;
Chandler Municipal Airport, AZ;
Forest Municipal Airport, MS;
Huntsville International Airport, AL; and
Lewiston-Nez Perce County Airport, ID.

Discretionary Funding Allocations.—The conferees understand that the FAA may be restricting its allocation of airport improvement program discretionary funds to large and medium-sized hub airports. The conferees direct the FAA to adopt a policy to ensure that the needs of airports of all sizes are funded with its AIP allocations, and to submit a report to the House and Senate appropriations and authorizing committees on the allocation of all fiscal year 1989 AIP funds by airport category along with a comparative allocation for the past four fiscal years.

Instrument Landing Systems.—The conferees direct that up to $20,000,000 be allocated from the airport improvement program for the purchase or lease and installation of instrument landing systems and approach lighting for the following airports: Nashville, Cincinnati, Indianapolis, Orlando, Boston, Miami, Washington (Dulles), Memphis and Newark. The conferees also direct that priority consideration be given to applications from the following airports: Allaire Airport, NJ; Salt Lake City Airport, UT; Newport Airport, OR; West Memphis Airport, AR; Natchez/Adams County Airport, MS; Ogden Municipal Airport, UT; Ponca City Airport, OK; and Selma Airport, AL. The conferees agree that the language contained in the House report regarding ILS operation, maintenance and logistic support costs does not preclude private companies from participating in the maintenance of instrument landing systems acquired with airport grant funds.

Amendment No. 37: Rescinds $100,000,000 of unobligated contract authority as proposed by the Senate instead of $220,000,000 as proposed by the House.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That no grants-in-aid the commitments for which are subject to a limitation contained in this paragraph shall be made to the Massachusetts Port Authority subsequent to a determination by the Department of Transportation that the landing fee structure adopted by the Massachusetts Port Authority on March 16, 1988, for Logan International Airport, is inconsistent with the Federal Aviation Act of 1958, 49 U.S.C. app. 1301 et seq., or the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. app. 2201 et seq., or with national transportation policy, if such fee structure remains in effect more than seven days after such determination is made: Provided further, That the Department of Transportation shall make a determination on the consistency of the landing fee structure prior to December 17, 1988*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Amendment No. 39: Limits borrowing authority to $50,000,000 as proposed by the House instead of $57,000,000 as proposed by the Senate.

Federal Highway Administration

LIMITATION ON GENERAL OPERATING EXPENSES

Amendment No. 40: Limits operating expenses to $217,350,000 instead of $216,000,000 as proposed by the House and $217,620,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Direction, coordination, support	$129,304,000
Working capital fund	11,500,000
Demonstration projects	2,856,000
Central support	38,902,000
National Highway Institute	1,361,000
Contract programs	33,427,000
R&D, highways and safety	(17,690,000)
Trucking program	(1,150,000)
Rural transportation	(4,358,000)
West Virginia study	(200,000)
Minority business	(9,009,000)
Historic stable restoration	(265,000)
Virginia TSM	(225,000)
Rock salt study	(225,000)
Avenue of the Saints	(400,000)
Intermodal exchange	(400,000)
Less: Project delays	(−495,000)

Northern Virginia TSM.—Recognizing that traffic congestion in the Washington Metropolitan area is as severe as in nearly any region of the country, it is the intent of the conferees that the Secretary shall contract the Northern Virginia transportation systems management program as expeditiously as possible. Because of familiarity with transportation problems in the region and access to needed information and data, the Secretary should consider contracting with a public university in Northern Virginia in cooperation with other relevant organizations.

Commercial Drivers License Research and Education.—The conferees have included $250,000 to conduct research and educational programs on the need for implementation of the commercial drivers license requirements at the state level. In addition, the program shall investigate and conduct necessary educational activities on the procedural uniformity in truck regulation and taxation at the state level. These funds are to be available only to a not-for-profit entity that has been engaged exclusively in truck-related safety, productivity, and operations research. The conferees expect the Department to enter into the described contract by March 15, 1989.

Clark Bridge.—The conferees recognize that the Clark Bridge over the Mississippi River at Alton, Illinois is in serious need of replacement. Since being designated as a priority candidate for discretionary bridge funds in the 1982 Surface Transportation Assistance Act, its sufficiency rating has dropped to one of the lowest of any bridge on the state system of highways. Emergency repairs have been made and will likely be required with increasing frequency until a replacement bridge is completed. These temporary repairs, while essential, are a waste of money. Replacement of the narrow, congested Clark Bridge is very important to the St. Louis regional transportation system and to the economy of the Alton area. In light of this, the conferees direct the Secretary to give priority to the Clark Bridge in the allocation of discretionary bridge funds.

Amendment No. 41: Provides that $33,427,000 shall remain available until expended instead of $32,077,000 as proposed by the House and $33,697,000 as proposed by the Senate.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

Amendment No. 42: Appropriates $6,080,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY-RELATED SAFETY GRANTS

(HIGHWAY TRUST FUND)

Amendment No. 43: Limits obligations to $9,405,000 as proposed by the Senate instead of $10,000,000 as proposed by the House.

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

Amendment No. 44: Appropriates $7,560,000 as proposed by the House instead of $1,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Augusta, Georgia	$900,000
Lincoln, Nebraska	1,260,000
Springfield, Illinois	3,600,000
Carbondale, Illinois	450,000
Brownsville, Texas	450,000
Pine Bluff, Arkansas	900,000

Amendment No. 45: Provides that $5,040,000 shall be derived from the Highway Trust Fund as proposed by the House instead of $667,000 as proposed by the Senate.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Amendment No. 46: Limits obligations for Federal-aid highways and highway safety construction programs to $12,000,000,000 instead of $11,398,000,000 as proposed by the Senate and $12,380,000,000 as proposed by the House.

Federal-aid Highways Obligational Authority.—Following is the conferees' best estimate of fiscal year 1989 federal-aid highways obligational authority that will be made available to the states under the $12,000,000,000 obligation limitation. These figures are subject to change when more accurate data become available. In addition, an estimated $1,271,000,000 will also be obligated for federal highway programs exempted from the obligation limitation.

COMPARISON OF ACTUAL FISCAL YEAR 1988 OBLIGATION LIMITATION FOR FEDERAL-AID HIGHWAYS WITH ESTIMATED LEVEL FOR FISCAL YEAR 1989

[Limitation in thousands]

State	Fiscal year 1988 actual $11,780,000	Fiscal year 1989 estimate $12,000,000
Alabama	$221,986	$232,525
Alaska	128,356	139,024
Arizona	111,861	116,604
Arkansas	90,672	97,192
California	762,822	835,452
Colorado	155,131	168,330
Connecticut	234,892	237,258
Delaware	41,529	45,212
Florida	343,073	376,480
Georgia	246,449	265,951
Hawaii	116,368	131,173
Idaho	70,829	73,879
Illinois	308,248	330,028
Indiana	159,282	172,142
Iowa	$138,503	$145,607
Kansas	119,189	125,694
Kentucky	136,622	145,722
Louisiana	222,550	242,820
Maine	48,222	53,012
Maryland	226,174	243,090
Massachusetts	459,281	633,460
Michigan	242,462	266,256
Minnesota	172,988	166,249
Mississippi	102,846	108,629
Missouri	195,332	210,373
Montana	89,752	97,027
Nebraska	83,862	87,097
Nevada	59,866	64,971
New Hampshire	45,162	48,798
New Jersey	266,808	271,660
New Mexico	86,686	94,201
New York	538,511	591,493
North Carolina	193,306	205,966
North Dakota	61,045	65,337
Ohio	297,184	316,191
Oklahoma	122,999	132,801
Oregon	106,251	112,679
Pennsylvania	426,157	437,313
Rhode Island	86,409	97,222
South Carolina	106,551	116,379
South Dakota	62,344	72,525
Tennessee	190,097	203,763
Texas	530,417	575,986
Utah	96,437	85,658
Vermont	44,791	48,877
Virginia	207,167	197,197
Washington	229,699	251,496
West Virginia	92,751	100,924
Wisconsin	138,732	145,288
Wyoming	61,449	73,193
District of Columbia	70,876	98,170
Puerto Rico	47,313	56,449
American Samoa	349	379
Guam	349	379
N. Marianas	349	379
Virgin Islands	349	379
Territories	9,510	10,313
Subtotal	9,409,195	10,222,652
Administration	204,000	213,000
Federal lands	235,000	235,000
Shrp/Demos	139,635	137,655
Allocation Reserve	1,792,170	1,191,693
Total limitation	11,780,000	12,000,000

Note.—Estimates for fiscal year 1989 based on: (A) anticipated fiscal year 1990 interstate apportionments and fiscal year 1989 noninterstate apportionments; (B) set-aside for allocation reserve is based on estimated fiscal year 1989 set-asides; actual amounts cannot be determined at this time.

Interstate Transfer—highways.—The conference agreement includes the following allocations of interstate transfer-highways discretionary funds:

Arizona	$177,572
Colorado	7,449,862
Connecticut	36,500,000
Illinois	63,120,336
Iowa	24,200,000
Maryland	20,000,000
Minnesota	5,652,230
Pennsylvania	18,300,000
Other	9,600,000

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

Amendment No. 47: Limits obligations for direct loans to $46,000,000 as proposed by the House instead of $47,850,000 as proposed by the Senate.

MOTOR CARRIER SAFETY

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: *$27,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $1,000,000 for the Office of Highway Traffic Safety, State of New Jersey, to establish an enforcement and public education program and $1,000,000 to finance state activities to ensure the safe transportation of transuranic materials from the Hanford, Washington facility.

MOTOR CARRIER SAFETY GRANTS

(HIGHWAY TRUST FUND)

Amendment No. 49: Deletes $2,425,000 transfer of funds available for motor carrier safety grants and supplemental grants for commercial driver testing to "Motor Carrier Safety" proposed by the Senate. The House bill contained no similar provision.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$1,291,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $450,000 for an access highway to Lake Sidney Lanier, Georgia and $841,000 for the Town Creek recreational area access road near Columbus Lake, Mississippi.

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

Amendment No. 51: Appropriates $12,825,000 as proposed by the House instead of $2,000,000 as proposed by the Senate.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 52: Appropriates $8,550,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

Amendment No. 53: Appropriates $8,550,000 as proposed by the House. The Senate bill contained no similar appropriation.

AIRPORT ACCESS DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 54: Appropriates $1,300,000 instead of $2,565,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 55: Appropriates $1,260,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 56: Appropriates $8,100,000 as proposed by the House. The Senate bill contained no similar appropriation.

NUCLEAR WASTE TRANSPORTATION SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 57: Appropriates $3,600,000 instead of $7,200,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY WIDENING DEMONSTRATION PROJECT

Amendment No. 58: Appropriates $1,800,000 as proposed by the House. The Senate bill contained no similar appropriation.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 59: Appropriates $8,550,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 60: Appropriates $4,100,000 instead of $8,100,000 as proposed by the House. The Senate bill contained no similar appropriation.

INTERSECTION SAFETY DEMONSTRATION PROJECT

Amendment No. 61: Appropriates $900,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY CAPACITY IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 62: Appropriates $900,000 as proposed by the House. The Senate bill contained no similar appropriation.

CLIMBING LANE SAFETY DEMONSTRATION PROJECT

Amendment No. 63: Appropriates $450,000 as proposed by the House. The Senate bill contained no similar appropriation.

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

Amendment No. 64: Appropriates $1,000,000 instead of $1,125,000 as proposed by the House. The Senate bill contained no similar appropriation.

UTAH PEDESTRIAN SAFETY DEMONSTRATION PROJECT

Amendment No. 65: Provides $1,000,000 from funds made available to the State of Utah by section 149 of Public Law 100-17 as proposed by the House. The Senate bill contained no similar provision.

OKLAHOMA HIGHWAY WIDENING DEMONSTRATION PROJECT

Amendment No. 66: Appropriates $400,000 instead of $450,000 as proposed by the

House. The Senate bill contained no similar appropriation.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

Amendment No. 67: Appropriates $3,600,000 as proposed by the House. The Senate bill contained no similar appropriation.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

Amendment No. 68: Appropriates $3,600,000 as proposed by the House. The Senate bill contained no similar appropriation.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

Amendment No. 69: Appropriates $500,000 instead of $540,000 as proposed by the House. The Senate bill contained no similar appropriation.

URBAN HIGHWAY CORRIDOR DEMONSTRATION PROJECT

Amendment No. 70: Appropriates $225,000 as proposed by the House. The Senate bill contained no similar appropriation.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

Amendment No. 71: Appropriates $225,000 as proposed by the House. The Senate bill contained no similar appropriation.

CORRIDOR SAFETY IMPROVEMENT PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 72: Appropriates $28,000,000 instead of $35,000,000 as proposed by the Senate. The House bill contained no similar appropriation.

BRIDGE CAPACITY IMPROVEMENTS

(HIGHWAY TRUST FUND)

Amendment No. 73: Appropriates $3,763,000 as proposed by the Senate. The House bill contained no similar appropriation.

CORRIDOR H IMPROVEMENT PROJECT

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $16,000,000.

ROAD EXTENSION DEMONSTRATION

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $600,000.

BRIDGE RESTORATION

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$2,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

RESERVATION ROAD

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

reservation road

For the purpose of carrying out a demonstration of economic growth and development benefits on approximately twenty-nine miles of federal-aid secondary road connecting Interstate 10 and State Route 84, there is hereby appropriated $3,500,000 for the acquisition of rights-of-way, construction, and other costs incurred in the reconstruction of that portion of the road on the Gila Indian Reservation and the Maricopa Ak Chin Indian Reservation: Provided, That no federal assistance shall be made available to carry out the project until: (1) an agreement is reached with the Indian Communities for the purchase of the required rights-of-way on the two reservations, (2) the road is accepted on the State Highway System, (3) not less than seventy-five percent of the rights-of-way needed for that portion of the road outside the reservation boundaries is donated by the landowners, and (4) Maricopa County and Pinal County agree to participate financially in the reconstruction of the road.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Amendment No. 78: Appropriates $67,899,000 instead of $63,180,000 as proposed by the Senate and $69,049,000 as proposed by the House.

Amendment No. 79: Provides that $31,000,000 shall remain available until expended instead of $27,813,000 as proposed by the Senate and $33,322,000 as proposed by the House.

Amendment No. 80: Provides that $2,000,000 of the amount provided for "Operations and Research" shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research instead of $3,000,000 as proposed by the House. The Senate bill contained no similar provision for this program.

In view of the major increase in support for this program that is expected to be provided in the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989, the conferees agree that the funds provided under this amendment shall be used primarily to support biomechanics research activities with an emphasis on motor vehicle-related injury prevention.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

Amendment No. 81: Appropriates $30,751,000 as proposed by the House instead of $33,000,000 as proposed by the Senate.

Amendment No. 82: Provides that $2,780,000 of the funds provided for "Operations and Research (Highway Trust Fund)" shall be available for light truck and van safety research and analysis as proposed by the House. The Senate bill contained no similar provision.

The conference agreement includes the following distribution for the Operations and Research activity:

	Program level
Rulemaking (91 positions)	$7,890,000
Enforcement (101 positions)	12,490,000
Highway safety (177 positions)	25,720,000
Research and analysis (146 positions)	45,800,000
General administration (91 positions)	8,550,000
Office of the Administrator (46 positions)	3,050,000
Total program level	103,500,000
Section 402 administrative expenses offset	−4,850,000
Total appropriations	98,650,000
(General fund)	(67,899,000)
(Highway trust fund)	(30,751,000)

Within the funds provided, the conference agreement includes the following distribution and program guidance. The conferees stress that the following is in addition to the mutually agreed upon funding allocations and program guidance contained in House Report 100-691 and Senate Report 100-411.

Injury control grants	$2,000,000
Light truck and van safety initiative	2,780,000
New car assessment retest	100,000
Project TEAM	1,125,000
Transportation trauma research	2,000,000
Dade County, FL—EMS	250,000
New Jersey EMS (enhance 911 access)	2,000,000
Atlantic region trauma registry	150,000

Transportation Trauma Research.—The conferees have agreed to include $2,000,000 to support a project to develop and demonstrate improved methods of treating trauma injuries at the Thomas Jefferson University Hospital in Philadelphia, Pennsylvania. The new trauma research center at Thomas Jefferson will be an interdisciplinary research center focusing on all aspects of rehabilitation and prevention research. It will demonstrate how effective clinical research can be done in coordination with an active emergency room and state-of-the-art equipment to identify measures to reduce morbidity and mortality. The funds made available by this Act shall be used only for emergency medical services-related equipment expenses.

Rear Seat Lap/Shoulder Belts.—The conferees are disturbed that NHTSA still has not issued a notice of proposed rulemaking to require the installation of rear seat shoulder belts in passenger vehicles. The former Secretary of Transportation first indicated that an NPRM addressing this problem would be issued by the end of 1987. The conferees believe this to be a necessary and important safety improvement that is long overdue. The agency must give this matter the priority attention that was promised by the former Secretary.

In addition, the conferees believe that NHTSA should be more active in educating the public about the opportunities and benefits of retrofitting vehicles that have rear seat lap belts with lap/shoulder belts. To aid in this effort, the conferees believe a systematic review is needed to assess the current situation and to target areas for improvement. The conferees therefore direct that up to $250,000 of the amount designated for CDC injury control grants be made available to conduct a study that includes the following:

(1) a comprehensive survey of vehicle manufacturers to determine all vehicle makes and models for which aftermarket retrofit assemblies are available to the general public;

(2) a timetable for the availability of retrofit kits from each manufacturer that does not presently make such kits available;

(3) an analysis of actions each manufacturer has taken to distribute retrofit kits and installation instructions to dealers and other potential installers;

(4) a statistically valid random survey of the availability, cost, and willingness to perform such retrofits among dealers of all major manufacturers;

(5) a summary of actions NHTSA has taken and plans to take to assure the availability of such retrofit kits and to educate the public about the benefits of such retrofits; and

(6) recommendations for correcting any deficiencies identified by this study.

Speed Limit Safety Impact Study.—The conferees expect NHTSA to make every effort to meet its October 1, 1988 target date for submitting its report to Congress assessing the safety impact of the 65 mph speed limit. The conferees request that this report include a section identifying the 15 highway segments across the nation on which higher speeds have had the most adverse safety impact.

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

Amendment No. 83: Limits obligations for "Alcohol safety incentive grants" to $11,000,000 instead of $10,000,000 as proposed by the House and $13,500,000 as proposed by the Senate.

Amendment No. 84: Limits funds available for administering the provisions of 23 U.S.C. 402 to $4,850,000 as proposed by the Senate instead of $4,900,000 as proposed by the House.

Federal Railroad Administration

OFFICE OF THE ADMINISTRATOR

Amendment No. 85: Appropriates $14,975,000 as proposed by the House instead of $15,695,000 as proposed by the Senate. The conference agreement is distributed as follows:

Salaries and expenses (186 staff years)	$12,100,000
Contractual support	950,000
Washington Union Station	1,800,000
Asset sale technical assistance	125,000

The conference agreement provides an additional $10,000,000 for this account under Amendment No. 87 to purchase title to Washington Union Station.

Amendment No. 86: Provides that $2,875,000 shall remain available until expended as proposed by the Senate instead of $1,075,000 as proposed by the House.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided, That, as part of the Washington Union Station transaction, the Secretary shall assume the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: Provided further, That an additional amount of $10,000,000, of which $4,000,000 shall be derived from unobligated balances of "Grants to the National Railroad Passenger Corporation", is hereby made available only for the purpose of purchasing title to Washington Union Station as authorized by the Union Station Redevelopment Act of 1981.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Washington Union Station Title Purchase.—The conferees have added a provision under "Office of the Administrator" providing an additional amount of $10,000,000, of which $4,000,000 shall be derived by transfer, to purchase title to Washington Union Station. This transaction is estimated to save the federal government $33,000,000 over the life of the present lease arrangement.

Amendment No. 88: Deletes language proposed by the Senate providing $320,000 for expenses related to the establishment and initial operation of the California/Nevada Bi-State Super Speed Ground Transportation Commission. The House bill contained no similar provision.

LOCAL RAIL SERVICE ASSISTANCE

Amendment No. 89: Deletes appropriation of $14,321,000 proposed by the Senate. The House bill contained no similar appropriation.

RAILROAD SAFETY

Amendment No. 90: Appropriates $27,825,000 as proposed by the House instead of $27,968,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Federal enforcement (381 positions)	$22,950,000
Automated track inspection program	1,140,000
Regulation and administration (65 positions)	3,735,000

RAILROAD RESEARCH AND DEVELOPMENT

Amendment No. 91: Appropriates $9,286,000 as proposed by the Senate instead of $9,750,000 as proposed by the House.

Advanced High Speed Technology Assessment.—The conferees believe that, within the funds provided, the Federal Railroad Administration should conduct an assessment of the current state of magnetic levitation technology which includes an analysis of the economic and technical feasibility of constructing commercial magnetic levitation transportation systems in the U.S over the next 20 years and the identification of legislative or other measures that could be undertaken to promote U.S. industry leadership in the production of such equipment. The conferees expect the FRA to report to the House and Senate Committees on Appropriations on this subject no later than one year after contracting the study.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Amendment No. 92: Appropriates $19,600,000 instead of $15,000,000 as proposed by the House and $25,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Communications and signal upgrades	$4,200,000
Passenger car modifications	3,900,000
Locomotive modifications	1,500,000
CETC/signal upgrades	9,000,000
Track improvements	1,000,000

Extension of CETC.—The conferees recognize the extreme importance of extending the Centralized and Electric Train Control (CETC) system on the Northeast Corridor between Marcus Hook, Pennsylvania and Trenton, New Jersey and between Trenton and Newark. CETC serves a vital safety function by automating and regulating the dispatching and switching of trains from one track to another. The conferees have been advised that several of the accidents that have occurred on the Corridor in recent years, including the 1988 Chester, Pennsylvania accident and the 1985 Hellgate collision, could not have occurred if CETC had controlled train movements on the track. The CETC infrastructure already is in place between Washington and Marcus Hook, and the safe, reliable and efficient operation of intercity and commuter trains along the Corridor depends on its extension through Newark.

The conferees have made available $9,000,000 for the Amtrak/NECIP fiscal year 1989 contribution to this project. The commuter authorities and UMTA will be expected to provide the remaining fiscal year 1989 funds. For future years, the conferees direct that, absent an agreement between Amtrak and the commuter authorities, CETC project costs be allocated to achieve a ratio of 60 percent for the commuter authorities/UMTA and 40 percent for Amtrak/NECIP over a 4-year period according to the following cost schedule:

CETC Cost Breakdown

Marcus Hook, Pennsylvania to Trenton, New Jersey—47 miles (237 trains/day: 150 SEPTA; 87 Amtrak)	$21,400,000
Trenton, New Jersey to Hudson interlocking (Newark)—58 miles (314 trains/day: 228 NJT; 86 Amtrak)	38,300,000
Total project cost	59,700,000

CETC PROJECT COST SCHEDULE

[In millions]

	Year 1	Year 2	Year 3	Year 4	Total
NJT/UMTA	$3.81	$6.37	$6.37	$6.37	$22.92
SEPTA/UMTA	2.12	3.59	3.60	3.60	12.91
Amtrak/NECIP	9.00	4.97	4.96	4.96	23.89
Total	14.93	14.93	14.93	14.93	59.72

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 93: Appropriates $584,000,000 instead of $575,800,000 as proposed by the Senate and $590,000,000 as proposed by the House.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Amendment No. 94: Requires the Secretary of Transportation to sell $99,000,000 of securities or promissory notes held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, as proposed by the House instead of $120,000,000 as proposed by the Senate.

Amendment No. 95: Restores House language providing that, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this head shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONRAIL COMMUTER TRANSITION ASSISTANCE

Amendment No. 96: Appropriates $4,500,000 as proposed by the House. The Senate bill contained no similar appropriation.

Urban Mass Transportation Administration

ADMINISTRATIVE EXPENSES

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $31,882,000, of which not to exceed $600,000 shall be available for the Office of the Administrator. The House bill contained an appropriation of $32,100,000.

"R-46" Subway Car Settlement.—The conferees are aware of a dispute that has arisen between UMTA and the New York MTA regarding the status and timing of the expenditure of the federal share of the balance remaining from the Federal Court judgment in the R-46 subway car litigation. While it appears that UMTA and the MTA have reached a settlement in this dispute, the conferees want it to be made clear that the full amount in dispute shall remain available to the MTA without fiscal year limitation for eligible mass transit capital projects, including the Herald Square subway station.

RESEARCH, TRAINING, AND HUMAN RESOURCES

The conferees direct that $900,000 shall be available for the continuation of the phosphoric acid fuel cell bus technologies program and $750,000 shall be available for planning and construction at the Urban Harbors Institute at the University of Massachusetts at Boston—a project designed to study urban harbor transportation modes, policies, and their environmental impact.

FORMULA GRANTS

Amendment No. 98: Appropriates $1,600,000,000 instead of $1,585,000,000 as proposed by the Senate and $1,731,703,000 as proposed by the House.

Amendment No. 99: Appropriates $5,000,000 for section 18(h) of the Urban Mass Transportation Act of 1964, as amended, as proposed by the Senate instead of $4,750,000 as proposed by the House.

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That, notwithstanding any other provision of law, before apportionment of these funds, $18,000,000 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Amendment No. 101: Limits obligations to $1,140,000,000 as proposed by the House instead of $1,250,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Bus and bus facilities	$144,000,000
Rail modernization and extensions	439,000,000
New systems and new extensions	402,000,000
(Seattle—bus tunnel)	(18,000,000)
(Miami—circulator)	(14,500,000)
(Atlanta—rail construction)	(70,000,000)
(Los Angeles—rail construction)	(148,000,000)
(St. Louis—light rail)	(60,000,000)
(Denver—busway)	(16,000,000)
(Salt Lake City—engineering and design)	(5,000,000)
(Jacksonville—automated skyway)	(7,000,000)
(Newark—preliminary engineering)	(2,000,000)
(Baltimore—light rail)	(6,000,000)
(Houston—light rail)	(50,000,000)
(Portland—light rail)	(5,500,000)
Planning	45,000,000
Elderly and handicapped	35,000,000
University transportation centers	5,000,000
Section 9(B) formula grants	70,000,000

Portland, OR Projects.—The conference agreement includes $5,500,000 for a $19,200,000 demonstration project in Portland, Oregon, called "Project Break-Even," with the understanding that these funds are contingent upon approval of the local comprehensive plan. The conferees encourage UMTA to work with the Tri-County Metropolitan Transit District to fund the balance of the project out of discretionary monies. This effort is intended to establish that public/private co-venture strategies can be used by existing rail or planned rail systems to substantially reduce their need for long-term operating assistance. This project would fund a joint development project, including the purchase of land, site improvements and other activities, which would be located contiguous to and on either side of the existing light rail system. Joint use of the property and improvements for private development shall be considered incidental and consistent with the project purposes by UMTA. The conferees expect that, based on preliminary information, the combination of increased ridership and the return to the light rail system of lease revenues will enable the system to substantially reduce its reliance upon operating assistance.

In lieu of further extension of the section 3 1982 letter of intent for bus-related improvements for Portland, Oregon, as urged in the House Report, the conferees direct that UMTA provide $14,200,000 out of bus and bus-related improvements for the purpose of enabling the Tri-County Metropolitan Transit District to complete a bus purchase program that will substantially modernize its aging fleet. The conferees also direct that these funds be made available over and above any monies included in the 1982 letter of intent and that they be provided without prejudice to the region competing equally with other cities for additional funds.

The conferees reiterate the House and Senate language that the $2,500,000 for the intermodal station at the new convention center is in addition to the 1982 letter of intent for bus and bus-related improvements and is to be made available without prejudice to the region competing equally with other cities for additional funds and without drawing on current regional commitments.

Dallas New Start Project.—In making the distribution of new systems funds, both Committees allocated $5,000,000 to Dallas. As a result of the recent defeat of the Dallas local transit bond referendum, the conferees have deleted funding for this project in fiscal year 1989 while local officials develop a new service plan to address the area's long-term transit needs. Although the conferees have deleted this initial allocation for Dallas, the conferees recognize the need for major transit improvements in the Dallas area, as well as the continued local efforts to improve mass transit through the dedicated funding source and the intent of DART to provide a significant level of local funding beyond the required matching levels for the total project cost. The conferees expect that both the House and the Senate will give priority consideration to providing federal funds for the DART project when the Dallas area has developed and obtained a local consensus for a new transit plan. The conferees wish to make clear that their action to redistribute the initial allocation of funds for DART should not be construed as an action prejudicial to future funding for the agency's revised and locally approved plan.

Dallas-Fort Worth "Railtran" Project.—The conferees are aware that the cities of Dallas and Fort Worth have proposed to UMTA that it participate in a joint study of potential uses of the 34-mile Railtran right-of-way. The conferees support such a study and urge the administrator to fully support these planning efforts.

Extension of CETC.—The conferees have agreed on a 4-year cost sharing plan to extend a centralized and electronic train control system in the Northeast Corridor. The conferees expect UMTA to cooperate in carrying out this plan as described under amendment No. 92.

Amendment No. 102: Deletes Senate language providing that before the allocation of discretionary grant funds, $100,000,000 shall be made available for the purposes of 23 U.S.C. 103(e)(4) and that such funds shall be made available in the manner and to the extent provided in the Senate Committee Report. The House bill contained no similar provision.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Amendment No. 103: Appropriates $400,000,000 as proposed by the House instead of $1,100,000,000 as proposed by the Senate.

INTERSTATE TRANSFER GRANTS—TRANSIT

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$200,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Interstate Transfer—Transit.—The conferees have agreed to the following discretionary allocations:

Chicago	$55,708,221
Baltimore	32,460,000
New York	11,000,000
Duluth	327,742
Portland	4,037
Construction management	500,000

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

WASHINGTON METRO

Amendment No. 105: Appropriates $168,000,000 instead of $150,000,000 as proposed by the Senate and $180,500,000 as proposed by the House.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

Amendment No. 106: Appropriates $11,100,000 instead of $10,806,000 as proposed by the Senate and $11,360,000 as proposed by the House.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

Amendment No. 107: Appropriates $14,800,000 instead of $14,650,000 as proposed by the House and $15,200,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Operations:	
Administrator (4 positions)	$300,000
Chief Counsel (9 positions)	495,000
Program management and administration (14 positions)	1,100,000
Aviation information management. (19 positions)	1,265,000
Emergency transportation (10 positions)	900,000
Hazardous materials (93 positions)	8,500,000
Research and technology (7 positions)	600,000
Transportation Systems Center (520 positions)	
Research and Development:	
Hazardous materials	1,120,000
Emergency transportation	220,000
Research and technology	300,000

Amendment No. 108: Provides that $1,650,000 shall remain available until expended as proposed by the House instead of $1,824,000 as proposed by the Senate.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

Amendment No. 109: Appropriates $9,300,000 instead of $9,180,000 as proposed by the House and $9,400,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Personnel compensation and benefits (48 positions)	$2,230,000
Administrative costs	920,000
Program funds	1,000,000
Research and development	750,000
State grants	4,400,000

Amendment No. 110: Provides that $5,125,000 shall remain available until expended as proposed by the Senate instead of $5,025,000 as proposed by the House.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

Amendment No. 111: Appropriates $29,000,000 as proposed by the House instead of $29,200,000 as proposed by the Senate.

DCAA Contract Audit Reimbursements.—Testimony indicates that certain contract audit support provided by the Defense Contract Audit Agency (DCAA) has been curtailed. In order to address this problem the conferees direct that the Office of the Inspector General be reimbursed by the operating administrations and the Office of the Secretary for DCAA contract audit support.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

Amendment No. 112: Appropriates $1,891,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

Amendment No. 113: Restores House language limiting obligations for non-administrative and capital programs to $436,548,000. The Senate bill contained no similar limitation.

TITLE III—GENERAL PROVISIONS

POLITICAL APPOINTEES

Amendment No. 114: Prohibits the use of funds for salaries and expenses of more than 120 political or Presidential appointees in the Department of Transportation as proposed by the House instead of 126 political or Presidential appointees as proposed by the Senate.

RENTAL PAYMENTS TO GSA

Amendment No. 115: Restores language proposed by the House limiting rental payments to the General Services Administration to 102 percent of the fiscal year 1988 level.

SECTION NUMBERS

Amendment Nos. 116, 117, and 118: Conform section numbers.

TEXAS TOLL ROAD PILOT PROGRAM

Amendment No. 119: Restores language proposed by the House amending section 129(j) of title 23, United States Code, relating to the Texas toll road pilot program.

INTERNATIONAL ZARAGOSA BRIDGE

Amendment No. 120: Restores language proposed by the House relating to the International Zaragosa Bridge in Texas.

COAST GUARD CUTTER "INGHAM"

Amendment No. 121: Reported in disagreement.

MANASSAS BATTLEFIELD PARK

Amendment No. 122: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number stricken and inserted by said amendment, insert the following:

329. This section shall expire on December 31, 1990

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment Nos. 123, 124, and 125: Restore language proposed by the House prohibiting the use of funds in this or any previous or subsequent Act to plan or design an interchange or any other highway facility providing access to or from certain highways in the vicinity of Manassas Battlefield Park.

SURFACE TRANSPORTATION AMENDMENTS

Amendment No. 126: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 330. (a) UMTA CHARTER SERVICE RULE.—Notwithstanding any other provision of law or regulation, the Urban Mass Transportation Administration charter service rule (49 CFR Part 604—charter service) and any subsequent Federal regulations governing charter service shall not apply to the Long Beach Public Transportation Company.

(b) ALABAMA FEASIBILITY STUDY.—For expenses necessary to carry out the Alabama Feasibility Study as authorized by section 350 of the Department of Transportation and Related Agencies Appropriations Act, 1988, Public Law 100-202, as amended, $675,000, to remain available until expended: Provided, That section 350(b) of such act is amended by adding the following new sentence: "Such study shall include environmental assessment, economic analysis, and engineering.": Provided further, That section 350(d) of such Act is amended by striking out "1 year" and inserting in lieu thereof "2 years".

(c) EXPRESSWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT.—For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve an interstate highway between Lake Success and Medford, New York, that demonstrates methods of enhancing safety and reducing motor vehicle congestion through widening, $2,600,000, to remain available until expended.

(d) MASS TRANSIT CAPITAL FUND (LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND).—Funds appropriated under this heading in the Department of Transportation and Related Agencies Appropriations Act, 1988, shall be available for payment of obligations incurred in carrying out section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

JACKSONVILLE, FL, AUTOMATED SKYWAY EXPRESS PROJECT

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 331. (a) Of the funds made available under "Discretionary Grants" for fiscal year 1989 the Secretary of Transportation shall, on or before January 1, 1989, transfer $7,000,000 from the Urban Mass Transportation Administration to the Federal Highway Administration to cover the cost of the federal share of the transit element of the Acosta Bridge replacement project in Jacksonville, Florida: Provided, That none of these funds shall be obligated until the Jacksonville Transportation Authority commits to the Secretary in writing that it will repay to the Urban Mass Transportation Administration the amount of Federal funds transferred by this section if the Automated Skyway Express project is not extended across the Acosta Bridge for reasons other than the availability of sufficient Federal discretionary grants: Provided further, That the Jacksonville Transportation Authority's obligation to repay these funds shall not require any compensatory adjustment to previous or future apportionments made available to Jacksonville under "Formula Grants".

(b) The Secretary of Transportation shall enter into negotiations with the Jacksonville Transportation Authority to revise the existing full funding contract to provide for the expeditious release of $1,800,000 made available from "Discretionary Grants" for the Automated Skyway Express project in fiscal year 1985 (House Report 98-1159) and $4,000,000 made available from "Discretionary Grants" for such project in fiscal year 1988 (House Report 100-498) with no compensatory adjustment to previous or future apportionments made available to Jacksonville under "Formula Grants": Provided, That the revised contract will provide for the completion of the 2.5 mile Automated Skyway Express project and will cover full project costs for completion of the project

including Federal financial participation consisting of "Discretionary Grants" as made available by Congress: Provided further, That the Secretary shall commence negotiations with the Jacksonville Transportation Authority to enter into such revised contract no later than 30 days after enactment and shall conclude such negotiations no later than 90 days after enactment of this section.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

LABOR PROTECTION AMENDMENTS

Amendment No. 128: Deletes language proposed by the House regarding labor protection for certain air carrier employees.

DRUG FREE WORKPLACE

Amendment No. 129: Deletes House language requiring that applicants for funds appropriated in this Act have a policy to ensure a workplace free of illegal controlled substances as proposed by the Senate.

The conferees strongly agree with the intent of the provision included by the House. However, this issue has been addressed in another appropriations act in such a manner that it applies to all Federal Government agencies.

SECTION NUMBERS

Amendment No. 130: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "326" insert: *332*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "327" insert: *333*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

AIRPORT GRANT LETTERS OF INTENT

Amendment No. 132: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 334. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: Provided, That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SECTION NUMBER

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "329" insert: *335*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

COMMUTER AUTHORITIES TAX EXEMPTION

Amendment No. 134: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 336. Section 501(c) of the Rail Passenger Service Act (45 U.S.C. 581(c)) is amended by adding at the end thereof the following new paragraph: "(5) Notwithstanding any other provision of law, any commuter authority that could have contracted with Amtrak Commuter for the provision of commuter service but which elected to operate directly its own commuter service as of January 1, 1983, shall be exempt from the payment of any taxes or other fees to the same extent as the Corporation is exempt. Such exemption shall be effective as of October 1, 1981.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees essentially have agreed to the Senate provision making certain state commuter rail authorities exempt from state and local taxes to the same extent that Amtrak is exempt from such taxes. The conferees have made this exemption retroactive to October 1, 1981, when Amtrak first became exempt from state and local taxation instead of January 1, 1983, as proposed by the Senate. This will ensure that the commuter authorities are not liable for state or local taxes imposed during the period between October 1, 1981, and January 1, 1983, when Amtrak was exempt from taxation and Conrail was still operating commuter services for the commuter authorities. In making the tax exemption retroactive, however, the conferees do not expect the commuter authorities to seek refunds for state and local taxes that they already have paid, but rather intend to establish the tax exempt status of the commuter authorities with respect to tax liability that has not yet been paid or imposed.

SECTION NUMBERS

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "331" insert: *337*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "332" insert: *338*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "333" insert: *339*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "334" insert: *340*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OFFICE OF THE SECRETARY TRANSFER AUTHORITY

Amendment No. 139: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 341. The Secretary of Transportation is authorized to transfer appropriated funds under "Office of the Secretary, Salaries and expenses": Provided, That no appropriation shall be increased or decreased by more than 2 per centum by all such transfers: Provided further, That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SECTION NUMBERS

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "336" insert: *342*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "337" insert: *343*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

JACKSONVILLE, FL AUTOMATED SKYWAY EXPRESS PROJECT

Amendment No. 142: Deletes language proposed by the Senate revising the Jacksonville Transportation Authority's existing full funding contract on the Automated Skyway Express project. This matter is addressed under Amendment No. 127.

CALTRAIN PROJECT GRANT

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 344. For the purpose of making grants under section 3 of the Urban Mass Transportation Act of 1964, as amended, the requirements of section 3(a)(2)(A)(ii) shall not apply to the Caltrain project specified in House Report 100-691, and the Urban Mass Transportation Administration shall release the amounts for that project.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

RAIL PASSENGER SERVICE IMPROVEMENTS

Amendment No. 144: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 345. (a) WISCONSIN RAIL SERVICE.—There is hereby appropriated $6,000,000 for a grant by the Secretary of Transportation to the Soo Line Railroad Company to be available only for construction, rehabilitation, renewal, replacement, or other improvements to maintain railroad passenger service between La Crosse and Milwaukee, Wisconsin: Provided, That the Soo Line Railroad Company match on a dollar for dollar basis the monies hereby appropriated with funds not already planned to be committed relative to the 1989 construction season: Provided further, That the monies hereby appropriated shall be made available within 30 days of the presentation to the Secretary by the Soo Line Railroad Company of sufficient evidence of the availability of matching funds that are beyond those planned to be spent relative to the 1989 construction season: Provided further, That these federal funds shall be made available on a monthly basis that is as close to conformance to a dollar for dollar matching arrangement as is possible.

(b) SAN JOAQUIN VALLEY RAIL SERVICE.—(1) Within 15 days of receiving adequate assurance that all necessary capital funding will be provided from a non-Amtrak source, the National Railroad Passenger Corporation shall submit an application to the Secretary of Transportation under the authority of section 402(g) of the Rail Passenger Service Act (45 U.S.C. 562) to order the operation of rail passenger service between Fresno and Stockton, California, over the rail lines of the Southern Pacific Railroad or its successors. Such application shall provide for rail service that is operated at the maximum legally permissible passenger train speeds in accordance with Federal Railroad Administration track safety standards based on the existing physical condition of the rail line.

(2) Notwithstanding any other provision of law, the Secretary of Transportation shall approve such application within 30 days of its receipt, and is authorized to amend the terms and conditions proposed in such application only for reasons of public safety.

(3) Notwithstanding any other provision of law, in the event the Interstate Commerce Commission receives an application to affix appropriate terms and conditions for the provision of this rail service under the authority of section 402(a) of the Rail Passenger Service Act, the Commission shall make a final determination on such application within 30 days of its receipt.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SECTION NUMBER

Amendment No. 145: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "341" insert: *346*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CONSULTING SERVICES

Amendment No. 146: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 347. (a) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for non safety-related consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States Government receiving funds under this Act to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a).

(d) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SECTION NUMBERS

Amendment No. 147: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "343" insert: *348*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 148: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "344" insert: *349*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 149: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "345" insert: *350*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL 55 MPH SPEED LIMIT ENFORCEMENT PENALTIES

Amendment No. 150: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 351. Notwithstanding sections 141(a) and 154 of title 23, United States Code, none of the funds in this or any previous or subsequent Act shall be used for the purpose of reducing or reserving any portion of a State's apportionment of Federal-aid highway funds as required by section 154(f) of title 23, United States Code, for reason of noncompliance with the criteria of that subsection during fiscal years 1986, 1987, and 1988. The Secretary shall promptly restore any apportionments which, prior to enactment of this Act, were reduced or reserved from obligation for reason of non-compliance under section 154(f) during said fiscal years.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have modified a Senate amendment preventing any DOT enforcement proceedings to reduce or reserve any portion of a state's Federal-aid highway construction apportionment because of noncompliance with the 55 mph national maximum speed limit law only if a state did not comply in fiscal years 1986, 1987, or 1988. These proceedings raise a serious question whether the compliance criteria of the speed limit law serve the safety needs of the states. This provision would affect any noncompliance proceeding already begun (at any stage) in fiscal years 1986 or 1987, as well as any proceeding for fiscal year 1988 that might otherwise have been commenced. Any apportionment already reserved would be returned to the affected state. This provision is intended to permit the Congress to continue its reexamination of the various issues associated with the national maximum speed limit law, without burdening the states with administrative hearings and other non-compliance proceedings whose outcome might be altered by future amendments to the law. This provision does not otherwise affect the states' obligation to submit speed monitoring data to the Department of Transportation, nor does it affect the Department's authority to receive and review such data, or the Department's ability to maintain and revise regulations on the enforcement/sanctions process and on data collection.

SECTION NUMBERS

Amendment No. 151: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "347" insert: *352*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "348" insert: *353*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "349" insert: *354*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

Amendment No. 154: Deletes language proposed by the Senate prohibiting the use of funds for any transportation project to which certain services are provided from foreign countries that deny fair market opportunities.

SUMMARY TABLE

The following table shows the amounts agreed to for each appropriation:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	FY 1988 Enacted	FY 1989 Estimates	House	Senate	Conference	Conference compared with Enacted
TITLE I - DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Immediate Office of the Secretary	1,050,000	---	1,071,000	1,072,000	1,071,000	+21,000
Immediate Office of the Deputy Secretary	451,000	---	460,000	464,000	464,000	+13,000
Office of the General Counsel	5,785,000	---	5,925,000	6,000,000	6,000,000	+215,000
Office of the Assistant Secretary for Policy and International Affairs	7,796,000	---	7,950,000	7,950,000	7,950,000	+154,000
Office of the Assistant Secretary for Budget and Programs	2,105,000	---	2,147,000	2,241,000	2,241,000	+136,000
Office of the Assistant Secretary for Governmental Affairs	2,367,000	---	2,345,000	2,265,000	2,265,000	-102,000
Office of the Assistant Secretary for Administration	6,739,000	---	23,375,000	24,300,000	24,300,000	+17,561,000
(By transfer)	(15,360,000)	---	---	---	---	(-15,360,000)
Office of the Assistant Secretary for Public Affairs	1,459,000	---	1,462,000	1,455,000	1,455,000	-4,000
Executive Secretariat	798,000	---	815,000	824,000	824,000	+26,000
Contract Appeals Board	430,000	---	440,000	440,000	440,000	+10,000
Office of Civil Rights	1,244,000	---	1,270,000	1,305,000	1,305,000	+61,000
Office of Commercial Space Transportation	384,000	---	550,000	585,000	585,000	+201,000
Office of Essential Air Service	1,700,000	---	1,734,000	1,727,000	1,727,000	+27,000
Regional Representatives	642,000	---	---	630,000	---	-642,000
Office of Small and Disadvantaged Business Utilization	3,042,000	---	3,105,000	3,915,000	3,915,000	+873,000
Salaries and expenses	---	58,205,000	---	---	---	---
Subtotal, Salaries and expenses	35,992,000	58,205,000	52,649,000	55,173,000	54,542,000	+18,550,000
(By transfer)	(15,360,000)	---	---	---	---	(-15,360,000)
Transportation planning, research, and development	---	6,700,000	4,925,000	6,517,000	5,600,000	+5,600,000
(By transfer)	(4,987,000)	---	---	---	---	(-4,987,000)
Working capital fund	1,805,000	3,705,000	3,800,000	3,200,000	3,200,000	+1,395,000
(Limitation on working capital fund)	(127,801,000)	(135,000,000)	(130,350,000)	(132,500,000)	(130,350,000)	(+2,549,000)
Payments to air carriers	28,500,000	---	29,070,000	25,000,000	25,000,000	-3,500,000
Total, Office of the Secretary	66,297,000	68,610,000	90,444,000	89,890,000	88,342,000	+22,045,000
Coast Guard						
Operating expenses	1,801,106,000	2,100,506,000	2,026,000,000	1,896,116,000	1,896,116,000	+95,010,000
(By transfer)	(48,000,000)	---	(4,800,000)	---	(4,500,000)	(-43,500,000)
Acquisition, construction, and improvements	247,000,000	348,000,000	102,000,000	297,700,000	295,000,000	+48,000,000
Alteration of bridges	940,000	8,500,000	8,500,000	8,500,000	8,500,000	+7,560,000
(By transfer)	---	---	(6,000,000)	(3,000,000)	(5,000,000)	(+5,000,000)
Retired pay	386,700,000	410,800,000	410,800,000	410,800,000	410,800,000	+24,100,000
Reserve training	62,880,000	68,500,000	66,650,000	67,500,000	67,000,000	+4,120,000
Research, development, test, and evaluation	19,000,000	19,000,000	18,800,000	19,000,000	18,800,000	-200,000
Offshore oil pollution compensation fund: (Limitation on obligations)	(57,000,000)	(60,000,000)	(57,000,000)	(60,000,000)	(60,000,000)	(+3,000,000)
Deepwater port liability fund: (Limitation on obligations)	(47,500,000)	(50,000,000)	(47,500,000)	(50,000,000)	(50,000,000)	(+2,500,000)
Boat safety (Aquatic Resources Trust Fund)	---	15,000,000	---	---	---	---
(Limitation on obligations)	(21,375,000)	---	(30,000,000)	(30,000,000)	(30,000,000)	(+8,625,000)
(Liquidation of contract authorization)	(22,500,000)	---	(30,000,000)	(30,000,000)	(30,000,000)	(+7,500,000)
Subtotal, New budget (obligational) authority	2,517,626,000	2,970,306,000	2,632,750,000	2,699,616,000	2,696,216,000	+178,590,000
Subtotal, (Limitations on obligations)	(125,875,000)	(110,000,000)	(134,500,000)	(140,000,000)	(140,000,000)	(+14,125,000)
Total, Coast Guard	(2,643,501,000)	(3,080,306,000)	(2,767,250,000)	(2,839,616,000)	(2,836,216,000)	(+192,715,000)
Federal Aviation Administration						
Headquarters administration	35,520,000	37,057,000	36,460,000	37,000,000	36,600,000	+1,080,000
Operations	3,148,520,000	3,444,000,000	3,400,000,000	3,425,330,000	3,410,000,000	+261,480,000
(By transfer)	(9,700,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(+300,000)
Subtotal, Operations and headquarters administration	3,184,040,000	3,481,057,000	3,436,460,000	3,462,330,000	3,446,600,000	+262,560,000
Facilities and equipment (Airport and Airway Trust Fund)	1,108,056,000	1,600,000,000	1,486,000,000	1,293,060,000	1,384,528,000	+276,472,000
Research, engineering, and development (Airport and Airway Trust Fund)	153,425,000	155,000,000	160,000,000	160,000,000	160,000,000	+6,575,000
Grants-in-aid for airports (Airport and Airway Trust Fund) (Liquidation of contract authority)	(1,063,000,000)	(1,110,000,000)	(1,160,000,000)	(1,129,000,000)	(1,150,000,000)	(+87,000,000)
(Limitation on obligations)	(1,268,725,000)	(1,200,000,000)	(1,530,000,000)	(1,325,000,000)	(1,400,000,000)	(+131,275,000)
Rescission of contract authority	-12,000,000	---	-220,000,000	-100,000,000	-100,000,000	-88,000,000
Aircraft purchase loan guarantee program: (limitation on borrowing authority)	(57,000,000)	(57,000,000)	(50,000,000)	(57,000,000)	(50,000,000)	(-7,000,000)
Subtotal, New budget (obligational) authority	4,433,521,000	5,236,057,000	4,862,460,000	4,815,390,000	4,891,128,000	+457,607,000
Subtotal, (Limitations on obligations)	(1,268,725,000)	(1,200,000,000)	(1,530,000,000)	(1,325,000,000)	(1,400,000,000)	(+131,275,000)
Total, Federal Aviation Administration	(5,702,246,000)	(6,436,057,000)	(6,392,460,000)	(6,140,390,000)	(6,291,128,000)	(+588,882,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	FY 1988 Enacted	FY 1989 Estimates	House	Senate	Conference	Conference compared with Enacted
Federal Highway Administration						
(Limitation on general operating expenses)	(206,736,000)	(223,901,000)	(216,000,000)	(217,620,000)	(217,350,000)	(+10,614,000)
Highway safety research and development (Highway Trust Fund)	6,650,000	---	6,080,000	---	6,080,000	-570,000
Highway-related safety grants:						
(Limitation on obligations)	(9,405,000)	(10,000,000)	(10,000,000)	(9,405,000)	(9,405,000)	---
(Liquidation of contract authorization) (Highway Trust Fund)	(9,900,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(+100,000)
Railroad-highway crossings demonstration projects	7,790,000	---	7,560,000	1,000,000	7,560,000	-230,000
Federal-aid highways (Highway Trust Fund):						
(Limitation on obligations)	(11,780,000,000)	(11,398,000,000)	(12,380,000,000)	(11,398,000,000)	(12,000,000,000)	(+220,000,000)
(Liquidation of contract authorization)	(13,400,000,000)	(12,700,000,000)	(12,700,000,000)	(12,700,000,000)	(12,700,000,000)	(-700,000,000)
Right-of-way Revolving Fund (limitation on direct loans) (Highway Trust Fund)	(45,457,000)	(47,850,000)	(46,000,000)	(47,850,000)	(46,000,000)	(+543,000)
Motor carrier safety	22,790,000	24,577,000	25,000,000	24,500,000	27,000,000	+4,210,000
Motor carrier safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---
(Limitation on obligations)	(46,992,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(+13,008,000)
Access highways to public recreation areas on certain lakes	1,786,000	---	450,000	841,000	1,291,000	-495,000
Baltimore-Washington Parkway (Highway Trust Fund)	14,250,000	---	12,825,000	2,000,000	12,825,000	-1,425,000
Waste isolation pilot project roads	15,504,000	---	---	---	---	-15,504,000
Expressway gap closing demonstration project	7,885,000	---	---	---	---	-7,885,000
Intermodal urban demonstration project (Highway Trust Fund)	9,500,000	---	8,550,000	---	8,550,000	-950,000
Highway safety and economic development demonstration projects (Highway Trust Fund)	9,500,000	---	8,550,000	---	8,550,000	-950,000
Airport access demonstration project (Highway Trust Fund)	---	---	2,565,000	---	1,300,000	+1,300,000
Highway safety improvement demonstration project (Highway Trust Fund)	1,900,000	---	1,260,000	---	1,260,000	-540,000
Highway-railroad grade crossing safety demonstration project (Highway Trust Fund)	9,500,000	---	8,100,000	---	8,100,000	-1,400,000
Nuclear waste transportation safety demonstration project (Highway Trust Fund)	---	---	7,200,000	---	3,600,000	+3,600,000
Highway widening demonstration project	---	---	1,800,000	---	1,800,000	+1,800,000
Bridge improvement demonstration project	4,750,000	---	8,550,000	---	8,550,000	+3,800,000
Highway widening and improvement demonstration project	2,375,000	---	8,100,000	---	4,100,000	+1,725,000
Intersection safety demonstration project	---	---	900,000	---	900,000	+900,000
Highway capacity improvement demonstration project	---	---	900,000	---	900,000	+900,000
Climbing lane safety demonstration project	---	---	450,000	---	450,000	+450,000
Indiana industrial corridor safety demonstration project	---	---	1,125,000	---	1,000,000	+1,000,000
Oklahoma highway widening demonstration project	---	---	450,000	---	400,000	+400,000
Alabama highway bypass demonstration project	---	---	3,600,000	---	3,600,000	+3,600,000
Kentucky bridge demonstration project	---	---	3,600,000	---	3,600,000	+3,600,000
Virginia HOV safety demonstration project	---	---	540,000	---	500,000	+500,000
Urban highway corridor demonstration project	---	---	225,000	---	225,000	+225,000
Urban airport access safety demonstration project	---	---	225,000	---	225,000	+225,000
Corridor Safety Improvement Project (Highway Trust Fund)	4,702,000	---	---	35,000,000	28,000,000	+23,298,000
Bridge capacity improvements (Highway Trust Fund)	237,000	---	---	3,763,000	3,763,000	+3,526,000
Corridor H Improvement Project	---	---	---	16,000,000	16,000,000	+16,000,000
Road Extension Demonstration	---	---	---	600,000	600,000	+600,000
Bridge Restoration	---	---	---	2,500,000	2,000,000	+2,000,000
Reservation Road	---	---	---	5,000,000	3,500,000	+3,500,000
Vehicular and pedestrian safety demonstration project	6,650,000	---	---	---	---	-6,650,000
Highway bridge relocation demonstration project	2,470,000	---	---	---	---	-2,470,000
Highway bypass demonstration project	1,900,000	---	---	---		-1,900,000
Traffic Improvement Demonstration Project	475,000	---	---	---		-475,000
Subtotal, New budget (obligational) authority	130,614,000	24,577,000	118,605,000	91,204,000	166,229,000	+35,615,000
Subtotal, (Limitations on obligations)	(11,836,397,000)	(11,468,000,000)	(12,450,000,000)	(11,467,405,000)	(12,069,405,000)	(+233,008,000)
Total, Federal Highway Administration	(11,967,011,000)	(11,492,577,000)	(12,568,605,000)	(11,558,609,000)	(12,235,634,000)	(+268,623,000)
National Highway Traffic Safety Administration						
Operations and research	62,534,000	63,124,000	69,049,000	63,180,000	67,899,000	+5,365,000
Operations and research (Highway Trust Fund)	30,346,000	31,414,000	30,751,000	33,000,000	30,751,000	+405,000
Subtotal, Operations and research	92,880,000	94,538,000	99,800,000	96,180,000	98,650,000	+5,770,000
Highway traffic safety grants (Highway Trust Fund) (Liquidation of contract authority)	(135,000,000)	(130,500,000)	(130,500,000)	(130,500,000)	(130,500,000)	(-4,500,000)
State and community highway safety (limitation on obligations)	(114,950,000)	(115,000,000)	(115,000,000)	(115,000,000)	(115,000,000)	(+50,000)
Alcohol safety incentive grants: (Limitation on obligations)	(13,533,000)	(13,500,000)	(10,000,000)	(13,500,000)	(11,000,000)	(-2,533,000)
Subtotal, New budget (obligational) authority	92,880,000	94,538,000	99,800,000	96,180,000	98,650,000	+5,770,000
Subtotal, (Limitations on obligations)	(128,483,000)	(128,500,000)	(125,000,000)	(128,500,000)	(126,000,000)	(-2,483,000)
Total, National Highway Traffic Safety Administration	(221,363,000)	(223,038,000)	(224,800,000)	(224,680,000)	(224,650,000)	(+3,287,000)
Federal Railroad Administration						
Office of the Administrator	22,877,000	18,292,000	14,975,000	15,695,000	20,975,000	-1,902,000
(By transfer)	(1,900,000)	---	---	---	(4,000,000)	(+2,100,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	FY 1988 Enacted	FY 1989 Estimates	House	Senate	Conference	Conference compared with Enacted
Local rail service assistance	---	---	---	14,321,000	---	---
Railroad safety	27,968,000	28,518,000	27,825,000	27,968,000	27,825,000	-143,000
Railroad research and development	9,286,000	9,297,000	9,750,000	9,286,000	9,286,000	---
Northeast corridor improvement program	26,600,000	---	15,000,000	25,000,000	19,600,000	-7,000,000
(By transfer)	(950,000)	---	---	---	---	(-950,000)
Grants to the National Railroad Passenger Corporation	580,800,000	---	590,000,000	575,800,000	584,000,000	+3,200,000
Railroad Rehabilitation and Improvement Financing Funds: (Railroad credit enhancement)	(205,000,000)	(120,000,000)	(99,000,000)	(120,000,000)	(99,000,000)	(-106,000,000)
Settlements of railroad litigation:						
(Appropriation for debt reduction)	(38,950,246)	---	---	---	---	(-38,950,246)
Conrail Commuter Transition Assistance	---	---	4,500,000	---	4,500,000	+4,500,000
Total, Federal Railroad Administration	667,531,000	56,107,000	662,050,000	668,070,000	666,186,000	-1,345,000
Urban Mass Transportation Administration						
Administrative expenses	31,882,000	---	32,100,000	31,882,000	31,882,000	---
Research, training, and human resources	12,217,000	---	10,000,000	10,000,000	10,000,000	-2,217,000
Formula grants	1,736,453,000	---	1,736,453,000	1,590,000,000	1,605,000,000	-131,453,000
Formula transit grants:						
(Limitation of obligations)	---	(1,394,000,000)	---	---	---	---
(Liquidation of contract authorization)	---	(500,000,000)	---	---	---	---
Discretionary grants (Highway Trust Fund):						
(Limitation on obligations)	(1,130,500,000)	---	(1,140,000,000)	(1,250,000,000)	(1,140,000,000)	(+9,500,000)
Mass transit capital fund (Highway Trust Fund):						
(Liquidation of contract authorization)	(1,100,000,000)	(400,000,000)	(400,000,000)	(1,100,000,000)	(400,000,000)	(-700,000,000)
Interstate transfer grants - transit	123,500,000	---	180,000,000	123,500,000	200,000,000	+76,500,000
Washington Metro	180,500,000	128,000,000	180,500,000	150,000,000	168,000,000	-12,500,000
Subtotal, New budget (obligational) authority	2,084,552,000	128,000,000	2,139,053,000	1,905,382,000	2,014,882,000	-69,670,000
Subtotal, (Limitations on obligations)	(1,130,500,000)	(1,394,000,000)	(1,140,000,000)	(1,250,000,000)	(1,140,000,000)	(+9,500,000)
Total, Urban Mass Transportation Administration.	(3,215,052,000)	(1,522,000,000)	(3,279,053,000)	(3,155,382,000)	(3,154,882,000)	(-60,170,000)
Saint Lawrence Seaway Development Corporation						
(Limitation on administrative expenses)	(2,016,000)	---	---	---	---	(-2,016,000)
Operations and maintenance (Harbor Maintenance Trust Fund)	10,806,000	11,500,000	11,360,000	10,805,000	11,100,000	+294,000
Total, Saint Lawrence Seaway Development Corporation	10,806,000	11,500,000	11,360,000	10,806,000	11,100,000	+294,000
Research and Special Programs Administration						
Research and special programs	12,832,000	15,559,000	14,650,000	15,200,000	14,800,000	+1,968,000
Pipeline safety (Pipeline Safety Fund)	8,550,000	9,723,000	9,180,000	9,400,000	9,300,000	+750,000
Total, Reseach and Special Programs Administration	21,382,000	25,282,000	23,830,000	24,600,000	24,100,000	+2,718,000
Office of the Inspector General						
Salaries and expenses	27,898,000	29,639,000	29,000,000	29,200,000	29,000,000	+1,102,000
Total, title I, Department of Transportation:						
New budget (obligational) authority	10,053,107,000	8,644,616,000	10,669,352,000	10,430,338,000	10,685,833,000	+632,726,000
Appropriations	(10,065,107,000)	(8,644,616,000)	(10,889,352,000)	(10,530,338,000)	(10,785,833,000)	(+720,726,000)
Appropriations for debt reduction	---	---	---	---	---	---
Rescission	(-12,000,000)	---	(-220,000,000)	(-100,000,000)	(-100,000,000)	(-88,000,000)
(By transfer)	(80,897,000)	(10,000,000)	(20,800,000)	(13,000,000)	(23,500,000)	(-57,397,000)
(Limitations on general operating and administrative expenses)	(208,752,000)	(223,901,000)	(216,000,000)	(217,620,000)	(217,350,000)	(+8,598,000)
(Limitations on obligations)	(14,489,980,000)	(14,300,500,000)	(15,379,500,000)	(14,310,905,000)	(14,875,405,000)	(+385,425,000)
(Limitations on direct loans)	(45,457,000)	(47,850,000)	(46,000,000)	(47,850,000)	(46,000,000)	(+543,000)
(Limitation on working capital fund)	(127,801,000)	(135,000,000)	(130,350,000)	(132,500,000)	(130,350,000)	(+2,549,000)
(Liquidation of contract authorization)	(15,780,400,000)	(14,900,500,000)	(14,480,500,000)	(15,149,500,000)	(14,470,500,000)	(-1,309,900,000)
(Borrowing authority)	(57,000,000)	(57,000,000)	(50,000,000)	(57,000,000)	(50,000,000)	(-7,000,000)
Total, title I, New budget (obligational) authority and (limitations on obligations)	(24,543,087,000)	(22,945,116,000)	(26,048,852,000)	(24,741,243,000)	(25,561,238,000)	(+1,018,151,000)
TITLE II - RELATED AGENCIES						
Architectural and Transportation Barriers Compliance Board						
Salaries and expenses	1,891,000	2,000,000	2,000,000	1,891,000	1,891,000	---
National Transportation Safety Board						
Salaries and expenses	24,000,000	24,617,000	25,360,000	25,360,000	25,360,000	+1,360,000
Interstate Commerce Commission						
Salaries and expenses	44,294,000	44,216,000	43,115,000	43,115,000	43,115,000	-1,179,000
Payments for directed rail service (limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	---
Total, Interstate Commerce Commission	(44,769,000)	(44,691,000)	(43,590,000)	(43,590,000)	(43,590,000)	(-1,179,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	FY 1988 Enacted	FY 1989 Estimates	House	Senate	Conference	Conference compared with Enacted
Panama Canal Commission						
Operating expenses	407,088,000	---	---	---	---	-407,088,000
Capital outlay	33,715,000	---	---	---	---	-33,715,000
Panama Canal Revolving Fund:						
Administrative expenses	---	(50,287,000)	(50,287,000)	(50,287,000)	(50,287,000)	(+50,287,000)
(Limitation on operating and capital expenses)	---	---	(436,548,000)	---	(436,548,000)	(+436,548,000)
Total, Panama Canal Commission	440,803,000	---	---	---	---	-440,803,000
Department of the Treasury						
Rebate of St. Lawrence Seaway tolls (Harbor Maintenance Trust Fund)	9,880,000	10,800,000	10,700,000	10,700,000	10,700,000	+820,000
Washington Metropolitan Area Transit Authority						
Interest payments	49,080,000	51,663,569	51,663,569	51,663,569	51,663,569	+2,583,569
Total, title II, related agencies:						
New budget (obligational) authority	569,948,000	133,296,569	132,838,569	132,729,569	132,729,569	-437,218,431
(Limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	---
Total, title II, New budget (obligational) authority and (limitations on obligations)	(570,423,000)	(133,771,569)	(133,313,569)	(133,204,569)	(133,204,569)	(-437,218,431)
TITLE III - GENERAL PROVISIONS						
International Zaragosa Bridge	---	---	3,000,000	---	3,000,000	+3,000,000
Rescission	---	---	-3,000,000	---	-3,000,000	-3,000,000
Alabama Feasibility Study	---	---	---	---	675,000	+675,000
Expressway Safety Improvement Demonstration Project	---	---	---	---	2,600,000	+2,600,000
Airport Emergency relief	---	---	---	100,000	100,000	+100,000
Freight Line Rehabilitation	---	---	---	8,000,000	6,000,000	+6,000,000
Rail Highway Crossing study	---	---	---	500,000	500,000	+500,000
Consultant services	---	---	---	-35,000,000	-34,171,000	-34,171,000
Total, title III, general provisions:						
New budget (obligational) authority	---	---	---	-26,400,000	-24,296,000	-24,296,000
Rescission	---	---	(-3,000,000)	---	(-3,000,000)	(-3,000,000)
RECAPITULATION						
Grand total:						
New budget (obligational) authority	10,623,055,000	8,777,912,569	10,802,190,569	10,536,667,569	10,794,266,569	+171,211,569
Appropriations	(10,635,055,000)	(8,777,912,569)	(11,025,190,569)	(10,636,667,569)	(10,897,266,569)	(+262,211,569)
Appropriations for debt reduction	---	---	---	---	---	---
Rescission	(-12,000,000)	---	(-223,000,000)	(-100,000,000)	(-103,000,000)	(-91,000,000)
(By transfer)	(80,897,000)	(10,000,000)	(20,800,000)	(13,000,000)	(23,500,000)	(-57,397,000)
(Limitations on general operating and administrative expenses)	(208,752,000)	(223,901,000)	(652,548,000)	(217,620,000)	(653,898,000)	(+445,146,000)
(Limitations on obligations)	(14,490,455,000)	(14,300,975,000)	(15,379,975,000)	(14,311,380,000)	(14,875,880,000)	(+385,425,000)
(Limitations on direct loans)	(45,457,000)	(47,850,000)	(46,000,000)	(47,850,000)	(46,000,000)	(+543,000)
(Limitation on working capital fund)	(127,801,000)	(135,000,000)	(130,350,000)	(132,500,000)	(130,350,000)	(+2,549,000)
(Appropriations to liquidate contract authorizations)	(15,780,400,000)	(14,900,500,000)	(14,480,500,000)	(15,149,500,000)	(14,470,500,000)	(-1,309,900,000)
(Panama Canal Revolving Fund)	---	(50,287,000)	(50,287,000)	(50,287,000)	(50,287,000)	(+50,287,000)
Grand total, New budget (obligational) authority and (limitations on obligations)	(25,113,510,000)	(23,078,887,569)	(26,182,165,569)	(24,848,047,569)	(25,670,146,569)	(+556,636,569)
CONGRESSIONAL BUDGET RECAP						
Scorekeeping adjustments:						
Transportation, planning, research and development	4,987,000	---	---	---	---	-4,987,000
Expressway gap closing demonstration project	-237,000	---	---	---	---	+237,000
Payments to Air Carriers	-4,750,000	---	---	---	---	+4,750,000
Coast Guard Operating Expenses	-21,600,000	---	---	---	---	+21,600,000
Retired pay (mandatory)	---	---	---	---	---	---
Total, adjustments	-21,600,000	---	---	---	---	+21,600,000
Total, (including adjustments)	10,601,455,000	8,777,912,569	10,802,190,569	10,536,667,569	10,794,266,569	+192,811,569
Amounts in this bill	(10,623,055,000)	(8,777,912,569)	(10,802,190,569)	(10,536,667,569)	(10,794,266,569)	(+171,211,569)
Scorekeeping adjustments	(-21,600,000)	---	---	---	---	(+21,600,000)
Prior year outlays associated with this bill	---	---	---	---	---	---
Total Summit mandatory and discretionary	10,601,455,000	8,777,912,569	10,802,190,569	10,536,667,569	10,794,266,569	+192,811,569
Mandatory	(386,700,000)	(410,800,000)	(410,800,000)	(410,800,000)	(410,800,000)	(+24,100,000)
Discretionary	(10,214,755,000)	(8,367,112,569)	(10,391,390,569)	(10,125,867,569)	(10,383,466,569)	(+168,711,569)
Discretionary (total)	(10,214,755,000)	(8,367,112,569)	(10,391,390,569)	(10,125,867,569)	(10,383,466,569)	(+168,711,569)

William Lehman,
William H. Gray III,
Bob Carr,
Richard J. Durbin
(except for amendment 128),
Robert J. Mrazek
(except for amendment 128),
Martin Olav Sabo,
Jamie L. Whitten,
Lawrence Coughlin,
Silvio O. Conte
(except for amendment 128),
Frank R. Wolf
(except for amendment 128),
Tom DeLay,
Managers on the Part of the House.

Frank R. Lautenberg,
John C. Stennis,
Robert C. Byrd,
Lawton Chiles,
Tom Harkin,
Bill Proxmire,
Alfonse D'Amato,
Thad Cochran,
Robert W. Kasten, Jr.,
Lowell P. Weicker, Jr.,
Mark O. Hatfield,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Gray of Illinois (at the request of Mr. Foley), for today and September 23, on account of attending the funeral of Mrs. Melvin Price.

Mr. AuCoin (at the request of Mr. Foley), for September 22, on account of personal business.

AIDS FEDERAL POLICY ACT OF 1988

The SPEAKER pro tempore (Mr. Murtha). Pursuant to House Resolution 520 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5142.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5142) to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such act with respect to research programs relating to such syndrome, and for other purposes, with Mr. Flippo [Chairman pro tempore] in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 20, 1988, all time for general debate had expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 5142 is as follows:

H.R. 5142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "AIDS Federal Policy Act of 1988".

TITLE I—COUNSELING AND TESTING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 101. ESTABLISHMENT OF GRANT PROGRAM AND CONFIDENTIALITY PROTECTIONS RELATING TO COUNSELING AND TESTING.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXIII as title XXIV;

(2) by redesignating sections 2301 through 2303 as sections 2401 through 2403, respectively;

(3) by redesignating sections 2306 through 2316 as sections 2404 through 2414, respectively; and

(4) by inserting after title XXII the following new title:

"TITLE XXIII—COUNSELING AND TESTING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"Part A—Grants for Counseling and Testing

"SEC. 2301. ESTABLISHMENT OF PROGRAM.

"(a) Allotments for States.—For the purposes described in subsection (c), the Secretary, acting through the Director of the Centers for Disease Control, shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 2312. The Secretary shall make payments each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 2311.

"(b) Categorical Grants.—For the purposes described in subsection (c), the Secretary, acting through the Director of the Centers for Disease Control, may make grants to entities (including public entities) that—

"(1) are grantees pursuant to section 317(j)(2), section 318(c), section 329, section 330, section 509A, or section 1001;

"(2) have under any appropriations Act received funds as alternate blood testing sites; or

"(3) are nonprofit hospitals.

"(c) Purposes of Grants.—The Secretary may not make a grant under subsection (a) or (b) unless the applicant for the grant agrees to expend the grant only for the purposes of—

"(1) counseling individuals with respect to acquired immune deficiency syndrome in accordance with section 2303, including counseling relating to measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome; and

"(2) testing individuals for infection with such etiologic agent.

"(d) Preferences in Making Categorical Grants.—

"(1) Subject to paragraphs (2) and (3), the Secretary shall, in making grants under subsection (b), give preference to qualified applicants that will provide counseling and testing pursuant to such subsection in any geographic area for which—

"(A) with respect to grants for fiscal year 1989, the number of additional cases of acquired immune deficiency syndrome, as indicated by the number of such cases reported to and confirmed by the Secretary for the most recent fiscal year for which such data is available, constitutes a significant percentage of the number of such cases in the United States; and

"(B) with respect to grants for fiscal year 1990 and subsequent fiscal years, the number of additional cases of infection with the etiologic agent for acquired immune deficiency syndrome, as indicated by the number of such cases for the most recent fiscal year for which such data is available, constitutes a significant percentage of the number of such cases in the United States.

"(2) For purposes of paragraph (1), only a percentage of 1 percent or greater may be considered a significant percentage.

"(3) With respect to grants under subsection (b) for fiscal year 1990 and subsequent fiscal years, the Secretary shall, for purposes of preferences under paragraph (1), apply the criteria described in subparagraph (A) of such paragraph if the Secretary determines that sufficient and accurate data are not available for applying the criteria described in subparagraph (B) of such paragraph.

"SEC. 2302. REQUIREMENTS WITH RESPECT TO CONFIDENTIALITY AND INFORMED CONSENT.

"(a) Confidentiality.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees to ensure, in accordance with Federal law (including part B) and with State and local law not superseded by Federal law, the confidentiality of information and records with respect to individuals counseled or tested pursuant to such section.

"(b) Informed Consent.—

"(1) Except as provided in section 2306, the Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, in conducting testing pursuant to such section, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2303(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

"(2)(A) If, pursuant to section 2310(a), an individual will undergo testing described in section 2301 through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement entered into pursuant to paragraph (1) if such individual signs the statement described in such subsection using the pseudonym.

"(B) If, pursuant to section 2310(a), an individual will undergo testing described in section 2301 without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement entered into pursuant to paragraph (1) if such individual orally provides the declaration described in such paragraph.

"SEC. 2303. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES.

"(a) Counseling Before Testing.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, before testing an individual pursuant to such section, the applicant will provide to the individual appropriate counseling with respect to acquired immune deficiency syndrome (based on the most recent scientific data relating to such syndrome), including—

"(1) measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome;

"(2) the accuracy and reliability of the results of such testing;

"(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

"(4) encouraging individuals, as appropriate, to undergo testing for such etiologic agent and providing information on the benefits of such testing;

"(5) provisions of law relating to the confidentiality of the fact that the individual is undergoing such counseling or testing and the confidentiality of information provided by the individual during the process of such counseling or testing, including information with respect to any disclosures that may be authorized under law and information with respect to the availability of anonymous counseling and testing pursuant to section 2310(a);

"(6) provisions of law relating to the confidentiality of the results of such counseling or testing, including information with respect to any disclosures that may be authorized by law;

"(7) provisions of law relating to the reporting to, and use by, State public health authorities of the results of such counseling and testing; and

"(8) provisions of law relating to discrimination against individuals infected with the etiologic agent for acquired immune deficiency syndrome.

"(b) Counseling of Individuals With Negative Test Results.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will review for the individual the information provided pursuant to subsection (a) with respect to such syndrome, including—

"(1) the information described in paragraphs (1) through (3) of such subsection; and

"(2) the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome.

"(c) Counseling of Individuals With Positive Test Results.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, if the results of testing conducted pursuant to such section indicate that the individual is infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will provide to the individual appropriate counseling with respect to such syndrome, including—

"(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome;

"(3) the availability in the geographic area of any appropriate services with respect to health care, including mental health care and social and support services;

"(4) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to the etiologic agent for acquired immune deficiency syndrome and any individual whom the infected individual may have exposed to such etiologic agent; and

"(5) the availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (4).

"(d) Counseling of Women, Children, and Hemophiliacs.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, in counseling individuals with respect to acquired immune deficiency syndrome pursuant to this section, the applicant will, where appropriate, provide opportunities for women, children, and hemophiliacs to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

"(e) Counseling of Emergency Response Employees.—The Secretary may not make a grant under section 2301(a) to a State unless the State agrees that, in counseling individuals with respect to acquired immune deficiency syndrome pursuant to this section, the State will provide opportunities for emergency response employees to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

"(f) Rule of Construction With Respect to Counseling Without Testing.—Agreements entered into pursuant to subsections (a) through (e) may not be construed to prohibit any grantee under section 2301 from expending the grant for the purpose of providing counseling services described in such subsections to an individual who will not undergo testing described in such section as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

"SEC. 2304. APPLICABILITY OF REQUIREMENTS WITH RESPECT TO CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING.

"The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2302 and 2303.

"SEC. 2305. REQUIREMENT WITH RESPECT TO ROUTINE TESTING OF CERTAIN INDIVIDUALS.

"The Secretary may not make a grant under section 2301 unless, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, the applicant for the grant agrees that—

"(1) if the applicant is a health provider that regularly provides treatment for sexually transmitted diseases, the applicant will routinely test for such infection individuals to whom the applicant provides such treatment;

"(2) if the applicant is a health provider that regularly provides treatment for intravenous substance abuse, the applicant will routinely test for such infection individuals to whom the applicant provides such treatment;

"(3) if the applicant is a family planning clinic, the applicant will routinely test for such infection individuals to whom the applicant provides family planning services; and

"(4) if the applicant is a tuberculosis clinic, the applicant will routinely test for such infection individuals to whom the applicant provides health services.

"SEC. 2306. REQUIREMENT FOR STATE GRANTEES OF MANDATORY TESTING OF INDIVIDUALS CONVICTED OF CERTAIN CRIMES.

"(a) In General.—The Secretary may not make a grant under section 2301 to a State unless the State provides assurances satisfactory to the Secretary that—

"(1) the State will require that each individual who is convicted of prostitution, of a crime relating to sexual assault, or of a crime relating to intravenous substance abuse, be tested for infection with the etiologic agent for acquired immune deficiency syndrome;

"(2) the State will require that an individual, before being tested for such infection pursuant to the requirement described in paragraph (1), be notified by the State that the individual will be required to undergo such testing; and

"(3) with respect to any individual convicted of a crime relating to sexual assault, the State will require that, upon request of the victim of the crime, the victim be notified by the State of the results of such testing.

"(b) Time Limitations With Respect to Required Laws.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2301, the Secretary may make a grant to a State under such section if—

"(1) for each of the fiscal years 1989 and 1990, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1990, the State will establish the requirements described in subsection (a); and

"(2) for fiscal year 1991 and subsequent fiscal years, the State has established such requirements.

"SEC. 2307. REQUIREMENT FOR STATE GRANTEES OF NOTIFICATION OF CERTAIN INDIVIDUALS RECEIVING BLOOD TRANSFUSIONS.

"The Secretary may not make a grant under section 2301 to the State unless the State provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving on or after January 1, 1977, a transfusion of any blood product, the State will—

"(1) encourage such individuals to undergo testing for infection with the etiologic agent for acquired immune deficiency syndrome; and

"(2) inform such individuals of any public health facilities in the geographic area involved that offer such testing.

"SEC. 2308. REQUIREMENT FOR STATE GRANTEES OF REPORTING AND CONTACT TRACING WITH RESPECT TO CASES OF INFECTION.

"(a) Reporting.—The Secretary may not make a grant under section 2301 to a State unless, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, the State provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—

"(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such infection; and

"(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have such infections.

"(b) Contact Tracing.—The Secretary may not make a grant under section 2301 to a State unless the State provides assurances satisfactory to the Secretary that the State will require that the State public health officer, to the extent appropriate in the determination of the officer, carry out a program of contact tracing with respect to cases of infection with the etiologic agent for acquired immune deficiency syndrome.

"SEC. 2309. REQUIREMENT FOR STATE GRANTEES OF ESTABLISHMENT OF CIVIL AND CRIMINAL ACTIONS WITH RESPECT TO KNOWING TRANSMISSION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) In General.—Subject to subsection (c), the Secretary may not make a grant under section 2301 to a State unless—

"(1) subject to the condition described in subsection (b), the State prohibits any individual who is infected with the etiologic agent for acquired immune deficiency syndrome from making a donation of blood, semen, breast milk, or an organ, if the individual knows of the infection and knows that the individual will through such donation expose another individual to such etiologic agent in the event that the donation is utilized;

"(2) subject to the condition described in subsection (b), the State prohibits any individual infected with such etiologic agent from engaging in sexual activity if the individual knows of the infection and knows that the individual will through such sexual activity expose another individual to such etiologic agent;

"(3) subject to the condition described in subsection (b), the State prohibits any individual from engaging in any behavior with the intent to expose another individual to such etiologic agent, which behavior would, if carried out as intended, result in exposing the other individual to such etiologic agent; and

"(4) the State establishes a civil cause of action for damages for any violation of a prohibition described in any of paragraphs (1) through (3) and establishes a criminal penalty for any such violation.

"(b) Consent to Risk of Transmission.—The condition referred to in each of paragraphs (1) through (3) of subsection (a) is that the prohibition described in each such paragraph shall not apply if the individual who is subjected to the behavior involved provides prior consent for being exposed to the etiologic agent for acquired immune deficiency syndrome.

"(c) Time Limitations With Respect to Required Laws.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2301, the Secretary may make a grant to a State under such section if—

"(1) for each of the fiscal years 1989 and 1990, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1990, the State will establish the prohibitions and civil and criminal actions described in subsection (a); and

"(2) for fiscal year 1991 and subsequent fiscal years, the State has established such prohibitions and such criminal and civil actions.

"(d) State Certification With Respect to Required Laws.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2301, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this section.

"SEC. 2310. ADDITIONAL REQUIRED AGREEMENTS.

"(a) Provision of Opportunities for Anonymous Counseling and Testing.—Except as provided in section 2306, the Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, to the extent permitted under State law, the applicant will offer substantial opportunities for an individual—

"(1) to undergo counseling and testing pursuant to such section without being required to provide any information relating to the identity of the individual; and

"(2) to undergo such counseling and testing through the use of a pseudonym.

"(b) Prohibition Against Requiring Testing as Condition of Receiving Other Health Services.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing described in such section as a condition of receiving the health services unless such testing is medically indicated in the provision of the health services sought by the individual.

"(c) Increased Availability of Counseling and Testing.—If an applicant for a grant under section 2301 has carried out a program of counseling or testing with respect to acquired immune deficiency syndrome during the majority of the 180-day period preceding the date of the enactment of the AIDS Counseling and Testing Act of 1988, the Secretary may not make a grant under such section unless the applicant for the grant agrees to expend the grant only for the purpose of significantly increasing the availability of such counseling and testing provided by the applicant above the level of availability provided under such program during the majority of such period.

"(d) Administration of Grant.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that—

"(1) the applicant will not expend amounts received pursuant to such section for any purpose other than the purposes described in such section;

"(2) if the applicant will routinely impose a charge for providing counseling and testing described in such section, the applicant will not impose the charge on any individual seeking such counseling or testing who is unable to pay the charge;

"(3) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

"(4) the applicant will not expend more than 10 percent of the grant for administrative expenses with respect to the grant.

"SEC. 2311. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make a grant under section 2301 unless—

"(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with sections 2301 through 2310;

"(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 2312. DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES.

"(a) Minimum Allotment.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2301(a) for a State for a fiscal year shall be the greater of—

"(1) $300,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $100,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

"(2) an amount determined under subsection (b).

"(b) Determination Under Formula.—The amount referred to in subsection (a)(2) is the product of—

"(1) an amount equal to the amount made available pursuant to section 2315(b)(1) for the fiscal year involved; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the population of the State involved; divided by

"(B) an amount equal to the population of the United States.

"(c) Disposition of Certain Funds Appropriated for Allotments.—

"(1) Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 2301(a) for the fiscal year (other than any State referred to in paragraph (2)(C)).

"(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2301(a) as a result of—

"(A) the failure of any State to submit an application under section 2311;

"(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(3) The amount of an allotment under paragraph (1) for a State for a fiscal year shall be amount equal to the product of—

"(A) an amount equal to the amount described in paragraph (2) for the fiscal year involved; and

"(B) the percentage determined under subsection (b)(2) for the State.

"SEC. 2313. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) In General.—Upon the request of a grantee under section 2301, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing counseling and testing described in such section and, for such purpose, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(b) Limitation.—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under section 2301 to the grantee involved by an amount equal to the fair market value of any supplies, equipment, or services provided by the Secretary and shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 2314. EVALUATIONS.

"The Secretary shall, directly or through grants and contracts, evaluate programs carried out with grants made under section 2301.

"SEC. 2315. FUNDING.

"(a) Authorization of Appropriations.—For the purpose of making grants under subsections (a) and (b) of section 2301, there is authorized to be appropriated $400,000,000 for each of the fiscal years 1989 through 1991.

"(b) Allocation of Funds by Secretary.—

"(1) For the purpose of making allotments under section 2301(a), the Secretary shall make available 50 percent of the amounts appropriated pursuant to subsection (a).

"(2) For the purpose of making grants under section 2301(b), the Secretary shall make available 50 percent of the amounts appropriated pursuant to subsection (a).

"(c) Use of Funds.—

"(1) The purpose of this part is to provide for counseling and testing services to prevent and reduce exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(2) All individuals receiving counseling pursuant to this part are to be counseled about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

"(3) None of the funds appropriated to carry out this part may be used to provide counseling that promotes or encourages, directly, homosexual or unsafe heterosexual sexual activity or intravenous substance abuse.

"(4) Paragraph (3) may not be construed to prohibit a counselor who has already performed the counseling of an individual required in paragraph (2) from providing an individual the most current scientific knowledge available to reduce the individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

"PART B—CONFIDENTIALITY WITH RESPECT TO COUNSELING AND TESTING

"SEC. 2321. ESTABLISHMENT OF PROHIBITION AGAINST DISCLOSURE OF CERTAIN INFORMATION ORIGINATING IN PROCESS OF COUNSELING AND TESTING.

"(a) In General.—Except as provided in any of sections 2322 through 2329, a person described in subsection (b) may not disclose identifying information with respect to a protected individual or a contact of such individual.

"(b) Persons Subject to Prohibition.—A person referred to in subsection (a) is a person who obtains identifying information with respect to a protected individual or a contact of such individual as a result of—

"(1) direct or indirect involvement in the process of—

"(A) providing to the protected individual counseling with respect to acquired immune deficiency syndrome or testing the protected individual for infection with the etiologic agent for such syndrome; or

"(B) providing to the protected individual health care in the course of the provision of which the protected individual discloses identifying information with respect to the protected individual;

"(2) direct or indirect involvement in the process of carrying out a purpose for which a disclosure of identifying information is made under any of sections 2322 through 2327;

"(3) reading (or otherwise directly perceiving) any record containing identifying information with respect to a protected individual or a contact of such individual, which record is developed in a process described in paragraph (1) or (2); or

"(4) receiving a notification pursuant to section 2351.

"(c) Applicability.—The prohibition established in subsection (a) shall apply to the conduct of a person without regard to whether the person receives Federal financial assistance.

"SEC. 2322. AUTHORIZED CONSENSUAL DISCLOSURES.

"(a) In General.—A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2323 through 2327, may disclose identifying information with respect to a protected individual if—

"(1) prior to the disclosure, the protected individual has, in accordance with subsection (d), consented to the disclosure; or

"(2) prior to the disclosure, the protected individual is legally incompetent under the law of the State in which the protected individual resides, the counseling and testing described in section 2321(b)(1)(A) was provided at the request of the guardian of the protected individual, and the guardian consents, in accordance with subsection (d), to the disclosure.

"(b) Claimant Under Insurance on Life of Protected Individual.—A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2323 through 2327, may disclose identifying information with respect to a protected individual if—

"(1) prior to the disclosure, the protected individual is deceased and is the insured pursuant to life insurance;

"(2) prior to the disclosure, the claimant for the proceeds of the life insurance consents to the disclosure in accordance with subsection (d); and

"(3) the disclosure is made to the business organization providing the life insurance.

"(c) Recipient of Consensual Disclosure.—Any person receiving, pursuant to this section, a disclosure of identifying information with respect to a protected individual may disclose the identifying information under the applicable conditions described in subsection (a) or (b).

"(d) Required Procedure.—A consent under any of subsections (a) through (c) shall—

"(1) be in writing and be dated;

"(2) be signed by the person providing consent pursuant to subsection (a), (b), or (c);

"(3) specify the identifying information to be disclosed and the purpose of the disclosure;

"(4) specify the person, persons, or generic class of persons whom the consent authorizes to make the disclosure;

"(5) specify the person, persons, or generic class of persons to whom the disclosure is to be made (including persons within the organization receiving the disclosure); and

"(6) specify the period of time during which disclosures may be made under the consent and the procedures for withdrawal of consent.

"(e) Void Consent.—Except as otherwise specifically provided for pursuant to subsection (d), a consent under any of subsections (a) through (c) shall be void to the extent that the consent authorizes the recipient of the disclosure to make subsequent disclosures of identifying information in the discretion of the recipient.

"SEC. 2323. AUTHORIZED NONCONSENSUAL DISCLOSURES.

"(a) Nonconsensual Disclosure With Respect to Counseling and Testing.—A person described in section 2321(b)(1)(A) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made—

"(1) to a health care provider for the purpose of providing to the protected individual the counseling or testing described in such section;

"(2) to the protected individual; or

"(3) to the guardian of the protected individual, if the protected individual is legally incompetent under the law of the State in which the protected individual resides and such counseling or testing was provided at the request of the guardian.

"(b) Nonconsensual Disclosures With Respect to Other Health Care.—A person described in section 2321(b)(1) may disclose identifying information with respect to a protected individual if the disclosure is made to a health care provider that provides health care to the protected individual under conditions in which, as determined under guidelines issued by the Secretary under section 2361, the provider is likely to be occupationally exposed to the etiologic agent for acquired immune deficiency syndrome.

"(c) Nonconsensual Disclosure to State Public Health Officer.—A person described in section 2321(b)(1) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made to the State public health officer and the law of the State in which testing described in section 2321(b)(1)(A) is carried out requires disclosure to the officer.

"(d) Nonconsensual Disclosure With Respect to Bodily Fluids and Organs of Protected Individuals.—A person described in section 2321(b)(1) shall disclose identifying information with respect to a protected individual if the disclosure is made to, and at the request of, a health care provider (including a blood bank) that has received or will receive blood from the protected individual for the purposes of blood transfusions, has received or will receive semen from such individual for the purposes of artificial inseminations, has received or will receive breast milk from such individual for the purposes of distribution, or has received or will receive a donation from such individual of an organ for the purposes of transplantation.

"(e) Nonconsensual Disclosure With Respect to Burial of Protected Individuals.—A person described in section 2321(b)(1) shall disclose identifying information with respect to a protected individual if the disclosure is made to, and at the request of, a person who has received or will receive the body of the protected individual for the purpose of preparing the body for burial.

"(f) Certain Intraorganization Nonconsensual Disclosures.—Identifying information received by an organization pursuant to a disclosure under this section or section 2324 may be disclosed within the organization to the extent reasonably necessary to carry out the purpose for which the disclosure is made.

"SEC. 2324. AUTHORIZED NONCONSENSUAL REDISCLOSURE.

"Any person authorized under section 2322 or 2323 to receive a disclosure of identifying information may, for a purpose described in section 2323, disclose identifying information to any person authorized under such section to receive, for the purpose involved, a disclosure of such information.

"SEC. 2325. AUTHORIZED NONCONSENSUAL DISCLOSURE PURSUANT TO SALE OR TRANSFER OF ORGANIZATIONS AUTHORIZED TO MAKE OR RECEIVE DISCLOSURES.

"A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2322 through 2324, may disclose the identifying information if the disclosure is made only to the extent reasonably necessary for the purpose of—

"(1) selling the organization with respect to which such person is authorized under any of such sections to make or receive a disclosure of identifying information (or selling portions of such organization); or

"(2) effecting a transfer, merger, or consolidation of such organization (or of portions of such organization).

"SEC. 2326. NONCONSENSUAL DISCLOSURES WITH RESPECT TO INSURANCE POLICIES AND HEALTH PLANS.

"(a) In General.—A person described in section 2321(b)(1) may disclose identifying information if the disclosure is made only to the extent reasonably necessary for the purpose of—

"(1) compliance with requirements imposed by the State agency that regulates the provision of insurance; or

"(2) responding to a judicial order to furnish evidence in proceedings to prosecute State or Federal causes of action for fraud, material misrepresentation, or material nondisclosure arising from acts or omissions of the protected individual, or on behalf of the protected individual, with respect to contracts (including the formation of contracts) for benefits under insurance policies or health plans (including health maintenance organizations, medical service plans, and hospital service plans).

"(b) Opportunity to Participate in Proceedings.—Before authorizing a disclosure of identifying information under subsection (a)(2), the court involved shall provide to the protected individual, or to the claimant referred to in section 2322(b)(2), as the case may be, a reasonable opportunity to participate in the proceedings for determining whether, and to what extent, a disclosure will be ordered.

"(c) In Camera Proceedings.—Civil proceedings under subsection (a) shall be conducted in camera. Any references to the parties in documents of such proceedings shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"(d) Findings of Facts and Conclusions of Law.—In issuing orders described in subsection (a)(2), the court involved shall find the facts specially and state separately the conclusions of law that constitute the grounds of the actions of the court.

"(e) Applicability of Confidentiality Prohibition.—If a court issues an order described in subsection (a)(2), the court shall determine the extent to which the prohibition established in section 2321(a) shall apply to persons receiving identifying information pursuant to the order.

"SEC. 2327. COURT ORDERS WITH RESPECT TO PUBLIC HEALTH OFFICER.

"(a) Disclosure to Officer.—A court of competent jurisdiction may, upon appropriate application to the court by the State public health officer, order any person described in section 2321(b)(1), and any person who receives a disclosure of identifying information under any of sections 2322 through 2326, to make a disclosure to the health officer of identifying information with respect to a protected individual or a contact of such individual to the extent reasonably necessary, in the determination of the court, to prevent a clear and imminent danger of the transmission, by the protected individual or contact involved, of the etiologic agent for acquired immune deficiency syndrome.

"(b) Redisclosure by Officer.—A court of competent jurisdiction may, upon appropriate application to the court by the State public health officer, authorize the officer to disclose identifying information with respect to a protected individual or a contact of such individual to the extent reasonably necessary, in the determination of the court, to prevent a clear and imminent danger of the transmission, by the protected individual or contact involved, of the etiologic agent for acquired immune deficiency syndrome.

"(c) Opportunity To Participate in Proceedings.—Before authorizing a disclosure of identifying information under subsection (a) or (b), the court involved shall provide to the protected individual (and to any contact of such individual with respect to whom identifying information is sought) a reasonable opportunity to participate in the proceedings for determining whether, and to what extent, a disclosure will be ordered.

"(d) In Camera Proceedings.—Proceedings under subsection (a) or (b) shall be conducted in camera. Any references to the parties in documents of such proceedings shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"(e) Findings of Facts and Conclusions of Law.—In granting or denying applications pursuant to subsection (a) or (b), the court involved shall find the facts specially and state separately the conclusions of law that constitute the grounds of the actions of the court.

"SEC. 2328. NONCONSENSUAL DISCLOSURES TO VICTIMS OF SEXUAL ASSAULT.

"A person described in section 2321(b)(1)(A) may disclose identifying information with respect to a protected individual if—

"(1) the protected individual is convicted of a crime relating to sexual assault;

"(2) the disclosure is made to the victim of such crime at the request of the victim; and

"(3) the disclosure is made by a physician or a counselor.

"SEC. 2329. NONCONSENSUAL DISCLOSURES TO CERTAIN CONTACTS OF PROTECTED INDIVIDUALS.

"A person described in section 2321(b)(1)(A), and a person who receives a disclosure of identifying information under section 2323(c), may disclose identifying information with respect to a protected individual if—

"(1) such person is a physician or a counselor;

"(2) the disclosure is made to the spouse of the protected individual or to an individual whom the protected individual has, during the process of receiving counseling or testing described in section 2321(b)(1)(A), identified as being a sexual partner of the protected individual or an individual with whom the protected individual has shared a hypodermic needle;

"(3) such person has counseled the protected individual with respect to making medically appropriate disclosures of identifying information to the individuals described in paragraph (2);

"(4) such person reasonably believes that—

"(A) the protected individual will not inform such individuals of the identifying information with respect to the protected individual; and

"(B) the disclosure is medically appropriate; and

"(5) the disclosure of the name of the protected individual is made only if medically appropriate.

"SEC. 2330. REQUIREMENT OF CERTAIN NOTIFICATIONS WITH RESPECT TO DISCLOSURE OF IDENTIFYING INFORMATION.

"(a) In General.—

"(1)(A) Except as provided in paragraph (2), any person who, under any of sections 2322 through 2327, discloses any identifying information with respect to a protected individual shall ensure that such disclosure, whether made orally or in writing, is accompanied by a written statement declaring that any subsequent disclosure of the information provided may be prohibited by law.

"(B) Except as provided in paragraph (2), any person who, under any of sections 2322 through 2324, discloses any identifying information with respect to a protected individual shall notify such individual (if living) in writing of the fact of such disclosure.

"(2) The requirements established in paragraph (1) shall not apply to any disclosure of identifying information under any of sections 2322 through 2327 made to a person who is part of the same organization as the person from whom the disclosure is received.

"(b) Nonconsensual Disclosure to Certain Contacts of Protected Individual.—Any person who, under section 2329, discloses identifying information with respect to a protected individual shall notify such individual (if living) in writing of the fact of such disclosure.

"SEC. 2331. CIVIL MONEY PENALTY AND CIVIL CAUSES OF ACTION FOR VIOLATION OF PROHIBITION.

"(a) Assessment of Civil Money Penalty.—

"(1) Any person who intentionally or negligently violates section 2321 or 2330 shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

"(2) A civil penalty under paragraph (1) may be assessed by the Secretary only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Secretary shall provide written notice to the person who is the subject of the proposed order informing the person of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the person makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

"(3) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed pursuant to paragraph (2).

"(4) If the Secretary issues an order pursuant to paragraph (2) after a hearing described in such paragraph, the person who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, seek judicial review of the order pursuant to section 1331 of title 28, United States Code, and chapter 7 of title 5, United States Code.

"(5) If a person does not request a hearing pursuant to paragraph (2) and the Secretary issues an order pursuant to such paragraph, or if a person does not under paragraph (4) seek judicial review of such an order, the Secretary may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in paragraph (4). In such an action, the decision of the Secretary to issue the order, and the amount of the penalty assessed by the Secretary, shall not be subject to review.

"(6) The Secretary may not under this subsection commence proceeding against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321 or 2330.

"(b) Injunctive Relief.—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a violation of section 2321 or 2330.

"(c) Civil Cause of Action by Aggrieved Individual.—

"(1) Any individual who is aggrieved as a result of a violation by any person of section 2321 or 2330 may, in any court of competent jurisdiction, commence a civil action against such person to obtain appropriate relief, including actual and punitive damages, equitable relief, and a reasonable attorney's fee and costs. For a violation of section 2321, damages shall be not less than the liquidated amount of $2,000.

"(2) An individual described in paragraph (1) may not commence proceedings under such paragraph against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321 or 2330.

"(d) In Camera Proceedings.—Proceedings under this section shall be conducted in camera. Any references to the parties in documents of such proceedings shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"SEC. 2332. CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.

"(a) In General.—Any person who intentionally violates the prohibition established in section 2321 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than one year, or both.

"(b) Limitation on Action.—Proceedings under subsection (a) may not be commenced against a person unless, with respect to such proceedings, the indictment is found or the information is instituted not later than the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321.

"SEC. 2333. VIOLATIONS BY FEDERAL GRANTEES AND CONTRACTORS.

"Grants made, and contracts entered into, by any Federal agency may be terminated by the agency involved if the Federal grantee or contractor involved violates section 2321 or 2330. Any Federal grantee or contractor violating such a prohibition may, with respect to Federal grants and contracts, be suspended or debarred by the agency involved.

"SEC. 2334. EXCLUSIVITY OF FEDERAL PENALTIES AND REMEDIES FOR VIOLATIONS.

"The imposition of a penalty under section 2331 or 2332 for a violation of section 2321 or 2330 shall not preclude the imposition of any other applicable penalty under Federal law with respect to such a violation. The receipt of relief pursuant to section 2331(c) for such a violation shall not preclude the receipt of any other relief available under Federal law with respect to such a violation.

"SEC. 2335. PREEMPTION OF CERTAIN STATE DISCLOSURE LAWS.

"(a) In General.—This part shall supersede any State law that—

"(1) provides a criminal or civil penalty, or a cause of action, for the failure of any person described in section 2321(b) to make a disclosure of identifying information not authorized under this part to be made; or

"(2) provides a criminal or civil penalty, or a cause of action, for a disclosure by any such person of identifying information authorized under this part to be made (including any State law that prohibits, or authorizes a cause of action for, a disclosure of identifying information by a physician or counselor under section 2329).

"(b) Authorized State Criminal and Civil Actions.—This part shall not supersede any State criminal or civil action (including a cause of action for damages) for a disclosure of identifying information made in violation of any State law not superseded by subsection (a), including any State criminal or civil action for a disclosure of identifying information made by an individual receiving such information under section 2329.

"Part C—Emergency Response Employees

"Subpart I—Guidelines and Model Curriculum

"SEC. 2341. DEVELOPMENT.

"(a) In General.—

"(1) Not later than 90 days after the date of the enactment of the AIDS Counseling and Testing Act of 1988, the Secretary, acting through the Director of the Centers for Disease Control, shall develop guidelines and a model curriculum for emergency response employees with respect to the prevention of exposure to the etiologic agent for acquired immune deficiency syndrome during the process of responding to emergencies.

"(2) The guidelines and the model curriculum developed under paragraph (1) shall, to the extent practicable, include—

"(A) information with respect to the manner in which such etiologic agent is transmitted; and

"(B) information that can assist emergency response employees in distinguishing between conditions in which such employees are at risk with respect to such etiologic agent and conditions in which such employees are not at risk with respect to such etiologic agent.

"(b) Appointment of Task Force.—The Secretary shall establish a task force to assist the Secretary in developing the guidelines and the model curriculum required in subsection (a). The Secretary shall appoint to the task force representatives of the Centers for Disease Control, representatives of State governments, and representatives of emergency response employees.

"(c) Dissemination to States.—The Secretary shall—

"(1) transmit to State public health officers copies of the guidelines and the model curriculum developed under subsection (a) with the request that such officers disseminate such copies as appropriate throughout the State; and

"(2) make such copies available to the public.

"SEC. 2342. GRANTS FOR IMPLEMENTATION.

"(a) In General.—The Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees with respect to the initial implementation of recommendations contained in the guidelines and the model curriculum developed under section 2341(a).

"(b) Requirement of Application.—The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) Authorization of Appropriations.—For the purpose of carrying out this section, there is authorized to be appropriated an aggregate $5,000,000 for the fiscal years 1989 and 1990.

"Subpart II—Notifications of Possible Exposure

"SEC. 2351. ESTABLISHMENT OF REQUIREMENT OF NOTIFICATIONS WITH RESPECT TO VICTIMS ASSISTED.

"(a) Routine Notification of Designated Officer.—

"(1) If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim is infected with the etiologic agent for acquired immune deficiency syndrome, the medical facility shall, with respect to the determination, notify the designated officer of the emergency response employees who transported the victim to the medical facility.

"(2) If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim shall, with respect to the designated officer of the emergency response employees who transported the victim to the initial medical facility, notify the designated officer of any determination by the medical facility that the victim was infected with the etiologic agent for acquired immune deficiency syndrome.

"(3) With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made not later than 48 hours after the determination is made.

"(b) Notification Upon Request of Designated Officer.—

"(1) If a victim of an emergency is transported by emergency response employees to a medical facility, the medical facility shall, upon the request of the designated officer of any emergency response employees who attended, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim is infected with the etiologic agent for acquired immune deficiency syndrome.

"(2) If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim shall, upon the request of the designated officer of any emergency response employees who attended, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim was infected with the etiologic agent for acquired immune deficiency syndrome.

"(3)(A) A medical facility shall make a notification required in paragraph (1) or (2) not later than 48 hours after receipt of a request pursuant to the paragraph involved if, prior to the request, a determination described in such paragraph has been made by the medical facility.

"(B) A medical facility shall make a notification required in paragraph (1) or (2) not later than 48 hours after making a determination described in the paragraph involved if, after receipt of a request pursuant to such paragraph, the determination is made.

"(c) PROCEDURES FOR NOTIFICATION OF DESIGNATED OFFICER.—

"(1) In making a notification required under subsection (a) or (b), a medical facility shall provide the date on which the victim of the emergency involved was transported by emergency response employees to a medical facility and, upon request, the location at which such emergency occurred (including, to the extent practicable, the address of the location).

"(2) If a notification under subsection (a) or (b) is mailed or otherwise indirectly made—

"(A) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

"(B) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

"(d) DESIGNATION OF INDIVIDUALS TO REQUEST AND RECEIVE NOTIFICATIONS FROM MEDICAL FACILITIES.—

"(1) The public health officer of each State shall, for the purpose of requesting and receiving notifications under subsections (a) and (b), and for the purpose of carrying out subsection (e), designate 1 official or officer of each employer of emergency response employees in the State.

"(2) In making the designations required in paragraph (1), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

"(e) NOTIFICATIONS TO EMPLOYEES.—

"(1) After receiving a notification under subsection (a) or (b), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

"(A) responded to the emergency involved; and

"(B) as indicated by the guidelines and the model curriculum developed by the Secretary under section 2341, may have been exposed to the etiologic agent for acquired immune deficiency syndrome.

"(2) A designated officer of emergency response employees shall, upon request of such an employee—

"(A) determine whether, if a victim of an emergency to which the employee responded had been infected with the etiologic agent for acquired immune deficiency syndrome, the employee might have been exposed to such etiologic agent; and

"(B) make a request described in subsection (b) if, as indicated by a determination made pursuant to subparagraph (A), the employee might have been exposed to such etiologic agent.

"(3) A notification under this subsection to an emergency response employee shall inform the employee of—

"(A) the fact that the employee may have been exposed to the etiologic agent for acquired immune deficiency syndrome;

"(B) any action by the employee that, as indicated by the guidelines and model curriculum developed by the Secretary under section 2341(a), is medically appropriate; and

"(C) if medically appropriate under such guidelines and model curriculum, the location of the emergency involved and the date and time of such emergency.

"(f) LIMITATION.—Subsections (a)(1) and (b)(1) shall not apply to any determination described in such subsections made with respect to a victim of an emergency after the expiration of the 60-day period beginning on the date that the victim is transported by emergency response employees to a medical facility.

"SEC. 2352. RULES OF CONSTRUCTION.

"(a) TESTING.—Section 2351 may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for infection with the etiologic agent for acquired immune deficiency syndrome.

"(b) CONFIDENTIALITY.—Section 2351 may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a protected individual.

"SEC. 2353. CIVIL MONEY PENALTY AND CIVIL CAUSES OF ACTION FOR VIOLATION OF PROHIBITION.

"(a) ASSESSMENT OF CIVIL MONEY PENALTY.—

"(1) Any person who intentionally or negligently violates section 2351 shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

"(2) A civil penalty under paragraph (1) may be assessed by the Secretary only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Secretary shall provide written notice to the person who is the subject of the proposed order informing the person of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the person makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

"(3) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed pursuant to paragraph (2).

"(4) If the Secretary issues an order pursuant to paragraph (2) after a hearing described in such paragraph, the person who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, seek judicial review of the order pursuant to section 1331 of title 28, United States Code, and chapter 7 of title 5, United States Code.

"(5) If a person does not request a hearing pursuant to paragraph (2) and the Secretary issues an order pursuant to such paragraph, or if a person does not under paragraph (4) seek judicial review of such an order, the Secretary may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in paragraph (4). In such an action, the decision of the Secretary to issue the order, and the amount of the penalty assessed by the Secretary, shall not be subject to review.

"(6) The Secretary may not under this subsection commence proceeding against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2351.

"(b) INJUNCTIVE RELIEF.—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a violation of section 2351.

"(c) CIVIL CAUSE OF ACTION BY AGGRIEVED INDIVIDUAL.—

"(1) Any emergency response employee who is aggrieved as a result of a violation of section 2351 by any person (other than a violation of subsection (a)(3), (b)(3), or (c)(2) of such section) may, in any court of competent jurisdiction, commence a civil action against such person to obtain appropriate relief, including actual and punitive damages and a reasonable attorney's fee and cost. Such damages shall be not less than the liquidated amount of $2,000.

"(2) An individual described in paragraph (1) may not commence proceedings under such paragraph against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2351.

"PART D—GENERAL PROVISIONS

"SEC. 2361. ISSUANCE OF CERTAIN GUIDELINES BY SECRETARY.

"Not later than 12 months after the date of the enactment of the AIDS Counseling and Testing Act of 1988, the Secretary shall, after consultation with individuals with expertise, issue guidelines describing circumstances under which an individual infected with the etiologic agent for acquired immune deficiency syndrome can expose other individuals to such etiologic agent. Such guidelines shall include information with respect to—

"(1) the manner in which such etiologic agent is transmitted;

"(2) the probability for transmission of such etiologic agent to other individuals; and

"(3) whether reasonable accommodation to an infection with such etiologic agent can prevent the exposure of other individuals to the infection.

"SEC. 2362. DEFINITIONS.

"For purposes of this title:

"(1) The term 'contact of a protected individual' means any individual whose identity is disclosed by a protected individual during the process of receiving counseling, testing, or health care described in section 2321(b)(1).

"(2) The term 'counseling with respect to acquired immune deficiency syndrome' means such counseling provided by an individual trained to provide such counseling.

"(3) The term 'designated officer of emergency response employees' means an individual designated under section 2351(d) by the public health officer of the State involved.

"(4) The term 'emergency' means an emergency involving injury or illness.

"(5) The term 'emergency response employees' means firefighters, law enforcement officers, paramedics, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

"(6) The term 'employer of emergency response employees' means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

"(7) The term 'exposed to the etiologic agent for acquired immune deficiency syndrome' means to be in circumstances in which there is a significant risk of becoming infected with such etiologic agent.

"(8) The term 'identifying information' means any information—

"(A) relating to the identity of an individual who is a protected individual, or who is a contact of such individual, whichever is indicated by the context of usage; and

"(B) provided in a context indicating that the individual has undergone, is undergoing, or will undergo counseling or testing described in section 2321(b)(1)(A) or in a context indicating whether the individual is infected with the etiologic agent for acquired immune deficiency syndrome.

"(9) The term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from such etiologic agent.

"(10) The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

"(11) The term 'protected individual' means an individual—

"(A) who has undergone, or is undergoing, counseling or testing described in section 2321(b)(1)(A);

"(B) who has, in anticipation of undergoing such counseling or testing, disclosed his or her identity to a person who provides such counseling or testing; or

"(C) who has disclosed identifying information with respect to himself or herself in the course of receiving health care.

"(12) The term 'records' includes electronic recordings and any other method of storing information.

"(13) The term 'routinely test for infection with the etiologic agent for acquired immune deficiency syndrome' means, with respect to the activity in the course of which testing for such infection is required to be conducted pursuant to section 2305—

"(A) to offer and encourage such testing as a regular practice in the course of such activity; and

"(B) to conduct such testing only with the consent of the individual to whom such testing is offered in the course of such activity.

"(14) The term 'State' means each of the several States, the District of Columbia, and the territories of the United States.

"(15) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(16) The term 'testing for infection with the etiologic agent for acquired immune deficiency syndrome' includes any diagnosis of such infection made by a health care provider licensed to make such a diagnosis under the law of the State in which the diagnosis is made.".

SEC. 102. CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 305(i), by striking "2313" each place it appears and inserting "2411";

(2) in section 465(f), by striking "2301" and inserting "2401"; and

(3) in section 497, by striking "2301" and inserting "2401".

SEC. 103. EFFECTIVE DATES.

Part B of title XXIII of the Public Health Service Act (as added by section 2 of this Act) shall take effect on the expiration of the 60-day period beginning on the date of the enactment of this Act. Such title (as so added) shall otherwise take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE II—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 201. REQUIREMENT OF EXPEDITING AWARDS OF GRANTS AND CONTRACTS FOR RESEARCH.

Section 494 of the Public Health Service Act (42 U.S.C. 289c) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall expedite the award of grants, contracts, and cooperative agreements for research projects relating to acquired immune deficiency syndrome (including such research projects initiated independently of any solicitation by the Secretary for proposals for such research projects).

"(2) With respect to programs of grants, contracts, and cooperative agreements described in paragraph (1), any application submitted in response to a solicitation by the Secretary for proposals pursuant to such a program—

"(A) may not be approved if the application is submitted after the expiration of the 3-month period beginning on the date on which the solicitation is issued; and

"(B) shall be awarded, or otherwise finally acted upon, not later than the expiration of the 6-month period beginning on the expiration of the period described in subparagraph (A).

"(3) If the Secretary makes a determination that it is not practicable to administer a program referred to in paragraph (2) in accordance with the time limitations described in such paragraph, the Secretary may adjust the time limitations accordingly.

"(4) With respect to any program for which a determination described in paragraph (3) is made, the Secretary shall—

"(A) if the determination is made before the Secretary issues a solicitation for proposals pursuant to the program, ensure that the solicitation describes the time limitations as adjusted by the determination; and

"(B) if the determination is made after the Secretary issues such a solicitation for proposals, issue a statement describing the time limitations as adjusted by the determination and individually notify, with respect to the determination, each applicant whose application is submitted before the expiration of the 3-month period beginning on the date on which the solicitation was issued.

"(5) The Secretary shall, not less than annually, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report—

"(A) summarizing programs for which the Secretary has made a determination described in paragraph (3), including a description of the time limitations as adjusted by the determination and including a summary of the solicitation issued by the Secretary for proposals pursuant to the program; and

"(B) summarizing applications that—

"(i) were submitted pursuant to a program of grants, contracts, or cooperative agreements referred to in paragraph (2) for which a determination described in paragraph (3) has not been made; and

"(ii) were not processed in accordance with the time limitations described in paragraph (2).".

SEC. 202. ESTABLISHMENT OF PROGRAMS RELATING TO RESEARCH.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title VIII the following new title:

"TITLE IX—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"PART A—ADMINISTRATION OF RESEARCH PROGRAMS

"SEC. 901. REQUIREMENTS WITH RESPECT TO PROCESSING OF REQUESTS FOR PERSONNEL AND ADMINISTRATIVE SUPPORT.

"(a) IN GENERAL.—The Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, shall respond to any priority request made by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health, not later than 14 days after the date on which such request is made. If the Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, does not disapprove a priority request during the 14-day period, the request shall be deemed to be approved.

"(b) NOTICE TO SECRETARY AND TO ASSISTANT SECRETARY FOR HEALTH.—The Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, and the Director of the National Institutes of Health, shall, respectively, transmit to the Secretary and the Assistant Secretary for Health a copy of each priority request made under this section by the agency head involved. The copy shall be transmitted on the date on which the priority request involved is made.

"(c) PROHIBITION WITH RESPECT TO PREVENTION OF PRIORITY REQUEST.—The Director of the Office of Management and Budget may not take any action to prevent the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health, from making a priority request under this section.

"(d) DEFINITION OF PRIORITY REQUEST.—For purposes of this section, the term 'priority request' means any request that—

"(1) is designated as a priority request by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health; and

"(2)(A) is made to the Director of the Office of Personnel Management for the allocation of personnel to carry out activities with respect to acquired immune deficiency syndrome; or

"(B) is made to the Administrator of General Services for administrative support in carrying out such activities.

"SEC. 902. AUTHORIZATION OF ADDITIONAL PERSONNEL.

"(a) Centers for Disease Control.—Notwithstanding any other provision of law, the Secretary, acting through the Director of the Centers for Disease Control, shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 350 employees for the Centers for Disease Control in addition to the number of employees assigned to such Centers as of December 31, 1987.

"(b) National Institutes of Health.—Notwithstanding any other provision of law, the Secretary, acting through the Director of the National Institutes of Health shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 300 employees for the National Institutes of Health in addition to the number of employees assigned to such Institutes as of December 31, 1987.

"(c) Food and Drug Administration.—Notwithstanding any other provision of law, the Secretary, acting through the Commissioner of Food and Drugs, shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 50 employees for the Food and Drug Administration in addition to the number of employees assigned to such Administration as of December 31, 1987.

"(d) Alcohol, Drug Abuse, and Mental Health Administration.—Notwithstanding any other provision of law, the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 45 employees for the Alcohol, Drug Abuse, and Mental Health Administration in addition to the number of employees assigned to such Administration as of December 31, 1987.

"(e) Health Resources and Services Administration.—Notwithstanding any other provision of law, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 25 employees for the Health Resources and Services Administration in addition to the number of employees assigned to such Administration as of December 31, 1987.

"(f) Office of Assistant Secretary for Health.—Notwithstanding any other provision of law, the Secretary, acting through the Assistant Secretary for Health, shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 10 employees for the Office of the Assistant Secretary for Health in addition to the number of employees assigned to such Office as of December 31, 1987.

"SEC. 903. ESTABLISHMENT OF CLINICAL RESEARCH REVIEW COMMITTEE.

"The Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall establish within such Institute an advisory committee to be known as the AIDS Clinical Research Review Committee (hereafter in this section referred to as the 'Committee'). The Committee shall be composed of physicians whose clinical practice includes a significant number of patients with acquired immune deficiency syndrome. The Committee shall—

"(1) advise the Director of such Institute on appropriate research activities to be undertaken with respect to clinical treatment of such syndrome, including advice with respect to—

"(A) research on drugs for preventing or minimizing the development of symptoms or conditions arising from infection with the etiologic agent for such syndrome; and

"(B) research on the effectiveness of treating such symptoms or conditions with drugs that—

"(i) are not approved by the Commissioner of Food and Drugs for the purpose of treating such symptoms or conditions; and

"(ii) are being utilized for such purpose by individuals infected with such etiologic agent;

"(2)(A) review ongoing publicly and privately supported research on clinical treatment for acquired immune deficiency syndrome, including research on drugs described in paragraph (1); and

"(B) periodically issue, and make available to health care professionals, reports describing and evaluating such research;

"(3) conduct studies and convene meetings for the purpose of determining the recommendations among physicians in clinical practice on clinical treatment of acquired immune deficiency syndrome, including treatment with the drugs described in paragraph (1); and

"(4) establish a toll-free telephone number to provide to appropriate health care professionals information developed or obtained by the Committee pursuant to paragraphs (2) and (3).

"Part B—Research Authority

"SEC. 911. CLINICAL EVALUATION UNITS AT NATIONAL INSTITUTES OF HEALTH.

"(a) In General.—The Secretary, acting through the Director of the National Cancer Institute and the Director of the National Institute of Allergy and Infectious Diseases, shall for each such Institute establish a clinical evaluation unit at the Clinical Center at the National Institutes of Health. Each of the clinical evaluation units—

"(1) shall conduct clinical evaluations of experimental treatments for acquired immune deficiency syndrome developed within the preclinical drug development program; and

"(2) may conduct clinical evaluations of experimental treatments for such syndrome that are developed by any other national research institute of the National Institutes of Health or by any other entity.

"(b) Personnel and Administrative Support.—

"(1) For the purposes described in subsection (a), the Secretary, acting through the Director of the National Institutes of Health, shall provide each of the clinical evaluation units required in such subsection—

"(A)(i) with not less than 50 beds; or

"(ii) with an outpatient clinical capacity equal to not less than twice the outpatient clinical capacity, with respect to acquired immune deficiency syndrome, possessed by the Clinical Center of the National Institutes of Health on June 1, 1988; and

"(B) with such personnel and such administrative support as may be necessary.

"(2) Facilities, personnel, and administrative support provided pursuant to paragraph (1) shall be in addition to the number or level of facilities, personnel, and administrative support that otherwise would be available at the Clinical Center at the National Institutes of Health for the provision of clinical care for individuals with diseases or disorders.

"(c) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 912. EVALUATION OF CERTAIN TREATMENTS.

"(a) Establishment of Program.—

"(1) After consultation with the Clinical Research Review Committee established pursuant to section 903, the Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall establish a program for the evaluation of drugs that—

"(A) are not approved by the Commissioner of Food and Drugs for the purpose of treatments with respect to acquired immune deficiency syndrome; and

"(B) are being utilized for such purpose by individuals infected with the etiologic agent for such syndrome.

"(2) The program established under paragraph (1) shall include evaluations of the effectiveness and the risks of the treatment involved, including the risks of foregoing treatments with respect to acquired immune deficiency syndrome that are approved by the Commissioner of Food and Drugs.

"(b) Authority With Respect to Grants and Contracts.—

"(1) For the purpose of conducting evaluations required in subsection (a), the Secretary may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities.

"(2) Nonprofit private entities under paragraph (1) may include nonprofit private organizations that—

"(A) are established for the purpose of evaluating treatments with respect to acquired immune deficiency syndrome; and

"(B) consist primarily of individuals infected with the etiologic agent for such syndrome.

"(c) Scientific and Ethical Guidelines.—

"(1) The Secretary shall establish appropriate scientific and ethical guidelines for the conduct of evaluations carried out pursuant to this section. The Secretary may not provide financial assistance under subsection (b)(1) unless the applicant for such assistance agrees to comply with such guidelines.

"(2) The Secretary may establish the guidelines described in paragraph (1) only after consulting with—

"(A) physicians whose clinical practice includes a significant number of individuals with acquired immune deficiency syndrome;

"(B) individuals who are infected with the etiologic agent for such syndrome; and

"(C) other individuals with appropriate expertise or experience.

"(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 913. SUPPORT OF INTERNATIONAL EFFORTS.

"(a) Grants and Contracts for Research.—

"(1) Under section 307, the Secretary, acting through the Director of the National Institutes of Health—

"(A) shall, for the purpose described in paragraph (2), make grants to, enter into cooperative agreements and contracts with, and provide technical assistance to, international organizations concerned with public health; and

"(B) may, for such purpose, provide technical assistance to foreign governments.

"(2) The purpose referred to in paragraph (1) is promoting and expediting international research concerning the development of vaccines and treatments for acquired immune deficiency syndrome.

"(b) Grants and Contracts for Additional Purposes.—After consultation with the Secretary of State, the Secretary, acting through the Director of the Centers for Disease Control, shall under section 307 make grants to, enter into contracts with, and provide technical assistance to, international organizations concerned with public health and may provide technical assistance to foreign governments, in order to support—

"(1) projects for training individuals with respect to developing skills and technical expertise for use in the prevention, diagnosis, and treatment of acquired immune deficiency syndrome; and

"(2) epidemiological research relating to acquired immune deficiency syndrome.

"(c) Special Programme of World Health Organization.—Support provided by the Secretary pursuant to this section shall be in furtherance of the global strategy of the World Health Organization Special Programme on Acquired Immunodeficiency Syndrome.

"(d) Preferences.—In providing grants, cooperative agreements, contracts, and technical assistance under subsections (a) and (b), the Secretary shall give preference to activities conducted by, or in cooperation with, the World Health Organization.

"(e) Requirement of Application for Financial Assistance.—The Secretary may not make a grant or enter into a cooperative agreement or contract under this section unless—

"(1) an application for such assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which such assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"SEC. 914. RESEARCH CENTERS.

"(a) In General.—

"(1) The Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, may make grants to, and enter into contracts with, public and nonprofit private entities to assist such entities in planning, establishing, or strengthening, and providing basic operating support for, centers for basic and clinical research into, and training in, advanced diagnostic, prevention, and treatment methods for acquired immune deficiency syndrome.

"(2) A grant or cooperative agreement under paragraph (1) shall be provided in accordance with policies established by the Secretary, acting through the Director of the National Institutes of Health, and after consultation with the advisory council for the National Institute of Allergy and Infectious Diseases.

"(3) The Secretary shall ensure that, as appropriate, clinical research programs carried out under paragraph (1) include as research subjects women, children, hemophiliacs, and minorities.

"(b) Use of Financial Assistance.—

"(1) Financial assistance under subsection (a) may be expended for—

"(A) the renovation or leasing of space;

"(B) staffing and other basic operating costs, including such patient care costs as are required for clinical research;

"(C) clinical training with respect to acquired immune deficiency syndrome (including such training for allied health professionals); and

"(D) demonstration purposes, including projects in the long-term monitoring and outpatient treatment of individuals infected with the etiologic agent for such syndrome.

"(2) Financial assistance under subsection (a) may not be expended to provide research training for which National Research Service Awards may be provided under section 487.

"(c) Duration of Support.—Support of a center under subsection (a) may be for not more than five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 915. INTERNATIONAL DATA BANK.

"(a) In General.—The Secretary, acting through the National Library of Medicine, shall establish, maintain, and operate a data bank to be known as the International Acquired Immune Deficiency Syndrome Research Data Bank (hereafter in this section referred to as the 'Data Bank'). The Data Bank shall collect, catalog, store, and disseminate the results of research relating to, and the results of treatment of, acquired immune deficiency syndrome undertaken in any country. Information maintained at the Data Bank shall, to the extent practicable, be available through information systems accessible to the general public, general practitioners, and investigators.

"(b) Schedule of Charges.—The Secretary shall establish a schedule of charges for users of the Data Bank from other countries for information obtained from the Data Bank.

"(c) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 916. ADDITIONAL AUTHORITY WITH RESPECT TO RESEARCH.

"(a) Data Collection With Respect to National Prevalence.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, shall, through representative sampling and other appropriate methodologies, provide for the continuous collection of data on the incidence in the United States of cases of acquired immune deficiency syndrome and of cases of infection with the etiologic agent for such syndrome. The Secretary may carry out the program of data collection directly or through cooperative agreements and contracts with public and nonprofit private entities.

"(2) The Secretary shall encourage each State to enter into a cooperative agreement or contract under paragraph (1) with the Secretary in order to facilitate the prompt collection of the most recent accurate data on the incidence of cases described in such paragraph.

"(3) The Secretary shall ensure that data collected under paragraph (1) includes data on the demographic characteristics of the population of individuals with cases described in paragraph (1), including data on specific subpopulations at risk of infection with the etiologic agent for acquired immune deficiency syndrome.

"(4) In carrying out this subsection, the Secretary shall, for the purpose of assuring the utility of data collected under this section, request entities with expertise in the methodologies of data collection to provide, as soon as is practicable, assistance to the Secretary and to the States with respect to the development and utilization of uniform methodologies of data collection.

"(5) The Secretary shall provide for the dissemination of data collected pursuant to this section. In carrying out this paragraph, the Secretary may publish such data as frequently as the Secretary determines to be appropriate with respect to the protection of the public health. The Secretary shall publish such data not less than once each year.

"(b) Epidemiological and Demographic Data.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, shall develop an epidemiological data base and shall provide for long-term studies for the purposes of—

"(A) collecting information on the demographic characteristics of the population of individuals infected with the etiologic agent for acquired immune deficiency syndrome; and

"(B) developing models demonstrating the long-term domestic and international patterns of the transmission of such etiologic agent.

"(2) The Secretary may carry out paragraph (1) directly or through grants to, or cooperative agreements or contracts with, public and nonprofit private entities, including Federal agencies.

"(c) Long-Term Genetically Oriented Research.—The Secretary may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting long-term research into treatments for acquired immune deficiency syndrome developed from knowledge of the genetic nature of the etiologic agent for such syndrome.

"(d) Social Sciences Research.—The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

"(e) Authorization of Appropriations.—

"(1) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(2) Amounts appropriated pursuant to paragraph (1) to carry out subsection (c) shall remain available until expended.

"PART C—RESEARCH TRAINING

"SEC. 921. FELLOWSHIPS AND TRAINING.

"(a) In General.—The Secretary, acting through the Director of the Centers for Disease Control, shall establish fellowship and training programs to be conducted by the Centers for Disease Control to train individuals to develop skills in epidemiology, surveillance, testing, and laboratory analysis relating to acquired immune deficiency syndrome. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in national and international efforts towards the prevention, diagnosis, and treatment of acquired immune deficiency syndrome.

"(b) Programs Conducted by National Institute of Mental Health.—The Secretary, acting through the Director of the National Institute of Mental Health, shall conduct or support fellowship and training programs for individuals pursuing graduate or postgraduate study in order to train such individuals to conduct scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

"(c) Relationship to Limitation on Number of Employees.—Any individual receiving a fellowship or receiving training under subsection (a) or (b) shall not be included in any determination of the number of full-time equivalent employees of the Department of Health and Human Services for the purpose of any limitation on the number of such employees established by law prior to, on, or after the date of the enactment of the AIDS Research Act of 1988.

"(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"Part D—Special Authorities of the Director of the National Institutes of Health

"SEC. 931. ESTABLISHMENT OF AUTHORITIES.

"(a) In General.—In carrying out research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health—

"(1) shall expand clinical trials of treatments and therapies for infection with the etiologic agent for acquired immune deficiency syndrome;

"(2) shall, for women, infants, children, hemophiliacs, and minorities, develop and expand clinical trials of treatments and therapies for infection with such etiologic agent;

"(3) may establish or support the large-scale development and preclinical screening, production, or distribution of specialized biological materials and other therapeutic substances for research relating to acquired immune deficiency syndrome and set standards of safety and care for persons using such materials;

"(4) may, in consultation with the advisory council for the appropriate national research institute of the National Institutes of Health, support—

"(A) research relating to acquired immune deficiency syndrome conducted outside the United States by qualified foreign professionals if such research can reasonably be expected to benefit the people of the United States;

"(B) collaborative research involving American and foreign participants; and

"(C) the training of American scientists abroad and foreign scientists in the United States;

"(5) may encourage and coordinate research relating to acquired immune deficiency syndrome conducted by any industrial concern that evidences a particular capability for the conduct of such research;

"(6)(A) may, in consultation with such advisory council, acquire, improve, repair, operate, and maintain laboratories, other research facilities, equipment, and such other real or personal property as the Director of the National Institutes of Health determines necessary;

"(B) may, in consultation with such advisory council, make grants for the construction or renovation of facilities; and

"(C) may, in consultation with such advisory council, acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34) by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Institutes of Health for a period not to exceed ten years; and

"(7) subject to section 405(b)(2) and without regard to section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5), may enter into such contracts and cooperative agreements with any public agency, or with any person, firm, association, corporation, or educational institution, as may be necessary to expedite and coordinate research relating to acquired immune deficiency syndrome.

"(b) Projects for Cooperation Among Public and Private Health Entities.—In carrying out subsection (a), the Director of the National Institutes of Health shall establish projects to promote cooperation among Federal agencies, State, local, and regional public health agencies, and private entities, in research concerning the diagnosis, prevention, and treatment of acquired immune deficiency syndrome.

"(c) Report to Secretary.—The Director of the National Institutes of Health shall each fiscal year prepare and submit to the Secretary a report—

"(1) describing and evaluating the progress made in such fiscal year in research, treatment, and training with respect to acquired immune deficiency syndrome conducted or supported by the Institutes;

"(2) summarizing and analyzing expenditures made in such fiscal year for activities with respect to acquired immune deficiency syndrome conducted or supported by the National Institutes of Health; and

"(3) containing such recommendations as the Director considers appropriate.

"Part E—General Provisions

"SEC. 941. DEFINITION.

"For purposes of this title, the term 'acquired immune deficiency syndrome' includes any condition arising from infection with the etiologic agent for such syndrome.".

SEC. 203. REQUIREMENT OF CERTAIN RESEARCH STUDIES.

(a) Mortality Rates.—After consultation with the Director of the National Center for Health Services Research and Health Care Technology Assessment, the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall conduct a study for the purpose of determining the mortality rates with respect to acquired immune deficiency syndrome among individuals of various groups at risk of such syndrome, among various geographic areas, and among individuals with varying financial resources for the payment of health care services.

(b) Prevention of Development of Symptoms in Infected Individuals.—The Secretary of Health and Human Services, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall conduct a study for the purpose of determining, with respect to individuals infected with the etiologic agent for acquired immune deficiency syndrome, the consensus among health care professionals on clinical treatments for preventing or minimizing the development of symptoms or conditions arising from infection with such etiologic agent.

(c) Use of Consortia for Research and Development.—The Secretary of Health and Human Services shall request the National Academy of Sciences and other similar appropriate nonprofit institutions to report to the Secretary findings made by such institutions with respect to—

(1) the manner in which research on, and the development of, vaccines and drugs for the prevention and treatment of acquired immune deficiency syndrome and related conditions can be enhanced by the establishment of consortia—

(A) designed to combine and share resources needed for such research and development; and

(B) consisting of businesses involved in such research and development, of nonprofit research institutions, or of combinations of such businesses and such institutions; and

(2) the appropriate participation, if any, of the Federal Government in such consortia.

(d) Reports to Congress.—The Secretary of Health and Human Services shall submit to the Congress a report describing the findings made as a result of each of the studies required or requested in this section. The report for the study required in subsection (a) shall be submitted not later than 18 months after the date of the enactment of this Act. The report for the study required in subsection (b) shall be submitted not later than 1 year after such date. The report fo: the study requested in subsection (c) shall be submitted not later than 1 year after such date.

TITLE III—NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 301. ESTABLISHMENT.

There is hereby established a commission to be known as the National Commission on Acquired Immune Deficiency Syndrome (hereinafter in this title referred to as the "Commission").

SEC. 302 DUTIES.

(a) General Purpose of Commission.—The Commission shall carry out activities for the purposes of studying and making recommendations for national policy with respect to the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS"). Matters considered by the Commission shall include the following:

(1) National policy and priorities with respect to—

(A) AIDS research, including the appropriate role of the Veterans' Administration and other Federal agencies in conducting such research,

(B) testing of individuals (including patients of the Veterans' Administration) for the AIDS virus and confidentiality of such test results,

(C) treatment and care of individuals suffering from AIDS, and

(D) prevention of the transmission of AIDS and education about AIDS.

(2) The appropriate roles of the Federal Government, of State and local governments, and of the private sector in the matters referred to in paragraph (1).

(3) Guidelines for the coordination of United States activities concerning AIDS with those of international health organizations.

(b) Hearings.—The Commission shall hold hearings to receive the views of persons and organizations interested in matters relating to the purposes of the Commission as stated in subsection (a), including representatives of appropriate government agencies and responsible representatives of groups principally affected by the AIDS virus.

SEC. 303. MEMBERSHIP.

(a) Number and Appointment.—(1) The Commisson shall be composed of 15 members as follows:

(A) Five members appointed by the President, of whom two shall be the Secretary of Health and Human Services and the Administrator of Veteran's Affairs.

(B) Five members appointed by the Speaker of the House of Representatives, of whom two shall be appointed upon the recommendation by the minority leader.

(C) Five members appointed by the President pro tempore of the Senate, of whom three shall be appointed upon the recommendation by the majority leader and two shall be appointed upon the recommendation of the minority leader.

(2) Not fewer than two of the members of the Commission appointed under subparagraph (A) of paragraph (1), and not fewer than three of the members appointed under each of subparagraphs (B) and (C) of that paragraph, shall be appointed from among experts in the scientific and medical communities and in legal and ethical issues are specially qualified to serve on the Commission by reason of their education, training, or experience.

(3) Members of the Commission shall serve for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) Chairman.—The members of the Commission shall select a Chairman from among the members of the Commission. The selection shall be made not later than 60 days after the date of the enactment of this Act.

(c) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(d) Meetings.—The Commission shall hold its first meeting on a date specified by the President which is not later than 60 days after the date of the enactment of this Act. Thereafter, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times each year during the life of the Commission.

(e) Pay.—Members of the Commission who are Members of Congress or officers or employees of the United States shall receive no additional compensation by reason of their service on the Commission.

(f) Per Diem.—While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) Deadline for Appointment.—Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act.

SEC. 304. REPORTS.

(a) Interim Reports.—Not later than one year after the date on which the Commission is fully constituted under section 303(a), the Commission shall transmit to the President and to Congress a comprehensive report on its activities to that date. Such report shall include such findings and recommendations as the Commission considers appropriate based on its activities to that date. In addition, the Commission shall transmit such other reports as it considers appropriate.

(b) Final Report.—The Commission shall transmit a final report to the President and to Congress not later than two years after the date on which the Commission is fully constituted under section 303(a). The final report shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 305. EXECUTIVE DIRECTOR AND STAFF.

(a) Executive Director.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule. The Executive Director shall be appointed not later than 30 days after the Chairman of the Commission is selected.

(b) Staff.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) Applicability of Civil Service Laws.—The Executive Director and the additional personnel of the Commission referred to in subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Consultants.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(e) Detailed Personnel.—Upon request of the Commission, the Administrator of Veterans' Affairs may detail, on a reimbursable basis, any of the personnel of the Veterans' Administration to the Commission to assist the Commission in carrying out its duties under this Act.

(f) Support Services.—The Administrator of Veterans' Affairs shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

SEC. 306. DUTIES OF ADMINISTRATOR OF VETERANS' AFFAIRS.

(a) Research Compilation.—In order to assist the Commission in carrying out its duties, the Administrator of Veterans' Affairs shall prepare a detailed compilation and synopsis of all medical research on acquired immune deficiency syndrome that has been carried out, or that is currently being conducted, in the United States and throughout the world. The Administrator shall prepare the compilation as soon as practicable, and not later than three months after the date of the enactment of this Act, and shall submit the compilation to the Commission.

(b) Report on VA Activities.—In order to assist the Commission in carrying out its duties, the Administrator shall submit to the Commission a report on all activities and information of the Veterans' Administration relevant to the duties of the Commission, including a detailed report on relevant research conducted by the Veterans' Administration and (subject to all laws and regulations with respect to confidentiality) detailed statistical information on the veterans population as a whole and the population of patients of the Veterans' Administration health system.

SEC. 307. POWERS OF COMMISSION.

(a) Hearings.—For the purpose of carrying out this Act, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmation to witnesses appearing before the Commission.

(b) Delegation.—Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) Access to Information.—The Commission may secure directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated for fiscal year 1988 the sum of $2,000,000 to carry out the purposes of this Act. Amounts appropriated pursuant to such authorization shall remain available until expended.

SEC. 309. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 303(b). However, the President may extend the life of the Commission for a period of not to exceed two years.

The CHAIRMAN pro tempore. No amendments are in order except the amendments specified in House Report 100-858. Said amendments shall be considered only in the manner specified and shall be considered as having been read. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Said amendments are not subject to amendment, except as specified, or to a demand for a division of the question.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Waxman: Page 69, after line 23, insert the following new section (and redesignate subsequent sections accordingly):

SEC. 912. USE OF INVESTIGATIONAL NEW DRUGS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) ENCOURAGEMENT OF APPLICATIONS WITH RESPECT TO CLINICAL TRIALS.—

(1) If, in the determination of the Secretary, a new drug has potential effectiveness with respect to the prevention or treatment of acquired immune deficiency sydrome, the Secretary shall, through statements published in the Federal Register—

(A) announce the fact of such determination; and

(B) with respect to the new drug involved, encourage applications for an exemption for investigational use of the new drug under regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act.

(2)(A) The AIDS Clinical Research Review Committee established pursuant to section 903 shall make recommendations to the Secretary with respect to new drugs appropriate for determinations described in paragraph (1).

(B) The Secretary shall, as soon as is practicable, determine the merits of recommendations received by the Secretary pursuant to subparagraph (A).

(b) ENCOURAGEMENT OF APPLICATIONS WITH RESPECT TO TREATMENT USE IN CIRCUMSTANCES OTHER THAN CLINICAL TRIALS.—

(1) In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a) and with respect to which an exemption is in effect for purposes of section 505(i) of the Federal Food, Drug, and Cosmetic Act, the Secretary shall—

(A) as appropriate, encourage the sponsor of the investigation of the new drug to submit to the Secretary, in accordance with regulations issued under such section, an application to use the drug in the treatment of individuals—

(i) who are infected with the etiologic agent for acquired immune deficiency syndrome; and

(ii) who are not participating in the clinical trials conducted pursuant to such exemption; and

(B) if such an application is approved, encourage, as appropriate, licensed medical practitioners to obtain, in accordance with such regulations, the new drug from such sponsor for the purpose of treating such individuals.

(2) If the sponsor of the investigation of a new drug described in paragraph (1) does not submit to the Secretary an application described in such paragraph (relating to treatment use), the Secretary shall, through statements published in the Federal Register, encourage, as appropriate, licensed medical practitioners to submit to the Secretary such applications in accordance with regulations described in such paragraph.

(c) TECHNICAL ASSISTANCE WITH RESPECT TO TREATMENT USE.—In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a), the Secretary may, directly or through grants or contracts, provide technical assistance with respect to the process of—

(1) submitting to the Secretary applications for exemptions described in paragraph (1)(B) of such subsection;

(2) submitting to the Secretary applications described in subsection (b); and

(3) obtaining new drugs with respect to which applications described in subsection (b) have been approved.

(d) DEFINITION.—For purposes of this section, the term "new drug" has the meaning given such term in section 201 of the Federal Food, Drug, and Cosmetic Act.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 15 minutes and a Member in opposition will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, my amendment provides simply that the Secretary of HHS is to look for every opportunity to allow people with AIDS access to research on experimental drugs that might help them.

Under current FDA law, drug companies and physicians are allowed to set up research protocols involving people who might otherwise not qualify for rigorous research necessary for a drug to be approved. This process, often calls the treatment IND, makes it possible for persons who have no other treatment available to them to take experimental drugs, and also makes it possible for data to be gathered on those persons.

My amendment would require that the Secretary encourage companies and doctors to use this option, and it would allow the Secretary to provide technical assistance to expedite this procedure.

This amendment is supported by the minority. It has been worked out with them, and we join together in offering it. I know of no opposition to it. We are talking about a disease that is in almost every case terminal, and this amendment would allow drugs to be available in as expedited a way as possible under the guidance of the Secretary, consistent with the law.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise to support his amendment. I do not believe this amendment does any damage to any existing FDA law or regulation. I think it simply will promote more expansive clinical research on AIDS drugs. It will certainly not do anything to encourage the marketing of ineffective drugs.

I think it is a good amendment, a good addition to the bill, and I would hope that our colleagues in the House will join us in supporting the amendment.

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, many of us have been very concerned about the many AIDS patients and others who are terminally ill, who have been unable to get access to drugs that may help in their treatment due to the lengthy approval process by the Food and Drug Administration to prove that a drug is both safe and effective. The amendment being offered by the chairman of the Health and Environment Subcommittee, Mr. WAXMAN, and myself amends the research provisions in the bill to encourage that AIDS treatments be made more available to infected individuals.

The amendment adds a new section to the Research title of the bill to require the Secretary of Health and Human Services [HHS] to encourage manufacturers of drugs with potential effectiveness as AIDS treatments or preventatives to apply for research exemptions already available under the Food, Drug and Cosmetic Act. The exemptions allow for distribution of experimental drugs for research beyond ongoing clinical trials. The amendment also provides authority for the Secretary to provide technical assistance to manufacturers, researchers, and physicians in applying for such exemptions and in carrying out proposals made under them.

I offered a broader amendment, waiving all provisions of law to make experimental drugs more widely available at full committee, but the amendment was ruled nongermane. The proposed amendment is narrower in scope and makes no changes to the Food, Drug and Cosmetic Act.

The amendment encourages manufacturers of new drugs for treatment or prevention of AIDS to apply for an exemption for investigational use of the new drug. If this exemption is granted, then licensed medical practitioners would be able to obtain the new drug from the sponsors of the drug for the purpose of treating individuals who are infected and who are not participating in clinical trials of this drug.

The FDA approval process to determine whether a drug is safe, the proper dosage and whether it is effective is a lengthy process. And while it is a medically sound, and preferable process, when persons are terminally ill, I believe we should allow them access to drugs which may, or may not, cure, or lengthen their lives, but which, at the very least, give them hope. While I believe that the adoption of this amendment is an important step, it is only a first step. Next year I plan to work with the chairman to introduce legislation on a broader scale which would amend the core provisions in the Food, Drug and Cosmetic Act to allow terminally ill patients access to unapproved drugs once the drug has been determined to be safe.

In my judgment, the decision to undergo treatment with an unapproved drug is solely the decision of the terminally ill individual. This amendment is not designed to undermine the necessity of the FDA approval process, but rather to circumvent time restrictions which are meaningless to an individual whose life is imminently threatened.

My own home State of California has been deeply concerned about the lack of swift movement on the part of the Federal Government in approving AIDS drugs and has moved to provide its own testing and approval procedures. I believe the actions of Governor Deukmejian and the State legislature show the strength of the concern about this issue and I firmly believe it is time that Congress addressed this important issue. Let's cut through the redtape for these unfortunate individuals and not let bureaucracy stand in the way of beneficial treatment and most importantly, of hope. I urge Members to join Mr. WAXMAN and I in support of this amendment.

Mr. WAXMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MADIGAN: Page 64, strike line 15 and all that follows through page 66, line 14, and insert the following:

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 780 employees for the Public Health Service in addition to the number of employees assigned to such Service as of December 31, 1987.

(b) LIMITATION OF AVAILABILITY OF APPROPRIATIONS.—The requirement established in subsection (a) shall be carried out only to the extent of amounts made available in appropriations Acts for such purpose.

(c) EXPIRATION OF REQUIREMENT.—Effective October 1, 1989, this section is repealed.

Page 63, strike lines 14 through 21 (and redesignate subsequent subsections accordingly).

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. MADIGAN] will be recognized for 15 minutes and a Member in opposition will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I did not support the provisions of the AIDS research bill that were reported out of the Committee on Energy and Commerce. I was concerned about the precedent of a provision mandating the hiring of personnel by individual agencies in the Department of Health and Human Services to conduct work on AIDS-related research activities.

I am pleased now that the chairman of the Health and Environment Subcommittee and I have been able to work out our differences on that particular point. The amendment that I am offering reflects our agreement to modify these provisions. Specifically, my amendment vests the hiring authority in the Secretary of HHS and not the individual agency heads. It also makes such hiring subject to available appropriations and repeals the new hiring authority after 1 year.

In addition, my amendment deletes the provisions providing for the bypass of OMB review of requests for space and administrative support related to AIDS. While I still have some reservations about the precedent of requiring the hiring of additional personnel, in statute, I believe that my amendment represents a reasonable compromise. I appreciate the assurances of the chairman of the subcommittee that he will not mandate the hiring of additional personnel in the future for any other disease.

Mr. Chairman, I urge my colleagues to support my amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in support of the Madigan amendment. Perhaps no other issue in this bill is as important as the provision of adequate staff to the Public Health Service.

I am happy that the gentleman from Illinois has proposed this compromise, and I join him in urging its passage.

Mr. MADIGAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois [Mr. MADIGAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DANNEMEYER: Page 12, after line 25, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

(2) with respect to any individual sentence by the State to a term of imprisonment, the individual be tested for such infection upon entering the State penal system and be so tested during the 30-day period preceding the date on which the individual is released from such system;

Page 13, line 3, insert "or (2)" after "paragraph (1)".

The CHAIRMAN pro tempore. The gentleman from California [Mr. DANNEMEYER] will be recognized for 15 minutes.

Mr. DANNEMEYER. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, today, I am proposing an amendment to require testing inmates in all of our Nation's prisons. Specifically, my amendment requires all States which receive funds pursuant to this legislation to require their State prisons to test prisoners when they enter the prison and within 30 days of leaving.

This Government is charged with the responsibility of providing adequate medical care to our Nation's prisoners. This authority, by statute, rests with the Attorney General. Pursuant to this authority, the Bureau of Prisons has promulgated volumes of guidelines to carry out this responsibility—all to insure the safety and medical care of our Nation's imprisoned population.

In reviewing these guidelines it's interesting to note that the Bureau of Prisons is required to give a complete physical to every prisoner within 14 days of entering a Federal facility. These physicals require the prisoner to be tested for a host of diseases including syphilis. In 1987, syphilis testing of all 130,167 incoming prisoners turned up an infection rate of 39 percent of the prison population.

While on one could disagree that it is the responsibility of the Bureau of Prisons to protect the health and safety of our prisoners, it is puzzling that the same agency that has gone to great lengths to test every inmate for a host of diseases including syphilis, a curable disease, is ignoring one of the greatest plagues history has ever witnessed—AIDS.

In the spring of last year, President, Reagan instructed the Bureau of Prisons to test prisoners for the AIDS virus. I was confident that this meant testing all prisoners for AIDS. Unfortunately, the Bureau chose to interpret this instruction to mean random testing.

The Bureau to this day does not test all incoming prisoners. Only prisoners paroled from prison—those whose sentence is completed are not required to be tested—prisoners receiving furloughs, and prisoners exhibiting clinical manifestations of AIDS are routinely tested for AIDS. Only 10 percent of all incoming Federal prisoners are tested for the HIV infection. Furthermore, prisoners who were in the system prior to last fall and who remain there have not been tested at all.

Despite this random testing approach, the results show a substantial infection rate in prisoners. According to figures provided by the Bureau 2.38 percent of all male prisoners and 3.62 percent of the female prisoners tested between November 1987 and February 26, 1988, tested positive. Thus, despite the fact that the prevalence of AIDS is much greated than syphilis in Federal prisons, the Bureau of Prisons continues to routinely test for a curable, venereal disease—syphilis—but only randomly tests for a noncurable disease—AIDS. Incidentally, according to the Bureau of Prisons, the average cost of a syphilis test is $5; $1 greater than the $4 estimate the Army gives for the cost of routinely testing its personnel for HIV infection.

Furthermore, there is reason to believe that as this epidemic marches across America, the numbers of those entering our prisons with AIDS will grow. Inmates in prisons include the populations which appear to be at the greatest risk of developing AIDS—intravenous drug users, homosexuals, and those convicted of prostitution. Also, makeshift tattooing—a common practice in prisons—poses additional risk of HIV infection.

As more of these populations enter our State penitentiaries, the virus will certainly spread further inside the prison. In 1987 alone, an alarming 116 prisoners contracted syphilis while in prison. A 1984 study of homosexual activity and sexual assault in Federal prisons revealed that overall, 12 percent of those surveyed had engaged in homosexual activity while in prison. In penitentiaries, where more dangerous offenders have longer incarceration periods, 20 percent of the inmates were asked if they had a homosexual experience in a prison as an adult, and 30 percent responded in the affirmative.

This study also showed that some Federal inmates were victims of sexual assault. When asked if anyone had forced or attempted to force the inmates to perform sex against their will while in prison, 9 percent responded positively. This study further concluded that while in prison 0.6 percent of Federal inmates were forced to perform an undesired sex act while 0.3 percent of inmates were sodomized.

Another interesting note with regard to testing is that many prisoners want to be tested. These prisoners are scared of acquiring the virus from the very means I've just addressed. One of our former colleagues, Congressman George V. Hansen who was incarcerated in seven Federal and State jail and prison facilities during 1986 and 1987, says that "AIDS has people in prison terrified—afraid for themselves and afraid for their families." In a letter he and fellow inmates sent to Attorney General Ed Meese, they state that "avoiding blood and bodily fluids of others is virtually impossible by nature of the overcrowded conditions; the potential for violence and abuse; the homosexuality problems; the virtual disregard in many facilities for even the most basic sanitation, with general pressure for everyone to use a common razor, fingernail clippers, and even a toothbrush." Furthermore, Hansen writes "people in the prison system are exposed to conditions so terrible that inmates helpless consider that any incarceration, whether it be for months or for years, could well be a death sentence." This was reinforced by the July 11, 1987, Washington Post article describing how an Arlington prisoner transmitted the virus to a fellow prisoner by biting him. Additionally, a November 1, 1987, Cincinnati Enquirer article depicts a former inmate who believes he become infected with the AIDS virus from sharing needles while serving time at Sing Sing prison in Ossining, NY.

Acknowledging the prevalence of AIDS in prison, the American Medical Association [AMA] has urged testing of inmates. At their annual meeting in 1987, the AMA board of trustees stated that they "continue to support the mandatory testing of prison inmates."

In addition to the threat of the spread of infection, the health and safety of the prisoner and those around him warrant AIDS testing. Currently, only those prisoners who have full-blown AIDS are separated from the prison population. One especially alarming fact is that studies from several cities including Florida, Newark, Connecticut, San Francisco, and New York have found a direct relationship between tuberculosis [TB] morbidity and AIDS. Infection with the AIDS virus has led to a significant upswing in tuberculosis. The rate of tuberculosis in AIDS patients was more than 100 times the incidence in the general population according to a March 13, 1987, report of Morbidity and Mortality Weekly Report on a study of AIDS cases in Connecticut. Dr. Gary Slutkin, an epidemiologist, told the First International Conference on the Global Impact of AIDS that TB rates rose in the United States between 1985 and 1986 for the first time since records have been kept on the disease. The rate went from 22,201 in 1985 to 22,768 in 1986. The largest increases in TB in the United States occurred in New York City, where the rate jumped by approximately 50 percent between 1981 and 1986. According to Dr. Slutkin, there have also been increases in TB rates in 25 States and in Washington, DC.

It is likely that the number of cases of TB related to HIV exceeds that associated with AIDS since tuberculosis tends to precede the sydrome by months or years. It is also possible that some cases of TB related to HIV are never followed by severe opportunistic infections diagnostic of AIDS. These factors may explain the recent abrupt incidence of TB, 43 percent, among persons born in the United States and residing in southeast Florida. Furthermore the incidence of TB may increase in other areas of the United States where TB infection is prevalent and rates of HIV infection and AIDS are rising.

According to another article by Dr. Dixie E. Snieder, Director of the Division of TB Control at the Center For Prevention Services for the CDC, 4.6 percent of AIDS cases nationwide have been identified as having TB. Finally, in a New York State prison 100 percent of the TB patients who agreed to be tested were HIV positive.

The evidence is clear that AIDS is directly linked to the upsurge of TB. For the safety of other prisoners and those who work in the prisons, prisoners need to be tested for the AIDS virus. The facts speak for themselves. New York and Maryland report that more than half of the prisoner deaths were a result of AIDS. That makes AIDS the leading cause of death.

Mr. Chairman, with 500,000 inmates, and tens of thousands of new prisoners each year, soon to be recycled back into the general population, we had better address this issue immediately. I urge my fellow colleagues to adopt this important amendment.

□ 1630

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 15 minutes.

Mr. WAXMAN. Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. SKELTON TO THE AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. SKELTON. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN pro tempore. Is the gentleman from Missouri the designee of the gentlewoman from Maryland [Mrs. BYRON]?

Mr. SKELTON. I am, Mr. Chairman. The gentlewoman from Maryland, principal author of this amendment, is unable to be here.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SKELTON to the amendment offered by Mr. DANNEMEYER: In the matter proposed to be inserted on page 12, after line 25, of the bill, strike "imprisonment," and insert the following: "imprisonment for conviction of prostitution, or a crime relating to sexual assault, or a crime relating of intravenous drug abuse, and with respect to any indivdual determined by the State corrections officer under the most current medical guidelines to pose a direct threat of infection to other individuals within the State penal system.".

The CHAIRMAN. The gentleman from Missouri [Mr. SKELTON] is recognized for 15 minutes.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Byron-Skelton amendment would require anyone entering prison for prostitution, crime relating to sexual assault, or a crime relating to intravenous drug abuse be tested for the AIDS virus. In addition, it would require that prisoners who pose a threat of infection to other prisoners or staff be tested.

The Dannemeyer amendment would require that all prisoners be tested whether they are in minimum or maximum security prisons. It also requires testing for persons charged with tax fraud or for serious traffic violators. The fact is, we should not have to test traffic violators. Instead, we should target our money at those people who are most likely to be infected and those people who pose a risk to others.

Mandatory AIDS testing that is offered by the gentlemen from California is opposed by prison and correctional officials. Prison officials have testified before Congress that mandatory testing of all prisoners is too costly, ineffective, unnecessary, and counterproductive. Also, mandatory prison testing could deplete all State funds that would be better utilized for counseling and testing of high-risk patients in clinic testing programs. The demand for voluntary testing should be met first before mandatory testing is considered.

My amendment cuts out the unnecessary AIDS testing in the prison system and I urge all Members to support it.

Mr. Chairman, I include with my remarks a letter from Raymond C. Scheppach, executive director of the National Governors' Association to the gentleman from California [Mr. WAXMAN].

The letter referred to follows:

NATIONAL GOVERNORS' ASSOCIATION,
Washington, DC, September 12, 1988.

Hon. HENRY WAXMAN,
Chair, Subcommittee on Health and the Environment, Committee on Energy and Commerce, Washington, DC.

DEAR REPRESENTATIVE WAXMAN: Thank you for your letter of July 25 outlining the pending AIDS Counseling and Testing Act of 1988. This is certainly an important legislative initiative that will go a long way toward addressing the problems the country faces in combatting the AIDS epidemic.

I would like to reiterate the concerns of the Governors that I expressed in my May 23 letter to you. We strongly oppose any efforts to place Federal mandates on the states regarding their policies for testing, reporting, and tracing. The Governors and their health departments are in the best position to decide what testing policies are the most effective for their states in prevention efforts.

Specifically, we are opposed to the four amendments to your bill that are scheduled to be offered on the House floor that would require: (1) the mandatory testing of prisoners, (2) the mandatory testing of all marriage license applicants, (3) the routine testing of hospital patients, and (45) the mandatory reporting of the identification of individual testing positively for the HIV virus. Such blanket mandates would have adverse consequences and at a very large cost.

Thank you for your consideration of this issue.

Sincerely,
RAYMOND C. SCHEPPACH.

Mr. SKELTON. Mr. Chairman, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. FLIPPO). The gentleman from California [Mr. DANNEMEYER] is recognized for 15 minutes in opposition to the amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise today in opposition to the amendment offered by the distinguished gentleman from Missouri that would restrict the prison testing amendment that I intend to offer. The amendment would require States to administer AIDS tests to selected inmates, specifically, those who are imprisoned for prostitution, crimes relating to intravenous drug abuse, or those who, in the opinion of prison officials, pose "a direct threat of infection to other individuals within the State penal system." In defining those in this last category, prison officials would have to rely on "the most current medical guidelines."

The amendment largely duplicates a provision already in the bill which requires that States test those convicted of prostitution, a crime relating to sexual assault, or a crime relating to intravenous drug abuse.

The only thing that is novel about this amendment is the requirement that prison officials test prisoners who pose a "direct threat" of infection to other prisoners. Aside from those listed above, the amendment would allow prison officials to exempt many incoming inmates from the testing requirement. While the intent is no doubt laudable, the vagueness of this language lends itself to inconsistent, and perhaps unconstitutional, application by prison officials.

Who exactly constitutes a "direct threat" to other prisoners? Under the Skelton amendment, would every inmate who committed a violent crime, or who carried a dangerous weapon while committing the crime, be targeted for an AIDS test? Is there a constitutionally acceptable way to predetermine which inmates will engage in high-risk activities while in prison, and which will not? Which prisoners, in other words, are likely to engage in unprotected, consensual sexual acts with other prisoners, or violently assault other inmates, while in prison? Under the Skelton amendment, prison officials would have to find an acceptable way to reach this determination.

Suppose a State decides that all inmates who admit to previous homosexual activity constitute a "direct threat" to their fellow inmates? Would this be a constitutionally valid distinction? Or, suppose that a State's screening procedure results in the testing of disproportionately high numbers of minority inmates?

No, Mr. Chairman, the Skelton amendment will not work. The Bureau of Prisons already tests every incoming prisoner for a curable venereal disease, syphilis. Surely AIDS represents a greater threat to the health and safety of the inmate population than does syphilis. No screening procedure will be able to adequately protect the resident inmate population, their spouses, and others from contracting the AIDS virus from prisoners who may not know their HIV status.

We already know that screening misses large numbers of HIV positive individuals in other settings, such as prenatal clinics and hospital emergency rooms, in both high- and low-risk areas. Why should we expect prison officials to do a better job at this impossible task?

The inmate population is a high-risk population, with between 2 and 4 percent testing positive for the AIDS virus. In contrast, according to Rick Olson, coordinator of infectious diseases, Federal Bureau of Prisons, the seroprevalence rate for syphilis in 1987 for inmates entering Federal prisons was only 0.39 percent. Most significantly, more than 20 percent of all prisoners testing positive for syphilis contracted it while they were in prison. Are we to assume that similar transmissions will not occur with respect to the AIDS virus? Mandatory testing for this group is an essential tool if we are going to curtail the growth of this awful epidemic.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, I thank the gentleman from Missouri for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment to H.R. 5142 offered by the gentleman from California. This amendment would require that, as a condition of receiving funds under the act, States must test all prisoners upon entry and release from prison for the AIDS virus. Thus amendment has been defeated twice—by the Health and Environment Subcommittee and by the full Energy and Commerce Committee, and should be defeated again today.

Mandatory testing of all State inmates, a policy that has been rejected by the Federal Bureau of Prisons with regard to Federal inmates, will cost States millions of dollars and thus divert limited corrections and AID resources that could better be spent on AIDS prevention and treatment. In addition, this amendment could potentially encourage the exact types of activities that it is supposed to prevent by giving inmates who test negative a false sense of security about their conditions, thus removing any incentive to alter their behavior.

Whether, and to what extent, to test inmates for the AIDS virus should be a decision made by each State based on its individual needs. As Governor Thompson of Illinois recently noted in a letter in which he opposed a mandatory testing policy:

> The General Assembly [of Illinois] considered this policy and determined that such a program would cost approximately $800,000 each year for testing, alone. If the State provided counseling and isolation for infected prisoners, the cost would skyrocket. Conservative estimates of the Illinois cost start at $3.6 million, and expenses could be as high as $58.5 million.

Governor Thompson went on to conclude that

> * * * although measures of this sort may be necessary and cost-effective in some States, I feel that such decisions should be left with those who are most suited to make them. Again, I am concerned about the possibility of Federal mandates.

Because of the exorbitant costs involved and the dubious effectiveness of mass testing programs, both the National Governors Association and the National Conference of State Legislatures have stated their opposition to the federally mandated testing of all prisoners. In addition, the Presidents' Commission on AIDS, the National Commission on Correctional Health Care, the Institute of Medicine, and the World Health Organization, among others, oppose mandatory testing of all prisoners. The reason that mass testing has been resoundingly rejected is clear: It makes no sense on either fiscal or public health grounds.

Last October the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice conducted a hearing on AIDS and the Administration of Justice. At this hearing we received testimony from numerous Federal and State correctional experts. None of these witnesses could present any evidence to support a policy of mass testing of all prison inmates. Indeed, several witnesses testified that the universal testing of inmates would cause more harm than good given the unreliability of the tests, the potential that some HIV positive inmates would not be indentified through testing and thus would remain falsely optimistic about their conditions, the possibility that disclosure of test results would be too widespread, and the tremendous costs involved in mass testings.

What every witness did agree upon was that educaton about AIDS, not testing, is the key to combating the spread of the disease among prison populations. Accordingly, the first priority of any corrections policy regarding AIDS must be education not testing with the decision of whether to test certain groups of inmates in conjunction with a general education policy made by State authorities without Federal interference.

The Shelton amendment that requires States to test for the AIDS virus all high-risk criminals, which include all those convicted of drug or sex-related activities. This addition reasonably and sufficiently addresses the concerns reflected in the Dannemeyer amendment without imposing unnecessary fiscal or policy burdens on the States.

We cannot allow legislative hysteria to dictate our AIDS policy. We must, rather, look at the facts and legislate accordingly. The facts make it clear that the Dannemeyer amendment to H.R. 5142 should be opposed.

□ 1645

Mr. Chairman, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Chairman, I yield 4½ minutes to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I rise to speak in support of the amendment to require mandatory testing of the prison population and against the Skelton amendment. H.R. 5142 mandates States, as a condition of receipt of Federal funds, to test persons convicted of prostitution, sexual assault, or crimes relating to IV drug abuse. Many of these persons will be sent to prison. However, H.R. 5142 does not provide for mandatory testing of prisoners.

I believe it would be a mistake to stop short of testing this Nation's prison population. The Dannemeyer amendment under consideration would require testing of all State prisoners at the time of entry and again within 30 days of release. In contrast, the second degree amendment would limit testing to just those prisoners imprisoned for certain categories of crimes and those prisoners the State correction officer wishes to test.

Testing all prisoners upon entry is important because the prison population is generally a high risk population. Furthermore, many prisoners may be IV drug users and thus at high risk for AIDS even though they may be incarcerated for crimes not directly related to their IV drug use. Hence, it is not valid to use the type of crime as an indication of the risk status of the prison population.

States are responsible for the general health and safety of all inmates in its institutions. Every prisoner receives a complete physical within 14 days of entry. In this physical, prisoners are tested for a host of diseases, including syphilis, but they are not routinely tested for AIDS.

It is a well know fact that the percentage of prisoners practicing homosexual behavior is much greater than the general population. We also know that sexual assault in prisons is not uncommon. Thus, in order to protect prisoners from becoming exposed to AIDS while incarcerated, we must require State penal systems to test incoming prisoners for the AIDS virus.

Notwithstanding homosexual behavior, the overcrowded and unsanitary conditions in many prisons make it virtually impossible to avoid contact with the blood and body fluid of others. For example, something as innocent as sharing a razor may bring one in contact with contaminated blood. Prisoners and penal institution employees are both frightened by the unknown risk of becoming exposed to AIDS in prison for themselves and for their families. We owe it to these persons to test incoming prisoners for the AIDS virus.

The other fear concerning AIDS in prisons is the possibility that it may serve as a conduit for spreading AIDS further into the heterosexual population. It is unconscionable that we currently release prisoners back into society without testing these individuals for the AIDS virus. Based upon a random sample of Federal prisoners tested, it is estimated that 2.5 percent of male prisoners and 3.5 percent of female prisoners are infected with AIDS, and in some areas, the numbers are much higher. These infection rates are much greater than the general population and confirm that there is an increased risk of AIDS in prison.

I believe that the only responsible course is to require HIV testing of all prisoners prior to release. And, I must stress the point that the pattern of infection upon release among prisoners is not likely to be related to the type of crime committed by the inmate. Therefore, we must not limit this program to those convicted of certain crimes. Rather, we must test all prisoners prior to release.

I urge all of my colleagues to join me in supporting the Dannemeyer amendment and in defeating the second degree amendment.

Mr. WAXMAN. Mr. Chairman, I ask the gentleman to yield.

The CHAIRMAN pro tempore (Mr. FLIPPO). The gentleman from California [Mr. DANNEMEYER] controls the time for the opposition to the amendment and the gentleman from Missouri [Mr. SKELTON] controls the time for those speaking in support of the amendment.

Does the gentleman from California yield time to the gentleman from California [Mr. WAXMAN].

Mr. DANNEMEYER. I think the gentleman can get some time from the gentleman from Missouri [Mr. SKELTON].

Mr. WAXMAN. Mr. Chairman, do I not have time in opposition to the main amendment?

The CHAIRMAN pro tempore. The gentleman does have time under his original amendment. However, at the present time we are dealing with the amendment offered by the gentleman from Missouri [Mr. Skelton] to the Dannemeyer amendment. The gentleman's time would come on his own.

Does the gentleman from Missouri [Mr. Skelton] yield time to the gentleman from California?

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Waxman].

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, first of all I want to correct a misstatement from the gentleman from Illinois. Both amendments, the Dannemeyer amendment and the Skelton-Byron amendment provide for testing prisoners entering and leaving prisons. There is no distinction between the two on this point.

The purpose of the legislation that is before us is to get going with testing and counseling so that we can reach people in this country who have the AIDS virus and to get them to change their behavior so that we can stop the spread of this disease.

If we require, as the Dannemeyer amendment would, that States test every prisoner in all of their prisons, that would use up almost all the money in this bill for no other purpose but that. There would be no money left to test people at the VD clinics, there would be no money left to test people who are coming into community health centers; there would be no money left for people who are anxious and have reason to be anxious about the fact that they may have this virus.

So it is unreasonable to mandate the States to test every prisoner. If they want to do so, they can. I think there is a good argument at the State level for them to do just that. But to mandate it in this bill would be a requirement that the States would find so very expensive.

Now what would the States do? Either they will use all the money for the prisons or they will decide to opt out of the program completely and not participate in getting any Federal funds, because the cost for them to get Federal funds would be too great. This is a States rights issue. Let the States make the decision.

But what the Skelton-Byron amendment would do is say, at least we ought to require that they test prisoners who are at high risk, who have been convicted of a sex crime or who have been convicted of drug abuse. That is reasonable, that is targeted. But let us not take limited resources that we need to deal with this overall testing and counseling program and waste them. Let the States do their own efforts as they see fit.

Now it is a purpose of testing prisoners not just to test them, the purpose would be to segregate them; let the States do that. But let us realize that is also very expensive in prisons, especially, that are now so overcrowded and where State governments are finding it very difficult to find more money to accommodate the prisons that are needed for all the people convicted of crimes in that State.

That is the reason why ordinarily a proposition that might sound good to test prisoners is not appropriate in this bill. It is not appropriate in this bill because the Federal Government should not be telling every State what to do as a condition to participating in this program because they will turn around and say, "We will not participate," and the Federal Government should not require a waste of those resources.

I urge an "aye" vote for the Skelton-Byron amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. Dannemeyer] has 5½ minutes remaining on the Skelton amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. Hall].

Mr. HALL of Texas. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Byron-Skelton amendment. It is a good amendment as far as it goes. It just does not go far enough.

I think when you read the amendment it relegates "testing to imprisonment for conviction of prostitution or a crime relating to sex assault or a crime relating to intravenous drug abuse and with respect to any individual determined by the State corrections officer under the most current medical information."

I think the first thing we should set forth here is the purpose of incarceration does not and cannot determine who gets infected after they are incarcerated. I think we are talking about a very high risk group here. Of course the State is responsible for the health and welfare of all of its inmates in the institutions. As HIV-positive prisoners are released and paroled, questions could be raised regarding the State's obligations to protect the welfare of all of its citizens and not just the prisoners.

Prisoners, once again, include the most high risk group, intravenous drug abusers and those convicted of prostitution.

In addition, homosexual behavior and IV drug abuse, although prohibited, is believed to be fairly common or difficult to completely eliminate in prison settings.

I think this can only spawn infection and if unchecked or untested it can only lead to the tragedy that has been testified to before the various committees.

When we talk about money, we have to ask ourselves whether or not it is cheaper to test them than it is to treat them.

I urge the defeat of the Skelton amendment and passage of the Dannemeyer amendment.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Texas [Mr. Hall] has just made my point. He pointed out that there are high risk cases. These high risk cases are tested: prostitution, sexual assault offenders, and those involved with intravenous use of drugs. That makes my case. That is what my amendment does.

I would also like to point out, the gentleman from Illinois suggested that my amendment does not require testing of prisoners upon their release. That is not correct. This amendment requires the testing of high risk prisoners both on entering and on leaving the penitentiaries.

Now let us look at this and be reasonable. In the State of Missouri historically there have been felonies and people convicted of felonies for things such as chicken-stealing, automobile theft, traffic offenses, the writing of checks, vandalism. Now are these people in a high risk category? Should they be tested? It would be a waste of Federal, it would be a waste of State money to do that.

What we should do is look at those who are high risk, test them upon entering, test them upon leaving and we know what we are going after there and we are spending our money on the State and Federal level wisely and correctly.

Mr. Chairman, I urge the adoption of my amendment.

Mr. WYDEN. Mr. Chairman, would the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Oregon [Mr. Wyden].

Mr. WYDEN. I thank the gentleman for yielding.

It is my understanding that mandatory testing of all prisoners, as the gentleman from California [Mr. Dannemeyer] has offered, is opposed by the President's commission. Is that the understanding of the gentleman from Missouri?

Mr. SKELTON. That is my understanding, the gentleman is correct.

Mr. Chairman, I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Chairman, how much time remains on my side?

The CHAIRMAN pro tempore. The gentleman from California [Mr. Dannemeyer] has 3½ minutes remaining.

Mr. DANNEMEYER. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. Madigan].

Mr. MADIGAN. Mr. Chairman, I reserve my 90 seconds.

Mr. DANNEMEYER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, Mr. Waxman in his comments to the House suggested that

all of the money in this bill would be consumed if the Dannemeyer amendment were adopted mandating the testing of all prisoners when they enter and when they leave. There is about $400 million per year for each of the next 3 years in this bill.

We have roughly 550,000 prisoners in state prisons in this country. The U.S. Army in testing all active duty Army personnel for the last 2 years has found that the cost of doing that is about $4 per person.

So if you multiply 550,000 times $4 per person, that is about $2,200,000. That is a lot of money, but it is a small sum compared to the total amount of funding in this bill, $400 million for each of the next 3 years.

☐ 1700

Mr. Chairman, my point is that this is a small expense item in testing all prisoners. I come back to the point of logic that I think should be considered by the Members. If we are going to test a prisoner entering a state prison routinely for a curable venereal disease such as syphilis, which is a test of the blood, for goodness sake, why should we not follow the same practice with respect to a noncurable venereal disease such as virus for AIDS?

Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I rise in strong support of the Byron perfecting amendment to Mr. DANNEMEYER's amendment. The Byron amendment strikes a judicious balance between urgent public health concerns and an overly stringent, costly prison testing requirement which States would have to enact before receiving funds under this act. In this sense, the Byron amendment improves the Dannemeyer amendment.

The Dannemeyer amendment conditions receipt of State testing and counseling block grants upon their ability to perform AIDS tests on all prisoners at two levels: prior to incarceration, and again, 30 days before release. The Byron amendment however, targets testing to those who pose a direct and compelling threat of infection to other prisoners and to the public health: Those convicted of prostitution, sexual assault, or intravenous drug abuse.

I have a number of concerns with the Dannemeyer prison testing amendment. The first is a matter of public policy. The AIDS epidemic is one of the most critical public health issues we face today. We should therefore be encouraging testing and counseling of all citizens with as few strings attached as possible. This amendment needlessly introduces a costly requirement which could seriously hamper States to qualify for funds under this legislation. Many States may simply opt out of testing and counseling grants to avoid an expensive and intrusive prison testing requirement.

In New Mexico, it is estimated that testing all prisoners will cost $200,000. This is a substantial amount of money which many see as financially burdensome with little return on the money spent. In addition, this sum would multiply as the prison population increases. In New Mexico alone the prison population unpredictably escalated 9.6 percent in 1 year.

I would also like to bring to my colleagues attention, New Mexico's program of episodic blinded testing of prison populations. This process of testing prisoners at irregular intervals without identifiers has provided the State with excellent epidemioloical data on incidence of AIDS within the State prison population.

H.R. 5142 does not prohibit prison testing. The Dannemeyer amendment would however eliminate my State's testing program which provides critical information about the rate of AIDS infection in my State. By eliminating State freedom and flexibility, the Dannemeyer amendment intrudes on States rights. I would urge my colleagues to support the Byron amendment as a thoughtful response which balances public health needs with sound public and fiscal policy.

The CHAIRMAN pro tempore (Mr. FLIPPO). If no further time is sought by members on the Skelton amendment, the Chair will put the question.

The question is on the amendment offered by the gentleman from Missouri [Mr. SKELTON] to the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 266, noes 137, not voting 28, as follows:

[Roll No. 335]

AYES—266

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Baker
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CO)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Roberts
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Waxman
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—137

Applegate
Archer
Armey
Ballenger
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Broomfield
Buechner
Bunning
Burton
Callahan
Cheney
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Craig
Crane
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Dornan (CA)
Edwards (OK)
Emerson
English
Fawell
Fields
Gallegly
Gallo
Gekas
Gingrich
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Henry
Herger
Hiler
Holloway
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Regula
Rhodes
Ridge
Ritter
Robinson
Rogers
Roth
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Vander Jagt
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—28

Badham
Barnard
Bates
Bonker
Boulter
Brown (CA)
Byron
Courter
Daub
Dowdy
Dreier
Dymally
Frenzel
Gray (IL)
Gregg
Hall (OH)
Hoyer
Leath (TX)
Lott
MacKay
Mica
Murphy
Nichols
Pepper
Roukema
Scheuer
Taylor
Wortley

□ 1721

Mr. ROBINSON and Mr. THOMAS A. LUKEN changed their vote from "aye" to "no."

Mr. BROWN of Colorado, Mr. HERTEL, and Mrs. SMITH of Nebraska changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. FLIPPO). On the original Dannemeyer amendment the gentleman from California [Mr. DANNEMEYER] has 10 minutes remaining and the gentleman from California [Mr. WAXMAN] has 15 minutes remaining in opposition to the Dannemeyer amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER], as amended.

The question was taken, and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 397, noes 3, not voting 31, as follows:

[Roll No. 336]

AYES—397

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—3

Clay
Gonzalez
Perkins

NOT VOTING—31

Aspin
Badham
Barnard
Bonker
Boulter
Brown (CA)
Byron
Courter
Daub
DeFazio
Dowdy
Dreier
Dymally
Edwards (CA)
Fascell
Foley
Gray (IL)
Gregg
Hall (OH)
Leath (TX)
Lott
MacKay
Mica
Nichols
Obey
Pepper
Roukema
Scheuer
Sensenbrenner
Taylor
Wortley

□ 1740

Mr. UDALL changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DANNEMEYER: Page 15, after line 7, add the following new paragraph:

(3) to locate any individual with respect to whom the entity has carried out such testing and determined that the individual is infected with the etiologic agent for such syndrome.

Page 15, line 3, strike "and".

Page 15, line 7, strike the period and insert "; and".

The CHAIRMAN. The gentleman from California [Mr. DANNEMEYER] will be recognized for 15 minutes.

Mr. DANNEMEYER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the whole argument on reportability as a cornerstone of public health policy can be summed up in a very succinct way, that in this country we mandate reportability in confidence to public health authorities of patients with a curable venereal disease, but except for 12 States in the Union, we do not follow the same policy for a noncurable venereal disease, like the virus for AIDS. Those 12 States, by the way, have a total of 3,377 cases, which is just 4.82 percent of the total AIDS cases in the country.

The major states of the Union in terms of population, New York, California, Florida, Texas, these are the States that have better than 70 percent of the AIDS cases in this country, and they do not follow this routine step that historically has been used to control communicable disease in our society, namely, reportability in confidence to public health authorities, and then conduct tracing.

The scientific authorities that support the concept of reportability are numerous and growing. The National Academy of Sciences recommended on June 1, 1988, that HIV infection be declared as a disease, and when it is declared to be the disease, automatically under reporting laws around the country it would have to be reported to the public health authorities.

The American Medical Association itself is kind of ambivalent about what to do about this. On one hand they have said our society should pursue a policy of contact tracing, but on the other hand they say we should have anonymous reportability. You cannot have it both ways. You would have to pursue reportability in order to pursue contract tracing.

I commend the Medical Society of the State of New York, the State in the Union that has the most AIDS cases, because they filed suit against the health officer of the State of New York, compelling that gentleman to exercise his discretion to add people who were HIV positive to the list of reportable diseases, and then contact tracing would take place.

In a recent book published by Masters and Johnson called "Crisis" they stated as follows:

> We believe that widespread testing, reporting and contact tracing programs will do more in the balance to preserve civil rights than to weaken them. With adequate attention to the details of providing the maximum degree of confidentiality, possible both legislatively and in the administration of Public Health Departments and testing laboratories, we can keep disruptions of civil liberties to a minimum while significantly increasing our vigilence against a lethal disease that could prove to be the worst natural calamity of this century.

□ 1745

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. WAXMAN] is recognized for 15 minutes.

Mr. WAXMAN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, if this amendment were to be adopted, it would create a disincentive for people to come in to be tested. The idea that someone is going to keep their names on a list is going to be a chilling notion for anybody to come in and have a test taken and then to know that if it is positive they are going to face a possible death sentence because of the disease, but then they are going to be on a list.

We have confidentiality presumably protected, but so did the District of Columbia, and their list of names got out. It became public.

The fact of the matter is that since we do not have protections against discrimination, people are going to fear coming in to be tested, and those that we most want to test in order to counsel to change their behavior will not come forward to be tested.

Mr. Chairman, we ought to leave this to the States. Some States want to and have always had lists for their public health officials to keep. Other States do not want it.

This amendment is opposed by the National Governors' Association, the State legislatures, the American Medical Association, all of the public health world; they are all opposed to it.

When I asked Secretary Bowen in our hearing did he think this was a good amendment to pass at the Federal level, he said no, so let us join in opposition to the amendment. Let the States make the decision. Do not let us force this on them.

Mr. Chairman, I yield 2½ minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would just say briefly that the studies have shown that the reporting of names discourages people from being tested.

When Oregon, my home State, for example, eliminated its requirement that names be reported, the number of homosexual men being tested went up 125 percent, and the number of prostitutes being tested went up 56 percent. It is that way in State after State. South Carolina is another example where people began to come forward voluntarily.

Mr. Chairman, I urge my colleagues to oppose this amendment as the chairman of our subcommittee, the gentleman from California [Mr. WAXMAN] has as well.

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in support of this amendment.

My State, the State of New York, has been mentioned earlier. I would like to just give a few statistics. New York State comprises nearly 30 percent of the AIDS caseload in the United States. There are presently over 14,000 reported cases of AIDS in New York, with the number of AIDS patients in New York City hospitals averaging approximately 1,500 a day. Ten percent of the AIDS cases reported in New York are female, with about 22 percent of these women having contracted AIDS through sexual transmission, with AIDS-infected partners.

As a result we are seeing a big increase in the number of babies delivered to AIDS-infected mothers, and thereby exposure to the risk of AIDS is increasing dramatically.

The cost of this is tremendous. In the city of New York we presently set aside $385 million just for AIDS each year, and the New York comptroller has projected that the annual cost to New York City in just a few years will be nearly $2 billion a year.

Mr. Chairman, as a result of all of this, the physicians in my home State have unanimously agreed and support this amendment and have agreed that reporting of a deadly communicable venereal disease is essential to controlling this epidemic. The fact that the physicians in New York, the New York Medical Society, have to sue our State health commissioner to enact routine medical steps to control this disease speaks eloquently in my opinion about the need for this amendment.

I urge my colleagues to support this bipartisan amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to a member of the Subcommittee on Health and Environment, the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in support of the Dannemeyer amendment to require States, as a condition of receiving grants for AIDS testing and counseling under this bill, to require that facilities performing AIDS tests provide information to the State health department sufficient to locate all persons testing positive for infection with the AIDS virus.

Simply put, this amendment would add infection with HIV to the list of communicable diseases for which reporting already is required.

Mr. Chairman, I long have contended that the AIDS epidemic is one of the most serious public health disasters we have seen in quite a while and that we should be treating it as such. We should not deal with AIDS any differently than we have dealt with other communicable diseases, whether they be other sexually transmitted diseases or tuberculosis. We should treat AIDS no better, no worse than other communicable diseases.

This country will never be able to adequately address this epidemic if we do not have full epidemiological data to fully assess the magnitude of infection with HIV and determine the characteristics of those infected so that we can target more effectively our prevention and control resources. Such data also would enable us to better determine the rate of infection.

Mr. Chairman, mandatory reporting of positive test results to public health authorities also is critical to conducting meaningful contact tracing. It would be impossible to conduct contact tracing if public health officials do not know who is affected to begin with. It is the responsibility of public health authorities to warn those who may have been exposed to disease in order to prevent further spread and so that those exposed may receive appropriate treatment. Let's not make the job of the public health officials impossible.

I might also point out that several States already have instituted reporting of test results. These include Arizona, Colorado, Florida, Idaho, Montana, South Carolina, Wisconsin, and Minnesota. In fact in Colorado, about 6 percent of the population has been tested for HIV, while in California, which does not require the reporting of names, only about 1 percent of the population has been tested.

Again, Mr. Chairman, I strongly support the Dannemeyer amendment and urge all of my colleagues to support it as well. Full reporting and contact tracing are integral parts of this Nation's effort to prevent and eradicate this dread disease.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Vermont [Mr. Jeffords].

Mr. JEFFORDS. Mr. Chairman, I support wider testing for people who might be infected with the AIDS virus. However, this goal will be impossible to achieve without the cooperation of those affected, particularly people who are members of high-risk groups.

I was a sponsor of the original version of the AIDS policy bill introduced by my friend from California, the chairman of the Energy and Commerce Committee's Subcommittee on Health. The primary purpose of this legislation is to provide Federal funds to expand our ability to offer AIDS testing and counseling to those who seek it.

In forming this legislation we realized that many people are reluctant to be tested, fearing that the confidentiality of their test results could be breached. Whether this fear is justified or not, it exists. Therefore, we have been very careful in this bill to ensure confidentiality and to do everything we can to encourage people to be tested.

The amendment offered by Mr. Dannemeyer is contrary to this purpose. The amendment would mandate that each State keep a list of those who test positive for exposure to the AIDS virus. Once this list is compiled, we don't know what will be done with it. Is it any surprise that some people will not want to be tested for fear of being placed on the list?

If you believe as I do, that we should be encouraging more people to be tested for AIDS, then I urge you to vote against this amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. Hall].

Mr. HALL of Texas. Mr. Chairman, I think until we require reporting, we are not going to have reporting. We are just going to have a hit-and-miss system. This policy has been widely endorsed. The President's Commission on AIDS recommended that identity link test results be reported to the public health authorities in confidence so that the public health officials could pursue further partner notification.

In June 1988 the American Medical Association called on States to trace the sexual partners of people infected with the AIDS virus. Jim Sammons, AMA's executive vice president and a man for whom this body has great respect and has heard testify on many occasions, says, "I think that contact tracing has the potential to substantially reduce the proliferation and spread of AIDS."

The gentleman from California [Mr. Waxman] stated that confidentiality would be a great problem, and I certainly agree with that, but let us look at what the track record on it is. Twelve States currently report HIV inspection and have had excellent results. At the present time, positive HIV results have to be reported to the State health department in Arizona, Colorado, Wisconsin, Alabama, Idaho, South Carolina, Mississippi, Minnesota, Missouri, South Dakota, Wyoming, and Indiana. Since these States have adopted reporting requirements, I am told that no breaches in confidentiality have been reported, and the number of persons seeking testing has increased.

I urge the passage of the amendment.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Green].

Mr. GREEN. Mr. Chairman, I rise in opposition to the amendment.

As has already been pointed out by the gentleman from Oregon [Mr. Wyden], the record is very clear what happens when a reporting requirement is imposed. In Oregon, when they switched from a requirement of using names, even with an offer of confidentiality, to anonymous testing, there was an enormous increase in demand for testing, 125 percent in the case of homosexual men, 56 percent for female prostitutes.

In contrast, in South Carolina, when mandatory reporting was instituted, there was a 51-percent decrease in the number of homosexual men seeking testing. If you want to learn more of those cases, they were both reported to the Fourth International AIDS Conference in Stockholm.

If we want to turn to the experts on this question, and we have been told this should be treated as a public health question, not a political question, the Institute of Medicine National Academy of Sciences report "Confronting AIDS" takes the position that they oppose mandatory reporting, because it would discourage voluntary testing, and they also point out to those who are interested in contact notification that "contact notification does not necessarily demand the reporting of seropositive cases with identifiers." They also go on to point out that, "for determining seroprevalence rates, well-designed population studies are more useful than ad hoc collections of cases in which the size of the underlying population is unknown."

Finally, again, for those who are saying but apparently do not really believe this ought to be treated as a public health matter, I simply point out that the American Medical Association, the American Nurses Association, the American Public Health Association, and the Association of State and Territorial Health Officers all oppose the Dannemeyer amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield 2½ minutes to the gentleman from Indiana [Mr. Burton].

Mr. BURTON of Indiana. Mr. Chairman, I do not understand this dilly-dallying that we are doing. We are facing a national health tragedy in this country, and we are afraid to do what is necessary to protect the people of America.

Dr. Alan Salzberg has done projections based on every cohort study that has been done in America. He is projecting by the year 1991 that we are going to have 263,000 Americans dead and 5.5 million carriers, and those are conservative figures. By the year 1995, we will have 1.3 million people dead or dying and 12 million carriers, and we are sitting around here worrying about whether or not we should report this stuff to health agencies.

□ 1800

Of course we should. We need every bit of statistical data we can get to draw conclusions to deal with this national tragedy that is facing this country and the world.

I am absolutely convinced that we are going to not only have reportability, we are going to have testing and on a routine basis for everybody in this country, and we are going to have contact tracing down the road. It will happen because, as the epidemic spreads, the American people are going to demand it. The only question is: Do we wait around until this thing is completely out of control before we start dealing with it in a responsible manner, or do we start dealing with it now?

This thing is not going to go away unless we find a vaccination or a cure, yet we act in this body as if it will. It will not. It will spread in an exponential manner until we come to grips with it. The problem is the longer we wait the more difficult it is going to be and the more millions of people who are going to die.

We need the statistical data to come to grips with what to do. We need to find out how it is being spread, where it is being spread, and who is spreading it. We cannot get that information with our heads in a sack, and until we have reportability, until we have testing, until we have contact tracing, in addition to education, we are not going to be able to solve this problem.

This is not directed at the homosexual community or any segment of our society. This legislation we are talking about is designated to save an protect the entire population of this Nation and ultimately the world.

We are not handling this in the right way. We have information, but we need more, and we cannot get it without reportability.

Mr. WAXMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. DANNEMEYER]. This amendment requires all AIDS testing programs to report identifying information on individuals testing positive for the AIDS virus to the State public health officer.

I wish to emphasize that Mr. DANNEMEYER has made numerous, valuable contributions to this legislation throughout the session. Seven amendments offered by Mr. DANNEMEYER have been incorporated into H.R. 5142, and I have supported him on most of these issues. However, I cannot support the amendment in question concerning reporting by name.

This same amendment was rejected by the Subcommittee on Health and the Environment and by the Energy and Commerce Committee during consideration of this legislation. It should be rejected by this Chamber.

A major goal of H.R. 5142 is to encourage persons who are at risk or who have been exposed to the disease to be tested for the AIDS virus and to seek counseling on how to protect themselves or how to avoid infecting others. I believe this amendment would have the opposite effect and actually discourage testing. Several studies illustrate the danger in this amendment that reporting by name will stimulate distrust and fear among persons of high risk, and actually discourage voluntary testing and counseling.

Introduction of mandatory names reporting in South Carolina resulted in a 51-percent decrease in the number of homosexual men who volunteered for testing and a 43-percent decrease in the number of individuals testing positive. Conversely, in Oregon, it was demonstrated that switching from mandatory reporting by name to anonymous testing led to a 125-percent increase in demand to be tested among homosexual men, a 56-percent increase for female prostitutes and a 17-percent increase for IV drug abusers.

I fail to see any benefits to be derived from reporting by name. Proponents of the amendment argue that such reporting will improve our statistics on this epidemic. However, the bill already requires demographic data on positive individuals to be submitted to the State health officer. These data will assist public health officials in understanding the pattern of the AIDS epidemic.

The American Medical Association, the American Nurses Association, the National Governors Association, and many other distinguished organizations oppose this amendment. I urge you all to join me in a vote against mandatory reporting by name.

Mr. DANNEMEYER. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, since I last came to the well on this issue I found out that a beloved member of my family may be dying of AIDS, one of my in-laws. It will not change my approach one little bit because, my colleagues, we are wasting our time here. We are wasting our time talking about reports from Oregon that I think are skewed by the eye of the interpreter. We are wasting our time because next year when maybe 35,000 people die of AIDS, the pressure will be on the 101st Congress to report, to order it at the Federal level and all States. The year after that, the second session of the 101st Congress, there may be 45,000, 50,000 60,000 people will die. I know that the Surgeon General and Dr. Ian MacDonald, the Secretary of Health, told me when we next meet in convention in 1992, 62,000 people will die that year. Folks, the pressure on you is going to be for reportability. Why are we wasting time? Why are we doing this, splitting hairs? Sooner or later the vote will be unanimous in this House for reportability to get a handle on this unbelievable plague.

Let me tell my colleagues what happened last week. It seems I am a merchant coming to the well with new horrible death statistics. Last week, 628 new cases. Last week, 328 people died, most of them young males in the prime of life.

Now, there was a young speaker that got up, somebody told me he is dying of AIDS, that spoke at the Democratic Convention, late at night, handsome, young, red-headed fellow, he said, "Please don't let anybody call us victims. Do not use the word 'victim'."

I cannot accommodate that young speaker at about midnight on Wednesday at the majority convention because I am going to tell my colleagues about some victims. Last week 14 children under 12 reported with AIDS. Last week, 9 children under 12 died. Guess what those 9 kids are, my fellow colleagues? They are victims. They are either hemophiliacs or kids whose blood was polluted with this killing disease innocently because they got a transmission or maybe babies that were infected as they were brought into this world through the mother's birth passage.

My time has expired so the Members should learn for themselves.

It said in the organ study that everything went up, as it is going up in all States. The States with reportability, only 12 States, account for 4.8 of the AIDS victims. Let us stop wasting time and get reporting and analyzing. It is a public health issue.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in strong opposition to the mandatory names reporting amendment. This amendment conditions receipt of State testing and counseling grants on State establishment of a reporting system that provides enough information that the State health department can locate those who test positive for AIDS.

The AIDS epidemic is the most compelling and critical public health issue facing this Nation. As a result, we must encourage testing and counseling of our citizens, particularly those most at-risk, in order to change those aspects of human behavior which are contributing to the spread of AIDS such as IV drug abuse.

I believe mandatory names reporting does the exact opposite. Studies in South Carolina and Oregon support my belief: South Carolina reported a 51-percent decrease in the number of homosexual men seeking AIDS testing after a mandatory names requirement was instituted while Oregon reported a 125-percent increase in homosexual men seeking AIDS testing after overturning a names requirement.

More specifically, mandatory names reporting drives away those that we most need test and counsel about modifying their behavior.

It is critical that we avoid stigmatizing those with AIDS so that they can be educated about how to prevent transmitting and spreading this terrible disease.

I would also like to point out that the Committee on Energy and Commerce dealt with this critical issue during its consideration of this bill.

At that time, we struck a good bipartisan agreement which requires States to establish AIDS reporting systems sufficient to enable States to perform detailed statistical, epidemiological, and demographic analyses on the incidence of AIDS within a State.

More importantly, this bipartisan agreement allows States to establish contact tracing programs if the State health department deems it necessary.

In closing, I strongly urge my colleagues to defeat this amendment. We must encourage testing and counseling with as few strings attached as possible so that we can overcome this epidemic.

However, in this great Nation which stands for democracy and whose constitution contains a bill of rights to protect its citizens I emphasize that there will be little comfort in defeating AIDS if we lose our compassion and humanity in the process.

Mr. Chairman, I included with my remarks a letter from the Governor of New Mexico, Garrey Carruthers, addressed to me on this subject.

The letter referred to follows:

OFFICE OF THE GOVERNOR,
Santa Fe, NM, July 29, 1988.

Hon. BILL RICHARDSON,
U.S. Representative, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE RICHARDSON: I am requesting your assistance in defeating amendments to H.R. 4757, the AIDS Counseling and Testing Act of 1988.

Although I firmly support appropriations which expand voluntary counseling and testing programs, I oppose mandating that every state must test prisoners, marriage license candidates or hospital patients. Such a decision should be made by each state and should be based on epidemiologic analysis of HIV seroprevalence and incidence of AIDS within the state.

Such discussions have taken place in New Mexico between the Legislature, the Health and Environmental Department and my office. These discussions will continue as new data are received. We would like to have the flexibility to make appropriate testing decisions for New Mexico as this disease progresses.

Projected cost to New Mexico to test all prisoners, marriage license candidates and hospital patients are $4.7 million in the first year. We have instituted episodic blinded testing in prison populations at a far lower cost. Albuquerque is designated as a seroprevalence site and New Mexico is obtaining data regarding women of reproductive age, newborns and patients in the Albuquerque Sexually Transmitted Disease Clinic, drug treatment and TB programs. We also have anonymous testing and counseling at over 30 sites in New Mexico which give us good seroprevalence data.

I believe that these amendments will place an undue financial burden on our state with very little return for the money spent. Thank you for the attention to this matter.

Sincerely,

GARREY CARRUTHERS,
Governor.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the idea of this amendment has been rejected by the National Governor's Association, the American Medical Association, the American Nurses' Association, the American Hospital Association, the Catholic Health Association, the National Conference of State Legislatures. it was rejected by Secretary Bowen in his testimony to us, the Institute of Medicine and the President's Commission both recommended that the decision be left to the States, and that is exactly what the bill would do.

I urge we defeat the Dannemeyer amendment.

Mr. KONNYU. Mr. Chairman, today I rise in strong support of confidential nationwide reporting.

The Centers for Disease Control estimates that 1 to 1.5 million people are currently infected with the HIV virus. At these epidemic proportions, the AIDS virus poses the No. 1 long-term health threat to this Nation. H.R. 5142 will establish a policy in confronting this threat. I fear, though, that without a provision for nationwide reporting, we will fall short of our goal.

Confidential reporting of HIV-positive individuals would enable health officials to track the spread of AIDS. Mandatory reporting is a standard practice in dealing with communicable diseases and an effective mode for the controlling of other sexually transmitted diseases. It is unconscionable that we should consider legislating national policy that creates a double standard in monitoring the transmission of AIDS.

While education serves as the single most effective means for slowing the spread of the AIDS virus, I believe that reporting can assist the efforts. In Santa Cruz, CA, governmental and private agencies have a total of $80,000 to $100,000 in State and county funds for AIDS education. These figures break down to about 50 cents per person in the county. I ask you—is this enough to educate our communities?

Opponents of reporting measures will argue that tracking efforts are time consuming and costly on the American taxpayer. But in a recent study conducted by Health and Human Services, officials projected that the treatment bill for those afflicted with AIDS In 1991 alone, could top $14.5 billion. The fact is—ultimately, we all carry this monumental burden that currently averages $800 per patient on a daily basis.

As we debate this controversial issue today, I would like to remind my colleagues, that AIDS is a national dilemma and should be addressed as such. Families confronted with AIDS are already dealing with the anguish of a loved one's terminal illness. The spread of this deadly disease to a spouse or to others is a tragedy which should be averted.

In this regard, I have actively supported such efforts. Last year, I sponsored similar legislation requiring doctors whose patients test positive for AIDS to confidentially notify public health authorities and to advise the patient's spouse, if married. I have also supported requirements for AIDS testing as a part of obtaining a marriage license. Today, I will continue in this vein, and urge my colleagues to support this amendment to H.R. 5142.

Mr. AuCOIN. Mr. Chairman, I urge my colleagues to vote "no" on this amendment that would require the reporting of names and addresses of every HIV-infected person to the State health officer. Let me point out that this amendment was considered and rejected by the Energy and Commerce Committee in favor of one that requires States to report statistical information without names, a method that is widely accepted and accomplishes essentially the same goal.

Mandatory reporting of names is opposed by the American Medical Association, the American Nurses Association, and the American Public Health Association among a long list of others. The public health experts of America feel that the most important thing is to encourage people to come in and get tested. But in States like South Carolina where reporting of names is mandatory, there was a 51 percent decrease in the number of men coming in to a Charleston test site.

Scaring people away from medical testing is not good public health policy. As long as people fear discrimination on the basis of HIV status, they will not be tested. It's as simple as that.

The requirement for statistical reporting already contained in this bill was a bipartisan compromise. Vote to defeat the mandatory names reporting amendment.

The CHAIRMAN pro tempore (Mr. FLIPPO). The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—ayes 5, noes 34.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 70, noes 327, not voting 34, as follows:

[Roll No. 337]

AYES—70

Archer
Armey
Baker
Bartlett
Barton
Bilirakis
Bliley
Brown (CO)
Bunning
Burton
Coats
Combest
Craig
Crane
Dannemeyer
DeLay
DeWine
Dornan (CA)
Emerson
Fields
Gallegly
Gekas
Gingrich
Hall (TX)
Hansen
Hefley
Herger
Hiler
Holloway
Hunter
Ireland
Kemp
Konnyu
Kyl
Lent
Lewis (FL)
Livingston
Lujan
Lukens, Donald
Lungren
Marlenee
McCandless
McCollum
McEwen
Michel
Miller (OH)
Nelson
Nielson
Packard
Parris
Penny
Ritter
Rogers
Roth
Schaefer
Sensenbrenner
Shumway
Shuster
Skeen
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stangeland
Stump
Swindall
Walker
Weber
Whittaker
Young (FL)

NOES—327

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Ballenger
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Cooper
Costello
Coughlin
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta

Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Payne
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NOT VOTING—34

Badham
Barnard
Bentley
Bonker
Boulter
Brown (CA)
Byron
Cheney
Conyers
Courter
Daub
Dowdy
Dreier
Dymally
Gray (IL)
Gregg
Hall (OH)
Hawkins
Leath (TX)
Lott
Mack
MacKay
Manton
Mica
Nichols
Obey
Pepper
Rangel
Roukema
Scheuer
Shaw
Taylor
Weldon
Wortley

□ 1830

The Clerk announced the following pairs:

On this vote:

Mr. Dreier of California for, with Mr. Manton against.

Mr. Boulter for, with Mr. Dymally against.

Mr. Daub for, with Mr. Scheuer against.

Mr. GUARINI and Mr. GARCIA changed their vote from "aye" to "no."

Mr. MICHEL and Mr. DELAY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. FLIPPO). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM: Page 13, after line 22, add the following new section (and redesignate subsequent sections accordingly);

SEC. 2307. CONTINGENT REQUIREMENT FOR STATE GRANTEES OF MANDATORY TESTING OF APPLICANTS FOR MARRIAGE LICENSES.

(a) IN GENERAL.—The Secretary may not make a grant under section 2301 to a State unless, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome—

(1) the State will, if not less than 0.1 percent of the population of the State becomes infected with such etiologic agent, require that, as a condition of receiving a license to be married, individuals seeking such licenses be tested for such infection; and

(2) the State will not expend Federal funds in carrying out such testing pursuant to paragraph (1).

(b) TIME LIMITATIONS WITH RESPECT TO REQUIRED LAWS.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2301, the Secretary may make a grant to a State under such section if—

(1) for each of the fiscal years 1989 and 1990, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1990, the State will establish the requirements described in subsection (a); and

(2) for fiscal year 1991 and subsequent fiscal years, the State has established such requirements.

Page 3, line 2, strike "2312" and insert "2313".

Page 3, line 5, strike "2311" and insert "2312".

Page 6, line 7, strike "2310(a)" and insert "2311(a)".

Page 6, line 14, strike "2310(a)" and insert "2311(a)".

Page 7, line 24, strike "2310(a)" and insert "2311(a)".

Page 20, line 8, strike "2310" and insert "2311".

Page 21, line 5, strike "2315(b)(1)" and insert "2316(b)(1)".

Page 21, line 23, strike "2311" and insert "2312".

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. McCOLLUM] is recognized for 15 minutes in support of his amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment which I am offering here today and which was printed in the RECORD and previously approved by the Rules Committee is one that makes the State's eligibility for grants in this bill contingent upon the State's enacting laws requiring applicants for marriage licenses to be tested for the AIDS virus if the State has an infectuous prevalence of 0.01 or more, which is 1 out of 1,000 individuals.

The problem we have with AIDS today is truly a public health problem, and it is a problem that is focused not only because this is an extraordinarily deadly disease but because if you get this virus, it takes 5 to 15 years to show up, and if it takes that long for the symptoms to manifest themselves and if you do not know you have it, you can pass it on very easily. If you are a married woman, especially a young woman and you become pregnant and you have a baby, there are very high odds that you are going to pass that virus on to your baby.

If we have people getting married in this country, young people particularly, we are talking about the very focal point of the most critical part of the population that can be affected by AIDS in the future and are currently being affected by AIDS. What we do not always understand and what we fail to fully recognize is that this is truly a heterosexually transmitted disease. It is a sexually transmitted disease that, of course, can be transmitted by needles or by an invasive blood procedure, but the most common way is through a sexual transmission. There are no problems if the virus, according to the experts, happens to appear on the skin somewhere or outside on a spoon or whatever.

Mr. Chairman, the issue or the problem here is one of the population group about which we are the most concerned. These are particularly young married couples, young married women and young mothers who are likely to unwantingly become victims of AIDS. What we need more than anything else in this legislation, it seems to me, that is missing is to provide for some assurance and some force of law out there that when the marital situation takes place and the most sexually active part of our population is engaged in those acts which can spread this disease, the partner who is entering the union on both sides understands and knows what the risks are going in and knows whether the would-be spouse, the bride or the groom he or she is about to marry, has or does not have AIDS. It is nice to hope that people are voluntarily going to submit to some kind of test and tell the other one about it. The fact of the matter is that most people in this country just do not believe they or their prospective brides or grooms are going to be infected. The disease is there. but the general populous has not recognized it yet because of the latent time factor involved in the spread of the infection versus the time when the symptoms show up.

So the most vulnerable population group, the one we should be most conerned about, the newly wedded group particularly, which is beginning to engage in sexual activities with a new partner for the first time is the very group we need to address.

My amendment does that by requiring that for the eligibility of grants under this bill every State should pass a law requiring a test of a marriage applicant to determine whether either of the intended spouses has the HIV virus or not. Then the other one knowns. It is just as simple as that.

In a couple of States where this has been tried, the problems they have had have centered primarily on people who do not want to pay the 35 bucks and are going across a State line to get a marriage license somewhere else. Why do they not want to pay it? They do not think this is that serious a problem.

The fact is that this is an extraordinarily serious problem, for the fact that they do not have the data available and they do not know whether they are exposed or not.

So, Mr. Chairman, I urge my colleagues to adopt this amendment that would put the perspective on this public health issue for the first time in a sensible fashion. If every State had to do this in order to get a grant, we would not have the problem about somebody walking across a State line to try to evade paying the 35 bucks, and we would be a whole lot better off in the process if we had this test available.

Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the McCollum amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 15 minutes in opposition to the amendment.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Chairman, I rise in opposition to the amendment to require AIDS testing and counseling as a prerequisite for a marriage license.

My own State, Louisiana, was the first to enact such a requirement and it was the first to repeal the testing requirement after a year's experience. Testing proved to be an unworkable idea in Louisiana and was repealed. Let's not force the same mistake on all of the States.

Recently I asked our former colleague, Gov. Buddy Roemer, why he supported the repeal of premarital AIDS testing in Louisiana. He wrote there were two principal reasons.

First, many Louisiana citizens felt this expensive test was an economic hardship. More and more couples were getting married in other States in order to avoid the cost of the test. I might note that the gentleman's amendment prohibits the use of Federal funds to pay for premarital AIDS testing.

Second, Governor Roemer wrote, there were a significant number of false positive results which raised serious doubts about the test's reliability. This needlessly caused anxiety to those who tested falsely.

Governor Roemer also noted that "such a requirement does nothing for those groups with the highest risk of contracting AIDS." Based on this rationale, the State of Louisiana ended its premarital AIDS testing requirement this summer.

Mr. Chairman, couples applying for marriage licenses are at a significantly lower level of risk for AIDS infection. The additional cost of AIDS testing, estimated to range from $45 to $100, imposes an additional burden on couples seeking to marry. The disruptive effect of false positive tests on these couples should be considered in judging mandatory premarital testing.

The issue of premarital AIDS testings should be left to the individual States. My own State's Governor and its State legislature have spoken on the issue: they do not want to require AIDS testing as a condition for a marriage license.

We are faced with a terrible and tragic health crisis. We must devote our resources to finding a prevention and cure for this scourge. We must develop compassionate treatment and support services for those who have the disease. Surely, there are much higher priorities for the scarce Government resources we have in the fight against AIDS than mandatory premarital testing.

I urge defeat of the amendment.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, after Roe versus Wade, the abortion decision, some Members took the well here—I was not here that year—and they said that this will be with us every year as long as we live. Now a new twist has happened in our country just in the last week as to whether or not some people even said that out of an evil some good can come, and we will or we should, as one commission said, tolerate using fetal tissue, live or dead, in medical experiments. That is going to be with us for the next 20, 30, or 50 years, as long as we can look into the future.

This amendment that is before us right now will be back next year and the year after and the year after that, and it is going to keep coming back.

What those of us who refused to support this amendment on the testing of those applying for marriage licenses are going to be reminded about today is every time we pick up a newspaper and read about some married person looking to sue the United States or a State or some court of their spouse because they were given a fatal disease on their honeymoon or at some point thereafter and nobody was there in the public health service to protect them.

I am honestly telling the Members that I do not understand the mental reasoning of some people in this Chamber when over 41,000 people have died of AIDS, and by the year 1993 the figure will be over 300,000 dead people, and that is approaching the fatalities of World War II in every single theater of operation from subs under the water to every air theater and every ground conflict where we lost about 300,000 people.

□ 1845

This is an enormous problem, and how anybody can take the floor of this House and say that we cannot protect men or women who are going into a marriage contract the way we protected them in most States for syphilis and every other communicable disease under the sun, but we are not going to protect them from the one that is the most fatal of all of them and the one that is so painful in death that the death process can drag out for 7 or 8 years in some cases—how can we tell our fellow citizens we are not going to demand this accountability in the marriage license procedure is beyond me.

Mr. Chairman, I understand the gentleman from California [Mr. WAXMAN], who knows that I consider him to be a hard-working, good Congressman; he told me that on the last vote, which is still shocking to me nevertheless, that he is trying to blunt the acceleration rate of the growth of AIDS by not scaring off the high-risk victims, and there may be some merit in that argument. Some of my colleagues have admitted to me after the last vote that probably this whole House is going to vote for reportability when the death toll is 60, 70, 80 thousand dead people every year.

Mr. Chairman, how will my colleagues answer to any young couple getting married that they are not going to vote for this amendment? It is beyond me. I do not see any argument against this one.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. Madigan].

Mr. MADIGAN. Mr. Chairman, under the amendment offered by Mr. McCollum, States with more than 0.1 percent of the population infected with the AIDS virus must require mandatory AIDS testing of all marriage license applicants in order to receive Federal testing and counseling funds.

I am opposed to a Federal mandate for AIDS testing for marriage licenses because I believe little benefit will result from it. We already have proof of its ineffectiveness. It has been tried in Louisiana and in my home State of Illinois, and it has not had the desired effect. The State of Louisiana has already repealed its law. In Illinois after 1 year, only 9 people out of 75,000 tested positive for the virus, and it is estimated that to date, Illinois newlyweds have borne a total cost of $400,000 for each identified case of AIDS.

The enormous burden of large numbers of marriage license applicants also places an undue burden on public health programs, community service organizations, and laboratories, diverting resources from the important task of testing persons at high risk. Persons most likely to be HIV infected are least likely to get married.

It has been argued that the goal of premarital testing is to protect unborn children. However, that goal is certainly achieved in a more direct and cost-effective manner by a provision in the bill that encourages women to be tested when they seek family planning services.

The States should have the flexibility to decide the issue of premarital testing in the context of their own public health programs. Nothing in H.R. 5142 prohibits a State from enacting such a requirement. Moreover, the Federal Government has never before interfered in the prerogative of the States to regulate marriage, and I do not think that now is the time to reverse this policy.

I urge my colleagues to join me in a vote aganst this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Dannemeyer].

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman from Florida [Mr. McCollum] for yielding this time to me.

Mr. Chairman, I rise in support of this amendment.

I would like to respond to the gentleman from Illinois [Mr. Madigan] that the Illinois Legislature considered the possibility of repealing this law this year, and by a vote of 80 to 37 they voted to keep it.

There were two polls taken in 1978 indicating widespread public support for premarital testing. A Chicago Sun-Times metro poll taken in early summer 1987 found that 79 percent of those questioned favored premarital blood testing. A Gallup poll in the June 13, 1987, edition of the New York Times found that 80 percent of the public favored testing of marriage applicants. In addition, a poll of internists in October 1987 found that 61.6 percent of the internists believe that AIDS testing should be required as a part of premarital testing.

Mr. Chairman, the irony of this issue is presented quite clearly when we analyze it. In 24 States in the Union today in order to get married one must get a test of their blood for the presence of a curable venereal disease called syphilis. So profound is the policy of our law to stop, if we can, the transferability of a curable venereal disease.

Now, Mr. Chairman, we are talking in this amendment about testing for the presence of a noncurable venereal disease, and the incredible thing about the consideration in the amendment was that we would even balk about doing it because the question should be: Why in the world are we afraid of asking people who want to get married who then create new life that they find out their status? Because not all women who are HIV positive give birth to children who are HIV positive? But many do.

My colleagues, we should concern ourselves not only for the living in terms of what their status is when they get married, but also for the children that they bring into the world.

One lady who was not tested was heard to say after she was found to be positive and gave birth to a child that is HIV positive that she would not have aborted that child had she known about it, but she certainly would have evaluated whether or not they made the decision to have the child at the time the decision was made in that family unit to bring a child into the world.

My colleagues, we should have the courage to stand here and suggest in this modest amendment by the gentleman from Florida [Mr. McCollum] that the States of the Union should be asked, indeed required, to test applicants as a condition of getting this Federal money.

What we need to recognize is that, if we continue on the course that the House is working its way on this issue today, we are condoning and sanctioning setting up a separate standard for dealing with a noncurable disease, which I find absurd. If existing procedures for dealing with communicable disease and preventing the transmissibility have worked effectively for decades in America, it should work also for preventing the transmissibility of a noncurable disease.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DeLay].

Mr. DeLAY. Mr. Chairman, twice in one day I have had to stand before my colleagues and oppose my good, conservative friends on this side of the aisle. I do so because I fear that sometime when we get wrapped up into an issue we tend to forget the practical application of that issue.

When I was in the Texas Legislature, I was responsible for removing blood testing as a condition of getting married because it was proven in the State of Texas over 10 years that it had no effect whatsoever on locating people with communicable diseases, especially sexually transmitted diseases.

Mr. Chairman, this will not work. No matter how well intentioned, it will not work, and what my colleagues would be doing by passing this amendment would be to put a burden both monetarily and practically on people that are trying to get married when it is totally unnecessary.

First off, in Texas they have passed such a bill, and they are looking at it anyway with more restrictions on it than this one.

So, let us not spend this kind of money, the $400,000 for each case that would be idenified by this program. Let us defeat the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

The SPEAKER pro tempore (Mr. Flippo). The gentleman from Florida [Mr. McCollum] has 5 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, this issue is not a simple issue. A lot of people say, "Well, why have testing? It's an extra burden."

Mr. Chairman, the gentleman from Texas, for whom I have great respect, is quite right in the sense that most of the communicable diseases we have had have not been in a crisis stage lately because we have developed cures for syphilis and gonorrhea for the most part, and many of the diseases that have affected us in my lifetime after polio have been conquered, simply they have not been deadly diseases.

So, Mr. Chairman, I can understand why the blood test has become less popular in recent years for marriages. The fact of the matter though is that this doggone thing, AIDS, the HIV virus, is absolutely deadly.

Everybody I have talked to, everybody in the medical profession, says that it is unlikely we will ever get a cure for it. There will not be a cure because it genetically weds itself to the T helper cell in the body when it goes in there in the blood system, and there is no way to get it out of there the way it is structured. And it kills that helper cell. It is the very cell that provides the body immunity to other diseases. It is a very old organism. It is a deadly virus.

Maybe someday—maybe—we will have a vaccine to prevent AIDS, but certainly not a cure. So I think when we are talking about blood tests and talking about tests of any sort, talking about marriage license tests, we have to distinguish the whole idea of the past from what this whole concept is here with the HIV virus.

The fact of the matter is the Illinois experience, as the gentleman from California pointed out, is such that they took this so seriously despite the fact that they only have one case in 7,000 that have shown up in their tests that the legislature chose overwhelmingly to keep the test this spring. The fact of the matter is that this amendment that I am offering would not require the State of Illinois to have a test to get a grant because it is only one in every thousand. It would have to show up at that higher rate before this provision that I am offering would kick in, and theirs is one in every 7,000. We are going to see in everybody who studies this that the people over at Walter Reed, the Center for Communicable Disease studies, everybody involved in it, predicts it, that we are going to see a very rapid increase now in the heterosexual spread of this disease. So the figures we have seen so far are not comparable to what we are going to see over the next few years.

Mr. Chairman, again it is not something that can be detected by looking at someone. It might take up to 15 years for that person to get the disease. In the meantime they can spread it around. And it is in the marriage context that this amendment of mine goes to and the newly wed people.

My colleagues, do we want our young married couples, and our young women and pregnant mothers to get this disease and not know about it? I think not.

The responsible thing to do is to pass the McCollum amendment in only in those rare cases where the infectious rate has grown to one out of a thousand, require the States to have a marriage license test for this. Half of the States already have a marriage license test. At least half of those that are involved in getting this grant program require that part of that marriage license test be for the HIV virus so that the spouses to be married, the young couples coming together, can know it.

Mr. Chairman, I think that anything less than passing this amendment is absolutely a sham on the American public in this legislation to have any kind of effect that we want to have. We need to have this test. If we do not have tests, and if we do not have contact tracing, and if we do not have communication going on, the public health sector of this is going to get absolutely out of control in the next few years, and we are all going to regret it here today.

Mr. Chairman, I reserve the balance of my time.

Mr. BRUCE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida.

The McCollum amendment would require States to test applicants for marriage licenses. The AIDS test, and the appropriate attendent counseling, does help slow the spread of the virus when it is made available to members of high-risk groups. However, we should not be testing everyone. We cannot afford it and it does not make sense.

In general, people seeking marriage licenses in most parts of the country are at low risk for infection with the AIDS virus. This is true even in those States where the infection rate exceeds the 0.1 percent threshold that triggers the McCollum amendment's requirements. The statewide infection rate tends to reflect the extent of infection in urban areas among people unlikely to marry—homosexuals and drug users—and to have little or no bearing on the likelihood of infection among marriage license applicants in the State as a whole.

My home State of Illinois requires the AIDS test for marriage license applicants. We have tried it and we do not think we like it. The Governor of Illinois has already written the Illinois delegation asking that we oppose any Federal mandate for marriage license AIDS testing. And Illinois has already moved to repeal this law.

People in my district in rural Illinois are at low risk for AIDS. In fact, in Illinois we have found that the most critical population is made up of illegal intravenous drug abusers and their sexual contacts. Why should people in my district have to pay for an AIDS test? The test now costs between $30 and $200 in Illinois. The cost of compulsory AIDS testing nationwide could run between $218 and $315 million per year. And no matter who pays the cost massive premarital AIDS testing would divert urgently needed resources such as laboratory facilities and counselors away from more productive AIDS control efforts.

People in my area seeking marriage licenses are not at risk of AIDS. The only thing they are at risk of is the disruption of waiting up to 4 weeks for test results and the trauma that comes with a false positive test result. The Office of Technology Assessment has estimated that when a very low-prevalence population is tested the false positive rate can be between 9 and 33 percent. In Illinois we have tested 75,000 marriage license applicants and found by midsummer nine AIDS virus infections—at a cost of $400,000 per identified case of AIDS.

Let your State public health officers follow the AIDS Control Program that makes the most sense for their area. Don't tie their hands by forcing them to misallocate testing resources where they are not needed. Vote "no" on mandatory marriage license AIDS tests.

Mr. WAXMAN. Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield back the balance of my time, while urging a yes vote on the McCollum amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 91, noes 304, not voting 36, as follows:

[Roll No. 338]

AYES—91

Applegate
Archer
Ballenger
Bartlett
Barton
Bilirakis
Bliley
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Coats
Coble
Coughlin
Craig
Crane
Dannemeyer
DeWine
Dickinson
DioGuardi
Dornan (CA)
Emerson
Fawell
Fields
Gallegly
Gallo
Gekas
Gingrich
Goodling
Hammerschmidt
Hastert
Hefley
Henry
Herger
Holloway
Hunter
Hyde
Ireland
Konnyu
Lagomarsino
Latta
Lewis (FL)
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Marlenee
McCandless
McCollum
McEwen
McMillan (NC)
Michel
Miller (OH)
Moorhead
Myers
Nelson
Nielson
Oxley
Packard
Parris
Petri
Regula
Rinaldo
Rogers
Roth
Saxton
Schaefer
Schuette
Schulze
Shaw
Shumway
Shuster
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Solomon
Stangeland
Stump
Sundquist
Swindall
Vander Jagt
Walker
Weber
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOES—304

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Armey
Aspin
Atkins
AuCoin
Baker
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bruce
Bryant
Buechner
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons

Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Schneider
Schroeder
Schumer
Sensenbrenner
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—36

Badham
Barnard
Bonker
Boulter
Brown (CA)
Byron
Cheney
Conyers
Courter
Daub
Dowdy
Dreier
Dymally
Ford (TN)
Gray (IL)
Gregg
Hall (OH)
Hawkins
Kemp
Leath (TX)
Lott
Mack
MacKay
Manton
Mica
Nichols
Pepper
Ridge
Roukema
Russo
Scheuer
Taylor
Valentine
Weldon
Wilson
Wortley

☐ 1914

The Clerk announced the following pairs:

On this vote:

Mr. Dreier of California for, with Mr. Manton against.

Mr. Boulter for, with Mr. Dymally against.

Mr. Daub for, with Mr. Scheuer against.

Messrs. SMITH of Florida, ENGLISH, and RAHALL changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. FLIPPO). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DANNEMEYER: Page 12, after line 14, add the following new paragraph:

(5) if the applicant is a hospital, the applicant will, if not less than 0.1 percent of the population of the State becomes infected with such etiologic, agent, routinely test for such infection any individual—

(A) who is admitted to the hospital as an inpatient;

(B) who is not less than 15 years of age and not more than 49 years of age; and

(C)(i) who will undergo surgery; or

(ii) whose blood will be tested pursuant to the purpose for which the individual is admitted to the hospital.

Page 12, line 11, strike "and".

Page 12, line 14, strike the period and insert "; and".

The CHAIRMAN pro tempore. The gentleman from California [Mr. DANNEMEYER] will be recognized for 15 minutes.

Mr. DANNEMEYER. Mr. Chairman, this amendment would say that in any hospital in any State of this country where the incidence of the virus is 0.1 percent or higher, we would require that hospital admittees between the ages of 15 and 49 be tested for the virus for AIDS.

The amendment provides that if the person who is asked to be tested chooses not to be tested, they have the privilege of opting out of the requirement that they be tested. In other words, they can say, "I don't choose to be tested," which I think protects their civil rights.

The reason that we need information as to the extent of the virus in our society in terms of age groups and population and regions is that before we can develop a rational public health response, we have to know how many people are infected.

We know that 7 percent of the patients who have been admitted to the emergency room in the Baltimore City Hospital are HIV positive.

We know that in six hospitals around the country, the CDC has contracted to have tests made of applicants to those hospitals in order to determine who is HIV positive.

Anyone who has entered a hospital, and that I do not think excludes anybody in this Chamber in their lifetimes, knows that routinely a blood sample is taken from your vein.

☐ 1915

Routinely tests are conducted on that blood sample. My point is that requiring that in these 15 States where this requirement would require that we test hospital admittees for the virus for AIDS, there would be no additional intrusion into the lives of the persons being tested. Their blood is already being tested for a variety of conditions in order to determine the proper treatment that the physicians and personnel in the hospital desire to extend to the patient coming into the hospital.

This is the basic reason as to why we need this information. You cannot organize and direct public health responses to this epidemic until we find out who has it and in what areas who has this virus.

Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 15 minutes.

Mr. WAXMAN. Mr. Chairman, I want to state that the amendment is opposed by the American Medical Association, American Nurses' Association, American Hospital Association, the Catholic Health Association, the National Governors' Association, the National Conference of State Legislatures.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I rise to speak in opposition to the amendment offered by Mr. DANNEMEYER which would require hospitals to routinely offer AIDS testing to patients admitted for surgery or blood work between the ages of 15 and 49. Such testing would be required in States where at least 0.1 percent of the population is infected with the AIDS virus.

Proponents of routine testing of hospital patients have advocated such testing on the basis of protecting health care workers. Yet, the major organizations representing health care workers and providers—including the American Medical Association [AMA], the American Nurses Association [ANA], and the American Hospital Association—have argued that the best means of protecting workers is to require that such workers use "barrier protections" whenever they handle any blood or body fluid. Current HHS guidelines require that all hospital patients be treated as HIV positive and that appropriate precautions be taken through the use of barriers such as gloves, gowns, and masks.

Public health experts and hospital administrators feel that, if general testing programs were instituted, health care workers might stop using precautions around patients who test negative. This would be a significant problem because the HIV antibody test sometimes mistakenly identifies certain people who are infected as uninfected—false negatives—and because the test does not immediately identify HIV-infected persons who have not yet developed antibodies to the virus.

In general, hospital inpatients represent a population of low risk for AIDS. Since virtually all persons admitted to the hospital have blood drawn, this amendment, in effect, requires routine testing of all persons admitted to hospitals between the ages of 15 and 49 in selected States. According to the American Hospital Association, over 20 million persons under age 65 were admitted to U.S. hospitals. Obviously, offering routine HIV testing to such a large population will be extremely costly even though this amendment will only apply to States where more than 0.1 percent of the population is infected.

Since there are no obvious benefits of routine hospital testing, I agree with the AHA, the AMA, and the American Nurses Association in their opposition to the amendment.

I urge my colleagues to join me in voting against this amendment.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. Pursell].

Mr. PURSELL. Mr. Chairman, I rise in opposition to the amendment.

This amendment is strongly opposed by the major health-provider organizations, including the American Medical Association, the American Nurses Association, and the American Hospital Association.

The scope of this amendment is enormously broad, mandating the routine testing of virtually all persons admitted to a hospital.

Last year over 20 million persons under the age of 65 were admitted to hospitals. The financial implications associated with the testing of this number of people are mindboggling, particularly in light of insurer's refusal to reimburse the providers and patients for testing which is not diagnostically related.

This amendment will not increase protection for health care workers from HIV infection. On the contrary, public health experts fear that, if such a general testing program were instituted, health providers would be less cautious around patients testing negative and less inclined to take preventive measures. This is a significant problem since the AIDS test does not always identify HIV-infected persons.

The best way to protect health care workers, is not by requiring routine testing, but by requiring such workers to use barrier protections, such as gloves, masks, and protective eyewear whenever they handle blood or body fluids. This is the approach endorsed by the Centers for Disease Control and the Occupational Safety and Health Administration.

The public health community is also very concerned about increasing the pool of inaccurate test results or false positives associated with a general testing program.

The general hospital population is not a high risk group for HIV infection. Studies have demonstrated that HIV testing in low risk populations result in a false positive rate of 9 to 33 percent. Imagine the social and psychological effects on patients who receive a false positive test.

This amendment would create unsound public policy. I urge my colleagues to oppose it.

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. Burton].

Mr. BURTON of Indiana. Mr. Chairman, the gentleman from Michigan just stated that the financial implications for testing are very high. I submit to the Members that at a cost of $100,000 approximately or more for each person who gets AIDS, and we multiply that by the hundreds of thousands that ultimately will get the virus, if we do not have a testing program, the testing itself is insignificant. It pales compared to the overall costs of hospitalizing these people, taking care of their health care needs.

One of the arguments against testing is that it is going to drive the epidemic underground. Col. Donald S. Burke, who is the Chief of the Department of Viral Diseases at Walter Reed Army Hospital, and his responsibilities include the design, conduct, and quality control of the Army HIV testing program, had this to say, and I hope everybody will pay attention to this. I think it is very important. He said in his testimony before the Commission on AIDS, in talking about widespread testing of AIDS not just in hospitals, he said, "the misconception No. 7 is wide-scale screening for HIV will drive the epidemic underground."

This is an expert, and here is what his answer was, fact, to date only 75,000 HIV-infected persons have been diagnosed as HIV-infected through the alternative test site programs. This represents only about 5 percent of all the HIV-infected persons of the United States. Restated, that means that 95 percent of the HIV-infected Americans remain totally unaware of the fact that they can transmit a fatal communicable disease to their sexual partners. As a direct consequence of a national failure to encourage wide-scale routine testing, the epidemic is already underground.

Think about that. Pay attention for just a moment. Ninety-five percent of the people who are infected with HIV who can carry this disease in their body for 7 to 12 years who can convey it to other human beings through sexual contact do not even know they have the virus, and yet we in this body continue to fight testing even in the hospital. It makes no sense.

We need not only testing in hospitals, we need routine testing for everybody in this country so we can find out how the disease is spread, where it is spread and where it is spread most prevalently in this country. To do less is to run around with our head in a sack trying to get a handle on this thing.

I am telling the Members that we are facing a pandemic unparalleled in the annals of American history, in the annals of human history, and to dilly-dally on this thing is to run the risk of a cataclysmic experience in the health field unparalleled in this country's history. We cannot wait. We need to get on with testing, and this is a good first step.

□ 1930

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Andrews].

Mr. ANDREWS. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in strong opposition to this amendment to the AIDS Federal Policy Act. It would require routine testing of all hospital patients for HIV infection. It would be a step backward as we are about to establish a national policy on AIDS. We need this bill to stop the spread of AIDS.

The premise of the bill is sound. It encourages those at risk of HIV infection to seek testing and counseling. But this misguided amendment threatens the objectives of this bill.

The general hospital population is not at high risk for HIV infection. A recent study of hospital patients shows that the incidence of HIV infection does not vary from the general population—about 3 people infected per 1,000.

The President's Commission on AIDS opposes hospital testing because it will not help prevent HIV infection of hospital workers. The Commission fears that it could have the opposite effect. Workers might stop using caution around patients who test negative. The policy should be that hospital workers need to protect themselves around all patients because the HIV test is sometimes mistaken.

The American Medical Association, the American Hospital Association, and the American Nurses Association oppose this amendment. The Institute of Medicine believes that mandatory testing programs would take resources away from educational and voluntary programs that are more cost effective.

This is what the health community is telling us about broad based HIV testing proposals. As responsible legislators, we should listen.

The cost of this amendment is staggering. It would cost the State of Texas $41 million. It would cost the Nation $600 million. That is 1½ times more than this bill authorizes for the fight against AIDS.

Is this how we want to allocate scarce health resources in this era of fiscal restraint?

The answer is no. We cannot let unfounded fear guide our actions as we establish a national policy on AIDS. The only responsible course of action is to oppose this amendment.

Mr. WAXMAN. Mr. Chairman, I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. Flippo). The gentleman from California [Mr. Dannemeyer] has 9 minutes remaining.

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Florida, [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I guess I should not be too disappointed, but I am disappointed that we do not appear to be taking this issue on testing and the magnitude of what I think is likely to happen as seriously as maybe it should be. Maybe I should not be disappointed. I saw it at our Republican Convention in the platform committee. Most Americans do not understand the gravity of this problem.

I hope I am wrong. I hope the studies that Walter Reed Army Hospital has done are not accurate. But they do project that by 1990 we are going to have as many as 40 percent of the beds in New York City occupied by patients with AIDS. They said that better than half of the prostitutes on the streets of this city right now have AIDS, and that it is being rapidly transmitted heterosexually with no ability to detect.

I cannot imagine why we will not adopt the gentleman's amendment on hospital testing. I cannot imagine why all of the hospital associations and doctors and nurses and so on oppose this. I have to conclude they are being very selfish and cautious and worrying about liability and a lot of other things that administrators worry about, and I do not like to make that conclusion. I hope I am wrong about that.

The fact is Mr. Dannemeyer's amendment does not require the hospital to do any testing at all. I do not know how many realize that. This amendment simply requires that in those States where it is applicable, the 17 States that Mr. Madigan cited where it would actually apply, it requires the hospital to offer and encourage all of these admittees who have the HIV virus tested or the test made for them, and requires them to offer and encourage it. It does not require the test to be done.

I think we have an obligation as a Congress, as a legislative body and policymaking leadership group to encourage people to get this test. They come into a hospital and they will be tested anyway for their blood, why should they not be encouraged as this is a deadly disease, why should they not learn whether they have it. Why should not the public health officials know, why should not we have the kind of public health scrutiny that this requires.

This is a very, very simple amendment. I do not see a danger posed to anybody by it. I do not see why anybody is really opposed to it. It is beyond me to understand why anybody would oppose this amendment. Again, it is not a mandatory testing procedure at all under this amendment. It simply would require the offering and the encouragement, sort of saying we endorse the idea that the hospitals go out and encourage this test so people who come in and are getting blood tests anyway can find out whether or not they have AIDS.

I urge the adoption of the amendment.

Mr. AuCOIN. Mr. Chairman, I rise in strong opposition to this amendment which would require virtually all hospital patients who enter health care facilities to be tested for HIV. This amendment is probably the most misguided of the more than a half dozen being offered by the other side of the aisle.

It is not going to help the doctors or the nurses. It is not going to help the patients. It is not going to help us combat the spread of AIDS.

Every single hospital association that I have heard from is opposed to it.

The AMA is opposed to it.

The American Public Health Association is opposed to it.

The Conference of Local Health Administrators is opposed to it.

If the reason behind this amendment is the protection of health workers, why are they opposing it?

As put to me by the AHA and ANA, "We cannot afford to let fear guide our actions * * *"

The Center of Disease Control has reported no cases where health care workers have contracted HIV. In fact, they continue to take the same extraordinary cautions that they practice for avoidance of other fatal bloodborne diseases such as hepatitis B.

Furthermore, in a health care system that is straining to provide safe care for the indigent and needy, how can we justify this added burden? How can we ask 20 million individuals to add $65 to their hospital bill for mandatory testing?

In light of this evidence, this amendment seems to have its roots in fear and paranoia. By opposing this amendment we say that we will not bow to ignorance. We will not let fear make policy. And we will not let hatred cloud our judgment and common sense.

Join me in defeating this harmful and misguided amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. Dannemeyer].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 89, noes 302, not voting 40, as follows:

[Roll No. 339]

AYES—89

Applegate
Archer
Armey
Bartlett
Barton
Bentley
Bereuter
Bliley
Brown (CO)
Bunning
Burton
Callahan
Coats
Coleman (MO)
Combest
Craig
Crane
Dannemeyer
Davis (IL)
DeLay
DeWine
Dickinson
Dornan (CA)
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gekas
Gibbons
Gingrich
Hansen
Henry
Herger
Hiler
Holloway
Hunter
Johnson (CT)
Kasich
Konnyu
Kyl
Lagomarsino
Lent
Lewis (FL)
Lightfoot
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Marlenee
McCandless
McCollum
McCrery
McEwen
Miller (OH)
Moorhead
Nelson
Nielson
Packard
Parris
Penny
Regula
Rhodes
Rinaldo
Ritter
Rogers
Roth
Schuette
Sensenbrenner
Shumway
Shuster
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Upton
Vander Jagt
Vucanovich
Walker
Whittaker
Wolf
Wylie

NOES—302

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Baker
Ballenger
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coble
Coelho
Coleman (TX)
Collins
Conte
Cooper
Costello
Coughlin
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)

Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Lujan
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Payne
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Roberts
Robinson
Rodino
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—40

Badham
Barnard
Bonker
Boucher
Boulter
Brown (CA)
Byron
Cheney
Clay
Conyers
Courter
Daub
Dowdy
Dreier
Dymally
Gray (IL)
Gregg
Hall (OH)
Hawkins
Ireland
Kemp
Leath (TX)
Lott
Mack
MacKay
Manton
Mica
Nichols
Pepper
Ridge
Roe
Roukema
Russo
Scheuer
Shaw
Taylor
Weber
Weldon
Wilson
Wortley

□ 1952

The Clerk announced the following pairs:

On this vote:

Mr. Dreier of California for, with Mr. Manton against.

Mr. Boulter for, with Mr. Dymally against.

Mr. Daub for, with Mr. Scheuer against.

Mr. Ridge for, with Mr. Gray of Illinois against.

Mrs. Roukema for, with Mr. Hawkins against.

Messrs. WILLIAMS, TALLON, and RAHALL changed their vote from "aye" to "no."

Mrs. VUCANOVICH and Mr. EDWARDS of Oklahoma changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. CONTE. Mr. Chairman, I rise to commend the authorizing committees for bringing this important legislation to the floor.

As ranking minority member of the Labor-HHS Appropriations Subcommittee, I have worked very hard to shape the Federal response to AIDS, which—in my subcommittee—has grown from just $5 million in fiscal year 1982 to more than $1.2 billion for fiscal year 1989.

During these last 7 years, our subcommittee has grappled with many of the questions that this legislation addresses—How can we expedite the process of awarding grants and contracts for research without jeopardizing the quality of the research that is funded? How can we add the necessary personnel without micro-managing the departments or intruding on the authorizing committees' jurisdiction? How can we prepare health care providers and emergency personnel to protect themselves from infection and, thereby, keep them accessible to AIDS patients and those with HIV-infection? How can we train researchers and public health personnel, measure the incidence of the disease, expand public health education efforts, target populations that are particularly at risk, expedite clinical trials of promising new drugs, and maximize the effectiveness of counseling and testing efforts?

We have addressed each of these questions through our annual appropriations bill. And many—perhaps most—of the activities authorized in this bill are well underway. But it is a lot more difficult for the public to discern a coherent Federal policy when that policy is written into an annual appropriations bill instead of a multiyear authorizing bill. Further, it is very difficult to offer researchers, research trainees, and public health officials an environment conducive to all-out war against AIDS when that environment is subject to wholesale revision with each annual budget request.

Therefore, the real contribution of this legislation, I believe, is not whether the activities it authorizes are new, or ongoing. Instead, the real importance of this legislation is the clarification and the commitment it spells out regarding the Federal Government's approach to fighting AIDS.

This legislation will finally spell out the confidentiality protections people can expect when they seek counseling or testing. These protections are a good balance between an individual's right to privacy and the public's right to be protected from irresponsible action by an infected individual. This bill will also give hospitals, doctors, counselors, emergency medical personnel, and others the certainty of finally knowing what their rights and obligations—that is, their rights to be informed of the health risks they are occupationally exposed to, and the obligations they may have to warn others without subjecting themselves to the risk of litigation.

The bill authorizes disclosure of identifying information on an AIDS patient without his consent in certain cases where that is necessary to prevent further transmission of the infection. And it spells out clearly the freedom left to the States to set up different requirements regarding confidentiality or contact tracing if they find that another strategy is more effective or desirable for their own population.

The bill requires routine testing of certain populations that are particularly at risk of contracting and transmitting the infection, and at the same time it refuses to waste resources on excessive testing of populations where widespread testing is unlikely to produce any accurate information on, or change in, the spread of the disease.

In all of these provisions, I believe the bill is a fair balance between individual freedoms and the States' responsibility to safeguard public health—the balance set in this bill will maximize both aims.

Finally, with regard to the research authorities in the bill, I believe that what is important here is not whether these activities go beyond what has already been initiated through appropriations. What is important is that this bill can reassure patients, doctors, and researchers that there truly is a commitment to adapting the biomedical research apparatus to the fight against AIDS, and that securing this Federal commitment is no longer a battle that has to be fought from square one year after year. That is the signal these people have been waiting to see, and that is the importance of these research provisions. I'm glad to help send that signal.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of H.R. 5142, the AIDS Federal Policy Act. The bill combines several important initiatives to control and prevent the spread of the increasingly deadly acquired immunodeficiency syndrome [AIDS].

The bill principally authorizes grants for AIDS-related biomedical research, and establishes a National Commission on AIDS. In particular, the bill authorizes additional funds for AIDS research within the Public Health Service, Centers for Diseases Control, and the National Institutes of Health.

I also wish to encourage my colleagues to support in conference the 1.5 percent allocation for Indian tribes provided in the companion Senate bill (S. 1220). AIDS is becoming an increasingly troubling disease on Indian reservations. With the very degree of intratribal marriages, it's all the more important that tribal health authorities have at their disposal the resources for counseling, education, and prevention that will be available to the general population under this bill. We simply should not overlook tribal health needs as we move ahead with this vitally needed bill.

Finally, I have received inquiries from my constituents about the need for confidentiality of AIDS testing data. This bill does establish Federal protection for the confidentiality of AIDS testing and counseling records and, further, sets civil and criminal penalties for violations.

I am including for the RECORD, as well, a letter from North Dakota Gov. George Sinner in support of the AIDS counseling and testing provisions of the bill. I agree with the Governor that mandatory testing for HIV infection should be left up to the States and concur that the House should reject any onerous amendments to impose mandatory testing on the States.

State of North Dakota,
Bismarck, ND, July 27, 1988.
Hon. Byron Dorgan,
House of Representatives, Cannon Building, Washington, DC.

Dear Byron: We have received word that the AIDS Counseling and Testing Act of 1988 (H.R. 4757) will be considered by the House of Representatives in the near future. In view of the need to aggressively address the AIDS epidemic, I urge your support of this bill. I also urge your opposition to attempts to attach onerous amendments to this bill which would impose mandatory testing requirements on the states. As you are aware, there have been attempts with other AIDS related legislation to attache eligibility requirements for states and grantees which would mandate testing of prisoners, marriage license applicants or hospital patients. Any decisions regarding madatory testing for HIV infection should be left up to the states, as individual states vary considerably in terms of the current and projected impact of the AIDS epidemic and the size and characteristics of "at risk" populations. Nationwide, federally imposed mandatory testing requirements would be extremely expensive and would divert precious funding resources away from the areas of greatest need and highest cost efficiency.

I would appreciate your efforts in supporting and protecting H.R. 4757 which would assist North Dakota in remaining a "low incidence" state for AIDS.

Thank you.

Sincerely,

George A. Sinner,
Governor.

Mr. ROYBAL. Mr. Chairman, I rise today to give my enthusiastic support to H.R. 5142, the AIDS Federal Policy Act. This is a good, wide-reaching bill and I urge my colleagues to vote for it.

As a member of the Labor-Health and Human Services-Education Appropriations Subcommittee, and as the first Member of Congress to earmark funding specifically for AIDS projects, I have long sought to use every available resource to stop the spread of AIDS and to treat those already afflicted. This bill does not mean the task will become any easier, but it will unite us in the struggle through a cohesive national policy.

I congratulate Chairman Waxman for putting together a quality bill that will combat the AIDS epidemic to the best of our capabilities, while we continue the search for a cure. This bill intensifies the research effort, but more importantly right now, it confronts AIDS on an immediate level. By expanding testing and counseling, this bill serves today's victims and their families while preventing future victims.

We cannot afford the time right now to create and agree on a completely comprehensive AIDS bill. The administration hesitated at first to confront the AIDS problem, and we learned the hard way that AIDS does not wait while we debate what to do about it. While this bill does not address every AIDS issue—we still need to deal with antidiscrimination law and infant programs—H.R. 5142 establishes a National Commission on AIDS to set the groundwork for future AIDS policy that will extend into these and other related areas. I wholly support H.R. 5142, the AIDS Federal Policy Act and encourage you to do so as well.

Mr. RANGEL. Mr. Chairman, as of this month, more than 70,000 cases of AIDS [Acquired Immune Deficiency Syndrome] have been reported to the Centers for Disease Control. Over 40,000 of these Americans have died. The numbers, however, only indicate full-flown AIDS cases and not the estimated million or more persons infected with the HIV [human immunodeficiency virus] and suffering from less severe AIDS-related conditions.

Yet, despite the fact that thousands of Americans have fallen victim to this deadly disease and projections that hundreds of thousands will be afflicted by 1991, we still do not have a national AIDS policy. This lack of policy is a reflection on a lack of leadership from the executive branch. We in Congress must see that the Nation has an adequate and effective national AIDS policy.

The legislation before us—H.R. 5142, the AIDS Federal Policy Act—attempts to rectify this situation. It is a landmark in our fight against AIDS.

H.R. 5142 addresses two key components of a Federal AIDS policy—AIDS counseling and testing and AIDS research. First, the bill authorizes $400 million annually over the next 3 years for a new program of grants to support AIDS testing and counseling. Second, the legislation provides for the expansion of necessary AIDS research-related activities.

Moreover, H.R. 5142 authorizes the creation of a 15-member national commission, appointed by the President and the majority and minority leadership of the Congress, to study and make recommendations on national AIDS policy and priorities concerning research, testing, treatment, and prevention. The commission will include experts from the medical, scientific, legal, or ethical fields. It will permit the consideration of new AIDS policy issues as they arise, as well as the study of issues, such as health care financing, that were not addressed by the President's Commission on the HIV epidemic.

The AIDS epidemic will not disappear if we ignore it. Instead, our indifference, our failure to act, will result in growing numbers of AIDS cases being reported to the Centers of Disease Control.

Let us remember that these cases are not just numbers, not just names. These cases are men, women, and children—our fellow citizens. Many are minority faces who come from communities already disproportionately affected by disease and poverty.

It is hard to forget the children I have seen in Harlem Hospital—children whose little bodies are being overwhelmed by the AIDS virus. Many of these children will spend their lives in the hospital. As kind and as caring at the hospital staff is, a hospital ward is no place for a child to spend his or her life. As hard as the staff works to ease the suffering of these children, these children are still suffering. We must end this suffering—stop the spread of the AIDS virus.

As chairman of the Select Committee on Narcotics Abuse and Control, I have been particuarly concerned about the relationship between AIDS and intravenous drug abuse. While one-fourth of all AIDS cases are attributable to IV drug abuse, such abuse accounts for a majority of female, pediatric, and heterosexual AIDS cases. The link between AIDS and drug abuse must be broken. This legislation, H.R. 5142, takes us a step closer toward reaching this objective.

The time for waiting is over. We have the opportunity to enact legislation to begin an all-out attack against this dread disease. I commend my colleagues on the Energy and Commerce Committee for their work; and, I believe that we should support their efforts by enacting the AIDS Federal Policy Act.

Mr. STOKES. Mr. Chairman, I rise today in support of H.R. 5142, the AIDS Federal Policy Act. I want to commend my esteemed colleague, Congressman Henry Waxman, for his leadership in developing this crucial and long-awaited legislation.

AIDS has come to the forefront as our Nation's No. 1 health concern. It is being called the most devastating epidemic in this century. Once dismissed as a homosexual condition, AIDS is now a major worldwide concern, affecting people of all ages, sexes, and races. One issue of this disease is quite apparent; AIDS poses a serious dilemma for all people.

The AIDS epidemic poses many complex biomedical, public health, ethical, and legal questions. It has challenged the leadership of this country to offer badly needed services and resources to prevent the spread of the AIDS virus. Throughout the Nation, we hear a cry from all sectors that the Federal Government needs to take meaningful and substantial action in this regard.

H.R. 5142, the AIDS Federal Policy Act, is such an effort. This legislation addresses all the key elements identified by the medical, scientific, and public policy communities as necessary to fight AIDS—counseling, testing, confidentiality of test results, and research. It targets those populations most likely to be at risk for AIDS. Moreover, H.R. 5142 creates a National Commission on AIDS, a bipartisan, public/private sector group to study and make recommendations regarding national policy and priorities with respect to AIDS.

Mr. Chairman, I want to again commend Mr. Waxman and all my colleagues who developed this legislation. Americans want and are ready for comprehensive AIDS legislation. I urge my colleagues to support this measure and to defeat any amendments that would jeopardize the success of this effort.

Mr. WAXMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Nagle] having assumed the chair, Mr. de la Garza, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5142), to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such act with respect to research programs relating to such syndrome, and for other purposes, had come to no resolution thereon.

PERMISSION TO HAVE UNTIL MIDNIGHT, THURSDAY, SEPTEMBER 22, 1988, TO FILE CONFERENCE REPORT ON H.R. 4794, TRANSPORTATION AND RELATED AGENCIES APPROPRIATION, 1989

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Thursday, September 22, 1988, to file a conference report on the bill (H.R. 4794) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERSONAL EXPLANATION

Mr. ALEXANDER. Mr. Speaker, earlier today I was unavoidably detained and did not vote on rollcall No. 332, final passage of H.R. 5210, the Omnibus Drug Initiative Act. Had I been present, I would have voted "yes," for passage of H.R. 5210.

I request that my comments on this vote appear in the CONGRESSIONAL RECORD immediately after the vote on rollcall No. 332.

THE AIDS FEDERAL POLICY ACT OF 1988

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEISS. Mr. Speaker, I submit my entire statement in strong support of the AIDS Federal Policy Act of 1988. It contains many important provisions in our war against AIDS. For this reason, I enthusiastically support it.

Mr. Speaker, I want to express my support of H.R. 5142, the AIDS Federal Policy Act, a bill which constitutes our most comprehensive assault in the war on AIDS to date. This is a bill which provides a reasonable and necessary approach to battling the AIDS epidemic.

The legislation could have been more encompassing, and in fact in its earlier drafts, it contained important antidiscrimination provisions which I believe are essential if we are to comprehensively combat AIDS. I pledge my continued commitment to enactment of such a law, and I am sure Chairman WAXMAN shares this goal.

But H.R. 5142 contains many important provisions that will help us in our war against AIDS and for this reason, I enthusiastically support it.

I first want to thank Chairman HENRY WAXMAN for his unswerving leadership in the fight against AIDS. He has never wavered in his quest for solutions to this epidemic. I also salute the chairman of the appropriations subcommittee from which most of the funds for AIDS programs emanates Representative WILLIAM NATCHER. Without his strong leadership and support, the Federal AIDS budget would not have grown to meet the challenge of this crisis.

This time last year, CDC reported that 41,000 people had AIDS. Now, more than 72,000 people suffer from it. Increasingly, children are among those dead and dying; more than 1,000 have AIDS. In New York, 1 out of every 61 babies test positive for the virus. If ever there were a time to accelerate the national war on AIDS, the time is now.

We have before us an excellent blueprint for battle. The AIDS Federal Policy Act plots a strong national offensive by strengthening and expanding research into the nature of the disease and methods of treatment and cure. It also lays forth a comprehensive defense by providing funds for voluntary testing and counseling, programs considered by most public health experts as some of the most effective measures to stop the transmission of the virus. This bill is long overdue.

Scientists at the National Institutes of Health have learned more about the human immunodeficiency virus than any other virus, and in a shorter period of time. They report that the genetic makeup of the AIDS virus is unique within the family of retroviruses. Scientists have found retroviruses similar to HIV in cows, cats, and monkeys. They have also discovered an enzyme essential to the survival of HIV which does not occur naturally in humans. Why are these discoveries important? If scientists can develop an animal model for AIDS and if they can target both genes and enzymes unique to the AIDS virus, then it is much more likely that they will discover treatments, vaccines, and a cure for AIDS.

These scientists are among our warriors against AIDS. They need resources provided in a timely manner if they are to beat the AIDS virus at its own game. This bill would expedite the distribution of research grants. They need a warehouse of information on AIDS based on research from around the world. This bill establishes an international data bank. Indeed, this bill establishes eight new research initiatives aimed at increasing resources for, collaboration on, and access to, AIDS research.

The clinical research capacity of NIH would be greatly enhanced if this legislation were to be enacted. It would also create a program to evaluate unapproved treatments being used by persons with HIV infection, AIDS and ARC.

As in any battle, the greater the number of soldiers, the more likely the chance of victory. This bill provides for the training of individuals in AIDS epidemiology, surveillance, testing, and laboratory analysis. Further, training fellowships in psychological and social science research are provided through the National Institute on Mental Health.

The bill would also increase the number of research personnel at the Federal agencies involved in AIDS research and drug development and review. How can these agencies hope to carry out adequate and sufficient AIDS research if they don't have adequate staff? This bill would add 780 staff positions. We may like to think that increasing the Federal AIDS budget alone would abrogate the impediments currently hindering AIDS research. Such is not the case. Dr. Anthony Fauci, AIDS Director for the National Institutes of Health has testified before the subcommittee that I chair that his staffing needs have gone unheeded and that investigations into AIDS therapies have been delayed by more than a year due to inadequacies in staffing levels and availability of facilities. If this bill is enacted and funds are appropriated, he will no longer need to suffer under such conditions. This bill mandates that his requests for personnel and facilities for AIDS will have "priority" status and must be answered in 14 days. Furthermore, all requests for extramural research grants must be reviewed within 9 months. In this way, both intramural and extramural researchers are assured of timely assistance in the fight against AIDS.

Measures designed to prevent the spread of AIDS comprise the core of this legislation. This bill provides for voluntary counseling and testing with a strong emphasis on confidentiality. The goal of the two in tandem is to change behaviors, since risky behaviors are what lead to the transmission of AIDS.

Why not provide testing alone, you might ask. Denial of the consequences, misunderstanding of the test results, and severe depression often occur when testing alone takes place. Indeed, counseling is considered by many experts to be the variable which determines whether the person tested will change his or her behavior so as to protect him- or herself and those around him.

This bill provides for both pre-test and post-test counseling. How do we know that such strategies would be effective? The Institute of Medicine wrote in its recent Confronting AIDS Update, "Antibody status is a powerful piece of information * * *. Screening and testing programs must be linked to programs with adequate staff and funding to offer pre-test and post-test counseling for both seropositive and seronegative individuals." The pre-test counseling provided by this bill not only explains the meaning of the test but also offers information on AIDS prevention. Some of you might be asking why pre-test counseling must be offered if post-counseling will also be provided. Fearing the outcome of their test results, some persons may be too afraid to return to the clinic. If they do not learn how to protect themselves and others from AIDS during the iniitial visit, they may never hear this vital information.

Thus, the bill authorizes $400 million dollars to be split evenly between State health departments and clinics which target high-risk populations, such as maternal and infant health and sexually transmitted disease clinics. The clinics must obtain the written consent of every person tested. Further they must keep the results confidential, revealing them only when, and to whom, the person tested specifies in written consent.

In any period of war, opinions differ regarding the best way to proceed with the battle. Opposing many of the strategies outlined in this legislation, some Members among us are seeking to change its provisions. The rule provides for several amendments.

One amendment calls for the routine testing for HIV of all hospital patients between the ages of 15 and 50 undergoing surgery or having other blood tests as a condition for receiving grants from another provision of this bill. Why suggest such a strategy? The Members who support this amendment say that they are trying to protect health care workers from acquiring the AIDS virus in the workplace. The logic of this amendment, however, runs counter to the opinions and policies of public health experts, officials of the Public Health Service, and the major health-related organizations such as the American Hospital Association, the American Nurses Association, and the American Medical Association. If this amendment truly provided health care workers with protection, would not these agencies offer their full support rather than their disapproval?

Let me take a moment of your time to read to you some statements form these agencies and organizations.

Publications from the Clinical Center at the National Institutes of Health tell us that:

> Many patients with transmissible diseases, such as hepatitis and AIDS are not identified until several days after they've entered the hospital; others may never be identified as potential risks. In some settings, such as an emergency room, attempting to identify patients who are infection risks is impractical, if not impossible. (Clinical Center News, NIH, Jan. 1988)

The Centers for Disease Control stated as far back as November of 1986 that:

> Routine testing of all patients for antibody is not recommended to prevent transmission of * * * infection in the work place. (Nov. 1986 Recommendations)

Last, the American Medical Association reaffirmed its nontesting policy just this past July. They wrote:

> In this era of AIDS where patients may remain asymptomatic for long periods, it is especially important to treat blood and body fluids from all patients as potentially infective * * *. There is no clear need to establish a national policy for mandatory testing of patients requiring invasive procedures. American Medical Association Progress on the Prevention and Control of AIDS. (July 1988)

According to these agencies, mandatory testing of hospital admittees would not protect health care workers from exposure to the AIDS virus. In fact, such testing might place health care workers at far greater risk of infection. Needless to say, this amendment carries no marks of an ingenious plan for battle, but rather, an inhumane strategy for defeat. I urge you all to vote "no" on this amendment.

Unfortunately this is not the only deleterious amendment among to be offered. Another amendment would require antibody testing of all couples applying for marriage licenses. We need not speculate as to the repercussions of such an action; we need only examine the State of Illinois' experience with such testing to discover its unnecessary expense and ultimate futility. This past January, Illinois' law went into effect. It required that all couples be tested for the AIDS virus before receiving marriage licenses. Within 1 month, applications for licenses had dropped 60 percent from the previous year. Couples were flocking to neighboring States to avoid the expensive and time-consuming test. Of those couples who stayed and were tested, however, one group so overwhelmed the testing capacity at the Cook County Hospital that after only 3 weeks, officials no longer offered the test to couples seeking licenses.

The Illinois Chief of Public Health had tried to warn Illinois legislators He told them that the law would be ineffective and would divert funds from measures that were effective. He was right. As the New York Times reported on January 25 of this year:

> Premarital screening is an inefficient way to identify carriers of the AIDS virus and will divert already overworked AIDS specialists from helping the people most at risk for the disease.

Dr. Ron Sable of Cook County Hospital described the program:

> This is the most expensive public health program going. It's providing intensive, one-on-one AIDS counseling to the people who need it least.

Some may argue that since States have programs for premarital screening for syphilis they should also screen for the AIDS virus. Many States have abandoned syphilis screening, however, because it is expensive and ineffective. In 1978, screening discovered only 1 percent of the positive test results for syphilis, at a cost of $80 million. Screening for the AIDS virus on a national level would yield even more unsatisfactory results. The Journal of the American Medical Association recently published a study which estimated that premarital screening would detect less than one-tenth of 1 percent of all infections with the AIDS virus in the Nation and this testing would cost as much as $100 million a year.

Even if you discount the cost, premarital screening must still be considered deleterious. Since engaged couples represent a population having a very low incidence of AIDS infection, many of the positive antibody test results found through screening would be false. Indeed, the Office of Technology Assessment has predicted that as much as 35 to 70 percent of the positive test results of such a low-incidence population would be false.

How can we reconcile inflicting such needless requirements on these couples at such an exorbitant cost. We cannot. Many national organizations have recommended that this bill pass without these hostile amendments. Organizations such as the American Red Cross, American Civil Liberties Union, Child Welfare League of America, Catholic Health Association of the United States, Conference of Local Health Administrators, National Association of Community Health Centers, Inc., and the U.S. Conference of Mayors, along with many other organizations are agreed on this matter.

I urge you to listen to their advice and to the recommendations of public health experts from around the Nation: vote no on these and all other harmful amendments. Vote no on mandatory premarital testing and mandatory hospital testing, as well as "no" on mandatory prisoner testing and the reporting of names of persons testing positive. Otherwise we will impede, if not destroy, a capable and effective strategy for battle against this terrible epidemic.

This bill is based on considered advice from practitioners, service providers and advocacy groups from around the country. However, even the best of plans can be improved. Congresswoman Nancy Pelosi will offer two amendments which would improve this bill. One amendment would provide funding for early treatment programs and AIDS monitoring activities. Such practices may help to stop the physical devastation caused by the AIDS virus and slow the death toll which now rises so rapidly.

Congresswoman Pelosi's second amendment establishes demonstration grants to allow for followup mental health counseling and services for individuals testing positive for the AIDS virus. AIDS kills not only by ravaging the body's immune system but also by destroying the mind's resilience. Upon hearing of a positive antibody test, many people become angry and depressed. Some commit suicide. We cannot sit idly by while human life is wasted. In calling for more extensive mental health counseling, Ms. Pelosi is seeking to inspire and fortify those personal weapons known as hope and fortitude so that afflicted persons will have the strength to continue.

I urge my colleagues to join with me in opposing the Dannemeyer/McCollum amendments and in support of the Pelosi amendments and final passage.

COMMUNICATION FROM THE HONORABLE RONALD V. DELLUMS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable Ronald V. Dellums:

House of Representatives,
September 20, 1988.

Hon. Jim Wright,
Speaker of the House of Representatives, H-105, The Capitol, Washington, DC.

Dear Mr. Speaker: I have previously notified you of the receipt of a subpoena served on my office, issued by the Superior Court of California, Alameda County.

After consultation with the General Counsel to the Clerk, pursuant to Rule L of the House of Representatives, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
Ronald V. Dellums,
Member of Congress.

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California [Mr. Konnyu] is recognized for 5 minutes.

[Mr. KONNYU addressed the House. His remarks will appear hereafter in the Extension of Remarks.]

UPDATE ON THE SITUATION IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Owens] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, there are burning bodies in the streets of Port-au-Prince and other cities in Haiti. Some of the bodies are said to be the bodies of ton-ton macoute, the terrorist body that has terrorized the population of Haiti since the days of Papa "Doc" Duvalier.

Some of the bodies may be innocent people, but in that kind of chaos and confusion, anarchy, anything could happen.

We have had in Haiti a series of coups, military coups, one after another. The thieves have fallen out among themselves and replaced each other one after another. We started with General Namphy who was installed by the U.S. State Department when Duvalier was deposed. General Namphy pretended to go along with the constitutional process.

□ 2000

The people of Haiti surprised him and the rest of the terrorist leaders by actually going to the polls and voting for a constitution which is really a democratic constitution, a very sensible Democratic constitution. The constitution established a timetable for elections. The election process went forward, and General Namphy and his cohorts were caught by surprise and had to resort to terrorist actions on election day, murdering numerous Haitian citizens on that day and ending the elections.

General Namphy followed that with his own elections, in which he decreed that every person who signed a ballot had to hand it to a soldier so the soldier could see how he voted before it was put into the ballot box. Very few people came out to that election, and General Namphy was able to install his own puppet, Mr. Leslie Manigat. Manigat did not last very long. When he tried to assert himself and forget he was a puppet, Manigat was thrown out of office and General Namphy replaced Mr. Manigat.

General Namphy then said he would no longer pretend to adhere to the Constitution, that he would offer nothing to the people but harsh rule without end.

So, General Namphy has now been deposed by a man named Prosper Avril. Prosper Avril has been in the government for some time. He has also been in the Haitian Army for some time, and now he wants to be top dog. He is now in command, at least nominally. He is in command for a short while probably. Haiti is in a state of turmoil, chaos, and anarchy, but all is not hopeless in Haiti. We must remember that at the critical hour the Haitian people themselves created a constitution which is one of the best devised since the American constitution. A very good constitution was created. It is a very sensible constitution, and that constitution still stands.

It is possible to make arrangements in Haiti. It is possible to negotiate some kind of order out of the chaos. It is possible to get some kind of agreement from the present government. Mr. Avril is hanging on by his fingernails. He probably would agree to some kind of arrangement where a time-table is developed for elections under that constitution.

The leadership belongs to the U.S. State Department. The leadership is ours. The present administration of the United States was very much responsible for dethroning Duvalier. It was responsible for installing Namphy in the first place. It encouraged Namphy at a critical moment. It refused to go along with the constitution at a critical moment and backed Namphy instead, and now the U.S. State Department can provide some leadership which is more positive, which is more democratic, and which can get us out of the very embarrassing mess we face.

Haiti is only 90 miles from the shores of the U.S. mainland. Haiti has 5 million people. If we care about democracy, if we want to see democracy promoted in this hemisphere, we certainly ought to take more initiatives to guarantee democracy for these 5 million people. They deserve better than one military coup after another. They deserve more than a drug kingpin who is at the center of all this. John Claude Paul has not been mentioned in the last few days, but Col. Jean Claude Paul is the recipient of the South American drug mob dollars. He is probably still the most powerful person in Haiti because the South American drug mob, the same people who ship drugs into the United States, are behind Jean Claude Paul and they finance him. So it is necessary to take those steps to offer the present government some kind of negotiating deal where they could exist as a separate entity for a while until the new government is elected and they would take their chances with an elected government.

It seems to me that by using the constitution that already exists, we could bring some hope out of this dismal situation. That government would have to agree to give up John Claude Paul. That is a most difficult pill for them to swallow. Jean Claude Paul has been indicted by the U.S. Attorney in Florida. John Claude Paul has quite a number of people around him and behind him who would never agree to democratic government because that government will interfere with the drug trade that makes them rich. So it is necessary to surrender Jean Claude Paul, it is necessary to agree to some kind of timetable for a constitution, and in return for that the present military rulers ought to be given some assurances that they will at least be the legitimate army for a while.

I think our State Department is responsible for a great deal of what has happened already. Why can we not take the initiative? Why can we not build on what the Haitian people have offered? The Haitian people gave us a constitution. That constitution should be the basis for peace and a new resurgence of development in Haiti.

Haiti is a pitiful country. It is the poorest country in this hemisphere. It need not be. Its leaders over the past 30 to 40 years have always been protected by the U.S. Government. We share that responsibility.

Mr. Speaker, we can make Haiti bloom again. We can bring peace and prosperity and democracy to Haiti. I think it is now time for a new initiative. We should take that initiative now and offer the people of Haiti some hope.

The **SPEAKER** pro tempore (Mr. NAGLE). Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes.

MEXICO LAUNCHES MAJOR ANTIDRUG OFFENSIVE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Speaker, all of us in the House support the Government of Mexico in its efforts to stem the tide on drug trafficking.

But all too often some of the good news never reaches this chamber. And I want to take this opportunity to show our colleagues that Mexico is working against this drug problem.

The information which I wish to share with you today relates to our friends in the Republic of Mexico, and I think it should be of interest to all of us in relation to our efforts at combating the illicit use of drugs, their production and transportation around the world.

But before I do so—let me state that on September 1, 1988, I had the honor to be the personal guest of the President of Mexico, His Excellency Miguel de la Madrid Hurtado, for his last State of the Union address to the Mexican Congress.

Afterwards, it was my pleasure and great honor to have a private visit with him. We discussed many matters of mutual interest. One of the main issues was drugs and his own interest in and dedication to continue—during the last days of his administration—with his commitment to do everything within his power to combat this serious problem.

He had mentioned this same commitment in his address to the Congress. This information which I now share with you is proof of this personal commitment which President de la Madrid has maintained, and to his honor and credit we applaud his latest action on this endeavor. The following text comes from President de la Madrid's Office of Social Communication:

MEXICO LAUNCHES MAJOR ANTIDRUG OFFENSIVE

MEXICO CITY, August 24.—The office of Mexico's Attorney General announced today that the Mexican Federal Judicial Police have launched a major new anti-drug offensive designed to root out illegal drug production destined for the U.S. market. The operation, known as "Pacific IX," is the most extensive sweep of marijuana and opium poppy fields ever undertaken in the ten Mexican states bordering the Pacific Ocean.

The sweep, which is part of Mexico's permanent campaign against drug trafficking, follows on the heels of an eight-month operation which succeeded in destroying more than 44,100 marijuana and opium poppy fields covering more than 12,000 acres. The new and larger eradication operation will be conducted in two phases, the first lasting from August 22 to December 7, 1988, and the second from December 8 to April 30, 1989.

Mexico has committed 35 helicopters and 8 spotter aircraft to Pacific IX, a key objective of which is to return to fields where illegal crops were destroyed in previous operations in an effort to put them permanently out of operation.

Pacific IX is only part of Mexico's ongoing anti-drug effort, which government authorities point out takes up two-thirds of the entire budget of the Attorney General's office. The effort also includes the employment on a full-time basis of more than 25,000 regular army troops in an effort to stem the flow of illegal drugs into the United States.

In a recent speech before the Mexican Congress, President Miguel de la Madrid reiterated his determination to vigorously prosecute the war against illegal drugs. The President called drug trafficking "a matter of national security" and called for "an international effort . . . to combat it effectively."

In a related development, Mexican Judicial Police reported the seizure last week of 1700 pounds of pure cocaine destined for Los Angeles. Acting on an intelligence report, the police stopped an aircraft carrying the drug as it landed on an isolated airstrip in the northern Mexico state of Sonora.

Investigation revealed that the drug ring supplying the cocaine had been in operation for some time and involved persons from the U.S., Mexico, and Colombia. To date, as a result of the seizure, eighteen Mexicans and Colombians have been arrested.

Using statistics provided by U.S. drug enforcement authorities, the street value of the cocaine was estimated to be in excess of $700 million.

Mr. Speaker, and my colleagues, let me add that I also visited privately—twice during the last few weeks—with the President-elect of Mexico, Carlos Salinas de Gortari. He, too, has the same commitment and has stated publicly—and to me privately—his interest and total dedication to continue this effort.

We salute and applaud him and look forward to cooperating with him and his Government on this, our mutual problem—and we will continue to work together as our resources allow us to do so.

But the most important part is that we work together as friends and neighbors, and join with the community of nations around the world to fight this terrible problem.

THE NEED FOR CLEAN, ALTERNATIVE ENERGY SOURCES: THE LESSON FROM THE WIND ENERGY CREDIT PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the world, our Nation, desperately needs to develop clean, long-lasting alternative sources of energy. With our current policies, the world's supplies of convenient fossil fuels will dwindle, while their prices—and the world's temperature—rise. Our current policies are burning not only fossil fuels—they are burning the future of our children.

The question is how can we best develop alternative energy sources?

It is certain that we will enter another cycle of rising energy prices and shortages, and policymakers will rush around frantically seeking to promote alternative energy.

Before we start another cycle of gasoline-line-inspired emergency energy legislation such as we went through in 1974 and 1979, we ought to see what we can learn from our previous efforts.

One thing I think we should have learned is that energy tax credits are not the way to go.

If not tax credits, then what? Direct R&D support and pricing fossil fuels at their true cost to society clearly are more attractive options than ever enacting another alternative energy tax credit program.

A STUDY OF THE WIND ENERGY TAX CREDITS

Following is a history of the wind energy tax credit program that explains why I reach this conclusion.

The Energy Tax Act of 1978, part of the National Energy Act, provided very generous tax credits for investments in wind energy. The business energy tax credit of 15 percent combined with the 10-percent investment tax credit gave investors a 25-percent Federal tax credit in the first year. Add to this a 5-year depreciation schedule and investors were left with an extremely attractive investment opportunity. The stated goal was to nurture an infant industry and to allow it time to become economically competitive with other forms of energy. The credits were designed to expire at the end of 1985.

It quickly became clear that windmills were becoming one of the hottest tax shelters around. A Library of Congress study estimated that the effective tax rate on wind energy was minus 9 percent and even with the elimination of the business energy tax credit, would only be 3 percent. Compare this to the effective tax rate of 8 percent on coal gasification (synfuels), 12 percent on oil, gas, and coal extraction and refining, and a 25-percent effective tax rate on gas and electric utilities.

A typical investor would put up $120,000 and would receive $107,400 in tax breaks over the next 5 years. So the Government was financing 90 percent of the project. Then the investor could sell his interest after 10 years for an estimated $133,436. It did not matter if the windmill was efficient. The investor had a guaranteed money-making machine.

"This is my electricity-producing wind turbine, but I call it a cash generator. * * * My tax benefits just about paid for it!" reports a motorist in an advertisement for Zond Systems Inc., one of the major windfarm developers, during the heyday of tax credits.

This tax shelter was also usually limited to more wealthy investors. One particular prospectus in my congressional district limited investors to those who have a net worth of more than $1,000,000 or an annual income greater than $200,000.

By the end of 1984, $1 billion of the $1.1 billion invested in the wind industry had been financed by Federal and State tax breaks. Seldom has so much public revenue been wasted on behalf of so few rich investors.

At the same time that many were identifying the industry as one of the Nation's leading tax shelters, the industry was fighting for extensions of the tax credit, on the basis that this invaluable source of clean, limitless energy would be destroyed without the credits.

The claim was, that without tax credits, the industry would die.

Michael Kranley, who was vice president of A.G. Becker Paribas, one of the firms marketing windmills, stated in Forbes magazine [March 12, 1984], "In fact, the windmill industry would disappear into desert sands without the credits, barring some dramatic decrease in the cost of wind-generated electricity, which doesn't seem likely very soon." This exemplified the attitude of many in the wind industry.

The tax credits expired at the end of 1985.

What happened to the wind industry?

The wind industry certainly did not die. In fact, it has continued to grow despite the elimination of the tax credits. In 1985, the last year of tax credits, there were 10,900 windmills in operation and they produced 671 million kilowatthours [kWh]. In 1986, 2,151 more turbines were installed and produced 1.2 billion kWh. In 1987, 1,430 more turbines were installed bringing the total number in operation to 16,000. Output increased to 1.7 billion kWh in 1987.

The performance of the wind industry increased significantly, even with the elimination of the tax credits. The Joint Committee on Taxation estimated that extending just the 15 percent business energy tax credit for 2 more years would have resulted in $100 million in lost revenues. Clearly, the extension of the tax credit would have added $100 million to the Federal deficits, and provided $100 million in pure, windfall profits to tax loophole investors.

If tax credits provide "windfalls" to the very rich, if they do not ensure efficient production of power, what then can we do to efficiently promote this invaluable energy source?

I believe the way we can do this is through funding wind energy R&D. The potential of the wind industry is enormous. Technological advances have already made windmills more efficient and less costly. Newer turbines are able to generate between 200–300 kWh annually, compared to the 1985 average of 62,000 kWh. The average in 1987 was already up to 115,000 kWh and rising. Windmills costing only 5–8 cents per kWh installed and producing 300–400 kWh are foreseeable in the next 10 years. Techniques of hydro-storage are being developed which would allow wind generated energy to be stored and used for times when the wind is not blowing. However, these developments require more R&D. Clean, limitless sources of energy are a benefit to all of society, and there is clearly a role for the Federal Government to promote the rapidest possible high-technology improvements in wind power.

But Government outlays for renewable R&D have been shrinking rapidly. In constant dollar terms their budget has decreased 87 percent from the $760 million in fiscal year 1981 to the $97 million in fiscal year 1988. The total DOE budget for the R&D program has decreased 46 percent over the same period, and the renewables share of this search had gone from 19 to 4 percent.

However, with Federal debt growing at $4,700 a second, huge new tax credit and spending programs make little political or economic sense. Fiscal realities require that we find another solution.

A better option would be to price fossil fuels more realistically to reflect their long-range cost to our environment. Tom Gray of the American Wind Energy Association reported that the energy generated by an average windmill in 1 month, if generated by coal would result in 5 tons of carbon being released into the atmosphere. The equivalent amount of energy generated by natural gas would cause 2.5 tons of carbon to enter the atmosphere. In short, fossil fuels fuel the greenhouse effect and the destruction of our air quality; wind does not. Fossil fuels should be charged for the economic damage they are causing our future. If fossil fuels were priced to reflect their social costs, wind energy would be much more competitive and would become an attractive investment. Wind development and windmill installation would then receive funding by the private sector through natural market forces.

Now is the time to develop strong renewable energy sources, such as the wind industry. If we wait until our economy gets shocked by a change in the volatile world oil market or until our domestic oil supply is nearly dried up or until we have destroyed our environment with pollutants from fossil fuel emissions—it will be too late. As a nation, we cannot afford to make these mistakes.

CHICAGO'S 23D ANNUAL GENERAL VON STEUBEN PARADE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the 258th anniversary of the birth of Gen. Friedrich Wilhelm von Steuben was on September 17, and this Saturday, September 24, I am looking forward to joining with my many friends in the United German-American Societies of Greater Chicago on the reviewing stand for Chicago's 23d annual General von Steuben Parade to celebrate the many contributions of this great patriot in America's War of Independence.

The parade will step off at 12 noon at Wacker Drive and Dearborn Street, and proceed past the reviewing stand located at the Richard J. Daley Center. The event will not only recognize the contributions of General von Steuben, but also will honor all great American citizens of German ancestry. In conjunction with this parade, the United German American Societies of Greater Chicago will also sponsor a 3-day German Festival at the Ludwig Mies Van der Rohe Plaza, beginning on Friday, September 23.

In recognition of the many contributions of German-Americans to our country, I was glad to join with my colleagues in the House of Representatives as a cosponsor of House Joint Resolution 458, a bill to designate October 6, 1988 as German-American Day. Similar legislation was approved by the full House and the Senate, and signed into public law by President Reagan. A copy of House Joint Resolution 458 follows:

H.J. RES. 458

Whereas the tricentennial of the arrival of the first German immigrants to the United States was celebrated on October 6, 1983;

Whereas such day was proclaimed by the President to be German-American Day in honor of the contributions made by German immigrants to the life and culture of the United States;

Whereas such contributions should be recognized and celebrated every year; and

Whereas the German-American Friendship Garden, symbolic of friendly relations between West Germany and the United States, will be dedicated in the District of Columbia in 1988: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1988, is designated as "German-American Day". The President is requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. Speaker, General von Steuben was recruited in Paris by American Commissioners Benjamin Franklin and Silas Deane, after having achieved high standing for his military accomplishments with the Prussian Army. He arrived in Portsmouth, NH, on December 1, 1777, and reported to Gen. George Washington at Valley Forge on February 23.

During the bitter cold days at Valley Forge, at a time when the Colonies were suffering through several military setbacks and low morale, von Steuben went to work and sustained the courage of his men, even contributing his private funds ffor their well-being. General Washington assigned him the task of training the Continental Forces, and the capable drill company which von Steuben formed and commanded was emulated throughout the ranks. For his efforts, on April 30, 1778, General Washington appointed him Inspector General of the Army with rank of Major General.

In the winter of 1778–79, von Steuben wrote the "Regulations of the Order and Discipline of the Troops of the United States," a monumental manual on the basics of drill and field service regulations, outlining the essentials of military procedure. This "blue book" served as the official Army manual until 1812.

In 1781, von Steuben continued his distinguished military career in America by serving in the battle against Conwallis in Virginia and at the battle of Yorktown, where he commanded one of the three divisions of the Continental Army. In recognition and in appreciation of his services, the State of New York awarded General von Steuben a $16,000 estate, and Congress granted him a pension of $2,500 for the rest of his life.

Mr. Speaker, the members and officers of the United German American Societies of Greater Chicago are dedicated citizens, who have contributed greatly to the success of this annual celebration. I congratulate them on their record of achievement, and I also extend my warmest congratulations to Karl C. Laschet, general chairman and grand marshal of the parade, who has given outstanding leadership over the years to the German-American community in Chicago.

It will be a genuine pleasure for me to participate in the 23d Annual General von Steuben Parade to recognize German-American contributions to our Nation. On the occasion of this commemoration of the inspiring heroism of General von Steuben, I send my greetings and best wishes to all Americans of German heritage residing in the 11th Congressional District of Illinois, which I am honored to represent, in the city of Chicago, and all over the country, who are celebrating this grand event.

A DEMOCRATIC ASSESSMENT OF GEORGE BUSH AND THE RIGHTWING

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK. Mr. Speaker, I want to begin by expressing my support for the words of the gentleman from New York [Mr. OWENS], who preceded me discussing the tragic situation in Haiti. He has shown a great deal of interest in and concern for the people of Haiti, and I think he speaks quite sensibly about what we ought to be doing.

But I want to talk tonight about the Presidential campaign. Some of the Members across the aisle have decided that this is an appropriate forum in which to do campaigning. I will have to concede that I have not done the research that some of my colleagues on the side have done, and I do not have a lot of quotations to offer. It always seems to me that if people want to read those things, they can read them on their own. I want to talk about some aspects of the campaign that are distressing to me, and I know that my friend, the gentleman from New York [Mr. WEISS], and some others want to join in.

One of the things that struck me is the extent to which Vice President BUSH feels compelled on important issues to be obedient to the rightwing in this country. It is interesting that GEORGE BUSH, when he ran for President in 1980 and was defeated by Ronald Reagan, was seen as a more moderate candidate than Ronald Reagan, and interestingly, as we look at the Reagan candidacy and look at the Bush candidacy, we see in the case of GEORGE BUSH, in my view, much more of a willingness to toe the line than the rightwing sets.

Ronald Reagan himself felt rooted in that conservative movement, and as one who was confident of his own place in that conservative movement, he felt much freer to disagree with people in the conservative movement when he thought common sense required him to do so. For instance, we had the case of the INF Treaty when the great majority of the conservative movement, as they call themselves in this country, reacted quite angrily to the INF Treaty. Ronald Reagan had the self-confidence to say that they were acting in an even more bizarre fashion than some of them usually do, and he went ahead with it.

GEORGE BUSH, unlike Ronald Reagan, is unsure of himself with that rightwing, which has become such an important element in the Republican Party, and, therefore, when the rightwing growls on its key issues, GEORGE BUSH, unlike Ronald Reagan is paralyzed and will not disagree.

We have had example after example this year of GEORGE BUSH being held to a standard by the rightwing which is in my judgment damaging to the country. We begin with the choice of his Vice President. No one outside of his immediate family thinks that DAN QUAYLE is qualified to be the Vice President of the United States. I do not know how his immediate would vote on a secret ballot. GEORGE BUSH picked him because he was given a very short list by the far right.

When Ronald Reagan had to pick a Vice President, he did not feel he owed the far right a veto over his choice, because he picked a man, GEORGE BUSH, who did not at that time look that attractive to him.

GEORGE BUSH, of course, has spent the intervening 8 years trying very hard to kowtow to the far right so they would no longer be vetoing him. People might remember the famous trek GEORGE BUSH made a couple of years ago to speak at a dinner in honor of the late William Loeb, publisher of the Manchester Union-Leader, an extraordinarily virulent, unfair rightwing newspaper publisher, who had denounced GEORGE BUSH. But BUSH was so eager to win back the rightwing and to release that rightwing opposition to him that he humbled himself before the Union-Leader's people.

Well, GEORGE BUSH had to pick a Vice President, and unlike Ronald Reagan, GEORGE BUSH felt he could not do anything the rightwing would have objected to, so he picked for Vice President, probably the least qualified nominee for national office on a major party ticket in a very, very long time. I confess I am not fully cognizant of all the more obscure Vice-Presidential nominees earlier in this century, but of those I can think of in the last 50 years, the current Vice-Presdential nominee, DAN QUAYLE, is clearly the least qualified.

But that is not even controversial. Why was he picked? Because the rightwing gave GEORGE BUSH a short list. It had on it a couple of people like our colleague, the gentleman from New York [Mr. KEMP]. GEORGE BUSH did not want to pick him. He thought he might be overshadowed. So he picked someone the rightwing would accept, someone who would not overshadow him. So that is how he picked QUAYLE.

GEORGE BUSH suggested about a month ago that we should not go full speed ahead with the installation of the star wars antimissile device because it is going to cost hundreds and hundred of millions of dollars in violation of the Anti-Ballistic Missile Treaty that was Richard Nixon's accomplishment, and it could be destabalizing to our efforts to get a substantial nuclear arms reduction agreement with the Russians. GEORGE BUSH suggested that, and then the rightwing growled. Then GEORGE BUSH unsuggested it. On issue after issue after issue of central importance, picking a Vice President, American defense, GEORGE BUSH makes moves that are calculated to please the rightwing, and I think that is terribly dangerous. It is why we have GEORGE BUSH, among other things, talking about the relationship between the United States and the Soviet Union in terms far to the right of Ronald Reagan.

Ronald Reagan has achieved with General Secretary Gorbachev some real gains. One of our great hopes is that we will be able to build on that, not out of any love for or trust of the Soviet Union but out of a recognition that we have mutual interests, that we are trying to deal with both the strategic and economic impact of an all-out arms race. GEORGE BUSH has been forced by his fear of the rightwing to back off on that.

We had another example. In fact, this has been a good week for GEORGE BUSH. I should give credit where credit is due. He has not had to fire one anti-Semite from his campaign this whole week. I think that is about the first time in a long time that he has not had to do that. No one thinks GEORGE BUSH is himself anti-Semitic. No one thinks that GEORGE BUSH was happy with some of the virulent anti-Semites who were on his ethnic outreach council. Why were they there? Because the rightwing gave him a list and because GEORGE BUSH does not have the political courage or toughness to challenge the rightwing. He is a man who is politically paralyzed by fear of the rightwing. On a few issues where they do not care, they give him a little freedom. He can go off on the minimum wage, and that is OK. He can take a little bit of freedom in another area, but on the picking of the Vice-Presidential candidate, the most important decision one can make when he is about to become a Presidential candidate, on the question of star wars, on relationships with the Soviet Union, on his ethnic outreach council, when the rightwing insists, GEORGE BUSH is there. That, I believe, is terribly dangerous.

When you have on the right people like Pat Robertson and others who have, I think, moved beyond the plausible in their advocacy, when you have this blind unwillingness to recognize that there is a chance to reach, based on mutual agreement and mutual interests, an arms reduction pact with the Russians, I think that becomes very frightening.

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So one of the central parts of the campaign that has emerged so far is the extent to which GEORGE BUSH, unlike Ronald Reagan, will not deviate in any significant area from the agenda of the far right, and, unfortunately, that is a party that has taken up, faction that has taken over, more and more of the Republican Party. We have the most extremely rightwing platform coming out of the Republican Party this year, again to the right of where the Reagan platforms were in 1980 and 1984, because Ronald Reagan, as a genuine conservative with a sense of his own place, was prepared to differ with the right. GEORGE BUSH, out of his own lack of rootedness politically and out of his own political timidity, will not take on the far right. They have defeated him too often. GEORGE BUSH was for too many times in his career frustrated by the far right, and he has decided that since he could not beat them that he will make obeyances to them, and he has done that at every critical point in this year and in the last critical years.

At this point, Mr. Speaker, I am pleased to yield to the gentleman from New York [Mr. WEISS], my friend, who I know has things he wants to add on this general subject.

Mr. WEISS. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. FRANK] for yielding to me.

Mr. Speaker, I also want to express my appreciation to him for taking this time so that we could discuss some of the topics which have not received as much attention in recent days as perhaps they should have.

Mr. Speaker, the gentleman from Massachusetts [Mr. FRANK] has spoken about the places where GEORGE BUSH has been when called upon by the rightwing. I would like to talk a bit about the question of where was GEORGE on some other important issues.

I specifically want to talk today about an unresolved issue of extreme importance which has received far too little attention in recent days in this year's election campaign.

Mr. Speaker, the Iran-Contra affair seems to have faded from the headlines. There remain, however, significant questions which have not been answered. In particular, the Office of the Vice President has been cited on numerous occasions to have been involved with the activities of Lt. Col. Oliver North and others in the resupply operation of the Contras during the congressional ban on assistance. The Vice President's office then tried to hide its contact with key participants of the resupply operation.

Mr. Speaker, this type of underhanded and duplicitous behavior raises questions about the Vice President's role himself in the entire sequence of events involved in the Contra resupply operation.

The Iran-Contra affair is full of stories of deceit, conspiracy, and lawlessness. While this may be the most noticed example of this administration's lawless foreign policy, it is hardly the first. Unfortunately, the example of President Reagan and Vice President Bush did not discourage the type of activities that occurred during the Iran-Contra affair. Once the activities of the administration became public, the general public had a rare chance to see in full view the methods and characters the Reagan-Bush administration has relied on to achieve its foreign policy objectives.

Mr. Speaker, Congress, the Tower Commission and the special prosecutor, the independent counsel, brought to life in great detail the efforts of this administration to take the law into its own hands.

Several months ago the Iran-Contra investigation by Congress officially came to an end. At that time Vice President Bush's role in these events had been merely a tangential part of the discussion. Most of the efforts of these investigations focused instead on what President Reagan knew about the operation. Unfortunately, the administration refused to cooperate with those conducting the investigation. Instead of directly answering the questions raised by Iran-Contra investigators, they concentrated on covering the tracks of various public officials implicated in the investigation and practiced damage control for what they perceived to be an onslaught of bad media publicity.

As a result of these events, Mr. Speaker, and the volume of information that was published around the time of the formal Iran-Contra investigations, surprisingly little attention was paid to some very crucial evidence which accumulated about the possible involvement of the Vice President and some of his closest advisers in the resupply operation of the Contras.

As we all know, the profits of the sale of arms to the Ayatollah were transferred to Swiss bank accounts to hire guns in Central America and used in direct violation of the law to fund the ongoing activities of the Contras.

Mr. Bush insists that he knew nothing about either the arms for hostage deal to Iran or the Contra resupply operation coordinated by Oliver North.

We know that the President signed, with the knowledge of Mr. Bush, a finding which authorizes a direct arms for hostages swap to Iran. There is not, however, such clear evidence about Mr. Bush's knowledge about the Contra resupply operation.

Mr. Speaker, if we accept Mr. Bush's version of the events, we are not left with a particularly encouraging picture of his leadership. Somehow it is more comforting to think that President Reagan was unaware of the actions of the national security apparatus than it is for the same to be true of Mr. Bush. After all, there has been quite a bit said about the President's lack of interest in detail and his hands-off style of management.

Mr. Bush, however, among other things is the former Director of the Central Intelligence Agency. He professes to be intimately aware of national security issues. Presumably as the Vice President of the United States he would have access to information about the covert activities of the U.S. Government in Central America, particularly when that position automatically places him in the membership of the National Security Council.

What are we to make of Mr. Bush leadership ability if with all his experience in foreign policy and all his contacts in the intelligence community he was completely unaware of these actions to supply the Contras?

The scenario presented by the Vice President seems all the more disturbing in light of the fact that Mr. Bush was the head of the President's task force on international terrorism. Terrorist activities in Central America were a primary focus of this task force. Indeed it is well documented that the administration considered the Contras as an integral part of its counterinsurgency team in the region.

In fact, Felix Rodriguez, an old friend of the Vice President's from his CIA days, was intimately involved in counterinsurgency activities in El Salvador at the time of the Contra resupply operation.

The Iran-Contra investigation revealed two important things about Felix Rodriguez during this time. One is that he stated very clearly that his prime interest while in Central America was to get arms to the Contras because Congress had cut off funding for the Contras. Two, Mr. Rodriguez met with Vice President Bush on three separate occasions while the resupply operation was in existence.

Mr. Speaker, it would seem that one could only conclude one of two things from these facts. Either Mr. Bush is not telling the American people the truth about his knowledge of administration efforts to resupply the Contras, or he, in fact, did not know of the diversion of funds. If the latter is the case, then, frankly, I am not sure what good his experience will do for the American people if he were to become President.

Mr. Speaker, if the Vice President did not know of the diversion of funds, it was not because he was not in close contact with several of the key participants in the operation. In fact, several of Mr. Bush's advisers and other business associates knew for some time about the activities of Lt. Col. Oliver North.

Mr. Bush had a long-term relationship with Felix Rodriguez dating back to Mr. Bush's tenure in the CIA, and in fact Mr. Bush and Mr. Rodriguez met three times in 1985-86. It is documented that Bush's staff was aware of and involved with the resupply operation and in contact with Rodriguez on several occasions about that mission. In fact, Bush's national security adviser, Donald Gregg, and Rodriguez were long-time friends who worked together in Vietnam. It was Rodriguez' experience in Vietnam in counterinsurgency which led to his involvement in El Salvador in the Reagan-Bush administration.

Mr. Bush's first meeting with Rodriguez during this time took place on January 22, 1985. According to the Vice President's Office, the two men discussed Rodriguez' plans to work in El Salvador against the insurgency. At about the same time though Rodriguez reported to the Army's Southern Command which was overseeing United States military operations in Central America that his primary interest in Central America was to help the Contras.

Despite the fact that Rodriguez began working directly with North in September of 1985, according to the Vice President the two men in the course of their meetings only spoke about the work in El Salvador, never about the Contras.

Mr. Speaker, this assertion has been made repeatedly despite the documentation that Bush employees, the NSC staff, and Lt. Col. Oliver North were working extensively with Rodriguez and the Contra resupply network throughout this period. Rodriguez himself testified at the Iran-Contra hearings that Oliver North recruited him in September of 1985 to act as a liaison between the resupply operation and Salvadoran military officials.

After originally denying any knowledge of the resupply operation, Bush adviser Gregg finally admitted that Rodriguez had informed him well before it was public about the operation. In fact, Rodriguez reported some problems with the operation which he hoped the Vice President's office would help to solve. While supposedly deciding that the information was not worthy of informing the Vice President, Gregg and his assistant, Samuel Watson, did inform Rodriguez that he had concerns about the resupply operation to the top-level officials of the State Department, the National Security Agency, the CIA, and the Pentagon. The Vice President's office later issued a chronology of contacts with Rodriguez which omitted several key events including meetings between Rodriguez and Gregg.

As a matter of fact, the Office of the Vice President twice revised its chronology of events surrounding contact between the office and Felix Rodriguez. In both cases the Vice President's Office insisted that they had made a "full disclosure of the office's contact with Rodriguez previously."

However, on these two occasions investigators uncovered additional meetings between employees of the Vice President's staff and Rodriguez. As a result the office had to acknowledge that the original chronologies were incomplete and added these additional contacts to their version of events.

Mr. Speaker, it is clear that the office of the Vice President was less than forthcoming with Iran-Contra investigators. The involvement of the Vice President's staff with the activities of Oliver North were widespread. While the Vice President continually insisted that he knew nothing about the activities of his staff and others with whom he had close contact, the actions of those around him certainly suggest that there were facts which they felt should not be made public.

Mr. Bush wants us to believe he has nothing to hide from the American people while his staff has been hiding things all along. Mr. Speaker, I am not sure which is worse, Mr. Bush thinking he has nothing to hide when people around him are doing just that or for there to be something Mr. Bush is deliberately not telling us.

There continue to be revelations involving the Iran-Contra affair which raise questions about the Vice President's ability to lead. Just this past week the Foreign Affairs Committee of the House released a followup report to the earlier staff investigation by the Committee on Foreign Affairs and the Iran-Contra Committee. The report concludes that the State Department was used as a cover for improper domestic activities involved in the intelligence community far more extensively than had previously been known. Vice President Bush's national security adviser, Donald Gregg, was involved in this operation which was coordinated by Oliver North and CIA Director William Casey. The report's findings indicate that senior CIA officials established and participated in a domestic political and propaganda operation run through an obscure bureau in the Department of State. The operatives reported directly to the National Security Council rather than through normal State Department channels. This collection of individuals from the CIA, the Department of Defense, and the National Security Council raised and spent funds for the purpose of influencing congressional votes and United States domestic media.

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So again, Mr. Speaker, top level Bush employees were involved in duplicitous unsavory activities designed to disobey the law and to manipulate public opinion.

How are the American people supposed to trust George Bush as a leader when an extensive network of his professional associates developed and operated a program of illegal activity under the Vice President's watch?

Mr. FRANK. Mr. Speaker, if the gentleman will permit me, I would like to comment on that, because I think the case the gentleman is documenting is a very damning one.

I would say, I would have only one slight semantic difference. The gentleman referred several times to the Vice President helping trade arms for hostages. I think we ought to be more precise. They traded arms for a hostage. They thought they were trading arms for hostages, but they got outtraded by the Iranians, so they did not even get the hostages, in the plural, they thought they were going to get.

As I recall, they traded these arms to this incredibly terrible regime and they got one hostage back, so they did not even make a good deal.

But I think the gentleman's point is an example of exactly what I was talking about. The George Bush that we have seen from his resume earlier would not, I think, have countenanced these kinds of activities. The George Bush who ran in 1980 and was rejected by the rightwing, and who learned his lesson from that rejection, would probably not have allowed these kinds of illegal activities to have taken place among his staff; but he has learned his lesson. Aid to the contras is one of the causes dearest to the heart of the right. It does not have and has not had majority public support in America, but it was very important to the rightwing, and George Bush was afraid because he is afraid of the effect on his political career of that rightwing hostility to do anything that the rightwing did not like.

This is another example of how George Bush's paralysis when he thinks about rightwing opposition changes the man. He therefore presided over, as I think the gentleman is well-documenting, a series of activities he might otherwise not have been in favor of.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield to the right here? We might create a little excitement before we lose the audience.

Mr. FRANK. I am glad to yield, Mr. Speaker, although I would hope the gentleman would be aware that under the rules of the House we are, of course, to address the Chair. While the gentleman might have some concern with people outside, that is not under the rules and I would not want to yield to facilitate a violation of the rules, but I am glad to yield to the gentleman within the rules.

Mr. DORNAN of California. Well, Mr. Speaker, I thank the gentleman.

I was within the rules thinking about our audience, the distinguished gentleman who is in the chair. I was just imagining that he might nod off if we did not get a little excitement, a little give and take.

Mr. FRANK. We would not lose the gentleman from Iowa. He is a man of great diligence. We would never lose him.

Mr. DORNAN of California. He seems a little more alert right now at the thought of a little give and take here.

We have two or three special orders and we are probably going to take the whole hour tonight. I would hope the two gentlemen might consider staying with us to give a little take to ours, so that we would not lose the Chair's attention.

Mr. FRANK. I would have to say to the gentleman that I think under the eighth amendment, I am not required to do that.

Mr. DORNAN of California. Well, that is true.

I wonder if the gentleman, as a gentleman of the left, as I am a gentleman of the right and as we both accept those descriptions, all three of us, when we appear, for example, on the CNN "Crossfire Show" and they say, "On the left, Congressman Barney Frank from Massachusetts. On the right, Congressman Bob Dornan from California. On the left Mr. Theodore Weiss of New York." They use those terms, left and right. So I admit that I am a man of the right.

Now, would the gentleman say, as I am willing to concede, that most people on the gentleman's side of the aisle are liberals and most of them are very proud to be liberals and use that term. Would the gentleman not say that a majority on this side of the aisle on the right are conservative?

Mr. FRANK. The gentleman, as I understand, has taken up his time to ask me if I think a majority of the members of the Republican Party in the House are conservative. Yes, I agree.

Mr. DORNAN of California. All right. Then would it not seem foolish when the gentleman says that George Bush is caving in to the right in his party, when that is the majority of our party, just like I would never say that someone in the gentleman's party was caving in to the liberals in his party, because that is the majority of the people on the gentleman's side of the aisle. That would not make sense.

Mr. FRANK. Well, I may have spoken a little bit imprecisely. I said at one point the far right and ultraconservatives.

My point is that George Bush has, I think, been paralyzed by his fear, not of the majority, for instance, on his side.

Let me give an example. We just voted today several times on the issue of what our public policy ought to be with regard to AIDS. The great majority were voting with the committee position, a bipartisan committee position.

The gentleman from California, the gentleman's colleague, took the minority position, which he is entitled to take and got very few votes.

My understanding was George Bush just designated the gentleman from California [Mr. Dannemeyer] to be his representative at a forum on AIDS. Well, that did not represent the majority party today.

I do not think, for instance, when we have the question of future relations with the Soviet Union, I do not think that Mr. Bush was fully representative of that side, but that is only partly my point.

I think Mr. Bush had some people on his Ethnic Outreach Committee who do not represent the gentleman's side. They do not represent Mr. Bush, either.

My point is that Mr. Bush as a Presidential candidate is afraid of the strategic influence of the more extreme element of the right.

Mr. Bush as a Presidential candidate having been frustrated by them in 1980, appears to be quite frightened of them now, and he has done things that I do not think would necessarily have been supported by the majority on the gentleman's side.

So I am not talking about Mr. Bush and the Republican Party as a whole. I am talking about Mr. Bush's fear, it seems to me, of that particular element.

I have to say perhaps I am being unduly generous to the gentleman's side, but I do not think if we polled the gentleman's side of the aisle we would have come up with Dan Quayle for the Vice Presidency. I think the gentleman's side of the aisle, if asked, would have come up with a better candidate for Vice President than Senator Quayle.

Mr. DORNAN of California. Well, if our side of the aisle were polled, to be very frank, it would have been Jack Kemp or Bob Michel. It seemed like he was on a winning course the last week before our convention, so that is an interesting thesis.

But let me come back to the other thesis of the gentleman and focus in on one issue. The gentleman said, for example, Mr. Bush is caving in on all aspects of the Central American issues, I guess that would mean El Salvador as well.

Mr. FRANK. No, I will have to correct the gentleman. I never said that. I know the gentleman has been walking on and off the floor, but I did not say he was caving in on "all aspects of the Central American issue."

What I said he was caving in on was being complicit in activities going on in his office which violated the law.

I was not talking now about the general position. I never said all Central American issues. As far as I know, Mr. Bush has not caved in to the far right on the Panama Canal Treaty, for instance. He has, I assume, continued to believe we should keep that in effect.

I was talking about the kind of activities that the gentleman from New York was talking about, illegal activities, not telling the truth about those activities. That is what I had reference to.

Mr. DORNAN of California. But did the gentleman not say something about supporting the Contras, that this was a minority opinion in the Republican Party?

Mr. FRANK. No. What I said was that support for the Contras is very important to the right in particular. I said it was a minority opinion of the public as a whole.

I said that to my recollection public opinion polls have consistently shown that a majority were against aid to the Contras, which is why President Reagan—I am talking about the general public—which is why President Reagan, as I understand it, has not asked for military aid. President Reagan has not recently asked for military aid, although some people on the gentleman's side want him to.

What I said was that George Bush was complicit in activities that I believe to have been illegal. I was talking about the advocacy of the policy, and I think it was because there was such right wing fervor over the issue of the Contras that George Bush was unwilling to stop his staff from participating in the raft of illegal activities which the gentleman from New York, I think, is accurately documenting.

Mr. DORNAN of California. I would disagree with not his sincerity or belief or right to say it, but I have read as much on this material as I can get and, as in most cases, there are some things there that are truths, half-truths, exaggerations. There is such distortion of facts, for example, by Daniel Sheehan of the Christic Institute——

Mr. FRANK. I am going to take back my time. If the gentleman wants to discuss Mr. Sheehan and the Christic Institute, he can do that. I do that because I do not want people to be confused. People have a right to say what they want to say.

I was talking about the very careful and I thought very well-documented points of my colleague, the gentleman from New York. If the gentleman wants to refute those, that would be legitimate. I just do not want to confuse the issue with the Christic Institute lawsuit one way or the other.

Mr. Speaker, at this point I yield to my friend, the gentleman from Michigan [Mr. Bonior], and I will get back to the gentleman from California.

Mr. BONIOR. Mr. Speaker, I thank my friend for yielding to me.

Mr. Speaker, I would like to take up the comments of my friend, the gentleman from New York [Mr. Weiss], and play upon them to the extent that this so-called brouhaha over the CIA has raged through this body today.

George Bush and Republican administrations in general, while advocating democracy throughout the world, have indeed a very poor record when it comes to upholding democracies in our own hemisphere.

The public record of CIA covert actions against governments, duly elected governments, I might add, in the Americas is a very sad history indeed.

Guatemala in 1954, duly elected government, overthrown.

Chile, 1973, duly elected government, leftist though it might have been, overthrown.

Nicaragua, 1981 to 1988.

The CIA has a long and a sordid history of undermining governments that we do not like.

Speaker Wright has strongly condemned these actions over the years because he believes the American people support the promotion of democracies to free elections and not through covert actions.

Hundreds of thousands of American servicemen fought for their country in World War II, Korea, and Vietnam, not to come back to this country and have the CIA try to overthrow duly elected governments.

The Speaker is right. He is right and he is to be commended for speaking out so strongly and forcefully against CIA activity in Nicaragua; but the Speaker today and yesterday has been attacked for stating the obvious and commenting on what has been in the public record for years.

You know, you do not have to be a rocket scientist to figure out the CIA with the backing of Bush and Reagan have been trying to overthrow the Government of Nicaragua for the past 7 years. It is not me saying it. It is not JIM WRIGHT saying it. Barry Goldwater has said it. Barry Goldwater has berated, when he was chairman of the Intelligence Committee, the activities of Bill Casey for mining harbors in Nicaragua, and I want to get on to that in just a second.

Not once has President Reagan or GEORGE BUSH or anyone in the administration, to my knowledge, denied that the CIA has been up to no good in Nicaragua. That is because they know it is true and the American people know it as well. The American people do not support the CIA overthrowing foreign governments. They do not support the Contras and they certainly do not support the undermining of our Constitution. That is why, despite Ronald Reagan and GEORGE BUSH's best efforts, they have been on TV beaucoup times. They have been in this Chamber talking before the American people and the Congress on more Contra aid more than any other single issue that the President has addressed the American people on. They have been unable to convince the American people of the righteousness of their policies.

In fact, every single poll, with the exception of about 2 weeks during the Iran-Contra hearings, has indicated by margins of almost 2 to 1 that the American people look at this policy as a dismal failure.

If GEORGE BUSH and the Republicans think they can turn the issue of Nicaragua around and the Republican leadership, I might add, by attacking the Speaker for condemning the CIA, they are gravely mistaken. The American people agree with JIM WRIGHT on this issue and not GEORGE BUSH.

The Speaker's comments in regard to the CIA's attempt to destabilize the Nicaragua Government are, as I indicated earlier, part of the public record. He has cited nothing more than what is already on the public record, the testimony, the World Court or the Iran Contra Committee and from sources within the administration itself.

In December 1981, President Reagan issued a finding authorizing covert actions against Nicaragua and put the CIA in charge. The actions of the CIA have been a source of controversy and part of a long and a very sad record documenting the Reagan-Bush administration to overthrow that government, and part of the CIA's original covert plan was to destabilize the Nicaraguan Government internally. Testimony to this effect was given to the World Court in 1985 by David McMichael, a former CIA official.

As recently as the 7th of August this year, a UPI report revealed a $10 to $12 million political account earmarked for Nicaragua's internal opposition.

And how was this information known? The CIA and State Department officials told reporters.

□ 2045

This is where the leaks are. That is where the leak has got to be plugged if there are leaks coming, right out of the administration, right out of the White House, right out of Langley. How can the Reagan-Bush administration attack the Speaker for commenting on what the American people read every day in their morning newspapers?

The CIA has mined Nicaragua's harbors, distributed an assassination manual, and set up a secret airstrip in Costa Rica to resupply the Contras.

In at least two instances, the mining of harbors and the Contra resupply effort, congressional bans prohibiting such activities were ignored, and the truth was hidden from Congress and the American people.

As my friend, the gentleman from New York [Mr. WEISS], has indicated, and let me, if I might, for a second cite what has been on the public record about the CIA efforts to overthrow the Nicaraguan Government. On April 6, 1984, Congress learned that the CIA had mined the Nicaraguan harbors. The revelations infuriated Republican conservative Senator Barry Goldwater, then chairman of the Intelligence Committee, who upbraided CIA Director Casey for not informing Congress. The mining of the harbor violated the Boland amendment that had been adopted, that had been adopted in the fiscal year 1984 as a continuing resolution, and it stated that no funds available through the CIA or the DOD or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose of supporting directly or indirectly military or paramilitary operations in Nicaragua by any nation, group, organization movement, or individual.

Second, in September 1984, the public also learned about the assassination manual written by the CIA for the Contras which advised the selective use of violence to neutralize, and everyone knows what "neutralize" means, carefully selected and planned targets such as court judges, police and State security officials.

Third, when the Congress cut off funds for the Contras, the Iran-Contra affair was perpetrated, and a secret supply operation was set up to fund the Contras. The CIA knew about, and some of its agencies participated in, this effort. In fact, CIA agent Joseph Hernandez now faces a five-count indictment by the Iran-Contra special prosecutor, Lawrence Walsh, for organizing and directing a resupply airlift that dropped weapons to the Contras while he was station chief in the only living democracy in Central America, while he was station chief in Costa Rica from July 1985 to December 1986. He is also accused of making false statements to conceal his role in testimony before the Tower Commission.

Another point: Col. Enrique Bermudez, one of the most senior officers to have served Somoza, was anointed by the CIA in 1981 to be the Contras' military director. He is now a member of the Contra political directorate. Bermudez has served as the administrative link to the CIA throughout his full tenure. This is cited in the Washington Post in July 1988.

As recently as May 1988, the CIA intervened directly in a Contra meeting. The Contras were meeting to try to get their act together like they do about every 3 months because half of the people leave because they cannot seem to put their act together, and it is important to review that: Cruz, Robelo, Chamorro, all of these Democrats that those Members on that side of the aisle were hailing and bringing before us year after year after year, they left. They got disgusted. They are gone.

As recently as a month ago, the CIA intervened directly in a Contra political directorate meeting on behalf of Bermudez, who faced opposition from the Contras internally. The CIA agent got on the phone and delivered a 20-minute harangue through a remote telephone hookup calling the Director who proposed removing Bermudez who was, by the way, Mr. Chamorro, who was at one time one of the editors of La Prensa, the paper those Members all hold up with such high standards and which in some instances they are, indeed, correct for doing, but the CIA through this phone hookup, talking about the removal of Bermudez, called Mr. Chamorro stupid and an imbecile.

Under an oath in testimony before the World Court on September 16, 1985, former CIA official David McMichael revealed the outlines of the CIA plan to destabilize the Nicaraguan Government internally. A better script for what has happened with the Nicaraguans in the last few months could not have been written, according to McMichael, who had participated in discussion of the plan, that they were to promote cross-border attacks, then they would get arrestive opposition, and then they would provoke action against United States diplomatic personnel, exactly what happend just a few months ago.

According to a July 7, 1988, UPI report, several million dollars have poured into the coffers of the internal Nicaraguan opposition groups in the last year from private conservative groups and CIA accounts, according to

United States officials and participants in the effort. According to the article, the CIA has spent from $10 to $12 million in political accounts earmarked for Nicaragua's internal opposition. The report was attributed to the CIA and State Department officials. The officials said they had encouraged internal opposition members to take and test the limits of pluralism.

Mr. FRANK. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I wanted to go back a little bit to when the gentleman was relating to us some of the overthrows of governments, and he had kind of a selective list. He seemed to forget the overthrow of the Somoza regime in Nicaragua where our intelligence community participated in that, too. It sort of strikes me as very interesting that the only place we complain about our CIA getting involved is when it is overthrowing Communist governments, and his selective list struck me as being very odd.

In the 1979 timeframe, of course, we overthrew the legitimate Government of Nicaragua at that point, which happened to be a rightwing tyranny, and I happened to think that was the right thing to do, get rid of the rightwing tyranny, but I also happened to think that we ought to be getting rid of leftwing tyrannies.

It is constantly amazing to me that we seem to have a myopic vision of those kinds of issues when they arise.

Mr. FRANK. Reclaiming my time, and before I yield back to the gentleman from Michigan, I want to underline one point. When we talk about policy, one thing that has been strikingly absent from the Bush campaign so far, as well as it has been absent from Congress, has been any real concern about the Contras. It is clear that GEORGE BUSH, while he does not want to anger the right, the organized ultraconservatives, by interfering when he was Vice President with their activities, neither as a Presidential candidate is he prepared to make it an issue, and he has not. We know that GEORGE BUSH intends, if he wins, to resume efforts to fund militarily the Contras, but he is not going to say it.

As a matter of fact, we get from those two dangerous leftists Evans and Novak the argument that at the request of the Bush campaign the Reagan administration is not even asking now for military aid, and as I understand it, that is correct, we have not gotten from the President a request for military aid for the Contras, because the Bush campaign understands that that is an unpopular expenditure of money, that financing that very unsuccessful war is not going well, so he is not saying he is going to do it now. He is not raising that issue. He clearly intends to do it afterward, and we have a situation where the President has not asked us, as I understand it, and the Vice President, we have seen his campaign, and it is strikingly silent on that point.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I want to point out that he keeps talking about the rightwing foreign policies and so on. There, of course, is a leftwing foreign policy, too. The gentleman in the well who is telling us about Iran-Contra is the same gentleman who sponsored the impeachment resolution for Ronald Reagan for freeing Grenada. It seems that that is something that Michael Dukakis probably endorses, too, since he was against Grenada.

Mr. FRANK. Reclaiming my time, now, the gentleman from Pennsylvania has just suggested that Michael Dukakis would endorse an impeachment resolution over Grenada. That is the sort of nonsense which the campaign has taken.

Mr. WALKER. Mr. Speaker, I did not say resolution and—

Mr. FRANK. Mr. Speaker, the gentleman from Pennsylvania has not been yielded to again, and he has been violating the rules, as he knows, so I wish the Chair would tell him to stop it. He just suggested that the Presidential candidate of the Democratic Party would have supported an impeachment resolution over Grenada. That is nonsense. It is the level of inaccurate, unfounded charge that serves a Presidential campaign very badly, that kind of suggestion.

Mr. WALKER. Will the gentleman yield?

Mr. FRANK. Not again for a while. I am going to have to recover from that bizarre remark.

I will yield to the gentleman from New York [Mr. WEISS], stressing what the gentleman has just said, that he does not like the fact that he said it, and having people remind him of it, because he suggested that this is what Michael Dukakis would be for, impeaching the President over Grenada. That is the kind of inaccuracy that we are getting.

I yield to the gentleman from New York.

Mr. WEISS. As a matter of fact, I thank my friend, the gentleman from Massachusetts, for yielding to me, and I guess I ought to be flattered in having the gentleman from Pennsylvania suggest that in some way I am dictating policy from whomever he considers I am dictating policy for.

I, indeed, introduced a resolution to impeach Ronald Reagan for his unconstitutional, in my judgment, invasion of Grenada. I would have welcomed the support of the Governor of Massachusetts. I did not receive it. I did not receive one peep from the Governor of Massachusetts.

Mr. FRANK. Let me say to the gentleman that I happen to be the Congressman who represents the Governor of Massachusetts, and I can report to him that he did not write to me and say, "Please support the Weiss resolution," and, no, he was not voting for that, but it is interesting that this illustrates my point that our friends on the Republican side do not want to talk much about the issue about the Contras. What the Bush campaign approaches is to be for military aid but not to say so, and GEORGE BUSH withheld it. We have Evans and Novak that the President has withheld asking for this, and some of the Republican Members have asked him to do it, but he apparently has been told by the Bush campaign that the polls say that this is unpopular, so they had better not ask for it. I think they are right, it is unpopular.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I am happy to yield to the gentleman from Ohio.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I want to make this point, that several of us are waiting in line now at this long hour of exchange just to do precisely what the gentleman says we are not willing to do. We intend to spend all evening speaking about the issue of the Contras because it is right, not because anyone asked us to, so the gentleman is mistaken in that, sir.

Mr. FRANK. No, I understand that, because I was talking about GEORGE BUSH. I would say to my friend, the gentleman from Ohio, please do not interrupt when he does not have the floor. I would say to my friend from Ohio that the number of people who confused him with GEORGE BUSH is remarkably slender. My point is not that Republicans in the House are not for aid to the Contras. My point was precisely the opposite Republicans in the House, I am informed, have asked the President to ask for military aid to the Contras, but because it would not help the George Bush campaign, they were not doing it, and the Bush campaign understands that that is not a popular issue right now, so GEORGE BUSH is wanting to emphasize national security, and he is talking about a whole range of issues, but he is not talking about aid to the Contras, and the President is not asking for it because they are aware of the negative political implications.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I am happy to yield to the gentleman from Ohio.

Mr. DONALD E. "BUZ" LUKENS. The gentleman from Massachusetts may be totally qualified to speak for the left, but he is not qualified to speak for the right. What I am saying and what I said originally is correct, that we are not polltakers as much as we are pollmakers. We believe that what we are doing is correct and, therefore, the gentleman will see a major effort that we have in the whole Republican Party including the Presidential candidate for President of the United States in behalf of the freedom fighters of Nicaragua against the Communist regime.

Mr. FRANK. Would the gentleman tell me where the request is from the President for military aid to the Contras? My understanding is he has not made it.

The gentleman corrected a statement I have not made. I did not deny the gentleman from Ohio, yes, and his esteemed colleagues over there and others who are off elsewhere are for aid to the Contras. So I will say to the gentleman again that is my point. There is, as I understand it, frustration on the part of many Republicans because the President has withheld making an issue out of this at the request of the Bush campaign.

George Bush wants to look tough, but he is not prepared to admit at this point that he is for resuming military aid to the Contras, and that has been strikingly absent from the Bush rhetoric, so I do not know what the gentleman is correcting.

I am sure that the gentleman from Ohio is all for aid to the Contras. He may be asking for it daily, but the Vice President, in his Presidential campaign, has run away from that issue, and he apparently has succeeded in getting the President not to ask for it. Maybe as a result of this——

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, will the gentleman yield on that point?

Mr. FRANK. Not yet. The gentlemen have several hours, as they know, and they will get their chance to talk during that time, and we may talk to them again, and I will yield in a minute, but I want to express the point that he is correcting something I did not say. I did not say that he is not totally——

Mr. DONALD E. "BUZ" LUKENS. The gentleman has not said.

Mr. FRANK. Regular order, Mr. Speaker, and the gentleman knows better. Please tell him. We do not have to have him interrupting Members when he does not have the time, and it is really unworthy of a Member.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, if I offended the gentleman, I apologize.

Mr. FRANK. Mr. Speaker, regular order.

The SPEAKER pro tempore. The time belongs to the gentleman from Massachusetts.

Mr. FRANK. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The gentleman does not have the right to interrupt him, under the rules, unless he chooses to yield.

Mr. FRANK. I take the example of when they do not like what is being said, we get tactics that I think are unworthy to be before the House, and the fact is that Republicans in the House are all for aid to the Contras, but George Bush has been running away from that, and the president has not asked.

Mr. BONIOR. Not only did they interrupt on the floor, I might tell my friend, the gentleman from Massachusetts, they try diversionary tactics like filing letters with the Committee on Ethics to look into the Speaker, when everything that was brought out with respect to the CIA activity has been brought out in public in the press for a number of months.

□ 2100

Now, the American people should not be fooled on what has happened here. What is happening is that this is an issue that the American people have said no to. This is an issue that the Bush and Reagan administration is fearful of politically and they are trying to divert attention by accusing things that obviously not been done that we all know about.

Mr. FRANK. Mr. Speaker, I yield to the gentleman from Ohio [Mr. Donald E. "Buz" Lukens].

Mr. DONALD E. "BUZ" LUKENS. I want to make the comment I thought we were going to stay within the narrow topics laid out by the gentleman. My immediate response to you on that comment is very basic. The Vice President of the United States and the Presidential candidate of the Republican Party is strongly in support of the Republican platform which is very specific on support of the freedom fighters in Nicaragua, but your own party's platform is very quiet on that.

I make that point again that there are several areas you can go to for written evidence as well as current event evidence where the Vice President is strongly on record.

Mr. FRANK. Tell me the last speech.

Mr. DONALD E. "BUZ" LUKENS. I ask the gentleman not to interrupt me.

Mr. FRANK. I have the right to take back the time and ask the gentleman a question. I suggest the gentleman study the rule. Maybe absence from the House and his memory have faded.

My point is, I would like to ask him, since the Vice President is so fervently supporting aid to the Contras, I read what he says, and I read his speeches. I know what is in the Republican platform. I think he is running not away from it but ignoring it, and again, Evans and Novak tell us Ronald Reagan did not ask for the military aid because Bush asked him not to. A lot of things in the platform that I am not aware, and I ask the gentleman when George Bush has stressed this, and what speech did he talk about aid to the Contras.

I yield to the gentleman from Ohio.

Mr. DONALD E. "BUZ" LUKENS. It is hard to say on the Contras when the opposition candidate, Governor Dukakis of Massachusetts had so many issues like defense and the furlough program in Massachusetts. Some issues capture the public eye. It is difficult to stay on an issue that is not in the public eye.

Mr. FRANK. It is. Michael Dukakis' fault he will not let George Bush talk about aid for the Contras. I think it is Bush's in his policy.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York.

Mr. WEISS. I want to conclude my remarks by underscoring the point that the gentleman from Massachusetts just said, the fact is, and this is what the Iran-Contra scandal and Mr. Bush's failure to really come clean with the American people demonstrates. George Bush is afraid to take responsibility for the actions of his adminstration.

Instead of cooperating with those trying to uncover the truth about what happened, he tried to manipulate the facts. Instead of acting like a leader and accepting blame for the wrongdoing that went on all around him, he threw up his hands, ran for political cover, and said, "Don't blame me. I knew nothing." I believe the American people know better than this, expect better than this, and deserve better than this.

Mr. Speaker, I thank my friend for yielding.

Mr. FRANK. I say to my friend that my time is about to run out. I know they have an extra hour, but I believe the gentleman from New York has the hour after that and we will have another chance.

Mr. DORNAN of California. Mr. Speaker, the gentleman has more time. Will he yield to me?

Mr. FRANK. Mr. Speaker, I yield to the gentleman from California.

Mr. DORNAN of California. The gentleman knows he is one of the best debaters in the House and is at his best when he engages in a free-swinging, to use Supreme Count language, a robust, good exchange of ideas.

Why do you want to stick to the letter of the law and cripple the debate and look like a big crybaby by all of those references?

Mr. FRANK. Mr. Speaker, I take back my time.

Mr. DORNAN of California. Come on BARNEY, come on, baby, give and take. Let us go for it.

Did you give a talk at Georgetown or did you not? I want to ask you about it.

Mr. FRANK. Mr. Speaker, regular order, regular order.

The SPEAKER pro tempore (Mr. NAGLE). The gentleman from California knows better than that. The gentleman from California is out of order.

Mr. FRANK. I have the time, Mr. Speaker. I would hope the gentleman from California would throw his tantrum in a more appropriate forum.

Mr. DORNAN of California. I stanc chastised, Mr. Speaker.

Mr. FRANK. Mr. Speaker, why do I want to stick to the strict letter of the law? Because of the kind of display of immaturity and silliness we have just seen. It does not belong on the floor of the House of Representatives. I ask the gentleman from California to be instructed as to the rules that this harassment and bullying will not work. These antics will not work. He can abide by the rules or go to a more appropriate forum.

I have no idea, knowing the gentleman from California, where that would be. The fact is, Mr. Speaker, that when the gentlemen on the Republican side do not like what is being said we get these kinds of antics. Any resemblance between rational debate in the behavior of the gentleman from California is coincidental.

The fact is GEORGE BUSH has refrained from talking about the Contras because he knows how unpopular it is, and they have apparently persuaded the Reagan administration not to ask for aid to the Contras and, as an example, the GEORGE BUSH paralysis he will not anger the right wing by trying to interfere with their activities and he would trade arms for a hostage, not hostages, but a hostage, but at a campaign when the question comes of public policy, GEORGE BUSH is afraid to come out and say he will stick with that policy.

Mr. Speaker, I believe my time is about to expire.

Mr. DORNAN of California. Mr. Speaker, the gentleman has time left. Will the gentleman yield?

Mr. FRANK. Mr. Speaker, I will not yield and be a party to the gentleman foisting on the House the kinds of antics that the gentleman from California has engaged in a few minutes ago. I have more respect for the House than to be responsible for the kinds of tantrums and acting out.

Mr. DORNAN of California. You are acting like a crybaby.

Mr. FRANK. Mr. Speaker, I ask the gentleman to be instructed again as to the rules of the House and these kinds of outbursts which are violating the rules. He knows that. It simply degrades the process and I will not be a party to foisting them on the House. The gentleman may carry on as he wishes on his own time, but that seems to me to be a degradation of the democratic process to which I do not wish to be a party. The gentleman complains about strict adherence to the rules. I understand, given that type of behavior, why there were problems for him.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

A DEMOCRATIC ASSESSMENT OF GEORGE BUSH AND THE RIGHT WING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. WEISS] is recognized for 60 minutes.

Mr. WEISS. Mr. Speaker, just to pick up where we had left off, I think that the American people have been sorely disappointed and grieved by what they saw coming out of the President's office and the White House. Under the guise of a National Security Council we had a rogue operation where the defense for avoiding the law, for breaking the law, for not telling the President of the United States, supposedly, as to what they were doing, as that they knew, that is, Colonel North knew and the admiral knew what the President would have done, and therefore there was not need to tell him. Beyond that, we have a Vice President who, as a member of the National Security Council, participated fully in meetings with the Secretary of State and Secretary of Defense who vociferously objected to the idea of trading arms for hostage or hostages with Iran, and the Vice President, having attended some 17 meetings where the discussions took place in some mysterious fashion, never found out about the fact that this was being done, and to this day simply refuses to talk about what his knowledge was.

It seems to me that a person running for the Presidency of the United States ought to have the character to step forward and level with the American people so they at least have some basis for determining how he will conduct himself in office were he to be elected President.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. WEISS. Mr. Speaker, I yield to my friend, the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, to that point, when confronted with the facts, GEORGE BUSH could not take the heat and he ran for political cover. BUSH initially claimed, as you have indicated, that he was "out of the loop," and did not hear the arguments against the policy. This is not clearly the case, as you have indicated, and I have on other occasions, because we know the Iran-Contra report lists him present at key meetings where George Shultz and Cap Weinberger argued against this policy.

You had Admiral Poindexter, you had the President, you had the Vice President, you had Cap Weinberger and you had George Shultz sitting in a room talking about whether to trade arms for hostages, whether to trade arms with the Ayatollah, the gentleman, although gentleman is a terrible word to describe the Ayatollah, the person who is responsible for the deaths of 250 of our finest Marines.

When George Shultz and Cap Weinberger said no way, it is bad policy, it violates the various basic tenets of your, Mr. President, your antiterrorism task force, do not give into demands from terrorists, it violates that, Mr. Vice President. Whom did BUSH side with? He sided with Admiral Poindexter against the wishes of George Shultz and Cap Weinberger. I think that speaks to his judgment.

We know he sided with them because in a memo from John Poindexter, John Poindexter states, and this was made public during the hearings, "The President and the Vice President are solid," are solid, "in taking the position that we have to try the Iran arms deal."

BUSH's chief of staff admits he knew what was going on.

Mr. FRANK. Mr. Speaker, will the gentleman yield to me?

Mr. WEISS. I am pleased to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, that underlines the point. GEORGE BUSH and Cap Weinberger strongly spoke out. GEORGE BUSH was afraid to do it. Why was GEORGE BUSH afraid to speak out against this? We are not now talking about GEORGE BUSH being against policy of aid to the Contras. We know he is for that. He does not want to say that because he read the polls.

Why was he supportive of a policy of trading arms for a hostage during a period when we netted out more hostages, more hostages were taken. Why did GEORGE BUSH acquiesce with the arms for a hostage, and why he did he not clamp down on members of his staff in engaging in activities that it turns out were illegal, and why did not side with George Shultz and Cap Weinberger against the illegal activity? The answer is he is afraid of the right wing.

George Shultz, whom I sometimes disagree with, is a distinguished Secretary and a whipping boy of the right wing. DAN QUAYLE has been campaigning against the State Department. GEORGE BUSH was afraid that if he did what was constitutionally the right thing in this case, GEORGE BUSH was afraid that if he opposed the arms for a hostage deal that he, too, could have gotten the wrath of the right wing, and he has seen what they have done to George Shultz and he, because of his desire to be President, did not want to take on the right wing.

So he did not side with George Shultz. He did not support Cap Weinberger. He was complicit in not only outrageous policy of arms for a hostage, but illegally carried out outrageous policy because of his fear of the right wing.

Mr. BONIOR. Mr. Speaker, if the gentleman will yield, he was not only complicit, I might say according to the memo from John Poindexter, the VP was "solid." He was solid, he was not weak, he was solid.

Mr. FRANK. Mr. Speaker, if the gentleman will yield, if the Vice President was solid in this regard, it is one of the few times in his career he appears to have been solid.

Mr. BONIOR. Mr. Speaker, I would like to take another turn here, but on the question of the Vice President's leadership, if the gentleman will allow me.

These issues were raised by a colleague of ours in the other body, today, on the Senate floor. As the American people prepare to make their final judgment on the two Presidential candidates, they deserve to know where the candidates stand, obviously on the important foreign policy issues that we have discussed here today. At the top of the list should be international terrorism and the candidates' respective record of action against known international terrorists. For this reason, the American voters deserve answers from GEORGE BUSH to some tough questions about him and his Vice Presidential office's relationship with known international terrorist, Luis Posada.

Question one, Mr. BUSH, what do you known about Luis Posada. Luis Posada is also known as Ramon Medina who served as the chief logistics aide for Felix Rodriguez, from 1985 to 1986, and managed a secret White House operation based at the Ilopango Air Base in San Salvador to ferry weapons to the Contras. Posada, who has been identified by Rodriguez himself during the Iran Contra hearings, spent 10 years in a Venezuela jail for blowing up an airliner killing 73 people in 1976. After escaping from prison in August 1985, Posada joined up with fellow Bay of Pigs veteran Felix Rodriguez and assumed the alias Ramon for his work.

Second question, what did your National Security Adviser, Donald Gregg, know about Posada, and did you ever ask Mr. Gregg about him?

Don Gregg, the President's National Security Adviser, was Felix Rodriguez CIA supervisor during the Vietnam war and helped place Rodriguez in El Salvador as a counterinsurgency advisor in 1984. Less than a year later, Lt. Col. Ollie North recruited Rodriguez to manage a secret airlift base at the camp. By the end of 1985, Rodriguez helped arrange Luis Posada's arrival in El Salvador's Ilopango Air Force Base.

I ask my colleagues, can we really believe that Don Gregg never asked his former CIA colleague, Rodriguez, about either the secret supply operation or Rodriguez' part and international terrorist Luis Posada?

Question 3, Mr. BUSH, in your numerous meetings with Felix Rodriguez, whom you have referred to as your good friend, did you ever ask him about his associates and whether he had in his employ Posada? BUSH aides acknowledged that Rodriguez maintained regular contact with the Vice President's office. On three separate occasions, the Vice President met with Rodriguez while he managed the secret Contra resupply operation during the 1984-86 congressional ban on U.S. military aid to the Contras.

□ 2115

Don Gregg's own briefing memo to the Vice President for May 1, 1986, meeting with Felix Rodriguez specifically mentioned as a topic for the meeting a briefing on resupply for the Contras. My colleague has alluded to this earlier. Are we to believe that neither you, Mr. Vice President, nor your national security adviser, Don Gregg, who was a longtime associate of Rodriguez, never asked Rodriguez about his associates at Ilopango?

Question 4, Mr. BUSH: When you were CIA Director in 1976 did you ever investigate the role of Posada and other Cubans in the 1976 Venezuela Airline bombing?

GEORGE BUSH was CIA Director in 1976 when the airline bombing occurred and took a personal interest in this and a string of related anti-Castro bombings that shook the hemisphere that year. In the 1976 airline bombing according to Federal officials in Miami was carried out by a coalition of military anti-Castro groups calling itself the Coordination of United Revolutionary Organizations or CURO.

CURO has been implicated in a string of bombings and assassinations in the United States and Latin America, including the September 21, 1976, car bombing of Chilean exile leader Orlando Letelier in Washington, DC.

Concerned about this wave of bombings, BUSH as CIA Director made an early November weekend trip to Miami with these senior CIA officials reportedly to look into the Cuban connection with the airline bombing and the Letelier bombing.

Not only was Posada a member of CURO, but he worked for the CIA on contract as late as 1975.

According to the CIA's own records, Posada is identified as a demolition expert, worked virtually full time for the CIA from the Bay of Pigs invasion in 1961 until 1967. He took a high-level post in the Venezuelan intelligence where he continued to serve as a CIA informer until June 1974.

The real question is, given Posada's past ties with the Central Intelligence Agency, the CIA's knowledge of the Cuban connection with the 1976 Venezuelan airline bombing and the Letelier car bombing, why, as CIA Director, were you not aware of Posada at the time?

Question 5 and question 6: Why, Mr. BUSH, after the press in October 1986 reported that Posada, the international terrorist responsible for the 1976 Venezuela airline bombing, was the same person who worked with your good friend, Felix Rodriguez at Ilopango, did not you investigate these charges? And why did not the President's Task Force on Combating Terrorism, which you headed investigate charges of Posada's connection with the secret Contra supply operation?

Mr. BUSH, in a 1986 report of your task force on combating terrorism you describe U.S. policy on terrorism as "tough and resolute." And further wrote that "we firmly oppose terrorism in all forms and wherever it takes place." Yet in November 1986 it was reported by UPI, the Associated Press, Newsweek, the Miami Herald, the Christian Science Monitor, the Washington Post that Ramon Medina, identified by Eugene Hasenfus as Felix Rodriguez' chief assistant at Ilopango, was indeed Luis Posada, the international terrorist. The Medina/Posada link was confirmed by Felix Rodriguez in his May 28, 1987, testimony before the Iran/Conra panel.

Yet when Posada's role came to light in late 1986, Don Gregg said that GEORGE BUSH, who had been selected by the President to spearhead this administration's policy against international terrorism, "didn't pay much attention" to press reports and made no inquiries after reporters questioned him about the fugitive's links to Rodriguez.

As for BUSH's national security adviser, Don Gregg, he did not "know about when the allegations on Posada came out and I did not focus on it." Let me repeat, despite numerous press reports and inquiries that surfaced in October and November 1986 the Vice President, who chaired the President's Special Task Force on International Terrorism, did not even bother to ask Felix Rodriguez, his so-called good friend, or did not ask his own national security adviser to inquire into the associates of Mr. Gregg's former CIA associate about Rodriguez' chief assistant at Ilopango, Mr. Luis Posada? Either Mr. Gregg and Mr. Bush are not telling us the whole story about what they know about the Rodriguez/Posada operation at Ilopango or the Vice President was doing some very shoddy work for the President as his point man on international terrorism.

If Mr. Posada, who was a working partner of a close associate of the Vice President and a long-term ally of Mr. Bush's national security adviser could escape from the Vice President's terrorism task force scrutiny, then we need to wonder what other international terrorists has the Vice President not bothered to investigate? Which brings me to my final question for Mr. Bush: What is your policy on international terrorism, You claimed that the Reagan/Bush administration opposed terrorism in all forms and wherever it takes place. It appears that you find certain kinds of international terrorism less offensive or at least less cause for investigation than others.

The Posada case demonstrates that you did not bother to use your offices or your international terrorism task force to investigate the activities of a known international terrorist. Was it because of Posada's ties with your good friend, Felix Rodriguez? Or was it because of Posada's role in organizing the secret Contra supply operation run out of Ilopango air base? Or was it because of Posada's past ties with the CIA which you headed in the mid 1970's? What does this say about your stand against other terrorists or other international figures involved in illegal activities such as drug running, which we hope to visit on another evening?

Mr. Bush has a dilemma: It is hard to fight terrorism when the terrorists are friends of one of your good friends and are part of an illegal operation going on right under your nose.

Mr. President, the American people deserve a full accounting of Mr. Bush and the Vice President's office and its knowledge of Luis Posada's role in the secret Contra supply operation and why Mr. Bush never bothered to use his good offices to investigate charges of Posada's links with the supply operation and Felix Rodriguez even after the press reported them in abundance in late 1986.

As chairman of the President's Task Force on International Terrorism, Mr. Bush, you should have taken an oath, a pledge to root out terrorists in all forms, whatever their affiliations.

You owe it to the American people to come clean and explain to them where you were in late 1986 when the Posada link became clear. And you owe it to the American voters to reaffirm your commitment against terrorism by retaking that pledge to root out, to investigate and to eradicate international terrorism wherever it takes place.

This was raised and not by just this gentleman this evening, but was raised in the other body today. I eagerly await the Vice President's comments on this because I do not think this is something that we can just shove under the door. The Vice President was given a very significant responsibility as head of the task force on international terrorism by the President of the United States.

Mr. WEISS. Not only was he chairman of that task force, but as we have noted, he was a statutory member of the National Security Council. He had both an assigned and a statutory obligation to, in fact, be fully apprised of these events and to keep himself fully apprised.

Now given the testimony the gentleman has just given, the record that he cited, the record that I have cited earlier on, it is just simply incredible that given those assignments, given the role that Mr. Bush has had as a director of the Central Intelligence Agency, that he would not have known, that he would have been out of the loop, that he would not have focused on these very grave national security matters to the United States of America.

I have no difficulty at all in concluding that Mr. Bush is dissembling, he is not telling the truth, he is trying to stonewall the American people. And I must say that so far he seems to be getting away with it.

But I have a sense that before November 8 comes around that in fact the American people will return to this issue and will insist on getting answers to some of the questions the gentleman raises as well as to the question as to what did he, in fact, hear and what did he tell the President as to what he ought to do in relation to the arms sales to the Ayatollah. I do not think that he is going to be allowed to get away with it throughout this entire campaign, because it seems to me that the American people will want to be able to gauge for themselves his judgment.

Mr. BONIOR. His judgment, exactly.

Mr. WEISS. Because that is really what this is all about. You elect a President of the United States; do you elect a man who in fact either, if you take him at his word, either was not focusing on the most important assignments he was given or is lying about what his role was.

Mr. BONIOR. His two most important assignments were as head of the task force on antiterrorism and of course head of the task force on drugs. He gets an F on both accounts. He failed the antiterrorism test. Clearly we do not know the extent to which this administration under the leadership of George Bush, has made an effort to combat the serious drug problems. We do not know entirely the story, the relationship between the Vice President and Manuel Noriego. We are going to have to visit that another day. And the most visible judgment call that I think—and this is off the subject a little bit, but the one that I think the American people know the Vice President the best on—was his first major decision as head of this party. That was, of course, the choice of his running mate which has been a complete disaster.

I just saw a new poll out today at NBC which indicated that by 50 to 30 percent, most people disagree that that was a good choice.

So his judgment is indeed in question. I encourage my colleagues to look very closely, and the American people to look very closely at this record, which is less than illumining.

Mr. WEISS. Because what is at stake here really is not just the personal fortunes or the personal ambitions of George Bush. He has every right to want to be President of the United States. But the people of the United States, it seems to me, have the right to look at the background, to look to see how he has fulfilled responsibilities he has held up to that point.

The actions that the Vice President was engaged in, the actions which he did not take or he says he was out of the loop on, that he did not focus on, ended up not besmirching just the reputation of George Bush, it ended up besmirching the reputation of the United States of America. For this, the Vice President has been part and parcel of some of the most devastating actions and course of conduct that the America Government ever engaged in.

Imagine that the President of the United States goes around the world, goes to the United Nations and says that we will never, never deal with terrorists. And at the same time, right under his nose with his involvement, with the Vice President's involvement, we have this dastardly act of trading arms to the greatest terrorist—not whom I say was the greatest terrorist, but whom the Reagan administration said was the greatest terrorist in the world, the Iranian Government and the Ayatollah. Now if that did not besmirch the reputation of the United States of America than nothing has. I think that George Bush has to answer for that.

I would be pleased to yield to the gentleman from Georgia.

Mr. GINGRICH. I just wonder, because I think both the gentlemen have raised the correct question. Maybe it puts back a little in focus why a number of people on this side of the aisle are so extremely upset about Speaker Jim Wright's comments. Let me—I happened to get copies of two newspapers published by the Communists in Nicaragua in the last 24 hours. Let me just read a section so you can understand the consequences of bad judgment.

Mr. WEISS. Now if I can take back my time, the gentleman is not going to talk about the trade to the Ayatollah of arms and the gentleman is not going to talk about the resupply of the Contras with the moneys that were gained in that transaction.

□ 2130

They are going to be talking about what supposedly transpired. The gentleman from Michigan, I think responded in great detail as to exactly what the background of that was.

Mr. FRANK. Mr. Speaker, will the gentleman yield to me?

Mr. WEISS. I am pleased to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I would just point out that our Republican colleagues have several hours of special orders scheduled. As a matter of fact, in my brief sojourn in the chair, I just may be so bold as to amend the adjournment so it will no longer say, "I move we adjourn until 10 a.m. tomorrow." It now says, "I move that we adjourn until 10 a.m. today," because I assume my friends are going to be here for a while.

So I suggest they take their time to talk about the subjects they want to talk about. I understand why they are distressed to have people be reminded of the Vice President's role here. I would hope that the gentlemen would want to discuss these topics. But letting them divert this into another one is something they can do on their own time, but I would not let them do that on this time.

Mr. WEISS. Mr. Speaker, if the gentleman will allow me, I am perfectly willing to yield time under my control, under the rules, to the gentleman from Georgia and the gentleman from Pennsylvania as long as they want to address the issues which were the subject matter of the hour we took on special order. If the gentleman wants to go on and talk about some other subjects which are the subject of his special order, I do not think he needs my cooperation in that, and he will not have it.

Mr. GINGRICH. Mr. Speaker, will my colleague yield for 30 seconds?

Mr. WEISS. Is it on the subject on which I have spoken?

Mr. GINGRICH. Just for 30 seconds.

Mr. WEISS. I would be pleased to yield to the gentleman on the condition that he talk about the subject that I took the special order for.

Mr. GINGRICH. Yes. I think that is a very fair request, and I will not ask to intervene again except on the topic the gentleman asked to talk about, except that I would make the comment that I hope our colleagues on the Democratic side would stay around later so that one could have a dialog on a topic which we think is of mutual concern.

Mr. WEISS. I think the gentleman from Massachusetts cited the eighth amendment to the Constitution earlier, and that sounds pretty good to me.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I think the conversation a few minutes ago was on the question of rooting out international terrorism wherever it takes place. Is that part of the subject matter that we are allowed to discuss on the gentleman's special order.

Mr. WEISS. Mr. Speaker, if the gentleman will allow me to respond to him, when he takes out a special order, he can talk about any subject he wants to, and to his hearts' content, as he knows, under the rules. When a Member takes out 1 hour to address a particular topic, he really controls the time, and that does not come under any kind of debate or question at all.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEISS. Please, I am trying to explain to the gentleman what we have done. What I have done in this hour is to continue the discussion undertaken by the gentleman from Massachusetts as to some questions of the judgment of the Vice President of the United States, who is now seeking the Presidency of the United States, and we cited in the course of that discussion some of his failures in regard to judgment involving international terrorism, in that context.

So in that context, if the gentleman wants to talk about the Vice President's role in regard to the trade of arms for hostages with the Ayatollah, with regard to the resupply efforts of the Contras, or with regard to the question that the gentleman from Michigan raised before as to Mr. Rodriguez and some of his associates at the CIA or in context with the Vice President's operations, I would be pleased to yield. But otherwise, I think in all fairness, the gentleman ought to take his own time.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Pennsylvania, but only under those conditions.

Mr. WALKER. I just wanted to point out, under the heading of rooting out international terrorism wherever it takes place, that Vice President BUSH did, in fact, support the raid on Libya and the action against Grenada, both of which Governor Dukakis has opposed and I think the gentleman in the well opposed. So there is a mixed record here that the gentleman does not want to discuss obviously.

Mr. WEISS. Mr. Speaker, I take my time back.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding.

It is incorrect to say that the Governor of Massachusetts opposed the raid on Libya. He was for it. He said he thought more care should have been taken with regard to the choice of targets with respect to the civilian aspects of it, but he was supportive of that raid. Again I think that is a kind of inaccuracy that is unfortunate.

But beyond that, I think one thing is striking. Our Republican friends have been taking the floor to talk about the Presidential campaign, and that is legitimate under the rules. They have time reserved later. The notion that we would talk about GEORGE BUSH's record of supporting the trading of arms for a hostage—that is all they got, a hostage, while more were being taken simultaneously—bothers them so that we have seen disruptive tactics. And we also want to note that we have been discussing this for about 90 minutes, and I have yet to hear from my colleagues on the other side any definition of GEORGE BUSH's actions. Their efforts to defend GEORGE BUSH's actions are to disrupt the debate, to raise other issues, and, in my judgment, to state inaccurately the position of Governor Dukakis in regard to, for instance the raid of Libya, but not to say, yes, GEORGE BUSH was right to do these things, or that GEORGE BUSH was right to do the other things.

I did ask what they thought about the nomination of the Republican for Vice President, and they said—and I agree with them, and I congratulate them—that they would have picked a couple of other people. I think I would have picked a couple of hundred other people. But even given that ideological qualification, I agree with that. But now that we have brought it up, we are apparently to get some of our colleagues speaking in defense of GEORGE BUSH, but they have let about 90 minutes go by without wanting to defend GEORGE BUSH because, frankly, it is very difficult to defend his record.

It is very difficult to defend his refusal to join George Shultz and Caspar Weinberger, in my judgment, because he is so afraid of the right wing and allowed his staff to do what it was doing in ways that may have violated the law, and particularly to have supported that trading of arms for hostages. So I appreciate their reluctance to talk about that.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I will yield in just a moment under the conditions I outlined before.

I, for one, would be very eager to learn what the gentlemen on the other side of the aisle think Mr. Bush really knew and when he knew it. Did he in fact participate? Do they believe that he was in all those meetings with Weinberger and Poindexter, and did he hear at any time a discussion of the proposed trade? Do they believe he was really out of his loop?

Mr. FRANK. Mr. Speaker, if the gentleman will yield, maybe we have misjudged him, and maybe this is his model of how a Vice President should behave. That may be the first plausible explanation I have heard of why he picked Dan Quayle to be Vice President. George Bush was doing a very good Dan Quayle imitation apparently at that time.

Mr. WEISS. The fact is that Mr. Bush sort of dances around. At different times we get sort of different winds of his viewpoint. At one time I recall he said that, yes, he did know about it and he told the President what his view was, but he did not think it would be appropriate for him to divulge to the world at large what he told the President. Now, the President has, I guess, confirmed the fact that Mr. Bush spoke to him, said something to him about the trade with the Ayatollah for arms, but I do not think that Mr. Bush has still been willing to let go of the blanket of security that Mr. Reagan's concern for Mr. Bush's privacy and advice he gave him presents to him.

So again, as I say, I would be pleased to hear what my friends on the other side say about it.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from California.

Mr. DORNAN of California. I will be glad to adhere to the gentleman's rules, particularly as he laid down his rules, as amended by the gentleman from Massachusetts, that we respond directly to some of the questions that were put forward rhetorically or specifically to us tonight in defense of George Bush.

I have just one or two qualifiers. I was the first Congressman by a year to endorse anybody in either Chamber on either side of the aisle, and I endorsed the winner of our primaries, Mr. Bush. I am one of four people designated in California to respond to the debates officially after the debate on Sunday night.

Mr. WEISS. Where is the gentleman going to be doing that response?

Mr. DORNAN of California. My name has been submitted to the media as one of the debate responders after the debate is over.

Mr. WEISS. On television?

Mr. DORNAN of California. Yes. And, of course, if my guy lost, I am going to go on television and say that my guy lost and Dukakis won, and that is it. I will try to maintain my candor and reputation.

Now, I have one final qualifier. In 3 years on the stump for our Vice President, I have not had to eat one phrase, I have not made one mistake, according to the Bush people, and I have never said one thing wrong. And we all know that the Vice Presidential candidate, Mr. Bush himself, has had some wonderful gaffs. I hope he opens up the debate Sunday by saying that he almost cancelled because he did not want to miss Christmas with his family. A little self-deprecating humor is nice, and the gentleman from Massachusetts [Mr. Frank] is a master at that.

I have never made one mistake out there for him in 3 years. So now let me speak for him in defense. The Vice President does have a bottom line, and it has to do a little bit with the eighth amendment of the Constitution that Mr. Frank has referred to. At the mere suggestion that we stay around a few more hours and discuss things under our special orders, he invokes the eighth amendment, which we all know is cruel and unusual punishment.

The Vice President of the United States, as does the President, feels that cruel and unusual punishment to the extreme is being meted out by the Communist military junta, the nine self-designated Communists, Leninist Communists that control the government in Managua. He does want to see that government turned into a democratic government of duly elected men and women. He truly believes that. Now, what the gentleman might designate as mistakes on his part, I do not.

Mr. WEISS. Mr. Speaker, I will take back my time at this point.

Mr. DORNAN of California. Ask me anything specific about his record.

Mr. WEISS. What I asked the gentleman was: Would he tell me whether he believes that Mr. Bush was really out of the loop and did not hear Weinberger and Shultz very strongly and vociferously oppose trading with the Iranians for hostages?

Mr. DORNAN of California. I will respond directly to that, if the gentleman will yield.

Mr. WEISS. I yield to the gentleman from California.

Mr. DORNAN of California. I have asked that question directly with the Vice President alone, with him on Air Force II, and Lloyd Bentsen has accepted his answer by saying that he is going to pattern himself after the Vice President.

Mr. WEISS. I am anxious to hear the gentleman's answer to this.

Mr. DORNAN of California. The Vice President said, "Bob, I will not answer that question to a friend like you or to anybody until afer the President has left office."

Mr. WEISS. And after the election is well over. Thanks a lot. I am pleased to hear that.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the gentleman from Massachusetts.

Mr. FRANK. The gentleman asked if we were going to get a defense of George Bush, and instead we got a history of the perspicacity of the gentleman from California and how he never made a mistake, but we did not hear that George Bush never made a mistake. I gather the specific question was: Did George Bush participate in trading arms for a hostage, selling weapons to the Ayatollah to get one hostage out? He said he did not do that, and the answer is that he will tell us after Ronald Reagan has left office.

That does not seem to me to make a lot of sense. It does have one advantage. It means after the election. In other words, George Bush will tell us the truth about this after the election is safely over, which is probably when he will start talking about the Contras again.

But actually what sense does that make? The issue of arms for hostages is over. If he is going to tell us once Ronald Reagan has left office, why can he not tell us now? The answer is very simple. George Bush is embarrassed to discuss this until after the election is over.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEISS. Maybe the gentleman from Pennsylvania has something to add. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

It seems to me that maybe the Vice President in his conservation with the President deserves at least as much confidentiality as Jim Wright has in his discussions with Danny Ortega. He regards those as confidential and will not talk to anybody about those. Maybe the discussions the Vice President holds with the President are just as confidential.

Mr. WEISS. Now, the gentleman knows better than that. I take back my time.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Michigan.

Mr. BONIOR. The Speaker has been very clear, I think, in the two conversations he had with the President of Nicaragua that he made a very forceful argument for them to live up to Esquipulas and open the press and do the things the Constitution stands for and the things in which he believes.

So I think it is unfair for the gentleman from Pennsylvania to equate confidentiality in that way with the President of Nicaragua.

Mr. Speaker, let me make one final point. I am very pleased to hear how close my friend, the gentleman from California, is to the Vice President, that he was the first to endorse him, and that he confers with him evidently on a regular basis.

Are we to assume from that that the gentleman will remain and be, if, God forbid, the Vice President is elected the President, one of his closest advisers on these international question?

Mr. WEISS. Mr. Speaker, I would be pleased to yield to the gentleman from California for a response to that question.

Mr. DORNAN of California. We do not know. He considers that to be something private.

Mr. FRANK. Mr. Speaker, will the gentleman yield to me?

Mr. WEISS. I will yield in a moment, but first let me say this:

It just seems to me that as we press the gentleman from California and the gentleman from Pennsylvania for a defense of Mr. Bush, we do not get a defense at all; we get from the gentleman from California a statement that in private Mr. Bush told him he would not tell him anything different than what he told everybody else in public, which is that he is not going to say anything about that until after Ronald Reagan leaves office.

The gentleman from Pennsylvania takes a different tack. He says he equates the Vice President's responsibility to the American people, in running for the Presidency of the United States, with whatever responsibility—and he misstates and distorts that—that the Speaker has in disclosing conversations that he had with Daniel Ortega.

Mr. FRANK. Mr. Speaker, if the gentleman will yield, the gentleman from Michigan pointed out that the Speaker has been very forthcoming about his conversations in that regard. He has been forthcoming about his conversations with President Arias, who has welcomed the Speaker's help in trying to put peace together. He has been very forthcoming about his conversations with all parties in Nicaragua.

□ 2145

He has even been forthcoming about some of the most exasperating conversations he has had with Elliott Abrams, so the fact is that the Speaker has not done that.

But now I have to amend something I said before. I said before that we would go for an hour and a half with no defense of George Bush's role in the arms for hostage deal. We have now gone 1 hour and 45 minutes with no such defense, and the gentleman from California told us how he and George Bush talk a lot and that he was for George Bush early, and George Bush would not tell him and that is OK, but nobody on their side wants to defend George Bush.

What the gentleman from Pennsylvania wanted to do was to attack somebody else. Apparently he is a follower of the Bobby Knight as garbled by Dan Quayle school, and my colleagues will remember that quote that Dan Quayle gave us about an offense and a defense which was comprehensible to absolutely no one.

The fact is that the Vice President, as we have said, I think, because of his fear of the rightwing, was involved in this deal to sell arms for hostages. As one of the coordinators of the antiterrorism campaign, he perpetrated the worst mistake in our policy with regard to terrorism encouraging terrorists, rewarding them, aiding one of the least attractive and most oppressive regimes in the world today, the Iranian regime, and his answer as to whether or not he was forthright is, "Well, I can't say that because I told Ronald Reagan."

Mr. Speaker, that just has no logic to it. Why would Ronald Reagan be so upset? I mean George Shultz can tell us what he told President Reagan, and Caspar Weinberger can tell us what he told President Reagan. Has George Shultz been compromised? Has Caspar Weinberger been compromised? There is no logic to the position that I as Vice President must be able to tell the President and the President only because, if anybody ever knew what I was telling the President; what? He would not tell the truth?

Mr. Speaker, I have more confidence in Mr. Bush than that. I do not understand. Why is the reason? He simply repeats it. It is a convenient way for him to get out from under.

By the way, when there is something politically attractive to tell the President, then we know what the Vice President said. When the question of plant closing came up and they wanted to get the President to back off his veto because it would help the Vice President's campaign, we were told the Vice President was involved.

Why is it logical for the Vice President to tell us what he told Ronald Reagan after the election and not before? The answer would be that it would be embarrassing and damaging to him politically. It would show the extent to which, I believe, his fear of the far right paralyzed him when he should have been acting, and for that reason he would not do it.

Mr. WEISS. Mr. Speaker, I am going to yield to the gentleman from Pennsylvania in a moment.

The gentleman from Michigan raised some additional very serious questions because, OK, George Bush, I guess, is going to try to dance around the maypole as long as he can. I do not think he can get past November 8 without really becoming clean on what he really knew and what he told the President, but for the moment let us drop that.

How about all these activities that were going on within his office, within the Office of the Vice President where he had Mr. Gregg, his senior adviser, former member of the CIA, meeting with Mr. Rodriguez who had been Mr. Gregg's subordinate in Vietnam running an operation? Supposedly he tells the Vice President about the insurgency in El Salvador, but he tells the Army Command at the very same time that in fact his prime concern is the Contras and their supplies. How about the terrorists, Mr. Medina, Mr. Masada?

Mr. Speaker, it seems to me that those are questions which are not at all impinged on by spurious questions of confidentiality between the President and Vice President.

Does anybody—do my friends on the other side of the aisle really believe that George Bush, given the positions he has held, the stature that he has, the intelligence that he has, would have had all that going on under his very nose, engaged in discussions with these people, without asking any questions at all as to what are these people doing in relation to Nicaragua?

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. Walker], my friend.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I just wanted to make the point that I think a number of us may feel as though George Bush needs no defense against the attacks from the far left from any of us. He is doing a pretty good job of withstanding those attacks from the far left represented by the Presidential party candidate in the gentleman's party.

So, I do not think that any of us feel as though there has been anything said out here tonight coming from the far left of the political spectrum that George Bush needs much defense against George Bush's——

Mr. WEISS. OK; if that is the best the gentleman can do, I am willing to accept that.

Mr. Speaker, I yield to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman from New York [Mr. Weiss] for yielding.

I did not hear any of the triumvirate mention or comment upon what I said about what Lloyd Bentsen said. Shortly after Lloyd Bentsen, a distinguished gentleman of the other body, and we can now talk about him because he is a Presidential candidate, and I think all of us on this floor could agree that he is qualified to be President——

Mr. WEISS. Mr. Speaker, I am going to take back my time—I am going to take back my time——

Mr. DORNAN of California. Mr. Speaker, I am trying to defend. The gentleman will not let me.

Mr. WEISS. No, that is not a defense. That is now trying to shift off your problems on our poor leftwing slate of candidates for the Presidency and the Vice Presidency. The gentleman cannot really have it both ways.

The gentleman is not going to have LLOYD BENTSEN defending GEORGE BUSH's failure to come clean with the American people. That is not going to wash at all.

Mr. DORNAN of California. I can try.

Mr. WEISS. Yes, but it does not work; right.

In any event I think that we have spent a fruitful better part of 2 hours discussing one very important area in which the Vice President had the opportunity to demonstrate judgment or lack of judgment, and I think that he demonstrated for the American people that he lacks judgment. He lacked judgment in not opposing what—what did Mr. Weinberger, Caspar Weinberger, scribble on the proposal across his desk? I think he said, "This is idiotic," or "Loony tunes," or some such.

I mean he really characterized the idea of trading arms for a hostage or hostages with the Ayatollah as being the crackpot idea that it was.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Massachusetts.

Mr. FRANK. That is important because Caspar Weinberger, and I do not think the gentleman from New York and I often voted the way he would have liked us to have voted—Caspar Weinberger and George Shultz, two very distinguished public servants of great commitment to the national security, openly criticized the arms for hostage policy, and they said so, and nothing negative happened there.

The notion that in a democracy we are well served when people insist on speaking to the President, only for the President—I mean what kind of a role is it?

The Vice President says, "Well, this is my job. I'm only supposed to tell the President,"

Well, presumably the Secretary of State has the same kind of responsibilities, and the Secretary of Defense.

Mr. Speaker, this is a crazy way to run a government. We cannot have debate apparently.

As my colleagues know, when they set up the National Security Council, and it was begun under President Harry Truman and continued through all Presidents thereafter, the notion was this would be a forum in which the people with the greatest responsibility for national security would engage in a debate, and I can just see GEORGE BUSH's conception.

Mr. Speaker, GEORGE BUSH will convene the National Security Council, and the Vice President will be there, and the Secretary of State, and the Secretary of Defense, and the National Security Adviser, and the question will come up, and each one will write down what he thinks and submit it to the Vice President—to the President on a folded piece of paper, and they will not have any debate because under the Vice President's rules a Vice President is supposed to whisper his advice into the President's ear and for him only to hear it.

What happens to the problem of debate, and of internal discussion, of challenging——

Mr. WEISS. Well, if I can just pick up that point.

Ultimately the fate of the United States really depends on how open, how honest, members of the—why the President's closest advisory groups are willing to be with him because he then has to make judgments on the best information available to him as to what is in the United States' best interest.

Michael Dukakis, it seems to me, has spelled out very clearly what he expects of his Vice President. He said about LLOYD BENTSEN that one of the reasons that he designated him as his Vice Presidential candidate, his running mate, was because, if, in fact, somebody comes along with a crackpot idea to trade arms to the Ayatollah, that he expects LLOYD BENTSEN to come to him and say, "Mr. President, do you know what a crackpot idea this is?"

Would that GEORGE BUSH had had the gumption and the judgment to in fact take that position with that crackpot idea, because then it would have failed. Instead we have Admiral Poindexter saying that the Vice President is solid.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to the gentleman from Michigan.

Mr. BONIOR. In the broader question that I am concerned about as a Representative of half a million people and that every one of my colleagues should be concerned about is that, if indeed through the elected Representatives in this body and in the Senate the American people express themselves against taking specific actions in foreign policy, whether it be antiterrorism action or subverting a government, whether the Vice President will stand up and adhere to the laws of the land or whether in fact he will allow a government within a government to form as did during the Reagan administration and work outside of the duly constitutional prerogatives of this country; that is what I am concerned about. I am concerned about whether in fact really true democracy will in fact remain or whether we are going to see a continuation of allowing selected people in this government to go beyond the law, violate the law, skirt the law, without due representation from the rest of the American people and doing those things. That is the thing that I am concerned about.

Mr. WEISS. And I share that concern.

Mr. FRANK. Mr. Speaker, I think that is a very profound point, and again I think it ought to be clear what many of us believe, not that GEORGE BUSH was happy in that kind of a role, but it was his fear of the right wing, his fear of opposing the hard right, that made him go along with that, but I also wanted to respond to my friend from New York.

The gentleman from New York [Mr. WEISS] said, "Well, Governor Dukakis has said by picking an extraordinarily able candidate for Vice President, LLOYD BENTSEN, generally agreed to be a very able man. If I have someone propose a crackpot idea, I want a Vice President to come in and say to me that is a crackpot idea."

But GEORGE BUSH could not obviously do that. The notion of GEORGE BUSH having his Vice Presidential selection coming to him and saying, "That's a crackpot idea," would not work because GEORGE BUSH's first crackpot idea was the selection of his Vice President, and it would be asking too much of Senator QUAYLE, for him to come forward and say, "Mr. BUSH, you've just had a very bad idea," when he was himself that very bad idea.

I think it is important to note that we have on the Democratic side a Vice Presidential candidate who commands universal respect and on the Republican side a Vice Presidential candidate about whom it is hard for most people to talk about without laughing. That is a very important distinction, and I think it is why one does not expect GEORGE BUSH to be looking to his Vice President for very much more than comic relief.

Mr. Speaker, I thank the gentleman.

Mr. WEISS. I think that is right, and I just want to close, I think by picking up the point of the gentleman from Michigan.

The fact is that we are not always guaranteed a democratic form of government. This democracy is not guaranteed simply because we have had it for 200 years. We can lose it, and actions, such as those that were disclosed that came unraveled during the course of the Iran-Contra investigation I think should make us pause. To have the Director of the Central Intelligence Agency working deliberately to bypass the President of the United States and the Congress of the United States to have an off-the-shelf capacity to undertake covert action without having to clear it with anybody should truly be frightening. To have an Assistant Secretary of State come forward and say he did not tell the truth because he did not believe that in fact Congress ought to know, I think that is extremely frightening.

So, Mr. Speaker, when we talk about judgment, again we are not talking about the Vice President's judgment only because it demonstrates some character flaw which affects him personally. We are concerned about judgment because we are concerned about the future of the United States of America.

Certainly George Bush's role in the Iran-Contra scandal demonstrates a tremendous lack of the kind of judgment that the President of the United States needs.

Mr. Speaker, I yield back the balance of my time.

GEORGE BUSH—A PARAGON OF PUBLIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Dornan] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I can hardly wait.

Mr. Speaker, I am grateful for the patience and courtesy demonstrated for my special order tonight.

Mr. Speaker, I know that all those who follow the proceedings of this House by national technical means and by following the Record in the public libraries throughout our country probably are going to be very frustrated this evening, as I am sure the Speaker is, in hearing two such completely different sets of ideas as we heard during the last two 1-hour special orders and as we are going to hear during the next two 1-hour special orders.

Mr. Speaker, I am tempted to rebut several of the things, to put out a—not an apologia, as used in the strict rhetorical sense, but an explanation of why I think George Bush's vice presidency has been a paragon of honorable public service, and why, as I tried to make the point a few minutes ago during the other gentleman's special order, why even Senator Lloyd Bentsen said that he would try to conduct himself as a Vice President respecting all private counsel with the President if Mr. Dukakis, to quote one of their expressions, "God forbid," and I guess that is a sincere prayer on their part with regard to my good friend, George Bush, so let them accept it as a prayer and not just a casual expletive on my part that I hope that the force is with us and that Michael Dukakis will not become the President.

□ 2200

I think that what Bentsen meant was that when a Cabinet meeting was held, and the gentleman from Massachusetts [Mr. Frank] is very clever, very fast on his feet—one footnote here. He suggested, Mr. Speaker, that I was offending the decorum of the Chamber by asking to engage in a more robust give and take when he yielded, instead of keeping the speaker on a short leash and keep jamming back, grabbing back his time, and then asking the Chair to lecture to the Members like schoolboys that they are offending the dignity and decorum of the House.

Let me state that when the gentleman from Massachusetts reads the requests for Extensions of Remarks and for these special orders, and he did it this very night, he sounds like some jackass tobacco auctioneer going, "Blah, blah, blah," and goes through that little exercise, I think that demeans the dignity of the House, so I would ask him to stop that, and I will be more precise on how I yield on things also.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Pennsylvania. The gentleman has been here 12 years and I believe is a paragon of being precise on the rules of the House.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

The gentleman from Massachusetts often does lecture other Members on the rules out here when it suits his purpose to do so, but it seems to me that we ought to also note that some of the language used, for instance, by the gentleman from New York in the last debate was subject to a rules violation, too. He at one point referred to the Vice President as a liar. That, of course, is not within the rules of the House to do. His words could be taken down on that kind of an account; so that if we want to play those kinds of games, you can do that using the rules a lot.

I tend to agree with the gentleman. I do not think we need to be emotional about it, but I think we ought to have particularly in these special orders the kinds of back and forth dialog that allows the American people to hear real debate on these issues.

The problem in the way in which some of these things get structured on the floor is that no one is allowed to make his full point. The time is grabbed back in such a way as to leave you dangling with only a partial point being made, when you tend to structure your points to make them very, very quickly, so that the time is not grabbed back. I do not know that that benefits anyone.

I just wanted to make certain that the Chair did understand, as I am sure he does, that this is a rules violation that tends to be very much a two-way street. There were a number of rules violations, as one who follows that sort of thing as a personal interest, there were a number of rules violations that took place during the discussion of the left wing Members here a little bit ago.

Mr. DORNAN of California. Reclaiming my time, Mr. Speaker, with some precision and decorum here, I have often made note of the fact that the pot is calling the kettle black in many cases, because they will get up and use these special orders, or 1 minute at the beginning of the day particularly, which I consider is a very healthy steam pressure valve to let both sides of the aisle sort of pop off in the morning about issues of concern breaking in the headlines. Sometimes they are deep humanitarian issues where a very dangerous world has people suffering in Bangladesh, Rwanda, Burundi, Haiti, Nicaragua, Solidarity rising up again in Poland, people starving in Romania, Hurricane Gilbert smashing Jamaica and then hitting the Yucatan Peninsula. There are a lot of things we can discuss, but quite often they get up, and just as the gentleman from Pennsylvania pointed out tonight, literally impugn the integrity of President Ronald Reagan, and now George Bush, and if anybody dares to suggest that Michael Dukakis has put forward some hairbrained laws as a representative or took some outrageous left positions as the host of the Advocate Show, for example, they scream, "Foul" instantly, but they find nothing wrong with impugning the integrity of the President. It has gone on for years.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, too often what we hear is the charge of McCarthyism, that as soon as someone begins to question positions that Michael Dukakis has taken, or even positions that people take out here on the floor, the charge comes back that somehow we are engaging in McCarthyism, to question the judgment of the people on this floor or question their political positions taken.

I find that very strange when just a few minutes ago the gentleman from New York stood here in the well questioning the judgment of George Bush. That is his right. You can do that. You cannot under the rules ridicule someone. You cannot call them a liar and some of the kinds of things that were done here this evening, but you can in fact question their judgment.

We often do that, too, and I am always surprised that the left wing Members in this Chamber come back then immediately with the charge of McCarthyism taking place because their positions have been challenged. It is a foolish charge. It is the kind of foolish charge that has been running and running in some of the left wing media around the country, as George Bush has defined Michael Dukakis position as being an ACLU card carrying member. Michael Dukakis said that he is an ACLU card carrying member, but when GEORGE BUSH repeats what Michael Dukakis has said, that is called McCarthyism.

It is a strange, strange process we sometimes go through in politics in defining issues.

Mr. DORNAN of California. I want to ask the gentleman a question on the rules of the House, because although we came together as classmates in 1976, along with Congressman DAN QUAYLE who went on to the Senate 4 years later, I had a break in service, so at a minimum the gentleman has 2 more years parliamentary experience than I do, so let me ask the gentleman a question.

Before they jump up emotionally and scream, "McCarthyism," as Mr. Dukakis did himself down in Texas on the college campus where the distinguished 40-year Member from Texas, Sam Rayburn, matriculated, before they scream, "McCarthyism" they have got a new little cutie. They say, "Don't question my patriotism."

Every time I get up now, I want to start off with a little prolog and say, "I'm not questioning anybody's patriotism. I just think you are stupid and naive."

Now, are we allowed to say under the rules of the House that a public servant, like the Governor of Massachusetts, is a stealth candidate, that he runs a campaign of deception because he no longer will admit that he is a dues paying member and carries a card that says ACLU on it, "Mr. Dukakis, member in good standing." Is that fair ball?

Mr. WALKER. I would say to the gentleman that to discuss Mr. Dukakis' policies, you cannot take Mr. Dukakis and hold him up to ridicule, nor can you question his personal character or integrity under the rules of the House. As a Presidential candidate, he may not be subjected to that kind of discussion, but you certainly can question his policies on the House floor.

Mr. DORNAN of California. Just one comment. I am glad we discussed that, because I have before me the picture of Governor Dukakis in that tank up at the Chrysler plant, in that M-1 tank, and I am going to weigh my words very carefully as I discuss this picture and why this happened.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, the gentleman cannot show that picture of him in the helmet and so on and hold him up to ridicule as a result of that. That would be against the rules of the House for the gentleman to do that.

Mr. DORNAN of California. I am glad the gentleman pointed that out, because I will weigh my words carefully when I discuss this picture and discuss it factually, trying to avoid at all costs any hint of ridicule.

Mr. KONNYU. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from California.

Mr. KONNYU. Mr. Speaker, I thank the gentleman for yielding to me.

The clear purpose this evening, aside from discussing obviously what transpired before us, was to discuss the Speaker's statement with respect to the CIA and Central America. So for the purpose of debate I have prepared some information I think which applies to that point, so that the gentleman and I and the rest of the Members in this Chamber can understand and recall precisely what this issue is all about, because what the Speaker really is talking about in effect is the effect his words had and has and will have on the Arias Peace Treaty of Esquipulas—my Hungarian sometimes gets in the way.

Mr. DORNAN of California. Please do not speak Hungarian. I did not yield for that purpose.

Mr. KONNYU. That is right; but nevertheless the Peace Treaty of Central America. There are about six key elements in there that the peace treaty required, a declaration of amnesty for the guerrilla forces, it required the establishment of dialog with all unarmed groups of internal opposition, and those groups that have accepted the amnesty; the restoration of human rights, the repeal of marshal law or states of emergency. It required complete freedom of the press. That is what he signed. That is what Ortega signed, and it required freedom for partisan political activities.

Now that we have recalled what the peace treaty is all about and we look at the words of the Speaker, he says, "We have received clear testimony from CIA people that they have deliberately"—they meaning the CIA people—"have deliberately done things to provoke an overreaction on the part of the Government of Nicaragua."

And what is that overreaction all about? It is about, and again I quote the Speaker, this is an Associated Press dispatch, September 20, 1988, 128 PET:

> It has been foolish of the Sandinistas to respond to those provocations, Wright said, referring to the shutting down of opposition media outlets like the newspaper La Prensa and Radio Catolica, a church run radio station.

So here we have the Communist Government of Nicaragua sign a peace treaty agreeing to the elements that I just recited, among them freedom of the press. Of course, now we have the Speaker saying that we, meaning through the CIA, we provoked the Government of Nicaragua to such an extent that they chose to violate the peace treaty by among other things shutting down La Prensa, shutting down the radio station, stopping or disallowing many of the political meetings that the peace treaty is supposed to allow.

Mr. DORNAN of California. Will the gentleman pause there 1 minute, because this is such an important point that it bears reflection.

I wanted the gentleman that was just on the floor, the one who has a district along the beautiful Canadian border, he is about as far away from any refugee problem, people fleeing communism in Central America or eventually Mexico as any Member can get. We, on the other hand, are from California and like Mr. WRIGHT's State of Texas and the State of Florida and the States inbetween, the Southern States, Arizona and New Mexico, we are going to take the financial and human tragedy burden of refugees fleeing from this area, if several of the Democrat liberals in this House persist in making Central America safe for communism, which is my judgment call, not questioning their patriotism. I believe sincerely they are making Central America safe for communism.

But let us take this aspect of what the Communist regime in Managua does to brutalize its people, close down those newspapers, deny them printer's ink and paper, and what it does to constantly shut down, open up temporarily and shut down for years at a time all the Catholic and all the commercial radio stations.

I just did a "Crossfire" television show, Mr. Speaker, with the gentleman from Michigan [Mr. BONIOR]. I said to him and to Tom Braden, one of the liberal left hosts of that show, that their arguments were so idiotic, and JIM WRIGHT's argument was so factually flawed, although sincerely held I am sure, to say that the actions of the CIA, not proved, however, provoked this fascist Hitler storm trooper series of tactics by the Communist government, that somehow or other that is our fault.

Mr. KONNYU. Mr. Speaker, if the gentleman will yield, that is precisely the tragedy in the whole thing, and the gentleman once again has hit the nail right on the head.

Mr. DORNAN of California. Let me give the gentleman the analogy that I used on the air, and again that is a rush format and this is not, so I will say it in a more fulsome way.

I said, "This is a idiotic"—I was addressing Braden and the gentleman from Michigan [Mr. BONIOR]—"this is as idiotic as saying Jewish newspapers caused a sick criminal attitude on Hitler's part to abuse, torture, and kill them."

Now, let me flesh that out a little bit.

Mr. KONNYU. I will not, of course, share that analogy with the gentleman.

Mr. DORNAN of California. Let me give the gentleman some specificity.

On November 9, 1938, Adolf Hitler, who had only been in control of the government for 5 years, unleashed his thugs to burn so many synagogues and destroy and break the glass panes of Jewish synagogues that all the broken glass in the street reflecting in the street lights gave that horrendous night the name, "Crystal Nacht," the night of the crystals, the broken glass in the streets.

Now, there were a few Yiddish papers left in Berlin and some other Jewish papers around Europe, like any ethnic group, appealing to its own people from their perspective, and that was about the last period, because the arrests started horrendously after that and Dachau had already been opened from Hitler's first year, the first concentration camp that was the training camp for all the commandants, the camp outside of Munich. Then the heavy allocations to the concentration camps started, the camps inside Germany. They had not conquered Poland yet.

☐ 2215

The Jewish newspaper said, "This is outrageous. We are being persecuted. This is bigotry." This is similar to what La Prensa says down in Nicaragua the last several years when they are allowed to print, and I only wish we had an OSS, an Office of Strategic Services, some form of CIA other than private American money which was going into Germany to fund those newspapers to get the truth out, and I imagine if Adolf Hitler had the Speaker of the Congress, in 1938, to say, "The Speaker of the House of Representatives has said that American covert Government money and a lot of private money is coming in here funding these Jewish newspapers to cause us to overreact so we have to beat up these people," then we would start this strange defense of these Gestapo tactics in Managua as though we had caused it. I still have not seen the hard proof that anybody in any intelligence agency in this country has provoked at Nadim or on November 7 when I participated with the gentleman from California [Mr. Dreier] and the gentleman from Missouri [Mr. Buechner], when we marched in a parade on the 70th anniversary of the Communist sealing of Kerensky's revolution in the Soviet Union, and on November 7, 70 years to the date of a reign of hell, most of it by Stalin, we marched down there, and I saw no United States instigating of that. We Congressmen marched with a lot of brave people, and many of them were arrested the day after we left.

Mr. KONNYU. Certainly clearly the concern that we have, and let me bring us back not to when I was born in 1937 but today, what I think the American people's concern with respect to this treaty is, as best I can understand it, is the military connection between Nicaragua and the Soviet Union, that is, that the Soviet Union keeps transporting military goods on a regular basis to Nicaragua endangering the United States, and since we cannot trust the Soviets because, for example, they still will not get rid of the secret police, they still are trying to steal our allies, although things are turning around in Afghanistan and everywhere else throughout the world but, nevertheless, they still are in the effort to steal our allies, this situation in Nicaragua is crucial.

When our Speaker, and he is your Speaker and my Speaker and all of our Speaker, when our Speaker helps the Communist government indirectly as he has in this case by giving them an excuse for violating the peace treaty, and when Ortega signed that peace treaty, I think the gentleman will admit that Ortega did not sign that peace treaty with a set of ifs, ands, or buts. I do not remember having seen that in the newspapers. He said he was going to restore human rights; he said he was going to give complete freedom of the press; he said he was going to give freedom for partisan political activity. The words of the Speaker is giving an excuse to a Communist dictator to violate the very peace treaty that he signed.

What does the gentleman from California think of that who is a distinguished member of the Committee on Foreign Affairs?

Mr. DORNAN of California. I tracked this whole so-called peace process as carefully as I have tracked anything in my life. I was in the Oval Office with four Members including Mr. Hunter who has a special order following mine. I was in the Oval Office not only with President Reagan but Vice President Bush and Mr. Carlucci and former Senator Howard Baker, then Chief of Staff, at the very moment they were signing the Esquipulas II agreement in Guatemala City.

Not 4 days before at the chagrin of some of my conservative colleagues, I went along with the so-called Reagan-Wright peace plan which I have since renamed the Tunnermann-Wright-Reagan plan. That was sort of born on the afternoon of August 3, 4 days before Esquipulas was signed. It was the pressure of Jim Wright, and that is why I supported our Speaker and I told him so at the prayer breakfast two mornings later when I was the speaker, I said, "I support you." And I quoted the beatitudes, "Blessed are the peacemakers, for they shall see God." I tried.

Mr. KONNYU. If the gentleman will yield, I stood right where the gentleman stands right here on the floor of the House of Representatives and did the same thing with respect to this effort.

Mr. DORNAN of California. I had forgotten that. What happened with Ortega in consultation with Tunnermann, and I saw some of this diplomatic traffic, what Mr. Wright was doing, I thought, with the President was putting a timeframe around the neck of Ortega and saying, "You have got a countdown starting now, buddy. Thirty days we want to see some action. Ninety days it is all over if you do not start giving human rights back to your people within this timeframe, we are going to allow a vote on the floor of this House," or Reagan and he agreed that there would be a vote on the floor of this House to restore military assistance to the fighting force of the young Nicaraguans, not mercenaries, young Nicaraguans fighting for freedom on Nicaraguan soil, the freedom fighters, the democratic resistance.

When President Reagan was shocked, and so was Mr. Wright a little bit, when 4 days later, they signed this, and Ortega began a careful perfectly diabolical, twisting, tortured, stretching out, dragging on, and it has gone on for 1 year and 2 months on October 7, stretching and torturing out this process with one goal in mind: to destroy the democratic resistance against him, to complete, to lock in as a Soviet colony, that Communist revolution in Nicaragua.

I do not think there was one ounce of sincerity in him, and where I feel taken to the cleaners by the President Oscar Arias, I attended his inauguration on May 8, 1986, at the invitation of the President. I represented this Chamber. I went down with Vice President Bush and Richard Lugar, the chairman or ranking Republican on the Foreign Relations in the other House, and I had breakfast with Oscar Arias the very morning before he became President. He said,

> What we have to do is show Ortega up to be the hypocrite he is. Box him into a corner. Lay it all out and either make him come up with a democratic process or show him to be the liar that I believe he is.

Mr. KONNYU. If the gentleman will yield on that point, the gentleman who was here a minute ago, the gentleman from Ohio [Mr. Donald E. "Buz" Lukens], the funny thing was, he and I were down there and met with President Arias.

Mr. DORNAN of California. If the gentleman from Ohio comes out on the floor, I will yield to him.

Mr. KONNYU. That is precisely what he said. He submitted to us, and further he committed to us, that every time the Sandinistas violate that peace treaty, then that is the key element in there, and we have to remember, every time they were violated, he said he will denounce them, in other words, that the recipient of the Nobel Peace Prize, acting in his good offices, will tell the world when the Sandinistas are violating the peace treaty they signed and what this effort is today and yesterday by the Speaker, in my judgment, is giving the Sandinistas an overt excuse to publicly violate that peace treaty without abrogating it in writing.

That is the tragedy that we are faced with today, and that is why I expressed the kind of concern that I did.

Mr. DORNAN of California. I appreciate that, and I saw the distinguished gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS] come out of one door here and go in the other door. He is torturing me. I want to yield to him for a very specific reason. I used to be able to take the well of this House and say that I had been to Central America as a member of the Committee on Foreign Affairs and the subcommittee on this hemisphere more than any other Member in either body, in either Chamber. I had even been down there more than the chairman of the Western Hemisphere Subcommittee and in the other body, and I cannot say that any longer. I am now No. 2 as far as I was there, firsthand observation of what has been going on down there, because the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS] has gone down there on such a regular basis that I think he has matched my 15 trips and then some by 10 trips.

Mr. KONNYU. If the gentleman will yield on that point, he is missed so much down there. When we were down there, the kids would ask, "Where is that man?" They would give his card because they could not pronounce his name because it was an English name, and there it was, "'BUZ' LUKENS, Congressman from Ohio." It is amazing.

Mr. DORNAN of California. If he is still in the Chamber or the cloakrooms, I can yield to him on this point.

Let me come back to this terrible unfolding of the last 13 months. I think that has happened to our friend, the gentleman from Texas [Mr.WRIGHT] and to Mr. Arias is the exact same thing. They both became so enamored with the so-called peace plan, in Mr. Arias' case, the awarding of the Nobel Peace Prize so turned his head and appealed to that frail ego that we all have that he is willing to overlook every promise he made to the gentleman, to the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS], to the President or to Vice President BUSH on the day he was inaugurated in May 1986. He is halfway through a 4-year, one-time-term Presidency, and he is gone in a year and a half, and he wants to come up here and be a scholar or get himself a job at the United Nations. He will suffer any lying, indignity and torture of simple peasant human beings just next door to his country of Costa Rica, and he will tolerate any abuse of the peace process by the Sandinista Communist Government rather than see his Nobel Peace Prize become a hollow honor, because let us face it, that Nobel Peace Prize, and I predict that Ronald Reagan and General Secretary Mikhail Gorbachev will get that Peace Prize as a joint team on December 19 for the same reason that Mr. Arias got it, with even a little more justification because of the INF treaty, for Gorbachev and Reagan getting it.

The Scandinavians who are on the board that choose that Nobel Peace Prize, named after the man who invented dynamite, and he put aside that money as the profits from his dynamite out of guilt that he was the cause of people blowing up all over the world, so he wanted to have a Peace Prize.

Teddy Roosevelt won it as a disinterested party in 1905, or interested, who brought together the warring parties of Japan and Russia and made them sign a peace treaty. After the fact when it was a fait accompli peace and the killing had stopped between Japan and Russia, Teddy Roosevelt got the Nobel Peace Prize as President of the United States. He made them sign in Portsmouth, NH, right here in the United States.

Arias got it in the name of five people, four of them democratically elected Presidents, for not a definitive peace that stopped the killing but for the potential in that peace that it might work sometime down the road. Arias well knows that those Scandinavians, in the interests of furthering the peace process, gave that prize to the President of Costa Rica to encourage a process to influence history in the future, and those same Scandinavian people will award it to Gorbachev and President Reagan, not because they have come up with a massive reduction of strategic weapons and atomic bombs. Not one bomb, not one warhead will be destroyed under the INF treaty, only the carriers, the buses that would carry the dynamite, the missiles themselves, and it is less than 4 percent of the total missile delivery force, and no bombs, but to encourage or further the peace process, and I understand this, those Scandinavians will overlook Bob Geldorf, the Irish singer's efforts in Ethiopia and all sorts of other worthy people who have been trying to accomplish something in the name of brotherhood and peace, and they will give it to the President of our Nation and the General Secretary of the police state called the U.S.S.R. to further the peace process.

Let me bring this down to the gentleman from Texas [Mr. WRIGHT], who like Mr. Arias, I think, my friend the Speaker is so terrified of the peace process falling apart, something that he had a part in that, unlike Ronald Reagan willing to say that we were wrong, and these Communists are acting like Gestapo storm troopers which we expected, and that our worst fears have come true, and President Arias' predictions on MacNeil-Lehrer on the night of August 10 where I was a guest, and he spoke right before me, and he said that he did not expect the Marxists to live up to this peace treaty because they cannot be trusted, and his exact words were, "Can a leopard change its spots?" But now he is willing to accept any indignity in the name of locking in a Communist state there.

I do believe, without questioning his patriotism, that the gentleman from Texas who is the Speaker of this House, supposedly the man who is the one who will bring fairness to both sides of the aisle, I believe he has been captured by the idea of a real peace down there, and now like President Arias will suffer any torture, any Gestapo-type indignity by these rotten nine Communist junta middle-class punks working out their Communist fantasies.

Those campesino peasants who are undergoing torture this night as we speak in this Chamber, and people are being slapped around in prison cells in the name of Oscar Arias and JIM WRIGHT, and I think it is a disgrace, and that is why I want an investigation. It hurts me, because I cannot see any Member doing this, particularly a Member from the great State of Texas, which will suffer the influx of refugees along with our State when these people say that all is lost and that the American Congress has caved in and the Contra force is going to have to leave the shores of Honduras and Costa Rica as refugees with their families, and it will be extended to about 100,000 people and come to the United States, because the Communist government has been ranting and raving all day long that now JIM WRIGHT has given them the evidence that the CIA controls the Catholic Church, the Catholic radio, Obando y Bravo, and it controls the printing presses of La Prensa, and it controls every person that speaks out for peace in the loyal opposition or even the poor campesinos out on the finca farms out in the hills.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Mr. Speaker, I yield to another Californian who is on the border with Mexico and understands deeply what the refugee problem will be as these poor people flee from Communist oppression and starvation.

□ 1230

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding, and think it is important to get to the point of the Speaker and the statement that he has made with regard to the American Central Intelligence Agency and Central America.

For a number of months now the American people have been seeing articles in very credible publications, and publications that have hardly been called conservative, including the New York Times, Washington Post, which have said several profound things, I think. One of those things is that there is genuine unrest and protest in the Sandinista government, the Communist Sandinista government in Nicaragua. Nicaraguan people are turning out in demonstrations in excess of several thousand people in a number of cities, villages. Mothers are protesting the drafting of their sons into the Communist Sandinista military, workers are protesting the scarcity of jobs, business people and workers alike are protesting 1,000 percent inflation.

In essence, the Marxist government of Nicaragua is undergoing all of the earmarks of Marxist governments around the world. They have an economy that is paralleling the course of Cuba's economy, of other Marxist economies. If you go into East Germany, you can still see the scars on the buildings from World War II.

The point is that the Nicaraguans are seeing a destruction of their economy by the Marxist government, and because of that and because of the lack of freedom and the fact that we have suppressed a Catholic Church which has been well documented and conceded by liberals and conservatives, the people of Nicaragua have been rising up and complaining. They want to see democracy. They want to see some changes in the government.

Up until now you have had credible publications forcing liberals in the American Congress to concede the fact that in fact the Sandinistas have been failing, and there is genuine unrest and genuine protest among the people of Nicaragua against the Communist Marxist government there. Now we have a new theory. The new theory is that it is not the 1,000-percent inflation that is worrying the businessmen of Nicaragua. It is not the drafting of their sons that is worrying the mothers of Nicaragua. It is not the destruction of the printing presses of the Catholic Church that is worrying the churchgoers of Nicaragua nor the censoring of a Radio Catolica, none of those things are bothering the Nicaraguan people. It is the mean old American Central Intelligence Agency that is really causing all the problems, and but for the Central Intelligence Agency, if those people would just go help, those protests involving thousands of Nicaraguan citizens would somehow not be happening.

It is a unique idea. It is a unique proposition that somehow once again, as Jeane Kirkpatrick says, we can blame Americans first, and unfortunately the Speaker of the House has followed that theory of the left side of the Democratic Party that it is more beneficial to blame America first and in this case to blame our Intelligence Agency first.

In listening to the arguments on the other side, you almost get the feeling that the intelligence people who would risk their lives for the United States, are not really Americans.

Mr. DORNAN of California. That is right.

Mr. HUNTER. They do not risk their lives. They do not have families. They do not take risks, they do not believe in America. Somehow they are second-class citizens, and we should treat them as if they are a Third World country, and they do not have the right to the consideration of the American people.

Mr. DORNAN of California. Let me reclaim my time for a second because what the gentleman is saying is so important I want to pause on this for a while before I recognize the gentleman from Pennsylvania. Tell the Speaker something we are doing to slow down and analyze this carefully tonight because the gentleman from Pennsylvania, Mr. Speaker, has an hour special order following mine. You have an hour special order following Mr. WALKER's, Mr. HUNTER, and we will take the whole 3 hours and discuss this indepth with no apologies to any staff around here because in this Member's opinion people are being tortured at this moment. Managua is on Chicago time and New Orleans time. They are just 1 hour behind us.

It is 25 minutes to 10 in the night in Managua and people are being slapped around in their cells and having the Speaker of the House of Representatives quoted in their face that they are paid for, doing what they were doing when the CIA is their instigator, that they are puppets of the United States.

Now, because we have plenty of time, this is something unique that you have just brought up, unique to me, and I think a discussion on this House floor that all the Central Intelligence Agency people that I meet around the world, I have spoken to them in the Moscow Embassy, I have spoken to them in Poland and Communist countries around this world, and I have spoken to them, yes, in Central America and every country down there. I find them to be heroic, dedicated public servants who care about the law, our Constitution, and they care about people suffering under vicious rightwing governments and Communist totalitarian governments which by far outnumber the rightwing government.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. I think it is appropriate to call the men and women of our intelligence agencies American servicemen and American servicewomen in the very same context that we call our marines American servicemen, American servicewomen, and our pilots and other people, people in the Navy who deploy American power around the world and are killed regularly.

I come from San Diego where when we send out a carrier battle group, even if it is just on a peacetime deployment to the Middle East, chances are with all of those air operations and all those very dangerous operations, especially the nighttime operations, there will be casualties, there will be fatalities before those people come back. So the American men and women who defend this country, even though we are in a peacetime footing, live very dangerous lives.

Mr. DORNAN of California. Mr. Speaker, did the gentleman not have an air crewman of the Tomcat of the same type as the star of "Top Gun" lose a top gun and crash into Montgomery Field last week?

Mr. HUNTER. Mr. Speaker, obviously they crash all the time. We had B-52's crash at the rate of one a month.

So the point is that American service people, even in peacetime, are undergoing a danger. The American serviceman who works in an intelligence agency has that danger quotient multiplied by about 50.

Let us take an example, that terrible person who is really the person who said I guess, considered by the Democratic Party to be the evil person who was the cause of the arms for hostages transaction. That was William Buckley, an American CIA agent, a man who had a family, a man who was a dedicated, loyal person who served in the Middle East and was tortured when he was captured by a fundamentalist group. A message was sent to the President that said essentially that, as Mr. McFarlane testified, Mr. Buckley was now being tortured and on the verge of death.

I do not consider Mr. Buckley to be an evil person trying to overthrow governments, but I consider him to be a serviceperson in the truest sense of the word, and I consider the people, the American service people who serve in Central America, whether they are with the marines who were killed in El Salvador or intelligence service people, to be serving the United States just as faithfully, just as wholesomely, and just as patriotically as Americans who went up Iwo Jima, Americans who took the beach in World War II, Americans who served in Vietnam, just as much so as combat veterans.

So, let us go back to Nicaragua, and let us talk about what happens when the Speaker of the House starts talking about intelligence information that he received from "CIA people."

The facts are that the Nicaraguan Sandinistas, the Marxist government of Nicaragua is going to consider any activity that is against their totalitarian government to be overthrowing the government. So let me pose a question for the gentleman.

If I worked for an American agency, whether AID or an intelligence agency, and I talked to a crowd of people in Nicaragua and I motivate them to go and demand they get free elections or that they have the right to speak on the courthouse steps or any other aspect of democracy, if I advocate democracy, theoretically I guess I am advocating the overthrow of the government. That is totalitarian, and does not allow free speech or free elections.

I thought we had a group in this, that the U.S. Congress was dedicated to forming the groups made up of business, labor, and other institutions of the United States to go down and try to spread democracy in Central America and other parts of the world.

I thought that the one-man, one-vote idea was an American idea that would be talked about to other people in this globe without being called inflammatory, and something that is used in an attempt to overthrow a government.

Mr. DORNAN of California. Mr. Speaker, inside of me is the clock of a professional television public affairs host and producer of shows and if I had two guests or three guests in front of me I would try to throw the ball back and forth because we may miss an exchange of ideas. I would like to ask you a question that the gentleman from California, Mr. KONNYU, could just as easily have asked, and that is an excellent question, and we will get Mr. WALKER involved in this.

He may want to have commented on something you have already touched on, and then please feel free to, with the precision of decorum here, to ask me to yield back and forth so we can discuss this openly, but the gentleman from California, Mr. KONNYU, said that using "Joe Six-Pack" as a term of endearment, at least that is the way we use it on our side of the aisle, when I say "Jane," "Mommie Housewife," or "Jane Lunch Pail" or "Jane Working Lady" or "Joe Six-Pack" or "Joe Machine Operator," I mean as someone who pays his taxes and his son went to Vietnam and fought if he did not go himself.

Why is the future of Nicaragua, which is Mr. KONNYU's question, important to "Jane Worker," "Jane Housewife," "Joe Six-Pack"? Why should Americans be paying more attention to this issue, and I pose that question to Mr. WALKER also, after you answer.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for asking that question, and I think the initial answer can be given by saying three words. This is the primary reason why people in this country should be very concerned, three terms. One is Punta Huete, the name of the Russian bomber base being built in Nicaragua 100 miles north of Managua. The runways are finished. It is a 10,000-foot bomber base that can accommodate any jet fighter or bomber in the Soviet inventory and built by Soviet and Cuban engineers.

The other word is Corinto, the naval base that the Soviets are building on the Pacific side.

Mr. KONNYU. Mr. Speaker, will the gentleman yield a minute?

Mr. DORNAN of California. Mr. Speaker, I yield to the gentleman from California.

Mr. KONNYU. Mr. Speaker, what is the flying time from the Punte Huete base, which is some miles north of Managua, Nicaragua, to Washington DC? Is that closer than it is to, for example, San Francisco, in the neighborhood of where I live around?

Mr. HUNTER. Mr. Speaker, yes; it is closer, the distance at least in my hometown of San Diego, we are closer to the bomber base at Punta Huete then we are to Washington, DC.

So the flying time, if you are a little bit under the speed of sound, is under a couple of hours. More importantly, the Panama Canal is only a few hundred miles away from the bomber base that the Soviets are building north of Managua, and the naval base is at Corinto, on the Pacific side, that will be the first naval base that the Soviets will have on the western side of the American Hemisphere, and the naval base at El Bluff on the Atlantic side.

It is interesting, a number of Members from the left side of the Democratic Party talked today about policies and about the American people and policies. It is a sad commentary that our media has done such a poor job of informing the American people about what Central America is all about. In a recent poll, 9 percent of the American people said they thought the Sandinistas were in Southeast Asia. Now I wonder if somebody who is in this House, who knows that the Soviets are building a bomber base at Punta Huete, know that the Soviets are building a naval base at Corinto and El Bluff, and has a responsibility for taking some action in recognition of the strategic importance of the Soviet beachheads in our hemisphere, I wonder if that person can simply blithely say the 9 percent of the American people who think that the Sandinistas are in Southeast Asia are against any action by the United States with regard to the Sandinista regime and the Soviet regime that has been invited in.

Mr. DORNAN of California. Mr. Speaker, let me reclaim my time and get Mr. DONALD E. "BUZ" LUKENS on his feet. The percentage figure of 9 pecent is precisely what I read in the general press that a nationally respected poll showed right before our Republican Convention, as a lack of information about our Vice President. Nine percent of this Nation in this poll believed that Michael Dukakis was a torpedo bomber pilot in World War II, and over 30 percent said they thought he had four tall grownup handsome sons and one daughter, and after the convention they all said oh, the Vice President, George Bush, is the torpedo bomber pilot. No wonder the polls changed.

□ 2245

It is no wonder the polls changed significantly after the convention. Maybe it was the same 9 percent.

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I want to hear from Mr. LUKENS, his comments on this. I think it is interesting when Lt. Col. Oliver North talked, even though he was not allowed to show his slides that showed the Soviet bomber bases, actual overhead photographs and the naval bases and other indicia of the Soviet activities down there, when he talked about that for just a couple of days for the first time in recent history the polls changed and a plurality of the American people supported our aid to the freedom fighters in Central America.

I am going to just share with my friend a statement that I heard from some Democratic leadership who theoretically should be interested in the informing of the American people; they should at least want to have an educated American public that makes these decisions about whether we should be involved in Central America. After Lt. Col. Oliver North had been testifying for awhile, I happened to overhear some friends from the Democratic side saying words to the effect, "This guy is killing us. How are we going to get him off of here and get him out of here and out of the hearing?" And the answer came back, "We have already got him up there as a witness. Let's just hope that the Americans grow tired of him."

So the point was that at least the gentleman who was talking was not concerned about educating the American people with regard to what was happening, he was not interested in Mr. North showing the actual overhead photos of Soviet bomber bases in Central America to the American people who have every right to see them; he was interested in getting this person who was bringing this information to the American people the heck away from there.

So that 9 percent of the American people who think that the Sandinistas are in Southeast Asia somewhere would continue to think that, so that they would reflect in polls that they did not really understand and were not interested in Central America and maybe we should not be.

So I would suggest to the other side of the aisle that perhaps those of us who studied the issue and who have access to this intelligence information have a duty to take action with regard to the threat that is manifest in the Soviet beachhead that is being establishd in our own hemisphere. And once again, the only way we have been able to really take action is to help those people who are fighting for their own freedom and those are the people, members of the democratic resistance, in Nicaragua. But once again, let me just say with regard to Mr. Wright, if he does not like the idea that American personnel are helping Nicaraguans to exercise their right of freedom and of assembly and their freedom of speech, then I suppose none of our unions and business organizations, our foundations for democracies should be down there either. Because after all, it would be a terrible thing for example if an American officer in an intelligence service, for example, organized a breakout of the 9,000 political prisoners including women, pregnant women, in the dungeons of the Sandinistas, the nine new political prisons that they have established. I think the New York Times had a story about a particular woman who was forced to drink out of a toilet, who was beaten, who was abused by the guards. Would it not be a crime if an American intelligence agent organized a breakout for that woman and for her colleagues so that they could escape to freedom from the Sandinista dungeon? I guess theoretically listening to the left side of the aisle in the U.S. Congress, that would be a criminal act on our part as Americans because we would be effecting the overthrow of a government.

Mr. DORNAN of California. And provoking the guards to machinegun them in the backs as they escape.

Mr. HUNTER. Absolutely. I would like to listen to the gentleman from Ohio. I know he has some important things to contribute to this debate because I share the gentleman from California's [Mr. Dornan] admiration for this gentleman from Ohio [Mr. Lukens] in that he is one Member who has sacrificed more family time, more time in which he could be with his constituents, even, more time in which he could have a much more pleasant time, to go down to Central America to work those issues. So could we listen to the gentleman from Ohio?

Mr. DORNAN of California. I yield to the distinguished gentleman from Ohio [Mr. Lukens], who first came here in the 1960's and I would start off by asking him how many times he has traveled to Central America in the name of freedom?

Mr. DONALD E. "BUZ" LUKENS. I thank both the gentleman from California, Congressman Dornan and Congressman Hunter, for yielding. I have been down there 17 times to Central America in the last 18 months. Two trips were Government trips, the rest were with my own money, personal expenses.

So I feel I have at least traveled as much as any other Member of Congress. I participated in rallies, in demonstrations, I have spoken probably with more leaders in Nicaragua than I think any Member of the House, certainly any Member of the Senate. I would like to back up a little bit with my personal involvement and my political and philosophic support of the freedom fighters, which I think this Congress has so cowardly deserted and walked away from support of, to draw a larger picture for a moment.

It is fitting that Mr. Dukakis, Mr. Bush comes into the debate on Nicaragua which is just one of the freedom fighter issues of our country. It is not a lonely issue, by itself.

For some reason, Congress I think has very appropriately and very courageously in some cases adopted the stance that any freedom fighter group that is worthy of its support it will support. We have done this in Afghanistan, we have done this in Angola, we have done this around the world where it really fit a pattern. But for some reason because we allowed the Sandinistas to I think disclose themselves and disguise themselves as a legitimately elected government in the overthrow of certainly another evil regime, Somoza before their time, that they suddenly look like nice guys and call themselves Sandinistas rather than Communists. We have allowed them to score a major public relations victory in this world and in this country. The point is very basic: As Mr. Dukakis apparently does not believe in law and order vis-a-vis the Boston police's unanimous decision to endorse Mr. Bush for the Presidency in Mr. Dukakis' own home town, you would have to worry about what the citizens think of his administration in terms of safe streets, safe community, safe country.

Does he take that same, I think, rather vague and weak support of law and order in the community and transpose it on a much larger, much more basic question as how much law and order do we have to have in the world in order to survive in the world?

I think it is a far more dangerous world than it is a dangerous city of Boston or a dangerous part of Boston Harbor.

I think it is a very dangerous world.

Part of that danger is the ability and the success thus far of the Communist administration around the world, particularly Mr. Gorbachev, to convince the world that their goals have changed, not just their style. There is an old saying, in fact a book was written by Elmer Riddle, at one time the world's greatest salesman called "Sell the Sizzle, Not the Steak."

The Communists have been very, very good at selling the sizzle.

I do not know about the other gentleman in the Chamber here, but it seemed to me that we have four major goals in the world as we had three major goals in the Persian Gulf crisis, which many people in this Chamber rose and opposed, but it has been a major success.

Mr. DORNAN of California. State the three goals in the Persian Gulf.

Mr. DONALD E. "BUZ" LUKENS. The three major goals: one was to keep the lanes of access free so the shipping could continue for everybody in the world, free world as well as the Communist world.

Mr. DORNAN of California. We were not alone in doing that.

Mr. DONALD E. "BUZ" LUKENS. That is right. It took the support of everyone, as Congressman Dornan well knows, because he was very active in that program when the Reagan administration first came out with it. There was much confusion in the Chamber but there was also some early criticism because they thought America was butting in. When in fact America is probably the only Nation in the world that can butt in.

Mr. DORNAN of California. Reclaiming my time one second. Once the other nations did weigh in, Great Britain, the Netherlands, France, Italy by then the mass media—I cannot speak for Europe—but the mass media in this country had lost interest in the interest. Ashamed, but that is true.

Mr. DONALD E. "BUZ" LUKENS. Shamefully, that is true.

Mr. DORNAN of California. Shamefully. Therefore, they last left the American people with the debate on this floor and in the Senate with many of the most liberal Members of this House saying we were provocatively going to throw gasoline on the conflict between Iraq and Iran. When it was a major effort of all of the NATO countries, with Japan putting in money, West Germany putting in money to keep the sealanes open. There were no reports on Ted Koppel—one-half a report, in fairness; nothing on the evening news about this overall effort of all the freedom-loving countries in the world trying to keep the sealanes open.

Mr. DONALD E. "BUZ" LUKENS. As the gentleman knows, the important part now is that of the three goals, and No. 1 was to keep the lanes open, which was certainly done and No. 2 was to maximize American presence, which we have done beyond the grandest dreams and ambitions of this administration and the free world. Never has American prestige been higher in the Persian Gulf among the gulf kingdoms and the gulf democracies of which there are a couple, and the gulf nations as now, extremely high. The third thing was to minimize the Soviet Imperialist presence which we have done.

Now given that success in the gulf, and I think that was a classic operation. I do not think any other operation in our lifetime and both the gentlemen from California would agree that anything else we do—the three gentlemen from California would agree—that anything else that we do in our lifetime would be much more difficult. But that was a classic operation and it was successful. We should at least back off, study it and learn from that.

Now we have an operation that is much bigger, encompasses the world. We are talking about not just access of the sealanes, but access for freedom for everyone throughout the world. And even the Soviet Union, because of our military equivalency, thanks to the Pershings in Europe, they came to the table and anyone who would deny that now because of the strength that Ronald Reagan caused to come back into existence in the American democracy, we basically break even with them in the arms race for the first time in several years.

Second, economically we are destroying them—if you like, they are really destroying themselves.

Third, on the political front we have at least maintained a firm stance and an open mind and as a result some progress is being made inside the Soviet Union on human rights. And I am delighted. I do not ever wish to be known as part of a block or a group that foolishly caused war. But I think the way you cause war most certainly is exhibited in history by Neville Chamberland's idiotic trip to a madman, a man who wanted the world, a party that wanted the world, a party crazed by desire, the Liebestraum or "living room" and would say anything, sign any piece of paper but give no real indication of movement. Now this is my point: When the Berlin Wall comes down, when you can get to Moscow, in and out of Moscow, when Moscovites can travel, freely travel throughout the country, then I believe they will be making real progress in human rights and not until then.

Mr. DORNAN of California. I just wanted to comment on the battle on the nuclear freeze that took place in this House when the gentleman and I were just—I was a citizen and he was a State Senator in Ohio—watching Mr. Hunter and Mr. Walker and a fine Member of this House for 6 years who tragically was beaten in a Republican primary, Mr. Mark Siljander and Mr. Jerry Solomon of New York, they rose spontaneously to a debate in this House to stop this Chamber from endorsing a gutless nuclear freeze supported by the Governor of New Hampshire, quite loudly, vociferously, publicly. With Reagan as their beacon, Members of this Chamber brought the proceedings of this House to a halt for 3 weeks and so tore up "Tip" O'Neill, it was jerked off the calendar and the President ended up prevailing with the INF Treaty.

I want to say something about Neville Chamberlain because his anniversary is coming up in 8 days.

ACTS OF VIOLENCE OUT OF BIGOTRY ARE OFFENSIVE TO FUNDAMENTAL AMERICAN VALUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. Glickman] is recognized for 15 minutes.

Mr. GLICKMAN. Mr. Speaker, in just the last few days, two incidents have occurred in very different parts of our country but which reflect, in my view, vestiges of bigotry and hatred which are offensive to the values and principles Americans hold dear. In Brooklyn, NY, vandals entered an orthodox synagogue and set the building and its sacred Torahs ablaze last weekend. On Monday, the family of our colleague from Mississippi, Representative Mike Espy, were confronted with racial slurs having been carved in the doors of their home and paint splashed on the floor of their entryway. Articles on both instances appeared in yesterday's Washington Post which I ask unanimous consent be printed in the Record at the conclusion of my remarks so they who may have missed them will understand more fully what was reported to have happened.

Separated as they are by hundreds of miles and differences in daily lives, both of these events share one terrible factor. Both were outward expressions of prejudice and bias that most Americans find reprehensible. I am sure that the hearts of an overwhelming majority of Americans go out to those whose synagogue was ravaged by flames and to the Espy family whose home was defaced with cruel and abusive slurs.

Last year this House passed legislation of mine to establish Federal penalties for acts of violence against religious buildings and practices when the acts involve the crossing of State lines. Legislation has also been introduced to require specific reporting of crimes rooted in hate and prejudice. Finally, today the House Judiciary Committee is considering legislation to establish a Commission on Racially Motivated Violence. It is unfortunate that these types of legislation even need to be introduced, but it is a credit to this House that they are before us. They reflect our collective concerns about incidents like the ones in New York and Mississippi.

The fact of the matter is it is going to take more than legislation moving through this Congress to end travesties such as those that have occurred in the last few days. It is going to take a deepened commitment on the part of every American that the values of equality and justice and freedom to practice religious beliefs must be preserved. That young people in this country must be taught that their own freedoms, their own futures have a stake in those values being preserved for all Americans.

I wish we could undo the tragedies against synagogue Sharai Torah and the Espy family. We cannot. But I am sure those who were directly affected want most of all to see that others are not victimized again as they have been. Part of America's greatness lies in the diversity that makes this nation what it is. That relies on understanding and tolerance and suffers at the hands of bigotry and hate. Our goal, then, must be to foster understanding and bring an end to bigotry.

Representative Espy's Home Defaced With Racial Slurs—First-Term Mississippian Interrupts Campaign To Repair Vandalism

Madison, MS, September 20.—Vandals carved racial slurs on doors and splashed paint on an entryway floor at the home of Rep. Mike Espy (D-Miss.), the state's first black congressman since Reconstruction.

Espy, who is seeking a second term, interrupted his 2nd District campaign against Republican Jack Coleman today to repair the damage to his home in this town a few miles north of Jackson.

"We've come a long way in Mississippi, but cases like this remind you how far we've got to go," Espy said, adding that his major concern is his family. "I'm the congressman. I have the record and I have my performance to defend and I can defend it. I'm the congressman, not my wife, my brother or my children."

"Something like this should not be a part of the American political process," said Coleman, contacted by telephone. "We should talk about the issues and beat each other on top of the head with those."

Espy said his wife discovered the vandalism when she returned home with her children late Monday.

"My son is 5 and my daughter is 8 and I had to explain to them the history of race relations in Mississippi," he said. "They had carved the word 'Nigger' on two doors and I had to tell my children what they meant and why somebody would do that. It was not an easy thing to do.

"If someone wants to come after me, let them come, but I want them to leave my family alone."

Espy said the racial slurs and "U.S. Con"—an apparent reference to the congressman—were carved into the tops of doors in the covered entryway leading into the house and garage. Plants in the entryway had been uprooted and paint dashed on the floor and on some of the plants.

Police are investigating.

Espy said he had received threatening calls in the past, "but you always expect those."

[From the Washington Post, Sept. 21, 1988]

N.Y. SYNAGOGUE ARSON SPURS REFLECTIONS ON YOUTHS "TAUGHT TO HATE"

(By Howard Kurtz)

New York, September 20.—When an Orthodox synagogue and its sacred Torah scrolls were set afire last weekend here in the Midwood section of Brooklyn, many neighbors said their thoughts immediately turned to a brick house down the block.

Nearly everyone on East 12th Street has had a few run-ins with Louie, a 15-year-old Italian youth who the neighbors say has repeatedly harassed the area's Jewish children.

Early Sunday morning, police arrested a 15-year-old boy in connection with the arson hours after a 12-year-old Hispanic youth turned himself in and told police he had been the accomplice. Police have withheld the boys' names because they are juveniles, but a source close to the investigation has identified the older boy as Louie.

"We've been complaining about this kid for years," a retired schoolteacher said. ". . . There were complaints to the police, and eventually you stopped complaining because nobody paid any attention."

"He's been harassing the kids when they come out of *shul*," said City Councilman Noach Dear, describing what many of his constituents have told him. "He's thrown eggs at people. He's let his dog loose on kids at the synagogue. He used to ride his bicycle into the kids."

Tonight at sundown, more than 300 worshipers gathered in a nearby school gymnasium on Coney Island Avenue for services marking the start of Yom Kippur, the holiest day of the Jewish year. The interior of Sharai Torah, the synagogue many of them have attended for 20 years, is a twisted mass of burnt rubble, a policeman standing guard outside its boarded-up windows.

On Sunday, nearly 10,000 people lined Coney Island Avenue for a funeral service for the six Torahs destroyed in the fire. As prescribed by Jewish law, the holy scrolls, which contain the teachings of Judaism, were placed in a coffin, eulogized and buried.

Today, as bearded men in black hats and sidelocks did their last-minute shopping before the required Yom Kippur fast, this heavily Orthodox neighborhood was still raw with emotion. On the concrete stoops of the two-family brick homes that line East 12th Street, neighbors were asking each other the questions the city has been asking since the early Saturday blaze:

How could young boys be so filled with hate that they might commit an act not recorded since the Nazi era—the destruction of a synagogue and its Torah scolls?

How can state law prevent police from charging the two boys as adults and from making their names public?

How can they face only 18 months in a juvenile detention facility if they are convicted of such desecration, which the law describes as "third-degree arson" and "criminal mischief"?

Even in a city where murder and racial violence have become commonplace, the attack has caused palpable shock. Cardinal John O'Connor called the torching "horrifying. . . . It just sent chills through me. It's indescribable."

Children are "taught to hate," said Mayor Edward I. Koch (D). "And they are not going to be untaught by being called juvenile delinquents. . . . Look at this synagogue. You have to cry."

Police Commissioner Benjamin Ward wept openly when he saw the charred remains of the synagogue, said Israel David, the son of Rabbi Hillel David, Sharai Torah's founder.

Police said the 15-year-old arson suspect was staying temporarily with one of his parents in Staten Island when he was arrested.

No one answered the door today at the house in Midwood where neighbors say Louie has lived for several years with his grandmother, great-grandmother, uncle and aunt.

Steve Giannopoulos, a body shop owner who lives down the block, said Louie and his friends have bothered Jewish and non-Jewish children in the neighborhood. "They're always going in our backyards and stealing what they can," he said. "We try to keep a nice garden and our flowers get ripped out."

Giannopouls said his brother saw Louie watching the synagogue fire early Saturday. He said Louie told his brother that he had nothing to do with the fire.

Sammy Bendit, 13, an eight-grade Orthodox student, said Louie and his friends "usually throw eggs at the *Shul.*" About two weeks ago, he said, "Louie's sister hit me with her bike by accident. He said, 'Don't say I'm sorry, curse him out.' He doesn't like Jews."

"Louie's the instigator, he didn't like anybody," said a tradesman on the block. "We were afraid to let the kids out."

"I'd like to see the cops and the D.A. go after the adults who taught these kids like that," said the retired teacher. ". . . I don't want to be identified, because these people are capable of coming over and burning my house down."

Councilman Dear, an Orthodox Jew whose office is around the corner from the burned synagogue, said he believes the vandal was motivated less by anti-Semitism than by general anger. "If someone has a hatred, if he's Italian, he's not going to go against an Italian. He sees a boy with a yarmulke—now he has a target."

Neighbors told colorful and sometimes conflicting stories about Louie's household. Several reported seeing strangers' cars double-parked outside the house long after midnight, with people entering the house and leaving a few minutes later. They said the German shepherd who lives in the house is aggressive and rarely leashed. Several residents said they have seen Louie and his friends with BB guns and have repeatedly found the windows of their cars shot out.

While many said they repeatedly notified Brooklyn police, Dear said there had been few, if any, complaints to police, in part because no law covers bias-related crimes.

"People were afraid to go to the police," he said. "What are they going to do—go to the police department and say, 'Someone threw my yarmulke off? What kind of crime is that?"

Many view the arson in historical terms. "Through thousands of years, Jews have been persecuted and will continue to be persecuted because they are Jews, and for no other reason," said an Orthodox man in a black hat.

The 12-year-old alleged accomplice, whose first name is Joey, is "terrified" about what he did, according to his cousin, Jose Rosado, who lives with Joey and his mother in an apartment building around the corner on Avenue K.

"He kept asking me, 'Will God forgive me?'" Rosado told New York Newsday. Rosado said Joey recalls running out of the synagogue after the fire was started and that the boy's mother took him to the police station to confess Saturday night after watching news reports of the arson.

A walk through the gutted synagogue today with Israel David, a 22-year-old rabbinical student, makes clear that the attack was not hasty. More than a dozen silver swastikas were painted on the first floor of the converted house, along the basement staircase and on basement boxes containing volumes of the Talmud, a repository of Hebrew law and custom.

Amid the charred remains of prayer shaws, the blackest part of the wall marks the ark where the Torah scrolls were kept. Each of the scrolls had been removed, unrolled and doused with gasoline.

The congregation is determined to rebuild, although damage to the synagogue is estimated at $500,000. But in some ways it will be more difficult to replace each Torah, considered by Orthodox Jews to be the literal word of God as handed down to Moses in the 13th century B.C.

"It takes a well-trained scribe a full year of tedious work to produce one Torah," David said. There are fewer than 200 such scribes in the United States.

"If you want to hit the heart and gut of the Jew, you burn the Torah scroll," Dear said.

Nationally, reported acts of anti-Semitic vandalism rose to 694 last year, a 17 percent increase after a five-year decline, according to the Anti-Defamation League of B'nai B'rith. The largest number, 207, were reported in New York state.

The fire has kindled support for a close-knit community in which there are nearly 100 synagogues within walking distance of Coney Island Avenue. David said USAir, working with an Ohio synagogue, airlifted a Torch here for tonight's Yom Kippur service.

"We've been getting a lot of calls from all over the world," said Malka David, the rabbi's wife. "Most people look at this tragedy not as just ours, but as everyone's."

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Armey] is recognized for 60 minutes.

[Mr. ARMEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DISCUSSION OF THE ISSUE OF THE SPEAKER LEAKING INTELLIGENCE MATERIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Walker] is recognized for 60 minutes.

Mr. WALKER. I thank the Speaker.

Mr. Speaker, I would be happy to yield to the gentleman from California [Mr. Dornan] briefly and then I want to do a little something on the issue that I think we need to discuss here tonight and that is the issue of the Speaker leaking intelligence material.

Mr. DORNAN of California. I thank the gentleman. I just wanted to finish a thought. I had made reference to Mr. Konnyu earlier about November 9, 1938, Crystallnacht, the night of the destruction of all the Jewish shops and synagogues: What provoked that November night in 1938, a few weeks before—and we will be sadly commemorating the tragedy of the 50th anniversary of Mr. Chamberlain, Lord Chamberlain's trip to Munich where he signed a peace treaty with, as he called him, Herr Hitler on September 30, 1938, 50 years ago a week from tomorrow, a Friday of this month. And we will be in session and I am going to do a special order that night and I hope all these gentlemen will join me. That incident triggered the horror that unfolded in Europe that I saw with my own eyes in Poland just a few days ago, the 1st, 2d, and 3d of this month, September at Treblinka, Sobibor, Auschwitz, Belzec, Chelmno, Majdanek, all of that grew out of what Dick Walters, our Ambassador with the United Nations would call provocative weakness. What the Speaker has demonstrated in the face of this brutal Communist suppression in Nicaragua is provocative weakness of will and resolve in this Chamber. It has only emboldened the young Communist dictators, the brothers—Humberto Ortega controls the defenses and the so-called President Daniel Ortega—as provocative weakness has emboldened the Castro brothers in Cuba for half of those 50 years.

I thank the gentleman for yielding and I will stay around to participate in his special order.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I think the issue before us this evening that needs to be addressed is this one: Should someone who leaks America's secrets serve as Speaker of the House of Representatives?

□ 2300

I think that is the issue that was raised over the last couple of days. It is interesting that the Republican Party has taken the position that this is a question that needs to be investigated.

The minority leader, the gentleman from Illinois, Mr. Bob Michel, who is hardly known as one of the House's hotheads, has written a letter to the chairman of the Ethics Committee and to the chairman of the Intelligence Committee suggesting that that question be investigated. The chairman of the Republican conference, the gentleman from Wyoming, Mr. Dick Cheney, has cosigned that letter. This morning, the entire Republican conference unanimously went on record endorsing the call of Bob Michel and Dick Cheney for the committee investigations on the question of whether or not the Speaker of the House of Representatives has leaked intelligence information.

What has been the response of the Democrats in this body to this call? We have had several of them come to the floor and defend the Speaker of the House. What have they said in defense of the Speaker? They have said this is nothing new, that the Speaker did not really release anything new in terms of information. A little earlier here on the House floor that particular comment was made.

They have said that this was not really a serious kind of request, it is not something that ought to be taken very seriously when the entire Republican conference requests of the committees to look into this matter. So, therefore, the committees have no obligation to look into it. It is something that can be set aside.

I think we need to examine those questions because I think first of all there has been a campaign of disinformation throughout this day about what the Speaker said, whether or not what the Speaker said was in fact a release of intelligence information. Let us look at what we are dealing with.

First of all, the Speaker said, "We have received clear testimony from the CIA people that they have deliberately done things to provoke an overreaction on the part of Nicaragua."

There are some in the body who say that is nothing new. We have known the CIA has been down there for a long, long time, and so that is really nothing new. The Speaker has not broken any intelligence information. But let us understand what the Speaker said.

He said, "We have clear testimony from CIA people." So what the Speaker has said is that we have, and I assume he means we, Congress, we have received clear testimony from CIA people. In other words, these are people within the agency who are involved in providing this information.

What we are told by some of the Democrats is, "Well, what we meant by this is there is some ex-CIA guy who testified before the World Court here back in 1985, and that's what we are really referring to. So this is nothing new. It's been on the public record for years. Why in the world would you even worry about something like that?"

What a big bunch of hogwash, because the Speaker said in a subsequent interview, according to the AP article,

> In a subsequent interview, Wright said agency personnel, under questioning from Members of Congress, said that they had "fought to generate vigorous demonstrations." Agents of our government have insisted in organizing the kinds of anti-government demonstrations that have been calculated to simulate and provoke arrests.

I am not aware that there was any Member of Congress who took part in the World Court activities to which the Democrats have been referring over the last several hours. The Speaker makes very clear in a subsequent interview he was talking about material that was gleaned under questioning from Members of Congress.

Let us go back to the first statement. He says, "We have received clear testimony from CIA people that they have deliberately done things." We have received clear testimony from CIA people. Then he later says this was done under questioning from Members of Congress.

What does that mean? It seems very clear to me that the Speaker was saying that Congress, under questioning, got information which came from CIA people. The only place that that kind of questioning could take place of CIA agency personnel is none other than in the Intelligence Committee. That is the only place where CIA people would be doing any kind of testifying.

So if we put the Speaker's statements together as reported in the press, the Speaker is clearly referring to material that was given in the Intelligence Committee.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, in order to properly frame this and the extent of the allegation, if a Member of Congress were convicted or actually admitted that he or she had done such a thing, revealed classified or top secret or national security information which he had taken an oath not to reveal, what is the punishment for such an illegal disclosure in the House, and is there any outside legal recourse for such a disclosure by a Member of Congress?

Mr. WALKER. All I can tell the gentleman is what the Speaker's standard is on that. The Speaker told the committee back in 1987 what his standard is on it. He said, "Now I should like to say as Speaker that if ever it were to come to my attention that any member or staff person of this committee," meaning the Intelligence Committee, "had, in violation of his or her oath, leaked information, then I would ask that person to resign from the committee."

The Speaker's punishment for leaking information is resignation. The Speaker has said that that is his standard.

The question that we have to determine here is whether or not information given before that committee was in fact leaked by the Speaker, and I think there is plenty of evidence to point in that direction.

Mr. DONALD E. "BUZ" LUKENS. If the gentleman will yield further, my question again is if the person in question has actually committed this wrongdoing, what is the first immediate step of the House? What should it be for anybody else other than the powers of the House?

Mr. WALKER. The first step has to be an investigation. We have to have it looked at, and our leadership, meaning BOB MICHEL and DICK CHENEY, have suggested that the Intelligence Committee ought to look into finding out whether or not there was Intelligence Committee information leaked, and that the Ethics Committee, because this is an ethical violation, also needs to look at this question. That is what we have requested.

What we have heard back from the Democrats, including some of their leadership, is this is not something which they are willing to countenance. They regard this charge, that is, going to the Ethics Committee, as being rather silly and nonsensical. The question is how do they respond to the entire Republican conference in that way? The Republican conference did not regard it as silly. We regard it as a very, very severe leak of America's secrets.

Mr. BROWN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Colorado.

Mr. BROWN of Colorado. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I might say if I understand the thrust of the gentleman's remarks, it is not a concern over debating policies and issue with regard to Nicaragua. If I understand the gentleman's position, he is not saying that the subject of the role of the CIA or the proper role of our foreign policy should not be debated. The gentleman is saying the disclosure of information in that debate should be done through the proper channels.

It seems to me that is a clearly different question. The gentleman is not suggesting, nor I think should any of us suggest, that we should not have a legitimate debate over what the proper role of the foreign policy of the United States should be.

Mr. WALKER. Sure, that is something which is going to be debated in a Presidential election year, and it has been debated roundly in the House. It should be debated. With left and right coming to different conclusions and all of that, left and right have come to different conclusions for the last decade or so about the role the CIA should play in the world, and that is a legitimate question. But the question before us here is a question of leaking secrets that the Congress is supposed to hold in camera. We are supposed to have certain information divulged to us under the standard that we can keep a secret.

What we think we have here is a case where the information was given to Congress and then the Speaker of the House himself leaked the information. That is a very serious problem because it goes to the integrity of the intelligence process, it goes to the integrity of the Congress dealing in intelligence matters. It is a very, very serious question, a serious question that needs to be dealt with in the appropriate committees, a question that I think we need to get resolved and not be treated to a silly discourse which suggest that testimony by some CIA operative back in 1985 in fact relates to this question, because as I will point out later, this is a matter which relates to a demonstration that took place on July 10 of this year, which was obviously some 3 years after the 1985 testimony before the World Court.

So we have very, very serious question that have to be raised here. I am very disappointed to hear the left wing of the Democractic Party come to the well here today and suggest that somehow we ought not have any kind of look at this matter before the Ethics Committee or before the Intelligence Committee.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding because I think the gentleman from Colorado [Mr. BROWN] has hit the nail on the head.

The point is the intelligence service personnel who operate for us around the world are just like military persons going on missions, and they do things that they are directed to do as a result of directives from this administration, from the Government, and we are all part of the U.S. Government. We may have an individual legislator who does not like what they are doing. For example, we had legislators who said we should not have struck Libya. But the point is, a legislator does not go out and say 3 hours before the raid I am putting out the information that the United States is going to strike Libya because I personally do not agree with that policy. The ultimate vulnerability here is not to a bunch of Congressmen who live in Washington, DC. It is to some operative out there on the street in a foreign country who has himself been put at risk because American politicians essentially expose him because they do not like the particular policy that that person is operating under.

Those people are like corporals and sargeants and captains in the U.S. military. They are carrying out missions that are directed to them from Washington, DC, from the U.S. Government. No Member of this House, whether he is a Speaker or the first or the last freshmen who arrived here, has a right to decide that because he does not agree with the policy he is going to expose a particular mission. It is absolutely wrong, and ultimately it accrues to the detriment of America's interest.

I thank the gentleman for yielding.

Mr. WALKER. I thank the gentleman for his comments.

Mr. BROWN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Colorado.

Mr. BROWN of Colorado. Mr. Speaker, I would like to make an observation about our Central American policy.

It strikes me that one of the things we ought to be asking is what kind of system will help the citizens of Central America the most. I think recent history provides a great lesson in that regard.

For many of our past years we have had a number of prominent Americans suggest that centralized planning or a collectivist policy had a great deal of merit in terms of developing Third World countries. I want to suggest that we have some experience in that area that bears on the question of Nicaragua.

Does it benefit the Nicaraguan people to have centralized planning, a socialist government with regard to it? For the answer to that question we can look at the experience of Cuba. Before Castro took power, Cuba had the number two per capita income of all of the countries in Central and South America. There was only one country in all of the South American continent and even Central America that had a higher income than Cuba. None of us I think are apologists for Batista. Certainly the way he ran the government had many, many serious flaws and crimes. But the point here I think is to look at what has happened with centralized planning and a socialist economy in Cuba. They have gone from second in all of Central and South America to number 23. They have gone from near the top to near the bottom, and incidently, one of the reasons they are 23 and not dead last is the fact that they get literally billions of dollars in aid from the Soviet Union.

The point I think is this: If we want a vigorous, thriving economy, and a better way of life for those in Central America, I think we have to be concerned about the adoption of a socialist regime and a centralized planning core for the economy of Nicaragua.

☐ 2315

It is disaster in terms of improving the lot of the working men and women of Nicaragua.

Mr. Speaker, the same story is told around the world. Taiwan has ten times the per capita income of mainland China. It is no secret as to why China is trying to change. Collectivist planning and centralized planning for governments simply do not work.

Mr. Speaker, Japan last year outproduced all of the Soviet Union with less than half the number of people. The per capita worker productivity in West Germany is 50 percent higher than it is in East Germany.

The simple fact is that collectivist economics has been a disaster wherever it has been tried around the world.

Hungary and Austria have a longtime association. I know the ancestors of the gentleman from California [Mr. Konnyu] hail from Hungary. Hungary before 1949, before the Communists collectivized the entire economy, had a higher income than Austria—slightly higher.

Today, Mr. Speaker, even those countries share a great deal of background, several hundred years of Austro-Hungarian empire, a great deal of cultural similarities, regional similarities. Today, Hungary has gone from ahead to a per capita income that is one-third of what Austria has.

The difference is economic freedom, so, when we hear people talk about what is good for Central America and good for Nicaragua, we want to keep in mind that the Government of Nicaragua's protestations are that they could help the people with the collectivist centralized planning economy which has been so disastrous around the world.

I hope as Americans that as this body considers policies towards Central America we will not adopt policies that encourage Nicaragua and Central America to adopt the disastrous centralized planning economies that have been such failures around the world.

Mr. Speaker, I thank the gentleman for allowing me to introduce this line of reasoning to this discussion.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from California [Mr. Konnyu].

Mr. KONNYU. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. Walker] for yielding.

I want to refer to the second element of the process; that is, the gentleman from Pennsylvania has made it abundantly clear that the Permanent Select Committee on Intelligence is and of the Committee on Standards of Official Conduct is with respect to the acts of Mr. Wright. However, I am even more concerned about the tragedy that befalls Nicaragua in that the Speaker's words have the effect of assisting the Communist dictator of Nicaragua, Mr. Ortega.

In fact, if my colleagues watched CNN today, if they watched "CBS News" today, they saw on today's news the description that the Communists are trumpeting in their newspapers. Barcada was the one that was specifically mentioned, that the Speaker said that the CIA is doing all its fomenting, so, therefore, the Communist government of Nicaragua has the excuse to violate the peace treaty the three ways I mentioned before.

Mr. WALKER. Reclaiming my time, the gentleman does not mean that the Speaker's words are being used by the Communists against the Nicaraguan people and against the United States.

Mr. KONNYU. Precisely that. Is that not a tragedy? That is exactly what I mean.

Mr. WALKER. Mr. Speaker, the Communists in Nicaragua have taken the Speaker's words, and they are using them to their own advantage?

Mr. KONNYU. Mr. Speaker, that is the tragedy. That is the tragedy. And my colleagues know we ought to pause on that, but frankly we have serious issues. That justifies—the Speaker's words justify the Communist government. Despite the Speaker's protestations, the Speaker's words justify the Communist government in terms of their communication to violate the Arias peace treaty or the Esquipulas plan. And this time I pronounced it properly.

Mr. WALKER. So, even if we are not involved with a leak of information as such or leak of secret information, which of course would be illegal and would be unethical, if we are not involved with that, what the gentleman is saying is that the words used by the Speaker are now being used by the Communists in Nicaragua to justify their position as opposed to those people who have been down there fighting for democracy.

Mr. KONNYU. Precisely.

For example, the Speaker can say that because of the CIA involvement, as proved by the American Speaker, that they can continue the human rights violations, they can continue to close the newspapers, they can continue to close their radio stations, they can continue to ban political activities, all elements of any kind of a fair system and precisely the elements of the treaty that they signed and that they committed to follow which they are violating in a massive way just as all of us—many of us predicted——

Mr. WALKER. So at least in this instance the Sandinistas see what the Speaker did as being on their side.

Mr. KONNYU. Of course.

Mr. HUNTER. Mr. Speaker, will the gentleman yield on that point?

Mr. WALKER. Mr. Speaker, it is rather disturbing.

I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I think the gentleman from California [Mr. Konnyu] and the gentleman from Pennsylvania [Mr. Walker] have made an excellent, excellent point. The point is that now anytime a group of mothers want to demonstrate against the Marxist Sandinista government for taking their sons, and they demonstrate, and they are beaten by divine mobs, as reported by the New York Times and reported by the Washington Post, hardly conservative——

Mr. KONNYU. Would the gentleman define "divine mobs"?

Mr. HUNTER. Divine mobs are the so-called divinas turbas, and those are Sandinista operatives who with clubs will go into any rally where non-Sandinistas get together and protest the government or governmental actions. In other words, they are agents of the Communist Sandinista government.

Mr. KONNYU. In other words they are political thugs?

Mr. HUNTER. They are absolutely thugs so that anytime the Sandinista thugs beat up on a group of mothers or students demonstrating or working people demonstrating because there are no jobs and because the Communist system has brought them 1,000 percent inflation, then all they have to say to justify their actions to the world is, "Well, the reason we had to break up this rally of so-called mothers is because it was really organized by the CIA, as proven by Speaker Wright."

The point is that the Sandinistas now have a justification for disrupting any attempts by the people of Nicaragua to exercise their right to freely assemble, to exercise the right to free speech.

Now, if there is a situation like when Nelson Perez—let me give my colleagues an example.

Nelson Perez was a taxicab driver in Managua. Nelson Perez went to a taxicab union meeting, taxicab drivers union meeting. One of the comandantes of the Sandinistas, Bayardo Arce, came to speak to the taxicab drivers. When he spoke, Nelson Perez had the temerity to boo him. In other words, a lowly taxicab driver booed one of the Sandinista comandantes. He was pulled physically out of the meeting, and his body the next day was given to his widow with a number of bullet holes in it and said, "It looks like poor Nelson Perez tried to escape."

Now the point is now that if a Nelson Perez is killed, executed by the Sandinistas, they can always say, "Well, we know that Nelson Perez was a spy. He was actually working for the CIA in an attempt to disrupt this union meeting as has been well documented by the Speaker of the House, Mr. Wright, where he said, 'The CIA is responsible for all the ills of Central America, that is, is disrupting the government's attempt to overthrow the government.'"

Mr. Speaker, the point is that the Sandinistas now, who have an economy that is terrible because it is a Marxist economy, as the gentleman from Colorado [Mr. Brown] pointed out, now can blame everything on the United States. And it is kind of tragic to see not only Mr. Ortega blaming

America first, but also the Speaker of this House, Mr. WRIGHT, blaming America first.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Ohio.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding.

What bothers me just as much is the fact that we have a Congress which is supposed to be the legislative branch now demonstrating that it can also execute foreign policy as well as actually legislate and fund foreign policy, and this must be laid again at the foot or at the feet of the collective left wing leadership of the House. It bothers me deeply that in the past, as one looks to the history of America, we have gone through the imperial Supreme Court, the Warren court, that actually made laws and then enacted them, which was the purview at that time under the Constitution of the executive branch.

And, Mr. Speaker, we have gone through the imperial presidency. Some call part of the times of Richard Nixon in the White House an imperial Presidency.

Now, Mr. Speaker, we are seeing an imperial Congress. It is as though we do not need an executive branch which has the constitutional authority for executing foreign policy. And while I disagree with the Speaker of the House I think we return to this basic tenet. I have a right to disagree with his philosophy of government, and he has a right to disagree with mine. He is far more powerful in this particular Chamber at this particular time than any single Member of the House, so it disturbs me even more, returning to the central theme, why a person with the supreme responsibility for the conduct in setting the moral tone, and indeed the ethical behavior of the House, would lay himself open to the slightest hint that he would leak national security secrets. I find it very, very disturbing.

I would hope that the powers that be in this House would rush to solve this break in the dike.

Mr. WALKER. Mr. Speaker, I think the gentleman has brought us back to the key question here because the question I want to say again before us tonight is this question: Should someone who leaks America's secrets serve as Speaker of the House of Representatives?

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, the fascinating idea that just occurred to me is that, if Mr. WRIGHT had done this on Afghanistan, which is one of the untold stories of intelligence successes around the world, and it has been leaked over and over again into the pages of the Washington Post where I have seen figures printed that I thought were secret, and heaven knows how the Washington Post goes around with its Bob Woodward-type people and gets figures on successful programs, but I have seen print in papers that over $650 million a year went to Afghanistan, that over a thousand Tennessee mules have gone there, that high-tech Stinger missiles have gone there, and not one single liberal in this Chamber, including some who hate what we have done in Afghanistan, has ever taken the well and criticized that program.

So, this is a selective leaking of intelligence because someone disagrees with one country where they may accept the inevitable in another country even though they disagree there, and it is this selective leaking that I believe is beneath not only the dignity of the Chair, but the duty of the Chair to protect.

The gentleman from California brought up the point that the Central Intelligence Agency personnel, other intelligence people working in uniform for the military services, are as worthy of respect as any young man carrying a rifle on the DMZ in Korea or Arthur Nicholson, who was murdered by Soviet uniformed people in West Germany in the CIA building, and all of us have been there at one point or another.

As one goes through the main lobby—when I was a freshman in 1977 there were 37 names on the wall of people who were killed in the line of duty working for our Central Intelligence Agency. Most of the names could not be identified just to start. And when I asked why the names were not known to their fellow countrymen, they said, "In many of those cases their own parents or their wives weren't told how they suffered death or in what country because we have ongoing operations in those countries," and there were four stars there from 1950 that had no name after them. Now I believe the number is way over 45, 46 names. In other words, in the last decade another eight or nine CIA agents have been killed in the name of duty.

But one man's name is up there, Richard Welsh. It is up there because he was a Notre Dame graduate, and we have got many Notre Dame graduates in this Chamber that serve with honor as did the President of—Duarte attended Notre Dame. Philip Agee, a Notre Dame graduate who left his Catholic faith and became, I believe, a traitor to this country gave the name of Richard Welsh, our agency man in Athens, Greece, and he was cut down in the streets of Athens, murdered like a rabid dog in the street, and his name is allowed to be printed there in honor on the wall of the lobby of the Central Intelligence Agency. So they are heroes, and this selective leaking of Central Intelligence Agency programs because one does not like this particular program I think is what I said on television tonight and said on this floor that it is disgraceful to this Member and deserves to be investigated.

Mr. BROWN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Colorado.

Mr. BROWN of Colorado. Mr. Speaker, I think one of the questions this Chamber has to ask about Nicaragua is: What is the best policy for bringing about peace? That is our objective in Central America, improving the economy, improving the lives of these people and bringing about peace.

I know many Americans are concerned about our involvement outside of our borders, but let me suggest that the best policy in dealing with the Soviet Union and their satellite in Nicaragua is a policy of mutuality. We have had many Members who in sincere faith believe that if we unilaterally withdraw support from Nicaragua, if we withdraw any aid or assistance for people who are dedicated to freedom and democracy, that that will result in the Soviet Union eliminating their forces. That thesis, I think, has been tried many times. Let me suggest a few of them because I think it is at the core of the debate that we have got to face up to in Nicaragua.

□ 2330

President Carter tried that with regard to missiles. President Carter tried that with regard to chemical weapons.

The United States unilaterally eliminated the production of chemical weapons, hoping that the Soviet Union would likewise eliminate the production of chemical weapons. The result? The world knows. The fact is the Soviets accelerated the production of chemical weapons, when we unilaterally stopped.

The same is true with missiles. We stopped for a time our deployment and modernization of our missiles. The Soviet response? An enormous speedup and buildup in their deployments. At the time we stopped in the mid-1970's deployment the missiles, the Soviets proceeded to deploy more than half their forces in the field right now during the time we unilaterally stopped.

The Soviets achieved a great deal of accuracy in their missiles that is not matched by many of the American missiles.

Now, the point is not a discussion of missiles so much. At least in this case we are referring to long-range ballistic missiles. The question is how to bring about peace with the Soviet Union or their satellites.

One suggestion is that we unilaterally withdraw or unilaterally stop or unilaterally eliminate our contacts with areas where the Soviets are expending.

Let me suggest to the Members of this body, that unilateral approach has been tried. It has been tried in chemical weapons. It has been tried in long-range ballistic missiles. it has been tried in intermediate range balistic missiles in Europe, and it is being tried in a number of hot spots around the world, and it has failed. There is not a single instance where the unilateral withdrawal has been a successful implement toward bringing about peace. What it has brought about is further responses by the Soviet Union, further aggressions, further denial of human rights.

If we are sincerely interested in bring about peace, I want to suggest to the gentleman that unilateral withdrawal from Central America is not a path to peace. It is a path to further conflict.

Let me give you an example of what process I think works. In Europe we had a raging debate over intermediate range balistic missiles. This country first tried a unilateral approach; that is, we would not deploy missiles in hopes that the Soviet Union would not deploy. Every Member of this Chamber remembers how that came out. We stopped, and the Soviet Union proceeded to deploy hundreds of intermediate range missiles in Eastern Europe.

When we reversed that policy, when we said, "If you are going to deploy intermediate range missiles, we are going to deploy also," the Soviet Union wanted to come to the bargaining table.

What we have now as an agreement, a landmark agreement to eliminate a whole class of weapons, is the product of the mutual approach of suggesting that we will forbear in these areas if we can achieve a realistic verifiable mutual disarmament.

The policy of mutuality has worked with the Soviets. They respect power. The policy of unilateral withdrawal forbearance has not worked. That is the issue I think we have to face in Nicaragua. Should we eliminate our assistance to the Freedom Fighters while the Soviet Union continues theirs to a Marxist-Leninist government, dedicated to centralized planning of an economy and a lack of freedom and a lack of respect for human rights?

You see, the question in Nicaragua is not a question whether the United States is involved or not. The question is how we end outside involvement. A unilateral withdrawal by the United States has been an invitation to further activity by the Soviet Union.

I want to suggest that if you sincerely believe in peace, and I know the Members of this body do, that what we have to insist on is a mutuality, that if we are to withdraw, the Soviet Union must withdraw, and if we withdraw or continue that kind of policy, all we do is invite further conflict, further bloodshed, and yes, further loss of human rights.

The record is very clear. I think the path toward peace in Central America is to insist that the Soviet Union lives up to the kind of guidelines that the peace plans have suggested for them.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his statement, because I think that what we see here is potentially a case in this instance where the policy that has been decided on by the leftwing Democrats in this body of unilaterally accepting Communist expansionism into Central America then allows them to take the next step to say that any action taken in furtherance of that policy is, therefore, all right.

What we are debating here this evening is the question of whether an action that potentially took place of leaking the secrets entrusted to Congress is in fact something that should be done in furtherance of the policy.

Now, the real question here is whether or not there was a leak of serious intelligence matters. I think that an examination of the record as printed by the press thus far indicates that that is a distinct possibility.

For instance, as I pointed out earlier, the Speaker himself says that we have received clear testimony from CIA people, and then he later on indicates that those people gave that information under questioning from Members of Congress, so that obviously the information that the Speaker was referring to was information developed here in the Congress. The only place where agency personnel would be speaking to the Congress would be in the Intelligence Committee, which by its very nature has a trust that is given it not to divulge information.

Now, that is the question we have. Are there people who believe that the Speaker did in fact divulge information, both illegally and unethically? Well, there is a House Intelligence source quoted by the Washington Times who described Mr. WRIGHT's remarks as "A highly irresponsible leak," and he went on to say that it is a highly irresponsible leak of intelligence information that appeared timed to undermine efforts to obtain congressional approval of U.S. assistance to the Contras.

So in other words, according to at least this House Intelligence source, somebody within this body, there is a feeling that not only did Speaker WRIGHT make what he calls a highly irresponsible leak of intelligence information, but he did it in a way to try to advance his own political agenda.

Now, it also I think is interesting to note for those who keep telling us that this is all something that was a matter of public record, that both the chairman of the Senate Intelligence Committee, as well as our own embassy, have denied that there was any CIA involvement in the demonstrations that took place July 10th in Nicaragua; however, Speaker WRIGHT told rebel leaders in a meeting, that is, Contra leaders, that the July 10 demonstration of opposition parties was "a CIA provocation." That is according to three of the Resistance leaders who were present at a meeting with Speaker WRIGHT.

So in other words, the Speaker was giving information that contradicted both what our embassy had said and what the chairman of the Senate Intelligence Committee has said about these matters, so that the public record was you have a chairman of the Senate Intelligence Committee and our embassy saying one thing and Speaker WRIGHT saying to rebel leaders that what took place on July 10th was a CIA provocation.

In addition, Eugene O'Neil, the administrator for the Resistance Washington office, quoted Mr. WRIGHT as saying with regard to the demonstration, the protest on July 10, he said that Mr. WRIGHT said, "I know well who is behind this. I know it is the CIA."

Now, those are not issues that came up as a result of the 1985 testimony before the World Court. That has been the defense I have heard all day long here on the House floor. It is a nonsense defense, and the matters that the Speaker referred to were not matters that were known in the public media. We have a leak of information, or at least it looks like a leak of information. It is certainly something worth investigating.

What has been most disappointing is to hear my colleagues, the Democratic leadership in some instances, indicating that they have no intention at all of proceeding ahead with that kind of investigation of this matter.

I think that is a serious abuse of power. I think it shows the kind of arrogance we have seen too often. That shows a sense of arrogance for Members to come to the floor this evening and suggest that there is nothing to this charge.

I think the public record that has now been compiled over the past several days shows that there is a great deal to the charge, and it is a charge that ought to be taken seriously by this House and by the country as a whole.

I think it is high time that Congress wakes up and figures out that we have a Speaker who has engaged in a very serious violation potentially.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Georgia.

Mr. GINGRICH. I just want to comment that I am not sure that most of our Members and most of the public can appreciate how serious a violation we think Speaker Wright has engaged in and how deeply we take this issue.

There are I think two different areas we have to look at to understand why we would charge this as a total betrayal of trust. Whether it is a total betrayal of trust because of his lack of judgment or whether it is a total betrayal of trust because of deliberate actions, I do not think we know yet.

Let me talk about two areas. First of all, if my colleague will continue to yield, first of all to talk about the consequences, and second, to talk about the process.

Even if Speaker Wright had known something and had been in a position to talk about it, the human consequences of what he did this week are so horrible, the human beings who will be in prison, the human beings who will lose their freedom, the human beings who will be condemned as traitors by the Nicaraguan Communists, the consequences of Speaker Wright's behavior in human terms in Nicaragua in the betrayal of America's friends and allies, in the granting of cover to the communist regime, is absolutely extraordinary. I do not frankly have the language for it, because we are not at war with Nicaragua and the words one would normally use for this kind of betrayal of trust are not the correct words. I am not sure that we have any language. In World War II I guess "collaborator" or "quisling" would have been the closest terms; but let me walk through what the Communists have done in Nicaragua with Jim Wright's statement.

This is from Barricada, which is one of the two Communist newspapers I want to quote from this evening. It says:

> The only thing that Wright adds to the evidence, as a footnote, is an official confirmation from Melton's own men.
>
> The Democratic leader said: "We have obtained clear testimony from people working for the CIA, who claim their actions were purposefully aimed at making the Sandinista government react strongly."
>
> Could it be that those U.S. officials are disguised Sandinista agents who wish to discredit the "peaceful opposition?" This might serve as the right wing's sole defense. But extremist rhetoric cannot hide the fact that the provocations at El Calvario, Masaya, Nandaime—even the very prisoners that the right wing now wishes to portray as victims—all fit perfectly into the CIA's plot.
>
> If the right wing now feels devoid of authority because it has been disqualified as an alleged national opposition force by the Americans themselves, that is a problem they should solve directly with the U.S. Embassy.

In other words, the Communist newspaper in Managua, is saying it is Jim Wright who discredits the pro-freedom opposition, that it is Speaker Wright who has now described the CIA plot and that he has disqualified the pro-freedom forces.

Let me give you a second even more stunning editorial, which was printed in Nicaragua by the Communist government and which appeared yesterday. This is from another publication. I am looking for the title of the publication which printed it.

□ 2345

Mr. WALKER. The gentleman from Texas [Mr. DeLay] is on the floor. He was at Nandaime at the time of the protest that we have been referring to here and to which those editorials refer, and supposedly the leak of information was that the CIA was behind those protests, and I just think this might be an appropriate time to ask the gentleman from Texas whether or not, being a direct witness to the situation there, whether what was done by the Sandinistas at that time was something which was provoked by our CIA.

I yield to the gentleman from Texas [Mr. DeLay].

Mr. DeLAY. I thank the gentleman for yielding.

I think it is important at this particular time to describe what went on in Nandaime, and it is not just a Member from Texas talking, because I was there with two Democrats and another Republican, the gentleman from South Carolina [Mr. Tallon], the gentlewoman from Maryland [Mrs. Byron], and the gentlewoman from Nevada [Mrs. Vucanovich] and I went to Nicaragua actually under the premise of looking at human rights violations that were being committed in Nicaragua. We did not even know that the protest was being planned in Nandaime when we got there.

When we landed, the embassy was so upset about what had been going on for days before our arrival that they came and wanted to brief us immediately about what was going on before we had a press conference about our reason for being there. They wanted to make sure that the propaganda put out by the Sandinistas that the four of us were coming there to instigate riots, the unsettled situation in Nicaragua and help the opposition.

Mr. WALKER. Reclaiming my time, the Sandinistas were claiming that you, as American Congressmen, were coming down there to stir up the riots?

Mr. DeLAY. Absolutely. For a whole week, the Communist newspapers were setting up our trip. We did not even know the Sandinistas even knew we were coming other than the fact that we had contacted them 2 or 3 days before we were to arrive, about, and requested audiences with Daniel Ortega, Sergio Ramirez, Tomas Borge, to talk about the violations of human rights in the prisons, but they set us up as we were part of Plan Melton, that we were there to undermine the Sandinistas and their authorities and undermine the government and their paradise in Nicaragua. We were being set up the whole time before we got there not knowing there was a march planned for Nandaime that weekend. We spent the whole weekend trying to make sure the world press as well as the Sandinista press could not tie us to the demonstration in Nandaime. The whole weekend we spent, and in fact we debated amongst ourselves the whole weekend about whether to go to Nandaime even though we were confronted time and time again by people in Nicaragua begging us to come to Nandaime because they knew if we showed up in Nandaime their heads would not be bashed in. They knew they would not attack Members of Congress that were participating in a march, because I participated in a march in Leon in December with the gentleman from Ohio and other Members of Congress. We marched in the streets of Leon, and they backed off and had nothing to do with us during that time.

We consciously knew that we were being used by the Sandinistas for their own propaganda, so we worked very hard to stay away from and not allow pictures to be taken of us as we were there.

We were solely there to investigate the human rights abuses by the Sandinistas perpetrated on those over 6,000 people who are held in prisons today in Nicaragua, almost 10 times as many people as were held by Somoza, but regardless of that, what we were looking at was to stay out of Sandinista propaganda while we tried to document human rights abuses.

As the weekend progressed and as members of the march were begging us to appear, we felt like it was not proper for us, and the embassy, I might say, the embassy time and time again urged us to even forget about going to Nandaime. They did not want anyone there in Nandaime, because we did not want to give any fodder to what was going to happen in Nandaime.

We got to Sunday morning, and still as usual the Sandinistas had not given permission for the march at Nandaime. They always wait until the very last minute to give permission for a march trying to disrupt the march, and they also finally said we could meet with a member of the government at the same time of the march which is rather interesting. We chose not to meet with the member of the government.

The gentlewoman from Maryland [Mrs. BYRON] and the gentlewoman from Nevada [Mrs. VUCANOVICH] chose to go to a mass with Mother Teresa. As a little aside note, it is very interesting to note that the priest who held the mass with Mother Teresa, because of two sentences he said in that mass, was arrested the day after. It was really interesting.

Mr. WALKER. The priest was arrested?

Mr. DELAY. The priest was arrested 2 days after the mass held with Mother Teresa, who took all kinds of pictures with Daniel Ortega, and it was a wonderful act of human decency and human rights, and there was a lot of pictures and press opportunities with Daniel Ortega and Mother Teresa and, frankly, with two Members of Congress that morning.

Mr. WALKER. Then they arrested the priest that she participated in the service with?

Mr. DELAY. Exactly.

Mr. WALKER. Was there not something in the peace plan about freedom of religion?

Mr. DELAY. I think there was. I can remember very vaguely about certain freedoms in the peace plan that not too many people have paid much attention to, but as those two Members of Congress were participating in the Mother Teresa event, the gentleman from South Carolina [Mr. TALLON] and I decided that it would be OK to send our staff to observe the march in Nandaime, so we sent our staff. Then we commandeered, against the will of the embassy, commandeered an embassy vehicle making sure that the vehicle had tinted windows so they could not see in the vehicle, and the gentleman from South Carolina [Mr. TALLON] and I, under the premise, and I have to be very straightforward about this, under the premise of going to some of the clandestine prisons, we continued on to Nandaime.

It was interesting, on the way to Nandaime, because the Sandinistas had set up roadblocks to harass the demonstrators coming out of Managua. They even stopped our staff. They left first. We left later. As we were going down the highway, we passed our staff. They had stopped to take pictures of the truckloads of demonstrators that were stopped by the interior police, the Ministry of Interior police, to stop them from getting to Nandaime.

We counted six different locations where they could have stopped these people from getting to Nandaime in time for the demonstration, but because our staff started riding with them, they did not want pictures taken of them harassing the demonstrators. Consequently, as we passed by, we got to Nandaime first. We pulled off to the side of the road as they were staging the demonstrators; they were coming together. We noticed there were a lot of troops in the town.

This is a town, a very, very small village. This is not a big city. It is a little village.

By the way, it was a village that 2 days before the Sandinistas had staged a demonstration of their own, so they had all of these signs hung in Nandaime about, "We have outlasted Reagan", "We have beat Reagan", "Reagan is going to leave but we will be here". Those were the signs hung up over the streets, the kinds of signs and the intimidation.

They brought in the tour bus and marched in the streets at Nandaime trying to discourage anyone from coming into this small village to demonstrate.

The gentleman from South Carolina [Mr. TALLON] and I were sitting in this car watching the staging area, and it was incredible, because comparing Nandaime to Leon, in Leon they backed off knowing that Members of Congress were going to be there, and they did not bring in any soldiers, or we did not see any if they had, but in Nandaime Soldiers and police were evident everywhere, everywhere, and it was really interesting. They were sitting in Jeeps and trucks all along the road watching these people getting ready or coming together to demonstrate. The press had not arrived yet. No one was there, but we were sitting off the road back watching what was going on.

All of a sudden Jeeps from everywhere came together with black berets dressed in riot aprons, helmets and glasses and riot gear and masks and everything, descended in what looked like a riot formation, got together and surrounded on three sides those that were in the staging area and started beating people and moving them and took three people and violently threw them into a Jeep and then backed off. It was an obvious intimidation attempt.

We knew that this was not the normal demonstration and peace protest, so we continued to watch, and as we watched it was also interesting to watch the intimidation on us, because they could not get pictures of who was in the car. They were very frustrated, and they would walk around our car. They would drive Jeeps up to our car. They would stop and stare at our driver. They could see our driver, but they could not see who was in the car. They were very upset about somebody that was in that car, but they could not get a picture of that person.

As we sat there, we moved around and moved around, and what we did is we watched them stage the protest. Then we decided that we had to stay away from the protest but watch it and see what is going on. We made sure that we were one block away from the march at all times. In fact, we finally had a car full of soldiers behind us that stayed right on our bumper, and it got to be kind of a game, because they did not have a four-wheel-drive vehicle, and we did, and it rained a lot the day before, and there was a lot of mud, so we would drive off into big, deep mud puddles and we left this Russian Lada stuck in mud halfway up the door handles, and they would not get out. We drove on, and as we drove on, we noticed on every corner one block off of the march route, we noticed that there was at least 10 to 20 soldiers and/or police on every corner. This was not a normal open march. Something was going to happen.

I will just finish with as we pulled around, we were warned by villagers who knew what was going on to get out of there, because if we did not get out of there, things were going to happen. We did not want to be part of an incident. We did not want to embarrass the embassy, because the embassy was really upset with us for even being there.

We decided to pull out. The minute we pulled out, our staff decided to pull out in about 5 or 10 minutes according to the radio in the cars later.

The minute our staffs left, all hell broke loose, and that is when they got the beatings and the arrests and the tear gas and the arrest of people that I am very fearful for right now, ladies and gentlemen, very fearful for their lives because of the revelations that have happened in the last day or two, the 40 to 60 people who were arrested at Nandaime and subsequently, like Carlos Juembes, the chairman of the coordination council of the opposition in Managua, he may be dead this morning because he was being accused all the week before we met of being an agent of the CIA.

They have the excuse to torture him if not kill him. We have many members who were arrested at Nandaime that now are under great danger because of the revelations that have been espoused in the last day or so. I have great fears for the oppositions in Nicaragua, great, great fears because these people took it upon themselves and endangered their own families to stand up for freedom, and they were arrested for their beliefs, thrown into the most disgusting jails in the world that no dog would be put in, in those kinds of jails in this country, and yet we have given the Sandinistas the excuse to shoot them because they may be connected with the CIA.

I think it is disgusting, and I think it is horrible, and I think it is unfortunate that these people's lives are in danger at this time.

RECESS

The **SPEAKER** pro tempore Without objection, the Chair declares a recess for 3 minutes.

There was no objection.

Accordingly (at 12 midnight), the House stood in recess subject to the call of the Chair.

□ 2400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore at 12 o'clock and 1 minute a.m.

The **SPEAKER** pro tempore (Mr. Bonior). The House will come to order.

HUMAN RIGHTS IN NICARAGUA

Under a previous order of the House, the gentleman from Georgia [Mr. Gingrich] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to pick up on the point which the Congressman from Texas had been making because he saw personally some of the human beings who may be victimized by Speaker Wright's recent statements, and I think he brings home the human side of what we are talking about.

What I was trying to wrestle with earlier, because I am not sure exactly how to describe the intensity of my feelings about this, this is not a game. A lot of our friends on the left have a very difficult time understanding that the world is not Disney World, that there are real dangers, whether dangers from murderers like Willie Horton or dangers from Communists like Daniel Ortega, that those dangers involve real pain, whether the torture the Willie Horton pain inflicted on a couple in Maryland or the torture that the Nicaraguan Communists may inflict on some of the people for whom Jim Wright has not given the Communists their excuse.

The editorial I was going to read, and I think over the next few days we will try to make sure that every Member of the House reads and thinks about these words from a Communist publication in Nicaragua.

> All those affected by Jim Wright's disclosures who wish to make a denial, please address any correspondence to the Speaker of the House of Representatives of the United States.
>
> Any internal laments and shouts that the Government is slandering them are disqualified in advance. The accusation is overwhelming, considering its source and the involvement of an agency of his own country: The Central Intelligence Agency of North America.
>
> One by one the proofs issued by the Government in the Melton plan were fully ratified by Wright who, so that there can be no doubt, names the CIA itself as his source . . .

Now, the first point I want to make to my friends on the left is that on the grounds of consequences, the Speaker of the House should never have said what he said. It is one thing for other Members to say it. It is one thing for the newspapers to say it, but when the Speaker of the House, the man second in line to be President, a man only two heartbeats away from the presidency, the man who would follow the Vice President if anything happens, when the Speaker of the House asserts as quoted in Nicaragua that "We have received clear testimony from CIA people that they have deliberately done things to provoke an overreaction on the part of the Government in Nicaragua, and they do not believe it is the proper role of a government to try to provoke riots."

What Speaker Wright said at that moment was providing the excuse for the Communist Government of Nicaragua to label every person who loves freedom, a traitor to Nicaragua based on the testimony of the Speaker of the House of the United States.

Now, purely and simply on the grounds of the consequences of what he said, Speaker Wright should either issue an apology and a denial or should resign because it is a direct assault on human beings in Managua, and the consequences in tortured and killed people could be horrendous as could the consequences in prisoners, and this is not something we are making up as conservatives in America. I am reading from editorials printed in the last 2 days by Communist newspapers in Nicaragua that are government sources of how the Nicaraguan Communists will exploit the excuse that Jim Wright has given them.

Let me say one more thing about this. In addition to the consequences of Speaker Jim Wright having now provided an excuse for a pro-American freedom-loving people to be imprisoned, tortured, and in some places killed, by the Communists, in addition, a question of process, and I want to read again precisely what Speaker Wright said in the press conference, both a version in English from the Wall Street Journal and the translated back from Spanish from the Communist newspaper.

According to the Wall Street Journal, Speaker Wright said, "We have received clear testimony from CIA people." According to the Nicaraguan Communist newspaper he said, "We have obtained clear testimony from people who work for the CIA."

Now, the Communists are saying that Speaker Wright himself identified testimony from the Central Intelligence Agency that was a source of what he was saying. Only one of two possibilities. Either Speaker Wright violated the secrecy requirements of the House in the U.S. Government or what he was saying was not true. Those are the only two choices.

If what he was saying, that it was from testimony by the CIA and related to the current problems in Nicaragua which invalidates the World Court defense of our friends on the left who are desperately trying to protect the Speaker from his own self-inflicted act of betrayal, the fact is we are in a situation today where Speaker Wright either violated the American secrecy requirements and leaked America's secrets, or Speaker Wright in public was saying something which was untrue.

Now, if he was saying something that was untrue, he owes the decent people of Nicaragua who will be locked up in jail because of his behavior a public complete confession that he was not telling the truth, and he owes them an apology and he owes them direct overt action to repair the damage he has caused.

On the other hand, if his defense is that he had secret information, and what he was saying was based on leaking secret information, I think this House has no choice but to invoke the principle that anyone who leaks America's secrets cannot serve as Speaker.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. Mr. Speaker, I will yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, a very important point is that the Speaker now has made this statement that is being echoed by the Sandinistas in Managua to the effect that commotion or protest against a government of any kind only emanates for the CIA, that if you have a people protest march down the street, then that is organized by the CIA, and there is no genuine discontent in Nicaragua.

Now, the gentleman, Mr. DeLay, was in Nicaragua and he watched the citizens of Nicaragua assemble to protect government policies. I would like to ask the gentleman, when he saw the citizens of Nicaragra coming together to protest government policy, did that appear to him to be a genuine attempt by them to redress their grievances, or were they being mustered out by agents of the CIA?

Mr. DeLAY. Mr. Speaker, will the gentleman from Georgia yield?

Mr. GINGRICH. Mr. Speaker, I will yield to the gentleman.

Mr. DeLAY. Mr. Speaker, I will answer that question from the gentleman from California because it is a great question and gets to the very bottom of what we are talking about.

What we are talking about are a group of people that are concerned for the future about their children and their grandchildren. We are talking about a group of people that have lost their businesses, maybe had their lands confiscated, their businesses confiscated, maybe there were daughters and children and wives of Somocistas, maybe they were part of the National Guard, people that were sentenced to life imprisonment in the most horrendous prisons. Maybe they were. Not maybe, actually were. People that understood the promises that the Sandinistas made, back in 1979, of freedom, of an ability to build a life in the future, to go back and farm and get what you could for what you grow. Maybe they were people that were duped by the Sandinistas' promises and the promises, frankly, that have been going on for 9 years.

As they realize that these promises are nothing more than Latin American lies, that this is nothing more than a sham to gain control and lift yourself up as the Sandinistas have to become the elite, to become the totalitarians, maybe as they discern that they can no longer go to a church and practice their Catholic religion because the Sandinistas have set up the religion of the people, maybe as they realize that those promises of the Sandinistas are totally the lies that they have been for 9 years, maybe, just maybe they will have had enough. Maybe they will have had enough of their children starving. Maybe they have had enough of not being able to buy the simplest of things, the most staple of foods. Maybe they have had enough of the economy that has brought upon them by the Communists in Nicaragua, and they have come together.

This is not just rightists coming together. It is incredible to watch as we watched in Nandaime. We saw the Conservative Party, led by Mary McGuyar, come together with the Communists, what they thought were true Communists, with the Socialists, with the Chamber of Commerce, with those of all ilks, all philosophies, coming together knowing that what they had in Nicaragua was not what they wanted.

Now maybe they got some moral support or even monetary support from citizens from other parts of the world, and maybe the United States. What was evident to me and has been during this whole process, it is evident that these people are fighting for the simplest of freedoms, the simplest of ideals, and they do not have to be paid for by the CIA. They do not have to have the support of a CIA, although they would love the support of the American people. They would love the moral support of the American people and knowing that the American people are also lovers of freedom. They cannot understand why the American people are abandoning their efforts to bring freedom to Nicaragua.

Mr. HUNTER. If the gentleman would explain, what were the people who were demonstrating at Nandaime doing? Were they throwing rocks through windows? Were they beating up Sandinistas? What did they do?

Mr. DELAY. Such horrendous things as carrying flags, singing songs, chanting chants, walking through the streets.

I know that invokes terrible violence.

Mr. HUNTER. If the gentleman will just hold on to that point, these people exercised what in the United States would be the right to freely assemble and they carried flags and they sang songs.

The Speaker of the House said that these people were provoking Sandinista overreaction by such things as assembling and marching and doing other things. It would make Sandinistas mad. It would egg Sandinistas on.

□ 2415

So what the Speaker was really saying was that it is not legitimate for the United States—let us suppose that the CIA went out and said "We encourage you to walk down Main Street with a flag saying 'we shall overcome'" if in fact the CIA did that the Speaker is saying that it is not legitimate for the United States to encourage people to exercise what we think is the human right of free assembly, the human right of free speech and if in fact we encourage people to exercise those human rights then we are attempting to overthrow the totalitarian government which does not allow them to do any of those things.

So the gentleman says these people are doing such terrible things as carrying flags and singing as they marched through the streets. Now what did the Sandinistas do, again, when they arrived, to send a message to this crowd of incited Nicaraguans?

Mr. DELAY. Well, we have to admit that they did give them permission to demonstrate within 2 hours of the allotted time or the time that was designated as the starting time to demonstrate. We have to acknowledge that. What they did was to put up roadblocks to intimidate them all along the route to this town some 40-odd miles out of the south of Nicaragua, they came in and beat up some of them to show them their force.

Mr. HUNTER. How did they beat them?

Mr. DELAY. With sticks.

Mr. HUNTER. Just used sticks?

Mr. DELAY. Sticks and guns, sticks and guns, the type of sticks you see on riot control troops. I forget what they call them. But they beat them with sticks, beat them back and what was so heartening to see, with no CIA support, was these people who got beaten and then stood up and still marched, knowing, they knew—you could look everywhere around them—and there were troops and policemen—and they knew that what was going to happen was going to happen. They knew that they were going to get their heads bashed in and the leaders knew that they were going to be arrested. But yet, they went through those streets carrying the flags and signs and singing and making speeches, not throwing rocks, they did nothing that was threatening, but they knew all the time that they were going to be arrested and thrown into prison. They still were stepping out for freedom.

Mr. GINGRICH. Let me reclaim my time to emphasize this point, and I guess why I feel so intensely about this topic. The very, very brave people you just described who were willing to literally risk their lives, risk their freedom, risk their property, who truly honestly believe in freedom, people in the same tradition as Walesa in Poland and people who believe in freedom, a tradition that goes back through all of history to our own Founding Fathers, these people who you saw personally have, in effect, this week had a total betrayal of trust in Speaker JIM WRIGHT's comments which will clearly be used by the Communists as an excuse to punish and harm these people. We already have evidence from the Communist government in the newspapers that what JIM WRIGHT has said is now being used against the people who love freedom and against the people who love America on behalf of the Communist dictatorship down there. So it is a very human story of the people you are describing.

I yield to my friend from Texas.

Mr. DELAY. Let me just describe a prison, because I think you have to get a perspective. These are not federal prisons or we do not have inspectors going into Nicaraguan prisons investigating what is going on there, or the violations of the human rights. The leaders of this march in Nandaime, some 40-plus of them were thrown into these prisons. First let me describe that we have identified 62 prisons, clandestine jails or jails in Nicaragua when Somoza only had two. Why we have 62 prisons for a country of a little over 3 million, I do not know. That is like taking 62 prisons and putting them into Houston, TX, and throwing over 6,800 people, that we have documented, into jail in Houston in 62 prisons.

Mr. GINGRICH. One comment before I yield, it does strike me that unlike Mike Dukakis, it does not seem very likely that the Communists are going to have weekend furloughs.

Mr. DELAY. They will not get weekend furloughs.

Mr. GINGRICH. I yield to my friend from California.

Mr. DORNAN of California. The Speaker, one of the fellow Members of the gentleman from Texas' delegation does not believe the gentleman speaks correctly. I believe every word of what the gentleman has said. I have been down there. I have seen the prisons. He does not believe the 62 prisons, he does not even believe Ortega is a Communist. He says, "I don't know the man." This is one of our major problems. Now is that ignorance, naivete or what?

Mr. GINGRICH. I yield to the gentleman from Texas.

Mr. DeLAY. What I am trying to say is that before all that happened these people were being, and are certainly being treated now in the most horrendous of conditions. You have a jail of galleries that they built to hold 30 to 40 prisoners and you have 100 in a gallery designed for 30 to 40 prisoners. They are living and eating in their own excrement because all you have is a hole in the ground to relieve yourself. They have to check their food to make sure that there is not glass put into their food as they eat it. They have to put up with all kinds of indecencies. They have to put up with cattle prods, the old "hot shots" as we call them in Texas, that shock you into doing certain things. This is before they were identified as being agents of the CIA.

Can you imagine what is happening to these people as we speak, what is happening to them by totally ignorant guards who now have an excuse to beat them? Can you imagine a person in a 4-foot by 4-foot cell, no windows, no light, a pipe coming through the ceiling for ventilation, no bed, no mattress, just cement or dirt, with a hole, and no water, nothing. And we are not talking about paradise, we are talking about Nicaragua where it is not and the heat in that cell has got to get up to over 100 to 120 degrees.

This is a person that now has no hope, because not only have we not supported their efforts by supporting freedom in Nicaragua or more likely supporting our own national security in that region, but now we have linked them with the most onerous of all, the CIA. That gives that guard the excuse to beat him many more times, to slip that glass into that food even more than they are doing, to not let them out maybe for 3 or 4 days to get water or to relieve themselves or go to a head, to make them live, eat—if they give them something to eat—and swelter in heat.

Put yourself in that position, because today they are in that position of being beaten, tortured and maybe even killed. It is a horrendous situation because there is no one, there is no one now that they can look to, because this Congress, this House, this Senate will not support people that love freedom and want to give their families the basics of life.

If they try to do that, they are thrown in these kinds of jails. That is what the situation is now in Nicaragua. No matter what people say, that is what is happening in Nicaragua now. And I think it is horrendous and I think it is unconscionable and I think it is certainly un-American.

Mr. GINGRICH. Let me build on that and say that it is I think, shattering to anybody who takes seriously the role of the United States and anyone who takes seriously the process of Government to recognize—and I want to read this quote from the Wall Street Journal which says:

> Shortly after the Speaker's remarks Tuesday, a spokesman for the Senate Intelligence Committee said that the Democratic chairman, Senator BOREN, had concluded after a July 13-14 hearing that there was no U.S. involvement in the Nandaime rally. A Wright spokesman lamely said, "There were specifics to what he said." Which of course allows the Sandinistas to declare open season on their entire internal opposition. Yesterday the Sandinistas' newspaper Barricada pasted the story across seven columns: Jim Wright Confirms: CIA Devises Plan Melton." And: "CIA Confesses Plan Melton." The Sandinistas kicked out U.S. Ambassador Richard Melton after the Nandaime demonstrations.
>
> Speaker Wright's amazing indiscretion may be more than an accident, given that it immediately preceded Daniel Ortega's visit to the U.S. next week. If Jim Wright insists on going off in a corner with his own foreign policy, then someone at his daily press conference should ask him what he expects to get from Mr. Ortega in return for his tilt toward the Nicaraguan government. Whether or not the Speaker's answer would make any sense, we now have the spectacle of the House Speaker shooting his mouth off about intelligence "testimony," creating an off-the-cuff apologia for the "overreaction" of Nicaragua's thug government. Mr. Wright's reckless behavior hardly comports with the office he holds.

That is what the Wall Street Journal, I believe of today, says.

Now I want to go back and emphasize what I think are a couple of points that go beyond normal partisan politics and even go beyond the normal intensity of passion in this House.

The Speaker of the House of the United States has either systematically stated something which is not true or he has leaked secrets. In either case, he has fundamentally threatened the lives of many, many people in Nicaragua and he has established a precedent which is not tolerable. The House cannot have a Speaker who leaks America's secrets. Now if we conclude in the next few days by insisting on the Committee on Intelligence reporting to the House and if necessary in a secret session, insisting on the Ethics Committee investigating, as rule XLVIII requires, and reporting to the House, if we conclude that in fact Speaker WRIGHT did not leak any secrets, he simply said something that was not true, then I think we must insist, as a condition of his staying Speaker, that he apologize for having misled the people of the United States, that he apologize for having endangered those who love freedom in Nicaragua, and that he explicitly and openly repudiates the remarks which are attributed to him and admit that, as Senator BOREN's spokesman, the Democratic chairman of the Senate Intelligence Committee said, that there was no U.S. involvement in the Nandaime rally.

On the other hand, if the Intelligence Committee or the Ethics Committee comes to the conclusion that Speaker WRIGHT in fact has been leaking American secrets and the Intelligence Committee and the Ethics Committee report to the House either in the open or in secret session that we are now dealing with the historically unprecedented experience of having a Speaker who would leak America's secrets, then I think there are virtually no Members, certainly on my side of the aisle, who would be willing for a day to tolerate having a Speaker who leaks America's secrets.

I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I did not know until a second ago that Daniel Ortega is coming to this country next week. That is in the Wall Street Journal?

Mr. GINGRICH. The Wall Street Journal today.

Mr. DORNAN of California. Did the gentleman just find out about that?

Mr. GINGRICH. I found out about it I think sometime yesterday actually.

Mr. DORNAN of California. Now the Governor of Massachusetts, as the Democratic standard bearer, nominee to be President of the United States, he cannot be pleased unless he is bereft of his senses suddenly, he cannot be pleased that a Communist dictator, the only one left in North America or South America, for that matter, is coming up—outside of Castro out there on an island—he cannot be pleased that he is coming to the United States. When Ortega last came to this country, he made the rounds of the cocaine canyons above Beverly Hills. And I understand that all the radical, chic people hid their stashes of cocaine so as not to create an embarrassment for Rosaria, the wife of Daniel Ortega or for Ortega himself. Jesse Jackson, who finished second in the Democratic primaries, had him at his home for dinner. And I will not complain about that, because he invited me to his home. This is two trips ago, August 2 of 1986. And in that 4½-hour conversation, he never ate a morsel, although I did in between my questioning of him, and he lied to my face, this Communist dictator, and said that there were thousands of people in his prison cells, although he upped the figure three times higher than he ever admitted before, from 1,000 to about 3,000 prisoners and he did it in front of Newsweek, Time, the Washington Post, the

Chicago Tribune, and the New York Times.

☐ 0030

One of them refused to print any aspect of this 4-hour conversation. Only the Post put a silly story on the front page about a conversation between this Member and Ortega out on Jesse Jackson's side lawn as we sort of jockeyed for position and exchanged subtle insults to one another. They reported that but would not report a word of the 4-hour conversation inside the White House.

Being a dinner guest at Jesse Jackson's house is a lot different from the reporters on the trail. If they have any decency or integrity, they will ask Dukakis, "Are you going to meet with Ortega?" He will say of course not. Then they will say, "Are you going to comment on his visit?"

If Ortega shoots off his mouth anywhere, if he goes, as he did on one trip to speak to the National Lawyers' Guild at Denver, CO, and talk to this most radical of all lawyer organizations in the country, everywhere he is going to go he is going to have his own press corps following, he is going to be creating incidents.

I am glad we are still going to be in session as the Communist dictator comes through this country, because, go ahead, I just would like the gentleman's analysis as a Ph.D. in American history, and an analyzer and a teacher of the American political scene, what in the world is going on that a Communist dictator comes up here a week after the Speaker appears to have either leaked secrets or talked out of his hat on intelligence, clandestine operations, real or imagined, in the home, oppressed country of the Communist dictator, Ortega? What is going on here?

Mr. GINGRICH. I think the question Governor Dukakis is going to have to answer, and which I think goes to a much deeper issue, one which our Democratic friends do not want to deal with, is if it turns out that the Speaker of the House has been leaking American secrets, could Dukakis tolerate him serving as Speaker. I think the question that has to be confronted here, whether you believe the policy of helping freedom in Central America or whether you prefer to tolerate a Communist government in Central America. I doubt if there are very many Americans who will accept the principle that politicians in the Congress can decide on their own what secrets and can decide on their own what to tell the world about the Central Intelligence Agency, and can decide on their own whether they want to, in effect, be manipulated by or used by or help with the Communist dictatorship anywhere. I want to emphasize this point. I do not have any idea. I think frankly one of the demands we should make is that Speaker Wright should come to the House floor. Speaker Wright should explain what possessed him to establish such ammunition for the Communist dictatorship that that dictatorship is now able to oppress Nicaraguas using the words of the American Speaker as their excuse for the oppression. I think frankly it would be fascinating if Speaker Wright, as the gentleman from California just was saying, would tell us did he know that Daniel Ortega, the Communist dictator, was visiting. Did he think this was a welcoming gift to gut the American allies and to gut those who love freedom and to just sort of say, "Welcome to America, Danny. Let me make you feel good by repudiating all of the people who love freedom in Nicaragua so when you leave Nicaragua they can all be safely in jail, and now you have the excuse for jailing them."

I do not know what was on his mind. But it is clear that to the best of my knowledge, unless somebody can find an example, and I cannot think of any, that this is the most serious betrayal of trust by a Speaker of the House, to my knowledge ever, and that it goes to the very heart of the question: Did he think he was leaking secrets based on testimony by the CIA, or was he just making it up, and what is his defense?

As I said earlier, if he thinks he was leaking secrets, and that is his defense, that he thought it was true because he thought there had been, as he said, "We received clear testimony from CIA people," in that case we have a violation of secrecy. I do not think there are very many Americans who believe that politicians should be allowed to leak American secrets.

On the other hand, if he just made it up, if he was capriciously willing to risk the lives of hundreds of pro-freedom, pro-American Nicaraguans by just making something up, why would he have done it? What did he hope to accomplish? Who did he think was going to take advantage of this kind of clearly bizarre act which can only be helpful to the Communist dictatorship?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding and thank him for participating in this special order and giving it real meaning, as I thanked the gentleman from California [Mr. Dornan]. I think it is important to keep our eye on the ball.

For whatever reason, the Speaker of the House gave this ammunition to the Communist Sandinistas, and this justification for them to now brutally disperse any assembly of the citizens of Nicaragua and to brutally keep people from being able to exercise free speech, free movement.

The real people who are the victims of this action by the Speaker are not the Republicans, not the political candidates, not the people the more liberal members of the party said are going to be damaged by the fact that a majority of Americans do not favor action in Central America, the real people who are going to be damaged are those people whom the gentleman from Texas [Mr. DeLay] talked about. They are the people in those little 4-by-4 cells who will now have brutal guards able to put more glass in their food, beat them more often, all on the justification that the Speaker of the House of Representatives of the great Nation of the United States of America said that the real instigators in Central America, those who really unjustifiably provoked the Sandinistas, were the members of the Central Intelligence Agency, our personnel, our men and women who are service people, even though they are not in uniform, who have committed these unpardonable crimes of motivating and encouraging the citizens of Nicaragua to do the things that the gentlemant from Texas [Mr. DeLay] saw them doing. They were doing such things as marching down main street, holding flags and singing songs.

I hope that the Speaker will take some remedial action in the next several days to cut short the unnecessary problems that the citizens of Nicaragua who are living in those cells, or who are being investigated right now by the Sandinista secret police are going to have because of his words, and I thank the gentleman for yielding and thank him for participating in this special order.

Mr. GINGRICH. Let me just say I think part of what happens to us is that we get numb, we gradually get used to something. When the "Dear Commandante" letter was first signed and sent down to Daniel Ortega several years ago instructing the Nicaraguan Communists on how they could survive, we were outraged. Articles were written, editorials were written, newspaper stories occurred, people did speeches on the House floor, but there was no decisive action.

Over the last year and one-half, as we watched Speaker Jim Wright have a secret meeting with the Communist dictator, Ortega, on Veterans Day, and not involve the American Government, nothing happened. And week by week and month by month, there has been a level of decay in the sense of what is proper, in the sense of what the rules are. I think that in that sense this may well be the incident which breaks the back of our patience.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield on the point?

Mr. GINGRICH. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, this is the perfect word the gentleman has chosen now "numb." This has gone on so long, this issue, so much longer than the 3 years and 5 months and 1 day that it took from December 7, 1941, to Harry Truman's birthday on May 8, 1945 to crush Mussolini and Hitler, and then you had a handful of days until the shooting stopped on August 15, 1945, and it appeared that a country starting from scratch with broomhandle guns and tin cans on sticks simulating mortars in the Louisiana Army war maneuvers of 1940 with Lieutenant Colonel Eisenhower, in just 3 years and 5 months and a day we crushed this Nazi terror around the world. And this numbing effect that has taken us over the last 8 years with the emergence of the Communist dictatorship, 9 years this last July 19, the Sandinistas have been in power.

One thing popped into my mind when the gentleman talked about numbing. Members of this Congress in recent years created a first in the capital of Managua. Two members of this Chamber, including the gentleman from Michigan, that I debated on crossfire tonight, who sat in as speaker pro tempore for about the longest period of anybody tonight, they went down to Managua and kicked U.S. State Department people out of the room so that they could have a secret meeting with the Communist dictator and his staff in the capital of Managua.

The embassy people down there told me a few weeks later when I was there that they were shocked that they would be told to get out of the room as though they could not be trusted. They usually take notes about American appearances around the world, not to eavesdrop. I have just been at meetings with Communist functionaries in Mongolia, in the Soviet Union, in Poland. I wanted the trained ambassadorial people, the staff of our State Department around the world to not only brief me before I go in, to sit there and witness what I am being told, to use their language skills, but then after I have had the meeting to debrief what took place at that meeting.

I had a stunning meeting with the head of the entire prison system in the Soviet Union and the head of all of the police officers, 66,000 precincts, as he put it, in the Soviet Union. Nobody in the internal affairs ministry in Moscow has ever met with a U.S. Senator or a U.S. Congressman, and that happened to me just at the end of last month. I wanted the State Department people there to analyze this, plus to translate for me.

But it became a regular occurrence in Nicaragua, the only nation on the face of the Earth where we have diplomatic exchanges and recognition of governments, only there did Members of the majority party, liberal Democrats, go down there and demand private meetings with the Communist dictators. Instead of an incident being made about it on the House floor, and instead of Secretary of State Shultz bringing it before Speaker WRIGHT and Speaker WRIGHT's attention, calling in the gentleman who is majority leader in the Senate when it was ROBERT DOLE, when we were in the majority, and the majority leader now and getting to the root of this thing, instead, because of national technical means, some of the dialog that transpired in those meetings went back and forth.

Let me tell my colleagues something in very careful diplomatic language of my own, but I can tell anybody in this Chamber who wants to hear it off the floor. Every member of our Embassy in Honduras, top to bottom, every member of our ambassadorial staff in Costa Rica, top to bottom, believes that a Member of the other Chamber is having an affair with a female officer of the Government of Costa Rica and is sharing that mistress with the highest ranking people in that Government of Costa Rica, and that Member of the other body positions himself in San Jose, and would use Air Force airplanes, and time, and fuel to fly individually to Guatemala for meetings, back to San Jose, to Tegucigalpa, Honduras, back to San Jose, fly to El Salvador and back to San Jose, to every country in that area, always returning to the San Jose base, so he is carrying on his affair.

I had what they call a country team briefing. I said wait a minute, this is important what you are telling me, because it compromises this person's integrity. You are telling me, everyone of you in this room agrees with this, do you, do you, do you, everybody on this staff, what does our Embassy, all of them, think down there in Costa Rica? They all agree with the same facts, that this U.S. Senator is having an affair with one of the high dignitaries in this government, female, and that so is another high-ranking person of that government. I am not going to say how high-ranking. It would astound everybody here. And this kind of bargaining is going on in our negotiations down there while young American marines get killed when the terror operation was worked out in a safe house in Managua. And this Congressman is desparate to see the next 12 legislative days go by so that this so-called historic 100th Congress can adjourn, we can get GEORGE BUSH elected President of the United States and go into gridlock in the 101st Congress with a Democratic, liberal controlled Senate, Democratic, liberal controlled House, a Presidency, at least the White House understanding something about the voices crying out for freedom through solidarity in Poland, which I witnessed with my own eyes a few weeks ago.

□ 0045

Freedom is exploding around this world. Free market democracies are on the march, and the Communist dictators around this world, as I told them in the Communist foreign ministry in Moscow, "You have on the fringes of your sphere of influence what we call your empire. As you call us an imperialist empire, you have on the fringes Stalinist thugs, two brothers in Cuba named Castro and two brothers in Nicaragua named Ortega, and this infinite beginning of a new relationship between the Soviet Union and the United States of America is going to be destroyed by these Stalinist thugs in Cuba and Nicaragua, disagreeing with some of the commie counsel, and they are going to do exactly what they want to provoke Stalinist terror in our hemisphere, and it is going to damage our relations."

The No. 2 man in their North American division of their foreign ministry at the meeting that I had in the foreign ministry after catching them watching Money Line on a CNN channel that Ted Turner has given them as a gift when our own Embassy people cannot watch any American television by virtue of satellite—at the luncheon at the Ambassador's house later in the same response to the same challenge they said, "Congressman, there is much merit in what you say about these people on the fringes of our sphere of influence, as you call it."

I asked our fine Ambassador there, Jack Matlock, "I hope you didn't mind me bringing up some tough questions about Nicaragua at this lunch," and the Ambassador said, "Congressman, it was excellent what you did. These people must hear from American Senators and Congressmen how you feel about this regime that they are sponsoring and that they are the cash cow for, that they are feeding in both Cuba and Nicaragua."

I want everybody, Mr. Speaker, to be aware that the Communist government in Moscow, in spite of all of the moves under glasnost and the restructuring of perestroika, so called, they are pumping into Cuba $14 million, not rubles, dollars a day. They are pumping into Hanoi, the Communist conquerors of all of Indochina, $9 million a day, and they are keeping Daniel Ortega floated in a decaying economy with over 2,000 percent interest—I mean inflation at the rate of $4 million a day. That is almost a billion and a half dollars a year to keep this Communist terror alive in Nicaragua, and I come back to a line I used on television tonight and that I used 3 hours ago.

Some liberal Democrats in this Chamber are making Central America safe for Communism, and I cannot believe I am an eyewitness to this from the inside out, and Heaven knows what course we are going to take over the next 12 to 14 legislative days.

Mr. Speaker, one of the senior Members whom I highly respect, the gentleman from Kentucky [Mr. Natcher], said that he thinks our adjournment day will be October 15, that in his 3 decades of experience here we have never adjourned on a Tuesday, Wednesday, or Thursday. We either spill over to a Saturday or Sunday, or sometimes as far as over to a Monday, so it means that we are probably going to stay here until Saturday, October 15. We have got a Columbus holiday on October 12, that Monday. I understand the Speaker has a big fund raiser in Texas on October 11 or thereabouts, so we may have some downtime even in that week. We hope not to be here. We are going to stay here through October 15, and I hope we have plenty of time to analyze the fifth U.S. tour of Communist dictator Daniel Ortega of the United States, and this time let us not have any secret meetings in the Speaker's office, that taxpayer-supplied Chamber in this great Capitol Building on Veterans Day with a Communist dictator who at this moment, I repeat, is through his thugs and prison system beating up and torturing people and doing it in the name of a handful of liberal Democrats in this House.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I just want to thank both gentlemen and all the Members who participated in this special order, and in light of the hour I recommend that we close this special order down even though we have got some time left because we talked earlier. We committed to finish at midnight, and it is about 45 minutes past that time.

Mr. GINGRICH. OK; I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Gray of Illinois (at the request of Mr. Foley), for today and September 23, on account of attending the funeral of Mrs. Melvin Price.

Mr. AuCoin (at the request of Mr. Foley), for September 22, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hunter) to revise and extend their remarks and include extraneous material:)

Mr. Gingrich, for 60 minutes, today.

Mr. Gingrich, for 60 minutes, on September 23.

Mr. Dornan of California, for 60 minutes, on September 23.

Mr. McEwen, for 60 minutes, today.

Mr. Livingston, for 5 minutes, today.

Mr. Sensenbrenner, for 60 minutes, on September 28.

Mr. Hunter, for 60 minutes, today.

Mr. Brown of Colorado, for 60 minutes, today.

(The following Members (at the request of Mr. Frank) to revise and extend their remarks and include extraneous material:)

Mr. de la Garza, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mr. Glickman, for 15 minutes, today.

Mr. Slattery, for 10 minutes, on September 23.

Mr. Rangel, for 60 minutes, on September 29.

Mr. Owens of New York, for 60 minutes, on September 26.

Mr. Owens of New York, for 5 minutes, on September 27.

Mr. Owens of New York, for 5 minutes, on September 28.

Mr. Owens of New York, for 5 minutes, on September 29.

Mr. Owens of New York, for 5 minutes, on September 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hunter) and to include extraneous matter:)

Mr. Hunter.
Mr. Broomfield.
Mr. McEwen in two instances.
Mr. Brown of Colorado.
Mr. Parris.
Mr. Rinaldo.
Mr. Bunning.
Mr. Badham in two instances.
Mr. Porter.
Mr. Kemp.
Mr. Boulter.
Mr. Oxley.
Mr. Moorhead.
Mr. Thomas of California.
Mrs. Bentley in four instances.
Mr. Donald E. Lukens.
Mr. Gallegly.
Mr. Young of Florida.
Mr. Lewis of Florida.
Mr. Grandy.

(The following Members (at the request of Mr. Frank) and to include extraneous matter:)

Mr. Rowland of Georgia.
Mr. Montgomery.
Mr. Kaptur.
Mr. Dorgan of North Dakota.
Mr. Hertel.
Mr. Florio.
Mr. Hamilton.
Mr. Rodino in two instances.
Mr. McMillen of Maryland.
Mr. Rangel.
Mr. Markey in two instances.
Mr. Weiss.
Mr. Lipinski.
Mr. Torricelli.
Mr. Payne.
Mr. Bustamante.
Mr. Beilenson in two instances.
Mr. Frank.
Mr. Traxler.
Mr. Lantos.
Mr. Vento.
Mr. Ackerman.
Mr. Sikorski.
Mr. Moakley.
Mr. Rahall.
Mr. Cardin in two instances.
Mr. Kildee.
Ms. Pelosi.
Mr. Lowry of Washington.
Mr. Coleman of Texas.
Mr. Downey of New York.
Mr. Solarz.
Mr. AuCoin.
Mr. Leland.
Mr. Towns in four instances.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 517. An act to designate Soldier Creek Diversion Unit in Topeka, Kansas, as the "Lewis M. Paramore Diversion Unit";

H.R. 1223. An act entitled the "Indian Self-Determination Amendments of 1987".

H.R. 2046. An act to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande.

H.R. 5090. An act to implement the United States-Canada Free-Trade Agreement.

H.J. Res. 518. Joint resolution designating the week of September 25, 1988, as "Religious Freedom Week".

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1544. An act to amend the National Trials System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 439. An act for the relief of Thomas Wilson.

H.R. 4387. An act to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 4586. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

H.J. Res. 600. Joint resolution to commemorate the fiftieth anniversary of the passage of the Federal Food, Drug, and Cosmetic Act.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 50 minutes a.m.), the House adjourned until today, Friday, September 23, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4351. A letter from the Deputy Assistant Secretary for Logistics, Department of the Air Force, transmitting notification of the decision to convert to contractor performance the grounds maintenance function at Patrick Air Force Base, FL, which was found to be the most efficient and cost-effective, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Appropriations.

4352. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Korea for defense articles estimated to cost $50 million or more (Transmittal No. 88-59), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

4353. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Korea for defense articles estimated to cost $50 million or more (Transmittal No. 88-60), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

4354. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the plan to study the conversion to contractors performing the various functions at Navy activities in California, Georgia, Maryland, New Jersey, Pennsylvania, and Puerto Rico, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

4355. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting the supplemental contract award report for the period September 1, 1988 to October 31, 1988, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

4356. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend chapter 141 of title 10, United States Code, with respect to the procurement of communications support and related supplies and services; to the Committee on Armed Services.

4357. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed lease of defense articles to the Netherlands (Transmittal No. 10-88), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

4358. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's change in a proposed lease of a vessel to the Government of Pakistan (Transmittal No. 11-88), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

4359. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Korea for defense articles and services estimated to cost $138 million (Transmittal No. 88-60), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4360. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Korea for defense articles and services estimated to cost $21 million (Transmittal No. 88-61), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4361. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Korea for defense articles and services (Transmittal No. 88-59), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4362. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to authorize the lease of a naval repair ship to the Government of Pakistan; to the Committee on Foreign Affairs.

4363. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a report of the Commission's compliance with the Government in the Sunshine Act during calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

4364. A letter from the Freedom of Information Officer, U.S. Environmental Protection Agency, transmitting the annual report of the Agency's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4365. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4366. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4367. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4368. A letter from the Chief Justice, Supreme Court of the United States, transmitting notification that the Supreme Court will open the October 1988 term on October 3, 1988; to the Committee on the Judiciary.

4369. A letter from the National President, Women's Army Corps Veterans' Association, transmitting the annual audit of the Association as of June 30, 1988, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

4370. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to allow degree training for Federal employees in critical skills occupations, and for other purposes; to the Committee on Post Office and Civil Service.

4371. A letter from the Secretary of Transportation, transmitting the report, "Air Carrier Inspection and Maintenance" which focuses on air carrier inspection program initiatives and rulemaking projects currently in progress, pursuant to Public Law 100-223, section 303(f) (101 Stat. 1525); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. S. 1827. A bill to designate the Federal Building located at 330 Booth Street in Reno, Nevada, as the "C. Clifton Young Federal Building"; with amendments (Rept. 100-945). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5117. A bill to require that plastic ring carrier devices be degradable. (Rept. 100-946, Pt 1). Ordered to be printed.

Ms. OAKAR: Committee on House Administration. H.R. 3455. A bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia; with amendments (Rept. 100-947). Referred to the Committee of the Whole House on the State of the Union.

Ms. OAKAR: Committee on House Administration. S. 2042. An act to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict; with amendments (Rept. 100-948). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 540. A resolution providing for agreeing to the Senate amendment to H.R. 1154, a bill to remedy injury to the United States textile and apparel industries caused by increased imports. (Rept. 100-949). Referred to the House Calendar.

Mr. DYMALLY: Committee on Post Office and Civil Service. H.R. 4432. A bill to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population; with amendments (Rept. 100-951). Referred to the Committee of the Whole House on the State of the Union.

Mr. DYMALLY: Committee on Post Office and Civil Service. H.R. 4550. A bill to amend title 13, United States Code, to improve the administration of decennial censuses of population, and for other purposes (Rept. 100-952). Referred to the Committee of the Whole House on the State of the Union.

Mr. DYMALLY: Committee on Post Office and Civil Service. H.R. 4720. A bill to amend title 13, United States Code, to provide for the inclusion of members of the uniformed services and civilian employees of the Government assigned to posts of duty outside the United States, and their dependents, in censuses of population for purposes of the apportionment of Representatives in Congress (Rept. 100-953). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCLOSKEY: Committee on Post Office and Civil Service. H.R. 5199. A bill to make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests, and for other purposes (Rept. 10-954, Pt. 1). Ordered to be printed.

Mr. LAFALCE: Committee on Small Business. H.R. 5050. A bill to amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes; with amendments (Rept. 100-955). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 3704. A bill to amend the Federal Fire Prevention and Control Act of 1974 to direct the Director of the Federal Emergency Management Agency, acting through the Administrator of the United States Fire Administration, to propose and promulgate a model code and guidelines governing the use and installation of automatic sprinkler systems in places of public accommodation affecting commerce, and for other purposes; with amendments (Rept. 100-956). Referred to the Committee of the Whole House on the State of the Union.

Mr. LEHMAN of Florida: Committee of Conference. Conference report on H.R. 4794 (Rept. 100-957). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4127. A bill to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and outdoor recreational heritage, and for other purposes, with an amendment; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than September 28, 1988, for consideration of such provisions of section 207(a) of the amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X. (Rept. 100-944, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3593. A bill to amend the Federal Land Policy and Management Act to improve the management of certain Federal lands affected by certain non-Federal projects, with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than September 30, 1988, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X. (Rept. 100-950, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4140. Referral to the Committee on Energy and Commerce extended for a period ending not later than September 29, 1988.

H.R. 5094. Referral to the Committees on Energy and Commerce and the Judiciary extended for a period ending not later than September 27, 1988.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL (for himself, Mr. Hamilton, Mr. Broomfield, Mr. Lantos, Mr. Berman, Mr. Gilman, Mr. Yatron, Mr. Solarz, Mr. Studds, Mr. Mica, Mr. Wolpe, Mr. Kostmayer, Mr. Torricelli, Mr. Smith of Florida, Mr. Levine of California, Mr. Feighan, Mr. Weiss, Mr. Ackerman, Mr. Atkins, Mr. Clarke, Mr. Fuster, Mr. Bilbray, Mr. Lagomarsino, Mr. Leach of Iowa, Ms. Snowe, Mr. Hyde, Mr. Solomon, Mr. Dornan of California, Mr. Smith of New Jersey, Mr. Mack, Mr. Miller of Washington, and Mr. Blaz):

H.R. 5337. A bill to provide for the imposition of sanctions on Iraq; jointly, to the Committees on Foreign Affairs, Ways and Means, and Banking, Finance and Urban Affairs.

By Mr. BENNETT (for himself, Mr. Ridge, Mr. Denny Smith, Mrs. Boxer, Mr. Schuette, Mr. Hertel, Mr. Levine of California, Mrs. Schroeder, Mr. MacKay, Mr. Foglietta, Mr. Gejdenson, Mr. Moody, Mr. Evans, Mr. Stark, Mr. Lantos, Mr. Dellums, Mr. Brown of California, Mr. Penny, Mr. Bilbray, Mr. Bustamante, Mr. Campbell, and Mr. Fauntroy):

H.R. 5338. A bill to require the registration of consultants to the Department of Defense or to firms contracting with the Department of Defense; to the Committee on Armed Services.

By Mr. BLAZ:

H.R. 5339. A bill to provide that certain court awards with respect to land on Guam acquired after World War II shall not be included in gross income for purposes of the Guam territorial income tax and chapter 1 of the Internal Revenue Code of 1954; jointly, to the Committee on Ways and Means and Interior and Insular Affairs.

By Mr. BOSCOE:

H.R. 5340. A bill to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McCANDLESS:

H.R. 5341. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to exclude transactions of the social security trust funds from the computation of the Federal deficit and the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and, accordingly, to revise the permissible maximum deficit amounts under such act, and for other purposes; to the Committee on Government Operations.

By Ms. PELOSI:

H.R. 5342. A bill to provide for a grant program to assist eligible consortia in providing services to individuals with acquired immunodeficiency syndrome or AIDS-related complex; to the Committee on Energy and Commerce.

By Mr. PICKLE:

H.R. 5343. A bill to amend title 28 of the United States Code to authorize the appointment of one additional bankruptcy judge for the western district of Texas; to the Committee on the Judiciary.

By Mr. SAVAGE:

H.R. 5344. A bill to amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 relating to disadvantaged business enterprise set-asides; to the Committee on Public Works and Transportation.

By Mr. WALGREN (for himself, Mr. Weldon, Mr. Buechner, Mr. Boehlert, Mr. Murphy, and Mr. Hatcher):

H.J. Res. 660. Joint resolution to designate October 30, 1988 as "Fire Safety at Home Day—Change Your Clock, Change Your Battery"; to the Committee on Post Office and Civil Service.

By Mr. WEISS:

H.J. Res. 661. Joint resolution designating October 5, 1988, as "Raoul Wallenberg Day"; to the Committee on Post Office and Civil Service.

By Mr ROE (for himself, Mr. Fascell, Mr. Hall of Texas, Mr. Lujan, and Mr. Sensenbrenner):

H. Con. Res. 369. Concurrent resolution to commend the Department of State's Science and Technology Officers on their outstanding performance and to recognize the importance of their work to the Congress and to the Nation; to the Committee on Foreign Affairs.

By Mr. INHOFE (for himself, Mr. Ballenger, Mr. Boehlert, Mr. Bruce, Mr. Campbell, Mr. Carr, Mr. Chandler, Mr. Chapman, Mr. DeFazio, Mr. DeLay, Mr. Gingrich, Mr. Glickman, Mr. Hansen, Mr. Lewis of Florida, Mr. Lightfoot, Mr. McCurdy, Mr. Robert F. Smith, Mr. Denny Smith, and Mr. Daub):

H. Con. Res. 370. Concurrent resolution expressing the sense of Congress on the need to develop a national aviation policy; to the Committee on Public Works and Transportation.

By Mr. WEISS (for himself, Mr. Wolpe, Mr. Burton of Indiana, Mr. Gray of Pennsylvania, Mr. Donald E. Lukens, Mr. Clarke, and Mr. Ackerman):

H. Con. Res. 371. Concurrent resolution concerning the United States response to the atrocities reportedly carried out in Burundi in August; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. PANETTA:

H. Res. 541. Resolution providing for upgrading of three positions on the Capitol Police for duty under the House of Representatives; to the Committee on House Administration.

By Mr. LOWERY of California (for himself, Mr. Coelho, Mr. Michel, Mr. Bonior of Michigan, Mr. Gunderson, Mr. Thomas of California, Mr. Frenzel, Mr. Panetta, Mr. Matsui, Mr. Mineta, and Mr. Horton):

H. Res. 542. Resolution to amend the rules of the House of Representatives to authorize and direct the Speaker to implement closed caption broadcasting for hearing-impaired individuals of floor proceedings of the House of Representatives; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

466. By the SPEAKER: Memorial of the General Assembly of the State of California, relative to manufactured homes; to the Committee on Banking, Finance and Urban Affairs.

467. Also, memorial of the General Assembly of the State of California, relative to bulk transactions involving electric power; to the Committee on Energy and Commerce.

468. Also, memorial of the General Assembly of the State of California, relative to the 1990 census; to the Committee on Post Office and Civil Service.

469. Also, memorial of the General Assembly of the State of California, relative to the Federal diesel fuel excise tax; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. STENHOLM introduced a bill (H.R. 5345) for the relief of Jack, Francoise, Isabelle, Christine, Francosis, and Virginie Pointeau; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 107: Mr. Valentine.

H.R. 190: Mr. Coats and Mr. Fawell.

H.R. 458: Mr. Dreier of California, Mr. Hubbard, and Ms. Kaptur.

H.R. 1028: Mrs. Roukema, Mr. Madigan, Mr. Swindall, Mr. Wolpe, and Mr. Barton of Texas.

H.R. 1638: Mr. Gordon, Mr. Quillen, Mr. Boland, Mr. Costello, Mr. Ford of Tennessee, and Mr. Walgren.

H.R. 1832: Mr. Kasich and Mr. Hefley.

H.R. 1842: Mr. Pease, Mr. Olin, Mr. Atkins, Mr. Weiss, Mr. Nielson of Utah, and Mr. Scheuer.

H.R. 1976: Mr. Quillen.

H.R. 2717: Mr. Rinaldo.

H.R. 2828: Mr. Manton.

H.R. 2837: Mr. Dorgan of North Dakota.

H.R. 2880: Mr. Bates, Mr. Bereuter, Mr. Lowery of Washington, Mr. Bonior of Michigan, Mr. Horton, Mr. Lowery of California, Mr. Schumer, Mr. Flake, Mr. Brown of California, and Mr. Dorgan of North Dakota.

H.R. 3132: Mr. Kostmayer.

H.R. 3174: Mr. Jeffords.

H.R. 3314: Mr. Foley, Mr. Torricelli, and Mr. Wolpe.

H.R. 3334: Mrs. Morella.

H.R. 3410: Mr. Wilson.

H.R. 3432: Mr. Florio.

H.R. 3562: Mr. Combest.

H.R. 3565: Mr. Boulter and Mr. Skaggs.

H.R. 3574: Mr. Courter.

H.R. 3588: Mr. Morrison of Connecticut.

H.R. 3673: Mr. Leland, Mr. Mollohan, Mr. Gonzalez, Mr. Rinaldo, Mr. Quillen, Mr. Chapman, Mr. Rose, Mr. Davis of Michigan, and Mr. Kastenmeier.

H.R. 3726: Mr. Weiss.

H.R. 4040: Mr. Atkins.

H.R. 4111: Mr. Scheuer.

H.R. 4142: Mr. Schaefer, Mr. Miller of Washington, and Mr. Fazio.

H.R. 4190: Mrs. Meyers of Kansas.

H.R. 4236: Ms. Oakar.

H.R. 4270: Mr. Bosco.

H.R. 4442: Mr. Dellums.

H.R. 4470: Mr. Wortley and Mr. Konnyu.

H.R. 4479: Mr. Nielson of Utah and Mr. Kolbe.

H.R. 4498: Mr. Traficant, Mr. Crockett, Mr. Carper, Mr. Walgren, and Mr. McEwen.

H.R. 4547: Mr. Williams.

H.R. 4576: Mr. Saxton.

H.R. 4653: Mrs. Martin of Illinois.

H.R. 4662: Mr. Dyson and Mr. Dicks.

H.R. 4695: Mr. Lehman of California, Mr. Clarke, Mr. Weldon, Mr. Mineta, Mr. Lungren, and Mrs. Boxer.

H.R. 4803: Mr. Martinez, Mr. Ravenel, Mr. Schuette.

H.R. 4847: Mr. Hughes, Mr. Florio, Mr. Waxman, and Mr. Sikorski.

H.R. 4870: Mr. Roberts.

H.R. 4898: Mr. Shumway, Mr. Swindall, and Mr. Donald E. Lukens.

H.R. 4963: Mr. Hawkins.

H.R. 4964: Mr. Hawkins.

H.R. 4965: Mr. Hawkins.

H.R. 4966: Mr. Hawkins.

H.R. 4992: Mrs. Boxer, Mr. Volkmer, Mr. Markey, Mr. Mrazek, Mr. Hoyer, Mr. Coble, Mr. Rinaldo, Miss Schneider, Mr. Ritter, Mr. Bryant, Mr. Dellums, Mr. Carr, Mr. Wheat, Mr. Dorgan of North Dakota, and Mr. Akaka.

H.R. 5000: Mr. Donnelly, and Mr. Pickle.

H.R. 5003: Mr. Frank, and Mr. Weiss.

H.R. 5019: Mr. Johnson of South Dakota, Mr. Leath of Texas, Mr. Clement, Mr. Oberstar, Mr. Wilson, Mr. Grant, Mr. Williams, Mr. Gray of Illinois, Mr. Hamilton, Mr. Vento, Mr. Murphy, Mr. Volkmer, Mr. Hansen, Mr. Stenholm, Mr. DeFazio, Mr. Coleman of Texas, Mr. Obey, Mr. Robinson, Mr. Hammerschmidt, Mr. McCloskey, Mr. Lehman of California, Mr. Davis of Michigan, Mr. Kastenmeier, Mr. Schuette, Mr. Campbell, and Mr. Robert F. Smith.

H.R. 5033: Mr. Atkins.

H.R. 5036: Mr. Bustamante.

H.R. 5040: Mr. Neal.

H.R. 5043: Mr. Staggers.

H.R. 5068: Mr. Brown of California, Mr. Kennedy, Mr. Weber, and Mr. Clay.

H.R. 5106: Mr. Chapman and Mr. Brown of California.

H.R. 5113: Mr. Andrews.

H.R. 5117: Mr. Burton of Indiana and Mr. Fauntroy.

H.R. 5144: Mr. Weiss.

H.R. 5151: Mr. Henry, Mr. Barton of Texas, Mr. Ballenger, Mr. Gordon, Mr. Lancaster, Mr. Hastert, Mr. Leath of Texas, Mr. Quillen, Mr. Wylie, Mr. Buechner, and Mr. McEwen.

H.R. 5186: Mr. Slattery and Mr. Lancaster.

H.R. 5193: Mr. Traficant, Mr. Hefner, Mr. Penny, Mr. Donnelly, Mr. Hastert, Mr. Rose, and Mr. Clement.

H.R. 5208: Mr. Morrison of Connecticut, Mr. Weiss, and Mr. Fazio.

H.R. 5226: Mr. Coble, Mr. Traficant, Mr. Burton of Indiana, Mr. Horton, Mr. Daub, Mr. Gilman, Mr. Jeffords, Mr. Gray of Illinois, Mr. Lewis of Georgia, and Mr. Mineta.

H.R. 5228: Mrs. Vucanovich.

H.R. 5231: Mr. Lent.

H.R. 5277: Mr. Torres, Mr. Mineta, Mr. Smith of Texas, Mr. Miller of Washington, Mr. Levine of California, Mr. Boucher, Mr. Bonior of Michigan, and Mrs. Boxer.

H.R. 5308: Mr. Solomon and Mr. Lewis of Florida.

H.R. 5324: Mr. Jones of North Carolina.

H.J. Res. 310: Mr. Packard.

H.J. Res. 515: Mr. Morrison of Connecticut, Mr. Valentine, Mr. Porter, Mr. Tauke, Mr. Clarke, Mr. Murtha, Mr. Volkmer, Mr. Hefner, Mr. Coble, Mr. Neal, Mr. Flippo, Mr. Nichols, Mr. Roberts, Mr. Inhofe, Mr. Spratt, Mr. Traficant, Mr. Ford of Michigan, Mr. Gingrich, Mr. Ravenel, Mr. Kleczka, Mr. Price of North Carolina, Mr. English, Mr. Donnelly, Mrs. Johnson of Connecticut, Mr. Kostmayer, Mr. Miller of California, Mr. Moody, Mr. Sawyer, Mr. Whittaker, Mr. Watkins, Mr. Durbin, Mr. Dickinson, Mr. Gonzalez, Mr. Frenzel, Mr. Derrick, Mr. Bilbray, Mr. Schumer, Mr. Traxler, Mr. Pickett, Mr. Quillen, Mr. Gregg, Mr. Richardson, Mr. Hatcher, and Mrs. Roukema.

H.J. Res. 528: Mr. Frank and Ms. Snowe.

H.R. Res. 537: Mr. Fascell, Mrs. Byron, Mr. Bates, Ms. Slaughter of New York, and Mr. Costello.

H.J. Res. 554: Mr. Saxton, Mr. Annunzio, Mr. LaFalce, Mrs. Morella, Mr. Volkmer, Mr. Ford of Michigan, Mr. Sikorski, and Mr. Baker.

H.J. Res. 570: Mr. AuCoin, Mr. Boland, Mr. Cardin, Mr. Dellums, Mr. Donnelly, Mr. Frank, Mrs. Meyers of Kansas, Mrs. Morella, Mr. Smith of New Jersey, Mr. Denny Smith, Mr. Robert F. Smith, Mr. Visclosky, and Mr. Wheat.

H.J. Res. 573: Mr. Coughlin, Mr. Weiss, Mr. Aspin, Mr. Moorhead, Mr. Staggers, Mr. Ford of Tennessee, Mr. Annunzio, Mr. Fascell, Mr. Solomon, Mr. Bonior of Michigan, Mr. Price of North Carolina, Mr. Rose, Mr. Valentine, Mr. Brown of California, and Mr. Vander Jagt.

H.J. Res. 574: Ms. Kaptur, Mr. Lantos, Mrs. Boxer, Mr. Foglietta, Mr. Gilman, Mr. Martin of New York, Mr. Burton of Indiana, Mr. Hiler, Mr. Dymally, and Mr. Dixon.

H.J. Res. 598: Mr. Upton, Mr. Hansen, and Mr. Martinez.

H.J. Res. 607: Mr. Akaka, Mr. Baker, Mr. Bartlett, Mr. Bevill, Mr. Blaz, Mr. Bruce, Mr. Callahan, Mr. Campbell, Mr. Chapman, Mr. Coleman of Texas, Mr. Grandy, Mr. Hall of Texas, Mr. Lewis of Georgia, Mr. Lungren, Mr. Nagle, Mr. Payne, Mr. Rose, Mr. Schuette, Mr. Sisisky, and Mr. Smith of New Hampshire

H.J. Res. 613: Mr. Hoyer, Mr. Mineta, Mr. Jones of North Carolina, Mr. Crockett, Mr. Lowry of Washington, Mr. McCloskey, Mr. Fuster, Mr. Bevill, Mr. Bustamante, Mr.

Dickinson, Mr. Martin of New York, Mr. Traxler, Mr. Dingell, Mr. Gallegly, Mr. Sawyer, Mr. Rodino, Mr. Martinez, Mr. Mavroules, Mr. Akaka, and Mr. Mazzoli.

H.J. Res. 619: Mr. Flippo, Mr. Applegate, Mr. AuCoin, Mr. Carper, Mr. Atkins, Mr. Clement, Mr. Wolf, Mr. Fish, Mr. Dickinson, Mr. Crockett, Mr. Daub, and Mrs. Bentley.

H.J. Res. 644: Mr. Clarke.

H.J. Res. 647: Mrs. Boggs, Mr. Hutto, Mr. Emerson, Mr. Rogers, Mr. Baker, Mr. Dickinson, Mr. Bevill, Mr. Montgomery, Mr. Kostmayer, Mr. Weldon, Mr. Harris, Mr. Stump, Mr. Hayes of Louisiana, Mr. Wortley, Mr. Fazio, Mr. Quillen, Mr. Synar, Mr. Berman, Mr. Lipinski, Mr. Horton, Mr. McCrery, Mr. Lewis of Georgia, Mr. Smith of Iowa, Mr. Tauzin, Mr. Roe, Mr. Hammerschmidt, Mr. Smith of Florida, Mr. Nowak, Mr. Tauke, Mr. Huckaby, Mr. Jones of North Carolina, Mr. Cardin, Ms. Slaughter of New York, Mr. Hoyer, and Mr. Carper.

H.J. Res. 653: Mr. Carper, Mr. Fuster, Mr. de Lugo, Mr. Vento, Mr. Lantos, Mr. Robert F. Smith, Mr. Owens of New York, Mr. Chappell, Mr. Mineta, Mr. Fauntroy, Mr. Mack, and Mr. Dixon.

H.J. Res. 656: Mr. Emerson, Mr. Dornan of California, Mr. Montgomery, Mr. Jones of North Carolina, Mr. Konnyu, Mr. Solomon, Mr. Sensenbrenner, Mr. Saxton, Mr. Lewis of Florida, and Mr. Lipinski.

H. Con. Res. 339: Mr. Bereuter, Mr. Chapman, Mr. Johnson of South Dakota, Mr. Ford of Tennessee, Mr. Parris, Mr. Gaydos, Mr. Anthony, Mr. Payne, Mr. Perkins, Mr. Fauntroy, Mr. Skelton, Mr. Ridge, Mr. Wheat, Mr. Boehlert, Mr. Oberstar, Mr. Montgomery, Mr. Weber, Mr. Bonior of Michigan, Mr. Young of Florida, and Mr. Garcia.

H. Con. Res. 362: Mr. Ballenger and Mr. Craig.

H. Con. Res. 365: Mr. Brown of Colorado, Mr. Jontz, Mr. Hunter, and Mr. Sweeney.

H. Res. 462: Mr. Lipinski, Mr. Badham, Mr. Mollohan, and Mr. Chapman.

H. Res. 516: Mr. Brown of California, Mr. Edwards of Oklahoma, and Mr. Upton.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

232. By the SPEAKER: Petition of the City Council, Canton, OH, relative to the national minimum wage; to the Committee on Education and Labor.

233. Also, petition of the City Council, Durango, CO, relative to the Animas-LaPlata Water Project; to the Committee on Interior and Insular Affairs.

234. Also, petition of the County Council of Volusia County, FL, relative to the dumping of plastic and other waste in ocean waters of the United States; to the Committee on Merchant Marine and Fisheries.

235. Also, petition of Mr. Fernando Carreiro, Sommerville, ME, relative to the suspension of retirement pensions by the Government of Portugal.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 925

By Mr. COATS:

—Strike all after the enacting clause and insert the following:

SECTION 1. ADDITIONAL DEDUCTION FOR COSTS OF FAMILY LEAVE.

(a) General Rule.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. ADDITIONAL DEDUCTION FOR COSTS OF PROVIDING FAMILY LEAVE.

"(a) Allowance of Deduction.—In the case of an employer, in addition to the amount otherwise allowable as a deduction under this chapter, there shall be allowed as a deduction an amount equal to 50 percent of the qualified family leave expenses paid or incurred by such employer during such taxable year.

"(b) Qualified Family Leave Expenses.—For purposes of this section, the term 'qualified family leave expenses' means—

"(1) salary or wages (or amounts in lieu of salary or wages) for any period during which the employee is on qualified family leave, and

"(2) employee benefit costs with respect to any employee to the extent allocable to any period during which the employee is on qualified family leave.

"(c) Qualified Family Leave.—For purposes of this section, the term 'qualified family leave' means any period (not exceeding 10 weeks) during which the employee is temporarily absent from work on account of birth of a child of the employee, the placement of a child with the employee for adoption or foster care, or serious health condition of a child, spouse, or parent of the employee but only if—

"(1) the leave is in addition to any sick leave, annual leave, or vacation leave to which the employee is otherwise entitled,

"(2) before taking the leave, the employee has exhausted all other available leave,

"(3) the employee continues to be covered under any group health plan (as defined in section 162(i)(3)) of the employer for the duration of the leave at the same level and under the same conditions as such coverage would have been provided if the employee had continued to work during the period of the leave,

"(4) the employee provides assurances satisfactory to the employer that such employee will return to work for the employer,

"(5) the leave is pursuant to a written plan of the employer which is reasonably expected to be in effect for at least 1 taxable year, and

"(6) such written plan meets the restoration requirements of subsection (d) and the certification requirements of subsection (e).

"(d) Restoration Requirements.—

"(1) In general.—A plan meets the restoration requirements of this subsection if—

"(A) it provides that any employee taking leave under such plan shall be entitled, upon return from such leave—

"(i) to be restored by the employer to the position of employment held by the employee when the leave began, or

"(ii) to be restored to an equivalent position with equivalent employee benefits, pay, and other terms and conditions of employment; and

"(B) taking of leave under such plan does not result in the loss of any employment benefit earned before the date on which the leave begins.

"(2) Certain benefits not required.—Nothing in paragraph (1) shall be construed to entitle any restored employee to—

"(A) the accrual of any seniority or employment benefits during any period of leave, or

"(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken leave.

"(3) Exception for certain highly compensated employees.—

"(A) In general.—An employer may deny restoration under this subsection to any employee described in subparagraph (B) if—

"(i) such denial is necessary to prevent substantial and grievous economic injury to the employer's operations,

"(ii) the employer notifies the employee of its intent to deny restoration on such basis at the time the employer determines that such injury would occur, and

"(iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

"(B) Employee described.—An employee described in this subparagraph is a salaried employee who is among the—

"(i) highest paid 10 percent of employees, or

"(ii) 5 highest paid employees, whichever is greater, of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

"(3) Certification Requirements.—

"(1) In general.—A plan meets the certification requirements of this subsection if such plan requires that each request for leave under such plan on account of the serious health condition of an individual be supported by a certification issued by a physician licensed under State law who is providing care to the individual.

"(2) Requirements of certification.—A certification shall be sufficient for purposes of paragraph (1) if it states—

"(A) the extent to which the health condition is a serious health condition,

"(B) the date on which the serious health condition commenced,

"(C) the probable duration of the condition, and

"(D) the appropriate medical facts within the physician's knowledge regarding the condition.

"(f) Employee Benefit Costs.—For purposes of this section—

"(1) In general.—The term 'employee benefit costs' means amounts paid or incurred by the employer for employee benefits.

"(2) Employee benefits.—The term 'employee benefits' means all benefits provided or made available to employees by an employer, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a policy or practice of an employee or through an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

"(g) Serious Health Condition.—For purposes of this section, the term 'serious health condition' means any illness, injury, impairment, or other physical or mental condition which—

"(1) results in the individual being in imminent danger of death,

"(2) requires a transplant or amputation, or

"(3) requires extended inpatient care in a hospital or constant home care.

"(h) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

"(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 197. Additional deduction for costs of providing family leave."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

Amend the title so as to read: "A bill to amend the Internal Revenue Code of 1986 to allow an additional 50 percent deduction for the costs to employers of providing family leave in certain cases involving a birth, an adoption, or a serious illness of a child, spouse, or dependent of the employee."

—Redesignate section 405 as section 406 and insert after section 404 the following new section (and amend the table of contents of the bill accordingly):

SEC. 405. CAFETERIA PLANS MAY INCLUDE FAMILY LEAVE.

Paragraph (2) of section 125(e) of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) leave on account of birth (or adoption) of a child of the employee or illness of a child, spouse, or parent of the employee, and".

—Redesignate section 405 as section 406 and insert after section 404 the following new section (and amend the table of contents of the bill accordingly):

SEC. 405. COMPENSATORY TIME OFF PERMITTED IN LIEU OF PAYMENT OF OVERTIME.

Section 7 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(o) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employment under subsection (a) if, pursuant to a contract made between the employer and the employee individually or an agreement made as a result of collective bargaining by representatives of employees entered into prior to the performance of the work, the employer at a written request of the employee grants the employee compensatory time off with pay in a subsequent workweek in lieu of payment for the number of hours worked in such current workweek in excess of the maximum workweek applicable to such employee under subsection (a). Such compensatory time off may be used for family leave (such as for birth or adoption of a child or illness of parent, spouse, or child, for other family-related purposes, or for any other purposes. For purposes of determining the maximum workweek applicable to such employee under subsection (a), and the rate of pay due to the employee, compensatory time used by the employee shall be considered hours actually worked during the subsequent workweek in which actually used.".

H.R. 925

By Mr. ARMEY:

—Page 62, after line 21, insert the following new subsection:

(e) INDUSTRIAL HOMEWORK PERMITTED.—In any case in which an employer and an eligible employee on leave under section 103 or 104 agree that the employee shall perform certain work at the employee's home, nothing in section 11(d) of the Fair Labor Standards Act (29 U.S.C. 211(d)) shall be construed to prohibit or restrict the employee from performing such work during the period of leave.

—Page 72, line 21, strike "3 times".

—Page 52, after line 17, insert the following new subparagraph:

(D) For purposes of subparagraph (A), the term "person" does not include any elementary school or a secondary school, as defined in sections 203(v) and 203(w), respectively, of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(v), 203(w)).

—Page 57, after line 2, insert the following new subsection:

(g) ABLE-BODIED SPOUSE AT HOME.—During any period in which the able-bodied spouse of an employee is providing at-home care for a son, daughter, or dependent parent under this title, such employee shall not be eligible for family leave.

—Page 57, after line 2, insert the following new subsection:

(g) RELATIONSHIP TO MEDICAL BENEFITS.—If an employer provides comprehensive medical benefits for employees and their dependents, such benefits may be substituted for family leave under this section.

H.R. 387

By Mr. ARMEY:

—Page 4, strike line 10.

—Page 5, line 4, strike the period and insert in lieu thereof "; and".

—Page 5, after line 4, insert the following new paragraph:

(4) 5 members appointed by the Director of the Office of Personnel Management from among individuals with Federal Personnel management experience, of whom—

(A) 1 shall be appointed upon the recommendation of the Secretary of Defense;

(B) 1 shall be appointed upon the recommendation of the Secretary of Health and Human Services;

(C) 1 shall be appointed upon the recommendation of the Secretary of the Treasury;

(D) 1 shall be appointed upon the recommendation of the Secretary of Agriculture; and

(E) 1 shall be appointed upon the recommendation of the Secretary of the Interior.

—Page 7, line 7, strike "(2) and (3)" and insert in lieu thereof "(2) through (4)".

—Page 7, line 19, strike "Six" and insert in lieu thereof "Nine".

—Page 10, line 24, strike "5" and insert in lieu thereof "10".

—Page 11, strike lines 5 through 8 and insert in lieu thereof the following:

(b) FINAL SELECTIONS.—The Commission shall select, from among the consultants included on the list prepared under subsection (a), at least 3 consultants to conduct the study under this Act. The functions of the consultants under this Act shall be performed by such consultants acting jointly.

—Page 11, line 12, strike "consultant" and insert in lieu thereof "consultants".

—Page 12, line 10, strike "consultant" and insert in lieu thereof "consultants".

—Page 12, line 15, strike "ANT'S" and insert in lieu thereof "ANTS'".

—Page 12, line 17, strike "consultant, pursuant to its" and insert in lieu thereof "consultants, pursuant to their".

—Page 14, line 15, strike "consultant's" and insert in lieu thereof "consultants'".

—Page 14, after line 13, insert the following new paragraph:

(5) With respect to any occupation for which the Commission recommends an increase in the rate of basic pay, the Commission shall include a statement as to—

(A) how the rate of pay recommended compares with the rate generally provided for that occupation in the private sector; and

(B) whether it would be more practical for the Government to contract with private sources for the services performed by Federal employees in that occupation.

—Page 15, line 16, strike "an objective," and insert in lieu thereof "a subjective,".

—Page 16, line 2, strike "an objective" and insert in lieu thereof "a subjective".

H.R. 3822

By Mr. SOLOMON:

—Page 12, line 15, after "(d)" insert "(1)".

—Page 12, line 23, strike out "In accordance with such procedures," and insert in lieu thereof the following:

"(2) In accordance with the procedures established pursuant to paragraph (1).

—Page 13, after line 4, add the following:

"(3) The procedures established pursuant to paragraph (1) shall ensure that any Member of Congress, and any officer, staff member, or other employee of the Congress, who gains access under this title to information described in paragraph (1)—

"(A) is made subject to security procedures that are comparable to those applicable to personnel of the intelligence community;

"(B) is required to complete an appropriate background investigation prior to becoming eligible to receive such information under this title and regularly thereafter as long as such eligibility continues;

"(C) is required to submit to periodic counterintelligence polygraph testing administered on a random basis; and

"(D) is denied—

"(i) in the case of a Member of Congress, continued access under this title to such information, and

"(ii) in the case of an officer, staff member, or other employee of the Congress, continued employment by the Congress,

if that individual is found to have knowingly disclosed, to anyone not authorized to receive it, the substance of any such information obtained through such access.

—Page 12, line 15, after "(d)" insert "(1)".

—Page 12, line 23, strike out "In accordance with such procedures," and insert in lieu thereof the following:

"(2) In accordance with the procedures established pursuant to paragraph (1),

—Page 13, after line 4, add the following:

"(3) The procedures established pursuant to paragraph (1) shall ensure that any Member of Congress, and any officer, staff member, or other employee of the Congress, who gains access under this title to information described in paragraph (1) is made subject to security procedures that are comparable to those applicable to personnel of the intelligence community.

—Page 12, line 15, after "(d)" insert "(1)".

—Page 12, line 23, strike out "In accordance with such procedures," and insert in lieu thereof the following:

"(2) In accordance with the procedures established pursuant to paragraph (1),

—Page 13, after line 4, add the following:

"(3) The procedures established pursuant to paragraph (1) shall ensure that any Member of Congress, and any officer, staff member, or other employee of the Congress, who gains access under this title to informa-

tion described in paragraph (1) is required to complete an appropriate background investigation prior to becoming eligible to receive such information under this title and regularly thereafter as long as such eligibility continues.

—Page 12, line 15, after "(d)" insert "(1)".

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—Page 12, line 23, strike out "In accordance with such procedures," and insert in lieu thereof the following:

"(2) In accordance with the procedures established pursuant to paragraph (1),

—Page 13, after line 4, add the following:

"(3) The procedures established pursuant to paragraph (1) shall ensure that any Member of Congress, and any officer, staff member, or other employee of the Congress, who gains access under this title to information described in paragraph (1) is denied—

"(A) in the case of a Member of Congress, continued access under this title to such information, and

"(B) in the case of an officer, staff member, or other employee of the Congress, continued employment by the Congress,

if that individual is found to have knowingly disclosed, to anyone not authorized to receive it, the substance of any such information obtained through such access.

—Page 12, line 15, after "(d)" insert "(1)".

—Page 12, line 23, strike out "in accordance with such procedures," and insert in lieu thereof the following:

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"(A) is made subject to security procedures that are comparable to those applicable to personnel of the intelligence community;

"(B) is required to complete an appropriate background investigation prior to becoming eligible to receive such information under this title and regularly thereafter as long as such eligibility continues; and

"(C) is denied—

"(i) in the case of a Member of Congress, continued access under this title to such information, and

"(ii) in the case of an officer, staff member, or other employee of the Congress, continued employment by the Congress,

if that individual is found to have knowingly disclosed, to anyone not authorized to receive it, the substance of any such information obtained through such access.

—Page 12, line 15, after "(d)" insert "(1)".

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—Page 13, after line 4, add the following:

"(3) The procedures established pursuant to paragraph (1) shall ensure that any Member of Congress, and any officer, staff member, or other employee of the Congress, who gains access under this title to information described in paragraph (1)—

"(A) is made subject to security procedures that are comparable to those applicable to personnel of the intelligence community; and

"(B) is denied—

"(i) in the case of a Member of Congress, continued access under this title to such information, and

"(ii) in the case of an officer, staff member, or other employee of the Congress, continued employment by the Congress,

if that individual is found to have knowingly disclosed, to anyone not authorized to receive it, the substance of any such information obtained through such access.

H.R. 3822

By Mr. BROOMFIELD:

—Page 19, after line 4, insert the following:

"(C) The President may waive the requirements of subparagraphs (A) and (B) if the President determines that such waiver is necessary to meet rare, extraordinary circumstances constituting a serious threat to United States national security interests. The President shall state in writing the reasons for any such waiver. As soon after the waiver as the circumstances permit, notice of the covert action, including the reasons for the waiver, shall be provided to the intelligence committees or, in accordance with paragraph (2), to the Members of Congress specified in that paragraph. A copy of the President's statement of the reasons for the waiver shall be provided to the chairman of each intelligence committee with the copy of the relevant finding as provided pursuant to paragraph (3).

H.R. 4986

By Mr. SOLOMON:

—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking "July 1, 1988" and inserting "January 1, 1994".

—Page 42, after line 16, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 26. STUDENT CONTRIBUTION MODIFICATION.

(a) DEPENDENT STUDENTS.—Section 475(g)(1)(C) of the Act is amended by striking out "70 percent" and inserting in lieu thereof "50 percent".

(b) INDEPENDENT STUDENT WITH DEPENDENTS.—Section 476(b)(4)(A) of the Act is amended by striking out "70 percent" and inserting in lieu thereof "50 percent".

EXTENSIONS OF REMARKS

H.R. 5233, THE MEDICAID QUALITY SERVICES TO THE MENTALLY RETARDED AMENDMENTS OF 1988

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. WAXMAN. Mr. Speaker, on August 11, I introduced H.R. 5233, the Medicaid Quality Services to the Mentally Retarded Amendments of 1988. This bill has two basis purposes: First, to increase the availability of quality community-based services to the mentally retarded under Medicaid; second, to improve the quality of Medicaid-financed institutional services for the mentally retarded.

Medicaid, the Federal-State entitlement for the poor, is the major source of Federal financing for health care services for persons with mental retardation or related conditions. Of the $30.5 billion that the Federal Government is projected to spend on Medicaid the fiscal year ending this month, just under 12 percent, or roughly $3.6 billion will pay for services to this population. The overwhelming majority of these dollars pay for services in intermediate care facilities for the mentally retarded [ICF's/MR] on behalf of roughly 154,000 individuals, many of whom are profoundly or severely retarded. These facilities, which number over 3,600, provide services on a 24-hour basis and range in size from 4 to 1,500 beds. An increasing, but still relatively small amount of Medicaid funds—under $300 million—is used to purchase home and community-based services for this population under the "2176" waiver program, under which participating States must operate under tight budget-neutrality rules.

The "2176" waiver program, first enacted in 1981, has been a useful beginning, but it does not go far enough in making Federal funds available for community-based services for this population. I believe that the Medicaid Program must give the low-income mentally retarded, and their families, a choice between payment for quality institutional services and payment for quality community services. H.R. 5233 would allow, but not require, States to offer that choice for those at risk of institutional placement. It would also establish Federal standards and procedures to assure that the quality of both community and institutional services paid for by Medicaid is maintained.

This bill would increase Federal Medicaid outlays. While I do not yet have final cost estimates from the Congressional Budget Office, I believe on the basis of preliminary discussions with CBO staff that the costs will be realistic in the context of congressional deficit reduction efforts.

I want to emphasize what this bill does not do. It does not cap Federal Medicaid matching payments for services provided in ICF's/MR with more than 15 beds. It does not require States to draw up and implement a 5-year plan for transferring individuals out of large ICF's/MR into smaller residential settings. And it does not prohibit the Secretary from setting minimum standards for the quality of community-based services paid for with Federal Medicaid funds.

In response to the great Member and public interest in this issue, the Subcommittee on Health and the Environment will hold a hearing on September 30, 1988, on this bill and on the Medicaid Home and Community Quality Services Act of 1987, H.R. 3454, introduced by Representative FLORIO. The subcommittee will take testimony from Members, clients, parents, CBO, and representatives of workers, providers, and the States. I am hopeful that this hearing will give us the information we need to develop and enact reform legislation in the next Congress.

SUMMARY OF MEDICAID QUALITY SERVICES TO THE MENTALLY RETARDED AMENDMENTS OF 1988, H.R. 5233

OPTIONAL EXPANSION OF COMMUNITY-BASED SERVICES (TITLE I)

Community habilitation services (Section 101). Allows States, at their option, to cover on a statewide basis under their Medicaid programs a new benefit, "community habilitation services." These are services designed to assist individuals (1) in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to function successfully in a home or community-based setting, and (2) in participating in community or other activities. Federal Medicaid matching funds would be available for these services at each State's regular matching rate. In order to offer this benefit, States would have to assure the Secretary of Health and Human Services (HHS) that they comply with the employee protection requirements in section 501 of the bill. Any supervised residential settings in which such services are provided must meet standards promulgated by the Secretary.

In connection with this new optional benefit, States would be allowed to extend, on a statewide basis, services to a new optional eligibility group composed of persons who, although they are living in the community, would be eligible for Medicaid if they were in an institution because more liberal institutional income and resource standards applied. In addition, there must be a determination that, but for the provision of community habilitation services, these individuals would require the level of care provided in a habilitation facility (now known as an intermediate care facility for the mentally retarded, or ICF/MR).

Nothing in this section is to be construed as abrogating the right of Medicaid clients to freedom of choice with respect to the providers from whom they can receive services.

Both the new optional service and the new optional eligibility category would be effective October 1, 1989.

Revising Current Waiver Authority (Section 102). Under the current "section 2176 home and community-based services" waiver, States may, on a budget-neutral basis, provide habilitation services to the mentally retarded in designated areas within the State, if those individuals have been discharged from a nursing facility or ICF/MR. This section would delete the requirement that waiver beneficiaries must have been discharged from an institution.

Quality Assurance for Community Habilitation Services (Section 103). Directs the Secretary of HHS to develop, by January 1, 1991, outcome-oriented instruments and methods for evaluating and assuring the quality of community habilitation services. Effective July 1, 1991, payment for community habilitation services may not be made if such instruments and methods indicate they are substandard.

QUALITY ASSURANCE FOR HABILITATION FACILITY SERVICES (TITLE II)

Under current law, States have the option of providing services to the mentally retarded and persons with related conditions in intermediate care facilities for the mentally retarded (ICFs/MR). Under the bill, ICF/MR services would remain an optional service, but would be retitled "habilitation facility services."

In the Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, the Congress enacted a series of reforms in Medicaid policy to improve the quality of life and the quality of care in general nursing homes serving primarily the elderly. These reforms, involving requirements for participation, survey and certification procedures, and enforcement remedies, did not affect ICFs/MR. This bill would address the quality of life and quality of care issues in ICFs/MR, which would be retitled "habilitation facilities."

Requirements for Habilitation Facilities (Section 201). In order to qualify for Medicaid reimbursements, habilitation facilities would have to meet requirements relating to the provision of services, clients' rights, and administration.

The requirements relating to provision of services address quality of life, individual program plans, comprehensive functional assessments, specific services and activities to be provided, and physician supervision of clinical records.

The clients' right requirements include general rights (such as freedom from abuse and from restraints, privacy, and free choice of medical care and treatment), transfer and discharge rights, access and visitation rights, and protections for client funds.

The requirements relating to administration and other matters concern licensing and life safety code, sanitary and infection control, and compliance with professional standards.

Survey and Certification Process (Section 202). Each habilitation facility would be subject, once a year, to an unannounced survey which reviews (1) the quality, appropriateness, and effectiveness of active treatment provided to a representative sample of clients and (2) the facility's compliance with

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the requirements of participation set forth in section 201. Surveys of State-operated facilities would be conducted by the Secretary; surveys of all other facilities would be conducted by State survey agencies. The Secretary would be required to conduct "look behind" surveys of a representative sample of facilities in each State.

States would be required, through their survey agencies, to investigate allegations of client neglect and abuse by facility staff. States would also be required to maintain adequate staff to investigate complaints of violations of requirements of participation by habilitation facilities.

Enforcement Process (Section 203). Requires that, when a habilitation facility's deficiencies immediately jeopardize the health or safety of its clients, the State must either terminate the facility from Medicaid or appoint temporary management to oversee the operation of the facility. In a case where a facility is not in compliance with one or more of the requirements of participation, but the deficiencies do not immediately jeopardize client health or safety, States could, in lieu of terminating all Medicaid payments to the facility, impose one or more of the following intermediate sanctions: denial of payment for new admissions; civil money penalties for each day of noncompliance; or appointment of temporary management. The Secretary is given the authority to impose a similar range of sanctions.

In the case of a facility which, in 3 consecutive annual surveys, has been found not to provide active treatment of adequate quality and effectiveness, the State must monitor the facility, impose civil money penalties, and deny payment for new admissions until compliance is achieved.

Federal Medicaid matching payments are available for up to 6 months for any facility that is out of compliance with the requirements of participation if a corrective action plan to bring the facility back into compliance with staffing or other requirements is approved by the Secretary.

In the case of a facility that has deficiencies relating to its physical plant that do not immediately jeopardize the health or safety of its clients, the State may, subject to approval by the Secretary, implement a reduction plan under which (1) the number of certified beds in the facility is permanently reduced and (2) home and community-based services are provided to the clients displaced by the reduction in beds. Federal Medicaid matching payments would continue to be available during the period, not to exceed 3 years, of implementation of an approved reduction plan. Reduction plans would be subject to the employee protection requirements under section 501.

Effective Dates (Section 204). The new requirements of participation and survey and certification procedures would be effective October 1, 1989. The enforcement provisions would be effective on enactment, and would apply to existing ICFs/MR until the new habilitation facility requirements take effect on October 1, 1989.

Annual Report (Section 205). Requires the Secretary of HHS to report annually to Congress on the extent of compliance by habilitation facilities and the number of enforcement actions taken.

APPROPRIATE PLACEMENT FOR MENTALLY RETARDED INDIVIDUALS (TITLE III)

State Preadmission Screening and Annual Client Review (Section 301). Requires States to implement a preadmission screening program for mentally retarded individuals admitted to habilitation facilities on or after October 1, 1989. In determining whether admission was appropriate, States would use criteria developed by the Secretary of HHS as of July 1, 1989.

States would also be required, effective October 1, 1989, to review each client in a habilitation facility to determine whether or not the client (1) requires the level of services provided by the facility and (2) needs community habilitation services. These reviews would have to be conducted at least once each year. In the case of clients found no longer to require habilitation facility services, the State would have to prepare and orient them for discharge, arrange for their safe and orderly discharge, and, when necessary, continue to provide active treatment services outside of the facility.

Revision of Utilization Review Provisions (Section 302). Repeals existing requirements relating to utilization review, including physician certification and recertification, and inspection of care.

PAYMENT FOR COMMUNITY HABILITATION SERVICES AND HABILITATION FACILITY SERVICES (TITLE IV)

Payment Rules (Section 401). Requires States to assure that rates for community habilitation services (section 101) or habilitation facility services (section 201) are reasonable and adequate to meet the costs of providing services in conformity with State and Federal laws, regulations, and quality and safety standards.

Prohibits the Secretary from imposing a Medicare upper limit on aggregate Medicaid payments to habilitation facilities, and from imposing any other upper limits on payments for either habilitation facility services or community habilitation services.

EMPLOYEE PROTECTIONS AND MISCELLANEOUS (TITLE V)

Employee Protections (Section 501). Prohibits the Secretary from approving either a reduction plan under section 203 or the coverage of community habilitation services under section 101 unless the State provides assurances that "fair and equitable arrangements" have been made to protect the interests of affected employees of habilitation facilities, including (1) preservation of rights and benefits under existing collective bargaining agreements, (2) assurance of employment of affected employees with at least the same pay and the same level of responsibilities, (3) establishment of paid training and retraining programs for employment in the delivery of community habilitation services, and (4) establishment of a grievance procedure to enable affected employees to enforce these arrangements. Federal matching funds would be available for the costs of training and retraining.

Use of State Developmental Disabilities Agency (Section 502). Allows a State to assign to the State developmental disabilities agency specific Medicaid program management functions relating to the provision of services to mentally retarded individuals.

THE QUESTION OF SANCTIONS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. McEWEN. Mr. Speaker, before the August/Labor Day recess the House of Representatives once again passed further economic sanctions against the Government and people of South Africa. This legislation is now before the other body for consideration and our colleagues must ask themselves what I believe to be the pivotal question in this debate: "Will further economic sanctions help facilitate the end of apartheid?" To find an answer we need only look to the results of the first sanctions imposed by Congress 2 years ago. Let's look at the results.

The evidence available confirms what many of my colleagues on this side of the aisle feared would ultimately happen as a result of using economic sanctions as a way to dismantle the racist apartheid system. Quite simply put, it doesn't work. Sanctions imposed in 1986 have lessened further reform of the apartheid system, created economic hardship for black South Africans, and further entrenched the hardline conservatives in the Government.

Sanctions have not only retarded the pace of reform by the Botha government, but have polarized the various factions in the country. The rightwing faction has grown in size and power in Parliament, and since the last election have displaced the Progressive Party as the official opposition party. Because blacks initially had high expectations regarding sanctions, this may have encouraged further black violence, and subsequently, the harsh backlash by South African authorities as well as the rise of the neo-Nazi Afrikaner Resistance Movement.

Sanctions have also cost many black South Africans their jobs. Thousands have been put out of work and their dependents, numbering in the tens of thousands, must now suffer the consequences. The departure of foreign corporations have made the situation even more acute for these people since many of these corporations were more inclined, with their resources, to provide certain social services to their workers.

At this time, Mr. Speaker, I wish to submit into the RECORD three letters I received from United States companies who have operations in South Africa and have actively worked to dismantle apartheid from within.

THE TIMKEN CO.,
Canton, OH, August 5, 1988.

Hon. BOB MCEWEN,
House of Representatives, Cannon Office Building, Washington, DC.

DEAR MR. MCEWEN: It is my understanding that there will be a floor vote in the U.S. House of Representatives on H.R. 1580, during the week of August 8, 1988, which calls for a comprehensive ban on all U.S. trade with and investment in South Africa. Before you vote on this bill, I would like to express to you the opinion of The Timken Company on the issues of this very important legislation.

The Timken Company operates a small manufacturing subsidiary in South Africa. Over 60% of our employees in this facility are black South Africans. Some of these people have been employed by us in excess of 20 or 30 years. Working for us, many of these people have achieved job levels, earnings and a standard of living which would have been quite improbable, if not impossible, otherwise. In addition, we have provided a non-discriminatory atmosphere in which to work and have contributed generously to educational, social and recreational programs in the communities in which our employees live. As a result, we believe the presence of The Timken Company and other American companies in South Africa has led to the empowerment of blacks economically. The ultimate elimination of apartheid requires the empowerment of blacks economically rather than further impoverishment through disinvestment and other economic sanctions.

There is growing evidence that the sanctions approach toward ending apartheid is largely counterproductive and that black empowerment is the most potent weapon against the apartheid system. Unlike sanctions, black empowerment is a strategy which embodies clear and achievable goals which work to the direct advantage of black South Africans and to the ultimate erosion of apartheid. Apartheid simply cannot coexist with black empowerment.

The record of The Timken Company and other American companies in South Africa is one which clearly demonstrates that these companies are a force for change.

Within the workplace and in the society as a whole, American business is in the forefront of bringing economic and political pressures to bear in efforts to end apartheid and bring empowerment to nonwhite South Africans. To legislate their withdrawal from South Africa is totally counterproductive.

In October 1986, Congress passed the Comprehensive Anti-Apartheid Act. The intent of Congress was to apply pressure on the South African Government to end apartheid. To date, for several reasons, the Act has been unsuccessful and has had a number of unintended and undesirable results. First, the sanctions have had little adverse effect on the overall economy of South Africa. Second, the sanctions have caused the South African Government to become more firmly entrenched in resisting needed change. Third, and most unfortunately, the sanctions have adversely affected black South Africans, the very people the Act was intended to assist. Fourth, the sanctions have limited United States access to South African minerals strategic to the U.S. economy and national defense, while increasing U.S. dependence on the only other supplier of these minerals, the Soviet Union. Lastly, the U.S. uranium conversion and coal industries have been hurt by the sanctions. This short letter does not permit the development in detail of the above reasons. I will be happy to do that in a separate letter if you wish.

The Timken Company and other American businesses in South Africa have played an important role in efforts to eliminate apartheid and empower nonwhite South Africans economically and politically. They have carried on these efforts both in the workplace and in society as a whole. American business is a positive force for change within South Africa.

There can be no doubt that there is a broad consensus within the United States for vigorous efforts by both our public and private sectors to work toward the complete elimination of apartheid within South Africa. The Timken Company and other American companies have long supported this view and intend to continue maximum efforts to accomplish this goal. While there may be differences of opinion on the best methods of reaching this end, there is no disagreement as to the goal itself.

The Timken Company and other American companies contend that the experience with the Comprehensive Anti-Apartheid Act indicates that the use of sanctions and disinvestment does not contribute to ending apartheid, but may in fact have unintentional but very real effects which work to the detriment of nonwhite South Africans. The policy of the American government must be one which goes beyond symbolic gestures and in fact actually contributes to the goal of ending the apartheid system. The most direct and concrete path to that end is by the empowerment of the nonwhite majority in South Africa. To the extent that United States government policies assist in that effort they should be vigorously pursued; to the extent that those policies hinder that process they should be abandoned.

I hope this information will convince you to vote against H.R. 1580.

Very truly yours,

NANCY S. KOLK,
Director-Shareholder Relations & Assistant Secretary.

PREMARK INTERNATIONAL,
Deerfield, IL, June 9, 1988.

Hon. BOB MCEWEN,
House of Representatives, Cannon House Office Building, Washington, DC.

Re H.R. 1580—Anti-Apartheid Amendments Act of 1988

DEAR CONGRESSMAN MCEWEN: Premark International is a diversified company with $2 billion in sales which maintains its corporate headquarters in Deerfield, Illinois. Our Food Equipment Group, which makes Hobart, Vulcan, Wolf, and Stero products, has a manufacturing facility at Hillsboro, Ohio.

One of our operating units—Tupperware—has a small operation in South Africa. It represents only 1% of our sales and profits, and its loss through mandatory disinvestment would not be a major financial burden to Premark. However, because of its involvement in the fight against apartheid through education, community development, and social justice projects, its disinvestment would be a serious loss to the many nonwhites affected by its presence.

Three members of our Board of Directors recently visited Tupperware South Africa to reassess our presence there. The group spoke with dozens of black and white South Africans of all points of view, including many in leadership positions in the black communities. We are more convinced than ever that the economic slowdown caused by sanctions and disinvestment will fall disproportionately hard on blacks, will not contribute to the dismantling of apartheid, and is opposed by the great majority of black South Africans.

Disinvestment by American companies will remove from South Africa one of the most positive forces for change, both in business and in the society at large. For example, our Tupperware subsidiary, although small, has helped fund a medical clinic, a legal clinic, an old age center, a primary school, and preschool child care, as well as housing loans and scholarships for black employees. In total, Tupperware South Africa's contributions to community projects total more than 12% of its payroll. Beyond its financial commitments, Tupperware people of all colors work closely with nonwhite South Africans to design and implement these programs. As importantly, through its normal business, Tupperware trains literally thousands of non-white South Africans to be independent sales dealers, a significant contribution in a country where the black unemployment rate is over 30%. We know that other American companies have similar achievements and that American companies have led the change toward equal economic opportunities throughout South African industry. To require disinvestment by Tupperware and other American companies is to neutralize valued allies in the struggle against apartheid and to withdraw some of the most effective builders of a post-apartheid society.

It is most ironic that sanctions and disinvestment are being considered by the Congress as a means of helping black South Africans. The results of the 1986 sanctions—higher black unemployment, withdrawal of American companies and their social commitments, and a dangerous swing to the right by the government—have all been negative for blacks. Most black South Africans realize that further sanctions will only make the situation worse. Unfortunately, their voices are not being heard in Washington because a few prominent South Africans are erroneously assumed to speak for the millions who will be hurt by United States policy.

Congress should not pursue this course of action without a responsible understanding of the effects it will have on many innocent people. I ask that you personally satisfy yourself as to the true consequences of sanctions and disinvestment and cast your vote against them.

Sincerely yours,

WARREN L. BATTS,
Chairman and Chief Executive Officer.

CRISP AUTOMATION, INC.,
Dublin, OH, June 27, 1988.

Hon. BOB MCEWEN,
House of Representatives, Cannon Building, 1st and Independence Avenue, Washington, DC.

DEAR CONGRESSMAN MCEWEN: The Senate may be called upon to consider the Dellums Bill or similar legislation which would place further sanctions on South Africa. As President of Crisp Automation, Inc., a unit of Joy Technologies Inc., a Fortune 500 Company which has operated in South Africa for many years, I have grave concern about this proposed legislation. I believe that additional sanctions against South Africa at this time would hinder rather than hasten the end of the apartheid system.

Joy has actively worked for the elimination of apartheid within South Africa and has taken a leadership position along with many other American companies, most of whom are signatories to the Statement of Principles, by supporting the development of the trade union movement and devoting corporate resources to the development of black businesses.

Apartheid will not end because American companies are required to leave South Africa. I feel that American companies must maintain a presence in South Africa in order to promote and influence events that will bring about an end to apartheid and achieve a democratic, nonracial society in that country.

The record of American companies clearly demonstrates that we are a force for change. Our company alone has constructed and equipped health clinics, founded legal clinics, provided scholarships, improved schools by upgrading educational aids and setting up computer centers, provided Joy employees to train both students and teachers alike, and sponsored workshops to assist black and white community leaders in developing effective interdependent working relationships among communities. If you multiply this effort by 100, which is the approximate number of American companies doing business in South Africa, you can then realize the importance of the American companies' presence in South Africa in bringing about social, political and economic change.

Education is the key to the end of apartheid. South Africans of all persuasions need to learn the proper definitions of such concepts as free enterprise, the rule of law, and limited government. American companies set an example for South African companies and foreign companies by providing equal opportunity in employment, fully integrated facilities and advancement opportunities for all people irrespective of race.

Legislation requiring American companies to disinvest and remove their presence from South Africa would result in the removal of American influence and the example we serve to others. I also feel that it will hurt American companies and American workers. Joy, for example, obtains revenues from South Africa through dividends, technology transfer fees and product sales. The elimination of such revenues could result in cutbacks and the loss of jobs, including here at Joy's facilities in Dublin, Ohio.

I urge you to vote against any legislation placing further sanctions on South Africa, as I believe a healthy, growing economy is essential to a peaceful solution in South Africa and that sanctions will hurt both black South Africans and Americans.

Very truly yours,

Bill E. Miller,
President.

The departure of American businesses and interests has, subsequently, and not without surprise, lessened to a great extent our influence within South Africa itself. The assets of these disinvesting corporations have been bought up by white, not black, South African businessmen. Thus the concentrating of wealth for whites has increased to a great extent since the imposition of sanctions.

South Africa's strategic importance to not only the United States but the West as a whole is indisputable. Unfortunately, sanctions have pushed the Botha government to seek new trading partners—most notably the East bloc countries and the Soviet Union. In addition, and more importantly to the national security of this Nation, the imposition of sanctions has forced the United States to import strategic minerals from Communist countries.

What is the bottom line on sanctions? The people that were to be helped by sanctions have been hurt the hardest. United States influence within the country has dramatically decreased and subsequently the Soviet Union and Eastern bloc nations have been cozing up to the Botha government who is in dire need for trading partners. I'm reminded of the phrase from the Vietnam war, "We had to destroy the village to save it." Do we need to destroy South Africa to dismantle apartheid? It seems this body is willing to take that course with the passage of further sanctions last month. It is my hope the other body will not be so careless.

Finally, Mr. Speaker, I wish to submit a recent article from Fortune magazine by Marshall Loeb entitled "What the U.S. Must Do In South Africa."

What the U.S. Must Do in South Africa

(By Marshall Loeb)

It is hard to think of any U.S. policy more perverse and self-defeating than the policy of trade sanctions and disinvestment aimed against South Africa. Well-intentioned but wrongheaded, these measures are creating many more unemployed blacks and many more white millionaires. Designed to end the abomination of apartheid, they are instead inspiring a thuggish government to roll back reforms. Worse, they are moving the white electorate still further to the right, raising the specter that the current government will be replaced by one still more racist and reactionary.

These are the conclusions of Fortune's managing editor after a 12-day trip throughout that tortured but terribly important country, a journey that included interviews with 60 leading South Africans, mostly white liberals, but also some blacks and mixed-race "coloreds," as well as political conservatives. Hear what they say:

Anthony Bloom, longtime champion of human rights, CEO of a $1.3-billion-a-year conglomerate, the Premier Group: "Sanctions and disinvestment simply produce belligerency and defiance among white South Africans and the government."

Helen Suzman, South Africa's most important liberal, a minority member of Parliament for 35 years: "Sanctions and disinvestment only make this government more recalcitrant and make its supporters tougher than ever."

Chief Mangosuthu Buthelezi, leader of the six million—strong Zulu tribe, South Africa's largest: "Sanctions and disinvestment worsen our position and set the clock back. They are madness!"

The issue has a fresh urgency because Congress is debating a bill that would significantly harden and expand these measures. Since October 1986, the sanctions have forbidden new U.S. investment in South Africa as well as many imports (notably of coal, steel, and farm products) and some exports. The new bill would force all remaining U.S. companies to pull out. It would also ban almost all U.S. exports to South Africa and all imports except strategic metals. The bill stands to sail through the House but faces a tougher time in the Senate, where it probably will either fail to pass or fail to survive a White House veto. In any event, the issue has been thrown into the presidential campaign. Michael Dukakis has endorsed Jesse Jackson's call for burn-the-bridges economic warfare against South Africa. George Bush is resisting. The crusade to end vitually all commerce with South Africa surely will be thrust upon the next President.

Everybody admits that sanctions and disinvestment have failed to budge the South African government. Proponents of the new bill concede the point but, turning all logic on its head, argue that the way to make them work is to make them more punitive. Their goal is to isolate South Africa from the world and so seriously cripple its economy that its government somehow will be forced to end its repressive, racist policies and allow the oppressed black majority to take control.

In fact, sanctions have slowed but not stopped the expansion of South Africa's economy. That economy has the capacity to grow 5% to 7% in real terms; this year, largely because South Africa is capital starved and sanctions prevent it from borrowing much abroad, the rate may be less than 2.5%. Alas, that is not enough to provide jobs for South Africa's exploding population, which is growing at 3% a year. The people who are not getting jobs are young blacks. Black farm workers, coal miners, and others in industries hit hardest by the sanctions against imports from South Africa have lost jobs by the thousands.

Thousands more jobs were lost when U.S. companies pulled out, as more than 160 have done since 1984 in response to pressure from impatient anti-apartheid activists at home. They typically sold their operations to local managers, who often proceeded to cut back, restructure, and lay off. After all, say the new owners, they have to rationalize operations to pay the debts they took on to buy the companies. That's handy excuse, too, for chopping social programs. U.S. companies in the past eight years have pumped $210 million into housing loans and grants, education and training, college scholarships, clinics, legal aid, and other programs for South African blacks. Many of the subsidies disappear as soon as the U.S. owners do.

Cutbacks will deepen if more U.S. firms leave. Says Henry Slack, a director of Anglo American Corp., the gold and diamond mining company that is South Africa's largest: "I can give you a categorical guarantee that if Johnson & Johnson pulls out, its successor will not provide doctors and clinics with free medical supplies and will not pay the bills to educate the many black doctors that J&J does now."

But some white South African business people will grow even richer. About 140 already have become millionaires by buying U.S. companies at fire-sale prices. Not all businessmen are happy. Says the liberal Tony Bloom of the Premier Group: "I'm sorry to see U.S. companies go, even though we ourselves have benefited from disinvestment." A number of local managers have also used their new freedom from U.S. control to resume selling to the police and the military. Tian van der Merwe, a liberal member of Parliament, recalls what happened when General Motors sold to a local group who renamed the company Delta Motors. Says he: "Right away the Delta boys said, 'At last we have Detroit off our backs. Now we can sell armored trucks to the army.' "

The whites in general have responded to sanctions and disinvestment not by giving in but by digging in. Confronted by those and earlier trade restrictions, they have become remarkably self-sufficient. They squeeze oil out of coal and have even built a South African armaments industry, which now is their second-biggest (after mining) and which exports to 23 nations. It is commonly said that sanctions have forced the dominant white tribe of Afrikaners to go back to the laager, to circle their wagons as their forefathers did when attacked. Just as the bombing of London in World War II raised the British resolve to resist, so the measures against Pretoria have moved white South Africans to resist.

Crying defiance and exploiting the backlash, the far-right Conservatives won 27% of the vote in the last election, in May 1987, and displaced Helen Suzman's Progressives as the official opposition party. Many Progressives voted instead for the ruling Nationalist Party to buttress it against the fastrising Conservatives. The Conservatives, at least three of whose 22 members of Parliament are also members of the neo-Nazi Afrikaner Resistance Movement, want to roll back the Nationalists' reforms. They would, for example, outlaw black trade unions and try to restrict the movement of blacks from place to place. Says Budget Minister Kent Durr, who identifies himself as a liberal Nationalist: "The neo-Nazis love sanctions."

Advocates of still stiffer sanctions and total disinvestment contend that the political perils and the privations inflicted on blacks are a small price to pay. Extremists even believe that a severe international boycott, by hastening the rise of the far right and further polarizing black and white, will bring about a bloody revolution, which they think is a necessary step to black power. Aside from the immorality of this argument, the trouble is that the blacks could scarcely win such a confrontation because the white government has all the artillery. Yet the American extremists, comfortable in their Georgetown or Palo Alto sanctuaries, seem prepared to fight to the last South African black.

They should ask the blacks about that. Listen to James Ngcoya, president of the 100,000-member South African Black Taxi Association: "I've heard people say that if sanctions make black people suffer more, that does not matter because they're suffering already and won't mind suffering some more. I've even heard them say that whether more sanctions will help to bring down apartheid doesn't matter because imposing sanctions puts America on the right side of history. Does that mean you really do not care what the black people of South Africa want? You really do not care about what will help us? I ask you to listen to our voices before you decide what is good for us, before you decide that black children must go hungry so you can be on the right side of history."

And Chief Buthelezi says: "When you try to destroy an economy that has achieved a vibrancy that has not been achieved anywhere else in Africa, you are sentencing us to starvation."

True, some prominent South African blacks and coloreds still want tighter sanctions, including the Most Reverend Desmond Tutu, the Nobel Prize-winning Anglican Archbishop of Cape Town; the Reverend Allan Boesak, president of the World Alliance of Reformed Churches; and the leaders of the largest black trade union, COSATU, and of the outlawed African National Congress, which is still the most popular among the many divided, fractious, and government-infiltrated black political organizations. On the other hand, sanctions are anathema to the Zulus' 1.2-million-member United Workers Union of South Africa plus some large black church groups including the Zion Christian Church and the United Congregational Church. Very significantly, notes Indiana Republican Congressman Dan Burton, vice chairman of the House Subcommittee on Africa: "In 14 polls taken over four years in South Africa by a variety of private institutes and newspapers, all but one showed blacks opposing disinvestment and sanctions, most by a margin of three or four to one."

Faced with its policy failures, what should the U.S. do now? Above all, it must once again become actively engaged in South Africa. With its current policy of withdrawal, the U.S. has forfeited almost all influence over the Pretoria government and much of its ability to help South African blacks. If that is to change, sanctions must go. Lifting them seems impossible in the current environment, but the U.S. could bargain to remove sanctions in return for human rights concessions by Pretoria.

At the same time, the 150 American companies still in South Africa should be encouraged by their shareholders and directors to remain, to expand their social programs, and to train and promote more blacks for management and technical jobs. (U.S. firms have not done nearly enough training and promoting in South Africa, but they have accomplished far more than almost all local companies.)

American universities and corporations should give scholarships by the thousands to South African blacks. Says Sylvia Vollenhoven, a prominent colored journalist in Cape Town: "You should bring to America just about any black who has any kind of power, just to show him what real freedom looks like. Every radical who goes will come back with his ideas changed."

American publishers should send textbooks to black schools in South Africa, which desperately need them. Most U.S. publishers refuse to sell texts to South Africa. What makes them think South African children are better off with government-approved South African texts—or none—than with U.S. books?

American companies and individuals should be encouraged to invest in black-owned ventures in South Africa. Despite police harassment, a surprisingly large group of black entrepreneurs is rising. They own small printing businesses, food shops, restaurants and bars; they drive minivans full of workers from the segregated black townships to their jobs in white cities and back; they sew dresses and make shoes and repair cars. Not even the worst repression has been able to break the entrepeneurial spirit of these determined people.

Helen Suzman argues persuasively that it was the rise of black economic power that forced the government to make concessions to blacks. The hated Pass Laws and Influx Control, which restricted their movements, were repealed in 1986 largely because the huge rush of blacks to the cities to fill jobs had made those rules unworkable. The law reserving skilled jobs for whites was repealed because a growing economy needed more skilled labor. Black trade unions were recognized because businesses needed a force to bargain with to halt wildcat strikes. Those unions now are potent and skillfully led.

The blacks' surest hope for gaining political power is to gain still greater economic power. The faster the economy grows, the more rapidly they can do that. Budget Minister Durr puts it a different way: "No declining economy in history has ever delivered democracy. If people want to help democracy, they must help the economy."

If and when the U.S. once again becomes an active player in South Africa, the U.S.—along with Britain, West Germany, Japan, and other allies who have not adopted widespread sactions—can press Pretoria for political concessions. Among them: lift the state of emergency under which thousands of people have been jailed without due process. Free African National Congress hero Nelson Mandela and many other political prisoners, and legalize the ANC. Though the exiled ANC is strongly Communist influenced and resorts to terror, the liberals among South African business leaders believe that it will become more reasonable when it is allowed to reenter—and obligated to compete in—the political process. Surely Mandela will be easier to deal with than some fiery radicals among the ANC young. In addition, the inhumane Population Registration Act, the group Areas Act and the Land Act—which segregate blacks, coloreds, and Asians from whites and determine where they may live—must be repealed. Most important, Pretoria must set a timetable for giving the vote to blacks.

Accomplishing all that will be difficult and may take longer than most Americans would like. But the U.S. stands a far better chance of making progress if it abandons sanctions and becomes involved again in South Africa instead of toughening an already bankrupt policy and just walking away.

CARE FOR OUR CHILDREN, CARE FOR OUR FUTURE

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. ROWLAND of Georgia. Mr. Speaker, an essay contest entitled "Care for Our Children, Care for Our Future," was recently conducted by the National PTA and the National Commission to Prevent Infant Mortality, with the support of the Burger King Corp. The contest sought to encourage youngsters to think of how their health and the health of their peers influence the health of the Nation.

One of the winners of the contest was Bridget Reid, an eighth grader from Atlanta, GA, who I had the privilege of meeting. I was very impressed with her keen insights on the health problems of young people; therefore, I want to share with my colleagues Bridget's winning essay:

CARE FOR OUR CHILDREN, CARE FOR OUR FUTURE

The health of the citizens parallels with the health of the nation because the citizens make the nation. When the citizen's health is poor then so is the nation.

The future strength and integrity of our nation lies totally on the health of our youth. Statistics today show an increase in infant and adolescent deaths . . . deaths that could have been stopped if only the information on health had been taken seriously . . . better yet practiced.

There is a lack of positive mental health, from adults, being communicated. This could and has led to substance abuse that if not soon controlled will and is destroying young minds and bodies. This lack of communication also leads to unwanted teen pregnancies which makes the next generation weak (lack of sound education and or nutrition that make us strong). It also leads to physical weakness (birth defects) and mental weakness (retardation). The child of a child may not receive the kind of mental support needed to lead a healthy and productive life.

It is my opinion that the well being of a child affects that child's potential to lead. There are people with leadership qualities everywhere . . . in the slums of our cities as well as the upper class areas, who have yet to make themselves known. How many minds are being lost because of a lack of funds, or illness caused by the inability to pay for routine health care is not in place or because not enough importance is placed on need for such care. Sometimes just knowing that all you need to do is take a vitamin or to eat a certain food will keep you healthy.

Society plays a big part in how we see things and how our peers relate to things. Commercials tend to give mixed messages to youth. Athletes advertise use snuff, chewing tobacco and drinking beer. This makes it seem as though doing these things will make us "big leaguers". Meanwhile, we are being told that prolonged snuff use can cause gum and lip cancer and that beer (alcohol) promotes deterioration of young brain cells. The problem is that not enough of us are getting the real message.

Models advertising cigarettes depict glamorous lifestyles. What they don't show is the bad breath, discolored lips, teeth and gums and the lung cancer that may appear.

What today's youth need to insure the well-being and healthy nation, is positive role models. We see far too many government and community leaders involved in drug and sex scandals. We see parents that don't obey the law and parents not enforcing their own rules about nutrition in their own household.

Our government can get more involved with the health care of our nation and less on trying to destroy other nations. If we could get our lawmakers to back more health-related programs, enforce the laws that protect poor families from banks and insurance companies that drain the family incomes during a crisis would be a start. We need to see that our children and youth are fully protected from various crimes committed by adults, such as, incest, molestation, rape. We need to seek ways to protect children from abuse and neglect. These kinds of crimes could ruin the mental stability of the child which in turn can cause physical problems. The governments should aid the future leaders of tomorrow in every way possible.

Once the leaders of today set the pace, tomorrow leaders will take over and make the change . . . making the world a better place. This can only be accomplished if the leaders of today are willing to make the hard choices and assuring that the leaders of tomorrow are healthy today.

A DISTINGUISHED CITIZEN

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. BADHAM. Mr. Speaker, it is my privilege today to recognize one of southern California's outstanding citizens, the president and chief executive officer of Parker North American Corp., Mr. Michael Parker.

On November 11, 1988, Mr. Parker will receive the Distinguished Citizen Award from the Los Angeles Area Council of the Boy Scouts of America.

Mr. Parker's generosity, his commitment to his community and his success speak more loudly than any words we might express here, but he is certainly deserving of great recognition and tribute.

His business biography reads like the script for the American dream: Starting out with General Electric, IBM, and the American Photocopy Equipment Corp., on May 19, 1971, he founded his own company. This company, North American Video Corp., was to become the leading supplier of closed circuit television equipment to banks and financial institutions in the United States.

Ten years later, he sold this company and founded another, Parker North American Corp., which is based in Newport Beach. With 12 regional offices, Parker North American provides equipment financing throughout our Nation. Mr. Parker is also the founder of a company with a factory in Santa Ana and offices in Costa Mesa that produces a system to clean carbon from engines.

His contributions to our economy alone deserve tribute, but Mr. Parker, through his generosity and his commitment to our community and our Nation, has done much more. Other bodies have recognized him: He received a doctor of philanthropy degree from Pepperdine University and the ARCO Civil Leadership Award.

Now, Mr. Speaker, I ask my colleagues in the House of Representatives to join me in recognizing Mr. Parker as he receives the Boy Scouts of America Distinguished Citizen Award. It is an honor and a privilege to tell my colleagues about Mr. Parker's accomplishments and I'm sure my colleagues join me in sending our best wishes and congratulations to him and his family on this important occasion.

CELEBRATING THE 20TH YEAR OF THE BALTIMORE REGIONAL BURN CENTER

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. CARDIN. Mr. Speaker, I rise today to salute the Baltimore Regional Burn Center. The burn center is a unique facility in my home district of Baltimore caring for the thermally injured. It serves not just the Baltimore area, but the entire State of Maryland and parts of Pennsylvania, Delaware, and West Virginia.

The burn center provides primary care for severely burned patients. A highly trained team of doctors and health care professionals treats not just physical injuries, but continues the treatment with psychological and social therapy as well to insure that these patients can recover fully and resume an active and productive life.

The work of the center is not limited to the treatment of injuries. The Baltimore Regional Burn Center Foundation develops and conducts community outreach programs to raise public awareness of the dangers of burn injuries and how to prevent them. Currently, the center is conducting a major effort among the elderly and school children—two high-risk groups—to educate them about common burn hazards and prevention techniques. In addition, the burn center conducts research on new ways of treating burn patients and the infections that can result from severe burns.

Mr. Speaker, on October 6, 1988, the Baltimore Regional Burn Center Foundation will host an awareness breakfast in celebration of their 20th year of operation. I urge my colleagues to join me in honoring the burn center and its staff for their fine work and devotion to the healing of severely burned patients. Their efforts and dedication have saved the lives of many, and I commend them for a job well done.

THANK YOU, ELIZABETH JOESTING

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mrs. BENTLEY. Mr. Speaker, all of us know how important it is for each citizen of the United States to exercise his or her right to vote. With this in mind I would like to salute a lady in my district who has been working to "get out the vote" for some 19 years. No, she is not a politician, but she has worked just as hard to see that every person has the chance to stand up and be counted. Without the work done by her and those like her around the Nation, life would be a lot more complicated.

Her name is Elizabeth Joesting, and for the past two decades she has loyally served the Board of Elections of Harford County, MD. Since 1984 she has been the board's chief clerk. This fall Elizabeth is retiring from her post, and I feel that it is only right that the efforts of so devoted a public servant be acknowledged here.

Elizabeth graduated from Bel Air High School in 1935 and the Maryland Institute, College of Art, in 1940. Soon she was married and had two lovely children, David II and Cathy. Her husband, for whose contracting firm Elizabeth worked for many years, died in 1969. It was then she truned her sights toward civic service.

Elizabeth joined the Harford County Board of Elections and became one of its most valued mainstays. Election after election she performed many of the duties necessary to keeping our State's voting system afloat. Her performance was always superior, and 4 years ago her skills earned her the position of chief clerk. She approached these new responsibilities with equal enthusiasm and devotion; Harford County's electoral system never ran better than it has under Elizabeth's calming guidance.

Elizabeth Joesting's story should serve as an inspiration to all of us. She was faced with major changes late in life yet had the perseverance and fortitude to build again. As a public servant her services have been priceless; I only hope that whoever takes her place profits from her example, for hers are indeed very big shoes to fill.

Thank you, Elizabeth, and congratulations for a job well done.

TRIBUTE TO REV. J. ISAIAH GOODMAN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I rise today to extend my heartiest congratulations and warmest best wishes to Rev. J. Isaiah Goodman. Reverend Goodman has been the devoted spiritual leader of the First Baptish Church of Englewood since 1948. A man of great compassion and dedication, vision and understanding, he has responded to the needs of his congregation and his community with guidance and love, faith, and patience.

Reverend Goodman received his college theological training at Maryland State College and Temple University and holds a M.S. degree in Comparative Religion from Brown University. Reverend Goodman is a fromer president of the Englewood Interdemoninational Ministers Alliance, Bergen County's N.A.A.C.P., North Jersey Baptist Association and the Black Clergy Council of Englewood. His honorary achievements include doctor of divinity from Virginia Seminary and Man of the Year awards from the Boy Scouts of America and the National Council of Negro Women. On August 10, 1988, Reverend Goodman was unanimously voted Pastor of the Year by the more than 8,000 delegates to the National Convention of Progressive Baptists. In addition, the reverend served as advisor of church finance, consultant and coordinator of the American Baptist Convention and State Director of Church Service to the New Jersey Baptist Convention.

Reverend Goodman has worked tirelessly and enthusiastically for his congregation and the people of Englewood, but his commitment to the needs of others, extends to places as far away as the nation of Haiti. He was instrumental in establishing a medical clinic in that country, as part of a cooperative mission service which includes a school, church, nutrition center, and medical clinic.

His warmth and spirit, energy and understanding certainly define him as one of the special few who has truly made a difference. Mr. Speaker, it is an honor and a privilege to participate in the tributes being extended to Rev. J. Isaiah Goodman and I know my colleagues in the House will join me in saluting his efforts and accomplishments during the past four decades and wishing him all the best in the years ahead.

NEW ZEALAND LABOURITES OPPOSE REGIONAL SECURITY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. BROOMFIELD. Mr. Speaker, the New Zealand Labour Party is at it again. At a recent conference party activists have announced their opposition to a cooperative program with Australia for the construction of naval vessels to support a regional security role.

It pays to remember that the activists of the Labour Party are ultimately responsible for the decision of the current Labour Government of New Zealand—under Prime Minister David Lange—to prohibit United States naval ship visits. This policy was subsequently enacted as legislation by the Labour-controlled New Zealand Parliament.

New Zealand's decision to preclude United States Navy operations in its waters led to the suspension of the Australia/New Zealand/United States [ANZUS] alliance by the United States with regard to New Zealand. In the aftermath of these events, the Lange government has asserted that New Zealand will continue to exercise a regional security role, in cooperation with Australia, that will continue to secure Western interests in the South Pacific.

It is to be regretted that Prime Minister Lange—unlike Prime Minister Hawke of Australia—was unable or unwilling to stand up to the antinuclear activists in his party. The Labour stalwarts have now shown their true colors, however, and it is to be hoped that Mr. Lange shows more determination in the future.

The Labourites' opposition to the naval ship construction agreement with Australia shows that they are not simply antinuclear, but antidefense. In place of necessary programs to pursue the military role announced by the Government, they propose construction only of small vessels to conduct local fisheries inspection and patrol functions.

The security of the South Pacific can only be protected by political and military arrangements involving the United States, other major Western powers, and the regional states, including Australia and New Zealand. Disagreement among these traditional allies can only inject an element of uncertainty into these arrangements and increase the likelihood of threatening developments.

New Zealand has traditionally been an ally of the United States in not only a regional but a global context. Our two countries remain close friends even though our military alliance has been suspended.

The New Zealand Labour Party conference seems to want to turn New Zealand into a kiwifruit republic whose interests are purely local in nature. This is not in the fine tradition of the New Zealand people, who have made major significant sacrifices over the years for the cause of peace, democracy, and economic development not only in the South Pacific but all over the world.

I wish to draw the attention of my colleagues to an article reporting the action of the New Zealand Labour Party conference, which appeared in Jane's Defence Weekly on September 17, 1988:

[From the Jane's Defence Weekly, Sept. 17, 1988]

POLITICAL QUESTIONMARK OVER ANZAC

The proposed Australian/New Zealand ANZAC class frigate programme has been thrown into confusion by a direction to the New Zealand Labour Party (NZLP) conference that the government pull out of the project.

The conference, the ruling body of the NZLP, voted overwhelmingly for New Zealand's withdrawal. It suggested instead, examination of a fleet of fisheries inspection and patrol boats as adequate for the country's needs.

Delegates said the ANZAC class ships would enable a future New Zealand Government to be "dragged back" into the trilateral Australia, New Zealand, United States (ANZUS) alliance from which New Zealand has been suspended following its 1985 refusal to permit US Navy ships to enter its port unless they are declared "nuclear free".

The ANZAC class programme is based on the acquisition by the Royal Australian Navy of eight of the frigates and four by the Royal New Zealand Navy. Wellington, however, has lately been toning down its participation to an initial buy of two ships for a fixed price of NZ$300 million at 1986 prices. This suggests Australian agreement to heavily subsidise the New Zealand purchase.

The Australian Government has gone to great lengths to emphasise the bilateral nature of the project and its potential for cost sharing to allay fears among some of its members about the potential amounts involved.

Tenders for the ANZAC class design close in January, the two contenders being West Germany's Meko 200 and the Dutch M class. They are required to have more than 70% by value Australian or New Zealand industrial input.

Even if New Zealand pulls out of the ANZAC class deal however, it will still be able to participate in the construction of the ships because of an economic relations agreement which entitles New Zealand industry to participate in major Australian projects.

If the New Zealand Government is forced to pull out of the project, as appears inevitable, costing for the RAN's frigate will rise substantially. Another direct consequence for Australia will be that of having to cater in the not-too-distant future to undertake a much more extensive naval role in the South Pacific as New Zealand's remaining, blue water capability is retired.

This will necessitate either an unplanned-for-expansion of the RAN or some revision of current proposals to orientate Australia's maritime strategy more heavily into the Indian Ocean.

It was a Labour Party conference resolution in 1982, while the party was still in opposition, which triggered the anti-US policy which saw New Zealand excluded from ANZUS, though at the time it was described as "not binding" on the Parliamentary party.

In office, however, the Lange Government was required to implement the policy and will be forced to take as much notice of the resolution on the ANZAC class.

HOUSE APPROVAL OF ROYBAL MENTAL HEALTH AND AGING PROVISIONS IN OMNIBUS DRUG INITIATIVE ACT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. ROYBAL. Mr. Speaker, today I want to applaud House approval of my provisions contained in the Omnibus Drug Initiative Act (H.R. 5210). My three provisions, supported strongly by key national mental health and aging organizations, were introduced in June as part of my mental health initiative, the Mental Health and Aging Act of 1988 (H.R. 4860).

After 1½ years of study and hearings by the Committee on Aging and work with key national mental health and aging organizations, the House's approval of my three provisions in the Omnibus Drug Initiative Act represents a major first installment toward addressing the unmet mental health needs of America's elderly, disabled and children.

By adopting my provision to set aside about 12 percent—nearly $40 million—of the mental health block grant for the elderly and 10 percent—over $30 million—for children, we can begin to assure mental health care for both of these underserved populations. One underserved population, rural Americans, will be the focus of new innovative programs resulting from a 5-percent set-aside of Mental Health Demonstration Program funds. Furthermore, with the establishment of the National Mental Health Education Program, we will finally have the vehicle to lead the battle for better mental health care in America.

We are now beginning to move beyond just talking about better mental health care for all Americans. Concrete Federal action, such as my Mental Health and Aging Act and my mental health provisions agreed to today by the House, must be taken to better protect elderly and nonelderly Americans from the devastating effects of mental disorders.

My Mental Health and Aging Act (H.R. 4860), from which these provisions came, attempts to rectify major deficiencies in Medicare, Medicaid, the mental health block grant and Federal research and training programs. This initiative shifts Medicare and Medicaid funds toward outpatient care, expands the range of Medicare and Medicaid mental health providers, substantially increases community mental health money and targets up to $100 million toward children and elderly, greatly expands consumer protection, including an enforceable consumer bill of rights, puts a higher priority on elderly mental health research and training, launches an Institute of Medicine study on quality assurance and program effectiveness and creates a National Mental Health Education Program.

Mr. Speaker, I submit a description of the three provisions adopted today as well as a detailed description of the Mental Health and Aging Act (H.R. 4860), as introduced, for insertion in the RECORD.

KEY PROVISIONS IN ROYBAL'S MENTAL HEALTH AND AGING ACT, H.R. 4860, ADOPTED IN THE HOUSE'S OMNIBUS DRUG INITIATIVE (H.R. 5210)

STATE MENTAL HEALTH BLOCK GRANT

The bill establishes and increases funding for a separate state mental health block grant, administered through the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, for the purpose of improving mental health services generally but with a special emphasis on children and elderly. Funds are to be used to develop more effective services and service delivery systems for children and the elderly and to improve access and quality assurance programs for mentally impaired childen, elderly and their families. Each State is to use (a) at least 10 percent of the amount for programs for children and (b) at least a percentage, equal to the percentage of elderly people (aged 65 and over) in a State, of the grant for the elderly. Implementation of the elderly setaside is contingent upon the total mental health grant receiving an annual appropriation of at least $260 million. The bill authorizes an expansion of the Mental Health Block Grant program by nearly $100 million in FY 1989.

RURAL MENTAL HEALTH DEMONSTRATIONS

The bill sets aside 25 percent of funding for Mental Health Demonstration Projects, funds targeted for innovative community programs, to be used to address the special mental health needs of underserved rural Americans.

NATIONAL MENTAL HEALTH EDUCATION PROGRAM

The bill establishes the National Mental Health Education Program through the National Institute on Mental Health that creates a national focus on mental health problems and mental health care. The program is to bring together public and private organizations to (a) develop better ways to provide care to people with mental health problems and to assist their familes and (b) foster and coordinate public and private research, training, and education programs relating to the cause, diagnosis and treatment of mental health problems. The program is to provide technical assistance to public and private organizations delivering mental health care and provides information (including the rights of and sources of assistance for people with mental health problems and their families) to the public and to providers. A clearinghouse on mental health research and services is established which collects information from research and treatment programs and make this information available to people with mental health problems and their families, to health care professionals and to the general public.

MENTAL HEALTH AND AGING ACT OF 1988: SUMMARY OF H.R. 4860

PURPOSE

To provide improved Medicare and Medicaid mental health benefits and to encourage the development of community based services for mentally impaired elderly persons, children and their families.

SUMMARY

America's elderly are in need of improved mental health services. Current estimates indicate that between 15 and 25 percent of Americans over the age of 65 suffer from significant mental health problems. This means that as many as 7 million elderly Americans currently need professional mental health services, but very few are receiving treatment of any kind.

Elderly persons display a wide range of mental health complaints. Depression, alcohol abuse, and the misuse of prescription drugs are serious problems, and men over the age of 75 have the highest suicide rate of any age group. Many chronically mentally disabled persons are now living into old age, and while dementia and severe cognitive impairment are increasingly prevalent, estimates indicate that as many as 30 percent of older Americans who are labeled "senile" actually have reversible, treatable conditions.

In spite of such great need, estimates indicate that as many as 80 percent of those elderly in need of mental health services fail to receive them, and elderly persons are seriously under-represented among persons receiving treatment for mental disorders. Responding to the great need of mentally impaired elderly persons for improved care and assistance, the Mental Health and Aging Act 1988 proposes the following initiatives:

Expands funding for, and encourages development of, community based services for mentally impaired elderly, children and their families.

Increases biomedical, behavioral and social research and research on prevention, treatment and services for mentally impaired elderly and their families.

Increases training of health care professionals and paraprofessionals relative to elderly mental health.

Establishes a National Mental Health Education Program.

Abolishes the Medicare lifetime limit on inpatient psychiatric hospital treatment in favor of an annual limit and expands Medicare benefits for outpatient and community based mental health services.

Requires Medicaid programs to include community based mental health services for eligible recipients.

Requires nursing homes under Medicare and Medicaid to include mental health in plans of care and to ensure access to mental health services.

Establishes Medicare mental health cost containment measures.

Creates Consumer Bill of Rights, establishes quality assurance protection and requires quality assurance and program effectiveness study.

PROVISIONS

Title I: Development of mental health services for children and elderly

(Title I is effective on October 1, 1988.)

Section 101: State Mental Health Block Grant

Establishes an expanded state mental health block grant, administered by the Secretary of Health and Human Services, for improving mental health services for children and elderly.

Funds are to be used to develop more effective services and service delivery systems for children and the elderly and to improve access and quality assurance programs for mentally impaired children, elderly and their families. Within these three populations, special attention is to be given to racial and ethnic minorities and other underserved populations. Requires States to document increased outreach and services for mentally impaired children, elderly and their families/caregivers, including those elderly living in the community or nursing homes.

Requires States receiving State Mental Health Grant funds to establish, according to regulations determined by the Secretary of Health and Human Services, an appropriate mechanism for ensuring quality of and access to services.

Requires providers and agencies providing mental health services funded under the State Mental Health Grants to comply with the provisions of the Consumer Bill of Rights.

With their allocation, States are to use (a) at least 10 percent of the grant for programs for children and (b) at least a percentage, equal to the percentage of elderly people (age 65 and over) in a State, of the grant for the elderly. Implementation of the elderly set-aside is contingent upon the total mental health grant receiving an appropriation of at least $260 million.

Authorizes an expansion of the Mental Health Block Grant program by $100 million in FY 1989, $104 million in FY 1990, and $108 million in FY 1991.

Section 102: Community Based Services Development and Coordination

Expand the current Community Support Program to encourage development and coordination of community based services and social support systems for mentally impaired elderly, rural residents and their families/caregivers. Initial grants to States are available for three years with funding up to $400,000 per year, subject to annual evaluation by the Department of Health and Human Services. Total authorized funding is $10 million split evenly between programs for the elderly and rural residents. Funds may be used to:

Develop community based services for mentally impaired elderly, rural residents and their families/caregivers, including those elderly living in the community or nursing homes.

Develop systems of coordination and cooperation among elderly health, mental health, and social service providers, including Area and State Agencies on Aging and Area and State Mental Health Administrations.

Develop programs for outreach and public education regarding the utility, availability, and barriers to elderly use of mental health services, including programs targeted to specific age cohorts and minorities.

Section 103: Training of Health Care Professionals, Allied Health Professionals, and Paraprofessionals

Increases training of health care professionals, allied health professionals, and paraprofessionals, with special attention to members of racial and ethnic minority groups, in order to improve the prevention, diagnosis, treatment, and management of mental disorders among the elderly.

Adds $4 million in FY 1989, $8 million in FY 1990, and $12 million in FY 1991 to NIMH's programs related to elderly mental health.

Adds $2 million in FY 1989, $4 million in FY 1990, and $2 million in FY 1991 to NIMH's clinical training programs for research training and research career development related to elderly mental health.

Adds $2 million in FY 1989, $4 million in FY 1990, and $6 million in FY 1991 to NIA's programs for research and clinical training and career development related to elderly mental health and psychosocial well-being.

Adds $2 million in FY 1989, $4 million in FY 1990, and $6 million in FY 1991 to AoA's grants to medical, nursing, psychology, social work, gerontology, and health administration schools and to training programs for nursing home aides and home health, homemaker, and other home care providers for training and continuing education related to elderly mental health.

Section 104: Biomedical, Behavioral and Social Research on Prevention, Treatment, and Services

Increases biomedical, behavioral and social research on prevention, treatment, and service delivery for mentally impaired elderly. The Department of Health and Human Services is required to develop a plan of prevention, treatment, and service delivery research related to elderly mental health and psychosocial well-being and to implement it through the National Institute on Aging, the National Institute of Mental Health, and the Administration on Aging.

Adds $8 million in FY 1989, $16 million in FY 1990, and $24 million in FY 1991 to NIMH research programs on elderly mental health. At least 10% of these funds are to be used for service delivery research.

Adds $4 million in FY 1989, $8 million in FY 1990, and $12 million in FY 1991 to NIA's research programs on elderly mental health and psychosocial well-being. At least 10% of these funds are to be used for service delivery research.

Adds $2 million in FY 1989, $4 million in FY 1990, and $6 million in FY 1991 to AoA's research and demonstration programs on elderly mental health.

Section 105: National Mental Health Education Program

Establishes a national program (similar to the successful National High Blood Pressure Education Program) through the National Institute on Mental Health that creates a national focus on mental health problems and mental health care.

Brings together public and private organizations to develop better ways to provide care to people with mental health problems and to assist their families.

Provides technical assistance to public and private organizations delivering mental health care and provides information (including the rights of and sources of assistance for people with mental health problems and their families) to the public and to providers.

Establishes a clearinghouse on mental health which collects information from research and treatment programs and makes this information available to people with mental health problems and their families, to health care professionals and to the general public.

Fosters and coordinates research, training, and education programs relating to the causes, diagnosis and treatment of mental health problems.

Funding is set at $1 million in FY 1989, $2 million in FY 1990, and $3 million in FY 1991.

Section 106: Institute of Medicine Study of Quality Assurance and Program Effectiveness

Requires Secretary of the Department of Health and Human Services to contract with the Institute of Medicine for a study of quality assurance and program effectiveness with respect to mental health services.

Study is to determine methods for measuring and assuring the quality and program effectiveness of mental health services and alcohol and drug abuse treatment services as provided in various settings, including psychiatric hospitals, inpatient psychiatric units in general hospitals, nursing homes, community mental health centers and other ambulatory care settings. The study is to develop recommendations to providers, program administrators, and payers (including Medicare and Medicaid).

Funding is set at $500,000 for fiscal year 1989. The study is to be completed and a report submitted to Congress within 18 months of the signing of the contract.

Section 107: Additional studies on mental health services

(Due on January 1, 1990.)

Prepaid Health Plans.—Directs the Institute of Medicine to conduct a study comparing mental health services, benefits, access, and quality under Medicare and non-Medicare prepaid health plans and in settings other than prepaid plans.

Mental Health facilities.—Directs the Secretary of Health and Human Services to conduct a study examining mechanisms for ensuring quality of and access to mental health services delivered by state and local mental health facilities and by independent providers of mental health services.

Minority Access to Community Mental Health Centers.—Directs the Secretary of Health and Human Services to conduct a study examining the representation of racial and ethnic minorities among persons receiving Community Mental Health Center Services, including current level of utilization and the level of unmet present and future need. In addition, the Secretary is to conduct demonstration projects as to how to increase minority utilization to appropriate levels.

Mental Health Manpower.—Directs the Secretary of Health and Human Services to conduct a study examining (a) the adequacy of manpower for meeting present and future mental health needs of the elderly, and (b) the optimal utilization of the various types of mental health professionals for meeting those present and future elderly mental health needs.

Minority Manpower and Training.—Directs the Secretary of Health and Human Services to conduct a study examining the adequacy of (a) manpower for meeting present and future mental health needs of ethnic and minority group elderly, and (b) opportunities for training ethnic and minority group mental health professionals.

Title 2: Medicare and Medicaid services and cost containment

Section 201: Medicare Inpatient Psychiatric Hospital Services

Reforms Medicare inpatient psychiatric hospital service benefits as follows:

Abolishes the Medicare Part A 190-day lifetime limit on inpatient treatment in psychiatric hospitals in favor of a 60-day annual limit. (The Medicare catastrophic health insurance legislation already would extend coverage of inpatient treatment in general hospitals.) Coverage may be extended based upon necessity reviews to be conducted through a mechanism determined by the Secretary of Health and Human Services in consultation with provider and consumer representatives. (Effective January 1, 1989.)

Section 202. Outpatient and Community Based Mental Health Services

Reforms Medicare and Medicaid outpatient and community based health service benefits as follows:

Changes current law so that medical management (including an initial assessment and evaluation) of psychiatric disorders is not a mental health service under Medicare Part B, is not counted toward the annual outpatient reimbursement limit and should be reimbursed as a physician service. Medical management visits are "visits of shorter duration than therapy or treatment sessions and their main purpose is to permit the attending provider to assess the patient's status, assess the Rx plan and the patient's progress and perform necessary lab tests." (As per Subcommittee on Health and the Environment, House Committee on Energy and Commerce.) (Effective January 1, 1989.)

Abolishes the 50 percent copayment requirement and the annual $250 reimbursement limit for mental health services under Medicare Part B in favor of a 20 percent copayment requirement with an annual limit of 20 covered visits. Coverage may be extended based upon necessity reviews to be conducted through a mechanism determined by the Secretary of Health and Human Services in consultation with provider and consumer representatives. (Effective January 1, 1989.)

Expands outpatient benefits under Medicare Part B to include community based mental health services as follows (Effective January 1, 1989.):

Outpatient mental health services, including psychotherapy and psychoanalysis;

Services in community mental health centers;

Directly reimburses mental health services provided by clinical psychologists, clinical social workers, and psychiatric nurse specialists (as defined in Roybal bill, H.R. 2218) subject to state laws governing clinical practice; and

Such other services as the Secretary may prescribe.

Provides for a Medicare in-home respite care benefit of up to 120 hours per year for beneficiaries with chronic physical or mental impairments. (Effective January 1, 1990.)

Requires Medicaid programs to include, on the same basis as physician services, community based mental health services (as defined above) for eligible recipients, including those in their homes or in a nursing home. (Effective January 1, 1989.)

Section 203: Definition of Institution for Mental Diseases

Clarifies the definition of an Institution for Mental Disease under Medicaid. (Effective January 1, 1989.)

Specifies that a facility may be classified as an Institution for Mental Disease (IMD) under Medicaid only under the following conditions: (1) The facility is under the jurisdiction of the State's mental health authority, or (2) the facility advertises itself as primarily specializing in the treatment of individuals with mental disease, or (3) based upon current diagnosis, less than 50 percent of all patients in the facility have a physical condition independently sufficient to require nursing home care.

Specifies that the delivery of mental health services or psychopharmacological drugs to patients with physical conditions independently sufficient to require nursing home care shall not be considered an indication that a facility is an Institution for Mental Disease (IMD) under Medicaid.

Specifies that staff persons with specialized psychiatric or psychological training shall not be considered an indication that a facility is an Institution for Mental Disease (IMD) under Medicaid.

Section 204: Requirements of Access to Mental Health Services for Nursing Home Residents

Requires access to mental health services for all nursing home patients as a condition of participation under Medicare and Medicaid (details contained in section on Conditions of Participation). (Effective with OBRA 1987.)

Section 205: Review of Nursing Home Payments Under Medicare and Medicaid

Requires the Secretary of Health and Human Services to review the levels of reimbursement for nursing home care under the Medicare and Medicaid programs to ensure that reasonable amounts are provided for the provision of mental health services as required by this Act.

Section 206: Medicare Cost Containment

Ensures cost containment under Medicare through mandatory assignment, utilization review, cost indexing, and prospective pricing. (Effective January 1, 1989.)

Requires that all providers of mental health services under Medicare Part B accept assignment for mental health services; i.e., accept Medicare reimbursement as payment in full (except for deductibles and coinsurance) for mental health services.

Clarifies that Fiscal Intermediary and Carrier Utilization review, as well as beneficiary appeal of such review, shall incorporate review of all new services provided under Medicare as a result of this Act.

Requires indexing of mental health outpatient payments based upon the average of the urban consumer price index (CPI) and the Medicare medical economic index (MEI).

Requires the Secretary of Health and Human Services, in consultation with mental health providers and consumers, to develop a prospective pricing (fee-based system) of outpatient mental health services. (Effective January 1, 1990.)

Section 207: Conditions of Participation for Medicare and Medicaid for Quality Assurance and Access Protection

Requires the Department of Health and Human Services to establish conditions of participation as follows (Effective January 1, 1990.):

All mental health providers under Medicare and Medicaid shall (a) comply with the Consumer Bill of Rights (see Bill of Rights below); (b) provide the client with written grievance procedures appropriate for all services; and (c) give in writing the services to be provided. Note: In this Act, "mental health providers" means a psychiatrist, psychologist, clinical social worker, psychiatric nurse specialist, psychiatric hospital, hospital programs (under section 1905(i), and an institution for mental diseases.

All mental health providers under Medicare and Medicaid shall have (a) the capability to identify clients who may be in need of mental health services; (b) the capability to provide such services or to make appropriate referrals for such services; and (c) the means to coordinate with other agencies, programs, and services providing mental health services or other services to the client.

All mental health providers under Medicare and Medicaid shall (a) include in their client assessments an assessment of mental health needs at a level sufficient to identify clients for whom a comprehensive mental health assessment, conducted by a mental health professional, is indicated; (b) provide or arrange for such comprehensive mental health assessment when indicated; and (c) when appropriate, include mental health services in their plans of care and discharge planning.

All mental health providers under Medicare and Medicaid shall have (a) client care processes which include a plan of care which states reasonable goals and objectives, services to be provided to meet those objectives, and outcome measures for each client served; (b) a method for periodic review of client needs and the plan of care; and (c) a statement of criteria for discharge and/or transfer to another agency, program, or service.

All health maintenance organizations or competitive medical plans providing services under Medicare and Medicaid shall provide, according to regulations determined by the Secretary of Health and Human Services, an appropriate package of mental health benefits and an appropriate mechanism for ensuring quality of and access to services provided under these benefits.

All hospitals and nursing homes providing services to chronically mentally ill individuals under Medicare and Medicaid shall have a discharge plan for all such individuals which assures that they will have a plan for mental health care and for coordination of services established prior to discharge.

Section 208. Peer Review of Mental Health Services

Clarifies that for both Medicare and Medicaid, future contracts for PRO review shall incorporate review of all new and current services provided under those programs as a result of this Act.

MENTAL HEALTH CARE CONSUMER BILL OF RIGHTS

Establishes a Mental Health Care Consumer Bill of Rights applicable to all mental health consumers and providers under Medicare, Medicaid, and the Alcohol, Drug Abuse, and Mental Health Block Grant and provides mechanisms to ensure enforcement of the following provisions:

1. The right to appropriate treatment and related services in a safe setting. The right to appropriate treatment and related services under conditions that are humane and supportive of a person's personal liberty (especially in the areas of confidentiality of a person's records), that gives respect and privacy in treatment, care, communications and all daily activities, and that permit the exercise of one's civil rights and provide assistance in doing so when assistance is needed.

2. The right to be free from physical or mental abuse, inappropriate experimentation, exploitation, corporal punishment, inappropriate seclusion and any physical or chemical restraint imposed for purposes of discipline or convenience and not required to treat the person's medical or psychological symptoms. Restraints may only be imposed, except in emergencies, to ensure physical safety and only on the written order of an appropriate mental health professional.

3. The right to an individualized, written, treatment plan (to be developed promptly after admission of client patient), the right to treatment based on this plan, the right to periodic review and reassessment of treatment related needs, and the right to appropriate revision of the treatment plan. This includes the right to any revision necessary to provide a description of mental health services that may be needed after the individual patient is discharged from a treatment program or service-related facility. This also includes the right to referral as appropriate to other providers of mental health services upon discharge.

4. The right to be informed as to whether services and treatment are covered by health insurance, medical assistance or other sources. The right to receive an itemized copy of these charges and advance notice detailing changes in services or charges. This includes the right to be promptly notified of the acceptance or denial of treatment and services and the reasons for denial, and to receive reasonable notice if treatment, care or services are to be reduced or terminated. The right to assistance to assure a smooth transition in services consistent with client welfare.

5. The right to grievance procedures if rights are violated or services are not satisfactory, including the right to an impartial grievance procedure provided for or by the program or facility.

6. The right to receive treatment, care and services from individuals who are properly trained and competent to perform their duties and in compliance with all state and local laws and regulations.

7. The right to ongoing participation, in a manner appropriate to an individual's capabilities, in the planning of one's mental health services (including the right to participate in the development and periodic revision of the plan of care described in item (3)). In addition to the right to be provided with a reasonable explanation, in terms and language appropriate to the person's cultural background and ability, the right to understand one's mental condition and general physical condition, the objectives of treatment, the nature and significant possible adverse effects of recommended treatments, and, the reasons why a particular treatment is considered appropriate in addition to any

appropriate alternative treatments, services, and types of providers of mental health services.

8. The right to refuse a mode or course of treatment, established in accordance with the treatment plan, in the absence of the individual's informed, voluntary, written consent to this particular mode or course of treatment. An exception may be made during an emergency situation if this treatment is documented by a written order of an appropriate mental health professional as necessary for the immediate safety and welfare of the individual or as permitted under applicable state law in the case of a person committed by a court to a treatment program or facility.

9. The right to be informed fully of the provider's assessment of the patient/client's condition upon request. An exception may be made if contraindicated by documentation by the mental health professional in the client record that such access would be detrimental to the individual's health. In this instance, material may then be made available to a similarly licensed health professional selected by the client and this health professional may, in the exercise of professional judgment, provide the client with access to any or all parts of this material or otherwise disclose the information contained in this material to the individual client.

10. The right, in the case of an individual admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone, mails, and to see visitors during regularly scheduled hours.

(Note: While this legislation addresses the mental health problem directly, Congressman Roybal has introduced several other bills which also address mental health needs. The "Comprehensive Alzheimer's Assistance, Research, and Education Act—CARE" (H.R. 3130) provides improved care and assistance for Alzheimer's Disease and related disorders, victims and their families. The "US Health Program Act" (H.R. 200) is a broad health care reform package which would provide catastrophic and basic health protection, including physical and mental health care, for all Americans. The "Medicare and Medicaid Catastrophic and Acute Transitional Care Act" (H.R. 1930) would better protect the income and assets of spouses of Alzheimer's victims in the Medicaid program and would provide limited respite care. The "Home Care Quality Assurance Act" (H.R. 1700) would better protect the quality of home care services provided to beneficiaries under certain federal programs. "The Medicare Long-Term Home Care Catastrophic Protection Act of 1978" (H.R. 3436/2762; introduced with Representative Pepper) would provide long-term home care protection for Medicare beneficiaries and chronically ill children.)

EIGHTH DISTRICT OF VIRGINIA, TOPS IN GIRLS' SOCCER

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. PARRIS. Mr. Speaker, the Braddock Road Cyclones, Girls' Under-19 Virginia State Champions, and the Springfield Spirit, Girls' Under-16 team, also State Champions, are both from my congressional district. Each team won their respective Eastern Regional title and went on to the finals of the National Challenge Cup recently played in Oakford, PA. Although both Virginia teams faced teams from Texas, the Cyclones were matched against the Dallas Sting and my Springfield girls played the Spirit of '72 from Plano. Springfield defeated Plano 2-0 while the Cyclones lost their lead in the second half to a fine Dallas team and were edged 2-1.

The only unfortunate aspect of the Under-19 game was the fact the Cyclones and the Sting had played their entire careers under a free substitution rule only to be placed under limited substitution in what, for most of the girls, was their final game of select competition before college. The August 18 issue of Soccer America reports,

> The game was played in energy-sapping 90-degree heat and high humidity, and Braddock Road appeared to wilt in the second half. Kinder (Bill Kinder, coach of the Dallas Sting) blamed the new seven-substitution rule employed this year by the USYSA. Once a player is removed for a substitution, for any reason, the player can't reenter the game.

According to Soccer America, Kinder said, "First, let me say it's a rule that favors the Sting, because we are fitness fanatics. But I think it is a rule that has no place in youth soccer." Coach Rick Rice of the Cyclones agreed saying, "The rule also hurt because we had two key strikers coming off injuries that required periods of rest. But no excuses, we lost to a very fine team with an outstanding record playing under the same conditions." Rice added, "I am pleased the rule has been changed so championship play in the future will not put the girls and coaches under this type of pressure."

Mr. Speaker, Coach Rick Rice and his Cyclones also have one of the finest records in the Nation. The Cyclones through the years have won the Virginia State Cup, the Eastern Region Championship, three WAGS (Washington Area Girls Soccer) Tournaments, and the 1984 International Championship at the Robbie Tournament in Toronto. It was after that tournament I had the pleasure of visiting with these girls in my office and spoke of their accomplishment on the floor of the House. By the way, 10 of coach Rice's girls have won scholarships at Division I universities and one of the Cyclones, Amanda Cromwell, a high school All-American, was one of the 23 girls in the Nation to be named this summer to the U.S. National Team.

In my 1984 speech, I suggested that girls' soccer could be included in exhibition competition at this year's Olympics with it being made an official sport in 1992. I am disappointed that girls' soccer will not be an exhibition sport next month but I understand there is still a very good possibility that an international girls' tournament will be held within the next 2 years and girls' soccer could be included in official competition at the 1992 games. I take this opportunity to commend the efforts of our Olympic officials and urge them to continue to work to include our women at the 1992 games.

At that time, all but two of the Cyclones will be seniors in college and I am confident most will be challenging for a spot on the U.S. Women's National Team. And although a few years younger than the Cyclones, we can look for an up-and-coming group of national contenders from the Springfield Spirit. In addition to this year's national title, Coach Bill Rine's girls have also compiled an envious record.

The Springfield Spirit was formed in 1982 and the original team consisted of 16 players from 7 elementary schools in the Springfield area. The current roster of 16 includes 10 of the original players representing 4 public high schools and 2 parochial high schools in my District. Their overall record prior to this summer's national playoffs was 244 wins, 13 losses and 9 ties. Seven of the Spirit players are members of the current Virginia Under-16 State Team.

I point with pride to the wonderful program we have in Northern Virginia not only for boys but also the girls as evidenced by the remarkable records these teams have compiled through the years. I also take this opportunity to pay tribute to their fine coaches, Rick Rice and Bill Rine who have set player development as their prime goal. The scholarship record of the Cyclones is certainly testimony to that goal.

Mr. Speaker, at this point I include the team rosters than the thought some of these names could appear on the roster of the U.S. National Team in 1992.

TEAM ROSTER

BRADDOCK ROAD CYCLONES—COACH: RICK RICE

Tracy Arwood, Anne Brennan, Amanda Cromwell, Tracy DiMillio, Cindy Kunihiro, Sonya McCarthy, Anne Marie McCorry, Jode Osborn, Kathy Reid, Emily Rice, Maureen Ross, Nancy Stengel, Leila Tabatabai, Rebecca Wakefield, Jennifer Warren, Malissa White.

SPRINGFIELD SPIRIT—COACH: BILL RINE

Peggy Alessi, Jon-nell Berry, Michelle Bertocchi, Julie DiRenzo, Miriam Fagan, Naomi Fagan, Krisite Kim, Theresa Korte, Wendy Lubell, Kerry Page, Lauren Reitwiesner, Erin Riddle, Andrea Sobajian, Elizabeth Verdisco, Kristyn Woodside, Lisa Zemke.

LISA COLE HELPS EXTEND THE STING DYNASTY

(By Dave Payne)

OAKFORD, PA.—There is an exclusive club of teams that have been dynasties in sports, but none compare to the consistently dominating William Kinder-coached Dallas Sting under-19 girls.

The North Texas state and Region III champion Sting, which had won four of the previous eight under-19 girls national championships, did it again July 31 with a come-from-behind 2-1 victory over the Virginia state and Region I champion Braddock Road Cyclones at the United German Hungarian Club in Oakford, near Philadelphia.

Incredibly, the win was the Sting's 900th—against only 21 defeats—since the under-19 club was formed in Dallas in 1973. The club won the first national title for under-19 women in 1980 in San Jose, and followed with championships in 1982, '85 and '87.

"It's difficult to compare this team with previous Sting teams," said Kinder, "but it is surely among the best.

"It takes luck along with being good to reach this level, and we had a little luck in our win against Braddock Road. That is one of the finest teams I can ever recall playing."

The player that made the difference for the Sting at the nationals was tenacious forward Lisa Cole, who earned all-American honors last fall as a freshman at SMU.

Cole, who scored two goals and assisted on another during a 5-1 Sting victory in the semifinals July 28 against West Region champion Scottsdale (Ariz.), scored the first goal against Braddock Road and set up the second.

"We have many fine players on this team," Kinder said, "but there is no doubt Lisa makes a big impact.

"She is a very intelligent player, and she is a great, great shooter." It was a vicious 18-yard free kick taken by Cole that led to the winning goal. Cole's shot rebounded to the right off of a Braddock Road defender, and North Carolina State-bound Alana Craft followed with a low shot into the far corner past helpless goalkeeper Maureen Ross.

Cole had at least 10 scoring chances in the match where she either barely missed or was denied by Ross.

Late in the first half, Cole rifled a free kick from the top of the box that struck the crossbar and bounced at least 20 feet straight up. A little more than one minute later, she shot the ball off the right post.

"It seemed like we were jinxed in the first half," said Cole. "But we were playing well and I felt the goals would come.

"It was a battle. Give Braddock Road credit—that is a very good team."

The Cyclones, who advanced with a come-from-behind 3-2 semifinal victory over the Region II champion St. Louis (Mo.) Norco-Pepsi Rangers, took a 1-0 lead over the Sting in the 12 minute. Cathy Reid moved up from her right back position and, from an angle, popped an 18-yard shot into the upper far corner.

Braddock Road nearly made it 2-0 at 18:14 when forward Emily Rice struck the crossbar with a 25-yard shot.

Cole scored the equalizer 12:14 into the second half with a low, 16-yard shot into the right corner.

The game was played in energy-sapping 90-degree heat and high humidity, and Braddock Road appeared to wilt in the second half. The Virginia team's only serious scoring chance in the final 45 minutes came at 86:23, when an open Jennifer Warren headed a shot over the goal.

Braddock Road defender Jode Osborn, overcome by the heat, passed out on the field with less than a minute remaining in the match.

Kinder blamed the new seven-substitution rule employed this year by the USYSA. Once a player is removed for a substitution, for any reason, the player can't re-enter the game.

"First, let me say it's a rule that favors the Sting, because we are fitness fanatics," said Kinder. "But I think it is a rule that has no place in youth soccer.

"For one thing, without free substitution, some kids aren't going to want to play because they know the rule will greatly limit their playing time.

"And, as was the situation in our game," added Kinder, referring to Osborn passing out, "we could have had a child die out there today. With the free substitution rule, the Virginia coach could have rested that girl knowing he could put her back into the game."

Several coaches at the nationals admitted that, because of the new rule, they aren't as likely to sub for their best players.

The new rule resulted in the Sting playing nearly seven minutes in the first half with only 10 players, after forward Stacey Blazo left the field in the 29th minute with an injury. Blazo returned in the 36th minute. It was when she was on the sidelines when Rice narrowly missed giving Braddock Road a 2-0 lead.

"I was happy that our game didn't go into overtime," noted Kinder. "Playing 30 more minutes in that heat and humidity with limited substitution would have been a killer—for both teams."

In the consolation game, played at the Horsham Soccer Club in Horsham, the Scottsdale Tiger Sharks prevailed 2-0 over Norco on goals by Melita Bishop and Heather Wyatt.

In the semifinals, played at the UGH Club, Virginia-bound Tracy DiMillio scored all of Braddock Road's goals during the 3-2 victory over Norco, and the Sting built a 4-0 lead in the opening 41 minutes while coasting past Scottsdale.

Shauna Putnam gave Norco a 1-0 lead over Braddock Road in the 24th minute. And, after DiMillio tied the match at 41:28, Jennifer Dykes regained the lead for Norco at 2-1, scoring with eight seconds remaining in the half. Kelly Drury was a playmaker on both Norco goals.

DiMillio equalized at 2-2 in the 57th minute on a 25-yard shot into the upper left corner, and she scored the winning goal with a perfectly placed 30-yard shot just inside the right post with 29:34 remaining.

In the other semifinal, Karen Warner opened Dallas' scoring against Scottsdale in the 20th minute off of a Cole assist. Cole scored the next two goals, and Angela Gallio scored the last two.

Scottsdale avoided a shutout when Rita Tower scored with 56 seconds remaining in the match.

SPRINGFIELD DEFENSE DOMINATES

(By Dave Payne)

OAKFORD, PA.—Scoring a goal against the Springfield (Va.) Spirit under-16 girls team is about as easy as cracking a safe.

The Spirit of '72 from Plano, Texas and the San Juan Spirits from Sacramento (Calif.) found that out in the final week of July at the finals of the under-16 girls national championships at the United German-Hungarian and Horsham soccer clubs on the outskirts of Philadelphia.

Springfield, the Virginia and Region I champion, gave little ground while defeating Plano 2-0 in the Masotto Cup final on July 30, three days after dominating San Juan 4-0 in a semifinal match.

According to Springfield coach Bill Rine, the last time his team allowed a goal was in May, during a 2-1 victory over an under-19 team in the Potomac Memorial Day Cup.

At the Region I tournament earlier in July, the Spirit went 5-0 while outscoring its opposition 24-0.

Springfield took early command in the national final against Plano at the UGH field, but the Virginia champion could not finish while out-shooting its Texas foe 13-1 during a 0-0 first half.

Finally, in the 47th minute, forward Jonnell Berry right-footed a 10-yard shot from the right side of the penalty box that blew past Plano goalkeeper Jennifer Warmack into the upper far corner.

"When I first got the ball [on a pass from Peggy Alessi], I thought about making a deep cross," Berry said. "But I decided I could beat the defender and go in for the shot, so that's what I did."

Fewer than six minutes later, Theresa Korte produced Springfield's second goal. She took a shot from eight yards that was rejected by Warmack, and she quickly followed by tapping in a four-yard shot into an open net.

Springfield's finest player in the tournament was Erin Riddle, a 5-11 forward who was a constant scoring threat. Riddle was awarded the tournament's sportsmanship award for under-16 girls.

"That was a surprise," said Riddle, one of seven Springfield girls on the under-16 Virginia state team. "winning the nationals and receiving this award has really made this a great season."

The victory over Plano raised Springfield's overall record to 251-13-9 (208-4-5 against its age group) since the team was formed in the spring of '82.

Even in defeat, Plano sweeper Julie Zorka wasn't convinced Springfield was the best team.

"I think we're just as good as they are," Zorka said. "The difference, I think, was that they wanted it more.

"We'll be seeing them again soon—in the WAGS [Washington Area Girls Soccer] Tournament in October."

The Plano team, also formed in 1982, entered the finals having won more than 340 matches in its seven seasons of existence.

In the nationals consolation played at Horsham, the Minnesota Express from St. Paul withstood a strong first-half attack by San Juan to escape with a 1-0 victory. Christy Rowe scored the goal in the 23rd minute.

In the semifinals, played at Horsham, Springfield breezed past San Juan on two goals by Riddle and one each by Berry and Miriam Fagan, and Plano edged St. Paul 2-1 on goals by J.J. Rowe and Erin Coffer. Sarah McDonald scored for the Express.

It wasn't an entirely lost week for San Juan. The California girls toured and practiced in Washington, D.C., three days prior to the nationals.

MOTHER TERESA'S MESSAGE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. HUNTER. Mr. Speaker, several weeks ago I extended an invitation to Mother Teresa to speak at a prolife vigil in Washington. She was not able to attend and sent a letter to that effect. The letter is printed below. I hope my colleagues will take her simple message to heart.

MISSIONARIES OF CHARITY,
Calcutta, August 12, 1988.

MR. DUNCAN HUNTER,
Congressman, House of Representatives,
Washington, DC.

DEAR MR. HUNTER: Thank you for your kind invitation to speak at the pro-life Vigil in Washington, DC.

You know how dear the un-born are to me. But I would not be able to come for the vigil, as I have recently been in the States and have just returned to India.

I feel the greatest destroyer of peace today is abortion, because it is a direct war; a direct killing by the mother herself of the life of God within her womb. If a mother can rid herself of her own child, then it is not surprising when nation goes against nation. The un-born in today's world is Jesus coming once again unto His own, and

His own receiving Him not. I shall pray for you and for your fellow-congressmen that you may allow God to use you more and more as instruments of His peace in the world, through protecting His life and likeness in the un-born children.

God bless you.

M. TERESA.

REDESIGNING U.S. CIRCULATING COINS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. RANGEL. Mr. Speaker, In light of the great support H.R. 3314, a bill to change the designs of U.S. circulating coins of which one reverse will have a theme of the "Bicentennial of the Constitution," has garnered in the House with more than 45 percent of its Members as cosponsors and passage in the Senate for the second time unanimously, it is my pleasure to submit for the RECORD, an editorial being published tomorrow in Coin World, the largest trade publication in the Americas. Certainly, this article will allay the fears of any of my esteemed colleagues who have not yet cosponsored this historically important and timely legislation.

[From Coin World, Sept. 21, 1988]

ANNUNZIO WAGES "DISINFORMATION" CAMPAIGN

Rarely have we seen a more blatant waste of taxpayer money and such an obvious disinformation campaign as is contained in Rep. Frank Annunzio's August "Report From Washington."

EDITORIAL

Annunzio, who chairs the House Banking Committee's Subcommittee on Consumer Affairs and Coinage, under the guise of reporting to his more than half a million constitutents in his suburban Chicago district, is conducting an opinion poll on redesign of U.S. circulating Coins.

He has certainly made no secret of his opposition to the proposals in Congress which call for coinage redesign. In fact, during the last six months Annunzio and Subcommittee Staff Director Curtis Prins have waged a relentless campaign of distortion and innuendo through press releases, floor speeches and tirades published in the Congressional Record.

So it is not all that surprising that they would attempt to create a public opinion survey designed to elicit opposition to the idea of coinage redesign. What is surprising is the level of deception and the use of taxpayer money to create, print and distribute the disinformation.

For example, intentionally laced in the comments (presented in news story format) accompanying the questions on the survey is the statement, "Other proponents of design changes would remove the national motto, "In God We Trust" from United States coins."

First, let us set the record straight. Neither S. 1776 nor H.B. 3314—the legislative proposals calling for redesign of the circulating coins—has a single word about changing or removing any of the legends on U.S. coins. Nor has a single sponsor or co-sponsor in the House or the Senate advocated such. Not a single witness before the Senate Banking Committee, when it conducted public hearings on S. 1776, advocated a change in the legends or removal of any.

Annunzio himself interjected the topic of removing the national motto from coins when he maliciously took out of context statements made by Diane Wolf, a member of the Commission of Fine Arts, as she made suggestions for simplifying medal designs for the Young Astronauts program. Even though his error has been pointed out to him, Annunzio has not had the decency to set the record straight. He seized upon the misquote concocted by the subcommittee staff and waged an intense campaign to discredit Wolf, the leading proponent of coinage redesign. And he continues to use the threat of removing the national motto as an emotional whipping boy to arouse opposition to redesign.

There are numerous other half truths and unsubstantiated statements presented as "truth" in Annunzio's comments accompanying his "poll." Among the most glaring is his observation that coin design changes occur most often "in countries with unsettled political, economic or social conditions. In stable countries, designs tend to change infrequently." Is Annunzio trying to tell us that all previous coinage design changes in the United States were a result of unstable conditions? His assertion is neither supported by the numismatic history of the United States nor in the documentation of coinage design changes in the world at large.

It's a shame that the chairman of the Subcommittee on Consumer Affairs and Coinage has chosen to deceive his constituents and the public at large. His "opinion poll" should be recognized for what it is and its results should be summarily disregarded, regardless of the tally.

Coinage redesign deserves to be discussed in an intellectually honest atmosphere on the merits of the issue. The United States of America deserves nothing less.

TRIBUTE TO THE HIPPLE CANCER RESEARCH CENTER—"THAT OTHERS MAY LIVE"

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. McEWEN. Mr. Speaker, throughout our history, the people of America have asked our Government and the private sector to join together for a common purpose when that common cause is that of providing essential services to the citizens of our country. I rise today to share with my colleagues in the Congress the unique and collaborative research efforts of the Hipple Cancer Research Center in Dayton, OH.

The Hipple Cancer Research is fighting a vigorous and enlightened battle against cancer on several fronts, supported by the communities of the Greater Miami Valley and by the Federal Government.

While four out of five of us will have personal experience of cancer, it is doubtful that any of us will escape being touched by this disease through our families and friends. Fighting cancer, then, is of primary importance to us all, and the outcome of this war is one in which we all have a vital stake.

The Cancer Center's Founding Director, Dr. Martin J. Murphy, Jr., brought the original cancer research laboratory to Dayton from Memorial Sloan-Kettering Cancer Center in 1979 when it became a part of Wright State University. It remained associated with the University's School of Medicine until 1985 when it became a free-standing, nonprofit independent cancer center, 1 of only 22 in the United States.

The Center's association with Wright State was of vital importance as it put down roots in the community. It still maintains academic ties and a productive collaboration with the University.

Since its establishment, the Cancer Center has grown, and its cancer research programs have multiplied and flourished, thanks to the Center's partnership with local communities and the Federal Government. The mission of the Cancer Center is stated simply but powerfully by the phrase "that others may live."

Mr. Speaker, the ultimate goal of cancer research is to bring knowledge gained at the laboratory bench to the patient's bedside, and center scientists are doing just that.

They pioneered the technology of cell cloning that made possible the Human Tumor Cloning Assay Program through which area physicians may call upon the Cancer Center to aid them in identifying the most effective anti-cancer drugs to prescribe for their patients. Later, other Center scientists broadened the scope of the assay by developing the technology of using glass micro-capillary tubes in which to clone patient tissue, thereby serving even more cancer patients.

There is today being used in clinical trials a hormone that regulates the production of white blood cells. It is a genespliced version of a natural substance that was identified and purified in a laboratory at the Hipple Cancer Research Center. It is especially fitting that it is being prescribed for patients in the Miami Valley for it was from the Miami Valley that the funds were contributed to support the research that led to its discovery and clinical use. In this sense, the good people of Miami Valley are reaping the fruits of their labor and generosity.

The Cancer Center pioneered the development of the nonfrozen preservation of human marrow for transplantation, a technology now used around the world, and one which was used in the treatment of radiation victims of the Chernobyl nuclear reactor accident.

Another project currently in process at the Cancer Center is that of a study of interferon and its action on cancer cells. A Center scientist has discovered the cancer cell's receptor that acts as a sort of sentry that can permit or bar entry of interferon into the cell. By way of the correct docking site or receptor, interferon enters a cell and can complete its mission—destruction of the cancer cell. The generic regulation of cancer cell receptors is the object of these investigations with the goal of making interferon more clinically useful as a powereful anti-cancer agent. This research program is funded primarily by the National Cancer Institute assisted by support from Miami Valley partners of the Cancer Center, yet another example of a productive partnership.

The National Cancer Institute is also funding the work of the Cancer Center's Drug Toxicology Laboratory which develops and standardizes assays that are used to screen investigational new anti-cancer and anti-AIDS drugs. Often these chemotherapeutic drugs cause bone marrow suppression in cancer patients leading to a life-threatening deficiency of blood cells. By testing these drugs, using technologies developed at the Cancer Center, the degree of their toxicity can be established so that these new and promising drugs may be further developed and finally released for the treatment of patients.

Also funded by the National Cancer Institute is the New Drug Discovery project. These studies, using a miniaturization of the cloning technology, are designed to identify promising new anti-cancer drugs by testing them on human cancer clones. The development of this improved methodology makes it possible to assay many more drugs for their anti-cancer properties. These newly-developed assays will shorten the length of time by 2 to 3 years between the drugs synthesis or discovery and ultimate patient usage.

Mr. Speaker, recently the Center was awarded a National Institutes of Health grant to investigate the possibilities of using monoclonal antibodies in the early detection of liver cancer. Early detection of liver cancer is especially important because if the malignancy is not found until it is in a later stage, surgical removal is not possible. In a jont venture with the Shanghai Institute of Cell Biology, antibodies will be developed that will bind with liver cancer cells, thus acting as a tool to identify the targeted cancer cells.

The Cancer Center is also concerned with the need for the private sector and Government to work together to address the problem of affordable insurance for those whose life savings would otherwise be threatened when catastrophic illness strikes. One way to do this—by far the best way—is to reduce the incidence of devestating illnesses.

The Center's cancer research programs focus on earlier detection of cancer as well as on speedier identification of the most effective drugs for its treatment. One of the Center's strategic research goals is to reduce both the frequency and severity of what is sometimes a catastrophic illness. The prospective savings of money inherent in the realization of this goal is exceeded in importance only by the reduction of human suffering.

Mr. Speaker, with voluntarism and private, corporate and foundational philanthropy joining forces with the Federal Government to pave the way for cancer researchers to find the answers to the enigma of the malignant cell, one of the Nation's primary problems is being addressed in a constructive way.

In the 9 years that the Hipple Cancer Research Center has been in operation it has grown from a single laboratory to an 18,000-square-foot facility that will have seven labs in productive operation in 1988. In September 1987 a 4,000-square-foot research laboratory wing was dedicated, and extensive renovations of existing office space into laboratories are now completed. Recruitment of talented scientific investigators and research assistants is going forward, and exciting research programs are being initiated.

The growth of Hipple Cancer Research Center and its fruitful, state-of-the-science research programs are a glowing model of what great good can be achieved by the private sector's pooling its resources with those of our Federal Government.

Mr. Speaker, the Hipple Cancer Research Center symbolizes the commitment and dedication of its founder, Dr. Marty Murphy. His caring nature and medical talents have provided the foundation by which the Center has grown. He has nurtured his associates with his vision and shared with them his sense of purpose in their fight against cancer. Dr. Murphy's leadership has given new hope to this noble endeavor.

Also, Mr. Speaker, I commend the citizens of the Greater Miami Valley and the Hipple Cancer Research Center on their vision and their dedication to their goal, "that others may live."

TRIBUTE TO THE LATE DR. RUFUS C. HARRIS

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. ROWLAND of Georgia. Mr. Speaker, with the recent passing of Dr. Rufus C. Harris at the age of 91, Georgia and the entire country lost one of the most courageous and historically significant educators of the 20th century.

Dr. Harris, a native of Monroe, GA, spent much of his adult life in Macon, GA, where he was residing at the time of his death. But during an educational career that dates back to 1923 when he became dean of the Mercer University Law School, his influence extended throughout the country and even to educators abroad.

He held the presidency of two great universities over a period of 42 years—first at Tulane from 1937 to 1960 and then at Mercer University in Macon from 1960 until his retirement in 1980. Those were years of extraordinary change and growth at both institutions. They were also tumultuous times. He was one of the South's leaders in the fight for equal educational opportunities and against efforts to stifle academic independence. He also played a national role in the development and administration of the far-reaching GI bill of rights. The fact that he served as president of countless educational organizations and received 15 honorary degrees is a measure of the respect in which he was held by his peers.

Many stories are told about how Dr. Harris stood up to powerful forces that tried to stop him from doing what he felt was right. He always dealt with such problems with courage and often with the sharp wit that never abandoned him. He was, and is, a truly unforgettable figure.

I had the privilege of meeting Dr. Harris in 1982 when I was first running for Congress. He gave me advice and encouragement at a time when I needed both. He was an inspiration to me then, and he still is today. More importantly, his lifelong commitment to quality education for all will continue to inspire the country's education community now and for many years to come.

A COMMITMENT TO COMMUNITY

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. BADHAM. Mr. Speaker, the Volunteer Center of West Orange County has recently become part of a nationwide network of volunteer organizations. Joining the ranks of more than 300 other such volunteer centers nationally, the volunteer center during the past year has served and referred more than 16,000 clients. The areas served by the volunteer center include Garden Grove, Fountain Valley, Westminster, Huntington Beach, Seal Beach, Los Alamitos, Stanton, Midway City, Rossmoor and Surfside.

The Volunteer Center of West Orange County is involved with a number of innovative services including recruitment and placement, the Salvation Army Voucher Program and Right ON,—an anti-vandalism program.

Mr. Speaker, the people of our great Nation have a proud history of neighbor helping neighbor. When an organization, such as the volunteer center, can help coordinate these efforts, it makes them all the more effective. The people of Orange County are better off thanks to the volunteer center. I ask my colleagues to join me in saluting the efforts of this group and the help it provides for the citizens of the communities it serves.

HONORING MICHAEL F. KLEIN

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. CARDIN. Mr. Speaker, a week from tonight, September 29, 1988, the Maryland New Leadership Division of State of Israel Bonds will host a tribute dinner honoring Michael F. Klein, who will receive the National Kesher Emunah Bond of Faith award.

The Bond of Faith award is the highest honor bestowed by the National New Leadership Division, and Mr. Klein is the first recipient from the State of Maryland of this coveted award.

Mr. Klein has been closely involved with the Jewish community in Baltimore for many years. As a board member of Associated Jewish Charities and Maryland AIPAC, campaign chairman of Industries and Professions, annual sponsor of the Israel Bonds Grand Ball, and many other activities, Mr. Klein has demonstrated his leadership and longstanding commitment to the State of Israel.

Mr. Klein is fortunate to have a lovely family. His wife, Lili, and his three daughters, Maria, Rachel, and Stephanie have supported him in his involvement with his community, even when his activities kept him away from home. I know that he is very proud of them, just as they are of him.

I urge my colleagues to join me in honoring Mr. Klein for his devotion to the Jewish community of Baltimore. Michael, your selfless dedication is to be admired, and serves as an example to us all. I salute you and congratulate you for an honor well deserved.

THE SENIOR CITIZENS' HALL OF FAME

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mrs. BENTLEY. Mr. Speaker, senior citizens are our greatest national treasure, and I am always willing to go out of my way to give each and every one of these special folks the recognition they so richly deserve.

Fortunately, however, I am not the only one. On September 23 the Second Annual Senior Citizens' Hall of Fame Luncheon will be held to honor those special seniors who have donated hours upon hours of their time and caring in the pursuit of charitable and volunteer activities. It will be a very special day, and I am proud to honor it here.

The Senior Citizens' Hall of Fame was itself established last year—six seniors were given posthumous awards for their outstanding contributions. This year's event is somewhat more extravagant. Fifty people have been chosen as semi-finalists. At stake is the coveted "Geri" award—a bronze-embossed statuette bearing the image of a baby's hand and an aged hand joined together. It is an award which is rapidly becoming the "Oscar'" for volunteers 65 and older, a trophy symbolizing the lofty ideals of community service and dedication to one's society. The names of all 50 semi-finalists will be published in the Hall of Fame's "Blue Book" and stored in its archives at The Johns Hopkins University.

The event has received support from all areas of the community. The Maryland Volunteer Network as well as the Governor's Volunteer Council have heaped it with well-deserved praise. The Edenwald Retirement Center as well as the Greater Baltimore Medical Center has offered financial backing as well. Press coverage is expected to be high, and tickets for the luncheon are now at a premium. Guest speakers include Cyril F. Brickfield, former president of the American Association of Retired Persons, and Dr. Matthew Tobock, former head of the Maryland Department of Aging. It should be an event to remember.

Mr. Speaker, I urge you as well as all my colleagues to salute the fine people whose hard work made this special day possible. I wish I could tell you the names of the winners and finalists, yet I myself don't even know yet. However, as far as I am concerned, when it comes to volunteers, they're all winners.

Congratulations to all these wonderful people for a job well done.

WELCOME MR. MOU-SHIH DING

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. TORRICELLI. Mr. Speaker, I rise today to welcome Mou-shih Ding, the new Republic of China representative in the United States. He arrived in the United States almost a week ago.

Representative Ding and the Republic of China both will celebrate a significant milestone on the same day next month. On October 10, Mr. Ding will celebrate his 63d birthday and the Republic of China will mark the 77th anniversary of the 1911 revolution which led to the founding of the Republic.

Mou-shih Ding comes to Washington with impressive experience and considerable expertise. He was educated at the Universite de Paris in France and has gone on to be an Ambassador to the Republic of Rwanda, to the Republic of Zaire, and to the Republic of Korea. In addition, he has served as a representative to the United Nations, Director-General of the Republic of China Government Information Office, and most recently Minister of Foreign Affairs.

I look forward to working with Representative Ding to maintain the already close and warm ties between the people of the United States and Taiwan. Although problems associated with trade and the promotion of greater democracy remain high on the agenda for discussion, the relationship between both peoples have and will continue to be firmly grounded in shared principles and a common purpose.

I wish Representative Ding, his wife, and two children the best of good health, happiness, and success as they make a new home here in Washington and celebrate twin milestones on October 10.

WALTER R. BEMIS: AN EXEMPLARY MAN FOR AN EXEMPLARY SCHOOL

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. BROOMFIELD. Mr. Speaker, last week schools across the Nation were hailed in Washington as exemplary models of what our educational institutions should strive to attain.

Several came from my congressional district in Michigan. Their leaders met President Reagan, received special honors from the Department of Education and visited my congressional office where it was a privilege for me to meet some of these award-winning teachers and principals.

Among them this year was a very special person whose life symbolizes in many ways the irreplaceable ingredients for creating a truly exemplary school.

His name is Walter R. Bemis of Troy, MI, who at 91 years old can look back on a life devoted to the thousands of young people whose lives he has touched through the exemplary school named in his honor.

Walter Bemis embarked on a career with the Troy School Disrict in 1940 as a custodian at the Poppleton Elementary School, a small, one-room building constructed in 1877.

In the 1950's, he took part in the expansion of the school and remained the custodian of Poppleton until his retirement in 1968 at the age of 70.

His good friend, Ken Lahti, who is now the principal of Bemis School, remembers his special devotion to the children and the school. Mr. Lahti, who was then a teacher at Poppleton, remembers that Mr. Bemis always seemed to have an extra sandwich for the child without one and he was at the stove every day heating the soup for lunch. That was when he wasn't repairing the plumbing, replacing window panes, and fixing the clocks.

Barbara Harris, one of Mr. Bemis' five children, describes his dedication with the fact that he almost never missed a day at work. He was at Poppleton for 22½ years before taking a day off to attend his mother's funeral.

Even after his official retirement, Mr. Bemis continued to work part time as a substitute custodian. In 1978, a new elementary school was built and petitions were circulated in the community by parents, students and school officials urging the school board to name the new facility the Walter R. Bemis Elementary School. In November 1978, the board agreed and dedicated the new school in his honor.

Not content to be idle in retirement, Mr. Bemis resumed working as a crossing guard at nearby Smith Middle School, a job he kept until earlier this year.

"Uncle Walt", as the children refer to him, is the special ingredient that makes Bemis Elementary School "exemplary". It is his nearly five decades of caring and special concern for the individual needs of the children at Bemis School coupled with topnotch teachers and administrators that has given it its special character.

The innovations of modern teaching are vital to providing first-rate educational opportunities for our children. But there is no substitute for the love, concern and compassion of a Walter Bemis to provide the catalyst that makes the learning process work.

At age 91, Walter Bemis is still going strong. The students, teachers and parents at Bemis School hope he continues for as long as his health and energy permit. However long that is, Bemis School will always bear the special imprint of his name and his personality and the thousands of young people who have passed through its doors will enjoy the lifelong benefits of "Uncle Walt's" unselfish love and devotion.

RAOUL WALLENBERG RECOGNITION DAY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. WEISS. Mr. Speaker, today I am introducing a joint resolution to designate October 5, 1988 as "Raoul Wallenberg Recognition

Day." I urge my colleagues to support this important effort.

Raoul Wallenberg is one of the true heroes of the modern era. In 1944, at the request of the United States War Refugee Board, Sweden sent a representative to Hungary to coordinate rescue operations for the Hungarian Jewish community, which was marked for liquidation by the Nazis. That representative was Raoul Wallenberg.

In July 1944, Wallenberg entered what Simon Wiesenthal has referred to as "the slaughterhouse that was Budapest." By that time, some 5 million European Jews had already been sent to the gas chambers while the world watched in silence. The Nazis, knowing they were losing the war, became obsessed with wiping out the remaining Jews under their control. It became the personal task of Adolf Eichmann to liquidate the Hungarian Jewish community.

Eichmann pursued this cause with a vengeance. It is ironic that Hungarian Jews, who survived longest among all the Jewish communities in Nazi Europe, were the quickest to be destroyed. In a 2-month period—from May 15 to July 8, 1944—430,000 Jews were deported from the Hungarian countryside in sealed cattle cars. Among those carried away to the gas chambers were many members of my family.

Between July 1944 and January 1945, Raoul Wallenberg accomplished what many thought was impossible. Through a combination of what has been described as "bluff, heroism and contempt for convention," Wallenberg saved the lives of 100,000 of the remaining Hungarian Jewish men, women and children. Risking his own life constantly, he distributed Swedish passports by the thousands, provided supplies and medicine to residents of the ghettos, and rescued Jews from death marches and trains bound for Nazi concentration camps.

Even as troops of the Soviet Union encircled Budapest in late 1944, Wallenberg continued his sacred work. On January 13, 1945, Wallenberg contacted the Russians to persuade them to provide supplies for the remaining Jews under his protection. Four days later, he left Budapest for a meeting with the Russian commander. On his way to the meeting, Wallenberg was taken into Soviet "protective custody." Since then, there has been no official word from Raoul Wallenberg.

After more than a decade of silence, the Soviets announced in 1957 that a prisoner named "Wallenberg" died of a heart attack in prison in 1947. This communique was signed by none other than the current President of the Soviet Union, Andrei Gromyko. However, neither a body nor a death certificate was ever produced. In fact, eyewitness accounts over the years, and as recently as December 22, 1986, indicate that this was not the case. These accounts affirm that Wallenberg is alive, and has been imprisoned in the Soviet Union since his abduction 43 years ago.

It is unclear why the Soviets have refused to allow the truth about this lost hero to be known, but it is clear that we must continue to press them until we can learn his fate. It is a supreme irony that this man who saved thousands from the cruel tyranny of the Nazis could not save himself from becoming a prisoner of tyranny.

Just as Raoul Wallenberg did not forget the Jewish people when it seemed that the rest of the world had, we must never forget Raoul Wallenberg and all that he did. In particular, the United States has a special responsibility to find out what has happened to him, as it was American sponsorship which apparently led the Soviets to erroneously believe that Wallenberg was on a spy mission in Budapest.

On October 5, 1981, the President of the United States signed a joint resolution of Congress proclaiming Raoul Wallenberg to be an honorary American citizen. It is therefore appropriate that we choose the anniversary of this day to recognize his heroic achievements, remember the brutality against which he fought, and renew our efforts to secure his freedom.

The resolution I have introduced would proclaim October 5, 1988, "Raoul Wallenberg Recognition Day." Mr. Speaker, I urge my colleagues to join me in recognizing the extraordinary achievements of this true hero by cosponsoring this resolution.

A copy of the resolution is printed below.

H.J. Res. —

Whereas in January 1944 the United States War Refugee Board asked Sweden to send a representative to Hungary to organize rescue operations for the Hungarian Jewish community which was marked for liquidation by the Nazis;

Whereas the Swedish representative, Raoul Wallenberg, through a combination of what has been described as "bluff, heroism, and a contempt for convention" waged a bold campaign in Hungary to thwart the "final solution";

Whereas in the 6 months he was in Budapest, Raoul Wallenberg managed to, directly and indirectly, save the lives of some 100,000 men, women, and children;

Whereas Raoul Wallenberg risked his own life countless times during his work, dragging Jews from trains bound for gas chambers, bringing food and blankets to those on death marches, and unflinchingly challenging Nazi authorities;

Whereas Raoul Wallenberg was taken into Soviet "protective custody" on January 13, 1945, in violation of international standards of diplomatic immunity;

Whereas Soviet officials originally denied having custody of Wallenberg, but subsequently stated that a prisoner named "Wallenberg" died in a Soviet prison on July 17, 1947;

Whereas eyewitness accounts over the years, and as recently as December 1986, indicate that Raoul Wallenberg may indeed still be alive and imprisoned in the Soviet Union;

Whereas the Soviet Union has never produced a death certificate or the remains of Raoul Wallenberg to prove that he died;

Whereas the Soviet Union, despite numerous attempts by Swedish and American officials, refuses to look into the reports that Raoul Wallenberg is still alive;

Whereas just as Raoul Wallenberg did not forget the Jewish people when it seemed that the rest of the world had forgotten, Raoul Wallenberg and all that he did for the cause of humanity must never be forgotten; and

Whereas on October 5, 1981, the President of the United States signed into law a proclamation making Raoul Wallenberg an honorary citizen of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 5, 1988, is designated as "Raoul Wallenberg Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

STEVEN COHN HONORED BY WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman EDOLPHUS "ED" TOWNS will hold their annual dinner dance at the Fleur De Lis Restaurant. This year, as part of this annual event, the caucuses have chosen to honor Attorney Steven Cohn.

Steve Cohn was born and raised in Williamsburg, NY, attending P.S. 122 and Boys High School. Steven went on to New York University for his B.A., Brooklyn Law School for a J.D., and received a master of law from New York University Law School.

Steve has been an active community and political leader for the past 15 years, having served for the past 6 years as the Democratic State Committeeman (district leader) of the 50th Assembly District (Fort Greene, Greenpoint, and Williamsburg).

Steve has been honored by many organizations, including the United Negro College Fund, North Brooklyn Development Corp., Opportunity Development Agency, and the Green Oaks Citizens Clubs, naming but a few.

Steve's district is the most ethnically and religiously diverse district in New York State. One of Steve's proudest achievements is his ability to unify all of the ethnic and religious groups in his district, having them come together on high moral ground.

Steve is a partner in the Brooklyn Heights Law firm of Goldberg and Cohn and is a member of many community organizations.

I extend my sincerest congratulations to Steve on his many accomplishments, and my best wishes for a successful and fulfilling future.

THE EMANCIPATION PROCLAMATION

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. MFUME. Mr. Speaker, on September 22, 1862, 126 years ago today, President Abraham Lincoln issued a preliminary emancipation policy statement, warning the States that comprised the Confederacy, that if they did not "return to the Union by January 1, 1863," the Union would declare all slaves of the Confederacy to be "forever free."

By January 1, 1863, the South had not given up its quest to secede from the Union, so President Lincoln issued his historic emancipation proclamation, and subsequently granted freedom to the 4 million slaves of African descent. The emancipation proclamation eventually proved to be the turning point in America's Civil War for several reasons.

First, European nations were deterred from entering the war on behalf of the Confederacy, since the war effort now focused on saving the Union and abolishing slavery. Second, the emancipation decree seriously undermined the slave labor base, which had long served as the cornerstone of the Confederate nation's agroeconomy. Confederate landowners no longer had the comfort of being able to fight on the front, while the slaves tended their fields. Last, the Union's armed forces benefited from the newly freed men. An estimated 200,000 former slaves joined the Union army and navy and helped hedge off the North's growing problem of declining enlistments. The Union continually realized the important contributions that the former slaves were making, and as the abolitionists had previously predicted, the Confederate States weakened with the loss of an estimated 500,000 slaves.

Mr. Speaker, the emancipation proclamation, not only planted the seeds for the international condemnation of slavery, but also served as the blueprint for the 13th amendment to the Constitution, which outlawed slavery once and for all in America. Lincoln duly deserves credit for his early commitment to human rights and for his dedication to a free and just union.

Many African-American and Moorish-American citizens across the country will be honoring September 22, 1988 as "Actual Freedom Day," in recognition of President Lincoln's monumental policy proclamation. Mr. Speaker, I believe that this is a fine opportunity for every American to give thanks and praise to the sacrifices that our forefathers made so that we all may live free, vote, decide our own destiny and uphold the true democratic ideals that America was founded upon.

INTRODUCTION OF THE AIDS HEALTH CARE SERVICES ACT OF 1988

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Ms. PELOSI. Mr. Speaker, I am pleased to be introducing today the AIDS Health Care Services Act of 1988. This is a companion to a bill also being introduced today by Senator ALAN CRANSTON of California. This bill and the AIDS Health Care Financing Act of 1988, which I introduced on March 10 of this year, address one of the most important questions regarding the AIDS epidemic that we face as public policymakers: How do we provide and pay for appropriate services for the increasing number of AIDS patients?

Mr. Speaker, the AIDS epidemic has forced us to look at many of the deficiencies of our present health-care system. Lack of health insurance, undercompensation by Medicaid, lack of access to and availability of nonhospital health services, and growing discrepancies between the uncompensated care loads of private and public hospitals are all serious problems challenging our national health care system. The AIDS epidemic has focused attention on all of these problems. A financial crisis in our health-care system is upon us.

Mr. Speaker, this legislation would assist communities in developing a network of services to care for AIDS patients. The needs of people with AIDS are many—from basic shelter to counseling to home health services. Unfortunately, the majority of communities throughout the country do not have adequate community-based services for AIDS patients. Consequently, many AIDS patients are needlessly hospitalized or have longer hospital stays than may be required. Other AIDS patients who require a level of care less intensive than hospital care may simply be going without it.

This legislation would provide for the formation of consortia to develop a comprehensive service delivery system for people with AIDS in regions with a significant number of AIDS cases. The consortia would include city or county health departments, community-based organizations, health-care facilities and providers, including drug abuse and mental health clinics, public and private hospitals, and home health agencies.

These consortia would be required to give priority to establishing primary health and support services, such as acute care, outpatient care, mental health, and home health services, shelter, food service and case-management. Secondary services would include hospice care, homemaker services, respite care for caregivers of people with AIDS, adult day care, childcare for children infected with HIV, transportation assistance, foster care for children infected with HIV and assistance in obtaining legal services relating to HIV infection.

Mr. Speaker, this legislation would authorize $250 million for the development of comprehensive service delivery systems for people with AIDS. Up to 15 percent of the funds would be permitted to be used to supplement Medicaid or otherwise to provide relief for uncompensated costs for inpatient hospital or nursing home care for individuals with aids or AIDS-related complex.

At least 20 percent of the funds would be required to be used for services targeted to ethnic and racial minorities. In addition, each consortium would be required to provide in its application assurances that ethnic and racial minorities will be represented in the policy-making and managerial components and that it will conduct outreach to minority communities.

Finally, this legislation would require the Secretary of Health and Human Services to conduct research focused on the delivery of services to individuals with HIV infection, including studies on the ability of the Nation's health care systems to provide services to minorities with AIDS and the extent to which the public and private sectors of society are providing care to people with AIDS, and an analysis of the most cost-effective ways to provide medical and mental health services to different populations of individuals with a spectrum of symptoms resulting from infection with the AIDS virus.

Mr. Speaker, I believe that this legislation would help correct the current gaps in our health care system and would help people with AIDS.

IMPLEMENTING THE ABANDONED HISTORIC SHIPWRECK ACT OF 1987

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. BENNETT. Mr. Speaker, earlier this year Congress passed and the President signed a bill I introduced to protect abandoned historic shipwrecks. You and others who supported this legislation deserve a great deal of credit. This landmark legislation provides for State management of important underwater historical artifacts.

I take this opportunity to bring Congress up to date on the progress of this new act, Public Law 100-298. The National Park Service has now embarked on a series of public meetings to draft guidelines to help assist the States as they assume their new responsibilities under this act. One was held this month in Washington, DC at the Anacostia National Park Substation. I commend the Park Service for moving forward with the drafting of guidelines, which were mandated by the law.

I am sure the States will do a good job with their new responsibility under the Shipwreck Act. As an example, the Park Service recently provided me with information on my home State of Florida's underwater archaeology activities. Right now, the State is conducting an archaeological survey of the 1773 Spanish Plate Fleet. The State has an ambitious agenda, which includes, among other things, the following goals: to gather archaeological and historical data on each wreck site through a field-training program in order to produce a publication for the public's benefit; to produce a promotional video document on wreck sites to be used to educate the public about Florida's underwater historical resources; to produce and print public brochures about the 1733 fleet; and, most impressively, to establish an underwater archaeological park on a famous wreck site in the Florida Keys and open it to the public. This last goal is of particular interest in that my bill specifically called for the creation of underwater historical parks.

As Shipwreck Act sponsor and as chairman of the Florida congressional delegation, I was glad to hear this news, which shows that States such as Florida are now moving forward with less inhibitions than in the past on underwater archaeology. This is a direct result of the Shipwreck Act, which took historic shipwrecks out from the clutches of admiralty court, which is geared toward bringing everything up, and gave it to the States, who with their very local nature are in a better position to manage historical wrecks with an eye toward preservation, rather than bank deposits. States are also better able to deal with the conflicting interest groups interested in sunken shipwrecks, such as archaeologists, divers, and private-risk treasure salvors.

So, I am encouraged by what has happened so far under the act. I again want to commend you, Mr. Speaker, and others who backed this legislation from the beginning. We should all take pride in the fact that we passed a good law that will preserve important artifacts for future generations of Americans to enjoy.

At this point, I submit for the CONGRESSIONAL RECORD a copy of the statement I delivered at the recently-held National Park Service meeting which I mentioned earlier in this statement.

STATEMENT OF U.S. REPRESENTATIVE CHARLES E. BENNETT, NATIONAL PARK SERVICE PUBLIC MEETING ON GUIDELINES TO ASSIST STATES IN DRAFTING HISTORIC SHIPWRECK LAWS

It is a pleasure to be here tonight, and I commend the National Park Service for so quickly moving forward with its mandate under the Abandoned Historic Shipwreck Act of 1987 to draft guidelines to assist the states in their new responsibilities under this law.

Numerous states already have functioning historic shipwreck laws. My own state of Florida has its own law, but until the passage of this act, such laws were very much under clouds. Now, with the act, state laws, whether enacted before or after the national act, will be effective to deal with the abandoned historic shipwrecks in state waters.

Now that the clouds have been lifted from over the states, some may want to revise their laws, some may be in the process of drafting laws for the first time. As someone who believes in the shifting of responsibilities to the states, this doesn't worry me. States, by their very local nature, are in the best position to deal with the competing interests involved in abandoned historic shipwrecks.

As the House sponsor of this legislation and someone who has struggled with this legislation for nearly a decade, I know the volatility involved among those "competing interests" of which I speak. A number of accusations have been made against this legislation, some ludicrous, some reasonable. I've heard just about every inaccuracy about this legislation, ranging from letters stating it would outlaw allsalvage operations to letters stating it would prohibit people from using metal detectors on beaches.

As the sponsor of this legislation, I would like to touch on some of the concerns expressed about this bill and to urge the National Park Service to keep these concerns in mind while drafting guidelines.

First, the one concern most expressed has been that this national legislation would hurt the interests of divers. I and others have argued that without this national legislation there may eventually be no more historic shipwrecks on which to dive. True sport divers have a vested interest in having states step in and protect historic shipwrecks from overzealous treasure salvors.

And what of the states? Let's be realistic, sport diving is a great source of tourism to states. What motive does a state like Florida have in being overly burdensome to divers? Of course states should have some leeway to regulate sport divers, both for their safety and the safety of the wrecks. But to think states will enact onerous laws against sport divers is absurd. If just doesn't make sense from a state's monetary standpoint.

In any event, I would hope that in drafting guidelines, the National Park Service will speak clearly and urge states to provide the wide ranging access to sport divers envisioned by this legislation.

As guidelines are being developed, let us not overlook treasure salvors. Throughout the years dealing with this legislation, I and others have been accused of a number of things, including being opposed to treasure salvors. In fact, I was once misquoted in a magazine as saying, "All salvors are looters." Of course, that is ridiculous, as are most generalizations. Yes, some sport divers are overzealous, but some preservationists and archaeologists are overzealous as well. The trick is to balance the interests to insure that important historical artifacts are protected, while allowing for private entrepreneurs to operate and, yes, make profit. There's no question that some private treasure salvors have made possible many of the great finds and have aided greatly in the effort to preserve national history. Those are the salvors I focus on now, and I hope the National Park Service will deal in a fair, realistic manner on the issue of private salvors who seek to make a fair living and are not intent on destroying artifacts and plundering our history.

This isn't a matter of one side being right and one being wrong. Few things in life are that clear. The National Park Service can play a key role in developing meaningful state legislation that deals with the competing interest groups in an evenhanded way.

Before I close, I would like to point out the section in the act dealing with underwater historical parks. I handwrote that section about two years ago as an addition to the bill, and I hope it will be addressed in the National Park Service's guidelines. We must set aside historical parks underwater, just as we have done on dry land, so people can look back at the people who sailed our national waters, in some cases even before there was an America.

British Prime Minister Winston Churchill once said: "The longer we can look back, the farther we can look ahead." That rings as true today as it did when the great Churchill walked the earth. There has been a great renaissance in our country of people caring about the past and seeking to preserve it. That's great. Indeed, this bill was passed to assist in that, from an underwater perspective. But, to reiterate, it was not passed to destroy private risk capitalists, nor was it designed to hinder legitimate sport divers.

Again, I express my thanks for the Park Service promptly scheduling public meetings on this issue. I have confidence the Park Service will do an admirable job. We recently passed the 72nd anniversary of the National Park Service, the greatest national park administration in the entire world. I have had a long association with the Park Service, a very positive one. I have faith that the guidelines brought forthwith will prove valuable to the states as they go about taking over the responsibility of overseeing abandoned historic shipwrecks in their waters. Abandoned Historic Shipwrecks are portals to a day gone by and to rich knowledge that will be helpful to our future.

NATIONAL ADVISORY COMMITTEE ON SEMICONDUCTORS

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. VALENTINE. Mr. Speaker, it is generally recognized that semiconductor manufacturing is one of the most important industries to the competitive posture of the United States. This is true for both advanced defense systems, which are highly dependent upon the availability of leading edge semiconductor devices, and commercial fields, in such areas as computers, transportation, medical equipment, and automated manufacturing processes.

Because of the semiconductor industry's significance to a strong economy and because of intense international competition that has had adverse consequences for the U.S. semiconductor industry, numerous steps have been initiated to strengthen the competitive posture of the American semiconductor industry. Most prominent among these is Sematech, a joint industry government consortium to enhance semiconductor manufacturing technology.

It is estimated that the Federal Government spends in excess of $500 million a year in semiconductor-related research and development and that the commercial industry spends over five times as much. Despite these high levels of spending, Federal and private efforts are not fully coordinated, either within the Federal Government or between the public and private sectors.

The development of a national strategy to improve coordination of research and development efforts and increase the level of cooperative research and development is needed if we hope to restore the competitiveness of the U.S. semiconductor industry.

At the heart of any overall national strategy to reviving this key industry should be an independent advisory body to assimilate data and monitor the competitiveness of the industry. This body could identify technical areas where the industry is deficient relative to international competition, identify new or emerging technologies that will impact national defense and commercial competitiveness, or both, and develop strategies, tactics, and plans to enhance U.S. semiconductor leadership.

While Sematech addresses semiconductor manufacturing technology, it does not address or identify, at least directly, the components of an overall national strategy. Thus, the National Advisory Committee on Semiconductors, as contained in Public Law 100–418, has been created in order to obtain greater efficiency in the application of both public and private funds for semiconductor research and development.

In order to assure credibility, NACS has been created with a majority of nongovernmental members and with the authority to carry out its information acquisition functions with a private staff. This arrangement is essential to obtaining the competence levels required and to acquiring the necessary information. The staff support function for the NACS can and should be provided by an organization such as the Semiconductor Research Corporation, which exists as an industry-government cooperative effort and which already is collecting some portion of the information required by NACS. This type of organizational approach would provide the possibility of shared industry-government funding such as that which exists with Sematech.

Mr. Speaker, the composition of NACS is critical to its success. I hope that the White House will solicit recommendations from such trade associations as the Semiconductor Industry Association, the American Electronics Association, or other associations or individuals that have a strong interest in an effective advisory committee.

The committee will, as prescribed in the law, acquire and analyze information, carry out assessments, and provide reports and recommendations to the Congress and the President. The development of strategies in the various technologies, as well as for the overall national effort by the appropriate government agencies and industry organizations, is the most important function.

An additional role is that of a clearinghouse for information on the industry and technology. The availability of credible information of this type is also an important priority. The focus will be on rationalization of research and development, not on issues such as taxes, trade, or industry structure.

Mr. Speaker, this activity should be viewed as a modern test case for industry-government cooperation in restoring and maintaining a technological capability that is important to the Nation. The National Advisory Committee on Semiconductors will not be a government committee telling the industry what to do nor will it be an industry committee telling the Government what to do. Instead, it is a partnership that will attempt to address a critical national priority.

SANCTIONS AGAINST SOUTH AFRICA

HON. BEAU BOULTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. BOULTER. Mr. Speaker, as the debate continues regarding comprehensive sanctions against South Africa, the effects on American jobs and companies should be considered.

The following is an analysis from Shell Oil Co., of the effect that H.R. 1580, the South African divestment bill—so-called the Anti-Apartheid Amendment Act of 1988—would have on U.S. jobs and American energy products.

SHELL OIL REPORT ON H.R. 1580

"Shell Oil Company is firmly opposed to apartheid, and shares the desire to end such a repugnant system. Shell Oil Company, incorporated in the U.S., neither controls the existence nor the activities of Shell of South Africa. Shell Oil Company and its subsidiary companies genuinely are separate and autonomous corporations, operated and managed independently from other companies in the Royal Dutch/Shell Group. Shell Oil Company has no investments, operations or employees in South Africa. To assume that it is Shell Oil Company's decision to disinvest in Shell South Africa is completely wrong. Shell Oil Company has no control over the decisions of its shareholders.

"Shell Oil Company firmly believes that if H.R. 1580 is allowed to pass as written, including the provisions of Section 3, there would be a potentially large negative impact on Shell Oil, but, more importantly, on the U.S. economy.

"We have carefully examined the potential impact of this bill on Shell and the U.S. economy. The resulting negative impacts include loss of American jobs, foregone or delayed energy development and lost revenue to the U.S. Government.

"LOSS OF AMERICAN JOBS

"If H.R. 1580 is allowed to pass as written and Shell, BP, and Total are prohibited from bidding on new leases, 700 jobs would immediately be eliminate within Shell with the long-term potential of 1,700 Shell jobs being permanently eliminated. Further, 2,100 jobs within the oil and gas service sector would be ultimately lost. Employment outside the industry in the retail, wholesale and manufacturing businesses that provide goods and services to the employees of the oil and gas industry would be eventually reduced by 6,600 jobs. Altogether, nearly 11,000 jobs would be lost in the U.S. economy over an 11 year time period.

"The immediate job loss of 700 Shell Oil employees are Exploration and Land Department employees that are involved in exploring currently unleased Federal acreage in preparation for future lease sales, plus additional staff service employees that support these employees. If a prohibition on bidding is enacted, these employees would not be required since their primary job is to define and assess the exploration potential of unleased acreage in the offshore. The longer term reduction of 1,700 Shell employees includes additional Production Department employees and their related staff service employees that would be involved in the drilling of wildcat wells on leases that would have been acquired in Future Federal lease sales and the follow-up development and production of the future discoveries on these new leases.

"A factor of 1.3 was used in offshore Federal waters to gross up the Shell Oil impact to include BP and Total. This factor was based on the observation that BP and Total acquired 30% of the acreage that Shell Oil acquired in the 1986 and 1987 lease sales in the Gulf of Mexico. We believe that BP and Total's exploration activity is negligible on Federal Onshore acreage.

"Staff reductions in the oil and gas service sector were set at 95% of the projected reductions in oil and gas company employment. This percentage was based on an analysis of the relative magnitude of employment between the oil and gas service sector and oil and gas companies that was included in the 1987 National Petroleum Council Report on Factors Affecting U.S. Energy Outlook.

"Staff reductions of 3.05 times the reduction in oil and gas company employment were premised for the portion of the economy outside the industry in the retail, wholesale, and manufacturing businesses that provide goods and services to the employees of oil and gas companies, oil and gas service companies, and to other indirect employees. This factor was based on studies by Professor Moroney of Texas A&M University which indicated that 4 jobs in the Texas economy, including the oil and gas service sector, were required to support each oil and gas employee ("The Texas Severance Tax Model", report published by the Texas Mid-Continent Oil and Gas Association, 1985).

FOREGONE OR DELAYED ENERGY DEVELOPMENT

"Shell's approach to exploration for offshore oil and gas provides data and geological interpretations which are unique and which are unlikely to be soon replicated by competitors. This unique approach includes the use of Shell's own state-of-the-art seismic vessels for data collection. Data are then processed by Shell Oil at our own computer facility, one of the largest and most sophisticated privately held facilities in the world where 2 Cray supercomputers are currently used to process a portion of this propriety data. The information thus provided enables Shell Oil to identify and bid on a large number of tracts which appear uninteresting to others who do not have access to the same data and interpretations. In the event Section 3 of H.R. 1580 is enacted, leases which would have been acquired by Shell Oil based on these unique data and interpretations, and the resulting oil and gas discoveries, would not be developed for the nation's energy requirements, or at least would be significantly delayed.

LOST REVENUES TO THE U.S. GOVERNMENT

"In the five Federal lease sales held in 1987 and to date in 1988, Shell Oil acting alone, or as leader of various bidding groups, bid on 692 tracts of the 1,933 tracts receiving bids. Shell was awarded 597 of these tracts (32% of the total 1,859 tracts awarded to industry). Of these, 454 (or 76%) accepted high bids were on tracts on which Shell bid but did not have any opposition. The 454 tracts awarded on which Shell Oil bid unopposed, amounted to 24 percent of the total tracts awarded to industry. Consequently, in future offshore Federal lease sales, we believe that industry exploration on as much as 24 percent of the acreage, which would have been conducted by Shell Oil, would be at least delayed or possibly foregone forever.

"Eliminating Shell Oil's share of uncontested bids and reducing Shell Oil's bids on contested leases to the level bid of the next highest bidder, would have reduced government receipts by $350 million or 24% of the $1.48 billion spent by the entire industry for the five lease sales held in 1987 and to date in 1988. Projecting this behavior into the future, we estimate that Section 3 of H.R. 1580 would reduce lease bonuses paid to the Federal Government by as much as $2.1 billion in approximately eleven years. The revenue loss from royalty payments, from these leases would result in a reduction of $400 million by the end of this same period. The total loss to the Federal Government would be $2.5 billion.

In summary, imposing a leasing ban on American corporations like Shell Oil, which have no control over South African companies is unfair. Endorsing Section 3 of H.R. 1580 would only jeopardize employment among Americans who work for Shell and other companies, reduce U.S. revenues and damage U.S. energy security. Section 3 of H.R. 1580 must be deleted."

Mr. Speaker, apartheid must be and is opposed, but so must comprehensive sanctions which will not only cause massive black unemployment in South Africa, but also cause the loss of thousands of American jobs.

WEST VIRIGINIA'S OLD COAL MINING TOWNS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. RAHALL. Mr. Speaker, we in West Virginia are very proud of our coal mining heritage and are anxious to let the rest of the world in on "America's Best-Kept Secret." Ever since John Sayles' movie "Matewan" hit the theaters last year, people all over the country have been coming to West Virginia to see what remains of the glory days of the coal industry. And we are very happy to share tales of days gone by with visitors to our State.

I have been very active legislatively to preserve this rich coal mining heritage. I am working to enact legislation to set up something of a Coal Heritage Trail throughout southern West Virginia where tourists and locals alike can view the preserved majesty of coal's heyday.

In last Thursday's Washington Times, the "Washington Weekend" section carried a feature on West Virginia's old coal mining towns which I would like to share with my colleages:

GHOST TOWNS

(By Cindy Spitzer and A.R. Hogan)

NEW RIVER GORGE, WV—Forget the Hollywood images of lonesome tumbleweeds rolling down deserted streets, past abandoned saloons and Wild West hotels once crowded with prospectors, gunslingers and cardsharps.

Forget the sagebrush, put on your walking shoes and discover another brand of ghost town just six hours' drive from Washington.

Here, amid the lush Appalachian forest, the stouthearted and the curious can ferret out bits and pieces of disintegrating coal-mining towns where more than 10,000 miners, lumberjacks and railroaders once turned New River Gorge into a steaming, churning, smoking hub of industry and commerce.

You won't find towns such as Rush Run, Fire Creek, Caperton, Red Ash and Kaymoor on crisp, new highway maps. But from the faded topographical maps of the early 1900s emerges a forgotten story.

"The human history, the drama, is intriguing," says Ranger Don Kodak of New River Gorge National River. "Real people worked here and lived here and died here. It's facinating to piece it together."

More than 10,000 years after American Indians first traveled the world's second-oldest river (after the Nile), English explorer Abraham Woods stumbled upon the north-flowing waterway in the mid-1600s and delared it "new."

The New River's mile-wide, 25-mile-long rugged gorge remained nearly impenetrable until the area's "smokeless" coal was uncovered and the railroad arrived in the late 1800s. Then, everything changed.

In its prime, New River Gorge bustled with activity. Entrepreneurs hired European immigrants and Southern blacks to lay track, mine coal and fell thousands of acres of timber. Trains crisscrossed the sandstone gorge as milelong banks of beehive coke ovens purified coal into industrial fuel. Henry Ford often came by special train to check on the coke bound for distant steel mills that supplied his auto plants.

Day and night, coal-burning trains and coke ovens spewed soot and sulfur gas into the humid air above the boomtowns. Hundreds of men died in explosions, caveins and gunfights.

Indeed, Matt Dillon and Miss Kitty of "Gunsmoke" fame would have felt quite at home in Thurmond, then "the Dodge City of the East."

"The only difference between hell and Thurmond was that a river ran through Thurmond," the saying went. "Miners came over by railroad to the Dunglen Hotel," explains District Ranger Lizzie Watts. "They'd come over for a drink, gamble for a while, pickup a prostitute and generally do whatever they wanted."

From the hotel's opening in 1901 until West Virginia prohibition tamed the place in 1914, liquor poured around the clock and the stakes ran as high as $50,000 in a nonstop poker game that lasted 14 years. The 100-room hotel hosted many political meetings, fancy balls and social events before an arsonist's torch destroyed the lavish 4½-story establishment in 1930.

Alongside New River, the Chesapeake & Ohio Railroad's main line served as Main Street in Thurmond, America's only streetless town.

With a population of about 500 in its heyday, Thurmond boasted two banks, six saloons, two drugstores, a wholesale meat distributor, two jewelry stores, five coal-selling agencies, two movie theaters, frequent cockfights, two hotels, dry goods and grocery stores, brothels, a telephone exchange, a telegraph office, a newspaper, a school and even a couple of churches.

As many as 20 passenger trains a day arrived with "fresh supplies of women, whiskey and cards," old-timers said, as well as same-day editions of Cincinnati and Richmond newspapers. In 1910, just seven years after its incorporation, Thurmond shipped more than 4 million tons of "black diamonds" and lumber worth $5 million—almost triple the freight revenue of Cincinnati and Richmond combined.

Rumors have it that William Holland, an eccentric coal operator and engineer, buried thousands of dollars worth of gold coins and bank notes near his home in Nuttalburg, about seven miles from Thurmond. After Mr. Holland's death in 1918, a man accidentally unearthed a jar of gold coins from the greenhouse. Later, five carpenters dug up $21,000 worth of gold and bank notes from the cellar and grounds, inciting years of legal action, wild speculation and a bit of gold fever.

But not everyone got rich in New River Gorge. Laborers were paid in company script, housing was company-owned and company stores promoted perpetual debt.

Murder was no novelty.

Corpses floated in the river or were found eviscerated on the tracks. "A dead man was found in the river with $80, a watch, a pistol," according to historian Kyle McCormick. "He was fined the money and the watch for carrying a weapon and buried in the local potter's field."

As coal ran out and the United States switched to oil, the coal industry and its bustling towns withered away. By the Great Depression of the 1930s, most mines had closed and salvagers had dismantled many houses and stores. Some desperate people took up residence inside the igloolike coke ovens.

Today, about 80 old-timers and rafting-company workers keep Thurmond from outright extinction. The fossil-like shell of a decayed dry goods store, an abandoned passenger depot and a vacant engine house linger in the rapidly regrowing vegetation.

C&O freight trains still roar through town many times daily, and Amtrak stops three times a week. "You don't even hear the trains," says Mrs. Jackie Pugh, owner of The Banker's Club restaurant and hotel, where travelers can still get a taste of the past. "When they don't run for a few hours, the silence is deafening. You really miss the noise."

Downriver from Thurmond, the town where John Sayles shot his coal-wars film "Matewan" in 1986, the rapidly regrowing forest has reclaimed mining towns such as Sewell, Beury and Kaymoor—the gorge's true ghost towns. Unlike the arid West, oppressive heat and humidity, verdant vegetation and harsh winters have quickly decomposed most of the cheap wooden structures.

"Towns like Sewell were still lived in 30 years ago, and now they look like a setting for a jungle movie, the woods have come back so much," says Ed Maguire, a director of the state's branch of the Nature Conservancy. "You can look at them as outdoor museums, in a lot prettier setting than those sparse desert ghost towns out West.

"It's fun to go down there and explore for the old remains and guess what they may have been, and say, 'Do you think this was a house or a church?' " Mr. Maguire says.

Sewell's crumbling coke ovens, a dozen old foundations and some stone walls can be reached by a long, narrow road down Manns Creek Canyon in Babcock State Park.

Nearby, only the cement foundation remains of the beautiful 23-room Joseph Beury mansion, which boasted a greenhouse, swimming pool and stables. But, as when the original coal baron's family lived there, a brook still flows underneath. An arsonist burned the place down in the late 1940s.

For decades, a lone, elderly woman named Melciny Fields lived with no electricity, plumbing or neighbors in the jumble of broken boards, discarded bottles and crumbling stone walls that in better times had been Beury's company store. When winter winds blew, she'd dip quilts in the icy river and tack up the frozen blankets for shelter. Railroad men regularly left coal and food by the tracks until she died in 1982.

The gorge's last working coal mine, in Kaymoor, closed in 1963. Along Kaymoor Trail, hikers can see the fenced-off, crumbling remains of stone buildings. Fallen mine entrances nearby are now safeguarded with metal "bat gates" to keep people out but let the flying mammals come and go.

"It's a great area for exploring," says Gary Worthington of the West Virginia Scenic Trails Association. "Occasionally you'll see a scar on the mountain indicating there was some sort of lift or tipple in the area, and garbage dumps indicating that there were settlements nearby.

"To get the flavor of what once was there, it's good to spend an evening or two camping and poking around the old ruins," he says, "hooting up owls in the evening and gobbling for turkeys in the early morning."

The National Park Service plans to add more trails, visitors' centers and perhaps a scenic railway and exhibition coal mine (the nearest one now is in Beckley).

"In five or 10 years, this will be a place people will want to go to just as much as Yellowstone [National Park], and it's perceived as more accessible," says Tom Dragan, who has run Wildwater Expeditions

Unlimited in Thurmond with his two brothers since the late 1960s.

The 3,000-foot-long New River Gorge Bridge—the world's longest single steel arch, 876 feet above the river near Fayetteville—makes getting into the gorge easier, along with last month's completion of Interstate 64.

In addition to exploring ghost towns, visitors to the "Grand Canyon of the East" can fish for small-mouth bass and trout, hike the lush wilderness, spend a few nights under the stars or at the charming Banker's Club, go rock climbing, horseback riding or white-water rafting.

In fact, Wildwater Expeditions Unlimited of Thurmond offers daylong historical trips down the New River in winter and early spring, when leaves don't obscure the view. The 26-foot motorized launch makes seven stops along the way for exploring, picture-taking and lunch.

"No matter who comes to New River Gorge, everybody finds something they like and can relate to, even the people who got talked into it or dragged into it," says Tom Dragan. "By the end of the day, everyone has found something to be attracted to—the river, the scenery, the history, the changes in the gorge."

But, with nature rapidly reclaiming these ghost towns, you'd better hurry, says Tom's brother, Jon Dragan. "In another five years there won't be anything left. You'll be standing there with a history book in your hand, saying, 'This is where X was, and pointing to nothing.'"

TRIBUTE TO JUDGE JAMES STEPHEN SFEKAS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mrs. BENTLEY. Mr. Speaker, it is with great honor and respect that I salute Judge James Stephen Sfekas of the Circuit Court of Baltimore County upon the occasion of his retirement after 8 years of service to the citizens of Maryland. I have known Jim for a long time, and he has always shown himself to be a man of rare character and experience. He is a gentleman's gentleman, one whose many past accomplishments are quite reflective of all the goodness and civic virtue he possesses. I am proud to salute him here.

A graduate of Baltimore City College, the Johns Hopkins University, and the University of Maryland Law School, Jim Sfekas initially postponed his legal career. Instead he served 5 years in the U.S. Army during World War II, commanding an airborne battery in France. When he returned he became active in a variety of civic, church, and community affairs. His knowledge of Greek landed him the responsibility of official interpreter of that language in Maryland and U.S. district courts, a position he held for some 30 years.

In 1956 Jim served in the Baltimore City Solicitor's Office; 3 years later he became special attorney for the State roads commission. In 1971 he became administrative special attorney for the Department of Transportation of the State of Maryland. He held this post until 1977, when he was wisely appointed judge of the District Court of Maryland for Baltimore County. His impressive display of jurisprudence led to his circuit court appointment 3 years later.

Mr. Speaker, the State of Maryland is most certainly a better place today as a result of Jim Sfekas' contributions. His wisdom and concern for the community will certainly be missed by all with whom he has worked over the years. I hope that whoever takes his place will take heed of his fine example and profit by it, for his are indeed very big shoes to fill.

To Jim's wife, Litsa, and their children, Stephen, Constantine, and Carole, I send my very best wishes and warmest regards during this special time for them. To Jim himself I have one special message: God bless you, Judge, and congratulations for a job well done.

THE SITUATION IN BURUNDI

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. WEISS. Mr. Speaker, the world was appalled by the brutal events that took place in Burundi in mid-August. Although exact figures have not yet been provided, it is clear that at least 5,000 and perhaps as many as 20,000 people are dead, thousands are internally displaced, and over 50,000 have fled into neighboring Rwanda.

Although the facts are still sketchy, the fighting reportedly began when the Hutu, fearing a massacre was being planned against them, attacked Tutsi citizens in the northern localities of Marangara and Ntega. However, the majority of the casualties were caused by Government troops, which are predominantly Tutsi, who used lethal force, often against unarmed civilians, in attempting to quell the disturbances. Refugees in Rwanda have reported that the military used machineguns and helicopters to slaughter whole villages full of Hutu, many of whom were women and children.

We still do not know what triggered the outbreak of violence, or the specifics as to how the military responded to the situation. What we do know is that a tragedy of catastrophic proportions occurred in Burundi last month, in which thousands died, and many more were left homeless. It is important for the world to find out what happened in Burundi in August, and to work to ensure that it will not be repeated in the future.

What makes the situation even more disturbing is that this is not the first time that an incident like this has occurred in Burundi. Sixteen years ago, the Government, in a response to a coup attempt by Hutu, sanctioned mass reprisals by the army against the Hutu. According to Rene Lemarchand in his study, "Selective Genocide in Burundi," the army "transformed itself into a genocidal-type operation aiming at the physical liquidation of nearly every educated or semieducated Hutu," which left an estimated 100,000 Hutu dead and an additional 150,000 Hutu as refugees in neighboring states. Subsequently, the Government put in place a system in which, as Lemarchand describes, only "Tutsi were qualified to gain access to power, influence and wealth and what [was] left of Hutu society [was] systematically excluded from the army, the civil service, the university and secondary schools."

The international response to that horrifying massacre was absolute silence. There were no protests launched by the Organization of African Unity, or the United Nations. Tragically, the world seemed to react with indifference to the slaughter.

Mr. Speaker, given what we now know about what happened in 1972 and 1973, I feel we have a grave responsibility to respond to, and not remain silent about the recent events in Burundi. The Government of Burundi must understand that the Congress of the United States will not respond to massive human rights violations with indifference.

That is why I am introducing a resolution on the situation in Burundi today. It is a resolution that has been prepared by my office and that of Chairman WOLPE, in consultation with both the minority and majority. We have relied on documentation and interviews with officials from the Government of Burundi, press reports, and discussions with international organizations including the U.N. High Commissioner of Refugees, the International Committee on Red Cross, the European Community, UNICEF, and other European governments.

It is a moderate resolution, in which we reserve judgment on recent events in Burundi and promise to revisit the issue in 6 months. The resolution outlines the actions which the Government of Burundi should take to investigate what happened in August, and the steps necessary to prevent the recurrence of any similar incident in the future. It is intended to encourage the tentative reforms undertaken by President Buyoya in the last year to reverse the decades of systematic ethnic discrimination against the majority Hutu.

Mr. Speaker, it is imperative that we not wait any longer to speak out. We must not let the suffering of the Burundi people be forgotten. As we have seen too often, history, once forgotten, tends to repeat itself. There is an urgent need to pressure the Government of Burundi to take the necessary steps of allowing an independent and impartial inquiry into the situation, prosecuting those responsible, and working toward long-term ethnic reconciliation. I believe that the resolution is an appropriate way to do just that. I would urge my colleagues to join me in cosponsoring this important resolution.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS TO HONOR CLEO HARRIS SMITH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman EDOLPHUS "ED" TOWNS will hold their annual dinner dance at the Fleur De Lis Restaurant. This year, as part of this annual event, the caucuses have chosen to honor Cleo Harris Smith.

Cleo is director of human services and associate director of hospital administration at Woodhull Medical and Mental Health Center in Brooklyn, NY. She joined the staff at Woodhull as the associate director of social work in psychiatry in 1983, and was promoted to her current position in early 1984.

Ms. Smith has distinguished herself as an innovative administrator whose professional expertise is sought throughout New York State for technical assistance and professional consultation in proposal writing, program development, audit preparation and as a lecturer in a diverse range of human service areas such as domestic violence, sexual assault, and child abuse.

Prior to joining the staff at Woodhull, Ms. Smith held directorships and professional positions at the East New York Mental Health Clinic, Inc., St. John's Episcopal Hospital, St. John's Episcopal Hospital Psychiatric Clinic, and Brooklyn Jewish Hospital.

As an active and involved professional, Ms. Smith is an adjunct associate professor of social work at New York University School of Social Work, holds membership on the New York University Field Advisory Board, National Association of Social Workers, the National Association of Black Social Workers, National Society for Health Manpower Education and Training [ASHET], NASW Registry of Clinical Social Workers, New York State Division for Youth (cochairperson—advisory board), Society for Hospital Social Work Director, American Hospital Association, and the Discharge Planning Association of New York, and the Alpha Kappa Alpha Sorority, Inc.

Ms. Smith, a native of Missouri, holds a B.A. degree from the University of Missouri, Columbia, MO, and a masters degree in social work from New York University.

The recipient of numerous grants and fellowships, she is a certified social worker and in recognition of her outstanding accomplishments in the field, she obtained the rank of diplomate in clinical social work in 1987.

I extend my sincerest congratulations to Cleo on her many accomplishments, and my best wishes for a successful and fulfilling future.

A RETIREMENT TRIBUTE TO DR. LEWIS H. RICHARDSON

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. MFUME. Mr. Speaker, I rise in honor of a special man, whose 35-year career as an educator and administrator, enhanced the quality of education for thousands of Baltimore City school children for two generations. Over the years, this individual's selfless commitment to public school education and to his community has earned him the respect and admiration of everyone who has ever had the pleasure of working with him.

The individual that I am referring to, Mr. Speaker, is Dr. Lewis H. Richardson, Jr. Dr. Richardson will truly be missed by his many friends and colleagues in the Baltimore City school system and also by those who know of his tireless efforts on behalf of all of Baltimore City's school children. Dr. Richardson's illustrious career witnessed a great transition in Maryland's public school history and he will long be remembered as a caring man who was always there when his experience and professional training was needed most.

Upon completing his degree requirements in education at Morgan State College, and receiving an A.B. in science and mathematics from Lincoln University, Dr. Richardson entered Baltimore City's school system in 1954 and served as a mathematics instructor at Booker T. Washington Junior High School until 1962. Dr. Richardson soon distinguished himself as an outstanding instructor and received a promotion to head the mathematics department at Lombard Junior High School from 1962–66. Dr. Richardson's success and talent as a department head earned him a challenging post as special assistant to Edmondson High School from 1966–69.

It was at Edmondson Senior High School that Dr. Richardson honed his administrative and personal skills by working closely with the faculty, students, and parents to organize and coordinate effective programs and activities for the school's community. Dr. Richardson's discipline and self motivation enabled him to complete his M.Ed. in administrative supervision from Loyola College during this time as well. Dr. Richardson later became principal of Edmondson High School and was charged with the responsibility of running a very intricate school administration.

By the early 1970's, Dr. Richardson was named an area director of secondary schools with the primary responsibility of overseeing the operations of 15 junior high schools and senior high schools. In 1973, Dr. Richardson became regional supervisor of Baltimore City School's Region 6, and served as chief administrative officer of this decentralized region which was comprised of 25 elementary, junior and senior high schools, with an approximate student population of 22,000 pupils.

Over the past 12 years, Dr. Richardson has worked very diligently in several vital areas of Baltimore City's school administration. For 7 of these years, Dr. Richardson was the deputy superintendent of the Bureau of Fiscal and Business Management, where he was responsible for the organization and development of the Division of Business Management, Fiscal Management, Personnel, Federal and State Programs. In 1983, Dr. Richardson became the deputy superintendent for school administration, where he managed and coordinated all regional activities, and provided leadership to all school facilities and regional personnel.

Presently, Dr. Richardson serves as an assistant superintendent for planning, research and evaluation. A position that only an individual of his unique qualifications could hold. One of the most remarkable things about Dr. Richardson, is the fact that he became involved in community organizations such as the NAACP, Urban League, YMCA, Ashburton Neighborhood Association and President of Forest Park Little League, during times when his professional schedule appeared that it could not accommodate much free time. Dr. Richardson has truly blessed the entire city of Baltimore with his outstanding record and will forever be looked upon as a concerned administrator/educator who sincerely had everyone's best interest at the top of his agenda.

In closing, I know that I speak for many when I say that Baltimore City will have to search long and hard to find another Lewis Richardson. Dr. Richardson is one of the few people I know who has successfully transferred his passion for learning and community involvement, into the hearts and minds of a countless number of Baltimoreans. Although Dr. Richardson is retiring from his professional administrative career, I am sure that his services shall be called upon many more times in the future to lend a helping and experienced hand.

HONORING HSIEN-LI CHANG

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Ms. PELOSI. Mr. Speaker, today I rise to give special recognition to a brave and courageous gentleman from San Francisco, Mr. Hsien-Li Chang. On September 15, 1988, Mr. Chang was 1 of 20 persons awarded the Carnegie Hero Fund Commission for risking his life to save the life of another.

Mr. Chang, a 70-year-old retired electrical engineer from San Francisco, CA, helped to rescue Walter Wiggan from a disastrous fire on January 11, 1988. Mr. Walter Wiggan, 71, lay unconscious on the floor of his burning apartment. Alerted to the fire, Mr. Chang, who lived in the same building, opened the apartment door and despite dense smoke inside, entered the apartment for Mr. Wiggan. Mr. Chang found Mr. Wiggan but was forced to retreat because of the smoke. Crawling, he then reentered the apartment several more times and pulled Mr. Wiggan closer to the door before having to retreat to the hall for air each time. Another man entered the apartment with Mr. Chang, and together they pulled Mr. Wiggan the remaining distance out. Mr. Wiggan required hospitalization for his burns and Mr. Chang sustained smoke inhalation, for which he was examined at the hospital and released.

Mr. Speaker, it is not often that we hear or learn of such unselfish and fearless acts. I would like to take this opportunity to commend Mr. Chang on his heroic attempt to save the life of his neighbor. San Francisco is fortunate to have such an outstanding citizen. I extend my warmest congratulations and best wishes to Mr. Chang for the courage he displayed in risking his life to rescue his neighbor and for recently being honored with the distinguished Carnegie Hero Fund Medal for 1988.

HISTORIC BAUERNHURST MANSION

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mrs. BENTLEY. Mr. Speaker, today it is my pleasure to salute the fine men and women who helped to save the historic Bauernhurst mansion located in Essex, MD. These are people who truly appreciate the significance of historical landmarks and sites in keeping in touch with their community's roots, and I am honored to praise them here.

Bauernhurst is a century-old house in my district which was once the summer home of a prominent Baltimore brewmaster. A few years back the house was put up for sale. When it had not been sold, plans were made to tear it down.

Concerned members of the community sprang into action. Jack Cougle, president of the Essex-Middle River Chamber of Commerce and Paul Blitz, archivist of the area's Heritage Society, launched a campaign to save the mansion. Other citizens soon joined the fight. Eventually the publicity attracted Will Gerard and Susan Boyer, who purchased the house just 1 month before it was to be destroyed. Not only did they rescue the house by buying it, they have worked day and night and weekends in the actual restoration . . . carpentry, painting, cleaning, and repairing.

On September 18 the newly restored mansion was opened to the public. Mr. Speaker, I urge all my colleagues to join me in saluting those who fought this "good fight", for it is a prime example of what a community can do when it sticks together. I wish them my most sincere best wishes and kudos for a job well done.

WOMEN'S AND MEN'S CAUCUSES FETES VICTOR R. RODRIGUEZ

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman Edolphus "Ed" Towns will hold their annual dinner-dance at the Fleur De Lis Restaurant. This year, as part of this annual event, the caucuses have chosen to honor Victor R. Rodriguez.

Victor Rodriguez, though born in Puerto Rico, was raised in the Brownsville and East New York sections of Brooklyn, in a family of four brothers and seven sisters. After attending the Brooklyn public schools, he enlisted in the U.S. Marine Corps, where he served in the Vietnam war receiving several medals for gallantry and two Purple Hearts. Following his return to the States, Victor was assigned M.P. duty at the Pentagon in Washington, DC, until his discharge in July 1970.

Mr. Rodriguez enrolled at Brooklyn College in 1971, graduating 4 years later with a B.S. in physical education. He immediately became a teacher at Thomas Jefferson High School, teaching classes to non-English-speaking students. While at Thomas Jefferson, he also coached both the junior varsity and varsity football teams for 10 years.

In 1977, Victor reenrolled in the masters program at Long Island University, receiving his M.S. in bilingual education in June of 1979. Continuing his education, Mr. Rodriguez enrolled at LIU again; this time in pursuit of a professional diploma in supervision and administration, which he received in August 1981.

In March 1982, Victor became assistant principal at PS 171, in which capacity he served for 5 years. In April 1987, he became principal of PS 159. For Victor, being a principal has been the ultimate challenge. He says that "seeing young minds blossom and youngsters grow is a joy. It is a joy because we are molding the minds and bodies of the future. A future filled with high hopes and attainable dreams."

Victor is living proof of that. I extend my sincerest congratulations to Victor on his many accomplishments, and my best wishes for a successful and fulfilling future.

MICHELLE RICONSCENTE: "THE ELKS THINK SHE'S THE TOP"

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. MOAKLEY. Mr. Speaker, I want to salute Michelle Riconscente, an outstanding young woman who has been named the most valuable student in the Nation by the Benevolent and Protective Order of Elks.

The Elks, with 1.5 million members, are the Nation's oldest and largest fraternal group. Each year they give more money for college scholarships than anybody else except the Federal Government.

Of all the scholarship winners in the country, Michelle Riconscente, a student at Coyle-Cassidy High School in Taunton, MA, was named the best.

The $20,000 Elks scholarship will send her to Brown University, for a double major in physics and music, with a minor in community service.

Michelle won awards for the highest average scores in advanced placement calculus, American studies, Latin, and geometery and the Holy Cross College book prize for "outstanding scholarship, concern for others and commitment to school and community."

The top Elks award was based on scholarship, leadership, and financial need. When the Boston Globe asked her what being a leader means to her, Michelle said: "A leader is a person who can guide people, draw on strength and not be afraid of new ideas. The toughest thing is not to be afraid of what others will think of you. You can't agree with the other kids just to be one of them."

Michelle is the sort of young person that makes us all proud. I would like to share with my colleagues the following article about her many accomplishments.

[From the Boston Globe, Aug. 14, 1988]

THE ELKS THINK SHE'S THE TOP—AND GAVE HER A $20,000 SCHOLARSHIP

(By Phyllis Coons)

NORTON.—The convention of 1988 is one that Michelle Riconscente will never forget: not the Democratic National Convention in Atlanta, but the Elks National Convention in Las Vegas. "When they told me that they chose me as number one girl in the country, I lost it. I sat down on the floor I was so ecstatic."

The Norton 17-year-old was the first in New England ever to win the $20,000 top scholarship of the Elks National Foundation as Most Valuable Student. Riconscente's award will help to send her, to Brown University for a double major in physics and music, with a minor in community service.

"Brown has first-class programs in science and the arts, and it also has some of the best volunteer programs in the country," says Riconscente, whose own record for leadership in community work was one of the three qualifications, along with scholarship and financial need, for being chosen Most Valuable student. She was one of 300 applicants for scholarships from the Foundation of the Benevolent and Protective Order of Elks in Massachusetts alone, said state scholarship chairman Arthur DiGeronimo.

The male winner was Luke Romero of Roy, Utah.

Riconscente has not always been a leader. "I was very quiet in middle school. I didn't have many friends, and I certainly was no leader, but in high school I got really interested in developing people skills." She started a chapter of Birthright, an organization that befriends pregnant teenagers, was coeditor of the literary magazine and yearbook photographer, and led drives for Toys for Tots and the homeless.

Ask Riconscente what being a leader means to her and she says: "A leader is a person who can guide people, draw on strength from the inside and from others, and not be afraid of new ideas." She credits her parochial high school for giving her the scope and support to become a leader. "The toughest thing is not to be afraid of what others will think of you. You can't agree with the other kids just to be one of them."

"The trip to the convention was the first we have ever had as a family all together," says Riconscente. Toweling her dark, curly hair as she came home from her job as janitor at her school, Coyle and Cassidy High in Taunton, she rummaged through her desk for mementoes. Flyers for the Liberace Museum in Las Vegas reminded her of a side trip when the museum guide invited her to play Liberace's favorite piano.

"I played a sonatina by Clementi and a little Christian rock that my sister and I like to play as a vocal-piano duo." Her sister, Tara, 15, brother Michael, 13, and her mother, Selma, were guests at the convention. Her mother suffers from chronic arthritis but has brought up the children since her husband left with the emotional support of her parents, Namey and Constand Haddad, and her grandmother, the late Mary Dravos.

Selma Riconscente said that when she was bedridden Michelle was incredibly cooperative and responsive. Her eldest daughter still helps as cook, yard worker and story teller at family gatherings and prayers before bedtime. She likes to tutor younger children, especially kindergarteners. "That's the time when you can do the most to encourage and build up children's attitudes," she said.

She has also helped junior Scouts work for their skills badges. Dorothy McCarthy, chief officer of the Plymouth Bay Girl Scout Council, who has known her for 10 years, wrote in her recommendation for the scholarship, "Michelle has consistently demonstrated her leadership skills, perseverance and integrity. She is a strong resilient young woman. I cherish and salute Michelle for her courage, her steadfastness and her ability."

The LaSalette Shrine Youth Group helped her to explore values and work for her beliefs. "I made a poster for my room that says 'Stand for something or you will fall for anything'. I have always been interested in working for fairness legislation, so I'd like to be an attorney. I hope that studying physics will help me to think carefully," says Riconscente, who took a physics course for high school seniors this spring at Harvard. She also took part in a science project on spectroscopy sponsored by Mount Holyoke and the Boston Museum of Science and won first prize in the regional science fair for an experiment in the electrolysis of water.

She calls herself an A and B student, but she won awards for highest average scores in AP calculus, American studies, Latin and geometry at school and the Holy Cross College book prize for "Outstanding scholarship, concern for others and commitment to school and community."

"What do I do for fun? Play the piano and make my own clothes. At Brown I'd like to work in student government. I get to vote for the first time in this country's elections this fall. I haven't made up my mind yet, but I'll vote for the strongest leader as president."

PERSONAL EXPLANATION

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. DERRICK. Mr. Speaker, this afternoon, I was unavoidably absent from the House Chamber and missed recording my vote on the final passage of H.R. 5210, the Omnibus Drug Initiative Act. Had I been present, I would have voted "yea" on rollcall 332.

TRIBUTE TO PHIL AND THELMA VOGEL

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. FROST. Mr. Speaker, the recent crash of a Delta Airlines flight at the Dallas-Fort Worth International Airport tragically ended the lives of Phil and Thelma Vogel. The Vogels were leading citizens in Dallas who were active in the professional, cultural, civic, and religious life of the city. They will be missed.

Jay Fahn wrote a tribute to the Vogels which appeared in the Dallas Times Herald. I believe that it will give my colleagues a sense of the many contributions made by Phil and Thelma to the lives of those around them.

The article follows:

[From the Dallas Times Herald, Sept. 18, 1988]

VOGELS ALWAYS WORKED FOR A BETTER WORLD

(By Jay Fahn)

I flew to Dallas in early September to help bury Phil and Thelma Vogel. I say "help" because there were more than 2,000 people at the funeral. The Vogels were on board Delta flight 1141.

Phil and Thelma were a second set of parents to my older brother and me. We grew up with their two sons. Our parents shared a garden duplex in post World War II Dallas, and the friendship was forged in those years when our fathers were starting careers and families.

Phil and Thelma Vogel arrived in Dallas with two infant sons in September, 1948. There was no one at the airport to say hello. Four decades later thousands gathered to say farewell.

The Vogels came to Dallas when the American dream was alive and well. And it worked for them, or I should say, they worked for the American dream, and got it. Phillip Vogel Associates went on to become what Money Magazine described as one of the best tax firms in the country. In April, 1988, Thelma was selected as the Public Citizen of the Year by the National Association of Social Workers.

In the 1980s Phil and Thelma Vogel could be described as prominent citizens, active in the professional, cultural, civic, and religious life of Dallas. Both past their mid 60's Phil and Thelma were just hitting their stride. I visited them last summer and came away fatigued at their vitality, activity, and range of involvement, Phil in the accounting profession and in the Jewish community, Thelma now spearheading work on behalf of the homeless.

She succeeded in founding a day care center for children of homeless families, enabling the parents to seek job training and employment. In her simple yet elegant style, Thelma went beyond that, to arranging for some of Dallas' top hair stylists to volunteer services for the mothers of these children, to provide dignity, self-respect and pride, so that the children would learn too about responsibility. The center is now a national model.

I kept thinking during the funeral that Phil and Thelma had worked so hard to "make it." They had a humble beginning. But hard work and thrift brought them financial reward. Others might have been content to enjoy that success while indulging in periodic good works and opening their ample checkbooks to pet causes and projects. Not Phil and Thelma Vogel. They had to be involved, aiding refugees, helping the homeless, bringing integrity to their professions, getting ordinary people to contribute in extraordinary ways.

Returning to Chicago from Dallas, I watched distant thunderstorms from the window of the plane. As the sky lit up, I recalled that at the beginning of the memorial service one of the rabbis had reflected that in all of his training and studies there was simply no answer to the question we all had on our minds: "Lord why now?" A thought came to me, one that gave me instant peace of mind: Given the problems of our society, there remains a powerful lot of work to be done in the hereafter.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONORS ROSALIND (ROZ) GALARDI

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the women's and men's caucuses for Congressman EDOLPHUS "ED" TOWNS will hold their annual dinner dance at the Fleur De Lis Restaurant. This year, as part of this annual event, the caucuses have chosen to honor Rosalind (Roz) Galardi.

Roz was born Rosalind Caslin, in Bensonhurst, Brooklyn, of parents who were active in veterans' organizations and the Democratic Party, where her father was a district captain for many years.

Roz, now a resident of Queens, NY, still holds Brooklyn dear to her heart, noting that while you can take a person out of Brooklyn, you can't take Brooklyn out of the person. She is employed by the New York State Liquor Authority, as an investigator for New York City Alcoholic Beverage Control Board.

While a Brooklyn resident, Ms. Galardi resided in East New York's Spring Creek area, where she raised her two sons, Gary, a carpenter, and Ken, a recent graduate of Syracuse University, holding a degree in Chemical Engineering. A founder of the Flatlands Heights Civic Association, she served as its secretary for many years. In addition, she was a charter member of Community Planning Board No. 5 in East New York for over 10 years, and served as secretary for two terms of office.

Roz has been a member of the women's caucus for EDOLPHUS "ED" TOWNS for 4 years, and was journal chairperson for the 1987 annual dinner dance.

Roz is a shining example of the kind of commitment and dedication which serves to better our communities. I am proud to have Roz as a member of the women's caucus and I look forward to working with her in the years to come.

MAJOR STEPS IN FIGHT AGAINST ILLEGAL NARCOTICS

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. LEWIS of Florida. Thank you, Mr. Speaker, for this opportunity to contribute further to the debate on this important legislation.

There is no issue more important and more threatening to our Nation than the flow of illegal narcotics. The bill passed today provides opportunities for us to take major steps in the fight against narcotics abuse and in holding users more accountable for their actions. Making the drug trade less profitable is the only way to reduce the devastating effects of drugs in this country. To do that, we must decrease the demand for drugs.

Of course, this requires an unbridled commitment from all Americans. Even those who are somewhat tolerant to drug use cannot deny the absolute destruction it wreaks on the minds and bodies of young and old alike. One need only look in hospital emergency rooms, drug treatment centers, halfway houses, neonatal intensive care units, and the streets of our cities to see so many shattered hopes and dreams.

One of the commitments the legislation passed today promises its help in saving those shattered and wasted lives. Schools, churches, community organizations and government can help communicate the antidrug message to large numbers of people, but the real commitment must come at the individual level. We cannot hope for a decrease in the demand until every American makes the commitment to rid our society of this scourge. Zero tolerance is the only answer.

Many of the provisions of the legislation passed today also will help us to identify and treat users, and to step up the all-out war with the traffickers who bring drugs into the country. I applaud my colleagues for their efforts to provide more money for rehabilitation for addicts and for interdiction efforts and to increase the emphasis on user accountability.

Let's not kid ourselves. There are problems with this legislation. They are not substantive problems. Rather they are problems related to this Congress' commitment to the issue.

When I took the floor during general debate, I raised an unpopular concern about this legislation. It is especially unpopular in these Chambers, because it questions our good faith, our real commitment to the drug problem. It questions the Congress' ability to stand by its word and make good on its promises. And, it surely gives Americans rise to question the sincerity of their elected officials in Washington.

Let me give you an example of the problem we have created by talking big and then reneging on our commitments:

Congress authorized $230 million per year for State and local law enforcement programs in the pre-election Omnibus Anti-Drug Act of 1986. Detailed and innovative plans were made, increasing the ability of law enforcement to keep the pusher out of our cities and to protect citizens from the ravages of drugs in their neighborhoods. Knowing of and believing in Congress' commitment, municipal and county police forces developed plans for additional equipment and personnel necessary to implement their ideas. They set up their strategy based on that 3-year congressional commitment.

Sadly, our law enforcement, and all Americans concerned about drugs in their communities, were let down hard. Almost 2 years after it should have been released to local police, only $70 million was appropriated this year under that 1986 act, leaving law enforcement programs short. Carefully planned strategies must now be scrapped for lack of adequate funds. As a result, more addicts will be on the streets, drugs will flow more freely, and more law enforcement officials will lose their lives. These grants support our first line of defense, and our local police have little to hope for if they cannot count on us to keep our word.

The 1988 bill authorizes $250 million for 1989 and $500 million in 1990 and 1991 for these programs. I'm watching, and millions of Americans are watching, to see if this is just another promise to win votes in an election year, or if it is finally a real commitment of resources and money.

THE GUS J. SOLOMON UNITED STATES COURT HOUSE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. AuCOIN. Mr. Speaker, today the House of Representatives voted to designate the U.S. Court House in Portland, OR, the Gus J. Solomon U.S. Court House.

Mr. Speaker, I have been in contact with many of Judge Solomon's former colleagues, and I am truly impressed by the outpouring of support they have shown for this legislation. This is evident through the unanimous resolution adopted by the board of governors of the Oregon State Bar, and the contact that I have had with members of the Oregon legal community who have endorsed this initiative.

Gus J. Solomon was born in Portland, and secured his law degree from Stanford University. He was in private practice for 20 years before his appointment to the bench in 1949. Judge Solomon served as a U.S. district court judge for 27 years, which is longer than any other Federal judge in Oregon history. During the last 12 years of his tenure, he served as chief judge. Judge Solomon represented the U.S. Ninth Judicial Circuit on the Judicial Conference of the United States and served as president of the Ninth Circuit District Court Judges' Association.

Judge Solomon was very active in community affairs, and was among those who organized the Legal Aid Society of Oregon. He served on both the U.S. Civil Rights Commission and the Anti-Defamation League, and was a founder of the American Civil Liberty Union's Portland chapter. Perhaps Lewis and Clark College President James A. Gardner said it best: "Judge Solomon's life has been dedicated to the preservation of human dignity and the protection of human rights of all persons * * *." Gus Solomon died on February 15, 1987, but the memory of his work for the people of Oregon and this great Nation lives on.

I cannot think of a more fitting remembrance for a man so dedicated to the principles of the judiciary and the human spirit, than to place his name on the distinguished courthouse in which he served. Today I stand with Oregon Governor Neil Goldschmidt and the entire Oregon congressional delegation along with Gus Solomon's family, full of pride and admiration in honoring him in this very special way.

NEED TO PROTECT GROUND WATER FROM PESTICIDES

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. OBERSTAR. Mr. Speaker, I regret that I was unable to join the floor debate Tuesday on S. 659, reauthorizing the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA]. While there were valid reasons for moving a "core" FIFRA, I am deeply disappointed that the bill contained no provisions to protect ground water from pesticides.

As author of the Ground Water Safety Act, which would have provided such protection, I want to reiterate my concern for the ground water resource at risk, and pledge my continued support for protection of ground water from pesticides and all other threats.

While ground water contamination should have been addressed this year, we will not be able to postpone action much longer. I only hope we will not be too late, and once again act only retrospectively, after this problem has reached crisis proportions across the country.

Americans have always cherished the belief that, whatever happened to surface water, ground water was safe and pristine. That bubble of confidence burst in 1979, when the pesticide Temik was discovered in ground waters in Suffolk County, Long Island, and DBCP was found in wells throughout California's Central Valley. Temik is a nematicide used, among other purposes, on potato fields. Spurred by this finding, Suffolk County tested its drinking water for 72 specific pesticides and 13 metabolites. The tests confirmed the constant presence of 10 pesticides, and 9 more were detected on occasion.

In California, DBCP has forced the closure of more than 100 public wells, and by 1984 had been found in almost 2,500 wells. A broader survey of California wells found 57 different pesticides in the ground water of 28 counties.

Where we look, we find pesticides:

A Minnesota survey found one or more pesticides in 163 of the 500 wells sampled. Private wells were more frenquently contaminated than public.

An Iowa survey identified low levels of pesticides in nearly 40 percent of that State's over 1,000-sample universe. Data indicate that contamination is increasing, at least in persistence, suggesting that, as one Iowa official put it, "We are at the beginning of a trend of ever-increasing occurrence of residues in ground water in response to prolonged and widespread use, perhaps analogous to the rise in nitrates of a decade ago."

EPA's files on pesticide contamination of ground water show that 73 different pesticides have been found in the ground water of 34 States, apparently due to normal pesticide use. Contamination was found in 11,000 of the 45,000 wells sampled, and over one-quarter of these exceeded health advisory levels.

Once in ground water, pesticides are extremely expensive to remove:

California has spent over $10 million in the Fresno area alone, on alternatives to DBCP-contaminated water supplies.

On Long Island, the pesticide manufacturers are paying the County Department of Health some $35,000 per year to monitor the contamination, plus providing treatment at 6 large-capacity public supply wells and about 1,400 home treatment units.

In Florida, where the State applied most of the ethylene dibromide which ended up in ground water and sparked the EDB uproar of 1984, the State legislature has appropriated $3 million a year over the past 3 years for alternative supplies to the contaminated wells.

Iowa and Minnesota found that conventional treatment systems were unable to eliminate or even significantly reduce concentrations of pesticides in ground water.

The Public Works and Transportation Subcommittee on Investigations and Oversight, which I chair, held a hearing August 4 of this year on ground water contamination by pesticides.

One of the witnesses at that hearing, himself a second-generation farmer, testified:

> The perspective of the farmer is that we feel we only have seen the tip of the iceberg. There's a dramatic sense of urgency and a sense of anxiety among the producers in Minnesota, anxiety about what they're doing to their livelihood. As they affect their resources, their soils, and their ground water, it's not only their health, but it's their economic well-being. It's almost as if there is a chemical dependency out there and the farmers need some treatment. I now have middle-aged farmers approaching me and requesting me to see what we can do to ban chemicals across the board nationally. They tell me, "we want to get away from chemicals." Farmers desperately want to see a change in the direction of their agricultural policy.

Other witnesses, also speaking for farmers, would not go that far. But I predict that unless Congress addresses the problem in the near future, we may once again end up taking much more drastic action once EPA's well water survey results are in, once more testing is conducted, and the real extent of the problem begins to emerge.

This country will have to address contamination of ground water by pesticides and other contaminants. The only question is whether we will do it in time to protect the resource, or only after it is too late. I therefore urge my colleagues who share jurisdiction and legislative responsibility for the resource to act favorably on any measure the other body may yet send over this year and, in the alternative, to take up the Ground Water Safety Act at the earliest possible moment next year.

TRIBUTE TO MRS. CARRIE PENTECOST

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay tribute to a great lady who resides in the Eighth Congressional District of Tennessee, but whose influence is felt all over our great State.

Mrs. Carrie Pentecost is the 93-year-old matriarch of one of Tennessee's most interesting political families. I would like to have the attached article, which appeared recently in the Dresden Enterprise, included in the RECORD so that others can share the many interesting tales Mrs. Pentecost relates about her childhood and into her adult years. Needless to say, she has experienced many things and seen many changes in her world during the last 93 years and I think my colleagues will enjoy the article as much as I did.

MRS. CARRIE: MATRIARCH OF TENNESSEE POLITICAL CLAN

(By Jim Dumas)

Carrie Pentecost is a non-assuming and charming 93-year-old lady whom some people believe to be the matriarch of one of Tennessee's most interesting political families.

But as a non-yielding Democrat, her role in shaping the political structure of modern local and state politics has been timely and behind the scenes. While her father was a former high sheriff of Weakley County, and late husband Rev. Cayce Pentecost a respected County Clerk and judge in Weakley County, her only son Cayce moved the family political niche a step further by winning first the office of state representative and then several state-wide runs for public service commissioner.

Even Gov. Ned Ray McWherter would become a viable part of Mrs. Carrie's world as ruler of the state House of Representatives. But she will be the first to say that cousin Ned's election as governor of the state would have been thought next to impossible when the governor was growing up in Palmersville and Dresden.

Albert Gore Sr., related to the Pentecosts through marriage to Pauline LaFon, carried the dynasty outside of Tennessee borders by winning first a seat in Congress—then U.S. Senate—and once considering the vice presidency of the United States.

Then for several months last year and this year, Mrs. Carrie's political kin flirted seriously with the thought of the White House as Albert Gore Jr. (now U.S. Senator) became a major candidate for the Democratic nomination for president. He failed, but carried Super Tuesday and his close hand campaigning left its mark for future years.

Confidence has certainly not been lacking in the life of the Pentecost family, at least of all, not in Mrs. Carrie. "I think back to a long time ago when I was a young student in school and wore a cape one day. I thought I was so pretty and the center of attention—capes were so stylish then."

She is the daughter of Simpson LaFon, and enjoyed her first years on a farm near Palmersville. The good years and closeness of family are among the lasting qualities, and even during the uncertain times of the Great Depression, the LaFon family was better off than most of their city brethren because there was food to provide steady diets. Also standing out—but on lesser tone—was long hours in the tobacco fields, and to this day Mrs. Carrie frowns when remembering that her job was to worm and sucker the plants.

"Palmersville was a busy, bustling place in those days and we never had to go into Dresden because the town had two or three dry goods, a drug store, post office, bank and grocery store . . . Still when we wanted to buy good clothes and shoes, we took the horse and buggy or team and wagon over to Cottage Grove. Rainey Brothers Store had anything you needed in fashions."

Mrs. Carrie walked at least 2 miles to school at Palmersville and recalls that her first teachers included Monte and Chesley Golston. Even when she passed a special test to gain a teaching certificate after completing high school, one thing hadn't changed. She still walked two miles to school. She taught in old Webb School when the principal was Theron Kemp, earning $30 a month.

"There were some good one room or two room schools in the county then, recalled Mrs. Pentecost. Palmersville even had a college in those days called Mina Normal College, and many of the students boarded at homes in the community."

She and Cayce Pentecost Sr. were married in 1915. "I'll never forget it, and we took the vows from Brother J.J. Kirkland, a Primitive Baptist preacher, while seated in a buggy the whole time."

"Our honeymoon was in going back to Cayce's home where we had a party and lots of friends came over."

In 1927, the couple moved to Dresden and the Pentecost-LaFon political union grew more steadfast as Mr. Pentecost was elected County Court Clerk. Mrs. Carrie worked as deputy clerk during the years that her husband served as clerk. Judge Pentecost went on to be a public servant for 24 years. Other members of the family—in addition to the junior Pentecost and Simpson LaFon—who were elected to political office included Whit LaFon, ex-sheriff and currently circuit judge in Madison County.

"It was good little political fun, but I never had any urge to run for any office myself—we just let our men folks—the ones most interested, take care of all that. Its still going on, and we are so proud of Al Gore Jr. too."

Mrs. Carrie was born in 1895 while President Grover Cleveland was half-way through his second term, nevertheless, it was two people named Roosevelt—one a Republican—who would make the first impression on her. "Teddy Roosevelt is the first president I can really remember. But FDR (F.D. Roosevelt) was I think the greatest of them all." Ironically, the Stephensons on Mrs. Carrie's mothers side were Republicans. "My mother was a Democrat, and I still don't know whether she was pressured into becoming one after she met my father, or just switched on her own."

"While there are some things I wouldn't want to go through again. Walking two miles to school is one of them. I wouldn't take anything for the life we had then."

"We were as poor as Jobe's turkey, and I took many a nap under those large tobacco plants while working through another day."

But for an occasional square dance at Cane Creek, work was the leading recreation for the young folks in the mid 1900's and 1920's. One person who Mrs. Carrie looked forward to seeing each morning was the rural mail carrier, Luther Brann. An avid reader, she looked forward to reading the Nashville Tennessean from front to back. Cayce Pentecost Jr. recalls that his mother was a determined reader of "just anything she could get her hands on, including the World Almanac."

"She used to tell us about the intense excitement when the Titanic sunk, and how everybody around waited anxiously to hear more details," continued Pentecost, and she kept up with the latest news when Floyd Collins was trapped in Mammoth Cave."

Even in a day when distant travel was remote to most people in rural environments, Mrs. Carrie had an urge to see the other part of the land. "I'll never forget the time I saw my first airplane, as a little girl. We couldn't believe it and watched for the longest time."

The sight of the first automobile also had meaning. Family members had gone to Fulton, Ky. to catch a train for Arkansas to visit a close relative. The car didn't attract as much attention as did an old family acquaintance whom they chanced to see in Arkansas. "My mother said. "Well there's Jim Powell here in Arkansas—we sure thought that was something."

Although the Pentecosts and LaFons raised some cotton, dark-fired tobacco was their big money crop. Other than the "suckers and worms" which linger in the lady's many collections of memories, Mrs. Carrie can picture Henry McWherter hauling their tobacco to a warehouse in large wagons pulled by oxen.

Until the past three or four months, Mrs. Carrie prided herself on having neat penmanship. A look at old Courthouse deeds and documents show that good handwriting was in one respect parallel with today's computer world. During the depression, the art was indeed helpful for Rev. Cayce Pentecost and his family. Mrs. Carrie kept hand written records of transactions for her husband who served as County Court Clerk.

"But you know, I've about lost my good handwriting ability—all in the last three or four months," she explained.

Raising three children are, of course among the golden part of her life. In addition to Cayce Jr., there are La Rue Dunn and Marie Mangum. Brightening her life in more recent times were the birth of 7 grandchildren and finally 5 great-great grandchildren. Although she has traveled widely, her greatest trips included visits to the Texas Centennial, Chicago Worlds Fair and New York Worlds Fair.

She has seen or met presidents including John F. Kennedy, Dwight Eisenhower and Franklin D. Roosevelt. But none got any closer or personal than Lyndon Baines Johnson. "President Johnson once came up and kissed me," she beamed. She also ranks among her memorabilia a handshake with President Harry S. Truman. As best as Mrs. Carrie can remember she cast her first presidential vote for Woodrow Wilson.

And one of her most recent votes was for Gov. McWherter. "I've known Ned Ray all my life, but never in my wildest imagination did I ever believe he would become governor. He was a sight."

"When Ned's mother and father owned a restaurant in Dresden, Ned used to eat breakfast there every morning. When he noticed what they were doing with the heels of bread, he said . . . 'Mother save me all the heels, I like them."

"But he ate so many heels that he grew sick of them, changed his tune and insisted . . . Mother don't save me any more heels.' "

And as for the matriarch of the Pentecost-LaFon families, she's still very alert and enjoys talking about the hundreds of friends she has known over several counties.

PAYING TRIBUTE TO ELIZABETH WADDELL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Leslie Elizabeth Waddell of Grand Blanc, MI, who has recently been crowned Miss Black USA 1988–89. An exceptional young woman of 20 years, Ms. Waddell has added this national honor to an already notable list of local honors and achievements. As Ms. Waddell's coronation brings honor to the entire Flint area community, there will be a laudatory gathering in recognition of Ms. Waddell on September 30, 1988, at the University of Michigan—Flint.

The excellence and determination required of Ms. Waddell to gain the pageant title has long been evident in her academic and extracurricular activities. At the young age of 11, Ms. Waddell earned the first of many honors, receiving the Student of the Month Award at Summit Junior High School in 1979. She followed this by twice winning the Optimist Oratorical Contest for the Beecher School District. She also twice received the first rating for outstanding perfomance in band. Ms. Waddell's academic excellence afforded her a place on the honor roll for the years 1980–83. This fall, she will continue to pursue excellence in academics at the University of Michigan—Flint.

Ms. Waddell's pageant career began with the Miss Michigan Talented Teens Pageant in 1983, where she made her debut as second runner-up and to which she returned in 1984 to be first runner-up. After the Michigan School Vocal Association awarded her a second rating for outstanding performance in 1985, she traveled to California with the Grand Blanc Choir to participate in the Great American Sing Along Contest in 1986, where a second rating was again awarded. Ms. Waddell returned to Flint to compete in the Miss Flint/Genesee County Pageant in 1986. She competed in the Miss Michigan USA Pageant in 1987 and with this experience won the position of first runner-up in the Miss Flint/Genesee County Pageant of 1988. Selected to represent Michigan in the Miss Black USA Pageant in 1988, Ms. Waddell earned the crown of Ms. Black USA 1988–89, an honor she holds with much grace and poise.

Mr. Speaker, this young woman, whom we will honor on September 30, has shown that excellence, coupled with determination, brings just reward and success. She offers an exemplary role model for the youth of not only the Flint community but also the entire Nation and it is for this reason that I ask my colleagues to join me in acclamation of Leslie Elizabeth Waddell's coronation as Miss Black USA 1988–89.

DRUG BILL NEEDS WORK

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. LOWRY of Washington. Mr. Speaker, today's vote on the drug bill, as amended, is not the end of the process. I am pledged to work for a final antidrug bill that strengthens the Nation's resolve to solve the drug problem without violating the Constitution. I will work with our colleagues in the other body and with our conferees to repair the flawed antidrug bill we have passed. As you know, I supported the bill as originally approved by House committees, but withheld support for the bill on Thursday after a series of dangerous amendments had been adopted.

When this bill first reached the floor, I supported it and I pledge to work with the Senate to clean up some of these bad amendments and bring back to the House a bill that everyone can support. I support the original bill's balanced approach to drug enforcement, drug education, and rehabilitation—the way it came to the floor. I strongly support provisions in the bill for Coast Guard and local drug enforcement funds, youth drug abuse prevention, a 7-day waiting period for handgun purchases, AIDS prevention, and drug abuse treatment grants and research.

Our job now is to encourage the Senate to improve the House bill so that we can have a final bill worthy of everyone's support. We can effectively fight the drug war and protect the Constitution.

As I said on the floor weeks ago, we need a sustained effort and a willingness to invest in our young people to help them make the right choices. This bill started out with the ingredients to meet that goal. Unfortunately, a number of bad amendments were passed. The worst was an amendment strongly opposed by the American Bar Association that would permit evidence obtained illegally in warrantless searches of people's homes to be used in court. I could not lend my support to the bill as amended.

I opposed the amendment to weaken the fourth amendment exclusionary rule that prohibits illegally obtained evidence from being used in court. That amendment's extension of the existing "good faith" exception to warrantless searches would allow evidence obtained illegally and without a search warrant to be used in court and would constitute a major departure from Supreme Court precedent. Existing law provides a "good faith" exemption to keep evidence from being thrown out if an officer acts in good faith to carry out a search warrant. The amendment passed by the House would extend the "good faith" provision to searches where there is no warrant at all.

Weakening the fourth amendment undermines the integrity of our criminal justice system. "As Justice Brandeis said, 'if the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.' "

Other amendments I opposed would:

Establish the death penalty for "drug kingpins"—legal analysts point out that establishment of this death penalty would actually harm our Nation's ability to fight drugs by preventing the extradition to the United States of most drug dealers for prosecution because most other nations do not allow the extradition of accused individuals for crimes subject to capital punishment.

Denial of Federal benefits to persons convicted of drug distribution or two or more drug offenses within 10 years, including education, training, housing, and veterans' benefits.

Civil penalties for drug violations—up to $10,000 per violation for possession of small personal use amounts of marijuana, cocaine, and other controlled substances assessed by the Justice Department. The amendment would allow civil fines for people who have never even been convicted of a crime.

Striking the 7-day waiting period for handgun purchases—the waiting period would allow local law enforcement authorities to determine if specific individuals who try to buy handguns are underage or have criminal records. The measure would not prohibit law-abiding citizens from purchasing guns.

Drug abuse threatens our public health and safety. Let's not add to our problems with a drug law that endangers the individual liberties and rights that our Nation was built on. We need to repair the damage done to this bill so everyone in the House can support the final legislation when it comes up next month.

THE 50TH ANNIVERSARY OF TEMPLE BETH TORAH

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. GALLEGLY. Mr. Speaker, 50 years ago a small group of Jewish businessmen in sparsely populated Ventura County began meeting on a regular basis. And from that humble beginning during the darkest period of Jewish history has grown one of the pillars of western Ventura County, the Vetura County Jewish Council-Temple Beth Torah.

From September 30 to October 2, the temple will mark its golden anniversary, and its members will look back on the long journey they and their forebears have so successfully undertaken.

From the handful of Ventura County Jews who met in a Coca-Cola bottling plant—where free soft drinks were provided—and later in such locations as the Odd Fellows hall and a dairy, the temple has grown to include some 500 families. Like the county it serves, the temple has flourished and grown.

And like the county it serves, Temple Beth Torah will continue to grow and prosper in the years ahead. Indeed, its motto is "Let us continue to build."

Mr. Speaker, I'm sure my colleagues join me in congratulating this Ventura County landmark, and in wishing it and the Jewish community continued success during the next 50 years.

INTERNATIONAL TERRORISM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 21, 1988, into the CONGRESSIONAL RECORD:

INTERNATIONAL TERRORISM

In 1987 there were 832 international terrorist incidents—a record number. 633 people were killed and 2,272 were injured. Terrorism is an increasingly global and complex problem. Yet recent trends indicate that international cooperation can discourage terrorist activity.

Terrorism is not a problem that the United States can ignore: nearly one-fifth of last year's terrorist attacks targeted U.S. citizens, interests, or property. This fact, along with our international influence, gives us responsibilities and opportunities to be at the forefront of antiterrorist measures.

What is international terrorism? Terrorism is violence against noncombatant targets for political ends. While the ultimate goals of terrorist groups may be domestic, they are increasingly undertaking international action to influence foreign governments and to focus attention on their cause. The international web is made more complex because some countries, such as Iran, Afghanistan, and Libya, sponsor terrorist groups. The number of incidents attributed to state sponsorship rose from 70 in 1986 to 189 in 1987.

Where does it occur? 45% of terrorists attacks now take place in the Middle East, well ahead of Western Europe, which was the prime area in the early 1980s. Asia is the second most troubled area. In 1987 it suffered the highest number of casualties and the fastest rate of increase of terrorism, due largely to 127 attacks in Pakistan by the Afghan Intelligence Service.

What can be done to combat terrorism? Several steps are needed.

Prevention: Terrorists use violence, but violence can be prevented by vigilance in intelligence and security operations. Recently, improved physical security and surveillance, especially in Europe and the Middle East, has helped frustrate terrorist plans. For example, in October 1987 French authorities seized 150 tons of Libyan-supplied weapons on their way to the Provisional IRA in Northern Ireland.

The U.S. should continue to upgrade security at American diplomatic and military missions overseas, and at airports. While improving our own security, detection devices, anti-terrorist technology, and intelligence gathering, we must share the fruits of our work with friends and allies. This will allow better identification and tracking of terrorists and enable us to better preempt their actions. Currently the U.S. is holding terrorism-prevention meetings with South Korea to preserve safety at the 1988 Olympics. We also give, and could expand, training to other countries in counterterrorist techniques.

Legal Actions: Effective legal measures prevent and deter repeated terrorist acts. As a result of legal actions in Europe, many more terrorists are in prison in the West than ever before. Those tried during 1987 include the hijackers of the Achille Lauro, terrorists responsible for the 1985 Vienna airport attack, and the sole surviving terrorist of the 1985 attack on Rome airport.

International law is being expanded, and the benefits of international legal cooperation are already evident. Following recent attacks at sea and in airports, an international convention made terrorist attacks at sea an extraditable crime, and the Montreal Convention was expanded to protect passengers in airports as well as on board airplanes. In 1987 strengthening of French law led to the extradition or expulsion of 150 suspected Basque terrorists from France to Spain.

International Pressure: Concerted international pressure—diplomatic, economic, and military—can force governments to reconsider the costs of supporting terrorists. In 1987, in the face of well-publicized reports of its complicity with terrorists, and with a deteriorating economy in need of foreign loans, Syria sought to restore its international image by ousting the Abu Nidal headquarters from Damascus and by sharply reducing its sponsorship of terrorist attacks. Similarly the Libyan government has been more cautious following strong Western diplomatic pressure and the U.S. air raids in 1985. Countries seeking international support, such as Iraq, realize that they need to establish an image of abhorring terrorism. However, Afghanistan and Iran, untouched by the diplomatic community, continue to sponsor a large number of terrorist acts.

There are many forms international pressure can take. Certainly we should not give active support to terrorist sponsors—as we did to General Noriega of Panama, who appears to have shipped arms to Colombian and El Salvadoran terrorists. Possible diplomatic measures include cutting off or minimizing relations, restricting travel, curtailing training, and appealing to the United Nations. Economic sanctions can be applied to trade, technology transfers, foreign aid, foreign exchange, and economic assets. Military action is also an option, but the risks and justification of taking military action against another country must be carefully considered.

No Concessions: The goal of terrorists is to influence government actions by threatening the security of citizens and property. It is essential to deny them their goal every time. This means no concessions to terrorists. Although this may require difficult and unpleasant choices, it is the only recipe for success in the long run. Toning down political rhetoric and media hype would help by diminishing the importance of terrorists and allowing policymakers more flexibility in dealing with them. However, this flexibility should not involve breaking the law or giving in to terrorist demands.

Terrorism is a problem which cannot be eradicated while complex international disputes continues. But while we put our energies into the long-term process of resolving disputes and thus dealing with terrorism at its source, we can also adopt significant measures to prevent and deter terrorists from undertaking attacks. As terrorists change their methods, so must our preventative measures adapt. In particular, action is already necessary to guard against the possibility of nuclear or biological action. Now and in the future, international coordination is the key to an effective anti-terrorist strategy.

PARENTAL LEAVE LEGISLATION

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. GRANDY. Mr. Speaker, I rise today to urge my colleagues to oppose H.R. 925, the so-called Parental Leave Legislation. With less than a dozen legislative days left in our 100th Congress, this controversial bill will not be allowed an appropriate level of debate before the Congress.

I would argue that many Members do not realize the ramifications of this legislation. For example, if one asked the question as to whether part-time employees were covered by this bill, the answer would be most definitely yes, but few would know that part-time is defined as 17.3 hours.

In a recent survey of the Food Marketing Institute, the average part-time worker was on the job for 25 hours a week—a far cry from the bill's 17.3 hours. This arbitrarily set number will have an enormous impact on the availability of part-time positions offered by firms—positions which historically yield higher costs and lower employee productivity than full-time positions. Dramatically increasing the cost of marginal positions will force employers to reevaluate the desirability of hiring part-time, seasonal workers of interns, the majority of whom are either young, seniors, or women. As large employers of part-time or seasonal employees, small businesses will be the most hurt by this provision in H.R. 925.

Mr. Speaker, H.R. 925 would cause untold problems for small businesses. I urge my colleagues to join me and the National Federation of Independent Business [NFIB] in opposing this legislation. Thank you.

HUD NEGLECTS ITS RESPONSIBILITY TOWARD THE HOMELESS

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. LELAND. Mr. Speaker, easing the plight of the homeless is not solely the responsibility of Congress but also of this administration. Congress is presently bearing its share of the responsibility by renewing and revitalizing the Stewart B. McKinney Homeless Assistance Act. However, time and time again the Reagan/Bush administration has delayed and in some cases failed to carry out the mandates of the law. The Department of Housing and Urban Development [HUD], the branch of the administration most equipped to help solve the homeless problem, has of late been singled out as neglecting its responsibilities under the McKinney Act.

Recently, a lawsuit was filed in the U.S. District Court for the District of Columbia by various homeless advocates. The plaintiffs charged HUD with violating the McKinney Act by failing to review its inventory of about 47,000 foreclosed properties, to determine which houses are suitable for the homeless. Last week, a temporary court order expired, which prevented HUD from selling any houses in its single-family inventory except when the sales would benefit low-income or homeless families. Unfortunately, yesterday, U.S. District Judge Oliver Gasch denied a preliminary injunction extending the ban on further sales of these HUD homes. HUD has announced that it will resume sales from its inventory pending a final ruling in the case. Judge Gasch did not rule on the suit itself, but is expected to issue an opinion this week.

The homes in HUD's single-family inventory represent a vital resource. The United States has only 4.2 million subsidized housing units, and more than 34 million households with incomes below $17,500 per year. More than 800,000 households are on waiting lists for public housing; there are an estimated 3 million homeless individuals in the United States. Since the Federal Government owns vacant single-family houses that could readily be used for decent housing for children and their parents, at the very least the Government should consider whether some of those structures could be used before simply selling the houses off to the highest bidder.

It is my hope, Mr. Speaker, that as this case is being reviewed that not only the mandates of the McKinney Act are considered, but also the severe need of housing for low-income individuals throughout this Nation.

NICARAGUAN WOMAN DENIED RIGHTS

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, left wingers in the U.S. Congress have worked diligently to oppose the administration's efforts to support the forces of democracy against the Communist government of Nicaragua. Today people are suffering untold horrors under that Communist regime, thanks in no small part to our liberal colleagues.

I am inserting into the CONGRESSIONAL RECORD the testimony of a Nicaraguan woman who has been denied the opportunity to visit her son in jail.

The Communist Sandinistas have much to thank the 100th Congress for—refugees in Honduras dig holes in the sides of mountains for places to live, the freedom fighters are dying from Soviet weapons while we fund them like a soup kitchen, and the people inside continue to have their basic rights denied.

Mrs. Salazar is just one victim of this slow motion Nazi detention camp mentality. I urge the members of this body who have been friends and supporters of this Communist regime to read this woman's plight which represents the suffering of thousands at the hands of the Communist regime and to beg this government to treat its own citizens like human beings, with rights, not like the Nazis treated their Jewish people.

[From the West Watch, September 1988]

NICARAGUAN MOTHERS TRY TO FREE THEIR SONS

INTERVIEW WITH MRS. CONCEPCION SALAZAR

WW: How did you contact so many women?

CS: There are always many mothers outside the prison, hoping to visit their sons. There are so many of us. Women came from Managua, Tipitapa, Masaya. We were encouraged, but we were afraid to formally organize because we feared the police.

They began to persecute us almost immediately. Some mothers were detained on February 11. On March 31, State Security forces came and searched my house. They took my youngest son and hit one of my daughters. She lost the child she was carrying. My son, Domingo Salazar, who had been sentenced to 11 years, was taken out of the Modelo prison and sent to the Juigalpa prison so I couldn't contact him.

On April 1, I went to El Chipote. They told me I was to be detained. I responded that I didn't mind, because at least that way I'd be with my sons.

They placed me in a cold, dark cell. Then a man, a Colonel at least I think he's a Colonel, named Oscar Losa came and accused me of being a Contra. He insulted me, called me a whore. I kept silent. He told me that the CDS (Sandinista block committee) had accused me of being Contra. He told me that he had a signed statement from my son, Domingo, saying that I was a Contra. He instructed me to sign a confession if I wanted to save my sons.

I knew that if my son had signed such a document it was only to stop the torture, to save himself. I was willing to stand up for him and I refused to sign. He told me that my son would remain in jail forever because he was a murderer and a thief. I resented this, because we have always been poor. It's the Sandinistas who have stolen everything. They live very well.

I told him there was nothing he could do to stop us, that no power could silence the screams of sorrow of the mothers. I yelled: "What has happened to my children? What have you done to my children? Where are our children? Where is Domingo? Where is Fanor? Where is David?" I later found out that they had killed David on July 13, 1984.

He warned me that even if there was a general amnesty, my children would not be released, that they would die for what I had done.

I had nothing to lose. They had taken my youngest son and I was willing to die. But, fortunately, they let me go.

I want the world to know that it's not just me. I may be the most outspoken, the President of the January 22 Movement, but there are thousands upon thousands of mothers with similar stories.

[Nicaraguan President] Daniel Ortega keeps signing documents. He signed at Esquipulas, he signed again in January in San Jose. In March they signed an agreement [with the Contras] in Sapoa. He never keeps his promises, he just signs. The repression keeps getting worse.

They say they have lifted the State of Emergency but they keep sending the turbas [violent Sandinista mobs] after us. They say there is freedom of the press and freedom of expression now. Whenever we demonstrate peacefully on the streets, if we are able to get a permit from the Sandinistas, they attack us. They use State Security to threaten and try to intimidate us. They increase the torture on our sons and tell them that we will be killed if our sons don't convince us to stop.

WW: What are these turbas?

CS: They are gangs of government workers and plain clothed Sandinista militia who, armed with wooden clubs and iron pipes, are used by the Sandinista police to break up our demonstrations. They have even sent the turbas to attack us inside the El Calvario church.

WW: How many mothers are in your movement?

CS: There are already 4500 of us, despite the fear of the Sandinistas. We all wear a white handkerchief on our heads with the words "Total Amnesty" written on them. The Sandinistas seem very bothered by these handkerchiefs.

WW: How did you become the President of the Movement?

CS: When [United Nations President Javier Perez] de Cuellar came to visit Nicaragua, I had the courage to hand him a document detailing the political prisoner problem. We've never heard back from him. However, I realized that the Sandinistas only persecuted us because they feared us. I was allowed to see my son more often. I began to understand that our Movement could work, so I agreed to become President.

WW: What keeps you going?

CS: The people are starving, and there is nothing left for them to take from us. They have taken our food, our children. The only thing left for the Sandinista Front to steal from us is our lives.

The Sandinistas blame the economic problems on Reagan and on the Contra. I don't know if the people believe them. We know that this is not so. They have caused the economic disaster.

We try to gather some food to take to our sons in prison. We wait in line for hours to give it to them, and they tell us that they will not permit visits that day. So we go home with that little bit of food in our hands, and come back the next day to try again. They tell our sons that we no longer come to visit them. They punish them for our actions.

WW: There are thousands of American citizens who have visited Nicaragua and returned saying that there is democracy and freedom in Nicaragua. What do you have to say to them?

CS: Maybe they visit the Sandinistas and not the Nicaraguan people. The Sandinistas have it pretty well. They should come and talk to us, the Mothers of January 22. They should come with us to the prison gates, as we wait in line for hours to try to visit our children. They should be there as the guards turn us away. Its not just one or two of us, not ten or twenty, there are thousands of us.

I invite them to visit us in our homes, to see how we live, to hear our cry: Amnesty!

We demand a general amnesty for all political prisoners. The ones they call contras, all of them. They have all suffered enough. That's why I've come here. To talk to the OAS and to your newspapers, to anyone who will listen.

I've come to explain to you how they round up 14 year old boys to forcibly conscript them into their army. I've come to tell you how we are starving. I've come to tell you all the things the Sandinistas don't want you to know. This trip is a gift from God and I will not be silenced. I will speak out.

WW: There are even some members of our Congress who believe that the Sandinistas want to live up to the agreements they have signed. What do you tell them?

CS: They should come spend some time with us, in the poor neighborhoods. They would realize that Ortega signs, and signs and signs—but never complies. Those Congressmen will be very disappointed someday. But then it may be too late to save Nicaragua. What is being instituted in Nicaragua is communism, and we may be dead by the time they realize this in the U.S. Congress. They will see the harm they have done by siding with the Sandinistas (in tears). They should come visit the Mothers of Political Prisoners so that they can see the pain we are suffering. How can they not see this?

Many of us are willing to give our lives to defy the Sandinistas, I'm one of them. I'm willing to lie in the middle of the road and let them kill me if I have to. I hope the Congress will wake up. I hope it's not too late.

WW: We have heard that the Sandinistas rely on the political prisoners to do forced labor and that, therefore, they can't do without them. Is that so?

CS: Exactly. That is the way it is, that's why they won't release them. They are hostages. It's even worse, because this forced labor is used to produce goods which are exported. It doesn't help the people. Nicaragua exports food, and its people are starving. If we can get sugar it is an unrefined black looking sugar that used to be given only to cattle. Of course, the Sandinista leadership has refined sugar. Maybe the Congressmen that have come to Nicaragua have drunk only the Sandinista's coffee. If they come visit me I'll try to make them some coffee. I always like to offer guests something to drink. I'm sure the Congressmen wouldn't drink my coffee—they'd think I had filled the cup with dirt. Maybe these Congressmen have only taken the "refined sugar" tour of Nicaragua.

WW: How do you view the status of the internal opposition—we hear about these divine mobs that attack you, and yet the world doesn't seem to care.

WW: The Sandinista propaganda machine is very strong in this country.

CS: Well, maybe I can help tumble their cover. I didn't really know what communism was, but now it has come to Nicaragua and I have lived it. It is already spreading itself throughout Central America. I wish it weren't so, because it is awful. I have always said that it is not just Central America that is running the risk, it is also the United States. If they continue to allow the Sandinistas to have their way in Nicaragua.

(Epilogue: Mrs. Salazar returned to Managua after this interview. Her spirit had finally been broken. As West Watch went to press, she requested political asylum in the United States.)

LEGISLATION PROVIDING PERMANENT RESIDENCE TO THE POINTEAU FAMILY OF SNYDER, TX

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. STENHOLM. Mr. Speaker, America is a nation built by immigrants. The Statue of Liberty symbolizes the importance of the immigrant in building our great Nation and the hope which our Nation provides to oppressed peoples throughout the world. The best and the brightest of foreign lands have contributed immeasurably to our Nation's greatness and wealth by taking advantage of the opportunities which America alone offers.

Today, I am introducing legislation to provide permanent residence to the Pointeau family of Snyder, TX. This French family has resided in the United States, since 1982, as investors making a contribution to our Nation's economy. The Pointeau children's educational achievements since coming to Texas offer evidence of significant potential future contributions to our society. The desire of the children to participate in the Armed Forces offers compelling evidence of their strong identification with their adopted land.

However, I believe the testimony of their neighbors, the people who know them best, is most compelling. Over 1,800 residents of Snyder, a community of 12,000, have signed a petition on their behalf over the last few days. America's success has partially been based upon our receptiveness to new peoples and ideas. I believe that this legislation is fully consistent with that tradition and in the national interest.

NATIONAL HISPANIC HERITAGE MONTH

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. LANTOS. Mr. Speaker, I am delighted today to mark the commemoration of National Hispanic Heritage Month during the period from September 15 to October 15. I am pleased this year that the annual observance of this important occasion has been extended from 1 week to a full month in order to have additional time to recognize this event.

It is most appropriate that the American people—those who are not Hispanic, as well as those who are—take time to consider the important role that individual Hispanics have played in the history of our great Nation, and to consider the contributions of Hispanic culture to the diversity and vitality of our Nation.

Hispanics have played a critical role—from those who were pioneers in the original settlement and exploration of this Nation to the astronauts, scientists, and political leaders who are pioneers pushing back the frontiers that hold the future promise for our country.

It is most appropriate that we pay tribute to the many Hispanics who have shown their patriotic devotion to our Nation. For example, Gen. Bernardo de Galvez—the Spanish general who commanded the multinational army of 7,000 men who quashed British efforts to resupply their besieged forces under General Cornwallis at Yorktown in 1781 and made a major contribution to the defeat of the British in the last battle of our Revolutionary War. Throughout our Nation's history, Hispanics have continued to contribute to the preservation of our liberties and our democratic system of government. It is most significant that Hispanics make up the largest number of winners of the Congresional Medal of Honor of any ethnic group.

Mr. Speaker, the Hispanic community has enriched American society beyond measure.

This is why we must continue our efforts to address the many problems which threaten to prevent Hispanic-Americans in our generation from participating fully in our society. We must work to ensure that there are no barriers for Hispanic-Americans in the areas of employment, housing, and education.

Mr. Speaker, as we celebrate National Hispanic Heritage Month, let us all reaffirm our commitment to insuring that equality of justice and opportunity are enjoyed by all Americans.

PROMOTING A BETTER INTERNATIONAL UNDERSTANDING

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. SIKORSKI. Mr. Speaker, I would like to honor a unique international relationship by veterans groups. The American Legion Post 566, Blaine, MN, is a Twin Club with the Royal British Legion Club at Walton-on-the-Naze, Essex, England. This Twinning of the Veterans Clubs came about when one of the American Legion members from Blaine, MN—Earl Czech—visited the Royal British Legion in England in December 1984. He proposed the uniting of the clubs. The proposal was accepted and there has been a correspondent relationship since—including the exchange of veterans publications, letters, and transAtlantic telephone calls.

This relationship between the two clubs is indeed special. From a review of files of the Royal British Legion Headquarters, Pall Mall, London, England, it appears that this is the only such Twinning among the thousands of American Legion Posts and the Royal British Legion.

As a furtherance of the relationship, the Blaine American Legion invited the Royal British Legion Officers from Walton and their soccer team to participate in the Liberty Cup Tournament that was held in conjunction with the USA Cup Tournament in Blaine, MN, in July 1987. The visit was a success. Not only did the Legion sponsored team win the first place trophy, but a healthy exchange of ideas and a better understanding of the cultures of the two countries take place.

A reciprocal visit to England has been arranged at the invitation of the Royal British Legion. Sixteen members of the Blaine American Legion and Auxiliary will participate in the Remembrance Day memorial services on Sunday, November 13, 1988, at Walton-on-the-Naze, England. This service will honor the service personnel from World War I and subsequent wars and conflicts who gave their lives in the defense of freedom. The American Legion will carry the United States Flag and the American Legion and Auxiliary flags in the parade and ceremonies in England.

I commend the committee of the American Legion Post 566 and the Royal British Legion for their efforts in promoting a better international understanding between citizens of the two countries.

ANOTHER WARNING TO STOP FRIGHTENING OUR NATION'S SOCIAL SECURITY RECIPIENTS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. YOUNG of Florida. Mr. Speaker, once again I take to the well of this House to implore our Nation's political leaders to put an end to talk that Social Security benefits must be reduced to lower our Federal deficit. Talk of tampering with the Social Security System needlessly frightens many of our Nation's 36 million Social Security beneficiaries. For many of these older Americans, Social Security provides their only source of income and they fear the devastating affect that any reduction in benefits would have on their ability to make ends meet each month, let alone provide for medical care or other unexpected expenses.

I have repeatedly challenged political leaders of both political parties to stop scaring Social Security recipients with this type of talk. My latest plea is directed at the National Economic Commission, whose cochairman Tuesday raised the specter of Social Security cuts to reduce Federal spending because, and I quote him here, "We have to go to Social Security * * * because that is where the money is."

As I have said often, it is phony reasoning to believe that reductions in Social Security benefits will lower our Federal deficit. The Social Security trust funds were established by Congress to be independent of the general Federal budget. Social Security is a self-supporting system where employees and employers pay into the trust funds from which beneficiaries receive their monthly benefit checks. Funds in these Social Security accounts are used only to pay Social Security beneficiaries and cannot be used to pay for other programs such as national defense, education, or farm programs, or to reduce our Federal deficit. The only reason we should ever consider legislation affecting the Social Security System is to strengthen the program's long-term stability.

My message to the National Economic Commission is that the sooner they put out of their mind any thoughts of reducing Social Security benefits, the sooner they can get down to making the difficult recommendations on how to bring Federal spending in line by looking at the real programs that add to our Federal deficit.

As the representative of more Social Security recipients than any Member of this House, and as the chairman of the House Social Security Caucus, I can assure our Nation's older Americans that this Member of Congress will continue to speak out vehemently against any efforts to include Social Security reductions in any plan to reduce our national debt.

QUESTIONNAIRE RESULTS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. BEILENSON. Mr. Speaker, I take this opportunity to share with my colleagues the results of a questionnaire on six domestic issues that I sent my constituents in August.

The results of the poll are, I think, interesting and significant. For example, on the question of how to pay for long-term nursing and home health care for the elderly and disabled, almost half of those who responded (49 percent) said they were willing to pay higher taxes for a government program similar to Social Security and Medicare that would cover all or most long-term health care costs. Another 37 percent said they would prefer a program that would pay for half to two-thirds of the cost of nursing home and home health care, with patients paying the rest of the costs themselves, either through out-of-pocket payments or supplementary private insurance. Only 14 percent feel that no new program is needed. This means that 86 percent of all those who responded are willing to pay in some way for a Federal program that would help cover catastrophic nursing home and home health care expenses.

On another health insurance issue, 65 percent of the respondents think the Federal Government should require employers to provide a minimum level of health insurance for their employees.

Regarding ways to combat AIDS, those who responded divided almost evenly (49 percent yes–51 percent no) on whether they would support a program to distribute free, clean needles and syringes to drug users to help stop the spread of AIDS. Sixty percent of the respondents would support Federal legislation to provide antidiscrimination protection for persons with the AIDS virus.

On family and child care issues, 67 percent of those who responded think the Federal Government should require businesses with 20 or more workers to give unpaid family and medical leave to their employees, while 56 percent oppose the Act for Better Child Care bill to subsidize the cost of child care for low-income and middle-income working families at a cost to the taxpayers of $2.5 billion a year.

And, finally, on the question of illegal drugs, 67 percent support stiffer penalties for personal drug use as a means of getting more serious about cutting demand for drugs in the United States; 59 percent support a major increase in the military's role in combating our drug program; and a surprising 26 percent decriminalizing the use of such drugs as cocaine and heroin.

I find these annual questionnaires to be a valuable means of learning my constituents' opinions on the major issues before us in Congress, and I thought my colleagues might be interested in seeing the results, too.

FAMILY AND MEDICAL LEAVE

Congress is considering a proposed Family and Medical Leave Act which would require businesses with 20 or more workers to give their employees up to three months unpaid,

job-protected leave at the birth or adoption of a child, to care for a seriously ill parent or child, or because of a worker's own serious health condition.

Proponents say the bill would help strengthen the family and guarantee job security for employees who need to take leave for serious health care problems, and that the bill would have little, if any, measurable cost to employers. They argue that policy changes are needed to reflect the dramatic shift in our work force, which is now nearly 45% female. They also point out that the U.S. remains the only industrialized country that does not give employees these protections.

Opponents of the bill contend that such a program would be too expensive, and the Congress should not dictate to private firms what their employee policies should be. They say that companies, if forced to offer such leave, will offset the costs by not hiring women or by lowering salaries or benefits.

1. Do you think the Federal Government should require businesses with 20 or more workers to give unpaid family and medical leave to their employees?

	Percent
Yes	67
No	33

LONG-TERM CATASTROPHIC HEALTH INSURANCE

Congress recently expanded the Medicare program to cover long-term hospitalization for elderly and disabled recipients. But the new benefits do not pay for long-term care provided in a nursing home or a patient's own home, and thus will pay for the care of the millions of elderly suffering from debilitating, chronic illnesses such as a stroke, heart disease, or Alzheimer's disease.

Nursing home care costs an average of $22,000 to $25,000 a year; home health care can be equally costly. The federal-state Medicaid (Medi-Cal) program currently pays for the care provided to nursing home patients only after they have exhausted their own resources; it provides almost no assistance at all for those cared for in their own homes.

Medicaid payments for elderly and disabled patients in nursing homes now cost taxpayers $18 billion a year; a program providing long-term nursing home and home health care without first forcing a person into poverty would probably cost an additional $16 to $24 billion annually. But several polls show that the majority of Americans would willingly pay higher taxes for the peace of mind of knowing that their families would not be bankrupted by the cost of a chronic illness of one of its members.

2. Which of the following options currently being discussed to help pay for long-term nursing or home health care for the elderly and disabled do you prefer? (Choose one.)

	Percent
A. Establish a program similar to Social Security and Medicare to pay for all or most long-term health care costs. (This is the most expensive alternative; it would cover both nursing home and home health care, and would be paid for by increased taxes.)	49
B. Establish a program to pay for half to two-thirds of the cost of nursing home and home health care—requiring patients to pay the rest of the costs themselves, either through out-of-pocket payments or supplementary private insurance. (This would cover the same services as option "A"—at a lower cost to taxpayers, but at a higher cost to the elderly who need these services.)	37
C. Don't do anything—instead, maintain our current policy of requiring patients to pay for care themselves until they have spent down their assets and can qualify for Medicaid to pay for nursing home care	14

HEALTH INSURANCE FOR THE UNINSURED

The other major health care issue under discussion in Congress is how to provide health insurance for the 37 million Americans who lack any health care coverage and thus face financial devastation in the event of a serious illness or accident. Because of huge federal budget deficits and continued escalating health care costs, Congress is looking at proposals that are less ambitious than a full-scale national health insurance program. One bill being considered would require that employers provide a minimum level of insurance to all employees working at least 17½ hours per week (and their dependents)—which would ensure coverage for 23 million people.

Proponents argue that all working Americans and their families deserve to have health insurance. They say that employer/mandated insurance builds on our nation's current health care system, in which most people are insured through employer-provided insurance plans. It offers a way to insure the two-thirds of the currently uncovered population consisting of workers and their families without creating an expensive new program that would add to the federal deficit.

Opponents argue that the Federal Government should not mandate an employee benefit, such as health insurance, that has traditionally been negotiated between employers and workers. They say that the firms that don't now provide insurance can't afford to do so—and if they are required to, the result will be increased layoffs, reduced work hours, and lower wages, all of which will be worse for employees than not having employer-provided health insurance.

3. Do you think the Federal Government should require employers to provide a minimum level of health insurance for their employees?

	Percent
Yes	65
No	35

CHILD CARE

Congress is considering the Act for Better Child Care, a $2.5 billion program that would help low- and middle-income families pay for day care, and establish federal standards and licensing for child care facilities.

Supporters say economic necessity is forcing more mothers with young children to enter the work force, but most cannot find affordable quality child care, leaving too many preschool children in substandard day care. They argue that direct payments to parents to subsidize care in licensed facilities is the best way to assure that more and better care is available, and that the investment is minimal compared to the eventual cost of a generation of neglected and abused children.

Opponents of the bill say that it would effectively limit parents' for day care, since neither religious institutions, nor family members or neighbors who provide informal, unlicensed child care would be eligible for the federal subsidy. They also argue that the bill spends too much on administration, which accounts for one-quarter of the program's cost. And, they contend that the cost of the program is bound to skyrocket, since the amount of funding provided by the bill would only pay for child care for a small fraction of the millions of children who need it.

4. Do you support the Act for Better Child Care bill to subsidize the cost of child care for low-income and middle-income working families at a cost to the taxpayers of $2.5 billion a year?

	Percent
Yes	44
No	56

COMBATING AIDS

The sharing of needles by drug users is known to be a principal way of spreading the AIDS virus; in fact, the President's Commission on AIDS says that it is the fastest growing cause of new AIDS cases. For that reason, some public health officials have called for the distribution of free sterile needles and syringes to drug users, saying this is the one public policy action that would prevent the most people from getting AIDS in this country.

Supporters point out that the great majority of heterosexually-transmitted cases of AIDS come from contact with drug abusers, and that making clean needles easily available in European countries has cut the spread of AIDS there without increasing the incidence of drug use. They argue that 40,000 people a year in the U.S. will become infected by needle sharing, so that our ability to control the AIDS epidemic now depends largely on slowing the spread of the disease among drug abusers.

Opponents, especially leaders of communities where the drug problem is most severe, say that such a plan would only encourage people to use drugs. Some fear that free distribution of clean needles would be a first step toward legalizing drugs, and many feel that it represents the abandonment of efforts to fight drug abuse. Instead, they urge more support for education and treatment programs to combat both AIDS and drug abuse.

5. Would you support a program to distribute free, clean needles and syringes to drug users to help stop the spread of AIDS?

	Percent
Yes	49
No	51

The President's Commission on AIDS recently recommended passage of federal legislation to protect all persons with the AIDS virus from discrimination.

Supporters say that discrimination against such persons in the workplace, housing, schools, and public accommodations has no public health justification. They point out that the U.S. Surgeon General has assured the public that the virus cannot be spread through everyday contact. And, they argue, if at-risk individuals fear discrimination, they are much less likely to participate in the voluntary testing programs that are necessary to curb the epidemic.

Opponents of a ban on discrimination contend that it would be set up a special civil rights protection for people with one particular disease and place the rights of those with the virus above the rights of others to remain AIDS-free. They argue that the AIDS epidemic should be dealt with as a severe public health problem, not as a civil rights issue.

6. Do you support federal legislation to provide anti-discrimination protection for persons with the AIDS virus?

	Percent
Yes	60
No	40

ILLEGAL DRUGS

Recent polls show that Americans overwhelmingly consider the drug problem—the use of illegal drugs and the rising amount of crime and violence associated with it—the most important problem facing this country today.

Although the enforcement of drug and other criminal laws has traditionally been handled by local authorities, the federal government has become more deeply involved with the issue over the last several years, and now spends more than $4 billion a year fighting drugs. Federal policies have ranged from efforts aimed at interdicting drugs, eradicating crops of cocaine and marijuana in other countries, and imposing stringent criminal penalties on drug kingpins and dealers, to increasing the availability of drug rehabilitation programs, and educating children about the dangers of drugs.

But increasing frustration about our lack of success in fighting the drug problem has led lawmakers to consider new drug-related policies. Please give me your opinion about the following proposals that are being discussed in Washington:

Last year the armed forces spent $389 million tracking and intercepting ships and aircraft carrying illicit drugs. This year Congress has mandated an expanded role for the military, including establishing drug duties as a "formal mission" of the armed services.

Proponents argue that a full-scale effort by the military to police our borders could sharply reduce the huge flow of drugs entering the country. They also point out that the "war on drugs" is the only real war our country is waging at the moment, and we should therefore use some of our vast defense capabilities to fight it.

Opponents point to our nation's historical reluctance to use the military to enforce domestic law, arguing that military personnel are trained to defend the nation against external threats, not to fight what is essentially an American social problem. They also say such a policy would require the military to shift substantial resources from military readiness to drug interdiction, arguing that the Customs Service and the Coast Guard, if given more sophisticated equipment, could perform these duties just as well and at a much lower cost.

7. Do you support a major increase in the military's role in combating our drug problem?

	Percent
Yes	59
No	41

Increasingly, policymakers acknowledge that so long as demand for drugs here in the U.S. remains high, drug traffickers will continue to supply the market because there are such enormous profits to be made; therefore, we have to increase efforts to curtail demand as well as supply. One way to lessen demand is to get serious about prosecuting all users, particularly users of dangerous drugs like cocaine and heroin.

Supporters say stiffer penalties for first-time offenders, and mandatory jail sentences for repeat offenders, would deter many people from using drugs.

Opponents of such a policy claim that it would place enormous new burdens on our local law enforcement agencies, courts and prisons, and would serve only to divert scarce resources away from efforts to prosecute major drug suppliers.

8. Do you support stiffer penalties for personal drug use as a means of getting more serious about cutting demand for drugs in the U.S.?

	Percent
Yes	67
No	33

Finally, a growing number of people are expressing support for decriminalizing drugs, and giving the federal government the authority to regulate sales and control prices, as we now do with tobacco and alcohol.

Proponents of decriminalization point out that we have been powerless so far to eliminate the demand for drugs here in the U.S. They argue that by regulating the trade, the government would at least be able to cut the enormous profits being realized by illegal drug traffickers, and would thus eliminate much of the crime and violence currently associated with the use of drugs.

Opponents of decriminalization believe that it would be wrong for the federal government to legalize the use of dangerous substances. They contend that we have not invested enough funds in the anti-drug effort, and that it is far too soon to admit defeat. In addition, legalizing drugs would undermine the strong message we have been trying to convey, especially to our young people, about the dangers of drugs.

9. Do you support decriminalizing the use of such drugs as cocaine and heroin?

	Percent
Yes	26
No	74

D.A.S.H.

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. DOWNEY of New York. Mr. Speaker, perhaps the most important work we have done in the historic 100th Congress is the action we have taken to fight the war on drugs in our country. In light of the overwhelming drug problem that plagues our Nation, I am pleased to share with my colleagues the accomplishments of an organization in my congressional district that is dedicated to the prevention of drug abuse among our youth.

That organization is D.A.S.H., Drug Abuse Stops Here. D.A.S.H. is a community organization that is concerned with the issues of teen substance abuse and the problems that often accompany it, such as runaways, crime, teen pregnancy, suicide, and homelessness. D.A.S.H. is dedicated to raising community awareness in the hope that these problems will be confronted and resolved. As recipients of the New York State Divison of Substance Abuse Services 1986 Award of Recognition, this organization should be commended as a fine example of a program successful in combating the drug abuse problem.

This success is due in part to the East Islip School District Crisis Intervention Program, established through the efforts of D.A.S.H. The intervention program makes caring, qualified counselors available to provide direction and positive alternatives to children during a crisis situation. This type of early intervention program can prevent the escalation of more serious problems later on, and it is a good example of one tool we can use in our fight against drugs. Drug Abuse Stops Here is to be commended for its excellent efforts to curtail the problem of drug abuse and the problems that inevitably arise from substance abuse. It is through the efforts of organizations like this one that we will score a victory in the war on drugs.

A TRIBUTE TO MARK G. McCABE

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. TRAXLER. Mr. Speaker, I rise today to pay tribute to a fine individual, Mark G. McCabe, who served as general manager of Saginaw Division of General Motors Corp., since August 1, 1984. He was recently named executive-in-charge of European Automotive Components as well as being nominated for election as an officer of the General Motors Overseas Corp. We wholeheartedly wish him all the best in his new position.

I would like to take this time with my colleagues to express my sincere admiration for Mark and his outspoken accomplishments. Mark is a native of Riverhead, NY, and graduated from LaSalle Military Academy in Oakdale. He then moved to complete his higher education at the University of Notre Dame, where he received his bachelor's degree in business administration. Mark also attended the Stanford University Executive Program during the summer of 1978.

Being very well educated, Mark was hired by Saginaw Steering Gear Division as a college graduate in training in February 1954. Soon after Steering Gear hired Mark, he went to serve his country in the U.S. Army. Being the natural leader he is, Mark achieved the rank of captain by 1956, when he returned to Saginaw to become an inspection supervisor at the Steering Gear plant.

Undoubtedly, Saginaw Division and General Motors have recognized Mark's outstanding talent. But Mark's dedication and commitment to serving people extends well beyond the realm of his office duties. He has become an active community leader and is recognized around this area as a man who truly cares about Saginaw and its people. Mark served as chairman of the Board of Directors of the Saginaw County Chamber of Commerce in 1980 and is past president of the St. Stephen's High School Board. He has also served as a unit cochairman for the Saginaw County United Way. Currently, Mark serves as a member of the Board of Directors of the United Way and the Board of Fellows of Saginaw Valley State University, is chairman of the Business-Union-Government Group, and chairman of Leadership Saginaw.

What also makes Mark stand out as a distinguished individual is his ability to spot a problem and immediately think it through and provide a solution. On the job, he is definitely a man to "get the job done." Thus, in doing so for his company, Mark recognizes that in order for groups of people with different interests to cooperate effectively, innovative and bold initiatives need to be taken. For example, he identifies the struggle that sometimes exists between business, labor, and government. So Mark, among others, has been instrumental in creating and sustaining a union of these three entities. He currently serves as the group's chairman.

It is with deep regret that we must say goodbye to Mark. It is not often that a community reaps such benefits from one individual. He has given many years of dedication and loyalty to Saginaw and General Motors, and I'm sure he will continue to do so. We in the greater Saginaw area certainly wish Mark the best as he embarks upon another challenge. Best wishes and congratulations to Mark G. McCabe on his new position with General Motors.

JAMAICA DISASTER RELIEF

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. OWENS of New York. Mr. Speaker, Hurricane Gilbert, the most powerful storm of its kind in recorded history, has seriously damaged the commercial infrastructure and the daily individual survival efforts of the people of Jamaica. It has critically wrecked the agricultural sector of this small island democracy. This monster hurricane which swept over the entire length of the island has generated a need for massive short-term relief. Of still greater importance is the need for assistance for the long-term redevelopment and restructuring of the Jamaican economy. Both immediate and long range conditions in this model Caribbean democracy require the maximum compassion from our people and the maximum assistance from the U.S. Government.

I make this appeal, Mr. Speaker, on the basis of first hand, on-site observations. On Sunday, September 18, I accompanied Congressman ED TOWNS, Rev. Jesse Jackson, and others on a trip to Jamaica to review the devastation left by the storm. Upon arrival we were met by the American Ambassador to Jamaica and the Prime Minister of Jamaica. A helicopter trip to one of the most devastated parts of this island was arranged. From the air we had a clear view which documented the fact that many homes and factories had been destroyed and almost no buildings had escaped without some major damage. A sugarcane mill was wrecked. An ethanol manufacturing plant was destroyed. The entire roof of the St. Elizabeth's Hospital was lifted off.

But even more depressing than these very dramatic examples was the destruction of the country's agricultural sector and obvious twisting of its basic ecology. The primary crops of coconut, bananas, sugar cane and coffee have been totally destroyed. The poultry industry, the nation's primary source of protein was wiped out. It will take years to restore these vital export and local food products. The birds are gone and the bees have been blown away leaving the pollination process without its major carriers. For a long time Jamaica will need top agricultural experts and the best possible seeds, stock, and tools. Beyond the necessary few months of intense disaster relief, Jamaica will need a decade of basic aid for redevelopment.

Our delegation was pleased to hear the U.S. Government was there first with vitally needed communication equipment, transportation, a field hospital, and other immediate needs. The disaster relief coordinating group of Washington does not give due credit to the scope of the American aid effort. This group's official statement is that we are providing 400,000 dollars in assistance. According to the enumeration provided by the Ambassador's staff, the United States is providing nearly two million dollars in aid.

There is a need also for Julia Taft, the Washington relief spokesperson, to clarify her televised statement in which she urged U.S. donors not to send more food because there was a danger that great quantities of free food would upset the economic balance of the Jamaican economy. In no other past major relief effort has a government official indicated this kind of concern. While we know that goods and materials always create a transportation need; and we know that its flexibility makes cash highly desirable, at the same time we do not usually discourage donations of food because we are worried about competing with the private sector in a disaster area. The Reagan administration should correct the cruel logic of this position. We met large groups of people who are hungry and need food.

Our delegation was greatly appreciated by the Prime Minister, Mr. Seaga. We assured him that we understood the plight of Jamaica in competition for attention with Mexico where so many more people lost their lives or in competition with Texas and Louisiana which are so much closer to American television cameras. In truth, the number of people killed in Jamaica by Hurricane Gilbert is not yet known. Entire villages of people in remote areas have not yet been accounted for. The category of the missing numbers more than 700. It must also be remembered that the body count is not a correct measure of the devastation. Many lives were saved by the effective warning system of the Jamaican Government and the fact that the storm hit the island during daylight hours. When devastation is measured in terms of crop loss, shelter loss, food loss, and jobs wiped out, the price paid by Jamaica is second to none.

During our brief visit we met with many public officials including the leader and top members of the opposition party. Reverend Jackson was able to secure pledges from both Mr. Seaga and Mr. Manley, the leader of the People's National Party [PNP], to maximize bipartisan cooperation and a nonpartisan posture in the distribution of disaster aid. Although there had been a lack of rapid movement in this direction before our arrival, a meeting between the two leaders was convening as our delegation left Jamaica House, the headquarters of the nation's chief executive.

In summary, Mr. Speaker, Jamaica needs immediate relief and the entire world should respond. Our Government can do more now. We appeal for your leadership to speed the following forms of assistance:

Telephone communications is still a major problem. Even the American Ambassador in Kingston where there was the least damage from the hurricane, has no phone service at his residence. Communication with the remote parts of the country is still at zero level. We urge the provision of U.S. military units appropriately trained and equipped to restore phone service throughout the island.

Electricity is also not available anywhere in the country. The U.S. Embassy and large hotels are partially serviced by their own emergency generators. In remote parts of the country there is no suitable drinking water without electricity to pump the water. There is an imminent threat of rampant disease if polluted water continues to be the only water available. We urge the provision of U.S. military engineers and personnel to help speed the restoration of electricity. We also believe that the American private utility companies will contribute to such an effort if there is effective government coordination.

Transportation would be greatly improved by the provision of more U.S. helicopters.

Doctors, nurses, and other medical personnel are needed. Again if the experienced U.S. military medical teams provide coordination, many more private professionals could be recruited.

Material aid in the form of lumber, zinc strips, nails, tools, and so forth, is needed and could be supplied directly from U.S. military warehouses and depots.

For the long-term effort we urge you to appeal to the executive branch to review existing programs and utilize all available unspent funds to assist Jamaica:

Economic support funds which are vital to the improvement of Jamaica's foreign exchange position are needed immediately. For fiscal year 1988, Jamaica received zero funding although it had received $8 million in the previous year.

Military Assistance Program funds have been reduced at a time when the country's military is totally absorbed in hurricane relief operations. In order to fight the flow of drugs from Jamaica to the United States these MAP funds should be restored immediately.

The $100 million in aid requested by Congressmen CROCKETT and RANGEL deserves and very much needs the support of the House leadership and the Speaker.

Jamaica is a valued ally among the English speaking countries of the Western Hemisphere. It has valiantly fought to improve its economic position. Jamaica has also provided positive leadership in many other ways. Our delegation was proud of the steps taken thus far by the U.S. Ambassador and his wife. We greatly appreciate the immediate response of our Government. It is our conclusion, however, that the United States can and should do more. The 100,000 Caribbean-Americans who live in the 11th and 12th Congressional Districts of New York have faith that their government will do all that it can do to relieve the suffering of their relatives and countrymen at this critical hour. Mr. Speaker, we call upon your leadership to guarantee that their pleas are heard. In contrast to the political interference and invasions of Central America and the Caribbean, we call for a massive flow of American good will along with concrete assistance in the form of know-how and material support. With our help the valiant and proud people of Jamaica will overcome their great tragedy.

A TRIBUTE TO MICHAEL S. HOOPER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. RODINO. Mr. Speaker, it is with deep sorrow and a sense of loss that I bring to the attention of my colleagues the untimely death of Michael S. Hooper. Mike, who died on September 8, was a tireless advocate and a dedicated defender of the human and political rights of the peope of Haiti.

I first met Mike in 1982. It was a troubling time for those of us who believe that America must remain a bright beacon of hope for the peoples of the world. This was the year in which the administration's response to the Haitian refugee situation became a national tragedy. Thousands of Haitians had fled from their troubled homeland to the United States, seeking no more than the opportunity to live in a free society. What they found—instead of freedom—were barbed wire detention camps, a Justice Department intent on deportation, and a paucity of trained attorneys able and willing to take up their cause.

History demonstrates that in a people's hour of darkest despair the hand of providence will invariably select an individual to rise up and assume the mantle as their champion. For the Haitian refugees, that person was Mike Hooper. Although a novice in the political world of Capitol Hill, Mike quickly recognized that his entreaties to the Justice Department would prove fruitless and that legislative redress was the only real solution. Working with another great humanitarian—the late Bayard Rustin, Mike diligently set about his task of sensitizing Congress to the plight of the Haitians. His weapons were the indispensable facts and figures upon which sound legislation must always be based and an unwavering belief in the just nature of his cause.

Against this background, I introduced legislation during the 98th Congress to allow Haitian and Cuban refugees who arrived in the United States prior to 1982 to become lawful permanent resident aliens. And it was with the able and unselfish assistance of Mike Hooper that we were able to move that bill through the House. Unfortunately, the legislation was not acted upon by the Senate. But Mike was not discouraged and ultimately, we prevailed and in the 99th Congress the Haitian Adjustment Provision was incorporated into what later became Public Law 99-603—the Immigration Reform and Control Act of 1986 [IRCA].

To date, approximately 30,000 Haitian nationals have become permanent resident aliens under IRCA. They will live, work, and raise their children in the United States and they will be eligible to apply for United States citizenship. Perhaps most of them will not know precisely how or why a United States Government once intent on their immediate deportation is now welcoming them as future citizens. But for those of us who were involved in effectuating that transformation the role of Mike Hooper will not be forgotten and these individuals will be his enduring legacy.

Mr. Speaker, the Haitian people have lost a great friend and effective advocate and those of us involved in the struggle for human rights have lost an invaluable ally. I want to extend my deepest sympathy to Mike's wife, Rayna, and his daughter, Mira. They are in our thoughts and prayers.

FIRST INTERNATIONAL HYPERSONIC FLIGHT CONFERENCE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, I am pleased to inform you and my colleagues that this week over 250 leading aerospace experts from 22 nations are meeting at the University of North Dakota in Grand Forks for the First International Conference on Hypersonic Flight in the 21st century.

As you may know, hypersonic planes will be albe to take off from a conventional runway, cruise at speeds up to 12 or more times the speed of sound, and then, if desired, use rockets to accelerate into orbit around the Earth. This potential for both intercontinental passenger and freight transport in 2 hours or less, and for much cheaper and more reliable access to space, portends tremendous commercial, scientific, and national security benefits to the United States.

This conference is of particular significance because it brings together, for the first time, the world's top thinkers in hypersonic flight. Conference speakers, which include the managers of the United States National Aero-Space Plane Program and the leaders of the British, French, German, Japanese, and Soviet hypersonic development programs, will discuss with participants the technological, legal and policy challenges raised by hypersonic flight.

It is the interdisciplinary approach of this conference, which is the unique hallmark of the newly formed space studies department at the university's center for aerospace sciences, that may be of the greatest importance to us here in the Congress. Not only are first-rank scientists and engineers participating in the conference, but many of the best economic, legal, and political minds from around the world are looking at how interested nations—their governments, businesses and universities—can work in collaboration and in productive competition to develop these technologies and systems to benefit human kind to their fullest potential.

With the combined efforts of many nations, we can realize hypersonic flight by the turn of the millenium and truly open the space frontier, just as large-scale farming opened the Northern Plains to increased settlement a century ago. In each case, we see humankind's drive to earn new and useful things pushing back the boundaries of human knowledge and opportunity.

I am very proud that the University of North Dakota and its Department of Space Studies, is making such an important contribution to the United States' and the world's technological future by serving as a truly global center of advancement in hypersonic flight. This conference demonstrates again, the university's leadership in developing both areospace science and international understanding.

May I also take this opportunity to commend the National Areonautics and Space Administration for its support of the Hypersonic Space Flight Conference. This collaboration between NASA and UND points the way for innovative work involving Federal agencies and the Nation's universities and I wanted to bring this to my colleagues' attention.

HONORING MRS. MATILDA ZEMSKY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. ACKERMAN. Mr. Speaker, today I rise to pay tribute to an outstanding citizen and good friend, Mrs. Matilda Zemsky. Matilda is a perfect example of a hard working, dedicated employee. On Friday, September 23, she will be honored at a special reception sponsored by the Department of Motor Vehicles.

Matilda spent over 30 years helping people through her devotion to her work at Creedmoor State Hospital. From there she transferred to the Department of Motor Vehicles in Jamaica, NY. She is retiring from the department after 8 illustrious years as the director of enforcement.

Matilda helped not only countless citizens, but also area law enforcers. Anyone who had the pleasure to work with Matilda could tell you all about the outstanding work that she contributed to the Department of Motor Vehicles. She took a personal interest in every individual case that came before her at the department. Indeed it is refreshing to know somehow who is so dedicated and helpful.

For over 8 years Matilda has been instrumental in aiding government officials with their efforts to fight drunk driving. She is in charge of revoking suspended licenses and has authority over the department's driving while intoxicated cases. In order to wage a legitimate fight against drunk drivers, this country needs dedicated citizens such as Matilda Zemsky. Her efforts to help foster driver safety are well known in the Queens County area.

Mr. Speaker, Matilda Zemsky has received accolades from many law enforcement organizations, including the Federal Bureau of Investigation, the Department of Transportation, and the New York Police Department. They have highlighted her work with the Department of Enforcement, particularly commending her efforts in cooperating with law officials.

I would like all of my colleagues to join me in thanking Matilda for her hard work and dedication to such a worthy cause and to wish her the best of luck in her future endeavors.

TRIBUTE TO FOUR OUTSTANDING RESIDENTS OF MEDFORD

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. MARKEY. Mr. Speaker, today I rise in order to pay a special tribute to four outstanding Afro-American residents of the city of Medford, MA, located in the Seventh Congressional District, which I represent. The four residents of whom I make mention have lived in Medford for a combination of 340 years. In recognition of their longevity, plus their many outstanding civic, literary, and artistic contributions to their community and State, I would like to pay honor to these persons, the four surviving of nine children of Hilliard and Madeline Kountze, namely: Madeline Dugger Kelley, Vivien Fisher Russell, Elmer B. Kountze, and Mabray Kountze.

Madeline Dugger Kelley is the oldest living member of the Kountze family. Madeline is 91 years old, spry, active, and remains continually interested in helping and serving her community. Madeline's first husband, Edward Dugger, a lieutenant colonel in World War I, died in 1939 at the age of 44. Together, they had six children, four daughters and two sons, the oldest of whom was 19 years of age at the time of his father's passing. Madeline, raising the children alone, employed full-time, stressed, to her family, amongst other things, unity, religion, sense of self-worth, education, and the giving of self, to make the world a better place in which to live. Edward and Madeline's children graduated from college and each, like their parents before them, have made a significant mark upon the world in their own unique respective way. Madeline, over the years, selfless, caring and giving to her family and others, has received numerous awards and citations, among them, Mother of the Year—Commonwealth of Massachusetts in 1952, the first Afro-American to receive this notable distinction. Madeline retired from her position as adjudicator—Veterans' Administration in 1967, and from that day to this, continues to serve in many different capacities for her community and State.

Vivien Fisher Russell, wife, mother, civil servant, artist, retired from the Commonwealth of Massachusetts in 1971. Following her retirement, she was able to renew a lifelong interest in art and many of her paintings have been prominently displayed in public buildings throughout the city and local exhibitions throughout the State. Vivien's many civic affiliations, devoted to upgrading and improving the quality of life for all persons, coupled with her artistic talents, deserve special recognition.

Elmer B. Kountze, 84, husband, father, retired Army officer of World War II and a retired correctional officer, Massachusetts Department of Corrections, 1973, has been actively engaged for the better part of his post Army retirement years as a leader in Medford civic affairs. He is a member of several veterans' organizations and is past commander of the American Legion Carter Post #16. Elmer, recipient of numerous awards and citations, was a cofounder of the Medford Improvement Association and has served in several key municipal volunteer assignments, within Medford, for former mayors and city managers. He is looked upon as an "Elder Statesman" by members of the community within which he resides.

Mabray Kountze, 78, youngest of the surviving family members, retired in 1970 from the U.S. Post Office Department. Mabray, a self-educated, well-known historian and journalist, has published two books focusing on the lives and accomplishments of Afro-Americans residing within the Boston suburban communities over the past 200 years. In the fall of 1984, Boston College awarded its annual Black Historian Griot Award to Mabray. In July 1988, the Medford Cooperative Bank, in commemoration of its 150th anniversary, requested that Mabray put a time capsule, to be opened in the year 2036, in its vault. The contents contain the contributions of Afro-American people living within Boston and surrounding communities over the past two centuries.

Mr. Speaker, the four individuals to whom we pay tribute today are truly living examples that we, the Members of the U.S. Congress, should acknowledge with respect, pride and dignity for the manner in which they have lived and served their families, community, State, and country. We wish them many more healthy, productive, and happy years of life, and may God continue to bestow merciful blessings upon them and their families.

POSITIVE ACTION ON H.R. 3238

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. BUNNING. Mr. Speaker, I would like to take this opportunity to thank the Judiciary Committee for their positive action on H.R. 3238, the private relief bill I introduced on the behalf of Maria Gonzales and which was approved by the full House this morning. I especially want to thank my good friend and fellow Kentuckian, RON MAZZOLI, for the assistance he provided in making it possible to move this bill to the floor.

I think that it is important that the Members of this body know the case of Maria Linda Gonzales, so that they will understand that private relief was indeed justified in this case.

In 1974, Jorge Gonzales' brother signed a petition to bring Jorge and his family to America from the Philippines. At that time, Jorge's daughter, Maria Linda, was a mere 10 years old and her name was included on the petition list.

In 1984, the family received notice from the U.S. Embassy to prepare their travel papers for immigration and wait to be called in for an interview. Again Maria Linda's name was on the petition.

By the time that interview was granted in 1985, Maria Linda Gonzales had turned 21. Thus, since she was no longer a minor, her name was removed from the family petition. When Jorge Gonzales brought his family to America in 1986, his daughter, Maria Linda, was left behind in the Philippines.

Since that time, Maria Linda, applied for a second preference immigrant visa. That visa was granted, but it was estimated by the U.S. Embassy in the Philippines that there would be at least a 6-year wait until her preference number would come due.

The bill we are considering today, H.R. 3238, states that the priority dating of a secondary preference visa would not apply in this case. This was the approach suggested by the House council for a private bill in this instance. The end result would be the expedited immigration of Maria Linda Sy Gonzales.

House policy states that private relief bills like this should only be considered in cases of such an extraordinary nature that an exception to the law is needed. This is clearly such a case.

The Gonzales family waited some 11 years for their immigration to America. When they applied, Maria was 10 years old. I believe that despite the fact that she turned 21 shortly before the family's immigration, the intent of the law has been met. She waited her turn once and should not have to wait a second time.

Finally, Mr. Speaker, I wish to add one personal note. I have met with the Gonzales family on numerous occasions. They are a decent, hard-working, Christian family, who are looking forward to becoming American citizens. Since their immigration, this decent family has been split apart and they should be reunited.

I thank you for this opportunity to tell you about this case and I thank my colleagues for their support of this legislation.

The wheels of bureaucracy move slowly—and maybe in the case of immigration there is nothing that can be done to speed up the process because of the huge number of people who wish to come to this country. However, we do not have to allow those wheels of bureaucracy to crush a family. The passage of this bill today moves us one step closer to correcting a great injustice.

BROTHER GEORGE SYNAN F.S.C. HONORED

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. HERTEL. Mr. Speaker, I rise today with great admiration and pride to honor Brother George Synan F.S.C. On Sunday, October 2, 1988, he will mark his 60th anniversary as a Christian Brother. Brother George has the remarkable ability to bring love and joy into every person's life he touches. He has given unselfishly to the young men he has taught for over 40 years.

Brother George made his vows for life on August 30, 1936. He then received his first assignment after taking his vows at De La Salle Collegiate in Detroit, MI, on August 31, 1936. He traveled to his new school and community on September 2, 1936. He was welcomed by Brother Malachy the prinicpal of De La Salle Collegiate.

Brother George's teachings of social science, Latin, and English helped to widen the horizons of many young men. Brother George had a great interest in athletics and became involved with the school team sports and served as athletic director.

This humanitarian used his summers to further his own education. He also spent 30 summers volunteering to assist delinquent boys throughout the United States.

In 1932, Brother George made the following resolution that he strives to live by:

1. I will try to teach my boys earnestly and will try to motivate them to be good students and Christian gentlemen.

2. I will be especially concerned for those who are poor, those who have limited learning skills.

3. For this purpose I will try to work with the students both in and out of class so that they will enjoy fulfilling tasks even those that may be difficult.

4. It is important to know the parents of the boys in order to be able to be more effective in their formation. This involves dealing with parents who may be difficult at times or who have difficulty in managing their children.

5. I do enjoy the thought of need for being very compassionate with the children of single parents whether they be widows or widowers, whether they be single parents due to death, separation, or divorce. In this connection I will be rather attentive to single women.

6. I will try to give good example at all times so that my students might develop a sense of sharing or concern for their families and their friends. I see the need for concern for the sick and the bereaved.

7. It is important to pray for them so that they may remain in God's favor and be a force in the church, the community at large.

Brother George Synan has great love for his students, their families, and the community at large. The people that he has touched with his life also have great love and admiration for him.

My dear colleagues, I ask you to join me, and the many friends of Brother George Synan, in honoring a person so very much appreciated throughout the Detroit community, as well as the State of Michigan, for giving so much to so many.

SOUTH PASADENA CELEBRATES 100TH BIRTHDAY

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. MOORHEAD. Mr. Speaker, I very much appreciate this opportunity to bring to the attention of my colleagues in the U.S. House of Representatives the centennial birthday celebration of South Pasadena, CA.

South Pasadena is a small but wonderful community within the boundaries of the 22d Congressional District. The name Pasadena is a Chippewa Indian word meaning "valley between the hills." It was a valley blessed with orange groves, vineyards, jacarandas, oak, and ash. It was a fertile and giving land with a climate as attractive as its geography.

The early history of the community is imprecise but legend has it that the explorer Gaspar de Portola and Father Crespi worshipped under the unbiased branches of the great Charter Oak in 1770.

The oldest building is the Adobe Flores, built around 1845. It was used by Mexican General Flores just prior to his surrender to General Fremont, an action which ended hostilities between the United States and Mexico.

The first business in South Pasadena was the Oak Hill Dairy, started in 1870 by David Raab. Another early landmark was the gracious 400-room Raymond Hill Hotel, which was constructed in 1886. Subsequently razed by fire, it was rebuilt in 1909.

One of the communities earliest national attractions was the Cawston Ostrich Farm, which opened in 1896 and featured beautiful gardens and 250 ostriches.

Obviously, many things have changed in South Pasadena in the last 10 decades. The orange groves are gone. The Raymond Hill Hotel is gone. The ostriches and vineyards have gone. But while some of the old physical characteristics have passed on with time, what remains as strong as ever is the sense of community in South Pasadena. It is a city with strength and character and pride. And it is a city with an admirable history. It is all these traits that South Pasadena seeks to honor and remember during its centennial celebration. Mr. Speaker, it is an honor for me to play a small role in this worthy tribute.

TRIBUTE TO A COURAGEOUS ATHLETE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. FLORIO. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues a man who truly represents the Olympic spirit as he prepares to depart for the Disabled Olympic World Games being held in Korea.

Doug Heir was an 18-year-old all-star college football player, working as a lifeguard, when a tragic diving accident rendered him a quadriplegic. Undeterred and supported by his family, friends, and his courageous spirit, Doug continued on with his college education and on to law school. As a partner with the firm of Morgan, Bor, Bornstein & Heir, Doug has excelled in his profession and brings a unique understanding to the law, with a special emphasis upon the tragedy and pain felt by an injured person and their family. Through his membership in many organizations that assist the injured, he has proven to be a compassionate, thoughtful representative both in and out of the courtroom. Indeed, Doug has recently been honored as one of the Nation's best lawyers by "Who's Who in American Law" and is a nationally syndicated writer.

In addition to Doug's success in his chosen profession, he has also proven to be a star as an athlete who is ranked first in the world in field events. In October Doug will depart for Seoul, Korea as a member of the United States team at the Olympic World Championships where 60 countries will compete. With his past history of obtaining nothing other than gold medals, as he did in 1986 at the world championship in Europe, he will undoubtedly contribute greatly to our team's showing in Seoul.

As an athlete, attorney and humanitarian, Doug has consistently proven himself to be committed to excellence. Mr. Speaker, we can all learn as citizens and especially as public servants by Doug's example. From his work with children to fight drug abuse, to his inspirational work with other physically challenged individuals, he has proven to all of us that he is truly an American champion.

I take great pride in calling Doug Heir a friend and ask that all of my colleagues join me paying tribute to a great American. As I applaud his commitment to persevering in the true spirit of the Olympic games, I also applaud the support that his family and friends have given him over the years. With his courageous spirit, Doug will certainly ensure that the Olympic spirit will burn brightly in the many years to come.

TRIBUTE TO VICTORIA CLAFLIN-WOODHULL-MARTIN

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Ms. KAPTUR. Mr. Speaker, This year, 1988, marks the 150th anniversary of the birth of Victoria Claflin-Woodhull-Martin. On September 24, in her hometown of Homer, OH, a testimonial dinner will be held in her honor. I would like to take this opportunity to tell the Congress and the American people of this Ohioan's life and contributions to women of America.

Victoria Woodhull was one of our country's first outspoken feminists. She dedicated much of her life to the fight for women's suffrage. She spoke incessantly on the topic, bringing in crowds of thousands to hear her. She published the Woodhull and Claflin Weekly, a small newspaper that carried articles about Woodhull's opinions on suffrage, civil rights, and economic equality for women.

Woodhull was the first woman nominated for President of the United States. She was the Presidential candidate for the Equal Rights Party in 1872, an election in which woman were not allowed to vote. The Equal Rights Party won about 3,000 of the over 6 million votes cast.

Woodhull was also the first woman allowed to address the Congress. On January 11, 1871, she testified before the House Judiciary Committee regarding woman's suffrage. She argued that the 14th and 15th amendments included women in the definition of "person" and therefore gave women the right to vote and all other privileges of citizenship.

Woodhull had a colorful history, which may be why she has been largely ignored in traditional text books. As a young woman, she traveled with her family as a medicine and fortune-telling show. She and her sister, Tennessee Claflin, thereafter worked together as clairvoyants. Victoria and Tennessee moved to New York in 1868, befriended Cornelius Vanderbilt through his interest in spiritualism, and with his assistance opened a stock brokerage office in New York. She ran the stock brokerage at a profit until 1873 when recession and negative publicity about her personal life drove away her customers.

Woodhull was criticized harshly not because of her stance on the women's vote but because of her opinions on the institutions of marriage and the family. As a divorced woman from the lower class, she had little in common, socially, with the better known and historically praised feminists of the period, notably Susan B. Anthony and Elizabeth Cady Stanton. Unlike other prominent feminists who were wed to Victorian values, Woodhull believed that family life had to be changed before women truly could be liberated. She described the traditional institution of marriage as "enslavement of women."

It was these beliefs that caused her political downfall and subsequent treatment in history. Press coverage turned from her quest for the right to vote to her social and moral stances. Woodhull announced publicly that marriage laws should be repealed. She then sought to diffuse the public criticism she was receiving by writing exposes about the hypocrisy of Victorian morals, hoping the public would recognize that social behavior accepted in men often was criticized in women. Her most famous expose involved Henry Ward Beecher, probably the most eminent minister of the time. The public outcry backfired and she spent the 1872 election, in which she was a Presidential candidate, sitting in a jail cell awaiting trial for distribution of obscene materials. She was later acquitted. She never did recover her earlier success, however, and found herself and family banished from many cities because of her personal convictions.

In 1877, broke of money and spirit, she moved to England. There she recanted much that she had stood for in the earlier years. She found new sentiment in the sanctity of marriage and the evils of divorce. She spoke more of religion and less of social revolution. But she never retreated from her strong support of women's rights. She lived in England until her death in 1927.

Historians are now revisiting the role of Woodhull in advancing women's rights. She played a significant role because of her leadership and prowess as an orator, qualities which attracted public attention to the topic of equal rights for women.

A TRIBUTE TO FRANK DILEO

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. COYNE. Mr. Speaker, in 1966, a 19-year-old man in Pittsburgh landed a job in his hometown as a local salesman for CBS Records. It was the beginning of one of the most spectacular careers in the entertainment industry.

That young man was Frank Dileo. From those modest beginnings, Frank has risen to become the exclusive personal manager for Michael Jackson, the world's most popular entertainer. He supervised the promotion of Michael Jackson's solo album "Thriller," which was purchased by more people than any other album in history. He planned and launched the Jackson family's spectacular Victory tour and Michael Jackson's worldwide solo tour that shattered records in Europe and Japan. As he noted when Frank M. Dileo Artist Management, Inc., opened its doors in 1984, it was "just me, two assistants, and the biggest star in the world."

Even though Frank has become a pillar of the music industry internationally, his roots in Pittsburgh remain deep. He grew up on Edgerton Avenue, in the Point Breeze section of the city; he attended St. Bede's grammar school; his very first job—when he was just 6 years old—was working for his father at Dileo's Tavern; and he graduated from Central Catholic High School in 1966, where he was a defensive guard on the football team.

On September 22, Frank's family and friends in Pittsburgh are celebrating Frank Dileo Day. There will be a ceremony in his honor at his alma mater, Central Catholic High. It gives me great pride to join my fellow Pittsburghers in congratulating Frank and wishing him continued success in what is already a very impressive career.

MIKE LEWAN: A NON-JEWISH LEADER OF THE JEWISH COMMUNITY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. SOLARZ. Mr. Speaker, as my colleagues know, the Jewish community has just finished celebrating the New Year. As the Member of Congress who represents the largest Orthodox Jewish population in the country, I am looking forward to another fruitful year in which I will proudly uphold the special concerns of this unique community.

Of course, working with such a significant group of constituents is no small task. And I am fortunate enough to have as my liaison to the Orthodox community a man who has devoted over a dozen years to an extraordinary record of public service. While he is not Jewish himself, the Orthodox community of Brooklyn has no better friend than my administrative assistant Michael Lewan.

I would like to commend to my colleagues a profile of Mike that was published in the September issue of Good Fortune magazine:

MICHAEL LEWAN THE NON-JEWISH, JEWISH LIAISON

(By Ed Zuntz)

A young bochur in Israel is engaged to be married to a frum young lady in Williamsburgh, New York. Great —right?

Wrong!

Because six days before the chasuna (which happens to also be erev Shabbos) the American State Department rejects the boy's visa.

In Williamsburgh pandemonium breaks loose . . . that is until Michael Lewan's name is mentioned.

Long-time aid to Congressman Stephen Solarz, Lewan is a trouble-shooter extraordinaire for the Jewish community and sets things into motion immediately. He receives an urgent call from a local Williamsburgh rabbi, which spawns a call to the State Department. Within minutes the dust begins to settle. An apparently overzealous official at the State Department unwittingly rejected the young fiance's visa, thinking it was made under false pretenses. (Indeed a common way to apply for entrance into the country is through arranged and then "annulled" marriages). And since the Israeli bochur had met the Williamsburgh girl only once—and a year ago at that—the document did seem suspicious.

Michael Lewan to the rescue. Familiar with the procedure of shidduchim amongst the observant—where arranged marriages are not the exception but the norm—he asks the official to reconsider this important decison. Verdict? The bochur boarded a flight to the U.S. the very next day.

Lewan describes himself as having been interested in politics even "as a kid and in college" during the anti-war movement in the 60's. Then in 1972, while busy working for George McGovern in Brooklyn, he met Stephen Solarz, then a young State Assemblyman. A friendship struck up which has lasted many productive years.

Just a year after that first meeting, Solarz ran for Borough President of Brooklyn. It was Lewan who worked full time on the campaign. When Solarz lost, Lewan (who had just graduated college) went off to graduate school.

By the time Solarz ran for Congress (one year later) Lewan was only 22. Nevertheless, the soon-to-be Congressman asked the young graduate student to again manage his compaign. This time they won.

Michael Lewan then because Solarz's Chief of Staff in both his New York and Washington offices and began handling the important and delicate "Jewish Portfolio" for Congressman Stephen Solarz. Though Mr. Lewan is himself not a Jew, his dedication and familiarity with issues Jewish do not suffer in the least.

Point in fact, Lewan once received a call from Rabbi Schmidman of the Council of Jewish Organizations in Borough Park. A tragic boating accident had occurred in Italy, and a frum man was killed. To ascertain the cause of death—and rule out foul play—the Italian authorities were eager to perform an autopsy on the body. As autopsies are strictly forbidden under Jewish Law, Rabbi Schmidman "wanted to know how (they) could stop them," Michael Lewan recalls. Within minutes, Lewan had contacted the U.S. Ambassador in Italy who "was very responsive." Soon the Ambassador sent a representative to the Italian court and received an injunction to delay the autopsy. With 24 hours of bought time, Italian authorities were convinced that foul play could not have been a factor. The shipment of the body to Israel for burial was soon successfully arranged.

Although situations like these are by no means pleasant, for Michael Lewan they are all in a day's work. Unbeknownst to many, nearly 15-20% of Congressman Solarz's district consists of Chassidic Jews. That is why religious issues are so important to him. And while sheer numbers of voters are not the prime motivation for Solarz's working so closely with the Jewish community, he has "developed a very warm relationship over the years with most of the religious communities in Borough Park and Williamsburgh," notes Lewan. "They like him," and the feeling is certainly mutual.

That Lewan is not Jewish may seem like a drawback. But he feels differently. In fact, he says it has actually worked in his favor. For one thing it's easier for Lewan to admit that he is not aware of a particular Jewish custom or law.

Michael Lewan's work as a dedicated liaison has not gone unrecognized. Recently, he traveled to Europe with Rabbi Friedlander, as a member of the Holocaust Council. When they arrived in the town of Olisiska in northwestern Hungary (where Friedlander's grandfather had lived) the two were greeted by the town mayor, who then escorted them to the former Friedlander home. The elderly man who now lived in the house still remembered Friedlander's grandfather and was pleased to be able to show them the gravesite as well as the well-preserved mikvah at the rear of the house.

Several months ago, Rabbi Berish Frielich, chief organizer of the American Friends of Bnai Brak (an organization devoted to raising funds for an Orthodox hospital to serve the Tel-Aviv suburb) informed Mr. Lewan that he would be honored with the organization's Award for Public Service, due to his fundraising efforts on their behalf. During the award ceremony, everyone there gaped in surprise (and pleasure) when Lewan delivered his acceptance speech in a perfect Yiddish.

Despite all his capabilities and experience, Lewan still claims no political aspirations of his own. His family precludes that for now. Serving the diverse and numerous concerns of Brooklyn's Jewish community is probably job enough; for the time being anyway.

AFRICA NEEDS FAMILY PLANNING

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. PORTER. Mr. Speaker, the need for voluntary family planning in Africa is greater than ever. Total population in Africa now stands at over 600 million people and is doubling every 24 years. The pressure this growth puts on the governments, economies and the environment of Africa is staggering.

There is an answer. African governments who were hostile to voluntary family planning only 10 years ago are now overwhelmingly supportive. The demand for family planning services is exploding. Unfortunately, the supply is not keeping up with demand.

When women cannot get access to modern family planning methods they turn to other means. Many women in Africa take "Apiol and Steel Pills" or "Dr. Bonjeans Pills" to end their pregnancies. These pills work simply enough. They contain enough lead poison to end a mother's pregnancy and possibly her life.

Later on today the Foreign Operations Subcommittees of the House and Senate will have a chance to help stop these practices by targeting more family planning assistance to Africa. Let's hope they do. The women of Africa depend on it.

TRIBUTE TO MRS. YVONNE GREENLEAF

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thrusday, September 22, 1988

Mr. THOMAS of California. Mr. Speaker, I rise today to extend my congratulations to Mrs. Yvonne Greenleaf, of Bakersfield, who has been named "Nurse of the Year" by the Kern County Registered Nurses' Society.

This is fine and fitting tribute for Mrs. Greenleaf from her colleagues inasmuch as she was selected from a large field of candidates and nominated by local organizations and private citizens. With Mrs. Greenleaf's extensive background in nursing, her long record of achievements, and most of all, her kindness and compassion in tending to suffering patients on her rounds, I know that this honor will be a source of pride for her, and an inspiration to her colleagues.

The "Nurse of the Year" award is a testament to the dedicated work of nurses in Kern County and throughout the State of California and I am proud to recognize Mrs. Yvonne Greenleaf today.

SUMMIT HOTEL—120TH ANNIVERSARY

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. RINALDO. Mr. Speaker, on October 14, Gov. Thomas H. Kean of New Jersey will be awarded the Summit Hotel's Community Service Award for his leadership in promoting pride in New Jersey and the economic revitilization of our State. One of the things that Governor Kean's administration has enthusiastically supported is historic site preservation and restoration.

The Summit Hotel is part of that colonial history of New Jersey, and which Governor Kean will celebrate. Famous as a gracious country resort area, New Yorkers once flocked to Summit for its beautiful rural charm and atmosphere. At the heart of this setting was the Blackburn House, an elegant country resort. Horses and buggies carried hotel patrons and their servants from nearby Lackawanna Railroad Station to the Blackburn House. It helped Summit to achieve a reputation early in this century as a Newport of New Jersey.

In 1929, as a result of the growing number of visitors to Summit, the present Summit Hotel was erected on the site of the original Blackburn House. Expert European craftsmen were employed to fashion the intricate exterior Tudor mansion brickwork and the interior vaulted beamed ceilings and elaborate and exquisite Tudor details. It is now listed in the New Jersey Historic Preservation Sites Inventory and Union County Inventory of Historic Sites.

The new Summit Suburban Hotel was opened just months before the 1929 stock market crash. Many wealthy residents who lost their homes and estates moved in with their servants and called the hotel their home.

The Summit Suburban Hotel continued as the home of a celebrated life style, frequented by prominent public officials and celebrities, drawn by the hotel's park-like setting and convenient proximity to cultural and recreational attractions, historic downtown Summit and easy access to Manhattan.

The Summit Suburban thrived unchanged until 1984 when it was acquired by new owners and renamed the Summit Hotel. In 1986, a comprehensive renovation took place. Over $10 million was spent to thoroughly modernize and upgrade the hotel to world class status and capture the look and feel of timeless European elegance.

Today, the Summit Hotel stands as a symbol of the distinguished and colorful history of Summit as well as the home of gracious hospitality, fine continental cuisine and European ambience.

SUPPORT OF H.R. 2461, FOR THE RELIEF OF MILENA AND BOZENA MESIN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. TRAFICANT. Mr. Speaker, I rise in strong support of H.R. 2461, a private bill I introduced last year to save 20-year-old Milena and 18-year-old Bozena Mesin from being deported to Yugoslavia. The girls are currently living in Farrell, PA, with their adopted parents.

Milena and Bozena Mesin have resided continuously in the United States since 1973. On February 6, 1986, they were legally adopted by their aunt and uncle, Marko and Ann Mesin. Mr. and Mrs. Mesin are both U.S. citizens. At the time of the adoption Milena was 17 years old and Bozena was 16 years old. Due to the difficulty of obtaining parental consent under Yugoslavian law, adoption could not be obtained prior to the age of 16, as required by U.S. immigration law. At the time of the adoption, the girls were living in the United States on student visas. Unless H.R. 2461 is adopted, the girls will be deported back to Yugoslavia once their visas expire.

My bill would allow the sisters to stay in this country legally and eventually become U.S. citizens. I want to take this time to commend Congressman ROMANO MAZZOLI, chairman of the Subcommittee on Immigration, and the rest of the members of the subcommittee for their patience and understanding in getting this bill to the House floor.

Mr. Speaker, Milena and Bozena love their new country and their adopted parents very much. They wish to stay in America and become productive citizens. Without the timely intervention of Congress, these two girls will eventually face deportation back to the Communist State of Yugoslavia against their will. This is not right and it's not the American way. I urge the House to approve H.R. 2461.

THE SOCIAL SECURITY TRUST FUND

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. RICHARDSON. Mr. Speaker, at this point in time, the Social Security trust fund is financially viable—this year alone, the Social Security trust fund will run a surplus of $40 billion. There are those, however, who continue to eye the trust fund as a means to reduce the deficit. Well, they can read our lips—Democrats will not gamble on the future well-being of the Nation's elderly by dipping into their Social Security trust fund.

Governor Dukakis has made a pledge to the American people that he will not balance the budget on the backs of our senior citizens—his commitment to Social Security is sincere and longstanding.

However, Mr. Speaker, in 1985, GEORGE BUSH cast the tie-breaking vote to deny millions of senior citizens a cost-of-living increase in their Social Security checks. He clearly cannot relate to what it's like to live on a Social Security check alone. In addition, Mr. BUSH's running mate, DAN QUAYLE, voted against the provisions which have given Social Security its $40 billion surplus.

Franklin Delano Roosevelt started Social Security—the Dukakis administration will continue this legacy into the 21st century.

THE INSTALLATION OF MR. ARTHUR RAWERS AS COMMANDER, FIRST DIVISION, THE AMERICAN LEGION

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize Mr. Arthur Rawers, a resident of my district who will be installed as commander of the First Division of the American Legion on October 15.

Mr. Rawers' service to his country began in the U.S. Navy during World War II. He spent his time in the Navy aboard the light cruiser U.S.S. Dayton CL 105 in the Central Pacific. Following his war experience, he became active in the American Legion Post No. 687 in Stickney, IL, eventually becoming commander of the Post, and in the 5th District Council. Presently, he is involved with the Legion's District, Division, State, and National Committee on Education and is vice chairman of the Legion's National Committee on Education. It is from these beginnings that he will rise to assume the commander's position in the American Legion's First Division (Cook County), Department of Illinois. This role is, of course, important within the national organization because of the 266 individual American Legion Posts and 38,000 members included in the First Division.

Mr. Rawers has also, with dedication and loyalty, served his community well. He has primarily contributed to his community through helping its youth. For 15 years he was a secondary school teacher in the area and the school administrator for 18 years. During his years as a teacher, he also volunteered to assist with extra curricular activities. He was a varsity tennis coach for 13 years and varsity swimming coach for 5 years, being named Illinois High School Association Swimming Official of the Year in 1983. During this period he was also a member and president of the Morton West Boys and Girls Swim Team Parents Club.

Mr. Rawers found other ways to serve the community as a whole as well. He is a member of the board of directors of the United Way of Stickney, was secretary of the Stickney Police Association, and past president and member of the Stickney-Forest View Lions Club. From 1977 to 1988 he has been Stickney, Illinois' Village Clerk, receiving its Man of the Year honor in 1986.

Mr. Speaker, I am sure my colleagues join me in expressing our gratitude to this exemplary American for his unselfish service to the community and congratulating him on this auspicious occasion.

THE 20 MILLIONTH GI BILL PARTICIPANT TO BE HONORED

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. MONTGOMERY. Mr. Speaker, June 22, 1988, marked the 44th anniversary of the GI bill of rights.

The GI bill has educated millions of ex-servicemen and women, their dependents and survivors, since World War II; it has stimulated the growth and expansion of institutions of higher learning; and, it has helped generate billions of dollars in the form of tax revenues from these hard-working veterans who honorably served their country in war and peace.

The Veterans' Administration has identified the 20 millionth participant in the series of four GI bill education assistance programs, the newest of which is called the Montgomery GI bill. This program is available not only to active duty personnel, but also to members of the Selected Reserve and the National Guard.

The 20 millionth participant is Steven C. Scott. He will be a senior this year at Ohio State University in Columbus, OH, pursuing a degree in business administration. Mr. Scott served honorably in the U.S. Army from July 25, 1985, to July 17, 1987. In addition to attending school full-time, he also participates in the Reserve Officers Training Corps [ROTC] program and is a member of the Ohio National Guard.

Mr. Speaker, this fine young American was honored today at a reception in the House Veterans' Affairs Subcommittee hearing room.

I know my colleagues join me in wishing this young man well in his educational and career pursuits.

AN OUTSTANDING WESTERN NEW YORKER RECEIVES WELL-DESERVED RECOGNITION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. KEMP. Mr. Speaker, I want to extend my congratulations to Mr. Burt P. Flickinger, Jr., an outstanding community leader in western New York as well as a good friend, on his receipt of two distinguished awards. On October 3, Burt will receive the National Grocers Association's "Spirit of America" award and the New York State Food Merchants Association's "Distinguished Public Affairs Award" in recognition of his dedicated service to community projects and his commitment to furthering the effectiveness of the independent food distribution industry.

As senior vice president of government relations for Scrivner, Inc., Burt has been a vigorous supporter of the free enterprise system. He has worked diligently to increase the awareness of public policymakers at all levels of government to the contributions and needs of independent grocers and food distributors.

Burt also has given generously of his time and energy to help meet the needs of our community. Among his numerous volunteer roles, he has served as chairman of Boy's Town of Italy of Western New York, chairman of the Buffalo Philharmonic Orchestra's major gifts campaign, chairman of the National Conference of Christians and Jews, chairman of several fundraising efforts for Children's Hospital, and chairman of the United Way. Burt has made a significant contribution to helping improve the quality of life for western New Yorkers.

Again, I want to congratulate Burt on receiving two very well-deserved awards that recognize his tremendous dedication to both his industry and his community.

TRIBUTE TO ALFRED A. HOPKINS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, it is my privilege today to bring this House's attention to a fine citizen in my district who will soon retire. Alfred A. Hopkins will retire as sports editor of the Annapolis Capital in early October after 20 years with the paper.

I've known Al for many years and like many in Anne Arundel County, have enjoyed reading his reports and columns. Not only has he covered local and state sports with professionalism and charm, he has also served on the Annapolis City Council for more than 20 years. As a sportsman turned politician myself, I have a special place in my heart for another sportsman turned politician. If Al isn't covering a Navy football game or Annapolis soccer game, he's off walking the neighborhoods of our city, checking with his constituents on their concerns.

We'll all miss Al's reporting and presence at the Capital. His love of local sports and dedication to the profession for over two decades is the mark of a true champion. I'm sure I speak for all his fans in the Annapolis area in offering best wishes during his retirement.

PERSONAL EXPLANATION

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. DeFAZIO. Mr. Speaker, I noted with concern that I am recorded as not having voted on approval of the conference report on the Department of Interior and related agencies appropriations for fiscal year 1989. I was present at the time of the vote last Thursday and cast my vote by electronic means in favor of the conference report.

The Interior appropriations bill is critical to my district as it funds the Forest Service and Bureau of Land Management stewardship of the forests of my district. It also funds energy conservation research and fish and wildlife programs of importance to the Pacific Northwest.

I wish to commend the Committee on Appropriations for its efforts on this legislation as well as its speedy production of the bill. I am sorry that my effort to cast a vote in favor of the conference report was not recorded.

HOUSE JOINT RESOLUTION 660, FIRE SAFETY AT HOME DAY—CHANGE YOUR CLOCK, CHANGE YOUR BATTERY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. WALGREN. Mr. Speaker, today I am introducing a joint resolution, together with Congressman WELDON of Pennsylvania, Congressman BOEHLERT of New York, and Congressman MURRAY of Pennsylvania, to focus attention on the importance of keeping smoke alarm batteries in operating condition. This act alone would save lives and prevent the destruction of billions of dollars of property.

This bill urges all Americans to take a moment on October 30, while they reset their clocks from daylight saving time, to check their home fire safety devices. This simple act, which takes only seconds, can mean the difference between life and death.

Every year 500,000 fires occur in homes throughout the United States. These fires cause over 6,000 deaths and 300,000 injuries. Investigation by the U.S. Fire Administration and other fire safety officials reveals that most of these tragedies could have been avoided if the structures had properly functioning smoke detectors.

In recent years, most Americans have responded to warnings of fire safety experts and installed smoke detectors. Three out of four American homes have smoke detectors. But now, with just the passage of time, as many as half of these alarms are useless because they have not been properly maintained. Their owners have allowed the batteries to wear down or they have removed them without replacing them.

The resolution we are introducing today designates October 30, as "Fire Safety at Home Day: Change Your Clock, Change Your Battery." By focusing on October 30, the day when all Americans reset their clocks from daylight saving time, we hope that the ritual of resetting clocks will remind Americans to take an extra minute to make sure the smoke detectors in their homes are functioning.

I urge all of my colleagues to join us as cosponsors of this resolution.

TRIBUTE TO EDWARD MILANO

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. FRANK. Mr. Speaker, I read with great sadness on Wednesday about the death of Edward Milano, a distinguished and courageous labor leader who served in a series of important positions with the International Ladies' Garment Workers Union.

Eddie Milano was a major figure in labor affairs in New England when I first went to work in city hall in Boston in 1968, and his commitment to social justice was widely recognized at that time as one of the most important assets that working men and women had in the New England area. Eddie Milano joined the ILGWU in 1930, and gave it extremely distinguished service for decades. On his return from service in World War II, he went to work in the Ohio/Kentucky region of the ILGWU and progressed to be the assistant regional director in 1954. Later, he became supervisor of the northeast department and in 1967 he was elected a regional vice president and director of the New England region. I worked closely with him on the range of issues that he cared about so deeply. He was a great friend, a dedicated union officer, and a man who believed deeply in extending the benefits of American prosperity to all of our citizens. We in New England will all miss him and I extend my condolences to his friends and family on the loss of this very impressive individual.

FLORIDA SUGAR FARMERS HELP JAMAICA'S HURRICANE VICTIMS

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. DE LA GARZA. Mr. Speaker, Florida sugar farmers are providing over a quarter of a million dollars worth of relief to Jamaica following the devastion created by Hurricane Giblert last week.

When Florida sugar farmers heard about the destruction, they immediately donated supplies such as canned goods, cooking utensils, pots and pans, blankets, and bedding to be sent to Jamaica. Their first relief plane carried doctors and medical supplies and the next plane was loaded with badly needed food items donated by Florida sugar farmers.

Mr. Speaker, when I heard about this, I called to commend them and learn more about their efforts. This is what they told me: "We consider Jamaican cane cutters who work in our industry during harvest not only our employees but also our friends and neighbors. If similar destruction hit our local farming area, we would be at our neighors' side helping. We feel the same way about our Jamaican neighbors."

My colleagues, this is truly a humanitarian effort. It's characteristic of the American farmers' empathy for other victims of natural disaster. Florida's sugar farmers are to be commended for their "good neighbor" actions.

TAIWAN'S POLITICAL SUCCESS

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. OXLEY. Mr. Speaker, our friends, the Taiwanese, will be celebrating the 77th anniversary of the founding of their nation on October 10 this year. I join Taiwan's many friends in the United States in congratulating Lee Teng-hui and his people.

In the last 2 years, Taiwan has taken gigantic strides toward becoming a fully democratic government. In July 1987, Taiwan abolished martial law and enacted a new national security law which enhanced the rights of assembly and association and gave greater freedom to the press. In fact, in the last year, 1,400 separate street demonstrations have taken place in different parts of Taiwan, fully indicative of a free people exercising their rights. Moreover, in the last year, thousands of Taiwanese have returned to mainland China to visit their relatives and friends. This is yet another indication of the willingness of the Taiwanese Government to allow its people freedom of movement.

Taiwan's political success, I hope, will be a good example to other countries aspiring for political change and democratization. Once again, my congratulations to President Lee.

H.R. 2857

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. ARMEY. Mr. Speaker, I'm very pleased today that the House passed H.R. 2857, a bill for the relief of Christy Carl Hallien. For over 4 years, Mr. Hallien has sought legislative relief from the repayment of $18,913.21—plus accrued interest—in relocation expenses which he received for his transfer from the U.S. Postal Inspection Service to the staff of the Department of Defense Inspector General. He was reimbursed because of erroneous information provided by a Defense Department official. The Defense Department openly acknowledged its error and fully supported passage of the bill.

On my behalf and that of Mr. Hallien, I want to express our appreciation to Mr. Frank for taking up and passing this bill in his Administrative Law and Governmental Relations Subcommittee. Our thanks is also extended to Chairman RODINO and Mr. FISH for reporting H.R. 2857 out of the full committee. Knowing that not all private relief bills make it to this point, I was all the more grateful that the House considered this bill today. It will relieve Mr. Hallien of an inequitable situation not of his making.

COMPETITION AND CHOICE: THE UNITED KINGDOM EXPERIENCE

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1988

Mr. DELAY. Mr. Speaker, as my colleagues so well know, there has been considerable debate recently within the United States transit industry on the appropriate role of the private sector in providing public transit service. Under the current administration, the Urban Mass Transportation Administration has encouraged greater use of private operators through competition.

In this context, I believe it is helpful to review the experience of Britain, which over the past few years has completely deregulated both intercity and local bus service. Only those routes which do not attract a private operator are subsidized, but only after competitive bidding of each route.

The results are dramatic. Intercity fare reductions have been about 40 percent across the board, and ridership has increased by 45 percent. By applying these lessons to local transit service, some local authorities have saved more than 60 percent on the cost of operating transit service, without the loss of route miles.

In an address to the recent Urban Mass Transportation Administration's 4th Annual Symposium on the Private Sector and Public Transit, Britain's Minister of State for Transport, the Honorable David Mitchell, M.P., reported on these and other transportation deregulation developments in the United Kingdom.

Mr. Speaker, I commend Mr. Mitchell's address to my colleagues attention, and include it at this point in the RECORD.

TALK BY DAVID MITCHELL, M.P., MINISTER OF STATE FOR TRANSPORT

COMPETITION AND CHOICE: THE UK EXPERIENCE

1. The policy goal for Transport must be to make it available where people want it, when people want it and at a price they are prepared to pay.

Before I sit down today I hope to convince you of two things: based upon our actual experience in the UK.

First, that this goal is best achieved through choice and competition.

Second, that deregulation, privatisation and private finance are the keys to success.

It should not be assumed that my theme that choice and competition are the customer's best friend is universally accepted.

2. There are still many in Britain who believe that there should be a grand national blueprint for transport services supplemented by local plans and that by allocating resources, Governments can manipulate transport users towards their dictats—indeed it is universally so East of the Iron Curtain.

3. I said there are three key elements to reaching our goal . . . deregulation, privatisation and private investment. I begin with deregulation of the UK's internal air services.

A few years ago we ended the British Airways monopoly between London and our major internal cities. After deregulation, British Midland Airways began services on these routes, and British Airways responded to the challenge of competition. Customers on both airlines were treated like kings rather than cattle. There were suddenly free newspapers, a hot breakfast in the morning and free drinks and refreshments throughout the day—things that in the short internal flights within Britain we had never had before. The results were more customers, and more choice for those customers.

4. I now turn to deregulation of Intercity buses. I know that you deregulated your intercity buses in 1982, and we did the same thing at about the same time. The result of making entry into our market easier was that prices came down, passenger numbers went up and many hundreds—about 700—new services sprang up. More specifically, fare reductions have been about 40 per cent across the board, and passenger numbers have gone up by 45 per cent. Suddenly our long-distance operators began caring about customers and offering facilities such as video shows, toilet facilities and hostess service of refreshments.

5. Like you, we suffered a reduction of service in some smaller communities. But generally speaking, there were many times over more winners than losers.

6. We took the success of long-distance coach deregulation as a message: now was the time to tackle the 50-year-old system of intensive regulation of our local buses in Britain. When I spoke to your Conference 2 years ago I explained in detail how our bus operators used to need a license to run on any route; how an operator with such a license had a right to object to a competitor seeking to run on the same route. That meant our bus services were run by local monopolies. We all know how such trade protection leads to inefficiency, high costs, and scant regard for the customer.

7. I told you we were about to sweep away this system, deregulate and open it all up to new entrants and to competition, and that I was confident there would be an improvement. You were too polite to express the skepticism many of you felt.

8. I was impressed to read the very thorough study of our experience of deregulation prepared by Harvard University for UMTA last year. I understand it is available to delegates here, and I commend it to you. May I briefly tell you where we are.

9. First, the route mileage being operated is up about 12 percent. Second, innovation has been unleashed as a result of competition. Two years ago there were practically no minibuses in my country. Now they operate in over 250 areas. They are able to reach the parts that our large double-decker buses can't reach, such as dense housing estates. And they maneuver better in busy downtown streets.

10. Third, almost 400 new operators have entered the market. Fourth, there has been a changed attitude to passengers. In the old days, I heard a story about a local authority which operated buses and received complaints from would-be passengers that the buses were driving past them while they waited at the bus stop. The local authority replied: "It is impossible for drivers to keep to their timetables if they have to stop for passengers"!—no bus operator would think like that now. In fact, attitudes have changed so much that in many places passengers are now called "customers"!

11. Before deregulation, vast subsidies were given by local authorities to bus operators to maintain their networks—profitable and loss-making services were treated collectively. Under the new system, local authorities can provide subsidy money only on routes that would not run and that they feel are socially necessary, and then only after requesting competitive tenders for each route. The local authority specifies the route and the frequency and other details, and asks which bus operator can run it at the least cost to the public purse. Results so far show an annual saving of around 70 million dollars in subsidy money. Some local authorities have even saved 60 to 70 percent of the money they previously paid out, and that is without loss of route miles.

12. Naturally, there have been some drawbacks and some teething problems. In one or two cities, at the start, there were suddenly so many buses that traffic was congested, and it took some time for stopping places to be rearranged. Some rural areas lost their Sunday or evening services (a previous trend over many years) though others gained. One village in my own constituency has a bus service for the first time in 30 years. One problem is that some through-ticketing schemes have disappeared in the sharpness of new competition, but I think over time operators will realize there are benefits in cooperating with each other. Another problem that concerns me is the difficulty for the passenger in obtaining information about the variety of services available. We have never been as good at publicity as you are in the United States. But local authorities have powers to provide county-wide timetables, and many are doing so.

13. All of these examples show how deregulation and competition let a breath of fresh air into antiquated systems and habits. The passenger is no longer taken for granted on long-distance coaches, internal air flights, or local buses. Choice and competition are our best friends.

PRIVATISATION

14. I turn now to privatisation. Why is it important? It seems odd that I should spell this out in the land of private enterprise, but we British have had to learn from you and perhaps we have applied some of what we learned with even more gusto than you have.

15. Enterprises in the public sector are protected and cossetted. The staff of such enterprises know the firm can't go bust. They are unlikely to lose their jobs, restrictive practices abound and management finds difficulty in being able to manage. Such enterprises are able to borrow capital at advantageous rates, and if they lose money the Government picks up the bill. This gives them an artificial advantage and they can compete unfairly with the private sector.

16. In 1982 we sold the National Freight Corporation to its employees who renamed it the National Freight Consortium. It is currently Britain's biggest road freight,

storage and travel business. About 65 per cent of the total workforce are shareholders and they have seen the value of their original shares increase 56-fold in 6 years. I am pleased to say that NFC is now pursuing an expansionist business policy at home and abroad, including here in the United States where they have recently purchased a controlling share in Dauphin Distribution Services of Philadelphia. It has recently announced overwhelming support amongst its employees for a public flotation at the end of this year.

17. Returning to the subject of buses, we realised when we were deregulating that if there was going to be a competitive market, it had to be a fair market if it was to bring a maximum benefit to the consumer. This meant privatising our National Bus Company, a huge and powerful state-owned body that operated with 65 subsidiaries and dominated the market in many places. We were advised to maximise the price by selling it as one going concern and the National Bus Company management recommended that it be divided into four operating companies before selling it.

18. But we decided that we did not want four dominant operators which would, in effect, run monopolies over large areas. Instead we broke it up into 52 bus operating companies. Nearly all of them have now been sold and what particularly pleases me is that 38 of them have been bought by the local company's existing management. One of the first to be sold in this way was Devon General, where the management buy-out was inspired and led by a former bus conductor who had become the General Manager.

19. I turn now to another state-owned company, perhaps more of a household name in America than any other British firm. I refer to British Airways. In 1987 British Airways was sold as we believed it could not achieve its aim of being the best airline in the world until it was freed from the constraints of public ownership. In that event that sale netted 1.5 billion dollars for our public purse and 1 million share applications were received.

20. These three examples show how we have used privatisation in the area of transport to increase competition among operators. I am convinced that this benefits the public in two ways. It benefits the travelling public who now have more choice, lower prices and better service. But it also benefits those who don't travel but are consumers of other goods and services which rely on cheap, efficient and transport services. But I do not deny that there is also a political objective in our privatisation programme. We in Mrs. Thatcher's Administration believe that this is a way to spread wealth widely within society. And that spreading wealth throughout a community is the best defense against collectivism, socialism, and an East European type of economy.

21. But Transport is a living, changing operation; it is not only a case of how do we organize or finance existing systems, we are re-discovering that new transport facilities need not be provided by Government alone.

22. I will mention first a couple of major urban light railway systems. In terms of systems installed we are some way behind you in the United States. Perhaps we should never have got rid of our trolleybuses and trams. We now recognize that as commuting time by road gets slower and slower (average speeds are down to 11 miles per hour throughout the day in Central London) that light railways have the huge advantage of bypassing traffic jams and delivering people around a city with less land take-up and at lower cost than heavy duty railways. And what is more, they can be financed, in whole or in part, by private investors.

23. Manchester is a large city in the north of England with a comprehensive rail network. But the railway lines from the north and those from the south feed into separate stations, on opposite sides of town. Getting across town is difficult for passengers. So the local authority has plans to link these stations with new trains running on streets through the centre of the city. The old rolling stock will be replaced by light rail stock. The private sector is being asked to tender for a combined build-and-operate contract for the system. The successful bidder will receive a public sector grant to cover part of the initial capital costs. We believe the private sector here is best suited to give the public the most benefits—namely competitive prices at the tendering stage, rapid construction of the system, and efficient operation when the project is completed.

24. There is a similar story with London's old Docklands, an area of eight square miles immediately to the east of London's financial centre. The port trade moved downstream in the 1970's, due largely to containerisation, and the area became derelict. In 1981 the Government established the London Docklands Development Corporation with funds and powers to get regeneration going. The Government paid for the first stage of the Docklands Light Railway, because we recognized how essential it was to stimulate development. That first 7-mile phase cost 135 million dollars. In addition, a private consortium headed by Olympia and York is developing a 3 billion dollar office and commercial development scheme at Canary Wharf. They are also contributing almost half the finance for a 263 million dollar extension of the Light Railway to the heart of the City of London financial centre. Perhaps even more interesting in the context of my talk today is the further easterly extension of 5 miles which is being financed entirely out of the enhancement of land values which it will itself generate.

25. I want to end by saying a few words about the Channel Tunnel. This is the Tunnel that will link Britain to the continent of Europe, Europe's largest ever civil engineering project. When it is built, industries in Northern England, Scotland and Wales will have access by rail to Paris, Brussels, Cologne or Bordeaux. The Tunnel will enable our industries to compete on equal terms with our European neighbours, by eliminating our traditional sea barrier.

26. There have been many abortive schemes over the past century to build that Tunnel. Napoleon thought it a good idea—but for reasons which we did not find attractive. A Tunnel was started in the 1870s by the London and South East Railway using private money. The start of this Tunnel still exists but it was stopped on defense grounds. Another was started in 1973 when Edward Heath was PM. This was to be financed by taxpayers, but it was abandoned by the next Government as an economy measure. In 1981 the British Prime Minister, Mrs. Thatcher, and the French President agreed that the two countries should go ahead with such a project, but crucially, they agreed that it would be financed entirely by the private sector, without a public guarantee of any kind from either Government.

27. In 1985 detailed terms of an offer were issued. The Company that won the contract would be given full freedom to set tolls and to operate the Tunnel for 55 years, at which time the two Governments would inherit this valuable asset. Four consortia submitted schemes. The winning tender was Eurotunnel's scheme for twin rail tunnels. They will take ordinary passenger and freight trains, but it will also take specially built shuttle trains which cars, trucks and buses will drive on to. The estimated total cost of financing the project was 10.5 billion dollars.

28. There were doubts expressed that this could be raised. But in the event, many banks around the world were keen to lend the initial 8.75 billion dollars last summer. And in spite of the unfortunately timed worldwide stockmarket "crash" last autumn, the Company raised all the money it needed. We stuck to our guns and not a penny of taxpayers' money is invested in the Company. Construction has begun and I visited the site a few weeks ago with the Prime Minister. There will be 11 tunnelling machines, costing over 10 million dollars each—some working westward from France, some eastward from the White Cliffs of Dover. If I am invited back to one of your future Conferences, I expect to report to you in a couple of years' time that they have successfully met up.

29. So in my country, private investors are becoming more and more involved in public transport—in fact, in all forms of transport. Under Mrs. Thatcher's Administration our economy is strong and growing. On this Super Tuesday I should incidentally say that there is no truth in the rumour that Mrs. Margaret Thatcher is in the running for the republican nomination here. Private investment is encouraged and allowed to make profits. We believe we have shown that new forms of transport can be provided by the private sector, that old forms can be rejuvenated by transfer to the private sector and that less regulation releases the natural entrepreneur within our society. But above all that choice and competition are the customer's best friend.

HOUSE OF REPRESENTATIVES—*Friday, September 23, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are ever appreciative, gracious God, of the many ways You show Your presence to us and to all people. May we not wait until crisis or the evening of life to be aware of the glory of life, and may we not have to know misfortune or pain to learn of the beauty and joy of Your creative handiwork. While we pray for all those things that are necessary for our welfare, we pray above all else for the quality of thankfulness and gratitude to You, our God, and to those we love. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2884. An act to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (S. 496) entitled "An act to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes," with an amendment.

The message also announced that pursuant to Public Law 90-206, the Chair on behalf of the Vice President appoints Charles Mathias, of Maryland, from private life, to the Commission on Executive, Legislative, and Judicial Salaries.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1863. An act to amend the bankruptcy law to provide for special revenue bonds, and for other purposes;

S. 1919. An act for the relief of Michael Wilding;

S. 2162. An act to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes;

S. 2800. An act to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission; and

S. Con. Res. 143. Concurrent resolution correcting the enrollment of H.J. Res. 602.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Utah [Mr. OWENS] will kindly come forward and lead our colleagues in the Pledge of Allegiance to our flag.

Mr. OWENS of Utah. Thank you, Mr. Speaker.

All rise and join me in the pledge.

Mr. OWENS of Utah led the Members in the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

RESIGNATION AS MEMBER OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The SPEAKER laid before the House the following resignation as a member of the Committee on Interior and Insular Affairs:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 23, 1988.

Hon. JIM WRIGHT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I herewith resign my position as a member of the House Committee on Interior and Insular Affairs.

Sincerely,

BILL EMERSON,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION AS MEMBER OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 543) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 543

Resolved, That Representative Emerson of Missouri be and is hereby elected to the Committee on Public Works and Transportation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING AMOUNTS FROM CONTINGENT FUND FOR INVESTIGATIONS AND STUDIES BY THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT DURING 2D SESSION OF 100TH CONGRESS

Mr. GAYDOS, from the Committee on House Administration, submitted a privileged report (Rept. No. 100-958) on the resolution (H. Res. 531) Providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the 2d session of the 100th Congress, which was referred to the House Calendar and ordered to be printed.

THE FAMILY AND MEDICAL LEAVE ACT

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, the work force in this country is changing. One staggering example is that 60 percent of mothers with children under 5 years old are in the labor force.

The Republican Vice-Presidential candidate has failed to say word one about these changes, to so much as acknowledge the basic needs of the American family.

He opposes the Family and Medical Leave Act, legislation supported by most major religious, family, and women's groups.

His inspired alternative? A form of pregnancy-related disability which was nothing more than a shallow attempt to hide his weak record on women's issues by mandating an already accepted business practice.

The Family and Medical Leave Act is a vital measure which addresses the concerns of small businesses, children and working parents all across our Nation.

Mr. Speaker, we need this initiative now more than ever. What we do not need is a would-be Vice President who quails in the darkness of myopia.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ANOTHER EPISODE IN THE CHRONICLES OF MIKE DUKAKIS, CRIME-BUSTER

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, it is time again for another episode in the chronicles of Mike Dukakis, crime-buster.

By now the whole country knows the story of Willie Horton, the furloughed murderer. But listen now to the tale of Raymond White, who was doing time in a Massachusetts prison after being convicted of committing two murders. At least, that is, he was doing time until he escaped. And where did convicted murderer Raymond White finally turn up? Working for Mike Dukakis, in a State office building in Boston, that's where. That leads to an interesting question: Does the Dukakis promise of a job for every American even extend to escaped convicts?

It's no wonder that the President of the Boston Police Patrolman's Association and his entire union have turned down a chance to endorse the home town candidate for President. Because Mike Dukakis, in the words of the police union president, presides over a "revolving-door criminal justice system."

But maybe candidate Dukakis can solve this problem the same way he demonstrated his concern for national defense. You remember the photo opportunity riding around in a tank? This time he can ride around in a squad car. He probably hasn't seen one of those before either.

BUSH HAS EMBRACED REAGAN'S ECONOMIC POLICIES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, GEORGE BUSH says he wants to continue the economic supply-side policies of Ronald Reagan. He talks about jobs and growth. But what he does not talk about is the tripling of our national debt, huge budget deficits and massive trade deficits.

My colleagues, GEORGE BUSH has caved in. GEORGE BUSH, who termed Reagan's policies "voodoo economics," has now embraced them, and that is bad news for communities like mine because in 8 years all the Reagan and Bush administration has given areas like Youngstown and Warren, OH, has been rust-proof paint and promises with no delivery.

My colleagues, Ronald Reagan and GEORGE BUSH both embrace an economic policy and theory that a rising tide will raise all ships, but the bottom line and the truth of the matter is that under their economic policies very few Americans can afford to own a boat. Very few can afford to own the boat.

CONGRESS FAILURE TO RENEW CLEAN AIR ACT

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, this body is only 2 weeks away from its target adjournment date. The 100th Congress is rapidly drawing to a close. And with it is any remaining chance of reauthorizing the Clean Air Act.

As some Members return to their districts, air quality may be the farthest thing from their minds. Unfortunately that is a luxury not afforded to those of us who represent areas which exceed the health-based air quality standards. For us, our districts are a constant reminder of the need for a strong Federal role in improving the environment. They are also a reminder of how negligent this Congress has been.

Two Clean Air Act deadlines came and went during the 100th Congress virtually unnoticed. In fact, since passage of the Conte amendment last December to extend the act, the House subcommittee with jurisdiction over clean air legislation has held exactly one markup session on ozone and carbon monoxide nonattainment. It lasted about 15 minutes.

Mr. Speaker, I realize that there are few legislative days remaining and that we have some important issues yet to consider. But it is difficult for me to imagine any more vital than improving this Nation's air quality. I would therefore ask my colleagues, particularly those from the 127 nonattainment areas nationwide, to join me in urging the leadership to move forward on amendments to the Clean Air Act. We simply can't afford to wait any longer.

RELEASE TERRY ANDERSON

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, I rise today to remind my colleagues of the plight of Terry Anderson. He was abducted on March 16, 1985, by pro-Iranian elements in Lebanon. Over 3½ years have passed since he was taken hostage making his detention the longest of any foreign hostage held in Lebanon.

The group that holds Terry, Islamic Jihad or Islamic Holy War, is doing nothing holy by holding him. Reports by French hostages released earlier this year indicate that Terry and the 8 other American hostages still held in Lebanon are confined to extremely small quarters and if given a book or magazine to read consider themselves lucky. "* * * these men are suffering, and what is to be done has to be done very quickly. It is urgent." said Jean-Paul Kauffman, a former French hostage shortly after his release.

The humanitarian imperative to release Terry and all the other hostages in Lebanon is tremendous. Whatever political agendas the groups in Lebanon have and whatever gain they believe can be derived from the holding of hostages must give way to the paramount humanitarian concerns involved. Terry has a little girl that he has never seen. He has been completely isolated from family and friends and the mental anguish caused by his imprisonment must be traumatic. Islamic Jihad should unconditionally release Terry Anderson and the other hostages it holds. Hezbollah, Islamic Jihad's parent organization and the Iranian Government, Islamic Jihad's financial backer should use the full force of their influence to bring about this end. It is a simple matter of humanitarian concern. It is the right thing to do.

REPEAL THE HEALTH CARE BILL

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, the senior citizens in the Fourth Congressional District of Illinois through my efforts and through those now of the penitent American Association of Retired Persons in Illinois has become outraged and indignant at the recent catastrophic health care bill that was passed by the Congress and, I think, mistakenly, signed by the President. In my travels throughout the district and talking to the senior citizen groups, when I outlined to them the provisions of that bill that include an income tax increase on those senior citizens to pay for AIDS patients to assess the drug provision of that bill, and when I explained to them the part B Medicare increase premiums from $25 to $42 a month, and when I explained to them that they absolutely have to now take those part B premiums; it is not any longer optional, but it is mandatory, they say, "How did this happen?"

Mr. Speaker, I say, "Because I think maybe not enough of us were listening to those of you who oppose that bill."

So, Mr. Speaker, I have come to the conclusion that there is no alternative but repeal, and I ask all my colleagues to join me in that effort when I introduce the repeal next week.

BUSH'S CRIME—DEPRIVING OUR SENIORS AND DISABLED

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I could not help but overhearing my friends' comments about crime in this campaign.

Mr. Speaker, I think it was a crime that George Bush broke the tie in the Senate and deprived 36 million seniors and disabled persons of their cost-of-living adjustment in social security several years ago. My colleagues know that the poorest person in this country is a woman over 65. I think it is a crime that George Bush opposes fairness in pay, students and how women and minorities are treated in civil service, and they are in the lowest rungs in the classification system.

Mr. Speaker, I think it is a crime to have the Republican candidate oppose family issues such as health care for all. These are the real issues which are survival issues for the American people.

I believe that Michael Dukakis is sensitive to these issues and will provide dramatic, compassionate leadership in these areas.

□ 1015

THE AMERICAN FAMILY ACT

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, today I am introducing the first part of the American Family Act. The American Family Act is comprised of 21 pieces of legislation, 4 of which have already been introduced, the other 17 which I am introducing today.

In my capacity as the Repubican leader on the Select Committee on Children, Youth, and Families I have witnessed first hand the problems faced by today's families. The education section of this act includes proposals for promoting school based management, open enrollment, bootstrap schools, and character education. It is modeled after innovative programs in places such as Dade County, FL, and Harlem, NY, where innovative changes have been happening at the local level.

The Family Act will promote family strengths by requiring a family impact statement on appropriate Federal legislation, by aiding the development of family support centers, and by promoting family preservation efforts as an alternative to foster care.

These bills illustrate what Vice President George Bush has called a gentler, kinder nation by clearly emphasing key Republican principles such as responsibility, character, promoting family strengths and providing choices for parents. I hope my colleagues will join with me in supporting this initiative.

PICK UP THE PHONE, GEORGE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the Republicans in the other body are blocking a minimum wage hike for 16 million American workers.

Vice President Bush is telling voters he favors a minimum wage increase—but he will not pick up the phone and tell Repubican Senators to let the bill come up for a vote. Sixteen million Americans are watching, George. Pick up the phone.

Bush has also expressed support for a training wage—I assume that is what he is paying Dan Quayle. But from what I am reading in the newspapers, even at $2.85 at hour, Quayle is overpaid.

Obviously, Quayle does not deserve an apprentice wage, he needs training wheels—Stu Spencer on one side and Ken Khachigian on the other. Let us face it, would any American business executive make Dan Quayle Vice President of anything?

A GOOD TRADE POLICY FOR CHINA AND THE UNITED STATES

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, I am very pleased to report that the Republic of China has recently entered into a $500 million contract to purchase four MD-11's from the McDonnell Douglas Corp. which is headquartered in my district of suburban St. Louis. These MD-11's are part of a modernization effort for China Airlines long range international fleet.

We all should congratulate the Republic of China on this very important sale which will help reduce the balance of trade between our two nations. This sale clearly illustrates that rather than turning to tariffs and quotas, the United States can reduce its trade deficit through increased exports. In fact, it was reported early last week that the U.S. trade deficit during the second quarter fell by almost 10 percent at the same time when overseas sales of American merchandise surged to a record high.

This sale also reflects the tremendous importance of our domestic aerospace industry. Not only McDonnell Douglas, but other companies such as Boeing, Rockwell, and Lockheed—to name only a few—have been the leaders in aviation and space. It is these companies which are leading the way in reducing our trade deficit through the sale of their products abroad. It should also be mentioned that unlike many nations, our aerospace industry is not government subsidized and competes on its own merits.

Again, I want to thank the Republic of China for pursuing a trade policy that clearly benefits both our nations. I hope that other countries will follow their lead.

THE AMERICAN FAMILY ACT

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the Republican's American Family Act should really be called American Family Swindle. It is nothing more than an 11th hour maneuver by Republicans to demonstrate they care about American families

Today, the Republican Party will and claim to be concerned about poor children. Is this the same Republican Party that supported efforts leading to nearly 3 million more children falling into poverty and taking the elderly off Social Security disability.

Today, the Republican Party will try and claim to be concerned about children's health. Is this the same Republican Party that took away basic health care coverage from a half million poor women and children since 1981?

Today the Republican Party says it is concerned about child nutrition. Is this the same Republican Party that cut the food stamp program by more than a third and further slashed school feeding programs resulting in more than 2 million disadvantaged children being dropped from the National School Lunch Program?

Today, the Republican Party says it cares about families. Is this the same Republican Party that led the battle to gut public housing, creating a new type of family in America—the homeless family.

The Reagan-Bush team, with Vice Presidential candidate Quayle's support in the Senate, stripped funds from maternal and child health programs, child immunizations, Community and Migrant Health Centers and Health Care for the Homeless.

The proposals in the American Family Act are too little, too late. Families who are struggling to work and raise their children deserve genuine support, not demonstrative grants. Democrats in Congress, and Mike Dukakis in Massachusetts, have mounted major campaigns to exend plant closings, parental leave, anjd child care, provide health care to the uninsured, and ease the high costs of college.

These proposals—and not expedient Republican gimmicks—are the types of comprehensive initiatives that will truly support American children and their families.

COMPARABLE WORTH BILL BASED ON FICTION, NOT FACT

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, the House will soon consider one of the greatest misnomers in the history of legislation, the so-called comparable worth bill, H.R. 387. Its supporters have consistently portrayed this as merely an extension of equal pay for equal work. Nothing could be further from the truth.

This legislation is based upon fiction, not fact. It ignores the incredible success of the free enterprise system in setting wages. It stretches the bounds of reason by finding that any differences in pay between jobs held by men and women amount to discrimination. It undermines the value of equal opportunity which our country holds so dear. Comparable worth supplants prevailing market forces with bureaucratically determined wage scales.

Supporters of H.R. 387 tell us that it is only a study, and that appears true. However, they do not tell us how many States have already rejected the concept of comparable worth. They do not tell us how it would undermine equal opportunity. They do not tell us of the immense economic cost we would all have to bear for their experiment in bureaucratic control of the economy.

Mr. Speaker, this idea is based on the flimsiest of assumptions: That differences in pay scales amount to sexual and racial discrimination. If the House needs more information as to how discredited an idea comparable worth is, we need only look to Arizona, Arkansas, Colorado, Delaware, Illinois, Indiana, New Mexico, North Carolina, North Dakota, South Dakota, and Texas which have come to this conclusion already. The House has more pressing issues to work on.

ECONOMIC BILL OF RIGHTS

(Mr. MARTINEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTINEZ. Mr. Speaker, on behalf of people everywhere who want economic justice and believe in equal opportunity for all, I recommend an idea and a concept whose time has come—an economic bill of rights. In keeping with the concept of our Constitution of promoting the general welfare, we must move boldly forward to protect and improve the quality of life and provide for the economic security of all our citizens.

As chairman of the Employment Opportunities Subcommittee, I have held hearings in enough parts of the country to understand through evidence provided at these hearings that there is a growing number of poor and underemployed people in this country, people who have gone from reasonable wages to poverty level wages. Do not be fooled by the fact that the unemployment rate is down to 6 percent. Yes, more people are working, but at a lower wage because that is all they can get.

When the question is asked "are we better off today than we were 8 years ago?" Think of others not only yourself. Sure, some of us are better off, but our Nation and its people as a whole are not. The job creation that has taken place in the last 7 years are jobs in the service sector at minimum wages, or at the other end of the spectrum, jobs where training, education, and a high level of skills are required, and we have not trained or adequately educated people from those dying industries for the high-technology industries.

Mr. Speaker, instead of creating a higher standard of living, this administration has said, "Lower your expectations unless you're born with a silver spoon in your mouth."

FEDERAL EQUITABLE PAY PRACTICES BILL IS JUST EUROPEAN SOCIALIZATION

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, we are here today to consider H.R. 387, the Federal equitable pay practices bill. This bill would be comparing wages of a truck driver and a waitress. No one person or government in the world can do that fairly.

Existing law now guarantees equal pay for equal work. We are leading the world in job creation of well-paying jobs, and now we want to throw it out the window.

This bill is just European socialization, which Europe has already experienced, and is now throwing out quickly and totally.

This study would disregard our market economy's stunning successes and the rules of supply and demand that have built the American economy and revitalized the world. The market best determines the pay scale for a particular job, depending upon competition, consumer preferences, experience, technology, or other market forces.

This legislation is bad legislation that runs the risk of throwing the United States into a bureaucratic morass with artificial government solutions, and we all know how well government works in any country if you do not allow people the freedom to conduct their own businesses.

This body should carefully consider its actions today and defeat this Socialist legislation which will destroy America's jobs.

HONORING GOLD MEDALIST JANET EVANS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, every 4 years Americans are treated to exciting races and heart-stopping competition. Of course, I am not speaking of a Presidential election year. I am speaking of the Olympics.

Standing before this body today to honor one of our own from the 39th District is a distinct reward for this member. On Monday, September 19, a true "golden girl," swimmer Janet Evans, from El Dorado High School in Placentia, CA, won the gold medal in the 400-meter individual medley at the 24th Olympiad in Seoul, Korea.

And I am pleased to announce that early this morning Janet also won the gold medal in the 400-meter freestyle. Why do I have the feeling that Janet will again add to her collection if we just wait a little while longer?

Janet Evans is the holder of three world records in swimming, one U.S. record, two national high school records, and eleven national titles. Janet is 17 years old. Here is what her friends, teachers, and coaches say about Janet:

> An honor student in college prep course work, Janet works hard at being a normal high school senior. * * * Janet has an unparalleled determination when it comes to hard work of any kind. She actually looks forward to long hard hours in the training pool and is equally challenged by her rigorous academic schedule. * * *
>
> Both her father and mother are the greatest influences in her life. She credits her success to her mother's constant companionship and steadying influence, and her father's encouragement. They have served as her inspiration and have provided a well rounded perspective on her success.
>
> In talking to Janet you would soon realize that she sees herself as an ordinary kid with an extraordinary gift. Clearly, swimming is an avenue that God has given her to enjoy life, express herself, and inspire others.

Mr. Speaker, Janet Evans is indeed an inspiration to others and an excellent role model for her peers. It is a pleasure to honor her this day.

AMERICA SHOULD TAKE LEAD IN STOPPING SENSELESS AND MINDLESS USE OF CHEMICAL WEAPONS

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, yesterday, the House Foreign Affairs Committee approved legislation condemning Iraq for the use of chemical weapons. I believe this was a measured approach to a very serious problem, and the bill won strong bipartisan support.

The State Department apparently doesn't agree. And that disappoints me. There are many things that are appropriate to quiet diplomacy, to leisurely negotiations. This isn't one of them.

The State Department has called this bill "premature." There is nothing premature about it. We must act expeditiously to put a halt to the use of chemical weapons.

The more America dawdles on this issue, the more it seems to acquiesce in its use. Let's don't send the wrong signal.

America should take the lead in putting a stop to the senseless and mindless use of chemical weapons.

There are not many people alive today who fought in World War I. There are not many people alive today who remember young American men returning home from the war, their bodies scarred with mustard gas.

Over the past few years, Iraq has benefited from growing support in this country. I can assure them that any goodwill the Iraqis have gained in the past few years will be lost quickly if they continue to use these horrible weapons.

Iraq must allow U.N. observer teams to enter into the areas in question. Until Iraq is forthcoming, I believe this bill is the most appropriate way to register our outrage.

PROJECT HOPE FOR CHILDREN OF EL SALVADOR

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. WOLF. Mr. Speaker, In the midst of the debate on Central American policy, in the midst of the persecution, the death and the insurgencies, a program has quietly progressed that has drastically changed the lives of many young people and their families.

In EL Salvador the Communist guerrillas have a policy of indiscriminate use of landmines in civilian populated areas. El Salvador along with Angola rate at the top of amputees per capita. Civilians and especially the youth have been adversely affected. Many times the ability to deal with serious amputation problems and artificial limb production cannot be met in El Salvador. Steps have been taken to develop a capacity to deal with these problems in El Salvador, but presently many problems and many children go without vital and available treatment.

In this spirit Project Hope in concert with my office began a program to bring to the United States the most serious amputation problems faced by the children of El Salvador. My office brought Jaime Hernandez and Jose Mejano to my northern Virginia district last summer. Jaime and Jose have been successfully treated and are now in school in El Salvador.

Likewise many other congressional offices have sponsored young children and the Shriners hospitals in Boston and Tampa have also been working with Project Hope. At this point the program has treated 27 children in the United States and has referred numerous cases to hospitals and clinics in El Salvador.

This project has been and continues to be a success. I would like to commend the work of several colleagues, the gentleman from Illinois, Mr. Fawell, has taken three young children from El Salvador, the last one with no legs and just one arm; the gentleman from North Carolina, Mr. Neal, who has taken two children from El Salvador; Senator John McCain, who has taken one child from El Salvador; the gentleman from Missouri, Mr. Coleman, who has taken eight children from El Salvador, flown them to his district, given them arms, limbs and legs whereby they can lead a productive life; the gentleman from Utah, Mr. Owens, who has taken one child, the gentleman from Ohio, Mr. Regula, who has taken three children, their offices and their districts for the work they have done for these children.

The many hospitals, doctors, nurses, and volunteers gave of their time and energy to treat these children and I want to applaud their efforts. TACA and Easten Air Lines have also played a stellar role. Each airline offered free airfare for the children and their guardians.

Lastly I would like to commend the work of Project Hope. They truly possess the heart of servants for the people of El Salvador. John Walsh, Mary Huehn, Dr. Wilhelm, and Dr. Hurtado have all worked very hard to help amputees. Without their diligence, facilitation and administration this program would never have been able to treat so many children.

The future of these 27 children have been drastically changed by their participation in this successful program. Until the war in El Salvador stops taking the arms and legs away from children, Project Hope, my office and many of my House and Senate colleagues will continue to work on behalf of the people and the youth of El Salvador.

□ 1030

This is an important program for Members who are interested. There are many more young children in El Salvador and also in Nicaragua who need this help and cannot be treated down there. If Members would like to participate, call my office, and I will put them in touch.

LEGISLATION TO TAKE SOCIAL SECURITY OFF THE FEDERAL BUDGET

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, I have introduced legislation to take Social Security off the Federal budget.

President Johnson made Social Security a part of the Federal budget in 1967 to hide the increasing costs of the Great Society programs and the Vietnam war. In 1986, Gramm-Rudman officially took Social Security off-budget, but left it on budget for purposes of calculating the deficit. Consequently, where it counts, Social Security is still a part of the budget, and we still are hiding the deficit behind the Social Security surplus.

This accounting trick is deceptive and it is wrong. Social Security is funded by its own tax, and should never be used for anything other than to pay retirement benefits. And decisions about Social Security benefits should be made on the basis of the trust fund, and not the Federal budget as a whole. For that reason, I have introduced H.R. 5341.

However, if we simply take Social Security off-budget without adjusting the Gramm-Rudman deficit targets, we can't possibly meet the targets and Gramm-Rudman would have to be repealed. Consequently, H.R. 5341 also adjusts the Gramm-Rudman targets to account for the lost revenue. We will balance the budget in fiscal year 1996, and when we do, it will be an honest balanced budget. Under current law, the budget is supposed to be balanced in fiscal year 1993. However, in fiscal year 1993, the real deficit will be $99 billion, because that is how much we will borrow from Social Security that year.

It is time that we completed what Gramm-Rudman began—to take Social Security off-budget all the way. We can do that, and still work toward a balanced Federal budget. I invite you to cosponsor H.R. 5341, the Honest and Balanced Budget Act.

SUPPORT THE TEXTILE BILL

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, I rise today in support of the textile bill. I say that it is time to say enough is enough to countries that send their shoes and textiles to us without giving us a real chance to compete in their own countries.

Today, many American producers face a one-way street—their foreign competition can sell here. But it is made very difficult for them to sell there.

Countries such as Japan, Brazil, Korea, Italy, and Taiwan export their shoes to us while raising barriers for American products in their markets.

Does it make sense for these other countries to be able to sell to us, but we in the United States can't sell to them?

I honestly believe that Americans are sick and tired of this policy.

In my State of Maine, we have lost more than 7,000 jobs in these industries during the past 8 years.

We all remember President Reagan visiting a Harley Davidson plant last year and supporting trade relief to help the motorcycle industry.

Mr. Speaker, I believe that textiles and shoes are as important as motorcycles.

If we do not help the shoe and clothing industries now, we may lose them forever.

Yes, enough is enough. Vote yes on the textile bill when it comes back before us later today.

MICHAEL DUKAKIS IS MANANA MAN

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, whenever we use the term "cradle of liberty" we are referring to that beautiful and historic area around Boston, Boston itself and the ride of Paul Revere along the battle road out to Lexington and Concord.

Situated right between those two historical cities where our great war of independence began with the shot heard round the world, right at the city limits of Lexington and Concord is one of the most important Air Force bases to the free world, Hanscom Air Force Base. It is the home of the U.S. Air Force Electronic Systems Command, and it is the most important military installation in the State of Massachusetts.

Of our 11 Members from the Massachusetts delegation to this House, I know that at least 8 have visited that installation. Several of them have gone more than once. Both of the Senators have visited that important installation, but the Governor of the Commonwealth of Massachusetts for 10 years has turned down every single invitation to visit that base hardly 40 minutes from his office door in the Governor's mansion.

Mr. James Schlesinger, former Secretary of Defense and Secretary of Energy, who served under both Democratic and Republican administrations, says that Dukakis' continued avoidance of Hanscom, is the strongest piece of evidence that Gov. Michael Dukakis is viscerally antimilitary.

When I left I could look down at Concord River and the North Bridge where that shot was heard round the world occurred. I saw the statue of the Minuteman. Mr. Speaker, it hit me that Michael Dukakis is Manana Man, a man who knows nothing about the military and who wants to put everything off to tomorrow; a little research, but nothing more than that.

Mr. Speaker, we cannot have as Commander in Chief, a man who hates the military forces that lead the free world.

TRIBUTE TO GENERAL CURTIS, GENERAL HANSEN, AND WORK FORCE AT KELLY AIR FORCE BASE

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute.)

Mr. GONZALEZ. Mr. Speaker, I rise to recognize the great foresight and actual heroism of the commanding general at Kelly Air Force Base, Lewis Curtis, and also the commander of the Air Force Logistics Command, based at Wright-Patterson, for their great foresight in preventing what would have been a ghastly story in the number killed or maimed if otherwise General Curtis had not suspended the operations and dismissed the work force in anticipation of what nobody had anticipated, and that was the whiplash of the Gilbert Hurricane that ended up in the form of a tornado in San Antonio, and as luck would have it, it hit Kelly Air Force Base at its most delicate point of operation.

Kelly Air Force Base is probably one of the most important logistic activities in the Air Force in our whole defense system, and it happened to have hit all the warehousing buildings and structures that occupy 90 percent of the activity. It paralyzed activities for 2 to 3 days.

I want to compliment General Curtis, because he dismissed the work force in anticipation of something happening. Nobody would have guessed it would have happened, but had that work force been there, we would have had a terrible catastrophe on our hands. I want to compliment the work force itself, because they volunteered on the Sunday following the Saturday disaster and cleaned up voluntarily, and I want to compliment the work force, the AFGE, the American Federation of Government Employees, but above all, General Hansen, who left his command at Wright-Patterson and went down immediately on Sunday and took immediate action and contacted us the following Monday.

MOTION TO DISCHARGE COMMITTEE ON ARMED SERVICES FROM FURTHER CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. ROWLAND of Connecticut. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Mr. ROWLAND of Connecticut moves to discharge the Committee on Armed Services from further consideration of H.R. 4264.

Mr. DERRICK. Mr. Speaker, I move to lay the motion to discharge on the table.

The SPEAKER. The question is on the motion offered by the gentleman from South Carolina [Mr. DERRICK] to lay on the table the motion offered by the gentleman from Connecticut [Mr. ROWLAND].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROWLAND of Connecticut. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 233, nays 158, not voting 40, as follows:

[Roll No. 340]

YEAS—233

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner

Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price
Rahall
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—158

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Craig
Crane
Dannemeyer
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Rowland (CT)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—40

Badham
Barnard
Bonker
Boulter
Brown (CA)
Courter
Daub
Dowdy
Dreier
Dyson
Edwards (OK)
Gephardt
Gray (IL)
Gray (PA)
Gregg
Hall (OH)
Hawkins
Johnson (CT)
Kemp
Konnyu
Leath (TX)
Lott
Mack
MacKay
Madigan
Matsui
McHugh
Nichols
Pepper
Rangel
Roukema
Russo
Scheuer
Schneider
Taylor
Torres
Vander Jagt
Weldon
Wilson
Wortley

□ 1100

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Illinois for, with Mr. Dreier of California against.

Mr. Rangel for, with Mr. Boulter against.

Mr. Hawkins for, with Mr. Daub against.

Mrs. VUCANOVICH changed her vote from "yea" to "nay."

Mr. SOLARZ and Mr. CARDIN changed their vote from "nay" to "yea."

So the motion to lay the motion on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRYANT). The Chair wishes to announce that it has been importuned to allow two more 1-minute speeches. The Chair will permit one on each side.

NEW YORK METS CLAIM NATIONAL LEAGUE EASTERN DIVISION CHAMPIONSHIP

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, a grand and glorious event occurred last night in my home town of Flushing, Queens County, NY.

For the second time in 3 years, the New York Mets have claimed the National League Eastern Division championship.

Led yesterday by the gutty pitching of Ron Darling, the Mets put an end to the hopes and dreams of their valiant but overmatched pursuers from Pittsburgh, and reached their first goal on the way to the World Series Trophy the Mets will surely win in October.

The next job for the Mets will be to vanquish the Los Angeles Dodgers, a team we've already walloped 10 out of 11 times this year. All New Yorkers eagerly look forward to once more punishing the Dodgers for deserting Brooklyn.

In the meantime, I ask all my colleagues to join me and the millions of other native and adopted New Yorkers in sending deeply deserved congratulations to manager Davey Johnson, general manager Frank Cashen, owner Nelson Doubleday, and all the talented players and coaches.

PROVIDING FOR AGREEING TO SENATE AMENDMENT TO H.R. 1154, TEXTILE AND APPAREL TRADE ACT OF 1987

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 540 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 540

Resolved, That upon the adoption of this resolution the House shall be considered to have taken from the Speaker's table to bill (H.R. 1154) to remedy injury to the United States textile and apparel industries caused by increased imports, with the Senate amendment thereto, and to have concurred in the Senate amendment.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, in order to ensure that the proponents and opponents of this resolution have an equal opportunity to be heard in the debate on this rule, I ask unanimous consent that the debate time on the resolution be divided as follows: 15 minutes under my control, and for the purposes of debate only: 15 minutes to be controlled by the gentleman from Tennessee [Mr. QUILLEN]; 15 minutes to be controlled by the gentleman from Florida [Mr. GIBBONS]; and 15 minutes to be controlled by the gentleman from Illinois [Mr. CRANE].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DERRICK asked and was given permission to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, House Resolution 540 is a self-executing rule which provides that upon adoption of the rule the House is considered to have taken H.R. 1154, the Textile, Apparel and Footwear Trade Act of 1988 from the Speaker's table, along with the Senate amendment to that bill, and to have concurred in the Senate amendment. Adoption of the rule will, therefore, clear the bill for the President's signature. No further vote will be required in the House or in the Senate.

Mr. Speaker, H.R. 1154 passed this House September 16, 1987 by a vote of 273 to 156. It passed the Senate with an amendment on September 15, 1988 by a 59-to-36 vote. The Senate did not alter the basic provisions of the legislation, which would set aggregate textile and apparel import quotas for all countries limiting imports to the 1987 level plus a 1-percent increase each year, and would freeze total imports of nonrubber footwear at the 1987 level.

The Senate did, however add three provisions to the bill: A provision which gives a preference in allocating textile quotas to countries which increase levels of imports of U.S. agricultural products; a provision which mandates a 1-year program of auctioning at least 20 percent of textile and apparel import licenses; and a provision which adds a specific quota for silk neckties.

Because the House has not had an opportunity to fully consider these provisions, ordinarily the chairman of the committee of jurisdiction, Mr. ROSTENKOWKSI, would move that the House request a conference with the Senate. However, the situation we face is not an ordinary one. If this bill were to go to conference the procedures of the Senate would make it possible for opponents there to prevent any conference report from being considered prior to the adjournment of this Congress, thus frustrating the will of this House. Chairman ROSTENKOWSKI has, therefore, agreed to forego a conference in order that the House be allowed to work its will. This rule will allow us to avoid a conference by simply agreeing to the Senate amendment. I want here publicly to offer my sincere appreciation to Chairman ROSTENKOWSKI. He opposes this legislation and has strong reservations about the Senate amendments, but because of his commitment to this institution and to his fellow Members he has put aside his own personal preferences in order to allow the House to work its will.

Mr. Speaker, because time for debate is so short, I will limit my remarks here. This is an important bill. Despite what you may read in the editorial pages, the textile industry is in trouble. This bill is a modest effort to help preserve the industry and the millions of jobs in this country that depend on it.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] has consumed 3 minutes.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this rule and I support the textile bill wholeheartedly. I think the time has come that we must look to the benefit of the American workers, first and foremost. We need to keep the textile plants open, and the apparel plants and our footwear plants open throughout this country rather than forcing them to close as a result of imports.

The fact remains, Mr. Speaker, that 1,000 textile and apparel plants have been closed despite an $18.9 billion plant modernization effort. Think of that, 1,000 textile and apparel plants have been closed despite the fact that they have increased their expenditures to modernize in order to compete.

Four hundred domestic footwear plants have been closed. Three hundred fifty thousand textile and apparel jobs and 70,000 footwear jobs have been lost according to the U.S. Bureau of Labor Statistics.

Seven hundred fifty thousand job opportunities have been lost.

Imports now control 55 percent of the U.S. apparel and apparel/fabric market and 82 percent of the U.S. footwear market. Textile capacity utilization plummeted to 83.4 percent in July compared with 94 percent in July 1987.

Textile profits were down 12 percent during the first quarter of 1988 compared to the same period of 1987.

The textile and apparel trade deficit reached an unprecedented $25 billion last year and is now 17 percent of the Nation's total trade deficit.

Mr. Speaker, in my district alone two major textile plants have been closed, one this year and one 3 years ago. One of the largest textile manufacturers in the United States had to close a new plant that had been constructed and this resulted in a loss of over 1,000 jobs in my district all because of imports.

It is time that we look for fair trade rather than letting the imports run away with our markets.

Mr. Speaker, opponents of the textile and apparel trade act claim that the textile and apparel industry is profitable and healthy. That simply is not true.

Employment in the U.S. apparel industry has fallen to 1,089,000 workers, the lowest level since January 1946.

Twenty-seven thousand apparel jobs have been lost during the past 12 months. I repeat, 27,000 apparel industry jobs have been lost during the past 12 months. During the 12 months ending May 1988 textile and apparel imports entering the U.S. market from Communist countries—from Communist countries, Mr. Speaker—amounted to 1.77 billion square yards, the equivalent of 170,000 lost job opportunities for American workers.

Mr. Speaker, I could go on and on with facts to show the Members of this body and the American people that we are not getting a fair deal. All we are asking for is fair trade. We must keep American jobs and American plants operating, and we should have this uppermost in our minds always.

This is a self-executing rule. It should be adopted.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] has consumed 5 minutes.

Mr. GIBBONS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I oppose this rule and I oppose this bill for a number of reasons. I do all of them respectfully.

Although the chairman of the Committee, Mr. ROSTENKOWSKI, and myself oppose this legislation, we have not delayed it 1 second in its trip through the Congress. The reason why it is here this late in this session is because the proponents have chosen the time each time at which they want to bring it up.

Now having said that, I respectfully say that we disagree, I disagree with their statistics.

My statistics do not make the case that the proponents' statistics do.

If I can say one thing for the textile and apparel industry, they are great at manufacturing statistics.

There is an old saying about "figures don't lie," and I will let you remember what the rest of it is. But these figures that I am using are Government figures brought forth by the Department of Commerce and by the Census Bureau.

The highest the penetration has been in the garment industry is 35 percent. Actually, if we counted them the same way we have traditionally, the highest the garment penetration would have gotten would have been 33 percent. The highest the textile penetration has gotten has been up to 14½ percent. The yarn penetration is around 5 or 6 percent. The jobs in this industry have been relatively stable despite the fact that the industry has been modernizing and you would expect an industry undergoing modernization to lose jobs as they mechanize and industrialize.

□ 1115

So we respectfully say to them, "You haven't made a case."

Despite that, the textile and garment tariffs are 4½ times as high as the average manufacturing tariffs are in the United States. There are 1,500 different individual pieces of garments and textiles that are controlled. We have controls on them with 42 nations, something we have with no one else, and the subsidy in this issue, the subsidy for the textile and garment industry, is between $20 billion a year and $40 billion a year, probably only exceeded by the agricultural subsidies which have now been locked together in one piece of legislation.

Mr. Speaker, this is bad for the United States. It is bad for the individual consumers. It is bad for jobs in all industries of the United States. The price that we are paying to protect the jobs in textiles and apparels is appalling.

Mr. Speaker, we should retire them all to Florida in nice condominiums and still have money left over if we defeat this legislation.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. MICHEL], our distinguished ranking Republican leader.

Mr. MICHEL. Mr. Speaker, I am going to make my argument very briefly on procedural grounds.

This is the 23d time in this Congress we have been hit with a self-executing rule. That is nearly 16 percent of all rules, which has got to be an alltime record.

Self-executing rules are a sham. They represent a continuing abuse of procedures which, if allowed to continue, means that we will have fewer and fewer opportunities to consider and amend legislation on the floor.

Mr. Speaker, most polls out there are showing that respect for the Congress as an institution has been dropping rapidly in the past 2 years. Is there any wonder?

What would the framers of our Constitution say about the way this House is being run?

Here we are celebrating the bicentennial of our Constitution, the embodiment of democratic principles, and we have a Congress running more in the direction of the old English monarchy. The first seven specific complaints made against George III in the Declaration of Independence concern his disregard or abuse or neglect of legislative procedure. Boy, he would feel right at home in this House.

Mr. Speaker, the textile bill which this rule seeks to ram through is a considerably different version from that which originally passed the House. When the House and Senate bills differ, the normal procedure is to send them to conference and iron out those differences, and that is the only proper way to go on a controversial bill such as this.

Mr. Speaker and my colleagues, this is just another step. The Congress, coming to an early conclusion, a number of things pending over in the other body; what is going to happen on minimum wage? What is going to happen on parental leave? Are we going to have the same treatment when we have an opportunity in this body to work our will as we did on the drug bill and made a real substantial contribution to helping shape that legislation?

Mr. Speaker, that is what our role ought to be in this House. Those of my colleagues, even those who on substantive grounds supported textile legislation in the past, ought to vote against it for no other reason, than what is being done to us with respect to the rules. This applies particularly to those on my side of the aisle.

Mr. Speaker, I urge my colleagues to vote against this self-executing rule.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER], for the purposes of debate only.

Mr. HEFNER. Mr. Speaker, I rise once again in support of a bill which has been fought long and hard in this body. This Congress and the administration has acknowledged that a level playing field is absolutely necessary if we are to compete successfully in international markets by enacting the general trade bill. It is now time to make sure that the same level field is afforded to the textile industry. H.R. 1154 must be passed and signed by the President.

There are those that say this is a protectionist measure. Nothing could be further from the truth. This bill does not roll back imports of textile and apparel: It does establish global quotas and provides for annual growth rates.

This is what this administration had said it would consider as a method for dealing with the flood of imports into this country. In a letter to former Congressman Carroll Campbell in January of 1980, then candidate Reagan stated that import growth might be tied to domestic market growth and that global quotas might also be used.

Since 1980, the trend in imports has grown many times faster than the domestic market. And I say to our friend who talks about declining imports from July of 1987 that new domestic orders for textiles has declined by 9 percent in real terms. The decline in imports is clearly market related and not to any quota restrictions.

With the growth rate allowed by this bill 1989 imports would be increased by 700-million-square-yard equivalents over this year's pace of imports. This is compared with a U.S. market that grows less than 400,000 square yard equivalents a year.

One further point, Mr. Speaker. We ought to pass and the President ought to sign this textile trade bill on national security grounds alone. The textile industry ranks second only to the steel industry in importance to our national security. A strong viable textile industry is exceedingly important to the industrial base of our country and to our national security.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I rise in strong support of this rule which is vital trade relief legislation for our textile, apparel, and footwear industries.

For years, foreign footwear and textile products have been the Hurricane Gilbert of imports, laying waste to hundreds of companies and destroying thousands of jobs. Unfortunately, this import storm has yet to be downgraded. The textile, apparel, and footwear industries have been the consistent victims of uncontrolled and unfair import surges.

This legislation, by allowing 1-percent annual growth for textile imports, and maintaining footwear imports at the 1987 volume level, is virtually their last hope for survival.

This initiative signifies a new, clear-eyed approach to trade, and a new awakening to the realities of the international economy. The U.S. Government can and should take substantive actions to counter the targeted imports from countries running their industries full-tilt and paying subminimum wages to cut into the American market.

Just look at what the cold neglect of the Federal Government has meant to the footwear industry.

In 1981, when orderly marketing agreements expired, footwear import levels hit 50 percent of the U.S. market. By 1985, when the administration denied relief after a formal section 201 injury determination, imports had climbed to over 75 percent. By 1987, imports went over 81 percent.

Our trade laws should be able to confront problems like this, but that apparently is the case only in theory. In reality, this import surge cost us over 7,000 jobs in Maine alone, and forced 19 plants to close their doors.

Textile and apparel imports continue to soar as well, and are gleefully dropped by the ton on the everenticing American market through lack of enforcement and big loopholes in the Multi-Fiber Arrangement.

In recent years, while the Government has sat idle, the job loss toll has mounted. Only recently in Maine, over 100 employees at the Carlton mill in Winthrop were laid off. The Emple Knitting Mill in Brewer closed down this spring and 150 more workers lost their jobs. Dozens of other examples abound.

Mr. Speaker, this bill cannot change the past but it will help this Nation face the future. We simply cannot afford to wait, though. A recent Office of Technology Assessment report reaches a chilling conclusion: In the absence of a response to these surges in imports, the United States stands to lose all of its apparel market and two-thirds of its textile market by the year 2000. That's no way to celebrate the dawn of a new millennium.

In closing, Mr. Speaker, I strongly support enactment of this legislation. Let us start today to respond to trade conditions as they actually affect in practice our companies in the United

States. We already know what happens when we do nothing. We lost everything.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Speaker, I did not think it was possible to take a bill as bad as the Textile and Apparel Act and make it worse, but the Senate has managed a way to do just that.

This bill sets up new quotas for an industry which already is the most heavily protected in the United States. Eighty percent of this industry is already regulated. As we debate this bill there are already 1,400 quotas, 1,400 quotas in place.

Mr. Speaker, do we really need more? I do not think so.

Let us take a look at the industry. Profitability is up; capacity utilization is up. We have a Multi-Fiber Agreement. We have many textile agreements with our most important textile trading partners.

Mr. Speaker, if we pass this bill today, we will not only impose new textile quotas, but we will hopelessly complicate our agricultural trading policy.

The other body has added this cynical equation and provided this cynical equation between textiles and agricultural commodities, and we are coming very close, dangerously close, to using agriculture policy as a bludgeon. In effect we are saying to our trading partners, "It's all right to produce textiles or to produce food, but you should decide to pay a price if you decide to do one or the other," or, "We will get you if we don't like what you do."

Mr. Speaker, the consequences of this approach are painfully obvious. We celebrate, celebrate, agricultural exports, which are tremendously important above all other exports. We will be saying to the world, "Our high technology doesn't matter as much as agriculture. Our other industrial capacity, our other ability to export commodities, is not as important as agriculture," and then try and knit it all together with textiles.

Reject this rule and reject this bill.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER], the distinguished ranking member on the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I rise in vigorous opposition to this rule for H.R. 1154, the Textile and Apparel Trade Act of 1987. Through this truncated procedure, the Senate amendments are blessed without review and the committees of jurisdiction are denied the right to go to conference and carefully consider the important issues involved. This rule mocks the legislative process.

I cannot think of a bill that cries out for further attention in a conference more than this one. H.R. 1154 provides significant new protections for the most protected industry in America today—the textile and apparel industry. It violates numerous trade agreements and dismisses the serious adverse consequences, not only to consumers, but also to other more productive sectors of our economy.

The health of the textile and apparel industry is equal to most other industries in America, yet we are asked to approve a costly package of additional quotas in order to shield this one sector from market forces.

The facts do not reveal a distressed industry in need of further protection. It is healthy in both employment and profits. In fact, since clothing costs rose by 7.6 percent during the first 6 months of 1988, one might question the need for the existing 1,500 quotas in effect with 42 countries and the average 18 percent tariffs now enjoyed by this industry.

H.R. 1154, together with the Senate amendments, constitutes serious violations of the General Agreement on Tariffs and Trade [GATT] and the Multi-Fiber Arrangement [MFA] and would have significant negative consequences for the U.S. economy. It is opposed by major farm groups along with retailers and other business groups that would suffer from the adverse effects of market disruption and retaliations.

H.R. 1154 also is strongly opposed by Secretaries Shultz, Lyng, Verity, Yeutter, McLaughlin, and by the Director of the Office of Management and Budget [OMB]. They and other advisers all plan to recommend that the President veto this bill. I expect that he will.

I urge my colleagues to recognize that this rule does a disservice to the legislative process by needlessly eliminating a conference. It robs the committees of jurisdiction of the ability to carefully consider the implications of the Senate amendments.

I would like to bring to the attention of my colleagues some statistical indications of the health of the textile industry. I believe they show that this industry has the least persuasive argument for further import protection of any major industry in this country.

Unemployment for textiles fell to 5.7 percent as 21,000 new jobs were created; for apparel, employment remained steady at 1.1 million. The national average unemployment is 5.5 percent.

Capacity utilization reached almost 90 percent as production increased by 6 percent in 1987 and continues upward.

Imports fell 8.2 percent for textiles and 10.5 percent for apparel during the first 5 months of 1988, while exports increased 14.4 and 25 percent, respectively.

In addition to a significantly more restrictive overall quota, this bill has several problems. The first problem—one likely to create serious economic hardship, if not mass confusion—is the retroactive nature of this legislation. It would establish textile and apparel quotas beginning in calendar year 1988, based on 1-percent growth over 1987; for footwear, the quota would be effective for calendar year 1987 with no growth over the base year of 1986.

This means that orders already placed in 1988 under existing bilateral agreements for textiles and apparel would either have to be stopped for the remainder of 1988 or be deducted from future quotas. For footwear, 1986 levels of imports become the permanent ceiling, and those excess shoe imports that have already entered in 1987 and most of 1988 will also have to be stopped or deducted next year. It is clear that the disruptions, especially for footwear, will be severe because of the bill's retroactivity.

The other problem areas are posed by the two Senate amendments that should be, but will not be, carefully considered by a House-Senate conference. Both have important economic consequences and represent a shift of U.S. trade policy that will further erode our credibility with respect to international negotiations.

The first amendment would mandate increased shares of textile imports to those countries that purchase additional U.S. agricultural exports. It is the false premise of this amendment that increased agricultural purchases will permit expanded textile imports. The global quota provisions of H.R. 1154 establish an absolute ceiling on overall textile imports. Rewards given to countries that take more U.S. agricultural products must be taken away from other countries—often the poorest countries that are unable to increase their agricultural purchases.

Major farm groups strongly oppose tying agricultural exports to the very complicated and bureaucratic textile programs. They recognize that the European Community, Canada, and other important markets for United States agricultural products are likely to hit United States exports in reaction to this overzealous textile bill. While the textile industry would be fully protected from import competition, American agriculture is left vulnerable to disrupted markets and retaliation.

The second Senate amendment would require that at least 20 percent of all textile quotas be sold at auction. Given the number of quotas and countries involved, and the need to preserve historical shares and prevent monopolistic activity, a nightmare is the likely result.

The costs to the Government and to retailers and consumers will far outweigh the revenues collected from quota sales. As is the case with the agriculture amendment, the quota auction amendment will provide protection to one sector of our economy at the expense of another.

With all the serious defects of this bill in mind, I urge my colleagues to vote "no" on the rule for H.R. 1154.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

(Mrs. LLOYD asked and was given permission to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I rise in strong support of final House passage of the Textile and Apparel Trade Act. I believe this legislation is vitally important and its ultimate enactment one of the top legislative priorities for the remainder of the 100th Congress.

The Congressional Textile Caucus recently released an alarming statistic. Textile mill employment dropped 1.1 percent in August, its steepest monthly drop since February 1985. This cannot continue. The thousands of textile and apparel factory workers who are being thrown out of work due to cheap imports should not have to bear this burden alone. We in the Congress must stand with them and enact this critical legislation to limit future surges in imports.

The importance of the textile industry to our industrial base cannot be overstated. It contributes $46 billion annually to the U.S. gross national product and is ranked by the Department of Defense second only to steel production in its importance to our national security. Our textile industry has spent millions of hours manufacturing items that are essential to our military forces, but today there are only four domestic manufacturers of protective clothing needed by the military. It is only fair that we hold the growth in imports to the growth in the domestic market. The jobs of 2 million American textile and apparel workers are at stake.

I urge my colleagues to join with me in enacting this vital legislation and should President Reagan use his veto power—as he has promised—join with me in voting for a successful veto override. The quality of products that our textile and apparel workers produce cannot be surpassed anywhere in the world. I am proud to know them, to represent them, and to speak for them today.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, we have a trade bill. The Canadian Trade Agreement appears on track. Why not a textile and apparel bill?

I will admit up front that I am not objective about this. I am very substantively involved because the textile, hosiery, and apparel industries are very significant to the economy in my district, but these industries are also significant to the economy and well-being of America.

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Many here today appear to be more concerned about the well-being of workers who live in foreign countries than we are about the well-being of American workers. This is, after all, the people's House and we should be proud to speak up for American workers.

This bill is tightly drawn and I believe will impose no burden upon any of our trading partners.

Finally, defense. Can any of you at all image what our defense posture would be if we were plagued with an emasculated textile and apparel industry? It would be virtually nonexistent, and that is what so many people are overlooking, the defense posture.

"Oh, there is no war occurring right now. We have no conflict within thousands of miles of our boundaries," they say; but it could happen, and I think we are going to be remiss if we overlook the importance that the textile and apparel industry has directly to the national security of this country.

Mr. Speaker, the bottom line is American jobs. We are talking about American jobs.

Vote for this proposal today.

Mr. GIBBONS. Mr. Speaker, I yield 5 minutes to the chairman of our committee, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to this procedure of agreeing to the Senate amendment without a conference.

Almost 3 years ago, the House began a major effort to come to grips with our evergrowing trade tensions and to change the focus of our trade policy. After much debate, we finally succeeded this year in enacting a major trade policy reform bill that will be remembered as one of the landmark achievements of the 100th Congress.

Many Members worked long and hard on that bill. We had several forces working against us—including the high-financed lobbies of foreign governments and corporations—but we prevailed.

Unfortunately, we now find ourselves voting to repudiate the very principles underlying the omnibus trade bill just 1 month after it was signed into law.

The omnibus trade bill is based upon the premise that the United States must take a firm stand against the artificial trade barriers of other nations. We want the governments of the world to break down their protective walls and stimulate the world economy by expanding—not restricting—markets.

This textile bill, however, does just the opposite. It encourages all countries to maintain their trade barriers, and invokes the very kind of trade policy that we find so offensive in other nations. Why should we expect other nations to play by rules that we won't even play by ourselves? This bill makes the United States, and the U.S. Congress in particular, look like hypocrites who are not really serious about fair and open trade.

The Senate amendment to this bill does nothing to improve it. The so-called Daschle amendment merely attempts to buy off the opposition of farm groups. It is nonsensical trade policy. It says that farm exports are more important than other exports like steel or autos. Not only are we going to make it harder for developing countries to sell textiles and thereby earn dollars to buy U.S. exports, but we are going to penalize them if they use those dollars to buy Boeing airplanes or Caterpillar tractors or Motorola pagers—anything other than agricultural goods. Does that make sense?

Sure, agricultural exports are an important part of my State's economy, but so are a great number of manufacturing industries who are officially relegated to the status of second-class citizens under the Senate amendment. How can we look a steelworker or a machine-tool worker in the eye and tell him his job is less important, as a matter of trade policy, that the farmer's?

After years of spiralling trade deficits, the United States is finally in the midst of an export surge. We should be marshaling all of our energies toward the goal of opening export markets and encouraging increased exports of all U.S. products. Erecting permanent barriers to the U.S. market just gives other countries the perfect excuse not to open their markets to our goods and services.

I believe in the policies and goals set forth by this Congress in the Omnibus Trade and Competitiveness Act. And I believe that the prosperity of American workers and firms depends on the consistent and vigorous enforcement of the principles set forth in that act. This vote today is the first test of whether we are willing to stick to those principles.

I share my colleagues' concern about the problems faced by American textile workers. But I believe those problems must be solved through rational policies that are fair to all Americans, and I cannot, in good conscience, support a measure which is so clearly contrary to the principles of open and fair trade.

Mr. CRANE. Mr. SPEAKER, I yield 2 minutes to our colleague on the

Ways and Means Committee, the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, if the objective of Congress is to harm American consumers, passage of H.R. 1154 will sure do the trick. This bill would drive up consumer apparel prices an estimated $25 to $37 billion in its first 5 years, forcing working Americans to assume most of the cost increases.

The bill would provoke retaliation against U.S. exports, violate our international obligations and undermine our efforts to obtain a more open trading system for U.S. exports.

Current studies of the textile and apparel industry indicate that further protection of this industry is not even necessary. Clayton Yeutter, U.S. Trade Representative, has noted that domestic textile and apparel production, employment, profits, and exports all posted sharp gains in 1986 and 1987, and this trend is continuing into 1988.

The quantity of total imports decreased 9 percent between January and May, the longest period that imports have declined during this decade. In terms of value, textile imports were flat and apparel imports increased moderately. Employment in the industry increased 0.8 percent through June and total man-hours worked rose at the same pace. The unemployment rate declined significantly, from 10.6 to 8 percent.

The U.S. textile and apparel industries already benefit from tariffs averaging nearly 18 percent and from more than 1,500 quotas, which raise the wall of protection even higher. This bill would establish in the United States precisely the sort of trade restrictions we are trying to tear down in other countries.

In June of this year, the Trade and International Economic Policy Reform Act of 1988 became law. This measure provided a number of positive changes in trade policy, including provisions to strengthen our protection against unfair trade practices. Enactment of the textitle bill clearly would undermine the effectiveness of the new trade law.

During the next few months, domestic industries and our trading partners abroad will be working to adjust to the new trade policies. It is important that we give them time to acquaint themselves with these changes and implement them accordingly.

Let's not do this to working Americans. Let's defeat the rule, and give our new trade law a chance to work.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Georgia [Mr. JENKINS]

Mr. JENKINS. Mr. Speaker, I know that this is a constant battle and I understand the sincerity on both sides of the aisle, but if we are to stop the total destruction of basic industries in this country, at some point this House and the Senate and the President are going to have to act.

Eight years ago I was told, "Don't worry too much about basic industries in America, because with our great financial interests, our insurance interests, we are going to dominate the world."

At that time we had 6 banks in the top 10. Today we do not have a single one.

We had insurance companies in the top 10. We now have one.

No, our service industries are not going to bail us out, and if you believe that there is something wrong with the figures that come from the Commerce Department about penetration into this particular market, I ask you to take your spouse and go shopping for a change and try to buy clothing and shoes and see how difficult it is to find an American-made product. You do not have to be a genius to know that our figures are correct.

The American people are much smarter and much ahead of this House and this body. Eighty percent of the people in Oklahoma and similar States say that we ought to have a textile bill. They do not have textile interests.

Seventy-four percent of the people in Florida say the same thing.

The American people understand that ultimately, if we do not act, the standard of living of all Americans will be reduced, and if we do not stand firm on textiles, if we do not do it on shoes, someday your children are going to have to pay the price.

No, our first responsibility, in my view, is to the American people. We ought to vote for this measure.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I would like to list three reasons why I think we should support this legislation. First of all, national defense. In this decade we spent a lot of money to build up our defense; however, one crucial element has been ignored. According to an internal Army report, the total shortfall for that service is 67 percent of footwear and textile needs. The Department of Defense ranks these needs second only to steel.

So if we find ourselves in battle, what do we say? "Hold up, we want a 2-year truce so that somehow or other we can put our manufacturing back into place and then we will come to battle."

Second, the American textile industry is the best customer for U.S. cotton and the only customer for U.S. steel. These industries employ 300,000 individuals in their home States.

Finally, consider that in 1983 American footwear manufacturers controlled 45 percent of the domestic market. Today they have 17 percent. Eighty-three percent comes from other countries.

Again, if in battle, who are those other countries?

Not only that, but the shoe industry sought relief from ITC in 1985, and they got it, 5 to nothing; at least ITC recommended 5 to nothing. They also recommended 4 to 1 what that relief should be, and the administration said "no." In fact, the administration denied any relief of any sort, not for speciality steel, not for motorcycles, but for shoes.

So I tell my wonderful leader, the gentleman from Illinois, that my vote is not for the procedure, but as a matter of fact it is the only chance I have to invoke for an important piece of legislation that will benefit all Americans, and particularly our defense.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. LAFALCE], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. LAFALCE. Mr. Speaker, the issue today is not protectionism. The textile industry from the beginning of the Republic to the present has been and remains the most protected industry in America.

The issue is whether this Congress will give them even more protectionism than they already have.

Additionally, we have entered into agreements with respect to textiles. We have entered into bilateral agreements. We have entered into a multilateral agreement.

And so the second and most important issue is whether this Congress should unilaterally abrogate its word, break its word that we have entered into with other countries bilaterally and multilaterally. I think we should not.

I urge the President to veto this bill when it hits his desk. A great many good Democrats will be ready to support and sustain his veto. A great many good friends of labor will stand with the President on this issue because it is bad public policy, bad for the United States, bad for the world.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong opposition to this self-executing rule and the Textile, Apparel and Footwear Trade Act of 1987 (H.R. 1154). This bill is opposed by the Wall Street Journal, the Washington Post, and the Los Angeles Herald, six members of the President's Cabinet, the Chairman of the Federal Reserve Board, and the American Farm Bureau among others.

This bill will raise the price of clothing and shoes by up to $37 billion at the retail level over the next 5 years. Consumers, especially low income families would be the ones most hurt by the unavailability of low priced imports.

This legislation would violate GATT and the fundamental principles of the Multifiber Arrangement [MFA] and would put the Uruguay round of congressionally supported multilateral trade negotiations in jeopardy. In addition, it will invite certain retaliation by many of our free world allies threatening thousands of jobs in agriculture, aerospace and semiconductor parts. The United States is still the world's largest exporter and consequently we have the most to lose in a trade war.

Mr. Speaker, many of these countries are important to the United States as foreign policy, military and economic allies. The House should remember that Asia is our largest and fastest growing export market. However, the United States will be unable to sell our products overseas if other nations are denied export earnings. Also, some of these nations are deep in debt to U.S. banks and need to have a sound base for foreign exchange earnings or else increased U.S. foreign aid assistance may become necessary.

Supporters of this legislation say that this is a way to save American jobs and prevent irreversible damage to the textile industry. Textile/apparel industry statistics tend to point in a different direction. Productivity in the industry has increased by 3.4 percent per year since 1980. Factory utilization in textiles is at 92 percent in 1987. It is also interesting to note that stock prices of seven of the largest textile companies were up 70 percent in 1 year.

The textile/apparel industry is already the most highly protected and healthy industry in the Nation. Production, capacity utilization, exports and employment all have increased in 1987. The industry has and will continue to benefit from the decline in the dollar and an improved export market.

Mr. Speaker, I would remind those who think that retaliation is not likely, to just ask our wheat farmers about the retaliation they suffered the last time we restricted Chinese textile exports or the computer products industry when we placed a stiff tariff on imported Canadian cedar shingles. I strongly recommend that my colleagues vote against this H.R. 1154.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Ohio [Mr. OXLEY].

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Mr. OXLEY. Mr. Speaker, this was, is, and continues to be the most anticonsumer piece of legislation that this Congress or any other Congress has faced. I wonder: Where were the self-appointed consumer groups who many times on the Hill come up and testify against so-called anticonsumer legislation? Where were those people this time? I will tell you where they were. They went in the tank, and we now face the most protectionist bill possible, made even worse by the Senate.

Do we really want to go back and tell our consumers? Do we want to tell the American consumer that they are going to have to pay $5 more per pair of blue jeans? Are we going to tell that to the woman who has to go out and outfit her kids? I do not think so. I do not think we need any more protectionism.

We recently passed the Canadian Free-Trade Agreement, the trade bill, the historic trade bill that the chairman of the Committee on Ways and Means made reference to. This is clearly a step backward, not a step forward. It flies in the face of reality. It flies in the face of what this Congress and the administration have done in providing a very effective trade policy in this country. This bill, make no mistake about it, is veto-bait. We all understand that we are going through the motions, but the key vote is going to be on the override.

Let us defeat this right now.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman for South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Speaker, today we have an opportunity to pass legislation that will do more for our textile industry than any other bill in recent history.

The textile industry is a vital resource that cannot be underestimated in its value to the U.S. economy. Employing more American workers than the steel and auto industries combined and with an annual payroll of more than $25 billion, the textile industry is a potent economic force. It is also the largest manufacturing employer of minorities and women and contributes $50 billion to the U.S. gross national product.

Imports are choking this valuable industry to the point that we as a nation are going to suffocate on foreign exports that are the product of foreign sweatshops. Since 1980, 1,000 textile and apparel plants have been closed despite an $18.9 billion plant modernization effort; 350,000 textile and apparel jobs and 70,000 footwear jobs have been lost. The most striking statistic is that the textile trade deficit reached an unprecedented $25 billion last year and is now a whopping 17 percent of the Nation's total trade deficit.

Opponents of this legislation charge that production, capacity utilization, exports and employment all increased in 1987. Yet, the facts are that 29,000 jobs were lost in the textile and apparel industry during the 12-month period ending in July 1988, capacity utilization has dropped 5 percent since the first half of 1987 and new orders for textile mill products have fallen 4.6 percent during the first 6 months of 1988 alone. If we do not do something to help this industry overcome the tidal wave of imports, the destruction to our economy will be far worse than any hurricane has ever brought to our shores.

Mr. Speaker, we must save the textile industry from the specter of foreign products overwhelming American jobs and the American economy. The textile industry is far too valuable to our country to let it founder and sink under the weight of massive imports. I urge my colleagues to support this bill.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, as vice chairman of the Textile Caucus, I rise in strong support of the resolution. The need for this bill is greater than ever and the statistics on the textile and apparel industries speak for themselves.

Since 1980 textile and apparel imports have doubled. They now control 55 percent of the U.S. apparel and apparel fabric market. According to the Bureau of Labor Statistics, this has resulted in the loss of 350,000 jobs. In just the last 12 months, 28,000 textile and apparel jobs have disappeared. This is an alarming trend.

Textile profits were down 12 percent during the first quarter of 1988 compared to the same period last year. This is in stark contrast with the rest of the manufacturing sector of our economy. Their profits grew by 49 percent. The textile and apparel trade deficit reached an unprecedented $25 billion last year and is now 17 percent of the Nation's total trade deficit.

There are a number of misconceptions about the textile industry that I would like to clear up before we decide its fate. One misunderstanding is that it is an insignificant portion of our economy. In fact, it employes almost 2 million people. That is more than the steel and automotive industries combined. Another 2 million people work in allied industries and will lose their jobs as our textile industry shrinks.

Another common misconception about the textile industry is that it is inefficient and its equipment is outdated. The truth is that 70 percent of American textile facilities were installed within the past 10 years. That is a commitment of over $18 billion. This year alone the textile industry is projected to spend over $2 billion on modernization. Yet in spite of this effort, how can our industry compete against the substandard wages and working conditions of other countries?

Mr. Speaker, opponents of the bill argue that passing it will increase prices for the clothing buyer. Since 1930, the cost in constant dollars of an automobile has increased 192 percent, the cost of a refrigerator has increased 71 percent and when adjusted for inflation the cost of a hotel room has increased by 314 percent. But the price of a man's wool suit, again in constant dollars, has decreased by 14 percent in that same 60-year time span.

The debate here is not over free trade, but fair trade. The bill will only limit the growth of textile and apparel imports. No country's quota will be cut back. What we are doing is limiting the growth of their textile and apparel industries while slowing the decline of ours. Yet some people are afraid that these countries will retaliate by raising their trade barriers.

Most of them, however, cannot raise their quotas against our textiles. This is because they do not allow textile imports from the United States or any other country. We stand virtually alone in allowing imports to cripple our domestic textile industry.

It makes no sense to me that we should sacrifice our textile industry to foreign competition in fear of reprisals. I have seen the once vibrant textile industry in my hometown, Rochester, NY, dwindle to just a few manufacturers. The loss of these companies has been painful to the community. I urge my colleagues to support the resolution so that other communities in their districts and their States will not suffer the same consequences.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in opposition to the textile bill.

This legislation is clear protectionism that takes aim at the American shoe import industry like Volume Shoe Corp.

The Volume Shoe Corp. employs 1,250 people in its Topeka, KS, headquarters and provides over 13,000 jobs nationwide in its Payless Shoe Stores.

Volume Shoe is opening one new store every working day. Each new store employs at least five new workers.

Forty percent of the new jobs are being filled by young blacks and Hispanics. And many come from disadvantaged areas where unemployment is overwhelming. This legislation will stop this job creation.

In addition, this bill will increase retail clothing prices and invite retaliation against agriculture exports.

It's time Congress realized that the textile bill will not protect jobs; it will take them away from young minority workers and farmers.

Mr. Speaker, the best way to save jobs with the textile bill is to vote against it.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in strong opposition to the self-executing rule under consideration.

Mr. Speaker, I rise today in opposition to the self-executing rule under debate for the consideration of Senate amendments to the Textile and Apparel Trade Act.

This legislation has been worked on over the course of several legislative sessions. Though I do not support the provisions of this bill, I appreciate the careful consideration given to it. And I believe this pattern of careful consideration should be continued. Efforts to circumvent normal procedures and adopt the Senate amendments without a conference, as this rule would do, should be opposed.

On September 16, 1987, this body passed H.R. 1154 and sent the bill to the Senate for consideration. Now, over a year later we are asked to vote on their version of the legislation. Well, a lot of changes have occurred in a year—to the bill, to the industry and to the trade environment—changes that deserve careful consideration.

Let's consider, for a moment, the many events that have occurred in the last 372 days that both effect and are effected by this legislation. Since this House passed this bill we have witnessed the passage of sweeping new trade legislation, which is now law. We have witnessed the success of our trade negotiators in reaching a compromise with Japan on agricultural imports, as well as significant progress in other trade arenas. Perhaps most importantly, we have witnessed an historic agreement, forged by President Reagan and Prime Minister Mulroney, to roll back all trade restrictions between our two countries. And all this has occurred against the backdrop of continued progress in reducing our trade deficit. Consistently over the last year, reports of trade figures have shown exports on the rise, with imports lagging behind. These trade improvements will be found in almost all industrial and manufacturing sectors, including the textile industry. Since the House passed H.R. 1154, imports of textile and apparel have declined by 15.6 percent.

Much of the progress we have made would be swept away by enactment of this narrow and blatantly protectionist legislation. The amendments to the legislation added by the Senate, while not numerous, are substantial. They should be given careful consideration by this House, particularly in light of the signal this bill will send to other nations who may be looking at the successes I've just mentioned. The self-executing rule we have under consideration today would, at the end of 1 brief hour, have us acquiesce to the Senate amendments, without recommendations by a conference committee, and with precious little debate. This is not the way we should consider or adopt legislation.

Mr. Speaker, I urge my colleagues to think carefully before supporting this attempt to subvert this body into a rubber stamp for the Senate, just for the sake of one already highly protected industry. I urge my colleagues to vote against this rule and bill.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to a distinguished member of the Trade Subcommittee of the Committee on Ways and Means, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, as an opponent of the textile bill, I would certainly oppose any form of the bill that comes before us. But what we are voting on today is not just a vote on the textile bill, it is on a self-executing rule which violates our standard procedure in the House.

This rule ignores the advice of the committee of jurisdiction to go to conference. It would force this body to accept amendments made by the Senate that either set new policy, or were rejected by the Ways and Means Committee in the past. It blithely accepts a new tax on consumers through a quota auction, which was not approved by the House.

The textile bill has always been a political ploy rather than responsible lawmaking. This outrageous procedure only spotlights the political shenanigans. This rule will pass a bill that is so contrary to our international delegation that our trading partners have thrown up their hands in disbelief. Other U.S. industries in far worse shape than the textile industry are already plotting a strategy for their own similar relief bills.

The textile/apparel industry is prosperous, actually fat. Unfortunately, it is also greedy. The most recent figures, for the first 7 months of 1988 demonstrate a very healthy industry. 1987 was a banner year for textile and apparel. While profits were down in the first quarter of 1988 over 1987 by 12 percent, the second quarter saw a 26-percent increase. Between 1985-87 textile industry profits increased by 70 percent versus profitability increases on all industries at 25 percent.

From January-June 1988, there was an employment increase of 1.5 percent, in the textile industry and a 0.8 percent increase for apparel. Unemployment rates are down during the same period—to 5.5 percent for textiles and 8 percent for apparel. Apparel unemployment rate for same period in 1987 was 10.6 percent. Capacity utilization this year is at 90.5 percent, not the 83.4 percent reported by the industry after a survey of some of its members.

Employment losses in the industry continue to be largely due to modernization and productivity improvement. By every measure, employment, profits, utilization, market growth, decline of import, the industry is healthy. Its problem appears to be a willingness to beggar all other American producers and consumers to its own unfair advantage.

Another reason not to support the textile bill, with the extra layer of protection added by the Senate, is that imports have declined from January through July 1988 by 10 percent over the same period in 1987. Imports from the big four suppliers have declined as follows: China by 21.6 percent, Taiwan by 17.3 percent, Korea by 19.6 percent, Hong Kong by 19.1 percent. Imports from Japan have declined 34.2 percent.

I believe that this is evidence that the MFA, the 42 negotiated bilaterals and the 1,500 quotas have served to limit imports of textiles and apparel.

Mr. Speaker, today our vote is mainly concentrated on the Senate amendments which we are blindly accepting. There are two major provisions that are highly objectionable which deserve more than 1 hour of debate in this House.

One is the Daschle amendment, added by the Senate to entice farm State senators into supporting the bill. This would enable any country to increase its textile/apparel quotas if it purchases more U.S. agriculture products. Thereby, we would violate the terms of many of our bilateral agreements, since quota increases for some countries would mean that there is less of the total global quota to divide among those who are unable to increase purchases of U.S. ag products.

We would then find ourselves unable to guarantee growth rates of particular bilaterals. Compensation could be claimed against the United States for violating the bilateral agreements, and you can guess which industry would be the victim of compensation.

All of the major farm groups oppose the Daschle amendment. The Farm Bureau calls it "dangerous trade policy." USDA also strongly opposes it.

Another good reason to oppose this amendment is that it discriminates against other U.S. industries which have just as much right to preferential treatment as does our agriculture sector.

The amendment also ignores the economic situation of many developing countries that are not able to increase their agricultural imports. There are countries, such as Hong Kong, which already import nearly all of their food needs. There are very poor nations that are simply unable to buy more from us. Jamaica is a good example of a country devastated by Hurricane Gilbert which will not have the resources to even purchase anywhere near what they purchased last year. These poor nations would receive cuts in their quotas, and lessen their opportunities to earn foreign currency and to develop.

The amendment which authorizes a 1-year quota auction system for 20 percent of our imports is even more disturbing than the above major policy change. The Ways and Means Committee has considered quota auctions and rejected them several times. Auctions have been promoted by some as a good way to bring home the quota rents which now are received by a few supplier nations. U.S. auctions will not stop auctioning abroad. It will only create a system of double taxation on American consumers where retailers and importers will have to bid for quota on the U.S. side as well. This is a new tax that should have been approved by the Ways and Means Committee. We should not bow to the Senate's whims on tax matters.

Quota auctions would also be an enormous bureaucratic nightmare. Commerce will have to hire hundreds of employees that it cannot afford just to administer the auction. It also would seem impossible to devise a system that would be fair to all importers. The small ones will likely be frozen out, and new entrants will never see the light of day. There is also some belief that Commerce would have to hire another horde of employees just to analyze possible antitrust violations caused by this kind of distortion to the marketplace.

Auctions would also cause us to have GATT cases filed against us. We could be challenged under article VII which prohibits import fees for fiscal purposes. CBO estimates that in 1989 the tariff loss due to fewer imports would be $13 million, whereas the auction receipts would be $157 million. GATT challenges could also be raised on the impairment of tariff bindings and possible conflict with the GATT Code on Import Licensing.

USTR believes that this kind of unilateral action on the MFA would cause us severe problems in the Uruguay round. Developing countries may refuse to cooperate with us if this bill becomes law.

There is also no good reason to support restrictions on imported nonrubber footwear; 1988 imports are 7 percent below 1986 and 6.5 percent below 1987. Imports are down from the three major suppliers—Taiwan, Korea, and Hong Kong. While the total import ratio is up slightly from 1987, imports as percentage of consumption have declined by 1 percent in 1988 over 1987.

Between 1981-87 there was 55 percent growth for footwear. Nearly all of this market growth was for athletic shoes and low-cost nonrubber footwear of under $15 retail cost. U.S. production in these two areas is very limited. For instance, 98 percent of all athletic shoes are imported. A few athletic shoes which retail over $100 are made here, but those haven't exactly been produced for the average consumer. The United States does produce canvas sport shoes, but those are not covered by the bill, since they already receive very high tariff protection—up to 67.5 percent!

United States manufacturers import 40 percent of total imports, according to the ITC. It would appear that their business would suffer, too, if imports were curbed.

Mr. Speaker, this bill and the Senate amendments is an outrage for consumers, who have to pay $25 to $37 billion for new protection under this bill over 5 years, on top of $20 to $40 billion per year of current textile/apparel protection. It is also an outrage for those industries which might be more deserving of an additional Government bailout. It is a disgrace that we would ignore the pleas of our allied and trading partners to oppose such protectionist legislation that is clearly inconsistent with our GATT Agreement.

Here is what American consumers must pay for any new job to be created under this bill: $48,000 for textiles; $63,000 for apparel. Under current restrictions, every American job saved is already costing $134,000 in textiles and $82,000 in apparel.

I urge my colleagues to vote against the Senate amendments. Even though you may have voted for H.R. 1154, I hope you will vote no today on the unusual procedure of accepting the Senate amendments without benefit of a conference.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I rise in support of the resolution and the bill.

Mr. Speaker, I rise in strong support of H.R. 1154, the Textile and Apparel Trade Enforcement Act of 1987.

It has been only a few weeks since the Congress passed and the President signed into law a comprehensive trade bill aimed at shoring up the competitive posture of American companies doing business overseas. This bill is beginning to work. This month, the Department of Commerce released some good news regarding our trade figures. The Department stated that for the month of July 1988, imports totaled $36 billion and our country exported goods and products amounting to $26.5 billion. These activities resulted in a trade deficit of $9.5 billion for the month of July, a decline of $3.7 billion from the previous month of June 1988, of $13.2 billion.

Let us not think that this decrease in the trade deficit resulted from the goodness of our foreign trade partners who simply want to voluntarily remove barriers to equal trading. In my opinion, this reduction, albeit small as it is, is a direct result of enactment of the trade bill.

The Congress of the United States has sent a straight-forward and clear message to our world trading partners that we are tough, we are strong, and we are insisting on fair and equitable trade. It would seem to me that if we want to affect a similar decline in our textile and apparel trade deficit, then it would be appropriate to pass the measure before us today.

Mr. Speaker, there are those here in the House, in the administration, and in the business sector who argue that no further restraint on textile and apparel imports is necessary. Let me say that we are not attempting to restrain textile and apparel imports. We are attempting to increase our exports. The administration claims it has given more protection to the textile industry throughout the 1980's already. It has created more quotas on more products, negotiated tougher bilateral restraints, and stronger enforcement of the multi-fiber agreement.

Economists have gone even further in criticizing the textile industry's legislation. They assert that the U.S. textile industry can remain strong with less protection from import competition. These economists now assert, in complete contradiction, that less protection will facilitate international adjustments to a smaller domestic industry, on the grounds that less developed countries possess a comparative advantage in textiles as immutable as the laws of the natural universe.

Mr. Speaker, despite the claims of the administration, import penetration has greatly accelerated in U.S. markets for textile products in the 1980's. Since 1980: 1,000 textile and apparel plants have been closed despite an $18.9 billion plant modernization effort; 400 domestic footwear plants have closed; 350,000 textile and apparel jobs and 70,000 footwear jobs have been lost, this according to the U.S. Bureau of Labor Statistics; 28,000 textile and apparel jobs have been lost in the last 12 months of this year; 750,000 job opportunities have been lost; and imports now control 55 percent of the U.S. apparel and apparel fabric market and 82 percent of the U.S. footwear market.

Further, Mr. Speaker, according to a recent report from the Office of Technology Assessment, if the present import trends continue without enforceable restrictions, in just 5 short years foreign companies will be able to control at least 90 percent of the apparel market in the United States.

Over the past several years, provisions have been added to a number of bills requiring American businesses to "buy American." If this trend of enormous import penetration and the closing of American plants and industries continue, there will be nothing "American" to buy. Instead, we will be saying to our consumers, workers, and industries to "buy Japanese, buy Korean, buy Taiwanese." Must we allow this scenario to become reality?

Mr. Speaker, these figures should be sobering for anyone concerned about American workers and American families. As with any statistics, there is some disagreement about the exact figures and their precise meaning, but the evidence is overwhelming that Americans are being hurt badly by unfair foreign competition in the textile and apparel industry.

Intervention in support of several American industries has been increasing in the 1980's an entirely natural and inevitable response to the record merchandise trade deficits and lagging competitiveness that have accumulated from year to year. Actions have been taken, or soon will be, which aid machine tools, steel, semiconductors, and agricultural products.

Mr. Speaker, those who argue that the U.S. textile industry in the past has unfairly tried to make itself out as a special case, now seem in the awkward position of trying to claim page 3 textiles is a special case in the 1980's, undeserving of intervention even as it is granted to many other industries.

The industry's critics seem only capable of viewing it through the rose colored glasses of free trade, at a time when record back to back trade deficits in the United States in 1985 and 1986 hurt America's vitality as a manufacturing nation.

Mr. Speaker, the issues we are debating today are not new and they have been the subject of much debate in the House and Senate, and editorialized in many newspapers and magazines across the country. Opponents of the bill insist this is protectionist legislation. I contend that it is not. Contrary to these arguments, however, the Textile and Apparel Trade Enforcement Act of 1987 is not a radical, protectionist solution. Instead, it represents a reasonable, logical and moderate approach to solving some problems plaguing the textile and apparel industry. It simply imposes a degree of fairness and order in an international marketplace that currently suffers from uncontrolled and unfair trade practices.

Under present conditions, American textile workers must compete against foreign industries that are subsidized by their governments, against foreign workers who are paid rock bottom wages, and against nations that severely limit American exports. The bill sets reasonable limits for textile imports into the United States and, in fact, would allow smaller nations to increase their imports.

In the long run, Mr. Chairman, this bill will strengthen the U.S. economy. Today, the textile and apparel industry employs nearly 2 million workers in all 50 States with an annual payroll of $25 billion. Additionally, this industry employs more American workers than the steel and automobile industries combined; is the largest manufacturing employer of women and minorities; is responsible for the employment of an additional 2 million workers in support of allied industries; is composed of 5,000 textile companies, 20,000 apparel companies, 120,000 wool growing and shearing operations, and 41,000 cotton farms and allied businesses; and contributes $50 billion to the U.S. Gross National Product annually. Finally, the Pentagon ranks the textile and apparel industry second only to steel production in importance to our national defense.

Passage and enactment of this bill will help the economy, it will save American jobs, it will create new employment opportunities, and it will ensure the consumers a continuing supply of high quality domestic textiles and apparel products.

If we want American workers to compete effectively, then the rules must be fair. Free trade must be free and fair for all nations, or it is free and fair for none. This bill starts the essential process of restoring fair competition in the international textile marketplace.

Mr. Speaker, textile workers are certainly not alone in facing challenges from unfair foreign competition. We have addressed the plight of other industries but have not given the textile and apparel industry a fair shake in ensuring its continued vitality. We needed the Textile and Apparel Trade Enforcement Act when it was considered several years ago, and we need it even more now. I urge my colleagues to vote for the American worker and to vote for the American consumer by voting for H.R. 1154. Millions of Americans are counting on us.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in strong support of the textile bill and the textile industry.

Mr. Speaker, I rise today in strong support of the textile bill.

There are many reasons why my colleagues should join me in supporting the textile bill:

The U.S. fiber, textile and apparel industries employ 2.2 million people. The industry is the leading manufacturing employer of women and minorities.

The Pentagon ranks textiles as the item most vital to national defense, next to steel. Dependency on foreign suppliers jeopardizes readiness and undermines the U.S. defense posture.

The American textile industry is the largest and most reliable customer for U.S. cotton and the only customer for U.S. wool. Domestic cotton and wool production provides jobs for nearly 300,000 people.

Eighty-three percent of the shoes sold in this country are imported. The Textile and Apparel Trade Act would make it possible for the American shoe industry to survive and grow.

Mr. Speaker, textile and apparel imports for the first 7 months of 1988 entered the United States at near record levels, according to the Department of Commerce. The textile and apparel trade deficit of $13.9 billion was 17.6 percent of the total U.S. trade deficit.

Much has been said about the financial improvement in the textile industry. This is true, but it primarily is because a large percentage of manufacturers have failed, and the remainder of the industry has modernized to take up the slack.

I urge my colleagues to support the textile bill. We cannot continue to allow foreign countries to flood our markets and undercut our own producers. The time for action is now.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I support the resolution and the bill itself.

Mr. Speaker, I rise today in support of the passage of the Textile and Apparel Trade Act, as amended by the Senate. As you know, due to the unfair trade policies of the Reagan administration and the way in which these policies have adversely affected the textile, apparel, and footwear industries, it is now crucial that we pass this bill today.

The facts are frightening: 1,000 textile and apparel plants have been closed since 1980, and between 1980 and 1987, textile and apparel imports have doubled. According to the Bureau of Labor Statistics 350,000 textile and apparel and 70,000 footwear jobs have been lost. In fact, employment in the U.S. apparel industry has fallen to the lowest level since January of 1946 and 27,000 industry jobs have been lost during the past 12 months alone. The textile and apparel industry employs more American workers than the steel and auto industries combined and is the largest manufacturing employer of women and minorities.

I am very concerned about maintaining and extending the job market in textiles and apparel in this country. The textile and apparel trade deficit reached an unprecedented $25 billion last year and is now 17 percent of the Nation's total trade deficit. We must act now and we must act favorably on this textile bill. Mr. Speaker, I certainly urge that my colleagues vote in favor of this bill with the additions from the Senate.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. Tallon].

Mr. TALLON. Mr. Speaker, I rise in strong support of the rule on the textile bill.

I do so as one who recognizes that we are the world's greatest debtor nation, or the fact that Japan, Taiwan, West Germany, Canada, and South Korea together account for 70 percent of the United States trade deficit.

I do not see how we can afford to ignore the opportunity that the textile bill presents to strengthen America, not by lowering the dollar, but rather by raising our capacity to meet ever-increasing foreign competition. It has occurred to me that part of the problem is in the way we have shaped the debate.

We all talk about "competitiveness" and "protectionism" versus free trade as if we discovered these issues. Well, we didn't and I think it's useful to put this debate in the proper perspective.

This means taking a look back in our Nation's history, two centuries to be exact, to correspondence between the British economist David Ricardo and Colonial leader Alexander Hamilton.

Ricardo's argument was the same as that of the so-called free traders of today. The colonies, which were 96 percent agricultural, should depend on their natural resources and hope that the comparative advantage would shift their way while the British mopped up.

Fortunately, Hamilton, the "protectionist," believed that our industrial base needed developing. And, the very first measure passed by America's young Congress was a trade bill that placed a 50-percent tariff on over 70 different items.

On this foundation was built the strongest, most competitive economy the world has ever seen. An economy that went from agricultural to industrial base strong enough to defend the free world.

America today, like the America of 200 years ago, must compete in an international economy under the burden of growing international indebtedness. Yet, for the first time, it seems we are unwilling to control our own economic fate. This country's workers are the most productive in the world. But, our Government is paralyzed from responding to foreign nations that simply won't let our products through the gate.

So, the Japanese pay $40 for a steak in the grocery store. The European Economic Community subsidizes soybeans at the rate of $15 a bushel. And, we shrink from responding because we're afraid other governments will label us as "protectionist." Where would we be now if this had been Alexander Hamilton's response?

What after all do we really mean by free trade? By protectionism? Is it protectionist when we provide urban development action grants that help industries compete more effectively in the world market?

Does free trade suffer when we provide funds to improve our infrastructure through funds for water and sewer facilities, and transportation improvements?

Are we subsidizing when we provide for worker training programs or low interest loans for a particular company? No. We are doing these kinds of things all the time. So are our competitors: at the state level, at the national level, internationally.

Our competitors aren't afraid of labels. As a result, the mountain of global productivity has grown but we are sliding farther and farther away from the pinnacle. Lacking a strategic response, we have watched our great manufacturing enterprises falter. Seventy percent of American manufactured products are subject to foreign competition in the United States.

Until now we have been unable to guarantee thousands of textile workers the same job security held by other textile workers around the world. We have been unwilling to enforce existing textile import restrictions; and we refuse to recognize the importance of the 2.2 million textile workers to our economic future.

According to a recent report from the Office of Technology Assessment, if the present import trends continue without restrictions, in just 5 years foreign companies will be able to control 90 percent of the apparel market in the United States. These dismal prospects are unfortunately all too real, and since 1980 over 1,000 domestic textile and apparel plants have been closed. This has resulted in 350,000 lost jobs.

The threat of a retaliatory trade war is an empty one, not because they won't start one but because they already have. For a decade or more the foreign textile nations have dumped their products in the United States market on a consistent and widespread basis.

Finally, we have the opportunity to begin to change all this. The textile bill provides a comprehensive, constructive response to the problems crippling this Nation's textile industry.

I believe the textile bill will position America to take full advantage of changes in the world economy and meet the trade challenges of tomorrow. It will enable us to get this $170 billion trade deficit under control. It will allow us to get on with our future.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from North Carolina [Mr. Neal].

Mr. NEAL. Mr. Speaker, since 1980, we have lost over 400,000 jobs in the textile and apparel industry. In my State of North Carolina we have lost at least 45,000 textile and apparel jobs.

Mr. Speaker, this hemorrhage of our jobs must stop, and that is what this bill is all about. It would limit unfair subsidized textile and apparel imports, the imports that are stealing our jobs. Mr. Speaker, we know that President Reagan and Vice President Bush are not for our textile workers. President Reagan vetoed our last textile bill with the support of Vice President Bush. Both have supported increased imports, many, as has been pointed out already by one of our Republican colleagues, from Communist countries.

Mr. Speaker, my colleagues, we need a big vote on this bill, big enough to override a Presidential veto. Mr. Speaker, for the sake of our textile and apparel workers, our American workers, I urge a big vote on this bill.

Mr. QUILLEN. Mr. Speaker, let us take pride in "Made in the U.S.A." I urge the adoption of this self-executing rule, because it means so much to the American people and the American workers.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. Emerson].

Mr. EMERSON. Mr. Speaker, in my district, the Eighth Congressional District of Missouri, the economic damage caused by the penetration of imported nonrubber footwear in recent years is one of the most severe single blows we have felt. The most recent closings, which occurred in Jackson and Perryville, MO, resulted in the loss of approximately 400 jobs in these small communities. I do not think I have to tell you how devastating such a loss can be to a small rural communities.

I am one of Congress' staunchest supporters of a general policy of fair, recripocal and free trade. Representing one of the Nation's most productive agricultural areas, I am well aware of the need to maintain and promote our own access to foreign markets—and equally aware of the risks to that access that can result from import restrictions. Nevertheless, I have watched too many small communities suffer too much at the hands of imported footwear, and have become increasingly convinced that this is an industry that needs—and deserves—temporary protection.

From my observations of the industry nationwide, as well as personal knowledge of the nonrubber footwear manufacturers in the Eighth District, I am confident that the industry has not brought this problem on itself. It has made every effort to compete with foreign imports. In Missouri, as well as across the Nation, footwear employees earn wages far below average in comparison to other industries, and considerable resources have been devoted to modernization of facilities and research. In spite of this, the industry still finds itself unable to cope with the flood of imports. We aren't talking about prohibiting imports; we are talking about limiting them to 1987 levels so our domestic industry can modernize and compete on a level playing field. I believe that passage of the Textile and Apparel Trade Act is vitally important and I strongly urge my colleagues to vote in favor of the adoption of the Senate amendments, so that this bill can finally become law. This industry, its employees, and small communities across rural America deserve a chance to regain the ground they have lost to a relentless flood of imports.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Schumer].

Mr. SCHUMER. Mr. Speaker, this is, as always, a painful vote for me, because there have been so many people from my community through the decades who have worked in the textile and needle trades, and I see them, and I see their faces. I feel for them.

The bottom line is that America is at a crossroads. Our economy has been internationalized. We can either compete and win in that world, or we can build a wall around us and say that we cannot compete, and consign our country to a second- or third-rate power.

If we are not able to do as well as other countries in industries that we pick, then we are not going to be a great power economically, militarily, or in any way.

If this bill were to pass, historians 50 years from now would write that it was a turning point. It was the time when America threw up its hands and said, "We give up. We cannot win," and we let other countries gain economic ascendancy.

Reluctantly, but powerfully, we must defeat this rule.

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Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DeLay].

Mr. DeLAY. Mr. Speaker, I rise in opposition to this rule.

Mr. Speaker, this textile bill is antifamily, anticonsumer, anticompetitive, and antiquated.

It is antifamily because it will increase the average American family's clothing bill by almost $800 per year.

It is anticonsumer because Americans will have to pay an additional $135,000 to save a $5 an hour job in the Textile industry.

It is anticompetitive because we will be pouring billions of dollars into a low-technology, sweatshop industry that is already competitive in today's economy.

It is antiquated because governments have been fighting the competitive decisions of this industry for the last 200 years. The English tried to keep it from moving to New England which tried to keep it from moving to the South which is now trying to keep it from moving to Southeast Asia.

Anyone who thinks we are saving thousands of jobs in America by passing this bill should look again. We may be saving special interest jobs, but we are losing far more jobs in the retail, agriculture, and high-technology sectors and reducing far more standards of living than there are textile workers.

Folks, let's be reasonable! We could set up a direct government subsidy program for these poor textile workers and make them all millionaires in a few years for less than consumers are now paying to preserve their jobs.

The textile bill is one of the worst things we can do in this Congress to hurt our competitiveness, our trade, and our foreign policy. It outright violates the GATT, the Multifiber Agreement, and the Israeli and Canadian Free Trade Arrangements. It places the Uruguay round in jeopardy and sets up our agriculture and high-technology industries for certain retaliation.

The passage of this bill really makes us the "Ugly Americans" in our trading partners' eyes. It's the ugly American Congress that constantly bashes our trading partners for restricting imports and then turns right around and commits the same wrong.

I would move that we rename the bill the Textile, Apparel and Footwear Trade Hypocrasy Act of 1988.

I urge my colleagues to vote against this rule, which is just as hypocritical of democracy and fairness as the bill is. For once, let's act like statesmen—not special interest puppets.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our colleague from the great State of Washington [Mr. Miller].

Mr. MILLER of Washington. Mr. Speaker, this textile bill is cut from whole cloth. The House should reject the Senate bill and send it back to the public policy dust bin where it belongs.

Mr. Speaker, what do we gain from this bill? Jobs? No way. It will throw thousands of people out of work in export industries from aerospace to agriculture. Production? Wrong again. Our textile industry is already at close to capacity. The American consumer now spends three-fourths of their clothing dollars on domestic products. New Markets? wrong, wrong, wrong. Markets for American products will shut down like classrooms in June if we enact this bill. Lower consumer prices? Hardly. With this tax the American consumer will pay more for every piece of clothing we buy.

And to what end? To protect the most protected industry in America. To increase the profits of the most profitable industry in America.

Mr. Speaker, I do not begrudge this industry 1 dime of its profits. But do not tell my low-income constituents that they must pay more to protect their children from winter's chill simply to insulate the textile industry from fair competition.

Mr. Speaker, the President will veto this bill and we will sustain that vote. Let us save our time and the taxpayer's money and defeat this bill today.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from North Carolina [Mr. Price].

Mr. PRICE. Mr. Speaker, I rise today to urge my colleagues to cast their votes in favor of H.R. 1154, the Textile and Apparel Trade Act.

The American textile industry has demonstrated great resourcefulness in responding to the surge in foreign imports which threatened to destroy the industry. However, the damage that has been done is quite extensive. During the past 8 years we have seen 1,000 textile plants close, 350,000 textile and 70,000 footwear jobs lost, and the accumulation of an unprecedented $25 billion textile trade deficit. Clearly, this is a situation which demands swift action, a situation which demands the passage of H.R. 1154.

Critics of this bill try to ignore the pain that these plant closings have caused in so many families across this country. While they talk theoretically of free trade, what we need is fair trade. These people seem willing to let thousands of men and women lose their jobs, somehow believing that countries with unfair trading practices will cease abusing our open market of thier own free will.

As elected representatives, it is our duty to fight to maintain this important domestic industry. My district alone has seen 13 plants either lay off workers or close completely since 1981. By acting now to pass this legislation, we can put a stop to this trend and give our textile industry the chance to complete its recovery.

Mr. Speaker, 28,000 jobs have been lost since the House initially passed H.R. 1154 a year ago. We must realize that we must act now or risk losing an entire industry. More importantly, we must realize that hard working American men and women need jobs, not vague economic theories. Such theories will not pay a mortgage, buy groceries, or even permit our textile workers to buy the very clothes and goods that they themselves helped to produce. For these reasons and many more, I urge my colleagues to vote yes on H.R. 1154.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New Jersey [Mr. Guarini].

Mr. GUARINI. Mr. Speaker, I rise in strong support of Textile and Apparel Trade Act of 1988.

We are at a critical juncture—we can either pass this legislation or face the extinction of an industry that is critical to our national economy.

Since 1980, textile and apparel imports have risen 169 percent; 1,000 textile and apparel and 400 domestic footwear plants have closed. More than 420,000 jobs have been lost.

In my own district in New Jersey, more than 80 plants have closed, costing more than 1,200 jobs.

Mr. Speaker, how can we compete with countries that are paying just a few cents an hour for their wages?

Our workers are among the most productive and efficient in the world but they cannot compete with nations that pay workers as little as 20 cents per hour.

The U.S. textile and apparel industries are vital to the U.S. economy. They employ nearly 2 million workers in all 50 States and contribute $50 billion to our GNP.

They are also the largest manufacturing employer of women and minorities.

This bill has been labeled protectionist legislation, but I call this legislation fair and sensible. It is a practical, reasonable approach to curbing the massive flood of foreign textile and apparel products which threatens the very lifeblood of these vital industries and threatening huge unemployment.

I strongly urge my colleagues support for this urgently needed legislation.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN] to close debate on this side.

Mr. GLICKMAN. Mr. Speaker, I rise in opposition to H.R. 1154, the Textile and Apparel Trade Act. The bill grants special preference to one industry with potentially far-reaching effects on other segments of the economy. The amendments added in the Senate, while well-intentioned and with some appeal, will not, in my view, insulate the very sector of the economy which has consistently contributed billions of dollars to our export earnings from retaliation from the countries likely to be harmed by the base bill.

I was a strong supporter of the omnibus trade bill this House worked on for such a long time and which the President finally signed this summer. Mr. Speaker, one of the reasons the House enthusiastically endorsed the omnibus trade bill was that in writing it, we were guided by an overriding philosophy that all industries, all segments of the economy, should be treated as equitably as possible. All the committees involved in fashioning that legislation did their best to reject single-industry provisions and in so doing, generally produced a bill and a set of trade law reforms to treat all business and all workers the same. That law was geared to open markets, as was United States-Canada trade record. This bill, however, is geared to close markets. So, two bills to open markets and one to close. Not a very clear signal, indeed that we intend to compete in the world.

The legislation before us undermines what I believe was a sound principle and what should be a sound principle in our conduct of trade policy. While I am sympathetic to the legitimate concerns of the companies, workers, and suppliers involved in the domestic textile, apparel, and footwear industries, I believe they should utilize existing trade law remedies designed for all industries. I also have concerns about the possibly damaging effects this legislation might have on the ability of some consumers to continue to have access to reasonably priced goods.

As chairman of the Wheat, Soybeans, and Feed Grains Subcommittee, I remain concerned about the effects of this legislation on the ability of our farmers to export. I fear that notwithstanding the good intentions of our colleagues in the Senate to protect agriculture from such retaliation, that the amendment will not accomplish that goal. The countries which supply textiles to the United States account for over one-half of our agricultural exports, a $33.5 billion market this year. Most of them in all likelihood will not increase their purchases of U.S. farm commodities to ensure that they can sell more textiles in the United States, undermining the efficacy of the amendment. To achieve its goal, the amendment will have to be implemented fairly and evenhandedly and in an extraordinarily precise fashion, yet I seriously believe that it offers an unworkable system. The bill will likely create new barriers and starts the United States down a path of tying exports to imports, a path with very serious, troubling implications. But make no mistake about it—this bill hurts agriculture and rural America. The agriculture economy is now seeing some rebound from its darkest years, and I fear that this bill could lead to reduced farm exports and lower farm income, which would lead to further havoc in rural America.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Tennessee [Mr. **SUNDQUIST**].

Mr. SUNDQUIST. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to this rule and do so as one who has supported the textile industry in its bid for a level of playing field in the past. But I will not vote for this rule today. I find it incredible and indefensible that Members of this House will have no opportunity whatsoever to debate this important legislation, that we will have no opportunity to represent the views of our constituents in this body and through conference.

Self-executing rules are wrong, Mr. Speaker. Our trade situation is changing. Our relationship with trading partners continues to evolve, and Members of this House deserve the opportunity to debate the textile and apparel bill in that context. That is why I oppose this rule, and I ask my colleagues on both sides of the aisle to join with me in defeating this rule.

Mr. CRANE. Mr. Speaker, I yield 30 second to our distinguished colleague, the gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Speaker, I thank my colleague, the gentleman from Illinois, and congratulate him on his position, as well as the gentleman from Tennessee.

Mr. Speaker, for the record, I rise in strong opposition to the Textile and Apparel Trade Act. This bill is a blatant exercise in protectionism which ensures that every American consumer will pay higher prices for clothing and other textile goods.

Protectionist legislation such as this bill really is a cruelly regressive tax increase in disguise. Wealthy Americans spend only a small proportion of their income on clothing, so an increase in prices has a minimal impact on them. However, low-income Americans must spend a larger share of their paychecks on clothing. This bill will increase consumers' costs for clothes by an additional $25 to $37 billion in the next 5 years. By sending clothing prices sharply higher, this bill will lower the standard of living for those Americans who need our help the most in moving up the ladder of economic opportunity.

H.R. 1154 violates almost every trade agreement we have signed with our trading partners. It violates GATT, the recently renegotiated multifiber arrangements, and more than 40 bilateral textile agreements. By imposing new quotas on Canada, it also violates the free trade agreement with our neighbor that this House just approved.

This bill also will devastate struggling and fragile Third World democracies such as the Philippines. The Philippines is our 10th largest supplier of textile and apparel goods, exporting $696 million in goods to the United States during the last year. How can we reconcile our commitment to Mrs. Aquino to help strengthen democracy in one of our most important allies when we are aiming broadsides such as this legislation at the Philippines' and other Third World economies?

In trampling on our international trade obligations, we are giving our trading partners the opportunity to retaliate against other American products or demand compensation. Why do we insist on shooting the American economy in the foot when it comes to trade? We impose trade restrictions against Canadian cedar shakes; the Canadians retaliate against United States corn. We restrict Japanese microchips coming into this country; our own computer industry has to forgo new product lines because it can't obtain D-Ram chips, giving Japanese computer companies a foot in the door in the United States market. Protectionist trade legislation always boomerangs, injuring some unsuspecting and innocent American industry.

This bill adds another layer of protectionism for industries which already are among the most protected in the country. When the administration renegotiated the Multifiber Arrangement in 1986, it expanded the agreement to cover previously uncontrolled fibers. It also negotiated bilateral agreeements with countries that supply the bulk of our textile imports, such as Hong Kong, Taiwan, Korea, and Japan, limiting their import growth to 1 percent annually. As a result, the U.S. textile and apparel industries are protected by nearly 1,500 quotas, with tariffs averging almost 18 percent, compared to 3 percent for all other industries.

Protectionism on this scale always comes with a high price tag. These quotas and tariffs already cost Americans more than $21 billion a year, or $240 for every family. The latest round of new quotas with our Asian trading partners helped boost prices at the cash register for textiles and apparel by 15 percent this past spring.

We are considering this bill at a time when the textile industry is enjoying a resurgence. Through the first 6 months of 1988, textile exports jumped 22 percent, while imports rose less than 1 percent. During the first 7 months of this year, imports decreased almost 10 percent. The textile merchandise trade deficit is currently falling by 15 percent a year.

The textile industry is benefiting from this higher demand at home and abroad. Profits rose more than 54 percent during 1986 and 1987. In the second quarter of 1988, profits were up another 61 percent over 1987. The industry is operating at almost 95 percent capacity, one of the highest capacity utilization rates of any industry in the country.

The textile industry has a tremendous opportunity to take advantage of the improving export picture and the growing demand at home. Instead of squandering this opportunity by pushing for another layer of protectionism which will only gouge American consumers and make the industry less competitive abroad, the industry should be concentrating on investing in new plants and equipment to enhance its competitiveness and productivity.

I urge my colleagues to reject this antitrade, antigrowth bill. This is protectionsim in its purest and rankest form. It shoud be defeated.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE. Mr. Speaker, I rise in support of the rule on this conference report, and of course in support of the conference report itself.

The issue here is a basic one—perhaps the most basic issue for all Americans. The issue is jobs. Hundreds of thousands of Americans jobs in textile, apparel and foot-wear manufacturing have been lost—sacrificed to the principle of unrestrained trade.

This principle may have been valid for its time, but its time was an earlier time, not the 1980's when we are seeing our trading partners' aggressive trading practices destroying American jobs and American companies.

I urge all my colleagues to view this conference report for what it is—an effort to maintain and restore to health, industries and jobs which are vital to the Nation.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentlewoman from Connecticut, Mrs. NANCY JOHNSON.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong opposition to this rule and bill. With every passing day the strength of our economy and job opportunities in my district and throughout America depend more and more on our success in the international market.

Our laws can govern our domestic market, but any agreements between nations can govern international trade and assure world prosperity.

A very grave danger in passage of this bill, and a major reason it will be vetoed, is the impact it would have on our Nation's ability to address our own interests through negotiated agreements with our trading partners.

If negotiated agreements can be unilaterally abrogated by the Congress, why should our trading partners make or abide by those agreements that expand our interests? If we pass this bill, how do we convince those we are negotiating with in Uruguay, during this new, very important round of GATT negotiations, that they can trust us.

We have given our word legally and morally as a nation on hundreds of textile limiting agreements that this legislation would break. As a leader of the free world, our message to mankind has been that governance by law brings peace, prosperity, and freedom to men. Can we afford to blatantly break our commitments, our bond, and endanger the trust essential for peace and prosperity?

I say no and will oppose this self-enacting rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, our trade deficit is a $160 billion indictment of Congress. America is losing $12 per hour jobs and replacing them with three minimum wage jobs, and calling that real growth. GEORGE BUSH is, some Democrats are, too, and I cannot believe it.

The truth is American soldiers won the war. Japanese and German soldiers and workers have won the peace. The Constitution clearly states that Congress shall regulate commerce; not may, shall. I do not apologize for that economic hammer. The tragedy is that the only commerce that Congress has regulated has been profits for Japan, the most protectionist nation in world history, who is laughing at this debate today.

Now, I do not want to hear any more about free trade pacts with Canada when they enjoy a 25-percent advantage in our currency exchange rates. Let us pass this bill. Let us stand up for American workers today.

Mr. CRANE. Mr. Speaker, I yield myself the remainder of our time.

The SPEAKER pro tempore (Mr. BRYANT). The gentleman from Illinois is recognized for 2½ minutes.

Mr. CRANE. Mr. Speaker, I rise to urge my colleagues to say no to the expanded and outrageous protection which the textile and apparel industry is demanding of us this year. American consumers are already paying between $200 to $300 a year per family for an elaborate system of textile import restrictions; this grab for an additional $100, which impacts middle and low income families most severely, must be rejected.

We hear, over and over, that the industry is at death's door. But let's look at the facts. The textile industry shows levels of profitability which increased 8.6 percent last year after increasing by 67 percent the year before. The unemployment rate in textiles has fallen dramatically from its 1982 high of 13.5 percent to 5.7 percent in 1987.

The industry is vociferous in its assurances that other sectors of our economy will not be hurt by the special deal it proposes in H.R. 1154. "Don't worry about other U.S. export markets and retaliation" it maintains, "The bill is legal under GATT and besides, it contains authority for the President to offer compensation to our trading partners so they won't retaliate."

But the facts tell a different story. Imposing unilateral quotas on $23.4 billion worth of our trading partners' products, without a proper injury determination, is highly illegal under GATT. The much touted compensation authority, which allows for a 10 percent reduction in textile tariffs, phased in over 5 years, would be completely inadequate in light of the huge compensation bill we would owe these trading partners. Under GATT, they would be justified in assessing the balance against U.S. exporters in other industries such as aircraft, timber, or steel. Doors to U.S. exports would shut all over the world.

While they would require other industries to bear the cost of their import protection, the bill's proponents are also asking the House to abandon its responsibility to consider substantial changes in trade policy which were made to the legislation by the other body.

In an unattractive bid to turn around a few agricultural votes, the other body added a highly misleading amendment, which directs the President to reward countries that increase agricultural purchases from the U.S. with a larger textile quota. The only problem is that the aggregate level of access available for any purchaser of U.S. ag exports will be lower than that our farmers are currently exporting. So, in effect, we are betting that our trading partners will refrain from retaliating because we don't cut off business as much as we might have if they were to purchase less of our agriculture products.

Further folly in this amendment is that it punishes our best customers, those who are already purchasing large amounts of agriculture products from the United States, because they will have a harder time increasing purchases. To their credit, most agriculture groups continue to be strongly opposed to H.R. 1154 despite the change.

The proposal to auction quotas contained in the new bill, although it succeeded in achieving the necessary revenue estimate from CBO, is another ploy. Poorly conceived, it amounts to nothing less than a new tax aimed at the retailers but actually hitting low income consumers, who pay a greater percentage of income for clothing. Personal consumption expenditures on clothing increased 5.6 percent in 1987 on top of a 6.6-percent increase in 1986 and quota auction will increase costs even more.

Mr. Speaker, because of the macroeconomic environment, the 1980's have been difficult for U.S. exporters. Current trade statistics indicate we are well on our way to a strong turn around and that many American companies, which have been facing international competition bravely, are more prepared to succeed world wide than they have been in years. I urge my colleagues to refrain from giving our trading partners the excuse to limit U.S. export growth to 1 percent a year by applying restrictions similar to HR 1154. I ask my colleagues to vote "no" on the rule.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of my time.

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Mr. Speaker, you know, this seems to be the year of the Pledge of Allegiance to the Flag. I would like to take this opportunity to remind you that half of the flags that we are pledging allegiance to were made in the Asian rim countries. And that is about the amount of our apparel and textile industry that we have lost over the last 10 years.

You know, we can stand up here and talk about additional taxes and all these other reasons for not voting for this bill; but the fact of the matter is that we are doing exactly what the British Empire did in the latter part of the last century, and beginning of this century.

We are using our economic base to conduct our foreign policy. You see where it got them. And I am going to tell you right here in September 1988 that that is exactly where it is going to get us.

I had a textile plant to close down in my district just last week in a small town, the main employer, 800 jobs. So if you think that we are not continuing to lose textile jobs, you are looking at the wrong figures.

I can let you talk to 800 people who will tell you otherwise.

How do you expect us, how do you expect us to remain the greatest Nation in the world, the strongest economic power, the strongest military power in the world if we continue to give away our basic industries, our infrastructures in this country such as the steel industry, such as the automobile industry, such as the shoe industry? The signatories to the GATT agreement several years ago got together and said that textiles and apparels fall into a special category. Yes, they do need protection. And as a result of that, we had the multifiber agreements.

The reason we are here on this floor this afternoon is that those multifiber agreements have not been enforced by the administration. They are given that authority and were given that authority by the Congress back in the 1930's. The problem is that everyone else is enforcing their agreement; the Asian rim countries, the common market. Because of that, we are being flooded with textile goods and apparels.

Think about your country, think about your country for your children and your grandchildren and vote for this bill.

Mr. GRADISON. Mr. Speaker, I rise in opposition to the rule. H.R. 1154, the Textile and Apparel Trade Act of 1987, is the worst kind of legislation imaginable. It panders to a special interest at great expense to the general public.

The textile industry does not need the protection provided by this bill. Textile and apparel imports have declined by 15.6 percent in the last 12 months. The industry is running at near full capacity, well above the national average.

Should this bill become law, the only results will be higher prices for American consumers and higher profits for textile companies. Textile companies' profits have increased 54 percent in the last 2 years. Last year they posted record profits of $1.9 billion, hardly the stuff of an industry "ravaged" by imports.

The United States already has the world's highest textile tariffs. Existing quota and tariff protection cost consumers $20 billion per year, or $238 for the average household. This burden hits the poor harder than the rich. The poorest one-fifth of U.S. households pay an estimated 3.6 percent of their income to subsidize the textile industry. This bill will increase the annual cost to American consumers by another $7 to $20 billion, $173 per working American. It is unfair to ask the poor to pay for more protection for the most protected industry in America when that industry is experiencing record profits.

Furthermore, this bill violates U.S. obligations under the General Agreement on Tariffs and Trade, the Multi-Fiber Arrangement, and 42 bilateral treaties which already restrict textile imports. It clearly invites retaliation which would hurt American farmers and other American exporters. This is no way to reduce our trade deficit.

This bill will not save American jobs, rather it will destroy American jobs. The International Business and Economic Research Corp. predicts that while the bill would protect fewer than 46,700 textile jobs, it would eliminate more than 52,440 retailing jobs which depend on imports. The price tag on this legislation is at least $150,000 per job saved. When the unemployed rate in the major textile production States is subtantially below the national average, this is a waste of the taxpayers' money.

I urge my colleagues to defeat the rule for this costly special interest legislation.

Mr. RITTER. Mr. Speaker, opponents of H.R. 1154 claim that the textile and apparel industries are profitable and healthy, and don't need stronger trade legislation to survive. To that I say—baloney! All you have to do is come to the Lehigh Valley of Pennsylvania, which I represent, to see that their claims are just not true.

Come there and speak to the owners of apparel firms about the problems caused by the flood of imports. Come there and see the number of workers who have been laid off by the flood of apparel products from low-wage foreign manufacturers. You'll be singing a different tune.

Between 1980 and 1987, textile and apparel imports increased by nearly nine billion square yards, devouring all of the growth in the U.S. market—and then some. Now, the retail market for apparel has tumbled sharply. Clothing sales have dropped for three consecutive quarters, averaging an annual rate of decline of a phenomenal 6 percent.

Because of this decline, employment in the U.S. apparel industry has fallen to 1,089,000 workers, the lowest level since January 1946. Just in the last 12 months, 28,000 American textile and apparel jobs have been lost. It is time we stopped this hemorrhage of textile and apparel jobs.

Mr. Speaker, I urge my colleagues to vote to "concur with the Senate amendments" and send this bill to the President. H.R. 1154, as amended by the Senate, would go a long way in preventing the decimation of the textile and apparel industry in America. It would establish global import quotas for each category of textiles and textile products and would authorize the President to grant limited tariff concessions to trading partners adversely affected by import restrictions imposed by such products. In addition, the bill recommends preferential quota assignments for textile and textile products exporting nations that increase their purchases of U.S. farm commodities.

In order to offset the expected tariff losses from reductions in imports, H.R. 1154 would establish a one-year experimental program for the government to auction import licenses equal to 20 percent of the value of textile and apparel imports to U.S. businesses. Without the provision, CBO estimates enactment would result in revenue losses of $3.3 billion over the next 4 years.

This is a reasonable bill to address the unfair trade practices of countries who pay extremely low wages and have far less regard for the rights of workers. I urge my colleagues to support the Senate amendments and pass this important legislation.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise today in opposition to H.R. 1154, the Textile and Apparel Trade Act.

When this measure was considered by the House, I voted against it. And I will vote against the amended version sent back to us by the Senate.

I believe H.R. 1154 would put at risk recent gains and further expected growth in export earnings for the American farmer. We cannot hope to regain export markets by expanding our trade barriers—as this bill would.

Some have said the Senate amendments have made this legislation more reasonable than the bill the House passed in September 1987. I disagree.

The so-called Daschle amendment which is being marketed as a weapon that would protect American agriculture exports from being used as a retaliatory weapon by our trading partners, is a feeble attempt to gain Farm State members' support for the bill.

H.R. 1154 would limit imports of textiles and apparel from all countries at their 1987 levels plus 1 percent growth overall each year.

The Daschle amendment would give preference in the allotment of that 1 percent increase to those countries that have demonstrated a good record of importing U.S. agricultural products during the previous 2 years. In other words, the amendment would supposedly "reward" countries that continue to import U.S. agriculture products in large quantities.

While that may sound good, it would not work. An increase in the quota of a country that increased farm imports would come at the expense of other countries. If a large number of textile-producing countries increased their purchases of U.S. agriculture products, there will be little room for a large increase in any individual country's textile quota allocation.

In addition, countries that do not increase imports of U.S. agricultural products would suffer reduced quota levels regardless of our commitment under the Multi-Fiber Arrangement [MFA], the multinational agreement which regulates international trade in textiles and apparel. Under the MFA, the United States has bilateral agreements governing specific quotas with more than 30 countries.

Our disregard for the MFA could cause countries to retaliate against the United States. Retaliation would most likely be in the agriculture sector.

Countries that would suffer a cutback in quotas in a given year would be Korea, Taiwan, and Hong Kong. In fiscal year 1987, these countries imported $1.7 billion, $1.4 billion, and $436 million of U.S. agricultural products, respectively.

In total, the 40 or so countries that would most likely have their exports affected by the textile bill buy 70 percent of U.S. farm exports. Obviously, with this kind of exposure, American agriculture will make a very attractive and likely target from these countries for retaliation.

In my home State of Nebraska, overseas trade is crucial to adequate farm and ranch income. One out of every three farm acres is dedicated to production for export. Moreover, economists estimate each $1 billion in farm exports creates agricultural jobs for as many as 35,000 workers. An additional 60,000 nonfarm jobs are created with each $1 billion in farm export sales.

America's farmers are being placed on the line to protect a textile industry that currently has 1,400 quotas already in place and whose imports have declined by 15.6 percent since July 1987.

Our farmers have gone through the adjustments necessary to make themselves competitive again in world markets. It makes no sense for us now to throw up a trade barrier inviting retaliation against the U.S. agricultural exports, expecially when it is one sector of our economy that is contributing positively to the Nation's trade balance.

I also fear the consequences of this bill on the American retailer and consumer. The International Business and Economic Research Corp. estimates that the legislation would cost $10.4 billion annually. Families will be forced to pay from $285 to $600 a year more for clothing than they do now.

Mr. Speaker, I have not been totally assured that agriculture will be protected by the Daschle amendment and I urge my colleagues to vote against H.R. 1154 by voting no on the motion to agree to the bill as amended by the Senate.

Mr. FAWELL. Mr. Speaker, I rise in strong opposition to the self-executing rule on the Senate amendments to H.R. 1154, the Textile and Apparel Trade Act. I urge my colleagues to reject this protectionist trade legislation.

Once again, the textile and apparel industries are before Congress clamoring for protection. These industries are already the most heavily protected in the country by an elaborate network of quotas and tariffs. The Multi-Fiber Arrangement [MFA], originally enacted as a temporary system, extends quota protection to some 1,500 textile and apparel products. The MFA renewed in 1986 now covers 80 percent of all low-priced textile and apparel products.

In addition to the MFA, 42 bilateral agreements have been negotiated by the Administration, including agreements with Hong Kong, Taiwan, South Korea, and Japan to limit their import growth to one percent annually.

The textile and apparel industries receive further protection from steep tariffs. Tariffs on textile and apparel imports average an incredibly high 18.6 percent, which is much higher than the average 3.6 percent tariff on all other imports.

How much more do the textile and apparel industries want? In my view, too much. In fact, the protection currently extended to these industries is costing American consumers up to $27 billion annually according to the Institute for International Economics. The quota bill adds an additional $10.4 billion to that price tag. Of course, increased consumer costs will hit low-income families the hardest.

There are other losers under this quota bill. In order to "save" 46,000 jobs in the textile and apparel industries, the retail industry would lose an estimated 52,000 jobs that depend on imports. It would cost over $220,000 to "save" each textile and apparel job.

Although proponents of this quota bill would have us believe that the textile and apparel industries are on their last legs and that this protection will restore them to greatness, don't believe it. These industries are doing quite well already.

Capacity utilization in the textile industry is 92 percent compared to an 83 percent average for other manufacturing industries. Textile and apparel exports were up by 14.4 and 25.1 percent in 1987, respectively. In the first five months of this year, textile imports fell by 8.2 percent and apparel exports dropped by 10.5 percent. Textile producers registered record profits of $1.9 billion last year. The textile industry created 21,000 new jobs last year—a 3 percent increase.

While there is little argument that these industries have experienced job losses in earlier years, that employment drop is not due solely to import penetration. A study conducted by Clemson University economics professor Richard McKenzie concludes that 83 percent of the job loss between 1973–84 in the textile industry was the result of productivity increases.

Enactment of this quota legislation would turn our trade laws on their head. Our trade laws are designed to remedy unfair trade practices and prevent serious injury to domestic industries as a result of imports. The textile and apparel industries do not meet either of these standards. It would be insidious to pass a quota bill that empties the pockets of consumers and costs jobs in the retail sector in order to further protect industries that are economically robust.

Mr. SPRATT. Mr. Speaker, I rise to urge my colleagues to vote in favor of the Senate amendments to H.R. 1154, the Textile and Apparel Act of 1987. This bill is critical if we are to preserve the largest employer in the manufacturing sector, the textile and apparel industry.

In 1981, when the Reagan-Bush administration took office, the U.S. imported $9.5 billion in textiles and apparel. Last year, textile and apparel imports reached $29 billion; in other words, in 7 years, they tripled. The textile/apparel trade deficit now represents 16 percent of our total trade deficit. This year, imports are projected once again to reach near record levels. While imports have been increasing steadily and by large rates, domestic consumption has been rising each year by only 1 percent. As a result of high volume foreign imports, new orders for textiles and apparel produced by U.S. manufacturers are plunging, with apparel volume orders down 3 percent and textile orders down 9 percent in the first 4 months of 1988.

Mr. Reagan, when he was running for President, promised that textile and apparel imports would be related to growth in the U.S. domestic market. He promised a policy of managed trade. Import increases of over 200% do not represent managed trade. In negotiating bilateral agreements with product-by-product quotas, this administration has broken its promise to industry, and left it to Congress to provide a system of managed trade for textiles and apparel.

The Administration already has the legal authority to implement a global quota. It would be far more efficient for the administration to use that authority than for Congress to impose a new quota system. Our European allies have succeeded in protecting themselves against a foreign textile/apparel imports by using the same international treaty (the Multfiber Agreement) available to the administration. But this Administration seems to have no regard either for the future of the American textile and apparel industry or the thousands of Americans, including many in my district, who have lost their jobs to foreign imports. Since the administration is unwilling to take effective action, the responsibility falls on Congress.

Without speedy and effective assistance, the future of our domestic industries is bleak. since 1980, record import levels have contributed to the loss of 350,000 jobs and 1,000 plants in the American textile and apparel industry. In my own State of South Carolina, close to 50,000 jobs have been lost. Opponents of the bill argue that the measure is not necessary since textile and apparel manufacturers have been earning higher profits. However, the gain in profits last year resulted from a series of management moves such as permanent closing of many plants idled by the 200-percent increases since 1980. This reduced industry capacity and fixed costs, raised the industry's operating rate and therefore its margin on sales. According to the Office of Technology Assessment, if import volumes increase at its present rate of growth, domestic sales of U.S. apparel firms will approach zero by the year 2000.

This year, with the national focus on competitiveness and the recognition that our nation can no longer continue to accept annual trade deficits of $160 billion, this measure is particularly timely. The textile/apparel deficit represents the second largest component of our total trade deficit. Mr. Speaker, if we are serious about saving the domestic textile/apparel industry, and if we are serious about stopping the hemorrhaging trade deficit, we will give our support to H.R. 1154. Let's send a message both to the administration and to foreign governments that this Congress is no longer willing to stand by and watch our single largest manufacturing industry disappear. I urge my colleagues to support this legislation.

Mrs. COLLINS. Mr. Speaker, a number of years ago, the United States reigned supreme in the world of consumer goods. Production in our country combined the ultimate of quality and quantity. Prosperity was high and the future always bright.

In recent years, this rosy picture has been somewhat tarnished, however. The United States often has found itself trailing behind a whole host of countries, particularly when viewing the production of textiles, and finished goods such as shoes and clothing.

It is time to do something about it! Judging by its actions rather than by its words, the administration seems to believe that these problems will take care of themselves. I submit that this is blatantly erroneous. We must act decisively and act immediately to put our country on a level playing field with businesses of other countries.

H.R. 1154, the Textile and Apparel Trade Act, would set us on the right road toward economic trade recovery. Import quotas are not an option to be taken lightly and are certainly not a first resort. However, with the exacerbation of the trade problem over the past 7½ years, the problem has become so acute that serious action must be taken. We have no choice if we wish to keep American production capacity afloat. We need only have the guts to take the necessary action.

In addition to reversing a substantial portion of the trade deficit, this legislation will also save large numbers of American jobs and boost our Nation's production capacity in a number of areas. The Senate's amendments further strengthen our effort by such notable means as encouraging purchase of American agricultural goods.

Mr. Speaker, this bill is a very important step for our country's economic future and I encourage my colleagues to support it.

The SPEAKER pro tempore (Mr. BRYANT). All time has expired.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 248, nays 150, not voting 33, as follows:

[Roll No. 341]

YEAS—248

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Baker
Ballenger
Bates
Bentley
Bevill
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Boucher
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conyers
Cooper
Costello
Coyne
Darden
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
Dickinson
Dingell
DioGuardi
Dixon
Donnelly
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gekas
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Grant
Gray (PA)
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kildee
Kolter
Kostmayer
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Lujan
Manton
Markey
Martin (NY)
Martinez
Mavroules
McCloskey
McCrery
McDade
McGrath
McMillan (NC)
McMillen (MD)
Mfume
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nowak
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Oberstar
Obey
Olin
Ortiz
Owens (NY)
Parris
Pashayan
Patterson
Payne
Perkins
Pickett
Pickle
Price
Quillen
Rahall
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Roukema
Rowland (GA)
Sabo
Savage
Schuette
Sharp
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stenholm
Stokes
Stratton
Studds
Sweeney
Swindall
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Yates
Yatron
Young (AK)

NAYS—150

Anderson
Archer
Armey
Bartlett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bilbray
Bilirakis
Bosco
Boxer
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Coats
Coughlin
Craig
Crane
Crockett
Dannemeyer
DeFazio
DeLay
DeWine
Dicks
Dorgan (ND)
Dornan (CA)
Downey
Edwards (OK)
English
Fawell
Fields
Foley
Frenzel
Gallegly
Gallo
Gibbons
Glickman
Gradison
Grandy
Green
Hansen
Hastert
Hefley
Herger
Hiler
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kemp
Kennelly
Kleczka
Kolbe
Konnyu
Kyl
LaFalce
Lagomarsino
Latta
Leach (IA)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Mazzoli
McCandless
McCollum
McCurdy
McEwen
McHugh
Meyers
Mica
Michel
Miller (CA)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nelson
Nielson
Owens (UT)
Oxley
Packard
Panetta
Pease
Pelosi
Penny
Petri
Porter
Pursell
Rhodes
Rostenkowski
Roth
Rowland (CT)
Roybal
Saiki
Sawyer
Saxton
Schaefer
Schroeder
Schulze
Schumer
Sensenbrenner
Shaw
Shumway
Skaggs
Slattery
Smith (IA)
Smith (NE)
Smith, Robert (OR)
Solarz
Stallings
Stangeland
Stark
Stump
Sundquist
Swift
Synar

Tauke
Udall
Upton
Vander Jagt
Vucanovich
Walker
Waxman
Weber
Whittaker
Wolf
Wyden
Wylie
Young (FL)

NOT VOTING—33

AuCoin
Badham
Barnard
Bonker
Boulter
Brown (CA)
Conte
Courter
Daub
Dowdy
Dreier
Gephardt
Gray (IL)
Gregg
Hall (OH)
Hawkins
Leath (TX)
Lott
Mack
MacKay
Matsui
Nichols
Pepper
Rangel
Roberts
Russo
Scheuer
Schneider
Sikorski
Taylor
Weldon
Wilson
Wortley

□ 1236

The Clerk announced the following pairs:

On this vote:

Mr. Barnard for, with Mr. Daub against.

Mr. Conte for, with Mr. AuCoin against.

Mr. Nichols for, with Mr. Dreier against.

Mr. Gephardt for, with Mr. Boulter against.

Mr. Russo for, with Mr. Bonker against.

Messrs. BENNETT, DEFAZIO, and CROCKETT changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The text of the Senate amendment to H.R. 1154 is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Textile Apparel and Footwear Trade Act of 1988".

SEC. 2. POLICY.

The policy of this Act is to—

(1) relate the growth of textile and clothing imports to the growth of the domestic market in order to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and clothing manufacturers, and loss of job opportunities for United States textile and clothing workers; and

(2) maintain a viable United States nonrubber footwear industry by preventing further damage to United States nonrubber footwear manufacturers and loss of job opportunities for United States nonrubber footwear workers.

SEC. 3. FINDING AND DETERMINATIONS.

(A) FINDINGS.—The Congress finds that—

(1) with respect to textiles and textile products—

(A) the current level of imports of textiles and textile products from all sources, more than one hundred and sixty-five countries, reached nearly 12.7 billion square yard equivalents in 1986, an increase of 17 per centum over 1985 imports; this level of imports is 2.5 times the level of imports in 1980, a rate of increase that was not foreseen when the United States granted trade concessions benefiting foreign suppliers of textiles and textile products, and represents over 1.2 million job opportunities lost to United States workers;

(B) imported textiles and textile products contain four million bales of cotton which is equivalent to 39 per centum of annual cotton production in the United States; eight out of every ten bales of cotton contained in imported textiles and clothing are foreign grown cotton; sustained massive increases in imports of cotton textile and clothing products are causing a declining market share for domestic cotton producers, depressed prices, and an average annual market revenue loss of over $1,000,000,000; another result is that a market development program voluntarily funded by United States cotton producers actually benefits foreign growers; finally, as imports of textiles and clothing increase, domestic cotton acreage is shifted to produce other agricultural products which are already in oversupply thereby adding to the problems of United States agriculture;

(C) imports of textiles and textile products made of wool have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; because import penetration in the domestic wool textile and clothing market is nearly 70 per centum, it is critical that action be taken to halt further erosion of the domestic industry's market share;

(D) imports of textiles and textile products made of manmade fiber and competing fibers, other than cotton or wool, have more than doubled since 1980 resulting in substantial reductions in domestic manmade fiber production capacity and job losses;

(E) the textile and clothing trade deficit of the United States exceeded $21,000,000,000 in 1986, an increase of 18 per centum over 1985, and accounted for 12 per centum of the Nation's overall merchandise trade deficit;

(F) import growth of clothing and clothing fabrics has averaged 8 per centum annually since 1973; over that same period, the domestic market for clothing and clothing fabrics has grown only 1 per centum annually; import growth has recently accelerated, and, since 1982, has average 21 per centum annually; the result is that import penetration in the domestic clothing and clothing fabric market has nearly doubled in the last six years, reaching a level of 52 per centum in 1986;

(G) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products competitive with those imported have been seriously damaged, many of them have been forced out of business, have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to the Federal and local governments;

(H) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring new measures;

(I) unless the import growth rate of textiles and textile products is slowed to the long term rate of growth of the United States market, plant closings and job losses will continue to accelerate, leaving the United States with reduced competition benefiting domestic consumers and leaving the Nation in a less competitive international position;

(J) a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States; and

(K) actions taken by the United States under the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended (commonly referred to as the "Multi Fiber Arrangement" or "MFA") have failed to avoid disruptive effects in the textiles and textile products markets in the United States; and

(2) with respect to nonrubber footwear—

(A) nonrubber footwear imports in 1986 reached a record level of nine hundred and forty-one million pairs; this volume of imports is 2.5 times that of 1981, the year that import relief for the nonrubber footwear industry terminated, and is 11.6 per centum above 1985 levels, the year in which the International Trade Commission issued its third finding that the domestic nonrubber footwear industry has been seriously injured by increased imports;

(B) since 1981, import growth of nonrubber footwear has averaged more than 20 per centum per year, gaining market share at the expense of the domestic industry; in 1981, import penetration of the domestic nonrubber footwear market was 51 per centum; by 1986, import penetration reached an unprecedented 80.7 per centum;

(C) as a direct result of imports, domestic nonrubber footwear production has declined every year since 1978, reaching two hundred thirty-four million pairs in 1986, a production level matched only during the Great Depression in the 1930's;

(D) domestic nonrubber footwear employment has steadily declined every year since 1981, and is down 37 per centum from 1981 levels and 7.3 per centum from 1985 levels; unemployment in the nonrubber footwear industry averaged 15.4 per centum in 1986, more than double the national average; and

(E) domestic nonrubber footwear production facilities are closing at an alarming rate, with three hundred and eighty factory closings since 1981 and seventy closings in 1986 alone.

(b) DETERMINATIONS.—Congress determines that, for the foregoing reasons—

(1) textiles and textile products are being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of textiles and textile products in the United States, and

(2) nonrubber footwear is being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of nonrubber footwear in the United States,

within the meaning of article XIX of the General Agreement on Tariffs and Trade.

SEC. 4. LIMITS ON IMPORTS.

(a) CALENDAR YEAR 1987.—Notwithstanding any other provision of law—

(1) the aggregate quantity of textiles and textile products, from all countries, classified under a category that is entered during calendar year 1987 shall not exceed an amount equal to 101 per centum of the aggregate quantity of such products classified under such category, from all countries, that entered during calendar year 1986, and

(2) the aggregate quantity of nonrubber footwear, from all countries, classified under a nonrubber footwear category that is entered during calendar year 1987, and during each calendar year thereafter, shall not exceed an amount equal to—

(A) the aggregate quantity of nonrubber footwear classified under such category, from all countries, that entered during calendar year 1986, and

(B) in the case of low priced nonrubber footwear, notwithstanding subparagraph (A), the aggregate quantity of low priced

nonrubber footwear classified under such category, from all countries, that entered during calendar year 1986.

(b) GROWTH ADJUSTMENT.—For calendar years after 1987, the aggregate quantity of textiles and textile products, from all countries, classified under each category that may be entered during each such calendar year shall be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year. If the aggregate quantity that could be entered under a category for a calendar year after 1987 is reduced under section 10(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 10(b) in previous calendar years.

(c) EXCEPTIONS.—

(1) The limitations in this Act on the aggregate quantity of articles of textiles and textile products and nonrubber footwear that may be entered during any calendar year do not apply to articles of that kind that are the product of any insular possession of the United States if the articles are—

(A) exempt from duty under general headnote 3(a) of the Tariff Schedules of the United States (19 U.S.C. 1202); and

(B) manufactured or produced in such possession by individuals who are either—

(i) United States citizens;

(ii) United States nationals; or

(iii) permanent residents of such possession in accordance with its laws.

(2) Notwithstanding any other provision of law, the aggregate quantity of sweaters that are—

(A) made of cotton, wool, or manmade fibers; and

(B) assembled in Guam from otherwise completed knit-to-shape component parts; and that may be entered—

(i) during calendar year 1987, may not exceed 163,216 dozen; and

(ii) during any calendar year after 1987, may not exceed the aggregate quantity that is authorized to be entered under this paragraph during the preceding calendar year, increased by 1 per centum.

(d) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this Act, including regulations governing entry, or withdrawal from warehouse, for consumption of the products covered by this Act. Such regulations shall provide for reasonable spacing of imports over the calendar year.

(e) ALLOCATIONS FOR CERTAIN COUNTRIES.—Regulations may be prescribed under subsection (d) only if such regulations ensure that—

(1) an amount of the limitation imposed by this section on the aggregate quantity of textiles and textile products classified under each category entered during calendar year 1989 and during each succeeding calendar year (hereafter in this subsection referred to as the "applicable year") is allocated to such products of each country to which the total quantity of United States agricultural products exported on commercial terms during the calendar year preceding the applicable year exceeds the total quantity of United States agricultural products exported on commercial terms to such country during the calendar year before the calendar year preceding the applicable year; and

(2) the amount of textiles and textile products classified under each category entered during the applicable year that is allocated so each country under paragraph (1) exceeds the quantity of such products of such country classified under such category that entered during the calendar year preceding the applicable year.

SEC. 5. TARIFF COMPENSATION.

(a) COMPENSATION.—

(1) The President may (A) enter into trade agreements with foreign countries or instrumentalities to grant new concessions as compensation, to the extent required under international trade agreements of the United States, for the import limits imposed under section 4 of this Act to maintain the general level of reciprocal and mutually advantageous concessions under such agreements; and (B) proclaim such modification or continuance of any existing duty on textiles and textile products and on nonrubber footwear as he determines to be required or appropriate to carry out such agreements.

(2) No proclamation shall be made under paragraph (1) decreasing any rate of duty to a rate of duty which is less than 90 per centum of the existing rate of duty.

(3) Before entering into any trade agreement under this subsection with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(b) STAGING REQUIREMENTS.—The aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to subsection (a) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of one-fifth of the total reduction under subsection (a) had taken effect on the effective date of the first reduction proclaimed to carry out such trade agreement, and at one-year intervals after such effective date.

(c) PROHIBITION.—Except as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and on nonrubber footwear and may not decrease, or propose a decrease, in any such duty by any means, including an implementing bill under section 151 of the Trade Act of 1974 or a proclamation.

SEC. 6. ANNUAL REPORT.

Not later than March 15, 1989, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this Act during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 4. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

SEC. 7. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this Act a review of the operation of this Act. The Secretary shall consult representatives of workers and companies in the textile and textile products and nonrubber footwear industries, the United States Trade Representative, the Secretary of Labor, and other appropriate Government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings.

SEC. 8. AUCTION OF IMPORT LICENSES.

(a) IMPORT LICENSES.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish and implement a pilot program for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products.

(b) IDENTIFICATION OF CATEGORIES SUBJECT TO LICENSES.—The categories of textiles, and the categories of textile products, to which the import licensing program under this section applies shall be selected by the Secretary of the Treasury, in consultation with the Secretary of Commerce. Such selection shall be made so that—

(1) the number of categories of textiles so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 per centum of the value of textiles entered; and

(2) the total number of categories of textile products so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 per centum of the value of textile products entered.

(c) AUCTIONING OF IMPORT LICENSES.—

(1) Each import license to be issued and sold pursuant to this section shall be sold by the Secretary of the Treasury at a public auction held no earlier than fifteen days after the date on which notice of such auction is published in the Federal Register.

(2) By no later than the date that is sixty days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe regulations under which auctions shall be conducted under paragraph (1). Such regulations shall provide for—

(a) the auctioning of quotas, on a historical basis, among retailers, importers, and manufacturers of textiles and apparel;

(b) the transfer of auctioned imported licenses among importers; and

(c) a means of ensuring that no person obtains undue market power in the markets of the United States though the use of auctioned import licenses.

(3) The Secretary of the Treasury is authorized to prescribe, on an expedited basis, such regulations supplementing the regulations prescribed under paragraph (2) as are necessary to address factors involved in conducting the sale by auction of import licenses for any article that are unique to such article.

(d) DEPOSIT OF REVENUES.—Any revenues from the sale of import licenses under this section shall be paid into the general fund of the Treasury of the United States.

(e) DURATION.—The import licensing program under this section shall begin on January 1, 1989, and end at the close of December 31, 1989.

(f) REPORT.—Not later than March 31, 1990, the Secretary of the Treasury, in consultation with the Secretary of Commerce, shall report to Congress on the administration of the import licensing program under this section and the advantages and disadvantages of auctioning import licenses demonstrated by the program.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) The term "textiles and textile products" includes, but is not limited to, all articles covered by a category.

(2) The term "nonrubber footwear" mean nonrubber footwear article classified under items 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95 of the Tariff Schedules of the United States (19 U.S.C. section 1202) (as in effect on January 1, 1987)

and includes, but is not limited to, all articles covered by a footwear category.

(3) The term "category" means each of the following—

(A) each category identified by a three-digit number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1987, and in any amendments to such publication correcting clerical errors or omissions;

(B) each subdivision of a category described in subparagraph (A) with respect to which the United States has (i) an agreement with any country on the date of enactment of this Act limiting exports of textiles and textile products to the United States that includes a specific limit on such subdivision, or (ii) taken unilateral action to limit products from any country entered under such subdivision; and

(C) a category consisting of the manmade fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States.

(D) a category consisting of the products not covered by a category described in subparagraph A and classified under TSUSA items 373.0530, 373.2030, and 373.2230.

The Secretary of Commerce shall determine, after consultation with the United States Trade Representative and the United States International Trade Commission, whether comparable subdivisions described in subparagraph (B) are consistently defined; if the Secretary determines that such subdivisions are not consistently defined, then the Secretary shall prescribe by regulation an appropriate definition of the category covering such comparable subdivisions.

(4) The term "nonrubber footwear category" means each of the following—

(A) men's leather;

(B) men's vinyl/plastic;

(C) men's other;

(D) women's leather;

(E) women's vinyl/plastic;

(F) women's other;

(G) juvenile leather;

(H) juvenile vinyl/plastic

(I) juvenile other;

(J) athletic leather;

(K) athletic vinyl/plastic;

(L) leather work footwear;

(M) other leather footwear;

(N) miscellaneous vinyl/plastic; and

(O) miscellaneous other.

(5) The term "low priced nonrubber footwear" means nonrubber footwear with a customs value of $2.50, or less, per pair.

(6) The term "country" means a foreign country, a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship, political entity or foreign trade zone, whether affiliated with the United States or not, that is outside the customs territory of the United States.

(7) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(8) The term "existing" means the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of schedules 1 through 7 of the Tariff Schedules of the United States (or the comparable rate of duty set forth in any law that may supersede such Tariff Schedules) existing on the day before the date of enactment of this Act.

(9) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall apply to textiles and textile products and to nonrubber footwear entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

(b) CALENDAR YEARS 1987 AND 1988.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products and of nonrubber footwear that may be entered under section 4(a) under each category and each nonrubber footwear category during the period beginning on the date of enactment of this Act and ending on December 31, 1987. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products or of nonrubber footwear entered under a category or nonrubber footwear category after December 31, 1986, and before the date of enactment of this Act exceeds the quantity permitted entry for such products under such category during calendar year 1987 under section 4(a), then the limit that would otherwise apply under section 4(b), in the case of textiles or textile products, or under section 4(a), in the case of nonrubber footwear, for such category for calendar year 1988 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 4(b), or section 4(a), as appropriate, for such category for calendar year 1988, then the limit for such category for calendar years after 1988 shall be reduced until such excess is accounted for.

(c) 1988 ENACTMENT.—If the date of enactment of this Act is after December 31, 1987, then (1) the term "1988" shall be substituted for the term "1987" each place it appears in subsection (a)(1) and (b) of section 4 and subsection (b) of this section; (2) the term "1987" shall be substituted for the term "1986" in subsection (a)(1) of section 4 and subsection (b) of this section; and (3) the term "1989" shall be substituted for the term "1988" each place it appears in subsection (b) of this section.

PRIVILEGES OF THE HOUSE—RESOLUTION RETURNING TO THE SENATE THE SENATE TEXTILE BILL, S. 2662

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 544) returning to the Senate the bill S. 2662, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 544

Resolved, That the bill of the Senate (S. 2662) to remedy injury to the United States textile and apparel industries caused by increased imports, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore (Mr. BRYANT). The resolution constitutes a question of privilege, and the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 544 is a simple resolution returning to the Senate the bill, S. 2662, because it contravenes the constitutional requirement that revenue measures originate in the House of Representatives. S. 2662, which passed the Senate on September 9, 1988, is a bill to impose global import quotas on textiles and footwear products. This import restriction constitutes a revenue measure because it would have an immediate effect on customs revenues. Therefore, I am asking that the House insist on its constitutional prerogatives.

While the House, by adopting this resolution, will preserve its prerogative to originate revenue matters, I want to make it clear to all Members that our action does not constitute a rejection of the Senate bill on its merits. As Members know, the House just concurred in the Senate amendments to H.R. 1154, which are identical to the text of S. 2662.

Thus, our action on this blueslip resolution is purely procedural in nature. It makes it clear to the Senate that the only constitutionally appropriate procedure for dealing with import quotas that affect revenues is for the House to act first on a bill and the Senate to add its amendments.

Mr. Speaker, I urge adoption of the resolution.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, the minority concurs in the gentleman's recommendation and asks that his request be granted.

Mr. Speaker, I thank the gentleman for yielding.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT SUNDAY, SEPTEMBER 25, 1988, TO FILE CONFERENCE REPORT ON H.R. 4782, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Sunday, September 25, 1988, to file a conference report on the bill (H.R. 4782) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT SUNDAY, SEPTEMBER 25, 1988, TO FILE CONFERENCE REPORT ON H.R. 4637, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Sunday, September 25, 1988, to file a conference report on the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. CHENEY asked and was given permission to address the House for 1 minute.)

Mr. CHENEY. Mr. Speaker, I have asked for this 1 minute for the purpose of inquiring of the distinguished majority leader, the gentleman from Washington [Mr. FOLEY], about the program for the remainder of the day and for next week.

Mr. FOLEY. Mr. Speaker, will the distinguished acting Republican leader yield?

Mr. CHENEY. Certainly, I yield to the majority leader.

Mr. FOLEY. Mr. Speaker, we will take up next the bill, H.R. 5142, the AIDS Federal Policy Act of 1988, completing consideration.

Following that, we will take up the conference report on S. 1518, the Methanol and Alternative Fuels Promotion Act of 1987. That will complete the business for the day and for the week.

On Monday, the House will meet at noon and consider 35 bills under suspension of the rules. I include a list of those bills under suspension, as follows:

S. 555, Indian Gaming Regulatory Act;

H.R. 5232, Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act;

H.R. 4584, to authorize the development of public outdoor recreation areas and facilities at Minidoka Dam in the State of Idaho;

H.R. 4146, Washington Park Wilderness bill of 1988;

H.R. 3614, to designate a section of the Columbia River in the State of Washington as a study area for inclusion in the National Wild and Scenic Rivers System;

H.R. 3544, Big Thicket National Preserve additions;

S. 2018, to expand the boundaries of the Congaree Swamp National Monument;

S. 1259, to permit access across certain Federal lands in Arkansas;

H.R. 5001, to establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission;

S. 1693, to provide for a study of the Coronado Trail;

H.R. 5334, Education of the Handicapped Programs Technical Amendments Act;

H.R. 4758, Public Safety Officers' Death Benefits Amendments of 1988;

H.R. 4982, Generic Animal Drug Patent Term Restoration Act;

H.R. 4547, Local Railroad Service Assistance Reauthorization Act;

S. 836, pertaining to security at strategic petroleum reserve facilities;

H.R. 5056, Agriculture Research Act of 1988;

H.R. 5325, Federal Crop Insurance Commission Act;

H.R. 3704, Hotel/Motel Fire Safety Act;

H.R. 4272, to enlarge the San Francisco Bay National Wildlife Refuge;

H.R. 4189, Marine Mammal Protection Act Authorization, Fiscal 1989-93;

H.R. 4919, to approve the governing international fishery agreement between the United States and the Soviet Union;

H.R. 1467, Conference report on Endangered Species Authorization Act;

H. Con. Res. 322, to recognize the loyalty and dedication of American and Panamanian employees of the Panama Canal Commission during the current political unrest in Panama;

H.R. 5287, to establish the Panama Canal Commission Compensation Fund;

H.R. 4557, to require alerting and locating equipment uninspected vessels;

H.R. 4558, Bridge Administration Transfer Act;

H.R. 4529, to authorize the Commission on White House Fellows to accept donations;

H.R. 4432, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses;

H.R. 4550, housing data relating to decennial censuses;

H.R. 4720, to include military and civilian personnel stationed overseas in decennial censuses;

H.R. 1472, to designate the M.P. Daniel and Thomas F. Calhoon, Sr., Post Office Building in Texas;

H.R. 3029, to designate the William W. Pares, Jr., Post Office Building in Louisiana;

H.R. 4443, Martin Luther King, Jr., Federal Holiday Commission Extension;

H.R. 5337, to provide for the imposition of sanctions on Iraq; and

H. Con. Res. 369, to commend the Department of State's Science and Technology officers on their outstanding performance.

We will then take up the student loan default initiative, H.R. 4986, under an open rule, with 1 hour of debate; and H.R 4417, the National Bureau of Standards authorization for fiscal year 1989, under an open rule, with 1 hour of debate.

We will postpone any votes ordered on the suspensions only until Tuesday, September 27, but we will take votes on the student loan default initiative and on the National Bureau of Standards authorization on Monday. So the first order of business will be the debate on 35 suspensions, and then the student loan default initiative and the National Bureau of Standards authorization, and the Members should be advised that probably after 3 o'clock in the afternoon the possibility of votes on Monday is very likely. However, there will not be any votes on any suspensions until Tuesday.

On Tuesday, the House will meet at noon and consider H.R. 387, the Federal Equitable Pay Practices Act, under an open rule, with 1 hour of debate; the conference report on the Department of Transportation Appropriations for fiscal year 1989, H.R. 4794; and H.R. 3133, the Trauma Care Systems Planning Act, under an open rule, with 1 hour of debate.

Following those bills and the conference report, we will take recorded votes on suspensions postponed from Monday, September 26.

On Wednesday, Thursday, and Friday, September 28, 29, and 30, the House will meet at 10 a.m. We will first consider H.R. 5247, the Water Resources Development Act, under an open rule, with 1 hour of debate, and the likelihood is that there will be several conference reports on appropriation bills scheduled for Wednesday, Thursday, and Friday. So, Members should expect that there will be votes on Monday afternoon, Tuesday, Wednesday, Thursday, and Friday.

The House will adjourn by 3 o'clock on Friday.

☐ 1245

Mr. CHENEY. Mr. Speaker, some Members have asked about the schedule on Thursday in light of the expected launch of the shuttle. I wonder if the majority leader, the gentleman from Washington [Mr. FOLEY] could clarify whether or not there will be any special provisions made on Thursday, or should we expect a normal Thursday in terms of votes?

Mr. FOLEY. Mr. Speaker, I regret to inform the House that no arrangements will be made to postpone any votes on Thursday, and Members should expect votes to occur on Thursday as the legislation requires.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Wyoming [Mr. CHENEY] for yielding.

When the gentleman from Washington [Mr. FOLEY] was reading the list of legislation to come up, one of the things that I did not hear mentioned is any possibility of considering the Clean Air Act. It was about 6 months ago that the House made it very clear that we wanted action on the clean air bill before we left this session, and we are getting down to the bottom of the legislative schedule, and, if we do not take it up next week, I cannot imagine we can get it completed.

Is there any intention at all to move on the Clean Air Act?

Mr. FOLEY. Mr. Speaker, to inform the gentleman from Pennsylvania [Mr. Walker], it is not scheduled for next week, but there is a possibility of some action before we adjourn sine die.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Washington [Mr. Foley].

Mr. CHENEY. Mr. Speaker, one further quesiton.

I noted earlier we had anticipated that the bill on the so-called 48-hour rule would be up next week. I note that is not on the schedule. Is it the intention of the majority not to bring that up at all next week?

Mr. FOLEY. Mr. Speaker, it is not scheduled for next week. We are giving priority next week to the bills I enumerated and to the appropriation bills.

I might also advise the House that Members should be prepared for the possibility of late sessions next week and the week following, including the possibility that we will go over 3 o'clock on Friday. We will try to give Members some notice of that, but at the end of the session it is possible that we will have to meet later than our ordinary schedule would require. We have to do the appropriations bill obviously, and there are other important pieces of legislation we want to conclude before the session concludes.

Mr. CHENEY. Mr. Speaker, one final question for the distinguished leader, the gentleman from Washington [Mr. Foley].

Could the gentleman enlighten the membership at all with respect to our expected adjournment date? Are we close to October 8 or October 15, or is it possible at this point to enlighten us at all with respect to that?

Mr. FOLEY. Sometime between October 8 and October 15 the House will adjourn. That would be my judgment.

The Speaker's intention is that the House meet the scheduled adjournment of October 8. The reality, of course, will be determined in part by actions in the other body.

But it is our intention to adjourn as close to the October 8 target date as possible, and beyond that I am not able to enlighten the gentleman. Members will have to make their own estimates based on previous exerience and events as they occur in the coming days.

Mr. CHENEY. As usual, Mr. Speaker, the gentleman from Washington [Mr. Foley] has been very enlightening and precise in his clarifications.

Mr. Speaker, I yield back the balance of my time.

ADJOURNMENT TO MONDAY, SEPTEMBER 26, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday, September 26, 1988, at 12 noon.

The SPEAKER pro tempore (Mr. Bryant). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AIDS FEDERAL POLICTY ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 520 and rule XXIII, the Chair declare the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5142.

□ 1250

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5142) to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such act with respect to research programs relating to such syndrome, and for other purposes, with Mr. Volkmer [Chairman pro tempore] in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the House rose on Thursday, September 22, 1988, amendment No. 1 offered by the gentleman from California [Mr. Dannemeyer] had been disposed of.

For what purpose does the gentlewoman from California [Ms. Pelosi] rise?

AMENDMENT OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. Pelosi: Page 80, after line 11, add the following new section:

SEC. 917. DEMONSTRATION HIV MONITORING AND TREATMENT CENTERS.

(a) In General.—The Secretary shall establish up to 6 Demonstration HIV Monitoring and Treatment Centers (each in this section referred to as a "center") to provide outpatient monitoring and treatment for research on individuals who are infected with the etiologic agent for acquired immune deficiency syndrone.

(b) Services Covered.—Each center shall provide services that include—

(1) clinical laboratory monitoring of patients's conditions;

(2) information and counseling on the availability of potential treatments (such as administration of the drug AZT) for the infection;

(3) psychosocial support groups;

(4) information and counseling on services relating to such infection and related conditions; and

(5) preventive treatments relating to any illness or condition which may result from such infection.

(c) Other Terms.—

(1) If a center imposes charges for the provisions of services assisted under this section, such charges shall be pursuant to a public schedule of charges and shall not be imposed with respect to services provided to low income individuals (as defined in section 501(b)(2) of the Social Security Act), and shall be adjusted to reflect the income, resources, and family size of the individuals so served.

(2) Each center shall provide for the development of model clinical treatment plans that will promote the most appropriate intervention for individuals described in subsection (a).

(d) Evaluation and Report.—The Secretary shall provide for an evaluation of the centers and shall report periodically to the Congress on the need for establishment of any additional centers.

(e) Authorization of Appropriations.—For the purposes of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1989 through 1990.

The CHAIRMAN pro tempore. The gentlewoman from California [Ms. Pelosi] will be recognized for 15 minutes and a Member in opposition will be recognized for 15 minutes.

The Chairman recognizes the gentlewoman from California [Ms. Pelosi].

MODIFICATION OF AMENDMENT OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I ask unanimous consent to modify the amendment. The modification is at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification:

Modification of amendment offered by Ms. Pelosi: Page 80, after line 11, add the following new section:

"SEC. 917. DEVELOPMENT OF MODEL PROTOCOLS FOR CLINICAL CARE OF INFECTED INDIVIDUALS.

"(a) In General.—

"(1) The Secretary may make grants to public and nonprofit private entities for the establishment of projects to develop model protocols for the clinical care of individuals infected with the etiologic agent for acquired immune deficiency syndrome.

"(2) The Secretary may not make a grant under paragraph (1) unless—

"(A) the applicant for the grant is a provider of comprehensive primary care; or

"(B) the applicant for the grant agrees, with respect to the project carried out pursuant to paragraph (1), to enter into a cooperative arrangement with an entity that is a provider of comprehensive primary care.

"(b) REQUIREMENT OF PROVISION OF CERTAIN SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, with respect to patients participating in the project carried out with the grant, services provided pursuant to the grant will include—

"(1) monitoring, in clinical laboratories, of the condition of such patients;

"(2) clinical intervention for infection with the etiologic agent for acquired immune deficiency syndrome, including measures for the prevention of conditions arising from the infection;

"(3) information and counseling on the availability of treatments for such infection approved by the Commissioner of Food and Drugs and on the availability of treatments for such infection not yet approved by the Commissioner;

"(4) support groups; and

"(5) information on, and referrals to, entities providing appropriate social support services.

"(c) LIMITATION ON IMPOSITION OF CHARGES FOR SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant will routinely impose a charge for providing services pursuant to the grant, the applicant will not impose the charge on any individual seeking such services who is unable to pay the charge.

"(d) EVALUATION AND REPORTS.—

"(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the project carried out pursuant to subsection (a), to submit to the Secretary—

"(A) information sufficient to assist in the replication of the model protocol developed pursuant to the project; and

"(B) such reports as the Secretary may require.

"(2) The Secretary shall provide for evaluations of projects carried out pursuant to subsection (a) and shall annually submit to the Congress a report describing such projects. The report shall include the findings made as a result of such evaluations and may include any recommendations of the Secretary for appropriate administrative and legislative initiatives with respect to the program established in this section.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

Ms. PELOSI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment as modified be considered as read, and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

Mr. MADIGAN. Mr. Chairman, I reserve the right to object, and I do so for the purpose of yielding under my reservation of objection to the gentlewoman from California [Ms. PELOSI] so that she may explain her unanimous-consent request to the Committee of the Whole.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Illinois [Mr. MADIGAN] the ranking member, for his question.

The primary change in the amendment is calling this program HIV monitoring and treatment centers which could easily be confused with the AIDS research centers established in section 914. The program is now referred to as a project for developing model protocols for clinical care of infected individuals. The intent of the program and the services offered through the project remains the same.

Mr. MADIGAN. Mr. Chairman, I thank the gentlewoman from California [Ms. PELOSI] for her explanation, and I am pleased that she has seen fit to work out this substitute language. I have been concerned about some of the provisions of the gentlewoman's original language, and I appreciate her efforts to work these things out.

I thought it was important that the purpose of the program, Mr. Chairman, be clarified to insure that grants were made for research purposes and the development of model protocols, and I am pleased that the gentlewoman's unanimous-consent request accommodates the concerns that I stated. I think she is to be commended for recognizing the need for this type of legislation.

Mr. Chairman, I withdraw my reservation of objection and urge my colleauges to join me in supporting the revised amendment of the gentlewoman from California [Ms. PELOSI].

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

Mr. DANNEMEYER. Mr. Chairman, reserving the right to object, I apologize to the Chairman. I was outside talking to a constituent.

I would like to be brought up to date on where we are in the parliamentary proceedings.

The CHAIRMAN pro tempore. Pending we have a proposed modification and a unanimous-consent request for a proposed modification to the amendment offered by the gentlewoman from California [Ms. PELOSI]. The modification is offered by the gentlewoman from California.

Mr. DANNEMEYER. Mr. Chairman, further reserving the right to object, is the gentlewoman from California [Ms. PELOSI] seeking to change the language of her amendment that is being offered?

Ms. PELOSI. Mr. Chairman, if the gentleman will yield, in the absence of my distinguished colleague from California [Mr. DANNEMEYER] I clarified the modification for the ranking member of the committee, and I appreciate the cooperation of the ranking member for helping shape this amendment.

The CHAIRMAN pro tempore. This is only on a proposed modification to the amendment, not the adoption of the amendment.

Mr. DANNEMEYER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN pro tempore. Without objection, the modification to the amendment is agreed to.

There was no objection.

The CHAIRMAN pro tempore. The gentlewoman from California [Ms. PELOSI] is recognized for 15 minutes.

Ms. PELOSI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment adds a section under title I, counseling and testing with respect to AIDS. The section would establish demonstration project grants to public and private nonprofit entities to develop, establish, and expand programs to provide AIDS-related counseling and mental health services.

Research studies have documented the possibility of significant social and psychological reactions to a positive AIDS antibody test. Depression, social isolation, suicide, and disabling anxiety have all been reported. Although severe reactions appear to occur in less than 10 percent of these cases, specialized counseling and mental health services are clearly needed in such cases.

H.R. 5142 provides for post-test counseling at the time an individual receives his or her AIDS antibody test result. For some people, this one counseling session will not be sufficient to facilitate the kind of behavior change necessary to stop further transmission of the AIDS virus. This amendment would provide for followup counseling and mental health services which would include facilitating behavior change in order to prevent the transmission of the AIDS virus. The amendment is therefore in keeping with public health goals.

Recent reports suggest that it may only be a matter of time before 50 to 100 percent of infected individuals develop AIDS. Thus, any program which attempts to encourage people to be tested must be prepared to respond to the possible social and psychological consequences of a positive test result.

Fortunately, AIDS-related service agencies have been developed in most areas with a significant concentration of AIDS cases. These agencies have identified the need for AIDS-related mental health treatment in the area being served by the Agency. Counselors and mental health specialists at such agencies have often received advanced training on AIDS and the particular mental health issues likely to result from infection with the AIDS virus as well as techniques for facilitating behavior change likely to prevent further transmission of the virus. Such agencies would be ideally suited to provide counseling and mental health services described in this section.

Since programs funded under this section are intended to serve as demonstration projects, it is important that grant recipients collect meaningful data on outcomes of therapeutic interventions and that agencies be able to advance knowledge of how best to be of assistance to people served under this section. Model protocols for specialized AIDS-related counseling and mental health services could be of great assistance in improving the quality of all AIDS-related counseling and mental health services.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I am happy to yield to my distinguished colleague, the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I rise in support of the amendment.

As the President's Commission has noted, it has become clear that AIDS is the endpoint of a range of illnesses caused by infection with HIV. The amendment offered by my distinguished colleague from California would go far to ensure that we develop a better understanding of the natural history of this infection.

It also assures that we will develop both model treatment plans for patients and, we all hope, interventions to treat the disease before it becomes full AIDS.

I urge my colleagues to support the amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentlewoman from California yield for a question?

Ms. PELOSI. I yield to my distinguished colleague, the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I apologize for not pleading to have the amendment read in full, but does the amendment of the gentlewoman from California [Ms. PELOSI] in any way either directly or indirectly sanction the genetic splitting of the virus in research?

Ms. PELOSI. Mr. Chairman, no, it does not.

Mr. GONZALEZ. Mr. Chairman, I thank the gentlewoman from California for her answer.

Ms. PELOSI. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Is there any Member in opposition to the amendment?

Mr. DANNEMEYER. Mr. Chairman, I am in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. DANNEMEYER] is recognized for 15 minutes.

Mr. DANNEMEYER. Mr. Chairman, we Americans are witnessing not only the development of an alternative health care systems to care for persons suffering with AIDS. We have seen the development and the building of anonymous test sites in major States of our country.

In my State of California we have bypassed the existing public health care systems and established anonymous testing centers where individuals can go in to be tested and have no duty to come back and find out whether or not they are positive at all. In my home county in southern California around 40 percent of those who are tested never bother to come back to find out their status.

Mr. Chairman, I admire the political sagacity of the proponents of these alternative test sites because they have effectively established a separate care system for dealing with victims of this tragic disease. I am not sure it is in the public interest that we do this, but that is the way it is working out.

Now we are seeing in this amendment a new separate method of dealing with persons suffering from the disease. How about the trauma of people and families who have suffered cancer? Heart disease? Diabetes? You name it, any of them. How about the families who have members who suffer the trauma of disintegration of the human body as a result of an automobile accident that we witness every day? Have we set up separate systems for dealing with persons suffering in this fashion? No, we have not done that.

Mr. Chairman, since we have not done this for all of these other victims of these tragic diseases and accidents, I raise the question. Why do we now need to establish a separate system, separate and apart from our public health care system for dealing with persons who are suffering from this tragic disease?

I do not question the motives of the proponents of this amendment. The gentlewoman from California [Ms. PELOSI], I think she is motivated by the highest concern of alleviating human suffering, and who can question that? It is a noble motive for any of us to pursue.

But, my colleagues, let us face it. This is all on the taxpayers' nickle. And I question if it is sound public policy for us to establish a separate system providing for the legitimate, understandable needs of people who have gone through the trauma of suffering from this disease.

□ 1300

One of the arguments that I have heard repeatedly in dealing with public health responses that this Member in California has urged is that we should never overlook the fact that people who suffer from this tragedy are families, just like anybody else, and I accept that; but the people in our society who come forward at a time of personal tragedy in the lives of any of us is a family. It is mother, dad, brother, sister, spouse, children, or whatever, that is the way our society functions.

I question if it is a good purpose of public funds for us to now go down the road for this disease only and set up a separate system of dealing with the tragic victims who are suffering from this incurable disease. I just do not think it makes a good sense. It is not a good expenditure of public funds, and for these reasons I regretfully must rise in opposition to this amendment offered by our colleague, the gentlewoman from San Francisco, California [Ms. PELOSI].

Mr. Chairman, I reserve the balance of my time.

Ms. PELOSI. Mr. Chairman, I believe the gentleman from California is debating a different amendment than my amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield back the balance of my time.

Ms. PELOSI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentlewoman from California [Ms. PELOSI].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 322, noes 60, not voting 49, as follows:

[Roll No. 342]

AYES—322

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Aspin
Atkins
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Byron
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan

Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Houghton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lowery (CA)
Lowry (WA)
Lungren
Madigan
Manton
Markey
Martin (IL)
Martinez
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Schaefer
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stratton
Studds
Swift
Swindall
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—60

Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bunning
Burton
Callahan
Carr
Cheney
Coble
Combest
Crane
Dannemeyer
DeLay
Derrick
Emerson
Fields
Gallo
Glickman
Hansen
Hastert
Herger
Holloway
Hopkins
Huckaby
Hunter
Inhofe
Ireland
Konnyu
Kyl
Lewis (FL)
Lightfoot
Lloyd
Lujan
Lukens, Donald
Marlenee
McCandless
McCollum
Moorhead
Myers
Nielson
Patterson
Rose
Roth
Saxton
Shumway
Shuster
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stenholm
Stump
Sweeney
Tauke
Vucanovich
Weber
Whittaker

NOT VOTING—49

Anthony
AuCoin
Badham
Barnard
Bonker
Boucher
Boulter
Brown (CA)
Bustamante
Courter
Daub
Dowdy
Dreier
Flippo
Frost
Gephardt
Gradison
Gray (IL)
Gregg
Hall (OH)
Hammerschmidt
Hawkins
Horton
Latta
Leath (TX)
Lott
Luken, Thomas
Mack
MacKay
Martin (NY)
Matsui
Michel
Mollohan
Nichols
Oxley
Packard
Pepper
Ravenel
Roberts
Rogers
Russo
Scheuer
Schneider
Stokes
Sundquist
Taylor
Weldon
Wilson
Wortley

□ 1320

The Clerk announced the following pairs:

On this vote:

Mr. Anthony for, with Mr. Boulter against.

Mr. AuCoin for, with Mr. Dreier of California against.

Messrs. RHODES, SMITH of Texas, and SWINDALL changed their vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. Volkmer). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. Pelosi: Page 55, after line 5, insert the following new section (and redesignate subsequent sections accordingly):

SEC. 2362. DEMONSTRATION PROJECTS FOR COUNSELING AND MENTAL HEALTH SERVICES TO INDIVIDUALS WITH POSITIVE TEST RESULTS.

(a) In General.—The Secretary, acting through the Director of the National Institute of Mental Health, shall make grants to public and nonprofit private entities for demonstration projects for the development, extablishment or expansion of programs to provide counseling and mental health treatment—

(1) for individuals who experience serious psychological reactions as a result of being informed that the results of testing for the etiologic agent for acquired immune deficiency syndrome indicate that the individual is infected with such etiologic agent; and

(2) for the families of such individuals, and for others, who experience serious psychological reactions as a result of being informed of the results of such testing of the individual.

(b) Training.—A grantee under subsection (a) may expend the grant to train individuals to provide the services described in subsection (a).

(c) Preferences.—In making grants under this subsection (a), the Secretary shall give preference to applicants that are based at, or which have relationships with, entities providing comprehensive health services to individuals who are infected with the etiologic agent for acquired immune deficiency syndrome.

(d) Requirement of Identification of Needs and Objectives.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant submits to the Secretary—

(1) information demonstrating that the applicant has identified the need for mental health treatment related to the etiologic agent for acquired immune deficiency syndrome in the area in which the program will be developed, established, or expanded; and

(2) a description of—

(A) the objectives established by the applicant for the conduct of the program; and

(B) the method the applicant will use to evaluate the activities conducted under the program to determine if such objectives are met.

(e) Requirement of Application.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

(3) the application contains the information required to be submitted under subsection (d); and

(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(f) Minimum Number of Grants for Fiscal Year 1989.—For fiscal year 1989, the Secretary shall make not less than 6 grants under subsection (a).

(g) Definition.—For purposes of this section, the term "mental health treatment" means individual, family or group services designed to alleviate distress, improve functional ability or assist in changing dysfunctional behavior patterns.

(h) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentlewoman from California [Ms. Pelosi] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from California [Ms. Pelosi].

(Ms. PELOSI asked and was given permission to revise and extend her remarks.)

AMENDMENT AS MODIFIED OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I ask unanimous consent to modify the amendment.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The clerk read the modification, as follows:

Amendment, as modified, offered by Ms. Pelosi: Page 55, after line 5, insert the following new section (and redesignate subsequent sections accordingly):

"SEC. 2362. DEMONSTRATION PROJECTS FOR COUNSELING AND MENTAL HEALTH SERVICES TO INDIVIDUALS WITH POSITIVE TEST RESULTS.

"(a) In General.—The Secretary may make grants to public and nonprofit private entities for demonstration projects for the development, establishment, or expansion of programs to provide counseling and mental health treatment—

"(1) for individuals who experience serious psychological reactions as a result of being informed that the results of testing for the etiologic agent for acquired immune deficiency syndrome indicate that the individuals are infected with such etiologic agent; and

"(2) for the families of such individuals, and for others, who experience serious psychological reactions as a result of being informed of the results of such testing of such individuals.

"(b) Preferences in Making Grants.—In making grants under subsection (a), the Secretary shall give preference to applicants that are based at, or have relationships with, entities providing comprehensive health services to individuals who are infected with the etiologic agent for acquired immune deficiency snydrome.

"(c) Requirement of Provision of Information on Prevention.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that counseling provided pursuant to such subsection will include counseling relating to measures for the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(d) Authority for Training.—A grantee under subsection (a) may expend the grant to train individuals to provide the services described in such subsection.

"(e) Requirement of Identification of Needs and Objectives.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant submits to the Secretary—

"(1) information demonstrating that the applicant has, with respect to mental health treatment related to the etiologic agent for acquired immune deficiency syndrome, identified the need for such treatment in the area in which the program will be developed, established, or expanded; and

"(2) a descripton of—

"(A) the objectives established by the applicant for the conduct of the program; and

"(B) the method the applicant will use to evaluate the activities conducted under the program and to determine the extent to which such objectives have been met.

"(f) Requirement of Application.—The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application contains the information required to be submitted under subsection (e); and

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) Requirement of Minimum Number of Grants for Fiscal Year 1989.—Subject to the extent of amounts made available in appropriations Acts, the Secretary shall, for fiscal year 1989, make not less than 6 grants under subsection (a).

"(h) Technical Assistance and Administrative Support.—The Secretary, acting through the Director of the National Institute of Mental Health, may provide technical assistance and administrative support to grantees under subsection (a).

"(i) Definition.—For purposes of this section, the term 'mental health treatment' means individual, family or group services designed to alleviate distress, improve functional ability, or assist in changing dysfunctional behavior patterns.

"(j) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal year 1989 through 1991.

Ms. PELOSI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California to modify the amendment?

Mr. MADIGAN. Mr. Chairman, I reserve the right to object to the modification.

Mr. Chairman, I do that for the purpose of asking the gentlewoman to explain exactly what her unanimous-consent for modification encompasses.

Mr. Chairman, under my reservation of objection, I yield to the gentlewoman from California for the purpose of her making that explanation.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have spoken to the gentleman from Illinois on numerous occasions for his suggestions and have responded to several of his helpful suggestions which further clarify the intent of the amendment.

The primary change has been a clarification that the followup counseling and mental health services would include information on preventing the further spread of AIDS, the AIDS virus. This is, of course, a goal which we all share, and I appreciate the gentleman's thoughtful input.

Mr. MADIGAN. Mr. Chairman, further reserving the right to object, because of the background noise, I could not hear clearly. Mr. Chairman, did I understand the gentlewomen to say that her changes contemplated in the unanimous-consent request would change the authorization in the bill from a number to such sums as may be necessary and would emphasize that the counseling that would be made available under the bill would be focused primarily on trying to prevent the spread of the disease? Is that the gentlewoman's explanation?

Ms. PELOSI. Mr. Chairman, if the gentleman will yield further, that is my explanation.

Mr. MADIGAN. Mr. Chairman, I thank the gentlewoman, and I withdraw my reservation of objection.

The CHARIMAN pro tempore. Is there objection to the request of the gentlewoman from California to modify the amendment?

There was no objection.

The CHAIRMAN pro tempore. The gentlewoman from California [Ms. Pelosi] is recognized for 15 minutes in support of her amendment, as modified.

Ms. PELOSI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment adds a section under title I, counseling and testing with respect to AIDS. The section would establish demonstration project grants to public and private nonprofit entities to develop, establish, and expand programs to provide AIDS-related counseling and mental health services.

Research studies have documented the possibility of significant social and psychological reactions to a positive AIDS antibody test. Depression, social isolation, suicide, and disabling anxiety have all been reported. Although severe reactions appear to occur in less than 10 percent of these cases, specialized counseling and mental health services are clearly needed in such cases.

H.R. 5142 provides for post-test counseling at the time an individual receives his or her AID antibody test result. For some people, this one counseling session will not be sufficient to facilitate the kind of behavior change necessary to stop further transmission of the AID virus. This amendment would provide for followup counseling and mental health services which would include facilitating behavior change in order to pervent the transmisssion of the AID virus. The amendment is therefore in keeping with public health goals.

Recent reports suggest that it may only be a matter of time before 50 to 100 percent of infected individuals develop AIDS. Thus, any program which attempts to encourage people to be tested must be prepared to respond to the possible social and psychological consequences of a positive test result.

Fortunately, AIDS-related service agencies have been developed in most areas with a significant concentration of AIDS cases. These agencies have identified the need for AIDS-related mental health treatment in the area being served by the Agency. Counselors and mental health specialists at such agencies have often received advanced training on AIDS and the particular mental health issues likely to result from infection with the AIDS verus as well as techniques for facilitating behavior change likely to prevent further transmission of the verus. Such agencies would be ideally suited to provide counseling and mental health services described in this section.

Since programs funded under this section are intended to serve as demonstration projects, it is important that grant recipients collect meaningful data on outcomes of therapeutic interventions and that agencies be able to advance knowledge of how best to be of assistance to people served under this section. Model protocols for specialized AIDS-related counseling and mental health services could be of great assistance in improving the quality of all AIDS-related counseling and mental health services.

Again, Mr. Chairman, I want to thank the gentleman from Illinois [Mr. Madigan] for his assistance.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. Morella].

Mrs. MORELLA. Mr. Chairman, I rise today in support of the modified amendment offered by my esteemed colleague from California to H.R. 5142, the AIDS Federal Policy Act. This amendment provides for demonstration projects for counseling and mental health services to HIV-positive individuals.

In order to win the war on AIDS, we must begin to focus on the issues of counseling and early treatment to stem the deteriorating health of the HIV positive individual. The numerous psychosocial problems confronting individuals with AIDS and the lack of adequate mental health counseling has been documented by major national health advisory groups. Counseling and mental health services are useful tools in the important goal of preventing further transmission of AIDS as the individual begins to cope with the implications of this disease. With this amendment's focus on the family and significant others who are a part of the individual's life, a strong, viable support network can be developed and nurtured. Evidence suggests that the incidence of suicide is higher among AIDS individuals, thus reinforcing the need for ongoing individual counseling and counseling for significant others.

Mr. Chairman, this amendment will achieve a number of important objectives. I applaud Congresswoman Pelosi's efforts, and I urge my colleagues to support the amendment.

Ms. PELOSI. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Is there any Member opposed to the amendment, as modified, offered by the gentlewoman from California? If not, does the gentlewoman yield back the balance of her time?

Ms. PELOSI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentlewoman from California [Ms. Pelosi].

The amendment, as modified, was agreed to.

AMENDMENT OFFERD BY MR. COATS

Mr. COATS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Coats: Page 18, after line 21, insert the following new subsection (and redesignate subsequent subsections accordingly):

(c) Requirement for State Grants of Provision of Certain Data to Applicants for Marriage Licenses.—The Secretary may not make a grant under section 2301 to a State unless the State agrees to that, in issuing licenses to be married, the State will make available to applicants for such licenses information with respect to measures for the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome (which information contains the most recently available scientific data relating to such syndrome).

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. Coats] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Indiana [Mr. Coats].

Mr. COATS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would require States to make informational materials about AIDS available to applicants for marriage licenses as a condition of the receipt of funds that a State would receive under this bill. The purpose of the amendment is to make possible the dissemination of educational material to those seeking marriage licenses.

This body yesterday turned down an earlier attempt to require mandatory testing of applicants for marriage licenses. This amendment is a follow-up effort to provide informational material to people to better educate them about the transmission of AIDS and ways in which they can prevent AIDS.

Mr. Chairman, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from California [Mr. Waxman].

Mr. WAXMAN. Mr. Chairman, I want to join in support of this amendment. It is a constructive amendment, and I urge all of our colleagues to adopt it.

Mr. COATS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman for his support, I urge my colleagues to support this amendment, and I yield back the balance of my time.

The CHAIRMAN pro tempore. Is any Member opposed to the amendment? If not, the question is on the amendment offered by the gentleman from Indiana [Mr. Coats].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COATS

Mr. COATS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Coats: Page 18, after line 21 insert the following new subsection (and redesignate subsequent subsections accordingly):

(c) Requirement for State Grantees of Periodic Provision of Certain Data to Physicians and Dentists.—The Secretary may not make a grant under section 2301 to a State unless the State agrees to make available to physicians and dentists in the State information with respect to acquired immune deficiency syndrome, including measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome (which information is updated not less than once each 6 months with the most recently available scientific date relating to such syndrome).

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. Coats] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Indiana [Mr. Coats].

Mr. COATS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, perhaps no one has a greater risk in terms of treatment of AIDS than physicians and dentists.

This amendment simply attempts to provide members of those professions with the most current and up-to-date information regarding the transmission and prevention of AIDS. The purpose is twofold: First, to give them the latest information in terms of preventing the transmission to themselves and to their patients; and second, to allow them to educate their patients about risks of transmission and means of prevention.

□ 1330

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Waxman], chairman of the subcommittee.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

This is a constructive amendment as well. I want to congratulate the gentleman in offering this amendment and I urge our colleagues to adopt it.

Mr. COATS. Mr. Chairman, I thank the gentleman for his support and urge adoption of the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. (Mr. Volkmer). Does any Member rise in opposition to this amendment?

If not, the question is on the amendment offered by the gentleman from Indiana [Mr. COATS].

The amendment was agreed to.

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of H.R. 5142, the AIDS Federal Policy Act. AIDS is the most serious public health challenge facing our society today. The Center for Disease Control estimates that up to 1.4 million Americans have been exposed to the AIDS virus. At this time there is no known cure for AIDS, and according to the best estimates, it will take several years to develop and test a vaccine.

Although the medical community is continuing its search for a treatment for AIDS, our best weapon against the spread of this disease is still education. H.R. 5142 includes important provisions to provide potentially lifesaving counseling with testing, while protecting the confidentiality of individuals seeking these services. This is a carefully crafted initiative, and I urge my colleagues to give it their full support.

H.R. 5142 authorizes $400 million a year, over the next 3 years, for AIDS counseling and testing programs. Confidentiality is assured by requiring that, to the extent allowed under State law, clinics receiving Federal funding are required to provide opportunities for anonymous counseling and testing, and test only after receiving the informed consent of the individual seeking testing. H.R. 5142 also stipulates that clinics receiving Federal funds cannot refuse AIDS counseling or testing on the basis of inability to pay for these services.

I am pleased that this legislation also includes key provisions to expedite AIDS-related research. H.R. 5142 provides for specific increases in personnel involved in AIDS research at the Public Health Service, directs the NIH to establish clinical evaluation units for AIDS treatments, and requires that grants generally be awarded within 9 months of announcement. Additionally, H.R. 5142 provides for a new NIH program to evaluate drugs that are not currently approved for use by AIDS patients.

H.R. 5142 also incorporates the provisions of H.R. 2881, establishing a National AIDS Commission, legislation which I cosponsored and supported when it previously passed the House. The 15-member Commission would be composed of experts from medicine, law and ethics, and the executive and legislative branches of Government. The Commission will formulate recommendations for Congress, the President, and the Nation in addressing the challenge presented by AIDS.

I am, however, deeply opposed to several of the amendments which will be offered to this legislation, particularly the amendments which require reporting of positive AIDS test results, or require testing of broad groups of individuals not considered at high risk for exposure to AIDS. Mandatory reporting of positive AIDS tests will result in high-risk individuals refusing to seek counseling and testing. This amendment erodes the carefully drafted confidentiality provisions included in this bill, and worse, will seriously hinder and weaken our efforts in the fight against AIDS. Required testing of hospital patients, prisoners, or individuals seeking marriage licenses would also significantly undermine the intent of this legislation, and further, would divert resources away from the high-risk individuals who can most benefit from counseling and testing. I urge my colleagues to defeat these poorly conceived amendments.

Mr. Chairman, this legislation is an important first step in formulating a comprehensive federal policy to deal with the AIDS crisis, and I am pleased that the House is taking this action.

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in support of H.R. 5142, the AIDS Federal Policy of 1988. A major Federal initiative to combat this dread disease is vital. The public health community desperately needs more information on the spread of the disease. Yet, while statistical and demographic information on the disease is very important, preventing the spread of the disease is even more important than tracking the spread. We cannot forget that AIDS is spread from individual to individual.

I am especially pleased at the inclusion of section 2306, which is similar to H.R. 4810, legislation which I introduced to require HIV testing for any individual convicted of prostitution, or a crime relating to sexual assault, and require that the results of that test be provided to the victim of the sexual assault. The victim of a sexual assault should not have to face the uncertainty of wondering if the brutal attack might have the additional lingering consequences of a fatal disease. The language does not contain the requirement that the State let the victim know he or she has the right to request the results of the test. I hope that the States will take it upon themselves to inform victims of sexual assault that they can request the results of AIDS tests on their attackers, and I will work to get this provision inserted in the Senate. If this provision is not included, I will be introducing legislation in the 101st Congress to mandate that States fully inform the victims of sexual assault of their right to know the status of their attacker.

Mrs. COLLINS. Mr. Chairman, I rise today to speak on behalf of H.R. 5142, the AIDS Federal Policy Act of 1988. In responding to this public health crisis this Congress has an opportunity to show leadership in an area that desperately needs strong leaders. Rather than hiding from this deadly virus, we need to promote research and education programs, to provide facilities for anyone who voluntarily agrees to be tested for the HIV virus, to offer counseling services for AIDS patients, their friends and families. By enacting this measure, we can save lives by waging a coordinated battle against this tragic epidemic.

The most troublesome health problem of our generation certainly deserves our utmost attention. We must remember, though, that we can be overzealous in addressing this dilemma. Identifying everyone who volunteers to be tested for the HIV virus, testing everyone who enters a hospital, a prison, or tries to get a marriage license, is not necessary for fighting this disease. Yes, we need to gather data about members of our society who have contracted the virus because this data is a vital link to finding a cure. But, knowing the names of AIDS patients will not assist the researchers. Having the names on file will only encourage community groups to call for the release of these names and may discourage potential HIV carriers from wanting to be tested. In order to preserve the rights guaranteed to our citizens, we must protect the confidentiality of AIDS tests.

We should not waste precious resources testing hospital patients and prison inmates. To test those who represent the low-risk persons in the population is not only costly, but often yields inaccurate test results and causes unnecessary anxiety. In my State, the law which required AIDS tests for applicants for marriage licenses has proven to be a waste of time and money and has been of no help in combatting the spread of the disease.

Coordinated research, education, and counseling efforts are the means to a successful end in this disease. I urge my colleagues to support amendments such as those proposed by Representatives COATS, WAXMAN, MADIGAN, and PELOSI which are part of the positive spirit of this proposed law. These amendments provide for updated reports about the status of research and new methods of prevention to go to health care professionals and marriage license applicants at least every 6 months. This way, researchers and citizens will be working together to beat this epidemic. The amendments also call for grants, numbers of researchers as are necessary, expeditious use of potential new drugs, and new monitoring and treatment centers to be established. With this measure we are pledging our resources in a responsible manner to fight this disease.

An active approach to this crisis is called for. It is incumbent upon us to meet the challenge that this deadly disease presents. As leaders in our Nation and in the world, we must act more quickly than we have in the past to begin a coordinated effort for fighting this epidemic. With concentrated research, education, and counseling efforts, we can stop the spread of AIDS, help those citizens who already have contracted the virus, and find a cure. I have the utmost confidence that if our medical community has sufficient resources to act and their efforts are more coordinated, we can solve this very serious dilemma, as we have solved other crises in the past.

I urge my colleagues to support this legislation in general, and to oppose the weakening amendments.

Ms. PELOSI. Mr. Chairman, at the appropriate time, I will offer an amendment, authorized by the rule, which would establish demonstration projects for developing model protocols for clinical care of infected individuals. I will then seek unanimous consent to modify the amendment in accordance with an agreement with the distinguished gentleman from Illinois [Mr. MADIGAN]. This amendment would add a section to title II, research on AIDS. The section would establish demonstration projects for developing model protocols for early clinical care of individuals infected with the AIDS virus. The goal of these projects is to research innovative ways to medically manage the underlying viral infection and thereby prevent further deterioriation of the infected individual's immune system. Unlike the research centers already established in section 914, these outpatient projects are dedicated to finding ways to prevent or at least delay progression to serious disease status rather than directly treating AIDS or AIDS-related conditions.

Although we have had to date over 72,000 cases of AIDS in the United States, CDC estimates that we have between 1 and 1.5 million Americans infected with the AIDS virus. We as a nation cannot afford to write these people off. We must do all we can to try to save these precious lives.

Medical experts agree that early interventions are the best hope for people who are already infected with the AIDS virus, but who have not yet become clinically ill. Despite general agreement on the need for early intervention, some uncertainties remain regarding the best point and method for treatment. The goal of these projects would be to develop model clinical treatment protocols for such individuals.

Under the provisions of this amendment, the Secretary may make grants to public and private nonprofit entities to establish early intervention projects. Departments of public health, community hospitals, medical schools or others supplying comprehensive health care would be eligible to apply for project grants. Community based organizations would also be eligible to apply and could be grant recipients pending their negotiating a cooperative arrangement with a provider of comprehensive primary care. The goal of this mechanism of making grants is to increase flexibility by supporting clinical research directly at the community level rather than making this the sole responsibility of already overextended research hospitals.

Participants in these projects will receive periodic examinations including clinical laboratory monitoring of their condition, such as T cell testing, P-24 antigen testing and any other clinical testing deemed helpful in monitoring a participant's condition. If it is determined that treatment is needed to prevent opportunistic infections, e.g. aerosolized pentamidine, or to prevent further deterioration of the immune system, e.g. AZT, then treatment would be prescribed and administered under uniform protocols. Uniform monitoring and protocol data, including the outcomes of such interventions, would be collected.

Other services offered through these projects would include information and counseling on potential treatments approved by the Food and Drug Administration as well as treatments currently under investigation. Project Inform in San Francisco, which may serve as a model, currently offers a similar service, keeping people informed about treatment research and aware of potential treatments under development. Participants in these projects shoud have similar information.

Each of these demonstration projects would be expected to gather detailed data on how a physician could best treat an infected individual. Reports on the findings of the projects would be filed periodically with the Secretary. The Secretary will collect outcome evaluations of these projects and periodically report to Congress on the findings as well as recommendations on the need for additional clinical research or new programs. Information obtained through these projects would also be widely disseminated through professional communication channels.

It is my hope and the hope of many AIDS experts that within the next 3 years, that we will be able to proclaim that infection with the AIDS virus will not necessarily mean a death sentence. By developing effective models for clinical management of asymptomatic AIDS patients, these projects may demonstrate that it is possible to stabilize the condition of such persons until such time as a true cure can be found. Success in this effort may lead to the saving of hundreds of thousands of lives as well as reducing the long term cost of patient care.

Mr. Chairman, the modified amendment has been stated as an authorization "for such funds as may be necessary" rather than for $25 million so that the amendment would be parallel to the other provisions of H.R. 5142. Although the funding level for the program would be determined by the appropriations committee, the figure specified in the amendment as found in the report on the rule is considered a reasonable level of funding for this program.

Ms. PELOSI. Mr. Chairman, at the appropriate time, I will offer an amendment, authorized by the rule, which would establish demonstration projects for counseling and mental health services to individuals with positive HIV test results. I will then seek unanimous consent to modify the amendment in accordance with an agreement with the distinguished gentleman from Illinois, Mr. MADIGAN. This amendment would add a section under title I, counseling and testing with respect to AIDS. The section would establish demonstration project grants to public and private nonprofit entities to develop, establish, and expand programs to provide AIDS-related counseling and mental health services.

Research studies have documented the possibility of significant social and psychological reactions to a positive AIDS antibody test. Depression, social isolation, suicide, and disabling anxiety have all been reported. Although severe reactions appear to occur in less than 10 percent of these cases, specialized counseling and mental health services are clearly needed in such cases.

H.R. 5142 provides for post-test counseling at the time an individual receives his or her AIDS antibody test result. For some people, this one counseling session will not be sufficient to facilitate the kind of behavior change necessary to stop further transmission of the AIDS virus. This amendment would provide for followup counseling and mental health services which would include facilitating behavior change in order to prevent the transmission of the AIDS virus. The amendment is therefore in keeping with public health goals.

Recent reports suggest that it may only be a matter of time before 50 to 100 percent of infected individuals develop AIDS. Thus, any program which attempts to encourage people to be tested must be prepared to respond to the possible social and psychological consequences of a positive test result.

Fortunately, AIDS-related service agencies have been developed in most areas with a significant concentration of AIDS cases. These agencies have identified the need for AIDS-related mental health treatment in the area being served by the agency. Counselors and mental health specialists at such agencies have often received advanced training on AIDS and the particular mental health issues likely to result from infection with the AIDS virus as well as techniques for facilitating behavior change likely to prevent further transmission of the virus. Such agencies would be ideally suited to provide counseling and mental health services described in this section.

Since programs funded under this section are intended to serve as demonstration projects, it is important that grant recipients collect meaningful data on outcomes of therapeutic interventions and that agencies be able to advance knowledge of how best to be of assistance to people under this section. Model protocols for specialized AIDS-related counseling and mental health services could be of great assistance in improving the quality of all AIDS-related counseling and mental health services.

Development of adequate measures of outcome and the ability to compare the data generated by individual grantees across the various demonstration sites is important. This will require some degree of research expertise in the administration of the program. In its original version, responsibility for this program was assigned to the National Institute of Mental Health [NIMH] which has close ties to the mental health community and which has long standing expertise in clinical research. Although it was determined that decisions about program administration should be left with the HHS Secretary, the amendment allows critical technical assistance and administrative support from HIMH. Regardless of where lead responsibility for this program is assigned, this provision will insure that the institute will play a role, both in terms of substantive expertise as well as the detailing of staff, in program implementation.

Mr. Chairman, the modified amendment has been stated as an authorization "for such funds as may be necessary" rather than for $25 million so that the amendment would be parallel to the other provisions of H.R. 5142. Although the funding level for the program would be determined by the Appropriations Committee, the figure specified in the amendment as found in the report on the rule is considered a reasonable level of funding for this program.

Mr. BURTON of Indiana. Mr. Chairman, as we all know, H.R. 5142 is the largest piece of legislation concerning the issue of AIDS to come before the full House. This a landmark bill in the health care industry, however, I simply could not vote for a bill that appropriates so much money yet doesn't do anything to directly combat the problem. Due to the rule on this bill and the limited amount of time left on the Legislative Calendar, several amendments vital to gaining control over the AIDS epidemic were defeated, or denied consideration altogether. This should not have been the case! This bill should have been left as three separate bills as was originally intended. A bill of this magnitude should not be "hustled" through to the floor for a vote.

As of September 12, 1988, 72,766 cases of AIDS have been reported to CDC. All projections for the future are grave. Studies project that there will be 490,000 cases and 5.5 million carriers of the virus by 1991 and 12,300,000 cases and 35,000,000 carriers by the year 2005. These are tragic statistics for a virus that has a 100-percent mortality rate.

There is absolutely no indication that Americans are changing their sexual habits although AIDS education has reached an all-time high. For example, in a survey conducted by CDC, over 700,000 men had 10 or more sexual partners in the past year, putting them at considerable risk of sexually transmitted diseases, including AIDS. Furthermore, each year the number of sexually transmitted diseases reported to CDC increases significantly. In 1987, there were 7,515 more cases of syphillis reported than recorded in 1986. Each year there are some 300,000 new cases of herpes and about 3 million new cases of chamydia reported. These statistics certainly don't provide encouragement that individuals are attempting to stop the transmission of AIDS. These reasons alone should indicate that more sensible and direct measures need to be taken in order to interrupt the transmission of this fatal virus.

It is simply outragous that an amendment requiring States to establish an obligation for physicians or counselors to notify the spouse of an individual diagnosed as having AIDS, if he believes that the individual will not provide such notification, was not adopted. There is absolutely no reason why a spouse should not be aware that their mate is infected with the AIDS virus. This obligation falls primarily with the HIV positive individual, however, since the disease is primarily sexually trasmitted, an individual may be wary of informing their spouse that they have tested positive. If this is the case, or the physician or counselor believe it to be the case, the spouse still has the right to know of the inherent danger they are in by remaining sexually active with their infected spouse. This scenerio becomes even more tragic when you imagine a young man falling victim to AIDS and not informing his wife of his condition. His wife will almost certainly become seropositive, and if she becomes pregnant the AIDS virus will ultimately infect their innocent child. This small family will almost certainly be dead within 10 years. It could have been prevented had the wife been made aware of her husband's condition.

H.R. 5142 requires each State to establish a partner notification system and to notify partners when the State health officials deem necessary. But, this provision is meaningless without a requirement for identity reporting. If public health officials don't know the identity of those infected, they will obviously be unable to notify others who may have been exposed. Identity reporting has been a long-standing public health practice with other sexually transmitted diseases. If we can require the reporting of diseases such as gonorrhea or syphillis, why can't we add the AIDS virus to the list? This practice would allow health departments to carry out programs of notifying and testing people who may have been exposed, thereby greatly facilitating disease control efforts. Furthermore, mandatory identification reporting of HIV is essential if public health authorities are to gain a broader understanding of the extent to which the AIDS virus has spread throughout this Nation.

The concept of mandatory or routine testing for every citizen annually was not even given the opportunity to be debated before the full House. This program would provide researchers with information on exactly how many carriers of the AIDS virus there are. At the present time, researchers can only guess how many people are carrying the virus and they can only speculate on the exact methods of transmission. This bill had amendments requiring the testing of all prison inmates, hospital patients between the ages of 15 and 50, and those couples seeking marriage licenses. None of these were passed.

The testing of prison inmates includes groups which appear to be at the greatest risk of developing AIDS—intravenous drug users, homosexuals and persons convicted of prostitution. Once the infection has entered the prison, there is an excellent chance that it will spread as a result of crowded conditions and poor sanitation, along with the prevalence of homosexual activity and sexual assault among prisoners. This activity does not merely affect those inmates in the high risk categories. The screening of prisoners before release would provide an additional opportunity to inform anyone infected of his or her condition, and to provide counseling as to the person's responsibility to avoid transmitting the virus to others and the ways to avoid transmission.

The amendment for testing hospital patients would facilitate detection of AIDS infections so that proper prevention and treatment measures could be taken, and to help hospital personnel guard against exposure to the AIDS virus. A testing of hospital patients gives a more random account of who is infected. By merely testing groups at high risk, we may never discover every means of transmission and the prevalence of AIDS in the general population. Furthermore, hospital patients are particularly appropriate for testing since they are already in contact with the health care system.

The primary arguements against testing are the cost, the accuracy of the test and the uselessness of testing a low-risk group. To begin with, AIDS testing is not unduly expensive. The Defense Department conducts a mass testing program at a cost of less than $5 per person tested. As for accuracy, there are several different steps taken in an AIDS test, therefore making the test exceptionally accurate. Furthermore, AIDS has affected every age group from infants to senior citizens. These groups certainly are not in any high risk category, yet everyday there are more of these cases reported. Most importantly, the AIDS virus has an incubation period from anywhere between 7 and 20 years during which time the virus can unknowingly be transmitted to countless individuals. Without a routine testing program, there is absolutely no way to prevent the unknowing transmission of a latent HIV virus. The advantages of testing have outweighed the arguments against, so when is America going to wake up?

AIDS has become the first "political" disease in recent history. It has become a civil rights issue instead of the major public health issue that it should be. It is given that all Americans' civil rights are to be protected under the Constitution. It is not given, however, that any particular group should have special statutory rights, especially at the risk of the general public's health. It is very unfortunate that this disease has primarily targeted one particular group, however, it is no longer the concern of just the homosexual community. This deadly virus has attacked individuals of every group at every age. The AIDS virus is a national public health problem that is getting worse every day, with no indication of a vaccine or cure anywhere in the near future. America can no longer ignore what it does not want to hear. It is time we take direct action in combating this deadly virus, before AIDS becomes the rule instead of the exception.

In conclusion, I believe that Col. Donald S. Burke, MD., in an article that appeared in the Saturday Evening Post, completely refuted most of the objections to a mandatory or routine testing program. Dr. Burke presented his testing strategy to the Presidential Commission on the HIV Epidemic and it was met with resounding support from most members. I have enclosed a copy of this Saturday Evening Post article that lists the misconceptions and concerns about HIV testing.

A STRATEGY TO PREVENT THE SPREAD OF AIDS

(By Col. Donald S. Burke, M.D.)

The Presidential Commission on the HIV Epidemic has heard ample opinion from witnesses on the theoretical adverse effects of HIV screening programs. I would like to directly address, and thereby refute, some of the more common misconceptions and concerns about HIV screening:

Misconception #1: "False-positive test results are common."

Fact: The false-positive error rate in the army HIV screening program has been measured to be only 1 out of every 135,000 persons tested. The fact that false-positive rates are unacceptably high in some private-sector laboratories is a direct consequence of the feeble quality-control programs implemented by civilian public-health authorities. The problem of false-positive test results is eminently correctable; it does not reflect any inherent technical limitations of the testing methods.

Misconception #2: "HIV screening is not cost-effective."

Fact: Laboratory test costs are $4 per person screened in the army program. Among civilian applicants for military service, the cost per case detected is about $2,500 nationwide. The cost in the New York, Washington, and San Francisco areas is about $300 per case detected.

Misconception #3: "The logistical problems of setting up a program for HIV screening are insurmountable."

Fact: On August 30, 1985, Deputy Secretary of Defense Mr. Taft directed that all applicants for military service would be tested. Within six weeks, the program was in full operation with 60,000 persons tested each month.

Misconception #4: "Suicides are commonplace when wide-scale testing is implemented."

Fact: Among the 1.8 million applicants for military service who have been screened during the past 2½ years, there have been 3,000 persons found to be HIV-infected. All have been informed of their infected status. No one has committed suicides as a consequence of learning of the test results.

Misconception #5: "The requirement for pretest counseling renders routine testing programs prohibitively expensive."

Fact: For civilian applicants for military service, "pretest counseling" consists of distribution of a one-page fact sheet. Individualized, one-on-one counseling is provided only as post-test counseling to persons who have tested seropositive.

Misconception #6: "Because there is no cure for HIV, testing is useless."

Fact: HIV-infected persons are directly benefited by knowledge of their infected status. First, they can be assured of prompt diagnosis and effective therapy of opportunistic infections. Second, HIV-infected persons who know their infected status may be able to slow progression of AIDS by careful attention to diet, physical fitness, and avoidance of other infectious diseases. Third, HIV-infected persons can avoid the guilt and pain of having unwittingly transmitted potentially fatal HIV infections to their lovers or spouses.

Misconception #7: "Wide-scale screening for HIV will drive the epidemic underground."

Fact: To date only 75,000 HIV-infected persons have been diagnosed as HIV-infected through the alternative-test-site programs. This represents only about 5 percent of all HIV-infected persons in the United States. Restated, 95 percent of HIV-infected Americans remain totally unaware of the fact that they can transmit a fatal communicable disease to their sexual partners. As a direct consequence of a national failure to encourage wide-scale routine testing, the epidemic is already underground.

I reject the passive and fatalistic attitude, championed by some, that effective routine HIV testing is beyond the capability of the U.S. public-health machinery. The means are in hand today to establish an accurate diagnosis in each and every case of HIV. We as a society must abandon the "strategy of ignorance." We can no longer systematically deny the rights and benefits of painful but critically important knowledge to the 1.5 million members of our society who carry a fatal infectious disease. We must set, as a clear goal, wide and free availability of high-quality HIV testing.

How do we achieve this goal of accessible, high-quality HIV tests? I suggest that the commission should make the following four fundamental recommendations to the President:

Recommendation I: Rigorous quality control of HIV testing must be implemented immediately throughout the United States. This should include (a) establishment of guidelines for licensure or certification of all laboratories that perform HIV confirmatory tests and (b) creation of a national HIV proficiency test program in which substantial numbers of difficult test serum samples are sent on a regular basis to testing laboratories. Satisfactory performance in this program should be a requirement for continued certification.

Recommendation II: New, "second generation" diagnostic tests for HIV should be put on the fast track for licensure. Regulatory control of confirmatory tests for HIV should be removed from the Division of Blood and Blood Products of the FDA and placed instead in the Division of Medical Devices. This step would speed the availability of highly accurate yet low-cost HIV diagnostic tests, particularly those which are based on molecularly cloned and expressed HIV antigens.

Recommendation III: Clear and compelling legislation should be enacted at a national level to ensure the continued rights of HIV-infected persons to housing and employment. National leaders of high public visibility, such as the President and the Surgeon General, should forcefully denounce acts of irrational discrimination—such as the recent burning of the house of the three hemophiliac boys in Florida—and should frequently praise, in public, acts of compassion and understanding. Strong and sustained leadership is necessary to destigmatize HIV.

Recommendation IV: Public-health policies at the local, state, and national levels should include routine HIV testing as an important strategy for infection control. Infected persons detected in routine screening programs should be the focus of intensive yet compassionate counseling to ensure that they fully understand the fatal and communicable nature of the virus infection they carry.

If these four recommendations are implemented, I believe that the goal of epidemic control through widescale HIV testing and counseling of seropositives can be achieved.

Mr. MILLER of Washington. Mr. Chairman, I rise in opposition to the Dannemeyer amendment requiring hospitals to routinely test inpatients between the ages of 15 and 49 for exposure to the AIDS virus. This amendment was defeated at both the subcommittee and committee markups.

The HIV test—including counseling—can cost between $45 and $65. This amendment could cost $10 million a year in Washington State, alone. Neither public or private insurers can be counted on to cover the expense of diagnostic tests not required by the patient's admitting diagnosis. This means more uncompensated care, especially for public hospitals. In the final analysis, routine testing of hospital patients is quite simply a very poor use of scarce health care resources. The AIDS test should be administered at the discretion of the hospital patient's primary care physician.

Routinely testing hospital patients has other drawbacks. The general hospital population is not at high risk for the HIV infection. In almost all cases, routine testing of nonhigh risk groups leads to abnormally high rates of false positives—20 percent in clinical trials. Think of the unnecessary emotional trauma this amendment will inflict.

Proponents of the amendment argue that the routine testing of hospital patients is important for the protection of health care providers. This claim is misleading and medically unsound. The American Hospital Association, the American Medical Association, the American Nurses Association, the U.S. Centers for Disease Control, and the National Academy of Sciences' Institute on Medicine have all gone on record in opposition to this amendment. The fact is, the medical community has recognized the use of universal precautions—recommended by the Centers for Disease Control, not routine testing as the single most reliable way of safeguarding health care workers against the risk of contracting the HIV virus.

As an original cosponsor of H.R. 3071, the original AIDS Counseling Act, I urge my colleagues to defeat this and any other amendments that further restrict the scope or change the intent of this crucial legislation. The lines for many State and Federal voluntary testing programs are long—we should not keep individuals in high-risk groups waiting while routinely testing so many individuals in low-risk groups.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BOLAND] having assumed the chair, Mr. VOLKMER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5142) to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such act with respect to research programs relating to such syndrome, and for other purposes, pursuant to House Resolution 520, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. McCOLLUM. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCOLLUM moves to recommit the bill, H.R. 5142, to the Committee on Energy and Commerce with instructions to report the same to the House forthwith with the following amendment:

Page 13, after line 22, add the following new section (and redesignate subsequent sections accordingly):

SEC. 2307. REQUIREMENT FOR STATE GRANTEES OF ESTABLISHMENT OF DUTY OF PHYSICIANS AND COUNSELORS TO NOTIFY SPOUSES OF INFECTED INDIVIDUALS.

(a) IN GENERAL.—Subject to subsection (c), the Secretary may not make a grant under section 2301 to a State unless the State will require that—

"(1) if a physician diagnoses an individual as being infected with the etiologic agent for acquired immunodeficiency syndrome, the physician make reasonable efforts to disclose the fact of such infection to the spouse of the individual in any case in which the physician knows, or by a reasonable effort could determine, the identity and location of the spouse;

"(2) if, as a result of counseling an individual with respect to such syndrome, a counselor learns that the individual is infected with the etiologic agent for such syndrome, the counselor make reasonable efforts to disclose the fact of such infection to the spouse of the individual in any case in which the counselor knows, or by a reasonable effort could determine, the identity and location of the spouse;

"(3) a physician and a counselor comply with the requirement described in paragraph (1) or (2), respectively, only after providing the individual involved a reasonable opportunity to disclose the fact of such infection to the spouse of the individual; and

"(4) a physician and a counselor comply with the requirement described in paragraph (1) or (2), respectively, notwithstanding that the individual involved has disclosed the fact of such infection to the spouse of such individual.

(b) ENFORCEMENT.—

"(1) The Secretary may not make a grant under section 2301 to a State unless, subject to paragraph (2), the State will establish an enforcement mechanism for the requirement established by the State pursuant to subsection (a).

"(2) No physician or counselor may be sued or held liable by any private person for the failure to make an effort to notify any individual under subsection (a).

(c) TIME LIMITATIONS WITH RESPECT TO REQUIRED LAWS.—With respect to complying with subsections (a) and (b) as a condition of receiving a grant under section 2301, the Secretary may make a grant to a State under such section if—

"(1) for each of the fiscal years 1989 and 1990, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1990, the State will comply with the requirements described in subsection (a); and

"(2) for fiscal year 1991 and subsequent fiscal years, the State has established such requirements.

(d) STATE CERTIFICATION WITH RESPECT TO REQUIRED LAWS.—With respect to complying with subsections (a) and (b) as a condition of receiving a grant under section 2301, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this section.".

Page 3, line 2, strike "2312" and insert "2313".

Page 3, line 5, strike "2311" and insert "2312".

Page 6, line 7, strike "2310(a)" and insert "2311(a)".

Page 6, line 14, strike "2310(a)" and insert "2311(a)".

Page 7, line 24, strike "2310(a)" and insert "2311(a)".

Page 20, line 8, strike "2310" and insert "2311".

Page 21, line 5, strike "2315(b)(1)" and insert "2316(b)(1)".

Page 21, line 23, strike "2311" and insert "2312".

Mr. McCOLLUM (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. McCOLLUM] is recognized for 5 minutes in support of his motion to recommit.

Mr. McCOLLUM. Mr. Speaker, this motion to recommit is a very specific motion with instructions. It does only one thing. It directs that this body add to this bill one change. That change is a requirement that in order to be eligible for the grants under the bill, as a condition of the eligibility that the States require physicians to make a reasonable effort to notify spouses if their spouse is determined to be infected with the HIV virus.

That reasonable effort is a very simple burden, and it is conditioned upon the physician or the counselor knowing the location and the identity of a spouse and making reasonable effort to find out that identity and location of that spouse.

There is also in this provision a protection to the physician and the counselor and absolute prohibition on any civil lawsuit by any individual against the physician or counselor for failure to make the effort to notify. The requirement, by the way, is to make the effort. They do not have to actually notify. They have to make a reasonable effort to notify.

We have done everything we can in drafting this in order to allow us the opportunity as a body to vote on spouse notification, a reasonable spousal notification. The gentleman from Indiana [Mr. COATS], and I tried to get the Rules Committee to allow this to be offered earlier on as an amendment. The Rules Committee did not allow that. We tried to get the previous question defeated so we would have the opportunity to offer this for a vote by the body. We did not succeed. I cannot imagine anything more important than spouse notification in the HIV-virus context. We absolutely must have it.

I will tell my colleagues why. The simple fact of the matter is that let us take the parents' position in a situation where your daughter and son-in-law has gotten married and they have a child out there. Do we want a situation to develop where before that next child is born that there is one of those spouses that has AIDS that goes to the physician diagnosed, the other spouse does not know anything about it, particularly the wife. She becomes pregnant after she becomes infected. That child is passed the AIDS virus.

Let me say what that means. If that occurs within 5 years or 10 years at the most, possibly, all three of those people will be dead and the grandparents will not have a grandchild. They will not have a daughter or son-in-law. We do not need that. It does not have to happen that way. We need spousal notification. We need the requirement that a physician make a reasonable effort to notify the spouse of the other spouse having AIDS if he indeed knows the identity of the spouse.

Again, there is protection in this proposal and immunity for the physician from private lawsuits. Your reinforcement mechanism is by the individual States involved.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. WAXMAN. Mr. Speaker, I rise in opposition to this motion to recommit. We have before us an excellent bill that will get us on track in dealing with this AIDS epidemic that deals with research, and we have constructive provisions on counseling and testing. They are realistic. We leave the States the leverage to go further if they wish to. It is a clearly bipartisan bill.

This amendment is not a constructive amendment to that bill. It would do a great deal of harm to the legislation and may well keep it from passing. It is an unnecessary provision. It is one that is opposed by the American Medical Association and the National Governors' Association. The bill leaves a decision about medical practice to physicians. The bill already allows doctors to notify a spouse of the test results of an infected spouse. It leaves also the decisions about regulating medical practice to the States.

This is an inappropriate amendment. I hope we would defeat it.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. MADIGAN], the ranking minority member of the subcommittee.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for yielding.

Very briefly I would say I had intended to offer a motion to recommit like this bill myself if I felt that one could be drafted that would deal with the problems of doctor liability, and I came to the conclusion that that could not be done. This amendment, or this motion to recommit, requires the doctor to make a reasonable effort, but it does not define what that is, and then it leaves it up to the States to enforce and penalize the doctors for not making that undefined reasonable effort, but it does not say what the penalty is to be. So it might be a fine of $100 in one State or the revocation of a doctor's license in another State. The point is we do not know because it does not say in this bill what is going to be required of the States or what the States are going to do, and it does not define what this reasonable effort is. Is that looking somebody up in the telephone book or is that going to the city directory or is that going to the person's parents to find out if a person is married, or when they were married or if they are still married? What is reasonable effort?

I came to the conclusion that that could not be done and so I did not offer the motion to recommit. I hope that this motion to recommit would not be agreed to because the purpose of this bill is to encourage doctors to encourage people to be tested.

The result of this motion to recommit if it were adopted would be to discourage doctors from taking part in this program. I think it is a bad idea for that reason.

The SPEAKER pro tempore. The gentleman from Florida [Mr. McCollum] is recognized for his remaining 2 minutes.

Mr. McCOLLUM. Mr. Speaker, I would like to respond to this degree. I would like to read the actual lawsuit liability exemptions for physicians. No physician or counselor may be sued or held liable by any private person for the failure to make an effort to notify an individual under subsection (a).

That is explicitly clear. The doctor cannot be held liable or the counselor held liable. That amendment leaves it to the States to work up the enforcement mechanism. The States have the grant program.

I want to emphasize, it is absolutely essential that spouses be given notification. If we do not, how in the world are we going to explain to people a year or 2 or 5 years or 10 years from now about the deaths that do occur because they were not told or because their children were not told or their grandchildren's mother was not told about the husband who had the disease? This is a very reasonable effort.

I urge my colleagues to adopt it. I would urge a "yes" vote on the motion to recommit that does nothing more than add this to it. It does not send the bill back to committee essentially or anything else other than this purpose.

The SPEAKER pro tempore. The gentleman from California [Mr. Waxman] is recognized for the remaining 2 minutes.

Mr. WAXMAN. Mr. Speaker, I agree with the gentleman from Illinois [Mr. Madigan]. The enforcement mechanism of this motion is ambiguous, fuzzy, very unclear, and the consequence of that will be that doctors will not want to participate in this program, and we have less testing and less counseling. The purpose of the bill is to counsel and test so that we can try to contain the pool of people that are infected.

I urge, along with the American Medical Association and the National Governors' Association and others to oppose this motion to recommit so we can support the final passage of the bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on a motion to recommit.

There was not objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. McCOLLUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 105, nays 279, not voting 47, as follows:

[Roll No. 343]

YEAS—105

Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bates
Bilirakis
Bliley
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Coats
Coble
Coleman (MO)
Coughlin
Craig
Crane
Dannemeyer
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Early
Emerson
Fields
Gallegly
Gekas
Gibbons
Gingrich
Goodling
Gradison
Grandy
Hall (TX)
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hubbard
Hunter
Hutto
Inhofe
Ireland
Kemp
Konnyu
Kyl
Lagomarsino
Lewis (FL)
Lloyd
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Marlenee
Martin (IL)
McCandless
McCollum
McGrath
Meyers
Miller (OH)
Moorhead
Myers
Nelson
Nielson
Parris
Pursell
Rhodes
Rogers
Roth
Roukema
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Whittaker
Williams
Wolf
Wylie
Young (FL)

NAYS—279

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Aspin
Atkins
AuCoin
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Bruce
Bryant
Buechner
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallo
Garcia
Gaydos
Gejdenson
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (PA)
Green
Guarini
Gunderson
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hughes
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lowry (WA)
Luken, Thomas
Madigan
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Rahall
Rangel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—47

Anthony
Badham
Barnard
Bonker
Boucher
Boulter
Brown (CA)
Bustamante
Courter
Daub
Davis (IL)
Dowdy
Dreier
Fawell
Flippo
Frost
Gephardt
Gray (IL)
Gregg
Hall (OH)
Hammerschmidt
Hawkins
Huckaby
Leath (TX)
Lipinski
Livingston
Lott
Mack
MacKay
Martin (NY)
Matsui
Michel
Nichols
Nowak
Packard
Pepper
Quillen
Ravenel
Roberts
Russo
Scheuer
Schneider
Stallings
Sundquist
Taylor
Weldon
Wortley

□ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Dreier of California for, with Mr. Anthony against.

Mr. Daub for, with Mr. Barnard against.

Mr. Boulter for, with Mr. Gephardt against.

Messrs. LANCASTER, LEHMAN of Florida, ROSTENKOWSKI, and DAVIS of Michigan changed their vote from "yea" to "nay."

Messrs. COBLE, PURSELL, and HASTERT, Mrs. MARTIN of Illinois, and Mrs. SMITH of Nebraska changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BOLAND). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chairman will announce that there is a time limit of 5 minutes on the vote for final passage.

The vote was taken by electronic device, and there were—yeas 367, nays 13, not voting 51, as follows:

[Roll No. 344]

YEAS—367

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—13

Barton
Burton
Cheney
Crane
Dannemeyer
Dornan (CA)
Gingrich
Holloway
Hunter
McCollum
Shumway
Shuster
Stump

NOT VOTING—51

Anthony
Badham
Barnard
Bonker
Boucher
Boulter
Brown (CA)
Bustamante
Courter
Daub
Davis (IL)
Dicks
Dowdy
Dreier
Fawell
Flippo
Frost
Gephardt
Gordon
Gray (IL)
Gregg
Hall (OH)
Hammerschmidt
Hawkins
Huckaby
Leath (TX)
Lipinski
Livingston
Lott
Lowry (WA)
Mack
MacKay
Martin (NY)
Matsui
Michel
Nichols
Nowak
Packard
Pepper
Quillen
Ravenel
Roberts
Russo
Scheuer
Schneider
Smith, Denny (OR)
Stallings
Sundquist
Taylor
Weldon
Wortley

□ 1410

Mr. GINGRICH changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5142, AIDS FEDERAL POLICY ACT OF 1988

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5142, the Clerk be authorized to correct section numbers, cross references, punctuation, and indentations, and to make such other technical and conforming changes as are necessary to reflect the action of the House.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 5142, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, pursuant to the provisions of House Resolution 520, I call up from the Speaker's table the Senate bill (S. 1220) to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, pursuant to House Resolution 520, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike all after the enacting clause of the Senate bill, S. 1220, and to insert the provisions of the bill, H.R. 5142, as passed by the House, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "AIDS Federal Policy Act of 1988".

TITLE I—COUNSELING AND TESTING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 101. ESTABLISHMENT OF GRANT PROGRAM AND CONFIDENTIALITY PROTECTIONS RELATING TO COUNSELING AND TESTING.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXIII as title XXIV;

(2) by redesignating sections 2301 through 2303 as sections 2401 through 2403, respectively;

(3) by redesignating sections 2306 through 2316 as sections 2404 through 2414, respectively; and

(4) by inserting after title XXII the following new title:

"TITLE XXIII—COUNSELING AND TESTING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"Part A—Grants for Counseling and Testing

"SEC. 2301. ESTABLISHMENT OF PROGRAM.

"(a) Allotments for States.—For the purposes described in subsection (c), the Secretary, acting through the Director of the Centers for Disease Control, shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 2312. The Secretary shall make payments each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 2311.

"(b) Categorical Grants.—For the purposes described in subsection (c), the Secretary, acting through the Director of the Centers for Disease Control, may make grants to entities (including public entities) that—

"(1) are grantees pursuant to section 317(j)(2), section 318(c), section 329, section 330, section 509A, or section 1001;

"(2) have under any appropriations Act received funds as alternate blood testing sites; or

"(3) are nonprofit hospitals.

"(c) Purposes of Grants.—The Secretary may not make a grant under subsection (a) or (b) unless the applicant for the grant agrees to expend the grant only for the purposes of—

"(1) counseling individuals with respect to acquired immune deficiency syndrome in accordance with section 2303, including counseling relating to measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome; and

"(2) testing individuals for infection with such etiologic agent.

"(d) Preferences in Making Categorical Grants.—

"(1) Subject to paragraphs (2) and (3), the Secretary shall, in making grants under subsection (b), give preference to qualified applicants that will provide counseling and testing pursuant to such subsection in any geographic area for which—

"(A) with respect to grants for fiscal year 1989, the number of additional cases of acquired immune deficiency syndrome, as indicated by the number of such cases reported to and confirmed by the Secretary for the most recent fiscal year for which such data is available, constitutes a significant percentage of the number of such cases in the United States; and

"(B) with respect to grants for fiscal year 1990 and subsequent fiscal years, the number of additional cases of infection with the etiologic agent for acquired immune deficiency syndrome, as indicated by the number of such cases for the most recent fiscal year for which such data is available, constitutes a significant percentage of the number of such cases in the United States.

"(2) For purposes of paragraph (1), only a percentage of 1 percent or greater may be considered a significant percentage.

"(3) With respect to grants under subsection (b) for fiscal year 1990 and subsequent fiscal years, the Secretary shall, for purposes of preferences under paragraph (1), apply the criteria described in subparagraph (A) of such paragraph if the Secretary determines that sufficient and accurate data are not available for applying the criteria described in subparagraph (B) of such paragraph.

"SEC. 2302. REQUIREMENTS WITH RESPECT TO CONFIDENTIALITY AND INFORMED CONSENT.

"(a) Confidentiality.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees to ensure, in accordance with Federal law (including part B) and with State and local law not superseded by Federal law, the confidentiality of information and records with respect to individuals counseled or tested pursuant to such section.

"(b) Informed Consent.—

"(1) Except as provided in section 2306, the Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, in conducting testing pursuant to such section, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2303(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

"(2)(A) If, pursuant to section 2310(a), an individual will undergo testing described in section 2301 through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement entered into pursuant to paragraph (1) if such individual signs the statement described in such subsection using the pseudonym.

"(B) If, pursuant to section 2310(a), an individual will undergo testing described in section 2301 without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement entered into pursuant to paragraph (1) if such individual orally provides the declaration described in such paragraph.

"SEC. 2303. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES.

"(a) Counseling Before Testing.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, before testing an individual pursuant to such section, the applicant will provide to the individual appropriate counseling with respect to acquired immune deficiency syndrome (based on the most recent scientific data relating to such syndrome), including—

"(1) measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome;

"(2) the accuracy and reliability of the results of such testing;

"(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

"(4) encouraging individuals, as appropriate, to undergo testing for such etiologic agent and providing information on the benefits of such testing;

"(5) provisions of law relating to the confidentiality of the fact that the individual is undergoing such counseling or testing and the confidentiality of information provided by the individual during the process of such counseling or testing, including information with respect to any disclosures that may be authorized under law and information with respect to the availability of anonymous counseling and testing pursuant to section 2310(a);

"(6) provisions of law relating to the confidentiality of the results of such counseling or testing, including information with respect to any disclosures that may be authorized by law;

"(7) provisions of law relating to the reporting to, and use by, State public health authorities of the results of such counseling and testing; and

"(8) provisions of law relating to discrimination against individuals infected with the etiologic agent for acquired immune deficiency syndrome.

"(b) Counseling of Individuals With Negative Test Results.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will review for the individual the information provided pursuant to subsection (a) with respect to such syndrome, including—

"(1) the information described in paragraphs (1) through (3) of such subsection; and

"(2) the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome.

"(c) Counseling of Individuals With Positive Test Results.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, if the results of testing conducted pursuant to such section indicate that the individual is infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will provide to the individual appropriate counseling with respect to such syndrome, including—

"(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome;

"(3) the availability in the geographic area of any appropriate services with respect to health care, including mental health care and social and support services;

"(4) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to the etiologic agent for acquired immune deficiency syndrome and any individual whom the infected individual may have exposed to such etiologic agent; and

"(5) the availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (4).

"(d) Counseling of Women, Children, and Hemophiliacs.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, in counseling individuals with respect to acquired immune deficiency syndrome pursuant to this section, the applicant will, where appropriate, provide opportunities for women, children, and hemophiliacs to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

"(e) Counseling of Emergency Response Employees.—The Secretary may not make a grant under section 2301(a) to a State unless the State agrees that, in counseling individuals with respect to acquired immune deficiency syndrome pursuant to this section, the State will provide opportunities for emergency response employees to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

"(f) RULE OF CONSTRUCTION WITH RESPECT TO COUNSELING WITHOUT TESTING.—Agreements entered into pursuant to subsections (a) through (e) may not be construed to prohibit any grantee under section 2301 from expending the grant for the purpose of providing counseling services described in such subsections to an individual who will not undergo testing described in such section as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

"SEC. 2304. APPLICABILITY OF REQUIREMENTS WITH RESPECT TO CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING.

"The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2302 and 2303.

"SEC. 2305. REQUIREMENT WITH RESPECT TO ROUTINE TESTING OF CERTAIN INDIVIDUALS.

"The Secretary may not make a grant under section 2301 unless, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, the applicant for the grant agrees that—

"(1) if the applicant is a health provider that regularly provides treatment for sexually transmitted diseases, the applicant will routinely test for such infection individuals to whom the applicant provides such treatment;

"(2) if the applicant is a health provider that regularly provides treatment for intravenous substance abuse, the applicant will routinely test for such infection individuals to whom the applicant provides such treatment;

"(3) if the applicant is a family planning clinic, the applicant will routinely test for such infection individuals to whom the applicant provides family planning services; and

"(4) if the applicant is a tuberculosis clinic, the applicant will routinely test for such infection individuals to whom the applicant provides health services.

"SEC. 2306. REQUIREMENT FOR STATE GRANTEES OF MANDATORY TESTING OF INDIVIDUALS CONVICTED OF CERTAIN CRIMES.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2301 to a State unless the State provides assurances satisfactory to the Secretary that—

"(1) the State will require that each individual who is convicted of prostitution, of a crime relating to sexual assault, or of a crime relating to intravenous substance abuse, be tested for infection with the etiologic agent for acquired immune deficiency syndrome;

"(2) with respect to any individual sentenced by the State to a term of imprisonment for conviction of prostitution, or a crime relating to sexual assault, or a crime relating of intravenous drug abuse, and with respect to any individual determined by the State corrections officer under the most current medical guidelines to pose a direct threat of infection to other individuals within the State penal system, the individual be tested for such infection upon entering the State penal system and be so tested during the 30-day period preceding the date on which the individual is released from such system;

"(3) the State will require that an individual, before being tested for such infection pursuant to the requirement described in paragraph (1) or (2), be notified by the State that the individual will be required to undergo such testing; and

"(4) with respect to any individual convicted of a crime relating to sexual assault, the State will require that, upon request of the victim of the crime, the victim be notified by the State of the results of such testing.

"(b) TIME LIMITATIONS WITH RESPECT TO REQUIRED LAWS.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2301, the Secretary may make a grant to a State under such section if—

"(1) for each of the fiscal years 1989 and 1990, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1990, the State will establish the requirements described in subsection (a); and

"(2) for fiscal year 1991 and subsequent fiscal years, the State has established such requirements.

"SEC. 2307. REQUIREMENT FOR STATE GRANTEES OF NOTIFICATION OF CERTAIN INDIVIDUALS RECEIVING BLOOD TRANSFUSIONS.

"The Secretary may not make a grant under section 2301 to the State unless the State provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving on or after January 1, 1977, a transfusion of any blood product, the State will—

"(1) encourage such individuals to undergo testing for infection with the etiologic agent for acquired immune deficiency syndrome; and

"(2) inform such individuals of any public health facilities in the geographic area involved that offer such testing.

"SEC. 2308. REQUIREMENT FOR STATE GRANTEES OF REPORTING AND CONTACT TRACING WITH RESPECT TO CASES OF INFECTION.

"(a) REPORTING.—The Secretary may not make a grant under section 2301 to a State unless, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, the State provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—

"(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such infection; and

"(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have such infections.

"(b) CONTACT TRACING.—The Secretary may not make a grant under section 2301 to a State unless the State provides assurances satisfactory to the Secretary that the State will require that the State public health officer, to the extent appropriate in the determination of the officer, carry out a program of contact tracing with respect to cases of infection with the etiologic agent for acquired immune deficiency syndrome.

"SEC. 2309. REQUIREMENT FOR STATE GRANTEES OF ESTABLISHMENT OF CIVIL AND CRIMINAL ACTIONS WITH RESPECT TO KNOWING TRANSMISSION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) IN GENERAL.—Subject to subsection (c), the Secretary may not make a grant under section 2301 to a State unless—

"(1) subject to the condition described in subsection (b), the State prohibits any individual who is infected with the etiologic agent for acquired immune deficiency syndrome from making a donation of blood, semen, breast milk, or an organ, if the individual knows of the infection and knows that the individual will through such donation expose another individual to such etiologic agent in the event that the donation is utilized;

"(2) subject to the condition described in subsection (b), the State prohibits any individual infected with such etiologic agent from engaging in sexual activity if the individual knows of the infection and knows that the individual will through such sexual activity expose another individual to such etiologic agent;

"(3) subject to the condition described in subsection (b), the State prohibits any individual from engaging in any behavior with the intent to expose another individual to such etiologic agent, which behavior would, if carried out as intended, result in exposing the other individual to such etiologic agent; and

"(4) the State establishes a civil cause of action for damages for any violation of a prohibition described in any of paragraphs (1) through (3) and establishes a criminal penalty for any such violation.

"(b) CONSENT TO RISK OF TRANSMISSION.—The condition referred to in each of paragraphs (1) through (3) of subsection (a) is that the prohibition described in each such paragraph shall not apply if the individual who is subjected to the behavior involved provides prior consent for being exposed to the etiologic agent for acquired immune deficiency syndrome.

"(c) TIME LIMITATIONS WITH RESPECT TO REQUIRED LAWS.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2301, the Secretary may make a grant to a State under such section if—

"(1) for each of the fiscal years 1989 and 1990, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1990, the State will establish the prohibitions and civil and criminal actions described in subsection (a); and

"(2) for fiscal year 1991 and subsequent fiscal years, the State has established such prohibitions and such criminal and civil actions.

"(d) STATE CERTIFICATION WITH RESPECT TO REQUIRED LAWS.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2301, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this section.

"SEC. 2310. ADDITIONAL REQUIRED AGREEMENTS.

"(a) PROVISION OF OPPORTUNITIES FOR ANONYMOUS COUNSELING AND TESTING.—Except as provided in section 2306, the Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, to the extent permitted under

State law, the applicant will offer substantial opportunities for an individual—

"(1) to undergo counseling and testing pursuant to such section without being required to provide any information relating to the identity of the individual; and

"(2) to undergo such counseling and testing through the use of a pseudonym.

"(b) Prohibition Against Requiring Testing as Condition of Receiving Other Health Services.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing described in such section as a condition of receiving the health services unless such testing is medically indicated in the provision of the health services sought by the individual.

"(c) Requirement for State Grantees of Provision of Certain Data to Applicants for Marriage Licenses.—The Secretary may not make a grant under section 2301 to a State unless the State agrees that, in issuing licenses to be married, the State will make available to applicants for such licenses information with respect to measures for the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome (which information contains the most recently available scientific data relating to such syndrome).

"(d) Requirement for State Grantees of Periodic Provision of Certain Data to Physicians and Dentists.—The Secretary may not make a grant under section 2301 to a State unless the State agrees to make available to physicians and dentists in the State information with respect to acquired immune deficiency syndrome, including measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome (which information is updated not less than once each 6 months with the most recently available scientific data relating to such syndrome).

"(e) Increased Availability of Counseling and Testing.—If an applicant for a grant under section 2301 has carried out a program of counseling or testing with respect to acquired immune deficiency syndrome during the majority of the 180-day period preceding the date of the enactment of the AIDS Counseling and Testing Act of 1988, the Secretary may not make a grant under such section unless the applicant for the grant agrees to expend the grant only for the purpose of significantly increasing the availability of such counseling and testing provided by the applicant above the level of availability provided under such program during the majority of such period.

"(f) Administration of Grant.—The Secretary may not make a grant under section 2301 unless the applicant for the grant agrees that—

"(1) the applicant will not expend amounts received pursuant to such section for any purpose other than the purposes described in such section;

"(2) if the applicant will routinely impose a charge for providing counseling and testing described in such section, the applicant will not impose the charge on any individual seeking such counseling or testing who is unable to pay the charge;

"(3) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

"(4) the applicant will not expend more than 10 percent of the grant for administrative expenses with respect to the grant.

"SEC. 2311. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make a grant under section 2301 unless—

"(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with sections 2301 through 2310;

"(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 2312. DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES.

"(a) Minimum Allotment.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2301(a) for a State for a fiscal year shall be the greater of—

"(1) $300,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $100,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

"(2) an amount determined under subsection (b).

"(b) Determination Under Formula.—The amount referred to in subsection (a)(2) is the product of—

"(1) an amount equal to the amount made available pursuant to section 2315(b)(1) for the fiscal year involved; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the population of the State involved; divided by

"(B) an amount equal to the population of the United States.

"(c) Disposition of Certain Funds Appropriated for Allotments.—

"(1) Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 2301(a) for the fiscal year (other than any State referred to in paragraph (2)(C)).

"(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2301(a) as a result of—

"(A) the failure of any State to submit an application under section 2311;

"(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(3) The amount of an allotment under paragraph (1) for a State for a fiscal year shall be amount equal to the product of—

"(A) an amount equal to the amount described in paragraph (2) for the fiscal year involved; and

"(B) the percentage determined under subsection (b)(2) for the State.

"SEC. 2313. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) In General.—Upon the request of a grantee under section 2301, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing counseling and testing described in such section and, for such purpose, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(b) Limitation.—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under section 2301 to the grantee involved by an amount equal to the fair market value of any supplies, equipment, or services provided by the Secretary and shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 2314. EVALUATIONS.

"The Secretary shall, directly or through grants and contracts, evaluate programs carried out with grants made under section 2301.

"SEC. 2315. FUNDING.

"(a) Authorization of Appropriations.—For the purpose of making grants under subsections (a) and (b) of section 2301, there is authorized to be appropriated $400,000,000 for each of the fiscal years 1989 through 1991.

"(b) Allocation of Funds by Secretary.—

"(1) For the purpose of making allotments under section 2301(a), the Secretary shall make available 50 percent of the amounts appropriated pursuant to subsection (a).

"(2) For the purpose of making grants under section 2301(b), the Secretary shall make available 50 percent of the amounts appropriated pursuant to subsection (a).

"(c) Use of Funds.—

"(1) The purpose of this part is to provide for counseling and testing services to prevent and reduce exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(2) All individuals receiving counseling pursuant to this part are to be counseled about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

"(3) None of the funds appropriated to carry out this part may be used to provide counseling that promotes or encourages, directly, homosexual or unsafe heterosexual sexual activity or intravenous substance abuse.

"(4) Paragraph (3) may not be construed to prohibit a counselor who has already performed the counseling of an individual required in paragraph (2) from providing an individual the most current scientific knowledge available to reduce the individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

"PART B—CONFIDENTIALITY WITH RESPECT TO COUNSELING AND TESTING

"SEC. 2321. ESTABLISHMENT OF PROHIBITION AGAINST DISCLOSURE OF CERTAIN INFORMATION ORIGINATING IN PROCESS OF COUNSELING AND TESTING.

"(a) In General.—Except as provided in any of sections 2322 through 2329, a person described in subsection (b) may not disclose identifying information with respect to a protected individual or a contact of such individual.

"(b) Persons Subject to Prohibition.—A person referred to in subsection (a) is a person who obtains identifying information with respect to a protected individual or a contact of such individual as a result of—

"(1) direct or indirect involvement in the process of—

"(A) providing to the protected individual counseling with respect to acquired immune deficiency syndrome or testing the protected individual for infection with the etiologic agent for such syndrome; or

"(B) providing to the protected individual health care in the course of the provision of which the protected individual discloses identifying information with respect to the protected individual;

"(2) direct or indirect involvement in the process of carrying out a purpose for which a disclosure of identifying information is made under any of sections 2322 through 2327;

"(3) reading (or otherwise directly perceiving) any record containing identifying information with respect to a protected individual or a contact of such individual, which record is developed in a process described in paragraph (1) or (2); or

"(4) receiving a notification pursuant to section 2351.

"(c) APPLICABILITY.—The prohibition established in subsection (a) shall apply to the conduct of a person without regard to whether the person receives Federal financial assistance.

"SEC. 2322. AUTHORIZED CONSENSUAL DISCLOSURES.

"(a) IN GENERAL.—A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2323 through 2327, may disclose identifying information with respect to a protected individual if—

"(1) prior to the disclosure, the protected individual has, in accordance with subsection (d), consented to the disclosure; or

"(2) prior to the disclosure, the protected individual is legally incompetent under the law of the State in which the protected individual resides, the counseling and testing described in section 2321(b)(1)(A) was provided at the request of the guardian of the protected individual, and the guardian consents, in accordance with subsection (d), to the disclosure.

"(b) CLAIMANT UNDER INSURANCE ON LIFE OF PROTECTED INDIVIDUAL.—A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2323 through 2327, may disclose identifying information with respect to a protected individual if—

"(1) prior to the disclosure, the protected individual is deceased and is the insured pursuant to life insurance;

"(2) prior to the disclosure, the claimant for the proceeds of the life insurance consents to the disclosure in accordance with subsection (d); and

"(3) the disclosure is made to the business organization providing the life insurance.

"(c) RECIPIENT OF CONSENSUAL DISCLOSURE.—Any person receiving, pursuant to this section, a disclosure of identifying information with respect to a protected individual may disclose the identifying information under the applicable conditions described in subsection (a) or (b).

"(d) REQUIRED PROCEDURE.—A consent under any of subsections (a) through (c) shall—

"(1) be in writing and be dated;

"(2) be signed by the person providing consent pursuant to subsection (a), (b), or (c);

"(3) specify the identifying information to be disclosed and the purpose of the disclosure;

"(4) specify the person, persons, or generic class of persons whom the consent authorizes to make the disclosure;

"(5) specify the person, persons, or generic class of persons to whom the disclosure is to be made (including persons within the organization receiving the disclosure); and

"(6) specify the period of time during which disclosures may be made under the consent and the procedures for withdrawal of consent.

"(e) VOID CONSENT.—Except as otherwise specifically provided for pursuant to subsection (d), a consent under any of subsections (a) through (c) shall be void to the extent that the consent authorizes the recipient of the disclosure to make subsequent disclosures of identifying information in the discretion of the recipient.

"SEC. 2323. AUTHORIZED NONCONSENSUAL DISCLOSURES.

"(a) NONCONSENSUAL DISCLOSURE WITH RESPECT TO COUNSELING AND TESTING.—A person described in section 2321(b)(1)(A) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made—

"(1) to a health care provider for the purpose of providing to the protected individual the counseling or testing described in such section;

"(2) to the protected individual; or

"(3) to the guardian of the protected individual, if the protected individual is legally incompetent under the law of the State in which the protected individual resides and such counseling or testing was provided at the request of the guardian.

"(b) NONCONSENSUAL DISCLOSURES WITH RESPECT TO OTHER HEALTH CARE.—A person described in section 2321(b)(1) may disclose identifying information with respect to a protected individual if the disclosure is made to a health care provider that provides health care to the protected individual under conditions in which, as determined under guidelines issued by the Secretary under section 2361, the provider is likely to be occupationally exposed to the etiologic agent for acquired immune deficiency syndrome.

"(c) NONCONSENSUAL DISCLOSURE TO STATE PUBLIC HEALTH OFFICER.—A person described in section 2321(b)(1) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made to the State public health officer and the law of the State in which testing described in section 2321(b)(1)(A) is carried out requires disclosure to the officer.

"(d) NONCONSENSUAL DISCLOSURE WITH RESPECT TO BODILY FLUIDS AND ORGANS OF PROTECTED INDIVIDUALS.—A person described in section 2321(b)(1) shall disclose identifying information with respect to a protected individual if the disclosure is made to, and at the request of, a health care provider (including a blood bank) that has received or will receive blood from the protected individual for the purposes of blood transfusions, has received or will receive semen from such individual for the purposes of artificial inseminations, has received or will receive breast milk from such individual for the purposes of distribution, or has received or will receive a donation from such individual of an organ for the purposes of transplantation.

"(e) NONCONSENSUAL DISCLOSURE WITH RESPECT TO BURIAL OF PROTECTED INDIVIDUALS.—A person described in section 2321(b)(1) shall disclose identifying information with respect to a protected individual if the disclosure is made to, and at the request of, a person who has received or will receive the body of the protected individual for the purpose of preparing the body for burial.

"(f) CERTAIN INTRAORGANIZATION NONCONSENSUAL DISCLOSURES.—Identifying information received by an organization pursuant to a disclosure under this section or section 2324 may be disclosed within the organization to the extent reasonably necessary to carry out the purpose for which the disclosure is made.

"SEC. 2324. AUTHORIZED NONCONSENSUAL REDISCLOSURE.

"Any person authorized under section 2322 or 2323 to receive a disclosure of identifying information may, for a purpose described in section 2323, disclose identifying information to any person authorized under such section to receive, for the purpose involved, a disclosure of such information.

"SEC. 2325. AUTHORIZED NONCONSENSUAL DISCLOSURE PURSUANT TO SALE OR TRANSFER OF ORGANIZATIONS AUTHORIZED TO MAKE OR RECEIVE DISCLOSURES.

"A person described in section 2321(b)(1), and a person who receives a disclosure of identifying information under any of sections 2322 through 2324, may disclose the identifying information if the disclosure is made only to the extent reasonably necessary for the purpose of—

"(1) selling the organization with respect to which such person is authorized under any of such sections to make or receive a disclosure of identifying information (or selling portions of such organization); or

"(2) effecting a transfer, merger, or consolidation of such organization (or of portions of such organization).

"SEC. 2326. NONCONSENSUAL DISCLOSURES WITH RESPECT TO INSURANCE POLICIES AND HEALTH PLANS.

"(a) IN GENERAL.—A person described in section 2321(b)(1) may disclose identifying information if the disclosure is made only to the extent reasonably necessary for the purpose of—

"(1) compliance with requirements imposed by the State agency that regulates the provision of insurance; or

"(2) responding to a judicial order to furnish evidence in proceedings to prosecute State or Federal causes of action for fraud, material misrepresentation, or material nondisclosure arising from acts or omissions of the protected individual, or on behalf of the protected individual, with respect to contracts (including the formation of contracts) for benefits under insurance policies or health plans (including health maintenance organizations, medical service plans, and hospital service plans).

"(b) OPPORTUNITY TO PARTICIPATE IN PROCEEDINGS.—Before authorizing a disclosure of identifying information under subsection (a)(2), the court involved shall provide to the protected individual, or to the claimant referred to in section 2322(b)(2), as the case may be, a reasonable opportunity to participate in the proceedings for determining whether, and to what extent, a disclosure will be ordered.

"(c) IN CAMERA PROCEEDINGS.—Civil proceedings under subsection (a) shall be conducted in camera. Any references to the parties in documents of such proceedings shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"(d) FINDINGS OF FACTS AND CONCLUSIONS OF LAW.—In issuing orders described in subsection (a)(2), the court involved shall find the facts specially and state separately the conclusions of law that constitute the grounds of the actions of the court.

"(e) Applicability of Confidentiality Prohibition.—If a court issues an order described in subsection (a)(2), the court shall determine the extent to which the prohibition established in section 2321(a) shall apply to persons receiving identifying information pursuant to the order.

"SEC. 2327. COURT ORDERS WITH RESPECT TO PUBLIC HEALTH OFFICER.

"(a) Disclosure to Officer.—A court of competent jurisdiction may, upon appropriate application to the court by the State public health officer, order any person described in section 2321(b)(1), and any person who receives a disclosure of identifying information under any of sections 2322 through 2326, to make a disclosure to the health officer of identifying information with respect to a protected individual or a contact of such individual to the extent reasonably necessary, in the determination of the court, to prevent a clear and imminent danger of the transmission, by the protected individual or contact involved, of the etiologic agent for acquired immune deficiency syndrome.

"(b) Redisclosure by Officer.—A court of competent jurisdiction may, upon appropriate application to the court by the State public health officer, authorize the officer to disclose identifying information with respect to a protected individual or a contact of such individual to the extent reasonably necessary, in the determination of the court, to prevent a clear and imminent danger of the transmission, by the protected individual or contact involved, of the etiologic agent for acquired immune deficiency syndrome.

"(c) Opportunity To Participate in Proceedings.—Before authorizing a disclosure of identifying information under subsection (a) or (b), the court involved shall provide to the protected individual (and to any contact of such individual with respect to whom identifying information is sought) a reasonable opportunity to participate in the proceedings for determining whether, and to what extent, a disclosure will be ordered.

"(d) In Camera Proceedings.—Proceedings under subsection (a) or (b) shall be conducted in camera. Any references to the parties in documents of such proceedings shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"(e) Findings of Facts and Conclusions of Law.—In granting or denying applications pursuant to subsection (a) or (b), the court involved shall find the facts specially and state separately the conclusions of law that constitute the grounds of the actions of the court.

"SEC. 2328. NONCONSENSUAL DISCLOSURES TO VICTIMS OF SEXUAL ASSAULT.

"A person described in section 2321(b)(1)(A) may disclose identifying information with respect to a protected individual if—

"(1) the protected individual is convicted of a crime relating to sexual assault;

"(2) the disclosure is made to the victim of such crime at the request of the victim; and

"(3) the disclosure is made by a physician or a counselor.

"SEC. 2329. NONCONSENSUAL DISCLOSURES TO CERTAIN CONTACTS OF PROTECTED INDIVIDUALS.

"A person described in section 2321(b)(1)(A), and a person who receives a disclosure of identifying information under section 2323(c), may disclose identifying information with respect to a protected individual if—

"(1) such person is a physician or a counselor;

"(2) the disclosure is made to the spouse of the protected individual or to an individual whom the protected individual has, during the process of receiving counseling or testing described in section 2321(b)(1)(A), identified as being a sexual partner of the protected individual or an individual with whom the protected individual has shared a hypodermic needle;

"(3) such person has counseled the protected individual with respect to making medically appropriate disclosures of identifying information to the individuals described in paragraph (2);

"(4) such person reasonably believes that—

"(A) the protected individual will not inform such individuals of the identifying information with respect to the protected individual; and

"(B) the disclosure is medically appropriate; and

"(5) the disclosure of the name of the protected individual is made only if medically appropriate.

"SEC. 2330. REQUIREMENT OF CERTAIN NOTIFICATIONS WITH RESPECT TO DISCLOSURE OF IDENTIFYING INFORMATION.

"(a) In General.—

"(1)(A) Except as provided in paragraph (2), any person who, under any of sections 2322 through 2327, discloses any identifying information with respect to a protected individual shall ensure that such disclosure, whether made orally or in writing, is accompanied by a written statement declaring that any subsequent disclosure of the information provided may be prohibited by law.

"(B) Except as provided in paragraph (2), any person who, under any of sections 2322 through 2324, discloses any identifying information with respect to a protected individual shall notify such individual (if living) in writing of the fact of such disclosure.

"(2) The requirements established in paragraph (1) shall not apply to any disclosure of identifying information under any of sections 2322 through 2327 made to a person who is part of the same organization as the person from whom the disclosure is received.

"(b) Nonconsensual Disclosure to Certain Contacts of Protected Individual.—Any person who, under section 2329, discloses identifying information with respect to a protected individual shall notify such individual (if living) in writing of the fact of such disclosure.

"SEC. 2331. CIVIL MONEY PENALTY AND CIVIL CAUSES OF ACTION FOR VIOLATION OF PROHIBITION.

"(a) Assessment of Civil Money Penalty.—

"(1) Any person who intentionally or negligently violates section 2321 or 2330 shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

"(2) A civil penalty under paragraph (1) may be assessed by the Secretary only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Secretary shall provide written notice to the person who is the subject of the proposed order informing the person of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the person makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

"(3) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed pursuant to paragraph (2).

"(4) If the Secretary issues an order pursuant to paragraph (2) after a hearing described in such paragraph, the person who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, seek judicial review of the order pursuant to section 1331 of title 28, United States Code, and chapter 7 of title 5, United States Code.

"(5) If a person does not request a hearing pursuant to paragraph (2) and the Secretary issues an order pursuant to such paragraph, or if a person does not under paragraph (4) seek judicial review of such an order, the Secretary may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in paragraph (4). In such an action, the decision of the Secretary to issue the order, and the amount of the penalty assessed by the Secretary, shall not be subject to review.

"(6) The Secretary may not under this subsection commence proceeding against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321 or 2330.

"(b) Injunctive Relief.—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a violation of section 2321 or 2330.

"(c) Civil Cause of Action by Aggrieved Individual.—

"(1) Any individual who is aggrieved as a result of a violation by any person of section 2321 or 2330 may, in any court of competent jurisdiction, commence a civil action against such person to obtain appropriate relief, including actual and punitive damages, equitable relief, and a reasonable attorney's fee and costs. For a violation of section 2321, damages shall be not less than the liquidated amount of $2,000.

"(2) An individual described in paragraph (1) may not commence proceedings under such paragraph against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321 or 2330.

"(d) In Camera Proceedings.—Proceedings under this section shall be conducted in camera. Any references to the parties in documents of such proceedings shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of the proceeding.

"SEC. 2332. CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.

"(a) In General.—Any person who intentionally violates the prohibition established in section 2321 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than one year, or both.

"(b) Limitation on Action.—Proceedings under subsection (a) may not be commenced against a person unless, with respect to such proceedings, the indictment is found or the information is instituted not later than the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2321.

"SEC. 2333. VIOLATIONS BY FEDERAL GRANTEES AND CONTRACTORS.

"Grants made, and contracts entered into, by any Federal agency may be terminated by the agency involved if the Federal grantee or contractor involved violates section 2321 or 2330. Any Federal grantee or contractor violating such a prohibition may, with respect to Federal grants and contracts, be suspended or debarred by the agency involved.

"SEC. 2334. EXCLUSIVITY OF FEDERAL PENALTIES AND REMEDIES FOR VIOLATIONS.

"The imposition of a penalty under section 2331 or 2332 for a violation of section 2321 or 2330 shall not preclude the imposition of any other applicable penalty under Federal law with respect to such a violation. The receipt of relief pursuant to section 2331(c) for such a violation shall not preclude the receipt of any other relief available under Federal law with respect to such a violation.

"SEC. 2335. PREEMPTION OF CERTAIN STATE DISCLOSURE LAWS.

"(a) IN GENERAL.—This part shall supersede any State law that—

"(1) provides a criminal or civil penalty, or a cause of action, for the failure of any person described in section 2321(b) to make a disclosure of identifying information not authorized under this part to be made; or

"(2) provides a criminal or civil penalty, or a cause of action, for a disclosure by any such person of identifying information authorized under this part to be made (including any State law that prohibits, or authorizes a cause of action for, a disclosure of identifying information by a physician or counselor under section 2329).

"(b) AUTHORIZED STATE CRIMINAL AND CIVIL ACTIONS.—This part shall not supersede any State criminal or civil action (including a cause of action for damages) for a disclosure of identifying information made in violation of any State law not superseded by subsection (a), including any State criminal or civil action for a disclosure of identifying information made by an individual receiving such information under section 2329.

"PART C—EMERGENCY RESPONSE EMPLOYEES

"Subpart I—Guidelines and Model Curriculum

"SEC. 2341. DEVELOPMENT.

"(a) IN GENERAL.—

"(1) Not later than 90 days after the date of the enactment of the AIDS Counseling and Testing Act of 1988, the Secretary, acting through the Director of the Centers for Disease Control, shall develop guidelines and a model curriculum for emergency response employees with respect to the prevention of exposure to the etiologic agent for acquired immune deficiency syndrome during the process of responding to emergencies.

"(2) The guidelines and the model curriculum developed under paragraph (1) shall, to the extent practicable, include—

"(A) information with respect to the manner in which such etiologic agent is transmitted; and

"(B) information that can assist emergency response employees in distinguishing between conditions in which such employees are at risk with respect to such etiologic agent and conditions in which such employees are not at risk with respect to such etiologic agent.

"(b) APPOINTMENT OF TASK FORCE.—The Secretary shall establish a task force to assist the Secretary in developing the guidelines and the model curriculum required in subsection (a). The Secretary shall appoint to the task force representatives of the Centers for Disease Control, representatives of State governments, and representatives of emergency response employees.

"(c) DISSEMINATION TO STATES.—The Secretary shall—

"(1) transmit to State public health officers copies of the guidelines and the model curriculum developed under subsection (a) with the request that such officers disseminate such copies as appropriate throughout the State; and

"(2) make such copies available to the public.

"SEC. 2342. GRANTS FOR IMPLEMENTATION.

"(a) IN GENERAL.—The Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees with respect to the initial implementation of recommendations contained in the guidelines and the model curriculum developed under section 2341(a).

"(b) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated an aggregate $5,000,000 for the fiscal years 1989 and 1990.

"Subpart II—Notifications of Possible Exposure

"SEC. 2351. ESTABLISHMENT OF REQUIREMENT OF NOTIFICATIONS WITH RESPECT TO VICTIMS ASSISTED.

"(a) ROUTINE NOTIFICATION OF DESIGNATED OFFICER.—

"(1) If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim is infected with the etiologic agent for acquired immune deficiency syndrome, the medical facility shall, with respect to the determination, notify the designated officer of the emergency response employees who transported the victim to the medical facility.

"(2) If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim shall, with respect to the designated officer of the emergency response employees who transported the victim to the initial medical facility, notify the designated officer of any determination by the medical facility that the victim was infected with the etiologic agent for acquired immune deficiency syndrome.

"(3) With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made not later than 48 hours after the determination is made.

"(b) NOTIFICATION UPON REQUEST OF DESIGNATED OFFICER.—

"(1) If a victim of an emergency is transported by emergency response employees to a medical facility, the medical facility shall, upon the request of the designated officer of any emergency response employees who attended, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim is infected with the etiologic agent for acquired immune deficiency syndrome.

"(2) If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim shall, upon the request of the designated officer of any emergency response employees who attended, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim was infected with the etiologic agent for acquired immune deficiency syndrome.

"(3)(A) A medical facility shall make a notification required in paragraph (1) or (2) not later than 48 hours after receipt of a request pursuant to the paragraph involved if, prior to the request, a determination described in such paragraph has been made by the medical facility.

"(B) A medical facility shall make a notification required in paragraph (1) or (2) not later than 48 hours after making a determination described in the paragraph involved if, after receipt of a request pursuant to such paragraph, the determination is made.

"(c) PROCEDURES FOR NOTIFICATION OF DESIGNATED OFFICER.—

"(1) In making a notification required under subsection (a) or (b), a medical facility shall provide the date on which the victim of the emergency involved was transported by emergency response employees to a medical facility and, upon request, the location at which such emergency occurred (including, to the extent practicable, the address of the location).

"(2) If a notification under subsection (a) or (b) is mailed or otherwise indirectly made—

"(A) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

"(B) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

"(d) DESIGNATION OF INDIVIDUALS TO REQUEST AND RECEIVE NOTIFICATIONS FROM MEDICAL FACILITIES.—

"(1) The public health officer of each State shall, for the purpose of requesting and receiving notifications under subsections (a) and (b), and for the purpose of carrying out subsection (e), designate 1 official or officer of each employer of emergency response employees in the State.

"(2) In making the designations required in paragraph (1), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

"(e) NOTIFICATIONS TO EMPLOYEES.—

"(1) After receiving a notification under subsection (a) or (b), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

"(A) responded to the emergency involved; and

"(B) as indicated by the guidelines and the model curriculum developed by the Secretary under section 2341, may have been exposed to the etiologic agent for acquired immune deficiency syndrome.

"(2) A designated officer of emergency response employees shall, upon request of such an employee—

"(A) determine whether, if a victim of an emergency to which the employee responded had been infected with the etiologic agent for acquired immune deficiency syndrome, the employee might have been exposed to such etiologic agent; and

"(B) make a request described in subsection (b) if, as indicated by a determination made pursuant to subparagraph (A), the employee might have been exposed to such etiologic agent.

"(3) A notification under this subsection to an emergency response employee shall inform the employee of—

"(A) the fact that the employee may have been exposed to the etiologic agent for acquired immune deficiency syndrome;

"(B) any action by the employee that, as indicated by the guidelines and model curriculum developed by the Secretary under section 2341(a), is medically appropriate; and

"(C) if medically appropriate under such guidelines and model curriculum, the location of the emergency involved and the date and time of such emergency.

"(f) LIMITATION.—Subsections (a)(1) and (b)(1) shall not apply to any determination described in such subsections made with respect to a victim of an emergency after the expiration of the 60-day period beginning on the date that the victim is transported by emergency response employees to a medical facility.

"SEC. 2352. RULES OF CONSTRUCTION.

"(a) TESTING.—Section 2351 may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for infection with the etiologic agent for acquired immune deficiency syndrome.

"(b) CONFIDENTIALITY.—Section 2351 may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a protected individual.

"SEC. 2353. CIVIL MONEY PENALTY AND CIVIL CAUSES OF ACTION FOR VIOLATION OF PROHIBITION.

"(a) ASSESSMENT OF CIVIL MONEY PENALTY.—

"(1) Any person who intentionally or negligently violates section 2351 shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

"(2) A civil penalty under paragraph (1) may be assessed by the Secretary only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Secretary shall provide written notice to the person who is the subject of the proposed order informing the person of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the person makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

"(3) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed pursuant to paragraph (2).

"(4) If the Secretary issues an order pursuant to paragraph (2) after a hearing described in such paragraph, the person who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, seek judicial review of the order pursuant to section 1331 of title 28, United States Code, and chapter 7 of title 5, United States Code.

"(5) If a person does not request a hearing pursuant to paragraph (2) and the Secretary issues an order pursuant to such paragraph, or if a person does not under paragraph (4) seek judicial review of such an order, the Secretary may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in paragraph (4). In such an action, the decision of the Secretary to issue the order, and the amount of the penalty assessed by the Secretary, shall not be subject to review.

"(6) The Secretary may not under this subsection commence proceeding against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2351.

"(b) INJUNCTIVE RELIEF.—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a violation of section 2351.

"(c) CIVIL CAUSE OF ACTION BY AGGRIEVED INDIVIDUAL.—

"(1) Any emergency response employee who is aggrieved as a result of a violation of section 2351 by any person (other than a violation of subsection (a)(3), (b)(3), or (c)(2) of such section) may, in any court of competent jurisdiction, commence a civil action against such person to obtain appropriate relief, including actual and punitive damages and a reasonable attorney's fee and cost. Such damages shall be not less than the liquidated amount of $2,000.

"(2) An individual described in paragraph (1) may not commence proceedings under such paragraph against a person after the expiration of the 5-year period beginning on the date on which the person allegedly engaged in the violation of section 2351.

"PART D—GENERAL PROVISIONS

"SEC. 2361. ISSUANCE OF CERTAIN GUIDELINES BY SECRETARY.

"Not later than 12 months after the date of the enactment of the AIDS Counseling and Testing Act of 1988, the Secretary shall, after consultation with individuals with expertise, issue guidelines describing circumstances under which an individual infected with the etiologic agent for acquired immune deficiency syndrome can expose other individuals to such etiologic agent. Such guidelines shall include information with respect to—

"(1) the manner in which such etiologic agent is transmitted;

"(2) the probability for transmission of such etiologic agent to other individuals; and

"(3) whether reasonable accommodation to an infection with such etiologic agent can prevent the exposure of other individuals to the infection.

"SEC. 2362. DEMONSTRATION PROJECTS FOR COUNSELING AND MENTAL HEALTH SERVICES TO INDIVIDUALS WITH POSITIVE TEST RESULTS.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for demonstration projects for the development, establishment, or expansion of programs to provide counseling and mental health treatment—

"(1) for individuals who experience serious psychological reactions as a result of being informed that the results of testing for the etiologic agent for acquired immune deficiency syndrome indicate that the individuals are infested with such etiologic agent; and

"(2) for the families of such individuals, and for others, who experience serious psychological reactions as a result of being informed of the results of such testing of such individuals.

"(b) PREFERENCES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give perference to applicants that are based, at, or have relationships with, entities providing comprehensive health services to individuals who are infected with the etiologic agent for acquired immune deficiency syndrome.

"(c) REQUIREMENT OF PROVISION OF INFORMATION ON PREVENTION.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that counseling provided pursuant to such subsection will include counseling relating to measures for the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(d) AUTHORITY FOR TRAINING.—A grantee under subsection (a) may expend the grant to train individuals to provide the services described in such subsection.

"(e) REQUIREMENT OF IDENTIFICATION OF NEEDS AND OBJECTIVES.—The Secretary may not make a grant under subsection (a) unless the application for the grant submits to the Secretary—

"(1) information demonstrating that the applicant has, with respect to mental health treatment related to the etiologic agent for acquired immune deficiency syndrome, identified the need for such treatment in the area in which the program will be developed, established, or expanded; and

"(2) a description of—

"(A) the objectives established by the applicant for the conduct of the program; and

"(B) the method the applicant will use to evaluate the activities conducted under the program and to determine the extent to which such objectives have been met.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application contains the information required to be submitted under subsection (e); and

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) REQUIREMENT OF MINIMUM NUMBER OF GRANTS FOR FISCAL YEAR 1989.—Subject to the extent of amounts made available in appropriations Acts, the Secretary shall, for fiscal year 1989, make not less than 6 grants under subsection (a).

"(h) TECHNICAL ASSISTANCE AND ADMINISTRATIVE SUPPORT.—The Secretary, acting through the Director of the National Institute of Mental Health, may provide technical assistance and administrative support to grantees under subsection (a).

"(i) DEFINITION.—For purposes of this section, the term 'mental health treatment'; means individual, family or group services designed to alleviate distress, improve functional ability, or assist in changing dysfunctional behavior patterns.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"SEC. 2363. DEFINITIONS.

"For purposes of this title:

"(1) The term 'contact of a protected individual' means any individual whose identity is disclosed by a protected individual during the process of receiving counseling, testing, or health care described in section 2321(b)(1).

"(2) The term 'counseling with respect to acquired immune deficiency syndrome' means such counseling provided by an individual trained to provide such counseling.

"(3) The term 'designated officer of emergency response employees' means an individual designated under section 2351(d) by the public health officer of the State involved.

"(4) The term 'emergency' means an emergency involving injury or illness.

"(5) The term 'emergency response employees' means firefighters, law enforcement officers, paramedics, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

"(6) The term 'employer of emergency response employees' means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

"(7) The term 'exposed to the etiologic agent for acquired immune deficiency syndrome' means to be in circumstances in which there is a significant risk of becoming infected with such etiologic agent.

"(8) The term 'identifying information' means any information—

"(A) relating to the identity of an individual who is a protected individual, or who is a contact of such individual, whichever is indicated by the context of usage; and

"(B) provided in a context indicating that the individual has undergone, is undergoing, or will undergo counseling or testing described in section 2321(b)(1)(A) or in a context indicating whether the individual is infected with the etiologic agent for acquired immune deficiency syndrome.

"(9) The term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from such etiologic agent.

"(10) The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

"(11) The term 'protected individual' means an individual—

"(A) who has undergone, or is undergoing, counseling or testing described in section 2321(b)(1)(A);

"(B) who has, in anticipation of undergoing such counseling or testing, disclosed his or her identity to a person who provides such counseling or testing; or

"(C) who has disclosed identifying information with respect to himself or herself in the course of receiving health care.

"(12) The term 'records' includes electronic recordings and any other method of storing information.

"(13) The term 'routinely test for infection with the etiologic agent for acquired immune deficiency syndrome' means, with respect to the activity in the course of which testing for such infection is required to be conducted pursuant to section 2305—

"(A) to offer and encourage such testing as a regular practice in the course of such activity; and

"(B) to conduct such testing only with the consent of the individual to whom such testing is offered in the course of such activity.

"(14) The term 'State' means each of the several States, the District of Columbia, and the territories of the United States.

"(15) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(16) The term 'testing for infection with the etiologic agent for acquired immune deficiency syndrome' includes any diagnosis of such infection made by a health care provider licensed to make such a diagnosis under the law of the State in which the diagnosis is made.".

SEC. 102. CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 305(i), by striking "2313" each place it appears and inserting "2411";

(2) in section 465(f), by striking "2301" and inserting "2401"; and

(3) in section 497, by striking "2301" and inserting "2401".

SEC. 103. EFFECTIVE DATES.

Part B of title XXIII of the Public Health Service Act (as added by section 2 of this Act) shall take effect on the expiration of the 60-day period beginning on the date of the enactment of this Act. Such title (as so added) shall otherwise take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE II—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 201. REQUIREMENT OF EXPEDITING AWARDS OF GRANTS AND CONTRACTS FOR RESEARCH.

Section 494 of the Public Health Service Act (42 U.S.C. 289c) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall expedite the award of grants, contracts, and cooperative agreements for research projects relating to acquired immune deficiency syndrome (including such research projects initiated independently of any solicitation by the Secretary for proposals for such research projects).

"(2) With respect to programs of grants, contracts, and cooperative agreements described in paragraph (1), any application submitted in response to a solicitation by the Secretary for proposals pursuant to such a program—

"(A) may not be approved if the application is submitted after the expiration of the 3-month period beginning on the date on which the solicitation is issued; and

"(B) shall be awarded, or otherwise finally acted upon, not later than the expiration of the 6-month period beginning on the expiration of the period described in subparagraph (A).

"(3) If the Secretary makes a determination that it is not practicable to administer a program referred to in paragraph (2) in accordance with the time limitations described in such paragraph, the Secretary may adjust the time limitations accordingly.

"(4) With respect to any program for which a determination described in paragraph (3) is made, the Secretary shall—

"(A) if the determination is made before the Secretary issues a solicitation for proposals pursuant to the program, ensure that the solicitation describes the time limitations as adjusted by the determination; and

"(B) if the determination is made after the Secretary issues such a solicitation for proposals, issue a statement describing the time limitations as adjusted by the determination and individually notify, with respect to the determination, each applicant whose application is submitted before the expiration of the 3-month period beginning on the date on which the solicitation was issued.

"(5) The Secretary shall, not less than annually, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report—

"(A) summarizing programs for which the Secretary has made a determination described in paragraph (3), including a description of the time limitations as adjusted by the determination and including a summary of the solicitation issued by the Secretary for proposals pursuant to the program; and

"(B) summarizing applications that—

"(i) were submitted pursuant to a program of grants, contracts, or cooperative agreements referred to in paragraph (2) for which a determination described in paragraph (3) has not been made; and

"(ii) were not processed in accordance with the time limitations described in paragraph (2).".

SEC. 202. ESTABLISHMENT OF PROGRAMS RELATING TO RESEARCH.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title VIII the following new title:

"TITLE IX—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"PART A—ADMINISTRATION OF RESEARCH PROGRAMS

"SEC. 901. REQUIREMENTS WITH RESPECT TO PROCESSING OF REQUESTS FOR PERSONNEL AND ADMINISTRATIVE SUPPORT.

"(a) IN GENERAL.—The Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, shall respond to any priority request made by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health, not later than 14 days after the date on which such request is made. If the Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, does not disapprove a priority request during the 14-day period, the request shall be deemed to be approved.

"(b) Notice to Secretary and to Assistant Secretary for Health.—The Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, and the Director of the National Institutes of Health, shall, respectively, transmit to the Secretary and the Assistant Secretary for Health a copy of each priority request made under this section by the agency head involved. The copy shall be transmitted on the date on which the priority request involved is made.

"(c) Definition of Priority Request.—For purposes of this section, the term 'priority request' means any request that—

"(1) is designated as a priority request by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health; and

"(2)(A) is made to the Director of the Office of Personnel Management for the allocation of personnel to carry out activities with respect to acquired immune deficiency syndrome; or

"(B) is made to the Administrator of General Services for administrative support in carrying out such activities.

"SEC. 902. AUTHORIZATION OF ADDITIONAL PERSONNEL.

"(a) In General.—Notwithstanding any other provision of law, the Secretary shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 780 employees for the Public Health Service in addition to the number of employees assigned to such Service as of December 31, 1987.

"(b) Limitation of Availability of Appropriations.—The requirement established in subsection (a) shall be carried out only to the extent of amounts made available in appropriations Acts for such purpose.

"(c) Expiration of Requirement.—Effective October 1, 1989, this section is repealed.

"SEC. 903. ESTABLISHMENT OF CLINICAL RESEARCH REVIEW COMMITTEE.

"The Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall establish within such Institute an advisory committee to be known as the AIDS Clinical Research Review Committee (hereafter in this section referred to as the 'Committee'). The Committee shall be composed of physicians whose clinical practice includes a significant number of patients with acquired immune deficiency syndrome. The Committee shall—

"(1) advise the Director of such Institute on appropriate research activities to be undertaken with respect to clinical treatment of such syndrome, including advice with respect to—

"(A) research on drugs for preventing or minimizing the development of symptoms or conditions arising from infection with the etiologic agent for such syndrome; and

"(B) research on the effectiveness of treating such symptoms or conditions with drugs that—

"(i) are not approved by the Commissioner of Food and Drugs for the purpose of treating such symptoms or conditions; and

"(ii) are being utilized for such purpose by individuals infected with such etiologic agent;

"(2)(A) review ongoing publicly and privately supported research on clinical treatment for acquired immune deficiency syndrome, including research on drugs described in paragraph (1); and

"(B) periodically issue, and make available to health care professionals, reports describing and evaluating such research;

"(3) conduct studies and convene meetings for the purpose of determining the recommendations among physicians in clinical practice on clinical treatment of acquired immune deficiency syndrome, including treatment with the drugs described in paragraph (1); and

"(4) establish a toll-free telephone number to provide to appropriate health care professionals information developed or obtained by the Committee pursuant to paragraphs (2) and (3).

"Part B—Research Authority

"SEC. 911. CLINICAL EVALUATION UNITS AT NATIONAL INSTITUTES OF HEALTH.

"(a) In General.—The Secretary, acting through the Director of the National Cancer Institute and the Director of the National Institute of Allergy and Infectious Diseases, shall for each such Institute establish a clinical evaluation unit at the Clinical Center at the National Institutes of Health. Each of the clinical evaluation units—

"(1) shall conduct clinical evaluations of experimental treatments for acquired immune deficiency syndrome developed within the preclinical drug development program; and

"(2) may conduct clinical evaluations of experimental treatments for such syndrome that are developed by any other national research institute of the National Institutes of Health or by any other entity.

"(b) Personnel and Administrative Support.—

"(1) For the purposes described in subsection (a), the Secretary, acting through the Director of the National Institutes of Health, shall provide each of the clinical evaluation units required in such subsection—

"(A)(i) with not less than 50 beds; or

"(ii) with an outpatient clinical capacity equal to not less than twice the outpatient clinical capacity, with respect to acquired immune deficiency syndrome, possessed by the Clinical Center of the National Institutes of Health on June 1, 1988; and

"(B) with such personnel and such administrative support as may be necessary.

"(2) Facilities, personnel, and administrative support provided pursuant to paragraph (1) shall be in addition to the number or level of facilities, personnel, and administrative support that otherwise would be available at the Clinical Center at the National Institutes of Health for the provision of clinical care for individuals with diseases or disorders.

"(c) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 912. USE OF INVESTIGATIONAL NEW DRUGS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) Encouragement of Applications With Respect to Clinical Trials.—

"(1) If, in the determination of the Secretary, a new drug has potential effectiveness with respect to the prevention or treatment of acquired immune deficiency syndrome, the Secretary shall, through statements published in the Federal Register—

"(A) announce the fact of such determination; and

"(B) with respect to the new drug involved, encourage applications for an exemption for investigational use of the new drug under regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act.

"(2)(A) The AIDS Clinical Research Review Committee established pursuant to section 903 shall make recommendations to the Secretary with respect to new drugs appropriate for determinations described in paragraph (1).

"(B) The Secretary shall, as soon as is practicable, determine the merits of recommendations received by the Secretary pursuant to subparagraph (A).

"(b) Encouragement of Applications With Respect to Treatment Use in Circumstances Other Than Clinical Trials.—

"(1) In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a) and with respect to which an exemption is in effect for purposes of section 505(i) of the Federal Food, Drug, and Cosmetic Act, the Secretary shall—

"(A) as appropriate, encourage the sponsor of the investigation of the new drug to submit to the Secretary, in accordance with regulations issued under such section, an application to use the drug in the treatment of individuals—

"(i) who are infected with the etiologic agent for acquired immune deficiency syndrome; and

"(ii) who are not participating in the clinical trials conducted pursuant to such exemption; and

"(B) if such an application is approved, encourage, as appropriate, licensed medical practitioners to obtain, in accordance with such regulations, the new drug from such sponsor for the purpose of treating such individuals.

"(2) If the sponsor of the investigation of a new drug described in paragraph (1) does not submit to the Secretary an application described in such paragraph (relating to treatment use), the Secretary shall, through statements published in the Federal Register, encourage, as appropriate, licensed medical practitioners to submit to the Secretary such applications in accordance with regulations described in such paragraph.

"(c) Technical Assistance With Respect to Treatment Use.—In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a), the Secretary may, directly or through grants or contracts, provide technical assistance with respect to the process of—

"(1) submitting to the Secretary applications for exemptions described in paragraph (1)(B) of such subsection;

"(2) submitting to the Secretary applications described in subsection (b); and

"(3) obtaining new drugs with respect to which applications described in subsection (b) have been approved.

"(d) Definition.—For purposes of this section, the term 'new drug' has the meaning given such term in section 201 of the Federal Food, Drug, and Cosmetic Act.

"SEC. 913. EVALUATION OF CERTAIN TREATMENTS.

"(a) Establishment of Program.—

"(1) After consultation with the Clinical Research Review Committee established pursuant to section 903, the Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall establish a program for the evaluation of drugs that—

"(A) are not approved by the Commissioner of Food and Drugs for the purpose of treatments with respect to acquired immune deficiency syndrome; and

"(B) are being utilized for such purpose by individuals infected with the etiologic agent for such syndrome.

"(2) The program established under paragraph (1) shall include evaluations of the effectiveness and the risks of the treatment involved, including the risks of foregoing treatments with respect to acquired immune deficiency syndrome that are approved by the Commissioner of Food and Drugs.

"(b) Authority With Respect to Grants and Contracts.—

"(1) For the purpose of conducting evaluations required in subsection (a), the Secretary may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities.

"(2) Nonprofit private entities under paragraph (1) may include nonprofit private organizations that—

"(A) are established for the purpose of evaluating treatments with respect to acquired immune deficiency syndrome; and

"(B) consist primarily of individuals infected with the etiologic agent for such syndrome.

"(c) Scientific and Ethical Guidelines.—

"(1) The Secretary shall establish appropriate scientific and ethical guidelines for the conduct of evaluations carried out pursuant to this section. The Secretary may not provide financial assistance under subsection (b)(1) unless the applicant for such assistance agrees to comply with such guidelines.

"(2) The Secretary may establish the guidelines described in paragraph (1) only after consulting with—

"(A) physicians whose clinical practice includes a significant number of individuals with acquired immune deficiency syndrome;

"(B) individuals who are infected with the etiologic agent for such syndrome; and

"(C) other individuals with appropriate expertise or experience.

"(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 914. SUPPORT OF INTERNATIONAL EFFORTS.

"(a) Grants and Contracts for Research.—

"(1) Under section 307, the Secretary, acting through the Director of the National Institutes of Health—

"(A) shall, for the purpose described in paragraph (2), make grants to, enter into cooperative agreements and contracts with, and provide technical assistance to, international organizations concerned with public health; and

"(B) may, for such purpose, provide technical assistance to foreign governments.

"(2) The purpose referred to in paragraph (1) is promoting and expediting international research concerning the development of vaccines and treatments for acquired immune deficiency syndrome.

"(b) Grants and Contracts for Additional Purposes.—After consultation with the Secretary of State, the Secretary, acting through the Director of the Centers for Disease Control, shall under section 307 make grants to, enter into contracts with, and provide technical assistance to, international organizations concerned with public health and may provide technical assistance to foreign governments, in order to support—

"(1) projects for training individuals with respect to developing skills and technical expertise for use in the prevention, diagnosis, and treatment of acquired immune deficiency syndrome; and

"(2) epidemiological research relating to acquired immune deficiency syndrome.

"(c) Special Programme of World Health Organization.—Support provided by the Secretary pursuant to this section shall be in furtherance of the global strategy of the World Health Organization Special Programme on Acquired Immunodeficiency Syndrome.

"(d) Preferences.—In providing grants, cooperative agreements, contracts, and technical assistance under subsections (a) and (b), the Secretary shall give preference to activities conducted by, or in cooperation with, the World Health Organization.

"(e) Requirement of Application for Financial Assistance.—The Secretary may not make a grant or enter into a cooperative agreement or contract under this section unless—

"(1) an application for such assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which such assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"SEC. 915. RESEARCH CENTERS.

"(a) In General.—

"(1) The Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, may make grants to, and enter into contracts with, public and nonprofit private entities to assist such entities in planning, establishing, or strengthening, and providing basic operating support for, centers for basic and clinical research into, and training in, advanced diagnostic, prevention, and treatment methods for acquired immune deficiency syndrome.

"(2) A grant or cooperative agreement under paragraph (1) shall be provided in accordance with policies established by the Secretary, acting through the Director of the National Institutes of Health, and after consultation with the advisory council for the National Institute of Allergy and Infectious Diseases.

"(3) The Secretary shall ensure that, as appropriate, clinical research programs carried out under paragraph (1) include as research subjects women, children, hemophiliacs, and minorities.

"(b) Use of Financial Assistance.—

"(1) Financial assistance under subsection (a) may be expended for—

"(A) the renovation or leasing of space;

"(B) staffing and other basic operating costs, including such patient care costs as are required for clinical research;

"(C) clinical training with respect to acquired immune deficiency syndrome (including such training for allied health professionals); and

"(D) demonstration purposes, including projects in the long-term monitoring and outpatient treatment of individuals infected with the etiologic agent for such syndrome.

"(2) Financial assistance under subsection (a) may not be expended to provide research training for which National Research Service Awards may be provided under section 487.

"(c) Duration of Support.—Support of a center under subsection (a) may be for not more than five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 916. INTERNATIONAL DATA BANK.

"(a) In General.—The Secretary, acting through the National Library of Medicine, shall establish, maintain, and operate a data bank to be known as the International Acquired Immune Deficiency Syndrome Research Data Bank (hereafter in this section referred to as the 'Data Bank'). The Data Bank shall collect, catalog, store, and disseminate the results of research relating to, and the results of treatment of, acquired immune deficiency syndrome undertaken in any country. Information maintained at the Data Bank shall, to the extent practicable, be available through information systems accessible to the general public, general practitioners, and investigators.

"(b) Schedule of Charges.—The Secretary shall establish a schedule of charges for users of the Data Bank from other countries for information obtained from the Data Bank.

"(c) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 917. ADDITIONAL AUTHORITY WITH RESPECT TO RESEARCH.

"(a) Data Collection With Respect to National Prevalence.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, shall, through representative sampling and other appropriate methodologies, provide for the continuous collection of data on the incidence in the United States of cases of acquired immune deficiency syndrome and of cases of infection with the etiologic agent for such syndrome. The Secretary may carry out the program of data collection directly or through cooperative agreements and contracts with public and nonprofit private entities.

"(2) The Secretary shall encourage each State to enter into a cooperative agreement or contract under paragraph (1) with the Secretary in order to facilitate the prompt collection of the most recent accurate data on the incidence of cases described in such paragraph.

"(3) The Secretary shall ensure that data collected under paragraph (1) includes data on the demographic characteristics of the population of individuals with cases described in paragraph (1), including data on specific subpopulations at risk of infection with the etiologic agent for acquired immune deficiency syndrome.

"(4) In carrying out this subsection, the Secretary shall, for the purpose of assuring the utility of data collected under this section, request entities with expertise in the methodologies of data collection to provide, as soon as is practicable, assistance to the Secretary and to the States with respect to the development and utilization of uniform methodologies of data collection.

"(5) The Secretary shall provide for the dissemination of data collected pursuant to this section. In carrying out this paragraph, the Secretary may publish such data as frequently as the Secretary determines to be appropriate with respect to the protection of the public health. The Secretary shall publish such data not less than once each year.

"(b) Epidemiological and Demographic Data.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, shall develop an epidemiological data base and shall provide for long-term studies for the purposes of—

"(A) collecting information on the demographic characteristics of the population of individuals infected with the etiologic agent for acquired immune deficiency syndrome; and

"(B) developing models demonstrating the long-term domestic and international patterns of the transmission of such etiologic agent.

"(2) The Secretary may carry out paragraph (1) directly or through grants to, or cooperative agreements or contracts with, public and nonprofit private entities, including Federal agencies.

"(c) Long-Term Genetically Oriented Research.—The Secretary may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting long-term research into treatments for acquired immune deficiency syndrome developed from knowledge of the genetic nature of the etiologic agent for such syndrome.

"(d) Social Sciences Research.—The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

"(e) Authorization of Appropriations.—

"(1) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(2) Amounts appropriated pursuant to paragraph (1) to carry out subsection (c) shall remain available until expended.

"SEC. 918. DEVELOPMENT OF MODEL PROTOCOLS FOR CLINICAL CARE OF INFECTED INDIVIDUALS.

"(a) In General.—

"(1) The Secretary may make grants to public and nonprofit private entities for the establishment of projects to develop model protocols for the clinical care of individuals infected with the etiologic agent for acquired immune deficiency syndrome.

"(2) The Secretary may not not make a grant under paragraph (1) unless—

"(A) the applicant for the grant is a provider of comprehensive primary care; or

"(B) the applicant for the grant agrees, with respect to the project carried out pursuant to paragraph (1), to enter into a cooperative arrangement with an entity that is a provider of comprehensive primary care.

"(b) Requirement of Provision of Certain Services.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, with respect to patients participating in the project carried out with the grant, services provided pursuant to the grant will include—

"(1) monitoring, in clinical laboratories, of the condition of such patients;

"(2) clinical intervention for infection with the etiologic agent for acquired immune deficiency syndrome, including measures for the prevention of conditions arising from the infection;

"(3) information and counseling on the availability of treatments for such infection approved by the Commissioner of Food and Drugs and on the availability of treatments for such infection not yet approved by the Commissioner;

"(4) support groups; and

"(5) information on, and referrals to, entities providing appropriate social support services.

"(c) Limitation on Imposition of Charges for Services.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant will routinely impose a charge for providing services pursuant to the grant, the applicant will not impose the charge on any individual seeking such services who is unable to pay the charge.

"(d) Evaluation and Reports.—

"(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the project carried out pursuant to subsection (a), to submit to the Secretary—

"(A) information sufficient to assist in the replication of the model protocol developed pursuant to the project; and

"(B) such reports as the Secretary may require.

"(2) The Secretary shall provide for evaluations of projects carried out pursuant to subsection (a) and shall annually submit to the Congress a report describing such projects. The report shall include the findings made as a result of such evaluations and may include any recommendations of the Secretary for appropriate administrative and legislative initiatives with respect to the program established in this section.

"(e) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"Part C—Research Training

"SEC. 921. FELLOWSHIPS AND TRAINING.

"(a) In General.—The Secretary, acting through the Director of the Centers for Disease Control, shall establish fellowship and training programs to be conducted by the Centers for Disease Control to train individuals to develop skills in epidemiology, surveillance, testing, and laboratory analysis relating to acquired immune deficiency syndrome. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in national and international efforts towards the prevention, diagnosis, and treatment of acquired immune deficiency syndrome.

"(b) Programs Conducted by National Institute of Mental Health.—The Secretary, acting through the Director of the National Institute of Mental Health, shall conduct or support fellowship and training programs for individuals pursuing graduate or postgraduate study in order to train such individuals to conduct scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

"(c) Relationship to Limitation on Number of Employees.—Any individual receiving a fellowship or receiving training under subsection (a) or (b) shall not be included in any determination of the number of full-time equivalent employees of the Department of Health and Human Services for the purpose of any limitation on the number of such employees established by law prior to, on, or after the date of the enactment of the AIDS Research Act of 1988.

"(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"Part D—Special Authorities of the Director of the National Institutes of Health

"SEC. 931. ESTABLISHMENT OF AUTHORITIES.

"(a) In General.—In carrying out research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health—

"(1) shall expand clinical trials of treatments and therapies for infection with the etiologic agent for acquired immune deficiency syndrome;

"(2) shall, for women, infants, children, hemophiliacs, and minorities, develop and expand clinical trials of treatments and therapies for infection with such etiologic agent;

"(3) may establish or support the large-scale development and preclinical screening, production, or distribution of specialized biological materials and other therapeutic substances for research relating to acquired immune deficiency syndrome and set standards of safety and care for persons using such materials;

"(4) may, in consultation with the advisory council for the appropriate national research institute of the National Institutes of Health, support—

"(A) research relating to acquired immune deficiency syndrome conducted outside the United States by qualified foreign professionals if such research can reasonably be expected to benefit the people of the United States;

"(B) collaborative research involving American and foreign participants; and

"(C) the training of American scientists abroad and foreign scientists in the United States;

"(5) may encourage and coordinate research relating to acquired immune deficiency syndrome conducted by any industrial concern that evidences a particular capability for the conduct of such research;

"(6)(A) may, in consultation with such advisory council, acquire, improve, repair, operate, and maintain laboratories, other research facilities, equipment, and such other real or personal property as the Director of the National Institutes of Health determines necessary;

"(B) may, in consultation with such advisory council, make grants for the construction or renovation of facilities; and

"(C) may, in consultation with such advisory council, acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34) by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Institutes of Health for a period not to exceed ten years; and

"(7) subject to section 405(b)(2) and without regard to section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5), may enter into such contracts and cooperative agreements with any public agency, or with any person, firm, association, corporation, or educational institution, as may be necessary to expedite and coordinate research relating to acquired immune deficiency syndrome.

"(b) Projects for Cooperation Among Public and Private Health Entities.—In carrying out subsection (a), the Director of the National Institutes of Health shall establish projects to promote cooperation among Federal agencies, State, local, and regional public health agencies, and private entities, in research concerning the diagnosis, prevention, and treatment of acquired immune deficiency syndrome.

"(c) Report to Secretary.—The Director of the National Institutes of Health shall each fiscal year prepare and submit to the Secretary a report—

"(1) describing and evaluating the progress made in such fiscal year in research, treatment, and training with respect to acquired immune deficiency syndrome conducted or supported by the Institutes;

"(2) summarizing and analyzing expenditures made in such fiscal year for activities with respect to acquired immune deficiency syndrome conducted or supported by the National Institutes of Health; and

"(3) containing such recommendations as the Director considers appropriate.

"Part E—General Provisions

"SEC. 941. DEFINITION.

"For purposes of this title, the term 'acquired immune deficiency syndrome' includes any condition arising from infection with the etiologic agent for such syndrome.".

SEC. 203. REQUIREMENT OF CERTAIN RESEARCH STUDIES.

(a) Mortality Rates.—After consultation with the Director of the National Center for Health Services Research and Health Care Technology Assessment, the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall conduct a study for the purpose of determining the mortality rates with respect to acquired immune deficiency syndrome among individuals of various groups at risk of such syndrome, among various geographic areas, and among individuals with varying financial resources for the payment of health care services.

(b) Prevention of Development of Symptoms in Infected Individuals.—The Secretary of Health and Human Services, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall conduct a study for the purpose of determining, with respect to individuals infected with the etiologic agent for acquired immune deficiency syndrome, the consensus among health care professionals on clinical treatments for preventing or minimizing the development of symptoms or conditions arising from infection with such etiologic agent.

(c) Use of Consortia for Research and Development.—The Secretary of Health and Human Services shall request the National Academy of Sciences and other similar appropriate nonprofit institutions to report to the Secretary findings made by such institutions with respect to—

(1) the manner in which research on, and the development of, vaccines and drugs for the prevention and treatment of acquired immune deficiency syndrome and related conditions can be enhanced by the establishment of consortia—

(A) designed to combine and share resources needed for such research and development; and

(B) consisting of businesses involved in such research and development, of nonprofit research institutions, or of combinations of such businesses and such institutions; and

(2) the appropriate participation, if any, of the Federal Government in such consortia.

(d) Reports to Congress.—The Secretary of Health and Human Services shall submit to the Congress a report describing the findings made as a result of each of the studies required or requested in this section. The report for the study required in subsection (a) shall be submitted not later than 18 months after the date of the enactment of this Act. The report for the study required in subsection (b) shall be submitted not later than 1 year after such date. The report for the study requested in subsection (c) shall be submitted not later than 1 year after such date.

TITLE III—NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 301. ESTABLISHMENT.

There is hereby established a commission to be known as the National Commission on Acquired Immune Deficiency Syndrome (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

(a) General Purpose of Commission.—The Commission shall carry out activities for the purposes of studying and making recommendations for national policy with respect to the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS"). Matters considered by the Commission shall include the following:

(1) National policy and priorities with respect to—

(A) AIDS research, including the appropriate role of the Veterans' Administration and other Federal agencies in conducting such research,

(B) testing of individuals (including patients of the Veterans' Administration) for the AIDS virus and confidentiality of such test results,

(C) treatment and care of individuals suffering from AIDS, and

(D) prevention of the transmission of AIDS and education about AIDS.

(2) The appropriate roles of the Federal Government, of State and local governments, and of the private sector in the matters referred to in paragraph (1).

(3) Guidelines for the coordination of United States activities concerning AIDS with those of international health organizations.

(b) Hearings.—The Commission shall hold hearings to receive the views of persons and organizations interested in matters relating to the purposes of the Commission as stated in subsection (a), including representatives of appropriate government agencies and responsible representatives of groups principally affected by the AIDS virus.

SEC. 303. MEMBERSHIP.

(a) Number and Appointment.—(1) The Commisson shall be composed of 15 members as follows:

(A) Five members appointed by the President, of whom two shall be the Secretary of Health and Human Services and the Administrator of Veterans' Affairs.

(B) Five members appointed by the Speaker of the House of Representatives, of whom two shall be appointed upon the recommendation by the minority leader.

(C) Five members appointed by the President pro tempore of the Senate, of whom three shall be appointed upon the recommendation by the majority leader and two shall be appointed upon the recommendation of the minority leader.

(2) Not fewer than two of the members of the Commission appointed under subparagraph (A) of paragraph (1), and not fewer than three of the members appointed under each of subparagraphs (B) and (C) of that paragraph, shall be appointed from among experts in the scientific and medical communities and in legal and ethical issues are specially qualified to serve on the Commission by reason of their education, training, or experience.

(3) Members of the Commission shall serve for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) Chairman.—The members of the Commission shall select a Chairman from among the members of the Commission. The selection shall be made not later than 60 days after the date of the enactment of this Act.

(c) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(d) Meetings.—The Commission shall hold its first meeting on a date specified by the President which is not later than 60 days after the date of the enactment of this Act. Thereafter, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times each year during the life of the Commission.

(e) Pay.—Members of the Commission who are Members of Congress or officers or employees of the United States shall receive no additional compensation by reason of their service on the Commission.

(f) Per Diem.—While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) Deadline for Appointment.—Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act.

SEC. 304. REPORTS.

(a) Interim Reports.—Not later than one year after the date on which the Commission is fully constituted under section 303(a), the Commission shall transmit to the President and to Congress a comprehensive report on its activities to that date. Such report shall include such findings and recommendations as the Commission considers appropriate based on its activities to that date. In addition, the Commission shall transmit such other reports as it considers appropriate.

(b) Final Report.—The Commission shall transmit a final report to the President and to Congress not later than two years after the date on which the Commission is fully constituted under section 303(a). The final report shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 305. EXECUTIVE DIRECTOR AND STAFF.

(a) Executive Director.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule. The Executive Director shall be appointed not later than 30 days after the Chairman of the Commission is selected.

(b) Staff.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) Applicability of Civil Service Laws.—The Executive Director and the additional personnel of the Commission referred to in subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Consultants.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(e) Detailed Personnel.—Upon request of the Commission, the Administrator of Veterans' Affairs may detail, on a reimbursable basis, any of the personnel of the Veterans' Administration to the Commission to assist the Commission in carrying out its duties under this Act.

(f) Support Services.—The Administrator of Veterans' Affairs shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

SEC. 306. DUTIES OF ADMINISTRATOR OF VETERANS' AFFAIRS.

(a) Research Compilation.—In order to assist the Commission in carrying out its duties, the Administrator of Veterans' Affairs shall prepare a detailed compilation and synopsis of all medical research on acquired immune deficiency syndrome that has been carried out, or that is currently being conducted, in the United States and throughout the world. The Administrator shall prepare the compilation as soon as practicable, and not later than three months after the date of the enactment of this Act, and shall submit the compilation to the Commission.

(b) Report on VA Activities.—In order to assist the Commission in carrying out its duties, the Administrator shall submit to the Commission a report on all activities and information of the Veterans' Administration relevant to the duties of the Commission, including a detailed report on relevant research conducted by the Veterans' Administration and (subject to all laws and regulations with respect to confidentiality) detailed statistical information on the veterans population as a whole and the population of patients of the Veterans' Administration health system.

SEC. 307. POWERS OF COMMISSION.

(a) Hearings.—For the purpose of carrying out this Act, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmation to witnesses appearing before the Commission.

(b) Delegation.—Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) Access to Information.—The Commission may secure directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated for fiscal year 1988 the sum of $2,000,000 to carry out the purposes of this Act. Amounts appropriated pursuant to such authorization shall remain available until expended.

SEC. 309. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 303(b). However, the President may extend the life of the Commission for a period of not to exceed two years.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. Waxman] for an explanation of what this procedurally would achieve.

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield, this is the routine procedure of taking the Senate bill and putting the House-passed bill on that bill so we can go to conference.

Mr. DANNEMEYER. Reserving the right to object, Mr. Speaker, what would the gentleman's intention be with respect to the conference on this bill?

Mr. WAXMAN. We would intend to go to conference.

Mr. DANNEMEYER. And what would be the vehicle the gentleman would be taking to conference?

Mr. WAXMAN. S. 1220, as amended.

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair would state that there is nothing really to object to at this point, because House Resolution 520 permits this to be done by motion. The Chair will now put the question on the motion.

The question is on the motion offered by the gentleman from California [Mr. Waxman].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such Act with respect to research programs relating to such syndrome, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5142) was laid on the table.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, pursuant to House Resolution 520, I offer a motion.

The Clerk read as follows:

Mr. Waxman moves that the House insist on the House amendment to the Senate bill, S. 1220, and to request a conference with the Senate thereon.

The motion was agreed to.

PERMISSION TO HAVE UNTIL MIDNIGHT SUNDAY, SEPTEMBER 25, 1988, TO FILE CONFERENCE REPORT ON H.R. 4784, RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Sunday, September 25, 1988, to file a conference report on the bill (H.R. 4784) making appropriations for rural development, agriculture, and related agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

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CONFERENCE REPORT ON S. 1518, ALTERNATIVE MOTOR FUELS ACT OF 1988

Mr. SHARP. Mr. Speaker, I call up the conference report on the Senate bill (S. 1518) to amend the Public Health Service Act to establish grant programs, and confidentiality protections, relating to counseling and testing with respect to acquired immune deficiency syndrome, to amend such act with respect to research programs relating to such syndrome, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Stenholm). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 16, 1988.)

The SPEAKER pro tempore. The gentleman from Indiana [Mr. Sharp] will be recognized for 30 minutes and the gentleman from California [Mr.

MOORHEAD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SHARP asked and was given permission to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, I am pleased to bring to the House of Representatives the conference report on S. 1518, the Alternative Motor Fuels Act of 1988. The report is the compromise between S. 1518 and the House bill, H.R. 3399, which we passed last December.

Both bills encouraged the development of alternative transportation fuels. The compromise takes the best features of two slightly different approaches to alternative transportation fuels and combines them into a single integrated policy. It was approved by the Senate on Tuesday by voice vote.

At the outset, I want to thank and congratulate my colleague from California, Mr. MOORHEAD, the ranking minority member of the Energy and Power Subcommittee, the principal cosponsor of the House bill, and a tireless advocate of alternative fuels. Without his cooperation, we would not be here today.

I also want to acknowledge the help and support of Chairman DINGELL of the Energy and Commerce Committee; Congressman BRUCE, a member of the conference committee and a strong supporter of ethanol throughout the process; Congressman LENT, a member of the conference and ranking minority member of our committee; Congressman ALEXANDER, whose interest in and support for alternative fuels goes back to the U.S. Alcohol Fuels Commission of the late 1970's; Congressman WISE, a tireless advocate of methanol; Congressman DANNEMEYER, the previous ranking minority member of our subcommittee and cosponsor of the bill that passed the House in the last Congress; and many others too numerous to mention.

Credit is also due Senator JAY ROCKEFELLER, who sponsored the bill in the Senate and tirelessly shepherded it through that body, and who worked diligently with us in the conference committee to ensure that our final product was a good one. Those of us who have been working on this issue for 6 years and who saw our bill die for lack of Senate action in 1986 are grateful that Senator ROCKEFELLER took up the cause in this Congress.

Although many in this country are complacent about our energy security because of today's low prices and lack of cohesion in OPEC, we must prepare for the future. World oil demand is steadily rising, oil production in the United States and elsewhere outside of the Persian Gulf is expected to decline, and by the end of the century control of prices may well be back in the hands of a few countries in a very volatile region of the world.

One of the most important actions we can take to remain in control of our own destiny is to reduce our demand for oil.

This bill is an important step in that direction. It offers the prospect of replacing a significant portion of the gasoline and diesel fuel used in America's vehicles with cleaner, more efficient alternative fuels.

It's better to refuel cars in the Midwest than to reflag tankers in the Mideast.

Automobiles use about half of all oil consumed in the United States. Coverting just 10 percent of our vehicles to an alternative fuel would reduce oil demand and oil imports by nearly a million barrels per day.

Automobiles also contribute to air pollution—urban smog in particular—and alternative fuels offer significant air quality benefits. Alcohols burn more efficiently than gasoline or diesel fuel, and per mile traveled they produce less carbon monoxide, particulates, and the regulated hydrocarbons that contribute to ozone formation. Natural gas has the added benefit of producing less carbon dioxide than gasoline, making it a very attractive fuel for adressing the greenhouse effect.

This bill is evenhanded; it does not favor one of these alternatives over another. It allows the market to pick the non-petroleum alternative fuel of the future. Manufacturers and consumers will choose based on performance, cost, and local air quality regulations. Possibly all three alternative fuels will make a contribution.

Although the energy and environmental potential of this bill is huge, I caution my colleagues not to expect too much too soon. This proposal will start to change the decisions that the automobile manufacturers are making now for production in the 1990's, but alternative fuels are not likely to become a major fuel on a national scale until after the year 2000.

We must start today, however, to assure their commercial availability at that time. Time is a resource that can never be recovered, and too often we wait until a crisis is upon us and we must adopt crash programs.

By encouraging voluntary industry adjustments over an extended schedule rather than mandating changes on an arbitrary, forced schedule, we anticipate a smooth and economically efficient transition. We also provide an important option for areas with serious air quality problems. By encouraging manufacturers to build alternative fuel cars, this bill makes possible local programs to accelerate the introduction of cleaner fuels, allowing more rapid compliance with the requirements of the Clean Air Act.

Commercial adoption of alternative vehicle fuels has until now been blocked by the chicken and egg problem. Manufacturers will not produce the cars until consumers will buy them; consumers will not buy them until they can conveniently buy the alternative fuel. Fuel distributors will not supply the fuel until there are cars on the road to use it.

The bill addresses this problem in two ways. The central provision is a CAFE [Corporate Average Fuel Economy] incentive for automobile manufacturers to build methanol, ethanol, or compressed natural gas [CNG] vehicles.

For vehicles that are dedicated to the exclusive use of alternative fuel, the bill calculates their fuel economy based on only the petroleum content of the fuel, which is 15 percent for methanol and deemed to be 15 percent for ethanol and CNG. This yields a high miles-per-gallon rating for these cars, making them an attractive way for manufacturers to achieve the required fleetwide average.

Alternative fuels will not be universally or even widely available, however, when the new vehicles are first available. Except for fleets with a central fueling location many of the early alternative fuel vehicles will need to be capable of running on both the alternative fuel and gasoline. These articles are variously called dual fuel, multifuel, or flexible fuel vehicles. They will not always be operated on the alternative fuels, and therefore the bill does not give them the full CAFE incentive that dedicated vehicles receive.

For CAFE purposes the mileage rating of a dual fuel vehicle will be an average of its rating on the alternative, calculated like that for dedicated vehicles, and its rating on gasoline.

During the House debate on H.R. 3399, some Members raised concerns over the possibility that automobile manufacturers might use these incentives to reduce fleetwide fuel efficiency without increasing the use of alternative fuels. Their worry was that dual fuel cars would run entirely on gasoline.

Although I believed that this was an unlikely event, the concern was real, and the conference compromise responds to it. The compromise includes a provision—the so-called cap—that limits the maximum CAFE credit any manufacturer can receive for dual fuel vehicles to 1.2 miles per gallon in any year.

The bill also requires dual fuel cars to run more efficiently on the alternative fuel than on gasoline, giving consumers an incentive to choose the alternative where it is available.

Because dual fuel cars are seen as a transition to dedicated alterantive fuel vehicles, the CAFE incentive for them is temporary. Manufacturers can receive this benefit for 12 years beginning in model year 1993. There is also a possible administrative 1 to 4-year extension by rulemaking if the Department of Transportation so recommends.

The CAFE incentive for dedicated vehicles has no time limit or cap associated its use, since the conferees agree that dedicated alternative fuel vehicles will always contribute to energy security by displacing petroleum.

The other major provision of the conference report is the authorization of $18 million over 3 years for the commercial demonstration of alternative fuel cars, trucks, and buses.

First, the bill requires the Government to purchase and test the maximum number practicable of alternative fuel cars and authorizes $12 million for this purpose. These are in place of, not in addition to, cars that would be purchased anyway, and the money is for testing and for the difference in cost between a gasoline car and an alternative or dual fuel car.

This purchase will give manufacturers practical commercial experience before offering the alternative fuel vehicles for sale to consumers, allowing them to make runs of 1,000 or so cars before being expected to convert a production line and make 100,000 or more.

Government purchase and use will allow for identification of potential consumer problems prior to general consumer sale. Additionally, the Government will demonstrate a leadership role in the use of alternative fuels in transportation vehicles.

The conference report also authorizes up to $4 million for commercial distribution and use of alternative fuels in heavy duty trucks and $2 million for participating in tests of urban buses. Both are designed to help heavy duty engine manufacturers develop engines capable of meeting strict new environmental standards scheduled for 1991.

The Department of Transportation recently announced a $38 million program to demonstrate the use of alternative fuels in urban buses. The provision in this bill is not intended to duplicate the DOT program but rather to assure that appropriate and necessary comparative environmental and operational data are available on the use of alternative fuels in buses.

The bill also requires certain fuel information on the labels of alternative fuel passenger and light duty trucks. These labeling requirements are to give consumers sufficient information to understand and compare vehicles.

Another provision of the conference report establishes an Interagency Commission on Alternative Motor Fuels to coordinate the Federal Government's work on alternative fuels, and an Alternative Fuels Council to provide expert advice to the Commission on policy and implementation. A sunset provision is included for these bodies, terminating their existence after submission of a final report to the Congress in 1992.

Finally, two critically important studies are required by the bill. The Environmental Protection Agency is to carry out a broad study of the environmental effects of this bill and the transition to alternative fuels, including any possible impact on global warming.

The Department of Energy is to study various types of methanol production facilities that can use domestic natural gas, including relocatable plants and plants suitable for use by local gas distribution companies to convert surplus gas to methanol.

All in all, I believe this bill is an important and worthwhile step toward energy security and air quality improvement. It is the product of several years' work and bipartisan effort. At minimal expense, without mandating any action by consumers, auto manufacturers or fuel suppliers, it provides major incentives for the commercialization of nonpetroleum fuels.

It is a good bill, and the conference report is a good compromise. I believe it is an improvement over both the House and the Senate bills. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on the Alternative Motor Fuels Act of 1988.

Enactment of this bill will constitute a significant step forward in our continuing efforts to clean up our Nation's air and strengthen our Nation's energy security. This progress will, moreover, be achieved with minimal cost to the American taxpayer and with absolutely no interference with the workings of the free marketplace.

S. 1518 does not dictate or mandate or allocate—it demonstrates and leads. This bill will prod consumers and suppliers in the transportation market to diversify their choice of fuels and turn toward fuels which burn much more cleanly than gasoline and diesel fuel. This prodding will be applied by the demonstration programs conducted by the Federal Government using Federal fleet vehicles, and by credits against corporate average fuel economy requirements available to automobile manufacturers who build alternative fuel vehicles.

Mr. Speaker, there can be no dispute over the need for this legislation. We face an increasingly acute air quality problem, and a near total dependence upon petroleum to fuel our transportation. Indeed, our transportation market alone consumes more oil than our country can produce. Thus, our health is endangered and our energy security, and therefore our economic security, is threatened.

I am proud that my own State of California has led the way in combating these problems. We have imposed strong air quality standards, demanded advanced energy efficiency techniques in buildings and appliances, and tested, much in the manner of S. 1518, alternative fuels in motor vehicles. California will continue its leadership role. But clean air and energy security are not endangered only in California. These problems are national in scope. It is therefore time for the U.S. Government to become a partner with California in playing a leadership role.

I would like to close by recognizing the cooperation and leadership provided by several of my colleagues, including PHIL SHARP, JOHN DINGELL, NORM LENT, and BILL DANNEMEYER. This legislation is the product of several years work, and I would be remiss to fail to acknowledge the leadership provided in previous years by our former colleague, Jim Broyhill of North Carolina.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman from California [Mr. MOORHEAD] for yielding time to me. I want to commend the gentleman from California, the other gentleman from California [Mr. DANNEMEYER], the gentleman from New York [Mr. LENT], the gentleman from Indiana [Mr. SHARP], and the gentleman from Michigan [Mr. DINGELL], and others who have worked on this legislation.

Mr. Speaker, as the gentleman from California [Mr. MOORHEAD] has said so eloquently, this is already a program that is well underway in California. I think, as he does, that it is time for the National Government to enter into this partnership as well, and I know it will result in energy savings and more clean air.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman from California for his comments.

Mr. SHARP. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the conference report on S. 1518, the Sharp-Rockefeller law for the first time, provides a comprehensive approach to encouraging the development and use of alternative transportation fuels, particularly methanol. It is patterned after H.R. 3399 which passed this House by a wide margin. It is sound legislation. It has passed the Senate. I urge its passage in the House today and I urge that the President approve it.

I want to commend three principal House Members, who for many months have jointly worked hard to enact this legislation in the Congress. One is the distinguished chairman of the Energy Subcommittee, Congressman PHIL SHARP, who has skillfully guided this legislation through many obstacles, including opposition from many quarters. He worked with all interests and crafted a product that is worthy of this House. The two others are the able ranking minority member of the subcommittee, Congressman CARLOS MOORHEAD, and a strong supporter of alternative fuels, Congressman BILL DANNEMEYER. These two members provided strong bipartisan support for this legislation.

These members, together with our other conferees, Congressmen TERRY BRUCE and NORM LENT, were able to convince the other body of the benefits of the House approach.

I should also note that early in the process other committee members, such as Congressman MIKE SYNAR, were also quite helpful. I commend all of them.

I also want to commend the Senate conferees, particularly Senators HOLLINGS, GLENN, ROCKEFELLER, LEVIN, DANFORTH, and ROTH for their cooperation and efforts. It was a joint effort to adopt a pioneer bill that provides measured incentives to encourage alternative fuel development and widespread use. The majority and minority staffs of both Houses, and the House and Senate legislative counsel and their staff, also deserve appreciation for their hard work.

Mr. Speaker, this bill is good from the standpoint of energy security, air quality, and jobs. It is designed to provide sufficient incentives to develop alternative fueled cars, trucks, and buses and through that approach develop the service structure needed to make alternative fuels viable and acceptable to the consumer. It does not require, at the urging of the energy industry, that our energy industry provide alternative fuels at the pump for retail sales to the consumer. However, I think it is fair to say that all of the conferees expect that industry to begin now to work with the auto industry to have such fuel available when the vehicles are available. Indeed, my Subcommittee on Oversight and Investigations will be watching progress by both industries in this regard.

In dollars, the cost of this significant legislation is very modest, less than the House bill and that was conservative. It does not require new agencies with vast numbers of personnel. It will be administered through the existing Federal structure.

As to the fuel economy program, let me say that I preferred the House approach which did not include the various "bells and whistles" of the Senate-passed bill. I felt that the limitations of the Senate bill would have choked or throttled the program and cause great motion, but little success. Fortunately, the conferees on the House side were persuasive. We were able to fashion a compromise that provided reasonable, but not overly intrusive restrictions on achieving the bill's purpose which is to "encourage" one, the development and widespread use of methanol, ethanol, and natural gas as transportation fuels by consumers; and two, the production of methanol, ethanol, and natural gas powered motor vehicles.

The fuel economy amendments add a new section 513 to the existing title V of the Motor Vehicle Information and Cost Savings Act. We, as conferees, did this to help make clear that it was not our intent to change in any way the existing CAFE provisions of the law. Further, we wanted no one to construe this legislation or our intent as any indication of approval or disapproval of any past or future decision of the Secretary of Transportation to change the passenger car standard. We do intend that the Secretary shall not take into account the extent to which manufacturers have produced alternative fueled vehicles whenever the Secretary decides whether to amend the CAFE standard for cars or light trucks. For example, we were aware that the Secretary assesses whether manufacturers have made reasonable effort to meet the applicable standard in making a decision about whether to amend that standard. This legislation does not affect that assessment. It is intended that the Secretary will not take into account in any such assessment the extent to which manufacturers have produced alternative fueled vehicles.

A provision is included in the legislation to ensure that the incentives provided by this bill are not erased by the Secretary's setting the CAFE standard for cars or trucks at a level that assumes a certain penetration of alternative fueled vehicles. The conferees are aware that the statute requires CAFE standards to be set at the "maximum feasible" level, and that DOT traditionally has determined that level in connection with examining the individual fuel economy capabilities of the larger manufacturers. It is intended that this examination will be conducted without regard to the penetration of alternative fuel vehicles in any manufacturer's fleet, in order to ensure that manufacturers taking advantage of the incentives offered by this bill do not then find DOT including those incentive increases in the manufacturer's "maximum fuel economy capability." This, of course, would wipe out the benefits associated with the increases if it resulted in commensurate increases in the CAFE standard.

I should point out that, like the House bill, there are no limitations on dedicated vehicles. The final version begins the inventives for dual fueled vehicles in model year 1993 with carry back forward starting then as well. The program will run over 12 model years which allows the manufacturers to take advantage of it at any time. There are no requirements that they act consecutively, nor do the inventives change during that period. It can be extended, after a study, for an additional 4 model years. The program applies to passenger cars and light trucks.

The bill provides improved definitions of the terms "alcohol," "alcohol powered automobile," "dual energy automobile," and "natural gas powered automobile." It seeks to treat all fuels equally. The definitions in section 513(h)(1) (C) and (D) provide for three tests for a particular model year and not thereafter in accordance with the current authority for testing by the Environmental Protection Agency under the provisions of the Clean Air Act and for no other testing. For passenger cars, new section 513(h)(2) provides that DOT must provide by rule for purposes of the applicable definition only a minimum driving range that could differ among various model lines or types. The DOT has flexibility in devising a rule that can be later changed. The DOT shall take into account the purposes of the bill, consumer, acceptability, economic practicability, technology, environmental impact, safety, driveability, performance, and other relevant factors.

For dual fuel light duty vehicles, there is no driving range requirement.

The conference agreement, unlike the House-passed bill, includes a cap in the case of dual fueled vehicles. I was not a strong supporter of a cap. However, I believe that the final version is a vast improvement over the Senate bill.

Before closing, I want to observe that, at the urging of some Senators, the conferees agreed to an "independent environmental study" because of some concerns about global change. I support the study which I view as related to ongoing studies and the requirements of the Global Climate Protection Act of 1987. I think it is a useful study. However, I want to be sure that the EPA does not forget that climate change is a global problem, not just a U.S. problem and that these fuels are not the sole potential source of the problem.

I urge adoption of this report.

Mr. MOORHEAD. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT], the ranking member of the full Committee on Energy and Commerce.

Mr. LENT. Mr. Speaker, I commend the distinguished chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and also the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP], and the gentleman from California [Mr. MOORHEAD], my colleague on the minority side, for their leadership in this particular legislation.

Mr. Speaker, I rise to urge my colleagues to vote for passage of the conference report on the Alternative Motor Fuels Act of 1988.

In December 1987, the House approved H.R. 3399 by an overwhelming vote. That bill, which has been pending before the House for several years, provided for demonstration of alternative fuel vehicles by the Federal motor vehicle fleet and for corporate average fuel requirement incentives for manufacturers of alternative fuel vehicles.

The other body passed legislation earlier this year which contained CAFE incentives, but did not include demonstration programs.

The legislation before the House today contains both CAFE incentives and demonstration programs. It is therefore very similar to H.R. 3399.

Mr. Speaker, I have been very concerned about our Nation's growing dependence on imported oil. This dependence leaves our economy vulnerable to a repeat of the oil and price shocks of the seventies. In addition to these security considerations, there are the undeniable environmental impacts associated with our nearly exclusive reliance upon petroleum in our transportation sector.

Increased use of alternative clean burning fuels by our motor vehicles would enhance our energy and economic security as well as improve the quality of our air. Thus, this step would help us achieve several crucially important policy objectives—objectives which all Members on both sides of the aisle support.

Mr. Speaker, it is clear that we are experiencing a justified resurgence of environmental consciousness in our Nation today. This is rightfully a central topic of debate in the Presidential contest. There are many pieces of legislation pending before this Congress which address the problems which have been identified. Most of these bills may well need to be revisited next year. But we can move forward today on one of these bills, S. 1518.

This is a bipartisan measure. The cost involved is minimal. There is no market regulation. This bill provides leadership and direction through example and demonstration. The goal is to point the way toward a more diverse transportation fuels market. But the ultimate choices are left to the consumer.

I urge my colleagues to vote to pass the conference report on the Alternative Fuels Act of 1988.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arkansas [Mr. ALEXANDER] who has been one of the original advocates of this kind of legislation.

Mr. ALEXANDER. Mr. Speaker, 100 billion gallons is a gargantuan market. That's the size of the market for annual consumption of motor vehicle fuels in the United States. America moves on wheels, and the millions of vehicles traveling U.S. highways consume an enormous amount of fuel—100 billion gallons each year.

If the farmers, natural gas producers, and coal miners seize this opportunity to cut in on 10 percent or more of that market, that would create a new 10 billion gallon market that could expand their income and revive the coal, natural gas, and farm economies.

The Alternative Motor Fuels Act addresses the concerns of clean air; the greenhouse effect; overdependence on foreign oil; trade and budget deficits; and would begin to open up that motor fuel market to the farmers, the natural gas producers, and the coal miners of America. I believe the Alternative Motor Fuels Act ranks with the most important legislation of this 100th Congress.

After nearly 8 years of pretending that petroleum will always be clean, cheap, and plentiful, America is slowly awakening to the realization that now is the time to begin the transition to the fuels of the future.

At the beginning of this decade, I served as a member of the National Alcohol Fuels Commission. At long last, some of that Commission's recommendations are about to become law.

The bill calls for the purchase of cars fueled by neat ethanol and methanol, as well as flexible fuel vehicles, for the Federal fleet. Our Commission recommended that in 1981.

The Alternative Motor Fuels Act also modifies the motor vehicle fuel economy requirements to allow for a fair comparison between alcohol fuels and petroleum based fuels. Our Commission recommended that more than 7 years ago, as well.

The bill will doubtless encourage the commercialization of cars that can run on neat ethanol and methanol, as well as "duel-fuel" vehicles that can operate on any mixture of alcohol and gasoline. Once the cars are there, the fuel distribution network will follow.

The recent flurry of congressional interest in alternative motor fuels has, however, raised more questions than it has conclusively answered. These questions can be summed up by asking: What is the best fuel?

What is the best fuel for vehicle performance and consumer satisfaction?

What is the best fuel for creating new markets and opportunities for the agricultural and extractive sectors of the economy?

What is the best fuel for achieving energy independence?

What is the best fuel for helping more than 80 cities meet the national standards for carbon monoxide and ozone pollution?

What is the best fuel for slowing the pace of global warming, which may be the biggest threat to the standard of living we enjoy?

Most importantly, what combination of fuels will help America achieve all of these goals swiftly and at the minimum cost to the economy as a whole, and what kind of national energy policy will take us where we want to go?

While some of these issues have been debated for 15 years, the Alternative Motor Fuels Act recognizes that these questions must be answered. It establishes an Interagency Commission on Alternative Motor Fuels to study these questions, and, from the answers, coordinate efforts in the executive branch to develop and implement a national alternative motor fuels policy. At last, the first step is taken to establish a National Energy Policy.

The bill also establishes the U.S. Alternative Fuels Council, which will be composed of four Members of Congress and 16 experts from State and local governments and the private sector, to assist the Interagency Commission in its search for a national policy.

We can develop the promise of alternative fuels to make our Nation stronger, invigorate the economy, clean the air we breathe and protect this planet—our only home in the cosmos—from the horrors of the greenhouse effect.

But the economic and environmental factors involved are extraordinarily complicated, more complicated than anyone suspected a few years ago. We must make wise choices. There were errors and indecision in the 1970's and 1980's, but in the 1990's there will be no margin for error.

I commend PHIL SHARP, BOB WISE, TERRY BRUCE, CARLOS MOORHEAD, JAY ROCKEFELLER and the other conferees for this legislation, which marks the first step down that long and difficult road. Also, I wish to thank Larry Calvert, Lee Powell, Jack Riggs, and Roger Staiger for their dedication to duty and commitment to the future of America. Each contributed a major part to the Alternative Motor Vehicles Act. I urge my colleagues to support this giant step forward.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Speaker, I rise in support of the conference report on the Sharp-Rockefeller bill. I am proud to be associated with this important piece of legislation. This bill will have a positive impact on our energy independence and the environment. It will encourage scientific inquiry into alternative fuels and provide American farmers and the American auto industry with the opportunity of a whole new line of vehicles and new markets.

Mr. Speaker, I am especially encouraged by the positive impact that the Sharp-Rockefeller bill will have on American farmers. We have all been aware of the many benefits of ethanol. This legislation will encourage its use and production. It is a great opportunity for farmers, one of our Nation's most important resources, to play a major role in developing a a stronger more energy independent America while becoming stronger themselves with new markets and new uses for their crops.

Also, as we begin to contemplate the greenhouse effect, ozone depletion and other climatic challenges, this is an important move in the right direction. It is an example of how solutions can be devised and implemented.

I congratulate my colleagues in the House, Mr. Sharp, and the Senate, Mr. Rockefeller, on their efforts and the diligence and conscientiousness of the staff on both sides who have made this possible.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. Wise].

Mr. WISE. Mr. Speaker, I certainly express my appreciation to the gentleman from Indiana [Mr. Sharp] for the opportunity to participate in crafting this bill. The bill so ably put before us by the gentleman from Indiana [Mr. Sharp] of the House and Senator Rockefeller of West Virginia, I think really moves this country to a new and affective energy policy, and we certainly have needed to be moving toward an energy policy for a long time.

Mr. Speaker, this bill is driven by some very important facts. For instance, 60 percent of all the oil consumed in this country is by transportation, and now by 1995 we will be 50 percent dependent upon oil, foreign oil that is, coming from foreign oil producers. We have to be moving toward new oil supplies, domestic oil supplies or domestic fuel supplies such as those created in alcohol fuels produced by methanol, ethanol, or natural gas.

We also have to be concerned with cleaner burning because of the greenhouse effect, and once again methanol, and ethanol and natural gas move us that way.

Mr. Speaker, in the case of methanol made from natural gas or coal we see bright futures ahead for those of us from energy producing areas. We see in this bill, for instance, a new program to permit testing of buses with dual-fuel capability that can burn gasoline or diesel fuel, or they can burn methanol or ethanol or natural gas. We see new incentives for car manufacturers to make these dual-fuel cars, and so for the first time we encourage the production of these automobiles as well as setting up a distribution system for methanol.

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I see a bright future because of the passage of this bill in this session of Congress in energy production for areas such as my State. With vast supplies of natural gas and coal, we can make methanol and make it well.

I see alcohol fuel production as a chemical process, and once again for a chemical-producing area like West Virginia that bodes well in creating jobs.

I see increased research in cleaning the environment. Methanol is a clean-burning fuel, and indeed will do much to reduce the greenhouse effect.

Finally and most importantly, perhaps, I see energy security for our country as no longer where we have to depend upon foreign oil suppliers for our fuel. We can burn methanol and that makes a big difference.

Mr. BEILENSON. Mr. Speaker, since many Members have been advised that no further recorded votes are expected today, I won't call for one on this conference report, as I had wanted to do. But I do want to express my grave concerns about this legislation to my colleagues.

Although I support the goal of S. 1518—encouraging the use of nonpetroleum motor fuels—I oppose the means this bill provides for achieving that goal. Undermining the corporate average fuel economy [CAFE] standard, as this bill does, is the worst thing we can do if we are serious about lowering our consumption of oil and combating the environmental degradation caused by automobiles.

S. 1518 gives auto manufacturers an incentive to produce vehicles that either run on alcohol fuels or natural gas, or are dual-fuel—capable of running on either these alternative fuels or gasoline—by allowing such vehicles extra fuel-efficiency credits. Manufacturers will thus be able to offset their low-efficiency conventional vehicles with the artificially high-efficiency ratings of the alternatively powered vehicles. Although there is a limit on the extent to which a manufacturer can take advantage of this offset, the average fuel economy ratings of gasoline-powered vehicles will be allowed to be reduced by as much as 1.2 miles per gallon. Even that relatively small change will cause a significant increase in the amount of petroleum consumed in the United States, and in the amount of pollution caused by the extra gasoline burned.

The price we will be paying for the promotion of alternative motor fuels is an increase in the number of low-efficiency conventional autos—which the automakers want, since they perceive a strong American demand for big, comfortable, gas-guzzling cars. The result will be an increase in gasoline consumption, and thus greater dependence on imported oil. And, it sends exactly the wrong signal. At a time when Congress should be pushing the auto industry to increase fuel efficiency—both to reduce U.S. consumption of oil and to keep that industry competitive with foreign manufacturers—we are essentially rolling back the standards, again. And this time we won't be able to blame the Reagan-appointed Transportation Department.

While in the short run U.S. manufacturers may welcome this easing of the CAFE standard, in the not-too-distant future they will be badly hurt when a tightening of the oil market and rising oil prices again stimulate demand by U.S. consumers for more fuel-efficient cars. Foreign manufacturers are continuing to produce higher and higher mileage vehicles, and will be ready to meet our demand when that day comes. Meanwhile, we in Congress will have discouraged our own industry from producing the higher mileage cars that are the key to their long-term competitiveness in the United States and the world.

Moreover, although this bill is intended to reduce carbon monoxide and ozone caused by auto emissions, the bill has the potential to aggregate, rather than alleviate, our pollution problems. Not only will the higher consumption of gasoline—because of the lower CAFE standard—lead to more emissions, but some alternative fuels will be worse than gasoline in contributing to the greenhouse problem. The combustion of methanol produced from coal releases about twice as much carbon dioxide into the atmosphere as does oil. With the increasing scientific evidence showing that global warming is underway, we cannot ignore the fact that this bill is likely to exacerbate that problem.

Unfortunately, it's very difficult to create a demand for high-efficiency autos while the price of gasoline is as low as it has been for several years now. We don't have a high gasoline tax, as do almost all other industrialized nations, to help generate such demand. Our gas-guzzler tax is so low that it is meaningless. The CAFE standard is really all we have to get U.S. automakers to produce more fuel-efficient cars, as we must do in order to help protect our economic security and reduce the dire threat of global warming. An erosion of these standards—no matter how small—is simply not an acceptable tradeoff for the relatively modest use of alternative motor fuels this bill will promote.

Mr. ANDREWS. Mr. Speaker, at a time when oil imports are at record levels and our environment is showing the strain from transportation emissions I applaud the conference report on the Alternative Motor Fuels Act.

Today, the United States faces a major paradox as a result of its failure to establish a clear, coherent, and rational energy policy. As imports of foreign oil creep toward 50 percent of total U.S. supply we, once again, make ourselves increasingly vulnerable to an oil supply disruption. In addition, we face such serious air quality problems that Congress has been forced to suspend air quality attainment deadlines in order to prevent major economic disruptions in our cities.

Considering these pressing problems I believe that the Federal Government must do what it can to encourage the development and use of alternative, nonpetroleum fuels for transportation, and the production of motor vehicles powered by these fuels.

Already much has been done in several States to explore the use of alternative motor fuels. For example, the General Land Office in my home State of Texas implemented a project to use compressed natural gas in a portion of their motor vehicle fleet.

This project demonstrates the cost-effectiveness of using compressed natural gas as a primary fuel for State vehicles. With more than 5,700 State vehicles in Austin alone the estimated cost savings from converting only 10 percent of this fleet would result in cost savings to the State in the range of $400,000 to $500,000 per year.

In addition, improved air quality is another benefit of using natural gas as a vehicle fuel. The most recent Environmental Protection Agency analysis of emissions from compressed natural gas powered vehicles indicate a 50-percent reduction in carbon monoxide, a 40-percent reduction in reactive hydrocarbons and a 100-percent reduction in evaporative hydrocarbons.

Natural gas is just one example of an economically feasible alternative motor fuel promoted in this legislation. Other fuels to be promoted include alcohol fuels, methanol, made from coal, natural gas and trash, and ethanol, made from corn and other agricultural products.

This legislation allows us to focus on alternative domestic motor fuels and could potentially create new markets and breath life into many stagnant economies by creating new jobs. I applaud this legislation and ask your support for this important piece of legislation.

Mr. GLICKMAN. Mr. Speaker, I rise today in support of the conference report on S. 1518, the Alternative Motor Fuels Act. This legislation has been a long time coming. Over 7 years ago, on March 5, 1981, I introduced legislation in the House to provide credit for vehicles designed to operate on nonpetroleum based fuels—including alcohol fuels and natural gas—in the calculation of fuel efficiency standards. A major component of this conference report and the bill passed by the House last December embodies that very idea.

Over the years I have served in the House, there has been an ongoing effort to expand supplies of alternative fuels. This legislation wisely looks at the other side of the coin. This bill is designed to assure that the demand exists for these fuels, both through the CAFE standards provisions and though inclusion of these innovative vehicles in Federal fleets. The bill will also help make these types of vehicles viable options for more private owners through the provisions requiring steps be taken to make alcohol and natural gas fuels available to the public at Federal fueling stations.

This legislation is forward looking and reflects the continued commitment of the Congress to energy independence. I want to express my special thanks for the work that Chairman DINGELL and SHARP put into this legislation as well as the others here in the house who persevered to make the idea I have been advocating for over 7 years into a legislative reality. I am confident that this legislation will prove to be a major contribution to reducing our reliance on foreign energy sources and, at the same time, to improving air quality.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 1518 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REGULATORY FAIRNESS ACT

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2858) to provide for refunds pursuant to rate decreases under the Federal Power Act, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Fairness Act".

SEC. 2. REFUNDS IN PROCEEDINGS UNDER SECTION 206 OF THE FEDERAL POWER ACT.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended as follows:

(1) At the end of subsection (a) insert: "Any complaint or motion of the Commission to initiate a proceeding under this section shall state the change or changes to be made in the rate, charge, classification, rule, regulation, practice, or contract then in force, and the reasons for any proposed change or changes therein. If, after review of any motion or complaint and answer, the Commission shall decide to hold a hearing, it shall fix by order the time and place of such hearing and shall specify the issues to be adjudicated.".

(2) Designate subsection (b) as (d) and insert the following new subsections after subsection (a):

"(b) Whenever the Commission institutes a proceeding under this section, the Commission shall establish a refund effective date. In the case of a proceeding instituted on complaint, the refund effective date shall not be earlier than the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period. In the case of a proceeding instituted by the Commission on its own motion, the refund effective date shall not be earlier than the date 60 days after the publication by the Commission of notice of its intention to initiate such proceeding nor later than 5 months after the expiration of such 60-day period. Upon institution of a proceeding under this section, the Commission shall give to the decision of such proceding the same preference as provided under section 205 of this Act and otherwise act as speedily as possible. If no final decision is rendered by the refund effective date or by the conclusion of the 180-day period commencing upon initation of a proceeding pursuant to this section, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. In any proceeding under this section, the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon the Commission or the complainant. At the conclusion of any proceeding under this section, the Commission may order the public utility to make refunds of any amounts paid, for the period subsequent to the refund effective date through a date 15 months after such refund effective date, in excess of those which would have been paid under the just and reasonable rate, charge, classification, rule, regulation, practice, or contract which the Commission orders to be thereafter observed and in force: *Provided,* That if the proceeding is not concluded within 15 months after the refund effective date and if the Commission determines at the conclusion of the proceeding that the proceeding was not resolved within the 15-month period primarily because of dilatory behavior by the public utility, the Commission may order refunds of any or all amounts paid for the period subsequent to the refund effective date and prior to the conclusion of the proceeding. The refunds shall be made, with interest, to those persons who have paid those rates or charges which are the subject of the proceeding.

"(c) Nothwithstanding subsection (b), in a proceeding commenced under this section involving two or more electric utility companies of a registered holding company, refunds which might otherwise be payable under subsection (b) shall not be ordered to the extent that such refunds would result from any portion of a Commission order that (1) requires a decrease in system production or transmission costs to be paid by one or more of such electric companies; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company: *Provided,* That refunds, in whole or in part, may be ordered by the Commission if it determines that the registered holding company would not experience any reduction in revenues which results from an inability of an electric utility company of the holding company to recover such increase in costs for the period between the refund effective date and the effective date of the Commission's order. For purposes of this subsection, the terms 'electric utility companies' and 'registered holding company' shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.".

SEC. 3. LIMITATION ON AUTHORITY PROVIDED.

Nothing in subsection (c) of section 206 of the Federal Power Act, as amended (16 U.S.C. 824e(c)) shall be interpreted to confer upon the Federal Energy Regulatory Commission any authority not granted to it elsewhere in such Act to issue an order that (1) requires a decrease in system production or transmission costs to be paid by one or more electric utility companies of a registered holding company; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company. For purposes of this section, the terms "electric utility companies" and "registered holding company" shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act are not applicable to complaints filed or motions initiated before the date of enactment of this Act pursuant to section 206 of the Federal Power Act: Provided, however, That such complaints may be withdrawn and refiled without prejudice.

SEC. 5. STUDY.

No earlier than three years and no later than four years after the date of enactment of this Act, the Federal Energy Regulatory Commission shall perform a study of the effect of the amendments to section 206 of the Federal Power Act made by this Act. The study shall analyze (1) the impact, if any, of such amendments on the cost of capital paid by public utilities; (2) any change in the average time taken to resolve proceedings under section 206; and (3) such other matters as the Commission may deem appropriate in the public interest. Upon completion the study shall be sent to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

Mr. SHARP (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BRUCE. Reserving the right to object, Mr. Speaker, I rise in support of H.R. 2858, the Regulatory Fairness Act. Two weeks ago the Senate approved this measure with the leadership of Senator BUMPERS.

This legislation will amend the Federal Power Act to ensure that consumers of electric power receive more timely and just relief when their rates have been too high. The way the law is written now, this is not the case. Wholesale power is purchased by small publicly owned utilities or rural cooperatives from large investor-owned utilities. If these consumers seek rate decreases from these large utilities, they must wait for the Federal Energy Regulatory Commission to conduct a long proceeding first. Following this the refund is prospective only, that is they are entitled to no recompense for the excessive rates that were being paid during the course of the proceeding. On the other hand, rate increases are effective immediately while FERC considers the request. Mr. Speaker, this bill is more fair to these consumers because it makes it just as easy to enjoy a refund as it is now to contend with an increase.

This bill is the result of a lot of hard work and delicate compromises. One thousand five hundred local public utilities and rural cooperatives and million of consumers will now enjoy more equitable treatment. I congratulate Mr. SHARP and his excellent staff in preserving the integrity of the bill.

I also commend the Senate energy and natural resources staff and the strong leadership of Senator BUMPERS in making this possible. Millions of rate payers have been well served.

Mr. BRUCE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. MOORHEAD. Reserving the right to object, Mr. Speaker, I have no objection to passage of H.R. 2858, as amended by the other body.

The purpose of this legislation is to ensure consistent treatment of rate orders issued by the Federal Energy Regulatory Commission under the Federal Power Act.

Under current law a request for a rate increase by an electric utility may go into effect prior to a final decision approving the rate. On the other hand, a petition to lower an existing rate cannot take effect until after a final decision. H.R. 2858 would correct this inconsistent treatment by providing that a decision approving a rate decrease request may be effective retroactively.

The Senate amendments place limits on the retroactive effect of H.R. 2858. I do not object to these changes. I believe this legislation is still an improvement upon existing law and should be approved.

I would like to acknowledge the cooperation and leadership of subcommittee Chairman SHARP in pushing this bill forward.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GEJDENSON. Reserving the right to object, Mr. Speaker, and I will not object, but I rise just to commend the chairman and my colleague, the gentleman from Illinois [Mr. BRUCE], for this important piece of legislation.

There is a legal saying which is "Justice delayed is justice denied." Regulatory response delay is justice denied. Small utilities in my State, municipal cooperatives, have been denied justice for an extended period of time as the result of a process that increases rates rapidly and decreases them very slowly, or not at all.

Mr. Speaker, I would just commend the gentleman from Indiana [Mr. SHARP] on this great work on this energy issue and many others.

Mr. Speaker, I am pleased to rise in support of S. 1567, the Regulatory Fairness Act of 1987, which is similar to H.R. 2858 passed under suspension by the House last October. This legislation will provide refunds for rate decreases for utility customers. This legislation represents an attempt to make the current regulatory process more equitable, giving electric customers the same protections and considerations that supplying utilities currently receive. The regulation of electric utilities should give both consumers and utilities a fair deal. Utilities should receive and consumers should pay, a just and reasonable rate for electricity. When costs are rising, as they were during the late 1960's and 1970's, utilities should be able to recover those costs in a timely fashion and the current regulation provides for this. However, when costs go down, the process is not as fair.

Under current law, consumers are obligated to pay for rate increases shortly after the increase is filed. The regulatory process for rate increases takes about a year, at which time, if the rates are found by the Federal Energy Regulatory Commission [FERC] to be too high, the customer gets a refund. Clearly this system works well for the supplying utilities because they can collect the proposed higher rate during most of the regulatory process. However, if the customer files for a rate decrease, he is taking a gamble. The regulatory process takes twice as long as for increases and the cost of litigation is often more expensive than the potential savings from the decrease. During the process, the customer never sees the benefits of the rate reduction. The customer can only see the benefits of a rate reduction prospectively, after the whole regulatory process is completed.

Given the dramatic changes in economic conditions that we have seen since the early 1980's and the decline in the cost of oil, it is obvious that the regulatory process for wholesale electricity rate reductions is not fair. This amendment to the Federal Power Act gives the Federal Energy Regulatory Commission the power to return the balance and fairness to the regulatory process, a power that they currently do not have.

Mr. Speaker, allow me to give my colleagues an example from my own State. In January 1987, the Connecticut Consumer Counsel filed a complaint with the Federal Energy Regulatory Commission claiming that Connecticut Light and Power's rate of return for wholesale power was too high. And though the Federal Energy Regulatory Commission issued their decision expeditiously, Consumer Counsel James Meehan nonetheless estimates that customers lost upwards of $1.8 million during the regulatory process from overcharges while the decision was being made. This is money that there is no prospect of ever seeing, even though rates were determined to have been excessive.

The Regulatory Fairness Act will provide wholesale electric customers refund protection. Under this legislation the Federal Energy Regulatory Commission would set a refund effective date so that any decrease in wholesale rates would cover the overcharge. S. 1567 does not change the rate setting standards, nor does it change the current regulatory process. This legislation simply ensures that rate decrease proceedings are handled in the same manner and afforded the same consideration as rate increases. This legislation would not only give the consumers more control over electric rates that they are being charged but it will make it easier for the customer utilities to charge lower, more economically responsive utility rates and will give the consumers the same advantages that supplying utilities have when requesting a change in rates.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I am pleased to take up again H.R. 2858, the Regulatory Fairness Act, which the House passed last October and which the Senate took up, in amended form, just 2 weeks ago.

This bill corrects a 50-year-old gap in the Federal Power Act. As we know, when an interstate utility applies for a rate increase before the Federal Energy Regulatory Commission, that increase goes into effect almost immediately, subject to refund only if the utility does not prevail in the rate proceeding.

By contrast, if a wholesale customer of that utility applies for a rate decrease, he can recover the overcharge only from the date of the decision by FERC, which may take 2 years. In other words, that entire 2 years of overcharges would never be recovered.

The Regulatory Fairness Act corrects this disparity by ensuring that a customer who wins his rate decrease case at FERC will get refunds dating back to the date he filed his application. This simple fix means lower rates for wholesale and ultimately for retail customers. It also ushers in, as the name implies, a measure of regulatory fairness in the procedures governing the way our Nation's wholesale electric rates are set.

The Senate has amended the House-passed bill in several ways, the most important one being that retroactive refunds are limited to 15 months from the "refund effective date" unless the utility has been dilatory. I hope that FERC will monitor closely the average duration of rate refund proceedings and report back to Congress on this issue in the study called for in section 5 of the amended bill.

I commend the gentleman from Illinois [Mr. BRUCE] for his leadership in sponsoring and championing this bill; Mr. MOORHEAD for his vigorous support; and Mr. GEDJENSON for his initiative and input. I also commend the American Public Power Association for its massive efforts to cure a statutory defect that has been on the books for half a century.

Mr. GEJDENSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

UNIFORM REGULATORY JURISDICTION ACT OF 1988

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2884) to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniform Regulatory Jurisdiction Act of 1988".

SEC. 2. JURISDICTION OVER TRANSPORTATION OF NATURAL GAS.

Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended—

(a) by redesignating section "7(f)" as section "7(f)(1)";

(b) by striking the period at the end thereof and inserting "; and"; and

(c) by adding a new section 7(f)(2) to read as follows:

"(2) If the Commission has determined a service area pursuant to this subsection, transportation to ultimate consumers in such service area by the holder of such service area determination, even if across State lines, shall be subject to the exclusive jurisdiction of the State commission in the State in which the gas is consumed. This section shall not apply to the transportation of natural gas to another natural gas company.".

SEC. 3. EFFECTIVE DATE.

The provisions of this Act shall become effective one hundred and twenty days after the date of enactment.

Mr. SHARP (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. MOORHEAD. Reserving the right to object, Mr. Speaker, I have no objection to passage of this legislation by unanimous consent.

This bill is simply intended to reform an anomaly in the jurisdiction over certain local gas distribution companies. These companies happen to sell gas, at retail, to customers in more than one State. This fact makes them technically subject to the authority of the Federal Energy Regulatory Commission.

Local gas service has always been subject to State public utility regulation. All local gas companies—except the few companies covered by H.R. 2884—are therefore regulated by one, local body. There is no reason why the companies who serve customers in more than one State—so long as this service is a local, retail service—should be treated differently.

I thank Congressman SHARP for working with me on making enactment of this regulatory reform possible.

I urge passage of H.R. 2884.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, as my colleague may know, this is a noncontroversial natural gas bill which has been cleared on both sides.

It affects only 8 of the 1,000 local gas utilities in our Nation. These utilities have for decades been subject only to State rate regulation, like all other local utilities. FERC has never before regulated their rates.

But these few gas companies operate on the borders of two or more States: Washington Gas Light, with interconnected operations in Virginia, DC, and Maryland, is an example.

This accident of geography and recent changes in gas industry transportation rules, has turned local gas flows through the small pipes of these eight companies into "interstate transportation," which FERC controls.

This bill merely restores local control over the rates, terms, and conditions of local transportation service.

The House approved it unanimously earlier this year.

The Senate made a modest amendment to our bill, to limit its reach to only two of the three Iowa utilities covered by the House bill. I believe this is acceptable to the gentleman from Iowa [Mr. TAUKE]. Besides, the uncovered third Iowa utility will be covered by the Senate amendment if it gets a local service area ruling from FERC.

This is fair. After all, the bill applies the same prerequisite to the other eight companies.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 5056, AGRICULTURAL RESEARCH ACT OF 1988

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight, September 23, 1988, to file the report on H.R. 5056, the Agricultural Research Act of 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE CLERK TO INCLUDE TEXT OF AMENDED BILL IN ENGROSSMENT OF H.R. 4748, RAILROAD DRUG ABUSE PREVENTION ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4748, the Railroad Drug Abuse Prevention Act of 1988, which was passed by the House last Tuesday, September 20, 1988, the Clerk be authorized to include the text of the amended bill that the managers handling the bill understood was at the desk, as follows:

H.R. 4748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Drug Abuse Prevention Act of 1988".

SEC. 2. NATIONAL POLICY.

The Congress hereby declares it to be the national policy of the United States to eliminate the threat to railroad transportation safety posed by drug and alcohol use.

SEC. 3. DRUG AND ALCOHOL TESTING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall, in the interest of railroad safety and the protection of the privacy of railroad employees, issue regulations within 90 days after the date of the enactment of this subsection to establish a program which requires rail carriers, at the carriers' expense, to conduct testing—

"(A) of employees holding jobs covered by the Act of March 4, 1907, commonly referred to as the Hours of Service Act, and employees holding other positions the Secretary determines to be safety-sensitive (including supervisory and management positions) whose performance can directly and immediately cause serious physical injury, for impairment by alcohol or for the unlawful use of a controlled substance; and

"(B) of applicants for such jobs and positions, and applicants for reinstatement or return from furlough with respect to such jobs and positions, for impairment by alcohol or for the unlawful use of a controlled substance.

"(2) Regulations issued under this subsection shall provide that testing of applicants and employees shall be required in the following circumstances:

"(A) Applicants shall be tested prior to employment as part of a pre-employment screening process.

"(B) Employees shall be tested—

"(i) on a random, nondiscriminatory basis;

"(ii) as part of all employer-required physical examinations for individuals out of service more than 90 days;

"(iii) as part of scheduled, routine employer-required physical examinations for a primary purpose other than drug or alcohol testing, but not more frequently than annually, and only upon reasonable notice in accordance with regulations issued by the Secretary to assure that all employees are treated on a uniform and nondiscriminatory basis;

"(iv) upon return from illness or injury which requires an absence of more than 30 days;

"(v) immediately following a railroad accident or incident involving loss of human life, serious bodily injury requiring medical attention, or property damage in excess of $50,000 in value (except for a grade crossing or trespassing accident which does not involve a violation of an operating rule of a railroad), if the employee is a part of the crew of a train involved in the accident or incident or may otherwise be involved and there is a reasonable basis to believe the employee may bear some responsibility for the accident or incident;

"(vi) when prescribed as part of a rehabilitation program; and

"(vii) following successful completion of a rehabilitation program, as required in paragraph (4).

"(C) Employees whose job performance the employer reasonably and in good faith suspects is being or is about to be impaired by the influence of alcohol or a controlled substance shall be tested immediately. For purposes of this subparagraph, reasonable suspicion must be based on specific personal observations that at least two supervisory employees can articulate in writing concerning the appearance, speech, behavior, or body odors of the employee. At least one such supervisory employee must have at least 8 hours of training in the recognition of drug and alcohol impairment in accordance with training standards established by the Secretary. For purposes of this subparagraph, the following violations of a major operating rule of a railroad shall constitute grounds for reasonable suspicion:

"(i) Occupancy of a block or other segment of track to which entry was not authorized.

"(ii) Failure to clear a track to permit opposing or following movement to pass.

"(iii) Moving across a railroad crossing at grade without authorization.

"(iv) Passing an absolute restrictive signal or passing a restrictive signal without stopping (if required).

"(v) Failure to protect a train as required by a rule consistent with regulations issued by the Secretary.

"(vi) Operation of a train at a speed that exceeds the maximum authorized speed by at least 10 miles per hour or by 50 percent of such maximum authorized speed, whichever is less.

"(vii) Alignment of a switch in violation of a railroad rule or operation of a switch under a train.

"(viii) Failure to apply or stop short of derail as required.

"(ix) Failure to secure a hand brake of failure to secure sufficient hand brakes.

"(x) In the case of a person performing a dispatching function of block operator function, issuance of a train order or establishment of a route that fails to provide proper protection for a train.

No employee or job applicant, whether or not described in paragraph (1), shall be required to undergo drug and alcohol testing except in accordance with the procedures provided in this subsection. Drug and alcohol testing of an employee described in paragraph (1) may be carried out only as provided in this subsection.

"(3) In issuing the regulations required under this subsection, the Secretary, after consultation with the Secretary of Health and Human Services, shall provide—

"(A) that each employer shall notify all employees and applicants covered by this subsection of—

"(i) the employer's policy on the use of alcohol and controlled substances;

"(ii) the rights and obligations of the employer, employee, and applicant under this subsection and regulations issued under this subsection;

"(iii) the procedures used by the employer in conducting tests (including the manner in which notice will be provided, the amount of time between notice and testing, the types of tests used, the substances being tested for, the chain of custody the sample will pass through, and the identity of the laboratory used to perform the test);

"(iv) the quantified level of alcohol which constitutes impairment, and the quantified level of controlled substances which constitutes a positive finding, such levels to be established by the Secretary;

"(v) the right of the employee or applicant to challenge the accuracy of test results;

"(vi) notice of sanctions associated with positive tests; and

"(vii) rights to rehabilitation and the identity of personnel an employee may contact to obtain rehabilitative help in resolving a problem with the use of alcohol or a controlled substance;

"(B) that whenever an employer is required by this paragraph to act in accordance with the mandatory guidelines for Federal workplace drug testing programs promulgated on April 11, 1988, by the Alcohol, Drug Abuse, and Mental Health Administration (53 Fed. Reg. 11970) (hereafter in this subsection referred to as the 'ADAMHA guidelines') the employer shall be treated as though it were an agency under such guidelines;

"(C) that each employer shall be required to employ or retain a qualified licensed physician to serve as a medical review officer as required by the ADAMHA guidelines;

"(D) that each employer shall afford the employees and applicants being tested the opportunity to inform the medical review officer of any medication or other legal substance the employee or applicant is using or has used, ingested, or been exposed to, or any medical condition, that might affect the outcome of the test;

"(E) that each employer shall assure that urine samples are collected in accordance with the ADAMHA guidelines and are analyzed by a medical laboratory meeting the requirements of subparagraph (K), and shall compensate the employee for any time lost and for reasonable travel expenses in order to provide the specimen;

"(F) that time lost in order to provide a urine, breath, or other sample required by regulations issued under this subsection shall not be counted as time off duty or time on duty for purposes of the Hours of Service Act;

"(G) that each employer shall assure that an unbroken chain of custody sufficient to protect the sample from tampering and to verify the identity of each sample and test result is maintained for specimen samples and that each sample is kept in a separate container for confirmation and retesting;

"(H) that any positive initial test shall be confirmed by the most scientifically reliable test available, as prescribed by the ADAMHA guidelines;

"(I) that the medical review officer of each employer shall interpret and verify each confirmed positive test result as prescribed by the ADAMHA guidelines, discounting for any medication, substances, or medical condition disclosed under subparagraph (D) and any chemical or other substances to which the applicant or employee is or has been exposed, with any doubt as to the outcome resolved in favor of a negative finding;

"(J) that the medical review officer of each employer shall notify each applicant or employee who is tested of the results of the test within five working days after the medical review officer receives, interprets, and verifies such results, and shall furnish the applicant or employee an explanation of the results and notice of the availability of the independent reconfirmation test procedures provided by subparagraphs (O) and (P);

"(K) that each employer shall retain an independent laboratory, not affiliated directly or indirectly with any rail carrier, which shall be certified by the Secretary of Health and Human Services under subpart C of the ADAMHA guidelines for the performance of all initial urine tests and confirmation tests; and which shall be requried to comply with subpart B of the ADAMHA guidelines, except that notwithstanding the quality assurance and quality control provisions in section 2.5 and subpart C of the ADAMHA guidelines, the Secretary shall not permit any laboratory to continue to perform tests for purposes of this subsection which has incorrectly reported the presence of a controlled substance in any blank sample submitted to it in external blind proficiency testing during any 90-day period referred to in the ADAMHA guidelines;

"(L) that following each quarterly blind proficiency test described in subparagraph (k), each employer shall provide a report to the Secretary of any false positive result referred to in subparagraph (k), which shall be reviewed by the Secretary for purposes of disqualification of the laboratory under such subparagraph;

"(M) that each employer shall assure that any sample which produces a positive result in a confirmation test is retained by the medical laboratory in properly secured long-term frozen storage for at least 365 days;

"(N) that is the case of a laboratory disqualified under subparagraph (k), each of the tests performed by such laboratory within the 90 days perceding the false positive result which formed the basis for disqualification shall be reanalyzed as though it were an untested sample;

"(O) that each employer shall afford an applicant or employee whose confirmation test results are positive the opportunity to have a portion of the sample assayed by a confirmation test done independently, at the applicant's or employee's expense (subject to reimbursement by the employer if the results are negative) at a laboratory meeting the requirements of subparagraph (k) if the applicant or employee requests the independent test within 30 days of being advised of the results of the confirmation test;

"(P) that in the event of a discrepancy between the test results of the railroad's laboratory and the laboratory chosen by the applicant or employee, the sample shall be retested at a third qualified laboratory selected by the applicant or employee, at the employer's expense, and that finding shall be conclusive;

"(Q) that each laboratory shall, unless the applicant or employee provides written consent or unless the laboratory receives valid compulsory process, assure that the results of the test are kept confidential from all persons (other than the applicant or employee) except that the laboratory may so notify the medical review officer of the employer of any test result other than an unconfirmed positive test for controlled substances;

"(R) that each medical review officer shall, unless the applicant or employee provides written consent or unless the medical review officer receives valid compulsory process, assure that the results of the test and any information disclosed under subparagraph (D) are kept confidential from all persons, other than the applicant or employee, except that such officer may notify those supervisory or managerial personnel of the employer who have a compelling need for the information to carry out the employer's policies, and the medical personnel in any rehabilitiation program in which the applicant or employee is enrolled;

"(S) that the personnel to whom the results of a test are reported under subparagraph (R) shall, unless the applicant or employee provides written consent or unless the employer receives valid compulsory process, keep the results of the test confidential from all persons (other than the applicant or employee);

"(T) that each employer shall provide an applicant or employee, or the employee's exclusive representative who is processing a grievance on behalf of the employee, the right to receive upon request, at no charge, within five working days, copies of all documents held by the employer or employer's agent (including the laboratory conducting the test) relating to the testing of the individual for the prohibited use by the individual of alcohol or controlled substances;

"(U) that the provisions of subparagraphs (Q), (R), and (S) requiring the confidentiality of test results shall not apply to confirmed positive test results for employees tested pursuant to paragraph (2)(B)(v), to the extent such test results are required for use by the Secretary, other Federal agencies, and law enforcement agencies in official investigations and reports;

"(V) that employees tested under paragraph (2) (B)(v) or (C) shall be suspended from duty with pay until the results of a test performed under regulations issued under this subsection are received; and that any employee discharged from employment or suspended without pay following a confirmed positive test shall be reinstated with back pay if a retest is made under subparagraph (P) and the result of such retest is negative;

"(W) that no employee shall be tested for alcohol or drugs under paragraph (2) (B)(v) or (C) after eight hours have passed from the triggering event; and

"(X) that any employee required to provide a urine sample under paragraphs (2) (B)(v) or (C) shall be afforded the opportunity to provide, in addition, a blood sample for testing, which shall be considered by the employer's medical review officer under subparagraph (I), together with all other available information.

"(4)(A) Regulations issued under this subsection shall further provide that each rail carrier shall establish and maintain a rehabilitation program which is approved by the Secretary and at a minimum provides for the identification and opportunity for treatment of employees described in paragraph (1)(A).

"(B) Any employee who voluntarily enters such a rehabilitation program within one year after the date of the enactment of this subsection due to drug or alcohol dependence shall be removed from any safety sensitive position. Such an employee shall continue to receive pay if he accepts and performs alternative duties which do not conflict with any applicable collective bargaining agreement, or if he is precluded from performing such duties by the requirements of the rehabilitation program. An employee shall not be considered to have acted voluntarily under this paragraph if such employee enters a rehabilitation program after receiving notification that he will be tested or the occurrence of an event giving rise to such testing, whichever occurs first, and before the results of such test are verified by the medical review officer under paragraph (3)(I).

"(C) Any employee for whom a test conducted and confirmed under this subsection, or under regulations issued under this subsection, establishes that the employee has used alcohol or a controlled substance in violation of the rules of the rail carrier shall be suspended from duty without pay and referred to the rehabilitation program.

"(D) Such regulations shall provide that any employee referred to a rehabilitation program who fails to successfully complete the program or who tests positive following successful completion of the program shall be discharged from employment. Such regulations shall provide that an employee shall be subject to drug and alcohol testing as frequently as daily for 3 years following the successful completion of a rehabilitation program. Such regulations shall provide that a rail carrier may also make such program available to its employees not referred to in paragraph (1)(A).

"(E) Nothing in this paragraph shall preclude any rail carrier from establishing a program under this paragraph in cooperation with any other rail carrier. Nothing in this subsection shall supersede the provisions of any collectively bargained or company provided rehabilitation program which does not conflict with the requirements of this subsection, and which meets or exceeds the minimum requirements imposed by the Secretary in regulations issued under this subsection.

"(5) A person—

"(A) other than the applicant or employee being tested, who, other than as specifically provided by this subsection, discloses the results of a test performed under this subsection;

"(B) who alters the results of any alcohol or controlled substance testing performed under this subsection or who falsely reports such results;

"(C) who performs or causes to be performed on a specimen taken pursuant to this subsection a test for any substance, drug, or medical condition other than alcohol or a controlled substance as provided in this subsection;

"(D) who is an employer and who disciplines, discharges, or discriminates against an employee on the basis of a positive result that has not been verified by a confirmatory test performed in accordance with this subsection;

"(E) who is an employer and who disciplines, discharges, or discriminates against an employee on the basis of a positive result that has been verified by a confirmatory test performed in accordance with this subsection, unless the employee (i) refuses to undertake or fails to complete a rehabilitation program described in paragraph (4), or (ii) has undertaken or completed such rehabilitation program;

"(F) who is an employee who attempts to avoid or avoids being tested pursuant to this subsection, including by leaving the scene of an accident or by leaving his or her appropriate place of duty, without proper authorization, unless injury or other urgent circumstances so warrant; or

"(G) who is an employer who fails to administer the drug and alcohol testing as prescribed by this subsection.

shall be subject to penalties as provided in paragraph (6).

"(6) A person who violates paragraph (5) shall be subject to one or more of the following sanctions:

"(A) Assessment by the Secretary of a civil penalty of not less than $1,000 nor more than $10,000.

"(B) Where the violation is committed knowingly, imprisonment for not more than 3 years, or a fine under title 18, United States Code, or both.

"(7) An applicant or employee who is tested or whose test results are handled in violation of, or is deprived of rights under, this subsection may institute a civil action in any Federal district court of competent jurisdiction for appropriate legal and equitable relief. The costs of suit, including a reasonable attorney's fee, shall be allowed to the prevailing party in the manner in which attorney's fees are allowed under the last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988). It shall not be a defense to such an action that the employee has waived the rights provided for in this subsection, except as provided in paragraph (3) (Q), (R), and (S), or has otherwise consented to a violation of this subsection, or that the defendant acted in good faith. No action may be instituted under this paragraph after the expiration of two years from the date the applicant or employee discovers the violation or deprivation.

"(8) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with this subsection, except that this subsection shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to employees of a rail carrier or to the general public.

"(9) For the purposes of this subsection, the term 'controlled substance' means any substance defined as such under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.

"(10) If any provision of this subsection, or the application of that provision to any person or circumstance, is held invalid, the remainder of this subsection shall be considered valid.

"(11) Nothing in this subsection limits the authority of the Secretary to impose sanctions otherwise authorized under this Act.

"(12) Nothing in this subsection affects the authority of a rail carrier to suspend, discipline, or discharge an employee for reasons other than the use of alcohol or a controlled substance in violation of the rules of the rail carrier.".

SEC. 4. REPORTS.

The Secretary of Transportation shall require each rail carrier performing testing under section 202(1) of the Federal Railroad Safety Act of 1970 to report annually to the Secretary on their drug and alcohol testing programs. Each such report shall include, at a minimum, for the 12-month reporting period—

(1) the number and kinds of tests performed;

(2) the number of positive results;

(3) the number of challenged tests and the outcome of the challenges;

(4) the number of employes who voluntarily and involuntarily entered the rail carrier's rehabilitation program;

(5) the number of employees successfully tested in the rail carrier's rehabilitation program and returned to service;

(6) the number of employees dismissed or otherwise disciplined as a result of testing;

(7) the average length of time spent in rehabilitation and a statement of the range of lengths of time and the general distribution within such range; and

(8) the cost to the rail carrier of administering each category of testing and of providing a rehabilitation program.

The Secretary shall submit to the Congress an annual report compiling and analyzing information received under this section.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] is recognized to explain his request.

Mr. THOMAS A. LUKEN. Mr. Speaker, the bill, H.R. 4748, as amended, was passed by the House this past Tuesday, under suspension. However, it was later discovered that a clerical error had been made in the official copy of the bill, and certain changes which had been agreed to by the majority and the minority had not been included.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MINING AND MINERAL RESOURCES RESEARCH INSTITUTE ACT

Mr. RAHALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3977) to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

House amendment to the Senate amendment: Strike the Senate amendment to the text of the House bill and insert:

SECTION 1. REFERENCES.

Any reference in this Act to the "Mining and Mineral Resources Research Institute Act of 1984" is a reference to the Act of August 29, 1984, entitled "To establish a State Mining and Mineral Resources Research Institute program, and for other purposes." (30 U.S.C. 1221 through 1230)

SEC. 2. ALLOTMENT GRANTS AUTHORIZATION PERIOD; LIMITATION.

Section 1(a)(1) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(a)(1)) is amended by striking "$300,000 for the fiscal year ending September 30, 1985, and $400,000 to each participating State for each fiscal year thereafter for a total of five years" and inserting in lieu thereof the following: "$400,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994".

SEC. 3. MATCHING FUNDS REQUIREMENTS.

Section 1(a)(2)(A) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(a)(2)(A) is amended to read as follows:

"(A) Funds appropriated under this section shall be made available for grants to be matched on a basis of no less than 2 non-Federal dollars for each Federal dollar.".

SEC. 4. RESEARCH SUBJECT.

The second sentence of section 1(b) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(b)) is amended by inserting "fuel and nonfuel" immediately after "production of".

SEC. 5. RESEARCH GRANTS AUTHORIZATION PERIOD.

Section 2(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1222(a)) is amended as follows:

(1) The first sentence is amended to read as follows: "There is authorized to be appropriated to the Secretary not more than $15,000,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, which shall remain available until expended.".

(2) The second sentence is deleted.

(3) In the third sentence, strike "institutes" and insert "an institute or to institutes participating in a generic mineral technology center".

SEC. 6. ADMINISTRATION.

The first sentence of section 4(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1224(a)) is amended by inserting ", acting through the Director of the Bureau of Mines," immediately after "The Secretary".

SEC. 7. ADMINISTRATIVE EXPENSES.

Section 6(d) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1226(d)) is amended to read as follows:

"(d)(1) There is authorized to be appropriated to the Secretary $450,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, to administer this Act. No funds may be withheld by the Secretary for administrative expenses from those authorized to be appropriated by sections 1 and 2 of this Act.

"(2) There are authorized to be appropriated to the Secretary such sums as are necessary for the printing and publishing of the results of activities carried out by institutes and generic mineral technology centers under this Act, but such appropriations shall not exceed $550,000 in any single fiscal year.".

SEC. 8. ADVISORY COMMITTEE.

Section 9(a)(7) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229(a)(7)) is amended by striking "six" in the first and last sentences and inserting in lieu thereof "7", and by striking "section 301 of the Surface Mining Control and Reclamation Act of 1977, two" and inserting in lieu thereof "this Act, 3".

SEC. 9. PLAN UPDATE.

Section 9(e) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229(e)) is amended by striking "update the plan annually thereafter" in the second sentence and inserting in lieu thereof "submit an annual update of such plan by January 15 of each calendar year".

SEC. 10. ELIGIBILITY.

Section 10(b) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1230(b)) is amended to read as follows:

"(b)(1) Notwithstanding the provisions of subsection (a), those colleges or universities which, on the date of enactment of the Mining and Mineral Resources Research Institute Amendments of 1988, have a mining or mineral resources research institute program which has been found to be eligible pursuant to this Act shall continue to be eligible subject to review at least once during the period authorized by the Mining and Mineral Resources Research Institute Amendments of 1988, under the provisions of subsection (a). The results of such review shall be submitted by January 15, 1992, pursuant to section 11(a)(2) of the Mining and Mineral Resources Research Institute Amendments of 1988.

"(2) Generic mineral technology centers established by the Secretary under this Act are to be composed of institutes eligible pursuant to subsection (a). Existing generic mineral technology centers shall continue to be eligible under this Act subject to at least one review prior to January 15, 1992, pursuant to section 11(a)(3) of the Mining and Mineral Resources Research Institute Amendments of 1988.".

SEC. 11. REPORTS.

(a) REPORT ON PROGRAMS.—The Committee on Mining and Mineral Resources Research established under section 9 of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229) shall submit a report by January 15, 1992, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and National Resources of the United States Senate on the programs established under that Act. Such report may be submitted in conjunction with the annual plan update required by section 9(e) of such Act (30 U.S.C. 1229(e)) and shall include, but not necessarily be limited to, each of the following:

(1) A review of the activities of the institutes and generic mineral technology centers established under the Mining and Mineral Resources Research Institute Act of 1984.

(2) A review of each institute's eligibility pursuant to section 10 of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1230).

(3) A review of each generic mineral technology center's eligibility. In conducting such review the committee shall consider the following criteria:

(A) Relevance and effectiveness of the research conducted.

(B) Need for further research in the generic area.

(4) Recommendations on establishing a mechanism by which new generic mineral technology centers can be established and existing centers can be phased-out or consolidated upon the completion of their mission.

(b) REPORT ON PROPOSAL FOR CENTER.—The committee shall submit a proposal to establish a Generic Mineral Technology Center on Strategic and Critical Minerals to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate by January 15, 1990.

SEC. 12. SHORT TITLE OF ACT.

Mining and Mineral Resources Research Institute Act of 1984 is amended by inserting the following new section after section 10:

"SEC. 11. SHORT TITLE OF ACT.

"This Act may be cited as the Mining and Mineral Resources Research Institute Act of 1984.".

SEC. 13. SHORT TITLE OF AMENDMENTS.

This Act may be cited as the Mining and Mineral Resources Research Institute Amendments of 1988.

Mr. RAHALL (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. CRAIG. Reserving the right to object, Mr. Speaker, I yield to the gentleman from West Virginia to explain what is involved in this measure.

Mr. RAHALL. Mr. Speaker, as the ranking minority member is aware, this legislation would reauthorize the Mining and Mineral Resources Research Institute Act which expires at the end of fiscal year 1989.

The act authorizes an allotment grant program which provides support to Mineral Institutes located at 32 colleges and universities throughout the Nation.

In addition, it authorizes a research grant program to support the work of a number of generic mineral technology centers. These centers are comprised of university consortia which pool their resources in a specific area of research.

The House passed this legislation on May 23 of this year. The Senate made some modifications and sent it back to us on August 11.

We have negotiated the differences and the amendment before us has been agreed to by all interested parties.

There are three basic differences this amendment would make to the original House passed bill.

The amendment adopts the Senate's 5-year reauthorization period.

It also deletes one of the reporting requirements the Advisory Committee would have to make to the Congress.

Finally, it contains language that would require the Advisory Committee to review the eligibility of the generic centers at least once during the reauthorization period.

In all other respects, the House position has been maintained. I would add that the gentleman from Idaho's input into this legislation has been of great value and I thank him.

Mr. CRAIG. Mr. Speaker, I thank my colleague, and continuing my reservation, I rise in support of the House amendment to the Senate amendments to H.R. 3977, a bill to reauthorize the Mining and Mineral Resources Research Institutes.

I wish to thank the chairman of the Mining and Natural Resources Subcommittee for his leadership on this piece of legislation that is so important in assuring that the mineral resources of our country remain a strong part of the Nation's economy.

The provisions in this bill will allow technology and training in the area of mining resources to move into the 21st century and the United States to remain a leader in the area of mineral use.

I urge support of H.R. 3977, as amended.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the amendment just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AUTHORIZING PRINTING OF A HISTORY OF THE COMMITTEE ON WAYS AND MEANS

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 350) authorizing the printing of a history of the Committee on Ways and Means, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Tennessee to explain the resolution.

Mr. JONES of Tennessee. Mr. Speaker, I thank my colleague for yielding. This resolution authorizes the printing of a history of the Committtee on Ways and Means, which will celebrate the 100th anniversary of its creation of July 24, 1989. If the gentleman will withdraw his reservation, I have an amendment at the desk which makes no substantial changes to the resolution. The amendment simply makes some technical and grammatical changes.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I agree with the gentleman's explanation. I support his amendment and ultimate passage, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 350

Resolved by the House of Representatives (the Senate concurring), That there shall be printed, for the use of the Committee on Ways and Means of the House of Representatives, 7,500 copies of a history of the Committee on Ways and Means which shall be prepared under the supervision of the Committee on Ways and Means. Such history shall be printed with illustrations and suitable binding.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JONES of Tennesee: Strike out all after the resolving clause and insert in lieu thereof the following:

That a bicentennial history of the Committee on Ways and Means of the House of Representatives, commemorating the creation of that committee on July 24, 1789, shall be printed as a House document, with illustrations and suitable binding. The document shall be prepared under the supervision of the Committee on Ways and Means.

SEC. 2. In addition to the usual number, 7,500 copies of the document, of which 1,500 copies shall be casebound, shall be printed for the use of the Committee on Ways and Means.

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Mr. JONES of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Tennessee [Mr. JONES].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING A REVISED EDITION OF "OUR FLAG"

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 361) to print a revised edition of "Our Flag," and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentleman from Tennessee [Mr. JONES].

Mr. JONES of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

This resolution authorizes the printing of a revised edition of the booklet "Our Flag."

If the gentleman will withdraw his reservation, I also have an amendment to this resolution which has no substantial changes. It simply makes technical and grammatical corrections.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, no Member in his right mind would object to the printing of the booklet "Our Flag," and we are not intending to embarrass any other candidate by the printing of this, and I support the amendment which the gentleman will shortly offer. I support the passage of the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 361

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document a revised edition of "Our Flag", revised under the direction of the Joint Committee on Printing.

SEC. 2. In addition to the usual number of copies, there shall be printed two hundred and seventy-eight thousand additional copies, of which two hundred and twenty-one thousand five hundred copies shall be for the use of the House of Representatives, fifty-one thousand five hundred copies shall be for the use of the Senate, and five thousand copies shall be for the use of the Joint Committee on Printing.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JONES of Tennessee: Strike out all after the resolving clause and insert in lieu thereof the following:

That the booklet entitled "Our Flag", as revised under the direction of the Joint Committee on Printing, shall be printed as a House document. In addition to the usual number, 278,000 copies of the document shall be printed, of which 221,500 copies shall be for the use of the House of Representatives, 51,500 copies shall be for the use of the Senate, and 5,000 copies shall be for the use of the Joint Committee on Printing.

Mr. JONES of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Tennessee [Mr. JONES].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

TITLE AMENDMENT OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. JONES of Tennessee: Amend the title so as to read: "Concurrent resolution authorizing the printing of the booklet entitled 'Our Flag'."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF BOOKLET ENTITLED "BLACK AMERICANS IN CONGRESS"

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 367) authorizing printing of the booklet entitled "Black Americans in Congress," and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentleman from Tennessee [Mr. Jones].

Mr. JONES of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

This resolution authorizes the printing of the booklet entitled "Black Americans in Congress."

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 367

Resolved by the House of Representatives (the Senate concurring), That the booklet entitled "Black Americans in Congress" (as revised by the Office for the Bicentennial of the House of Representatives) shall be printed as a House document, with illustrations and suitable binding. In addition to the usual number, five thousand copies of such booklet shall be printed for the use of the Office for the Bicentennial of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF BOOKLET ENTITLED "WOMEN IN CONGRESS"

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 368) authorizing printing of the booklet entitled "Women in Congress," and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentleman from Tennessee [Mr. Jones].

Mr. JONES of Tennessee. Mr. Speaker, I thank my distinguished friend, the gentleman from Minnesota [Mr. Frenzel] for yielding.

Mr. Speaker, this resolution authorizes the printing of the booklet entitled "Women in Congress."

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the minority supports the motion and hopes that it will be promptly passed.

Mr. Speaker, I personally connot let this moment go by without reminding this body that this may be the last printing resolution brought to us by the distinguished subcommittee chairman, the gentleman from Tennessee [Mr. Jones], who will be retiring this year after a number of years of distinguished service in this body.

Those of us who have served with him are more aware of his dedicated commitment and service and of his abilities than perhaps those who only see what he does from afar. At this point I would like to express my gratitude to him for his wonderful service, for his many courtesies to me and for being an excellent subcommittee chairman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 368

Resolved by the House of Representatives (the Senate concurring), That the booklet entitled "Women in Congress" (prepared by the Office for the Bicentennial of the House of Representatives) shall be printed as a House document, with illustrations and suitable binding. In addition to the usual number, five thousand copies of such booklet shall be printed for the use of the Office for the Bicentennial of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF ROTUNDA OF U.S. CAPITOL ON JANUARY 20, 1989, IN CONNECTION WITH INAUGURATION CEREMONIES

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 141) authorizing the rotunda of the U.S. Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, Senate Concurrent Resolution 141 authorizes the use of the rotunda of the U.S. Capitol on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and Vice President-elect of the United States of America. This resolution will ensure that in case of emergency or inclement weather, as was the case in the last inauguration, on Inauguration Day, the rotunda of the Capitol would be available for the swearing-in of the President-elect and the Vice President-elect.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the minority does not intend to invite Hurricane Gilbert or King Boreas to the next inauguaration, but we realize that one or the other may appear.

We support the passage of the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 141

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1989, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING INDIAN AMERICAN FORUM FOR POLITICAL EDUCATION TO ESTABLISH A MEMORIAL TO MAHATMA GANDHI

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3455) to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 3455 was originally introduced by my colleague, the gentleman from California [Mr. Dymally].

Mr. Speaker, H.R. 3455, as amended in the nature of a substitute, authorizes the Indian American Forum for

Political Education to establish a memorial on Federal land in the District of Columbia or its environs to honor Mahatma Gandhi.

Forty years after his tragic death, people around the globe continue to be inspired by Gandhi's use of nonviolent means to achieve peace and justice. His own teachings and beliefs remain universal symbols of dignity, compassion, justice, and peace for people from all walks of life and every ethnic background. The civil rights movement of the 1960's, headed by Dr. Martin Luther King, used nonviolence as its motivating force.

Congress has recognized Gandhi's contributions in the past. In 1949, a memorial to Mahatma Gandhi was authorized by the 81st Congress. However, sufficient funds were not raised for the memorial and the authorization lapsed.

Mr. Speaker, the amendment in the nature of a substitute makes it clear that this memorial will be established in full compliance with the Commemorative Works Act. The United States will not pay any expense for the establishment of this memorial.

I would like to commend my colleague from California, MERVYN DYMALLY, for introducing this legislation.

Mr. DYMALLY. Mr. Speaker, I would like to extend my warmest appreciation for the gentlelady from Ohio, chairwoman of the Subcommittee on Libraries and Memorials for her diligent work on H.R. 3455, a most important and symbolic bill which seeks to reauthorize the establishment of a memorial to Mohandas Gandhi in the District of Columbia. As you know, a previous authorization had been agreed to by the 81st Congress, back in 1949. At that time, the relatively new Indian-American community was unable to raise funds for the statue's construction prior to the expiration of that authorization. On this occasion, Congress seeks to reinvest the responsibility of building the memorial to the Indian American Forum for Political Education, a tax-exempt national organization founded for the sole purpose of assisting American citizens and residents of Asian-Indian origin in understanding our political process. In addition to this, the forum is committed to raising the necessary private funds for building the memorial so that no expense will be incurred by U.S. taxpayers. Mr. Speaker, at the time when Congress decided to send a powerful message in support of Mahatma Gandhi and his renowned pacifism, by authorizing the statue back in 1949, the Indian-American community numbered less than 10,000. Since then, the Indian-American community has grown to a considerable size estimated at over 600,000 people.

Although Gandhi was not a native American, his legacy and contribution to world peace, has touched upon the lives of many groups. Perhaps, the most compelling replica of those who adopted the ideals and principles of nonviolence during periods of great social change occurred during the civil rights movement and antiwar demonstrations in the United States. As George C. Marshall once said, "Mahatma Gandhi was a spokesman for the conscience of all mankind." Indeed, he is a major figure symbolizing peace in this century and rightly so deserves a memorial, both for his ideas of nonviolence and for his courageous translation of these ideas into action. Gandhi was deeply inspired by Henry David Thoreau's "Civil Disobedience," the Bible, specifically the Sermon on the Mount, and the works of Ralph Waldo Emerson. These provided the basis of Gandhi's philosophy on nonviolence. As I pointed out earlier, Gandhi's legacy influenced us during the sixties in the peaceful execution of a powerful civil rights movement. As Martin Luther King, Jr., so aptly said, ". . . if humanity is to progress, Gandhi is inescapable. We may ignore him at our own risk."

Mr. Speaker, as you can see from the long list of cosponsors of this bill, this is an issue that enjoys bipartisan support in Congress and public interest throughout the United States. Mr. Speaker, I would like to end by saying that the Gandhi memorial is very important to our children and future generations in understanding and appreciating the great legacy of this man. At a time when ethnic strife is rampant in many parts of the world, and nations continue to spend significant amounts of their wealth on armaments, the preservation of Gandhi's spirit and message has become a mandate of the people and continues to be of utmost importance to those who choose peace over violence.

In conclusion, I quote Dr. Martin Luther King:

> After reading Rauschenbusch I turned to a serious study of the social and ethical theories of the great philosophers. During this period I had almost desparied of the power of love in solving social problems. The "turn the other cheek" philosophy and the "love your enemies" philosphy are only valid, I felt, when individuals are in conflict with other individuals; when racial groups and nations are in conflict a more realistic approach is necessary. Then I came upon the life and teachings of Mahatma Gandhi. As I read his works I became deeply fascinated by his campaigns of nonviolent resistance. The whole Gandhian concept of satyagraha (saya is truth which equals love, and graha is force; satyagraha thus means truth-force or love-force) was profoundly significant to me. As I delved deeper into the philosophy of Gandhi my skepticism concerning the power of love gradually diminished, and I came to see for the first time that the Christian doctrine of love operating through the Gandhian method of nonviolence was one of the most potent weapons available to oppressed people in their struggle for freedom. At this time, however, I had a merely intellectual understanding and appreciation of the position, with no firm determination to organize it in a socially effective situation.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the minority, not wanting to be left out in the pursuit of peace, hope, and justice, applauds the bill and hopes that it is promptly passed.

Mr. Speaker, further reserving the right to object, I yield to the ranking member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I offer my strong support for the bill before us. As an original cosponsor of H.R. 3455, I believe we have a great opportunity to commemorate a man whose life continues to inspire people around the world. This bill would also show the growing Indian community in the United States that 20th-century America can remain true to the ideas and ideals of its European settlers, and at the same time be receptive to the people and traditions of the world's other great cultures.

Mahatma Gandhi's ideas and passions grew out of his upbringing in India, but they also resonate around the world. He was one of the two or three most powerful figures of the 20th century. His power rested not on his ability to lead great armies or build great enterprises, but on his personal probity, his moral vision, and his dedicated and active patriotism. He was a man who put his entire life, mind, and soul, at the service of his ideals—and at the service of mankind.

Americans should be proud to have this opportunity to commemorate his life and achievements. I am sure that those most appreciative of this commemoration will be the small but active Indian community in the United States. There are only 600,000 Indians in this country today. But many of them are highly skilled professionals—doctors, teachers and scientific researchers. Indians are few in number here, but they are great in the impact they are having on America's future.

Every time I visit a college or university campus I never fail to be impressed with how many Indians are represented on the faculty and student body, all of them contributing to the intellectual life of America and the world.

This official commemoration has its strongest advocates among Gandhi's admirers in the Indian-American community, particularly the Indian American Forum for Political Education. But Americans of all backgrounds should be appreciative as well. I'd like to think that Gandhi's life of moral integrity, of tolerance and concern for all men and women is a legacy that will speak to all mankind through all generations.

Mr. ROE. Mr. Speaker, I rise today to add my voice to the voices of my colleagues who are strong supporters of H.R. 3455, legislation to authorize the Indian American Forum for Political Education to establish a memorial on Federal land in the District of Columbia or its environs to honor Mahatma Gandhi.

Mr. Speaker, I am among those cosponsoring this important legislation because I believe it is important that we have an everlasting reminder of Gandhi the man, his historic accomplishments, and the peaceful means he used to achieve those historic accomplishments. At a time when we are living in an especially turbulent world fraught with violence, this memorial will be an extremely important reminder to nations around the globe of how much can be accomplished through peace instead of war, through respect for life and human dignity instead of bloodletting.

It was the example set by Mahatma Gandhi which formed the groundwork for the American civil rights movement, and which can now send a message everywhere that there are viable alternatives to violence available to nations worldwide as they seek to fulfill their own destinies and move toward their own self-determination.

Toward this end, I offer my strongest support to H.R. 3455, and urge my colleagues to do the same.

Mr. MFUME. Mr. Speaker, I rise to give my unequivocal support for H.R. 3455, a bill to establish a memorial to Mohandas K. Ghandi in the District of Columbia. Mahatma, or "Great Soul," is the name that was duly bestowed upon Mohandas K. Ghandi for his selfless dedication to the Indian people, international peace and all of humankind.

The entire free world is greatly indebted to this man, whom I believe to be the father of modern day pacifism. Mahatma Ghandi's epic nonviolent struggle showed the world that faith, hope, and love can surely topple colonial oppression and exploitation.

Mahatma Ghandi's civil disobedience philosophy was deeply inspired by the works of Henry David Thoreau and Ralph Waldo Emerson. Ghandi's personal conviction to Hindu spiritualism and his belief in the power of absolute truth, galvanized the masses of the Indian population in South Africa and in India to adopt the Mahatma's peaceful technique of satyagraha, which enabled the people to hold on to their principles of freedom, and refrain from violent reactionary encounters with the repressive authorities.

Mr. Speaker, Mahatma Ghandi's nonviolent philosophy for social change had a monumental effect on America's civil rights movement of the 1950's and 1960's. The Reverend Dr. Martin Luther King, Jr., fashioned his nonviolent campaign on the model provided to him by Mahatma Ghandi. Dr. King and the many courageous civil rights leaders, forced the defiant South to fulfill its obligation to all of America's citizens regardless of their race, religion, creed, national origin, sex, or color.

During this difficult period the United States and the rest of the world looked on in horror as the civil rights demonstrators were beaten with clubs, attacked by dogs, and doused with fire hoses, without ever returning a single retaliatory blow in anger. African-Americans, Jewish-Americans, and other freedom loving Americans showed this Nation that a society's attitude and anger can be changed and subdued via nonviolent means.

In closing, Mr. Speaker, the world is indeed a better place because one man decided to take a principled and moral stance against thuggery and brutality, and chose to lead his people and all of mankind down a disciplined road toward reconciliation and peace.

As Dr. King himself said of Mr. Ghandi, "If humanity is to progress, Ghandi is inescapable—we may ignore him at our own risk."

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3455

Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) In General.—

(1) Subject to subsection (b), the Indian American Forum for Political Education is authorized to establish a memorial to Mahatma Gandhi in the District of Columbia and its environs in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001, et. seq.).

(2) For purposes of paragraph (1), the term 'the District of Columbia and its environs' has the meaning given to such term by section 2(e) of such Act.

(b) No Expense to the United States.—The United States shall not pay any expense of the establishment of the memorial under subsection (a).

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee Amendment in the nature of a substitute: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ESTABLISHMENT OF MEMORIAL.

(a) In General.—The Indian American Forum for Political Education is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor Mahatma Gandhi.

(b) Compliance With Standards for Commemorative Works.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

SEC. 2. PAYMENT OF EXPENSES.

The United States shall not pay any expense of the establishment of the memorial.

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

Ms. OAKAR. Mr. Speaker, the amendment in the nature of a substitute is technical in nature and makes it clear that this memorial will be established in full compliance with the Commemorative Works Act, an act that the gentleman from Minnesota [Mr. Frenzel] and the gentleman from Minnesota [Mr. Vento] and I and others worked very hard on.

The United States will not pay any of the expenses for the establishment of this memorial, and it is simply a passing on of the Federal land which will be designated in the future.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended, so as to read: "A bill to authorize the Indian American Forum for Political Education to establish a memorial on Federal land in the District of Columbia or its environs to honor Mahatma Gandhi."

A motion to reconsider was laid on the table.

AUTHORIZING VIETNAM WOMEN'S MEMORIAL PROJECT, INC., TO CONSTRUCT A STATUE AT THE VIETNAM VETERANS' MEMORIAL

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2042) to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans' Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentlewoman from Ohio to explain the bill which she has worked so hard on.

Ms. OAKAR. Mr. Speaker, S. 2042, as amended in the nature of a substitute, authorizes the Vietnam Women's Memorial Project, Inc., to establish a memorial on Federal land in the District of Columbia or its environs to honor women of the Armed Forces of the United States who served in the Republic of Vietnam during the Vietnam era.

To commemorate the dedication and sacrifice that so many women offered our Nation is a noble and worthwhile cause. Over 10,000 women served in Vietnam, and through their efforts, our wounded were nursed back to health, our dying were comforted, and our soldiers' morale was kept high. There is little doubt that the wall of the Vietnam Veterans' Memorial would list thousands of more names if these women had not chosen to serve. Their willingness to aid our Nation in its time of need deserves to be recognized.

However, while seeking to honor those who served, we also have the duty of upholding the Commemorative Works Act of 1986. This law sets forth certain guidelines for the placement of monuments and memorials, and its enforcement is essential to preserving the integrity of the District's landscape.

The amendment in the nature of a substitute makes it clear that this memorial will be established in full compliance with the Commemorative Works Act. It is the sense of Congress that it would be most appropriate for this commemorative to be located within the 2.2 acres surrounding the Vietnam Veterans' Memorial, and this sense is expressed in the legislation. However, in its site and design selection, the group must proceed with the full approval of the National Capital Memorial Commission. The United States shall not pay any expense for the establishment of this memorial.

I am pleased that we have been able to work out a compromise that is acceptable to all those who are involved. I would like to thank my distinguished colleagues, Mr. FRENZEL, Mr. GEJDENSON, and Mr. MONTGOMERY for their hard work in developing this consensus.

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Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Connecticut [Mr. GEJDENSON], who is the principal author and promoter of this bill, and who has given us no peace as it has moved through our committee.

Mr. GEJDENSON. Mr. Speaker, I thank the gentleman, my friend from Minnesota, Mr. FRENZEL, and the gentlewoman from Ohio, Chairman OAKAR, for their yoeman's effort in pulling together both process and goal. The process of how we establish memorials in this area is a critical one, but that process should not be used to thwart the clear will of the people.

I would like to thank the committee staff and the gentlewoman for her great efforts, as well as the gentleman from Mississippi, Mr. MONTGOMERY, and Senator DURENBERGER and Senator CRANSTON for their efforts, but most of all I would like to thank Linda Schwartz of Stonington, CT, a town in my district, who first came to me with this concern. I think as I stand here today seeing the passage of this bill, of the important role the gentlewoman from Ohio has played and the ranking minority members and the Senators, I also think that there is no one more important than the veterans themselves. These women gave this greatest sacrifice as did Linda Schwartz. It is her effort that moved me forward at times when it was difficult. I want to thank her publicly for his great idea and also to take a moment to thank the gentlewoman from Ohio [Ms. OAKAR], chairwoman of this subcommittee, for the great effort she has made in this regard and for the work she is doing for recognition of all women veterans at the Arlington National Cemetery. For so long we have forgotten to pay homage to the women who have made such a great effort in all our wars, from the Revolutionary War on. There comes a time when their recognition is long overdue. This is that time.

I want to thank the gentlewoman from Ohio again for her efforts. I am confident that this bill, once it is signed into law, will retain the basic goal of the women who brought forward this tremendous idea; a statute for women at that site.

I also want to thank the ranking minority member, Mr. FRENZEL, for his diligence and valuable input, who, along with Mr. SWIFT, has made some important comments concerning the scope and purpose of this bill. Specifically, I am referring to the committee's report which emphasizes the desire of the committee—and I believe the 222 Members of this body who cosponsored my original bill—that "every effort be made to implement the original design of the memorial as originally conceived by the Vietnam women's memorial project." The committee also urges that with the addition of this memorial, the Vietnam Memorial will be complete. I am sure my colleagues are aware that my earlier proposals would have ensured that a statute would be placed at an appropriate place on the Vietnam Memorial site. A statute is what the Vietnam women's memorial project has worked for.

However, concerns were raised that the process for approving memorials established in the Commemorative Works Act had not been followed. We responded to these concerns and I am now willing to support the bill as amended by the distinguished chairwoman of the subcommittee because I believe that the intent the original legislation—to place a statue at the Vietnam Memorial—will be implemented. I am confident that when the House approves this piece of legislation today, the remaining authorities involved in this process will, in turn, consider this memorial with objectiveness and integrity and without undue delay.

While we are all aware of the considerable effort that we in Washington have devoted, I would like to read a letter sent to a founder of the Vietnam women's memorial project which demonstrates the strong sentiment that backs this memorial.

> DEAR MS. EVANS: Having lost a relative in Vietnam, and my husband and I wear POW bracelets, we had the opportunity to see the moving wall last night. It was very awesome and special. These young men and women gave so much for us, and I thank their sacrifices. * * * My father served in the second world war * * * was wounded and for that he received the purple heart * * * As I look back he gave so much for me his only child to be free. I would like in his memory to donate that medal to be melted down for the women's statue. It would be a lasting memory to him who gave.

This is, of course, only one of thousands of letters which the Vietnam women's memorial project receives, but I believe that it demonstrates that this entire effort would not be possible without the spirit of giving and sacrifice that this project has evoked. While we work to gain recognition for those who have sacrificed their lives, these people continue to sacrifice their time, their money, and their family treasures to make this memorial a reality. I am pleased that we can match their actions by approving this resolution today.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Committee on Veterans' Affairs, without whose approbation and enthusiasm nothing of this kind can ever get through the Congress.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Minnesota [Mr. FRENZEL] for yielding, and I appreciate his very kind remarks.

Mr. Speaker, I rise in strong support of S. 2042 which when enacted would establish a memorial in the District of Columbia to honor women who served in the Armed Forces in the Republic of Vietnam during the Vietnam era.

This legislation would express the sense of the Congress that an appropriate memorial honoring nurses who served in Vietnam be placed on the Vietnam Veterans Memorial site.

I would like to commend the gentlewoman from Ohio, MARY ROSE OAKAR, for her strong support and guidance as chairwoman of the Subcommittee on Libraries and Memorials and the efficient staff.

Her great efforts during the hearing and subsequent subcommittee action on this legislation provided the necessary momentum for this project to gain the recognition it so richly deserves.

I would also like to thank the gentlelady for her outstanding endeavors to acknowledge all veterans who served in our Armed Forces.

I want to thank my distinguished colleague from Illinois, FRANK ANNUNZIO, chairman of the Committee on House Administration and BILL FRENZEL of Minnesota, ranking minority member of the committee for allowing this measure to be brought to the floor for consideration.

Their support is greatly appreciated by myself and the supporters of this legislation.

I would also like to applaud the efforts of SAM GEJDENSON of Connecticut for his strong support of the Vietnam Women's Memorial project.

Mr. Speaker, to place a statue of a woman at the Vietnam War Memorial would give full honor and glory to the more than 10,000 women who so bravely participated in Vietnam.

Through many hardships of battle, these women provided key support and assistance to our troops. I went to Vietnam eight times during the Vietnam conflict and saw the great job women were doing for our Nation, by serving in Vietnam.

Therefore, I strongly believe that a statue or memorial would provide a much needed balance to the existing Vietman Memorial.

I would like to commend the members of the Vietnam Women's Memorial project for organizing a very effective national network of volunteers which showed tremendous interest in recognizing the merits of this legislation.

Mr. Speaker, I would like to stress the importance of placing the statue at the Vietnam War Memorial.

However, I do believe that the Congress should follow the Commemorative Works Act of 1986 (Public Law 99-652), legislation which the gentlelady from Ohio so diligently worked on.

This act requires that certain standards be applied to the placement of memorials on the mall and surrounding areas.

The act requires the Commission of Fine Arts and the National Capital Planning Commission to approve the site and design of any memorial to be placed on the Mall.

I believe the Commemorative Works Act should be followed in the site selection for this particular monument as it indeed has been followed by other recent legislation such as the Vietnam Memorial itself and the Korean War Memorial.

I was pleased by Interior Secretary Hodel's endorsement of the Vietnam Women's Memorial project when it was first suggested.

I was very disappointed with the decision of the Fine Arts Commission not to approve the project, particularly the remark that adding the nurse statue "will have the appearance of an afterthought."

I don't buy that argument.

Mr. Speaker, in my opinion, the most proper place for the nurse statue is on the 2.2 acre site on the Mall.

I think the Fine Arts Commission should understand that Congress feels strongly about this proposed memorial, should keep an open mind while reconsidering their decision and should work with the Vietnam Women's Memorial project to accomplish our goal.

Mr. Speaker, if the decision by the Commission is to uphold its original position, then the Commission can be sure that we will be back before the next Congress in order to bestow homage to these brave women who served our country during a great time of need.

I hope that this will not be necessary and I urge the Fine Arts Commission to come up with a proposal that will satisfy all parties concerned.

I most respectfully urge my colleagues to consider favorably this legislation.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is with deep pride that I rise today in support of Senate Resolution 2042. Earlier this year I testified before the Subcommittee on Libraries and Memorials about my concerns about a very special project, the Vietnam Women's Memorial Project, Inc. This nonprofit organization has been raising funds for the past several years to pay for the commission and establishment of a Vietnam Women's Memorial.

S. 2042 would provide for the establishment of a Vietnam Women's Memorial within the environs of the District of Columbia. I am very pleased to see the deliberations on this bill have been completed. In my home State of Alabama, I have received numerous inquiries about the proposed statue to recognize the valiant efforts made by female veterans during the Vietnam war.

I believe the provisions of this measure will adequately address the concerns of all of the parties involved. I would like to bring to the attention of my colleagues the details of this proposal. First, this bill would preserve the compliance with the standards for Commemorative Works Act, meaning that all parties will be given an opportunity to approve the establishment of the memorial. Second, this legislation will not cost the U.S. Government any funds. Finally, this measure will recommend that the statue be placed somewhere within the present 2.2-acre site of the Vietnam War Memorial.

I believe that this compromise bill represents a viable, reasonable approach to the problem. I am especially pleased that Chairman OAKAR was able to work out this compromise in such a timely manner. I am hopeful that the Senate will act quickly to approve this legislation before adjournment.

Women veterans deserve the admiration and recognition of the America public. I am confident that this statue will both educate our citizens and properly memorialize the effort or these soldiers.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of S. 2042, to authorize the construction of a statue at the site of the Vietnam War Memorial in honor of the women who served in the Vietnam war. I am proud to be a cosponsor of H.R. 3628, similar House legislation. This honor is overdue, and much deserved.

Over 10,000 women served in Vietnam during the war. They served in many capacities: Administration; helping maintain the logistical pipeline that supplied our soldiers; communications; and perhaps most importantly, serving in the Medical Corps. The women who served as nurses and medical technicians helped staff a medical service that was the best in military history. A wounded American solider in Vietnam who was still alive when he reached the hospital stood a 90-percent chance of survival. The work of these women was a factor in achieving this amazing record. The planned statue of an Army nurse looking at the Wall is especially appropriate, because it was the work of these women that insured that more names would not be chiseled into that Wall.

This new memorial will complete the effort to honor the Americans who served their country in Vietnam. It will help heal the wounds in this country caused by the war, just as the women memorialized by it helped heal the wounds of the brave soldiers who served.

For women who served in all capacities—I'm proud to support this legislation.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I would like to invite the House's attention to the committee report on page 4 pertaining to site and design. The distinguished gentlewoman from Ohio [Ms. OAKAR], chairman of the subcommittee, and I remain wholly devoted to that act which provides for a process by which memorials are approved and their design is approved and they are finally erected and maintained. The subcommittee could not direct under that process where this memorial would go, nor could we direct the style and type of memorial.

However, the subcommittee has spoken strongly in its committee report and has talked to several of the boards whose approval is required. We believe that it is appropriate that the memorial be placed on the 2.2-acre site of the current memorial and, as the distinguished gentlewoman from Ohio has indicated, to be the last possible addition.

Second, we believe that the memorial already selected by the women who have put the group together that is sponsoring the memorial is a wholly appropriate one, and we hope that it or something very much like it will be accepted.

Mr. Speaker, I hope the bill is promptly passed.

Mrs. BOXER. Mr. Speaker, it is with both immense relief and pleasure that I join my honorable colleagues in support of the establishment of a Vietnam Women's Memorial to be included at the site of the Vietnam Veterans Memorial. It is important that we fulfill our mandate laid out in Public Law 96-297 "to honor and recognize the men and women who served in the armed forces of the United States in the Vietnam War." Only with the addition of the proposed Women's Memorial can we fulfill this mandate and give the public a more complete picture of that conflict.

This truly is a long overdue recognition of the courageous efforts of some 260,000 women who served their country valiantly during the Vietnam era. These women served their country in a variety of capacities in the military and civilian organizations. They included nurses, doctors, the USO, the Red Cross, correspondents, administrators, and others. Nearly all of those women who served volunteered. It is time we paid them the respect that they deserve and need. Although the healing process and readjustment for combat veterans has been assisted through support groups designed to bring fellow veterans together, the women veterans of that conflict have, sadly, often been ignored.

Mr. Speaker, I would like now to call your attention to the recent news release from the National Women's Memorial project, and the cover article of the California Nursing Review, volume 5, No. 5, which graphically describe some of the incredible circumstances under which these women served on a daily basis. The numerous instances of posttraumatic stress disorder that these women have experienced points to their need of recognition, understanding, and assistance. The shameful lack of recognition by the American Government and public to their plight has added to the problems these veterans have experienced in readjusting to civilian life.

Indeed, Mr. Speaker, the Vietnam era saw the youngest group of nurses ever to serve in a conflict; a conflict which distinguished itself by the severity of injuries caused by weapons of mutilation designed to remove as many enemy soldiers from active service as possible. Due to advances in technology, the wounded were transported from the field to hospital quicker than ever before. Hence many of the wounded who arrived for treatment would have died in previous wars. The number and severity of these injuries were handled with skill and professionalism by courageous young nurses.

The women who served in Vietnam were also exposed to greater danger than their predecessors. The nature of guerrilla warfare meant that, in Vietnam, unlike other wars, there were no front lines behind which civilians and hospitals could be protected.

Mr. Speaker, because of their unique circumstance that required extraordinary demands, both emotionally and physically, and the hardships they have endured due to our indifference, we owe them this tribute and much more. Let us show our appreciation now by allowing them to take their rightful place beside the memorial to the men with whom they served so courageously.

Ms. SNOWE. Mr. Speaker, I rise in support of S. 2042, which authorizes the Vietnam Women's Memorial project to establish a memorial in this city to honor the women who served in Vietnam. This legislation is the result of the tireless efforts of the members of the project over the last 4 years, and I would like to take this opportunity to commend them for their dedication.

I would also like to extend my thanks to Congressman GEJENDSEN for introducing the original House bill on this issue, H.R. 3628, which I cosponsored.

Mr. Speaker, the Vietnam Veterans' Memorial has 58,156 names etched into its polished black granite wall. The memorial is dedicated "to honor the men and women of the Armed Forces of the United States who served in the Vietnam war." That is why, among the 58,156 names are those of the eight servicewomen who died in Vietnam. It is appropriate that these women are listed beside the men with whom they served.

The memorial, however, exists not only to honor those who died. It exists to honor all who served in Vietnam, men and women alike. The statue of the three soldiers whose gaze falls upon the Wall movingly symbolize this. But it should be made complete; with the statue of a woman gazing at the names of her fallen comrades, and those who come to pay tribute to them.

In 1982, with the dedication of the Vietnam Veterans' Memorial, the long overdue homecoming was held for the men who served in Vietnam. By passing this legislation, we will be extending that same welcome home to the estimated 10,000 women who served in Vietnam, as well.

I urge my colleagues to join me in support of S. 2042.

Ms. PELOSI. Mr. Speaker, today I rise in support of Representative OAKAR'S amendment to S. 2042 authorizing the Vietnam Women's Memorial project. Throughout consideration of this legislation, a number of concerns about maintaining the esthetic integrity of the Vietnam Veterans Memorial have been raised. This amendment addresses these concerns by allowing flexibility in the design and location of the Women's Memorial. This memorial will honor the valiant women who served our country during the strife of the Vietnam war.

Approximately 10,000 women answered the call of duty and served in the Vietnam war; the United States had women serving in the Army, Air Force, Navy, and Marine Corps. A majority of the women serving in Vietnam were nurses who provided emergency care to our soldiers. Other American women also served in Vietnam attached to the American Embassy, as participants in the U.S. military civilian work force, as Foreign Service Officers, administrative personnel, librarians, and Red Cross and USO volunteers. All of these women experienced the pain and suffering of the war.

It is time we recognize these women and thank them for their courageous deeds, for their willingness to serve our country, and for their dedication. I believe the Women's Vietnam Memorial would be an appropriate and a long overdue thank you to the many women Vietnam veterans. I urge my colleagues to support Congresswoman OAKAR'S amendment and express their appreciation to these women.

Mr. DONNELLY. Mr. Speaker, I rise today in support of H.R. 3628, legislation which would establish a statue in honor of those women of the U.S. Armed Forces who served in the Vietnam war.

I would like to first thank Congresswoman OAKAR for providing my colleagues and I with this opportunity to show our support for this important bill. I would also like to commend her and the other members of the Subcommittee on Libraries and Memorials for their fine efforts on this legislation.

We are all aware of the dreadful toll that the Vietnam war took on this country, both in the number of young men and women killed, wounded, or listed as missing, and in the way we look at ourselves as a nation. The Vietnam war tore at the moral fabric of this country, and it left scars on all of us.

But it is the men and women who served in Vietnam, many of whom never came home, and their families, who bear the deepest scars. While the controversy that surrounded that war made many of us forget the courage of those young people, in time we came to realize that our questions about the war could not diminish the bravery and sacrifice of these men and women. With that understanding came a further realization of the needs, both physical and emotional, of these returning veterans and their families. We set out to repay out debt, and to express our gratitude for the sacrifices they made for our country.

Today, the Vietnam Memorial honors those Americans who returned from Vietnam, and stands as a moving reminder of those who did not. The memorial is a tangible statement of this country's recognition of the efforts and sacrifices made by these brave Americans. Few who have been to the Vietnam Memorial are unmoved by its stark beauty and deep symbolic significance.

Vietnam veterans are quick to point out the tremendous importance of the monument in helping them to readjust to life in this country. The monument's popularity has at last made veterans feel accepted in a country which initially rejected them, and helped them to better understand their own feelings about the war. Through the monument, veterans have rediscovered their won worth, and know that their sacrifices will be remembered.

One group of Vietnam veterans remains excluded from this acknowlegement. The women veterans of the Vietnam war still await recognition by the people of this country. While the men who served with them are loud in their praises, most Americans are largely unaware of the important contributions made by these brave women.

Some 10,000 women, both civilians and active duty personnel, were stationed in Vietnam during the war. Ninety percent of these were nurses, many of whom served at or near the front. Women also served as doctors, officers, administrators, and volunteers in all branches of the service, the Red Cross, and a variety of other agencies. More than 250,000 women were involved in the war either here or overseas.

As a nation, it is important for us to honor these courageous women, so many of whom were devoted to caring for the wounded. Each day they were witnesses to the horrors of war, and suffered extremes of stress, fatigue, and disease. Yet through these and innumerable other hardships they remained dedicated to their task, and it is largely through their efforts that the list of names on the Vietnam Memorial isn't longer. But the contributions of these women go far beyond mere numbers. They gave a tremendous boost to the morale not only of the wounded, but to all our men overseas. It is fitting that the women who served so bravely and who touched the lives of so many of these young men should be honored alongside their comrades-in-arms.

Many share this view with me. A majority of my colleagues in the House have joined me in cosponsoring H.R. 3628. The Senate is expected to be unanimous in its support for its version of this legislation when it comes up for a vote sometime in the next week. Finally, the Women's Memorial project has the support of every major veterans group in the country, including the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, and the Vietnam Veterans of America.

Mr. Speaker, I would like to again commend Congresswoman OAKAR and the other members of her subcommittee for their efforts on this important issue. America's recognition of the sacrifices of the women veterans of Vietnam is long overdue, and I urge my colleagues both here and in the Senate to act quickly in approving this legislation honoring these brave women. Thank you.

Mr. ROE. Mr. Speaker, I rise in strongest support of S. 2042, legislation authorizing the establishment of a memorial to honor the women of the Armed Forces who served during the Vietnam war. I believe that recognition for the great sacrifice and service of American women who served in Vietnam is not only deserved, but past due. Indeed, their contribution cannot be overstated. It is for this reason that I am a cosponsor of this important legislation.

I believe the site of the current Vietnam Veterans' Memorial is the most fitting place for a memorial to the women who served in Vietnam. For far too long, women's contributions to saving American lives in Vietnam have gone unrecognized. There are thousands of fewer names on the Wall memorial today as a result of the nursing efforts of American women in Vietnam.

Women performed their duties with heroism and, like their male counterparts, came back to a country that did not understand their experience. America, as a nation, has made great strides in recent years to make up for the long period of mistreatment and underappreciation of male Vietnam veterans. I feel that the Vietnam Women's Memorial will accomplish the same goal for American women veterans.

I urge my colleagues to give their strong support to this long overdue legislation.

Mr. HAMMERSCHMIDT. I rise in support of the amendment in the nature of a substitute to, Senate bill 2042, concerning the Vietnam Women's Memorial project.

As the former ranking member of the House Veterans' Affairs Committee, I wish to express my sincere appreciation to Congresswoman MARY ROSE OAKAR, Congressman BILL FRENZEL, and many others who have earned our Nation's gratitude for their diligence in this endeavor.

Women veterans who served in Vietnam made valiant contributions to the efforts there, and they richly deserve lasting recognition by all of our citizens.

Mr. Speaker, Congressman SAM GEJDENSON said it best, "There are thousands fewer names carved into the Wall of the Vietnam Memorial today as a result of the nursing efforts of American women in Vietnam."

It is of utmost importance that we continue to recognize the contributions of the American women who served in Vietnam.

A memorial dedicated to these courageous women is a fitting way for current and future American generations to pay their tribute.

Mr. RINALDO. Mr. Speaker, I am pleased to join with my colleagues in expressing support for S. 2042, a bill authorizing the Vietnam women's memorial project to establish a memorial in the District of Columbia to honor women of the Armed Forces who served in Vietnam during that war.

There is no question this honor is merited, and it is unfortunate that it has taken until now for us to recognize the tremendous contributions our Nation's women made in this conflict.

They were no less courageous, no less willing to serve their Nation, and they have earned the right to be recognized by our Nation's citizens.

I am a cosponsor of legislation introduced in the House accomplishing this goal, and I urge my colleagues to join me in assuring swift enactment of this bill.

I commend the women, from all walks of life and from every region of the country, who served during the Vietnam war, and I salute them for their leadership.

Mr. RAHALL. Mr. Speaker, I am very pleased today to express my support of the Vietnam Women's Memorial. War creates many casualties, both direct and indirect. The casualties from the Vietnam war may well stand out in the annals of history as the most confusing and unjustifiable. Those direct casualties—the lives of so many young men and women—will live on in the memories of friends and families. But the indirect casualties—the survivors of the conflict—will wrestle daily with the nightmares and trauma of so much wasted youth.

This memorial is obviously a great victory for the women who served in Vietnam, as it will stand as a constant reminder of their brave service. But it is also a victory for their male comrades who depended on their comfort, courage, and skill. The Vietnam Women's Memorial will stand as another distinct reminder of all men and women who suffered and all those who continue to suffer from that senseless war.

Mr. Speaker, I commend my distinguished colleague, Chairwoman OAKAR, for her diligence and effort on behalf of the Vietnam Women's Memorial and am very happy to rise in strong support of the bill.

Mr. DAVIS of Illinois. Mr. Speaker, I am proud to be a veteran of the United States Armed Forces, and I am proud to have this opportunity to rise in support of S. 2042, honoring some 10 thousand women veterans who served in the combat theater of operations in Vietnam.

It is important for all of us to remember that it was both women and men who made up the over 2½ million Americans who left our Nation's shores to carry the ideals of our country to Vietnam. It is important for all of us to remember that the names of both women and men are etched into the black wall of the Vietnam Veterans Memorial to honor those who lost their lives. It is, indeed, important for us all to remember this.

This legislation, S. 2042, authorizes the Vietnam Women's Memorial Project, Inc. to establish a memorial to honor the women of the Armed Forces who served in Vietnam. This memorial is a tribute long overdue. As well as being a tribute, though, it will help us all remember now and in the years to come.

Just as every American veteran has, the women who served in Vietnam have earned our tribute and our remembrance. This memorial will be a symbol of our thanks, and a promise of our commitment to the American ideals for which these women served, and for which brave women and men stand ready to defend today.

The reward * * * and the suffering * * * of loyalty, service and sacrifice knows no gender, race, nor religion. Let honor be given where honor is due; and great honor is due to all of those who have answered our Nation's call and "have borne the battle."

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR CONSTRUCTION OF A STATUE HONORING WOMEN WHO SERVED IN THE VIETNAM CONFLICT.—(a) Subject to subsections (b) and (c), the Vietnam Women's Memorial Project, Inc., a nonprofit corporation authorized to operate in the District of Columbia, is authorized to construct a statue of a woman Vietnam veteran on public grounds within the 2.2 acre Vietnam Veterans Memorial site in the District of Columbia in honor and recognition of the women of the United States who served in the Vietnam conflict.

(b)(1) The Secretary of the Interior (hereinafter referred to as the "Secretary"), in consultation with the Vietnam Women's Memorial Project, Inc., and the Veterans' Memorial Fund, Inc., is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site for the statue within the 2.2 acre Vietnam Veterans Memorial site in the District of Columbia.

(2) The design and plans for the statue shall be subject to the approval of the Secretary, the Commission of Fine Arts and the National Capital Planning Commission. Not later than thirty days after the submission of the design and plans to the Secretary, the Secretary shall decide whether or not to approve the design and plans and, if the Secretary approves them or takes no action to approve or disapprove them (in which case his approval shall be deemed to have been given), shall submit the design and plans to each of the Commissions forthwith. If either Commission fails to report its approval of or specific objection to such design and plans within ninety days after the submission of the plans, the approval of the Commission in question shall be deemed to be given.

(3) Neither the United States nor the District of Columbia shall be put to any expense in the construction of the statue.

(c) The authority conferred pursuant to this section shall lapse unless (1) the construction of the statue is commenced within five years from the date of the enactment of this section, and (2) prior to groundbreaking for actual construction on the site, funds are certified available in an amount sufficient in the judgment of the Secretary based upon the approved design and plans for the statue, to ensure completion of the construction of the statute.

(d) The maintenance and care of the statue constructed under the provisions of this section shall be the responsibility of the Secretary.

SEC. 2. It is the sense of the Congress that—

(1) it is most fitting and appropriate that this statue in honor and recognition of the women of the United States who served in the Vietnam conflict be constructed at the site of the Vietnam Veterans Memorial to help complete the process of recognition and healing, for the men and women of the Armed Forces of the United States who served in the Vietnam conflict, that was undertaken with the establishment of the Memorial;

(2) the Secretary and each of the Commissions should, in evaluating the plan and design for the statue, give weighty consideration to the sense of the Congress expressed in this section that a statue of a woman Vietnam veteran should be constructed at the Vietnam Veterans Memorial site; and

(3) after the addition of a statue of a woman Vietnam veteran, the Vietnam Veterans Memorial will be complete, and no further additions or alterations to the site shall be authorized or undertaken.

SEC. 3. (a) Not later than ninety days after the date of enactment of this Act, the Secretary and the Administrator of the General Services Administration shall jointly prepare and transmit to the Energy and Natural Resources Committee of the Senate and the Committees on Interior and Insular Affairs and House Administration of the House of Representatives, a list and a description of those commemorative works which have been completed and are located in the District of Columbia and its environs. The Secretary and the Administrator shall update the list from time to time as new commemorative works are completed and transmit such an updated list to the Committees.

(b) No significant modification to any completed commemorative work located in the District of Columbia and its environs may be undertaken unless specifically authorized by Act of Congress.

(c) As used in this section, the terms "commemorative work" and "District of Columbia and its environs" have the same meanings as provided in the Act of November 14, 1986 (40 U.S.C. 1002).

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ESTABLISHMENT OF MEMORIAL.

(a) IN GENERAL.—The Vietnam Women's Memorial Project, Inc. is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

SEC. 2. PAYMENT OF EXPENSES.

The United States shall not pay any expense of the establishment of the memorial.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress, with respect to location of the memorial in accordance with the Act referred to in section 1(b), that it would be most fitting and appropriate to place the memorial within the 2.2 acre site of the Vietnam Veterans Memorial in the District of Columbia.

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. OAKAR. Mr. Speaker, the amendment in the nature of a substitute to S. 2042 makes it clear that this memorial will be established in full compliance with the Commemorative Works Act. It is the sense of Congress that it would be most fitting and appropriate for this commemorative to be located within the 2.2 acres surrounding the Vietnam Veterans' Memorial, and this sense is expressed in the legislation. However, in its site and design selection, the project must proceed with the full approval of the National Capital Memorial Commission. The United States will not pay any expense for the establishment of this memorial.

Mr. Speaker, I would like to take this opportunity to commend my colleagues, Mr. SAM GEJDENSON, Mr. SONNY MONTGOMERY, and my distinguished minority chairman, Mr. FRENZEL, for their countless hours of hard work in developing a compromise that was satisfactory to all with respect to this legislation before us today.

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It is the sense of Congress that it would be most fitting and appropriate for this commemorative to be located within the 2.2 acres surrounding the Vietnam Veterans' Memorial and that this is the sense that is expressed in the legislation. However, in its site and design selection, the project must proceed with the full approval, which we have every hope of getting, of the National Capital Memorial Commission.

The United States will not pay any expense for the establishment of this memorial.

Mr. Speaker, once again I want to take this opportunity to commend my colleagues, Mr. GEJDENSON, Mr. MONTGOMERY, Mr. HARRIS and certainly my distinguished minority chair, Mr. FRENZEL and his staff and my staff for the countless hours, literally that they put in, in developing this compromise that would make sure that this legislation was conforming.

Finally, Mr. Speaker, I think most Americans knew or had heard of or loved a number of the 57,000 Americans who were killed in Vietnam. I think the fact that we are once again making this memorial even more perfect, it seems to me, just attempts to achieve the reconciliation that we all want with respect to the Vietnam war.

Mr. Speaker, I want to thank everyone again.

Mr. SPEAKER pro tempore (Mr. STENHOLM). The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial on Federal land in the District of Columbia or its environs to honor women of the Armed Forces of the United States who served in the Republic of Vietnam during the Vietnam era."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills considered, H.R. 3455; the Senate concurrent resolution, S. Con. 141; and the Senate bill, S. 2042.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

NATIONAL AMERICAN INDIAN HERITAGE WEEK

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 322) to designate the week of September 23-30, 1988, as "National American Indian Heritage Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the distinguished gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, this resolution designates the week of September 23 through 30, 1988, as "National American Indian Heritage Week," acknowledging a very important culture in American society.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the distinguished gentlewoman from Maryland [Mrs. MORELLA] has told me to say nothing other than that she approves of the bill, and that the committee does too.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 322

Whereas American Indians were the original inhabitants of the territories that now constitute the United States of America;

Whereas American Indians and their desendents have made many essential contributions to our nation;

Whereas the citizens of the United States should be reminded of the assistance given to our founding fathers by the native Americans;

Whereas the citizens of the United States should be aware of the present relationship between the American Indians and the United States; and

Whereas the last week in September begins the harvest season in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 23-30, 1988, is designated as "National American Indian Heritage Week". The President is authorized and requested to call upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter in Senate Joint Resolution 322, the Senate joint resolution just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

LIVES OF DEMOCRATIC OPPOSITION IN NICARAGUA JEOPARDIZED

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, throughout the years of debate on aid to the Contras, critics have argued that military aid should be prohibited in order to give the unarmed democratic opposition in Nicaragua a chance to push for democratic reforms.

As the Washington Post, in an editorial today, points out those critics have argued, as the Sandinistas themselves do, that the Nicaraguan civil opposition is a legal, legitimate opposition demonstrating the pluralism that exists in Nicaragua. While we may disagree as to the degree the civic opposition is able to function, until now there has been no disagreement that the opposition had legitimate grievances against the repressive Sandinista regime.

Now, the speaker has made statements that the Sandinistas say shows those civic opposition leaders in Nicaragua are not acting out of their dedication to liberty, freedom, and human rights and that they are nothing more than CIA agents. This jeopardizes their lives and their commitment, and ours, to peace, freedom, and justice.

[From the Washington Post, Sept. 23, 1988]

JIM WRIGHT AND THE CIA

Here are the preliminary results of House Speaker Jim Wright's statement that the CIA has testified that it ginned up anti-Sandinista protests in Nicaragua in order to provoke the Sandinistas into an oppressive overreaction that would kick back on the Sandinistas:

First, the statement is a savage blow to the Nicaraguan civic opposition—the *legal political* opposition—and especially to the 38 Nicaraguans who were arrested in a peaceful protest at Nandaime last July 10 and who are now facing trial. The worst political thing that can befall an opposition figure there is to be accused of being a CIA agent rather than a self-starting democrat. You will recall that Mr. Wright and others of his persuasion successfully defunded the contras, reducing the military option of the resistance to the near-disappearing point, precisely to give a chance to a democratic political process.

The statement has further implications for American efforts to extend a hand to local democratic forces elsewhere. It becomes easier in say, South Africa, Poland and Chile for unrepresentative governments, to embarass citizen challengers with even the slightest and most innocuous contacts with foreign well-wishers.

The statement may also inflict damage on the pending bill to tighten the terms of executive notice to Congress of covert operations—a bill (supported by the Speaker) that the executive branch and conservatives have fought on grounds that Congress can't keep secrets.

Mr. Wright suggests that, when he spoke, the Nicaraguan resistance and The Washington Times were already putting the allegation of a CIA hand into the public domain and that other news organizations had made similar reports earlier. But this explanation fails to take into account either the particular confidentiality obligations of an elected official or the crucial authority that a congressional figure can add by his confirmation.

Mr. Wright dates his abhorrence of CIA "destabilization" from the case of Salvador Allende in Chile in 1973. His likening of the Sandinistas to an "elected government" that represents "the choice . . . of the people," however, is laughable, or would be if the effects of his intervention were not so serious.

That leaves the factual question of whether the CIA actually did gin up that July 10 opposition rally at Nandaime, something it would have been incredibly stupid to do. The U.S. government stands on a customary and necessary refusal to be drawn into confirming or denying such charges. Public testimony in Congress absolves the U.S. government. Mr. Wright has his own view.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 351. Concurrent resolution to correct errors in the enrollment in the bill S. 328.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 328) entitled "An act to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes."

JAMAICAN RELIEF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recognized for 5 minutes.

Mr. CROCKETT. Mr. Speaker, when confronted with the misfortunes of our neighbors around the world, this Nation has already justifiably prided itself on the compassion and generosity with which it responds. Whether it is the drought in Africa, or an earthquake in Italy or Mexico, or floods in Bangladesh, our Government and our citizens respond quickly and generously to preserve the lives of our fellow human beings.

Last week, the people of Jamaica, one of our closest neighbors in the Caribbean, suffered devastating losses as a result of Hurricane Gilbert. This storm, judged by many to be the worst hurricane of this century, caused hundreds of millions of dollars in damage and destroyed the homes and the livelihoods of the majority of inhabitants of that small island nation. It was a loss that could destroy that nation's capacity to sustain itself.

We need to respond as we have historically, and lend a helping hand to our neighbors.

Today, along with more than 25 of my colleagues, I am introducing legislation to authorize $100 million in relief to the people of Jamaica. This bill is simple in intent: It seeks to help the Jamaican people in their time of greatest need—to rebuild their homes, their businesses, their nation. We have Members from both sides of the aisle on this legislation, and it is our hope that through the authorization and appropriations process we can move expeditiously to get the money in the pipeline.

I urge those of my colleagues who have not already joined us to lend their names as cosponsors of this legislation.

CALIFORNIA CONGRESSMEN URGE STAMP TO COMMEMORATE VOYAGE OF CABRILLO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, on behalf of Mr. COELHO and 33 other members of the California delegation, I am pleased to rise today to introduce a concurrent resolution expressing the sense of the Congress that the Postmaster General should provide and sell a postage stamp to commemorate the 450th anniversary of the discovery of Alta California by the Portuguese explorer John Rodrigues Cabrillo.

As we all know, in 1992 this country will be celebrating the quincentennial celebration of the discovery of eastern America by one of Europe's great explorers and navigators, Christopher Columbus. It is with the spirit of this celebration that I, along with 34 of my California colleagues, feel that we must also honor the 450th anniversary of the discovery of California by another of Europe's great navigators and explorers, John Rodrigues Cabrillo.

It was on Thursday September 28, 1542, that the armada led by Cabrillo entered a port they named San Miguel (now San Diego) and commended the history of modern California. Cabrillo battled frequent dangerous storms, heavy winds, and violent seas as he navigated the coast of California up to present Humboldt County, CA.

Cabrillo displayed the extreme courage and a determined will to succeed that we associate with the early American explorers and settlers. In an act of unparalleled bravery and selflessness Cabrillo ordered his chief pilot Bartolome Ferrer to continue the voyage as Cabrillo lay suffering from complications of leg injury which led to his death during the voyage. Cabrillo was put to rest on American soil, in the Channel Islands off the coast of Santa Barbara.

I would note, Mr. Speaker, that the Portuguese spelling, which is also used, is Joao Rodrigues Cabrilho. For purposes of this speech and the resolution I am using the spelling used by the excellent Cabrillo Civic Clubs of California.

I know that the Committee on Post Office and Civil Service traditionally has declined to address stamp issues. But what is at issue here is more than a postage stamp. At issue is recognition of the discovery of our Nation's largest State and the inclusion of that State, California, and the entire west coast in the celebration of the discovery of America. It is time that we recognize the great Portuguese explorer, John Rodrigues Cabrillo, for his huge contributions to America. This commemoration will help make the festivities in 1992 truly a celebration of the discovery of America—all of America.

I hope the Citizens Stamp Advisory Committee will consider the introduction of this bill as representative of our strong desire to see Cabrillo recognized on a postage stamp. Mr. COELHO and I would like to thank the following California members for their support: GLENN ANDERSON, JIM BATES, ANTHONY C. BEILENSON, HOWARD L. BERMAN, DOUGLAS H. BOSCO, BARBARA BOXER, GEORGE E. BROWN, JR., WILLIAM E. DANNEMEYER, JULIAN C. DIXON, ROBERT K. DORNAN, MERVYN M. DYMALLY, DON EDWARDS, VIC FAZIO, ELTON GALLEGLY, DUNCAN HUNTER, ERNEST KONNYU, ROBERT J. LAGOMARSINO, RICHARD H. LEHMAN, MEL LEVINE, JERRY LEWIS, ALFRED A. MCCANDLESS, MATTHEW G. MARTINEZ, ROBERT T. MATSUI, GEORGE MILLER, NORMAN Y. MINETA, CARLOS J. MOORHEAD, RON PACKARD, LEON E. PANETTA, CHARLES PASHAYAN, JR., NANCY PELOSI, EDWARD R. ROYBAL, ESTEBAN EDWARD TORRES, HENRY A. WAXMAN.

DISCLOSURE OF CREDIT CARD TERMS NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, credit cards have evolved from being a convenient substitute for cash to becoming a virtual necessity of life. I have mentioned on numerous occasions that I am concerned about the attitude which many people have developed toward credit. The problem of individual debt burden in this country cannot be denied. Far too many people have accumulated debts so large that years may be needed to repay them. It is only fair that consumers be thoroughly informed of all terms affecting the cost of using credit cards.

Lenders spend a lot of money and expend great effort to convince people to use credit cards. The proliferation of "affinity cards" is a perfect example of how creditors lure consumers into utilizing credit. Special logos on cards, rewards for making purchases and other such gimmicks are designed to entice people to charge more and more on their cards without warning from the creditor about the actual costs involved.

I do not deny that the use of credit can be very helpful, and in some instances necessary, to consumers. However, I firmly believe that individuals must be made aware of all aspects of a credit agreement. For all the money spent by creditors to convince people to apply for affinity cards and the like, some effort should be required on the part of the creditor to inform the consumer about terms which can drastically affect the cost of using credit cards. H.R. 515, the Fair Credit Card Disclosure Act, addresses the need to disclose specific information about interest rates, fees, and other terms which apply to credit cards on applications and in telephone solicitations.

When the House considered H.R. 515, I introduced an amendment which would have placed a floating cap on interest rates at a level 8 points above the yield on 1-year Treasury securities. The rate would have been adjusted quarterly, and if it were in effect today, the maximum interest rate that could be charged on a credit card would be 15.40 percent. I strongly believe that this amendment was in the best interest of the consumer, and consumer groups from around the country agreed with me. There is no reason, other than greed on the part of the credit issuers, that credit card interest rates should remain high when other interest rates fluctuate with trends in the economy.

While I believe that H.R. 515 does not protect the interests of the consumer as well as it could have, I do believe that the bill has merit and should become law as quickly as possible. The following article which appeared in the Christian Science Monitor, August 10, 1988, aptly describes the need for disclosing the terms of credit cards. I hope that when conferees are appointed to consider H.R. 515, they will keep these comments in mind, and that my colleagues in the House will do the same when the conference report comes before them for a vote.

H.R. 515 is very important to the financial condition of individual consumers, and I am encouraged by the support that it received when considered by the House and Senate. I look forward to the consideration of this legislation by a conference committee.

[From the Christian Science Monitor, Aug. 10, 1988]

INFORMED CHOICE ON CREDIT CARDS

An envelope arrives in the mail: Your credit rating is so good that the First National Bank of South Overshoe is offering you a MasterCard with a sky-high credit limit. No annual fee for the first year. And bonus points, good for merchandise, accumulate each time you use the card.

But search that notice for the interest rate you'll be charged, and all too often it won't be there. Yet that information is arguably more vital to a family budget than bonus points and a year's breather on fees.

Credit cards are not licenses to splurge. But many people do face unexpected expenses that force them to make minimum payments for a time. The monthly interest levied may look puny next to the outstanding balance; but it can account for a hefty chunk of the minimum payment, stretching the time it takes to trim the balance.

In the interest of informed choice—and more competitive interest rates—House-Senate conferees are working on a compromise bill that would require prominent display of interest rates and other fees in all credit card solicitations. It deserves passage.

When interest rates started to fall earlier this decade, people expected competition among card issuers to bring down credit-card interest rates, too. That happened to some extent. But the 10 largest issuers of Visas and MasterCards still charge rates between 17.5 and 20 percent. In the meantime, these megabanks' share of the credit-card business has grown from about one-third to one-half of the market. Not much price competition there. With low inflation during the last few years, the "real" cost of using those cards (the difference between the listed interest rate and inflation) has grown. That's money in the bank—for the banks.

One can always return a card after looking at the rates on the agreement that comes with the plastic. But listing those rates on solicitations gives consumers a chance to compare rates between accepting a card. Disclosure up front could also allow consumers to shift their card accounts to a bank with lower rates. The opportunity to choose wisely becomes even more important now: Interest rates are rising and by 1991 taxpayers will no longer be able to deduct interest on consumer loans and credit cards from federal income taxes.

To their credit, more banks are including interest rates on solicitations, in anticipation that Congress will pass a disclosure bill. But the legislation is still useful. Call it, if you will, a little extra incentive for banks to do what they should have been doing all along.

THE AMERICAN FAMILY ACT

The Speaker pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. COATS] is recognized for 60 minutes.

Mr. COATS. Mr. Speaker, today I introduced into the House the American Family Act, which is legislation designed to address the needs of our families and our children.

It consists of 21 separate pieces of legislation. Four of those pieces of legislation were ideas generated by other Members of this body and they have consented to my including them in the American Family Act.

I will be discussing them at a later time.

Seventeen of those initiatives were introduced today.

Those are initiatives that result from 1½ years of work by myself and our Select Committee on Children, Youth, and Families minority staff.

Since I became Republican leader of the House Select Committee on Children, Youth, and Families in January 1985, I have been working toward developing a vision of how to promote strong families in this Nation. At the Select Committee we have held many hearings since our formation in 1983 and it has been a continual frustration to all of us in the minority in Congress that the agenda is tightly controlled by the majority party. This is not only true on the floor of the House, as evidenced by the fact that as Republicans we often cannot get recorded votes on our proposals or are limited to just one amendment or an alternative, but it is also generally the case in our Select Committee on Children, Youth, and Families.

Hearings are generally scheduled in that committee to meet the political goals of the majority party and Republicans generally get only a few witnesses to counter whatever agenda item has been set for promotion.

In the family committee we have been treated more fairly than in some of the other committees but nevertheless we are still limited to one-fourth to one-third of the witnesses. We get slightly less than one-third of the staff dollars and are sometimes excluded from staff reports that appear to be committee documents rather than Democrat staff documents.

Mr. Speaker, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I apologize to the gentleman for interrupting his discourse. I want to take a moment to express to those who may be listening to his discussion the fact that he has provided really an unusually, outstandingly fine leadership in this field. The reason that the minority may be receiving a little different attention or a different level of success in this effort is specifically because of his diligence. If people come to Congress to make a difference, clearly he is one of those Members who has. His work on behalf of the American family, and of children, is most important. He has raised this subject area to a level of quality and attention long deserved but clearly one that was not receiving the kind of thought and work that he has allowed us to participate with him in and about.

If we have success at making a significant difference relative to policy as it affects the family through congressional action, it will largely be due to his efforts here as a very, very outstanding Congressman from his home State.

Mr. COATS. I thank the gentleman from California who has been a great ally in this whole process and who in fact has authorship of one of the significant pieces of legislation included in our package. I also thank him as leader of the policy committee for the work that he and his staff has done in assisting our staff in reviewing these proposals, in bringing these before the Republican leadership, in securing the endorsement of the Republican leadership and I believe we have a package here of proposals that will provide an agenda for our legislative process in the next Congress and beyond for the next administration. Certainly the gentleman will be a part of all that. I appreciate his efforts and his help and his support and, most of all, his deep commitment to the idea of family, to strengthening the family and children in our society.

I certainly thank the gentleman for his efforts.

Mr. LEWIS of California. I want the gentleman to know, and for the RECORD I want the public to know, that I am very, very appreciative of his work and his leadership. He is doing a fantastic job here. I hope all of the people out there in America understand the effort that he is about.

Mr. COATS. I thank the gentleman.

Going back a little bit more on the history now, how we got to be where we are, what we have found often on the floor of Congress and in committee, it appears that Republicans are only fiddling at the edges of problems. We must be, because of our minority status here in the House and in committee, reactive by nature. We have little other choice. If the majority determines which bills are heard then often we are limited to offering changes within their proposals rather than offering a vision or an agenda for the future.

If the majority party determines the hearing topic and controls two-thirds or more of the witnesses, obviously it is difficult for us within that one-third that we are allowed to bring forth the kind of efforts necessary to outline our vision.

Furthermore, since often the legislation or hearing topics have a decided liberal, big government bias, we often must concentrate on the urgency of the immediate. That is, striking out the really bad ideas. As a result, we focus on amendments that highlight controversy, the section on which the parties disagree most directly. But it often leaves us as Republicans looking as though our entire framework is a series of things that we do not like about the Democrats or about the liberal agenda.

Furthermore, it is tempting when confronted with years of Democrat dominance in the House of Representatives just to sit back and tend to cut the best deal you can for yourself. Making waves is not popular, but political retaliation is.

So we could just sit back, offer expected amendments and kind of coast along.

When I was elected to Congress in 1980, I came here with the hope of making a difference.

When I joined the Select Committee on Children, Youth, and Families, I did so because I wanted to have a positive impact on families across this country. When I became the Republican leader of the Select Committee on Children, Youth, and Families, I did so with a goal of offering leadership in the family area.

We, the Republican Members of the select committees, have attempted to offer such leadership through the witnesses we have selected; but that was primarily trying to bring balance to an often biased discussion. We have issued strong dissents, additional views and occasional support to various committee reports but once again our response has been, by necessity, mostly reactive.

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In 1985 and 1986, I, along with Congressman Frank Wolf and then Congressman Bill Cobey of the Select Committee, as well as Democrat Congressman Earl Hutto of Florida, developed the family strengths project with a number of private sector organizations and family researchers in an attempt to promote family strengths.

I also, along with other Republican Children, Youth, and Family Committee members and interested House colleagues, led the fight to insist upon the $2,000 personal exemption in the Tax Reform Act, undoubtedly the most profamily aspect of the 1986 Tax Reform Act.

In 1987, I decided that this was still not enough, and, I directed the Republican staff of the Family Committee to begin drafting a more comprehensive vision of what we as Republicans stood for in the family issues area with specific alternatives that we could introduce in Congress. As an outgrowth of the research prior to the beginning of this project, and that done directly for this project, we have developed many in-depth reports with specific action plans.

Working with Congressman Lewis and his staff on the Policy Committee, we have translated this research into a package of 21 bills, including the 17 new pieces of legislation which I introduced today and mentioned earlier. This package was unanimously endorsed in late July by the House Republican Policy Committee.

We have also developed much of a second American Family Act, the specifics of which we hope to announce within the next few weeks.

As we can clearly see by now, this American Family Act is not something developed in a rush just because some pollster indicated that family issues were becoming important. This is not a patchwork quilt of issues thrown together to assuage political demands within my district or anyone else's district. We have too much of that in the social issue area already, just like we do in the business and defense areas. Decisions often do not seem to be made on the merits of the issue but are often based upon who has the most political clout.

This may be something rare, especially something that appears right in the middle of a hot election campaign; that is, it is a collection of legislative bills committee to enduring values rather than political opportunism. We hope that by putting forth what we feel is right, the American people will also elect more Congressmen who share this vision, but the primary purpose is to offer a vision to empower families.

Up until now, so-called "family initiatives" seem to be divided into basically two groups: First, including Republican efforts primarily aimed at blocking the government from harming families—a noble goal but a limited one, such as promoting a child's right to life, stopping pornography and its impact on our families, attempting to restore voluntary prayer in public schools, and so forth.

The second group of initiatives are primarily Democrat efforts aimed at replacing the family with a big government involvement.

The Republicans have shown leadership in assisting families in the tax code, as well as in some areas of education. Both parties have supported some Federal programs such as prenatal care and Head Start. But by and large, the Democrats have proposed replacing the family or local community or State with a Federal program, and the Republicans have attempted to limit the harm of the Federal Government.

With the American Family Act, we as Republicans, have moved into this vacuum. How can we strengthen families without having Uncle Sam or the Federal Government running our lives?

We make several assumptions. Strong families are preferable, and indeed strengths can be defined and families can be defined. We also assume that promoting character is a legitimate goal, and that it can be defined. Furthermore, we assume that responsibility is worth promoting, and that we can differentiate between responsibility and irresponsibility.

These may seem like logical assumptions, but not to many Democrats. Defining anything is a big problem because of a fundamental belief in relativism. Most people, including many Democrats, do not have this problem. For example, many communities have formulated education principles with little or no dissension, but the very word often scares Washington liberals.

The Democrats on the California Family Task Force have defined the family so generally that many workplace offices or college dorms could probably qualify as a family. Words like "responsibility" and "obligation" are condemned as guilt-inducing or, worse yet, from a liberal perspective which also shows our basic disagreement, labeled "value judgments."

Another basic disagreement is that while we highlight State and local initiatives and through the Federal Government try to encourage them, the Democrats, who indeed may like some of the ideas, would like to have the Federal Government take them over. That is a big difference. For example, we believe that many of the projects are successful because of how they started, because of the sweat equity and local investment, because of local control, and because of the empowerment of individuals and families. Often the Democrats think the programs are intrinsically successful because of good design or they just need better execution, thus, as business consultant Tom Peters would say, "They miss the magic." It is not just what is done; it is how it is done that is important.

In 1976 and 1980, then Presidential contender Ronald Reagan first began sounding the concerns of grassroots Americans about the breakdown of the family, the moral decay and the decline of the quality of education. As we leave the Reagan era and head toward the 1990's and beyond, the Republicans continue to communicate a vision for the future of children and families. However, it is not enough for Republicans to simply point out that Democratic proposals have not worked. We are stepping forward as the party of ideas and are offering our proposals on children and family issues.

Many of these new ideas are innovative. They provide an alternative vision of how Government can help strengthen the American family. We do not claim these ideas are silver bullets or magic wands that will suddenly cause all of American's social problems to disappear. Rather, we put forth that the Federal Government must foster initiative and foster innovative changes, with some risk and at some cost, if we are to reverse the erosion of the family foundation of our Nation.

Creative and effective family initiatives are being offered at the State and local level across this Nation. Direct involvement with the obstacles confronting the family has led to a wide range of experimentation. The American Family Act provides support for the most promising of these State and local initiatives. We have likened this to "kicking a snowball downhill." Facilitation by the Federal Government, together with moderate financial support, will encourage the spread of these programs.

The American people are a generous people, people that generally want the best for all children and families in this country. But the lack of sensitivity to parental concerns or community beliefs, the assumption that only Washington knows what is best, the decline of time-tested values, and a feeling of simply throwing money at a problem without concrete results have led to a justified skepticism of the Federal response. Yet both parents and nonparents realize the social foundations of our Nation are crumbling, and they know something needs to be done.

The Democrats are doing a lot of talking about helping families, but when examined closely, it just looks like a return to the old liberal days of throwing large sums of money at social problems. "Family" seems more like a buzzword attached to the old Democrat ideas, rather than a substantive recognition that past policies have not worked. In fact, when probed, most Democrat leaders would say that past policies did not fail, that we just did not spend enough money or give enough time.

It is frightening to me to think that we could be heading into the next decade led by people who seem to have learned little or nothing as our core family structure has eroded and our social problems have soared. Americans may differ on defense spending priorities, on how our Government should handle Central American dictators, or what to do in the Middle East, but most Americans are not going to be deceived by simplistic arguments that our social programs can all be blamed on General Noriega and spending for MX missiles.

Our debate in Congress continues to be dominated by emotion, not reason. Partly because of this, laws passed by the majority who control this Congress continue to reflect the latest crisis rather than investing in long-term prevention. Thus we throw increasing amounts of money at the consequences rather than solving actual problems.

Scholar William Schambra has written that the Democrat vision is of "national community," a theme illustrated in the statements of Governor Cuomo of New York. The Republican vision is that of a "nation of communities," a phrase frequently used by House Republican leader, BOB MICHEL of Illinois.

American diversity is greater than it ever was, and it is increasing. Yet the Democratic Party acts as though we are a homogeneous nation that could be responsive to an all-wise iron hand out of Washington. Michael Dukakis at times seems to be in the running for "national nanny" rather than for President of united communities in the United States.

Perhaps the most frightening thing of all is the reluctance, if not the resistance, of the Democratic leadership to acknowledge that the most critical problems we face involve the need to strengthen American families, to build character, and to foster individual and family responsibility. We need initiatives in health, in education, in housing, in combating the problems of drugs and gangs, and in many other areas. I applaud the initiatives of some in this body on both sides of the aisle in advancing these proposals. But if there is anything we have learned, it is that unless we strengthen families, build character, and increase responsibility, most Government spending is ultimately doomed to failure.

We are not claiming that this act will solve all America's social problems, but many of the initiatives we are featuring are making exciting breakthroughs. These proposals help point the direction in which we need to head. They empower parents, encourage States, and provide financial assistance. The American Family Act No. 1, when viewed as a comprehensive package, clearly highlights the differences between the Republicans and the Democrats. It offers innovative action for families, rather than recycled discredited programs attractively wrapped in family rhetoric.

The American Family Act is the first part of our vision for children and families in America. We believe, when implemented, it will respond to the goals we have suggested. The American Family Act No. 1 builds stronger families, it helps to promote responsibility, it promotes character, it offers family choices, it encourages experimentation and diversity, it promotes prevention, not just intervention, it targets the needy, and it addresses some of our most pressing problems.

This package is only the first step. We are continuing to look at a wide range of family proposals for future initiatives. But the American Family Act No. 1 addresses three of the most crucial problem areas: Education, family support and stability, and "at risk" children.

Now, if I could, I would like to explain a few of the initiatives contained in the American Family Act. I will not go through all 17, but I think by highlighting a few of the initiatives that we have placed in this act, we will be able to get a better grasp of what we are attempting to do.

In our education section we offer a bill designed to institute a program of school-based management. This legislative initiative will fund up to $50 million, with no more than one grant per State, based on the number of school-age children in that State for school-based/shared decisionmaking initiatives. Proposals would be submitted to the Department of Education and awarded on that basis.

The reason we advance this initiative is because we have found that in many areas it sometimes appears that school systems have become sometimes like the structures that undermine our Nation's railroads—inflexible and stagnant. Inflexible rules and regulations have resulted in a dinosaur-type structure at the very same time America has been going through dramatic changes in its workplace. Most experts have come to the agreement that present structures cannot respond to the demands being placed upon public education today.

John Chubb and Prof. Terry Moe of Stanford University suggest from their research that—and here I quote—

> While real school expenditures, the educational achievement of teachers, class sizes, and other assumed influences on student achievement improved substantially, test scores steadily declined. Student performance could not be tied closely to anything in particular that the schools did. The Nation must understand how tightly school performance may be bound up with school organization and control, for those ties bear directly on the promise of school reform, however it is pursued.

□ 1645

Drawing upon their research, that of the influential Carnegie reports on education and other effective school research, we have concluded that the first priority in education must be a restructuring of our school systems.

Albert Shanker, president of the American Federation of Teachers, said about the Dade Country, FL, changes, "Dade County is starting to do things that schools across America have not even thought about."

Mr. Speaker, we went down and examined the nationally acclaimed and innovative Miami, FL, area school system, key elements in school-based management including allowing individual schools the flexibility to extend budgets and curriculum to teachers and school administrators to give them a major role in managing the school, schools that are allowed to choose to increase class size or decrease class size, and, if additional funds result, to provide a multiple, innovative way of addressing educational problems that they face. They are allowed to emphasize certain subjects such as science or math, and they are allowed to hire part-time specialists ranging from classical music instructors to Creole language teachers, and there are many other innovative approaches designed to address the problems that each local individual school system faces.

If I can stress one major recurring theme throughout this American family act that is reflected over and over again in the initiatives that are contained here, it is flexibility and choice for those that are involved directly in the program to make decisions regarding the way in which that program will be administered, to make decisions in how services will be provided to children and families in need. It is in stark contrast to the generally recognized manner in which Federal programs are administered. That is from top down with page after page after page of regulation with mandates from the Federal level for State and local communities and institutions to follow.

Mr. Speaker, our programs are built from the bottom up. They are innovative, local programs designed specifically to address the local needs of families and children. And so they begin from the bottom and percolate, and what we are attempting to do with this American family act is spread the good news by providing information and demonstrations grants by targeting it to areas that need it and providing a Federal role and a Federal hand in spreading the success of these programs.

Mr. Speaker, our education section also includes a legislative initiative promoting open enrollment because it is clear that while most Americans believe that choice promotes quality alternatives in public education, parents have simply not been offered choices. The lack of choice tends to encourage stagnation rather than creativity, and, therefore, over time it tends to discourage innovation among teachers and parental environment, both key ingredients to effective schools.

As Sy Fliegel, deputy superintendent of school district No. 4 in Harlem and director for that district's alternative schools said: "If you have kids who have selected your school, and their parents selected your school, and the teachers selected that school, there is a sense of ownership. That school is going to do better than a school where you had to go or had no choice."

Since it is clear that significant educational gains can be made through greater parental involvement in education decisions and activities, we are proposing in this American family act an initiative to spend $50 million to stimulate unrestricted enrollment programs within school districts throughout America. We have earmarked in this act $450 million for bootstrap schools. While we are disappointed in public school performance in general, nothing is more disheartening than the incredibly poor performance in the low-income minority areas where education is so essential to long-term success.

So, Mr. Speaker, we have earmarked up to $450 million for schools which have predominantly low-income students. This money would be distributed to the States based upon the percentage of eligible children. State educational agencies would select applicants that most effectively meet the criteria including parental choice, and school based management and shared decisionmaking processes that I described earlier.

While innovations such as school based management and parental choice are essential, financial resources currently are insufficient, and, therefore, we are committing a good chunk of money out of this act to boost this particular program.

The American family act also includes under its educational section initiatives regarding character education, directing of funds to disseminate information and to promote teaching of innovative character education programs that have been started in a number of parts of this country and tested for success and deemed important to the successful application of educational principles.

Mr. Speaker, we are including a college savings bond act which was introduced by our late colleague, John Duncan of Tennessee, that has a number of sponsors in this House and provides a basis on which parents can begin to save money for that all-important college education.

Will only the rich and poor be able to attend college? We want to maintain in this Nation the ability of all income levels to maintain college, and the college savings bond act together with an initiative that I introduced many years ago, the education savings act, is a step in the right direction.

Section 2 of the act involves family support and stability, and one of the most important components of that section is our family impact statement. Because we have in place environmental impact statements, it appears to me that often we know more about the life of snail darters and the impact of Federal regulations on relatively obscure environmental species than we do on our children and our families. Family impact statements would require that we attempt to apply criteria to legislative iniatives and regulatory iniatives out of our agencies that determine what the impact of that legislation or regulation will have on the family.

We have worked with a number of people in this area and throughout the country in developing a framework by which we can apply family impact analyses to our laws and to our regulations. Government often knows no more about legislation and regulation that affects everyone other than the family than the family and children themselves.

Mother Teresa is someone whom we are all familiar with, and she says that family life depends on unity. We cannot be together unless there is intimate love with the father and mother between the children and parents, and today, when we are so busy with so many things, we have not the time to smile at a child. The child comes home, and there is no one to receive the child, and the child goes back to the street, and there are many things in the streets, drugs and other things, that are destroying the love of the child and that will destroy the love of being loved and cared.

For most Americans life is a fabric of helping hands, and good neighbors, bedtime stories and shared prayers, lovingly packed lunchboxes, and household budget balancing, tears wiped away, a precious heritage passed along. It is hard work to put a little away for the future.

Mr. Speaker, no government commands these things, and no government can replicate them. In a culture that emphasizes living for the moment and for one's self, the family affirms an older, more lasting set of priorities. Given this critical and important role of the family, should we not at least know what the impact of legislation or regulations will be on that family before it is enacted into law or promulgated into a regulatory fashion?

Our family support and stability act also includes a concept which I helped develop along with the gentleman from Iowa [Mr. TAUKE] which is called choice in child care. Choice in child care is the result of a task force headed by the gentleman from Iowa [Mr. TAUKE] and is supported by a number of Republicans. It is the result of more than 6 months of work, of considerable effort, and discussion and compromise to fashion a proposal which will better address the needs of child care in this Nation. It is a direct response to the alternatives for better child care which we feel is a seriously flawed piece of legislation. Choice in child care retargets the existing child care tax credit to direct those funds to where they are needed most—by working mothers, single parent mothers, by mothers in low income, to parent families where child care is not a discretion, but a necessity.

Mr. Speaker, often the choice is welfare or work. Work for a single mother means child care. Work for a low-income mother of a two-parent family means child care. But that child care should not be Government-dictated child care or child care only supported through the efforts to support Government-regulated day care centers.

No one knows better than the mother who should take care of her child and how that child should be looked after. We provide in choices in child care, we provide the mother with the choice of who will take care of her children. We provide a basis on which we do not discriminate against that mother who chooses to stay at home and raise her children, and, therefore, our refundable tax credit goes to all mothers with children under 6 whether or not they are at home. There should be no difference in supporting a mother who happens to choose child care and a mother who happens to provide that child care herself.

Mr. Speaker, many experts say that especially for infants of young age, child care at home by the mother of the child is an important factor in the psychological, and physical, and spiritual and emotional development of that child. We know that many mothers do not have that choice, and, therefore, we are providing this choice for child care, a refundable tax credit to those that have children under the age of 6.

We also target funds to lower and lower middle income families by means of a certificate given to the mother distributed through the State that she can use to select the child care facility of her choice. Many, in fact most, choose child care outside of a child care center. In fact, only 23 percent of our Nation's mothers have chosen to place their children in child care centers. Many prefer relative care. Many prefer neighbor care. Many prefer family day care, neighborhood day care, church day care, or other means of providing day care.

Mr. Speaker, child care should not be Government's choice. That should be the parents' choice, those who are in the best position to know what is best for their children and to monitor the kind of care their children are getting. Our legislation provides certificates to those parents so that they can make the choice, not Government.

We also provide assistance to States to improve the quality of child care education, and we provide incentives to employers to provide onsite day care.

Another critical factor in issue in our family support and development and stability section is the child support enforcement and custody provisions. One of the tragedies of our Nation today is the fact that little over one-third of parents charged by the courts with providing child support for their children provide that support. Two-thirds, nearly two-thirds, for one reason or another do not provide the court-ordered support for those children, and as a result Federal, State, and local programs have to try to pick up the pieces, and often the funds are not available or the pieces are not picked up.

Mr. Speaker, we provide through this legislative initiative child support enforcement and custody orders ordering automatic wage withholding at the inception of the child's support order. We mandate a minimum fixed percentage of noncustodial parents' income for child support at 17 percent of the noncustodial parents' income going to the support of one child, and 25 percent for two, 33 percent for three or more. We write in a primary caretaker presumption, such as the West Virginia law, by encouraging that initiative by providing incentive funds to States.

H.R. 3390, as introduced by the gentleman from Illinois [Mr. HYDE] amends the Federal criminal code to make it a Federal criminal crime to leave or remain outside a State for the purpose of avoiding payments of arrearages in child support. One of the most immediate and direct things that we can do to assist that child at home who does not have both parents there providing support is to insure that the court-ordered support is paid.

Lenore Weitzman, Ph.D., who has testified before our committee, has stated, and I quote, "Child support awards that go unpaid and unenforced make a mockery of the judicial system and the values of court orders. They also leave millions of children without the basic necessities of life. If the present system of unenforced child support were to continue unabated, half a generation of American children will suffer years of financial deprivation."

In response to that and other statistics indicating the abysmal rate of child support, we have introduced the child support enforcement and custody proposal. The family support and stability section also includes a family stability act for public housing, and I will not go into the details here, but it is a legislative initiative dealing with the problems that we currently face in public housing with the objective of establishing market-based rent for public housing residents in order to create incentives for family stability and development of grassroots leadership in low income communities.

□ 1600

Section 3 of the American Family Act, and the last section in this act, deals with "at risk" children. We have a number of initiatives here. One is to provide family support centers, which is partial startup funding for these centers. We found across the country disorganized reaction intervention systems in place and we want to attempt to coordinate comprehensive prevention.

We have modeled this initiative after two very innovative programs, one in Chicago called Operation Beethovan, and one in Brooklyn called Nuestros Ninos. These have demonstrated giant steps forward in terms of intervening with family crisis and we think these initiatives have achieved enough to the point that we believe it deserves some Federal startup help to spread the good news of what they are doing.

Our early childhood family education proposal is the result of our study of a similiar initiative undertaken by the State of Missouri and picked up by the State of Minnesota. It is in response to our declining commitment to our children's educational process by encouraging parent training and parent involvement in the early childhood education of their children. It deals with children age 0 to 3 and we offer a comprehensive set of demonstration grants to urban, suburban and rural areas within each of our States, as well as creative outreach targeted programs to hardship areas.

We also provide for information dissemination on those two programs, the parent-teacher program in Missouri and the Minnesota program.

To quote Dr. Burton L. White in his book, "The First Three Years of Life":

> I remain totally convinced that, to get off to the best start in life, what new humans need is a great deal of waking time with older people who are deeply in love with them.

Parents as teachers and these initiatives in early childhood family education is designed to meet that very goal.

Our Family Preservation Act is another initiative which I will not take the time to go into great detail, but we attempt through the use of some innovative techniques and programs to intervene in families to preserve the family.

The revolving door of foster care is one that has been documented and detailed in this country. Often it is less than satisfactory. To the extent that it is possible to preserve that family and to keep the children within the family, we should make that effort. Obviously, foster care needs to be an alternative, because often intervention is not enough or too late, but to the extent that we can preserve intact families, we have proposed an initiative that will do that by funding technical assistance and training grants to provide assistance to 10 selective administrative units, to promote a unique and innovative program called Homebuilders that we have discovered operating in a part of this country that has had a great deal of success. Programs have been undertaken in Utah and Minneapolis, MN, as well as other parts of the country and we have built off those and provided initiatives to again demonstrate their effectiveness.

We include a proposal dealing with adoption that the gentleman from Ohio [Mr. McEWEN] has already introduced and it is an important part of this initiative in terms of finding homes for unwanted or special needs children.

We propose to change the income tax law to allow deductions of up to $3,000 per adopted child when a family takes on a special needs child.

We also have a series of initiatives dealing with the problems of youth gangs, six separate initiatives involving restitution, parent liability, intensive supervision, character education and juvenile detention centers, juvenile justice clearing-house and gang community reclamation projects, as well as a gang-busting program, which we feel offers some innovative ways of dealing with the growing problem of gang violence in our cities.

As I said earlier, we are looking at the American Family Act II. We intend to include a number of initiatives on housing, on community and family violence, an additional set of initiatives on education, a set of initiatives on work and family, and a set of initiatives dealing with families with special needs.

We are looking at a program of examining how we can establish a framework by which Congress can examine Federal programs to determine which programs work and which programs do not work, so that we can strengthen those that do, reform those or eliminate those that do not.

I have asked the GAO for a comprehensive study of this particular question and I believe that the Congress of the future will no longer have the luxury of simply experimenting by tossing money at a problem to see if it works, but will have to apply their effective well-developed criteria at the programs currently in place and those that are proposed to determine whether or not they will bring about the desired solutions and meet the objectives of their authors.

We would hope that within a short amount of time we can have before the Congress a framework in which to do that.

In conclusion, let me just state that the American Family Act is not designed to be a partisan proposal. I did not mean to imply by my earlier remarks that positive initiatives have not been put forward by Members of the Democratic Party. They have.

I do not question the motives of those who have offered initiatives that affect our children and our families, regardless of where those initiatives come from or regardless of the political persuasion of those offering them.

I think there is a genuine commitment from Members of this Congress, both Democrats and Republicans, liberals and conservatives, to find ways of dealing with the many serious problems affecting our children, youth and families.

What this proposal attempts to do, however, is to delineate a means as to how we approach solutions to those problems. We pretty much all agree on what the problems are. Where we divide is how to approach those problems.

My contention is that past proposals have not succeeded in effectively treating the problems that we face.

As I said earlier, not every problem lends itself to a legislative solution, but to those that do and in the areas where we can help, I think it is incumbent that we put aside some of the old ways of doing things and not just assume that a new program or more money at the Federal level is going to solve the problem, but actually reach out and look out across America at those initiatives that are doing the job and see if we can lend a hand in assisting that process and spreading the news to other communities.

I would urge my colleagues to carefully look at the 21 separate initiatives that are included in the American Family Act. I am happy to provide them with information that gives more detail as to these legislative proposals.

I welcome your criticism, your suggestions for improvement, whatever input that you might have that will help us strengthen this.

After all, the bottom line is helping children and families. It is something we all want to do. I invite you to look at this comprehensive piece of legislation which I hope will form the basis for legislative initiatives in a 101st Congress and beyond and an agenda for the next generation as we deal with these critical problems.

BREAKING THE IMPASSE: THE FUTURE OF RAIL SERVICE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. SLATTERY] is recognized for 10 minutes.

Mr. SLATTERY. Mr. Speaker, I rise today to express my grave concerns about the future of rail service in our country, particularly as it relates to short line sales and labor protection conditions.

In the State of Kansas and across the country, we are facing a quiet crisis.

It is a crisis that threatens the transportation lifeline of communities and shippers.

It is a quiet crisis that could result in hundreds of miles of track being torn up, thus depriving our businesses and towns of rail service forever.

Unless action is taken promptly, the economic lifelines of our communities—particularly in small towns and rural areas—will be irreparably severed.

And unless action is taken promptly, hundreds of good jobs will be lost.

And we will lose the chance to provide economic opportunities for communities which most need our help.

In order to understand the need for action, let's take a look at the events which have led to the current impasse.

Ten years ago, the American railroad industry was drowning in a sea of economic troubles.

The rate of return for the industry was clearly inadequate.

The costs of excessive regulation had taken their toll.

The industry was crippled under the weight of archaic rules and miles of red tape.

And in 1980, Congress responded by passing the Staggers Act.

The Staggers Act has restored a degree of economic health to the rail industry.

While we can argue about the fine print and the implementation of the Staggers Act, no one seriously disputes that the law has given the rail industry a strong and much needed shot in the arm.

Rail rates have been significantly reduced.

Rail costs have been cut.

Large amounts of grain and coal now move under contracts that benefit producers, shippers, and consumers alike.

Changes in work rules have created efficiencies and produced savings.

But in attempting to reduce costs, some say by avoiding existing labor agreements, many railroads began selling portions of their systems under expedited procedures approved by the ICC.

Last October, the Interstate Commerce Commission reported that 195 net short line and regional rail carriers had begun operation since 1980.

This new fleet of carriers operates over 13,000 miles of track located in nearly every State. And they employ over 4,000 full-time employees.

But these jobs were not created without concessions, including lower wages, reduced crews, cross craft assignments, and elimination of cabooses.

While the number of short line operations dramatically increased, the number of railroad abandonments decreased during the same period.

In the first year following the passage of the Staggers Act, 382 abandonment applications were filed, involving 4,821 miles of track.

But the number of abandonments fell in every following year until 1987, when only 60 abandonments were filed, involving 1,208 miles of track.

This trend was abruptly halted last fall after the Pittsburgh & Lake Erie decision was announced.

That case, as affirmed by the third circuit court of appeals, effectively put all line sales on hold.

Since that time, abandonments have begun to increase.

Between October 1987 and June 1988, 78 abandonments were filed, involving over 1,500 miles of track.

In Kansas, there are over 650 miles of track currently on the chopping block.

A good portion of these potential abandonments in my home State have been initiated since the P&LE decision, including over 200 miles which were included during the past month.

Recently, the Seventh Circuit Court of Appeals has come down with a different approach to these issues. And other cases are pending in other courts.

While the lawyers for rail labor and management are slugging it out in court, rail service is being threatened in many parts of the country.

I believe it is time for Congress to get involved in these issues.

Unfortunately, because of the impasse which has developed between rail labor and management of these issues, the matter becomes a political hot potato.

And while the hot potato is being thrown back and forth, innocent bystanders—our communities and shippers who rely on continued rail service—are being hurt.

Mr. Speaker, I stand here today to say that I intend to do what I can to see that these issues are settled.

And in trying to find an acceptable solution, my primary concern will be to ensure that essential rail service is preserved.

Yes, jobs are important to me and my constituents.

And I understand that many rail operations are more cost effective if labor costs can be cut.

But to both the railroads and their employees, I say that there should be a compromise which ultimately will benefit both sides, as well as preserving and enhancing our rail transportation system.

In order to arrive at such a solution, both sides will have to be willing to take a long-term view of rail transportation and will have to understand how the public interest must be served.

Both sides will have to make concessions.

Labor/management disputes in the railroad industry have become an all too familiar situation on Capitol Hill.

Last week, I listened to Members of the Senate and the House discuss the Chicago & North Western strike.

Without exception, Members of Congress expressed regret that the parties could not resolve the dispute themselves and how unfortunate it was that Congress had to intervene.

While some interests said they did not want Congress to act, it was clear to me and the overwhelming majority of my colleagues, that without congressional action, many innocent bystanders would be adversely affected while labor and management continued to fight.

The very sad fact of the matter is that this incident is simply the most recent chapter in the voluminous book of rail labor and management disputes.

I think it is regrettable that Congress has to referee these disagreements.

But I think most of my colleagues agree with me that at some point it is irresponsible for Congress to sit on the sidelines and watch our communities suffer while labor and management, after years of negotiations, tell us that they cannot reach any acceptable compromise.

Clearly, labor and management are in the best position to sort through these complex issues and to reach an accommodation.

When Congress gets involved in trying to mediate the dispute, it is an unfortunate but inevitable result that further problems are sometimes created.

I challenge the railroads which consist of both management and labor, to come to us and help us fashion a solution.

I challenge them to do so before more jobs are lost and before more track is ripped up and before more legal papers are filed.

And if the railroads cannot help me and other Members of Congress reach an acceptable compromise, I ask them to understand why Congress must press forward without them.

I ask them to understand the needs of small communities who rely on continued rail service.

I ask them to understand the economic realities that exist in the big picture.

I ask them to understand that we cannot wait until the lawyers for labor and management fight all of the expensive court battles that only add to the current impasse.

Congress must look to the public interest in finding answers, not just a balancing of management and labor interests. It is time to break the impasse.

I hope that labor and management will heed these calls for help.

And I hope we can act quickly to correct these problems.

I look forward to working with labor and management, with our States and cities, and with my colleagues, in finding the best way to stop the quiet crisis that threatens our Nation's railroad system in rural America.

□ 1615

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I wish to continue the discussion that is quite interconnected with our domestic fiscal, monetary, and general economic policies that I have initiated over the course of a few years. I have discussed the emergence of the European Community, or the European Monetary System, called the EMS, and the European Currency Unit, called the ECU, which unfortunately for us it seems that I have been the sole Member of the Congress, or as far as I know, anybody in public office in the United States, who has even mentioned much less discussed the emergence of this force with great implications for America's economic well-being or sustained well-being.

Going back to the May 1, 1979, economic summit in Bonn, West Germany, at which time President Carter as President of the United States participated in behalf of the United States and for which meeting for the first time in the joint communique the last sentence addressed the creation and the acceptance in principle of the European Monetary System and the European Currency Unit as a unit of exchange, that is, currency exchange between the members of the European Community.

Since then, of course, what we are facing now is a system that is in place. In 1979 it was an acceptance on the part of the Big 10, or the group of 10 nations, more or less indicating that the European Community was beginning to flesh out what they had visualized in Rome, the Treaty of Rome, in 1948 in which there was an aspiration and a vision of a united Europe or a United States of Europe.

Today in 1988, the talk in Europe, both in and out of the formal organization known as the European Community, and which they hope will be called, not the Common Market, but the Single Market by 1992, when the full joinder and confederation of a United States of Europe is programmed to take place and the completion of the envisioned plan in 1948 in Rome. The problem is that we in our country since 1945 and 1946 and the immediate so-called postwar period have never pondered on either a long-range basis the absolutely plausible outline of events once the war receded, that is, the hot-shooting phase of the war into the history of the world and the memories and experience of the peoples of Europe; we are living in the middle of that tremendous watershed of development in which in all of these countries, and in ours, on the threshold of power, are generations that do not recall World War II.

Mr. Speaker, I think dramatically when we look at the fact that the German leader Kohl was 15 years of age at the time of World War II, and the Soviet leader Gorbachev was 15 years of age at the time of World War II, we can see what is happening, and there has been very little perception in our world, in our country.

Last week I spoke of the fact that when we discuss our so-called defense posture, our defense policy, and we envision an appropriation for the purposes of our military defense, that we are actually still talking about a mindset of a Europe of 1940–50. I have brought out time and again that now more than 60 percent of the near $315 billion defense budget for which we tax American citizens is for the so-called defense of Europe, but the Europe that we are thinking of is a 1947–50 Europe.

I mentioned a week ago that the big issue at the beginning of the world as it was shaping and as the erstwhile allies were realizing and trying to get together on just what should be done with respect to the nations such as Germany, those in Middle Europe and Italy that had been conquered, let alone the Far East, Japan, the Korean Peninsula and the like.

It seems as if with no real preconceived thinking of an organized fashion or manner, we have walked into history quite unprepared for the events that are now crashing around our ears in an electronic fast age in rapid succession, and the same disturbing fact, as evidenced by our failure up to now to comprehend the world closer to us on our front porch, so to speak, and I will not call it the back porch but the front porch, which is a new world.

The country to the north and the countries to the south with now more combined inhabitants, 100 million more, than the United States, and just 20 years ago that was not true. We are talking about a world that keeps spinning, changing. The immutable law is everything changes in human existence.

We have not been careful to either note the changes, the nature of the world, focus a perspective that is in keeping with the reality of what has happened in that world, and particularly with respect to the New World, much less the Old World. For example, with the advent of the Cold War rooted in the big question still unresolved is to what extent Germany should be rearmed, at least, West Germany. That was and continues to be until recently.

With the emergence of new generations that do not recall the grim reality of a world war, the peoples of these countries are virile, active, productive, highly educated and are not going to remain in a submerged, conquered, if you will, position forever any more than they did after World War I. As a matter of fact, I have taken this floor to point out the great parallel between the aftermath of World War I and what happened economically and in international finance with what has been happening in the 1960's, 1970's, and 1980's to us and Europe, and now, of course, the great Pacific Basin. The world has shrunk. It is tightly bound by firm bonds of electronic instantaneous communication, and either we are going to compete in a knowledgeable, informed direction, and that is going to take some effort, or we do not. We disappear, in the words of the British poet, into the lost glories and majesties of the Ninevehs of the past, or we emerge, as I have the faith we will, because even though the leadership, and that includes every one of us in my judgment and assessment, may have failed up to now in behalf of the greatest interests of the greatest number in our country, the overwhelming masses of our peoples are way ahead of us, and I think are quite capable of discerning the capable, the prepared, the knowledgeable leadership, the leadership with a vision, for good reason. Down through the ages we have read in the scripture that where there is no vision, a nation perishes, and, of course, that is true to this day and in our day and time. We may be lucky. We may escape an invasion, but we have to a certain extent been invaded in other than an armed, physical presence of an out-and-out enemy, and if we do, through our own fault, through no external invasion, give way and give up our inheritance of democracy, of freedom, the greatest known in the way of personal freedom of any land and country or peoples, and particularly in the 20th century, where this century has not been hospitable to the democratic ideal, it will be because we have failed to reaffirm the basic principles that have enabled us to reach the point where we are today.

□ 1630

There is no question about it, I see no formal leadership, particularly in a united way, affording the type of leadership that this country calls for at this point. The people have elected a President under the terms and conditions that modern day America confronts. I think it should be a source of great concern to us that the majority of the Americans eligible to participate in an election are not participating in those elections. This is leading, then, to the minority, the choices of those who will be leading the country, involving the country, making fateful decisions for good, bad or indifferent results.

In our case, I am sorry to say, and it explains as a consequence my criticism of this administration, though by no means have I been exclusively critical of this administration or any that happened to be belonging to the party that I do not belong to, for I have also disagreed and have criticized Presidents that in fact have even been neighbors and fellow Texans, and for virtually the same reasons.

Those reasons being that we have, through perhaps inadvertence, perhaps to the forces arising in the midst of our societal development, not only in our country but in other countries throughout the world, forgotten that this order to keep a system such as this going, that it is not self-perpetuating, that every one of us has to work at this. That if we are going to forgo this grave responsibility of participaing or at least in those processes in which we are selecting our leaders, that then we have no reason to complain at any dire results.

The election of President Reagan, I think now is being written in retrospect as a masterpiece of what some of the professional manipulators of public opinion, which is what I call them, highly and professional trained individuals who have put together the basic lessons of applied psychology, plus these tremendous means of communication of an electronic age in order to package candidacies in order to sell these candidacies. In some cases, catering to some of the baser instincts in us, catering to a dislike or a hatred of those segments of our population that happen to be in distress or poverty.

In our country, the worst thing that can happen to us is to be poor because our standard of success is our success in business or the size of our pocketbooks or our bank account, and we like to equate success there with the ability to be successful in everything else, including governing. Of course, wiser people than us, more experienced people in the shape of shared experience governments, such as the British or the English, who have more than 1,000 years of experience, long ago realized that that is not necessarily true and that in England, the phrase "professional politicians" is a word of praise. Winston Churchill thought no greater praise could be given him than to be called a professional politician. But since childhood he was bent, inured through commitment, through attribute, to the public matter and society gave him that niche.

In our country, if we say "professional politician," we mean that in the pejorative or derogatory sense, and I think therein we have in evidence of one of the root causes for our dilemmas as we face them. Very serious ones.

For instance, in Europe we are facing an economic bloc that by 1992 will be in place and will consist of more than 375 million very educated, very civilized peoples and countries. We have done nothing to evaulate the consequences. We did the same thing. We have muddled through since the 1950's and 1960's. If we research all the published addressed and public papers of President Dwight Eisenhower, and there are about 10 or 12 volumes, not one page has any reference to the European economic market and its development. Yet by 1962, the first major piece of legislation known as GATT, for the General Agreement on Trade and Tariff, was put before us.

As a freshman I remember it vividly as of today. President Kennedy was President. It was called the Kennedy round. It was obvious then to me that the system that had been erected in 1944, 1945 and even in the midst of war or the waning period of hot war, that it was another world, that Europe was emerging as a reinstituted and viable productive part of the world; that the United States, enjoying the benefit of monopoly, of production and distribution and purchase of its goods, would have to start thinking in terms very basic about what that rise of this emerging community in Europe and the Common Market and the European Economic Organization and Reconstruction Organization meant.

Now, I think there are two ways of looking at it. We can look upon it as a danger, as the Japanese are now, and I want to bring to mind the difference in the approach between our approach and the Japanese.

In the Christian Science Monitor of Tuesday, September 20, and I want to praise this publication because as far as I know it is about the only one where you read these involved articles, entitled "Japan grapples with the threat of new trade blocs in the West, will Tokyo team up with other Pacific economies?"

In other words, are the Japanese clearly realistic enough to assess and prepare for the emergence of this vast trade bloc known as a single market in Europe? Instead of the Common Market it will be the Single Market. They now have this single standard of currency, evaluations and use. As a matter of fact, in the official publication of the European Community last month there was a tremendous article on the growing private acceptance and use of the European currency unit. Now that means that whether it is intended or not, the U.S. dollar, the American dollar, which has been the international reserve unit is on its way to being displaced.

Now, that can happen in a way that can be controlled or it can continue to go the way it is now with the chaos created. As a result these external forces over which we have no control, impacting our own internal fiscal and monetary policies. It has reached the point now where our Treasury offerings and the debt, were it not in 1986 that the foreign purchase on the part of foreign central banks, these are the central bank and institutions, in these respective countries, of the financing of our debt, we would have had a real dilemma. But what does that mean in terms? It means that now, even our absolute powerful omniscient, in this respect entity, such as the Federal Reserve Board, which is the equivalent of the central banks but is not really the same, no European country would ever dream of handling its money affairs like we do through the Federal Reserve Board.

Never has such power even been given either in the history of our own country or in the history of any other civilized industrial country to such an entity as a central bank. The central banks are dovetailed into the policies of the government in power.

Now it used to be that Great Britain until, in fact as late as World War II or the high-shooting phase of World War II, did the same thing, and it gave the Chancellor of the Exchequer complete control as to what government would rise or fall through the purchase of the government paper and all, finally they cleaned that up. But we have not.

Today the Federal Reserve Board through its open market economy, which incidentally is not open but it is secret, can determine whether we are going to have a rise in interest rates, a decrease in interest rates, which all through mankind's history is at the root of its well-being or not. As long as man has existed in communal existence and in barter and trading, the equivalent of interest rates has been at the heart of the rise and fall of empires. The history of interest rates is a history of the rise and demise of great civilizations and empires. Back to 7,000 years before Christ, and here in the United States we are absolutely powerless. There is no control.

Now, let us take Japan, for instance. In Japan there is strict control on interest rates. Likewise, almost every other country I can think of. However, I can recall a prominent American and fellow Texan, chairman of the Banking, Finance and Urban Affairs Committee, because I have been a member of that committee since I came here almost 27 years ago, the Honorable Wright Patman, and what he used to say, and I know that he in that generation would never have ever imagined in their biggest nightmares that the prime interest rate in this country would ever go as high as 10 percent, much less 21 percent. If we had a graph chart, we could show that concurrent with these great, great chaotic and great instability in the interest rates, we have had the demise of hundreds and thousands of businesses and bankruptcy, we have had this other concomitant, which is most reprehensible, most destructive of the economic well being of our country in which we have these mastadons swallow other mastadons, but every one of them tying up banking credit. Every one of them. Even the Hunt brothers from Texas, when they attempted it, to corner the silver market. Now that was a rank act of stupidity. Anyone who has had any knowledge of this knows that if there is any market that has been controlled and the victim of these expert speculators, it has been the gold and the silver markets. Goldsmith, silversmith, and those controlling those markets in London, in Zurich, in France, are experts. There is no way a rugged Texan, billionaire or not, was going to bamboozle into that.

But in so doing, in trying to corner the silver market, the Hunts tied up $30 billion worth of bank credit and resources that at the banks, as instituted under our laws for public need and convenience, were serving their basic charter purpose, would be used to fire up the engines of manufacturing, fire up the business inner core factories in our country instead of these speculative, lost ventures of wasted efforts in wasted banking credit and resources of our country.

□ 1645

That is one dramatic. But then these others, more disturbingly, something that I have written a letter to the chairman of the Committee on Banking about, the recent hostile takeover of the Irving Trust Bank in New York by the New York Bank, in which in order to try to resist a takeover, the Irving Trust then brought in a "white knight" which is what they call an ally that they can find to help them temporarily stave off a takeover. But all of those have to end up paying that white knight their very life blood.

But who was the white knight? The white knight was the Banco Commerciale Italiano, from Italy. What did the Federal Reserve Board do? After all, they are a regulator. But contrary to what the majority of my colleagues believe, the Federal Reserve Board is not a Federal Government agency. It is not a Government agency at all. It is the private commercial banking system's bank. And it, in turn, is controlled by the seven, eight, or nine largest banking interests in our country. And they, in turn, have been so irresponsible about their great trust that they have jeopardized the well-being of those institutions by investing, lending, at the beginning, at great exorbitant rates of interest to the developing or lesser developed countries that we knew as far back as 1976, 1977, 1978, and 1979 when that started on a big scale, first recycling the Arab money oil that had gravitated to the Arab countries as a result of the embargo and the crisis in our energy situation, and we knew those countries would never be able to pay back, certainly not at those interest rates.

And that is what has happened. But the extent to which that overhang was permitted by the regulators, such as the Federal Reserve Board, to happen is what I consider to be unconscionable. This is the reason why I introduced a bill of impeachment, assuming that we could get a court interpretation as to the definition of a Federal official, with the Chairman of the Federal Reserve Bank Board, because the behavior was of such a kind that it was in callous disregard of the best interests of the country and all for the private interest, emolument and lucre of a few of the biggest financial giants of the world.

So that we introduced since 1966, the first credit crunch in June, legislation in anticipation. We introduced legislation that would, in effect, have brought the Federal Reserve Board to accountability to the Congress which created it.

The Federal Reserve Board was not struck from the brow of the God Jove; it was formed as a result of the Federal Reserve Board Act of 1913. But then a lot of things happened in which the congressional intent was diluted and diverted.

With the emergence of what I consider to be something that ought to be outlawed, and I have introduced a bill to outlaw the so-called Open Market Committee, which is the one that determines whether the Treasury's bills and notes are going to be viable or not, which means whether an administration is going to be suffering or not.

But where are we now with this disorder domestically, with the unwillingness of the Congress to even consider the matter, to even consider a bill that some of us have been offering for 20 years which would bring an audit of the Federal Reserve Board by the Congress' only oversight arm, the General Accounting Office? You would have thought that we had brought in an execution squad when we first introduced those bills and had hearings. We have not been able to get hearings even on those bills in the last 20 years.

What was anybody afraid of? Their reply was "We have our own audit."

But then when I brought out the scandal at the time that our new chairman of the committee about 1975 or 1976, when it was taken over, which included the fact that a member of the Federal Reserve Open Market Committee had quite improperly leaked information that had benefited two principal banks of New York by millions of dollars. By the time we started hearings and looking into it, this one member returned to Philadelphia and died. But we insisted and finally 2 years later we finally got a promise from the then Chairman of the Federal Reserve Board that they would do an in-house investigation.

So they did, by appointing a lawyer for one of the banks that benefited, to study and examine the matter. They came out with a report another year after that which I printed in the RECORD, and it can be found in the CONGRESSIONAL RECORD, in which the Federal Reserve Board said, "Yes, there was an inadvertent dissemination of information that shouldn't have been, but it wasn't done with intention or malice aforethought or conflict of interest, it was an accident."

Well, we know that in all levels of human experience whether it is in the Congress, or the executive branch or in private life, power, unlimited power and unaccountability of power will corrupt. There is not one of us mere human beings who is so strong. And the reason why the basic genius of our form of government, where the basic three branches where powers are deposited would be coequal, independent, separate and countervailing so that no one would monopolize great power.

Until the last few years where, unfortunately, the Congresses have abdicated great constitutional responsibilities with respect to the actions taken by the President or the executive. But I think that the situation confronting us is so filled in this other area that we must somehow summon forth some resources.

I have written the chairman of the committee. I have asked him even in the waning hours of the 100th Congress to call hearings on the hostile takeover of one bank by another bank and particularly where there is foreign investments of foreign capital. For we are now depending for our well-being, as transitory as it will turn out to be, on interest across the seas that may or may not have our best interests at heart and mind.

So I have written the chairman to look into it because the Federal Reserve Board under its regulatory powers sanctioned for the first time a hostile takeover of one bank over another.

Now we have been use to having these corporate giants do this to each other at great cost. They do not produce one job, they do not find one American employment. Contrary to some of the apologists such as former Assistant Secretary of the Treasury Sprinkel, it does no good to anybody and it is greatly disruptive in its highly accelerated speculative forces. I brought out how in the stock market, for example, we now have 3 trillion turnover in volume, where we have short-term transactions; where in the sixties if you had 3 million or 30 million at the end of a day, now you get that much every 10 minutes. But almost all of it is speculative, short term usually based on some indirect or direct extension of banking credit.

Now the banks are before us, before our committee and have been for a couple of years saying that the time has come where they should be allowed to go into these ventures such as securities markets and the like. Well, they are, in a way. And whether we like it or not, the securities firms have gone into banking so they have quite a bit of justification, to a certain extent. But in the meanwhile, the Federal Reserve Board has entered into an agreement with the European big 10, or the Bank for International Settlements, the BIS, which is the real controller of the world's finances and never has lost that control even when we formed, under the Bretton Woods, the International Monetary Fund.

And they have set what they called convergence, convergence of values of investments and of capital. That is, defining, as a result of that agreement, the Federal Reserve Board then extracted from the banks $30 billion worth of additional reserve requirements which means that it has placed some of the lesser banks on a perilous perch. But what it also means is that our big international bankers and particularly the domestic bankers that, in turn, invest with these big international or supranational entities, at the disposal and under the power and control of these external banks in the Bank for International Settlements of which the United States is not a member in the sense that it has a vote.

So now though we cannot allow ourselves to sit here and watch our coming generations, in fact sold out, ironically, to a mercantile system that the American Revolution was fought to do away with. This is what we are facing.

In 1981, with the advent of President Reagan we still had 49.8 billion dollars' worth of what we call capital goods balance in international trade. By 1986, that had shrunk to $0.6 billion and as of last year, 1987, it was $2.6 billion. But, my gosh, from $49.8 billion in 1981? No wonder as of 3½ years ago the United States for the first time since 1914 is a debtor nation. I have always learned, and I guess maybe I was brought up in the tradition of Ben Franklin's almanac, that you did not try to get into debt, nor if possible, neither be a lender, but particularly not in debt to the point where you could not redeem yourself.

I cannot see how that can be good for our country.

I think we are beginning to see it. What I forsee is the emergence of a first-class crisis that I do not think is too far off that will tax our ability to lead, to contribute in a meaningful way, in a constructive manner, and not get sunk in the divisive propensity to blame somebody for whatever has happened. We have got a problem, we have got a condition. We have got to confront it, but we are not going to do it unless we do. And we measure the size and the scope of it.

I know that in this article, for instance, in the Christian Science Monitor one of the significant paragraphs is "plans for powerful new trading blocks in Europe and North America have Tokyo worried. So too does the anticipated decline of American economic strength and the shrinking appetite for Asian goods."

"In Japanese eyes, the integration of the nations of the European Community into a single market in 1992 and the United States-Canada free-trade zone are potentially negative events."

□ 1700

In my opinion, for America, as I have said often before, dangers and problems also present opportunities. But when I see that we are not headed in any constructive way or avenue compounded by our losing our grip also with our neighbors to the south, I see that we have problems. At one time, as late as 1980, I warned about this. I made the first speech here on the floor with respect to so-called Latin American matters. Even though

I had been selected by the Organization of American States in 1966 as an observer to observe the Dominican Republic elections on July 1, 1966, I did not consider myself an expert, but in April 1980, I realized we were beginning to embark on a similar expenditure or adventure as the one that unfortunately we had in Southeast Asia, and I saw that astoundingly the thinking was identical. I could not believe it. I would never have believed 15 years ago that we would have a recrudescence, that we would have a President who would revive the outmoded and antiquated bankrupt policy of Calvin Coolidge and the dollar diplomacy or marine diplomacy. Yet here we have had it, and we have lost everywhere we go.

The recent unfortunate trip of Secretary of State George Shultz should clearly demonstrate to us that we are in dire straits. Instead of forming the leadership that incidentally and ironically those countries expect and want and aspire to have from the United States, the leadership which we could provide if we had the wit and the will to work to our advantage, we have followed a different policy. Instead of facing what we consider to be a Communist menace, we would have no menace at all, but rather, a working arrangement where we could have the equivalent of a trading bloc, which incidentally Japan has been building in Asia, in Southeast Asia, in what they call now the NICS, the Newly Industrialized Countries—Korea, Taiwan, and even China. Japan has great thoughts about this, and their biggest fear is, as this Christian Science Monitor article shows, that they do not want to be accused of going back to the prewar, coprosperity sphere that Japan used before by using its military, invading China, Manchuria, and the other countries in that area.

They have learned from history, but they have not been saddled any more than the European countries have with the onus of defense expenditures. They have been able to pour their efforts into their economic producing area, and as a result, they have forged ahead of us.

We are not now a producing Nation, for the first time; we are an importing Nation, and I do not think the American people feel that it should be that way. I certainly know that it does not have to be. But we are losing ground with foolish acts, with myopic vision, with no vision. Where there is no vision, a nation perishes; with vision, it flourishes.

Mr. Speaker, I offer for the RECORD at this point this article that appeared in the Christian Science Monitor: "Japan grapples with threat of new trade blocs in West."

The article is as follows:

[From the Christian Science Monitor, Sept. 20, 1988]

JAPAN GRAPPLES WITH THREAT OF NEW TRADE BLOCS IN WEST

(By Daniel Sneider)

TOKYO.—Plans for powerful new trading blocs in Europe and North America have Tokyo worried. So too does the anticipated decline of American economic strength—and the shrinking appetite for Asian goods.

Japan is reaching for a vigorous response. Some here favor forming a rival Asian economic bloc, but they are in the minority.

Most favor the development of some form of Asian-Pacific economic organization that might include the United States, Canada, and other non-Asian nations. Some Japanese say that such a grouping could become "A locomotive for the development of the world economy", as a recent government report put it.

Key government ministries have assembled study groups, drawing on private business and other experts, to come up with new ideas on how to create stronger economic links with nations in and out of the region.

In Japanese eyes, the integration of the nations of the European Community into a single market in 1992 and the US-Canada free-trade zone are potentially negative events. They worry that this could lead to markets that are far more difficult for foreign goods—including Japanese—to enter. (The U.S. Senate was expected to approve the free-trade agreement with Canada yesterday and then send it on to President Reagan for his signature.)

As the U.S. economy slows down, Japanese policymakers say, it will no longer easily absorb so many exports from Asian-Pacific nations. Countries like South Korea, Taiwan, Hong Kong, and Singapore—the so-called newly industrialized countries (NICs)—which now depend heavily on the U.S. market, could suffer severe economic recession.

In contrast, Japanese economists depict the world's second-largest economic power as the center of an interlinked system of Asian economies that are booming. They point to increasing integration between Japan and the NICs—one economist describes it is a process of fusion, and dubs it "Japanics." The emergent economies of South-east Asia, led by Malaysia and Thailand, surround the core NICs and Japan, with China on the periphery.

Japan has even adopted the role of defender of its fellow Asian economies against what the government report calls "impatient demands" by the U.S. and Europe to open their economies too rapidly. Prime Minister Noboru Takeshita represented such views at the Toronto summit of Western nations in June.

The vigorous Asian economies have tempted a minority group of Japanese to consider the formation of an Asian economic bloc as a counter to the European Community and North American developments. But, says Toshishige Namai, editor of the influential economic weekly Toyo Keizai, "These are old-fashioned people."

Indeed, such an approach raises painful memories of the past, in the minds of many Japanese and Asians.

A closed Asian trade bloc "would be a revision of the disaster of the Greater East Asian Co-Prosperity Sphere," comments a senior official of the powerful Ministry of International Trade and Industry (MITI). The "co-prosperity" concept was promoted by imperial Japan as the umbrella for its Asian conquests under the thin guise of resisting Western "imperialism."

Asian leaders have frequently expressed discomfort at Japanese economic domination.

"We know that there are some legitimate fears held by Asian countries about that," says another MITI official.

"We definitely need a U.S. presence when we talk about an Asian economic organization," he says.

Officials of MITI, which is at the center of discussions about a possible trade group, insist that they are absolutely opposed to any system that would undermine global free trade. An Asian-Pacific economic organization must be an open system, including the U.S., Canada, and other non-Asian nations, they say.

"We are at an early stage of discussion," says a MITI official involved in the "Asia-Pacific Trade and Development Study Group."

Various ideas are under discussion including:

The creation of a Asia-Pacific free-trade zone led by Japan.

The formation of a Japanese-U.S. free-trade zone to counter Europe.

The establishment of an Asian-Pacific version of the Paris-based Organization for Economic Cooperation and Development (OECD), the group that coordinates economic policies among advanced nations.

"The thrust of these," the official says, "is to build a more lasting relationship between the U.S. and Japan," not just between Japan and Asia. A new structure could reduce bilateral U.S.-Japanese trade tensions, dealing with problems as a package.

But an interim report issued by the MITI study group earlier this summer makes it clear that Japan plans to play a greater leadership role. "Although the U.S. is expected to play a major role in the Asian-Pacific region, its contribution will inevitably decline," the report concludes. "Therefore Japan's contribution should be increased and the U.S.'s burden lightened."

The report discusses four broad economic scenarios for the region and their implications for the world economy.

The first scenario, that the U.S. economy continues to play the central role in the region's growth, is dismissed as "unrealistic." The authors predict a slowdown following the presidential election as the twin deficits are reduced. Budget cuts will mean less foreign aid and it will "become more difficult to depend on the U.S. alone to support stability in the region."

MITI's second scenario envisions Japan stepping in to "absorb exports from the Asian-Pacific region, including the U.S." Japanese imports of Asian goods are currently increasing at more than a 50-percent rate, and MITI proposes to "ensure this trend is built into the Japanese economy." Japan's new role as an importer, the report says, will help reduce the American trade deficit and "provide the region with some insulation from the deflationary effect of a slow-down in the U.S. economy."

Japan can also play a role as a "stabilizer" by increasing foreign aid and helping to solve the problem of massive third-world debts.

The third approach calls for an expansion of trade and investment within the Asian region. The report suggests that other Asian nations follow Japan in expanding domestic demand, opening their markets to exports from outside the region, and expanding economic contacts between them. The recent

> phenomena of Korean and Taiwanese companies setting up factories in Southeast Asia is a promising sign of such intra-Asian links.
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> The result of this, the report says, would reduce trade imbalances and protectionist threats from abroad. The Asian-Pacific nations "can show the world that it is a mistake to see the economic development . . . as a threat, for it is actually an opportunity."
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> "If there continues to be a lack of vision and cooperation in the Asia-Pacific region," the fourth scenario warns, then the flood of exports will bring protectionist reaction and other pressures. The report sees this leading to "economic disorder" that "could throw the economy of the entire Asia-Pacific region into a deep depression.
>
> MITI hopes to realize the second and third scenarios by gradually creating forms of economic cooperation in the region. It cautions against pushing too fast with "rigid" structures that are modeled on the European Community or the OECD. Such plans have already bruised the sensitivities of less-developed Asian nations which fear domination by their richer neighbors.
>
> "Soft cooperation," MITI says, should come first in the form of research, conferences, meetings of officials which promote joint policies.
>
> The U.S.-Japanese free-trade-zone idea, along with a wider Asian-Pacific zone, is left for further study. But privately, informed sources say, the authors of this study are said to favor proceeding with a pact with the United States, which could then be expanded gradually to include the NICs and other nations.
>
> In the coming months this debate is sure to intensify. More voices will join in as Japan slowly searches for consensus on what amounts to a major shift in its long-term economic strategy.

Now, let us put aside our bankrupt policies, if we could call them that, in Latin America. Let us look at Europe and Germany. Let us look at Southeast Asia and Korea, where we have 45,000 plus of our soldiers. We have seen demonstrations lately in effect saying, "United States, please leave us. We don't need your army of occupation. We want to reunify Korea, South and North."

Mr. Speaker, we may notice that nobody was saying that these are Communist elements in South Korea. What does that mean, though, in Germany? This has to do with all that I have been talking about since my first year when I came to Congress. The only trip I ever made was a working trip to all the U.S. Army installations in Germany and the NATO headquarters then in Paris, France. And there was no question about what I saw.

When I first went to school in San Antonio, I did not know a word of English. I had to stay a whole year in the low first. But I knew two languages; I knew Spanish, and I knew German. Of course, through the years, not hearing it or not practicing it until I made that trip to Germany in the Easter week of 1962, it was amazing how it came back to me. But I could sense that the common aspiration was the reunification of the fatherland.

This is what we are now beginning to see. The recent tragedy of the air show has brought a recrudescent feeling. In the New York Times of Monday, September 19 of this year, the statement was: "Germans question their sovereignty. Some feel NATO dominance smacks of an occupation."

I have been telling my colleagues since the 1960's that we changed the designation of our troops from "occupation" to "defense," but we have got to look at it from the standpoint of and in the eyes of the citizens of Germany, the fatherland, when we are there, because events change, situations change, circumstances change, and history has changed.

As a matter of fact, I must again remind my colleagues of a statement by one of the Premiers of France—I believe it was Prime Minister Laurent Fabius—who said originally, I believe, at the end of the war—and I am going to quote to you:

> At that time, it was by no means clear that the American military role would ever go beyond providing naval support and strategic bombing capability. American troop deployments were justified as interim measures until the Europeans could fend for themselves.

Well, today we have over 225,000 troops in Europe alone, mostly in Germany, we have over 45,000 in Korea, and we have a total of over 550,000 throughout the world.

What I am saying is simply this: Do we want to expose our men to measures beyond our capability to satisfy? I raised this issue in the Middle East with respect to the deployment of the Marines in Beirut. I am sorry to say I was right. I wish I had been wrong. I hope I am dead wrong tonight, but it is obvious.

Even now our leaders still have not learned. Instead of thinking in terms of how we can recapture that normal suasive power of leadership, particularly in the framework of the Organization of American States, which we took the leadership in forming but which we have abandoned with our unilateral actions in the Western Hemisphere, instead of doing that and thereby building an outlet for American's producing capacity and raising the standards of living, not armies, in Latin America, we are making the same grievous errors we made in other parts of the world.

I simply cannot understand it. There is no way I can understand it. So now in Europe, in Germany, and in Korea, we have had these demonstrations, and if we would read the literature, if we would read the intelligentsia, we would see that that is the passion and we would see that that is the nonpublicly discussed issue. So should we sit here and wait until we are pushed out?

Should we have not seen that as of 1981 and 1982 when President Reagan attempted to embargo the construction of the gas pipeline from Siberia into Western Europe, only to find that his biggest financial supporters were part of the financing plan? The company known as Ruhrgas, based in the Ruhr, had 25 percent ownership between Exxon and the Chase Manhattan. They were for the construction of that gas delivery system that is providing Central Europe, including France and Germany, with natural gas.

We cannot confront the world with a mindset that sees the world as of 2, 3, or 4 decades ago without our suffering as a consequence. But even here I have had reports on this since July, and this goes to Panama. Incidentally, I will remind my colleagues that in February we had what I call the King Canute resolutions, where we order countries to do this and we order them to do that. I call them King Canute resolutions. We had that resolution on Gen. Manuel Antonio Noriega, and there were two of us who voted against it. I voted against it because of the language contained in it. I called it the equivalent of the Tonkin Bay Resolution because it had one section in which we said: Mr. President, we urge you, we permit you, we authorize you to use any means whatsoever.

Well, I remember what that resolution did in 1964 that nobody foresaw at the time.

Since then, even the Secretary of State has been publicized in our dailies as having OK'd a plan to kidnap Noriega and to militarily take over. I could not believe it. Why? Because anybody who is familiar with that country knows that we are not going to do it that way without losing the moral support from every surrounding nation. And here was a man that our own CIA had been supporting at the same salary we pay our President, $200,000 a year, and with whom the Drug Enforcement Administration has daily cheek-by-jowl associations. Now he was suddenly an enemy to be done away with by whatever means could be used. This made us a laughing stock, not only in other parts of the world, but here on our own front porch, and it is totally unnecessary. It shows total ineptness, it shows total ignorance of the history and the culture of the region and everything else.

I refer even to the military. Were it not for the professional military, God bless them, things would be different. We have great professional militaries that I honor and respect, but sometimes Presidents use our political militaries to do what they want to have done. But were it not for the professionals, what would have happened? They said, "Wait a while, Mr. Secretary of State. That's crazy. We don't want to do that. We don't have the means. Why, don't you realize that there are more Americans in Panama proper than there are in the zone belonging to us, the area that we still occupy?"

So they have been recalling Americans. We now have about 65 percent of the Americans living out in civilian life in the Panamanian cities either out or back in the military compound. I have gotten word that was very disturbing, and it is reliable, that in July, just about the time this talk was beginning to creep up, a shipment of 5,000 plastic body bags and caskets had been delivered to Panama, to the former Chagres Hospital compound.

Now, I do not think that the plans have changed that much, and I am still distrustful because of these obviously hard-to-understand actions that have been taken thus far. I am afraid that something still will happen, and that it would be even thought as being feasible and in our long-term best interests.

□ 1715

There are a lot of ways to skin a cat in politics as well as in diplomacy. This is not one way. But I am reporting that all the things are in there, and I am sorry to say that given our lack of leadership that I am not too happy in my expectations.

I have always believed, and I have seen men of power, and how men react to power, and why Shakespeare said:

> Be not fond to think that Caesar bears such a rebel blood that will be thawed from the true quality with that which meeteth fools, I mean sweet words, low-croaked courtesies, and base-spaniel fawning.

I think the personalities and the people are in place there in the executive branch that are not beyond still thinking of such a thing as an invasion. I hope not. I pray not. But I cannot think of a worse thing happening when we should be concentrating on these vast dimensional problems that are going to take the good will, the unity, the cooperation of every brilliant American we can muster in order to meet and ward off what otherwise will be a dire day for America and, incidentally, the world.

THE 50TH ANNIVERSARY OF MUNICH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. KEMP] is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, 50 years ago next week British Prime Minister Chamberlain traveled to Munich for the purpose of preserving peace in Europe by sacrificing the independence and freedom of Czechoslovakia.

Seth Cropsey, Deputy Under Secretary of the Navy, in a brilliant article in the Wall Street Journal today discusses the lessons of that infamous and tragic era of appeasement.

I plan to speak in a special order next Wednesday, the day Chamberlain left for Munich, and ask colleagues interested in the meaning of Munich to join me.

But, in the meantime, this op ed article is outstanding.

[From the Wall Street Journal, Sept. 23, 1988]

CHAMBERLAIN'S PERSPECTIVE LIVES ON

(By Seth Cropsey)

Fifty years ago next week, meeting in Munich, British Prime Minister Neville Chamberlain tried and failed to appease Hitler. Since then, nothing has changed the fact that only strength deters aggression.

But in the intervening years, so much criticism has been poured upon Chamberlain's failed policies that they have disolved into caricature. Across the political spectrum, we divorce ourselves from Chamberlain's mistakes; the stout anti-Nazi militarism of his great opposite, Winston Churchill, is admired by even the most liberal of today's anti-militarists. In this atmosphere, it is increasingly difficult to recognize the similarities of current opinion in the West to the views that plunged Europe into World War II. Nineteen eighty-eight is assuredly not 1938, in economic or foreign affairs. But the road to war that led through Munich was paved by three specific misjudgments that still threaten to trip us today.

Chamberlain's first mistake was his belief that a new age of chemical weaponry and aerial warfare in the 20th century had changed war so radically that military conflict between great powers was unthinkable. "War today . . . . is a different thing not only in degree, but in kind, from what it used to be, "Chamberlain explained in October 1938. Chemical weapons brought the potential for indiscriminate destruction of civilian life as well as military targets; air warfare erased the security of distance, borders and time. Chamberlain's was a harrowing vision of "people burrowing underground, trying to escape from poison gas, knowing that at any hour of the day or night death or mutilation was ready to come upon them."

FAMILIAR ASSUMPTION

We should not underestimate the emotional impact of such a view, rooted in 1938's still-vivid memory of 1918's chemical warfare. World War I had brought evil, and future war would be worse. In modern war, Chamberlain argued, "whichever side may call itself the victor, there are no winners, but all are losers."

If today's horror of nuclear warfare makes this perspective familiar, there is something equally familiar about Chamberlain's assumption that other major powers would share his views. Like a moral technocrat weighing his adversary in the balance, he finds the scales even. Germany could not intend to "demand to dominate the world by force." he noted, "for the consequencs of war for the peoples of either side would be so grave." Thus Chamberlain insisted well into 1939, that Nazi ambitions could be contained by negotiation, for the new warfare would deter its own use.

Ironically, in one way he was right—the kind of war he envisioned did not occur. But his vision of war was wrong. The possession of chemical weapons and defense on both sides proved an effective deterrent to a horrific chemical war. But horrific conventional war did occur, spurred by Hitler's belief that, in apparent absence of Allied preparedness and will, aggressive military operations could gain Germany the advantage.

Today, in the U.S., politicans question preparations to deter conflict, including strategic defenses, as if we had not learned what Chamberlain failed to grasp: Not everyone may share our view of war's deadly disadvantages—and absent realistic signs of our determination, rulers whose regimes are based on force may view our respect for law, diplomacy and negotiation as a sign of weakness and not of strength.

Chamberlain was fascinated with the personal touch, something shared by many journalists and many politicians. His belief that misunderstanding, not aggression, causes conflict—his second great misjudgment—was reflected in a dogged devotion to the virtues of shuttle summitry and face-to-face assurances of good will and friendship: "The message . . . from Signor Mussolini was of a friendly character." "Herr Hitler . . . said, again very earnestly, that he wanted to be friends."

As naive as these remarks now sound, they are based on Chamberlain's belief in the utility of trying to "understand the mentality" of Britain's adversaries. But the outcome of his failed international social work was more than disillusionment and personal betrayal. The outcome was national policy confusion and disaster—and everywhere a double standard regarding the international behavior the democracies had a right to expect.

Thus, in February 1938, Foreign Minister Anthony Eden resigned his post after insisting that Britain should not engage in talks with Italy until Mussolini took certain specified actions to prove his respect for international agreements. Chamberlain disagreed: British preconditions would signal "a spirit of suspicion," alienating the Italians. "If there is going to be bad faith, there will be bad faith, and no assurances beforehand are going to alter it."

But just seven months later, at Munich, when the question was how far Britain and its allies should go to meet totalitarian demands, we find him rising to the bait of Hitler's calculated anguishings by reassuring Germany of British and Allied Good faith. "I should tell the House," Chamberlain reported to the Commons, "how deeply impressed on my mind . . . is [Hitler's] rooted distrust and disbelief in the sincerity of the Czech government."

Chamberlain's efforts to minimize his adversaries' "suspicions" led him to renounce justified British suspicions; his efforts at "understanding" his adversaries' claims led him to misunderstand their ambitions. Most tragically, both attitudes led Hitler to misunderstand Allied determination to resist. Again, we can learn a profitable lesson: However distasteful cynicism and suspicion may be, tough-minded diplomacy is a precondition to peace.

Chamberlain's view of the impossibility of general war, combined with his belief that mutual understanding would avert conflict, reinforced his fiscal view of the wastefulness of investing in defense—his third mistake. Although he believed in the necessity of arms as a backup for British diplomacy, he frequently expressed his distaste for the "spectacle of this vast expenditure" as "folly," a "senseless waste of money," "hateful and damnable." Such a view slowed the pace of rearmament in the face of the burgeoning Nazi military machine—the delays that Churchill so feared and criticized.

Just as corrosive was Chamberlain's reluctance to use force to halt the slow erosion of Euopean liberty. "Everyone knows," he said, that British forces "are not going to be used for aggression." That he was reluctant to use them at all must have seemed equally clear. Like today's "anti-war" advocates, who say they support a nuclear deterrent yet seek a U.S. pledge to renounce its use—assuring any aggressor that he need not fear U.S. power—Chamberlain repeatedly assured the enemies of freedom of their freedom from British force. By the time of Munich, if Hitler had had any remaining doubts, Chamberlain removed them.

Speaking over British radio, in words that again ring familiar, Chamberlain called the Czech issue "a quarrel in a faraway country between people of whom we know nothing," and observed that "however much we may sympathize with a small nation confronted by a big and powerful neighbor, we cannot in all circumstances undertake to involve the whole British Empire in war simply on her account. If we have to fight, it must be on larger issues than that. . . . War is a fearful thing."

A FAILED REALIST

In the end, of course, Nazi aggression was understood for the "larger issue" it was, and the "faraway" quarrels came home. The irony of Chamberlain, however, is not that he was a failed idealist but a failed realist. Despite all, he did know that "in any armed world you must be armed yourself"; as prime minister, he presided over a massive peacetime rearmament program. Similarly, if appeasement was later to become synonymous with spineless acquiescence to threats of force, this was far from its original conception. Instead, it was meant as an effort, by the victors of World War I, to end disputes arising from the Treaty of Versailles—thereby stabilizing Europe as well as ensuring its peace and prosperity.

In the turbulent decades that have followed World War II, the U.S., too, has sought stability, as well as peace and prosperity, on a global level. As the leader of the effort to maintain freedom's defense, we owe ourselves a closer look at Chamberlain's valuable lessons. As he properly observed, war is a fearful thing—a fact that makes it even more important to ensure that the enemies of liberty fear to wage it. To know that our adversaries may not share our views—to understand that understanding is not everything—and to present a strong defense: This clear-eyed grasp of reality and military power remains essential to peace.

As for Chamberlain, he cannot be dismissed like some servile waiter in a Monty Python sketch, carving up Europe to appease Hitler's territorial appetites. the 50 years that have passed since Munich may have fogged the looking glass, but the face that peters out looks eerily like our own.

ELECTION YEAR POLITICS

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, heeding the counsel of the prior speaker, I will not engage in base fawning.

I would like to discuss two men of power, I hope constructively; our Speaker, Mr. JIM WRIGHT, of Texas, and the Governor of Massachusetts.

The two gentlemen of which I am going to speak, and I am going to try and rush tonight because it is a getaway Friday. I have always respected, not only for the last 2 years of the 100th Congress, but for the 10 years that I am concluding as an elected Member of the Chamber of the last 12-year span, I have always respected getaway days out of respect for our hard working staff here, but we only have probably three more getaway weeks before the 100th Congress becomes history, and there have been some incredible developments in the last few days both in the Presidential campaign and in the suffering of the Democratic opposition, those who love and fight for liberty either with words in streets of Managua and the small towns there around or those who fight for liberty in Central America with arms in the hills of Nicaragua or in uniform against the Communist guerrillas who are in the hills in the adjoining country named after Jesus Christ, El Mundo Del El Salvador, our Lord, the savior of the world.

Now there is one item I want to clean up from last night's special order. The gentlemen that were with me on this side of the aisle tried to share in a special order with a Member, the gentleman from Massachusetts [Mr. FRANK], and of course he cleverly, I think, used in a wrong-spirited way the rules of the House that require that we address all questions and colloquys through the chair. He did it to restrict, limit, debate, mock debate, and would yield for a comment for one of us, or an observation or a defense of Vice President BUSH, and, before we had half a sentence out of our mouths, he would demand the Chair discipline us, cut us off, and take that half sentence and twist it and manipulate it.

But at one point the gentleman from Massachusetts [Mr. FRANK] made a terrible misstatement. He said his candidate, who happens to be his Governor from Massachusetts, supported the raid on the terrorist bases of the strange, weird, wacko President of Libya, Muammar Qadhafi, that Michael Dukakis supported President Reagan's rattling Qadhafi's brains with the Navy attack aircraft off our carriers of the 6th Fleet and with the F-111 aircraft out of Lakenheath Air Force Base in England, and that is not correct.

As a matter of historical fact, when Mr. QUAYLE, a Member of the other body who is the Vice-Presidential nominee under Mr. BUSH, when he charged that Dukakis had opposed the United States air strikes against Libya, a Dukakis spokesman named Mark Gearan said that was correct when the news media pressed him. Michael Dukakis was in fact against the bombing of the terrorist bases in Libya.

Now I do not know what Michael Dukakis thinks the outcome was of President Reagan taking that direct, and, yes, violent action, but in the period, the brief period leading up to the bombing of those bases, we saw, and I will not recapture all of the incidences of horror, but we saw a young, American, 10-year-old child, Natasha Simpson, gunned down in the beautiful airport, Leonardo da Vinci Airport, outside of Rome, gunned down in front of her parents, both of them people who work for Associated Press. The mother recalled seeing one terrorist turn his submachine gun pistol sideways and give a final burst along the floor of the airport terminal slamming the bullets into young Natasha and killing her. She had already been wounded.

At that moment there was another terrorist attack precisely at that moment on the international airport at Geneva.

Mr. Speaker, we do not see young kids gunned down in front of their parents anymore.

Mr. Speaker, we do not see American sergeants like Jimmy Ford—he never made the cover of our news magazines, only made the cover of People magazine, but Jim Ford was one of our two sergeants killed in the La Belle Disco just 10 days before President Reagan properly and surgically released the might of this Nation's Naval and Air Forces against Qadhafi's terrorist bases. But most Americans, almost everyone I have ever met since then, do not know that a second sergeant, a second specialist five NCO of our forces at the Berlin garrison, was killed that night because Jim Goynes, the other Jim, the other sergeant, he died 2 months and 2 days later in a hospital in Berlin too injured to ever have been moved. He was burned, but the worst burns were on the lining of his lungs. Fluid built up in his lungs, and he died on June 7, 2 months and 2 days after the bombing incident. A Turkish young lady dating one of our servicemen was killed that night also. But Jim Goynes, who on a prior assignment met a Filipino lady who since became an American, married her, had a 5-year-old son, that wife, young wife and the 5-year-old son, were standing by the father's bed holding his hand when he died. Both of his legs were amputated during the intervening weeks. The Army had hoped to give him a Purple Heart after the regained his health. It was awarded posthumously.

Two sergeants, Mr. Speaker. We have not seen sergeants killed by terrorists anywhere in the world since President Reagan took that action that Michael Dukakis is against.

Another incident comes to mind, and of course it was the pounding and beating to death of the young naval diver Robert Stethem. The heroic stewardess on that airplane broke down crying a few days ago in the courtroom in Germany at the trial of Ahmad Hamadei, the killer, and she said that young Bobby Stethem, whose two brothers, younger and older, also serve in the Navy as their father did; younger brother joined the Navy shortly after that; never made a sound as the killers beat him in the cockpit to intimidate the aircrew. He stood there and took the worst pounding that they could give him until finally he dropped to the floor almost unconscious. Then they ripped the arm off one of the chairs and with the screws sticking out of it continued to beat him to a bloody pulp on the floor, and then Hamadei stood up and said to the courageous stewardess that we have all honored in this Chamber, said, "See how tough and strong he thought he was? Look at him now." And later on he jumped up and down on his chest, and the autopsy showed that he broke many of his ribs, Hamadei did. Bobby Stethem was over 6 feet tall. Hamadei is small in stature. So he particularly enjoyed beating a man into unconsciousness until he shot him in the chest and killed him because the man was taller and unable to defend himself with his hands behind his back.

When the stewardess reached her final story of this moment of horror of the killing of an American on the flight deck of a TWA airliner, flight 847 from Athens to Rome; of course it was on the ramp at Beirut when the killing took place; she broke down sobbing as she said, "He was quite a courageous and heroic man. He never once made a sound or cried out."

That was great that he did not beg for mercy, but they showed him no mercy. That is another reason that President Reagan unleashed what Michael Dukakis criticized and what some people started to criticize in this Chamber, at that lectern, until the polls started to come in into the news services of the free world, 85 percent of the Americans in favor of President Reagan's raid on Libya.

But here is the worst instance. A few months before President Reagan finally took dramatic, and, yes, surgically violent action, an American family was traveling on that same route from Athens to Rome, and they were traveling without the paternal head of the family, the father. The grandfather had already gone to his eternal reward, but here is an American family named Klug, K-l-u-g, a mother with her child, her daughter and her mother, the grandmother, and she was pregnant with yet another child, another child, another female child developed enough that an autopsy was performed on that child or that was performed on the mother. That family was blown out of the side of the airliner by a man unknown to them that they were probably chatting with before at about 15,000 feet. A bomb goes off in the cargo compartment inching up along side of the—blowing out enough of the side of the airplane that, although the hole looked small in the photographs, it was large enough to have the mother, Dimitri Klug, Maria Klug, torn outside of the side of the aircraft, and with her, her daughter Dimitri Klug, the pregnant mother, Maria, and the grandmother after whom the little 2 year girl was named—with the gentleman also; I am sorry I forget his name. The four of them were sucked out of this airplane, one of them a pregnant mother, falling 15,000 feet through the sky until they hit the soil of the world's first democracy, Greece, and these were Americans traveling overseas.

Mr. Speaker, this was a horrendous period that this country went through, and other countries, particularly NATA nations, who were suffering at the hands of the Red Guard, the Bader Meinhoff people, the Red Brigade, and in every civilized country in the world Americans were being terrorized.

But guess what? God willing, we are witnessing the beautiful Olympics in South Korea, south just a few kilometers of one of the world's great terrorist nations, North Korea. Why are we able so far to watch these olympics without terror? Because Ronald Reagan did something that Jimmy Carter constitutionally—I mean physically constitutionally—would have been unable to do, and certainly I do not think Michael Dukakis could do it since he criticized the raid on Libya, and that is to take direct action to save American lives whether it is young medical students while he also liberated the Island of Grenada, or whether it is the people that suffered so that no Americans would suffer these terrorist incidents in the future.

Mr. Speaker, the gentleman from Massachusetts [Mr. Frank] should be advised that he was wrong last night. Dukakis criticized Reagan's proper action against Muammar Qadhafi who, by the way, truly had his brains rattled because he has not been a factor on the world scene for evil ever since, and that is almost 2½ years now.

Now first I would like to discuss the tragic events since Tuesday morning when I believe the Speaker of this Chamber, Jim Wright, of Texas, violated his oath to keep secret those national intelligence briefings that are given to Members of Congress. Every one of us here, every one of us from right to far left, has a top secret clearance the day we are sworn in to be a Member of this Chamber on this House floor. When we raised our right hand, all of us promised to defend the Constitution against enemies, foreign or domestic, from that moment on. We are allowed without ever having a security background check that sometimes takes months for older Americans and is pretty thorough even for a young American even joining the military, a young man or woman who is 19, 20, 21, even 18, dealing with national secrets. Even they have an extensive background check going back to high school.

□ 1730

No Member of the other body or this Chamber gets a background check at all. We are entitled by the vote of the electorate in our districts, our constituents who vote for us, they give us a top secret clearance, together with the use of that word "Honorable" in front of our names as an elected Federal official, and we should certainly get more of those top secret briefings, not 10 percent of us get as many briefings as we should to be informed to vote intelligently on national security issues here.

But to have Jim Wright, the Speaker—we each have our Republican and Democratic leaders, but he is the Speaker of all the people in this Chamber, third in line to the Presidency, ahead of the President pro tempore of the Senate. It shows how our forefathers respected this job after the President and the Vice President, given some horrible tragedy that has never happened in over 200 years, whether we would lose both the people serving as our President and Vice Predisent, the Speaker of the House is next in line to become the President.

Listen to this editorial from one of the three most powerful papers in America. They are all liberal papers, the New York Times, the Los Angeles Times, and the Washington Post. This one has certainly been at the forefront of liberal thought in our country. Here is what they say in an editorial entitled, "Jim Wright and the CIA."

> Here are the preliminary results of House Speaker Jim Wright's statement that the CIA has testified—

There are no open CIA briefings on this Hill on either side to anybody ever, and I have never heard of one—

> that it ginned up anti-Sandinista—

Translate that anti-Communist—

> protests in Nicaragua in order to provoke the Sandinistas into an oppressive over-reaction that would kick back on the Sandinistas.
>
> First, the statement is a savage blow to the Nicaraguan civil opposition—the legal—

And they italicized this—

> the legal political opposition—and especially to the 38 Nicaraguans who were arrested in a peaceful protest at Nandaime last July 10—

They have been rotting in prison cells, July 10, August 10, September 10 and today, the 23d, 2½ months rotting in those filthy Nazi- Communist-style prison cells, built by the Cubans, designed by the Russian Communists. They have been rotting in those cells for 2½ months, and Mr. Speaker, I believe you, Jim Wright, kicked them right in the face, and the liberal

Washington Post calls it a "savage blow."

They say your statement, sir, "has further implications for American efforts to extend a hand to local democratic forces elsewhere. It becomes easier in, say, South Africa," an oppressive rightwing regime with a racist policy of apartheid. That is what they are talking about in the Washington Post—"Poland"—which I just visited the first, second and third of this month and saw the spirit of the people there who yearn for freedom and how they have relied for decades upon Radio Liberty, Radio Free Europe, and the discourse with the Polish-American communities throughout this country, getting gift packages to make life a little easier, spending money, but mainly the free flow of information back and forth from Poland to the United States and Romania, Bulgaria, Czechoslovakia, East Germany, all of the satellite countries opposed by the Soviet Union, the liberal Washington Post says you, Mr. Speaker, JIM WRIGHT, have injured these relations, and they point out also Chile, with an oppressive rightwing regime. So the Washington Post picks out an oppressed Communist-controlled country where less than 1 percent of the people are Communists.

Now, I went into one Catholic church after another on this 1,200-mile drive with my 28-year-old son, visiting Nazi extermination camps and Catholic churchs in between, reliving mentally the horror of Nazi Germany's occupation of this most put upon country in this century. They pick out Poland and two countries that suffer under rightwing regimes, Chile and South Africa, and say you, Mr. Speaker, have hurt the causes of the exchange of local democratic forces with us extending a hand to them.

They say:

> Mr. Wright dates his abhorrence of CIA "destabilization" from the case of Salvador Allende in Chile in 1973.

Why, Mr. Speaker, are you contributing to the leftwing radical hysteria and lying over an exaggerated, massively 100 percent exaggerated role, of whatever our Intelligence people had to do with the dumping of this jerk Marxist Allende, who won with only a third of the vote of his people, almost to the precise 10th of a percentage point the way that Hitler with a third of the people took the vote in Germany because of the chaos of the Weimar Republic, and you are adding to this folklore that is spread by this foul Christic Institute, defiling the name of Christ in their name. I call them the "Tic Institute," like a blood-sucking insect, this institute with its leader and this beautiful Irish name, Daniel Sheehan, runs around this city using sometimes Federal money laundered through various operations to malign the reputation of 27 good Americans, many of them who have served this country up to the rank of several stars on their shoulders as generals, and you are contributing, Mr. Speaker, to this Christic Institute, a slanderous, blasphemous horror in this city.

It says that your "likening of the Sandinistas to an "elected government"—they put your statement, "elected government" in quotes, Mr. Speaker, and then they say, quoting you again:

> That represents—
>
> JIM WRIGHT—
>
> the choice . . . of the people,

they say your statements, Mr. WRIGHT, are laughable. This is the Washington Post. It says your statements are laughable or, at least, they would be laughable if the effects of your intervention were not so serious.

Now let us turn to the New York Times. The New York Times editorializes against you just as severely as the Washington Post, although they have more of a way of coming down also on the freedom forces in Nicaragua.

The New York Times of today says, "Two wrongs on Nicaragua."

They say the aim of the policy, you say, Mr. WRIGHT is to undermine the Sandinista government and that that undercuts the peace negotiations.

> Three questions about this statement need to be addressed: Has the CIA been carrying out such a policy? If so, was the policy wrong and is the Speaker correct in opposing it? And did he expose it in a proper manner?

They go on to say that it would be surprising if our intelligence forces had not been involved. Maybe they should be involved in South Africa and Chile and everywhere where man oppresses his fellow man. We like to think that at least in the area of the exchange of information, of free information and encouraging democratic forces like Thomas Jefferson was encouraged by Lafayette coming over here to sometimes fight and sometimes with words to try to bring about hopefully without the shedding of blood the birth of liberty, hopefully someday in every country on the face of the Earth.

It says what Speaker WRIGHT has done he has done in a most questionable manner.

> He apparently made no effort to convey and press his views privately—

In other words, he leaked it to the New York Times and probably the Post feels this way. Then it would have been all right to put Bob Woodward on the case, investigative reporter, but to do it publicly, they say, is wrong, that first he should have exhausted these discreet remedies. I hope they are not talking about discreet leaking.

It says:

> By saying that CIA officials had testified to the covert provocation policy, the Speaker—

You, Mr. WRIGHT—

> damaged the integrity of the confidential process by which the Administration informs Congress of covert actions. It hurt chances for legislation to strengthen that process.

They say:

> His statement—
>
> WRIGHT's statement—
>
> also made all Nicaraguan opposition groups look like U.S. puppets.

They say you took the wrong path, and they say you made yourself, rather than the policy, the issue.

That is why I have supported my leader, the gentleman from Illinois [Mr. MICHEL] to have an investigation of your actions.

Here are translations from the Library of Congress of newspaper stories in Managua, Nicaragua. I have been down there seven times in the last couple years. Only Hanoi, another Communist capital and a few cities across Siberia, have as little food as Managua does. It is an absolute typical Communist country like Hanoi that has brought nothing but economic deprivation and oppression to the people.

I marched with them on November 7, and believe me, it did not take any CIA instigation to get these brave people to stand up. I remember one handsome young lad about six foot one with a spray can running along the whole route of the parade, this is just last November 7, spraying slogans on the walls against the Communist oppression, "Get the Cubans out of our country. Get the East Germans out of our country."

And I can see the secret police and the Turbos, that is the divine mobs that beat up pregnant women, as they did at Nandaime on June 10. This is last November. I could see him as he sprayed, watching his every move with a government camera filming him.

I wonder if that young brave man is alive today. I wonder if he is in prison at one of the 62 prisons or the major 16 prison camps. I wonder if he is out at Modello Prison, a model prison built by the Cubans, where they have little metal underground hellholes. I wonder if that young man is being beaten up tonight and called a stooge of the U.S. Government because of your remarks, Mr. JIM WRIGHT.

Here is what the papers say. This is Communist writing:

> Opposition figures in Nicaragua connected with the American Embassy yesterday received with dismay and frustration and surprise the declarations of the Democratic Party leader, Jim Wright, who virtually stripped away their cover as pawns of the CIA in the Reagan Administration's strategy to destabilize our sandinista government. Stripped of arguments to contradict their serious roles, politicians such as Edwardo

> Rivas, Gustazoro and Alon Fletas of the PSC and Jose Costillo of the conservative faction, they reacted indignantly.

And one of them, Gustazoro said that the Coordinadora could hold an emergency meeting to analyze the impact of WRIGHT's declarations.

You bet they are in fear. I sat at a dinner table when my colleague, the gentleman from California, Congressman DAVE DREIER—it was actually a lunch—said to the democratic political opposition, he said something about we are trying to help the Contra freedom fighters in the hills. He misunderstood, because he did not speak English through the translation, and thought DAVID DREIER had suggested that they, the opposition, get in touch with the Contra fighters in the hills, and the gentleman said, "Congressito DREIER, do you want to get us killed?" he said in Spanish. "We can't have anything to do with the young men and women fighting in the hills."

How do you think they feel now, nailed by you, Mr. Speaker, as puppets of the United States?

Gustazoro said that he would propose that charges be brought against WRIGHT in the United States. I wonder if that man said, yes, Mr. Speaker, a Nicaraguan in Nicaragua suggesting that some of us in this country bring charges against you and, of course, that did happen. At least we have asked for an investigation of charges.

Meanwhile, Louis Felino, Jr., Public Affairs Advisor, that is an officer to the Communists stated, continuing in the traditional American strategy of not commenting on embarrassing acts, alluded a series of 10 questions formulated by the Communist paper Barricada about the explosive declarations of WRIGHT.

Now, get this, Mr. Speaker. The ex-Nicaraguan Ambassador to Washington, Carlos Tournaman, who came to your office, sir, on many occasions last year and together you and he went to the White House and presented what later became the Tournaman-Wright-Reagan peace plan that lasted 4 days until it forced Jose Napoleon Duarte of El Salvador and Jose Azcona of Honduras to sign that flawed Esquipulas document that has been going on for 13 months, which destroyed the attempts of freedom which were at the verge of paying off in Central America and the hills of Nicaragua.

The Nicaraguan Ambassador, Carlos Tournaman, said that his expulsion last July, a few months ago, was shown to be unjust by the statements of WRIGHT, because WRIGHT's statements showed that removal of ex-Ambassador Melton for his conspiratorial acts with the CIA was justified.

Mr. Speaker, we have not heard from you whether you think that the Sandinista Communist government had a right to kick out our U.S. Ambassador, Richard Melton, and that his testimony before Senate and House committees where he said absolutely nothing was done at Nandaime on June 10 to stimulate those grassroots demonstrations against the oppression of the Communist government, that the United States had nothing to do with it. You, in effect, Mr. WRIGHT, have called him a liar.

I have so many other stories here. They even quote you:

> Wright said on Tuesday that he obtained "clear testimony" from CIA employees which confirm that they had acted deliberately to provoke an over-reaction by the Sandinista government.

They had that correct.

They said that since 1981 those efforts have been divided between military assistance and support for the internal opposition, so they are putting together the Contras and the internal democratic opposition in Managua and all the cities, Matagalpa, Grenada, Leon, all those people that have been going up front demonstrating against Communist oppression, they are now locked together with the Contra effort and they are using your words so that they can arrest anybody, throw away the key, beat them up, torture them and say, "We're doing this in the name of JIM WRIGHT who said this is all a big attempt to overthrow the Communist government."

It says the CIA was involved in the Nandaime demonstration, although they are quoting quotes leaking out of the democratic resistance leaders, who said you were not concerned about the imprisoned opposition leaders.

They say that you said the CIA was doing this to infuriate those "little demons." Well, if you did say that, that is about the only rough thing you said about those Communists, Mr. Speaker, is that they are little demons.

A final thought on this part of my special hour.

Here is your testimony, Mr. JAMES WRIGHT of Texas, speaking before a House committee about what you think should be done to Members who leak information from our Intelligence Committees. This is you speaking. Sorry I do not have a date on it.

> Now, I should like to say as Speaker, that if it ever were to come to my attention that any Member or staff person of this committee had in violation of his or her oath leaked information, then I would ask that person to resign from the committee.

□ 1745

Another quote: "I would think all of you would expect that. If there were any reason to believe that any member of this committee"—the Intelligence Committee—"had violated the sacred oath which is consonant with accepting membership on the committee, then that person should not expect to serve on the committee," speaking of the Intelligence Committee. I think Congress can keep confidences. If we cannot, we do not deserve to be here. Then Mr. STOKES says, "Thank you, Mr. Chairman," and then Mr. HUGHES recognizes Mr. HYDE. Mr. HYDE begins to ask the Speaker about a November 14, 1985, Washington Post story by Daniel Schorr telling all about how in 1975 the CIA supported the anti-Communist faction in Angola, which was a project of Mr. Secretary of State Kissinger which was disclosed after it became an issue in the Committee on Foreign Affairs.

"The late Leo Ryan," Mr. HYDE says, "a member of this committee, told me in an interview at that time that he could condone such a leak if it was the only way to block such an ill-conceived operation." That is interesting. Leo Ryan was the first American Congressman killed in the line of duty except those who chose up sides in the War Between the States, and some of them died in combat. Nobody since the Civil War had died in the line of duty except Leo Ryan of California, who was in Guyana trying to get some relief to the people there, mostly poor, black people, a thousand of them who were being manipulated and robbed of their source of security by a madman, a religious leader gone psycho named James Jones, Jim Jones, and suppose our intelligence people, suppose we had one assigned to the Embassy at Guyana and he had been asked to get information on Jim Jones and to try and somehow or another to destablize that operation of abusing all of those older American citizens before there was a mass suicide of over 900 people, would Leo Ryan have accepted that? No.

I stand before my fellow Americans and you, Mr. Speaker, and tell everyone that I do not trust the committees of the U.S. Congress on either side of the Hill with secrets. I am sorry, that is a sad state of affairs. End of this part of the special order.

GOVERNOR OF MASSACHUSETTS MICHAEL DUKAKIS

Second part: Governor of Massachusetts Michael Dukakis. Wednesday, 2 days ago, I went to one of the most historical parts of this country. I had not been there since April 19, 1975.

I was married to my beautiful wife on her 21st birthday. Her birthday is April 16. Twenty years after our marriage in the year 1955, to celebrate our 20th anniversary, we went back to Chicago to renew our vows. The church, the beautiful St. Aloysius, is gone, and it is very rare that you see a church disappear into a vacant lot, but it was torn down. We went then to New York, where my parents were married in St. Patrick's Cathedral, and we renewed our vows on April 17, for our 20th anniversary.

It was a sad day. The Communist forces overran the capital of Phnom Penh, Cambodia, and began the worst genocide since the Second World War, the second-ranking genocide of people in my lifetime. Six million Jews, 12 million people overall, by Hitler in the concentration and extermination camps, and one-third of that figure, maybe half of the 6 million Jews killed, killed just in the last decade and a half in Cambodia, and it began that day, April 17, 1975.

We rented a car in New York and drove up to Boston and drove out along Paul Revere's road which is now called Battle Road or Route 2-A. We went out to Concord, after, on the night, the 18th of April in " '75 hardly a man is now alive," we followed that road out that night, started at Bunker Hill, went out and slept in the car at Concord Bridge, woke up the next morning, and went to a beautiful ceremony for the 200th anniversary of the shot heard round the world at Concord Bridge and then traced the steps back of the fleeing British soldiers basically where the fighting actually started and visited the Minuteman statue at Concord Bridge. My wife actually grabbed a big Communist flag that was being held by some weird Americans, and I guess we are not supposed to question their patriotism, right, Michael Dukakis? My wife grabbed this big Communist flag and ripped it in half. One guy punched her on the end of the chin. I was 30 feet away visiting with some friends. My wife hit the hardened sand right at the foot of the Minuteman statue. I could see stars in her eyes. She looked groggy. I had a nice running start so that by the time I avenged her with this guy, he went into the mud, and a park policeman with a nice badge and chrome that said "Sullivan" came up and helped us, because we were outnumbered about 40 to 1. I got the flag and got the ski cap off one of these pro-Communist jerks carrying the flag at the 200th anniversary of Concord who were cheering about how the Communists had now taken Phnom Penh and would soon take Saigon, and they did 12 days later. Another tragedy—68,000 people were slaughtered there, everybody who knew or was close to Americans, because the Congress lost its guts, the immediate Congress, the 94th, prior to my coming here after the 1976 election. And then my wife and I drove down to Lexington and saw the other Minuteman statue, not the one with the plow and the hat, but the handsome young man, the man one one of the insurance companies uses as a logo with just his rifle at port arms across his chest, and saw that outside the gate of Hanscom Air Force Base.

We went into the base, and I was a reserve officer on active duty, or I had retired just a few months before, and went in and had lunch at the base and thought about what an incredibly beautiful base this would be to serve at, at Hanscom.

I go back 13 years later, a U.S. Congressman in my 10th year, and I went back to get briefed on what Hanscom Air Force Base does.

The point of bringing this up is that Michael Dukakis has never gone out to this base between the city of Bedford, the headquarters of the Mitre Corp. and Lincoln, where Paul Revere, that great Massachusetts silversmith, was captured by the British troops that night of April 18, "The British are coming, the British are coming" was his cry, and between the east and west cities of Concord and Lexington, the birthplace of liberty, and that is what they call Massachusetts, or actually the cradle of liberty, Boston and its environs, which is the kickoff date for our 6½ years of the war of independence which ended precisely 6½ years later to the day on October 19 on the hills next to the York River at the Battle of Yorktown, which my wife and I were able to visit as a sitting Congressman at the bicentennial ending the combat part of that war, and now we are reliving all of these beautiful bicentennial period days of the Constitution and the founding of our Government.

I told George Bush at his home the other night with Bob Dole and Jack Kemp and several others of the former Presidential candidates, Pete Dupont, Pat Robertson, all of us came together for a July 4 dinner up there, or July 5, and I said, "Mr. Vice President, May I propose a toast that on the 200th anniversary of the swearing in of our first George, our first President, George Washington, on April 30 up there on a street named Wall in New York City, that you will be on that site at the 200th anniversary as the 41st President of the United States, our first George as President since George Washington, and that all of us in this room will be healthy and well and with all of our respective wives or husbands."—Elizabeth Dole was sitting there—"that we would all be standing on those steps behind that statue of George Washington as President George Bush celebrates the 200th anniversary of George Washington's swearing-in April 30, 1789." By now everyone has assumed that this Congressman likes to go to these 200th anniversary celebrations. You bet I do, and a lot of 125th anniversary Civil War celebrations all over this great historical area where the Californians have sent me to serve, and I am grateful.

The point is that Governor Dukakis in 10 years of elective office has never found 35 minutes to drive from his Governor's office out Battle Road to Lexington and Concord to enter the portals of one of the four gates of Hanscom Air Force Base. Teddy Kennedy and John Kerry have been there, and at least 8 of the 11 Members of Congress from Massachusetts have been there. I saw the name of the gentleman from Massachusetts [Mr. Markey] there, and I saw Peggy Heckler's, and this base is the last major installation in Massachusetts. It is the center of the Civil Air Patrol, all the ROTC banquets and dinners, the Air Force Association, the Navy uses it, the Army uses it, and many times the Governor of Massachusetts has been invited out there. Governor King who served for 4 years between Dukakis' three terms, has been out there, and I will bet every Governor since the Second World War has been out there, but not Michael Dukakis.

I ask the people there at the base could there be any reason for this. They said, "We cannot deduce a rational reason. Rumor has it that his wife, Kitty, was married to a sergeant here and lived at the base, hated the place, and has never wanted to come out here and has kept him from coming here." What a disgrace if he is so petty, if he is so petty as to listen to Mrs. Kitty's objections about coming out to the base. I just refuse to believe that it could be such a petty reason.

Here is what Hanscom is. It has 10,000 military and civilian employees with a payroll of over $300 million. To accomplish its mission, the headquarters of the Electronic Systems Division, and they work with all of our operational forces worldwide, to harness electronic technology for ensuring effective use of all of our military personnel and all of the weaponry we have.

A key contributor to the mission is the Mitre Corp., which stands for Massachusetts Institute of Technology Research and Engineering when they broke away from Lincoln Labs a few years back, and they are stationed at Bedford. ESD normally has more than 120 projects going on at any one time. Here is just a sampling: long-range radars on the east, west, southeast and southwest coasts to detect missile attacks from the Soviet submarines at sea. Guess who has helped to thwart that, and there are 56 sites all the way around the country from the Pacific Northwest, the State of Washington and the State of Oregon, all the way through the South, and all the way up into New England, 52 sites are completed and operating, they are exactly like an AM radio site around this country, almost identical, and it is called the GWEN Program, which means Ground Wave Emergency Network, and there have been four sites not in, in Rhode Island, one in Maine, and two in Massachusetts, and they are being held up by groups that Dukakis supports, and his rationale is that if we have the GWEN system and are able to defend ourselves, then that will make nuclear war more attractive. Is he for real? People like myself and my wife and five kids, and we would want our seven grandkids to be radiated and it would make it more fun so that we could have war and we could protect ourselves? No, the ability to protect yourself with a warning system gives the Soviet war planners in the Kremlin more problems, and they do not do anything. It keeps the peace.

Mr. Dukakis does not even understand the basic essence of the word "deterrent." That is the GWEN thing that they have worked on out there. Another program is a fleet of airborne command posts, jumbo jets, E-4's, equipped with communications, data processing and information display equipment, from which the national command authorities can direct military actions during times of national emergency.

Another is modernization of the Norad Command Center at Cheyenne Mountain. I have visited that a few years ago, and I noticed in that guest book the gentleman from Oregon [Mr. AuCoin], so even the liberals in the Chamber decided it is important enough to go out and visit Cheyenne Mountain. There is also transportable intelligence data-handling systems, the airborne warning and control system, and that is AWACS, debated so heavily in this House over the last decade, and that is used by both the Air Force and now by NATO, and a smaller AWACS system now used by the nation of Israel, the E-2 that was developed at Hanscom Air Force Base, and satellite communications terminals in a whole family of sizes from those carried by Jeeps and aircraft to large aircraft and large ground stations, a secure communications network for SAC, the Strategic Air Command, an air surveillance system for the United States and Canada, our allied NATO neighbors to the north, secure antijamming radios for all United States tactical forces, Green Berets, paratroopers, carried by the Navy SEAL's, radios that they can use that are secure.

The Governor of Massachusetts is for conventional forces, and everything today is the eyes and ears and communications ability of the forces, and one of the reasons we probably have peace is that we are so far technologically advanced in communications over the Soviets.

Just a word about the history of this base. It is named after a crusading journalist from a newspaper in the area who, at the beginning of the Second World War before Pearl Harbor, said that Boston was not defended, so the embryonic Army Air Corps, soon to be the Army Air Force, and in 1948, 40 years ago, became the U.S. Air Force where I served, and this crusading reporter said, "We must have airfields in the Army Air Corps to defend Boston," because his pleadings won, and I think he was a stringer for the Boston Globe, and that is a turn of events, they named the field the Lawrence Hanscom Field after him.

Listen to this statement. It is true. It comes in a history page on a book on the base:

> Electronics may be the deciding factor in the outcome of modern conflicts. Once battlefields covered miles with the speed of cavalry, but it was usually static trench lines and clearly defined enemy territory. Now communications must cover the entire planet.

□ 1800

At the Electronic Systems Division we developed systems to counter threats to our national security. Did you hear that, Governor Dukakis? Thirty-five minutes away from your office, for 10 years, you could not visit. They developed systems to counter threats to national security. Our capability at Hanscom in Electronic Systems Division, ESD, the Air Force focal point for command, control, communications, and intelligence.

What in shorthand the military calls C^3, Hanscom heritage is intimately linked to an area rich in history and revolutionary ideas. It is not surprising the electronics industry made rapid strides and the Air Force through the Electronic Systems Division and the forerunners has been the major force. It says it was turned over as a base to the Commonwealth of Massachusetts in May 1941 before Pearl Harbor by months, named after Lawrence E. Hanscom, a civil engineer enthusiast and political editor of the Worcester Telegram. His first mission was the traditional flight and fight mission of the Air Force. All active squadrons left in 1972, a petty move by Nixon because Massachusetts was the only State that went for George McGovern in 1972. O ye of little faith, Richard Nixon, did you not know they would come to their senses and go for Ronald Reagan in 1980 and in 1984, but Nixon was a man that shut down the bases, shut down Boston Naval Yard and everything and gave the order that Hanscom would be shut down, that because after World War II Hanscom Field had emerged as a key player in the growth of electronics and because the suburban area was such a hub, the Massachusetts Institute of Technology had become a World War II leader in electronics, the Department of Defense placed there the Air Force Cambridge Research Center, the Air Research and Development Command which eventually became ESD, and MIT's Lincoln Lab was also built on the field, so even though a shutdown order took place they could not duplicate except prohibitive costs, Lincoln Labs of the Cambridge Labs or Air Force Geophysics Laboratory Plant, and they were in a holding pattern 2 days after Nixon resigned, the word went out and at the Pentagon headquarters, a plan on keeping Hanscom as a national asset.

Research and development for future defense began to pay off in 1953 and Lincoln Lab, the semiautomatic ground environment, I forgot what the words meant, I have known them for so many years as SAGE, electronically link combination of radar systems through the United States and Canada to defend this part of the free world.

Several sections of Lincoln Lab broke away from MIT in the 1950's and formed the Mitre Corp., as I told you headquartered in Bedford, on the northern boundary of the field's perimeter, and worked out the DEW line system, distant early warning, and the BMEWS, ballistic missile early warning system through Canada defending the United States, worked out at Hanscom. Michael Dukakis has never been there.

April 1, when they formed the Air Force Systems Command right over here at Andrews Air Force Base and the Electronic Systems Command under it, as it is presently instituted, has been that way since April 1961, Governor, you must have known about this place. The bulk of ESD's work revolves around developing, command control, communications, and intelligence systems to give commanders tools to gather, process, and display information about potential enemies and our own forces. The systems help decisionmakers effectively use troops, the conventional forces you talk about, Governor Dukakis, and equipment and transmit orders accurately and rapidly to the right people. The systems developed by ESD cover a wide range of needs and it talks about the GWEN systems, [ground wave emergency network], and you are thwarting that, Governor.

That is why former Secretary of Defense, Secretary of Energy, James Schlesinger, wrote that letter, an open letter in Time magazine last month that I read openly on this floor in a special order like this.

Colorado, which directs the air defense of North America, Cheyenne Mountain, they developed that all the navigation and tracking systems that air flyers worldwide and helped the launch of Discovery later this month, hopefully October 29. I hope to be there. A plane will be made available to fly down every Member of this Chamber and the other Chamber, any Members who want to go down. It is all worked out. Specialized security systems to protect bases around the world including our allies' bases, ESD manages civilian contractors to develop, produce, and install these systems at every possible location worldwide.

The Lincoln Laboratory I mentioned, Federal Contract Research

Center, conducts research for ESD and other DOD agencies.

One thing, when I drove onto the base, here was a big beautiful Air Force jet fighter, the F-86-H Sabre jet. It had been flown by the Massachusetts Air Guard there when I was flying the same airplane in Van Nuys, CA, Rusty Swigert, who became one of our early astronauts, flew the F-86-H out of the base, went from flying there in the Guard to astronaut training, and it was kind of nostalgic for me to see the beautiful F-86-H, the greatest airplane ever made short of afterburners which gave birth to supersonic speed. The greatest plane I ever flew was the last combat ready-flight in the Air Force, in that H. There it is, beautifully on the pedestal, the only aircraft stationed at Hanscom. Nice base to visit for this U.S. Congressman.

Two final references and then I ask the question again, Governor, how is it you have never gone out to that base? A final thing about that, that you are obstructing, Mr. Governor, GWEN gives U.S. strategic forces the ability to maintain critical continental long-range command and control communications connectivity, a new interesting military word, connectivity, which is connecting everybody together, despite nuclear atomic atmosphere disturbances, that it prevents due to high altitudes, EMP [electromagnetic pulse bursts].

We need this ground system, which is why it is called emergency network.

Final economic things that could seduce or entice the Governor to go out to Hanscom Air Force Base. Hanscom Air Force Base works with the following companies, and I do not think you get votes out of these people unless you go to the base and rectify your 10-year thinking, General Electric Co. Raytheon, Grumman Aerospace, the Boeing Co., GTE Sylvania, Martin Marietta Corp., Magnavox, TRW, Singer Corp., Ford Aerospace, System Development Corp., Westinghouse Electric, Sierra Research Corp.; now the nonprofit organizations, MIT, Mitre Corp., IT&T Research Institute, Carnegie-Mellon University, Utah State University, SRI International, Boston College, three cheers for Mr. Sibler, Wentworth Institute of Technology, Northeastern University Corp., Riverside Research Institute, Emmanuel College, Southeastern Center for Electronic Engineering Education, University of California, Oklahoma State University and Regis College. The top one, MIT, has 375 million dollars' worth of contracts, down to half a million at Regis.

Now for the economic impact in your own State, Governor. This is why I predict, and I am going up to your State tomorrow, Governor. They love me up there. I keep campaigning there. It will be my fifth trip through there this year alone.

Third largest industrial organization in the State of Massachusetts. After Digital Equipment Corp. and Raytheon, the head of Gillette is the electronics systems, $3,258 billion in fiscal year 1986 sales, bigger last year than this year. Tenth overall largest industrial organization in all of New England, not just Massachusetts, is Electronics System Division, No. 1, General Electric; No. 2, United Technologies; No. 3, Xerox, and all the way down to No. 10, Electronics System Division, Twentieth largest employer in all of New England, 6 States, is the Hanscom complex. Incredible. And you have no time to go there.

Two final thoughts and I will adjourn this House. In the 50-mile radius outside of Hanscom Air Force Base, which has given birth to New England's what we call in California the Bay Area Silicon Valley, their Silicon Valley is an arc of highway called Route 128, which actually is swallowed by Highway 95 and goes right by the front of this beautiful building. Highway 95 is overlaying 128, and when you say to anybody in the world of electronics all the way from Europe to Japan, Highway 128, you are talking about the Hanscom Base area complex, which is like saying Silicon Valley iin California. Office civilians and officers at that base told me jets are constantly coming in and out of the civilian-owned field. Hanscom Air Force Base does not own its own field. The tower is run by the FAA and controlled by the cities in the area. Jets are constantly flying from California's Silicon Valley and southern California, and every other electronics firm down in Texas and to this important, critical base. Here is what is the 50-mile radius, Nashua, Lawrence, Fitchburg, Lowell, Worcester, Framingham, Brockton, Plymouth, MA, where our forefathers landed on Plymouth Rock. All within a 50-mile radius, including Providence, RI, and you have no time to go there? No wonder the colonists called you up there, well, I will not say that the way they write about you in the papers.

Final thoughts on who has been to Hanscom in the last year. Thirty; the annual Paul Revere relay run, you think he would go there with weights in his hands and run in that relay in this election year; one of the former commanders, four star general spoke at the ROTC night for the schools in New England. Massachusetts Civil Air Patrol Wing, headquartered in Hanscom, celebrates its 45th birthday, too bad you did not make that, Governor. Cardinal Law, the Cardinal, the main prelate in Boston, Cardinal Bernard Law leads national prayer breakfast. You missed that. A few more things, Strategic Air Command, Defense Secretary Cap Weinberger, briefed on all the major Electronics Systems Division programs on a visit to Hanscom just a few months before he resigned. Here is one, in June of 1987, Senator EDWARD M. KENNEDY tours Hanscom to view projects he supported. He said, "Do not bug me with the projects I support," but at least he showed up. NASA astronaut David Leestma speaks at Paul Revere Chapter of the Air Force Association. They were in town this week, thousands of them, over at the Sheraton Hotel. I did not get there, but a staffer went out there and said the byword of the whole Air Force Association convention was, help elect GEORGE BUSH the 41st President of the United States before we are shut down defending our country by this man who hates the military, Michael Dukakis, Governor of Massachusetts.

Last one, you will love this, Governor, as a politician this makes my heart pound. Welcome mat out for 300,000 people who came to the open house at Hanscom Air Force Base, a month later, the Air Force Ambassadors in blue, the Thunderbirds flying F-16 Falcons performed at the base, and you missed all of that. If it is Mrs. Kitty that is telling you not to go, she is wrong, wrong, wrong, and you are running to be Commander in Chief? I think that it is not the same level of what I think is the disgraceful deeds crushing freedom fighters that this Speaker of the House has engaged in the last few days. I said disgraceful. Nationwide on CNN television's CrossFire show last night, I said it is disgraceful, although by degree, maybe by degree it is not disgraceful, but the nonattendance at any function at this base or going out, because you have a high IQ, going out to get yourself smart on the defenses of not just the United States and Canada but all, all of the free world, the technology that we give to Israel to defend this little small country of 3 million people against angry neighbors, 140 million for you to not have gone to this base is a living disgrace.

You have 46 days to get with it. I am going up to that area. I will not go to the Air Force Base because I am going on a purely political visit, but I think I will have a press conference, Michael, at the pedestal base of the Minuteman and repeat what I said in a 1-minute speech at the beginning of this legislative day, Friday, September 23, that you are the antithesis of that young man with a rifle on Lexington Green, or his older brother or father at Concord Bridge, with one hand on a plow and one hand on his rifle, the Minuteman symbolizing he is ready to defend his farm, his State, his Nation in a minute. You are the antithesis. You are the manana man. Research it, but not too much, we will do it tomorrow. Put the program off, kill the B-1, the B-2, kill the Stealth, the Midgetman, kill the two carrier task force. Kill it, kill it, kill it, manana, tomorrow we worry about the defense of the free world. Not the Minuteman, the manana man, the manana man Michael, get yourself out to Hanscom and learn why the people up there are praying, because they are voters, too, that you are not the next President or the Commander in Chief of the United States of America and the forces of the free world.

Mr. Speaker, I yield back the balance of my time.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. Derrick], is recognized for 10 minutes.

Mr. DERRICK. Mr. Speaker, on behalf of Chairman William H. Gray III, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the Congressional Record the official letter to the Speaker advising him of the current level of spending, credit, and revenues for fiscal year 1989. Since the last report, Congress has cleared the following bills: Treasury-Postal Service Appropriations (H.R. 4775), Interior Appropriations (H.R. 4867), Military Construction Appropriations (H.R. 4586), Geothermal Steam Act Amendments (S. 1889), and the United States-Canada Free Trade Agreement (H.R. 5090). Additionally, the President has signed into law the Reservation for Grand Ronde Tribes (Public Law 100-425), the Hunger Prevention Act (Public Law 100-436), and the Labor-HHS-Education Appropriations Bill (Public Law 100-436). These actions have changed estimates of budget authority, outlays, and revenues.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

Current level reports are intended to provide Members information to compare enacted spending and revenues with the aggregate ceilings on budget authority, outlays, and revenues established in a budget resolution, and also to compare enacted legislation with the allocations of new discretionary budget authority, entitlement authority, and credit authority made to a committee pursuant to subsection 302(a) of the Budget Act. This report compares the spending, credit, and revenue levels in current level with those assumed in the budget resolution for fiscal year 1989 (H. Con. Res. 268), adopted on June 6, 1988.

Current level reports provide information that is necessary for enforcing section 311 of the Budget Act. Subsection 311(a) prohibits the consideration of a spending or revenue measure if the adoption of that measure would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause revenues to be less than the appropriate level of revenues set in the budget resolution.

Subsection 311(b) provides an exception to the 311(a) point of order for measures that would breach the ceilings on total spending set in the budget resolution but would not cause a committee to exceed its "appropriate allocation" of discretionary spending authority made pursuant to section 302(a) of the Budget Act. Such an exception was first provided by the Budget Resolution for fiscal year 1985 (H. Con. Res. 280, 98th Congress). The exception was made permanent by the amendments to the Budget Act included in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, Gramm-Rudman-Hollings). This exception is intended to protect a committee that has stayed within its allocation of discretionary budget authority and new entitlement authority from points of order if the total spending ceilings have been breached for reasons outside of its control. For fiscal year 1989, the 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 268 were printed in House Report 100-662, June 1, 1988.

Section 311(c) of the Budget Act provides that, for purposes of enforcing section 311, the levels of new budget authority, entitlement authority, outlays, and revenues shall be determined on the basis of estimates made by the Committee on the Budget. Current level reports represent partial fulfillment of this enforcement responsibility of the Budget Committee by providing both estimates of enacted aggregate spending and revenues, and, for purposes of determining the applicability of the section 311(b) exception, estimates of the relationship between the budgetary effect of enacted legislation within a committee's jurisdiction and the allocation of spending authority made to that committee.

The estimates in this report are based on economic and technical assumptions in place at the time of the adoption of the budget resolution, House Concurrent Resolution 268, on June 6, 1988. This is intended to protect committees which acted on the basis of the assumptions of the budget resolution from changes in economic and technical factors over which they have no control. Unless the Congress adopts a subsequent budget resolution for a fiscal year that alters the assumptions about legislative actions, committees should be able to expect that measures that conform with the budget resolution will not be subject to points of order for violation of the Budget Act. To do othewise and base enforcement on constantly changing economic and technical estimates would seriously disrupt the legislative process, penalize committees that are unable to complete work on legislation within a short period after adoption of budget resolution, and undermine respect for budget enforcement procedures.

In addition to section 311, the Budget Act contains another point of order that requires Budget Committee estimates for enforcement. Section 302(f)(1) of the Budget Act prohibits the consideration of a measure providing new budget authority, new entitlement authority, or new credit authority if the adoption of that measure would cause a committee to exceed its allocation of new spending or credit authority made pursuant to subsection 302(b) of the Budget Act. The 302(b) allocation is a subdivision of the new spending, new entitlement, and new credit authority allocated to a committee pursuant to section 302(a), among either the subcommittees of that committee or among programs over which the committee has jurisdiction. This point of order was added to the Budget Act by the amendments included in the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 302(g) provides that the enforcement of section 302 shall be based on estimates of spending and credit authority made by the Committee on the Budget. The Budget Committee fulfills this responsibility by providing, as necessary, a separate section 302 Status Report to the Speaker.

For information purposes only, current level reports will continue to include a comparison of the budget and credit authority divided among the Appropriations subcommittees by that committee's 302(b) division with the actual enacted spending and credit legislation within each subcommittee's jurisdiction.

As chairman of the Budget Process Task Force, and on behalf of Chairman Gray, I intend to keep the House informed regularly on the status of the current level.

Committee on the Budget,
Washington, DC., September 23, 1988.

Hon. James C. Wright, Jr.,
Speaker, U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under section 311 of the Congressional Budget Act of 1974, as amended, to provide estimates of the current level of revenues and spending.

I am herewith transmitting the status report under House Concurrent Resolution 268, the concurrent resolution on the budget for fiscal year 1989.

In the House of Representatives, the procedural situation with regard to the spending ceilings (total budget authority and total outlays) is affected by section 311(b) of the Congressional Budget Act of 1974, as amended by Public Law 99-177. Enforcement against possible breaches of the spending ceilings under 311(a) of the Budget Act would not apply when a measure would not cause a committee to exceed its "appropriate allocation" of "new discretionary budget authority" or "new entitlement authority" made pursuant to section 302(a) of the Budget Act. It should be noted that under this procedure the committee's outlay allocation is not considered.

The intent of section 311(b) of the Budget Act is to protect a committee that has stayed within its spending authority allocations—discretionary budget authority or new entitlement authority—from points of order if the total spending ceilings have been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 268 were printed in House Report 100-662 (June 1, 1988).

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments. The estimates of spending and revenues for purposes of the application of points of order under the Budget Act are based upon the economic and technical assumptions underlying the fiscal year 1989 budget resolution, House Concurrent Resolution 268.

The Energy and Commerce Committee and the Ways and Means Committee have exceeded their targets because of the enactment of Public Law 100-360, the Medicare Catastrophic Coverage Act. The concurrent resolution on the budget for fiscal year 1989 assumed enactment of such legislation but made no allocations for it. The House report on the budget resolution explained that such legislation, if deficit-neutral, would be appropriate even though it exceeded the resolution's section 302 allocations or spending aggregates.

Revenues exceed the revenue floor established by the concurrent resolution on the budget for fiscal year 1989 because of enactment of Public Law 100-360, the Medicare Catastrophic Coverage Act. Passage of that legislation was assumed in the Budget Resolution but not reflected in the revenue floor. The budget resolution assumed deficit-neutral catastrophic health legislation, but not a specific dollar amount. As explained in the House report on the budget resolution, the revenue increase in Public Law 100-360 was intended to offset and make deficit neutral the multiyear spending in that bill. Therefore, it would not be consistent with the assumptions in the budget resolution to enact any additional revenue-losing legislation beyond the now-enacted Omnibus Trade Act and the Canada-United States Free Trade Agreement.

Sincerely,

William H. Gray III,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1989 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 268—REFLECTING COMPLETED ACTION AS OF SEPTEMBER 20, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,231,700	1,099,700	964,400
Current level	894,513	894,098	964,704
Amount under ceilings	337,187	205,602	
Amount over ceilings			
Amount under floor			
Amount over floor			307

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $345,984 million in budget authority for fiscal year 1989, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 268 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $208.219 million in outlays for fiscal 1989, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 268 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level estimate and that exceeds $307 million in revenues for fiscal year 1989, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 268.

FISCAL YEAR 1989 DISCRETIONARY ACTION BUDGET AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION ALLOCATION BY COMMITTEE PURSUANT TO SECTION 302

[In millions of dollars]

House Committee	Current level budget authority
Agriculture	(............)
Appropriations [1]	(−338,267)
Armed Services	(............)
Banking, Finance, and Urban Affairs	(............)
District of Columbia	(............)
Education and Labor	(............)
Energy and Commerce	(............)
Foreign Affairs	(............)
Government Operations	(............)
House Administration	(............)
Interior and Insular Affairs	(............)
Judiciary	(............)
Merchant Marine and Fisheries	(............)
Post Office and Civil Service	(............)
Public Works and Transportation	(............)
Science and Technology	(............)
Small Business	(............)
Veterans' Affairs	(−4)
Ways and Means [2]	(+321)

[1] See next table for detail.

[2] The Ways and Means Committee has exceeded its target because of the enactment of Public Law 100-360, the Medicare Catastrophic Coverage Act. The Fiscal year 1989 Budget Resolution assumed enactment of such legislation but made on allocation for it. The House report on the budget resolution explained that such legislation, if deficit neutral, would be appropriate even though it exceeded the Resolution's 302 allocations or spending aggregates.

Committees are over (+) or under (−) their 302(a) allocation for "discretionary action".

FISCAL YEAR 1989 HOUSE APPROPRIATIONS COMMITTEE DISCRETIONARY ACTION—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SECTION 302

[In millions of dollars]

House Appropriations Subcommittee Subdivisions	Current level budget authority	Direct loans	Primary loan guarantees
Commerce, State, Justice	(−14,762)	(−405)	(−3,066)
Defense	(−282,304)	(...)	(...)
District of Columbia	(−543)	(...)	(...)
Energy and Water	(−47)	(...)	(...)
Foreign Operations	(−13,310)	(−4,772)	(−9,500)
HUD/Independent Agencies	(...)	(...)	(...)
Interior	(...)	(...)	(...)
Labor, HHS, Education	(−264)	(−33)	(...)
Legislative Branch	(−1,849)	(...)	(...)
Military Construction	(...)	(...)	(...)
Rural Development and Agriculture	(−14,787)	(−6,348)	(−2,867)
Transportation	(−10,401)	(−46)	(...)
Treasury, Postal Service	(...)	(...)	(...)
Total	−338,267	−11,649	−15,433

Subcommittees are over (+) or under (−) their 302(b) subdivisions of discretionary action.

FISCAL YEAR 1989—ALLOCATION OF NEW ENTITLEMENT AUTHORITY (NEA) PURSUANT TO SECTION 302

[In millions of dollars]

Committee	Allocation	Reported [1]	Enacted [2]	Enacted over (+)/under (−) allocation
Agriculture		+611	+542	+542
Energy and Commerce		+75	+45	+45
Interior and Insular Affairs		+20		
Judiciary		+41		
Veterans' Affairs	+408	+359	+40	−368
Ways and Means		+1,624	+1,318	+1,318
Undistributed to Committees	+125			

[1] These figures are used for 401(b)(2) of the Budget Act.

[2] These figures are used for 302(f) points of order.

Note.—The Energy and Commerce and the Ways and Means Committees have exceeded their targets because of the enactment of Public Law 100-360, the Medicare Catastrophic Act. The fiscal year 1989 Budget Resolution assumed enactmentos such legislation but made no allocations for it. The House report on the Budget Resolution explained that such legislation, if deficit-neutral, would be appropriate even though it exceeded the resolution's section 302 allocations or spending aggregates.

Further, H.R. 4848, the Omnibus Trade and Competitiveness Act, provided $111 million of NEA that is scored in the "enacted" column against the Ways and Means Committee Allocation. This amount can be counted against the Undistributed $125 million in NEA that was assumed by the Budget Conferees to be available for programs in functions 500, 550 and 600.

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 23, 1988.

Hon. William H. Gray III,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1989 budget (H. Con. Res. 268). This report for fiscal year 1989 is tabulated as of close of business September 20, 1988. A summary of this tabulation is as follows:

[In millions of dollars]

	Current level	Budget resolution H. Con. Res. 268	Current level +/− resolution
Budget authority	894,513	1,231,700	−337,187
Outlays	894,098	1,099,700	−205,602
Revenues	964,707	964,400	307
Direct loan obligations	16,632	28,300	−11,668
Guaranteed loan commitments	95,517	110,950	−15,433

Since my last report, the Congress has cleared the following bills which changed the estimates for budget authority, outlays, and revenues: Military Construction Appropriations (H.R. 4586), Treasury-Postal Service Appropriations (H.R. 4775), Interior Appropriations (H.R. 4867), Geothermal Steam Act (S. 1889), and the U.S.-Canada Free Trade Agreement (H.R. 5090). This report also reflects that the President has signed into law the Reservation for Grand Ronde Tribes (Public Law 100-425), the Hunger Prevention Act (Public Law 100-435), and the Labor-HHS Appropriations Bill (Public Law 100-436).

Sincerely,

James L. Blum,
Acting Director.

PARLIAMENTARIAN STATUS REPORT, 100TH CONG., 2D SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS SEPT. 20, 1988

[In millions of dollars]

	Budget Authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			964,750
Permanent appropriations and trust funds	854,987	707,967	
Other appropriations		210,305	
Offsetting receipts	−180,826	−180,826	
Total enacted in previous sessions	674,161	737,446	964,750

PARLIAMENTARIAN STATUS REPORT, 100TH CONG., 2D SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS SEPT. 20, 1988—Continued

[In millions of dollars]

	Budget Authority	Outlays	Revenues
II. Enacted this session:			
Veterans Home Loan Program Emergency Amendments (Public Law 100–253)		1	
Nevada-Florida Land Exchange Act (Public Law 100–275)	−3	−3	
Assistance and Support for Central America (Public Law 100–276)		−17	
Atomic Veterans Compensation Act (Public Law 100–321) [1]			
Veterans Benefits and Services Act of 1988 (Public Law 100–322)	−4	3	−6
College-aid Annual Appropriation for Territories (Public Law 100–339)	([3])	([3])	
Catastrophic Health Care (Public Law 100–360)	321	101	315
Energy-Water Development Appropriations (Public Law 100–371)	16,556	10,177	
Disaster Assistance Act of 1988 (Public Law 100–387)	410	410	
Dire Emergency Supplemental Appropriations (Public Law 100–393)		75	
HUD Independent Agencies Appropriations (Public Law 100–404)	59,536	34,773	
Offsetting receipts	−150	−150	
Relief for the Coushatta Tribe (Public Law 100–411)	1	1	
Omnibus Trade and Competitiveness Act (Public Law 100–418)			−255
Reservation for Grand Ronde Tribes (Public Law 100–425	2	2	
Hunger Prevention Act (Public Law 100–435			
Labor-HHS Appropriations (Public Law 100–436)	125,228	104,726	
Offsetting receipts	−31,445	−31,445	
Total enacted this session	170,453	118,654	54
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses:			
Military Construction Appropriations (H.R. 4586)	8,798	2,618	
Treasury-Postal Service Appropriations (H.R. 4775)	16,020	14,127	
Offsetting receipts	−4,859	−4,859	
Interior Appropriations (H.R. 4867)	9,352	6,750	
Geothermal Steam Act Amendments (S. 1889)	−1	−1	
United States-Canada Free Trade Agreement (H.R. 5090)	2	2	−97
Total conference agreements	29,312	18,637	−97
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Salaries of Judges	109	109	
Compensation of the President	([3])	([3])	
Payment to Foreign Service Retirement and Disability	(148)	(148)	
Special Milk	24	18	
Food Stamp Program:			
Previous law	12,830	12,575	
(Public Law 100–435)	114	114	
Child Nutrition:			
Previous law	4,547	3,872	
(Public Law 100–435)	10	10	
Nutrition Assistance for Puerto Rico	908	885	
Federal Crop Insurance Corporation Fund	256		
Cash and Commodities for Selected Groups (Public Law 100–435)	40	40	
Temporary Emergency Food Assistance Program (Public Law 100–435)	120	120	
Compact of Free Association	1	1	
Federal Unemployment Benefits and Allowances	31	31	
Worker Training	32	32	
Special Benefits	37	37	
Payments to the Farm Credit System	210	210	
Payment to the Civil Service Retirement and Disability Trust Fund	(85)	(85)	
Payment to the C.I.A. Retirement and Disability Fund	145	145	
Coast Guard Retired Pay	382	381	
Supplemental Security Income	201	201	
Special Benefits for Disabled Coal Miners	3		
Medicaid	45	45	
Family Support Payments to States	355	355	
Social Services Block Grants		2	
Claims, Defense	187	179	
Total entitlement authority	20,587	19,361	
Total current level as of September 20, 1988	894,513	894,098	964,707
1989 budget resolution H. Con. Res. 268	1,231,700	1,099,700	964,400
Amount remaining:			
Over budget resolution			307
Under budget resolution	337,187	205,602	

[1] This act increased the current law estimate for veterans compensation which is included in the HUD-Independent Agencies Appropriations, P.L. 100-404.

[2] This act increased the current law estimates for child nutrition, food stamps, temporary emergency food assistance, and cash and commodities for selected groups. The amounts are shown in section V.

[3] Less than $500 thousand.

Notes.—Numbers may not add due to rounding.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COATS) to revise and extend their remarks and include extraneous material:)

Mr. ROTH, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. MCEWEN, for 60 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. CROCKETT, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DERRICK, for 10 minutes, today.

Mr. HAYES of Illinois, for 15 minutes, on September 28.

Mr. FRANK, for 60 minutes, on September 26, 27, 28, and 29.

Mr. BONIOR, for 60 minutes, on September 26, 27, 28, and 29.

Mr. GONZALEZ, for 60 minutes, on September 27 and 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. SMITH of Nebraska, immediately before the vote on House Resolution 540 in the House today.

(The following Members (at the request of Mr. COATS) and to include extraneous matter:)

Mr. LIVINGSTON.

Mr. CRANE, in three instances.

Mr. DELAY.

Mr. SOLOMON.

Mr. ROTH.

Mrs. BENTLEY in two instances.

Mr. CONTE.

Mrs. ROUKEMA.

Mr. RITTER.

Mr. HOPKINS.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Ms. PELOSI.

Mr. EARLY.

Mr. RODINO.

Mr. MONTGOMERY.

Mr. CLAY.

Mr. SCHUMER.

Mr. JACOBS.

Mr. DONNELLY.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1863. An act to amend the bankruptcy law to provide for special revenue bonds, and for other purposes; to the Committee on the Judiciary.

S. 1919. An act for the relief of Michael Wilding; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1154. An act to remedy injury to the U.S. textile and apparel industries caused by increased imports.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 425. An act for the relief of Sukhjit Kuldip Singh Saund;

S. 1583. An act for the relief of Maria Antonieta Heird;

S. 1945. An act to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory;

S. 1972. An act for the relief of Irma Purisch and Daniel Purisch; and

S.J. Res. 322. Joint resolution to designate the week of September 23–30, 1988, as "National American Indian Heritage Week."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 1223. An act entitled the "Indian Self-Determination Amendments of 1987";

H.R. 2046. An act to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande; and

H.J. Res. 518. Joint resolution designating the week of September 25, 1988, as "Religious Freedom Week."

AJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until Monday, September 26, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4372. A letter from the Secretary of Health and Human Services; transmitting the annual report for fiscal year 1987 of the activities under the Administration on Developmental Disabilities, Office of Human Development Services, and the Alcohol, Drug Abuse and Mental Health Administration, Public Health Service, pursuant to 42 U.S.C. 6006(c); to the Committee on Energy and Commerce.

4373. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting copies of the original report of political contributions by Richard W. Boehm, of the District of Columbia, Ambassador Extraordinary and Plenipotentiary-designate to the Sultanate of Oman, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4374. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a report on the findings and conclusions of the Attorney General's investigation into allegations involving the organization and funding of antismuggling functions in the Houston District Office, Southwest Region, Immigration and Naturalization Service, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GAYDOS: Committee on House Administrations. House Resolution 531. Resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the second session of the One Hundredth Congress (Rept. 100-958). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3544. A bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, and the Canyonlands unit; with an amendment (Rept. 100-959). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3614. A bill to amend the Wild and Scenic Rivers Act to designate a section of the Columbia River in Washington State as a study area for inclusion in the National Wild and Scenic Rivers System and for other purposes; with amendments (Rept. 100-960). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4146. A bill to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes; with an amendment (Rept. 100-961). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3343. A bill to amend the Consumer Product Safety Act and related laws to improve the performance of the Consumer Product Safety Commission, to authorize appropriations for that Act, and for other purposes; with an amendment (Rept. 100-962). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veteran's Affairs. H.R. 5221. A bill to amend title 38, United States Code, with respect to the housing loan program carried out under chapter 37 of such title, and for other purposes; with an amendment (Rept. 100-964). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. House Concurrent Resolution 322. Concurrent resolution recognizing the loyalty and dedication of the American and Panamanian employees of the Panama Canal Commission during the current political unrest in the Republic of Panama, and resolving to protect their personal safety and the integrity of their homes and workplaces; with amendments (Rept. 100-965). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4558. A bill to transfer administration of bridges and causeways over navigable waters from the Secretary of Transportation to the Secretary of the Army, and for other purposes; with an amendment (Rept. 100-966, Pt. 1). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4557. A bill to direct the Secretary of the department in which the Coast Guard is operating to require alerting and locating equipment, including emergency position indicating radio beacons, on United States uninspected vessels, and for other purposes; with amendments (Rept. 100-967). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4919. A bill to approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics; with amendments (Rept. 100-968). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5287. A bill to establish the Panama Canal Commission Compensation Fund to provide for the accumulation of funds to meet the Panama Canal Commission's obligations under chapter 81 of title 5, United States Code, and for other purposes; with an amendment (Rept. 100-969). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4189. A bill to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1989 through 1993; with an amendment (Rept. 100-970). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4272. A bill to enlarge the San Francisco Bay National Wildlife Refuge; with an amendment (Rept. 100-971). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4982. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize abbreviated new animal drug applications and to amend title 35, United States Code, to authorize the extension of the patents for animal drug products (Rept. 100-972, Pt. 1). Ordered to be printed.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 1596. A bill to amend title 28, United States Code, to create two divisions in the Judicial District of Maryland (Rept. 100-973). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4585. A bill to authorize the development of public outdoor recreation areas and facilities at Minidoka Dam in the State of Idaho; with an amendment (Rept. 100-974). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5001. A bill to establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission; with an amendment (Rept. 100-975). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1259. An act to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes. (Rept. 100-976). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2018. An act to expand the boundaries of the Congaree Swamp National Monument, to designate wilderness therein, and for other purposes; with amendments (Rept. 100-977). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5056. A bill to authorize agricultural research programs, improve the operations of the National Agricultural Library, and for other purposes; with an amendment (Rept. 100-978, Pt. 1). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5288. A bill to amend title 38, United States Code, to provide an improved system of review of decisions of the Veterans' Administration with respect to claims for veterans' benefits, and for other purposes, with an amendment, referred to the Committee on the Judiciary for a period ending not later than September 30, 1988, for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(m), rule X. (Rept. 100-963, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS:

H.R. 5346. A bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association", "Visiting Nurse Service", "VNA", "VNS", or "VNAA", or the unauthorized use of the name or insignia of the Visiting Nurse Association of America; to the Committee on the Judiciary.

By Mr. EDWARDS of California (for himself, Mr. Rodino, Mr. Fish, Mr. Mazzoli, Mr. Hughes, Mr. Glickman, Mr. Feighan, Mr. Smith of Florida, Mr. Staggers, Mr. Moorhead, and Mr. Hyde):

H.R. 5347. A bill to amend title 11 of the United States Code with respect to claims payable from special revenues by municipalities that are debtors; and for other purposes; to the Committee on the Judiciary.

By Mr. EDWARDS of California (for himself, Mr. Fish, Mr. Hughes, Mr. Staggers, Mr. Moorhead, and Mr. Hyde):

H.R. 5348. A bill to amend title 11 of the United States Code with respect to the rejection of executory contracts licensing rights to intellectual property; to the Committee on the Judiciary.

By Mr. CLAY:

H.R. 5349. A bill to require that certain contracts between the United States and private contractors contain provisions requiring the contractor to provide certain pension and health benefits to its employees, and for other purposes; to the Committee on Education and Labor.

By Mr. DONNELLY (for himself and Mr. Ford of Tennessee):

H.R. 5350. A bill to amend the Internal Revenue Code of 1986 to provide that a State or local bond shall not be a tax-exempt bond if its issuance costs exceed certain limits, to reduce the ament of issuance costs which may be finance by tax-exempt private activity bonds, and for other purposes; to the committee on Ways and Means.

By Mr. COATS (for himself, Mr. Michel, Mr. Cheney, Mr. Lewis of California, Mr. Edwards of Oklahoma, Mrs. Martin of Illinois, Mr. Lagomarsino, Mr. Vander Jagt, Mr. Bliley, Mrs. Vucanovich, Mr. Wortley, Mr. Packard, Mr. Hastert, and Mr. Dornan of California):

H.R. 5351. A bill to amend the United States Housing Act of 1937 to provide for maximum economic rents applicable to all residents of public housing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. COATS (for himself, Mr. Michel, Mr. Cheney, Mr. Lewis of California, Mr. Edwards of Oklahoma, Mrs. Martin of Illinois, Mr. Lagomarsino, Mr. Vander Jagt, Mrs. Vucanovich, Mr. Wortley, Mr. Packard, Mr. Hastert, and Mr. Dornan of California):

H.R. 5352. A bill to direct the Secretary of Education to make grants for character education programs; to the Committee on Education and Labor.

By Mr. COATS (for himself, Mr. Michel, Mr. Cheney, Mr. Lewis of California, Mr. Edwards of Oklahoma, Mrs. Martin of Illinois, Mr. Lagomarsino, Mr. Vander Jagt, Mr. Bliley, Mrs. Vucanovich, Mr. Wortley, Mr. Packard, Mr. Hastert, and Mr. Dornan of California):

H.R. 5353. A bill to make grants to establish family preservation programs; to the Committee on Education and Labor.

By Mr. COATS (for himself, Mr. Michel, Mr. Cheney, Mr. Lewis of California, Mr. Edwards of Oklahoma, Mrs. Martin of Illinois, Mr. Lagomarsino, Mr. Vander Jagt, Mrs. Vucanovich, Mr. Wortley, Mr. Packard, Mr. Hastert, and Mr. Dornan of California):

H.R. 5354. A bill to direct the Secretary of Education to make grants to State educational agencies for demonstration programs on early childhood family education, and for other purposes; to the Committee on Education and Labor.

H.R. 5355. A bill to amend the Elementary and Secondary Education Act of 1965 to establish Federal financial assistance for parental choice open enrollment programs in public schools; to the Committee on Education and Labor.

H.R. 5356. A bill to make grants to certain local educational agencies to enhance the quality of education through the establishment of bootstrap schools; to the Committee on Education and Labor.

H.R. 5357. A bill to establish a program of demonstration grants to State educational agencies for purposes of conducting school-based management projects; to the Committee on Education and Labor.

H.R. 5358. A bill to establish a clearinghouse of juvenile justice in the Office of Juvenile Justice and Delinquency Prevention; to the Committee on Education and Labor.

H.R. 5359. A bill to make grants to private nonprofit community-based organizations to prevent and reduce the participation of juveniles in the activities of gangs that commit crimes; to the Committee on Education and Labor.

H.R. 5360. A bill to provide a financial incentive to States to provide services to, and intensive supervision of, juveniles who are released after having been found to have committed acts in violation of State law that would have been crimes under such law if committed by adults; to the Committee on Education and Labor.

H.R. 5361. A bill to provide financial assistance to States to carry out demonstration projects to provide character education to juveniles confined to juvenile detention facilities; to the Committee on Education and Labor.

H.R. 5362. A bill to provide a finanical incentive to States to confine juveniles who commit unlawful violent acts, to require juveniles who commit certain nonviolent unlawful acts to perform community service, and to require all such juveniles to pay restitution to their victims; to the Committee on the Judiciary.

H.R. 5363. A bill to provide a financial incentive to States to require juveniles who commit unlawful acts to pay restitution to their victims, and for other purposes; to the Committee on the Judiciary.

H.R. 5364. A bill to amend part D of title IV of the Social Security Act to require States as a condition of receiving child support assistance under the AFDC Program to enact certain laws to improve child custody and support arrangements and to better enforce child support orders; to the Committee on Ways and Means.

H.R. 5365. A bill to make grants to improve the quality and availability of health, family, and preschool services for families with young children; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. COATS (for himself, Mr. Michel, Mr. Cheney, Mr. Lewis of California, Mr. Edwards of Oklahoma, Mrs. Martin of Illinois, Mr. Lagomarsino, Mr. Vander Jagt, Mr. Bliley, Mrs. Vucanovich, Mr. Wortley, Mr. Packard, Mr. Hastert, and Mr. Dornan of California):

H.R. 5366. A bill to require the preparation of family impact statements, and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. CRANE:

H.R. 5367. A bill to repeal the provision of the Internal Revenue Code of 1986 which provides that the accumulated earnings tax shall be applied without regard to the number of shareholders in the corporation; to the Committee on Ways and Means.

By Mr. CROCKETT (for himself, Mr. de Lugo, Mr. Fuster, Mr. Bonker, Mr. Lagomarsino, Mr. Mineta, Mr. Weiss, Mr. Fauntroy, Mr. Studds, Mr. Roe, Mr. Levin of Michigan, Mr. Rodino, Mr. Leland, Mr. Foglietta, Mr. Rangel, Mr. Towns, Mr. Kemp, Mr. Gilman, Mr. Mfume, Mr. Clarke, Mrs. Collins, Mr. Edwards of California, Mr. Owens of New York, Mr. Dellums, Mr. Conyers, Mr. Kostmayer, Mr. Lowry of Washington, Mr. Dymally, Mr. Wolpe, Mr. Wheat, Mr. Savage, Mr. Hayes of Illinois, Mr. Espy, Mr. Dixon, Mr. Hyde, Mr. Gray of Pennsylvania, Mr. Lewis of Georgia, Mr. Flake, Mr. Roybal, Mr. Gephardt and Mr. Ford of Tennessee):

H.R. 5368. A bill to amend the Foreign Assistant Act of 1961 to authorize international disaster assistance for Jamaica to assist in alleviating the human suffering caused by Hurricane Gilbert; to the Committee on Foreign Affairs.

By Mr. EDWARDS of California (for himself and Mr. Conyers):

H.R. 5369. A bill to regulate the conduct of the Federal Bureau of Investigation in certain matters relating to the exercise of rights protected by the first article of amendment to the Federal Constitution; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 5370. A bill to provide for the temporary suspension of certain duties on two-stroke cycle piston engines, and for other purposes; to the Committee on Ways and Means.

By Mr. GORDON:

H.R. 5371. A bill to ensure that amounts paid for home improvements to mitigate radon gas qualify for the tax deduction for medical care expenses; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 5372. A bill to amend the Trademark Act of 1946 to make certain revisions relating to the registration of trademarks, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Gray of Pennsylvania, Mr. Solarz, Mr. Atkins, Mr. Dymally, Mr. Dwyer of New Jersey, Mr. Weiss, Mr. Lewis of Georgia, Mr. Traficant, Mr. Bonker, Mr. Fauntroy, Mr. Hayes of Illinois, Mrs. Meyers of Kansas, Mr. Owens of New York, Ms. Pelosi, and Mr. Jontz):

H.R. 5373. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. LEWIS of California (for himself, Mr. Coats, Mr. Michel, Mr. Cheney, Mr. Edwards of Oklahoma, Mrs. Martin of Illinois, Mr. Lagomarsino, Mr. Vander Jagt, Mr. Bliley, Mrs. Vucanovich, Mr. Wortley, Mr. Packard, Mr. Hastert, and Mr. Dornan of California):

H.R. 5374. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the expenses of adopting a child with special needs; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. Kolbe, Mr. Stump, Mr. Beilenson, Mr. Torres, Mr. Kyl, Mr. Martinez, Mr. Rhodes, Mr. Coelho, Mr. Matsui, Ms. Pelosi, Mr. Lehman of California, Mr. Panetta, Mr. Hunter, Mr. Mineta, Mrs. Boxer, Mr. Stark, Mr. Waxman, Mr. Berman, Mr. Bosco, Mr. Lagomarsino, Mr. Edwards of California, Mr. Lantos, Mr. Udall, and Mr. Roybal):

H.R. 5375. A bill to amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. SMITH of Nebraska (for herself, Mr. Marlenee, Mr. Emerson, Mr. Roberts, Mr. Skeen, Mr. Bereuter, Mr. Weber, and Mr. English):

H.R. 5376. A bill to provide that the Secretary of Transportation may not issue regulations reclassifying anhydrous ammonia under the Hazardous Materials Transportation Act; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. YATRON:

H.R. 5377. A bill to amend title XVIII of the Social Security Act to provide for coverage of telebinocular low vision aids or telescopic eyeglasses for individuals with low vision; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. CONYERS (for himself, Mr. Horton, Mr. Carr, Mr. Foley, Mr. Dymally, Mr. Leach of Iowa, Mr. Rangel, Mr. Stokes, Mr. Mfume, Mr. Lewis of Georgia, Mr. Espy, Mr. Fazio, Mr. Tauzin, Mr. Lagomarsino, Mr. Emerson, Mr. Atkins, Mr. Levin of Michigan, Mr. Lipinski, Mr. Dixon, Mrs. Collins, Mr. Owens of New York, Mr. Vander Jagt, Mr. Green, Mr. Hayes of Illinois, Mr. Matsui, Mr. Gray of Pennsylvania, Mr. Towns, Mr. Leland, Mr. Fauntroy, Mr. Lancaster, Mrs. Martin of Illinois, Mr. Weiss, and Mr. Dellums):

H.J. Res. 662. Joint resolution to designate May 25, 1989, as "National Tap Dance Day"; to the Committee on Post Office and Civil Service.

By Mr. HUNTER (for himself, Mr. Lowery of California, Mr. Bates, and Mr. Packard):

H.J. Res. 663. Joint resolution to congratulate the crew of Stars and Stripes for their successful defense of the America's Cup; to the Committee on Post Office and Civil Service.

By Mr. STARK (for himself, Mr. Coelho, Mr. Anderson, Mr. Bates, Mr. Beilenson, Mr. Berman, Mr. Bosco, Mrs. Boxer, Mr. Brown of California, Mr. Dannemeyer, Mr. Dixon, Mr. Dornan of California, Mr. Dymally, Mr. Edwards of California, Mr. Fazio, Mr. Gallegly, Mr. Hunter, Mr. Konnyu, Mr. Lagomarsino, Mr. Lehman of California, Mr. Levine of California, Mr. Lewis of California, Mr. McCandless, Mr. Martinez, Mr. Matsui, Mr. Miller of California, Mr. Mineta, Mr. Moorhead, Mr. Packard, Mr. Panetta, Mr. Pashayan, Ms. Pelosi, Mr. Roybal, Mr. Torres, and Mr. Waxman):

H. Con. Res. 372. Concurrent resolution expressing the sense of the Congress that the Postmaster General should provide and sell a postage stamp to commemorate the 450th anniversary of the discovery of Alta California by the Portuguese explorer John Rodriguez Cabrillo, to the Committee on Post Office and Civil Service.

By Mr. MICHEL:

H. Res. 543. Resolution electing Representative Emerson of Missouri to the Committee on Public Works and Transportation; considered and agreed to.

By Mr. ROSTENKOWSKI:

H. Res. 544. Resolution returning to the Senate the bill S. 2662; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 669: Mr. Glickman.

H.R. 809: Mr. Frenzel.

H.R. 1028: Mr. Lewis of Georgia, Mr. Bustamante, Mr. Towns, Mr. Torricelli, Mr. Wise, Mr. Payne, Mr. Fazio, Mr. Bilbray, Mr. Hayes of Illinois, Mr. Bruce, Mr. Johnson of South Dakota, Mr. Sawyer, and Mr. Feighan.

H.R. 1352: Mr. Walgren.

H.R. 1596: Mr. Cardin.

H.R. 1966: Mr. Walgren.

H.R. 2354: Mr. Boulter.

H.R. 2508: Mr. Ackerman.

H.R. 2546: Mr. MacKay and Mr. Young of Alaska.

H.R. 2776: Mr. Eckart.

H.R. 2934: Mr. Chapman.

H.R. 3454: Mr. Spence and Mr. Evans.

H.R. 3565: Mr. Volkmer.

H.R. 3628: Mr. Broomfield, Mr. Fish, and Mr. Carr.

H.R. 3883: Mr. Dowdy of Mississippi and Mr. Ravenel.

H.R. 4142: Mr. Campbell, Mrs. Bentley, and Mr. Lagomarsino.

H.R. 4189: Mr. Miller of California.

H.R. 4414: Mr. Levin of Michigan.

H.R. 4494: Mr. Walgren and Mr. Bates.

H.R. 4531: Mr. Burton of Indiana and Mr. Slattery.

H.R. 4576: Mr. Thomas of California.

H.R. 4649: Mr. Shumway and Mr. Lewis of California.

H.R. 4680: Mr. Dornan of California and Mr. Russo.

H.R. 4702: Mr. Sundquist and Mrs. Lloyd.

H.R. 4880: Mr. Nielson of Utah and Mr. Fish.

H.R. 4991: Mr. Callahan.

H.R. 5023: Mr. Ackerman and Mr. Brown of California.

H.R. 5041: Mr. Dellums, Mr. Gilman, Mrs. Saiki, Mr. Sawyer, Mr. Hubbard, Mr. DioGuardi, Mr. Vento, Mr. Walgren, Mr. Traxler, Mr. Sweeney, Mr. Atkins, Mr. Nagle, Mr. Fauntroy, Mr. Martinez, Mr. Bosco, and Mr. Levine of California.

H.R. 5075: Mr. Hayes of Louisiana, Mr. Bilirakis, Mr. Daub, Mr. Pickett, Mrs. Lloyd, Mr. Walgren, Mr. Bliley, Mr. Jones of Tennessee, Mr. Lagomarsino, Mr. Quillen, Mr. Ravenel, Mr. Ortiz, and Mr. Wyden.

H.R. 5086: Mr. Goodling.

H.R. 5186: Mr. Martinez.

H.R. 5214: Mr. Hawkins and Mr. Payne.

H.R. 5221: Mr. Montgomery, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, and Mr. Richardson.

H.R. 5229: Mr. Fazio.

H.R. 5249: Mr. Upton.

H.R. 5256: Mr. Wise, Mr. Staggers, and Mr. Rahall.

H.R. 5271: Mr. Glickman, Mr. Kildee, Mr. Owens of New York, Mr. Parris, and Mr. Shays.

H.R. 5288: Mr. Robinson, Mr. Wylie, Mr. Jenkins, Mr. Clarke, Mr. Blaz, Mr. Richardson, Mr. Hiler, and Mr. Hefner.

H.R. 5318: Mr. Coelho, Mr. Thomas of Georgia, and Mr. Stangeland.

H.R. 5319: Mr. Solarz, Mr. Stokes, Mr. Fuster, Mr. Moakley, Mr. Murtha, Mr. DioGuardi, Mr. Murphy, Mr. Hoyer, Mr. Dymally, Mr. Mrazek, Mr. Jones of North Carolina, Mr. Rodino, Mr. Cardin, Mr. Parris, Mr. Wortley, and Mr. Fauntroy.

H.J. Res. 438: Mr. Moakley, Mr. Bliley, Mr. Hansen, Mr. Harris, Mr. Bustamante, Mr. Martin of New York, Mr. Traxler, Mr. Robinson, Mr. Shaw, Mr. Traficant, Mr. Foley, Mr. Wyden, Mr. Murphy, Mr. Lewis of California, Mr. Gunderson, Mr. Fascell, Mr. Dingell, Mr. Kennedy, Mr. Frenzel, Mr. Costello, Mr. Wylie, Mr. Dowdy of Mississippi, Mr. Ackerman, Mr. Gallegly, Mr. Applegate, Mr. Bonior, Mr. Oxley, Mr. Cardin, Mr. Clement, Mrs. Bentley, Mr. DeWine, Mr. Upton, Mr. Stokes, Mr. Sawyer, Mr. Pashayan, Mr. Ortiz, and Mr. Yates.

H.J. Res. 449: Mr. Robert F. Smith.

H.J. Res. 528: Mr. Ireland.

H.J. Res. 537: Mr. Gallegly.

H.J. Res. 556: Mr. Chandler, Mr. Craig, Mr. Fascell, Mr. Gejdenson, Mr. Gray of Pennsylvania, Mr. Kemp, Mr. Kennedy, Mr. Kildee, Mr. Lehman of Florida, Mr. Lent, Mr. Livingston, Mr. Markey, Mr. Marlenee, Mr. McCloskey, Mr. Mineta, Mr. Moody, Mr. Parris, Mr. Rhodes, Mr. Rodino, Mr. Roth, Mr. Tauke, Mr. Torres, Mr. Valentine, Mr. Volkmer, Mrs. Kennelly, Mr. Olin, Mr. Cooper, and Mr. Russo.

H.J. Res. 564: Mr. Evans, Mr. Neal, Mr. Darden, Mr. Goodling, and Mr. Kastenmeier.

H.J. Res. 595: Mr. Berman, Mr. Quillen, Mr. Darden, Mr. Frenzel, Mr. Mollohan, Mr. Rodino, Mr. Brown of Colorado, Mr. Emerson Mr. Atkins, Mr. Buechner, Mr. Panetta, Mrs. Boxer, Mr. Fascell, Mr. Conyers, Mr. Bliley, Mr. Boucher, Mr. Lewis of Georgia, Mr. Solomon, Mr. Martinez, Mr. Murphy, Mr. Perkins, Mr. Solarz, Mr. Evans, and Mr. Bennett.

H.J. Res. 596: Mr. Johnson of South Dakota, Mr. Jones of Tennessee, Mr. Conte, and Mr. Ford of Tennessee.

H.J. Res. 610: Mrs. Bentley, Mr. Daub, and Mr. Dickinson.

H.J. Res. 626: Mr. Cheney, Mr. de Lugo, Mr. Fascell, Mr. Fazio, Mr. Gunderson, Mr. Inhofe, Mr. Lungren, Mr. McEwen, Mr. Martinez, Mr. Ravenel, Mr. Rodino, Mr. Roe, Mr. Roth, Mr. Spence, and Mr. Wylie.

H.J. Res. 636: Mrs. Boxer, Mr. Coelho, Mr. de Lugo, Mr. Evans, Mr. Green, Mr. Horton, Mr. Levin of Michigan, Mr. Lungren, Mr. McGrath, Mr. Roth, Mr. Shays, Mr. Stratton, and Mr. Yatron.

H.J. Res. 651: Mr. Dymally, Mr. Rinaldo, Mr. Boland, Mr. Lehman of California, Mr. Anderson, Mr. Wolf, Mr. Conyers, Mr. Smith of Florida, Mr. Towns, Mr. Feighan, Mr. Shaw, Mr. Frost, Mr. Hutto, Mr. Chappell, Mr. Packard, Mr. Yatron, Mrs. Boxer, Mr. Green, Mr. Atkins, Mr. Russo, Mr. Roe, Mr. Hansen, Mr. Lantos, Mr. Beilenson, Mr. Horton, Mr. Archer, Mr. Young of Alaska, Mr. Hefner, Mr. Mazzoli, Mr. Lewis of California, Mr. Harris, Mr. Berman, Mr. Kostmayer, Mr. Kastenmeier, Mr. Bliley, Mr. Johnson of South Dakota, Mr. Young of Florida, Mr. Lehman of Florida, Mr. Gilman, Mr. Fazio, Mr. Frank, Mr. Frenzel, Mr. Lancaster, Mr. Martinez, Mr. Fields, Mrs. Bentley, and Mr. Levin of Michigan.

H.J. Res. 652: Mr. Gallegly, Mr. Lewis of California, Mr. Hunter, Mr. Denny Smith, Mr. Skaggs, Mr. Lujan, Mr. Hyde, Mr. Kemp, Mrs. Schroeder, and Mr. Hefley.

H. Con. Res. 258: Mr. Quillen, Mr. Shaw, and Mr. Fascell.

H. Con. Res. 276: Mr. Smith of New Hampshire, Mr. Natcher, Mrs. Kennelly, Mr. Chappell, Mr. Bilirakis, Mr. Lewis of California, Mr. Coble, Mr. Swift, Mr. Ravenel, Mr. Markey, Mr. Donnelly, Mr. Kildee, Mr. Jones of Tennessee, Mr. Miller of California, Mr. Bates, Mr. Moakley, Mr. Murphy, Mr. Emerson, Mr. Dixon, Mr. Bateman, Mr. Frank, Mrs. Byron, Mr. Rogers, Mr. Gekas, Miss Schneider, Mr. Martin of New York, Mr. Kolter, Mr. Lewis of Georgia, Mr. Roberts, Mr. Slattery, Mr. Shuster, Mr. Mfume, Mr. Gregg. Mr. Barnard, Mr. Nielson of Utah, Mr. Bilbray, Mr. Courter, and Mr. Levine of California.

H. Con. Res. 317: Mr. Gallegly, Mr. Thomas of California, Mr. DeLay, Mr. Frank, Mr. Bilbray, Mr. Lantos, Mr. Hiler, Mr. Stark, Mr. Henry, Mr. Upton, Mr. Wolf, and Mr. Clement.

H. Con. Res. 342: Mr. Gray of Illinois, Mr. Chappell, Mr. Schaefer, Mr. DeFazio, Mr. Craig, Mr. Chapman, Mr. McGrath, Mr. Harris, Mr. Gallo, Mr. Schuette, Mr. Horton, Mr. Eckart, Mr. Hyde, Mr. Fawell, Mr. Lewis of Florida, Mr. Ballenger, Mr. Upton, Mr. Barton of Texas, Mr. Wolpe, Mr. Dwyer of New Jersey, Mr. McEwen, Mr. Martin of New York, Mr. Wylie, Mr. Shuster, Mr. Costello, Mr. Hochbrueckner, Mrs. Bentley, Mr. Mineta, Mr. Rose, Mr. Dannemeyer, Mr. Thomas of Georgia, Mr. Hefner, and Mr. Michel.

H. Con. Res. 362: Mr. McGrath.

H. Con. Res. 363: Mr. Horton, Mr. Vander Jagt, Mr. Rose, Mr. Dyson, Mr. Rahall, Mr. Gray of Illinois, Mr. de Lugo, Mr. Mack, Mr. Bevill, Mr. Hughes, Mr. Hyde, Mr. Lancaster, Mr. Gregg, Mr. Olin, Mr. Conte, Mr. Boucher, Mrs. Bentley, Mr. Roe, Mr. Wise, Mr. Dymally, Mr. Taylor, Mr. Towns, Mr. Murphy, Mr. Natcher, Mr. Solomon, Mr. Young of Alaska, Mr. Dwyer of New Jersey, Mr. Chappell, Mr. Stangeland, Mr. Flippo, Mr. Smith of Florida, Mr. Martin of New York, Mr. Mollohan, Mr. Kolter, Mr. Hastert, Mr. Thomas A. Luken, Mr. Moorhead, Mr. Shaw, Mr. Anderson, Mr. Wortley, Mr. Wolf, Mr. Dingell, Mr. Applegate, Mr. Harris, Mr. Kasich, Mr. Panetta, Mr. Mavroules, Mr. Frost, Mr. Nielson of Utah, and Mr. Bustamante.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 387

By Mr. BARTLETT:

—Page 2, line 11, insert "and pay structures for congressional employees," after "title,".

—Page 9, line 9, insert "and any congressional office" after "agency".

—Page 9, line 10, strike "the head of".

—Page 9, line 11, insert "or office" after "agency".

—Page 11, strike lines 19 through 25 and insert in lieu thereof the following:

(b) Comparisons.—(1) In performing the study, comparisons shall be made—

(A) both within the same system and among the respective systems under this Act; and

(B) both on an intra-agency and on an inter-agency basis.

(2) for the purpose of this subsection—

(A) "system" means any system or structure referred to in section 2(a); and

(B) "agency" means any agency within the meaning of section 10(12) and any congressional office.

—Page 16, line 15, strike "title" and insert in lieu thereof "title, and any similar grouping of positions used by a congressional office;".

—Page 17, line 13, strike "and".

—Page 17, line 15, strike "States." and insert in lieu thereof "States; and".

—Page 17, after line 15, add the following new paragraphs:

(14) "congressional office" means any appointing authority in the legislative branch of the Government; and

(15) "congressional employee" means any individual employed in or under a congressional office.

—Page 16, line 18, add the following new paragraph:

"(14) 'equivalent in totality' means substantially equal each in terms of the skill, effort, qualification requirements, and responsibility necessary to perform the occupation, and performed under similar working conditions.".

H.R. 4986

By Mr. ATKINS:

—In Sec. 18, add a new subsection (a) and reletter existing sections accordingly:

(a) Income.—Section 480(f) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(f)) is amended by adding a new subpart (3) to read:

"(3) An amount equal to the aggregate calculated in § 1087 pp(b)(1)(A) (i)-(iv), applicable to both dependent and independent students who are enrolled in a cooperative education program, as defined in Title VIII of this Act, from employment which is recognized by the institution of higher education as part of the co-op education program.".

SENATE—*Friday, September 23, 1988*

(Legislative day of Wednesday, September 7, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Husbands, love your wives, even as Christ also loved the church, and gave Himself for it.—Ephesians 5:25. * * * *fathers, provoke not your children to wrath: but bring them up in the nurture and admonition of the Lord.*—Ephesians 6:4.

Father in Heaven, we pray for our families which are so often casualties because of the busyness of men not only in politics but in business and the professions. Philosopher Will Durant said, "The family is the nucleus of civilization." It is the family which holds society together—the family which is the mucilage of society. When the family disintegrates, society disintegrates.

Gracious Father in Heaven, help us to take seriously our priority responsibility as husbands and fathers. Give us and all husbands and fathers the will to take time, to make time for our families.

We pray in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 23, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY AND REPUBLICAN LEADERS

The **ACTING PRESIDENT** pro tempore. Under the previous order, the majority and minority leaders will be recognized for not to exceed 15 minutes.

THE CHAPLAIN'S PRAYER

Mr. **BYRD.** Mr. President, the Chaplain has talked about the responsibilities of wives and husbands and fathers and mothers.

A careful man I want to be,
A little fellow follows me.
I do not dare to go astray,
For fear he'll go the self-same way.

I cannot once escape his eyes,
What e'er he sees me do he tries.
Like me he says he's going to be,
The little chap that follows me.

He thinks that I am good and fine,
Believes in every word of mine,
The base in me he must not see,
The little chap that follows me.

I must not madly step aside,
Where pleasure's paths are smooth and wide,
And join in wine's red revelry,
A little fellow follows me.

I must remember as I go,
Through summer sun and winter's snow,
I'm building for the years to be,
The little chap that follows me.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. **STEVENS.** Mr. President, I ask the time on this side of the aisle be reserved for the Republican leader for use later today.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. **BYRD.** Mr. President, I ask unanimous consent that morning business may be transacted between now and 9:50 a.m. and that Senators may speak therein.

The **ACTING PRESIDENT** pro tempore. Is there objection? Without objection, it is so ordered.

The Senator from Wisconsin.

A GREAT DAY COMING FOR AMERICA WHOEVER WINS IN NOVEMBER

Mr. **PROXMIRE.** Mr. President, this is the last in my series of speeches on what is right about America. Today I will summarize the case I have made in detail. Once again I emphasize that whoever wins the 1988 elections in November, life in most respects for most Americans will improve and spectacularly improve. This will be true regardless of recessions or depressions that might intervene. How can this be? Answer: The elements in life that are most essential to the progress of most individual Americans are independent of whatever partisan policies a new President and new Congress may provide. They are also independent of economic fluctuations, even excessive economic fluctuations. Here's why.

In my opening speech I contended that the first sweeping change that is breezing into America's future is improved education at every level. Our children are going to continue to be better taught. More will graduate from high school. More will go on to college. More will progress through graduate schools. Vocational and technical education, already reaching far more Americans than are touched by higher education will continue to upgrade the skills of millions of Americans. Largely as a result of this advance in education, American technology will race ahead. The exciting dimension of the economic consequence of today's education for our economy is its coincidence with the information revolution. The computer age is bringing an ability to organize and correlate an infinity of critical information. We will create and produce products and services with less man hours and higher quality than ever before. The bright new world is on its way; nothing can stop it.

The second development that will inevitably make life better for Americans is the certain improvement in the single most important element in human happiness: health. Americans today are living longer. We have fewer aches and pains and more strength and vitality than ever for two prime reasons. First, American medicine has enormously improved with literally miraculous advances in saving and extending life. Second, life styles are beginning to progress for more and more Americans. Heart disease and cancer as well as many other killers have been on the run not simply because of the skill of our physicians and the geniuses in our pharmaceutical laboratories. More and more Americans are beginning to realize that good health is in their own hands. As a nation, we are smoking far less. We are eating less, especially less fat. And above all, we are exercising much more. The momentum for longer and far healthier lives is well underway.

Third, the world has begun to take a turn toward peace. The big wars in Iran, Iraq, Afghanistan, and Angola

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

are all winding down. Vietnam is withdrawing from Cambodia. The world's two most populous nations, India and China, are discussing how to improve their relations. Throughout the world, nations are realizing the utter futility and waste of war. The day of more vigorous Peace Corps-type activity is coming and swiftly.

Fourth, arms control is making painfully slow, but steady progress. What drives that progress? It is the realization by both Americans and Russians that a nuclear war would leave only losers, broken devastated losers. Superpower nuclear war would convert both the United States and the U.S.S.R. into vast cemeteries. The INF and START treaties both serve a purpose. But the terrible threat of accidental war will persist until we negotiate a verifiable end to nuclear weapons testing. Such a treaty could signal the end of the technology arms race. Without it, a reduction in the number of nuclear weapons on both sides has no meaning.

The fifth big good news flash is that democracy is sweeping the world. With that sweep comes the likelihood of a more peaceful world and a more prosperous world. A small, weak student movement in Burma is demanding an end to one-party rule. It is making surprising progress. The Polish revolt against the total suppression of Communist dictatorship is finally beginning to get somewhere. In the Soviet Union, the great bastion of totalitarian communism that for 70 years has tolerated no dissent and no freedom, a modest move toward free expression and criticism of the Communist government is taking place. It is accompanied by the beginning of a slight move toward the decentralization of the economy. This flirtation down the long path to democracy may or may not continue. It is beginning. China has moved much further away from doctrinaire communism, although it still has a long way to go. Even its small move has brought such a remarkable surge of energy to China that the Chinese economy is growing faster than the economy of any major nation in the world. In South Korea, democracy is edging forward. In the Philippines, President Aquino has put democracy on a far stronger basis than under President Marcos. But it is here in the Western Hemisphere and especially in Central America, where democracy has made its biggest advances with the unfortunate exceptions of Cuba and Nicaragua.

Sixth, in the past 30 years, the world has been electrified by the spectacular developments in space. Future space developments promise to be even more dazzling. Colonization of space may be a few centuries away, but more and more Americans will travel in space. Here is a marvelous opportunity for international cooperation as well as international funding that could both advance peace and hold down our taxes.

Seventh, civil rights made more progress in the past 30 years than at any time since Lincoln freed the slaves in 1864. Progress in providing equal opportunity in education, employment and housing has improved life for blacks and Hispanics and for whites too. Why for whites? Because we build a stronger and more prosperous country by building a country in which all Americans are better educated, more productively employed and better housed. More productive black and Hispanic Americans means a stronger and more prosperous country for white Americans.

So there it is, Mr. President, regardless of who wins the Presidential election in November, regardless of what ups and downs we may have to endure in our economy, life for Americans is going to be better. Americans will be better educated, more skilled. They will be healthier. They will live in a more peaceful world and a more democratic world. We can look forward to exciting progress in space, and to an America with greater justice for all—regardless of race or sex or creed.

MORE JOBS CAN BE OPENED TO MILITARY WOMEN UNDER CURRENT STATUTES

Mr. PROXMIRE. Mr. President, the General Accounting Office [GAO] released a report today to Senators Cohen, DeConcini and myself entitled "Women in the Military: More Military Jobs Can Be Opened Under the Current Statutes."

As the title indicates, there are positions in the U.S. military which women are legally entitled to hold, but are prohibited from serving in due to the administrative policies of the individual services.

How does this happen?

There are two categories of positions that women are excluded from holding. One group consists of combat positions which women are prohibited from serving in due to the combat-exclusion law. This covers about 675,000 positions.

The second group consists of noncombat jobs that need to be left open to meet the program needs created by the existence of combat restrictions. According to the GAO report this category includes sea/shore rotations in the Navy, stateside and oversea locations in the Army and the Air Force, and the availability of noncombat career-enhancing opportunities for men in combat assignments. This category covers about 375,000 positions.

What positions remain after this classification? The unrestricted ones. This is where the problems arise. The individual services unnecessarily restrict women from these positions because of sloppy methodologies.

For example, in the Army female enlisted accession goals are based on the number of women the Army believes it can enlist on a regular basis. Therefore, accession goals for women govern the number of women who are recruited and the number of jobs made available to women applicants. The bottom line is the number of jobs will increase only when the Army increases these accession goals.

Clearly, this system for providing jobs for women makes little sense. There seems to be no apparent mechanism linking the number of women joining the Army and the number of positions actually available to them.

The Army is not alone in these utilization problems. The Navy, the Marines, and the Air Force also have problematic methodologies in the utilization of women. The bottom line is that women are not receiving the full opportunities they are entitled to by law in any of the services.

I urge not only my colleagues, but the Department of Defense and the individual services to examine the findings in this important report. It is an unacceptable situation when women are prevented from positions that are well within the parameters of the combat-exclusion law, but are made untouchable by the services' methodologies.

Mr. President, I ask unanimous consent that the General Accounting Office Report be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Women in the Military: More Military Jobs Can Be Opened Under Current Statutes

General Accounting Office,
Washington, DC, September 7, 1988.

Hon. William Proxmire,
Hon. William S. Cohen,
Hon. Dennis DeConcini,
U.S. Senate.

This report responds to your March 24, 1987, request that we review how service policies implementing the combat exclusion provisions affect the number and assignment of women in the military, and whether other factors limit job opportunities for women. In the report we address the numerical impact of the statutory restrictions, and how service policies unrelated to statutory restrictions limit the availability of jobs for women.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days from its issue date. At that time, we will send copies to interested committees and other Members of Congress; the Secretaries of Defense, the Air Force, Army, and Navy; and the Director of the Office of Management and Budget. We will make copies available to other parties upon request.

Frank C. Conahan,
Assistant Comptroller General.

EXECUTIVE SUMMARY

PURPOSE

Because of concerns that the services might be unnecessarily limiting job opportunities for women, Senators William Proxmire, William S. Cohen, and Dennis DeConcini asked GAO to review—

How service policies implementing statutory prohibitions on combat jobs for women affect the number and assignment of military women, and

If service procedures unrelated to the combat exclusion limit job opportunities for women.

BACKGROUND

The number of women in the military services has increased from 55,500 (2.5 percent of forces) in 1973 when the All-Volunteer Force was established to 220,957 (10.2 percent of forces) in 1987. Statutes and service policies, however, restrict military jobs available to women.

Sections 6015 and 8549 of title 10 U.S.C. prohibit assigning women to aircraft and naval vessels having combat missions. Because the Women's Army Corps with its own exclusions existed in 1948 when title 10 provisions became law, title 10 includes no specific combat restriction on Army women. With the dissolution of the Corps in 1978, the Army prohibited women from jobs most likely to engage in direct combat, as a matter of policy.

To meet program needs created by the combat exclusion, the services prohibit women from filling certain noncombat jobs. Program needs include overseas/stateside rotation for the men in combat jobs in the Army and Air Force, sea/shore rotation in the Navy, and career progression opportunities for both men and women.

The services have opened new career fields and job opportunities to women. For example, the Navy opened pilot training to women in 1973 and the Air Force in 1976. More recently, Air Force women have been assigned to Minuteman firing crews and certain reconnaissance aircraft. After Secretary of Defense and Navy task forces on women in the military in 1987, the Navy opened shore based reconnaissance aircraft and 26 of its 37 combat logistics force ships which provide underway fleet replenishment. Further, the Marine Corps opened its security guard program. The services are evaluating whether closure of noncombat support units and positions is justified under a new Department of Defense definition of "risk."

RESULTS IN BRIEF

Based on the combat exclusion and related program needs, about 1.1 million of 2.2 million military jobs are closed to women. All of the 1.1 million remaining jobs, however, are not available to women. Through their policies and procedures for identifying job availability and for determining or implementing accession goals for women, the services further limit the jobs that women may compete for.

PRINCIPAL FINDINGS

The services limit the number of jobs that women may hold beyond their identification of the requirements of the combat exclusion and related program needs. As a result, women may not compete for all jobs identified by the services as unrestricted by the combat exclusion or their program needs.

The Marine Corps distributes some unrestricted noncombat jobs in both the Fleet Marine Force and Support Establishment equally between men and women to reflect the gender composition of the general civilian population.

The Navy limits women to no more than one-half of the unrestricted noncombat pilot positions.

The Air Force limits the number of new pilot and navigator openings available to women to its estimate of the proportion of women among those people interested in joining the Air Force and qualified to be Air Force pilots and navigators.

The Army enlisted accession goals limit the number of women recruited and the number of jobs made available to women.

The Navy does not consider the size of berthing areas (sleeping quarters) on noncombat ships when determining sea duty availability for women. Because the size of berthing areas is a constraint when assigning mixed crews, women may not be allowed to fill the number of sea duty positions identified as open to women by the Navy methodology.

RECOMMENDATIONS

To allow women to compete for all jobs not closed by statutes or program needs, GAO recommends that—

The Secretary of the Navy consider berthing area configurations when establishing the number of noncombat sea duty opportunities for women;

The Secretary of the Navy direct the Commandant of the Marine Corps to provide open access without regard to gender to noncombat assignments now prorated between men and women;

The Secretary of the Navy review procedures used by officer career field managers for determining proposed accession goals for women officers, to eliminate unnecessary limitations on job availability;

The Secretary of the Air Force allow all unrestricted pilot and navigator openings to be available for competition by women on an equal basis with men; and

The Secretary of the Army remove limits resulting from the implementation of gender specific accession goals for enlisted women.

AGENCY COMMENTS

The Department of Defense (DOD) generally concurred with GAO's findings and recommendations. However, DOD was awaiting a special analysis by the Marine Corps to determine if any as yet unidentified program needs affect those jobs now distributed on a 50/50 basis to reflect the gender composition of the general population. If the Marine Corps cannot demonstrate a program need for this procedure, DOD agrees that those positions should be available on a gender-neutral basis.

DOD partially concurred with GAO's recommendation on Air Force pilot and navigator accessions. DOD is awaiting an Air Force study assessing the cost of attrition and retention of men and women pilots and navigators, before deciding if accession policy should be changed. GAO agrees that attrition and retention are matters of concern but notes that the number of openings for women has been so small that Air Force data may not be sufficient for effective analysis. In GAO's opinion, removal of current limits may provide an expanded database that will enable the Air Force to more effectively address attrition and retention issues.

DOD did not concur with GAO's recommendation to the Secretary of the Army. DOD stated that Army accession objectives for women are not limits but goals that the Army must exert itself to achieve. GAO did not do a market survey to identify how many women the Army could expect to enlist each year. However, officials at the Army Recruiting Command told GAO that recruiting is directed primarily toward men, and female accession goals have been met without special effort.

CHAPTER 1—INTRODUCTION

Since the inception of the All-Volunteer Force in 1973, the number of women in the U.S. military services has increased from 2.5 percent of total forces in fiscal year 1973 to 10.2 percent in fiscal year 1987. Table 1.1 shows this growth by service.

TABLE 1.1: NUMBER AND PERCENT OF WOMEN IN THE SERVICES, FISCAL YEARS 1973 AND 1987

Service	1973		1987	
	Number of women	Percent of force	Number of women	Percent of force
Air Force	19,750	2.9	75,308	12.5
Army	20,736	2.6	82,700	10.7
Navy	12,628	2.3	53,161	9.1
Marine Corps	2,288	1.2	9,788	4.9
Total	55,402	2.5	220,957	10.2

STATUTES LIMIT OPPORTUNITIES FOR WOMEN

Although the number of women in the services has grown dramatically, statutes and service policies restrict the kind and number of military jobs available to women. Sections 6015 and 8549 of title 10 U.S.C. prohibit the assignment of Air Force, Navy, and Marine Corps women to aircraft having combat missions. Section 6015 also prohibits Navy and Marine Corps women from serving on naval vessels having combat missions. The Women's Army Corps, in existence since 1942 and having its own exclusions, precluded the need for statutory restrictions on the Army in the 1948 act establishing the current title 10 prohibitions. With the dissolution of the Corps in 1978 and the subsequent integration of women into the mainstream of the Army, the Army prohibited women from positions that are most likely to involve direct combat, as a matter of policy.

To meet program needs created by the combat restriction, the services also close some noncombat jobs to women. Program needs include, for example, rotation between stateside and overseas assignments for Army and Air Force personnel. A majority of the combat positions in a job category may be located overseas. To prevent excessively long overseas tours, the services close some noncombat jobs in the United States. Similarly, the Navy reserves a set number of shore positions to allow for sea/shore rotation for Navy combat personnel. Further, jobs available to women are limited by some service procedures for identifying and implementing accession goals for women.

OPPORTUNITIES FOR WOMEN HAVE EXPANDED

After periodic review of their policies, the services have expanded available assignments and career fields for women while maintaining applicable statutory restrictions. For example, the Navy opened pilot training to women in 1973 and surface warfare and special operations career fields in 1978. All service academies were opened to women in 1976. The Air Force opened pilot training to women in 1976, navigator training in 1977, Minuteman crews in 1985, and some reconnaissance aircraft such as the RC-135 in 1986. In 1986, the Army opened positions in forward support battalions, and the Navy opened Military Sealift Command ships.

In the fall of 1987, in response to a report from the Chairwoman of the Defense Advisory Committee on Women in the Services, the Secretary of Defense established a Task Force on Women in the Military to address three areas of concern: attitudes toward women, combat exclusion, and career development. Concurrently with the Department of Defense (DOD) Task Force, the Navy and the Marine Corps reviewed their policies. Those reviews resulted in the standardization of the criteria used to determine when exposure to risk justifies closing noncombat jobs to women, the Navy's opening of 26 of its 37 combat logistics force ships and the land-based air reconnaissance squadrons flying the EP-3 aircraft, the Marine Corps' opening of its marine security guard program which serves the embassies around the world, and the reevaluation of closed noncombat support units and positions with the purpose of opening those that did not meet the criteria for risk justification. Each service was also directed to improve women officer leadership development, review key billet assignment policies affecting women officers, and integrate more women into nontraditional skill areas. The services will be reporting back to the Secretary of Defense.

OBJECTIVES, SCOPE, AND METHODOLOGY

Because of concerns that the services might be unnecessarily limiting opportunities for women, Senators William Proxmire, William S. Cohen, and Dennis DeConcini requested that we review certain issues related to job opportunities for women in the military. Specifically, the Senators asked that we determine—

How service policies implementing the combat exclusion affect the number and assignment of military women and

If service procedures unrelated to the combat exclusion limit job opportunities for women.

In testimony before the Subcommittee on Military Personnel and Compensation, House Committee on Armed Services, on November 19, 1987, we discussed the statutory restrictions, service policies for implementing those restrictions, and the inconsistent impact of those policies on the kinds of jobs women may hold. As agreed with congressional requesters, a copy of our statement appears as appendix I of this report. The remainder of this report addresses the numerical impact of the combat exclusion policies and limits on job opportunities caused by procedures unrelated to combat exclusion policies.

To determine how the services identify job opportunities for women, we interviewed service officials and reviewed documentation at the following locations:

The services' headquarters, including the Coast Guard, in Washington, D.C.;

Service recruiting agencies in Washington, D.C. (Navy and Marine Corps); San Antonio, Texas (Air Force); and Chicago, Illinois (Army);

Military entrance processing stations in Detroit, Michigan; Milwaukee, Wisconsin; El Paso and San Antonio, Texas; Baltimore, Maryland; and Harrisburg, Pennsylvania; and

U.S. Army Training and Doctrine Command at Forts Monroe, Lee, Eustis, and Belvoir, in Virginia.

The military entrance and processing stations were chosen on the basis of work load volume and geographic distribution; standardized interviews were completed with representatives of the four services at each location.

Our assessment of the extent to which the services may have unnecessarily limited opportunities for women focused on those positions identified by the services as able to be filled by either men or women under existing laws and service policies. We conducted our review from March 1987 through August 1988 in accordance with generally accepted government auditing standards. The Department of Defense provided written comments on a draft of this report. These comments are presented and evaluated in chapters 2 and 3, and are included in their entirety in an appendix II.

CHAPTER 2—COMBAT EXCLUSION PROVISIONS CLOSE THOUSANDS OF JOBS TO WOMEN

The combat exclusion statutes and service policies implementing those statutes prohibit women from serving in about 675,000 combat jobs. The services also restrict women from about 375,000 noncombat jobs to meet program needs created by the existence of combat restrictions. The needs vary among the services, but include consideration of rotation between stateside and overseas locations in the Air Force and Army, sea/shore rotation in the Navy, prevention of promotion bottlenecking for both men and women, and the availability of noncombat career-enhancing opportunities for men in combat assignments. The Army, Navy (for the enlisted ranks), and the Marine Corps use standardized methodologies to help identify the number of noncombat positions that are reserved to meet program needs created by the combat exclusion. The Air Force identified its combat and noncombat needs in 1985 through a special study. The Navy does not identify total combat and noncombat male-only requirements at officer grades. Instead, it determines job availability for women officers through its processes for setting accession goals.

We found that in addition to reserving positions to meet program needs, the Marine Corps apportions some jobs on an equal basis between men and women. This apportionment is unrelated to combat or program needs. We also found that the Navy methodology for enlisted ranks does not consider ship berthing capabilities (sleeping quarters) in determining the number of positions open to women. According to Navy requirements, a berthing area must be restricted to one gender.

DIRECT IMPACT OF COMBAT EXCLUSION PROVISIONS

By law, the Air Force, Navy, and Marine Corps cannot assign women to aircraft engaged in combat missions, and the Navy and Marine Corps cannot assign women to naval vessels having combat missions. The Air Force restricts additional positions because it interprets the intent of the combat exclusion statute to also protect women from capture. The Marine Corps identifies its direct combat requirement as enough positions to form two Marine Expeditionary Brigades in each of the three Marine Expeditionary Forces formed by the Fleet Marine Force. The Army, by policy, does not assign women to positions identified as the most likely to engage in direct combat. This policy is based on Army understanding of the intent of the exclusion laws.

Table 2.1 shows by service the number of positions the services close because of their interpretations of statutory restrictions.

TABLE 2.1: TOTAL NUMBER OF POSITIONS CLOSED DIRECTLY BY COMBAT EXCLUSION PROVISIONS BY SERVICE

	Number directly closed [1]		
Service	Officer	Enlisted	Total
Air Force (fiscal year 1988)	15,125	4,077	19,202
Army (fiscal year 1987)	22,311	254,283	276,594
Navy (fiscal year 1988) officers, fiscal year 1991 projected, enlisted)	28,997	264,071	[2]293,068
Marine Corps (fiscal year 1988)	[3]	90,788	90,788

[1] Comparable data for the same fiscal year were not available. Where data are now estimated for future years, actual numbers may differ.

[2] This total is an approximation based on data from 2 fiscal years.

[3] Data for Marine Corps officers were not available.

IMPACT OF CLOSURES TO MEET PROGRAM NEEDS

Each of the services reserves noncombat positions for men to meet program needs created by the combat exclusion as discussed below.

Air Force

The Air Force closes some noncombat positions to provide stateside rotation opportunities for men assigned to combat aircraft overseas. The number of positions was initially determined through a 1985 Air Force study. Although the number of noncombat jobs needed to provide rotation has changed since then, the Air Force maintains the same ratio of combat to noncombat positions as was established in the study. In fiscal year 1988, the Air Force reserved 504 officer and 1,452 enlisted positions to meet rotation needs. Rotation is the only program need the Air Force considers a constraint on female accessions.

Army

The Army considers several factors in determining the number of noncombat jobs needed to meet program needs. For officers, the Army determines the number of stateside jobs needed to provide rotation for men in overseas combat assignments and the number of combat casualty replacements that will be needed in the early days of a conflict. Only the higher of these two numbers is reserved since one position can fill both program needs. The Army then reviews career progression paths to ensure that the same percentage of total jobs (combat and noncombat) is reserved for men at each higher grade to provide for promotion opportunities. In fiscal year 1987, as a result of these program considerations, the Army set aside 5,731 noncombat officer positions for men.

For the enlisted ranks, the Army reviews four program needs that could require restricting noncombat jobs:

1. Sufficient men in lower grades to meet combat requirements for the grade with the highest percentage of combat jobs.

2. Sufficient stateside jobs to provide rotation for men in overseas restricted positions.

3. Availability of noncombat jobs to provide career-enhancing experience for men in combat jobs.

4. Prevention of promotion bottlenecking for women by restricting the maximum percentage of women in each job category within a career field to the percentage of women allowed in the job category with the lowest percentage of women.

The impact of these program needs may apply throughout a career field or only within a particular job category—military occupational specialty. A career field is generally comprised of two or more occupational specialities, and provides the opportunity for an enlistee to progress from a trainee to the highest enlisted grade attainable, E-9.

For example, the administration career field contains 16 occupational specialities, including physical activities specialist, personnel administration specialist, and legal specialist. To achieve the highert enlisted grade, a person generally needs to change occupational specialties at some point in the promotion path. For example, a physical activities specialist can remain in that job category from grades E-3 to E-7. To attain an E-8 or an E-9 promotion, that person must become an administrative specialist. A personnel administration specialist can progress only to grade E-6. To obtain further promotions that person must become a personnel sergeant. A legal specialist, on the other hand, may remain a legal specialist and still be promoted up through grade E-9. The Army identifies the requirements of the first three program needs listed above only within each job category. The fourth is applied within a career field, not within a single job category.

The Army closes enough enlisted positions to accommodate the program need that affects the greatest number of jobs. For example, in one job category, subsistence supply specialist, at the E-2 through E-4 grades, the four program needs would require 54, 27, 59, and 0 restricted jobs, respectively, during fiscal year 1987. Only 59 were restricted. At the next grade, E-5, these same program needs would require 0, 25, 18, and 0 jobs, respectively. Only 25 were restricted. This analysis occurs at each grade in each job category to produce the total number of jobs needed to meet these program needs. Based on this analysis, in fiscal year 1987 the Army set aside 72,779 enlisted noncombat positions for men.

After closing enlisted jobs based on the four program needs, the Army, where necessary, adjusts the maximum number of jobs available to women by grade within a job category, so that the ratio from grade to grade for women is the same as the ratio from grade to grade for total requirements within that category. An Army representative told us this is done to provide equitable promotion opportunities for both men and women. In fiscal year 1987, this adjustment closed an additional 20,171 positions.

Navy

Officers.—The Navy does not identify total combat and noncombat male-only requirements at officer grades. Instead, the Navy determines job availability for women officers through its processes for setting accession goals. Data on the impact of related program needs were, therefore, not available.

Enlisted.—To determine job availability and accession goals for enlisted women, the Navy identifies the number of sea duty positions on noncombat ships and allots a portion of them to women based on how the Navy categorizes the job. According to Navy officials, the percentages were established on the basis of the percentages necessary to provide sufficient openings to accommodate the Secretary of Defense mandated end strength goals for Navy women—9.6 percent for fiscal year 1991—and to account for the current distribution of women among sea intensive and shore intensive jobs.

Based on these considerations, the Navy currently allots 70 percent of the noncombat sea duty jobs that the Navy considers administrative/communication skills to women, and 40 percent of boiler technician, machinist mate, and fireman jobs. For the remaining sea duty jobs, the Navy allots 50 percent to women. In addition to the number of sea duty positions available to women, the Navy adds one-half of the overseas shore assignments that are credited as sea duty. According to Navy officials, these jobs are apportioned equally between men and women to offer more rotation opportunities for men and career-enhancing opportunities for both men and women. The 50/50 distribution is intended to achieve gender equality. The result of these calculations is the number of sea duty positions that women may fill. In the long run, the Navy intends to achieve a 50/50 distribution of noncombat sea duty jobs between men and women.

The Navy also (1) makes an appropriate number of each job category's shore positions open to women, and (2) allots to women a portion of positions scheduled for such activities as training, based on the ratio of female sea and shore positions to the Navy's total force structure.

The sum of the above calculations is the upper limit on the enlisted jobs that can be held by women. Reductions in that limit are made, if necessary, to provide equitable promotion opportunities for both men and women. Under this methodology, the Navy projects that 235,892 noncombat enlisted positions will be closed to women in fiscal year 1991, as shown in table 2.2.

TABLE 2.2: NAVY NONCOMBAT ENLISTED POSITIONS CLOSED TO WOMEN (PROJECTED FISCAL YEAR 1991)

Positions	Number
1. Male shore rotation for combat sea duty	118,293
2. Noncombat sea duty not programmed for women	18,401
3. Shore duty for noncombat sea duty closed	7,841
4. One-half overseas shore duty positions credited as sea duty and stateside shore duty for those positions	8,242
5. Training, etc., billets reserved for men	77,577
6. Reduction of female upper limit to provide equitable career progression for men and women	5,538
Total	235,892

The enlisted Navy methodology does not take into consideration berthing area configurations of the ships involved. The size of the berthing areas (sleeping area), however, is a constraint on assigning women to sea duty positions. There is no minimum male requirement on ships open to women because these ships do not have a combat mission. Because of Navy habitability and sanitation facilities requirements for crew members, however, the gender composition of crews on these ships, particularly in the enlisted grades, must coincide with the various male/female combinations that can be accommodated by the sizes of the ships' berthing areas. If a ship has four enlisted berthing areas, for example, each with a capacity for 40 people, then women and men must be assigned in increments of 40, such as 40/120 or 80/80.

Under the Navy's approach for identifying job availability for women, the Navy will be increasing (1) the number of women in sea-intensive job categories, (2) the number of noncombat sea duty positions filled by women, and (3) the percentage of women in mixed crews. The Navy is making these increases to accommodate the Secretary of Defense's mandated increase in the Navy's female end strength while providing both men and women in the same job category with the same sea/shore rotation ratio. The Navy can accommodate the increases because of the increased number of sea duty jobs for women resulting from the Navy's December 1987 decision to open 26 of its combat logistics force ships. However, because the navy methodology does not correlate the number of unrestricted sea duty positions targeted for women with the size of ships' berthing areas, it is not certain that the ships will be able to house the designated number of women. As a result, the Navy may not be able to assign women to all the sea duty positions that are theoretically open to them.

Marine Corps

The Marine Corps considers the following when reserving noncombat positions for men. The Marine Corps—

Reserves enlisted and officer noncombat positions equivalent to 25 percent of the total combat requirement (excluding aviation combat units) as casualty replacements for combat arms positions;[1]

Closes some noncombat officer positions that require combat arms experience to perform assigned duties;

Distributes positions in some job categories equally based on the split of men and women in the general population; and

Maintains the same percentage of men and women in job categories that offer or require rotation between the Fleet Marine Force and the Support Establishment, to provide equitable rotation opportunity.

The objective of the methodology is to calculate the minimum number of male-only positions related to combat needs, and, therefore, the maximum number of positions available to women. Based on this process, a total of 28,342 noncombat enlisted positions were closed to women in fiscal year 1988. Data for officers were not available.

These procedures establish the number of positions open to women by job category and grade. In the enlisted and unrestricted officer grades, that number is then adjusted to provide career progression opportunities for both men and women by establishing the same proportions of men and women at each grade level.

To determine the adjustment needed for career progression, the Marine Corps first calculates the proportion of total jobs open to women in each grade within a job category. The proportion of women allowed in each grade within a job category is then reduced or increased to equal the percentage of jobs in the grade with the second lowest proportion. The second lowest rather than the lowest proportion is used to minimize the limitation resulting from this process. For example, if women comprised 45, 35, 25, and 15 percent of personnel in grades E-2 to E-4, E-5 to E-7, E-8, and E-9, respectively, within a job category, then the number of women allowed in each grade would be changed to 25 percent throughout the job category.

However, since the grade that previously was the lowest will be increased, the Marine Corps limits openings for women to no more than 1.5 times the total number of female openings available in the job category before this adjustment. This adjustment for career progression needs closed an additional 3,130 enlisted positions in fiscal year 1988, leaving a total of 9,873 enlisted positions open to women. Data on officers were not available.

CONCLUSIONS

In addition to closing combat jobs as required by law, the services close noncombat jobs to meet program needs created by the combat restrictions. This indirect impact of the combat exclusion provisions stems from service efforts to address the resulting resource management and equity problems affecting men and women in terms of assignment type, location, and career progression opportunities. Overall, about 1.1 million of 2.2 million military positions are closed to women. Of the remaining 1.1 million positions, women fill about 220,000. The positions closed because of statutory and program needs impacts are summarized in table 2.3.

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[1] The Marine Corps maximizes the positions open to women in this step by not counting fractional positions as closed to women. This results in 439 open positions that would otherwise be closed.

TABLE 2.3: SUMMARY OF POSITIONS CLOSED TO WOMEN BECAUSE OF STATUTES AND PROGRAM NEEDS

Service [1]	Statutory impact	Program needs	Total
Air Force	19,202	1,956	21,158
Army	276,594	98,681	375,275
Navy	293,068	[2] 235,892	[3] 528,960
Marine Corps	[2] 90,788	[2] 31,472	[3] 122,260

[1] Comparable data for the same fiscal year were not available.

[2] Enlisted only. Data for officers were not available.

[3] Total understated because of the lack of data on officers.

We did not assess the validity of service calculations to identify the number of jobs that must be reserved for men to meet combat and related program requirements. In the Marine Corps methodology, however, some opportunities are equally divided between men and women to reflect the male/female composition of the general population. This distribution is not required by the combat exclusion laws or any related program needs. We recognize that this provision affects only about 375 positions, but unless the Marine Corps can show a program need for this distribution, we believe these jobs should be available on a gender-neutral, open-access basis.

We also believe that the Navy needs to consider the configuration of berthing areas when determining sea duty availability for women, rather than determining availability solely on the basis of whatever combination of job category inventories is needed to meet mandated inventory goals. The size of the berthing areas will act as a constraint on the assignment of women once they have entered the service.

RECOMMENDATIONS

We recommend that the Secretary of the Navy—

Direct the Commandant of the Marine Corps to provide open access on a gender-neutral basis to noncombat assignments now equally divided between men and women to reflect the gender composition of the general population and

Consider berthing area configurations when establishing the male/female distribution of noncombat sea duty positions.

AGENCY COMMENTS

DOD concurred with our findings and recommendations. DOD stated it was awaiting a special Marine Corps study to determine if any as yet unidentified program needs affect unrestricted positions now distributed equally between men and women to reflect the gender composition of the general population. DOD agreed that if the Marine Corps cannot demonstrate a program need for the 50/50 rule, then those positions should be made available on a gender-neutral, open-access basis.

DOD noted that the Navy has already taken action on berthing area capacities to enable it to assign women to 50 percent of the positions on noncombat ships. The Navy is currently reviewing a preliminary ship alteration plan, completed by the Naval Sea Systems Command on June 16, 1988, that identifies changes needed to provide sufficient berthing area capacities for women.

DOD stated that it did not concur with an implication that female officer accession goals were solely driven by positions on noncombat ships. This is an incorrect reading of our discussion of procedures related to enlisted personnel only, and we have clarified our discussion of officer and enlisted procedures for identifying program needs to avoid misunderstanding.

CHAPTER 3—SERVICE ACCESSION GOALS LIMIT JOB AVAILABILITY FOR WOMEN

The positions remaining after the services have set aside enough jobs to meet combat and program needs can be filled by either men or women. We found, however, that some service procedures for identifying and implementing accession goals limit the number of unrestricted noncombat jobs made available to women. These limits are not required by either combat exclusion or related program needs, and therefore, unnecessarily restrict the number of jobs that women may compete for under current statutory provisions. Such limits occur in the Air Force at both officer and enlisted grades, in the Army at enlisted grades, and in the Navy at officer grades.

We did do a market survey to identify how many women might enter the services if unnecessary limits were removed. We recognized that open access to all unrestricted positions on a gender-neutral basis would remove guaranteed minimums for men and women. Removal of unnecessary limits would expand job opportunities which both men and women could compete for.

AIR FORCE

Officers

The Air Force restricts entry to only two officer career fields because of the combat exclusion provisions—pilot and navigator. Combat and related program requirements for other career fields have not been sufficient to warrant restrictions. We found that after restricting enough pilot and navigator positions to meet combat mission requirements, the Air Force makes available to women a small percentage of these unrestricted noncombat openings, based on its estimate of the proportion of women in the general population who are interested in joining the Air Force and qualified to be pilots and navigators. That estimate (8.4 percent discussed below) is determined by multiplying the male/female ratio of (1) the general population by (2) the youth interested in joining the Air Force based on a survey of youths' interest, and educational, testing, and physical standards requirements for becoming pilots and navigators.

In 1986, the Air Force established a goal of producing 2,000 new pilots and 800 new navigators each year. Of these, 40 pilots and 10 navigators could be women. The Air Force derived these numbers by multiplying the number of noncombat positions (24 percent for pilots and 14 percent for navigators) by the qualified and interested rate for women (8.4 percent) for these fields. Allowing for attrition during training, 60 women could enter pilot training and 14 women could enter navigator training annually. Figures 3.1 and 3.2 show the impact of this process using the 2,000 pilot and 800 navigator positions from the original needs assessment.

[Figures 3.1 and 3.2 not reproducible for the RECORD.]

Because of recent officer reductions, the Air Force has reduced its annual goals for new pilots and navigators. In fiscal year 1987, the Air Force goals were 1,700 pilots and 685 navigators. The goals and training openings for women, however, were held constant because the initial numbers were so low.

Enlisted

The Air Force has controlled the number and kinds of jobs made available to women applicants and as a result has limited female accessions. The number of jobs available has been based on the Air Force estimate of the ratio of women among those persons in the general population qualified and interested in those jobs in the Air Force. In fiscal year 1987, the overall percentage estimate of the ratio of women among the qualified and interested pool ranged from 15 to 19 percent. In fiscal year 1988, the range increased to 18 to 22 percent.

Prior to 1986 the Air Force set a maximum for enlisted female accessions. To enforce that maximum, the Air Force used separate computer-accessed job listings for male and female applicants. In 1985, the House Committee on Armed Services directed the Air Force to review its enlisted accession system. As a result, in January 1986, the Air Force modified the system to allow the transfer of jobs from one listing to another to be more responsive to demand. According to Air Force officials, the dual system was retained to meet anticipated minimum quotas for women required by the Committee. Officials said implementation of a single, gender-free job listing would take a maximum of 18 months (or a total of 6,000 programming hours) to implement and would be costly and timeconsuming to reverse if quotas were imposed.

In February 1988, we briefed staff of the House Committee on Armed Services on the operation of the modified dual job list system. As a result, the Committee removed the minimum quotas and directed the Air Force, in the National Defense Authorization Bill for 1989, to develop and implement a gender-neutral system for enlisted accessions. That system is to be in use by October 1, 1989.

ARMY

Enlisted accession goals

The Army's implementation of annually established accession goals for nonprior service enlisted women (enlistees without prior Army service) limits job opportunities for women far below the 231,000 jobs remaining unrestricted after applying the combat exclusion and after accounting for program needs. In fiscal year 1987, about 70,000 enlisted women were in the Army. According to an Army official, accession goals are based on a consideration of how many women the Army believes it can enlist on a regular basis, and on an Army objective of reaching a female enlisted end strength of 74,000. Therefore, accession goals for women govern the number of women who are recruited and the number of jobs made available to women applicants.

Accession goals are implemented by the Army Recruiting Command as a maximum for men and women. The recruiting command receives gender-specific goals for nonprior service enlistees each year from the Army Deputy Chief of Staff for Personnel. The command then establishes separate male and female goals at each operational level down to the individual recruiter. Recruiting agency officials told us that recruiters are not allowed to make gender substitutions in their assigned goals.

The Army uses separate male and female job listings when recruiting. The number of jobs for women is based on female accession goals and cannot be increased unless the Army increases these goals. Each increase also requires a corresponding decrease in the accession goals for nonprior service men because accession goals are governed by total authorized end strength.

NAVY

Officers

The Navy determines job availability for women officers through its procedures for setting accession goals for each career field.[2] Officer career field managers prepare initial accession goal estimates that may be adjusted by Navy planners. Although the 10 career field managers we met with used some similar concepts in arriving at proposed accession goals, a unique process was used for each career field. Navy officials told us that processes differed because each career field has its own career path requirements.

In the absence of good documentation on either the criteria used by the career field managers to determine proposed female officer accession goals or implementation of the criteria, the impact was not always clear. We did determine, however, that the separate processes do not generally assess total combat and related program needs for the entire career field. Further, the results of the Navy's 1987 special study group on women and reviews related to specific officer career fields have brought about some changes in job opportunities available to women that can affect the processes and/or data used to establish female accessions.

We found that the procedures used by the officer career field managers placed unnecessary limits on the number of jobs made available to women in three career fields—pilots, surface warfare, and special operations—before the 1987 special task force completed its work. Further, in one field, pilots, changes in job opportunities for women, resulting from task force recommendations, were not incorporated by the officer career field manager into the formulation of annual accession goals.

In the pilot career field, female accessions for trainee positions are based on the number of available initial assignment openings—about 1,000 pilots are needed each year. We were told that accession goals for women are arbitrarily limited to one-half of the 62 unrestricted noncombat openings. Although the Navy subsequently opened the EP-3 aircraft to women as a result of the work of the special task force, the Navy has not increased the number of unrestricted noncombat pilot positions made available to women. According to a Navy official, the Navy will continue to limit women to no more than 31 of the unrestricted noncombat openings and will provide pilots for the EP-3 aircraft by replacing some women in training positions with men.

In the surface warfare career field, female accessions had been based on the availability of only one commander position (0-5), although 6 captain (0-6) positions were open and adequate junior grade sea duty positions were available to support more than the one commander (0-5) position. The availability of only one commander position limited female accessions to 17 per year. The special task force review resulted in the opening of 26 of the Navy's 37 combat logistics force ships, thereby making available up to 9 unrestricted commander (0-5) positions. The Navy has incorporated this change into its determination of accession goals. Using the male rate for grade progression to commander, annual female accessions were increased from 17 in fiscal year 1987, to a projected 50 in fiscal year 1990.

Navy officials said female accessions in special operations were constrained by the limited availability of appropriate shipboard facilities for women officers below the command level. The Navy placement officer had designated only 8 of a possible 20 ships as suitable for women. Officials told us that private facilities are more difficult to provide on small ships and these positions tend to be on small ships. A Navy review of the remaining 12 ships resulted in 9 more being designated as suitable for assigning women.

CONCLUSIONS

As discussed in chapter 2, the combat exclusion laws and service policies and procedures for implementing those laws, including resource management and equity considerations, limit the number of jobs women can fill. In addition, some service procedures for identifying and implementing accession goals further limit the number of women who can join the military. Unless the services have compelling reasons that they have not yet identified, all unrestricted jobs should be available to men and women on an equitable basis. Opening all unrestricted jobs for equal competition would remove the current limits on the number of women in unrestricted noncombat positions. Neither gender would then be guaranteed a minimum percentage of the available jobs.

Air Force

The Air Force limits the number of unrestricted pilot and navigator positions that can be held by women based on its estimate of the percentage of women in the qualified and interested pool. In our opinion, the Air Force policy of limiting the number of jobs made available to women to this estimate is unnecessarily restrictive. For example, of 480 unrestricted pilot positions, only 40 may be filled by women under current Air Force policy.

Army

Army accession goals for nonprior service enlisted women and men have been implemented as a maximum. Based on Army accession goals, the Army Recruiting Command establishes separate male and female goals at each operational level down to the individual recruiter. Recruiters are not allowed to make gender substitutions. Further, the Army uses separate male and female job listings when recruiting. The number of jobs on either list is the maximum made available to men or women unless Army-wide accession goals are adjusted. We believe the number of unrestricted noncombat jobs and the available supply of interested and qualified women should govern the maximum number of enlisted women rather than annual accession goals specifically for women. Reprogramming the Army enlisted job system to reflect "male only" and "unrestricted" positions could provide the mechanism for implementing a gender-neutral accession system for unrestricted positions. The system could allow male applicants to access both job lists and female applicants to access only the "unrestricted" job list.

Navy

The procedures used by officer career field managers to determine proposed female accession goals for Navy officer career fields do not generally assess total combat and related program needs. The impact of the various processes on job opportunities for women, therefore, was not always clear. In three career fields, opportunities for women appeared to be unnecessarily limited prior to changes in job availability resulting from the work of the task force on women and an internal Navy review. Although increased job availability brought about by resulting changes was incorporated into formulation of accession goals for two of those career fields, it was not incorporated into determining female pilot accessions. We believe the Navy should review the procedures used by officer career field managers to determine job availability for women officers, to ensure that unnecessary limitations do not exist and that changes in job availability have been incorporated into their procedures.

RECOMMENDATIONS

To enable the services to obtain the most capable people overall, and to gain the maximum benefit possible from available resources, we recommend that—

The Secretary of the Air Force allow all unrestricted pilot and navigator openings to be available for competition based on individual qualifications without regard to gender,

The Secretary of the Army remove limits resulting from the implementation of accession goals for women enlistees, and

The Secretary of the Navy review procedures used by officer career field managers for determining proposed female accession goals for women officers to eliminate unnecessary restrictions on job availability which may result from those procedures.

AGENCY COMMENTS AND OUR EVALUATION

Air Force

DOD partially concurred with our finding and recommendation on Air Force pilot and navigator accessions. DOD believes that implementation of a gender-neutral pilot training entry program would be premature until additional research on attrition and continuation rates can demonstrate that expanding opportunities for women would permit the meeting of qualified air crew requirements at an affordable cost. DOD noted that pilot training attrition is 34 percent for women compared to 26 percent for men, and that the current 6-11 year voluntary continuation rates for women pilots and navigators are at least 20 percent lower than the rates for men flying similar aircraft. DOD added that in view of current and projected pilot shortfalls and the very high cost of training pilots, the relative cost-effectiveness of expanding women entrants will be dependent upon the development of a flight training selection methodology that can predict successful pilot training completion equally well for men and women.

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[2] Unlike the other services that have a standardized methodology for determining job availability for women, the Navy determines job availability for its women officers through its procedures for setting accession goals. These procedures differ for each Navy officer career field. We reviewed procedures used by 10 of the 17 Navy officer career field managers who establish proposed female accession goals. We did not look at the career fields of two managers because combat restrictions precluded assignment of women to one, and assignment of women to the other was open only at the Commander level of above. Of the remaining 15 managers, we reviewed the processes used by the 6 responsible for career fields with more than 3,000 officers in fiscal year 1986, 3 of the 6 responsible for career fields with 1,000 to 3,000 officers, and 1 of the 3 responsible for career fields with less than 1,000 officers. The career fields reviewed totaled 62,704 officers, or 87 percent of the Navy's fiscal year 1986 of 72,051.

We agree that the Air Force should be concerned with attrition and retention rates. However, the 60 positions ascribed to women each year is so small that a few women can have a major impact on female attrition and retention rates. For example, only 5 additional women in any year would have to complete pilot training to reduce the female attrition rate from 34 to 26 percent. Removing limits could provide the Air Force with a larger database for more effectively and equitably evaluating attrition and retention.

DOD also stated that current Air Force methodology provides opportunity in flying careers open to both men and women in proportion to the interested and qualified population of the entry cohort. We disagree with the Air Force's use of a proportional distribution of noncombat pilot and navigator positions based on estimates of the interested and qualified population. Application of this process limits job availability beyond the requirements of the law or identified program needs.

Army

DOD agreed with our description of the Army's accession procedures but did not concur with our recommendation. DOD stated that the Army's accession goals for women were not limits that restrict women entrants, but were goals that the Army must exert itself to achieve. DOD stated that if the female accession floor were removed and the recruiting force allowed to recruit on a gender-neutral basis, a significant reduction in female accessions would occur. Further, DOD noted that while accession goals limit the number of both men and women who may enlist in a given year, they do not restrict the number who may enlist in the delayed entry program.[3]

One objective of our review was to determine if service policies or procedures unrelated to the combat exclusion provisions limit job opportunities for women. DOD stated that accession goals through fiscal year 1994 would bring women up to 74,000, an increase of about 3,000 over current numbers. Even though 40 percent of Army enlisted positions are unrestricted, only about one-third of those are held by women. We are not suggesting that the number of women be controlled so as to artificially increase their portion of Army accessions or end strength. We recognize that removal of limits means that neither men nor women would be guaranteed a minimum number of available unrestricted jobs. We did not do a market survey to identify the number of women the Army might expect to access each year. However, it is difficult to understand how female accessions would decrease significantly in an all-volunteer environment since officials at the U.S. Army Recruiting Command stated that the Army directed its recruiting efforts primarily toward men and was able to meet its female accession goals without any special effort.

We believe that precluding women from competing for all unrestricted positions imposes unnecessary limits on job availability. The fact that the actual number of women enlistees may not exceed the limit does not negate its existence. Nor do changes in accession goals change the existence of the limit as long as those goals prevent women from competing for all available unrestricted jobs.

The ability to enroll in the delayed entry program for the following fiscal year also does not negate the limitation. Once women reach the number of jobs available to them in a given fiscal year they must resort to the delayed entry program for the following fiscal year. According to data from the Army Recruiting Command, the longer a person is listed in the delayed entry program before actual entry on active duty, the less likely that person is to enlist.

Navy

DOD concurred with our findings and recommendation regarding Navy officers. DOD noted, however, that the Navy conducts various annual reviews of procedures for determining accession goals for women officers to ensure increasing participation in all aspects of the Navy. DOD noted that the Navy has a study in progress to determine the correct number of women officers that can be supported by the newly authorized aviation career patterns, and that the Navy intends to increase the number of women pilots above the level stated in this report as soon as the study is complete.

We recognize that the determination of final accession goals is based on various levels of review by the Navy, and that the Navy is and has been examining several questions regarding the assignment of women. Our findings and recommendation, however, are directed specifically at the procedures used by officer career field managers to establish initial accession goal estimates. We have clarified the report text and recommendation to indicate that.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., August 15, 1988.

MR. FRANK C. CONAHAN,
Assistant Comptroller General, National Security and International Affairs Division, U.S. General Accounting Office, Washington, DC.

DEAR MR. CONAHAN: This is the Department of Defense response to the General Accounting Office draft report, "Military Women: More Jobs Can Be Opened Under Current Statutes" (GAO Code 391082/OSD Case 7688).

The report accurately describes steps the Department has taken to expand opportunities for women since the draft was terminated in 1973, and briefly outlines recent DoD actions to standardize, to the extent practicable, Service interpretations of combat exclusion statutes. It is the position of the Secretary of Defense that the combat exclusion statutes under 10 U.S.C. and derivative Service policies (e.g., to assure sea/shore rotation opportunities) are the only restrictions to women in equitably competing with men for assignment to all positions in the military. Additionally, within the past 6 months, the Department has reviewed its policies regarding combat exclusion and has issued guidance to the Secretaries of the Military Departments to ensure that there is no misinterpretation of the combat exclusion laws.

Recent Department decisions to open additional positions to women have necessitated many changes now being initiated in the Services' administrative, operational, training and logistical functions. Examples of these include developing a comprehensive plan to attract more women toward nontraditional occupational fields; changing assignment policies to allow more women into previously excluded positions and units, key billet and command positions, and career schools; changing training policies and procedures to allow women to qualify for newly opened positions; and altering ship berthing arrangements to accommodate women. Many of these issues were addressed by the GAO.

The Department of Defense concurs with most of the findings in the draft report, but does not concur with all of the GAO recommendations. Specifically, the Department agrees that Marine Corps noncombat skills now subject to equal accession goals for men and women should be opened on a gender-neutral basis, unless an analysis of program needs indicates a requirement for gender-specific goals. The Department also concurs that the Navy should consider berthing area configurations when establishing male/female distribution of noncombat sea duty positions, and the Navy is already taking action on this issue.

The Department partially concurs with the GAO concern about the restriction of 8.4 percent for female pilot training seats. Additional justification of this restriction needs to be made in light of our broad goal to maximize opportunities for women. However, it would be premature to change this entry policy until additional research is conducted.

Finally, the Department does not agree with the GAO recommendation that the Army should remove limits resulting from the implementation of accession goals for women. These goals constitute *minimum* goals, rather than limits, for female accessions, goals the Army must exert itself to achieve. Should the goals be removed, a significant decline in female accessions would result.

Detailed Department of Defense comments on all of the GAO findings and recommendations are provided in the enclosure. (Some suggested technical changes were also separately provided to the GAO Staff.) The Department appreciates the opportunity to comment on this draft report.

Sincerely,

DAVID J. ARMOR,
Principal Deputy.

GAO FINAL REPORT—DATED JUNE 15, 1988 (GAO CODE 391082) OSD CASE 7688

"MILITARY WOMEN: MORE MILITARY JOBS CAN BE OPENED UNDER CURRENT STATUTES"

SUMMARY OF FINDINGS TO BE ADDRESSED IN THE DOD RESPONSE TO THE GAO DRAFT REPORT

Findings

Finding A: Statutes Limit Opportunities For Women. The GAO observed that, since the inception of the All-Volunteer Force in 1973, the number of women in the U.S. Military Service has increased from 2.5 percent of total forces in FY 1973, to 10.2 percent in FY 1987. The GAO concluded, however, that although the number of women in the Services has grown dramatically, statutes and Service policies restrict the kinds and numbers of military jobs available to women. The GAO cited sections 6015 and 8549 of 10 USC, which prohibit the assignment of Air Force, Navy and Marine Corps women to aircraft engaged in combat missions and prohibit Navy and Marine Corps women from serving on Naval vessels engaged in combat missions. The GAO further found that the Army, although not covered by statutory restrictions, by policy excludes women from positions likely to be involved in combat. The GAO observed that there is also an indirect impact from the combat exclusion provisions, which stems from Service efforts to address the resulting resource management and equity problems affecting men and women in terms of assignment type, location and career progression opportunities. The GAO found that, to meet these program needs created by combat restriction provisions, the Services close some noncombat jobs to women and, in addition, jobs available to women are further limited by some Service procedures for identifying and implementing accession goals for women. (pp. 7-8/GAO Draft Report)

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[3] Enlistees may commit to enter the Army as far in advance as 12 months through registration in the delayed entry program.

DoD Response: Concur.

Since the inception of the All-Volunteer Force, however, the Department has taken and continues to take the necessary measures to ensure that women have full opportunity for rewarding careers in the military services. The Secretary of Defense stated in July 1983: "It is the policy of the Department that women will be provided full and equal opportunity with men to pursue appropriate careers in the military services for which they can qualify. This means that military women can and should be utilized in all roles except those prohibited by combat exclusion statutes and related policy. This does not mean that the combat exclusion policy can be used to justify closing career opportunities to women. The combat exclusion rule should be interpreted to allow as many as possible career opportunities for women to be kept open.

* * * civilian and military leadership of this Department must ensure that military personnel policies afford individuals the opportunity to contribute and advance commensurate with their aspirations and qualifications. While recruiting, training, assignment, promotion, and retention of individuals, of course, must be predicated on Service needs and individual capabilities, no artificial barriers to career opportunity for women will be constructed or tolerated."

The DoD Task Force Report on Women in the Military (January 1988) included an in-depth study pertaining to the combat exclusion statutes and the effect that the various interpretations and applications of those statutes had on limiting career opportunities for women. The statutes, established in 1948, provide only minimum criteria for excluding women from military positions; namely, ships and aircraft with combat missions. Nothing in the law prohibited the Services from applying combat exclusion policies to units other than ships or aircraft, and all Services have done so.

More important, the law does not define "combat mission." The task has been left to the Department of Defense and, in fact, to each Military Service. Given the differences in mission, organization, and operational practice, the Services have developed somewhat different definitions of combat mission, and these definitions have changed over time in response to changes in military doctrine, technology, and utilization of forces.

Not all differences in combat exclusion policies, however, arise from Service differences in combat forces. The differences of greatest concern to the Task Force arose from specific interpretations of the law (in all Services) concerning placing women at risk of exposure to hostile fire or capture. While the statutes do not mention such risks, their legislative histories can support the view that Congress intended the combat exclusion laws to protect women from the most serious risks of harm and capture.

In order to maintain a proper nexus to combat, the Secretary's guidance to the Secretaries of the Military Departments stated that risks of direct combat, exposure to hostile fire, or capture are proper criteria for closing noncombat positions or units to women, providing that the type, degree, and duration of such risks are equal to or greater than the combat units with which they are normally associated within a given theater of operations. If the risk of noncombat units or positions is less than comparable to land, air, or sea combat units with which they are associated, then they should be open to women.

Given this rule for determining the extent of risk, the Secretary of Defense has tasked the Secretaries of the Military Departments to review specified areas identified in the DoD Task Force Report for the possible inclusion of women. The Military Department reviews will be completed and briefed to the Secretary of Defense by September 1, 1988.

Finding B: Opportunities For Women In The Services Have Expanded. The GAO found that, through revisions based on periodic policy review, the Services have expanded some available assignment and career fields for women, while still maintaining application of the statutory restrictions. The GAO reported that, in the fall of 1987, the Office of the Secretary of Defense, the Navy and the Marine Corps, in response to a report from the Chairman of the Defense Advisory Committee on Women in the Services, once again reviewed their policies on the assignment of women. The GAO observed that these reviews resulted in:

Standardization of the criteria used to determine when exposure to risk justifies closing noncombat jobs to women; and

Opening to women 26 of the Navy's combat logistics force ships, reconnaissance missions of the EP-3 Aircraft, and some Marine Corps embassy security guard assignments.

The GAO concluded that, despite the restrictions, some opportunities for women have expanded. (pp. 8-9/GAO Draft Report)

DoD Response: Concur.

The recent Secretary of Defense decisions on the recommendations from the DoD Task Force on Women in the Military opened a significant number of positions to women from which they were previously excluded. Additionally, in response to the Secretary of Defense guidance for opening more noncombat billets to women, the Military Departments have completed their reviews of noncombat support units and positions currently closed to women. They will report their findings and initiatives to the Secretary of Defense before September 1, 1988.

Finding C: Direct Impact of Combat Exclusion Provision. The GAO reiterated that, by law, the Air Force, Navy and Marine Corps cannot assign women to an aircraft with combat missions; and the Navy and Marine Corps cannot assign women to Naval vessels having combat missions. The GAO observed that the Air Force also restricts additional positions because it interprets the intent of the combat exclusion statute to also protect women from capture. The GAO explained that the Marine Corps identifies its direct combat requirements as enough positions to form two Marine Expeditionary Brigades from each of the three Marine Expeditionary Forces. The GAO further explained that, on the other hand, by policy (based on its understanding of the intent of the statutory exclusion), the Army does not assign women to positions identified as the most likely to be engaged in combat activity. The GAO calculated that, as a result of the statute and policy restrictions, about 1.1 million of the 2.2 million military jobs are closed to women. (pp. 13-14/GAO Draft Report)

DoD Response: Concur.

Finding D: Impact of Closure To Meet Program Needs: Air Force. The GAO found that the Air Force closes some noncombat positions to provide assignment rotation opportunities for men assigned to overseas billets affected by the combat exclusion statute. The GAO pointed out, however, that the number of positions in this category was initially determined by a 1985 study and, although the number of noncombat jobs needed to provide rotation has changed since then, the Air Force has continued the same ratio of combat to noncombat positions. The GAO concluded that, in FY 1988, the Air Force reserved 504 officer and 1,452 enlisted positions to meet rotation needs. (The GAO noted that rotation is the only program need the Air Force considers a constraint on female accession.) (p. 14/GAO Draft Report)

DoD Response: Concur.

Finding E: Impact of Closure To Meet Program Needs: Army. The GAO observed that the Army closes some stateside noncombat officer jobs to women in order to meet program needs created by the combat restriction policy to provide (1) rotational assignments and (2) combat casualty replacements that would be needed in the early days of a conflict. According to the GAO, the Army also reviews career progression paths to ensure the same percentage of total jobs (combat and noncombat) is reserved at each higher grade to provide promotion opportunities. The GAO concludes that, in FY 1987, the program considerations led the Army to set aside 5,371 noncombat officer positions for men. (p. 15/GAO Draft Report)

DoD Reponse: Concur.

Finding F: Army Policy Which Excludes Women From Combat Also Closes Noncombat Jobs To Women In The Enlisted Ranks. The GAO found that the Army considers four program needs in restricting noncombat enlisted jobs:

Sufficient men in the lower grades to meet combat requirements;

Sufficient stateside jobs to provide rotational assignments for men in overseas restricted positions;

Availability of noncombat jobs to provide career enhancing experience for men in combat jobs; and

Prevention of promotion bottlenecking for women by restricting the maximum percentage of women in each job category within a career field to the percentage of women allowed in the job category with the lowest percentage of women.

The GAO explained that the Army closes enough enlisted positions to accommodate the program need affecting the greatest number of jobs at each grade in each job category. The GAO further explained that, in addition, the Army also adjusts the maximum number of jobs available to women at a specific grade level, within a job category, to reflect the ratio of women to total requirements within that category—in order to ensure equitable promotion opportunities for both men and women, as may be necessary. The GAO concluded that, in FY 1987, these four considerations led the Army to set aside 72,779 enlisted noncombat positions for men and the related ratio adjustment to ensure equitable promotion opportunities closed an additional 20,171 noncombat positions to women. (pp. 15-17/GAO Draft Report)

DoD Response: Concur.

Finding G: Impact of Closures To Meet Program Needs: Navy Officers. The GAO found that the Navy does not identify total combat and noncombat male-only requirements at officer grades. Instead, the Navy determines jobs available for women officers through its processes for setting accession goals, where the Navy identifies the number of sea duty positions on noncombat ships, and allots a portion of them to women based on the categorization of the job. The GAO reported that, as a result, the data on the impact of related program needs is not available. (pp. 17-19/GAO Draft Report)

DoD Response: Partially concur.

The DoD does not concur with the implication that the setting of female officer accession goals is solely driven by identification of sea duty positions on noncombatant ships.

For each officer community, the Navy uses a complex set of career development factors, such as skill requirements, rotation and promotion factors, and available talent pool, in assigning accession goals or quotas. Accession quotas are established for those officer communities which require sea duty experience on board ships or squadrons, to ensure that women officers are able to pursue a career path similar to men in the same community. The aviation officer community currently has a study in progress to determine ways to increase the number of female officers based on the newly authorized aviation officer career patterns. Accession goals for the other officer communities are developed to provide the optimum number of women that will be gained in a specific officer community during the year.

All goals and quotas are designed to provide women officers with meaningful, viable and professional career opportunities to preclude career path stagnation. The Navy conducts annual reviews, for each officer community, of its procedures for determining women officer accession goals and quotas. As data and trends are developed, necessary changes to accession goals and quotas are developed and instituted.

Finding H: Impact of Closures To Meet Program Needs: Navy Enlisted. The GAO reported that, in order to determine job availability and accession goals for enlisted women, the Navy identifies the number of sea duty positions on noncombat ships and allots a portion to women, based upon the categorization of the job. The GAO further reported that allotment percentages are set to (1) provide sufficient openings to accommodate the Secretary of Defense mandated end strength goals for Navy women of 9.6 percent for FY 1991, and (2) account for the current distribution of women among sea intensive and shore intensive jobs. According to the GAO, based on these considerations, the Navy allots 50 percent of sea duty enlisted jobs to women, except for jobs requiring administrative/communication skills, where the percentage is 70, and boiler technician, machinist mate and fireman jobs, where the percentage is 40. The GAO found that, in addition, 50 percent of the overseas shore assignments credited as sea duty are allocated to women. According to the GAO, the 50/50 distribution is intended to achieve gender equality. The GAO concluded that, under this methodology, the Navy projects 235,892 noncombat enlisted positions will be closed to women in FY 1991.

DoD Response: Concur.

Finding I: The Navy Methodology For Allocating Enlisted Positions To Women Does Not Take Into Consideration Berthing Area Configurations Of Ships. The GAO found the gender composition of crews on noncombat ships is constrained by the male/female combinations that can be accommodated by the sizes of the ships' berthing areas. The GAO observed that, while the Navy intends to increase the number of women at sea, because it does not correlate positions targeted for women with the size of ships' berthing areas, there is no certainty that the ships will be able to accommodate the designated number of women and, as a result, the Navy may not be able to assign women to all sea duty positions theoretically open to them. The GAO concluded that the Navy needs to consider the configuration of berthing areas when determining sea duty availability for women rather than determining availability solely on the basis of whatever combinations of job category inventories is needed to meet mandated inventory goals. The GAO further concluded that, unless this is done, the size of the berthing area will act as a constraint on the assignment of women once they have entered the Service. (pp. 19-21/GAO Draft Report)

DoD Response: Concur.

A Navy review of the total noncombat shipboard billets available to women was completed in March 1988. The plan for shipboard alterations will provide for segregated open-bay berthing areas for men and women. It is necessary to make incremental changes to ensure that each noncombatant ship will be able to receive women in increments equivalent to berthing space capacities varying from 12 to over 60 accommodations per space. Based on this, the following actions have been taken:

The available noncombat shipboard billets will be allotted equitably (50 percent each) between men and women.

The Naval Sea Systems Command (NAVSEA) was asked on March 30, 1988, to plan ship alterations to configure ships available for the assignment of women to berth one-half of the Enlisted Basic Allowance on each ship to women. Specific number of berths that must be made available has been provided to the NAVSEA for planning.

The preliminary NAVSEA ship alteration plan, completed on June 16, 1988, is currently under review.

The Navy objective, within the constraints of shipboard habitability and environment, is to make sufficient shipboard billets available to women to achieve the goals outlined in Finding H.

Finding J: The Marine Corps Limits The Number Of Positions Women May Hold Beyond The Restrictions Required By The Combat Exclusion Provisions And Related Program Needs. The GAO found that the Marine Corps apportions positions in some job categories equally between men and women without any justification directly related to combat exclusion or program needs. The GAO observed that, in FY 1988, Marine Corps procedures led to 28,432 noncombat enlisted positions being closed to women. The GAO also noted that, once the number of enlisted positions open to women is determined, adjustments are made to provide career progression opportunities for both men and women. According to the GAO, the adjustments limit the number of women in any job category to the second lowest proportion of women in all grade levels within that category. The GAO found that, in FY 1988, these limits closed an additional 3,130 enlisted positions to women. The GAO concluded that the Marine Corps methodology limits the filling of some positions with women to their proportion in the general population, when the positions should be open without limitation. The GAO further concluded that this distribution is not required by the combat exclusion laws or any related program needs and, unless the Marine Corps can show a program need for this distribution, these jobs should be available on a gender-neutral, open-access basis. (pp. 21-23/GAO Draft Report)

DoD Response: Concur.

Based on existing legislation, guidance from the Secretary of Defense February 2, 1988, memorandum and the Secretary of the Navy definition of "combat mission," the Marine Corps developed its combat exclusion policy. This policy ensures that women are not classified into combat occupational fields, or Military Occupational Specialties (MOSs). Further, regardless of their individual MOSs, it precludes women from assignment to units whose normal mission requires the unit to seek out, reconnoiter or engage the enemy in offensive combat action, or units whose employment subjects women to essentially the same risk (in terms of degree and duration) as combat units employed in the same area.

An examination of the Marine Corps 473 enlisted MOSs reveals that the combat exclusion and related policies forms the basis for the restrictions in all but four specialties. In these four, which have no combat requirements, the Marine Corps uses the "50/50" rule to allocate accessions equally between men and women. The four skills encompass a total of 376 potential billets. Of these, 188 are currently allocated and recruited to be filled by women. The Marine Corps advises that one specialty in the Marine Corps Exchange field is being eliminated for both men and women and a second converts to a combat photographer specialty at the E-5 pay grade, which entails some combat restrictions for women once attaining that grade. The intent of the Marine Corps in implementing the "50/50" rule has been to ensure equitable career opportunities for both men and women in these specialties. However, the Department agrees with the GAO that the Marine Corps should demonstrate a program need for the "50/50" rule or otherwise make the positions available on a gender-neutral, open-access basis.

Finding K: Air Force Flying Officer Training Quotas Restrict The Number Of Jobs Made Available To Women. The GAO reported that the Air Force restricts entry to only two officer career fields because of combat exclusion provisions—pilot and navigator. The GAO found, however, that the Air Force makes available to women only a small percentage of unrestricted noncombat pilot and navigator openings based on its estimate of the proportion of women among those in the general population who are interested in joining the Air Force and qualified to become Air Force pilots and navigators. The GAO observed that, as a result of this policy, of 480 unrestricted pilot positions only 40 may be filled by women (8.4 percent). The GAO concluded that this policy is unnecessarily restrictive. (pp. 26-28/GAO Draft Report)

DoD Response: Partially concur.

Additional research is required to ensure that expansion of flying training opportunities for women would permit the Air Force to meet requirements for qualified aircrews at an affordable cost.

The Current Air Force methodology provides opportunity for those flying careers open to both men and women in proportion to the interested and qualified population of the entry cohort. Every Air Force Academy cadet who is qualified and volunteers for flight training is assured a quota. The Reserve Officer Training Corps and Officer Training School graduates, both men and women, compete for the remaining positions.

Before any decision can be made on a gender-neutral flying training entry policy, additional issues require further study. First, the undergraduate pilot training attrition rate (FY 1981 through FY 1987, inclusive) for women is 34 percent, compared to 26 percent for men. This means that relatively fewer women complete training, given equal numbers of entrants. In view of current and projected pilot shortfalls and the very high cost of training pilots, the relative cost-effectiveness of expanding women entrants will be dependant upon the development of a flight training selection methodology that can predict successful pilot training completion equally well for men and women. Second, the current 6-11 year voluntary continuation rates for women pilots and navigators are at least 20 percent lower than those for their male counterparts flying similar aircraft. This experience indicates a probability that expansion of the number of women flyers in the initial term of service would detract from longer term efforts to reverse the projected critical pilot shortage.

In view of these considerations, implementation of a gender-neutral pilot training program would be premature without further analysis.

Finding L: Air Force Has Controlled The Number and Kinds of Jobs Made Available To Women Applicants. The GAO found that the number of jobs made available to women enlisted personnel is, again, based on the Air Force estimate of the ratio of women among those persons in the general population qualified and interested in those Air Force jobs. The GAO observed that, as a result of this policy, in FY 1987, the overall percentage estimate of the ratio of women among the qualified and interested jobs ranges from 15 to 19 percent of the total pool of qualified and interested personnel; in FY 1988, it increased from 18 to 22 percent. The GAO observed that the Air Force enlisted personnel system stemmed from procedures in place prior to 1986, which set a maximum for enlisted female accessions. The GAO noted that, according to Air Force officials, implementation of a single, gender-free job listing would take a maximum of 18 months (or a total of 6,000 programming hours) to implement and would be costly and time-consuming to revise if quotas were imposed. The GAO noted, however, that following its February 1988 briefing to the House Armed Services Committee, the Committee removed the minimum enlisted accession quotas and, in the National Defense Authorization Bill for FY 1989, directed the Air Force to develop and implement a gender-neutral system for enlisted accessions, to be implemented within 18 months after the bill is signed into law. (pp. 27-29/GAO Draft Report)

DoD Response: Concur.

Finding M: Army Enlisted Accession Policy Limits The Number Of Women Recruited And The Job Opportunities For Women. The GAO found that (1) the Army Recruiting Command sets gender-specific accession goals, (2) gender substitutions are not permitted, and (3) separate male and female job listings are used in recruiting. The GAO noted that the number of jobs open to women is far below the 231,000 unrestricted Army jobs. The GAO concluded that the number of unrestricted jobs and the available supply of interested and qualified women should govern the number of Army enlisted women, instead of separate annual accession goals for women. (pp. 30-34/GAO Draft Report)

DoD Response: Partially concur.

The DoD agrees with the GAO description of the Army accession procedures, but does not agree with the conclusion that the number of unrestricted jobs and the available supply of interested and qualified women should govern the number of Army enlisted women.

The GAO conclusion implies that there is a large number of females who desire to enter the Army, but cannot because of the implemented accession goals. Qualified females are not being denied enlistment in the Army. Current Youth Attitude Tracking surveys have shown that females are only one third as likely to want to join the Army as males, and that only about 8 percent of the eligible female population expressed any interest toward joining the Army. Therefore, of the 231,000 interchangeable positions cited by the GAO, approximately 76,000 could be expected to be filled by females. Currently, 71,059 are filled by females. The Army is programmed to increase female end strength annually to approximately 74,000 by FY 1994.

If the female accession floor was removed and the recruiting force allowed to recruit on a gender-neutral basis, a significant reduction in female accessions would occur. Accession goals for women are not ceilings; rather they represent the minimum number of females required to meet end strength objectives. While accession goals do limit, to some degree, the number of both males and females allowed to access onto active duty in a given fiscal year, they do not limit the opportunity for either men or women to enlist into the Delayed Entry Program.

Finding N: The Navy Determines Job Availability For Women Officers Through Unique Procedures For Setting Accession Goals For Each Career Field. The GAO found that each of ten Navy career field managers applied similar concepts, but unique processes in setting proposed accession goals. The GAO noted that the impact of these various processes on job opportunities for women was unclear. The GAO further noted that a 1987 Navy special study group on women has brought about some changes in job opportunities for women, but the effect remains to be seen. The GAO did find unnecessary limits placed on jobs for women in three career fields, prior to completion of the 1987 special Task Force report. In the pilot area field, the GAO found that where accession goals for women had been arbitrarily limited to one-half of the unrestricted combat openings, changes in opportunities for women recommended by the Task Force were not incorporated in the formulation of annual accession goals. The GAO concluded that, despite the opening of the EP-3 aircraft to women as a result of the Task Force study, the Navy has not increased the number of unrestricted noncombat positions available to women. The GAO also observed that, while increased job availability was incorporated into the formulation of accession goals in the other two career fields (surface warfare and special operations), the extent to which the changes removed unnecessary limitations on female accessions could not be determined. The GAO concluded that the Navy should review all of its approaches for determining job availability for women officers to ensure that unnecessary limitations do not exist and that changes in job availability are incorporated into determination of accession goals. (pp. 31-36/GAO Draft Report)

DoD Response: Concur.

The DoD concurs with the GAO statements regarding job opportunities for female naval officers prior to 1987 and appreciates acknowledgement of the Navy efforts to increase women officer career opportunities subsequent to 1987. The Navy routinely conducts thorough reviews of opportunities for women in all career fields. These reviews consider feasible policy changes to eliminate restrictions on the number of type of positions which are available to women. The Navy has a study of all naval pilot programs in progress, which will determine the correct number of women officers that can be supported by the newly authorized aviation career patterns. The Navy intends to increase the number of women pilots above the level referenced in the GAO report as soon as the study is complete.

Recommendations

Recommendation 1: The GAO recommended that the Secretary of the Navy direct the Marine Corps to provide open access on a gender-neutral basis to noncombat assignments now equally divided between men and women to reflect the gender composition of the general population. (p. 25/GAO Draft Report)

DoD Response: Concur. The DoD agreement is subject to an analysis of program need, which the Marine Corps has been tasked to submit to the Office of the Secretary of Defense for review by August 31, 1988. (If the Marine Corps can demonstrate such a need, open access could be inappropriate.)

Recommendation 2: The GAO recommended that the Secretary of the Navy consider berthing area configurations when establishing the male/female distribution of noncombat sea duty positions. (p. 25/GAO Draft Report)

DoD Response: Concur. The Navy has completed a review of the billets necessary to achieve FY 1991 goals for sea duty billets for women. Preliminary plans for ships alterations, to accommodate the required number of women at sea in FY 1991, have been completed. Overall action is expected to make 50 percent of noncombat shipboard billets available to women.

Recommendation 3: The GAO recommended that the Secretary of the Air Force allow all unrestricted pilot and navigator openings be available for competition based on individual qualifications without regard to gender. (p. 36/GAO Draft Report)

DoD Response: Partially Concur. Implementation of a gender-neutral pilot training entry program would be premature until additional research on attrition and continuation rates can demonstrate that expansion of flying training opportunities for women would permit the Department to meet qualified aircrew requirements at an affordable cost. The DoD does agree, however, the situation needs additional evaluation. The Air Force has been tasked to provide an analysis of this matter to the Office of the Secretary of Defense by October 31, 1988, for review.

Recommendation 4: The GAO recommended that the Secretary of the Army remove limits resulting from the implementation of accession goals for women enlistees. (p. 36/GAO Draft Report)

DoD Response: Nonconcur. The objectives established by the Army are not limits that restrict women entrants, but goals that the Army must exert itself to achieve. Such goals are essential accession flow management tools to ensure the Army remains within budgeted resource and manpower constraints, and scheduled training base capacity.

Recommendation 5: The GAO recommended that the Secretary of the Navy review procedures for determining female accession goals for women officers to eliminate unnecessary restrictions on job availability which may result from those procedures. (p. 36/GAO Draft Report)

DoD Response: Concur. The GAO implies, however, that the Navy should execute a task that is already incorporated in the planning and execution of its accession program. The Navy has and will continue to conduct rigorous annual reviews of the procedures for determining accession goals for women officers to ensure increasing participation in all aspects of the Navy. These reviews also consider feasible policy changes to eliminate restrictions on the number and type of positions which are available for women officers in each community as changes in technology and society change the interpretation of law, regulations and customs. The Navy does and will continue to ensure that any necessary restrictions on job availabilities are identified, and that compelling reasons do exist for considering these restrictions in the determination of female accession goals. Annual reviews of the officer communities and their accession plans are conducted throughout the calendar year.

DEADLY CHEMICALS IN AMERICA'S AEROSPACE AND DEFENSE INDUSTRY

Mr. REID. Mr. President, during the Second World War, German U-boats were sinking Allied ships in the North Atlantic at a fearsome rate. The fate of civilization literally hung by the slender life line of merchant vessels carrying the materials of war to our troops and Allies in England and Russia.

American workers and American industry responded to that call. Through feats of Herculean proportion, shipyard workers labored on what became giant assembly lines turning out a ship a day. It was the efforts of those American working men and women which enabled us to maintain the flow of vital supplies and to turn the tide against Hitler and his minions.

It was not until more than 30 years later that those same men and women found that they had given more than their toil, tears, and sweat to the cause of freedom. They had also given their health. To its sadness, America learned that those shipyards had swirled with asbestos dust, and that the dust had been discovered to be a deadly carcinogen.

As American labor reaped that harvest of death, and as American industry paid the costs of caring for those who were dying, we thought to ourselves: If only we had known. If only we could have had the opportunity to have those patriotic and hardworking people take simple precautions like wearing respirators. How we wished we could go back and change the past.

After 1945, another war, a cold war, descended on the Earth. Faced for the first time with the threat of nuclear weapons, and their use against American combat troops, our civilian and military leaders asked questions to which we had no answer. How would soldiers react to nuclear bombs? Could they continue to fight in a nuclear environment?

To answer that question, a series of tests were conducted in Nevada's giant test range north of Las Vegas. Troops and civilians were intentionally exposed to radiation. On occasion, when the winds changed, whole civilian towns were accidentally poisoned.

It was not until years later, when they started to die, slowly at first and then in ever-increasing numbers, that we learned the folly of our policy. Why couldn't we have done it differently? Why couldn't we have taken precautions? Now, America as a whole must bear the burden of the societal and medical costs imposed from those deadly diseases caused by our ignorance and folly.

If only we had known. We could have done something about it. State health systems would not have been faced with disaster. We could have prevented so many individual tragedies.

Mr. President, I rise today to bring to the attention of this body another situation as grave for those who toil in America's defense as any in the past. I am speaking of the use of potentially deadly chemicals in America's aerospace and defense industry, and especially to the use of composite compounds and resins.

I speak to this issue neither to denegrate the value of those industries to the national defense nor to question the importance of the aircraft they produce. Rather, I wish to ask this question: Is the Congress and American industry doing everything it can to make safe the lives and health of those working men and women as they toil on the front lines of America's defense?

I can tell you the answer. It is, clearly, no.

Over the past months, I have read with increasing interest and concern a series of articles in the Seattle Post-Intelligencer dealing with chemical exposure and diseases of aerospace industry workers, and our fundamental lack of knowledge about the effects of chemicals to which they are exposed.

These chemicals are: Methyl ethyl ketone and methyl isobutyl ketone, two solvents used for cleaning aircraft hulls and machine parts.

Other chemicals are bonding agents applied to aircraft exteriors, dried and then sanded to a smooth finish to aid flight. One such chemical used by Lockheed is methylene dianiline, shown in studies to cause cancer in rats.

Chemical resins, mixed with carbon or graphite fibers to form lightweight, flame-resistant composite parts, many of which contain cancer-causing agents or suspected carcinogens. Some even contain chemicals shown to cause human cell mutations in laboratory experiments.

The victims? There are many. Lori Liberty, a 32-year-old Lockheed worker in Burbank, CA, cleaned the outer skins of airplane bodies with solvents. Now, she suffers recurrent pain in her shriveled, prune-like fingertips. She must wear rubber gloves just to shampoo her hair.

Workers at the Boeing plant in Auburn, WA, are showing signs of dizziness, nausea, rashes, irritability, memory lapse and, in some cases, blood in the urine. A chemical compound called phenolic resin, containing the suspected carcinogen formaldehyde and used to manufacture airplane interior parts, could be to blame.

John Carpenter, a representative for the Machinists local representing 8,000 workers at the top-secret Burbank Lockheed plant, says:

> We're ending up with colon cancers in people 36 and 37 years old. We have groups of people who are scared to death.

Burbanks' union leaders also suspect chemicals in the cancer deaths of 5 of about 150 workers in a highly classified area of the plant where the Stealth fighter is allegedly being built.

I repeat, when these people brought this issue before the public, industry and the Government responded by threatening these people with prosecution for national security violations.

Mr. President, I am not calling on industry to stop producing the means for defending our Nation from foreign aggression. I am proud of them for doing the work they do.

But I am calling on the aerospace industry, and on the Government as its customer and regulator, to determine the effects of the materials we use in producing that vital machinery of defense, and I am demanding that they produce that machinery in the safest possible way.

We can demand no less of the producers, of the Defense Department or of ourselves on behalf of those workers who toil so long and hard on behalf of our Nation.

That is why I am announcing today my intent for the Senate Environment and Public Works Committee to investigate the use and disposal of these hazardous materials in Department of Defense plants, without regard to the safety of the workers. This is a matter of life and death for these people and the rest of our defense industry workforce.

"There isn't one person I work with who wouldn't give their life for their country in a war," says Mark Gillaspie, a Lockheed worker. "But to have to worry about dying like this—from chemicals—there's no hope. We know we're going to die from this."

In World War II, we glorified Rosie the Riveter. Thirty years later, we buried her, while we shook our heads and said, "If we had only known."

Today, we know. Let us do something about it.

Mr. President, I ask unanimous consent that a series of articles from the Seattle Post-Intelligencer, written by Larry Werner, be printed in the RECORD.

There being no objection, the articles were order to be printed in the RECORD, as follows:

WORKER'S WORRY: IS SHE DYING FOR THE DEFENSE OF HER NATION?

(By Larry Werner)

"BURBANK, CALIF.—Lori Liberty, a 32-year old Lockheed worker, wonders if she might literally be dying for her nation's defense working at a top secret aerospace plant here in the San Fernando Valley.

She wonders each morning, when she dons protective rubber gloves to shampoo her hair. Or when she becomes dizzy for no apparent reason, and her speech becomes slurred. At times, she finds herself "standing in a daze, like I've spaced out."

Despite the gloves she wears for the most common household chores, pain still sears her hands and fingers the tips of which have shriveled to a prune texture.

Her hands react to even minute amounts of chemicals in newsprint, household cleaners, soap, and pesticides on fruit and vegetables.

"My skin starts bleeding and cracking, I don't want to see any more people go through this," says Liberty, among a handful of Lockheed workers willing to be identified publicly.

For in the secretive environment of Lockheed Aeronautical Systems Co.'s Burbank plant, site of construction of the state-of-the-art Stealth fighter, most employees resist talking because of federal overseers, like the FBI.

But now, literally fearing for their lives, some workers are beginning to speak out about what they view as a deadly threat to aerospace employees nationwide.

They fear the chemicals used to produce a new generation of futuristic "plastic" aircraft—lighter, faster and less detectable by radar because they are being built with synthetic compounds called "composites."

Southern California leaders of the International Association of Machinists and Aerospace Workers have joined their union counterparts in Washington—where Boeing workers have complained of illness in warning about the chemicals to which the nation's aerospace workers are now exposed.

"These people are being used as guinea pigs," said John Carpenter, a business agent for the Burbank Machinists' local, representing about 8,000 Lockheed workers.

One of the most dangerous areas in Lockheed's Burbank plant, say workers, is a massive World War II-era hangar, large enough to house a bomber, and where more than 60 employees now complain of illness.

Known as Building No. 351, the "undistinguished hangar is the site of defense projects described by those who work on them simply as "Black World"—a top-secret environment "where workers pass through multiple sets of security doors overseen by everpresent cameras."

It is an environment, too, they say, where acrid heat and poor ventilation create clouds of chemical-laden dust, obscuring the view from one end of the vast building to the other.

And where a large American flag hangs prominently in the shop, its stripes yellowed by airborne contaminants.

"People are exposed to chemicals time and time again without proper protection, and it can get to 115 degrees in there," said one Burbank union official. "The materials we're working with are so fine, if you get hot and sweaty the stuff goes into your pores."

Among worrisome agents cited by workers and their union:

Methyl ethyl ketone and methyl isobutyl ketone, two solvents used for cleaning aircraft hulls and machine parts.

Bonding agents that are applied to aircraft exteriors, dried, then sanded to a smooth finish to aid flight.

One chemical in a "bondo" material manufactured by Lockheed is methylene dianiline, shown in studies to cause cancer in rats.

The company's own safety instructions call for employees to wear respirators when working with the material, a precaution many workers say does not take place.

In addition, the material data safety sheet on the compound—required by federal regulations to inform workers of chemical risks—warns that cyanide gas may be vented in "small quantities" from the material.

Chemical "resins" mixed in combination with carbon or graphite fibers to form lightweight flame-resistant composite parts.

Many of the resin materials contain cancer-causing agents or suspected carcinogens. Some contain chemicals shown to cause human cell mutations in laboratory experiments.

Lockheed officials, citing a pending class action suit against the company by workers alleging chemical poisoning, declined all comment on chemical use or safety procedures at the Burbank plant.

Lori Liberty worked with solvents before she was transferred earlier this year to a filing job on the recommendation of Lockheed doctors.

Her work with solvents consisted of cleaning the outer "skins" of airplane bodies. After a year on the job, she developed upper extremity dermatitis, a condition manifested in particular by the "sensitized" condition of her fingertips.

"I can't touch anything that has any type of chemical or alcohol," says Liberty, a petite and tanned California native, who adds that the pain in her fingers becomes so bad at times that "I can't even cut my own meat with a knife when I go out for dinner."

A formerly active life, she says, has come to an agonizing halt.

"I can't play baseball, I can't bowl. I'm a fanatic on a clean house, and I can't clean house because it hurts my hands. When I'm done laundering and I take the clothes out, it feels like it's pulling my skin," she says.

More frightening to her is what she describes as loss of concentration and short-term memory.

"My subject of discussion changes. I can't concentrate," says Liberty, who, during an interview, at times did appear to lose track of the subject she was discussing. "I get real lightheaded. My speech has been impaired and I have lost my equilibrium."

Mark Gillaspie, a Lockheed employee since 1979, began working with a resin putty in 1985. Three months later, he began to notice he was fatigued and irritable, even after work.

"I sit in a chair. I can't get up. I can't move," says Gillaspie, whose arms and upper body bear a rash for which doctors have yet to pinpoint a cause. "By 7 o'clock, I'm out, like I've been drugged."

Gillaspie says he also experiences an almost continual ringing in his ears, while his body became sensitized to even small doses of common, household chemicals, like hair spray and ointments.

"If I'd put Vicks on my chest, I'd break out in blisters, like someone burned me with cigarettes," he says. "I have a complete fit if my wife uses hairspray it smells like chemicals to me."

As with Liberty, Gillaspie says he has noticed a loss in his ability to concentrate. His medical reports also note a loss of nerve function in the outer extremities.

As much as he fears for his own health, however, Gillaspie says he has a greater worry, one he is reminded of each day after work.

"Every time I come home, my little 5-year-old boy wants to give me a hug. And I can't hug him because I'm covered with toxic chemicals. I worry about the stuff getting in the rug, and my little boy getting it on him."

Gillaspie, too, has noticed a loss of memory, one that at times can be terrifying. "Sometimes I'm at work and I don't even know how the hell I got there."

For many aerospace workers, chemical exposure may be an unwanted risk, but wages at the nation's aerospace plants are often better than in other industries. And many workers feel hard-pressed to walk away from jobs that often pay more than they have ever made.

"These people are making $15 an hour," said Timothy Larson, a Burbank attorney representing the more than 80 employees who have filed suit against Lockheed in Los Angeles County Superior Court. "It's pretty difficult when you're making $15 an hour to want to give it up. . . . Until you start getting sick yourself."

For workers like Liberty and Gillaspie, who believe they already are sick from chemicals, an equally heavy burden may be uncertainty.

They are seeking state workers' compensation, but their claims have been contested by their employer. And the specter of lifelong physical symptoms or recurring medical treatment, they say, never leaves them.

"I feel helpless to fight these people," says Gillaspie. "I don't have the money, the time or the lawyers. It could take 20 years. I don't know if I even have 20 years left to fight these people."

[From the Seattle Post-Intelligences, June 3, 1988]

State Probes Illnesses at Boeing Plant

(By Larry Warner)

Auburn.—At the vast Boeing plant in this Kent Valley community, a group of assembly workers begins each work day with apprehension.

Some of them are already showing the ominous signs—dizziness, nausea, rashes, irritability, memory lapse and, in some cases, blood in the urine.

A chemical compound called "phenolic resin," containing the suspected carcinogen formaldehyde and used to manufacture airplane interior parts, could be to blame.

State health officials and the union representing some 7,000 plant employees are investigating the illnesses of dozens of workers, including pregnant women and single parents, who worked in an aging postwar structure known as the No. 2 Building.

"It's the most serious situation I've ever seen involving a group of employees," said Dr. Gordon Baker, a Burien physician knowledgeable in chemical poisoning and to whom the International Association of Machinists refers its ailing members. "In many cases, people exposed to these kinds of chemicals may never fully recover."

Among at least six workers diagnosed by Baker, three have exhibited definite symptoms of chemicals poisoning, and at least one suffers memory lapse to the point where she may need a guardian to care for her, he said.

Meanwhile, many workers feel their complaints about the chemical—one which may become widely used in the aerospace industry—should have been investigated sooner.

"I'm not worried about having a job anymore," says one worker, a single mother in her 20s. "I'm just worried about living."

Boeing officials, whose safety record is often praised by the machinists' union, say there is no direct evidence linking the new resin material at the plant to illness among more than 50 of some 90 employees on three shifts in the No. 2 Building.

The company says it has not violated federal air quality standards. And, it says, workers have been provided with equipment to safeguard them from the resin wrap, a fabric-like material shaped around molds and baked to form component parts, such as cockpit clash panels.

The company also is planning to install a new ventilation system in the building this summer, even though tests by Boeing hygienists have not turned up any air standards violations.

Union leaders say the company should have installed adequate ventilation more than a year ago, when the new compound was introduced in the work place.

"The only air conditioning they've got in that area is in the supervisor's office," says machinists' union President Tom Baker. "There is no question the company should have had the proper ventilation system in before they started using that material."

While the company has apparently complied with federal air standards for using the material, occupational health experts say the manufacturing process could be releasing unknown gases, exacerbating hazardous exposure.

"If you're heating it, that creates a whole other ball game," said Roger Tatken, a spokesman for the National Institute of Occupational Safety and Health, which advises the federal government. "Obviously, they're concerned, I would be with those kind of effects."

Boeing officials say they are examining the entire manufacturing process to ensure it is safe.

"We're analyzing it from every perspective we can," said Mike Stewart, Boeing corporate health and safety manager.

The new chemical compound is being used to comply with a Federal Aviation Administration order requiring less flammable materials in aircraft to avoid the release of toxic fumes during a fire.

Among the compound's contents: formaldehyde, a suspected cancer-causing agent that irritates the skin and lungs; phenol, a crystalline substance that can cause dark urine, dizziness, mental disturbance and liver damage; and antimony trioxide, a silver-white metal known to cause acute congestion of the heart, liver and kidneys in laboratory animals.

Several employees at the Auburn plant, speaking on condition their real names not be used, said their health has deteriorated since they began working with the new compound.

Suzanne worked in the "wrap area" of the No. 2 building, where the taffy-like fabric material is shaped by hand over molds before baking.

Five months after she started working with the material, she began to experience dizziness and blackouts, a direct result, she believes, of exposure to the chemically impregnated fabric.

"I got sick and started throwing up," she says, "I go home at night and I'm irritable and I can't breathe. I can honestly say that six months ago, I didn't feel this way."

In April, she became terrified, when blood appeared in her urine. "I don't know what to do," she says. "I'm afraid about what the long-term effects are. I can't even sleep at night."

She has since been transferred from the work area, has been to a physician and is awaiting the analysis of medical tests.

Like Suzanne, Beth began having chest pains and headaches after starting to work with the resin. Later, she developed sores inside and outside her nose, "My stomach has a rash on it like I have measles," she says. "I have sores all over my arms."

One day at work she began gasping for air at her work station. She went to the plant's medical facility, where she says she was examined and informed she had an allergy.

A private physician who later examined her, however, now believes his patient's lung irritation "more likely than not" resulted from chemical exposure.

"She has been a patient of mine since 1965 and I have no reason to believe she would lie," Dr. Walter Payne said of his patient's symptoms, the first in her medical history. "My recommendation was to stay away from the fumes."

A third employee, Anne, began having migraine headaches and nausea after working with the chemical. "It builds up in you," she says. "You feel like you're more sensitive to it over time. You just get sicker and sicker from it."

Workers described an environment in the No. 2 Building that is often hot and filled with the acrid smell of the resin material. The only ventilation in the aging structure is provided by portable fans, assisted occasionally when large bay doors in the building's sides are opened.

"The problem is a failure to provide more adequate ventilation," said one supervisor, who asked not to be named. "They've been hedging on the cost. Boeing's own safety people have urged them to replace the ventilation system."

Last month, Auburn plant officials told employees a new ventilation system would be installed in the plant by July or August. The announcement came only weeks after state Department of Labor and Industries officials began monitoring the plant after receiving a confidential employee complaint.

Before then, however, according to union officials and employees, company supervisors said the cost of installing a new ventilation system—estimated at $700,000—was prohibitive.

Meanwhile, many employees say they have worked without gloves or other protective clothing because of the overheated working conditions, as well as the loss of hand dexterity in handling the resin material.

Skin contact with materials containing formaldehyde carries an extreme danger, according to occupational health experts, because of the chemical's ability to "sensitize" a person's immune system.

Once sensitization occurs, it lasts a lifetime experts say. Reactions, like dermatitis or lung irritation, can be stimulated by everyday exposure to formaldehyde, found in home-building materials and even in clothing.

"People must be protected against skin contact because formaldehyde has very severe skin effects," says Eric Furmin, health and safety director of the Amalgamated Clothing and Textile Workers Union, whose 350,000 members are exposed to formaldehyde in the manufacture of permanent press clothing.

Frumin also said it was crucial for workers exposed to formaldehyde to be educated about its risks, something Auburn plant workers claim did not take place when the new chemical was introduced.

"They never told us a thing about the stuff. They just said, 'Here's your new wrap material,'" said one.

Boeing officials say employee training programs were carried out. And they point out that the amount of formaldehyde in the material—which they estimate at less than one half of 1 percent—is below the federal level of 1 percent considered dangerous for skin contact.

Baker, the physician who has diagnosed more than 300 cases of formaldehyde poisoning, said his patients, all women, have displayed numerous symptoms related to formaldehyde.

For three of the six women, tests showed their blood carried antibodies to formaldehyde, a possible immune system response to formaldehyde exposure.

"What is more frightening than any of the (other) symptoms is the central nervous system symptom of memory lapse," said Baker, whose diagnosis was exposure to chemicals at work.

The other two chemicals, phenol and antimony trioxide, listed in federally required reports as being part of the resin substance, also can be extremely hazardous.

The Department of Labor warns that phenol is corrosive to tissue and may cause blindness. Skin contact can cause burns, while long term exposure can result in phenol poisoning.

By federal standards, employees exposed to high levels of phenol "should be provided with and required to use impervious clothing, gloves (and) face shields" to reduce exposure.

In the case of antimony trioxide, the principal flame retardant in the chemical, tests on laboratory animals have demonstrated congestion of the heart, liver and kidneys. The federal Environmental Protection Agency currently is testing the substance to determine if it is a carcinogen as well.

As with formaldehyde, Boeing officials stress that no federal standards have been violated in the exposure limits for either of the chemicals.

Air quality tests, they say, have shown the highest levels at 0.2 parts per million parts of atmosphere, well below the federal standard of 1 part per million.

Before the FAA order, the aircraft component parts were often made with fiberglass and other resins, which employees say never caused the current symptoms.

In January 1987, about the time the substance was first used in large amounts at the Auburn plant, Boeing hygienists conducted air quality monitoring at the plant.

The air sampling showed formaldehyde and phenol levels well below federal standards, according to a memorandum from the plant's hygienist.

However, the memorandum noted that skin exposures to the "uncured phenol-formaldehyde resin are of concern because of the potential for employees to develop a sensitivity to the resin, and because residual phenol may be absorbed through the skin."

The report went on to say that "protective gloves will be required to limit exposures."

Employees interviewed say they were told by supervisors that protective clothing was optional—a charge company officials deny.

"The gloves are mandatory," said Lee Lathrop, a Boeing Company spokesman, adding he was "unable to confirm whether people have to wear the same gloves all day."

Two superviors at the plant, who requested anonymity, said numerous employees had worked with the material without protective clothing.

In recent weeks, employees said they were told to wear gloves when working with the material. But union leaders never instructed their members to wear the protective gear, they said.

Baker, the union president, said he was unaware if the choice of wearing protective clothing when working with the potentially hazardous substance had been left to employees. "If that's the case, it should be something we require them to do," he said.

Meanwhile, a number of employees wonder why their union did not take a more aggressive stance in urging the company to take prompt action when the illnesses began.

Union officials, who requested an analysis of the material late last year from the University of Washington, were informed in January that it contained hazardous chemicals.

"I informed the union that somebody better get to the workers and find out how many are having problems," said Peter Bryesse, a UW industrial hygienist, adding that "after you heat it up, more contamination is likely to evolve."

Baker, the president, said the union was in the process of completing an investigation of the complaints, and could not take action until a case was put together.

"The burden of proof is always on the union," said Baker. "We have to investigate and interview and ask individuals for information from their private doctors."

He maintained the confidential complaint that brought the state in to investigate resulted from the union's fact gathering.

The employee, Suzanne, like a number of other workers, sees it differently: "The union never did anything. At Boeing, the union and the company are one."

Her co-worker, Anne, is afraid of losing her job if she obtains a doctor's restriction against working with the chemical.

"The people in my area make $10 an hour—more than they've ever made," she says. "There's a great deal of financial pressure, and then our jobs are held over our heads."

She and other employees claim they are pressured by supervisors to remove medical restrictions that keep them from having to work with the new material.

The restrictions, issued by the plant's medical staff or private doctors, allow employees to be transferred to another work area, something Boeing officials say has been done for all those affected.

Boeing spokesman Lathrop said if employees, in fact, had been pressured toward to have medical restrictions removed, it would be a violation of company policy. "We would not pressure anyone to remove a restriction," he said.

As state health officials and the company begin to investigate the illnesses, some employees say they are relieved.

Others wonder why it took months of reported employee illness before significant action was taken. They wonder what additional health effects could stem from the lack of ventilation in the plant until July or August, and what, if any, will be the long-term health consequences of exposure thus far.

For those with such doubts, the testing currently under way brings little comfort.

"I don't care about their damn tests," said a concerned supervisor. "People are getting ill. Something is wrong."

[From the Seattle Post-Intelligencer, Aug. 7, 1988]

JOB CONDITIONS THAT NEED FIXING

There is no justification for working conditions that damage the physical and mental well-being of workers.

Yet, P-I reporter Larry Werner's recent accounts of severe health problems in workers in the aerospace and defense industries at Boeing and Lockheed plants document circumstances warranting full investigation.

How sadly ironic. Women and men working in the taxpayer-supported defense industry whose purpose—presumably—is protecting the good life in the United States, and they apparently are sustaining severe physical and mental ailments in the process. That's not right.

Workers suspect that new composite chemical materials they use in the manufacture of commercial airliners and warplanes cause their troubles. Among the bad effects they report suffering are loss of the ability to maintain concentration, dizziness, skin maladies of several varieties and ringing in the ears.

Lockheed worker Mark Gillaspie says he began working with resin putty three years ago and became so sensitive to common household chemicals that, "If I'd put Vicks on my chest, I'd break out in blisters, like someone burned me with cigarettes."

Lori Liberty, another Lockheed worker, used solvents to clean the outer skins of airplane bodies. Now, she suffers recurrent pain in her shriveled, prune-like finger tips, as Werner described them. Liberty must wear rubber gloves just to shampoo her hair.

This cannot be justified.

Why are people allowed to work in buildings not properly ventilated to exhaust heat and fumes? One Lockheed hangar reportedly reaches 115 degrees.

Why are workers allowed to use chemicals without proper protective clothing and equipment, like gloves, chemical-proof suits and breathing masks?

Why are there too few federal Occupational Health and Safety Administration inspectors hard on the job to police possible hazards? Part of the answer is that when it took office in 1981, the administration and Congress greatly cut back OHSA's ability to police private industry.

It is unacceptable that OHSA inspectors are denied access to top-secret weapons plants on grounds of national security. What is national security for, anyway?

Why are these new chemicals not being tested for their toxicity and safe use? Part of the answer is that the administration and Congress have curtailed operations of the Environmental Protection Agency.

Clearly, not all risk can be eliminated from work. Clearly, workers must adhere strictly to safety practices and wear protective equipment and clothing.

But just as clearly, people in the aerospace industry are being exposed to dangerous, perhaps debilitating work hazards that are wrong and must either be corrected or eliminated.

Mr. REID. I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. REID assumed the chair.)

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR REID'S SPEECH

Mr. CONRAD. Mr. President, I first want to commend my colleague, the Senator from Nevada, for bringing to the attention of this body and to the country the very serious plight of those workers who are involved in the highly classified projects that he has described.

I think this is a disturbing fact that all of us have become aware of in the last several days, and the Senator from Nevada is quite correct to bring it to the attention of our colleagues that something must be done to assure the safety and health of those who are working in our defense industries. It would indeed be ironic if those who are on the front lines of America's defense are given short shrift by their Government and the industries for whom they work in terms of their health.

Again, I want to publicly commend and thank my colleague, the Senator from Nevada.

PLIGHT OF JEWS IN THE SOVIET UNION

Mr. CONRAD. Mr. President, 2 days ago, Jews around the world celebrated Yom Kippur, the day of atonement, the holiest day on the Jewish religious calendar. Today, Secretary of State Schultz and Soviet Foreign Minister Shevardnadze are meeting at the United Nations in New York to discuss United States-Soviet relations, and human rights. These two dissimilar events draw our attention once again to the plight of Jews in the Soviet Union.

Mr. President, as my colleagues are well aware, Soviet Jews are not free to worship and study their religion as they please. Many thousands have taken the brave step of applying for visas to emigrate to Israel and the West—and thousands have been refused permission to leave. Once refused, many lose their jobs, and are subject to surveillance and harassment by the authorities.

Although approximately 260,000 Jews have been allowed to leave the Soviet Union since 1968, at least 400,000 more continue to fight for the fundamental right to relocate to a country of their choosing. In 1979, 51,320 Jews were permitted to emigrate—the highest single-year number ever. In the 1980's, emigration declined to a low of 896 in 1984—the lowest number in more than 10 years—and rose only slightly to 1,140 in 1985, and 914 in 1986.

The picture has improved somewhat in the last 2 years with Mr. Gorbachev's increasing emphasis on the policy of glasnost. In 1987, over 8,000 Soviet Jews received permission to emigrate, and the encouraging numbers have continued into 1988. From January to August of this year, 9,187 Jews have received permission to emigrate. While this increase is a welcome development, these numbers pale in comparison to the number of Jews who wish to leave. If this truly is a new era of openness, Jewish emigration will have to receive more than token treatment by Soviet authorities.

In examining the rationale used to decide emigration cases, we are confronted with a maze of regulations that are inconsistently implemented. Although new regulations were put into effect last year to speed the process, the effect has been to codify the restrictive practices that have been in effect for years.

For example, Jews may not emigrate if they cannot produce signed statements from their relatives that they will leave no outstanding debts or obligations to family members remaining in the Soviet Union. These statements are requested even though there is no Soviet law requiring an individual to provide such a statement. This tactic intimidates relatives who will not be leaving the country, because they are required to sign documents which support emigration, and which will be placed in KGB files. If the individual's relatives do not sign the statement—because of intimidation by the Government or personal opposition to the individual's request—the visa request is effectively denied.

Another rule of particular concern requires prospective emigrants to produce invitations from "close family members" who live abroad. The definition of "family" is so narrow that it effectively eliminates many who would like to emigrate.

The practice of denying visas to individuals who may have knowledge of state secret continues. While a country may have legitimate security concerns, and limit exit permission to those exposed to miltiary secrets, the Soviets have not defined what constitutes a "state secret" or put a limit on the amount of time an individual can be refused a visa for security reasons. During my trip to the Soviet Union in April, I met a refusenik who quit his job 24 years ago, and still is refused an exit visa on the grounds of state security. There are hundreds, perhaps thousands more, who have been refused time and time again because of questionable allegations regarding state security.

The new regulation spells out eight other reasons for denying requests for emigration, including a provision that gives Soviet authorities the right to reject applications on the grounds of "insuring the protection of social order, or the morals of the population."

Mr. President, it is time that the Soviets stop raising unnecessary barriers to Jewish emigration and stop using the Jewish emigration issue as a tool of foreign policy. We are talking about human lives—and basic human rights that the Soviets have agreed to honor. The Soviets signed the Helsinki Final Act and the International Declaration of Civil and Political Rights—international agreements which guarantee individuals the right to leave their country. It is time that they start honoring their word.

When I visited the Soviet Union in April, our group—which included Senators WIRTH and GRAHAM who join me today—met with refuseniks in Leningrad, Kiev, and Moscow. We met with about 75 refuseniks and dissidents, most of whom had applied several times for exit visas. As I have mentioned, the most common reason for refusal was for state security reasons—even though, almost without exception, these people quit their jobs years ago. The scenario always seems to be the same: the Soviet authorities tell them that their "secret" will no longer be applicable in 1979; when 1979 comes, they say is 1982; when 1982 comes, they say 1988, and so forth. It is an endless waiting game.

During our trip, the members of our delegation presented the vice president of the Soviet Academy of Sciences with a list of several of individuals in whose cases we had a particular interest. We asked him to convey our concerns to the appropriate officials. I ask unanimous that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LENINGRAD

Israel Sigalov and Family (Senator Hecht's relative), Roald Zelinchonok, Eugeny Lein, Alexander Blinov, Lev Sheibas, Gregory Gimpelson, Eduard Aleksandrovich Markov, Lyudmila Addifouna Markova (wife), Zus Sklyar, Yetin Okun, Yalena Keys, Vladimir Knock, Tamara Rosenbaum, and Josef Latinsky.

KIEV

Alexander Pyatetsky, Seymon Gluzman, Mark Ocheretyansky, Mark Kotlyavo, Oksana Kotlyavo (wife), Luba Kotlyavo (mother), Ura Kotlyavo (son.)

MOSCOW

Sergei Petrov, Pyatras Pakenas, Yuliy Kosharovskiy, Yuriy Chernyak, Boris Chernobiliskiy, Michael Cheloff, Ros Stlock, Vladimir Kislik, Vladimir Meshkov, Igor Uspenskiy, Leona Gaisinskaya, Viktoria Gorelikova-Khassin, Judith Lurie, Inna Ioffe Uspensky, Helen Chernobilisky, Galina Kremen, Asya Gorokhova, Genya Lukatzky, Mariya Lachman, Inna Kosharovskaya, Galina Zelichenok, Helen Keis, and Dmitril Protopopov.

OTHER

Grigory and Ninel Bravve, Pyatras Pakenas pf Vilnius, Vladimir Rais and Family of Vilnius, Mark and Lena Chernobrodov of Vilnius, Griogory Belickiy of Vilnius.

Mr. CONRAD. Mr. President, I would like to share some of these cases with you:

Vladimir Kislik and his family first applied for visas in 1973. His wife and son were permitted to leave, but Vladimir was refused permission due to "state security." He subsequently lost his job at the Kiev Institute of Nuclear Research, and has been harassed by the government for his repeated attempts to emigrate.

The Raiz family first applied to emigrate in 1972, but were denied because of security interests. After applying to emigrate, Vladimir Raiz was fired from his job at the Institute of Molecular Biology, and since then has had difficulty securing gainful employment. The family's most recent refusal came after the summit in Washington last year, and Soviet authorities have told them that their request will not be reconsidered until 1992.

Dmitri Protopopov and his family have been denied permission to leave the Soviet Union 14 times since 1977. The denials are based on state security reasons, although Dmitri left his job at a classified installation in 1974—14 years ago. Dmitri and his wife Mariana both suffer from health problems and wish to emigrate to Israel, where his mother and brother live.

Mr. President, I visited the Soviet Union nearly 6 months ago, and haven't heard one word from the Soviets about any of these people. According to reliable sources, some of these people have received permission to emigrate. The majority, however, remain in the Soviet Union. This lack of communication is frustrating for us and must be agonizing for the refuseniks who wait—6 months, 16 months, 16 years—for permission to leave.

Congress has been a strong voice for human rights in the Soviet Union and has continually pressed for the right of Soviet Jews to emigrate. We send letters to Secretary Gorbachev, Foreign Minister Shevradnadze, and Ambassador Dubinin almost weekly; we make phone calls to refuseniks; and we pass legislation such as Jackson-Vanik, which ties United States-Soviet trade with emigration.

We need to keep the pressure on—we need to follow up on these cases and let the Soviets know that we will come back again and again until the Soviets have eased their emigration rules and the last refusenik has been permitted to leave.

On October 4, Senators WIRTH and GRAHAM will join me in a visit to the Soviet Embassy to meet with Ambassador Dubinin to discuss the refusenik situation and the cases that I mentioned here today. We intend to put the Ambassador on notice that refuseniks, and in particular these individuals, are important to us—and we will keep calling, writing, and visiting until these people are granted the fundamental right to leave.

THE CONTRAS

Mr. HOLLINGS. Mr. President, one of the most consistent supporters of the Contras' valiant attempt to bring peace and democracy to Nicaragua has been the Washington Times. I share this objective with the Times and regret that both the Congress and President Reagan have failed to act responsibly in this matter. A September 21 editorial in the Times capably describes the current situation and lays the blame exactly where it should be.

The Vietnam mindset paralyzes the Congress from taking action to defend freedom in our hemisphere—while spending billions in the Philippines, Afghanistan, and Angola to fight the Soviet Communist menace. Why this Soviet threat can be challenged thousands of miles from the United States but ignored 500 miles from our borders escapes me. It is a very sad spectacle.

Equally sad is the lack of leadership by the President in garnishing support for the Contras. Make no mistake about it—the Soviets have a stronghold in Nicaragua that is being used to wreak havoc throughout the hemisphere—particularly in Central America against the fragile democracies that have developed there. The repression of the Sandinistas is ominous. Either we help the Contras win the fight for freedom and democracy in Nicaragua or we will have American troops fighting throughout Central America to keep the peace. It will take more than lip service to help the Contras regain the momentum they had in 1987 if it is at all possible. The Soviet bloc has given between $5 and $6 billion to the Sandinists; we have given the Contras about $250 million. We have to give more, lots more, and show the Contras that America's backing for free societies can still be counted on.

I ask unanimous consent that the Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 21, 1988]

BETRAYAL

You probably missed it, but the leadership of the Nicaraguan Resistance passed through Washington last week, hoping to build some support for its efforts to liberate Nicaragua. The problem is that the Nicaraguan resistance no longer conducts anything as organized as an "effort." Its uncertain American sponsors have denied it any significant military or humanitarian aid, forcing its fighters to flee across neighboring borders instead of forcing the Sandinistas to bargain in good faith. More than 15,000 resistance forces were making inroads in Nicaragua just 13 months ago, and their successes had forced the junta in Managua to talk with at least mock seriousness about internal reform.

That hopeful episode ended in August, 1987 when the White House unaccountably joined in the short-lived Wright-Reagan peace plan, which in turn gave way to the embarrassingly utopian Arias peace plan. The resistance since has been betrayed, stripped of its credibility, and reduced to bickering about the best way to save face. The Sandinistas in contrast have stiffened internal repressions and begun murdering resistance supporters by the dozens, especially in remote country villages.

Those who support liberal democracy in Central America have reacted to this slaughter with what at best might be called confusion and at worst characterized as hypocrisy. President Reagan has continued to offer rhetorical support for the freedom fighters, but in substantive matters has stopped scratching lines in the sand and begun carving them in water. His recent vow to seek humanitarian aid to the resistance after the present aid package expires at the end of the month would provide enough beans and socks to keep the resistance alive, but not enough ammunition to prevent its members and supporters from being slaughtered by the Sandinista forces. While we would send at most $3 million a month in food and clothing, the Soviets could continue sending the Sandinistas upwards of $100 million a month in military hardware.

The resistance leadership should have made a strong case for some military aid last week. Instead, its members debated about whether to cozy up to the same Congress that put them in their present mess. A plan to rejoin negotiations with the Sandinistas, who haven't abided by a single treaty or settlement since 1979, would allow anti-resistance forces in Congress to argue that the Arias peace process works and that the freedom fighters obviously don't need more arms in order to bring the Sandinistas to the peace table.

The Reagan administration historically has been able to rely on Sandinista miscues to keep its pro-freedom fighter initiatives alive, but it's managed to lose even that reliable gambit. The Sandinistas continue to embarrass their American supporters, but that's old news. People have resigned themselves to tyranny south of our border.

Unless the president himself takes a firm stand soon, and there's no evidence that he will, the end game has begun in Nicaragua and the Sandinistas soon will consolidate a Cuban-style despotism in Nicaragua. If and when such a consolidation occurs, anti-communists in America quite correctly will point fingers at Oscar Arias and the Democratic leadership in the House. But those anti-resistance forces couldn't have achieved their ends without help. The timid, wavering, inconsistent efforts of the White House—and now even of the resistance itself—have made the Sandinista end game possible.

BICENTENNIAL MINUTE

SEPTEMBER 24, 1918: FRENCH TRIBUTE TO THE SENATE

Mr. DOLE. Mr. President, this Chamber has witnessed many dramatic events in the 130 years that it has served the Senate. One of the most poignant of those events occurred 70 years ago tomorrow, on September 24, 1918, at a time of an intensifying U.S. role in World War I.

As the Senate convened that day, the Nation rejoiced to news from the western front that the first distinctively United States offensive of the war had resulted in a major victory, seriously weakening the position of German forces. Plans were then underway for a final major United States-French offensive that would ultimately bring victory.

Against this hopeful background, the Government of France requested the opportunity to pay a special tribute to the United States Senate. In a Chamber packed to capacity, with the American and French flags brightly displayed behind the Presiding Officer's desk, French Ambassador Jules Jusserand addressed the Senate.

He officially thanked Members for the friendly reception accorded to the French Prime Minister when he had conveyed his nation's appreciation to the Senate in May 1917 for United States entry on the allied side of the war.

Recalling that the decision had "sent a thrill of joy throughout France," the Ambassador declared:

> Our Faith that our living and our dead have made their manifold sacrifices for a supremely great and just cause received its most telling confirmation when, from across the ocean, the voice of this great Nation was heard above the din of battle, saying from now on "until the last gun is fired", until right triumphs, not for a time, but for all times, we take our place by your side.

Following this moving address and a warm response from Vice President Thomas Marshall, the Senate received as a gift from France, two magnificent, 68-inch-tall servers porcelain vases. Members of the Senate and the French delegation then posed for a photograph on the Senate steps outside the Capitol. Today, those vases are displayed in the lobby to the north of this Chamber as a continuing reminder of United States-French friendship.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Time for morning business has expired.

MINIMUM WAGE RESTORATION ACT

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, S. 837, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Hatch Amendment No. 3040, to provide for a new hire wage.

(2) Kennedy Modified Amendment No. 3041 (to Amendment No. 3040), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. today shall be equally divided and controlled by the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Utah [Mr. HATCH].

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. HATCH. Mr. President, one thing that should be clear to all Senators as a result of the debate on this bill so far is that this bill is not as simple as it looks.

Sure, this bill is only a few pages long; it is not as long as the tax bill, the trade bill, the elementary and secondary education bill, or any of the other monster pieces of legislation we have considered in this body in the last couple of years. Still, I believe those few pages of S. 837 pack every bit of the complexity and impact as these other bills. What disturbs me, as I am sure it disturbs many Senators on both sides of the aisle, is that the impact of this bill will be primarily negative. No question about it.

It is negative for many reasons.

Study after study has indicated that if you increase the minimum wage, as they desire to do here, jobs will be lost. The estimates of the disemployment effect from this type of legislation range from a low of 200,000 lost jobs to 800,000, and some say as high as 1 million lost jobs in our society. These are the jobs which traditionally give people their first break or their first job reference. Few inexperienced workers can walk into a business and reasonably expect to earn high wages. Most of us need to earn minimum wages before we can earn a dollar or two more, and then a dollar or two more than that.

This bill will also result in wage inflation not justified by economic or productivity growth. The "ripple effect," admitted by my esteemed colleague on the other side of this issue, is another negative outcome of this bill. It will push all wages up from the bottom. That sounds good, except that the ripple effect amounts to inflation. It is estimated that the ripple effect will add no less than $48 billion annually to the labor costs of production—and that is just labor costs. That is not other inflationary costs. These costs must be made up somehow, and most likely they will be made up through payroll cutbacks, price increases, or both.

I certainly am not against any American earning more, especially those on the lower end of the spectrum, but we must remember that there is no such thing as a free lunch. Pay raises must occur as a result of economic and productivity gains, or we invite reinitiating the wage spiral that cost us so much during the Carter years and the early years of the Reagan administration; and the four increases of the minimum wage played a role in those increases—in inflation, interest rates, cost of goods and services, uncompetitive approaches which have hurt us in the international trade, and so forth.

If we pass this proposal to raise the minimum wage by 36 percent, it stands to reason that prices will increase as well. It is true that estimates of the impact of the minimum wage hike on price increases vary and that many other factors affect inflation, but there is little doubt that prices are affected by increases in the minimum wage.

And common sense tells us that the effect is not going to be positive. Everyone will pay for this bill, and the people who are struggling to make ends meet are going to be the ones who pay the most—those on fixed income. The few cents increase in the price of groceries or gasoline matter most to those with lower incomes and especially those with fixed incomes.

Additionally, studies have shown that the minimum wage is ineffective as a weapon against poverty. Not only do low income people pay proportionately more in higher prices, but they are most likely to face increased employment barriers due to job losses. One study commissioned by the Minimum Wage Study Commission found that more than 80 percent of low-income households are harmed by increases in the minimum wage. In fact they say "harmed by the minimum wage," period.

We have also been debating the effect of a 36-percent increase in the minimum wage on unskilled and inexperienced workers. Clearly, the loss of hundreds of thousands of entry-level job opportunities will hurt these individuals the most. How can we even think of passing such legislation without a meaningful, substantive training wage? How can we? How can we when it seems so logical and so reasonable?

One issue we have barely touched on so far in this debate, and one which I think we need to discuss much more fully, is the disproportionate impact of this increase on certain States and localities. While some areas have labor shortages and high average wages which will, to some degree, mitigate the job losses that will occur, other areas in our country do not. These areas will find their unemployment situation compounded.

Let us just examine that problem a little further. Why should a minimum wage increase have disparate impacts on States? Dr. Gerard Adams, an economist from the Wharton School who testified during the Labor Committee's hearings last summer, noted that the impact of the increase depends on the ratio of the minimum wage to the average wage. The concept is that an increase in the minimum will just fill in the gap between the wage floor and the average.

The committee report correctly states that the current ratio of the minimum wage to national average wage is 36 percent. Naturally, however, when dealing with averages, there are areas which have lower than average wages and would, therefore, suffer greater adverse effects from these increases. There are obviously 25 States in which the ratio between the minimum wage and average wages exceeds the national average.

Additionally, while our Nation's economy has created 17 million new jobs at good wages, there are still pockets of high unemployment in our country. I think we could look at the map on that. There are 27 States that have counties which have unemployment rates greater than 10 percent. As anyone can see, the 27 States in this category range from Pennsylvania to

Washington State, affecting the South and Midwest in between. The Senator from Massachusetts will be pleased to know that his State is not among them. While areas with a big demand for workers, and which consequently offer higher wages to attract them, may not suffer the same adverse impacts from the increased minimum, the counties in these other States do not have the same prospect.

We know that when there is a surplus of labor, many people are willing to work for a lower wage in order to be employed. We also know that most people would rather be working than to remain idle. In areas of high unemployment, a minimum wage increase, which will drive up all wages due to the ripple effect, will limit even further the ability of these people to find jobs. What do we say to these workers when we make their job search even more difficult by raising the minimum wage? Do we console them by saying that we are sorry they cannot get a job but is it not great that they will be paid more if they finally do get a job?

We need to remember two things: one, the evidence is overwhelming that this bill will cause the loss of hundreds of thousands of jobs; and two, a higher wage will not mean a thing to a person who does not have a job.

And Senator GRAMM's analysis that zero times zero really equals zero means exactly that.

In short, any benefits that may accrue to any person as a result of this legislation will come only at the expense of others in our society. The bill joepardizes the employment opportunities and wage growth of some in order to improve the economic situation of others. It raises prices for consumer goods and services for everyone, despite the fact that many of our citizens in this country are on fixed incomes. It benefits areas in our country which are booming at the expense of areas in our country which are not.

Mr. President, I would hope we could continue our discussion of these issues. I do not think we are finished yet. The bill may be short, but the ramifications are extensive. I certainly urge my colleagues to vote against cloture.

With that, I reserve the remainder of my time and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the remaining time prior to the vote be divided equally between the distinguished Senator from Massachusetts and the Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes.

Mr. KENNEDY. I yield myself 7 minutes.

Mr. President, we are now in the eighth day of debate on the pending bill. And for 8 days we have been waiting for a vote on the pending amendment, the Kennedy-Byrd "stay in school" wage.

That proposal is an alternative to the Republican so-called training wage. The Republican proposal is a sham, travelling under an alias that it does not deserve. In fact, the training wage would lead to no training at all—it would, for reasons I have set out with care and at length in this debate, lead to rapid firing of employees when they become eligible for the full minimum wage.

This morning, I want to review for my colleagues the vast array of real training opportunities that exist for the underskilled worker, and particularly for underskilled youth. We know all about the need for training of the work force in the Labor and Human Resources Committee, and there are a host of responses to the problem.

Consider the Job Training Partnership Act. Now, Senator HATCH and I had a great deal to do with the creation of that program—right here in this century—though there is a fellow talking quite a bit more about it than we have been lately. I want to remind my colleagues just how much is accomplished through that effort. Last year, more than 2 million Americans received training under the JTPA program. And this was real training, not training in name only—1.3 million Americans received services under title II-A of the program. That section of the program is targeted at the economically disadvantaged. The committee believes that we can do a better job of targetting those efforts at the more severely disadvantaged, and we have reported and passed the JEDI Program to achieve that result.

And look at title II-B of the program. This is the program for youth. Last year 706,000 youths received services under that title. Presently, the program is limited to the summer months. But DAN QUAYLE has proposed to make the program operate year round and to focus on welfare dependent youth. I support that amendment—it was reported unanimously from our committee. The Senate agreed to it unanimously in March of last year. We have again put that amendment on the reauthorization of the homeless legislation which will shortly be approved by this body. That is 700,000 youths who need real training and they get it.

These two titles together train far more people in a given year than would get anything at all under the Republican proposal which would do little more than chisel their wages.

As Senator HATCH is well aware, we also have the Job Corps Program in JTPA—70,000 youths received training under that program last year. That program is expensive—it costs about $16,000 per student. But the Department of Labor has found that it saves more money than it costs because of the positive effects that it has on the lives of the program's participants. These are the kinds of resources we need to turn the corner in the lives of the very disadvantaged; it cannot be done with nickels and dimes. The dimes we save for employers with the subminimum training wage will add up all right, but not for the employees. It will save billions for employers over the years, but at a cost of billions more to the students whose lives will be hurt by this substandard effort to cut their pay and their educations.

If employers really want to hire youths at lower wages, let them use the Targeted Jobs Tax Credit. This credit entitles employers to a refund of 40 percent of the wages up to $6,000 paid to economically disadvantaged youth. In the last program year, 600,000 such vouchers were turned in. If an employer is paying $3.35 an hour and gets a rebate of 40 percent of his or her labor cost, then they are only paying in real terms $2.01 an hour. And only half of those eligible actually used it. The wingspan of that program alone greatly exceeds the estimated job losses touted here on the Senate floor in the last several days.

The point, Mr. President, is that much training already goes on. And it is real training. The Republican proposal is a promise that was broken at the same moment that it was made, because there is nothing in it that will actually help our workers acquire skills.

Shortly, we will vote again on whether to limit debate on the minimum wage. We heard yesterday morning that the Senate needed more time to think about it, that there were speeches yet to be made that would bring us insight and information that we have not yet seen. I waited for those speeches. And I wondered if we would hear anything that we have not heard in the last 50 years from the chamber of commerce and its allies in the Senate.

We heard from one Senator who actually read the chamber of commerce briefing materials on the minimum wage as a speech. We heard recitations from the studies collected by the chamber as though these were news to the Senate. We heard nothing that we have not heard before. And silent hours passed while we waited for speakers to come here and tell us something new.

Mr. President, the truth is that there is nothing new under the Sun concerning the minimum wage. What was just the last six times we have raised the wage is justice today—and what was false and alarmist then is false and alarmist today.

But the White House stands opposed, and has asked my Republican colleagues to join arms against letting the working poor in on a share of the American dream.

I must tell you that I find this filibuster outrageous. This filibuster is the very incarnation of power used to obstruct the progress of the people. It is shameful that this body will allow the business lobby to keep its heel on the necks of our most deserving workers. And if this filibuster succeeds, there will be champagne corks popping at business dinners all over town as overpaid lobbyists buy dinners for their allies in this body. Those dinners will cost more in an evening than a minimum wage worker makes in a month. They will laugh at their success; they will be giddy with their tricks. And when they leave the restaurants and the minimum wage workers come in to clean up behind them, they will talk about the prosperity that their years of power have brought to America. The shame and the outrage of this claim is that while GEORGE BUSH and others are running on the prosperity that some in our country have seen in the last few years, they are unwilling to share any of that prosperity with the working men and women of this country who have helped to produce it. It was not the work of paper-traders on Wall Street that has made this country prosperous. It has not been the efforts of overfed lobbyists that have made us strong. It is real men and women, doing hard work all the livelong day that has brought prosperity to others. But for them, the America and the lives we all hope for will remain but a dream; a promise, as Justice Jackson once wrote, made to the ear, but broken to the heart, like a munificent bequest in a pauper's will.

This Government owes them better. We owe them this bill and we have owed it for 8 years. We have a debt to pay, and our chance to make good on it comes with this vote.

Mr. HATCH. Mr. President, I never cease to be amazed by the articulate Senator from Massachusetts, but I also never cease to be amazed at some of the logic that he uses.

He has a tendency to lump together everybody who has raised important and significant issues, issues that really are backed up by statistics, backed up by real time understanding, backed up by real logic, and backed up by real oppressive hurt to this Nation. He ignores all of that. He ignores the hundreds of thousands of young people, dropouts, if you will, who have no chance in this society and never will if this legislation he proposes passes in its present form.

He sweeps all arguments away as though this is the gospel of St. Teddy, irrevocably, from God through this spokesman for the poor.

The fact of the matter is, it is not the gospel from anywhere except straight out of the old worn out textbooks of the past. The fact of it is that it completely ignores the hundreds of thousands—let us change it, let us be accurate in our statistics—millions of young people who will never get a job it these archaic ideas are not amended and do not make sense in the future.

There is kind of an attitude that only this wonderfully written document exemplified by this bill is true; that there is no reason for decent amendments, no reason for a training wage, no reason to try something new, and above all, no chance at all to have an earned income tax credit refundable to those who are working poor—a way of rifle shooting the problem that really will solve it.

No, we will just give obeisance to the past. Let us bow down before the shrine of the minimum wage, even though thousands of editorial writers all over the country have now refused to do so because they see perhaps greater pillars of truth to follow.

We do not deny the importance of these Federal employment and training and education programs, and I appreciate my good friend from Massachusetts mentioning we have both worked very hard in all of those areas. And I do give him credit because he has worked hard and, in many ways, has done many good things for this Nation.

I wish those good things were not offset by so many bad things. But nevertheless, I give him credit for the good things. Along with the Senator from Massachusetts, I was proud to be part of enacting many of those excellent pieces of legislation, and he knows I was proud to help save Job Corps, even though it is an expensive program, because it is the only program we have got to help hard core unemployed people. And he was right there cheering me on and helping me every step of the way, for which I am very grateful. And I appreciate that.

Why can he not listen to his old buddy and learn about the future a little bit? Not that I have all the answers, but I can tell you this, I have got some. And they come from people who are much more experienced and brighter than I.

I might add that these programs that we have both worked so hard on are limited because we can only appropriate so many dollars. We cannot solve every problem in this society by appropriating Federal dollars. There is just no way. There are not enough tax dollars available. No Federal program can reach every person who needs help. No Federal program can do that. Nevertheless, we have tried and we are going to continue.

Why can we not utilize the private sector more? Why can we not give it a chance, since that is really what has made this Government great? That is really what provides the taxes that pay for these wonderful programs he has described but which cannot solve the problem in and of themselves. Why can we not mobilize these resources in the private sector that could do some good? Why do we have to give obeisance to the literature of the past and act like it is the only scriptural document that exists?

Why can we not provide even more opportunities for those who are hard to employ? Why do we write off all the dropouts in our society because we are unwilling to try some new ideas, like a training wage?

I will make a commitment to my friend from Massachusetts right now. I will modify that training wage in a reasonable way, any reasonable way he wants to do it. Certainly not just for full-time students, which is what he wants to do, although I am willing to go with his amendment on full-time students. It is an improvement. It is not much of an improvement; it does not do much good, but I will go with it because it is an improvement. But I would like him to go with me once, and not just me but millions of people who feel the same way I do, that we ought to give these people a chance.

I tell you what is more, I will even go for increases in the minimum wage that are reasonable, even though I do not think it does much good and I think it does more harm over the long run. Because it will reject those who are the hardest to employ in our society because jobs will be gone. It is just the law of economics. Small business people, where two-thirds of all the jobs in our society are created, just simply pay beyond a certain number.

And they are not lobbyists that go into these restaurants and have these wonderful dinners, and the cleanup afterward by minimum wage employees—no, they are not those type. They are people who are humble, devoted, decent people, trying to confront all of the plethora of Government interference that they have to go through in this life, much of which has been enacted by our distinguished friend from Massachusetts. Facing bureaucratic interference and dominance every day of their lives, facing the economic problems of their lives, facing transportation, energy, employment, and other problems, the small business people who make this country go, they are just going to do without, they are going to automate or they are going to get out of business if we keep increasing the minimum wage.

It is a fiction. It really does not work. As much as I support our Federal efforts to help, I believe my proposal for a training wage will enhance every one of those programs that the distinguished Senator from Massachusetts, my friend, and I agree are important programs. One thing I learned as a conservative chairman of the Labor and Human Resources Committee is that these programs are not only well intentioned but many of them work very well. I think they still can be improved, and I intend to do that through the years, but I have to give credit where credit is due.

As much as I support our Federal efforts to help, I believe that my proposal for a training wage will enhance every one of those programs with real jobs and real opportunities. A job with a private-sector employer is the key to the future of many teenagers, many unskilled workers, many undereducated in our society. It is the sum and total of their opportunities for the future. Why not give them a chance. That is all I am asking. I am asking my good friend to open his mind and let them have a chance. I think I have expressed a real desire to compromise and to work these things out, but it is a matter of principle to do something for those who cannot help themselves. This is not a filibuster, and there was not much time wasted yesterday. There were people on this floor almost every bit of the day speaking about this issue, mostly against the present bill.

Why write off all these unfortunate people because of obeisance to the past, obeisance to things that really have never worked very well and have always resulted in an inflationary pushup.

Now, I have to acknowledge that by agreeing to modify my training wage, if the Senator will agree, and by agreeing to modest increases in the minimum wage, it really is a compromise. I do not believe increases in the minimum wage really help anybody for long because the ratcheting effect not only in salaries but the cost of goods and services in every aspect of society takes away anything they get from increasing the minimum wage. In the end they are worse off than they were before as inflation increases, and as interest rates increase.

This administration must be doing something right because 17 million new jobs, the most in any other corresponding period of time in history, have been created and 12 million of them are for $12 an hour or more and 3 million more are for $6 an hour or more, and that is 15 million of the 17 million. Fourteen percent of the 4.7 million presently earning the wage are heads of household who are workers in poverty. The fact is we could attack that problem with a fundable earned income tax credit and attack it intelligently and do what is right for America. Almost everybody else is somebody who comes from a better economic climate and who needs that job and frankly will go on from there to make more than the minimum wage.

That is what is involved here. It is time we look at it intelligently and effectively and let us look at it with open minds and let us work together. Let us not say it is novena, this is divine wit, because it has been written by certain special-interest groups in our country. I do not think the chamber of commerce or any other business group is saying we are not willing to compromise or work this out. I do not know what they are saying because I have not chatted with them. The fact is if they are not on the side of increases in the minimum wage, there are legitimate and good reasons for them not being there, and we have been stating them over each of the days that we have been on this bill.

It is time Members of this body start thinking about it. The past is over. Let us not cling to the bad things of the past. Let us start looking to the future to do something for these young kids who absolutely have no chance if we do not do something for them. Let us look to the private sector to do what is right. There are not going to be any fat cats either way. In fact, if this bill passes and inflation starts going up again, we will not have many people in our society who are well off.

Mr. President, this is all I want to say at this time. I will be happy to yield the floor. I reserve the remainder of my time.

The **PRESIDING OFFICER**. The Senator from Massachusetts.

Mr. **KENNEDY**. How much time do I have?

The **PRESIDING OFFICER**. Nine minutes.

Mr. **KENNEDY**. I yield myself 5 minutes.

Mr. President, I will respond briefly to the observations by my friend, the Senator from Utah, on how we got to where we are and what really is taking place in the Senate, although I do not think there is anyone in doubt as to what is happening.

The measure we brought out of our Human Resources Committee is different from the one that was introduced on the minimum wage. We dropped the indexing provision that would permit the minimum wage to go up with the average hourly earnings. We eliminated that. That is a pretty significant change, Mr. President. We provide a cost of living increase to the 32 million seniors of our country, and I am all for it. In the past, many of those who have been opposed to Social Security fought tooth and nail against a cost of living increase for the elderly people of this country who have made it the great country it is. They have fought against it, and we have heard many of those same voices opposed to the increase in the minimum wage.

We have dropped indexing so we have, Mr. President, a very simple piece of legislation, three stages that will attempt to return the purchasing power—no increase, just return the purchasing power—to the 16 million Americans who will be affected by this piece of legislation.

We know what is happening. If it looks like a duck and quacks like a duck and walks like a duck, it is a duck. This is a filibuster and that is what we are facing now. No one should be very surprised about it.

I have before me the debate of August 1960. The manager said:

> I am wondering whether there is a chance to get to a vote on this amendment tonight. We began consideration of this bill on Wednesday evening. It was discussed all day Thursday and now all day Friday. The presentation is expected to be limited in length. Many bills are before the Congress. I think the people know what is at issue. As I understand it 40 amendments are to be offered. Can we not get at least one vote?

That is 1960 and now in 1988 the same tactic, Mr. President. Make no mistake about that. Those filibustering the minimum wage would not call them up then, and they will not call up any amendment now. It is clear and simple.

As I mentioned on other occasions, Mr. President, the idea that the Hatch subminimum is a training wage makes a mockery of the whole concept of training. As I have pointed out there is not one word about training.

We now have, Mr. President, 725,000 economically disadvantaged youth in training programs. And I just read the kinds of things that happen in these training programs. They get basic and remedial education, institutional on-the-job training, work experience programs, employment counseling, occupational training, preparation for work, outreach enrollment activities, employability assessment, job referral and placement, supportive services necessary to enable individuals to participate. That is real training. That is what disadvantaged youth need. These are the kinds of things which are going to increase the possibility and the eligibility of the young to be able to receive employment.

Then we have 1,300,000 adults who need skills in order to be employable—we have the same types of programs for which they are eligible. Those are real training programs, not just a subminimum chisel program, Mr. President.

So we have outlined in this debate what exists for the economically disadvantaged, the types of training programs for which they are eligible. We have outlined programs where you have over 1,200,000 young people who will be eligible if they went to work, if employers were interested in them. So if the issue is the employability and what employers must pay, employers may qualify to pay the minimum wage and get a 40-percent tax credit—far preferable in terms of the employer's point of view than what is being suggested here.

So we cannot come to any other conclusion than that this is basically a ruse, Mr. President. It does not provide the training. There are other ways which deal with this. We have tried to spell that out over the course of the debate.

Mr. President, in the final moments before another cloture vote, I certainly hope that we would be able to get cloture, but I have no expectations that those who are opposed to this legislation are going to permit us to get resolved what is the pending business, which is the Kennedy-Byrd amendment to the Hatch amendment.

The first amendment was offered by the Republicans, and a second amendment, perfecting, by myself and Senator BYRD. I hope we can get on with the resolution of this issue. We have been on it now over a week. It is not a new issue. It is understandable. And it is something which cries out for action, Mr. President. I hope very much that we will be able to get cloture today, and if we are not able to do it I certainly hope we will be able to get it on the first opportunity next week.

I reserve the remainder of my time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Six minutes, 8 seconds.

Mr. DOLE. Mr. President, I would just indicate that I hope we do not get cloture today, and I would also say that I hope we can work out some agreement on minimum wage. I indicate again, as we have in the past—maybe not with as much volume in this Chamber as other speakers but with as much commitment and sincerity—that we want a minimum wage increase. We believe the training wage is a good idea. And we are prepared to negotiate modifications in that. But I do not really believe we ought to be told that, well, this is it, this or nothing, because maybe people on the outside, labor leaders, have this in mind. But I do not know anybody in organized labor who is really concerned about the minimum wage because they are all paid more.

As the New York Times editorial suggests, we are talking about for the most part children from middle-class families who would benefit from this, and not poor people. That is why there has been discussion of the earned income tax credit, and we believe that we could work out some agreement where we could alternate on amendments.

We have a lot of amendments on this side that are good, constructive amendments. It was never intended to let Senator HATCH offer the first amendment. He had the floor, and he offered it before anybody could take him off his feet. So it was not that equality was intended on the other side of the aisle. It just happened because Senator HATCH was alert and offered an amendment while he had the floor. Otherwise, there would not be any Republican amendment pending.

So if we want to be serious about this, start alternating on amendments. The Senator from Washington has an amendment, the Senator from South Carolina has an amendment, and the Senator from Utah has a number of amendments. We are prepared to rotate, take turns, act on the Harkin amendment, the tip credit amendment. Nobody opposes that that I know of. I am not certain how many oppose the amendment of the Senator from Washington, Senator EVANS. But it seems to me that on these procedural votes that we ought to not invoke cloture today.

We would like to put the House drug bill on this minimum wage package. It passed by a big margin of 375 votes. That is an important issue that cries out for a solution. We are not going to be able to pass a drug bill on the Senate floor this year. We have been working very hard to put together a bipartisan package; we are not there yet, we are not there primarily because many of the liberals do not want any punishment. They want to spend money but do not punish the offenders. The House drug bill does that.

So why not put it on this bill, put it on the minimum wage bill, do something constructive with this legislation, and pass the House bill?

So there are a lot of things we could do between now and the time of adjournment, and nobody is quite certain when that will come. But I urge my colleagues and those who voted against cloture yesterday to keep their positions. We are ready to negotiate. The Senator from Utah has indicated publicly and privately, as have others, that he is ready to negotiate. I can say the leadership is ready to negotiate.

Somebody pointed out yesterday that in the opening statement of the Senator from Massachusetts he mentioned GEORGE BUSH 45 times. So this has become a political issue.

We can talk about minimum wage, but it is all politics. So I hope only 30 votes against the House drug bill—excuse me. I said 37; better than I thought. So maybe we ought to put it on here by agreement, and then work out our other differences on minimum wage so we can really accomplish something on drugs this year. That is an important issue. I think the House Republicans and Democrats for the most part did a pretty good job.

So I urge my colleagues who supported those of us who voted against cloture yesterday to stick with us today. Then I urge the managers on each side. Let us get together, and see if we can work out a minimum wage bill with a training wage and give some of these young people who are on the streets an opportunity to go to work. They should not be controlled by organized labor, and by the labor leaders who are in the lobby. This is a bill that affects the American people.

So I hope we will not invoke cloture today. And I know that the majority leader has a program to complete. We want to cooperate where we can. We are prepared, as I have indicated, right now to start rotating on amendments if we can work out some agreement. We are happy to stay here most of the day today, all day, or whatever the majority leader suggests. But I hope we will not in this procedural vote yield to some of the pressures that we believe are without justification.

I reserve the remainder of the time.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Two minutes, fifty seconds.

Mr. KENNEDY. Mr. President, I listened with interest to the statement of the Republican leader.

As far as I am concerned there will be no compromise on the cost-of-living increase for 16 million Americans. Maybe the Republican leader wants to compromise on that, but that is not negotiable. All we are talking about, and we did not reach into space to find out what this figure would be, is a cost-of-living increase to return to 16 million Americans some of the lost purchasing power that has withered away over the period of the last 7 years. That is nonnegotiable. That may be negotiable for the Republican leaders but it is nonnegotiable for those people who work for a living.

Mr. President, I am delighted to hear all the rhetoric of the Republican leader about the war on drugs. We heard from the President of the United States in the State of the

Union saying the war on drugs was won. I am glad to hear now that he is so interested in getting on with this after his candidate for President has been in charge of it over the past years. We all agree that something has to be done on that.

As they say in the circus, it is a big job cleaning up after a big elephant. Hopefully we will have the opportunity to do that with a sensible and responsible drug bill.

I see my time has expired.

CLOTURE MOTION

The **PRESIDING OFFICER.** The hour of 11 a.m. having arrived, under the previous order the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon Committee substitute for the bill S. 837, Minimum Wage Restoration Act of 1987.

Senators Edward M. Kennedy, Daniel K. Inouye, Tom Harkin, Terry Sanford, Paul Simon, Jay Rockefeller, Christopher J. Dodd, Don Riegle, Bill Proxmire, Alan Cranston, J. Bennett Johnston, Patrick Leahy, Jeff Bingaman, Bill Bradley, Tom Daschle and Harry Reid.

CALL OF THE ROLL

The **PRESIDING OFFICER.** By unanimous consent, the call of the roll to ascertain the presence of a quorum has been waived.

VOTE

The **PRESIDING OFFICER.** The question is, Is it the sense of the Senate that debate on the committee substitute for S. 837, the Minimum Wage Restoration Act of 1987, shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Jersey [Mr. BRADLEY] and the Senator from Florida [Mr. CHILES] are necessarily absent.

Mr. **SIMPSON.** I announce that the Senator from Texas [Mr. GRAMM], the Senator from Nevada [Mr. HECHT], the Senator from Idaho [Mr. MCCLURE], the Senator from Indiana [Mr. QUAYLE], the Senator from Wyoming [Mr. WALLOP] and the Senator from California [Mr. WILSON] are necessarily absent.

The **PRESIDING OFFICER** (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 56, nays 35, as follows:

[Rollcall Vote No. 336]

YEAS—56

Adams
Baucus
Biden
Bingaman
Breaux
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—35

Armstrong
Bond
Boren
Boschwitz
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Exon
Garn
Grassley
Hatch
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Rudman
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Warner

NOT VOTING—9

Bentsen
Bradley
Chiles
Gramm
Hecht
McClure
Quayle
Wallop
Wilson

The **PRESIDING OFFICER.** On this vote, the yeas are 56, the nays are 35. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

MINIMUM WAGE RESTORATION ACT

The Senate continued with the consideration of the bill.

The **PRESIDING OFFICER.** The Senator from Massachusetts.

Mr. **KENNEDY.** Madam President, this is obviously encouraging news. We want to welcome the four members of the Republican Party that supported this motion. There are a few of our members that were necessarily absent that would support this proposal.

I want to indicate that I believe that we are on the edge of having a successful resolution of the obstacles which we are faced with here, and that would permit us to move ahead, hopefully, with a vote on the Kennedy-Byrd proposal on the subminimum. So I am grateful to those that have supported this proposal.

I am very hopeful, with that very increasingly clear picture, that we might now move ahead and see if we cannot get a debate and resolution of some of these matters, because I think it is going to be quite clear that we are going to be able to get cloture. It would seem to me that it would be useful for us to start voting on these various measures and these various amendments.

So I thank those members who supported our motion. Hopefully, if there is no further discussion, we will move toward a vote on the Kennedy substitute or perfecting amendment.

The **PRESIDING OFFICER.** Is there further debate?

Mr. **DOLE.** Madam President, I would not read too much into that vote. It is Friday and some people are confused. (Laughter.) But by Monday or Tuesday they will be clear-headed again and they will understand what is at stake here.

This is a procedural vote. I would again indicate to those who may have voted today for cloture on this side that we hope we can have a minimum wage increase, a modest increase, an appropriate increase. I believe that there might be votes for a modest increase on this floor—not the Kennedy bill, but a modest increase.

So I would not want the Senator from Massachusetts to celebrate too much this weekend thinking that he was in sight of victory because we have a little something there we cannot quite explain, but we will work it out by Tuesday or Wednesday, whenever the next vote is.

We will work out a minimum wage bill in 30 minutes, but I think there are some other matters we would like to discuss at the same time.

I would say to those who feel pressured by organized labor that organized labor does not have much of a stake in this. I do not know anybody in the unions that is worried about minimum wage. But this is a labor issue and they are calling in their chips. In my view there is more at stake than what organized labor may want.

I again point out that in the statement of the Senator from Massachusetts I believe he used GEORGE BUSH's name 45 times. This is all politics. Let us not be misled.

I say to my colleagues on this side, let us take another look next week. Let us understand these are procedural votes and that we are linking these votes to many other items that we think we would like to conclude by the end of this year.

I hope, in the meantime, if we want to start working on amendments, alternating amendments, then I think the Senator from Utah would be very pleased to agree to that, at least I would encourage him to do that.

But, on the other hand, if we cannot offer Republican amendments, then I do not know why we should provide the votes for cloture on this side. I do not understand it. I do not think we will, in the final analysis. We will see what happens in the event the majority leader should file another cloture motion. Maybe he will pull the bill down.

Mr. **BYRD.** We could move to reconsider right now and have a vote on this again.

Mr. **KENNEDY.** Madam President, I am further distressed that the Republican leader is linking other items to the issue about whether we are going to be able to vote on an increase in minimum wage. We heard him describe those other items yesterday. He expressed his concern over appointees the administration is interested in.

I think it is really unfortunate for 16 million Americans to be held hostage to Republican appointees here in the Senate. I think that is a regrettable situation, but it was stated yesterday and has been restated again here today. It sends, I think, an unfortunate message to millions of hardworking men and women, to their families and to their children who are out doing some of the most difficult and trying work in America. But that is the way it is.

We are grateful to those who have joined us in an attempt to permit the Senate to work its will on this measure. We will hopefully gain some other votes, as well.

THE OMNIBUS DRUG ACT

Mr. D'AMATO. Madam President, I would like to make an observation while the leadership of the Senate is here. It seems to me that the majority leader and the minority leader began a very fruitful understanding and certainly one that is most important, and that was an attempt to put together a bipartisan package dealing with the issue of the drug plague which we have here in America.

Now, we can talk about 16 million Americans who may or may not be helped as a result of the legislation that is pending. We can talk about the business that has to be done and the business at hand.

But I will tell you that it will be a travesty and it will be a black mark on this Senate if we fail to do something affirmatively as it relates to the Omnibus Drug Act.

Now, when are we going to take this up? Are we going to take this up at the last hour so that people will not have an opportunity to offer amendments and have debate; so that we are left with a fait accompli; so that we are left with maybe two or three who can say, "Well, no, we are not going to take these amendments up and if you want any bill at all, you take it or leave it"? Is that the technique that is going to be practiced on this body and on the American people?

Now, I think that is a travesty. Let us complete the work that we have begun. I believe that the majority leader and the minority leader were doing the proper thing in urging both sides to come together in a bipartisan way. I hope that we could put that bill on the floor. I do not think there is anything more important, and yet we are not addressing that.

Mr. McCAIN. Madam President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, the Senator may proceed as such.

SPEAKER WRIGHT'S STATEMENT ON CIA INVOLVEMENT IN DEMONSTRATIONS IN NICARAGUA

Mr. McCAIN. Madam President, I rise to discuss some rather bizarre events that have taken place in the last couple of days concerning statements of the Speaker of the House alleging CIA involvement with Nicaragua's internal democratic opposition.

Madam President, I have only been dealing with the issue of Nicaragua for 6 years. Many people in this body, perhaps, have been dealing with this issue for a longer period of time. But I can honestly say that I have never, ever, encountered a situation where the Speaker of the House of Representatives either does not know or does not care about the revelation of what could be classified information. And I emphasize "could be," Madam President, because I do not know if there is any truth to what the Speaker of the House had to say.

Let me point out that there are two issues involved. One is the issue of congressional ethics and rules of how we treat intelligence information in this body. The other, perhaps more compelling issue is peace and democracy in Central America: Specifically, the effect of the remarks of the Speaker of the House on those who are being held in Sandinista prisons and the ability of the remnants of the Nicaraguan internal democratic opposition to comply with the Arias peace plan to which the Sandinistas are a signatory.

Madam President, I quote from last Tuesday's AP wire story which states:

> House Speaker Wright said, "We have received clear testimony from CIA people that they have deliberately done things to provoke an overreaction on the part of the Government in Nicaragua."

Then he goes on to say:

> Agency personnel under questioning from Members of Congress said that they had sought to generate vigorous demonstrations. Agents of our Government have assisted in organizing the kinds of antigovernment demonstrations that have been calculated to stimulate and provoke arrest.

Madam President, I have made a very in-depth study and have searched the record, as has my staff, and I hope that members of the media are searching, to determine if there has ever been an open hearing held in this body or in the House of Representatives where any "CIA people" have stated that they have deliberately done things to provoke an overreaction on the part of the Government in Nicaragua.

Madam President, I happen to know for a fact, and let me point this out again, if there was any support provided—"if," I emphasize "if" there was any support provided by the Central Intelligence Agency or any other agency to any organization throughout the world, including in Nicaragua, it would have to receive the approval of both Intelligence Committees. Both House and Senate Intelligence Committees. So this would not be a rogue operation, which raises the issue of why the Speaker chose to make his remarks.

Mr. COHEN. Madam President, the Senate is not in order.

The PRESIDING OFFICER. Will the Senator withhold? The Senate is not in order. The Senator from Arizona is making excellent points that people should be able to hear, and if Senators could withhold their conversation.

Mr. McCAIN. Madam President, I can only draw the conclusion made by my friend and colleague from Maine yesterday before this body:

> The clear implication is that the Speaker's statement could only have derived from classified information in the possession of the House Intelligence Committee.

That statement comes from the vice chairman of the Senate Intelligence Committee.

There is a compelling reason for us to go into this matter and find out whether the Speaker of the House has compromised classified information. Such an action would have profound implications, not only on how this body does business, but, very frankly, it lends credence to those critics of the Congress who say that we cannot be trusted with any classified information. I do not know how you could arrive at any other conclusions.

Frankly, Madam President, the Ethics Committee of the House of Representatives must investigate this situation.

So we have one issue here and that is of congressional ethics and whether there has been a breach and whether information that has been given of a classified nature to both Intelligence Committees has been compromised. And I want to emphasize, I do not know. I am not a member of those committees. I do not know if that information was ever factual or true.

But if it was, then I think there is no other implication that can be drawn except that the statement has been a breach of the very important procedures which both bodies of Congress have adopted in handling classified information.

Madam President, perhaps the more important aspect of the Speaker's statement, certainly one that has much more immediate painful and tragic consequences, is the effect of his statement in Nicaragua as we speak. As we all know, the Sandinista newspapers immediately trumpeted Mr. WRIGHT's statement as affirmation of their charges that the demonstrations at Nandaime and others that are planned are all CIA ploys; that the so called "Melton plan" was put into effect during those demonstrations and that it was all a plot of the CIA. So what is happening in Nicaragua as we speak? Thirty-nine people arrested after the Nandaime demonstrations are still in jail. How do you think JIM WRIGHT's remarks affected their prospects of getting out of jail? I will tell you. The chances that they will be released have been significantly diminished.

Let me ask what impact this has on the people that I have met, people committed to freedom and democracy in Nicaragua, who care little and know nothing about the Central Intelligence Agency? Every action that they take now, the Mothers of the Disappeared, the Coordinadora, the Conservative Party, the legitimate internal opposition in Nicaragua, has been tarred by the brush of "CIA involvement." That is a tragedy after the Nandaime demonstration, Madam President, there were a number of people jailed. Let me tell you about a couple of them. It is one thing to hear that people have been jailed, it is another to know a little bit about them.

Sixty-three-year-old Myriam Arguello. Dr. Arguello is the Conservative Party Secretary General. She is in dangerous condition: circulatory problems and deteriorating motor control in arms and hands. She is allowed to get up from her bunk only when a guard is in front of her cell door. Mounting psychological pressure and phyical deterioration are leading to loss of reasoning facilities.

What kind of regime puts a 63-year-old woman in jail and treats her like that? Do we think the latest statements of the Speaker of the House are going to improve her treatment or get her out? The answer is clearly no.

Coordinadora Secretary General Roger Guevara Mena has conjunctivitis and fungal infection.

Luis Alberto Carballo, brother of Radio Catolica Directors Bismark Carballo, is suffering from a severe skin infection and is unable to walk.

Other "Nandaime prisoners" are suffering from fungal and respiratory infections and nutritional deficiencies.

Prisoners are not receiving medical attention for these problems.

What Speaker WRIGHT of the House has done is to condemn these and the other 9,000 political prisoners in Sandinista jails to harsher punishment. He has undoubtedly condemned other Nicaraguan politicians to imprisonment and long jail sentences.

Madam President, the Speaker of the House owes the American people an explanation. I had hoped that we were striving toward achieving some degree of bipartisanship on this issue. The next administration, I believe, is going to have to approach this issue from an aspect of bipartisanship if it expects to make any progress on this issue.

What has been done by the Speaker of the House, in my view, is very damaging to that effort. But more importantly, how can the internal opposition, the people that are struggling for compliance with the Arias Peace Plan—which the Speaker of the House claims he supports—how can they possibly carry on peaceful opposition? How can they exercise the rights guaranteed them by the Sandinistas in 1979 and reaffirmed by the Arias Peace Plan, if the Speaker of the House of Representatives is saying that they are CIA-funded and sponsored?

These are unarmed, peaceful men and women who are struggling for freedom and democracy. They deserve our respect, our appreciation, and our support. They do not deserve blame for trying to exercise the right guaranteed them. I hope that the American people will demand not only an explanation by the Speaker of the House, but an apology to the Nicaraguan internal opposition for his statements.

Madam President, I yield the floor.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINIMUM WAGE RESTORATION ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Madam President, I again reiterate what the distinguished Republican leader said. I am prepared to go to amendments and have votes up and down on them, but I want to do what is fair. I think what has kept this at a stalemate is because there is a lockup on the amendments where literally only Democratic amendments can come up.

I would be very much in favor of moving to Simon on the Democratic side and then moving to Thurmond over here, or Boschwitz, or any number of other amendments, or I will call up one of mine because I have a number of amendments that are germane, that are reasonable that I think many on both sides of the aisle would like to vote for, and I would like to bring them up. But I think that is the way to move on this matter.

We can set aside the two conflicting amendments, the two amendments on training wage where we have so much difficulty. We have done that many times in many ways in this body, so why not do it here? That way we can have some votes; we will know where people stand. We could have some very substantive things brought to the floor. We can have debate on the amendments themselves. It would save time and, who knows, we might be able to resolve this matter through that process.

But as long as the distinguished Senator from Massachusetts is going to insist that only Democratic amendments come up or that we have to have a vote first on his amendment, then, it seems to me, most Republicans have to say that is not fair, especially on something this important.

Like I said earlier, this is not a perfect bill. There is a lot of desire on this side of the floor to amend it or at least have a crack at amending it, which is the American democratic way. Certainly the way of the Senate.

Mr. NICKLES. Will my friend yield for a question?

Mr. HATCH. I will be delighted to yield.

Mr. NICKLES. When you talk about the desire to bring up amendments, I know the Senator is aware of the fact that myself, Senator ARMSTRONG and, I believe, the Senator from Utah himself, are interested in trying to do an amendment dealing with homework and eliminating the Department of Labor's prohibition on several categories of homework.

Would he agree that is an appropriate amendment to the Fair Labor Standards Act?

Mr. HATCH. It really is, but I also have to point out to my good friend and colleague, that is probably one of the reasons they do not want amendments, because they are afraid that the amendment will pass because it makes some inestimable logic and sense.

Mr. NICKLES. The amendment is an amendment to the Fair Labor Standards Act. I do not think we have had the Fair Labor Standards Act on the floor of the Senate for some time. It is an appropriate, germane amendment which hopefully we will deal with very soon.

Mr. HATCH. That is right. The reason I am really concerned about what is going on here is because if they do invoke cloture, that amendment is going to come up postcloture, and we are going to vote on it one way or the other. So why delay voting on it? Why do we not bring it up now? Why not let us go with an amendment first? We will temporarily set these amendments aside and bring up the homework amendment. It is a legitimate issue on the Fair Labor Standards Act that many on both sides would like to see passed and many, on both sides, would like not to see passed, too, I suppose, as they continue to do what organized labor wants them to do.

It would be the appropriate, decent thing to do. That is what is involved here, not a filibuster, but it is a desire to bring up amendments. As long as the amendment tree is locked up and we are only going to have Democratic amendments, the only thing the minority can do is to say, well, then, let us go ahead until there is fairness on both sides.

It is one thing to be in the majority. It is another thing to assert the rights of the majority in an excessive way, and that is what is being done on this particular bill. I really think something ought to be done about that. But, in any event, I want to make the point we are open. We would be delighted to go from amendment to amendment, alternating between sides, being fair to both sides, win or lose with regard to amendments on both sides. It seems to me it is an intelligent, decent way to do it. I would like to do it that way. I would like to move ahead. I would like to have full-scale debate on these important issues.

This side is interested in cooperating, but let us be fair. Let us not lock up the tree and not allow anything that the other side does not want because it might be embarrassing to some Senators in an election year. There are things that they can bring up, too. So what? That is what this body is all about. I think we ought to stand up and face those problems and if we have to vote on some tough issues, that is OK.

This is an important issue. These germane issues in particular are important amendments but sooner or later we are going to vote on this. If it is postcloture, then count on 50 or 60 votes before we get through with this bill. I am not throwing threats out there because I am not the type to do that. If I say I am going to do something, I am going to do it, no matter how tough or difficult it may be, and it may mean all-night sessions. That is OK. I have been through those before. But people are going to stand up and they are going to vote if only on a motion to table and we are going to see how dedicated we are to stamping out what really are some pretty good amendments around here. That is my suggestion.

THE NURSING HOME INDUSTRY AND ITS MEDICAID REIMBURSEMENT

Mr. DOLE. Mr. President, I would like to bring to the attention of my colleagues and the floor managers of S. 837 the ramifications that a minimum wage increase will have on an important Federal entitlement program—the Medicaid Program. Almost one-half of Medicaid dollars are spent on long-term care, mostly for the elderly, and an increase in minimum wage will affect all health care providers.

Nursing homes, in particular, are large employers of minimum wage workers. They employ significant numbers of nurse aides who provide direct, hands on care to nursing home patients. Nursing salaries are the largest component of Medicaid reimbursement—in fact, labor costs account for about 60 percent of all nursing home costs. Should the Congress agree to any mandated increase in the minimum wage, some modification in Medicaid rates should be considered by the States.

Mr. HATCH. Mr. President, I think it is also important to note that unlike other businesses, the nursing home industry is unable to reduce its labor force to accommodate an increase in minimum staffing requirements. Moreover, nursing home staff care for patients who are older and sicker than ever before, making reductions in nursing staff virtually impossible.

Perhaps it would have been desirable to modify the nursing facility reimbursement language under Medicaid during consideration of the minimum wage bill pending before us to ensure that States specifically recognize increased minimum wage levels in calculating their Medicaid rates to nursing homes. However, we recognize that to do so would involve an amendment to the Social Security Act, which is clearly not germane to the minimum wage bill amending the Fair Labor Standards Act.

Such an amendment also would have created a jurisdictional problem between the Labor and Human Resources and the Senate Finance Committee in the Senate and the Education and Labor and the Energy and Commerce Committee in the House.

Mr. MITCHELL. As chairman of the Senate Finance Subcommittee on Health, I share your concern about the impact on the nursing home industry. Rates for reimbursement for nursing home care are set by the States and the Federal Government. Each individual State determines its own Medicaid payment policies, with limited supervision from the Department of Health and Human Services and its Health Care Financing Administration [HCFA]. Any increase in the Federal minimum wage may affect the nursing home industry in different ways, depending on the State involved. Therefore, it is important that the added costs of the minimum wage increase be taken into account by States when determining an appropriate Medicaid reimbursement rate for nursing homes.

Mr. DOLE. I would like to note that it is my belief that current language in section 1902(a)(13) of the Social Security Act requires as a general matter that States take into account the costs that nursing homes must incur to provide care and services mandated by Federal law. Although the Fair Labor Standards Act is not referred to specifically in that provision, there should be little doubt that a change in the minimum wage would fall within its scope. I think we want to ensure that States do take into account changes in the Fair Labor Standards Act relative to Medicaid reimbursement.

Mr. MITCHELL. The nursing home industry is on record as supporting an increase in the minimum wage, but they have requested that we recognize the special burden on its industry, where reimbursable costs are extensively regulated. Major nursing home reform passed Congress in 1987 as part of the Omnibus Budget Reconciliation Act [OBRA], Public Law 100-203. This act required significant changes in staffing and training requirements, quality of care, patient services, and enforcement of new nursing home standards, at an estimated cost of $1.73 billion over 5 years. Because Congress was concerned about the ability of the nursing home industry to absorb costs of this magnitude, special language was included to ensure that the Medicaid reimbursement systems of the States were altered to cover these costs. Just as care was taken to ensure that the Medicaid reimbursement system adequately accommodated the OBRA 1987 cost increases, I believe it is fair to do so in conjunction with a new minimum wage law. The increase in the minimum wage should be taken into account in plans submitted by States to HCFA.

Mr. HATCH. We are all well aware that States now are setting Medicaid rates, not on the basis of costs incurred by facilities in providing long-term care services, but rather on State budgetary constraints. A recent survey of nursing homes nationwide indicates that in half the States, a majority of facilities do not receive Medicaid rates that cover the actual cost of providing care to their Medicaid patients. This situation will only worsen if States are not held accountable for recognizing increased labor costs that facilities will incur under this new minimum wage law.

Mr. MITCHELL. I agree with my colleague from Utah and would like to note that it is realistic to expect that in conjunction with other economic factors, the minimum wage could shift the wage cost structure for nursing homes. Averaged out across 26,000 nursing homes this could amount to $40,759 to each nursing home. Averaged across the total U.S. population of patients in nursing homes, it could be a $659 increase in the annual cost of care.

Mr. DOLE. I think we agree that the States should adequately and appropriately take into consideration the increased burden on the nursing homes' costs and readjust their Medicaid reimbursement rates accordingly.

Mr. HATCH. I appreciate the comments of my colleagues from the Finance Committee, Senator MITCHELL and Senator DOLE, and hope that States comply with current law to ensure that Medicaid payments to nursing homes reflect higher minimum wage levels mandated in this bill.

Mr. DOLE. I thank my colleagues for this clarification.

Mr. ROCKEFELLER. Mr. President, I rise today in support of S. 837, the Minimum Wage Restoration Act.

Fifty years ago, when Congress first established a national minimum wage, we dedicated the Federal Government to an important basic principle—that the absolute minimum a worker should be paid should be no less than 50 percent of average hourly earnings. Though our economy has changed considerably in 50 years, Mr. President, simple economics has not. The value of the minimum wage has shrunk. Since the last increase in 1981, the purchasing power of the minimum wage has decreased 30 percent. The 1981 minimum wage of $3.35 an hour is worth only $2.60 in today's dollars. And most appalling to me, Mr. President, is that basic welfare benefits, which have not seen significant increases in many years, today provide greater cash income than does full time work at the minimum wage.

I contend that what was a good idea in 1938 remains a good idea today. And, despite our ever changing economy, Congress has repeatedly held to the principle that the minimum wage should be approximately one-half of the average hourly wage. We reaffirmed this commitment in 1949, in 1955, in 1961, in 1966, in 1974, and finally in 1977. Unfortunately, 11 years later, we find that the value of the minimum wage has decreased so much that it represents only 36 percent of average hourly earnings. The original 1938 minimum wage of 25 cents an hour represented a greater percentage of average hourly wages than $3.35 does today.

I have to ask opponents of this measure, "What has changed since 1977 that suddenly makes an increase in the minimum wage a flawed idea?" What has happened since the last increase in the minimum wage in 1981 to make this proposal taboo? I submit, Mr. President, that the Reagan administration has happened. With the coming of Reaganomics, what was once a laudable idea was suddenly condemned by the President as having "caused more misery and unemployment than anything since the Great Depression."

I find that assessment completely unsupportable.

In China, the hourly wage for textile workers is 12 cents an hour. In Taiwan, it's $1 an hour. Mr. President, in this country, the minimum wage has helped ensure that workers no longer have to labor dawn to dusk, 7 days a week, to make a living wage on which to raise a family. The minimum wage has meant an end to working under sweat shop conditions for slave wages. And while no one would suggest that the minimum wage itself has helped bring about prosperity and a higher standard of living for our people, it certainly has played a major role in helping millions of Americans to achieve that higher standard of living.

For those of my colleagues who have noted in the last week their experiences as janitors and others employed at the minimum wage, I ask, "Without the minimum wage, would it have been as easy for you to work your way through law school, or into a better job, or into your own business?" For millions of Americans out there, beyond the Potomac River and the bounds of the Capital Beltway, I believe the answer to that question is "No."

Over the past week, opponents of a minimum wage increase have told us that the poor are not working minimum wage jobs, that only teenagers of upper-income class families work minimum wage jobs, and how no one really believes family incomes actually depend on the minimum wage. In reality, however, the statistics paint a far different picture. Teens make up only one-fourth of those earning less than $4.55. Of a total of 15 million hourly workers making $4.55 an hour or less, nearly 4 million are heads of households, and over half of these are working full time heads of households.

In my State of West Virginia, where unemployment is already higher than the national average, and where many counties still experience 18, 19, and even 20 percent unemployment, the reality is that single parents, heads of households, sometimes even both parents and their teenage children are working minimum wage jobs to bring home the family bacon. Try going up to an out-of-work coal miner who has taken a minimum wage job and is working 8 hours a day at the local 7-11 to bring home an income for his family, and tell that individual all the reasons why we cannot increase the minimum wage. The reasons will not wash.

What we know of the statistics and the history of the minimum wage is that every time Congress has acted to raise the minimum wage, opponents have predicted doom and gloom and vastly increased unemployment. What has happened in reality, however, is that employment has actually increased slightly.

Opponents try to convince us that the minimum wage increases approved in 1977 are the sole cause of runaway inflation in the 1970's. Even a person with the most rudimentary understanding of economics knows our Nation's economy is much more complex than that and that a great number of issues came together to cause our economic problems. You cannot blame that on the minimum wage.

The statistics that I have seen on our economy today show that, as we come to the end of the Reagan era, inflation is already beginning to creep upward—and we have not had a minimum wage increase since 1981.

Even with my support for the minimum wage, I am willing to address the concerns of American business. West Virginia relies heavily on small businesses, especially, and I certainly have no desire to ignore their concerns. Amendments that have already been offered to increase tip credits, institute a training wage, or expand the subminimum wage for students are all worthy of the Senate's consideration if they will relieve the financial burden on employers.

Mr. President, every year we pass increase after increase in programs that provide income security to farmers, veterans, and older Americans. I am a member of the Finance Committee, which oversees Social Security, and of the Veterans' Affairs Committee, and I strongly support these increases, as do most of my colleagues in this body, because we have agreed that these are segments of our society that both need and deserve the extra income protection that these increases provide. But I have to ask, are the low- and middle-income wage earners—who have taken the brunt of Reagan era cuts—less entitled to some protection of their incomes? And what we are talking about here would mean absolutely no cost to the Treasury.

Mr. President, in the final analysis, this debate is not about statistics. It is about people, people who are trying to get a leg up, but cannot realistically be expected to succeed in doing so at $3.35 an hour, people who deserve the same commitment to a basic minimum wage rate that most Members of this body enjoyed when they were first entering the job market. In my estimation, $4.55 an hour is not too much to ask, especially when you consider that most of these hourly employers are already paying close to or even more than that amount.

For the most part, Mr. President, people making $3.35 an hour are not upper income kids who drive their parents' Corvette to work. If they are teenagers at all, then they are college students trying to work their way through college with less available financial aid from the Government than ever before. Or they are high school students trying to save for college. More likely, though, they are heads of households who cannot find a job at better wages and are trying to provide for their families without going on welfare.

There is no good reason not to continue the same commitment to maintaining a Federal standard for wage stability that Congress has supported for 50 years. We should increase the minimum wage.

Mr. MATSUNAGA. Mr. President, I rise to add my voice in support of S. 837. It is clear that the time has come to increase the Federal minimum wage. The minimum wage has been stuck at $3.35 an hour for over 7 years, while the cost of living has risen more than 29 percent. This disparity has resulted in a situation where a worker who is employed full-time at a minimum wage job earns less that $7,000 a year. An income of $7,000 is less than three-fourths of the amount necessary to lift a family of three out of poverty. I believe that we must maintain the principle of the original Fair Labor Standards Act to establish a wage floor which enables full-time wage earners to live in health and decency.

Mr. President, aside from pure fairness, payment of a living wage makes strong economic sense. There are broad socioeconomic benefits that come with better pay, such as less welfare dependency and greater family stability. If we are to meet the fundamental challenge of improving the quality of our work force, we simply must begin to invest in human resources to a greater degree than hitherto. In my judgment, the legislation under consideration is a reasonable and very modest effort to do just that.

The fact of the matter is that after nearly 8 years of relative neglect by the Reagan administration, human resource problems in this country have festered. The number of Americans who work and live in poverty has grown at an alarming rate. Poverty among young families now exceeds 30 percent, and nearly one-half of all children living in young families are poor. While the reasons for growing poverty are complex, there can be no question that the decline in wages, made possible in part by the dramatic decline in the real value of the minimum wage since 1981, has been a significant factor. Most of the working poor have earnings at or near the minimum wage.

The administration tries to gloss over these facts by citing substantial growth in the number of new jobs during the last 8 years. But, as the President's own Commission on Competitiveness concluded several years ago, job growth means little if it is not accompanied by the kind of human resource investment that is conducive to improving economic productivity. The reality is that we have created new jobs without providing the requisite investment in the tools and incentives to make the productivity of our work force a competitive advantage. In point of fact, U.S. productivity growth has lagged during recent years, relative to other developed countries.

Mr. President, we have heard opponents of this modest legislation argue that an increase in the Federal minimum wage will result in substantial job losses. But the preponderance of evidence does not support this claim. A number of recent studies conclude that a minimum wage increase will not cause inflation or limit new jobs because far fewer workers will be affected than has been supposed. One important reason is that previous studies which predicted substantial job losses included in their analysis States that already have raised minimum wages above the Federal minimum. There are 10 such States, including my own State of Hawaii. It is significant that unemployment has declined or remained stable in 9 of the 10 States which have raised minimum wages above the Federal minimum.

Opponents of this legislation have also argued that an increase in the Federal minimum wage will hurt U.S. competitiveness on global trade competition, due to an alleged inflationary effect. This contention is devoid of merit. As Peter Drucker and other noted amendment experts emphasize, wage levels for blue-collar workers are rapidly becoming irrelevant in world competition. It is productivity and quality, factors which are the derivatives of managerial competence, which have become the decisive factors. Make no mistake about it, Mr. President—competition in global trade will be increasingly based, not on wage differentials, but on superior productivity, technology and design innovation, as well as marketing.

Mr. President, in closing, I urge my colleagues to support legislation to increase the minimum wage. S. 837 is fair and procompetitiveness, and we should enact it this year.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Madam President, I first compliment the Senator from Utah for his efforts in trying to make the best of a bad situation. I think of the things that are issues that should be dealt with in this country such as the drug problem, and yet we seem to have a reluctance to bring in a drug bill that would give the death penalty to drug kingpins, that would make it more difficult for people to sell drugs and make drugs available to the young people in this country. We slow our feet on that.

We have judges who are waiting—39 judges is my understanding—to be sent out to work in this country in the court system. The courts are backed up. Litigants are backed up all across this country. In 39 districts in this country there is a necessity for another judge. It is amazing to me we can spend our time on something such as the minimum wage law which in this Senator's opinion is pure politics. The reality is that raising the minimum wage is not going to help the people it is said it will help but, as a matter of fact, will only cause more unemployment, will take away the opportunity for some people to reach that first rung of the ladder. Yet we tie up the Senate's time, time and time again.

The distinguished Senator from Utah, for whom I have the greatest respect, is one Senator who does understand that 2 and 2 equals 4, not 22, who does understand the economic realities. Throughout history people who have tried to repeal the law of supply and demand in the name of humanitarian good normally end up doing more harm than they do good.

So now we have a situation where we are trying to work out some kind of compromise in which we might only raise the minimum wage a little bit less than is being requested by the distinguished Senator from Massachusetts and the majority on the Labor Committee, in exchange for some kind of a differential laid out between youth and others.

I have to say that I would vote for any amendment that makes the bill less harmful for those people at the lower rung of the ladder; I would probably vote for those substitutes, but we should nevertheless continue to make the case of why raise the minimum wage at all? Why raise it at all?

The editorial pages of American newspapers, the reports from scholars, the analyses of Government departments, all say that raising the minimum wage will cause a loss of jobs, will hurt young people and minorities more than any other group and will not accomplish what the proponents say.

If that is the case, one would think this proposition should be deader than a doornail, but that is not the case. As the Senator said yesterday—and I impugn no one's motives for this—this is the way that the labor bosses can get back something from all the money they invested in the past elections, and what they want to get is the opportunity, the power to be able to ratchet up contracts all across the country for people who are not working below the minimum wage. And that will be done at the expense of those people who do not have jobs, who are underskilled, undereducated, and unfortunately in many cases undermotivated because of their environment. What they need more than anything else is an opportunity to get into the mainstream of the job market.

So in spite of the fact that all rational logic tells you that this proposition should be deader than a doornail, it is not. It is still alive and well and kicking on a Friday afternoon in the waning days of the second session of the 100th Congress.

I agree with Senator DOLE. I hope some profiles in courage will be restored on Monday or Tuesday or Wednesday, whenever it might be. Maybe more sense and more enlightenment could be seen and our colleagues will continue to vote against cloture on this proposition until we get a reasonable compromise worked out between those of us who oppose the proposition entirely and those who are pushing at the expense of those people who do not have jobs, because the fact is that the driving force behind this issue is not reality; it is not humanitarianism; it is politics.

It was recently spelled out very clearly, Madam President, by Mr. Robert Samuelson, a noted economist, when he said that most minimum wage workers are not from poor families. That is the first thing. I made that point yesterday in my brief remarks on the floor. The fact is that most minimum wage workers are not members of poor families. In fact, 70 percent come from families with incomes of 50 percent or more above the poverty line.

Only 19 percent of the minimum wage workers come from families below the poverty line and most minimum wage jobs are not held by heads of families but about two-thirds are held by young and single workers who are still part of their nuclear family unit. This may be in many cases the first job they have ever had and the best opportunity they have ever had to be able to move forward in the income stream and to learn the dignity of work and learn the discipline that goes with work and learn they can have the same opportunities of higher paying jobs that others in America have.

Those points bring me to want to refer to an article that was written by Ralph Smeed in the Idaho Press-Tribune about the minimum wage, Madam President.

The article points out something—I want to quote a few points from it because I think it is interesting—

> If you've ever watched the way food items, burgers for instance, are put together at a fast-food outlet, you know it is pretty mechanical; that is, the same movements are repeated over and over as the product is assembled and sold. It's minimum wage, rote-type work—ideal for teenagers.
>
> Well, researchers at a univeristy in Wisconsin are developing a robot that may someday be capable of replacing the kids on the fast-food line. It's just a matter of when, not if. Burger King, for example, already has automatic broilers that eliminate burger flippers.
>
> Anyway, you can bet that if the minimum wage is raised very much, if at all, there will be a mad scramble by companies to replace those higher-priced kids with computers and robots that are basically one-time expenses.

Madam President, this is back to the point that I was making that minimum wage jobs are not typically held by heads of families. About two-thirds are held by young and single workers. Most workers do not get stuck with minimum wage jobs. Two-thirds are part-time jobs. Since 1980, the proportion of workers receiving the minimum wage has fallen from 11 percent to 4 percent. The proposed minimum wage increases will result in the loss of jobs.

I say that again. Minimum wage increases always result in the loss of jobs for those people at the lowest rung of the ladder. There are better ways to help the poor. One of those ways is what we did in 1986. That was if they do not make above a certain amount of money they are not required to pay Federal income taxes. That is a much better way to try to help them. Probably an earned income tax credit would also be a better way. But these facts clearly show that the minimum wage doctors here are trying to operate on the wrong patient. That is what it really shows. People who think they can solve the economic problems by doing some surgery on the minimum wage are operating on the wrong patient.

What needs to be done is to continue to let the economy grow, help the economy grow, and keep the Government out of the way as much as possible, keep tax rates at the lowest possible level, allow employers to hire more people to work for them, and provide more opportunities for more people to work.

Keep this in mind. Youth unemployment is at its lowest level since the 1970's. Black teen unemployment is at the lowest level since it was separately tracked in 1972.

I am not saying that those levels are not still unacceptably high but I think in this world we live in we always have to ask, compared to what?—13.6 percent for all teenagers, and 28 percent for black teenagers are still at levels which, if applied to the adult population, would give rise to calls for emergency action to deal with the crisis.

So what is the congressional response? That is the question. I think if someone were looking in on Congress, after having been asleep for some 100 years, to see what Congress was doing, they looked at Congress' current effort to pass legislation that will increase youth unemployment, they would think we were crazy. They would say, "you mean you have overall youth unemployment of 13.6 percent and you are preparing to pass legislation which would increase unemployment for young people in this country?" They would say what in the world has Congress done, taking leave from its senses?

I said that the 100th Congress will probably go down in history as one for which some historians will question the sensibilities, and rightfully so because of the legislation that we have passed or we have failed to pass and is more urgently needed at this time. But for this Congress to be passing legislation which should properly be called the Youth Unemployment Act of 1988—that would be a better name for this legislation than whatever the name is on it. It would be closer to truth in labeling. Of course Congress is known for the fact that Congress does not normally apply the laws it passes for the American people to Congress. Certainly we do not apply truth in labeling to the legislation we pass because the effects of raising the minimum wage law are clear, and simply bad. It is going to increase youth unemployment in the United States of America.

So the proper name for this should be another one of the 100th Congress' masterpieces, to increase unemployment for the youth of America. That is really what this is all about.

Madam President, I can go on and on here. But I am reminded of one of my favorite books, "The Law," by Frederic Bastiat, and I want for the RECORD to give a couple of quotes from Mr. Bastiat. He was a French economist and philosopher. Frederic Bastiat, 1801-1850, was a French statesman and author. He did most of his writing during the years just before and immediately following the revolution in February 1848. This was the period when France was rapidly turning to complete socialism.

As a deputy to the legislative assembly, Mr. Bastiat was studying and explaining each Socialist fallacy as it appeared, and he explained how socialism must inevitably degenerate into communism, but most of his countrymen chose to ignore the logic.

This little book was first printed in the United States in 1950 when it was 100 years old. The book, "The Law," was translated by Dean Russell, of the Foundation for Economic Education in Irvington, NY, and his objective was an accurate rendering of Mr. Bastiat's words and ideas into 20th century English. I want to quote one paragraph.

> Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make the laws in the first place. What then is the law? It is the collective organization of individual rights to lawful defense.

So we have a system in this country that is protected by the Constitution. We have a system of law. But somehow politics creeps in and violates the laws of reason. What is good politics 2 or 3 weeks before an election, what may have the ring of good politics as being humanitarian, has exactly the opposite impact. Bastiat describes this as—

> The law perverted and the police powers of the state perverted along with it. The law, I say, not only turned from its proper purpose but made to follow on an entirely contrary purpose. The law becomes a weapon of every kind of greed. Instead of checking crime, the law itself is guilty of evils it is supposed to punish. If this is true, it is a serious fact, and the moral duty requires me to call the attention of my fellow citizens to it.

That is the way Mr. Bastiat started his book. That was his opening paragraph. It is so applicable to what is happening here today when Congress proposes to decide arbitrarily for two citizens in this country: one who wants a job, and one who needs someone to work for him. They agree that they will voluntarily accept that employment for a certain wage, but the Government is made to intervene and supposedly make things better.

So then the Government intervenes to somehow set the wage—at a rate that is too high for the employer to give the person the job. So what happens is the employer either finds a machine to take the worker's place, or he does not hire anyone. He does the work himself, or he has some current employees work a little bit longer. He cannot take the extra effort to give that worker the opportunity to enter the job market, and to make that first step up the long line of the ladder.

(Mr. ADAMS assumed the chair.)

Mr. SYMMS. The fact of the matter is, during the time of the industrial revolution here in the United States, one of the greatest expansions of economic growth in the history of mankind was taking place here in this country with the greatest opportunities. Most immigrants came to this country and literally worked themselves up out of the ghetto. There was no minimum wage law interfering with their opportunities to work their way up the economic ladder. Oftentimes the whole family worked, a father worked for 20 cents an hour, a mother worked for 10 cents an hour, and the children worked for 5 cents an hour. They pooled their resources. And in example after example, a very short time from the time that they had left Europe and come to the United States these families had become professional engineers, lawyers, doctors, educators, coming from the children and grandchildren of that family. They did it without the interference and the intervention of the Government.

One of the reasons we are spared today from the folly of some of the legislative process and the great damage it might do, or that it does, and we often do not realize how bad it is, because there is enough freedom and enough private ownership—enough capitalism—to offset the folly of Congress trying to use the law to protect certain special interests. The callous disregard for the rest of our society by those groups who are willing to get a law passed that they can use to lever higher labor contracts, or whatever it may be, amazes me. They just go back and show their people they got this law passed at the expense of another group of people who are least able to fight off the competition of machines or the competition from other forces, and that's all they want.

We should go back and think again what happens to the young person who might be able to get a job today, whether it be sweeping out a drugstore in Wenatchee, WA, or working at a McDonald's restaurant in Sanduski, OH, or somewhere in Idaho, for a minimum-level entry wage. It would be the first job in many cases that young person had and the first opportunity to earn money. But, small as it may be, it would be an opportunity to earn money on their own. But, small as it may be, it would be an opportunity for them to enter the job market.

That is the difference—the ideological benchmark as to what the myths and realities are of this legislation. The purpose of this legislation, in my view, is only politics. Most of the arguments to increase minimum wage have never risen above the lowest level of rhetoric.

The purpose of this legislation, supposedly, is "to restore the full measure of dignity to all minimum wage workers in America." That is what it says. But how raising the minimum wage accomplishes this has never been made clear.

There are several rigid ideological benchmarks that must be met. First, the minimum wage must be at least as high as the poverty level; second, it must be at least half the level of average wages, and third, keep pace with inflation.

I suggested that maybe we should have an amendment here. The other day, I suggested on the floor that half of the average income in the country would be $8.80 an hour. Why do we not raise it to that, if we want to be humanitarian? The distinguished chairman of the committee, the Senator from Massachusetts, said that is an insult to the intelligence of the Senate. If that is an insult to the intelligence of the Senate, then all of this legislation is an insult to the intelligence of the Senate.

The point being missed here is that this legislation should be called the Youth Unemployment Act of 1988, because that is exactly the impact it will have. That drugstore owner in Wenatchee, WA, if he has to pay someone $4.55 an hour to sweep out the store, will probably decide to sweep it out himself. If he is going to sweep the drugstore out himself, he will not hire the young person who might have had an opportunity to get the job.

Mr. President, there are still many more things in many areas that I would like to discuss with respect to this legislation—the poverty myth which I have already mentioned. I believe that some 70 percent of the people who take minimum-wage jobs come from families of 50 percent or more above the poverty line; only 19 percent of people from families below the poverty line. Most minimum-wage jobs are not held by heads of families; about two-thirds are held by young and single workers.

These arguments have all been made before. They have been tested throughout history by trial and error. It is very interesting that those countries that have left people free, the most free, to operate and to own property, and let the Government just be a referee, to try to keep one special-interest group from taking advantage of another, have had the best success toward doing the most to abolish poverty and sickness and turn the lights on where it was dark and expand better transportation for their people and better opportunities in education and a better quality of life for all people.

The United States of America has done rather well at this. When we compare the quality of life of Americans with others around the world, particularly those who live in countries that do not have minimum wage laws but instead have maximum wage laws and laws to control everything—the time to go to work and whom to work for.

I think that the real question that should be asked here today is, why this legislation at all? In the midst of this economic expansion in the United States for the 70th-plus month, 17 million new jobs, better opportunities for young people to get jobs today than any other time in history, why are we even tying up the time of the Senate with this unimportant issue when we do have problems such as the courts being overcrowded, backed up litigation cases, and the U.S. Senate will not act to confirm the judges that have been nominated by the President. It is pure politics.

I know what it is. They are waiting to see if next year maybe they can appoint some liberals back to the court instead of some of the conservatives who are anticrime, who are going to be tough law and order judges. Maybe the majority party here in the Senate does not want them to get on the court because they would rather have people who do not believe in the death penalty, who do not believe in putting criminals behind bars and leaving them there without furloughs, and so forth.

SENATOR STAFFORD'S RETIREMENT

Mr. SYMMS. Mr. President, I see the distinguished senior Senator from Vermont is on the floor and is ready to seek recognition.

I might just say before I yield the floor what a personal privilege it has been for this Senator to have worked with **Bob Stafford** on the Environment and Public Works Committee for these last 7½, now almost 8 years.

I have known Senator **Stafford** previous to that when I was a Member of the House. I have had the opportunity to work with him on many, many matters of importance to my State. I have appreciated his consideration, his thoughtfulness with respect particularly to the highway program that has such a big impact in the West and all across this country and the contribution he has made to that.

He will be missed, but I wish him well. I wish him every success in his retirement. I am sure he will still be a very active person not only here in Washington but back in his State of Vermont.

We had the privilege in the Public Works Committee this morning to present our chairman emeritus, our former chairman, with a timepiece. I believe it also had a barometer for him to take on his boat in the Chesapeake Bay.

I would suggest that we could set up a reception for him on that boat at his choice of time in Lewiston, ID. That is the highest port up the Columbia River system. All he has to do is go down through the canal in Panama and up the coast, come to Lewiston, and we will have the welcoming committee out for him. We would like to see him come there, and Senator **Chafee** will even fly out to join me in that event.

On that point, Mr. President, I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask unanimous consent that I may be allowed to proceed as in morning business for not to exceed 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized for 8 minutes.

THANKS

Mr. STAFFORD. Mr. President, first of all I want to thank the very gracious Senator for his very kind remarks. It has been a great pleasure through the years to work with the Senator and I shall miss the association a great deal. And if my boat is seaworthy enough, the Senator from Vermont may attempt to get to Idaho with it. We will have to check on that.

ATMOSPHERIC CONTAMINATION—IX

Mr. STAFFORD. Mr. President, this is the ninth in a series of short speeches of which there will be 16 altogether concerning atmospheric contamination.

Scientists know that 250 years ago, the concentration of methane in the atmosphere was seven-tenths of a part per million. It now stands at 1.7 parts per million, the highest level in at least 150,000 years, and possibly longer.

This is bad news for several reasons. First, methane is a greenhouse gas and additional methane in the atmosphere speeds up the global warming trend. Additionally, methane may also play a part in the destruction of the ozone layer in the stratosphere that protects us from radiation from the sun.

The increase in the methane concentrations has been documented by analyses of ice core samples taken close to the North Pole in the Soviet Union. The increase in the last 250 years is probably due to population growth.

But the amount of methane that can be added to the atmosphere by human population growth, together with all the assorted herds of sheep and cattle and carefully tilled land, is microscopic when compared to the amounts that could be released all at once.

Each year for the last few hundred million years, at least, nature has laid aside a small fraction of biological activity as vegetable matter. This is stored in the frigid slopes of arctic tundra and other places, much like our reserves of coal, oil, and natural gas.

Some scientists now fear that the Earth is on the verge of becoming so warm that the tundra will thaw and release the stored methane over a span of only 50 or 100 years. Release of the methane at that rate would accelerate the global warming trend just as we have done by our rate of burning our coal, oil, and gas reserves.

That rate of release of methane may also play a role in the destruction of the ozone layer in the stratosphere for methane is converted into water after it rises slowly into the stratosphere. That water can provide a means for the formation of the polar stratospheric clouds that have been a catalyst in the runaway destruction of the ozone layer at the Antarctic in the stratosphere.

It would be just another example of the way we have been surprised by the unexpected in nature and in the kinds of interactions that result from atmospheric contamination.

Carbon monoxide, for example, is not usually thought of as a global climate change pollutant. It is a clear, odorless gas emitted mostly from cars and trucks. It is usually converted to carbon dioxide within minutes of leaving the tailpipe. But it is linked to climate change in an indirect manner.

The air abounds with a chemical called the hydroxyl radical, which reacts with a wide variety of other pollutants. It scavenges methane, for example, and also plays a part in the formation of acid rain.

The hydroxyl radical reacts more readily with carbon monoxide than with any of these other pollutants.

So, when carbon monoxide concentrations increase—as they have been doing as far away as the Antarctic—the series of chemical reactions which holds methane, acid rain, and smog in check is upset in a very way difficult to predict.

Scientists admit they are confounded by the atmospheric chemistry that incorporates more than 200 reactions just to convert sulphur into sulfuric acid. Thus, they have great concern over the possible reactions that could result from increased releases of methane and carbon monoxide into our global atmosphere.

Some scientists believe that methane has started to be released from the frigid Arctic already, but we will not know for sure about that for some years to come. That is not the case with carbon monoxide. Every day the volume of carbon monoxide that is released into the atmosphere of the globe grows greater.

Once again we humans are at a point of decision about whether we will attempt to control the releases of these pollutants or whether we want to gamble with the consequences of inaction.

Monday, I will discuss the two principal sources of carbon dioxide and virtually all other air pollutants as well. I refer, of course, to the automobile and the electric powerplant.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask unanimous consent to proceed as in morning business for not exceeding 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 10 minutes.

MIDEAST ARMS SALES

Mr. CHAFEE. Mr. President, last month, I prepared a statement on American security policy in the Middle East. Unfortunately, I was unable to deliver it before we recessed for the Labor Day break. Because of the important nature of this subject, I will say now what I was prepared to say then.

I rise to express my dismay over Saudi Arabia's completely understandable decision this summer to purchase an estimated $30 billion in arms from Great Britain.

I believe we must maintain a close relationship with Israel and ensure its security. I also believe that it is to our benefit to maintain friendly relations with our moderate Arab allies, such as Saudi Arabia and Jordan.

Saudi Arabia has made substantial contributions to the successful effort to bring about a cease-fire in the Iran-Iraq war. Saudi actions and Saudi equipment helps protect American lives in the Persian Gulf. The United States-Saudi relationship is an extremely important one.

And, to quote a July 11 New York Times article, "the kind of military cooperation we have had with Saudi Arabia is one of the bedrocks of our political relationship with that country."

In that vein, the eventual approval of the hotly contested arms sales to Saudi Arabia in past years was critical for three reasons. First, the Saudis face a clear threat from the radical, militaristic fundamentalism of Khomeini's Iran. This threat will undoubtedly grow as Iran's attention is increasingly diverted from its chief enemy of the last 8 years, Iraq. I believe we must back up Saudi Arabia, one of the region's strongest pro-Western countries, as it confronts Iran's violent fundamentalism.

Second, United States interests in the Persian Gulf, particularly the flow of oil to the West, mean we must have continued United States-Saudi cooperation on defense matters.

Finally, we must recognize our role as a superpower attempting to bring about stability in the Middle East. Our relationship with Saudi Arabia allows us to work with both Arabs and Israelis, and to push for the peace everyone so desires.

During a January visit to the Middle East and to the Persian Gulf, I saw first-hand how the Saudis are using AWACS and other weapons they have purchased from us in the past. They are using them to protect their country from attacks by both Iran and Iraq. They are using them to patrol the southeastern portion of the Persian Gulf, where the U.S. forces do not have adequate early warning coverage. The Saudi AWACS, purchased from the United States in 1981, have saved American lives. And no one will argue with that statement.

Nevertheless, when it came time to make a major purchase this year of more arms, the Saudis were understandably reluctant to endure a repeat performance of the humiliating 1978, 1981, and 1986 United States congressional debates.

In May 1978, the United States wished to sell and the Saudis wished to buy 60 F-15 fighters. Despite the Carter administration's assurances to Congress that these F-15's would not be equipped for air-to-ground combat and would not be stationed near Israel, it took a mammoth effort on behalf of the administration and on behalf of those of us who supported the sale to obtain approval of that sale in the United States Senate by a vote of 54 to 44. Ten votes separated that.

In October 1981, the Reagan administration sought to sell to the Saudis an arms package that included five Boeing E-3A AWACS aircraft. Although the President provided Congress with similar assurances as in 1978, the House of Representatives resoundingly passed a resolution disapproving the sale. Again, the administration was required to stage an all-out effort, and the AWACS sale squeaked by in the Senate, 52 to 48.

In February 1984, the President sent a proposal to Congress to sell 1,200 Stinger missiles and 400 launchers to Saudi Arabia. Members of Congress voiced their staunch opposition to the sale in letters to the President, and the administration withdrew the proposal a month later.

The Saudis clearly indicated that they were losing faith in the United States and were deeply distressed by the prolonged battles for the permission to buy—they wanted to buy; they did not want gifts, they did not want grants, they wanted to buy—arms from our Nation. In September 1985, the warning signs became clearer. In September 1985, it was revealed that the Saudis had purchased 64 Tornado fighter aircraft from Great Britain for $7 billion.

In the spring of 1986, the administration proposed to sell the Saudis 1,700 Sidewinder, Harpoon, and Stinger missiles. Again, this proposal ran into a hailstorm of opposition from Congress. Although the President removed the Stingers from the package, both branches voted to disapprove the sale. The President's veto of the resolution of disapproval, which thus allowed the sale to go forward was sustained in the Senate by a 1-vote margin. Thirty-four Senators voted to sustain the President's veto; 66 voted to override the President's veto. So by a 1-vote margin, the President's veto of that resolution of disapproval was sustained.

In May 1987, the President notified Congress of plans to sell to the Saudis 1,600 advanced Maverick missiles. This announcement again brought forth a violent reaction from Congress—64 Senators and 217 Representatives wrote to the administration voicing their objection. The administration heeded this overwhelming mandate and withdrew the proposal. A compromise arms package, sent to Congress in October, dropped the Maverick missiles.

This rebuff was the last straw. This year, Saudi Arabia instead found a willing arms supplier in Great Britain. The July 11, New York Times article quoted a Saudi official as saying, "We would prefer to buy weapons from the United States. American technology is generally superior. But we are not going to pay billions of dollars to be insulted. We are not masochists."

Now I ask, is the situation in the Middle East any more stable? Is Israel any safer? Are we any better off for having driven Saudi Arabia into the arms of Great Britain?

Thirty billion dollars' worth of sophisticated weaponry will soon find its way to the Persian Gulf region in spite of anything the United States Congress may say or do—and furthermore, the United States will have zero influence over how these British-built weapons are used. When the United States sold arms to the Saudis, restrictions were imposed on basing and capabilities of the weapons. That will no longer be true.

Have we fostered cooperation and strengthened our ties to countries that represent moderate forces in what is now the tinderbox of the world, the Persian Gulf area in the Middle East? Clearly, we have not.

I do not think losing out on 30 billion dollars' worth of business is exactly good for American jobs and American companies. Imagine, $30 billion. Each billion dollars in exports creates 25,000 American jobs. By tossing aside 30 billion dollars' worth of arms sales, we have lost 750,000 jobs.

Mr. President, I submit that the way we have treated our important ally, Saudi Arabia, in these arms sales has brought less stability to the Middle East, was injurious to the best interest of Israel, was harmful and will continue to be harmful to United States influence in the area, has and will cost the United States jobs, and all in all was disastrous.

The United States has been the big loser in this, Mr. President.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. CHAFEE. I thank the Chair.

The PRESIDING OFFICER. The majority leader.

PROMPT PAYMENT ACT AMENDMENTS

Mr. BYRD. Mr. President, the request I make is agreeable to the Republican leader.

I ask that the Chair lay before the Senate a message from the House of Representatives on S. 328.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 328) entitled "An Act to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act Amendments of 1988".

DEFINITIONS AND APPLICATION

SEC. 2. (a) Section 3901(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) for the purposes of determining a payment due date and the date upon which any late payment interest penalty shall begin to accrue, the head of the agency is deemed to receive an invoice—

"(A) on the later of—

"(i) the date on which the place or person designated by the agency to first receive such invoice actually receives a proper invoice; or

"(ii) on the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or performance of the services is actually completed, as the case may be, unless—

"(I) the agency has actually accepted such property or services before such 7th day; or

"(II) the contract (except in the case of a contract for the procurement of a brand-name commercial item for authorized resale) specifies a longer acceptance period, as determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed; or

"(B) on the date of the invoice, if the agency has failed to annotate the invoice with the date of receipt at the time of actual receipt by the place or person designated by the agency to first receive such invoice.".

(b) Section 3901(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) a payment is deemed to be made on the date a check for payment is dated or an electronic fund transfer is made.".

(c)(1) Section 3901 of such title is further amended by adding at the end the following new subsection:

"(c) This chapter, except section 3907 of this title, applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.".

(2) Section 410(b) of title 39, United States Code, is amended by inserting after paragraph (8) the following new paragraph:

"(9) Chapter 39 of title 31.".

INTEREST PENALTIES: ELIMINATION OF GRACE PERIODS; INCREASED PENALTIES; OBLIGATION TO PAY PENALTIES

SEC. 3. (a)(1) Section 3902(a) of title 31, United States Code, is amended by striking the second and third sentences thereof and inserting the following: "The interest shall be computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty.".

(2) Section 3902(b) of title 31, United States Code, is amended by striking out the second sentence.

(b) Section 3902 of such title is further amended by redesignating subsections (c) through (e) as subsections (e) through (g), respectively, and by inserting after subsection (b) the following new subsections (c) and (d):

"(c)(1) A business concern shall be entitled to an interest penalty of $1.00 or more which is owed such business concern under this section, and such penalty shall be paid without regard to whether the business concern has requested payment of such penalty.

"(2) Each payment subject to this chapter for which a late payment interest penalty is required to be paid shall be accompanied by a notice stating the amount of the interest penalty included in such payment and the rate by which, and period for which, such penalty was computed.

"(3) If a business concern—

"(A) is owed an interest penalty by an agency;

"(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due;

"(C) is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

"(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty,

such business concern shall be entitled to an amount equal to the sum of the late payment interest penalty to which the contractor is entitled and an additional penalty equal to a percentage of such late payment interest penalty specified by regulation by the Director of the Office of Management and Budget, subject to such maximum as may be specified in such regulations.

"(d) The temporary unavailability of funds to make a timely payment due for property or services does not relieve the head of an agency from the obligation to pay interest penalties under this section.".

(c) Section 3902 (as amended in subsection (b) of this section) is further amended by adding at the end thereof the following new subsection:

"(h)(1) This section shall apply to contracts for the procurement of property or services entered into pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714b(h)).

"(2)(A) In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), an interest penalty shall be paid to the producers if the payment has not been made by the required payment or loan closing date. The interest penalty shall be paid—

"(i) on the amount of payment or loan due; and

"(ii) for the period beginning on the first day beginning after the required payment or loan closing date and ending on the date the amount is paid or loaned.

"(B) As used in this subsection, the 'required payment or loan closing date' means—

"(i) for a purchase agreement, the 30th day after delivery of the warehouse receipt for the commodity subject to the purchase agreement;

"(ii) for a loan agreement, the 30th day beginning after the date of application for such loan;

"(iii) for refund of amounts received greater than the amount required to repay a commodity loan, the first business day after the Commodity Credit Corporation receives payment for such loan;

"(iv) for land diversion payments (other than advance payments), the 30th day beginning after the date of completion of the production adjustment contract by the producer;

"(v) for an advance land diversion payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer;

"(vi) for a deficiency payment (other than advance payments) based upon a 12-month or 5-month period, 91 days after the end of such period; or

"(vii) for an advance deficiency payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer.

"(3) Payment of the interest penalty under this subsection shall be made out of funds available under section 8 of the Act of June 29, 1948 (15 U.S.C. 714f).

"(4) Section 3907 of this title shall not apply to interest penalty payments made under this subsection.".

PAYMENTS FOR DAIRY AND CERTAIN OTHER PRODUCTS

SEC. 4. Section 3903(4) of title 31, United States Code, is amended to read as follows:

"(4) for the acquisition of dairy products (as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), the acquisition of edible fats or oils, and the acquisition of food products prepared from edible fats or oils, provide a required payment date of not later than 10 days after the date on which a proper invoice for the amount due has been received by the agency acquiring such dairy products, fats, oils, or food products;".

PERIODIC PAYMENTS UNDER PROPERTY AND SERVICE CONTRACTS

SEC. 5. Section 3903 of title 31, United States Code, is further amended—

(1) by redesignating paragraph (5) as paragraph (7); and

(2) by inserting after paragraph (4) the following:

"(5) require periodic payments, in the case of a property or service contract which does not prohibit periodic payments for partial deliveries or other contract performance during the contract period, upon—

"(A) submission of an invoice for property delivered or services performed during the contract period, if an invoice is required by the contract; and

"(B) either—

"(i) acceptance of the property or services by an employee of an agency authorized to accept the property or services; or

"(ii) the making of a determination by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract;".

INTEREST PENALTIES ON PROGRESS PAYMENTS AND RETAINED AMOUNTS UNDER CONSTRUCTION CONTRACTS

SEC. 6. Section 3903 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "The Director";

(2) by inserting after paragraph (5) (as added by section 5) the following new paragraph:

"(6) in the case of a construction contract, provide for the payment of interest on—

"(A) a progress payment (including a monthly percentage-of-completion progress payment or milestone payments for completed phases, increments, or segments of any project) that is approved as payable by the agency pursuant to subsection (b) of this section and remains unpaid for—

"(i) a period of more than 14 days after receipt of the payment request by the place or

person designated by the agency to first receive such requests; or

"(ii) a longer period, specified in the solicitation, if required to afford the Government a practicable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract; and

"(B) any amounts which the agency has retained pursuant to a prime contract clause providing for retaining a percentage of progress payments otherwise due to a contractor and that are approved for release to the contractor, if such retained amounts are not paid to the contractor by a date specified in the contract or, in the absence of such a specified date, by the 30th day after final acceptance;"; and

(3) by adding at the end of such subsection the following new subsection:

"(b)(1) A payment request may not be approved under subsection (a)(6)(A) of this section unless the application for such payment includes—

"(A) substantiation of the amounts requested; and

"(B) a certification by the prime contractor, to the best of the contractor's knowledge and belief, that—

"(i) the amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

"(ii) payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this chapter; and

"(iii) the application does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

"(2) The agency shall return any such payment request which is defective to the contractor within 7 days after receipt, with a statement identifying the defect.

"(c)(1) The contracting officer shall—

"(A) compute the interest which a contractor shall be obligated to pay under sections 3905(a)(2) and 3905(e)(6) of this title on the basis of the average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the contractor received the unearned amount; and

"(B) deduct the interest amount determined under subparagraph (A) of this paragraph from the next available payment to the contractor.

"(2) Amounts deducted from payments to contractors under paragraph (1)(B) shall revert to the Treasury.".

ADDITIONAL REQUIREMENTS OF REGULATIONS

SEC. 7. Section 3903(a) of title 31, United States Code, is further amended by striking out paragraph (7), as redesignated by section 5, and inserting the following:

"(7) require that—

(A) each invoice be reviewed as soon as practicable after receipt for the purpose of determining that such an invoice is a proper invoice within the meaning of section 3901(a)(3) of this title;

"(B) any invoice determined not to be such a proper invoice suitable for payment shall be returned as soon as practicable, but not later than 7 days, after receipt, specifying the reasons that the invoice is not a proper invoice; and

"(C) the number of days available to an agency to make a timely payment of an invoice without incurring an interest penalty shall be reduced by the number of days by which an agency exceeds the requirements of subparagraph (B) of this paragraph;

"(8) permit an agency to make payment up to 7 days prior to the required payment date, or earlier as determined by the agency to be necessary on a case-by-case basis; and

"(9) prescribe the methods for computing interest under section 3903(c) of this title.".

LIMITATIONS ON DISCOUNT PAYMENTS

SEC. 8. Section 3904 of title 31, United States Code, is amended by inserting after the first sentence the following: "For the purpose of the preceding sentence, the specified time shall be determined from the date of the invoice.".

PAYMENT PROVISIONS RELATING TO CONSTRUCTION CONTRACTS

SEC. 9. (a) Chapter 39 of title 31, United States Code, is amended—

(1) by redesignating sections 3905 and 3906 as sections 3906 and 3907, respectively; and

(2) by inserting after section 3904 the following:

"§ 3905. Payment provisions relating to construction contracts

"(a) In the event that a contractor, after making a certified payment request to an agency pursuant to section 3903(b) of this title, discovers that a portion or all of such payment request constitutes a payment for performance by such contractor that fails to conform to the specifications, terms, and conditions of its contract (hereafter in this subsection referred to as the 'unearned amount'), then the contractor shall—

"(1) notify the agency of such performance deficiency; and

"(2) be obligated to pay the Government an amount equal to interest on the unearned amount (computed in the manner provided in section 3903(c) of this title), from the date of the contractor's receipt of such unearned amount until—

"(A) the date the contractor notifies the agency that the performance deficiency has been corrected; or

"(B) the date the contractor reduces the amount of any subsequent certified application for payment to such agency by an amount equal to the unearned amount.

"(b) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract—

"(1) a payment clause which obligates the prime contractor to pay the subcontractor for satisfactory performance under its subcontract within 7 days out of such amounts as are paid to the prime contractor by the agency under such contract; and

"(2) an interest penalty clause which obligates the prime contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (1) of this subsection—

"(A) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

"(B) computed at the rate specified by section 3902(a) of this title.

"(c) The construction contract awarded by the agency shall further require the prime contractor to include in each of its subcontracts (for the purpose of performance of such construction contract) a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of subsection (b) of this section in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

"(d) The clauses required by subsections (b) and (c) of this section shall not be construed to impair the right of a prime contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions which—

"(1) permit the prime contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract, without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

"(2) permit the contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

"(3) permit such withholding without incurring any obligation to pay a late payment penalty if—

"(A) a notice conforming to the standards of subsection (g) of this section has been previously furnished to the subcontractor; and

"(B) a copy of any notice issued by a prime contractor pursuant to subparagraph (A) of this paragraph has been furnished to the Government.

"(e) If a prime contractor, after making application to an agency for payment under a contract but before making a payment to a subcontractor for the subcontractor's performance covered by such application, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the prime contractor shall—

"(1) furnish to the subcontractor a notice conforming to the standards of subsection (g) of this section as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

"(2) furnish to the Government, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (1) of this subsection;

"(3) reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (1) of this subsection;

"(4) pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and—

"(A) make such payment within—

"(i) 7 days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (5)(A)); or

"(ii) 7 days after the contractor recovers such funds from the Government; or

"(B) incur an obligation to pay a late payment interest penalty computed at the rate specified by section 3902(a) of this title;

"(5) notify the Government, upon—

"(A) reduction of the amount of any subsequent certified application for payment; or

"(B) payment to the subcontractor of any withheld amounts of a progress payment, specifying—

"(i) the amounts of the progress payments withheld under paragraph (1) of this subsection; and

"(ii) the dates that such withholding began and ended; and

"(6) be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in section 3903(c) of this title), from the 8th day after receipt of the withheld amounts from the Government until—

"(A) the day the identified subcontractor performance deficiency is corrected; or

"(B) the date that any subsequent payment is reduced under paragraph (5)(A).

"(f)(1) If a prime contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a 'second-tier subcontractor') a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the prime contractor may be ultimately liable, and the prime contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, then the prime contractor may, without incurring an obligation to pay an interest penalty under subsection (e)(6) of this section—

"(A) furnish to the first-tier subcontractor a notice conforming to the standards of subsection (g) of this section as soon as practicable upon making such determination; and

"(B) withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (A) of this paragraph.

"(2) As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the prime contractor shall pay the amount withheld under paragraph (1)(B) of this subsection to such first-tier subcontractor, or shall incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate specified by section 3902(a) of this title.

"(g) A written notice of any withholding shall be issued to a subcontractor (with a copy to the Government of any such notice issued by a prime contractor), specifying—

"(1) the amount to be withheld;

"(2) the specific causes for the withholding under the terms of the subcontract; and

"(3) the remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

"(h) A prime contractor may not request payment from the agency of any amount withheld or retained in accordance with subsection (d) of this section until such time as the prime contractor has determined and certified to the agency that the subcontractor is entitled to the payment of such amount.

"(i) A dispute between a contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to subsection (b) or (c) of this section does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

"(j) Except as provided in subsection (i) of this section, this section shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to a contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by a prime contractor or deficient subcontract performance or nonperformance by a subcontractor.

"(k) A contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under subsection (b) or (c) of this section may not be construed to be an obligation of the United States for such interest penalty. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.".

(b) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 3905 and 3906 and inserting in lieu thereof the following:

"3905. Payment provisions relating to construction contracts.

"3906. Reports.

"3907. Relationship to other laws.".

REPORTS

SEC. 10. Section 3906(a) of title 31, United States Code (as redesignated by section 9(a)(1)), is amended to read as follows:

"(a)(1) By the 60th day after the end of the fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on the agency's payment practices during that fiscal year, including a description of the extent to which those practices satisfy the requirements of this chapter.

"(2) In addition to such other information as may be required by the Director, the report required by paragraph (1) shall include—

"(A) the number, dollar value, and percentage of invoices for which interest or other late payment penalties were paid, the amount of such late payment interest and other penalties, and the reasons the interest penalties were not avoided by prompt payment; and

"(B) the number, dollar value, and percentage of invoices paid after the required payment date without payment of an interest penalty or other late payment penalty, and the reasons no obligation to pay such penalties was incurred with respect to such invoices or no amount for such penalties were included in the payments of such invoices.".

IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION

SEC. 11. (a) The Federal Acquisition Regulation shall be modified to provide appropriate solicitation provisions and contract clauses that implement chapter 39 of title 31, United States Code, as amended by this Act, and the regulations prescribed under section 3903 of such title (as amended).

(b) The solicitation provisions and contract clauses required by subsection (a) of this section shall include (but not be limited to) the following matters:

(1) Authority for a contracting officer to specify for a contract or class of contracts a specific payment period, which—

(A) in the case of payments for commercial items or services, is similar to the payment period or periods permitted in prevailing private industry contracting practices;

(B) in the case of payments for noncommercial items and services, does not exceed 30 days unless the circumstances of the procurement action is determined to require a longer period for payment and such determination is approved above the level of the contracting officer;

(C) in the case of payments for items of property or services in an amount less than the amount specified as a small purchase in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)), does not exceed 15 days after the date of receipt of the invoice, if—

(i) the contract provides for such "fast payment" terms;

(ii) title to any property will vest in the Government upon delivery (including delivery to a common carrier); and

(iii) the business concern offers appropriate warranties to furnish property or services conforming to the requirements of the contract or purchase order, if payment will be due prior to acceptance of the items or services; and

(D) in the case of progress payments under construction contracts, does not exceed 14 days, unless the solicitation specifies a longer period which the contracting officer has determined is required to afford the Government a practicable opportunity to adequately inspect the work and to evaluate the adequacy of the contractor's performance under the contract.

(2) Requirements to make periodic payments, in the case of a property or service contract which does not prohibit periodic payments for partial deliveries or other contract performance during the contract period, upon—

(A) submission of an invoice for property delivered or services performed during the contract period, if an invoice is required by the contract; and

(B) either—

(i) acceptance of the property or services by an employee of the contracting agency authorized to accept the property or services; or

(ii) the making of a determination by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract.

(3) A conclusive presumption, exclusively for the purposes of determining when an agency becomes obligated to pay a late payment interest penalty (other than under construction contracts), that the Federal Government has accepted property or services by the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is delivered or final performance of the services is completed, unless the solicitation specifies a longer period which is determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed.

(4) The limitation that the Federal Government may take a discount offered by a contractor for early payment by the Federal Government only in accordance with the time limits specified by the contractor, determined in accordance with the second sentence of section 3904 of title 31, United States Code.

(5) The requirements of section 3902(c) of title 31, United States Code.

(6) The requirements of section 3903(a)(6) of title 31, United States Code.

(7) The requirements of section 3905 of title 31, United States Code.

(c) The regulations required by subsection (a) of this section shall be published as proposed regulations for public comment as provided in section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) within 120 days after the date of the enactment of this Act.

ASSISTANCE TO SMALL BUSINESS

SEC. 12. Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) is amended by—

(1) renumbering paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) assist small business concerns to obtain payments, late payment interest penalties, or information due to such concerns, in conformity with chapter 39 of title 31, United States Code;".

CODIFICATION OF A DEFINITION PROVIDED IN AN APPROPRIATION LAW

SEC. 13. (a) Section 3903(a)(2) of title 31, United States Code, is amended by inserting "including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product," after "182(3))),".

(b) Section 2002 of the Supplemental Appropriations Act, 1984 (Public Law 98-181; 97 Stat. 1297) is amended by striking out "the terms 'meat' and 'meat food products' as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products; and".

EFFECTIVE DATES

SEC. 14. (a) The amendments made by sections 2, 3(a), 4 through 9, 12, and 13 of this Act, shall apply to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after the date of the enactment of this Act.

(b) The requirements of section 3902(c)(2) of title 31, United States Code, as added by section 3(b) of this Act, shall apply to payments under contracts awarded on or after October 1, 1989.

(c) The amendments made by section 3(c) of this Act shall be applicable with respect to all obligations incurred on or after January 1, 1989.

(d) The amendment made by section 10 of this Act shall apply to the report required by section 3906 of title 31, United States Code, for each fiscal year beginning after September 30, 1988.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, we are today taking the final steps toward sending S. 328, the Prompt Payment Act Amendments of 1987, to the President to be signed into law. Given the broad, bipartisan support for this bill—support which can best be described as overwhelming—I am confident that the President will sign this much needed legislation into law.

My colleagues will recall that I introduced S. 328 in January 1987 with some 55 cosponsors. The list of cosponsors on the bill eventually grew to 88. When taken up in the Senate in October of last year, S 328 was unanimously approved by a rollcall vote of 86 to 0. The bill enjoyed similar unanimous support in the House. The vote on final passage in the House last month was a resounding 394 to 0.

Mr. President, the impressive votes in both the Senate and House underscore our commitment to the basic principle behind the Prompt Payment Act—getting the Federal Government to pay its bills on time. For too long, foot-dragging on bill payment by Government agencies sent a very dangerous message to the business community, that the Federal Government simply was not a responsible business partner.

This shortcoming led to passage of the original Prompt Payment Act in 1982. And we did see some improvements in Government bill paying practices with passage of that measure.

However, the Prompt Payment Act has never quite lived up to its potential. Clever Government bureaucrats managed to find loopholes and ambiguities in the act to delay payment to business contractors.

The General Accounting Office studied the Government's compliance with the Prompt Payment Act in a 1986 report entitled, "Prompt Payment Act: Agencies Have Not Fully Achieved Available Benefits." The GAO found that nearly 25 percent of Government payments were still late. Moreover, GAO found that required interest penalties were seldom paid. Agency personnel routinely abused the so-called grace periods contained in the act, thereby delaying payment to vendors.

The list of abuses goes on and on, Mr. President. These shortcomings were underscored at the 1986 White House Conference on Small Business. Delegates to that conference ranked closing the loopholes in the Prompt Payment Act as one of their top priorities. A recommendation supporting corrective legislation was one of the final recommendations coming out of that conference.

The hearing record which we established on S. 328 both in the Senate Government Affairs Committee and in the House Government Operations Committee brought out testimony that again illustrated the abuses of the act and urged swift, remedial legislation. I would add, Mr. President, that testimony before both committees brought forth modifications to S. 328 which I believe greatly enhanced the bill.

As such, S. 328 goes very far in addressing the different short-comings in the Prompt Payment Act. The bill eliminates the various grace periods currently in the Prompt Payment Act. These grace periods were originally intended to provide transitional relief to Government agency in adjusting to the Prompt Payment Act. Unfortunately, Government bureaucrats abused these grace periods and used them to stretch out the period for timely payment on contracts. The elimination of these grace periods will help expedite such payments.

The bill also addresses the problem of nonpayment of interest penalties. My colleagues will recall that under the Prompt Payment Act, if a Government agency is late in paying its bill it must also pay an interest penalty. Yet, as I have noted very few of such interest penalty payments are being made. Indeed, the GAO report found that only 1 in 6 of such payments due is actually made.

To correct this problem, S. 328 entitles a contractor to an additional interest penalty payment prescribed by the Office of Management and Budget in such cases. I believe this will provide both the additional incentive and the necessary oversight for Government agencies to comply with the interest penalty provision already in the law.

My colleagues will recall that one of the major provisions in S. 328 deals with applying the provisions of the Prompt Payment Act to subcontractors. This is an issue which we wrestled with for some time in the Senate. We modified our language on this matter several times in an effort to provide responsible relief to subcontractors. Our colleagues in the House have further modified our provisions on this point and have come up with language which I believe addresses the problems of subcontractors while balancing the needs and concerns of prime contractors.

Mr. President, these are just are few of the highlights of S. 328. I would ask unanimous consent that a section-by-section analysis of the bill be included in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SASSER. Final passage of this measure marks a great day for all companies which do business with the Federal Government—especially small business. With passage of S. 328, we are one step closer toward guaranteeing that the Federal Government pays its bills on time. I urge my colleagues to support final passage of this measure.

Mr. President, I note I have been joined here on the floor by the distinguished manager of this bill on the other side, Senator TRIBLE, who has rendered yeoman's service in bringing this bill to the floor, on its passage once before through this body.

I wish to commend him for his diligent efforts, for his strong support, and for his sensitivity to the needs of the small business community of this country.

I yield now to my distinguished colleague for any statement or additions he might wish to make.

EXHIBIT 1

S. 328, THE "PROMPT PAYMENT ACT AMENDMENTS OF 1988"

S. 328 proposes a series of needed amendments to the Prompt Payment Act of 1982, Public Law 97-177. The Act was passed by Congress in 1982 to improve the Government's dismal record of untimely payments. After four fiscal years of experience under the Act, oversight hearings conducted by the Senate and House during the 99th Congress, supported by a GAO report requested by the House Committee on Government Operations, confirmed that further Congressional action would be needed if the Act's purposes were to be attained. The 1986 White Hosue Conference on Small Business adopted, as Recommendation No. 32, a resolution calling for a statutory strengthening of the Prompt Payment Act and its vigorous implementation against the procuring agencies. Remedial legislation, S. 2479, was passed by the Senate in the closing days of the 99th Congress, but not acted on by the House prior to adjournment.

S. 328 was introduced on January 20, 1987 by Senators Sasser and Trible, joined by 55 original cosponsors. Hearings were held by the Committee on Governmental Affairs on March 19, 1987. On May 19, 1987, the Committee considered S. 328 and reported it unanimously by voice vote. It was passed by the Senate on October 9, 1987 (86-0).

S. 328 was referred to the House Committee on Government Operations and its Subcommittee on Legislation and National Security. Subcommittee hearings were held on March 17 and 23, 1988. An amendment in the nature of a substitute was unanimously reported by the Subcommittee on April 27, 1988. The substitute made a number of important modifications to the Senate-passed bill, while retaining its overall thrust and structure, as well as most of its provisions in their Senate-passed text. The bill was unanimously ordered reported by the Committee on June 9, 1988. S. 328 was passed by the House on July 26, 1988 (394-0).

As passed by the House, S. 328 will:

(a) clarify the starting point of the Act's "payment clock" by more clearly defining "receipt of invoice"; require the Government to announce prior to contract if formal "acceptance" will take longer than 7 days from the date of actual delivery of goods or performance of services by the contractor; require the Government to recognize the date of the invoice as the invoice receipt date, if the agency fails to annotate the invoice with the actual invoice receipt date;

(b) make explicit the Act's intent that late payment interest penalties be paid automatically; provide for increased penalties in the event that agency personnel attempt to withhold a late payment interest penalty due to a contractor; require the issuance of a notice to accompany any payment that include a late payment interest penalty, specifying the rate and period used to compute the penalty.

(c) eliminates the fifteen-day "grace period", during which the Act allows the Government to pay late without incurring a late payment interest penalty;

(d) reduce from 15 to 7 days the time available for an agency to return a defective invoice to a contractor;

(e) clarify the Act to prohibit the Government from taking "early payment" discounts after the expiration of the contractor's specified discount period;

(f) clarify the Act with respect to its application to payments for the periodic delivery of supplies or the periodic performance of services authorized under many Government contracts;

(g) require payment of a late payment interest penalty if payments due to agricultural producers under programs administered by the Commodity Credit Corporation (CCC) are not paid by specified payment dates; make explicit the Act's application to CCC contractors;

(h) codify an amendment previously enacted which incorporated poultry food products, eggs and perishable egg products within the definition of meat food products, for which the Act specifies payment terms of 7-days or less;

(i) establish a 10-day payment term for dairy products, and food products prepared from edible fats or oils;

(j) make explicit the Act's application to construction contract progress payments, and extend the Act to cover the late disbursement of amounts retained by the Government during the performance of a federal construction contract, after the project has been accepted;

(k) require a construction contract progress payment request to a procuring agency be accompanied by substantiation of the amounts requested and a certification to make certain that the Government is paying only for work peformed; require a contractor to pay interest to the Government on unearned progress payment funds in the contractor's possession due to the discovery of a performance deficiency after the contractor has received payment from the Government, unless the funds are deducted from the next progress payment request to the Government;

(l) require construction contractors to include a payment provision in their agreements with their various subcontractors, providing for payment within 7 days after the prime contractor's receipt of payment from the Government; require the payment of a late payment interest penalty to the subcontractor at the same rate applicable between the prime contractor and the Government, if the prime contractor does not make payment in accordance with its subcontract; require the flow-down of the payment and interest provisions to lower-tier subcontractors; require a subcontractor be furnished a notice of any withholding of payment by the prime contractor;

(m) make explicit the Act's coverage of contractors selling to the US Postal Service;

(n) improve the Act's reporting requirements to assure that Congress receives from OMB an accurate and complete picture of the Act's implementation by the various agencies; and

(o) require the implementation of the Act through the Governmentwide Federal Acquisition Regulation (FAR).

Mr. SASSER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. There are now 30 minutes of debate equally divided.

The Senator from Virginia.

Mr. TRIBLE. I thank the Chair. I thank my colleague from Tennessee for his kind words, and I applaud his leadership on this issue. I have enjoyed working with him.

Mr. President, today the Senate has the opportunity to give final approval to S. 328, the Prompt Payment Act Amendments. This measure corrects problems and loopholes associated with the original act and ensures that the Federal Government pays its bills on time. In short, S. 328 makes good law better. I sponsored the original prompt pay amendments which the Senate unanimously passed in the 99th Congress and was pleased to join with my colleague, Senator SASSER, in support of today's efforts.

The Prompt Payment Act of 1982 first established bill-paying procedures for the Federal Government. While that act greatly improved payment practices, delays in payments to contractors providing goods and services to the Federal Government remain. Late payments are unfair to those people doing business with the Federal Government and they are particularly devastating to the small businessman and woman.

S. 328 revises the 1982 act, improving bill-paying practices and ensuring timely payment by the Federal Government. The Prompt Payment Act amendments will eliminate redtape, complicated procedures, and delay. Confusion and late payments are replaced with clear, efficient payment procedures coupled with strong incentives to make payments to contractors in a timely manner.

During its consideration of this measure, the House of Representatives made several important modifications. Mr. President, I support these modifications wholeheartedly.

This legislation makes the Federal Government a responsible business partner. Contractors and taxpayers deserve nothing less.

I urge my colleagues to support this measure. I reserve the remainder of my time.

Mr. GLENN. Mr. President, I rise today in support of S. 328, the Prompt Payment Act Amendments of 1988, a bill aimed at improving the Government's record of untimely payments to its contractors. As we all know, the Government's continuing failure to meet its prompt pay obligations constitutes an ongoing and important problem for both small and large businesses.

The Committee on Governmental Affairs, which I chair, held a hearing on S. 328 on March 19, 1987. Witnesses at that hearing testified about the importance of this measure and the positive impact it will have on their cash flow, and ultimately their entire business operation. As a former businessman myself, I know just how crucial timely payment is and can therefore readily empathize with their concern. Through letters and calls to my office, many other businessmen from a wide variety of fields, have communicated a strong interest in seeing this legislation enacted.

The hearing also revealed the extent to which prompt payment problems in the construction industry affect subcontractors as well as contractors. The hearing testimony, as well as anecdotal evidence, bears out the need for the subcontractor payment provision embodied in section 7 of the bill.

Mr. President, the bill now before us, which was passed by the House on July 26, is the result of months of discussion and negotiations, and I believe that it is an excellent package. I am aware of the interest of my colleagues Senators ARMSTRONG and GRASSLEY in offering their amendment on debt collection and I certainly do not want to trivialize the significance of that issue. However, I think it is very important to note that the House has firmly and flatly rejected the establishment of an advisory commission to study debt collection. Every indication I have had suggests that the government already has the methods in place to adequately address the debt collection problem. It does not seem necessary or practical for us to establish yet another advisory commission to look at a problem that is already being dealt with. For these reasons, I do not intend to support my colleagues' amendment.

I would be remiss if I failed to note the excellent contributions of my distinguished colleagues on the Governmental Affairs Committee, Senators SASSER and TRIBLE, whose leadership, interest, and insight have been crucial elements in the success of this bill. I believe they are largely responsible for the reasonable compromise package we now have before us. Also, I am very pleased that a general spirit of compromise has pervaded the Senate's consideration of this bill and in the staff deliberations throughout the process. S. 328, as it stands, is worthy of every Senator's support. It is my hope and expectation that the President will sign this important legislation when it reaches his desk.

Mr. President, I suggest the absence of a quorum, and I ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I now ask the Chair if I may proceed as if in morning business.

The PRESIDING OFFICER. The Chair would state to the Senator that time would be charged to one side or the other since we are proceeding under a 30-minute time agreement.

Mr. SASSER. Mr. President, I yield the distinguished Senator from Rhode Island 5 minutes.

The PRESIDING OFFICER. The Senator from Tennessee has yielded 5 minutes to the Senator from Rhode Island, and the Chair grants the request of the Senator to speak as if in morning business for a period of 5 minutes. The Chair recognizes the Senator from Rhode Island.

Mr. PELL. I thank the Chair, and I thank the Senator from Pennsylvania.

MINIMUM WAGE RESTORATION ACT

Mr. PELL. Mr. President, I rise to support the proposed increase in the minimum wage. What we are considering is nothing more than a logical and deserved increase in wages for those who need it the most.

In simple terms, it is impossible to argue with the basic facts of this matter. The last increase in the minimum wage took effect in 1981. Since that time, the purchasing power of the minimum wage has decreased almost 30 percent.

My own State of Rhode Island was one of several States to recognize this disparity and successfully raised the State minimum wage above the Federal minimum in 1986. Since this rise in Rhode Island's minimum wage rate, unemployment in our State has actually decreased rather than increased.

The Labor and Human Resources Committee considered a number of studies and sources of data on this issue before moving ahead on recommending an increase.

In reviewing all of this information, it became clear to me that it was possible to support either side of this issue if you use enough graphs, charts, and columns of numbers.

I also realized that studies and graphs were not going to increase the purchasing power of the current minimum wage. We simply cannot stand here today or next week and say $3.35 is worth as much today as it was 5 years ago or even 2 years ago.

During my many years in this body I have seen countless legitimate concerns become caught-up in the cause of politics. I also know that politics does not increase the size of a persons paycheck and I ask that we consider this point in our deliberations.

I have supported this proposal in the past, I will continue to support it. We have many other issues to consider before we adjourn this year, we should vote for this modest increase in the minimum wage and move on to matters of equal importance facing this body.

COMMEMORATION OF "KRISTALLNACHT"

Mr. PELL. Mr. President, earlier this week the Senate reserved time to commemorate "Kristallnacht." I would like to associate myself with my colleagues remarks and add my own thoughts. "Kristallnacht" was the night 50 years ago the true face of nazism bared itself for the entire world to see.

On that night, Nazi storm troopers and supporters murdered over 100 Jews; 7,500 Jewish-owned businesses were destroyed, and 275 synagogues, including the synagogue in Berlin, were razed to the ground. In a single night of frenzied violence, the world was given a foretaste of Nazi brutality. Many people felt that a Rubicon had been crossed and looked to the future with grave foreboding.

I myself remember seeing the wrecked synagogue in Danzig following "Kristallnacht." I remember being arrested and taken to the Gestapo headquarters there. I remember seeing Jews with the Star of David emblazoned on their sleeves.

"Kristallnacht" was the beginning of a litany of names culminating in: Dachau, Buchenwald, Treblinka, Auschwitz. The list goes on. The names must never be forgotten. They carry with them the blood of over 6 million people murdered because of hatred, ignorance, and inaction.

What was the Western response as the Nazis began to inflict their genocidal plans upon European Jewry? We did nothing. Conferences were held, hands were wrung, but ultimately little was accomplished. It was not until 1944 that the United States finally took action to help the Jews by supporting the heroic efforts of Raoul Wallenberg. Allied inaction was, in my view, the second tragedy of the Holocaust.

It is all too easy to turn one's head or not to take action. We have seen where that can lead. I fully share the thought expressed in a quote from Dante often used by our murdered colleague, Robert Kennedy, "He who sees, stands by and does nothing, as evil is performed is just as guilty as he who performs it."

Some might say that this standard is too high, that it is too much to ask of individuals or a nation. I reject that notion. If the United States is to fulfill its destiny as a beacon of justice and freedom in our world, we as a people and we as individuals have an obligation to speak out. We have no other course but to defend the freedoms we espouse.

I believe our Nation took a significant step in this direction when we ratified the Genocide Convention, declaring genocide to be a war crime. For both philosophical and personal reasons, I view the ratification of this Convention as one of the high points in my Senate career.

In a way, it marked the completion of the work begun by my father. As the U.S. representative to the United Nations War Crimes Commission, he fought long and hard to include genocide as a war crime. I am certain that he would have been gratified to see one of his life's greatest goals finally realized.

Mr. President, "Kristallnacht" was a stepping stone on the road to the Holocaust. It is our duty and responsibility to keep the memories and lessons of that period alive in our minds in order that history may never again repeat itself.

I yield the floor.

PROMPT PAYMENT ACT AMENDMENTS

The Senate continued with the consideration of the message from the House.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Tennessee.

Mr. SASSER. Mr. President, under the provisions of the time agreement, one amendment to S. 328 is in order. I see my distinguished friend and colleague from Iowa [Mr. GRASSLEY] on the floor, and he is the principal sponsor of that amendment. So I will yield to my colleague from Iowa to call up his amendment at this time if it pleases him to do so.

The PRESIDING OFFICER. Without objection, the Senator from Iowa under the agreement is permitted to bring up his amendment, and that amendment is to be debated for no more than 30 minutes equally divided, the time to be controlled by Senators GLENN and ROTH or their designees.

AMENDMENT NO. 3280

(Purpose: To establish a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities)

Mr. GRASSLEY. I call up my amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. SASSER. Parliamentary inquiry. We now will be on the 30-minute time agreement for the Senator from Iowa, is that correct?

The PRESIDING OFFICER. The Senator is correct.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. ARMSTRONG, proposes an amendment numbered 3280.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading thus far constitute reading of the amendment in its entirety.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following: to the Panel within sixty days (d) Section 15 shall take effect on the date of enactment of this Act.

PRESIDENTIAL ADVISORY PANEL FOR COORDINATION OF GOVERNMENT DEBT COLLECTION AND DELINQUENCY PREVENTION ACTIVITIES

SEC. 15. (a)(1)(A) There is established a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities (hereafter in this section referred to as the "Panel"). The Panel shall consist of fifteen members appointed by the President in accordance with subparagraph (B).

(B) The President shall appoint fifteen members to the Panel, of which at least

(i) five members shall be representatives of debt collection agencies of various sizes;

(ii) five members shall be attorneys experienced in the field of debt collection; and

(iii) one member shall be an official of the Federal Government.

(C) No person shall be appointed to the Panel who is, or is a member of a company or organization which is, retained to perform debt collection services for the Federal Government.

(2) Members shall be appointed to the Panel within sixty days afer the enactment of this Act. Members of the Panel shall take office upon such date of appointment.

(3) The President shall designate from among the members of the Panel a Chairman and Vice Chairman. Vacancies in the membership of the Panel shall not affect the power of the remaining members to execute the functions of the Panel and shall be filled in the same manner as the original appointments.

(b) The Panel shall—

(1) review and evaluate Federal policies on debt collection and delinquency prevention;

(2) recommend uniform policies, procedures, and guidelines for the United States Government;

(3) develop, after consulting with the Office of Management and Budget and other appropriate Federal agencies, the priority and manner of deliquent debt collections and procedures for the prevention of delinquencies;

(4) establish training manuals to increase the effectiveness of employees involved in collection activities; and

(5) undertake additional related tasks and make interim reports of its activities and recommendations as the President may determine necessary.

(c)(1) The Panel may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Panel unless a majority of the Panel assents.

(2) Each Federal agency shall make staff personnel and support services available to the Panel to enable the Panel to carry out its functions.

(3)(A) Subject to subparagraph (B), the members of the Panel may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Panel.

(B) Any member may decline the reimbursement of expenses.

(d)(1) The Panel shall submit a final report to the President and to the Congress not later than eighteen months from the date of the first meeting of the Panel, containing the findings and recommendations of the Panel with respect to matters described in subsection (b).

(2) The panel shall terminate within thirty days following the submission of the final report.

(e) There are authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the provisions of this section.

(f) Except where inconsistent with this Act, the provisions of the Federal Advisory Committee Act shall apply to the Panel.

Mr. GRASSLEY. Mr. President, in this amendment we are talking about a very sticky, tough problem. We, as the board of directors for this major corporation that we call the Federal Government, have been trying to deal with this problem for a long period of time. We haven't been doing too well either. That is the amount of unpaid debt. The Federal Government has loaned money to businesses, corporations, and individuals in this country, of which $83 billion in payments due on that debt are overdue. Many very good proposals passed over the last several years that deal with this issue. Yet, we see a growing problem.

Mr. President, I yield myself out of my 15 minutes on this proposal 5 minutes at this point to present my amendment to the Senate.

Mr. President, it was 10 months ago that the Senate approved the bill that is now before this body. Adoption of S. 328 will certainly be a great victory for small business. As one of the cosponsors of the bill on which the Senator from Tennessee has worked so hard, I fully support the Prompt Payment Act, and hope for its quick passage. I commend the Senators on the Governmental Affairs Committee for their leadership in this critical area.

An amendment by this Senator, and the Senator from Colorado, along with several other cosponsors, was attached to this bill, the prompt payment bill, when the legislation first passed the Senate last October.

The amendment that is now before this body simply creates a panel of private sector experts to develop recommendations for uniform Federal debt collection procedures. These recommendations will help us solve this $83 billion problem. That is income that ought to be coming into the Federal Government. It is not being collected because there are 10 different ways to collect it, a different way for every agency that is required to collect money.

We feel that there ought to be some uniformity in processes for collecting this money. There ought to be one way for this "corporation," the Federal Government of the United States, to go about collecting debt that is owed it. We believe the private sector advice that would derive from this panel would help accomplish this.

I want the floor managers to know that I appreciate their cooperation in our effort in the first consideration of this amendment. I also appreciate their cooperation in working out this time agreement so my amendment can be presented again. I believe, Mr. President, that they understand the significance of actually writing off billions of dollars in payments owed to the Federal taxpayers.

When the other body acted on this prompt payment bill, after it passed here last October, the committee chairmen on the other side stripped everything from it that was not fundamental to the prompt payment issue.

Unfortunately the Senate-passed section on debt collection was dropped, and for no good reason.

That is why Senator ARMSTRONG and I are back here again bringing up this amendment to give the Senate another opportunity to express its will regarding the $83 billion of overdue debt owed to the Federal Government.

This problem is not getting any easier to deal with. It is compounding very rapidly. The amount of delinquent debt has increased 180 percent since 1981. As I said before, the amount of delinquent debt increased 20 percent just in the last year. Federal taxpayers cannot be expected to continue to foot this ever-increasing bill any longer. The Government needs consistent and comprehensive policies on citizens' repayment obligations.

The President of the United States, the Congress, and the entire administration have acted on this subject many times before. To the credit of various authorizing committees, progress has been made. That does not mean the work is done. When I see this problem getting worse, I sure hope that we can do a better job. It does not matter how good other measures are that Congress has adopted or what the current public policy of the U.S. Government is. We are still losing the war. That hole that you call unpaid debt owed to the Federal Government is becoming bigger and blacker.

The sheer volume of loan activity exacerbates the need for debt collection measures to be more effective than what we presently have on the books. The Federal Government is involved in $1.3 trillion total loan activity.

There are $339 billion in outstanding receivables, of which almost a quarter is delinquent. Every year the Federal Government has to forget about $1 billion in debt because the statute of limitations has expired.

The amount of debt written off by Federal agencies as uncollectable last year was $4.1 billion. Would that not go a long way in helping us meet Gramm-Rudman goals? And as I said before, this increased another 20 percent since 1986.

With one small change, the amendment we have before us is identical to the provision previously adopted by the Senate, and previously accepted by the floor managers of S. 328. This minor modification was made to accommodate the concerns of the floor managers and their counterparts in the other body. While I do not think it was a problem, we removed that part which caused problems for some of our colleagues.

Mr. President, I want to emphasize that there is nothing controversial about this amendment. It simply calls for input from a panel of volunteers contributing their debt collection expertise to the Government. This is an accepted and helpful process frequently used by Congress to grapple with technical and far-reaching issues.

Generally, similar amendments are readily approved and at least are debated on the merits of their content.

Mr. President, a debt collection advisory panel will not doom the Prompt Payment Act. Adoption of this amendment will simply return the bill to the other body for consideration.

So I urge my colleagues to vote on the merits of this Grassley-Armstrong amendment, and to vote for responsible credit management.

I ask you for your support. I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, may I ask how much time is remaining on the part of the proponents of this amendment?

The PRESIDING OFFICER. The Senator from Iowa currently retains 7 minutes.

Mr. SASSER. And the opponents as of this time have 15 minutes. Is that correct?

The PRESIDING OFFICER. Approximately.

Mr. SASSER. Mr. President, I rise reluctantly to oppose my friend from Iowa, but oppose him I must. And at the appropriate time I will be forced to move to table the Grassley-Armstrong amendment.

I will be brief in my remarks. I am opposed to this amendment for two reasons. One, this is a killer amendment. It is a killer amendment because if this amendment is attached to this House bill, then that is the end of prompt pay for this session of Congress.

My distinguished friend from Iowa does not offer this amendment because he wishes to kill prompt pay. He is a strong supporter of the whole prompt pay concept. But the simple facts are that if this amendment is attached to this House bill, that is the end of prompt pay for this 100th Congress, because time is running out. The hours are ticking away. And we simply are not going to have time to go to conference and hammer out this whole problem.

Second, I am opposed to the amendment because we simply do not need it. Let us look at what the amendment does that is offered by my distinguished friend from Iowa. While its supporters claim that it takes on a significant problem, in point of fact all this amendment really does is establish an advisory panel on the question of debt collection. I share my colleague's interest in Federal debt collection, but I question the need for yet another advisory panel at the Federal level.

The question of whether or not this advisory panel is needed or would be effective was never addressed in our Senate hearings on the question of prompt pay. Given this major shortcoming, when the bill came to the floor, both myself and our distinguished comanager, Senator TRIBLE, were willing to accept this amendment when we first considered S. 328 in the Senate with the anticipation that the proposal would be thoroughly examined when the bill went to the House of Representatives for their consideration and action.

The House did hold hearings on S. 328 and sought testimony on the whole question of an advisory panel. Only one witness spoke in favor of that panel, and that was my able and distinguished friend from Iowa, Mr. GRASSLEY. Usually, he is extraordinarily persuasive with his logic and carries the day. But in this instance, he was not persuasive with the House of Representatives. Our colleagues in the House concluded that we did not need one more advisory panel and, more important, they concluded that this particular advisory panel was simply not needed at all, and they dropped this language from S. 328.

Lest we think that this was some sort of bipartisan cabal on the House side, I would say that this was a bipartisan decision. Both the chairman of the House committee and the distinguished ranking Member expressed skepticism over the effectiveness of an advisory panel. Democrat and Republican alike, in a rare show of consensus on the House side, concluded that the whole question of an advisory panel was without merit, and they dropped it from the bill.

So the bottom line is that our colleagues had their day in court, as they are entitled to, and they simply lost. They failed to persuade a single House Member to join their cause. There was no effort on either side of the aisle to save the advisory panel in committee, to save that concept. There was no effort on the part of either the majority or the minority in the House to attach this whole provision of an advisory panel as a floor amendment when the bill came to the floor of the House.

That is persuasive enough, but who weighs in later against the question of an advisory panel but the Reagan administration, itself. The Director of the Office of Management and Budget, in a September 14 letter to the chairman of the Government Affairs Committee, Mr. GLENN, states: "We agree with the House of Representatives that this provision should be deleted."

Mr. President, I ask unanimous consent at this point that the 4-page letter from the Office of Management and Budget be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 14, 1988.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express our continued support for immediate passage of S. 328, the Prompt Payment Act Amendments of 1988, with the exception of the provision that would create a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention. We agree with the House of Representatives that this provision should be deleted.

As we have testified previously, OMB believes that the central objectives of the Advisory Committee have already been achieved. In particular, there is a uniform and comprehensive set of credit management and debt collection policies in place. OMB Circular A-129, "Managing Federal Credit Programs," was issued May 9, 1985, and established standards for prescreening loan applicants, servicing accounts, and collecting delinquent Federal debt. These standards are implemented through a comprehensive, government-wide Credit Management Improvement Program. Each credit agency has performance goals that must be met in FY 1988-89 to implement the Credit Management Improvement Program. A revised Circular A-129, to be issued in October, will require agencies to implement additional credit management improvements for both direct and guaranteed loan programs.

We have made a concerted effort to utilize private firms and private sector practices in the Federal credit management program. We are now using good management practices that the private sector applies routinely. This Administration is achieving full implementation of sound business practices to manage the basic components of the credit cycle: credit extension; loan servicing and management; and, delinquent debt collection.

All agencies making loans based on creditworthiness must obtain credit reports from the private sector. In 1987, the Federal Government purchased two million credit reports. In addition, we now take the following actions to screen applications:

Loan applications ask prospective borrowers to certify whether they are delinquent on a Federal debt.

Grant applications ask applicants for Federal grants to certify whether they are delinquent on any Federal debt.

Individuals or organizations found to be irresponsible or engaged in criminal actions are barred from doing business with Federal agencies.

Credit information is reported to credit bureaus to deter borrowers from defaulting on Federal loans. In 1987, Federal agencies reported information to private credit bureaus on two million individual and business accounts worth $82.1 billion.

After a loan is made, agencies are required to service and manage portfolios in the most efficient and effective manner. Account servicing will be contracted out to the private sector whenever possible to enable the Government to modernize and improve loan servicing and collection systems.

Portfolios are actually being sold for the first time—a common practice in the private sector. In 1987, asset sales/prepayment programs yielded the Federal Government $5.6 billion in gross proceeds.

Realized $3.1 billion in gross proceeds from the sale of 6,442 community development loans, 141,352 housing loans, and 324 education loans.

Realized $2.5 billion in gross proceeds by prepayment of loans by borrowers.

Will transfer to the private sector the ownership, and servicing of $10 billion to $20 billion in new and existing loans over the next few years.

The Government refers delinquent accounts which are 6 months or more overdue to private collection agencies. Government-wide contracts with private firms have resulted in the collection of over $200 million since 1982.

Delinquent debts that are not collected through normal collection efforts are referred to the Department of Justice for collection. Debt collection is a priority at Justice; since 1982, the Department has collected over $2.1 billion. This year the Justice Department will implement 10 pilot projects to determine the effectiveness of using private sector attorneys for litigation of delinquent debs. This Administration expects this effort will be a debt collection success.

Finally, the Federal Government is routinely comparing its employment rosters and delinquent debt files, and has found 80,000 Federal employees who owe the Government $171 million. They are now repaying this debt, or having 15 percent withheld from their paychecks. This program is being expanded to include Postal Service, congressional, and judicial employees. In addition, the Federal employment application (SF-171) will ask prospective Federal employees to certify whether they are delinquent on a Federal debt and make that information a consideration in employment decisions.

I believe that these accomplishments demonstrate that the Advisory Committee is not necessary to ensure an effective process for the prevention, collection, and litigation of delinquent debt. The Federal Government is already taking full advantage of the expertise and experience of the private sector in extending credit and managing its portfolio.

We would suggest that Congress could best support further improvements in credit management by passing four pending legislative proposals. The four proposals are: (1) Chief Financial Officer (CFO) structure; (2) Credit Reform; (3) Extension of the Tax Refund Offset Program; and, (4) Federal Debt Collection Standards.

First, rather than an advisory committee, what is needed is a permanent financial management organizational structure. Later this month, I will be testifying before Congress seeking to obtain legislation that has these features.

A statutory CFO in the Executive Office of the President (EOP); appointed by the President; confirmed by the Senate and reporting through the Director of OMB with the principal duties of financial policy, oversight and planning, development of accounting and financial systems, credit and cash management, internal controls and a review of resources spent government-wide and by agencies on financial management. The CFO/EOP would provide an annual report to the President and Congress on the Government's financial management activities.

A statutory CFO in each major Department and agency; appointed on Assistant Secretary level; in a career service position; reporting to Head of Agency; with all the basic duties of government-wide CFO but allowing the Agency Head the flexibility to include additional essential functions.

A statutory CFO in each major component (bureau) of an agency; in a career position reporting to the Head of the Bureau.

Second, Credit Reform would change the way Federal credit programs are treated in the budget. Under this reform, Federal agencies would obtain appropriations equal to the estimated subsidy component of the direct loans and loan guarantees they propose to make each year. Two new Federal credit revolving funds would be established within the Department of the Treasury—one for the financing of direct loans and the other for guaranteed loan insurance. Agencies would continue to originate and close direct loans and make loan guarantees as they do now. As they make obligations and commitments, information about their terms and conditions would be sent to the Treasury, which would oversee the subsidy estimate.

Third, we seek your support to extend our effective collection authority that has resulted in collections of $839 million in the past two and a half years. Specifically, the proposal would extend the authority of the Secretary of the Treasury to offset the income tax refunds of taxpayers who are delinquent on a Federal debt and have failed to respond to agency efforts to collect. The authority expired June 30, 1988. Pending legislation proposes a long-term extension.

Fourth, Justice has proposed a Federal Debt Collection Procedures Act (S. 1961) that would establish a Federal standard for civil procedures. Under the Federal Rule of Civil Procedure the collection of debts owed to the Federal Government (including civil debts, criminal fines, and tax judgments) must proceed under the 50 different State standards. The bill does not override State law. State law continues to be available to all private parties and all non-federal debts.

I believe we share the same goals in credit management. Much has been achieved by this Administration—with the support of Congress—over the past seven years. We intend to maintain our diligence, and look forward to working with Congress to achieve our mutual objectives.

Sincerely yours,

GERALD R. RISO,
Associate Director for Management.

Mr. SASSER. Mr. President, rather than reading this entire letter, I stress that the central point of the administration is that another advisory panel simply is not needed.

Perhaps more important, as I alluded to earlier, we simply cannot afford to adopt this amendment, no matter how well motivated and well meaning and sincere our colleagues are in offering it. This amendment would simply put a stranglehold on the Prompt Payment Act. I seriously doubt that we could successsfully resolve this issue in conference before the end of the session. In fact, I am persuaded that we could not.

I hasten to add that that is not just my assessment of the situation. The Coalition for Prompt Pay—and I might say this Coalition for Prompt Pay is a very impressive group—consists, among others, of the American

Association of Nurserymen, the American Subcontractors Association, the Associated Builders & Contractors, the Mechanical Contractors Association of America, the National Association of Manufacturers, the National Association of Medical Equipment Suppliers, the National Association of Minority Contractors, the National Independent Dairy Foods Association, the National Small Business Union, the Small Business Legislative Council. The list goes on and on of the organizations that have associated themselves in this group known as the Coalition for Prompt Pay.

What does the Coalition for Prompt Pay say about the Grassley-Armstrong amendment? They say in the letter they have written to every Member of this body: "A vote for the Grassley-Armstrong amendment would be a vote for holding prompt pay hostage."

I submit, Mr. President, that that is not what our friend from Iowa wants and certainly not what our friend from Colorado wants. I think they want a prompt payment bill just as much as anybody else in this body. That is why I joined Senators TRIBLE, GLENN, ROTH, BUMPERS, and WEICKER in sending out a "Dear Colleague" letter opposing their amendment.

While we supported the Grassley provision last year, we realized that small businesses cannot afford the delay that the amenendment carries with it now. It simply means the death of a prompt pay bill this year.

Let us be frank about the matter. Adoption of the Grassley-Armstrong amendment and the death of the prompt pay bill in this 100th Congress would be a disaster for small businesses all across this country. These small business owners voted prompt pay legislation one of their top priorities at the 1986 White House Conference on Small Business. Indeed, this legislation is one of the very few proposals on which this Congress has acted with respect to those small business recommendations coming out of the 1986 White House conference.

The amendment that is being offered not only jeopardizes the prompt pay bill; it would effectively kill the bill in the 100th Congress.

If we adopt this amendment offered by my distinguished friend from Iowa and my able colleague from Colorado, we would be telling the small business men and women of this Nation that their concerns do not matter to us this year; the Federal Government can continue paying its bills late, while we wrangle and argue over establishing another advisory panel.

I think that is unacceptable. The consequences are too great.

As the Coalition for Prompt Pay points out in their letter:

> The thousands of small and disadvantaged businesses represented by the Coalition for Prompt Pay, with their limited capitalization and cash flow, cannot afford to wait for another Congress to pass this bill. S. 328 is needed now.

So says the Coalition for Prompt Pay.

So the choice is really simple. We either come through here for America's small business community by defeating the Grassley-Armstrong amendment or we accept further delay by the Government in paying its bills.

Mr. President, I do not know how many small businesses might be driven under by additional delay. I do not know how many other small businesses must decide, "We can't afford to do business with the Federal Government anymore, because they cannot and will not pay their bills on time."

How does that translate into additional payouts on the part of the Federal Government later on, as they lose these more efficient entrepreneurs, these small entrepreneurs who give them better prices, better services, and better goods, based on the assumption that they will be paid on time?

Well, we need to provide assurances I think to the business community and all business persons who wish to contract with the Federal Government that they are going to be paid on time. We can do that if we pass S. 328 today without the amendment. No matter how well meaning and well motivated our colleagues are, we need to pass this bill today. We do not need an advisory committee or council to be grafted onto it and lead to the ultimate death of this prompt pay legislation which passed this body without a single negative vote and passed the House of Representatives without a single negative vote also.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair will inform Senators that the Senators from Iowa and Colorado have 7 minutes remaining, the Senator from Tennessee has 2 minutes remaining.

Mr. ARMSTRONG. Mr. President, how much time remains on the bill itself?

The PRESIDING OFFICER. On the motion to concur 9 minutes are controlled by Senator TRIBLE and 5 minutes by the Senator from Tennessee.

Mr. ARMSTRONG. Mr. President, will the Senator from Iowa yield me 5 minutes on the amendment?

Mr. GRASSLEY. Yes.

Mr. ARMSTRONG. It may be, Mr. President, that I cannot quite cover the ground I would like to cover in that length of time, and if I am unable to do so, I will seek permission of the Republican manager for a little time off the bill.

Mr. President, this is an amendment which has been discussed in the Senate now for over 5 years. Several of our colleagues have worked on the idea over the years. I especially commend the distinguished Senator from Iowa [Mr. GRASSLEY] for his determined leadership on this important issue. I also want to acknowledge the efforts of our former colleague from Iowa, Senator Jepsen, who first introduced the measure in October 1982.

In fact, a number of Senators have been quite outspoken on the issue of debt collection. The Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. DECONCINI], the Senator from Delaware [Mr. ROTH], the Senator from Virginia [Mr. TRIBLE], the Senator from Illinois [Mr. SIMON], the Senator from Wisconsin [Mr. PROXMIRE], and the Senator from Alaska [Mr. STEVENS] have been actively involved, and I commend their work. In the House, our colleague from Illinois [Mr. SIMON] first introduced the bill along with Congressman MYERS in 1983, and it has been carried by Congressman JIM LIGHTFOOT for several years.

While we consider the Prompt Payment Act, designed to make the Federal Government pay its debts on time, it is plain common sense also to make the Government collect debts owed to it on time.

Make no mistake—this is a serious problem. Uncollected Government loans are robbing America's future, and the problem is much worse than most people imagine. By the end of 1987, the Government had direct loans outstanding of $234 billion, loans extended by Government-sponsored enterprises amounted to $581 billion, and Government-backed loan guarantees added another $507 billion of lending. Indeed, the Government's direct loan portfolio is 75 percent larger than the largest bank in the United States.

Altogether, the Federal Government is directly and indirectly involved in $1.3 trillion of lending activity. That is more than the entire Federal budget for 1988. It is nearly half the entire accumulated national debt.

Worst of all, much of this debt is overdue for payment, and we are doing too little about it. In 1986 OMB reported more than $68 billion of this debt was delinquent. That is more money than we spend on all foreign aid; more than twice what we spend on the entire farm program; more than all education programs combined; more than the entire space program and all other science research; more than all energy, natural resources, and environmental programs combined. Is there any doubt as to the good that much money could do elsewhere?

Worse of all, in 1987 the Government wrote off $11.6 billion in "uncollectible" accounts, a 27-percent increase over 1986. OMB admits that "further improvements in this area of credit management are needed." The longer we do nothing about this, the more money we lose.

The most frustrating thing is that most of these problems could be solved. Private companies collect bad debts all the time—no business could afford not to do so. The Office of Management and Budget reported in its fiscal year 1987 budget message that—

> Comprehensive policy guidelines and access to private sector practices were lacking. There was little emphasis on the need . . . to implement a timely and effective system for servicing loans, collecting debts, and handling delinquencies.

The same OMB report discussed a number of policies the administration has implemented to "correct" the problem, including several recommended by the GAO. However, even though some of these changes were positive, the problem has not been solved. The amount of delinquent debt continues to rise. And I should note that not all the GAO recommendations were followed, either. For instance, one recommendation is that the use of private collection firms and credit reporting agencies be mandatory—the administration is still doing this only on a "pilot project" basis, even though it boasts of some success.

I am not prepared to judge that the GAO recommendations are the absolute answer, because I am not an expert in this field. But there are people in this country who are experts, and it would be foolish not to ask their advice on such a serious problem.

The tragedy is that this situation is putting a political cloud over the whole notion of Government loans. Many of these loans serve worthwhile purposes. Guaranteed student loans help make college affordable to disadvantaged families. Farmer's Home loans are a vital component of the American agriculture system. Small business loans, HUD loan programs, veterans' loans, and others are essential to thousands of Americans. But such programs have little future if "loans" are to become "grants," to be written off years later.

It is long past time that the Federal Government get serious about collecting delinquent debts. Clearly, the expertise of the private sector is needed, and we can have this expertise for nothing. This amendment would create a Presidential Advisory Committee on Government Debt Collection to advise the Government on how to collect the debt.

This is not another big program, it is not just another Government study. And it is not another blue ribbon panel to be padded with political appointments forever. We have too many of those already. This is a temporary committee made up of 15 professional private debt collectors who will examine Government procedures, determine what is wrong, devise effective collection procedures, and disband within 18 months. Its members will be volunteers, who will gladly share their expertise. After all, they are taxpayers, too.

Congress has tried several times to correct the problem. This has been a bipartisan effort, and some progress has been made. We passed legislation allowing tax refunds to be withheld from "deadbeats," have allowed delinquent debt information to be shared between agencies, and have made various administrative changes.

Still, delinquent debt has continued to rise steadily despite our best efforts. There is no good reason the Government cannot get its collection successes up to the level of the private sector, which enjoys an 87-percent ratio on debt collection, compared with Government's dismal 15 to 20 percent record. Since the Federal Government clearly does not know what to do, it makes sense to ask those who do.

Mr. President, this amendment is fairly simple. It creates a Presidential Advisory Committee of 15 debt collection experts, including 1 Federal officer, 5 debt collection agency members, and 5 debt collection attorneys.

The panel's job will be to review and evaluate current Federal debt collection policies, make recommendations on uniform policies needed, develop priorities and procedures, establish training manuals for Government debt collectors, and issue a report within 18 months. After that time, the Committee is abolished. All staff support needed will be provided by the Government, so that no new money would be spent on salaries.

It is a commonsense approach to finally admit to ourselves that the Government simply is not very good at this, and we should ask for help from people who are.

We have heard enough horror stories about the well-to-do deadbeats who do not pay their old loans simply because nobody forces them to do so. But with delinquent loans of nearly $70 billion, the stakes are too high to continue ignoring this failure. We can turn it into one of the great success stories of the century if we take this first step toward getting serious about collecting our debts.

I strongly urge adoption of the amendment.

Mr. President, I have four matters I want to cover.

I state first I am for the bill. It is a good bill. I voted for it before. I have spoken in favor of it before. I think it is a good idea. I compliment the managers for bringing it to our attention.

Second, I associate myself with my friend from Iowa in support of the amendment. The Federal Government has a miserable record of collecting its debts. The truth of the matter is that while the private sector manages to collect somewhere upward of 85 percent of the money that is owed to private business concerns, the Government collects about 15 or 20 percent.

The notion suggested by the Senate from Iowa is that it would be a good idea to get some experts in from the private sector for a temporary commission, and if this were a permanent commission, I do not think I would be here arguing for its support, but to bring in some experts temporarily to share their expertise and see if we cannot somehow collect some of the billions of dollars that are owed to the Federal Government, and I repeat, the Federal Government manages to collect about 15 or 20 percent of what is owed it. The situation is so bad that when we take Government paper and sell it on the open market, we often get less than 50 cents on the dollar.

I think that is a scandalous abuse. I think it is an extravagance to dissipate the resources of the taxpayers in that way, and when we are talking about student loans, when we are talking about other kinds of obligations, not only is it a serious financial loss, it is an implicit lesson, particularly when we are talking about students, in bad citizenship, and for the Government to just stand by and acquiesce when students do not pay their bills is not only costing the taxpayers but it is telling the students who have borrowed this money, and they are not the only ones involved, that good citizenship does not count, that integrity in paying bills does not count, and that the Government does not care.

So I think this is a great idea that the Senator from Iowa has brought forward, and I am proud to associate myself with it as I have on previous occasions.

Frankly, I do not know why anybody would be against this and indeed when the matter had been considered previously by the Senate it had been agreed to previously by the Senate.

Our friend from Tennessee pointed out that the bill had been agreed to without a dissenting vote. My recollection is that the Grassley amendment was agreed to without a dissenting vote as well.

But then it got to the other body. When it got over to the other body, somebody did not like the idea. I do not know exactly why. Frankly this is such a good idea I cannot imagine why somebody would be against it.

But instead of simply voting against it and going to conference and seeing if we could work something out they took a little different position, and as the Senator from Tennessee has made quite clear, they have determined they want to hold this thing hostage, they want to hold the underlying bill hostage.

Not only that, Mr. President, but with the cooperation of some people in the Senate and some cooperation from interest groups on the outside, they have launched an unscrupulous, untruthful, very personal attack on the sponsor of this legislation. I want to stand up right here and now and say that one of the reasons why I have long admired the Senator from Iowa is that I know how he reacts to that kind of pressure. I have seen it happen again and again, and in fact the first time I ever worked with Senator GRASSLEY was in the House of Representatives when he and I joined in sponsoring a very unpopular measure, a measure much more controversial than this little amendment.

I noted that when the heat was on, he did not change his principles, he did not change his convictions, and even though there had been a group of people who have in my judgment most unwisely as well as unfairly circulated position papers and letters about him as the sponsor of this amendment to his constituents in Iowa, telling things that are just plain untrue, that just are not so, that misrepresent not only the facts and his position, but his intention as well. And I just want to say to my friend that I have always admired him and I am confirmed again in my admiration for him for not backing away from it. It would have been easy to do. This is not a momentous, Earth-shaking deal. If we do not get this amendment passed, it is a good amendment and it will be around some other time and we are not going to hold anything hostage, although we could have done that.

You know, Mr. President, it is not just JACK BROOKS or somebody over in the House that can play this hostage-taking game, anybody can play it in the Senate. It would be the easiest thing in the world for us just to hold this whole bill up until the end of the session. That is going to be in a week or 10 days or a couple of weeks, and you know anybody who wants to can hold up a bill of this kind for that length of time. Honestly it crossed my mind to do so because I was really aggravated by the thought that a group of people, and I am referring to a group of subcontractors, would get so upset about the passage of this bill which is worthy and which we support, that they would resort to that kind of underhanded tactics, and I thought—well, by gosh, maybe we ought to just show them how these things are done, and I finally decided that there is no sense to descending to that kind of a level to do it, and so as the Senator from Iowa agreed I also agreed that we ought to just go ahead and handle this matter on an up-or-down vote.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Mr. ARMSTRONG. Mr. President, though the Republican manager is absent, I believe he would not object if I asked for 5 minutes off of the bill as well, and I do ask unanimous consent that I be yielded 5 minutes off the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. I thank the Chair.

In any case, we are not taking any hostages and we are not trying to elevate this to a greater matter than it is. We are just saying that this is a good matter, it is a worthy amendment, it is an amendment that deserves to be passed on its merit, and we hope it will be passed at this time.

If not, I do not know whether or not the Senator from Iowa will wish to come back to it again. It is not unlikely that he will because he has been at it for some time; in fact, he has brought this up on two or three occasions, and on each occasion I have supported him, and I expect that if he does so again, if it does not pass today, that I will support him again. It is needed.

The truth of the matter is this: The Federal Government is involved in about $1.3 trillion in lending activity, an enormous amount of money.

In 1986, which is the last year for which I have the facts, OMB reported that more than $68 billion of this debt was delinquent. Now, that is more money than we spend on all of foreign aid, more than twice what we spend on the farm program, twice our expenditures for educational programs, more than the entire space program, more than all the energy, natural resources, and environmental programs combined.

That is just the amount of Federal loans that are delinquent. What are we doing about this? For one thing in 1987 we wrote off as uncollectable $11.6 billion.

OMB has been represented on this floor as being against this amendment. I do not know whether that is true. If they are against it they have not told me. But in any case, I do not care who is for it or against it. When they can get the rate of collection somewhere up in the ballpark of what it ought to be in any private business, then I will be willing to entertain the idea that maybe this is an unnecessary amendment. In the meantime it costs practically nothing. We are talking about people from the private sector who are experts in collection practices, serving in an advisory capacity without any significant expense to the Government and if their ideas do not appeal to us after they suggest them we do not have to take them.

But I will tell you the truth from what I know about the private sector. They are a lot better at collecting the money than is the Federal Government.

So, Mr. President, those are the four issues I wanted to state.

First, I am for this bill, and it has been misrepresented falsely, I might add, that I am opposed to it. I am not. I am for this bill and have been in the past.

Second, to point out why this is a good amendment.

Third, to congratulate my friend from Iowa for standing up to be counted on a matter which proved to be unexpectedly and unreasonably controversial when it would have been perhaps politically expedient for him to do something else.

And, last, to just say I hope all my colleagues will rally behind it and vote for the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator has 1 minute and 50 seconds.

Mr. GRASSLEY. Mr. President, I yield myself such time as I may require.

Mr. President, I am a little surprised at the Senator from Tennessee letting the other body dictate what we can do, what even he might want to do, on this legislation. But that looks like the situation. I would also mention that when this legislation passed originally last October, the Prompt Pay Coalition was not opposed to my legislation. It is my understanding they are not opposed to it now. They just want to pass prompt payment. So it is a procedural opposition and not one of substance, any more this year than it was last year.

I can understand why OMB, Mr. President, would write a four-page letter. I am surprised they did not write a 100-page letter. Because, understand, they have all the answers. They figure they already have a plan for solving this debt collection problem. And yet, in the last year, their progress in solving this overwhelming problem is that the debt problem has grown 20 percent more.

So if anybody in this body is using OMB's opposition as a reason for voting against this legislation and they still want to do something about this debt collection problem, please come up with a better reason than what OMB has to say about it.

Then I guess I would have a further commentary on the House opposition to this and what maybe the House Governmental Operations Committee did or did not do. But anybody who knows how that committee operates, knows that the chairman of that committee has a lot of power over its members.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SASSER. Mr. President, just let me say that, frankly, on the question of the merits, I think there is no opposition or very little opposition to the concept of seeking outside counsel or advice as to how the Federal Government might better collect debts that are owed to it. I have stated time after time in the Governmental Affairs Committee and in the Appropriations Committee that we need to do a better job of collecting debts that are owed to the Federal Government. Myself and others of our colleagues, including Senator GRASSLEY and Senator ARMSTRONG, have expressed our concern, indeed, our outrage, that we do not do a better job at the Federal level of colecting debts. So that whole concept is not a part of the problem as far as this Senator is concerned. It is just simply that this is not the appropriate vehicle, in my judgment, to which this whole question of debt collection on the part of the Federal Government and how that should be improved should be attached.

My primary purpose today is simply to get a prompt payment bill with some teeth in it passed so we can send it to the President's desk for his signature and get the Government in the business of paying its bills on time.

Mr. President, I know of no other Senator who wishes to speak on this amendment. Therefore, I yield back the remainder of any time that I have left and I move to table the amendment offered by my friend from Iowa. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays were ordered on the amendment offered by the Senator from Iowa, but not on the tabling motion.

Mr. SASSER. Then I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion of the Senator from Tennessee [Mr. SASSER] to table amendment numbered 3280 offered by the Senator from Iowa [Mr. GRASSLEY] to the proposed House amendment to S. 328.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Florida [Mr. CHILES], and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

Mr. SIMPSON, I announce that the Senator from Texas [Mr. GRAMM], the Senator from Nevada [Mr. HECHT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Oregon [Mr. PACKWOOD], the Senator from Indiana [Mr. QUAYLE], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 33, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—54

Adams
Baucus
Biden
Boren
Breaux
Bumpers
Burdick
Byrd
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Hatfield
Heflin
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Trible
Weicker
Wirth

NAYS—33

Armstrong
Bond
Boschwitz
Chafee
Cochran
D'Amato
Dole
Domenici
Durenberger
Evans
Garn
Grassley
Harkin
Hatch
Heinz
Helms
Karnes
Kassebaum
Lautenberg
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—13

Bentsen
Bingaman
Bradley
Chiles
Gramm
Hecht
Humphrey
McClure
Packwood
Quayle
Rudman
Stennis
Wilson

So the motion to lay on the table amendment No. 3280 was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the motion to concur in the House amendment to S. 328.

The motion was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL CORRECTIONS—HOUSE CONCURRENT RESOLUTION 351

Mr. SASSER. Mr. President, under the consent agreement, we now turn to House Concurrent Resolution 351 making corrections in the enrollment of S. 328, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 351) to correct errors in the enrollment in the bill S. 328.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 3281

(Purpose: To correct an omission)

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER] for himself and Mr. DANFORTH, proposes an amendment numbered 3281.

Mr. SASSER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the concurrent resolution add the following:

(5) In section 3902(h)(2)(B) of title 31, United States Code (as added by section 3(c) of the bill), strike out clause (ii) and insert in lieu thereof the following:

"(ii) for a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;"

Mr. SASSER. Mr. President, this amendment simply makes technical corrections in the bill's enrollment. It has been cleared on both sides. I do not see my distinguished comanager, Senator TRIBLE, but this has been cleared on both sides, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3281) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the concurrent resolution?

If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 351), as amended, was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

JUDICIARY OFFICE BUILDING DEVELOPMENT ACT

Mr. **BYRD.** Mr. President, I ask that when the Chair lay before the Senate a message from the House on S. 1934 that there be a 15-minute overall time limit of 10 minutes to Mr. Moynihan and 5 minutes under the control of the Republican leader or his designee.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, I now ask that the Chair lay before the Senate a message from the House of Representatives on S. 1934.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1934) entitled "An Act pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judiciary Office Building Development Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress makes the following findings and declarations:

(1) Space for consolidation of activities of the Administrative Office of the United States Courts and other offices of the judicial branch of Government and for providing office space for retired justices of the Supreme Court is necessary and should be located in the vicinity of the Supreme Court building.

(2) Orderly development of the Capitol Grounds should be consistent with the Master Plan for the United States Capitol, dated 1981.

(3) The cost of leasing space by the judicial branch of the Government is high.

(4) Development of squares 721 and 722 in the District of Columbia is necessary to achieve the objectives of the Union Station Redevelopment Act and the revitalization of the Union Station area.

(5) The Judicial Conference of the United States endorsed by resolution the construction of an office building on the Capitol Grounds to house the Administrative Office of the United States Courts and related judicial branch offices.

(b) Purposes.—The purposes of this Act are as follows:

(1) To implement the report submitted to Congress by the Architect and the Secretary of Transportation under the Act of December 28, 1985 (99 Stat. 1749-1750), relating to the needs of the Federal judiciary for additional Federal office space.

(2) To authorize the Architect to acquire by lease space primarily for use by the judicial branch of the Government by entering into contracts for the design and construction of a building adjacent to Union Station.

(3) To ensure that the design and construction of such building will insofar as practicable result in a building which is efficient and economical and which provides visual testimony to the dignity, enterprise, vigor, and stability of the Federal Government.

SEC. 3. CONSTRUCTION OF BUILDING.

(a) Selection Process.—

(1) General rule.—The Architect, under the direction of the Commission and in accordance with such policies and procedures as the Architect shall establish, shall select in accordance with provision of this subsection a person to develop squares 721 and 722 (bounded by F Street, 2nd Street, Massachusetts Avenue, and Columbia Plaza, Northeast) in the District of Columbia.

(2) Revision of proposals.—Not later than 90 days after the date of the enactment of this Act, each of the 5 persons who submitted a proposal for development of squares 721 and 722 under the study conducted under the Act of December 28, 1985 (99 Stat. 1749-1750), which is one of the 5 proposals under consideration by the Architect may revise such proposal to take into account the objectives of this Act and resubmit such proposal to the Architect.

(3) Selection of revised proposal.—Subject to paragraph (4), not later than 120 days after the date of the enactment of this Act, the Architect shall select one of the persons resubmitting a proposal under paragraph (2) to develop squares 721 and 722 in the District of Columbia.

(4) Nonsubmission of revised proposals; protection of United States interest.—If no proposal is resubmitted to the Architect under paragraph (2) in the 90-day period or if the Architect determines that none of the proposals resubmitted under paragraph (2) is in the best interests of the United States, the Architect shall conduct a competition for selection of a person to develop squares 721 and 722 in the District of Columbia. Such competition shall be conducted in accordance with such policies and procedures as the Architect may establish for a development competition.

(5) Purpose of development.—The purpose of development of squares 721 and 722 is to provide office space for the Administrative Office of the United States Courts, the Federal Judicial Center, the Judicial Panel of Multidistrict Litigation, and the United States Sentencing Commission, chambers for retired justices of the Supreme Court, and other related offices of the judicial branch of the United States and other persons (including governmental entities).

(6) Approval of Chief Justice.—All final decisions regarding architectural design of the building to be constructed under this Act shall be subject to the approval of the Chief Justice of the United States.

(7) Prohibition on payments for bids and designs.—The Architect may not make any payment to any person for any bid or design proposal under any competition conducted under this subsection.

(8) Limitations.—

(A) Size of building.—The building (excluding parking facilities) to be constructed under this Act may not exceed 520,000 gross square feet in size above the level of Columbia Plaza in the District of Columbia.

(B) Height of building.—The height of the building and other improvements shall be compatible with the height of surrounding Government and historic buildings and conform to the provisions of the Act of June 1, 1910, commonly known as the Building Height Act of 1910 (36 Stat. 452).

(C) Design.—The building and other improvements shall be designed in harmony with historical and Government buildings in the vicinity, shall reflect the symbolic importance and historic character of the United States Capitol and other buildings on the United States Capitol grounds, and shall represent the dignity and stability of the Federal Government.

(b) Development Agreement.—

(1) Authority to enter.—The Architect may enter into with the person selected to develop squares 721 and 722 under subsection (a) an agreement for the development of such squares. Except as otherwise provided in this Act, such agreement shall provide for development of such squares substantially in accordance with (A) alternative D of the report to Congress entitled "The Study of Alternatives for the Construction of an Office Building(s) for the Administrative Office of the United States Courts", submitted to Congress on August 10, 1987, by the Architect and the Secretary of Transportation, and (B) the Master Plan for the United States Capitol, dated 1981.

(2) Contents.—The development agreement under paragraph (1) shall at a minimum provide for the following:

(A) Except to the extent otherwise provided by this Act, all design, development, and construction costs incurred with respect to the building to be constructed under the agreement will be at no cost to the United States.

(B) Title to squares 721 and 722 will remain in the United States.

(C) Title to the building and other improvements constructed or otherwise made on or to squares 721 and 722 will immediately revert to the United States at the expiration of not more than 30 years from the effective date of the lease agreement entered into under section 4 without payment of any compensation by the United States.

(D) The building and other improvements constructed on or to squares 721 and 722 to be leased to the United States will be in accordance with the provisions of this Act and the lease agreement will contain such terms and conditions as may be prescribed by the Architect to carry out the objectives of this Act.

The agreement shall include a copy of the lease agreement entered into under section 4 by the Architect and the person selected to develop squares 721 and 722.

(c) Chilled Water and Steam From the Capitol Power Plant.—

(1) Authority for hookup to Capitol power plant.—The building to be constructed under this Act may be connected to the Capitol Power Plant through construction of extensions to the chilled water and steam lines which serve Union Station. If such building is to be connected to the Capitol Power Plant, the agreement under subsection (b) between the Architect and the person selected to construct such building shall provide that such person will bear all costs associated with the installation of chilled water and steam lines to the building and shall reimburse the Union Station Redevelopment Corporation for an equitable share of the costs incurred by the Union Station Redevelopment Corporation in the construction of extensions of the chilled water and steam lines from such Plant to Union Station.

(2) Furnishing of chilled water and steam from Capitol Power Plant.—If the building to be constructed under this Act is connected with the Capitol Power Plant pursuant to paragraph (1), the Architect shall furnish, on a reimbursable basis, chilled water and steam from such Plant to such building.

(d) Construction Standards and Inspections.—The building and other improvements constructed under this Act shall meet all standards applicable to construction of a Federal building. During construction, the Architect shall conduct periodic inspections of such building for the purpose of assuring that such standards are being met. Such building shall not be subject to any law of the District of Columbia relating to building codes, permits, or inspection (including any such law enacted by Congress).

(e) Applicability of Certain Laws.—The building and other improvements constructed under this Act shall not be subject to any law of the District of Columbia relating to real estate and personal property taxes, special assessments, or other taxes (including any such law enacted by Congress).

SEC. 4. LEASE OF BUILDING BY ARCHITECT OF THE CAPITOL.

(a) Entry Into Lease Agreement.—Before the development agreement is entered into under section 3, the Architect shall enter into with the person selected to construct the building under this Act an agreement for the lease of such building by the Architect to carry out the objectives of this Act.

(b) Terms of Lease Agreement.—The agreement entered into under this section shall include at a minimum the following terms:

(1) The Architect will lease the building and other improvements for a term not to exceed 30 years from the effective date of such lease agreement.

(2) The rental rate per square foot of occupiable space for all space in the building and other improvements will be in the best interest of the United States and carry out the objectives of this Act, but in no case may the aggregate rental rate for all space in the building and other improvements produce an amount less than the amount necessary to amortize the cost of development of squares 721 and 722 over the term of the lease.

(3) Authority for the Architect to make space available and to sublease space in the building and other improvements in accordance with section 6 of this Act.

(c) Accounting System.—The Architect shall maintain an accounting system for operation and maintenance of the building and other improvements to be constructed under this Act which will permit accurate projections of the dates and the costs of major repairs, improvements, reconstructions, and replacements of such building and improvements and other capital expenditures on such building and improvements.

(d) Obligation of Funds.—Obligation of funds for lease payments under this section may only be made on an annual basis and may only be made from the account established by section 9.

SEC. 5. STRUCTURAL AND MECHANICAL CARE AND SECURITY.

(a) Structural and Mechanical Care.—Upon occupancy by the United States of the building and other improvements constructed under this Act, the structural and mechanical care and maintenance of such building and improvements (including the care and maintenance of the grounds of such building) shall be the responsibility of the Architect, under the direction of the Commission, in the same manner and to the same extent as the structural and mechanical care and maintenance of the United States Supreme Court Building under the Act of May 7, 1934 (48 Stat. 668; 40 U.S.C. 13a), and all other duties and work required for the operation and domestic care of such building and improvements shall be performed by the Architect, under the direction of the Commission.

(b) Security.—

(1) General rule.—The United States Capitol Police shall be responsible for all exterior and interior security of the building and other improvements constructed under this Act.

(2) Authority of Supreme Court Marshal.—Nothing in this Act shall be construed to interfere with the obligation of the Marshal of the Supreme Court of the United States to protect justices, officers, employees, or other personnel of the Supreme Court who may occupy the building and other improvements.

(3) Reimbursement.—The Architect shall transfer from the account established by section 9 such amounts as may be necessary to reimburse the United States Capitol Police for expenses incurred in providing exterior and interior security under this subsection. The United States Capitol Police may accept amounts transferred by the Architect under this paragraph, and such amounts shall be credited to the appropriation account charged by the United States Capitol Police in executing the performance of security duties.

SEC. 6. ALLOCATION OF SPACE.

(a) Governmental Entities.—

(1) Judicial branch.—Subject to the provisions of this section, the Architect shall make available, on a reimbursable basis, all space in the building and other improvements constructed under this Act to the judicial branch of the United States substantially in accordance with the report referred to in section 3(b)(1).

(2) Other.—Any space in the building and other improvements constructed under this Act which the Chief Justice determines is not needed by the judicial branch of the United States may be made available by the Architect, on a reimbursable basis, to Federal governmental entities which are not part of the judicial branch and which are not staff of Members of Congress or Congressional Committees.

(3) Terms and conditions.—Space made available under this subsection shall be subject to such terms and conditions as are necessary to carry out the objectives of this Act.

(4) Reimbursement rate.—All space made available by the Architect under this subsection shall be subject to reimbursement at the rate established under section 4(b)(2) plus such amount as the Architect and—

(A) in the case of the judicial branch, the Director of the Administrative Office of the United States Courts, or

(B) in the case of any governmental entity not a part of the judicial branch, such entity,

determine is necessary to pay on an annual basis for the cost of administering the building and other improvements (including costs of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) which are attributable to such space.

(5) Meeting judicial branch needs.—

(A) In general.—Whenever the Chief Justice notifies the Architect that the judicial branch of the United States requires additional space in the building and other improvements constructed under this Act, the Architect shall accommodate those requirements (i) in the case of space made available to the Administrator of General Services, by a date agreed upon under subparagraph (B), or (ii) in the case of space made available to any person or governmental entity (other than the General Services Administration), within 90 days after the date of such notification.

(B) Space available to GSA.—In any case in which such additional space is provided from space in the building made available to the Administrator of General Services, the space shall be vacated expeditiously by not later than a date mutually agreed upon by the Chief Justice and the Administrator of General Services.

(C) Unoccupied space.—Whenever any space in the building is unoccupied, the Chief Justice shall have a right of first refusal to use such space to meet the needs of the judicial branch in accordance with this subsection.

(6) Assignment of space within the judicial branch.—The Director of the Administrative Office of the United States Courts may assign and reassign space made available to the judicial branch of the United States under this subsection among offices of the judicial branch as the Director deems appropriate.

(b) Nongovernmental Tenants.—

(1) General rule.—Any space in the building and other improvements constructed under this Act which the Chief Justice determines is not needed by the judicial branch of the United States shall first be offered to other Federal governmental entities which are not staff of Members of Congress or Congressional Committees; and then, if any space remains, it may be subleased by the Architect, under the direction of the Commission, to any person.

(2) Rental rate.—All space subleased by the Architect under this subsection shall be subject to reimbursement at a rate which is comparable to prevailing rental rates for similar facilities in the area but not less than the rate established under section 4(b)(2) plus such amount as the Architect and the person subleasing such space agree is necessary to pay on an annual basis for the cost of administering the building (including costs of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) which are attributable to such space.

(3) Limitation.—Subleases under this subsection must be compatible with the dignity and functions of the judicial branch offices housed in the building and must not unduly interfere with the activities and operations of the judicial branch agencies housed in the building. The provisions of section 4 of the Act of July 31, 1946 (60 Stat. 718; 40 U.S.C. 193d), and section 451 of the Legislative Reorganization Act of 1970 (84 Stat. 1193; 40 U.S.C. 193m-1) shall not apply to any space in the building and other improvements subleased to a non-Government tenant under this subsection.

(4) Collection of rent.—The Architect shall collect rent for space subleased under this subsection.

(c) Deposit of Rent and Reimbursements.—All funds received under this subsection (including lease payments and reimbursements) shall be deposited into the account established by section 9.

SEC. 7. COMMISSION FOR JUDICIARY OFFICE BUILDING.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission for the Judiciary Office Building.

(b) MEMBERSHIP.—The Commission shall be composed of the following 13 members:

(1) Two individuals appointed by the Chief Justice from among justices of the Supreme Court and other judges of the United States (or their designees).

(2) The members of the House Office Building Commission (or their designees).

(3) The majority leader and minority leader of the Senate (or their designees).

(4) The Chairman and the ranking minority member of the Senate Committee on Rules and Administration (or their designees).

(5) The Chairman and the ranking minority member of the Senate Committee on Environment and Public Works (or their designees).

(6) The Chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives (or their designees).

(c) DUTIES.—The Commission shall be responsible for supervision of design, construction, operation, maintenance, structural, mechanical, and domestic care and security of the building to be constructed under this Act. The Commission shall from time to time prescribe rules and regulations to govern the actions of the Architect under this Act and to govern the use and occupancy of all space in such building.

(d) QUORUM.—Seven members of the Commission shall constitute a quorum.

SEC. 8. REPEAL OF DOT AUTHORITY.

Section 116(a)(2) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 816(a)(2)), relating to assignment of squares 721 and 722 to the Secretary of Transportation, is repealed.

SEC. 9. FUNDING.

(a) SEPARATE ACCOUNT.—There is established in the Treasury of the United States a separate account. Such account shall include all amounts deposited therein under section 6(c) and such amounts as may be appropriated thereto but not to exceed $2,000,000. Amounts in the account shall be available to the Architect for paying expenses for structural, mechanical, and domestic care, maintenance, operation, and utilities of the building and other improvements constructed under this Act, for reimbursing the United States Capitol Police for expenses incurred in providing exterior and interior security for the building and other improvements, for making lease payments under section 4, and for necessary personnel (including consultants).

(b) UNEXPENDED BALANCES OF FUNDS.—The unexpended balance of funds appropriated by the Urgent Supplemental Appropriations Act, 1986 under the heading "Study of Construction of Office Building" (100 Stat. 717) are transferred to the Architect on the date of the enactment of this Act. Such unexpended balance shall be available for design review, construction inspection, contract administration, and such other project related costs under this Act as the Architect may deem appropriate.

SEC. 10. DEFINITIONS.

As used in this Act—

(1) ARCHITECT.—The term "Architect" means the Architect of the Capitol.

(2) CHIEF JUSTICE.—The term "Chief Justice" means the Chief Justice of the United States or his designee; except that in any case in which there is a vacancy of the office of the Chief Justice of the United States, the most senior associate justice of the Supreme Court shall be treated as the Chief Justice of the United States for purposes of this Act until such time as such vacancy is filled.

(3) COMMISSION.—The term "Commission" means the Commission for the Judiciary Office Building established by section 7.

Mr. MOYNIHAN. Mr. President, this is a very special moment for the Senate and a happy one as well. The House now returns to us our bill, S. 1934, a bill entitled "the Judiciary Office Building Development Act."

Mr. President, this is the second time in the history of the Republic, in the 200 years of this body, that we have been asked to build a building for the U.S. Supreme Court. The first building, which was proposed by President Taft, was designed by Cass Gilbert and completed in 1935. It stands across the Capitol grounds as a well-known symbol of equal justice under law and of the separation of powers.

In the period of some half century since the building was opened the population of the country doubled, and the workload of the courts has greatly increased, necessitating more judges in the circuit courts. Because of this burgeoning caseload, there is a need for improved administrative measures to ensure that all the circuits are accommodated, and that the work of the Supreme Court remains manageable by the same number of Justices that were there 50 years ago—nine.

Twenty years ago, Mr. President, the then Chief Justice Warren Burger, that revered, distinguished, jurist, set out to build a new building that would hold the administrative offices of the Court, that would provide chambers for visiting judges on circuit, that would provide chambers for retired Justices, and be available to the Court for various other purposes. Despite his efforts over a span of 18 years, he was never able to succeed, as he very eloquently testified before the Committee on Environment and Public Works. The problem very simply, as the distinguished Senator from Rhode Island, who is on the floor, would be the first to acknowledge, is that building a new Federal building, this is a very expensive proposition and we have not had the money. In the meantime, we have been renting space so that the rental bill of the U.S. Government is past $1.1 billion annually, a matter of increasing concern to the committee.

Mr. President, in the recent years, we have come up with a very important, promising, and immediately useful device. I want to acknowledge the great role of Mr. Terrance Golden, the former head of the General Services Administration, in helping us with this device. He originated it. We simply approved it. It is a system called lease-to-own. To illustrate with this case, the Federal Government now owns on Capitol Hill squares 721 and 722. They are for practical purposes derelict lots at this point, used as parking lots. They are just east of Union Station, the great gateway to the city that Burnham designed in 1907 and which will be reborn this very next week, as the Presiding Officer knows. The location of Union Station resulted from an arrangement with Mr. Cassett, then head of the Pennsylvania Railroad. He said he would move his railroad station from a site just below the Capitol steps here, on the mall, to the present site, if the Federal Government would build a post office to the west of his station. Now we are going to build the judiciary building to the east—a flanking building, harmonious with respect to size and style, not to be a beaux arts design, but to be a modern design with the same window space, wall space, same building line, cornice line, and so on. There is in this Capitol building five exceptional models that have been submitted by leading American architects in cooperation with the developers through a competition held by the Architect of the Captiol. A building commission is established under this legislation to oversee the new building. It is composed of two appointees of the Chief Justice, two members of the House Building Commission, the Speaker and minority leader, the majority and minority leaders of the Senate, and the chairmen and ranking members of the respective authorizing committees in the House and Senate. They will choose a design and a developer, and the developer will put up the building and we will lease it for 30 years. At the end of 30 years, we will own it. It is a building we expect to be built to specifications that ensure that it will last at least 100, perhaps 200 years—just as the Chamber we are in at this moment. This is to be, in the terminology of architecture, a "monumental" building—not in size, but in purpose and in detail and in character—in the quality of the work and the distinction of the design.

We estimated, Mr. President, that this legislation will save the Federal Government, by building this building and leasing it, approximately one-half billion dollars in the course of the next 30 years—and then we will own the building. We now lease space all over Washington for the same purposes that will find a permanent home here. It is elemental good sense as a management proposition and it is more than that. It is a responsibility that devolves upon us by virtue of the Court's need, and the fact the Court does not independently have the resources to meet those needs. Chief Justice Rehnquist could not have been more supportive in this matter. Former Chief Justice Burger, I can report to the Senate, is delighted with this event.

I would like to make a point that the senior Senator from California has been concerned about the building line, and we specified that the height of this building will conform to the general height rules that obtain by statute in the District of Columbia. I wish to observe that we do this voluntarily. In this Senator's view, we are not under any legal obligation in that regard, but for purposes of peaceableness and comity with our neighbors on Capitol Hill, we will do this. We were going to do it anyway.

Finally, Mr. President, I think it remains to express our appreciation to the members of the House Committee on Public Works and its able and experienced new chairman, Mr. ANDERSON, who saw to the careful reading of this bill. We also appreciate the efforts of the new subcommittee chairman, Mr. Bosco, and ranking minority member Mr. MOLINARI to report this bill expeditiously. It has some very slight technical amendments which necessitates our passing it again, and thanks to them it is here. It is here in good time and we have now done something that for 20 years the courts have asked us to do. We have fulfilled this responsibility.

I have discussed this matter with Mr. Joseph Wright of the Office of Management and Budget. They are equally pleased by this development. It is something of which we can be proud.

I hope that the citizens of the Nation will recall this particular episode and will note that in the 100th Congress a matter of some urgency put before us by the Supreme Court was resolved.

Mr. President, I see the distinguished minority leader who is a member of the Judiciary Building Commission is on the floor. Perhaps he might want to make some remarks.

Mr. DOLE. Mr. President, I thank the distinguished Senator from New York.

I agree with the comments he has made. I checked with the appropriate committee members on our side. They are in support of the proposal, and have no objection. We yield back any time we may have.

Mr. HOLLINGS. Mr. President, the House message now before the Senate authorizes the construction of a new building adjacent to Union Station to consolidate the various components of the Administrative Office of the Courts which are currently housed in several locations throughout the city. This conference report represents the culmination of several years of work to develop a unique public-private partnership for the construction of this facility.

While I understand the severe space restrictions facing the Administrative Office of the Courts, I believe, Mr. President, our first priority in the Judiciary must be to meet the actual costs associated with the operations of our Federal courts which has resulted from a burgeoning Federal caseload.

The Commerce, Justice, State, and the Judiciary Appropriations Subcommittee has just completed conference on the fiscal year 1989 bill. The budget constraints facing the subcommittee were such that we were unable to provide the Judiciary's requested 30-percent increase and heard from many Members as to the pressing needs of the Judiciary. My concern with S. 1934, Mr. President, is not as to the Administrative Office's need for additional space, but more to the question of funding priorities with limited Federal resources.

When this bill was originally approved by the Senate, provision was made for the chairman of the Commerce, Justice, State, and the Judiciary Appropriation Subcommittee to be on the oversight committee for this project. However, the other body opposed our inclusion and this measure now includes no representation from Appropriations. That is precisely my complaint — other people are running up the costs that we are asked to pay within a constrained Federal budget.

Mr. MOYNIHAN. Mr. President, if there is no further discussion, and in the described harmony with which we go forward, I move to concur in the House amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to concur.

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. Does the Senator from Illinois wish to be recognized?

Mr. SIMON. Yes, Mr. President; I question the presence of a quorum.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FOWLER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 1 hour, and that Senators may speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senate is in morning business. A matter involving the House message on S. 1934 was pending. I ask unanimous consent that the Senate return to the message from the House and that morning business follow action on that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIARY OFFICE BUILDING DEVELOPMENT ACT

The Senate continued with the consideration of the message from the House on S. 1934.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur by the Senator from New York [Mr. MOYNIHAN].

The motion was agreed to.

Mr. MOYNIHAN. Mr. President, I thank the majority leader for making this possible. I know that there will be great satisfaction on the part of the Chief Justice.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be morning business for the next 1½ hours and that Senators may speak therein and, of course, introduce bills and resolutions, as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I anticipate no more rollcall votes today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE SAVINGS AND LOAN INDUSTRY

Mr. EXON. Mr. President, I rise today simply to focus attention on what I think is a growing menace to the economic stability of America which we have swept under the rug, in the opinion of this Senator, for too long.

Specifically, Mr. President, it has to do with the serious crisis in the savings and loan industry in the United States today, the solvency, or lack thereof, of the FSLIC, and the fact that we are procratinating to the point that, in the view of this Senator, unless we recognize the multibillion-dollar obligation that has already been run up against the taxpayers of the United States of America, sooner or later, and I think it should be sooner, we are going to have to face the music with regard to the shortfall in the savings and loan industry.

At the present time, it is conservatively estimated that the liability that has accrued in a creeping but dramatic fashion of increase is now somewhere in the area of $50 to $100 billion, or maybe more, that the taxpayers at some time are going to be hit with, because of the shortfall in those amounts, with regard to the money in the FSLIC, to bail out what we have been sweeping under the rug for far too long.

Why are we doing this, Mr. President? Well, there are two reasons. The first reason is that the hope continues to rise that somehow this industry is going to find its way out of the darkness and desperation that presently engulfs it, and maybe the taxpayers will have to come up with some money.

The second reason—and probably the more compelling reason, and what I am most concerned about—is the fact that once we face up to the realities of the situation, we are going to see a dramatic increase in the debt of the United States of America and the deficit. From what we know now, there probably is no more significant problem on the horizon than that one.

So I suppose that the tendency is going to be at least to sweep it further under the rug until after the elections. Among the other critical matters that will face the new administration that will take over in January 1989 is the problem I have just outlined.

After talking about letting the system work its way out over the last several years, by not grabbing the problem early, by ignoring the old axiom that a stitch in time saves nine, we are enhancing the possibility of this dilemma for the financial stability of America becoming unraveled even further.

Indeed, a few months ago, the regulators in that industry were telling us that probably the shortfall was somewhere in the $15 to $20 billion range, the shortfall being what would be needed if today the regulators carried out their duties under the law. Then, a few weeks ago, the regulators indicated that that probably had increased from $15 to $20 billion to the $30 to $32 billion shortfall range.

The regulators have not leveled with the American public or Congress as yet. The recent indications are that that $15 to $20 billion shortfall, which they admitted a few weeks ago has gone from $30 to $32 billion, is now up in the range of $50 billion, and there have been numerous stories in the newspapers and on television that that $50 billion may be the bottom line or the least costly figure.

What is happening in the meantime? What is happening is that the S&L industry in America is continuing to go farther and farther down that black hole tube because we are not doing anything.

Several years ago it became clear that the money was flowing into many of the savings and loan associations because they were paying a little bit higher interest rate than the other financial institutions for savings and in their desperation too many of the savings and loans continued to attract more and more capital by paying higher interest rates to get that money and, of course, it was possible for them to do that only because they had the guarantee of the Federal Government through the FSLIC that the savings deposits were guaranteed by the Federal Government. That is a guarantee that the Federal Government has. That is a guarantee that the Federal Government will have to face up to at some time.

But rather than attacking it then, rather than the regulators moving in aggressively when they knew by their own audit that things were in serious trouble, they simply did not have enough money in the FSLIC to close many of those insolvent institutions. When they did not move then, that dilemma continued to the S&L's trying to keep their heads above water, paying interest rates to get more money coming in. Once they got the money in at higher than normal interest rates for savings, they had to some way put it out. Sure enough, what was predicted several years ago happened. They put this money out into risky loans in many instances.

When we partially deregulated that industry and unwisely allowed the savings and loan institutions to make loans in areas where they were prevented from doing so previously, we almost invited what we have today.

I know that the Banking Committee that has jurisdiction here has been concerned about that. I know that some moves are being made. I would hope that the Members of the U.S. Senate would feel strong enough about this to recognize that putting this off until after the election, putting this off for another 4, 5, or 6 months, until the 101st Congress convenes in January and does not get to doing business until February, March, or April, means that we are going to be that much farther, 6 months farther down this hole, and I would conservatively estimate that if we do that, there is every possibility that the ever mushrooming obligation that the taxpayers of the United States sooner or later are going to have to face is going to be $10 to $20 billion more because of our failure to act.

I would even go so far as to say that I hope that the leadership would consider the possibility at least with all the other important things we have to do to come up with some kind of a plan to begin to provide the regulators and the FSLIC with some money that would be necessary to close some institutions forthwith. Once again a stitch in time may save 9 stitches or 10 or 11 or 12 or many, many more.

So, if necessary I would hope that we could put through some legislation this year after receiving recommendations from our Banking Committee. If we cannot do that by October 8, if we cannot by the scheduled or talked-about day of adjournment, then maybe we should wait until the 15th or maybe, Mr. President we should take the suggestion of this Senator to stay here a few additional days if necessary, up until November if necessary to address this problem. If not that, then I would suggest that we consider coming back as soon as we can after the November election because I think waiting for something to happen is only going to result in more of the same and that is a shame that we have not acted sooner on this matter and it is going to be more of a monumental problem next year than it is right now.

I simply say that, as one Senator very much concerned about this, I am against sweeping it under the rug; I am against not taking action now regardless of what that might do to the tenuous balance that we have regarding the deficit and the tenuous ill effect that that might have facing the Gramm-Rudman bill that would certainly come into play if we would decide that we had to move now.

I just want to send a clear signal that this Senator is very much concerned, and I would hope that my colleagues would take a very close look at what is not being done in this area now. What is proposed is action sometime next year, if then, and if we continue on the course that we have been on, let us try all the avenues before we do anything, we are following the same course that has been a prescription for disaster in the savings and loan industry and the health and financial security of our financial system for far too long.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KARNES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 791. GROUNDWATER RESEARCH

Mr. KARNES. Mr. President, I rise today to express my gratitude to the members of the Senate Environment and Public Works Committee for their action earlier today to report out major groundwater research legislation in the form of H.R. 791.

I am especially pleased that the committee included major portions of a bill I introduced last year, S. 1696, which will set up a program to address one of the greatest environmental problems facing farmers today, that of nitrogen pollution of groundwater and surface water.

Nitrate pollution in Nebraska water has become a very real environmental problem in many places in my State. Farmers use fertilizers to maximize their crop yields, but they want to use farm chemicals in a way that will get the most from their crop without polluting their very valuable resource, that being groundwater. My groundwater proposals, which are now headed for final passage in the Senate, will help farmers farm the way they need to, protect the water, and even save money in the process. The new Agriculture Nitrogen Best Management Committee that is an important part of my bill will define those best management practices, require a report to be prepared and submitted, and make that information available to all farmers on these best management practices free of cost.

I have also suggested to the Secretary of Agriculture that farmers be appointed to this committee. Indeed, I believe if they are appointed—as I think it is critically important that they be—they will play an active role in providing the farm perspectives rather than the bureaucratic perspectives which we have seen, unfortunately, happen all too often.

I would like to take this opportunity to note the diligent work of my colleague, Senator BURDICK, for his efforts to push this issue forward. Senator BURDICK introduced his own bill, S. 1767, which incorporated themes and language similar to S. 1696. I applaud his efforts to help effective nitrates best management practices legislation become law.

I would also indicate, Mr. President, my strong support for the overall bill, H.R. 791. It is profarmer, proenvironment, and the approach that it takes is one that is very positive toward future ground water research. My staff and I have spoken with water leaders in the State of Nebrasaka, and indeed other parts of the Midwest, who wholeheartedly support H.R. 791 as an important step forward in understanding the processes and the problems of ground water and ground water legislation. My State, which depends very heavily on ground water, as well as surface water, will benefit in many ways for this bill.

Mr. President, I yield the floor.

THE STATE DEPARTMENT POLICY IN LEBANON

Mr. HELMS. Mr. President, today we stand on the verge of the collapse of Lebanon into a bloody civil war. Lebanon has been periously weakened by the United States—or, more specifically, by the Near Eastern Affairs Bureau of the Department of State under Assistant Secretary Richard W. Murphy. The fixation of this Bureau on enhancing the power of President Hafez Assad of Syria has been contributing to the tragedy of Lebanon for more than a decade.

The election of a new Lebanese President is a matter for the Lebanese Parliament alone to decide. We should not be negotiating with Syria about the internal affairs of Lebanon. Syria should be told forcefully by the United States to stay out of Lebanese politics and to stay out of Lebanon.

Mr. President, since August, Syria has been thwarting the attempts of the people of Lebanon to conduct a proper election for their president. The election was supposed to have been conducted yesterday, but the Syrians demanded that the Parliament meet for the election in Syrian-controlled West Beirut. No quorum was possible because it is not safe for Christian and Moslem deputies from East Beirut to cross over into West Beirut to vote.

The United States must recognize the legitimately constituted new government of Prime Minister General Michel Aoun which was created yesterday at 4:50 p.m. Washington time, 11:50 p.m. Beirut time. The government of General Aoun was created by the decree of President Amine Gemayel just 10 minutes before the expiration of his term of office. Under the Lebanese Constitution such a transitional cabinet may be appointed by the President; it will then govern until proper presidential elections can take place. The Prime Minister of the transitional cabinet during this period has full presidential powers. A similar transitional situation occurred in 1952.

The Syrians are seeking to impose an alternate government headed by their puppet Salim El-Hoss, who has been the acting Prime Minister under President Gemayel, which would seek international recognition for itself in place of the constitutional government. El-Hoss' cabinet resigned over a year ago on June 1, 1987.

Mr. President, the United States and all countries of good will must recognize the Aoun government in order to prevent chaos, bloodshed, and a possible partition in Lebanon.

The reason that proper elections in safe conditions did not occur yesterday is because the Syrians insisted that the elections be held in Syrian-controlled West Beirut rather than at a neutral site, the Villa Mansour, along the green line which separates East and West Beirut.

Deputies did meet in West Beirut but a quorum was not present. Sadly, a Shiite Moslem deputy from East Beirut, former Speaker of Parliament Kamel al-Assaad, who had gone to vote in good faith, was kidnaped, assaulted, and later released by pro-Syrian Amal militia forces as he tried to return to East Beirut.

Damascus has no right to interfere in the sovereign affairs of Lebanon. Damascus has no right to occupy Lebanon with over 40,000 troops. The United States has no business promoting Syrian control of Lebanon.

Mr. President, Senators know that it has been the stated policy of the United States since 1943 to support the sovereign independence of Lebanon. Sovereign independence means no foreign interference in internal affairs.

Secretary Murphy's diplomatic failure in Damascus has unfolded over the last week. His policy has been appeasement in the face of Syrian demands. He has all but handed Lebanon over to Syrian dictator Hafez Assad. The consequences of this unprecedented betrayal may well lead to bloodshed within the coming hours and days.

The State Department mission to Damascus, rather than playing a role as an honest mediator, capitulated step-by-step to the Syrian plan to install a puppet president in Lebanon.

First, the State Department accepted rather than rejected the puppet candidates proposed by Syria. Rather than veto Syrian intervention in the electoral process, Mr. Murphy publicly indicated United States support of the Syrian puppet candidate Mikhael Daher knowing full well in advance that Daher was wholly unacceptable to Christian and moderate Muslim Lebanese.

Second, the State Department accepted rather than rejected the Syrian-selected West Beirut venue for the election knowing full well in advance that this location was unacceptable to Christian and moderate Moslem deputies.

The Syrians, who militarily occupy about 60 percent of Lebanese territory, have tried for months to impose their own puppet as president. The Syrians proposed two candidates: Suleiman Franjieh as their first choice and Daher was the alternate. Both of these men are notoriously pro-Syrian. Both of these men are from villages currently under Syrian control, a fact which makes their families and friends hostages to Syria. Both of these men are known to Syria and to the United States to be wholly unacceptable to the Christian and moderate Moslem communities in Lebanon.

The Syrian demand that the election take place at a location in West Beirut rather than along the green line at the Villa Mansour has been an attempt to put Christian and Moslem deputies living in East Beirut under Syrian intimidation in an almost hostage-like situation should they cross over to vote. As I pointed out, a kidnaping did occur. Such a venue could have no other purpose than to force deputies to boycott the election for their own safety. The Syrians then could promote an alternate government.

THE DAHER CANDIDACY

Mr. President, as I stated earlier, the Syrians first proposed Suleiman Franjieh as their candidate for president knowing full well that he was wholly unacceptable to the Chritisan and moderate Moslems communities. The backup was Mr. Daher, also well known to be unacceptable to these communities, as an alternate candidate.

Daher, born in the village of Kobayatt, North Lebanon, in 1928, is a lawyer who once defended Fouad Awad of the Syrian Social Nationalist Party—a Syrian party with a Lebanese branch—who was charged with plotting a coup d'etat in Lebanon. The ideology of this political party holds that Lebanon and the rest of the Mesopotamian Basin—including Israel and Iraq—should be part of a so-called Greater Syria. The Lebanese branch of this party has covert terrorist cells.

Daher fully endorsed the tripartite agreement of December 28, 1985, which was the Syrian program for control of Lebanon. This plan gives Syria total control over Lebanon's defense, internal security, foreign policy, economic policy, and education policy. The plan never went into effect but has remained part of Syria's game plan.

Reports from Lebanon indicate that on September 12 of this year, Daher, in preparation for the declaration of his candidacy, left his East Beirut residence and visited his village of Kobayatt in Syrian-controlled North Lebanon. He brought two well-known Syrian sympathizers with him: ex-Ministers Michel Mur and Marwan Hamade.

It has been reported to me that Daher went to Damascus on September 16 to work out the details of his candidacy and platform. It has not yet been confirmed whether or not he met with the U.S. State Department delegation then in Damascus. His platform is described as consisting of most of the elements of the tripartite agreement and in effect the platform hands Lebanon over to Syria. Syrian Vice President Khaddam—with whom the Murphy delegation had been negotiating—declared official Syrian approval of the Daher platform on September 19.

Under Daher's platform, the Syrian military would essentially take control over the Lebanese Army and internal security forces.

CHRISTIANS CONDEMN THE MURPHY ACTIONS

Mr. President, Christian parliamentary deputies and church authorities have been meeting in emergency session in Bikerke over the last several days. The Christian deputies have taken a position that the unity of the national assembly must be preserved and that the elections must be held in secure conditions at the Villa Mansour along the green line.

Before Secretary Murphy left Lebanon, he was informed frankly and forcefully by the Maronite Patriarch Sfeir in person that the State Department's position in support of a Syrian diktat was rejected by the Christian community. According to informed sources, the Patriarch told Murphy that not even Lebanon's former Ottoman rulers had attempted to impose their will on the country in such a fashion as Syria's Assad.

Despite the clearly announced united position of the Christian community, the United States Embassy in Lebanon has continued to insist upon the acceptance of Daher or the holding of elections in Syrian-controlled West Beirut. Our Ambassador to Lebanon, John Kelley, was stricken with heart problems last week and was evacuated to Cyprus and then to West Germany for tests last Friday. Ambassador-designate McCarty has not yet left the United States to replace Ambassador Kelley. The United States spokesman in Lebanon, therefore, has been Daniel Simpson who has reportedly privately and publicly supported Daher and the West Beirut election location.

Mr. President, it is my understanding that the Vatican has been fully informed of the situation and is deeply distressed by events in Lebanon.

The French Foreign Minister has already condemned the United States diplomatic fiasco.

THE AOUN GOVERNMENT

President Amine Gemayel named the following to the military government in the closing minutes of his term: Gen. Michel Aoun, a Maronite Catholic and the military chief of staff, was named the Prime Minister and given the portfolio for defense. Brig. Issam Abu Jamra, a Greek orthodox, was named deputy prime minister and given the portfolios for transportation, housing, commerce, economics, and post office. Gen. Edgar Maalouf, a Greek Catholic, was given the portfolios of finance, health, social affairs, oil, and industry. Col. Loufti Jaber, a Shiite Moslem and commander of the predominantly Shiite Sixth Brigade, was given the portfolios of water, electricity, agriculture, and justice. Gen. Mahmoud Abu Dargham, a Druze, was given the portfolios for public works, tourism, and labor. Gen. Nabil Koraytim, a Sunni Moslem, was given the portfolios for foreign affairs, interior, and education.

Owing to intense Syrian pressure, Colonel Jaber, General Dargham, and General Koraytim declined to serve in the new government. An indication of the intensity of Syrian pressure was the nonacceptance of the portfolios by Colonel Jaber who himself had supported General Aoun for president.

The Aoun government has the united support of the Christian community in Lebanon as well as the support of moderate Moslem leaders such as Osman Danna, a Sunni Moslem deputy from Beirut. Dr. Samir Geagea, the chairman of the Christian Resistance and commander in chief of the Lebanese Forces announced his immediate support for the Aoun government. Dany Chamoun, leader of the National Liberal Party, and George Saade, leader of the Kataeb Party, announced their support of the Aoun government. Pierre Helou, an independent Deputy and influential leader within the Christian community announced his support of the Aoun government.

Mr. President, the State Department's pro-Syrian policy has remained virtually unchanged since it was created by Henry Kissinger in the early 1970's. The inevitable consequence of this pro-Syrian policy to date has been bloody civil warfare in Lebanon, Syrian military occupation of some 60 percent of Lebanese territory, and the spread of international terrorism.

Mr. President, it is no secret that Syria and Iran worked together to blow up the Marine Corps barracks in Lebanon which took the lives of over 250 soldiers. Of course, the State Department made every effort to cover up Syrian support of international terrorism even though Syria has been on the list of countries sponsoring terrorism. The Department of State has promoted the fiction that Syria has been helpful with respect to hostages when the fact is that Syria on its own, and working with Iran, has been behind the taking of hostages in the Middle East.

Mr. President, it is time that we drop the fatally flawed pro-Syria policy of the Bureau of Near Eastern Affairs at the State Department. We need to construct and to implement a realistic policy for the Near East which will contribute to the peace and prosperity of the region.

Mr. President, Syria is a terrorist-sponsoring state. Syria, under the dictatorship of Hafez Assad, is a threat to peace in the Middle East. Appeasement of Syrian state terrorism and intervention in Lebanon is a road to further chaos bloodshed. The Syrian nation deserves better than Hafez Assad, a dictator who does not hesitate to massacre tens of thousands of his own people.

Mr. President, it is clear that the policy of the Bureau of Near East Affairs, headed by Assistant Secretary Murphy, is a catastrophe for U.S. goodwill, influence, and long-range interests in the Middle East—the ancient strategic crossroad of mankind.

The first step in a new realistic policy is to recognize immediately the government of Prime Minister Aoun in war-torn Lebanon.

TAKING CHARGE OF HEALTH CARE IN AMERICA—THE PROPOSALS OF GOVERNOR DUKAKIS

Mr. KENNEDY. Mr. President, in a statement last Tuesday, I urged all of us concerned with the quality of health care in America to consider the series of addresses that Governor Dukakis and Senator BENTSEN would be delivering this week on their health care proposals for the Nation.

The Dukakis-Bentsen program will bring health insurance coverage to millions of citizens who currently have no protection against the high cost of health care. It will reduce the scourge of infant mortality by assuring a healthy start in life for all newborn children. It will address the health care crisis confronting rural America. It will protect the Social Security and Medicare benefits that senior citizens have earned. It will begin the process of establishing a program of long-term care to assure that elderly Americans have the help they need, whether that care is provided in a nursing home or in their own home.

This progressive, compassionate, credible, and imaginative program offers a clear contrast to the policies of retreat and reaction that have characterized the Reagan-Bush years on health care. I believe that the program will be of interest to all of us in the Senate, and I ask unanimous consent that the series of addresses and background papers describing the program may be printed in the RECORD.

There being no obligation, the material was ordered to be printed in the RECORD, as follows:

"TAKING CHARGE OF OUR FUTURE—A HEALTHY START," BOSTON, MASSACHUSETTS, SEPTEMBER 21, 1988

(Address of Governor Dukakis)

In less than seven weeks, we face a choice between two very different versions of America's future.

George Bush sees a complacent America; an America that wants to look backward even as a new century is about to dawn.

I see an America whose best days are ahead of us, not behind us; an America with new horizons to reach and new frontiers to conquer. I see an America that's ready to take charge of its future again.

He sees prosperity for some people in America, and says that's good enough. I want to bring prosperity home—to every home in America.

His vision of America doesn't extend beyond the gates of the country club. I want to stand up and fight for the average American family—for those who have no special interest lobbyists in Washington and no special influence at the bank.

I want to be the President who fights for the average American—who makes a real difference for American families.

Two weeks ago, I proposed a plan to open the door of college opportunity to every young man or woman in this country who is qualified to do college work.

Last week, I offered an action plan for waging a real war—not a phony war—on drugs.

Yesterday, I proposed that we make health security the birth right of every American—and not just the most privileged few.

Today, I'm here to talk about the health of our children—about how we're going to make sure that every child in America has the chance for a healthy start in life, and a fair shot at the American dream.

Our children are our pride, our joy, and our future.

But, each year, more than 40,000 American babies do not survive to celebrate their first birthdays. And, if this trend continues, over a half a million more infants will die during the next 12 years—more than the total number of battlefield deaths of American forces in World War I, World War II, Korea, and Vietnam combined.

Today, an infant born in America has less change of survival than those born in 18 other countries, including Spain and Singapore.

Today, more than 12 million children grow up in families without a dime's worth of health insurance. Too many of these children don't get checkups. They aren't treated when they are sick; and they've never seen a dentist.

Over the past eight years, the number of children who've been immunized has dropped 20% a year. And the incidence of diseases like mumps and measles has gone up.

For the first time in recent history, there has been an increase in the number of babies born with dangerously low birthweights—babies born too small, babies born malnourished, babies who are born 40 times more likely to die during their first year of life than other babies.

My dad was a doctor, and, when I was growing up, no one talked about the principle that every doctor lives by: "Above all, do no harm." I wish someone had told that to George Bush.

When children and their families have needed a helping hand, Mr. Bush's administration has given them a cold shoulder. When the time came to stand up for our children's health care needs, George Bush was no where to be found.

But, he was there when his Administration conducted an annual assault on immunization programs. He was there when they cut maternal and child health program. He was there when they cut the women, infants, and children program that provides nutritional supplements for pregnant women and their babies. And he was there when they cut off Medicaid for 700,000 children, most of them from working families—children who will have to wait for hours in hospital emergency rooms the next time they are sick or injured.

George Bush claims he is "almost haunted" by the way some children live in America today, but he says that we can't solve their problems.

Lloyd Bentsen and I think we can do plenty. And we will, beginning on January 20, 1989. And today, I want to share with you our plan to guarantee a healthy start to every American child.

And, the guiding principle behind our Healthy Start program is that timeless piece of folk wisdom: An ounce of prevention is worth a pound of cure.

The cost of prenatal care—care that can prevent an infant from being born with an abnormally low birthweight—can be as little as $400. But the cost of caring for that person over a lifetime of illness—illness that could be prevented—can reach $400,000.

The same principle holds true for immunization—we save $10 in treating preventable childhood illnesses for every $1 spent on immunization.

And Healthy Start is based on real life experience—successful experience.

Thanks to the vision of people here in Massachusetts like State Representative Richard Voke, and Deborah Prothrow Smith, and, thanks to the hard work of people like the doctors, nurses, and other members of the health care team here at Brigham and Women's Hospital—we know that we can give all of our children, especially those most at risk, a healthy start on life.

In just twenty months, the Massachusetts Healthy Start program has already served more than 16,000 women and their children. We've provided early and continuous prenatal care for pregnant women—care that helps keep mother and child well-nourished and healthy. We've provided these services for women without health insurance—and soon we will see the day when no man, woman, or child in our state is without health insurance.

This morning, I had the pleasure of meeting with some of the dedicated people who are providing these services—and with some of the women and children whose lives are healthier, happier, and more hopeful because of your efforts. And we are making a difference—fewer low-birthweight infants; fewer premature births; and, best of all, a lower rate of infant morality.

What we have begun to accomplish here, we can—and must—do in all 50 states.

We're going to reach out to every pregnant woman in the country to make sure they get early and adequate pre-natal care. If we find they're eligible for some form of coverage, we're going to make sure they're eligible for some form of coverage, we're going to make sure they're enrolled in an insurance plan. And we're going to make sure that they get to doctors and clinics who are willing and able to provide the care they need.

If we find they have no health insurance we're going to pay for her care and make sure that care is available. We won't rest until every expecting mother and her baby can get the healthy start they need and deserve. That means decent nutrition, prenatal care visits, laboratory and pharmacy services, home visits for high-risk pregnancies and care for mother after she gives birth.

And, beginning on January 20, 1989, immunizing our children will become a top priority once again—not the first target for budget cuts. We're going to provide a steady supply of vaccines for our children. We're going to make sure there are trained personnel to get the job done.

My friends, it's a time for wonderful new beginnings.

On or about January 20, John and Lisa expect a new baby.

And, on January 20, America will have a new Administration.

I want our Administration to make sure that every baby born in America will have the healthy start in life that Kitty and I want for our first grandchild.

And it will require the enthusiasm and dedication and work of all of us who care about our nation's future.

Because as President, I'm going to be setting goals for our country; not goals for government working alone; I mean goals for our people working together.

I'm going to fight to make health insurance available for every working man and woman in our country, but I will also ask all Americans to keep themselves and their children physically fit and healthy.

I'm going to fight to reassure our older citizens of quality long-term care, but I will also ask all Americans to show toward their aging parents and neighbors the kindness and attention for which no government program can be a substitute. I'm going to work to expand the opportunity for volunteer services in this nation as well as abroad, but I will also ask young Americans to give something back to the country that has given so much to them, and to accept the obligation as well as the privileges that accompany citizenship in the greatest nation on earth.

We need more doctors willing to care for those living in inner-city neighborhoods. We need more citizens willing to work in a hundred different ways in a thousand different communities to enrich the nation, and not just themselves.

My friends, it's time for us to take charge of our future. Let's get on with it.

BACKGROUND PAPER; MIKE DUKAKIS ON THE ISSUES—"A HEALTHY START ON LIFE"

Each year, 40,000 babies in the United States do not survive to celebrate their first birthdays. At this rate, 520,000 infants will die from now until the end of this century—more than the total number of battlefield deaths of American forces in World War I, World War II, Korea, and Vietnam combined. As many as half of the lives could be saved through adequate preventive and prenatal care. Our infants have less chance of survival than those in 18 other countries, including Singapore and Spain. We have fallen behind over the last eight years.

The Reagan-Bush Administration has cut the very programs that provide preventive care to mothers and their children. In 1981, they eliminated Medicaid benefits for most working pregnant mothers and their children. Year after year they've sought deep cuts in virtually all maternal and child health programs.

Even after enactment of the Dukakis Healthy Family plan, some 2 million women of child-bearing age will not have health insurance—200,000 of whom will become pregnant each year.

Immunization rates are down. As a result, rates of whooping cough and mumps—preventable diseases—have more than doubled. Failure to immunize against whooping cough sent hundreds of infants each year to the hospital since 1980. 80 percent of measles cases could be prevented. Even polio still exists although we could eliminate the crippling disease. Today, 35 percent of all preschool children are not fully immunized.

Yet, the Reagan-Bush Administration proposed drastic cuts in childhood immunization funds in 1981 that would have cut the number of children, immunized in half. That same year they proposed funds to pay for shots for the pets of military personnel that equaled the proposed cuts in childhood immunization. For the past seven years, Reagan and Bush have led an annual assault on immunization programs. And they opposed adequate funding despite the increase in childhood disease preventable by immunization.

American children should be at the top of the list, not off the agenda. We must make a healthy start on life and immunization a birthright of all American children.

THE DUKAKIS PLAN

As President, Mike Dukakis will propose a national Healthy Start and immunization program. He will:

Create a new Healthy Start program that will work with states to ensure that all uninsured pregnant women receive essential care.

Reach out early to pregnant women and act as their advocate in finding providers and coverage for care.

Pay for essential prenatal, diagnostic and physician delivery services for those uninsured pregnant women who cannot afford necessary care.

Work with providers to assure participation and help physicians and nurse midwives provide essential care.

Guarantee that all American children can get the vaccines they need. Year in and year out adequate funds will be made available to ensure: The steady supply of vaccines for our children; the quality and safety of the vaccine supply; and the availability of trained personnel capable of administering vaccines.

Prenatal care will save lives. It will also save money. The Institute of Medicine has found that for every dollar spent on prenatal care, more than $3 is saved in the first year of life. Over a lifetime as many as $10 dollars is saved for each dollar spent. This program will mean no net new costs to the federal government. The initial $100 million investment will be recouped within one year by savings in reduced hospital intensive care of premature, low birth weight infants.

Immunization is one of the cheapest ways to protect children. The measles vaccine alone saved the United States $5.1 billion in the first 20 years of the vaccine's licensure (1963-1982). In spite of the Reagan-Bush obstruction, Congress has ensured that adequate funds are available this year for immunization programs. Mike Dukakis will ensure that adequate funds are available every year.

In Massachusetts, Mike Dukakis established the innovative Healthy Start program to prevent infant deaths. He is giving all Massachusetts' children a chance for a healthy start on life. Healthy Start reaches out to pregnant women and children to coordinate, refer and pay for necessary care for uninsured pregnancies. Massachusetts and other states have proven that a healthy start can save lives and money. The costs of prenatal care can be as little as $400. A lifetime of care for a baby born too little too soon can reach $400,000.

We cannot afford to fall to last place among industrialized nations. We cannot afford to do less than Japan—which by determined action moved from 17th in the world to number 1. Our children deserve to be in first place.

BACKGROUND PAPER: THE NATION'S HEALTH DURING THE REAGAN-BUSH YEARS—THE HEALTH OF AMERICA'S CHILDREN

During the Reagan-Bush years, as a result of budget cuts and misguided priorities, the health of our nation's children has suffered.

PRENATAL AND CHILD HEALTH

The United States ranks 19th among industrialized countries in infant mortality. A child born in Japan is twice as likely to reach his or her first birthday than is a child born in the United States. We are behind Singapore, Spain, Ireland, and East Germany.

Each year, 40,000 babies—1 percent of all U.S. births—die in the first year of life. Had the U.S. infant mortality rate been equal to that achieved by the country with the lowest rate (Japan) there would have been 19,350 fewer infant deaths in the U.S. in 1985—a sum greater than the number of deaths of all U.S. children 1 to 15 years of age in 1985.

In the early 1980s, the pace of decline in the U.S. infant morality rate slowed. In the 3-year period from 1981 to 1984, the annual average rate of decline was 3.3 percent, down by about 20 percent from the 4.1 average between 1977 to 1981.

The 1985—for the first time in 20 years—there has been a rise in low birthweight babies, babies far more likely to die or develop crippling health problems. Low birthweight is the single largest cause of infant death. A low birthweight infant is forty times more likely to die in the first year of life than other babies.

The Reagan-Bush administration has ignored the proven cost-effectiveness of early prenatal care. Its shortsighted efforts cost dollars and cost lives.

In 1985 the Reagan-Bush administration tried to delay release of a USDA evaluation of the Women, Infant and Children nutrition program (WIC) demonstrating the program's effectiveness in reducing the incidence of low birthweight (the leading cause of infant mortality) and late fetal deaths.

In response to these findings, the Reagan-Bush administration—with the support of Senator Quayle—attempted to withhold $76 million in already appropriated FY 1985 funds, which if successful would have terminated 250,000 people from the program. In 1987, the Reagan/Bush administration proposed a $100 million cut below baseline for WIC over four years.

In 1981 Reagan-Bush cut Medicaid eligibility taking health benefits away from working mothers and their children. The cuts hurt some 500,000 to 700,000 children plus their mothers.

CHILD IMMUNIZATIONS

Progress toward vaccinating America's children against preventable and devastating diseases has stagnated during the Reagan-Bush years, despite the unquestionable cost-effectiveness of immunizations.

The Children's Defense Fund reported that 80 percent of the cases of measles among preschool children can be prevented by vaccine.

According to the Centers for Disease Control, between 1980-1985 the incidence of mumps doubled, and the incidence of pertussis more than doubled, resulting in the hospitalization of 1,500 infants—costly hospitalizations preventable by proper vaccination.

From 1963-1982, the measles vaccine saved the United States $5.1 billion, according to the Office of Technology Assessment.

The number of our young children getting immunizations has stagnated. The percent of 2-year-olds fully immunized against polio, measles, rubella, mumps, diphtheria, pertussis, and tetanus in 1985 was below 1980—needlessly subjecting children to painful hospitalizations, permanent brain damage, and death.

The number of children immunized by public programs has dropped 20 percent a year for the last four years, according to the Children's Defense Fund.

We save an estimated $10 for every $1 spent on immunization. For rubella, we save $25 for every $1 spent on females because of prevented birth defects.

By 1984, the Federal government supported vaccinations for 700,000 fewer children than in 1981, according to the Children's Defense Fund.

Despite the unquestionable cost-effectiveness of immunizations, the Reagan-Bush administration has cut Federal support for immunization programs.

Senator Quayle never supported efforts to restore cuts in immunization funding and in fact, voted to cut the program.

On April 24, 1986, Senator Quayle voted to table an amendment to increase the FY 1987 budget authority for the childhood immunization program by $25 million.

In March, 1981, the Reagan/Bush administration proposed a $6 million cut in funds for immunization programs—a 50 percent decrease in funding for childhood immunizations against preventable diseases like polio, measles, tetanus and diphtheria. On April 2, 1981, Senator Quayle voted against restoring these funds for child immunization programs.

BACKGROUND PAPER: A NATIONAL HEALTH START, QUESTIONS AND ANSWERS

Q. How many women would this national program reach?

All pregnant women would be eligible. The program would target those uninsured women left out of employment-based and public programs. Based on census data, an estimated 2 million women of child bearing age will continue to fall between the cracks even with a minimum health benefit required for working families—200,000 of whom are likely to become pregnant each year.

Q. How does Massachusetts Healthy Start work?

Healthy Start places outreach workers, including bilingual staff, throughout Massachusetts communities to identify pregnant women early in need of information and referral to care. Healthy Start has developed a network of providers willing and able to provide a full range of pregnancy services for an agreed upon comprehensive fee. In addition, the Healthy Start workers make sure that expectant mothers have access to necessary nutritional and other support services. The program pays for 100 percent of care for uninsured women living in families with incomes under 200 percent of Federal poverty. The program expects a woman to contribute to the costs of her care if her family income is above 200 percent of poverty. However, no woman would be denied care.

Q. How would this program work nationally? Aren't the most successful programs State based?

The national program would fund state based programs. States will have an incentive to participate since the program will produce savings of state funds. The national initiative plus a strong Federal-State partnership will produce a campaign across the country to make America's children number one. A variety of successful models exist. All would be eligible under general guidelines with the programs held accountable for reaching out to women and bringing them into continuous care.

Q. What guidelines would you specify?

The central goal of Healthy Start is to reach women early and bring them into continuous pregnancy care. All State programs would follow basic guidelines:

1. Outreach, education and referral would reach out to women rather than waiting for pregnant women to seek care.

2. We would guarantee providers payment for care to assure providers participation. The goal is for the program and providers to be advocates for pregnant women making sure services work.

3. Universality. The program must be available to all women in need. Where women are eligible for other public or private coverage, Healthy Start would help with referral and enrollment.

BACKGROUND PAPER: FACTS ABOUT THE MASSACHUSETTS HEALTHY START PROGRAM

HISTORY

The Healthy Start Program was initiated in December, 1985 in response to a distressing rate of infant mortality in the Commonwealth attended by cuts in funding for prenatal services for poor pregnant women through Medicaid and for nutrition services through the Women, Infant and Children Program by the Reagan-Bush administration. To date, the program has served more than 16,000 women.

PURPOSE

The purpose of Healthy Start is to reduce barriers to early and continuous prenatal care for low-income, uninsured pregnant women through the provision of financial coverage for pregnancy-related services. Healthy Start also provides outreach and education for low-income pregnant women, specifically targeting high risk groups such as linguistic and cultural minorities and teenagers. Healthy Start workers also offer information and referral for other services like WIC and food stamps.

TRENDS IN MASSACHUSETTS INFANT MORTALITY

	1986	1987	Percent change
Infant mortality rate (per 1,000 live births)	8.4	7.2	−14.3
White infant mortality rate	7.6	6.5	−14.5
Black infant mortality rate	19.7	15.5	−21.3

Healthy Start has demonstrated that a government commitment to outreach, education and medical services can combat infant mortality, prematurity and low birthweight.

TAKING CHARGE OF OUR FUTURE—A HEALTHY AMERICA

(Address of Governor Dukakis)

In just seven weeks, the American people will face a choice between two very different records of accomplishment; between two very different visions of America's future.

George Bush sees a complacent America. An America that wants to look backward even as a new century is about to dawn.

I see an America with new horizons to reach and new frontiers to conquer. I see an America that's ready to take charge of its future again.

I want to be the President who will stand up for those who have no special interest lobbyists in Washington and no special influence at the bank. A President who will stand up for those who want to see this country first again, both militarily and economically; first in exporting products, not exporting jobs; first in new domestic investment, not in new foreign debt; first not in the wealth we provide for some of our citizens but in the quality of the schools and health care and housing we provide for all Americans.

I want to be the President who fights for the average American—who makes a difference for American families. Two weeks ago, I presented a plan for opening the door of college opportunity to every young man or woman in this country who is qualified to do college work. Last week, I proposed an action for waging a real war, not a phony war, on drugs.

Yesterday in Houston, I talked about our energy future—about the importance of a strong and healthy energy industry. About eight years of drift and indifference on energy; and the people of Kentucky know how important a national energy policy is to your future and to ours.

Today, I want to talk about how we can strengthen American families by making America first in the health of our people—and I mean the health of *all* our people, not just the privileged few.

John Kennedy once said that "whenever the miracles of modern medicine are beyond the reach of any group of Americans, we must find a way to meet their needs and fulfill their hopes. For one true measure of a nation is its success in fulfilling the promise of a better life for each of its members. Let *this* be the measure of our nation."

Today, 26 years after President Kennedy spoke those words, America has the best medical system in the world; the best medical technology; and the best doctors, nurses, and health care workers. Our challenge as a nation is to make these wonderful resources available to *all* our people.

Today, the United States is one of only two industrialized nations in the world that do not provide basic health security for working families. The other is South Africa. I, for one, am not satisfied with that kind of company as the "measure of our nation." We should aim higher than that.

Today, 37 million Americans do not have a dime of basic health insurance protection. Most of them are members of working families and the number is growing. More than 12 million of them are children. I, for one, am not satisfied with 40 million uninsured American citizens as the "measure of our nation." We should aim higher than that.

This year, 40,000 American babies will not survive to celebrate their first birthdays. The United States ranks 19th among the industrialized nations of the world in protecting the lives of our young children. A baby born here in America has less chance of surviving than those in 18 other countries, including Spain and Singapore. I, for one, am not satisfied with that shameful level of infant mortality as the "measure of our nation." We should aim higher than that.

Today, we face a serious nursing shortage in this country. The shortage is most severe where the needs are most severe—in our large urban hospitals and in our rural communities. Today, we need 122,000 more nurses; in just two years, our needs will double again. I, for one, am not satisfied with this as the "measure of our nation." We should aim higher than that.

Like you, I care about the families who are one illness away, one injury away, and one operation away from losing everything they've worked for, everything they've saved for, and everything they've dreamed about.

And I care about the parents who go to sleep every night not knowing if they will be able to afford medical care for a sick child if he or she gets sicker during the night.

And where is George Bush? Today, he is visiting a flag factory. Mr. Bush, don't you think it's about time you came out from behind that flag and told us what you intend to do to provide basic health care for 37 million of our fellow citizens?

The fact is that Mr. Bush has no plan, but he does have a record—a record of indifference, a record of neglect, a record that even the American flag can't hide.

He didn't life a finger to stop his own administration from cutting Medicare and rural health clinics and pre-natal care, and child nutrition and polio vaccinations for young children. The fact is that, when the time came to stand up for the health needs of America's families, George Bush was nowhere to be found.

You know, one reason I feel so strongly about health care is because my dad was a doctor. He served his community and cared for his patients until he was 82 years of age. And he never asked to look at your bank account before he'd look at you. He believed, as I do, that health care is a right, not a privilege-for every American, not just a privileged few. And as an immigrant who loved his adopted country and believed in the American Dream, he know how important good health care is to keeping the American promise.

Lloyd Bentsen and I are going to keep that promise; we are going to make sure that when Americans get sick, the first question they hear will be the question my father used to ask—the question that doctors and nurses ask every day: not "how can you pay?" But "where does it hurt?"

And this is what we intend to do.

First, we're going to work with the nation's employers to provide a basic level of health insurance to all our working people and their families.

People like Gary Neely, who was laid off from his job as a spot welder at the Corvette plant here in Bowling Green. Before he lost that job, he had full medical coverage for himself and his family. Now, he's working at temporary jobs, without medical coverage, and he can't afford to buy health insurance.

People like Claudia Johnson, a home health worker in Los Angeles. She earns $3.72 An hour. She has no health coverage. After a recent auto accident, the ambulance driver refused to take her to the hospital because she had no health insurance.

Families without insurance are often more likely to get sick because they've postponed routine medical checkups. They're more likely to wait until an illness has grown serious—and expensive—before seeking any treatment at all. And then they're more likely to use publicly subsidized clinics and emergency rooms.

That's why emergency rooms and clinics are filled to over-flowing with uninsured patients. That's why some hospitals are cutting back or closing down emergency services and outpatient care. That's why so many rural hospitals are closing their doors.

That's why so many hospitals are raising their rates for patients with insurance to pay the costs for those who don't have insurance and can't pay their own bills. And that's why responsible employers, who provide insurance for their workers, are paying a lot more than they should for their health insurance coverage to reimburse hospitals for the care they're providing to the uninsured.

That's not fair. That's not right. We can—and must—do better. And, with your help, we're going to do better, beginning on January 20, 1989.

Five months ago, I became the first governor in America to sign legislation that will guarantee health insurance for every single citizen in my state. If we can do it in one state. We can do it for all Americans.

The simplest and the fairest and the most affordable first step toward that goal is to require all employers, with some exceptions for small businesses, to provide basic health insurance for their workers and dependents.

We'll work closely with the small business community to provide them with the same tax benefits that large businesses already get when they provide health insurance to their employees. And we'll help small businesses to buy health insurance at affordable rates.

For the vast majority of businesses that do provide health insurance for their employees, it means they'll no longer have to subsidize their competitors who don't provide for their workers.

For the taxpayers, it means no additional burdens on the federal budget. In fact, we'll save on Medicaid, Medicare, and other programs that help pay the bills for uninsured patients.

Second, we're going to challenge every sector of our society—business, labor, government, and the medical professions—to find a way to provide a basic level of medical coverage for those Americans who can't be insured through the workplace.

Providing working Americans and their families with basic health insurance will go far toward realizing the dream of protecting all Americans—but not far enough. We'll still need to provide that protection to millions more, particularly the unemployed.

Immediately after the election, I will appoint a task force with representatives of federal, state and local government, hospitals, health professionals, business and labor. Their job will be to report back to me by March 30 with a strategy for extending basic health coverage to every American.

Third, we're going to make sure that a healthy start on life will be the birthright of every American child; 40,000 American babies die each year before their first birthday. Many of these tragedies could have been prevented with early prenatal care.

Tomorrow, I will announce a plan to make sure that every baby can have a healthy start in life, whether or not his or her parents have health insurance.

And tomorrow, in Lubbock, Texas, Lloyd Bentsen will be presenting the fourth part of our plan—meeting the health care needs of our rural communities.

Fifth, we're going to give our senior citizens and their families freedom from the fear that a chronic illness will bankrupt them.

Today, older Americans, many of whom are barely surviving on fixed incomes, have to spend more and more of their Social Security and pension dollars for health care. The vice president and his administration have made their struggle more difficult by trying to cut Social Security and Medicare benefits for seven of the past eight years. Mr. Bush even cast the deciding vote in the Senate in 1985 to increase out-of-pocket costs for the elderly and disabled under Medicare. And as if that wasn't enough, his administration illegally deprived the elderly of their home health care payments—until a federal judge blocked them last month.

Lloyd Bentsen and I will stop that assault on Social Security and Medicare—and we'll stop it cold.

In fact, thanks to his leadership, we've begun to turn it around. This year, Congress took a giant step towards relieving the worries of senior citizens when it passed the Catastrophic Health Care Act. But we won't be satisfied until we have found away to ease the greatest fear of all; that our families will be bankrupted or torn apart if our parents or grandparents need care for chronic illnesses.

In the coming weeks I'll be outlining how we can begin to provide affordable long-term care for our citizens, starting with the home health care legislation proposed by Congressman Pepper.

My friends, America has always been a nation of proud and hardworking peope, who had time for their families and respect for the elderly, who always cared enough, even while building the mightiest industrial nation on earth, to keep an eye out for the neighbor who might be having a tough time.

Today Americans are working harder than ever. Trying to meet the challenge of tough foreign competition. Trying to keep up with the demands of changing technology and the need to learn new skills. Trying hard to be successful at work, and still find time to meet the responsibilities of their families.

The working men and women of America aren't looking for a handout. But they are looking for leaders who will work as hard as they do; who will aim as high as they do; who care as much as they do about whether our children go to college; whether our sick are cared for; and whether our country is moving forward to recapture its proper place as the most powerful economic force on this planet.

George Bush has one view of America. I have another.

I believe that America is one nation. One people. One community.

I believe there are no limits to what we Americans can do, when we work together.

I believe that to be our best, we must bring out the best in every citizen, and that we can not rest until all our people are full shareholders in the American dream.

And I'm confident, as I look ahead to November 8, that the best America is not behind us; the best America is yet to come.

Background Paper: Mike Dukakis on the Issues—Healthy Families

During the last eight years, one million Americans each year joined the ranks of the uninsured. Today, almost 40 million Americans have no health insurance—no protection against disease or injury or accident. Despite this, the Reagan-Bush Administration has consistently opposed efforts to provide basic health care protection to our fellow citizens.

This spring, under Governor Dukakis' leadership, Massachusetts became the first state in the nation to guarantee basic health security to all its citizens. He believes we must now work to improve access to quality health care for all our familes—everyman, woman, and child.

Our nation has the means to pay for the health care of all Americans. We spend more than 11 percent of our GNP on health services, more than any other country. In fact, we spend 50 percent more per person on health than the next highest countries—Canada and Switzerland. While nearly 40 percent of our hospital beds are empty, millions of uninsured citizens cannot find the hospital care they need.

We must move forward to spend our health dollars more wisely and to develop a plan to extend health insurance to all Americans.

As president, Mike Dukakis will propose legislation that would require all employers—with special provisions for small and start-up businesses—to provide basic health plans to working families. This is the simplest fairest, and most affordable way to expand the circle of health protection. Good jobs at good wages mean jobs with basic health insurance.

Basic health insurance in the workplace will:

Cover a basic package of benefits, including hospital, physician and diagnostic services; preventive, prenatal and well-child care; and mental health services.

Provide protection against catastrophic illness.

Require employers to pay a minimum percentage of premiums.

Encourage the use of health maintenance organizations and other forms of managed care in order to provide the most cost-effective care possible.

Provide assistance to small businesses so that they can find affordable health insurance for their employees through, for example, regional insurance pools.

Offer other protections for small and start-up businesses, particularly for businesses with few employees. These measures could include phase-ins, different benefit Packages, special tax considerations.

Today, most employers provide health insurance for their employees and for their families. Increasingly, these companies are asking why they should have to compete against firms that do not. They understand that the costs of failing to provide that care on a timely basis—will have to be met, sooner or later, by us all. And in fact, they are paying hidden surcharge on their premiums to reimburse hospitals for free care and bad debt on account of those who are not insured.

Basic health insurance for workers will cover an estimated 22 million of the 37 million uninsured. Immediately after the election, Mike Dukakis will appoint a task force to report back by March 30th with options for guaranteeing basic health coverage for any Americans falling between the cracks—part-time, temporary, and contract workers, and the unemployed who are not eligible for medicaid.

Among the principles guiding the work of the task force will be: build on the private health insurance system, and on state and local programs; allow for state flexibility; preserve the private practice of medicine; propose mechanisms to reduce waste and contain costs, so that expanded health service can be financed without new taxes of any kind.

Background Paper: Healthy Family Proposals—Questions and Answers

Q. How would you extend universal coverage at the Federal level?

We need a realistic and affordable plan. The first step should be to require minimum health benefits for all working families, by requiring all employers, with possible exceptions for small and start-up business, to provide a package of minimum health benefits for their employees. We know it's affordable. The Congressional Budget Office and Wharton Econometrics have estimated that there will be no increase to the Federal deficit as a result of this plan.

Q. How many uninsured Americans would a minimum health benefit standard reach?

Most of the estimated 37 million uninsured workers are dependents of working women or men. Minimum health benefits at work would cover an estimated 22 million of the uninsured—closing at least two thirds of the gap. People working short hours, temporary jobs, the self employed and contract workers as well as unemployed families would be the primary group left uncovered.

Q. What are the Federal costs of requiring employer coverage of health benefits?

The proposal will be budget neutral. According to the Congressional Budget Office any loss of federal tax revenues will be offset by reductions in current federal outlays for Medicare, Medicaid and military health programs. CBO estimates federal savings of $5.1 billion offset by $5.0 billion in lost federal tax revenues as a result of new deductions by employers for health premium payments.

Q. Will requiring health benefits for working families reduce employment?

According to several economists, there will be no net loss in jobs. The expansion in health service jobs to provide care to previously uninsured families will more than offset possible job loss in services. (Any job loss is likely to be among low wage service industry jobs.) As a result, the economy will have a net gain in good jobs—jobs with providing basic health coverage at decent wages. The economy will more than support the costs of offering health care to employees.

Q. How much does requiring coverage cost employers?

There is virtually no new cost to the United States' treasury from this plan.

Now many companies pay twice—once for their own workers, once for the uninsured. The Massachusetts plan, developed with the business community, eliminated this double burden. The national plan does the same.

Q. What do you propose for small business?

Most small businesses already provide health benefits to their employees. Many other start-up and small business would like to provide coverage but find the high cost of small group plans unaffordable. In our proposal the government will help set up insurance pools. Insurance coverage for small groups can be double the cost of larger groups. By assisting smaller employers in forming larger groups, we can provide better coverage at lower costs.

Requiring all employers to provide basic coverage would also establish a "level playing field". Employers would no longer be able to compete unfairly by failing to cover their own employees.

The Dukakis plan will consider other protections for small and start-up businesses, particularly for businesses with few employees. These measures could include phase-ins, different benefit packages, and special tax considerations.

Q. What would the costs be to employers?

Most of the required money is already in the system. It is just not being distributed in an equitable way. We don't want to impose added burdens on those already doing their share—we want to relieve the costs of paying twice. It makes sense to pay for health care through the insurance system rather than through a hidden tax for uninsured families. Like the minimum wage, adequate health benefits should be a minimum standard for American workers. Good jobs include good health benefits.

Today, most employers provide health insurance for their employees and for their families. Increasingly, these companies are asking why they should have to compete against firms that do not. They understand that the costs of health care—and the even greater costs of failing to provide that care on a timely basis—will have to be met, sooner or later, by us all. And in fact, they are paying a hidden surcharge of at least $8 billion on their premiums to reimburse hospitals for free care and bad debt on account of those who are not insured. This hidden charge amounts an additional 8% added to total employer premium payments.

Q. Mandated employer coverage would cover about two-thirds of the currently uninsured population. What do you propose to do about the remaining one-third?

Our first priority for the unemployed uninsured is to get them working. Then, health benefits will be extended to them through their employers.

What about those who, despite our best efforts, remain unemployed? Because of the severe federal budget deficit and the variation in circumstances across the country, we must consider a wide range of options relying primarily on state governments for implementation and development. I will immediately convene a Task Force including state governments, Congress, health providers, business and labor to develop options for closing the remaining gaps in coverage. The Task Force must report back to the President within 180 days. The options must follow basic guidelines: solutions must build on existing health insurance systems; rely primarily on state, local, and private insurance; allow states the flexibility to design programs that fit their circumstances; preserve the private practice of medicine; be phased in over 5 years, and contain mechanisms for reducing waste and inefficiency and cost constraint to help fund expansions in coverage.

But we can't wait to address one part of the problem: The national shame of infant mortality. We're ranked 19th, last among industrialized countries. The U.S. has fallen further behind since 1980. The first step of universal health coverage will be to cover prenatal care to all uninsured pregnant women.

Medicaid already mandates that States cover pregnant women and infants up to 100 percent of the poverty level. As a result, each State has a program able to pay for their care. Senator Bentsen provided the leadership in the Congress to make this a reality.

The mandated employer coverage plan will cover a large portion of the remainder. Many pregnant women are dependents of workers.

The cost to provide prenatal care to the remaining pregnant women will be a small price to pay. In fact, it is an investment. Early care for pregnant women actually saves money. I would work in partnership with States, local governments, and private industry to make prenatal and other preventive care a priority.

Q. In your speech you endorsed the Family and Medical Leave Act. Why have you linked family leave to your healthy family proposal?

Families are essential providers of health care. Working mothers and fathers need to be able to take leave without fearing the loss of their jobs to care for their seriously ill children or aging parents in the event of illness.

ADDRESS OF SENATOR BENTSEN—RURAL HEALTH CARE, SEPTEMBER 21, 1988

Lately you've been hearing a lot of empty campaign rhetoric about issues. You've seen a lot of paper-mache patriotism. But the people of West Texas know this election is not about patriotism. It's about competence and integrity. It's about leadership and the courage to lead America.

I've come to Hale Center to visit with you about an issue that is literally a life-or-death matter for millions of Americans. I'm talking about rural health care. And the fact, my friends, is that rural America has been left in the lurch while George Bush has been Vice President.

The Republicans like to talk about a five year economic boom. But here in rural Texas that boom is a bust.

The Republicans like to ask: Are you better off today than you were in 1981?

Here in rural Texas the answer is clear. The answer is "No."

This Administration plunged our farm economy into the worst recession since the Dust Bowl. Farmland values fell by 50%. Farm assets fell by more than $300 billion. A quarter of a million farmers have been driven off the land since George Bush became Vice President. And not once during those eight years did he lift a hand to help rural America.

Spending for rural development dropped by 58% while he was Vice President. Unemployment is over 9% in half of our rural counties. Today one rural American in five lives in poverty.

But that's only part of the story. Millions of Americans in rural areas are being denied one of the basic necessities of life: They are losing their access to quality health care. They are out there on a limb—terrorized by the prospect of illness.

People in towns like Hale Center are less likely to have health insurance than urban Americans. Rural areas have many elderly Americans who desperately need home care services to maintain the independence they cherish.

Rural America is face-to-face with a full-fledged crisis in health care. Forty rural hospitals closed last year. A recent report I've seen estimates that 700 rural hospitals could close in the next five years. The same report says 26 hospitals here in Texas are in immediate danger. There are 43 counties in Texas that do not have hospitals.

Mike Dukakis and Lloyd Bentsen agree that every citizen in every region of America should have access to quality health care. Good hospitals and good health are not the private privilege of those who live in metropolitan areas.

Mike Dukakis' father was a doctor. Mike knows what pain and suffering means to a family. I was born and reared in rural Texas. I understand this way of life—and I know how important it is to America. Rural Americans have problems enough; they have to deal with drought and hail and tornadoes; they have to deal with the indifference of the Reagan-Bush Administration. And they sure don't need to have their hospitals close down and their doctors move away.

Mike Dukakis and I are going to win this election. And when we do, rural health care is going to be an urgent national priority.

Over the years I have worked closely with friends like Jim Bob Brame and Gordon Russell—they're both here this morning—to change federal programs to help keep our rural hospital healthy.

Mike Dukakis and I are proposing a four-point plan to help maintain quality health care for rural America.

First, we're going to establish a hardship fund for rural hospitals that is essential to their communities. We can't stand by and let those hospitals close their doors while the need for care increases. Keeping rural hospitals open is a sound investment in America's future. We've already seen 148 rural hospitals close during this decade, and the number of closures has doubled since 1984 when the medicare payment system was changed.

So its obvious we have a problem. And this Administration has done nothing to solve it. We have not seen a single proposal from them to stem the tide of hospital closure in rural America.

Mike Dukakis and I are going to keep them open.

Second, we're going to expand the National Health Service Corps. Ever since 1981 the Reagan-Bush Administration has been trying to throttle this scholarship program that provides assistance to medical, nursing, and dental students who agree to serve in rural areas.

As a result of this shortsighted policy, we have very few students graduating with a commitment to serve in rural areas. We're going to turn that around. We're going to expand the National Health Service Corps.

Third, we are going to restore federal funding for nurse education. Nationwide, we need more than 100,000 nurses; that shortage is growing, and it is most acute in rural areas. The Reagan-Bush Administration has worked to cut funding for nurse education year after year. We're going to turn that around. We're going to put nurses at the patient's bedside in rural America.

Fourth, we will restore funding for migrant and community health centers, as a part of our promise to bring health care back in the reach of all Americans.

That's where we stand on health care for rural America. Let's just step back for a moment and contrast the Dukakis-Bentsen position with the Republican record.

The numbers of Americans with no health insurance has increased by 8 million since George Bush became Vice President—and many of them live in rural Amercia. Twelve million of them are children.

Forty thousand American infants will die before their first birthday. We rank last among industrialized nations in infant mortality—and that's a tragedy for Americans.

And yet my opponent for the Vice Presidency . . . George Bush's running mate . . . the Junior Senator from Indiana has gone on the record time after time opposing child immunization programs, child nutrition programs, and pre-natal care.

That's Dan Quayle's record on health care for children. Contrast it to what Mike Dukakis is saying today. Compare it to my record in the Senate. And then tell me how you're going to vote in November. Tell me what's right and best for America.

Mike Dukakis and Lloyd Bentsen believe America's children deserve a healthy start in life. We believe rural America deserves equal access to quality health care.

Our message to America is a message of hope for millions of rural families struggling to maintain their way of life . . . hope for millions of elderly Americans worried about Republican raids on Medicare and Social Security . . . hope for people who need health care and day care and can't afford it.

We believe a college education—like health care—should be a right, not a privilege in this land of opportunity. We believe every qualified student should be able to attend college, regardless of family income.

We believe in a powerful and compassionate America that can care for our people and preserve freedom in this world.

That is our message. Help us deliver it on November 8.

BACKGROUND PAPER: MIKE DUKAKIS ON THE ISSUES—HEALTH IN RURAL AMERICA

In too many parts of rural America health care is in critical condition. Throughout rural America death rates from chronic conditions, such as hypertension and heart disease are higher than the national average.

Too many rural hospitals, often centers of their communities, are closing down. Since 1980, 161 rural hospitals have closed. 700 rural hospitals are expected to close in the next five years alone. This crisis turned to tragedy in Windsor, Missouri when a 90-year-old man was found dead in front of a "closed" sign on his local hospital.

Too many rural Americans have no access to a doctor or nurse. Thirteen million Americans live in areas without primary care physicians—a shortage of 4,000 physicians—despite the surplus of physicians nationally. An acute nursing shortage threatens to close hospitals down for lack of skilled care.

The Reagan-Bush Administration has turned a cold shoulder to the health needs of rural Americans. In 1981, they eliminated funding for the National Health Service Corps—which provides scholarships and loans for health professionals who agree to practice in underserved areas. In 1985, we had 1,351 National Health Service Corps scholarship physicians, in 1990, we will have only 100.

Quality, affordable rural health care is the key to rural economic development and recovery—a recovery that will require innovative leadership, creative partnerships, and the participation of all levels of government. It's a challenge Mike Dukakis wants to tackle as the next President.

Mike Dukakis and Lloyd Bentsen will implement a strong and compassionate program to safeguard scarce and essential rural health resources and to extend the promise of health care access to rural America.

They will:

Establish a hardship fund for essential rural hospitals at risk of closing down. This special fund will provide subsidies to keep essential hospitals in business and finance necessary conversion of services to more efficient use.

The General Accounting Office will be directed to conduct a financial review of the status of the rural hospital system. This review would identify those hospitals essential to their communities at risk for closing down. This review will form the basis of developing operating guidelines for the hardship fund.

Give rural hospitals greater flexibility to convert services to provide home care, day care, rehabilitation, and nursing home care.

Provide incentives and support for health professionals to practice medicine in rural areas by revitalizing the National Health Service Corps and expanding loan repayment programs.

Expand the Nurse Education Act program to provide improved training funds for nurses, with special emphasis on rural areas.

Work with federal and state agencies to make sure health personnel training programs target rural areas and develop training experience that fits rural community needs.

Expand funds for migrant and community health centers to support increase demands on existing centers and to provide start-up funds as necessary to address shortages.

This plan will turn away from neglect toward investing in the health of rural America.

BACKGROUND PAPER: RURAL HEALTH—QUESTIONS AND ANSWERS

Q. *How would the hardship fund for essential hospitals work? What would be the definition of essential?*

As President Dukakis would ask the General Accounting Office to conduct a thorough financial review of those rural hospitals that have closed in recent years and existing rural hospitals. This review would identify those hospitals most at risk of closure and would determine the impact of possible closure on the health of individual communities. Based on this study, GAO would recommend guidelines for determining essential hospitals at risk of going out of business without hardship fund support.

The Medicare program would set aside hardship funds to alleviate financial distress of essential rural hospitals. As with special treatment of those hospitals which are the sole provider of community care, the central goal would be to protect access to care.

Q. *What can be done in health personnel training programs to target rural areas?*

Training programs that include outpatient settings and clinics as part of a health professional's clinical experience have a greater likelihood of eventually placing these personnel in rural areas than those based in larger, hospital settings. Programs emphasizing multi-skills and cross training also are better able to prepare health professionals for rural health service delivery. Federal training funds plus information on innovative programs can develop model guidelines and work with states to improve placement efforts.

Targeted scholarship and loan repayment programs also help recruit students from rural areas who are more likely to return.

Q. *What evidence exists that expanding health centers would decrease infant mortality?*

Migrant and community health centers emphasize prenatal and preventive care and reaching out to low income communities. Various studies have found a reduction in infant mortality and chronic disease where previously communities relied primarily on emergency care or went without care altogether. Similarly, the National Health Service Corps can place personnel in scarce areas that otherwise would rely primarily on crisis care.

ADDRESS OF GOVERNOR DUKAKIS: TAKING CHARGE OF OUR FUTURE—OUR SENIOR CITIZENS—BOSTON, MA, SEPTEMBER 22, 1988

In less than seven weeks, we face a choice between two very different visions of America's future.

My opponent sees a complacent America. An America that wants to look backward even as a new century is about to dawn.

I see an America with new horizons to reach and new frontiers to conquer. I see an America ready to take charge of its future again.

Two weeks ago, I presented a plan for opening the door of college opportunity to every young man or woman in this country who is qualified to do college work.

Two days ago, I put forward a program to provide basic, affordable health care to America's families.

And yesterday I spelled out a program for a healthy start for every child in this country—a program to guarantee all pregnant women and children prenatal care and immunizations against disease.

Today, I want to talk to you about how America can keep its social compact with senior citizens, how we can honor the promise we have made to all those men and women who have given so much to their families, their communities, their country.

You know, when election time rolls around, Mr. Bush likes to say he is a great friend of older Americans.

Maybe he thinks we all have amnesia. Because it was just over three years ago—May 10, 1985—that George Bush cast the tie-breaking vote in the Senate to deny you a cost-of-living increase in your Social Security and to make you pay more for your medical benefits. And Dan Quayle voted with him and against you.

And the Republican assault on Social Security goes far beyond that one vote in 1985. When they first came in, they threw hundreds of thousands of people off Social Security. They even conducted a campaign against people with disabilities—cutting off Social Security benefits for over 400,000 disabled people. They would have done even more damage, but the Democrats in Congress stopped them.

Lloyd Bentsen and I have a very different view. We'll stop the attack on Social Security and Medicare—and we'll stop it cold.

We know how important it is to reduce the budget deficit that Mr. Bush's Administration created. But in the Dukakis-Bentsen Administration, we're not going to get the money to reduce that deficit by taking it from our parents and grandparents.

Social Security isn't just another program. It's a contract between generations. And our senior citizens rely on it. Because for most of the people on Social Security, that check is their principal income.

Lloyd Bentsen and I will keep that promise.

We'll make sure that the Social Security Trust Fund is used for one purpose only—to provide Social Security benefits.

We'll make sure that our elderly citizens don't have to go broke to get decent health care. Because it's not enough to tell older Americans, "We'll care for you when you're flat broke, but not before."

We're going to make the new catastrophic health bill work—and work well.

And, we will not rest until we have found a way to ease the fears of millions of older Americans that they and their families will be bankrupted if they need care for chronic illnesses; or that their families will be split apart if they cannot afford nursing home care.

We're going to insist that Medicare pay for home health care services that are guaranteed by law.

And we're going to work with that remarkable champion of the elderly, Claude Pepper, to make sure that the kind of home care we provide in Massachusetts is available to people in states all over America.

Because we want older Americans to have happy and productive lives in their own homes and their own communities.

My friends, America has always been a nation of proud and hardworking people, who had time for their families and respect for the elderly, who always cared enough, even while building the mightiest industrial nation on earth, to keep an eye out for the neighbor who might be having a tough time.

Geroge Bush forgets—or maybe he never understood—what Social Security is all about. In fact, he once called it, "largely a welfare program."

Social Security isn't welfare. It's a system to which we all contribute because we believe in each other. Social Security helps the elderly and their children. It helps people with disabilities. And it helps our country.

Because we are one nation, one community, one family. And I'm confident, as we look ahead to November 8, that the best America is not behind us; the best America is yet to come.

BACKGROUND PAPER: GEORGE BUSH AND HEALTH CARE

The Bush-Quayle ticket has no right to claim credit for any of the accomplishments related to health in the past eight years. When something positive happened (a bill passed, services were expanded, a certain group of people emerged as healthier), it was basically in spite of the Reagan-Bush Administration and not thanks to them.

Moreover, the story on health care over the past years is basically one of:

Higher out-of-pocket costs for the middle-class, elderly, and other key groups;

Cutbacks in public services for the needier;

Cutbacks in insurance coverage for workers;

A shrinking supply of nurses;

Growing charity caseloads and increasing burdens for inner city and rural hospitals.

HEALTH FACTS

Key measurements of the state of health care for Americans show the damage of Reagan-Bush cuts, attitudes, and policies:

A baby is more likely to die when born in the United States today than a baby born in 1980. America's infant mortality rate has actually worsened since Reagan-Bush came into office. The U.S. ranks 19 out of 20 industrialized nations. America's infants have a greater chance of dying than the newborns of Singapore or Hong Kong. A black infant is more likely to die than one in Cuba or Bulgaria. This is America's badge of shame.

Every year since 1980, about a million more Americans found themselves without *any* health insurance. Thirty million Americans were uninsured when Reagan-Bush took office, 37 million today. Between 12 and 13 million of them are children—many of them don't get checkups, have never seen a dentist, and aren't treated when they are sick.

The proportion of children under the age of 2 who get vaccinations against dangerous or deadly diseases is less today in the United States than in 1980.

The rate of rural hospital closings is increasing, and traumatizing America's rural counties.

GEORGE BUSH DIDN'T CARE

In every year but its last, the Reagan-Bush Administration proposed major cuts in Medicaid, the nation's principal source of health care for poor women, children, the disabled, and poorer elderly. They pushed for over $18 billion cuts in their two terms; in 1981, they made cuts that kicked out over 500,000 poor mothers and children from Medicaid—leaving them with no health coverage;

The Administration has pushed for cuts in nutrition programs for pregnant women, in funds for rural and community health clinics, and in immunization programs for children.

In 1982, George Bush's Regulatory Relief Task Force initiated a drive to weaken already inadequate standards to protect the elderly in nursing homes. Knowing the abuses in nursing homes, Congress vehemently reacted, passed a moratorium to stop the Task Force proposal, and called for a major study that has resulted in legislation to require greater protection for nursing home residents.

The Reagan-Bush Administration targeted Medicare, the primary source of health care coverage for America's elderly, for severe cuts. During the Reagan-Bush years, Medicare in his 1964 campaign. The Administration repeatedly pushed to hike the out-of-pocket costs of Medicare on the elderly and disabled throughout the last eight years.

In 1985, George Bush broke the tie to pass a budget package that included an increase in out-of-pocket costs for Medicare beneficiaries, the elderly and disabled.

The Reagan-Bush Administration has been on the warpath against home health for the elderly. They opposed Claude Pepper's bill to cover home health under Medicare. Since 1984, they have issued rules and decisions to reduce the numbers of days of home health entitled to senior citizens and the level of benefits. A recent federal court decision ruled the restrictions on days were illegal.

Over the past two years, they fought actively against Kennedy's minimum health benefits bill for workers. In the bill's early stages last year, the Administration "adamantly opposed" the amendment to cover prescription drug costs for the elderly as part of the catastrophic bill.

AND BUSH'S RUNNING MATE—J. DANFORTH QUAYLE—DIDN'T CARE

Quayle's voting record includes votes against amendments to increase funding for children's immunization programs (1981 and 1986); to restore funds for school lunches for moderate income children (1985); and to increase funds for maternal and child health care.

AN UNHEALTHY AND HEARTLESS RECORD

This record has been destructive and heartless. Especially when it comes to children, we, America's families and citizens, will be haunted by their actions and failures. Bush played the most direct role in the damage through the Relief Task Force (in addition to the nursing home standards, examples of harmful Task Force health-related efforts include blocking proposed warnings of aspirin's dangers to some children and gutting requirements to protect workers from workplace hazards.)

There also is not one known example of a time George Bush tried to block an Administration proposal for cuts in health care programs or change the minds of a Cabinet member or the President before they announced their opposition to positive health care proposals. Ask George Bush when, as Vice-President, he ever took action on his own to improve America's health?

ONCE AGAIN—ELECTION WORDS WITH NO ACTION

The Republican Platform distorts the Reagan-Bush-Quayle record. It says they "launched a national campaign . . . to prevent abuse in nursing homes." Yes, Bush's Task Force "launched" such a campaign, except it was by creating a huge storm over their efforts to gut existing protections.

The Republicans claim in their platform that they led the way to enacting landmark legislation for catastrophic health insurance. Yes, they suggested a tax-related idea for catastrophic coverage; but Senator Bentsen's bill led the way, and the Administration worked against it and fought against adding the benefit that was most important to the elderly—coverage for prescription drugs. At the end, the Administration capitulated and negotiated a less-generous prescription drug benefit.

They claim they reduced infant mortality. Independent sources say it has increased.

They say they "continue to endorse . . . adequate prenatal care for all expectant mothers." Then why did they push so hard to take away prenatal care from pregnant mothers through proposals for deep cuts in Medicaid, WIC (provides milk to pregnant and new mothers) and other maternal and child health programs?

The diagnosis is clear: George Bush has not cared about the health of American families. Mike Dukakis cares, he took action, and he intends as President to lead a new era that gives the American people the health care and protection they deserve.

BACKGROUND PAPER: J. DANFORTH QUAYLE ON HEALTH ISSUES

J. Danforth Quayle has repeatedly voted to cut health care programs that are essential to the well-being of the American people. Since 1981, his votes have attacked programs and funding for the elderly, children, pregnant mothers, infants, and AIDS sufferers.

In May, 1987, Sen. Quayle was one of only 21 senators who voted to kill an amendment appropriating $30 million for AZT and other emergency drugs to prolong the life of people who suffer from AIDS. (Amendment passed 74-21; May 21, 1987).

In October, 1987, Sen. Quayle was one of only 18 senators who voted to remove catastrophic health care from Part B coverage under the Medicare program. This amendment would have more than doubled the Medicare premium because younger, healthier and wealthier seniors would not enroll. (Amendment failed 18-77; October 27, 1987).

In May, 1986, Sen. Quayle voted to kill an amendment requiring manufacturers to test infant formula for nutrients and hazardous material before it leaves the factory. (Amendment passed 66-29; May 13, 1986).

In April, 1986, Sen. Quayle voted to kill an amendment that would have increased the funding level for child immunization programs by $25 million. (Amendment failed 46-49; April 24, 1986).

In November, 1985, Sen. Quayle voted against an amendment restoring funding for Medicare and Medicaid patients receiving home respiratory care. the Amendment also would have established demonstration programs for special home services for the elderly and helped foster children make the transition to independent living. (Amendment passed 73-25; November 12, 1985).

In May, 1983, Sen. Quayle voted to strike down an amendment that would have partially restored cuts in the Medicare program and prevented any shift of increased health care costs to the elderly. (Amendment failed 45-50; May 4, 1983).

In May, 1982, Sen. Quayle voted against an amendment preventing new out-of-pocket costs or benefit cuts for the elderly under the Medicare and Medicaid programs. (Amendment failed 39-60; May 19, 1982).

In December, 1981, Sen. Quayle voted against exempting maternal and child health care programs from a 4% across-the-board cut. The amendment would have provided $362 in additional funds. (Amendment failed 41-53; December 10, 1981).

In April, 1981, Sen. Quayle voted to reject an amendment that would have restored $6 million for child immunization programs during 1982 and 1983. (Amendment failed 44-54; April 2, 1981).

TRIBUTE TO OREN HARRIS

Mr. PRYOR. Mr. President, tonight in Little Rock the many friends of Judge Oren Harris are gathering to recognize the years of commitment he has shown to our State and to the country. We are all proud of Judge Harris, formerly Congressman Harris of the Fourth District of Arkansas.

The Fourth District is the one I represented as well, Mr. President. In fact, I followed Judge Harris into that seat, and I must say those were major shoes to fill. For many years he gave us leadership and direction, and the people of Arkansas knew that when Oren Harris was looking out for us we were in the best of hands.

Recently, the Arkansas Democrat featured Judge Harris in a Sunday story that brought together many of the traits of character that distinguished this fine American. It is a fitting tribute to our Congressman, our judge, our teacher, and our friend.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to printed in the RECORD, as follows:

[From the Arkansas Democrat, Sept. 18, 1988]

OREN HARRIS

(By Judy Rains)

United States Senior District Judge Oren Harris is a lot like a perennial on a mountaintop—he's still high up there blooming. And at age 84, he's not interested in stepping down from the bench.

"I tell people I'll retire when I can't stand up to put my socks on," laughs the judge. "I'm probably asked that question more than anything." Making a judgment on taking it easy is for tomorrow or "when outside parties think I'm not normal."

Harris' daughter, Carolyn McLeod, is more specific. "He's worked all of his life," she says. "He wouldn't know what to do with himself if he didn't."

A tribute to a long and illustrious career in public service will come Harris' way Friday, Sept. 23, at the Excelsior Hotel, when he will be honored at a dinner for the 56 years he has been a prosecuting attorney, U.S. Congressman and federal judge.

Former Rep. Wilbur D. Mills is chair of the Host Committee for the evening, which includes former President Gerald Ford and longtime friends of Harris, his family and distinguished alumni of Ouachita Baptist University, beneficiary of the event.

Sitting at the president's table in the Arkansas Bar Center recently and dressed patriotically in a red, white, and blue striped tie and Arkansas-shaped cuff links, Harris' mind is on the upcoming event. He's also remembering when.

As chief judge of the Western District of Arkansas since 1967, he works six days a week on a caseload scheduled eight or 10 months in advance. From his home base in El Dorado, he does a lot of preparation each Saturday for the coming week, he says. But he doesn't have to.

Because Harris has been a senior judge and semi-retired since 1976, he can refuse any case he wants to. But he makes it clear that he did not assume that status because partial retirement was on his agenda.

"I took the action because we badly needed another judge," he says, explaining the move allowed another judge to be appointed for the Western district. "It has made no difference in my caseload."

Harris had an inclination toward a career in law while he was a teen-ager, he says. He could have come by it naturally. "My dad wanted to be lawyer, but my grandmother didn't want him to. She said he would not live an honest life if he was a lawyer."

Harris' father chose a career as a schoolteacher in Belton instead and also farmed. His son considered following in his father's footsteps. "I went to talk to a member of the school board and he said, 'You're not dry behind the ears. Go get an education.' At the time, Harris was 19.

After graduating from Prescott High School, he attended Henderson Brown College in Arkadelphia, now Henderson State University, on a football scholarship and graduated in three years. But his love for football almost sidetracked him from a law career.

"I was on my way to Texarkana to accept a coaching job and I stopped to talk to my brother in Hope. While I was there, he made arrangements with me (for me) to go to Cumberland College to study law. I didn't go to Texarkana."

Cumberland University Law School in Lebanon, Tenn., which yielded Harris a law degree, put him on the path for the next avenue he would travel—that of public servant.

The pathway began in El Dorado, where Harris first practiced law, and before it took him to Washington, D.C., he was appointed deputy prosecuting attorney of Union County. He was subsequently elected prosecuting attorney for the 13th Judicial Circuit of Arkansas.

IMPORTANT DECISION

Harris got off to a flying start during his first year as a congressman in 1941 by voting on what he remembers to be the most memorable piece of legislation during his 25-year congressional career.

"The was was coming on and the National Guard was the only good military group we had," he says, speaking slowly and deliberately like you would expect a judge to. "Our military status was terrible. In December of 1941, the authority to keep them in service was to expire. We had legislation considered to extend the time they could be maintained.

"The fellows in the National Guard * * * their parents wanted their sons to come home. So we had to vote. The vote was 203 to keep the National Guard enforced and in placed and 202 wanted to let it expire. Nearly three months after that, we had the unfortunate experience of Pearl Harbor."

The congressman says it was the most important vote he cast. "I don't know what we would have done if it had gone the other way."

PROMOTES LEGISLATION

From the beginning, Harris served on the Committee on Interstate and Foreign Commerce, which was involved with transportation, oil, gas, public health and communications. He chaired the committee for 10 years, and during his tenure on the committee, he "brought about a hospital in every county I represented and they are still operating," he says, adding the district included 40 percent of the state.

The committee controls almost every regulatory agency in the federal government and much of the legislation it created was major and memorable, the chairman recalls.

A colleague at the time when Harris left Congress said while he was chairman that he wanted to be right "and those around him could sense this easily. If he would tell his committee it was so, it was so. He was not always 100 percent right. He was just wrong enough to make him human."

The Chairman, known for his ability to bring accord out of controversy, brought about the passage of numerous legislative enactments. His record is unsurpassed in legislative enactments by Congress in the areas of transportation, aviation, securities and exchange and federal power.

Harris was also the recipient of many awards for his work. And he might still be in Congress today if it hadn't been for President Lyndon Johnson.

RECURRING SUGGESTION

For 2½ years before he finally relented, Harris' name had been brought up for a newly created federal judgeship. "I kept saying, 'I don't want my name to brought up.' I wanted (U.S. Attorney) Jim Gooch to do it. He (McClellan) knew I was a very close friend of President Kennedy and Bobby Kennedy, and I prevailed upon Bobby to let him (Gooch) have it. Bobby said 'No. But you can talk to Jack about it if you want to.' I didn't and then my name came up again."

In 1964, I was in Fayetteville for the dedication of the new science building. Sen. McClellan was on the program and he talked to me and brought it up again.

The same year the soon-to-be federal judge and his wife, Ruth, were at a reception at the White House. After shaking hands with President Johnson in the receiving line, the President told the congressman he was going to nominate him for a federal judgeship.

"I thought I was going to fall through the floor," Harris recalls. "I got real nervous. Not many are told about that by the president himself."

After considering Johnson's suggestion, Harris, who was well-respected among his peers, remembers thinking "I owed it to my good friends to accept. I hated to leave Congress. No friend suggested I stay in Congress."

And all along, it seems as if he was being groomed for his next position without his knowing it. He says he performed as chairman of the Committee on Interstate and Foreign Commerce "pretty much as I preside now. I had a real good background for the job. Most of my work on the committee was highly technical and legal."

TYPICAL OF THE TIMES

In the turbulent '60s, as Harris started his new career, civil rights was the issue of the hour, and the new judge got more than his share of cases pertaining to the cause. "I've dealt with more civil rights school cases than any other judge and they were all in heavy black areas," says Harris, who voted against the Civil Rights Act in 1964.

But he says he didn't have any problem judging the cases. "I knew about the problems better than anyone. Very frankly, I made some rulings I knew would be reversed by the Appelate Court.

"People were not ready. I was acting without having time to bring the people to see the matter had to come and was going to come. They were trying times and it caused me a lot of mental worry. It still does, even though there aren't as many cases."

In hindsight, Harris says he wouldn't vote any differently on the Civil Rights Act if he had the opportunity, explaining he voted the way his constituents wanted him to. "At the time, I thought they were going too far. It was directed to the South and I thought that was wrong."

With those days behind him, Harris' work today calls for him to travel "a lot of the State," he says. But business does not preclude pleasure, as it enables him to keep in closer contact with his daughter, who lives in Little Rock, and son James, a Little Rock attorney, and five grandchildren. But Harris' life is still his work and vice versa.

"When you are in this job, the judiciary, your whole life has got to be in this field," he says. "There can't be anything else."

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Hawaii.

(The remarks of Mr. MATSUNAGA pertaining to the introduction of legislation appear in today's RECORD under Statements on Introduced Bills and Joint Resolutions.")

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY AND MEDICARE

Mr. MELCHER. Mr. President, press stories covering the National Economic Commission cochairman Bob Strauss' Tuesday comments are misleading as to his position on Social Security and Medicare.

As chairman of the Senate Special Committee on Aging, I know how stressful and alarming the intermittent clatter that is heard from time to time from political leaders is to those retirees who depend upon their Social Security checks for their livelihood.

I read the press coverage and then talked to Bob Strauss as to his position and what the Commission was considering.

Particularly in a Presidential election year comments emanating from this auspicious council which he cochairs receive significant media attention, and getting the word from the horse's mouth is important. Well, I am here to say that the old political war horse from Texas, Bob Strauss, is not about to worry the folks on Social Security about cutting their benefit checks. While it is true that part of what the Commission reviews is entitlements such as Social Security and Medicare, nothing in the offing, as far as Bob Strauss is concerned, would recommend a reduction of benefits for the millions of retired folks whose livelihood depends upon these Social Security checks.

Furthermore, it is only Congress—not the Commission, nor the President—that can alter the law that fixes Social Security benefits, cost-of-living adjustments, certain Medicare benefits, or the costs of the supplemental, part B, and catastrophic coverages that are assessed monthly to retirees. And, by vote after vote over the past several years, Congress has lined up with big majorities to side with Social Security and Medicare recipients. Furthermore, the American public, in poll after poll, also sides with them.

I know from frequent discussions in senior citizen centers of the concerns of retirees. I know from the testimony that we have received in the public hearings of the Senate Special Committee on Aging of the concerns of national organizations of retirees. And I know from their collective judgments that they approve of the trend that has developed in Congress. That trend is to protect the retirees on meager incomes and to require wealthy retirees to contribute more toward the benefits they receive.

Let me summarize that trend. Since 1975, earnings limitations have been indexed to the national average of wages for those on Social Security. For those 65 through 69, earned income up to $8,400 in 1988 does not reduce their Social Security benefits. For them, for every dollar they earn over $8,400, their benefits are reduced 50 cents. At age 70, the earnings limitation and reduction in benefits cease, and they can earn all they want with no effect on their Social Security benefits. Bills in Congress would increase, double, or remove the earnings limitations. Doubling the earnings limit would cost the trust fund $2 to $3 billion per year. There has been no action on the bills. Under present law, starting in 1990 the reduction in benefit will be reduced to $1 for each $3 earned over the limit. According to a recent report of the Congressional Budget Office, the earnings limitations affect only 1 of 10 in the 65 through 69 age group.

The second item that reflects the trend in Congress was adopted in 1983. It affects the taxes that the more affluent Social Security recipients must pay. They must compute their adjusted gross income and add one-half of their Social Security benefits. Then they must add all of the tax-exempt interest income they receive. A retiree who is single can deduct $25,000 from that amount, and a couple filing a joint return can deduct $32,500 from that amount. One-half of that balance becomes taxable, providing that it is not more than one-half of their Social Security benefits.

I know just reciting that sounds rather mixed up, but let me give you an example.

A couple filing a joint return receives $10,000 in Social Security benefits and has $10,000 adjusted gross income. One-half of their Social Security benefit, or $5,000, is added to their adjusted gross income. This particular couple then has $20,000 in tax-exempt interest income. The total of their adjusted gross income, one-half of their Social Security benefits, and their $20,000 tax-exempt interest income added together comes to $35,000. Subtract $32,500 from the $35,000 to get $2,500, and one-half of that balance, or $1,250 of their $10,000 in Social Security benefits, becomes taxable and this couple pays more in Federal income tax into the U.S. Treasury. IRS statistics reveal that only a very small percentage of Social Security beneficiaries have to pay income tax on part of their Social Security benefits.

The third point in the trend in Congress deals with catastrophic coverage under Medicare. The catastrophic supplemental premium that is charged a Medicare recipient is based solely on income tax liability. If that tax liability is less than $150, no supplemental premium liability is charged the Medicare recipient for the catastrophic coverage. But if the Medicare recipient's tax liability is over $150, they pay a supplemental premium based on a sliding scale where the maximum that can be charged for the first year is $800 and the maximum goes up gradually higher in later years.

As far as I can determine, these steps taken by Congress in recent years have been satisfactory to retirees, but it is clear that these are limited mean testing for Social Security and Medicare recipients. That is the trend in Congress and it is a careful attempt to maintain the integrity of the trust funds for both Social Security beneficiaries and Medicare beneficiaries, while still protecting the retirees who depend upon their meager Social Security checks to pay their bills.

I believe this trend will continue, as it should, and, while the more wealthy retirees will find themselves subject to making part of their benefits check liable for income tax and may have to pay more of the cost of Medicare than those retirees on lowest income levels, it is reassuring for the integrity of the Social Security and Medicare trust funds, which is the concern of all of us.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. MELCHER. Mr. President, on behalf of the majority leader, Senator BYRD, I move that we be in recess for 20 minutes.

The motion was agreed to and, at 4:10 p.m., the Senate recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PRYOR).

SOVIET-AMERICAN EFFORTS ON STRATEGIC ARMS CONTROL

Mr. BYRD. Mr. President, the Soviet Foreign Minister is in town today, reportedly carrying new arms control proposals from the Soviet leader. I hope that the President will be able to make progress on some of the issues which remain unresolved in the strategic offensive and defensive arms reduction negotiations. I think it is important that the negotiations go forward during the transition period and that the transition team from the new administration which is elected in November be integrated into this process as soon as possible.

However, Mr. President, there are also reports of Soviet interest in reaching some kind of interim agreements or arrangements, of a formal nature, with the administration on specific matters which are pieces of the overall negotiations. I believe there is more danger than good in such "interim arrangements." The Senate has spoken decisively on this matter already. I remind the administration that the Senate adopted a declaration, by a very large majority, in the context of the INF Treaty, which made it clear that the United States is not bound by any interim agreements, frameworks, or whatever verbiage is used to describe arrangements agreed to by the parties.

There are many problems associated with such arrangements. First, they have not been subject to the scrutiny of the Senate in the context of advising and consenting to the ratification of a treaty. Second, they are not part of a complete agreement, in which the entire deterrent, security, and cost impacts can be judged as a whole. Third, they may give the false illusion of major progress, and raise false expectations regarding the prospects of a successful outcome of the negotiations on strategic force treaties. Fourth, they may unnecessarily lock in the next administration to arrangements which might be more difficult to adjust in the context of the ongoing negotiations. In a word, framework agreements carry dangers and have a very limited utility.

The Senate declaration attached to the INF Treaty stated specifically:

> Pursuant to this declaration, any joint statement by the United States of America with the Union of Soviet Socialist Republics of a framework for the negotiation of strategic arms treaties contemplated hereby and such framework itself, shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States.

Mr. President, if interim arrangements are reached between the parties, the Senate is not a party to those agreements. This Senate is not going to adjust the military spending priorities of this Nation based on something which has not been subject to Senate scrutiny. We learned a lesson in the INF Treaty. Although it was a simple treaty, we had to send our negotiators back twice to clarify some pretty big loopholes. Three committees took 5 months to sort it out.

This administration is a long way from a START Treaty. The hour is far too late for the current administration. If some progress can be made, that is welcome, and I encourage it, but let us not raise false expectations that something is being achieved of great consequence. I hope that the administration will resist any Soviet tactic to nail us into some kind of interim arrangements which have uncertain impacts on the flexibility of the next administration and the national security of this Nation.

I have written President Reagan on this matter, and I ask unanimous consent that the text of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, September 22, 1988.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Recent newspaper reports indicate that the United States and the Soviet Union may be contemplating some form of "interim agreement" limiting the strategic nuclear forces of the two sides in the absence of a completed START Treaty.

As you know, the Senate, in its Resolution advising and consenting to the ratification of the INF Treaty, explicitly adopted an amendment declaring that the United States is not bound by such interim frameworks. As the amendment states, any informal agreements or "frameworks" which would limit U.S. forces would have no binding effect and "shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States." Such interim agreements could, as well, needlessly complicate the negotiating efforts of the next administration.

Frameworks or interim arrangements can easily raise false expectations regarding the prospect of a successful outcome of the negotiations, while not themselves being subject to the kind of scrutiny that would be required to obtain the approval of the Senate of any treaty.

The remaining time of the present administration would be better spent on efforts to insure the strict adherence of the Soviet Union to the Geneva Accords concerning Soviet withdrawal from Afghanistan and on efforts to insist that the Soviet Union correct its violation of the ABM Treaty, the radar at Krasnoyarsk.

Sincerely,

ROBERT C. BYRD.

MESSAGES FROM THE HOUSE

At 12:43 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1154) to remedy injury to the U.S. textile and apparel industries caused by increased imports.

ENROLLED BILL SIGNED

At 2:22 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1154. An act to remedy injury to the U.S. textile and apparel industries caused by increased imports.

The enrolled bill was subsequently signed by the Deputy President pro tempore [Mr. MITCHELL].

At 4:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 322. Joint resolution to designate the week of September 23-30, 1988, as "National American Indian Heritage Week".

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 141. A concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 20, 1989, in connection with the proceedings and ceremonies for the inauguration of the President-elect and Vice President-elect of the United States.

The message further announced that the House has passed the bill (S. 1927) to provide for the consideration by the Secretary of the Interior of the desert land entry in the vicinity of Dinosaur National Monument, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (H.R. 1518) to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 2858. An act to provide for refunds pursuant to rate decreases under the Federal Power Act; and

H.R. 2884. An act to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2109. An act for the relief of Rosa Pratts;

H.R. 2461. An act for the relief of Milena Mesin and Bozena Mesin;

H.R. 2511. An act for the relief of Tarek Mohamad Mahmoud;

H.R. 2857. An act for the relief of Christy Carl Hallien of Arlington, TX;

H.R. 3238. An act for the relief of Maria Linda Sy Gonzalez;

H.R. 3414. An act for the relief of Meenakshiben P. Patel;

H.R. 3917. An act for the relief of Rajani Lal;

H.R. 4188. An act to designate the U.S. courthouse located at 445 Broadway in Albany, NY, as the "James T. Foley United States Courthouse";

H.R. 4538. An act to remit reimbursement of relocation expenses of William D. Morger;

H.R. 4566. An act for the relief of Charlotte S. Neal;

H.R. 4634. An act for the relief of Merrill L. Johnson-Lannen;

H.R. 4642. An act to provide for the reinstatement of the canceled entry of William A. Wright to certain lands in Lamar County, AL;

H.R. 5007. An act to designate the U.S. courthouse at 620 Southwest Main Street, Portland, OR, as the "Gus J. Solomon United States Courthouse";

H.R. 5059. An act to quiet title and possession with respect to a certain private land claim in Sumter County, AL;

H.R. 5066. An act to add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes; and

H.J. Res. 648. Joint resolution to encourage increased international cooperation to protect biological diversity.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 350. Concurrent resolution authorizing the printing of a history of the Committee on Ways and Means; and

H. Con. Res. 357. Concurrent resolution expressing the sense of the Congress that the historic restoration and commercial development of a self-sustaining Union Station will provide enormous historic and social benefit to the District of Columbia and to all the Nation as a great transportation center, a grand and magnificent monument to American architecture, and a model commercial development.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2857. An act for the relief of Christy Carl Hallien of Arlington, TX; to the Committee on the Judiciary.

H.R. 4538. An act to remit reimbursement of relocation expenses of William D. Morger; to the Committee on Energy and Natural Resources.

H.R. 4566. An act for the relief of Charlotte S. Neal; to the Committee on Armed Services.

H.R. 4642. An act to provide for the reinstatement of the canceled entry of William A. Wright to certain lands in Lamar County, AL; to the Committee on Energy and Natural Resources.

H.R. 5059. An act to quiet title and possession with respect to a certain private land claim in Sumter County, AL; to the Committee on Emergy and Natural Resources.

H.R. 5066. An act to add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes; to the Select Committee on Indian Affairs.

H.J. Res. 648. Joint resolution to encourage increased international cooperation to protect biological diversity; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 350. A concurrent resolution authorizing the printing of a history of the Committee on Ways and Means; to the Committee on Rules and Administration.

MEASURES PLACED ON THE CALENDAR

The following bills, previously received from the House of Representatives for concurrence, were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4686. An act to amend the Federal Aviation Act of 1958 relating to aviation research; and

H.R. 3048. An act to establish a national Federal program effort in close collaboration with the private sector to develop as rapidly as possible the applications of superconductivity to enhance the Nation's economic competitiveness and strategic wellbeing, and for other purposes.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. Stennis) reported that he on today, September 23, 1988, had signed the following enrolled bills, which had previously been signed by the Speaker of the House:

H.R. 517. An act to designate Soldier Creek Diversion Unit in Topeka, Kansas, as the "Lewis M. Paramore Diversion Unit"; and

H.R. 5090. An act to implement the United States-Canada Free Trade Agreement.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 23, 1988, he had presented to the President of the United States the following enrolled bill:

S. 1544. An act to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 1991. A bill entitled the "Uranium Mill Tailings Remedial Action Amendments Act of 1987." (Rept. No. 100-543).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1480. A bill to improve the integration of universities and private industry into the National Laboratory system of the Department of Energy in order to speed the development of technology in areas of significant economic potential (Rept. No. 100-544).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment:

S. 2756. A bill entitled the "Anti-Apartheid Act Amendments of 1988" (Rept.: No. 100-545).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1911. A bill to amend title 5, United States Code, to allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies (Rept. No. 100-546).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1504. A bill to provide for an alternative to the present adversarial rulemaking procedure by establishing a process to facilitate the formation of negotiated rulemaking committees (Rept. No. 100-547).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER (for himself and Mr. Leahy):

S. 2826. A bill to permanently extend the authority granted under the Temporary Emergency Wildfire Suppression Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MATSUNAGA (for himself, Mr. Byrd, Mr. Hatfield, Mr. Pell, Mr. Stafford, Mr. Kennedy, Mr. Harkin, Mr. Specter, Mr. Adams, Mr. Baucus, Mr. Biden, Mr. Bingaman, Mr. Boren, Mr. Boschwitz, Mr. Bradley, Mr. Breaux, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Conrad, Mr. Cranston, Mr. Danforth, Mr. Daschle, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Durenberger, Mr. Evans, Mr. Exon, Mr. Ford, Mr. Glenn, Mr. Gore, Mr. Graham, Mr. Heinz, Mr. Hollings, Mr. Inouye, Mr. Johnston, Mrs. Kassebaum, Mr. Kerry, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Melcher, Mr. Metzenbaum, Ms. Mikulski, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Proxmire, Mr. Pryor, Mr. Reid, Mr. Reigle, Mr. Rockefeller, Mr. Roth, Mr. Sanford, Mr. Sarbanes, Mr. Sasser, Mr. Simon, Mr. Stennis, Mr. Weicker, Mr. Fowler and Mr. Wirth):

S. 2827. A bill to amend the United States Institute of Peace Act to provide an authorization of appropriations for the Institute without regard to fiscal year limitations, and for other purposes; placed on the calendar.

By Mr. BAUCUS:

S. 2828. A bill to provide grants to cover uninsured losses from "let burn" fires; to the Committee on Small Business.

By Mr. HELMS:

S.J. Res. 384. Joint resolution to delay the export of U.S. communication satellites for launch by Chinese space launch vehicles; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MELCHER (for himself and Mr. Leahy):

S. 2826. A bill to permanently extend the authority granted under the Temporary Emergency Wildfire Suppression Act; to the Committee on Agriculture, Nutrition, and Forestry.

WILDFIRE SUPPRESSION ASSISTANCE ACT

● Mr. MELCHER. Mr. President, to enable our Federal fire-fighting agencies to marshal all available resources in the fight to control wildfires, I am introducing, with the co-sponsorship of Senator Leahy, the proposed "Wildfire Suppression Assistance Act of 1988". This measure would permanently extend legislation that was recently enacted in Public Law 100-428 authorizing through 1988 the Secretary of Agriculture and the Secretary of Interior to enter into reciprocal fire-fighting agreements with other nations.

BACKGROUND

Although in years past the United States and Canada have assisted each other in combating forest fires, until very recently Federal fire-fighting agencies lacked express statutory authority to engage in such activities or to reimburse Canada for such assistance. Lacking a firm statutory basis, fire-fighting arrangements with Canada were unnecessarily complicated or altogether precluded. To remedy this situation, on July 13, 1988, I introduced S. 2641 to grant the U.S. Forest Service the National Park Service and certain other Federal agencies the authority to enter into international fire-fighting arrangements and to provide reimbursement for help in this area. Joining as a cosponsor of that legislation was the Chairman of the Agriculture Committee, Senator Leahy.

Throughout August and into September in Yellowstone, our Nation's oldest and beloved national park, fires continued to rage, often overwhelming the brave efforts of U.S. fire fighters. Canadian fire-fighting assistance was urgently needed. However, certain issues surrounding an amendment to the House counterpart to S. 2641 could not be resolved in a timely manner. As a compromise, the House sponsor elected to push forward an interim measure, absent the amendment in question, to provide the needed authority through December 31, 1988. To ensure the swift enactment of this legislation, S. 2641 was modified to conform to the House interim bill and passed by the Senate as the "Temporary Emergency Wildfire Suppression Act", on September 8, 1988. On the following day, S. 2641 was signed into law as Public Law 100-428. Such prompt action on this measure could not have been possible without the help of the chairman of the Agriculture Committee, to whom I remain very grateful.

Under Public Law 100-428, the Secretary of Agriculture and the Secretary of Interior, with consultation with the Secretary of State, may enter into international fire-fighting agreements. Reimbursement for fire-fighting assistance from other nations is authorized. The law also ratified two existing agreements with Canada to assure their legitimacy.

RESULTS OF PUBLIC LAW 100-428

Within 24 hours of enactment of Public Law 100-428, the U.S. Forest Service sought and received from Canada a wide range of needed fire-fighting personnel and equipment to help control the Yellowstone fires. Among these were 125 helicopter-support personnel, 5 DC-6 and 5 B-26 airtankers, 8 observation aircraft, 2 CL-215 aircraft, 1 Falcon infra-red aircraft, 4 5-member water-handling teams, 200 water pumps and 3,895 hand-held fire fighting tools. These fire-fighting resources were otherwise not available in the U.S.

Now that most of the fires in the West have come under control, some of this fire-fighting equipment is no longer needed and is thus on its way back to Canada. However, what's of particular importance is that the administrative machinery for obtaining Canadian fire-fighting assistance at a moment's notice is now in place.

THE BILL

As I mentioned, the authority in Public Law 100-428—namely, to enter into reciprocal, fire-fighting arrangements with foreign fighting organizations—expires on December 31, 1988. Unfortunately, the threat of uncontrollable wildfires in future years does not. To remedy this problem, my bill would make permanent Public Law 100-428. This legislation is supported by the U.S. Forest Service and the National Association of State Foresters.

CONCLUSION

Mr. President, the fires that earlier devastated Yellowstone National Park have at last been brought under control. Those fires have taken a terrible toll on Yellowstone. However, without Canadian fire-fighting assistance, the results might well have been worse. To ensure that no obstacles to receiving such assistance from our neighbor to the North should fires of similar proportions again threaten our forests and parks, I urge my colleagues to support this simple but important measure.●

By Mr. MATSUNAGA (for himself, Mr. Byrd, Mr. Hatfield, Mr. Pell, Mr. Stafford, Mr. Kennedy, Mr. Harkin, Mr. Specter, Mr. Adams, Mr. Baucus, Mr. Biden, Mr. Bingaman, Mr. Boren, Mr. Boschwitz, Mr. Bradley, Mr. Breaux, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Conrad, Mr. Cranston, Mr. Danforth, Mr. Daschle, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Durenberger, Mr. Evans, Mr. Exon, Mr. Ford, Mr. Glenn, Mr. Gore, Mr. Graham, Mr. Heinz, Mr. Hollings, Mr. Inouye, Mr. Johnston, Mrs. Kassebaum, Mr. Kerry, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Melcher, Mr. Metzenbaum, Ms. Mikulski, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Proxmire, Mr. Pryor, Mr. Reid, Mr. Riegle, Mr. Rockefeller, Mr. Roth, Mr. Sanford, Mr. Sarbanes, Mr. Sasser, Mr. Simon, Mr. Stennis, Mr. Weicker, Mr. Fowler, and Mr. Wirth):

S. 2827. A bill to amend the U.S. Institute of Peace Act to provide an authorization of appropriations for the Institute without regard to fiscal year limitations, and for other purposes; placed on the calendar.

NATIONAL INSTITUTE OF PEACE AUTHORIZATION ACT

Mr. MATSUNAGA. Mr. President, I send a bill to the desk for introduction and ask unanimous consent that it be placed on the Senate calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. This, I might say, has been cleared on both sides.

Mr. President, I am today introducing with 63 bipartisan cosponsors, a bill which would reauthorize the U.S. Institute of Peace.

Created by Congress in 1984, the Institute is mandated to provide peace research, education, and training for individuals and organizations in both the public and private sectors. The Institute may accomplish these goals through its own in-house research and training programs, by providing grants or contracts to develop and strengthen peace research, education, and training programs at other institutions, through its public outreach programs, and through the Jennings Randolph Program for International Peace.

The Institute's Board of Directors was nominated by President Reagan and confirmed by the Senate in 1985, and sworn into office in February 1986. Under the able leadership of Board Chairman John Norton Moore, the Institute established its headquarters here in Washington, DC, and hired a modest staff. During its first 2 years of operations, the first Jennings Randolph Program fellows were appointed, and nearly $2 million in grants to other institutions and individuals were awarded. The Institute also launched its first in house research project, and "Intellectual Map of the International Peace Field," and initiated several public outreach projects including a high school essay contest, a newsletter, and a pilot television program on summitry which was broadcast by a number of public television stations last December, on the eve of the Reagan/Gorbachev Summit in Washington, DC.

I might add, Mr. President, that the Institute has carried out these initial projects on a very modest budget. Its first appropriation was $4 million. However, because it did not actually become operational until the middle of fiscal year 1986, and had not spent all of its appropriation for that year, its 1987 appropriation was only $625,000. For 1988, the Institute received an appropriation of $4.3 million. It is clearly time for the Institute to grow and to expand its activities. For that reason, it sought a significant increase in appropriations for 1989 from $4.3 to $8 million and actually received an appropriation of $7 million in the 1989 appropriations bill for the Departments of Labor, Health and Human Services and Education.

For that reason, too, the reauthorization bill which I am introducing today would provide a permanent authorization for the Institute, similar to the permanent authorizations provided for the GI bill educational programs and other Federal programs. No changes would be made in the Institute's mission, and its authorization would be capped at the level of $20 million—an amount which should allow adequate room for the Institute's growth and development over the next several years.

Mr. President, as the introducer and principal sponsor of the original legislation which created the U.S. Institute of Peace 4 years ago, I am very proud of its initial achievements. Oversight hearings held jointly by the Senate Committee on Foreign Relations and the Senate Committee on Labor and Human Resources last year revealed that the Institute has already won the acceptance and respect of the academic community which earlier feared that the Institute would duplicate efforts already underway. In fact, as predicted, the Institute of Peace is providing a unique and much needed boost to peace research, education, and training in this country. The Institute is ready, now, to do much more in this area and it deserves the continued support of the Congress to help make the United States a real leader in the quest for world peace. I hope, therefore, that my bill to reauthorize the Institute will be given early favorable consideration by the Senate.

Mr. HATFIELD. Mr. President, it is with great pleasure that I join my dear friend, Senator SPARK MATSUNAGA, in support of this legislation to authorize $20 million a year for the U.S. Institute of Peace. Our colleagues will remember that the Institute was created by an act of Congress 4 years ago—after a long battle waged for more than a decade by Senator MATSUNAGA, Senator Jennings Randolph, Senator Vance Hartke, and me. I was proud to be a warrior in that battle, and am proud to rise again to champion the cause of peace—to champion the cause of teaching peace.

The nuclear age had not yet dawned, Mr. President, when Herbert Hoover warned that "If Western civilization is to be saved from another relapse into the Dark Ages, it must be saved at the peace table." The year was 1942, and the United States was engaged in that famous war to end all wars. Forty-six years, 50,000 nuclear weapons and more than 100 wars later, I repeat President Hoover's warning.

Last year, the nations of this world spent $1.8 million a minute on their militaries—the United States was responsible for almost half of that. Current nuclear arsenals represent 2,600 times the explosive force of all the armanents used in World War II—again, the United States is responsible for half of that. We have spent so much money, so much time, and so much of our precious resources on the weapons of war, Mr. President, and yet we are no more secure today than we were when President Hoover uttered his prophetic warning during a time of war.

In the end, Mr. President, that is what the U.S. Institute of Peace is all about: security. In creating it, we sent a message to the world that we understand the urgent need for peaceful conflict resolution. The security of our Nation depends on it. Now, Mr. President, it is time to back that message up—it is time to signal our long-term commitment to the U.S. Institute of Peace, to the dream it represents and to the security of our Nation.

By Mr. BAUCUS:

S. 2828. A bill to provide grants to cover uninsured losses from "let burn" fires; to the Committee on Small Business.

PRESCRIBED FIRE RELIEF ACT

● Mr. BAUCUS. Mr. President, this summer, fire scorched over 1.6 million acres of land in the greater Yellowstone area and Montana.

Scores of firefighters from the United States and Canada fought the blazes in heroic fashion as the entire world watched. The fires this year were a disaster waiting to happen. In this second year of record drought, the forests were tinder boxes—at the mercy of nature and man.

The scope of what happened in Yellowstone this summer won't be fully understood for years to come. Citizens and lawmakers alike must take a new look at the impact of the natural burn policy. But the debate over how and why the fires burned should wait until cooler months.

For now, the people of Montana need to focus on the future. Much as the forest begins to build anew, so too must the families and communities in West Yellowstone, Cooke City, Silver Gate, Augusta, Polebridge and others begin to recover from the fires of 1988.

To help them rebuild, I am introducing legislation today to provide grants to individuals who suffered losses caused by this summer's forest fires.

While it is too early to tell the extent of injury caused by fires this summer, there is no doubt it is extensive.

Outfitters are claiming losses of anywhere from $1 to $3 million. Yellowstone Park figures showed a 7.3-percent drop in visitors in July 1988 compared with July 1987.

Farmers and ranchers have lost hundreds of miles of fence, thousands of acres of pasture, tons of hay, many cattle and several million board feet of timber. Some retail store owners report that sales are down as much as 70 percent from last year.

Under normal circumstances, when a natural disaster occurs, the Federal Government has programs to provide relief assistance in the form of low interest loans to those who have been injured.

However, in my opinion the implementation of the Federal Government's natural burn poicy is responsible for much of the injury caused by this year's forest fires. In many instances the losses suffered in my State were caused not simply by an act of God, but by the manner in which a Federal policy was implemented.

Therefore, I believe people who have suffered losses because of fires which were natural burn fires should receive compensation, and not just disaster loan assistance.

My legislation would establish a five member commission to determine which fires were natural burn fires, and then determine whether substantial economic or physical injury was caused by the fires.

In the event the commission finds that substantial injury was caused by a natural burn fire, those people affected would receive a grant, as opposed to a loan, from either the Small Business Administration or the Farmers Home Administration. These grants would be made in an amount equal to loans businesses, farms and ranches would ordinarily be eligible for under current disaster assistance programs.

This legislation would not give grants to everyone, but only to those people injured as a result of a natural burn fire. The commission would detemine who those people are.

Congress can only do little to stop a raging forest fire. But it can do a lot to help communities rebuild from the ashes. We cannot offer enough thanks to the thousands of brave firefighters who fought the blazes this summer, and who are still on the fire lines today. But we can—and should—do the right thing, and help the communities and families hit by the fires of 1988 rebuild again.

Mr. President, I ask unanimous consent that the complete text of my bill be inserted immediately following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prescribed Fire Relief Act of 1988".

SEC. 2. PRESCRIBED FIRE COMMISSION.

(a) Establishment and Composition.—There is established a Prescribed Fire Commission (hereinafter referred to as the "Commission") which shall consist of—

(1) the Administrator of the Small Business Administration, who shall serve as chairperson;

(2) the Commissioner of the Bureau of Land Management, Department of the Interior;

(3) the Director of the National Park Service, Department of the Interior;

(4) the Chief of the Forest Service, Department of Agriculture; and

(5) the Administrator of the Farmers Home Administration, Department of Agriculture.

(b) Function.—Not later than 45 days after the date of enactment of this Act, the Commission shall have completed a study and determined—

(1) which of the fires that occurred in 1988 in any National Park, National Forest, or other public land of the United States were permitted to burn under the Forest Service's "wilderness fire policy," the National Park Service's "prescribed natural fire policy" or the Bureau of Land Management's "prescribed fire" policy, and

(2) whether substantial economic or physical injury resulted from such fire.

(c) Report.—Upon completion of its study, the Commission shall prepare and transmit to the President and the Congress a report setting forth its determinations.

(d) Meetings.—The Commission shall meet at least once every 6 months during the 2 years following submission of its report to assess any further information regarding economic or physical injury resulting from such fires.

SEC. 3. SMALL BUSINESS ADMINISTRATION ASSISTANCE.

(a) In General.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end the following:

"(m)(1) The Administration is authorized to make a grant to compensate a homeowner or business concern for any losses incurred as a result of a fire—

"(A) which was identified under section 2(b)(1) of the Prescribed Fire Relief Act of 1988, and

"(B) which was found under such section to have caused substantial economic or physical injury.

"(2) The amount of the grant under this subsection may not exceed the lesser of—

"(A) the amount of the physical or economic loss sustained that is not covered by insurance or otherwise; or

"(B) the maximum amount of a loan for which the applicant would be eligible under section 7(b)(1) or section 7(b)(2) of this Act.".

(b) Conforming Amendment.—Section 4(c)(1)(A) of the Small Business Act (15 U.S.C. 633(c)(1)(A)) is amended by striking "and 7(c)(2)" and inserting ", 7(c)(2), and 7(m)".

SEC. 4. EMERGENCY GRANTS.

Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c), the following new subsection:

"(d)(1) The Secretary, upon consultation with the Administration of the Small Business Administration, may make a grant to individuals and entities eligible for loans under subsection (a) for any losses incurred as a result of a fire—

"(A) which was identified under section 2(b)(1) of the Prescribed Fire Relief Act of 1988, and

"(B) which was found under such section to have caused substantial economic or physical injury.

"(2) The amount of the grant under this subsection may not exceed the lesser of—

"(A) the amount of the physical or economic loss sustained that is not covered by insurance or otherwise; or

"(B) the maximum amount of a loan for which the applicant would be eligible under section 324 of this title.".

SEC. 5. TERMINATION.

The authority to make a grant under this Act or under any amendment made by this Act shall not apply to any loss incurred in connection with a fire that begins after December 31, 1988.●

By Mr. HELMS:

S.J. Res. 384. Joint resolution disapproving the export of communication satellites incorporating United States technology for launch by the People's Republic of China; to the Committee on Foreign Relations.

DISAPPROVING EXPORT OF COMMUNICATIONS SATELLITES TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. HELMS. Mr. President, on September 12 the State Department notified Congress of its intent to approve pending export licenses for American-built satellites to be exported for launch by the People's Republic of China. The administration can issue these licenses within 30 days of the notification unless Congress enacts a resolution of disapproval.

Regardless of the merits of this arrangement, Mr. President, Congress should not sanction any such proposal before the three accompanying bilateral agreements with China have been negotiated and made available to Congress.

Specifically, the President has made the granting of these pending export licenses contingent on the conclusion of three bilateral agreements yet to be negotiated with China. These agreements are to provide for:

First, the liability responsibility of the Chinese Government;

Second, adequate safeguards on technology transfer; and

Third, guarantees that the United States commercial launch industry will not be made victim of future unfair trade practices by the Chinese.

How these three issues are resolved could well determine the extent to which the export of these satellites is consistent with our national interest. As such, Congress cannot fulfill its responsibility in considering this proposed export until these three vital agreements have been concluded and made available to Congress. In addition, it would decidedly weaken our country's ability to negotiate if Congress has already approved the transaction in advance of required negotiations.

Accordingly, I am today introducing a resolution of disapproval. As Senators are aware, this resolution is subject to the expedited procedures pursuant to section 36(c) of the Arms Export Control Act and section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

Mr. President, under these procedures it is in order for a Senator to move after 10 calendar days to discharge the Foreign Relations Committee from further consideration. A motion to proceed to Senate consideration of the resolution is then privileged.

Mr. President, while procedures provide that the Senate will deal with this issue prior to adjournment, I hope that this will not be the case. Rather, I hope the administration will see the shortcomings of submitting a proposal so prematurely, and will withdraw this proposal until such time as the text of the bilateral agreements is available.

ADDITIONAL COSPONSORS

S. 702

At the request of Mr. Simon, the names of the Senator from Tennessee [Mr. Gore] and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of S. 702, a bill to provide for the collection of data about crimes motivated by racial, religious, or ethnic hatred.

S. 1522

At the request of Mr. Riegle, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1738

At the request of Mr. Wilson, the names of the Senator from Utah [Mr. Hatch], the Senator from New York [Mr. D'Amato], and the Senator from Washington [Mr. Evans] were added as cosponsors of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 1843

At the request of Mr. Roth, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 1843, a bill to provide for equality of State taxation of domestic and foreign corporations.

S. 2047

At the request of Mr. Thurmond, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 2047, a bill to require a health warning on the labels of all alcoholic beverage containers.

S. 2653

At the request of Mr. Sasser, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 2653, a bill to establish a National Commission on the Thrift Industry.

S. 2695

At the request of Mr. Bentsen, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 2695, a bill to amend title 5, United States Code, to provide for the payment of interest on delayed initial payments under the Civil Service Retirement System and the Federal Employees' Retirement System, and for other purposes.

S. 2698

At the request of Mr. Dodd, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 2698, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 2704

At the request of Mr. Harkin, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 2704, a bill to require that certain Federal entities and certain non-Federal entities receiving Federal financial assistance provide television sets that display closed captioning, to eliminate the payment to Federal employees traveling on official business of lodging expenses incurred at a place of public accommodation that does not, on request, provide guests with guest rooms furnished with televisions that display closed captioning, and for other purposes.

S. 2810

At the request of Mr. Kerry, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 2810, a bill to amend the Marine Mammal Protection Act of 1972 and to authorize appropriations for that act, and for other purposes.

S. 2816

At the request of Mr. Cranston, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2816, a bill to amend the National Trails System by designating the Juan Bautista de Anza National Historic Trail, and for other purposes.

S. 2819

At the request of Mr. Dole, the names of the Senator from New Mexico [Mr. Domenici], the Senator from Virginia [Mr. Warner], and the Senator from Arizona [Mr. McCain] were added as cosponsors of S. 2819, a bill to amend the Export Administration Act of 1979 to impose sanctions against firms involved in the transfer of chemical agents or their related production equipment or technical assistance to Iran, Iraq, Libya, and Syria, and for other purposes.

SENATE JOINT RESOLUTION 355

At the request of Mr. Heflin, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of Senate Joint Resolution 355, a joint resolution designating October 7, 1988, as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 371

At the request of Mr. Specter, the names of the Senator from Ohio [Mr. Glenn], and the Senator from Missouri [Mr. Danforth] were added as cosponsors of Senate Joint Resolution 371, a joint resolution designating October 1988 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 372

At the request of Mr. Hatch, the names of the Senator from Delaware [Mr. Biden], the Senator from New York [Mr. Moynihan], the Senator from North Carolina [Mr. Helms], the Senator from Connecticut [Mr. Dodd], the Senator from Massachusetts [Mr. Kerry], the Senator from Michigan [Mr. Levin], the Senator from Georgia [Mr. Nunn], the Senator from Connecticut [Mr. Weicker], the Senator from Virginia [Mr. Warner], the Senator from Ohio [Mr. Glenn], the Senator from Iowa [Mr. Grassley], the Senator from Missouri [Mr. Danforth], the Senator from Minnesota [Mr. Durenberger], the Senator from Idaho [Mr. McClure], the Senator from Washington [Mr. Adams], the Senator from North Dakota [Mr. Burdick], the Senator from South Carolina [Mr. Thurmond], the Senator from Oklahoma [Mr. Nickles], the Senator from Alabama [Mr. Heflin], the Senator from Hawaii [Mr. Inouye], the Senator from South Carolina [Mr. Hollings], the Senator from Louisiana [Mr. Johnston], the Senator from Colorado [Mr. Armstrong], the Senator from Oklahoma [Mr. Boren], the Senator from Indiana [Mr. Quayle], the Senator from Ohio [Mr. Metzenbaum], the Senator from Arizona [Mr. McCain], the Senator from Missouri [Mr. Bond], and the Senator from New Jersey [Mr. Bradley] were added as cosponsors of Senate Joint Resolution 372, a joint resolution to designate the week beginning November 21, 1988, through November 27, 1988, as "National Adoption Week."

SENATE JOINT RESOLUTION 373

At the request of Mr. Byrd, the names of the Senator from Louisiana [Mr. Breaux], the Senator from Kansas [Mr. Dole], and the Senator from Alaska [Mr. Stevens] were added as cosponsors of Senate Joint Resolution 373, a joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week."

SENATE RESOLUTION 385

At the request of Mr. Lautenberg, his name was added as a cosponsor of Senate Resolution 385, a resolution expressing the opposition of the Senate to the continued control of the cathedral of Vilnius, Lithuania, by the Union of Soviet Socialist Republics.

SENATE RESOLUTION 470

At the request of Mr. Riegle, the names of the Senator form Ohio [Mr. Metzenbaum], the Senator from Ohio [Mr. Glenn], and the Senator from New Jersey [Mr. Bradley] were added as cosponsors of Senate Resolution 470, a resolution relating to Great Lakes medical waste.

SENATE RESOLUTION 474

At the request of Mr. Wallop, the name of the Senator from Maine [Mr. Cohen] was added as a cosponsor of Senate Resolution 474, a resolution in support of the President's policy regarding Soviet ABM Treaty violations.

AMENDMENTS SUBMITTED

MINIMUM WAGE RESTORATION ACT

DOMENICI AMENDMENTS NOS. 3272 and 3273

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill (S. 837) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes, as follows:

Amendment No. 3272

At the appropriate place, insert the following new section:

SEC. . SUMMER YOUTH TRAINING WAGE.

(a) In General.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following:

"(6) if such employee is participating in the program authorized under part B of title II of the Job Training Partnershp Act (29 U.S.C. 1631 et seq.), not less than $3.35 an hour after December 31, 1980.".

(b) Conforming Amendment.—Section 142(a) of the Job Training Partnership Act (29 U.S.C. 1552(a)) is amended by striking out "section 6(a)(1)" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "paragraph (1) or (6), as applicable, of section 6(a)".

AMENDMENT No. 3273

At the appropriate place, insert the following new section:

SEC. . SUMMER YOUTH TRAINING WAGE.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end thereof the following new subsection:

"(g)(1)(A) Any employer may, in lieu of the minimum wage prescribed by subsection (a)(1), pay any individual participating in the progrm authorized under part B of title II of the Job training Partnership Act (29 U.S.C. 1631 et seq.) the wage prescribed by subparagraph (B) if such participant has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by subsection (a)(1), but at least $3.35 per hour.

"(2) An employer may pay a participant the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the participant began employment with the employer.

"(3) No participant may de displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.".

(b) CONFORMING AMENDMENT.—Section 142(a) of the Job Training Partnership Act (29 U.S.C. 1552(a)) is amended by striking out "section 6(a)(1)" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "subsection (a)(1) or (g), as applicable, of section 6".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to participants in the program authorized under part B of title II of the Job Training Partnership Act (29 U.S.C. 1631 et seq.) first employed by an employer on or after January 1, 1989.

SPECTER (AND HEINZ) AMENDMENTS NOS. 3274 THROUGH 3279

(Ordered to lie on the table.)

Mr. SPECTER (for himself and Mr. HEINZ) submitted six amendments intended to be proposed by them to the bill S. 837, supra; as follows:

AMENDMENT No. 3274

At the end, add the following:

SEC. 5. CERTAIN STEEL FACILITIES.

(a) IN GENERAL.—The provisions of section 1 of this Act shall not take effect unless the provisions of subsection (b) are enacted.

(b) RESTRICTION ON SALE.—Notwithstanding any other provision of law, any facility used in the production or distribution of steel, in which the Economic Development Administration (E.D.A.) has security interest and which is an asset in a bankruptcy proceeding, may only be sold to a buyer who enters into a contract under which the buyer agrees—

(1) not to remove the facility from the site at which the facility is located on the date of enactment of this Act, and

(2) not to transfer ownership of the facility to any person who does not enter into a contract under which the transferee agrees—

(A) not to remove the facility from such site, and

(B) not to transfer the facility to any person who does not enter into such a contract,

unless none of the persons who offer to buy the facility are willing to enter into such a contract.

AMENDMENT No. 3275

At the end, add the following:

SEC. 5. CERTAIN STEEL FACILITIES.

(a) IN GENERAL.—Section 1 shall not take effect unless the provisions of subsection (b) are enacted.

(b) RESTRICTION ON SALE.—Notwithstanding any other provision of law, no steel or other facility, which is subject to bankruptcy proceedings may be sold to a foreign buyer where the Economic Development Administration (E.D.A.) has security interest when the foreign buyer intends to remove those facilities from there existing location in the United States when there are other buyers for those facilities who will retain those facilities in their current location even though there is a significant price differential which may cause a financial loss to the E.D.A.

AMENDMENT No. 3276

At the end, add the following:

SEC. 5. CERTAIN STEEL FACILITIES.

(a) IN GENERAL.—The provisions of Section 4(d) of this Act shall not take effect unless the provisions of subsection (b) are enacted.

(b) RESTRICTION ON SALE.—Notwithstanding any other provision of law, any facility used in the production or distribution of steel, in which the Economic Development Administration has security interest and which is an asset in a bankruptcy proceeding, may only be sold to a buyer who enters into a contract under which the buyer agrees—

(1) not to remove the facility from the site at which the facility is located on the date of enactment of this Act, and

(2) not to transfer ownership of the facility to any person who does not enter into a contract under which the transferee agrees—

(A) not to remove the facility from such site, and

(B) not to transfer the facility to any person who does not enter into such a contract,

unless none of the persons who offer to buy the facility are willing to enter into such a contract.

AMENDMENT No. 3277

At the end, add the following:

SEC. 5. CERTAIN STEEL FACILITIES.

(a) IN GENERAL.—Section 4(d) of this Act shall not take effect unless the provisions of subsection (b) are enacted.

(b) RESTRICTION ON SALE.—Notwithstanding any other provision of law, no steel or other facility, which is subject to bankruptcy proceedings may be sold to a foreign buyer where the Economic Development Administration (E.D.A.) has a security interest when the foreign buyer intends to remove those facilities from there existing location in the United States when there are other buyers for those facilities who will retain those facilities in their current location even though there is a significant price differential which may cause a financial loss to the E.D.A.

AMENDMENT No. 3278

At the end, add the following:

SEC. 5. CERTAIN STEEL FACILITIES.

(a) IN GENERAL.—The provisions of this Act shall not take effect unless the provisions of subsection (b) are enacted.

(b) RESTRICTION ON SALE.—Notwithstanding any other provision of law, any facility used in the production or distribution of steel, in which the Economic Development Administration has a security interest and which is an asset in a banckruptcy proceeding, may only be sold to a buyer who enters into a contract under which the buyer agrees—

(1) not to remove the facility from the site at which the facility is located on the date of enactment of this Act, and

(2) not to transfer ownership of the facility to any person who does not enter into a contract under which the transferee agrees—

(A) not to remove the facility from such site, and

(B) not to transfer the facility to any person who does not enter into such a contract,

unless none of the persons who offer to buy the facility are willing to enter into such a contract.

AMENDMENT No. 3279

At the end, add the following:

SEC. 5. CERTAIN STEEL FACILITIES.

(a) IN GENERAL.—The provisions of this Act shall not take effect unless the provisions of subsection (b) are enacted.

(b) RESTRICTION ON SALE.—Notwithstanding any other provision of law, no steel or other facility, which is subject to bankruptcy proceedings may be sold to a foreign buyer where the Economic Development Administration (E.D.A.) has a security interest when the foreign buyer intends to remove those facilities from there existing location in the United States when there are other buyers for those facilities who will retain those facilities in their current location even though there is a significant price differential which may cause a financial loss to the E.D.A.

PROMPT PAYMENTS ACT

GRASSLEY (AND ARMSTRONG) AMENDMENT NO. 3280

Mr. GRASSLEY (for himself and Mr. ARMSTRONG) proposed an amendment to the amendment of the House to the bill (S. 328) to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes, as follows:

At the end, add the following:

(d) Section 5 shall take effect on the date of enactment of this Act.

PRESIDENTIAL ADVISORY PANEL FOR COORDINATION OF GOVERNMENT DEBT COLLECTION AND DELINQUENCY PREVENTION ACTIVITIES

SEC. 15(a)(1)(A). There is established a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities (hereafter in this section referred to as the "Panel"). The Panel shall consist of fifteen members appointed by the President in accordance with subparagraph (B).

(B) The President shall appoint fifteen members to the Panel, of which at least

(i) five members shall be representatives of debt collection agencies of various sizes;

(ii) five members shall be attorneys experienced in the field of debt collection; and

(iii) one member shall be an official of the Federal Government.

(C) No person shall be appointed to the Panel who is, or is a member of a company or organization which is, retained to perform debt collection services for the Federal Government.

(2) Members shall be appointed to the Panel within sixty days after the enactment of this Act. Members of the Panel shall take office upon such date of appointment.

(3) The President shall designate from among the members of the Panel a Chairman and Vice Chairman. Vacancies in the membership of the Panel shall not affect the power of the remaining members to execute the functions of the Panel and shall be filled in the same manner as the original appointments.

(b) The Panel shall—

(1) review and evaluate Federal policies on debt collection and delinquency prevention;

(2) recommend uniform policies, procedures, and guidelines for the collection of debts owed to the United States Government;

(3) develop, after consulting with the Office of Management and Budget and other appropriate Federal agencies, the priority and manner of delinquent debt collections and procedures for the prevention of delinquencies;

(4) establish training manuals to increase the effectiveness of employees involved in collection activities; and

(5) undertake additional related tasks and make interim reports of its activities and recommendation as the President may determine necessary.

(c)(1) The Panel may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Panel unless a majority of the Panel assents.

(2) Each Federal agency shall make staff personnel and support services available to the Panel to enable the Panel to carry out its functions.

(3)(A) Subject to subparagraph (B), the members of the Panel may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Panel.

(B) Any member may decline the reimbursement of expenses.

(d)(1) The Panel shall submit a final report to the President and to the Congress not later than eighteen months from the date of the first meeting of the Panel, containing the findings and recommendations of the Panel with respect to matters described in subsection (b).

(2) The panel shall terminate within thirty days following the submission of the final report.

(e) There are authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the provisions of this section.

(f) Except where inconsistent with this Act, the provisions of the Federal Advisory Committee Act shall apply to the Panel

CORRECTIONS IN THE ENROLLMENT OF S. 328

SASSER (AND DANFORTH) AMENDMENT NO. 3281

Mr. SASSER (for himself and Mr. DANFORTH) proposed an amendment to the concurrent resolution (H. Con. Res. 351) to correct errors in the enrollment of the bill S. 328, as follows:

At the end of the concurrent resolution add the following:

(5) In section 3902(h)(2)(B) of title 31, United States Code (as added by section 3(c) of the bill), strike out clause (ii) and insert in lieu thereof the following:

"(ii) for a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;".

RETAIL COMPETITION

THURMOND AMENDMENTS NOS. 3282 AND 3283

(Ordered to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill (S. 430) to amend the Sherman Act regarding retail competition, as follows:

AMENDMENT NO. 3282

At the end of S. 430 add the following:

TREBLE DAMAGE REFORM

SEC. . Subsection (a) of section 4 of the Clayton Act (15 U.S.C. 15(a)) is amended to read as follows:

"(a) Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by him sustained, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to fully compensate such person for the injury sustained, on such actual damages for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances, and the cost of suit, including a reasonable attorney's fee: *Provided*, That except as provided in subsection (b), damages sustained by reason of such person having been overcharged or underpaid by any person subject to liability under the antitrust laws for such damages shall be trebled: *And provided further*, That prejudgment interest under this section on actual damages that are trebled shall be recovered only if, pursuant to a motion by the injured person promptly made, the court finds that the award of all or part of such interest is just in the circumstances, taking into consideration only—

"(1) whether such person or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, such person or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether such person or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

SEC. 213. Section 4A of the Clayton Act (15 U.S.C. 15a) is amended to read as follows:

SEC. 4A. Whenever the United States is injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefor in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to fully compensate the United States for the injury sustained, on such actual damages for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances, and the cost of suit: *Provided*, That damages sustained by reason of the United States having been overcharged or underpaid by any person subject to liability under the antitrust laws for such damages shall be trebled: *And provided further*, That prejudgment interest under this section on actual damages that are trebled shall be recovered only if, pursuant to a motion by the United States promptly made, the court finds that the award of all or part of such interest is just in the circumstances, taking into consideration only—

"(1) whether the United States or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the United States or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether the United States or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

SEC. 214. Paragraph (a)(2) of section 4C of the Clayton Act (15 U.S.C. 15c(a)(2)) is amended by striking the second sentence and inserting in lieu thereof the following: "The court may award under this paragraph, pursuant to a motion by such State promptly made, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to compensate natural persons in such State for the injury sustained, on such total damage for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, if the court finds that the award of all or part of such interest is just in the circumstances.".

AMENDMENT No. 3283

At the end of S. 430 add the following:

The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 4II the following new section:

SEC. 4I. (a)(1) The court shall reduce the claim under section 4, 4A, or 4C of this Act of any claimant releasing any person from liability or potential liability for such claim by the greatest of: (1) any amount stipulated for this purpose; (2) the consideration paid for the release; or (3) the actual damages fairly allocable to the person being released from liability or potential liability (or treble such actual damages to the extent such claim is for treble damages) and any interest on such actual damages under section 4, 4A, or 4C of this Act.

"(2) In any action under section 4, 4A, or 4C of this Act based on a contract, combination, or conspiracy among competitors, the court shall conclusively presume that any person whose sales or purchases would otherwise be included in a calculation of damages based on overcharges or underpayments has been released from liability or potential liability if it has not been joined as a defendant and if it is established by the defendant that such person is legally and practically available as a party to the action to recover such damages.

"(b) For purposes of subsection (a):

"(1) Where the claim is based upon a price-fixing agreement among competitors and damages are sustained by reason of overcharges or underpayments resulting from such agreement, damages shall be allocated on the basis of each such competitor's proportionate share of the total of all such competitors' overcharges or underpayments.

"(2) With respect to all other claims, damages shall be allocated on the basis of relative responsibility for the origination or perpetration of the violation for which damages are being awarded and the benefits derived therefrom, unless the court determines that a more equitable result would be achieved by allocating damages by the method used in paragraph (b)(1).

"(c) Nothing in this section shall affect the joint and several liability of any person for any claim under the antitrust laws, and nothing in this section shall affect whether or not an action may be maintained as a class action under rule 23(b) of the Federal Rules of Civil Procedure.".

EFFECTIVE DATE

SEC. 204. The provisions of this subtitle shall apply to all actions commended under section 4, 4A, or 4C of the Clayton Act after the date of enactment of this Act.

TECHNICAL CORRECTIONS TO THE TAX REFORM ACT OF 1986

KASTEN AMENDMENT NO. 3285

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill (H.R. 4333) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes, as follows:

Amend Section 107(e) of S. 2238 by adding the following new paragraphs:

(5) Section 59 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(k) SPECIAL RULE FOR MORTGAGE GUARANTY INSURERS.—In the case of a taxable year to which section 56(f) applies—

"(1) DETERMINATION OF REGULAR TAX.—For purposes of section 55(c)(1), the regular tax shall include the total amount paid for tax and loss bonds under section 832(e)(2) with respect to the deduction permitted under section 832(e)(1) for the taxable year. The regular tax shall be reduced (but not below zero) by the amount paid for tax and loss bonds acquired with respect to a deduction permitted under section 832(e)(1) for a prior taxable year that is restored to income under section 832(e)(5) in the current taxable year, but regular tax shall only be reduced to the extent that the payment for tax and loss bonds with respect to such prior year deduction was treated as a payment of regular tax.

"(2) DETERMINATION OF APPLICABLE ADJUSTMENT.—For purposes of section 56(c)—

"(A) the deduction permitted by section 832(e)(1) shall not be allowed, and

"(B) the inclusion in gross income required by section 832(e)(5) shall be disregarded to the extent that a deduction in a prior taxable year for that amount was disallowed by reason of subparagraph (A) of this paragraph."

(6) The amendment made by paragraph (5) shall take effect as if included in the amendments made by section 701 of the Tax Reform Act of 1986.

MINIMUM WAGE RESTORATION ACT

KASTEN AMENDMENT NO. 3284

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill S. 837, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . SOCIAL SECURITY EARNINGS LIMITATION INCREASED TO REFLECT INCREASE IN MINIMUM WAGE.

(a) IN GENERAL.—Section 203(f)(8) of the Social Security Act (42 U.S.C. 403(f)(8)) is amended by adding at the end thereof the following new subparagraph:

"(E) Notwithstanding any other provision of this subsection, in the case of any individual who has attained normal retirement age (as defined in section 216(L)) the exempt amount determined under this paragraph for any month of a taxable year beginning after December 31, 1988, shall be increased by an amount equal to—

"(i) the product of—

"(I) the amount of the increase in minimum wage per hour for such year under the Minimum Wage Restoration Act of 1988, and

"(II) 2000 hours; divided by

"(ii) 12.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to months in taxable years beginning after December 31, 1988.

RELIEF OF CERTAIN PERSONS IN RIVERSIDE, CA

CRANSTON (AND WILSON) AMENDMENT NO. 3286

(Ordered to lie on the table.)

Mr. CRANSTON (for himself and Mr. WILSON) submitted an amendment intended to be proposed by them to the bill (H.R. 4050) for the relief of certain persons in Riverside County, CA, who purchased land in good faith reliance on an existing private land survey, as follows:

On page 1, line 3, after the word "That" insert: "Section 1."

At the end of the bill insert the following:

"SEC. 2. Notwithstanding any other provision of law, the Secretary of the Interior shall, within six months of the enactment of this Act, complete the state indemnity application CA 16096 for land in Inyou County, California as submitted to the State Director, Bureau of Land Management, California State Office, Sacramento, California and shall convey the lands described therein to the State of California."

Mr. CRANSTON. Mr. President, this amendment directs the Secretary of the Interior to convey to the California State Lands Commission a 20-acre parcel of land in Inyo County, CA, as part of the State's indemnity selection. The Bureau of Land Management has recommended that this parcel be classified for disposal through State indemnity selection. However, because the land has been withdrawn and is subject to the injunction in National Wildlife Federation versus Burford, the BLM has not been able to convey the property. The amendment provides the necessary authority to complete the transaction. The National Wildlife Federation has indicated it has no objection to this amendment.

THRIFT INDUSTRY NATIONAL COMMISSION

GARN (AND PROXMIRE) AMENDMENT NO. 3288

Mr. DOLE (for Mr. GARN and Mr. PROXMIRE) proposed an amendment to the bill (S. 2653) to establish a National Commission on the Thrift Industry, as follows:

On page 1, line 6, strike "the Thrift Industry" and insert in lieu thereof "Federal Deposit Insurance."

On page 4, line 14, insert after the word "Corporation" the words "and the Federal Deposit Insurance Corporation,".

On page 4, line 16, insert after the word "Corporation" the words "and the Federal Deposit Insurance Corporation".

On page 4, line 17, strike the word "thrifts" and insert in lieu thereof "depository institutions".

On page 4, line 19, insert after the word "Corporation" the words "and the Federal Deposit Insurance Corporation".

On page 4, line 21, insert after the word "Corporation" the words "or the Federal Deposit Insurance Corporation".

On page 4, line 23, strike "thrifts" and insert in lieu thereof "depository institutions".

On page 5, line 5, strike the words "thrift industry" and insert in lieu thereof "banking and thrift industries".

On page 5, line 14, strike the word "and" and on line 15 redesignate clause "(6)" as clause "(7)" and insert the following new clause (6):

"(6) future methods to improve the regulation of the thrift industry, including capital and accounting standards; and"

On page 5, strike lines 18 through 24, and insert in lieu thereof the following:

"(1) The Commission shall submit to the President and to the Congress a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable, in two stages: First, the Commission shall report on all the issues principally relating to the thrift industry and the Federal Savings and Loan Insurance Corporation, as well as those issues relating to both the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, by February 1, 1989; and second, the Commission shall report on the issues relating principally to the banking industry and the Federal Deposit Insurance corporation by April 1, 1989."

On page 9, line 2, strike "$250,000" and insert in lieu thereof "$500,000".

JOB TRAINING PARTNERSHIP ACT AMENDMENT

HATCH AMENDMENT NO. 3287

Mr. DOLE (for Mr. Hatch) proposed an amendment to the bill (H.R. 4857) to amend the Job Training Partnership Act to make a technical change, as follows:

At the end of the bill, insert the following: "Sec. 2. The amendments made by this Act shall apply with respect to funds available for expenditure on or after June 30, 1988."

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS AND THE SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. BUMPERS. Mr. President, I would like to announce for the public that a joint oversight hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and National Resources, and the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry.

The hearing will take place on September 29, 1988, beginning at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the oversight hearing is to receive testimony from the Departments of the Interior and Agriculture on their current policies regarding fire management on lands administered by the National Park Service and the Forest Service; how those policies were formulated; and the manner in which they were implemented with respect to the recent fires in and around Yellowstone National Park.

The Secretaries of the Interior and Agriculture, as well as the Director of the National Park Service and the Chief of the Forest Service have been asked to appear. Those wishing to submit written testimony for the record may do so by sending two copies of their testimony to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact Beth Norcross of the subcommittee staff, at (202)224-7145.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. METZENBAUM. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources.

The hearing will take place Tuesday, October 4, 1988, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building.

The purpose of the hearing is to receive testimony on S. 2179, a bill to amend the Petroleum Marketing Practices Act.

Those wishing to present oral testimony or who wish to submit written testimony for the hearing record should contact Mr. Joel Saltzman, staff counsel, Committee on Energy and Natural Resources.

For further information, please contact Mr. Saltzman at 224-7932.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Wednesday, September 28, at 10 a.m., in SD-342 Dirksen on the nomination of John Alderson, nominee for administration, General Services Administration. For further information, please call Len Weiss, staff director, at 224-4751.

ADDITIONAL STATEMENTS

DUMPING OF MEDICAL WASTES

● Mr. GLENN. Mr. President, I join with my colleagues from Michigan in expressing outrage at the dumping of medical wastes into the Great Lakes. Much of the recent publicity has focused on the pollution of the Atlantic seaboard's beaches with used syringes, intravenous bags, surgical tubing and all manner of vials and gloves. Some of the more frightening instances involve vials with residue of HIV-positive blood. But the last month has shown that the Great Lakes are not immune to this pollution.

Two hundred syringes and other unidentified medical objects washed up on a beach in Cleveland in August. State agencies in Ohio are still attempting to determine the hazard that these wastes represent and their origin. A State park beach in Michigan has experienced a similar wash-up of nearly two garbage bags' worth of medical waste.

These events should not be considered casual occurrences. They should alert communities and individuals to the fact that we still produce too much waste. This waste can be dangerous if we do not find ways to safely reduce and dispose of it. Illegal disposers will continue to endanger the public health and the environment if we do not make every effort to prevent them.

Congress has made it increasingly difficult for polluters to illegally dispose of solid and hazardous waste on land. These criminals have now turned to our Nation's waters as a disposal route. We cannot allow further degradation of our lakes by these preventable criminal actions.

I am proud to join Senator Levin as a cosponsor of his bill to extend to the Great Lakes a pilot medical waste tracking program similar to the one that Senator Lautenberg's bill applies to the New York and New Jersey coast. The bill requires that a demonstration program be established by EPA to promulgate and enforce regulations on medical waste in the Great Lakes States. This is an excellent step in the right direction that will be well complemented by the Senate's ocean dumping bill.

I am equally proud to join my colleague, Senator Riegle, in cosponsoring his sense of the Senate that the Great Lakes must be included in any medical waste legislation that addresses marine pollution. The Senate and the House must work together to arrive at a compromise that will provide the Great Lakes with comprehensive protection from future medical waste pollution.●

A SURPRISE 50TH WEDDING ANNIVERSARY CELEBRATION

● Mr. BOND. Mr. President, on Sunday, September 25, 1988, the children and grandchildren of Ruben and Marjorie Fuller will be hosting a surprise 50th wedding anniversary party. Ruben and Marjorie were married August 27, 1938, in Johnston County, MO. Relatives from as far as Idaho will be attending a luncheon and open house. Mrs. Fuller, formerly Marjorie Pittenger, comes from a family whose ancestors emigrated from Germany to the fertile fields of Missouri. Mr. Fuller shares a similar story.

They have continued the tradition of their ancestors by working the soil and raising a small herd of cattle and Yorkshire hogs. Their success is evidenced by the devotion of their son, 3 daughters, 11 grandchildren and numerous friends. Ruben and Marjorie are the best of what America stands for: honesty, integrity, endless toil, and unyielding generosity to those in need.

I congratulate them on their 50th anniversary and am glad to be of service to these true Missourians in the U.S. Senate.●

HEARINGS ON HEALTH PROBLEMS IN THE AEROSPACE INDUSTRY CAN BE HELPFUL

● Mr. ADAMS. Mr. President, earlier this morning my colleague, Senator Reid, announced that he would hold hearings designed to examine the possible impact that certain chemicals used in both commercial and defense aerospace programs may have on workers. In addition, I assume these hearings will also explore the various questions which have been raised about the impact of national security regulations on our ability to fully protect the health of our workers.

I have an obvious interest in this issue because a great deal of defense and commercial work is done by workers at the Boeing Corp., which is based in my State. Since the initial press reports on this problem surfaced, we have had discussions with the interested parties and, based on those discussions, it appears that there is a willingness to deal with the issue in good faith. The hearings Senator Reid intends to hold can make a valuable contribution by focusing on the state of our scientific knowledge; the adequacy of existing regulations and inspections; and the systemic problems associated with the worker's need to know and the need of Government and the desire of business to keep certain information secret. I congratulate Senator Reid for his initiative in this area and I look forward to working with him as he explores this issue.●

IN "LOCO" PARENTIS

● Mr. ARMSTRONG. Mr. President, it appears that the Senate will soon begin debate on legislation which would require employers to provide leave to employees for the purpose of parenting. The Grand Junction Daily Sentinel recently published an editorial which I think my colleagues will find interesting. The Sentinel calls this legislation an "unwarranted, albeit well-meaning, intrusion of the Federal Government into the affairs of both private and public employers." And, Mr. President, I couldn't agree more.

Today's work force is diverse and complex. More so than at any time in our Nation's history. According to the 1986 census today's labor force is 44 percent female. Married women with young children comprise the most new entrants. Eighty percent of all working women are in their prime childbearing years (ages 18-44)—that's 65 percent of all American women in this age group.

American businesses have responded to this change. Employers are voluntarily spending a record amount on employee benefits. On the average, employers pay 39.9 percent of their payroll in benefits. Voluntary annual expenditures by employers on benefits has risen from $290 billion in 1973 to $742 in 1986.

A vast array of benefits are now offered to employees including: dental and vision care, long- and short-term disability, life insurance, vacation and sick leave, maternity leave, pension, and retirement coverage, holidays, bereavement leave, education assistance, legal assistance, adoption assistance, profit sharing, and employee discounts. All these benefits are not mandated. They reflect the Nation's ability to adapt to the changing needs of the work force.

Proponents of this legislation state that three-fourths of the public support the concept of parental and medical leave. What the proponents aren't saying is that a majority of those same people do not want the government to interfere in the negotiations between employer and employee to decide on the terms of that leave.

Mr. President, I would not like to see the Federal Government mandating, across-the-board, specific leave requirements for every one of America's 112 million employees. The points made in the Grand Junction Daily Sentinel are worth considering as we debate this issue, and I ask that the editorial be inserted in the Record at this point.

The editorial follows:

[From the Grand Junction Daily Sentinel, Sept. 9, 1988]

In "Loco" Parentis

Monday Congress is scheduled to vote on a bill to require all employers in this country with 50 or more employees to provide the parents of newborn, newly adopted or seriously ill children with 10 weeks of unpaid leave. Both the House and Senate labor committees have approved similar bills and the chances of this particular piece of legislation, sponsored by the redoubtably liberal likes of Colorado Rep. Pat Schroeder and Connecticut Sen. Christopher Dodd, are looking very good indeed.

Right now there are no federal requirements that employers offer any kind of parental leave. How could we have limped along for decades without it? Well, most states have for years required some sort of provision of leave. Such benefits are routinely included in collective bargaining agreements. Many other employers, large and small, offer it voluntarily or provide it as one option among several employee benefits packages. Working people manage to rear families despite what Schroeder considers to be an appalling gap in the federal government's authority to butt in.

The bill pending in Congress is flawed both philosophically and practically. It is short-sighted public policymaking at its classic worst—one more unwarranted, albeit well-meaning, intrusion of the federal government into the affairs of both private and public employers.

Take, for instance, the potential effect of such a bill on a typical school district. Parental leave policy aside, the school district's frist responsibility is to its students. Should a school district be precluded from balancing an employee's wish to return to work two weeks before the end of term against what is in its students' best interests? Will parents be happy when this law is in force and their children experience more switching of teachers, more use of substitutes and, in general, increased interruptions in the smooth flow of the school year? Shouldn't the schools be able to modify an employee's request to take leave or return from leave?

This law, in fact, would create yet another "entitlement" for a particular group of employee, an entitlement to be provided at the expense of their fellow workers who do not have young children, and in the case of government employees, at the expense of the public they serve.

The bill would encourage rigidity instead of flexibility in the job market, as well as place an unbearable financial burden on smaller compaines operating on thin margins.

In the real world, decent treatment of employees is not unknown, even without the hand of Big Brother resting on the shoulder of both public and private sector employers. The provision of parental leave can be and is being dealt with on the state and local levels, tailored to community priorities. Providing it through federal mandate is precisely the kind of social engineering we don't need.●

SQUEEZE PRETORIA

● Mr. SIMON. Mr. President, one of the leading lawyers in this city is, John Douglas, the son of our former colleague Senator Paul Douglas and a man who headed the Civil Rights Division of the U.S. Justice Department under Attorney General Robert Kennedy.

John Douglas follows his father's footsteps in his concerns for justice.

Recently, he wrote an article on South Africa that I will ask to insert into the Record at the end of my remarks. He calls for greater United States action on the South African front. And simple justice demands that we do precisely what he asks.

Let me add, those either in opposition to sanctions or in support of sanctions who expect sanctions to work quickly, I think are badly mistaken. Sanctions and other economic forms of pressure simply are a means of saying where we stand and saying so firmly and letting those in power in South Africa know that we mean business when we say we oppose the evils of apartheid. But those evils will not crumble quickly. The fact that they will not crumble quickly does not mean that we should not stand up forcefully and vigorously.

I urge my colleagues to read the John Douglas piece, which appeared in the New York Times on July 25, 1988.

The article follows:

[From the New York Times, July 25, 1988]

Squeeze Pretoria

(By John Douglas)

Washington.—In portraying economic growth as the key to future democracy in South Africa, opponents of comprehensive sanctions misread the history of apartheid. South Africa's experience indicates that economic expansion can be compatible with a sophisticated police state.

Since World War II, every Nationalist Party administration has blocked political participation by blacks and suppressed their protests with naked force. This was true in the 1960's, when the economy grew at a rapid 6 percent; in the 70's, when the rate was 3 to 4 percent, and in the 80's when, until recently, there has been stagnation.

Indeed, it was in the high-growth 60's that the Afrikaner regime enacted the statutes, including the so-called Terrorism Act that institutionalized the classic elements of a police state. They included arrests without warrants, indefinite detentions without trial and removal of judicial control over detentions.

Critics of sanctions point to the economic gains in the 80's for some blacks, particularly for small-businessmen, as heralding decisive political influence to come. But this vision of "black empowerment" is a mirage. Black entrepreneurs are too few in number and too dependent on the state bureaucracy to ever constitute an efective force against apartheid. Today, black-owned businesses account for only 1 percent of the gross domestic product.

For the black population as a whole, the economy remains a disaster. Blacks own less than 2 percent of the nation's capital stock. The average income of black households has lagged far behind inflation. The unemployment rate for blacks stands at 25 percent and is increasing. New jobs average 22,000 a year whereas the work force grows by more than 300,000 annually. Small wonder, then, that the economic advances of some blacks have added nothing to black political power.

Opponents of comprehensive sanctions similarly misconstrue the role of black labor unions. Their theory is that, with national prosperity, the unions will inexorably accumulate economic power and can then transfer that power to the political arena.

But this formulation views black unions in isolation, wholly removed from everyday apartheid. It assumes erroneously that the economic aspirations of black workers can be divorced from their political aspirations. The two strands are inseparable, as witness the recent three-day "stay away," called by the largest labor federation, to demonstrate grassroots opposition to apartheid.

The rationale of economic growth also ignores the severity of the constraints under which black unions function. The high black unemployment rate assures a large pool of potential replacements for striking workers. Strikers cannot picket. Most important, union members are no match for the Government's guns, whips and dogs, all of which are at the ready in major labor disputes.

Last year's strike by 340,000 black miners was instructive. Its three-week duration was a remarkable achievement, but in the end the National Union of Mine Workers capitulated. Before the strike, the union asked for a one year pay increase of 30 percent. After management fired 40,000 strikers, the union accepted the owners' pre-strike offer of 23 percent. The raise was impressive on its face but actually modest, given the 3 to 1 disparity between white and black pay, the average monthly wage of $245 and a 15 percent inflation rate.

During that strike, the security forces of management and the state went on a rampage. Shootings of strikers, assaults and beatings were commonplace. Hundreds of strikers were injured. More were arrested. Nine were killed.

The pattern of white domination has characterized all of South Africa's labor-management relations. In the 50's, the Government collaborated with industry to smash the fledgling black unions. Two decades later, the Government acceded to industry's entreaties and legalized limited types of union activity.

Management made this about face in the interests of efficiency and stability: It was less costly to deal with union representatives than to cope with the larger number of individual workers who were becoming increasingly restive. But then, as now, the black unions operated at the sufferance of the Government.

In contrast to the passive approach exemplified by the champions of economic growth for South Africa, comprehensive sanctions would represent an affirmative policy.

Mild selective sanctions, enacted in 1986, have increased slightly the costs of maintaining apartheid. Adoption of comprehensive sanctions plus vigorous Presidential leadership would encourage other industrial democracies to forge a common policy and impose signficiant strains on the economy—primarily, albeit not exclusively, on its white sector. Those strains would resonate with the resistance to apartheid in the black communities and thereby generate the best opportunity for a non-racial democracy.●

NATION'S REPORT CARD ON SCIENCE ACHIEVEMENT IN GRADES 3 TO 7 AND 11

● Mr. STAFFORD. Mr. President, the National Assessment of Educational Progress today released their fifth report on the state of science learning in the Nation's elementary and secondary schools. Though scores have slightly improved, the news about student mastery of science curriculum is not good. Furthermore, the older the students assessed—up to 17 years of age—the poorer the relative performance when compared to other industrialized nations. Minority students have made the most gains, which is indeed the best news contained in this report. Younger students have also made gains since the NAEP testing program began in 1969. Their progress, however, only puts them on part with third-grade students tested 20 years ago. In summery, they have reclaimed the ground which was lost during the 1970's. Most disturbing is the evidence that the gender gap has increased in spite of greater attention to the inclusion of female students in science education. Again, older girls showed a greater achievement gap when compared to male students then was evident among 9-year-old boys and girls.

The news about poor science achievement scores for American elementary and secondary students is not new. Earlier NAEP reports were taken seriously by the Congress. In 1985, I was the major Senate sponsor of legislation designed to make grants to States to upgrade science and math teacher training, retraining and in-service opportunities. That program, known as the math science education act has never received adequate funding from the Congress to meet the teacher training needs in school districts across the Nation. The funding trend, however, is improving. In fiscal year 1986, $45 million was appropriated for the math science education act. This year, the Congress has agreed to increase that funding to $137 million. It is a far cry, however, from the $330 million recommended by my colleague Claiborne Pell and I during consideration of the trade bill in the 100th Congress.

The availability of Federal dollars for upgrading the instructional skills of math and science educators has contributed to the improved performance, however modest, reported by the NAEP. We must do a better job in the future. I would hope the two presidential candidates would add math science education to the list of programs they intend to expand and fully fund.

The Gallup organization recently released a survey which pinpointed U.S. students as relatively ignorant about world geography when compared to students living in other industrialized nations. Coupled with this alarmingly poor performance on tests of basic scientific knowledge, the news for our planet is not good. Concern and respect for the environment are the traits of educated young people. The survival of our planet is truly at risk unless our citizens are technologically skilled and mindful of the fragile state of the soil, the water and the air that we breathe. Science education is the key.●

● Mr. SIMON. Mr. President, I am concerned about the long run implication of our policies in Panama.

The President who knows most about Panama is deeply critical of our Panama policy. I'm referring to President Jimmy Carter.

The recent New York Times article titled "Crisis in Panama Hits Middle Class," suggests that there will be long run damage to stability, which is being created by our policies in Panama.

I ask to insert the New York Times article in the Record at this point.

The article follows:

CRISIS IN PANAMA HITS MIDDLE CLASS—MANY PROFESSIONALS ARE OUT OF JOBS AS THE DEPRESSION CAUSED BY U.S. GROWS

(By Lindsey Gruson)

PANAMA, Aug. 25—Unable to pay her utility bill after being laid off, Juana recently had a friend turn off her electricity meter.

"We have to do whatever we can to survive," said Juana, a 38-year-old lawyer who wanted to be identified only by her first name. "I've used up all my savings. Just getting enough to eat is very hard."

It is an accepted part of urban life here that thousands of poor families routinely turn off their electricity meters so they get power free. But now the practice has become common among what many Panamanians call "the new poor"—the formerly thriving middle class.

After two decades of relative prosperity that contrasted sharply with developments in the rest of Central America, the sudden growth of this type of crime among professionals illustrates the desperation facing Panama's middle class.

MANY ARE EMIGRATING

Once the envy of the region, the country's middle class has been particularly hard hit by the continuing depression, which was set off by the confrontation between the United States and Gen. Manuel Antonio Noriega, the military chief and de facto ruler.

General Noriega is under Federal indictment in the United States on racketeering and drug trafficking charges. Washington has applied stringent economic sanctions, which have crippled Panama's economy, in an effort to force him to give up power.

Shaken by the deteriorating conditions, doctors, lawyers, bankers and other white-collar workers have been emigrating. Luis Alberto Arias, the president of an investment company and former general manager of the National Bank of Panama, said five of his squash club's 100 members had already left and others planned to go.

"The country is decapitalizing itself," lamented a leading economist, a former Government minister. "People are eating away their lifetime savings. We're rotting from the inside."

That has led to growing fears that Panama's financial hemorrhage may be irreversible. The country now faces the economic decline, political polarization and violence that have engulfed all its neighbors except Costa Rica, according to many bankers, economists and Western diplomats.

UNEMPLOYMENT CLIMBING

"The middle is being squeezed out," one Western diplomat said. He noted that the deficit is equal to tax receipts and predicted that the Government would be forced to cut public employees' salaries.

Although estimates vary widely, the United States Commerce Department predicts that the country's gross domestic product this year will plummet by 10 to 15 percent, or $750 million. Many private economists estimate much sharper declines.

The official unemployment rate, which has ballooned to 18 percent from 10.2 percent at the end of 1986, continues to climb. Private economists say unemployment is now 30 percent or more, perhaps 50 percent, if the severely underemployed are included.

An increasing number of Panama's poor are being forced out of the city and back to the farm. Private relief agencies report that hunger is growing, while long-time residents say Panama City already is noticeably shabbier.

WE'RE GETTING PRETTY LEAN

They say that the crime rate has jumped and that there is more litter in the streets. Garbage is collected much less frequently, especially in neighborhoods that have been centers of protest against General Noriega. Real estate prices have dropped by 40 percent.

Dominado Ador Kaiser Bazan, the senior partner in a large construction company and former president of the Contractor's Association, estimated that spending on construction, which totaled $220.5 million in 1987, would drop to $15.5 million this year.

"So far we've survived on our fat," he said. "But we're getting pretty lean."

The economic decline is perhaps most evident in Panama's financial industry, the regional banking center before the crisis. Deposits and outstanding credit have dropped to about $15 billion from $37 billion at the beginning of last year, according to the Commerce Department.

After half a dozen foreign banks, including Bankers Trust Company of New York, Republic National Bank of New York and First Chicago Bank, have closed their Panamanian operations. Others are expected to follow. Credit is almost nonexistent.

WE'VE GONE BACK 400 YEARS

Several bankers and economists said the economy is regressing, turning away from modern services and back to such traditional industries as agriculture and fishing.

"In many ways, we've gone back 400 years," said Mr. Arias. "It's almost a medieval economy. Soon we'll be like any other Latin American country."

The developments have left many middle-class professionals like Juana, the unemployed lawyer, without a useful skill. Noted before the crisis for their lavish life styles, members of the old middle class have been forced to slash their spending, refinance their mortgages and rearrange their lives.

Many business people and middle-class professionals are surviving only by relying on barter. Several supermarkets, for instance, trade food coupons for computer services.

"It's getting worse and worse every day," said Mr. Arias. "The economic pool is stagnating, just like a pond whose source has dried up."●

WASTE EXPORT CONTROL ACT, S. 2598

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of the Waste Export Control Act, S. 2598.

The United States is on the brink of a waste management crisis. The ill-fated voyage of the garbage barge—the *Marbo*—received a great deal of media attention both in this country and abroad. But the *Marbo's* maldorous odyssey may have served a purpose in highlighting a mounting national problem—garbage.

Most people give little thought to what happens to their garbage when they bag it and put it out on the curbside for pickup. What happens to that garbage once it is collected? According to the Environmental Protection Agency, over 80 percent of the 160 million tons of solid waste produced each year in this country is landfilled; about 10 percent is incinerated; and another 10 percent is recycled.

The alarming news about landfilling is that many of the country's landfills are nearing capacity and will soon shut down. Fresh kills landfill, which serves New York City, is expected to close before the turn of the century. Municipalities hoping to replace landfilling with incineration are finding that emissions from these plants contribute to air pollution and may violate Clean Air Act standards.

So, what are we to do with our garbage? Areas faced with more garbage than they can handle and rising disposal costs are looking at alternatives to landfilling and incineration. Many are exporting their waste to Third World countries which have comparatively lenient environmental regulations and where disposal costs are inexpensive. Many of these countries readily accept this waste needing the enormous amount of money they receive for doing so.

Unfortunately, many are accepting hazardous waste that has caused notable harm to their ecosystems. Needless to say this does nothing to promote good international relations with these countries.

This legislation is designed to control the exportation of such wastes by insisting that wastes meet the waste disposal standards which apply in the United States. Potential exporters will be required to apply for special permits through the Environmental Protection Agency. The permit applications must certify that the waste will be disposed of "in a manner providing environmental protection consistent with the requirements for transportation, treatment, storage or disposal of such or similar waste within the United States."

Promoting environmental protection as well as maintaining good international relations are goals of this legislation. I urge my colleagues to vote it into law.●

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF S. 2800

● Mr. JOHNSTON. Mr. President, the Congressional Budget Office estimate of the costs of S. 2800, as reported to the Senate on September 16 (S. Rpt. 199-518), Calendar No. 951), was not available at the time the report was filed. The cost estimate for S. 2800 was subsequently received by the Committee on Energy and Natural Resources on September 20.

I ask that the text of the CBO estimate be printed in the RECORD for the advice of the Senate.

The text of the CBO estimate follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 1988.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed a bill to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission, as ordered reported by the Senate Committee on Energy and Natural Resources, September 14, 1988.

This bill would amend the Nuclear Waste Policy act of 1982 by making the Office of the Nuclear Waste Negotiator an independent establishment in the Executive Branch. Under current law, the office is within the Executive Office of the President. The bill would also extend for five months the deadline for the Monitored Retrievable Storage (MRS) Commission's report to the Congress on the need for an MRS facility.

CBO estimates that changing the status of the Office of the Nuclear Waste Negotiator would have no significant impact on the federal budget, because it would not change the mission of the nuclear waste negotiator. The extended deadline for the MRS Commission's report could increase the commission's cost by $0.5 million or less over the fiscal years 1989 and 1990.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kim Cawley, who can be reached at 226-2860.

Sincerely,

JAMES L. BLUM,
Acting Director.●

DENNIS KOSLOWSKI, OLYMPIC ATHLETE

● Mr. DURENBERGER. Mr. President, I would like to take a minute to recognize an Olympic athlete that is making Minnesotans proud today. Dennis Koslowski of St. Louis Park, MN, won a bronze medal Wednesday in the 100-kilo class of Greco-Roman wrestling. Dennis' victory brings home the only Greco medal for the United States of the Seoul games. His hard work and determination enabled him to upset the Soviet champion and receive a well deserved medal.

Mr. President, I ask that an article from the Minneapolis Star and Tribune be printed in the RECORD as a tribute to Dennis Koslowski's achievement.

The article follows:

A BRONZE, BUT STILL A GOLDEN MOMENT—WRESTLER'S PERSONAL TRIUMPH IS AN AMERICAN FIRST

(By Jay Weiner)

SEOUL, SOUTH KOREA.—Like archers might, Sylvie Koslowski and Duane Koslowski took aim at a special target. Her husband and his twin brother Dennis, was the human bull's-eye, their love the arrows.

Dennis Koslowski, of St. Louis Park, was about to win a bronze medal, the first ever by an American Greco-Roman wrestler during a nonboycotted Olympic Games. Do not minimize such specificity. The gold medal winner in his 220-pound class and the man he defeated for third place—a Pole and a Bulgarian—would have been absent were this 1984 in Los Angeles and not 1988 in Seoul. They are nationalities that usually control this high-technique, upper-body-strength sport.

Dennis Koslowski, 29, a chiropractor by profession, readjusted his life by soundly whipping Ilia Gueorguiev of Bulgaria 4-0. In so doing, Koslowski came full circle from a childhood of uncertainty in South Dakota to an international moment of triumph. When the six-minute match ended, the blond, sturdy, normally calm Koslowski hopped on his toes like a little boy, blew a kiss to his wife, gazed at his brother.

A half-hour later, when he approached the victory stand, he was giggly, waving to Americans in the jam-packed Sangmu Gymnasium, the site of much noise on this evening. In the match before Koslowski's, Kim Youngnam won South Korea's first gold medal of the Olympics. The house was rocking.

The home team had an instant national hero who upset a Soviet champion. Flags waved, chants echoed. The Koslowski family had something to remember too. Tears flowed.

"Good, good," said Sylvie Koslowski, more stunned than overwhelmed, pushing her glasses up the bridge of her nose, attempting to stay under control as her husband blew a kiss to her from 300 feet away.

"As time goes on, the medal will gain more significance," said Duane, a half-hour younger than his brother. "I know he's thinking, 'I worked hard. I tried hard. I deserve it.' But after a while, it will take on a romantic aspect. It's a symbol of his love for the sport."

When Sylvie Lloret of Paris, France, met Dennis Koslowski of Doland, S.D., in Minnesota six years ago, she knew nothing of wrestling. She wasn't really sure she liked Dennis Koslowski. Oh, there was an initial, good old-fashioned crush. She met him at Duane and Denise Koslowski's wedding. Sylvie had been an exchange student in Morris, Minn., where Denise grew up and was Denise's maid of honor. When Sylvie returned to her job as public affairs officer with the French Ministry of Culture, she sat down and wrote Dennis a six-page letter.

She received no reply.

A month later, she wrote a second letter. It included the sentence, "You are such a jerk."

It was then that Sylvie began to understand this man who grew up with his twin brother, with no mother and a distant dad, who was raised by an aunt and an uncle, who turned to sports for a security blanket.

Dennis did not respond to Sylvie's missives because he was at a training camp for the 1984 Olympics. When he got back home in the Twin Cities, he quickly wrote back.

"He said, 'I'll be in France,'" she recalled Wednesday, sitting nervously in a plastic chair at a far end of Sangmu Gym, tiny U.S. and South Dakota flags in her hand.

Six months later, they rendezvoused in Reims, France, where Dennis won the Andre Guerin Memorial Tournament. Two years later, in February 1985, they married. In the interim, Dennis Koslowski failed to make the Olympic team, a runner-up at the trials. Sylvie did not understand the depth of his disappointment until soon after their wedding.

He might not admit it or talk about—"you know those South Dakota boys," she said—but there was something churning inside him.

"Dennis had a passion," said Sylvie, now the mother of 2-year-old Angela, "I believed I had to go with it. I'm happy to be tagging along." Wednesday there was a medal around his neck. Today there are headlines. in 1985, '86 and '87, there were doubts. "There were times I wasn't sure we would make it," said Sylvie, a full-time homemaker. "Dennis was a student. Angela was just born. We had no real income. We were living in a one-bedroom, $235-a-month apartment in St. Paul."

She remembers the party after his graduation from the Northwestern College of Chiropractic. There were 40 people in that one bedroom because it was summer and the bedroom had an air-conditioner.

They endured, even though Dennis finished a disappointing seventh at the 1986 world championships. They kept pushing, even though he was turned down by some employers who felt his wrestling would interfere with his work.

Finally, Arlen Lieberman, who operates a chiropractic office in Golden Valley, took Koslowski in.

"If Dennis wouldn't have this boss, maybe he'd be selling shoes or something," said Sylvie. "Because I know he was not going to miss getting to Seoul."

At 25, Duane Koslowski came out of retirement to help his brother. Since they were 12, first in Webster, S.D., and then in Doland, they had been known to bang each other around for better or for worse. Duane, about an inch taller and wrestling at up to 250 pounds, understood that his brother needed a training partner. He was there to serve.

They had been a team since they were kids, when their widowed dad couldn't care for his five children any longer and distributed them among relatives. Duane and Dennis, age 8, went to an aunt and an uncle. Wrestling became a vehicle "to feel good about ourselves." Football, too, and they played at Minnesota-Morris.

Wednesday afternoon, seven hours before his twin was to win an Olympic medal, Duane was manhandled by the Soviet world champion and soon-to-be Olympic champ Alexander Kareline.

"I felt like I was wrestling a Volkswagen," Duane said of the 15-0 whipping, moments before Dennis jogged onto the floor of the gym, wearing his USA red wrestling singlet, looking intense.

Duane admitted disappointment at his elimination from the tournament but said all that was behind him now as Dennis and Gueorguiev took to the center mat. "I'm excited for Dennis," said Duane, an insurance salesman who lives in Brooklyn Park with Denise and their children, Christina, 2, and Jason, 5. "I provided him a training partner and we always talked about opponents. But he did the work. This will be his medal."

Duane Koslowski, as blond and square-jawed as his twin, lowered his voice.

"I'll tell you, the first two minutes are really important here," he said, sitting a row in front of Sylvie, next to Denise, overlooking the mat. "I know the guy does not like to wrestle Dennis. But I know the guy has a terrific lift too. Dennis will have to stay away from that."

Denise chanted, "U-S-A, U-S-A," while Duane watched so closely. Within 48 seconds. Dennis was penalized for passivity and Gueorguiev had his first break. Koslowski would be placed on all fours by the referee and the Bulgarian would be on top, a perfect position to execute his lift and take an early lead.

"This is really bad," said Duane, biting his lip, squirming in his seat. "Good, good, good

. . . All right . . . He got out of it. Man, I thought the Bulgarian would get at least a point."

Gueorguiev, the 1987 European champion, never scored. Dennis did. Two points with 1:14 to go in the first period, two more points with 48 seconds left.

"This was the plan," said Duane, suddenly animal. "He's in the driver's seat. He's got him. I think Dennis is like a shark smelling blood right now."

Gueorguiev plodded back to his corner after the first period. He knew it was over. Koslowski appeared satisfied. Two minutes and 50 seconds later, Denise, Sylvie and Duane, with several hundred other U.S. fans in the 5,000-seat arena, were counting down the clock.

It was over. Dennis raised his arms in victory. The crowd cheered. Dennis wept. Duane had tears in his eyes behind the sunglasses. Dennis hugged his coaches, Dan Chandler and Pavel Katsen, who lifted him in a king's chair and briefly carried him.

"I could kiss everybody," said Sylvie Koslowski.

Afterward, Dennis' right eye was puffy. He cut his eyelid against Andrzej Wronski, the eventual gold medalist, Wednesday afternoon and received six stitches. He was sipping juice to get the system flowing for the drug-testing people. He was exhausted.

"I knew I had to win five coming in here," Koslowski said. "Five wins and I envisioned a gold medal around my neck. I did win five, but lost two." He survived seven matches in three days, "the longest three days I can remember," four hours of sleep a night, limited eating. His two losses were both by one point. He advanced in a weight class in which the 1984 Olympic champ and the 1987 world champ were eliminated. He lost 1-0 to the gold medal winner, Wronski.

"Gosh, I think I can beat the Pole too," he said, cockier now with the bronze around his neck. But there will be no more gutwrenches for him. It's back to chiropractic medicine, back to being a dad.

He has plans to call his father, Henry Koslowski of Marion, Ill., with whom he speaks infrequently, to share his glory. He will be a tourist in Seoul for the next week, with Sylvie, his brother and Denise. He hopes others will be inspired to try the sport that kept him and Duane on a right track after a rough start.

"I think we came from a challenging background," Dennis said. "Wrestling is a sport that attracts people like that. We've come full circle. We've had a lot of setbacks. With all our losses, we are OK."

He wondered if he would fade into anonymity after these fleeting days of fame. He reported that as the Polish national anthem played while he was on the victory podium, he sang the words to the "Star-Spangled Banner" to himself.

"Right now, I feel real emotional with the results," Dennis said. "All the people who helped me, my employer, my brother, my wife. I feel good for everybody. It felt good to win a medal for them.●

TRIBUTE TO DR. MARIA GOMEZ CARBONELL

● Mr. GRAHAM. Mr. President, on October 1, Miamians will honor a women whose achievements are numerous and legendary. Her life is an example of the richness of ethnic diversity in this great country of ours. The State of Florida benefited from her generosity; the Miami community feels the loss of her presence.

Dr. Maria Gomez Carbonell was born in Havana, Cuba, and dedicated much of her life to securing civil rights for Cuban women. She earned a doctorate in philosphy and literature, authored several books, served as a member of the Cuban House of Representatives for 4 years and in Cuban Senate for 8 years before Fidel Castro's regime. During that time of public service Dr. Gomez also served in the Cabinet of the Republic of Cuba and on many socially and educationally-oriented commissions to improve the living standards and academic opportunities for Cubans.

In exile in Miami, Dr. Gomez remained an activist, working for a free Cuba and to preserve the heritage of Cuban-American children. Floridians realized, in Dr. Gomez, what an unintended gift Castro's revolution had given to the United States. She symbolized a dedicated, educated, high-minded group of people who brought their dreams and their energy with them to this country. In that sense, Dr. Gomez was quintessentially an American. We are fortunate to have the legacy of her contributions.

To celebrate Maria Gomez Carbonell's memory, Florida's Governor has declared October 1, 1988, as "Dr. Maria Gomez Carbonell Day" in the State of Florida. I would like to add my voice to the many singing her praises. It is from such selfless and directed lives that Florida draws its own vigor and inspiration.

Mr. President, I thank the Chair for the opportunity to honor an important, an outstanding Floridian.●

PERSONAL FREEDOM AND HUMAN RIGHTS IN THE SOVIET UNION

● Mr. GRAHAM. Mr. President, I am pleased to join my colleagues, Senators CONRAD and WIRTH, in working toward promoting personal freedoms and human rights in the Soviet Union. Soon we will be meeting with Soviet Ambassador Dubinin to reiterate our interest in the welfare of Soviet citizens who have been denied the rights of a free society. I commend Senator CONRAD for his leadership in ensuring that these issues remain at the top of our agenda in our relations with the Soviet Union.

Last April, Senators CONRAD, WIRTH and I joined several other Senators on a trip to the Soviet Union. During our visit, I had the very special opportunity to meet with various Soviet refuseniks and participate in a Passover Seder with Alik and Galina Zelichonok, refuseniks living in Leningrad. Passover symbolizes the tremendous sacrifices necessary to achieve freedom and human dignity; it is the triumph of humanity over oppression. That sacred occasion reaffirmed my deep commitment to do everything possible to help the Zelichonoks and others like them gain the right to emigrate to a free society.

Through my communications with Soviet refuseniks and those who have emigrated, it is evident that glasnost has not proven to be as positive a policy as we had hoped. Acts of anti-semitism in the Soviet Union seem to be on the rise. It is unfortunate that, as Jewish people worldwide celebrate the High Holy days, they cannot greet the new year with optimism.

As I look back on this past year, one of the happiest days I remember was June 28, when an American-Soviet couple was reunited after 8 years of separation. Galina Vileshina of Boca Raton, Florida, worked tirelessly to get her husband out of the Soviet Union. Her efforts inspired me to write letters and make phone calls and personal contacts on their behalf with American and Soviet officials. Her success has encouraged me to continue to press Soviet officials at every level to grant their citizens the fundamental rights of a free society.

We must make the Soviets understand the high value we Americans place on religious tolerance, free emigration, and the basic right to live and work without fear. This week, as Soviet Foreign Minister Shevardnadze meets with Secretary of State Shultz to negotiate arms reductions and safeguard human life, he must be reminded that the right to live as one chooses is as important as the right to live. There is no more effective way for the Soviets to understand the importance we place on human rights than by insisting that they be included in any negotiations we have with their country.

It is my hope that our initiatives will spark positive results; I look forward to working with my colleagues on this important endeavor.●

BUSINESS FOR PEACE

● Mr. HARKIN. Mr. President, I call to your attention a unique Iowa organization, "Business for Peace." Business for Peace is a bipartisan group of 104 business executives and leaders from the Des Moines area. They are split roughly equally between Republicans, Democrats, and independents. They are drawn together by one common concern: nuclear war.

Despite their political diversity, they have been able to reach a consensus on broad national security issues, something we have been losing here in Congress of late. Members of Business for Peace endorse a basic statement entitled "War Doesn't Work Anymore." This week, they have also released a consensus statement on the Strategic Defense Initiative, or "Star

Wars." The fact that they could reach a consensus on the controversial SDI program reflects the diligence and effort they put into their activities.

They conclude in part that "the SDI program should not proceed beyond the research and land-based testing phases permitted by the ABM Treaty" unless the five conditions are met, including technical feasibility, cost-effectiveness, survivability, transition stability, and long-term economic and political support. I submit that their statement is a thorough and accurate assessment of SDI, and these views are representative of the majority of business men and women in this nation who are not financially dependent on the SDI program.

I commend these statements to my colleagues, and ask that they be printed in the RECORD.

The material follows:

WAR DOESN'T WORK ANYMORE

Business men and women, like others, have concerns which transcend their daily activities. Many of us share a common belief that the overriding concerns in today's world are: the increasing reliance on military force, and the threat of a nuclear war. In particular, we believe that:

1. In the face of nuclear extinction, alternatives to war and terrorism must be found. For humanity to survive, nations and their foreign policies, like businesses, must adapt to change.

2. "National Security" means global security.

Business has learned that its own well-being depends on a global economy. Similarly, one nation's security can no longer be purchased at the price of another's insecurity.

3. The arms race must be halted.

Today's nuclear arsenals can wage 1,000,000 Hiroshimas. More nations seek nuclear weapons. Conventional weapons are in mass production. Chemical weapons ("nerve gas") are widely held. Biological weapons research continues. Allowing nuclear and conventional weapons to proliferate further—in both stable and unstable nations—destroys any sense of security we may think we have.

4. An arms race is not an intelligent allocation of human and capital resources.

The application of resources to disease reduction, food distribution, population growth, reduction in human rights abuses, and improved living standards reduces the chance of war and enhances national security.

5. National economies are hurt, not helped, by arms spending.

In the long run, a disproportionate use of a nation's best talent and resources to prepare for war impairs its relative economic progress. Both the U.S. and the U.S.S.R. are examples.

6. We do not favor unilateral disarmament.

Disarmament must flow from verifiable agreements and we must move forward with such agreements. However, until such agreements are implemented, a U.S. military force—sufficient to deter a nuclear first strike and a conventional attack—is a necessity.

7. The number one item on today's foreign policy agenda must be multilateral disarmament.

Trust among nations is not a prerequisite; however, a long-term view and the identification of mutual interest are necessities for progress.

PEACE IS A RESPECTABLE WORD

As business men and women, we support the work of others who are committed to a process of peace making—a process that must show results if the nation is to be secure.

We pledge to educate ourselves and speak out on policy options. We urge businesspeople, and others, to join us.

Together, we can—and must—build a world without war. It's a matter of our survival.

BUSINESS FOR PEACE—STRATEGIC DEFENSE INITIATIVE [SDI]

Debate over the Strategic Defense Initiative (SDI) first announced by President Reagan in 1983 has focused on at least five major issues. This paper examines each of the issues, following which a concluding summary of the position of Business for Peace on SDI is presented.

WILL SDI WORK? WHAT DOES "WORK" MEAN; A TOTAL OR PARTIAL DEFENSE AGAINST NUCLEAR ATTACK? WHEN CAN IT BE DEPLOYED?

It is now generally agreed that in the foreseeable future SDI will not provide the total and complete defensive shield described when the concept was first proposed. Thus, at best, only a partial defense against an all out Soviet nuclear attack can be realistically expected. This means a sizable number of missiles will reach their intended targets.

Those who support SDI argue that a partial defense, particularly if deployed to protect military targets, would complicate and increase the uncertainty of the outcome of a Soviet first strike. They also suggest that while a nearly impregnable shield against nuclear attack may not be feasible at the present time, future research and development is likely to lead to significant breakthroughs that may ultimately make this objective achievable.

Opponents of SDI claim the program will never achieve either the partial or the more optimistic defensive goals claimed by its supporters. Soviet counter measures will be introduced to thwart SDI defenses or they will simply be overwhelmed by a significant increase in Soviet offensive weapons. The technical problems involved in an effective system for defense against nuclear attack are so overwhelming that they will require a long time to resolve. Finally, opponents argue that, as it is presently conceived, SDI will provide no defense against submarine or aircraft launched "flat trajectory" missiles or nuclear weapons delivered by a variety of other means.

Although SDI may provide a limited defense against a Soviet nuclear missile attack, it is our position that a total defense, as initially envisioned, is unlikely to be achieved for years. However successful SDI ultimately proves to be, the program will not address the nuclear threat posed by other delivery methods and by other nations with nuclear capability or which may ultimately acquire it. The Soviets will initiate offensive and defensive countermeasures if SDI is deployed. If we then feel the need to respond this is likely to trigger a race with the Soviet Union to erect stronger and stronger defenses against nuclear attack.

WHAT WILL SDI ACTUALLY COST? CAN WE AFFORD IT AND IS IT THE BEST USE OF OUR DEFENSE DOLLARS?

With a budget of $4.6 billion this fiscal year and $14 billion spent during the last five years, SDI is a major cost item in the defense budget. Thus, affordability and cost/benefit considerations are clearly relevant SDI issues.

SDI supporters believe development and deployment of SDI is feasible and that the system will perform as anticipated. Thus, the costs (supporters tend to lean toward the low side of the estimated range), are viewed as justified by SDI's anticipated strengthening of our defenses against nuclear attack.

Opponents of SDI have serious reservations about the program's feasibility, question whether SDI will truly strengthen our defenses and are convinced that the program's ultimate costs will exceed current estimates. They therefore conclude the program's costs will exceed the benefits to be derived.

Although the Defense Department has not provided its cost estimate of the limited defensive system contemplated by the Phase 1 system or the expected costs of a comprehensive system, there is general agreement that SDI will involve major expenditures over an extended period of years. In light of the program's costs, coupled with the pressing need to control government expenditures, we believe development and deployment of SDI should proceed only if the program's feasibility can be demonstrated.

DOES SDI VIOLATE THE ABM TREATY? IS THIS A RELEVANT ISSUE TO CONSIDER IN DECIDING WHETHER TO DEVELOP SDI?

Supporters of SDI contend that the original treaty limited development and testing in space of only those systems that are based on technology existing in 1972. Others argue that SDI development, testing and deployment should proceed even though it may violate the ABM Treaty because (a) the Treaty has failed to achieve its original goal of avoiding an offensive nuclear arms race; (b) a policy of limiting this nation's military defenses and depending solely upon our ability to destroy an enemy and its ability to destroy us is an unacceptable way of avoiding war; and (c) the Soviet Union has violated the ABM Treaty and has been developing its own defenses against nuclear attack.

Opponents of SDI argue that the ABM Treaty prohibits development and testing in space of the types of weapons contemplated by SDI. They also argue that while the ABM Treaty has failed to prevent a buildup of offensive nuclear missiles, the threat of annihilation has restrained both sides from initiating a nuclear first strike. The recent signing of the INF Treaty and negotiations currently in progress to further reduce the number of offensive nuclear weapons are also clear evidence that progress is finally being made to reduce the nuclear threat. They argue that no concrete efforts have been made to formally address and seek to resolve alleged ABM Treaty violations by the Soviet Union; instead, they are being used as justification for the U.S. to violate the Treaty by proceeding with SDI.

There is general agreement that the ABM Treaty permits the development and land based testing of immobile sophisticated antiballistic missile weaponry. While we support such efforts, we oppose developments, testing and/or development in violation of either the letter or the spirit of the

ABM Treaty. If we believe the Soviet Union is violating the Treaty, formal negotiations should be undertaken to seek compliance rather than abrogating the Treaty ourselves based on alleged Soviet non-compliance.

HOW WILL THE SOVIET UNION RESPOND IF WE DEVELOP AND DEPLOY SDI? WILL THIS ACCELERATE OR RETARD THE ARMS RACE?

Supporters of SDI argue that proceeding with SDI will better position us to negotiate further decreases in nuclear arms. They contend that history has shown that negotiating from strength is the most effective way to deal with the Soviet Union. They claim that when only a small percentage of missiles can be counted upon to reach their targets the Soviets will cease building them and reduce their number. Thus, SDI will not lead to a buildup of Soviet missile capability.

Those opposed to SDI contend that if we proceed with SDI the Soviets will increase their offensive nuclear forces and initiate other countermeasures. Thus, SDI will stimulate an offensive arms race.

We do not know if SDI will accelerate or retard the arms race. Since the military communities of contending nations tend to mirror-image each others' technology, the Soviets are likely to proceed with a defensive SDI system themselves. This might be desirable since it runs counter to the present policy of mutual assured destruction (MAD) on which the ABM Treaty is based. SDI would also move both nations away from large offensive ballistic missile forces. SDI is consistent with the proposition that we are much more interested in live Americans than in dead Russians . . . and vice versa.

We believe SDI research should be continued with emphasis on involving all of our allies and encouraging the Soviets to participate with us. As the research evolves, new discoveries are likely to change the emphasis of defensive programs. It is vital to stimulate, encourage and investigate new innovative approaches. We must, however, continue with an open mind but with our goal being to slow down, and eventually eliminate, the arms race. If, as research continues, interaction between the Soviet Union and the United States does not result in progress in this direction, alternative solutions must be sought.

WILL SDI DRAIN OUR TECHNICAL AND ECONOMIC RESOURCES OR WILL THERE BE VALUABLE SPINOFFS THAT WILL ENHANCE OUR TECHNOLOGICAL AND ECONOMIC CAPABILITIES?

Supporters of SDI argue there will be many valuable spinoffs from SDI that will enhance our technological and economic capabilities. They claim that SDI development will proceed hand-in-hand with commercial development of space. Thus, rather than hindering our ability to compete internationally, SDI will enhance our competitive positive in a multitude of space related activities and products.

SDI opponents content that SDI will drain our technical and economic resources and further weaken our nation's abilities to compete in world markets. They argue that our limited scientific and technological resources must be applied to enhancing our worldwide economic competitive position. While defense programs have yielded valuable commercial spinoffs. SDI opponents contends the costs have been unnecessarily high.

We concur that in the past space related technology has proven commercially useful. It is reasonable to assume this may be true in the future and that SDI research may yield technological innovations and products. However, at this point it is impossible to estimate the cost.

CONCLUSION

We believe the SDI program should not proceed beyond the research and land based testing phases permitted by the ABM Treaty unless and until the program has met certain requirements, including the following; (a) SDI technological feasibility issues have been settled; (b) the program's cost-effectiveness at the margin appears attractive (that is, the estimated costs of SDI are less than those incurred by the Soviet Union to neutralize SDI defenses); (c) there are reasonable assurances that SDI can be deployed and the deployment maintained in the face of feasible Soviet countermeasures; (d) the transition to systems to defend against nuclear attack as contemplated by SDI do not undermine stability in US.-Soviet relations; and (e) economic and political support of SDI for the long haul is assured.

Based upon the foregoing criteria, we believe the SDI program should, at this point, be confined to research and testing efforts necessary to ensure the United States remains abreast of the technology involved in systems to defend against nuclear attack. Further, a major effort should be made to closely monitor similar efforts by the Soviet Union, if possible negotiating an exchange of research information with the Soviets and a joint U.S.-Soviet effort to develop defenses against nuclear attack.●

NEW JERSEY LOSES A LABOR LEADER

● Mr. **LAUTENBERG**. Mr. President, on September 22 a valued and dedicated officer of the Essex-West Hudson Central Labor Council, AFL–CIO, died. Fred F. Stecher, Sr., served both the labor movement and the community in many capacities in a long lifetime of hard work and civic minded concern. His service was recognized in 1983 when he received an honorary degree from Essex County College for his "outstanding commitment to the rights of working people."

I know that Fred will be missed by the many organizations of which he was a member, many of which he led, and by organized labor in New Jersey. He leaves a void which will be hard to fill. His family can take comfort in knowing that he touched many lives and has left his mark on his home State.

I ask that an obituary which appeared in the Newark Star-Ledger be printed in the RECORD following my remarks.

The article follows:

[From the Newark Star-Ledger, Sept. 23, 1988]

FRED F. STECHER, SR., AFL–CIO EXECUTIVE

Fred F. Stecher Sr., executive secretary-treasurer of the Essex-West Hudson Central Labor Council, AFL–CIO, died yesterday in Clara Maass Medical Center, Belleville. He was 68.

Funeral services will be held Monday, with a 10 a.m. Mass at Our Lady of Good Council Catholic Church in Newark to be followed by burial at Holy Cross Cemetery in North Arlington.

Visiting hours are from 2 to 4 and 7 to 9 p.m. tomorrow and Sunday at the Paul A. McDonough Funeral Home, 637 Broadway, Newark.

A lifelong Newark resident and long-time community activist, Mr. Stecher served for 14 years as top administrator of the labor council which represents union locals and their members in the bicounty area. He also served on the board of trustees of the United Labor Agency, the council's social service arm.

Mr. Stecher was elected in 1984 to a three-year term on the Newark Board of Education and served as first vice president and chairman of the board's Human Resources Committee.

At the time of his death, Mr. Stecher also was chairman of the Labor Advisory Committee of Essex County College, an institution that awarded him an honorary degree in 1983 for his "outstanding commitment to the rights of working people."

Mr. Stecher also was active in the political arena, serving since Jan. 1, 1982, as aide to Essex County Freeholder President Thomas P. Giblin and, between 1981 and 1985, as a member of the state Democratic Committee.

"The death of Fred Stecher leaves a void in the entire community in Essex County and especially within the labor movement to which Fred devoted his entire career in serving the needs of working men and women," Giblin said.

Mr. Stecher was a trustee of the United Way of Essex-West Hudson, and a member of the advisory committee to the Essex County Job Training and Partnership Act council, the Ironbound Executives Association and the Newark Bell and Siren Club.

He also had served as president of the Consumers' League of Essex County and was a member of the Friendly Sons of the Shillelagh of West Orange.

Mr. Stecher was a retired member of Local 410 of the International Union of Electrical, Electronic, Office and Machine Workers at the Westinghouse plants in Bloomfield and Belleville, where he was employed for more than 30 years.

Mr. Stecher is survived by his wife of 51 years, the former Marion E. Hubbs; his son, Fred F. Jr. of Belleville; two daughters, Mrs. Loretta Ann Gallagher of Belleville and Mrs. Patricia Ellen Marx of Newark; his brother, William J. of Florida; a sister, Mrs. Gertrude LoVello of Somers Point; 13 grandchildren and eight great-grandchildren.●

MARYLAND GOVERNOR SCHAEFER'S THOUGHTS ON HISTORICAL IMPORTANCE OF ANTIETAM BATTLEFIELD

● Mr. **SARBANES**. Mr. President, yesterday the Senate Committee on Energy and Natural Resources favorably reported S. 2565, a bill that would assist in preserving Antietam National Battlefield in Sharpsburg, MD, to the full Senate. As the sponsor of this legislation, I am pleased with the committee's action and look forward to consideration by the full Senate. This bill has the support of every member of the Maryland congressional delegation and the Governor of Maryland. I would like to share Gov. William

Donald Schaefer's thoughts about the historical importance of Antietam Battlefield and the need to protect and preserve the historical integrity of this site, and ask that his statement be printed in the RECORD following my remarks.

The remarks follow:

STATEMENT OF THE HONORABLE WILLIAM DONALD SCHAEFER, GOVERNOR OF MARYLAND, IN SUPPORT OF S. 2565/H.R. 4554

"The most appalling sights upon the battlefield . . . the ground strewn with bodies of the dead and dying . . . the cries and groans of the wounded . . . the piles of dead men, in attitudes which show the writhing agony in which they died—faces distorted . . . begrimed and covered with clotted blood, arms and legs torn from the body or the body itself torn asunder." These were the words of an eyewitness, one day after the bloodiest battle of our civil war, the battle of Antietam.

The historical significance of Antietam is profound. Following the Confederate victory at the second battle of Bull Run, General Lee's Confederate army marched northward crossing the Potomac River into Maryland. On September 17, 1862, Lee's forces were met by General McClellan's Union forces at Sharpsburg, Maryland. The ensuing battle, fought in the cornfield, Dunker Church, Bloody Lane and Burnside's Bridge, resulted in 23,110 casualties in one day.

By stopping Lee's forces at Antietam, McClellan prevented the Confederate Army from swinging Maryland's precarious allegiance. The border states, particularly Maryland, played a crucial role in the Union strategy. If Maryland had fallen to the Confederacy, Washington, DC would have been surrounded by the Confederate army, and the course of the war profoundly altered.

Despite the staggering losses on both sides, neither side could claim victory. The stalemate that resulted at Antietam marked the beginning of a new era during the Civil War. Recognizing the need to alter the Union's political and military plans to avoid another stalemated battle, President Lincoln embarked on what is now considered one of the most important acts of his presidency. On September 22, 1862, five days after the battle of Antietam, Lincoln issued his preliminary Emancipation Proclamation, declaring that unless the rebellious states returned to their allegiance, he would declare on January 1, 1863, that, "all persons held as slaves" in the territory controlled by the Confederates were, "then, thenceforward, and forever free." By issuing the proclamation, Lincoln hoped that newly freed slaves would join the Union army and fight for a decisive Union victory.

Antietam, and similar battlefields of the Civil War, holds special meaning for Americans because the actual battle does not merely exist as a chapter in a school textbook, but is preserved for generations to actually visit. The National Park Service and the State of Maryland have consistently worked to preserve the historical integrity of the battlefield. Unfortunately, this ongoing preservation effort is being hampered by existing statutory limitations. Under present law, the National Park Service is unable to purchase additional land or receive easements for land within the battlefield. Scenic areas within the battlefield are currently unprotected from development.

In fact, one of the most significant battlefield sites at Antietam—the cornfield where more than half the casualties occurred—is completely unprotected from development. Currently, title 16 authorizes the Secretary of the Interior to acquire no more than 600 acres of scenic land within the park. Today, roughly 1,200 acres lay unprotected from development. S. 2565/H.R. 4554 lifts the 600 acre limit and allows the National Park Service to acquire land within the Park's boundaries from sellers or donors. The protection and preservation of this battlefield is nothing less than an obligation to future generations.

Our nation's history is more than biographies or documents. It is a history shaped by the geography of the land and the people who lived, worked, fought and died for it. S. 2565/H.R. 4554 will give the National Park Service the power to permanently ensure the historical integrity of this sacred site.

I applaud the efforts of the Maryland Delegation in sponsoring this legislation and I urge all members of Congress to support this important bill.●

RESPONDING TO REMARKS OF GOVERNOR DUKAKIS, GEORGETOWN UNIVERSITY, WASHINGTON, DC

● Mr. WARNER. Mr. President, not long ago, Senator SAM NUNN appeared on the Senate floor to respond to a speech on defense given by President Reagan. Senator NUNN felt that the President's speech contained some inaccuracies which he thought should be corrected for the record.

I am moved today by similar concerns to respond to a speech given by Governor Dukakis at Georgetown University on Wednesday, September 14.

All politicians are familiar with the practice of distorting an opponent's record. And we have all, at one time or another, witnessed the selective use of facts to more favorably portray one candidate's record against another's. But I must say that in his speech at Georgetown, Governor Dukakis has set what may be a new record, even for experienced politicians, in the practice of distortion.

In his effort to discredit the Reagan administration's record on defense, the Governor strains mightily to find fault. It seems the Governor can't find anything at all in our current military posture to praise. In his view of the world, our current military capability is apparently all bad. To support this view, the Governor takes selective facts out of context and tells us only half the story. His approach becomes downright amusing when coupled with his somewhat clumsy effort to suggest, however vaguely, that he might have a "better idea." Some of these better ideas run directly counter to those he espoused during the primaries. With the benefit of a very recent tutorial on defense and foreign policy from Democratic congressional Members, Governor Dukakis is now embracing ideas which were not only foreign to him just 6 months ago, but which actually contradict positions he has held throughout most of his political career.

Today, I would like to speak briefly about the conditions that existed in the Pentagon when the Reagan administration came into office, then I will challenge several of the statements made by Governor Dukakis about what the Reagan administration has accomplished over the last 8 years. In so doing, I hope to present a more balanced picture than the one we were left with 2 weeks ago at Georgetown University.

When the Reagan/Bush administration took office in 1981, they inherited a demoralized military which had been starved for modernization, with a host of weapons systems languishing in research and development, plagued with large cost overruns resulting from high inflation, inadequate funding, and mismanagement. We had an Air Force filled with aircraft that couldn't fly for want of spare parts, a Navy so undermanned and underfunded that ships could not go to sea, and an Army filled with "Category 4" recruits, the lowest mental category accepted by the armed services, many of whom could not even successfully complete basic training.

The Reagan/Bush team began an aggressive program of modernization across the board, including both strategic and conventional forces. In the strategic area, the Reagan/Bush administration has deployed 50 MX missiles and modernized the Minuteman force; put the Trident submarine program back on track and deployed eight submarines with over 1,500 survivable warheads; deployed cruise missiles on over 150 B-52 bombers; and deployed 100 B-1B bombers on time and within cost. The B-1B's unprecedented schedule performance was not without problems, as Governor Dukakis is quick to point out, but as Air Force Chief of Staff General Welsh has stated, no informed observer can doubt the ability of the bomber to perform its mission today.

In addition, this administration has developed and begun procurement of the Trident II missile, the Stealth bomber, and the advanced cruise missile, and deployed programs that assure that the national command authorities can control nuclear forces in a crisis. The Reagan/Bush administration has revitalized our strategic deterrent, while spending less than 15 percent of the defense budget to acquire and operate strategic forces, about 10 percentage points less than President Kennedy devoted to strategic systems.

The modernization of our conventional forces has been even more impressive. Since 1981 we have procured almost 5,500 M-1 tanks and fielded an improved version called the M-1A1, the finest tank in the world today. The Reagan/Bush defense program has procured almost 4,500 Bradley fighting vehicles and more than 300 multiple launch rocket systems [MLRS], which provide the most effective fire support our soldiers have ever had. The administration has procured more than 3,800 combat aircraft including 1,074 F-16's, 567 F-18's, and 637 AH-64 attack helicopters. They have also procured more than 190,000 of the world's most capable air-to-air, air-to-ground, and antitank missiles. With respect to our naval assets, this administration has increased the size of our fleet from 491 vessels in 1981 to 572 vessels in 1988; and readiness levels for all our conventional forces have been dramatically increased since 1981.

Without either recognizing or acknowledging this solid record of achievement, Governor Dukakis suggests that he can do better. Let's take a closer look at what he says is wrong with defense, and see what the real story is. First, I am pleased to see Governor Dukakis speak with new found passion about the importance of the men and women of our Armed Forces. Now that he is seeking to be their Commander in Chief, I hope he will take the opportunity to meet some of them. But as I said last week on the steps of the Capitol, my research indicates that before he began his Presidential campaign, he had not visited most of the military bases in his own State to meet with those young men and women in uniform. His interest in their well-being is certainly welcome—I regret that he didn't develop that interest until after he decided to run for the Presidency.

Next, Governor Dukakis tells us he will be tough with the Soviets and will negotiate reductions in strategic nuclear weapons. But at the same time he would unilaterally cancel the MX and Midgetman missiles. Now I ask you, what happens to our negotiating leverage when we give away both of our modern, mobile ICBM's? Perhaps Governor Dukakis knows something about the Soviets that no one else has discovered. Perhaps the Soviets really are waiting only to be "challenged" to lay down their arms? Certainly there was a lesson to be learned from our experience with the INF Treaty. It was simply this: The Soviet willingness to negotiate an arms limiting treaty came about only as a result of the deployment of our Pershing II and GLCM missiles. The Soviets respond to strength and commitment, not to mere challenges.

In discussing our ICBM force, Governor Dukakis points out that they are more vulnerable today than they were in 1980. He is correct. But what Governor Dukakis doesn't say is why that is true. Our missiles are more vulnerable for two reasons: First, during the past 8 years Soviet offensive technology has improved; and at the same time, congressional resistance has hampered the administration's efforts to increase our ICBM survivability. Governor Dukakis tells us he will find a "sensible and affordable way to maintain the effectiveness of the land-based missile leg of the Triad." But he gives no indication how he would do it. One wonders: What special expertise does he bring to the table to accomplish this feat? So far, all we know is that he would terminate the MX and Midgetman missiles—our only modern ICBM's.

Governor Dukakis has indicated in the past that he supports a unilateral United States moratorium on underground nuclear testing and a ban on flight testing of missiles—trusting that the Soviets might comply. Let me remind him of a quote from President John F. Kennedy who said, "Nations cannot afford in these matters to rely simply on the good faith of their adversaries."

Governor Dukakis says "They are cutting back on tanks, helicopters, people, ships." Cuts in the Reagan budget plans have occurred, but only as a result of congressionally mandated budget reductions. In fact, the congressional appetite for cutting defense has been so voracious that the fiscal year 1989 defense budget is barely $1 billion larger than fiscal year 1983 defense budget. But despite these reductions, the administration has increased the size of our Navy from 491 ships in 1981, to 572 ships today. They have substantially modernized our Army and Air Force and raised readiness levels across the board. And they have restored the morale of our service men and women and rekindled the pride that most Americans have in our military.

Governor Dukakis tells us that today only 55 percent of our Army Reserves are combat ready. But what he doesn't say is that when this administration came into office, the readiness of all components of our Armed Forces was dismally low. What he doesn't say is that by 1984, this administration had raised the Army Reserve readiness level to 40 percent, and by 1987 had achieved a level of 55 percent.

Next, Governor Dukakis tells us that a "government report says that up to 85 percent of infantry soldiers using today's antitank weapons would be dead after firing a single round." This information comes from a GAO report published over a year ago which presents a worse case scenario in which one of our older antitank missiles was matched in a computer simulation against a large number of postulated future Soviet tanks that have not even been fielded yet. Governor Dukakis does not tell us that same report contains a more realistic scenario matching our most modern antitank missile—(TOW IIB)—against the future Soviet threat, with a loss rate of only 8 percent.

Next, Governor Dukakis tells us that the "backlog of essential maintenance in the Army and Air Force is greater now than when the administration took office." For certain categories of essential maintenance this statement is true. But what the Governor does not tell us, is that since 1981 the Congress has cut the administration's request for O&M funds by nearly $30 billion. During that same period, the Congress has chosen to spend even more than $30 billion on add-ons, programs that were not requested by the administration.

Governor Dukakis claims that the administration has "failed to deploy an infantry tank missile that can take out modern Soviet tanks." The Governor is mistaken. In fact, we are currently fielding the TOW 11A missile, which was specifically designed to counter Soviet tanks with reactive armor. It can kill any Soviet tank in the field today. The TOW 11B, the follow-on to the TOW 11A, will be capable of handling the next generation of Soviet tanks.

Next, Governor Dukakis tells us that "our best pilots—the top guns—are leaving the military in record numbers." What Mr. Dukakis does not tell us, is that shortly after taking office this administration increased Navy pilot retention from a low of 16 percent in 1979 to 54 percent in 1984 through various efforts. Recently the problem of pilot retention has begun to reappear. In the fiscal year 1989 budget request the President proposed a solution to this problem but the Democratically controlled Congress chose to cut in half the administration's proposed pilot bonus while suggesting that the administration perform another study.

Next, the Governor tells us the administration has let our lead over the Soviets in ASW slip. The truth is this administration has pursued vigorously a full range of programs designed to maintain our lead in ASW warfare. This administration initiated the design and construction of our first new class attack submarines in more than 15 years, the *Seawolf*—SSN-21. The administration has also procured greatly improved sonars for our surface ships and submarines, is procuring two types of ASW helicopters—SH-60B, SH-60F—and is designing a new long-range ASW aircraft—LRRACA. The Reagan/Bush administration is procuring the new Mark-50 lightweight torpedo and the heavyweight MK-48 ADCAP torpedo. Governor Dukakis suggests he will improve on this record but does not name even one thing he would do that is different from what the Reagan/Bush administration is already doing.

Governor Dukakis tells us that "the administration proposes cutting spare parts for conventional aircraft by one-fourth to one-third." Again, the Governor does not tell us that the Congress has cut O&M funding—which buys spare parts—by nearly $30 billion over the past 7 years. Despite these reductions, this administration has increased our inventory of spare parts—measured as a percentage of validated combat requirements—from a low of 68.7 percent in 1981 to the current level of 95.8 percent.

Next, Governor Dukakis points out that in the event of war, we are currently short some 7,000 doctors and 31,000 nurses in the military. But what Governor Dukakis does not tell us is that the shortage was even worse when this administration took office. Since 1980 this administration has increased the number of doctors—both active duty and Ready Reserve—by nearly 6,000; and increased the number of nurses—active duty and Ready Reserve—by more than 10,000.

Next, Governor Dukakis says "The Navy lacks the combat aircraft to fill its carrier decks because we built more carriers than we have aircraft to go with them." What the Governor does not tell us is that the Congress decided to accelerate the funding for two aircraft carriers in fiscal year 1988, while slashing over $2 billion from the President's fiscal year 1987 and 1988 request for the Navy aircraft account. That $2 billion could have purchased 100 additional F/A-18 aircraft or 50 F-14's.

Governor Dukakis asserts that "One-third of our heavy A-6 bombers are grounded or restricted because we do not have the money to fix the cracks in their wings." The Governor is mistaken. The fact of the matter is the administration has requested and the Congress has approved funds to repair the A-6 wings. There is no shortage of money for this program. In addition to repairing the A-6 wings, this administration has vigorously supported the development of the advanced tactical aircraft [ATA] which is designed to replace the aging A-6 aircraft.

Next, Governor Dukakis tells us that we must keep faith "with our service personnel by giving them fair pay and decent benefits. * * *" What Governor Dukakis does not tell us is that for 7 of the past 8 years, the Congress has cut the administration's request for military pay raises. The President has attempted to ensure that our military personnel are fairly compensated, but the Congress has repeatedly undermined that effort.

In his speech, Governor Dukakis says that defending freedom "is a job for all Americans." He suggests that he will accomplish this through a bipartisan effort with congressional leaders. But Zbigniew Brzezinski, former National Security Adviser to Jimmy Carter, says Dukakis is the wrong man for the job. Brzezinski says Dukakis' "view of the world is basically out of touch" and that "his beliefs are such that he would not be able to fashion a bipartisan foreign policy."

Mr. President, this is a very important consideration, since all of us here know the success of any foreign policy effort is largely determined by the extent to which it enjoys bipartisan support in Congress. Those areas where we have had bipartisan support—such as in Afghanistan, the Persian Gulf, and Angola—are success stories. The single area where war remains a very real threat, Central America, is the one area in which we have been unsuccessful in fashioning a true bipartisan foreign policy. If a President cannot fashion a bipartisan foreign policy he is not likely to be a successful President. Mr. Brzezinski's words are ominous indeed.

Mr. President, I hope that my effort today has helped to set the record straight and to complete the picture which was left somewhat vague by Governor Dukakis on Wednesday of last week. The American pubic is entitled to know not just half the truth, but all the truth. The sort of mischief in which Governor Dukakis engages might be amusing were it not about matters of such supreme national importance. If our political system is to work, it is imperative that the public have the benefit of more than just half truths.●

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I have been asked by the distinguished majority leader that I might complete the business of the day. He is in a very important meeting.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to the consideration of executive business.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I indicate that on the Executive Calendar Nos. 740, 741, 856, 857, 858, 859, 860, 862, 863, 864, and the Coast Guard nominations beginning with John R. Turley and ending with Cynthia L. Joyner and Coast Guard nominations beginning with Roland Lill and ending with Samuel B. Bromley, Jr., have all been cleared by the majority leader.

The PRESIDING OFFICER. The nominations will be stated.

Mr. DOLE. Mr. President, I ask unanimous consent that all nominations be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered en bloc and confirmed en bloc are as follows:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

The following-named person to be a Member of the Federal Retirement Thrift Investment Board for a term of two years: (Public Law 99-335)

Richard H. Headlee, of Michigan. (Reappointment)

The following-named person to be a Member of the Federal Retirement Thrift Investment Board for the term of four years: (Public Law 99-335)

Roger W. Mehle, of New York. (Reappointment)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Joy Cherian, of Maryland, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1993. (Reappointment)

NATIONAL SCIENCE FOUNDATION

Charles L. Hosler, Jr., of Pennsylvania, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1994. (Reappointment)

Roland W. Schmitt, of New York, to be a Member of the National Science Board, Natioanl Science Foundation, for a term expiring May 10, 1994. (Reappointment)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Hillel Fradkin, of Wisconsin, to be a Member of the National Council on the Humanities for a term expiring January 26, 1994, vice A. Lawrence Chickering, term expired.

Donald Kagan, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 1994, vice Gertrude Himmelfarb, term expired.

CORPORATION FOR PUBLIC BROADCASTING

Leslee Kathryn Alexander, of Tennessee, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1991, vice Harry O'Connor, term expired.

DEPARTMENT OF COMMERCE

R. Kent Burton, of Virginia, to be Assistant Secretary of Commerce for Oceans and Atmosphere, vice James Curtis Mack II, resigned.

COMMUNICATIONS SATELLITE CORPORATION

Thamas C. Griscom, of Tennessee, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1991, vice Neal B. Freeman, term expired.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning John R. Turley, and ending Cynthia L. Joyner, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1988.

Coast Guard nominations beginning Roland Lill, and ending Samuel B. Bromley, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 28, 1988.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were confirmed and I move that that motion be laid on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT ON THE NOMINATION OF ROGER MEHLE TO BE CHAIRMAN OF THE THRIFT INVESTMENT BOARD

Mr. COHEN. Mr. President, I rise today to state my serious concerns regarding the nomination of Roger Mehle to serve as Chairman of the Thrift Investment Board.

Over the past few months, I have been troubled by problems that have arisen in the operation of the five-member Thrift Investment Board under the chairmanship of Mr. Mehle. This Board is charged, under the Federal Employees' Retirement System Act of 1986, with the crucial and formidable tasks of acting as fiduciaries for participants of the Federal Employees Retirement System and establishing policies for the investments and the administration of the thrift savings plan.

Members of the Board have expressed dissatisfaction with how the Board has been operating under the chairmanship of Roger Mehle, the nominee whose reappointment is now before us for confirmation. Specifically, three of the five Board members have, over the course of several months, expressed views that the Board members have not been adequately consulted in decisionmaking, that the recommendations of members have not been considered or implemented, and that the Board has lacked an overall long-term plan to guide their actions as trustees of the plan.

Three members have expressed specific concerns about the operation of the Board and about their level of involvement, such as their inability to have items scheduled for consideration at Board meetings, that the Executive Director and staff of the Board do not serve the needs of all five members of the Thrift Investment Board, and that the members lack the information necessary to conduct meaningful oversight of how the Executive Director is performing his tasks as the plan administrator. Members have argued that these conditions and attitudes have rendered them more of an advisory body, rather than a full functioning Board of plan fiduciaries, as required by the statute.

Mr. President, I want to point out that these concerns have been expressed by a majority of members on the Board, and therefore should not be dismissed solely as the views of an individual member, or a minority opinion. Rather, these views were the prevailing views of the individuals who served on the Board. In fact, this situation led to the resignation of one member of the Board, Shannon Clyne, who has confirmed that a major factor in his resignation was the frustration of not having the process followed on the Board adhere to the statutory mandate that the members of the Board act as fiduciaries of a plan.

I recognize, of course, that differences in management style and policies will occur in any collegial body such as the one created by this law, and that different points of view are indeed healthy and necessary if we are to benefit fully from the investment and management experience and expertise that the five members bring to the Board of a major pension fund. I also recognize that, as parttime members, these persons cannot perform the day-to-day operations of the TIB. I believe, however, that the Board is not functioning in accord with the standards and practices of how fiduciaries should function under ERISA, which was clearly the model on which this Board was crafted, or under the FERS statute itself. Instead of functioning as coequal fiduciaries who are, along with the Executive Director, responsible for the planning and implementation of the policies of the Thrift Investment Board, the Board has been rendered merely an advisory body, with the chairman and the Executive Director, setting the course and operation of the TIB.

While the debate and discussion at Board meetings have indeed been extensive, too often the concerns of Board members—and, I again point out, Mr. President, at times the concerns of a majority of Board members—on such issues as the appropriate role and liability of the Board members as fiduciaries, requests for information from the TIB staff and consultants, long-term planning, changes in policies, and the need for accountability to, and mechanisms for oversight of, the Executive Director by the Board have been side-stepped, postponed, or ignored.

At one point, for example, three members of the Board, Robert Monks, Shannon Clyne, and David Davenport, felt it necessary to hire outside counsel to advise them on their potential liability and level of accountability of the Executive Director. These members indicated that they took this action only as a last resort, when they were unable to rely on the advice of inhouse counsel. These members have indicated that they would not have taken this step to hire outside counsel "had the staff attorneys been available to provide assistance and had other inquiries of staff and requests for Board meeting agenda items in fact been respected."

The justification for failure to address the longstanding concerns of these members has been the strict time limits established by the statute to have the thrift savings plan established and operational. Undoubtedly, the deadlines prescribed by the statute for implementation of the TIB were difficult, and perhaps a herculean task, and the need to get the plan "up and running" was properly the first priority of the Board.

Despite the fact that the Board has begun to meet these deadlines, however, the attitude of the Chairman that the Board should act as an advisory Board, rather than truly functioning as responsibile fiduciaries appears to prevail. This was a prime reason underlying the resignation of one Board member, namely, that things were not changing even after the early deadlines were met. Legitimate issues about how members were being treated were not resolved despite repeated efforts by dissatisfied and frustrated Board members.

Recently, I have been assured by one member who has been renominated to the Board, David Davenport, that the state of affairs at the TIB have improved since the early days of its operation, and that, now that the early deadlines have been met, the Board can address these other issues of accountability and planning. I hope that he is correct. What I believe, however, is that the pattern of treating the Board as an advisory body, and not as fully participating fiduciaries, has been established and will continue as long as the current leadership of the Board is in place. I also fear that the early failure of the Board to establish a long-term policy may be detrimental to the operation of the plan, as having a long-term policy is critical to any plan of this type, and particularly to a plan of this magnitude.

Mr. President, why should we care about the situation at the Thrift Investment Board? The thrift savings plan is, after all, a viable, solid, and attractive retirement system for Federal workers. My point today is that the Board, while meeting its statutory deadlines and obligations, has not been performing the role that is set forth by the statute, that is, fiduciaries of a pension plan.

Having the Board members perform in an advisory capacity may indeed have merit and may be acceptable to the Congress as the most workable way for the Board to operate. If so, then so be it. If the Congress decides that an advisory Board is adequate and preferable to the fiduciary model, then perhaps we should conform the law to reflect reality. This, however, should be a decision of the Congress, not the Chairman of the Board. We should not just keep operating under the fiction that the Board members are functioning as coequal fiduciaries when, in reality, they have not been treated in this manner.

The Congress has spent much time and effort in establishing a workable, solid retirement system for Federal workers. In order to ensure the long-term success of this system, the performance of the Board must reflect the mandates of the statute, and the Congress has, in my opinion, an obligation to monitor the conduct of the Board in an active oversight capacity. Having the Board meetings open to the public, which will occur under the current system, will go far, I hope, in ensuring the accountability of the Board and its leadership. Further monitoring by the Congress of the Board under the chairmanship of Mr. Mehle will still be necessary to ensure that this Board operates under the model that was so carefully set forth by the Congress in establishing this Federal Employees' Retirement System.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. DOLE. Mr. President, Calendar Order Nos. 946, 976, and 977 on the Calendar of Business, Friday, September 23, 1988, have been cleared by the majority leader and I ask unanimous consent that these be considered en bloc.

INCREASE IN SPENDING LIMITATIONS OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The resolution (S. Res. 454) increasing the limitation on expenditures by the Committee on Environment and Public Works for the procurement of consultants with funds transferred from administrative expenses at no additional increase to authorized budget, was considered, and agreed to.

The preamble, was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 454

Resolved, That section 10(b)(1) of Senate Resolution 381, of the 100th Congress, agreed to February 26, 1988, is amended by striking "$8,000.00" and inserting in lieu thereof "$11,000.00", and by reducing administrative expenses from $147,412.00 to $144,412.00 as dislosed in Senate Report 100-287.

USE OF THE CAPITOL ROTUNDA IN HONOR OF JOHN F. KENNEDY

The concurrent resolution (S. Con. Res. 137) to provide the use of the rotunda of the Capitol in honor of John F. Kennedy, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 137

Resolved by the Senate (the House of Representatives concurring), That permission is conferred on the National Council of Returned Peace Corps Volunteers to use the Rotunda of the Capitol, from 12:00 noon, November 21, 1988, until 12:00 noon, November 22, 1988, for a vigil of readings from personal Peace Corps journals by Returned Peace Corps Volunteers in honor of John F. Kennedy, the founder of the Peace Corps, on the 25th anniversary of his death.

PRINTING OF BACKGROUND INFORMATION ON THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The resolution (S. Res. 472) authorizing the printing of background information relating to the Committee on Energy and Natural Resources, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 472

Resolved, That there be printed with illustrations as a Senate document background information relating to the history of the Senate Committee on Energy and Natural Resources in connection with its one hundred and seventy-second anniversary (1816-1988) and in observance of the Bicentennial of the United States Senate; and that there be printed for the use of the committee additional copies of such document not to exceed the cost of $1,200.

Mr. DOLE. Mr. President, I move to reconsider the votes by which the resolutions were agreed to and move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS

Mr. DOLE. Mr. President, I ask unanimous consent to proceed to the immediate consideration of Calendar No. 760, an act to amend the Job Training Partnership Act to make a technical change.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4857) to amend the Job Training Partnership Act to make a technical change.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3287

(Purpose: To establish an effective date for the amendment)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. HATCH, proposes an amendment numbered 3287.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following: "SEC. 2. The amendments made by this Act shall apply with respect to funds available for expenditure on or after June 30, 1988."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3287) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4857) as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN THE ENGROSSMENT OF S. 1626

Mr. DOLE. Mr. President, I ask unanimous consent that the Secretary of the Senate be permitted to make the following corrections in the engrossment of S. 1626, the Intellectual Property Bankruptcy Protection Act, which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PLACE H.R. 3048 ON THE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that H.R. 3048, a bill to enhance the Nation's economic competitiveness by developing superconductivity in collaboration with the private sector, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PLACE H.R. 5210 ON THE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that H.R. 5210, the House drug bill, be placed on the calendar when it arrives from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATION OF BICENTENNIAL OF THE FRENCH REVOLUTION

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 317, a joint resolution commemorating the bicentennial of the French Revolution.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 317) entitled "Joint resolution commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen", do pass with the following amendments:

Page 3, line 3, after "occasion;" insert *and*

Page 3, strike out lines 4 through 6.

Page 3, line 7, strike out "(3)" and insert: (2)

In the fifth clause of the preamble, strike out "single thirty day period," and insert: period of 31 days.

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

NATIONAL SEWING MONTH

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 580, designating the month of September 1988 as "National Sewing Month," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 580) to designate the month of September 1988 as "National Sewing Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 580) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COASTWEEKS '88

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 369, to designate the period of September 17 through October 10, 1988, as "Coastweeks '88," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 369), to designate the period of September 17 through October 10, 1988, as "Coastweeks '88."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 369

Whereas the coastal zone of the United States, including the coastal zone of the Great Lakes, is a varied area of rocky shores, sandy beaches, steep bluffs, productive estuaries and salt marshes, urban ports and small harbors, tidal flats, and many islands;

Whereas the coastal zone is the source of a rich scenic, cultural, and historical heritage;

Whereas the natural resources of the coastal zone included some of the most valuable economic resources of the United States, such as the coastal marine environment which supports an active fishing industry;

Whereas coastal landforms, especially barrier beaches, provide significant protection from storms, flooding, and erosion; and

Whereas the United States is strongly committed to the wise management of the coastal zone so as to ensure that the environmental and economic values of the coastal zone will be sustained into the future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period of September 17 through October 10, 1988, is designated as "Coastweeks '88". The President is requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PLACE H.R. 4686 ON THE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that H.R. 4686, an act to amend the Federal Aviation Act of 1958 relating to aviation research, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL COMMISSION ON THE THRIFT INDUSTRY

Mr. DOLE. Mr. President, I understand that the thrift bill has now been cleared by the majority leader.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 872, S. 2653, a bill to establish a National Commission on the Thrift Industry.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2653) to establish a National Commission on the Thrift Industry.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 2653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Commission on the Thrift Industry (in this **[**subtitle**]** *Act* referred to as the "Commission").

SEC. 2. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be initially composed of 12 members, appointed not later than October 1, 1988.

After the meeting of the Presidential Electors in December 1988, the Commission shall be expanded to 14 members. The members shall be as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Minority Leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(b) Additional Qualifications.—

(1) Individuals appointed under subsection (a)(1) may be officers or employees of the Executive Branch or may be private citizens.

(2) Individuals who are not Members of the Congress, and are appointed under paragraphs (2) through (6) of subsection (a) shall be individuals who—

(A) are leaders of business or labor, distinguished academics, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) Chairperson.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) Quorum.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) Voting.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) Vacancies.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(g) Prohibition of Additional Pay.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 3. FUNCTIONS OF COMMISSION.

(a) Contents and Specific Recommendations.—The Commission shall conduct an investigation and evaluation of, and shall report and make recommendations on—

(1) the current and future financial condition of the Federal Savings and Loan Insurance Corporation and the current and future ability of the Federal Savings and Loan Insurance Corporation to eliminate the inventory of troubled thrifts;

(2) sources of income for the Federal Savings and Loan Insurance Corporation should the Commission determine that the current financial resources of the Federal Savings and Loan Insurance Corporation will be insufficient to eliminate the inventory of troubled thrifts;

(3) problems in the structure of the deposit insurance system, such as the calculations of premiums, and proposals for such reforms as a risk-based premium;

(4) options for reform and restructuring of the thrift industry, such as a merger of bank and thrift deposit insurance and regulatory agencies, a separation of the insurance and regulation functions of the Federal Home Loan Bank Board, and bank holding company acquisitions of failing and healthy thrifts, and healthy thrifts only;

(5) future methods of increasing capital levels in the thrift industry and the level of capital currently supplied by investor, versus bank holding company, purchasers of troubled thrifts; and

(6) the current and future ability of the thrift industry to serve as a source of home mortgage credit.

(b) Final Report.—

(1) Subject to section [2103] *3(b)(3)*, the Commission shall submit to the President and to the Congress on March [1] *15*, 1989, a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable.

(2) Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission who are present and voting.

[(3) On February 1, 1989, the President may issue an order extending the date for submission of the final report to September 1, 1989.]

SEC. 4. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for the purpose of carrying out this [subtitle] *Act*, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) Rules and Regulations.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organizations, and personnel.

(c) Assistance From Federal Agencies.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this [subtitle] *Act*. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this [subtitle] *Act*, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section [2105] *5(b)*.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) Contracting.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this [subtitle] *Act*, subject to the limitation on total expenses set forth in section [2105] *5(b)*.

(f) Staff.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section [2105] *5(b)*) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(g) Advisory Committee.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 5. EXPENSES OF COMMISSION.

(a) In General.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) Limitation.—The total expenses of the Commission shall not exceed $250,000.

(c) GAO Audit.—Prior to the termination of the Commission, pursuant to section [2106] *6*, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 6. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

Mr. DOLE. Mr. President, I ask that the committee amendments be adopted.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. SASSER. Mr. President, today I rise, as a member of the Banking Committee, in support of S. 2653, a bill to establish a National Commission on Federal Deposit Insurance. This legislation was introduced on July 25 by my good friend, Senator Graham, and I. It was reported by the committee August 5.

The Commission's purpose would be first, to study the crisis in the thrift industry, particularly the financial condition of the FSLIC.

Second, the Commission would make recommendations to Congress as to how to return the thrifts and the FSLIC to solvency.

The Commission will also consider the financial condition of the FDIC.

Mr. President, many are now saying that the FSLIC could require a taxpayer bailout bigger than all previous bailouts combined. The time has come to end the politics as usual approach to this issue.

The Commission would be comprised of experts in the field, leaders of business, distinguished academics, Members of Congress, and other individuals with distinctive qualifications.

Appointments would be made in the same manner as they were to the National Economic Commission—the body of experts that was formed to evaluate and make recommendations on the current fiscal crisis. And the report will be due back to Congress, with recommendations, by January 15, so that the Banking Committees can begin work early in the year on a legislative solution.

The report of the Commission will be submitted in two stages. Due to the insolvency of the FSLIC, issues relating to the FSLIC and the thrifts will be addressed in the January 15 report. Those recommendations that affect both the FDIC and the FSLIC will also be contained in the earlier report. Recommendations regarding the FDIC will be due April 1.

Mr. President, we all know that the condition of the thrift industry and the FSLIC is worsening every day. The FSLIC is now losing an estimated $1 billion per month. We hear that the cost of resolving the FSLIC insolvency could be as high as $75 billion. These numbers will probably keep rising.

And serious questions are arising as to the state of the FDIC.

The obvious questions that come to mind are: What is the actual cost? What resources are available to pay the bill? How do we keep this from happening again? How do we keep the problems of the FSLIC from spreading to the FDIC?

I think we need an expert opinion on these questions and we need it quickly.

There are also a whole host of regulatory questions that should be considered. There have been proposals to revamp deposit insurance, restructure thrift regulatory agencies, and to increase capital in the thrift industry. All of these proposals and more deserve serious consideration.

The state of the thrift industry and the FSLIC may be the most serious issue facing the next administration and the next Congress. Both should have the benefit of an evaluation by, and the recommendations of, a panel of impartial experts.

Since the 1930's, the thrifts have served as the Nation's primary source of housing credit. Millions and millions of Americans own homes today because Congress established the present system of savings and loans. Recommending a strategy for building a strong new thrift industry is a major task of the Commission.

Mr. President, in closing, I want to thank the distinguished chairman of the Banking Committee, Senator PROXMIRE, and the ranking minority member, Senator GARN, for their support for this important measure. I also want to commend my friend Senator GRAHAM for his leadership on this issue.

AMENDMENT NO. 3288

Mr. DOLE. Mr. President, on behalf of Senators GARN and PROXMIRE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for Mr. GARN (for himself and Mr. PROXMIRE) proposes an amendment numbered 3288.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 6, strike "the Thrift Industry" and insert in lieu thereof "Federal Deposit Insurance."

On page 4, line 14, insert after the word "Corporation" the words "and the Federal Deposit Insurance Corporation,".

On page 4, line 16, insert after the word "Corporation" the words "and the Federal Deposit Insurance Corporation".

On page 4, line 17, strike the word "thrifts" and insert in lieu thereof "depository institutions".

On page 4, line 19, insert after the word "Corporation" the words "and Federal Deposit Insurance Corporation".

On page 4, line 21, insert after the word "Corporation" the words "or Federal Deposit Insurance Corporation".

On page 4, line 23, strike "thrifts" and insert in lieu thereof the words "depository institutions".

On page 5, line 5, strike the words "thrift industry" and insert in lieu thereof "banking and thrift industries".

On page 5, line 14, strike the word "and" and on line 15 redesignate clause "(6)" as clause "(7)" and insert the following new clause (6):

"(6) future methods to improve the regulation of the thrift industry, including capital and accounting standards; and"

On page 5, strike lines 18 through 24, and insert in-lieu thereof the following:

"(1) The Commission shall submit to the President and to the Congress a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable, in two stages: First, the Commission shall report on all the issues principally relating to the thrift industry and the Federal Savings and Loan Insurance Corporation, as well as those issues relating to both the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, by February 1, 1989; and second, the Commission shall report on the issues relating principally to the banking industry and the Federal Deposit Insurance Corporation by April 1, 1989."

On page 9, line 2, strike "$250,000" and insert in lieu thereof "$500,000".

Mr. GARN. Mr. President, as reported by the Senate Banking Committee, S. 2653 would establish a National Commission on the Thrift Industry to Investigate and Report on the Condition of the Thrift Industry and the Federal Savings and Loan Insurance Corporation, with recommendations for solving their problems. Mr. President, the idea of a Commission is a good one, but its focus is too narrow. It should be expanded to address the problems we are also having with bank failures and should address the broader question of restructuring deposit insurance for all our depository institutions. We need only look as far as the recent big bank failures in Texas and the drop in the total reserves of the FDIC to understand the gravity of the problem. Furthermore, it is impossible to examine the problems and proposed solutions for one industry without considering the other, particularly as they concern the fundamental issues associated with deposit insurance generally.

That is why the amendment offered today is a good one. It expands the scope of the bill to cover the FDIC and the banking industry, as well as deposit insurance generally. It also recognizes the importance of the thrift crisis by mandating that a first report dealing primarily with thrift issues be submitted by February 1, 1989, with a second report dealing primarily with banking issues by April 1, 1989. In addition, the first report will address the larger issues that affect banks and thrifts equally. Finally, a technical change is included to ensure that the funding for the Commission is at the $500,000 level that the Banking Committee voted for.

Mr. President, this is a sensible amendment that turns a good Commission into a better one. It should provide some very useful information to the next Congress. I urge my colleagues in the Senate and House to pass it soon.

Let me make one final point. The Federal Home Loan Bank Board completely supports this bill, as is evidenced by a letter from Chairman Wall, which I ask unanimous consent to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL HOME LOAN BANK BOARD,
Washington, DC, September 23, 1988.

Hon. JAKE GARN,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR JAKE: Given the current debate over problems in the thrift and banking industries, the time is right for a special commission to be established that could consider the whole concept of federal deposit insurance as it relates to savings and loans and commercial banks.

We strongly support the effort to establish such a commission and will lend our complete cooperation to its deliberations. Our belief is that now is the time to act. Furthermore, we urge that the commission's deliberations include depository insurance for banks, as well as for thrifts, because of their close market relationship.

In more than 50 years since depository insurance first came into being, the world of finance has changed dramatically. Banks and thrifts have strived to adapt to new demands, new competition and new ways of doing business. We all know too well the cost of the mistakes, intentional and inadvertent, that have been made in recent years and of the problems of institutions in the oil patch in particular.

There are many solutions being offered and many numbers flying around. We believe a commission of responsible individuals will provide a forum for consideration of the many issues surrounding depository insurance and that out of this consideration, reasonable solutions will flow.

Sincerely,

M. DANNY WALL,
Chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3288) was agreed to.

Mr. SASSER. Senator GARN, now that we have accepted your very appropriate amendment to include the FDIC within the scope of this Commission study, do you think it would also be appropriate to require that one of the members of the panel be from the banking industry?

Mr. GARN. The Senator from Tennessee has made an excellent point. In order that we can be assured that the Commission has the very best information possible as to the condition of the banking industry as well as the FDIC, a banker should be on the panel.

Mr. SASSER. I thank the Senator, I fully agree.

Mr. GRAHAM. Mr. President, I wish to publicly commend my distinguished colleague, Mr. SASSER, for his help in getting this bill to the Senate floor—and to my colleagues for recognizing the urgency and the magnitude of the problem we have in our thrift industry.

A comprehensive study of the industry's problems and potentials is the only logical approach to solving those problems and maximizing those potentials. It will provide mid- and long-term direction for nursing the industry back to health. This study will not provide a short term, quick fix remedy but will provide assistance for the next several years as we work on this problem.

Through hearings in the Banking Committee, we have examined the savings and loan crisis. But we owe the industry and the American taxpayer the benefit of a thorough study conducted by some of the finest and most experienced analysts. It is vital that we keep our remaining savings and loan's healthy. Our efforts to do so justify the continued confidence of the American people in their savings and loans.

The first week of August, the Banking Committee held 2 days of hearings to examine this problem. Former Federal Home Loan Bank Chairman Pratt estimated the savings and loan crisis to be between $40 and $75 billion.

Others in the savings and loan industry have estimated that we lose $1 billion each month we delay. At that rate, if we let this problem slide until next year, we forfeit $6 billion.

Time is literally money in the resolution of the thrift industry's problems. And we can't afford a nickel and dime approach to a multibillion dollar predicament. We need the coherent overview a National Commission will provide. And because our global financial industries are changing so rapidly, the ongoing review and planning such a Commission would allow will help to avert similar disasters in the future.

One way to demonstrate our sincere concern that the savings and loan industry is fiscally sound would be to support this legislation. That is a debt we owe to the American people.

Mr. President, I ask unanimous consent that a letter of support for the Commission for Mr. Richard Pratt, former Chairman of the Federal Home Loan Bank Board and an editorial which I have written on the thrift industry be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MERRILL LYNCH,
September 21, 1988.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: I am writing in support of S. 2653, legislation that you and Senator SASSER have introduced to establish a National Commission on the Thrift Industry. The creation of this blue ribbon commission to study and make recommendations on the vital issues confronting the FSLIC and the thrift industry would be an important first step for Congress and the regulators in resolving these issues. A comprehensive plan authored by industry experts and delivered to Congress in the crucial early months of 1989 would, I believe, act as a catalyst for the adoption of effective solutions, both legislative and regulatory.

While I have great confidence in the ability of Chairman Wall and the members of the Bank Board to address the problems of the industry, the existing resources of the Board and the FSLIC are clearly inadequate to resolve the industry's large and still growing problems. We must expeditiously identify and evaluate the legitimate alternatives for funding the obligations of the FSLIC. In addition, it is time to re-assess the industry's regulatory structure and deposit insurance system to ensure long term safety and soundness and to restore depositor confidence.

There are a number of short-term recommendations that Congress can make to address the problems of the industry and I have addressed these in a letter that was requested by Chairman Proxmire during the August 3 hearing at which I testified. A copy of my letter is enclosed. These short-term measures, however, are not a substitute for a comprehensive plan that sets forth long-term solutions to the problem.

I commend you and Senator Sasser for introducing this important legislation. If I or any of my colleagues at Merrill Lynch can be of assistance to you in any way, please do not hesitate to call on me.

Very truly yours,

RICHARD T. PRATT

AMERICA'S SAVINGS AND LOAN INDUSTRY

(By Bob Graham, U.S. Senator)

WASHINGTON.—The biggest economic issue facing the next President—behind the federal deficit and trade imbalance—is the crisis ravaging America's thrift industry.

Too many savings-and-loan associations are losing money, the federal insurance program that backs deposits is nearly broke and Washington doesn't want to face reality.

Handling the thrift crisis will be an early indicator of the fortitude of the Dukakis or Bush presidency, and could help set the tone for the first half of the term.

But Congress shouldn't wait until the new President is sworn in next January, hoping this issue gets on the executive agenda.

Congress must act now. The wick is lit on an economic bomb, and procrastination will make the explosion louder, more costly.

One-third of the thrift industry—some 1,000 savings-and-loan associations—is insolvent or sliding toward insolvency. Government insurance on deposits has been overwhelmed by losses.

The Savings & Loan crisis has spilled from Wall Street to Main Street.

It took a long time to get in this mess: solutions will take years, but here's what we can do in the next 60 days:

Speed up the rate of closing insolvent institutions. At the current rate of closings, too many insolvent thrifts will continue to operate into the next decade.

The argument has been made that regulators need more personnel to speed the rate of closings. If so, additional auditors and other experts should be retained.

Begin to break the cycle of using high-cost money for high-risk ventures, a high-flyer formula that often compounds losses. This predicament is like Argentina borrowing more to pay interest on existing debt.

Institutions should be required to put more of their own money into high-risk ventures. If institutions are insolvent, we should restrict their growth and, at the very least, they should stay out of high-risk investments.

Meanwhile, we should begin moving from the current flat-rate insurance premium to a risk-based premium.

If state-chartered institutions get federal insurance, their limits and activities should fall within the range of limits and activities on federally chartered thrifts. A handful of states (Texas and California among them) have allowed state-chartered savings-and-loans to venture into riskier investments. This has exacerbated the problems of the Federal Savings & Loan Insurance Corporation (FSLIC).

Focus FSLIC's attention on sliding institutions instead of concentrating only on the insolvent ones. The government should look for merger partners for troubled thrifts before they become insolvent.

Congress should pass and the President should sign legislation to create a commission to study the thrift industry and its insurance, and make recommendations to restore the FSLIC to solvency.

The non-partisan panel would be required to submit recommendations by February 1, 1989, so Congress could begin working on comprehensive solutions.

Senator Jim Sasser of Tennessee and I have introduced a study-commission bill in the Senate, which has cleared the Banking Committee. It should reach the Senate floor in September. Similar legislation is pending in the House.

Why is the thrift industry in so much trouble?

Much of the public attention has been focused on regional economic problems, such as depressed oil and real estate prices in Texas.

Indeed, regional downturns and bad management contributed to the illness of the thrift industry, but savings-and-loan institutions also faced systemic stress that would have taken its toll regardless of the price of oil in Texas.

During the Seventies, high inflation and interest rates drained billions of deposits out of S&L's into more competitive money-market funds.

At the same time, thrifts were stuck with unprofitable portfolios of long-term fixed-rate low-interest loans.

The Eighties' solution to the inflationary pinch of the Seventies was de-regulation, designed to attract capital back to S&L's. Limits on interest payments were removed, federal insurance on deposits was increased to $100,000 per account and states expanded S&L's powers.

These actions, however well intended, have created a risk-to-profit mis-match. In other words, we have privatized profits and socialized losses.

Some thrifts and their owners have moved efficiently and profitably into new business areas. However, America's taxpayers have assumed the risk for high-flying operations—too many of which have crashed.

Analyst Bert Ely said some S&L's are operating "a government-sponsored Ponzi scheme," chasing new deposits to pay interest on old ones.

Any meaningful long-term solution to the thrift crisis must address two fundamentals, the first being the mis-match of private profits and public losses. We won't cure the illness as long as we sanction a system that encourages excess and uses tax dollars to pay for mistakes.

Secondly, we must create incentives for the industry to attract sound investment capital, new deposits and managerial expertise.

Bob Graham, Florida's junior senator in Washington, is a member of the Senate's Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill (S. 2653), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Commission on Federal Deposit Insurance (in this Act referred to as the "Commission").

SEC. 2. MEMBERSHIP OF COMMISSION.

(a) Appointment.—The Commission shall be initially composed of 12 members, appointed not later than October 1, 1988. After the meeting of the Presidential Electors in December 1988, the Commission shall be expanded to 14 members. The members shall be as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Minority Leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of who is a Republican, appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(b) Additional Qualifications.—

(1) Individuals appointed under subsection (a)(1) may be officers or employees of the Executive Branch or may be private citizens.

(2) Individuals who are not Members of the Congress, and are appointed under paragraphs (2) through (6) of subsection (a) shall be individuals who—

(A) are leaders of business or labor, distinguished academics, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) Chairperson.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) Quorum.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) Voting.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) Vacancies.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(g) Prohibition of Additional Pay.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 3. FUNCTIONS OF COMMISSION.

(a) Contents and Specific Recommendations.—The Commission shall conduct an investigation and evaluation of, and shall report and make recommendations on—

(1) the current and future financial condition of the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation, and the current and future ability of the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation to eliminate the inventory of troubled depository institutions;

(2) sources of income for the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation should the Commission determine that the current financial resources of the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation will be sufficient to eliminate the inventory of troubled depository institutions;

(3) problems in the structure of the deposit insurance system, such as the calculations of premiums, and proposals for such reforms as a risk-based premium;

(4) options for reform and restructuring of the banking and thrift industries, such as a merger of bank and thrift deposit insurance and regulatory agencies, a separation of the insurance and regulation functions of the Federal Home Loan Bank Board, and bank holding company acquisitions of failing and healthy thrifts, and healthy thrifts only;

(5) future methods of increasing capital levels in the thrift industry and the level of capital currently supplied by investor, versus bank holding company, purchasers of troubled thrifts;

(6) future methods to improve the regulation of the thrift industry, including capital and accounting standards; and

(7) the current and future ability of the thrift industry to serve as a source of home mortgage credit.

(b) Final Report.—

(1) The Commission shall submit to the President and to the Congress a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable, in two stages: First, the Commission shall report on all the issues principally relating to the thrift industry and the Federal Savings and Loan Insurance Corporation, as well as those issues relating to both the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, by February 1, 1989; and second, the Commission shall report on the issues relating principally to the banking industry and the Federal Deposit Insurance Corporation by April 1, 1989.

(2) Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission who are present and voting.

SEC. 4. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for the purpose of carrying out this Act, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) Rules and Regulations.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organizations, and personnel.

(c) Assistance From Federal Agencies.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this Act. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly re-

ferred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this Act, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 5(b).

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) Contracting.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this Act, subject to the limitation on total expenses set forth in section 5(b).

(f) Staff.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 5(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(g) Advisory Committee.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 5. EXPENSES OF COMMISSION.

(a) In General.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) Limitation.—The total expenses of the Commission shall not exceed $500,000.

(c) GAO Audit.—Prior to the termination of the Commission, pursuant to section 6, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 6. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

Mr. DOLE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

A LETTER TO GOVERNOR DUKAKIS

Mr. DOLE. Mr. President, on another matter, in the spirit of the debate on Sunday evening, I have taken the liberty of writing Governor Dukakis a letter. I am certain he will appreciate receiving it. But in the letter I asked 10 questions that I believe the American voters are waiting for answers on, and I ask unanimous consent that the letter to Governor Dukakis be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Office of the Republican Leader,
Washington, DC, September 23, 1988.

Gov. Michael S. Dukakis,
c/o Dukakis for President Headquarters,
Boston, MA.

Dear Governor Dukakis: Congratulations on winning your party's nomination. You worked hard and earned it. You also deserve credit for a good convention in Atlanta.

Election Day is now only 45 days away, and that means time is running out. That's why it is critical for you to answer some important questions the American people are asking.

Sunday night's Presidential debate in Winston-Salem offers an excellent opportunity to respond in detail, once and for all, to clear up any confusion they might have on your policy positions.

Like you, I have spent a lot of time traveling around the country and there's no doubt the voters are tuning in as November 8 approaches.

Therefore, in advance of your first debate, I am respectfully submitting 10 questions the American people would like you to answer.

(1) Will you raise taxes or won't you? Yes or no.

(2) As Governor of Massachusetts you are requested to balance the budget by the State's constitution. Why don't you support the constitutional amendment to require a balanced Federal budget, or the amendment giving the President line item veto authority?

(3) What kind of jobs creation can the entire country look forward to if the "Massachusetts Miracle" resulted in your State ranking 40th out of 50 in total job growth?

(4) How can we stay competitive when we place costs on businesses not required of their foreign competitors?

(5) In the face of the drought and short supplies, how can you and the Democratic Party support mandatory controls and supply management for our farmers?

(6) Since you don't support the death penalty for drug king-pins, how would you punish a criminal who commits a drug-related murder?

(7) Why did you criticize President Reagan for striking back against Libyan dictator Qadaffi? Don't you think America has the right to defend itself against terrorists like Qadaffi and Khomeini?

(8) Does your statement that the Monroe Doctrine is outdated really mean that in a Dukakis administration, the U.S. would stand by and permit communist forces to carry on aggression in our own backyard?

(9) Since you seem more interested in abiding by so-called "international law" than defending America's right to act in self-defense, do you believe the United States has the right to conduct covert intelligence operations? Under what circumstances?

(10) Since you're always promising to cut defense spending, where are you going to get the tens of billions of dollars to pay for your so-called "conventional defense initiative?"

I look forward to watching the debate Sunday night, and hearing your responses to whatever questions are asked.

Sincerely,

Bob Dole,
Senate Republican Leader.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I also understand that the homeless bill has been cleared but we have one effort to work out, one amendment. I suggest to Senator Harkin maybe on Monday we can resolve that. Plus, there are Members on this side who have amendments, Senator Roth and Senator Garn. They indicated they would not offer their amendments if we would reach some agreement.

So it seems to me it is in the best interests of everyone that we try to work it out on Monday, if we can. Senator Harkin indicated he was not trying to hold up the bill. If we cannot work it out, I am certain we can take care of that on Monday.

ORDERS FOR MONDAY, SEPTEMBER 26, 1988

(Under the previous order, the following Orders for Monday, September 26, 1988, appear at this point in the Record:)

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 26, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday next, the call of the calendar under rule VIII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTIONS OR RESOLUTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday next, no motions or resolutions over, under the rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the recognition of the two leaders, there be a period for morning business to extend until 12:30 p.m., and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO MONDAY, SEPTEMBER 26, 1988

Mr. DOLE. Mr. President, I now move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon, Monday, September 26, 1988.

The motion was agreed to; and, at 5:12 p.m., the Senate adjourned until Monday, September 26, 1988, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 23, 1988:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR THE TERM OF TWO YEARS: (PUBLIC LAW 99-335) RICHARD H. HEADLEE, OF MICHIGAN.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR THE TERM OF FOUR YEARS: (PUBLIC LAW 99-335) ROGER W. MEHLE, OF NEW YORK.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JOY CHERIAN, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 1993.

NATIONAL SCIENCE FOUNDATION

CHARLES L. HOSLER, JR., OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1994.

RONALD W. SCHMITT, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1994.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HILLEL FRADKIN, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994.

DONALD KAGAN, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994.

CORPORATION FOR PUBLIC BROADCASTING

LESLEE KATHRYN ALEXANDER, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1991.

DEPARTMENT OF COMMERCE

R. KENT BURTON, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

COMMUNICATIONS SATELLITE CORPORATION

THOMAS C. GRISCOM, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1991.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING JOHN R. TURLEY, AND ENDING CYNTHIA L. JOYNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 28, 1988.

COAST GUARD NOMINATIONS BEGINNING ROLAND LILL, AND ENDING SAMUAL B. BROMLEY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 28, 1988.

EXTENSIONS OF REMARKS

U.S. AVIATION NEEDS AN INFUSION OF PROGRESS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. MINETA. Mr. Speaker, a good friend of mine, Maj. Gen. Clifton von Kann, retired, president of the National Aeronautic Association [NAA], has written an important article concerning U.S. aerospace needs into the 21st century. I would like to share his insights and thoughts with my colleagues.

However, before turning to the article, I believe it is important for me to inform you about General von Kann's organization and introduce you to his credentials as an important aviation expert in the United States. I do so to provide a perspective that will give you a greater appreciation about the accomplishments of both and their importance to the U.S. aerospace industry.

Clifton von Kann has been president of the National Aeronautic Association since 1980. In that capacity, he has headed the oldest and most prestigious aviation/aerospace association in the United States. Von Kann came to that post after a distinguished career as the top aviator in the U.S. Army, and more than a decade as senior vice president of operations and airports of the Air Transport Association [ATA], which represents the interests of our Nation's major air carriers.

The visions of America's early aviation pioneers found voice through NAA; the visionaries who are designing tomorrow's U.S. aviation system are building on that NAA heritage. The primary mission of NAA is aviation safety and education, and in that capacity, General von Kann has testified many times as an expert witness before aviation subcommittees of this Congress. But another element of the NAA mission is representing U.S. aviation and aerospace needs in the international arena. Here, too, General von Kann has excelled. NAA is the U.S. representative to the Federation Aeronautique Internationale [FAI], based in Paris. As such NAA regulates all aviation and space contests and record activity in the United States, and General von Kann acts as U.S. aviation's ambassador at FAI meetings where records receive international validation. These activities are most important to keeping U.S. aerospace interests and our technological leadership before the international community because so much of the development in these areas stems from the activities of these record-setting attempts.

As a case in point, consider the 1986 around-the-world flight of the *Voyager*, which not only proved the stamina and excellence of a pair of U.S. aviators, Dick Rutan and Jeanna Yeager, but also the value of aeronautic concepts and materials conceived by *Voyager* designer Burt Rutan. The records set by Rutan-Yeager on behalf of American aviation ingenuity and excellence had to be sanctioned first by NAA before they could be brought before the bar of international aviation records.

Where U.S. aviation is concerned, NAA activities can be compared to those of the U.S. Olympic Committee in representing our athletes who competed so proudly in Seoul. The NAA is a continuing voice in promoting the benefits to be derived from maintaining America's technology lead in air and space. NAA supports and encourages quality education in our school systems as essential to the maintenance and growth of our technology base. NAA petitions Congress in matters important to the continuing development of aviation in America and sponsors and encourages public forums designed to inform our citizens of the benefits to be derived from our investments in air and space technology. We are fortunate that we on the Congress can call on organizations such as NAA, and leaders like General von Kann as we work to strengthen America's aviation and space industries. That's why I felt the ideas embodied in his article to be so important, because today U.S. aviation/aerospace stands at a crossroads. Once again our Nation is boldly attempting to reach for the stars with the space shuttle, and we are deeply engaged in the important work of modernizing our national airspace system so that it remains the model for the rest of the world. These are among the important subjects discussed by General von Kann in his article that follows:

U.S. AVIATION—A RECIPE FOR THE FUTURE

(By Clifton von Kann, President, National Aeronautic Association

The technical preeminence of our country in aircraft, spacecraft, and missile design and production, along with an unparalleled record of safe and efficient air transportation has for decades made the United State the world leader in aviation and has contributed greatly to our national defense. In recent years, however, strains on the system and tragic accidents have fostered a climate of doubt as to America's ability to maintain its lead in aviation and space travel. These self-doubts, if directed in a positive direction could be healthy for the future development of aviation and aerospace in the country. Left to germinate uncontrolled, however, they could develop into a serious malaise that niether our economy nor our national pride can afford.

The United States is in the midst of a Presidential election campaign, that unique means of choosing our national leaders that every four years proves the strength and the vitality of our democratic way of governing ourselves. The advent of the campaign also provides an opportunity for our nation to rededicate itself to identifying and solving the problems of our society. No matter which candidate prevails, the campaign provides an opportunity to discuss all our national problems and consider solutions. That exercise includes aviation and aerospace needs and discussion of these needs is as important today as they never have been in the past.

The importance of aviation and aerospace to the American economy has never been more paramount. The technical excellence of our manufacturers, backed by airline orders that trigger production runs and an ample supply of skilled and motivated people, has made the U.S. aerospace industry one of the most important for a healthy gross national product and employment picture. Indeed, in 1987, this industry contributed a $16 billion favorable balance of trade to the national economy, the highest such balance in the post-World War II era. U.S. commercial transports today dominate the world's airline market. The question we must ask is whether we can continue this dominance without asserting a rededication for the future health of this vital segment of the economy?

Moreover, a strong general aviation establishment has been the backbone of the U.S. aviation industry, the jumping off point for all of aviation and, yes, even space exploration, for in aviation and aerospace exploits, man must start somewhere. To paraphrase Neal Armstrong, that one small step for mankind can be considered the first solo flight in a general aviation aircraft. Yet, the strains are evident today.

General aviation manufacture and pilot starts has shown a steady decline. The modernization of the national airspace system has fallen behind schedule even while demand for commercial air travel continues to show explosive growth. Foreign manufacturers of commercial aircraft are providing tougher competition. In space, our efforts to restart manned space flight through the Space Shuttle program appear to be on schedule, but concerns over technical problems remain high on the national consciousness because of our still vivid recollection of the Challenger disaster.

As we enter the final stage of our presidential elections, this nation must insist on continued progress in aviation and space because both are vital to our national defense and economic growth. Both must be high on our list of priorities and that of our candidates. To help in that endeavor, a national plan of aviation and aerospace progress must be charted by this nation. That plan should encompass all aspects of flight, from general aviation to the exploration of space.

A blueprint for that progress must include a reversal of the decline in general aviation, our principal reservoir of talent for airline pilots, engineers, mechanics and executives; of astronauts and space scientists; of air traffic controllers and military aviators. A strong general aviation element is in the national interest.

Modernization of the airport and airway system must be pressed. The program to upgrade the national airspace system must be expedited in the interest of air safety, capacity and efficiency. A parallel program for the national airport system must be initiated.

Our nation needs to retain its mantle of providing the world's safest and most efficient air transport system. But with that role comes a responsibility to provide a fair

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

amount of freedom to use that airspace, by all users. In looking to the future we must find a way for private aviation to share the skies with maximum safety and with as much freedom as possible.

We also must forge ahead with the peaceful exploration and responsible exploitation of space, and should do so as much as possible in cooperative efforts and programs with other countries, at the same time insuring that a window of military vulnerability is not opened in space. Meeting these twin goals must be a prime consideration for our next administration, for they cannot be attained without strong government leadership and participation in a well-rounded program of research and development (R&D). In view of their importance to the nation as a whole, NASA's research efforts in space and in aeronautical R&D endeavors must be continued vigorously.

Throughout the United States, more than 2 million men and women are employed in aviation and aerospace. This makes up a constituency that is an essential segment of America's socio-economic programs. They and the industry in which they are employed are indispensable to the national defense, to the continued technological leadership of our country, to a favorable trade balance and to full employment.

For the benefit of our nation and to these dedicated workers, we must rededicate ourselves to continued aviation and aerospace progress.

HONORING THE 100TH ANNIVERSARY OF THE HEBREW YOUNG MEN'S ASSOCIATION

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CARDIN. Mr. Speaker, the Hebrew Young Men's Association is celebrating its 100th anniversary on October 16, 1988. This organization was founded in 1888 by Samuel Levi, Aaron Grollman, and Philip Kirshman who had the highest intentions of helping their brothers.

The Hebrew Young Men's Association began with three major goals in mind: "to serve members in times of sickness and need, to help the widows and orphans of members, and to render assistance to all, without question of membership in the association, at all times."

Probably the most valuable benefit of membership in the early days of the association was the sick benefit. This benefit paid $3 per week to members who fell ill. Although this does not seem like a great deal of money in today's world, in the late 19th century this benefit was a godsend to those who received it. In later years, the association employed a doctor to treat members at no charge.

The Hebrew Young Men's Association looks beyond just its members and gives aid to the community as well. There have been several disasters in Baltimore when the association has come to the assistance of those affected.

The current officers of the association, President Oscar Freedman, Vice Presidents Herman Malvin and Herbert Freedman, Recording Secretary Nathan Bormel, and Financial Secretary Irving Axel can be proud of the tradition of service which they are continuing. Mr. Abraham Levin, the centennial honoree, should indeed be honored for his commitment to his fellow man. I urge my colleagues to join me in saluting this fine organization, which provides an example to us all.

HONORING THE 75TH ANNIVERSARY OF ST. MARK'S PARISH IN PITTSFIELD, MA, ON OCTOBER 2, 1988

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CONTE. Mr. Speaker, I would like to take this opportunity to congratulate the congregation, Monsignor Johnson and Rev. Michael Shershanovich of St. Mark's parish on the occasion of the 75th anniversary of the church's founding. In the history of the church there have been only three pastors and each has been extremely instrumental in the church's growth and development.

St. Mark's was founded in 1913 by Father Michael Leonard. The original St. Mark's Church was a wooden structure on the corner of West and Onota Streets in the then rural Pittsfield. The first mass was celebrated on April 4, 1913. In 1930, with a growing population in the parish, Father Leonard purchased more land and relocated the church to West and Albro Streets where it remains today. The new church was completed in 1932. In addition, a convent and new rectory were constructed.

In 1955, upon the death of Father Leonard, Father Finn became the pastor. During his years as pastor the church was renovated, new stain glassed windows were installed, the inauguration of the long-range building program was put into effect and the St. Mark's school was built. The former wooden church on Onota Street was converted into a parish center and auditorium for social and theatrical events. After a devastating fire in 1961 which ruined these buildings money had to be raised and new buildings had to be constructed. Thanks to their generous congregation the construction plans materialized and in 1962 the buildings were ready for use.

Today Pittsfield is not the small rural town it once was. The growth in the congregation of St. Mark's reflects the growth of Pittsfield itself. Monsignor Johnson and Reverend Shershanovich serve the parish's more than 1,000 families of generous and supportive parishioners. I am impressed by their strong sense of community and dedication to their town. It's not often you find people with such great enthusiasm in performing much needed volunteer community work. Not only are the parish priests responsible for the operation of St. Mark's they also include volunteer work at the Hillcrest Hospital, Berkshire Community College and area nursing homes into their busy schedule.

In celebration of this honorable and lengthy history of St. Mark's, the congregation has planned a 75th anniversary mass with Bishop Joseph F. Maguire as the celebrant on October 2. The mass will be followed by a reception in the parish center. Mr. Speaker, it is a distinct honor for me to have such a group of dedicated and caring parishioners in my district. St. Mark's has grown into one of the finest communities in the Berkshires and I wish all of its members and clergy another successful 75 years.

To my friends of St. Mark's Parish of Pittsfield, I extend my warmest congratulations on this most solemn and glorious occasion.

BEWARE, THE COLD WAR IS NOT OVER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CRANE. Mr. Speaker, lately, this country has been charmed by Gorbachevmania. We have allowed the thoughts of "world peace" to creep into our living rooms and create complacency. Many feel that we can "trust" Mr. Gorbachev. His attitude is different from the cold war stylings of Brezhnev, Andropov, and Khrushchev. We have even allowed the spouses of both country's leaders to play a part. Mrs. Gorbachev competes for the style section with Mrs. Reagan. The U.S.S.R. has entered the 1980's—American style. They want to revitalize their stale economy. They want to end their ploys of world domination by withdrawing from Afghanistan, supporting the Olympic movement by attending the games in Seoul, and negotiating peace in Angola and Cambodia. All this talk of peace would make anybody feel good about the U.S.S.R.

What does all this mean? Basically, it means that those individuals who believe this strategy have been fooled. The U.S.S.R. is cutting losses with losers. They are saving money, manpower, and effort by redressing their goals and selecting targets that can be achieved. There is nothing new about this ploy. It is standard business practice. Unlike the business community, Mr. Gorbachev is trying to control the world by creating a new strategy of domination through complacency. We have given up our missiles in Europe, rejected the pleas of the Contras and allowed a Communist Nicaragua, while the press magically creates a new wave of false peace. Liberty and freedom are this country's banners and we display them proudly. It is up to us to promote such ideals while preventing the subtle domination by a "hungry bear in designer suits."

I urge my colleagues to read the following article that so eloquently describes this hoax.

NO, THE COLD WAR ISN'T REALLY OVER

(By Charles Krauthammer)

It seems that the cold war is over. Official word came not in the usual communiqué from the capitals but in a *Doonesbury* cartoon. A rethinking of the cold war is taking place at higher levels too. When a senior Democratic Senator noted in conversation that the cold war might indeed have ended, he was saying no more than Ronald Reagan said upon his return from the Moscow summit when he talked of the end of the postwar era. Since postwar has always meant cold war, the President was signaling the advent of some historic change.

Is the cold war really over? No doubt the withdrawal from Afghanistan marks a change. It signifies the demise of the Brezhnev Doctrine, first enunciated with the invasion of Czechoslovakia exactly 20 years ago. Brezhnev declared that socialism will suffer no losses: countries that come under Marxist-Leninism remain under Marxist-Leninism. Afghanistan is the first breach in that doctrine. (Grenada is too small to count.) Enthusiastic believers in the demise of the cold war also point to Gorbachev's words to show that the Soviet Union, apostle of revolution ("national liberation"), has become the defender of stability. A favorite quote: "We favor socialism, but we do not impose our convictions on anyone. Let everyone choose for himself."

This will come as news to Poles and Czechs and East Germans. But grant that outside Eastern Europe, in the Third World, the Soviets are indeed falling back. Why is that happening? Conventional wisdom has it that Gorbachev needs to rebuild his economy and restructure his society. He cannot do that while expending energy, treasure and occasional blood in foreign adventures. Internal retrenchment requires external calm. He needs a respite: a stable international arena and good relations with the U.S. Hence the cold war, like other old thinking, must go.

In this light, the Soviet pullback in the Third World is an autonomous Soviet decision, the first fruit of Gorbachev's "new thinking." The problem with this theory is that it overlooks one fact. In this sense it is very much like the common explanation of Gorbachev's acquiescence to American terms for the INF treaty. Did Gorbachev withdraw his SS-20s from Europe because of a change in ideology? Because he wanted to turn his attention to domestic tasks? In fact, he withdrew because he met resistance that he could not overcome. The U.S. responded to the SS-20s by deploying a powerful INF force of its own, despite the best Soviet efforts to stop it. As a result, the SS-20 adventure turned into a net loss for the Soviets (because the American missiles are more threatening: they can reach Soviet territory, whereas the SS-20s cannot reach American territory). Having met resistance and lost the game, Gorbachev wisely decided to cut his losses and withdraw.

Similarly, the Soviets are not withdrawing from Afghanistan because they have suddenly come to believe in "not imposing convictions on anyone" and "letting everyone choose for himself." Does anyone doubt that if the Afghan resistance had been overcome, Gorbachev would still be in Afghanistan, communizing? Gorbachev is withdrawing because he lost the war. Writes Afghan Expert Zalmay Khalilzad in the *National Interest*: "1986 was the turning point in the Afghan war." What happened? "The most crucial change in this period was the provision of U.S. Stinger [antiaircraft] missiles to the *mujahedin*." To put it bluntly, the Soviets are not leaving Afghanistan because they changed their minds. They are leaving because they lost their air cover. A change of minds followed.

Another recent elaboration in the press of the conventional wisdom puts it this way: "In the heyday of Leonid Brezhnev, the Soviet Union tried hard to promote Communism in the Third World . . . Now, under what might be called the Gorbachev Doctrine, the Kremlin has adopted a more cautious stance, backing away from confrontation." Why? Because "the Kremlin has been disappointed by the inability of Third World Marxists to impose stable Communist systems on underdeveloped societies."

But the chief cause of that instability in the 1980s is resistance. The Gorbachev Doctrine became necessary because the Brezhnev Doctrine failed. The Brezhnev Doctrine failed because it met armed resistance. And that resistance drew strength and sustenance from the U.S., more precisely from the Reagan Doctrine, the American policy of supporting anti-Communist guerrillas in the newest outposts of the Soviet empire: Afghanistan, Angola, Cambodia and Nicaragua.

Throughout the 1980s, American critics have attacked the Reagan Doctrine as too grandiose and expensive an undertaking for the U.S. They saw it as a form of imperial overstretch, to use the now famous phrase of Professor Paul Kennedy. This critique is unintelligible. the effects of the Reagan Doctrine have been precisely the reverse. It turned out to be an extremely cost-effective form of Western resistance to the Soviet expansion of the '70s. It made the new Soviet outposts expensive liabilities. The Reagan Doctrine demonstrated—to the Politburo, ultimately—that it was the *Soviet* empire that had overreached.

When applied, the Reagan Doctrine worked. Which one factor best predicts the locus of a Soviet imperial withdrawal? The answer is not a colony's proximity to the Soviet Union, nor its ideological purity, nor the amount of Soviet investment. The single factor that best predicts a Soviet retreat is the strength and consistency of foreign support for the anti-Soviet resistance. American aid to the Afghan resistance has been massive, and the policy has enjoyed universal support at home. The Soviets are retreating. In Cambodia and Angola, American support for the guerrillas has been less intense but still generally bipartisan. Moreover, China and South Africa have provided steady support to the anti-Soviet forces. The Soviets are now exerting pressure on their clients to compromise. The one place where American support for the resistance vacillated and finally collapsed was Nicaragua. Not surprisingly, Nicaragua is also the one place where the Soviet client remains firmly entrenched and where Gorbachev shows no sign of bending.

Where Gorbachev has retreated, it is not because he has abandoned Soviet foreign policy objectives. It is because he was defeated. Where he has not been defeated, he has not retreated. Gorbachev has not given up the socialist mission. He is trying to save it from Brezhnev's excessive ambition.

What, then, is Gorbachev's imperial strategy? The same as his domestic strategy: not retreat but retrenchment. The tactics too are the same. Discard losing policies. Keep those that work. In foreign policy, the Gorbachev Doctrine is imperial triage. Discard the losers. Deal away the marginals. Keep the jewels.

Afghanistan is a loser, and the Soviets are leaving. Angola and Cambodia would be nice to have, but neither is a crossroads of the world, and the Soviet clients there are locked in bloody, draining stalemate. Moreover, Cambodia is a great irritant is relations with China, and Angola in relations with the U.S. The Soviets are dealing.

Gorbachev's eye is on the jewels, three great geopolitical prizes, for the achievement of which he has husbanded most of his foreign policy resources:

CENTRAL AMERICA

Soviet support for Nicaragua has not wavered, despite wishful reports to the contrary. The *contras*, having been disarmed by the U.S., are in the process of being defeated by the Sandinistas. El Salvador and Panama are becoming less stable. Even Honduras, the American linchpin in Central America, is stirring. Central America is a high priorty for the Soviets. The Kissinger commission argued 4½ years ago that Soviet penetration of Central America would be a great strategic asset for the Soviets. It would distract and divert U.S. attention to a region that had historically been secure. It is not that a Red Army is going to march from Managua to Harlinger, Texas, but that the vast military, political and strategic energy that Washington would have to redirect to this region would necessarily be drawn from elsewhere. This would result in a net weakening of the American position in the world.

CHINA

An even bigger prize. Gorbachev wants rapprochement with China but has been rebuffed until he clears away what the Chinese call the Three Obstacles: the Soviet occupation of Afghanistan, the Vietnamese occupation of Cambodia and the Soviet-Chinese border dispute. Gorbachev is taking care of Afghanistan and the border dispute. And one reason he is putting pressure on the Vietnamese to solve the Cambodia problem is that the China card is worth more to him than Cambodia and Viet Nam combined. The next great shift in U.S.-Soviet relations may be Gorbachev doing a Nixon in China. It will not have been an accident.

EUROPE

The grand prize. Gorbachev's Wespolitik—the INF treaty, his subtle wooing of the West Europeans with the notion of a "common European homeland," his gestures toward disarmament that have already propelled him in European public opinion polls higher than the President of the U.S.—is calculated to advance the most important Soviet geopolitical objective of all, the detachment of Western Europe from America. The road to the breakup of the U.S.-European alliance is the denuclearization, leading to the neutralization, of Europe. This is a traditional Soviet objective. But ironically it may prove necessary for the success of *perestroika*. It may be, as the dissident writer Vladimir Bukovsky suggests, that the only way for the Soviets ultimately to salvage their bankrupt system is by neutralizing Europe and harnessing its energy, technology and vast wealth—not by occupation but by the domination that would follow a detachment of Europe from the U.S.

The goal of Gorbachev's foreign policy is not to end the cold war and certainly not to lose it, but to continue the struggle with the subtlety and finesse that befits the modern man he is. He is cutting his losses not because he is a sudden convert to friendship and harmony and coexistence, not because he has lost the nationalist or ideological faith that underlies Soviet realpolitik, but because he knows that what the times demand is discrimination. And in an age of triage, that means concentrating on supreme geopolitical objectives and making sacrifices at the periphery.

Gorbachev's strategy should elicit neither shock nor dismay. He is simply pursuing his country's interests in the most economical manner possible. This is not cynicism. This is realism. No need for us to be scandalized. Just forewarned, and perhaps a bit envious. Would that our leaders had his foresight and command.

EMPLOYEE BENEFIT STANDARDS IN GOVERNMENT CONTRACTING ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CLAY. Mr. Speaker, I rise today to introduce legislation to further the national labor policy and the Federal labor force concept by standardizing employee benefits for those Americans engaged by contracts to which the Federal Government is a party.

This legislation is designed to provide a framework for the reduction of Federal expenditures by discouraging Government contracting for goods and services that can be accomplished by Government personnel. According to a recent report by the Congressional Budget Office, contracts awarded for commercial type services have increased by about 10 percent—from $32.8 billion in 1983 to $36 billion in 1985, measured in 1983 dollars. In addition to increased cost there is grave concern over the quality of services provided and the ability of Federal managers to establish and control standards of accountability for contracted workers.

Mr. Speaker, this legislation will encourage Federal agencies and departments to perform work with their own personnel. To do otherwise would be to substitute competence, loyalty, and experience for work performed by workers with competing loyalties and whose competence and experience is largely unknown. This type of activity could lead to lower morale for Federal employees and hamper existing operations. Moreover, this Federal Government should not allow itself to become a party to substandard employment practices.

To achieve these ends this proposed legislation would apply to both prime and subcontracts between any person, Federal agency or department and any employer. When the contract amount is in excess of $25,000 and is for services and/or supplies, the employer will be required to provide pension and group health plan benefits consistent with title I of ERISA. All of the employees performing under the Government contract would be eligible to participate.

The group health plan would require the premium contribution for participants who earn less than 200 percent of the minimum wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938. Additionally, deductible amounts shall not exceed $250 for individuals and $500 for families.

Mr. Speaker, in order to provide a practical solution for the problem of excessive Federal contracting out, this act would require that any Federal agency that awards a contract in excess of $500,000 for services, and which is not awarded on a firm fixed price basis, shall provide a written cost savings impact statement demonstrating that the service performed under the contract could not have been performed more effectively and economically by exiting Federal employees. Additionally, the Federal Government will no longer be a party to substandard employment practices, and to that end, no contract subject to this act may be awarded on the basis of a bid that contain specifications regarding uncompensated overtime.

Mr. Speaker, I strongly urge my colleagues to consider this legislation in the light most favorable to thousands of dedicated and hardworking Federal employees whose jobs were lost to contractors while the American taxpayer was asked to foot the larger bill.

SUMMARY—EMPLOYEE BENEFIT STANDARDS IN GOVERNMENT CONTRACTING ACT OF 1988

Covered contracts include both prime and subcontracts between any Federal agency or department and any employer, and any person and any employer.

When the contract amount is in excess of $25,000 and performance includes construction, alteration, repair, painting and decoration of public buildings or works, within the geographical boundaries of the United States, or the manufacture or furnishing of materials, supplies, articles or equipment.

The employer is required to provide to its employees performing under the contract a pension plan meeting the requirements of Title I of ERISA and sections 401(a), 403(b) or 408(k) of the Internal Revenue Code.

All employees performing under contract are eligible to participate.

The plan must meet requirements without taking into account social security and similar contributions and benefits.

The employer is also required to provide to its employees performing under the contract, their spouses and children, a health plan meeting the requirements of Title I of ERISA.

All employees who are participants in the pension plan are included in the health plan.

The health plan requires no premium contribution from participants who earn less than 200% of the minimum wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938.

Deductible amounts shall not exceed $250 for individuals and $500 for families.

Both the pension and the health care plan required under this bill must provide at least a minimum level of benefits.

No contract or subcontract subject to this Act may be awarded on the basis of a bid that contains specifications regarding uncompensated overtime.

Any federal agency that awards a contract in excess of $500,000 for services, and which is not awarded on a firm fixed price basis shall provide a written cost savings impact statement demonstrating that the service performed under the contract could not have been performed more effectively and economically by the federal government.

TRIBUTE TO REISTERSTOWN VOLUNTEER FIRE CO.

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mrs. BENTLEY. Mr. Speaker, all of us in this Chamber know how great volunteers are. They have helped us in our offices, done work in our country's hospitals, and have been there to help whenever and wherever they were needed. They are the backbone of American society—people who have made life so much easier for the rest of us. To heap too much praise upon them is an impossibility.

Today I would like to honor perhaps the most special group of volunteers there are—the volunteer firefighter. These individuals literally risk life and limb for the sake of helping others. The only remuneration they receive is a sense of satisfaction at having done a good day's work.

Recently the Baltimore County Volunteer Firemen's Association had its 81st annual convention. The event was sponsored by the Reisterstown Volunteer Fire Co., an organization which earlier this year itself celebrated its 75th year of existence. I would like to salute the fine people who make up this venerable fire company, for they truly typify the spirit of voluntarism—something which is perhaps our Nation's greatest national treasure.

The Reisterstown Volunteer Fire Co. was formed on June 13, 1913, after three very bad fires. Prior to that time fires were battled by neighbors who brought their own buckets of water. Money was raised for equipment and uniforms, and by September of the following year the company was fighting its first fire. The fire company's minutes report that, "fifty logs, pile of cordwood, oak tree" were saved.

Since those early days the fire company has expanded along with the times, its equipment—purchased with donations from members of the community—has always been "state of the art." The Reisterstown Volunteer Fire Co. has always been there—from a barn fire in 1929 to the four-alarm blaze at the Woodstock Job Corps in 1988 right up to the present day. For this heroism and dedication to duty we in the Second Congressional District feel very grateful.

In addition, the fire company has sponsored many annual events. Bake sales, Easter egg hunts, Christmas parties for children, and their wonderful carnival has helped to make the Reisterstown Volunteer Fire Co. a much valued member of its community. Reisterstown just wouldn't be the same without it.

Mr. Speaker, I urge you as well as all my esteemed colleagues to join me in saluting the Reisterstown Volunteer Fire Co. for decades of devoted service. These selfless volunteers have worked hard, saved lives, and helped to make their community a much better place to live. Congratulations to all these special folks for a job well done.

AN ADVOCATE FOR THE POOR

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. JACOBS. Mr. Speaker, the following editorials from the Indianapolis Star and Indianapolis News are typical of the thoughts we Hoosiers had when the Reverend Mozel Sanders passed away.

He was friend to many and servant to God. We shall miss him.

[From the Indianapolis News, Sept. 3, 1988]

AN ADVOCATE FOR THE POOR

It's hard to know where to begin in listing the accomplishments of the Rev. Mozel Sanders.

He died in a Seattle, Wash., hospital this week at the age of 64. He was pastor of the

Mount Vernon Missionary Baptist Church on the Westside of Indianapolis for about 30 years. He helped start a local chapter of the Opportunities Industrialization Centers Inc., which provided training for jobs for poor people for several years. He started a Thanksgiving Day meal for the poor in 1974, helping a good idea blossom into a major effort in the 1980s.

The list of accomplishments could continue, but his friend, the Rev. Arthur Johnson, summed up his life this way: "Heaven must have needed somebody who was an advocate for the poor."

To put it another way, the life of Mozel Sanders was a demonstration of Proverbs 19:17. "He who is kind to the poor lends to the Lord, and he will reward him for what he has done."

In one way or another, the Rev. Sanders tried to do something to help people in need, whether it was the homeless person who had no place to go for a Thanksgiving dinner or the jobless person who needed some training and encouragement in order to land a job.

Long before it was fashionable to be deeply concerned about the homeless, he was feeding them. Long before job-training became a national issue, he was helping the unemployed go to work.

"He always thought of other people before he thought of himself," summed up Mayor William Hudnut. "He was a strong advocate of the disadvantaged in our society. He was a pastor not only to his congregation, but also to his radio ministry and his Thanksgiving feeding program, where his leadership will be missed."

He will indeed be missed throughout the community in many respects, especially by the poor people he served so diligently for many years.

[From the Indianapolis Star, Sept. 3, 1988]

REV. MOZEL SANDERS

The Rev. Mozel Sanders was conscience, compassion and love personified and turned into action.

His Thanksgiving dinners for the poor were like illustrations from the Bible brought to life.

He began in 1974 by feeding about 20 needy people, and by 1986, with 200 volunteers helping, 16,000 meals were served.

The black community leader had been pastor of Mount Vernon Missionary Baptist Church for nearly three decades.

His warmth, sincerity and encouragement touched the city's powerful, his congregation and street people. His help was down-to-earth—job training for the poor and people with drug and alcohol problems.

As Mayor William H. Hudnut said, "He always thought of other people before he thought of himself."

Rev. Sanders died at 64 on Thursday in a Seattle hospital, where he had undergone cardiac surgery after being stricken July 20.

His memory and example will go on brightening lives.

UNFILLED JOBS, DESPITE UNEMPLOYMENT

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. LIVINGSTON. Mr. Speaker, Louisiana has the highest unemployment rate in the Nation, and yet I have just received the following letter from a constituent of mine:

DEAR MR. LIVINGSTON: I have a Tastee Donut Shop in Westwego, (LA.) and here is my problem:

I have run ads in all of our major newspapers in this area, posted signs in my shop, looking for someone to work. I've been in this business twelve years and this is the first time I've had such a problem finding employees.

The hours are eight hours a day, five to six days a week, at $5.00 an hour wages for a donut cutter—of course, with interval raises. I'm willing to train if the party is interested. And I still can't get help. The position of a donut cutter is not very difficult. Anyone with half a brain could do the job.

If the hourly wage is at fault, I'll gladly raise it. However, I don't think it is. The only other idea I have is the reason for my dilemma is that people are receiving too much aid from government funds or agencies, and people are better off not working for wages and would rather be kept than support themselves.

The laws must be changed and these agencies must stop anyone and everyone who can and must work. It's sad to say, but I am not the only business in this predicament.

No, I definitely do not believe that the minimum wage should be increased. We are in a very sad state of affairs when I cannot hire a single person to work when our unemployment is so high.

Sincerely,

MARION S. KING,
Owner.

We in Congress are always professing our concern for the less fortunate through the passage of new programs. Perhaps it is time to start making the ones we have on the books work.

LESSONS FROM THE PENTAGON PROCUREMENT SCANDAL

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. SCHUMER. Mr. Speaker, as the recent scandals have clearly demonstrated, the Pentagon's procurement system is a system in dire need of repair. Bringing sensible reform to the defense procurement process is an urgent task that must be high on the agenda of the next administration.

The following article, written by Representative BARBARA BOXER outlines a number of creative new ideas for reforming the procurement process and cutting the fraud and waste. I commend this excellent article to the attention of all my colleagues, and ask that it be printed in the RECORD.

[From the Christian Science Monitor, Aug. 15, 1988]

LESSONS FROM THE PENTAGON PROCUREMENT SCANDAL

(By Barbara Boxer)

We do not yet know who, if anyone, will be indicted in the Pentagon procurement scandal. But we do know that the system of laissez faire "self-governance" over procurement practiced by the current administration is worthy of indictment. Whoever moves into the White House next year will inherit a Pentagon procurement system in shambles.

Real reform in Pentagon procurement is essential. Unfortunately, it will have to await a change in the climate at the Pentagon that only the presidential leadership can provide. The next administration will have an excellent opportunity to achieve real reform in the defense establishment.

The current scandal has laid bare the true attitude of Reagan political appointees who protested every effort by Congress to improve the defense acquisition system. "Self-governance" became their excuse for lax law enforcement. Their protests that the outrageous costs of spare parts—from coffeepots to toilet seats—were "isolated incidents" and their claims that independent watchdogs and tough prohibitions against the revolving doors at the Pentagon are unneeded ring hollow today.

We cannot change their attitude, but we can expect a new administration to bring a new commitment to reform. Here's a blueprint:

First, we need a panel of true procurement experts to review the results of the FBI investigation and recommend changes to Congress. The task force set up by Defense Secretary Frank Carlucci is a sham; it is made up of the same people who countenanced this cozy attitude.

We need objective Pentagon critics, not industry backslappers: whistle-blowers like Ernie Fitzgerald, who unmasked the $2 billion cost overrun in the C-5 transport plane; former Assistant Secretary of Defense Lawrence Korb, who lost his job with a defense contractor for advocating more realistic defense budgeting; defense budget analyst Gordon Adams, director of the Defense Budget Project and an expert on the interrelationship among government, industry, and Congress; Richard Godwin, the Defense Department's first "procurement czar" who quit after a year of frustration; and retired Air Force Col. Jim Burton, who fought for realistic testing of weapons systems.

Second, we need an independent inspector general whose investigations cannot be short-circuited by the secretary of defense. In 1982, the current secretary of defense, then the deputy, Mr. Carlucci, fought the idea of an inspector general's office. He accepted it only after the office was granted semi-independent status. He said, "It is not tolerable in those circumstances to have someone who is not under the authority, direction, and control of the secretary of defense."

Last year the defense secretary slashed the inspector general's requested budget by 10 percent. The integrity of an inspector general's office demands that he report to the president and Congress—not the secretary of defense—in uncovering instances of waste, fraud, and abuse. An independent inspector general office would be staffed by competent professionals and include "revolving door" prohibitions to preserve an arm's-length relationship with industry. The inspector general would be prohibited from going to work for the defense industry after leaving office, or from coming to office from the industry, for five years. The inspector general's employees would have a similar ban for three years.

Third, we need to tighten revolving-door prohibitions already on the books but which were watered down by a House-Senate conference committee in 1986. We need to expand the number of Defense Department procurement officials covered by conflict-of-interest provisions and impose criminal penalties for violations.

Finally, we need a bold approach to establish a consolidated, independent procurement corps for the military staffed and managed primarily by civilians but advised by military experts. An independent, well-qualified, and well-paid cadre of professionals, who view defense procurement as a long-term career, would serve as a buffer between the Pentagon and industry.

This idea is not new. Canada, Britain, France, West Germany, and Sweden have long maintained their defense procurement practices in a single, separate agency, and a top United States defense official recommended such a course three years ago. James P. Wade, Jr., then assistant secretary of defense for acquisition and logistics, said in an internal departmental memo that "a true service corps with dedicated professionals is a necessity. Management of the corps, in the main, must be by civilians rather than military personnel who rotate out after a number of years." Such a corps would eliminate overlapping procurement personnel in the armed services, promote better efficiencies in the $100 billion-a-year military procurement system, improve the quality of workmanship, and restore the confidence of the American public in military spending. The Pentagon brass did not like Mr. Wade's idea, because it undermined their power. Consequently, the report was shelved.

Wade recently told the House Armed Services Committee, "The system is failing . . . getting worse, and worse." He also doubted whether fundamental change can be made until a new administration takes office.

Nevertheless, it is time to lay the groundwork for the next president so he can immediately begin clearing the debris left by the Pentagon scandal. That is why several of us in Congress are unveiling major Pentagon reforms based on sound ideas that have never moved forward because of the inertia of the military-industrial complex.

We all can learn from this scandal. Let us send a message through our votes that we've had enough of pouring billions into a bottomless pit. Let us send a message that we want an ethical and honorable independent procurement system. The code name for the FBI investigation is Ill Wind. The next administration should help turn this ill wind into winds of change.

INTRODUCTION OF LEGISLATION LIMITING ISSUANCE COSTS FOR TAX-EXEMPT BONDS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to impose new limits on issuance costs for tax exempt bonds.

Congress has traditionally allowed an exclusion from taxable income for interest on State and local government bonds. Since Congress provides this exclusion, it seems to me that Congress has a responsibility to limit costs associated with issuing these bonds—to insure that State and local governments use bond proceeds for legitimate governmental purposes. Congress also has a responsibility to insure that State and local governments are not overcharged when it comes time to do a bond issue.

My bill imposes a limitation on issuance costs. The limits range from 3.5 percent of bond proceeds for bond issues of $5 million or less to 1 percent for bond issues in excess of $75 million. Private activity bonds would be subject to an additional restriction: only 1 percent of the amount of the bond proceeds could be used to finance issuing costs.

Let me say, Mr. Speaker, that I recognize time for action on my proposal is limited this year, and I do not expect that it will be considered by the Committee on Ways and Means. Instead, I hope to use this opportunity to solicit serious discussion on this proposal in the coming months. I am also asking the General Accounting Office to review my proposal and ask them to make recommendations on how and whether Congress should limit issuance costs for tax exempt bonds.

I am enclosing a copy of an article from Forbes on the politics of municipal bonds which I think is a thoughtful, well-written, responsible piece of journalism. I would hope that the bond lawyers and others will take some time to read this article because it points out some rather fundamental principles of Federal income taxation which I think need to be considered.

I am also pleased that Congressman HAROLD FORD, a member of the Committee on Ways and Means, has agreed to join me as a cosponsor of this measure. I urge all of my colleagues to join in this reasonable and responsible limitation on issuance costs. A summary of the legislation, and the Forbes article, follow:

DESCRIPTION OF PROPOSAL LIMITING TAX EXEMPT BOND ISSUANCE COSTS

PRESENT LAW

Interest on obligations of State and local governments is exempt from Federal income tax under authority of section 103 of the Internal Revenue Code. Interest on bonds used to finance private activities is taxable unless a specific Code provision operates to exclude the interest income from taxation. In addition, certain restrictions are imposed on private activity and governmental bonds.

One restriction imposed on private activity bonds is a limitation on issuance costs. In general, the amount of issuance costs associated with a private activity bond that can be financed from the issue are limited to 2 percent of the proceeds of the issue. Under present law, there is no limitation on issuance costs associated with governmental bonds. Common issuance costs include, but are not limited to, underwriters fees, bond counsel fees, rating agency fees, insurance, printing costs, advertising and financial advice.

The Internal Revenue Service has taken the position that premiums paid to insure a governmental issue are treated as interest for purposes of the Code's arbitrage restrictions. (*See*, Treas. Regs. 1.103-13(c)(8)). The 1986 Tax Reform Act directed the Service to develop regulations treating certain credit enhancement devices similarly to insurance premiums. (*See*, H. Rept. 99-841, p. II-747).

EXPLANATION OF PROPOSAL

Under the proposal, new limitations would be imposed on issuance costs associated with all tax exempt bonds. Specifically, as a condition of tax exemption, issuance costs could not exceed specified amounts (whether or not financed from the bond issue). The limits on issuance costs would range from a high of 3.5 percent of the proceeds of the issue for bonds with a face amount of $5 million or less to a low of 1 percent for bonds with a face amount greater than $75 million.

In the case of private activity bonds, the present-law limitation on issuance costs which can be financed from the issue would be reduced from 2 percent to 1 percent of the proceeds of the issue. Thus, in the case of small issue private activity bonds, only 1 percent of issuance costs could be financed from the issue; the remaining costs would be required to be financed outside of the issue and subject to the overall limitations discussed above.

The proposal overrides Treas. reg. 1.103-13(c)(8) (discussed above) and any regulation which reaches the same result with respect to credit enhancement fees. The ultimate effect of such regulations is that the Federal Government subsidizes the total cost of such fees by allowing issuers to earn additional arbitrage profits. Any legislation limiting issuance costs should contain this type of provision.

The bill would also require public disclosure of issuance costs associated with the bond.

EFFECTIVE DATE

The proposal would be effective for bonds issued after December 31, 1988.

REVENUE EFFECT

Based upon a similar but more limited provision included in the 1986 Tax Reform Act which limited issuance costs financed from the issue for private activity bonds to 2 percent, and which raised $100 million, I expect that my legislation will save the taxpayers of this country at least that amount. In any event, I have asked the Joint Committee on Taxation to provide me with a more precise figure.

[From Forbes, Sept. 19, 1988]

POLITICS

(By Ben Weberman)

The municipal bond industry is a creature of politics. There is no immutable reason muni bonds have to be exempt from federal tax. Taxed like other borrowers, states and cities would have to compete in the capital markets against corporations, homeowners and the U.S. Treasury itself.

It should be no surprise that cracks appear periodically in the tax exemption that lies as the foundation under the municipal debt market. Astute bond buyers take politics into account before buying.

Here are just a few of the ways in which Congress or the Internal Revenue Service has chipped away at the exemption of late:

As a result of the 1986 tax reform, insurance companies and other corporate investors are subject to a potential tax of 20% on a portion of their tax-exempt interest. This hurts issuers of munis, since it reduces demand without reducing supply.

Bonds issued since Aug. 6, 1986 for housing, airports, student loans and industrial development are considered private-purpose bonds whose interest is subject to a tax of up to 21%. The tax applies if the individual has to pay "alternative minimum tax," which a lot of high-bracket taxpayers do.

Since 1983, people receiving Social Security may pay a tax indirectly on all their municipal bond interest, since the muni interest is used in a complicated formula determining how much of the Social Security payment is taxable.

The IRS will almost certainly decree some supposedly tax-exempt issues to be taxable, on the ground that the issuer had no legitimate purpose for the financing. Some $300 million of issues from the Guam Economic Development Authority could be affected. It isn't clear whether Guam, the underwriter (Matthews & Wright) or the bondholders will bear the tax.

Besides the Guam issue, an $80 million issue from the Territory of Northern Mariana Islands and some $400 million of housing bonds issued by small communities in Arizona may come under the same cloud. At least 56 such deals, aggregating $2.75 billion, are rumored to be under federal investigation.

The Treasury, too, is preparing rules to take away the tax exemption on what wiseacres call "pyramid bonds"—bonds to finance the bridge after it is built, repaid out of general funds. Their nickname reflects the absurdity of issuing bonds today to recover the costs of building the Egyptian pyramids. The rules probably wouldn't apply retroactively to any issues now outstanding—probably.

For now it appears that most of the $730 billion of muni bonds outstanding will remain mostly exempt in the hands of most holders. But investors must, at a minimum, avoid exposure to issues whose interest may be retroactively declared taxable. Those bonds with the cleanest tax exemption—the state general obligation bonds, for instance—will be part of a shrinking universe of outstanding tax-exempts and should increase in value.

A basic principle of tax law is that most abrupt changes incorporate some sort of grandfathering. The law taxing the muni interest of banks and some insurers, for instance, exempted bonds they held at the time of the new law. They couldn't trade the old bonds, however, without losing the exemption.

Some erosion of the once sacrosanct muni exemption can be blamed on a Congress hungry for tax revenues. But the municipal bond industry is partly at fault. There have been abuses: city bonds that finance grocery stores, issues that finance no real projects but simply fatten lawyers' and dealmakers' wallets. Instead of pressuring those who abuse the tax exemption, underwriters and lawyers rail against Congress, the Internal Revenue Service or any other regulator attempting to curb excesses. These misdirected, but loud, complaints have a perverse effect. Regulators retaliate by turning tougher.

One crackdown might actually help the market by improving yields, although you would never know that from all the wailing on Wall Street. A bill will be introduced by Brian J. Donnelly (D-Mass.), a member of the House Ways & Means Committee, to limit overhead costs for all tax-exempt bonds to 1% of proceeds, down from the 2% ceiling now imposed only on private-purpose bonds. Significantly, the Donnelly proposal would apply the limit to all tax-exempt bonds rather than only to private-purpose bonds. More important, the bill would require disclosure of all issuance costs, including side payments to underwriters and distributors from such sources as tax revenues or corporate profits (in the case of private-purpose issues).

The 1% ceiling could make small issues—say $10 million—uneconomical for some underwriters, so many municipalities would have to join pools to raise new capital. But if the dealmakers have less to spend on lavish dinners and parties to obtain business, so be it. All these costs ultimately come out of the bonds buyer's pocket.

HONORING TWO EXPLORERS OF CALIFORNIA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. MINETA. Mr. Speaker, I am honored to be an original sponsor of two pieces of legislation introduced this week which honor two of the great explorers of California.

The history of our great Nation has been shaped by the brave men and women who ventured into the uncharted, sometimes hostile, territory of the New World. Perhaps they were driven by religious fervor, or a thirst to explore the unknown, or the ambition to conquer new territory.

Whatever their motivation, their courageous exploits determined the course of our history and the shape of today's California.

Introduced this week was a resolution expressing congressional support for a postage stamp commemorating the 450th anniversary of the discovery of California by the Portuguese explorer and navigator Juan Rodriguez Cabrillo, and a bill to designate the Juan Bautista De Anza Trail as a component of the National Trail System. I am proud to be an original cosponsor of both of these bills.

On September 28, 1542, Juan Rodriguez Cabrillo sailed an armada of ships into the natural port of what is now the modern city of San Diego, becoming the first European to explore by sea the coast of what would eventually become the great State of California.

Juan Rodriguez Carbrillo is remembered not only for being the first to explore and navigate the coast of California as far up as present-day Humboldt County, the first to chart the sea routes from Mexico to California, and the leader of the first European expedition to settle and colonize California, but also, through his contact with the Chumash Indian society near present-day Santa Barbara, he earned a permanent place in my State's history for the role he played in our understanding of California's vital Native American heritage.

In cosponsoring this resolution, which calls for the U.S. Postal Service to issue a stamp in 1992 to commemorate Juan Rodriguez Cabrillo's important role in California's and America's history, I particularly wish to commend the Cabrillo Civic Clubs of California, including the Santa Clara County Cabrillo Civic Club based in my home city of San Jose. In the last 50 years, besides keeping alive the name of Juan Rodriguez Cabrillo for new generations of Californians, these dedicated Americans of Portuguese ancestry have served their communities and State as leaders and philanthropists. It is through their leadership that this important resolution is before us today.

Moving forward two centuries in California's history, on September 29, 1775, an expedition of 30 families, 10 soldiers, 116 children, 695 horses and mules, and 355 cattle, led by Juan Bautista De Anza, left Horcasitas, Mexico, on the beginning of a journey which was to take them thousands of miles to San Francisco Bay, an overland journey never before attempted by Spanish settlers. This party was to establish a Presidio, a mission, and a village, to help protect Spain's interests in Alta California.

Miraculously, given the hazards and challenges they faced on this trek, the expedition recorded only one death, that of a woman who died in childbirth early in their journey.

After an arduous trip beyond the then-known outposts of civilization, overcoming many dangers, including drought and cold, the expedition finally arrived at Arroyo de los Dolores, known as Mission Dolores, on June 27, 1776, to begin the task of establishing their lives in this new outpost.

Legislation has been introduced this week which would designate the Juan Bautista De Anza trail as a component of the National Trail System, stretching approximately 1,200 miles from Nogales, Arizona to the San Francisco Bay. The support from public agencies, private organizations and individuals for this designation is overwhelming. I believe it is only proper that the Federal Government join in honoring the brave troupe of settlers, and that their historic journey be remembered.

Those of us proud of our California heritage owe much to the bravery and persistance of explorers such as Juan Rodriguez Cabrillo and Lt. Col. Bautista De Anza.

For their many contributions, these intrepid explorers should be honored, and I am proud to be a sponsor of these important pieces of legislation.

COMMEMORATING THE 85TH ANNIVERSARY CELEBRATION OF HIAS OF BALTIMORE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CARDIN. Mr. Speaker, on Sunday, October 9, 1988, the Baltimore Office of the Hebrew Immigrant Aid Society will celebrate its 85th year.

HIAS is a service organization providing help to Jewish immigrants who come to this country. Since its inception, HIAS has counseled immigrants and assisted them in settling in the United States.

As World War II approached and Jewish immigration multiplied HIAS increased its services to meet the new demand. HIAS became involved in preparing affidavits of support and other documents necessary for hopeful immigrants to be allowed into the United States. Without the help of HIAS, many of these people might not have been able to leave their countries, and faced death in the Nazi camps.

After the war, HIAS aided Jews who fled the Nazis by processing indemnification and restitution claim cases against the German Government. Thanks in large part to the efforts of HIAS, benefits totaling more than $7 million have been secured for holocaust survivors in the Baltimore area.

HIAS to this day carries on efforts to assist Jews wishing to emigrate to the United States. In addition to preparing documents required by our Government, HIAS assists in the preparation of letters of invitation or "Vysov" letters required by the Soviet Government to apply for passports and permission to emigrate.

From preparing the paperwork necessary to come to our country, to helping immigrants settle in their new homeland, to assisting persecuted refugees obtain their financial settlements, HIAS has performed a vital service for Jews around the world who wish to live in a free society.

I urge my colleagues to join with me today in commending and honoring the work of the Hebrew Immigrant Aid Society of Baltimore for their unfailing efforts. We salute you for your dedication and devotion to making life better for our brothers and sisters.

HONORING THE RETIREMENT OF WILLIAM J. McLAREN OF ADAMS, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to Mr. William J. McLaren who, after serving 30 years in the northern Berkshire educational community, is retiring. Mr. McLaren has exemplified the ideals of commitment and dedication throughout his 30 years in education.

Mr. McLaren's dedication to the Berkshires is exhibited in the numerous educational positions he has held. As the father of three daughters, Mr. McLaren has a vested interest in our education system. William McLaren began his educational career as a teacher at C.T. Plunkett Junior High School. He later became its guidance director and eventually served as the school's principal from 1963 to 1968. From 1971 to 1981 he was the principal of Hoosac Valley High School. Since 1981 he has been the superintendent of the Adams/Cheshire Regional School District. Mr. Speaker, the Adams/Cheshire Regional School District is losing a true professional. Bill McLaren will be stepping down as superintendent, leaving behind a school system he molded into one of the finest in Berkshire County.

As a member of the Northeast Coalition of Educational Leaders, American Association of School Administrators and the Massachusetts Association of School Superintendents, Bill's involvement in education has continued outside of the classroom.

In addition to his community involvement in education, Bill is an active member of St. Thomas' Parish. Also, he is very active in the financial and economic development presently going on in the northern Berkshires. Bill's involvement with this project led to an appointment on the Economic Task Force by Gov. Michael Dukakis to study the economic potential of the northern Berkshires. Bill's interest and devotion to his community is shown by the number of worthy positions he has held in the past. These include, vice president of the Northern Berkshire United Way, director of umpires for the Adams Little League and director of the Northern Berkshire Mental Health Association. All these activities leave him little free time.

He does however, manage to find some extra hours for two of his favorite pastimes—fishing and golfing. While successful at these two sports, folks are often amused by his serious attempts at farming. Thought of as a "Gentleman Farmer," poor Bill unsuccessfully tried his hand at raising chickens and geese. Fortunately, for us, Mr. McLaren is a much better educator than he is a farmer.

Mr. William McLaren is a remarkable man who will be greatly missed. The northern Berkshire community of Massachusetts has been extremely fortunate to receive the fruits of William McLaren's labor.

I salute Bill McLaren. His accomplishments, spurred by his love and dedication for education and humanity, are impressive. His absence will be a loss to all who have learned from him and benefited from his hard work and abundant energy. I wish him a long and happy retirement.

REPEAL SECTION 532(c) OF TAX REFORM ACT OF 1986

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CRANE. Mr. Speaker, today I have introduced a bill that would bring a sense of fairness and understanding to the Tax Code. Internal Revenue Code section 532(c), added by Congress in 1984, made the accumulated earnings tax applicable, for the first time, to widely held corporations. The legislative history shows that 532(c) was a reasonable congressional response for no true business purpose, but were simply a device to take advantage of the difference between the capital gains tax rate and the dividend tax rate. The investment corporations used their capital to purchase dividend paying stocks of other corporations. The investment corporation, receiving a dividend, was subject only to the nominal tax on the dividend—an effective rate of 6.9 percent—and, instead of paying these dividends to its shareholders, it accumulated the dividends. The investment corporation's policy was to never pay dividends and accordingly, its shares increased in value roughly equal to its dividend income.

Shareholders thus paid no taxes on dividends of the underlying stocks held by the investment corporation but could realize income equivalent to the dividend accumulation by selling their shares. The gain on the sale of those shares was taxable as capital gains 20 percent rather than ordinary dividend income as high as 50 percent. The congressional response to this tax avoidance scheme was the passage of IRC section 532(c) which, for the first time, applied the accumulated earnings tax to widely held corporations. The potential levy of the accumulated earnings penalty rate made the investment corporation an uneconomical means of avoiding taxation and effectively ended these companies thereby ensuring that dividend income would be taxed at the shareholders level of ordinary income rates.

Under the Tax Reform Act of 1986, capital gains would be taxed at the same rate as dividend income. Accordingly, the act also ensures that the investment corporation device, which converts dividend income into capital gains income, is uneconomical. The Tax Reform Act ensures that dividend income will be taxed at ordinary rates, for there will no longer be a difference between capital gains and dividend rates. Under these circumstances, section 532(c) should be repealed.

The continued application of 532(c) is not good public policy in the events of applying the accumulated earnings tax to widely held corporations. In a widely held corporation, the payment of a dividend or the accumulation of funds for expansion, investment or research and development is a decision best left to a board of directors. As a result of the applicability of the accumulated earnings tax to widely held corporations, there may be a tendency for corporations to pay dividends, even when the corporate resources should be husbanded for important future business expenditures.

The ability of the Internal Revenue Service to second-guess the directors by applying the accumulated earnings tax to a widely held corporation should not be the driving force behind a decision regarding dividend policy. Rather, the checks and balances of the marketplace should be allowed to have their natural and free effect on a widely held corporation's board of directors. As such widely held corporations are, by definition, publicly held by many shareholders, it is in the interest of the board to make dividend decisions based on the marketplace and the corporation's business needs. The repeal of section 532(c) will allow corporate directors to determine dividend policy without reference to an unnecessary and punitive application of the accumulated earnings tax.

TV JAZZ PROGRAMMING

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CLAY. Mr. Speaker, jazz is a unique American art form. I support the suggestion that jazz be given an opportunity to reach a wider audience by airing it on television on a regular basis. In the past, I have encouraged the major television networks to consider jazz television programming. Although this issue has attracted nationwide attention over the years, the networks continue to disregard the potential for jazz television programming.

Recently I received a letter from Mr. Joel Dorham who has worked very hard to promote opportunities for the performance of jazz on prime time television. I would like to share an excerpt from Mr. Dorham's recent letter to the major television networks which outlines some of the reasons for airing jazz on nationwide TV.

In 1977, eleven years ago, Congressman William (Bill) Clay (Dem-Mo), the Subcommittee Chair on Communications, asked your respective networks to give jazz a chance by airing it on a regular basis. This request by the Congressional Black Caucus was initiated by an ad hoc committee that included singer Nancy Wilson, trumpeter Freddy Hubbard, and saxophonists Jackie McLean and John Handy. The issue attracted nationwide attention and we made history as a result.

I will not go into lengthy explanations of your responses (which are enclosed). Briefly, you stated that there were no audience for jazz. That was not true then and it is even less true now.

With the advent of the movie "Round Midnight"—a hit by the way—and the resurgence of jazz nationally, it is even more incumbent upon the networks to find out at least whether or not there is an audience. What may not have occurred to you is that the network that tries jazz first and discovers it is a hit will be way ahead of the others who will later attempt to capture the viewing audience.

With the number of programs failing in 13-week trials, with no assurance that the program will work in the first place, it strikes me as completely dishonest to use the argument against jazz programming, for which we know an audience exists.

Congressman John Conyers (Dem-Mich) contacted President Jimmy Carter's office on the jazz issue. The President made note of this valiant attempt by five Black musicians to get jazz on TV.

I am aware that it is your prerogative to air what you think the public wants. But, at no time in American musical history has a cultural issue attracted so much attention by so many people—George Wein (Newport Jazz Festival), March Fong Eu (Secretary of State, California), the Congressional Black Caucus, National Public Radio, Jimmy Lyons (Monterey Jazz Festival), Dihanne Caroll, Bill Cosby, Willie Brown (Speaker of the California Assembly), and Elihu Harris (California State Assembly).

A regular jazz series on television is eleven years overdue. It is important to acknowledge the millions of Americans who want to see jazz on television.

Mr. Speaker, I continue to encourage the major television networks to include a jazz show in their prime time formats.

THE 250TH ANNIVERSARY OF CHURCHVILLE PRESBYTERIAN CHURCH

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mrs. BENTLEY. Mr. Speaker, just over 1 year ago we had the great fortune to celebrate the bicentennial of our great Constitution. It was a special day, one which many brave men fought and died that we might see. That document—now yellowed and fading—is our greatest national treasure, born of the words of heroes and the blood of martyrs.

The ideals embodied in that document, however, loom larger than even the Constitution itself. Freedom of assembly, freedom of speech—these things are the backbone of our society. Recently I sponsored a bill which would establish a "Religious Freedom Week." The true importance of this last liberty really hit home for me recently when I was invited to attend an anniversary function at the Churchville Presbyterian Church.

I've had the chance to appear at such functions before, yet this one is truly special. Churchville Presbyterian Church will be 250 years old in October, making it one of the oldest churches in both my district and the State. It predates the Constitution by 50 years. For a quarter of a millenium the various pastors and congregations of the church have exercised the principles of freedom of religion in Maryland—even before there was a United States of America. Though the faces and locations have changed the message of the church has remained steadfast. It gives me great pleasure to honor this church and its venerable vision here.

Churchville Presbyterian Church had its origins at a preaching place called Deer Creek in 1738. A year later the English evangelist George Whitefield journeyed through the area, organizing the followers into a more cohesive unit. By 1759, under the leadership of the Reverend Andrew Bay, the church had moved to its present location. The building itself was without heating or a proper ceiling, yet what it lacked in structure it made up for through the richness of its message.

Over the next two decades the church fell on hard times. Membership was dwindling as families moved away. Funds were limited, and for 25 years the congregation was without a pastor. Yet happier times arrived, and the church grew and prospered under a series of different pastors.

Today the Reverend J. William Kokie serves as pastor. Under his guidance the Churchville Presbyterian Church began such programs as sermons for children, pastoral care, and a campaign to build a new administrative wing. The church has now become one of the backbones of its community spiritually as well as in other ways, and I can say with certainty that the State of Maryland is a much better place as a result of its contributions.

Mr. Speaker, I urge you to join with me in celebrating the pastor and congregation of the Churchville Presbyterian Church on the occasion of this special anniversary. May they have many more in the years to come.

DUKAKIS ON MIA-POW

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. SOLOMON. Mr. Speaker, in order to bring further information to the American public regarding Michael Dukakis' voting history on certain veterans' issues, I would like to insert these facts into today's RECORD.

The Solomon amendment—This controversial Federal Law prohibits federal benefits to individuals who refuse to register with Selective Service. Sixteen states have approved laws similar to the National Solomon Amendment Statute. In 1983, Michael Dukakis vetoed the Massachusetts Solomon Amendment. Under threat of an override, Governor Dukakis allowed the bill to become law the next year, but just like the "Pledge Bill", he refused to sign the legislation into law.

The December 22, 1983, "Boston Herald" editorial entitled "The Duke errs" states, "Gov. Michael S. Dukakis is wrong. The bill making registration for the draft a pre-condition for students applying for state scholarship aid or loans is neither unfair nor an imposition. Though he says so, it might not be unconstitutional either, and in any case, he is not the final authority on that point. So, on several counts, his veto of it was unjustified. All the bill does is require that young men seeking one of the benefits of residency in Massachusetts live up to one of the basic responsibilities of citizenship—to realize that we are a society of laws, and that all of us either obey those laws or accept the consequences of disobedience."

Amnesty Week/MIAs—In 1976, Governor Dukakis signed a bill proclaiming February 22-29, 1976, as Amnesty Week in the Commonwealth of Massachusetts. A provision of the proclamation states, "Many hundreds of thousands of Americans and their families still suffer the effects of that war either by separations or social stigma." The proclamation does not acknowledge the sacrifices of Americans who fought and died in the Vietnam War or the sacrifices of their loved ones. America's veteran's service organizations strongly opposed the measure and a letter dated Feb. 24, 1976, to Governor Dukakis from the State of Massachusetts American Legion states, ". . . we are aghast at your lack of concern for the homes, families and friends of the 50,000 men who have paid the supreme price of patriotism and another 302,600 who have been wounded and the over 1,600 prisoners or those Missing in Action who are still unaccounted for."

Massachusetts "Anti-Vietnam Law"—In 1970, then state legislator, Michael Dukakis voted in favor of legislation (House bill 5165) which declared that inhabitants of Massachusetts in the military forces were not required to serve outside the territorial limits of the U.S. in hostilities not initially authorized by a formal declaration of war (Vietnam). In referring to the bill, Clarence Raymond, then Massachusetts State Commander of the Veterans of Foreign Wars, said, "It is a bit disappointing to see Massachusetts writing headlines for Hanoi newspapers." (Boston Globe, April 3, 1970, p. 18)

It is important for the people of this country to know where Gov. Michael Dukakis stands on these issues.

PHILIPPINE BASE RIGHTS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. ROTH. Mr. Speaker, the Philippines' Foreign Minister Raul Manglapus has made it clear that his preferred approach in renegotiating United States base rights in the Philippines is blackmail. Essentially, he wants the American taxpayer to ante up $1.2 billion to the Aquino government for the privilege of defending the Filipino people and preserving stability in the Pacific region. That's an eightfold increase in the already overly generous payments the United States gives to the Philippines in exchange for base rights for Clark and Subic Bay Bases. This is the gratitude we get for the enormous American generosity toward the Aquino government.

In her excellent article printed in Monday's Washington Post, Jeane Kirkpatrick asks the critical question: How much should the United States have to pay for the privilege of helping to preserve stability in the Pacific region? I urge my colleagues to read Kirkpatrick's insightful analysis of the situation.

[From the Washington Post, Sept. 19, 1988]

THE HIGH PRICE OF PROTECTING OTHERS

(By Jeane Kirkpatrick)

How much should the United States be willing to pay for the privilege of helping to preserve stability in the Pacific region?

Deadlocked talks between the U.S. and Philippine governments should be viewed as an opportunity as well as a problem—an opportunity that gives Americans the chance to rethink what we should do in the Pacific, what we *can* do, and how much we are willing to pay to maintain military bases in regions so remote from our shores.

Although the United States has been extremely supportive of the Aquino government—which it helped bring to power—and although the U.S.-Philippine Military Bases Agreement is not due to be renegotiated until 1991, the Manila government has raised one difficulty after another concerning the Clark Air and Subic naval bases.

Under the guise of a "five-year review," the Philippines is demanding $1.2 billion for continued U.S. use of the bases. The Reagan administration has offered less than half that amount.

The U.S. offer to double its current aid commitment (which is $180 million per year) was brusquely rejected by Philippine Foreign Minister Raul Manglapus, despite the manifest importance of the bases to the Philippines' security and economy and to the stability of the area.

That the Philippine government should pursue a course of confrontation and deadlock against its major benefactor at a time when the country is wracked by civil war and chronic economic depression testifies to the unrealistic expectations of that government and perhaps to the anti-American feelings of its foreign minister.

It is clear that American withdrawal from the bases would have a devastating effect on the morale of Philippine military forces and strengthen its adversary, the revolutionary New People's Army, whose power has spread during the last two years. The Philippine economy, which derives thousands of jobs and more than $500 million in direct income from the bases (and many millions more in intangible benefits from the American presence), can ill afford a U.S. withdrawal.

Why then has Manglapus forced a confrontation and deadlock?

There are several possible explanations for his flat rejection of the U.S. offer.

It may be that Manglapus' nationalism and anti-Americanism blind him to the benefits the Clark and Subic bases bring to the Philippines. This would also explain his outraged rejection of Secretary of State George Shultz's proposal that the Philippines count as "compensation" the $500 million that flows into its economy from base operations.

It may be that Manglapus and Aquino believe the bases are so important to the United States, or that we are such a soft touch, that the American government will finally pay any price demanded in order to maintain them.

It may be that Manglapus finds the American presence so distasteful he is ready to eliminate it regardless of its cost to Philippine society.

The foreign minister's departure for Washington to work with Congress on the mini-Marshall Plan immediately following a stormy session with U.S. Ambassador Nicholas Platt demonstrates his feeling that Washington need not be taken seriously, and that aid will be forthcoming regardless of the disagreement.

Any or all of these motives may be present. For the United States, however, the motives of Manglapus and Aquino are less important than our own. Why do we really want those bases?

The answer is clear. In the Pacific, as elsewhere, the United States seeks not empire or hegemony but to nuture a world of independent, self-governing nations. We do not want any other country to be able to dominate and intimidate the nations of the region. We note that the Soviets today possess the naval base at Vietnam's Cam Ranh Bay that was once ours.

Presumably, the U.S. goal of a Pacific region of independent nations is shared by almost all of the governments in the region. If it is the case that Japan, South Korea and the ASEAN countries share our goal, why should they not join us in collective security arrangements for the region, including maintenance of the Clark and Subic bases?

It is true they would resist such a course. It is true they would rather save their money. But so, of course, would most Americans. It is true they would rather offer economic than military assistance to protect the stability of the region. But so would most Americans.

U.S. bases are not really welcome to the present Philippine government. We should face that fact. Perhaps representatives of a collective security association would be more welcome.

Philippine reluctance has created an excellent opportunity for Japan and other interested, prosperous countries to join together with the United States to provide the security shield and stability America has provided alone since World War II.

Such a regionally based, collective security organization would solve many problems, including the responsible use of Japan's great power.

Our Asian friends can afford to take a larger responsibility for their region. They should do so. It would be good for them and good for us.

HONORING JUSTICE WILLIAM J. BRENNAN, JR.

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. RODINO. Mr. Speaker, last week a very special event took place in my own State of New Jersey. On September 16, Hudson County's historic courthouse was rededicated as the William J. Brennan, Jr., Courthouse. This fitting tribute to Justice Brennan honors the longest serving Justice in the history of the Supreme Court and one of our Nation's most outstanding jurists. It also recognizes an individual who has been a source of great pride to his home State of New Jersey.

Justice Brennan began his long and distinguished tenure on the bench as a superior court judge in Hudson County before his elevation to the New Jersey Supreme Court. In 1956, President Eisenhower appointed Justice Brennan to the U.S. Supreme Court.

Throughout his remarkable career, Bill Brennan has been a dedicated and ardent guardian of the Constitution. His hallmark has been fairness, decency, and an unwavering commitment to justice. In the areas of civil liberties, voting rights, civil rights, and freedom of the press, Bill Brennan has left an indelible mark upon our Nation and in the process, he changed the course of history.

I am privileged to call Bill Brennan my good and longtime friend. We share the same roots as natives of Newark, NJ, and graduates of Barringer High School. I want to join in paying tribute to this great American. The William J. Brennan, Jr., Courthouse will stand as a testimony to Bill's many contributions to our Nation and it will serve as a reminder of his enduring legacy as a protector and defender of the Constitution.

Mr. Speaker, I would like to include in my remarks the following article from the Star Ledger:

[From the Star Ledger, Sept. 17, 1988]

JUSTICE SERVED: HUDSON COURTHOUSE NAMED FOR BRENNAN

(By Patricia Cappon)

Supreme Court Justice William J. Brennan Jr., an ardent guardian of civil rights and civil liberties, was honored in Jersey City yesterday as a jurist whose legal convictions reflected a vision of America at its best.

In the hushed grandeur of Hudson County's historic courthouse rotunda, some 100 lawyers, public officials and fellow jurists gathered for the rededication of the 82-year-old building as Justice William J. Brennan Jr. Courthouse.

Brennan, a former Superior Court judge in Hudson County and a former New Jersey Supreme Court justice, was praised for defending the rights of accused criminals and minorities, securing greater protections for a free press and championing an America of "compassion and dignity for all people."

"It reflects a vision of what America should be and what any society should be," said New Jersey Chief Justice Robert Wilentz.

"It is a vision that has breathed new life into the Constitution, a vision often unpopular, a vision always clear," Wilentz said. "Even his critics must concede that no outside voices controlled or influenced him except the voice of his conscience and the voice of justice."

At 82, Brennan is the court's oldest and longest-serving justice, and one of two remaining liberal voices, along with Justice Thurgood Marshall.

Brennan said he was more than "overwhelmed" by the honor of having his name attached to the courthouse in which he once presided, built the same year he was born.

"I was terribly proud to sit on the New Jersey courts and I'm prouder today than when I did," he said. "All I can say from my heart, it's a great honor and I'm not sure really that I'm deserving of it. Thank you, thank you, thank you very much."

Brennan, a Democrat, recalled his three years as a Superior Court judge in Hudson County, noting his appointments to that court, to the Appellate Division, the state's Supreme Court and to the U.S. Supreme Court were all made by Republicans.

"I leave it to you," he said, as the crowd broke into laughter. "What do I owe the Democrats?"

As those there to honor the justice sang "God Bless America" and hailed Brennan's accomplishments, a few Right to Life advocates and some 75 Hudson county employees demonstrated at the foot of the courthouse steps.

As demonstrators shouted "First-class county, second-class pay," Jack Butranavagh, president of Local 36, which represents 126 sheriff's department, said the union wanted to draw attention to the fact that employees have been working without a contract for nine months.

John Tomicki, executive director of the New Jersey Right to Life Committee, said his group opposed the dedication of the building in Brennan's name because the justice supported the court's landmark decision legalizing abortion.

"This building, which was built for justice, is now dedicated to an injustice," he said.

Inside, Hudson County Executive Robert C. Janiszewski hailed Brennan for his "long and meritorious service" and welcomed him home. He noted that the demonstrators were exercising a right Brennan had helped protect.

"I wonder if those who are parading outside realize that the right to do so was challenged in this country's history and there was a man who stood up to protect their right to peaceably demonstrate."

Janiszewski also lauded the dedication of a coterie of private citizens and others who helped save the courthouse from destruction.

President Dwight Eisenhower appointed Brennan an associate justice of the Supreme Court in 1956.

His liberal views in matters of individual rights helped shape an activist and controversial court majority under the late Chief Justice Earl Warren in the 1950s and 1960s.

Brennan, a native of Newark, received his bachelor of science degree from the University of Pennsylvania and his law degree from Harvard University in 1931.

In 1949, he was appointed by Gov. Alfred Driscoll as a trial judge on the New Jersey Superior Court.

Three years later, he was named an associate justice of the New Jersey Supreme Court.

On the nation's highest court, he has played a pivotal role in defining legal doctrines on racial equality, the protection of First Amendment guarantees, the rights of criminal defendants and voting rights.

Janiszewski traced the history of the building, from its construction at a cost of $3 million in 1906 to its near destruction in the mid 1960s.

In 1966, a small citizens group, Save Our Courthouse, began a campaign to save the courthouse from the ravages of a bleak economy and vandalism. The group lobbied the public and private sector, eventually securing the building a place on the National Register of Historic Places. Restoration began in 1974.

JOHN E. O'MALLEY'S TRIBUTE TO LABOR

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. EARLY. Mr. Speaker, with the celebration of the Labor Day Holiday still fresh in our memories I wanted to share a special poetic piece written by a distinguished and talented writer, Mr. John E. O'Malley. Mr. O'Malley is no longer with us, but he was a well known journalist and longtime resident of Clinton, MA. This piece entitled "Labor Day" illustrates an aspect of the character of this man who many people knew for the column he wrote about the town he loved.

Some may remember this creative piece which pays tribute to the working men and women for it was presented on the Lawrence Welk Television show on September 3, 1966. A copy of John's work was once before printed in the Congressional Record along with a warm statement of praise from his friend and neighbor, the late honorable Philip Philbin.

As a tribute to America's working people and to John O'Malley's family and friends, I though it would be fitting to share his words with you again 20 years after his death for they are as appropriate today as they were in 1966.

Recitation—"Labor Day"

(By John E. O'Malley)

The first Monday in September is a holiday! It does not memorialize a battle, nor honor a statesman. It glorifies no particular man or event. It has been set aside for you and me . . . and a hundred million others . . . in a land that's free . . .

Labor Day is just what its name says it is—a day to honor labor—to give honor and recognition to the men and women, who, from the day the Pilgrims landed, have earned their living from the sweat of their brow. Their names are lost in the great book of time, but the fruits of their labor have made a nation subline.

Labor is the motive power of America. Labor has been the steam, the electricity, and the atom power of progress through all of our history. It is the canvas on which has been printed, in glorious color, the future of many races, into a nation of one great ideal—the freedom of man.

Labor was the magic key that unlocked the golden wealth from the hills of California, to sustain this Nation in a dark hour—the key that has nourished this Nation with wheat from the mid-west—the key that cut, and milled, the lumber from the great northwest, to build a million homes—and the key that has clothed rich and poor alike, with the cotton from the south, for the mills of New England.

So it is that our minds go back, on this day, to the hardy adventurers that first landed on our shores—to the hardy frontiersmen who first set a plow in the virgin prairies—to the hard-handed men who laid the first keel for an American ship . . .

What does this memory teach us? It's a lesson for all Americans that must never be lost. We know how great our Nation is—Let us continue to labor to keep it great!

JIM WRIGHT'S DEFENSE OF THE AMERICAN PEOPLE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. MINETA. Mr. Speaker, once again the Reagan-Bush administration has resorted, in a fit of red-faced embarrassment, to attacking the Honorable Speaker of the House, Jim Wright, for carrying out his duty as an American and his responsibilities as a Member of this body.

In the absence of either any coherent administration policies or any good faith efforts by the Reagan-Bush administration to seek peace in Central America, Speaker Wright has acted lawfully and in the spirit of our democracy to speak out and seek out a just and lasting peace in that region.

This is in sharp contrast with the Reagan-Bush approach: an approach which has been hell-bent on maintaining a covert, often illegal, military cast of characters which—and make no mistake about it—the American people are overwhelmingly against.

When Speaker Wright learned that the CIA had been trying to subvert the peace process, he did what any American patriot would do: he reported to the American people.

Speaker Wright expressed his shock and anger that the CIA would deliberately cause unrest in order to force the Sandanistas to repress the Nicaraguan people. Such a CIA action would undermine the peace process—which is what the Reagan-Bush administration has wanted all along.

Can the Reagan-Bush administration now be serious in suggesting that Speaker Wright should have covered up the truth about White House and CIA policy?

Didn't Watergate and the Iran-Contra scandal teach the president and vice-president anything about their responsibility to the Constitution and to the American people?

Mr. Speaker, the American people do not want a president or vice-president to play off both sides against the middle for some obscure ideological end while ignoring the desire for a just and lasting peace.

That's how wars get started.

RESOURCE-BASED RELATIVE VALUE SCALE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. CRANE. Mr. Speaker, in terms of health care, we must work to maintain a high quality as well as a high quantity of service. However, Federal price control over health care, as is discussed in this article about the resource-based relative value scale report [RBRVS], would work in opposition to this goal. Market regulation would only further distort the problems within the industry.

The failings of such a program are apparent. Excellent physicians would not receive any extra reward for their excellence, thus reducing their incentive to keep up their high standards and hard work. Furthermore, doctors attending to patients who need extra care as a result of the severity of their illness will also not be rewarded. Neither of these two qualifications have a place in the RVS equations. Thus, such a system of Federal control will be detrimental to a system which would be better off left to the normal market controls of supply and demand.

The following article shows the ever-increasing likelihood of federal price control in the health-care industry and discusses the pros and cons of such involvement.

[From the Wall Street Journal, Sept. 9, 1988]

BIG CHANGES PROPOSED FOR DOCTORS' FEES—SURGEONS COULD GET MUCH LESS; GP'S MORE

(By Glenn Ruffenach)

One doctor thinks "all hell will break loose." A second says a "bloodbath" may occur. A third expects nothing less than a civil war pitting "physician against physician."

The event that is supposed to trigger this medical mayhem is scheduled for later this month, when researchers at Harvard University publish the results of a three-year study that may radically alter the way doctors are paid.

Known as the RBRVS study—for Resource-Based Relative Value Scale—the 1,000-page report, which was commissioned by Congress, will show how Medicare might reimburse physicians based on the amount of work or "resources" they expend on a given task. Currently, Medicare payments are based primarily on what physicians have charged for their services in the past.

With doctors' fees now totaling about $110 billion a year and rising 15 percent annually, some health officials and insurers see relative-valued scales as an equitable way to help contain health-care costs.

AN OBJECTIVE APPROACH?

The Harvard study "takes into account the resources that the physician brings to the table," says Dan Dragalin, a doctor and vice president of group medical care at Prudential Insurance Co. of America. "It's the first approach with any degree of objectivity."

The medical community, however, is deeply divided over just how objective that approach might really be. Traditionally, physicians have been paid more for specific medical procedures than for general medical services. For instance, a doctor who detects a stomach ulcer by spending about 30 minutes inserting a tube in a patient might receive $350; a doctor who arrives at the same diagnosis following a 45-minute physical exam might receive $75.

A relative-value system would reduce those disparities by focusing on the time and effort involved—and rewarding doctors accordingly. The result: Some doctors would make less money than they do now; some would make more. Last March, the director of the Harvard study, William C. Hsiao, an economist at the university's School of Public Health, reported that the new system could reduce Medicare payments to some specialists—including surgeons and pathologists—by as much as 20% to 30% and increase payments to other doctors—primarily family physicians and internists—by a similar amount.

Predictably, many doctors in the former group vehemently oppose the Harvard study, while their colleagues in the latter group enthusiastically support it. Taking the middle ground, the American Medical Association says it supports the concept of a relative-value scale, although it hasn't specifically endorsed the work of Prof. Hsiao and his colleagues.

There is no guarantee that the Harvard report will be adopted by Medicare. Both the White House and top federal officials in the Health Care Financing Administration, which administers Medicare, oppose relative-value scales. However, the idea appears to have strong backing in Congress and has been supported by the Physician Payment Review Commission, an independent advisory panel created by Congress in 1985. (The commission and the Department of Health and Human Services are required to submit recommendations to Congress next year on how best to reform physician reimbursement. And whatever their differences, legislators, doctors and third-party payers agree that the current payment system has become unworkable.

Ever since it was set up in 1966, Medicare has based payment to physicians on the lowest of three things: the bill charged: the physician's customary charge (the median of individual charges for the same type of visit or procedure over the previous year); or the prevailing charge in the doctor's locale.

But critics say that this "customary, prevailing and reasonable" method—known as CPR—is difficult to administer and often unfair. "The current system is very complex," says Prof. Hsiao, "and the payments made to physicians are often unpredictable." New doctors, for instance, are sometimes paid more than experienced physicians for the same service; this reflects a history of lower charges among older doctors.

Worst of all—from the viewpoint of Medicare and insurers—the system is inflationary. By linking payments to what a doctor has charged in the past, CPR gives doctors an incentive to boost their fees.

"It's very easy for a group of physicians in a given city to raise" their prices, says Dr. Dragalin at Prudential. "I'm not saying they do it on purpose or sit down and decide. But if you're a physician charging $250 for a procedure, and a physician a mile away is getting away with charging $500, then you're gradually going to raise your fee to $500."

The Harvard proposal attempts to solve these problems by tying doctors' Medicare payments to the amount of work they perform on any given task. To measure work, the researchers developed an equation with four variables: time, mental effort, technical skill and stress. (A doctor's length of training and the cost of his practice—including rent and staff salaries—are also factored into the equation.)

The Harvard researchers then asked more than 3,000 physicians to judge the relative amount of time, mental effort, skill and stress involved in hundreds of procedures. These values would be multiplied by a conversion factor—a fixed dollar amount to be set by Medicare—to determine a doctor's compensation.

Thus, says Prof. Hsiao, If an appendectomy is calculated to be worth 300 units of work, and if Medicare decides one unit is worth $1.50, a surgeon performing such an operation would receive $450.

Proponents say this system could have several advantages. If compensation is reduced for certain procedures—say, bypass surgery—surgeons may have less economic incentive to operate when alternative and less-expensive treatments may be equally effective.

Moreover, by improving pay for primary services—office visits, for example—an RVS "will encourage physicians to spend more time with patients," says Robert B. Doherty, a spokesman for the American Society of Internal Medicine. "That's patients' No. 1 complaint: that physicians don't spend enough time with them."

PERPETUATED FAILINGS

Despite these advantages, linking doctors' income to the relative value of their work perpetuates some of the failings of the current reimbursement system. The new system doesn't account for differences in competency among physicians, and doctors who provide higher quality care won't get paid for it. Severity of illness isn't part of the RVS equation either; doctors who have to work harder because their patients are sicker won't receive more money.

Critics also accuse the Harvard study of being biased. For years, they say, Prof. Hsiao has argued that income should be shifted from so-called proceduralists to primary-care physicians—"and the study just happens to work out that way," says James Moorefield, chairman of the economics commission of the American College of Radiology, a national association of radiologists. "That leads me to be cynical and suspicious about the process."

Will such problems and opposition scuttle a resource-based pay scale? Not entirely, say health experts, a number of whom predict that Congress eventually will adopt a modified version of the Harvard study. "They would use it as a starting point," says Robert J. Becker, a physician and chairman of HealthCare Compare Corp., a cost-management company in Chicago. "It's not a final answer to the problem of physician reimbursement. But there's a desire to see it brought into place."

HOW MUCH DOCTORS CHARGE—AND WHO PAYS

Typical physician charges for selected services and procedures, with approximate times for each task:

Procedure	Time	Charge
Reading a chest x ray	1 minute	$10–15
Office visit with family practitioner.	15 minutes	$25
Office visit with internist	15 minutes	$30
Office visit with psychiatrist.	50 minutes	$100–150
Removing a lipoma [1]	20 minutes	$300
Administering anesthesia during surgery.	1 hour	$400–500
Hernia repair	30 min.–1 hour	$750
Caesarean section	30 min.–1 hour	$1,500
Hip replacement	3 hours	$3,000

[1] A benign tumor under the skin made of fat tissue.

Source: Prudential Insurance Co. of America.

Breakdown of the U.S. health dollar where the money comes from and where it goes, in cents:

Who pays:	*Percent*
Private health insurance	31
Other private	3
Medicaid	10
Other government	14
Medicare	17
Direct payment	25
Where it goes:	
Nursing homes	8
Research, administration	13
Miscellaneous personal health care	20

Physicians' services	20
Hospital care	39

Source: Health Care Financing Administration.

MINORITY ENTERPRISE DEVELOPMENT WEEK

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. ACKERMAN. Mr. Speaker, the first full week of October has been proclaimed as Minority Enterprise Development Week by President Reagan. I am pleased to congratulate minority businessespeople in Queens County, NY, and across America as they prepare to celebrate this well deserved honor.

My congressional district in Queens County is an unrivaled example of successful minority businesses. Virtually every commercial block in the Seventh District boasts a vibrant, minority-owned business.

Mr. Speaker, the success of the minority-owned businesses in Queens is in part due to the tireless work of Julio Rojas and the staff of the Minority Business Development Center. I thank them for an outstanding job of promoting minority-owned businesses in the Queens County area. Their unwavering commitment to minority-owned businesses is an example to community leaders nationwide.

The Minority Business Center has successfully fulfilled its goal to assist minority businesses in Queens County. Rudy Washington of F.J. Washington Construction and Sonny Parker, president of Tri-Way Securities are successful area businesses and shining examples of the invaluable help the Minority Business Center offers.

Mr. Speaker, I have worked closely with the center over the years and I am proud of its innumerable successes. All businesses in Queens County have benefited from the invaluable help of the Minority Business Development Center.

I ask my colleagues to join me in wishing minority-owned businesses from New York to Hawaii many more profitable years.

ERNEST E. TOTH, ALLENTOWN FIRE CHIEF RETIRES

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. RITTER. Mr. Speaker, Ernie Toth represents something sterling in the American character. He has served his country and his community throughout his long career. Ernie not only served, he trained. For example, he attended the New York Aquatic School which provided Ernie with the background to obtain certification as a life guard and first aid instructor. In addition to rugged training as a firefighter, he always sought additional education and a broader experience to prepare himself to make greater contributions in his service—a service that was literally live-saving for the citizens of the Lehigh Valley.

In the military service, Ernie enlisted in the Marine Corps during World War II and was assigned as a machine gunner in the South Pacific and China. His record includes an outstanding commendation from his commanding general as well as the China War Medal.

Ernie joined the Allentown, PA Fire Department on October 30, 1950 as a firefighter, a position he held until 1957. Subsequently, he worked as an inspector for 2 years and then was appointed one of the first lieutenants authorized under the new civil service program.

He served in that key role for 14 years after which he was appointed as the assistant fire chief in 1974. Ernie retired in 1978 and after feeling the urge to return to public service, in 1980 ran for and was elected to the city council. While on the council he chaired the Public Safety Committee and served on the Legal and Legislative Committee. Upon completion of his 2-year term, Allentown Mayor Joe Daddona appointed Ernie fire chief where he served until this year.

He was a member of the Fire Marshals' Association of North America, Eastern Fire Chiefs, International Fire Chiefs, NFPA, the New York Chiefs' Association and the Lehigh County Emergency Team.

Mr. Speaker, it has been a most pleasurable experience for me to know and work with Ernie and his very special wife Irene. During his years as chief, the fire department moved ahead not only in training and equipment, but most important in rescue operations. Ernie also made considerable progress in establishing a qualified team for hazardous materials response.

He always had time and a listening ear on public safety issues which was his top priority. Therefore, it is fitting and proper for my colleagues to lend an ear today as I pay tribute to Ernie Toth as one who embodies a quiet, faithful dedication to his fellow man. I will miss our working relationship but I know that Ernie and Irene will continue to do all they can, even in retirement, to promote public good will and safety.

Mr. Speaker, at this point I include an editorial from the July 3, 1988 issue of the Allentown Morning Call in honor of Ernie Toth.

So Long, Ernie, and Thanks a Lot

"I believe this city is losing what will be recorded in history as the best chief the city's ever had."—Allentown Mayor Joseph S. Daddona.

Ernie Toth has been a firefighter for half of his life. He has been as aggressive in the political and adminstrative fights of his 34-year career as he has been on the fire scene. His official retirement on Saturday from the city family will leave a void big enough to drive a ladder truck through. His engery, his dedication to the public and his mountain of expertise will be sorely missed by the city and the people of Allentown.

Allentown Fire Chief Ernest E. Toth surprised the community last month when he announced he was stepping down. It just seems that there has always been an Ernie Toth in a firefighter's gear of some kind. He began in 1950 as a firefighter, a tailboard jockey. He moved up the ladder to fire inspector, lieutenant, assistant chief and then chief—twice. Following a short-lived retirement in 1978—and a brief term on Allentown City Council—Ernie Toth signed back on for another term as chief, answering the call of Mayor Daddona.

The term "public servant" is one that is misused, misinterpreted and all too often used disparagingly. Ernie Toth has been a genuine public servant for three and a half decades. His constituency is his firefighters, for whom he has worked diligently during his career, and the people of this city, whose welfare he has helped protect. He has directed his share of fights—general alarms fires and political brush fires—with equal skill, He's respected by those who work for him and with him, and by those who occasionally find themselves in opposition to him.

It will be a loss to Allentown when Chief Toth pulls his helmet and bunker gear from the rack for the final time. But he has earned a break. Ernie, you gave Allentown your best. Now, Allentown gives you its best.

DALE ADAMS: DUTY, HONOR, COMMITMENT PERSONIFIED

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. MONTGOMERY. Mr. Speaker, on September 15, it was my privilege to attend a testimonial reception in honor of Denvel D. Adams, the retiring national adjutant of one of our most outstanding veterans' service organizations, the Disabled American Veterans. Never have I witnessed a more stirring nor more deserved tribute to an individual and his career.

Dale Adams has served as national adjutant of the DAV for the past 25 years. In this position, he has managed the day-to-day operations of the organization of wartime disabled veterans which, under his leadership has quadrupled in membership to more than 1 million.

Dale enlisted in the U.S. Army in 1938 and served in the South Pacific during world War II with the 82d Field Artillery, 1st Cavalry Division, including 8 months in Australia. He was discharged due to service-connected disability in 1944.

Dale joined the DAV professional staff as a national service officer in Detroit following his 1945 graduation from American University here in Washington, where he studied veterans' programs. After gaining on-the-job experience in the DAV's Cincinnati and Detroit National Service Offices, Dale was promoted to supervisor of the organization's office in Albuquerque, NM, in 1946.

Dale returned to the Detroit office in 1949 and assumed the position of assistant supervisor in 1958. He was promoted to national service director at the DAV Washington, DC headquarters in 1960 and moved the following year to DAV National Headquarters in Cincinnati with a promotion to assistant national adjutant. In 1962, he was appointed national adjutant.

Mr. Speaker, it should be obvious to anyone after reviewing this very abbreviated version of

Dale Adams' biography that he is special in his understanding of war and the significance of caring for those who serve their country in military service. He has incorporated this personal insight into a brand of leadership that is not likely to be seen again in any organization in our lifetimes.

If there were ever an individual within the arena of veterans' affairs who should be labeled "hero," it is Dale Adams.

Dale Adams pulled the DAV—and I am very tempted to say "singlehandedly"—from a cauldron of troubles that had plagued the organization in the fifties and sixties and he shaped it into one of the finest, most effective, most respected service organizations in the country. His mark on that turnaround is bold and indelible.

I doubt that all DAV members, or many other veterans for that matter, truly realize the strength of Dale Adams' advocacy or the magnitude of his accomplishments. Nor is it likely that they fully understand the extent to which they should be indebted to Dale for the benefits and services they may utilize. This isn't due to a lack of gratitude on their part but, rather, because of a strong leader's modesty and behind-the-scenes approach to managing. It says a great deal about a man when it is sufficient honor to him just to have served rather than to have served in the limelight. Dale Adams is that type of quiet performer. Improved services and service outreach, legislative involvement, administrative excellence, membership growth—he has achieved it all with immeasurable success.

I believe former DAV National Commander Gene Murphy put it best when he called Dale "a fiercely loyal, no-nonsense kind of guy, who expects the best out of the people around him and isn't afraid of a fight."

Dale's working relationship with the Committee on Veterans' Affairs and with me personally has been more than just cooperative; it goes well beyond that. It has been a relationship upon which I have depended heavily for direction and sage counsel. But even more important is what I consider to be the close and lasting friendship that has developed.

In April 1987, I had the pleasure of traveling with Dale Adams and other DAV officials to the Philippine island of Corregidor to investigate reports that the Pacific War Memorial to American and Filipino veterans lay near complete ruin. I believe that trip and the important restoration project that ensured, both instigated by the DAV, are indicative of the type of organization Dale built and the mission he served so well.

Dale Adams is a remarkable man, not so much for his wisdom and expertise and experiences, though they are impressive, but because of his fervent commitment to share them for the benefit of his fellow man.

Mr. Speaker, I know my colleagues will want to join me in wishing for Dale Adams a healthy, happy retirement and extending to him our high commendation for the caliber of his lifelong work.

IN HONOR OF THE MENTAL HEALTH REFERRAL SERVICE OF SOUTHERN CALIFORNIA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to ask my colleagues in the U.S. House of Representatives to join me in saluting a unique and vital organization, the Mental Health Referral Service of Southern California as it celebrates its 10th anniversary. Our community is indeed fortunate that this organization, under the leadership of Dr. L. James Grold, is willing to devote its time, energy and enthusiasm, working to improve the lives and well-being of others. The innumerable benefits derived from the Service's dedication has earned it the highest respect and admiration of the entire community.

Approximately 10 years ago, Dr. L. James Grold and several psychiatrists, social workers, and psychologists, got together at his home in Malibu to attempt to develop a program which would help those individuals in southern California who are at a loss as to the type of therapist or agency that would best fit with their mental health problems or needs.

From this small beginning, and with a minimal budget, Dr. Grold and the other referral resource counselors now help three to 4,000 people per year. These callers are often desperate individuals who do not know the differences between psychologists, psychiatrists, M.F.C.C.'s and social workers. Many are confused and bewildered, and are very grateful for this fine community service.

A referral resource counselor is available 24 hours a day, 7 days a week, to help the individual find either an agency or a therapist in his or her area. The potential therapist's credentials have been checked out by the Service and they have been screened and interviewed.

Each therapist on the panel in the southern California area has agreed to help the individual callers and is willing to work on a sliding fee scale, according to a person's financial situation.

The Mental Health Referral Service extends to include all of southern California and it does receive calls from the northern part of the State. It frequently assists individuals from California to find therapists in other states when they are relocating.

I would like to extend my heartiest congratulations to the Mental Health Referral Service of Southern California and its members as they celebrate their 10th anniversary.

THE FIGHT FOR FREEDOM IN NICARAGUA

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. COURTER. Mr. Speaker, in the long and often acrimonious debate over Nicaragua and United States policy toward the Sandinista dictatorship, there has been almost complete agreement on one political factor. That is the need to support Nicaragua's civic opposition—the democratic political parties and labor unions which have fought, protested, suffered and lost lives in the struggle for democracy.

European governments and political parties support the civic opposition. So do Latin neighbors. Democrats and Republicans in Congress support this movement, as does the National Endowment for Democracy and its component institutions.

Only the Communist Government of Nicaragua—the Sandinista Party—opposes this movement. The Sandinistas, as totalitarians, claim to represent all of Nicaragua, so they accuse political opponents of being tools of foreign powers such as the United States. Opposition becomes tantamount to treason.

Tensions are high in Nicaragua today. The Sandinistas joined their Central American neighbors in a regional accord and clearly pledged to open their political system. The civic opposition has demanded compliance. How is the peace process doing? A demonstration in Nandaime, Nicaragua on July 10, a cry for democracy, landed 39 members of the opposition in jail.

With the Communists riding high and Nicaraguan democrats intimidated or in jail, Speaker JIM WRIGHT saw fit to state on September 20 that "clear testimony from CIA people" shows that "agents of our Government have assisted in organizing the kinds of anti-Government demonstrations that have been calculated to stimulate and provoke arrests."

No statement could be more injurious to democratic political parties or free trade unions in Nicaragua or more directly suited to the interests of the Communist government. No statement could be more irresponsible coming from this high elected official of the Democratic Party.

I don't serve on the Intelligence Committee, so I don't know if the Speaker's statement is true or not.

However, if the CIA is supporting Nicaragua's democratic opposition movement, the Speaker has the prerogative to oppose this policy through the legislative process.

If it is untrue that "testimony" attests to these CIA activities, then the Speaker's statement is all the more appalling for its falsehood. And it may indeed be false: the Speaker and his staff deny that he leaked Intelligence Committee testimony, yet they produce no evidence that this testimony occurred in any other place.

The Speaker prides himself on his knowledge of Spanish and his deep understanding of Central American politics. Surely he understood what he was doing when tied Nicaraguan democrats to the CIA. He played the Sandinista game, as we see from the reception his statement got in Nicaragua. The Communist press headlined the Speaker's statement as confirmation that the democratic opposition is a tool of the U.S. Embassy.

I support the call for the Committee on Standards of Official Conduct and the Intelligence Committee to determine whether the Speaker has violated House rules by disclosing classified information.

More important, however, are the consequences of the Speaker's actions in Nicaragua. It is probably impossible to undo the damage done. The Communists are clearly overjoyed while their democratic opponents wonder why an American parliamentary leader sides with their oppressors.

The Speaker's reprehensible statement puts a special burden on members of the Democratic Party to show that they disagree with their elected leader. The Speaker has added his weight and prestige to the Sandinista side of Nicaraguan politics. I call on my colleagues to repudiate the Speaker's statement and demonstrate that a bipartisan majority of the United States Congress recognizes that the desire for democracy is the driving force behind the Nicaraguan opposition. To imply that these Nicaraguan patriots are tools of the CIA is an insult and a betrayal of the democratic cause which our Speaker claims to support.

CONGRATULATE KENTUCKY EDUCATION TELEVISION

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. HOPKINS. Mr. Speaker, I rise today to congratulate Kentucky Educational Television [KET].

Started as the largest and most functional State-owned educational television network in the world, the vision that gave it such an auspicious beginning continues today as it celebrates its 20th anniversary.

The citizens of Kentucky have a current commitment to build a statewide satellite television network, which they are today celebrating with a groundbreaking for a new telecommunications center. This satellite television network will far surpass any other State's effort in using technology to improve education. The Federal Government should recognize and support this effort as it directly supports the intent of the Federal legislation.

KET has been a pioneer and leader in educational television for 20 years. Currently 44 States, the Federal Corrections System, and the Armed Forces use KET's GED on TV series. More than 500,000 adults in the United States have benefited directly from our series since it was first released in 1975, resulting in an economic impact of increased income of over $1 billion dollars annually.

In addition, Kentucky is the founding member of the Satellite Educational Resources Consortium [SERC], which so far has 20 States as members. Through SERC, Kentucky will share its courseware and expertise nationally.

Through its nationally acclaimed GED, "Adult Literacy and Dropout Prevention" series, KET is making a positive difference, as indicated by the fact that thousands of adults have begun working toward high school equivalency degrees. They reached beyond their dreams to achieve what they once thought was an elusive idea, an impossible dream—an education.

And for a whole new generation of youngsters, the network's in-school programming represents a dramatic extension of the daily curriculum in 98 percent of Kentucky's public and private elementary and secondary schools.

KET has provided educational opportunities and the fulfillment of dreams for thousands of adults. KET continues to be one of the truly bright spots in our State's public learning system. Their 20th anniversary is only the first of many which will continue to bring progress and pride to Kentucky.

SIKH MASSACRE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. BURTON of Indiana. Mr. Speaker, I am placing this press release in the RECORD to help draw attention to the lack of respect for human rights by the Indian Government toward the Sikh people living in India. It is sad that the Indian people will not have an opportunity to read about this tragedy because the Indian Government has placed so many Draconian restrictions on the Indian press. It appears that Prime Minister Gandhi is trying to emulate his ally, the Soviet Union, in every repressive way possible. I call on the Indian Government to issue a full report on this alleged massacre.

SIKH STUDENTS MASSACRED IN INDIA

News was relayed from India that Sikh students at an engineering college in western India have been the victims of violence which was suspected to be politically organized. The incident took place at the Guru Nanak Engineering College in the city of Bider, Maharashtra, which is ruled by the Congress-I party. This is India's ruling party of which Prime Minister Rajiv Gandhi is head.

Thirty bodies have reportedly been found dead so far, with another one hundred-fifty missing. All of the victims were Sikh students in their early twenties. This is a repetition of the Delhi genocide of November 1984, in which 20,000 were killed by Congress-I organized death squads. Not surprisingly, some of the organizers of these death squads were later rewarded cabinet level positions in the Indian government.

This latest incident went unreported in India, as the Indian government has again failed to report the mass murders which afflict the Sikh people. This again signals the complete control of the media and press by the Indian government.

The reported number of Sikhs killed this year in India is around 1,500, with many more missing. Over 80,000 Sikhs have been killed since the attack on the Golden Temple in 1984.—Dr. Gurmit Singh Aulakh, President, Council of Khalistan.

THE FAMILY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Ms. PELOSI. Mr. Speaker, today I rise in support of American families.

We have pending several bills that would assist all Americans. One important bill, to raise the minimum wage, would help families make ends meet. Another bill, the Family and Medical Leave Act, would make employment more secure for working parents and expand family rights.

Mr. Speaker, we have heard much talk and many promises during the past months from Mr. BUSH regarding our families and how he will work for our families. Is Mr. BUSH encouraging his colleagues to act on any of these bills? No.

Election year rhetoric is one thing and action is another. It is time for congressional action on bills such as the minimum wage bill, the Family and Medical Leave Act, and the act for better child care, so that we can make a difference in people's lives and show that we care about American families.

ESTABLISHING THE DE ANZA NATIONAL HISTORIC TRAIL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. MILLER of California. Mr. Speaker, today I am introducing legislation to designate the Juan Bautista De Anza Trail as part of the National Historic Trail System. Joining me as cosponsors of this important bill are 24 of my colleagues from Arizona and California.

The De Anza Trail would follow a route of approximately 1,200 miles, beginning in Nogales, AZ, and extending to the San Francisco Bay area. The trail follows the approximate route that De Anza followed in his 1775–1776 expedition.

The De Anza expedition helped make possible an overland route from Mexico to the then unsettled portion of California, and it led to the settlement of northern California. Carried out under adverse conditions and in virtually unknown territory, the De Anza expedition was a truly remarkable achievement.

There is a great deal of support among local citizens groups all along the trail's route for incorporating the trail into the National Historic Trail System. George Cardinet, one of my constituents and the executive director of the Heritage Trails Fund, has been a key force in organizing citizen support for the trail and in helping groups delineate the trail's route. There is a true grassroots movement advocating designation of the De Anza Trail.

The administration has done a study of the De Anza Trail proposal and supports incorporating it into the National Trail System as well.

I recognize there is little time to enact legislation this Congress. I am, therefore, inviting your support for this measure so that we may move quickly on this bill during the 101st Congress.

THE CONTROLLER PERFORMANCE RESEARCH ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mrs. ROUKEMA. Mr. Speaker, this week the House of Representatives passed H.R. 3779, the Controller Performance Research Act. As a cosponsor of this legislation, I am pleased that this body has taken another important step to improve air safety.

Since deregulation of the airline industry in 1978, our Nation's airspace has become increasingly crowded, complex, and modernized. As air traffic controllers continue to be put under enormous stress due to a dramatic increase in air travel, it has proved difficult for many of them to receive the proper training and research needed to interface with an increasingly automated air traffic control system. This situation is particularly unsettling to my constituents in northern New Jersey. The airspace over my district is among the busiest in the world.

We need additional air traffic controllers, but we also need the increased commitment to research and training, as provided in H.R. 3779. We must realize that the air traffic controllers of 1988 will meet technological challenges which their counterparts did not face in 1978. This bill is an important element in the Federal Government's commitment to air safety. With the staggering number of near-misses in the skies over our communities during the last year, this legislation is particularly timely.

I hope all of my colleagues will join me in urging the Senate to pass this legislation. Congress must continue to respond to the challenge to improve air safety.

IN RECOGNITION OF LEON TRANSEAU FOR HIS EFFORTS IN BEHALF OF BUSINESS IN AMERICA

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. DELAY. Mr. Speaker, today I would like to commend Dr. Leon Transeau for his diligent efforts on behalf of business in America. Dr. Transeau is the Division Chief for Directives and Regulatory Management in the Department of the Interior.

Mr. Speaker, Lee Transeau is a unique individual because he has taken it upon himself to fight the bureaucracy even though he is a bureaucrat. Although his job is dependent upon the perpetuation of the bureaucracy, he has continually fought to reduce the bureaucratic burden on businesses that must fill out Government paperwork.

His most recent accomplishment has been a recently implemented proposal requiring that all Federal forms include a "burden statement" printed on the front of the form. The burden statement states the amount of time the Government estimates it will take to fill out the form. It also includes instructions for submitting public comments to the Federal Government if the estimate is inaccurate.

When Lee first proposed this idea, the comments around the Government were overwhelmingly negative. The only exceptions to this were from the Small Business Administration, which strongly supported the idea, and from the Department of Education, that stated that they had no objection. The objections heard from the other departments and agencies were uniformly absurd and negative. Some were concerned that it would involve additional work for the bureaucracy, that it would take up space on the form in which respondents could doodle, that the forms would have to be redesigned, and that the public already had the opportunity to object by reading and responding to regulations printed in the Federal Register. How many American citizens do you think read the Federal Register? Some of the most adamant opposition to the burden statement came from the Internal Revenue Service. Apparently, they will suffer the greatest embarrassment when the public discovers how little time the IRS thinks Americans spend on tax compliance.

Indeed, the IRS has just released a study in which they admit that they have been underestimating the time required to fill out income tax forms by a factor of seven. There is little doubt that the diligent efforts of Mr. Transeau forced this confession by the IRS.

Unfortunately, many bureaucrats feel that the American people should jump through any and every hoop that is placed before them by the Federal Government. Unfortunately, they have it backward. Lee Transeau is doing more than his part to reduce the government burden on the American public. Unfortunately, he has gotten little recognition for his efforts. Although he may have few friends in the bureaucracy, he certainly has my friendship and that of thousands of businesses across the land trying to compete and provide real jobs for thousands of Americans. I commend Lee for his public service and dedication to principles rather than shortsighted self interests. I hope that others will recognize his efforts and support him in his lonesome endeavor.

A STEP BACKWARD FOR TAIWAN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. PORTER. Mr. Speaker, I am disturbed by a recent incident which unfortunately signifies a step backward in Taiwan's progress toward the development of full democracy.

On August 29, police in Taipei forcefully arrested Dr. Hung Chi-chang, a member of the national assembly and a strong supporter of human rights. The police entered his home, used tear gas against his wife and elderly parents, damaged his property, and severly cut his right hand.

Dr. Hung was indicted with two other members of the Democratic People's Party in connection with a demonstration held on June 12, 1987 to protest the national security law and to call for a reelection of the national legislative bodies. State Department and nonpartisan human rights organizations report that the three defendants did not support, participate, or promote any violence. It appears that they were indicted solely for the peaceful expression of their political views.

Mr. Speaker, as cochairman of the 160-member Congressional Human Rights Caucus, I encourage the Government of the Republic of China to reconsider their prosecution and to condemn the use of violence against Dr. Hung and his family.

DR. WILLIAM SIMMONS HONORED BY AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. LEVIN of Michigan. Mr. Speaker, on Monday, September 26, there will be a reception honoring Dr. William Simmons marking his receipt of the James R. Kirkpatrick Governmental Relations Award from the American Association of School Administrators.

No one could be more deserving. By recognizing Bill Simmons, society is commending hard work and dedication. It is saying to our citizenry that it is honorable, indeed essential, for talented people to join in the training of our next generation and to use those talents to climb up the ladder of responsibility.

Bill has surely made that climb successfully, and as he has risen he has shown unswerving dedication to opening up opportunities for those who have found barriers to their aspirations.

I knew Bill first when he was the unusually effective Detroit assistant superintendent for Federal and State relations. He was a leader in Lansing in efforts to reform how elementary and secondary education is financed and structured.

Today, I see him in Washington, working on behalf of the general and particular needs of the 380,000 students and the staff of the Wayne County Intermediate School District. Like so many others, when I need expertise, I call Bill Simmons.

Most recently, he has spread his activities to the field of higher education through his service as chairman of the Eastern Michigan Board of Regents. That greater institution is certainly richer for his leadership.

In a word, kids have a best friend in Bill Simmons. He has cared deeply about their education and acted on that commitment for more than 40 years. Hundreds of thousands of young lives have been directly benefited by his efforts. What greater fulfillment could anyone ask of a career?

TAIWAN'S NATIONAL DAY

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1988

Mr. ROSE. Mr. Speaker, I would like to call attention to the upcoming celebration of Taiwan's National Day, the 77th anniversary of the Republic of China, on Monday, October 10. The President of Taiwan, the Honorable Lee Teng-hui, and Taiwan's new Ambassador to the United States, the Honorable Ding Mou-shih, deserve our admiration, praise and, above all, our support during the economic and political challenges to come. I do not exaggerage in listing the following accomplishments attained by Taiwan:

First. Economic growth rates over the last three decades have averaged nearly 9 percent annually;

Second. Per capita income for 1988 is estimated to be U.S. dollars 6,000;

Third. Taiwan is currently our fifth largest trading partner;

Fourth. Taiwan is democratizing rapidly and is liberalizing its trade and financial regulations;

Fifth. Taiwan has one of the highest standards of living in all of Asia.

Taiwan, like the United States, is truly a land of opportunity and deserves our continued support and cooperation in the years to come. Many of us in the Congress strongly affirm Taiwan's liberalization policies and its economic stature, and we proclaim our intention to continue developing the United States' long relationship with Taiwan.